UNIVERSAL WORKERS' RIGHTS



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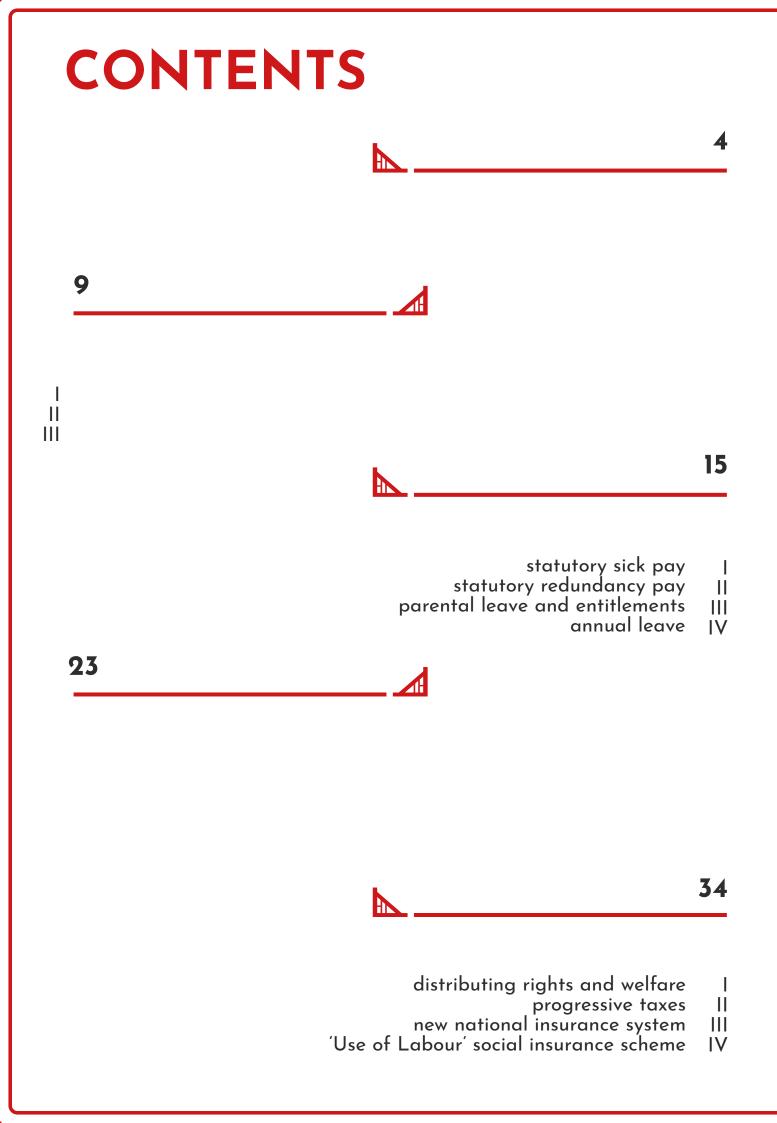
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INTRODUCTION The Changing Shape of Precarious Work

INTRODUCTION

The Changing Shape of Precarious Work he series of lockdowns over the Covid pandemic shed light on the UK's inadequate system of workers' rights. Like so many areas of the UK economy, Covid has

revealed an ailing settlement that leaves many workers without the basic safety net a system of rights should offer. Those who work in the gig economy or are on zero-hour contracts were often left without ample sick pay to self-isolate. Many parents with these contractual arrangements were left without access to child care. As workers experienced unprecedented levels of insecurity, the numbers forced onto these contracts grew to unprecedented levels. As gig economy companies such as Deliveroo grew their pools of UK workers,¹ the numbers on zero-hour contracts for the first time rose to over one million.²

The labour market looks very different from even a decade ago. More women are in paid work than ever before, growing numbers are self-employed and temporary and insecure contractual arrangements are increasingly the norm. Key sectors of employment such as manufacturing and retail have entered what appears to be a terminal decline, leaving ever-greater numbers of workers adrift on short-term contracts, volatile pay and diminished rights and welfare.

¹ Deliveroo Newsroom (2020). '15,00 new riders set to join Deliveroo'. Deliveroo. Available at: <u>https://uk.deliveroo.news/news/deliveroo-riders-cov-</u> id-19.html

² ONS (2021), Emp 17: People in employment on zero-hour contracts', ONS. Available at: <u>https://www.ons.gov.uk/employmentandlabourmarket/</u> <u>peopleinwork/employmentandemployeetypes/datasets/emp17peopleinem-</u> <u>ploymentonzerohourscontracts</u>

Due to the accelerated pace of modern technological development, shifts in the composition of various sectors, as well as new forms of management and organisation, the legal framework designed to protect workers tends to lag behind developments in the labour market. Today's system of rights was designed for a bygone era of long-term employment and stable contracts. It was created to protect "employees" of large companies from the asymmetries that emerge between powerful companies and powerless individual workers. It was based on the principle that employers have a responsibility to their employees.

Its creation and continued development was not easily won, but was the result of considerable struggle by unions and social reformers. The decline in union density undoubtedly accounts for why rights have so readily come under attack in recent years.

