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## NOTES

### Minimum Wage Legislation in Developing Countries Zimbabwe: A Case in Point

by Sue A. Fauber\*

#### I. INTRODUCTION

ON JULY 1, 1980, the Minimum Wages Bill became effective as law in Zimbabwe.<sup>1</sup> As Zimbabwe is an industrially underdeveloped nation,<sup>2</sup> this labor legislation caused concern because of the general belief that such measures are not effective without a developed industrial base. Parliament's hopes and fears were expressed in heated debates when the Bill was introduced.<sup>3</sup> This note surveys the events which created the impetus for the legislation and the ideologies which supported and opposed it, and reviews the complete texts of the Minimum Wages Act and the Minimum Wages (Specification of Minimum Wages) Notice (See Appendices A and B, respectively). The economic trends which have surfaced since the Act was passed are examined in an effort to determine what, if any, causal relationship exists. Careful consideration is also given to the influence of the international environment on Zimbabwe's domestic economic activity. An analysis of these interdependent processes provides insight into the possibility of dealing effectively with economic problems through direct governmental intervention in developing countries.

#### II. HISTORY

Prior to November 11, 1965, Rhodesia was a British Colony. While its native population was black, it had been settled and governed by a minority of whites lead by Ian Smith. Like other British Colonies in Africa during that time period, white rule was meeting with substantial opposition from the black majority. In an effort to forestall any transfer of

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<sup>1</sup> Government Gazette, July 1, 1980 at 1.

<sup>2</sup> 1 PARL. DEB. (No. 18) 874 (Zimbabwe 1980).

<sup>3</sup> See, e.g. 1 PARL. DEB. (No. 18) 862, 874, 880, 933 (Zimbabwe 1980).

power to the black majority, on that date, Smith proclaimed a unilateral declaration of independence (UDI).<sup>4</sup>

Subsequently, Britain beseeched U.N. member nations to join it in imposing economic sanctions upon Rhodesia by cutting off foreign aid and trade.<sup>5</sup> To survive economically, the white minority revitalized an already pervasive policy of exploiting the lowest rungs of the working class, a group which was almost entirely composed of blacks.<sup>6</sup> This pattern, together with the oppressive social structure it produced, eventually lead blacks to rise up in opposition. A bitter racial war broke out in late 1972 and early 1973.<sup>7</sup> After seven years, the war culminated in the relinquishment of power by popular vote of the white minority and the institution of black majority rule.<sup>8</sup> At midnight on May 31, 1979, the new majority rule constitution took effect.<sup>9</sup>

The new Government assumed control of a hungry<sup>10</sup> nation, ravaged by war<sup>11</sup> and victimized by external as well as internal economic pressures.<sup>12</sup> Zimbabweans, who had sacrificed so much for self-determination, waited expectantly for relief.<sup>13</sup> Their leaders, although anxious to comply, faced many obstacles.

#### A. Hunger

Maize is the main component of the Zimbabwean diet. During the war, many farms were abandoned or destroyed<sup>14</sup> resulting in a decline in maize production. Beginning in 1974, the Government suppressed maize prices in an effort to combat increasing malnutrition.<sup>15</sup> The result, however, was that maize became such an unprofitable crop<sup>16</sup> that many farmers turned to tobacco instead. Subsequent maize production declined by 40 percent.<sup>17</sup> Drought added to this dilemma.<sup>18</sup> The maize shortage,

<sup>4</sup> See *The Times* (London), Nov. 12, 1965, at 8, col. 107.

<sup>5</sup> See generally U.N. CHARTER art. 41; *The Times* (London), Nov. 13, at 8 col. 5.

<sup>6</sup> 1 PARL. DEB. (No. 16) 739-40 (Zimbabwe 1980).

<sup>7</sup> See *The Times* (London), Dec. 30, 1972, at 6. col. 1; *The Times* (London) Jan. 10, 1973, at 1, col. 1.

<sup>8</sup> *The Daily Telegraph*, Jan. 30, 1979 at 4, col. 5.

<sup>9</sup> *The Daily Telegraph*, May 31, 1979, at 4, col. 3.

<sup>10</sup> *The Times* (London), Mar. 31, 1980, at 8, col. 5.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at col. 7, see also U.N. Charter, *supra* note 5.

<sup>13</sup> See 1 PARL. DEB. (No. 18) 865, 888 (Zimbabwe 1980); *The Times* (London), Mar. 13, 1980, at 8, col. 7; *The Times* (London), Mar. 20, 1980, at 8, col. 2; *The times* (London), Apr. 29, 1980, at 8, col. 1; *The Times* (London), May 15, 1980, at 8, col. 5.

<sup>14</sup> *The Times* (London), Mar. 13, 1980, at 23, col. 6.

<sup>15</sup> *The Times* (London), June 12, 1980, at 8, col. 3.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> 1 PARL. DEB. (No. 18) 881 (Zimbabwe 1980).

along with a wartime increase in theft, contributed to a shortage in beef.<sup>19</sup> These shortages gave rise to increased malnutrition, especially in the rural areas.<sup>20</sup>

### B. *The Residue of War*

As a direct result of the war, 27,500 people died, 275,000 were injured, 750,000 were displaced, 225,000 remained in protective villages and 330,000 homes were destroyed.<sup>21</sup> Medical services, which had been under considerable strain during the war, were near collapse.<sup>22</sup> The white minority Government had borrowed heavily in order to conduct the war and left Zimbabwe deeply in debt.<sup>23</sup>

### C. *Crisis in Industry*

Factory workers in Salisbury and Bulawayo had been on strike due to racial tensions and low pay.<sup>24</sup> After calling on their new Government to raise wages, they were urged to look to their unions for relief.<sup>25</sup> But the trade unions were in a shambles.<sup>26</sup> They had been accused of defrauding and misrepresenting their members and were unable to deal with the problem effectively.<sup>27</sup> Consequently, the strikes strengthened and continued causing disruptions in the sugar and mining industries.<sup>28</sup>

Meanwhile the agricultural industry was \$200,000,000 in debt.<sup>29</sup> Unstable economic conditions were forcing Zimbabwe's largest employer, the tobacco industry out of business.<sup>30</sup> Suppliers would no longer accept credit and few loans were available.<sup>31</sup> The tobacco industry alone was facing an estimated annual loss of \$25,000,000.<sup>32</sup>

Unemployment, estimated to be over 25 percent,<sup>33</sup> was expected to

<sup>19</sup> See generally *The Times* (London), Oct. 16, 1980, at 6, col. 2.

<sup>20</sup> *The Times* (London), Dec. 23, 1979, at 7, col. 1.

<sup>21</sup> *The Times*, *supra* note 10.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *The Times* (London), Mar. 19, 1980, at 8, col. 7.

<sup>25</sup> *The Times* (London), May 5, 1980, at 1, col. 1.

<sup>26</sup> 1 PARL. DEB. (No. 17) 797 (Zimbabwe 1980).

<sup>27</sup> 1 PARL. DEB. (No. 17) 935 (Zimbabwe 1980).

<sup>28</sup> *The Times* (London), Nov. 15, 1980, at 5, col. 2.

<sup>29</sup> 1 PARL. DEB. (No. 18) 866 (Zimbabwe 1980).

<sup>30</sup> See generally *The Times*, *supra* note 15.

