Minimum wage history

The Quest for a Living Wage: The History of the Federal Minimum Wage Program. By Willis J. Nordlund. Westport, CT, Greenwood Press, 1997, 283 pp. $57.95.

In Australia (1896), in Great Britain (1909), and then later in the United States, minimum wage legislation was the result of "anti-sweating" agitation, says the author of *The Quest for a Living Wage.* One of the earliest definitions of "sweating" was: "The payment by an employer to his work people of a wage which is insufficient to purchase for them the necessaries of life. These include food, housing, clothing, and the like, needed to maintain life on a sustained basis."

Between 1923 and 1933, no important legislation or judicial activity related to the minimum wage took place, but several public interest groups such as the National Consumer League addressed the problems of low wages. When President Franklin D. Roosevelt assumed the presidency in March 1933, the unemployment rate was almost 25 percent. The belief emerged that an important reason for the economic downturn was the exploitation of workers through low wages and long hours. A seeming failure on the part of the long-standing laissez faire policy created a philosophical void. Into this flowed the New Deal economic thrusts supported by—or in some sense legitimized by—John Maynard Keynes.

In May 1933, the National Industrial Recovery Act (NIRA) was passed, which *The Economist* observed, "probably collects more divergent economic and social theories under the roof of a single enactment than any other piece of legislation ever known." President Roosevelt explained, "Its aim was to increase the buying power of wage earners and farmers so that industry, labor, and the public might benefit through building up the market for farm and factory goods." While the NIRA was generally viewed as a failure even before the Supreme Court killed it on May 27, 1935, it was a breakthrough in the attitude towards protective labor legislation.

In the most general sense, Nordlund indicates that minimum wage legislation was passed primarily because of the existence in our economy of (1)interstate markets, (2)monopolistic competition, and (3)unemployment. The congressional debate on the early wage and hour bill makes clear that it was proposed, in part, as a means of reducing unemployment through cutting of weekly hours. But public opinion as to whether the States or Federal Government should provide a wage floor has varied over time.

In 1933, the Department of Labor established a long series of "Conferences on the Minimum Wage." Participants were State minimum wage administrators and representatives of organizations with an interest in these programs: The National Consumers' League, the General Federation of Women's Clubs, the National Women's Trade Union League, the AFL, the National League of Women Voters, and the National Young Women's Christian Association. The original bills provided for, among other things, (1)a five member Fair Labor Standards Board, (2)a minimum wage of not more than 80 cents an hour or $1,200 per year, (3)the general initiation of a 40 cents-an-hour, 40 hour workweek except in exceptional circumstances, (4)the prohibition of interstate shipment of goods produced with "oppressive child labor," (5)the exception of agricultural workers and executive, administrative, supervisory and professional employees, and (6)authorization of the Fair Labor Standards Board to appoint advisory committees to consider conditions in industries or occupations before establishing specific wage and hour standards. The Fair Labor Standards Act (FLSA) went into effect on October 24, 1938.

The attack on Pearl Harbor changed the world, the Nation, and the administration of the Fair Labor Standards Act, points out *The Quest for a Living Wage.* Military agencies needed more inspectors to ensure the quality and delivery of war materials. Since the Wage and Hour Division had developed an extensive field structure, it became a major component of the war-related inspection program. On October 3, 1942, the President issued an Executive Order which froze wages. Inspectors of the Wage and Hour Division were assigned to explain, investigate, and enforce the wage stabilization program.

In peacetime, legislators and program administrators believed it was time to raise the minimum wage. On the 10th anniversary of the FLSA, about 22.6 million workers were subject to the minimum wage provisions of the law, and about 20 million were protected by overtime standards. About 638,000 establishments were covered by the law's provisions. But the inflationary spiral after World War II, unions' success in obtaining higher wage levels, and the general upward movement of the wage structure left the lowest paid segment of the labor force further behind. Besides a wage increase, the Administration also wanted to expand protection of American workers by removing exemptions for the food-processing industry and large retail stores, and expand coverage from those whose work was "in" interstate commerce to employees whose work "affected" interstate commerce. When the conference compromise bill was passed and signed by President Truman, about 1.5 million wage earners received wage increases of 5 to 15 cents an hour when the amendments became effective in January 1950. President Truman, in his signing statement, observed: "The Act has proved to be wise and progressive remedial legislation for the welfare not only of our wage earners but of our whole economy."

During the Korean War, United States wages and prices were frozen on January 25, 1951. To some degree, this second debate of minimum wage legislation was a period of experimentation

combined with an effort to regularize enforcement of the law. It was clear where the emphasis for expanded coverage would be in the years ahead. More than 15 million workers in the lowest paid jobs in retail trade, services and agriculture were provided no protection by the Fair Labor Standards Act.

