

Dealing with Low Pay. The Wages Councils versus a National Minimum Wage

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► **To cite this version:**

Timothy Whitton. Dealing with Low Pay. The Wages Councils versus a National Minimum Wage. Civilization: Theory and Practice, Observatoire de la société britannique contemporaine, pp 167-177., 1993. <hal-01017250>

HAL Id: hal-01017250

<https://hal-clermont-univ.archives-ouvertes.fr/hal-01017250>

Submitted on 3 Jul 2014

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LES CAHIERS
DE L'  BSERVATOIRE

Civilization : Theory and Practice

n° 6 - novembre 1993

OBSERVATOIRE
DE LA SOCIÉTÉ BRITANNIQUE CONTEMPORAINE

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SOMMAIRE

Introduction Jean-Paul Révauger	5
Civilization as comparative politics Jørgen Sevaldsen	9
Civilization and culture : towards a synthesis Jean-Paul Révauger	21
Definition and methodology. The civilization debate and practice in Norway John Oakland	33
Modern lives. Hybrid cultures and cities without maps Iain Chambers	49
Anthropology and civilisation John Moore	61
La méthodologie du commentaire de texte de civilisation. Une grille d'analyse et quelques réflexions Jean-Pierre Ravier	69

OBSERVATOIRE
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Les traditions culturelles dans la sociologie de la classe ouvrière britannique chez E.T. Thompson Pierre Besses	81
Old hats and revisionists. The Scylla and Charybdis of 18th century modern historiography Marie-Cécile Révauger	119
The relevance and/or irrelevance of eighteenth-century studies today Pierre Morère	133
The scroungers who never were ; the effects of the 1989 Social Security Act John Jacobs	145
Dealing with low pay. The Wages Councils versus a national minimum wage Timothy Whitton	167
Les politiques de revitalisation des quartiers défavorisés et l'insertion spatiale des minorités ethniques à Paris et à Londres. Les exemples de Gennevilliers et d'Hackney Philippe Jean-louis	179
The Butler Education Act (1944). Mass education, class education ? Susan Blattès	193
Education and Empire. The « New School » movement in England and abroad Jens Rahbek Rasmussen	203
A variation on mid-nineteenth century urban life. The case of Sheffield botanical gardens Catherine-Emilie Corvisy	215
Reason and happiness in the Ricardian socialists Michel Prum	227
The future of the Australian welfare state Martine Piquet	239
Malaise dans l'Etat providence. La question du <i>Welfare</i> aux Etats-Unis de 1992 Aiaïn Bonora	249

Dealing with low pay. The Wages Councils versus a national minimum wage

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The main object of my paper is to draw your attention to Britain's rather curious way of handling statutory minimum wages. This seems particularly pertinent in the wake of the Maastricht debate, especially since the Social Charter, which includes directives on minimum wage fixing, nearly brought about the downfall of the present government and in doing so seriously undermined the future of the whole treaty.

But let me be frank. My interest in minimum wage fixing machinery does not stem solely from Maastricht. It is the latest "Trade Union Reform and Employment Rights Bill" which prompted me to talk about the Wages Councils because should they disappear as is stipulated in the bill, then not only will they be quickly forgotten, but about 250 000 British workers could find themselves with no minimum wage protection whatsoever.

In June of this year, I contacted the London Low Pay Unit just to make sure that the Wages Councils had not been abolished but if they have since then, let me apologise for not knowing. Abolishing the Wages Councils has been on the cards for quite some time now, and it is difficult in keeping an up-to-date track of events.

I am fully aware that in this day and age, job creation is by far the most important issue. Anything that should impede this is therefore in for a rough time. Even so, job creation and statutory minimum wages are not incompatible in my opinion. The question is therefore how to blend the two so that they are complementary and not a continual source of strife.

First and foremost, a few words about the Wages Councils. To be fair, I have to take a step further back in time and mention the Trades Boards from which the Wages Councils stemmed. They were created in 1909 and as those who defend minimum wage machinery enjoy pointing out, the founding father was in many ways Winston Churchill. At this point in his political career, he was nevertheless "only" President of the Board of Trade. It goes without saying that his name lends a political ambiguity to the evolution of the Councils for the Conservatives have traditionally been opposed to intervention in the wages market.

