

INDONESIAN PEOPLE'S TRIBUNAL

LIVING WAGE AND DECENT WORKING CONDITION FOR GARMENT WORKERS AS FUNDAMENTAL RIGHTS

Jakarta, Indonesia
21-24 June 2014

1. General framework

1.1. The background

The Hearing of the *Indonesian People's Tribunal on Living wage and decent working condition for garment workers as fundamental rights* is the fourth and the last of the four national cases which have been included in a long-term project, launched in New Delhi in 2009, to document, assess, and produce independent judgment on the impact of the working contracts and conditions existing in the garments sector on the human rights of the millions of employed workers and of their families.

The entire project was developed under the overall coordination of the Asian Floor Wage Alliance. The countries so far investigated and for which a judgment has been produced are Sri Lanka (27-28 March 2011), Cambodia (5-8 February 2012), India (22-25 November 2012).

From the beginning, the process of investigation, assessment of cases, and the assignment of responsibilities has been implemented in close collaboration with the Permanent Peoples' Tribunal (PPT), based in Rome, Italy. (See Annexe 2 for the PPT Verdicts which are the source of doctrine for this People's Tribunal.) The PPT has, since the late 1980s, specifically included in its interests and activity, the investigation of what could be considered the most dramatic issue confronting the peoples' of the world: respect for fundamental rights in the face of the growing abdication and powerlessness of the international and constitutional jurisdictions with respect to economic (public and private) actors. Their crimes remain almost totally unaccountable, even more so in countries and cases where the asymmetry of power is the rule. With regret we might say that the issue remains effectively a juridical orphan.

In this perspective, the key role of wages – as the concrete expression and tool to assure the fundamental right of each individual and of his/her family to a decent life (Universal Declaration of Human Rights, Art. 23) - was identified and adopted as the most sensitive and comprehensive focus and object of investigation. Regard was paid to the specific characteristics of the structure and organization of the garment industry supply chain, where the various players – national suppliers, dominant international buyers, national governments and institutions, as well as international agencies – share, and at the same time deny, their specific responsibility.

The recognition of a fair living wage associated with decent working conditions could and should coincide with the recognition of workers as individual and collective subjects of human rights. Perpetrators of violations of these rights, in the many and various forms

which they take, must be held accountable before existing and/or newly formulated and enforceable jurisdictions. Impunity must be brought to an end.

The work of the People's Tribunal points in this direction. Though obviously non-binding in terms of formal legal implementation, its decisions do recognize the rights of those who otherwise would be condemned to a passive role of victims. In this process, the PPT rehabilitates their dignity through the recognition of the truth of their suffering.

1.2 The petition

The request to hold a specific Session of the Peoples' Tribunal for, and in, Indonesia was enthusiastically accepted by the PPT. The Session itself was the product of intensive preparatory work, which has included all the promoters of the hearing.

The full text of the Petition, which was presented by the People's Advocates, at the opening act of the proceedings, is available in Annexe 1, together with the list of the signing associations and organizations.

In its deliberations the People's Tribunal was specifically requested to consider, assess and determine the responsibilities of each of the main actors in the Indonesian sector of the global supply chain – brands, retailers, suppliers, governments and their institutions – as well as of their combined actions and omissions, with respect to:

- the systematic subversion of the rise in minimum wage, granted as the result of massive protests by garment workers;
- the active destruction of garment unions that fight for workers welfare through extreme increase in short term contracts, and intimidation;
- failure to exercise due diligence to ensure respect and implementation of core labour standards, specifically Freedom of Association (FoA) and Right to Collective Bargaining (RCB);
- increasing and systematic weakening of the legal system for industrial dispute resolution and failure of the government to contain, investigate and prosecute unfair labour practices, including criminal actions of the management;
- worsening deprivation of wages by the garment companies through unpaid overtime and failure to comply with or pursue a truly living wage standard to cover the real needs of a family, thereby preventing workers and their families from escaping the cycle of poverty, thus to improve their economic and political status, and to keep their dignity and self-esteem;
- specific and systematic violations of the rights of the women, who are the greatest majority of the garment workers, have a double burden as homemakers and economic providers, and are exposed to sexual harassment and illegal measures against their reproductive and maternal rights;

- the absolute and unjustified disproportion between the degree of massive violations of human rights of the workers in Indonesia (which has subscribed to all international Conventions on labour rights), and the denial of clearly defined and binding living wages, which can be shown to be fully compatible with a country's industrial development.

1.3 The Jury and the procedures

According to the criteria adopted for all national cases included in the project, the judges included representatives of the PPT and representatives of the Indonesian society:

Professor Gill H. Boehringer (Australia), Chair of the Session

Gianni Tognoni (Italy)

Harris Hazhar (Indonesia)

Lita Anggraini (Indonesia)

Nori Andriyani (Indonesia)

Their profiles can be found in Annexe 3.

The public hearing took place in the Conference room of the Bunga Bunga hotel in Jakarta, according to the programme reported in the Annexe 4, where also the profiles of the experts and people's advocates can be found.

The Petition submitted to the People's Tribunal was forwarded in due time by the promoting organization to all concerned public and private parties, including the brands Nike, Adidas, H&M, GAP Inc. and Walmart, with an invitation to present and discuss their reasoning and evidence.

No Indonesian Government representatives nor Indonesian Manufacturers were present. Neither sent a reply to the invitation. H&M and Adidas participated in the hearings. In their replies, Nike and GAP Inc. declared it was not possible for them to participate.

1.4 The juridical framework

The legal framework for this Session of the PPT references a number of standard provisions in UN and ILO Declarations and Conventions. Also referenced are national legislation, regulations and the Constitution of Indonesia which are formally intended to ensure the fulfilment and protection of human rights and workers' rights. In addition, Indonesia recognizes International Human Rights Covenants/Conventions of United Nations with its 8 core documents. Almost all of the provisions of these documents have been ratified by the Indonesian Government in the last 2 decades, such as International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), International Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT), International Convention on Elimination of Discrimination Against Women (CEDAW) and others.

The International Labor Organization (ILO) also provides endorsement for principles, norms, and provision of protection and fulfilment of workers' fundamental rights. Indonesia has signed ILO 8 core documents. It means that Indonesia is obliged to protect workers

from any actions or omissions which could worsen workers' health, safety or economic position and is obliged to fulfil workers' rights to have a life with human dignity. Amongst those provisions are the Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively (1951) and the Equal Remuneration Convention (1951).

The International provisions mentioned above not only have been ratified by Indonesian Government but they have become national laws or are in accordance with national legal provisions of Indonesia. The Indonesian Constitution asserts acknowledgement and the guarantee of human rights fulfilment. The derivatives of the international provisions mentioned above are found in several general Indonesian laws, such as the Law of Human Rights and other specific laws on Labour. Therefore, as an inseparable part of those provisions, the government of Indonesia is obliged to ensure and provide legal protection of fundamental rights of everyone, and to recognize the specific case of women workers, who are very vulnerable and more frequently become the victims of human rights violations. The basic protections and fulfilment are in the form of the right to live, the right to feel safe, the right to organize, right to living wage, right to protection for women, etc.

The legal provisions and standards indicated above provide the legal framework for the panel of judges to apply when considering the evidence presented in the Session of the Permanent Peoples' Tribunal sitting in Jakarta.

2. The evidence of data and facts

2.1. The Indonesia Garment Industry Situation

The General Situation

Indonesia is the fourth largest country in the world in terms of population, now about 240 million. Out of 113 million workers, employment in various sectors of the economy is: agriculture (35.2%); services (22.2%); trade (21.3%); manufacturing (13.8) and Other (7.3%). Currently, of manufacturing employment, the garment, footwear and textile/textile products industries employ about 3.1 million workers. In economic terms that sector is one of the backbone sectors of the Indonesian economy, being the third largest non-oil or gas export revenue generator after palm oil and rubber. In 2012, the value of the sector exports reached nearly US\$15 billion, being 12.66% of non-oil or gas exports, and 7.74% of all Indonesian export revenue.

The Indonesian garment and textile industries largely produce for the global market. In sports shoes, it ranks with Viet Nam and China as the largest producers, as Indonesia produces about 12% of the total world supply. The industry has been an important contributor for the growth of Indonesian employment, growing by about 8% annually for a number of years. The growth is expected to continue. With expansion of the industry to small towns in Indonesia's regions, employment of labor is expanding in parallel.

The garment industry in Indonesia is not an independent nor direct actor in the global market supply chain. It is part of the three-level structure of global production and is in the lowest level of the global value chain as it manufactures and finishes orders from foreign

countries, mainly for USA and European brands, largely using imported materials sourced through the brands from third countries such as Korea and China.

The position of the Indonesian TPT is such because national and local government policies are inviting and open to foreign investment and the expected creation of employment, prioritizing labor-intensive industry with a mass of workers. The industry suppliers for the brands argue that the position of the industry at the lowest level of the highly competitive supply chain forces them to pay low wages. They argue that increases of wages would require an increase of price to the brands which could result in the brands re-locating their source of supply to other locations, including foreign countries. The cost of wages, according to the companies, is 20-25% of the total cost of production.

The company's ability to pay the wages of garment workers is affected by a number of factors and interests:

- national wage policy; position of the company in the subcontracting chain;
- relationships with agents and buyers/brands; commitment by the buyer/brands to continue their sourcing with the supplier; global consumer pressure;
- worker militancy and trade union strength.

As an industry that is integrated into the global supply chain and markets, TPT Industry is susceptible to international market fluctuation. Nevertheless, during the GFC crisis period of recent years, the TPT exports for the last five years grew approximately 6.2%. However, while the industry and its exports grew, working conditions and company requirements, e.g. higher target production, became worse. The higher level of competition between brands, investors and sub contractors in Indonesia caused a poor system of dealing with workplace relations to emerge as discussed below, e.g. re union busting, suspension of minimum wages, outsourcing and temporary contracts.

In recent years it appears that increasing worker militancy largely led by the trade unions, particularly in the special production zones around Jakarta where most garment production is located, has brought about increases in the Jakarta region minimum wage. This has been largely a political response to pressure on governments. This surge in the level of the minimum wage (as much as 40% in Jakarta) appears, from the evidence presented, to have brought forth a range of anti-labor policies and practices from the employers, and a high degree of government indifference, providing substantial impunity for law violations, one of which is non-payment of overtime, another is payment below the legal minimum wage.

Labor issues in the garment industry

There are a number of wage issues that impact TPT workers. Some of the most important are indicated in the discussion below.

Wages in general

Since the trade unions have been historically weak, workers have largely had to rely on government legislation and the Wages Councils (see below) to set a minimum wage that must be paid by law. Government legislation is, of course, only as good as its enforcement, and much legislation in Indonesia while being formally impressive as a result of industrial relations reforms (urged by the IMF) in the period 2000-2003, remains largely

symbolic with little attempt to enforce it. In regard to the Wages Councils, they determine the minimum wage on a regional basis and regional politics therefore plays an important part in this process of wage setting.

In recent years the inadequacy of wages has been severely felt by workers and their families, and this has led to widespread demonstrations for a significant rise in the minimum wage, particularly in and around Jakarta where most of the industry is located. Even when nominally there are wage increases, real wages have not kept up. Several studies from the Central Bureau of Statistics indicate that during the period 2002-2012 industrial workers' minimum wage increased by 200% and nominal wages by 110.5%, yet real wages increased by only 7.3%. Interestingly, in the period just after the industrial relations reforms, 2004-2007, there was no significant increase.

