

Rethinking Labour's statecraft

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We cannot separate Labour's social and economic ambitions from the way in which it intends to exercise and distribute power. Where power and authority lie – across the union, in nations and in localities – and how they are exercised will determine whether Labour can transform the United Kingdom. That will require Labour to rethink its centralised statecraft.

Failure without crisis

Territorial inequality now dominates UK politics.¹ Regional and national imbalances within the UK and a concentration of economic power outside its borders have fuelled place-based expressions of grievance. As the pandemic demonstrated, the central union state lacks the capacity to govern a dispersed and imbalanced polity effectively. It is ill-equipped to meet the challenges the UK faces, including the transition to net zero, building an economy in the aftermath of Brexit that 'levels up' places lacking economic and political power, providing effective public services, and the cost of living crisis. Each of these challenges requires the effective formulation and delivery of policy at nation and locality level with coordination and coherence UK-wide. Governance and politics in the UK are beset by a multi-layered dysfunctionality, essentially concerning the central state's inability to deal with the diverse and unequal economic, social, and cultural geography of the UK.²

The situation has often been described as a crisis. But it is not yet a crisis that has precipitated a moment of decision or response. It is all too possible that our current

unhappy state of affairs may stumble on for years, at the expense of the people, communities and nations of the United Kingdom.

Our argument is that dysfunctionality occurs because UK political leaders and those who dominate the union state in Westminster fail to recognise the plural character of political power and authority in the UK. Our current form of government has its roots in the central unitary British state forged after the Second World War. As empire collapsed and the state focused on the productivity and welfare of domestic society, government briefly seemed to represent a homogeneous and unified 'British' people bound together by national collective institutions, whether trade unions, businesses or cultural and religious organisations. Prior to the 1930s Britain's complex state was a plural polity in which power and authority were dispersed through multiple institutions within the British Isles and across the territories of empire. It was not, as many imagine today, a centralised unitary state.³

The semblance of a unitary British state was gradually fractured as national identities assumed new importance in Scotland, Wales and within Northern Ireland, and as the central state struggled to deliver economic growth across the UK. Some on the left argued that the state needed to be rebuilt to reflect the plurality of British society, but during the 1980s, right-of-centre governments used the powers of the state to meet economic and social purposes prioritised by elites: financialisation, privatisation and the global opening of the economy. While abandoning the effort to shape economic life in the national interest or to address conditions in different parts of the country, they used the state to assert a conservative vision of cultural uniformity and order.

Between 1997 and 2010, Labour certainly used the proceeds of growth to invest in public services, tackle inequality and attempt to address uneven economic growth and tell a more liberal national story. However, it left key elements of the economic model and the union state unchanged. The introduction of devolution was driven more by attempts to assuage nationalism and to underpin the Peace Process in Northern Ireland than to refashion the British state. A further decade of governments of the right has actively facilitated the development of a 'rentier economy' in which economic market activity is focused on the extraction of wealth, often taxpayer-provided, through the organisation of public services and utilities, land and property. Assets have often flowed to overseas financial interests, domestic inequalities have widened, and place-based forms of identity and grievance have intensified. The recent Conservative discussion of 'levelling up' is a recognition of the growth of geographical inequality and grievance, but it has not fundamentally questioned the modes of political and economic power responsible for these phenomena.

The centralised union state we have today is ill-equipped to undertake the radical challenges that are required to create an economy that can meet the needs of people in every part of the United Kingdom. The problem is much more fundamental than the design or delivery of central UK government policy. Effective government requires the empowerment and coordination of centres of power and authority that are dispersed throughout the country, and which have their own local forms of legitimacy and accountability. The consequences of this failure to recognise the plural character of the UK polity are multiple and serious. Devolved national governments have a fractious relationship with the centre. Local government lacks the power and capacity to shape places and create local inclusive growth.

