

Addressing labour exploitation of women workers through taking forward the outcomes of the Global Tribunal of Women Workers

Part C: Wage inequality, a living wage and equal pay for work of equal value



University of
Nottingham
Rights Lab



Celebrating
30
years of
Global South Feminism



**GLOBAL SOUTH
WOMEN'S FORUM**
ON SUSTAINABLE
DEVELOPMENT

Addressing labour exploitation of women workers through taking forward the outcomes of the Global Tribunal of Women Workers

A toolkit for advocacy by women's human rights organisations in South and Southeast Asia advancing gender equality in the world of work

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Authorship and acknowledgements

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This toolkit is part of a project that the Rights Lab, University of Nottingham conducted in partnership with IWRAP Asia Pacific, to understand the forms of labour exploitation in specific countries in South and Southeast Asia that create the conditions for modern slavery to thrive.

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Table of abbreviations

AFWA	Asia Floor Wage Alliance
BGMEA	Bangladesh Garment Manufacturers and Exporters Association
CBA	Collective bargaining agreement
CESCR	United Nations Committee on Economic, Social and Cultural Rights
EPZs	Export Processing Zones
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labour Organisation
JWG	Jury Working Group
RMG	Ready-made garments
SRC	Supply-chain Relief Contribution
UDHR	Universal Declaration of Human Rights
UN	United Nations
WCSL	Women’s Centre Sri Lanka

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1. About the toolkit

This toolkit is a collection of materials from the Global Tribunal on Women Workers (“the Tribunal”), designed to assist advocacy organisations and interested individuals in undertaking activities to take forward the outcomes of the Tribunal. The toolkit is part of a project that the Rights Lab, University of Nottingham conducted in partnership with IWRAW Asia Pacific, to understand the forms of labour exploitation in specific countries in South and Southeast Asia that create the conditions for modern slavery to thrive.

The toolkit provides information on:

- 1) The international human rights and labour laws that protect women workers from exploitation.
- 2) The key issues that women discussed at the Tribunal.
- 3) The testimonies presented by witnesses at the Tribunal.
- 4) The findings and recommendations of Jury Working Groups presiding at the Tribunal.
- 5) The areas for law and policy advocacy identified by organisations to take forward the Tribunal outcomes.

The toolkit is constructed as follows:

- › **Part A:** Introduction to the Global Tribunal of Women Workers and the international conventions applicable to the human and labour rights of women workers
- › **Part B:** Ending gender-based violence and harassment in the world of work
- › **Part C (this part):** Wage inequality, living wage, and equal pay for work of equal value
- › **Part D:** Freedom of association, collective bargaining, and the right to unionisation
- › **Part E:** Care work, social protection, decent work, and informalisation
- › **Part F:** Health rights, including occupational health and safety, mental health, and sexual and reproductive health and rights

1.1. Who should use the toolkit?

This toolkit is intended to be used by women's rights organisations, trade unions, legal advocates, and activists working to advance the human and labour rights of women workers in the context of wage equality, a living wage and equal pay for work of equal value. The key legal conventions applicable to these rights are set out in detail, as well as advocacy initiatives currently being undertaken by organisations working to address these issues. This serves to guide future advocacy to take forward the recommendations issued by the Jury Working Group.

Table 1: Overview of content

1. List of relevant international human and labour rights instruments	This section provides a list of the relevant international and regional human rights and labour rights instruments relevant to wage inequality, a living wage, and equal pay for equal work.
2. Key international norms applicable to wage inequality, a living wage and equal pay for work of equal value	This section reviews key international norms applicable to the issue of wage inequality, a living wage, and equal pay for equal work.
3. Gaps in national laws	This section highlights critical gaps in national laws relevant to wage inequality, living wage, and equal pay for work of equal value.
4. Rights violations identified by witnesses to the Global Tribunal of Women Workers	This section outlines the rights violations identified by witnesses providing testimony at the Global Tribunal of Women Workers relevant to wage inequality, a living wage, and equal pay for equal work.
5. Findings and recommendations of the Jury Working Group	This section summarises key findings and recommendations of the Jury Working Group on wage inequality, a living wage, and equal pay for equal work, with key takeaways for governments, businesses, non-governmental organisations, trade unions, and multilateral agencies.
6. Areas for law and policy advocacy identified by organisations to take forward the Global Tribunal recommendations	This section presents examples of good practice and advocacy by organisations that participated in the Global Tribunal, and key commitments from these organisations to take forward the recommendations of the Jury Working Group.

2. Relevant international human and labour rights instruments

This section provides a list of the relevant international and regional human rights and labour rights instruments relevant to wage inequality, a living wage, and equal pay for equal work.

This list reflects only those instruments relevant to addressing wage inequality, a living wage and equal pay for work of equal value. Human and labour rights conventions applicable generally to women workers' rights at work and in the world of work can be found in Part A of this toolkit.

