

# Unions and Development in Cambodia

Melisa R. Serrano and Veasna Nuon



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## Foreword

Trade union representation is a fundamental democratic right. Worldwide, trade unions represent workers and provide a relevant section of the population with the means to contribute to economic, social and political development. There is no decent work without trade unions and there is no social democracy without trade unions. The Friedrich-Ebert-Stiftung (FES) therefore cooperates with unions on a global, regional and national level to ensure that workers' interests and positions are represented and included in political and economic decision-making processes.

FES is a German private non-profit organisation committed to the ideas and values of social democracy. Working in more than 100 countries around the world, FES aims to contribute to enhancing political, economic and social conditions, and facilitating cooperation. Social justice, democracy, peace and security are the guiding themes of FES' international work. FES started its engagement in Cambodia in 1994. After years of support for Cambodia's regional integration as well as for the capacity building of relevant stakeholders and decision makers from the public sector, politics, academia, trade unions and civil society, FES restructured and expanded its activities focusing on trade union cooperation and labour issues. Since 2016, promoting the role of trade unions has been the core objective of the FES programme in Cambodia. A multi-stakeholder approach guides its activities and therefore all stakeholders are included to foster collaboration and dialogue. FES organizes seminars, trainings and public forums, as well as multi-media projects. Research and cooperation with academia are crucial to the FES' programme.

The Cambodian labour movement has emerged from a society torn by decades of civil war, which formally ended with the first parliamentary election in 1993. A transformation process began that saw Cambodia gradually turning from a socialist state model into a liberal system with democratic institutions and an open market economy. This process also laid the foundation for the Cambodian trade union movement of today. Despite the difficult starting years, trade unions have been playing a crucial role in advocating decent wages, better working conditions and respect for workers' rights and freedom of association for almost twenty years. In recent years, unions have grown stronger, more active and have become overall more independent. Yet, the still young movement continues to suffer from a limited worker awareness and participation, from fragmentation and an inability to fulfil all its functions, and from a challenging industrial relations environment.

This book follows the 2010 publication *Trade Unions in Cambodia: History, Challenges, Strategies* by the same authors, Melisa Serrano and Nuon Veasna, who were the first to conduct systematic and comprehensive research on Cambodia's trade union landscape. We are thankful that the authors undertook the task to review the situation of trade unions yet again.

However, this book is not a mere update of its predecessor. This volume expands into additional areas and takes a deeper look into continuously relevant topics. The authors identify progress and achievements, as well as weaknesses and obstacles. Suggestions are made on how trade unions can consolidate, grow stronger and adapt to new challenges. The authors conducted literature analyses, surveys and interviews for a full year to produce this comprehensive and informative work.

This publication is topical. Growing global economic pressure, regional competition and upcoming trends of digitalization and automation pose new challenges to the Cambodian economy. Its future needs to be constructively and strategically negotiated among and actively shaped by the industrial relations actors—the government, employers and their organizations, and workers and trade unions. As crucial stakeholders, trade unions need to be involved in this endeavour. Additionally, and despite progress, unions still face multiple internal and external problems. These challenges demand a strong and united labour movement. We hope that this book will be of support for both a progressive debate on the future of the Cambodian economy and for the strengthening and consolidation of the Cambodian trade union movement.

In solidarity,  
Stine Klapper  
FES Project Director Cambodia

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## Acronyms

AC	Arbitration Council
ACF	Arbitration Council Foundation
ACILS	American Center for International Labour Solidarity
ACT	Action, Collaboration, Transformation
ACV	Confederation of Christian Trade Unions of Belgium
ADB	Asian Development Bank
ADHOC	Cambodian Human Rights and Development Association
AEC	ASEAN Economic Community
AIMO	ASEAN Integration Monitoring Office
AJWS	American Jewish World Service
APHEDA	Australian People for Health, Education and Development Abroad
ASEAN	Association of Southeast Asian Nations
ATEC	Adelaide Training and Employment Centre
BFC	Better Factories Cambodia
BMI	Body Mass Index
BWI	Building and Wood Workers' International
C.CAWDU	Coalition of Cambodia Apparel Workers Democratic Union
CAMFEBA	Cambodian Federation of Employers and Business Associations
CATU	Cambodian Alliance of Trade Unions
CBA	Collective Bargaining Agreement
CCHR	Cambodian Center for Human Rights
CCNU	Cambodian Council of National Unions
CCPW	Confederation of Cambodia Price Worker
CCTU	Confederation of Trade Unions
CCTUH	Cambodian Confederation of Trade Union Heritage
CCU	Cambodia Confederation of Unions
CCW	Confederation of Cambodian Worker Movement
CCWR	Cambodian Confederation for Worker Rights
CENTRAL	Center for Alliance of Labour and Human Rights
CFITU	Cambodia Federation of Independent Trade Unions
CFSWF	Cambodia Food and Service Workers Federation
CGE	Computable General Equilibrium
CIB	Cambodia Investment Board
CICA	Cambodian Independent Civil Servant Association
CIPS	Cambodia Inter-Censal Population Survey
CITA	Cambodian Independent Teachers Association
CIWA	Cambodian Informal Workers' Association
CLC	Cambodian Labour Confederation

CLEC	Community Legal Education Center
CLMV	Cambodia, Laos, Myanmar, and Vietnam
CMT	Cut, Make and Trim
CNC	Cambodian National Confederation
CNCLP	Cambodian National Confederation for Labourer Protection
CCNU	Cambodia Council of National Unions
CNRP	Cambodia National Rescue Party
CNV	National Federation of Christian Trade Unions in the Netherlands
CORD	Christian Outreach Relief and Development
CPP	Cambodian People's Party
CSES	Cambodia Socio-Economic Survey
CTSWF	Cambodian Tourism and Service Workers' Federation
CTWF	Cambodian Transport Workers Federation
CUF	Cambodian Union Federation
CUNIC	Confederation of Union National Independence Cambodia
DCA	Danish National Church's Relief Aid
EBA	Everything But Arms
EI	Education International
EU	European Union
FAPD	Farmers Association for Peace and Development
FDCs	Fixed-Duration Contracts
FDI	Foreign Direct Investment
FES	Friedrich-Ebert-Stiftung
FSD	Foundation for Sustainable Development
FTA	Free Trade Agreement
FTUWKC	Free Trade Union of Workers of Kingdom of Cambodia
GDP	Gross Domestic Product
GER	Gender Equality Representative
GMAC	Garment Manufacturers Association in Cambodia
GNI	Gross National Income
GSP	Generalized Scheme of Preferences
GVCs	Global Value Chains
HDI	Human Development Index
HRP	Human Rights Party
HRW	Human Rights Watch
ICT	Information and Communication Technology
ICWP	Independent Confederation of Worker Protection
IDEA	Independent and Democratic Informal Economy Association
IDP	Industrial Development Policy
IDWF	International Domestic Workers Federation
ILO	International Labour Organization

IR-WG	Industrial Relations Working Group
ISI	Import-Substitution Industrialisation
IT	Information Technology
ITF	International Transport Workers' Federation
ITUC	International Trade Union Congress
IUF	International Union of Food and Allied Workers
KNP	Khmer National Party
KTV	Karaoke Television
LAC	Labour Advisory Committee
LBL	Labour Behind the Label
LCD	Liquid Crystal Display
LDC	Least Developed Country
LICADHO	Cambodian League for the Promotion and Defense of Human Rights
LO-Norway	Norwegian Confederation of Trade Unions
LO-TCO	Swedish Trade Union Confederation-Swedish Confederation of Professional Employees
LRI	Labour Rights Indicators
MFA	Multi-Fibre Agreement
MoLVT	Ministry of Labour and Vocational Training
MoU	Memorandum of Understanding
MRS	Most Representative Status
MSMEs	Micro, Small and Medium Enterprises
NACC	National Union Alliance Chamber of Cambodia
NEP	National Employment Policy
NGOs	Non-government Organizations
NIFTUC	National Independent Federation Textile Union of Cambodia
NLC	National Labour Confederation of Cambodia
NMWC	National Minimum Wage Council
NSPS	National Social Protection Strategy
NSSF	National Social Security Fund
NSSF-C	National Social Security Fund for Civil Servants
NSSF-V	National Social Security Fund for Veterans
OECD	Organisation for Economic Co-operation and Development
PSI	Public Services International
SEZ	Special Economic Zone
SH	Solidarity House
SIDA	Swedish International Development Cooperation Agency
SMEs	Small and Medium Enterprises
SRP	Sam Rainsy Party
TFP	Total Factor Productivity
TUSSOs	(International) Trade Union Solidarity and Support Organizations



UCL	Union Coalition of Labor
UDC	Undetermined Duration Contract
UFATE	Union Federation of ASEAN Tourism Employees
UFK	Union Federation of Kampuchea
UK	United Kingdom
UN	United Nations
UNDP	United Nations Development Programme
US	United States
UYFC	Union of Youth Federations of Cambodia
WEF	World Economic Forum
WFUF	Worker Friendship Union Federation
WRC	Worker Rights Consortium
YSCCL	Youth Spirit Confederation for Cambodia Labor

# Introduction

Cambodia is a latecomer in the garments export market, having emerged from three decades of civil war and internal conflicts from the late 1960s to the 1990s. The US-Cambodia Bilateral Textile Trade Agreement (1999-2004) was meant to insert Cambodia's economy into the global economy, and facilitate the country's transition from a centrally planned economy to a free market economy. In 2001, Cambodia started to benefit from the "Everything But Arms" (EBA) programme under the European Union's (EU) Generalized Scheme of Preferences (GSP). Today, Cambodia continues to enjoy export incentives from the EU's EBA. While the trade agreement with the United States (US) may have ended in 2004, the US government granted Cambodia preferential and duty-free access to the US travel goods market beginning 1 July 2016.

These two trade arrangements rooted and expanded the garment (and later on the footwear) sector in Cambodia. Thanks to the solid growth of this sector and the expansion of economic activity in other sectors in recent years, Cambodia has been experiencing a robust economic performance, particularly since 2010. It is now among the fastest growing economies in the Association of Southeast Asian Nations (ASEAN), even surpassing the region's average real GDP growth rate for the period 2007-2015. This strong economic growth has resulted in an overall economic and social upgrading as discussed in the next chapters.

The US-Cambodia trade agreement, including the preparations leading to the deal, ushered in a regime of labour rights in Cambodia. The continued grant of export incentives under the trade agreement was contingent on improvements in working conditions of workers. To do this, the Cambodian and the US governments sought the help of the International Labour Organization (ILO). In January 2001, the ILO began to implement the Garment Sector Working Conditions Improvement Project, which, in 2005, was renamed the Better Factories Cambodia (BFC) programme.

The promulgation of the Cambodian Labour Law in 1997 created the legal space for the exercise of freedom of association, the right to collective bargaining, and the right to strike. The years that followed saw a rise in the number of trade unions, which have grown faster, mainly due to internal splits, than the share of union members of the total of workers in paid employment. Between 1999 and 2003, various national tripartite industrial relations institutions were established, including the Labour Advisory Committee (LAC) and the Arbitration Council (AC). As Ward and Mouly (2016: 266) put it: "Cambodia's employment relations framework is predicated on a model of economic cooperation of capital and labour within a tripartite framework that focuses on collective bargaining, collective agreements, conciliation and arbitration". In practice, however, the government is reluctant to enforce its own legislative requirements and industrial relations remain highly

conflict-ridden despite years of workplace monitoring by BFC. The success of Cambodia's export-oriented garment manufacturing has relied on a cheap, migrant workforce from rural areas who are mostly women. At the same time, a rights-based regime that focuses on the welfare of labour has been critical to the country's image as an 'ethical producer' in the international garment market. However, as argued by Ward and Mouyly (2016: 261), labour is framed by the state as "a commodity to serve the political and wealth accumulation interests of ruling elites, but also as a problem to be managed through semi-authoritarian modes of governance aiming to maintain order and stability".

One way of containing labour unrest is having docile trade unions. A majority of national federations and confederations are linked to and/or supported by the present government and the ruling political party, the Cambodian People's Party (CPP). These government-supportive national trade unions have a majority of union membership. They have been active in supporting the CPP-led government by carrying out political campaigns, supporting the government's positions on key labour issues (e.g. the amount of minimum wage adjustment, Trade Union Law, etc.). Oka (2015: 19) notes that although "government-supported unions often threaten or actually go on strike at the factory-level, they rarely lead or participate in sector-wide rallies and demonstrations demanding wage increases". Most of the senior union leaders of these federations and confederations are appointed advisors to the Ministry of Labour and Vocational Training (MoLVT) and a few to the Ministry of Interior. The government-supportive unions also dominate the LAC. The government has been trying to tighten its grip on the labour movement by consolidating government-supportive national federations into confederations and a national union council affiliating all government-supportive confederations. Between 2010 and 2016, of the 13 additional confederations set up, 12 are government-supportive unions. In addition, the Cambodia Council of National Unions (CCNU) was established in 2012 as the umbrella organization of 14 government-supportive confederations.

Meanwhile, some trade unions are linked with or supportive of the opposition Cambodia National Rescue Party (CNRP), which was dissolved by a Supreme Court ruling in November 2017, and the rest claim to be independent from any political party. As this group of unions has been challenging illegal labour practices through strike action and other forms of contentious labour mobilisation as well as opposing government positions on key labour issues, their leaders and activists have been subjected to legal action, both real and imminent, or physical intimidation.

The civil war and internal conflicts from the late 1960s to the late 1980s "left Cambodia's state and society eviscerated and without a clear centre of political gravity or autonomous development agenda" (Arnold, 2013: 6). The country became the subject of developmental experimentation by major lending organizations (i.e. the International Monetary Fund, the World Bank), international organizations, non-government organizations (NGOs), and

foreign governments. At the same time, the early 1990s saw the beginning of Cambodia's rapid transition from a centrally planned economy to a free market economy.

In the 1993 first democratic election in the country, the royalist party National United Front for an Independent, National, Peaceful and Cooperative Cambodia (FUNCINPEC) led by Prince Norodom Ranariddh, son of King Norodom Sihanouk, and the CPP, led by Prime Minister Hun Sen, won a vast majority. The CPP is a reformulated version of the Kampuchean People's Revolutionary Party, which governed Cambodia during Vietnam's occupation from 1979 to 1989. Prince Norodom Ranariddh and Hun Sen shared the prime minister's seat. Following a coup in 1997 that ousted Prince Ranariddh, the CPP came to power, led by Prime Minister Hun Sen. He and his ruling party, the CPP, have remained in power since then, winning disputed elections in on-again, off-again coalitions with FUNCINPEC.

On the labour front, some former union leaders of the disbanded Union Federation of Kampuchea (UFK), the only national trade union that existed during the Khmer Rouge regime (1975-1979), established in 1999 a new union federation—the Cambodia Federation of Independent Trade Unions (CFITU). After converting UFK into a mass organisation, the former UFK leaders had organised over 30 local unions representing workers in garment factories, footwear factories, rubber plantations and ports by 1999. The CFITU is thus a direct descendant of the UFK. Since its establishment, the CFITU has identified itself as a supporter of the CPP. Earlier, another national union, the Cambodian Union Federation (CUF), was established in 1996. From the beginning, the CUF identified itself too as supportive of the CPP. Both the CFITU and CUF are directly affiliated with the CPP.

The Khmer National Party (KNP), an opposition political party led Sam Rainsy, started to organise local unions, with the help of a few union activists, to counter unions identified with the ruling party and to form part of its mass base. Rainsy, together with Chea Vichea who became his successor, subsequently led the formation of the Free Trade Union of Workers of Kingdom of Cambodia (FTUWKC) in 1996 to support the opposition's campaign. The FTUWKC was the first union federation to be established after the regime change. Chea Vichea became the first president of FTUWKC. The KNP was later renamed the Sam Rainsy Party (SRP). In 2012, the SRP merged with another opposition party, the Human Rights Party (HRP), to form the Cambodia National Rescue Party (CNRP) in time for the 2013 general elections.

