POLICY PAPER

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Labour Law, Technology, and the Attack on the Rules-Based-Order

This is an edited and updated version of Prof. Valerio De Stefano's keynote speech delivered at the FES Future of Work and UNI Europa conference on 11 December 2025 and entitled "The Future of Quality Jobs and Workplace AI: Regulation for Innovation".

Introduction

Although I am now based in Canada, I am very much Italian and European. So I am exceptionally committed and engaged in what I am going to say today. This is not a detached look from the other side of the Atlantic. It is a view shaped by concern: concern about the recent attacks that Elon Musk, other tech billionaires, and the current US administration have directed against the European Union, and concern about what those attacks reveal.

The strategic direction that has been taken in Washington is not only hostile toward the European Union as an institutional project; it is also aligned with the ambitions of major technology companies that are increasingly placing themselves above democratic institutions. The Trump administration's 2025 National Security Strategy, for instance, is essentially aimed at dismantling the EU both as a political entity and a regulatory force. This antagonistic stance is shared by several tech giants. Notably, after the European Commission fined X (formerly Twitter) for breaching the Digital Services Act, Elon Musk renewed his aggressive stance toward the EU, even calling for it to be abolished.

What is important to understand is that this attack on the rules-based international order that the EU represents, together with many other international institutions, is not just about public international law. It is not only about the United Nations, the International Court of Justice, or other international bodies. The crucial point is that it is also about who gets to regulate tech and who is to govern our society writ large. That means it is not only about public law. It is also about private law. Most importantly, and this is at the heart of my message, it is about labour law: the law that we apply in the workplace.

The Tech Right: Silicon Valley, Trump, and the Attack on the Rules-Based Order

Major tech companies no longer limit themselves to contesting particular regulatory provisions. Increasingly, they are challenging the very legitimacy of regulation. They

pose and present themselves as standing above European, supranational, and democratic institutions. In many cases, they want to bargain from a position of superiority with democratically elected governments. Regulation is framed not as an outcome of democratic self-government, but as illegitimate interference with their supposed mission.

This vision is now openly endorsed by the new US administration, which is closely aligned with what many tech companies, especially those based in the United States, are seeking to achieve. The EU is now not only under siege from across the Atlantic, but also from within, as we see a strange alliance forming between populist, nationalist, and extremist parties in Europe and reactionary forces from the other side of the pond.

At stake is not simply a dispute over innovation policy. The target is what the EU and democratic states in Europe represent: a society based on the rule of law and on the idea that all people are equal. This idea is not necessarily shared by many tech moguls and officials in the current US administration. Some of the ideologues shaping the world view of parts of the tech sector, of the Trump administration, and, let us be frank, of European extremist parties, hold deeply alarming views not only about the rule of law, but about a society founded on equality. What they are increasingly advancing is a political imagery structured by inequality: inequalities of race, gender, and social status, and a distinction between those who have agency and those who should not.

The Tech Right and Authoritarian Ideas About Work

One prominent figure in this constellation is Curtis Yarvin, a very influential activist who has had the ear of JD Vance and of Peter Thiel, one of the key figures of the global tech right. Yarvin has long advocated the dismantling of supranational institutions and democratic national governments in favour of private city-states run by CEOs. In such a world, citizens would not have political rights. They would not vote. They would not challenge the views of the CEO-overlords of these entities. If they were unhappy, the only thing they could do would be to leave.

Peter Thiel occupies a central position within this intellectual constellation. His recent private lecture series in Europe on "the Antichrist" generated significant controversy, precisely because it synthesized theology, technology, and politics in such a transparent manner. This was far more than a tech billionaire seeking cultural relevance; Thiel is a primary architect of a political imaginary where democracy is viewed as an obstruction, mediation as a failure of will, and equality as a fundamental error. In this world view, elite power is presented as a form of secular salvation. By framing the "Antichrist" as the spectre of a one-world government, Thiel reveals a visceral hostility toward rule-based international orders and supranational governance represented, however imperfectly, by the UN and the EU.

For years, Thiel has championed a vision where liberty is positioned in direct opposition to democracy, as if the rights of the many were mere shackles on the potential of the few. However, the true significance of this ideology is to be found not just in abstract debates about civilization, but in the everyday reality of the workplace. It is within the company, the employment relationship, and the organisation of production that a "pedagogy of obedience" is first practiced. This command-and-control structure does not remain confined to the office or the factory; it eventually bleeds into and reshapes the expectations of democratic life.

The "pedagogy of obedience" cultivated within workplaces provides the essential bridge to my main argument and explains why, as a labour lawyer at heart, I am so interested in these developments. In Yarvin's imagined polity, citizenship is effectively reduced to the binary of "exit, not voice." This is the principle that if one is unhappy, the only recourse is to leave, rather than to participate, contest, or share in rule.

