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THE ROLE OF SOCIAL PARTNERS IN SETTING AND ADJUSTING A NMW

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Why social partners?

- The engagement of social partners—representatives of workers, employers and civil society-- in the design and implementation of a NMW is essential to establishing the legitimacy of the wage setting process, promoting consensus, anticipating changes in the NMW that can be potentially disruptive and ensuring compliance with the NMW.

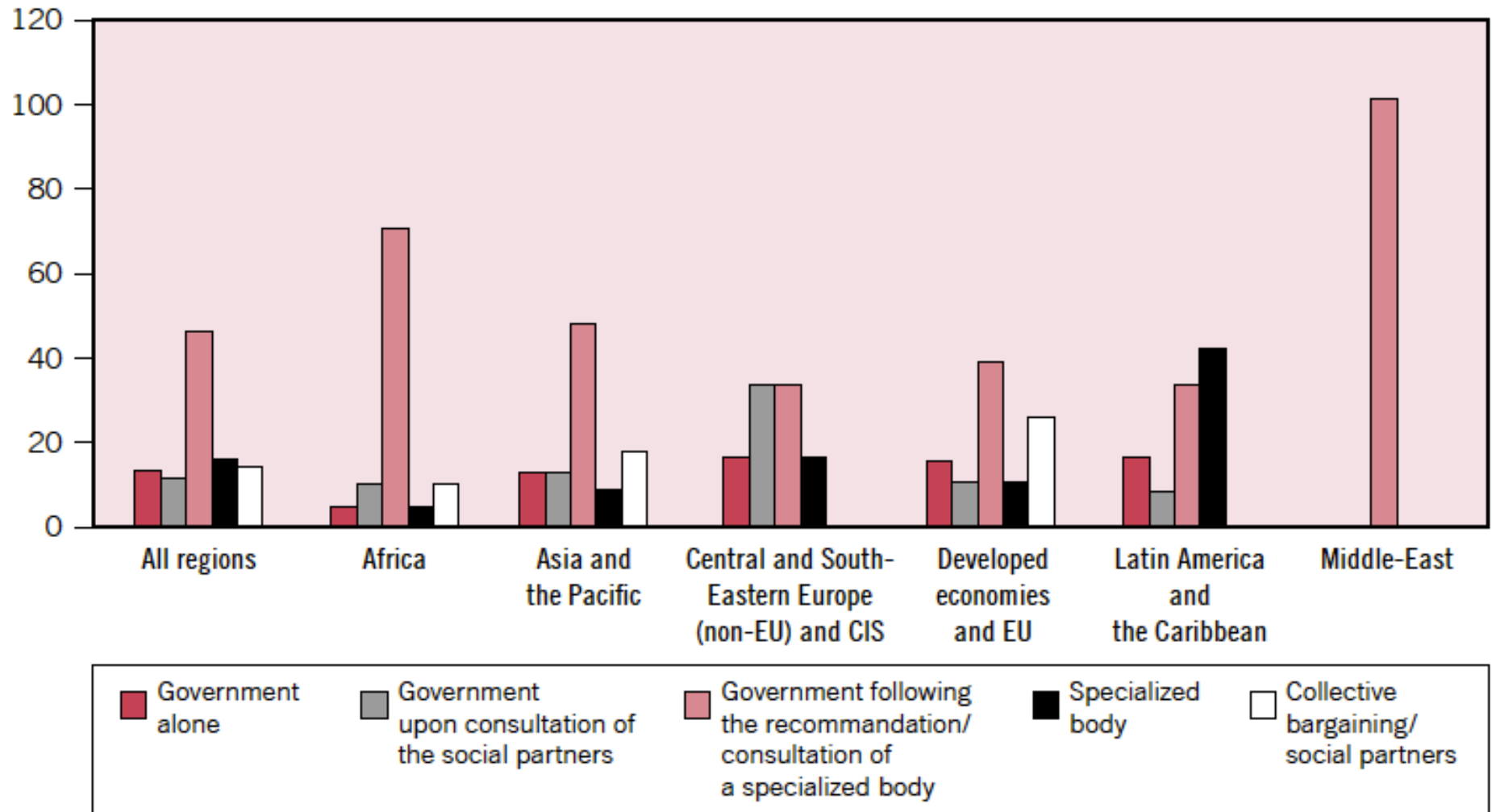
The approach in South Africa to engagement with social partners