As a majority of Cambodian trade unions are linked with and/or supported by competing political parties, the relationship among trade unions is marked by competition as well, resulting in a highly fragmented trade union movement.

In the much-disputed 2013 national elections, the opposition party-supportive unions, together with some independent unions, mobilised their membership to join other sectors of society (e.g. farmers, students, informal workers, etc.) to actively campaign for the CNRP. The massive mobilisation and the youth vote (65 per cent of Cambodia's population is under the age of 35) in support of the CNRP led to the CPP losing many seats in the parliament. The CNRP, meanwhile, gained 55 seats in the 2013 election. This shook the political hold of the CPP on the government and society. The CPP-led government's response was, however, paradoxical. While it has instituted several social programmes (e.g. reduction of electricity rates, social security schemes, committing to raise the garment sector wage to the workers' demand of 160 US dollars per month by the end of their mandate, which was actually raised higher at 170 US dollars in early 2018), and adopted the Law on Minimum Wage that extended the minimum wage to other sectors in a bid to win back the public's trust (in the run up to the national elections in July 2018), it has become more repressive towards independent and opposition party-supportive unions while considerably increasing the number of government-supportive unions. In the wake of the most recent and the largest industrial action in Cambodia's history in December 2013-January 2014, which followed the massive political protests over the disputed 2013 elections, the government cracked down on peaceful assemblies and demonstrations, including those organised by trade unions. In November 2017, the Supreme Court issued a ruling dissolving the CNRP and banning its leaders from engaging in any political activity for five years. Earlier in September 2017, the CNRP leader Kem Sokha was arrested and charged allegedly for committing treason. Some leaders of unions linked to the CNRP have been arrested on trumped-up criminal charges (e.g. destruction of private property, inciting an illegal strike, etc.). Prominent labour and human rights activists, including Toula Mouen, were slapped with criminal charges.

Today, the political environment within which independent unions and opposition party-supportive unions operate remains difficult. The repression of labour unrest continues. Leaders of independent unions and opposition party-supportive unions continue to face intimidation and judicial harassment. In January 2014, at the height of the large-scale industrial action in December 2013-January 2014, police and troops opened fire on striking garment workers, leading to the death of five of them. Around two dozen workers were also injured.

In 2015, the Ministry of Labour suspended the registration of new unions, saying it was a temporary measure pending the promulgation of the new Trade Union Law. But with the issuance of the new Trade Union Law, independent unions have raised concerns over the additional requirements for union registration which to them would make it more difficult. Also, the unions point out that the new Trade Union Law undermines their representation right because employers and the authorities only recognize a union's representation role if it has Most Representative Status (MRS). Finally, unions complain that the right to strike

is severely curtailed by both the general restriction of the government on strike actions and specifically the high threshold set by the Trade Union Law.

Despite this difficult political environment, worker activism is growing side-by-side with the rise of an independent worker movement, as discussed in Chapter 4. The strikes demanding increases in the minimum wage in the garment sector that have taken place over the years, particularly the 2010 national strike and the 2013/2014 wildcat strikes, have facilitated the development of workers' agency—that workers and trade unions have recognized themselves “as active agents who must shape the outcomes of the structures and institutions built over the 2000s” (Arnold, 2013: 6).

This book follows up on an earlier publication *Trade Unions in Cambodia: History, Challenges, Strategies* by the same authors. Since the book's publication in 2010, there have been notable developments, albeit uneven and differentiated, in industrial relations and in the trade union movement in Cambodia. One is a positive development towards union independence, activism and union strengthening. At the same time, however, the multiple and persistent problems of limited worker awareness and participation in unions, the limited functions of unions, and the negative environment surrounding industrial relations continue to challenge and weaken trade unions. This book presents the results of a one-year study that looked into these developments and the factors influencing them. Apart from reviewing related literature, which has mushroomed since the publication of the authors' first book on Cambodian trade unions, two surveys were conducted by the authors between July and October 2016. The surveys involved a total of 226 respondents: The first survey covered 210 officers and rank-and-file members of local unions, and the other survey 16 officers of union federations and confederations. The local union survey covered 70 local unions in five sectors: Garments and footwear (40 unions); food and beverage manufacturing (10 unions); hotels, casinos and restaurants (10 unions); and construction (10 unions). These are the fastest growing sectors in Cambodia today. Interviews with key informants were also done to complement the survey results and to gather more in-depth information. Two short case studies—one on the large-scale protest actions on the minimum wage in December 2013-January 2014 and the other on union organizing initiatives in the informal sector—are also presented in this book.

The remainder of the book is organized as follows. Chapter 1 presents and analyses the developments in the Cambodian economy in the last 15 years, highlights the main challenges facing the various key sectors of the economy, and discusses the recent policy responses of the government to address these challenges. Chapter 2 discusses some of the key progress made in the labour market that may have contributed to the overall social upgrading in the country. Nonetheless, the labour market still faces a host of constraints and challenges. The quality of employment remains a problem: Much employment is informal, vulnerable, unstable, poorly rewarded, and without union representation. These challenges indeed pose both opportunities and constraints to trade unions in the

country. Chapter 3 explores and analyses the developments and changes in the industrial relations landscape. It analyses the role of the US-Cambodia trade agreement, the BFC programme, the EU's EBA, the international 'reputation-conscious' buyers, and the trade unions themselves in the development of a labour rights regime in Cambodia. It further examines how this labour rights regime is operationalized in practice. The chapter ends by arguing that the difficult and highly conflictual industrial relations in Cambodia may have been partly the result of the 'transplantation' of industrial relations institutions from external sources. Chapter 4, the main chapter of this book, discusses key developments in the Cambodian trade union movement between 2010 and 2017, and identifies and analyses continuing patterns and changes that have taken place during this period. The results of a survey and interviews with key informants that were conducted by the authors in 2016 are presented and analysed in this chapter. Where applicable, the findings of the 2016 survey are compared with the findings of an earlier survey in 2010 by the authors. The chapter ends by identifying the key challenges facing Cambodian trade unions today. Chapter 5, the last chapter, discusses what Cambodian trade unions are doing to address these challenges and suggests ways for unions to further strengthen their capacity in various spheres of union activity. The chapter proposes a 'new' conceptualisation of trade union capacity that may inform union strategies.

# **Chapter I**

## **The Cambodian economy: Trends, challenges and outlook**







Cambodia has experienced robust economic performance in the last decade, thanks to the solid growth in garment exports and the expansion of economic activity in other sectors, such as construction, tourism and other services. Cambodia was among the countries of the Association of Southeast Asian Nations (ASEAN) that registered the highest growth rates for nearly a decade. The robust economic growth, however, appears to have been slowing down in recent years.

### 1.1 Trends in growth rates and structural changes in the economy

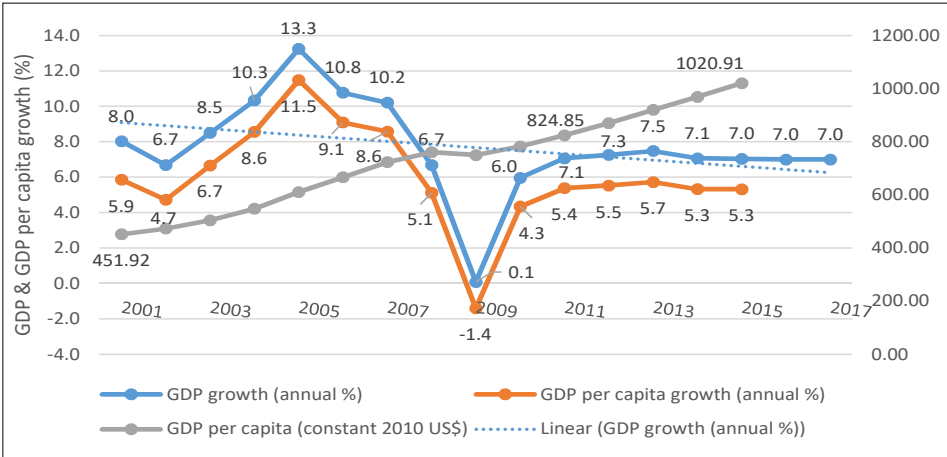
Between 2007 and 2017, Cambodia's real gross domestic product (GDP) grew at an average of 6.6 per cent. Between 2013 and 2017, it ranked third in ASEAN, surpassing the member states' average of 4.9 per cent. Nonetheless, in 2016 and 2017, Cambodia was the top performing economy in the region in terms of GDP growth rate. While many countries were still reeling from the impact of the global financial crisis after 2008, Cambodia quickly recovered. After experiencing a slump in 2009, when its GDP growth rate plummeted to 0.1 per cent, Cambodia's growth rose to 6.0 per cent in 2010.

Nonetheless, when analysed over a longer period—2001 to 2017—there was a general decline in GDP growth rates, peaking at 13.3 per cent in 2005 (Figure 1), the year when the Multi-Fibre Agreement (MFA)<sup>1</sup>, which assured Cambodia of a quota on garment exports to the EU and the US, ended. From 2006 until 2009, the general downward trend became steeper. The combined effects of production and employment adjustments after the MFA and the ensuing global financial crisis may account for the sharp decline of the country's growth rates between 2006 and 2009. Nonetheless, the end of the MFA did not have a severe impact on Cambodia's garment exports and on employment in the sector, since a few major European and US brands continued to source from Cambodia “due to the presence of the ILO which is monitoring and securing decent working conditions” and “according to the major importers, consumers take decent working conditions into account when making their consumption decisions” (Ernst et al., 2006: 27). Thus, the economy recovered fast after 2009, so that between 2010 and 2017, the average real GDP growth rate went up to 7.0 per cent. To date, the retail brands that are sourcing from Cambodia include H&M, Nike, Levi's, Old Navy, Adidas, Calvin Klein, Gap, Puma, Clarks, Marks & Spencer, Tesco, Inditex, N Brown Group, Tchibo, Next, New Look, C&A, Walmart, and others (Kane, 2014).

The growth of GDP per capita year-on-year also followed the general trend in the annual growth of GDP. Between 2001 and 2009, the growth in GDP per capita averaged 6.5 per cent. Between 2010 and 2015, the growth in GDP per capita averaged a lower rate of

5.3 per cent. Nonetheless, Cambodia experienced a steady increase in GDP per capita (at constant 2010 US dollars) between 2001 and 2015 (Figure 1). From about 452 US dollars in 2001, GDP per capita (at constant 2010 US dollars) more than doubled to 1,021 US dollars in 2015. The growth in GDP per capita was faster between 2010 and 2015, compared with the period 2001 to 2009. Thus, from being classified by the World Bank as a low-income economy in previous years, Cambodia was upgraded to a lower-middle income economy in 2016 (World Bank, 2016: 11).

Figure 1: GDP & GDP per capita growth trends, GDP per capita (at constant 2010 US\$)

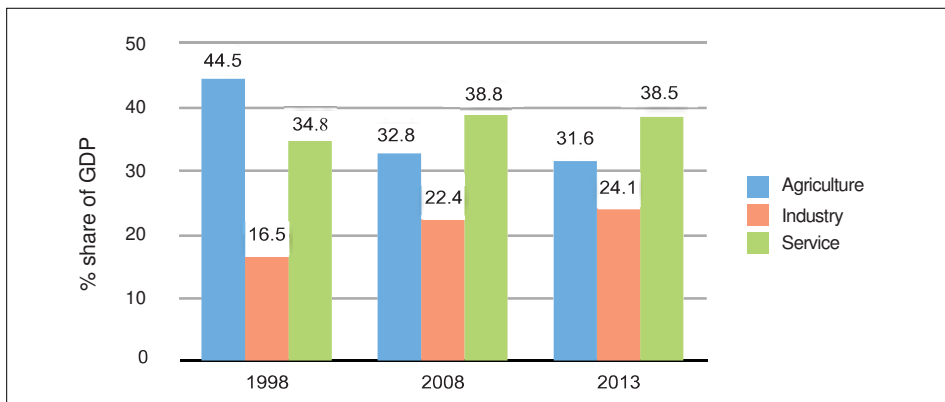


Source: Graph constructed by the authors using data from the World Bank’s World Development Indicators. Data for GDP growth rates for the years 2016 and 2017 were from ADB (2018: 329).

Cambodia has been experiencing an economic transformation that began in the 2000s. Its strong GDP growth has been associated with structural change away from agriculture and towards industry and services. Up until the late 1990s, the agriculture sector was the largest contributor to GDP. This scenario changed in the 2000s when the service sector started to grow rapidly, eventually generating the largest share of economic growth (Figure 2). Industry’s share of GDP has been steadily increasing as well, from 16.7 per cent in 1998 to 24.1 per cent in 2013.

In 2013, the service sector accounted for 38.5 per cent of GDP, higher than agriculture’s share of 31.6 per cent. Agriculture’s share of GDP has been steadily declining over the years. In contrast, industry’s share of GDP climbed steadily during the period between 1998 and 2013. The increase of 7.4 percentage points in industry’s share of GDP between the years 1998 and 2013 was double the increase of 3.7 percentage points generated by the service sector in the same period.

Figure 2: GDP share by sector



Source: Graph constructed by the authors using data from the Royal Government of Cambodia (2015: 14), Table 2.

According to APO (2015: 105), manufacturing accounted for an average of 25 per cent of economic growth during the period 2000-2013. Services' contribution to growth was higher at an average of 45 per cent in the same period (ibid: 106).

Table 1: Sector shares of value added and employment (%), 2014

Sector/Industry classification	Value added share (%)	Employment share (%)
Agriculture	31	45
Mining	1	Less than 1
Manufacturing	16	9
Electricity, gas, and water	1	Less than 1
Construction	9	5
Wholesale and retail trade, hotels, and restaurants	15	22
Transport, storage, and communication	8	4
Finance, real estate, and business activities	9	1
Community, social, and personal services	10	14

Source: Data extracted from APO (2016: 102 & 106), Figures 72 & 77.

In terms of value added and share of employment per sector, data from APO (2016) indicate that agriculture accounted for the highest share at 31 per cent and 45 per cent, respectively, in 2014 (Table 1). Manufacturing followed in terms of value added at 15 per cent, but its

share of employment was lower at 9 per cent compared to the share of employment of wholesale and retail trade, hotels, and restaurants, which was 22 per cent in 2014. The latter sector's share of value added was the third highest at 15 per cent, among the sectors.

Since the mid-1990s, Cambodia has been pursuing an export-led growth strategy enabled by a liberal trade and investment regime, abundant labour, and low wages. Yet, its industrial sector remains weak. Firstly, there is lack of diversity in the industrial base as the sector mainly focuses on low-value added and low-technology garment production, construction, food processing, and wood/wooden products. While the economy has embarked on light manufacturing of construction materials, electronics, engines and machinery, chemical products, motorbike and car assembly, plastic products, and other consumption materials as import substitutes, they are still in their early stages, and production is minimal (Royal Government of Cambodia, 2015: 5).

Secondly, the industrial sector is overwhelmingly dominated by informal micro enterprises. In 2010, about 97 per cent of all enterprises in the industrial sector were micro enterprises, 2.2 per cent were small and medium enterprises, and only 0.6 per cent comprised large enterprises<sup>2</sup> (Royal Government of Cambodia, 2015: 5). Nonetheless, large enterprises generated the largest share of total turnover—76 per cent—in 2011. In addition, large enterprises generated the largest share of total employment at 76 per cent, whereas micro enterprises, despite their dominance, generated only 12 per cent of total employment. Small and medium enterprises absorbed 5.2 per cent and 2.2 per cent, respectively, of total employment in 2011. About 80 per cent of large enterprises are found in the garment and footwear sector; a majority of the large manufacturing enterprises are located in Phnom Penh (ibid: 7). Many of these factories are subsidiaries of larger parent companies based in other parts of Asia (Kane, 2014). The government, however, recognizes that the excessive reliance on large enterprises makes its industrial structure fragile. It notes: “The collapse of one or two large factories may directly impact the labour market situation and the national economic growth. Moreover, such an industrial structure can easily lead to the loss in competitiveness as there is no backup from SMEs when erosion of trade preferences occurs or whenever there is a change in cost structure” (ibid: 6).

