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To conform with the requirements of a degree of Master of Arts in Labour Policy and Globalisation

Title: Exploring implementation of national minimum wage in the hospitality sector in Gauteng

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DECLARATION

I, **Mzwamadoda Wiseman Dinwa**, student number **575599**, declare that this research report is my own original work. Submission of this report is partial fulfilment of the requirements for the degree of Master of Arts in Labour Policy and Globalisation under the Global Labour University at the University of the Witwatersrand, Johannesburg. This report has not been submitted previously for any degree or examination in any other University. I have been authorized to conduct this research.

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Signature

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Date

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ABSTRACT

The overall very low level of wages and minimum wages in the pre-national minimum wage dispensation in some of the South African economic sectors has led to the introduction of national minimum wage policy valued at R20 per hour. Introduction of national minimum wage takes place after consideration of high-income gaps that exist between different job grades in the labour market. Sectors that are covered by sectoral determinations due to low levels of trade union organization, are targeted to benefit from national minimum wage.

Statssa (2018) estimates that approximately six (6) million workers are targeted to benefit from this newly introduced national minimum wage. This reality presents a challenge to the state that is expected to enforce legislation. With International Labour Organization (ILO) standard of one labour inspector per 20 000 workers and our South African ratio of one inspector per 120 000 workers, labour inspection structural challenges present fresh doubts on whether the state will be able to enforce the national minimum wage (Parliamentary Portfolio Committee on Labour, 2018).

The research study is targeting to explore implementation of national minimum in the hospitality sector in Gauteng. Hospitality sector is a broad industry that include a number of sub-sectors such as hotels, catering services, entertainment, restaurants, bars or taverns and casinos but my research study will be located to the restaurant sub-sector with employees working in different categories, such as cook, waiter, bartender, child minder. Child minder in the hospitality sector means an employee whose job is to look after customers' children in the play area around hotels and restaurants. Hospitality industry is labour intensive and characterized by irregular working hours, wages that are low, low skills, poor working conditions and precarity. Introduction of national minimum wage in South Africa has brought new hopes for better wages to a number of employees in the country.

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Abbreviations and Acronyms

BCEA:	Basic Conditions of Employment Act
BCEAA:	Basic Conditions of Employment Amendment Act
BUSA:	Business Unity South Africa
CATHSSETA:	Culture, Art, Tourism, Hospitality, Sport Sector Education Training Authority
CCC:	Clean Clothes Campaign
CCMA:	Commission for Conciliation, Mediation and Arbitration
COSATU:	Congress of South African Trade Unions
CCRAWUSA:	Club, Caterers, Retail and Allied Workers Union
DOL:	Department of Labour
DOEL:	Department of Employment and Labour
ECC:	Employment Conditions Commission
EEA:	Employment Equity Act
EPWP:	Expanded Public Works Programme
FAWU:	Food and Allied Workers Union
FEDUSA:	Federation of Trade Unions of South Africa
FOSAWU:	Future of South African Workers Union
GEO:	Guardian Employers Organization
HOTELICCA:	Hotel, Liquor, Catering, Commercial and Allied Workers Union
HICRAWU:	Hospitality, Industrial Catering, Retail and Allied Workers Union
IES:	Inspection and Enforcement Services
ILO:	International Labour Organization
LRA:	Labour Relations Act
LRS:	Labour Research Service
NACTU:	National Council of Trade Unions
NEDLAC:	National Economic Development and Labour Council
NMW:	National Minimum Wage
NMWA:	National Minimum Wage Act

NMWC:	National Minimum Wage Commission
OHSA:	Occupational Health and Safety Act
PCA:	Professional Caterers Association
PWC:	Price Water Coopers
SACCAWU:	South African Commercial Catering and Allied Workers Union
SADC:	Southern Africa Development Community
SAEWA	South African Equity Workers Union
SD:	Sectoral Determination
SETA:	Sector Education and Training Authority
SOWU:	Socialist Organized Workers Union
STATSSA:	Statistics South Africa
UIF:	Unemployment Insurance Fund

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CHAPTER 1

INTRODUCTION

1.1. Introduction

National minimum wage in a new policy in South Africa. This policy has become effective since January 2019. It is in the interest of this research to explore implementation of this national minimum wage policy in the hospitality sector in Gauteng. Choice of Gauteng as a site of research study is based on the grounds that the province has all the stakeholders of the hospitality sector: structured and unstructured restaurants, employers, employees, bargaining councils, designated agents, labour inspectors, trade unions, vulnerable and desperate local and immigrant workers. The study is anticipated reveal different role and interaction of all these stakeholders in the hospitality sector.

Evolution of minimum wage setting in South Africa is a basis for the national minimum wage. The system of minimum wage setting in South Africa dates back from the days of the Industrial Conciliation Act 11 of 1924 which laid the cornerstone for dual system of industrial relations that protected white workers and excluded black African workers (Hayter and Pons-Vignon, 2018). This statute provided for the registration of employer's organization and white trade unions and excluding non-white males (African and Indentured Indian workers). Self-governing bodies in the form of industrial councils became a platform for agreement between employer's organization and registered trade unions. Industrial councils could be registered if the Minister of Labour considered the parties sufficiently representative of employers and employees within the relevant area or industry. Agreements concluded by the councils were gazetted by the Minister if the parties agree and thereby become legally binding. These agreements could be extended to all employers and employees within the area of jurisdiction of the Council if the Minister deemed it expedient and was satisfied that the parties were sufficiently representative of the sector. Non-compliance with agreements that had been made binding was a criminal offence. The parties were also required to settle disputes among themselves.

Under the Industrial Conciliation Act 28 of 1956, minimum wages continued to be set through industry-based and company level agreements. Industry-based and plant-level agreements between white trade unions and employer's organizations were recognized.

Labour Relations Act (LRA) 66 of 1995, brought about bargaining council's collective agreements which to very large scale is similar to industry-based and company level agreements. Similar to industrial councils, Bargaining Councils are established through the LRA where employers through their employer organizations and employees through their trade unions, negotiate collective agreement for their sector taking into consideration the requirements stipulated by the Act, for example, one of the stipulations of the Labour Relations Act for a sector to have a bargaining council is that of majority on the part of employer's organizations and trade unions organized in the sector where the bargaining council has jurisdiction. Minister of Employment and Labour may consider recommendations of a statutory council that have been submitted to the Employment Conditions Commission (ECC) when promulgating a sectoral determination under section 44 (1) of the LRA, read with section 54 (4) Basic Conditions of Employment Act (BCEA) 75 of 1997. A statutory council can be formed if parties are not sufficiently representative of the sector. Section 112 of the LRA also created the Commission for Conciliation Mediation and Arbitration (CCMA) to deal with labour relations disputes. CCMA also has the jurisdiction to resolve disputes that emanate from the National Minimum Wage Act (NMWA) 9 of 2018

Before promulgation of national minimum wage and outside the bargaining council wage setting system, there were also sectoral determinations which were enforced by labour inspectors. According to Labour Research Service (2016), sectoral determinations in the post-Apartheid South Africa started in the Contract Cleaning sector in 1999, followed by Engineering and Private Security in 2001 and Hospitality sector (SD 14) came into effect in July 2007. This implies that the model of sectoral determinations started in 1999 after the enactment of the BCEA in 1997. the basic function of a sectoral determination is to lay down basic conditions of employment for employers and workers in a particular industry. Some of the conditions of employment that are found in the sectoral determination include hours of work, minimum wages payable to workers, leave entitlement and other conditions.

In 2018, South Africa promulgated National Minimum Wage Act No.9 which became effective from January 2019, thereby introducing a national minimum wage to the value of R20 for each ordinary hour that employees work. The purpose of National Minimum Wage Act is to advance

economic development through promotion of collective bargaining; protect workers from unreasonably low wages; improve wages of lowest paid workers and support economic policy. National minimum wage has abolished the system of sectoral determinations in most sectors of the economy. The farming and domestic sectors are the only sectors that still have sectoral determinations.

South African national minimum wage commenced through Ekurhuleni Declaration of 2014 as an outcome of the Labour Relations Indaba. The preamble to this declaration stated that;

“The Indaba follows the call made by President Jacob Zuma in his State of the Nation address on 17 June 2014 for the social partners to deliberate on the state of the labour relations environment, and in particular to address low wages, wage inequalities, violent as well as protracted strikes. The Indaba was therefore convened under the auspices of NEDLAC and stewardship of the Deputy President to launch a comprehensive process of engagement among the social partners” (Ekurhuleni Declaration 2014:1).

Culminating from the Ekurhuleni Declaration, National Economic Development and Labour Council (NEDLAC) social partners commenced with numerous engagements, country studies and their respective mandate presentations to explore the possibilities of formulating a national minimum wage. For the purposes of locating relevance of NEDLAC in the discussion, it is important to look briefly at its composition and functions. NEDLAC was founded through promulgation of National Economic Development and Labour Council Act (NEDLAC Act) No. 35 of 1994. NEDLAC is composed of social partners in the form of members who represent interests of organized business (Business Unity South Africa / BUSA), organized labour represented by Congress of South African Trade Unions (COSATU), National Council of Trade Unions (NACTU) and Federation of Trade Unions of South Africa (FEDUSA), members representing Community and development interests and members who represent the State.

Some of the functions of NEDLAC as entailed in the NEDLAC Act include, seeking to reach consensus; consideration of all proposed labour legislation relating to labour market policy before it is introduced in Parliament; consideration of all significant changes to social and economic policy before it is implemented or introduced in Parliament; striving to promote the goals of economic growth, participation in economic decision-making and social equity;

encouraging and promoting the formulation of coordinated policy on social and economic matters and conclusion of agreements on matters pertaining to social and economic policy.

Outcomes of social dialogue engagements on national minimum wage built on sustained discussions on principle of having a national minimum wage and most importantly its appropriateness and affordability.

NEDLAC social partners started to deliberate on wage inequality in the country and possibility of having a standard minimum wage flow applicable to all employees. In February 2017 a Declaration on national minimum wage, an Accord on collective bargaining and Code of Good Practice were pronounced, seeking to define the modalities for introducing a national minimum wage. The National Minimum Wage Bill which was introduced in 2017 further triggered for proposed amendments that led to the enactment of Basic Conditions of Employment Amendment Act (BCEAA) 7 of 2018 and Labour Relations Amendment Act (LRAA) 8 of 2018.

Basic Conditions of Employment Act as amended defines “basic condition of employment” to include minimum terms of employment stipulated in the sectoral determination. Basic Conditions of Employment Amendment Act section 1 has included national minimum wage as term of employment and also substituted definition of Employment Conditions Commission with National minimum Wage Commission (NMWC). Definition of employment law has been broadened to include National Minimum Wage Act. Section 9A of the Basic Conditions of Employment Amendment Act read with section 1 of the National Minimum Wage Act, stipulates the if an employee works for less than four hours a day on any day, that employee must be paid for four hours work on that day.

Some of the amendments in the Labour Relations Act is the insertion of subsection 4 in section 32 that provides for a determination by the registrar for a sufficient proof of the representativeness that members of the employer organizations that are party to the bargaining council, upon the majority the extension of the collective agreement, employ the majority of employees who fall within the scope of that agreement. The importance of collective agreement in this research is linked to its enforcement by designated agents of the bargaining council since they fulfill the same role as labour inspectors in the public service.

Section 33 of the LRA empowers the Minister of Employment and Labour to appoint any person as a designated agent of a bargaining council. The Minister may do so at the request of the bargaining council, concerned. Designated agents are empowered to promote, monitor and enforce and enforce compliance with any collective agreement concluded in their bargaining council. Designated agents may also secure compliance with the council's collective agreement by publicizing the contents of the agreements; conducting inspections; investigating complaints and perform any other functions that are conferred or imposed on the agent by the council. In the context of the bargaining council, complaints are lodged through statutory department which then refers those complaints to the designated agents.

Minister of Employment and Labour through Inspection and Enforcement Services (IES) division may appoint labour inspectors in the public service. Section 63 of the Basic Conditions of Employment Act details duties of labour inspectors to include advising the employees and employers of their rights; conducting inspections; investigating complaints made to them; endeavoring to secure compliance with the employment law by securing undertakings or issuing compliance orders and performing any other prescribed function.

The founding legislation of minimum wages and subsequent national minimum wage has been discussed. NEDLAC, CCMA, Bargaining Council, designated agents and labour inspectors have also been introduced. The history of minimum wage setting led to this long introduction.

1.2. Study Background

The study seeks to explore implementation of national minimum wage in the hospitality sector in Gauteng. Gauteng is one of the provinces with greater concentration of hospitality sector, in particular the restaurant sub-sector. at the initiation stage of national minimum wage, there was an anticipation that national minimum wage would cover more than six (6) million workers, especially certain categories of vulnerable employees who earned below the R20 hourly rate. At the beginning of national minimum wage, farm workers were entitled to an hourly rate of R18.00, domestic workers were entitled to a minimum rate of R15.00 for each hour and employees working through Expanded Public Works Programme (EPWP) were to earn R11.00 for each hour they worked. EPWP employees are those employees in the municipal services who on a rotational basis, are tasked with cleaning the streets.

The staggered form of national minimum wage seemed to present a challenge as the expectations of workers were high when the national minimum wage was initiated. Nevertheless, hopes of workers to enjoy an improved national minimum wage could depend on annual reviews to be conducted by the National Minimum Wage Commission in terms of section 6 of the Act. After the review the commission would recommend to the Ministry of Labour for determination of adjustments. Section 8 of the National Minimum Wage Act established National Minimum Wage Commission. Section 9 of the Act details the composition of National Minimum Wage Commission as: independent chairperson appointed by the Minister of Employment and Labour; three members nominated by organized business; three members nominated by organized labour; three members nominated by organized community and independent experts (appointed by the Minister) who are knowledgeable about labour market and conditions of employment. Section 11 of the National Minimum wage Act outlines the functions of National Minimum Wage Commission as: the review the national minimum wage and recommending adjustments; investigation and reporting annually to the Minister on the impact of national minimum wage, collective bargaining and the reduction in, income differentials; setting medium term targets for the national minimum wage within three years of the commencement of this Act; advising the Minister on measures to reduce income differentials or any other matter on which the Minister requests the Commission's advice; give advice to the Minister on any matter concerning basic conditions of employment; and perform any such function as may be required of the Commission in terms of any other employments law.

However, despite perceived implications explained earlier, Section 5 of the Act stipulates that benefits such as transport, meals or accommodation allowances do not form part when calculating national minimum wage. Other gratuities in the form of tips, bonuses, gifts and any other prescribed category of payment that employees receive, are also excluded when the national minimum wage is calculated (NMWA, 2018).

Linking above developments, the study seeks to explore the implementation of national minimum wage in the hospitality sector where vulnerable employees have had over the years, sector-specific minimum wage standard called Sectoral Determination (SD)¹⁴ which had its own implementation challenges. Department of Labour, (2007) defines sectoral determination in the hospitality sector as any commercial business or part of a commercial business in which employers and workers are associated for the purpose of carrying on or conducting one or more

of the following for reward, providing accommodation and or prepare, serve or provide food or liquid refreshments, drinks other than in sealed bottles of cans whether indoors or outdoors or in the open air, for consumption on or off the premises in a hotel, motel, inn, resort, game lodge, hostel, guest house, guest farm or bed and breakfast establishment, including short stay accommodation, self-catering, time shares, camps, caravan parks, restaurants, pubs, taverns, cafes, tearooms, coffee shops, fast food outlets, snack bars, industrial or commercial caterers, function caterers, contract caterers and include all activities or operations incidental to or subsequent on any of the activities mentioned above.

Price Water Coopers (2019) projects that by 2019, the overall occupancy rate across all sectors in South Africa will continue to increase, rising to an estimated 58,3 per cent from 54,4 per cent in 2014 and the hotel occupancy rate reached its highest level in 2014 of 59 per cent since 2008. PWC Hospitality Outlook: 2015-2019 report states that hotel occupancy rate is expected to increase by 62 per cent by 2019 but still remain lower than the 68,4 per cent achieved in 2008, and five-star hotels are expected to achieve a high of 80,0 per cent occupancy in 2019. The report further states that the total room revenue in South Africa is expected to expand at an 8,0 per cent compound annual rate overall and by 8,1 per cent compounded annually for hotels and growth in room rates will be the main driver of revenue, with new hotels in Cape Town leading the expansion (Labour Research Service, 2016). The report estimates that by 2019, there will be about 63000 hotel rooms available, up from 60 800 in 2014 hence the overall occupancy rate is forecast to climb to 58,3 per cent in 2019 and generated total room revenue is forecast to reach R27,7-billion in the same year (PWC. Hospitality Outlook: 2015-2019, as in Labour Research Service, 2016. Hotel revenue for the five markets (South Africa, Nigeria, Mauritius, Kenya and Tanzania) as a group will increase at a 7,4 per cent compound annual rate to R50,5 billion in 2022, from R35,2 billion in 2017 and the South African share on the overall room revenue is expected to expand at a 5,6 per cent compound annual rate to R21,8 billion in 2022 (PWC. Hospitality Outlook: 2018-2022).

Through direct involvement in the sector via my trade union activities, challenges that are normally reported by workers in the sector relate to issues of non-compliance with the sectoral determination by employers. Issues of non-compliance are in various forms, namely: minimum rates, long hours without overtime, unstructured commission work, paying for uniform, paying for breakage, exemption of employer from paying minimum rates, soap allowances, meal allowances, bonuses and unfair dismissals. Exemption in the context of hospitality sector is a

process where an employer applies in writing to the exemption committee, requesting to be exempted from paying minimum wages stipulated in the collective agreement of the council. Necessary supporting documents that justify non-affordability to pay minimum wages on the part of the employer have to be attached with the application for exemption.

Commission work in the hospitality sector is defined as, “work where an employer and employees have agreed in writing before the work commences that the employee will on regular basis perform work on which a commission will be paid”. Clause 5 (c) of the Johannesburg Bargaining Council Collective Agreement (2018) stipulates that the owner or manager of an establishment and commission worker may agree in writing that the commission worker will perform the duties of a waiter if and when so required by the owner on which commission will be paid at the end of each shift / week / month. The above clause and sectoral determination regulate commission work and payment. By implication and in the hospitality industry, commission payment or work only applies to waiters because the same clause (5) further stipulates that, the owner / management shall pay a commission worker the rates that are applicable to the commission work, unless if during any calculation period, the commission worker does not earn an amount equivalent to at least the prescribed minimum wage for waiters.

It is also important to note that there are two bargaining councils in the sector. These bargaining councils are Johannesburg Bargaining Council for The Restaurants, Catering and Allied Trades which covers the greater part of Gauteng and the Bargaining Council for the Food Retail, Restaurant, Catering and Allied Trades which covers the areas of Midrand, Pretoria and the areas north of Gauteng. These bargaining councils play an important role in the hospitality sector in Gauteng through self-regulation of the industry alongside the sectoral determination. Section 27 of the LRA establishes bargaining council by one or more registered trade unions and one or more registered employers’ organizations for a sector and area. Some of the powers and functions of bargaining councils that are regulated by section 28 of the LRA include concluding of collective agreements; enforcing such collective agreements; prevent and resolve labour disputes; perform dispute resolution functions and develop sector proposals on policy and legislation for submission to NEDLAC. Section 33 of the LRA empowers the Minister to appoint any person as the designated agent to promote, monitor and enforce compliance with any collective agreements by conducting inspections, investigating complaints and obtaining compliance agreements from employers.

Section 30 of the LRA stipulates that parties to the bargaining council must adopt a constitution. The adopted constitution must set out requirements that include appointment of the parties to the bargaining council; manner of representation; appointment of office bearers, rules for convening and conducting of meetings; manner in which decisions are made; banking and investment of finances; and others. Trade unions that are party to the Johannesburg Bargaining Council for The Restaurant and Allied Trades are Hotel, Liquor, Catering, Commercial and Allied Workers Union (HOTELICCA), South African Commercial Catering and Allied Workers Union (SACCAWU), Future of South African Workers Union (FOSAWU), Food and Allied Workers Union (FAWU), Socialist Organized Workers Union (SOWU) and South African Equity Workers Union (SAEWA). Employer Organizations that are part to the Johannesburg Bargaining Council are CATRA and Guardian Employers Organization (GEO). Employer parties to the Pretoria Bargaining Council are CATRA and Professional Caterers Association while trade union parties are SACCAWU, Club, Caterers, Retail and Allied Workers Union (CCRAWUSA) and Hospitality, Industrial Catering, Retail and Allied Workers Union (HICRAWU). National minimum wage rates, hospitality sector outlook, National Minimum Wage Commission, sector Bargaining Councils, exemption and structure commission work in the sector had been discussed in this study background.

1.3 Area of the Research

Exploration of national minimum wage implementation in the hospitality sector in Gauteng. As explained above, Gauteng is one of the provinces that have a greater concentration of the restaurant subsector, including two sector bargaining councils, migrant and immigrant workers. Therefore, Gauteng and restaurant subsector are also favorable and attractive areas of arrival for both local and foreign job seekers. Based on the above, it is practical to explore implementation of national minimum wage in line with bargaining council minimum rates as they are more or less equal, for example, at the time of this research project, the national minimum wage rate was R20 and the bargaining council minimum was R20.50.

1.4 Main Research Question

What does introduction of national minimum wage have on enforcement standards in the hospitality sector?

