Digitalization and Human Rights

Strategic Programme Overview

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COLLEGE VOOR
DE RECHTEN
VAN DE MENS

Strategical plan 2020-2023

- The Netherlands Institute for Human Rights is:
  - The Dutch NHRI since 2012
  - The Equal treatment body
  - The supervisory body on CRPD

- Three strategical programmes
  - ➢ *Digitalization* & Human Rights
  - ➢ *Gender Equality* & Human Rights
  - ➢ *New Programme: Beyond Bias 2022*
  - \+ Supervisory body CRPD

- Tier list system for other ‘‘reactive themes’’: e.g. pregnancy discrimination (tier 1), housing (tier 2), children (tier 3)

- **Overall Goals Digitalization and Human Rights programme:**
  - *Governments, Organizations - private and CSOs - and citizens are aware of the risks and opportunities of digitalization for human rights.*
  - *We envisage that these actors only use new technologies in accordance with human rights and that these technologies contribute to the protection of human rights.*
  - *How?: Examples, examples and more examples.*
- Three pillars
  - 1) Digitalization and equal treatment
    - Emphasis on the use of algorithms in recruitment
  - 2) Digitalization and legal protection?
    - Emphasis on Algorthmic decisionmaking by governments
  - 3) …

Promotion: raising awareness

- Youtube video
- Podcasts
- One-pagers, Q&As
- Interviewseries

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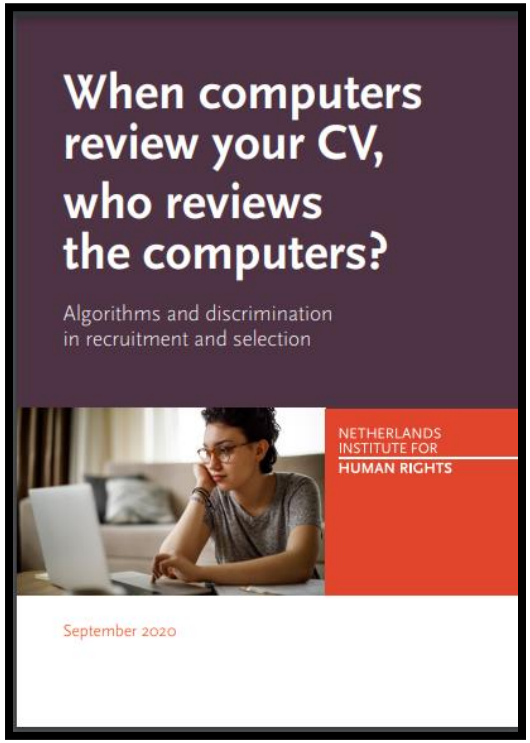
Follow the Job-application of Salma and Richard

www.soliciterenbijderobot.nl

Digitalization and equal treatment

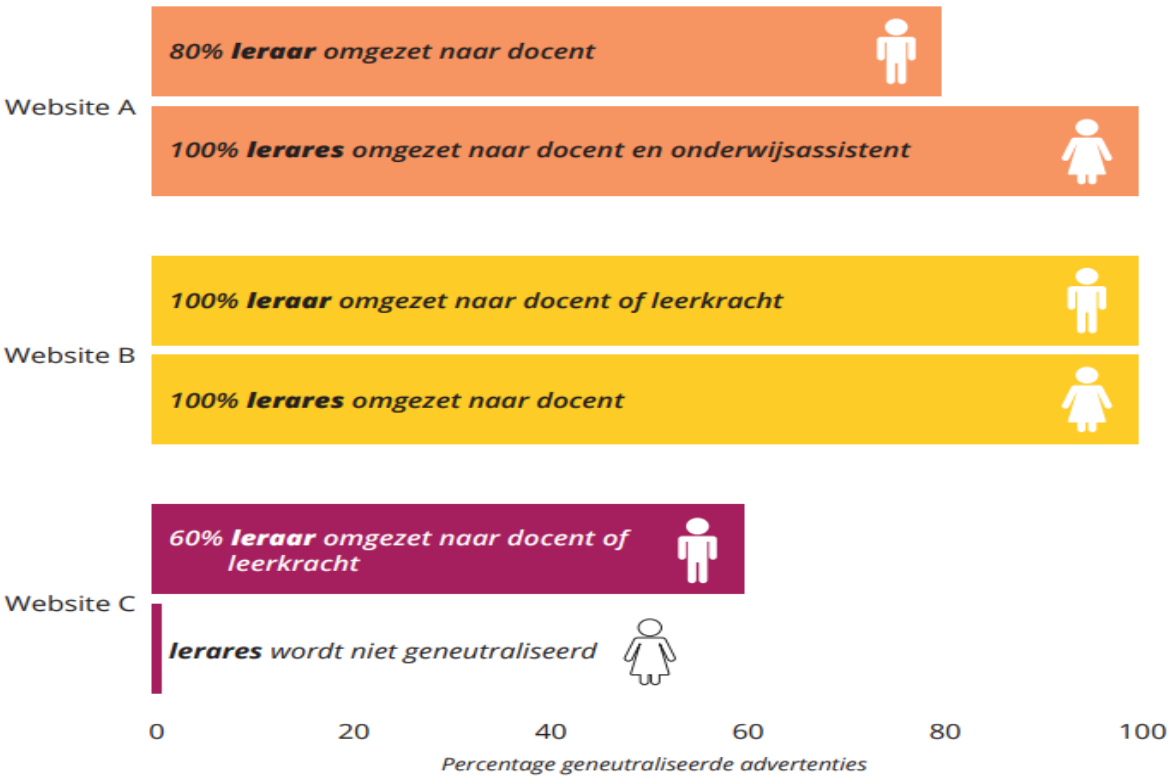
- Our research and publications:
  - Paper 2020 ‘When Computers Review your CV’ (English)
  - Utrecht Data School 2021 ‘(s)he who searches will find, or not’ (Dutch)
  - Recruiter or computer (English version will be shared)
  - Prevelance study (fall this year)