Thirdly, Cambodian industry is very much labour-based, involving labour-intensive processes and unsophisticated production chains. For example, in the case of the FDI-dominated garment sector, the Royal Government of Cambodia reports that:

[A]bout 60 per cent of garment factories are operating in Cut, Make and Trim (CMT), and only one fourth of them are engaged in downstream production like embroidery, washing, packaging and eventually exporting finished products. Cambodia is still unable to weave fibre or extrude yarn because such production lines require adequate and reliable electricity supply at low price; as a result, such inputs have to be imported from other

Asian countries. This situation also applies to the packaging industry which has recently witnessed some investment. In other subsectors, the production chain is quite similar in that it consists of cutting, making, labelling and assembling. In the assembly plants, there are only low skilled and low value added jobs such as assembling of key component parts (Royal Government of Cambodia, 2015: 7).

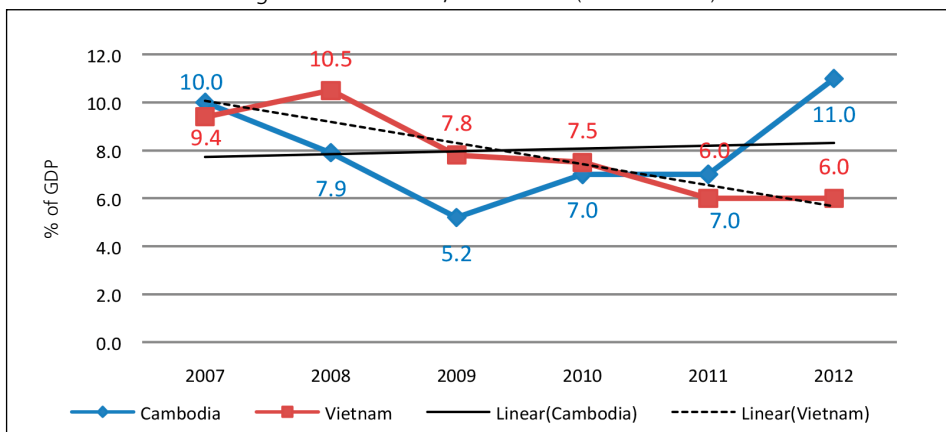
The use of low-level technology is also the norm in the other industry subsectors, such as food processing and construction materials production, resulting in low productivity and a lack of variety of products. With low value added products, a majority of enterprises in the manufacturing sector serve only the domestic market.

## 1.2 An FDI-driven economy

Cambodia's economy, particularly its garment and footwear sector, is very much driven by foreign direct investment (FDI). Between 2007 and 2012, FDI inflows averaged the annual equivalent of 8 per cent of the country's GDP. Between 2007 and 2009, at the height of the global financial crisis, the FDI inflow's share of GDP trended downward, but gradually increased between 2010 and 2012 (Figure 3).

In 2012, FDI inflows in Cambodia accounted for 11 per cent of GDP, significantly higher than the GDP share of FDI inflows in Vietnam at 6.0 per cent in the same year (Figure 3). During the period 2007-2012, FDI inflows as a share of GDP in Cambodia incrementally trended upward, while in Vietnam there was a marked downward trend. In 2016, the GDP share of FDI net inflows in Cambodia went up slightly at 11.4 per cent, ranking second (next to Singapore) in ASEAN in terms of the highest FDI inflows as a share of GDP (World Bank, 2018: 18).

Figure 3: FDI inflows, 2007-2012 (as % of GDP)



Source: Graph constructed by the authors using data from ILO and ADB (2014: 135), Table F2-6.

In terms of new FDI, the record for the period 2013 to 2017 appears mixed. Between 2013 and 2014, the total value of new investments approved by the Cambodia Investment Board (CIB) dramatically declined by 64 per cent, from 4.48 billion US dollars in 2013 to 1.60 billion US dollars in 2014 (ILO, 2016a: 8-9). It should be noted that large-scale strikes across sectors took place in December 2013 and January 2014, as discussed later in this volume. However, between 2014 and 2015, the value of new FDI rose dramatically, increasing by 144 per cent, from 1.60 billion US dollars in 2014 to 3.92 billion US dollars in 2015 (ibid). Between 2015 and 2016, the value of new FDI declined by 17 per cent, but went up again by 60.5 per cent between 2016 (at 3.25 billion US dollars) and 2017 (at 5.2 billion US dollars) (ILO, 2017: 10).

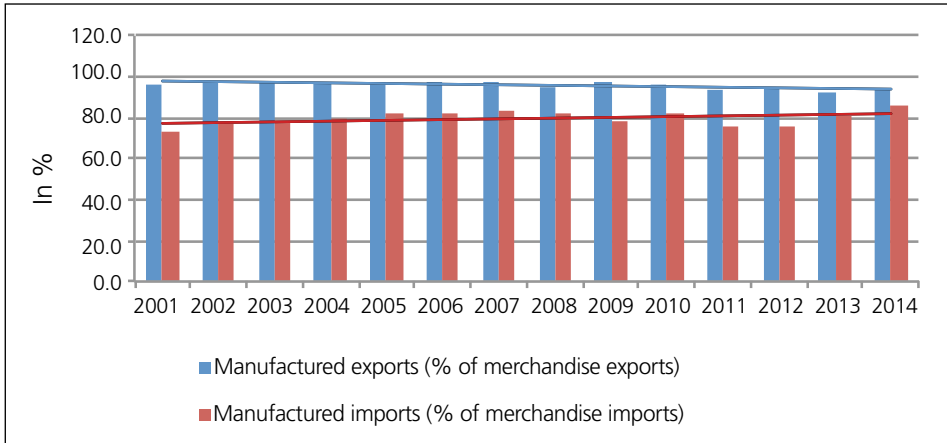
Garments and footwear investments accounted for 10.3 per cent of the total value of CIB-approved new FDI projects in 2013. In 2014, the sector's share of total investments nearly tripled (28.2 per cent) despite the decline in total investments in the same year. In 2015, garment and footwear FDI accounted for a lower share of 9.6 per cent of total investments. In 2016 and 2017, this share went down further to 7.6 per cent and 5.2 per cent, respectively. The value of new investments in the garment and footwear sector fell by 2.4 per cent between 2013 and 2014, by 17 per cent between 2014 and 2015, and by 34 per cent between 2015 and 2016 (ILO, 2017a: 14; ILO, 2016a: 9). This suggests that FDI flowing into Cambodia is diversifying beyond garments and footwear.

### 1.3 Trade and export performance

Manufactured exports, overwhelmingly of garments and footwear, comprise the bulk of Cambodia's merchandise exports. In 2015, 76 per cent of Cambodia's total exports were garment and footwear products (World Bank, 2016: 29), down from 80 per cent in 1998 (Royal Government of Cambodia, 2015: 14). Cambodia's other export products are largely agricultural commodities such as rice, cassava, rubber, and sawn and rough wood. Processed agricultural products made up 7.9 per cent of total exports in 2013, down from 10 per cent in 1998. Other export products are bicycles, broadcasting accessories, liquid crystal displays, and other light manufactures.

Between 2001 and 2014, there was a gradual decline in the share of manufactured exports to total merchandise exports, as shown in Figure 4. In contrast, there was a gradual upward trend in the share of manufactured imports to total merchandise imports. During the last five years, Cambodia's imports have increased at an annual rate of 20.6 per cent, from 5.82 billion US dollars in 2009 to 14.9 billion US dollars in 2014. A negative trade balance of 2.26 billion US dollars was registered in 2014, as Cambodia's exports reached 12.6 billion US dollars while its imports totalled 14.9 billion US dollars.<sup>3</sup>

Figure 4: Manufactured exports & imports (as % of merchandise exports/imports)

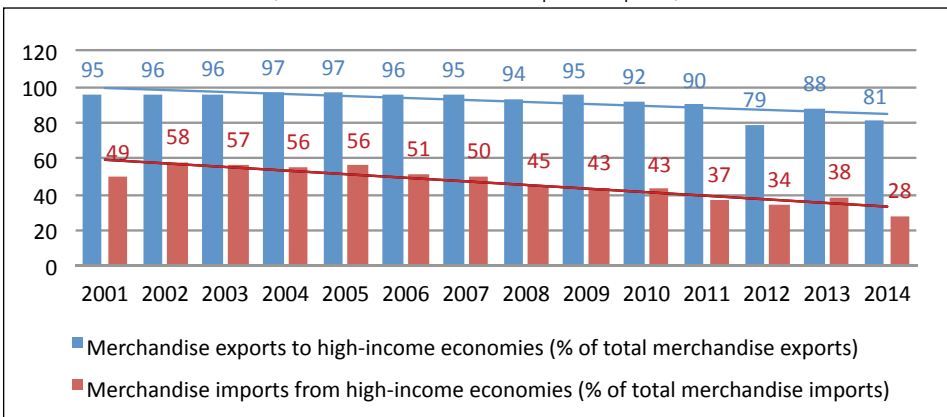


Source: Graph constructed by the authors using data from the World Bank's World Development Indicators.

Cambodia's garment manufacturing relies heavily on imported raw materials, fabric and other inputs mostly from China, as the country's "domestic supply chain and supporting industries for the garment sector are either insufficient or completely missing" (World Bank, 2016: 23). The construction sector, another main growth driver, also imports construction equipment and materials such as steel. In 2014, Cambodia's top imports were refined petroleum, light rubberized knitted fabric, gold, cars, and rolled tobacco.<sup>4</sup>

The bulk of Cambodia's exports go to high-income economies, mainly the EU and the US. Japan and Canada are also among the top export destinations. However, as Figure 5 shows, there has been a general downward trend in the share of merchandise exports to high-income economies, from 95 per cent of total merchandise exports in 2001 to 81 per cent

Figure 5: Merchandise exports & imports to high-income economies  
(% of total merchandise exports/imports)



Source: Graph constructed by the authors using data from the World Bank's World Development Indicators.

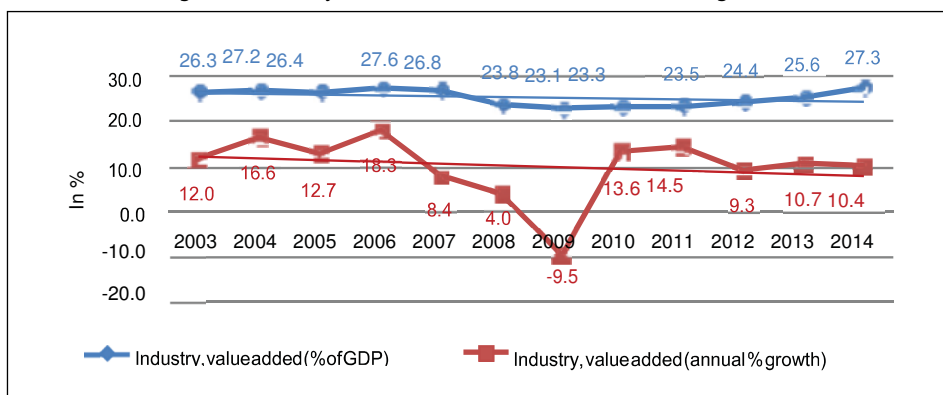


in 2014. This may be partly explained by Cambodia's move to diversify the destination of its garment exports. The other export destinations are Vietnam, Thailand, China, Malaysia, and Mexico.

Cambodia is becoming less and less reliant on high-income economies for its merchandise imports. The share of total merchandise imports from high-income economies dropped to 28 per cent in 2014 from a high of 49 per cent in 2001. In 2014, the top non high income import origins of Cambodia were Thailand, China, and Vietnam. Imports also came from Indonesia, Malaysia, and India. The high-income import origins, on the other hand, were Singapore, Hong Kong, and South Korea. Other high-income sources of imports were the US, Japan, and Qatar.

Cambodia's industrial sector consists of three important activities: Garment production, construction, and food and beverage processing. Between 2001 and 2014, the growth in industry's value added was in general declining, from 12.0 per cent in 2003, and peaking at 18.3 per cent in 2006, to a slower growth rate of 10.4 per cent in 2014 (Figure 6). However, industry's value added share to GDP remained high, averaging 25.4 per cent in the period 2003-2014. While there was a general downward trend, albeit gradual, in industry's value added share to GDP between 2003 and 2009, this started to climb between 2010 and 2014.

Figure 6: Industry, value added (% of GDP & annual % growth)

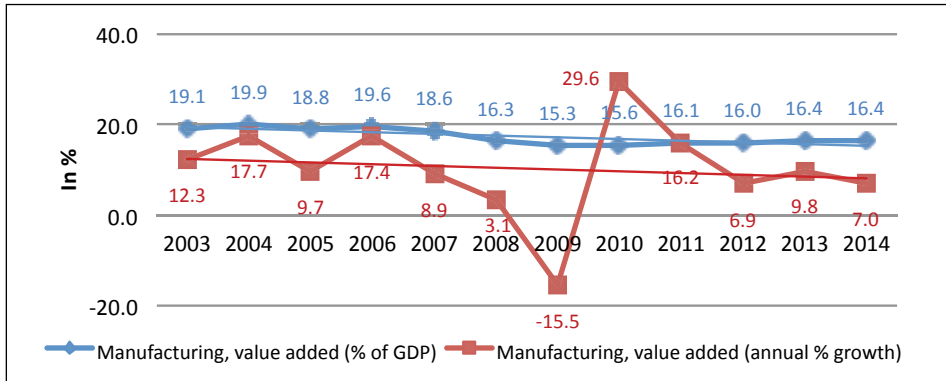


Source: Graph constructed by the authors using data from the World Bank's World Development Indicators.

Similarly, a gradual decline in the growth of manufacturing's value added and its share to GDP is shown in Figure 7. From a growth rate of 12.3 per cent in 2003, and after peaking at 29.6 per cent in 2010, manufacturing's value added went down to 7.0 per cent in 2014. A general downward trend is similarly observed in the share of manufacturing's value added to GDP: From 19.1 per cent in 2003 down to 16.4 per cent in 2014. However, the scenario

becomes promising if we divide the period between 2003-2009 and 2010-2014. In the former period, the growth of manufacturing's value added averaged 7.7 per cent, while growth in the latter period was higher at 13.9 per cent. This suggests that a slow shift to higher value added manufacturing might have been taking place in recent years.

Figure 7: Manufacturing, value added (% of GDP & annual % growth)



Source: Graph constructed by the authors using data from the World Bank's World Development Indicators.

#### 1.4 The garment sector: Cambodia's most dynamic driver of growth

The garment industry in Cambodia was developed almost entirely by an influx of foreign firms. Natsuda et al. (2009: 5) explain: "Unlike other countries in Southeast Asia, Cambodia did not get through the stage of import-substitution industrialisation. Rather, the government shifted from a centrally planned market system to a free market economy in the mid-1990s; subsequently the garment industry in Cambodia came to rely on a free market system and developed with foreign investment." The same authors point out that the garment industry in Cambodia was established by foreign investors from Hong Kong, Taiwan, Malaysia and Singapore, operating export-oriented garment factories in Cambodia from around 1994 (ibid). Further, the production processes of the Cambodian garment industry are at the lowest end of the value chain, primarily consisting of Cut, Make and Trim (CMT). The CMT process uses mostly imported fabric. Indeed, one key challenge facing the garment sector today is the inadequacy or lack of a domestic supply chain and supporting industries (i.e. textiles) for garment manufacturing.