<sup>31</sup> 1 Parl. Deb. (No. 18) 881-2 (Zimbabwe 1980).

<sup>32</sup> 1 Parl. Deb. (No. 18) 925 (Zimbabwe 1980).

<sup>33</sup> Measuring unemployment in underdeveloped countries is difficult because sensitive to arbitrary differences in the measuring process. This figure is little more than a guess. See Doctor and Gallis, 93 INT'L LAB. REV. 2 (Feb. 1966).

worsen. Half of the population was under 15 years of age.<sup>34</sup> And, due to the war, most of those young people had missed years of education.<sup>35</sup> Large numbers of them were certain to enter the ranks of the unemployed with guerrillas who were left jobless upon cease-fire.<sup>36</sup> The war distorted the structure of the labor force; it was bloated with the young, the uneducated, and the unskilled. There was no room in industry for this surplus labor supply.

#### D. Crisis of Expectation

The establishment of majority rule created a post-independence crisis of expectation.<sup>37</sup> Zimbabweans had long struggled under the social and economic burdens of oppression and poverty. The new Government promised change as it came to power. The future Finance Minister promised a radical realignment of the economy and redistribution of wealth to help the poor.<sup>38</sup> The Prime Minister vowed that racial discrimination and exploitation would no longer be tolerated.<sup>39</sup> President Canaan Banana promised that everything possible would be done to improve the economy, wages, and working conditions.<sup>40</sup> The citizens of Zimbabwe expected relief and were impatient for results. If the new Government of Zimbabwe failed to respond quickly and make good its promises, it was sure to face a crisis.<sup>41</sup>

#### E. Summary

In short, Zimbabwe was a troubled nation. Its people were suffering both physically and economically. Yet, the nation's needs were great. With the odds pitted against them, the Zimbabwean Parliament prepared to meet those needs.

### III. THE MINIMUM WAGES ACT

The Minister of Labour & Social Services, Mr. Kumbirai Kangai, introduced the Minimum Wages Bill on June 12, 1980.<sup>42</sup> The resulting Minimum Wages Act and Minimum Wages (Specification of Minimum Wages) Notice, 1980, are reproduced in their entirety in Appendices A

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<sup>34</sup> 1 Parl. Deb. (No. 18) 875 (Zimbabwe 1980).

<sup>35</sup> See *The Times*, *supra* note 10.

<sup>36</sup> *The Times* (London), July 6, 1980, at 10, col. 8.

<sup>37</sup> 1 PARL. DEB. (No. 18) 865, 888 (Zimbabwe 1980).

<sup>38</sup> *The Times* (London), Mar. 13, 1980, at 8, col. 7.

<sup>39</sup> See *The Times* (London), Apr. 29, 1980, at 8, col. 1.

<sup>40</sup> *The Times* (London), May 15, 1980, at 8, col. 5.

<sup>41</sup> *The Times* (London), Mar. 20, 1980, at 8, col. 2.

<sup>42</sup> 1 Parl. Deb. (No. 16) 715 (Zimbabwe 1980).

and B, respectively. The following is a summary of the Act's significant features.

The Act gives the Minister of Labour & Social Services power to administer and enforce its provisions.<sup>43</sup> In so doing, he may appoint boards to make recommendations and conduct investigations. Such appointments may be made either by the Minister, or at the request of the employer functioning as the employee's representative.<sup>44</sup>

The class of employees who need not receive the minimum wage includes: independent contractors, piece-work employees, and the physically or mentally handicapped.<sup>45</sup> The Act prohibits discrimination in the payment of wages on the grounds of race, sex, or age across all grades of employment.<sup>46</sup> It voids any contracts in conflict with its mandate.<sup>47</sup> Deductions from the minimum wage may be made only if provided for in the express language of enactment, or if attributable to unauthorized leave, written stop-orders, repayment of loans, authorized legal deductions, payments made in error amounts owing for goods supplied or services rendered (with consent of the employee).<sup>48</sup>

The Act provides that part-time employees be paid a specified fraction of the salary of full-time employees during the time in which they are engaged in regular part-time work.<sup>49</sup> Contravention of the Act's provisions is deemed an offense and the offending employer may be liable for penalties of a fine up to \$1,000 or imprisonment. Damages may also be recovered from the employer.<sup>50</sup>

Termination of employment based solely on grounds of the requirement to pay minimum wages are forbidden.<sup>51</sup> However, the Minister has the power to grant an exemption under special circumstances, although what constitutes special circumstances is not enunciated.<sup>52</sup> The payment of wages in kind is prohibited. The Act prevents the withdrawal, reduction, or alteration of benefits in effect prior to its enactment.<sup>53</sup>

The Act also provides for notice through the government's official newspaper, the *Gazette*, as to the schedule of wages and employees covered.<sup>54</sup> The schedule in effect at the time of this writing called for a two-

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<sup>43</sup> Minimum Wages Act, § 3 (1980) *reprinted in* Appendix A.

<sup>44</sup> *Id.* at § 4.

<sup>45</sup> Minimum Wages Notice §§ 2, 3 (1980) *reprinted in* Appendix B.

<sup>46</sup> *Id.* at § 7 & Minimum Wages Act, § 8 (1980) *reprinted in* Appendix B.

<sup>47</sup> Minimum Wages Act, § 5(b)-(c) (1980) *reprinted in* Appendix A.

<sup>48</sup> Minimum Wages Notice, § 5 (1980) *reprinted in* Appendix B.

<sup>49</sup> *Id.* at § 4(2).

<sup>50</sup> Minimum Wages Act, §§ 6(1)-(2), 8(2) (1980) *reprinted in* Appendix A.

<sup>51</sup> *Id.* at § 7(1).

<sup>52</sup> *Id.* at § 7(2).

<sup>53</sup> Minimum Wages Notice, § 4(4) (1980) *reprinted in* Appendix B.

<sup>54</sup> Minimum Wages Act, § 3(2) (1980) *reprinted in* Appendix A.

phase introduction. The first schedule of wages would be in effect from July 1, 1980, to January 1, 1981. The second schedule of wages would be effective from January 1, 1981, to July 1, 1981.<sup>55</sup> The classes of covered employees include: public and private domestic employees, agricultural employees, mining employees, sugar-production employees, saw-milling employees, persons primarily employed within a rural council area, municipality, town, or local government area, and persons to whom any industrial enactment (or certain specific governmental regulations) applies.<sup>56</sup> The minimum wage for the classes ranges from a low of \$30 per month to a high of \$85 per month.<sup>57</sup>

The Minimum Wages Bill was enunciated a second time on June 13, 1980,<sup>58</sup> and Kangai included a few explanatory remarks. Apologizing for the fact that the Bill had been made public prior to its reading in Parliament, Kangai explained that because of labor unrest, the workers were given an early indication of the Government's intentions.<sup>59</sup> He further stated that "because of (that) action the spread of strikes (had) been stemmed."<sup>60</sup>

Kangai acknowledged the existence of arguments against the Bill but suggested that they be reconsidered in light of the public's raised expectations and its unwillingness to accept excuses.<sup>61</sup> He bluntly stated that the Government had an obligation to end exploitation,<sup>62</sup> and proceeded to explain how the Bill was designed to meet that obligation.

