

DIGITALLY DIVIDED

TECHNOLOGY, INEQUALITY, AND HUMAN RIGHTS



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1. INTRODUCTION

The widespread adoption of digital technologies has permanently transformed the balance of power in economies, governments, and societies around the world. Over half the world's population now uses the internet or social media networks to receive access to news and public information, communicate, work, and learn.¹ For more than 4 billion people, technology has become central to securing a place in public life, and is foundational to the enjoyment of a range of human rights.² This is a reality that has only been exacerbated in the wake of the ongoing COVID-19 pandemic, a period of unprecedented setback for poverty reduction around the world, during which an additional 93 million people were pushed into extreme poverty.³ The United Nations (UN) and other human rights bodies have delineated the importance of technology as a means for advocating for, defending, and exercising human rights, even as the same tools and systems are also “used to violate rights, especially those of people who are already vulnerable or being left behind.”⁴ It is clearer than ever that digital technologies, particularly in the absence of robust regulation, can amplify and exacerbate underlying social, racial, and economic inequalities, helping to re-entrench patterns of structural exploitation.

As human rights defenders and communities have observed throughout each succeeding wave of technological development, technology does not function in a vacuum, but rather, will always have an unpredictable and transformative potential that corresponds to geographic, political, and linguistic context — that is, the material conditions of the people whose lives are impacted by it. Yet this context is often not taken into account by policymakers and technology companies, who may fail to take a diversity of viewpoints and experiences into account.⁵ Amnesty International and other human rights organizations have long documented the various human rights abuses that are perpetuated by technology giants and the tools they have created, as well as uses of technology that have been instrumentalized to quell dissent, exacerbate underlying inequalities,⁶ normalize surveillance, and encourage political violence.⁷ But in the midst of an increasingly unequal and unfree world, and particularly as new forms of technology are integrated into more areas of public life, the reality of tech-enabled inequality should be considered a growing emergency. And because of the growing role of the digital sphere in more areas of daily life, it is definitively the case that technological development will be central to understanding how people and communities defend and access their human rights today and into the future.

¹Amnesty International, *Surveillance giants: How the business model of Google and Facebook threatens human rights* (Index: POL 30/1404/2019).

²Amnesty International, *Surveillance giants: How the business model of Google and Facebook threatens human rights* (Index: POL 30/1404/2019), pg. 5.

³Amnesty International, *Rising Prices, growing protests: the case for universal social protection* (Index: POL 40/6589/2023).

⁴Report of the United Nations High Commissioner for Human Rights: The right to privacy in the digital age, UN Doc A/HRC/48/3, pg. 2 para. 4.

⁵Road map for digital cooperation: implementation of the recommendations of the High-level Panel on Digital Cooperation Report of the Secretary-General. UN Doc. A/74/821.

⁶Report of the United Nations High Commissioner for Human Rights: The right to privacy in the digital age, UN Doc A/HRC/48/3, pg. 2 pg. 3.

⁷Amnesty International, *Surveillance giants: How the business model of Google and Facebook threatens human rights* (Index: POL 30/1404/2019); Amnesty International, *Myanmar: The social atrocity: Meta and the right to remedy for the Rohingya* (Index: ASA 16/5933/2022).

TECHNOLOGICAL DEVELOPMENT WILL BE CENTRAL TO UNDERSTANDING HOW PEOPLE AND COMMUNITIES DEFEND AND ACCESS THEIR HUMAN RIGHTS TODAY AND INTO THE FUTURE.

This briefing will serve as a primer for those seeking to understand some of the most salient ways in which technology and inequality (economic, racial, gender, disability, and linguistic) are deeply connected, particularly at a moment of escalating economic and political destabilization.⁸ It will also seek to build upon Amnesty International’s work on technology to show how the digitization of more areas of life is central to the ongoing fight for human rights around the world. By providing a broad overview of the major areas of concern, it will seek to help create a conceptual framework for policy actors, communities, and stakeholders working on human rights issues at the intersection of technology and inequality. Since the issues detailed here should be no means be considered exhaustive, this analysis is also an invitation to a global conversation around the growing reality of technology harms. As the first of four outputs related to Amnesty International’s work around technology and human rights, this briefing is ultimately intended as a resource to activists, impacted communities, civil society and human rights organizations, technology companies, and other stakeholders who are grappling with the growing global crisis of inequality.

⁸ Amnesty International, *Rising Prices, growing protests: the case for universal social protection* (Index: POL 40/6589/2023).

⁹ See: Meredith Broussard, *Artificial Unintelligence: How Computers Misunderstand the World*, 2018; Tressie MacMillam Cottom, “Where Platform Capitalism and Racial Capitalism Meet: The Sociology of Race and Racism in Digital Society” *Sociology of Race and Ethnicity* (2020); David Noble, *Forces of Production: A Social History of Industrial Automation*, 2011.

2. TECHNOLOGY-ENABLED INEQUALITY AND HUMAN RIGHTS

In the absence of a single definition of technology and alongside the accelerating pace of technological innovation, human rights advocates and policymakers have, understandably, struggled to consolidate an understanding of effective interventions aimed at addressing technology-related harms. However, as in the context of any work examining structural inequality, language is power. The imprecise and unexamined use of language and definitions around many of today's emerging technologies is, in large part, how tech-enabled inequality has been allowed to flourish.⁹ Today's digital technologies have their roots in historical systems used for categorizing, cultivating, and instrumentalizing personal data, and can best be viewed as an extension of these pre-existing systems of power.¹⁰ Furthermore, information and communication technologies (ICTs) that collect and store personal information and influence individual or collective behavior have been an area of particular concern for the human rights community, even prior to the digital era.¹¹

FOR THE PURPOSES OF THIS BRIEFING, *TECHNOLOGY* REFERS TO A BROAD RANGE OF DATA-DRIVEN TOOLS THAT CAPTURE, STORE, AND MANAGE LARGE AMOUNTS OF INFORMATION, INCLUDING DEVICES, NETWORKS, AND ALGORITHMIC SYSTEMS.

Since most of these tools and systems are, by definition, products made available for use by private corporations, the very business model and structure of these tools is usually rooted in and structured by a business model of extraction and accumulation of data for the purpose of profit.¹² The 'datafication' of more areas of public and private life, including healthcare, welfare, education, public safety, and the workplace, has coalesced around several specific uses of technology that violate human rights.¹³

¹⁰ See: Virginia Eubanks, *Automating Inequality: How High-Tech Tools Profile, Police, and Punish the Poor*, 2018 and Ruha Benjamin, *Race After Technology: Abolitionist Tools for the New Jim Code*, Polity Press (2019).

¹¹ See: Edwin Black, *IBM and the Holocaust: The Strategic Alliance between Nazi Germany and America's Most Powerful Corporation*, 2001.

¹² See: Amnesty International, *Surveillance giants: How the business model of Google and Facebook threatens human rights* (Index: POL 30/1404/2019); Shoshana Zuboff, *The Age of Surveillance Capitalism: The Fight for a Human Future at the New Frontier of Power*, 2018 (Zuboff, 2018)

¹³ Kenneth Neil Cukier and Viktor Mayer-Schoenberger, *The Rise of Big Data: How It's Changing the Way We Think About the World*, Foreign Affairs, May/June 2013, <https://www.foreignaffairs.com/articles/2013-04-03/rise-big-data>.