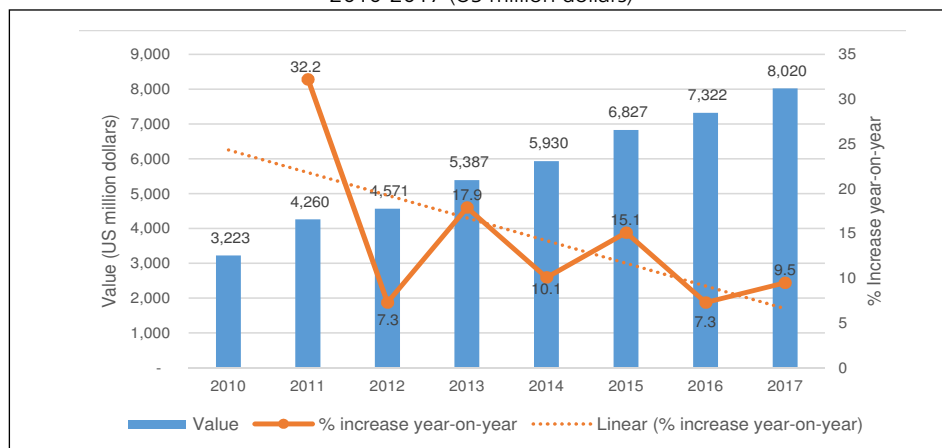
Today, the garment sector remains the most dynamic driver of economic growth in Cambodia. Nearly all garment (and footwear) products are exported, accounting for 72 per cent of the country's total merchandise exports in 2017 (ILO, 2018: 8). The sector contributed an average of 2.0 percentage points to the annual real growth rate during the period 1995-2015 (World Bank, 2016: 29). In 2015, the sector accounted for a third of real GDP growth. Garment

products are exported, mainly to the EU and the US, which, combined, receive 71 per cent of Cambodia's total garment exports (ILO, 2017a: 13). The EU is Cambodia's largest export market for garments, absorbing 46 per cent of total garment exports in 2016. Garment exports to the US, which accounted for 25 per cent of total garment exports in 2016, have already peaked (ibid). Cambodia's top garment exports are knit sweaters, knit women's suits and dresses, knit t-shirts, non-knit women's suits, and non-knit men's suits.

Cambodia has been exporting garments since the mid-1990s. Thanks to the US-Cambodia bilateral trade agreement<sup>5</sup>, the continuation of the BFC programme, and later the EBA<sup>6</sup> under the EU's GSP, Cambodia's garment exports have withstood increased competition on world markets after the removal of quotas under the MFA. Under the EU's EBA preferences, Cambodia enjoys full duty free and quota-free access to the EU markets for all its products, except arms.

During the period 2010-2017, Cambodia's garment exports expanded at an average of 14.2 per cent per annum in value terms. This expansion was facilitated by the EU's EBA trade preferential treatment and the return of a relatively stable labour market. Rising volume has continued to drive the growth of garment exports over the said period, resulting in the increase in the value of exports (Figure 8). Nonetheless, the growth in the value of exports year-on-year over the same period trended downward. The ILO (2018) suggests that either a reduction in price of exported garment products or a minor shift towards lower value production may be taking place in the sector. There is evidence pointing to the former.

Figure 8: Growth in value of Cambodia's garment and footwear exports, 2010-2017 (US million dollars)

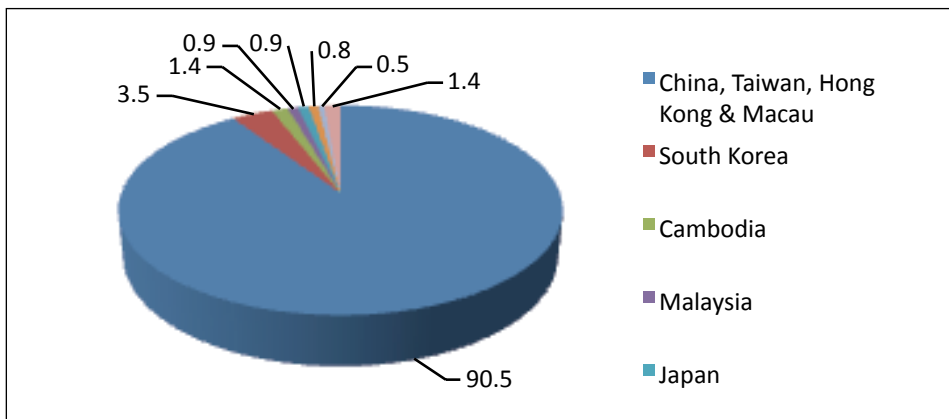


Source: Graph constructed by the authors using data from World Bank (2016: 25), Table 3.

According to ILO (2017a), between 2015 and 2016, prices were nearly flat for garment exports to the EU, while average prices fell for exports to the US. Citing data from the US Department of Labour and the European Commission, the ILO (2017a: 2-3) notes that the US import price index of apparel declined by 0.5 per cent in 2016, while the EU import price index of wearing apparel grew by only 0.1 per cent between 2015 and 2016.

As mentioned earlier, the rapid expansion of the garment sector has been due to the substantial inflows of foreign direct investment into the sector. The sector is heavily, if not wholly, dependent on foreign investors, mainly from the Greater China Region (including Taiwan, Hong Kong, and Macau), who own 90.5 per cent of all garment factories in Cambodia (Figure 9).

Figure 9: Ownership of the garment factories (% of total)



Source: World Bank (2016: 24), Figure 1.

Between 2010 and 2014, there was an upward trend in FDI stock in the garment sector, as indicated in Table 2. In 2015, there were 626 garment factories (and 73 footwear factories) in Cambodia compared with only 20 garment factories in 1995 (World Bank, 2016: 24). Between 1995 and 2015, there was a steady increase in the number of factories in the country. During the period 2010-2015, the number of garment factories increased at an average of 60 factories per year (ibid). A survey on FDI conducted in 2014 by the National Bank of Cambodia noted that China's relocation of some of its garment factories to Cambodia is the most significant factor in the net increase in new factories. Labour shortages and high wages are affecting the garment industry in China, as workers move to more attractive industries and better jobs. In addition, China's garment industry is facing declining profit margins and capacity constraints so that many buyers are decreasing their level of sourcing in China (TNS Cambodia, 2014).

Table 2: Garment and footwear FDI position (stock)

Year	Stock (US\$ million)	Change (US\$ million)	% of total
2010	1,548		17.5
2011	1,961	413	17.7
2012	2,659	698	19.0
2013	3,273	614	19.6
2014	3,950	677	20.5

Source: 2014 FDI survey, National Bank of Cambodia. Table reproduced from World Bank (2016: 24), Table 1.

While the increase in the number of garment factories is a positive development, the World Bank (2016: 35) cautions that:

Given the “footloose” characteristics of the garment industry, together with the existing ownership structure whereby there are only a handful of domestic investors, garment factories can be relocated relatively quickly from Cambodia to more attractive countries, if it faces a squeeze in profit margins due to rising input costs, higher taxes, less favourable trade preferential treatment, and economic slowdown of key export markets.

In light of this, the World Bank stresses the importance of promoting local participation in the garment sector to maintain its resiliency. Accordingly, developing supporting industries for the sector from locally-owned small and medium-sized enterprises might be a good start.

The garment and footwear sector contributes substantially to Cambodia’s employment generation. For the period 2009-2015, the sector accounted for nearly half (0.8 percentage points) of the country’s total employment growth of 2.1 per cent (World Bank, 2016: 30). The sector employs half of all workers engaged in manufacturing. About 86 per cent of all garment workers are women (ILO, 2016a: 5) who are relatively young and who come from large families in rural areas. They migrated to Phnom Penh and other cities to work in garment factories mainly for economic reasons. Thus, to a large extent, women have been able to get into the productive and formal economy through the garment sector. The garment and footwear sector also contributes indirectly to job generation in the service sector, particularly in retail, trade, and transportation.

During the period 2010-2015, the sector created an average of 40,000 new jobs a year (World Bank, 2016: 24). In 2015, there were 623,000 workers employed in 699 garment and footwear factories, up from 594,000 workers employed in 626 factories in 2014 (ILO, 2017b: 10). However, in recent years, there has been a noticeable decline in the growth of

employment year-on-year in the garment and footwear sector. In 2013, employment in the sector grew by 18.6 per cent. In 2014 and 2015, employment growth weakened at 13.5 per cent and 10.4 per cent, respectively (ILO, 2016a: 9). In 2016, based on data from the Ministry of Commerce (MOC), employment in the sector shrunk to a negative 2.9 per cent; there were 605,000 garment and footwear workers in 626 factories compared to 623,000 workers in 699 factories in 2015 (ILO, 2017a: 11).

In order to explain the weak employment growth in recent years in the garment sector despite its strong export performance, the ILO examined relevant statistical data from various official sources and suggested three potential explanations for the apparent discrepancy between Cambodia's export statistics and employment data. Firstly, the MOC revised its employment and factories database in early 2016 to reflect the number of factories that ceased to operate (without official notice) either temporarily or permanently. Thus, the slowdown in employment growth and the decrease in the number of operating factories in the 2016 data is the result of statistical reclassifications (ILO, 2017a: 2). Secondly, data suggests that productivity in the sector grew in 2016, which somehow played some part in boosting the sector's export growth rate in the same year. Thirdly, the ILO found that there has been a growing number of subcontracting garment factories and enterprises that are not registered as exporters. This was revealed when the number of factories in the MOC database was compared with the statistical record of the National Social Security Fund (NSSF), which registers all garment and footwear factories with at least eight employees, whether exporting or non-exporting or subcontracting. In 2016, according to data from the MOC, there were 626 garment and footwear factories that employed a total of 605,000 workers, whereas data from NSSF indicated higher figures: There were 881 factories employing 702,000 workers (ILO, 2018: 14-15). The ILO (2017a: 4) suggests that the difference between the number of factories in the database of the two government offices "gives a rough proxy measure of the number of subcontracting enterprises that may be operating and contributing to the total export values of the sector". Although subcontracting enterprises provide employment and contribute to economic growth, their increasing numbers raise some questions. If subcontracting is being used as a way to undercut regulations, including the labour law and minimum wage, then this has serious consequences for workers. Further, subcontractors are not monitored by BFC and receive less attention from national enforcement agencies (*ibid*).

There are several challenges facing the garment sector in Cambodia. Firstly, as Cambodia has already moved up to a low-middle income status, it stands to eventually lose its EBA privileges<sup>7</sup>. Cambodia's GNI per capita is estimated to have reached 1,300 US dollars in 2017 (World Bank, 2018: 35). This will have serious implications for Cambodia's garment sector as the EU is the country's largest market for garment exports.

Secondly, there is insufficient or an absence of a locally owned supply chain and supporting industries (i.e. textiles) for garment manufacturing in Cambodia. As pointed out earlier, the

“footloose” and FDI-dominated character of the garment industry means that garment factories can relocate quickly to other countries which allow higher profit margins due to lower input costs, more favourable trade preferential treatment, lower taxes, and other factors. It should be noted that most garment factories in Cambodia have minimal investments in fixed assets and in training of workers (TNS Cambodia, 2014).

Thirdly, according to the ADB (2015), labour for the garment sector may soon be in short supply if Cambodia fails to diversify its economy to sustain high growth. If the garment sector continues to rely on young women from rural areas, then it is likely that it will soon run out of these workers. The ADB stresses that “Cambodia does not have a huge excess of agricultural labour that can easily be released to the manufacturing sector” (2015: 51). Simply replicating existing types of CMT factories using low-cost, young, female workers will not contribute significantly to economic growth in the long term, and perhaps not in the medium term either.

Fourthly, the costs of electricity in Cambodia continue to constrain the development of more sophisticated manufacturing processes, which in turn hinder diversification of manufactured products (World Bank, 2016). Producing higher value added products is often energy-intensive. In 2011, the electricity tariff in Cambodia was the second highest in ASEAN, next to that of Singapore.

Fifthly, the garment sector is under pressure from rising wages. According to the World Bank (2016), Cambodia’s minimum wage in 2016 was higher than those in Bangladesh, Myanmar and Laos, and comparable to that in Vietnam (Table 3). It should be noted nonetheless that the minimum wage in Cambodia covers only the garment and footwear sector.

Sixthly, the EU-Vietnam Free Trade Agreement will give Vietnam a ‘level playing field’ in competing for the EU market. Currently, Vietnam mostly faces a 12 per cent customs tariff for the same garment products that Cambodia largely exports duty free to the EU (World Bank, 2016: 33). Once ratified, the free trade agreement will immediately eliminate most tariff lines of the garment products that account for about a quarter of Cambodia’s total exports to the EU.

Finally, a conflict-ridden industrial relations system that is marked by frequent and large-scale strikes causes instability in the garment and footwear sector. As noted earlier, FDI in the garment and footwear sector declined between 2013 and 2014, the years when widespread strikes hit the sector, and declined further between 2014 and 2015, arguably in part due to the continued instability of industrial relations in the sector. Growth of garment and footwear exports in terms of value also slowed down year-on-year between 2013 and 2015:

From 11.8 per cent in 2013, to 9.6 per cent in 2014, and to 7.6 per cent in 2015 (ILO, 2016a: 8).

Table 3: Regional comparison of Cambodia's minimum wage, 2016

Country	US\$ per month
Cambodia	140.0
Bangladesh	65.8
Myanmar	89.4
Laos	107.5
Vietnam	156.0
Mongolia	96.1
Pakistan	103.2
Philippines	203.0
Thailand	251.4
China	201.2

*Source: Table reproduced from World Bank (2016: 32), Table 9.*

Nonetheless, there are also bright spots for the garment and footwear sector. One relates to the relocation of raw materials production to neighbouring Vietnam. With the limited absorptive capacity of Vietnam to take those investments, Cambodia may stand to gain from the relocation of some of these investments (Samsen et al., 2016). Another is the US government's decision to grant Cambodia preferential, duty free access to the US travel goods market from 1 July 2016. Cambodian-made travel products include suitcases, handbags, wallets, vanities, and similar products. These goods were previously subjected to US tariff rates of between 3.4 and 20 per cent (ILO, 2017b: 4). The US is currently Cambodia's second-largest export destination, next to the EU, for travel goods. Although Cambodia's travel goods industry remains in its infancy stage, its growth dynamics appear to be strong, with exports rising by 60 per cent in 2015 over 2014 levels (ibid). It is believed that the zero-tariff rate preferential treatment by the US will expedite the sector's growth momentum and attract more investment into the sector in the near future (ibid).

### **1.5 The garment sector's participation in global value chains and its implications for the sector's sustainability and labour standards compliance**

Cambodia was a late adopter of global value chains (GVCs). Nonetheless, De Backer and Miroudot (2013) point out that the country has a highly international value chain. Cambodia's



GVC participation index—a “measure of a country’s involvement in vertically fragmented production, as a user of foreign value added for its own exports and as a supplier of domestic value added embodied in intermediate goods or services used in other countries’ exports”<sup>8</sup>—in 2011, was 48 per cent of its total gross exports (Taglioni and Winkler, 2016: 102). However, its participation in GVCs is more downstream (or backward participation), that is, it is largely engaged in the assembly of processed products (or is more specialized in buying activities), than upstream.<sup>9</sup> In 2009, foreign inputs or foreign value added accounted for 35 per cent of its gross exports (ibid: 15). In 2011, the ratio went up to 38 per cent (ibid: 102). In contrast, Cambodia has very low domestic value added embodied in third countries’ exports—only 12 per cent from 1995 to 2011 (ibid: 88-89).

Between 1995 and 2009, Cambodia’s garment and footwear sector witnessed a declining trend of the index of distance to final demand—from 1.6 in 1995 the index went down to 1.2 and remained unchanged between 2005 and 2009. Starting from one industry in a given country, the index of distance to final demand measures how many stages of production are left (i.e. how many plants on average are involved in production and assembly) before the goods or services produced by an industry reach final consumers (OECD, 2013). As a measure of ‘upstreamness’ (i.e. high value added) of an industry, the index provides an indication of where a country is located in the value chain. According to the OECD, high values of the index are associated with industries that are more involved in upstream activities, while lower values are found in correspondence of industries specialised in downstream activities and therefore, closer to final consumption. For textile, leather and footwear, De Backer and Miroudot (2013: 15) estimated the index between 1 and 2.7 in 2008.<sup>10</sup> Thus, in the case of Cambodia, its share in the production of garments and footwear is almost located at the final stage of the value chain, suggesting that its garment and footwear industry is mostly concentrated in the assembly of processed products.