1.5 Sub questions

1. How do employees in the hospitality sector perceive the national minimum wage implementation?
2. How do employers in the sector implement national minimum wage?
3. How do bargaining councils in the sector and labour inspection services monitor national minimum wage compliance?

1.6 Aims and Objectives of the Study

The study was conducted to understand nexus or levels of connection between national minimum wage and labour inspection standards in enforcing compliance within the hospitality sector.

The study wanted to determine the following objectives:

- i. Understanding of hospitality sector employees in as far as national minimum wage is implemented in their workplaces
- ii. Steps that have been taken by employers to effect national minimum wage in their establishments.
- iii. The monitoring mechanisms of labour inspection services in ensuring national minimum wage compliance in the sector

1.7 Rationale

While it is critical to understand the intersection of the prevalence of poverty wages; wage determination in the hospitality sector and role of inspection services, it is in the interest of the study to explore what can be done differently to ensure that employees enjoy a national minimum wage. This needs to be explored along challenges that may have been brought by the implementation of this new policy in the sector. Hospitality sectoral determination which has been regulating employment conditions and minimum wage rates in the industry in areas outside the jurisdiction of bargaining councils has been effective until 30 June 2019. It is interesting to note that in the sectoral determination for 2018/2019, monthly rate or minimum wage is R3 384.71 for employers with 10 or less employees and R3 772. 65 (Department of Labour, 2018). Another interesting factor to note is the bargaining sector minimum rate of R20.50 per hour. The above scenario needs to be juxtaposed with implementation of the national minimum wage R20 per hour.

Furthermore, increased complexity of hospitality sector industrial relations is compounded by proliferation of trade unions in the sector. Tony Healy & Associates (2017) identified more than twenty trade unions operating in the sector with SACCAWU and HOTELICCA being the most dominant trade unions in the sector. Trade union rivalry is maximized and that limits the effective role that trade unions could play in the implementation of the national minimum wage. Munakamwe (2018: 294) notes that, history of the hospitality sector has been under-documented in South Africa, although it has always been one of the vulnerable sectors with many of its workers earning below the minimum wage threshold. Even Black graduate students who have come through and specialized in labour studies, the majority of them soon move out of the area and ultimately out of research and academic life (Buhlungu, 2009). Since the national minimum wage is a new policy in the country, the few data collected in relation to the hospitality sector through this study, has potential to improve the under-documentation of the sector which already in decline and the gaps that have been identified during the study, can lay a foundation on developing strategies to improve gaps in the sector.

CHAPTER 2: SETTING AND MONITORING MINIMUM WAGES

2.0 Introduction

Literature that supports the research study is discussed in this chapter. This chapter covers literature review around background of minimum wages; wage determination; labour inspection; strides and challenges of South African national minimum wage; labour inspection as a tool to implement and monitor national minimum wage.

2.1. Background of minimum wages

Minimum wage is defined by International Labour Organization (ILO) Convention 131, as a minimum amount that is paid to a worker for rendering his or her services within a given period, which may not be, reduced either by individual or collective agreement and is guaranteed by law. ILO Convention 131 further states that the primary purpose of the minimum wage is to provide protection for wage earners against low wages and to increase the incomes of those at the very bottom of the wage scale through distribution of the national income. The aim of minimum wage is to set a floor to the distribution of wages, below which no worker can legally be paid because wages and salaries are the main components of the income (Labour Research Service, 2015).

Minimum wages as alluded by Kristensen and Cunningham (2006), have directly reduced inequality in the formal and informal sectors across other countries such as Latin America, Indonesia, China, India, Russia and Europe. Therefore, increasing the scope and level of minimum wages can result to a shift in income from capital towards labour and this also boost the economy. Kristensen and Cunningham (2006) in observing the trend of minimum wages, concluded that increased wages at the bottom end of the wage distribution and lifted earnings for both formal and informal sectors, have different effects across low-wage workers. Dickens, Manning & Butcher (2012) also observed that in the United Kingdom where national minimum wage was introduced in 1999, national minimum wage had much spill-over effects than originally predicted, due to raise in wages of other low-income earners who already earned above the national minimum wage.

Using above examples of developed countries like United States and United Kingdom, minimum wages are increasingly used as another mechanism to tackle inequality and poverty because it potentially raises low income wages. Dickens et al., (2012) further supports the argument that despite economic theory warning against state intervention in labour markets,

the experience of developed countries has led to broad consensus that minimum wages reduce inequality and can improve the well-being of low paid workers.

Isaacs (2016) argues that if South Africa cannot achieve significant real wage growth at the lower end and in the middle of the distribution or at a rate greater than at the upper end, then, wage inequality will not be reduced. Another argument that is deposited by Rani, Belser, Oelz & Ranjbar (2013) notes that proportion of wage earners covered by minimum wage regulations is generally much higher in countries that adopt a national minimum wage than in countries with sectoral or industry-based minima.

A national minimum wage can be used by trade unions as another powerful weapon in the struggle against poverty and the low wage system inherited from apartheid (Labour Research Service, 2015). Although trade unions can use national minimum wage differently, in high-wage industries, unions will use the national minimum wage as a floor or safety net to wages; in low-wage industries, unions will use it as a goal (Labour Research Service, 2015). According to Isaacs, (2016) minimum wages have been successful at raising wages for low-wage earners or workers in both developed and developing countries.

The South African statistical modelling projects a fall in the Gini coefficient of the country. In South Africa, the poverty headcount is projected to fall by around 2 per cent and the decline is greatly expected among Black South Africans. Isaacs (2016) argues that national minimum wage can also reduce poverty and inequality, while also boosting economic growth, without significant negative economic consequences. Isaacs (2016) also argues that ILO and experts of minimum wage prefer a single national minimum wage because it covers all workers; is easier to enforce and enjoys higher compliance; benefits all workers equally; can be set to serve broader policy objectives such as reduction of poverty and inequality and can be set to take account of worker's needs and macroeconomic growth.

Webster (2013, in Hayter and Pons-Vignon, 2018) argues that the new regulatory framework introduced in 1995 marked a distinct departure from a previous trajectory of exclusion and legislated discrimination that provided only limited rights to the majority of black African workers, towards a democratic, inclusive and participatory industrial relations system.

Table 1 below indicates that 22.3 per cent of the workforce (2,4 million workers) is not covered by any form of minimum wage protection. It is important to note that the table below only includes an income that is below the Basic Conditions of Employment of Employment Act threshold which was R205 433.30 per annum in 2014 (Isaacs, 2016).

Industry	Number	Percentage
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Agriculture	46 931	0%
Mining	35 062	1%
Manufacturing	719 467	31%
Utilities	24 320	1%
Construction	648 839	29%
Transport, storage and communication	250 514	11%
Financial services	613 799	26%
Private households	14 642	1%
Other	1567	0%
Total	2 355 141	100%

Table 1 Source: A national minimum wage for South Africa 2016 (Isaacs, 2016)

2.1.1. Sectoral determination

In South Africa, the transition to a political democracy after the first democratic elections, was accompanied by new vision for a labour policy, that is forged through tripartite social dialogue that created a number of new labour market institutions including in the area of industrial relations (Hayter and Pons-Vignon, 2018). The newly elected ANC government in 1994, set out a wide-ranging vision for a new industrial relations system characterized by corporatist policy making and constitutionally guaranteed organizational and collective bargaining rights (Hayter and Pons-Vignon, 2018).

The Labour Relations Act was also supplemented by the Basic Conditions of Employment Act to regulate minimum standards and sectoral determinations in sectors that do not have collective agreements because of less or no trade union organization. Hayter and Pons-Vignon (2018) argue that support for sectoral bargaining councils were reinforced so that these could set wage floors in different sectors and assure that workers could negotiate a fair share of

productivity gains and these would also build consensus around training and industrial policy needs to promote industrial stability. Outside the collective bargaining arrangements, wages and working conditions are determined through sectoral determinations, for example the forestry, contract cleaning, private security, hospitality, domestic sectors (Hayter and Pons-Vignon, 2018).

The sectoral determination for the Hospitality Sector which is commonly known as Sectoral Determination (SD) 14, came into effect on the 01 July 2007 and it requires employers in the sector to pay prescribed minimum wage (Department of Labour, 2007). Sectoral Determination 14 also lays down conditions of employment for employers and workers in the hospitality sector. Deductions from the worker's salary must be in terms of the Sectoral Determination and the worker must agree in writing. An agreement in writing may allow a worker to perform commission work but workers must receive a minimum wage over and above commission.

According to Labour Research Service (2015), the hospitality sector is the largest subsector in the tourism industry as it constitutes 67 per cent of all tourism in South Africa. In 2014, tourism contributed 3,0 per cent to the South African economy higher than agriculture (2,5 per cent) but smaller than all other industries (Labour Research Service, 2015). The main contributors to the 16,9 per cent year-on-year increase in income from accommodation in January 2016 were hotels contributing 10,2 percentage points and other accommodation contributed 6,8 percentage points (Statssa, 2016).

Although the future looks good for the sector in terms of revenue collection, the increasing informalization of the sector has reduced worker's rights and strained an already uneasy relationship between business, workers and unions. Working conditions in the sector have become precarious due to low skills, non-compliance with sectoral determination or bargaining council agreements, national and regional unemployment rates and workforce that is easily replaceable with increasing use of undocumented foreign work force. The sector is characterized by informalization of the workforce in the form of part-time work, temporary work, fixed term contracts, scheduled Employees in the sector, in particular small businesses disregard the issue of documentation such as work permits when hiring foreign nationals in order to easily replace them when necessary for the employer. At times, foreign nations are preferred over South African nationals because they do not report employer contraventions of

labour laws for fear of victimization, exploitation, arrest and deportation for not being in possession of work permits (Statssa, 2016). One example of such contravention is the commission work where the sectoral determination and bargaining council collective agreements require that commission should be paid over and above the minimum wage, but small scrupulous employers who have foreign nationals as majority of their workforce use commission as actual minimum wage without being reported for non-compliance.

2.1.2. Labour inspection

Labour Inspection and Enforcement Services has a total number of 1392 labour inspectors and their role is to enforce compliance with all employment laws and regulations, the national minimum wage, occupational health and safety legislation, unemployment insurance legislation, compensation fund legislation, employment services legislation, eradication of child labour and elimination of forced labour (Department of Labour, 2018). Labour inspectors should work closely with bargaining council's designated agents in areas covered by bargaining council collective agreements. Labour inspectors should also advise workers of their right to approach CCMA for issues of dispute resolution under the National Minimum Wage Act.

As indicated earlier that there is decline in trade union membership, efforts of boosting labour inspection at shopfloor level become minimal. Buhlungu (2006) argues that part of organizational challenges facing South African trade union movement is associated with challenges of coping with neoliberal reforms; contesting such reforms; retaining and energizing rank and file in the post-apartheid era; and reaching out to potential members in the informal sector and other areas of insecure work. Webster (2006, in Buhlungu, 2006) points to a wholesale job shedding in the private sector following the cutting back of protective tariffs and this has reduced the pool of potential union members, and causing drops in the overall union membership levels in many areas.

Outside the collective bargaining arrangements, wages and working conditions are determined through sectoral determinations, for example the forestry, contract cleaning, private security, hospitality, domestic sectors (Hayter and Pons-Vignon, 2018).

Inspection approach in the hospitality sector in Gauteng is in two ways. There is inspection that is carried out by the bargaining council's designated agents. Employees lodge their complaints through statutory department of the bargaining council, which then refer complaints to the

designated agents who will be conducting the inspection. Inspection conducted by bargaining council monitors compliance with collective agreement by restaurants that are within the area of jurisdiction of the council. Another form of inspection is done by the Inspection and Enforcement Services (IES) of the Department of Employment and Labour. This inspection focusses on compliance with the labour laws that include Basic Conditions of Employment Act, National Minimum Wage Act, Occupational Health and Safety Act and sectoral determinations. This inspection applies across all industries. Inspectorate and enforcement of bargaining council collective agreement and minimum rates is conducted by designated agents.

In many countries, employment laws are often ineffective because of employers who do not respect the laws, weak enforcement by regulating authorities and failure to reach informal sector. Even though labour legislation might be rigid, it is not enforced and is widely evaded. According to World Bank (2011), enforcing the implementation of the most basic of core labour standards is difficult. In terms of ILO Convention 81 Article 3, one of the main functions of labour inspection is to provide information organize awareness raising and, firstly, to advise employers and workers on their duties, i.e. the best way of complying with the law, before using enforcement measures such as fines or other sanctions. Workers in the informal sector are seldom organized, more prone to suffer from abuse and discrimination, and more likely to lack access to social insurance arrangements (World Bank, 2011). Many countries need to develop a modern labour inspectorate to effectively enforce core workers' rights by creating and developing effective and functional framework for labour enforcement to improve prevention measures, foster incentives to improve labour conditions instead of compensation, supervise the implementation of labour regulations, and provide prevention-focused technical and advisory services to enterprises (World Bank, 2011).

2.2. South African national minimum wage: Strides and challenges

2.2.1. Poverty wages, vulnerability and state response

Isaacs (2016) argues that South Africa is characterized by working poor with 54 per cent full-time employees (5.5 million workers) earn below the working poor line of R4500 (when the national minimum wage was initiated), could not pay for their daily necessities. By “working poor”, is meant people who work but their income fall below a given poverty line due to reasons such as, few working hours which translate into low wages. In the South African context, reference to ‘working poor’ focuses on workers with a household monthly income that is below the poverty line indicated above and this makes South Africa to be defined as one amongst societies that are very unequal in the world. This can be attached to the. “Gini co-efficiency for income that is about 0.67 percent and that is very high” (Seekings, 2014). By ‘Gini co-efficiency’ is meant a statistical measure of the degree of variation that represents the income, set of values or the manner of wealth distribution of a particular nation, and is most commonly used in analyzing income inequality.

Wage inequality between and within job grades within the context of various variables including race and gender, illustrates income inequalities between executives, different categories of management and shopfloor workers. Therefore, growing income inequalities between the working population and working poverty presents fundamental element of the South African labour imbalance. Finn (2015) agrees to the fact that, the prevalence of high levels of inequality and working poor demonstrate an urgent need to review South African wage policies hence review of sectoral determinations as a wage policy should be one such policy review. Finn (2015) also identifies a downward trend in aggregate hours worked per week, particularly since 2008 which could also contribute to further inequality and working poor hence the need for review of wage policy especially for low income earners.

These wage inequalities and disparities are understood through the labour segmentation theory. According to the theory, labour markets are made up of several distinct segments with different rules for wage determinations and employment policies (Dickens and Lung, 1998). There is limited access to jobs in most sectors due to the fact that there are more people looking for these jobs as compared to the jobs available. As a result, there is a queuing for jobs in the unemployed and also among employed workers. (Dickens and Lung, 1998). The labour segmentation theory also identifies two types work in different sectors. The first type is workers

that earn low wages under bad working conditions with unstable employment and little opportunities for advancement, which is often referred to as secondary jobs. The second one is those workers who earn relatively high wages under good working conditions and career opportunities for advancement which is often referred to as jobs in the primary sector.

This evidence is proven in our South African context as there are sectors that are still vulnerable such as the domestic, agricultural, hospitality, cleaning sectors and others. These sectors pay low wages with poor working conditions, high labour turnover and substantial barriers to entering employment in the primary sector (Geldenhuys, 2017).

As a world-wide intervention to the problem of working poor, ILO Convention 131 resolved that the primary purpose of the minimum wage is to provide protection for wage earners against low wages. Kristensen and Cunningham (2006) advance this intervention by ILO by arguing that “the objective of the minimum wage is to guarantee a socially acceptable wage, and thus a decent standard of living, for all workers”. Subsequent Convention 131, ILO Convention 135 as argued by Isaacs (2016) also advances the importance of minimum wages as “one element in a policy designed to overcome poverty and ensure the satisfaction of all workers and their families”. Isaacs (2016) relates to a study conducted in Latin America that revealed that regulated minimum wages has managed to increase salaries for the low wage earners

Regulated minimum wages in Latin American countries had positive impact on those in formal employment while few countries experienced increase in unemployment rates. In Latin America, informal sector impact of legislated minimum wage had mixed results (Kristensen & Cunningham 2006: 3). For example: Brazil had positive wage and negative employment results at the same time and this can be due to the fact that although countries can have legislated minimum wage, they have no common minimum wage system (Kristensen & Cunningham 2006).

In terms of positive role that legislated minimum wages have, Coleman, (2014) argues that, one of the examples of positive role played by legislated minimum wage as that of Brazil during President Lula’s era between 2003-10, an era where poverty, unemployment and inequality reduced. Seventeen million formal jobs created between 2002-11 parallel with improvement in minimum wages and proportion of formal employment increased dramatically although 90 per cent of the new jobs pay less than national minimum wage (Coleman, 2014). The argument

that Coleman (2014) is making on Brazilian scenario contradicts the idea that minimum wage leads to unemployment although it is also not clear that minimum wage leads to job creation. Rani, Belser, Oelz and Ranjbar (2013) further strengthen argument on the need for regulated minimum wages by concluding that proportion of wage earners covered by minimum wage regulations is generally much higher in countries that adopt a national minimum wage than those countries with sectoral minimum wages

Webster (2006, in Buhlungu 2006) argues that it is difficult to give cut and dried answers on whether or not to regulate the labour market because of limited studies that have been conducted on the subject and over time the findings of those limited studies have pointed to contradictory results. For example, a study that was conducted in Italy in 1997 on deregulation of labour market revealed that, “after four years there was an increase of 2 per cent employment, but two years later there was a decline in employment. (Webster (2006, in Buhlungu 2006) argues against unregulated sectors in which employees will always be at their employer’s mercy and discretion as employers will set wage levels and other conditions of employment that will improve their balance sheets.

Weak trade union representation across South African economic sectors has weakened the bargaining strength of workers to the worst levels, in particular shopfloor bargaining with union density below 30% in South Africa, the majority of workers can therefore be regarded as vulnerable and in need of regulated statutory wage intervention, such as the national minimum wage. According to Macun (1997, in Hayter and Pons-Vignon, 2018), registered trade union membership increased after transition to democracy and the most prominent feature of this increase was the rapid growth of industrial unions representing black lower-skilled workers. Today it is recorded that only 24% of the South African workforce belongs to trade unions. The poor trade union density and absence of a duty to bargain in the South African labour market has presented numerous decent work deficits with a majority of workers earning lower than the median earning, not receiving regular increases from their employers and not being members of Trade Unions (Statssa 2015). This is one of the arguments that have been put forward by the proponents of a national minimum wage, positing that it will cover a majority of those workers that are currently not covered by existing institutional mechanisms for wage determination, such as bargaining council collective agreements.

Pons-Vignon and Di Paola (2013: 32) also concur that, “although collective bargaining is the cornerstone of the South African system of labour relations, residual provision in the form of direct state intervention is needed, in particular when it seeks to protect vulnerable workers”. Protection of vulnerable workers has become important due to ‘non-standard forms of employment’ that have increasingly become common throughout the South African labour market and restructuring of work across the globe has led to widespread precariousness as a result of great diversification of employment arrangements (Pons-Vignon and Di Paola, 2013).

The fact that the new industrial relations institutions have been characterized by low growth, high levels of inequality and high structural unemployment is evidence for an action to be taken (Hayter and Pons-Vignon, 2018). Therefore, the national minimum wage can be, the kind of state intervention that will also set a floor for subsequent living wage, collective bargaining and improved working conditions.

According to Isaacs (2016), “wage-income inequality plays the largest role in driving the overall inequality in South Africa and elsewhere, due in large part to wage-income being the largest single source of income in the economy, including for the majority of low-income households”. It is in this context within which “it is important to understand if the national minimum wage will be able to reduce poverty and inequality, while also boosting economic growth, without significant negative economic consequences” (Isaacs, 2016). It is also important to understand what long-term solutions that can be brought by the national minimum wage to the problem of poverty wage in the country although it (national minimum wage) does not translate into living wage. However, Seekings and Natrass (2015) caution against high national minimum wage as this would be likely to worsen poverty and inequality, and suggest that expanded tax-financed social assistance and job creation programmes combined with South Africa’s sectoral minimum wages would be more effective ways of addressing poverty and inequality. Isaacs (2016) further points to advantage of minimum wages as a mechanism in the labour-market policy that is used by more than 90 per cent of countries that are members of the International Labour Organization, in their wage system.

Aggregate evidence of minimum wages on employment as argued in Isaacs (2016), indicates overall neutral impact while disaggregated evidence on the contrary, reveals sufficient proof and consensus that once there is an increase in minimum wages, mixture of positive, negative

and neutral effects can result. Isaacs (2016) further argues that aggregate evidence of minimum wages on employment also suggests minimal combined effects.

2.2.2. Wage determination in the hospitality sector

Hospitality sector minimum wages have been governed by sectoral determination since 2007. Despite the growth and regulation of the sector, Vettori (2015) argues that the use of atypical or non-standard employees or workers who do not qualify as employees in terms of the legislation is very prominent in the hospitality sector and this results in exclusion of these employees from the net of legislative protection and protection afforded by trade unions. Organizing atypical employees is very difficult given the nature of the hospitality industry and the hours which these employees work (Vettori, 2015). Vettori (2015) describes atypical employees as employees who work on part-time basis, or a fixed term, or on a temporary basis, or scheduled and seasonal work which is tenuous and insecure.

