**THE NATIONAL MINIMUM WAGE:**

**A DISCUSSION DOCUMENT FOR THE PORTFOLIO COMMITTEE ON LABOUR**

**September 2015**

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**THE NATIONAL MINIMUM WAGE:**

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**1. INTRODUCTION**

President Jacob Zuma, in his State of the Nation Address of 17 June 2014[[1]](#footnote-1), announced that: Deputy President Cyril Ramaphosa would convene a social partner dialogue, under the ambit of National Economic Development and Labour Council (NEDLAC), on wage inequality and labour relations. The NEDLAC engagement would specifically focus on the possibility of introducing a national minimum wage in order to reduce income inequality and the state of the labour relations environment. At the NEDLAC Summit of 5 September 2014, the Deputy President announced the convening of a Labour Relations Indaba to initiate the NEDLAC engagement process. Key components of the NEDLAC engagement process has included:

* Convening of the NEDLAC Labour Relations Indaba
* Signing of the NEDLAC Ekurhuleni Declaration
* Establishment of the Committee of principles
* Convening of the technical task teams
	+ Wage inequality technical task team
	+ Labour Relations Technical Task Team
* Engagement by the technical task teams

The importance of minimum wages as an instrument of social protection was highlighted in the International Labour Organisation (ILO) Constitution, adopted in 1919. The international community‘s recognition of the important social role of minimum wages was reiterated in the ILO Declaration of Philadelphia in 1944, the ILO Declaration on Social Justice for a Fair Globalization in 2008, and the Global Jobs Pact adopted at the ILO in June 2009. The ILO defines minimum wages as:

“The minimum sum payable to a worker for work performed or services rendered, within a given period, whether calculated on the basis of time or output, which may not be reduced either by individual or collective agreement, which is guaranteed by law and which may be fixed in such a way as to cover the minimum needs of the worker and his or her family, in the light of national economic and social conditions.”

While minimum wages are nearly universal, there remain large differences across countries in their design, coverage, levels and implementation. These differences reflect national preferences. The rationale for the implementation of a national minimum wage varies across countries and include amongst the following reasons:

* Protecting the most vulnerable
* Poverty Reduction
* Ensuring fair wages across the economy
* Creating a safety net
* Payment for inputs
* Fair labour standards
* Fair competition
* Macroeconomic objectives

The South African discussion on a minimum wage has addressed the various models, including the model of a countrywide minimum wage that cuts across all sectors of the economy, as well as the model of different pay structures for different sectors, based on the nature of the work. It is also important to benchmark South Africa with other countries. A minimum wage can be set according to general coverage, region, economic sector and occupational category. A minimum wage can also be set according to a category of worker including young workers, apprentices, gender, disabled and vulnerable workers. Minimum wages can be set on either an:

• Hourly, daily, weekly or monthly wage

• Average wage

• 40%-50% of Average Wage

• Median wage

• Cost of living/ Needs based approach

Employers will be required to keep sufficient records to show that they are paying a minimum wage. Central to the implementation of a national minimum wage is the enforcement mechanisms introduced and advantages of a phased-in approach. The poverty alleviation objective of the national minimum wage is based on the idea that market wages would not necessarily be at a level that was socially acceptable to society, so the minimum wage would ensure enough income for all citizens to maintain a minimum standard of living, regardless of occupation. In 1968 the International Labour Organisation (ILO) defined a living wage as the “amount necessary to meet the reasonable needs (or basic needs) of an unskilled labourer with a family of average size”. In 1977 the ILO defined basic needs as including certain minimum elements for a family for private consumption, including adequate food, shelter and clothing as well household equipment and furniture. This also implies that essential services are provided such as safe water and sanitation, public healthcare, education and public transport. There is a difference between minimum wage and a minimum living wage, where the latter refers to a wage that would be necessary for workers to be able to satisfy their basic needs. There are numerous difficulties in measuring a living wage.

Among the indicators that might be used to establish a minimum wage rate are ones that minimize the loss of jobs while preserving international competitiveness. Among these are general economic conditions as measured by gross domestic product; inflation; labour supply and demand; wage levels; productivity growth; labour costs; business operating costs; the number of bankruptcies; standards of living and the prevailing average wage rate. The key question is how the minimum wage is designed so as to be an effective tool to ensure economic growth, minimise inequality, promote employment and contribute to poverty alleviation. Minimum wage increases accompanied by human capital improvements can lead to positive impacts on workers and firms. It is difficult to predict how much impact on poverty that can be achieved by a guaranteed minimum wage that is sufficient to reach the poverty line.

There is no international consensus on the process for setting, adjusting, and enforcing minimum wages. The experiences across the world are varied and highlight the positive and negative aspects of the various lessons. As a result government usually use the criteria of needs, ability to pay, macroeconomic issues and equity. The implementation of a minimum wage can have an impact on employment, distribution of wages, household income, skills of workers through training, prices and profits. In terms of wage policy, most countries around the world have adopted wage-setting policies, typically through the legislative process, by establishing laws or by giving legal force to the terms of collective agreements negotiated among employers, trade unions, and employees. Such laws or rules for wage bargaining between employers and workers are aimed at decreasing the likelihood of exploitation and reducing the number of working poor.