At the same time, Cambodia’s garment and footwear sector experienced a gradual increase in the index of the number of production stages, from 2.6 in 1995 to 2.9 in 2009. According to the OECD (2013), the index measures the number of production stages required to realize a product or provide a service in a given final industry. In short, it measures the length of GVCs in each industry. The index takes the value of 1 if there is a single production stage in the final industry and its value increases when intermediate inputs from the same industry or other industries are used in the production of the final good or service. To the extent that Cambodia’s garment and footwear sector relies heavily on foreign inputs (i.e. fabrics, yarns, leather, etc.) for its CMT production processes, a large part of the sector’s production stages are done outside Cambodia. This therefore makes the garment and footwear production in Cambodia downstream in the value chain, which, in turn, partly explains the low level of productivity in the sector.

The 'downstreamness' or low value added participation of Cambodia in the garment and footwear GVCs and the sector's heavy reliance on FDI pose serious implications not only for the sustainability of the sector but also for the landscape of labour standards compliance of garment and footwear factories in Cambodia, with the latter point discussed further in Chapter 3.

Power asymmetry characterizes GVCs. Xhafa and Nuon (2017: 25) explain how this condition holds back Cambodia's garment and footwear sector from scaling the value chain:

...the *monopsony* character of the supply chain—i.e. a relationship of highly asymmetric power between international players (international buyers and intermediaries) and local factories (vendor factories and contract manufacturers)—has undermined the chances of developing backward linkages in the economy. Thus, decisions over pricing, countries for sourcing materials, components, and production are negotiated between international buyers and intermediaries; the latter being often large and powerful multinational companies with headquarters in China, Hong Kong, Taiwan or South Korea. This process of negotiation excludes the local factories, a majority (70 per cent) of which are vendor factories, operating as subsidiaries or affiliates of these intermediaries, with little decision power over the inputs... Meanwhile, the high dollarization of the economy deprives the government of the possibility of using the exchange rate as a way of making its exports cheaper.

The same authors stress that given the highly asymmetric power relationship in the production chain, international buyers/intermediaries are allowed to transfer the effects of price fluctuations in the global market to local suppliers by the mere threat of switching production location (*ibid*). This has left supplier factories unable to negotiate better production prices and technology transfer, which in turn undermines the possibility of productivity increases in the garment industry in Cambodia.

The combined effects of low production prices, limited productivity increases, and some of the challenges identified in the previous section (i.e. insufficient or absence of a locally-owned supply chain and supporting industries for garment manufacturing, the 'footloose' and FDI-dominated character of the industry, high cost of electricity, wage competition from neighbouring countries, etc.) have put more pressure on wages, leading to labour unrest, especially in the years 2013-2014. In fact, despite the presence of the BFC programme over the years, the compliance record with several labour standards continues to be spotty and industrial relations remain unstable and conflict-ridden. (These two points are further discussed in Chapters 3 and 4). The International Human Rights and Conflict Resolution Clinic-Stanford University and Worker Rights Consortium (2013) argue that over time wages and basic job security have in fact worsened during the operation of BFC and that collective bargaining and basic elements of occupational safety and health remain elusive. According

to Khafa and Nuon (2017: 27): “As the industry entered a more competitive phase that lacked any regard for labour standards, the modest improvements achieved under the preferential trade agreements and on working conditions more generally were put under increasing pressure.” Accordingly, local factories have engaged in a number of strategies to lower labour costs which have resulted in serious, interrelated violations of labour standards. These violations are intensified down the subcontracting chain where casual and home-based work is prevalent (International Human Rights and Conflict Resolution Clinic-Stanford University and Worker Rights Consortium, 2013).

### 1.6 The construction sector: A sustainable driver of growth?

The construction sector is considered to be the second most dynamic driver of growth, after the garment sector, in Cambodia. The sector, which was heavily affected by the global financial crisis, quickly recovered in 2011. In 2015, the sector, together with real estate, accounted for nearly 30 per cent of real growth. In mid-2016, the value of approved construction projects reached 6.8 billion US dollars, more than twice as much as the 3.3 billion US dollars for the whole of 2015 (World Bank, 2016: 7).

The expansion of the sector is partly driven by FDI. During the period 2000-2015, foreign investment in the construction sector reached 3.5 billion US dollars and accounted for 27.3 per cent of the total registered investment value in the construction sector (ibid: 8). South Korea is the largest investor in the sector; it generated 44.6 per cent of the total registered investment value during the period 2000-2015 (ibid). South Korea’s investment focuses on high-end construction projects. Investments from China come next. During the period 2000-2015, Chinese investments accounted for 27 per cent of the total registered investment value in the construction sector (ibid). Chinese investors mainly focus on low-end construction projects.

Nonetheless, the World Bank (2018) reports that growth in the construction sector has moderated. In 2017, the growth of imports of steel and other basic construction materials have either decelerated or turned negative.

About 3 per cent of the employed population in Cambodia work in the construction sector. Estimates on the actual number of workers in the construction industry, however, vary. According to the 2013 census, there were 260,031 workers employed in the construction sector. A year earlier, the labour force survey in 2012 put the number of workers at 487,077. It is more likely that the census estimate is more in realistic.

Recently, the construction sector has been experiencing a rapid expansion of modern high-rise residential and commercial buildings. As Cambodia has moved up to a lower-middle income economy with a growing middle class, demands for better standards in real estate

are rising. A majority of construction activity is located in Phnom Penh. At the same time, there has been a rising demand for low-price housing projects in the last two years. Thus, there has been a shift towards investing more in the low-end housing market segment in the outskirts of Phnom Penh and in newly developed areas.

There are, however, rising risks with the boom in construction and real estate. According to the World Bank (2016: 8-9):

Busts tend to be more costly when booms are financed through credit and leveraged institutions are directly involved. In contrast, booms with limited leverage and bank involvement tend to deflate without major economic disruptions. In addition, exposure of households to the existing real estate boom is difficult to quantify. For the condominium sector, largely financed by capital inflows, its potential negative impacts on household debt may, therefore, be restricted somewhat, given that living in high-rise buildings remains relatively a new experience for local population. However, it is likely that if one segment of the real estate market declines, the entire real estate and construction sector may be also affected, even if domestic banks' leverage is not a significant driver of the boom. Therefore, risks arising from construction boom need to be promptly addressed and negative impacts timely mitigated.

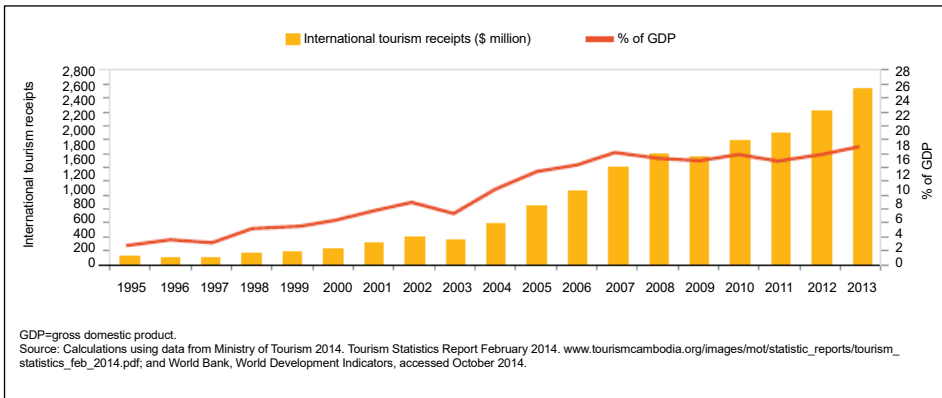
Thus, the World Bank stresses that Cambodia's real estate sector needs to be closely monitored in order to maintain macroeconomic stability.

### **1.7 Tourism: Another growth driver**

Tourism (and travel) is considered one of the growth drivers of Cambodia's economy. This sub-sector includes economic activities and operations that deal directly with tourists, including hotels, travel agents, airlines and other passenger transport services, as well as the activities of restaurant and leisure industries that deal directly with tourists (World Travel and Tourism Council, 2015: 15). Receipts from international tourism have increased at a tremendous pace since 2000, according to the ADB (2015). In recent years, receipts from international tourism totalled between 15 per cent and 17 per cent of GDP (Figure 10).

In 2015, tourism accounted for 16 per cent of Cambodia's GDP, up from a 13.5 per cent share of the subsector in 2014 (World Travel and Tourism Council, 2015: 8). Cambodia's Ministry of Tourism estimated that there were 620,000 workers directly employed in the tourism subsector in 2015 (Sokhorng, 2016). In addition, about 1.5 million workers are also indirectly employed in the subsector (TNS Cambodia, 2014). Transportation and storage and accommodation and food account for most tourism employment. These are the two large sub-sectors for informal employment in services; together they generated 16 per cent of informal employment in 2011 (ADB, 2015: 34).

Figure 10: Tourism industry, 1995-2013



Source: Figure reproduced from ADB (2015: 52), Figure 3.3.

In 2017, total tourist arrivals reached 5.6 million or 11.8 per cent, up from 5.0 per cent in 2016 (World Bank, 2018: 12). Tourist arrivals by air significantly increased by 22.5 per cent, thanks to the efforts of the Cambodian government in expanding and deepening regional connection flights, especially between Cambodia and China.

Asia remains the major source of tourists for Cambodia, accounting for three-quarters of foreign tourists. Tourist arrivals from China now outpace those from Vietnam; over one in five of Cambodia's tourists are from China. Tourists from Vietnam are the second-largest group that visits Cambodia yearly. They account for 14.9 per cent of the total tourist arrivals in 2017 (World Bank, 2018: 14). Lao PDR is the third-largest market, accounting for 9.0 per cent of the total in the same year, while Thailand and South Korea ranked fourth and fifth, accounting for 7.0 per cent and 6.2 per cent of total arrivals, respectively (ibid).

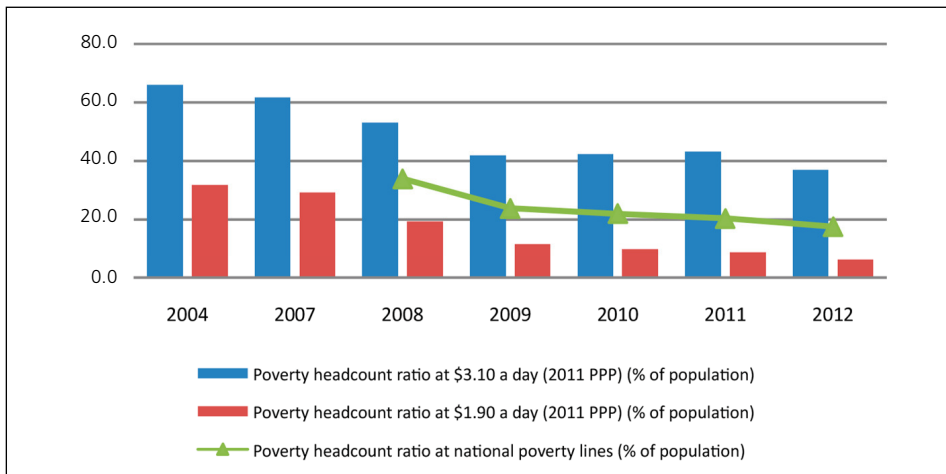
Cambodia's tourism sector, which is a relatively new sector, is dependent on its neighbour Thailand's more developed tourism sector. Strong tourism activity in Thailand may mean more tourist arrivals for Cambodia. In mid-2016, tourist arrivals in Thailand decelerated and thus the year-on-year growth in tourist arrivals in Cambodia went down to 2.6 per cent from 6.1 per cent in 2015 (World Bank, 2016: 10). The World Bank forecasts that given recent tensions and security concerns in the region, the outlook for the tourism sector remains uncertain (ibid). The appreciation of the US dollar may also make tourists' trips to Cambodia more expensive.

### 1.8 Has growth 'trickled down'? The magnitude of income inequality and poverty

Cambodia has been able to sustain robust economic growth during the past two decades. This has had a significant positive impact on poverty reduction. As shown in Figure 11,

between 2004 and 2012, there was a general downward trend in poverty levels using different indicators. There was also a general downtrend of the Gini index during the same period, from 35.5 to 30.8 in 2012, according to World Bank estimates. In 2015, Cambodia's gross national income (GNI) per capita reached 1,070 US dollars, up from 1,020 US dollars in 2014. The 2015 GNI per capita of Cambodia was above the threshold for the Low Income Group<sup>11</sup> classification by the World Bank, which is set at 1,025 US dollars (World Bank, 2016: 11). Thus, and as pointed out earlier, Cambodia was reclassified by the World Bank as a lower-middle income economy in 2016, joining 52 other economies, including Vietnam, Indonesia, and the Philippines (ILO, 2017b). However, Cambodia continues to be classified as a least developed country (LDC)<sup>12</sup> by the United Nations (UN, 2017: 157). As discussed later, Cambodia's economic upgrading may have serious implications for its continued export privileges under the EU's EBA scheme.

Figure 11: Poverty indicators

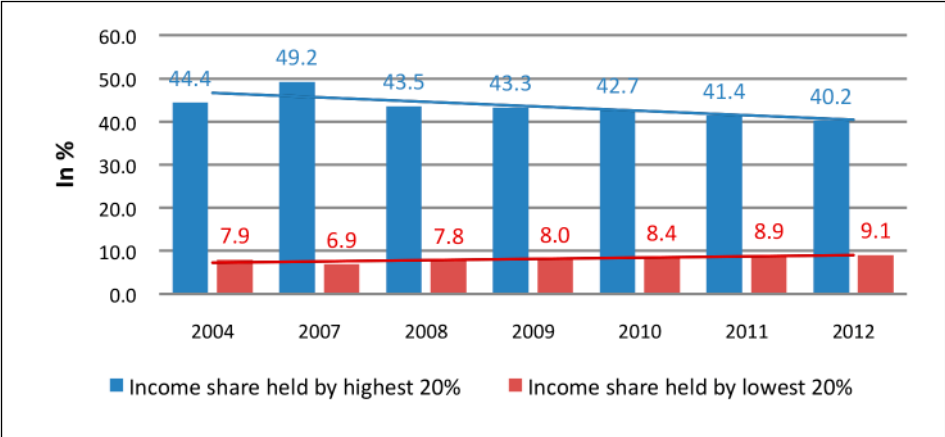


Source: Graph constructed by the authors using data from the World Bank's World Development Indicators.

However, income inequality remains high. In 2012, the income share held by the highest 20 per cent income group was 40.2 per cent while the income share of the lowest 20 per cent was a paltry 9.1 per cent (Figure 12). Nevertheless, between 2004 and 2012, there was a general downtrend in the income share of the highest 20 per cent, from 44.4 per cent in 2004 to 40.2 per cent in 2012, while a general uptrend, albeit slower, in the income share of the lowest 20 per cent occurred during the same period—from 7.9 per cent to 9.1 per cent.

According to the World Bank (2016), poverty incidence in Cambodia tends to be higher in rural areas than in urban areas. In recent years, urban households have benefitted from the expansion of the garment and construction sectors.

Figure 12: Income share held by highest 20% & lowest 20% income group



Source: Graph constructed by the authors using data from the World Bank’s World Development Indicators.