Difficulties of trade union organization in the sector can be conceptualized around casualization of employment in the form of outsourcing, contract workers (independent contractors in the hospitality sector) and informal work that includes hawkers and self-employed. The size of establishments (small restaurants with 10 workers or less) where 90 per cent of workers are in very small locations with two or three other workers, present challenges not only in the recruitment of workers by trade unions but also in representing these isolated workers, given the human and financial limitations of the organization (Taal, 2012). Munakamwe (2018: 300) also argues that casual employment relations are prevalent and that is a universal challenge among workers in this sector irrespective of nationality and new entrants into the labour market are mostly affected.

Despite positive contribution to the economy, the sector has numerous challenges that rendered the sectoral determination ineffective. The increasing informalization of the sector as argued earlier has reduced worker's rights. Munakamwe (2018: 300) describes outsourcing as a labour hiring method that is used by companies to reduce labour costs; avoid payment of employment benefits such as leave pays, medical insurance and pensions and increase profits and offering of short-term contracts. Deplorable conditions include situations where workers are categorized as independent contractors and are completely denied coverage of sectoral determination.

In the Sectoral Determination 14 era, wages in the sector were calculated using just ordinary working hours. For example, daily or weekly salary divided by ordinary working hours gives rate per hour and monthly salary divided by 4.333 gives a weekly wage. From 2007 (Promulgation of SD 14), Hospitality sector employer with more than 10 employees had real wages increased R1650 in 2007 to R3078 in 2015. This means that minimum wages have thus increased by R1 428 or R158 per year over a nine-year period. In the same period, Hospitality sector employer with less than 10 employees show that real minimum wages increased from R1481 in 2007 to R2761 in 2015. Minimum wages have thus increased by R1 280 or R142 per year over a nine-year period (Labour Research Service, 2016). According to the last Hospitality sectoral determination update which governed minimum wage rates between 01 July 2018 and 30 June 2019, an employer with 10 employees or less, would pay a minimum rate of R17.34 per hour and employers with more than 10 employees would pay R19.35 per hour.

Two regionally based bargaining councils in a vast sector such as hospitality exposes compliance with sectoral determination at the behest of the employer in the rest of the country because bargaining councils also monitor compliance with sectoral minimum in their areas. These bargaining councils do not set a nation-wide sectoral determination, instead they make their own submissions to the Employment Conditions Commission (ECC) during the review of the sectoral determination. Submissions are also done by other industry stakeholders (unions, employees and employer bodies) during public hearings.

When the national minimum wage commenced in January 2019, minimum rate in terms of the Johannesburg bargaining council was R20.50 per hour and Pretoria bargaining council did not have a signed up collective agreement. Both these bargaining councils have exemption clauses in their collective agreement. Exemption means that certain employers who meet set requirements are exempted from paying minimum wages for a prescribed period. The bargaining council exemption committee deals with applications from employers who can prove through their annual financial statements that their profit cannot justify full compliance with bargaining council minimum wages. Connecting to the exemption clauses of the bargaining council's main agreements and in terms of section 15 of the National Minimum Wage Act, an employer or an employers' organization may apply for exemption from paying the national minimum wage. Exemption obtained in terms of the above is only for a specific period of time which does not exceed a year. The wage that the employer is required to pay

and other relevant conditions are prescribed in the exemption certificate. Then the concern arises as to whether unscrupulous employers cannot use this practice to escape compliance with the national minimum wage for some time while also saving for profits.

The collective agreements of the above bargaining councils are reviewed from time to time (normally three years) to be also responsive to non-parties through extension by Minister of Labour and Employment and called for decent working conditions in the sector (Munakamwe, 2018: 325) Although wages in the sector are gazetted through sectoral determination and collective agreements, payment in the form of tips or commission where a workers in particular waiters only gets money from the customers they serve, is prevalent in the sector and this is most experienced in restaurants that employ immigrant workers because they fear to report their employers to institutions such as CCMA, Department of Employment and Labour. Trade unions often fail to organize immigrant workers because of pressure from their potential or South African members who often see immigrant workers as a threat to their job opportunities and security.

As outlined earlier in the introduction of the study, National Minimum Wage Act 2018 also triggered amendments basic employment conditions and that resulted to Basic Conditions of Employments Amendment Act (BCEAA 7 2018). In terms The Basic Conditions Amendment Act, Labour Inspectors are empowered to secure written undertakings from non-compliant employers to pay national minimum wage. Through CCMA, both written undertakings and compliance orders may be made into arbitration awards. Upon non-compliance with the arbitration award and on application, the CCMA is empowered by the National Minimum Wage Act to certify the award and it may be enforced as a labour court order. This means that it can be taken directly to the Sherriff for attachment, once certified by CCMA (National Minimum Wage Act, 2018). Section 73A Basic Conditions of Employments Amendment Act, allows employees earning less than minimum threshold to refer such matters as disputes of non-compliance with the National Minimum Wage Act to the CCMA for resolution. Through these new amendments, the former powers of labour inspectors to enforce non-compliance with written undertaking or compliance orders directly through the labour court, have changed since a certified arbitration award carries the same authority as a labour court order

The key role of labour inspectorate as stated in Ngoepe (2008) is supervise compliance with legislation and regulations governing working conditions, working hours, illegal employment of immigrants and the minimum wage. Trade unions can work more closely with labour inspectors in a sense that they can help train their shopstewards in the workplaces about decent work and more importantly help to communicate with the inspectors about global unions, their challenges and how they can contribute to wider campaigns of decent work (Ngoepe 2008).

Labour inspectors are crucial decision makers known as street level bureaucrats hence they make discretionary decisions when delivering policies by means of service, enforcement, monitoring and regulating policies. Their role of street level bureaucrats makes them essential actors in the implementation of labour policies because low levels of enforcement and monitoring undermine the purpose of labour laws. According to Ngoepe (2008) IES had 1000 labour inspector throughout the country. This meant that 900 00 workplaces are inspected once every three to four years and according to the code of conduct of inspectors, they are supposed to conduct 18 pro-active inspections per month and such inspections be finalized within 90 days. At the initiation of the national minimum wage, IES had 1392 inspectors (Department of Labour, 2018).

2.2.3. South Africa, a case of failure in policy implementation.

The state through Inspection and Enforcement Services division is expected to monitor compliance with national minimum wage in order to achieve the purpose of the national minimum wage as outlined earlier in the National Minimum Wage Act.

For many years, Inspection and Enforcement Services (IES) has been weak in monitoring compliance and enforcing minimum wages in the sectoral determination era. Borat and Stanwix (2013) deposits that legislated minimum wages exist in almost all developing countries although formal enforcement mechanisms are weak and relatively high levels of non-compliance with labour regulations are commonplace. Rani et al (2013) also deposits that compliance rate with minimum wages is relatively high among countries with simple and broadly applicable minimum wages, for example Brazil (national minimum wage), compared to countries that have complex, sectoral wage systems. Also, Ndungu's (2008) examination of wage trends found that different sectors were earning different wages despite minimum wage regulations set through collective bargaining councils. Construction workers were earning way lower wages than the other industry sectors.

With the increased migration to South Africa, in 2012, SADC immigrants to South Africa had increased to 1,2 million and statistics further estimate the number of undocumented migrants from one to three million, especially from neighboring Zimbabwe, Mozambique and Malawi (Statssa, 2012). Slow economic growth, scarcity of work with increasing legal and economic precarity for migrants push workers into unprotected positions with skew employment relations in favor of the employer. Because of their fluent English, these undocumented immigrants mostly occupy front-line positions as waiters in the hospitality sector where work demands more labour and often result in long hours. Small businesses often disregard the issue of documentation such as work permits when hiring foreign nationals in order to easily replace them when necessary for the employer. At times, foreign nationals are preferred over South African nationals because they do not report employer contraventions of labour laws (such as Sectoral Determination 14 / National Minimum Wage Act) for fear of victimization, exploitation, arrest and deportation for not being in possession of valid work permits (Cazarin and Jinnah, 2014). The above situation further exacerbates the challenges of labour inspection in the sector.

Although South Africa is believed to have progressive constitution and sound labour legislation in Africa which in principle endeavors to protect the rights of workers, the country is faced with major challenges of violations of labour regulations and minimum wages in particular (Marahwa 2016). These violations are more prevalent in economic sections like: the hospitality, domestic, security (private), taxi, farming. One possible reason for the low compliance with minimum wage in several areas of South Africa, as argued by Stanwix (2013: 4), is the weak incentives given to employers to comply with the law and this leaves the choice of responding, on the possibilities of being reprimanded and the severity of the penalty, thereof. Stanwix (2013) points to the example of the agricultural sector where risks of being caught for not complying are minimal and penalties are also less because of the remoteness of farms alongside with less inspection resources, private property rights and also issues of reporting by workers. In addition, Ngoepe (2008) argues that the labour policies are just symbolic politics that give the impression the impression that labour policies are being effectively implemented whilst the fact is that little is being done to tackle issues and problems of workers. There is a disjuncture between and implementation as large fractions of labour force especially in South Africa and less developed countries face poor working conditions and lack state sponsored protection against unemployment, injuries and diseases. For example, there are approximately 5.8 million workers who are not registered by the Unemployment Insurance Fund (UIF), which

is half of the workforce. Also 4.1 million workers do not have paid leave entitlements (Ngoepe 2008).

Design, monitoring and enforcement of labour laws. Labour regulation is the use of legal rules and sanctions to set and enforce certain behaviors hence in the context of employment relations, labour laws are designed to protect workers against insecurity and exploitation at the workplace. The aim of a one-stop inspection service as outlined in Ngoepe (2008) is to try to enforce and monitor all legislation in one-stop inspection visit so as to try and have effective inspections and to combat redundancy and this assumes that the internal and external structures of inspections complement each other to achieve the outlined objectives of inspection services; for example the labour laws have stipulated effective sanctions for non-compliance, or that procedures for prosecutions of non-compliance are efficient. One-stop services also assume that inspectors have the capacity in terms of adequate skills and training and that inspectors have resources (computers and maps) to carry out meaningful and efficient inspections.

Madzivhe (2005, in Ngoepe 2008) argues that the role of IES unit is to promote good labour practices, improve conditions at work and minimum wages. Labour inspectors must provide information and advice on labour laws and also ensure compliance with labour laws by being both reactive and proactive. Labour inspectors are also empowered by section 66 of the BCEA in executing their duties.

Inspections procedure begins with a complaint from workers about the alleged unfair labour practice which can happen telephonically or physically. These complaints are received at the administration desk which later groups them according to area and jurisdiction. Thereafter, these complaints are distributed and given to team leaders who later distribute these complaints as cases to their team members. The initial process of an inspection usually takes between two weeks and a month for them to be investigated. After the cases land on inspectors' desk, the investigation process begins as the inspector will call both employer and the complainant (usually employee) to verify details and understand the nature and background of the case. The inspector will then set up an appointment with the employer for an inspection visit (Ngoepe, 2008). Each year Department of Labour targets specific sectors in the country for inspectors to go out and conduct blitz inspections for a week nationwide. Blitz inspections are aimed at conducting inspections without prior knowledge of the employers and to conduct full routine inspection checking all labour legislation.

In South Africa, matric and driver's license are the minimum requirements for being appointed as a labour inspector with the exception to those labour inspectors who specialize in Occupational Health and Safety Act (OHSA) and Employment Equity Act (EEA). The inspectors that monitor the OHSA and EEA are expected to have a tertiary qualification on in engineering and labour law when they are appointed. According to Ngoepe (2008), labour laws are inherently complex and their complexity is further exacerbated by the inherent shortfalls of implementing these laws and therefore it is not enough to appoint labour inspectors purely on the basis of matric

Connecting the inspection services in the era of the sectoral determination to the national minimum wage in the hospitality sector from January 2019, this will further exert more pressure on Inspection and Enforcement Services, that is expected to enforce this legislation in a manner that engenders compliance by all companies in the sector. Failure to enforce legislation will mean that beneficiaries from this regulatory framework will not realize the expected benefits as envisaged in the Act. Bureaucracy in South Africa has been ineffective compounded by numerous failures from poor skills set, lack of meritocracy and poor budgetary allocations to support the manning levels required for effective service delivery. The Inspection and Enforcement Services (IES) is no exception to other state institutions in services delivery weaknesses. Contrasting labour inspection to other public institutions, Atkinson (2007, in Von Holdt, 2010), argues that alarming number of local governments, especially in smaller towns, are riddled by human resource crisis and unable to deliver services because of the loss of skills, lack of expertise and institutional memory, numerous vacancies in senior positions, and apparently, endemic corruption

In general comparisons, the capacity of state bureaucracy is weak to deliver on the mandate of their institutions. Von Holdt (2010) also echoes that the present South African bureaucracy has functioned as some kind of selfish means that has also led to huge effort and resources being expended in solving what may have been the wrong problem. Old style bureaucracies, as argued by Von Holdt (2010) represented a significant break and innovation from the prevalent system of patronage-based administration. The old public administration practices enabled the expansion of the modern state capacities, although it has always been blamed for its weaknesses in terms of efficiency and political accountability (Von Holdt, 2010).

Chipkin and Lipietz (2012: 14) also strengthen Von Holdt (2010) argument of old public administration as a base for modern state capacities. To re-align bureaucracy and public administration in the country, South Africa, as analyzed by, Chipkin and Lipietz (2012: 14), should adopt public sector reform model that must first, analyze apartheid systems of governance and from that analysis, develop a strategy to overcome democratize those systems of governance. The new public administration emphasizes on incentive structures that aim to curb the perceived inefficient and wasteful propensities attributed to the old bureaucratic practices (Chipkin and Lipietz, 2012).

The incorporation of the former Bantustans into provincial government administration in South Africa, also added inefficiencies in the public administration system. Picard (2005: 297, in Chipkin and Meny-Gibert 2012) points an example of KwaZulu-Natal where nepotism flourished to an extent that those with royal lineage had privileged access to the civil service. The ineffectual state of the bureaucracy that is due to lack of technical and managerial capacity and intellectual adherence to formal procedures entrenched the culture of patronage and corruption. The history of state administration related to the legacy of apartheid and the nature of political transition to democracy, as argued by Chipkin and Meny-Gibert (2012) have had a profound influence on the state of public sector in South Africa.

Adding to failures of public administration in the country, Von Holdt (2010: 5) also alludes to, “contradictory set of rationales” that shape the way, current administration works and this could be attributed to the tensions within the nationalist project. While this tension pointed out above, presents itself in “contradictory rationales for bureaucratic practices”, aspirations to establish a modern, effective bureaucracy by the new system has promoted rapid rise of new black elite (Von Holdt, 2010). A second set of ‘rationales’ identified by Von Holdt (2010) is organized around six distinct cluster of interrelated themes, namely: class formation, ambivalence towards skill, the maintenance of face, hierarchy, ambivalence towards authority, and the prevalence of budgetary rituals. Tensions between these different contradictory set of rationales, and the salience of the second set, is to be blamed for much dysfunctionality of state institutions

Sloth-Nielsen (2007, in Von Holdt 2010), advances another example of state failure in policy implementation as that of Correctional Services Department that is characterized by maladministration that is accompanied with corruption and failing financial management systems. Current bureaucracy in different state organs is organized in multiple and different systems among these institutions, depending on their labour processes and functions that are also different. For example, the primary duty of Home Affairs offices which revolves around processing of documents differs from the organization of the Department of education that has a task of educating the nation. or Correctional Services Department that is tasked to rehabilitate sentenced Offenders.

The concentration and placement of skills within state institutions is a major challenge. According to Von Holdt (2010), location of high-skill functions which requires relatively more discretionary flexibility in relation to lower skill functions that are routinised; has significant implications on how institutions are structured. Improper placement of skills is one of the factors that can mislead and bring confusion to the manner in which state machinery works. When placing personnel, consideration of the degree of discretion or innovation required by front-line service providers varies substantially from institution to institution. For example, there is a considerable difference on level of discretion that could be employed by Cashiers, Police Officers or Nurses (Von Holdt, 2010).

Another example where placement of skills is significant as pointed by Von Holdt, (2010: 7), is state hospitals or public health care sector. Labour processes in this sector are characterized by high skills levels that are focused at the service delivery interface. Medical professionals like, Doctors and Nurses only define the structure of these labour processes because high skill levels and discretion based on professionalism should not limit the need for established organizational protocols, routines and procedures. This also applies to strict routines that must provide information on parameters of using discretion and judgement that is guided by skill and experience of Health Practitioners because of the nature of their work. Von Holdt, (2010: 7) further deposits that if high level of state capability is used to define features of developmental states, proper analysis of the kind of capability required to initiate innovation or facilitate it and implement policies, has to be undertaken. In this way, bureaucracy of state institutions has to command effective routines and, analytical, discretionary and innovative capacity that enables them to integrate these in appropriate and well-organized manner.

Other issues related to dysfunctionality of public hospitals can be attributed to fragmentation of structures, low management capacity, understaffing, poor maintenance of hospital equipment, financial illiteracy, ii-discipline, more importantly poor labour relations, and many other factors that make the health system seem to be in a state of decline. Johnson (2009: 62 in Von Holdt 2010: 8) labels the South African civil service as, “black hole of low skills, corruption and incompetence”. This indicates that, no state with such characteristics can be described as a developmental state. This is corroborated by Von Holdt (2010: 19) who blames these inefficiencies to a pervasive culture of deference within the bureaucracy that is associated with hierarchical attitudes that do not recognize or acknowledge that there is institutional failure due poor performance of public hospitals and the health system in general. This evasive denial, indeed, makes it difficult to identify problems in the system or account for such problems in order to resolve them. For budgetary discipline, which is important in any effective state apparatus, those responsible for functional sections in public healthcare cannot manage their budgets (Von Holdt, 2010: 19). It is in the context of the above public service delivery experiences that justify an investigation on what is done differently to ensure that national minimum wage policy is effective and beneficial to the targeted employees, in particular in the hospitality sector.

Despite these policy implementation shortcomings, not only in South Africa but in most other parts of the continent, critics locate state of affairs in Africa as completely undermined due to Africa’s failure to adopt modernization and establish independent rational-legal bureaucracy. Mkandawire (2001) argues against those who always blame the African public administration, as they only blame Africa as a whole because they do not make any recognition of efficient state operations in other parts of the continent. Africa’s post-independent state could be characterized with growth levels equal or sometimes outperforming other developmental states, such as Indonesia and Malaysia. Patrimonial practices, corruption and rent seeking as alluded to by Mkandawire (2001) happens in many modernizing states, including East Asian exemplars, but African critics and champions of modernization blame these practices as part of African governance style. Mkandawire (2001) deposits that the impact of these governance practices on economic growth could be positive or negative but there is a strong need for intensive research to verify these conclusions reached by such writers about the state of public administration in Africa. According to Mkandawire (2001), institutional weaknesses currently experienced by African states, is in many instances because of structural adjustment policies

of 'rolling back the state'. These bail-out projects were forced onto Africa by foreign governments or its aid agencies and that drastically, stripped African states of institutional capacity.

2.3 Labour inspection as a tool to implement and monitor the national minimum wage

2.3.1 International perspective

According to Piore and Schrank (2008), Latin model of labour inspection transforms labour inspectors into the shock troops that campaign for decent work because it reconciles regulation with economic flexibility of the country. This model of inspection comprises: management of organizational cultures, exposure and systematization of tacit knowledge underpinning Inspectors' judgements; and research into the relationship between labour standards and business practices. In advancing the Latin model of inspection, Piore and Schrank (2008) argue that countries, such as, Brazil, the Dominican Republic, Morocco and Spain have devoted new resources and personnel to the enforcement of their labour and employment laws in order to ensure more commitment to worker protection. Although that is the case, Piore and Schrank (2008), also view strong regulations pertaining to enforcement and employment laws, to be likely to impede much needed adjustment, job creation and growth. Labour inspectors responsible for enforcing the same regulations are at best incompetent and at worst corrupt and this culminates into economic and political critiques of regulation (Piore and Schrank, 2008). Such realities are not far from local experiences in South Africa.

According to Murahwa (2016), the enforcement of the national minimum wage by labour inspectors is faced with resource challenges such as the availability of inspectors and the quality of inspections. There is a high turnover rate of inspectors, low salary wage and little or no career prospects which leads to inspectors seeking new opportunities in the private sector.

The availability of adequate inspection resources is necessary for effective enforcement of minimum wage regulations. Ronconi (2010: 17-18) argues that labour inspectors who work in provincial labour law enforcement agencies in Argentina, concluded that the intensity of enforcement due to inspection can significantly determine the levels of adherence to law. Number of inspectors and workers covered by inspection are related as is the case in Indonesia where increasing inspection improved labour standards, with reduction in child labour. The

process of minimum wage enforcement in Brazil, particularly in the 2000s was tied to a drive towards business formalization and growth in employment in all industries. Also, the incentive structure for labour inspectors and new methods of meeting inspection targets to improve compliance standards, have been introduced. Performance-based pay scheme where Inspectors are incentivized for penalizing violations of non-compliant employers is used to reward inspectors, and this incentive system has resulted in improved labour inspection in Brazil hence their inspectors are paid relatively good salaries which improves efficiency and reduces chances of taking bribes from non-compliant employers (Murahwa, 2016: 18). Therefore, the way, minimum wage system is designed, could also determine the impact it has on effectiveness of monitoring, compliance and enforcement.

