

Honourable TAM Yiu-chung, GBS, JP
Attn: Clerk to Bills Committee, Kiwi NG
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By E-mail: psng@legco.gov.hk

Re: Response to the Bills Committee on Minimum Wage Bill

Dear Sir/Madam,

The Lion Rock Institute strongly opposes plans to introduce a minimum wage law in Hong Kong as outlined in the Minimum Wage Bill introduced 26 June 2009, because of the adverse effects it will have on the Hong Kong public.

The key reasons can be summarized as follows:

1. The Minimum Wage Bill is immoral, will be extremely detrimental to women returning to the labour force, to young graduates, especially those that are not trained in tertiary institutions, new migrants and finally, our city's most vulnerable.
2. The Minimum Wage Bill is based on flawed economic theory and affects Hong Kong adversely in macro- and microeconomic terms.
3. The Minimum Wage Bill, as currently proposed, suffers from a variety of logic flaws.

In this submission we will expand further on the points above.

We continue to believe the best solution overall would be to not introduce a minimum wage.

1 The Immorality of the Minimum Wage Bill and Potential Damage to Hong Kong

There are many social problems associated with the implementation of a minimum wage. But the most prominent social issue is how minimum wages have, in the past, led the most deprived members of society (the young, minorities, least educated) straight into unemployment. With a minimum wage in Hong Kong, the poorest and least educated people – the most vulnerable of our society – will typically be priced out of the labour market. They will no longer be able to get onto the first rung of the work ladder.

A minimum wage thus creates a “welfare” class, those that are priced out of the market, unemployed. This despondent class typically creates the “welfare state.” In the long run, this leads to a higher crime rate or greater substance abuse. The Lion Rock Institute advises this committee to vote against the minimum wage so to preserve social harmony and a crime-free environment.

1.1 Moral Evil - Sacrificing A Few for the Many

It is not moral for the least fortunate to subsidize the better off. Able-bodied members of the public will be priced out of the market. The goal of minimum wage is to help the most vulnerable, whereas, in actuality, job opportunities will be lost and some of these workers will become or remain unemployed. It is not a Government’s right to remove individuals’ right to work.

The history of minimum wage is well known as a tool to discriminate. In New Zealand, the minimum wage was first used to discriminate against women. In South Africa, it was an apartheid measure to keep Black South Africans out of the work force.

It is no surprise that these discriminatory policies are still being adopted. Hong Kong now seeks to discriminate with its own Minimum Wage Bill towards live-in foreign domestic helpers and interns. However, in his 2008 policy address, the Chief Executive declared that the voluntary scheme had failed, insisting that a statutory minimum wage was necessary to ensure “social justice.” The Chief Executive stated that the minimum wage would be applied to all members of society, and yet here the Bill discriminates against some.

1.2 Discrimination in “Asia’s World City”

Excluding domestic helpers is legally not justifiable in the Bill, but their exclusion is stated undoubtedly from the brief of the bill under the heading of “*Possible significant and far-reaching socio-economic ramifications.*” As the title suggests, the brief spells out that an increase in domestic helpers’ wages would lead to “distress” amongst Hong Kongers as far fewer families would be able to employ helpers.

The ramifications of this policy without their exclusions are far reaching. Of course, the exclusions themselves betray the bill as they show its hypocrisy. What applies to domestic helpers applies to other industry positions like security guards and cleaners too. When the government makes hiring more expensive, less people will be hired. Thus, the real reason for differentiating between domestic helpers and other low-wage workers is that those low-wage workers are considered more dispensable than the former. This discrimination and mistreatment must not be tolerated in “Asia’s World City.”

What the Minimum Wage Bill does is discriminate against one group of people while rendering many others unemployable. Hong Kong should not put forward bad policy in the name of politics. Lion Rock does not believe the Minimum Wage Bill should be implemented as it hurts the very persons it intends to help, is discriminative and immoral.

2 Flawed Economics

Minimum Wage laws do not make sense because the economic proposals do not back the suppositions. If the economics behind minimum wage laws are flawed, then the Minimum Wage Bill is flawed and therefore the policy.