Another way of measuring the impact of growth is to look at how Cambodia is progressing over the years in terms of the Human Development Index (HDI),<sup>13</sup> which is an average measure of basic human development achievements in a country. According to the UNDP (2015: 2), “Cambodia’s HDI value for 2014 is 0.555—which put the country in the medium human development category—positioning it at 143 out of 188 countries and territories. Between 1990 and 2014, Cambodia’s HDI value increased from 0.364 to 0.555, an increase of 52.4 per cent or an average annual increase of about 1.77 per cent.” In terms of the HDI indicators, the UNDP reports that between 1980 and 2014, Cambodia’s life expectancy at birth increased by 40.9 years, mean years of schooling increased by 2.3 years and expected years of schooling increased by 4.2 years, and GNI per capita increased by 292.2 per cent (ibid).

Nevertheless, Cambodia’s 2014 HDI of 0.555 is below the average of 0.630 for countries in the medium human development group and below the average of 0.710 for countries in East Asia and the Pacific. It is higher than Myanmar’s HDI value of 0.536, but lower than Laos’s HDI value of 0.575 (UNDP, 2015: 4).

1.9 Cambodia’s new Industrial Development Policy

On 6 March 2015, the Council of Ministers of the Royal Government of Cambodia approved Cambodia’s *Industrial Development Policy* (IDP) for the period 2015-2025. Though ambitious given the relatively short span of time to realize the targets, its weak industrial base, and the economy’s heavy reliance on FDI, the government’s initiative to articulate an industrial policy is a positive development.

The IDP envisions “to transform and modernize Cambodia’s industrial structure from a labour-intensive industry to a skill-driven industry by 2025, through connecting to regional and global value chains; integrating into regional production networks and developing interconnected production clusters along with efforts to strengthen competitiveness and enhance productivity of domestic industries; and moving toward developing a technology-driven and knowledge-based modern industry” (Royal Government of Cambodia, 2015: ii). To realize this vision, the government has three set three targets:

First, to increase the GDP share of industrial sector to 30% by 2025 (24.1% of GDP in 2013) with the manufacturing sector growing from 15.5% in 2013 to 20% in 2025; Second, to diversify the export of goods by increasing the export of non-textile to reach 15% of all exports by 2025 while still promoting the export of processed agricultural products to reach 12% of all exports by 2025; and Third, to encourage the formal registration of 80% of small enterprises and 95% of medium enterprises and to ensure that 50% of small enterprises and 70% medium enterprises to have proper accounts and balance sheets.

To meet the targets set, the Cambodian government has adopted four strategies (ibid).

First, mobilizing and attracting foreign investments as well as private domestic investments by focusing on large industries, expanding markets and enhancing more technology transfer; Second, developing and modernizing small and medium enterprises (SMEs) (expanding and strengthening the manufacturing base, modernizing the registration of enterprises, ensuring technology transfer and industrial linkages); Third, revisiting the regulatory environment so as to strengthen the country competitiveness (investment climate and trade facilitation, market information dissemination and informal fees reduction); and Fourth, coordinating supporting policies (development of human resource, technical training, improvement of industrial relations, development of support infrastructure such as transportation/logistics and information and communication system (ICT), supply of electricity and clean water, and public, social and financial services.

Priority sectors have been identified as well. These are: The manufacture of high value added products such as machinery assembly, mechanical/electronic/electrical equipment assembly, means of transport assembly, production of drugs and medical equipment, production of construction materials, packaging equipment for export, furniture making, and industrial equipment; tourism; textiles; the industries supporting the backward and forward linkages for the garment sector, the manufacture of spare parts, and assembly of other semi-finished products; information technology and telecommunications; energy; heavy industries; cultural/historical/traditional handicrafts; and green technology. The list of priority sectors is quite extensive and ambitious.



It is very clear that Cambodia's industrial policy is predicated on deepening the liberalization of its economy and making it more integrated into the global economy. There is a heavy focus on attracting FDI and the development of industrial zones, Special Economic Zones (SEZs), new industrial parks, and industrial clusters. As of June 2014, Cambodia has 32 SEZs with operators coming from Cambodia, Japan, China, Thailand, and Taiwan (TNS Cambodia, 2014). These SEZs hosted 69 light manufacturing companies in 2013 (ibid).

The IDP includes a dizzying number of policy measures for each of the four strategies mentioned earlier. Among the specific measures that are expected to improve the regulatory environment are those that pertain to labour market development and industrial relations. This is a unique feature of Cambodia's IDP as not all countries with formalized industrial policies have these measures, especially those on industrial relations. The key measures pertaining to industrial relations include the following (Royal Government of Cambodia, 2015: 25-26):

- Continue strengthening the tripartite labour relations mechanism among the government, employers and employees through the Labour Advisory Committee in order to promote mutual understanding, while developing an effective mechanism for setting minimum wages consistent with labour productivity, socio-economic conditions and the status of industrial development in Cambodia;
- Initiate research on the relationship between employees and employers in order to identify good practices in addressing systemic resolutions of industrial disputes, which could enhance labour productivity, i.e. professional training on addressing workers' issues in line with the existing labour law and regulations;
- Prepare a Law on Unions and Law on the Labour Court;
- Strengthen the working conditions auditing mechanism by extending the BFC programme or by exploring the possibility of forming a joint task force to conduct regular audits so as to reduce the number of audits and promote audit effectiveness. This task force must report to the Royal Government regularly;
- Review the Labour Law and Law on Social Security to assess their strengths and weaknesses in order to emphasize the role of employers and unions in the process of labour market development while considering the balance between the need for development and the well-being of workers;
- Prepare a national policy on jobs and employment.

A number of the measures listed above have been realized, such as the extension of the BFC programme, the introduction of the new Trade Union Law, and the government's adoption of the National Employment Policy, which are all discussed in the next chapters.

The inclusion of measures on industrial relations may have been motivated by the surge of large-scale labour unrest (i.e. strikes) in the garment sector in 2013 and 2014. The strikes,

which were largely spontaneously staged by garment workers themselves, significantly disrupted production during the period. Thus, while the garment export volume (and value) per worker was trending upward from 2000 to 2012, it trended downward in 2013 to 2015 (World Bank, 2016). This suggests that good industrial relations are a critical factor in the success of Cambodia's industrial policy.

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Thanks to the solid growth of the garment and footwear sector and the expansion of economic activity in other sectors, Cambodia has been experiencing robust economic performance in the last 15 years. Cambodia is now among the fastest growing economies in ASEAN, even surpassing the region's average real GDP growth rate for the period 2007-2017. This strong economic growth has resulted in an overall economic and social upgrading<sup>14</sup> in the country. According to Taglioni and Winkler (2016: 202-203), among several low- and middle-income countries, "Cambodia has been the prime performer, with formidable upgrading in economic and social terms", between the 1990s and the 2000s.

In terms of economic upgrading, which, according to Taglioni and Winkler (2016: 203), is "the average of the percentage change in export market share and the percentage change in export unit value", Cambodia has been experiencing an increase in market share of its clothing and apparel accessories (i.e. knitted and crocheted apparel) exports to the EU-28 countries. In fact, Cambodia's share of this category of apparel in the EU market quickly jumped from 1.6 per cent in 2010 to 4.4 per cent in 2014, while Vietnam's share had little change in the same period (from 1.2 to 1.6 per cent) (World Bank, 2016: 6). In nominal terms, Cambodia exported nearly 2.2 billion US dollars of knitted apparel to the EU countries in 2014, almost three times more than that of Vietnam (ibid).

In the realm of social upgrading, which, according to Taglioni and Winkler (2016: 203), is "the average of the percentage change in employment and the percentage change in real wages", the next chapter discusses the marked improvements in these dimensions. In addition, and as discussed in this chapter, poverty and inequality have been going down.

The developments in the Cambodian economy have had serious implications for the landscape of industrial relations in the country, including the growth of and the challenges faced by trade unions. The low-end and low-value-adding location of the country's garments sector in GVCs and the power asymmetry that marks value chains compel supplier factories to adopt strategies to lower labour costs to remain competitive, which, in turn, has resulted in violations of labour standards and the recurrent explosion of labour unrest. This leads to unstable and conflict-ridden industrial relations.

As discussed in Chapter 3, the ILO-BFC initiative in Cambodia has attracted more and more 'reputation-conscious' buyers, and this development has contributed in part to better working conditions for garment and footwear workers in the country. However, emerging and potential competition from other low-wage garment-producing countries may in the future moderate wage demands and derail improvements in working conditions.

# Chapter II

## The Cambodian labour market: Progress and constraints





Cambodia has a relatively young population. According to the National Institute of Statistics (NIS), about 22 per cent of Cambodia's over 15 million people in 2014 belonged to the age group 15-24 years. Those that belonged to the age group 25-54 years comprised the biggest share of about 38 per cent of the population. The proportion of working age population—those between 15 and 64 years of age—stood at 65.9 per cent in 2014. Meanwhile, the population shares of the age groups 0-14 years and 65 years and over, which comprise the dependent population, were 29.6 per cent and 4.5 per cent, respectively.

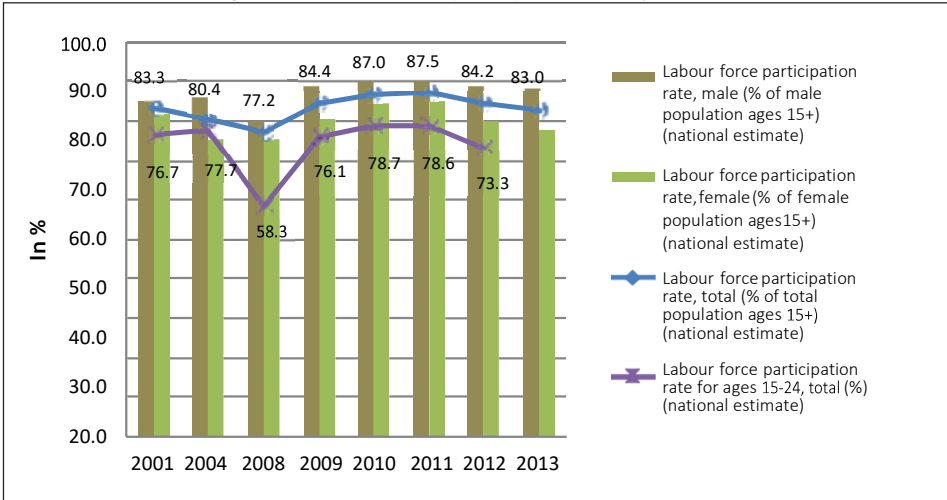
## 2.1 Labour force participation, employment and unemployment

In Cambodia, most people comprising the working-age population are economically active. Labour force participation rates, measured as the proportion of economically active people in the working-age population, averaged between 82 per cent and 84 per cent in the 1990s and 2000s, and have been trending upward (ADB and ILO, 2015). According to the ADB and the ILO (2015), Cambodia's participation rate is high relative to other ASEAN economies with higher output per capita which typically have lower participation rates. Between 2001 and 2013, there was an upward trend in participation rates, which averaged 83.4 per cent (Figure 13). Male participation rates, which registered an average rate of 87.3 per cent in the same period, tend to be consistently higher than the average total labour force participation rate and the average for women. Female participation rates, meanwhile, averaged a lower rate of 79.7 per cent. Youths, defined as those in the population between 15 and 24 years old, registered the lowest participation rates, averaging 74.2 per cent in the period between 2001 and 2012.

Based on the Cambodia Socio-Economic Survey (CSES) for the period 2007-2013, a very high proportion—about four in five—of the labour force were engaged in some form of employment. In fact, the employment-to-population ratio, a measure of the proportion of employed people in the working-age population, trended upward between 2004 and 2013. According to the ADB (2016), this trend will continue until 2020.

Men were more likely to work than women during the period 2004-2013. The employment-to-population ratio for men averaged 87.1 per cent (ADB and ILO, 2015). Women's average ratio was lower at 76.8 per cent. However, according to the ADB, at less than 10 percentage points of difference, the gender gap in employment-to-population ratios is fairly small (ibid: 23).

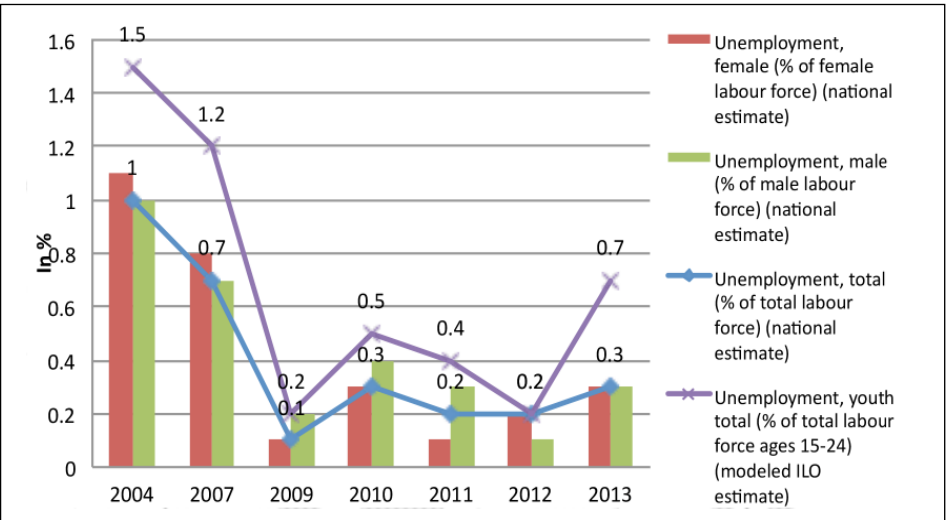
Figure 13: Labour force participation rate by sex (%)



Source: Graph constructed by the authors using data from the World Bank's World Development Indicators.

With increasing employment-to-population ratios in the 2000s, unemployment rates decelerated as well. Between 2004 and 2013, unemployment rates averaged a negligible 0.4 per cent (Figure 14). The average rates for men and women were the same at 0.4 per cent. Youths had higher unemployment rates, though also very small at an average of 0.7 per cent in the same period. Moreover, between 2009 and 2013, there was a general uptrend of youth unemployment rates, although the average for this period was lower at 0.4 per cent.

Figure 14: Unemployment rates (%)



Source: Graph constructed by authors using CSES and NIS data provided in ADB (2015: 24-25), Tables 2.6 and 2.8.

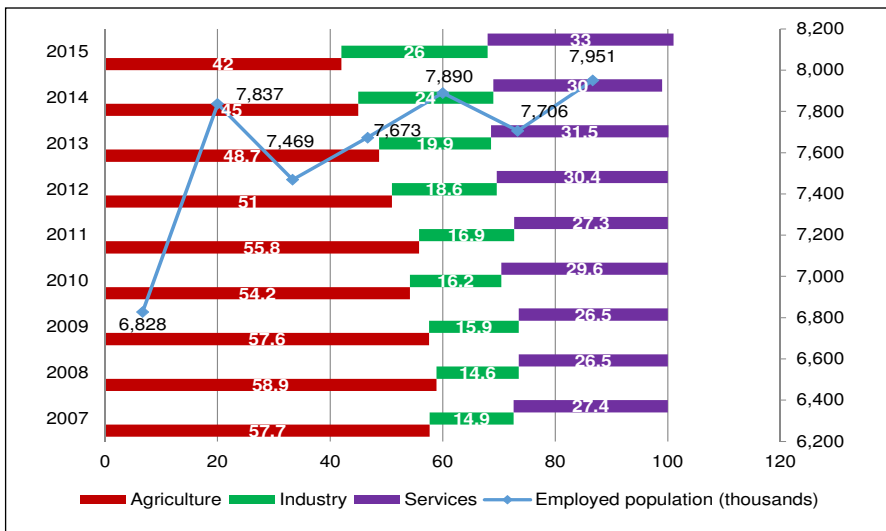
It should be noted, however, that estimates of unemployment vary across data sources in Cambodia. For example, CSES data put the national unemployment rate at 0.3 per cent, lower than the Cambodia Inter-Censal Population Survey (CIPS) data of 2.3 per cent. Per CSES data, the women's unemployment rate and the men's unemployment rate were the same at 0.3 per cent in 2013, whereas per CIPS data, the rates were 2.5 per cent and 2.1 per cent, respectively. In terms of youth unemployment, it was 0.7 per cent based on CSES data, but it was significantly higher at 3.7 per cent per CIPS data.

