FOR LEGISLATORS

USER ERROR:
AI, TECH, &
WORKERS RIGHTS

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DEFINITIONS USED IN THIS DOCUMENT

Big Tech: Umbrella term for the companies that make tech — hardware and software — and have an outsized impact on technology development, the internet, and the economy as a whole. Big Tech often refers to Meta, Microsoft, Google, Apple, and Amazon.

AI: Artificial Intelligence (AI) is technology that allows computer systems to mimic human capabilities and have problem-solving capability. AI can include systems like image generators, such as Google's Gemini, and large language models, such as ChatGPT.

ADS: Automated decision-making systems (ADS) use data and algorithms to make decisions in a variety of contents including but not limited to, employment status or "appropriate" human interventions.

BACKGROUND

Surveillance, work intensification, algorithmic management, and loss of autonomy are not new trends in the workplace. These are tactics that abusive employers have used for centuries. But the rapid introduction of technology, especially artificial intelligence (AI)-driven technologies, in the workplace supercharges existing trends that are harmful to workers.

Technology can be used to advance or undermine progress. Technology does not have to undermine workers' rights. Tech companies and employers that use these tools are taking advantage of the emergent nature of these technologies to dictate regulatory frameworks, including whether there is one at all. But contrary to what the tech industry might suggest, the proliferation of these abusive tools isn't inevitable or uncontrollable. They can and should be regulated, including prohibited, to safeguard our rights.

It is important for legislators to understand these harms and who is behind them, and to collaborate with impacted workers and work toward solutions. Black, brown, indigenous, and immigrant workers, especially those who are undocumented, continue to be disproportionately at risk of being exploited, discriminated against, and made victims of predatory practices in the workplace by these technologies. Both private- and public-sector workers are also impacted, and while the use of tech in the workplace undoubtedly affects blue-collar workers, the use also extends to white-collar workers such as educators, writers, lawyers, healthcare professionals, and others, as was highlighted during the SAG-AFTRA and WGA strike in 2023.

As we witnessed with the SAG-AFTRA and WGA strike, it's important to note the distinction between union workers who exercise their collective bargaining rights to negotiate terms of employment, such as the use of technology in their work, and workers without a union, including gig workers, who essentially have no recourse to dispute decisions their employers make unilaterally.

AI & TECH IN THE WORKPLACE: HARMFUL TRENDS

While ChatGPT recently brought AI into the social consciousness, use of these technologies has been harming workers and undermining worker power for years. With these technologies, workers are experiencing increased:

- **Surveillance:** From [Walmart hiring defense contractor Lockheed Martin](#) in 2012 to surveil union organizers to [Amazon tracking workers every minute of their shifts](#), technology has accelerated surveillance in the workplace, violating basic privacy rights and undermining organizing efforts.

- **Suppression of union rights:** Employers are [using AI to keep workers from organizing](#) in myriad ways, including surveilling, profiling, and retaliating against workers organizing to form unions.

- **Data mining:** With surveillance also comes data mining, by which the work process itself is datafied and monitored, turning complex tasks into data points that can be sold without worker consent and leveraged for near-total control over every aspect of work.

- **Work intensification:** Datafication of work leads to narrowly defined tasks and deliverables, prioritizing corporate profits over human needs, dignity, and safety. Examples include [Amazon workers urinating in bottles](#) and [food delivery workers risking their lives](#) to meet technology-driven demands.

- **Loss of decision-making power & autonomy:** From dictating [delivery routes](#) to [scheduling](#), and everything in between, AI-driven technology leads to near total control over every aspect of workers on the job, with no room for flexibility or creativity. There is also a lack of recourse for disputing [unjustified disciplinary](#) action dictated by AI.

- **Discrimination:** A recent [report](#) estimates that 80% of companies already use AI-based tools to speed up their hiring process. However, this comes with evidence that AI screening tools are exacerbating racist, sexist, and other discriminatory forms of bias in the hiring process.

Understanding the whole: It is essential to address not just how employers abuse AI and technology in the workplace, but how they are doing so in all facets of workers' lives. From abusing rent-setting software algorithms and surveillance-pricing to accessing public services such as those for people with disabilities, families experiencing poverty, and laid-off workers, we see technology leveraged to concentrate corporate control in all aspects of our lives, exacerbating structural disparities based on race, ethnicity, ability, and class.

BUILDING SHARED POWER WITH POLICY

For lawmakers developing policy solutions, it's crucial to include workers affected by these technologies in the policymaking process, including design, implementation, and evaluation. Such a collaborative governance framework should be enacted and codified into law.

When legislation on AI and related bills are brought forward, it's also important to know who is behind them. The tech industry and the trade associations they fund may put forward misleading bills that seem to be making an impact, but instead hold back more effective legislation from getting due consideration.

