COVID-19 AND THE FUTURE OF WORK

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This Article draws upon law and behavioral economics to analyze the transition to remote work brought about by the COVID-19 pandemic. While widely celebrated, this transition to remote work, which indeed has many promising aspects, is far more complex than public discourse would suggest. This Article is articulated around two overarching, structural issues which both arise from and are exemplified by the increasing adoption of remote work policies. Its first Section depicts the move to remote work as an example and catalyst of the more broadly increasing precarity of work. It proposes solutions which could alleviate this increasing precarity. Its second Section focusses on the intrinsically heterogeneous impact of the COVID-19 pandemic and these remote work policies and proposes solutions which could alleviate the disproportionate impact of these policies on certain groups.

Keywords: COVID-19; remote work; law and economics; behavioral economics; labor; labor law; retirement; gig economy; taxation; globalization

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INTRODUCTION

In a recently published article, I analyzed the widespread adoption by companies of remote work policies.[1] The COVID-19 pandemic has forced billions of people to work from home.[2] As a result of these stay-at-home orders, companies have begun to rethink their use of commercial real estate.[3] Companies, especially those in industries with a large real estate footprint in expensive real estate markets, have found that their workers may be able to work from home more often—if not always.[4] Letting their workers do so reduces significant fixed costs and creates shareholder value.[5]

My article argued that the intensifying move to remote work is fraught with both promise and peril. It has the potential to alleviate historical inequities that arise from the nature of work, by favoring greater participation of women in the workforce—which also helps reduce the gender gap in high-level, high-paying positions.[6] Yet, the move to remote work also has the potential to contribute to the increasing precarity of work by shifting the cost of workspace from employers to employees.[7]

This Article builds upon this work and broadens the scope of my inquiry. It considers how COVID-19 more broadly challenges the nature of work and will help shape its future. Responses to COVID-19 will significantly accelerate existing transitions and trigger new ones. This Article also considers how governments should respond to these transitions, and it is especially interested in their (re)distributive impact.[8]

The Article is articulated around two overarching, structural issues that both arise from and are exemplified by the increasing adoption of remote work policies. The first Section depicts the move to remote work as

[1] Phil Lord, *The Social Perils and Promise of Remote Work*, 4 J. OF BEHAV. ECON. FOR POL'Y 63 (2020).

[2] Marla Tellez, O*ver 4 Billion People Now Working from Home Due to COVID-19 Crisis*, FOX 11 LOS ANGELES (Apr. 29, 2020), www.foxla.com/news/over-4-billion-people-now-working-from-home-due-to-covid-19-crisis.

[3] Lord, *supra* note 1, at 63.

[4] *Id.*

[5] *Id.* at 64.

[6] *Id.* at 63–64.

[7] *Id.* at 64.

[8] As a result of its focus on remote work, this Article generally does not address the consequences of the pandemic on those whose work cannot be completed remotely.

an example and catalyst of the more broadly increasing precarity of work. It proposes solutions that could alleviate this increasing precarity. The second Section focusses on the intrinsically heterogeneous impact of the COVID-19 pandemic and these remote work policies. It proposes solutions that could alleviate the disproportionate impact of these policies on certain groups.

I. RESPONDING TO THE INCREASING PRECARITY OF WORK

Over the past century, developed countries have seen a remarkable and accelerating transition in how skills are valued and remunerated. Even as they went through decades of economic growth, the standing of the middle class has eroded, and growth has disproportionately benefitted the wealthiest.[9] With technology, the impact of the skills gap between the wealthy and the middle class has widened, and developed economies increasingly value the skills of highly educated individuals.[10]

There was a time where hard-working, middle-class North American workers could find jobs that required few skills.[11] These jobs would not make them rich, but they would allow them to contribute and provide them with financial security. The salaries were reasonable, and workers who served a company for decades would have a pension they could retire on. Workers worked, and company owners profited. The stability of the relationship was ostensibly underlain by its fairness: workers were fairly compensated for their work, and they did not need to worry about being laid off or funding their retirement.

