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Testimony on the Benefits of Adding Personal Time Mandate to Paid Sick Leave Ordinance

Hearing of the Civil Service and Labor Committee of the New York City Council
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I want to thank Chair Daneek Miller and the committee for the opportunity to provide testimony on this important amendment to the city's paid sick leave ordinance. The proposal to add mandated personal time to the city's ordinance on paid sick leave is an important measure that is likely to be a precedent for states and cities across the United States, and hopefully will eventually be incorporated into national legislation.

The United States is an outlier among wealthy countries in not guaranteeing its workers any amount of paid time off. This measure will be a huge step for ensuring that New York City's workers can enjoy some paid time off, which will almost certainly be followed by similar measures elsewhere.

As background for this proposal, it is necessary to recognize the importance of increased leisure as a demand by workers ever since the industrial revolution. In the 19th century and into the 20th century, a major demand of workers in the United States and around the world was for an eight-hour workday, as opposed to the twelve or even fourteen-hour workdays that were common in factories in that era. In fact, the famous May 1, 1886 protest in Chicago, which became the basis for celebrating May 1 as an International Workers' Day, was a protest for an eight-hour workday.

While the battle for a shorter workday was a long one, workers in the United States eventually were successful. The Fair Labor Standards Act (FLSA), which was passed in 1937, both created the first national minimum wage and also set the forty-hour workweek as the new standard. The FLSA required that workers who put in more than forty hours a week would be paid an overtime premium of 50 percent of their normal wage. This both discouraged employers from demanding long hours and also ensured that workers would at least gain some compensation if their excess hours.

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Although the forty-hour work week was a big victory for the labor movement, there was no obvious reason that work time would be frozen at this level. The logic of economic growth is that increasing productivity allows workers to enjoy higher living standards. Typically, they choose to take the benefit of higher productivity in part in the form of higher pay and material living standards and part in the form of more leisure time. (Unfortunately, many workers have not shared in the gains of productivity growth over the last four decades. This trend must also be reversed.)

If we look at other wealthy countries, there has been a large decline in the length of the average work year over the last five decades. This has not been true in the United States. **Figure 1** shows the trend in average annual hours since 1970 and five other major wealthy countries. As can be seen in 1970, the United States was closer to the bottom than the top among this group, with a higher average number of hours than Denmark and the Netherlands, but fewer hours than Finland, France, and Japan.

Over the next five decades, the picture changes dramatically. In 1970, workers in the United States had put in on average 3 to 5 percent more hours than workers in Denmark and Finland, according to the OECD data, by 2016, this difference had grown to more than 25 percent. Workers in France and the Netherlands now have considerably shorter average work years than workers in the United States. Even workers in Japan now work about 5 percent less on average than workers in the United States.

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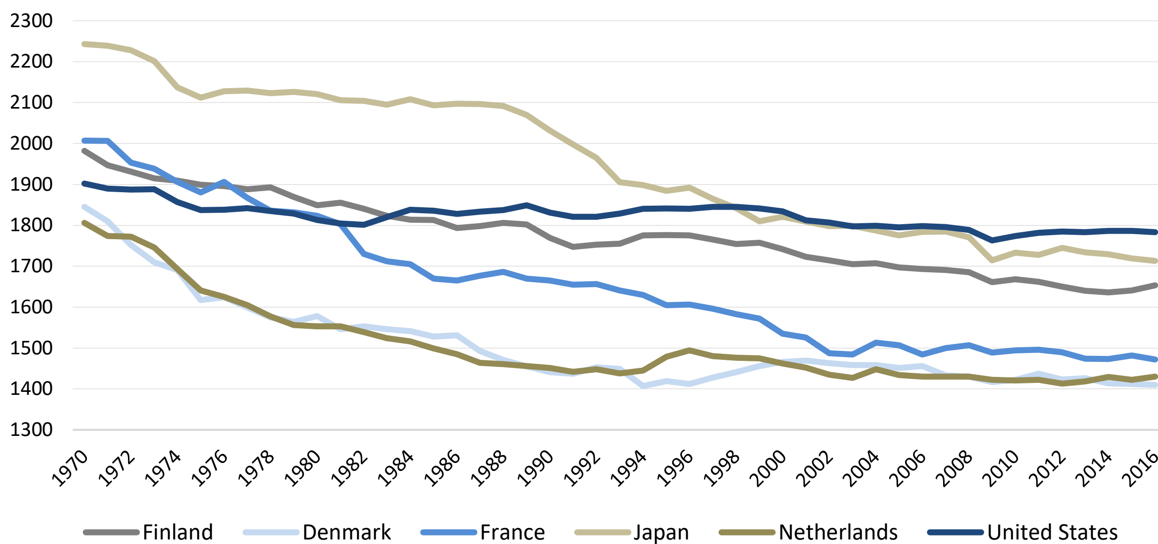
FIGURE 1
Average Annual Hours of Work, 1970 – 2016