UN Conventions

- › Convention on the Elimination of All Forms of Discrimination Against Women 1979 (Article 11)
- › CEDAW Committee General Recommendation No. 13: Equal Remuneration for Work of Equal Value 1989
- › International Covenant on Economic, Social and Cultural Rights 1966 (ICESCR) obligations relating to work (Article 7)
- › Committee on Economic, Social and Cultural Rights General Comment No. 23 on the right to just and favourable conditions of work (2016)

Labour Standards

- › Discrimination (Employment and Occupation) Convention, 1958 (No.111) and
- › Discrimination (Employment and Occupation) Recommendation, 1958 (No. 111) (1958)
- › Equal Remuneration Convention, 1951 (No. 100) and
- › Equal Remuneration Recommendation, 1951 (No. 90)
- › Minimum Wage Fixing Convention, 1970 (No. 131)
- › Protection of Wages Convention, 1949 (No. 95)
- › Minimum Wage-Fixing Machinery, 1928 (No. 26) and
- › Minimum Wage-Fixing Machinery Recommendation, 1928 (No. 30)

3. Key international norms applicable to wage inequality, a living wage and equal pay for work of equal value

This section reviews key international norms applicable to the issue of wage inequality, a living wage, and equal pay for equal work.

3.1. A fair or living wage

Closely linked to the notions of fairness and equality, “remuneration” must also provide a “decent living” for workers and their families.¹ The has made it clear that the right to just and favourable conditions of work includes payment of remuneration that allows all workers to make a decent living for themselves and their families. This **means that all workers have the right to a fair or living wage.**²

While fair wages and equal remuneration are determined by reference to the work performed by an individual worker, as well as in comparison with other workers, remuneration that provides a decent living is determined by reference to outside factors such as the cost of living and other prevailing economic and social conditions. This must be sufficient to enable the worker and his or her family to enjoy other rights guaranteed in the ICESCR such as social security, health care, education and an adequate standard of living, including food, water and sanitation, housing, clothing and additional expenses such as commuting costs. Any assessment of fair or living wages should also take into account the position of women workers, particularly where their work and pay has traditionally been undervalued. Where workers have precarious contracts, supplements to the wage, as well as other measures to guard against arbitrariness, it may be necessary in the interests of fairness to mitigate the lack of job security. Wages should also be paid in full, without unlawful deductions, and in a regular manner and on time.

ILO labour standards do not expressly refer to a ‘living wage’³ *per se*, but the ILO emphasises the importance of considering both the needs of workers and their families, and economic factors in determining remuneration. This is clear from several ILO standards that relate to setting minimum wages (described below).

The Minimum Wage-Fixing Machinery, 1928 (No. 26) and Minimum Wage-Fixing Machinery Recommendation, 1928 (No. 30), were developed noting that wage rates (for workers in low-paying sectors where there was no wage-fixing in collective agreements) should “take account of the necessity of enabling the workers concerned to maintain a suitable standard of living”. However, the ILO also noted that “it would be counterproductive to establish a minimum wage beyond the capacity of industry to pay”.⁴

The ILO Minimum Wage Fixing Convention, 1970 (No. 131) states that the needs of workers and their families, as well as economic factors (including the requirements of economic development, levels of productivity and the desirability of attaining and maintaining a high level of employment), must be considered in determining the minimum wage.⁵

The CESCR Committee also states that the minimum wage must apply systematically, ‘protecting as much as possible the fullest range of workers, including workers in vulnerable situations. It might apply generally or differ across sectors, regions, zones, and professional categories, so long as the wages apply without direct or indirect

¹ Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 23 (2016) on the Right to just and favourable conditions of work, para 18, available at <https://www.refworld.org/docid/5550a0b14.html>

² Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 23 (2016) on the Right to just and favourable conditions of work, para 10, available at <https://www.refworld.org/docid/5550a0b14.html>

³ However the preamble of the ILO Constitution expressly refers to a ‘living wage’: https://www.ilo.org/dyn/normlex/en/f?p=1000:62:0::NO:62:P62_LIST_ENTRIE_ID:2453907:NO.

⁴ See ILO Brief: Setting adequate wages - the question of living wages, October 2022 at https://www.ilo.org/wcmsp5/groups/public/-/ed_protect/--protrav/--travail/documents/briefingnote/wcms_857876.pdf

⁵ Article 3, ILO Convention No. 131 on Minimum Wage Fixing (1970).

discrimination and ensure a decent living'.⁶ The concept of living wages also includes the right to have regular payment of wages and specific rules for deductions.⁷

Garment workers are said to be the most affected by the gap between payment of a minimum wage and a living wage. There are about 75 million garment workers globally, of which 75% are women and girls aged 18-24. Only 2% of these women earn a living wage, which means that 98% of garment factory workers live in systemic poverty and are unable to meet basic needs.⁸ The 48.5% gap⁹ that exists between minimum and living wages in major garment-producing countries has been attributed to fast fashion, which relies on increasing sales volumes to maximize profits, and leads to over-production, over-consumption, and excessive waste. To address this requires that brands must not only consider their environmental impact, but also the wages paid to factory workers. Higher wages are a key contributor to eliminating gender and wage inequality.