Then, developed countries grew into service economies[12] and got

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[9] *See* Phil Lord, *Feudalism 2.0*, SSRN, (April 6, 2018), ssrn.com/abstract=3492104. For a definition of developed country, *see Country Classification*, WORLD ECONOMIC SITUATION AND PROSPECTS, https://www.un.org/en/development/desa/policy/wesp/wesp_current/2014wesp_country_classification.pdf.

[10] JACQUES H. DREZE & HENRI SNEESSENS, TECHNOLOGICAL DEVELOPMENT, COMPETITION FROM LOW-WAGE ECONOMIES AND LOW-SKILLED UNEMPLOYMENT (1994), *reprinted in* UNEMPLOYMENT POLICY: GOVERNMENT OPTIONS FOR THE LABOUR MARKET 250 (Dennis J. Snower & Guillermo de la Dehesa eds., 1997).

[11] *Id. See also* Lord, *supra* note 9.

[12] Dreze & Sneessens, *supra* note 10; Lois M. Plunkert, *The 1980's: A Decade of Job Growth and Industry Shifts*, 113 MONTHLY LAB. REV. 3, 3 (1990).

exponentially wealthier.[13] With globalization, companies became able to take advantage of cheaper, overseas labor, which padded their bottom lines and concurrently reduced product prices for consumers.[14] Developed countries rode and fed this wave by championing free trade agreements, which reduced national barriers to entry and further incentivized companies to outsource low-skilled labor to other countries.

As workers had to compete with those in other countries, their job security quickly vanished. Low-skilled jobs became low-paid ones, without pension and other benefits.[15] Workers also had to live with the constant threat of outsourcing—and layoffs.

Then came a second wave of change, with the advent of companies such as Uber and the so-called gig economy.[16] Companies found they could further reduce their labor costs by reimagining the relationship that unites them and their workers. This relationship could not only be stripped of its ancillary benefits, such as pension and group insurance plans; it could also be construed as something else entirely. Indeed, by making their workers independent contractors, companies could further shift the cost of the relationship to those who work for them.[17] In doing so, companies no longer had to respect with legislation regarding work conditions, minimum wages, and overtime pay.[18]

Now, in response to COVID-19, many companies are beginning to allow their workers to permanently work from home.[19] While their decision has been celebrated, few companies have compensated their workers for the

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[13] While this Article refers to developed countries throughout, it focusses on relevant examples from Canada and the United States.

[14] Dreze & Sneessens, *supra* note 10; Plunkert, *supra* note 12.

[15] Dreze & Sneessens, *supra* note 10.

[16] *See* Phil Lord & Lydia Saad, *Tackling the COVID-19 Pandemic*, 43 MANITOBA LAW J. at 23-24 (forthcoming), ssrn.com/abstract=3554436.

[17] *Id.*

[18] *Id.* The classification of workers as independent contractors, and its intrinsic tension between the opposing interests of employers and contractors, has remained a point of contention in legal and arbitral proceedings. The application of the relevant standards remains fact-intensive (an, to some extent, unpredictable). John A. Pearce & Jonathan P. Silva, *The Future of Independent Contractors and Their Status as Non-Employees: Moving on from a Common Law Standard*, 14 HASTINGS BUS. L.J. 1 (2018).

[19] Lord, *supra* note 1 at 63.

additional cost of working from home.[20] Therefore, this transition risks worsening the increasing precarity of work by shifting the cost of workspace from employers to employees.[21]

The Author's prior research has proposed solutions to this discrete issue.[22] This Article is more interested in how governments should respond to the broader and more complex issue of the increasing precarity of work, of which remote work policies are only the most contemporary illustration.

Governments could act to slow the conversion of employment relationships into independent contracting relationships, as some have.[23] Similarly, governments could seek to mitigate the incentives that cause companies to contribute to the increasing precarity of work. The shift described in this Section is largely the direct result of companies' incentive to maximise their profitability. However, this would do little to help those already affected, and developed countries are too far into this major shift not to take a broader view of the issue.

This is an opportune time for governments to thoughtfully reallocate the cost of labor while taking into account behavioral biases. Instead of reactively attempting to reallocate the cost of labor to specific employers who have most contributed to the increasing precarity of work, governments should adopt broad-based solutions that will help workers have a more secure future.