The labour market inherited by the democratic government was characterised with high levels of poverty (working poor), income inequality, low levels of education and skills, adversarial labour relations, inadequate protection for vulnerable workers and the absence of a comprehensive social security network. The levels of unemployment in South Africa over the past twenty years has not dipped below twenty percent. The unemployment data indicate gender differences with men enjoying advantage over women. Youth unemployment is a key driver of high unemployment with youth unemployment peaking at forty two percent in 2010. Periods of unemployment for individuals have exceeded three years making re-entry into the labour market difficult. Many South African households have no access to a wage income and widespread distribution inequality exists between households that do have access to wage incomes. There are three dimensions to labour market vulnerability namely “low participation rates, high unemployment and low earnings for those that are employed”. The South African labour market is also characterised by urban and rural differences that differentiate poverty and inequality levels of the labour market.

The discussion on a minimum wage should not be seen in isolation from a discussion on the efficient functioning of the labour market. In general, the government has put in place a labour market framework so as to improve labour market conditions for workers, enhance their overall worker welfare, and protect them against the risks stemming from vulnerable employment. Hence, minimum wages do not conflict with a functioning labour market, on the contrary, they are an important institutional prerequisite for this very functioning.

The debate on the national minimum wage attempts to address the following questions:

* Do minimum wages exacerbate the unemployment problem?
* Are minimum wage policies a means to increase low wages?
* Are minimum wage polices effective in economies with high unemployment?
* Can the minimum wage offer labour protection to vulnerable workers?

**2. WAGE REGULATION IN SOUTH AFRICA**

In South Africa, wage floors were introduced in 2002 to fight the racial discrimination introduced under apartheid and to support the wages of millions of low-paid farm workers, hospitality workers, domestic workers and others in sectors where unions are weak. There is a need for a coherent wage policy to undo the apartheids wage structure and locate a national minimum wage within an overall wage framework. The national minimum wage should not be seen in isolation from a comprehensive social protection network and economic strategies. These approached should complement each other.

Unlike many other countries, the minimum wage in South Africa is different for each sector. There is thus currently no single national minimum wage. Even within a particular sector the mandated wage can vary by occupation type, number of hours worked, or geographic location, and this is specified in a ‘Sectoral Determination’, which includes regulations on working hours, overtime pay, and written contracts, among other employment stipulations. The body responsible for guiding state legislation on the various sectoral determinations is the Employment Conditions Commission (ECC). The ECC is a tripartite[[2]](#footnote-2) representative body within the Department of Labour (DoL) established in order to advise the Minister of Labour on appropriate and feasible sectoral wage schedules. The Sectoral Determination for farmworkers was first announced in December 2002 and became effective in March 2003.

**2.1. Wage Regulation through Sectoral Determinations**

The Constitution, the Labour Relations Act (LRA), the Basic Conditions of Employment Act (BCEA) and the Extension of Security of Tenure Act (ESTA) all strengthened the laws governing worker rights, that had historically been provisioned in colonial and apartheid labour legislation such as the Master and Servants Act (1856) and the Industrial Conciliation Act (1924), or in specific cases by Wage Boards and Bargaining Councils. This growing regulatory framework was extended in 1999 when nationally-binding minimum wages were introduced in South Africa for the first time. Minimum wage laws were promulgated initially for workers in the contract cleaning sector, and reached agricultural workers in 2003. Since 1999 a detailed minimum wage schedule has been developed – currently covering eleven sectors of the economy – and labour market institutions have been created to enforce the new laws. This minimum wage policy has been pursued with the explicit aim of ensuring that workers in low-paid, vulnerable occupations are guaranteed a basic subsistence income and protected from exploitation. Notably though, enforcement of these laws in South Africa remains relatively low.

The tripartite Employment Conditions Commission (ECC) advises the Minister of Labour on various matters, including the determination of the minimum wage in the sectors concerned. The Commission’s advice takes into consideration the information gathered through research into the conditions of employment in the sector and area which will be affected by the sectoral determination. The Commission may also hold public hearings to allow members of the public to express their views on the subject. In formulating recommendations with a view to a sectoral wage determination, has to take into account the likely impact of its proposal on current employment or the creation of employment, by assessing the capacity of employers to carry on their business successfully.

A sectoral determination, which is a government decision, cannot cover wages and workers bound by a collective agreement concluded by a bargaining council. In practice, determinations cover industries employing large numbers of unskilled workers who the Government regard as having less bargaining power. The ECC sectoral determinations set general conditions for employment such as minimum wages, working hours, number of leave days, and termination rules. There are currently 11 different sectoral determinations set by the ECC.

At present, the ECC and Minister of Labour set wages in eleven sectors, including:

* Farmworker
* Wholesale and Retail
* Domestic Workers
* Forestry
* Taxi
* Private Security
* Civil Engineering
* Contract Cleaning
* Hospitality sectors.