Source: Organization for Economic Cooperation and Development (OECD). 2018. "Hours Worked." https://data.oecd.org/emp/hours-worked.htm.

The fact that all other wealthy countries reduced their work hours and the United States did not to any substantial extent was not just an accident. In other countries, benefits like health care and pensions are largely provided by the government. In contrast, in the United States, health care insurance and pensions have been provided primarily by the employer. Both health care insurance and traditional defined-benefit pensions are substantial expenses that are viewed by employers as largely per worker overhead costs. This gave employers a strong incentive to require workers to put in more hours each year rather than allowing for shorter hours per worker and hiring more workers.

This incentive structure has changed somewhat now that traditional defined-benefit pensions are becoming increasingly rare. It is also now common for employers to pro-rate the portion of a health insurance benefit that they pay. Nonetheless, the historical impact of this structure cannot be reversed overnight. This is one reason it is good policy for government to take active measures like the current proposal for mandated personal time. For decades we had in place a benefit structure that provided

an incentive for employers to favor longer hours, it is reasonable that government takes steps to try to reverse an important unintended effect of its policy on pension and health care insurance.

There will be some objections that this proposal will be a major burden on employers. This claim is simply not realistic. Even if the cost of the mandate is fully borne by employers, it only raises their labor costs by 3.0 percent. The countries that guarantee workers paid time off have not suffered as a result. For the unemployment rate in Germany and the Netherlands, both countries where workers are guaranteed four weeks a year of vacation, are 3.2 percent and 3.3 percent, respectively.[1] Flipping it over and looking at employment-to-population-rates for prime-age workers (the share of people between the ages of 25 and 55 who are working), these and other OECD countries have considerably higher employment-to-population-rates than the United States.[2]

Furthermore, we know that most employees already receive paid vacation. A new analysis from the Center for Economic and Policy Research found that 77 percent of all workers receive paid vacation, while 78 percent enjoy some number of paid holidays.[3] These benefits are strongly skewed towards higher-end workers, with 91 percent of the top quartile of wage earners having paid vacation days and 93 percent having paid holidays. The shares for the bottom quartile of the wage distribution are 52 percent and 54 percent for paid vacation and paid holidays, respectively.

The proposal before the Council will be to a large extent just providing some degree of equalization, with the workers at the bottom end of the wage distribution enjoying a benefit that higher paid workers, with more bargaining power, have long enjoyed. In this respect, it is also worth noting that the vast majority of workers represented by unions enjoy some amount of paid vacation and/or paid holidays.

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1 Organization for Economic Co-operation and Development (OECD). 2019. "Harmonised unemployment rate." https://data.oecd.org/unemp/harmonised-unemployment-rate-hur.htm.

2 For a systematic assessment of the impact of labor market regulations, such as paid time off, on employment, see Howell, David R. et al. 2006. "Are Protective Labor Market Institutions Really at the Root of Unemployment? A Critical Perspective on the Statistical Evidence." Washington, DC: Center for Economic and Policy Research. http://cepr.net/documents/2006_07_unemployment_institutions.pdf.

3 Maye, Adewale. 2019. "No-Vacation Nation, Revised." Washington, DC: Center for Economic and Policy Research. May. http://cepr.net/images/stories/reports/no-vacation-nation-2019-05.pdf.

In short, this proposal for paid personal time is a major step toward reversing a historical accident that has distinguished the United States from all other wealthy countries in not providing a guarantee of paid time off to its workers. As similar legislation is adopted elsewhere we can look to a situation in which workers will again divide the gains of productivity growth between higher income and more leisure, as they do elsewhere, and they had largely done in the United States until the overhead costs of benefits made leisure too expensive to employers.