Noting that higher wages were being proposed for persons employed in urban areas, Kangai reasoned that because urban workers generally received very few benefits in kind and therefore have been most immediately affected by increases in the cost of living they deserve a higher minimum than agricultural or domestic workers who often received benefits in kind such as room and board.<sup>63</sup> While admitting that the agricultural industry was in poor condition, Kangai insisted that because it employed the largest number of employees for the least amount of pay, an exemption could not be justified.<sup>64</sup> Characterizing the problem of domestic workers as complex,<sup>65</sup> Kangai again insisted that an exemption would be

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<sup>55</sup> Minimum Wages Notice, Schedule (1980) reprinted in Appendix B.

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> 1 PARL. DEB. (No. 17) 795 (Zimbabwe 1980).

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> 1 PARL. DEB. (No. 17) 795-796 (Zimbabwe 1980).

<sup>62</sup> *Id.*

<sup>63</sup> 1 PARL. DEB. (No. 17) 797-798 (Zimbabwe 1980).

<sup>64</sup> See 1 PARL. DEB. (No. 17) 799 (Zimbabwe 1980).

<sup>65</sup> *Id.* at 800.

difficult to justify.<sup>66</sup> He suggested that a committee should be established to balance conditions of service and wages to align domestic workers with agricultural workers.<sup>67</sup>

Kangai noted the penalty provisions with regret but insisted that they were necessary in order to prevent mass retrenchment, as well as to further the spirit of the Bill.<sup>68</sup> He also called attention to the provisions which would allow exemptions under special circumstances.<sup>69</sup>

After Kangai made his final remarks, it was decided that debate be delayed to give the members of Parliament more time to digest and evaluate the Bill.<sup>70</sup> Debate was scheduled to take place on June 17, 1980.<sup>71</sup> It was expected that the Bill would be accepted or rejected on that date.<sup>72</sup>

#### IV. THE PARLIAMENTARY DEBATE

When Parliament convened on June 17, 1980, at two o'clock in the afternoon, Kangai's motion that Standing Order No. 21, which requires automatic adjournment at seven o'clock, be suspended was passed.<sup>73</sup> The motion's purpose was to ensure that the Minimum Wages Bill would be passed by the House adjournment. It was hoped that this would allow extra time for the necessary preparations so that the Bill, if passed, could take effect on July 1, 1980.<sup>74</sup> This motion foreshadowed the events that would be forthcoming as the ensuing debates were lengthy and emotional.

For purposes of clarity, the arguments for and against the Minimum Wages Bill have been classified according to premise. This Note does not profess to be an exhaustive treatment of the pros and cons of minimum wage legislation. Rather it expresses only the most significant concerns expressed by the Parliament of Zimbabwe.

##### A. *Adverse Effects*

The main objection voiced by the Members of Parliament was that the Act would not only fail to accomplish its intended purpose, but that it would create other, insurmountable, adverse effects. According to one classical economic theory, in labor-intensive industries like the majority of those found in Zimbabwe, it is generally accepted that every increase in wages without a corresponding rise in productivity will precipitate an

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<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> 1 PARL. DEB. (No. 17) 801 (Zimbabwe 1980).

<sup>69</sup> *Id.*

<sup>70</sup> *Id.* at 801-802.

<sup>71</sup> 1 PARL. DEB. (No. 17) 804 (Zimbabwe 1980).

<sup>72</sup> *Id.*

<sup>73</sup> 1 PARL. DEB. (No. 17) (Zimbabwe 1980).

<sup>74</sup> *Id.*



increase in unemployment.<sup>75</sup> This is especially applicable in underdeveloped countries.<sup>76</sup> If the industry has a low capital-to-labor ratio, as does the agriculture industry for example, the classical theory is more applicable.<sup>77</sup> When the industry takes the opportunity to pass the increased costs of labor onto the consumer in the form of product prices, a resulting decline in demand will cause production to be curtailed and unemployment to increase.<sup>78</sup> Also, in agriculture, when the cost of production increases with the cost of labor, profits decline substantially.<sup>79</sup>

These principles of economic theory provide the bases for much of the criticism to which the Minimum Wages Bill was subject. However, although the principles are helpful in assessing the capabilities of economic legislation, they are not absolute. Even in labor-intensive industries it is possible to raise wages while leaving the level of employment unchanged.<sup>80</sup> Because profit can provide a cushion against unemployment and a rise in productivity can compensate for higher labor costs, there is a narrow range within which wage increases are economically sound.<sup>81</sup> Whether or not the wage increase that the Minimum Wages Act would effect lies within that range was a topic of much controversy in Parliament. The following is a summary which characterizes the major criticisms of the Bill which were expressed during the debate.

### 1. The Destruction of Industry

Because the Minimum Wages Bill would undoubtedly translate into higher labor costs for industry, it was believed that the increased cost burden would force employers with precarious financial bases to declare bankruptcy.<sup>82</sup> The agriculture industry, as previously described, was heavily in debt and expecting more losses.<sup>83</sup> The tobacco industry was already threatened with collapse.<sup>84</sup> It was contended that with the price of tobacco plummeting, the industry could not be expected to withstand an increase in the cost of labor.<sup>85</sup> Bankruptcy was inevitable if the Government set the minimum wage arbitrarily and without regard to a given

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<sup>75</sup> A. Rees, *THE ECONOMICS OF WORK AND PAY*, 66-72 (1973).

<sup>76</sup> See Neely, *Why Wage-Price Controls Fail: A "Theory of the Second Best" Approach to Inflation Control*, 79 W. VA. L. REV. 1, 9 (1976).

<sup>77</sup> *Id.* at 13-14.

<sup>78</sup> *Id.* at 14.

<sup>79</sup> *Id.* at 19.

<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

<sup>82</sup> 1 PARL. DEB. (No. 18) 897 (Zimbabwe 1980).

<sup>83</sup> 1 PARL. DEB., *supra* note 29.

<sup>84</sup> *The Times*, *supra* notes 30-32.

<sup>85</sup> 1 PARL. DEB., *supra* note 82.

industry's ability to pay.<sup>86</sup> The success or failure of the agriculture industry was inextricably linked not only with Zimbabwe's economy due to the percentage of the population it employed, but also with the nation's very survival as indicated by the widespread existence of malnutrition and outright starvation.<sup>87</sup> The impact of collapse in the agricultural sector would be devastating.

The nature of manufacturing industries would enable them to pass the increased cost of labor onto the consumer. This opportunity to allocate increased labor costs was not possible in service industries, such as those employing domestic workers.<sup>88</sup> Such a disparate situation created two problems; it arbitrarily discriminated against the service industry,<sup>89</sup> and it placed a burden on the Zimbabwean consumer and the Zimbabwean exporter. The consumer was already suffering, and rising prices would make Zimbabwean export goods less competitive in the world market.<sup>90</sup>

It was also argued that Zimbabwe was too underdeveloped to risk the introduction of a minimum wage because high labor costs would create a disincentive for investment and inhibit further industrial growth.<sup>91</sup> In a meeting of Parliament, prior to the passage of the minimum wage legislation, the Minister of Commerce and Industry had pointed out that profits are what an entrepreneur achieves for successful capital investment and suggested that anything which threatens profits would naturally threaten investment.<sup>92</sup> Arguing that a minimum wage would stifle speculation in development projects in Zimbabwe, one member of Parliament, Mr. Goddard, stated that "[W]e have unsophisticated people in this country and wherever in the world you have unsophisticated people, you have cheap labor, and that means development."<sup>93</sup> If the minimum wage could destroy existing industry and discourage the development of new industries, it could seriously damage Zimbabwe's fragile economy. Industrial collapse would also contribute to the already prevalent problem of unemployment.