“Fair pay can lift women and their families out of poverty, reducing risks like gender-based violence in supply chains. Neglecting fair pay requirements undermines worker justice and sustainability.”¹⁰

3.2. States and private business obligations

Conventions No.100 and No. 111 both acknowledge that employers' and workers' organisations have a key role to play in their implementation if they are to be effective. They entrench the principles of social dialogue between governments, workers' and employers' organisations.¹¹ International law also requires that an evaluation of work of equal value must be assessed objectively, and must include factors such as skills, responsibilities and effort required by the worker, as well as working conditions.¹²

The ILO recommends that equal pay for work of equal value can be ensured through:

- 1) National laws or regulations;
- 2) Legally established or recognized machinery for wage determination;
- 3) Collective agreements between employers and workers; and
- 4) A combination of those means.¹³

The CESCR Committee has recommended that remuneration set through collective agreements should be aimed at ensuring equal pay for work of equal value. States parties should adopt legislation and other measures to promote equal remuneration for work of equal value, including in the private sphere, for example, by:

- Encouraging the establishment of a classification of jobs without regard to sex;
- Fixing time-bound targets for achieving equality, and reporting requirements designed to assess whether targets have been met; and
- Requiring progressive decreases in the differentials between rates of remuneration for men and women for work of equal value.¹⁴

⁶ Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 23 (2016) on the Right to just and favourable conditions of work, para 23, available at <https://www.refworld.org/docid/5550a0b14.html>

⁷ See article 12 of the ILO Convention on Protection of Wages, 1949 (No.95), which provides that the intervals for the payment of wages shall be prescribed by national laws or regulations or fixed by collective agreement or arbitration award. Article 8 specifies that wages can only be deducted if this is in accordance with national laws or regulations, fixed by collective agreement or arbitration award.

⁸ “Why is a living wage essential to sustainable fashion?” <https://www.econyl.com/magazine/why-is-a-living-wage-essential-to-sustainable-fashion/>

⁹ Industry Wage Gap Metric 2023 <https://www.theindustrywewant.com/wages>

¹⁰ See f/n 19.

¹¹ See article 4, Convention No. 100 and article 3(a) Convention No. 111 as well as Recommendation No. 111 Para 4(9).

¹² Para 12, CESCR General Comment No. 23. See also CEDAW General Recommendation No. 13: Equal Remuneration for Work of Equal Value (1989) at

https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/INT_CEDAW_GEC_5832_E.pdf.

¹³ Article 2, ILO Convention No.100.

¹⁴ Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 23 (2016) on the Right to just and favourable conditions of work, para 15, available at <https://www.refworld.org/docid/5550a0b14.html>

4. Gaps in national laws

This section highlights critical gaps in national laws relevant to wage inequality, living wage, and equal pay for work of equal value.

Despite the guarantee of the right to just and favourable conditions of work more than 50 years ago, the right has yet to be fully realized. The level of wages in many parts of the world remains low and the gender pay gap remains a persistent and global problem. Almost half the countries in the world still regulate weekly working hours above the 40-hour work week, with many establishing a 48-hour limit, and some countries have excessively high average working hours. In addition, workers in special economic, free trade, and export processing zones are often denied the right to just and favourable conditions of work through non-enforcement of labour legislation.¹⁵

Many ILO member States (90%) have minimum wage policies, but approximately 266 million wage earners are paid less than the minimum either because they are not covered legally, or the laws protecting them are not complied with.¹⁶ This means that in addition to the lack of formalisation of rules for pay, they would also be left without complaint mechanisms to seek redress when their rights are violated. This lack of coverage arises because of systemic inequalities between men and women in the world of work. For example, the feminization of jobs and devaluation of industries and sectors which predominantly employ women workers, means that women are often concentrated in jobs that are valued less, have lower pay and little or no social benefits.¹⁷ Women workers are also overrepresented in informal employment.¹⁸

Specific categories of women workers are more affected than others by the lack of protection in national labour laws. This includes domestic workers, casual workers, unpaid care workers, migrant workers and agricultural workers.¹⁹ Domestic workers remain one of the least protected groups of workers under national laws.²⁰

Covid-19 increased the gender pay gap as a result of the expanding care responsibilities women had during the pandemic. In South and Southeast Asia, the level of inequalities is said to have deepened at alarmingly high rates.²¹

¹⁵ See <https://www.escr-net.org/resources/general-comment-no-23-2016-right-just-and-favorable-conditions-work>

¹⁶ ILO, *Global Wage Report 2020-21: Wages and minimum wages in the time of COVID-19*, at https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_762534.pdf. The ILO also specifically notes that domestic workers and agricultural workers are often left out of legal frameworks on minimum wage.

¹⁷ UN Women, *Explainer: Everything you need to know about pushing for equal pay* (14 September 2020), at <https://www.unwomen.org/en/news/stories/2020/9/explainer-everything-you-need-to-know-about-equal-pay>.

¹⁸ See [Global Gender Gap Report 2022](#).

¹⁹ CESCR General Comment No. 23 (2016) on the right to just and favorable conditions of work (article 7 of the International Covenant on Economic, Social and Cultural Rights), para 47.

²⁰ ILO, *Domestic workers across the world: Global and regional statistics and the extend of legal protection* (2013), at https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms_173363.pdf, p. 46.

²¹ See UN Women, *Overview: In South Asia, COVID-19 deepens gender disparities* (8 July 2021), at <https://asiapacific.unwomen.org/en/news-and-events/stories/2021/07/covid-19-deepens-gender-disparities>.

5. Rights violations identified by witnesses to the Global Tribunal of Women Workers

This section outlines the rights violations identified by witnesses providing testimony at the Global Tribunal of Women Workers related to wage inequality, a living wage, and equal pay for equal work.