The third decade started with major amendments to the law on May 5, 1961. President John F. Kennedy signed a bill into law that, among other things, raised the minimum wage from $1 an hour to $1.25 an hour, expanded coverage to categories of workers previously without protection, strengthened the back wage recovery process, and required a variety of studies to determine the consequences of maintaining several exceptions to the law. Before the decade ended, the FLSA was amended again to provide for a second round of phased-in minimum wage increases. Between 1960 and 1969, the number of wage and salary workers increased 29.3 percent. Average weekly hours continued to decline from 38.6 hours per week in 1960 to 37.7 hours per week in 1969. The total U.S. population in 1960 was 180.7 million people, of which 39.9 million—22.1 percent—were classified as poor.

While attention is focused primarily on the wage, hour, and child labor provisions of the Act, an important amendment in 1963 established the fundamental principal of pay equity. Entitled the Equal Pay Act, this amendment to the FLSA prohibited discrimination in pay based on the gender of the worker. Although the philosophy underlying equal pay was widely accepted, the Equal Pay Act became a stepchild of the FLSA. One can assume that compliance officers were conscious of equal pay requirements, but it is unclear what level of enforcement actually occurred.

Most significant of the 1966 amendments was the expansion of coverage by more than 9 million additional workers—2 million in public, and private hospitals and nursing institutions, 1.7 million in retail trade, and 1.3 million in public and private educational institutions. The remaining 4 million were primarily in the construction and laundry industry, and Federal, State, and local governments. That amendment also mandated a study of recommendations to the Congress based on a study of the character of employment discrimination.

The author points out that when one reads the literature, one gets the distinct impression that minimum wage programs are powerful tools for economic change. But in some ways, more impacts may be attributed to it than could reasonably be expected—positive and negative. The program affects less than 2 percent of the population—about 4 percent of the work force. The empirical evidence generated during the 1970s and 1980s forged a strong tie between changes in the minimum wage and youth employment and unemployment. But an examination of the data leads to the conclusion that the consequences of raising the minimum wage are uncertain, at best.

The 1990s mark the golden anniversary of the minimum wage in the United States. At different times through the five decades, the level of the minimum wage may have approached a "living wage"—enough income for the worker to acquire the basic necessities of life. But a young person living with his or her parents may have lesser needs than a person maintaining an independent household. When the Act was initiated in 1938, about 40 percent of the nonsupervisory wage and salary workers were protected by minimum wage and overtime provisions. Today, about 80 percent of workers in the same category are covered.

Nordlund concludes by saying that, "The Fair Labor Standards Act provides a powerful economic and political statement, upon which many may disagree. The program is a political, rather than an economic statement," he contends. "What should not be in question is whether the most advanced nation on earth should improve the economic position of its lowest paid workers. There may be several policy tools that can move workers in that direction, but clearly a minimum wage that is commensurate with the state of the economy and the overall structure of wages and salaries should be a leading tool in that change process."

—Mary Ellen Ayres
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Labor rights and standards

Human Rights, Labor Rights, and International Trade. Edited by Lance A. Compa and Stephen F. Diamond. Philadelphia, PA, University of Pennsylvania Press, 1996, 311 pp. $39.95.

Worker Rights and Labor Standards in Asia's Four New Tigers: A Comparative Perspective. By Marvin J. Levine. New York, Plenum Press, 1997, 476 pp. $69.50.

The Compa–Diamond book addresses questions of labor law and labor rights in the context of the global economy—a context to which the practice of labor law is unaccustomed, and for which no clear venue exists. True, ILO (International Labour Organization) has formulated numerous standards for worker rights and working conditions, but while the great majority of nations are members, its conventions have frequently not been ratified. Even where they have been ratified, ILO, having no enforcement powers, must depend upon the parties to ratification to observe them. ILO over the years has constructed a grand body of labor rights but not one of actionable labor law.

A number of U.S. foreign trade and investment instruments include clauses mandating labor rights as conditions of what they grant. For example, the act extending preferential access of foreign goods to the United States prohibits the President from designating any country as beneficiary which fails to vouchsafe internationally recognized worker rights. However, as Philip Alston, one of the con-

tributors to the book, argues, such conditioning represents a type of "aggressive unilateralism" on the part of the United States. It lacks standing under international law, becauses it imposes standards not necessarily agreed upon by the affected country. More important, it tends to constrict the role of ILO, hindering the evolution of an international labor rights regime for which ILO, with its expertise and long experience, is alone competent. ILO's persistent marginality relates largely to the "systematic abstention of the United States from agreements on international labor standards," writes David Montgomery, another contributor. He does not probe the reasons for this but some of them are implied in the editors' introduction. Economic interests take precedent over worker rights when the stakes are large, as in granting most-favored-nation status to China or Indonesia—countries for which violations of such rights are amply documented in the book by Levine (see below).