## 2. Unemployment

It was contended that the Minimum Wages Bill would create unemployment.<sup>94</sup> Governmentally enforced increases in labor costs cut into

<sup>86</sup> *Id.*

<sup>87</sup> 1 PARL. DEB. (No. 18) 928 (Zimbabwe 1980).

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> *Id.*

<sup>91</sup> 1 PARL. DEB. (No. 18) 920 (Zimbabwe 1980).

<sup>92</sup> 1 PARL. DEB. (No. 16) 717 (Zimbabwe 1980).

<sup>93</sup> 1 PARL. DEB., *supra* note 91.

<sup>94</sup> 1 PARL. DEB. (No. 18) 874-875 (Zimbabwe 1980).

profits, thus the minimum wage would create an incentive for the employer to trim the labor budget by other means, namely termination.<sup>95</sup> Although the Bill expressly forbids terminations effected solely for the purpose of avoiding payment of the Minimum Wage,<sup>96</sup> presumably legitimate terminations would not be prohibited. Terminations would arise from legitimate changes in production or production schedules. Thus, such changes would be subject to the employer's discretion and any challenge would be difficult to sustain.

It was also contended that the Act would discourage liberal hiring practices.<sup>97</sup> Employers facing the termination sanctions enforceable by court action would become very conservative in their hiring practices.<sup>98</sup> One member of Parliament said he foresaw "most firms in the country being very, very selective in the future in whom they engage, and on what terms and conditions they engage them."<sup>99</sup>

The argument was made that the provisions of the Act could be abused. It was feared that employers would let the minimum wage function as a maximum wage and hand out raises and promotions begrudgingly.<sup>100</sup> Also of concern was the question of whether the employers would lower wages to the minimum where higher wages had previously been negotiated<sup>101</sup> to reduce labor costs without being exposed to legal liability under the Act's termination sanctions. The language of §§ 5(b) and (c) is general and unclear on this point.<sup>102</sup>

The most vigorously argued objection was that § 8 of the Minimum Wages Act, which prohibits discrimination in the payment of wages on grounds of race, sex, or age, would effect massive unemployment among women and juveniles.<sup>103</sup> Women and juveniles, due to their physical limitations, would be far less employable than their adult, male counterparts because much of the available employment entails manual labor. Combine a competitive labor market with industry's conviction that its first duty is to the head of the family, usually the adult male laborer,<sup>104</sup> and the result is not only unemployed women and juveniles, but underemployed adult males as well.<sup>105</sup> Within a culture where women have the

<sup>95</sup> 1 PARL. DEB. (No. 18) 893 (Zimbabwe 1980).

<sup>96</sup> Minimum Wages Act, § 7(1) (1980) *reprinted in* Appendix A.

<sup>97</sup> 1 PARL. DEB. (No. 18) 907 (Zimbabwe 1980).

<sup>98</sup> *Id.*

<sup>99</sup> *Id.*

<sup>100</sup> 1 PARL. DEB. (No. 18) 937 (Zimbabwe 1980).

<sup>101</sup> *Id.*

<sup>102</sup> Minimum Wages Act § 5 (b)(c) (1980) *reprinted in* Appendix A.

<sup>103</sup> 1 PARL. DEB. (No. 18) 868-869 (Zimbabwe 1980).

<sup>104</sup> 1 PARL. DEB. (No. 17) 798 (Zimbabwe 1980) and 1 PARL. DEB. (No. 18) 900-901 (Zimbabwe 1980).

<sup>105</sup> 1 PARL. DEB. (No. 18) 880 (Zimbabwe 1980).

sole responsibility of bearing and rearing the children along with maintaining the home, it is difficult for them to compete with their adult, male counterparts.<sup>106</sup>

Lastly, it was argued that the minimum wage would do nothing more than turn the worker into a commodity and ". . . [I]f the worker, as a commodity is to be priced out of the market, he will be replaced by machines."<sup>107</sup> Automation was not widely desired, apparently because of the belief that while it provided the employer with a method for maintaining profits, it also destroyed employment opportunities.<sup>108</sup> It was suggested, however, that mechanization would increase productivity and create jobs in a market directed toward exportation.<sup>109</sup>

### 3. The Decline of the Social Structure

One theme which dominated the more critical positions was the concern that the introduction of a minimum wage would contribute to the decay of the Zimbabwean social structure. The concern was twofold. First, over 50 percent of Zimbabwe's population was under the age of 15,<sup>110</sup> and many of those juveniles were undereducated.<sup>111</sup> Unfortunately, opportunities for Zimbabwe's young population were already severely limited. The further strain created by a mandatory minimum wage was felt certain to add to their anger and frustration. Massive juvenile unemployment, it was suggested would as a result develop into a major crime problem.<sup>112</sup>

Second, it was feared that the minimum wage would force the extended family unit, prevalent in the agriculture industry, to dismantle.<sup>113</sup> The unit generally included only one wage earner with the other family members receiving remuneration in kind.<sup>114</sup> Because in kind payment of wages was expressly forbidden by the Act,<sup>115</sup> the unit would be forced to split up in order to bring in the additional wages necessary. It was also argued that the domestic servant would vanish as a class.<sup>116</sup> Many of the fundamental values embraced in these traditions were not going to be easily relinquished.<sup>117</sup>

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<sup>106</sup> 1 PARL. DEB. (No. 18) 867 (Zimbabwe 1980).

<sup>107</sup> 1 PARL. DEB. (No. 18) 918 (Zimbabwe 1980).

<sup>108</sup> 1 PARL. DEB. (No. 18) 899 (Zimbabwe 1980).

<sup>109</sup> 1 PARL. DEB. (No. 18) 938 (Zimbabwe 1980).

<sup>110</sup> The Times, *supra* note 10.

<sup>111</sup> 1 PARL. DEB. (No. 18) 901 (Zimbabwe 1980).

<sup>112</sup> 1 PARL. DEB., *supra* note 34.

<sup>113</sup> 1 PARL. DEB. (No. 18) 870 (Zimbabwe 1980).

<sup>114</sup> 1 PARL. DEB. (No. 18) 949 (Zimbabwe 1980).

<sup>115</sup> Minimum Wages Notice § 4(4) (1980) *reprinted in* Appendix B.

<sup>116</sup> 1 PARL. DEB. (No. 18) 906 (Zimbabwe 1980).

<sup>117</sup> 1 PARL. DEB., *supra* notes 91 and 113.