5.1. Summary of evidence

The testimonies women workers shared at the Global Tribunal showed that women workers are subjected to systematic denial of the rights to regular pay, minimum wages, equal pay and equal pay for work of equal value. The right to just and favourable conditions of work guaranteed in article 7 of ICESCR and the right to equality and non-discrimination in employment and occupation as well as equal pay for work of equal value protected in ILO Conventions 111 and 100 remain unrealised for the vast majority of women workers in the industries and sectors from which evidence was forthcoming. The right to a living wage which ensures that workers and their families can make a decent living is even more remote in many industries and sectors.

Seventeen workers testified on the rights violations they experienced and continue to experience. They range from migrant domestic workers, factory workers in the garments and textiles sector, agricultural workers, administrators, office assistants, waiters and dancers working in the entertainment sector. The witnesses came from countries as diverse as Indonesia, Sri Lanka, Nepal, Uganda, Bangladesh, Cambodia, Thailand and the Philippines. Many of the workers reported that they commonly experienced irregular payment of wages, lack of compliance with minimum wage laws, lack of mechanisms for resolving complaints about pay, discrimination in pay, discrimination in payment for overtime work, unfair and unlawful wage deductions, non-payment of benefits to which they are legally entitled, and many other forms of non-compliance with international human and labour rights to which they are entitled. These rights violations are exacerbated by their occupational segregation into feminized sectors of work, such as migrant domestic work and work in the garments and textiles sector.

A worker from a garment factory in Bangladesh testified that she was forced to leave work after becoming ill because she stopped drinking water to deal with the fact that workers were not permitted to take toilet breaks during working hours. She resigned after three years of service but was denied payment of her service benefits. After her dismissal she was not allowed to enter the factory premises to demand payment of her benefits from the management.

Agricultural workers from Thailand working government land to produce food, testified about the denial of their rights to benefit from their work. They do not receive any compensation or remuneration from government and are denied social welfare and other benefits. They said that they are unable to feed their families.

Workers employed at garment manufacturing factories in Cambodia testified about their struggle to hold management accountable for payment of compensation and benefits due to employees when factories were closed. Many of them have long years of service and were offered paltry sums for voluntary resignation, which they decided not to accept.

Although all the worker testimonies presented to the Tribunal are equally important, we reproduce below only some of the voices heard.

5.2. Selected worker voices

Sonamoni

“Being a Dalit woman, the miserable story of my life, like many others from my community needs to be told, to unfold the discrimination, exploitation and inhumanity we have been receiving since a long time.”

I am a widow from Narayanganj, Dhaka in Bangladesh. Being a Dalit woman, the miserable story of my life, like many others from my community needs to be told, to unfold the discrimination, exploitation and inhumanity we have been receiving since a long time. Like other men and women of Dalit community, I used to work as a cleaner under the city corporation from a very young age. I was married at the age of 12 and moved from my father's house to my husband's. I worked with my husband and my mother-in-law as cleaners and sweepers. I still go to work before sun rises and work tirelessly for the whole day. I never received any safety gear from the city corporation management. I had to work in all situations, in sun and rain, even during my pregnancy.

After doing this toilsome work, my monthly salary is only BDT 5000/- (52.62 USD). The management deducts BDT 1000/- (10.52 USD) in advance for two festival bonuses, BDT 1025/- (10.79 USD) for gas bill, BDT 600/- (6.31 USD) as current bill and each day's wage for spending any sick leave or weekly holiday. After deducting all this amount, I barely have BDT 1200/- to BDT 1500/- (12.63 USD to 15.79 USD) in hand for the monthly expenses.

This job is not permanent. We do not get any appointment letter. Anyone can be laid off at any time as per the whimsical wishes of the management.

Though all of my children are now grown up and earn their own, this amount is fixed for everyone and is nothing for a family to survive. Only 10kg rice costs BDT 700/- (7.37 USD). So, how can we survive with this money? We cannot eat rice and lentil every day, let alone any nutritious food or fruits. We have to take loans regularly to survive in every month. We cannot get treatment for any of our medical issues only for money. In this situation, we want conscious and active initiatives for our community's people. Otherwise, we will die from hunger.

Arlyn Duhaylungsod

“Men and women receive different pay rates for the same work”

I am a factory worker from the Philippines. The minimum wage in my factory is about \$9.5 per 8 hours. We do not receive service incentive leave, holiday pay, or any of the other benefits mandated by law. We work on average 12 hours a day. Men and women machine operators working in the plastics factory receive different pay rates for the same work, but we also get different pay for overtime work. The low minimum wage is reduced by unfair and illegal pay deductions - for example, if a worker is late by one minute, almost half a dollar would be deducted from their pay. Women machine operators deserve a decent salary, the same as male workers. We even have an additional workload because we perform other tasks such as cleaning the factory, cleaning the office, and even doing laundry or washing the clothes of our employers.

Isabel Reyes (not her real name)

“I endured all these pains because I had nowhere to go.”

I am 43 years old, single, from the Philippines. I have one child and I am a person with a disability. I would like to tell you my story when I was working in a big undergarment factory owned by a Chinese employer. I worked as a repacker for more than seven years but was never considered a regular employee by the management. Every other 6 months, me and my colleagues signed a new contract to continue our services to the company. Later, some women leaders in my community told me that this is labour-only contracting which is illegal under the law.