Churchill defended the need for some sort of machinery to establish minimum wages by attacking the "unhealthy conditions of bargaining" brought about by poverty wages. Where

worker organisation was too feeble to provide its members with a “living wage”, Churchill recognised the need for government intervention. He believed that in this way not only would the general standard of living progress but also competition based upon wage cutting would be nipped in the bud. Enough was enough and although “it was formerly supposed that the working of the laws of supply and demand would naturally regulate or eliminate that evil”, the time had come to face up to the glaring reality that something had to be done to suppress “sweated labour”.¹

Churchill obviously provided the basis for many a future diatribe on poverty wages. Even so, the philanthropic spirit in which he delivered his speeches was not enough to convince Parliament into taking a radical step to eradicate low wages in the shape of a national statutory minimum wage. Instead, a selective system was created with the establishment of Trades Boards in certain industries either to encourage collective bargaining or to establish minimum wages when pay was acknowledged to be appallingly low. In this way, Parliament gave worker organisations a further chance while providing a fall-back system for the weaker elements across the industrial spectrum.

In 1918, Parliament tried to restrict the Trades Boards’ influence and the new law underlined the priority given to the boards’ first objective. In the future they were only to be established in industries where collective bargaining - especially in the field of wages - needed a helping hand in order to get off the ground. Nevertheless, despite this official dampener, the Trades Boards continued merrily on fixing subsistence wages for various sectors of British industry. At the same time, the Whitley councils became another option to prop up flagging wage bargaining.² If we add to this the effects of the Fair Wages Resolutions, the complicated nature of minimum wage negotiation and fixing becomes quite apparent.³ This in fact is a fair résumé of the whole story for constant dilly-dallying and half-hearted attempts to put an end to poverty wages have had very little impact, especially in the most vulnerable sectors.

The main upheaval occurred in 1945 when all the Trades Boards were transformed into Wages Councils. It had become apparent that one of the boards’ main shortcomings was their inability to respond accurately to those who bore the brunt of low pay. Right across the industrial spectrum, the worst-off shared the same characteristics and belonged to “categories of low paid workers” rather than certain branches of industry. The result was that more often than not, the Trades Board for each particular sector had only served to improve the conditions of a very small fraction of the workers. With the Wages Councils, minimum wage

fixing was to become more efficient and target the workers who most needed protection in the form of legislation.

Despite this radical theoretical change, the Wages Councils continued to be as cumbersome as their predecessors. The system reached its peak in 1966 when 66 councils were establishing minimum wages for some 3.5 million workers. In 1975, the Wages Councils were modified further due to the Employment Protection Act. They were given the right to negotiate all pay and working conditions by imitating normal collective bargaining. Furthermore, any improvements obtained by a “substantial” part of any workforce protected by a council were automatically conferred to the entire category of workers concerned. As you may imagine, enforcing statutory minimum wages and in fact policing the whole system was becoming increasingly difficult. Documents containing any new conditions were exceedingly long and complicated and had to be deciphered by those who were ill-equipped to do so. There was rarely a shop-steward readily available, and employers themselves were often quite incapable of understanding exactly what the law required them to do. The 1979 law complicated matters further by allowing the Wages Councils to establish a range of minimum wages for each category of protected workers. I defy here and now even the most experienced union delegate to understand a Wages Order thirty-two pages long !

In 1986, the Wages Council system was radically simplified. On the one hand, they were only allowed to establish two minimum hourly rates, one for normal and one for overtime hours. On the other, all workers under the age of twenty-one were excluded from Wages Council protection. Even if this legislation may seem a little harsh especially for young workers, I do feel that reducing the councils' responsibilities to the very basics was a necessary and pragmatic step in the right direction. Minimum wage fixing must be simple and straightforward because the people affected are generally not in a position to gain anything from petty haggling. Secondly, enforcement of minimum wage legislation must be made as clear and as easy as possible in order to be self-policed and tamperproof.