This Section focuses on the most significant work benefit to have largely vanished over the past century: pension plans.[24] The value of these

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[20] *See* Rachel Feintzeig, *Does a Raise or Remote Work Sound Better?*, WALL ST. J., Jul. 24, 2020, www.wsj.com/articles/does-a-raise-or-remote-work-sound-better-11595581201; *cf.* Roger Trapp, *Remote Working Has Its Problems, But It Points To The Future*, FORBES (Jul. 21, 2020), www.forbes.com/sites/rogertrapp/2020/07/21/remote-working-has-its-problems-but-it-points-to-the-future/#4bca16ab793a (notably indicating that thirty-six million American corporate technological devices "run more slowly when they are remote, 'no doubt crippling employee productivity'" and raising the challenges of remote IT support).

[21] Lord, *supra* note 1.

[22] *Id.*

[23] Lord & Saad, *supra* note 16, at 23–24.

[24] Barbara A. Butrica, Howard M. Iams, Karen E. Smith, & Eric J. Toder, *The Disappearing Defined Benefit Pension and Its Potential Impact on the Retirement Incomes of Baby Boomers,* 69 SOC. SEC. BULL. 1, 1–2 (2009). For further discussion of the shift from defined benefit plans to defined contribution plans*, see infra* note 29.

plans often constitutes a significant percentage of a worker's base compensation. An effective government response to the increasing precarity of work would be the institution of a universal pension benefit, funded through broad-based corporate taxation. This benefit would cover all workers, including contractors, and reallocate a significant portion of the cost of labor to employers.

Even in developed countries, governmental pension benefits are generally limited in scope. They only cover the bare minimum a retiree needs to live in dignity.[25] Even a member of the middle class will need significant savings to sustain a standard of living remotely resembling that of his working days. Pension contributions are also often capped to the equivalent of a middle-class salary.[26] Furthermore, since governmental pension benefits are generally funded through payroll taxation (i.e., taxation of an employer and/or employee based on the employee's salary), they are only accessible to workers who have paid into the system.[27] Needless to say, this excludes and significantly contributes to the precariousness of the status of independent contractors, who are not paid a salary. As mentioned above, independent contractors make up a growing share of the workforce.

For that reason, at least in Canada and the United States, the best solution would be a universal benefit, which covers workers *and*

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[25] For example, in the United States, the maximum amount a worker can receive from the government retirement benefit, Social Security, is approximately USD 3,000 per month (at the normal retirement age of 62). To receive this modest benefit payment, the person would need to have earned the maximum taxable earnings each year since age 22 (currently USD 137,700). *Social Security Benefit Amounts*, SOCIAL SECURITY ADMINISTRATION, www.ssa.gov/oact/cola/Benefits.html; *Retirement Benefits: Maximum Taxable Earnings*, SOCIAL SECURITY ADMINISTRATION, www.ssa.gov/benefits/retirement/planner/maxtax.html.

[26] For example, in Canada, the maximum salary upon which contributions to the federal pension plan are made is CAD 55,200. The maximum monthly benefit amount is CAD 1,175.83. *CPP Retirement Pension: How Much You Could Receive*, GOVERNMENT OF CANADA, www.canada.ca/en/services/benefits/publicpensions/cpp/cpp-benefit/amount.html; *CPP Contribution Rates, Maximums and Exemptions*, GOVERNMENT OF CANADA, www.canada.ca/en/revenue-agency/services/tax/businesses/topics/payroll/payroll-deductions-contributions/canada-pension-plan-cpp/cpp-contribution-rates-maximums-exemptions.html.

[27] In Canada, the benefit payment is in part based on one's contribution into the system. *CPP Retirement Pension: How Much You Could Receive*, *supra* note 26. In the United States, it is solely based on these contributions, and a worker would need to contribute for 10 years to receive benefits. *How You Earn Credits*, SOCIAL SECURITY ADMINISTRATION (2020), www.ssa.gov/pubs/EN-05-10072.pdf.

independent contractors. The ideal program would also provide a more significant benefit payment, of a level commensurate with the percentage of income a worker needs to enjoy a similar standard of living in retirement. An uncapped benefit payment (or one capped at a much higher salary level) removes the need for additional, self-funded, and self-directed savings. It also ensures coverage for workers across the pay scale.

