

## Article

# Minimum Wages and Low-Wage Workers: How Well Does Reality Match the Rhetoric?

David Neumark and William Wascher<sup>†</sup>

The minimum wage has long been a fixture of U.S. labor market policy.<sup>1</sup> The federal minimum, which was introduced in 1938 as part of the Fair Labor Standards Act (FLSA),<sup>2</sup> is currently set at \$5.85 per hour and is scheduled to rise to \$7.25 per hour by 2009.<sup>3</sup> According to the U.S. Department of Labor, the FLSA covers more than 130 million U.S. workers,<sup>4</sup> although most are paid above the federal minimum wage.<sup>5</sup> In addition, most states have their own minimum wage laws, which sometimes specify a minimum wage and typically extend coverage to workers exempt for the federal law.<sup>6</sup>

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<sup>†</sup> University of California at Irvine and Board of Governors of the Federal Reserve System, respectively. The views expressed here are those of the authors and do not necessarily reflect those of the Federal Reserve Board. Copyright © 2008 by David Neumark and William Wascher.

1. See Fair Labor Standards Act of 1938, Pub. L. No. 75-718, 52 Stat. 1060 (codified as amended in scattered sections of 29 U.S.C.).

2. *Id.*

3. U.S. DEP'T OF LABOR, FACT SHEET #14: COVERAGE UNDER THE FAIR LABOR STANDARDS ACT (FLSA) (2007), <http://www.dol.gov/esa/regs/compliance/whd/whdfs14.pdf>.

4. *Id.*

5. According to the Bureau of Labor Statistics, only 2.2% of hourly workers were paid at or below the federal minimum wage in 2006. BUREAU OF LABOR STATISTICS, U.S. DEP'T OF LABOR, CHARACTERISTICS OF MINIMUM WAGE WORKERS: 2006, <http://www.bls.gov/cps/minwage2006tbls.htm#1> (last visited Apr. 15, 2008).

6. See U.S. DEP'T OF LABOR, MINIMUM WAGE LAWS IN THE STATES—JANUARY 1, 2008, <http://www.dol.gov/esa/minwage/printpage.asp?REF=america.htm> (last visited Apr. 15, 2008). A few municipalities also have minimum wage laws and more than one hundred other cities have established narrowly defined “living wage” laws. See LIVING WAGE RESOURCE CTR., LIVING WAGE SUCCESSES: A COMPILATION OF LIVING WAGE POLICIES ON THE BOOKS, <http://www.livingwagecampaign.org/index.php?id=1958> (last visited

Despite their widespread application, minimum wages remain controversial among economists and policymakers. Many supporters point to the potential benefits of minimum wages; for example, they claim that minimum wages increase the incomes of the poor and ensure a fair and decent wage to low-skilled workers who have insufficient bargaining power to attain such a wage on their own.<sup>7</sup> In contrast, minimum wage opponents emphasize the potential adverse effects of minimum wages on labor market opportunities for low-skilled workers, and some argue that minimum wages may harm the aggregate economy.<sup>8</sup>

This Article surveys the available evidence to assess how the economic effects of minimum wages match the rhetoric that minimum wage proponents and opponents have espoused. For example, do minimum wages lead to substantial job losses and increases in prices, as opponents assert? What should we make of proponents' claims that a higher minimum wage will lead to a meaningful reduction in poverty? More broadly, is the overwhelming popularity of the minimum wage among the American public justified by its impact on workers?

Because the desirability of the minimum wage depends on its intended effects, this Article begins in Part I by examining the arguments that led to the enactment of the first minimum wage laws in the United States in the early 1900s and asks how the stated objectives of minimum wage policy have changed over time. This Article, which relies on economic theory and evidence from empirical research, then turns in Part II to the question of whether the minimum wage has been effective in achieving the economic and social benefits that its proponents have espoused. This Article concludes that the minimum wage has been ineffective in doing so, and then turns briefly in Part III to consider why the minimum wage enjoys such widespread support among policymakers and the public, despite the availability of labor market programs that are demonstrably more effective in aiding poor families.

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Apr. 15, 2008).

7. See, e.g., Jared Bernstein & Ross Eisenbrey, Raising the Minimum Wage to \$7.25 Is an Important First Step (Econ. Policy Inst., EPI Policy Memorandum No. 118, Dec. 7, 2006), <http://www.epi.org/content.cfm/pm118>.

8. See, e.g., RICHARD VEDDER AND LOWELL GALLAWAY, SHOULD THE FEDERAL MINIMUM WAGE BE INCREASED? *passim* (Nat'l Ctr. for Policy Analysis, NCPA Policy Report No. 190, Feb. 1995); Press Release, Employment Policies Inst., Minimum Wage Hike Threatens Healthy U.S. Economy (Dec. 1, 2006), available at [http://www.epionline.org/news\\_detail.cfm?rid=178](http://www.epionline.org/news_detail.cfm?rid=178).

## I. THE ORIGINS OF THE MINIMUM WAGE

The first legislation establishing a minimum wage in the United States was enacted in Massachusetts in 1912.<sup>9</sup> Other states soon followed, and by 1923, minimum wage laws were on the books in fifteen states, the District of Columbia, and Puerto Rico.<sup>10</sup> The introduction of minimum wages in the United States, which followed similar laws that were already implemented in Australia and New Zealand in the late 1800s, had roots in the labor reform movement led by groups like the National Consumers League in the early 1900s.<sup>11</sup> These minimum wage advocates were concerned about poor working conditions and low wages in a variety of manufacturing industries that employed low-skilled workers.<sup>12</sup> Chief among their concerns was a belief that many workers were receiving a wage below what was necessary to provide them with an adequate standard of living.<sup>13</sup>

In this context, advocates for minimum wages frequently argued that individuals had a moral right to a “living” wage, and that minimum wages were necessary to aid individuals who were worthy of such a wage, but who were unable to bargain with their employers to obtain it.<sup>14</sup> Opponents of minimum wages did not necessarily disagree with that rationale, but argued that laws requiring that workers be paid a wage higher than their productivity warranted would lead employers to reduce their staffing levels.<sup>15</sup> Interestingly, some (although cer-

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9. See Clifford F. Thies, *The First Minimum Wage Laws*, 10 CATO J. 715, 718 (1991).