As the labour markets of the Global North have struggled against deep and recalcitrant economic stagnation, businesses have been forced to generate profits by means other than production, and have tended to choose boosting productivity by cutting back on labour costs. In the late 1970s, a new consensus emerged - often referred to as 'neoliberalism' - under which labour rights came to be seen as a constraint on efficiency and the bottom line of businesses. Policymakers have sought to 'free' employers from their responsibility to workers while extending the degree to which workers are dependent on employers. This has led to a new world of precarious work that remains, for the most part, invisible and unregulated. The most brutal consequences of this new consensus have become apparent during the Covid pandemic. For those left without sick pay - including many 'key workers' - self-isolation is simply not possible and is a luxury offered only to those properly covered by employment law. This demonstrates that workers' rights are not only essential for individual workers but for society as a whole. Workers who contract the virus but can not self-isolate are forced to put at risk their colleagues, customers, clients, families and wider society. These are mostly workers on "flexible" contractual arrangements, many of whom work in spaces with poor ventilation such as warehouses and shops.

There are some, of course, who may welcome the flexibility such work provides. Undoubtedly, it can offer benefits to workers - such as autonomy, independence and greater choice over when and where the work takes place - that more rigid forms of contractual arrangement are not suited to. It is, however, evident that such work is not universally welcomed by those who undertake it. Because much of this work is insecure, poorly paid and without rights, a whole repertoire of verbal and legal tricks has been developed to recast volatility as flexibility, control as freedom and dependence as independence, in an effort to deceive workers and legislators alike. New kinds of labour platform such as Uber and Amazon Mechanical Turk promise a working life of independence and autonomy. But can a person who works full time for one company really be said to have the flexibility and independence of the self-employed? And should such a worker really forgo basic employment rights?

Recent years have seen a growing pushback against these contractual arrangements, with lawsuits against companies such as Uber occurring in countries across the world. But these companies are only the symptom of a wider problem to which piecemeal solutions will prove insufficient. Instead, we need to deal with the root cause and update a settlement of rights that is no longer fit for purpose. In an age where arrangements like the gig economy and crowdwork are testing the very legal definitions upon which the labour market rests; where employees are in decline and the self-employed on the rise; and where a highly interconnected world means all workers face the same global risks such as pandemics and climate catastrophes - we need a system of rights that no longer privileges certain segments of the labour market, but provides the same safety net and benefits for all.

This report considers the challenges that face our ailing system of rights and what can be done about it. It proposes a series of measures - from immediate policy action to a longer-term horizon - which frames workers' rights as a universal problem that requires a universal solution. The report focuses on the UK context, but many of the policy solutions it proposes would work just as well globally.

WHO CURRENTLY QUALIFIES?

I. LOWER EARNINGS LIMITS

key problem with the UK system is that large numbers of workers currently make below the lower earnings limit (LEL)

of £120 per week, meaning they do not qualify for any financial support from their employers. As the Covid pandemic demonstrated in stark fashion, this limit should be entirely lifted, so that all workers have access to the same set of rights. Our current system effectively punishes those who are in low income, insecure jobs and rewards those in long-term, well-paid positions. A more rational and just settlement would need to decouple access to rights from hours and income.

Lower earning limit:	Number of people below:
£120	2 million
70% Women	This means: No statutory sick pay No holiday pay No statutory maternity and paternity pay No statutory redundancy pay

Source:TUC (2021), 'TUC accuses government of abandoning low paid workers after it ditches sick pay reforms'. TUC. Available at: <u>https://www.tuc.org.uk/news/tuc-accuses-government-abandoning-low-paid-workers-after-it-ditches-sick-pay-reforms</u>

Other workers are bereft of even the most basic rights due to their contractual status, i.e. not being 'employees' (See figure 2).

Self-Employed	Worker	Employee
Not covered by employment law	Statutory minimum wage	All of the rights listed in the 'worker' column and:
Rights and responsibilities are agreed with contractor on an individual basis	Statutory minimum amount of paid holiday	Statutory sick pay
Still entitled to protection from poor working conditions and some forms of discrimination.	Statutory minimum level of rest breaks	Statutory maternity and paternity pay
	Protection from unlawful deductions from wages	Statutory redundancy pay
	Protection for whistleblowing	Protection against unfair dismissal
	Protection from working more than a 48-hr week.	Time off for emergencies
		Minimum notice periods for dismissal or resignation

Source: Gov.uk (2022) 'Employment status'

II. SELF-EMPLOYMENT AND THE GIG ECONOMY here are around 4.2million 'self employed' workers in the UK.³ According to the ONS annual population survey, 'Pakistani',

'Bangladeshi' and 'Other ethnic groups' are more likely to be self-employed than 'Whites'.4

These workers were most likely to experience the dire results of insufficient statutory sick pay entitlement during a pandemic. Over 75% of gig economy workers were concerned about health risks at work during the pandemic, compared with less than 25% of other self-employed workers.⁵ This is likely due to the fact that many gig workers are in jobs such as taxi driving which has had one of the highest rates of Covid-related death.⁶ But it is also likely due to the fact that few gig workers have the safety net provided by statutory sick pay. Some companies decided to offer sick pay to drivers, though it was often limited to pay far below a workers average weekly earnings. The ride-hailing platform Bolt, for instance, offered its "self-employed" workers sick pay totalling £100 a week, less than two-thirds of minimum wage for an average working week (37.5 hours).⁷

Fairwork Foundation (2020), 'The Gig economy and Covid-19: looking

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³ ONS (2021), 'Labour market survey, UK: July 2021'. ONS. Available at: https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/timeseries/dyzn/lms

⁴ ONS (2020), 'Coronavirus and self-employment in the UK'. ONS. Available at: https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/articles/coronavirusandselfemploymentintheuk/2020-04-24#levels-of-self-employment-varies-across-different-ethnic-groups