The major contributions to the Compa-Diamond book reflect the clash of two views about worker rights and standards. A number of contributors, including David Montgomery, Virginia Leary, and others, fundamentally hold worker rights to be equivalent to human rights, to be inalienable and inseparable; and that the international labor rights regime must be strengthened (implying, to begin with, the ratification of all major ILO conventions by the United States). By contrast, R. Michael Gedbaw and Michael T. Medwig argue in effect that the subordination of labor rights and standards to economic priorities is unavoidable in the labor surplus conditions of developing countries (and increasingly in Europe as well).

Such standards as minimum wages, maximum hours, and occupational safety and health, cannot be "enjoyed" by the vast majority of the world's workers, Gedbaw and Medwig believe. The economies in which they live are "too poor." "The best hope for these workers lies in the improved conditions brought about by economic growth." Here, again, it is useful to cite Levine. It isn't lack of economic growth that vitiates standards, it is severe restrictions on worker rights to organize and bargain collectively. In Indonesia, for example, ". . . restrictions on worker rights are simply means to prevent gains in wages and working conditions, which is the main issue that attracts investment in developing countries." Malaysia's growth rate has averaged 8 percent annually for years past, yet "Increases in labor productivity are rarely translated into increases in real income," thus mainly benefitting employers and consumers abroad. At the same time, "the scope of bargaining is quite limited" by reason of restrictive regulations and the Malaysian legal system [being] "biased structurally toward employers and in-house unions. . ." In China, according to Levine, the contrast between high economic growth rates and frequently abysmal working conditions in the presence of repression of independent unions, is even more glaring.

Gedbaw and Medwig warn against pushing the promotion of labor standards "too far," quoting Gary Fields, an economist who like they defends a neoclassical position, that would "hamper employment, reduce competitiveness, and impede growth. The poor workers of the world cannot afford this." Yet, the benefits these workers derive from low or no standards appear questionable. Again, citing Levine, "Even by the poverty standards in the developing countries we are discussing, a large portion of workers are severely underpaid."

Other contributors to the book do not (as this reviewer reads them) link the attainment of worker rights to economic growth. David Montgomery points out that, in the industrial countries, the rights of citizenship have come to include minimal standards of social welfare. If these rights, together with working conditions, have tended to erode over the past two decades, it is because "the coercive authority of the nation state has been weakened by the structural changes in the global economy, brought on by the multinational corporations, and the power of multilateral lending agencies, such as the World Bank and the International Monetary Fund." But the right of collective action (that is, strikes), Montgomery writes, acknowledged by U.S. courts over the past century, is anchored in the Constitution, not in economic factors. The history of labor standards, and their enforceability reflect the relative strength of the adversaries—employers and workers—of reform movements, and of governments' willingness to invoke their police powers—not economic growth.

In an essay on the North American Agreement on Labor Cooperation (NAALC), Stephen Diamond purposes a "labor rights approach"—an approach that would link worker rights and standards and the requirements of economic development (such as increasing productivity). NAALC was a "side agreement" to the North American Free Trade Agreement (NAFTA), concluded in 1993. Under NAALC, a trinational Commission for Labor Cooperation was established whose secretariat promotes cooperation regarding a wide range of labor standards—such as occupational safety and health, child labor, migrant workers, and human resource development. Labor standards are to be advanced as well as coordinated so as to prevent them from becoming a competitive element in cross border trade. But enforcement mechanisms are weak, and enforcement procedures lengthy and complicated—in contrast to disputes involving property and investment, where parties to the disputes have direct access to the courts of NAFTA members.

Nevertheless, Diamond upholds NAALC; as a new international institution, "it legitimates the exploration of domestic labor problems." Provided the trade unions organize "parallel forms of trinational cooperation," NAALC will promote a genuine trinational demo-

cratic approach to economic development. He concedes difficulties facing this vision of his—the resentment of Mexicans who may perceive labor rights efforts as intruding upon their sovereignty; the fact that economic advances in Latin America have been made by breaching earlier obligations to trade unions; and American trade unions' frequent indifference to cooperation with their Mexican counterparts. He insists, however, that NAALC can help restore the influence of trade unions and of their political allies. His labor rights approach is meant as a response to (what he describes) the deepening crisis of the labor movement worldwide, as evidenced by loss of membership; its powerlessness in helping to shape NAFTA; and the persisting crisis of economic and social reform in Mexico, as indicated by high unemployment and declining real wages. His analysis of these crises is particularly cogent and disturbing, but renders his call for broad support of NAALC a call from the wilderness.