Information that is credible and proper understanding of minimum wages by both, employers and workers are vital for labour inspection to be effective in as far as the national minimum wage is concerned and to improve its compliance. Training and dissemination of information through public campaigns are important tools that have to be provided to employers, workers and worker representatives to ensure that, non-compliance with regulation is not attributed lack of knowledge or capacity within the industry.

Empowerment of worker organizations is supported by Benassi (2011, in Murhwa 2016: 19) who argues that a strong and well-organized workforce is more likely to monitor compliance and denounce violations. Because they are likely to face retaliation and thus be unwilling to report cases of wage violations, worker organizations may report such cases on their behalf. The option of collective action is guaranteed in Australia, for example, the worker representative organizations are also allowed to go to Labour courts to fight cases of underpayment of wages, using a section 539 of a legislation called, “Fair Work Act of 2009”. Greater legal awareness by workers is a better tool that enhances compliance as it often leads to better working conditions because workers are able to negotiate or bargain from a well-informed position (Berg, 2010).

‘Naming and shaming’ has also been used to ensure compliance. This strategy works on the basis of tarnishing the company’s public image and negatively impacting their competitive advantage; such approach has been adopted by many governments and unions. In Indonesia in the 1990s for instance, companies that violated minimum wage legislation were blacklisted and had their names published (Benassi 2011, in Murahwa 2016: 20). In Europe, a network of

organizations under the banner of the Clean Clothes Campaign (CCC) has used naming and shaming to achieve better working conditions, including living wages, in the garment industry of developing countries. The CCC blacklists companies that violate workers' rights and consumers are encouraged to boycott their products (Murahwa, 2016: 20)

Sanctions is necessary for any credible compliance system, especially in vulnerable sectors where violations of labour standards, including wage payments, are often rampant. Sanctions can include revoking of operating licenses, and stiff fines or criminal penalties (Murahwa, 2016: 21). The setting of the minimum wage requires attention when considering minimum wage policies and the manner they should be enforced because it should not be at a level that would not make compliance impossible while still being sufficiently high to achieve its objectives since ILO Minimum Wage Fixing Convention 131 of 1970 is recommending this balanced approach. The implementation and monitoring of minimum wage policies requires the participation of different actors or social partners.

2.3.2 Limitations of labour inspection - South African case

South African Department of Employment and Labour has directorate, under the Chief Inspector which is entrusted with the enforcement of compliance. This division of the Department of Employment and Labour has faced numerous challenges, mainly ascribed to lack of personnel and low budgetary provisions which results in inadequate capacity of inspectors, insufficient tools of trade, etc.

Looking at international experiences, we get various varying pictures to the realities in South Africa. Labour market structure plays an important role in influencing enforcement and monitoring of wage policies hence the designing of an effective minimum wage monitoring, compliance and enforcement system requires a context-specific approach (Murahwa, 2016: 25). Increased labour casualization, decreasing trade union density, triangular employment relationship, irregular migration, informalization of work, and rising unemployment, will have a negative impact in the monitoring and enforcement.

Besides structural limitations related to numbers of inspectors in the division, there is a general outcry on the competence and integrity of those already in the system. Von Holdt (2010) opines that workers in the North West agriculture sector were refusing to speak with Labour Inspectors because everything they had said in confidence was revealed to the employers. COSATU also

collaborated these issues in statement where they indicated that most of their members did not trust the labour inspectors as they were advising employers on how to deal with trade unions and COSATU in particular.

ILO (2009) report estimates about 60% of South African labour inspectors who do not hold education degrees which might be an indicative of insufficient skills and training as they might require technical skills, qualifications and personal qualities. Moreover, the fact that the Minister may appoint any person in the public service or from bargaining council to be a labour inspector has negative effects on the standard of criteria that is used for the selection of Inspectors at provincial and national levels of inspection (Marahwa, 2016). The powers of the bargaining council designated agents are the same as those of labour inspectors in a far as enforcement of the council's collective agreement is concerned. South Africa is also challenged with effective enforcement of compliance due to, for example, low levels of awareness of the current minimum wages among some stakeholders. The possibility of inspections taking place and the resultant legal implications of non-compliance affects the extent to which violations are reported and investigations taking place (Marahwa, 2016). It is based on these types of volatile environments the South African labour regulation operates in, that make us wonder whether implementation of new national minimum wage in the country will effectively protect vulnerable employees. However, we can also bank our hopes on the CCMA since it has been empowered by the National Minimum Wage Act to ensure timeous resolution of disputes arising from national minimum wage policy

Inspection and Enforcement Services use three forms of inspection, namely pro-active (initiated / planned / general), re-active (responding to a complaint) and blitz (done on ad-hock basis) inspections. For example, in 2013, IES embarked on, 'national blitz inspections', a programme that targeted hospitality restaurants in the provinces of KwaZulu-Natal, Limpopo, Mpumalanga, North West and the Western Cape. The aim of this blitz inspection was to enforce compliance with labour laws of the country in these provinces. Moreover, the main objective of the programme was more visibility by labour inspectors across various sectors and thereby ensure compliance with safety standards, especially, in those industries that have great incidents of Occupational Health and Safety (OHS) and sectoral determinations' non-compliance (Department of Labour, 2018).

2.4. Conclusion

From the literature review, it is evident that South Africa is characterized by working poor who earn below the working poor line and could not pay for their daily necessities. There are wage inequalities between and within job grades including race and gender. There is also weak trade union representation across South African economic sectors weakening the bargaining strength of workers to the worst levels. Wage negotiations were done through sectoral determinations and bargaining councils, industry-based agreements, and company level agreements. These agreements tend to be ineffective and an urgent need to review South African wage policies and sectoral determinations was initiated which led to the introduction of the national minimum wage.

The national minimum wage is enforced by the Inspection and Enforcement Services (IES) that is tasked with monitoring and enforcing labour laws. For effective enforcement of minimum wage regulations, inspection resources must be available because South African labour inspection is faced with challenges of resources such as availability of inspectors and the quality of inspections. There is also high turnover rate of inspectors, low salary wage and little to no career prospects which leads to inspector seeking new opportunities in the private sector. Based on the literature review, one would then be interested to find out if the national minimum would enforce compliance on employers which is the thrust of our research study.

CHAPTER 3: RESEARCH METHOD

3.0 Introduction

The previous chapters have introduced the research topic, background, the research questions and objectives together with some literature review related to this study. This chapter discusses the selected research methodology used in this study. The research study will utilize qualitative research techniques to collect primary and secondary data in response to the three sub-questions of this study. As Creswell (2003:37) indicates, qualitative research enquires into the meanings individuals and groups ascribe to a social or human problem. The study will seek to ask respondents to define their experience of the national minimum wage at their workplaces. It is from these conceptualizations and assumptions that the researcher seeks to derive the meanings attached to each constituency's experience of this phenomenon interpretive social science techniques. Through data analysis the researcher will use evidence presented as findings to respond to the research questions.

Qualitative research is appropriate for this study as it seeks to interpret participants' views within a social action and constrictive framework. Qualitative research has an array of interpretive techniques which seek to describe, decode, translate and otherwise come to terms with the meaning, not frequency, of certain more or less naturally occurring phenomena in a social world (Merriam, 2009:113).

3.1 Approach

The research seeks to explore implementation of the national minimum wage in the hospitality sector in Gauteng. As explained earlier, Gauteng was chosen as one of the provinces that have a greater concentration of the restaurant subsector with two sector bargaining councils. In addition, the saturation of immigrants in the sector also makes Gauteng and restaurant subsector also favorable and attractive areas of arrival for both local and foreign job seekers. Therefore, it is practical to explore implementation of national minimum wage in line with bargaining council minimum rates as they are more or less equal, for example, at the time of this research project, the national minimum wage rate was R20 and the bargaining council minimum was R20.50.

The study targeted participants as key informants with possibility of having difficulties to secure them. Upon realizing that it was difficult to get the participants, the researcher approached the Johannesburg Restaurants, Catering and Allied Trades bargaining council in

Johannesburg to assist in facilitating access. The researcher did contact the Bargaining Council for the Food Retail, Restaurant, Catering and Allied Trades in Pretoria for the same arrangement as the Johannesburg council but was informed by the council representative that their council cannot participate in the study because the council did not have an updated collective agreement that the researcher can contrast with the national minimum wage. The researcher was informed that Pretoria bargaining council agreement expired on the 31 December 2016 hence the researcher ended with only the Johannesburg bargaining council. The Johannesburg bargaining council requested its designated agents to help me secure access to the different restaurants of Spur Corporation, as per my request and the situation in terms of access improved the plan. As explained earlier, designated Agents fulfil the role of labour inspectors within the context of the bargaining council. designated agents monitor compliance with the bargaining council collective agreement. The choice of Spur Corporation restaurants was based on the assumptions that its restaurants are well big, structured and organized compared to a small family restaurant in Johannesburg Park Station where for example there are no issues of labour relations because the restaurant is owned by a family and workers there are family members. Nine restaurants that were selected for the research are Little Eagle Spur (Newmarket, Alberton), Rocky Peak Spur (Brackenhurst, Alberton), John Dory's Fish Grill Sushi (Greenstone, Edenvale), RocoMamas Spur Grill & Go (Townsquare, Weltevredenpark, Krugersdorp), Panarottis Pizza Pasta (Candlestone, Krugersdorp), Casa Bella (Montecasino, Fourways), The Hussar Grill (Montecasino, Fourways) Wild Falcon Spur (Cresta, Randburg) and Wimpy (Vereeniging).two Steak Ranches There was only one franchised restaurant (John Dory's Fish Grill Sushi (Greenstone, Edenvale). The majority of them are owned by Spur Group Corporation. Wimpy in Vereeniging was also selected although it is not member of Spur Group. The purpose of its selection was to get views from outside the scope of the bargaining council and Spur Group. The selected restaurants employ more than 14 employees in different capacities such: waiters, chefs, child minders and managers.

The approach that the designated agents used was more of random normal inspection visits, so that employers would not prepare for the interview process in advance. Having accessed the targeted restaurants, the researcher would approach the participant both formally and informally depending on the circumstances. Therefore, the fact that the bargaining council assisted the researcher in gaining access, had in no way influenced the interview process with employees at all because it happened independent of the council and employers. The researcher was free to select participants to be interviewed and some volunteered.

3.2 Data collection

The researcher conducted in-depth face to face interviews guided by semi-structured interview questions to get in-depth, insightful and detailed information. This could assist the researcher in gaining deep understanding of how the national minimum wage policy is implemented in hospitality sector from participant’s perspective. All interviews were recorded after the participants gave consent. Participants were provided with participant information schedule identified as: Information Sheet, Consent Form and Interview Questions. Interviews lasted for 20 - 30 minutes and were conducted in an environment that was suitable to the participants.

The interviews explored: how employees in the hospitality sector perceive national minimum wage implementation; secondly, how employers in the sector adjust to implement national minimum wage policy and, lastly, role of sector bargaining council and labour inspection services in monitoring compliance. Therefore, qualitative research methods were better suited to seek response to the three sub-questions of the research study.

Table 2 below, seeks to illustrate the relationship between research questions and approach.

Research Question	Research method	Data Collection Technique	Sample Profile (important to understand capacity of participants)	Sample Size (needed to get focused attention participation)
How do employees in the hospitality sector perceive national minimum wage implementation?	. Qualitative method	In-depth face to face Interviews	Employees	15 (selected one to two per restaurant)
How do employers in the sector adjust to implement national minimum wage?	Qualitative method	In-depth face to face Interviews	Employers	7
How do bargaining council in the sector and labour inspection services monitor compliance?	Qualitative method	In-depth face to face Interviews	Johannesburg Bargaining Council’s designated agents	2

How do bargaining council in the sector and labour inspection services monitor compliance?			Department of Employment and labour inspectors	2 (the researcher's formal attempts to interview more labour inspectors did not succeed due to lengthy protocols with gate-keeping
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3.3 Sampling

The study sampled employees and employers in the hospitality sector, with greater focus on employees working under Spur group restaurants and other restaurants in Gauteng. The sampled restaurants are Little Eagle Spur (Newmarket, Alberton), Rocky Peak Spur (Brackenhurst, Alberton), John Dory's Fish Grill Sushi (Greenstone, Edenvale), RocoMamas Spur Grill & Go (Townsquare, Weltevredenpark, Krugersdorp), Panarottis Pizza Pasta (Candlestone, Krugersdorp), Casa Bella (Montecasino, Fourways), The Hussar Grill (Montecasino, Fourways) Wild Falcon Spur (Cresta, Randburg) and Wimpy (Vereeniging). One (1) employee was interviewed at Wimpy in Vereeniging. Only one restaurant was found to franchised (John Dory's Fish Grill Sushi (Greenstone, Edenvale). Restaurant managers represented the role of employer (Spur Group) in the interview. As part of the franchise deal, one restaurant also works according to Spur Group standards and procedures. The reason on the choice of these restaurants is that they have a bigger number of employees and they are well established with formal operating procedures. Labour inspectors and Johannesburg Bargaining Council's designated agents were also interviewed. Pretoria bargaining council did not have any updated collective agreement that could have contributed to the study. In all, the researcher conducted 26 interviews guided by an interview schedule with 61 sub-questions (altogether) that solicited responses to the two broad research questions.

Since the sector consists mostly of small establishments with less than 10 employees, the sample does not reflect the broader local sector characteristics since it was drawn mostly from structured formal restaurants with more than 10 employees and relevant stakeholders in the

sector (designated agents and labour inspectors). Interview participants were distributed as follows:

Fifteen (15) employees from the above restaurants, seven (7) employers from the same Spur Group restaurants (one manager per restaurant was interviewed), two (2) designated agents from Restaurants, Catering and Allied Trades Bargaining Council in Johannesburg and two (2) labour inspectors from Department of Employment and Labour from Benoni Labour Center because of their availability after the researcher could not get any because of the lengthy and frustrating protocols which also need the approval of the Director General who is very difficult to find for formal arrangement. Through the assistance of the manager at Benoni labour centre, the researcher could interview two labour inspectors.

Below is Table 3 that illustrates distribution of sample across institutions:

Target Group	Constituency	Organization Representative (Interviewee)
Employees in the Restaurant sub-sector around Gauteng (as explained above)	Employees	15 employees
Restaurant sub-sector employers around Gauteng	Employers	7 representatives
Statutory body in the sector in Gauteng	Restaurants, Catering and Allied Trades bargaining council	2 designated agents
Statutory body in the sector	Inspection and Enforcement Services	2 labour inspectors

The decision on choice of informants or interview participants was based on the anticipated potential experience in understanding standards of minimum wages and employment conditions of the industry because of the perceived formal environment within which participants operate. The results of the interview analysis will be made available to all the individuals (employees and employers) that participated in the interviews. Such results will also be reported to the affected organizations such as, Inspection and Enforcement Services (IES), relevant Bargaining Councils since the ultimate purpose is to report gaps in implementing national minimum wage policy.

3.4 Issues of access

As already explained above, the researcher had difficulties in accessing the participants but the situation improved later. Apart from the direct engagement that happened with the employees, in some instances the researcher had to observe some organizational protocols before the interviews like in the case of Labour Inspectors as explained earlier. For example, the researcher had serious difficulties with accessing Labour Inspectors. Plans and arrangements to interview Commission for Conciliation, Mediation and Arbitration (CCMA) commissioners who preside over national minimum wage disputes failed completely, save to say the researcher was referred by the CCMA director to the CCMA 2018/19 annual report.

3.5 Ethical Constraints

The research study seeks to contribute believable and trustworthy results while also adding credible new knowledge to the area of industrial relations. The research sites are Little Eagle Spur (Newmarket, Alberton), Rocky Peak Spur (Brackenhurst, Alberton), John Dory's Fish Grill Sushi (Greenstone, Edenvale), RocoMamas Spur Grill & Go (Townsquare, Weltevredenpark, Krugersdorp), Panarottis Pizza Pasta (Candlestone, Krugersdorp), Casa Bella (Montecasino, Fourways), The Hussar Grill (Montecasino, Fourways) Wild Falcon Spur (Cresta / Randburg) and Wimpy (Vereeniging). The study tried hard to ensure the confidentiality of participants (employees because the researcher needed free and maximum participation without fear of retaliation from employer) and solicited informed consent from participants to partake in the research process. In the case of other participants, there were not issues of confidentiality with regard to their participation because of their employment levels. The reporting has been done in a manner that does not violate the confidentiality of participants. The research report did not use names of individuals that participated in the study and no informant has provided for such right in writing. The same principle has been applied to those who represented organizations in the study.

3.6. Analytical procedures

Analytical procedures discussed the process of data analysis that was followed to generate themes derived from twenty-six (26) interviews that have been analyzed.

Qualitative research design was employed using an interpretive paradigm. Employees, managers, designated agents and labour inspectors were interviewed. All these interviews have been transcribed, in order to accurately record the full meaning of candidate's contribution. It

was also important to review the interviews, so that mistakes could be removed, once the data transcribing was done.

Braun and Clarke (2006) thematic analysis method (as presented in table 3 below) was borrowed in order to make meaningful sense of information contributed by the 26 interviewees. According to Guest MacQueen & Namey (2011:15), this method is considered to be a process that is rigorous, inductive and predictable. It is outlined to recognize and use word-based data to examine themes that are translucent and dependable. After thematic analysis technique was used and transcribing of audio discussions was finished, data was then organized, and grouped after coding. The themes that have been identified were then constructed, refined and finalized. The purpose of the process of thematic analysis, was to understand the deeper meanings of information from candidates, and to also provide appropriate themes that respond to the research questions and objectives.

Table 4: Steps used in analyzing data

Phase	Description of the process
Familiarizing yourself with your data	Transcribing data (if necessary), reading and re-reading the data, noting down initial ideas.
Generating initial codes	Coding interesting features of the data in a systematic fashion across the entire data set, collating data relevant to each code.
Searching for themes	Collating codes into potential themes, gathering all data relevant to each potential theme.
Reviewing themes	Checking if the themes work about the coded extracts (Level 1) and the entire data set (Level 2), generating a thematic ‘map’ of the analysis.
Defining and naming themes:	Ongoing analysis to refine the specifics of each theme, and the overall story the analysis tells, generating clear definitions and names for each theme.

Producing the report:	The final opportunity for analysis. Selection of vivid, compelling extract examples, final analysis of selected extracts, relating back to the analysis the research question and literature, producing a scholarly report of the analysis.
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Braun and Clarke (2015): Thematic Analysis.

3.7. Data cleaning and coding

While cleaning and preparing coding of interviews, there was detailed examination of transcripts so that typos and missing words can be rejected. Hence during the first reading, appropriate highlights appeared in paragraphs and that made our data analysis process easy (Creswell, 2013:205). Transcripts were then analyzed using Atlas.ti and through lexical queries such as word frequency and text search queries, quality of our coding improved.

3.8. Data Trustworthiness

To ensure that data is trustworthy, accurate and transparent, the checking for quality had to be done in all processes that involved coding hence adding the validity of the assumptions extracted from the codes (Bazeley & Jackson, 2013). This is also supported by Saldana (2009:27 in Guest et al, 2011) who argues that if there are elements of bias during coding process, in qualitative data analysis, coding assists in considerably minimizing bias subjectivity, as it provides standpoint that are diverse in data interpretation.

3.9. Conclusion

This chapter has presented the research methodology and the data collection process in fulfilling the research objectives of the study as introduced in chapter one. Moreover, some of the challenges that the researcher faced in the data collection stage have been raised herein. Data collection tools used in gathering the data have also been highlighted in this chapter. Ethical constraints and analytical procedures have also been discussed. the research method and approach were dissected through defending the chosen research method of qualitative study. Also, support from the academic literature applied relevance to the study and the chosen research instruments for data collection were presented to enable answering of the research questions. The chapter that follows will discuss will discuss and analyze the data collected and the related information to answer the research questions of the study

CHAPTER 4: RESEARCH RESULTS

4.0 Introduction

Brief sector characteristics, demographic background of the participants., thematic analysis of results for the three research questions indicated earlier in the study and findings are covered in this chapter. Department of Labour (2018) geographically demarcates areas of jurisdiction of the two bargaining councils, according to their representation. For example, Collective Agreement (2018) of the Johannesburg council covers areas like: Alberton, Benoni, Boksburg, Brakpan, Delmas, Germiston, Johannesburg, Kempton Park, Krugersdorp, Randburg, Randfontein, Roodepoort, Springs, Westonaria. Pretoria council's area of jurisdiction covers Brits, Bronkhorstspuit, Cullinan, Pretoria, Rustenburg, Warmbaths, Witbank and Wonderboom.

4.1. Background information to the chapter

As indicated earlier in the report, hospitality sector is the largest subsector of the tourism industry as it constitutes 67 per cent of all tourism in this country. For example, in 2014, tourism industry contributed 3,0 per cent to the economy higher than agriculture that contributed 2,5 per cent but smaller than all other sectors (Stats SA, 2016). The main contributors to the 16,9 per cent year-on-year increase in income from accommodation in January 2016 were hotels contributing 10,2 percentage points and other accommodation contributed 6,8 percentage points (Stats SA, 2016). Another positive development about the sector is found in the Price Water Cooper's hospitality outlook report: 2015-2019, that had projected continued increase in overall occupancy rate across all sectors; rising to an estimated 58,3 per cent from 54,4 per cent in 2014 and the hotel occupancy rate reached its highest level in 2014 of 59 per cent since 2008.

