Civil Rights Dialogues for a More Responsible Tech Sector

Lessons from the Civil Rights Design Labs

Acknowledgments

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Civil Rights Dialogues

I. Fighting Encoded Bias

In a technology landscape of constant innovation and accelerating adoption, civil rights advocates are working to understand and communicate the potential impacts of artificial intelligence (AI), algorithms, and other emerging tools, particularly in areas like credit and lending,[1] hiring,[2] and the criminal-legal system[3], where longstanding inequities have been shown to be amplified by automation.

AI, by its nature, risks replicating and deepening existing inequities, since it relies on historical and training data that is itself based on the present-day world with its harmful and longstanding biases. "It is a serious misunderstanding," says the Partnership for AI, "to view tools as objective or neutral simply because they are based on data."[4]

For example, when a company uses video software to record a job interview, they may not know that a candidate with ADHD will score lower than other candidates due to how the software's AI "reads" facial expressions.[5] A loan officer may not know that their financial institution's application system is using "proxy" data to effectively discriminate against an applicant of color.[6] Like human bias itself, automated bias is embedded in many business and government practices without the knowledge of software users, disclosure, or a chance for redress for the communities most likely to suffer harm.

Meanwhile, advocates, researchers, and legislators[7] are still working to understand the fundamentals of the digital age and the increasing power of AI and machine learning.

Since the release of the 2014 Civil Rights Principles for the Era of Big Data, The Leadership Conference on Civil and Human Rights has championed technology practices that promote equity and justice while seeking to enhance safety and economic opportunity.[8] As the digital age expands into an era of big data, AI, and machine learning, the people subject to historical and ongoing discrimination bear the brunt of the harms amplified by new technologies. In the Civil Rights Principles issued in 2014—and updated in 2020—The Leadership Conference and other signatories call on the technology industry and government to ensure that "technology is designed and used in ways that respects civil rights, preserves privacy, ensures transparency and holds both governments and companies accountable for harm."[9] In September 2023, The Leadership Conference took its technology policy advocacy to the next level, launching the Center for Civil Rights and Technology as a hub for advocacy, education, and research at the intersection of civil rights and technology policy.[10]

Working in coalition with fellow advocates, policy experts, legislators, and technology companies, The Leadership Conference seeks to apply the civil rights principles to the policies and products that determine the impacts of technology in an increasingly tech-dependent world. This means considering all the decisions, habits, and biases that drive the development and use of technology.

As part of its effort to bridge the gaps in awareness and accountability for the role of technology in civil rights, The Leadership Conference conducted a series of Civil Rights Design Labs—informal discussions designed to enable a more open, informative, and ongoing conversation between advocates and technology companies.

During these off-the-record workshops, civil rights advocates engaged companies in discussions about technology's disparate impacts on communities facing historical and ongoing discrimination, and technology companies shared some of their practices and challenges in assessing the potential impacts of their products and designing technology from a civil rights perspective. Both groups identified points of common concern about civil rights and risk, as well as some candid points of frustration about the dialogue between advocates and the private sector. One point of mutual agreement was that there is more that we can do together.

This white paper contains lessons distilled over more than 18 months of conversations and workshops (July 2021 - March 2023). The goal of these reflections is to inform advocates as they communicate the civil rights implications of AI, other new tools, and to help companies understand what it takes to legitimately embed civil rights considerations into their organizational processes and product design. Key findings include:

- **Technology companies now face an existential imperative to understand the harms of AI and algorithms.** This new era of accountability requires a significant adjustment in how companies think about their users and their design processes. But despite widespread public attention, new regulatory scrutiny, and significant effort within the tech sector itself, there remains a partnership gap between technology companies and civil rights advocates. Companies said they are conscious of the need for more civil rights and community voices at the table.

- **Civil rights advocates have a window of opportunity to raise awareness within technology companies about the potential harms of their products, the lived experiences of people subject to historical and ongoing discrimination, and the ways their products can forge a more equitable future.** Companies are seeking partners and truthtellers to help them navigate the changing moral, legal, and regulatory terrain. And within technology companies, internal change agents are seeking external, expert voices to help inform and initiate conversations about change.

