Digitalization and Human Rights

Strategic Programme Overview

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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 Algorithmic decisionmaking by governments
3) ...
Promotion: raising awareness

- Youtube video
- Podcasts
- One-pagers, Q&As
- Interview series
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 bias due to job-seekers profiles inconclusive
- But search algorithms 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 essential for the justification of indirect discrimination
3) Recruitment procedures with algorithms (also) need to be conducted transparently, controlable and systematically.

This requirement 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)
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 creators 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 developer!
   - 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 algorithms in government
  - The usage of algorithms within municipalities (Hooghiemstra & Partners)
  - Overview of transparency requirements (forthcoming)
  - Digital divide (forthcoming)

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

New: programme Beyond Bias!
Dutch Child-care Benefits scandal

- Nationality, but also query’s were found at the 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 ‘institutional racism’, but what does it mean?
Thank you

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