



# Digital Rights and Responsibilities and the Future of Work

Proposal under the Charter for Digital Rights and Responsibilities from Catalonia

## **1. Introduction**

The Charter for Digital Rights and Responsibilities from Catalonia is based on the premise that, although new rights and responsibilities appear with the digital age, human rights and fundamental freedoms must also be defended in new circumstances. The Charter is conceived with the view that the digital sphere is not a world apart, unrelated to the physical, but all this is part of everyday reality. The rules of the game change and require new social contracts. An obvious case in this regard are digital rights and responsibilities linked to the workplace and the future of work.

Everything that happens before, during, and after a worker is hired or accepted as a user of a Digital Labour Platform (DLP)<sup>1</sup> may have new conditions with ICT. Artificial Intelligence (AI)-based systems can intervene already from the process of talent research and candidate analysis. Algorithms can be used in job interviews and in task distribution, and control and monitoring of the development of the work and its evaluation. They can also manage remuneration and working conditions, as well as influence the decision to dismiss the company or disconnect from the DLP.

Considering the capacity of AI-based systems to influence the entire life cycle of a worker, in these circumstances an imbalance of power may occur. Through ICT, companies and platforms can become less democratic in the sense that the worker enjoys less freedom and decision-making capacity, and their basic rights are affected. This situation is perhaps becoming more evident in the environments of DLP, especially those best known, but it is necessary to guarantee digital rights and responsibilities also in less targeted platforms and in companies in which the practices of these new forms of work are being adopted.

When negotiating a new social pact, it is necessary to take into account the tendency to place digital rights in an individual sphere, while, historically, labour rights have been perceived collectively. New forms of work, with less physical space and common working hours, may make it difficult to collectivise and thus increase the imbalance of power referred to in the previous paragraph.

In particular, in order to address the digital rights and distribution of responsibilities in the workplace, in this Charter it is proposed to look at the following aspects:

- **Algorithmic governance of work.**
- **Protection and governance of the personal data of workers.**
- **Privacy and cyber-surveillance.**
- **Platforms, trade unions and collective bargaining.**
- **Telework and the right to disconnect.**
- **Digital competence.**

This is a proposal that, considering the development of the issues it addresses, will have to be constantly evolving. Digital rights and responsibilities in the field of the future of work have been little analysed and developed, and face many uncertainties.

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<sup>1</sup> There is no agreed definition for *Digital Labour Platforms* (DLP). It is proposed in this Charter to take the one of the International Labour Organization (ILO): “*Digital labour platforms facilitate work using digital technologies to ‘intermediate’ between individual suppliers (platform workers and other businesses) and clients, or directly engage workers to provide labour services.*” ([World Employment and Social Outlook 2021 – The role of digital labour platforms in transforming the world of work](#))



## **2. The future of work, the future of society**

Work is the mechanism of social integration at all levels: “*work is the umbilical cord that connects us all to society*”, [writes](#) sociologist Danièle Linhart. “*The mantra that has inspired digital initiatives has been agility and disruption, and this is valid for the stages of discovery and engineering, but now we will do well to focus more on the changes we propose, because we are already in the transformation stage, and this implies that our proposals already affect our social order, and therefore our values and our ethics*”, the consultant Genís Roca [defends](#). That is why talking about the future of work means talking about the future of society.

If the current moment is defined as the “fourth industrial revolution” it is because we have previous experiences. Historically, the emergence and large-scale adoption of new production technologies have evolved the organization of work while reconfiguring social organization. The best-known case is the transition from agricultural and rural society to industrial and urban society because of the first two industrial revolutions.

With these precedents, it is clear that the impact of digital technologies in the future of work is multiple and profound. The concept of work (what), the management of the workforce (who) and the workplace (where) undergo substantial changes<sup>2</sup>.