There are 109 hospitality restaurants that are registered with the Culture, Art, Tourism, Hospitality, Sport Sector Education and Training Authority (CATHSSETA) and 40 of these restaurants are based in Gauteng. The majority of these restaurants are those that have more than 10 employees. Johannesburg Bargaining Council has 3095 restaurants found within their scope (CATHSSETA, 2019). Sector Education and Training Authority (SETA) is a statutory body responsible for funding and facilitating skills development training interventions such as learnerships, internships, artisanship and disbursement of bursaries.

Demographic background of participants

Most of the employees who contributed to the study are females between the ages of 22 and 33 while their male colleagues are between ages of 25 and 47.

The sample was drawn from 15 employees who work in the hospitality sector. Employees who took part in the study are currently working at Rocky Peak Spur (Brackenhurst, Alberton), John Dory's Fish Grill Sushi (Greenstone, Edenvale), RocoMamas Spur Grill & Go (Townsquare, Weltervredenpark, Krugersdorp), Panarottis Pizza Pasta (Candlestone, Krugersdorp), Casa Bella (Montecasino, Fourways), The Hussar Grill (Montecasino, Fourways) Wild Falcon Spur (Cresta / Randburg) and Wimpy (Vereeniging). Based on the information provided above, it can be noted that most (6) participants work at Spur and one participant works at Wimpy, RocoMamas and Panarottis respectively.

The information provided above indicates that thirteen employees (13) have been working in their current companies for less than 10 years whilst only two of them are have worked for more than 10 years. Most (6) participants are working as waiters, followed by those who are cooks (4) and child minders (2), one (pasta lady) and finally one (1) barman. One (1) candidate did not provide answers with regards to her duties.

It can be noted that employees (13) who participated in the study do have written contracts and are employed full-time. However, two of them do not have written contracts and are employed part-time. The data was also collected from seven (7) employers from Little Eagle Spur, Rocky Peak Spur, Casa Bella, Hussar Grill, John Dory's Fish Grill Sushi, RocoMamas and Panarottis. Two (2) employers were from Spur Ranches (Little Eagle Spur, Rocky Peak Spur) and one from each other companies. Most employers (3) are senior managers, two (2) are restaurant operators and one is a middle manager and the last one is the owner through a franchise with John Dory's Fish Grill Sushi and this where one "employee" is an independent contractor.

The table below also represent the hours worked by the employees. Six (6) employees are working 8 hours and six (6) employees are working below 8 hours. And lastly, 2 employees work more than 8 hours whereas one employee did not respond.

It is important to also note that most (6) employees earn between R2001-R4000, followed by those (5) who earn between R4001-R5000. Two (2) employees are shown to be earning between [R1000-R2000] while only one (1) employee earns between [R6000-R7000] and

lastly, one (1) employee who works at John Dory's Fish Grill Sushi (Greenstone, Edenvale) gets commissions only and his contract is that of an independent contractor.

Table 5: Profile of employee participants

Employees	Company	Tenure	Duties	Contract	Type of contract	working hours	Monthly salary
Employee 1	Spur	4 years	Waitron	Yes	Full-time	8 hrs.	R2 700
Employee 2	Spur	5 years	Child Minder	Yes	Full-time	8 hrs.	R4 200
Employee 3	Spur	3rd year	Barman	Yes	Full-time	8 hrs.	R4 200
Employee 4	Spur	2 years	Child Minder	Yes	Full-time	8 hrs.	R4 500
Employee 5	Wimpy	10 years	Waitron	Yes	Full-time	12 hrs.	R3 900
Employee 6	Casa Bella	3 years	Waitron	Yes	Full-time	8 hrs.	Commission
Employee 7	Casa Bella	3 years	Cook	Yes	Full-time	7 hrs.	R6 200
Employee 8	Hussar Grill	2 years	Waitron		Full-time	8 hrs.	R2 200
Employee 9	Hussar Grill	2 years		Yes	Full-time	6 hrs.	R5 000
Employee 10	John Dory's	2 years	Waitron	Yes	Full-time	6 hrs.	R2 200
Employee 11	John Dory's	5 years	Cook	Yes	Full-time		R3000 - R4000
Employee 12	RocoMamas	4 years	Cook	Yes	Full-time	9 hrs.	R4 500
Employee 13	Panarottis	3 years	Cook	Yes	Full-time	4 hrs.	R3 700
Employee 14	Spur	4 years	Waitron	No	Part-time	4 hrs.	R1 700
Employee 15	Spur	30 years	Waiter	No	Part-time	4 hrs.	R1700 - R2000

Table 6: Profile of the employers

Employers	Company	Position
Employer 1	Spur	Middle manager
Employer 2	Spur	Restaurant Operator
Employer 3	Casa Bella	Senior manager
Employer 4	Hussar Grill	Senior manager
Employer 5	John Dory's	Owner

Employer 6	RocoMamas	Senior manager
Employer 7	Panarottis	Restaurant Operator

Two (2) Bargaining Council designated agents also contributed to the study. One (1) of the Agents has over 10 years of experience in the field and the other one (1) has less than 10 years of experience. One (1) labour inspector had experience of more than 10 years whilst another one (1) did not mention the years of experience.

Table 7: Profile of the Bargaining Council agents and labour inspectors

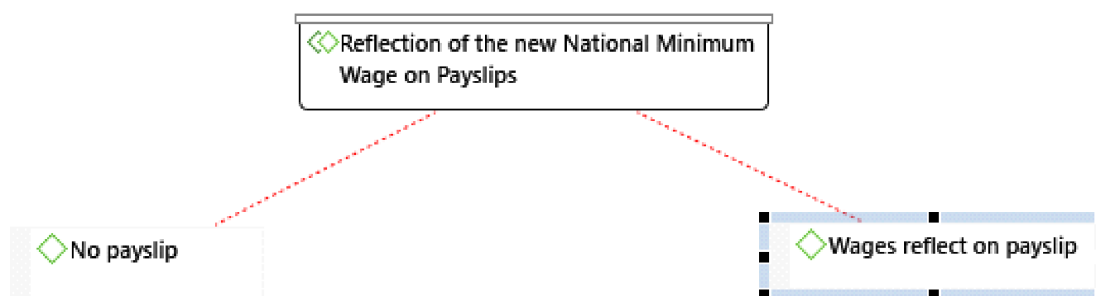
Participant	Years of Experience
Designated agent 1	20 years
Designated agent 2	9 years
Labour inspector 1	12-13 years
Labour inspector 2	Not specified

4.2. Results for question 1:

How do employees in the hospitality sector perceive national minimum wage?

This question was a result of the investigation into employers' adjustment to the new national minimum wage policy and, whether employees were aware of it. The aim was to test employees' perspective of the new policy against employers' manner of implementing it.

The new national minimum wage reflection on payslip



Employees highlighted the reflection of national minimum wage and whether it does reflect on their payslips. For instance, one participant mentioned that he is already aware of the national minimum wage:

Yes, I am aware of the national minimum wage of R20 per hour. Restaurants and other firms are not the same.

Some participants shared that, the national minimum wage is reflected in their payslips and one added that his wage or salary is already above the national minimum wage:

It is reflected in the payslip and above national minimum wage.

Yes, my wage is reflected in the payslip.

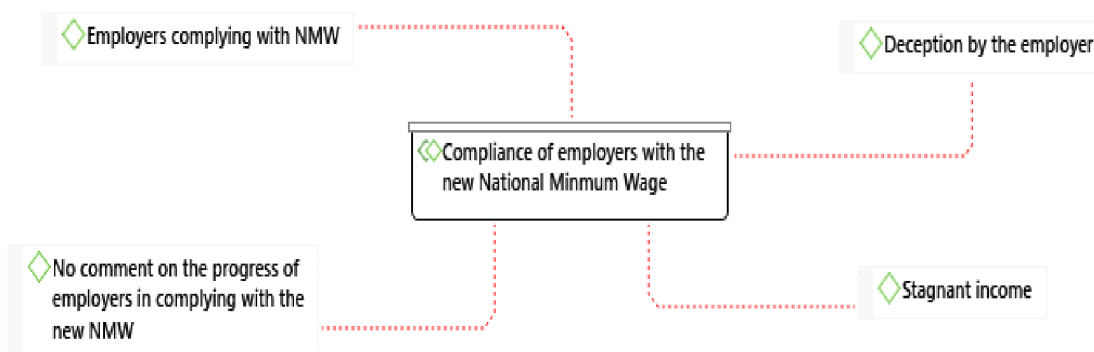
However, eight participants in the study contended that they do not get payslips:

There are no payslips here. Even other John Dory's do not have proper payslips.

One mentioned that he does not get payslips because he is a commission worker (independent contractor). The following extract from the interviews is in line with this:

I do not have a payslip because I am a commission worker.

The new national minimum wage employer compliance



Some employees who partake in the study indicated that, their employers are in compliance with the new national minimum wage policy. For instance, one participant expressed his happiness with the progress made by his employer in complying with the national minimum wage:

From being a commission worker to a full-time employee, I perceive that as a progress that has been made by my employer to comply with the national minimum wage. I used to work abnormal hours like 8H00 am - 8H00 pm, working for myself as an independent Contractor. At least I work 8 - 3 now.

In terms of the LRA, you cannot be both employee and independent contractor. This is one of the achievements of the national minimum wage.

Another participant also added that the employer is treating all the employees equally:

We earn the same money here as employees.

One participant did not want to comment with regards to his views on the compliance of his employer on national minimum wage.

Reasons for wages below national minimum wage

Employees also indicated that one of other reasons they are getting payment below national minimum wage is because they are given false hopes by the employers. For example, one participant mentioned that he is not getting the money he thought he would get:

The only thing that I would like to talk about is while I was at business school, there were rumours that in the restaurant sector, we have to earn at least R3900. I am not satisfied with what I am earning, but the thing is I cannot find another job and there is nothing I can do now.

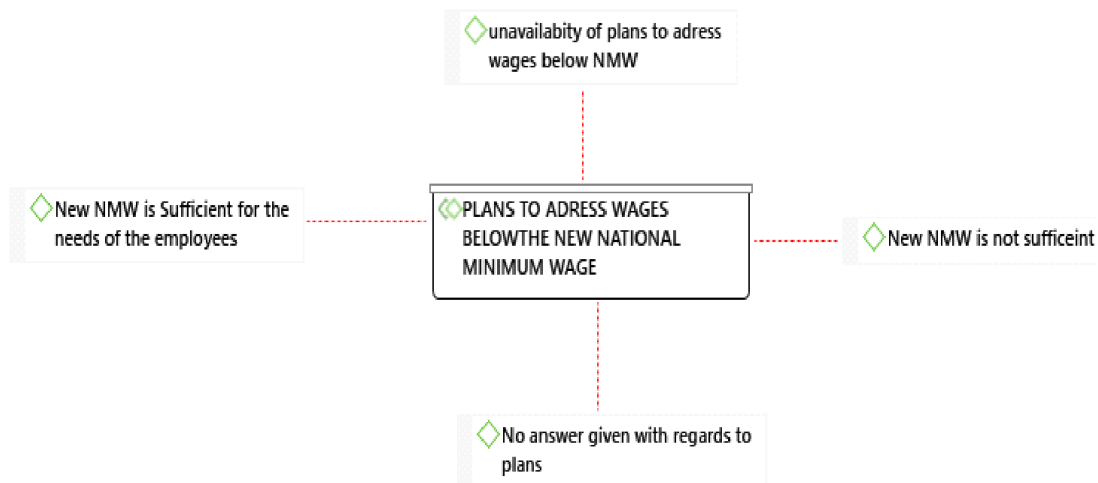
Another participant added more to the above employee’ comments and shared that what is actually on the contract is not really the reality:

I do not know how comes my contract says I am full-time while on the other hand, I am independent commission worker. Commission work is not better than national minimum wage and the honest truth is that we do not get basic salary.

The above participant also shared that his income has not changed since he started working in his position. He said that:

Since I started working here, the biggest amount that I have ever earned is R1800.

Plans to address wages below national minimum wage



A few participants highlighted that no plans have been made yet to address wages below minimum wage. For instance, one mentioned that his employer is not doing anything with regards to national minimum wage:

From what the employer is doing, there are no plans in place to fix the issue of minimum wage.

Emphasizing on what the above employee said is one participant who added that:

To tell you the truth, nothing has been done by my employer.

Other participants also shared their views on the sufficiency of national minimum wage. Four participants indicated that their income is sufficient to cover their needs. For instance, one participant argued that they are all satisfied with what they are earning:

All of us we are ok with the money that we get, no one is complaining. We also get tips on top.

Also emphasizing on what the above employee said is another participant who highlighted that the amount they receive is fair based on the hours they are working:

According to the hours that we work, it is enough because we are working from 7 - 2 or 8 - 3 and I think it is fair because this restaurant is like it is in the township. At least if it was at Vaal Mall, I think it would make more money.

However, five employee participants indicated that they were dissatisfied with the national minimum wage rate of R20 per hour, as it is not sufficient for their needs. For instance, one of them shared that:

I am not satisfied with what I am earning, but the thing is I cannot find another job and there is nothing I can do now.

Putting emphasis to the comments of the above participant, is another employee who alluded that the new national minimum wage was not enough to cover his expenses:

It is not sufficient at all. I have 3 kids that I have to feed, take them to school, I have to transport myself to work, pay rent. I keep on borrowing money. At the end of the pay I have nothing. I tried to talk to the employer about organizing and paying for transport at night because the situation is very dangerous for us. Sometimes you wait until 1h00 am without getting

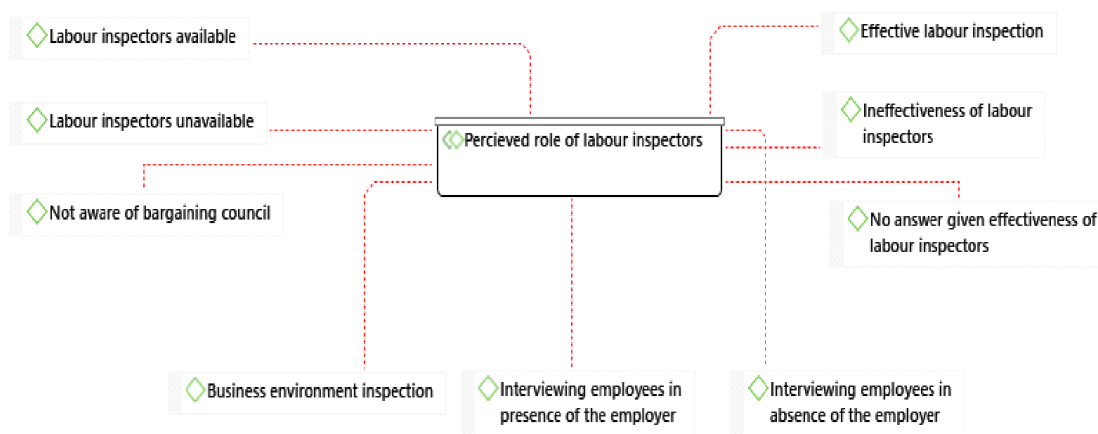
transport. I suggested to the employer to contribute R30 a day to the Taxi fare.

Another participant also indicated that they depend on commission to take care of their basic needs as the new national minimum wage is not sufficient:

But I rely on tips that I get on a daily basis and that is how I cope with paying transport.

Two employees did not share their views regarding the sufficiency of the national minimum wage rate.

Perceived role of labour inspectors



Twelve (12) employee participants who are not unionized mentioned that, they have never seen a labour inspector in their work place:

No, I have never seen a labour inspector. Actually, it is my first time with you to hear a person asking me labour things.

No, I have never seen a labour inspector here. I would like to see one and I am not aware of any Bargaining Council in the sector.

No, I never saw a labour inspector since 1989 when I started to work in the restaurants.

The twelve participants employee above did share that they are not affiliated to any trade union.

However, some few participants indicated that they do see labour inspectors in their work place:

Yes, I saw a labour inspector. I think I was in 2017 or 2018.

Yes, I have seen a labour inspector here.

One employee added that he doesn't know the bargaining council.

Those employees who have seen labour inspectors highlighted on the role played by the inspectors or what actually transpires during inspections. These participants mentioned that the inspector often investigates on how they are treated in their work:

He was asking questions about how we work and how we are treated here.

One participant also indicated that the inspector asked about the treatment workers receive from the employer and also checked the documents of the business, whether the employer is compliant. Another participant shared that the discussions by the labour inspectors with the employer took place in the view of employees although they did not speak to them, while two other participants said that the discussions between labour inspector and employees happen in front of the employer:

They ask how were treated, and the payslips. They also asked us to call the manager or supervisor and requested some documents from her.

Two employees who took part in the study also alluded on the effectiveness of the labour inspections:

Labour inspectors are effective in their work.

They are doing their job properly, there are no problems.

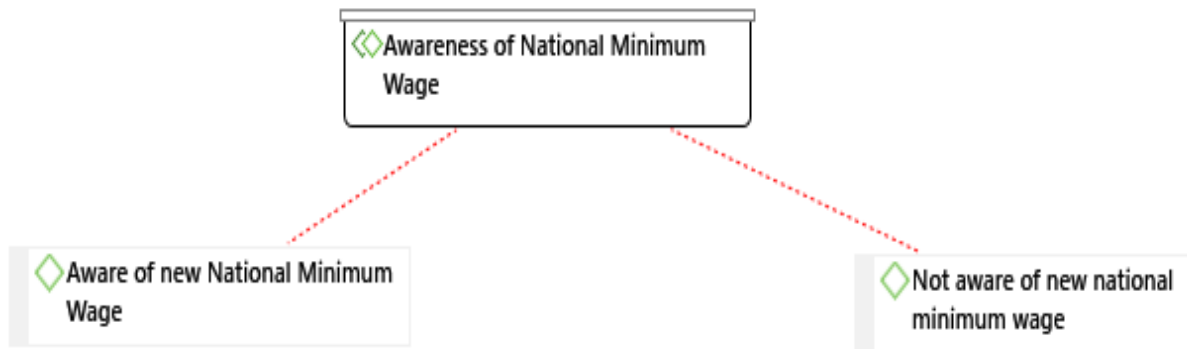
However, two other employee participants indicated that labour inspections are not effective.

4.3. Results for question 2:

How do employers in the sector adjust to implement national minimum wage?

This question determined if there are any efforts by employers to comply with new policy.

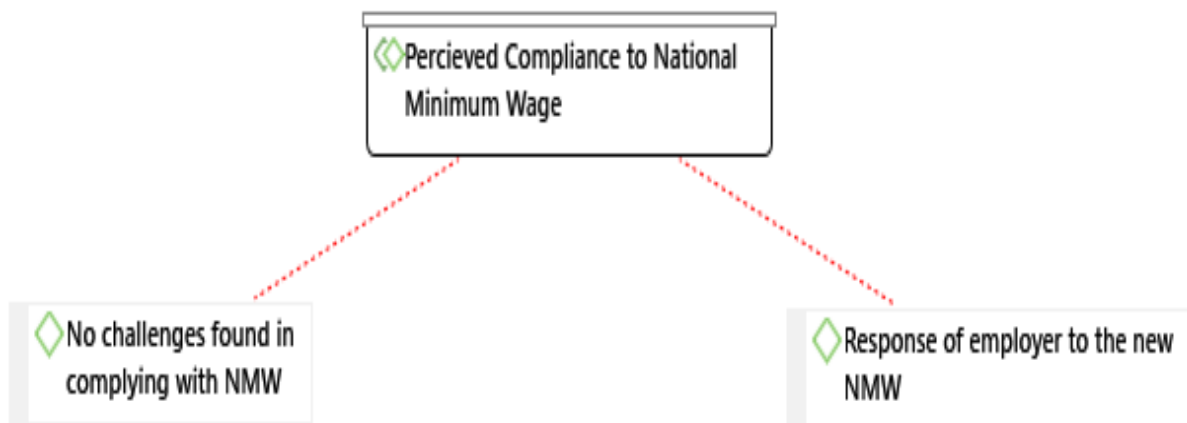
National minimum wage awareness



Employers who participated in the research study indicated their awareness of the national minimum wage. Six of them were reported to be very aware of the national minimum wage whilst only one of them was found not to be aware of it:

I am not aware of the new one because we have been in the minimum wage all along.

National minimum wage perceived compliance



All employers reported that they are compliant with the policy. They indicated that they pay their staff R20 or more per hour:

We are part of a group called Spur Brand Group. We have put our employees on the new national minimum wage when it started. It is part of our compliance with the law.

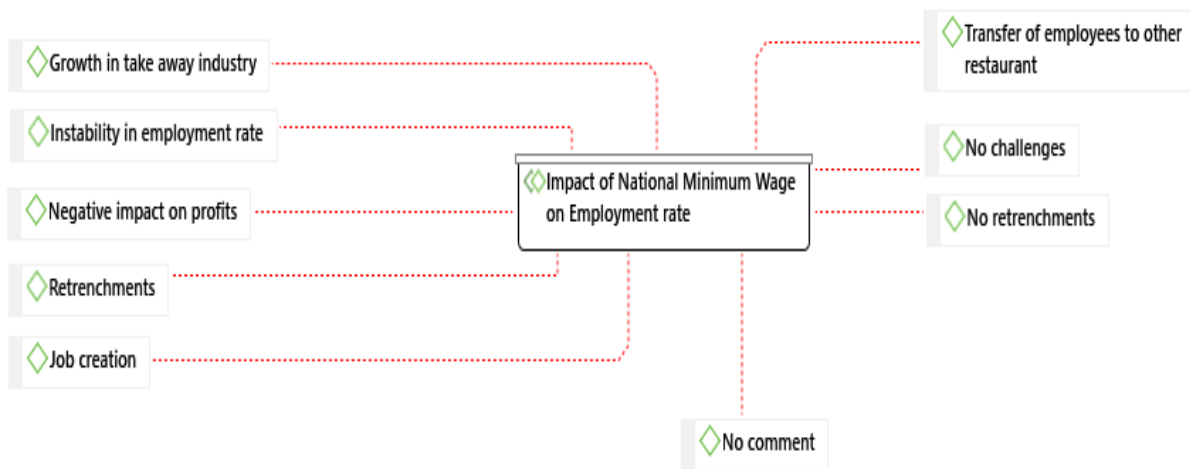
Yes, we have increased our staff salaries in May this year from R24.90 per hour.