- Consultation and collaboration:
  - New legislative proposal equal treatment in recruitment
  - Handbook non-discrimination by design
  - Advice for employers and data experts.



Research on three major Dutch job websites

- Initial scan of of bias due job-seekers profiles inconclusive
- But searchalgorithms did not ‘correct’ gendered searches



Recruiter or Computer?: Four points for employers

- Underlying question: what does current (Dutch) non-discrimination law say about algorithms in recruitment

- **1) The use of algorithms can be contrary to non-discrimination law**

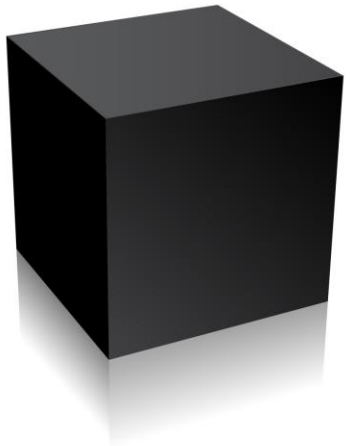
- **2) Being able to explain the algorithm is essental for the justification of indirect discrimination**

Recruiter or Computer?: Four points for employers

- **3) Recruitment procedures with algorithms (also) need to be conducted transparently, controlable and systematially**

This requirment is essential to prevent (unintended) discrimination and enable legal oversight (Case 2008-132)

Defendent called it's own recruitment procedure a 'black box', therefore it did not fulfill the transparency requirement (Case 2011-108)



Quiztime!

A recruitment personality and intelligence test for new ministry staff resulted in score differences between men and women. Several female applicants appealed. The ministry nor the creaters of the test could explain the difference. The test was based on an assessment of the people working at the ministry at that time (70-80% men).

Direct, indirect or no discrimination? (JAR 1992/64)

Justified?

Would your answer be different if we replace ‘personality and intelligence test’ with ‘algorithm’?

Recruiter or Computer? Four points for employers

- **4) Employers are legally responsible for the use of algorithms**
  - **It's the computer!**
  - **It's the software devoper!**
  - **It's society!**

An employer that gives an outsources part of the procedure to an assessment center has it's own responsibility for the quality and reliability of the methods used (Cases 1995-70/1998-123)

Legal protection and digitalization

- Own research:
  - Three points of attention for using algoirthms in government
  - The usage of algorithms within muncipalities (Hooghiemstra & Partners)
  - Overview of transparency requirments (forthcoming)
  - Digital divide (forthcoming)

- Advies en samenwerking:
  - New Algorithm Watchdog announed!
  - FRAIA, Court of Audit
  - Presentaties, o.a. VNG juridische 2-daagse

Home > Nieuws > Meer grip op risicoprofiele...