The incomplete process of devolution initiated by Labour has been characterised as 'devolve and forget', in which coordination and collaboration between the UK government and the devolved nations has been patchy and inconsistent. The devolved nations have no clear rights to be consulted on, let alone shape, union policy. These inherent weaknesses in the central union state have been cruelly exacerbated by the formation of a UK Conservative government that rests entirely on its English majority. The consequence is that any meaningful 'British politics' in which elections across Britain are contested on largely the same issues, and won by the same two major parties, is in possibly terminal decline. The political landscape of the UK's nations (and of different regions within England) is demonstrating deep electoral pluralism.⁴

Boris Johnson and Liz Truss's Anglo-centric British nationalism prioritises a Conservative English view of the union's interest over the interests of Wales, Scotland or Northern Ireland.⁵ (There is no reason to suspect a shift under Rishi Sunak.) The implementation of Brexit has revealed an administrative state that is all too willing to ignore the interests of the devolved nations while rejecting any recognition that England itself should be regarded as a nation, with its own democratic accountability of government.

In trying to assert a strong, unitary union state, the Conservative government has undermined alternative centres of national authority. The lack of willingness to work with the devolved nations is remarkable, and the government has increasingly signalled its intention to intervene in the devolved nations, rejecting the national autonomy established by devolution. As the level of support for independence in Scotland and Wales shows, this approach is undermining consent for the union itself. The government's assertive unionism mobilises the rhetoric of parliamentary sovereignty to empower an unchecked Anglo-British executive.⁶

For England, incomplete devolution and the absence of a holistic UK-wide perspective has resulted in UK departments having responsibility for a messy mix of different areas – some England-only, some England and Wales and some union-wide. Despite most English domestic policy being 'England-only' (e.g., health, social care, educa-

tion, agriculture and local government), there is no English machinery of government or structure of accountability to coordinate national policy. England's governance is marked by a lack of effective collaboration between Whitehall departments, enhancing Treasury dominance over policy and the micro-management of spending, but limiting effective leadership over the institutions beyond the centre. School policy is a case in point. The government's reluctance to acknowledge local democratic accountability has led to the proliferation of academies out of local control. Now these are micro-managed from the Department of Education, and political leaders possess no means to ensure education policy meets the needs of local populations.⁷

Government policy has weakened local government's capacity to develop its own local ambitions for economic growth, leading to a reliance on property-based city-centre development to the neglect of nearby towns and those working in the everyday economy. In many places, local government has sought to develop its own response to place-based inequality. But the failure to think holistically about the plural character of the country has led to a lack of clarity or coherence in determining which responsibilities should lie with Whitehall or Westminster, and what other institutions are responsible for. The overall effect is to maintain and indeed increase levels of centralisation and control, in which an overloaded centre is matched by disempowered localities.

The Conservatives have also asserted the doctrine of parliamentary sovereignty to resist the courts' power to restrain the executive and ensure that government itself upholds the law. Exploiting public fears of judicial over-reach on politically sensitive cases, the system of convention, checks and balances within which the state operates is now in question.

Current opinion polls suggest Labour might win the next general election – especially if it comes soon. But Labour would inherit the limitations of a dysfunctional and centralised state that serves narrow interests, and which fails to reflect the reality of the plural politics of the UK. To win and govern, Labour must do more than claim it can govern the current political and administrative system more competently than its rivals. The failure of the UK state creates an opportunity for Labour to change the debate about how the union, its nations and its communities are governed. We believe that there is currently space for Labour to articulate an alternative account of power, governance and authority in the UK, which better reflects the democratic aspirations of people in every part of the country than current Conservative rhetoric. This debate is not separate from discussion of how to tackle the UK's failing and unequal economy but must be an integral part of it.

Yet to develop that alternative, better, and more electable account of UK politics will be a challenge for Labour. The Labour Party barely discusses the politics of statecraft at all. Despite Labour's power in both local government and devolved

administrations, Westminster-based Labour has usually assumed that to govern is to exercise power from Westminster and Whitehall alone. In power, Labour did little to reverse the marginalisation and mistrust of local government that had been entrenched in the 1980s. Devolution created new national democracies, but Labour gave scant regard to the nature of the relationships between the union and the nations. England's position within the union was given little thought and, even today, England is often referred to as 'Britain'. Within England, aspirations for devolution are real but under-thought, with no clear principles or route-map outlining how or what Labour in government would devolve to. Across the union there is little consistency about how Labour thinks and speaks about nation, place and belonging. Debates about the constitution of power are conducted entirely apart from discussion of the wider economic and social change we want to see.⁸

Labour's most electorally successful politicians have been those able to connect with a local or sub-UK national sense of belonging, in Wales or the North-West of England, for example. Yet the voices of Labour's representatives in the multiple national and local democracies which exist across the UK (the Scottish Parliament, Welsh Senedd, Westminster, and in local government across these nations) appear disconnected from one another and fail to articulate a common language and approach to politics. UK Labour's instinctive centralisation is in constant tension with a plural polity in which national and local leaders – including those of other parties – often enjoy their own popular legitimacy and legal powers.