This "exit over voice" doctrine is not merely a reactionary fantasy about politics; it has long been the neoliberal mantra governing the workplace. For decades, business leaders and policymakers across the political spectrum have been delivering a consistent message to the workforce. If you are unhappy, you are free to go, but you have no right to challenge management, negotiate, or meaningfully participate in the organisation of work. Such a model naturally favours a system where authority remains absolute. It achieves this by stripping workers of their agency, including through the consistent weakening and delegitimising of trade unions and the labour movement. The message is clear: you are free to go, but you are not to have a voice.

This is not merely an abstract parallel. It reveals a clear alignment between the neo-reactionary agenda in parts of the tech world and what is happening in workplaces, especially in the United States but, sadly, increasingly in Europe as well.

There are many anecdotes one could relate, but one is particularly revealing. Venture capitalist Marc Andreessen recently posited that Silicon Valley turned against the Democratic Party when tech entrepreneurs realised they could no longer fully control their workforce. This was especially evident after 2020, when employees began demanding that tech firms live up to their stated values, implement diversity seriously, and confront the broader social consequences of their products. In Andreessen's framing, this was tantamount to workers staging a "social revolution" inside the company. That, in

his account, is when Silicon Valley decided it could no longer support the Democrats and had to align elsewhere. In other words, the issue was the workplace and, more specifically, managerial control over workers. This episode reveals that one of the hidden stakes in the broader political realignment of the tech right is precisely who gets to control the workplace. And the workplace, as I would like to underscore, is one of the foundations upon which society is organised.

Labour Law and the Rule of Law at Work

Because the workplace is such a crucial part of society, labour law, the law that regulates the world of work, is one of the essential bulwarks against abuses of authority that undermine the rule of law in society more broadly. Labour law is one of the principal ways in which the rule of law materialises inside the workplace and in the private sphere. Its role is to ensure that when we are at work, we are protected. We are not mere subjects. During work hours, we remain citizens because there are labour laws that protect us from abuses of authority and from abuses of managerial prerogative.

This protection is necessary because the law does not merely lay down safeguards; it also actively confers power and authority upon employers. Employers have the legal power to direct, monitor, and discipline the workforce. This power is not natural. It is the result of legal and policy choices.

In many respects, it is also extraordinary. A landlord cannot normally tell a tenant what to wear, even on the landlord's property. An employer, by contrast, can often dictate a worker's attire. More than that, employers frequently exert authority over aspects of life that have little to do with work performance. Think, for example, of the many people who get into trouble because of something they wrote on social media. Whatever one thinks of the content of such posts, what we are seeing is a percolation of authority from the sphere of work into the private sphere.

For too long, work has been treated as a separate, almost technical sphere, where relations of power are assumed to be normal, even natural. The employer organises, directs, and controls; the worker carries out instructions, adapts, and internalises objectives and criteria set by others. But this structure of subordination is not simply a factual characteristic of production. It is a form of rule established by law and then privatised through the contract of employment itself, which makes subordination a core legal feature of the relationship between workers and their employers.

Labour law exists in part to ensure that authority in the workplace does not undermine the functioning of a democratic society. The central idea, again, is that one remains a citizen while at work. In Italy, in the 1960s and 1970s, when the labour movement campaigned for stronger protections for union organising in workplaces, one of its slogans was: *bring the Constitution inside the factory*. Their argument was that the rule of law and constitutional guarantees must not stop at the workplace gate.

This remains a vital principle today. Workers are not truly citizens unless they are protected in their ability to express a voice, in their right not to be discriminated against, in their right not to be dominated by unaccountable authority. Without effective legal safeguards, they risk becoming mere subjects rather than active participants in a democracy. Workers' rights are not just economic rights: they are fundamental liberal-democratic rights.

The New Risks That Come With the Advent of AI and Algorithmic Management

We therefore have to ask whether our labour laws, which were conceived to help establish the rule of law in the workplace, are keeping pace with technological transformation of work. We see the spread of a range of technologies that are often grouped under labels such as artificial intelligence and algorithmic management. These may sometimes function as buzzwords, but they do refer to technologies that profoundly alter the balance of power at work, and that balance of power has always been one of labour law's central concerns.

These systems are increasingly used to hire people, to direct workers, and to monitor what workers do through GPS, RFID technology, keystroke logging, emotional surveillance based on video-camera tracking, browsing-history tracking, and more. The point is not only to observe what workers are doing, but to use predictive technologies to determine whether a worker is on the brink of doing something the employer may care about. Perhaps they want to unionise. Perhaps they are planning to become parents. Perhaps they are planning to quit. In many cases, the employer may know, sometimes even before the worker fully does.