Funding for this benefit program would happen through corporate taxation, which would reallocate a portion of the cost of work to employers. This taxation could be, like other forms of taxation,[28] progressive, which would allow an allocation commensurate with the wealth or income of each contributing private actor.

Most importantly, and as mentioned above, the program removes the need for additional, self-funded, and self-directed savings. This addresses the many behavioral biases that prevent people from saving for their retirement—mainly, as discussed below, the loss aversion and status quo biases. Most developed countries are facing a major crisis: a growing majority of people have far too little money saved up for their retirement. As an example, in the United States, the proportion of people with inadequate savings to support their standard of living through retirement has grown from 31% to 53% between 1983 and 2010.[29]

As a result of status quo bias, many individuals who would remain enrolled in "opt-out" retirement saving plans do not opt into "opt-in" retirement saving plans.[30] Those who need to wholly organize their own retirement planning (and do not benefit from opt-in *or* opt-out plans offered through their employer) encounter even higher friction costs.[31]

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[28] *See*, *e.g.*, Michael Smart, *Finances of the Nation: Taxation of Top Incomes in Canada—Recent Developments in Rates and Redistribution*, 67 CANADIAN TAX J. 349, 350 (2019).

[29] Shlomo Benartzi & Richard H. Thaler, *Behavioral Economics and the Retirement Savings Crisis*, 339 SCIENCE 1152, 1152 (2013). The authors also note the significant shift from defined benefit plans (where the retirement benefit is known ahead of time) to defined contribution plans (where the benefit depends on investment returns).

[30] Richard H. Thaler & Shlomo Benartzi, *Save More Tomorrow: Using Behavioral Economics to Increase Employee Saving*, 112 J. OF POL. ECON. 164, 166–169 (2004); Benartzi & Thaler, *supra* note 29.

[31] Robert C. Merton, *The Crisis in Retirement Planning*, HARV. BUS. REV., Jul.–Aug. 2014.

Status quo bias also causes improper asset allocation.[32] Asset allocation is key to maximizing one's retirement savings. A younger worker, with a decades-long horizon, should allocate a greater share of his assets to stocks, to maximize the overall return of his portfolio.[33] Conversely, an older worker might benefit from a more conservative allocation, mostly to fixed-income assets, to mitigate the impact of a recession on his portfolio and take into account the relatively short-term need to draw upon his assets.[34] This (re)balancing is crucial; it maximizes the growth of the younger worker's portfolio—thereby minimizing his future savings need—and minimizes the risk that the older worker will inefficiently draw upon his savings while the value of his portfolio is temporarily affected by a recession. However, as a result of status quo bias, most savers do not rebalance their portfolio at all—which is, as explained, bound to have potentially devastating consequences. They simply keep the asset allocation they picked when they enrolled in the plan.[35]

The loss aversion and status quo biases also cause savers not to increase their savings rate over their career, even when doing so is necessary to have sufficient savings.[36] Behavioral economists have proposed, as a solution, that workers anticipatorily commit to future increases in savings rate, i.e., commit early in their career to an increase in the percentage of their income they will save later in their career.[37]

The proposed program takes into account these cognitive biases. The program is funded solely through corporate taxation and completely removes the need for workers to save for their retirement. Additionally, asset allocation is left to the government or its external administrator, which eliminates the risk of inefficient asset allocation.

This program is both more radical and potentially more effective than those previously proposed by behavioral economists. Indeed, prior research has essentially proposed creating better private saving plans that take into account these biases and offering a public option for those who do

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[32] Thaler & Benartzi, *supra* note 30, at 168.

[33] Hui-Ju Tsai & Yangru Wu, *Optimal Portfolio Choice with Asset Return Predictability and Nontradable Labor Income,* 45 REV. OF QUANTITATIVE FIN. & ACCT. 215, 226 (2015).

[34] *Id.*

[35] Thaler & Benartzi, *supra* note 30, at 168.

[36] *Id.* at 167–69.

[37] *Id.*

not have access to employer-sponsored options.[38] The main issue with these proposals is that they still rely on individuals to save for their retirement—albeit while making it easier for them to do so. Most importantly, they are payroll-based and leave out the growing share of the workforce that does not receive a salary (including, as mentioned above, independent contractors).

