Minimum Wage Guards Against Greed

Marc Linder

Larry Norton

© 1988 Marc Linder


Hosted by Iowa Research Online. For more information please contact: lib-ir@uiowa.edu.
The question for debate should center around the real purposes of the minimum wage.

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 (the federal minimum-wage law) was to outlaw extreme forms of exploitation of workers whose experience had shown incapable of resisting such conditions. The historic starting point of minimum-wage legislation in Great Britain and in the various states including Pennsylvania 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 teen-agers (and non-white) form the vast majority of minimum-wage workers. In Pennsylvania, these minimum-wage workers include non-union garment workers, nursing home workers, janitors, sales clerks and gas-station attendants.

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 regulatory legislation to prevent 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, underlies early minimum-wage measures was recognized by such a profound conservative as former President and Chief Justice of the Supreme Court William Taft, who wrote in the 1920s that:

"Legislatures, in limiting freedom to determine both employees and employers by a minimum-wage law, proceed on the assumption that employers ask the slave race to live on, upon a full level of equality, of choice with their employer, and in their accommodation and they promise 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 sweated 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 is to increase 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 1847:

"It is the chiselers, 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 over-whelming majority of our American businessmen to compete on a decent basis. These are the men we should keep in mind in voting on the bill."

By requiring the "chiseler" to pay a minimum wage to his workers, Congress was able to protect certain "Palestinian" workers from unfair competition and at the same time to ensure that private wage costs reflect total social costs of labor equality among firms and industries. Thus, the chiseler would not be able to subsidize his insufficiencies by grossly decreasing wages to the detriment of his employees, his competitors and society in general, which would have to make up for his exploitative practices.

While the federal and state minimum-wage laws are designed primarily to undermine the viability of wage-cutting industries, their salutary purposes have also achieved where entire industries maintain themselves "out of labor market failure" resulting from an

The usefulness of the minimum wage in promoting these anti-exploitative measures has not diminished since the 1930s. How 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 ineffectiveness 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 in the detriment of both employees and responsible employers alike.

Mark Linder and Larry Norton are Legal Services attorneys in Texas and Pennsylvania respectively.

Pittsburgh Post-Gazette: Monday, July 11, 1988

PERSPECTIVES

MARC LINDER and LARRY NORTON

Minimum wage guards against greed

In Pennsylvania, opponents of an increase in the state minimum wage also argue that increases would intrude into the labor marketplace. In point of fact, however, whether the minimum wage is an optimal anti-poverty measure should not be the question for debate. The question for debate should center around the real purposes of the minimum wage. An examination of these real purposes demonstrates why opposition based on market intrusiveness has no merit.

The minimum-wage law was designed to intervene in the marketplace, not in order to provide social benefits at the expense of a properly functioning market, 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 proponents and opponents has followed this pattern. Given the undisputed fact that the minimum wage has declined in terms of purchasing power as well as in relation to average wages, proponents 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.

Opponents respond by offering similarly unsubstantiated 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, opponents argue that an anti-poverty measure to restore the statutory minimum wage is inefficiently over-inclusive and under-inclusive. It aids more non-poor 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, teen-age workers, opponents say that the costs may outweigh the benefits.

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

1. To help those workers whose wages have been determined by a few Fords subject to "market failure."

2. To help 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 uncompetitive employers."