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Statement by E. Tendayi Achiume

Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

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Excellencies,

I would like to begin by thanking the Governments of Qatar and the Kingdom of the Netherlands for the cooperation extended to me during my official country visits.

I submit to you today my two country reports from these visits, my report on combating the glorification of Nazism, neo-Nazism and related intolerance prepared pursuant to the resolution of the General Assembly, and my thematic report—"Racial discrimination and emerging digital technologies: a human rights analysis."

Due to time constraints, I will limit my opening remarks to my thematic report on racial discrimination and emerging digital technologies, which focuses on networked and predictive technologies, many involving big data and artificial intelligence.

A key finding of my report is that emerging digital technologies reinforce and worsen existing inequities, many of which exist along racial, ethnic and national origin lines.

Drivers of discrimination and inequality in emerging digital technologies

Any human rights analysis of digital technologies must first grapple with the social, economic and political forces that shape their design and use, and with the individual and collective human interests and priorities at play that contribute to the racially discriminatory design and use of these technologies.

The public perception of technology tends to be that it is inherently neutral and objective. But technology is never neutral – it reflects the values and interests of those who influence its design and use, and is fundamentally shaped by the same structures of inequality that operate in society.

Within the fields and industries that produce digital technologies, misplaced faith in the neutrality or objectivity of numbers and their power to overcome racism has been shown to contribute to discriminatory outcomes. Indeed, among the biggest challenges to addressing racially discriminatory use and design of digital technologies, are approaches that treat this issue as purely or largely a technological problem for computer scientists and other industry professionals to solve by engineering bias-free data and algorithms.

Inequality and discrimination in tech will not be "cured" by more perfect modelling of equality and non-discrimination. Governments and the private sector must commit to approaches that include experts on the political, economic and social dimensions of racial discrimination at all stages of research, debate and decision-making to mitigate racially discriminatory design and use technology. Affected racial and ethnic minority communities must play decision-making roles in the relevant processes.

Private corporations wield monumental influence in the design and use of digital technologies. And technology sectors are characterized by a "diversity crisis" along gender and race lines, especially at the highest levels of decision-making. Technology produced in such fields that disproportionately exclude women, racial, ethnic and other minorities is likely to reproduce these inequalities when it is deployed.

Market and economic forces also exert a powerful influence on the design and use of digital technologies. Where economies are structured by racial and ethnic inequality – as is the case all over the world – profit maximization will typically be consistent with racial and ethnic inequality. Private corporations are making significant profits from promoting intolerance, discrimination

and disinformation. At the same time, even though their aims may be to improve efficiency and fairness, governments are deploying technological systems that produce racial discrimination in access to fundamental human rights related to employment, housing, voting, equality before the law and many others.

Examples of racial discrimination in design and use of emerging digital technologies

My report provides examples of racial discrimination from around the world that fall into three groups:

1. Direct Discrimination: explicit intolerance and prejudice-motivated conduct achieved through the design and use of digital technologies;
2. Indirect Discrimination: design and use of digital technologies that has the effect of undercutting access to human rights on the basis of race, ethnicity or national origin, even when an explicit intent to discriminate is absent; and
3. Racially Discriminatory Structures: Examples from different parts of the world show that the design and use of different digital technologies can be combined intentionally and unintentionally to produce racially discriminatory structures that systematically undermine enjoyment of human rights for certain groups.

This discrimination affects the full spectrum of economic, social, cultural, civil and political rights for marginalized racial and ethnic groups.

A structural and intersectional human rights law approach to racial discrimination in design and use of emerging digital technologies: analysis and recommendations

International human rights law will by no means be a panacea for the problems identified in this report but it stands to play an important role in identifying and addressing the social harms of digital technologies, and ensuring accountability for these harms. Ethical approaches to governing digital technologies must be pursued in line with international human rights law, and States must ensure that these ethical approaches do not function as a substitute for development and enforcement of existing legally binding obligations. The final section of my report explains the concepts and doctrines of direct, indirect and structural racial discrimination under international human rights law and outlines the obligations they impose on States where digital technologies are concerned. These obligations also have implications for non-State actors, such as technology corporations, which in many respects exert more control over these technologies than States do. My report also includes a non-exhaustive list of recommendations for concrete implementation of the norms and obligations presented.