

PEOPLE'S TRIBUNAL
LIVING WAGE AS A FUNDAMENTAL RIGHT OF SRI LANKAN GARMENT WORKERS

Petition

We, ALARM and Committee for Asian Women, being Members of the Asia Floor Wage Alliance's Steering Committee, on behalf of Sri Lankan garment workers employed in the global garment industry, petition the Peoples' Tribunal on "Minimum Living Wage and decent working conditions as fundamental Human Rights", to hear the workers' plea and experts' evidence, and render a recommendation for redressing the deficit in decent labour standards in the garment industry in Sri Lanka.

The multinational brands and retailers that source garment from Asia are responsible for grave exploitation and human rights violations of Asian garment workers, particularly in Sri Lanka. Such violations in producing countries have robbed the workers of a basic humane existence and Asian countries and industry of their due revenue. We thus seek a remedy to this situation.

The Petitioners are:

Apparel-industry Labour Rights Movement (ALARM) is a coalition of trade unions and labour NGOs advocating the rights of Sri Lanka's apparel workers. It has carried out a systematic calculation to date of a sector-specific living wage. ALaRM reiterates that the concept of a living wage must be brought to the national agenda and into the dialogue between workers, government authorities and employers. Furthermore, in order to build a gender-sensitive wage rate, the hidden costs incurred by women workers must be recognised and compensated for. ALaRM endeavours to raise awareness and bring to the attention of Sri Lanka's government authorities as well as the industry's manufacturers, buyers and workers the importance of a sector-specific living wage and the significant role it will play in the betterment of the workers' lives and the long-term sustainability of the apparel sector.

Committee for Asian Women (CAW) is a regional network of 46 women workers groups and women-led trade unions in 14 Asian countries. It works to empower women workers to protect, advocate, and advance their rights as women and as workers. CAW is part of the global workers rights movement for over 30 years. CAW raised women's perspectives in the wage campaigns in the region and defended living wage as a sustainable alternative to the global financial crises.

Both ALARM and CAW are part of the Asia Floor Wage Alliance. In preparation for the tribunal hearing CAW and ALARM have conducted consultations with the national trade unions in Sri Lanka and formed a Steering Committee to lead the preparation and organisation of the Tribunal. It has invited legal professionals, women's rights advocates, and human rights defenders to join the endeavor to provide a wholistic approach to the hearings.

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 as 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) 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 Sri Lanka 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 nor 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 Garment Industry and wage deficits in Sri Lanka¹

A pressing concern in the Sri Lankan garment industry is that often its workers, despite long and hard work, do not earn enough to enjoy a decent standard of living. The rapidly rising cost of living that erodes the real wages and the stagnant or declining family incomes have given rise to the clamour for a more decent and fair wage structure in the industry. There is an industry strategy to base its competitive advantage on skilled work force and better labour standards, both of which needs a corresponding recognition of the value of the workers

¹ Sector Specific Living Wage for Sri Lankan Apparel Industry Workers- Survey Findings and Preliminary Report for Wider Discussion; Prepared for ALaRM by R.P.I.R. Prasanna and B.Gowthaman

[Source: Clean Clothes Campaign website www.cleanclothes.org]

through adequate, liveable and fair compensation. It is also apparent that workers incur several hidden costs arising from their employment in the garment industry, which is not readily apparent in the market determined wages. The anomaly of persistent vacancies in the Free Trade Zones while simultaneously retrenching in the districts probably is an indication that all is not well with our wage structure.

Ninety percent of garment workers are young women, working at the end of the supply chain, operating machines with the least protection, are most vulnerable to occupational hazards yet receive the lowest wages in comparison with other employees in the industry.

Approximately 70% of the workers have less than five years work experience. Often the reasons for such short terms of service are the poor wages, monotonous and hard working conditions, marriage and its consequences i.e. lack of employment opportunities for the spouse, lack of affordable accommodation for a family unit in close proximity to the work place, long hours of work which are not conducive to mothers with young children and a lack of social recognition for the apparel industry workers (Oxfam Community Aid Abroad - 2004).

In the context of Sri Lanka, the living wage in principle differs from the minimum wage and prevailing wage in that it specifically allows for an amount of savings to be included as a part of the wage demand. In the context of women workers in the garment sector one of their primary motives is to accumulate some durables during their working life in the sector. A final step is to embed this individual wage earner in the family unit and calculate a living wage that ensures an allowance for the living needs of dependents. All the definitions of living wage stress this responsibility.

