

30 October 2006

TO:

Ms. Trina Tocco, International Labor Rights Fund  
Bob Jeffcot, Maquila Solidarity Network  
Agatha Schmaedick, Workers Rights Consortium

Dear All,

Thank you so much for forwarding to WAC the reply of PEZA Director General (DG) Lilia de Lima. Based on our recorded facts from the narration of the striking workers and records of legal cases, I was tasked to provide a reaction to DG de Lima's letter.

We envy your organizations because DG de Lima has found time in answering your letter. In the case of the Filipino striking workers and WAC, Ms. de Lima has yet to respond to our faxed letter to her dated September 26, or to the request of the workers for her to meet them personally and listen to their grievances. (Please see attached letter of WAC to DG de Lima.)

WAC's reply is in blue color, and DG de Lima's letter is in black. I made a thorough presentation of facts here to dispel all the lies written in DG de Lima's letter and insinuations against the striking workers and WAC.

Thank you for calling our attention to what you referred to as food blockade in the Cavite Economic Processing Zone (CEPZ), Rosario, Cavite, Philippines.

We are disheartened by the allegations in your letter especially the "so called food blockade," but the labor concerns you pointed out have already been looked into.

For your information, Chong Won Fashion (Chong Won) and Phils Jeon Inc. are Korean garments manufacturing companies with 884 and 448 workers, respectively. Both companies have labor unions, claiming to be the legal bargaining unit of the workers. However, both companies questioned the legality of such claims with the Department of Labor and Employment. They both refuse to enter into collective bargaining agreements with the labor unions until the issue is resolved. Both unions are represented by the Workers Assistance Center (WAC) through its organizers, Marlene Gonzales and Arnel Salvador.

Based on our official records of cases, the Department of Labor and Employment (DOLE) had already dismissed all motions for reconsideration and appeals of the two companies related to the legal representation of their unions for collective bargaining agreements. The Office of the DOLE Secretary had ordered with finality in its separate decision the union at Chong Won Fashion Inc. (CWFI) and the union at Phils Jeon Garments Inc. (PJGI) as certified sole and exclusive bargaining representatives (SEBR) of all regular rank-and-file workers in their respective company on July 9, 2005 and November 19, 2005, respectively. Entries of judgment on the DOLE Secretary's decisions were issued on the same dates, thereby; the issue of legal representations of the two unions for collective bargaining purposes was already resolved.

Because an entry of judgment had already been issued, the decision of the DOLE Secretary has become self-executory in itself, unless restrained by court. The two companies sought for a temporary restraining order but both were denied by the Court of Appeals. The PGJI even went to the Supreme Court but was again denied. In the absence of a restraining order, the two unions have every right under the law to compel their company to enter into collective bargaining agreements even if there are still pending issues or appeals to be resolved.

On September 25, 2006, about 50 persons composed of workers of Chong Won, SP Ventures, a closed garment company, and WAC organizers picketed the main and only entrance of Chong Won. Initially, the strikers, calling themselves "Bantay Pabrik", claimed they were guarding the Chong Won for fear of possible transfer of its equipment to escape its financial obligation to the workers, in case the company decides to close.

September 25 was the day the union officially declared in open the start of the strike at CWFI and the unionized workers were there picketing not to hold "bantay pabrik" or "factory guarding." Not 50 persons picketed in front of the CWFI but 116 workers all belonging to Nagkakaisang Manggagawa sa Chong Won

(United Workers in Chong Won). Further, there was not even one organizer from the Workers Assistance Center (WAC) inside the strike area nor workers from any factory. The only organizer with the strikers on that date was from the Solidarity of Cavite Workers (SCW). But this organizer from the SCW was only there to help the strikers peacefully negotiate with the PEZA police in case the latter threaten to break, and which they eventually did, the exercise of freedom of expression of the strikers. Besides, the SCW organizer was a former employee of CWFI and herself was a victim of the company's mockery of our law.

For DG de Lima's information, there are two entrances at CWFI – one is for the exclusive use of the workers and the other is for the vehicle's use.

At about 7:30 in the morning, more than a hundred workers who wanted to report for work were physically prevented from entering the company by the striking workers and a WAC organizer, Marlene Gonzales. A scuffle ensued and the Jantrio security guards who tried to prevent the mauling of non-strikers, were punched, kicked and attacked with cutter and blades, inflicting bruises and lacerations on said guards. Both striking and non-striking workers suffered bruises. No organizer was hurt.

