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Good Labor Policy Is Good Technology Policy:

Worker Voice in Technological Change

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Executive Summary

Policies that address the impacts of new technologies in the workplace have been slow to materialize, but we're witnessing an uptick in concern over and action related to how new technologies will change work. Some policymakers have been sounding alarms for years[1]—especially those who have heard from constituents in industries where technology is already impacting work, such as the taxi industry, warehousing, health care, and retail. In many cases, these technological developments were seen as marginal to the functioning of the overall economy, with impacts limited to workers in these industries—many of which employ large numbers of low-paid workers of color.

With the release of OpenAI's ChatGPT in 2022, advanced large language models—artificial intelligence (AI) at an unprecedented level of sophistication—emerged as a potential existential threat to workers across the income and occupational spectrums,[2] and thrust workplace technology's impacts into the center of political debate. In the wake of its release, advanced AI has absorbed nearly all of the attention on new workplace technologies. But the emergence of AI has also raised the possibility that we risk getting stuck in a pattern: A newfangled technology bursts onto the scene, accompanied by fanfare on one hand and hand-wringing on the other, and a scramble commences to understand, predict the effects of, and form new task forces on how to regulate said new technology. In some ways, this is a rational, cautious, and predictable approach for government bodies to take. But it also means our policymaking apparatus is always reacting to technology and likely only responding to the technologies that promise widespread "disruption" to the status quo.

A different approach is proposed in this brief: one that acknowledges the need for attention to specific technologies, but contends that workplace technology is best dealt with by strengthening worker power across the economy and especially in industries where new technologies are poised to make substantial changes to jobs and tasks. More specifically, it argues that one powerful way to shape the impacts of new technologies on an ongoing basis is to advance a set of policies that expand the right to organize and bargain collectively, increase protections at work, and enforce existing regulations. This brief offers examples of what we can learn from collective bargaining processes over new workplace technologies, how new labor policies could shape the introduction and use of technology, and how enforcement of existing laws can strengthen protections for workers against the potential negative impacts of technology, including workplace surveillance and displacement.

[1] See, for example, California Labor & Workforce Development Agency n.d.; Kang 2017; and Koff 2017.
[2] See, for example, Miller and Cox 2023; Zinkula and Mok 2024; and Zahn 2023.

Introduction

Anyone who has participated in a discussion about digital technologies in the workplace in the last year has likely heard dystopian vignettes from the not-so-distant future—one in which robots, workplace monitoring, and AI-enabled management have evaded regulatory action, and workers find themselves under the watchful eye of a corporate panopticon peering over their shoulders and tracking the minutiae of their lives in the workplace and beyond. The stories are harrowing and produce visceral anticipatory anxiety; meant as warnings, they paint a picture of a future in which workplace technology policy has failed to find relevance.

Employers have long used technology—defined broadly—to increase productivity and to control and discipline their workforces, from plantations to factories and beyond, implicitly shifting the balance of power in their favor in the process. Tools and methods for accounting for slave labor precede mechanisms of ensuring productive industrial wage labor, which foreshadow modern forms of "data capitalism" (Milner and Traub 2021). Digital technologies have intensified the focus on efficiency in many workplaces, while also producing information asymmetries, arm's-length screening, management and discipline tactics, and intimate forms of data collection. Today we face a succession of new workplace technologies that promise to upend work as we know it, and policymakers often find themselves caught on their heels as the newest "innovations" become the focus of attention—from platform work, to surveillance, to the current mania around artificial intelligence.

As much as near-future speculative vignettes are effective in illustrating the dangers of unfettered technology uptake in the workplace, they also lay bare the underlying problem: Workers in the US are hindered by weak workplace protections and a profound lack of power vis-à-vis their employers. Neoliberal policies, with the backing of powerful business interests, have framed the free market as the most efficient arbiter of the economy and sought to shrink the size and scope of the government—though in many cases government power was instead leveraged in order to coordinate markets and advantage corporations and high-wealth individuals. Policies stemming from this model, in turn, led to a concentration of corporate power and a host of negative impacts across a range of measures, including racial equity, economic opportunity, housing access, and educational success (Stiglitz et al. 2015). Neoliberal imaginings about inexorable progress and the inevitability of technological change could be found spewing out of Silicon Valley's "disruption" machine—in fact, as a recent "techno-optimist manifesto" (Andreesen 2023) reveals, these "dangerous ideas" continue to circulate, albeit with more skepticism than a decade ago (Bhalla and Robinson 2023). In labor markets, neoliberal trickle-down policy resulted in industrial deregulation, a failure to increase the minimum wage, changes to labor law that made it more difficult for