The universal benefit program described above has the potential to help solve the retirement savings crisis, which most developed countries face, and reallocate a portion of the cost of labor to employers, thereby alleviating the increasing precarity of work, which COVID-19 has exacerbated.

The next Section focusses on another impact of the transitions in the nature of work, which the COVID-19 pandemic has both laid bare and accelerated: the heterogeneous impacts of remote work policies. While the Author's prior research has proposed broad governmental responses to the widespread adoption of remote work policies, the next Section is interested in the more specific concern of how government responses should be tailored to address the differing impact of these policies on various groups.

II. MITIGATING THE HETEROGENEOUS IMPACTS OF REMOTE WORK

The COVID-19 pandemic has reminded us of existing social inequality in developed countries. The pandemic, and the governmental restrictions enacted to combat it, have had a disproportionate impact on already disadvantaged groups.[39] Stay-at-home orders have a stronger impact on those who live in exiguous spaces.[40] These individuals may be unable to

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[38] *See id.* at 164–169; Benartzi & Thaler, *supra* note 29.

[39] Phil Lord, *Work, Family and Identity*, *in* HANDBOOK OF RESEARCH ON REMOTE WORK AND WORKER WELL-BEING IN THE POST-COVID-19 ERA, 7–8 (Daniel Wheatley, Irene Hardill & Sarah Buglass eds.) (forthcoming 2021 pincite subject to change), papers.ssrn.com/sol3/papers.cfm?abstract_id=3700548; Lord, *supra* note 1, at 64; Don Bambino Geno Tai, Aditya Shah, Chyke A Doubeni, Irene G Sia, & Mark L Wieland, *The Disproportionate Impact of COVID-19 on Racial and Ethnic Minorities in the United States,* 72 CLINICAL INFECTIOUS DISEASES 703, 703 (2021).

[40] *See* Lord, *supra* note 1 at 64; Andrea Amerio, Andrea Brambilla, Alessandro Morganti, Andrea Aguglia, Davide Bianchi, Francesca Santi, Luigi Costantini, Anna Odone, Alessandra Costanza, Carlo Signorelli, Gianluca Serafini, Mario Amore, & Stefano Capolongo, *COVID-19 Lockdown: Housing Built Environment's Effects on Mental Health,* 17 INT'L. J. ENV'T RSCH. & PUB. HEALTH 5973, 5978 (2020).

socially distance or find a quiet space to participate in work meetings or study.[41] Similarly, those with children and unable to afford childcare have had to juggle both work (or schooling) and their child-rearing responsibilities during the day.[42] As stores have banned cash, the significant minority of individuals who are "unbanked" (i.e., rely on cash and do not have access to credit or banking products) have seen new barriers to purchasing the supplies they need to work remotely.[43]

Remote work policies are also likely to have a highly heterogeneous impact among various groups. The wealthy and highly educated may become more productive as a result of these policies. They will have the means to purchase the equipment needed to work from home, will have access to quiet spaces, and will likely feel more comfortable negotiating with their employers to obtain compensation packages that take into account the added cost of working remotely.[44] Conversely, disadvantaged segments of the population will be hit harder by the additional cost of working from home, find it difficult to access quiet spaces to work, and not be in a position to negotiate pay increases.[45] In adapting their homes for remote work, they

[41] *See* Stefanie DeLuca, Nick Papageorge & Emma Kalish, *The Unequal Cost of Social Distancing*, JOHNS HOPKINS UNIVERSITY & MEDICINE (2020), coronavirus.jhu.edu/from-our-experts/the-unequal-cost-of-social-distancing; Nicholas Casey, C*ollege Made Them Feel Equal. The Virus Exposed How Unequal Their Lives Are.*, N.Y. TIMES, (Apr. 4, 2020), www.nytimes.com/2020/04/04/us/politics/coronavirus-zoom-college-classes.html. *See also* Lord, *supra* note 1 at 64.

