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The Morality of Current Minimum Wage Laws in the Clothing and Textile Industry in South Africa Today

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Abstract

In this research report I question whether the minimum wage laws as applied in the clothing and textile industry in South Africa today are morally justified.

In answering the question, I examine the moral justification for minimum wage laws in general, namely the alleviation of poverty and the prevention of exploitation. I argue that in order for minimum wage laws in general to be morally justified they must meet certain criteria. I identify and discuss five criteria. I then apply these criteria to the minimum wage laws in the clothing and textile industry is South Africa. I argue that the laws do not meet these criteria fully and that they need to be amended in order for them to be morally justified. I then make some recommendations as to how they could be amended.

Declaration

I declare that this research report is my own unaided work. It is submitted for the degree of Master of Arts, Applied Ethics for Professionals, in the University of the Witwatersrand, Johannesburg. It has not been submitted before for any other degree or examination in any other university.

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Rosalind Stephenson

14th day of May, 2012

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Morality, like art, means drawing a line someplace

~ Oscar Wilde

It is well to give when asked, but it better to give unasked, through understanding.

~ Kahlil Gibran

Table of Contents

1 Introduction 1
1.1 Overview 3
1.2 Nature of the Study 5

2 Minimum wage debates 6
2.1 Economists' Views 6
2.2 Ethicists' Views 10
2.3 Evaluation 13

3 In principle, what general conditions are required for morally justified minimum wage laws? 14
3.1 Criterion 1: Achievement of the Aims of Reducing Poverty and Preventing Exploitation 19
3.2 Criterion 2: Responding Appropriately to Context 22
3.3 Criterion 3: Fair representation 24
3.4 Criterion 4: Elasticity 26
3.5 Criterion 5: Alternative avenues 28
3.6 Summary of criteria 29

4 South Africa and the clothing and textile industry 30
4.1 Criterion 1: Achievement of the Aims of Reducing Poverty and Preventing Exploitation 33
4.2 Criterion 2: Responding Appropriately to Context 34
4.3 Criterion 3: Fair representation 35
4.4 Criterion 4: Elasticity 36
4.5 Criterion 5: Alternative avenues 37

5 Recommendations 38
5.1 Criterion 1: Achievement of the Aims of Reducing Poverty and Preventing Exploitation 39
5.2 Criterion 2: Responding Appropriately to Context 40
5.3 Criterion 3: Fair representation 41
5.4 Criterion 4: Elasticity 42
5.5 Criterion 5: Alternative avenues 43

6 Conclusion 44

1 INTRODUCTION

The ethics and economics of minimum wage laws are much debated around the world. Economists, social scientists, politicians, media commentators and the person on the street all seem to have an opinion on minimum wage and whether it is justified or not. These opinions are varied, as are the contexts within which these laws are applied as well as the justifications for them. However, the common thread is that these views are usually passionately held. This is a topic about which many people feel very strongly.

Minimum wage laws are in place in many countries around the world. They have been in place for decades for some and over a century for others. They clearly enjoy widespread acceptance and support. Yet there are many voices in opposition to minimum wage laws: voices which not only question their efficacy, but suggest that not only are they ineffective in achieving the social goods which they are supposed to achieve, but that they exacerbate the social ills they are supposed to combat.

Minimum wage was instituted as an economic means to a morally desirable end. The two major justifications for minimum wage laws are: firstly, to prevent exploitation of workers, especially those who are considered to be most at risk – the unskilled, poorly educated, poor or poverty stricken; and secondly, to promote the alleviation of poverty. Social goods and ideals are the goal or end of minimum wage laws, but the vehicle is economic and therefore the economic impact of minimum wage laws must be taken into account when considering whether such laws are morally justified. Economists evaluate their economic

impact and consequences, and social commentators, ethicists and the like rely on these empirical evaluations to justify their positions on minimum wage.

Minimum wage has come under intense scrutiny in South Africa in recent years. Current South African legislation mandates a minimum wage in all industries. The level at which this is set differs by industry, and is not always set by the State, but sometimes by identified stakeholders such as Bargaining Councils. Given that the current unemployment rate (of those actively seeking employment) in this country is 25.7% (Statistics South Africa 2011), and that between 10 million and 15 million people live in areas "characterised by extreme poverty and underdevelopment" (Statistics South Africa 2011), many commentators question whether minimum wage provisions actually promote social goods and economic justice. A case in point is the clothing and textile industry in South Africa today. This industry is under great strain at the moment. Businesses are unable to compete with production prices and costs from other countries such as China and India. The labour costs in this industry in South Africa are currently almost three times higher than those in China (Global Labour Costs 2008). There have been a large number of factory closures and job losses since April 2011 due to the enforcement of minimum wage (amongst other labour related costs and requirements), which have rendered the businesses unable to compete with market prices. As Jana Marais noted in a *Business Times* article on 25 June 2011, over 4 600 jobs have been lost in just a few months. This industry is largely based in and around Newcastle in KwaZulu-Natal and the Western Cape. The focus of this paper is on the industry in and around Newcastle, which is one of the primary sources of employment for the people of that rural area.

As the current situation in the clothing and textile industry in South Africa illustrates very clearly how minimum wage could be shown to contribute to increased unemployment and poverty in South Africa, my intention in this report is to question whether the way in which the minimum wage laws are applied in that industry are morally justifiable. I will argue that the oft accepted and reasonable justifications for minimum wage, namely protection of workers from exploitation and contribution to poverty reduction, simply cannot be said to have been achieved when the minimum wage is set at a level that renders a particular industry so globally uncompetitive that it results in significant job losses and the closure of businesses. I do not intend to argue that minimum wage is never morally justified – in fact, I will make a case that it very often is. The claim I will defend is that the minimum wage in the clothing and textile industry in South Africa is being set at a level that makes the industry unsustainable, leads to increased levels of unemployment and poverty, and, therefore, cannot be morally justified.

1.1 Overview

I examine the debate around minimum wage in existing literature in chapter 2, highlighting the ethical issues that arise. Given the conflicting views and evidence on minimum wage and its effects, I argue that it is not possible to generically answer the question of whether minimum wage laws are just. We need to evaluate specific applications and contexts. What the debate highlights is that there are some contexts in which minimum wage laws successfully promote social goods and economic justice, and others in which they do not. Since the social consequences of minimum wage laws vary according to context, it is necessary to consider the specific nature of individual cases in order to establish whether the application of these laws is morally justified.

In order to be able to morally evaluate the application of minimum wage laws in specific situations, such as the clothing and textile industry in South Africa, I first need to identify general criteria by which such an evaluation can be made. Thus, in chapter 3 I theoretically consider under what conditions minimum wage laws would (ever) be justified. In brief, I claim that such laws are morally justifiable to the extent that they achieve the social goods they are supposed to, without causing other or worse social ills. Since there are few who would not support the fundamental aims of a minimum wage, I take it that if these social goods are achieved in a particular context by means of such laws, they are justified. I therefore propose, as my first criterion for morally justified minimum wage provisions that they should help to prevent exploitation of workers, without causing other social harms (e.g. increased unemployment and poverty) and that they should contribute to poverty alleviation. In addition to this fundamental criterion I propose four others: firstly, that minimum wage laws must be applied in a way that appropriately addresses the specific constraints of the context in which they are applied; secondly, that the level at which the minimum wage is set must be negotiated by a body that is representative of the relevant interested and affected parties; thirdly, that the application of these laws is sufficiently flexible to take account of changing circumstances; and finally, that where a decent wage is not economically viable, other avenues be explored to support businesses in order to ensure that workers are not exploited.

In chapter 4, I turn my attention to the clothing and textile industry in South Africa today, highlighting the morally relevant characteristics of this specific situation, and evaluating the minimum wage laws as they are currently applied to this industry against the criteria I

identify in chapter 3. I argue that when evaluated against these criteria, the current minimum wage laws are not morally justifiable. Finally, in Chapter 5 I make recommendations as to how minimum wage could be applied in the clothing and textile industry in South Africa in a way that would render them morally justifiable.

1.2 Nature of the Study

As a Research Report in Applied Ethics this study does not involve any new empirical research, but constitutes an extended normative argument in the form of a critical essay. Drawing on existing literature, including empirical studies, where applicable, I seek to answer the question of the extent to which current minimum wage laws in the clothing and textile industry in South Africa today are morally justified. My primary contribution to the field is to offer a principled basis upon which to evaluate minimum wage laws and their implementation, and to apply my evaluative criteria to the specific case of the clothing and textile industry in South Africa.

Given the high levels of poverty and unemployment in South Africa, the question I address is clearly an important one. Whilst I do not claim that my approach to this question constitutes a completely novel contribution to the debate, I believe that by identifying criteria by which to evaluate minimum wage provisions, I will have made a worthwhile contribution to the on-going discussion about minimum wage, by providing a principled basis upon which the application of such laws can be morally adjudicated in specific contexts.

