

Technological Testing Grounds

AI, Migration Control and Human Rights

Petra Molnar

Migration and Technology Monitor

Refugee Law Lab, Centre for Refugee Studies and Osgoode Hall Law

@_PMolnar

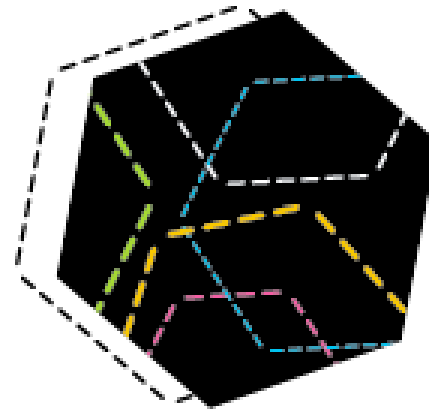
A HUMAN RIGHTS ANALYSIS OF
AUTOMATED DECISION-MAKING IN CANADA'S
IMMIGRATION AND REFUGEE SYSTEM



moz://a



EDRi



refugee
law
lab

Objectives

- ① **Overview of New Technologies in Migration**
- ② **Human Rights Implications**
- ③ **Other Systemic Challenges**
- ④ **Way Forward**

Technologies of Migration Control

1 Algorithms and Detention

2 Automating Decision-Making

3 Biometrics

4 Big Data and Population Predictions



Passkontrolle
Passport control









POUS

ΠΑΔΚ
4

Handwritten graffiti tag

EU

WHERE ARE YOU?!