**Table1: Sectoral Determination & EPWP minimums as at 1st January 2015**

|  |  |  |  |
| --- | --- | --- | --- |
| Sector | Minimum per hour | Minimum per 9 hour day | Minimum per month |
| 1. Domestic metro (above 27 hours pw) | 10.95 | 98.55 | 2065.47 |
| Domestic non metro (above 27 hours pw) | 9.30 | 83.70 | 1812.57 |
| 2. Security Officer Grades D& E Area 1 | 15.25 | - | 3172.00 |
| Security Officer Grades D& E Area 2 | 13.95 | - | 2901.00 |
| Security Officer Grades D& E Area 3 | 12.68 | - | 2637.00 |
| 3. Forestry | 12.41 | 111.69 | 2420.41 |
| 4. Farm | 12.41 | 111.69 | 2420.41 |
| 5. Contract Cleaning Area A metros ex KZN | 16.98 | 152.82 | 3308.55 |
| Contract Cleaning Area B all other ex KZN | 15.47 | 139.23 | 3014.33 |
| 6. Hospitality 10 or < workers | 13.34 | 120.06 | 2601.88 |
| Hospitality > 10 workers | 14.87 | 133.83 | 2900.08 |
| 7.Taxi drivers and admin workers | 13.68 | 123.12 | 2847.01 |
| Taxi rank marshals | 10.94 | 98.46 | 2275.81 |
| 8. Wholesale & Retail shop ass. Area A | 15.71 | 141.39 | 3063.13 |
| Wholesale & Retail shop ass. Area B | 13.16 | 118.44 | 2556.30 |
| Wholesale & Retail sales person Area A | 19.83 | 178.47 | 3866.20 |
| Wholesale & Retail sales person Area B | 16.73 | 150.57 | 3261.51 |
| 9.EPWP (Ministerial Determination) | 9.34 | 75.10 | 1625.00 |

**Source: Organised Labour Submission to the Portfolio Committee (2015)**

**2.2. Wage regulation through Collective Bargaining**

The other pillar of wage regulation, includes collective bargaining, which is at the heart of the South Africa’s industrial relations system. This system has the ability to set wages and conditions that balance employees’ needs with those of employers, which in turn balance the imperatives of equity and economic development. According to Schulten 2004, “the political legitimisation of the minimum wage is a result of the structural imbalance of power between labour and capital. Without collective minimum wage regulation, many sectors would be permanently confronted with the possibility of pay cuts, this, in turn, would undermine the effective functioning of the labour market”.[[3]](#footnote-3) Table1 and table 2 are perfect example of how collective bargaining reduces the share of low-wage workers to a much greater extent than do minimum wages. In general, pay scales negotiated by collective bargaining are generally higher than the minimum wage and extend into the intermediate or even higher pay brackets, well above the minimum wage.

Conversely, the system has been criticised for favouring large employers, institutionalising the power of trade unions and resulting in greater incidence of fixed wages across sectors. Collective bargaining is sometimes blamed for not adequately recognising differences across enterprises and stifling labour management relationships at the enterprise level. Some research also suggests that centralised bargaining restrains wage levels in certain sectors – with financially stronger employers only required to pay the modest wage increases that can be afforded by smaller or weaker enterprises, while the weakest enterprises face the prospect of being squeezed out because they cannot afford the increases in wages that the majority of enterprises in the sector are prepared to pay.

In South Africa the central pillar of collective bargaining has historically been provided by the industrial and (more recently) bargaining council system. Statutory councils, an innovation of the (LRA), appear to have more limited appeal. Outside the statutory system, however, bargaining takes place at enterprise and plant levels, as well as in non-statutory centralised bargaining forums (for example, gold and coal mining, and automobile manufacturing). Despite the importance of collective bargaining, both in terms of its industrial relations and its economic development implications, the system in South Africa has not been well researched.

In his analysis of the collective bargaining system in South Africa, Kimanu argues that, in spite of all the post 1994 industrial relations achievements to stabilise the labour market, the bargaining council system faces some serious challenges. According to him, since 1995 bargaining councils have declined from 80 to 50, a reduction of 37.5 per cent. By May 2008, there were 44 registered councils in the private sector[[4]](#footnote-4) and six in the public sector. Both firm- and plant-level bargaining are also on a downward trend. The decrease in the number of bargaining councils is attributable to a variety of factors, including mergers, non-functionality, employer resistance to joining and participating in the activities of councils, and poor financial and administrative support by the Department of Labour. But perhaps the biggest challenge facing bargaining councils is the rise in non-standard forms of employment, which has led to declining numbers of union membership as the traditional core of standard workers gives way to fixed-term, casual and informal workers.[[5]](#footnote-5)

According to the September 2007 Labour Force Survey (LFS), by March 2007, trade union membership stood at approximately 3.1 million out of a total number of slightly over 10 million employees in South Africa. This means that only 31 per cent of workers belong to trade unions while approximately 70 per cent do not. This point is also emphised by the statement made by the Minister of Labour when she stated that “there are currently 23 registered labour federations, 179 registered trade unions in South Africa, yet only 18% of workers are covered in collective bargaining of one kind or the other”.[[6]](#footnote-6)

**Table 2:The Bargaining Council Wages 2014-2015**

|  |  |  |
| --- | --- | --- |
|  | **2014 Negotiated Wages** | **2015 Negotiated Wages** |
|  | Hourly | Monthly | Hourly | Monthly |
| General MEIBC | 33.67 | 5656.56 | 37.04 | 6222.72 |
| Electric cables | 35.71 | 5999.28 | 39.28 | 6599.04 |
| Structural Engineering | 27.76 | 4663.68 | 30.54 | 5130.72 |
| Five Grade Schedule | 33.32 | 5597.76 | 35.82 | 6017.76 |
| Vehicle Drivers | 37.33 | 6271.44 | 40.88 | 6867.84 |
| Gate & Fence Manufacturing | 25.27 | 4245.36 | 27.80 | 4670.4 |
| Electrical Contracting | 17.24 | 2896.32 |  |  |
| Civil Engineering | 22.89 | 3845.52 |  |  |
| General MIBCO | 22.16 | 3722.88 | 23.93 | 4020.24 |

**Source: National Union of Metal Workers of South Africa (NUMSA) 2015**

The second mechanism for setting minimum wages entails the Minister of Labour’s ‘extending’ collective agreements that were negotiated between employers and unions in bargaining councils established in terms of the Labour Relations Act. Prominent examples of these are agreements in the clothing and metalworking industries. A legislated and properly enforced national minimum wage would create a wage floor below which no wage in any sector would legally be allowed to fall.