Building upon previous work by Amnesty International and others, this briefing will focus on the following technologies, which are frequently interconnected and which present the greatest scope of risk for perpetuating structural inequality:

INFORMATION SHARING PLATFORMS AND DEVICES

Information sharing platforms and devices connected to internet networks, including social media;

ALGORITHMIC SYSTEMS AND DECISION-MAKING TOOLS

Algorithmic systems and decision-making tools, which use a set of mathematical instructions or rules that calculate an answer to a question or problem, often without a human involved in the decision-making process;¹⁴

SURVEILLANCE, MONITORING, AND POLICING TECHNOLOGIES

Surveillance, monitoring, and policing technologies deployed by public and private actors, which are generally designed and deployed to monitor or manipulate human behavior, often without a person's consent or knowledge.¹⁵

¹⁴Amnesty International, *Xenophobic machines: discrimination through unregulated use of algorithms in the Dutch childcare benefits scandal* (Index: EUR 35/4686/2021), pg. 4.

¹⁵Amnesty International, *Automated apartheid: how facial recognition fragments, segregates, and controls Palestinians in the OPT* (Index: MDE 15/6701/2023).

3. INEQUALITY AND TECHNOLOGY: ESSENTIALLY INTERSECTIONAL

Over the past several decades, there has been an unprecedented increase in global inequality and extreme wealth disparity, with the world's poorest now owning just 2% of the world's wealth and the world's richest owning 76%.¹⁶ This has also resulted in a rapid rise in poverty as a driving force of human rights violations around the world,¹⁷ as well as increasing adoption of policing and governing tools that effectively criminalize poverty itself.¹⁸ As Amnesty International and other organizations have argued, meaningful efforts at mitigating structural inequality must be rooted in an acknowledgement of its material and historical roots, most of which are directly linked to colonial systems of oppressive and violent economic extraction.¹⁹ In so doing there is a need to engage an intersectional approach that acknowledges how various forms of marginalization (racial, gender, socio-economic, disability, etc.) do not function separately, but are exacerbated by one another.

THE WORLD'S POOREST ONLY OWN 2%

THE WORLD'S RICHEST OWN 76% OF THE WORLD'S WEALTH

These intertwined forms of inequality are often exacerbated by seemingly “neutral” systems of power that are frequently digitally enabled, or which are extensions of existing inequalities outside of the digital realm.²⁰

Today's global crisis of inequality is reflective of decades of policymaking that have deliberately prioritized the interests of the powerful against the needs of the global majority — the technical sphere merely extends this power imbalance. Such imbalances are also directly linked to recent history; global inequalities of race, gender, disability, and income are explicitly rooted in historical systems of oppression and extractive political economies, including “racist economic extraction and exploitation that occurred during the colonial era.”²¹

¹⁶ Amnesty International, *Promotion of Inclusive and Effective Tax Cooperation at the United Nations Submission to the UN Secretary General, 78th General Assembly Session*, 5-19 September 2023 (Index: IOR 40/6565/2023).

¹⁷ Adam Ploszka, “All Beginnings Are Difficult: The Guiding Principles on Extreme Poverty and Human Rights a Decade After Their Adoption,” *Human Rights Law Review*, Volume 23, Issue 2, June 2023.

¹⁸ Peter Edelman, *Not A Crime to Be Poor: The Criminalization of Poverty in America*, The New Press (2019); Alex S. Vitale, *The End of Policing*, Verso Press (2017); Virginia Eubanks, *Automating Inequality: How High-Tech Tools Profile, Police, and Punish the Poor*, St. Martin's Press (2018).

¹⁹ UN Special Rapporteur on contemporary forms of racism, *Report: Ecological Crisis, Climate Justice and Racial Justice*, 25 October 2022, UN Doc. A/77/549, para. 1-2.

²⁰ Amnesty International, *Taxation, illicit financial flows and human rights* (Index: IOR 40/571/2022).

²¹ UN Special Rapporteur on contemporary forms of racism, *Report: Global Extractivism and Racial Equality*, Tendaye Achiume, UN Doc. A/HRC/41/5414, pg. 7. For further and more detailed reading on the intersection of technology, race, and inequality: Ruha Benjamin, *Race After Technology: Abolitionist Tools for the New Jim Code*, Polity (2019); Virginia Eubanks, *Automating Inequality: How High-Tech Tools Profile, Police, and Punish the Poor*, St. Martin's Press (2018); Safiya Umoja Noble, *Algorithms of Oppression: How Search Engines Reinforce Racism*, NYU Press (2018).

Broadly speaking, inequality occurs along multiple vectors, including gender, socio-economic, disability, and race.²² As such, it must be understood as pertaining to violations of both civil and political rights (right to freedom

of expression, right to privacy, etc.) but also economic and social rights (right to social security, right to housing, right to an adequate standard of living, right to decent working conditions, etc.).²³

INEQUALITY AND HUMAN RIGHTS

A human rights and inequality informed approach to technology should acknowledge the inherent impossibility of value-neutral technology or information management systems. This is because they always reflect the underlying biases, worldview, and assumptions of the people who built them, as well as the political, social, and economic contexts in which they emerged or gained prominence. They are also not immune from the environments and contexts in which they operate. In the case of data-driven or algorithmically enabled information management systems, including search tools, these biases almost always reflect a worldview which overwhelmingly represents the interests, perspective, and worldview of people with disproportionate access to linguistic, cultural, racial, and economic privilege and security.²⁴

In addition, an inequality informed approach to technology should include an understanding of the financial and political systems of power that underpin these products, companies, and services. Today, what scholars have termed “technochauvinism”²⁵ and “digital-colonialism,”²⁶ continues to reflect these power imbalances as a direct driver of global inequality, as a small group of technology companies and their funders, largely concentrated in North America, administers, deploys, and profits from non-transparent technological systems. These technologies have enormous impacts on the daily lives of billions of people, particularly those from marginalized groups with the least capacity to opt out of using them.²⁷

²² World Inequality Lab, *World Inequality Report 2022*, <https://wir2022.wid.world>.

²³ Michelle Gilman, *Data & Society*, “Expanding Frameworks: An economic justice approach to digital privacy,” November 6, 2019.

²⁴ Safiya Umoja Noble, *Algorithms of Oppression: How Search Engines Reinforce Racism*, NYU Press (2018).

²⁵ Meredith Broussard, *Artificial Unintelligence: How Computers Misunderstand the World*, MIT Press (2019).

²⁶ Abeba Birhane, “Algorithmic Colonization of Africa” (2020) 17:2 *SCRIPTed: A Journal of Law, Technology, & Society*, <https://script-ed.org/?p=3888>.

²⁷ Data & Society, *Tech Colonialism Today: Sareeta Amrute’s keynote talk at EPIC2019*, 2019, <https://points.datasociety.net/tech-colonialism-today-9633a9cb00ad>.

AFFECTED COMMUNITIES

Marginalized, oppressed, or groups otherwise facing structural barriers are also often among the first on whom new forms of technology or digitally enabled tools are tested, and for whom there the fewest safeguards when these tools cause undeniable and serious harm.²⁸ It is also the case that it is often these groups who rely most on digital systems, and for whom uses of technology can be particularly transformative or impactful. For the purposes of this report, such groups include, but are not limited to:

- People with insecure citizenship status, including people without legal status, refugees, stateless people, and people experiencing forced displacement;
- People who experience structural racism, including Black, Indigenous, and other racialized groups, as well as other ethnic and racial minority or historically persecuted groups;
- People experiencing poverty or economic insecurity, including people experiencing homelessness and/or other groups who interact with state welfare or social protection services;
- Incarcerated or formerly incarcerated people, including those who may have had interactions with the criminal justice or police systems;
- Children and young people, who face particular risks in accessing their rights, particularly with regard to their protection and empowerment online;
- People with disabilities, including people with intellectual or mental health disabilities, many of whom may have interacted — often involuntarily — with criminal justice, public health, and/or welfare systems.