### B. Disagreement with the Principle

Only a few members of Parliament expressed disagreement with the principle behind instituting the Minimum Wages Bill. The arguments of Cronje, Cartwright and Shields followed the basic theme that the Government should not interfere with the relationship between employer and employee. Instead, it was argued, the two groups should be free to negotiate with each other.<sup>118</sup> It was believed that by directly controlling the employer, friction would be created between the employee and the Government.<sup>119</sup> The Government, it was suggested, needed the objectivity that the unions afforded<sup>120</sup> and that in order to serve the people the unions must never be put in a position to pit their interests against each other.<sup>121</sup> One Member of Parliament suggested that governmental intervention in an area previously reserved for the employer and employee would deny the employer "the basic right to be able to tell his own employee what to do and how much he is going to pay him for it."<sup>122</sup>

### C. Alternative Proposals

While few were reluctant to express their objections to the Bill, many neglected to offer an alternative plan. Three members of Parliament who vehemently opposed the Bill, Cronje, Ndlova and Mobeshora, made suggestions outlining what they considered to be more appropriate relief. Mr. Cronje emphasized the problem of unemployment and suggested that relief to the unemployed was far more critical than relief to the employed.<sup>123</sup> He recommended that creation of job opportunities should be the legislature's primary objective.<sup>124</sup>

Mr. Ndlova, stating emphatically that "it is not a stop-gap, it is a prescription for industrial unrest,"<sup>125</sup> characterized the Bill as treatment of the symptom and not the disease.<sup>126</sup> Reemphasizing the need for creating employment opportunities through industrial development, he proposed that if the issue were 1) production and 2) people selling their labor, then the important question to be answered would be, "At what price?"<sup>127</sup> He regarded the arbitrary figures represented in the Bill as un-

<sup>118</sup> 1 PARL. DEB., *supra* note 2.

<sup>119</sup> *Id.*

<sup>120</sup> 1 PARL. DEB. (No. 18) 896 (Zimbabwe 1980).

<sup>121</sup> *Id.*

<sup>122</sup> 1 PARL. DEB. (No. 18) 919-920 (Zimbabwe 1980).

<sup>123</sup> 1 PARL. DEB. (No. 18) 880 (Zimbabwe 1980).

<sup>124</sup> 1 PARL. DEB. (No. 18) 908, 910 (Zimbabwe 1980).

<sup>125</sup> 1 PARL. DEB. (No. 18) 883 (Zimbabwe 1980).

<sup>126</sup> 1 PARL. DEB. (No. 18) 884 (Zimbabwe 1980).

<sup>127</sup> 1 PARL. DEB. (No. 18) 882 (Zimbabwe 1980).

responsive<sup>128</sup> and suggested that wages should be increased only inasmuch as they can be justified by correlative increases in profits.<sup>129</sup>

Mr. Mobeshora proposed an industry-by-industry assessment of levels of productivity and a thorough restructuring of wages which would accurately represent those findings.<sup>130</sup> Tying wages to productivity would provide an incentive for the laborer to increase his or her output as well as generate employment opportunities. Mobeshora, however, suggested that in light of the appalling status of the laborer that the minimum wage be instituted until other measures of relief could be implemented.<sup>131</sup>

#### *D. The Proponents*

In spite of its many drawbacks, the Bill received much support from Members of Parliament who felt that the laborers' interests were paramount due to their acute need for protection against exploitation.<sup>132</sup> Many perceived the Bill as a useful starting point from which the principles of supply and demand would coalesce with the traditions of union negotiations and move toward a logical conclusion.<sup>133</sup>

In light of the crisis of expectation, one Member viewed the Bill as a necessary representation of the Government's ideological commitment to raising the quality of life and the prevention of exploitation.<sup>134</sup> Since white minority rule had come to an end, the political structure was changing and it seemed likely that the economic structure would change as well.<sup>135</sup> In the meantime, as that process evolved, Zimbabweans needed some immediate protection.<sup>136</sup> Blacks no longer had to be the victims of both political and economic oppression. And, because the Members of Parliament had been elected by those same blacks, it was their obligations to exert some stabilizing influences over industry and afford their constituents some economic relief.<sup>137</sup>

#### *E. The Minister's Response*

The Minister of Labour & Social Services was the last Member to speak on the merits of the Bill and he took the opportunity to address

<sup>128</sup> 1 PARL. DEB. (No. 18) 885 (Zimbabwe 1980).

<sup>129</sup> *Id.*

<sup>130</sup> 1 PARL. DEB. (No. 18) 910 (Zimbabwe 1980).

<sup>131</sup> 1 PARL. DEB. (No. 18) 912 (Zimbabwe 1980).

<sup>132</sup> *See generally*, 1 PARL. DEB. (No. 18) (Zimbabwe 1980).

<sup>133</sup> 1 PARL. DEB. (No. 18) 856-857 (Zimbabwe 1980).

<sup>134</sup> 1 PARL. DEB. (No. 18) 922, 931 (Zimbabwe 1980).

<sup>135</sup> 1 PARL. DEB., *supra* note 95.

<sup>136</sup> 1 PARL. DEB. (No. 18) 890 (Zimbabwe 1980).

<sup>137</sup> *Id.*

the objections generally.<sup>138</sup> Kangai promised that suffering industries would be given special attention after the Act went into effect.<sup>139</sup> He noted that the two-phased introduction process was designed primarily to give industry time to absorb the shock of higher wages.<sup>140</sup>

Kangai stated that lists of employers who had terminated employees in anticipation of the Bill's passage were already being compiled. Although the Bill did not refer to retroactive application, he said these violators would be punished.<sup>141</sup> He answered the question about massive unemployment among women and juveniles by saying that pay rates should be guided by job descriptions so that whoever takes the job would receive the same pay rate regardless of race, sex, or age.<sup>142</sup> If the job were too strenuous for a particular woman or too complex for a particular juvenile, then they would not get the job or the pay rate. This policy is not considered to be discrimination, but rather equal pay for equal work.<sup>143</sup>

In response to the suggestion that the minimum wage might break up the extended family units prevalent in the agricultural industry, Kangai stated that he found the working conditions which supported the extended family deplorable.<sup>144</sup> He found all family members to be working for one wage and determining that whatever benefits were received in kind were certainly insignificant and usually totally inadequate.<sup>145</sup> Kangai wanted the Government to refuse to be party to that kind of exploitation despite the effects it might have on the family unit.<sup>146</sup>

#### F. Analysis

In the preceding sections the opposition predicted egregious results should the Minimum Wage Bill become law. These results were only superficially refuted by the Bill's proponents.

Zimbabwe's industrial base had clearly suffered, most notably the agricultural sector where lay-offs and bankruptcy are bona fide threats to the victims of such circumstances and where a mandatory minimum wage is of little use. A depressed industrial sector has an equally depressed 'range of negotiation' in which to compensate for the rising cost of labor. In most of Zimbabwe's industries, that range is so narrow it appears nonexistent.

<sup>138</sup> 1 PARL. DEB. (No. 18) 940 (Zimbabwe 1980).

<sup>139</sup> 1 PARL. DEB. (No. 18) 942 (Zimbabwe 1980).

<sup>140</sup> 1 PARL. DEB. (No. 18) 944 (Zimbabwe 1980).

<sup>141</sup> 1 PARL. DEB. (No. 18) 943 (Zimbabwe 1980).

<sup>142</sup> 1 PARL. DEB., *supra* note 114.

<sup>143</sup> *Id.*

<sup>144</sup> 1 PARL. DEB. (No. 18) 948-949 (Zimbabwe 1980).

<sup>145</sup> 1 PARL. DEB. (No. 18) 941 (Zimbabwe 1980).

<sup>146</sup> 1 PARL. DEB., *supra* note 146.

Even if the minimum wage were to deal only a mild blow to industry, it is contraindicated in a developing country where the most needy are not the employed but the unemployed. In a nation with so many unemployed, legislative action should aim toward industrial development and the employment opportunities it would create. Anything which could operate to stifle industrial growth would be counter productive.

