



## WORKER RIGHTS CONSORTIUM

**To:** WRC Affiliate Universities and Colleges

**From:** Scott Nova and Jessica Champagne

**Date:** March 26, 2013

**Re:** Impact of Nonpayment of Severance on Families of PT Kizone Workers

We write to update you regarding the case of the workers at PT Kizone, in Tangerang, Indonesia. Because we have reported on this case in several prior communications, we will not summarize the background. This information is accessible on the WRC website at this [link](#).

In February 2013, the WRC gathered updated information from 110 workers, through questionnaires and interviews, regarding the impact on themselves and their families of the failure to pay severance and the lack of timely remedy. The results of this research are disturbing. To cite one pertinent finding: nearly 20% of the workers who were surveyed reported having to suspend the education of a minor child because the family is no longer able to pay mandatory school fees. We summarize below the information gathered through this research. This memorandum also contains an update on the bankruptcy proceedings in Indonesia.

### *Financial Hardship among Kizone Workers*

In February 2013, WRC investigators surveyed 110 Kizone workers to gain a better understanding of their current employment and financial situation, and conducted in-depth interviews with 11 of these workers. Participants in the survey were drawn from worksites and neighborhoods in Tangerang where Kizone workers are known to work and live. With several Kizone workers' assistance in identifying potential research sites and individual workers, investigators visited these sites and spoke with as many Kizone workers as possible at each site. This geographic focus was chosen in order to maximize the number of workers covered by the survey. While the survey was not designed as a scientific sample, it is broadly representative of the former Kizone workers as a group and provides a reliable overview of the circumstances of these workers and their families.

A significant majority of the workers interviewed were supporting three or more family members (often, a spouse and two children). One hundred six of the 110 workers stated that their current income was not adequate to fulfill their families' needs; the majority are not currently working. When asked how they dealt with the gap between their income and their costs, many said that they decreased the amount of food that they and their families ate. Nearly half of this group of

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100 workers said that they had reduced their meals from three times a day to twice a day and a significant majority reported that the frequency and nutritional quality of their meals had dropped since the closure. Almost all of the workers (96 out of 110) reported that they have experienced periods of time since the factory's closure when they have not been able to meet their families' basic nutritional needs.

Nearly all of the workers reported that they have accrued debts since the Kizone closure. Most workers have incurred debts related to school fees, housing costs, food costs, and/or health care. The majority of workers said that if they received their severance, they would use that money to pay their debts; the top priorities expressed by the workers were covering back payments on school fees and rent.

Out of the 110 workers interviewed, 102 reported that they were covering school fees for at least one child.<sup>1</sup> 21 workers reported that they had been forced to pull their children from school and delay their education because they could not pay the fees.

Because adidas has argued that its job placement and food voucher schemes constitute an adequate remedy to the wage theft at PT Kizone, we asked workers about their experience of these programs.

A majority, 62 workers, report that they have never been contacted by adidas or by PT Lidi, the firm hired by adidas in Indonesia to carry out these programs. These workers report no contact from adidas or PT Lidi regarding job placement, food vouchers, or any other issue. Most workers from among this group of 62 have received food vouchers, but only because they heard from friends that a distribution was occurring.

Ninety-six of the 110 workers report receiving no effective job placement assistance from adidas or PT Lidi. Only 14 report being placed in a position. In this survey, workers were not asked whether they were still in those positions; in other interviews, workers have indicated that positions obtained through the job placement service were often temporary.

When asked their preference regarding forms of compensation, almost all of the workers stated that they would have preferred to receive cash rather than food vouchers. Only one worker out of 110 stated that she preferred food vouchers. As we have reported, prior to adidas' introduction of the vouchers, representatives of the Kizone workers asked adidas not to use food vouchers as a means of assisting workers – on the grounds that it is not an appropriate remedy, since workers in Indonesia are, by law, paid in cash, not vouchers, and on the grounds that these vouchers would be far less useful to workers than an equivalent amount in cash. We also previously reported problems with the design of the vouchers, in particular the fact that they could only be used at one chain of stores, known as Alfamart (a chain that workers consider to be overpriced)

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<sup>1</sup> School fees are required even for public elementary schools in Indonesia; most families have no access to any free schooling regardless of the age of their children.

and that some workers had therefore felt compelled to sell the vouchers, which they were only able to do for substantially less than face value. We asked the 110 workers surveyed last month if they had sold food vouchers rather than use them at Alfamart; 88 of the workers reported that they had sold at least some of the vouchers.