While unemployment in itself is not among the most important issues in Cambodia, the quality of employment is. The ADB and ILO (2015: 23) explains: "With the vast majority of the population being relatively poor, few can afford to be out of work. Much of the employment is informal, vulnerable, unstable, and poorly rewarded. Therefore, the main issues in the labour market include skills mix, working conditions, and earnings."

## 2.2 Sectoral shifts in employment

The ongoing economic transformation has witnessed a shift away from agriculture and toward industry and services. This transformation has been fueled by the expansion of garment manufacturing and tourism services. Between 2007 and 2015, employment in agriculture was generally shrinking so that by 2015, the share of employment of agriculture went down from 57.7 per cent in 2007 to 42 per cent in 2015 (Figure 15). Meanwhile, employment in industry and services was expanding. In industry, employment went up to

Figure 15: Employment by sector (thousands, %), 2007-2015



Source: Graph constructed by authors using CSES and NIS data provided in ADB (2015: 29), Table 2.13 and World Bank (2018: 37), Figure S2 (share of employment by sector in 2014 and 2015).



26 per cent of total employment in 2015, from 14.9 per cent in 2007. Employment in services went up too, from 27.4 per cent in 2007 to 33 per cent in 2015. These trends suggest a rapid movement of labour from the agriculture sector, largely to the industrial sector (ADB and ILO, 2015). Nonetheless, the agricultural sector still employs the highest number of workers in Cambodia.

### 2.3 The informal economy: Magnitude and trends

In Cambodia, micro and small enterprises account for 99.3 per cent of all enterprises in the manufacturing sector. These enterprises employ over a third of all workers in the sector. According to an enterprise survey in 2011, nearly all micro enterprises and 62.8 per cent of small enterprises were not officially registered (Royal Government of Cambodia, 2015: 6) with the Ministry of Commerce or any of its provincial departments. Among the medium enterprises, about 29 per cent were not officially registered. Moreover, a very tiny proportion of micro and small enterprises, 0.02 per cent and 3.89 per cent, respectively, had proper bookkeeping. Only 24 per cent of all medium enterprises had proper bookkeeping in place. Moreover, even among large enterprises, only 66 per cent had proper bookkeeping systems. In short, most micro, small and medium enterprises in Cambodia are informal.

In light of the above, informal employment makes up the largest part of employment in Cambodia. Informal employment includes “employers in the informal sector, informal employees in any kind of enterprise, contributing family workers, as well as own-account workers in the informal or household production sector” (ADB, 2015: 21). However, except for own-account and unpaid family workers, there are data limitations on the other categories of informal employment. Thus, in describing the magnitude of informality, the focus is on vulnerable employment, which is defined as the sum of own-account and unpaid family workers. However, solely focusing on vulnerable employment may underestimate the magnitude of informal employment in Cambodia. In particular, many paid employees in the formal sector are working under informal arrangements and conditions. For example, workers on fixed-duration contracts (FDCs) may be considered informal workers as their employment is of short duration and most of them do not receive statutory benefits.

The results of Cambodia’s Labour Force and *Child Labour Survey 2012* revealed that the vast majority of non-agricultural employment is informal. The ADB and ILO (2015: 34) summarize the key findings of the survey:

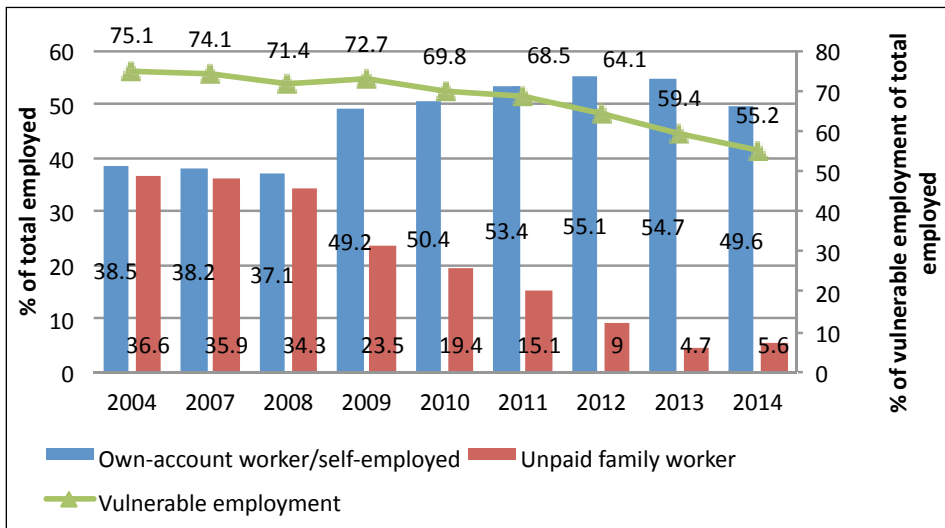
- About 9 out of 10 positions in non-agricultural employment are informal. Of these, 40.8 per cent worked in industry in 2012, and the remaining 59.2 per cent in the service sector.
- Of total informal employment, 28.2 per cent was in manufacturing, with about half of that employment involved in the manufacturing of apparel, accounting for 13.8

per cent of total informal employment. This is a large total: More than 600,000 people.

- The other large category of informal employment in industry was in construction, accounting for about 11 per cent of informal employment.
- Of those informally employed in the service sector, nearly half were involved in wholesale and retail trade.
- Transportation and storage and accommodation and food were the other two large sectors for informal employment in services, together totalling 16 per cent of informal employment.
- In urban areas, services are more important for informal employment, accounting for 77.5 per cent.
- Women account for a large majority of informal employment in apparel manufacturing, while very few women worked in the construction industry. Indeed, apparel manufacturing accounts for 23 per cent of total informal non-agricultural employment for women.

Vulnerable employment accounted a majority of employment in 2014. However, it has been declining since 2004 (Figure 16). Much of the decline in vulnerable employment was driven by the dramatic decline in the incidence of unpaid family work. The share of unpaid family workers of total employment declined from 36.6 per cent in 2004 (ADB and ILO, 2015: 33) to a puny 5.6 per cent in 2014 (NIS, 2015: 70). The decline started to become more pronounced in 2009. In contrast, own-account work increased significantly, from 38.5 per

Figure 16: Share of vulnerable employment of total employment (%)



Source: Graph constructed by the authors using data from ADB (2015: 34), Table 2.17. Data for 2014 came from NIS (2015: 70), Table 7.

cent of the employed population in 2004 to 55.1 per cent in 2012 (ibid), but appeared to decline in 2013 and 2014. Nonetheless, by 2014, vulnerable employment was made up almost entirely of own-account workers.

As mentioned earlier, a large component of growth in the last decade has been associated with the expansion of garment manufacturing and tourism. As these industries grew, so did formal employment. The expansion of these two industries may thus largely explain the declining trend in vulnerable employment.

The decline in vulnerable employment was accompanied by an increasing share of paid employment. Based on data from the CSES, the share of paid employees of the total employed population in 2013 was 40.6 per cent, a huge increase from 22.9 per cent in 2004 (ADB and ILO, 2015: 34). Paid employees are largely employed in the garment and tourism sectors. The expansion of these two sectors has therefore resulted in the increase in the proportion of paid employment.

## 2.4 Trend in labour productivity<sup>15</sup>

In Cambodia, the available data on labour productivity is quite limited. Although the measurement used is output per employed person, which is a measure of partial labour productivity, it is nevertheless an important indicator of labour productivity.

Throughout the 1990s, labour productivity was stagnant in Cambodia, but has risen rapidly since then. In 2014, output per worker reached 4.9 million Cambodian riel (ADB and ILO, 2015: 30). While in recent years there have been significant increases in labour productivity of the agriculture sector, labour productivity in the industrial and service sectors remained stagnant. The ADB further explains that:

Rising overall labour productivity has come from improvements in the agriculture sector and from movements in labour from the relatively low-productivity agriculture sector into the relatively high-productivity non-agriculture sectors. Thus, the non-agriculture sectors are contributing to labour productivity growth, but not through increased productivity in manufacturing, or through a move to manufacturing of higher-value-added products. This is consistent with Cambodia's concentration in assembly or cut-trim-make production in the garment sector, with similar technology being used in factories over time. This is also consistent with the lack of increase in the unit value of exports over the long term. (ADB and ILO, 2015: 31)

This movement of labour is reflected in the trend in main occupations. Skilled agricultural workers (for both sexes) as a proportion of all workers decreased from around 60 per cent

in 2004 to around 40 per cent in 2013 (ADB and ILO, 2015: 31). Similarly, there has been a decrease in the proportion of skilled technical and managerial personnel, such as machine operators and assemblers, technicians, managers, or professionals. In contrast, low-skilled employment, such as craft-related and elementary occupations, has been rapidly increasing. This suggests that skilled agriculture, forestry, and fishery workers have largely moved into low-skilled occupations, and not into more sophisticated or technically-oriented occupations. As pointed out by the ILO and the ADB (2015), the bulk of job creation in Cambodia in recent years has taken place in manufacturing where the level of productivity was lower than in agriculture, whereas labour productivity is highest in the service sector. In 2012, manufacturing's ratio of labour productivity to that of agriculture was 0.9 (ibid: 32).

Between 1970 and 2015, Cambodia registered an average annual labour productivity growth of 3.6 per cent, nearly the same as Thailand and Vietnam in terms of the highest average growth in labour productivity in the ASEAN region<sup>16</sup> (APO, 2017: 64). Between 2010 and 2015, it registered the highest labour productivity growth at 4.9 per cent among the ASEAN countries (Table 4).

Table 4: Labour productivity (%) in Cambodia and other ASEAN countries

Country	1970-2015	2010-2015
Cambodia	3.6	4.9
Indonesia	3.2	4.2
Malaysia	3.3	1.8
Philippines	1.4	4.3
Singapore	2.9	1.2
Thailand	3.7	3.1
Vietnam	3.7	4.3

Source: Data extracted from APO (2017: 60 & 64), Table 10 & Figure 44.

During the period 1990-2000, the service sector contributed a majority share (52 per cent) of aggregate labour productivity growth. Manufacturing's share was 39 per cent. However, in the following decade (2000-2015), the share of both sectors went down, with the service sector contributing 17 per cent and manufacturing 34 per cent (APO, 2017: 116-117). During this period, the share of manufacturing was higher than that of the service sector.

In industry, mining had the highest average annual growth rate of labour productivity at 11.6 per cent during the period 2000-2015. Manufacturing came second at 5.1 per cent, and followed by agriculture at 4.3 per cent. The rest of the sectors posted negative average annual growth rates of productivity during the same period, with electricity, gas, and water, and construction posting the worst rates (Table 5).

Table 5: Average annual growth of labour productivity by industry (%), 2000-2015

Industry/sector	Labour productivity growth rate
Agriculture	4.3
Mining	11.6
Manufacturing	5.1
Electricity, gas and water	-4.2
Construction	-3.2
Wholesale and retail trade, hotels and restaurants	-1.4
Transportation, storage and communication	-0.5
Finance, real estate and business activities	-0.2
Community, social and personal services	-1.0

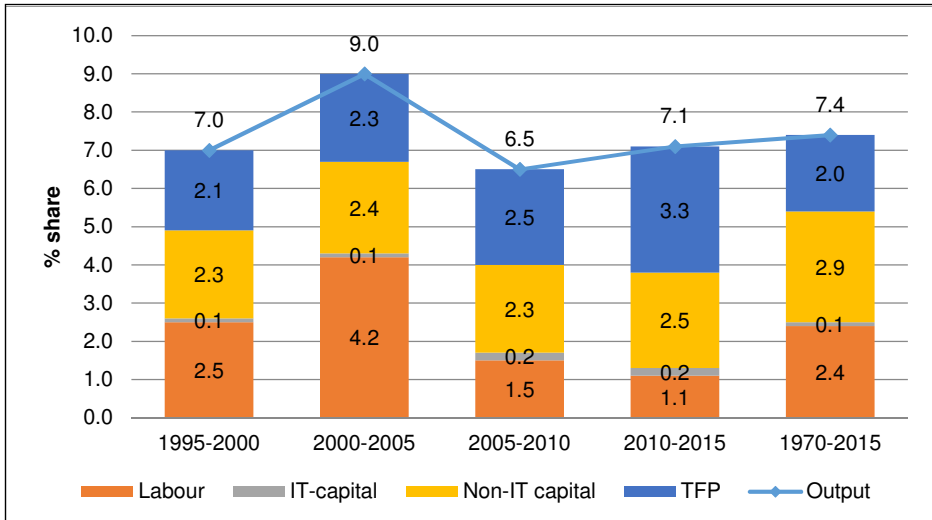
Source: Data extracted from APO (2015: 114), Table 18.

In the period 1970-2015, Cambodia's total output or GDP growth averaged 7.4 per cent (APO, 2017: 74). The contribution of labour, defined as the sum of the economy-wide hours worked (the number of workers multiplied by the average hours worked per worker), in the average output growth was 2.4 percentage points, or 32 per cent of the output growth. The contribution of capital (non-information technology) was higher at 2.9 percentage points or 39 per cent of total output (Figure 17). This suggests that, overall, capital contributed more to growth than labour input during the period examined.

In Cambodia, total factor productivity (TFP) has also been a major contributor of productivity growth. TFP, which is also called multi-factor productivity, is defined as GDP per unit of combined inputs. It is often regarded as a representation of technology change but, in reality, it also includes other factors, such as improved management structures or practices.

TFP contributed 27 per cent of total output, in the period 1970-2015. Figure 17 shows the changes over time in the relative importance of drivers behind economic growth. While TFP made a steadily increasing contribution over the period, labour's share generally declined and capital's share remained unchanged. Non-IT capital's contribution to output growth remained stagnant as well. APO (2017) points out that capital deepening, as measured by capital input per hour worked, and TFP, are the key drivers in the growth of labour productivity. From 2000 to 2005, TFP contributed an average of over three-quarters of labour productivity growth (Table 6). It contributed nearly half of labour productivity growth in the period 2010-2015. Meanwhile, (non-IT) capital contributed half of the labour productivity growth in the same period. In 2005-2010, (non-IT) capital accounted for all the labour productivity growth.

Figure 17: Output growth and contribution of labour, capital, and TFP (%), 1995-2015



Source: Graph constructed by the authors using data from APO (2015: 78), Table 13.

Table 6: Role of TFP and capital deepening in labour productivity growth, 2000-2015

Period	Labour productivity (%)	IT-capital deepening		Non-IT capital deepening		TFP	
		Share	%	Share	%	Share	%
2000-2005	4.1	0.1	2.4	1.1	26.8	2.9	70.7
2005-2010	3.1	0.1	3.2	3.2	103.2	-0.2	-6.4
2010-2015	4.4	0.1	2.3	2.2	50.0	2.1	47.7

Source: Data extracted from APO (2017: 86), Table 14.

In light of the above, improving Cambodia's labour productivity would require further capital deepening. Moreover, technology upgrading and improvement in management practices, which are the key elements of TFP, are important too in driving productivity up.

## 2.5 Trend in wage growth

The share of wage employees in total employment has been growing strongly in Cambodia. In 2003, wage and salaried workers comprised 22.9 per cent of total employment. In 2013, the proportion went up to 40.6 per cent (Table 7). The strong growth of paid employment in Cambodia between 2003 and 2013 was in fact the highest in the ASEAN region, excluding Brunei Darussalam where data was not available. Nonetheless, only two in five workers in Cambodia were in wage employment in 2013.

