

# Preparing for Power

## *Developing progressive labour laws*

### IER policies in the Labour Party Manifesto 2017:

- ✓ A Ministry of Labour
- ✓ Sectoral collective bargaining
- ✓ Stronger access, recognition & representation rights for trade unions and their members
- ✓ Equal rights from day one for all workers
- ✓ A Living Wage
- ✓ Repeal the Trade Union Act, 2016
- ✓ Scrap tribunal fees



“Strengthening workers’ rights is a priority for the Labour Party. Protecting workers against exploitation, by giving them a voice and enabling them to organise collectively to defend their interests, is crucial if we are to deliver on our promise of an economy that benefits the many, not the few. Last year, we set up Workplace 2020: a national conversation with the working people of Britain, about their experiences of working life, the challenges faced in Britain’s workplaces and what needs to change. The Institute of Employment Rights’ *Manifesto for Labour Law* was a key submission to that consultation and helped formulate our 20-point plan for a Fair Deal at Work included in our 2017 General Election Manifesto. As we prepare for power, we thank the IER for informing the debate around workers’ rights, and look forward to reforming today’s unfair labour laws, for a brighter future.”

Jeremy Corbyn,  
Leader of the Labour Party



“As we prepare for power, we are considering how key proposals from the Institute of Employment Rights’ *Manifesto for Labour Law* can be implemented in order to create a future in which everyone has access to decent work, for decent pay; and in which employers and workers can work together to create a stronger economy that works for us all.”

John McDonnell,  
Shadow Chancellor



“When we return to power, the Labour Party will make it our priority to rebalance legislation to ensure that there is appropriate, proportional and robust support for the UK’s 31 million workers and businesses alike, drawing upon the IER’s *Manifesto for Labour Law* to strengthen statutory rights and prevent exploitation.”

Rebecca Long-Bailey,  
Shadow BEIS  
Secretary



“On our return to government, the Labour Party will repeal the Trade Union Act 2016 as a priority, and will draw upon the Institute of Employment Rights’ *Manifesto for Labour Law* for ideas on how to strengthen trade union rights, such as improving access to the workplace for unions and legislating for fairer recognition laws.”

Ian Lavery,  
Labour Party Chair



# Manifesto for labour law

## Our team of experts includes:

Professor Aileen McColgan,  
 Professor Alan Bogg,  
 Andrew Moretta,  
 Aristeia Koukiadaki,  
 Bob Simpson,  
 Carolyn Jones,  
 Professor Colm O'Conneide,  
 Professor Dave Walters,  
 Professor Dave Whyte,  
 Emeritus Professor Frank Wilkinson,  
 Emeritus Professor Mark Freedland,  
 Ewan McGaughey,  
 John Hendy QC,  
 Professor Keith Ewing,  
 Lydia Hayes,  
 Professor Michael Ford QC,  
 Professor Nicola Countouris,  
 Professor Peter Turnbull,  
 Professor Phil James,  
 Richard Arthur,  
 Professor Ruth Dukes,  
 Professor Sandy Fredman,  
 Professor Sonia McKay,  
 Professor Steve Tombs,  
 Professor Tonia Novitz,  
 Professor Virginia Mantouvalou

## GIVING WORKERS A VOICE



1

**A Ministry of Labour** led by a Secretary of State with a seat at the Cabinet table, with the primary responsibilities to promote collective bargaining on a multiemployer sectoral basis, promote employment, eliminate employment insecurity, oversee an improved framework of statutory rights and ensure that strategic planning in relation to skills and training is put into effect.

2

**A National Economic Forum** involving representatives from government, employers, unions and independent academics, to put forward strategic plans, particularly for skills and training; scrutinise the impact of proposed labour law reforms; decide the direction of economic policy and ensure that workers' voices are heard on economic issues.

3

**Sectoral Employment Commissions**, to negotiate Sectoral Collective Agreements, or wage councils where SCAs are not possible. Terms negotiated by the SEC would be legally enforceable and those seeking government contracts or supplying agency workers would be required to comply with the Sector terms.

4

**Sectoral Collective Agreements and Councils' Orders** all workers and all in the relevant sector covering not merely hours and holidays aspects of concern employers and workers including training, and dispute resolution machinery.

## RECLAIMING OUR RIGHTS



1

**One universal employment status providing all workers with the same rights from day one** including those whose employers attempt to categorise them as 'self-employed'.