The data underscore two important points about the vouchers: 1) worker representatives were reflecting the will of the broad mass of workers in rejecting the vouchers as an inappropriate means of compensation; 2) the outreach to workers concerning the distribution of the vouchers was not comprehensive; and 3) even with the distribution of the food vouchers, many workers and their families have still suffered hunger in addition to other, non-food related hardships.

Below we present more detailed interview results from three of the former Kizone workers.

### *Icih*

Icih (pronounced “ee-chee”), a 40-year-old Kizone worker, is raising two children by herself, and has not been able to find work in the formal sector since the plant closed. Instead, she gathers trash, looking for plastic bottles, cardboard boxes and metal objects that she can sell. Icih and one of her children live in a house that used to belong to her parents; the small house is divided among her family and four of her relatives and their children.

Icih’s oldest son is finished with high school, but Icih has not been able to pay the fee necessary to release his high school diploma. Icih still owes the school fees for the exam, tuition, and the final fee required for him to obtain this crucial official document, which has made it difficult for him to find work. Her second son is 18, and in the last year of high school. He has been in and out of school because Icih hasn’t been able to consistently pay school fees. Even when he is in school, Icih sometimes has to send him to school with no food. In total, Icih owes the schools Rp7,000,000 (US\$720).<sup>2</sup>

Before the factory closed, Icih reports, she could eat three times a day; now she only eats twice. When she can’t afford food, she says, “I ask my sister for help; if there’s nothing to eat, I just go to sleep.” The neighborhood stores don’t want to sell her food because they know she can’t pay. “Sometimes I can pay my debt,” she says, but “then I have to borrow again. I’ve been yelled at by the store owner because I keep having to buy on credit, but, well, we need food, so I just accept it if she insults me. But now they don’t trust me anymore, because how can I pay?”

When one of the family is sick, she tries to avoid medical costs by using traditional medicine, such as massage, or over-the-counter pills from the corner store. However, she still owes a hospital Rp850,000 (US\$870) for treatment needed by her younger son. She explains that when an illness he contracted, which was ultimately diagnosed as typhoid, did not improve after being treated through traditional means, she had to take him to the hospital.

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<sup>2</sup> Calculations in this document, unless otherwise noted, use the currency conversion rate dated March 22, 2013, which is US\$1:Rp9,738.

Adidas contacted Icoh after Kizone closed and offered her a job in Pasar Kemis, another area of the province. However, she says, she couldn't accept the job because it was too far away. If she had taken it, she says, she would have spent almost all of her paycheck on transportation or renting a place to live closer to the factory. (As the WRC has reported previously, adidas has acknowledged, in Indonesia, that the job placement program was largely ineffective, primarily because jobs were not identified in reasonable proximity to workers' homes.) Icoh received vouchers along with the other Kizone workers; she reports that she sold her vouchers for far below face value. She says that she chose not to use the vouchers at Alfamart because she couldn't buy what she needed at Alfamart, goods are expensive there, and she needed money to pay her debts. "It would be better to have cash," she added. "If it's cash, for example, if you're sick you can use it for medicine, or you can use it to buy what you need."

### *Siti Ningsih*

Siti Ningsih, aged 29, was pregnant when PT Kizone closed. Without severance or health care, she had to pay out-of-pocket and take out debt to afford the Caesarean section that the doctor said was necessary. She sold her motorcycle, her main mode of transportation, and exhausted her savings to afford the Rp7,000,000 (US\$720) hospital bill, and is still paying down the balance of the bill more than a year later.

Siti Ningsih, her husband, and their son live on her husband's income. They are able to eat three meals a day, although they have had to decrease their portion size and can only afford certain types of food. They live with her sister, who also worked at PT Kizone, and their parents and siblings; she reports that living all in the same house has inevitably caused significant stress.

