

Algorithmic Management and a New Generation of Rights at Work

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executive summary

Technology has revolutionised the way we work in the last 30 years. Now, it is radically changing the way that we are managed at work. Rather than a traditional line manager, many workers are recruited, directed, and disciplined by management systems that generate recommendations through the application of complex algorithms and are underpinned by huge amounts of data processing about workers and workplaces. These practices pose a pressing threat to the enjoyment of decent working conditions, as well as to the effective use of worker voice and to workers' exercise of their human rights.

Whilst there are existing rights and regulations that should inform the development and deployment of algorithmic management systems, these are ineffective in several ways. In addition to shortcomings in the content of current worker protections, there are significant barriers to access to justice that prevent workers from enforcing these rights, and those most affected by these innovations will often fall outside the protective scope of the regulations. A new approach is necessary. The participation of worker representatives in decision-making regarding the use of technology in the workplace must be enhanced: expertly trained and well-informed Technology Representatives should be introduced, alongside a reduction in the barriers to collective negotiation and action that currently prevent the effective representation of workers' interests in the workplace.

Strengthened worker voice must also be complemented by a novel framework of rights and responsibilities tailored specifically to the challenges created by algorithmic management. These would include guarantees that systems are implemented in a manner that respects human rights, a right to contest any decision made, and prohibitions of some technologies that amount to an unjustifiable interference with the rights of individuals. Rather than being limited to labour law's historic categories of 'employee' or 'worker', any individual whose working conditions are determined or influenced by algorithmic processes should benefit from these rights. Enforcement of these and other relevant provisions should be strengthened by establishing a new regulator with

responsibility for licencing and ensuring compliance of algorithmic management systems. In addition, joint liability for rights infringements should be imposed on any companies developing and marketing algorithmic management tools, to ensure that working people's interests are adequately considered at all stages of the technological life cycle.

1 introduction

Technology is once again transforming the world of work. The introduction of new technologies in the workplace has long been a site of tension and contestation between workers and employers, due to concerns about job destruction and degradation of working conditions. This issue has taken on a new dimension in recent years, however, as employers are increasingly using new technologies to undertake or augment *managerial* functions rather than *production* processes. This is largely due to the emergence of algorithmic management (AM), meaning the use of 'technological tools and techniques to remotely manage workforces, relying on data collection and surveillance of workers to enable automated or semi-automated decision-making'.¹ Algorithmic systems are increasingly being used by employers to carry out a wide range of employer functions.² These practices heighten longstanding problems within the employment relationship and create a range of new threats to decent work. In short, they present an urgent agenda that must be responded to.³

There is growing awareness of the risks of algorithmic management among researchers and policymakers, with both EU and national authorities around the world considering how best to respond to these developments in the labour market.⁴ In stark contrast, the UK's recently published white paper adopts a notably hands-off approach to regulating artificial-intelligence tools, including those used in algorithmic management.⁵ There are currently no plans to introduce any new legal constraints on the use of these technologies at work. Indeed, the government is pushing ahead with deregulatory measures in this field, and the proposed Data Protection and Digital Information Bill (No. 2) will make it easier for employers to deploy algorithmic management systems.

This paper firmly rejects the current government's *laissez faire* approach to the regulation of algorithmic management and sets out an alternate reform agenda that should be pursued to ensure decent work and respect for workers' rights in the age of the algorithm. Sections two and three provide an overview of how algorithmic tools are being used to manage workers and the problems that arise from these practices. Section four sets out and identifies a number of weaknesses in the

existing regulatory frameworks that constrain the use of AM systems. These shortcomings relate to both the *scope* and *substantive* level of protection provided under the current law, as well as the *enforcement* mechanisms available. Finally, section five proposes a series of reforms which will ensure workers can exercise voice and have their interests reflected in the development and deployment of algorithmic management, and that they have effective redress for any infringements of their rights that result from the use of these systems.

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Technology has revolutionised the way we work over the last 30 years, and is now changing radically the way in which working people are managed.

Rapid advances in 'artificial intelligence' have given rise to complex and powerful algorithmic management tools that pose an increasing threat to the right of workers to enjoy decent working conditions and exercise agency over their working lives.

Authors Joe Atkinson and Philippa Collins, experts in labour law, argue that existing worker protections, already hugely undermined by decades of anti-union legislation, are woefully inadequate to meet the challenges posed by these developments. They contend that a new regulatory framework is urgently needed, giving workers and their unions a genuine voice in the use of algorithmic management tools, alongside recognition and protection of their rights and access to justice that ensures their employers can be held to account.

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