The table below shows the percentage increase and the disparity between the regions of the country during the period

Table 1: All sectors average Minimum Wages (2010-2013), selected provinces

Provinces	2011 (Rp)	2012 (Rp)	% increases from previous year	2013 (Rp)	% from previous year	US\$ (*)
Banten	1,000,000	1,042,000	4.20%	1,170,000	12.28%	106.36
Jakarta	1,290,000	1,529,150	18.54%	2,200,000	43.87%	200.00
West Java	732,000	780,000	6.56%	850,000	8.97%	77.27
Central Java	675,000	765,000	13.33%	830,000	8.50%	75.45
East Java	705,000	745,000	5.67%	866,250	16.28%	78.75
National Avg	988,829.39	1,088,902.64	10.12%	1,296,908.48	19.10%	117.90

Note: Exchange rate: 1 US\$ equal to Rp.11.000

The relation between the minimum wage established by law and the concept of a living wage is a major issue for workers and their families. Thus for 2012 (latest figures available) the minimum wage in the Jakarta region fell short of a living wage, being, at Rp 2.2 million, only 73% of the amount needed for a living wage. In West Java where conditions are less favorable for the workers, the minimum wage at Rp 850,000 is only 28% of a living wage.

A factor of great significance which illustrates the kind of factory management the Indonesian workers face is the non-payment of the minimum wage, i.e. again according to official data, in the period 2006-2012, the percentage of workers who were paid below the minimum wage was, on average 37%, with the range being from 24-44%. This non-payment is a criminal offense, but the employers seem to have been given immunity by the government as violators were not prosecuted.

While in Indonesian juridical and legislative culture there is a unique understanding that the minimum wage should be a "living wage" (this is unusually progressive by comparison

with all other countries with significant garment production), nevertheless there are contradictions amongst the Indonesian elite. First, the National Planning Body and the Employers' Association have historically opposed the idea, claiming it was an obstacle to Foreign Direct Investment and, therefore it was said, to the economy. Second, while the concept of a living wage, as developed for instance by the All-Asian Floor Wage Alliance, refers to the wage of one worker with a putative family (wife and child), the Indonesian definition of living wage assumes there are two wage earners in that family.

Inadequacy of wages

The inadequacy of wages is demonstrated in the following information obtained in a survey conducted in 2012 by the trade unions SPSI and PPMI in a traditional market, Cikarang, at Bekasi. The cost of living in this area is said to be comparable to that of other areas in and around Jakarta (where most garment workers live and are employed). The results of the survey were used in tripartite negotiations for determining wages in 2012. The Table below assumes a wage of Rp. 3 million per month (which of course is above what most garment workers are paid, and even more than the legally prescribed minimum wage which, again, is itself higher than the pay received by a substantial number of the workers).

The price survey considered seven basic needs and the cost per month of fulfilling those needs. (The breakdown of the cost of 84 item daily needs, the specific costs of breakfast, lunch and dinners was surveyed but, although available to the Tribunal, in the interest of brevity we do not include these costs.)

Table 2: Calculating cost of basic needs in Bekasi, 2012

	Category	Value (Rp.)	Percentage
1	Food	877,635.43	29%
2	Cloth	381,522.17	13%
3	Housing	839,657.43	28%
4	Education	171,944.44	6%
5	Health	249,399.67	8%
6	Transportation and social needs	386,500.00	13%
7	Recreation and Saving	93,208.11	3%
	Amount	2,999,867.25	100%

The evidence indicates that for workers in the garment industry, there is a “wage deficit”. Efforts to secure increases in those wages are normally opposed, with accompanying threats to close the factory and relocate production, to another region or country or even termination of employment, particularly for those who are trade union activists or leaders.

By way of illustrating the “wage deficit” based on cost of living (above Table) and the nominal wage of Indonesian workers, we refer to data from the Central Bureau of Statistics for December, 2012. According to the Bureau, the average nominal wage of workers (below supervisor level) was as follows:

Textile workers: Rp 1,271,400.

Garment workers: Rp 1,631,000.

Textile products workers Rp 1,667,700.

All industrial workers Rp 1,615,800.

Trade union estimates indicate at least 70% of garment workers are women. Not less than 30% are the backbone of a family. They must provide for all family needs ranging from food, water, housing, health, and education for their children. Thus women workers are thought to be an advantage for the supplier company (and brands) as they are in a position of weakness due to their responsibilities (also low skills and education levels) and can be more easily exploited, including long working hours, sometimes until late at night, wages less than the minimum and even overtime work without pay. In the global supply chain, inadequate wages is a main reason for the emergence of the substantial Indonesian garment industry.

Minimum wage determination mechanism

As regulated by Labor Act, No. 13, 2003, minimum wage is defined every year by a tripartite institution called a Wages Council. They operate at different levels: city or region and province. They include representatives from labor, company and government, and some experts, mostly from a local university. After the implementation of the Regional Autonomy Act, No. 22, 2009 Indonesia became more decentralized. As a result, determination of wages is not the task of the Labor office which is now only responsible for establishing the criteria for determining wages and monitoring the implementation.

Calculation of minimum wage is formally based on the need for decent living. To determine what is needed for decent living, the Wages Councils do a survey in traditional markets in each region, city and province. According to the newest regulation, minimum wages are determined through the following steps:

- Wage Councils propose a scale of minimum wages for various work categories to the political authority in the jurisdiction e.g. mayor or senior provincial official;
- approval from the official responsible may be given with amendments;
- Wages Council analyze minimum wages proposed by these officials, and make a recommendation to the regional Governor;
- Governor sets the minimum wages for city, region and province;
- Implementation of the minimum wage;
- Monitoring implementation by regional labor inspectors.

Calculating the Minimum Wages

The newest regulation on minimum wage is Ministerial Decision No.13, 2012 (replacing Ministerial Decision No.17, 2005), adding components to the calculation of the wages (46 items became 60). While the regulation made some administrative changes, the bases remain the same. Regulations about minimum wage have a market orientation. Article 6 from the most recent Labor Ministry decision says that “determination of minimum wage must consider the labor market conditions, economic development, macro productivity, situation in the most marginal sector and results of a market survey”. This article seems to be intended to reinforce a similar article from previous regulations.

The market orientation of wages policy in the different regions across the country has stimulated governments, through Wages Councils, to compete to set the regional wages as low as they can, in the interest of maintaining and increasing the garment industry in their jurisdictions.

Suspension of increased minimum wage

The context for the following discussion is that during 2012 and 2013, there have been significant minimum wage increases in regions, cities and provinces. East Kalimantan, a province that has a large oil industry, enjoyed an increase in minimum wage from Rp.1.100.000 to Rp.1.700.000. In Jakarta, after a week of pressure from workers, Governor Joko Widodo and presidential aspirant, decided to increase the minimum wage as much as 43.9% (from Rp.1.500.000 to Rp.2.200.000), a decision that triggered substantial criticism from the Employers' Association. In less economically developed provinces, such as Papua and North Sumatra, increased wages were lower when compared with other provinces (7.9% and 8.8% respectively).

Under Indonesian law, Manpower Ministerial Decree No.: 231/2003, it is prohibited to pay less than the legally mandated minimum wages. However, the very same Decree permits companies to make application to the local, provincial or regional authorities to have a minimum wage increase suspended on grounds that their economic situation does not allow them to pay the increase ("in the event the company is unable to pay the minimum wage"). Applications should be submitted to the appropriate Governor, 10 days before the determination of the new minimum wage. Such a 'wage deferral' must be accompanied by the following: a written agreement of any trade unions in the company; financial statements(balance sheet, profit and loss, and wage data) for the last two years; plus some administrative documents.

In 2013, 949 companies submitted applications for such suspension to government, and 669 company were successful. There is regional variation in the number of suspensions submitted and granted:

Province	Submitted	Approved	%
Greater Jakarta	345	58	16.81
West Java	298	257	86.24
Banten	177	144	81.36
All Provinces	949	498	52.48

Labor resistance to such suspensions of wage increases have been answered by companies with a number of tactics, including threats to reduce their labor force through layoffs, and by the threat to relocate the factory to another area or even to another country.

Union busting

Despite Trade Union legislation (Act No.21, 2000) which asserts positive rights protection for Indonesian workers (see esp. Art. 28) by prohibiting a wide-range of anti-union

activities, such activities are common and seldom investigated by police who often either refuse to accept the complaints from workers/trade unions, or simply delay any proceedings for an unreasonable period. In addition, companies are expert in falsely claiming legitimate reasons for anti-union activity such as layoffs of labor activists and union officials for reasons other than union busting e.g. on efficiency grounds, or because of illegal strikes. Thus union busting is a major problem in the Indonesian garment industry.

There are many techniques used by the companies to prohibit effective union representation for the workers e.g using a favored “company union” and barring any other union; threats and intimidation; layoffs of union leaders and activists; offering cash bribes or promise of promotion to union leaders and/or activists.

In the search for profits through paying low wages in particular, such aggressive actions by companies to maintain “managerial prerogatives”, cheap labor and a docile workforce has very serious negative effects on workers conditions of labor and, further, the entire economy. Without the advantage of union organization and collective bargaining, the workforce in garment factories has been super-exploited e.g. overtime work without pay, less than the minimum wage as the real wage. The result of that is millions of workers on the edge of starvation, in debt, poorly nourished, unable to afford medical care, without skills development, low education for their children and little discretionary income to consume or to save. In addition to low wages, as also discussed below, workers without union power have had to see their permanent contracts transformed into temporary contracts which leaves them in an even worse position of precarity, liable to intermittent employment, even lower wages and without social security. Industrial relations based on temporary contracts worsens the life of labor. Labor is forced to obey orders without being able to question and management has the capacity easily to terminate contract prematurely if a worker labor becomes a member of a trade union or is involved in trade union activity.

Outsourcing

The practice of outsourcing is a main issue for Indonesian labor. Most TPT factories now use this method of production as well as the short-term contracts discussed below. These methods were used to a small extent long before the enactment of Labor Law No. 13, 2003 which was intended, *inter alia* to regulate these practices. It appears that such regulations, protective of workers, are frequently violated.

In addition to not providing job security, the outsourcing system has strong potential, realized widely in practice, to cause violations of the basic rights of workers. Many cases show they received wage under the minimum wage, do not get social security, are not paid overtime wages.

There appears to be a growing trend for companies in the garment sector to outsource production. As well as a way to deprive workers of adequate wages, this system also avoids many responsibilities of the companies, is effectively immune from monitoring by the government and deprives workers of many rights. It also is an important technique for union busting, as it is a major obstacle to freedom of association.

Short term contracts

As in other countries in the global garment supply chain, Indonesian workers are being increasingly disadvantaged by the use of short term contracts rather than being employed on permanent contracts. The workers are coerced into accepting such contracts as they offer high risks of loss of benefits, violation of rights and other abuses, even lower wages than the low wages paid to permanent workers, unemployment and sporadic employment, and are often used as a way of subverting authentic unions and punishing their activists and leaders.