⁵ Centre for Economic Performance (2020), 'Covid 19 and the self-employed: six months into the crisis', Centre for Economic Performance. Available at: <u>https://cep.lse.ac.uk/pubs/download/cepcovid-19-012.pdf</u>

⁶ ONS (2021), 'Coronavirus (Covid-19) related deaths by occupation, England and Wales: deaths registers between 19 March and 28th December 2020'. ONS. Available at: <u>https://www.ons.gov.uk/peoplepopulationandcom-</u> <u>munity/healthandsocialcare/causesofdeath/bulletins/coronaviruscovid19re-</u> <u>lateddeathsbyoccupationenglandandwales/latest</u>

A reliance on family and friends, all too common among those in self-employment, was tested to the limit over the pandemic due to widespread loss of earning potential.⁸

There have been some efforts to redefine "independent contractors" for companies such as Uber and Deliveroo as 'workers' (see figure 2). The Employment Rights Act 1996 (Section 230) created a status between 'employee' and 'self-employed', defined as 'worker', which prescribes a limited range of rights to be offered by companies that engage a worker's labour on a long-term basis. A number of court cases in the UK show that a significant number of platform workers who depend on a single enterprise for their labour should be covered by the definition of 'worker'. Most notably, a UK Supreme Court judgement in February 2021 ruled that Uber's drivers are not 'self-employed' but are in fact 'workers'.⁹

These legislative victories tend to be piecemeal and there is a history of them later being overturned by the companies they aim to regulate. Part of the problem is that such court judgements have tended to regulate the practises of individual companies, meaning other similar companies can continue to operate in a dubious manner and fill the space left open by those the legislation seeks to restrict.

ahead', Fairwork Foundation Oxford. Available at: <u>https://fair.work/en/fw/pub-</u> <u>lications/the-gig-economy-and-covid-19-looking-ahead/#continue</u>

⁸ NEF (2020), 'Beyond the gig economy: empowering the self-employed workforce', NEF. Available at: <u>https://neweconomics.org/uploads/files/NEF_</u> <u>Empowering-self-employed-workforce.pdf</u>

⁹ The Guardian (2021), 'Uber drivers entitled to workers' rights, UK supreme court rules'. Available at: <u>https://www.theguardian.com/technolo-</u> gy/2021/feb/19/uber-drivers-workers-uk-supreme-court-rules-rights#:~:text=lt%20ruled%20that%20Uber%20must,challenge%20unfair%20dismissal%2C%20for%20example.

In the case of more comprehensive legislation, such as California's AB5 bill, which sought to curtail the activities of gig economy operators in the state as a whole, the bill proved too complex and, in some cases, too detrimental to the livelihoods of workers to introduce exhaustively, meaning many companies could apply for exemptions. The legislation has now been all but overturned. As we will see in Section 5, a more comprehensive overhaul of our employment rights and security system is necessary if we are to deal with these companies in an effective and meaningful way.

III. ZERO HOUR CONTRACTS

ero hour contracts are on the rise. In the second quarter of 2020, the number of workers on zero-hour contracts for the first time rose to over 1 million. At the

end of 2021, they had fallen to 996,000, still over a 100,000 higher than they were five years ago.¹⁰ These workers are overrepresented in the 16-24 age category and the majority are women.¹¹

Often criticised for the lack of secure hours they offer workers and the power they give employers to cancel shifts at the last moment, they are less often considered in terms of the legal status they offer workers. Generally not classified as 'employees' but as 'workers', those on these contracts are likely to have significantly reduced access to workers' rights (see figure 2).

¹⁰ ONS (2021), Emp 17: People in employment on zero-hour contracts', ONS. Available at: <u>https://www.ons.gov.uk/employmentandlabourmarket/</u> <u>peopleinwork/employmentandemployeetypes/datasets/emp17peopleinem-</u> <u>ploymentonzerohourscontracts.</u>

¹¹ ibid.

ENHANCING OUR RIGHTS

ENHANCING OUR RIGHTS equal rights to every worker in the UK should not just mean that every working person has access to all

iving full and

the existent rights listed in Figure 1, but also that we enhance and supplement the existing settlement with a range of new and improved rights.

Even if you are currently an 'employee', the range of rights available are far from comprehensive. In terms of financial support for workers, the UK system ranks among the worst in Europe (see Figure 3). Support currently available needs significant enhancement to meet international standards. Universal Workers' Rights

Figure 3: European paid leave and unemployment benefits

Indicator	Denmark	France	Spain	Netherlands	Sweden	Finland	Italy	Norway	Austria	Belgium	Germany	U.K.	Switzerland	Ireland	U.S.
Unemployment benefits															
Period covered															
Pay															
Maternity-related entitelments															
Period covered															
Pay															
Paternity-related entitelments															
Period covered															
Pay															
Parental-related entitelments															
Period covered															
Pay															
Annual leave															
Period covered															
Pay															
Sick pay															
Period covered															
Pay															
Aggregate score	7.8	7.2	6.4	6.2	5.9	5.8	5.6	5.6	5.4	5.1	4.7	2.9	2.3	2.3	0.3

Source: Glassdoor (2016) 'Which Countries in Europe Offer the Fairest Paid Leave and Unemployment Benefits'.

breach of the European social charter, which described it as 'manifestly inadequate'.¹² If we compare the UK's £96.35 per week for up to 28 weeks to other European countries, we see just how much it falls short.¹³

In the Netherlands, which has the most generous SSP, workers receive 70% of their pay for up to two years.¹⁴ While in Norway, employers are obligated to pay a worker's full salary for up to a year.¹⁵ In Spain, 60% of an employees wage will be paid for as much as 18 months.¹⁶ These more comprehensive entitlements take into account the often long-term negative effects that physical and mental health problems have on an individual's ability to work and earning potential. They abate the compounding negative mental health impacts - of anxiety, fear and depression - that attend long periods of diminished income.