Before dealing with this issue further, let me say just a few words about how the Wages Councils actually function - just as the Trades Boards did in fact. Generally once a year, employee and employer delegates meet to discuss a pay rise. A panel of three independent members is also present. The employees submit a proposal which is followed by the employers offer. If no new rate is accepted after a short discussion, the three independent members retire with the employee delegates into a separate chamber and try to persuade them to revise their demands. This is followed by discussions in private with the employers. The independent members will sometimes threaten to accept one side's proposal in order to

encourage the other to rethink its position. But, if again the delegates cannot agree, then before the general assembly, the independent members indicate the pay rise - the President having of course the casting vote - which will not meet with their approval. In other words they do not vote for, but against a new rate of pay. This corresponds to Parliament's wish not to fix directly but indirectly minimum wages. It also means that the independent members act as arbitrators and conciliators rather than decision makers. This ambiguous and rather picturesque procedure symbolises once again, in my view, minimum wage fixing in Great Britain.

When an agreement has finally been reached it is signed by the Minister and then published in the London and Edinburgh Gazette. This is followed by a short delay during which it is possible to notify the ministry in writing of any disagreement with the new rate. The minimum rates then become law and every employer covered by the Wages Councils is sent a Wages Order which sets out new statutory minimum rates of pay. The Wages Orders are supposed to be posted up where all workers concerned can easily consult them.⁴

The system is policed by about 70 inspectors who visit establishments and check up on wages by going through accounts and interviewing personnel. The main inspectorate office is in London and there are nine regional offices. Underpayment is a criminal offence and second-time offenders are usually punished with a fine of anything up to £2000. On the other hand, the inspectorate has a deliberate policy of leniency with first-time offenders who are asked to make up arrears as quickly as possible.

After this brief description of Wages Council history and machinery, let us now take a closer look at this rather curious and picturesque world. This, incidentally, is exactly what I did for three years during my doctoral studies.

The first thing that struck me during my research was the sheer number of workers involved. At present, some 2 500 000 employees are in theory covered by statutory minimum wages. But how many of them are actually paid the minima required by law ? I think that the answer is very few indeed. Let me remind you that the average Wages Council establishment employs ten workers. If I rely solely on my own fieldwork in London, I can safely say that nine times out of ten, Wages Councils - let alone statutory minima - are totally unknown. When they are, the minima act in the best of cases as a benchmark, but are generally superseded by the "going rates" whatever these may be. Going rates for London are of course much higher than elsewhere for obvious reasons. Nevertheless, when using a postal questionnaire I looked further than the capital, I discovered that 75 % of the employer respondents paid more than the statutory minima. Now my questionnaire was kindly

distributed by various employer organisations and therefore respondents were supposed to be well aware of their Wages Council responsibilities. This could account for the fact that a surprisingly high proportion paid only minimum rates. In other words, the Wages Councils might in some cases be contrary to workers interests especially when the strength of going rates is taken into account. Or, the minima established by the Councils might in some cases correspond to the going rates. In any case, my fieldwork was not extensive enough for me to answer these queries accurately. Even so, what I was able to perceive, and this is what really interested me, was the sort of worker who is likely to be paid only the statutory minimum.

Now, going rates usually imply some sort of worker organisation, be it active or passive. By active I mean trade union affiliation, employer associations, industrial councils etc. By passive, I imply that going rates correspond to a traditional benchmark which is often subject to more individual negotiation. From my fieldwork, it appears that in cases where statutory minima are scrupulously respected by employers, despite the impact of going rates, the workforce is very similar whatever the sector involved and the most vulnerable workers are women, part-timers, young and above all unqualified workers. They are also concentrated in three or four industrial sectors which are notorious for the low level of pay. Workforce turnover is high, and training minimal.

The point I am trying to make is therefore this: the Wages Councils are particularly effective for part-time women employees who work in the service industries - hairdressing, catering, laundry etc. -, retailing and manufacturing, especially in the clothing industry. It will come as no surprise that the worst off are young unqualified female workers who belong to the ethnic minorities. Apart from these sectors where wage bargaining is weak, Wages Council workers generally fend for themselves quite adequately and manage to obtain competitive salaries.

This leads me on to my second point: insofar as a vast majority of Wages Council workers do not benefit directly from statutory minima, albeit these may act as a benchmark for negotiation, why not bring in a national minimum wage to target pittance wages. It seems to me as if the £3.40 or so advocated by the various pressure groups is far too ambitious, firstly because it is way above current Wages Council rates. Let me remind you that in June 1992, these ranged between £2.50 for the General Waste Material council to £3.10 for Retail Bespoke Tailoring.