- **However, advocates engaging with technology companies for learning and accountability face a range of obstacles that should not inhibit engagement, but also cannot be ignored.** Companies may voice their commitment to change but still remain unready in a variety of ways. Company leaders engaged in dialogue about civil rights and technology are not usually in a position to drive organizational change on their own. Neither the tech sector nor the advocacy community has an agreed standard of practice yet to prevent the disparate harms technology can cause. And even when companies commit to new practices, the process of monitoring and follow-up is often beyond the purview or capacity of advocacy groups.

The Design Labs experience has demonstrated that a dialogue grounded in trust and two-way learning can help civil rights groups create new channels of advocacy and, potentially, accountability with the technology sector.

II. Background & Approach

The Design Labs were conceived in recognition that there is **a "missing conversation" between technology companies and civil rights groups.** These conversations were based on the premise that **dialogue can foster trust and future engagement** between advocates and companies, and inform the ongoing discourse driven by public campaigns, litigation, and proxy debate through op-eds or congressional testimony.

By connecting civil rights groups, technology companies, and other stakeholders in an informal, workshop-style setting, the Design Labs sought to give technology teams a **better understanding of the civil rights impacts of tech,** and to give advocates a clearer understanding of **the processes and priorities that inform technology companies' decisions** as they develop new tools.

> The Design Labs focused on three topic areas: **hiring technologies, data and surveillance in the criminal-legal system, and digital tools used to inform credit and lending decisions.**

To foster learning and build trust, the Design Labs used **a range of discussion formats**, including in-depth dialogues with individual companies; scoping calls with advocates and policy experts in areas including hiring assessments, criminal justice, and credit and lending; and virtual convenings that brought companies, advocates, researchers, and other experts together across disciplines to deepen mutual learning. **All conversations were held off the record** with an agreement to "Vegas rules, "namely, that what was said in any meeting would not leave the "room."

Because the Design Labs discussions were informal and ongoing, The Leadership Conference was able to **adapt and refine the topics** over the course of each engagement. The findings from each discussion helped to inform the next, resulting in **a responsive process** that drew on companies and advocates as co-creators of the continuing dialogue.

The unique role of The Leadership Conference as **a trusted broker** and policy expert was an important part of the Design Labs' effectiveness. Leadership Conference members and staff had a pre-existing **network of contacts** among the staffs of technology companies, not to mention the diverse range of **technology and technology policy expertise** among The Leadership Conference's 230+ organizations. The Design Labs team also drew upon policy and media research by Leadership Conference staff and interns to stay abreast of policy shifts, new products, and developing challenges in the technology sector.

As noted, the Design Labs' strategy of engagement through mutual learning complemented the ongoing legislative advocacy and public advocacy that defines the work of The Leadership Conference and its member organizations. The network of participating advocates not only deepened the subject matter expertise available for the Design Labs, but also strengthened **an "inside/outside" approach** with the private sector. **This strong cohort of advocates made both the outreach for dialogue and the push for accountability more credible.**

III. Key Insights for Engaging Companies

Design Lab participants from the technology, finance, and civil rights communities gained a deeper understanding of their respective priorities and day-to-day work. Based on these conversations, the participation of fellow advocates, ongoing research, and some of the challenges encountered, we have distilled lessons about how a dialogue effort such as the Design Labs can provide a blueprint for engaging technology companies.

Key Insights for Engaging Companies (cont.)