These predictions are then frequently fed into disciplinary or managerial decisions. Many workers find themselves in trouble because these systems produce skewed and inaccurate outcomes — there is often no meaningful feedback loop between those who use these technologies and those who design and programme them. Workers may be disciplined or even dismissed because the system concludes that they are not performing at the level it expects.

Take a familiar example: a warehouse worker who fails to pack as many boxes in ten minutes as the system expects may be subject to disciplinary action and ultimately fired. This is not an isolated case. These technologies generally intensify managerial prerogative because they expose workers to continuous and relentless control.

Before these technologies existed, it was impossible for an employer to follow a worker every second of the working day. Now, with GPS and other digital tools, that is entirely possible. Employers can know what workers are doing second by second, if they wish.

These systems also replace or at least heavily condition human decision-making. Managers are told which workers are productive and which are "slackers". Given how workplaces operate, and given the authority structures embedded in them, very few managers are going to say: this expensive system tells me this person should be fired, but I will ignore it. Workplaces do not function like that. Managers rarely speak against these systems, even when they suspect they are wrong.

Algorithms are often mistakenly treated as neutral and bias-free. But there is now a substantial literature showing how algorithmic management can reproduce and intensify discrimination, not least because the data sets on which such systems are trained often contain historical biases. These technologies are also much more intrusive than older forms of surveillance, not least because they combine predictive analytics with emotional surveillance and other forms of intimate scrutiny. Nor are they limited to employment in the narrow sense. Platform workers have been subjected to algorithmic systems for a long time now, including where they are formally classified as self-employed. In this sense, the issue is not confined to the standard employment relationship.

This is where techno-reactionary fantasies meet the reality of the modern workplace. The notion that the world works best when a few exceptional individuals decide and the others follow is not just a fantasy of digital elites; it is also a philosophy of management. The idea that those who command see further, that dissent is inefficient, that participation slows things down, that surveillance is a necessary by-product of innovation, and that decision-making should best be channelled through technology: all of this is no longer confined to the ideological manifestos of the contemporary tech right. It already inhabits many workplaces.

The Need to Infuse Data Protection Law with Labour Law Concepts

This is why labour law requires a substantial updating and overhaul. One obvious avenue is stronger data protection, since all of these technologies rely heavily on personal data. It is therefore crucial to regulate how such data are collected and processed, as they provide the raw material for the algorithmic control described above.

But here we encounter a problem. Many data protection instruments, above all the GDPR, are horizontal in character. They were not specifically designed for the workplace. They are often modelled on producer-consumer relations and therefore do not adequately reflect the structural imbalance of power in employment. That is why, for example, consent is not a meaningful legal basis at work. When your employer can tell you what to do, it is very difficult to say that your agreement to data processing is genuinely free. In that context, "consent" is often little more than a fiction.

We also see that the European Commission's proposed Digital Omnibus seeks to expand the notion of legitimate interest under the GDPR. The claim is that this should not affect employment-related data processing. But in practice, it is very difficult to draw such neat distinctions. Expanding the legitimate-interest basis is likely to facilitate forms of worker data processing that would previously have been unauthorised.

That is why it is essential to enrich the DNA of data protection law with labour law concepts and institutions. The GDPR already provides an opening through Article 88, which allows Member States to use labour law and collective agreements to complement and support data protection at work. But we also need to be more creative in how we interpret the GDPR itself. One way of doing so is to fill its gaps, and indeed to flesh out its open-ended terms, with labour law standards.

The GDPR uses concepts such as fairness, proportionality, necessity, and data minimisation. These are not self-defining. My view is that the Platform Work Directive can now serve as an important benchmark. If something is disproportionate under the Platform Work Directive, it cannot plausibly be proportionate under the GDPR. The same applies to fairness and related standards.

The Platform Work Directive, for example, outright bans the collection or processing of personal data concerning the emotional state of a platform worker, the collection of personal data after working hours and about private conversations and the collection of personal data intended to predict the exercise of fundamental rights, such as the desire to unionise or to strike. It makes little sense to say that such practices are prohibited in platform work, but somehow lawful elsewhere in the same legal system. We should not accept two inconsistent sets of rules for the same broad field of work. That is why these sector-specific rules should help shape the interpretation of the GDPR more generally.

Novel Technology: Not Just a Data Protection Issue, but a Collective Bargaining Issue

Very importantly, the introduction of new workplace technology not only threatens privacy or data protection. It affects a broad range of fundamental rights.