The book affords considerable insight into the heatedly disputed field of the linkage between trade and worker rights; it includes essays on a number of topics related to these rights. It is a superb introduction to the issues here outlined, indispensable to students and policymakers concerned with them.

Marvin J. Levine portrays with insight and an indefatigable, even passionate pursuit of factual detail how those issues are reflected in the status and daily struggles of working people in four countries—China, Indonesia, Malaysia, and Thailand. A brief review cannot do justice to his work; only a few of his main points are highlighted.

Encouraging foreign capital to invest in production for export is an economic-policy priority in the four developing countries with which Levine deals. The attraction for foreign capital generally is cheap labor. Hence, as mentioned above, labor rights are repressed or severely restricted; labor standards, although usually established by law, are not vigorously enforced, if enforced at all. In all four countries, however, government and employers must reckon with the resistance and protests of aggrieved workers. In China, tens of thousands of employer-worker conflicts have been officially arbitrated in recent years. Worker activism is not tolerated; between 1990 and 1995, Levine reports, 100 labor activists have been detained.

The concept of unemployment cannot be applied given the labor conditions of China or Indonesia. Labor reform in China has removed nearly all obstacles to mobility but has spelled the influx of an enormous mass of rural migrants into the cities, tending to depress wages. Likewise, labor reform has tended to eliminate the "iron rice bowl"—the guaranty of lifelong job security—as more and more workers have been discharged from inefficient, often virtually bankrupt state-owned enterprises. A rising proportion of workers is employed under contracts whose term run from 6 to 10 years. As efficiency improves, contracts may not be renewed. Undeniably, however, many workers welcome the chance to better themselves by being able to change jobs.

Poor men and women in Indonesia, Levine reports, will often accept any job offered, at less than the minimum wage, which itself falls below basic needs; squalid working conditions do not deter them from accepting a proffered job. While wages are but part of a worker's compensation, Indonesia now competes with China, where average labor costs are higher.

As indicated, the labor-intensive industrialization practiced by the four countries requires a low-paid labor force. Such a labor force also needs to be flexible and submissive. But even in Thailand, whose culture makes for paternalistic relations between worker and employer, protests and demonstrations have occurred. In Malaysia, a perhaps more militant working class expects to share productivity gains with investors, tending to discourage these protests. Major labor unrest has more recently occurred in Indonesia. Thus, the limits to an economic policy may be envisioned that is based on low wages and squalid working conditions—limits which in time would compel the deliberate expansion of domestic markets.

Given the context of his work, Levine asks how opportunities for economic growth may be provided "that do not depend on abuses of labor standards." He lists four categories of such standards. The first one, broadly accepted if in part still violated, is the prohibition of the use of child labor; involuntary servitude; and physical coercion. The second category he terms "survival rights," including guarantees of a living wage (necessarily defined locally or regionally); accident compensation; and a limited work week. The third would be "security rights"—including protection against arbitrary dismissal. Finally, he calls for "civic rights," that is, rights to associate freely, free voicing of grievances, and the right to collective representation.

These standards, which paraphrase a number of ILO conventions, should certainly lie at the base of any international labor rights regime. Levine's work demonstrates the enormous difficulties that stand in the path of creating such a regime; it also argues its necessity for protecting a large part of humanity.

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Errata

Following are several corrections for tables in the *Monthly Labor Review*'s November 1997 special issue on "Employment in 2006":

I. **Labor force in 2006** (page 25, table 2, fifth data column)

Men	Change, 1976–86
25 to 54	9,561
25 to 34	4,970
35 to 44	4,848
45 to 54	–257
55 and over	3,186
55 to 64	892
65 and over	2,294
65 to 74	1,529
75 and over	823

II. **Industry output and employment**

a. Page 44, table 4:
324 Hydraulic cement: the first figure (employment for 1986) is 22; move other figures to the right.

b. Page 48, table 4: insert the following industry
736 Personnel supply services 990 2,646 4,039 1,656 1,393 10.3 4.3 22 57 98 10.3 5.5

III. **Occupational employment**

a. Page 78, table 4: "Maintenance repairers, general and utility": change the last category (education and training) to "Long-term on-the-job training."

b. Page 82, table 6: Replace data as follows:

Long-term on-the-job training	12,373	13,497	9.3	8.9	1,125	9.1	3,988	7.9	490
Short-term on-the-job training	52,125	59,062	39.4	39.1	6,937	13.3	21,422	42.4	337

These data are correct on BLS homepage http://stat.bls.gov/emphome.htm