

Ps: Targeted Brands: H&M, Adidas, Nike, Walmart and Gap

DATE: 15 APRIL 2014

DRAFT FOR INTERNAL USE

PEOPLE'S TRIBUNAL

**LIVING WAGE AND DECENT LIVELIHOODS IS A FUNDAMENTAL RIGHTS OF INDONESIA
GARMENT WORKERS**

PETITION

We, GSBI, FSBI, SBSI'92, SPN, is the trade unions that organized workers in the garment industry in Indonesia, along with LIPS & TURC are organizations that are members of the Asia Floor Wage Alliance, on behalf of garment workers in Indonesia submitted a petition "a decent wage and decent working conditions as a basis for the rights of Workers in Indonesia" in front of the People's Tribunal.

In front of the People's Tribunal, we will bring witnesses to be heard by the judge and expert on poor working conditions, long working hours, the right of association is restricted, obstructed, and the cheap wages received by hundreds of thousands or even millions of workers in garment industry in Indonesia.

Supplier companies and international brands manufactured in Indonesia, partly responsible for the poor working conditions, exploitation and violation of human rights for garment workers in Indonesia. Hundreds of thousands of workers in the garment industry living in poverty, living in houses that are not viable, low-nutrient foods, and much more. The condition is a result of low wages received by the workers of garment and forfeiture of wages made by the supplier with exploitative labor systems, such as unpaid overtime and the suspension of the implementation of the minimum wage.

Meanwhile, brand holders and suppliers enjoy increasing profits and expanding market and their production chains to the smaller cities for the sake of profit accumulation.

Garment workers are human beings who have the basic rights that are universally recognized, including the right to earn a decent living. It is thus, important and urgent for all of us present here (Indonesian People's Tribunal) to find the right solution to destroy and eliminate the bad working system.

The Petitioners is:

Local host is AFW Indonesia <Asia Floor Wage Indonesia>, which consists of four labor organizations of the Unions that organize garment workers, and two social organizations that concern working condition and support the labor movement for a living wage and decent working conditions for the workers in the garment industry.

Asia Floor Wage Indonesia, consisting of:

1. Federation of Independent Trade Union (GSBI)
2. Federasi of Indonesia Trade Union (FSBI)
3. National Trade Union (SPN)
4. Trade Union Right Centre (TURC)
5. Intitute of Sedane Labour Information (LIPS)

And other union who are part of the petitioners:

6. Indonesia Prosperity Trade Union 1992 (SBSI'92)

Our vision is the garment workers in Indonesia must have jobs, decent wages and decent working conditions, and living with dignity and humanely.

Asia Floor Wage Alliance was officially formed in 2006, and nearly 71 organizations from 17 countries in Asia, Europe, and North America are joined in this alliance. There's garment industry unions, NGOs, consumer groups, research institutes which are part of this vast network. However, our core leadership comes from the garment trade union movement in Asian countries. We also mobilize consumers in the north and lobbying garment retailers and major brands through our international partners in the north.

The **Clean Clothes Campaign (CCC)** is dedicated to improving working conditions and supporting the empowerment of workers in the global garment and sportswear industries. Since 1989, the CCC has worked to help ensure that the fundamental rights of workers are respected. educate and mobilise consumers, lobby companies and governments, and offer direct solidarity support to workers as they fight for their rights and demand better working conditions.

The Clean Clothes Campaign is an alliance of organisations in 16 European countries. Members include trade unions and NGOs covering a broad spectrum of perspectives and interests, such as women's rights, consumer advocacy and poverty reduction.

CCC relies on a partner network of more than 200 organisations and unions in garment-producing countries to identify local problems and objectives, and to help us develop campaign strategies to support workers in achieving their goals. It cooperate extensively with similar labour rights campaigns in the United States, Canada, and Australia. CCC believes that in order for a living wage to become a reality brands and retailers and governments must take action.

Preamble

According to the International Labour Organisation (ILO), "Wage employment and wages are central to the world of work. Approximately half of the global labour force works for a wage. Living

standards and the livelihood of wage earners and families depend on the level of wages, when and how they are adjusted and paid. Wages are a major component of overall consumption and a key factor in the economic performance of countries. The enormous expansion of the labour force participating directly and indirectly in the international exchange of goods and services and the growing interdependence of low-, middle- and high-income countries has squarely placed wages at the centre of the debate on globalization” (Global Wage Report 2008).

In 1944, the International Labour Organisation (the ILO) adopted the *Declaration of Philadelphia*, as an addition to the ILO’s constitution. The *Declaration* articulated key principles: labour is not a commodity, freedom of expression and of association are essential to sustained progress, poverty anywhere constitutes a danger to prosperity everywhere, and that all human beings have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity.