The Minister's assurance that the provisions prohibiting discrimination in wages would guarantee equal pay for equal work glosses over the fact that 'equal work' is difficult to obtain. The women and juveniles who do not yet have 'equal work' will not benefit from the 'equal pay' guarantee.

Any decline in the family structure is probably due to the failure of the agricultural industry coupled with the urbanization process. The Act, by giving urban workers higher minimum wages than rural workers, contributes to the urbanization during periods of industrial growth.

## V. CURRENT ECONOMIC TRENDS IN CONTEXT

The Minimum Wages Bill came through the committee stage substantially unchanged<sup>147</sup> and was passed on June 20, 1980.<sup>148</sup> It went into effect, as planned, on July 1, 1980.<sup>149</sup> In an attempt to make a meaningful assessment of its success or failure, the early indications must be identified and analyzed in the context of the multifaceted environment in which it was introduced.

### A. Identification

While unemployment remains a key problem for the government, trade and industry reported a 13.9 percent increase in the gross national product.<sup>150</sup> Real per capita income rose 11 percent and the value of industrial production rose 29 percent.<sup>151</sup> With the first comprehensive accounting of trade figures published since UDI, exports increased significantly more than imports resulting in a healthy balance of payments.<sup>152</sup>

Once the Government sanctions were lifted, farmers were encouraged to cultivate maize and Zimbabwe experienced an unexpected maize surplus.<sup>153</sup> Although the surplus allowed for much needed import substitution, the significance of the surplus is that it revived the agricultural sec-

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<sup>147</sup> 1 PARL. DEB. (No. 18) 951-956 (Zimbabwe 1980).

<sup>148</sup> 1 PARL. DEB. (No. 18) 000 (Zimbabwe 1980).

<sup>149</sup> See Gazette, *supra* note 1.

<sup>150</sup> WORLD BUSINESS WEEKLY, Sept. 7, 1981, at 14.

<sup>151</sup> *Id.*

<sup>152</sup> The Times (London), Oct. 10, 1980, at 9, col. 1.

<sup>153</sup> The Times, *supra* note 19.



tor. Trade unions have been reorganized<sup>154</sup> and the use of workers' committees has mushroomed to the point where even domestic workers are organized.<sup>155</sup> In late 1980, the Reserve Bank of Zimbabwe announced that Zimbabwe's real domestic product growth in 1980 was expected to reach five percent despite zero growth in 1979.<sup>156</sup>

### B. Discussion

Out of context, the early indications appear to be favorable. The acid test, however, is whether the same indication appears as a result of the Minimum Wages Act or in spite of it. The following comparison serves to illustrate the fact that it is more likely the latter.

The Ivory Coast is an African nation which is similar to Zimbabwe in many significant respects. It was colonized by a European nation (France) in the 18th century and gain independence in 1960.<sup>157</sup> Industrial activity focuses mainly on natural resource based exports such as agricultural and mining products.<sup>158</sup> The structure of the working class is strongly race-linked, the unskilled sector being comprised mostly of blacks.<sup>159</sup>

For all the similarities between the Ivory Coast and Zimbabwe, the former, unlike the latter, is a prosperous nation.<sup>160</sup> This distinction is largely accounted for by the fact that Zimbabwe, unlike the Ivory Coast, has a large surplus of labor.<sup>161</sup> In addition, the Ivory Coast's trade, development, and employment policies are directed toward the export of labor-intensive commodities. The market is relatively free from governmental intervention in an effort to encourage the influx of foreign capital.<sup>162</sup>

Industry in the Ivory Coast, as in Zimbabwe, operates under minimum wage legislation. In 1972, it was determined that the minimum wage was having an adverse effect on the nation's export-oriented policy. The minimum wage was found to be effective only at the unskilled level,<sup>163</sup> and encouraged industry to substitute skilled for unskilled labor.<sup>164</sup> Because natural resource based products concentrated on the utilization of unskilled labor, the impact of the underutilization of unskilled labor was

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<sup>154</sup> The Times (London), Nov. 15, 1980, at 5, col. 2.

<sup>155</sup> *Id.*

<sup>156</sup> The Times (London), Nov. 10, 1980, at 15, col. 1.

<sup>157</sup> KRUEGER, LARY, MONSON, AND ALCRASANEE, *TRADE AND EMPLOYMENT IN DEVELOPING COUNTRIES* 239 (1981).

<sup>158</sup> *Id.*

<sup>159</sup> *Id.* at 249.

<sup>160</sup> *Id.* at 239.

<sup>161</sup> *Id.*

<sup>162</sup> *Id.* at 266.

<sup>163</sup> *Id.* at 273.

<sup>164</sup> *Id.* at 239.

felt largely in the export market.<sup>165</sup> According to this data, the minimum wage legislation was identified as an impediment in an otherwise thriving economy.<sup>166</sup> Presumably, this effect would be even more pronounced in Zimbabwe, where surplus labor and rising unemployment places an additional burden on the economy.

According to the Organization for Economic Cooperation and Development (OECD), among developing nations such as Zimbabwe, there are five factors which indicate economic instability: 1) growth in the labor force, 2) changes in the structure of the labor force, 3) unemployment, 4) urbanization and 5) trends in income distribution.<sup>167</sup> All five considerations center on the problem of employment. The OECD suggested that given the continued growth of the world's labor force, the solution would be to shift the remedial emphasis from trying to inject technology into existing industries to instead finding productive ways to absorb the unemployed into the labor force.<sup>168</sup> Simply put, minimum wages attract more labor than can be absorbed and add to unemployment. An overburdened and underdeveloped economy does not have the cushion provided by the Ivory Coast's otherwise stable economy to absorb the consequent shock.

## VI. CONCLUSION

If Zimbabwe's economy had not appeared to be stabilizing, the Minimum Wages Act would never have been suggested as a possible cause of that stabilization. However, if the Act was not a contributing cause, what was?

On June 28, 1976, the United Nations Committee for Trade and Development (UNCTAD) resolved to take special measures to give aid to least developed countries (LDCs),<sup>169</sup> located largely in Central Africa. The LDCs were to receive more direct aid and more technical assistance.<sup>170</sup> Official debts with member nations were to be considered for cancellation. The LDCs were accorded special consideration in: commodity agreements, the establishment of processing industries and multilateral trade transactions.<sup>171</sup> In an effort to render aid to LDCs, UNCTAD sought to foster an international atmosphere which would facilitate foreign trade

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<sup>165</sup> *Id.* at 274.

<sup>166</sup> *Id.* at 266.

<sup>167</sup> D. TURNHAM, *THE EMPLOYMENT PROBLEM IN LESS DEVELOPED COUNTRIES: A REVIEW OF EVIDENCE* 121 (1971).

<sup>168</sup> *Id.* at 9.

<sup>169</sup> UNCTAD TD/191 (1976); UNCTAD Resolution 98 (iv) (June 28, 1976).

<sup>170</sup> A. MACBEAN, *A POSITIVE APPROACH TO THE INTERNATIONAL ECONOMIC ORDER* 45 (1978).