unions to maintain membership—let alone grow—and reduced funding for critical labor market institutions such as the Occupational Safety and Health Administration (OSHA), the Department of Labor (DOL), and the National Labor Relations Board (NLRB). The development of new technology, especially as it related to work, was viewed as an engine of economic growth, so any impacts on inequality could—indeed, should—be overlooked.

But like other workplace issues, there is a clear way to improve outcomes for workers: Strengthen their rights and their voice on the job. Understanding the impacts of emerging technologies on particular industries and occupations and finding ways to mitigate potential harms from their adoption remain important tasks. But the sheer speed with which technologies come to market makes it difficult for policymakers and government agencies to keep up with new developments. This brief argues that one essential way to increase democratic participation in technological change and curb the negative impacts of new technologies on an ongoing basis is to advance policies that offer increased protections at work, expand the right to organize and bargain collectively, and enforce new and existing regulations.

This approach won't solve everything—in cases where many jobs may be eliminated by a new technology, worker voice and power might soften the blow to displaced workers but cannot prevent that from happening entirely. But in many workplaces, the set of policies suggested herein could make a meaningful difference. The next section briefly summarizes the history of workplace control and its relationship to technology and power. The following section makes an argument for how labor policy can be used to address the structural issues that tip the scales away from workers as new technologies are introduced, with three subsections: what we can learn from collective bargaining processes over new workplace technologies, how new labor policies could shape the introduction and use of workplace technologies, and how enforcement can strengthen protections for workers against technology's negative impacts. The brief concludes with thoughts on how the emerging "post-neoliberal" economic consensus offers a path forward.

Labor Control, Technology, and Power

The desire to control the labor process is a central tenet of capitalism (see, for example, Braverman 1998; Burawoy 1982). Early efforts to control, discipline, and incentivize workers have their roots on plantations, as enslavers, convinced of the laziness and inefficiency of enslaved people, designed brutal systems to extract productivity and exert control. Rather than think of the plantation as a pre-capitalist formation, viewing it instead as a form of proto-capitalism reveals a throughline of labor discipline and control—up to the present day (Cooke 2003; Rosenthal 2020; Whittaker 2023). Elements of what became Frederick Winslow

Taylor's management system were already in practice in antebellum slavery—de-skilling and standardization of tasks, the fragmentation of work and division of labor, extensive surveillance, and the restriction of autonomy (Aufhauser 1973; Rosenthal 2018). Taylorism, formally introduced in the early 1900s, subjected workers to a rigid structure, where time-and-motion studies sought to rationalize and standardize each work process and eliminate inefficiency. Close monitoring of individual performance was enforced by keen-eyed managers with stopwatches and clipboards—early technologies—who could now compare one worker to another, target low performers for discipline, and ensure overall productivity on the shop floor. Henry Ford's application of scientific workforce management, Fordism, was the prominent form of industrial organization in the early- to mid-20th century, and featured high-volume, high-speed assembly lines with a rigid division of labor and close monitoring of work processes to ensure maximum productivity and limited autonomy. Though we cannot equate the conditions of industrial factories with those of the plantation—doing so would dilute the horror of the system of racialized terror that was enslavement—overlooking this fundamental relationship risks obscuring how race came to be an essential tool in labor process control in the US.

When long-standing eagerness for efficiency and control on the part of employers intersects with modern technologies, the historical underpinnings of the US economy in chattel slavery stretch into the present. As Ouma and Premchander (2022) write, "efficiency, as made possible by digital technology, needs to be analyzed in terms of its historical lineage. . . . the plantation reminds us that innovation in the service of efficiency often manifests with violence." With the plantation and the factory in mind as precedents, it is clear that workplace technology is not neutral—it never has been—and in many ways reinforces paternalistic employment relationships in which workers cannot be trusted.