In June 2008, the International Labour Conference adopted an *ILO Declaration on Social Justice for a Fair Globalization*, based on the principles in the *Declaration of Philadelphia*. The *Declaration on Social Justice* supports “policies in regard to wages and earnings, hours and other conditions of work, designed to ensure a just share of the fruits of progress to all...” The 2008 Declaration recognises the importance of “full employment and the raising of standards of living, a *minimum living wage* and the extension of social security measures to provide a basic income to all in need...” In other words, social security, a decent wage, and formal and full employment are essential for a minimum living standard.

The importance of setting a *minimum wage* is to signal that not all conditions of work, or of life, are subject to negotiation or coercion. The significance of setting a *living wage* is that it makes concrete the idea that work should provide for one’s life – that a working person should never, despite their efforts, be unable to support themselves and their families.

The Universal Declaration states in Article 23 (3) that “Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.”

The International Covenant on Economic, Social and Cultural Rights (ICESCR) has two articles related to wage. Article 7 defines remuneration as providing workers at a minimum, with:

- (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men with equal pay for equal work;
- (ii) A
decent living for themselves and their families in accordance with the provisions of the present Covenant;
- (iii) Safe and healthy working conditions;
- (iv) R
rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays

Article 11 (1) of ICESCR defines “the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

The Convention on the Elimination of All Forms of Discrimination Against Women's Article 11 articulates the right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work; it prohibits, subject to the imposition of sanctions, dismissal on the ground of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status.

Unfortunately the universal body of human rights instruments and standards only imply rather than assert a positive "Right to Wage." Based on the ILO's standard on wage as described above, the Cambodia Peoples' Tribunal, as part of the Asia Floor Wage Campaign seeks to assert a "Right to Minimum Living Wage."

The relationship of wage to survival raises questions about the consequences of denial of wages. The growing gap between rich and poor and the increasing impoverishment of the majority of the working poor in Asia give rise to great economic inequality.

Denial of a minimum living wage is not only a grave injustice that perpetuates social, political and economic inequalities but jeopardises the entire global economic well-being, where the productive forces are deprived of the means of basic survival and of opportunities for development. Denial of a *minimum living wage* as a right directly impacts on the realization of universal and indivisible human rights, as illustrated herein:

Right to life: The insecurities that arise when workers are paid less than minimum wage make it impossible to actually satisfy the right to life, as it denies access to medical care in case of illness or accidents; it prevents the household from purchasing necessary nutritious food on a day to day basis; it removes the means to provide education to children towards improving their living standards; it means outright starvation for those without access to emergency assistance and relief goods in times of calamities or natural or man-made disasters.

Right to equal opportunity: The global gender division of labour, where female dominated industries are characterized by lower than minimum wages and exploitative practices, sustains the global manufacturing industry, and is central to their profit-driven survival. Thus violating the right to equal opportunity and the right to minimum wage is the norm for those industries which seek to be so-called globally competitive.

Right to equal protection of the law: Propelled by globalisation, countries have created legal and political environments where it will be more difficult to petition the government to protect the right to minimum wage. Workers that have unionised and waged struggles on wage issues find that they lack the necessary protection against arbitrary dismissals or terminations. Many companies simply do not allow the formation and registration of unions.

Right to decent working hours: As a result of both challenging industrial relations and the need to satisfy their most basic necessities, garment workers are compelled to work overtime hours when their wages are below minimum wage. This subliminal form of coercion may be concealed, but its consequences clearly are visible in the daily struggles of workers who have succumbed to lengthy working hours to earn that scant extra revenue for survival. In light of such, the AFW grasps the need to establish a *minimum living wage*, as a means to impede forced labour and to ensure a liberating, not limiting society.

Right to a standard of living adequate for himself and his family: Without a decent *minimum living wage*, by no means are workers able to meet their basic needs of food, shelter or clothing. Based on pragmatic accounts of what is to be considered as decent, the AFW would ensure that their wages are capable of satisfying such basic necessities.

The proliferation of various public and private institutions, the increasing levels of mediation, and the growing complexity of the global economic structure have made accountability for the denial of wage difficult and elusive. In order to make "Right to Minimum Living Wage" justiciable, both public and private institutions would need to be identified and mechanisms implemented for the delivery of this right.

The situation of Garment workers in Indonesia

Introduction

Indonesia is the country's top five manufacturers of garments for the global market, and the garment industry in Indonesia is an important industry in the absorption of Indonesian workers as well as the second largest contributor out of non-oil to the economy of Indonesia (state income).

In the last ten years, the garment industry in Indonesia has increased significantly, despite some periods experienced crisis of impact of global garment market liberalization (post-quota), but not for a long time industry garment in Indonesian back up and continue to grow in 7 years last. At least 1 million workers working in this sector, and tend to increasing in line with the expansion of the garment industry to the small towns in Indonesia. However, while the garment industry is growing and the value of Indonesia's garment exports in the global market increasing, the workers still working under conditions that remain even tend to work with the pressure outside the limits of the ability of workers themselves.