10. *Id.*

11. See JEROLD WALTMAN, *THE POLITICS OF THE MINIMUM WAGE* 11 (2000).

12. *See id.*

13. WILLIS J. NORDLUND, *THE QUEST FOR A LIVING WAGE* 2 (1997).

14. For example, Father John Ryan, a leading commentator on economic issues in the early 1900s, was a vocal proponent of this view. *See Thies, supra* note 9, at 721–22.

15. For example, in commenting on minimum wage proposals in the early 1900s, John Bates Clark wrote, “A certain low minimum rate may be clearly and wholly legitimate; and moreover, prescribing even this rate may have a very important effect in ruling out some of the hardest practices that now prevail.” John Bates Clark, *The Minimum Wage*, ATLANTIC MONTHLY, Sept. 1913, at 289, 292. However, he also argued that “[t]he rate that can be paid is limited by the specific productivity of labor.” *Id.* at 290. Clark further argued that “[a] forcible raising of the rate of wages for workers of the lowest grade will lessen the number employed,” *id.* at 291, so that “[i]n rescuing workers who are suffering under the influence of an economic law, [the minimum wage] will forbid some of them to earn the living which they now get,” *id.* at

tainly not all) advocates of minimum wages acknowledged that wage floors would likely cause some of the lowest-skilled workers to lose their jobs.<sup>16</sup> But some of these advocates also believed that society as a whole would benefit when the lowest-skilled workers, willing to accept very low wages, were replaced by higher-productivity workers to whom employers would turn in response to the minimum wage.<sup>17</sup> Other proponents argued that a minimum wage would provide an incentive for low-skilled workers to increase their effort or would “shock” businesses into reducing inefficiencies in other areas of their operations. Thus, businesses could absorb the higher labor costs associated with the minimum wage without reducing the size of their workforce.<sup>18</sup> In effect, these proponents viewed higher productivity as a secondary benefit of a minimum wage.

Because the balance of bargaining power between workers and employers was an important rationale for minimum wages in the early 1900s, the original minimum wage laws applied only to women and minors.<sup>19</sup> The industries most identified with poor working conditions, such as clothing, candy-making, and box-making industries, tended to employ disproportionate numbers of women and youth, who were generally viewed at

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296. For additional (and opposing) perspectives on Clark's view of the minimum wage, see Thomas C. Leonard, “A Certain Rude Honesty:” *John Bates Clark as a Pioneering Neoclassical Economist*, 35 *HIST. POL. ECON.* 521, 524–33 (2003); Robert E. Prasch, *John Bates Clark's Defense of Mandatory Arbitration and Minimum Wage Legislation*, 22 *J. HIST. ECON. THOUGHT* 251, 251–63 (2000).

16. See, e.g., Henry R. Seager, *The Minimum Wage as Part of a Program for Social Reform*, 48 *ANNALS AM. ACAD. POL. & SOC. SCI.* 3, 9–10 (1913) (arguing that minimum wages would cause some of the least efficient and capable workers to be discharged, which would require additional social welfare programs).

17. See e.g., Leonard, *supra* note 15, at 527–28. Indeed, Thies characterizes the early minimum wage movement

as a rather odd coalition of Christian social reformers and utilitarian socialists. On the one hand, there were those who viewed minimum wages as part of their “preferential option” for the poor, and on the other hand, there were those who viewed minimum wages as a way to separate parasites from the mass of workers.

Thies, *supra* note 9, at 742.

18. See, e.g., Sidney Webb, *The Economic Theory of a Legal Minimum Wage*, 20 *J. POL. ECON.* 973, 979–85 (1912). Webb also disagreed with Clark's view that wages were determined by productivity and argued instead that wages for low-skilled workers were determined by the subsistence level of income. *Id.* at 990.

19. See WOMEN'S BUREAU, U.S. DEP'T OF LABOR, BULLETIN NO. 61: THE DEVELOPMENT OF MINIMUM-WAGE LAWS IN THE UNITED STATES, 1912 TO 1927, at 4–6 (1928).

the time as more likely than men to be subject to unfair labor practices.<sup>20</sup> In contrast, many in society believed that men should be able to bargain on equal terms with employers concerning the conditions of their employment, and thus that it would be “repugnant” for the government to regulate wages for men.<sup>21</sup> Even so, courts often overturned minimum wage laws for women and minors on the grounds that they interfered with the rights of workers and employers to engage in voluntary contracts.<sup>22</sup> Labor unions, such as the American Federation of Labor, also opposed these early minimum wage laws because of concerns that minimum wages would limit their role in collective bargaining.<sup>23</sup> Reflecting the position of the courts and generally lukewarm support by powerful constituencies, state minimum wage laws declined in their prevalence and effectiveness over the course of the 1920s.<sup>24</sup>

A different set of motivations initially stimulated the legislation that established the federal minimum wage; “the fervent rhetoric about low[]wages and morals that occurred during the debate of the prior five decades was absent from this debate.”<sup>25</sup> Instead, minimum wages were proposed as a way of combating the extraordinarily high levels of unemployment during the Great Depression. In particular, many proponents argued that a minimum wage would raise household income levels and thus stimulate aggregate demand.<sup>26</sup> Jason Taylor and George Selgin note that a number of economists in the 1920s advocated minimum wage laws as a way “to overcome the free-rider problem that discourages individual employers from paying high wage rates and thereby stimulating aggregate demand for goods and

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20. WALTMAN, *supra* note 11, at 11–12.

21. WOMEN’S BUREAU, *supra* note 19, at 4.

22. See, e.g., *Adkins v. Children’s Hosp.*, 261 U.S. 525, 544–61 (1923) (striking down a District of Columbia minimum wage statute on the grounds that it infringed on the freedom of contract), *overruled by* *W. Coast Hotel v. Parrish*, 300 U.S. 379, 400 (1937).

23. NORDLUND, *supra* note 13, at 35.

24. In particular, courts found several state minimum wage laws unconstitutional after the *Adkins* decision, while other states’ legislatures either set minimum wages at low enough levels to be acceptable to employers or characterized them as noncompulsory. *Id.* at 25. Thies notes that “[a]s of the end of the 1920s, of the 17 original minimum wage laws, five were either never enforced or were repealed, and seven were found unconstitutional . . . . The remaining laws were enforced with discretion.” Thies, *supra* note 9, at 717.