Digital technologies have dramatically expanded employers' ability to monitor and manage their workforces—often without workers' knowledge. Data and algorithms can be used to dictate work pace, track worker activity and movements, predict their behavior, discriminate against them, and use their likeness without permission. As Ajunwa (2023) has argued, digital technologies allow for previously unimaginable forms of "worker quantification," in which people are reduced to data in the form of increments of time or tasks—a particularly modern form of dehumanization. The singular focus on efficiency and productivity on the part of managers, coupled with digital technologies, results in worker bodies and behaviors being mined for data, easily categorizable among other numbers on the dashboard. Some of this datafication is obvious—in Amazon's warehouses, for example—but in other situations it is more subtle and difficult to identify. For instance, algorithms are now widespread in the hiring process, despite substantial evidence of the dangers of bias and discrimination that could and do result, and for the most part job applicants have little indication these tools are

being used to discern their potential fit (Maurer 2021; Raghavan et al. 2019). Digital technologies expand information asymmetries, coercion, and discipline—and ultimately shift power into the hands of employers (Bodie 2023).

The fundamental relationship of technology to control and efficiency reveals the importance of centering questions of power in the analysis of technology's impacts: If the workplace is a site of struggle over power, workplace technology must be as well (Acemoglu and Simon 2022; AI Now Institute 2023). And in a context in which workers' rights are so meager to begin with, any new technology could tip the balance further toward employers.

Labor Policies Can Strengthen Workers' Role in Technological Change

Since the 1970s, neoliberalism has been a handmaiden to the decline of union membership, the result of policies that restricted unions' capacity to organize as well as the decline of manufacturing jobs, a sector in which the labor movement had gained a strong foothold. The sustained attacks on both the institutions and social norms of labor markets left workers largely on their own, and owing to these challenges, the vast majority of workers in the US today—90 percent—are not part of a union at their workplace. In lieu of collective bargaining agreements that place upward pressure on wages and working conditions, workers rely on a patchwork of federal, state, and local labor laws. The agencies tasked with enforcing these laws are chronically underfunded and lack teeth, leaving workers with few avenues through which to improve their position and seek recourse against unscrupulous employers—a problem particularly pronounced for workers of color, women, and immigrants.

A labor-policy approach to protecting workers as technology changes the economy confronts three intertwined challenges that are a product of decades of neoliberal policy: union decline, lax labor market regulation, and underresourced enforcement mechanisms. If the imbalance of power in the employment relationship is the root cause of so many of today's workplace problems, we should look to remedies that address this asymmetry. Ensuring that workers can shape how and whether new technologies are introduced rely on efforts to strengthen workers' rights and have a meaningful voice on the job, from expanding the right to organize, to closing loopholes in existing labor law in order to protect more workers, to introducing new laws that include limits on the use of some technologies. Focusing on labor policy centralizes the broader structural context—the political economy—in which technologies are being introduced, even as we also need to understand individual emergent tools and their particular impacts on workers, jobs, and industries.

Contrary to dominant narratives of technology-driven advancement, the trajectory of technological change is not inevitable, and it won't be equitable without deliberate policy choices that shape company practices and workers' ability to participate in decision-making that impacts their workplace experience. This, in turn, extends democratic participation in processes of technological change. The following subsections discuss three strategies in service of that goal: strengthening the role of collective bargaining, protecting workers with new rights, and creating a robust enforcement infrastructure. All three strategies reinforce each other and will be necessary to create a different set of outcomes in this era of technological change.