I decided to remain on R20.50.

The majority of employers shared that they did not face any challenges with regards to compliance with the national minimum wage policy:

We did not have any problems with complying with the national minimum wage.

National minimum wage impact on employment rate



Four employer participants indicated that new national minimum wage policy implementation did not have any negative impact on employment rate as they did not retrench their employees:

We have had no lay-offs yet.

One of the four participants shared that they had to transfer employees to other restaurants to avoid retrenching staff:

We avoided lay-offs by transferring some of the staff to other restaurants such as RocoMamas and other Spurs within the Spur Brand Group. Therefore, we managed to find them jobs in other restaurants since we felt that it is our responsibility to do so. At this stage, we have no retrenchments at all.

However, three employers indicated that they had to retrench their managerial staff (perhaps because of their salaries compared to that of a waiter) because of the national minimum wage. For instance, one participant indicated that they had to cut off staff so they can be able to comply with national minimum wage policy:

We have reduced the number of managers. I have phased out 2 senior manager positions in order to accommodate national minimum wage. Productivity is also important.

Another participant shared the same sentiments with the above employer:

Here, we had to reduce some kitchen staff to cover all those aspects because we do our budget according to our turnover.

Another employer also mentioned that the national minimum wage policy forces them to reduce employees in trying to comply with the law but on the other side they get into trouble with the CCMA for dismissing employees:

You end up cutting the staff and you get into trouble and operational costs are increasing high. People will take you to the Bargaining Council.

Three employers shared that national minimum wage implementation did not affect their employment opportunities in their businesses because they still employ more people, especially during busy seasons:

On a busy season like November, December or on special days, it is where we need more Casuals and we need them for the day but if we need them for a week, we discuss with them.

We employed waiters since we are going for a busy season. We have not employed in the kitchen.

On the other hand, some participants mentioned that, implementation of the national minimum wage has caused instability to the employment rate. One employer highlighted that, increase in the minimum wage is directly linked to decrease in employment:

I would agree that it has brought labour instability. I think it is better to employ less people and pay more. With unemployment rate of 29%, those who have jobs want to be paid more. The more the national minimum wage is pushed up, we have to employ less people”.

Another employer participant shared same views as the above employer:

It has stopped job opportunities in the sector as you cannot afford to have more people.

Two employers did not share their views on national minimum wage and stability in the sector.

On other hand, the data analysis process also indicated that some participants were negatively affected especially on their profits:

But it did affect our profits because we had to adjust the budgets when the national minimum wage came into effect. We did not anticipate such a big change suddenly.

Echoing same sentiments with the above employer, another participant contended that the national minimum wage negatively affected his business to a point that it might shutdown soon due to an increase in expenditure:

Our business is affected in such a way that we might even close. Rent, water and electricity are expensive in this mall and you have to pay workers their R20 per hour. Even if they are not working, they have to be here for 45 hours per week.

By implication these employees are employed fulltime and the employer complies with hours regulated by section 9 of the Basic Conditions of Employment Act 75 Of 1997. The employer does not think of reducing working hours.

However, some employers shared that they did not face any challenges when the new policy came into effect, hence one participant indicated that they were already complying before the national minimum wage was even implemented:

We did not experience any challenges since we have been paying more.

Another participant also concurred that the new policy did not affect their profits:

We did not have any problems with complying with the national minimum wage.

Perceived role of labour inspector



Three employers indicated that labour inspector has never visited the places of business. However, four other employers mentioned that the labour inspectors did pay them a visit. For

instance, one of them shared that they were once visited by Department of Employment and Labour:

Yes, we had the Department of Labour recently although I cannot remember but it was this year.

He also added that they were also visited by the Bargaining Council:

We had also been visited by Mr. Hannie Botha from the Bargaining Council two weeks ago.

One participant also indicated that he took the initiative and invited the Bargaining Council himself to inspect his business:

I have had labour inspectors in other shops not here. What I did, was to invite the Bargaining Council Agent to come and advise me if I am doing things according to law because of staff members who are always not happy. It was in February this year (2019).

Some employers highlighted the role played by the labour inspector during the visits. They shared that the labour inspector came to assess the documents of the business and advise them on compliance with national minimum wage. For instance, one of them alluded that Labour Inspector checked all the records of the company:

They wanted proof of payment of workmen's compensation, employee records, and payslips for everyone, national minimum wage.

One participant indicated that the Bargaining Council designated agents advise them new of developments in the sector. Another one shared that designated agents came to check how much they are paying employees:

They wanted to know how many employees you have and how much do you pay them per hour. They wanted more things that I cannot remember.

4.4. Results for Question 3

How do bargaining council in the sector and labour inspection services monitor national minimum wage compliance?

As indicated earlier in the study, inspection in the hospitality sector in Gauteng is two-fold. There is inspection that is carried out by the designated agents from Bargaining Council. This form of inspection monitors compliance with collective agreement by restaurants that are within the area of jurisdiction of the council and those areas in the extended scope of the Bargaining Council. Another inspection is done by the Inspection and Enforcement Services (IES) of the Department of Employment and Labour. This inspection focusses on compliance with the labour laws that include Basic Conditions of Employment Act, National Minimum Wage Act, Occupational Health and Safety Act and others. This inspection applies across all industries. It was appropriate to mirror the Bargaining Council inspection and IES since the minimum in the collective agreement was R20.50 per hour and national minimum wage was at R20.00 per hour. The bargaining council scope covers the greater part of Gauteng and there is intersection between these institutions when carrying out inspections.

Inspection documents

Bargaining Council participants highlighted the documents they use for their inspection. The participant alluded that they use compliance notice book to conduct their inspections:

We carry compliance notice book when we conduct routine inspection.

Another participant also shared that they use the compliance notice book that is categorized based on type of inspection:

When carrying out inspection, you have a compliance notice book. The compliance notice book has some sections which specify the types of compliance that is expected from the employer.

One participant indicated that they use a reaction form when they are inspecting employee dismissal:

In our council, employees normally report after 5 - 6 years when they have been already dismissed. We then use reactive form of inspection.

Reactive inspection is a form of inspection that is conducted in response to a complain that was lodged by an employee against a particular establishment or sector.

Employee reports on non-compliance

Designated agents shared that they seldom get reports from the employees with regards to non-compliance of the employers. For example, one participant indicated that employees are often scared to report their employers non -compliance with bargaining council minimum rate:

It is very rare for employees to report employer non-compliance with the minimum or national minimum wage. Sometimes employees are afraid to report. We often found non-compliance of an employer when we do routine inspections. Very few employees (not more than 30%) would come to report their employer non-compliance or under-payment to the Bargaining Council.

Adding more to the above, another agent mentioned that employees file in reports when they have already been dismissed:

In our Council, employees normally report after 5 - 6 years when they have been already dismissed.

It was also indicated that employees lodge their complaints through statutory department of the Bargaining Council, which then refers complaints to the designated agents who will be conducting the inspection:

Our statutory department has 3 Complaints Officers who receive and register complaints from employers. Then a complaint form is submitted to the Agents who will do full inspection that looks at every aspect of compliance.

National minimum wage employer compliance

Designated agents who participated in the study mentioned that employers' compliance with the national minimum wage was high. For example, one Agent highlighted that, implementation of national minimum wage came at a time where employers were already in compliance with the council's collective agreement of R20, 50 per hour:

The implementation of national minimum wage did not affect the Bargaining Council because in terms of our collective agreement, it already above the national minimum wage. The minimum rate which came

into effect in May 2018 is R20.50 per hour compared to the national minimum wage of R20.00 which started in January 2019.

Agreeing more with the above input, another agent highlighted that employers are still following or complying with the collective agreement:

Fortunately, the national minimum wage came after we have a collective agreement in place. If an employer does not comply, we issue a compliance order and I do not have a case where an employer opts to pay according to the national minimum wage instead of the collective agreement. Yes, employers do ask whether they should reduce the hourly rate to R20 and our position is that we stick to our collective agreement of R20.50 per hour.

Challenges in enforcing compliance with national minimum wage

With regards to challenges faced by labour inspectors in enforcing national minimum wage, two major challenges emerged. These are sectoral challenges and the shortage of labour inspectors.

(a) Sectoral challenges

One inspector alluded to one of the problems facing the sector as failure of employees to report employers due to fear of losing jobs or being victimized:

What I have noticed is that the hospitality sector is mostly dominated by workers from countries such as Mozambique, Malawi, Zimbabwe and Swaziland and these employees do not report or want to participate in any form of interview or action that pertains to employer non-compliance for fear of victimization by the employer. Nevertheless, we encourage them to assist in reporting bad labour practices from the employer.

Another labour inspector alluded to the fact that there are no sector challenges experienced at the moment:

I have not personally experienced any challenges particularly to the hospitality sector. I have also noticed huge existence of foreign nationals in the sector and that is not a barrier in enforcing the national minimum wage because law is law irrespective of the circumstances. When there is underpayment, we act decisively to an extent that we do not even entertain this top up or commission stories that is normally found in the sector.

Whatever is extra, should be on top of the national minimum wage and that is our approach once and for all.

On a follow-up interview, one migrant employee participant confirmed that migrant workers are afraid to report instances of employer non-compliance with basic employment conditions because of fear of losing their jobs:

Yes, that one is true and I do have an experience of that because the employer would say it clear that somebody's salary must not be seen or known by another person. I do know that although we work in one category of employment and same department, we get different salaries and treatment compared to our South African colleagues.

The participant agreed that foreign migrants are indeed underpaid than their South African colleagues and some are afraid to report:

It is true that we as migrant workers are underpaid. Should the employer be aware that you know other workers' salaries especially for South Africans, the boss tells us that he is doing favour by employing us foreigners.

Some they do report and some do not because some people can talk for themselves and others cannot. Those who report are told that the problem will be resolved but once the employer knows that you went to report, you will be targeted until you make wrong thing, then you are fired immediately. There is also a R20 that is deducted every month for blue card (UIF).

Deducting UIF from foreign immigrants is also another form of non – compliance with the Unemployment Insurance Act 63 of 2001.

When asked if they he has ever accessed or check that money (UIF) at Department of Employment and Labour, the participant alluded that:

We have not been aware of it and now we are trying to find out what is going to happen when we get there. Once we get there and the Department of Labour (DOL) checks for you, you are going to be a target through small mistake that you do, you will be fired because you went to Department of Labour. The other reason why we are afraid to go and check it, is because we know that some of us are not registered at Department of Labour because of work permit issues.

Sometimes, employer does not have respect for Department of Employment and Labour hence one participant alluded that:

If we can talk to the employer about how much are we supposed to get and I asked him one day that how can he (employer) give a person 4 hours wage and say that is a living wage They (employer / management) say it is the law. I asked which law and we argued to an extent that he became angry and say why am I asking that and it means I do not want his job, so I must go to Department of Labour to complain and he will go and speak for himself otherwise I must not tell him about or threaten him with Department of Labour.

This is the employee who indicated that he is working four hours per day to be paid by the employer and after four hours, he works for tips from the customers.

Stressing more on working conditions of foreign nationals, it appears that they are poorly treated despite that fact that employer is paying more than the national minimum wage rate of R20.00 per hour. Few working hours is still a problem associated with working conditions, alluded one participant who has been in the sector for the past three (3) decades:

Current working conditions since I started in the industry in 1989, is that most things that have not changed are if you are a waiter, you will remain a waiter, with hourly rate earning. It is very hard. We are treated like kids by young managers because you cannot complain. Sometimes you are given warnings for no reason or should you show some dissatisfaction. Even when you look for another job, it is difficult because job opportunities are scarce. I work 3-4 hours a day and the employer say that I earn R21.90 per hour. Then after those hours, I work for tips only from the customers. Should you tell the customer that tips should be 10% per cent of the bill, and the customer complain to the manager, you are in trouble.

This means that the above employee only enjoys minimum wage only for three to four hours per day.

When the issue of immigrant workers was re-addressed with labour inspector, the participant (labour inspector) alluded that:

To respond on the issue of immigrant workers, if one is employed and is offering a service to a particular employer irrespective of whether they are immigrant workers or not, they are working and have rendered a service, so that employer in consideration of existing labour laws that governs that particular environment and industry, still needs to comply with those laws. There are no different rules or laws when it comes to

immigrant workers, So, that employer need to make that they comply in all respects and at material times with the labour laws irrespective of whether a person is an immigrant labourer or not.

That was the input from labour inspector despite the stipulations of the UIF with regards to immigrant workers.

(b) Shortage of Labour Inspectors

Bargaining Council participants (agents) highlighted insufficiency of the labour inspectors in ensuring compliance to the national minimum wage. For instance, one Agent shared that there is shortage of labour inspectors:

When we started, we invited Department of Labour to conduct inspections with us in the sector, but I think they do not have minimum capacity to enforce. For example, when I was conducting inspections in the East Rand, they gave me one (1) inspector while the process does not take one day. When called for the same process the next day, the labour inspector was not available due to other work commitments that are not related to inspection. In 2013, they were very effective because they were using Head Office in Pretoria where they have resources to embark on full (blitz) inspection campaign and that was fruitful. It was a joint campaign with us when we could inform the employer and we noticed that their calculation of pay for commission workers is different from us.

Another Agent shared that:

The Department of Labour only reports non-compliance to us (Bargaining Council agents) when they find it within our scope.

Also, findings extracted from one bargaining council Agent reveal that failure to visit workplaces of employers and employees is a result of shortage of labour inspectors' capacity. Although employees and Bargaining Council agent complain about absent labour inspection, interviewed labour inspector denied that the alleged cases of poor visibility of labour inspectors in the workplaces determine their insufficiency as alleged by Bargaining Council agent.

In a subsequent follow-up on the above matter, labour inspector participant alluded that:

I do not know how they come out with that conclusion that them being allocated one (1) Inspector who was subsequently not available to be a shortage of labour Inspectors.

I really wish I can be given more depth information grounded so that I can see how did they come to that deduction was due to shortage. I would like to believe perhaps it could be an issue of inadequate planning. It could be an issue around not giving sufficient time for that particular Inspector to prepare and perhaps an issue of briefing of what ultimately that joint kind of arrangement seeks to achieve because there are certain areas which are precisely for Bargaining Council scope (jurisdiction) of inspection. It could be after that one (1) day joint operation that the labour inspector realized that sector targeted is perhaps on of a particular Bargaining Council. So, I really wish to respond to that but I do not have much details to give you on the conclusion they come up to that day was a question of a shortage of inspectors.

But also stressing that:

Certainly, that instance cannot conclusively determine that the Department of Labour has shortage of labour inspectors.

As alluded earlier in the report that on the initiation of the national minimum wage in 2016, the number of inspectors in the country was 1372 (Department of Labour, 2018). The question of whether this number is sufficient to conduct inspections throughout the country (outside scope of Bargaining Councils), needs further investigation.

Consequences for non-compliance

Bargaining Council's agents highlighted actions taken to non-compliance. Both designated Agents and labour Inspectors mentioned the issue of prosecution. For instance, one labour inspector indicated that they do the inspection and advise the employer to comply but if he does not comply, he is going to face prosecution:

We just say that we are conducting routine inspection. After such introduction I will interview the employer on the matter and any other person I want to interview. Then we instruct an employer to make an undertaking to comply within a specified period. Failure to comply within that period, we used to prosecute through Labour Court which used to issue a compliance order. Now, under the national minimum wage, the CCMA is in charge of prosecution, mediation and enforcement.

Interviewed Labour Inspectors indicated the consequences of not adhering to the compliance with national minimum wage and labour laws. The information provided that, for employers who do not comply, the Department of Labour is forced to issue compliance order:

In cases of non-compliance, you make follow up and you found that the employer does not comply, the approach of the Department has been that of corrective approach other than being drastic or punitive at first instance. So, we always engage employer in whatever area of non-compliance that will be picked up, direct that employer on what needs to be done in making sure that ultimately they comply and once we have reached the agreement and consensus, in terms of what needs to be done, we conclude an undertaking with dates and times where it is expected for the employer to be compliant. If there is further resistance to comply from that particular employer, then we get to a point where we issue compliance order.

Solutions to address non-compliance

Inspection and Enforcement Services participants alluded to initiatives they apply in order to assist the employers to be compliant. For example, one participant mentioned that they offer employers with advices on compliance:

Effective enforcement of the national minimum wage is dependent on, for example, if you found that an employer is not compliant, there are some areas where you can assist in advising the employer on how to comply especially if the business is new, but most of the time employers would plead that they did not know or were not aware.

Labour inspector participant also alluded to the strategies to ensure compliance with the national minimum wage:

There are certain strategies put in place to curb the issues of non-compliance as a way of making employers to obeying the rules and regulations set for them by the government or governing bodies.

Participants further mentioned that proper communication channels should be put in place to curb the issue of non-compliance for both relevant stakeholders and affected employees:

Primarily, we need to ensure that information is cascaded to all relevant stakeholders and affected employees.

Adding to the above-mentioned strategy, one of the participants also highlighted on making information readily available for easy access by the employers and the public as a way of addressing non-compliance:

As a department we need to make information readily available is the main priority. Lastly, directing people to relevant channels to air their complaints and also to emphasize on the consequences of non-compliance was is a good measure to address non-compliance.

In trying to get a better understanding of the strategies the that labour inspector mentioned above, it appeared that Inspection and Enforcement Services did not have a focused strategy on national minimum wage implementation. In a follow-up interview with the labour inspector, it became clear that there was no strategy outside the normal one hence he alluded that:

In as far as the strategy is concerned, the department has always looked at its core fundamental functions of inspection, advocacy and enforcement. So, anything that concerns or has to do with national minimum wage is still treated within those parameters of the inspections that we conduct as the Department of Labour So it still has to do with the inspection, advocacy, outreach programmes, information sessions sharing of such information. There is basically no particular strategy which is outside the pillars of inspection and enforcement services. So, we still explore the same route to respond precisely the same as we do in terms of our enforcement procedures.

This strategy mentioned by labour inspector meant their (modus operandi) normal core fundamental functions of inspection, advocacy and enforcement:

the strategy is precisely the same bigger inspection and enforcement strategy.

Like I said, we have types of inspection where we become pro-active, re-active and where we have at certain instances blitz inspections where we put focus on a particular industry and focus on a particular item. So, in instances like national minimum wage, we can use the blitz inspection as an instrument to ensure that we focus at a particular industry and look precisely on the issues that concerns national minimum wage and we also have re-active strategies where when we receive a particular complaint from an individual working for a certain company and we also from our side become pro-active in identifying company so as to establish that they do indeed comply with the

requirements of the national minimum wage. So, the strategy is still centered around the broader Inspection Services strategy.

4.5 Conclusion

The glaring picture drawn by this chapter is that interviewed employers do comply with the national minimum wage although this maximum is also influenced by Bargaining Council minimum rates that are higher than the national minimum wage. Employees also mentioned their hourly rates that are above the national minimum wage. The critical points that employees raised in line with the national minimum wage, include under-employment wherein an employee works limited hours on national minimum wage and thereafter works for tips from customers. In all these instances, national minimum wage rate of R20 per hour and above is paid. None of the employees was found to be paid less than R20 per hour. Treatment of immigrant workers in the sector is also not in compliance with labour laws. For example, an employer deducts Unemployment Insurance Fund contribution from an immigrant worker. Designated agents from relevant Bargaining Council points to shortage of labour inspectors as a problem to inspection in the hospitality. Labour inspectors do not agree to any shortage or insufficient number of labour inspectors.

The next chapter will look into the findings of this study and analyze them while locating them within the framework of the research questions.

CHAPTER 5: COMPARISON OF DATA FINDING

5.0 Introduction

Various themes that emerged from the interviews with participants have been discussed in the previous chapter. This chapter shall look into the findings of this study and analyze them while locating them within the framework of the research questions. The chapter is segmented into new national minimum wage compliance and role of stakeholders and institutions involved in national minimum wage. Interpretation and discussion of findings is addressed in the chapter.

Interpretation & Discussion

The aim of the study was to explore the national minimum wage implementation in the hospitality sector through enforcement standards. The objectives were, 1) Identify how employers adjusted to the implementing the national minimum wage. 2) Find out how labour inspections services monitor compliance with national minimum wage in the hospitality sector. In determining how employers adjust to the implementation of the national minimum wage, it emerged that employees' perspective of the national minimum wage was important.

The findings of the study were categorized into 3 sections namely: the employees, employers and bargaining council Agents / Labour Inspectors. There was a need to compare findings of each category to get a much deeper understanding of what the study seeks to achieve. The researcher compared results that emerged from all the three categories. These included: the new national minimum wage and role of labour Inspection.