2 MINIMUM WAGE DEBATES

I now consider the existing literature on minimum wage and the debate about whether or not minimum wage achieves what its supporters say it does or whether it contributes to unemployment and thereby does the opposite of what it is intended to achieve.

There are many contrasting views on minimum wage laws. Even a basic review of the economic and philosophical literature reveals major disagreements on this topic. There are those for and against and somewhere in between on both the economic and philosophical fronts. Those who argue that minimum wage has a negative impact on employment in developing economies include Katherine Terrell and Rita Almeida for the World Bank (Terrell and Almeida 2008), Geeta Kingdon & John Knight (Kingdon and Knight 2005), Abhijit Banerjee, Sebastian Galiani, Jim Levinsohn, & Ingrid Woolard (Banerjee, Galiani and Woolard 2006 and Patricia Jones (Jones 1997). Taking the opposing position, those who are in favour of minimum wage, or at least do not think that there are the negative effects on employment that others do, include Sara Lemos (Lemos 2006), Catherine Saget (Saget 2001) and Jan Rutkowski (Rutkowski 2003).

2.1 Economists' Views

Minimum wage is an economic tool intended to achieve desirable social or moral ends. When we look at what the economists say the effect of minimum wage is on employment, economies and poverty, we are not overwhelmed with evidence in support of minimum wage. Opponents of minimum wage claim that it in fact *increases* unemployment in the very sectors it is meant to protect, and that it has a negative impact on industries and the

economy as a result of businesses closing down and reduced employment. The majority of the economic literature deals with this debate within the context of developed economies such the United States of America or Great Britain, however there is some which deals with developing economies, which is my focus as South Africa is a developing economy.

The majority of published economic literature argues that minimum wage laws have a negative impact on employment in developing economies. There are surprisingly few published studies by economists which refute these arguments. I say surprisingly, as the notion that minimum wage provisions are good for society has very strong support, as is evident in how entrenched minimum wage legislation is in South Africa and many other countries around the world, in both developing and developed economies. In countries such as Great Britain, Sweden or Switzerland where there are very well established social "safety nets" and therefore minimal poverty, the impact and social ill of unemployment does not seem to be terribly great or to outweigh the good of the prevention of exploitation of workers. However, in other countries where there is little if any social welfare and widespread poverty, the impact of unemployment is far greater and must be taken seriously.

However, there are at least some economists who believe that minimum wage can do what it is supposed to do in terms of reducing wage inequality, preventing exploitation and/or alleviating poverty in developing countries. Economist Catherine Saget (Saget 2001) researched and reviewed literature on over 20 developing countries. Saget holds that minimum wage "may bring positive results in poverty alleviation by improving the living

conditions of workers and their families while having no negative results in terms of employment" (Saget 2001, 2) with regards to countries in Latin America.

There are some economists who are proponents of minimum wage who support the idea that minimum wage laws should be looked at in context. They do not think that there are, or perhaps need to be, the negative effects on employment that others claim. Sara Lemos Lemos 2006) and Jan Rutkowski (Rutkowski 2003) are two notable examples.

Sara Lemos of the Economics Department of the University of Leicester found that there was a negligible negative impact on employment from minimum wage increases in Brazil, but holds that this is probably due to non-compliance rather than non-coverage (Lemos 2006, 21). This means that the problem lies with enforcement of and compliance with minimum wage laws, rather than a problem with the laws themselves. Lemos concludes her paper by saying that while "minimum wage could be an effective policy tool in the fight against poverty and inequality without destroying too many jobs in Brazil" (Lemos 2006, 22), due to a number of policy implications such as hidden fiscal costs of informal employment and the possible adverse effects of minimum wage hikes on public deficits, Lemos "advocate[s] that more research is needed in this area before the minimum wage can be more convincingly justified as a poverty alleviation policy" (Lemos 2006, 22).

Jan Rutkowski, a Lead Economist with the World Bank, says that minimum wage is "neither a curse, nor a cure" (Rutkowski 2003, 3). He believes that the impact (positive or negative) lies in the level that is set. The majority of his data comes from OECD (Organisation for Economic Co-Operation and Development) countries, but includes data

on developing countries where possible. In his review of the theory covering the two main labour market models, namely the competitive model and the monopsomy model, he finds that while the models diverge as to the predictions of the effects on employment of minimum wage, "[b]oth models predict that if the minimum wage is set above some threshold then employment losses will follow. In other words, it is beyond doubt that the minimum wage set at too high a level will cause employment reductions" (Rutkowski 2003, 3). It is critical that we realise that the question of minimum wage laws is not simply a "should we or shouldn't we" debate. A hugely significant factor which Rutkowski points out is the level at which the wage is set, should there be a minimum wage. Rutkowski also says that the elasticity of demand[1] for low-skilled workers is a critical factor. This means that if the demand is highly sensitive, an increase in the minimum wage will have a disproportionately negative effect on employment levels, and "the net welfare impact of the increase in minimum wage is negative" (Rutkowski 2003, 7). As the elasticity of demand is usually unknown, it cannot be used for poverty analysis. However, Rutkowski believes that it is still possible to apply the concept of elasticity of demand when analysing the possible effects of a minimum wage increase. He advocates a prudent minimum wage policy which is based on a set of dynamic principles, rather than setting the right minimum wage.

Those who argue that minimum wage has a negative impact on employment in developing countries include David Neumark and William Wascher (Neumark and Wascher 2007), William Maloney and Jairo Mendez (Maloney and Mendez 2004), and Patricia Jones (Jones 1997). Neumark and Wascher conducted a comprehensive review of the economic

[1] Elasticity of demand is the degree to which demand for a good or service varies with its price.

literature around the effects of minimum wage and state in conclusion that “we view the literature - when read broadly and critically - as largely solidifying the conventional view that minimum wages reduce employment among low-skilled workers.” (Neumark and Wascher 2007, 123). Maloney and Medez found that the impact of minimum wage increases on the probability of becoming unemployed in Latin America was statistically very significant. They reach the conclusion that “the minimum wage has impacts both in the higher reaches of the formal distribution and in the informal labour markets that magnify its distortionary effects beyond what was previously thought” (Maloney and Mendez 2004, 217). Jones approaches the impact of minimum wage in developing countries (focusing primarily on data from Ghana) by investigating the impact on both covered and uncovered sectors – formal and informal employment. She holds that the minimum wage policies implemented in Ghana not only had significant negative effects on formal sector employment (as per standard theory predictions), but that as informal sector employment rose in response, the wages fell, thereby affecting the income of those workers already at the lowest end of the wage differential.

2.2 Ethicists’ Views

Unsurprisingly, debate around minimum wage laws rages on between ethicists as well. Many ethicists’ views are influenced by or based on economic perspectives. Ronald Cordero, a philosopher with the University of Wisconsin, is at the extreme end of the spectrum of those in favour of a minimum wage. He argues in favour of a “moral right to good-life minimum wage” (Cordero 2000, 208). He acknowledges that the items on a “shopping list” for a good life minimum will vary from person to person, but he holds that

the “essential” items such as holidays, entertainment and savings which he lists are more or less common to all (Cordero 2000, 210). Cordero maintains that business people and entrepreneurs have always found ways to adjust to changing labour market conditions, such as the abolition of slavery, and still make a profit, even large fortunes. As such, he proposes raising the minimum wage significantly to a good-life level. While this may result in some who have plenty to have a little less, “[b]enevolent rational beings cannot endorse the attainment of the good life in ways that prevent others from attaining it and cannot, in consequence, condone the payment of wages below the good-life minimum” (Cordero 2000, 215). While Cordero advocates the right to a good-life minimum wage, he does not argue that everyone has a right to be employed. He does not specifically deal with the impact of unemployment on those who are unemployed in terms of attaining the good life, but does suggest that some of the benefits of paying a good-life minimum wage could include state and private savings from reduced assistance required for low-paid employees, increased tax revenues and consumer spending. He approaches the issue from the American context and issues of poverty, lack of social welfare resources, high unemployment etc faced by developing countries are not addressed. In fact, it rather seems that he regards minimum wage not as a means to an end, but as an end in itself.