Approximately 800 workers showed up on September 25 composed of less than ten regular rank-and-file workers; recontract workers, and scabs hired in anticipation of the strike. These workers were not physically prevented in entering the company but actually heeded the strikers's appeal on them not to report for work because the strike had already been announced on that day. In fact, Mr. Antonio Felismino, the CWFI production manager, was with the strikers on the same scene holding a megaphone urging the non-strikers to report for work and threatening them of dismissal, but only few responded positively to his call. In addition, when majority chose not to enter the company, the few who had entered went back outside. Felismino even went further by inducing the workers for a P500 (USD10) pay on that day instead of P204 (USD 4.08) and P272 (USD 5.44) minimum pay for contractual and regular workers, respectively, and pleaded with the non-strikers not to go home, but to no avail.

It must be emphasized here that DG de Lima is lying through her teeth when she said that there was a scuffle between the striking and non-striking workers, her Jantrio guards tried to prevent the mauling of non-strikers and was instead mauled, and both striking and non-striking workers suffered bruises while no organizer was hurt.

There was no any untoward incident that happened on September 25 between the strikers and non-strikers, much less no striking workers suffered any bruises. In a dialogue held at the PEZA office in Cavite on Sept 27 called by Atty. Mary Jane Arada, DG de Lima's alleged alter ego, the CWFI lawyer and personnel officer admitted without any second thought in front of Atty. Arada, PEZA police chief, union officers, and the undersigned that no one among the non-strikers were hurt, wounded, injured, or assaulted by the strikers in the September 25 incident.

Around 40 Peza Police and Jantrio guards violently assaulted the strikers holding peaceful picketing in front of CWFI without any provocation. Together with this assaulting PEZA security forces are unidentified persons in civilian clothes, not from PEZA, seen in the company of a certain Lito Felismino, the brother of the CWFI production manager and the president of the tricycle drivers association inside the economic zone.

15 strikers suffered head and body injuries as a result of this assault. The strikers denied that they were the ones that caused alleged injuries to the Jantrio guards. According to the strikers they defended themselves un-armed and the most that they were able to do was to shield their heads with their bare hands from clubbing. The strikers could only surmised that the alleged injuries might be self-inflicted or accidentally done by its unidentified "friendly forces" in civilian clothes during the scuffle.

Marlene Gonzales, a SCW organizer (she is not a WAC organizer), was hit in the face by a certain Omillo of PEZA police when she tried to grab the club from him. She also suffered chest pain because a Jantrio guard thrust his club on her.

The picketers demanded that management enter into a collective bargaining agreement with them but the management refused. Due o said refusal on the part of management, the workers filed an unfair labor practice case against the company but the case is still pending and unresolved.

The only pending and unresolved unfair labor practice case at the DOLE related to the collective bargaining agreement are CWFI refusal to bargain, illegal dismissal of two union officers, and discrimination against active union officers and members, which are the issues of the on-going strike.

The Philippine Economic Zone Authority (PEZA), committed to the principle that labor disputes are best resolved through mediation, conducted series of meetings with the officers of the unions, the WAC organizer, Arnel Salvador and WAC counsel, Atty. Mahinay, together with the representatives of the management of both companies, Chong Won and Phis Jeon. Despite these mediation proceedings, some workers and WAC organizers, with Atty. Mahinay picketed government offices including the office of the Mayor of Rosario, Cavite without permit.

WAC and the striking workers from CWFI and PJGI are also committed in peaceful settlement of any labor dispute, not only PEZA. In fact, for more than a year the striking unions had depended on useless negotiation and mediation called by DOLE, and has repeatedly appealed to the office of DG de Lima and PEZA office in Cavite to call for a dialogue between the Korean employers and the officers of the two unions. But as of this time the office of DG de Lima has yet to act on the unions' appeal.

It must be emphasized here that DOLE and PEZA should mainly be the ones to be held responsible why workers resorted to strike and why the violent incidents on September 25 and 27 happened. Both government offices have indifferent attitude towards the protection and defense of the striking workers' rights as shown by their actions than by their words.