5.1. The new national minimum wage compliance

The results shown by the study indicated that the majority of employers that have been studied in the hospitality sector are paying above the national minimum wage salary range and no employers were found to be paying below the national minimum wage rate of R20 per hour on full-time contracts.

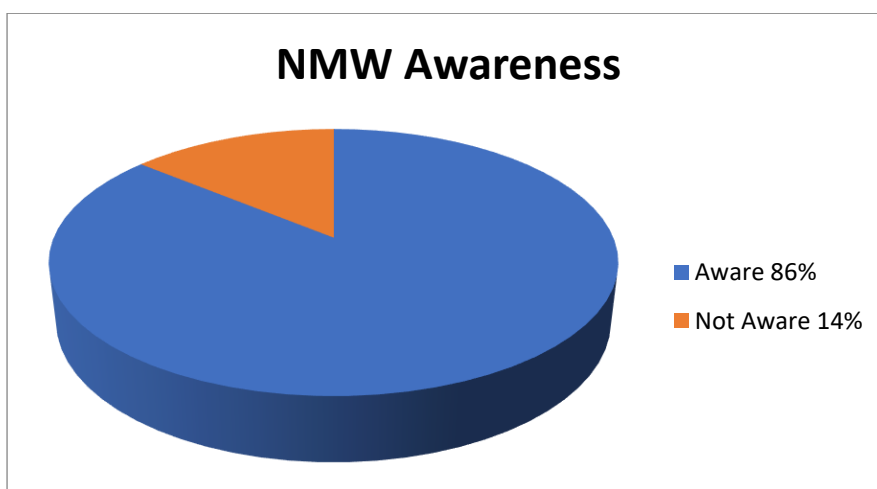
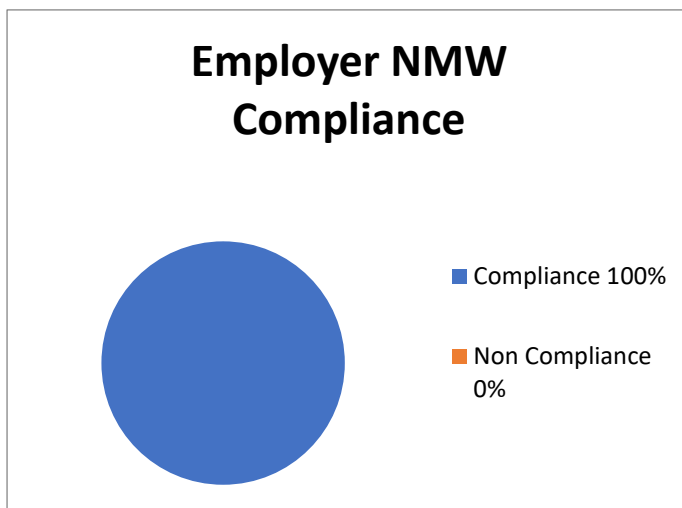
Employers who took part in the study reported that they were complying with the new enacted national minimum wage. Three reasons could be identified to have contributed to the maximum compliance 1) the hospitality sectoral determination 2018 /19 was already closer to the national minimum wage hence it was at R17.34 for an employer with 10 or less employees and R19.35 for employers with more than 10 employees, 2) the role of the bargaining council collective

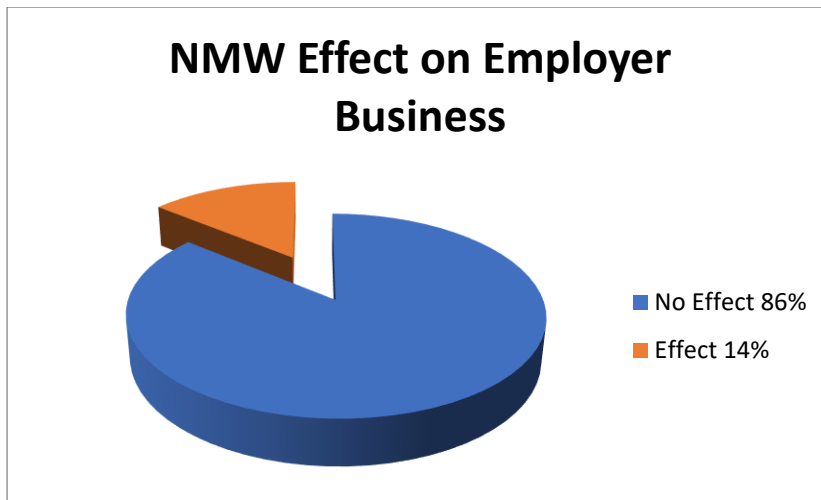
agreement minimum of R20.50 which was already slightly more than the national minimum wage and 3) voluntary wage structure of the sampled establishments of whom majority belong to Spur Group Corporation, proved to be higher than the national minimum wage and this has been confirmed by both employer and employee participants. Spur Corporation Ltd is one of the top 10 major South African hospitality companies (Labour Research Service, 2016).

The results also indicate that (86.0%) of employers are indeed, aware of the national minimum wage while (14.0%) are not aware. It is also indicated that all employers (100.0%) claim to comply with the national minimum wage as a policy; and (86.0%) reported that their compliance has not affected their business operations, except for (14.0%) who felt the effect of national minimum wage compliance. This is an indication that national minimum wage had not made huge negative impact on the employer's business operations.

Figure 1

Pie chart indicating employers NMW awareness and compliance





The Agents alluded that their main role is to do routine inspections in as far as the collective agreement in the sector is concerned and the national minimum wage is automatically covered because it is lower than the council minimum rate.

National minimum wage rate was not meant for the hospitality sector only and this should be understood in the context of the fact the final rate was concluded after consideration of a number of issues around the economy of the country and inputs from various NEDLAC stakeholders. (Labour, Business, Community and Government). The hospitality sector has various categories of employees as shown in the demographic background of participants and one participant alluded that waiters are the most affected than other categories, on the issue of national minimum wage, in particular its purpose versus the way they work in the sector:

There are two types of employees that you will find in the restaurants – Staff (Griller, Chefs, Child Minders, Cashiers and Management) and Waiters.

5.1.1. Tips and hours of work applicable to waiters

Although the majority of the employer and employee participants indicated that salaries were higher than the national minimum wage, some employees complained about tip work which seems to undermine the purpose of national minimum wage and probable illegal in other ways. Tips as a form of gratuity is regulated in terms of the bargaining council's main collective agreement and National Minimum Wage Act, section 5 (1) where it is stipulated that, despite any contract or law to the contrary, calculation of a wage for the purposes of this Act is the amount payable in money for ordinary hours of work and that excluding-

(b) gratuities including bonuses, tips or gifts

Furthermore, Section 5 (2) of the National Minimum Wage Act stipulates that, subject to section 9A of the Basic Conditions of Employment Act, a worker is entitled to receive a national minimum wage for a number of hours that the worker works on any day.

In order to conform with the above sections of the law, wage in the hospitality sector is calculated as an hourly rate payable for ordinary hours worked by that employee in terms of section 9 of the Basic Conditions of Employment Act 75 of 1997 or any agreement entered into in terms of sections 11 or 12 of the same Act. Despite section 5 (1) of the National Minimum Wage Act explained above, it emerged in the study that other waiters in the sector also enter into some form of arrangement where a waiter very few hours for the employer and thereafter give services to customers for tips. It also emerged in the initial interviews that the manner in which tips in the sector is applied differs:

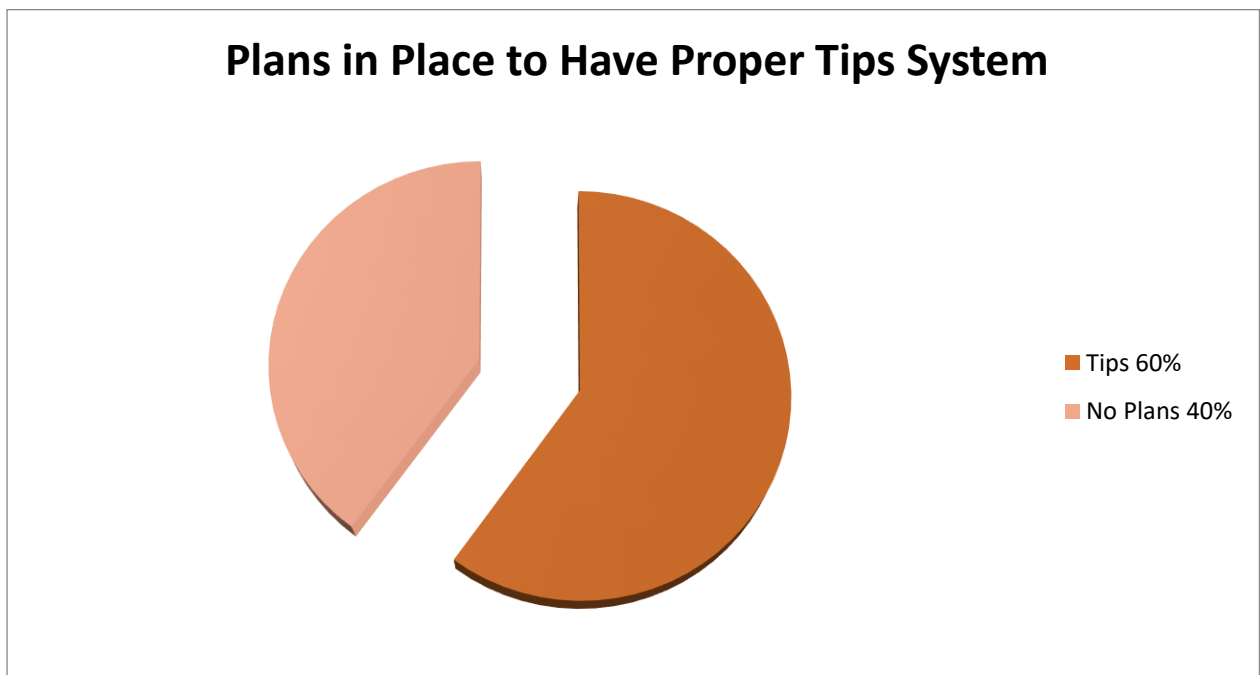
This became apparent from the two (2) participants whom their employer is franchised with the Spur Brand Group.

One scenario that is ideal is an employee who get tips on top of the basic salary. This happens within the normal working hours.

The second scenario as alluded by one employee in the initial and subsequent interviews is where a waiter works few hours for the employer and then work for tips thereafter. In this instance and after few employer hours. a waiter only gets what customers from the tables offer. Once the tip work kicks in, the employer pays nothing more to this kind of tip worker. The owner of the restaurant does not determine hours of work and the issue of R20 per hour national minim wage does not apply at all once the employee starts the tip shift. These workers mostly dependent on tips to boost their few hours salary although on participant did confirm that he earns R21.90 per hour from the few hours he works for the employer:

I work hour 3 to 4 hours a day for the employer. I also work the same 2-3 hours a day on weekends. I earn R21.90 per hour. After working 3-4 hours, then I start working for tips from the customers' tables. All in all, I work 3-4 hours a day as instructed by the employer.

Figure 2 Pie chart indicating tips employee perspective on tips system



On a subsequent follow-up interview with one labour inspector that was initially interviewed on this issue of tips, it appeared that ‘ideally’, labour inspection would be very strict on how tips and working hours should be addressed in the sector:

On the issue of tips, we have presumptions of what an employee is, so when we look at those presumptions, they will tell us what an employee is. So, practice or exercise of putting employees on 4 hours or under the employer, rating and earning under the employer and other 4 hours working for tips where they work for themselves. I think we need to vehemently discourage that kind of practice as it seeks to undermine the gains made in terms of advancement of labour laws and protection of employees and so forth. So, we need to closely look at what the presumption says in terms of, “who is an employee” (definition and identification of an employee). I can tell you right now without doubt that closer look will reveal that those employees will fall under the scope of employees and the employer will have to take responsibility that these people are employees and are rendering a service for him of his establishment and therefore has to pay them accordingly.

5.1.2. Commission work in the sector

Just as tip work, the sector is also characterized by commission work which some employers use as another form of under-employment. Commission work in the hospitality sector is defined as, ‘work where an employer and employees have agreed in writing before the work commences that the employee will on regular basis perform work on which a commission will be paid’. Clause 5 (c) of the Johannesburg Bargaining Council Collective Agreement (2018) stipulates that the owner or manager of an establishment and commission worker may agree in writing that the commission worker will perform the duties of a waiter if and when so required by the owner on which commission will be paid at the end of each shift / week / month. Commission work only applies to waiters because the same clause (5) further stipulates that, the owner / management shall pay a commission worker the rates that are applicable to the commission work, unless if during any calculation period, the commission worker does not earn an amount equivalent to at least the prescribed minimum wage for waiters. This means that employer must pay bargaining council minimum rates if commission worker does reach the agreed commission target that is equivalent to minimum wages for waiters. Clause 5 explained above was migrated from the hospitality sectoral determination that stipulated: a written agreement can allow the employee to perform commission work on a regular basis. Parties that agree to commission work must set the commission rate but when the employee is paid, the amount paid to the employee must be equal or greater than the prescribed minimum wage for the period worked.

Although an agreement could be the basis of commission work, by implication, the employee does not have any bargaining power associated with national minimum wage hence one participant alluded that:

There are two ways of a commission structure - hourly rate or you sell a lot of their stock in order to qualify for a commission, for example, in particular month, you will be given a target to meet, to sell 100 desserts, 60 starters, 50 top-ups, 50 sauces, then you will be given a certain percentage of the total turn-over at the end of the month. For example, if the turn-over is R70 000 and you get 5% to the value of R3500. Even that 5% is not guarantee that you are going to get upon making the target. If you sell less than a target, you get nothing even if you can be short of one item to reach the target. Then you are disqualified and converted to 80 or 90 hours of working on that target which the gives you something not above R2000 at most. Sometimes, the

commission can be 3% or 0.5% of the total sales of the given target. There is also Spend per Head – the total amount a customer spends towards turn over which is going to mixed sales to your turn over of the month. You cannot predict the average amount you are going to get from the commission structure.

Waiters in the sector end up behaving against their norms (over exciting the customer) in pursuit of tips or commission. In support of this, Janet Munakamwe (2018: 323) deposits that tip and commission work translates to, “commodification of emotions”. In the hospitality sector, waiters are usually expected to be constantly smiling in order to appear hospitable, especially if the waiters rely on tips as remuneration which has become common throughout restaurant sub-sector. In other instances, as described by Janet Munakamwe (2018: 323), workers in the sector are frequently required to display a range of desired emotions which amounts to workers ‘selling’ services which require the use of the intimate parts of them.

5.2. Role of Stakeholders and Institutions involved in national minimum wage

It is common in South African labour relations that the majority recipients or beneficiaries (workers) of policies do not know of the existence of such policies or laws. This becomes evident in times of workplace conflicts. In the absence of a dedicated strategy to ensure national minimum wage compliance, labour inspection has a very critical role in the implementation of this policy

The findings of the study indicate that labour inspectors often do not visit the workplaces of employees and employers who participated in the study.

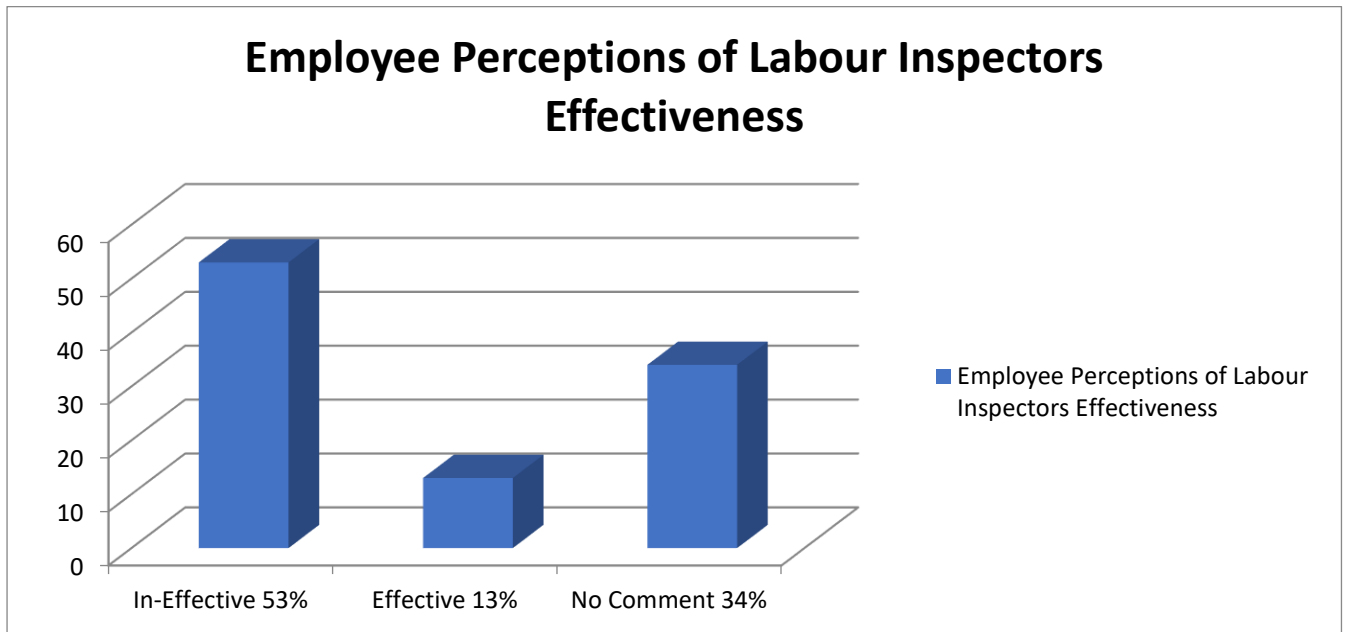
5.2.1. Labour Inspection

Monitoring compliance with national minimum wage in the hospitality sector needs active participation of Inspection and Enforcement Services. When asking the employee participants if they had ever seen labour inspector in their workplaces, the majority of respondents never saw labour inspectors. This can be proved by the majority of workers who complained about Basic Conditions of Employment Act matters such as: payslips, unclear contracts and this can be attributed to an absent labour inspector:

We do not have payslips since the beginning of the hourly rate thing and once you request it, the employer tell you that there are no payslips in his establishment and since then, you will be under thin ice from the employer to an extent of being told not to come again. It also an offence to tell your salary to your colleagues because the employer

says salary is a very confidential information that you cannot share with somebody else. So, to stay out of trouble, we must never talk about our salaries as workers. There were contracts of employment that the employer gave us and when we wanted some clarities, the manager took them back without us signing because he said we are asking lot of questions and we are trying to be trouble makers.

Figure 3: Bar graph for employees’ perceptions of labour inspectors’ effectiveness



From Figure 3 above, 53 per cent of employees are not convinced of the labour inspectors’ effectiveness on labour related compliance issues within organizations. Only 13 per cent are seeing the labour inspectors’ effectiveness on ensuring labour issues compliance and 34 per cent refused to comment on the effectiveness of labour inspectors. Their refusal could be due to fear of victimization or maybe because they are not sure of what to say, etc. Based on the above results one can say that employees have little confidence on labour inspectors’ compliance checks.

Although labour inspection is clear on the issues of the sector as alluded above, the critical issue here is the ability of labour inspectors to monitor effective compliance with regards to tips, commission, treatment of migrant workers and this renders national minimum wage implementation in the sector, to be confused with under-employment:

Not yet and I have not heard of their visit even when I am not around. Perhaps, they are bribed by the owner of the shop not to come.

But labour inspector participants protect themselves from poor performance raised by employees:

Well, we react differently when it comes to inspections or investigations, complaints and so forth. So, at times you would have an instance where particular individuals have put a complaint themselves, so when we come that is in reaction to that particular complaint. So, it will not involve anyone within the establishment. However, when it is a matter of re-active or blitz inspection, it is within the Inspection Services Standard Operating Procedures (SOP) that an Inspector must interview at least 2 individuals from that company which I believe Inspectors do. In relation to your question, it might be a question of a perception where they expect everyone to be interviewed or everyone to be engaged with in that particular matter but I can confirm with certainty that interviews are conducted whenever we have re-active, pro-active and blitz inspections.

Labour inspector further strengthened his defence:

When we conduct inspections, we have integrated inspection which simply means we touch on every aspect that concerns compliance as a whole in as far as labour is concerned. So. The focus is not on a particular legislation and leave the other. We got different legislations that we administer So, when we are at a particular employer or company, we make sure that we cover all the legislation that a Labour Inspector ought to cover. So, nothing will be left behind, for example, if there is an issue concerning BCEA, that will be looked into but we also have a retrospective outlook in terms of covering everything like UIF, COIDA, OHS, NMW.

5.2.2. Exemption by Labour Department

Although the hospitality sector is the largest subsector of the tourism industry, size of the employer in the sector also determines for differentiated compliance. South Africa's hospitality industry has 90 per cent of small, medium, micro enterprises and the largest 10 per cent of these companies are foreign-owned with Sun International and Holiday Inn as few examples (Cazarin and Jinnah, 2014). Small employers in the sector are those who employ ten (10) workers or less at any time. Before national minimum wage era, some small employers or his employee in the restaurants could apply to the bargaining council for exemption from paying minimum wages. Since this could only be done through bargaining council, the primary requirement was that, an employer had to satisfy the council's exemption committee that certain provision/s in the council's collective agreement is restricting entrepreneurial initiatives

or opportunities of employment. In such circumstances, an employer could, for example, pay employee on probation 10 per cent less than the stipulated hourly rate but this could only happen for a period not exceeding three (3) months and if statutory legislation reduces working hours, the wages also reduce automatically.