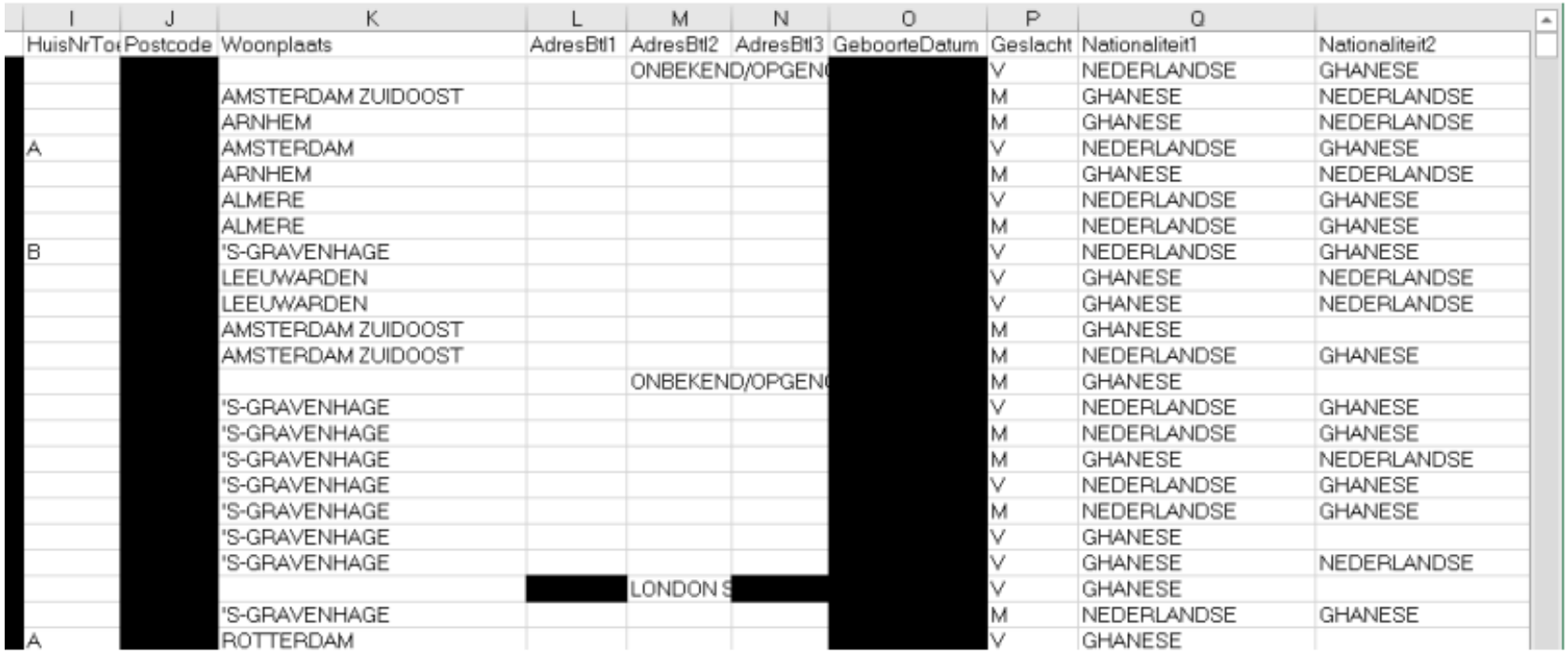
Meer grip op risicoprofielen en voorspellende systemen bij de overheid

10 februari 2021 - Laatste update 8 april 2021

De (lokale) overheid zet op steeds grotere schaal computers in bij besluiten over burgers. Een neveneffect is dat risicoprofielen en voorspellende systemen kunnen leiden tot schending van de mensenrechten. Zo kunnen fouten in data en algoritmes zorgen voor discriminatie. Daarnaast wordt het moeilijker om een besluit aan te vechten. Om de rechten van burgers te beschermen heeft het College voor de Rechten van de Mens drie uitgangspunten voor ambtenaren opgesteld. Hoe beschermen we burgers bij (semi-)automatische besluiten?

New: programme Beyond Bias!

Dutch Child-care Benefits scandal



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HuisNrToe	Postcode	Woonplaats	AdresBtl1	AdresBtl2	AdresBtl3	GeboorteDatum	Geslacht	Nationaliteit1	Nationaliteit2
[redacted]	[redacted]			ONBEKEND/OPGEN		[redacted]	V	NEDERLANDSE	GHANESE
		AMSTERDAM ZUIDOOST					M	GHANESE	NEDERLANDSE
		ARNHEM					M	GHANESE	NEDERLANDSE
A		AMSTERDAM					V	NEDERLANDSE	GHANESE
		ARNHEM					M	GHANESE	NEDERLANDSE
		ALMERE					V	NEDERLANDSE	GHANESE
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A		ROTTERDAM					V	GHANESE	

- Nationality, but also query's were found at te tax authority.
  - The tax services guide names it a risk if your surname ended with –IC and spend a lot of money on health
  - More risk if you donated money to a mosque
- Government has recognized 'institutonal racism', but what does it mean?

Thank you

Contact us: c.duijst@mensenrechten.nl