The two unions resorted to exercise their right to strike to end the useless negotiation and mediations that has already becoming indefinite and part of dilatory tactics of the two Korean employers, which in part or in whole are also being directly or indirectly supported by PEZA and DOLE as the strikers repeatedly complained.

The striking workers and other member unions of the SCW picketed the PEZA office of DG de Lima on September 27 and October 2 to denounce her implicit order of breaking the peaceful strike of the workers and to urge her to stop using brute force, intimidation, coercion, and food blockade against the striking workers. Moreover, the protest actions were also held to seek dialogue with her. Unfortunately, on these two occasions she was nowhere to be found in her PEZA office.

During the mediation proceeding, the parties concurred and expressed commitment to implement the provision of the Labor Code of the Philippines which provides that persons engaged in picketing shall not obstruct the free ingress to and egress from the company. All agreed that the picket should be done peacefully, no coercion, intimidation, threat or any other illegal acts will be committed, workers who wanted to report for work shall be allowed to enter the company and that they would not obstruct incoming and outgoing cargo vehicles.

However, on 27 September 2006, at about 8:00 p.m., in violation of the above agreement, the striking workers of Phils Jeon formed a human barricade to prevent the exit of a container van carrying cargoes for shipment. The strikers and WAC organizers pushed, shoved and stabbed using ice picks and cutters, the Jantro security guards. Taken by surprise, the security guards were not able to defend themselves. Six unarmed guards were wounded. They were hit in the arms and thighs near their groins. A certain Jimmy Eder, a WAC organizer stabbed one of the Jantro guards. No arrests were made but criminal cases had been filed.

Again, DG de Lima is lying through her teeth. She could not contain her bias against the striking workers and WAC. She also deliberately omitted in her letter another violent incident at CWFI in the morning of September 27.

No mediation proceeding had occurred at the PEZA office prior to the September 27 violent incident, which DG de Lima wanted to appear in her letter. As I have mentioned earlier, the striking workers from CWFI and PJGI went to DG de Lima's office in the morning of September 27 to seek a dialogue with her. Because DG de Lima was not around, a certain Atty. Cajulis met the representatives of the two striking unions. The only thing that they agreed upon was to set a dialogue on Sept 28 wherein PEZA promised the presence of the two Korean investors for that meeting.

However, on the same hour of September 27 that Atty. Cajulis and officers of the two unions were having a meeting, PEZA police and Jantro guards were busy violently attacking again the strikers at CWFI. 22 strikers were reported to have suffered head and body injuries from clubbing and shield beating. The women strikers also complained of additional humiliation. PEZA police and Jantro guards resorted to mashing the breasts of some women strikers while being clubbed.

In the afternoon, Atty. Arada of PEZA called a dialogue on all parties concerned in the dispute at CWFI. In attendance were: Atty Arada, PEZA police chief Jose Joel Sarasua, lawyer Omar Francisco and personnel officer of Chong Won; NMCW union president Resurreccion Ravelo, secretary Florencia Arevalo, and two more union officers, and Arnel Salvador of WAC. The terms agreed on the said meeting were: food blockade to be lifted by PEZA, PEZA police and Jantro guards would stay 50 meters away from the strikers across the street; Chong Won shall submit the next day list of workers in their July payroll, the month the union filed its notice of strike in order to determine the number of scabs; all strikers will be allowed to enter freely inside the EPZ and in their strike area; makeshift tents would not be demolished without lawful written order; Jantro guards who have stationed themselves at the gate of CWFI near the strikers after the violent attack would leave at 6:00am the next day; and the agreed terms will be put into writing by PEZA to be signed by all parties concerned in the meeting of the next day.

The signing did not push through because PEZA and the CWFI management have no real intention to implement the agreed terms in the dialogue. PEZA's bad faith was once again betrayed by their hostile actions towards the striking workers. At the night of September 27, around 9:30 p.m., eight union officers headed by Ravelo and Arevalo were barred from entry and harassed by Jantro guards at the gate of CEPZ. A Jantro guard whose surname is Mortos tried to draw his firearm when Arevalo argued that they should be allowed entry as agreed in the dialogue called by PEZA itself. Mortos retorted, it was "sir" and "mam" in the said dialogue who ordered not to allow the strikers an entry. Obviously, Mortos is referring to PEZA police chief Sarasua and Atty. Jane Arada.