One of the main criticisms levelled against the extension of bargaining council agreements is that large firms dominate the employer party bargaining during negotiations. These agreements (via the extensions) are then imposed on parties that were not involved in the negotiations. In practice, this has the effect of disproportionately excluding SMMEs.

While the extension of agreements ensure common working conditions within the industry, limit wage inequality, and reduce gender wage gaps. However, several studies suggest that those benefits come at the cost of reduced employment levels, especially during recessions. The income losses of workers who are displaced because of a collective contract extension can offset the wage gains among workers who keep their jobs.

The decrease in the number of bargaining councils is attributable to a variety of factors, including mergers, non-functionality, employer resistance to joining and participating in the activities of councils, and poor financial and administrative support by the Department of Labour. But perhaps the biggest challenge facing bargaining councils is the rise in non-standard forms of employment, which has led to declining numbers of union membership as the traditional core of standard workers gives way to fixed-term, casual and informal workers.

In turn, the non-standard forms of work have led to an ever increasing pool of the working poor. While on the other hand, the distribution of wages has become more unequal over time and that the unevenness is driven by greater wage gains for higher wage workers relative to low wage workers.

**3. INTERNATIONAL EXPERIENCES WITH THE MINIMUM WAGE**

Historically, the first minimum wage regulations came into force during the last decade of the 19th century. Statutory were first introduced in 1894 in New Zealand. Two years later, the first minimum wage legislation in Australia was introduced in the state of Victoria. The United Kingdom was the first European country to introduce statutory minimum wage regulations, in 1908. In the United State of America (USA), in the state of Massachusetts, minimum wage legislation was passed for the first time in 1912.

Initially the first minimum wage regulations applied only to certain sectors or occupational groups, in the second half of the 20th century, an increasing number of countries introduced statutory minimum wages that set a general nation-wide minimum wage level, regardless of sectors or occupations. Here, the USA played a leading role, in 1938, the Fair Labor Standards Act was passed, the first modern national minimum wage legislation was passed. Today, the majority of OECD countries- including most of the EU member states, and the USA, Canada, Australia, New Zealand, Japan and South Korea- as well as a range of developing countries, have national statutory minimum wages.

In Europe, there are three types of minimum wages:

***Statutory minimum wages****:* This refers to a minimum wage level which is either determined by legislation or pursuant to legislation. A statutory minimum wage level defines a wage floor. This floor will be invariable downwards, but variable upwards. Statutory minimum wages can be guaranteed for all employees of a country, although exceptions can be made for certain groups. The minimum wage level can also be graded, for example on the basis of age. As a rule, however, there will be one single rate for adult employees which will apply to all or most parts of the labour market. As such, the minimum wage level will be well known. The specifics of how the statutory minimum wage level is determined vary from one country to another. The main point is that the legislator has determined a minimum wage level or a procedure for determination of a minimum wage level.

***Collectively agreed minimum wages****:* Another form of minimum wages is set by collective agreements. As a rule, the collectively agreed minimum wage will be higher than its statutory counterpart. However, the collectively agreed minimum wages apply only to the parties to the collective agreement – the trade union and the employers’ association and are mandatory only for the parties’ members. Employers who are committed by the agreement may still be obligated by it also with regard to unorganised employees in the enterprise. The number of employees who end up being paid at the collectively agreed minimum rate and how many will be paid above this floor as a result of local wage supplements will vary from one bargaining sector to another.

***Extended minimum wages***: Many European countries have mechanisms for expanding the coverage area for collective agreements. As a rule, this takes the form of extension of collective agreements, whereby wage rates and other collectively bargained provisions are given expanded effect. The most common procedure is to apply the provisions not only to the parties to the agreement and their members, but to the entire industry or profession that falls under the scope of the agreement. An unorganised enterprise with non-unionised employees must thereby conform to the extended minimum wage level, even though the employees’ opportunities to bargain collectively for local supplements may be non-existent or far weaker than in organised enterprises.

Currently, in all European states, minimum wages constitute an established instrument of labour market regulation. Within the EU, 21 of the 28 states have a universal[[7]](#footnote-7) mini­mum wage regime with a nationwide minimum wage rate. In seven member states, however, there are only sectoral minimum wage regimes, including the Scandinavian countries Denmark, Finland and Sweden, as well as Cyprus, Italy, Austria and Germany. With the in­troduction of a national minimum wage from 2015, Ger­many will switch to a universal minimum wage regime. Minimum wage regimes are also distinguished especially by the dominant regulatory instrument used to deter­mine the minimum wage or minimum wages. Basically, minimum wages can be set on a statutory basis or in collective agreements, or, within the framework of tri­partite bargaining, by employers, the trade unions and the state. In most countries with a universal minimum wage system the main regulatory instrument is statu­tory. This applies, for example, to France, the Nether­lands, Luxembourg, the United Kingdom and Ireland, as well as to most southern and central and eastern Euro­pean countries with a statutory minimum wage set by the government.