18th century moral philosopher Adam Smith considered a subsistence or living wage in “An Inquiry into the Nature and Causes of the Wealth of Nations” (Smith 1904). Smith said this of a living or subsistence wage: “But what improves the circumstances of the greater part, can never be regarded as any inconveniency to the whole. No society can surely be flourishing and happy, of which the far greater part of the members are poor and miserable” (Smith 1904, 70). Smith was referring to “[s]ervants, labourers, and workmen of

different kinds" (Smith 1904, 70) when he spoke of "the greater part". While Smith advocated market regulation rather than legislation for achieving a minimum or living wage, according to David Plowman and Chris Perryer, a number of people have proposed that should Smith have found himself in different circumstances, such as with an established, inclusive, democratic government, he would have been in favour of minimum wage legislation (Plowman and Perryer 2010). Plowman and Perryer approach minimum wage from a substantive justice point of view and are in favour of a minimum wage, but hold "mandating minimum wages, though a necessary condition, is an insufficient one for realising a living wage" (Plowman and Perryer 2010, chap. 4), advocating that further government interventions are required.

John F Gaski offers qualified support for minimum wage provisions, differentiating between developed and developing countries. He claims that there should be no minimum wage in developed economies such as that of the USA where the market should determine wages, but that "in very poor countries with high unemployment and no social safety net, letting the market alone set wages may result in a race to the bottom with little respect for human dignity" (Gaski 2004, 218). He does not clarify this further or provide support for this view on poor countries, so it is difficult to evaluate in-depth.

Martin Wilkinson of the University of Auckland describes the two main views of the effects of minimum wage as being the "standard textbook view" and the "the new economics of the minimum wage" (Wilkinson 2004, 358). He says that, according to the first view, minimum wage has a negative effect on the employment of the worst off and is an ineffective poverty alleviation tool, while the second view is that minimum wage has little

effect on employment, but a similarly minimal effect on poverty. Wilksinson approaches the minimum wage issue from a consequentialist framework and disputes exploitation justifications for minimum wage, arguing that it is unclear that exploitation would arise in the absence of a minimum wage or that if it should arise, that such exploitation is unlikely to be morally significant when weighed against other moral considerations such as disemployment. A further contention of Wilkinson's is that even if there is significant or important exploitation, minimum wage may not be the apposite way of addressing it. "The conclusion is that, at worst, the minimum wage is a mistake and, at best, something to be half-hearted about." (Wilkinson 2004, 372). Wilkinson essentially says that regardless of which of the two main economic views one takes regarding minimum wage, there is little if any economic evidence to recommend minimum wage as a tool for addressing poverty and exploitation.

2.3 Evaluation

What is clear about the economic data and opinions is that they are mixed and there are no simple answers to the economic question of the effects of minimum wage and unemployment. Impact is contextual and varied and dependant on many conditions, parameters and circumstances, including the economy, political system, level of education and types of industries of a country, global competitors and the global economy. There are cases where minimum wage laws appear to help prevent the exploitation of workers and possibly even contribute to the reduction of poverty without a corresponding negative social or economic impact. Yet there are also very clear cases where the impact is

questionable at best and contributes to increased levels of unemployment and poverty (thereby defeating the aim of exploitation) at worst.

Prevention of exploitation of workers and poverty alleviation are undeniably social and moral goods and a blanket acceptance of them as such would not meet with much resistance. However, we must distinguish between the good and the tool for achieving it, between the means and the end. We need to move away from the idea that minimum wage is a moral end. If we accept that minimum wage is an economic tool or an economic means to a morally desirable end, it is imperative that we realise that a generic or "one size fits all" approach is not going to lead to efficacy or justice. In fact, it is more likely that such an approach will exacerbate the very injustices and social ills that it is trying to alleviate. Given the potential economic and social impact of minimum wage laws, there is a very clear argument for a contextual application and evaluation and against a generic application and evaluation of minimum wage laws.

3 IN PRINCIPLE, WHAT GENERAL CONDITIONS ARE REQUIRED FOR MORALLY JUSTIFIED MINIMUM WAGE LAWS?

I have argued above that applying minimum wage laws generically is not morally justified. I, therefore, now need to identify general criteria according to which the application of minimum wage laws would be ethical in different contexts. In doing so, the aim or aims of minimum wage laws must be examined first. Once these are clearly established and accepted, we can then attempt to determine how, or even if, they can be achieved by

these laws. As stated above, the primary objectives of minimum wage laws are generally held to be the prevention of exploitation of workers and the reduction of poverty.

There are very few opponents to the idea that alleviating poverty is a moral good. There are some who hold that this is a moral supererogation rather than a moral obligation, but this seems to be the extent of the debate. It seems difficult to argue against the idea that, as a matter of justice, we should institute programmes and policies that enable people to have a basic standard of living that allows for their health and well-being and that of their family, as enshrined in The Universal Declaration of Human Rights[2]. In recognising the intrinsic worth and dignity of our fellow human beings, we recognise our own. Humankind's progress and development over recorded history shows increasing concern and moral responsibility for the plight of others. Our government, like most governments around the world, holds that it is a moral obligation to alleviate poverty and have committed to doing so in South Africa. Given that it there is much general agreement that poverty alleviation is a moral good, I will, for the purposes of my argument in this report, assume that this is so, without further defence.

If we accept the aims of prevention of exploitation of workers and alleviation of poverty as social and moral goods, and if we accept that minimum wage is a possible means to achieve those goods, rather than as a moral good in and of itself, then we are more easily able to set criteria, principles and conditions under which minimum wage laws should be

[2] "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control." The Universal Declaration of Human Rights, Article 25(1), 1948

applied. We are not debating the moral goods, but only whether they are achieved and whether this is done in a morally acceptable way.

The first primary justification for minimum wage laws I shall discuss is the prevention of exploitation of workers. What is meant by prevention of exploitation in the context of minimum wage? The Oxford Dictionary provides the following definition of exploitation: "[*mass noun*] the action or fact of treating someone unfairly in order to benefit from their work" (Oxford Dictionary Online). The key word in that sentence is "unfairly". The very purpose of employment is for one person (or entity) to benefit from the work or endeavours of another. But this should be in fair exchange for monetary or other reward. While one party will often have an advantage over the other in terms of bargaining (or other) power, this should be within reason. By this we mean that usually the parties involved have some alternatives and so one party is unable to unilaterally impose conditions that are only to their own benefit. Slavery, indentured servitude and serfdom were all extreme examples of exploitation by employers of those who had no alternatives or recourse against them. Minimum wage is one of the labour laws that are used to protect the desperate, the disenfranchised and the disempowered from exploitation. Laws which regulate the conditions under which people may work, the amount of money they should be paid, the hours that they should work and the age at which they may begin work are all aimed at protecting those who may be unable to protect themselves. Unfortunately, while history may show our increased concern for the plight of others, it also shows that greed continues to exist and that there are many people who feel no qualms at exploiting others. These laws are aimed at making it more difficult for the greedy and opportunistic to do so.

Do minimum wage laws protect people from exploitation? The quick, surface answer is that they do. Leaving aside the unscrupulous for now, those who adhere to labour laws (for whatever reason) will pay the minimum wage if they are able to do so, even if they would not pay wages at that level in the absence of minimum wage laws. This means that, in this way at least, workers are not being exploited. They will receive a wage deemed to be fair for their labour. The problem comes in when we factor in unemployment as a result of or being impacted by minimum wage, or competition from economies without minimum wage. As formal sector employment declines, workers usually move to the informal sector in search of employment. Unfortunately the demand in or capacity of the informal sector does not necessarily keep pace with the influx. This can lead to even lower wages in the informal sector (Jones 1997, 12), with little or no recourse for those for whom any income is better than none. Minimum wage laws can lead to the very circumstances that they are supposed to prevent. People's desperation is what allows exploitation to flourish. There are many people for whom "something is better than nothing". When faced with a choice between no wage or a low wage, many will likely choose the low wage. There will always be somebody who is desperate enough to be willing to work for below minimum or decent wages, even significantly below, particularly in developing countries, where poverty levels tend to be high. Poverty is inextricably linked with exploitation. The greater the levels of poverty, the greater the general levels of desperation and the easier it is for large numbers of people to be exploited. Those without alternatives will choose something over nothing, no matter how meagre.

An additional unintended consequence is that as unemployment rises, so does the vulnerability of people to criminals and criminal enterprises and activities. These

consequences are particularly true in developing countries with large informal sectors and little or no social safety net. Faced with a choice between starvation and becoming involved with crime, it is likely that at least some people will choose crime.

The other primary justification for minimum wage is contribution to poverty alleviation. In robust economies with good infrastructure and services, unemployment and poverty tend to be low in comparison to developing countries, without the same infrastructure and basic standard of living. Poverty is not just about income and wage levels, it is about access to basic services. In most developing countries, many people have little or insufficient access to basic services such as adequate housing, running water, electricity or health, education and social services. As in the case of prevention of exploitation, this is where levels of employment play a critical role. High levels of unemployment are associated with high levels of poverty. Increases in unemployment in situations where there is little or no access to basic services (such as in rural areas) tend to lead to increases in poverty. Job creation and stimulation of the economy are generally agreed to be the most effective tools in alleviating poverty[3]. Minimum wage laws are supposed to help to stimulate the economy by increasing the income of those at the low end of the earning spectrum, thereby increasing their spend and decreasing their social welfare cost. If minimum wage laws lead to greater unemployment, while those earning a higher wage may be better off, those who are most vulnerable will become poorer as they are the ones most likely to be affected. Poverty in general will not be alleviated, but increased.