PEZA was really a potent strikebreaker and an outright human rights violator on that violent day of September 27. As I said, a dialogue was to be held on the 28<sup>th</sup> of September as agreed upon between PEZA's Atty. Cajulis and union officers at PJGI but it was never given a chance to be realized.

After PEZA's victorious assault on the striking workers at CWFI in the morning, 50 elements of Peza police and Jantro guards, headed by PEZA police chief Sarasua and Rosario Philippine National Police (PNP) Major Audie Madrideo, broke the strikers' peaceful picket line at the PJGI at around 8:30 p.m. The 84 striking workers, great majority were women, were busy preparing for their dinner then. Twenty-five striking workers suffered head and body injuries. Three injured victims, namely Agustina Haya, Jimmy Eder, and union vice president Ricardo Cajanap, suffered several stitches wound in the heads and forehead, respectively. Eder's upper lip was also ruptured. Annalyn Diaz, a pregnant striker, had suffered miscarriage when she was chased by a certain Sampayan of PEZA police.

According to the PGJI striking workers, Madrideo, Sarasua, and his men were drunk and had probably taken prohibited drugs before they were assaulted because their behavior are completely unusual.

"They have no mercy. They are beast! Even those strikers that already fell down are still being beaten profusely with clubs and shields. PEZA police and guards prevented the passing vehicles to carry our injured to the hospital. We had to force our way out of the picket line as the PEZA police and guards blocked our way. Had we not been able to force our way out, our injured colleagues would have not been able to seek immediate medical attention at the hospital." This was the description of the PGJI strikers on that violent night of September 27.

The PGJI striking workers completely denied that they were armed of any bladed or pointed weapons at that time. The injuries that Jantro guards alleged were maybe the same injuries they sustained from their cohorts during the September 25 assault at the CWFI strikers.

In addition, there were no WAC organizers at the PJGI on that night. Jimmy Eder is a SCW organizer and a adviser of the union. He was there to serve as one of the union panel that would help negotiate peacefully in case PEZA security forces threaten to break the picket line. Eder strongly denied he stabbed one of the guards. This was the obvious reason why no arrest was made. PEZA police could have arrested Eder if indeed he stabbed one of the guards because he had fallen almost unconsciously when clubbed in the head.

On 28 September 2006, at about 5:00 p.m., eight persons were arrested for trespassing in the Kohzan Warehouse, a building inside the CEPZ. Recovered in their possession were bladed instruments, more than 300 Gate Passes, Identification Cards, signed identification pictures of various individuals not connected with any of the PEZA companies, some tampered gate passes and ID cards of workers of closed companies, various seditious materials, leaflets, lecture materials, a sack of rice, stoves, kitchen utensils, mattress, and clothes. The intruders were

immediately taken to the Philippine National Police Station and proper cases were filed. They were represented by Atty. Mahinay, Marlene Gonzales and two male companions escaped.

The eight arrested workers were ridiculously charged of trespassing by PEZA. They were not intruders as DG de Lima has stated in her letter, but in fact victims of PEZA's job negligence. These so-called intruders were known very well by PEZA police, Jantro guards, and even by Atty. Arada and their stay at the Kohzan Warehouse was with the approval of PEZA. The arrested workers were there for several months already prior to their arrest.

They were arrested because they were caught by PEZA police storing and sneaking food for the CWFI striking workers in violation of the food blockade imposed by PEZA.

The arrested workers were from closed SP Ventures Corp, another Korean-owned sweatshop company. They were staying at the Kohzan Warehouse to guard the equipment and machineries of their closed company while awaiting for the decision of the court for the insolvency case filed by SP Ventures. They have to guard the remaining assets of SP Ventures because the payment for unpaid wages and separation pays of 92 workers/complainants would come from these properties. They do not completely trust PEZA to safeguard these equipment and machines because they knew of one case in the past that equipment and machineries entrusted by workers of a closed Korean sweatshop to PEZA vanished without a trace despite tight guarding at the EPZ gate.