In some central and eastern European countries, such as Poland, the minimum wage is ne­gotiated, first and foremost, within the framework of a tripartite body at national level. If a tripartite agree­ment is reached the resulting minimum wage assumes a statutory character. If the negotiations fail, the minimum wage is set unilaterally by the government. There is a distinctive model in Belgium, where the mini­mum wage is agreed within the framework of a national collective agreement for the private sector as a whole. In Germany the initial amount of the statutory minimum wage from 2015 is set at 8.50 euros an hour. There­after, however, a »social partners’ committee« will set the level of the minimum wage, which the government shall only implement and maintain its statutory character by decree. Thus a system of quasi-negotiations on the na­tional minimum wage will be introduced in Germany, al­though the decisive benchmark will be the development of average wages laid down in collective agreements.

In countries with sectoral minimum wage regimes, by contrast – with the exception of the special case of Cy­prus, where there are statutory minimum wages for certain occupational groups – minimum wages are laid down solely in collective agreements. The scope of sec­toral minimum wages thus depends on the robustness of the collective bargaining system and collective bar­gaining coverage in the relevant country.

The Nordic model is characterised by a high unionisation rate and high collective agreement coverage. Within this framework, however, the countries have chosen widely different solutions. While Denmark and Sweden use collective agreements as their only mechanism for regulation of minimum wage levels, Finland, Iceland and Norway have also started to use *erga omnes* instruments (extension of collective agreements). None of the countries has adopted statutory minimum wage schemes. This compre­hensive collective agreement system ensures that a large majority of employees – up to 85 per cent or more are protected by a collective agreement. The high collective agreement coverage in these countries ensures comprehensive minimum wage protection and makes statutory regulations largely superfluous. Corre­spondingly, the trade unions in these countries tend to reject a statutory minimum wage and instead emphasise autonomous minimum wage formation by means of col­lective agreements.

However, in some of the countries with sectoral mini­mum wage regimes collective agreement coverage is much lower. This includes, in particular, Germany, where coverage is around 58 per cent, as well as Cyprus and – outside the EU – Switzerland, each with 52 per cent. In these countries a relatively large number of employees not subject to collective agreements have no minimum wage protection whatsoever. Against this background it is no surprise that in these countries the trade unions favour a switch to a general statutory minimum wage. Among the countries with universal minimum wage re­gimes there are both states with low coverage and states with high coverage.

**3.1. The National Minimum Wage: The German Case**

During the last twenty years, the unionisation rate and collective bargaining coverage have been declining in Germany, accompanied by a strong increase in the number of low-wage workers. Measured in terms of having an income of less than two-thirds of the median wage, the number of low-wage workers increased from 5.9 million to 8.4 million in the period from 1995 to 2012, which means that Germany is among the European countries that have the highest number of low-paid workers. From 1998 to 2013, collective bargaining coverage declined from 76 to 60 per cent in the western part of the country and from 63 to 47 per cent in the eastern part. During the same period, the unionisation rate declined from 26 per cent to its current level at approximately 18 per cent.

Against the background of increasing unemployment in Germany, sectoral agreements from the mid-1990s increasingly included ’hardship clauses’ whereby companies got the possibility to undermine sectoral standards in exchange for the safeguarding of jobs. At first, such deviations were only possible under relatively strict conditions. However, over time the criteria for opening clauses were no longer restricted to the danger of bankruptcy but were widened to embrace all kind of situations and motivations including even the improvement of competitiveness. By the mid-2000s almost all major industry-wide agreements included opening clauses which gave far-reaching opportunities for deviations at company level.[[8]](#footnote-8) As a result, concluding employment pacts at company level became a widespread activity leading to a broad wave of concession bargaining, especially in the manufacturing sector and in public utilities.[[9]](#footnote-9)

As long as Germany had a high bargaining coverage of 80 plus per cent, a national minimum wage was no topic at all. Even the German trade unions were for a long time opposed to statutory wage regulation, since they felt strong enough to ensure equitable wages through the conclusion of collective agreements. The situation started to change around the millennium when some unions began to recognise a growing incidence of low wages especially in some private service sectors. It was the small Trade Union of Food, Beverages, Tobacco, Hotel and Catering Workers (NGG), which was the first German trade union to call for the introduction of a national minimum wage at their congress in 1999. Later on this demand was taken up by the much larger United Services Union. By contrast, the unions representing the manufacturing sector such as the German Metalworkers’ Union (IG Metal) and the Mining, Chemicals and Energy Industrial Union (IG BCE) were initially rather sceptical and considered a national minimum wage to be in contradiction to the principle of collective bargaining autonomy.

Chancellor Angela Merkel's government introduced Germany's first nationwide wage floor of 8.50 euros per hour early this year. The law was the brainchild of the Social Democrats (SPD), who made it a condition of joining Merkel's coalition in 2013.

All employees in Germany are entitled to the statutory minimum wage. This particularly applies for employees during any probationary period as well as part-timers or marginal employment (i.e. employees with a monthly salary of up to € 450.  Interns are also entitled to the minimum wage. The minimum wage does not have to be paid in a few exceptional cases, for example, in the case of internships required by training or university courses. Apprentices, volunteers and employees under the age of 18 without a vocational degree are not covered. Long-term unemployed individuals are excluded from the minimum wage for a period of six months so as to help them get back into employment.