Tech Company Interest and Motivations for Addressing Civil Rights

There is a surge of public and government attention to civil rights in technology and the ethics of digital tools – in particular AI, algorithms, and other machine learning technologies. **The technology sector faces an existential imperative to understand the harms of technology along with the opportunities.**

Some members of the technology community — including several big technology companies — are already looking for ways to mitigate the unequal harms of algorithms, AI, or "big data," and find ways to support traditionally underserved communities. But for many companies, **this new era of accountability is requiring a significant adjustment in how they think about the needs and vulnerabilities of their users.**

Companies are responding with new efforts to track and inventory their AI and machine learning, new investments in civil rights staff, entirely new civil rights departments,[11] ethicists within AI teams, and new efforts to increase diversity in technology teams. Some new efforts by companies are also happening in more traditional parts of the organizations, such as investment in DEI teams,[12] new hires within existing policy teams, new initiatives within public relations, and external and philanthropic initiatives.[13]

This season of investment has been **a moment of opportunity for companies** seeking to build new capacity for community-centered, rights-driven, accountable technology development, and for advocates seeking to help shape the role of civil rights in technology development. However, it remains to be seen how the volatility of the tech sector in recent years will impact companies' interest and capacity for addressing civil rights questions over time.[14]

Despite the widespread attention and new waves of rulemaking about technology, **there remains a partnership gap between technology companies and civil rights advocates**. Companies' stated interests and initial steps in areas such as internal or external audits, or new civil rights departments, or even in critiques from knowledgeable experts, appear to be taking precedence over those companies' direct dialogue with civil rights groups.

Companies are conscious of the need for civil rights voices at the table and were almost unanimously eager to talk, learn, or at minimum to engage with the civil rights community through the Design Labs. However, technology companies' interest in civil rights issues, or at least in dialogue with civil rights groups, **has not always led to long term engagement or new accountability.**

Along with an interest in developing good practices around civil rights, and avoiding harms, companies were interested in the Design Labs as **a way to learn more about how other companies were addressing similar challenges.** They wanted to learn about new practices or policies that sought to reduce harms to groups subject to discrimination in hiring, lending, or the criminal-legal system. In a similar vein, **knowing that other similarly-situated companies were involved** with The Leadership Conference in the Design Labs was useful for companies when deciding to join the process.

Another specific area that companies consistently recognized as **underdeveloped** in their own practices is the process for **including underserved, lower-income, and Black and Brown communities in all phases of the product cycle.** Companies are seeking to move from traditional user testing or focus groups to user-driven design practices that bring communities to the table. But they also seek more examples of good practice and stories of success.

The news cycle appeared to be another factor prompting company interest. News about social media and extremism, for instance, announcements about company civil rights audits,[15] or the release of the White House AI Bill of Rights,[16] helped give "relevancy and urgency" to the Design Labs outreach.

Key Insights for Engaging Companies (cont.)
Lessons for Advocates

Despite the growing number of initiatives within companies, such as reviews or audits of AI and civil rights practices, or the development of more inclusive design approaches, the invitation to engage with external advocates and civil rights experts was welcomed by most of the companies we contacted. This supports one of the central assumptions behind the Design Labs, that **two-way dialogue can broaden and supplement public and legislative advocacy tactics.**

Companies are seeking outside expertise to help inform and support internal practices. In many cases, **outside voices can serve as more effective brokers of inside change.** In some cases, the Design Labs discussion provided a new and needed forum for teams within the same company to talk about civil rights and technology impacts.

A key lesson of the Design Labs has been that many of the barriers to change within technology companies do not relate to a lack of awareness or interest in questions of civil rights or equitable technology impacts, but to **challenges of company structure, habits, and capacity to engage on such questions.** These challenges are no excuse, given the harms at stake, but they speak to the posture of companies and to the instructive differences between resistance, lack of interest, and lack of readiness.

For advocates seeking to make the most of the dialogue and learning opportunity provided by the Design Labs model, the approaches that were most effective included:

Explaining equity and harm:
Technology companies seek to learn about the potential harms of their products and decisions and the lived experiences of people subject to historical and ongoing discrimination. This is a fundamental need and should not be overlooked. Companies do not know what they do not know.

Helping insiders make the case:
It helps internal change agents (or people seeking to be change agents) at technology and finance companies to have expert voices or critics from outside the company to inform — and even initiate — internal conversations about risk and change.

Holding technology accountable:
While there are inherent risks to the role of trusted truth-teller, companies' interest in knowing **what not to do** was one of the most common trends throughout the Design Labs. Advocates are not consultants, nor should they compromise their outsider role, but the Design Labs demonstrated that technology companies are seeking warnings to help them navigate the changing moral, legal, and regulatory terrain. **The role of "trusted critic" proved to be a valuable one,** even if it carries risks for advocates.