I only received a salary of \$6 per day which is below the minimum wage rate worth \$9. Factory management said that our rate is enough because “the job is easy”. This is not true because we are not just sitting there. We are folding and repacking the products based on the standards of the factory. It means standing all day while working. To reach our daily quotas, we are not allowed to sit to speed up the process of packaging. This condition has resulted in constant pain all over my body, especially in my legs, waist, and back. Even so, I endured all these pains because I had nowhere to go. I am already old and other factories are not accepting aged workers like me.

My meagre salary was barely not enough for my family’s basic needs such as food, water, electricity, medicine, and house rent. I am renting a house in a shanty to save money for food.

The management also implemented a quota system which is impossible for all of us to meet. The factory management forced us to fold and repack 600 pieces of undergarment within an hour. On my part, the average piece that I can meet is 300 pieces. This means that the quota exceeds our physical ability to complete such a high target.

Sometime in December 2021, I was called by my supervisor, and he told me to resign or the company will terminate my work. I have no other choice but to resign.

These violations of my rights as a woman and as a worker has impacted my life. Contractualization for example made me like a robot just following orders and the terms written in the contract. We have no right to ask questions or to complain. The management also instilled in our minds that the work is easy, so we don’t need to demand a higher salary and be content. I have been very hardworking on my work but when the quota system was implemented, I felt nervous and was traumatised due to constant scolding from my supervisors.

Right now, I am not working anymore at the undergarment factory. I am still a factory worker in another factory and still experiencing the same situation.

I strongly believe that the violations of my rights happened because the Department of Labour and Employment is not protecting the workers. More than 6 years have passed since the tragedy in the Kentex Factory and seventy-four workers died in a fire, but the situation is still the same. Sweatshops are still operating all over the city. 12-hour regular working hours replaced the 8-hour work per day and the wages are still below the legal minimum wage. And the Department of Labour and Employment and our Local Government Unit have done nothing to improve our working conditions.

To the duty bearers, these are my messages:

1. To my former and current employer and all employers, respect the rights of women and workers. Implement the labour laws and standards and consider women's work as real work and not an “easy job”.
2. To the Department of Labour and Employment and the Local Government, take effective measures to solve the rampant operations of sweatshops in our city. Women workers like me fall first and the majority of the victims under this unjust and inhumane practice which remove all our rights to decent work and a living wage.
3. To the National Government, I urge you to act on how to stop the rising pricing of commodities and basic services and also to raise the salary of workers. Provide unemployment assistance and alternative livelihoods to us who lost our jobs.

Finally, I hope that the Global Tribunal will hear my story and address our demands with the authorities such as our government.

Nadira Begum (pseudonym)

“We were born as a girl, that's our problem, because we are a girl, we get more work and less money...”

I work in a seafood processing company in Bagerhat, Bangladesh as a fish head cutter. First, I used to work on a daily basis, now I am a permanent worker. The discrimination between men and women in work is clear here. In this kind of work, we (female workers) have to face various types of harassment. We were born as a girl, that's our problem, because we are a girl, we get more work and less money, most of the time, girls work more than men, but in terms of money, girls get less money. We don't get equal wages. 100-300 taka are available during temporary work and permanent worker gets 1000-1500 taka. But for male workers this wage is double or more. When we worked at night, we did not get any extra wages for the night work. To ask for a wage increase, we are threatened and told to quit our jobs.

At times, no accommodation or separate transportation from the factory was arranged by authorities at night. When those who protested about all this - they had to quit their jobs. I would not have protested for fear of this, what will I eat if the job is gone? There is no minimum cost of living here. Workers did not know about their rights earlier. They did not know what a fair wage is. After coming to Karmojibi Nari they know about their rights and demands. Now they do not shy away from agitating for their just demands. They could now complain to supervisors about unfairness in their pay, vacation time, working hours, etc. This is their courage. I demand before the Global Tribunal that ‘every woman should get the proper rights they deserve’.

6. Findings and recommendations of the Jury Working Group

This section summarises key findings and recommendations of the Jury Working Group on wage inequality a living wage, and equal pay for equal work, with key takeaways for governments, businesses, non-governmental organisations, trade unions, and multilateral agencies.

6.1. Findings

The Jury Working Group (JWG) found that the evidence reflects common issues affecting women workers. They reported:

- No minimum wage or lower paid than the set minimum wage.
- Non-payment for overtime work.
- Limited or no benefits including maternity benefits and access to reproductive health care.
- Excessive working hours and excessive production targets.
- Termination of employment contracts without reasons.
- No grievance mechanisms in the workplace to address rights violations and hence no redress or remediation for adverse human rights impacts.

This is to a large extent due to the feminisation of certain economic sectors where women workers are disproportionately represented, such as domestic work, the entertainment sector and garment manufacturing. These sectors are also characterised by weak regulation and limited or absent monitoring, inspections, and enforcement of labour laws. Women workers in these sectors have no guarantees of regular pay, no guaranteed minimum wage, and often have no entitlement to any benefits such as maternity leave and pay. In many cases women are not even paid for overtime work or allowances due to specific factories despite this being regulated under law. Many countries also lack legal frameworks to hold the private sector—especially global brands and multinational enterprises—accountable for human rights and labour rights violations so these actors continue to act with impunity.

