

Mandate of the Special Rapporteur on extreme poverty and human rights

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(Please use this reference in your reply)

29 July 2024

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on extreme poverty and human rights, pursuant to Human Rights Council resolution 53/10.

As you are aware, I presented to the General Assembly, at its 78th session, a report on in-work poverty, in which I sought to identify the major factors explaining why such a significant proportion of waged workers were at risk of poverty (A/78/175). The report was discussed before the Third Committee of the General Assembly on 21 October 2022.

The United States of America was among the country examples examined in the report. Moreover, I addressed in-work poverty in the United States in communications addressed to your Excellency's government (AL USA 21.2023, of 31 August 2023), as well as to three corporations domiciled in the United States (AL OTH 102.2023, AL OTH 103.2023, and AL OTH 104.2023, also of 31 August 2023).

In that connection, I would like to offer the following comments on the Draft Raise the Wage Act (S.2488) which was introduced in the U.S. Senate on 25 July 2023. I see this legislative bill as an important opportunity to address some of the concerns I expressed in the above-mentioned communications.

Following the introduction of the Draft Raise the Wage Act, it was read twice and referred to the Senate Committee on Health, Education, Labor, and Pensions, where it remains pending. The bill has not yet advanced beyond the committee stage and has not been scheduled for further hearings or votes at this time.

The Raise the Wage Act of 2023 is a proposed legislation that would gradually increase the federal minimum wage to \$17 per hour by July 2029, from the current federal minimum wage which stands at \$7.25 per hour. The Act would also eliminate the subminimum wages for tipped employees, workers with disabilities, and young workers over seven years so that all workers covered by the Fair Labor Standards Act (FLSA) would be at the same wage level.¹ Currently, tipped workers, independent contractors, informal workers, some young workers and other low-income workers often make less than the federal minimum wage.² The subminimum wage for tipped employees remains at \$2.13 per hour, a figure unchanged since 1991. Moreover, the median wage for an estimated 120,000 workers with disabilities rests at a mere \$3.50 per hour. Individuals earning less than \$17 per hour are not exclusively teenagers or students; nearly half of those earning \$17 or less are aged 35 or older.³

¹ [BILLS-118s2488is.pdf \(congress.gov\)](#)

² United States, Independent Contractor Status Under the Fair Labor Standards Act, Federal Register, vol. 86, No. 4 (7 January 2021).

³ [Minimum-Wage-Fact-Sheet.pdf \(senate.gov\)](#)

Some of the key provisions included in the bill are the following⁴:

1. **Gradual Increase in Minimum Wage:** The bill proposes raising the federal minimum wage incrementally over a five-year period, reaching \$17 per hour by the end of the timeline.
2. **Indexing to Median Wage Growth:** After the \$17 per hour minimum wage is reached, the bill aims to index future increases to median wage growth to ensure that the minimum wage keeps pace with changes in the economy.
3. **Elimination of Subminimum Wage for Tipped Workers:** The bill seeks to gradually phase out the subminimum wage for tipped workers, ensuring that they receive the same minimum wage as other workers over time.
4. **Elimination of Subminimum Wage for Youth and Disabled Workers:** The bill includes provisions to gradually eliminate the subminimum wage for youth workers and workers with disabilities.

The Act would benefit nearly 28 million workers, or 19 percent of the working population. The first increase of \$2.25 would occur on the first day of the third month after the enactment of the Act. The increases would provide an additional \$86 billion annually in wages for the country's lowest-paid workers, with the average affected worker who works year-round receiving an extra \$3,100 per year. It would ensure American workers make a living wage and reduce income inequality.⁵

The right to a living wage in international human rights law

In the United States, the current federal minimum wage (\$7.25 per hour) does not correspond to what the living wage under international human rights law would require.

According to general comment No. 23 of the Committee on Economic, Social and Cultural Rights, the right to a remuneration ensuring a decent standard of living for the worker and his or her family requires that the level of wages take into account the cost of living to ensure that it is "sufficient to enable the worker and his or her family to enjoy other rights in the Covenant, such as social security, health care, education and an adequate standard of living, including food, water and sanitation, housing, clothing and additional expenses such as commuting costs".⁶ In other words, workers should be provided, at a minimum, with a "living wage", regularly adapted in accordance with costs of living.