25. NORDLUND, *supra* note 13, at 32.

26. See WALTMAN, *supra* note 11, at 30; Jason Taylor & George Selgin, *By Our Bootstraps: Origins and Effects of the High-Wage Doctrine and the Minimum Wage*, 20 J. LAB. RES. 447, 447 (1999).

services.”<sup>27</sup> In addition, Taylor and Selgin cite the “Declaration of Policy” statement of the 1933 National Industrial Recovery Act (NIRA), which as part of its blanket code “established a minimum wage rate of \$0.40 per hour . . . to ‘increase consumption of industrial and agricultural products by increasing purchasing power.’”<sup>28</sup> Many economists would now dismiss this line of argument as wishful thinking and point out that conventional economic theory suggests that higher real wages will tend to reduce aggregate output.<sup>29</sup> But the “high-wage doctrine,” as it came to be known, was clearly quite popular among economists and politicians in the 1920s and 1930s.<sup>30</sup>

Although the Supreme Court struck down the NIRA in 1935, considerable support remained for a federal minimum wage.<sup>31</sup> Many continued to couch their arguments on macroeconomic grounds, but proponents also began to appeal once more to the potential benefits of minimum wages for the poor. For example, President Franklin D. Roosevelt made a number of arguments along these lines, including his oft-cited statement that “[o]ne-third of our population, the overwhelming majority of which is in agriculture or industry, is ill-nourished, ill-clad, and ill-housed.”<sup>32</sup> Opponents continued to express concerns about the effects of a minimum wage on inflation and employment, especially in the South where wage rates were considerably lower.<sup>33</sup> However, the proponents of a federal minimum eventually carried the day, and the FLSA, which established a federal minimum wage of \$0.25 per hour, was signed into law in 1938.<sup>34</sup>

Support for the minimum wage as a means of raising purchasing power continued into the early years of the FLSA. For example, the Truman administration viewed a higher minimum wage as an insurance policy against another economic

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27. Taylor & Selgin, *supra* note 26, at 454.

28. *Id.* at 457.

29. *See id.* at 447–49.

30. *See id.* at 450. Taylor and Selgin trace this popularity to Henry Ford’s high-wage policy and the concomitant success of the Ford Motor Company during the 1920s, as well as to a widespread belief that the 1920–1921 depression was caused, at least in part, by a sharp decline in nominal wages. *Id.* at 450–53.

31. *Id.* at 458.

32. 81 CONG. REC. 4960 (1937) (letter from President Roosevelt).

33. NORDLUND, *supra* note 13, at 39, 44.

34. For a short narrative of the events leading up to the passage of the FLSA, see Jonathan Grossman, *Fair Labor Standards Act of 1938: Maximum Struggle for a Minimum Wage*, MONTHLY LAB. REV., June 1978, at 22, 22–30.

depression.<sup>35</sup> Over time, however, the chief rationale for a higher minimum wage—as well as expansion of its coverage—shifted toward its effects on the distribution of income, in particular the potential to provide additional income to low-wage workers and poor families.<sup>36</sup> In 1960, according to Jerold Nordlund, “Senator [Hubert H.] Humphrey and many others argued the poverty reduction aspect of increases in coverage and in the minimum wage.”<sup>37</sup> Similarly, extending coverage of the minimum wage was one element of President Lyndon B. Johnson’s War on Poverty.<sup>38</sup> However, many other politicians remained concerned about the effects of minimum wages on jobs and inflation.<sup>39</sup>

Continuing this shift in the rhetoric, few advocates or opponents of minimum wages now base their arguments on the potential effects of minimum wages on the macroeconomy.<sup>40</sup> Instead, the debate over the minimum wage during the past two decades has shifted almost entirely to its potential effects on the economic well-being of low-skilled individuals and low-income families.<sup>41</sup> In particular, proponents of a higher minimum wage typically cite the need for the minimum wage to be a living wage for the “working poor”;<sup>42</sup> Senator Edward Kennedy has referred to it as “one of the best . . . anti-poverty programs we have.”<sup>43</sup> In contrast, opponents of minimum wages emphasize the potential for a higher minimum wage to cause job losses among young or low-skilled workers. These opponents also emphasize that many minimum wage workers are not from poor families but rather secondary workers (such as

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35. WALTMAN, *supra* note 11, at 34 (quoting William S. White, *Tobin Pushes Plan to Raise Pay Scale*, N.Y. TIMES, Jan. 28, 1949, at 4 (citing the statement of Maurice Tobin, Secretary of Labor, and William McComb, Administrator of the Wage and Hour Division)).

36. See NORDLUND, *supra* note 13, at 100–01.

37. *Id.* at 101.

38. *Id.* at 110.

39. *Id.* at 117.

40. See Daniel B. Klein & Stewart Dompe, *Reasons for Supporting the Minimum Wage: Asking the Signatories of the “Raise the Minimum Wage” Statement*, 4 ECON. J. WATCH 125, 143 (2007) (noting that only three of ninety-five economists on the record as supporting a raise in the minimum wage list macroeconomic effects as a key rationale for their support).

41. Oren M. Levin-Waldman, *The Rhetorical Evolution of the Minimum Wage*, 3 RHETORIC & PUB. AFF. 131, 142–48 (2000).

42. See, e.g., *id.* at 133.

43. ADAM CLYMER, EDWARD M. KENNEDY: A BIOGRAPHY 449 (1999) (internal quotation marks omitted).

teenagers) in higher-income families; as a result, they argue that minimum wages are unlikely to help the poor and may harm them.<sup>44</sup> Given the current focus of the debate, we turn next to the effects of minimum wages on employment and the distribution of family income.