The lack of government protection of workers, despite legislation which is intended to protect them, is clearly illustrated by the ease and frequency of the employers' use of methods which violate those laws in order to terminate permanent contracts and to intimidate and coerce workers to accept the short term contracts. Employers guilty of such law violations appear to have impunity from government prosecution, even when they refuse to pay benefits earned and compensation owed under the acts. For example, while the Manpower Act, Art. 151 stipulates that terminations are supposed to be avoided, and the employer, worker, trade union and government must "make all efforts" possible to avoid terminations (chap.1) and that where termination is unavoidable, the process must be negotiated with worker or trade union (chap. 2), in reality employers are not held to either legal prescription.

Other examples of deceitful termination by employers and government acquiescence in these crimes, are : 1) the false claim of the need to rationalize the work production process on grounds of efficiency under Art.164, chap. 3 of the Manpower Act, whereby permanent workers are terminated-only to be re-hired on short term contracts; 2) the false claim of pending bankruptcy (under the Act Concerning Bankruptcy, in which Art. 165, chap. 1) which companies use to threaten workers they will be terminated (allowed by Art. 156 under conditions of payment/compensation) if they do not agree to switch to short term contracts. A similar ploy is used with threats to re-locate, leaving workers behind, unless they agree to the switch. Again, in many cases employers are not forced to pay the relevant benefits and compensation, and if taken to court the process is very long and can be expensive even if the workers are successful.

Discrimination against women

Most of the workers in the garment and textile industry are women. This reflects the tendency of company management to choose females, based on the assumption that women may be willing to accept a job that pays low wages and will be reluctant to oppose management policies and practices through fear of losing the job. The latter could be true as about 1/3 of the women are the main (or only) source of family income. Promotion, for example to become a supervisor, is usually given to male workers and not female. This appears to be influenced by the belief that many women will choose to stop working after they marry. Differences in career opportunity are, of course, ultimately reflected in wage rates and income potential.

In workplaces where there is a large number of women while supervisors and security personnel are mainly men, various reports from many countries indicate that complaints often occur arising out of work place sexual harassment conducted by superiors and security officers. In some Indonesian garment factories such is the case also. Acts of sexual harassment (touch, kiss) often happen in the factories such as those in the bonded

area Cakung to women workers. There seems to be a significant degree of impunity for the perpetrators which would only encourage such activity. Other reports concerned other forms of misuse of a senior position e.g. to threaten or intimidate subordinates, even to the extent of coercing the victim into becoming a second or third wife. It was indicated that that wife would be later abandoned.

2.2. The testimonies

A. Workers' Testimonies

There were five worker testimonies presented at the People's Tribunal. The first case was by a worker from Rismar Daewoo Apparel in Nusantara Bonded Zone, in Cakung, North Jakarta with 700 workers. The factory produces apparel for various international brands, including Aoki, C&A, Calvin Klein, Chaterine, Dressbarn, Ellena, Ellen Tracy, E Land, H&M, JC Penney, Juvens, Jones, Milano, Michael Kors, Protrend, Torrid The second case was by a worker from Olympic Garment International in Nusantara Bonded Zone, in Cakung, North Jakarta with 800 workers. This factory also produces international branded clothing including B Three, JC Penney, J.Crew, and GAP. The third case was by a worker from Crystal Garment with 664 workers, producing garments for international brands including Kohls, Old Navy and products for Walmart. The fourth case was by a worker from Industrial Dwimitra Asia in Tangerang that produces shoes for NIKE with 4800 workers. The fifth case was by a worker from Panarub Dwi Karya that produces branded shoes, including Adidas, Mizuno and Specs with 2560 workers.

Workers in all of these factories are mainly women. The cases presented by the workers involved incidents and disputes which happened in 2012 and 2013.

The worker testimonies reported various types of violations. These cases do not stand alone. They are systematic. Meaning that there is a pattern of similar violations. In almost every case there is union busting or suppression of rights of Freedom of Association (FoA). This suppression is viewed to be systemic as it involves important persons in the major institutions concerned: the company, the labor office, the police and the courts.

In the case at Panarub Dwi Karya there was a conflict of interest whereby an Ad Hoc Judge of the Supreme Court was also the former Human Resources Manager at the company, and was still involved as advisor to the management up to the time of the tribunal. There was also an effort to bribe the Panarub worker who was leading the union with improved job offer. The matter was reported by the workers to the police and the Judicial Commission, to no avail. There was also an effort to bribe the Panarub worker who was leading the union with an improved job offer. It was also reported that Panarub management banned one union and forced workers to join the the company's preferred union. Thugs were used by the company to revoke the not-preferred union membership card from the workers..

Still in Panarub, when the workers staged a strike on 12-23, July 2012 they were harassed and physically attacked by factory security officers, the police and groups of thugs. The police were reported to have sprayed tear gas on the strikers, some of whom were pregnant women workers. Some workers were also reported herded to the yard and forced to stand under the sun for a considerable time. Later 1,300 workers were laid off by the company due to the strike. The workers in Panarub were further harassed by the company

when it sent security officers, including army members, to their homes, to put pressure on the workers through intimidation of family members. Layoffs and intimidation were also suffered by relatives of the protesting workers who also work in Panarub. Furthermore, the company distributed a list of workers who were laid off to other shoe factories in Tangerang so that they would not be able to get a job in other local factories.

The Panarub workers have reported these matters to the Labor Office but have received no response. They have also conducted hearings with members of the House of Representatives, again with no follow up. These measures taken by the company and the failure by government offices and political representatives to take appropriate action indicate the systemic nature of the suppression of workers' rights.

A major trend threatening workers' rights, as reported by workers and experts testifying at the PPT, is the change in the workers' status from permanent to contract, or temporary, worker. This is a trend world-wide, not least in the garment industry. Indonesian workers are being forced onto these temporary contracts. There is no sign that the government opposes this trend. Workers' legal benefits which accompany permanent status are lost, and the precarious situation they find themselves in makes them more vulnerable to company pressure and rights violations, and, in many cases, less resistant to the suppression of their rights and their union. In attempting to prevent this forced change in their status, workers at Industrial Dwimitra Asia protested, demonstrated and went on strike (other matters were also involved, see next para). In retaliation, the company imposed forced layoffs on many workers.

Wages are a major focus of contestation between the workers and the employers. A number of issues arise concerning the attempts by the latter to keep wage costs down regardless of the effect on the workers and their families. First, the wages paid to workers in this sector are not adequate by a considerable degree. One worker reported that the wage could not cover the cost for clothes and child needs. This means that minimum wage set by the government-which is often not paid anyway- is too low. Another worker reported that he and his wife both work and therefore they had to hire a nanny to take care of their child. This cost of caring for the child is not yet covered in the items to set the minimum wage. To cover the insufficient wage, workers have resorted to borrowing money with high interest rates.

Another, serious form of wage violation is non-payment of overtime work; and, at Panarub, the workers must attend meetings without pay before and after work. Each such meeting can last 20 minutes.

A rather unusual and very serious form of abuse of workers' rights is the Indonesian system of "minimum wage suspension". The implementation of the current applicable minimum wage may be suspended by Regional Governors on the application of a company. The workers and experts testified that such suspension is easily obtained (about 2/3 of all requests for suspension are granted.) In the case mentioned above, relating to Industrial Dwimitra Asia, the minimum wage suspension from Rp.2.310.000 to Rp.2.000.000 was approved by the Banten Governor and the Banten Labor Office.

Through the testimonies, there was also evidence of factories being relocated to other parts in Indonesia where labor is cheaper and less militant than, for instance, in the Jakarta area.. The Crystal Garment factory was reported to have moved to Central Java, while Panarub Dwi Karya shifted its production to a sister company that also located in

Tangerang. Thus it is clear that workers' precarious position is threatened even more because of the pressure on them- workers must accept lower wages, even a minimum wage suspension, or the factory will relocate and they will be unemployed.

Other violations mentioned in the worker testimonies dealt with micro control over the workers by management: pressure to maintain production levels and staffing continuity without regard to the impact on workers' health and safety or even that of their family. Thus it was reported that in Rismar, there was constraint by supervisors on workers going to the toilet if the production target was not yet achieved. This production target was increased in time, which causes more pressure on the workers. Still in Rismar, it was also reported that when a worker gets sick, the supervisor made it hard for the worker to get permission to go home. In Panarub, a woman worker who did not get permission from the management to leave while her son was very sick, could not be with him when the child died.

There are also many specific violations of women workers' rights reported in the testimonies. They include: women workers are not allowed to get pregnant in the first year of employment; they are refused or deterred from taking menstruation leave which is a legal right in Indonesian law (the deterrence often involves having to report to a medical officer and take down panties to show evidence of blood from menstruation); sexual harassment of women by supervisors and managers, was also reported as common incidents. There are also negative impacts particularly affecting women workers as a result of rights violations, for example, forced lay off. These include being divorced by husbands and cancelled wedding.

Testimony from workers at the factories listed during an on-site visit by the PPT judges indicated that labor inspectors were seldom to be seen inside the factories making their inspections.

B. Information from the Defenders

During the tribunal, there was also current information on the situation of Indonesian workers presented by the human rights defenders from the Jakarta Legal Aid Institute for Research and Development.

1. Ineffectiveness of the Industrial Relations Court

The Industrial Relations Court has shown that it is not a solution for the workers to get justice: 1) the legal process in this court takes a very long time; 2) the workers often have difficulty in providing proof because much of the evidence to prove their case is in written documents/records held by the factory management and therefore difficult to obtain; 3) in general, verdicts have difficulty in being implemented for a number of reasons, including appeals and other legal maneuvers employed by the companies; 4) often, workers win only on paper as the verdict is not executed and the company has closed or has declared bankruptcy. In one such case, the victorious workers were even asked to find any assets that can still be confiscated by the court for a verdict to be executed. In this legal process, therefore, there is pressure on the workers to be proactive. Of course they do not always have the resources to do this. Thus workers do not get the justice they deserve as the government agencies often appear to take a "hands off" position when it comes to ensuring workers rights are protected.

2. Weakness in Labour Supervision

Continued violations of labor rights occur because of a lack of oversight and sanctions from the government through the Ministry of Manpower or through the local Department of Labor. This is due to the insufficient number and low quality of labor supervisors. According to Ministry of Manpower, there are currently 2,384 labor inspectors to handle about 216,547 companies and only 563 labor investigators throughout Indonesia. Another factor for continued violations is a function of the political structure: implementation of the country's scheme of regional autonomy gives enormous power to the regional governments, so that the course of supervision depends on the willingness of the region's head, who often is not independent of commercial interests.

A common phenomenon in labor cases is that Labor Department officials frequently direct that the employer's actions/omissions which are criminal offenses under the law, shall be treated instead as a civil dispute to be resolved through the Industrial Relations Court. This means that workers have to defend their rights in the civil realm without the government support which should be provided in a criminal action. (This unusual practice is apparently the result of the issuance of three laws, i.e. Law no.21 of 2000 on Workers' Unions; Law no.13 of 2003 on Labor; and Law no.2 of 2004 on Industrial Relations Dispute Settlement.)