- In South Africa, minimum wages are determined sectorally, either through collective bargaining or sectoral determinations, published by the Minister of Labour upon recommendation of the Employment Conditions Commission (ECC).
- Established under the terms of the BCEA (1997) the ECC is an independent statutory body of five members.
 - One member is nominated by organized labor, one by organized business, and three appointed by the Minister of Labour after consultation with NEDLAC. Terms of office are determined by the Minister but cannot exceed three years.
- The ECC is supported by a secretariat, responsible for overseeing research, drafting reports, attending hearings and liaising with stakeholders. However, multiple studies refer to the weak research and technical capacity of the ECC.

International approaches to engagement with social partners in adjusting the NMW

- Internationally, there are five general approaches to adjusting the NMW, which exist along a continuum:
 - The government decides without consulting with social partners;
 - The government consults social partners;
 - The government follows the recommendation of a specialized body, which may be bipartite, tripartite or independent;
 - A specialized body decides
 - Collective bargaining

International approaches to engagement with social partners in adjusting the NMW



Source: ILO (2012); ILO Database on Conditions of Work and Employment Laws.

The NMW is adjusted by government without consultation with social partners

- Very few countries require no consultation with social partners.
 - Even instances where formal consultation is not stipulated in by the law, this often takes place informally.
- In **Brazil**, the Lula administration introduced a quadripartite commission in 2005, made up of representatives of employers, employees, government and retirees, with the objective of establishing a consensus formula to adjust the NMW.
 - The NMW is adjusted by **presidential decree** and approved by **parliament**, according to this formula.
- Collective bargaining a complimentary role.

The NMW is adjusted by government based on consultation with a specialized body

- In **France**, the government informs social partners but social partners do not necessarily influence the decision.
- While in **Malaysia**, the Government determines the minimum wage rate based on the recommendation of the National Wages Consultative Council (NWCC):
 - the National Wages Consultative Council (NWCC) consists of 29 members appointed by the Minister, and includes at least 5 public officers, 5 worker representatives and 5 employer representatives. It also includes at least 5 independent experts.
 - **Consensus is not necessary for a recommendation to be issued.**
 - Upon receiving the NWCC's recommendation, the Government may agree, request that the NWCC revise the recommendation, or **introduce their own wage rate.**

The NMW is adjusted by government based on the recommendation of a specialized body

- In the **United Kingdom**, the Low Pay commission is composed of three employer representatives, three worker representatives and three independent members, who serve in an *independent capacity*. Recommendations have always been *unanimous and the government has always implemented the proposed NMW*.
- In contrast in **Germany**, the two academic members of the commission *do not have voting rights*. The government appoints an independent chair proposed by the social partners, who in the eventuality of an impasse casts the deciding vote.
- In **Korea**, decisions of the Minimum wage council are made by majority vote, but must be approved by at least one third of employer and worker representatives. Once announced by the Minister, employer and worker representatives have 10 days to *raise objections*. If the Minister deems the objections reasonable, they may request the Council to deliberate further. *If two thirds of the Council decides to maintain the initial proposal, the Minister must agree with the minimum wage proposal.*

The NMW is adjusted by a specialised body

- Only in a minority of cases is full decision-making power handed over to a specialised tripartite body.
- In **Costa Rica**, the National Wage Council fixes minimum wages by sector and occupation for workers in the private sector by executive decree.
 - The Council is made up of an equal number of representatives from Government, workers and the employers.
 - The Council's proposal for a minimum wage is sent to the Ministry of Labour for comments however the **Council makes the final decision.**

Conclusion

- Given the South African context where social partners— including representatives of workers, employers and civil society-- are active, their incorporation at the forefront of the wage setting process is essential in order to ensure that the wages set reflect the interests of all parties and carry with them some level of legitimacy.