Digitalization in the workplace is incorporated, among others, into:

- The entire recruitment and working life cycle (filtration and interview, assignment of tasks, evaluation, dismissal). It is called [Robotic Process Automation](#) in the field of Human Resources and has already been the subject of several controversies.
- The *datafication* of the workplace and the constant monitoring of workers. It is also known by the term [people analytics](#).
- The capacity for telepresence and teleworking, which greatly increases job opportunities while at the same time creates risks in terms of digital rights and labour rights.
- Doing the tasks of the job itself. It is about automation and/or complementarity of workers with digital tools. [The Future of Jobs Report 2020](#) of the World Economic Forum states that “*in 2025, the time devoted to the current tasks of jobs, for humans and machines, will be equal*”.
- The [fragmentation of projects into short-term tasks](#) that generates fragmentation of labour relations. Effects such as income fluctuation, difficulty in defining a career and fitting into a society designed around traditional work, among others, are produced.

As in previous times of change, such as the Second Industrial Revolution, it is considered key to act from three areas to balance power relationships in the labour sphere: 1) collective actions by workers, 2) improving labour regulation and 3) updating social protection systems.

ICT can consolidate, exacerbate or alleviate and even solve problems such as social inequalities and unemployment. Humans' ability to shape the future of work must not be underestimated<sup>3</sup>. It is a collective challenge that requires a joint effort by administrations, governments and regulatory bodies, the promoters of DLP and of traditional companies, regular players and newcomers within social dialogue, research and educational institutions as well as other civil society agents.

While it is key not to leave behind models of social protection, companies, trade unions and workers who were born, grew up and consolidated into the majority working model so far, the historical backpack must not be an excuse to stop experiencing and learning, together and as quickly as possible, about new forms of work and social organization.

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<sup>2</sup> [Redefining work, workforces, and workplaces](#)

<sup>3</sup> [European Group where Ethics in Science and New Technologies](#)



### **3. Digital rights and responsibilities in the future of work**

Taking into account the circumstances of the digital era and the impact of ICT on the workplace, in this proposal under the Charter for Digital Rights and Responsibilities from Catalonia it is considered a priority to work to ensure the following:

a) **Algorithmic governance of work**

All workers must be able to be aware of the algorithms of IA-based systems that have an impact on their work, and must be able to inspect them and respond to any algorithm-based decisions that affect them. Therefore, any algorithm-based system used in the workplace must be transparent and auditable, reasonably predictable, re-evaluated regularly and permanently, and its information must be accessible, comprehensible and free from any coercion for its acceptance. Article 14 of the European [General Data Protection Regulation \(GDPR\)](#) already provides for this right of information for people subject to automated decisions, including profile processing. Thus, workers must be able to know the data used by the entity with which they have an employment relationship, as well as the relative importance of these data in the automated decision and the consequences that may arise from it. Likewise, workers, either individually or collectively, must be included in decision-making around algorithm-based systems and in the process of their design. In addition, workers subject to automated decisions in the workplace must be able to obtain human intervention in these decisions and challenge them, as set out in Article 22 of the [GDPR](#). Everyone must protect themselves from gender, race, culture, ethnicity, or sexual preference bias, among others, and from undesirable consequences of using IA-based systems. In this regard, public institutions should be able to design standards, with technical specifications, that set the conditions for the proper functioning of the AI-based systems.

b) **Protection and governance of the personal data of workers**

Personal data related to the workplace must be property of workers and be known by them. This includes the data provided by the worker, the data generated by their work activity, the data resulting from the internal and external evaluation of this activity, and the data inferred from the combination of all. These data can help to improve the employability of the worker. It should also be noted that, by creating profiles, one could deduce, derive or predict highly intimate information, including sensitive information, from personal data. This sensitive data must not be inferred. Data about an individual's behaviour can be used to generate unknown information about a person's identity, attributes, interests, or probable personality. Personal data of workers must therefore be severely limited, from the design and by default, as stated in Article 25 of the [GDPR](#), and in accordance with the principle of minimization mentioned in Article 5. This data must be encrypted and protected properly, treated reasonably, and must not be shared with third parties in the absence of a legitimate interest. In any case, it is necessary to guarantee worker's human rights and fundamental freedoms in the first place. The entity with which the worker has an employment relationship is responsible for the custody of their personal data. Furthermore, this data must be submitted to an impact assessment, as expressed in Article 35 of the [GDPR](#). Personal data related to the workplace should also be able to be grouped together to facilitate collective management by organized workers.