2.1 Lacking Economic Justification

Minimum-wage legislation, by its very nature, benefits some at the expense of the least experienced, least productive, and poorest workers. Based on extensive research, we arrive at the conclusions that minimum wage is not an effective means of reducing poverty or helping low income families; it exacerbates existing problems and causes future harms.

The minimum wage narrative began in earnest with the adoption of a voluntary wage protection scheme in 2006. If it was found in the overall review that Wage Protection Movement (WPM) failed to yield satisfactory results, the Government would introduce into LegCo legislation for a minimum wage for the two specified occupations. Two years later, the Chief Executive, without providing reasons or publishing the relevant data, declared that the voluntary scheme had failed. Indeed those claims remain unsubstantiated.

The only public source available on the overall review of the WPM consists of 5 pages with only one paragraph, 1/3 page length, compared with 12 pages in the overall review. The only public document available for review is LC Paper No. CB(2)290/08-09(04), “Overall review of the Wage Protection Movement for cleaning workers and security guards, and progress report on preparatory work for introducing a bill on a statutory minimum wage.” In fact, the LC Paper No. CB(2)2012/07-08(04), “Wage Protection Movement for Cleaning Workers and Security Guards: Assessment Criteria for Overall Review in October 2008,” reached a “consensus on the continued adoption of six quantitative indicators of the mid-term review in the overall review, and generally agreed on the categorisation of the quantitative indicators into core assessment criteria and reference indicators” set out in paragraphs 10 to 21.

Yet, both the data requested and received from the Labour Department and the overall review do not state these required indicators. The statement then, that the WPM has failed, cannot be justified. Nor should a policy based on flawed economics, like minimum wage, be implemented because another policy has failed.

Less encouraging, the minimum wage economic consequences have not been fully acknowledged by the government. The conclusion that minimum wage will aid lower-income workers is seriously flawed. The decision to therefore implement minimum wage following the Wage Protection Movement is a flawed policy and cannot be justified.

2.2 Economic Consequences

Increase in Poverty and Unemployment

Like the relationship between price of goods and demand, once labour is priced at a higher price, less of it is demanded. When government mandates higher prices of labour, fewer people will be hired. Thus, the employment opportunities for less-skilled workers are reduced, especially those opportunities who are most directly affected by the minimum wage. This in turn, will increase poverty and less-skilled, lower-income workers' earnings.

It is the least skilled of workers that will face greater probability of unemployment compared to those low- but still higher-skilled workers with greater efficiency. For instance, an employer may only afford to hire one cleaner and will pay minimum wage; the employer therefore wants to achieve the greatest efficiency from the worker in that position. Therefore, the employer will seek the highest skills for that position, and the position's competition will increase. The minimum wage will force workers to enter an *employer's market* (with supply increases and demand drops) so that the employer now has more people to choose from to fill less jobs.

Under minimum wage, competition increases because of fewer employment opportunities and the number of people unemployed looking for jobs will increase. Faced with this increased competition, it is primarily the poor and uneducated that feel the brunt of the minimum wage. In short, the minimum wage is a subsidy to relatively affluent workers *at the expense* of poor, less educated workers.

The result will price out certain groups from the labor force and create undue discrimination. Indeed, the minimum wage law will harm the very people it intends to help.

Long-term, adverse effects on the Hong Kong economy

Implementing the minimum wage will have long-term, adverse effects on wages, prices, inflation, profits and the youth. The minimum wage will reduce the quantity demanded of workers, and may therefore, manifest itself through a reduction in the number of hours worked by individuals, or through a reduction in the number of jobs. This inefficiency in business caused by a turn to higher costs and therefore smaller profits will be targeted by changing other factors, such as a reduction in other employees' wages, and prices of a business' goods. Businesses will try to compensate for the decrease in profit by simply raising the prices of the goods being sold thus causing inflation and increasing the costs of goods and services produced. Inevitably, as prices for a business increase, a firm will pass on the costs to its consumers. For those minimum wage workers and the unemployed, these higher costs will be most difficult to afford.