Just as wealth and social inequalities themselves are the results of deliberate policy decisions,²⁹ inequalities that are perpetuated, enacted, or exacerbated by digital technologies are also the result of deliberate and distinct choices on the part of governments and corporations. As such, they can be challenged, mitigated, or prevented with appropriate and clear strategies by governments and corporations, as well as the human rights community and other stakeholders.

²⁸ Amnesty International, *Surveillance giants: How the business model of Google and Facebook threatens human rights* (Index: POL 30/1404/2019); Amnesty International, *Myanmar: The social atrocity: Meta and the right to remedy for the Rohingya* (Index: ASA 16/5933/2022).

²⁹ World Inequality Lab, *World Inequality Report 2022* <https://wir2022.wid.world>, pg. 11.

4. A HUMAN RIGHTS AGENDA FOR TECH EQUITY

TECHNOLOGY-ENABLED INEQUALITY HAS IMPLICATIONS FOR ALMOST EVERY AREA OF DAILY LIFE AND GOVERNANCE, BUT THIS BRIEFING WILL FOCUS ON TWO CORE AREAS OF HUMAN RIGHTS HARMS AT THE INTERSECTION OF TECHNOLOGY AND INEQUALITY THAT HAVE EMERGED AS PRESSING AND CONSISTENT AREAS OF CONCERN.

1 First, as Amnesty International's previous research has demonstrated, governments and private sector actors are frequently responsible for violations and abuses of the rights to both non-discrimination and equality, particularly where certain automated decision-making tools have been shown to replicate racial, economic, gender, and other structural biases and forms of discrimination.³⁰

2 Second, the past five to ten years, in particular, have revealed a depth of rights violations and abuses concerning the right to fair working conditions globally. This is particularly the case as more technology and data-centric private actors have continued to exert tremendous influence over both the type and conditions of labor performed around the world. This is of particular concern where social security and welfare systems have experienced drastic cuts, leaving many increasingly desperate and dependent on the whims of the private sector for accessing survival rights such as food, housing, and healthcare.

Human rights violations and abuses can be understood as cross-cutting and interrelated, particularly in the context of technology and inequality. Importantly, the right to social security³¹ and economic, cultural, and social rights more broadly — that is, the obligation of states to provide the conditions for people's right to an adequate standard of living, particularly in the context of an ever more precarious 21st century — are interwoven among all of these rights. Furthermore, the right to privacy is also a core concern that intersects with both the right to non-discrimination and fair working conditions. A human rights agenda focused on addressing the harms of tech-enabled inequality, in other words, must also keep in mind that tech equity, which is made possible only by the protection of economic, social, and cultural rights alongside political and civil rights, is crucial, particularly with regard to an increasingly tech-reliant world.³²

³⁰ It is also important to note that the right to non-discrimination is a cross-cutting right, on which the enjoyment of all other rights is fundamentally based. For more, see: Committee on Economic, Social, and Cultural Rights, General Comment No. 20 (E/C.12/GC/20) 10 June 2009, <https://www2.ohchr.org/english/bodies/cescr/docs/gc/e.c.12.gc.20.doc>.

³¹ "A key factor behind the economic insecurity driving many protests is the fact that the vast majority of people simply do not enjoy their right to social security, realized through the implementation of social protection measures, in a way that would protect them from crises and precarity and support them to recover." From Amnesty International, *Rising Prices, growing protests: the case for universal social protection* (Index: POL 40/6589/2023).

³² Michelle Gilman, *Data & Society, Expanding Frameworks: An economic justice approach to digital privacy*, November 6, 2019.

5. THE RIGHT TO EQUALITY AND NON-DISCRIMINATION

BACKGROUND AND LEGAL FRAMEWORK

One of the most significant impacts of tech-enabled inequality on human rights is on the right to equality and non-discrimination.³³ Since the inception of tech-enabled systems of information management, particularly in those adopted by states, many such tools have been linked to repeated patterns of racial, economic, and social discrimination.³⁴ Information management systems use datasets and algorithms which are frequently either ingrained with the human bias of their creators, or which are not adequately transparent or accountable for the patterns of bias or discrimination which they may replicate. This is an area of particular concern for human rights practitioners where digitally enabled tools or systems may be integrated into tools or systems that are core to the realization of economic, social, and cultural rights, such as individuals' ability to access housing, credit, or government services, or which

may arbitrate a person's predetermined credibility or level of protection within the criminal justice or policing systems.

The principles of equality and non-discrimination are among the key concepts of international human rights protection, protected in various human rights instruments, including the International Covenant on Civil and Political Rights (ICCPR),³⁵ the Convention on the Rights of Persons with Disabilities (CRPD),³⁶ the International Covenant on Economic, Social and Cultural Rights (ICESCR), and others.³⁷ Under these instruments, all persons are guaranteed equal protection of the law, and discrimination "on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status" is prohibited,³⁸ as well as discrimination against persons with disabilities.³⁹

STATE AND PRIVATE SECTOR OBLIGATIONS

The "state-business nexus"⁴⁰ in international human rights law presents complex implications for the designation of responsible parties with regard to the right to non-discrimination and equality. States ultimately bear the primary

obligation to respect, protect and fulfill all human rights, including the right to equality and non-discrimination, which is itself key to many other rights. Under international law, states must not engage in or support discriminatory or

³³ Amnesty International, *Xenophobic machines: discrimination through unregulated use of algorithms in the Dutch childcare benefits scandal* (Index: EUR 35/4686/2021), pg. 18, para. 1.

³⁴ Virginia Eubanks, Harper's Magazine, *The Digital Poorhouse*, 2018, <https://harpers.org/archive/2018/01/the-digital-poorhouse/>.

³⁵ International Covenant on Civil and Political Rights (ICCPR), Article 4, Article 24, Article 26.

³⁶ UN Convention on the Rights of Persons with Disabilities (CRPD), Article 5.

³⁷ International Covenant on Economic, Social and Cultural Rights, 1966, Article 2; International Convention on the Elimination of All Forms of Racial Discrimination, 1965, Articles 1-7; Convention on the Elimination of All Forms of Discrimination against Women, 1979, in particular: Articles 1, 2, 3, and 11.

³⁸ International Covenant on Civil and Political Rights (ICCPR), Article 26.

³⁹ UN General Assembly, *Convention on the Rights of Persons with Disabilities: resolution / adopted by the General Assembly*, 24 January 2007, A/RES/61/106.