Labour's statecraft needs to weave together a politics of place and belonging, of the distribution of state power, economic and social policy, and local and national democracy. A new approach should begin with a recognition of the importance of a multi-level sense of belonging to place, nation and the union as a whole within our politics. A new understanding of the distribution of state power must enable localities, nations and the union together to reshape our economy and society; and at every level, this power must be entrenched and democratically accountable. Labour must foster a pluralistic, flexible and respectful style and culture of government, able to manage the relationship between multiple autonomous and legitimate centres of power. But its politics must not end with a recognition of plurality. Recognising plurality should instead be the starting point for the difficult task of creating a coherent, unified story about national economic and social renewal from the UK's constituent parts.

Labour statecraft in a union of multiple places

The principles underpinning Labour's politics should be consistent across the United Kingdom. Each nation has distinct political and economic challenges, but

Labour cannot tell a different story about the union in each nation. It cannot be centralist in one place and decentralist in another. It cannot recognise the importance of national identities and national stories in one nation and marginalise them in another. Currently, it does all those things.

Without a coherent approach to the role of place (nationhood and locality), Labour has been unable to set out a clear vision of where powers should lie across the union, or how they should relate to nation, locality and union. That has led to the party stumbling into political traps set by the Conservatives, for example, the narrative that it is in the pocket of the SNP. It also prevents Labour from convincingly voicing a plan to meet the challenges of geographical inequality and decarbonisation, as these require the coordination of political institutions in multiple places.

Labour's future success as a government depends on it adopting the three principles outlined below.

Recognition that the United Kingdom is a union of nations

The great challenges of our age – the zero-carbon transition, building a post-Brexit economy, re-establishing constructive relationships with the EU and the rest of the world, and tackling geographical and other forms of inequality – will be easier to meet if the United Kingdom is understood as a union of nations working together, rather than as a centralised union state, or as individual nations who owe little to each other.

Labour has the opportunity to lead the union through the transition from the unitary British state forged after the Second World War, which is now in tatters, to a genuine union of nations, held together by common interest and consent.⁹ The establishment of the Scottish Parliament, Northern Ireland Assembly and the Welsh Senedd should now be seen as stages in a process that must be completed in the years ahead.

In a union of nations, trade, foreign policy, defence and the bulk of macro-economic policy would remain as union-wide functions and responsibilities, although with more clearly defined rights for all the nations to contribute to the formation of policy. The union would be underpinned by union-wide fiscal solidarity, to ensure the fair distribution of taxation and resources and underpin social security and pensions across the union. In the many policy areas where powers should be exercised at different levels – local, nation and union level – their distribution should be based on the principles of sovereignty and consent.

There is unlikely to be a single ‘constitutional moment’ that resets every part of the union constitution from sovereignty to finance, from parliamentary representation to the rights of the nations and the union. Instead, Labour should advocate a series of incremental steps that over time move towards the development of a union of nations. As the union evolves it will be important to develop a clear statement of its purpose in the twenty-first century, and the principles of respect, solidarity and subsidiarity on which it rests. UK-wide governing institutions must fully reflect the nations of the UK, including England. That requires an internal machinery for inter-governmental working, based on a positive approach to problem-solving rather than simply as a complaint-resolution mechanism.

This strategic incrementalism should start by defining the rights of the devolved nations to shape union policy. As those rights are defined, then complementary steps must be taken to create a machinery of English government. The culture of departmental silos must be broken by the establishment of a coherent machinery of government for England. England-facing departments must be required to work together to break the competitive and unproductive departmentalisation of government. The House of Commons must evolve as a dual mandate parliament in which English MPs alone make English laws. The union needs a Senate of nations (including England) and local government. Over time the UK Cabinet should only have ministers with union responsibilities, and should include first ministers of the nations.