Workers admitted that they had in their possessions several screw drivers, but the only bladed instruments were one scissor, and one paper cutter. The screw drivers according to the workers were used in removing electric lighting fixture in their closed company. The gate Passes, Identification Cards, signed identification pictures of various individuals, and so forth are garbage left in their closed companies. They should have thrown it to the garbage can but were instructed by Cavite-PEZA industrial relations officer Arnold Cruz to keep it in their custody and he will get it later.

There was no truth that seditious materials were found in the workers' possession. Municipal police in Rosario, Cavite through the instigation of PEZA filed a complaint of inciting to sedition against the arrested workers. However, the Assistant Provincial Prosecutor Carlos Catubao was not convinced on the evidence presented in the complaint, thus it was not admitted.

Except for Wal Mart, buyers of Chong Won and Phils Jeon products had withdrawn their orders. With the impending loss of their jobs, more than a thousand workers from both companies filed complaints with PEZA complaining of coercion, intimidation, and physical injuries against the striking workers and organizers.

DG de Lima should have named the buyers of CWFI and PJGI that had withdrawn their orders to back up her claim. Also, she should have been able to cite in her letter even few names of the workers that had been coerced, intimidated, and had suffered physical injuries from the strikers. Thousand workers complaining are too good to be true.

On 20 October, after a negotiation between the non-striking and striking workers of Chong Won failed, the non-striking workers removed the "kubol" or shanty, the strikers built near the company fence. Condemning the criminal acts committed by the strikers, the non-strikers disowned membership in the union and withdrew the authority given to the unions to represent them in any agreement. They had formed a Caretaker Committee to represent them pending the impeachment proceedings against the striking workers and former union officers.

Even the date is not consistent with facts. The incident cited by DG de Lima above happened on October 19. There was no truth of a negotiation occurring between the non-striking workers and the strikers, that the makeshift tents (kubol) used by the strikers were removed by non-strikers, and that the non-strikers condemned the so-called "criminal acts" by the strikers.

Based on the workers sworn statements, around 800 workers mainly composed of scabs and recontract workers went out of the company at around 8:30 a.m. These workers were all armed with scissors issued by the management and headed by production manager Antonio Felismino. They were ordered by Felismino to line up in front of the 13 strikers manning the picket line's makeshift tents. Without any provocation, 15 persons in civilian clothes seen in the company of PEZA police and Lito Felismino, the brother of Antonio, assaulted the strikers, dragged them out of the makeshift tents and totally demolish it to the ground. All demolished materials were then brought by persons in civilian clothes inside the PEZA vehicle. The persons

in civilian clothes were later identified by the workers as outsiders and goons hired by the Korean management.

It must be emphasized here that the assault made to the 13 striking workers and demolition of their makeshift tents was ordered by PEZA's Atty. Mary Jane Arada. Atty. Arada's name was directly mentioned by Antonio Felismino when confronted by the strikers who ordered the demolition. Furthermore, Atty. Arada was seen by the strikers inside a parked red vehicle in a nearby company watching the whole incident.

The assault was overkill! PEZA and CWFI management used 800 workers for a show of force, 15 hired goons, 12 Peza police, 30 Jantro guards, and eight (8) municipal Police against 13 strikers who were mostly women.

Simultaneous to the Chong Won incident, and using the same scheme, was the assault and demolition also of the strikers' makeshift tents at PGJI. PEZA and PGJI management used 180 workers as a show of force and escorted by 25 PEZA police, Jantro guards, and municipal police. Not like in CWFI, the twenty-man assaulting and demolition team was headed by no less than Mr. Dong Gon Kim, the Korean plant manager of PGJI. 20 strikers were stationed at the time in the strike area.

Unfortunately for DG de Lima again, her hatchet woman, Atty. Jane Arada, was named by PGJI company guards' officer-in-charge Iniego Pingal as the one who ordered the assault and demolition of the strikers at PGJI.

The so-called "Caretaker Committee" set up in CWFI and PGJI have no legal standing in the on-going labor disputes. Both committees cannot represent the members of the striking union because their compositions are made up of management personnel and non-union members. Contractual workers and non-union members have no right to impeach any of the union officers because they are not union members.

The "Caretaker Committees" and the CWFI and PGJI managements are the same. It was named "Caretaker Committee" to confuse the non-strikers and make them believe that they have already taken over the position of the elected union officers because the latter had already been terminated. Contractual workers and scabs are being deceived of a regular status inside the company in exchange of their support to the management-created and PEZA-instigated "Caretaker Committee."