3. Workers Criminalization and Non Implementation of Labor Crime (*Pidana Perburuhan*)

There are around 30 Articles in Law no.13 of 2003 on Labor Crime and their sanctions. Further, there are also labor crime articles stipulated in Law no. 3/1992 on Social Security, Law no. 21/2000 on Workers Union, Law no. 2/2004 on Industrial Dispute Settlement (PPI), Law no.1/1970 on Work Safety, and Law no.7/1981 on Obligatory Labor Reporting in a Company. However, these articles are very rarely applied. When cases are reported by workers to the Police, who have the obligation to investigate, they are often rejected or the police are not willing to proceed. The Jakarta Legal Aid Institute (LBH Jakarta) stated that almost all labor crime reports are not processed by the police. The LBH Jakarta handled 18 labor criminal cases in 2012, but only one resulted in being treated as a trial crime (*pidana percobaan*). The case of Panarub vs its workers is an example of weak implementation of the labor crime law. Actually the union busting by Panarub management violated article 28 jo 43 paragraph (1) of Law no. 21/2000 on Workers Union, punishable by 1-5 years imprisonment, however the case was not proceeded with by the police.

The problem lies in the police inability or, more likely, unwillingness, to investigate labor crime and the apparent accepted policy that labor cases should generally be resolved in the Industrial Relations Court. Various trade unions have tried to push for the creation of a special desk for labor crime within the police so that the police can be focused in dealing with labor criminal cases. Often labor criminal cases are processed in irrelevant police units that have no competence in labor matters, e.g in the natural resources and environment unit.

On the contrary, workers are being criminalized by employers. Whether or not ultimately successful in pinning the criminal label on worker activity, it is a useful tactic for employers as it has negative effects on workers and their trade unions. The following are examples of such attempted criminalization:

Table 3: Cases of criminalization of workers

No	Case	Case Position	Result/Progress
1	Cemi and other workers. A worker at PT. Asietex Karawang (2012)	CEMI and fellow workers set up a labor union, demanding their rights. CEMI produced pamphlets. Cemi was reported to the police for defamation and unpleasant acts.	Acquittal. The decision is not yet issued by the Supreme Court.
2	Sultoni (Federasi Progresip)	In September 2012, the Progresip Union at PT. Dong An staged a strike demanding abolition of outsourcing and fulfillment of workers normative rights. The employer reported Sultoni for unpleasant acts.	There is no clarity of the case. His status is still a suspect.
3	Sartono (worker at PT. Panarub Industri, Tangerang)	Sartono questioned his boss who was offensive to his colleagues. Sartono was reported to the police for unpleasant acts (Article 335 of the Criminal Code) and for defamation. He was detained for 7 days.	PT.Panarub revoked the case at the first trial.
4	Omih (worker at PT. Panarub Dwikarya)	Omih was frustrated because of continued labor rights violations, suppression of unions, and mass layoffs. Omih sent an SMS about a bomb threat. Omih was charged under Article 336 of the Criminal Code for threatening public safety and disseminating threatening information which is a violation of Article 45, paragraph 1 juncto 27, paragraph 4 of Law No. 11 of 2008 on Information and Electronic Transactions.	The case was discontinued after significant workers' pressure and a letter from the House of Representatives.
5	Sahrudin (Labour at PT. Afix Kogyo)	Sahrudin formed a union and became the chairman. He fought for workers, including the issue of cooperatives. When he was seeking advice on the cooperative matter to Ibu Yani, Chairman of the Cooperative, Ibu Yani suddenly fainted and Sahrudin was accused of maltreatment.	Found guilty with probation. Currently under cassation to the Supreme Court

4. Corruption in the Labour Sector

Indonesia is currently ranked 114 out of 177 countries in the Corruption Perception Index of 2013. Two of the institutions most perceived corrupt are the justice institutions and the police. The presence of an Adhoc Chief Justice who aided the company in intimidating workers in the case of PT. Panarub indicates that corruption is indeed present in the labor sector. Another example is the arrest of a judge of the Industrial Relations Court in Bandung who received kickbacks from PT. Onamba. He had decided for the company in a labor case that resulted in the dismissal of 176 workers. The PPT was informed that It is common knowledge amongst ordinary people/workers that government officials including at the Industrial Relations Court are corrupt. Of course, not many offenses can be proven. According to evidence from the Peoples' Advocates there has been a decrease of nearly 1/3 in the use of the IRC by workers in the last three years. It suggests that they have lost a degree of confidence in the integrity and independence of the IRC.

2.3 Trade Unions

There is a widespread international movement of trade unions, NGOs etc for workers to receive a living wage. In the last three years, Indonesian workers' resistance has grown to the cheap labour policy in the new export industrial areas in particular in the three industrial cities of Bekasi, Tangerang, and Serang. The year 2012 witnessed major and successful wage campaign led by expanding broad coalitions of the trade unions from Majelis Pekerja/ Buruh Indonesia (MPBI) to National Consolidation of Labour Movement (KNGM). As a result the government was compelled to reverse the decision of the Higher Administrative Court (on the plea of the Indonesian Business Association (APINDO)) and increase the minimum wage in some provinces up to 40% as well as to expand the basket of items to better define the living wage needs of a worker and his/her family..

In the garment sector, the unions that are part of this broad struggle of the living wage movement- GSBI, SPN, FSBI, SBSI '92- have made specific demands on the brands, citing the Asian Floor Wage (AFW)FW as a legitimate bargainable wage to fulfill the requirements of decent living standard of a family in Indonesia. The garment unions have built on the FOA Protocol, to which GSBI and SPN were signatories, to expand the unionisation of garment workers. As a result of this initiative, union density has reached 40% in the garment export sector in many areas,e.g. West Java.

The garment unions note with concern the growing offensive of the garment manufacturers, both to undermine unionization and cut back wage levels. The agreed FOA Protocol has been rendered ineffective by large scale rise of short term contracts which has reached up to 60% in the garment industry. Further the suspension of the minimum wage rise has become a growing trend in the garment industry supported by government. In some areas like Western Java the government has allowed more than 65% of the applicants for the suspension of minimum wage.

In this situation GSBI, SPN, FSBI, SBSI '92 call upon the brands to negotiate a Wage Accord, on the basis of the AFW.

2.5 The Brands and Corporate responsibility

The five major brands with a significant presence in the Indonesian garment, textile and footwear sectors of the economy (hereafter the garment industry) were invited to make presentations on their policies and practices relevant to workers' wages, conditions and industrial relations generally. Two, H&M and Adidas took the opportunity to do so. They were also invited to ask questions of the other presenters should they wish to do so.

The Tribunal also heard presentations relevant to the policies and practices of H & M, Adidas as well as other brands, from five international experts. In addition, there was expert testimony on the garment industry in Indonesia and the global supply chain from Indonesian experts, much of which was relevant to the brands activities in the country. Further testimony relating to the conditions of work in the garment sector was received from five Indonesian workers who were or had been employed in factories supplying the brands, including Adidas. The Tribunal also received substantial relevant background material from academics, NGOs and others on the global supply chain and the garment

industry in Indonesia, industrial relations in the country and the relevant legal and constitutional framework.

From the above we were able to gain a comprehensive picture of the relevant policies and practices of the brands in the context of the global garment industry supply chain and its Indonesian specificity, and the political economy of Indonesia.

While the two brands' presentations differed in content, there were basic similarities. Both are actively engaged in pursuing their vision of a future garment industry with well managed factories with contented workers paid a fair living wage and, through collective bargaining and state legislation, with their human rights at work guaranteed. This is a noble and most welcome long term vision. It appears that the two are leaders in this endeavour and have begun investing resources in their project.

Both H&M and Adidas recognize the challenges presented by the inevitable tension between the logic of business and the logic of the human rights of workers and their families. The two brands are taking steps they believe will mitigate that tension e.g. by seeking more managerial efficiency in the suppliers' factories, and an increase in owners' and managements' understanding of their responsibilities toward the rights of workers; by providing innovative communication facilities for workers and management; and by capacity building and skill development programs for workers. Both brands have committed to a fair living wage, freedom of association and collective bargaining.

As was stated at the opening of the tribunal, in recent years some progress has been made in tackling the challenges facing workers in an industry dominated by a small number of buyers. Governments, brands, unions, NGOs and civil society groups, and suppliers have established a dialogue toward collaboration to solve the problems they all now recognize and are affected by in different ways. The Tribunal is one site of that dialogue. While welcoming the presentations of the brands and noting with favour some of their initiatives, we also have some concerns about the adequacy of their responses to some of the difficulties and complexities of the circumstances in which they are clearly and by far the major financial beneficiary.

In the spirit of that dialogue, we express the following concerns:

First, the lack of urgency. It is clear that workers and their families are suffering under the present regime of poverty wages and the extensive violations of law and human rights which exists in the Indonesian garment sector. Both brands commenced their CSR planning in the late 1990s. They are cautiously envisioning a bright future in the long term for those suffering now. But elaborate programs involving model factories, pilot studies, surveys, training and monitoring, etc. do not put food on the workers' tables now. Given the low labor costs in production it is not clear why wages cannot move to the living floor wage level without delay. We were reminded of the garment factory in the Dominican Republic where the workers' wages have been put to a living wage level.

Second, both brands seem to have taken an incentive based, flexible approach to securing supplier compliance with their Codes of Conduct and even national and international law. Given the powerful position they have viz a viz governments and their suppliers, the Tribunal believes that the present policy of toleration sends mixed messages. The tribunal believes that expressions of discretion in their policies such as "employers should" ought to be replaced by the mandatory expression "employers must", together with an indication of the precise sanctions the brand will impose if compliance with their requirements (fair

living wage, etc.) is not achieved. That change would signal that the brands want decent working conditions, no harassment, victimization, criminalization of trade union members, activists and officials; collective bargaining and living wages without exception.

Third, the brands are attempting to impose their programs from above. No doubt these have been drawn up by experts and influenced by the latest theories of industrial relations, human resources developments, advances in communication technology and theory, and other approaches to dealing with workers and their grievances. The Tribunal is concerned that this approach has resulted in a missed opportunity to send a clear message to all stakeholders in the supply chain, and more broadly that workers must be involved in all proceedings which concern their working conditions. Such an approach proves successful in the evolution of the FoA Protocol.

Fourth, the elaborate and in some ways impressive, though still to be proven programmes of H&M (“the Road Map”) and Adidas (“Social and Environmental Program”) both rely on the concept of tripartite collaboration between governments, factory owners-managers and workers. While this model may have proven in more developed countries, one size does not fit all. In the garment supply chain, it is an unrealistic model because of the huge asymmetry of powers which are confronted.

Fifth, the brands must ensure that transparency exists with regard to their purchasing practices and all other financial aspects of their dealings with the suppliers. The brands must also ensure transparency exists regarding their CSR programs such as monitoring factories, surveys, pilot studies, model factories etc. Transparency must include not simply the material availability of summary and uncontrolled information in the brands websites, but an easily accessible information to all stakeholders and in the language of the relevance workers.

Six, brands do not want to accept that they have a real, not just a philosophical or ethical, responsibility for what happens in Indonesian garment factories and, importantly, other sides of production were subcontractors produce for the suppliers. Presumably this is the major reason for their ‘stance’ when it comes to the realities of their labour right violations. Other realities of Indonesian garment industry ignored are the business imperatives of the suppliers, the growth and developments trickled down new neoliberal policies of pro-business governments, corruption and bias in the national systems of regulation including the courts; and the general impunity existing for labour right violators.