c) **Privacy and cyber-surveillance**

Article 88 of the European [GDPR](#) provides that the Member States of the European Union may introduce, by law or by means of collective agreements, specific rules to guarantee the protection of rights and freedoms in relation to the processing of the personal data of workers in the working environment. These rules must include appropriate and specific measures to safeguard the human dignity, legitimate interests and fundamental rights of the worker, with special attention to control systems in the workplace, and to the transparency of the processing and transfer of personal data. In this respect, hidden controls of video monitoring in the face of the slightest suspicion are not valid, but there

must be reasonable suspicion that the worker has committed a serious infringement which has a serious effect on the interests of the entity. In any case, the worker must have been informed, and the system must be as minimally intrusive as possible, always under basic principles of proportionality, suitability and necessity. The use of cyber-surveillance AI systems, such as facial recognition, should be based on these same principles. This surveillance, like that of the digital devices used by workers and owned by the entity with which they have an employment relationship, must always be respectful of the right to privacy.

**d) Platforms, trade unions and collective bargaining**

The digitisation of work can fracture space and working time. Independent workers must be able to enjoy greater organisational capacity, either from the trade union level and collective bargaining, either by being able to access the labour market together, or by pooling tools of work and knowledge, or by sharing insurance and management, among others. Here, the reference to collective bargaining in Article 88 of the [GDPR](#) as a mechanism to provide appropriate and specific standards in the context of data collection and processing to safeguard human dignity and the fundamental rights of working people confirms the importance of collective rights to combat abuses of the practices of automated systems in the workplace. In this regard, collective agreements should be regularly updated to address issues such as the collection of personal data of workers and the impact of algorithm-based decisions in the workplace.

**e) Telework and the right to disconnect**

One of the most notable changes resulting from the digitisation of work is the possibility of working from anywhere. Teleworking must be developed with guarantees, enabling mechanisms to ensure disconnection, protection from labour risks, compliance with the agreed work commitment, predictability, fair remuneration and the right to work health. The issue of work sharing should be raised through a new concept of working time that respects personal and family life, which also guarantees this right to balance by means of the right to disconnect<sup>4</sup>. Thus, this right to disconnect is also a right to gender equality.

**f) Digital competence**

Automation affects the employability of workers and destroys jobs, but it also creates new ones. In this regard, governments must address solutions such as the promotion of technological vocations, especially among girls and teenagers, as well as digital training and the reorientation of professional skills that focus on competences that are more difficult to automate. Public administrations must facilitate the fit between demand and talent supply. This should be improved by designing standards that make public employment services' and private sector's data interoperable<sup>5</sup>. Moreover, workers, either individually or collectively, must be able to participate in the incorporation and implementation of new technologies in their jobs. Furthermore, public administrations should promote the debate on structural changes such as the reduction of working hours, the possibility of taxing machines or the design of income systems for people who cannot adapt to the new reality.

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<sup>4</sup> Retrieved from [an interview to Yolanda Díaz, minister of Work and Social Economy of the Spanish Government](#).

<sup>5</sup> For example, [JobTech Development](#), by the Swedish Public Employment Service. They offer open data, open APIs, and open source technology so that everyone can contribute to "a better labour market".



## 4. Framework of reference

The text of this proposal has been drawn up on the basis of the following framework of reference:

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- Dr. Christina Jayne Colclough. Founder of [The Why Not Lab](#). Colclough is a member of the steering committee of the "Global Partnership on IA" and a member of the advisory committee of the new Carnegie Council program: AI and Equality Initiative. In addition, she is a member of the OECD expert group One AI, and is affiliated with the FAOS, the Center for Labor Relations Research at the University of Copenhagen.
- Dr. Gemma Galdón Clavell. A leading voice in technological ethics and algorithmic responsibility. She is the founder and general director of [Éticas Research & Consulting](#) from where [\*Los sindicatos ante los retos tecnológicos. Dinámicas y buenas prácticas\*](#) was published. Finalist at EU Prize for Women Innovators. Ashoka fellow since 2020. She has participated in the process of drawing up the first version of the Charter for Digital Rights and Responsibilities from Catalonia.