The Minimum Wage Act provides for the establishment of a minimum wage commission. In contrast to the UK model, however, the three representatives of the social partners will be appointed by their respective organisations and not selected as individuals by the government. The two academic members of the commission will also be proposed by the social partners but, unlike their UK counterparts, will not have voting rights. The government will appoint an independent chair proposed by the social partners.[[10]](#footnote-10)

Evaluating the Germany minimum wage system may be a bit too early, but at a recent seminar organised by the think-tank in South Africa, the minister of economic affairs for the German state of Thuringia, Wolfgang Tiefensee, said that the first evaluation after 100 days of a minimum wage in Germany was clear: business’s argument that it would lead to job losses was wrong. On the contrary, the new minimum wage in Germany led to informal work becoming formal — and including social benefits.”[[11]](#footnote-11)

However, already there are reports that some employers are already finding ways to circumvent the law. There are reports that some workers are no longer getting paid for overtime. Others are being charged for drinks and clothing they are required to wear on the job. Butchers have complained that they must pay a fee of up to 100 euros per month to use knives they need to cut meat.

Violations of the Minimum Wage Act, i.e. not paying the minimum wage or not paying it in time, can be subject to draconian penalties of up to € 500,000. Administrative fines of more than € 2,500.00 can additionally result in exclusion from the awarding of public sector contracts in Germany in the future.[[12]](#footnote-12)

**3.2. The Minimum Wages in Developing Countries**

Several Latin American countries tie many of the social benefits for low-income households to the minimum wage. In Brazil, for example, where non-contributory pensions make up a large portion of the income of many poor households and their value is tied to the minimum wage, higher minimum wages substantially lowered poverty between 1994 and 2004. The higher minimum wages were responsible for 32 per cent of the unprecedented reduction in income inequality in Brazil in the 1990s and 2000s because of their impact on non-labour incomes.

Most empirical studies of the impact of minimum wages on poverty in developing countries conclude that increases in minimum wages reduce poverty, on balance, though they find only a modest impact—for two reasons. First, a large share of workers is not covered by minimum wage legislation. And second, higher minimum wages do not affect all low-income households the same way: minimum wages pull some households out of poverty, but may push others into poverty. Given the potential for negative impacts on the employment and incomes of the some of the poorest families, raising minimum wages is an inefficient tool for reducing poverty.

More efficient policies would focus on enhancing compliance with minimum wages, improving incomes in the informal sector where minimum wages do not apply, and increasing the long-term productivity of workers from low-income families. This suggests that while minimum wages can be part of a package of poverty-reducing policies, they should not be the only or even the most important part. For example, Brazil’s conditional cash transfer program, Bolsa Familia, was more effective than higher minimum wages at reducing poverty and income inequality using an identical amount of resources. Conditional cash transfers to low-income households have the additional benefit of providing part of a social safety net for households when workers lose their jobs because of higher minimum wages. Labour supply incentives, particularly the earned income tax credit, have also been shown to be effective in increasing both the employment and earnings of low-income workers in the United States.

**4. IMPACT OF THE MINIMUM WAGE ON DIFFERENT ECONOMIC SECTORS**

Most of the ECC sectoral determinations cover non-tradable sectors, i.e. sectors (such as private security, domestic work, retail and restaurants) which do not face competition from imports. This reduces the likelihood that modest wage increases would result in major employment losses.

With regard to the tradable sectors, notably agriculture, the evidence points to a different conclusion. South African farmers, whether they produce grapes for wine or lambs for slaughter or sheep for wool compete with farmers elsewhere in the world for foreign and local markets. Case studies in different parts of the country (Conradie 2007; Murray & van Walbeek 2007), as well the Bhorat et al. analyses of national sectoral data, suggest that the original (2002) sectoral determination in agriculture raised wages modestly and improved compliance with non-wage regulations but it also resulted in a significant reduction in total employment and/or hours worked. In the (tradable) forestry sector, Bhorat et al. find that the sectoral determination did not lead to any observed improvement in total earnings, because higher wages were offset by a reduction in working hours.

From this research it seems that the ECC’s sectoral determinations in the early 2000s in non-tradable sectors probably resulted in higher real wages that more than offset the reduced hours of employment; as a result, the working poor were less poor. In contrast, in tradable sectors the negative employment effects were much larger.

The clothing sector is a tradable sector and is subject to constraints similar to those in agriculture. In the clothing sector the minimum wage was set through the extension mechanism provided by the LRA. But SACTWU itself recognized that higher wages could lead to job destruction and has moderated its wage demands in order to protect its members’ jobs. Nevertheless, it is apparent that the level at which this minimum wage was set has led to significant job destruction in parts of the clothing industry, notably in non-urban areas. (Nattrass & Seekings 2014).

In related work Pauw & Leibbrandt (2012) found that minimum wages are likely to lead to significant job losses among unskilled workers. Minimum wages may have reduced wage inequality in terms of hourly wages, but perhaps not in terms of total wages and probably at the expense of diminished demand for unskilled labour.

**5. THE PARLIAMENTARY DISCUSSIONS ON THE NATIONAL MINIMUM WAGE**

The Parliamentary Portfolio Committee on Labour has been consulting with stakeholders on the possibility of introducing a national minimum wage in order to bring down levels of inequality in the country. Given the disparities that exist in the country it is important to look at the possibility of ensuring that everybody is paid according to what the country thinks is going to be a living wage. The Portfolio Committee on Labour conducted oversight visits across the country to engage with stakeholders at a local level from November 2014 to April 2015. Participants included domestic workers, cleaners, farmworkers, security guards, community work project workers, public service workers, mineworkers and the unemployed. In addition to a national minimum wage, others themes that emerged during the oversight visits included were temporary employment services (labour broking), unemployment, skills development, salary disparities, gender discrimination at workplaces, low wages and its attendant problems, lack of enforcement of labour laws and victimisation of employers who stand up for their rights. The Committee hosted public hearings in the following places:

* Western Cape
	+ Gugulethu Sports Complex (7 November 2014)
	+ Paarl-East Thusong Centre (08 November 2014)
* North West
	+ Klerksdorp-Matlosana City (25 November 2014)
	+ Rustenburg Civic Centre (26 November 2014)
* Gauteng
	+ Johannesburg City Centre (3 February 2015)
* Free State
	+ Bloemfontein City Hall (4 February 2015)
* Eastern Cape
	+ Port Elizabeth, New Brighton – Nangoza Jebe Hall (05 February 2015)
* KwaZulu Natal
	+ Pinetown Municipal Hall (6 February 2015)
* Limpopo
	+ Ga-kgapane (14 March 2015)
* Northern Cape
	+ Hartswater (28 March 2015)
* Mpumalanga
	+ KaMhlushwa in Nkomazi Municipality, Ehlanzeni District (25 April 2015)

The Portfolio Committee on Labour also conducted public hearings and engaged with stakeholders. Twelve organisations representing academic institutions and employer organisations engaged with the Portfolio Committee on Labour during the public hearings scheduled for 20 August 2014 to 19 September 2014.

* University of Western Cape. Social Law Project
* Agri- SA
* University of Cape Town – Development Policy Research Unit
* Progressive Professional Forum
* Chamber of Mines
* South African Taxi Council
* PLAAS
* Professor Neil Rankin
* Black Management Forum
* Business Unity South Africa
* National Employers Association of South Africa

The second round of workshops was held between 23 and 24 June 2015. Nine organisations, which comprised organised labour, organised business and small individual businesses presented before the committee during this round of the workshops.

* Christo van der Rheede on behalf of the Ahi Business Network
* Mamiya Tours Presentation
* National Union of Metal Workers of South Africa (NUMSA)
* Organised Labour: COSATU/ NACTU and FEDUSA
* Confederation of South African Workers Union (Consawu)
* South African Domestic Services and Allied Workers Union (SADSAWU)

The various submissions made to the Parliamentary Portfolio Committee on labour through the oversight visits and public hearings highlighted both the advantages and challenges with the implementation of a national minimum wage. Some of these advantages and challenges highlighted by the various stakeholders have been tabulated below:

|  |  |
| --- | --- |
| Arguments in Favour of a National Minimum Wage | Arguments Against a National Minimum Wage |
| * Positive impact on demand and industry.
* Increased job growth/creation.
* Increases the standard of living for the poorest and most vulnerable in society.
* Increases incentives to take available jobs
* Stimulates consumption, by putting more money in the hands of low-income people

  | * Minimum wage alone isn't effective at alleviating poverty, and in fact produces a net increase in poverty due to increased unemployment. A minimum wage is but one of a range of mechanisms to address inequality.
* Hurts small business more than large business.
* Reduces the quantity demanded of workers, either through a reduction in the number of hours worked by individuals, or through a reduction in the number of jobs.
* May cause price inflation as businesses try to compensate by raising the prices of the goods being sold.
* Benefits some workers at the expense of the poorest
* Can result in the exclusion of certain groups from the labour force – vulnerable workers
* What about existing minimum wages determined by collective bargaining and sectoral determinations.
 |

The debate about implementing a national minimum wage centres on the level at which a national minimum wage should be set. Much of the disagreement amongst the stakeholders is on the level at which a national minimum wage should be set and the resultant employment consequences. It should be set at a level that balances social goals and market responses to a minimum wage. A minimum wage system should have clear objectives, simple structure (should not be too complex) and enforceable. Another debate concerns the way to increase compliance by elevating the minimum wage to a fundamental right. Minimum wage regulations in South Africa are currently enforced by the labour inspector section with 1318 inspectors spread across 126 labour centres around the country. There has been broad discussion in South Africa on a number of important issues:

* Collective agreements‚ including bargaining council agreements‚ sectoral determinations and contracts of employment‚ may not make provision for a wage that is lower than the national minimum wage‚ but may only vary wages upwards. While collective bargaining is an important element of the current framework, sectoral determinations should not be lower than the mooted national minimum wage.
* Depending on the minimum wage level‚ however‚ certain exceptions may be needed. Comprehensive coverage is desirable and that a patchwork approach should be avoided
* The body that is responsible for determining a national minimum wage should be a body similar to the Employment Conditions Commission‚ which currently recommends minimum wages and conditions of employment on a sector basis to the Minister of Labour.
* The composition of the Employment Conditions Commission includes representatives of organised business and labour and independent experts. This composition provides a sound building block for a future body that will determine and periodically review a national minimum wage.

**6. CONCLUSION**

It is important to note that statutory minimum wages have proven to be suitable instrument in combating wage discrimination against women and other disadvantaged groups in society, as these occupational groups are usually clearly over-overrepresented at the bottom end of the wage scale. Statutory minimum wages can also contribute to the reduction of poverty, however, the impact of this attribute is limited to, firstly, if it only applies to the working poor (given that the large percentage of the poor are unemployed) and secondly, not all employees earning the minimum wage live in households affected by poverty. Therefore, any decision regarding the minimum wage structure and its level, should be assessed within this context in order not to over-exaggerate the possible impact of this system on poverty alleviation. Hence, discussions on the NMW should also include other poverty alleviation measures, such as those afforded through the social protection system.