While Hong Kong may not experience the same problems as other jurisdictions with businesses moving or closing under a newly implemented minimum wage, there will be some cases in which businesses will outsource jobs to other countries, causing greater unemployment.

Exposure to minimum wages at young ages may lead to longer-run effects. Among the possible adverse longer-run effects are decreased labor market experience and accumulation of tenure, and diminished training and skill acquisition. Hong Kong's youth may be drawn to minimum wage jobs rather than finish their schooling, which will have very negative effects for Hong Kong's future. This

will decrease overall human capital by encouraging people to enter the job market instead of pursuing further education.

Unintended Consequences

In the midst of the financial crisis, the minimum wage in the US was raised to its highest level since 1983. The US Congress did not intend for such a hike to be implemented at the most dangerous of all times. The US experience with a hike in minimum wage during the financial crisis highlights problems caused by central planning that is the instigation of unintended consequences. However lengthy the minimum wage procedures are, data will lag behind, and the government mechanisms will not be able to adjust to the changes.

Regardless of efforts to assert qualifications and best technology, no prediction will match that of the market and the planned mechanisms will always be incorrect at the expense of the public. The failure to coordinate the system, which under central planning is inevitable, has a catastrophic impact on the economy and people's livelihoods.

Hong Kong Dollar Peg and Monetary Policy

The linked exchange rate system has large impacts for Hong Kong's macroeconomic monetary and fiscal policies. Hong Kong's interest rate cannot diverge from the pegged US dollar interest rate by a significant margin and therefore, Hong Kong surrenders its independent monetary policy. In fiscal policy, the Hong Kong government must maintain huge reserves to keep confidence in the linked exchange rate system, and therefore must keep a balanced budget. Due to the constraints on both its monetary and fiscal policies, Hong Kong must keep a very flexible economic system.

Therefore, adjustment in an economic downturn, where Hong Kong may not employ monetary policy, must happen through price mechanisms. Therefore, price flexibility is key for Hong Kong's domestic economy. The Minimum Wage Bill, which effectively restricts the flexibility of labour prices, would render the only method to stabilise Hong Kong's economy ineffective.

In an economic downturn, there is a great need for price adjustment. If the Government should continue with the pegged rate, and at the same time, restrict wages, adjusting prices will be difficult and necessary market corrections will not be made. Therefore, the minimum wage is bound to undermine the link rate stability. In an economic downturn, without the currently available mechanism to adjust price flexibility, it is the lower classes that will suffer the greatest.

2.3 Economically Discriminatory

Exclusions

The very exclusions in the Minimum Wage Bill spell out the problems with all minimum wage laws – they cause unemployment. For instance, the Minimum Wage Bill dedicates at least 5 pages to exclusions of live-in domestic helpers. The reason for this exclusion is because of “*Possible significant and far-reaching socio-economic ramifications.*” An increase in domestic helpers' wages under minimum wage would lead to “distress” amongst Hong Kongers as far fewer families would be able to employ helpers. However, what economically applies to domestic helpers applies to security guards and cleaners also. When the government makes hiring more expensive, less people are hired. The same fears the government has with domestic helpers, indicated in this exclusion, apply to other industries as well.

Discrimination via a de facto tax on minimum wage businesses

The minimum wage policy which the Chief Executive has said promotes “social justice” indeed does not. Minimum wages infringe upon the liberty of both sides of a business relationship, which is coercive towards individual freedoms of employers and employees; actual benefits most likely go to outsiders who face reduced competition from smaller firms hobbled by the minimum wage law. It is industries that employ minimum wage workers, such as cleaners or security guards, that must face greater costs. This practice represents the government placing a de facto tax on employers of minimum wage workers, discriminating towards certain businesses for political goals.

Rather than a concerted effort by the government and the public to help the city’s most vulnerable workers, minimum wages are funded through a de facto tax on employers in sectors that employ the less fortunate.