We are confronted here of course with two main economic tendencies. One says let the market decide, and the other let the economic partners help the market to decide. I must admit

that the econometric intricacies involved are rather beyond me but I will even so give a brief analysis of the situation using my rudimentary knowledge of the forces involved.

If a high national minimum wage is implemented, say £3.40, I cannot deny that demand might increase from those who benefit from the increase. The problem is that this new wealth will not necessarily be reinvested directly in the low paying industries but rather in a multitude of sectors which do not necessarily need new money to tackle the low pay problem. A vicious circle is created whereby low paying industries have higher wage bills and no subsequent increase in profits. To meet these new costs, employers will have to either put prices up or dismiss personnel, the result being that demand will decrease. Not all the benefits of a high minimum wage will disappear but enough for the system to be largely self-defeating. This I feel is the main weakness in the demand side argument, which is especially advocated by groups such as the Low Pay Unit. Even so, I do not feel that their argument is entirely specious, far from it. It's a nice idea to think that come what may, everyone will earn at least a minimum wage - and I insist on at least - but in advocating a national economic minimum wage, the chances of implementing a national social minimum wage are severely reduced. It's the old argument of the wood being hidden by the trees.

I feel therefore that the demand side argument does not hold enough water to be convincing. Nevertheless, the philanthropic spirit behind it all does - the desire to distribute income slightly more fairly. In other words, it would be far more realistic to justify a national minimum wage for purely social reasons. By this, I mean that the most vulnerable workers "should" earn at least a given minimum, not because they are worth this to their employers, but it is their minimum due for participating in society. A country which has a statutory minimum wage running parallel to market forces will always have something to fall back on in wage bargaining.

Therefore, why not implement a national wage at say the lowest current Wages Council rate, ie. £2.50. The impact on the national aggregate remuneration should be minimal insofar as very few workers earn less than this. In a nutshell, I think that every effort should be made to get the national minimum wage on the statute books and worry about its evolution afterwards. Implementing a high minimum wage from the outset can only upset the already very delicate balance.

You might say that a low minimum wage would exert a downward pressure on some rates. This I cannot deny. But, from my experience of the wages councils sectors, despite statutory minima, wages are in most cases a matter of rather haphazard bargaining between employers and employees. Once again, going rates seem to be far more powerful than the market forces

which so many pressure groups seem to fear and there is no reason why this should not continue after implementation of a national minimum. I do believe that those who are not in a position to bargain would be protected, and those who are would continue to do so. Anyway, even if a national minimum wage did imply a slight downward drag on wage bargaining, surely this would be outweighed by the fact that a serious blow would be dealt to sweated labour.⁵ Let us not forget that the TUC has been voting clauses in favour of the low pay for quite some time now.

Another main advantage would be in policing the system. With one single national rate, widely publicised and therefore known by everyone, offences could be more easily reported. The present selective machinery means that the inspectorate are forever dealing with updated rates, complicated paperwork and legal wrangles. New establishments and new offenders appear every day. It is no surprise that enforcement is a Herculean task. In many cases different minima are applicable in one single establishment and this only adds to the confusion.

One main question remains to be answered. Why has Britain not adopted the national minimum wage? To be frank, I think that in the field of low wages, too much faith has been placed in the hands of bargaining since the beginning of the century. The Trades Boards were supposed to disappear when worker organisation affiliation in low paying industries became adequate enough to ensure a living wage for the workers. But whereas other countries adopted more comprehensive legislation, Britain contented herself with turning a blind eye to the plight of the low paid by passing the buck to the unions. In the name of wage differentiation, bargaining has always been upheld as the best way to eradicate low pay, and I do not need to tell you how fervently the British workforce is supposed to cling to its freedom in this field.

Nevertheless, the truth is that the wage negotiators - be they unions or other organisations - have had their chance. Despite all the efforts of TGWU, NUPE, GMBU and other unions which cover low paying sectors, low pay is still a reality. The national minimum has of course been toyed with by the unions at certain times. Motions have been voted in favour of the low paid and the Social Contract period was fertile with clauses mentioning the perpetual threat to standards of living posed by low pay. As you know, the TUC supported the Labour Party's 1987 manifesto clause promising to implement a national minimum wage. Last year, they went even further and openly stated that a national minimum of £3.40 was a serious option.