2

**A Living Wage Commission** with the aim of eliminating low wage work from the economy and ensuring that all workers' salaries always cover the cost of living in their geographical area at the very least.

3

**Defined hours contracts for all workers**, setting out the minimum number of hours per week or month, and prescribing a percentage (up to 10-20%) of paid hours 'on call'.

4

**A right to fixed working hours for person engaged continuously for 12 weeks.**

5

**Powers for safety reps to inspect, issue provisional improvement notices, and stop jobs deemed imminently dangerous**, supported by increased HSE inspections with a stronger focus on enforcement.

6

**Universal entitlement to sick pay that amounts to a substantial proportion of normal pay.**

7

**Truly flexible work, and shareable parental leave**, including six months of maternity leave on full pay; one month of paternity leave on full pay; & an entitlement for parents to share leave by reducing their working hours.

8

**A new unit of the Prosecution Service responsible for considering cases of Corporate Manslaughter.**

Thankyou to union supporters of our Manifesto:



## Promoting Popular Policies: A New Deal for Workers



**June 2016:** The *Manifesto for Labour Law* is published by the Institute of Employment Rights, bringing together 15 leading lawyers and academics from some of the UK's most prestigious universities to develop 25 policy recommendations to reform labour law.



**Summer 2016:** 15 major UK unions announce their support for the *Manifesto for Labour Law*.



**July 2016:** Jeremy Corbyn helps launch the IER's *Manifesto* at the pre-Gala rally in Durham.



**September 2016:** John McDonnell announces Keynote Speech at the Conference that the *Law* will be the blueprint for Labour government's rights.

5

**Workplace bargaining** to complement and build on Sectoral Collective Agreements, with workers entitled to the most favourable terms and conditions negotiated. The statutory recognition procedure would be revised so a union would be entitled to recognition if it can show 10% membership and evidence of majority support.

### ENFORCING OUR RIGHTS



1

A properly-resourced **Labour Inspectorate** with the power to bring legal proceedings on behalf of workers, cancel dismissal notices, order reinstatements, require employers to cease and desist, and impose criminal sanctions on serious offenders.

2

A new autonomous system of **Labour Courts**, of which Employment Tribunals, (together with the CAC and Certification Officer) would form the first tier. Tribunals would return to a tri-partite model and be free at the point of access.

3

The right for agency workers to take claims for employment rights against both the agency and any user of their labour.

4

A positive duty on employers to demonstrate compliance with labour standards, as well as a requirement to publish information such as pay levels, pay differentials and the gender pay gap; and a duty to ensure that their contractors comply with labour standards

5

Criminal penalties for blacklisting and those who continually avoid paying awards ordered by the court.

6

Free legal advice on employment claims and access to ACAS services to conciliate workplace disputes. However, it should not be compulsory to use ACAS before a tribunal claim.

7

An end to the cap on compensation for unfair dismissal. If a worker has been unfairly dismissed, they should be compensated for the lost earnings which result.

### PROTECTING OUR PROTECTORS



1

**Freedom of Association and collective rights** would be strengthened. It would not be lawful to dismiss a workplace representative without the prior approval of a labour inspector; recognised or representative trade unions would have the right to check off facilities on request and blacklisting would attract criminal charges. The Trade Union Act 2016 would be repealed in its entirety, immediately.

2

**The right to strike** would be brought in line with international obligations, with the role of the State restricted to setting standards and principles rather than prescribing detailed regulations. The current legal presumption that a strike is unlawful and that strikers breach their contract should be reversed and workers should have the right to take action in defence of their social and economic interest and in solidarity with others involved in lawful action.



## Timeline

Shadow Chancellor announces in his Labour Party *Manifesto for Labour* print for the next deal on workers'

**October 2016:** Our team of experts grows as more academics join our project and we launch Phase 2: Developing more detailed proposals in preparation for legislative drafts.

**May 2017:** The Labour Party launches its Manifesto: For the Many, Not the Few, and adopts key policies from the *Manifesto for Labour Law* (see front page). The Labour Party experiences a massive upswing in votes and steals the Tory majority.

**July 2017:** IER launches Phase 3 of the *Manifesto for Labour Law* Project with even more experts drafting details on how to implement our policy recommendations.