¹² IER (2020), 'UK sick pay nearly worst in Europe and in breach of international law'. IER. Available at: <u>https://www.ier.org.uk/news/uk-sick-pay-near-</u> <u>ly-worst-in-europe-and-in-breach-of-international-law/</u>

¹³ Gov.uk (2021), Statutory Sick Pay. GOV.UK. Available at: <u>https://www.gov.uk/statutory-sick-pay</u>

European Commission (2022), 'Netherlands - Sick pay and benefits in the event of illness'. European Commission: Employment Affairs and Social Inclusion. Available at: <u>https://ec.europa.eu/social/main.jsp?-</u> <u>catld=1122&langld=en&intPageld=4992</u>

¹⁵ European Commission (2022), 'Norway - Sickness benefit and attendance allowance'. European Commission: Employment Affairs and Social Inclusion. Available at: <u>https://ec.europa.eu/social/main.jsp?-</u> <u>catld=1123&langId=en&intPageId=4706</u>

¹⁶ European Commission (2022), 'Living and Working Conditions - Spain'. European Commission. Available at: <u>https://ec.europa.eu/eures/public/liv-</u> <u>ing-and-working/living-and-working-conditions/living-and-working-condi-</u> <u>tions-spain_en</u>

The fear of not being able to afford bills due to longterm illness over the Covid-19 pandemic has led evergreater numbers of UK citizens to consider taking out income protection insurance, with nearly 50% of all those under 45 looking at purchasing a package.¹⁷ A more comprehensive SSP policy would remove the demand for extractive, expensive and often inefficient private insurance schemes.

SSP in the UK should marry the best facets of the Norwegian and Dutch systems and offer **full pay for up to two years**.

¹⁷ This is Money (2021). 'Pandemic puts death and illness in sharp focus for younger Britons with under 45s now more interested in income protection and life insurance'. This is Money. Available at: <u>https://www.thisismoney.co.uk/</u> <u>money/lifeinsurance/article-9388691/Nearly-half-UK-adults-consider-taking-income-protection-cover.html</u>

20

II. STATUTORY REDUNDANCY PAY

he UK has among the least generous statutory redundancy pay in Europe. 'Employees' are entitled to redundancy

pay only if they have been working for their employer for two years or more. Meeting the criteria entitles an employee to:

- half a week's pay for each full year you were under 22.
- one week's pay for each full year you were 22 or older, but under 41.
- one and half week's pay for each full year you were 41 or older.¹⁸

By way of comparison, in Austria, for every month an employee works the employer must pay 1.53% of untaxed income into a provision fund, run by the company or organisation, which pays out when an employee is made redundant. These funds may in some cases not pay out unless the worker has been in their role for three years or more.

A similar system in the UK would make sure that workers are offered a degree of security from day one on the job. However, a UK version would need to improve on the Austrian model in a number of key ways. The percentage of income that employers must pay should be raised to make sure that provisions can meet a worker's subsistence. Equally, in the UK, to make sure such provisions are available to workers and the self employed as well as employees, the fund should be run centrally by national government and a board composed of workers and union leaders.

¹⁸ Gov.uk (2021), 'Redundancy: Your Rights'. GOV.UK. Available at: https://www.gov.uk/redundancy-your-rights/redundancy-pay

The employer or contractor of labour (the client, employer or customer) would contribute a percentage of the worker's monthly wage or fee.

Workers should also be allowed to transfer their balance of provisions from job to job. This would mean that an individual worker's provision totals a percentage of the hours they have worked over their working life rather than over the period of a single job. The amount paid should be graded so that in the early years of work a greater percentage of a worker's monthly income is added to the provision fund, which gradually tapers off over the course of an individual's working life. This would mean that if a worker is made redundant early in their working life they will have a sum of provisions that can support them. Those in lower paid work will receive a larger percentage of their income into the provision fund each month (see Figure 4). This reflects a worker's capacity to support themselves in other ways e.g., through personal savings.

	Year 1	Year 2	Year 5	Year 10
Salary: £35,000 p/a	5%	5%	4%	3%
Salary: £15,000 p/a	8%	8%	7%	6%

Figure 4: Annual % of salary paid by employer into redundancy provisions

III. PATERNITY LEAVE AND ENTITLEMENTS

gain, the UK is far behind in terms of paternity leave and entitlements. The UK only offers 2 weeks paternity leave to eligible employees of either £151.97 a week or 90% of average

weekly earnings (whichever is lower).¹⁹ Maternity leave is paid for up to 39 weeks and amounts to 90% of average weekly earnings for the first 6 weeks and £151.97 a week for the remaining 33.²⁰

By comparison, in Sweden, such leave amounts to 18 months split between both parents; the first 13 months of which are paid at 80% of average income.²¹ There is no reason why the UK should not improve on the Swedish system by offering parents the full value of average income for 18 months. Child-rearing is work and should be valued as such - work which in the UK too often falls to women, who are forced to juggle the responsibilities of domestic and wage labour.²²