Siti Ningsih remembers sewing jackets and pants for adidas. She has heard from the company once since the factory closed, as part of a survey conducted after the initial voucher distribution. She says that she was never offered job placement or other assistance. She reports that she used the vouchers at Alfamart for holiday shopping, but that she would prefer that any additional payments be in the form of cash. "Well, I'd like to have cash, because you can use it to pay your debts, to do other shopping. If it's a voucher, you can't use it for those things."

### *Jamilah*

Jamilah, aged 38, has not been able to find formal work since PT Kizone closed; she earns income by caring for a neighbor's children for US\$1-2 per day. Her husband works as a day laborer, also earning less than the minimum wage. She scrimps and saves to keep them and her two children afloat. "We should eat three times a day, but because we have to economize, we just eat twice a day... we don't have enough of anything." Because she has no consistent income, she often has to buy on credit, or borrow from neighbors. "We have to buy on credit for now, and we hope that we will be blessed later and be able to pay. At the corner store, thank God, they believe in me and let me buy on credit."

One of her children is in middle school. While he has been granted an exemption and does not have to pay school fees, Jamilah and her husband still have to provide funds for books, worksheets, school uniforms, and transportation for her child to and from school. The hardest part of the ongoing struggle to afford school, she says, is not the debt she carries (currently Rp2,000,000, or US\$200), but the fact that her son had to leave school for a time because she couldn't afford the cost.

Jamilah and her family live in an extremely simple house. She is currently three months behind on rent, and is under significant pressure from her landlord. She says that her family avoids seeing doctors because they have no money, but still have accrued medical debt from an unavoidable hospital visit.

Jamilah remembers PT Kizone producing adidas jackets and sports clothes. She says that she was never contacted by adidas or its representatives after the closure. She did receive the shopping vouchers, which she sold for 20% below their face value. "Most of the things I need, you can't buy at Alfamart. I used the money to pay rent, buy food, and pay my children's school fees." In the future, she says, "I'd rather have cash, to pay our debts, pay our rent, and pay for our other needs.... I hope that we will get some actual money soon, so I can pay my debts and start a small business."

Workers in Indonesia have hard lives under any circumstances and the non-payment of severance is not the cause of every hardship the PT Kizone workers face; however, the non-payment of their legally mandated severance has substantially worsened workers' economic circumstances, robbing them of the ability to feed their families properly, forcing their children out of school, and driving them deeper into debt. Some of these harms will have permanent effects. The failure to pay workers what they legally earned also deprived some of the opportunity to try to escape from poverty-wage work by starting a business. The substantial severance workers are due at the time of factory closure is the largest single sum of money most will see in their lives – if they are actually paid. For some workers, severance provides a rare chance to launch a small business, an opportunity a number of the workers surveyed say they would have pursued, had PT Kizone paid them what they earned, or had the licensees fully remedied the non-payment in a timely fashion.

#### *Update on Bankruptcy Proceedings*

The Indonesian Supreme Court has upheld the decision of the Central Jakarta Commercial Court that the Kizone workers are entitled to receive Rp6.4 billion (US\$657,000). This decision was reached by the court on September 25, 2012; the final written decision is dated January 2013.<sup>3</sup>

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<sup>3</sup> Supreme Court Decision Number 252 K/PDT.SUS/2012. No more specific date is given on the document.

On January 31, 2013, the Supreme Court communicated its decision to the Central Jakarta Commercial Court.<sup>4</sup>

However, as the WRC indicated in our Status Update of May 15, 2012, this is far from a guarantee that the workers will receive these funds. The Bank of India and the Office of Foreign Investment Taxes, key parties in the appeal, have the right to request a *peninjauan kembali*, an additional review by the Supreme Court. The legal bankruptcy process began more than two years ago, on February 16, 2011; the Supreme Court process alone has consumed nearly a year. There is no reason to believe that the *peninjauan kembali* process would proceed any more rapidly.

Hopefully, the workers will eventually receive these funds. However, if they will still be owed more than one million dollars of the terminal benefits they are due; at the current exchange rate, the figure would be US\$1,030,000. Thus, as we have reported throughout, while the bankruptcy process could be of substantial help to workers, when a resolution is eventually reached, it cannot make the workers whole.

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<sup>4</sup> Website of the Supreme Court of Indonesia, <http://kepaniteraan.mahkamahagung.go.id/perkara/>. Accessed on February 26, 2013.