The Petition:

The Petitioner presents to the Peoples Tribunal on Living Wage as a Fundamental Right of Sri Lankan Garment Workers the following testimonies;

1. 6 case studies from women workers in the garment industry in Sri Lanka
2. 2 case evidence to show the deficit in wages in Sri Lanka garment industry
3. Expert evidence on wages in the garment industry in Sri Lanka
4. Expert evidence on Asia Floor wage
5. Expert evidence on consumer response to the garment industry
6. Expert evidence on deficit in wages in Bangladesh in comparison

A. The Petitioner, through the People's Advocates, argues that there is a deficit in wages paid to the women workers in the garment sector in Sri Lanka, that the wages paid to the workers although, a minimum wage, falls far below a living wage standard that should provide adequate wages for basic food, clothing and accommodation, health, fuel and transport, education and communication and other expenses such as contribution to family, subscriptions such as to Trade unions, care for children and parents, and other social functions.

- B. Petitioner argues that Sri Lanka is party to international standards including Core Conventions of the ILO, and have enacted laws and policies in line with these international standards. However there are problems with the process of implementation and compliance with the international standards and national laws and policies, with lacunas that allow employers to circumvent the law.
- C. The Petitioner argues workers in the garment industry are receiving poverty wages, in that over and above receiving wages far below a living wage, they work excessive hours, underpaid overtime and in poor and stressful working conditions. In addition, there is lack of access to social protection especially in informal employment; a lack of protection for women workers especially in relation to health and safety, sexual harassment, maternity and reproductive health, child care.
- D. The Petitioner confirms that garment workers are mostly women who are migrants, mothers, carers, young women, who have a double burden in society because they are both homemakers and economic providers. This deficit denies their dreams: for education, for professional development, for marriage, to have children, to care for their parents, to provide for their families, to build their own homes.
- E. The Petitioner argues that this wage regime removes the capacity of women garment workers to extricate themselves from the cycle of poverty, elevate their economic and political status, and maintain their dignity and self respect.
- F. The Petitioner will argue that it is the loss of living wage earnings for workers that correspond to a benefit in huge profits for the garment industry of today who have profited hugely from outsourcing production to low wage countries. This we will show in evidence gathered on the global supply chain and on working and living conditions that fall short of the decent labour standards.
- G. The petitioner argues that it is possible to provide a living wage and propose the Asia Floor wage as a living wage option that adequately meets the conditions for decent labour standards. Asia Floor Wage can be a solution to raising the wages of workers from the lowest rung of the industry, increase their bargaining power throughout the supply chain, in attenuating women's unequal bargaining power, gender wage gaps and in improving their well being.

The Peoples Tribunal is asked to examine the evidence and find for the petitioner that:

1. The Decent Work Labour Standards as provided by the conventions are adequate standards to compel a living wage for Sri Lankan garment workers;
2. Find non-compliance by Sri Lanka of international standards because these are not reflected in local legislations nor have mechanisms in place to ensure a living wage;
3. Universal Social Protection is a fundamental human right for working people especially women workers who need to be covered inside and outside the workplace because of their double role in the productive and reproductive areas in society;
4. The political economy of the international garment industry have kept the wages of Sri Lankan garment workers far below that which is required, in violation of international standards for human dignity;
5. The double burden of women, and the wide spread gender discrimination in global garment industry, the gender wage gap, non-consideration of gender roles in determining the state of labour standards traps garment women workers in a downward spiraling cycle of poverty;
6. The existing global garment industry and supply chain regime dictating national policies fail to provide remedies and mechanisms to deliver women workers out of this vicious cycle of working towards poverty;
7. Living wage must enable women's capacity for sustaining family life, enable them to redress violations, raise their voices, and realize their right to organize and collectively bargain;
8. It is incumbent on governments, industries, representatives in trade unions to change the situation towards a global system that empowers women and provides them with sustainable livelihoods;
9. Living Wage as established by the petitioner, is an enforcement of fundamental human rights of Sri Lankan Garment Workers

Prayer:

It is our prayer therefore to the Respectful panel of the Tribunal to find that there are wage deficits in the Sri Lankan Garment industry, that these deficits violate human rights and labour standards, and that living wage is a redress to these violations if enacted and implemented, and adequate mechanisms are in place.

It is our prayer that the Respectful panel of the Tribunal find that government, industry and trade unions have respective duties and responsibilities towards the fulfillment of workers living wage.

END