<sup>171</sup> *Id.*

relations and allow LDCs to take advantage of export earnings, thereby improving domestic stability.<sup>172</sup> Domestic stability would, in turn, foster internal growth planning and aid industrial development.<sup>173</sup> It was this policy which helped create the atmosphere in which Zimbabwe, through the exploitation of exportation opportunities, was able to achieve economic gains which, as predicted by UNCTAD, were realized in terms of domestic growth.<sup>174</sup>

Once the sanctions were lifted, costs in agricultural production were reduced and natural export markets opened up. Producers were able to realize a substantially higher net return. The increase in profits provided producers with the wage increases required by the Act. And, the higher wage created an increased consumer demand and stimulated the economy. It appears that the Minimum Wages Act and an economic fortuity (the removal of sanctions and the consequent opportunity for export expansion) have cooperated to bring about the effect desired. It is doubtful, however, that the Act could have achieved the same result by itself.

In summary, economic problems are not isolated occurrences within the borders of a nation which conducts international trade. Governmental intervention into domestic economic affairs should be designed to accommodate internal as well as external factors. Although it does not appear that the Minimum Wages Act has done any of the damage it was feared it would do to Zimbabwe's economy, the much improved economy is most likely due to non-legislated external factors. The expanding opportunities in exportation and import substitution brought about by the international recognition of Zimbabwe in the areas of foreign aid and trade relations have been and should continue to be vigorously pursued.

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<sup>172</sup> *Id.*

<sup>173</sup> *Id.* at 15.

<sup>174</sup> *Id.* at 26.

**Appendix A****ZIMBABWE****ACT**

To make provision for the fixing, enforcement and collection of a minimum wage; to prohibit discrimination in the payment of wages; and to provide for matters incidental to or connected with the foregoing.

ENACTED by the President and the Parliament of Zimbabwe.

1. This Act may be cited as the Minimum Wages Act, 1980.

2. In this Act—

“employer” means any person employed by or working for any employer and receiving, or being entitled to receive, any remuneration in respect of such employment or work;

“employer” means any person whatsoever who employs or provides work for any person and remunerates or expressly or tacitly undertakes to remunerate him, and includes the manager, agent or representative of such first-mentioned person who is in charge or control of the work upon which such second-mentioned person is employed;

“minimum wage notice” means a notice made in terms of section *three*;

“Minister” means the Minister of Labour and Social Services or such other Minister to whom the President may from time to time assign the administration of this Act;

“specified person” means a person specified by the court in terms of paragraph (b) of subsection (2) of section *six*.

3. The Minister may, by notice in the *Gazette*—

- (a) direct the payment of such minimum wages to such class of employees as may be specified in the notice without any discrimination on the grounds of race, sex or age;
- (b) regulate or prohibit the making of deductions from the wages of an employee to whom the notice relates;
- (c) regulate or prohibit the withdrawal, reduction or alteration of any benefits which an employee to whom the notice relates was entitled to in respect of his employment immediately before the date of commencement of such notice;

- (d) give such other direction or make such other provision as he may deem necessary or desirable to ensure the payment of a minimum wage to any class of employee.

4. (1) The Minister may appoint one or more boards consisting of such persons as he deems fit to investigate and make recommendations to him as to the fixing of minimum wages for employees and as to any other matters to which a minimum wage notice may relate.

(2) The Minister may appoint a board in terms of subsection (1) either on his own volition or upon the recommendation of any employer or employee or of any organization, body or association representing employers or employees.

5. Where the Minister has made a minimum wage notice—

- (a) no employer shall contravene any provision of such minimum wage notice;
- (b) every contract and every agreement, determination or regulation made in terms of any enactment relating to the employment of an employee to whom such minimum wage notice relates shall be construed with such modifications, qualifications, adaptations and exceptions as may be necessary to bring it into conformity with such notice;
- (c) every agreement or arrangement of any kind whatsoever, express or implied, whether made before or after the date of commencement of such minimum wage notice, by an employer or employee to whom such notice relates, which conflicts with such notice, shall, to the extent of such conflict, be of no force or effect.

6. (1) Any employer who contravenes the provisions of paragraph (a) of section *five* shall be guilty of an offence and liable to a fine not exceeding one thousand dollars or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

(2) The court convicting an employer of an offence in terms of subsection (1) may order him to pay—

- (a) to the employee concerned; or
- (b) to any person specified by the court for the benefit of the employee concerned;

in addition to any other penalty which it may impose, an amount not exceeding such amount by which the court considers the employee concerned has been prejudiced as a result of the contravention concerned, within such period and in such instalments or otherwise as may be fixed by the court.

(3) The court may at any time, on the application of the employer, employee or specified person concerned, for good cause shown, vary an order made in terms of subsection (2).

(4) The provisions of sections 324 and 325 of the Criminal Procedure and Evidence Act [*Chapter 59*] shall, *mutatis mutandis*, apply in relation to the amount specified in an order made in terms of subsection (2) as if such amount were a fine referred to in those sections.

(5) Nothing in this section contained shall be construed as precluding an employee, in the absence of any order made in terms of subsection (2), from recovering by civil proceedings any amount by which he has been prejudiced as a result of any contravention of a minimum wage notice.

7. (1) No employer shall, otherwise than in terms of an exemption granted to him in terms of subsection (2), terminate the services of an employee solely on the ground of a requirement to pay him a minimum wage in terms of a minimum wage notice.

(2) Where the Minister considers that special circumstances exist, he may, by notice in writing and on such terms and conditions as he may specify, grant an employer exemption from the provisions of subsection (1).

(3) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable to a fine not exceeding one thousand dollars or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

8. (1) Notwithstanding the provisions of any contract or of any agreement, determination or regulation made in terms of any enactment relating to the employment of an employee, no employer shall discriminate in the payment of wages to an employee on the grounds of race, sex or age and every such contract, agreement, determination or regulation which provides to the contrary shall, to such extent, be of no force or effect.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable to a fine not exceeding one thousand dollars or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

## Appendix B

### Minimum Wages (Specification of Minimum Wages) Notice, 1980

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THE Minister of Labour and Social Services hereby, in terms of section 3 of the Minimum Wages Act, 1980, makes the following notice:—

#### *Title and date of commencement*

1. (1) This notice may be cited as the Minimum Wages (Specification of Minimum Wages) Notice, 1980.

(2) This notice shall come into operation on the 1st July, 1980.

#### *Application*

2. This notice shall not apply to—

- (a) independent contractors; or
- (b) contract-workers; or
- (c) special workers;

except in so far as they may be employers of scheduled employees.