[3] This is assuming a low level of corruption. Corruption is not an issue I will be addressing in this paper.

So we can see that in cases where unemployment is negatively impacted, minimum wage does not actually prevent or decrease exploitation of workers and poverty, but can actually increase them. It increases the very problems it was meant to help to prevent. We therefore need to find ways of applying minimum wage laws that do not negatively impact on unemployment. If we do not, the moral justifications of the prevention of exploitation of workers and poverty alleviation fall away.

Against this backdrop I now seek to identify some criteria that can be used to evaluate how morally justified minimum wage laws are. What I aim to do is to propose a set of standards against which to judge the relative moral acceptability of minimum wage provisions in any context. I do not mean to suggest that these criteria constitute necessary or sufficient conditions under which minimum wage is morally justified. Rather, I suggest that the greater the extent to which these criteria are fulfilled, the more morally justified minimum wage provisions are likely to be.

3.1 Criterion 1: Achievement of the Aims of Reducing Poverty and Preventing Exploitation

Based on the above, I propose as my first criterion for evaluating the extent to which minimum wage laws are morally justifiable, that they ought to achieve, at least to an acceptable degree, the joint aims of reducing poverty and preventing exploitation. It is important to remember that minimum wage laws are a means to an end, not an end in themselves. Minimum wage laws are not morally justifiable merely by their aims. They are morally justifiable by the achievement of those aims. I have already argued above that most would support the claim that social institutions that seek to reduce both poverty and

exploitation are morally desirable, as a matter of justice. Consequentialists would likely agree that such institutions would promote the greatest good for the greatest number. Kantians would likely also agree on the grounds that exploitation is a classic example of treating persons as mere means, and that the debilitating limitations on individuals achieving self-directed autonomous lives entailed by poverty constitute a moral wrong. It is likely that many of those in the contractarian tradition would also propose that the parties to a social contract would likely agree to institutions and practices that seek to reduce both poverty and exploitation. For instance, John Rawls's principle that inequalities in society are only justifiable to the extent that they improve the conditions of the least advantaged (Rawls 1971, 62 - 83) seems to provide basic grounds for supporting the dual aims of poverty reduction and prevention of exploitation[4], Virtue ethicists would also likely defend these social aims on the grounds that human flourishing would be promoted by their attainment. I thus reiterate my claim that there would be few who would disagree that these are morally desirable goals for a just society.

However, just as noble intentions do not guarantee the moral rightness of acts, morally desirable goals do not justify social institutions. It could be argued, for instance, that the goals of prohibition in the United States in the 1920s were morally worthy (the prevention

[4] In *A Theory of Justice*, Rawls proposes two principles for "justice as fairness": "First: each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others. Second: social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone's advantage, and (b) attached to positions and offices open to all".(p 12). In discussing inequalities, Rawls introduces the difference principle, which states that "the higher expectations of those better situated are just if and only if they work as part of a scheme which improves the expectations of the least advantaged members of society" (p 75). Rawls maintains that the best arrangement would be one in which the higher expectations of those more advantaged *maximizes* the expectations of the least advantaged. However, a scheme may still be just if the expectations of the least advantaged are at *improved* by the higher expectations of the more advantaged (pp 78-79).

of the many social ills and individual harms caused by alcohol consumption), and yet it has been shown that the policy resulted in far worse social ills, including the breakdown of the rule of law and the proliferation of organized crime. If anything ought to be evaluated in terms of consequences, social institutions or policies aimed at socio-economic improvements must surely qualify. Regardless of the intentions behind their implementation, if minimum wage laws do not in fact contribute to the alleviation of poverty and the prevention of exploitation, they cannot be morally justified.

I have deliberately claimed that these laws should contribute to the reduction of poverty and prevention of exploitation, rather than that they should ensure the attainment of these goals. Socio-economic goods, by their very nature, can only be things towards which society can strive, rather than hope to fully achieve. In the realm of human rights it is generally acknowledged that socio-economic rights, such as the right to sanitation, potable water and nutrition (often referred to as second generation rights) cannot be fully guaranteed, especially in contexts of limited resources. Consequently, the principle of "progressive attainment" is often applied to these rights. International conventions do not expect that individual countries should ensure the absolute attainment of these rights (Fagan 2003). What is expected, rather, is that countries should be working towards improving the extent to which these rights are enjoyed by their populations over time. In a similar way, I do not claim that the joint social goods of poverty alleviation and non-exploitation should be fully attained for minimum wage provisions to be morally justified. My claim is a relative one: minimum wage should ensure that more rather than less of these goods are achieved, in order for the laws to be justified.

The joint aims of reducing poverty and preventing exploitation must be balanced. What could be a means for achieving one of these social goods may well lead to the exacerbation of the other social ill. One of the main objections to minimum wage laws is that when the level is set too high, it leads to job losses and higher unemployment and poverty levels. A possible solution would be to keep minimum wage laws, but reduce the minimum wage levels, so as to minimise the impact on employment and related poverty levels. On its own, this seems a logical, reasonable, practical and morally justifiable motivation for reducing wage levels. The problem that is linked to this is that it could have a negative impact on the other main objective of minimum wage laws, the prevention of exploitation. As wage levels are reduced the possibility and even probability of exploitation increases.

Identifying the point at which minimum wage levels are low enough to reduce some poverty (or at least not to increase it) and yet high enough to prevent exploitation of workers (or at least reduce the exploitation) will not be a simple process. Research, application and testing of theories and the willingness to respond and change to results will be required. However, this must at least be attempted if the moral justifications for minimum wage laws are to hold any water.

3.2 Criterion 2: Responding Appropriately to Context

Morally justifiable minimum wage laws must take industry specific constraints into account, as well as address local, national and international economic realities, and social factors, such as the interests of vulnerable groups.

Many countries with minimum wage laws allow for differences in sector, region or industry, although there is usually a national minimum below which none may drop. This is to allow for differences in cost and profitability. What one industry or region may be able to support may be too costly for another. The economic research and data discussed above reflects that minimum wage laws have varying effects on employment, economies and sectors. The impact of these laws can be positive or negative. Consequences vary across economies, countries and sectors. We can thus see that the context in which minimum wage laws are applied has a major impact on their effect. Thus, my second criterion is that the specific context in which minimum wage laws are applied must be appropriately responded to. Minimum wage laws need to be structured in such a way that various factors can be taken into account when setting minimum wage levels. This means that it is necessary that regional and other differences, various economic realities as well as social factors such as the interests of particularly vulnerable groups be considered when setting minimum wage levels.

The local and global context of different industries and regions must be taken into account. As discussed above, a “one size fits all” approach rarely works. In situations where an industry is struggling to compete against foreign competition, minimum wage levels may need to be set lower in order to keep the industry alive. This is usually one of only a few costs which can be changed. Foreign exchange rates, oil and fuel prices which affect transport and the labour costs of other countries are beyond the control of industries, regions and sectors.

The joint aims of reducing poverty and preventing the exploitation of workers must always be kept in mind. In a context of high unemployment with little or no social safety net, minimum wages need to be set realistically. If the unemployed in a particular region or industry are almost (or completely) solely dependent on having an income in order to survive, maintaining or increasing levels of employment must be a priority. In balancing social ills and the promotion of social goods, one cannot morally justify a social good such as prevention of exploitation at the cost of survival.

It follows that in a context in which there are extremely vulnerable groups (such as youth), more creative measures ought to be considered. Many countries, including America and Switzerland, take age into account when setting minimum wage levels. They set the minimum wage for the youth at a lower level than for older workers. This is to allow for people with little or no work experience to enter employment when they might otherwise be excluded as more experienced workers would carry the same cost for the employer.

3.3 Criterion 3: Fair representation

The level at which a minimum wage is set for a particular industry in a particular context is morally justified only if it is negotiated fairly by a body that is representative of the relevant interested and affected parties. This is my third criterion.

In the majority of countries which have minimum wage laws the level or levels are set by the state. However, some do allow collective agreements to set the minimum wage for particular industries or sectors. This means that the minimum wage (amongst other

working conditions and benefits) is set by the Bargaining Council or other designated body, not by the state. These Bargaining Councils or other bodies are comprised of unions and employers where they have representation. Employees who do not belong to the applicable union/s do not get to vote on union activities or decisions, yet they are bound by them. Likewise, employers whose staff are not union members have no representation at the bargaining table. While employees and employers who are governed by sectoral determinations (state determined) or national minimum wages cannot directly negotiate the minimum wage with the state, they can vote for the party who they feel will best represent their interests. In this way they do have some say or representation in the determining of the minimum wage laws and levels of their country or sector.