These reforms will create new routes to resolve the challenges that stem from England’s inescapable size – challenges which lie at the root of current threats to the union. Instead of denying England a democratic identity while allowing English politics to dominate the union, the relationship between all nations, the rights of all nations, and their relationship to the UK government, will become more transparent and explicit. Labour’s new approach will allow time to develop the shared objectives, common ways of working and trust between the nations that are lacking today. Electoral reform, though not essential to this process, would greatly enhance it, and would further reduce the chances of a government elected only in England coming to dominate the whole of the UK.

In step with these new relationships between the nations and the union must come new mechanisms and a new mode of governing. Government of the union must move towards ‘system stewardship’, or ‘shared government’, in which the union government does not so much direct as coordinate and foster collaboration. Reforming the machinery of intra-governmental coordination must be followed swiftly by codifying the rights of the devolved nations to contribute to shaping union policy, and by creating new union institutions and a union cabinet.

These changes need a shift in language, and an explicit recognition within Labour discussion of the UK's multiple nations and places – instead of the placeless rhetoric that currently characterises it.

A constitutional definition of the powers of local democracy

Local government in Britain has been increasingly disempowered politically and economically since the 1980s, but the nations have diverged since devolution.¹⁰ England is the most centralised country, and has also gone furthest in stripping powers from local democratic influence. Instead of devolution, central government coerces local and regional institutions to implement national priorities. The Scottish government has also centralised away from local councils.

The national governments of Wales and Scotland must have their own, distinct, role in the exercise of sub-union powers. The details of Labour's approach to the local state will vary from nation to nation. But the principles must be consistent and clear.

The powers of local government should be based on the democratic right of geographically-based communities to govern themselves, not the discretion of politicians at the centre. The right of local areas to draw down powers, resources and responsibilities needs to be confirmed by statute, but a declaration of the rights of local democracy requires a reconceptualisation of the role of the Westminster Parliament's role in the UK's polity. Rather than *giving* local institutions power, parliament should *affirm* the prior, legitimate, distribution of authority. Instead of being the sole source of political power, parliament is the ultimate mechanism for turning constitutional norms developed within democratic political practice and public discussion across the polity into legal rules which form the basis of political action. In reconceptualising parliament in this way, we are returning to an older conception of Westminster's role, which existed before our current, misleading notion of parliament's legal sovereignty.¹¹

This bottom-up approach to the rights and shape of local democracy means we need to recognise that local institutions should relate to the communities and places with which voters locally identify, rather than being based on units which look efficient from Whitehall but don't make sense to residents. Rooted in places people have affection for and identity with, the local state should then be able to organise itself – for example at sub-regional and regional level – at the necessary scale to exercise effective social and economic leverage.

Local democracy needs sufficient economic powers to play its part in community wealth-building, place-shaping and the coordination of investment, to deliver the

critical local elements of industrial strategy, zero carbon transition and tackling the foundational economy. It needs fair fiscal distribution and local financial autonomy, but also to be able to develop asset-based strategies through borrowing and development powers.

As Labour develops new policies for health, care, education or transport, the role, responsibilities, accountabilities and democratic rights of local areas must be explicitly identified from the outset. Labour will need to prioritise capacity-building in local government, and not use current weaknesses as an excuse to retain power at the centre.

In government, Labour of course needs to have national and union-wide priorities; but it is a mistake to believe that these always need to be developed and then mandated by ministers isolated in Whitehall. In many cases, local autonomy can prevail. In the many areas where central coordination is required, Labour needs to develop a different style of policy-development and practice that draws on the perspectives and priorities of localities and nations; it needs to negotiate necessary union-wide policy while also respecting divergence at local and nation level. Such an approach will create a more effective and more unified state power than our current fragile and fragmented approach. Ministers will still need to make decisions; sometimes unpopular ones. But a consultative approach which involves more people in the conversation means that those decisions are easier to make and implement.

Labour's empowerment of local government needs to be accompanied by a reorientation of the party's own structures to focus more on local democracy. We propose that local authority areas, rather than parliamentary constituencies, should become the basic unit of local Labour organisation (as occurs in some places), and that new structures for the party should be introduced throughout the nations and the UK to develop a shared approach to local government.