Brands negotiate a price FOB with the suppliers, so they are directly responsible for low wages. The responsibility for brands is a systemic one based in the structure of the industry and the power relations that operate on a daily basis. As one expert commented, brands have become in effect manufacturers without factories. They have shed their contractual obligations to workers by moving production to Asia. Brands drive the system and suppliers are reliant on them.

The brands and other powerful transnational corporations are not yet easily brought to justice under existing national and international law. Therefore, critical thought must be given to developing the jurisprudential concepts and a legal framework by which those corporations can be held responsible for violations of worker’s human rights occurring in the supply chain as a result of this impunity.

One analogy which could be developed to support the concept of brand responsibility in these circumstances exists in the concept of vicarious liability in the common law. If, as a result of a contractual relationship, such as that existing between brands and suppliers, Brand X has control of sufficient elements of what Supplier Y does to fulfil the contract obligations, then Brand X is legally responsible for the damage to others caused by Supplier Y. (This principle of vicarious liability, as well as concepts of joint responsibility found in the law of many countries, are, in essence, reflected in the UN Guiding Principles on Business and Human Rights).

3. Enumeration of Human Rights Violations

1. Mass Poverty Caused by Cheap Wages

The Tribunal panel of judges found that the practice of employing workers at cheap wages was the basic cause of mass impoverishment and related social problems suffered by the country's workers. From workers' testimony and that of experts on the garment, textile and footwear sector of the Indonesian economy, it is clear that the wages paid in that sector are insufficient to provide a decent standard of life for the workers and their families. The fulfillment of the right to work includes the right of everyone to the opportunity to gain a decent living by work (article 6 of ICESR). In other words, the right to work should be interpreted as the fulfillment of a good quality of life as mandated by the Indonesian Constitution, Second Amendment (2000) article 28D par.2, which is similar in concept as article 7 of ICESCR, as follows:

“The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

(a) ii A decent living for themselves and their families in accordance with the provisions of the present Covenant.”

According to the evidence presented, it appears that the systematic paying of low wages by the supplier companies is effectively a form of deliberate massive impoverishment of the workers. In contrast to this, the Tribunal received presentations of several programs drawn up by brands (H & M; Adidas) to implement human development strategies, including supervision/monitoring of factory conditions maintained by their suppliers, and long term evaluation of living wage experiments in a small number of factories. Nevertheless, the brands seem unwilling to commit to an early implementation of a living wage. And they appear unwilling to weigh in on the side of workers to force improvement in wages paid by their suppliers. However these programmes do not stop the mass impoverishment. In many cases, the programs are inaccessible by workers in vulnerable situations.

2. Breach of the Child's Right to Education

Low wages and impoverishment result in workers' low ability to provide education for their children. On the basis of the evidence presented, the judges found that the child's right to education was being violated. In their testimony, workers stated that their wages only covered their living cost, without covering the cost of their children's education. The company does not include education cost as one of the wage components they pay to

workers. On the other side, although right to education is guaranteed by ICESCR (article 12-14) and Indonesian Constitution (article 28C and 28E) and Law No. 39 of 1999 on Human Rights (article 12 and 60), in reality, the Government of Indonesia does not have any uniform policy on local level to ensure free education for poor people. This should be the responsibility of local government leaders. For workers who live in the regions where the head of a district, or a mayor, does not favour vulnerable groups such as workers, the condition is very difficult. The situation in which the head of district or mayor does not have a positive education policy, or the company paying the wages does not profit much and therefore pays very low wages are not valid reasons for a child to lose their right to a decent education. Therefore, the Government of Indonesia, local governments and the companies who employ workers at low wages who have children of an age to be educated, are all responsible for the violation of childrens' right to education.

3. Breach of the Right to Health

As stipulated in the Indonesian Constitution, art.28H, and the Health Law, art.4, every Indonesian person has a right to healthcare. And art.5, para.2, states that qualified and affordable healthcare must be provided for Indonesian people. The judges received evidence of a number of violations of the rights to healthcare. The judges therefore found the right to health had been violated. The violations recounted by the witnesses can be categorized as follows:

1) the violation of the right to healthcare is a result of forced overtime by supervisor or of not being permitted to go to the toilet by the supervisor as stated by Sahroji's testimony; 2) violation of the right to healthcare happened when workers were on strike, they were denied to have medical care when they were abused and physically attacked; 3) the violation of the right to healthcare is also a result of the impoverishment that prevents workers from affording health insurance for her/himself and their family. It also should be noted that only certain companies provide health insurance, and only for permanent workers; 4) the countries health infrastructure and facility is not ready to provide assistance for workers in need of medical care.

4. Low wages in the Worker's Household

Worker evidence revealed and the judges found that situations in which the same human rights violations suffered in the factories regarding low wages, also occur inside workers' households. For example, both husband and wife go to work and must leave their baby (or more than one) with a babysitter or nanny as inexpensive or even free childcare facilities are not provided by government nor by factory management. Such parents can only afford low wage to the baby sitter or nanny or other domestic workers. This has led to more serious vulnerability for domestic workers since they receive insufficient wages for their survival.

5. Inhuman Punishment

Worker testimony revealed cases of the exercise of physical violence against workers as a form of punishment by supervisors in several factories. Although these incidents were reported to authorities, there was no legal sanction applied to the supervisor. In this case, the judges found that Government of Indonesia law enforcement officials have violated

art.16 of the Convention Against Torture and Other cruel, Inhuman, or Degrading Treatment or Punishment (CAT) which stipulates that such actions degrade human dignity.

6. Employment Contract Manipulation

The judges found that workers rights were being negated and avoided through the manipulation of the contractual relationship between workers and the companies. Evidence was presented to the Peoples' Tribunal concerning widespread violation of the Manpower Act, art. 164, para. 3 which regulates the ability of companies to change the status of the work relationship from permanent contract employment to short term contract employment. In order to change the contractual relationship of permanent workers, companies can claim that they must close and re-structure the employment relationship, citing the need for more efficiency. The Act requires that for a company to close, and then re-employ workers on the temporary contracts on grounds of efficiency, the close down must be permanent. Since according to article 164 para. 3 of Law No.13 of 2003, per Constitutional Court Ruling No. 19/PUU-IX/2011 the interpretation of the phrase "closed down" in article 164 par.3 should be "permanently closed, not to do any production activities for temporary time". Thus, based on the legal interpretation of this provision, one of the requirements for a company to do efficiency is that the company is permanently closed. But in reality the companies are using "efficiency" as a smokescreen for an illegal change in the contractual relationship with their workers. It appears from the witness's testimony that the government looks the other way, and violators are effectively given impunity for these actions.

In addition to being a violation of the rights of the workers affected, the change of contract employment status has serious negative effects on the workers and their families. Since their employment status has been changed into temporary workers, they are considered as new workers with zero years of service. It means that workers would lose their rights such as holiday allowance, menstruation leave for women, and worker benefits under Social Security legislation. However, the most important impact of the employment contract change is workers receive very low wages. And when the company successfully applies for wage suspension, workers who work on contracts for less than a year would only receive the existing minimum wage at most.

7. Crimes to the rights of freedom of association, assembly and opinion (Union Busting) and Criminalization and attacks toward defenders of labour rights

Testimony from witnesses indicates that workers' rights are compromised in a number of ways, some minor but others serious. The judges found that taken together, they represent a systematic attack on fundamental workers' rights in a democracy rights. Effectively there is a widespread management policy of "union busting": threats and actions against workers' rights of association. In one common form that such anti-worker activity takes, the company forms, or recognizes, its favored trade union and obliges all its workers to be members of that trade union. The company also exercises violence to make workers terminate their membership in other trade unions. that management considers not under its control. In this way the company also creates horizontal conflict between workers. Such conflict negates the possibility of strong, united worker pressure on management for better pay and conditions. The company has many other ways to create horizontal conflicts i.e. by offering higher position with higher wage to union leaders so they would leave the union; mass lay off in which the leaders of the union were amongst them who were laid off.

More direct methods were recounted to the Tribunal judges: threats, intimidation, harassment and even including visits to the workers' homes. Workers are also criminalized through legal processes instituted by police officers who appear to favour the companies when there are disputes, especially when there are demonstrations and/or strikes. The extent of such actions revealed by witnesses before the Tribunal appears to indicate there is corrupt collaboration between certain companies with law agencies to build hostility against trade unions and their leaders. These measures appear to constitute an abuse of legal process in the interest of certain groups for illegitimate objectives: the denial of workers' rights.

The policy, and practice, of union busting as discussed above represents a deliberate denial of the Freedom of Association Protocol agreed to by the Indonesian government, trade unions and companies, and is a violation of workers' freedom to associate, organize and assemble (as guaranteed by arts. 19-22 of ICCPR) and the violation of fundamental right specifically entitled to workers i.e. the right to strike to collective bargaining (article 8, especially para.d of ICESCR).

8. Crimes against Integrity of Women Workers

Many of the complaints brought to the Tribunal in the evidence presented about the conditions of workers in the factories involved violations and crimes against women workers. The judges found that such violations and crimes include sexual harassment; refusal of menstruation leave, or the requirement that women undergo humiliating "inspections" to justify their application for such leave; women workers are prohibited from getting pregnant in their first year and, if they do so, are subject to discharge or other punishments such as not being allowed to take leave to take care of her sick child. These are violations of the right to marry and to choose a partner freely without any pressure from anyone; of the rights of reproduction; and they are also violations of article 11, para. 2, CEDAW which stipulates the prohibition of discrimination against women on the ground of pregnancy, marriage, etc.

9. Intentional State failure to protect the workers

The judges found facts that demonstrate the failure of the Indonesian state to provide legal protection for workers, e.g. the state provides regulations that allow company owners great advantages vis a vis workers while ignoring the disparity in their economic positions (minimum wage suspension); state juridical and police/army institutions have demonstrated bias in protecting business interests instead of remaining neutral; the state has failed to adequately control/sanction gangs and/or paramilitaries which represent a "force multiplier" favouring business interests and causing fear and even injury amongst workers; the state has failed to exercise its duty to act as a protective supervisor, state only passively waits for workers complaints and even then the perpetrators of violations of human rights and crimes under law enjoy impunity from government sanctions.. If there is ever legal process in response to the complaints, it would take long time and the result would be a non-binding memorandum of services that the companies should comply with but often do not; finally, there are known instances where the judge in Industrial Relation Court, whether ad hoc or career judge, are prone to bribery and corruption.

Based on the above findings and considerations, this Peoples' Tribunal

CONCLUDES:

1 The general situation of workers in the Indonesian part of the global garment supply chain is a matter of great concern. There are significant deficits between their working conditions and the internationally recognized standards for work with human dignity. There are clear indications that work is becoming more precarious because of a trend toward short term contracts. The nature, extent and long duration of continuing violations of garment workers' rights is indicative of a systematic violation of their fundamental right to a decent life lived with human dignity.

2 The poor conditions of the garment workers results from violations by the suppliers (factory owners and managers) of the Indonesian Constitution, Indonesian Labor Law, and the unjustified use of Indonesian criminal law against workers and their unions. Furthermore, the conditions of which we have been informed also violate many international normative standards, e.g. the Universal Declaration of Human Rights, ILO Conventions, the International Covenant on Social, Economic and Cultural Rights.

3 These violations are the result of a structure of commercial transactions which follow the logic of business (profits) while disregarding the human rights of the workers. Given the increasingly dominant position of the brands and their search for low cost supply, Indonesian factory owners and managers are driven to violating the laws and other standards for fear of losing orders or even the relocation of production to another area or country.