In recent years, laws and frameworks have been developed in an attempt to ensure that AI systems are safe, transparent, and non-discriminatory, and include those most directly impacted:

A New York bill backed by more than two dozen labor, civil rights, and consumer groups, the Bossware and Oppressive Technologies Act (2023 NY SB 7623 & 2024 NY AB 9315), would require employers to disclose when and how worker data, including from or for an automated decision system (ADS), would be collected and used, and would require an algorithmic impact assessment before using an ADS. It would also require human oversight to corroborate ADS output when making a "hiring, promotion, termination, or disciplinary decision." The legislation also would limit the situations where worker data could be collected, stored, analyzed, or interpreted, and include employer requirements to better ensure data accuracy and security.

A bill in Massachusetts, titled "An Act Preventing a Dystopian Work Environment" (2023 MA HB 1873), includes similar provisions concerning ADS assessment, transparency, and oversight. These bills also include provisions that give workers access to their individual or aggregate collected data and a process for correcting faulty data.

Another bill in New York (2024 NY SB 9401) would require employers to conduct an artificial intelligence impact assessment before using AI, including estimating the number of employees who would be displaced. This bill would also apply a 2% surcharge on corporate business income of certain businesses that replace (or significantly reduce the hours of) at least 15 employees with "any system or process that uses algorithms, computational models, artificial intelligence techniques, robotic hardware, or a combination thereof, to automate, support, or replace human labor." A similar 2% surcharge would be levied on corporations that use AI for data mining. Funds received from these surcharges would go to the state's Department of Labor for worker retraining, other workforce development programs, or the unemployment insurance fund.

In California, the Civil Rights Council proposed an administrative rule change to protect workers from employment discrimination based on the use of AI or automated decision making.

Colorado became the first state in the U.S. to enact a comprehensive law (2024 CO SB 205) addressing the use of artificial intelligence (AI) in employment and other critical areas. This legislation, which will take full effect in 2026, aims to prevent algorithmic discrimination and requires both developers and users of high-risk AI systems to adopt safeguards against discriminatory AI-driven decisions.

POLICY CONSIDERATIONS

Workers must have institutional power to develop and enforce policies that eliminate harmful impacts from these technologies. In collaboration with workers, policymakers can consider:

- Putting structures in place for workers to have an ongoing role in whether and how automated systems are used in their workplaces and in evaluating the impact, including on wages, scheduling, job responsibilities, discipline, privacy, safety, and collective activity.

- Strengthening worker protections so both unionized and non-unionized workers have a say in how AI affects them and a way to reject its use. This includes protecting and expanding the right of all workers to collective bargaining.

- Strengthening privacy protections and minimizing data collection. Employers should collect only data that is strictly necessary for a legitimate purpose. Workers should have the right to opt-in to data collection without retaliation for not doing so, and employers should be prohibited from sharing and selling worker data to third parties.

- Prohibiting use of technology involved in emotional manipulation, facial recognition, biometric data of workers, and continuous surveillance of workers.

- Providing redress for workers if protections are violated, such as a private right of action to help hold employers accountable for abusive practices. Relatedly, whistleblower protections should be reinforced and strengthened.

- Requiring that employers disclose all AI-powered systems they are using (automated decision making, electronic surveillance, compensation, automated management, etc.).

- Implementing non-discrimination rules and imposing consequences for the use of AI in any situation that touches access to employment — being careful to not undermine or replace current protections against discrimination.

- Requiring third-party auditing of AI systems, including assessments of bias as well as adherence to enacted protections.

In addition to laws, policymakers should consider the power of procurement and state contracts to require employers to apply equitable practices, worker protections, and worker engagement in applications of AI and related technologies.

The conversation should not just be about protecting workers from AI. We should ask workers how AI can be used to protect their rights and advance their power. Major unions across the country are taking workers' concerns seriously and involving them in discussions about how AI impacts their work and working conditions. The AFL–CIO and Microsoft have started a platform to take input from workers on AI design and guardrails.

As previously noted, union workers can exercise their collective bargaining rights to negotiate terms of employment such as the use of technology in their work; workers without a union, including gig workers, essentially have no recourse to dispute decisions their employers make unilaterally. Building worker power, addressing gig worker misclassification, and increasing union density are key steps toward addressing the harms of AI and technology in the workplace.

ADDITIONAL RESOURCES

Current Landscape of Tech and Work Policy: A Roundup of Key Concepts (UC Berkeley Labor Center): In this guide, we give an overview of current U.S. public policy regulating employers' use of digital workplace technologies. Our goal is to cover all major bills and laws and identify core regulatory concepts; however, this is not a legislative tracker. Note that we organize the guide topically; in practice, several topics might be combined into one policy. This is a living document that we will update frequently. See also the list of additional resources at the end.

Tools for Taking on Big Tech's Economic Power (American Economic Liberties Project): Competitive markets are essential to ensuring that American workers can get a fair shake. Our partners at the American Economic Liberties Project have released a toolkit for state legislators tackling many of the challenges posed by Big Tech monopolies with solutions already proposed in states across the country. No single policy solution will address all challenges, and policy solutions must include those communities most impacted by these technologies.