It affects equality, because these systems can discriminate. It affects occupational health and safety, because

algorithmic pacing, excessive productivity targets, constant monitoring, and emotional strain can produce physical and psychosocial harm. If an algorithm tells a worker to pack too many boxes in a day, health will suffer. If a worker is followed every minute and every second, stress and other psychosocial risks will inevitably grow. It also affects freedom of association. If an employer can predict that workers are about to unionise, engage in collective bargaining, or consider industrial action, that information can be used directly or can at least have a chilling effect on workers' willingness to organise.

Individual protections are not enough to address these issues. The workplace is an intrinsically collective environment, and labour law is intrinsically collective in orientation. It targets managerial prerogatives that are themselves collective. Employers do not normally issue commands one worker at a time; they structure work collectively. That is why labour law must also operate at the collective level.

We already have some examples of collective counterweights. The Platform Work Directive introduces rights to information and consultation in relation to automated decision-making and algorithmic monitoring. The AI Act establishes a right to information, even if a weakly or vaguely formulated one, when AI is deployed in the workplace. German law has also been amended to include codetermination rights where AI-based electronic monitoring is introduced. These examples show that collective responses are both possible and necessary.

We should take these collective rights much more seriously. Codetermination and collective bargaining rights should be extended to automated decision-making and monitoring technologies, just as many legal systems have long required worker involvement for older and far less invasive technologies. In many European countries, for example, an employer cannot simply install workplace cameras without consulting the works council or obtaining an agreement. Yet more intrusive digital technologies are often introduced without equivalent safeguards. We therefore find ourselves in the paradoxical situation of having stronger protections against less invasive tools and weaker protections against more invasive ones.

This matters not just because of surveillance, but because algorithmic systems increasingly determine pay, shifts, working time, evaluations, and discipline. These are classic collective bargaining subjects. The fact that they are mediated by technology cannot be used as a smokescreen to say that they no longer fall within the remit of collective bargaining. It is not "the tech" that is deciding. It is the employer deciding through technology. Whenever we give up negotiation over these matters, we hollow out collective bargaining itself.

Labour lawyers also need to re-examine the analytical and legal frameworks through which workplace technology has long been justified. Many of our doctrines were developed at a time when technology meant machinery, heavy equipment, and tools affecting physical objects. Artificial intelligence and algorithmic management, by contrast, affect persons. They shape evaluation, remuneration, discipline, autonomy, and communication. In a democratic society, technologies affecting people cannot be treated as if they were simply updated machinery affecting things.

Crucially, this is also about sustaining democracy at work. Collective bargaining has long been one of the central ways in which workers become citizens rather than subjects in the workplace. It gives them voice over core terms and conditions of work, which also affect their lives outside work. Hollowing out collective bargaining therefore means hollowing out the rule of law in the workplace. It means empowering employers to make decisions they should not be able to make in a democratic society. We should be deeply wary of any such erosion of collective rights. The stakes of this development, I believe, would extend far beyond the legalities of the workplace: they would touch upon the very foundations of our democratic order.

Conclusion

The convergence between certain tech companies and authoritarians on both sides of the Atlantic shows the urgent need for meaningful regulation of technology in society and, in particular, meaningful regulation of technology at work. At present, that regulation is insufficient.

This deficit is not merely a workplace matter; it is a threat to the democratic character of our societies. There are studies showing a correlation between a lack of autonomy and agency at work and support for extremist parties. That should not surprise us. If you are told every day at work that you are not capable of making decisions because someone else will do it for you — and that "someone else" may in fact be a machine — then you are less likely to trust yourself to make meaningful decisions in political life as well. You become more likely to support authoritarian leaders who promise to make those decisions for you. There are many thinkers who have made this argument, and increasingly their claims are backed by data.

Those who spend their adult lives in environments governed by rigid hierarchies, pervasive surveillance, and the absence of collective voice are educated, day after day, to regard power asymmetries as normal. They become accustomed to the idea that those above decide and those below comply. They begin to think that freedom consists in performing well within rules set by others, rather than in participating in defining those rules. In that sense, subordination at work is not just a legal issue or a technical issue. It is a constitutional question.

When we discuss new technologies at work, we therefore cannot restrict ourselves to the language of productivity and innovation, important though those concerns may be. We also need to talk about citizenship, democratic society, and the rule of law at work. People spend most of their waking lives in the workplace. It is impossible to believe that what happens there does not affect democracy at large.

We must realign the regulation of digital technologies with fundamental rights at work more decisively than we have done so far. This is not the time for retrenchment. If anything, we have not done enough. Labour law remains an essential tool for making us citizens and for preserving our citizenship rights. At work, we should not be treated as subjects, or merely as data subjects. We should be treated as citizens. That is why meaningful employment and labour regulation remains indispensable, including in relation to AI and algorithmic management at work.

About the author

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