4 The brands have generally failed to use their position of dominance to ensure that the conditions of workers meet the standards to which they are entitled. Instead they have taken huge profits from their advantageous position, while refusing to accept responsibility for the transgressions of their suppliers. This is an unjustified position as the brands work closely with the suppliers, enter contracts with them and are largely responsible for all aspects of the production other than the actual manufacture of the garments. There is joint benefit in the supplier-buyer relationship and the opinion of the Tribunal is that there should be joint responsibility, a concept recognized in other systems of law and even reflected in the UN Guiding Principles on Business and Human Rights.

5 Like many other governments of countries with garment industries, the Government of Indonesia appears to have been more concerned with the growth and development of

the economy than the human rights of the workers who would make that possible but would not receive a fair share as a result. We were surprised to learn of the legislation making suspension of the minimum wage a relatively easy process, and one that is not uncommon. Recently, in one province 65% of applications for suspension were approved.

6 The Government's legal institutions do not function in a manner which protects the rights of workers adequately, and in some situations involving Government agencies such as the police, the interests of employers appear to be favoured over those of the workers. The principle regulatory agency dealing with industrial relations disputes, the Industrial Relations Court, appears incapable of effectively protecting the interests of the workers in an expeditious, independent and transparent manner. The resolution of cases is often reached after an excessive elapse of time; the cost of pursuing a matter to final resolution is high and deters workers from doing so; decisions favourable to the workers are often not implemented so that the process is seen to be biased in favour of employer interests. Several cases of 1) proven corruption or 2) obvious conflict of interest involving IRC judges further demonstrate cause for concern about the independence of the IRC. These matters may explain the worrying trend in the decreased use of the IRC in the past three years as cases taken to it have declined by about 30%, thus leaving unresolved disputes to fester.

7 In an industry employing a high percentage of women, we find patterns exist of discrimination and violation of their rights, e.g. they are often denied their legal entitlement to menstrual leave, and even when it is granted it may be after going through the humiliating process of showing the medical officer the inside of their under pants to prove their application for leave is valid; first year workers must sign a contract which stipulates they must not become pregnant or they will be terminated; there are reported frequent instances of sexual harassment; women are in general placed in certain work categories only, all of which are lower paid than some of the categories reserved for men.

8 Poverty wages are a crucial issue for the garment workers. The minimum wage is far below what is needed for a decent life, and many workers in the garment industry receive less than the minimum wage. The lack of a living wage has a disastrous effect which ripples through the family, the community and the nation. There can be no justification for ignoring this social tragedy which has continued too long. The living wage must be a family wage (3 members) not just a wage calculated on the needs of the single worker as is the case now with the Indonesian minimum wage calculation.

9 The living wage concept has now received support at the highest levels in international discourse. We are aware that the Berlin Round Table Conference (November 2013) was held to work on a program for implementation of the living wage in the garment industry. The conference attracted representatives of all the industry stakeholders and was sponsored by the German and Dutch governments. There is now a solid foundation in

Indonesia to build on the accepted practice of linking wages to the needs of the worker through the KHL. It is an opportune time for negotiations involving government, unions, brands and factory owners/managers to sit around a table and negotiate a living wage.

10 While a Freedom of Association Protocol applies in Indonesia, we were made aware that the right to form or to join a trade union was often violated. Union organizers, activists, officials and even members are harassed, intimidated and victimized. There appears to be little protection against such activity by government or factory management who, it seems, are only too happy for this to happen and, in some cases, are directly involved. This situation is a major factor in the inability of workers to obtain decent working conditions and increased wages. Given this situation, it is not realistic for the brands to maintain that unions should negotiate the content of the living wage with employers and the government. It is of great concern that there appears to be a significant increase in deliberate, organized “union-busting” in the garment industry.

11 Collective bargaining is the traditional method for workers to try to offset the power of employers. It is a foundational right for workers. In the Indonesian garment industry it is often an empty right. Managements will not bargain, or if they do so they cannot be held to the agreement except when a strong case is taken to the IRC, although workers’ success rate there is very low compared to that of the employers. We understand that proceedings in the court brought by workers often drag on for a substantial period.

12 Government has a responsibility to ensure the workers are free to exercise their rights. We are concerned that workers and unions report that members of the military and of the police, and members of *preman* para-military gangs have been involved in incidents of assault, harassment and intimidation of workers who were engaged in legal activities.

RECOMMENDS:

The decision of the Indonesian People’s Tribunal, with a clear identification and categorization of the specific, direct and joint, responsibilities of the main actors, is only one component of the role and the objectives of a Tribunal established to promote the raising of consciousness and of the concrete accessibility of all the members of the people of the garment industry to their fundamental rights.

While fully aware of the inevitable “soft” character of recommendations, they are proposed to represent a platform and a road-map, whose success will certainly be principally the result of many and long struggles.

What is formulated here for the Indonesian scenario of the garment sector must therefore be received and utilized:

- in strict integration with what was proposed for the countries of Sri Lanka, Cambodia, India, as well as for the other peoples who are part of the global chain of the garment industry;
- in the broader context of the many movements (including those who are supporting Ecuador led States initiative for a similar claim in the context of the UN Commission for Human Rights in Geneva in these same days) which are engaged, with their struggles and their doctrinal research, in the challenging task of dismantling the impunity of corporate power, to make it accountable to the binding obligation to respect and promote human and peoples' rights, which is the mandatory criteria for recognition of recognize the credibility of their policies of purely economic development.

To all the stakeholders in the garment industry

1. The recognition and the implementation of the living floor wage as defined, developed, updated by the AFWA must be the joint and the urgent responsibility of the Government, of all the dominant brands, of the factory owners and suppliers. As the concrete expression of accessibility to a fundamental human right, a fair living wage must be considered an urgent and mandatory step, in compliance with the binding normative principles of the national Constitution as well as of the International Covenants subscribed to by Indonesia.

2. Because of their critical importance for assuring the independence of workers in the expression, the defence, the promotion of their fundamental rights, the Government of Indonesia must give their high priority to assume a leading role (in compliance with the constitutional norms) in promoting the collaboration with the dominant stakeholders of the garment sector, for the recognition and the implementation of the two basic rights of Freedom of Association and Collective Bargaining.

To the Government of Indonesia

3. Given the evidence provided to the People's Tribunal on the failures as well of the abuses of the national judicial system (including the Industrial Relations Court) which is most often biased against the rights of the workers and in favour of the brands and of manufactures, the Government should give high and urgent priority to assure the independence of the competent Courts, and to guarantee the timely and fair solutions of the cases of violations presented by the workers, as far as they are related to their activity for the defence and promotion of their right to living fair wages, freedom of association and the right to bargain collectively.

4. A specific and urgent attention of the Government appears to be mandatory in controlling the abuses and the violence of the police and military forces, as well as of the paramilitary groups which are involved in the process of intimidation and victimization of the workers and of their legitimate representatives, when they are exercising their rights, as well as of their families.

5. The Government must invest the resources which appear necessary to develop the basic social and health services which are essential for assuring the sustainability of fair living policies across the regions of the country, with specific attention to the cases of

delocalization of the factories, and of the evidence of an undue application of short-term contracts by the manufactures.

6. The failure of the Government in its duty of supervising and timely monitoring the violations of the labour laws, and of the delays or denial of the above mentioned workers' rights, must be addressed with investments leading to a fair availability of properly trained and personnel who are not prone to corruption.

To the brands

7. Because of their dominant position, the brands should be first actors in the promotion of binding policies based on living floor wages: the declared readiness to activate pilot projects must be asap translated into a systematic implementation of a living wage based strategy: reliable data are already available to show that, besides being a due action for the respect of human rights, such policy is highly compatible with the goals of an economic sustainable activity.

8. To ensure the credibility of their willingness to be positive actors in the promotion of decent working conditions which coincide with the respect of a life in dignity, the brands should assure a true transparency in their auditing and training activities, by favouring as much as possible the participation of independent groups who assure both reliability of data collection and reporting, as well as a close connection with workers and their representatives.

To the Unions

9. The growing capacity to be active promoters of action favouring the degree of conscience and autonomy of the workers which has been documented over the last years could be further strengthened by looking for a more effective coordination of action, both in the struggles as well as in the dialogue with the dominant stakeholders of the garment sector, and with the Government.

10. The present situation of gender discrimination which has been documented to the Tribunal should be challenged and reversed also with a much stronger representativeness of women in all levels of the institution and activities of the unions, taking specifically into account that the greatest majority of the workers are women and their living conditions are the most affected.

To ILO

11. Because of the critical importance, but also of the great weaknesses, of the workers in the garment sector, and in consideration of the potential positive developments of the Indonesian scenario in this field, a specific, significant investment of resources in Indonesia could have a decisive role in the implementation of all the above recommendations.

To the NGOs active in Indonesia

12. This People's Tribunal could not become a reality, without the contribution of resources and competences by NGOs from various countries. Their fundamental role in assuring an independent, influential, critical bridge between the home country of the brands and their

policies in Indonesia must be further strengthened and become more effective. This would result if the relevant NGOs would transform their individual collaboration into a true network of actions and of knowledge, which would have a decisive and specific impact on the effectiveness, the transparency, the implementation of the auditing and monitoring activities, as well as on the information and training of the needed competences in human rights among the workers.

Annexe 1

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) 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.

Annexe 2

Verdicts of the Permanent Peoples' Tribunal supporting the evidence and the decision of the Indonesian People's Tribunal

- *The policies of the international Monetary Fund and the World Bank* (West Berlin, 26-29 September 1988; Madrid, 1-3 October 1994)
- *The impunity of crimes against humanity in Latin America* (Bogotá, Colombia, 22-25 April 1991)
- *Industrial hazards and human rights I and II* (Bhopal, 19-23 October 1992; London 28 November – 2 December 1994)
- *The Conquest of Latin America and the international law* (Padova/Venice, 5-8 October 1991)
- *The rights of workers and consumers in the clothes industry* (Brussels, 30 April- 5 May 1998)
- *Multinationals and human "wrongs"* (Warwick, 22-23 March 2000)
- *Transnational corporations and peoples' rights in Colombia* (2006-2008)
- *The European Union and transnational companies in Latin America: policies, instruments and actors complicit in the violation of peoples' rights* (Vienna 2006; Lima 2008; Madrid 2010)
- *Agrochemical transnational corporations* (Bangalore, 3-6 December 2011)
- *Free trade, violence, impunity and peoples' rights in Mexico* (2011-2014)
- *Canadian mining transnational corporations and human rights* (2014-2015)

Annexe 3

ALL PROFILE : JUDGES, PEOPLE'S ADVOCATE and EXPERT FOR INDONESIA PEOPLE'S TRIBUNAL

Profiles of International Judges from the Permanent People's Tribunal

1. Professor Gill H. Boehringer

Professor Boehringer is Former Dean of Macquarie Law School, Macquarie University, Sydney, Australia, and Former Director of the Center for the Critical and Historical Study of the Common Law. He is now Honorary Associate, Macquarie Law School. He is the co-editor of a monograph: Critique of Law and the author of several chapters in books. Prof Boehringer has published over two hundred articles on a wide range of subjects including worker health and safety; human rights; crime, policing and prisons; law, state and ideology; lawyers and the rule of law; mental health issues. He is presently a member of the Editorial Committee, Alternative Law Journal (Australia) and former member of the Editorial Boards of the Australian Journal of Law and Society and the Alternative Criminology Journal (Australia), and an Editorial Consultant to the international journal, Contemporary Crises. His present research interests include: corporate fraud and the failure of state regulatory agencies in the contemporary Philippines; law as an instrument of "soft power"; imperialism and the Philippine American War; terrorism and corporate violence; and contemporary capitalism, the state and the power of corporations. He is also member of the Permanent Peoples' Tribunal.