## II. HAS THE MINIMUM WAGE BEEN AN EFFECTIVE POLICY TOOL?

Economic research on the minimum wage dates back at least as far as its use as an economic policy.<sup>45</sup> Indeed, early studies of minimum wages, although mostly theoretical in nature, highlighted many of the same issues that are at the heart of the current policy debate: the appropriate role of the marketplace in determining wages;<sup>46</sup> the relationships between wages, prices, and productivity;<sup>47</sup> and the extent to which government can influence the distribution of income by intervening in labor markets.<sup>48</sup> In this Part, we examine what we have learned about the effects of minimum wages from economic research—from both a theoretical and empirical standpoint. We begin in Part II.A with a discussion of the predictions derived from alternative theories of the minimum wage. Part II.B then turns to an examination of the empirical evidence on the effects of minimum wages on employment and incomes.<sup>49</sup>

### A. WHAT CAN WE LEARN FROM ECONOMIC THEORY?

The traditional textbook model used to describe the effects of minimum wages on labor and product markets is neoclassical in nature, and the predictions from this model are relatively straightforward: In an economy with competitive labor and product markets and homogenous workers, a broad-based increase in the minimum wage to a level higher than the market

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44. See, e.g., Richard V. Burkhauser & Joseph J. Sabia, *The Effectiveness of Minimum-Wage Increases in Reducing Poverty: Past, Present, and Future*, 25 CONTEMP. ECON. POL'Y 262, 276–77 (2007).

45. See Thomas C. Leonard, *The Very Idea of Applying Economics: The Modern Minimum-Wage Controversy and Its Antecedents*, 32 HIST. POL. ECON. 117, 122 (2000).

46. See *id.*

47. See *id.* at 124–26.

48. See *id.* at 123–24.

49. A much more detailed discussion of the theoretical arguments and empirical evidence is provided in DAVID NEUMARK & WILLIAM WASCHER, *MINIMUM WAGES* (forthcoming) (manuscript at 54–113, 199–271, on file with the *Minnesota Law Review*).

wage leads to a decline in employment and, because of the higher cost of labor, an increase in prices.<sup>50</sup> However, the magnitude of job loss depends importantly on the nature of the production process—in particular, the extent to which employers can substitute capital for labor in response to the higher minimum wage—and on the sensitivity of product demand to the higher price.<sup>51</sup> As a result, the number of workers who will lose their jobs in response to an increase in the minimum wage will depend on the elasticity of demand for labor.<sup>52</sup>

Moreover, this representation of the labor market is surely too simplistic, and relaxing some of the assumptions that underlie the textbook model considerably complicates the deductions that can be drawn from it. To give one particularly relevant example, we can extend the model to allow for the possibility that each firm employs workers with a range of skill levels.<sup>53</sup> In this case, a higher minimum wage causes employers to substitute away from the lowest-skilled workers not only toward capital, but also toward workers with greater skills.<sup>54</sup> As a result, the magnitude of the effect of a minimum wage increase on aggregate employment is smaller than in the simple model (although overall employment almost surely falls). Perhaps more importantly, the distributional effects are noticeably different.<sup>55</sup> In particular, in this version of the model, higher-skilled workers benefit from the higher minimum wage because it increases the demand for their services.<sup>56</sup> In contrast, employment opportunities for the lowest-skilled workers are even more adversely affected.<sup>57</sup>

A second interesting variation extends the model to allow for the possibility that consumers substitute between closely related products in response to changes in relative prices.<sup>58</sup> This version of the model is relevant to an analysis of the minimum wage because such product substitution could cause the employment effects of a higher minimum to differ considerably

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50. See, e.g., Charles Brown et al., *The Effect of the Minimum Wage on Employment and Unemployment*, 20 J. ECON. LITERATURE 487, 488–89 (1982).

51. *Id.* at 488.

52. *Id.*

53. See *id.* at 493–95.

54. See *id.*

55. *Id.*

56. *Id.*

57. *Id.* at 495.

58. See NEUMARK & WASCHER, *supra* note 49 (manuscript at 58–59).

across industries.<sup>59</sup> Welch illustrates this point using two types of restaurants that are close substitutes in consumption (ethnic restaurants vs. fast food restaurants), but that differ in their factor intensities of low-wage labor.<sup>60</sup> An increase in the minimum wage will tend to cause larger price increases at the restaurants where low-wage labor is a higher share of total costs because the higher minimum wage will have a larger impact on those firms' production costs.<sup>61</sup> If consumers respond to this relative price change by shifting their demand toward the restaurants with smaller price increases, employment at the restaurants that employ fewer low-wage workers will fall by less—and could actually rise—in response to the increase in the minimum wage, while job losses would be that much greater at the low-wage intensive restaurants.<sup>62</sup>

A third—and more fundamental—deviation from the neoclassical model is to assume that labor markets are not competitive, but rather that employers have some market power over wages.<sup>63</sup> The simplest model along these lines assumes that there is pure monopsony power characterized by a single employer facing an upward-sloping labor supply schedule.<sup>64</sup> As Robinson has shown, the equilibrium wage and level of employment in this model are below those in the competitive model, so that an increase in the minimum wage can lead to an increase in both wages and employment.<sup>65</sup>

Although few believe that the single-employer monopsony model is relevant for today's low-wage labor markets,<sup>66</sup> a number of economists have proposed theoretical models that lead to monopsony-like implications in markets with multiple profit-maximizing employers. For example, some researchers have noted that differences in nonpecuniary attributes across firms (such as location or work schedules) can produce behavior con-

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59. *Id.*

60. Finis Welch, *Comment*, 48 INDUS. & LAB. REL. REV. 842, 847 (1995) (reviewing DAVID CARD & ALAN B. KRUEGER, MYTH AND MEASUREMENT: THE NEW ECONOMICS OF THE MINIMUM WAGE (1995)).

61. *Id.*

62. *Id.*

63. See Brown et al., *supra* note 50, at 489.

64. JOAN ROBINSON, THE ECONOMICS OF IMPERFECT COMPETITION 293–95 (1933); Brown et al., *supra* note 50, at 489.

65. See ROBINSON, *supra* note 64, at 295.

66. Charles Brown, *Minimum Wages, Employment, and the Distribution of Income*, in 3 HANDBOOK OF LABOR ECONOMICS 2101, 2108–09 (Orley Ashenfelter & David Card eds., 1999).

sistent with monopsony.<sup>67</sup> Other researchers have developed monopsony models based on linkages between wages and worker effort,<sup>68</sup> complex compensation schedules,<sup>69</sup> or search frictions.<sup>70</sup> Effectively, any model that assumes a marginal cost of labor schedule that is steeper than the labor supply curve will lead to the prediction that, over some range, a minimum wage could raise employment toward the level that would result in a competitive equilibrium.<sup>71</sup>

