



UNITED STATES/SPAIN JOINT STATEMENT ALGORITHMIC BIAS IN THE WORLD OF WORK

A shared vision

Digitalization of the labor market is revolutionizing productivity and access to new forms of work. According to the International Labour Organisation (ILO), digitalization of the labor market can include “introduction of some digital software into existing jobs to the creation of new types of fully digital jobs.” It has produced a “digital economy” with “digital labor” jobs—including technology intensive jobs like software engineering, traditional jobs enhanced by technology like accounting, and technology-dependent jobs like task-based digital platform work. These technologies hold significant potential to increase productivity, safety, and accessibility for workers. The international community continues to identify the potential benefits and risks associated with digitalization on livelihoods and realization of fundamental principles and rights at work.

According to the ILO’s 2022 “Digitalization and Employment: A Review,” throughout economies, such as in platform-based work, companies increasingly use automated systems to broadly monitor workers and decide work conditions, including recruitment and dismissal, pay and work assignments, and personnel management. This monitoring and automated decision-making can occur without human oversight and with algorithms that may reflect or exacerbate biases related to characteristics like gender, race, disability, LGBTQI+ identity, and national origin. Furthermore, workers often are unaware of these automated technologies determining their work conditions. In these circumstances, the risk of veiled employment discrimination is significant and growing.

Algorithmic bias and non-transparency surrounding automated systems have the potential to threaten fundamental principles and rights at work, especially for vulnerable and historically underserved groups. They may not only lead to employment discrimination and violations of privacy but also undermine workers’ ability to act collectively to prevent and address concerns about their rights. Algorithmic bias may become increasingly prevalent as automated systems expand into all sectors.

These trends moreover undermine the universal goal of “decent work” for all—defined by the ILO as “productive work in conditions of freedom, equity, security, and human dignity” and enshrined in the Universal Declaration of Human Rights and the UN’s 2030 Agenda for Sustainable Development.

Governments will need comprehensive governance frameworks that allow employers to use automated systems responsibly and enable public confidence in their ethical use in the world of work. Effective governance of automated systems can promote reliable and standardized usage across sectors and economies and ultimately harness their power to protect the rights of workers—including against discrimination through ensuring decision-making based on data practices that minimize harmful biases.

Spain and the United States reaffirm their commitment to fundamental principles and rights at work recognized in international standards and national laws, with all necessary measures to enable their effective exercise and protect against violations. Reconciling technological development and protection of labor rights is indispensable to a better future of work. Both countries are taking important steps toward ethical governance of automated systems to ensure adequate human oversight and recourse for complaints of bias and other violations in the world of work.

Spain’s “Riders’ Law” (Royal Decree-Law 9/2021, amending the Workers’ Statute) recognizes the right of food-delivery platform workers to be informed of the algorithmic systems used by companies that affect their work conditions. A group of experts commissioned by the Spanish Ministry of Labor and Social Economy produced a practical guide to facilitate company compliance with the new law.

In the United States, the White House released a Blueprint for an AI Bill of Rights in October 2022, identifying principles to guide the design, use, and deployment of automated systems based on their impact to the public’s rights, equal opportunities (including employment), and access to critical needs. These principles include safe and effective systems; algorithmic discrimination protections; data privacy; notice and explanation; and human alternatives, consideration, and fallback. In January 2023, the U.S. Department of Commerce’s National Institute of Standards and Technology launched the AI Risk Management Framework to help developers, users, and evaluators of AI systems to better manage AI risks—including harmful bias—to people, organizations, and the environment. The Departments of Labor and Commerce’s Good Jobs Principles call for the use of electronic monitoring, data, and algorithms to be transparent, equitable, and carefully deployed with input from workers.

Considering the Memorandum of Understanding signed on July 20, 2022 by the U.S. Department of Labor and the Spanish Ministry of Labour and Social Economy aimed at, among other issues, protecting vulnerable groups and underserved populations, and ensuring equal access to employment opportunities and worker rights in the platform economy:

We call on the international community, in cooperation with social partners, to reflect on:

- The ethical and human implications of automated systems at work.
- Transparency and governance of automated systems and their algorithms to prevent discrimination, privacy violations, and other adverse impacts in the world of work.
- Improved collection and use of labor market data on workers in the digital economy to promote conditions of decent work.

To address potential bias of algorithms and automated systems in the world of work, we propose to prioritize the following areas, in cooperation with social partners:

1. Drawing from existing frameworks and principles, **identify priorities for cooperation** on building automated systems and algorithms based on human-centric values that advance equity.
2. Reflect on the **legal bases for monitoring workers through automated systems**, the methods to detect and mitigate bias and other impacts on rights of workers, the appropriateness of decision-making based on automated systems, and the possibilities to appeal unfavorable decisions and remedy rights violations.
3. Adopt measures for **companies to provide relevant information** to workers and their representatives on company use of automated systems, and to empower workers to participate in decisions about how such systems are deployed in the workplace and may affect employment and working conditions.
4. Promote among companies the creation of **communication channels** where workers and their representatives across enterprises can exchange information on the use of automated systems in the world of work.
5. Consider the potential roles of monitoring bodies, supervisory authorities, and self-reporting in **impact assessments, audits, and evaluation of the use of automated systems in the world of work**.
6. Ensure that companies take steps to protect workers' privacy and comply with applicable **data privacy requirements** in their use of automated systems, taking into account the risks of data leaks to the rights of workers.
7. Enhance public transparency and clarity on the **reporting obligations** of all employers that use automated systems in the world of work.

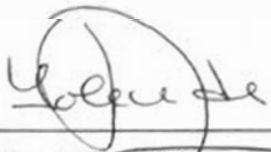
8. Encourage corporate due diligence to ensure that suppliers or operators in supply chains follow requirements on the use of automated systems in the world of work.
9. Promote broader information-sharing and technical exchanges on national approaches regarding the ethical use of automated systems in the world of work.

Signed,



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