Guiding Policy Principles for Responsible AI (TechEquity): TechEquity's mission is to ensure that the products and practices of the tech industry are advancing human flourishing rather than undermining it. Given the growing role of artificial intelligence (and other digital technologies) in defining the economic prospects of everyday people and the scale of the potential impact, these tools are squarely in our focus across all of our programs and issue areas.

Commonsense Guardrails for Using Advanced Technology in Schools (American Federation for Teachers): This is a suite of comprehensive resources to help educators grapple with the rapidly expanding use of artificial intelligence in education. Compiled by classroom practitioners, the resources are aimed at protecting students and educators from problematic aspects of the new technology while embracing its potential benefits.

Unions Give Workers a Voice Over How AI Affects Their Jobs (Center for American Progress): Workers themselves are using their union bargaining power to negotiate contract provisions that prevent the elimination of jobs, place limits on surveillance and algorithmic management, and enable them to benefit from productivity boosts offered by AI tools. Strengthening collective bargaining rights is one of the most important ways policymakers can ensure that AI benefits workers rather than making their jobs worse.

Civil Rights Principles for Hiring Assessment Technologies (The Leadership Conference on Civil and Human Rights): Several principles are offered to guide the development, use, auditing, and oversight of hiring assessment technologies, with the goals of preventing discrimination and advancing equity in hiring.

Civil Rights Standards for 21st Century Employment Selection Procedures (Center for Democracy and Technology): Drafted to operationalize and expand on the principles mentioned above, the standards provide a concrete alternative to recent proposals that would set very weak notice, audit, and fairness standards for automated tools. They also map out a more rigorous and rights-focused approach compared to the outdated rules that currently govern how employers assess whether their selection procedures are discriminatory and actually measure the worker characteristics they claim to measure. These standards have been drafted so that policymakers, industry groups, and employers can reference them when determining what information candidates should receive, how selection procedures should be audited, and how to ensure accountability when selection procedures threaten workers' civil rights.

Regulating Robo-Bosses: Surveying the Civil Rights Policy Landscape for Automated Employment Decision Systems: This document surveys the current policy landscape of automated employment decisions and analyzes legislation introduced or enacted in 2023. Its goal is to help policymakers and advocates understand the regulatory approaches embodied by current legislation and evaluate how they do or do not incorporate the recommendations of the Civil Rights Standards (see above). That evaluation, in turn, will provide a roadmap for needed improvements in legislation to help prevent increased discrimination resulting from the use of automated decision systems.

Core Principles for Artificial Intelligence Applications (Human Artistry Campaign): As new technologies emerge and touch central aspects of our existence, the process must be handled responsibly and with respect for the irreplaceable artists, performers, and creatives who have shaped our history and will chart the next chapters of human experience. The Human Artistry Campaign offers seven principles for the responsible use of artificial intelligence.

Flexible work without exploitation (Economic Policy Institute): Digital platform companies like Uber, Lyft, Instacart, and DoorDash are waging increasingly aggressive campaigns to erode long-standing labor rights and consumer protections in states across the country. Though they rely on the labor of millions of workers to provide their services, platform companies have established a business model on the premise that they employ no one. This business model was built by denying workers fundamental rights and protections through outright refusal to follow existing laws, widespread misclassification of workers as "independent contractors," payment of subminimum wages, and shifting of the primary risks and costs of doing business onto individual workers, consumers, and public safety net programs.

Labor and Employment (Upturn): We work to ensure that technologies promote equity across the employment lifecycle and that employers are held accountable for their use. We have written research reports on predictive hiring technologies and equity, scrutinized the digital hiring practices of large hourly employers, and testified in front of regulators and legislators across the country. We continue to support modernized civil rights laws and regulations across the country, and support the use of hiring tools that mitigate bias and discrimination.

[A New Culprit in the Housing Crisis: Rent-Setting Software Algorithms](#) (Local Progress & (American Economic Liberties Project): Across the country, landlords are turning to a new tool to raise rents, further exacerbating the housing crisis: software algorithms. Third-party service providers like RealPage offer recommendations to landlords that promise to boost their profits while driving up housing costs. These recommendations are based on sensitive proprietary data or publicly available datasets regarding local housing markets. In some metro areas, the use of rent-fixing software algorithms has played a significant role in double-digit rent increases.

[Bossware and Employment Tech Database](#) (Coworker.org): Coworker.org's Bossware and Employment Tech database compiles information on more than 500 labor-focused technology products that are changing our relationship to work.

[Private Equity Stakeholder Project:](#) A handful of private equity firms, using capital from pension funds, foundations, endowments, insurance companies, and other institutional investors, have invested heavily in companies that provide tools and services used to detain, deport, and surveil people in the United States and around the world. The tools and services provided by private equity-owned companies in this sector disproportionately impact working-class, Black, indigenous, and immigrant communities.