However, there are two notable shortcomings of models based on monopsony power. First, the range in such models over which the minimum wage increases employment is likely to be relatively narrow because it includes only the portion of the labor supply curve between the monopsonistic equilibrium wage and the competitive equilibrium wage.<sup>72</sup> Once the minimum wage rises above the latter, further increases in the wage floor will, as in the competitive model, reduce labor demand and, thus, employment.<sup>73</sup> Because this implies that the minimum wage that increases employment would vary by firm and occupation, Stigler dismissed this model as “not very relevant to the question of a national minimum wage,” and also argued that it “would be impossibly difficult to devise and revise” a set of optimal minimum wages.<sup>74</sup> From an empirical standpoint, we looked for evidence of an identifiable monopsony region in state labor markets and found no evidence that such a range was economically important in any state, although we could not rule out the possibility that monopsony behavior may characterize the relationship between the minimum wage and employment over a narrow range of the minimum wage.<sup>75</sup>

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67. See V. Bhaskar & Ted To, *Minimum Wages for Ronald McDonald Monopsonies: A Theory of Monopsonistic Competition*, 109 *ECON. J.* 190 *passim* (1999); Richard Dickens et al., *The Effects of Minimum Wages on Employment: Theory and Evidence from Britain*, 17 *J. LAB. ECON.* 1 *passim* (1999).

68. James B. Rebitzer & Lowell J. Taylor, *The Consequences of Minimum Wage Laws: Some New Theoretical Ideas*, 56 *J. PUB. ECON.* 245 (1995).

69. Walter John Wessels, *Minimum Wages and Tipped Servers*, 35 *ECON. INQUIRY* 334 (1997).

70. Kenneth Burdett & Dale T. Mortensen, *Wage Differentials, Employer Size, and Unemployment*, 39 *INT'L ECON. REV.* 257 (1998).

71. See NEUMARK & WASCHER, *supra* note 49 (manuscript at 60–61).

72. See *id.*; George J. Stigler, *The Economics of Minimum Wage Legislation*, 36 *AM. ECON. REV.* 358, 360–61 (1946).

73. See NEUMARK & WASCHER, *supra* note 49 (manuscript at 60–61); Stigler, *supra* note 72, at 360–61.

74. See Stigler, *supra* note 72, at 360, 361 n.3.

75. David Neumark & William Wascher, *State-Level Estimates of Mini-*

Second, a standard feature of models with monopsony power is their prediction that an increase in the minimum wage will lead to a reduction in prices.<sup>76</sup> This result occurs because the higher level of employment predicted by such models also implies an increase in production, which, absent a change in demand, will put downward pressure on output prices.<sup>77</sup> In contrast to this prediction of monopsony, the evidence almost uniformly indicates that minimum wages raise prices in industries that employ sizable numbers of low-wage workers.<sup>78</sup> As a result, monopsony models, although theoretically possible, do not seem like good candidates with which to assess the effects of minimum wages.

Finally, and perhaps most importantly given the current rhetoric, none of the theoretical models in the literature provide a clear prediction about the effects of the minimum wage on the incomes of the poor—the main societal goal of minimum wages. From the standpoint of the competitive model, Richard Freeman notes that “[m]inimum wages do not increase the pay of workers by magic . . . but rather take money from some citizens and pay it to others.”<sup>79</sup> Because individuals potentially affected by the minimum wage may range from teenagers in well-off families to heads of poor families, the distributional question becomes: who are the winners and who are the losers from an increase in the minimum wage?<sup>80</sup>

More specifically, the distributional effects of a higher minimum wage will depend on where the affected individuals are located in the income distribution, a question that economic

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*um Wage Effects: New Evidence and Interpretations from Disequilibrium Models*, 37 J. HUM. RESOURCES 35, 47–48 (2002).

76. See Daniel Aaronson & Eric French, *Product Market Evidence on the Employment Effects of the Minimum Wage*, 27 J. LAB. ECON. 167, 169 (2007).

77. See *id.* at 174–78.

78. Daniel Aaronson and James MacDonald, for example, consistently find evidence that minimum wages raise prices in the restaurant industry. See Daniel Aaronson, *Price Pass-Through and the Minimum Wage*, 83 REV. ECON. & STAT. 158, 169 (2001); James M. MacDonald & Daniel Aaronson, *How Firms Construct Price Changes: Evidence from Restaurant Responses to Increased Minimum Wages*, 88 AM. J. AGRIC. ECON. 292, 306 (2006). More broadly, Sara Lemos surveys the literature in this area and concludes that the minimum wage raises prices but not “by too much.” Sara Lemos, *A Survey of the Effects of the Minimum Wage on Prices*, 22 J. ECON. SURV. 187, 208 (2008). In particular, she concludes that “a 10% US minimum wage increase raises food prices by no more than 4% and overall prices by no more than 0.4%.” *Id.*

79. Richard B. Freeman, *The Minimum Wage as a Redistributive Tool*, 106 ECON. J. 639, 640 (1996).

80. See *id.* at 640–42.

theory is not well equipped to answer. Although some economists have attempted to tackle this question using simulation methods,<sup>81</sup> such simulations are dependent on assumptions about the values of numerous parameters in the model, many of which are not easily calibrated from the existing evidence.<sup>82</sup> As a result, in our view, the effect of the minimum wage on the family income distribution is best assessed by looking at the empirical evidence directly.

In summary, theoretical models of the labor market yield a variety of predictions about the effect of the minimum wage on the demand for low-skilled workers and about how that effect may vary across workers and labor markets. In the competitive model of labor markets, prices rise and employment most often declines in response to a higher minimum wage, but this prediction does not necessarily hold in all markets narrowly defined and for all types of low-wage labor. Moreover, even in cases where the predictions of the model are clearly for negative employment effects, the magnitude of job loss depends importantly on a variety of parameters in the model. In addition, other models in which employers have some market power in wage-setting can yield strikingly different predictions from those in the competitive model, with increases in employment and output and a decline in prices. Finally, the theoretical models discussed in this Section tell us little about how the effects of minimum wages are spread across families with different income levels because they do not explicitly identify the winners and losers associated with a higher minimum wage. As a result, empirical evidence is needed to assess the effects of minimum wages and, in particular, whether minimum wage policy meets the oft-stated objective of raising the incomes of poor families.