MOLE GION



1

**THESE TECHNOLOGIES
ARE ALREADY IN USE
AND IN DEVELOPMENT**

1

**THESE TECHNOLOGIES
ARE ALREADY IN USE
AND IN DEVELOPMENT**

2

**THE SHEER SCALE OF
POTENTIAL IMPACT IS
EXTRAORDINARY**

1

**THESE TECHNOLOGIES
ARE ALREADY IN USE
AND IN DEVELOPMENT**

2

**THE SHEER SCALE OF
POTENTIAL IMPACT IS
EXTRAORDINARY**

3

**THE RISKS TO HUMAN
LIVES AND HUMAN
RIGHTS ARE REAL**

1

**THESE TECHNOLOGIES
ARE ALREADY IN USE
AND IN DEVELOPMENT**

2

**THE SHEER SCALE OF
POTENTIAL IMPACT IS
EXTRAORDINARY**

3

**THE RISKS TO HUMAN
LIVES AND HUMAN
RIGHTS ARE REAL**

4

**IMMIGRATION LAW IS
HIGHLY DISCRETIONARY,
WITH WEAK SAFEGUARDS
AND OVERSIGHT**

1

**THESE TECHNOLOGIES
ARE ALREADY IN USE
AND IN DEVELOPMENT**

2

**THE SHEER SCALE OF
POTENTIAL IMPACT IS
EXTRAORDINARY**

3

**THE RISKS TO HUMAN
LIVES AND HUMAN
RIGHTS ARE REAL**

4

**IMMIGRATION LAW IS
HIGHLY DISCRETIONARY,
WITH WEAK SAFEGUARDS
AND OVERSIGHT**

5

**A LEGAL AND PRACTICAL
NEXUS WITH NATIONAL
SECURITY LAW MEANS
EVEN WEAKER OVERSIGHT**

1

**THESE TECHNOLOGIES
ARE ALREADY IN USE
AND IN DEVELOPMENT**

2

**THE SHEER SCALE OF
POTENTIAL IMPACT IS
EXTRAORDINARY**

3

**THE RISKS TO HUMAN
LIVES AND HUMAN
RIGHTS ARE REAL**

4

**IMMIGRATION LAW IS
HIGHLY DISCRETIONARY,
WITH WEAK SAFEGUARDS
AND OVERSIGHT**

5

**A LEGAL AND PRACTICAL
NEXUS WITH NATIONAL
SECURITY LAW MEANS
EVEN WEAKER OVERSIGHT**

6

**“A.I. HYPE” AND
TECHNOSOLUTIONISM
CAN’T FIX A GLOBAL
HUMANITARIAN CRISIS**

HUMAN RIGHTS IMPACTS



**ASSOCIATION,
RELIGION,
EXPRESSION**



**FREEDOM OF
MOVEMENT**

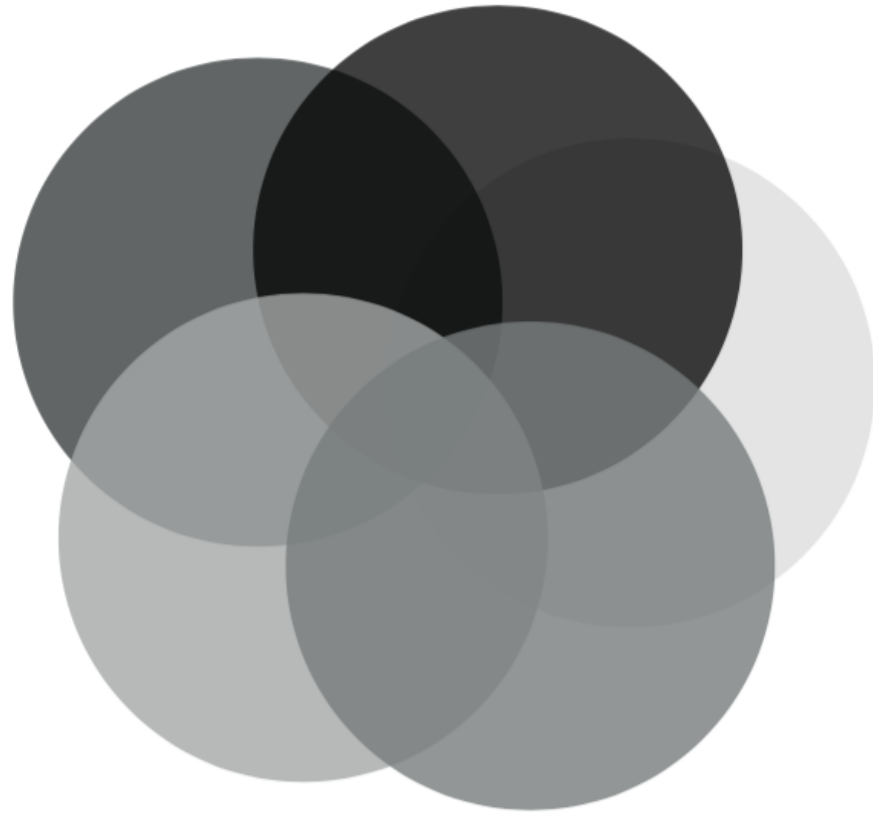


**LIFE, LIBERTY,
AND SECURITY
OF THE PERSON**

Human Rights Impacts



(in practice, they all intersect)



ADMINISTRATIVE LAW ISSUES

PROCEDURAL
FAIRNESS



STANDARD
OF REVIEW

OTHER SYSTEMIC CHALLENGES

LACK OF TECHNICAL CAPACITY



A lack of technical capacity within government can lead to a **potentially inappropriate reliance** on the private sector.

Adopting emerging and complex tools at the bleeding edge of scientific development without in-house talent capable of understanding, evaluating, and managing these technologies is not responsible from an engineering perspective (as well as a legal and ethical one).

PRIVATE SECTOR ACCOUNTABILITY



Private sector businesses have an **independent responsibility** to ensure that the technologies they develop do not violate international human rights. They also have **clear legal obligations** to comply with Canadian law, including privacy and human rights legislation, in the development of their products and services.



ACCESS TO JUSTICE

Automated systems may streamline services, increase accessibility, and shorten delay. However, they may also **exacerbate existing barriers** to access and **create new ones**.



PUBLIC CONFIDENCE

Automated systems may strengthen the transparency, regularity, and explainability of administrative decision-making in some cases. Yet if the public believes that these technologies are **coloured by bias or operate arbitrarily**, the impact on public confidence in the administration of justice will be difficult to repair.



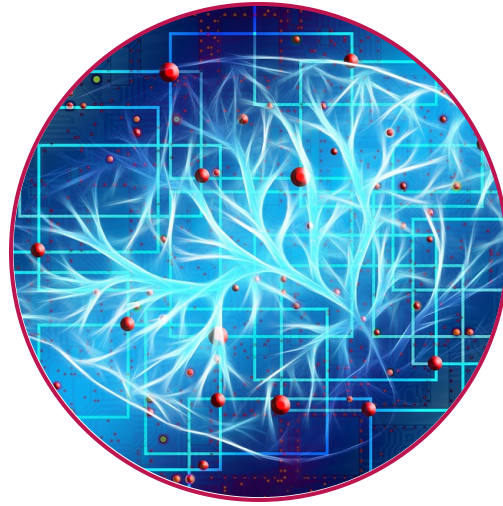
GLOBAL IMPACTS

Canada has a unique opportunity to develop international standards that regulate these technologies in accordance with **domestic and international human rights obligations**. It is essential to set a clear example for countries with more problematic human rights records and weaker rule of law.

Why?



**Technologies as Engines
of Oppression**



**Who gets to decide what
we imagine as possible?**



Migration Management
Making migrants trackable,
intelligible, controllable



**Lack of Global
Governance**
Migrants as a viable testing
ground

1 Automated decision systems adopted by government must respect international human rights law

2 Immigration and refugee law is a particularly high-risk laboratory for experiments with these technologies

3 Transparency regarding current practices, independent oversight, and new, binding standards are urgently needed

Thank you

Petra Molnar

pmolnar@yorku.ca

@_PMolnar