# Taylor can't see outside of a neoliberal agenda; our Manifesto reverses it

By **Sarah Glenister**, National Development Officer, Institute of Employment Rights

Introducing his lengthy report into "Good Work" – a review of employment law in today's fragmented labour market – Matthew Taylor insistently advocates for any and all reform to be made 'the British way'. This approach, he later explains, emphasises 'flexibility' and incorporates 'atypical' work – all too familiar buzzwords for a deregulated market that views workers as a liability rather than as a precious resource to be invested in.

But of course, this isn't 'the British way', as Taylor would have it; this is simply 'the neoliberal way'. Before Thatcher's interventions in the employer-worker relationship 35 years ago, most workers negotiated for their pay and conditions via their

trade union, as part of a collective bargaining process that worked to address the imbalance of power between employer and worker. Since then, successive anti-trade union legislation has been introduced and employment laws have been weakened. As a result, collective bargaining coverage is estimated to have dropped to below 20%; one in ten workers is now in insecure work; and we have become the second-most unequal country in the G7, topping only the US.

As the most progressive Labour Party for decades prepares for power, the Institute of Employment Rights has brought together leading lawyers and academics from across the UK to consider how we

can take this opportunity to reverse the neoliberal agenda. The *Manifesto for Labour Law* – now in its third phase of development – is the result of this work, putting forth 25 recommendations for reform, with the overarching aim of shifting the focus of labour law back to collectively agreed standards, rather than statutory minimums that provide employers with a floor to aim for.

These policies became the blueprint for the Labour Party's Fair Deal at Work, in their hugely popular General Election Manifesto, and we continue to develop our proposals to ensure that the next Labour government can provide workers with a stronger voice.

What Taylor says on...	What Taylor means	IER recommends
<b>Employment status:</b> Rename 'worker' status 'dependent contractor' and allow these individuals to 'opt out' of the minimum wage by taking jobs that offer a lower rate of pay.	Retain a system in which employers can undercut employees by hiring workers with fewer rights, then weaken minimum wage laws to make them even more vulnerable.	Scrap three-tiered system and have one universal employment status for everyone in employment that provides for all rights from day one.
<b>Enforcement:</b> Improve workers' awareness of their rights so that they recognise breaches where they occur.	Continue to put the onus on individual workers to police their rights, and do nothing to help them build upon the rights they have.	a) An Independent Labour Inspectorate to ensure employers follow the law; b) Sectoral collective bargaining so workers can negotiate for fair pay and conditions.
<b>Statutory rights:</b> Make it easier for 'employees' without regular working hours to accrue workers' rights by extending from one week to one month the permissible 'break in service'.	Continue to withhold the right to claim unfair dismissal from 'workers' (or 'dependent contractors') altogether, and from 'employees' for their first <b>two years</b> in a job.	One universal employment status for everyone in employment that provides for all rights from day one.
<b>Workers' voice:</b> Extend the Information and Consultation (ICE) Regulations to allow employee engagement in the absence of trade union involvement.	Do not repeal draconian anti-trade union legislation such as the Trade Union Act 2016, which prevents workers from having a voice by making it harder for their union to act on their behalf.	a) Repeal the Trade Union Act; b) Strengthen trade union rights; c) Reinstatement a Ministry of Labour and create a National Economic Forum to give workers a voice in Westminster.
<b>Zero-hours contracts &amp; agency work:</b> A 'right to request' direct employment and guaranteed hours but only after <b>12 months</b> of continuous service.	Do not give zero-hours & agency workers any right to <b>receive</b> direct employment or guaranteed hours.	Defined hours contracts for all workers, and a legal right to regular hours after <b>12 weeks</b> of continuous service.
<b>Sick pay:</b> Make statutory sick pay a day one right for all people in employment <b>but</b> make it accruable by length of service, like holiday pay.	Remove the right to statutory sick pay for the full length of illness should you be unlucky enough to fall ill early on in a new job.	Universal entitlement to sick pay that amounts to a substantial proportion of normal pay.

## What is the Manifesto for Labour Law?

The IER Manifesto recommends a labour model closer to that of the UK's major European competitors, the majority of which negotiate wages and working conditions at a sectoral level through the process of collective bargaining between trade unions and employers' federations. Much modern research has shown that high collective bargaining

coverage diminishes inequality, boosts productivity and benefits the economy as a whole. It's time for the UK to start respecting the rights of workers by moving towards an inclusive system of labour relations.



Read more about our Manifesto and donate to our project development fund at [www.ier.org.uk/manifesto](http://www.ier.org.uk/manifesto)