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81. See, e.g., Richard V. Burkhauser et al., "Who Gets What" from Minimum Wage Hikes: A Re-Estimation of Card and Krueger's Distributional Analysis in Myth and Measurement: The New Economics of the Minimum Wage, 49 INDUS. & LAB. REL. REV. 547, 550-52 (1996); Michael W. Horrigan & Ronald B. Mincy, *The Minimum Wage and Earnings and Income Inequality*, in UNEVEN TIDES: RISING INEQUALITY IN AMERICA 251, 254-74 (Sheldon Danziger & Peter Gottschalk eds., 1993).

82. See, e.g., Burkhauser et al., *supra* note 81, at 550-51 (illustrating the number of assumptions required to simulate the distributional effects of increasing the minimum wage).

## B. WHAT DO THE DATA SHOW?

Empirical research on the economic effects of minimum wages has been quite contentious, especially in recent years.<sup>83</sup> A vast majority of the research has focused on employment effects.<sup>84</sup> Given the current political rhetoric surrounding minimum wages, we argue below that this is only part of the story—the impact of the minimum wage on the level and distribution of family incomes is also important. However, the evidence of the effects of minimum wages on employment is a useful place to begin the discussion of the empirical literature.

## 1. Employment

Although some empirical case studies were published in the years following the introduction of state minimum wages in the early 1910s and 1920s,<sup>85</sup> and then again after the federal minimum wage was enacted in 1938,<sup>86</sup> a much larger body of research on the employment effects of the minimum wage was conducted in the 1970s.<sup>87</sup> This research focused on the effects of the federal minimum wage, and was comprised mostly of time-series studies.<sup>88</sup> The most widely cited survey of this literature concluded that the evidence pointed to “a reduction of between one and three percent in teenage employment as a result of a 10 percent increase in the federal minimum wage.”<sup>89</sup> As a result of this research, the view that an increase in the minimum wage would lead to a decline in the employment of youth and other low-skilled workers was clearly the consensus of economists in the 1980s.<sup>90</sup>

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83. Robert Whaples, *Do Economists Agree on Anything? Yes!*, ECONOMISTS' VOICE, Nov. 2006, at 1, 4, <http://www.bepress.com/ev/vol3/iss9/art1> (highlighting the division among economists on the issue of minimum wages).

84. David Neumark & William L. Wascher, *Minimum Wages and Employment*, 3 FOUND. & TRENDS IN MICROECONOMICS 1, 5 (2007).

85. See Thies, *supra* note 9, at 735–39 (providing a historical background of research on minimum wage laws).

86. See John M. Peterson, *Employment Effects of Minimum Wages: 1938–50*, 65 J. POL. ECON. 412, 415–16 (1957) (describing Department of Labor studies).

87. NORDLUND, *supra* note 13, at 143–44.

88. Ronald G. Ehrenberg, *New Minimum Wage Research: Symposium Introduction*, 46 INDUS. & LAB. REL. REV. 3, 3 (1992).

89. Brown et al., *supra* note 50, at 508.

90. For example, one study found that only about twenty percent of economists surveyed in 1990 disagreed with the statement that “[a] minimum wage increases unemployment among young and unskilled workers.” Richard

Given this consensus and the absence of new policy variation with which to examine the issue (the federal minimum wage was unchanged between 1981 and 1990), few researchers studied the minimum wage through the remainder of that decade. The decline in the real value of the federal minimum during the 1980s, however, eventually returned the topic of minimum wages to the spotlight and led a number of states to raise their minimum wages above the federal level.<sup>91</sup> These state-level increases, coupled with the passage of the Fair Labor Standards Amendments of 1989,<sup>92</sup> provided economists with additional “experiments” with which to reexamine the costs and benefits of minimum wages.<sup>93</sup>

This more recent research produced considerably more diverse results. Perhaps the best-known studies were conducted by David Card and Alan Krueger and summarized in their 1995 book *Myth and Measurement*, which argued against the consensus view of minimum wage effects.<sup>94</sup> However, the complete body of research includes more than one hundred studies on the employment effects alone, and encompasses an impressive variety of statistical techniques and datasets, including more sophisticated time-series analyses, case studies of particular minimum wage increases, and panel studies across states and years.<sup>95</sup>

Because of the wide range of results in studies conducted over the past two decades, we recently undertook a careful and exhaustive review of this research.<sup>96</sup> Despite numerous claims that the recent research fails to support the traditional view that the minimum wage reduces employment,<sup>97</sup> our survey in-

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M. Alston et al., *Is There a Consensus Among Economists in the 1990's?*, 82 AM. ECON. REV. 203, 204 (1992).

91. See Brown, *supra* note 66, at 2122.

92. Fair Labor Standards Amendments of 1989, Pub. L. No. 101-157, 103 Stat. 938 (codified in scattered sections of 29 U.S.C.).

93. Ehrenberg, *supra* note 88, at 3–4.

94. CARD & KRUEGER, *supra* note 60, at 1 (“This book presents a new body of evidence showing that recent minimum-wage increases have not had the negative employment effects predicted by the textbook model.”).

95. Neumark & Wascher, *supra* note 84, at 5.

96. See *id.* at 5–7.

97. See, e.g., JEFF CHAPMAN, EMPLOYMENT AND THE MINIMUM WAGE: EVIDENCE FROM RECENT STATE LABOR MARKET TRENDS 2 (Econ. Policy Inst., Briefing Paper No. 150, 2004), available at <http://www.epi.org/briefingpapers/150/bp150.pdf> (asserting that recent studies conclude that minimum wage laws do not cause many low-wage workers to lose their jobs); Stephen Bazen, *The Impact of the Regulation of Low Wages on Inequality and Labour-Market*

dicates that the bulk of the research conducted in the past two decades finds negative employment effects for low-skilled workers. In particular, about two-thirds of the studies in our survey, and more than eighty percent of the studies we view as most credible, give a consistent indication of negative employment effects. In contrast, only eight studies consistently find a positive effect of the minimum wage on employment, and most of these were case studies of the effects of a specific minimum wage increase on employment in a narrowly defined industry.<sup>98</sup>

Moreover, the evidence for negative employment effects is especially strong for the least-skilled groups of workers across all industries and in studies that allow for minimum wages to affect employment with a lag.<sup>99</sup> Thus, when researchers focus on broad groups of individuals most likely to be affected by the minimum wage and allow sufficient time for policy changes to affect the labor market, the evidence for disemployment effects seems overwhelming.