Mapping the tech and civil rights landscape:
The Leadership Conference found that, despite the resources available to many technology companies, **not all teams have the time, capacity, or willingness to learn about the latest developments at the intersection of civil rights and technology.** As companies turn their attention to these questions, they seek advocates and policy experts to help them stay informed about emerging practices.

IV. Challenges to Keep in Mind

- **Ready to talk does not mean ready to change:** Even the companies launching civil rights teams face the traditional challenges in big institutions — and technology teams in particular — of resistance to new practices. Despite the demonstrated interest and participation in the Design Labs by multiple companies, there were many instances where follow-up was slow, scheduling was difficult, and outcomes did not always match the expectations set.

- **Support from the inside out:** In times of intense public debate, changes to corporate practices are inevitably reactive. Companies seeking to change their operations need to consider that these adaptations often come as disruptions to the normal product cycle or to the organizational culture. Therefore, advocates seeking to broker change need to find ways to support their staff counterparts as they work from the inside. **Companies may be leaving some internal teams in their own silos,** without enough connection to the decision-making process.

- **Deference to engineering teams and opaque decisions:** This varies widely from company to company, but arises often. While the tech cliche of "the black box" usually refers to technological functions that cannot be seen, there are times when processes and decisions need to be more visible and more available for adaptations and upgrades.

- **Civil rights or safety teams are not a solve-all:** Policy or civil rights teams cannot always impact company practice or culture, especially if they are newer teams. Even department managers may lack the organizational position to influence product design or engineering decisions. This structural reality makes the role of senior leaders as change agents all the more important. **Senior company leaders can send a civil rights message that creates an enabling environment for change,** which in turn makes the work of internal teams or outside advocates more achievable.

- **Compliance mentality can be a door or a wall:** As new legislation, government policy, or standards of good practice emerge, they offer a model to avoid harm. But many such requirements become the de facto limit of new practices, not a catalyst of broader change in practice or culture. Such changes are avoidance-based and not pro-civil rights or pro-community.

- **Advocates are not auditors or consultants:** It is also important to note that advocates can play a unique role in dialogue with private companies, but are not auditors or consultants. While participating companies were demonstrably interested in learning what they should change or avoid, the process for companies to pivot from awareness to action was often dependent on colleagues outside the conversation, or contingent on a more exhaustive internal process.

V. Looking Ahead

Just as smart advocates tailor their approach to their audience — or a smart technologist designs tools based on user needs — the Design Labs team learned that technology companies are varied in their motivation and their capacity to engage in a two-way learning process like the Design Labs.

Business, governments, and organizations in every sector will continue to confront the decision about whether and how to use AI, and new tools will likely become further embedded in everyday practices. As new cycles of hype and accountability disrupt the tech sector and the civil rights of every community, the Design Labs model of learning-based engagement can provide a bridge, not just between technology companies and advocates, but across different moments of threat and innovation.

Drawing on the range of interactions with companies and advocacy partners during the Design Labs process, some prospective approaches for future engagement include:

- Building on The Leadership Conference's broad network and trusted convener status to make **informal workshops like the Design Labs** a more regular part of advocates' engagement with the technology sector. The model offers promise not only for learning and trust-building, but specifically because it is different from more traditional, ongoing forms of advocacy. The informal, off-the-record format allows for networking outside the glare of public debate or the urgency of the rulemaking process.

- Developing a **toolbox of recommended practices** that advocates can promote and companies can adopt to help enshrine civil rights more firmly in technology practices. These might include guidelines for **considering a civil rights audit,**[17] **including communities in product design,**[18] sector-specific information about **draft legislation,** or **forthcoming standards.**[19] As new tools or concerns arise, the Design Labs approach can also provide a template for helping companies consider or socialize new tools and safeguards with internal stakeholders.