The UK should offer 18 months between parents at full rate of salary p/a

<sup>Gov.uk (2021), 'Statutory Paternity Pay and Leave: employer guide'.
GOV.UK. Available at: <u>https://www.gov.uk/employers-paternity-pay-leave</u>
Gov.uk (2021), 'Maternity Pay and Leave'. GOV.UK. Available at: <u>https://www.gov.uk/maternity-pay-leave/pay</u></sup>

²¹ European Commission (2022), 'Norway benefit and attendance allowance'. European Commission: Employment Affairs and Social Inclusion. Available at: <u>https://ec.europa.eu/social/main.jsp?catId=1123&langId=en&intPage-</u> Id=4706

IFS (2020), 'Parents, especially mothers, paying heavy price for lockdown'. IFS. Available at: https://www.ifs.org.uk/publications/14861

IV. ANNUAL LEAVE

he UK's annual leave entitlements are relatively low when compared to a number of other European countries. Full-time

employees, on a standard employment contract, are entitled to 28 total working days (around 5.6 weeks) of annual leave. This entitlement tends to include the eight public/bank holidays which otherwise would be unpaid. Employers are allowed to offer in excess of this entitlement. Paid time off tends to accrue with years of service, but there is no legal obligation for employers to offer this increase.

In Spain, full-time employees are entitled to 22 working days. But there are also as many as 14 national and regional public holidays (excluded from 22 day entitlement). The minimum level of annual leave for Spanish citizens (factoring in national and regional holidays) is 30 days, while the maximum could be as much as 36 days.²³

In France, employees are entitled to 5 weeks (or 30 days), plus up to 22 days of RTT (Réduction du Temps de Travail) - overtime remunerated as time off - for those that opt to work more than 35 hours per week. There are also 10 public holidays (excluded from 30 day entitlement).²⁴

²³ European Commission (2022), 'Living and Working Conditions - Spain', European Commission. Available at: <u>https://ec.europa.eu/eures/public/liv-</u> ing-and-working/living-and-working-conditions/living-and-working-conditions-spain_en

²⁴ European Commission (2022), 'Living and Working Conditions -France', European Commission. Available at: <u>https://ec.europa.eu/eures/public/</u> <u>living-and-working/living-and-working-conditions/living-and-working-condi-</u> <u>tions-france_en</u>

Most collective agreements in Germany stipulate that workers should have no less than 30 days annual leave.²⁵ This does not include public holidays amounting to around 10 per year.²⁶

²⁵ European Commission (2022), 'Living and Working Conditions - Germany', European Commission. Available at: <u>https://ec.europa.eu/eures/public/</u> <u>living-and-working/living-and-working-conditions/living-and-working-condi-</u> <u>tions-germany_en</u>

²⁶ Ibid.

NEW RIGHTS











I.

A RIGHT TO

A LIVEABLE

PLANET

Beyond enhancing our current settlement, we need to set a new horizon for workers' rights that can meet the challenges of a new world of work. Not only do rights help to combat the symptoms of an increasingly volatile labour market, but they offer a way to foster and legally consolidate a new culture of work. Though often thought of as protections and regulations, they can and should be used to reshape both the quality and quantity of the work.

> he ecological crisis is also a crisis of work. It represents a spur to work less and work smarter. It requires that we transform rather than tweak a status quo that encourages

superfluous work and avoidable emissions, and that leaves people with little time to engage with nature or involve themselves in activities that benefit the natural world.

All workers should be given an allocated number of paid work hours to engage in activities that are beneficial to the planet. Such activities might include community tree-planting and local rewilding. In larger urban areas, workers could help to set up and volunteer in local repair cafes. The allocated time might not involve labour at all, but could be taken as "eco-days" – essentially time to engage in low-carbon activities, such as bird spotting, walking in local countryside or city parks, maintaining hiking paths and tending to local community gardens. Hours dedicated could be calculated as a percentage of hours worked each year, e.g, 2% of annual contracted hours. Or it could be a universal allocation, e.g, everyone of working age has the right to 12 months "climate service" over the course of a lifetime. This might form one part of a larger "National Climate Service" that trains and retrains workers to retrofit buildings, install green energy and undertake general repairs. This might involve working in one of the UK's many 'repair cafes', an increasingly feature of the high street.²⁷

Having contributed the vast majority of emissions, often by exploiting the fossil fuels of poorer nations, richer ones such as the UK must lead a just and fair transition by decarbonizing their own economies and trialling new policy solutions. Simply offering workers time away from their regular place of work to engage in low-carbon activities is not on its own a sufficient solution to ecological catastrophe. But alongside more comprehensive measures to transition away from fossil fuels, it has the potential to significantly lower emissions. More importantly, it helps to foster bonds with nature and raise ecological consciousness. By paying people to engage in activities not related to their primary form of work, it also helps to reimagine the relationship between the wage and valuable activity.

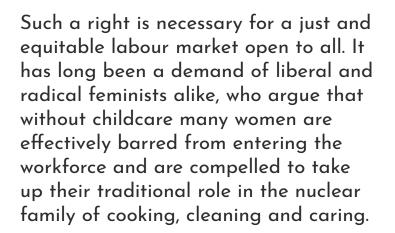
²⁷ Rethinking Poverty (2021), 'The repair cafe: what can we learn from it?' Rethinking Poverty. Available at: <u>https://www.rethinkingpoverty.org.uk/local-in-</u> <u>itiatives/the-repair-cafe-what-can-we-learn-from-it/</u>

II. A RIGHT TO CHILDCARE inding good, affordable childcare has long been a problem for workers. After a brief period of maternity or paternity pay, parents are offered little to no

government support in caring for their children and are largely left to find childcare in the private market.