## 2. Family Incomes

As noted above, however, the effects on employment are only one aspect of the economic implications of minimum wages, and the conclusion that a wage floor reduces employment opportunities for low-skilled individuals does not necessarily imply that the minimum wage is bad policy. Who earns the minimum wage and how they are affected are just as important. For example, if the negative employment effects tend to be concentrated among teenagers from middle-income families and the benefits are more broadly distributed among low-wage workers, a higher minimum wage might be an effective means of raising the income levels of poor families. On the other hand, if the job losses associated with a minimum wage are concentrated among workers from poor families, an increase in the minimum wage could have adverse effects on the distribution of family incomes.

As a starting point for addressing this question, some researchers provided evidence on the characteristics of workers who earn the minimum wage. In particular, Burkhauser and

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*Adjustment: A Comparative Analysis*, OXFORD REV. ECON. POL'Y, Summer 2000, at 57, 64 (claiming that, despite assertions that minimum wage laws are a major cause of unemployment, studies from the 1990s found little or no evidence of negative effects on employment).

98. Neumark & Wascher, *supra* note 84, at 164.

99. *Id.* at 164–65.

colleagues note that only about one-third of the workers directly affected by the 1990 federal minimum wage increase lived in poor or near-poor families, and that about the same proportion of minimum wage workers lived in families with incomes more than three times the poverty line.<sup>100</sup> This result primarily reflects the fact that many minimum wage workers are secondary earners; in 2006, for example, sixty percent of workers earning the federal minimum wage were younger than twenty-five years old and forty percent were teenagers.<sup>101</sup> The tendency for many minimum wage workers to be secondary earners, perhaps from middle-income households, implies that a considerable portion of the additional earnings associated with a higher minimum wage could go to nonpoor families, although this ultimately depends on who bears the employment losses.

More direct evidence pertaining to the effects that minimum wages have on the distribution of income establishes that minimum wages do not help poor or near-poor families. In our own work, for example, we find no evidence that a higher minimum wage reduces the number of poor and near-poor families. Any tendency for a higher minimum to lift some families out of poverty is more than offset by an increased likelihood that the reduction in work hours or employment associated with the higher minimum will cause some nonpoor families to fall into poverty.<sup>102</sup> Similarly, another recent study concludes that there is “no evidence that increases in the minimum wage reduced poverty rates among workers or even among working single mothers over the period 1988–2003.”<sup>103</sup>

The past research also indicates that the minimum wage is an especially weak antipoverty tool when compared to other labor market policies. In particular, the earned income tax credit has been shown to be much more effective than the minimum wage in raising the incomes of poor families, mainly because it is much better targeted.<sup>104</sup> Finally, in the longer-run, policies

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100. Burkhauser et al., *supra* note 81, at 551.

101. BUREAU OF LABOR STATISTICS, *supra* note 5, at tbl.1.

102. David Neumark & William Wascher, *Do Minimum Wages Fight Poverty?*, 40 *ECON. INQUIRY* 315, 332 (2002); David Neumark et al., *The Effects of Minimum Wages on the Distribution of Family Incomes: A Nonparametric Analysis*, 40 *J. HUM. RESOURCES* 867, 889 (2005).

103. Burkhauser & Sabia, *supra* note 44, at 276.

104. Jeffrey Grogger, *The Effects of Time Limits, the EITC, and Other Policy Changes on Welfare Use, Work, and Income Among Female-Headed Families*, 85 *REV. ECON. & STAT.* 394, 408 (2003); David Neumark & William Wascher, *Using the EITC to Help Poor Families: New Evidence and a Compar-*

aimed at increasing the productivity of workers by improving their education and training would seem likely to be more effective than the minimum wage at raising living standards.<sup>105</sup>

In summary, the data do not seem to support the rationale typically cited for increases in the minimum wage. Although a modestly higher minimum wage would not entail large-scale job losses for the economy as a whole, the evidence clearly indicates that minimum wages reduce job opportunities for the lowest-skilled workers, who are the intended beneficiaries of minimum wages. More fundamentally, there is little evidence that a higher minimum wage is helpful in addressing the plight of poor families.

### III. WHY ARE MINIMUM WAGES SO POPULAR?

Despite the evidence that minimum wages are an ineffective means of reducing poverty, they enjoy widespread support. In a recent poll taken in 2006, more than eighty percent of respondents indicated that they would support an increase in the minimum wage from \$5.15 per hour to \$7.15 per hour.<sup>106</sup> In contrast, economists are considerably more divided on the issue: according to a 2005 survey, thirty-eight percent supported an increase in the minimum wage, while forty-seven percent thought that it should be eliminated altogether.<sup>107</sup>

As noted above, minimum wage laws generally help some individuals and hurt others. In this context, one reason for their popular support may be that the benefits of minimum wages are more directly observable—and spread more widely—than the costs. For example, even if a one percent increase in the minimum wage leads to a two percent decline in the employment of minimum wage workers (or an elasticity of  $-2$ ), a ten percent increase in the wage floor will help eighty percent of minimum wage workers and harm only twenty percent (al-

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*ison with the Minimum Wage*, 54 NAT'L TAX J. 281, 315 (2001); Ximing Wu et al., *Effects of Government Policies on Income Distribution and Welfare* 23 (Inst. for Research on Labor and Employment, Working Paper No. iirwps-086-02, 2002), available at <http://repositories.cdlib.org/cgi/viewcontent.cgi?article=1023&context=iir>.

105. Indeed, some evidence suggests that minimum wages have negative effects on skill acquisition. See, e.g., NEUMARK & WASCHER, *supra* note 49 (manuscript at 313–14).

106. For the results of the poll administered by the Pew Research Center, see Larry M. Bartels, *A Tale of Two Tax Cuts, a Wage Squeeze, and a Tax Credit*, 59 NAT'L TAX J. 403, 416 (2006).

107. Whaples, *supra* note 83, at 4.

though the wages lost by those twenty percent will be considerably larger than the additional wages received by those who remain employed).<sup>108</sup> Moreover, the job losses associated with minimum wages are often manifested as a reduction in hiring rather than an increase in layoffs. As a result, it can be difficult to identify those individuals without a job who would have obtained one in the absence of a higher minimum wage.<sup>109</sup> Taken together, these factors suggest that at least some supporters of minimum wages may not fully comprehend their effects.