2. Dr. Gianni Tognoni

Doctor in medicine, since 1969 he has undertaken basic, clinical, epidemiological and public health research in some of the most critical fields of medicine, such as cardiology, intensive therapy, neurology, psychiatry and oncology, publishing results in more than 600 articles in the most prestigious international journals and being responsible for leadership in various departments, currently with Mario Negri Sud Consortium.

Among his activities he is a WHO consultant for the selection of essential medicines, founding member of the international society for independent information on pharmaceuticals, coordinator of projects on community epidemiology in countries in Central and Latin America, as well as some in Africa. From his collaboration with the second Russell Tribunal to scientific activities he has actively worked in the fields of human rights, right to health, and rights of peoples. Since its establishment in 1979, he has been Secretary-general of the PPT.

Profile of Judges from Indonesia :

3. Harris Azhar

Haris Azhar has worked for KontraS, a nation wide human rights NGO based in Jakarta, since 1999. He started as a volunteer for the Advocacy Division and continued as a staff member of the Monitoring & Research Bureau before going on to become Head of

Documentation Research Bureau, Head of Research, Investigation and Database Bureau, and then the Vice Coordinator of KontraS before becoming the Coordinator in 2010.

Haris earned a Bachelor of Laws from the University of Trisakti in 1999, and a Master of Art (MA) in Human Rights Theory and Practice from University of Essex, UK in 2010. He also studied a Magister Degree in Philosophy from the University of Indonesia from 2000-2003. He also holds a Diploma in Transitional Justice after completing a Fellowship Program at the International Center of Transitional Justice in Cape Town/New York.

Haris has experience, interest and expertise on Indonesian human rights and constitutional law, security sector reform, NGO governance, transitional justice, conflict resolution, and ASEAN relations. His work in human rights includes litigation, fact-finding missions, analysis, research and casework. Now, Haris Azhar is the Coordinator of KontraS and is responsible for ensuring that KontraS achieves its strategic plans which are to contribute to and build the human rights community in Indonesia through three pillars: 1) by building awareness for state accountability, especially on certain human rights issue such as seeking justice and truth for past abuses; 2) protection of minorities and human rights defenders, judicial accountability of civil liberties, advocacy on the (post) conflict areas plus advocacy; and 3) to establish wider engagement with diverse social entities and networks.

4. Lita Anggraini

Lita Anggraini brings marginalized domestic workers back into Indonesian society. She does this by educating workers, raising public awareness of the issues that affect them, and changing the laws so that the state recognizes, appreciates, and protects their rights as workers, persons, citizens, and women—leading to a better situation for domestic workers and their relationship with employers.

5. Nori Andriyani

A mother of two teenagers. Graduated from Sociology Department in the University of Indonesia. As student activist in authoritarian Soeharto regime in the 1980s, Nori Andriyani involved in grassroot works mainly in organizing and advocating urban poor and peasants communities. Later she put more attention on popular education and organizing women labour in greater Jakarta (Jakarta, Bogor, and Tangerang).

After obtained her master degree from Memorial University of Newfoundland, Canada, in 1996, Nori Andriyani works in several development agencies. Her areas of interest and expertises are sociology, women's studies, violence against women, community development as well as project monitoring and evaluation.

Profile of People's Advocate:

1. Ashim Roy

Ashim Roy is founding General Secretary of the New Trade Union Initiative, a left democratic non-partisan national federation of independent trade unions. He is President of Garment and Textile Workers Union in the southern state of Karnataka, India and member of the International Steering Committee for Asia Floor Wage Alliance. Ashim has

been a leader in the trade union movement nationally for over two decades and is the President of several manufacturing unions in Gujarat, a prominent industrial state in India. He is a longtime activist in India's Left movements and was influenced greatly by the anti-Emergency movement in the 1970s when the then-Prime Minister, Indira Gandhi tried to impose a police state in India. Ashim believes in the need for building broad social movements and is committed to building a labor movement that connects the organized sector and the informal/unorganized sector where most of India's disenfranchised communities work. Ashim writes and speaks widely, as an engaged intellectual trade unionist and movement builder.

2. Alghiffari Aqsa

Alghiffari Aqsa is a staff lawyer in the community legal empowerment department of the Jakarta Legal Aid Institute (LBH Jakarta) in Indonesia. His efforts there focus on training paralegals, who can undergo relatively short training programs to become qualified to provide direct legal services to clients in need, thus helping to close the gap between the high demand and low supply of legal practitioners in Indonesia. Alghiffari is also involved in community outreach programs, including advocacy campaigns, demonstrations, and workshops that encourage public discussion and participation.

Prior to his current work, Alghiffari spent three years in LBH Jakarta's case-handling department. He graduated with an LL.B. from the University of Indonesia. As a PILnet Fellow, he will develop a project to improve the provision of legal aid in Indonesia by equipping future generations of lawyers with the necessary tools to protect the rights of underserved populations.

3. Asfinawati

Asfinawati, started joining LBH Jakarta (Jakarta Legal Aid) in 2000, and in August 2006 she was elected to be director of LBH Jakarta (Jakarta Legal Aid Institute) 2006-2009) for 2006 to 2009. She hold a bachelor of Law degree from University of Indonesia in 1998.

4. Johanes Gea

Johanes Gea is a staff lawyer as a Public Interest Lawyer at Jakarta Legal Aid Institute from 2012 until now. Currently, Johanes Gea work at Case Handling Division which focus at Labour Cases. He had any expiriences on handling labour cases both in court and out of court. He graduated with an LL.B from University of Indonesia.

Profile of the representative the Secretariat of the PPT:

Simona Fraudatario

Simona Fraudatario has worked with the Permanent Peoples' Tribunal since 2006, closely involved with the organizing committees of the main Sessions held in Latin America and Asia. Due to her activities and investigations, she participated in several international conferences in Colombia, Argentina and Brazil. She edited the second edition of François Rigaux's volume on the Universal Declaration of the Rights of Peoples (*La Carta di Algeri*, Edizioni Gruppo Abele, 2012) and was co-editor and co-author of the volume *Colombia entre violencia y derecho. Implicaciones de una sentencia del Tribunal Permanente de los*

pueblos (Ediciones DesdeAbajo 2012). She was also co-author of *Memorie di repressione resistenza e solidarietà in Brasile e in America Latina* (Ediesse 2013). She took part as researcher on the role of peoples' participation in the Second Russell Tribunal on Latin America in a project recently concluded by the Fondazione Lelio and Lisli Basso ISSOCO in agreement with the Ministry of Justice of the Brazilian Government.

Profile of Expert :

1. Anannya Bhattacharjee

Anannya Bhattacharjee is the International Coordinator of the Asia Floor Wage Alliance. She is founder and President of Garment and Allied Workers in the northern state of Haryana, one of the largest production hubs in India. She is founder of the Society for Labour and Development, a labour rights research and campaign organisation in Delhi. Anannya has been a social activist for over twenty years in the United States and in Asia. She has been part of the migrant rights, women's and labour movement. In the labour movement, she has been involved in organizing workers in unorganized and informal sectors, including domestic work, retail, restaurants, taxi driving and garment. She has engaged in building grassroots relations between labour internationally for the last ten years. When in the United States, she was a Charles Revson Fellow for the Future of the City of New York in Columbia University and was Activist-in-Residence at the Asian Pacific American Studies Program and Institute at New York University. She is the co-editor of the book, *Policing the National Body* (South End Press, 2002). She has written analytical essays in a variety of publications and has spoken widely on social justice issues and movements.

2. Jeroen Merk

Jeroen Merk holds a PhD in International Relations from the University of Sussex, Brighton. Between 2003- 2014, he has also been a research and policy coordinator at the International Secretariat of the Clean Clothes Campaign, a labour rights NGO with branches in 15 European countries and an extended network of partners in production countries. Today he is the David Davies of Llandinam Fellow at the London School of Economics where he works on a project 're-inventing corporate accountability after the Rana Plaza collapse'. His research interests lie at the crossroads of international relations, political economy, social movements, and the governance institutions of global industrial relations. He has been particularly concerned with analysing the shifting nature of worker-employer relations within local, national and global (supply-chain) contexts; the role of ethical standards as embodied in codes of conduct and other voluntary instruments in regulating transnational corporations; and the combined (but uneven) emergence of cross-border networks of NGOs and trade unions keeping businesses accountable for labour rights violations. His publications on these topics include:

Merk, J. (2014) 'Global Outsourcing and Socialisation of Labour—the Case of Nike', In: Van der Pijl, Kees (editor) *The International Political Economy of Production*, Handbooks of Research on International Political Economy series (forthcoming). Egels-Zanden, N. & Merk, J (2013) 'Private regulation and trade union rights: Why codes of conduct have limited impact on trade union rights', *Journal of Business Ethics*, [Published online August 9, 2013.] Merk, J. (2011) 'Production beyond the Horizon of Consumption: Spatial fixes and Anti-Sweatshop Struggles in the Global Athletic Footwear Industry', *Global Society*, Vol. 25 (1), pp. 71-93.

Merk, J. (2009) 'Jumping Scale and Bridging Space in the era of Corporate Social Responsibility: Cross-border labour struggles in the global garment industry', *Third World Quarterly*, Vol. 30 (3), pp. 599-615.

3. Doug Miller

Doug Miller is emeritus professor in worker rights in fashion formerly of the Design School at the University of Northumbria, UK. Between 2000 and 2008 he was director of research at the International Textile Garment and Leather Workers Federation, now part of industriALL, the global union for manufacturing. During this period he was responsible for research into supply chain developments, corporate social responsibility, and assisting the Global Union in its efforts to negotiate international frameworks agreements with leading multinationals in the sector. In his academic post Doug was responsible for developing a teaching and research strategy in the area of worker rights in fashion and his specialisms were mechanisms for delivering a living wage, worker compensation and social labelling.

4. Erica Smiley

Erica Smiley is the Director of Campaigns for Jobs with Justice. She sits on the board of the Highlander Research and Education Center and the editorial board of the online publication *Organizing Upgrade*. In the past, she has organized with community groups such as Progressive Maryland, the Tenants and Workers Support Committee (now Tenants and Workers United) in Virginia and SEIU Local 500. She was National Field Director of Choice USA, a pro-choice organization focusing primarily on youth access to reproductive healthcare. And she previously held the position of Senior Field Organizer for the Southern Region at Jobs with Justice. She is originally from Greensboro, North Carolina.