The JWG considers the current extractive capitalistic system driven by the sole purpose of growth and profit to be the origin of the structural inequalities faced by women workers in the Global South and in feminised sectors of the economy. This means that:

“A collective sense of justice and solidarity is needed to comprehensively address the multi-dimensional challenges spoken about by the witnesses.”

More specifically, the JWG noted the following specific rights violations by the government and private sector emerging from the evidence:

- Failure to pay salaries or a living wage, necessitating employees seeking loans from unscrupulous and exploitative lenders (loan sharks).
- Understating an employee’s length of service in order not to pay or to pay a reduced gratuity when an employee’s service is terminated.
- Failure to provide for workers’ medical needs, requiring them to bear these costs themselves despite the fact that ill health is caused by working long hours in conditions that damage the physical and mental health of employees.
- Setting high production quotas that are impossible to meet and as a result depriving employees of income.
- Failure to provide for paid sick leave, which means that employees are forced to terminate their employment when they fall sick.

- Failure to have written contracts of employment in which salaries and other benefits including benefits on termination are agreed.
- Unlawful termination of employment (constructive dismissal or unjust dismissal) and the resultant failure to pay termination benefits.
- Failure to pay for full hours of overtime worked.
- Failure to provide for paid maternity leave, meaning that employees are forced to work in difficult conditions well into their pregnancy and to return to work soon after giving birth.
- Failure to remit social security benefits that are deducted from the pay of employee.
- Intimidation, harassment, and victimisation of trade union members for their activities.
- Sexual harassment leading to non-payment of benefits due when the employee does not acquiesce to the harasser.
- Physical assaults on workers that compromise their health and make it impossible for them to continue working.
- Failure to conduct inspections to monitor whether labour laws are being adhered to.
- Lack of recognition of portability of social protection rights, which results in migrant workers facing lack of social protection and discriminatory treatment in the country of residency.

6.2. Recommendations

Law and policy changes to be addressed by States

- 1) Ratify ILO standards such as the Minimum Wage-Fixing Machinery, 1928 (No. 26) and adhere to the guidelines in the Minimum Wage-Fixing Machinery Recommendation, 1928 (No. 30).
- 2) Ratify the ILO Minimum Wage Fixing Convention, 1970 (No. 131).
- 3) Ensure that the national legal framework complies with the ILO Discrimination (Employment and Occupation) Convention, 1958 (No.111) and the Equal Remuneration Convention, 1951 (No. 100) and requires private and public sector businesses to adhere to the principles applicable to equal pay for work of equal value and to end pay discrimination based on gender.
- 4) Develop clear and well-resourced frameworks to ensure national implementation of international human rights and labour rights duties and obligations. The legal framework should cover all workers in all sectors and economic activities in the country and ensure that even the most marginalised and vulnerable workers are protected from discrimination in pay. Frameworks should outlaw discriminatory practices against certain categories of workers, such as those in domestic work and the entertainment industry, where in many cases minimum wage legislation does not apply. They should also ensure that all workers have access to legal and administrative mechanisms to remedy human rights and labour rights violations.
- 5) Enact legislation to regulate the conduct of multinational enterprises that provides for monitoring their activities and holding them to account for labour and human rights violations.
- 6) Monitor and regulate the operation of sweatshops and informal sub-contracting that thrives on labour exploitation of mainly women workers. Laws should also prevent these enterprises from relocating to another country to avoid liabilities to workers, and governments should collaborate at a regional and global level to prevent relocation to countries where standards are lower.
- 7) At the multilateral level, it is imperative that members of the United Nations should agree on a Binding Treaty on Business and Human Rights, so that there is a real effort to regulate the private sector and hold them accountable for their social, economic and environmental impacts.
- 8) Recognise minimum wages in legislation and fix wages with reference to the requirements of a decent living and apply them consistently to all workers and all sectors. Mechanisms should be developed to make sure the minimum wage is periodically reviewed and indexed to the cost of living to ensure that it is a living wage. Workers, employers, and their representative organizations should participate directly in the operation of such a mechanism.
- 9) Ensure that social protection and benefits, as part of a living wage and broader social welfare system, are accessible for all workers regardless of the sectors and industries in which they work.

- 10) Ensure that labour legislation provides for labour inspections and that inspectors have the necessary capacity and resources to conduct regular and effective inspections of businesses, including assessing compliance with minimum wage provisions. Legislation should also provide for penal and other sanctions for employers who do not comply.

Responsibilities of private sector businesses

- 11) All local suppliers that are part of global supply chains producing goods for global brands and buyers should be supported by global brands to ensure that they comply with all national legislation related to remuneration and benefits.
- 12) Private sector businesses should realise that wage equality goes beyond a binary understanding of equality between male and female workers and must embrace the realities in the Global South, including the economic situation in many countries, which requires workers to be paid a living wage. They should ensure that basic human rights—such as the right not to be discriminated against on the grounds of sex and gender—are respected in the workplace, including by putting in place specific gender equality policies that prohibit pay discrimination and ensuring equal access to all benefits.
- 13) Private sector businesses should ensure that workers have accessible mechanisms for complaints related to remuneration in general and ensure action is taken to prevent and remediate workers for any forms of discrimination or victimisation for raising issues related to wage inequality and the living wage.