Second, it can be in the self-interest of certain constituent groups to support minimum wages even if the members of those groups do not benefit directly from the minimum wage. For example, unionized workers may benefit indirectly from a minimum wage increase if that increase induces substitution away from low-skilled nonunion workers toward higher-skilled unionized workers, a result consistent with some empirical evidence.<sup>110</sup> Accordingly, unions solely interested in the welfare of their members will have an incentive to support higher minimum wages even if no union worker is paid the minimum wage.<sup>111</sup> Likewise, for an employer already paying its workers above the minimum wage (or who is able to offset a higher minimum wage by reducing other parts of the compensation package), a higher wage floor that increases the costs of its low-wage competitors will put upward pressure on its competitors' prices and thus shift demand toward the higher-wage firm, in-

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108. Although an elasticity of  $-2$  for minimum wage workers may appear to be much larger than the  $-0.1$  to  $-0.2$  estimates reported in the literature for teenagers, these figures are not directly comparable. In particular, an estimate of the impact of the minimum wage on total employment for teenagers is the effect on the teenagers who are directly affected by the minimum wage averaged over all teenagers. Moreover, the average increase in wages received by the directly affected workers will be smaller than the minimum wage increase if some workers were already earning a wage between the old and new minimum wage. For further details, see Neumark & Wascher, *supra* note 102, at 317.

109. See Charles Brown, *Minimum Wage Laws: Are They Overrated?*, J. ECON. PERSP., Summer 1998, at 133, 134–35; David Neumark & William Wascher, *The Effects of Minimum Wages on Teenage Employment and Enrollment: Evidence from Matched CPS Surveys*, in 15 RESEARCH IN LABOR ECONOMICS 25, 43–45 (Solomon W. Polachek ed., 1996).

110. David Neumark et al., *Minimum Wage Effects Throughout the Wage Distribution*, 39 J. HUM. RESOURCES 425, 427 (2004); David Neumark et al., *The Effects of Minimum Wages Throughout the Wage Distribution* 25–26 (Nat'l Bureau of Econ. Research, Working Paper No. 7519, 2000), available at <http://www.nber.org/papers/w7519.pdf>.

111. James C. Cox & Ronald L. Oaxaca, *The Political Economy of Minimum Wage Legislation*, 20 ECON. INQUIRY 533, 542–43 (1982).

creasing its profits.<sup>112</sup> As an historical example, in the discussions leading up to the passage of the FLSA, northern industrialists broadly supported enacting a federal minimum wage, a fact many attributed to a view among these industrialists that the low wages paid in southern states provided employers in those states with an unfair competitive advantage.<sup>113</sup> In a similar vein, some observers attribute the recent support for a higher minimum wage from some large retailers to an expectation that the higher minimum will adversely affect their smaller competitors.<sup>114</sup>

Finally, some supporters of a higher minimum wage may see the policy as targeting objectives other than (or in addition to) those related specifically to the effects of minimum wages on the income distribution. If so, those supporters may be willing to tolerate the inefficiencies of wage floors in pursuit of these objectives. As argued earlier, the current rhetoric primarily emphasizes the effects of minimum wages on the working poor. However, there are proponents who appeal to issues of morality or fairness (in some cases, along the lines espoused by early supporters that there is unequal bargaining power between employers and workers).<sup>115</sup> Alternatively, other proponents argue that the minimum wage is a means of coordinating appropriate wage levels across markets with limited information, or that it can serve as a broader signal of societal concerns about increasing income inequality and a decline in the political power of workers.<sup>116</sup>

## CONCLUSION

This Article asks whether the actual effects of minimum wages are consistent with statements made by many advocates and opponents of minimum wages. For the most extreme statements, the answer is no. An increase in the minimum

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112. See William R. Keech, *More on the Vote Winning and Vote Losing Qualities of Minimum Wage Laws*, 29 PUB. CHOICE 133, 134 (1977).

113. NORDLUND, *supra* note 13, at 39.

114. Tim Kane, *Wal-Mart's Perverse Strategy on the Minimum Wage* (The Heritage Foundation, WebMemo No. 899, Oct. 28, 2005), <http://www.heritage.org/Research/Labor/wm899.cfm>.

115. See *e.g.*, Klein & Dompe, *supra* note 40, at 126, 145–48 (providing examples of individuals' perceptions of the sociopolitical benefits of minimum wage policies).

116. See *id.* at 140–41 (describing the results of a minimum wage questionnaire distributed among economists supporting an increase in the minimum wage).

wage of modest proportions is unlikely to have important macroeconomic effects, and, in particular, is unlikely to lead to sizable job losses in the aggregate. On the other hand, there is little evidence of the benefits often attributed to the minimum wage by its proponents.

So, what does the minimum wage do? As discussed, economic theory is only of limited value in assessing the effects of the minimum wage. Although conventional economic models generally predict that a higher wage floor will lead to job losses for low-skilled workers, the neoclassical model is not specific about the precise nature or the magnitude of those job losses. Moreover, other models that assume some monopsony power on the part of employers suggest that the minimum wage might even raise employment.

As a result, it is more informative to assess the effects of minimum wages with empirical research. From that standpoint, the evidence thus far has failed to establish that the minimum wage is an effective means of helping the poor—which is arguably the primary policy goal of minimum wage laws. In particular, the balance of the evidence indicates that, even if its aggregate effects are relatively small, a higher minimum wage will reduce job opportunities for the least-skilled workers most likely to be affected by the wage floor and, for some groups of workers, those disemployment effects could be substantial. In addition, the available evidence suggests that the minimum wage does not benefit the distribution of family incomes.

Finally, this Article asks why minimum wages are so popular when the evidence provides little reason to support them. Several possibilities were proposed—including the difficulty in identifying individuals who are harmed by the minimum wage and the motivation for certain groups of higher-skilled workers or larger businesses to support them on self-interest grounds. Additionally, some advocates of minimum wages may support minimum wage laws for reasons not directly related to their effects on the economic outcomes we have considered. Whether fairness or other noneconomic considerations are valid reasons for supporting the minimum wage is beyond the scope of this Article. However, the existing research provides little evidence that the minimum wage is an effective antipoverty program. From that standpoint, future expansions of the earned income tax credit (at both the federal and state level) and efforts to create programs aimed at increasing job skills have a greater potential to help the poor.