It seems that when creating contracts, which Bargaining Council agreements are, in order for them to meet the principles of justice and fairness, a basic requirement is that all parties should agree to them. When there is no representation, as in the cases mentioned above, it is unclear how all the parties bound by the contract can consent to the terms and conditions contained therein. It would seem that similar principles would apply to national or state determined wage levels and laws, that the parties bound by them do not have input into them. While it would seem that abiding by the laws of the land is part of being a citizen of that country and that should one disagree with some of the laws or statutes, one could petition the state, vote for a different political party or any number of other options available to citizens (of course these would vary from country to country), it does not seem realistic to expect people to change their voting patterns based on one single issue, such as the level of the minimum wage. Voters consider multiple issues and loyalties when electing officials and parties and while some may be more heavily weighted than others, it

is nigh impossible to unbundle them. It would seem that the agreements created with regards to minimum wage levels should only apply to those with representation, those who can consent to or reject terms and conditions. Workers and employees alike are unfairly treated when they have no representation. Surely this goes against the spirit of minimum wage laws? Minimum wage laws are supposed to protect workers while still being fair to the interests of the employer and business. Rawlsians would likely argue that minimum wage agreements that bind those who are unable to consent or object to them are unlikely to be chosen from behind a veil of ignorance and therefore do not meet the requirements for justice. Without fair representation, Bargaining Council agreements cannot be fair.

3.4 Criterion 4: Elasticity

The fourth criterion for morally justifiable minimum wage laws, that I propose, is that they need to be sufficiently flexible or elastic. Economies, markets and industries are not static. Minimum wage is an economic means, not an end, therefore the processes governing the means or the tool must be able to accommodate changes in economic circumstances. For example, should labour costs be so high as to render an industry unable to compete against foreign competitors, then the minimum wage should be reviewed and lowered if necessary in order to save the industry, rather than allowing it to fail. This links back to the first criterion, namely, that the aims must be achieved by the means and to the second criterion, that these aims should be achieved whilst appropriately addressing the specific context in which they are applied. The third critrerion is also relevant in that if minimum wage levels are state mandated, those who are unhappy with the levels set would have to

wait up to 4 years for the next election in order to elect new representatives or officials who may have a different approach to minimum wage policies.

Exploitation of workers can be prevented and poverty can be alleviated by minimum wage, but there is a tipping point after which they are increased by it. The processes governing minimum wage levels must allow for changes up and down in order to ensure that the tipping point is not reached, or if it is, that it can be rectified. Minimum wage laws are only morally justified if they are established by processes flexible enough to respond to changing circumstances timeously and effectively. This means that minimum wage, poverty and employment levels should be reviewed on a regular basis. However, the processes should be such that they allow for review of minimum wage levels at times other than those set out for regular review. There should be an allowance for reviewing the impact of global and local crises, as and when they arise, including taking pre-emptive measures based on the possible or probable impact of these crises. The consequences and impact of the crises in the banking sector in the last few years have demonstrated how an event in one country can have global consequences which extend far beyond the original sector. We have learned that no country or industry is an island and the processes governing minimum wage laws and levels must be sufficiently flexible to adapt to changing circumstances and minimise the impact on workers and employers alike. Indeed, Australia demonstrated this by freezing their minimum wage levels in 2010. “This decision reflected the economic imperatives placed upon AFPC [Australian Fair Pay Commission] which noted its decision was intended to 'to protect jobs and to support a stronger recovery in employment as the economy picked up” (Plowman and Perryer 2010, chap. 4).

3.5 Criterion 5: Alternative avenues

The fifth criterion I propose for a morally justifiable minimum wage is that where circumstances are such that a minimally acceptable wage (i.e. one that cannot be said to be exploitative) is not economically viable for the industry concerned, other avenues should be explored that might assist the industry to avoid job losses whilst still providing a minimally acceptable wage. This should be a transparent process.

The purposes of minimum wage laws must always be kept in mind: the reduction of poverty and the prevention of exploitation of workers. When and if an industry or region reaches the point where a non-exploitative minimum wage is not economically viable, alternatives to unsustainable minimum wage levels which seek to reduce poverty and prevent exploitation must be explored. In countries with low unemployment and good social welfare systems, this could be less challenging. Job losses, even on a relatively large scale, while undesirable, may only have a marginal impact on poverty levels.

However, this is not the case for many countries. Many countries have high unemployment rates (particularly in the last few years due to the global recession) and insufficient social welfare to compensate. State subsidies which would “top up” minimum wage levels are a possible alternative to allowing an industry or region to fail. These could possibly be funded by higher import duties and taxes for foreign competitors or from local tax revenue. It is important this process be transparent so as to ensure that it is robustly applied.

These alternatives or bail outs would need to be carefully considered. The goal should be the prevention of exploitation and alleviation (or at least not the increase) of poverty. Bail

outs such as those received by some of the banks which caused the global recession are morally questionable at best. Executives still received enormous bonuses and workers were retrenched on a massive scale. While many more jobs may have been lost if bail outs had not been granted, it seems that the intention of such bail outs would be to save as many jobs as possible and not to disproportionately reward a few, who arguably do not need the bonuses to survive. Should such subsidies be considered, the terms and conditions would need to be stringent and tightly regulated in order to avoid repeats of such instances.

This being said, the search for and application of creative alternatives to massive job losses within an industry or region or even the death of an industry must take place in order to maintain a non-exploitative minimum wage. Morally justifiable minimum wage laws need to make provision for such instances.

3.6 Summary of criteria

So the five criteria which have been identified as necessary for a morally justifiable minimum wage are:

1. Minimum wage laws are morally justified to the extent that they actually achieve the joint purposes of preventing exploitation and reducing poverty.
2. Minimum wage laws are morally justified to the extent that they achieve these purposes whilst appropriately addressing the specific context in which they are applied. This necessarily includes taking the constraints of the specific industry into

account, as well as addressing local, national and international economic realities, and social factors, such as the interests of particularly vulnerable groups.

3. The level at which a minimum wage is set for a particular industry in a particular context is morally justified only if it is negotiated fairly by a body that is representative of the relevant interested and affected parties.
4. Minimum wage laws are only morally justified if they are established by processes flexible enough to respond to changing circumstances timeously and effectively.
5. Where circumstances are such that a minimally acceptable wage (i.e. one that cannot be said to be exploitative) is not economically viable for the industry concerned, other avenues should be explored that might assist the industry to avoid job losses whilst still providing a minimally acceptable wage. This should be a transparent process.

The extent to which these criteria are met would determine the extent to which the minimum wage law would be morally justifiable as it would be achieving its aims and would not be creating other or greater social ills.

4 SOUTH AFRICA AND THE CLOTHING AND TEXTILE INDUSTRY

Having established a set of criteria which would need to be fulfilled in order for minimum wage to be morally justifiable, I shall now apply my theory to a specific situation: the textile industry situated in and around the small town of Newcastle in KwaZulu-Natal. I have argued that minimum wage laws have historically and currently been justified on two main

grounds: the prevention of exploitation of workers and the alleviation of poverty. There is a concern or belief that those who are most vulnerable to exploitation, those who are poorly educated, unskilled, poor or poverty stricken, would be driven by desperation to work for whatever wages are on offer, no matter how low. The second justification is the eradication of poverty, which is a social ill, and minimum wage is a means to this end. Minimum wage laws are seen to be a viable means of achieving these ends, at least partly due to the belief that wages that are below certain levels could be increased and allow businesses to remain economically viable. This is no doubt true in some cases. There are many business managers or owners who prioritise profitability over paying a wage which will enable their employees to achieve a basic standard of living. However, there are many others who would pay higher wages if they were able to do so and remain in business. For many, this is just not financially viable.

I turn now to the impact of minimum wage laws on the clothing and textile industry in South Africa. In considering this industry, we must also look at the larger South African context within which it is situated.

South Africa does not have the kind of welfare system of some more developed countries such as Britain, Sweden, Switzerland, etc. According to Stats SA, between 10 million and 15 million people in South Africa live in areas “characterised by extreme poverty and underdevelopment” (Statistics SA 2011). This means that millions of South Africans live without proper housing, without access to running water, electricity, sanitation or health care. What Cordero considers to be a good-life minimum (Cordero 2000, 207-231) is wildly out of reach for the majority of South Africans at this time. Holidays and savings are

unattainable luxuries. Food, shelter, clothing, these are the goals which must be met before entertainment, holidays and savings can even be considered.