A recent survey of 20,000 parents found that 97% thought that childcare was too expensive in the UK, while 50% said that paying for it had had a significant impact on their family's standard of living.²⁸

A right to childcare would give every individual, whether currently in employment or unemployed, access to state funded childcare, which would be free at the point of access. To uphold the principle of universality, its accessibility should not be determined by value of income.



²⁸ Women's Budget Group (2021), 'Mega survey of UK parents shows childcare is failing families'. Women's Budget Group. Available at: https://wbg. org.uk/analysis/reports/mega-survey-of-uk-parents-shows-that-childcare-is-failingfamilies/

After the passage of the 1964 Civil Rights Act, women's rights advocates formed the National Organization for Women (NOW). The organisation was designed to lobby the US federal government to enforce existent legislation around anti-sex discrimination provisions. NOW contended that childcare would allow many women, who were currently effectively barred from participating in the workforce, to enter the labour market. It demanded childcare as a public service free at the point of access, available to all, regardless of income level.²⁹

²⁹ Princeton (2020), 'After fifty years, national organisation for women daycare still flourishes'. Princeton Alumni. Available at: <u>https://paw.princeton.</u> <u>edu/article/after-50-years-national-organization-women-daycare-still-flourishes</u>

III. A RIGHT TO DISCONNECT cross the globe, countries have started to recognise 'hidden overtime' - unpaid work in the evenings and weekends - as a social problem and have introduced legal measures to

protect their citizen's mental health and well-being. This legal protection has been deemed the 'right to disconnect'. This right ensures that all employees feel free to switch off from any work-related electronic communications, including email and messages, outside of normal work hours.

A report by Prospect that considers how such a right might be implemented in the UK recognises that the legislation will mean different things to different workers, businesses and sectors.³⁰ But the report also emphasises that the spirit of the legislation must allow workers to maintain a healthy boundary from work-based technologies during leisure hours. It recommends that the detail of the legislation must be worked out through a comprehensive consultation with workers. In the first instance, this might involve a 'Right to Disconnect advisory committee', as created by the Canadian government.

The Irish government is also currently considering legislation that would improve work-life balance by allowing workers to not answer emails or messages outside of office hours, and has released a useful guide based on three key principles defining how the legislation should operate:³¹

³⁰ Prospect (2021), 'Right to Disconnect: a guide for union activists'. Prospect. Available at: <u>https://prospect.org.uk/news/right-to-disconnect/</u>

³¹ Workplace Relations Commission (2021), 'Code of practise for employers and employees on the right to disconnect'. Workplace Relations Commission. Available at: <u>https://www.workplacerelations.ie/en/what_you_should_know/</u>

1

"The right of an employee to not routinely perform work outside normal working hours"

2

"The right not to be penalised for refusing to attend to work matters outside of normal working hours"

3

"The duty to respect another person's Right to Disconnect (e.g., by not routinely emailing or calling outside normal working hours)"

The Prospect report collates the various countries and states in which such legislation is active or under consideration.³² In Germany, unions worked with business to develop "a minimum intervention in leisure time policy". In Italy, Portugal and Spain, legislation has been passed that recognises the workers right to disconnect from digital technologies at the end of the day. Similar legislation has also been enacted in Argentina and is under consideration in Greece, Canada and New York state.

<u>codes_practice/code-of-practice-for-employers-and-employees-on-the-right-</u> <u>to-disconnect.pdf</u>

³² Prospect (2021), 'Right to Disconnect: a guide for union activists'. Prospect. Available at: <u>https://prospect.org.uk/news/right-to-disconnect/</u>

IV. A RIGHT TO DEVELOPMENT

Il workers should receive an allowance of time per year to focus on projects and pursuits outside of the daily tasks

that compose their jobs. The right recognises that most jobs by their very nature are restrictive in terms of the tasks they include.

Alongside the fact that workers often have little time or energy to pursue projects outside of their daily tasks, the restrictive nature of daily tasks can inhibit the pursuit of meaningful work, leaving a great number of individuals unsatisfied in their jobs.



The model already exists in many private companies. Famously, Google encourages workers to spend 20% of their time working on projects outside of their everyday jobs, which have the potential to benefit the company in the long run. This recognises that a degree of liberated creativity not only benefits the worker but the company and, under the right conditions, society itself. Famously, such development time led to the creation of Google News and Gmail.³³

³³ Pedro Gomes makes the case for business innovation in his 2021 book: Friday is the New Saturday. Cheltenham: Flint Publishers.

For many firms, more time off for employees holds the promise of remaining dynamic and reducing the risk of bad retention rates. But the right is not designed simply to benefit individual workers and firms, but to improve social innovation as a whole. Pedro Gomes makes the case for a four-day week as part of an innovation-inducing economy. He asks whether more time away from the daily grind might spur new forms of creativity and create some much needed economic dynamism. Gomes calls for a new combination of cutting-edge tech development in the most advanced industries with sheer time distributed to as many people as possible; in this way, a society-wide experiment can produce unforeseen new avenues for growth.

> We need everyone, men and women, with or without higher education, in London and in Lancaster, young and old, in offices or in shops, in the private or the public sector, to reinvent their jobs or innovate through a new business. For this, we need to give everyone time.³⁴

Jobs should not remain a static collection of tasks, sometimes updated by a manager. They should involve flexibility and space for workers to act creatively. For this, workers need significant time within their role to imagine and innovate new ideas.