⁴⁰ UN Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, 2011, UN Doc HR/PUB/11/04, (Guiding Principles) www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf.

otherwise rights violating actions or practices in any context, including in the context of designing or implementing data driven or technology enabled systems.⁴¹ In addition to the obligation to refrain from discriminatory measures, states also have a positive obligation to prevent, stop or punish discrimination by public and private sector actors, and to promote equality and other rights, including through binding laws.⁴² States should also clearly set the expectation that all businesses enterprises within their territory or jurisdiction respect human rights throughout their operations.⁴³

PRIVATE SECTOR ACTORS HAVE A RESPONSIBILITY TO RESPECT HUMAN RIGHTS, A RESPONSIBILITY WHICH EXISTS INDEPENDENTLY OF STATE OBLIGATIONS.⁴⁴

As part of fulfilling this responsibility, private sector actors need to take ongoing proactive and reactive steps to ensure that they do not cause or contribute to human rights abuses — a process called ‘human rights due diligence.’⁴⁵ According to the United Nations Guiding Principles on Business and Human Rights (UNGPs), “companies should undertake human rights due diligence across their activities and business relationships to identify, prevent, mitigate, and account for how they address the actual and potential adverse human rights impacts” of their products or services, as well as across their

sites, factories, supply chains, and corporate offices.⁴⁶ Private sector actors that develop and deploy digital technologies should initiate human rights due diligence as soon as possible in the development of a new activity or relationship, as well as integrating rights-holder perspectives and experiences into the process of developing, testing, and deploying new tech products.⁴⁷ The deployment and testing of machine learning systems, in particular, should follow a human rights due diligence framework to avoid fostering or entrenching discrimination and to respect human rights more broadly. **This process involves three core steps:**

- 1 Identifying potential discriminatory outcomes,**
- 2 Taking effective action to prevent and mitigate discrimination and track responses,**
- 3 Maintaining transparency about efforts to identify, prevent, and mitigate against discrimination in machine learning systems.⁴⁸**

These principles apply broadly to other uses of technology within the scope of this briefing, as well.

Finally, the UN Human Rights Council’s independent expert on racism has noted that an explicitly anti-racist agenda for addressing and eliminating forms of discrimination is core to the human rights work of the 21st century.⁴⁹ An anti-racist approach to human rights due diligence processes in the context of technology is crucial, and must be present throughout the development and deployment of any digitally enabled product.

⁴¹ Guiding Principles, Principle 1

⁴² Guiding Principles, Principle 3

⁴³ Guiding Principles, Principle 2

⁴⁴ Guiding Principles, Principle 2

⁴⁵ Guiding Principles, Principle 4

⁴⁶ UN Human Rights Business and Human Rights in Technology Project (B-Tech): Applying the *UN Guiding Principles on Business and Human Rights to digital technologies* – overview and scope. November 2019. https://www.ohchr.org/sites/default/files/Documents/Issues/Business/B-Tech/B_Tech_Project_revised_scoping_final.pdf.

⁴⁷ UN Human Rights Business and Human Rights in Technology Project (B-Tech): Scoping Paper, pg. 5-6.

⁴⁸ The Toronto Declaration: Protecting the right to equality and non-discrimination in machine learning systems. <https://www.torontodeclaration.org/declaration-text/english/#equality>.

⁴⁹ *Racial and Xenophobic discrimination and the use of digital technologies in border and immigration enforcement* - Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, UN Doc A/74/321, pg. 2, para. 7-8.

ALGORITHMIC INEQUALITY

Tools that utilize algorithmic decision-making⁵⁰ for managing access to public benefits provide a critical example of how technology can exacerbate various forms of social and economic inequality. A growing number of states around the world have adopted algorithmic decision-making in some form in the distribution of public benefits, which in turn has replicated existing forms of racial and other forms of discrimination.⁵¹ Although such systems are often cited as a method by which states can streamline social services and prevent fraud, a more consistent outcome is the penalization of society's most marginalized groups for attempting to access their rights and/or essential services.⁵² For example, many municipalities and governments have adopted some form of automated or machine enabled decision-making in tools for managing or making decisions around whether an individual qualifies for government assistance. These systems have been shown to disproportionately associate people who already experience one or multiple forms of marginalization with higher criminal, financial, or social risk.⁵³ Non-discrimination in the development, implementation, and

administration of technology is a key component of social protection. This is of particular importance when affected populations must provide digitized forms of identity and other private data in order to access essential services, or when such data may be shared with other state and non-state actors, including employers, criminal justice or police agencies, healthcare providers,⁵⁴ and financial institutions.

As outlined by the UN Special Rapporteur on contemporary forms of racism, a move toward digitized welfare systems is almost guaranteed to replicate discriminatory practices by states, and interventions that address this potential are crucial.⁵⁵

DIGITIZED STATE WELFARE SYSTEMS WILL REPLICATE DISCRIMINATORY PRACTICES.

⁵⁰ A set of mathematical instructions or rules that calculate an answer to a problem or question, which is then used, with or without the input of a human, to make predictions or decisions. See also: Amnesty International, *Xenophobic machines: discrimination through unregulated use of algorithms in the Dutch childcare benefits scandal* (Index: EUR 35/4686/2021).

⁵¹ Amnesty International, *Xenophobic machines: discrimination through unregulated use of algorithms in the Dutch childcare benefits scandal* (Index: EUR 35/4686/2021).

⁵² Amnesty International, *Serbia: Social Card law could harm marginalized members of society – legal opinion* (Press release, 28 November 2022).

⁵³ Amnesty International, *Xenophobic machines: discrimination through unregulated use of algorithms in the Dutch childcare benefits scandal* (Index: EUR 35/4686/2021); Amnesty International, *Serbia: Social Card law could harm marginalized members of society – legal opinion* (Press release, 28 November 2022); *Report to the General Assembly of the Special rapporteur on extreme poverty and human rights*, UN Doc. A/74/48037 (2019), para. 1.

⁵⁴ Heidi Ledford, *Millions of black people affected by racial bias in health-care algorithms*, *Nature*, 2019, <https://www.nature.com/articles/d41586-019-03228-6>.

⁵⁵ UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, 18 June 2020, UN Doc. A/HRC/44/57, para. 42.

CASE STUDY: XENOPHOBIC MACHINES

In the report *Xenophobic Machines*, Amnesty International built upon evidence gathered by journalists, activists, and civil society to expose **how racial profiling was inadvertently embedded into the algorithmic system used to determine whether claims for childcare benefits were flagged as potentially fraudulent in the Netherlands.**

THIS SYSTEM INADVERTENTLY LED TO THE DUTCH GOVERNMENT DENYING ESSENTIAL SERVICES TO TENS OF THOUSANDS OF PARENTS AND CAREGIVERS FROM LOW-INCOME FAMILIES, WITH DISPROPORTIONATE IMPACT ON ETHNIC MINORITIES.

Without meaningful human oversight, the self-learning mechanism in the algorithm resulted in a discriminatory pattern whereby racialized characteristics resulted in higher “risk” scores for vulnerable families. This is an example of how such “black box” systems, which are being adopted widely throughout the world in the public and humanitarian sectors, should be of concern to those looking to protect the right to non-discrimination for marginalized groups.⁵⁶

The right to non-discrimination and equality is also crucial in the context of increasing concern about the growing use of digitization and algorithmic decision making in the criminal justice and policing sectors around the world. Researchers have shown how digitized surveillance and facial recognition systems replicate dangerous forms of discrimination against racial and ethnic minorities in ways that criminalize the very existence of such populations, many of whom are already impacted by the effects of structural discrimination and vulnerability.⁵⁷ Other forms of data or technology enabled tools in the criminal justice system, including pretrial risk assessment systems and predictive policing systems, have been shown to display discriminatory biases toward marginalized groups in ways that do not align with international law and standards on non-discrimination and equality under human rights law.⁵⁸

⁵⁶ Further reading: Amnesty International, *Xenophobic machines: discrimination through unregulated use of algorithms in the Dutch childcare benefits scandal* (Index: EUR 35/4686/2021).

⁵⁷ Amnesty International, Ban the Scan Petition, <https://www.amnesty.org/en/petition/ban-the-scan-petition/>.

⁵⁸ *Human Rights, Racial Equality, & New Information Technologies: Mapping the Structural Threats*. June 2020, The Promise Institute for Human Rights. <https://promiseinstitute.law.ucla.edu/wp-content/uploads/2022/05/Human-Rights-Racial-Equality-New-IT-Report-3.pdf>.