[42] Laura Santhanam, *'This Is Not Working.' Parents Juggling Jobs and Child Care Under COVID-19 See No Good Solutions*, PBS NEWS HOUR (Jul. 23, 2020), www.pbs.org/newshour/health/this-is-not-working-parents-juggling-jobs-and-child-care-under-covid-19-see-no-good-solutions; Alicia Sasser Modestino, *Coronavirus Child-Care Crisis Will Set Women Back a Generation*, WASH. POST (Jul. 29, 2020), www.washingtonpost.com/us-policy/2020/07/29/childcare-remote-learning-women-employment/.

[43] MEDIA REL., BANK OF CANADA, *Update: Bank of Canada Asks Retailers to Continue Accepting Cash* (May 28, 2020), BANK OF CANADA, www.bankofcanada.ca/2020/05/bank-canada-asks-retailers-continue-accepting-cash/ (where the Bank of Canada urges retailers to accept cash during the pandemic for the reasons set out in the main text). *See also The Underbanked Canada: February 2016* (2016), MINTEL, https://reports.mintel.com/display/748449/.

[44] Luca Bonacini, Giovanni Gallo & Sergio Scicchitano, *Working from Home and Income Inequality: Risks of a 'New Normal' with COVID-19,* 34 J. OF POPULATION ECON. 303, 314–15 (2021); Lord, *supra* note 1 at 64. *See also* DeLuca, Papageorge & Kalish, *supra* note 41; Casey, *supra* note 41.

[45] Lord, *supra* note 1 at 64; DeLuca, Papageorge & Kalish, *supra* note 41; Casey, *supra* note 41.

will also face often unanticipated, yet significant, costs, such as the cost of additional technological equipment and internet bandwidth.

While we do not yet have the hindsight to even partially assess the actual impact of remote work policies, these policies may worsen and further entrench existing inequality, making the wealthy more productive while negatively affecting the productivity of the disadvantaged. Wealth and other social factors, such as race, are intimately intertwined.[46] In a world of growing social unrest regarding such inequality,[47] it is imperative to enact solutions that alleviate, or at least do not worsen, existing inequality.

The Author's research has argued in favor of taxation incentives to mitigate the impact of remote-work-related costs.[48] It mentioned that a tax credit may be preferable to a tax deduction, as a tax credit further reduces cost.[49] But to mitigate the intrinsically heterogeneous impact of remote work policies, governments must conceive tax incentives designed to reach those who are most affected. In doing so, they must strike a delicate balance between tax simplicity and design sophistication.[50]

The extent of the tax credit should take into account the magnitude of the impact of remote work policies on specific groups of workers. For instance, workers in cities are further impacted by remote work policies, through the higher cost of additional real estate they must dedicate to working from home. The extent of the tax credit should reflect the cost of living in certain cities.

Furthermore, the tax credit should be progressive, to reflect the fact that wealthier workers may already have larger homes and therefore already have a home office or space to dedicate to one. Wealthier workers will also

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[46] Lisa A. Keister, *Race and Wealth Inequality: The Impact of Racial Differences in Asset Ownership on the Distribution of Household Wealth*, 29 SOC. SCI. RSCH. 477 (2000); Danny Dorling, *All Connected? Geographies of Race, Death, Wealth, Votes and Births*, 176 THE GEOGRAPHICAL J. 186 (2010).

[47] *See* Derrick Bryson Taylor, *George Floyd Protests: A Timeline*, N.Y. TIMES (Jul. 10, 2020), www.nytimes.com/article/george-floyd-protests-timeline.html.

[48] Lord, *supra* note 1, at 64–65.

[49] *Id.*

[50] On tax complexity as a regressive concept, *see*, *e.g.*, Philippe Aghion, Ufuk Akcigit, Matthieu Lequien & Stefanie Stantcheva, *Tax Simplicity and Heterogeneous Learning*, LONDON SCH. OF ECON. CTR. FOR ECON. PERFORMANCE, Discussion Paper No. 1516 (2017).

need to dedicate a smaller proportion of their home to working remotely and be in a stronger position to negotiate employment benefits that take into account the added cost of working from home. While these workers may, at times, incur higher actual costs—for instance if they live in more expensive areas of a city or purchase costlier remote work equipment—the progressivity of the proposed credit takes into account their ability to absorb these additional costs.