- Connecting advocates and companies in a joint effort to develop new or updated principles or **shared standards for technology that centers equity** and the needs of historically underserved communities. In some industries, companies and watchdogs have partnered to develop a voluntary pledge or "seal of approval" model that can help push the private sector toward a different baseline of accountability to ethical practices.

- Another key role for policy advocates can be to **measure companies' engagement in an issue or a process over time;** here, too, the connections that develop over time can give advocates a way to track progress or retreat on company changes, and to engage their company counterparts accordingly.

- Complementing advocates' more usual "name-and-shame" tactics with a "name and fame"[20] strategy that responsibly spotlights **examples of positive change** by technology companies, such as innovations in "pro-community" uses of machine learning and digital tools,[21] decisions to end the use of certain tools,[22] or even to decide against developing a tool where the harms could outweigh the benefits.

The insights from the companies, organizations, and experts who joined in the Civil Rights Design Labs can inform advocates as they communicate the civil rights implications of AI, machine learning, and other digital tools, and can help companies understand what it takes to embed civil rights considerations into their product design processes, daily operations, and organizational culture.

This type of engagement will also help advocates be more effective champions for the communities they represent and help advocates translate that knowledge into opportunities for communities to better engage with technology companies as their own best champions.

VI. Further Resources

Executive Order on Further Advancing Racial Equity and Support for Underserved Communities Through The Federal Government | The White House

Algorithms for All: Has Digitalization in the Mortgage Market Expanded Access to Homeownership? | Joint Center for Housing Studies

Report – Algorithm-driven Hiring Tools: Innovative Recruitment or Expedited Disability Discrimination? - Center for Democracy and Technology

ChatGPT Is Nothing Like a Human, Says Linguist Emily Bender

One year in, Meta's civil rights team still needs a win

Creating Trustworthy AI: A summary of our white paper

Opinion | Make Algorithms Accountable - The New York Times

Machine Bias — ProPublica

Google Is Hiring More Black People, Retaining Them Is A Different Story

VII. Appendix

1 [Algorithms for All: Has Digitalization in the Mortgage Market Expanded Access to Homeownership? | Joint Center for Housing Studies](#)

2 [Help Wanted | Upturn](#)

3 [Opinion | The Newest Jim Crow – The New York Times](#)

4 [Report on Algorithmic Risk Assessment Tools in the U.S. Criminal Justice System](#)

5 [How Opaque Personality Tests Can Stop Disabled People from Getting Hired – Center for Democracy and Technology](#)

6 [An AI fair lending policy agenda for the federal financial regulators](#)

7 [As A.I. Booms, Lawmakers Struggle to Understand the Technology – The New York Times](#)

8 [Civil Rights Principles for the Era of Big Data](#)

9 [Civil Rights Leaders Announce Principles to Protect Civil Rights and Technology – The Leadership Conference on Civil and Human Rights](#)

10 [The Leadership Conference Education Fund Announces Its "Center for Civil Rights and Technology," a First of Its Kind Research and Advocacy Hub](#)

11 [Facebook Taps Former Obama Official As Vice President Of Civil Rights : NPR](#)

12 [Google's chief diversity officer reflects on being inclusive in year 3 of remote work](#)

10 [Apple broadens Racial Equity and Justice Initiative with $30 million in new commitments](#)

14 [The Real Reasons For Big Tech Layoffs At Google, Microsoft, Meta, And Amazon](#)

15 [Under pressure, Apple commits to conducting a civil rights audit – The Washington Post](#)

16 [AI Bill of Rights Blueprint Can Protect Individuals from Bias and Discrimination, Implementation Will Be Critical](#)

17 [Making the Case for Business Civil Rights Audits](#)

[18] Microsoft Inclusive Design

[19] NIST Risk Management Framework Aims to Improve Trustworthiness of Artificial Intelligence

[20] Integrity Icon

[21] The Tech That Comes Next by Amy Sample Ward & Afua Bruce | Purpose-Built Platforms

[22] Google to ban payday loan advertisements - The Washington Post

The Leadership Conference
on Civil and Human Rights
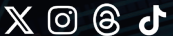
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