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## Comment on Roberts & Bower, Patching the Crack in the Floor: Strategies for Expanding the Minimum Wage

Marc Linder

Larry Norton

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ary to April 1956. (The effective date of the raise was March 1, 1956.)<sup>6</sup>

A study published in May of the following year found that employment in five selected industries declined by from 6 percent to 15 percent between the 1955 payroll period studied and April 1957.<sup>7</sup> In a study of seven selected geographical areas, Lewis Badenhop opined that employment changes were unrelated to the change in the federal minimum wage, but he also noted that the two areas where there were significant changes in employment saw declines of 5 percent.<sup>8</sup> In a survey of plant adjustments to the minimum wage, Samuels found that, "[o]ne of the effects of the one dollar minimum wage was evidently the loss of employment for some workers."<sup>9</sup> Not surprisingly, it was usually the employees thought to be least efficient who were let go.<sup>10</sup> The author of a study of six selected geographical areas, while not concluding that the minimum wage was responsible, found a decline of 1 percent in industries subject to the minimum wage, while employment in industries not subject to the minimum wage increased by the same percentage.<sup>11</sup>

There is little controversy also, about the identity of the workers who are removed from the workplace. They are those whom employers believe to be the least efficient. In very many cases, the same individual who has been disadvantaged by racism or by other societal ills finds the bottom rung of the ladder to success cut off by the minimum wage. Powerful evidence for this conclusion is found in statistics which show that between 1954 and 1978, while the minimum hourly wage went from seventy-five cents to two dollars and sixty-five cents and the percent of the nonfarm work force covered by the law went from 53 percent to 83 percent, unemployment of black men aged sixteen to twenty-four went from 13.9 percent to 34.8 percent, while that of white men of the same age group went from 12.4 percent to 15.5 percent.<sup>12</sup>

We do not help people when we reduce their options.

Cordially,

John Riemer  
Managing Attorney  
Georgia Legal Services Programs  
Georgia Mountains Regional Office  
P.O. Box 1337  
Gainesville, Georgia 30503

6. Samuels, *Effects of the \$1 Minimum Wage in the Men and Boys Shirt Industry*, 80 MONTHLY LAB. REV. 1339, 1340, Table 1 (1957).

7. Samuels, *Effects of the Minimum Wage in Five Industries*, 81 MONTHLY LAB. REV. 492, 493 (1958).

8. Badenhop, *Effects of the \$1 Minimum Wage in Seven Areas*, 81 MONTHLY LAB. REV. 737, 743 (1958).

9. Samuels, *Plant Adjustments to the \$1 Minimum Wage*, 81 MONTHLY LAB. REV. 1137, 1141 (1958).

10. *Id.*

11. Schaffer, *Effects of the \$1 Minimum Wage in Six Areas*, 83 MONTHLY LAB. REV. 472, 473 (1960).

12. ECONOMIC REPORT OF THE PRESIDENT (1979) Table B-30.

To the Editor:

In their able presentation of the liberal position on the minimum wage (22 CLEARINGHOUSE REV. 23) Paula Roberts and Susan Bowers fail to break out of the inconclusive debate that has trapped its participants. In that debate, the focal issue has been whether the minimum wage is an effective anti-poverty measure.

The minimum wage law was designed to prohibit the exploitation of workers in businesses and industries where they had almost no bargaining power and were subject therefore to exploitation. It was also designed to prevent employer and industry chiselers from maintaining their profits and market positions, or even their businesses, based upon these exploitative practices. Thus, the minimum wage law was designed to intervene in the market place, not in order to provide social benefits at the expense of a properly functioning market for labor, but to remedy imperfections in the labor market. The real question for debate then is whether the minimum wage still promotes these purposes.

The argument between liberals and conservative has run as follows: Given the undisputed fact that the minimum wage has declined in terms of purchasing power as well as in relation to average wages, liberals urge that, because the minimum wage no longer guarantees a "living wage," an increase is necessary in order "to restore a full measure of dignity to all minimum wage workers."

Conservatives respond by offering similarly uncontested evidence that the vast majority of the poor do not earn the minimum wage, while the vast majority of minimum wage workers are not poor. Since lack of employment rather than low wages is alleged as the primary cause of poverty, conservatives argue that as an anti-poverty measure, the statutory minimum wage is inefficiently over-inclusive and under-inclusive: it aids more nonpoor workers than poor ones and misses most of those who are poor. Moreover, because virtually all economists agree that raising the minimum wage will lead to at least some increased unemployment among low-paid workers, conservatives say that the costs may outweigh the benefits.

What has tended to disappear from view is that the original purpose of state intervention in the form of mandatory minimum wages was not primarily to alleviate poverty, but rather:

(1) to help those workers whose wages have been determined by a process subject to "market failure"; and

(2) to hurt their employers by forcing them to internalize the average social cost of maintaining a worker. In the words of the U.S. Supreme Court: "The community is not bound to provide what is in effect a subsidy for unconscionable employers."