Collective Bargaining

In 2023, the entertainment industry was rocked by extraordinary labor-management disputes. Members of the Writers Guild of America (WGA)—representing more than 20,000 writers—went on strike in May to protest what they saw as Hollywood studios' meager contract proposal. At the heart of the conflict, in addition to bread-and-butter issues like pay and benefits, sat new technologies and their impacts on the screenwriting profession: namely, artificial intelligence.[3] The union sought protections for its members against the use of AI in ways which would reduce economic security and employment opportunities. Two months later, SAG-AFTRA, the actors' union, joined WGA on strike—the first time the two unions had been on strike together since the mid-20th century. The actors' union wanted pay increases and guardrails around the use of AI-generated digital replicas in TV and film productions (Contreras 2023). After months of labor action, the WGA won what was heralded as a historic contract that, among other wins, limits the industry's use of AI (Bedingfield 2023); and SAG-AFTRA successfully ratified their own contract with new protections for actors a few months later (SAG-AFTRA 2023).

The Hollywood strikes were emblematic of an increasing trend among labor organizing and bargaining efforts: prioritizing the impacts of digital technologies on workers. The Teamsters' 2023 UPS contract negotiations also featured curtailing technology use, and the union won rights to bargain over the introduction of any new workplace technologies (Solomon 2023; UPS Teamsters 2023). And, while the effort by the Retail, Wholesale, and Department Store Union to unionize an Amazon fulfillment center in Bessemer, Alabama, in 2022 fell short, a central theme of that organizing campaign was giving workers a say in how automation impacts their jobs—especially the pace of work and extent of monitoring and surveillance (Kelly 2021). These issues are increasingly salient to workers, mobilizing them in service of a more just workplace.

[3] See, for example, Coyle 2023 and Melas and Romero 2023.

Labor unions have a long history of shaping the ways in which technologies are introduced in workplaces, and offer some of the best examples available for how workers can meaningfully participate in technology adoption processes (Voss and Bertossa 2022; Stanford and Bennett 2021). As Lisa Kresge (2020) detailed, unions have used collective bargaining negotiations to intervene in three main ways: establishing the roles of labor and management in decision-making over technological change; addressing the impacts of new technologies on jobs, tasks, and workers; and responding to employers' use of technology to manage the workforce.

In addition to contract language shielding workers from harms stemming from new technologies, unions are also focused on developing ongoing mechanisms for understanding emerging technologies and how they might impact their members. Given their deep expertise in industries and occupations—their members know most intimately their own work and they are staffed to understand industry change—unions are well situated to play a central role in tracking and evaluating the potential uses and particular impacts of new technologies. Efforts to expand in-house union capacity for this kind of monitoring could be done in coordination with government agencies whose remit includes workplace issues, such as the DOL, NLRB, and OSHA.

Despite offering some of the best models available regarding how technologies can benefit workers, low union density limits the applicability of such models to more workers: Just over 10 percent of workers in the US are covered by a union contract. In order to protect workers against the negative impacts of new workplace technologies, policymakers should prioritize expanding the right to organize and making it easier for workers to form and join unions.

The PRO Act, originally introduced in 2020, would have, among other things, prevented employers from interfering with unionization campaigns, facilitated the process of securing an initial collective bargaining agreement, banned state right-to-work laws, and levied penalties against employers for violating workers' rights (H.R. 842 2021). The bill passed in the House in 2020 and 2021, but it never came to the floor of the Senate for a vote. And while it was reintroduced under a new name in 2023, there has been little movement toward its passage. Given the slim chance of enacting this suite of reforms that would bolster labor organizing, efforts have emerged to pass standalone elements of the package in state and local government bodies. For example, in 2023, Michigan became the first state in decades to repeal a right-to-work law entirely, and the legislature took additional measures to prevent future attempts to pass such legislation.

Regulatory Reform

Workers deserve protection regardless of their status as union members, and the vast majority of workers outside of unions rely on a patchwork of federal, state, and local labor laws to set minimum workplace standards. Along with significantly expanding the number of workers covered by collective bargaining agreements, workers need a stronger regulatory framework that sets minimum standards and erects guardrails around technology use.

Strengthening minimum standards levels the playing field, curbing the ability for low-road employers to undercut competitors by committing wage theft, misclassifying workers, or engaging in other unfair workplace practices. It also empowers workers to "vote with their feet," or exercise their preferences for employment. Enhancing workplace laws related to health and safety standards, wage and hour regulations, and other general workplace legislation would help bolster workers' rights and prevent egregious uses of technology that infringe on existing labor laws—for example, in cases where electronically tracked quotas prevent workers from taking mandated breaks or where technology is used to predict strikes and union activity (Palmer 2021; Peterson 2020).