What should non-governmental organisations and trade unions do?

- 14) Workers and their organisations are encouraged to continue with their acts of collaboration and solidarity.
- 15) They should create more awareness of the rights of women workers and mechanisms that exist in the workplace and outside the workplace to obtain access to justice for their rights violations.
- 16) They should continue to address the systemic and deep-rooted structures that discriminate against women and other marginalised groups in certain economic contexts, communities, and societies.
- 17) Trade unions should continue to provide legal advice and assistance to members on the issues of gender equality, wage equality, and concepts of the living wage and equal pay for work of equal value, as well as to support related demands.
- 18) Trade unions should hold employers and employer associations accountable for implementing wage equality, equal pay for work of equal value and a living wage, through collective agreements and participation in inspections and monitoring of workplaces and receiving complaints from workers.

6.3. The right to equal pay and equal pay for work of equal value

The Universal Declaration of Human Rights (UDHR) 1948 establishes the basic human right of everyone, without discrimination, to receive equal pay for equal work.²²

Under the International Covenant on Economic, Social and Cultural Rights (ICESCR) the right to equal remuneration for work of equal value, equal pay for equal work and fair wages are part of “the right of everyone to just and favourable conditions of work.”²³

The ICESCR obliges States Parties²⁴ to the Covenant, to ensure that everyone, as a minimum is entitled to:

- 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; and
- ii. A decent living for themselves and their families. (Article 7(a)(i)).²⁵

The application of the right to just and favourable conditions of work to ‘everyone’ means it applies to all workers in all settings regardless of gender. It also applies to young and older workers, workers with disabilities, workers in the informal sector, migrant workers, workers from ethnic and other minorities, domestic workers, self-employed workers, agricultural workers, refugee workers and unpaid workers.²⁶

The concept of “remuneration” goes beyond the more restricted notion of “wage” or “salary”. It includes additional direct or indirect allowances in cash or in kind paid by the employer to the employee that should be of a fair and reasonable amount, such as grants, contributions to health insurance, housing and food allowances, and on-site affordable childcare facilities.²⁷ Minimum remuneration refers to “*the minimum amount of remuneration that an employer is required to pay wage earners for the work performed during a given period, which cannot be reduced by collective agreement or an individual contract*”.²⁸

The notion of “conditions of work for women not inferior to those enjoyed by men” and “equal pay for equal work” mentioned in article 7(i)(a) is more restrictive than the notion of equal remuneration for work of equal value.²⁹ Similar conditions for work and equal pay for equal work are related to preventing direct discrimination between male and female employees on the basis of sex, based on comparison between the same job or post, normally in the same enterprise or organization. This requires that in situations where a man and a woman perform the same or similar functions, both workers must receive the same pay.

The concept of “equal remuneration for work of equal value” is based on the broader recognition of remuneration based on the *value of the work*, irrespective of whether the work is performed by a male or female employee. This requires an ongoing objective evaluation of the functions being performed to

²² Article 23 (2) UDHR. See also article 24 UDHR which provides: “Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay”. For other references in international legal instruments see International Convention on the Elimination of Racial Discrimination (ICERD) article 5; CEDAW article 11; Convention on the Rights of the Child (CRC) article 32; International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW) article 25; Convention on the Rights of Persons with Disabilities (CRPD) article 27.

²³ Article 7(a) (i) and (ii) ICESCR.

²⁴ The ICESCR has been ratified by 171 States Parties at 1 April 2023. In South and Southeast Asia includes Bangladesh, Cambodia, India, Nepal, the Philippines, Thailand and Vietnam.

²⁵ In addition to three other components – safe and healthy working conditions, equal opportunity for promotion, rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays (article 7 (a) (ii)).

²⁶ Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 23 (2016) on the Right to just and favourable conditions of work, para 5, available at <https://www.refworld.org/docid/5550a0b14.html>

²⁷ Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 23 (2016) on the Right to just and favourable conditions of work, para 7, available at <https://www.refworld.org/docid/5550a0b14.html>

²⁸ Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 23 (2016) on the Right to just and favourable conditions of work, article 19, available at <https://www.refworld.org/docid/5550a0b14.html>

²⁹ Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 23 (2016) on the Right to just and favourable conditions of work, para 16, available at <https://www.refworld.org/docid/5550a0b14.html>

determine whether the work is of equal value and whether the remuneration received is equal.³⁰ Objective job evaluation must be free from gender bias and should avoid indirect discrimination based on sex and gender when determining rates of remuneration and comparing the relative value of different jobs.

For example, a distinction between full-time and part-time work—such as the payment of bonuses only to full-time employees—might indirectly discriminate against women employees if a higher percentage of women are part-time workers.³¹

The ILO's two key instruments providing for gender equality at work—the ILO Discrimination (Employment and Occupation) Convention, 1958 (No.111) and the Equal Remuneration Convention, 1951 (No. 100)—are relevant to equal pay for work of equal value. They are based on the recognition that inequality in pay and lack of equal pay for work of equal value are clear manifestations of discrimination based on sex and gender in employment. They cannot be achieved without addressing other factors contributing to gender inequality at work. In this context, ILO Convention No. 100 was the first systematic attempt to address the pay inequality based on sex and gender (also referred to as the gender pay gap) and discrimination by articulating the principle that rates of remuneration must be established without discrimination based on sex.³²



³⁰ Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 23 (2016) on the Right to just and favourable conditions of work, para 12, available at <https://www.refworld.org/docid/5550a0b14.html>

³¹ Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 23 (2016) on the Right to just and favourable conditions of work, para 12 and 13, available at <https://www.refworld.org/docid/5550a0b14.html>

³² Article 1(b), ILO Convention No. 100 on Equal Remuneration (1951).