5. Malin Kjellqvist

Malin Kjellqvist is the campaign director for the Swedish non-governmental organization Fair Trade Center (FTC). FTC has been doing research and campaigns on working conditions in supply chains of Swedish corporations since 1996. The intention is to increase consumer and company awareness of social and environmental responsibility. The garment sector was one of the first sectors that FTC scrutinized. FTC has been cooperating with the Clean Clothes Campaign for many years and they are a part of the EU-funded awareness raising program on living wage. Malin Kjellqvist has worked for FTC since 2011 and previously she has worked for the Swedish Clean Clothes Campaign.

6. Antje Schneeweiß

Antje Schneeweiß has a MA degree in philosophy and English literature. Since 1991 she has been working for different asset managers focusing on Socially Responsible Investment (SRI). 1996 she came to the institute SÜDWIND where she works as senior researcher on SRI issues and published several books on this issue.

Since 2003 she concentrated on the topics: ethical investments in Churches and SRI and development and organized several international workshops on these issues. Since 2008 she is working on the impact of the financial crisis on developing and emerging countries and published a study on this topic in 2009.

She is member of several committees of socially orientated banks and funds as well as the working group on ethical investments of the protestant church in Germany. Since 2011 she

is working on shareholder engagement. In 2012 she published a study on working the working conditions in Indonesian suppliers of listed companies like H&M, Inditex, adidas and Nike for sustainable investors. As a member of the church investor's committee of the German protestant churches she initiates engagements and informs investors on engagement topics. For this work she is in close contact with the third biggest investment company Union Investment and church banks.

7. Surya Tjandra

Surya Tjandra is a labour activist-turned academic, who was associated with the Legal Aid Institute (LBH) Jakarta for many years, and is now involved in a labour service NGO, the Trade Union Rights Centre. He lectures in labour law at Atma Jaya Catholic University, Jakarta, and is currently completing a PhD on the political economy of the labour law reform in Indonesia after the Reformation at Leiden University. Surya has presented papers on Indonesian labour law and trade unions issues nationally and internationally, and has been working closely with the Friedrich Ebert Stiftung and the DGB Bildungswerk. He has also published several books including "Kompilasi Putusan Pengadilan Hubungan Industrial Terseleksi: 2006-2007" (2008), the first compilation of the newly established Industrial Relations Courts' decisions in Indonesia, and "Makin Terang Bagi Kami: Belajar Hukum Perburuhan" (2006), which provides an alternative socio-legal approach on the labour law studies in Indonesia.

8. Indrasari Tjandraningsih

Indrasari Tjandraningsih is a senior researcher at AKATIGA – Center for Social Analysis in Bandung, Indonesia with special interests on labour and investments, industrial relations and labour governance issues. Indrasari Tjandraningsih has done continuing research on the issues in Indonesia for almost 20 years. Her skills covers research, advocacy and networking that improved along with her research experiences. She has done research among others on the condition of labour in Indonesia within different political and economic regimes, on child labour, women workers, flexibilisation and wage supported by The Ford Foundation, The World Bank, FES, ILO and European Union, etc. Many of her research works became a reference for trade union advocacy and by central government's policy consideration. She has a good and extensive network with researchers, NGOs activists, trade unionists at local, regional and international level as well as with government agencies both local and national. She also teaches in Parahyangan Catholic University in Bandung

PROFESSIONAL EXPERIENCE:

- Research Coordinator on "Enabling Environment for Sustainable Enterprises : Workers' Perspective" with ILO and 4 Indonesia national trade union confederations, August 2011 – February 2012.
- Principal researcher on "The Practice of Contract and Outsourcing Workers in Metal Industry in Indonesia", AKATIGA-FSPMI-FES, Feb-August 2011
- Principal Researcher on "The Living Wage Survey", FES-AKATIGA-TWARO, April 2009
- Principal Researcher for research on 'The Impact of the expiry of the Agreement on Textile and Clothing on Textile and Garment Industry in Indonesia', AKATIGA & Friedrich Ebert Stiftung, 2007

- Research Coordinator of a joint research project of AKATIGA-TURC-LABSOSIO UI funded by the European Union on 'Promoting Fair Labour Regulations in Indonesia: A Study and Advocacy in Improving Local Level Investment Environment' , April 2005 – March 2006
- Research Coordinator of research on 'Gendered Impacts of the Economic Crisis in Indonesia' funded by ASEM-ILO-WB-CIDA, 1999

9. Ismet Anoni

Ismet Anoni is a Chairperson of GSBI (Federation of Independent Trade Union), he also chairperson for International League of People's Struggle (ILPS) of Indonesia and coordinator of Front of People's Struggle (FPR). Rudi started joining in the Union Movement since 1996, when he was working at Shoes Factort (Nike Supplier) in Bogor.

10. Joko Heriyono

Joko Haryono is Head of Advocacy of Central Board of SPN. Joko started active in the union movement from plant level since he was working at shoes factory (PT. Doson Indonesia), then in district and regional level. In 2003, Joko was a vice of general secretary of central Board of SPN, in first time SPN launched to be a National Federation, then 2005 he was become general secretary until 2009. Additional, Joko also is a member of National Tripartite.

11. Hary Prabowo

Hary Prabowo start its activity in the labor movement since becoming a student at the University of Gadjah Mada. He underwent studynya as a student in the faculty of philosophy at Gadjah Mada University, Yogyakarta in 1993 and 2000. At the time a student at GMU, Hary Prabowo had been a editorial director of campus magazine "BALAIRUNG" at Gadjah Mada University (1993-1997), he also had member of the Alliance of Independent Journalists (AJI) for the Bureau of Yogyakarta, became Chairperson of Student Council of Gadjah Mada University, and a founding member of the organization Alliance of Agrarian Reform Movement (AGRA).

Hary Prabowo also been involved as a researcher on "Research Working Conditions Workers on 5 Palm oil Plantation in North Sumatra", cooperation between 11:11:11, YSIK and WALHI (2004-2005), as a consultant on Food Sovereignty Program for Action contra la Faim (ACF) Indonesian Mission, 2009, and became Consultant for Labour and Agrarian Program in INDIES (The Institute for National and Democracy Studies)

National-International Forum

1. Representative of DEMA- Gadjah Mada University to attending invitation the " Sindicato Estudiantes de Espana and CAUM" in Spain, in the international solidarity campaign for Indonesian students against the Suharto regime. Speaking at 34 forum attended by students, students, members of the senate, unions, and members of political parties in Spain, March 29-May 9, 1999.
2. As Speaker at National Seminar on Student of Indonesian-German, "The role and position of the Student Movement in Transition Democracy", organized by the Indonesian Study Forum (FORSI), in the University Center Building, University of Gadjah Mada, September 15th, 1999.

3. Speaker on "Peasant Movement Forum: Indonesian Peasant Movement, Problems and Prospects" in the 3rd World Social Forum in Porto Alegre, Brazil, January, 2003.
4. The participants in the World Social Forum IV in Mumbai, India, January 2004.
5. Speakers in the forum "People Global Resistance" in Thesaloniki, Greece, 2004.
6. Speakers at the "International Social Movement Forum anti-WTO" in Hong Kong, 2005

Annexe 4

PROGRAM INDONESIA PEOPLE'S TRIBUNAL ON MIMIMUM LIVING WAGE AND DECENT WORKING CONDITIONS for Garment Workers as a Fundamental Right

21-24 June 2014, Jakarta

Day One: Indonesia Tribunal Hearing Saturday, 21 June 2014		
Time	Description	In charge person
8:00-9:00	Arrival of participants and registration	Inauguration
9.00-9:15	Opening Ceremony/welcome Introduction and Objective by host	Indonesia Steering Committee (Emelia Yanti Mala Dewi Siahaan)
9.15-9.45	Welcome from Indonesia trade union (FSBI, GSBI, SPN, SBSI 92, KSBSI ,Garteks)	Max. 5 minutes for each speaker
9.45-10.00	Introduction of the judges Description of Process	Irene Xavier AFWA
10.00-10.15	Introduction of the Petition	Emelia Yanti Mala Dewi Siahaan (AFW Indonesia)
10.15-10.35	Tea break	
10.35-10.55	Workers Case 1 On gender discrimination	Worker from SBSI 92 PT Rismar Daewoo Apparel (Oji Sakhroji) H&M
10.55-11.15	Workers Case 2 On insufficient wages and impact on workers	Worker on SBSI 92 (Walmart, tbc)
11.15-11.35	Workers Case 3 On long working hours	Worker SPN (tbc) <i>Nike workers-union- on garment</i>
11.35-11.55	Workers Case 4 On the problems of contract employment	Worker from FSBI (GAP)
11.55-12.15	Workers Case 5 On the violations regarding freedom of association and collective bargaining	Worker from SBGTS- GSBI PT Panarub Dwi Karya (Kokom Komalawati) (Adidas))

12:15- 13.00	Lunch	
13.00-13.30	<i>Summing up</i>	20 min sum up by PA and 10 min –Q& A from jury People's advocate <Indonesian>
13.30-14:05	Expert 1: Indonesia political economic overview and garment industry related to labour wages	Harry Prabowo 20 min present- 10 min for Q & A
14:05-14:40	Expert 2: Policy on garment industry	Indrasari Tjandraningsih
14.40-15.15	Expert 3: Indonesia Labour law pertaining to Garment Industry	Surya Tjandra
15.15-15.40	Tea break	
15.40 -16.15	Expert 4: Practice and violation of Freedom of Association in Indonesia	Rudy HB Daman
16.15-16.50	Expert 5: Practice of Contract Labour system in garment industry	Joko Heriyono
16.50-17.25	Summing up	People's advocate <Indonesian>

Day Two		
22 June 2014		
8.00-9.00	Registration of participants	20 min expert presentation followed by 10 min Q&A
9.00-9.35	Expert 6: Brands and Living Wage	Doug Miller
9.35-10.10	Expert 7: Jobs with Justice's view on view on Walmart purchasing practices and the brand's possibility of supporting Living Wage	Erica Smiley
10:10-10.35	Tea break	
10.35-11.10	Expert 8: Global Supply Chains in garment	Jereon Merk

	industry and example in Indonesia	
11.10-11.45	Expert 9: H&M purchasing practices and the brand's possibility of supporting Living Wage	Ms. Malin Kjellqvist
11.45- 12.20	Expert 10: ADIDAS purchasing practices and the brand's possibility of supporting Living Wage	Ms Antje Schneeweiß
12:20-13:20	Lunch	
13.20-13.55	Expert 11: AFW is doable	Ms. Anannya Bhattacharjee
13:55-14:30	Stakeholder : Brand 1	Representative from H&M
14:30-15:05	Stakeholder: Brand 2	Representative from Adidas
15.05-15.40	Additional comment by Brands	Representative from Brands
15:40-16.15	Summing by People's Advocate	People's Advocate team-led by Ashim Roy-final submission
Day Three 23 June 2014 : Judges' Deliberations		
Day Four 24 June 2014		
9:00-9:30	Registration of participants	
9:30-11:30	Press Conference :Announcement of Observations and Recommendations by the Tribunal Panel of Judges	Penal Judge
11:30-13:00	Lunch	

Notes:

Judges:

- Professor Gill H. Boehringer
- Gianni Tognoni
- Haris Azhar
- Lita Anggraini
- Nori Andriyani

People Advocates:

- Ashim Roy

- Alghifari Aqsa
- Asfinawati
- Johanes Gea

For the Permanent People's Tribunal Secretariat:
Simona Fraudatario

Brands invited:
H&M, Adidas, Nike, Gap and Walmar