

*PEOPLE'S TRIBUNAL*  
*LIVING WAGE AS A FUNDAMENTAL RIGHTS OF CAMBODIAN GARMENT WORKERS*

**Petition**

We, Asia Floor Wage Cambodia, as Members of the Asia Floor Wage Alliance and on behalf of Cambodian 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 Cambodia.

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 Cambodia. 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:

The local host is AFWA, Cambodia - The Asia Floor Wage Cambodia, made up of 9 organizations of the major garment workers' federations, workers confederations and civil society, is defending the need for a living wage to be implemented in the garment industry as a fundamental human right of workers. The AFWA Cambodia consists of:

Cambodia Confederation of Trade Unions.  
Cambodian Labour Confederation  
Community Legal Education Center  
Cambodian National Confederation  
Cambodia Women Movement Organization  
National Union Alliance Chamber of Cambodia  
Cambodian Confederation Unions  
Cambodia Worker Center for Development  
American Center for International Labor Solidarity

Our Vision : Workers in Cambodia must have decent work and conditions, and live with dignity and freedom.

The Asia Floor Wage Alliance was officially formed in 2006, and almost 71 organizations from 17 countries across Asia, Europe, and North America are part of this alliance. There are garment industry trade unions, NGOs, consumer groups, research institutes which are part of this broad network. However, our core leadership comes from the trade

union movement in the garment industry. We also mobilize the consumers in the north and lobby the garment retailer and big brands via our international partners in the north.

There are now ongoing campaigns that have been started in the producing Asian countries.

## 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) 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.

## **Cambodian garment industry workers’ situation**

### **Introduction**

The garment industry continues to be a largest contributor of exports to Cambodia's economy. It represents approximately 90% of total export value and employs over 300,000 workers. The garment sector has successfully weathered the financial crisis and has since experienced steady growth in production as well as in the number of factories operating within the nation. However, whilst production has exceeded pre-crisis levels, employment is yet to recover to the same extent and remains around 40,000 below its peak figure. This has placed increased pressure on workers who have become increasingly exposed to a precarious state of affairs high-lighted below.

## **Concerns**

The prevalence of employers utilizing Fixed Duration Contracts (FDCs) has been a disturbing phenomenon since 2005, and now characterizes the relationships of the vast majority of those employed within the sector. Prior to this period most garment sector workers were employed under Unspecified Duration Contracts (UDCs), which conferred greater access to rights (such as maternity and indemnity pay) with the accumulation of seniority and limited the circumstances under which lawful termination could take place. FDCs were originally intended to be used for work that was of a temporary nature, such as seasonal projects or to meet spikes in demand. Garment factories in contrast are long-term ventures, but have deployed FDCs due to their ability to be continuously renewed and hence preventing the accretion of benefits by the employees and any expense that might confer on the employer. Furthermore, as the employer is able to choose whether the contract should be renewed after its expiry, the ease of terminating employment relationships is greatly enhanced under FDCs. In practice this has resulted in coercing individuals into overtime, preventing unionization membership, or seeking enjoyment of benefits.

Another issue of concern currently facing garment factories and their workers has been mass fainting. In 2011 year alone, the Free Trade Union has reported some 2,300 workers fainting in 5 Cambodian factories. Whilst currently no worker has suffered serious injuries because of fainting, it remains a worrying trend, which is detrimental to both the public image and efficiency of Cambodian factories. Investigations and company statements have varied in their conclusions on contributing factors, but many have highlighted physiological causes such as low blood sugar, malnutrition, dehydration, food poisoning and over-exertion. In recognition of this Cambodia's Prime Minister Hun Sen instigated a sector-wide pay rise of \$5 to be initiated from January 2012, in the hope that this would alleviate some of these causes.

Unfortunately, unionization, the typical means for redressing imbalance in workers' rights is also facing an uncertain future. This is a result of the attempts of the Ministry of Labor and Vocational Training to draft a law on Trade Unions, which whilst a legitimate notion in itself, has in fact undermined the right for promotion and participation in unions and associations. Whilst successive drafts of the law have seemingly curtailed several worrisome inclusions, including the ability to bring about criminal charges for union wrongdoing, many Articles

remain problematic. The overwhelming concern is that the draft law's character is procedurally excessive and unclear, creating complex legal requirements for registration and activities. Not only do these accompaniments stand as an obstacle to the ability of workers to effectively exercise their rights, but they also create the means for arbitrary intervention. For example, if requirements are not followed 'correctly' unions' risk postponement or suspension of their certifications, cancellation of status as a legal entity, and even enforced total structural dissolution.

**The Petition:**

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

1. 1 case study from workers and women workers in the garment industry in Cambodia
  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 from a trade unionist taking up a collective case that led to nationwide strikes
  5. Expert testimony on Cambodia's economic conditions and its garment industry
  6. Stakeholder presentation on Government Perspective
  7. Expert testimony on Cambodia Labour law pertaining to Garment Industry
  8. Stakeholder presentation from Manufacturer
  9. Stakeholder presentation from Brand 1 (H&M)
  10. Stakeholder presentation from Brand 2 (GAP)
  11. Stakeholder presentation from Brand 3 (PUMA)
  12. Stakeholder presentation from Brand 4 (ADIDAS)
  13. Expert testimony from Clean Clothes Campaign Sweden – The Fair Trade Center's view on H&M's purchasing practices and the brand's possibility of supporting LW
  14. Expert testimony on Asia Floor Wage and retail price
  15. Expert testimony presentation on the logic and feasibility of Asia Floor Wage
- 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 Cambodia, 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 Cambodia is party to international standards including Core Conventions of the ILO, and has enacted laws and policies in line with these international standards. However there are

problems with implementation of and compliance with the international standards and national laws and policies, with lacunas that allow employers to circumvent the law.

- C. The Petitioner argues that workers in the garment industry receive poverty wages, in that over and above receive wages far below a living wage, work excessive hours, are subjected to underpaid overtime and to 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, and child care.
- D. The Petitioner confirms that garment workers are mostly women who are migrants, mothers, care-givers, young, and 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 minimum living wage option that minimally 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, 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.

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

1. Is there a deficit in Decent Labour Standards in Cambodia's garment industry?
2. Determine the magnitude of workers, specifically women workers, in the Garment Global Supply Chain, working and living 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 of the wage deficit? Who are responsible?
5. Can AFW address this wage deficit?
6. What are the criteria for a wage that is defined as a human right?

Prayer:

It is our prayer therefore to the Respectful Panel of the Tribunal to find that there are wage deficits in the Cambodian 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