In the preamble of its Constitution, ILO calls for "an adequate living wage", and in the Declaration concerning the aims and purposes of the International Labour Organization, ILO affirms its "solemn obligation" to promote "policies in regard to wages and earnings, hours and other conditions of work calculated to ensure a just share of the fruits of progress to all, and a minimum living wage to all employed and in need of such protection". The ILO Minimum Wage Fixing Convention, 1970

⁴ [BILLS-118s2488is.pdf \(congress.gov\)](#)

⁵ [Minimum-Wage-Fact-Sheet.pdf \(senate.gov\)](#)

⁶ Committee on Economic, Social and Cultural Rights, general comment No. 23 (2016), para. 18.

(No. 131) requires that minimum wage setting take into consideration “the needs of workers and their families, taking into account the general level of wages in the country, the cost of living, social security benefits, and the relative living standards of other social groups; [and] economic factors, including the requirements of economic development, levels of productivity and the desirability of attaining and maintaining a high level of employment”.⁷

In human rights law, the minimum wage level should be regularly updated to take into account the evolution of the cost-of-living. Article 7 of the Covenant on Economic, Social and Cultural Rights establishes that: “States parties should prioritize the adoption of a periodically reviewed minimum wage, indexed at least to the cost of living, and maintain a mechanism to do this”. A system of indexation of wages to the consumer price index would support the purchasing power of the middle classes, improving the resilience of the economy in times of crisis. A range of studies, including from the International Monetary Fund (IMF), show that the concerns of the price wage spiral are often exaggerated⁸. In fact, this is not happening in countries where there is a system of automatic indexation of wages to the cost-of-living - which is the best way to secure the purchasing power of the working population in the country.

A proper minimum wage legislation also needs to protect all workers, regardless of whether they are employed on a full-time, part-time or informal basis, or whether they work at home, in the private home of their employer or through an online platform. This is not only achievable but would profoundly reset the relationship between employment and poverty reduction. Having a paid job should, and can, guarantee an escape from poverty.

The minimum wage should also be set taking into account the evolution of the median wage, in order to stem the rise of income inequalities, as proposed in the the Draft Raise the Wage Act (S.2488). In the above-mentioned report on “*The working poor: a human rights approach to wages*” ([A/78/175](#)), submitted to the General Assembly, I noted that “social exclusion may result not only from a lack of sufficient income allowing an adequate standard of living but also from an income that is low relative to the median income in a particular country, making it impossible for the low-income earners to keep up with social expectations. The minimum wage should therefore be set at a level that is sufficient not only in absolute terms but also as a percentage of the median income.” “Member States are thus encouraged to define minimum wages not only in absolute terms, on the basis of the cost of living, but also in relative terms, relying in that regard on reference values commonly used at the international level, such as 60 per cent of the gross median wage and 50 per cent of the gross average wage”.⁹ This would be consistent with ILO Convention No. 131.

Based on the analysis made above, I wish to urgently encourage the Senate of the United States to adopt the Raise the Wage Act, considering the inadequacy of the current federal minimum wage. Its adoption would help to keep up with the cost of living, provide fair compensations for workers, address income inequality, improve the standard of living for low-wage workers, and strengthen the resilience of the U.S.

⁷ [A/78/175](#), par.35.

⁸ Jorge Alvarez and others, “Wage-Price Spirals: What is the Historical Evidence?”, IMF Working Paper, No. 22/221 (Washington D.C., 2022) (based on a review of 79 episodes of “wage-price spirals” in advanced economies between 1973 and 2017, and 100 episodes in the manufacturing sector using a narrower wage concept).

⁹ Directive (EU) 2022/2041 of the European Parliament and of the Council on adequate minimum wages in the European Union (Official Journal of the European Union, L 275, 25 October 2022), art. 5, para. 4.

economy against shocks. Increasing the minimum wage would contribute to address financial struggles faced by many workers (especially those in part-time, temporary, and low-wage jobs), reduce poverty, boost consumer spending, and reduce reliance on government assistance programs.

This bill should protect all workers, including workers in non-standard forms of employment, informal workers, undocumented migrant workers, domestic workers, etc. The hourly wage should depend neither on whether the worker is employed on a full-time or part-time basis nor on whether the worker works at home, in the private home of the employer or through an online platform.

Overall, the proposed Raise the Wage Act of 2023 represents a significant effort to address the issue of low wages and income inequality in the United States and could contribute to a broader national conversation about the importance of ensuring a living wage and fair compensation for all workers.

As it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would be grateful for your observations on the following matters:

1. Please provide any additional information and/or any comment(s) you may have on the issues raised.
2. Please provide an update on the status of the negotiations in the US Senate regarding the draft Act.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting [website](#) after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, Excellency, the assurances of my highest consideration.

Olivier De Schutter
Special Rapporteur on extreme poverty and human rights