Minimisation of the need for judicial activism

Our approach to the constitution of power and authority in the UK stands in contrast to the current Conservative assertion of parliamentary sovereignty to uphold the power of the Westminster executive, but also to a rival conception which gives the judiciary power over democratic institutions. Labour's response to public concern about 'judicial activism' must not compromise the ability of individuals and groups to secure their legal rights, of course. But augmenting the power of courts plays into popular worries that judicial intervention is undermining democracy. Labour cannot be sanguine about a developing politics of 'lawfare' in which

court action takes the place of winning political arguments. As events in other societies show, such an approach increases the risks of a democratic backlash against both the courts and the politics that rely on them.

Our approach reflects a political (rather than judicial) conception of the UK's constitution, in which democracy and democratic institutions are supreme.¹² The fundamental principle underpinning power throughout the United Kingdom is the will of the people, which both courts and elected institutions are tasked to interpret. But our conception of popular sovereignty recognises that democratic power is dispersed throughout a plurality of electoral institutions across the UK, not channelled through a small Westminster elite elected once every four years, as the Conservatives maintain.

Most problems arise when the relationship between different institutions is unclear, when the executive fails to do what parliament intended, or when the intention of parliament is open to dispute. Rather than being involved in a battle between coherent but rival conceptions of power and authority, the courts are drawn into adjudicating on constitutional issues where principles about the distribution of power have not been discussed and agreed. In some cases, the courts are asked to rule where parliament has failed to take a decision. Here, Labour can minimise the need for judicial involvement by agreeing principles and limiting ambiguity. It should not draft legislation that relies on courts for its interpretation. It can also make provision for alternative systems of dispute resolution; for example, access to legal rights at work can be extended by enabling trades unions to organise and negotiate within a clear framework. As the UK evolves towards a union of nations, with rights for the nations and for local government within them, there should be greater discussion and definition of the relationship between different democratic institutions that minimises the scope for legal uncertainty. There will of course be differences in interpretation. But where government is consistently and successfully challenged, reviews of both legislation and implementation should promptly follow. Openness, transparency of ministerial decision-making and a more explicit approach to the distribution of authority within our plural polity can reduce the extent to which challenge is perceived as challenging democracy.

In summary

In re-thinking its approach to statecraft, Labour can bring together its response to the economic, social, political, democratic and constitutional challenges confronting the United Kingdom into a coherent politics of people, places and nations. That politics remains true to Labour's long-standing commitment to economic and social justice. For much of the twentieth century, however, those commitments were

expressed in a placeless political vocabulary that imagined the United Kingdom as a single undifferentiated space which could be governed from the centre. Such an approach worked, briefly, to reconstruct a deferential and hierarchical society after war. But it is not adequate to the very different political needs of the second quarter of the twenty-first century, in which people have a stronger sense of their individual agency, and where geographical inequality and people's attachment to place predominate. To be successful, Labour needs to challenge its own placeless and centralising traditions and instincts. It must end its blindness towards England. It should establish a new relationship between the parties in England, Scotland and Wales, and with local government. In doing so, Labour will reconnect with the political aspirations that led it to the most radical constitutional reform of the last century, and complete the process of devolution which the 1997 Labour government initiated. All this will, though, require a political transformation to accompany the administrative changes of the 1990s so Labour is not only dominated by Westminster MPs, and reflects the views of the elected Labour leaderships of Wales and Scotland, and those exercising (and aspiring to exercise) power in local government, including England's mayors, combined authorities and councils.

Our argument here is that Labour must develop a political language and approach which formally and publicly recognises the dispersed nature of power and authority throughout the UK. Here, Labour has an opportunity to challenge a Conservative Party which has an elitist and highly centralised understanding of the UK state in its DNA, and to instead connect with the way most people throughout the nations and places of the UK think about democratic politics.

In opposition, Labour must campaign to be a reforming government which will practically and radically transform the distribution of power in the UK. Political leadership will be critical, and must be backed up by changes to the legal, constitutional and policy environment within which the state works. Labour must challenge the deeply entrenched power and culture of the union state in Whitehall from its first day in office. Delay may result in reform being indefinitely postponed.

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Notes

- 1 This article was written after discussions held in 2021 as part of Labour Together's attempt to define a future Labour politics. We are grateful to all those who took part

and, in particular, to our Steering Group, but we bear all responsibility for the contents. Steering Group members were Leighton Andrews, Arianna Giovannini, Philip Rycroft, Bob Kerslake, Mike Kenny, Nick Pearce, John Denham, Jon Wilson, Jamie Driscoll, Kezia Dugdale.