Neither side to the debate appears to acknowledge that the statutory minimum wage, set at a reasonable level, will still perform these vital functions.

The original intention of the Fair Labor Standards Act was to outlaw extreme forms of exploitation of workers whom experience had shown incapable of resisting such conditions. The historic starting point of minimum wage legislation in Great Britain and in the various states was the wish to abolish "sweating," whose victims were almost exclusively women and children. Although in the rhetoric of

the New Deal, "chiseling" replaced "sweating," then as now women and teenagers (and nonwhites) formed the vast majority of minimum wage workers.

Enactment of a legal minimum wage was, again in the words of the Supreme Court, "a recognition of the fact that due to unequal bargaining power as between employer and employee certain segments of the population required Federal compulsory legislation to prevent private contracts on their part which endangered national health and efficiency." That the prohibition of specific forms of worker exploitation, rather than the achievement of a "living wage" as such, underlay early minimum wage measures was recognized by such a profound conservative as former President and the Chief Justice of the Supreme Court William Taft, who wrote in the 1920s that:

Legislatures, in limiting freedom of contract between employee and employer by a minimum wage, proceed on the assumption that employees in the class receiving least pay are not upon a full level of equality of choice with their employer, and in their necessitous circumstances are prone to accept pretty much anything that is offered. They are peculiarly subject to the overreaching of the harsh and greedy employer. The evils of the sweating system and of the long hours and low wages which are characteristic of it are well known.

The other principal function of the minimum wage law lay in increasing productivity in the economy as a whole by driving "parasitic" firms out of business and concentrating production in the most competent firms. Thus, as stated in Congress in 1947:

It is the chiseler, the corner-cutter, and the downright unscrupulous who need our attention. It is this small percentage of employers who drag down our business standards and make it harder for the overwhelming majority of our American businessmen to compete on a decent basis. These are the men for whom we need a Fair Labor Standards Act—let me call it a Fair Labor Competition Act—and these are the men we should keep in mind in voting on the bill.

By requiring the "chiselers" to pay a minimum wage to their workers, Congress was able to protect efficient "fair wage" employers from unfair competition and at the same time to ensure that private wage costs reflect total social costs of labor equally across firms and industries. Thus, the chiseler would not be able to subsidize his inefficiencies by grossly depressing wages to the detriment of his employees, his competitors, and society in general, which would have to make up for his exploitative practices.

The usefulness of the minimum wage in promoting these anti-exploitation and pro-productivity purposes has not diminished since the 1930s; nor can its effectiveness in promoting these purposes be judged on the basis of its

effectiveness as an anti-poverty measure. Moreover, these purposes would not be displaced by the enactment of social welfare programs and the adoption of policies specifically designed to ameliorate the condition of the working poor. Therefore, if well-targeted, anti-poverty governmental policies, such as the negative income tax or increased earned income tax credits according to family size were instituted, such policies would not usurp the role of the minimum wage law in preventing exploitative practices of employers that work to the detriment of both employees and responsible employers alike.

Sincerely,

Marc Linder  
Texas Rural Legal Aid, Inc.  
259 South Texas  
Weslaco, Texas 78596  
(512) 968-9574

Larry Norton  
Pennsylvania Legal Services Center, Inc.  
130 Walnut St.  
Harrisburg, PA 17101  
(717) 236-9486

*Editor's Note: A more analytical (and well-documented) version of the position offered here will be published in Linder, The Minimum Wage as Industrial Policy: A Forgotten Role, 16 J. LEGIS. — (1989).*

*Paula Roberts replies . . .*

I am most appreciative that Marc Linder, Larry Norton and John Riemer took the time to comment on "Patching the Crack."

The Linder/Norton piece makes an important point that Sue Bowers and I did not address: the minimum wage is necessary to correct market inequities and to prevent the exploitation of workers by unscrupulous businesses. These purposes were valid at the time the minimum wage was enacted and they remain so. Indeed, today, no responsible person calls for the abolition of the minimum wage because people recognize the need to protect the most vulnerable members of the labor force from severe exploitation.

Bowers and I were primarily concerned with addressing the more controversial corollary question: once you concede the necessity of having a minimum wage, what is a "reasonable level" at which to set it? On this point, we continue to believe that the wage should be restored to its historic value (*i.e.* 50 percent of the average industrial wage) so that a full-time minimum wage worker can at least support a small family and not be consigned to poverty.

Norton/Linder go on to argue that "virtually all economists agree that raising the minimum wage will lead to at least some increased unemployment among low-paid workers." Riemer echoes this concern. The difficulty with this assertion is that most economists do *not* agree with this proposition. In fact, the economists responsible for the seven studies Riemer cites *all* concluded that the reason for the