CASE STUDY: FACIAL RECOGNITION TECHNOLOGY

Another example of how technology enabled tools can contribute to growing inequality while also threatening rights to privacy and non-discrimination is the use of **facial recognition systems in cities and municipalities** around the world. As Amnesty International has documented in several reports and its ongoing Ban the Scan campaign,

FACIAL RECOGNITION SYSTEMS FOR IDENTIFICATION ARE A FORM OF MASS SURVEILLANCE THAT OFTEN USES DATA SCRAPED FROM MILLIONS OF IMAGES ON SOCIAL MEDIA WITHOUT PEOPLE'S CONSENT.

This data is then systematized by security and police agencies from New York City to New Delhi, and has been shown to demonstrate biases that disproportionately criminalize racialized groups.⁵⁹

⁵⁹ Further reading: Amnesty International, Ban the Scan Petition, <https://www.amnesty.org/en/petition/ban-the-scan-petition/>; Amnesty International, *India: Hyderabad 'on the brink of becoming a total surveillance city'*, (Press release, November 9, 2021); *Amnesty International, Automated apartheid: how facial recognition fragments, segregates, and controls Palestinians in the OPT* (Index: MDE 15/6701/2023).

6. RIGHT TO DECENT WORKING CONDITIONS

BACKGROUND AND LEGAL FRAMEWORK

An increasingly critical component of today's global inequality crisis and its intersection with technology is the growing scarcity of safe, fairly compensated, and meaningful work, particularly for racialized groups, women, and people who have experienced structural inequality or colonial extraction.⁶⁰ Wealth has become concentrated in the hands of fewer powerful individuals and entities, while workers have faced rising inflation and stagnant or falling wages, particularly for those in the informal economy. All of these trends have the effect of making it more difficult for people to access their rights to food, housing, and health.⁶¹ For many informal or low income workers, the impact of the climate crisis⁶² and the COVID-19 pandemic⁶³ have also introduced dangerous new hazards into the daily working conditions of many of the least protected jobs, such as construction or manual laborers, delivery or ride-share workers, and care workers. This is at the same time as more governments around the world make unionization⁶⁴ or other forms of organizing for workers' rights more difficult.⁶⁵ This leaves an increasing number of people subject to the conditions and demands set by private employers with little or no access to redress when working conditions become unsustainable or dangerous.

The right to safe and fairly compensated work is protected by a number of different instruments under international law. Under Articles 6 and 7 of the International Covenant on Economic, Social and Cultural Rights, states are obligated to protect individuals' right to "just and favorable conditions of work," including "equal wages and equal remuneration," as well as "safe and healthy working conditions" and "rest, leisure, and reasonable limitation of working hours."⁶⁶ The same framework also guarantees the right of all individuals to "a decent living for themselves and their families," and protects the right of workers to strike and unionize.⁶⁷ Related protections include the right to social security, the protection of young people and children from economic and social exploitation, the right to physical and mental health, as well as the rights to an adequate standard of living encompassing the rights to "adequate food, clothing, and housing."⁶⁸ Furthermore, the International Labour Organization (ILO) Declaration of the Fundamental Principles and Rights at Work also affirms the obligations and commitments made by actors that are members of the ILO, including the elimination of discrimination of any kind in the workplace, and providing a safe and healthy working environment.⁶⁹

⁶⁰ Amnesty International, *Inequality in 2018* (News story, December 2018).

⁶¹ International Labor Organization (ILO), *The impact of COVID-19 and inflation on wages and purchasing power, 2022*, https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_862321/lang--en/index.htm.

⁶² Amnesty International, *A burning emergency: extreme heat and the right to health in Pakistan* (Index: ASA 33/6823/2023).

⁶³ Garofalo, Livia, Amanda Lenhart, Ireti Akinrinade, and Joan Mukogosi. *Essentially Unprotected: Health Data and Surveillance of Essential Workers During the COVID-19 Pandemic*. New York: Data & Society Research Institute, 2023. <https://dx.doi.org/10.2139/ssrn.4343045>.

⁶⁴ *The New York Times*, 'Supreme Court Backs Employer in Suit over Strike Losses,' June 6, 2023, <https://www.nytimes.com/2023/06/01/business/economy/supreme-court-strikes-teamsters.html>.

⁶⁵ ILO, 'ITUC Global Rights Index 2022 shows that many workers in Central and Eastern Europe have no access to rights,' July 19, 2022: https://www.ilo.org/global/docs/WCMS_851377/lang--en/index.htm.

⁶⁶ International Covenant on Economic, Social and Cultural Rights, Articles 6-7, pg. 2-3.

⁶⁷ International Covenant on Economic, Social and Cultural Rights, Articles 7-8.

⁶⁸ ICESCR, Articles 9-11.

⁶⁹ ILO, *Declaration on Fundamental Principles and Rights at Work and its Follow-up*, (2022): https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/normativeinstrument/wcms_716594.pdf

Many of the ways in which inequality is perpetuated by technology is a result of decisions or policies by private companies. Companies have a responsibility to respect all human rights wherever they operate in the world and throughout their operations, including in the area of fair employment.⁷⁰ This is a widely recognized standard of expected conduct as set out in international business and human rights standards including the UN Guiding Principles on Business and Human Rights⁷¹ and the OECD Guidelines for Multinational Enterprises.⁷²

This corporate responsibility to respect human rights is independent of a State's own human rights obligations and exists over and above compliance with national laws and regulations protecting human rights. As the protection and respect of human rights continues to intersect more with the decisions of corporations, a legal framework that accounts for the corporate responsibility to respect human rights will be increasingly relevant.⁷³

CORPORATE RESPONSIBILITY TO RESPECT HUMAN RIGHTS IS INDEPENDENT OF A STATE'S OWN HUMAN RIGHTS OBLIGATIONS.

⁷⁰ Under the UN Guiding Principles, "business relationships" include "relationships with business partners, entities in its value chain, and any other non-State or State entity directly linked to its business operations, products or services.

⁷¹ United Nations Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect, and Remedy" Framework: 2011 (HR/PUB/11/04).

⁷² Organization for Economic Cooperation and Development (OECD), OECD Guidelines for Multinational Enterprises, 17 June 2000.

⁷³ United Nations Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect, and Remedy" Framework: 2011 (HR/PUB/11/04). The UN Guiding Principles establish that to meet their corporate responsibility to respect, companies should have in place an ongoing and proactive human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights. When conducting human rights due diligence, a company may identify that it may cause or contribute to — or already be causing or contributing to — a serious human rights abuse. In these cases, companies must cease or prevent the adverse human rights impacts. Where impacts are outside of the business enterprise's control but are directly linked to their operations, products, or services through their business relationships, the UN Guiding Principles require the company to seek to mitigate the human rights impact by exercising leverage, or seek to improve leverage where leverage is limited, including through collaboration if appropriate. The responsibility to respect human rights requires companies to avoid causing or contributing to human rights abuses through their own business activities, and to address impacts in which they are involved, including by remediating any actual abuses. It also requires companies to seek to prevent or mitigate adverse human rights impacts directly linked to their operations, products, or services by their business relationships, even if they have not contributed to those impacts.