Research conducted shows that, raising the minimum wage reduces poverty in most developing countries. But the impact is modest because the legal minimum wage applies to only a minority of poor workers; in particular, it does not cover workers in the large informal sector. Though, when using South Africa as an example, social assistance programmes have frequently achieved successes in terms of ameliorating the worst problems of poverty. Furthermore, in the case of Brazil, research shows that, when integrated with labour market policies and a broader set of policy initiatives, including education and health care, minimum wage initiatives have the potential to have a positive impact on both poverty and inequality.

Research conducted on this subject shows that raising the minimum wage creates losers as well as winners among poor households—depending on employment effects, wage distribution, and effects on the household head—pulling some out of poverty while pushing others in. In addition higher minimum wages might force more workers out of the formal sector and into the informal sector, and the lower wages could push their households below the poverty line. Hence, raising the minimum wage could be part of a comprehensive poverty-reduction package but should not be the only, or even the main, tool to reduce poverty.

The effects of higher minimum wages vary between sectors according to factors such as their exposure to international competition, the possibilities for mechanisation, and the incomes of employers or customers. In other words, there is more scope for higher minimum wages in some sectors than in others.

This suggests that minimum wages should vary between sectors. Such sectoral minimum wages can be combined with a national minimum wage. The challenge is to determine at what level government sets the national minimum wage. Higher minimum wages might then be set in other sectors if the expected negative employment effects (i.e. job destruction) in these sectors are assessed to be modest.

Elements of parliamentary oversight over a minimum wage system should include:

* Simplicity of the system that reduces monitoring burdens
* Provincial and regional labour market patters should also be considered
* Exemptions and reductions should be minimal so as to avoid negative incentives for firms and workers
* The impact of migrant and illegal labour on the system
* For adjustments to the minimum wage level, it is best to have a clear formula that avoids excessive rigidity in the process and is easy for all stakeholders to understand and apply
* Effective enforcement that includes a resourced inspectorate that can audit employers, impose penalties and allow for an appeals process
* Consider the role of trade unions and grass roots non-profit organisations that can monitor and report non-compliance.

The labour market in South Africa should be managed in order to ensure stabalisation, fairness and equity. However a labour market intervention must be sensitive to unintended consequences and inefficiencies. The policy trade-offs must ensure that labour market policies contribute to economic growth, greater equity and efficiency by improving the conditions for labour and increasing the quantity of participation in the production process. Improving the conditions of employment and increasing employment opportunities is also reliant upon economic growth. Labour market policies should complement other macroeconomic and social policies.

Minimum wages present one of the most difficult choices to any policymaker concerned with poverty, inequality and unemployment. It demands careful analysis and nuanced policy interventions to a very complex matter with high risks of unintended and perverse consequences.

**Issues to consider:**

* At the current moment Bargaining Councils only cover about 2.4 million workers, and Sectoral Determinations about 3.5 million, accounting for 5.9 million of the approximately 10.2 million formal sector workers. Thus about 4.3 million workers are not covered. The biggest advantage of setting a NMW is the ease of enforcement covering all workers regardless of whether they are covered in some form of collective bargaining agreement or sectoral determination.
* The challenge is to set minimum wages in a balanced way that takes into account a host of factors, including: the needs of workers and their families; the general level of wages in the country; the cost of living; social security benefits; the relative living standards of different social groups; and economic factors such as levels of productivity and possible adverse effects on employment if the minimum wage is set too high.
* When minimum wages are used to determine the wages of multiple occupational categories, the minimum wage system risks becoming too complex, inhibiting compliance. In these situations, there is the risk that employers and workers will not be familiar with the relevant minimum wage, and will therefore not apply it. Moreover, in these situations, the minimum wage is less likely to become a reference wage for wage setting in informal arrangements.
* If a minimum wage is set very low, then compliance is assured, but the minimum wage does not achieve its goal of protecting workers against unduly low wages.
* In countries where there is relatively high compliance to the minimum wages, research shows that there were supportive policies, particularly with regard to labour inspection, which were instrumental in fostering compliance, for example, Costa Rica.

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1. Zuma, J.G. (2014) [↑](#footnote-ref-1)
2. The Minister of Labour must appoint to the Employment Conditions Commission one member nominated by the voting members of the National Economic Development and Labour Council (NEDLAC) representing organized labour, and one member nominated by the voting members of NEDLAC representing organized business. [↑](#footnote-ref-2)
3. Schulten, T. (2005) [↑](#footnote-ref-3)
4. This figure is currently at 38 according to: the July 2015 list of registered private sector bargaining councils in South Africa. Available from: <[www.labourguide.co.za/bargaining-councils](http://www.labourguide.co.za/bargaining-councils)> [Accessed on 26 July 2015] [↑](#footnote-ref-4)
5. Ndungu, S.K. (2008) [↑](#footnote-ref-5)
6. Oliphant, M. (2015) [↑](#footnote-ref-6)
7. Universal regimes are characterised by the establishment of a general lower wage threshold, usually at the national level, and applying – apart from possible exceptions – to all employees. [↑](#footnote-ref-7)
8. Schulten, T. and Bispinck, R. (2014) [↑](#footnote-ref-8)
9. Hassel, A. (2014) [↑](#footnote-ref-9)
10. Gerhard, B. (2015) [↑](#footnote-ref-10)
11. Available at:<<http://www.fes-southafrica.org/fes/a-minimum-wage-could-save-sa-from-implosion/>> [ Accessed on 24 July 2015] [↑](#footnote-ref-11)
12. Falke, M. (2015) [↑](#footnote-ref-12)