#### *Interpretation of terms*

3. In this notice—

“agricultural employee” means a person employed in—

- (a) the commercial production of crops, including commercial forestry, horticulture and viticulture; or
- (b) the commercial raising of animals or birds, including livestock, game and poultry; or
- (c) commercial fishing; or
- (d) the processing, on the land where they are produced, of the products of the activities specified in paragraph (a), (b) or (c);

“casual employee” means an employee, other than a part-time employee, whose engagement is for a period of not more than six weeks in any three calendar months;

“contract-worker” means an employee who is employed exclusively on piece-work the rates for which have been negotiated directly with his employer;

“industrial enactment” means an agreement, determination or employment regulations in force in terms of the Industrial Conciliation Act [*Chapter 267*];

“mining employee” means a person employed in—

- (a) the extraction from the earth or its surface of any mineral as defined in the Mines and Minerals Act [*Chapter 165*]; or
- (b) the beneficiation or other processing of ores for the purpose of producing minerals as defined in the Mines and Minerals Act [*Chapter 165*]; or
- (c) the extraction or manufacture of by-products from coal: but does not include a person employed solely in the beneficiation or processing of ore for the production of—
  - (i) pig-iron or steel; or
  - (ii) ferro-alloys, unless such ferro-alloys are produced on a mining location or within the area of a special grant as defined in the Mines and Minerals Act [*Chapter 165*];

“part-time employee” means an employee who is engaged by any one employer to take regular daily work for periods not exceeding a total of five hours a day, or engaged on a weekly basis of not more than thirty hours a week;

“scheduled employee” means an employee of a class specified in the first column of the Schedule;

“special worker” means an employee who, because of physical or mental disability or infirmity, is capable of doing only part of the work required of an able-bodied employee;

“sawmilling employee” means a person employed at a sawmill situated on or adjacent to the land where the timber which is processed at the sawmill is grown;

“sugar-production employee” means a person employed in the extraction of sugar or ethanol from sugar-cane at an extraction plant situated on or adjacent to the land where the sugar-cane is grown;

“welfare organization” means a welfare organization as defined in section 2 of the Welfare Organizations Act [*Chapter 93*].

#### *Payment of minimum wages*

4. (1) Subject to the provisions of this notice, every employer of a scheduled employee shall pay that employee not less than—

- (a) in respect of any period of employment from the 1st July, 1980, to the 31st December, 1980, the minimum wage specified opposite the class of that scheduled employee in the second column of the Schedule;
- (b) in respect of any period of employment after the 31st December, 1980, the minimum wage specified opposite the



class of that scheduled employee in the third column of the Schedule.

(2) A scheduled employee who is a part-time employee shall be paid, for each hour worked, not less than one hundred and ninety-fifth part of the minimum wage specified in the second or, as the case may be, the third column of the Schedule opposite the class of that scheduled employee.

(3) A scheduled employee who is a casual employee shall be paid for each day worked—

(a) in a five-day week, not less than one twenty-second part;

(b) in a six-day week, not less than one twenty-sixth part;

of a minimum wage specified in the second or, as the case may be, the third column of the Schedule opposite the class of that scheduled employee.

(4) No part of the wages payable in terms of this notice shall be paid in kind.

#### *Deductions*

5. No employer of a scheduled employee who is being paid the minimum wage in terms of this notice shall deduct or set off any amount from the wages of such employee, except—

(a) in the case of an employee to whom the provisions of any industrial enactment apply, an amount of which may be lawfully deducted or set off in terms of that industrial enactment;

(b) in the case of any other employee—

(i) where the employee is absent from work without the leave of his employer, a *pro rata* amount of his wage for the period of such absence; or

(ii) by a written stop-order, contributions to holiday, benevolent, provident, pension or sick-benefit funds, medical-aid societies or insurance policies; or

(iii) with the consent of the employee, any amount in respect of money owing for goods supplied or services rendered to the employee by the employer, or for the repayment of money lent to the employee by the employer; or

(iv) any amount which the employer is compelled by law or legal process to pay on behalf of the employee; or

(v) any amount recovered for payments made in error or overpayment of wages.

*Withdrawal, reduction or alteration of benefits*

6. Except with the consent of the Minister, no employer of a scheduled employee shall, on account of the promulgation of this notice, withdraw, reduce or alter any benefit which that employee was entitled to receive in respect of his employment immediately before the 1st July, 1980, if the amount calculated by subtracting—

- (a) in the case of withdrawal, the monthly value of that benefit;  
or
- (b) in the case of a reduction or alteration, the difference between the monthly value of that benefit before its reduction or alteration and its monthly value afterwards;

from the monthly wage received by that employee is less than the for that class of scheduled employee.

*Discrimination*

7. The minimum wages prescribed by this notice shall be paid to scheduled employees without discrimination on the grounds of race, sex or age.

*Conversion or rates*

8. (1) For the purpose of ascertaining the minimum wage to be paid to—

- (a) a fortnightly paid employee, the minimum wage specified in the Schedule as appropriate to that employee shall be divided by two and one-sixth;
- (b) a weekly paid employee, the minimum wage specified in the Schedule as appropriate to that employee shall be divided by four and one-third;
- (c) a daily paid employee, the minimum wage specified in the Schedule as appropriate to that employee shall be divided by—
  - (i) twenty-two, in the case of employees who work a five-day week;
  - (ii) twenty-six, in the case of employees who work a six-day week;
- (d) an hourly paid employee, the weekly wage calculated in terms of paragraph (b) shall be divided by the number of hours normally worked in a week.

(2) A scheduled employee whose wages are paid in accordance with this section shall be deemed to be receiving the minimum monthly wage specified in the Schedule as appropriate to his class.

## SCHEDULE (Sections 4, 5, 6 and 7)

## MINIMUM WAGES

	<i>Minimum monthly wage: up to 31.12.80</i>	<i>Minimum monthly wage: after 31.12.80</i>
	\$	\$
1. Persons employed by welfare organizations as domestic employees	30	30
2. Persons employed in domestic service in private households or on land attached thereto	30	30
3. Agricultural employees other than sawmilling employees or sugar-production employees	30	30
4. Persons, other than persons specified elsewhere in this Schedule, who are employed wholly or mainly in a rural council area outside the designated area thereof	30	30
5. Mining employees	43	58
6. Sugar-production employees and sawmilling employees	70	85
7. Persons, other than persons specified in paragraph 3, 5 10 or 11, to whom the provisions of any industrial enactment apply	70	85
8. Persons, other than persons specified in paragraph 3, 5, 6 or 7, who are employed wholly or mainly in a rural council area outside the designated area thereof, and to whom the provisions of an industrial enactment would apply if they were employed by their employers within the area of application of that industrial enactment	70	85

	<i>Minimum monthly wage: up to 31.12.80</i>	<i>Minimum monthly wage: after 31.12.80</i>
	\$	\$
9. Persons, other than persons specified in paragraph 1, 2, 3, 5, 6, 7, 10 or 11, who are employed within—		
(a) the area of any municipality or town; or		
(b) the designated area of any rural council; or		
(c) any area which, on the 1st July, 1980, was a local government area administered by a municipal council town council or local board; or		
(d) any of the following areas which, on the 1st July, 1980, were local government areas administered by rural councils—		
(i) Chipadze;		
(ii) Chivu;		
(iii) Chukangwe;		
(iv) Dingumuzi;		
(v) Dulibadzimo;		
(vi) Gaza;		
(vii) Jahunda;		
(viii) Kuwadzana;		
(ix) Mandava;		
(x) Ngoni;		
(xi) Tshovani;		
(xii) Vengere	70	85
10. Persons to whom the provisions of the Building Industry Employment Regulations, 1976, published in Rhodesia Government Notice 153 of 1976, apply	The minimum monthly wage payable to the employee concerned in terms of the said regulations, plus \$9,23	The minimum monthly wage payable to the employee concerned in terms of the said regulations, plus \$24,23
11. Persons to whom the provisions of the Civil Engineering Industry Employment Regulations, 1977, published in Rhodesia Government Notice 469 of 1977, apply	The minimum monthly wage payable to the employee concerned in terms of the said regulations, plus \$25,75	The minimum monthly wage payable to the employee concerned in terms of the said regulations, plus \$40,75".