IMPACT OF THE GIG ECONOMY

The technology sector has, in many ways, led the way in setting global trends for both workplace culture and working conditions, particularly with the growing influence of platform labor — or what is sometimes referred to as 'gig work'.⁷⁴ The rise of the gig economy has transformed some of the most essential industries around the world, including food delivery, shipping of goods, ride sharing and travel, care work, and beyond.⁷⁵ By providing an on-demand employment and goods delivery service, many companies in the gig economy have focused on labor that was often previously undocumented or in the informal economy, and have touted the benefits of their approach by citing its efficiency, flexibility, and accessibility. However, when companies are able to avoid legally classifying workers as employees, and therefore avoid the legal protections afforded to them, workers are at risk of more precarious and dangerous working conditions, and have little recourse to restitution or the ability to opt out, particularly in increasingly scarce and competitive labor markets.⁷⁶ The case of the platform economy and the rise of so-called gig work provides many examples of how the incursion of technology into existing or emerging labor markets often serves as a way of facilitating or justifying the continued or further exploitation of already vulnerable workers, thus presenting a potential violation of these workers' right to fair working conditions and social protection.

THE DOMINANCE AND LACK OF ACCOUNTABILITY OF THE PLATFORM ECONOMY IS OF PARTICULAR CONCERN BECAUSE RACIAL AND ETHNIC MINORITIES, REFUGEES AND ASYLUM SEEKERS, FORMERLY INCARCERATED PEOPLE, PEOPLE EXPERIENCING POVERTY, AND OTHER GROUPS ARE MORE LIKELY TO BE EMPLOYED IN THIS SECTOR.

An increasing number of these affected populations may also struggle to find full time employment with adequate pay and protections elsewhere, and may therefore have few options for opting out of adverse or abusive work conditions.⁷⁷ The risks faced by workers in the gig economy are wide-ranging, and include increased risk of violence⁷⁸ and harassment,⁷⁹ as well as reports of algorithmically enabled wage theft⁸⁰ or discriminatory wage or management practices, many of which are made possible by practices of technologically enabled workplace surveillance.⁸¹ Some of these practices⁸² have included the use of biometrics or workplace surveillance to encourage workers to meet higher quotas, work at an increasingly fast pace, or to discourage taking breaks, including in ways which may penalize their attempts to protect their safety and well-being.⁸³

⁷⁴ UN Department of Economic and Social Affairs, 'Digitally enabled new forms of work and policy implications for labour regulation frameworks and social protection,' September 20, 2021: <https://www.un.org/development/desa/dspd/2021/09/digitally-enabled-new-forms-of-work-and-policy-implications-for-labour-regulation-frameworks-and-social-protection-systems/>.

⁷⁵ Business & Human Rights Resource Centre, *The Future of Work: Litigating Labour Relationships in the Gig Economy*, March 2019: https://media.business-humanrights.org/media/documents/files/documents/CLA_Annual_Briefing-FINAL.pdf

⁷⁶ Veena Dubal, 'On Algorithmic Wage Discrimination,' January 23 2023, forthcoming in *UC San Francisco Legal Studies Research Paper Series*, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4331080; Macy L. Gray and Siddarth Suri, *Ghost Work: How to Stop Silicon Valley from Building a New Global Underclass* (2018).

⁷⁷ Development Centre Studies and ILO, *Tackling Vulnerability in the Informal Economy*, 2019: https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_711804.pdf.

⁷⁸ Varsha Bansal, *Wired*, 'Gig Workers Are Being Stabbed, Stoned, and Abused in India,' April 12, 2023: <https://www.wired.com/story/india-gig-workers-violence-deadly-attacks/>.

⁷⁹ Veena Dubal, Mishal Khan, Funda Ustek-Spilda, and Mark Graham, "Fairwork United States Ratings 2023: A Crisis of Safety and Fair Work in a Racialised Platform Economy," *Fairwork*, 2023, <https://fairwork/wp-content/uploads/sites/17/2023/08/Fairwork-US-Ratings-2023.pdf>.

⁸⁰ Veena Dubal, 'On Algorithmic Wage Discrimination,' January 23 2023, forthcoming in *UC San Francisco Legal Studies Research Paper Series*, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4331080.

⁸¹ Brian Callaci, *Phenomenal World*, 'Digital Scab, Digital Snitch,' May 28, 2020: <https://www.phenomenalworld.org/analysis/digital-scab-digital-snitch/>.

⁸² Veena Dubal, *Logic Magazine*, 'A Brief History of the Gig,' May 4, 2020, <https://logicmag.io/security/a-brief-history-of-the-gig/>; See also: Amnesty International, *Digital platforms are wrong: we don't have to choose between workers' rights and flexibility*, March 17, 2021 (News Report): <https://www.amnesty.org/en/latest/news/2021/03/uber-false-choice-between-workers-rights-and-flexibility/>.

⁸³ Alexandra Mateescu and Aiha Nguyen, *Explainer: Workplace Monitoring and Surveillance*, Data & Society, February 2019: https://datasociety.net/wp-content/uploads/2019/02/DS_Workplace_Monitoring_Surveillance_Explainer.pdf.

CASE STUDY: CARE WORK IN THE GIG ECONOMY

One example of the multiple forms of precarity enacted upon workers in the gig economy is the growing digitization of the care work sector, labor which has long been dominated by immigrant women, many of whom work without legal documentation.⁸⁴ While other gig economy sectors, including ride sharing and food delivery, also disproportionately enact poor working conditions on immigrants, refugees, and racialized groups, care work presents additional vulnerabilities.⁸⁵ Care work — a sector which includes childcare, housecleaning services, elder care, the care of disabled people, home health aides, and more — is one of the world’s fastest growing and most essential sectors, and is increasingly facilitated through platforms, mobile apps, and websites where care workers are matched with people in need of their work.⁸⁶

GROWING RESEARCH HAS SHOWN THAT CARE WORKERS ON THE PLATFORM ECONOMY ARE INCREASINGLY SUBJECT TO NEW FORMS OF SURVEILLANCE AND MONITORING,⁸⁷

and that platforms often use vague ranking systems for workers that facilitate lower wages and poorer working conditions for racialized groups.⁸⁸ Meanwhile, the dominance of internet or mobile-based job markets for care workers can also exacerbate racial and economic digital divides, as workers who lack proficiency with or access to the internet, may be shut out of potential work.⁸⁹

⁸⁴ National Domestic Workers Alliance (NDWA), *Home Economics: The Invisible and Unregulated World of Domestic Work*. New York: NDWA (2012), <https://www.domesticworkers.org/reports-and-publications/home-economics-the-invisible-and-unregulated-world-of-domestic-work/>.

⁸⁵ Julia Ticona, Alexandra Mateescu, and Alex Rosenblat, *Beyond Disruption: How Tech Shapes Labor Across Domestic Work & Ridehailing*, Data & Society (2018), <https://datasociety.net/library/beyond-disruption/>.

⁸⁶ Julia Ticona and Alexandra Mateescu, “Trusted strangers: Carework platforms’ cultural entrepreneurship in the on-demand economy,” *New Media & Society* (2018). <https://journals.sagepub.com/eprint/hVMJZPYsYP8sBkgwzaQk/full>.

⁸⁷ Alexandra Mateescu, “Electronic Visit Verification: The Weight of Surveillance and the Fracturing of Care” (November 16, 2021), <http://dx.doi.org/10.2139/ssrn.4181895>.

⁸⁸ Julia Ticona, “Opinion: There’s an app for wrecking nannies’ lives,” *New York Times* (2018), <https://www.nytimes.com/2018/07/12/opinion/gig-economy-domestic-workers-uber.html>.

⁸⁹ Julia Ticona and Alexandra Mateescu, “Trusted strangers,” (2018).