Minimum wage will hamper firms’ ability to reduce wage costs during downturns. The law will also harm small businesses rather than large businesses as the latter can distribute the costs more easily than the former. This policy amounts to the government creating an unfair competitive environment for smaller business, as larger businesses will be able to absorb the costs of minimum wage with greater ability. Indeed, minimum wages will also cause other staff wages to increase, and therefore pushes up prices of goods. With prices of goods on the rise, minimum wage recipients face a hardship to afford more expensive goods.

3 Logic Flaws

Legally, the bill as currently proposed suffers from a variety of defects and logic flaws. Additionally, its compatibility with the Basic Law is doubtful.

3.1 Domestic Helpers

There seems to be a contradiction between Article 3 of the bill and the justifications for excluding domestic helpers from its ambit.

The legislative brief states that, in the case of domestic helpers, it “*would be impossible to ascertain the actual hours worked.*” It also states that “*(t)he distinctive working pattern, i.e. round-the-clock presence and provision of service-on-demand expected of live-in domestic workers, will give rise to insurmountable practical difficulties in bringing them under the SMW.*” However, Article 3(1)(a) states that hours worked by an employee cover “*any time during which the employee is in attendance at a place of employment, irrespective of whether he or she is provided with work or training at that time.*”

There seems to be a contradiction between the demands for Minimum Wage as laid out by the Chief Executive in his 2008 policy address and the actual Bill. Specifically, the Chief Executive required that “*if the Government introduces a statutory minimum wage, employees in all trades and industries should be covered at the same time.*” Clearly, this statement is incompatible with the bill’s exclusion of domestic helpers.

Article 6(3) of the bill is economically non-sensical. It states that the “*Ordinance does not apply to a person who is employed as a domestic worker in, or in connection with, a household and who dwells in that household free of charge.*”

The drafters seem to have overlooked the fact that the dwellings used by domestic helpers are not free of charge but rather create an opportunity cost for employers. This cost could be quantified and expressed as a part of a domestic helper’s overall wage package.

Similarly, the legislative brief used the terms “free food”, “free medical treatment” and “free passage.” These items are not actually free. Employers have to pay for these benefits and they can be quantified as part of the overall pay-package. In fact, they amount to perks or employment benefits.

3.2 Student Interns

The legislation defines a student intern very narrowly, as “*a student undergoing a period of work arranged or endorsed by an education institution specified in Schedule 1 in connection with an accredited programme being provided by the institution to the student for which the work is a compulsory or elective component of the requirements for the award of the academic qualification to which the programme leads.*” The relevant education institutions are also narrowly defined and include only education institutions in Hong Kong.

This provision will create major problems for students who wish to undertake internships on a voluntary basis. Unless students take part in an approved internship programme organised by one of the listed Hong Kong education institutions, they will not be eligible for exemption from minimum wage and thus, find it very difficult to secure internship places.

3.3 Basic Law

The proposed legislation has a far-reaching impact on the business community in that it interferes with free market principles which have up to now been applied in determining wage levels. As such, the proposed legislation seems to fall foul of Article 5 of the Basic Law, which guarantees that the socialist system and policies shall not be practiced in Hong Kong.

4 Avoiding Disharmony

Working towards providing Hong Kong with the best policies for its people is of great interest to The Lion Rock Institute, but we must move forward in a way that avoids creating more harm than good.

There are other options in policy which can do what minimum wage purports to with the negative consequences of minimum wage mitigated. Under the minimum wage law there will be rent seekers that benefit most – a few to prosper at the expense of the poor. Furthermore, this policy will create disharmony in Hong Kong which will undermine the great tradition of melting minorities into our fabric. Stability and harmony is the nation’s number one priority, and this bill threatens those objectives. We must pursue policies that are best practices for Hong Kong as a whole.

5 Conclusion

The Minimum Wage Bill will harm Hong Kong's most vulnerable, and therefore The Lion Rock Institute cannot support it and entreats the Legislative Council to no longer consider this policy.

The Lion Rock Institute is available to further discuss with any member of this committee or the broader public views on the minimum wage or any specifics within this submission.

Thank you for your consideration and continued work serving Hong Kong.