The current unemployment rate amongst those actively seeking work in South Africa is 25.7%, which is more than 4,5 million people. The number of unemployed people in South Africa increased by 137 000 year-on-year for the 2nd quarter 2010-2011. However, this number excludes discouraged work-seekers, whose numbers have increased by 269 000 to 2,2 million in the same period[5]. 71 000 job losses occurred in the manufacturing sector between the first and second quarters of 2011 (Statistics SA 2011). According to the Centre for Development and Enterprise, in order for South Africa to achieve "[an] employment rate of 60 per cent – roughly the global norm – would require 19 million jobs, nearly 50 per cent more than the 13 million formal and informal jobs that exist today" (Centre for Development and Enterprise 2011).

While there are many factors other than wages which influence whether or not factories and businesses can run profitably, many are beyond the control of individual business owners and the industry as a whole. Business owners cannot influence or impact factors such as the relative strength of the rand, cheaper labour and manufacturing costs in other countries. Various labour issues faced across the country such as the cost of strikes, absenteeism, reduced productivity are too large for any one sector to effectively address on its own. According to Ferdie Alberts of Newcastle Municipality's economic development unit, labour is the single most significant cost in the clothing and textile industry, reported

[5] Discouraged work-seekers are those unemployed persons who were previously actively seeking work but who have ceased to do so (presumed to be due to a lack of success)

Stephen Coan in an article in *The Witness* on 1 June 2011 (Coan 2011(a)). It is cheaper for retailers to buy from other developing countries with large, unskilled labour forces similar to South Africa but without the same minimum wage requirements. The manufacturing labour costs in China are less than 40% of those in South Africa and the costs in Indonesia are only 18% of the South African labour costs (Global Labour Costs 2008). Even the costs of importing the goods do not outweigh the lower prices. Our clothing and textile industry has been rendered unable to compete globally and even to supply the local market by our minimum wage laws. Despite their best efforts, many factories have been forced to shut their doors as they cannot comply with minimum wage levels and run profitably. This has resulted in the loss of thousands of jobs in a very short space of time, with more set to follow.

I will now evaluate the minimum wage laws in the clothing and textile industry in South Africa against the five criteria postulated above for a morally justifiable minimum wage.

4.1 Criterion 1: Achievement of the Aims of Reducing Poverty and Preventing Exploitation

The first criterion stipulates that minimum wage laws must achieve the aims of prevention of exploitation and poverty reduction. Economic research indicates that there is a correlation between minimum wage and unemployment in certain sectors of our economy, and in the clothing and textile industry in particular. Almost 5 000 jobs were lost in the clothing and textile industry in the last year, due in large part to the enforcement of minimum wage laws (Coan 2011(b)). Increased unemployment in a country such as South Africa with few social welfare resources could have devastating consequences for those most vulnerable members of society. Increased exploitation, as workers are more

desperate for work and income, and increased poverty are likely outcomes. It is clear that given that increased unemployment in the South African context in general and the clothing and textile industry in particular is likely to lead to increased exploitation of workers and increased poverty, then the current minimum wage laws in South Africa fail to meet the first criterion.

4.2 Criterion 2: Responding Appropriately to Context

This criterion requires taking the constraints of the specific industry into account, as well as addressing local, national and international economic realities, and social factors, such as the interests of particularly vulnerable groups. While certain differences are taken into account, many are not allowed for. Different minimum wage levels may be set for different industries, but regional differences are ignored. If an industry is located primarily in one region (such as the clothing and textile industry) then this is not a major factor or issue. However, if it is spread over different regions with different infrastructure and related costs this can be a major issue as not all regions will be able to support the same costs. State minimum wage laws and sectoral determinations in South Africa do not allow for a lower youth or entry level minimum wage. However, in the latter half of 2011, the South African Clothing and Textile Workers Union (SACTWU) agreed to cut wages for entry level jobs by 30%. They believe that this will create an additional 5 000 jobs in the sector by March 2014. If this does not happen, then the agreement will fall away. Thus the union recognised that the previous minimum wage agreement was unsustainable. Recognition and accommodation of particularly vulnerable groups such as the youth or disabled as well as regional and other differences needs to be built into basic minimum wage laws in South

Africa if they are to fully meet the second criterion. South Africa's current minimum wage laws partly meet the second criterion for a morally justifiable minimum wage.

4.3 Criterion 3: Fair representation

The third criterion requires that minimum wage laws or levels be negotiated fairly by a body that is representative of the relevant interested and affected parties. South Africa is one of a handful of countries which allow Bargaining Council agreements to be extended to an entire industry or sector, of which the clothing and textile industry is one. There is no national minimum wage in South Africa, so these Bargaining Council agreements apply to all employers and workers in that industry or sector, regardless of representation or lack thereof. As discussed above, this lack of representation is fundamentally unfair if people are to be bound by contractual terms and conditions. Another factor that needs to be taken into account is that there are trade unions in South Africa often have particular political agendas other than merely representing the interest of worker in specific industries. Unions played a major role in South Africa's political and employment history. For decades they were among the only organisations that black (African, Indian and coloured) people were allowed to join and actively participate in under the apartheid regime. As the majority of black people were unskilled or semi-skilled workers, they had no other bargaining power under apartheid than through the unions. These vulnerable workers did not have a political voice in the form of a vote or skills which were highly valued or sought after which would allow them to determine some of their working conditions, or even to leave the country. As a result, the unions represented the only power that the workers had, political or otherwise. Much of the struggle against apartheid was conducted via the unions. This has led to the

unions having great political power, which continues today. The unions in South Africa are powerful and strongly politicised, which sometimes brings into question their motives and agendas when forming Bargaining Council agreements. This is not to say that they do not represent the workers who are their members, but it does seem that there is often more at play than a “simple” setting of wage levels and working conditions. When there is a situation of such strong political motives in union negotiations, it seems to worsen an already unfair situation of no representation. In a democratic country such as South Africa, it would seem that political organisations should not be able to impose contracts and agreements on those who cannot accept or reject the terms and conditions of those agreements.

Therefore, South African minimum wage laws in general and those of the clothing and textile industry in particular do not meet the third criterion.

4.4 Criterion 4: Elasticity

The fourth criterion says that minimum wage laws are only morally justified if they are established by processes flexible enough to respond to changing circumstances timeously and effectively. The minimum wage laws in South Africa do not encourage elasticity or flexibility on response to changing economic and market conditions. While it is theoretically possible for wage levels to decrease, this has not happened. Periodic reviews and evaluations on the wage levels and their impact on employment, poverty, industries and/or the economy are not mandated. The processes by which minimum wage levels and laws are set must require timeous response and adaptation to changing circumstances. A theoretical possibility is insufficient to meet the fourth criterion.

4.5 Criterion 5: Alternative avenues

Where circumstances are such that a minimally acceptable wage (i.e. one that cannot be said to be exploitative) is not economically viable for the industry concerned, other avenues should be explored that might assist the industry to avoid job losses whilst still providing a minimally acceptable wage. Current South African minimum wage legislation does not require that other avenues should be explored that might assist an industry to avoid job losses whilst still providing a minimally acceptable wage where circumstances are such that a minimally acceptable wage is not economically viable for the industry concerned. It does not prevent the exploration of other avenues, but this means that alternative solutions to employment and wage issues will only be explored if the right politician/s feel(s) that this should be done. Suggestions can be made and options lobbied for, but there is nothing to compel the politician/s to consider or adopt them. A theoretical possibility does not mean that the criterion has been met. Merely allowing for other options to be explored is insufficient for the moral justification of minimum wage laws. The current minimum wage laws must be revised to include this criterion in order for them to be morally justifiable. We cannot rely on political whims to achieve moral ends.

I have argued that that South Africa and the clothing and textile industry meet some of the five criteria for a morally justifiable minimum wage. However, they do not meet all of them. In the following chapter, I shall make some suggestions as to how the industry (and others in South Africa) might be able to achieve the aims of prevention of exploitation of workers and poverty alleviation by meeting the other criteria for a morally justifiable minimum wage.

5 RECOMMENDATIONS

While the economics and the morality of the minimum wage have been debated, both for developed and for developing economies, from consequentialist and Kantian perspectives, there have been few alternatives offered to the “either/or” approach of minimum wage versus no minimum wage. However, in the latter half of 2011, the South African government and the clothing and textile industry unions and Bargaining Council have suggested and implemented some changes which indicate their recognition of the need to revise the current minimum wage agreements and laws.