CASE STUDY: “GHOST WORKERS” IN THE TECH SECTOR

Meanwhile, there are business and policy practices in the technology sector itself, as well as in the goods and services being produced, that have been shown to directly replicate existing economic, social, and racial inequalities in ways that are not compatible with the human rights to work and decent working conditions. In so doing, they are reinforcing a cycle of growing instability and precarity.

THE CATEGORY OF ‘GHOST WORK’ IN THE TECHNOLOGY SECTOR – INVISIBLE OR HIDDEN LABOR, USUALLY PERFORMED BY PRECARIOUS OR OTHERWISE VULNERABLE WORKERS – IS A PHENOMENON THAT DEMONSTRATES HOW THE TECH SECTOR INSTRUMENTALIZES AND CAPITALIZES UPON WEAK PROTECTIONS FOR WORKERS.

The role of so-called ‘ghost workers’⁹⁰ in the supply chain of many social media and technology companies, including labeling images, moderating content, and other tasks that are key to the technical function of many technology products, has led to widespread labor exploitation, exacerbating patterns of labor inequality around the world. Often working for third-party contractors in countries or contexts with weak legislative frameworks around labor laws, workers who help train or manage technical products through what has been termed ‘digital piece work’⁹¹ are often subject to crushingly low wages and unsafe working conditions, as well as severe mental health risks,⁹² as in the case of workers who are tasked with moderating or reviewing violent or otherwise harmful content that violates the community standards of social media platforms. When considered alongside the value that is created for platforms by this work, as well as the value in enormous costs saved in potential lawsuits or fines for legal violations, the extreme downward pressure on equal pay and fair working conditions for these workers becomes more clearly a matter of companies shirking their obligation to respect human rights.

Finally, with the rise in availability of generative AI tools, most of which rely upon hidden human labor and which are trained on the labor and data of people around the world, risks to labor security and workers’ rights in the gig economy and beyond are only set to grow in scope and significance, particularly as private sector actors threaten or begin eliminating or changing the nature of jobs in response.⁹³

⁹⁰ Macy L. Gray and Siddharth Suri, *Ghost Work: How to Stop Silicon Valley from Building a New Global Underclass* (2018).

⁹¹ Phil Jones, ‘Big tech’s push for automation hides the grim reality of microwork,’ *The Guardian*, October 27, 2021: <https://www.theguardian.com/commentisfree/2021/oct/27/big-techs-push-for-automation-hides-the-grim-reality-of-microwork>.

⁹² Billy Perrigo, ‘Exclusive: OpenAI used Kenyan workers on less than \$2 per hour to make ChatGPT less toxic,’ *Time*, January 18, 2023: <https://time.com/6247678/openai-chatgpt-kenya-workers/>.

⁹³ Ben J. Edwards, ‘IBM Plans to replace 7,800 jobs with AI over time, pauses hiring certain positions,’ May 2, 2023: <https://arstechnica.com/information-technology/2023/05/ibm-pauses-hiring-around-7800-roles-that-could-be-replaced-by-ai/>.

CASE STUDY: BIG TECH CONTENT MODERATORS

An illustrative example of how technology, inequality, and labor intersect is the case of workers performing content moderation for many major technology companies, and the adverse workplace conditions they face. Content moderation is an enormous and largely hidden component of many tech platforms' business model, in which content that violates a platform's terms of service is identified, flagged, investigated, and deleted, shielding users from viewing violent, dangerous, or abusive content, and protecting the company from legal liability when such content violates local laws. It is generally the case that human reviewers are required to perform this labor, and many companies — most notably Meta — have made a practice of contracting with third-party companies to outsource this labor to workers in countries where wages are low, legal protections are weak, and in which people are more likely to be drawn to content moderation as a relatively stable form of labor.

REPEATED INVESTIGATIONS ACROSS MANY CASES HAVE SHOWN THAT CONTENT MODERATION LABOR IS MENTALLY AND EMOTIONALLY TAXING TO THE POINT OF CREATING LONG-TERM MENTAL HEALTH EFFECTS FOR WORKERS, AND CONTRACTORS OFTEN FACE UNFAIRLY LOW WAGES, EXPLOITATIVE WORKING CONDITIONS, AND RETRIBUTION IN RESPONSE TO ORGANIZING EFFORTS.

Content moderation is key to the business model of major technology companies, and the **systemic exploitation of workers in service of creating enormous value for such corporations** demonstrates clearly how an essential component of today's technology creates, exacerbates, and encourages multiple and intersecting inequalities across the world.⁹⁴

⁹⁴ For more, see: Billy Perrigo, "Under Fire, Facebook's 'Ethical' Outsourcing Partner Quits Content Moderation Work," *Time*, January 10, 2023: <https://time.com/6246018/facebook-sama-quits-content-moderation/>, and Caroline Kimeu, "'A watershed': Meta ordered to offer mental health care to moderators in Kenya," *The Guardian*, June 7, 2023: <https://www.theguardian.com/global-development/2023/jun/07/a-watershed-meta-ordered-to-offer-mental-health-care-to-moderators-in-kenya>.

NON-DISCRIMINATION, PRIVACY, AND DECENT WORKING CONDITIONS

The rights to non-discrimination and privacy are also issues of concern for labor and workplace justice. For example, starting from the start of the labor life cycle, various forms of technology, as well as issues of access and the digital divide, have been shown to replicate discrimination in hiring and recruitment tools. As employers increasingly outsource decisions concerning potential candidates to algorithmic systems,⁹⁵ as well as to require application processes that rely on internet access, such tools have been shown to replicate patterns of bias against groups who already are at disproportionate risk of discrimination in the workplace, including racialized groups, women, people experiencing poverty, and people with disabilities.⁹⁶ In addition, the rise of automated or tech-based workplace management tools have been shown to introduce new kinds of vulnerability for such groups, including migrant workers in the agricultural sector,⁹⁷ rideshare drivers and delivery workers, warehouse workers, and others.⁹⁸

Various forms of tech-enabled workforce management tools can also enable employers to pressure workers to produce at increasingly unsustainable rates or to disregard critical workplace safety practices, often at the risk of penalization or lost wages.⁹⁹ More broadly, across many sectors of the formal and informal economy, technology enabled workplace management tools can allow employers to surveil, control, and penalize workers with greater ease and fewer avenues to resource.

The introduction of such tools, particularly those that are algorithmically enabled, can be used in ways that have serious consequences for employees, including ‘black box’ systems that are used for the purpose of adjusting wages, distributing bonuses or raises, or making hiring or severance decisions.¹⁰⁰

TECHNOLOGY ENABLES EMPLOYERS TO SURVEIL, CONTROL, AND PENALIZE WORKERS WITH GREATER EASE.

Since many workers in these sectors disproportionately represent groups who already face special vulnerabilities in public life, and particularly in the workforce, the overrepresentation of tech-enabled workplace monitoring tools results in a kind of de facto discrimination against workers who already experience violations of the right to equality and non-discrimination in other areas of life.

⁹⁵ Khari Johnson, "Feds warn employers against discriminatory hiring algorithms", *Wired*, 2022, <https://www.wired.com/story/ai-hiring-bias-doj-eccc-guidance/>.

⁹⁶ Natalie Florence and Heather Ross, "How tech can make it excruciatingly hard to apply for a job while homeless", *Slate*, 2023, <https://slate.com/technology/2023/06/job-application-homelessness-digital-divide.html>.

⁹⁷ Chris Ramsaroop, *Reality Check 101: Rethinking the impact of automation and surveillance on farm workers*, Data & Society: Points, Medium (2019): <https://points.datasociety.net/reality-check-101-c6e501c3b9a3>.