- 2 For the perception and reality of geographical inequality see Philip McCann, 'Perceptions of regional inequality and the geography of discontent: Insights from the UK', *Regional Studies*, Vol 54, 2020, pp256-267; and Sartak Agrawal and David Phillips, *Catching Up or Falling Behind? Geographical inequalities in the UK and how they have changed in recent years*, Institute of Fiscal Studies, London 2020. For one of many accounts of UK dysfunction, see Stein Ringen, *How Democracies Live. Power, freedom and statecraft in modern societies*, University of Chicago Press, Chicago, IL 2022.
- 3 On the mid-twentieth century emergence of an apparently discrete and unified 'Britain' see David Edgerton, *The Rise and Fall of the British Nation. A twentieth-century history*, Penguin, London 2018; and in a global context, Jon Wilson *Out of Chaos. A global history of the nation state*, Public Affairs, Oxford forthcoming.
- 4 Wilfried Swenden and Nicola McEwen, 'UK Devolution in the Shadow of Hierarchy? Intergovernmental relations and party politics', *Comparative European Politics*, Vol 12 No 4-5, 2014; and Nicola McEwen, 'Negotiating Brexit. Power dynamics in British intergovernmental relations', *Regional Studies*, Vol 55 No 9, 2020, pp1538-49.
- 5 John Denham, 'England and the Conservative Leadership', 14 July 2022: <https://www.theoptimisticpatriot.co.uk/post/689729657085542400/england-and-the-conservative-leadership>.
- 6 For a perceptive analysis of the proliferation of different, competing doctrines about the UK constitution itself in different parts of the polity, see Akash Paun, 'Sovereignty, devolution and the English constitution', in Michael Kenny, Iain McLean and Akash Paun, *Governing England. English identity and institutions in a changing United Kingdom*, British Academy/Oxford University Press, London 2018, pp45-67.
- 7 For Treasury control, see Sam Warner, David Richards, Diane Coyle and Martin J. Smith, 'English devolution and the Covid-19 pandemic. Governing dilemma in the shadow of Treasury control', *Political Quarterly*, Vol 92 No 2, 2001, pp321-330; and the Nuffield Funded project: <https://sites.manchester.ac.uk/public-expenditure-planning-and-control/>.
- 8 John Denham, 'Labour and the governance of England', in Kenny, MacLean and Paun, *Governing England*, pp137-157.
- 9 Our argument here draws particularly on the Welsh Labour government's proposals in *Reforming our Union: Shared governance in the UK*, Cardiff, 2021.
- 10 Tony Travers and Lorena Esposito, *The Decline and Fall of Local Democracy. A history of local government finance*, London, Policy Exchange 2003; and Simon Jenkins, *Accountable to None. The Tory nationalization of Britain*, Hamish Hamilton, London 1996.
- 11 That older conception saw the polity as governed by the coordination of multiple governmental bodies, each of which could check abuses of power by the others, not

as an entity directed by a single sovereign body. The mixed or composite nature of Britain's constitution was celebrated in the eighteenth century: David Lieberman, 'The mixed constitution and the common law', in Mark Goldie and Robert Wokler, *The Cambridge History of Eighteenth-Century Political Thought*, Cambridge University Press, Cambridge 1991, pp317-346. Mid-twentieth century constitutional lawyers, critical of absolute notions of parliamentary sovereignty, argued that the constitution was an evolving set of practices and institutions which existed outside of, and defined, parliament's power. These arguments were particularly developed in the discussion of Britain's collapsing empire. See Sir Ivor Jennings, *The Law and Constitution*, 5th ed., University of London Press 1959; R.T.E. Latham, 'The law and the Commonwealth', in W.K. Hancock, ed., *Survey of British Commonwealth Affairs*, Oxford University Press, Oxford 1937, pp510-630; Peter C. Oliver, *The Constitution of Independence*, Oxford University Press, Oxford 2005.

- 12 J.A.G. Griffith, 'The political constitution', *Modern Law Review*, Vol 42, 1979, pp1-21; Martin Loughlin, 'The political constitution revisited', *LSE Law Society Economy Working Papers*, 18, 2017: <https://eprints.lse.ac.uk/87572/>.