The amount of development time workers receive to pursue their own projects could be worked out at either the sectoral or national level. This decision process would involve a range of stakeholders, from workers and union leaders to industry leaders and MPs.

Gomes, P. (2021) Friday is the New Saturday. Cheltenham: Flint Publishers. P. 115.

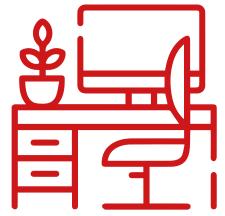
V. A RIGHT TO DECENT WORKSPACE or many white collar workers, the recent and seemingly permanent shift to remote work means that the working day looks very different to even three years ago. Yet,

work-based infrastructure has not kept pace with this change, leaving many people with only their homes to work from, an often unsatisfactory arrangement that brings negative impacts in terms of work-life balance and mental and physical health.³⁵

We need new work-based infrastructure that meets the needs of workers who no longer primarily spend their time at the office. This would include:

WORKSPACE HUBS

Remote workers need the option of communal workspaces. These would be based on the 'open workspace' model in line with the guidance published by the Greater London Authority.³⁶ Key characteristics of open workspace include:



• A mix of spaces including business incubators, accelerators, creative studios, makerspaces and shared workshops

• Flexible terms of access and leasing in order to reduce the risks of long term leases

³⁵ Autonomy (2020), '<u>The New Normal: A Blueprint for Remote Work',</u> <u>Autonomy. Available at: https://autonomy.work/portfolio/blueprintforre-</u> <u>motework/</u>

Greater London Authority (2015), 'Creating Open Work Spaces' Available at: <u>https://www.london.gov.uk/sites/default/files/regeneration_</u> <u>guide_2_-creating_open_workspace.pdf</u>

• The opportunity to share infrastructure, tools and specialised equipment and thus avoid committing to long term investments in fixed capital

• Spaces and opportunities for users to connect with an ecosystem of like-minded business operators

• The presence of cross-funding strategies to ensure an inclusive mix of occupants

These hubs would dovetail with a Right to Development, as the social nature of these spaces would help to foster innovation between the various occupants.

BASIC EQUIPMENT

As it stands, some remote workers - those who have no option but to work at home - can claim tax relief for additional household costs including energy, water and broadband and phone access (for business communications only).³⁷

However, workers must still shoulder the burden of many other costs associated with working from home. All remote workers should as a right be given an allowance for basic equipment for the home office. This would include desks, desk chairs for proper spinal support, computers, microphones and software packages.

³⁷ Gov.uk (2022), 'Claim tax relief for your job expenses'. Available at: https://www.gov.uk/tax-relief-for-employees/working-at-home

A NEW APPROACH TO WORKER SECURITY

To bring these forms of work out of the legislative twilight zone and back into transparent regulatory frameworks we must change the legal and financial systems on which the labour market currently rests. Our system of rights should no longer privilege certain sections of the labour market, based on their earnings or contractual status, but should provide the same rights and benefits for all, throughout their working lives and from day one on the job.

I. DISTRIBUTING RIGHTS AND WELFARE

or those classed as 'workers', the distribution of new rights poses few problems. They would merely gain access to all of the rights and welfare at present only available to employees. But the case of the 'self-

employed' is somewhat more complicated. Ill-defined and inconsistent, their relationship with state financial support includes Maternity Allowance, Childcare Vouchers and the Single Tier State Pension, but excludes a range of benefits currently only available to employees. To give the 'self employed' access to a wider range of financial support would mean extending this relationship to cover benefits such as statutory sick pay, holiday pay and maternity pay. The very nature of being 'self-employed' means that such support would not be distributed by employers as with 'employees' and 'workers', but via a central government fund dedicated to such support for the 'self-employed'. This might form one part of what the 2019 Labour Party Manifesto referred to as the Ministry for Employment Rights.³⁸ As well as working to enforce the adoption of workers' rights across sectors, the ministry would also act as a fund that distributes financial benefits stipulated in the new charter of workers' rights (see Sections 3 and 4).

There are precedents for such a policy. Other European governments extend rights and benefits to self-employed workers. For instance, the Slovenian government pays statutory sick pay to the selfemployed.³⁹

The Labour Party (2019), 'It's Time For Real Change: The Labour Party Manifesto 2019'. The Labour Party. Available at: <u>https://labour.org.uk/wp-con-tent/uploads/2019/11/Real-Change-Labour-Manifesto-2019.pdf</u>

³⁹ European Commission (2022), 'Slovenia - sick pay and benefits in the event of illness'. European Commission: Employment Affairs and Social Commission' Available at: <u>https://ec.europa.eu/social/main.jsp?-</u> <u>catld=1128&langld=en&intPageld=4777</u>.

II. PROGRESSIVE TAXES

hat should a good tax system look like? Most would agree that it should be progressive, transparent, fair, difficult to abuse and free of legal

loopholes. But the UK's income tax system is regularly criticised for being devoid of all these qualities. Opaque, regressive and eminently abusable, the system often rewards bad behaviour and punishes the poor, no more so than in the context of flexible contractual arrangements.

As such, it should be emphasised that the necessary flattening of hierarchical distinctions between employee, worker and self-employed would require significant adaptations to what is currently a regressive tax system. It would require a radical shake-up of our income tax and national insurance contributions (NICs), so that levies are no longer calculated by contractual status but by income earnings alone, with those with the greatest capacity carrying the largest burden.