After enactment of the national minimum wage, the role of exemption with regards to payment of council minimum rates and national minimum wage has since been taken over by Department of Employment and Labour through section 15 of the National Minimum Wage Act. For example, I have come across one company which was exempted by Department of Employment and Labour from paying the national minimum wage rate of R20 per hour but to pay R18.00 per hour. Is this not destroying the hopes and aspirations of the employees like in the hospitality sector to get the national minimum wage if now there is an opportunity for it to be reduced depending on the circumstances of that particular employer. This can be aligned to the staggered approach adopted in the regulation of the national minimum wage where domestic workers rated R18 per hour and Expanded Public Works Employees rated R11 per hour. On a subsequent interview with labour inspector participant, on the issue of exemption, he alluded that:

Taking from Section 23 of our Constitution, “everyone has a right to fair labour practices” this includes the employers themselves and employees. So, if an employer is in a position of non-affordability and in the interest of just administration, he should be given an opportunity to present his case in terms of why he cannot meet the national minimum wage rate. So, obviously it is not a blanket approach hence one has to present substantial evidence as to why he cannot meet national minimum wage rate and then the Department will assess and if it is happy with the financials of that company and they justify that the company be exempted. That will be the case because I think the view is that we do not want to see at the end of the day workers losing their jobs precisely because the company cannot afford but the company must prove to the department that indeed they cannot afford and then the department will take necessary means and steps to ensure that they exempt that particular employee.

5.2.3 Enforcement by CCMA

While findings that have been provided by Bargaining Council agents also concurred that they have not received any complaint from employees pertaining non-compliance of the employers, another employer also mentioned that the national minimum wage policy forces them to retrench employees in trying to comply with the law but on the other side they get into trouble with the CCMA for dismissing employees. One labour inspector indicated that they do the inspection and advise the employer to comply but if he does not comply, he is going to face prosecution. Prosecution follows after an employer has been instructed to make an undertaking to comply within a specified period. Failure to comply within that period, they used to prosecute through Labour Court which used to issue compliance orders. Now, under national minimum wage, the CCMA is in charge of prosecution, mediating and enforcement. Arbitration awards that require an employer to pay compensation, CCMA can enforce the compensation part whereas reinstatement is enforce through Labour Court if employer does not comply with arbitration award that orders reinstatement of a dismissed employee.

Despite positive compliance with national minimum wage revealed by the study, CCMA caseload has increased because of enforcement of the new Basic Conditions of Employment Amendment Act (BCEAA) and National Minimum Wage Act. According to 2018/19 financial year report, the CCMA experiences a rising caseload of 193 732 compared to 186 902 received in the previous financial year. The report further states that, as at 31 March 2019 (three months national minimum wage post enactment), CCMA had received referrals totaling 4 287. These referrals constituted eight per cent (8%) of the total referrals received during these three (3) months period. The report also projects that the CCMA caseload is due to increase further by twenty-five percent (25%) in the current 2019/20 financial year, in part as more beneficiaries become increasingly aware of the new legislations of NMWA and BCEA (CCMA, 2019).

The picture drawn by the CCMA report shows absence of labour inspection as a tool to monitor the national minimum wage at an Inspection and Enforcement Services level although the National Minimum Wage Act does empower Inspectors to obtain written undertakings or issue compliance orders where applicable. Now the CCMA and the Bargaining Council seem to be the most active institutions in the enforcement of the new national minimum wage and labour inspection is at the periphery or is it a case of state failure in policy implementation perpetuated by inspectors from Department of Employment and Labour. But labour inspectors once more,

protected themselves when they justified their strides to limit the rising national minimum wage caseload at CCMA:

Firstly, to limit the rise of the complaints coming in, we use our pro-active and blitz inspections. For instance, during the November 2019 period, I was more focused on the hospitality sector in terms of the national minimum wage and to be honest from what has transpired in those inspection is that the majority of employers in the sector are indeed compliant with the national minimum wage (R20 per hour). So I think in response to the volume of work coming to CCMA, is that the enforcement procedure of the national minimum wage has slightly changed in a sense that when compliance orders are issued and they are not respected by a particular employer, those orders are directed to the CCMA, they no longer go to the Labour Court, hence they experience such huge volume in terms of cases that concern national minimum wage.

Labour inspector participant further stressed that:

From the blitz inspection that I have conducted last year November, there seems to be a voluntary compliance from the employers. So, I would like to commend and encourage employers to keep it like that. There are no adverse or material findings against the employers. So, all I could say for now is that employers must make sure that they do not drop the ball.

5.3. Conclusion

This chapter has presented the key findings this research in as far as the new national minimum wage compliance and other pertinent issues in the hospitality sector are discussed. Tips and hours of work applicable to waiters have been found to unstructured to achieve the objectives of the national minimum wage. Objectives of the national minimum wage include giving better and structured wage base to workers,

Commission work in the sector and role of stakeholders and institutions in the national minimum wage implementation has also been discussed. Labour inspection, exemption from paying the national minimum wage by Department of Employment and Labour and enforcement by CCMA have also been articulated.

The next chapter concludes the research study and there are some recommendations that the study propose for further clarity on the national minimum wage. Limitations of the study have also been highlighted.

Subsequent conclusion and recommendations are list of references that have been used in the study.

CHAPTER 6: CONCLUSION

6.1 Conclusion and Recommendations

The results from the interviews conducted have been presented in the previous chapter. Through thematic analysis, the emerging themes from the interviews with three stakeholders investigated in this study were discussed. The overall results show that the majority of employers positively accepted the new national minimum wage although some evade it through exemption and sometimes by deliberately frustrating the commission and tips structure with national minimum wage. Johannesburg Bargaining Council minimum wage rate which covers most of the regions of Gauteng already exceeded the national minimum wage and coincidentally this appears like voluntary compliance by employers. As indicated earlier, the Pretoria Bargaining Council agreement ended in 2016 with most of its rates categories lower than the national minimum wage rate and that made it difficult to be considered in this study although the initial plan included it. Moreover, most of the employees reported that their employers are compliant with stipulated national minimum wage and major challenge is that labour inspectors remain absent from the workplaces.

Although labour inspectors never indicated challenges in their capacity, the results reveal that labour inspectors are struggling to monitor compliance with national minimum wage in the hospitality sector as their visits to companies are rare. Understanding these results is very important as they provide the basis on which the Inspection and Enforcement Services can explore ways to equip and provide more inspectors so that inspection visits can increase in organizations and that those employers paying below the national minimum wage can be forced to comply.

Although, there are those traces of poor visibility of labour inspectors from workplaces, that could not be a determining factor for their sufficiency as one inspector highlighted, hence further research needs to be undertaken, at least, using a larger sample in a quantitative and

qualitative or mixed method research in order to get a full-scale in-depth analysis pertaining compliance with national minimum wage in the hospitality sector across South Africa.

Labour inspectors still need to improve on their capacity and inspection visits in order to reduce CCMA caseload on national minimum wage. Lastly more research is needed at universities to improve on policies that will facilitate and ensure Inspectors' expertise and knowledge in handling compliance issues on national minimum wage. Based on above, it is also recommended that more inspectors should be recruited and trained on modern inspection methods so that inspectors' capacity and compliance visits can improve, thereby also improving state capacity in implementing policies and law. For example, improvement of entry qualifications in the Inspection and Enforcement Services can help to capacitate labour inspection.

There must be a synergized inspection approach by bargaining council and inspectorate. This will reduce caseload at CCMA as less cases will be referred due to issues resolved at the inspection level. Furthermore, both employers and workers must have very clear information and understanding of minimum wages in order to improve compliance. South Africa is also challenged with effective enforcement of compliance due to less awareness of current minimum wages among some stakeholders and likelihood of inspections with resultant legal implications. Tools that can be used to enhance compliance with national minimum wage can include training of employers, workers and worker representatives. to ensure that non-compliance with regulation is not attributed lack of knowledge or capacity within the industry.

Workers must be empowered through public awareness campaigns and dissemination of information that also emphasize the importance the importance of workers belonging to organizations. As alluded above in Benassi (2011, in Murhwa 2016: 19) that a strong and well-organized workforce is more likely to monitor compliance and denounce violations, trade unions can act on behalf of their members to report employ violation of labour laws. Greater legal awareness by workers is a better tool that enhances compliance as it often leads to better working conditions because workers are able to negotiate or bargain from a well-informed position (Berg, 2010). Therefore, employees and their trade unions should be involved in all aspects of inspection of the national minimum wage.

Just as section 9 of the Basic Conditions of Employment Act does regulate the actual minimum hours that an employer and employee can contract on, the gap that the National Minimum Wage Act has created for its implementation is that, it also does not regulate or cushion the number of hours below which an employee can contract with the employer and this exposes employees to issues of under-employment if working for unscrupulous employers. This leaves employers with prerogative to determine the number of hours as long as they pay the hourly rate prescribed in line with the Act which then becomes completely inconsistent with the purpose of the national minimum wage as discussed earlier in the study.

Other than capping of hours as a gap and from the above discussion and interpretation, issues of under-employment rather than non-compliance with national minimum wage and minimal participation of labour inspection, came out strongly in the study.

A dedicated strategy is also needed in the implementation of this new policy. South Africa as a member state to ILO has ratified Convention 81 that deals with labour inspection. South Africa complies with the following ILO Convention 81 guidelines as detailed in World Bank (2011).

The study is concluded based on a small size sample with very similar characteristics. The study was conducted in Gauteng only hence it is difficult to generalize the findings to all South African provinces.

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8. APPENDICES

Appendix A: Participant Information Sheet

Project title: Exploring implementation of the national minimum wage in the hospitality sector in Gauteng.

Sir / Madam,

I am Mzwamadoda Wiseman Dinwa. I am studying towards Master of Arts in Labour Policy and Globalization at Global Labour University based at the University of the Witwatersrand.

I would like to explore implementation of national minimum wage in hospitality sector around Gauteng. My main focus is the restaurant sub-sector within the hospitality industry. The key aim of the research study is to document how do Employees perceive the national minimum wage in the hospitality sector; how do Employers in the sector adjust to its implementation and how do bargaining council together with labour inspection services monitor compliance, thereof.

You are invited to participate in the study based of your current engagement in hospitality sector in Gauteng. The study is only intended for the research, project and the researcher will not make any personal profit from the information collected. The interview is basically a conversation between you and me and there is no penalty for refusing to take part or decide not to continue with participating in the research. I may be stopped at any time you feel you need to take a break or in cases of questions that you do not want to respond to. You have a right to stop or pause your participation in any situation of discomfort. You have a right to ask questions about this research and to have those questions answered by me before, during or after the research. The interview will take about 20-30 minutes.

Your name and information will be treated with confidentiality although I understand that some participants have been mandated by their organization to represent them on this topic (managers designated agents and labour inspectors). Participating in this study is totally voluntary and there will be no payment of any kind for participating in the research study. Your identity will be kept anonymous if you ask so. You have a right to pause or stop your participation in any situation of discomfort. For me to capture the information that you provide, it is essential that we record the interview. I will only record the interview with your consent and will take down process notes, should you feel uncomfortable with being recorded. A copy of this research study can be made available in case you want to read it.

For more information concerning my research study, please feel free to contact me or my Supervisor on the following contacts:

Researcher: Wiseman Dinwa – 072 885 3511

Email: dinwamw@gmail.com/wdinwa@hotelicca.org.za

Researcher's Supervisor: Dr Nicolas Pons-Vignon – (011) 717 8096 / Nicolas.Pons-Vignon@wits.ac.za

Appendix B: Participant Consent Form

I, _____, acknowledge that I understand the research study and that the study had been fully explained to me. I also understand that the information which I give towards the study will be used in the research report.

I further acknowledge that the researcher explained to me that:

- My participation in this research is voluntary.
- My name and information will be treated with confidentiality throughout the research study and research report.
- My identity will be kept anonymous if you ask so.
- I can refuse to answer any questions which I feel uncomfortable with.
- That the benefits of my participation in the study will assist in the research area.

I hereby give consent to be interviewed for the research study: Exploring the implementation of the national minimum wage in the hospitality sector in Gauteng.

I agree / I do not agree to the interview audio-recorded

Researcher

Participant

Date Signed

APPENDIX C: Draft Interview Schedule

General Questions:

Could you please introduce yourself? (Full Name, your educational background, confirm the name of the establishment and area in which it is located, position in the establishment, gender, age and contact details).

EMPLOYEES:

How do employees perceive the national minimum wage in the hospitality sector?

1. How long have you been working in this restaurant?
2. Do you have a written contract of employment?
3. Are you employed on full-time or part-time basis?
4. How many hours do you work per week as a full-time or part-time worker?
5. Could you please give an indication of your current gross monthly salary?
6. How is the national minimum wage reflected in the pay slip?
 - (i) If below national minimum wage, do you know what could be the reason?
 - (ii) Are there any plans in place to address that?
7. Did you ever see a labour inspector in your workplace?
 - (i) What was he doing?
 - (ii) Did he speak to any of the workers?
 - (iii) If yes, what information did he ask?
 - (iv) Did the discussion happen in front of the employer?
8. In your view, how effective are the labour inspectors in enforcing compliance in the sector?
9. Do you consider the level of hourly rate to be sufficient for your expenses and those of your dependents?
10. What progress has been made by employers in complying with the national minimum wage?
11. What else can you add to your contribution?

Your time is highly valued and thank you.

Follow-up interviews with workers / employees:

Subsequent to the interviews that I had with yourselves as workers in the restaurant sub-sector, it became important that I should have a follow-up interview to get more clarity on hospitality sector pertinent issues that emanated from the interview process.

- 1 How are your working conditions since the previous interview?
- 2 Do you have a written contract of employment and payslip now?
- 3 Can clarify me again on how commission, tips and special function work?
- 4 Could you please give an indication of your current gross monthly salary?
- 5 What does your employer say about the NMW?
- 6 Have you ever tried to access Labour Department to check the UIF money that your employer is claiming to be deducting?
- 7 This issue of getting paid by tips or commission came as concern from the interviews I had with labour inspector. They were saying enforcement (re-active) is sometimes difficult because the majority of workers in the sector are migrant workers who are afraid to report instances of employer non-compliance and this can be evidenced by the input that you have given above. What are your views on that since you have been in the sector for the past 30 years?
- 8 Why are migrant workers not reporting to Department of Labour, Bargaining Council or CCMA?
- 9 Did you ever see a labour inspector in your workplace since the previous interview that we had?
- 10 What else would you like to tell me regarding you work situation?

Thanks for your time

EMPLOYERS:

How do employers adjust to the implementation of the national minimum wage in the hospitality sector?

1. When did you join the sector?
2. Would you share information about your current responsibilities?
3. Are you aware of the national minimum wage?
4. How have you responded to the national minimum wage as a new policy?
5. How has the national minimum wage affected your profit or turnover?
6. What is your staff compliment and their categories?
7. May you please share with me how many of them are permanent, temporary or casual workers?
8. Have you had to lay off workers because of the national minimum wage?
9. Has the implementation of the national minimum wage affected employment opportunities in the hospitality sector?
10. Were there any challenges in complying with the provisions of the national minimum wage?
11. Have labour inspectors visited your restaurant to campaign for national minimum wage?
12. What does labour inspection entail?
13. What specific information was shared or requested by labour inspectors?
14. In your opinion, has the national minimum wage brought labour stability in the sector?
15. What else would you like to say?

Thank you for your time.

DESIGNATED AGENTS / LABOUR INSPECTORS:

How does the Bargaining council and labour inspection services monitor compliance with the national minimum wage in the hospitality sector?

1. What does the labour inspection process entail?
2. What documents or forms are required for inspection?
3. What are the levels of employer compliance with the national minimum wage in the hospitality sector?
4. Has labour inspection services engaged in any special planning to ensure the enforcement of the national minimum wage?
 - (i) Can the details of the plan be shared with me?
5. In your opinion, does labour inspection services have sufficient human capacity to ensure compliance with the national minimum wage in the hospitality sector?
6. How frequently do Employees report non-compliance in your labour center?
 - (i) How do they report?
 - (ii) How is follow-up on their complaints done?
7. How do you decide on the area to be inspected and the type of inspection to be engaged?
8. What remedial action do you take in cases of non-compliance?
9. What can be done to ensure the effective enforcement of the national minimum wage in the sector?
10. Can I look at the supporting material used during inspection?
11. What other sector challenges that you normally encounter during inspections?
12. What else would you like to say?

Thank you for your time.

Follow-up interview with labour inspectors

How does the labour inspection services monitor compliance with the national minimum wage in the hospitality sector?

Subsequent to the interviews that I had with yourselves as Inspectors, Designated Agents from the Johannesburg Bargaining Council and Employees in the restaurant sub-sector, it became interesting that I should have a follow-up interview to get more clarity on hospitality sector pertinent issues that emanated from the interview process.

1. From the previous interview we had, you indicated that strategy have to be used in the enforcement of the national minimum wage. I also come across a demo strategy that was intended for the enforcement of the NMW. Now the question, is there a real strategy that was developed to enforce the NMW?
2. What are the core values of this strategy?
3. So, there is no special strategy that seeks to focus on the NMW?
4. On my interviews with the employees in the sector, most of them said that they had never seen a labour inspector in their workplaces and some of those who have seen them said he never talked to them but only talked to the employer. What can you say around that because employees were saying that they are the ones who should be approached so as to voice out their problems to the labour inspector because when they see labour inspector, they see somebody who is going to help them in terms of addressing the problems they have with the employer in which case they are afraid to talk directly with the employer?
5. On my interview of Designated Agents, they were praising the blitz inspection as the most effective form of inspection that you use. They were relating to a joint inspection operation they once had with yourselves in 2013 in the Pretoria especially in the hospitality sector where the results were so positive and they also alluded to one instance where they had to have a joint inspection with yourselves for 2 days in the East Rand but they were assigned with 1 (one) labour inspector who was only available for 1 day. They viewed that to be attributed to shortage of labour inspectors. How true is that and what are your views to that challenge?
6. From the Department of Labour point of view to the above instance, can we conclusively say that the department has shortage of labour inspectors?
7. Since the inception of the NMW, the bargaining council has stopped exempting companies (in terms of their exemption clause 29 of the collective agreement) from

paying the minimum or national minimum wage and that role is now the function of the Department of Labour or CCMA. I have come across one company which was exempted by DOL from paying the national minimum wage rate of R20 per hour but to pay R18.00 per hour. Is this not destroying the hopes and aspirations of the employees like in the hospitality sector to get the NMW if now there an opportunity for it to be reduced depending on the circumstances of that particular establishment?

8. The NMW rate has increased to R20.76 per hour and there was that staggered approach in NMW rate implementation adopted by DOL where certain sectors such as farming, taxi industry, EPWP. What is DOL doing for those sectors to catch up with the national minimum wage rate because they already far low?
9. CCMA Report for FY 2018/19 alluded to rising caseload mainly because of the NMW since workers are increasingly aware of the NMW and approach CCMA after unsuccessful engagements with their employers. What active role is DOL playing to avoid CCMA rising caseload in as far as the NMW enforcement is concerned because CCMA has to stretch its budget now and the department is empowered by the Act to issue compliance orders that are to honored by employers?
10. Since you mentioned the issue of tips in our previous interview and I have found it to be real in the sector, for example 2 employees mentioned that they work 4 hours for the employer and 4 hours on tips or commission from the customer tables. Apparently these employees are afraid to come and report to the department because they are think I if they report, it can be easy for the employer not to use their services anymore and since you mentioned in our previous interview the issue of migrant workers that is real in the sector, these workers are migrant workers and are afraid to report hence they continue to work in this vulnerable environment. What can be done by your department to assist these employees?
11. You mentioned the issue of migrant not reporting employer contravention of the NMW or basic conditions of employment (vulnerability). What is it in practical sense that DOL is doing to make these employers to be at ease to report their employers?
12. Since you have mentioned that in November 2019 you were engaged with inspection and enforcement in the hospitality sector. Are there any real targets for labour inspectors in terms of SOPs in as far as implementation of the NMW is concerned?
13. What else would you like to tell regarding enforcement in the sector?

Thank you for your time.

SOSS Human Research Ethics Committee

Clearance Certificate

Protocol Number: GLUU18/05/06
Project Title: 'Gains & losses of Labour. Trade Union Movement in Post-Apartheid South Africa'
Investigator's Name: Mr Mzwamadoda Wiseman Dinwa (575599)
Department: Labour Policy and Globalisation
Date Reviewed: July 2018
Decision of Committee: Approved
Expiry Date: August 2020
Date: 02 August 2018

Head of School



Professor Mucha Musemwa

CC supervisor:

Dr Nicolas Pons-Vignon

Declaration of Investigator

To be completed in duplicate and one copy to be returned to Ms. Sarah Mfupa in the School of Social Sciences, Room 152, 1st Floor, Robert Sobukwe Block.

I fully understand the conditions under which I am authorised to carry out the abovementioned research and I guarantee to ensure compliance with these conditions. If any departure from the research procedure as approved, I undertake to resubmit the protocol to the committee.



Student Signature

03/08/2018

Date