

The Human Right to Privacy and the Future of Work

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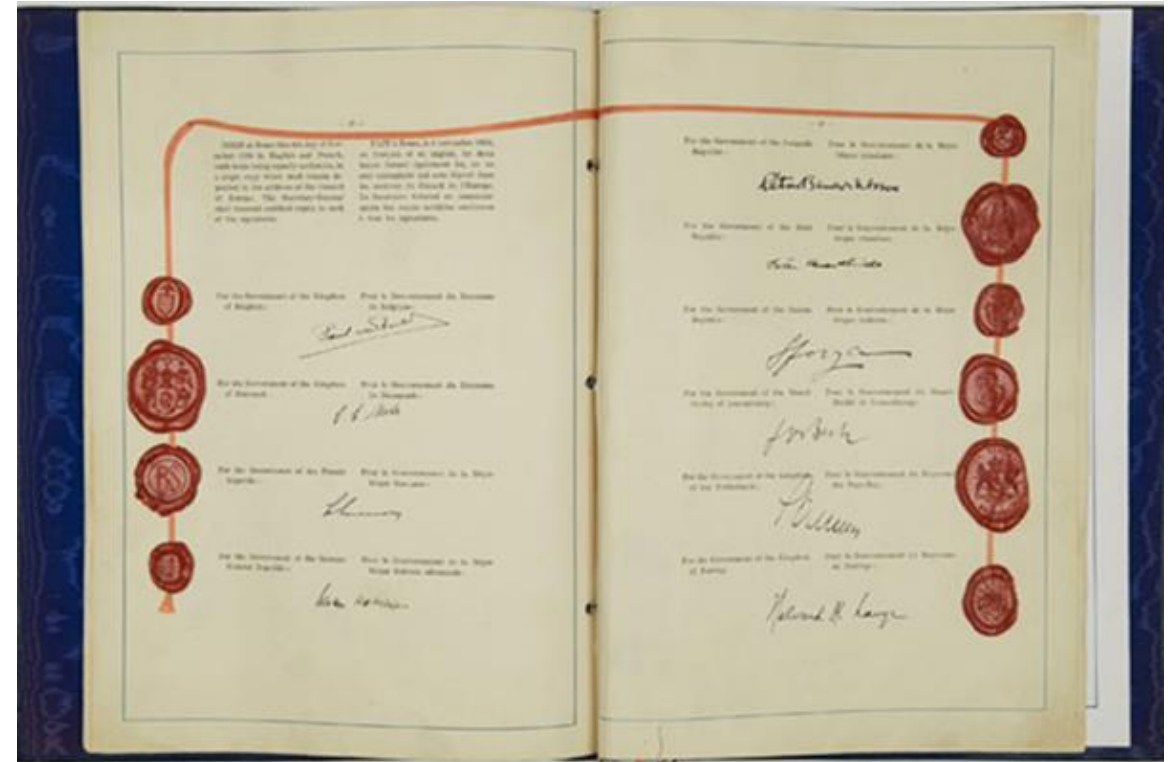
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Privacy Post-Pandemic – what next?

- The nature of the “right to privacy” in the UK
- Privacy and surveillance by software
- Tech in the future of work
- The future challenges for privacy in the workplace

Our “Right to Privacy”

- UK signatory to the European Convention on Human Rights
- Rights can be enforced in national courts as a result of the Human Rights Act 1998
- Includes right to life, freedom from torture, right to fair trial, expression, association and right to respect for private and family life





Article 8 ECHR

Article 8: Right to respect for private and family life

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is *in accordance with the law* and is *necessary in a democratic society* in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for *the protection of the rights and freedoms of others*.

Software Surveillance



- 71% increase in sales during pandemic
- Common capabilities: keystroke logging, website & email tracking, productivity monitoring, screenshots
- Dismissal on the basis of evidence of software – infringement upon right to private life?
- Courts will need to strike a balance between employee's privacy and employer's desire to monitor and manage staff
- Factors: notice, invasiveness, consequence for emp'ee,

Tech in the Future of Work

Fujitsu designs facial recognition to track workers' concentration

by Jonathan Keane



Business

With fitness trackers in the workplace, bosses can monitor your every step — and possibly more

Amazon patents wristband that tracks warehouse workers' movements

Bracelet, which can vibrate to point an employee's hand in the right direction, would further increase surveillance of work environment



AI Is Now Analyzing Candidates' Facial Expressions During Video Job Interviews

Unilever, IBM, Dunkin Donuts and many others already use this technology. [↗](#)

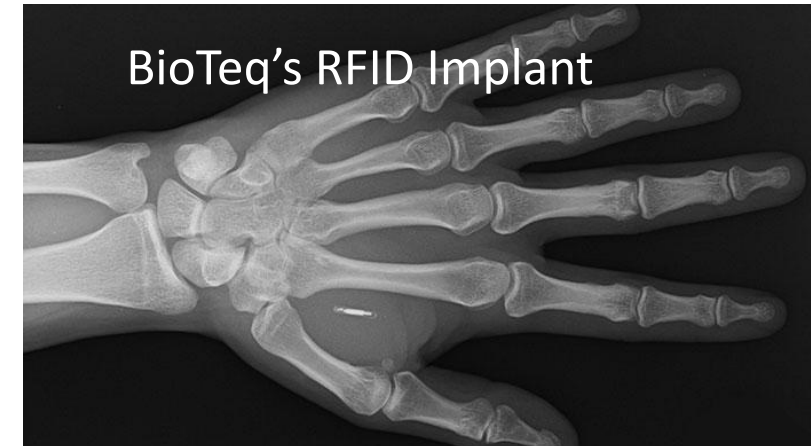


Human Performance Augmentation Program Exoskeleton

Moodbeam Bracelet



BioTeq's RFID Implant



Challenges for Privacy in the Workplace

- New technologies = lack of understanding and knowledge
 - Difficulty for potential litigants and judges
- Transparency issues – “blackbox” algorithms
- Diffusion of responsibility
- Lack of “hard-line” boundaries – balancing context-dependent
- Tackling increasingly invasive technologies – should anything be prohibited? By whom?
- Possible dismantling/watering down of GDPR/Data Protection regime

Privacy Rights for the Future

- Right to Disconnect:
 - Enacted in France – appropriate rules are agreed between workers representatives and employers to ensure they are specific to the circumstances
 - What does a “right to disconnect” look like?
- Right of access to algorithms:
 - Workers’ representatives checking how data is used, surveillance measures, how algorithm draws conclusions
 - Enacted recently in Spain for digital platform workers
- Banning tech:
 - Biometric surveillance? facial recognition?
 - Types of processing – e.g. wholly automated processing (see Art 22 GDPR), processing on inaccurate data or using discriminatory algorithms