Concerns

Many garment companies in Indonesia employ the workers to contract system, although legally regulated by the Employment Act, but the practice is applied garment industries actually violate the provisions of the law. The phenomenon of the contract labor system has been running long before the enactment of labor law (2003), and a trend for the all industries is no exception garment industry is an industry that absorbs workforce with middle skills.

Contract labor system, especially short-term contracts is a major problem for the workers, in addition to not provide certainty on the job, workers who work with short-term contract system prone to violations of their fundamental rights as workers. Many cases are encountered, garment workers who work with the system of contracts received wages below the minimum wage, do not get Social Security, unpaid overtime, and it is difficult to get a chance to rest or permission when sick.

Another practice that is also commonly found in the garment industry, which employed contract workers, precisely placed at the core parts in production. Many years of working with contract status without certainty appointment became permanent status, without social security, do not get allowances (Meal and Transportation), and for women workers who work contracts also do not get the right to maternity leave - if not prohibit pregnant during contract, or terminate the contract if the company know that women workers concerned is pregnant.

The system of contract labor is further aggravated the lives of the workers, the workers are forced to obey, be silent and no bargaining power. Even the practice of contract labor in the garment industry is also a major barrier to freedom of association, due the employer will easily terminate the employment or terminate the employment relationship prematurely simply because the workers became the members of trade union or organize a trade union

Another problem is wages. In the last 5 years the demands of minimum wage increases are done by workers in Indonesia continues to increase and hike. Not less than 3 million workers of various types of industries in various regions in Indonesia, engaged in strikes and demonstrations to demand higher wages to the government.

Increasing of wage are expected to improve the lives of workers become better, it does not bring change for the better for the workers and their families. Factor, wage increases of only ranging 11-15% (national scale) each year that can not be fully enjoyed by garment workers as a result of the many garment companies suspend the minimum wage. Recorded in 2013, as many as 949 companies in Indonesia simultaneously to propose suspension of the minimum wage to the governor, and no less than 669 companies get permits suspension of the minimum wage, and mostly in the areas that became the basis of the garment industry, such as West Java (257 company), Banten (136 companies), Jakarta (50 companies), Central Java (27 companies) and East Java (31 companies).

And more surprisingly, most of the garment industry that the suspension of the minimum wage are large companies that produce international brands with huge production capacity.

Of course, workers and trade unions fight against the suspension of the minimum wage by the company, but the entrepreneur especially entrepreneurs in the garment industry have campaign "if the garment workers demanding higher wages, then the buyer will reduce their orders and move to another country. Not only that, the entrepreneurs also threatened to relocate to other areas in Indonesia whose wages are relatively inexpensive or they will do efficiency (dismissal).

In Indonesia, the majority of workers employed in the garment industry are women, and not less than 30% of them are the single breadwinners and working to meet basic needs their families, such as food, water, housing, health and education for their childrens. It's mean the women workers is what creates the great profit for the supplier companies and brand owners in the garment industry, but they are also the most exploited and oppressed as a result of poor working system. Not a bit of garment companies who employ women workers until late at night do not provide guarantee of safety.

The Petition:

The Petitioner presents to the Peoples Tribunal on Minimum Living Wage as a Fundamental Right of Indonesia Garment Workers the following testimonies:

1. 1 case study from workers and women workers in the garment industry in Indonesia
2. 1 case study of workers producing for one brand
3. 1 case study of workers producing for a second brand
4. 1 case study of workers producing for a third brand
5. 1 case study of workers producing for a fourth brand

6. Expert testimony on Indonesia political economic overview and garment industry related to labour wages
7. Expert testimony on Policy on garment industry
8. Expert testimony on Indonesia Labour law pertaining to Garment Industry
9. Expert testimony on Practice and violation of Freedom of Association in Indonesia
10. Expert testimony on Practice of Contract system in garment industry
11. Expert testimony on Brands and Living Wage
12. Expert testimony on Jobs with Justice's view on view on Walmart purchasing practices and the brand's possibility of supporting Living Wage
13. Expert testimony on Global Supply Chains in Indonesia: Workers' Rights and Labor Compliance
14. Expert testimony on H&M purchasing practices and the brand's possibility of supporting Living Wage
15. Expert testimony on AFW is doable
16. Stakeholder presentation on Government Perspective
17. Stakeholder presentation from Manufacturer
18. Stakeholder presentation from Brand 1
19. Stakeholder presentation from Brand 2
20. Stakeholder presentation from Brand 3
21. Stakeholder presentation from Brand 4
22. Stakeholder presentation from Brand 5

A. The Petitioner, through the People's Advocate, argues that the rise in minimum wage in Indonesia, granted as a result of massive protests by garment workers, are being systematically subverted by the employers of supplier factories. Management successfully pressurises workers through fear and intimidation to accept wages lower than the minimum wage and is granted permission by the government to "suspend" the payment of minimum wages. The actions of the employers, and their acceptance by the government without scrutiny and due diligence, deny the legal wages and thereby diminish the power of collective bargaining by workers. The multinational brands tacitly accept this situation: they take advantage of the undermining of collective bargaining agreements and the subversion of the legal wages affecting their industry.