PEZA would like to assure you that it has nothing to do with any killings, harassment or unlawful assault of workers. Neither was there a food blockade. To protect the territorial jurisdiction of PEZA, its workers and the investors proprietary rights, and in order to maintain peace and order inside the zones, PEZA strictly implements the No ID No Entry policy. Anybody who wants to bring in food into the zones necessarily has to show identification cards. This is a reasonable policy done all over the world.

As a government agency tasked with creating jobs, PEZA respects the constitutionally guaranteed rights of workers, not only as a requirement of the law, but as a commitment to the inherent right of workers to decent livelihood. We are one with you in your commitment in condemning violence and lies. Rest assured that PEZA continuously adheres to the principles and laws which promote the well being of Filipino workers. In this, PEZA does not waver.

PEZA has everything to do with the harassment and unlawful assault of striking workers. Given all the testimonies of the striking workers, PEZA is obviously conniving with the management in suppressing the rights of the workers to unionize, to freedom of expression, and to conduct peaceful concerted actions, such as strike. The following excerpts from the Unions Joint Statement best described how the workers look at PEZA:

"We condemn PEZA Director General Lilia de Lima for her infamous unwritten order of food blockade, use of violent and superior force, and her blatant disregard of our rights to strike and to bargain collectively. Her office is hostile and an affront to the rights of the workers.

Our government and its law is not with us. We follow the rule of law, yet our rights are being trampled and our bodies are being assaulted violently. Our Korean companies arrogantly-mocked our law, yet they are not being clubbed to suffer head and body injuries but rather enjoy full protection and relentless favor from the government."

All assaults happened at the peaceful picket line and the demolition of the makeshift structures were done without any written lawful order, no provocation, and upon the implicit order of DG de Lima, through her hatchet woman, Atty. Jane Arada. The undersigned had already been told in the past by Atty. Jane Arada that whenever she intervenes in any dispute, it has always the consent of DG de Lima. Thus, the act of Arada is the act of DG de Lima.

The PEZA's order of food and water blockade continues, and this is now being applied not only to the striking workers of CWFI but also in PGJI. Checkpoints to prevent the workers from entering their strike area also continue. To reiterate here again, all the agreed terms in the September 27 dialogue are continuously being violated by PEZA and CWFI management, applying the same force now to the striking workers of PGJI.

If indeed PEZA "respects the constitutionally guaranteed rights of workers, not only as a requirement of the law, but as a commitment to the inherent right of workers to decent livelihood," the international NGOs' community must challenge DG de Lima to heed the demands of the striking workers calling her to stop the following:

1. The use of brute force and shameful connivance of PEZA with the Korean owners of CWFI and PJGI in denying the full exercise of the workers' rights to strike and to bargain collectively;
2. The inhumane food and water blockade;
3. The denial of entry of the strikers through checkpoints, confiscation of company identification cards (IDs) and CEPZ's zone pass, and blacklisting;
4. The supplying and escorting of scabs inside the factories to replace the strikers;
5. The destruction of makeshift tents and confiscation of its materials;
6. The illegal subcontracting of the Wal-mart order in CWFI to other companies.

Also, the workers urge PEZA the following:

6. Drop the fabricated trespassing case against the eight SP Ventures workers, namely: Gemma Lape, Ivy Villasán, Lorna Reli, Josephine Bajar, Pablito Zapanta, Annalou Estremos, Rodel Amo, and Glaiza Leysi.
7. Bring the Korean owners of the CWFI and PGJI face-to-face with the workers in the negotiating table;
9. Make appropriate actions against PEZA personnel Atty. Jane Arada for her conduct unbecoming of an officer or for her bad manners and wrong conduct towards the striking workers;
10. And, subject the PEZA Police force and JanTro guards to drug testing.

As an update to all concerned, the striking workers from CWFI and PGJI have filed human rights violations case against PEZA Director General Lilia de Lima, Atty. Jane Arada, PEZA Police Chief Jose Sarasua, and Rosario PNP Chief Inspector Audie Lirio Madrideo before the office of the Commission on Human Rights on October 23. Several criminal charges have been filed in court also to the same persons including the JanTro guards.

For and in defense of Workers' rights,

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