⁹⁸ Livia Garofalo, Amanda Lenhart, Joan Mukogosi, and Iretolu Akinrinade. *Essentially Unprotected: Health Data and Surveillance of Essential Workers During the COVID-19 Pandemic*. Data & Society Research Institute, 2023. <https://dx.doi.org/10.2139/ssrn.4343045>.

⁹⁹ Chris Ramsaroop, *Reality Check 101: Rethinking the impact of automation and surveillance on farm workers*, Data & Society: Points, Medium (2019): <https://points.datasociety.net/reality-check-101-c6e501c3b9a3>.

¹⁰⁰ WorkRise Network, Jessica Shakespre and Batia Katz, "If left unchecked, algorithmic decisionmaking could perpetuate workplace bias and harms", 2021, <https://www.workrisenetwork.org/working-knowledge/if-left-unchecked-algorithmic-decisionmaking-could-perpetuate-workplace-bias-and>.

The right to privacy¹⁰¹ is also an issue of concern for equitable hiring, and other practices in the workplace, particularly as the rise of digitally or algorithmically enabled management tools continues, and as more human labor is needed to manage or build these systems.¹⁰²

ALGORITHMICALLY ENABLED RECRUITMENT TOOLS, FOR EXAMPLE, HAVE BEEN REPEATEDLY SHOWN TO COLLECT AND SHARE PRIVATE DATA ABOUT PROSPECTIVE EMPLOYEES,

in such a way that not only violates their privacy rights, but which also may replicate existing patterns of discrimination in the workplace.¹⁰³ Meanwhile, workplace management software, including tools such as the automated collection of biometrics and health data, as well as remote monitoring and prediction and flagging tools, have been shown to violate the right to privacy.¹⁰⁴ Again, this is particularly concerning practice when it intersects overwhelmingly with people who are low wage or contingent workers, and who have little or no right to consent or opt out of this data collection and management.¹⁰⁵

An instrumental example of the intersection of non-discrimination, privacy, and workplace justice is the case of workers across the supply chain of Amazon, an enormously dominant company which, among other services, offers an influential and

popular shopping and delivery service that employs more than one million people in the United States alone, as well as an estimated 2.9 million “flex drivers,” who, in many jurisdictions, are classified as independent contractors and therefore not eligible for minimum wage, overtime pay, or many other essential workplace protections.¹⁰⁶ Amazon is a leader in the deployment of new kinds of workplace surveillance technology, widely using technologies like surveillance cameras, wearable or handheld trackers, sensors, and other tools to closely track and monitor the performance of its workers,¹⁰⁷ even when such technologies result in patterns of workplace injuries or violations of workers’ lives and health.¹⁰⁸ In one of Amazon’s largest warehouses, for example, a Minnesota “fulfillment center” staffed in large part by the area’s large Somali-American population, workers have faced violations of the right to fair working conditions, including tight control of access to rest, sick time off, and close surveillance of what Amazon calls “time off task.”¹⁰⁹ Workers, many of whom are recently resettled refugees experiencing a number of factors of marginalization, also describe a lack of training or workplace resources for new workers in the Somali language, as well as discriminatory practices around time off for Muslim holidays.¹¹⁰ Many such marginalized communities have led the charge in pushing back on violations of their rights in tech-enabled workplaces, and the grassroots efforts to create inclusive and forward thinking movements for tech equity is an critical example of how to move forward.

¹⁰¹ This right is guaranteed under several international human rights instruments, including Article 17 of the ICCPR, which protects individuals from “arbitrary or unlawful interference” in privacy, the family, home, or correspondence, as well as from “unlawful attacks on [their] honour and reputation.” The United Nations, Amnesty International, and other human rights organizations have repeatedly demonstrated how this core right is increasingly fundamental to a series of interrelated rights for individuals in the digital age, to the extent that the right to privacy is, in fact, “a foundational right,” particularly in an era in which the sharing and tracking of personal data is a growing part of everyday life. The ICCPR also makes clear that the right to privacy applies to everyone, and that difference in its protection on the basis of “race, colour, language, religion, political or other opinion, national or social origin, property, birth or other status” is inconsistent with the principles of non-discrimination and equality (ICCPR, Article 17).

¹⁰² Angela Chen, “Inmates in Finland are training AI as part of prison labor: empowerment or exploitation?” *The Verge*, March 28, 2019: <https://www.theverge.com/2019/3/28/18285572/prison-labor-finland-artificial-intelligence-data-tagging-vainu>.

¹⁰³ Javier Sánchez-Monedero and Lina Dencik, *The datafication of the workplace*, Data Justice Lab, May 9, 2019: <https://datajusticeproject.net/wp-content/uploads/sites/30/2019/05/Report-The-datafication-of-the-workplace.pdf>

¹⁰⁴ See, for example: Aiha Nguyen, *The Constant Boss: Work Under Digital Surveillance*, Data & Society, 2021, and *Managed By Bots: Data-Driven Exploitation in the Gig Economy*, Worker Info Exchange, 2021.

¹⁰⁵ Alexandra Mateescu and Aiha Nguyen, “Explainer: workplace monitoring & surveillance,” Data & Society, February 6, 2019: <https://datasociety.net/library/explainer-workplace-monitoring-surveillance/>.

¹⁰⁶ Sandeep Vaheesan, “The shadow empire that fuels Amazon’s dominance,” *The New Republic* (2023): <https://newrepublic.com/article/170708/contracts-surveillance-amazon-anti-trust>.

¹⁰⁷ Brishen Rodgers, “Workplace data is a tool of class warfare,” *Boston Review* (2023): <https://www.bostonreview.net/articles/workplace-data-is-a-tool-of-class-warfare/>.

¹⁰⁸ Lauren Kaori Gurley, “Amazon delivery drivers say they sacrifice their safety to meet holiday rush,” *Vice News* (2021): <https://www.vice.com/en/article/5dg3wb/amazon-delivery-drivers-say-they-sacrifice-their-safety-to-meet-holiday-rush>

¹⁰⁹ Erica Hellerstein, “How Somali workers are fighting Amazon’s surveillance machine,” *Coda Story* (2023):

¹¹⁰ Maximilian Alvarez, “Warehouse workers in Minnesota took on Amazon and won”: interview with Khali Jama, *The Real News Podcast* (2023): <https://therealnews.com/how-immigrant-warehouse-workers-in-minnesota-took-on-amazon-and-won>

7. CONCLUSION: TOWARD A TECH EQUITY AGENDA

TECHNOLOGY, AND THE FINANCIAL AND POWER STRUCTURES THAT UNDERPIN IT, ARE RESPONSIBLE FOR A MYRIAD OF SYSTEMIC HUMAN RIGHTS VIOLATIONS.

Technology, and the financial and power structures that underpin it, are responsible for a myriad of systemic human rights violations.

As governments, companies and civil society seek to grapple with this reality, and to find ways of enacting policies that counter the harmful effects of the tech sector, an understanding of

these interlocking forms of inequality must be placed at the center of these efforts. As the pace of technological development and its deployment in more areas of public life accelerates, it will continue to be the case that intersecting forms of racial, economic, and social inequality must be prioritized as a growing emergency for the human rights community. This briefing has attempted to serve as the first of a series of efforts to document broadly the ways in which technology-enabled inequality violates human rights, and Amnesty International calls upon governments, companies, and communities to contribute to preventing or mitigating these harms.

AMNESTY INTERNATIONAL CALLS UPON GOVERNMENTS, COMPANIES, AND COMMUNITIES TO CONTRIBUTE TO PREVENTING OR MITIGATING THESE HARMS.

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