B. The Petitioner argues that garment unions in Indonesia that fight for workers' welfare are being actively destroyed through the extreme increase in short-term contracts and labour sub-contracting. Management successfully pressurises workers through fear and intimidation to give up their permanent status and enter into short-term contracts, to give up their union membership, and to go against the existing collective bargaining agreements. The multinational brands have full knowledge of this unfair labour practice and have taken no measures to protect Freedom of Association and Right to Collective Bargaining. They have failed to do due diligence and institutionalise managerial systems to ensure respect for core labour standards, specifically Freedom of Association and Right to Collective Bargaining.

- C. The Petitioner argues that the legal system for industrial dispute resolution has weakened and thereby compromised workers' access to justice. The system of Ad hoc judges for the Supreme Court in labour cases has reduced the faith of workers in the judicial system. The government has abdicated its responsibility in ensuring public interest in the resolution of Industrial Disputes. In doing so, it has relegated this important public responsibility and duty to private realms.
- D. The Petitioner argues that the government has failed to contain, investigate and prosecute the increase in unfair labour practices, including criminal actions, of the management. Workers' power to challenge such practices has weakened and the criminalisation of labour disputes has accelerated.
- E. The Petitioner argues there is further deprivation of wages by the garment company through unpaid overtime in an industry known for very long hours. In addition, there is deficit of wages paid to workers in the garment sector in Indonesia because even under the provisions of the minimum wage the value is still far below a living wage standard required to buy staple foods, clothing and accommodation, health, transportation, education and communication and fulfil other responsibilities such as union dues, caring for children and the elderly, and other social fees.
- F. The Petitioner argues that Indonesia is a country that has ratified several international labor standards including the ILO Core Conventions, and that has made laws and regulations in accordance with international standards. But the practice is not applied in accordance with international standards and national legislation, thus giving an opportunity for employers to violate and circumvent the law.
- G. The Petitioner argues that garment workers lack access to social protection, especially in informal employment; lack protection for women workers, especially in relation to health and safety, sexual harassment, pregnancy and reproductive health, and child care.
- H. The Petitioner asserts that the majority of garment workers are women, young and often mothers who have double burden in the community as both homemakers and economic providers. The wage deficit deny their dreams: to get good education, to develop self, to get married, have children, take care of their parents, to build their own homes.
- I. The Petitioner argues that this cheap wage regime eliminates the capacities of garment workers to escape the cycle of poverty, improve their economic and political status, and keep dignity and their self-esteem.
- J. The Petitioner argues that the loss of living wage income for workers is simply too great an advantage for the multinational brands in garment industry by which they benefit from outsourcing production to cheaper wage countries.
- K. The Petitioner argues that it is possible for multinational brands to provide a living wage for workers in the garment industry and the proposed Asia Floor Wage as a minimum living wage option that meets the minimum requirements of decent labor standards. The demands of the Asia Floor Wage Alliance can be a solution to raising the wages of workers from the lowest rung of the industry, increasing their bargaining power throughout the

supply chain, in attenuating women's unequal bargaining power, in addressing gender wage gaps and in improving workers' well being.

People's Tribunal is asked to examine the evidence and find for the Petitioner:

1. Is there a deficit in decent Labour Standards in the garment industry in Indonesia?
2. Determine the magnitude of workers, especially women workers, the Garment Global Supply Chain, work and live in conditions that fall far short of Decent Labour Standards
3. Is there a wage deficit for basic living standards?
4. What are the causes the wage deficit? Who are responsible?
5. Can AFW address this wage deficit?
6. What are the criteria for wage is defined as a human right?

Closing

We believe, that the honored panel of People's Tribunal will find that there is wage deficit in the garment industry in Indonesia, and that these deficits violate human rights and basic living standards of workers. And provide a living wage that can meet basic living standards for workers will be able to improve the lives of workers more humane and dignified

Therefore, we hope the Honored Panels of the People's Tribunal will find, conclude and decide, that the Government, Supplier companies, and Buyer has the responsibility to the fulfillment of a decent wage for workers and their families.

Thus we submit this petition, and to thank the Honored Panel and to thanks to the parties have been heard this petition.