Advocates have developed comprehensive state-level policy agendas to address the threats workers face (see, for example, EPI et al. 2023), and many of the policies therein help confront the power imbalance so critical to determining outcomes for workers. Additionally, there are some proposals in which rights that are often found in collective bargaining agreements are being introduced as laws. For example, "just cause" employment system bills both strengthen worker standing broadly and include specific provisions around technology—limiting its use for disciplining workers and protecting those who refuse to perform dangerous work (Tung and Sonn 2021). These bills, introduced in Illinois and New York, help shift power away from employers by requiring them to provide greater justification in cases of worker termination and to protect workers from discrimination and unfair treatment (Andrias and Hertel-Fernandez 2021).

While workplace technology—related bills remain limited, 2023 marked a significant increase in proposals, especially at the state level. One way to view recent technology policy proposals is as a stand-in for better labor policy—a sign of how lacking it is and how little political will exists to change it. Warehouse Worker Protection bills, introduced or passed in nine states, mandate transparency around the use of technology-enabled productivity quotas, limit technologies that interfere with other labor rights such as mandated breaks, and give workers access to their data. In some ways, these bills are attempts to remedy the absence of a) an OSHA ergonomic standard that would otherwise protect workers against the speed-ups that result in widespread injury and pain, and b) collective bargaining agreements, without

which workers are limited in negotiating with their employers over the pace of work.

In addition to broad labor laws and bills that target workplace technology, government agencies need to develop capacity to stay abreast of technological change and its impact on workers and to find new ways to use existing agency jurisdiction and enforcement mechanisms to curb the worst impulses of techno-optimism (the belief that all technological change is inherently good for society). Advocates and experts have pressed for the creation of a division within the Department of Labor whose remit would focus on understanding emerging technologies, a suggestion included in Senate Bill 262: Stop Spying Bosses Act of 2023 (S.B. 262 2023). The division would also be tasked with regular reporting to Congress about relevant new developments at the intersection of technology and the workplace. In coordination with unions and the workers they represent, a division such as this would be a powerful way to track emerging dynamics within particular industries and occupations and to educate policymakers in a timely way.

Efforts to shape how technologies are adopted can—and should—emerge from multiple government entities, including federal agencies and legislative bodies; indeed, the scale of the problem requires a "whole-of-government" approach. These efforts are especially relevant when they address the intersection of new technologies and the existing rights of workers. But policymakers can't only focus on regulating technologies as they emerge—a proactive stance requires them to address deeper structural issues and empower workers themselves.

Enforcement

Enforcement of existing labor law is made more difficult because of chronic underfunding and a lack of staff at key government agencies—yet without robust enforcement mechanisms, the promise of protecting workers will go unfulfilled. For example, even though their right to do so is protected by law, many workers are hesitant to speak up about workplace hazards because of fear of employer retaliation. These fears are more pronounced among workers of color: A survey conducted during the pandemic found that 34 percent of Black workers reported fearing retaliation for speaking up about unsafe working conditions, compared to 19 percent of white workers, and fears of retaliation were concentrated among women of color and those in low-paying jobs (Mabud et al. 2021). Holding employers accountable for working conditions and ensuring workers feel free to report problems on the job are key mechanisms for protecting the health and well-being of all workers, but particularly those who face the greatest labor market vulnerability. Strengthening and enforcing anti-retaliation measures and whistleblower protections also encourages workers to report cases in which new technologies may infringe on other labor rights, creating feedback loops where workers can report employer noncompliance without fear of reprisal,

and agencies learn directly from workers about new areas in which to focus their enforcement efforts.

Ensuring workers have access to their basic employment rights sets the stage for other struggles over working conditions—including the impacts of technology. Preventing worker misclassification ensures that people who should have access to the protections of the W-2 employment relationship can avail themselves of those benefits—including any new labor law that might apply to employees, such as those that curtail technology use. Misclassification, too, is a racial justice issue: Workers of color and immigrants are disproportionately affected, imposing significant costs and prohibiting them from bargaining collectively or forming a union (Schmitt et al. 2023). One measure to combat misclassification, the so-called "ABC test," was passed in California in 2019 (California Employment Development Department n.d.). Enacting it at the federal level would establish a systematic legal test to determine employee classification and make it harder for employers to misclassify workers.