7. Areas for law and policy advocacy identified by organisations to take forward the Global Tribunal recommendations

This section presents examples of good practice and advocacy by organisations that participated in the Global Tribunal, and key commitments from these organisations to take forward the recommendations of the Jury Working Group.

7.1. AWAJ Foundation

The CEDAW Committee in its concluding observations for Bangladesh 2016,³³ expressed concern about the low participation rate of women in the formal economy and the persistent wage gap between women and men in most sectors. It recommended that, amongst others, that Bangladesh should:

- 1) Take effective measures to monitor and improve the working conditions of women in informal and private sectors by ensuring regular labour inspections and social protection coverage;
- 2) Address the gender wage gap by applying gender-neutral analytical job classification, evaluation methods and regular pay surveys; and
- 3) Establish effective monitoring and regulatory mechanisms for employment and recruitment practices.

In addition to addressing the gender pay gap, AWAJ's advocacy to progress towards a living wage in the Ready-Made Garments (RMG) industry is a key strategy. This advocacy conducted in a context where the minimum wage for garment workers remains very low and is not considered to be a living wage. The legal minimum wage for garment workers in the country is 8,000 taka (£73.85), but the organisation says workers need at least 16,000 taka to afford a basic standard of living. With such low wages, employees often feel compelled to take on large amounts of overtime to make ends meet, and many of them become indebted to loan sharks operating in the informal economy.

AWAJ works towards its goal simultaneously on several different fronts, including increasing awareness among workers on the minimum wage and the benefits that they are entitled to under the Bangladesh Labour Law, such as overtime pay, annual wage increments, and paid leave, among others. As a result of awareness raising, workers themselves are able to verify whether they are getting fair wages according to the law and demand compliance with the law and improvements to their current situation.

AWAJ focuses much of its work on developing the capacity of workers to negotiate with factory management for better wages and benefits. For example, by law factory owners are required to provide an annual wage increase of 5%. However, collective bargaining agreements (CBAs) negotiated by workers with the help of AWAJ led to them achieving annual wage increments of 8% or more at their factories. Through CBAs, workers were also able to receive appropriate overtime payment, food allowance for work after 7PM, and additional payment for work after 10PM. This was achieved by mobilising workers on the ground and conducting high-level advocacy with the Bangladesh government, the BGMEA (Bangladesh Garment Manufacturers and Exporters Association) and brands.

AWAJ Foundation will continue to build solidarity with national and international trade union federations and conduct joint advocacy on the minimum wage/living wage issue.

³³ See <https://www.refworld.org/publisher,CEDAW,,BGD,583864444,0.html>

7.2. Women's Centre Sri Lanka (WCSL)

WCSL has identified the right to a fair minimum wage and entitlement to a living wage for all women workers as a key advocacy priority. In Sri Lanka, the effects of Covid-19 and economic uncertainty have worsened the situation of women workers. Although the organisation found that food recession has increased by nearly 100%, the base salary of workers remains only 16,500 Rupees (USD 44) a month. WCSL believes that this is not a living wage—it is insufficient to cover food, medicine, transportation, and even sanitary pads for women workers. Another element the organisation continues to focus on is claiming the allowances that are payable to women workers employed in garment factories in Export Processing Zones (EPZs), as well as addressing the rights to full pay and benefits for workers in factories that are closing as a result of the continued effect of the global economic crisis in garment supply chains.

7.3. AFWA (Asia Floor Wage Alliance)

AFWA has conducted numerous campaigns to address wage-poverty, wage-theft, and other extreme forms of exploitation in global garment supply chains in Asia. It exposed the extent to which brands and buyers continue to profit at the expense of women workers exploited in Asia's garment factories. This is possible because global supply chains are organised in an opaque manner so that the brands that appropriate most of the profit are not held accountable or responsible for purchasing practices that perpetuate poverty-level wages.

AFWA demanded in 2020 that the loss of income due to suspension of work and the impact of Covid-19 on livelihoods should be partially mitigated in the short-term by a one-time Supply-chain Relief Contribution (SRC), wherein brands pay an additional 2% of their past annual sourcing that is passed on through brands to suppliers and becomes payable directly to each worker. It also demanded in its many campaigns that in the medium to long term, brands should step forward and commit to a fair price or a premium that ensures payment of a living wage and social security, and safeguard freedom of association. It continues to challenge the closure of many garment factories in Asia, which leaves millions of women workers bearing the brunt of the economic shock once again, as they did in the Covid-19 pandemic.³⁴

³⁴ See AFWA "The Emperor has no clothes – Garment supply chains in the time of the pandemic", issue II, at <https://respect.international/wp-content/uploads/2020/06/THE-EMPEROR-HAS-NO-CLOTHES-GARMENT-SUPPLY-CHAINS-IN-THE-TIME-OF-PANDEMIC.pdf>

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