This, you see, is where they have gone horribly wrong. I feel that the national minimum wage is not a magic wand which you wave in order to eradicate low pay instantly. Neither is it just a sum of money. Implementation of a social national minimum wage, a wage that goes

far beyond the mere suppression of pittance wages to embrace citizenship for example, takes time. Industry has to adjust.

This leads me on to say a few words about our research project which will hopefully deal exactly with this last point. That is namely the ability of industry to adapt to a national minimum wage. In order to accomplish this we need to ask employers what they think, and why they are so ostensibly hostile for the time being to the across-the-board minimum wage. This of course implies a large amount of fieldwork, including interviews and probably a series of questionnaires. Having myself worked in this field for three years, I am fully aware of the difficulties involved but am sure of one thing: low wages are and have always been a thorn in the economic partners' side because the people involved are difficult to find, difficult to organise, and hence difficult to protect. Added to this is the fact that the high rates put forward by the various national minimum wage pressure groups only serve to frighten many employers who are struggling to survive. To top it all, the main current concern is employment, not low wages. Even so, I do not believe that "low pay or no pay" is an acceptable dichotomy especially in the light of interaction between wages and social benefits. Should minimum wages in any way hinder employment, it is true that they will be frowned upon, but surely it is reasonable to put the blame not on the workers who won't accept pittance wages but on the industrial sectors who cannot afford to pay at least a minimum? This is the sort of enquiry I would like to lead, to find out how employers in the low paying sectors could adjust to a national minimum wage and to what extent the British economy relies on low wages.

I believe that a national minimum wage can be much more than just a sum of money which acts as a cornerstone for wage bargaining. It is in fact potentially multi-dimensional. In purely economic terms, the main concern is to establish a minimum wage at its market clearing level - the lowest one at the outset in my opinion. Then it can become a widely used benchmark for every citizen in his or her daily life. Employers are kept on their toes because they know that their workers must be paid a certain minimum. The social services can refer to it for the numerous benefits which they deal with and any individual has a quick and readily available landmark.⁶ In order to meet these requirements, the national minimum wage does not need to be necessarily ambitious. I am not saying that any rate will do, but at the beginning, a low national wage would be feasible.

This is the beauty of the national minimum wage, and the main stumbling block for the Wages Councils. They at least have the merit of keeping the minimum wage debate alive and

supposedly adapting to the economic circumstances of each particular industry covered. Even so, they are archaic, and cumbersome and only reply very half-heartedly to the widespread threat to an economy posed by low pay. The Wages Councils have had a fair innings, they have done their time and belong to a museum. Even so, they correspond perfectly to the low pay status quo of the twentieth century in so far as they enable Britain - albeit in rather a picturesque way - to maintain a shop-front version of minimum wage fixing machinery in order to meet international requirements.

But Britain should face the facts and state her position once and for all. If she believes that low pay is not endemic and does not need to be legislated away then so be it. If not, then a national minimum wage seems to be a very plausible solution. Either way, the Wages Councils must go, because they are an obstruction for more concrete legislation to impose what after all are only minimum wages.

¹ One of Churchill's Best speeches on the subject can be found in *Hansard*, 28 April 1909, vol. Iv, c. 388.

² Whitley Councils: Statutory Joint Industrial Councils or Joint Industrial Councils.

³ The Fair Wages Resolution was voted in 1891. It was modified in 1909 and again in 1946. The first one stated that the State should pay regional "going rates". IN 1909, these requirements were extended to any employer working for the State. At the same time, any contracts put out to tender had to be signed beforehand by the Minister concerned. In 1945, any improvements obtained by collective bargaining were automatically given to the whole sector involved.

⁴ During my three years of doctoral research, I did not see a single Wages Order posted up in a place of work.

⁵ In 1991, I telephoned half a dozen small clothing manufacturers in Hackney who had job advertisements up outside their workshops. The lowest wages I was offered was 60 pence an hour.

⁶ The French SMIC is a model of this.