One of the most pressing issues in countries with high levels of youth unemployment, such as South Africa, is that there are large numbers of youth who will never be formally employed in their lifetime as a result of the unemployment cycle. As youths leave school or tertiary education, they enter the job market. If there are high levels of unemployment, competition is fierce and usually only those with scarce skills, good connections or a good education manage to find work. Those who do not find work quickly soon find themselves competing with the next influx of youth. Eventually, they reach a stage where they effectively become unemployable as they have been in the market so long without work and it counts against them. Those who do not become entrepreneurs will have temporary low-level employment at best and live off welfare, their families or criminal activities at worst. A minimum wage which encourages youth or entry level employment by setting their wage at a lower level or allows it to be set at a lower level would help to address this problem.

The South African government has proposed a youth wage subsidy, the aim of which is to create 133 000 new and sustainable jobs over three years. The motivation for this is that the youth are amongst the worst affected by unemployment. Employers do not want to hire inexperienced staff members (in part because of the perceived difficulty in dismissing poor performers) at the high labour cost currently stipulated by minimum wage agreements. The government believes that if the labour cost is reduced, more youths will be employed. This supports the idea that minimum wage levels can contribute to unemployment and, in fact do contribute to them in South Africa.

As long as any changes to these minimum wage laws do not significantly increase the risk that workers will be exploited, and help to save jobs, such changes are morally justifiable, even morally obligatory. Comparing our current minimum wage laws to the criteria determined above will show us how they need to be adjusted in order to be morally justified.

5.1 Criterion 1: Achievement of the Aims of Reducing Poverty and Preventing Exploitation

Minimum wage laws are morally justified when they actually achieve the joint purposes of preventing exploitation and reducing poverty.

This is not always the case in South Africa. Factories and businesses in the clothing and textile industry, which are the one of the primary sources of employment for thousands of

people[6] and thereby a critical source of income for the thousands more they support in the Newcastle and surrounding areas, are having to close down as they are no longer financially viable. This is due in large part to the minimum wage laws which are being enforced. Failure to meet this criterion alone, is sufficient for us to say that the minimum wage laws as they are currently applied are not morally justified. Application of the other criteria, could help to change this.

5.2 Criterion 2: Responding Appropriately to Context

Minimum wage laws are morally justified to the extent that they achieve these purposes whilst appropriately addressing the specific context in which they are applied. This necessarily includes taking the constraints of the specific industry into account, as well as addressing local, national and international economic realities, and social factors, such as the interests of vulnerable groups.

Different industries do have different minimum wage agreements in South Africa, so that criteria is met, however, differences in region are not taken into account. Transport costs and differences in infrastructure can have a major impact on the financial performance of a business. A region cannot change so these are fixed costs. Minimum wage laws which do not allow for such differences could set wages at a level that are viable in one region but be too costly in another. This can lead to the closure of businesses in that region or simply cause them to relocate to other areas where either the costs related to manufacturing or doing business in that region are lower, as in the case of the clothing and textile industry in

[6] Approximately 22 000 people are employed in various manufacturing sectors in Newcastle, with approximately 7 000 of those being employed in the clothing and textile industry. Coan, S., "Newcastle, the Chinese and the clothing industry: Doomed?", *The Witness*, 02 June 2011

South Africa. Many businesses are closing down, while others are relocating to Lesotho, where the labour costs are so much lower, allowing them to be financially viable. The clothing and textile industry Bargaining Council has just introduced this in South Africa. However, this needs to be allowed for even if not necessarily applied in all sectors or industries with minimum wage agreements. The minimum wage laws in South Africa need to adjusted to incorporate this kind of allowance as well as others that acknowledge the impact of regional and other economic realities.

5.3 Criterion 3: Fair representation

The level at which a minimum wage is set for a particular industry in a particular context is morally justified only if it is negotiated fairly by a body that is representative of the relevant interested and affected parties..

Currently in South Africa, there is no national minimum wage, however, minimum wage agreements cover approximately 40% of the workforce. There are certain sectors which have the minimum wage level and other working conditions set by government. These are the sectors which government feels are the most vulnerable, namely the domestic work sector; contract cleaning, private security sector, wholesale and retail, farm worker sector, forestry sector, taxi sector, learnerships and children in the performance of advertising, artistic and cultural activities. These are known as sectoral determinations. Other minimum wage agreements are reached by Bargaining Councils or agreements reached at single employer level (with or without union participation). Sectoral determinations and agreements reached by Bargaining Councils apply to all employers and employees in those industries, regardless of whether or not they had representation at those councils. In

order for the minimum wage laws in South Africa to meet this criterion, certain changes need to be made. The first is that Bargaining Council agreements should only apply to those who have representation at the Councils. Everyone in the industry governed by the Bargaining Council must have representation at that council or no minimum wage should apply. Single company agreements in uncovered sectors (with or without union representation) meet the requirements for this criterion as the parties to the agreements have the ability to accept or refuse the terms. Those sectors which the government has identified as vulnerable and are currently covered by sectoral determinations can be protected through the establishment of employee and employer organisations, specific to each industry and which are able to deal with their particular requirements. This is particularly important in sectors such as domestic work, where employees are not employed by businesses, but by individuals or in the farm work sector which has a history of exploitation of workers.

5.4 Criterion 4: Elasticity

Minimum wage laws are only morally justified if they are established by processes flexible enough to respond to changing circumstances timeously and effectively

South African minimum wage laws need to be changed in order to mandate regular reviews of minimum wage, poverty and employment levels. Review of minimum wage levels at times other than those scheduled must be allowed for. There should be an allowance for reviewing the impact of global and local crises as and when they arise, including taking pre-emptive measures based on the possible or probable impact of these crises.

5.5 Criterion 5: Alternative avenues

Where circumstances are such that a minimally acceptable wage (i.e. one that cannot be said to be exploitative) is not economically viable for the industry concerned, other avenues should be explored that might assist the industry to avoid job losses whilst still providing a minimally acceptable wage. This should be a transparent process.

As the potential consequences of an industry failing are so severe particularly for countries with high unemployment rates and inadequate social welfare structures (increased unemployment and poverty), alternatives to industry failure must be explored. If a non-exploitative minimum wage is not sustainable by an industry, possibilities such as wage "top-ups" by the state, industry bail outs, tax concessions or any other potentially viable option must be carefully considered. Transparent consideration in order to ensure the application of minds to the issues is very important. The youth wage subsidy introduced by government is an example of an initiative which could be implemented in order to assist an industry or industries. However, in order to ensure the exploration of alternatives and the public justification for implementing them (or not), this needs to be mandated in our minimum wage laws.

As discussed above, there are reasons why minimum wage laws are not morally justifiable in and of themselves. They are an economic tool to a moral end and must meet certain criteria in order to help ensure that they do achieve that moral end. Just as minimum wage laws do not automatically lead to the prevention of exploitation of workers and the alleviation of poverty, adjustment to or removal of minimum wage laws need not automatically lead to increased exploitation and poverty.

I would argue firstly that people have the right to refuse to work for wages they consider to be too low, regardless of whether or not there are any laws governing minimum wage. This may not always be possible in practice, but minimum wage laws do not change that either. I would further argue that there are other ways to address wage, employment and poverty concerns.

The development of low-wage companies will help to create the millions of additional jobs required and stimulate economic growth. This will lead to improved living conditions and improved state welfare services, further enabling us to meet our moral obligation to alleviate poverty. Increased employment, and thereby an increased number of people and families with an income, able to achieve a basic standard of living seems morally preferable to reduced employment and a reduced number of people and families with an income, even if the *per capita* income is somewhat lower than it would be if the current minimum wage laws were applied. In a country ranked 2nd worst in the world (Distribution of Family Income 2011) in terms of the Gini coefficient (a summary statistic of the Lorenz curve and a measure of inequality in a population (Damgaard 2011), this is something we can ill afford not to take into account.

6 CONCLUSION

Minimum wage is an issue which sparks much debate. From economists to ethicists, employees and workers, employed and unemployed, the person on the street to the members of the media, everyone seems to have an opinion on minimum wage. Many of these opinions are strongly held. For many people, minimum wage is something which

affects them directly – in the income they receive, the jobs they can get or the profit they can make.

While there are some who argue that we are under no moral obligation to prevent exploitation of workers or alleviate poverty, they are few and far between. Most people do not argue that poverty alleviation and prevention of exploitation of workers are not social goods. What many do debate, however, is whether minimum wage laws do alleviate poverty and prevent exploitation of workers as they are purported to do.

The effects and efficacy of minimum wage laws have been shown to differ from country to country and context to context. What we can learn from the economic and philosophical debates is that a generic approach to or application of minimum wage laws can have the opposite of the intended consequences. As minimum wage is a tool and not an end or good in and of itself, we must be judicious in our use and application of this tool. There is much research which shows that the economic tool of minimum wage often does not achieve the moral end of poverty alleviation and prevention of exploitation. In fact, it sometimes worsens these social ills.