Given that the agencies tasked with enforcing employment law face a significant shortage of resources, recent policy proposals offer examples for how to prioritize limited enforcement agency resources. For instance, some of the aforementioned Warehouse Worker Protection bills include provisions for OSHA to target high-injury workplaces for automatic investigations, deploying a form of "strategic enforcement" which prioritizes resources for the worst offenders and in service of the most vulnerable workers—with powerful deterrence effects as well (Weil 2010). Strategic enforcement of labor standards often includes elements of "co-enforcement," an approach that acknowledges and leverages the important role community-based organizations can play in bringing in workers to develop effective enforcement strategies (Fine 2018). These tools are already being used in some localities around technology policy, and workers would benefit from expansion of these efforts at the state and local levels.

As government agencies navigate workplace relations in the modern economy, they must balance inherited legal frameworks with the changes wrought by emerging technologies. Recognizing the new and potentially profound impacts technology could have on workers' ability to exercise their right to engage in protected activity, the general counsel of the NLRB, Jennifer Abruzzo, issued a memo highlighting her concerns. In it, she argued that the NLRB needed to both "vigorously enforc[e] extant law and . . . apply settled labor-law principles in new ways," citing the Board's mandate "to adapt the [National Labor Relations] Act to changing patterns of industrial life" (Abruzzo 2022). The memo makes clear the need for government agencies charged with protecting workers to readjust their approaches as new technologies shift the landscape. Other agencies are actively grappling with these tensions,

including how to apply the Americans with Disabilities Act and Title VII protections to combat discrimination and bias in automated hiring systems (EEOC 2023). Efforts to coordinate across agencies—such as the memorandum of understanding between the Consumer Finance Protection Board and the NLRB (CFPB and NLRB 2023) to allow them to share information pertinent to the protection of both consumers and workers from illegal practices—are a promising, if small, step toward a whole-of-government approach to safeguarding existing protections and guiding new technology adoption.

Conclusion

Workers need broad labor policy that expands their ability to participate in technology-related decision-making that directly impacts them, in the form of collective bargaining, workplace regulations, and institutional infrastructure to ensure compliance with employment law. Each of these strategies is necessary but insufficient alone to protect workers—they are interdependent and mutually reinforcing. Collective bargaining offers a mechanism through which workers can have a voice and contribute to a deep understanding of industry-specific applications and impacts of particular technologies. In cases where technology-related job loss occurs, unions can help soften the blow by negotiating with companies to offer retraining programs or other resources for displaced workers. Changes to labor law would help strengthen unions, protect workers who are not union members, and provide a floor for workplace standards across the economy. Without sufficient enforcement efforts, however, much of the potential of these strategies could go unrealized.

A common neoliberal ideological thread ties together the underlying problems this brief addresses: one that asserts the primacy of corporations and insists that the role of government is, at best, to support and structure free-market solutions for economic and social issues—but certainly not to place guardrails around the "innovation" and "disruption" that spread from Silicon Valley. Yet if the inherited wisdom of the neoliberal order is indeed wavering (Wong et al. 2023), what does that mean for the intersection of worker power and technology? With a bit of political momentum, it could mean a new, more democratic era for workplace technology policy—one in which rebalancing power between workers and employers is a top priority. In order to do so, policymakers can focus on giving workers more voice in their workplaces and embolden workers and unions to take a more central role in shaping the next phase of economic progress: one that offers technological advances with broadly shared benefits.

Labor policy alone cannot solve the dilemmas raised by new technologies—if only it were that simple. But technology policy that ignores labor policy also cannot address these challenges. Strong workplace standards can help ensure that the process of technology adoption

contributes to the well-being of workers to the greatest extent possible. We can take advantage of the new political economy that is emerging to make structural changes to how workers are valued and give workers a real voice in processes of technological change.

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