> "Gig economy" companies such as Uber entirely avoid paying NICs and income tax for their workers by misclassifying them as 'self-employed'. The workers are then effectively dependent on Uber, but receive none of the rights or benefits of a dependent worker i.e., an employee.

Below are two options for how to reform our regressive tax and insurance system. The first considers how to make the National Insurance system more progressive. The second is a more radical proposal which considers how to overhaul income tax and national insurance as a whole. These are described in general terms, largely as thought-experiments, with the idea that the specific details would be a matter of public policy.

A NEW NATIONAL INSURANCE SYSTEM

owhere is the regressive nature of the UK's tax system more evident than the National Insurance system. The system needs 'levelling up', so that NICs are no

longer determined by contractual status but by the level of income earnings alone. As it stands, The NIC differential between employees and the self-employed incentivizes employers to misrepresent the legal status of workers, so they can avoid making payments but in the process downgrade the worker's access to rights. While those misclassified as self-employed may appear to gain by paying a marginally lower NICs rate, they also lose valuable worker rights – such as access to holiday and sick pay.

The NIC differential between the self-employed and employees (see figure 5) not only incentivises bogus self-employment, but it also serves as a political justification for why the self-employed should not have access to a range of rights and benefits available to employees.

As it stands, the self-	While employees pay
employed pay two types	one type of NICs and
of NICs:	their employer another:
• Class 2: £3.15 a week	• Class 1: 13.25% on
if profits are above	earnings above
£6725 a year.	£9880 a year and an additional 3.25% on
• Class 4: 10.25% on	£50,284
profits between £9,881	
and £50,270 a year.	• 15.05% of employee
3.25% extra on profits	earnings above £9100
over £50,270	

Figure 5: Differences in national insurance contributions between employees and

Sources: Gov.uk (2022) 'Self-employed national insurance rates'. Available at: https://www.gov.uk/self-employed-national-insurance-rates and Gov.uk (2022). 'National insurance rates'. Available at: https://www.gov.uk/national-insurancerates-letters

Instead, the 'self-employed' and 'employees' should pay the same amount, calculated by their level of income. In some cases, this might mean that the self-employed end up paying slightly more in contributions each year. However, the gains accrued in rights and benefits far outweigh what appear at first glance as income losses. There would also be a system of remittances for the lowest earners.

Closing the gap in National Insurance contributions (NICs) paid by employees and the self-employed would reduce one of the main drivers of bogus selfemployment. The system proposed here would mean that the responsibilities of employers and contractors are set by their use of labour as opposed to their legal relationship to it. In other words, any firm, platform or institution that uses labour pays an amount calculated by income earnings into national insurance, no matter the form of labour.

Making sure all receive the same rights no matter their relationship to the contracting firm, client or employer requires that income earnings alone determine the burden. This allows us to soften the hard distinctions between self-employment and dependent employment found across our legal and social insurance systems. This moves our insurance system away from one where contributions are worked out by the firm or contractor's relationship to individual workers to one where the value of total labour used determines how much the contractor pays. IV. 'USE OF LABOUR' SOCIAL INSURANCE SCHEME he second option would entirely overhaul the income tax and national insurance systems by replacing tax and insurance charges on employers with tax and insurance charges on

'users of labour', a contribution defined here as 'social insurance contributions'. Colin Crouch describes a similar transformation in the following way:⁴⁰

> All firms and other organisations defined as being users of labour services and coming above a threshold for exemption should be required to make social insurance payments based on the number of hours of labour service that they use, irrespective of whether the contract they have with the labour providers concerned is an employment contract and irrespective of the duration of that contract. A number of important remissions of the charge should then be available to users of labour who are able to demonstrate that they have accepted certain obligations to the labour providers they use and to the wider community on whom they would otherwise be imposing externalities.

First, to create this new approach a clear definition of the 'use of labour' must be arrived at, which would collapse the sharp distinction between dependent employment and self-employment. The point here is to reshape the insurance and tax systems so that companies and organisations pay based on the use of workers as opposed to their formal relationship to those workers.

Crouch defines a 'user of labour' as an individual or organisation that earns money from any of the following activities:⁴¹

- establishes an employment contract
- purchases labour services
- or provides and derives earnings from provision of a platform whereby customers and direct providers conduct their relationship

This definition would not include individuals or organisations that use labour for fewer than a defined number of hours per year, so as to avoid including individual customers or very small companies. This would need to be decided as an issue of public policy. Also excluded would be arrangements where an individual works for a company or contractors for less than a certain amount of weeks per year. Again, this would help to exclude the truly self-employed and also odd bits of casual labour performed intermittently on an ad hoc basis. Though the specific number would again be determined as an issue of public policy, the exact number of weeks would need to be established to ensure that the provider is not dependent on a single firm but sufficiently large that firms are not able to simply have lots of workers on contracts with a very small number of hours per week.

At the same time, all individual workers would need to contribute into the social insurance fund. Contributions, however, would no longer be stratified by employment status, i.e., whether the individual is an employee or self employed. All individuals would then be eligible for the whole repertoire of rights and benefits available in the UK.

Remittances would be available to all individuals whose annual income does not meet a specific threshold. This would mean that social insurance payments, as opposed to income tax and national insurance, would no longer be differentiated by contractual status but by value of income. Higher paid workers would contribute more to make sure that rights and benefits are not only available to those with less but also those whose work does not fall readily within the labour market e.g., unpaid care workers.

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The database, and the foundational form of the worker-occupational characteristics are derived from manipulations of O*NET® and ISCO models. The continued labour of ASPECTT will be to refine and attune any elements of the data to a UK context.

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