A case in point is the clothing and textile industry in South Africa. I discussed how the current minimum wage in this industry is a major contributing factor to rendering this industry globally uncompetitive. South African labour costs in this industry are 3 to 4 times higher than those of our main competitors, China and India (Global Labour Costs 2008). These are countries with developing economies like South Africa, yet they are outstripping us in the clothing and textile industry (among others), due in large part to their lower labour

costs. This does not mean we need to lower our minimum wage to meet theirs' or to abolish it entirely, but we do need to recognise the direct impact on this industry that our minimum wage laws are having. And the majority of the people affected in this industry are poorly educated, unskilled or semi-skilled, poor or poverty stricken workers and their families. In other words, the very people the minimum wage laws are supposed to protect.

If minimum wage laws cannot be generically applied, we need criteria for their application in order for them to be morally justified. I identified five such criteria: they must actually achieve the joint purposes of preventing exploitation and reducing poverty; minimum wage laws are morally justified to the extent that they achieve these purposes whilst appropriately addressing the specific context in which they are applied; the level at which a minimum wage is set for a particular industry in a particular context must be negotiated fairly by a body that is representative of the relevant interested and affected parties; they must be established by processes flexible enough to respond to changing circumstances timeously and effectively; if a minimally acceptable wage is not economically viable for the industry concerned, other avenues should be explored that might assist the industry to avoid job losses whilst still providing a minimally acceptable wage.

The current minimum wage laws in South Africa, and specifically the clothing and textile industry, do not meet the five criteria and therefore are not morally justifiable. They fail to meet the first criterion – they do not prevent exploitation and alleviate poverty as they are leading to massive job losses in a poor, rural area with few to no alternatives for those who find themselves unemployed. They partly meet the second criterion – current laws allow for different minimum wages for different sectors, however regional and other differences

and particularly vulnerable groups are not taken into account. They fail to meet the third criterion – Bargaining Council agreements apply to the entire sector, regardless of whether the employer or worker has representation. This includes the clothing and textile industry. They do not meet the fourth crierion – flexibility is a theoretical possibility is some instances, but not required. Steps are being taken towards meeting the goal of the fifth criterion, which is heartening, however the laws do not require it and thus fail to meet it.

The current application of minimum wage laws in South Africa in general and the clothing and textile industry in particular are not morally justifiable. In a country with such terrifying unemployment statistics and such a bad Gini coefficient rating, this makes it all the more imperative that we review our minimum wage laws. Not only are the laws not morally justified, I believe that we are morally obligated to review any policy or tool which is contributing, or potentially contributing to a worsening of unemployment and poverty. We cannot continue to confuse this economic means with its moral end. Minimum wage is not a good. It is a means to a good. Or is supposed to be. Applied incorrectly, it is a means to an ill.

Referenced Works

Banerjee, A., Galiani, S., Levinsohn, J., McLaren, Z. and Woolard, I. 2008. “Why has Unemployment Risen in the New South Africa?” *Economics of Transition* 16: 715–740.

Bowman, S. 2010. “South African Unemployment and the Minimum Wage.” *Adam Smith Institute*. Accessed 25 November 2011. http://www.adamsmith.org/blog/international/south-african-unemployment-and-the-minimum-wage/.

Centre for Development and Enterprise. 2011. “A Fresh Look at Unemployment: A Conversation Among Experts.” Accessed 28 July 2011. http://www.cde.org.za/attachment_view.php?aa_id=396.

Coan, S. 2011 (a). “Newcastle on a Knife Edge.” *The Witness*, 01 June 2011. Accessed 3 June 2011. http://www.witness.co.za/index.php?showcontent&global%5B_id%5D=61858.

Coan, S. 2011 (b). “Newcastle, the Chinese and the Clothing industry: Doomed?” *The Witness,* 02 June 2011. Accessed 3 June 2011. http://www.witness.co.za/index.php?showcontent&global%5B_id%5D=61933.

Cordero, R.A. 2000. “Morality and the Minimum Wage”, *Journal of Social Philosophy*, 31(2) 207-222.

Damgaard, Christian. 2011. "Gini Coefficient." *MathWorld*. Accessed 25 November 2011. http://mathworld.wolfram.com/GiniCoefficient.html.

“Distribution of Family Income - Gini Index 2011. Country Ranks.” 2011. Last modified 5 February 2011. http://www.photius.com/rankings/economy/distribution_of_family_income_gini_index_2011_0.html.

Fagan, A. 2003. “Human Rights.” Internet Encyclopedia of Philosophy. Last modified 5 July 2005. http://www.iep.utm.edu/hum-rts/.

Gaski, J.F. 2004. “Raising the Minimum Wage is Unethical and Immoral”, *Business and Society Review,* 109(2) 209-224.

“Global Labour Costs.” 2008. Last modified March 2008. http://www.global-production.com/scoreboard/indicators/labourcost.htm.

Jones, P. 1997. “The Impact of Minimum Wage Legislation in Developing Countries where Coverage is Incomplete.” *Centre for the Study of African Economies, University of Oxford*. Accessed 19 July 2007. http://economics.ouls.ox.ac.uk/14547/1/9802text.pdf.

Kingdon, G. & Knight, J. 2005. “How Flexible Are Wages in Response to Unemployment in South Africa?” Accessed 14 August 2011. http://www.gprg.org/pubs/workingpapers/pdfs/gprg-wps-015.pdf.

Lemos, L. 2006. “Minimum Wage Effects in a Developing Country.” *University of Leicester*. Accessed 19 July 2011. http://ideas.repec.org/p/lec/leecon/06-1.html.

Labour Relations Act (No. 66 of 1995). 1995. Accessed 25 November 2011. http://www.labour.gov.za/legislation/acts/labour-relations/labour-relations-act.

Maloney, W. & Mendez, J. 2004. “Measuring the Impact of Minimum Wages. Evidence from Latin America.” In *Law and Employment: Lessons from Latin America and the Caribbean*, edited by J.J. Heckman and C. Pagés, 109 – 129. Chicago: University of Chicago Press. Accessed 25 November 2011. http://www.nber.org/books/heck04-1.

Marais, Jana, 2011. “Over 4,600 jobs lost after textile shutdowns”, *Business Times,* 25 June 2011. Accessed 25 November 2011.

http://www.businesslive.co.za/Feeds/businesstimes/2011/06/25/over-4600-jobs-lost-after-textile-shutdowns.

Neumark, D. & Wascher, W. 2007. “Minimum Wages and Employment,” *Ideas.* Accessed 24 November 2011. http://ftp.iza.org/dp2570.pdf.

Oxford Dictionary Online. 2012. Accessed 24 November 2011. http://oxforddictionaries.com/definition/exploitation.

Plowman, David H. & Perryer, Chris. 2010. “Moral Sentiments and the Minimum Wage”, *The Economics and Labour Relations Review, Vol 21 no. 2,* Dec http://www.freepatentsonline.com/article/Economic-Labour-Relations-Review/245302264.html.

Rawls, J. 1971. *A Theory of Justice*. Cambridge, MA: Belknap.

Rutkowski, J. 2003. “The Minimum Wage: Curse or Cure?” *Human Development Economics, Europe and Central Asia Region, World Bank.* Accessed 19 July 2011. http://web.worldbank.org/archive/website01022A/WEB/IMAGES/MINIMUMW.PDF.

Saget, C. 2001. “Is the Minimum Wage an Effective Tool to Promote Decent Work and Reduce Poverty? The Experience of Selected Developing Countries.” *International Labour Organisation.* Accessed 19 July 2011. http://www.ilo.org/employment/Whatwedo/Publications/WCMS_142310/lang--en/index.htm.

Smith, Adam. 1904. *An Inquiry into the Nature and Causes of the Wealth of Nations*. Library of Economics and Liberty. Accessed 6 April 2012. http://www2.hn.psu.edu/faculty/jmanis/adam-smith/Wealth-Nations.pdf.

Statistics South Africa. 2011. “Quarterly Labour Force Survey. Quarter 2, 2011.” Accessed 19 July 2011. http://www.statssa.gov.za/publications/P0211/P02112ndQuarter2011.pdf.

.

Terrell, K. & Almeida R.K. 2008. “Minimum Wages in Developing Countries: Helping or Hurting Workers?” *World Bank.* Accessed 19 July 2011. http://siteresources.worldbank.org/INTLM/214578-1103128720951/22029090/EPPNoteNo10_Eng.pdf.

The Universal Declaration of Human Rights. 1948. Accessed 25 November 2011. http://www.un.org/en/documents/udhr/.

Wilkinson, T.M. 2004. “The Ethics and Economics of the Minimum Wage”, *Economics and Philosophy”* 20(2) 351-374.