This is admittedly an argument in favor of more complex and variable taxation incentives. This Section must therefore address the intrinsic tension brought about by its stance. Any argument in favor of taxation incentives—and especially complex ones—should be made in conjunction with an argument as to how their design is thoughtfully articulated to actually benefit their intended beneficiaries.

Indeed, while classical economic theory may assume that these beneficiaries, as rational economic agents, will naturally avail themselves of available incentives, behavioral economics serves as a reminder that the rationality of economic agents, especially disadvantaged economic agents in the particular context of taxation, is bounded and subject to various costs and biases.[51]

For disadvantaged economic agents to avail themselves of available tax incentives, they must *be aware* that these incentives exist. The intrinsic complexity of the taxation system makes it hard for these individuals to both know about the incentives they can benefit from and avail themselves of these incentives. Few disadvantaged economic agents are able to file their own tax return, and they may as a priority seek to minimize the cost associated with doing so.[52] Fully benefitting from relevant tax credits may involve hiring taxation professionals (or more sophisticated ones). Even where the benefits exceed the cost of doing so, these agents are unlikely to be aware of the potential benefits and, for this or other reasons, are unlikely

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[51] On these concepts, *see generally* Sendhil Mullainathan & Richard H. Thaler, *Behavioral Economics*, (Nat'l Bureau of Econ. Rsch., Working Paper No. 7948 2000). On tax complexity as a regressive concept, *see* Aghion et al., *supra* note 50.

[52] *See generally* Cass R. Sunstein, *Sludge Audits*, BEHAV. PUB. POL'Y, 1, 10, 14-15 (Jan. 6. 2020), available at cambridge.org/core/journals/behavioural-public-policy/article/sludge-audits/12A7E338984CE8807CC1E078EC4F13A7. *See also* Monica Prasad, *Filing Your Taxes Is an Expensive Time Sink. That's Not an Accident*, THE ATLANTIC (April 4, 2019), https://www.theatlantic.com/ideas/archive/2019/04/american-tax-returns-dont-need-be-painful/586369/.

to engage in cost-benefit analysis.

One example of this issue may be Canada's recent repeal of the public transit tax credit, a non-refundable tax credit that could be used to offset the cost of purchasing a public transportation pass.[53] At first, the abolition of a tax credit that seems intrinsically designed to benefit everyday individuals, who use public transportation, seems objectionable. However, the government likely found that those who could benefit from the tax credit were unaware of it. As a result, the government may have reasoned that other, more direct support measures to help middle- and lower-class individuals were preferable.

The design of the remote-work tax credit proposed in this Section should thoughtfully take this issue into account. To significantly reduce friction costs, the value of the credit should automatically be determined based on an individual's income and location. This removes the need for individuals to calculate the value of their tax credit. While it may result in a less individualized assessment of their particular situation, this cost is likely significantly outweighed by the greater simplicity of the credit. Furthermore, for the same reasons, the tax credit should automatically be applied to an individual's income, removing the need for the individual to claim it.

CONCLUSION

This Article has sought to sophisticate our understanding of the implications of the widespread adoption of corporate remote work policies following the COVID-19 pandemic. It has focused on two broader issues that are catalyzed and illustrated by the move to remote work: the increasing precarity of work and the intrinsically heterogeneous impact of the COVID-19 pandemic and remote work policies. The first Section made the case for a universal pension benefit that effects a reallocation of labor cost to employers and concurrently seeks to address the broader issue of inadequate retirement saving. The second Section proposed a variable tax credit that takes into account the heterogeneous impact of remote work policies on various groups. It also argued that access to the credit should be as simple

[53] *Public Transit Tax Credit*, CANADA REVENUE AGENCY, www.canada.ca/en/revenue-agency/programs/about-canada-revenue-agency-cra/federal-government-budgets/budget-2017-building-a-strong-middle-class/public-transit-tax-credit.html. The credit was eliminated in 2017.

as practicable, to ensure that the credit actually benefits its intended beneficiaries.

The COVID-19 pandemic has challenged existing government programs and may have shown them to be inadequate to address the quickly changing nature of work. Its aftermath is a uniquely opportune time to fundamentally rethink and modernize these government programs, to ensure that they benefit those who need them most. Whether and how we seize this opportunity may very concretely impact the lives of millions—if not billions—of everyday individuals.