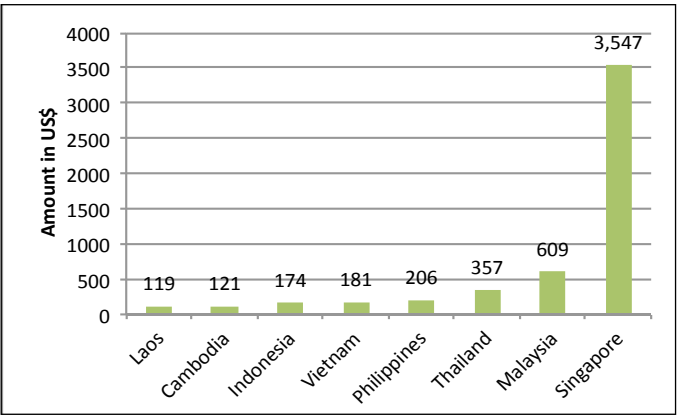
Table 7: Share of wage employees in total employment, 2003-2013 (%)

Country	2003	2013	Percentage point change
Cambodia	22.8	40.6	+17.7
Indonesia	34.9	46.5	+11.6
Laos	11.7	15.6	+3.9
Malaysia	76.2	73.9	-2.4
Myanmar	--	36.5	--
Philippines	50.1	58.2	+8.1
Singapore	85.1	85.1	0
Thailand	40.5	41.4	+0.9
Vietnam	21.9	34.8	+12.9

Source: Data extracted from ILO and ADB (2014: 66), Table 5-1.

Figure 18 shows wage levels in the ASEAN in 2012. Cambodia, together with Laos, had the lowest average monthly wages, with only 119 US dollars and 121 US dollars, respectively.

Figure 18: Average monthly wages, 2012 (US\$)

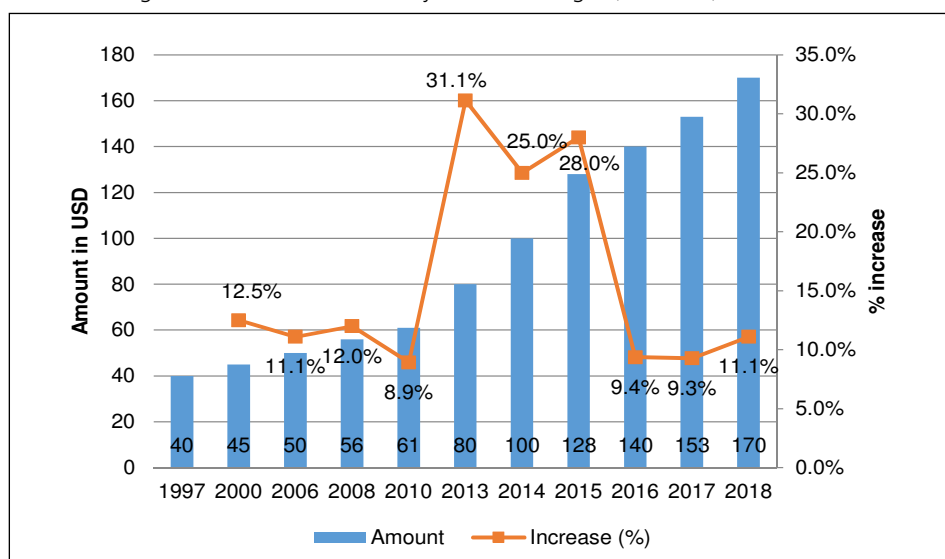


Source: Graph reproduced from the ILO and ADB (2014: 67), Figure 5-2.

In Cambodia, setting a minimum wage applies to all sectors that are covered by the Labour Law. Yet, at the time of writing, the MoLVT, through the LAC, sets a minimum wage only for workers employed in the garment and footwear sector. Moreover, while the minimum wage is the least amount of remuneration an employer is allowed to legally pay workers, few enterprises pay more than this fixed rate (ADB and ILO, 2015). In effect, the minimum wage rate is the actual paid wage rate in the garment sector.

A minimum wage in the garment sector was first set by the MoLVT at 40 US dollars per month in 1997, just before the promulgation of the Labour Law. It was raised to 45 US dollars per month in 2000. Between 2006 and 2018, the minimum wage has been reset on nine occasions, with the highest increases made between 2010 and 2016 (Figure 19). Between 2013 and 2018, the wage adjustments occurred yearly, with the highest increase of 28 per cent made in 2015, following the outbreak of large-scale strikes in the previous years. Between 1997 and 2018, the largest wage increase of 31 per cent was made in 2013. Between 2013 and 2018, the increases in the statutory minimum wage represent a compound average growth rate of 16.3 per cent per year (ILO, 2018).

Figure 19: Increases in monthly minimum wages (US\$ & %) 1997-2018



Source: Graph constructed by authors using data from MoLVT.

The relatively rapid increase in nominal wages in recent years has raised concerns, including the possibility that employers may cut other components of income to make up for the wage increases. However, the findings of an ILO study, which used a sample of payroll records from Cambodian garment factories in 2016 and 2017, suggest not. According to ILO (2018: 1-2), on average, the base pay (i.e. the amount that workers receive as indicated in their contract for their ordinary hours of work, excluding any allowances, incentives, or overtime payments), which is largely determined by the minimum wage, makes up only around 65 per cent of the take-home pay of Cambodian garment workers. The ILO study adds: “The average base pay amongst full-month workers was 147 US dollars per month in 2016 and 162 US dollars per month in 2017 (ibid: 2)”. Although the study found that a significant proportion of all workers, including part-month workers, receives a base pay below the minimum wage (i.e. 21.6 per cent in 2016 and 21.7 per cent in 2017), this is



almost entirely attributed to the fact that these workers were not working a full month. These findings suggest that elements of pay other than the minimum wage, particularly overtime pay, are quite significant. Nonetheless, although the ILO study found that all workers in their sample earned higher income in 2017 (i.e. 225.87 US dollars) than in 2016 (206.05 US dollars), this was not because their hourly wage increased significantly, but rather these workers worked more hours (ibid: 3). On average, each worker in the sample worked a total of 216 hours per month in 2017, about 11 hours more than they did in 2016 when each of them worked 205 hours per month. Among those who worked a full month, the average working hours per month, including overtime work, increased from 222 hours per worker per month in 2016 to 229 hours in 2017 (ibid).

Cambodia's monthly minimum wage in 2016 was higher than the monthly minimum wage in the same sector in Bangladesh (at 65.8 US dollars), Myanmar (at 89.4 US dollars), and Laos (at 107.5 US dollars), but lower than in Vietnam (at 156 US dollars). In 2017, the minimum wage increased to 153 US dollars. In 2018, the minimum wage for the garment and footwear sector increased to 170 US dollars. This means that when Cambodia's EU-EBA privileges are over, it would have to find other sources of competitive advantage, apart from promoting itself as an 'ethical producer', to compete with these countries, among others, for access to global markets. These other sources of competitive advantage may include: Upgrading workers' skills and supplier competencies to move up the value chain (i.e. increasing domestic value added to exports); producing higher priced garments (from the current low- to medium-priced items) by attracting more specialty retailers/buyers; improving labour standards compliance as a form of 'reputation insurance' (Polaski, 2006) in order to attract 'reputation-conscious' specialty retailers/ buyers; developing the travel goods and handbags sector, which is a relatively high-value industry to maximize the preferential, duty-free access to the US travel goods market; and developing backward linkages (i.e. sources of raw and intermediate inputs such as fabrics).

Between 2006 and 2010, while minimum wages increased significantly in nominal terms, real wages stagnated. The International Human Rights and Conflict Resolution Clinic of Stanford University and the Worker Rights Consortium (2013: 7) provide an example: Even after the increase in the minimum wage in the garment sector in 2010, workers still suffered a 16.6-percent drop in real wages for regular work from 2000 to 2010. This decrease was projected to go up to 30 per cent by 2014 (ibid). This suggests that wages for garment workers are far below a 'living wage'. In fact, there is also a declining trend in the amount of the prevailing wages vis-à-vis the living wage. According to Worker Rights Consortium (WRC) (2013), in 2001, prevailing wages in Cambodia were only 24 per cent of the living wage. In 2011, the proportion went down further to 19 per cent.

The International Human Rights and Conflict Resolution Clinic of Stanford University and the Worker Rights Consortium (2013) cite some reports in Cambodia that attributed a series

of mass fainting of garment factory workers in 2011 to the decline in real wages. According to the reports, the primary cause of these fainting incidences was the lack of adequate nutrition and hygiene, which are consequences of low wages and poor working conditions. Garment workers have to share their wages with their families in the rural areas, thus they are left with little money for their daily nutritional needs and other personal expenses.

Restricting wage growth in the garment and footwear sector may have serious implications for the future supply of workers for the sector. To the extent that garment manufacturing remains among the highest-paying options available for unskilled Cambodian workers, the sector is assured of a steady supply of workers. However, with declining real wages, poor working conditions, and growing employment options in other sectors of the economy, garment factories may soon be faced with labour shortages (Naren and Chen, 2012).

In light of this, the minimum wage increases that were implemented beginning in 2015 took more serious consideration of the inflation rate. According to the ILO (2016a: 4), the minimum wage increase of 28 US dollars (or 28 per cent) in 2015 exceeded both the overall rate of inflation and the rate of food inflation during the year. The minimum wage increase of 12 US dollars (or 9.4 per cent) in 2016 was above the inflation rate of 3.5 per cent projected by the Ministry of Economy and Finance (*ibid*). The subsequent increases in 2017 and 2018 were also above the inflation rate. Therefore, the average take-home wage of the garment workers has continued to increase both in nominal and real terms.

In nominal terms, the average monthly earnings of Cambodia's garment and footwear workers increased from 145 US dollars in 2014, to 175 US dollars in 2015, and to 190 US dollars in the first half of 2016 (ILO, 2017b: 7). In real terms (in constant 2010 prices in US dollars), the average monthly wage, as calculated by the ILO (*ibid*), rose from 127 US dollars in 2014, to 151 US dollars in 2015, and to 161 US dollars in the first half of 2016. In the first half of 2017, the inflation-adjusted take-home pay reached 164 US dollars per month, on average (ILO, 2018: 10). Between 2013 and 2018, while the nominal minimum wage grew at an average rate of 16.3 per cent per year, the minimum wage in real terms grew 14.91 per cent per year (*ibid*: 9).

### **2.5.1 Allowances, fringe benefits and average monthly earnings of workers in the garment sector**

On top of the minimum wage, workers in the garment and footwear sector are also entitled to receive several bonuses and benefits, such as: A seniority bonus after one year of employment, ranging from 2 US dollars to 11 US dollars per month, equal to the year of employment, for workers who have worked for not more than 11 years (for those who have worked over 11 years, they are entitled to a seniority bonus of 11 US dollars per month);

a good attendance bonus of 10 US dollars; a housing and transportation allowance of 7 US dollars; and a meal allowance of 0.50 US dollars per day for voluntary overtime work.

As mentioned earlier, it is estimated that, on average, 65 per cent of Cambodian garment workers' take-home pay makes up the base pay (i.e. the minimum wage), with other components including allowances, bonuses and overtime payments comprising the remaining 35 per cent (ILO, 2018). In 2016, the average monthly pay of all garment workers, including those who did not work a full month, was 206.05 US dollars. This amount went up to 225.87 US dollars in 2017 (ibid: 3). The 2017 monthly pay was comprised of the following elements: base pay (152.86 US dollars or 67.75%); overtime pay (33.35 US dollars or 14.76%); meal allowance (7.74 US dollars or 6.56%); incentives (14.81 US dollars or 6.56%); mandatory allowance (20.09 US dollars or 8.9%); compensation, such as severance pay, unused annual leave, and others (2.40 US dollars or 1.06%); deductions, such as union membership fees, NSSF contributions, tax deductions, deductions for tardiness, and others (-5.60 US dollars or -2%); and suspension pay (0.21 US dollars or 0.09%) (ibid).

When only full-month workers are considered, the monthly pay in 2017 was 242.79 US dollars, from 225.41 US dollars in 2016, or an increase of 7 per cent.

## **2.6 Cambodia's labour market in the context of ASEAN economic integration: Potential gains, constraints and challenges**

At the 2015 ASEAN Summit in Kuala Lumpur, the ASEAN heads of state declared the formal establishment of the ASEAN Community on 31 December 2015, highlighting the substantial achievements of the central pillar of the ASEAN Community—the ASEAN Economic Community (AEC). The AEC is guided by four pillars, namely: (1) the establishment of a single market and production base, mainly through the liberalization and facilitation of the free flow of goods, services, capital, investment, and skilled labour; (2) the establishment of a competitive economic region through competition policy, intellectual and property rights, consumer protection, and infrastructure development; (3) the promotion of equitable economic development mainly through the development of small and medium enterprises; and (4) deeper integration into the global economy through free trade agreements (FTAs). An AEC Blueprint, which identifies the measures and strategies to attain the four AEC pillars, was adopted in 2007. A year later, an AEC Scorecard was developed to systematically monitor and review the progress of measures identified in the Blueprint. This Scorecard<sup>17</sup> was successively implemented from January 2008 towards December 2015. The status of the AEC Scorecard is monitored and updated by the ASEAN Integration Monitoring Office of the ASEAN Secretariat.

As of 31 October 2015, the ASEAN Secretariat reported that, of the focused base of 506 AEC Scorecard measures, the overall implementation rate by all 10 ASEAN Member States

stood at 92.7 per cent, or 469 out of 506 measures. For the AEC pillar on the single market and production base, 92.4 per cent of the identified measures (i.e. laws and regulations to facilitate free flow of goods, services, investment, skilled labour, as well as freer flow of capital) had been achieved as of the said date. For the pillar on integration in the global economy (i.e. free trade and comprehensive economic partnership agreements within and outside ASEAN), the achievement rate was 100 per cent. All these measures point to an open regionalism based on deepening liberalization of economies in ASEAN.

What are the implications of deepening ASEAN trade integration for the economy and the labour market in ASEAN countries, including Cambodia? To answer this question the ILO and ADB used an innovative computable general equilibrium (CGE) model<sup>18</sup> that “simulates the economic and labour market impact of an AEC scenario that, over time, includes: (i) removal of the remaining intra-regional tariffs; (ii) liberalization of non-tariff barriers for goods and services by 50.0 per cent; and (iii) trade facilitation in the form of a 20.0-per-cent reduction in fixed trade costs. The AEC scenario is then compared to a baseline scenario, which is what is expected to happen in the absence of the above policy measures” (ILO and ADB, 2014: 39). The AEC future scenario is 2025 and the baseline scenario is based on 2007 data. According to the model, Cambodia stands to benefit the most by 2025 from economic integration. Its GDP in 2015 is estimated to increase by around 20 per cent by 2025. Cambodia’s strong export growth underpins the expansion of output. It should be noted that Cambodia’s total international trade (exports and imports) accounted for 87.8 per cent of its GDP in 2007.

Along with strong economic growth, the model forecasts that there would be an additional 1.1 million jobs (based on the total jobs in 2007) in Cambodia in 2025 (ILO and ADB, 2014: 40). This represents nearly 10 per cent of total employment in the base year. However, more than half or 55 per cent of the additional jobs would be mostly vulnerable employment (ibid). The simulation model also sees changes in the distribution of employment between sectors. The additional jobs relative to the baseline would be in agriculture, trade and transportation (about one-third of the increase of jobs), and construction (about 20 per cent of job gains) (ILO and ADB, 2014: 44). The textiles and apparel and chemical sectors would also have relatively large gains in employment. On the other hand, large job losses would be expected in food processing, as upstream and downstream linkages of the sector with agriculture remain relatively weak (ibid).

In terms of occupations, under the AEC scenario, the top 10 occupations projected to have the highest demand include the following: Retail and wholesale trade managers; electrical equipment installers and repairers; numerical clerks; business services agents; other clerical support workers; labourers in construction and mining; mixed crop and animal producers; assemblers; painters, building structure cleaners and related trades workers; and street and related service workers (ILO and ADB, 2014: 47). The occupations that are projected to

grow fastest are generally medium- and high-skilled, skills that are currently in shortage in the Cambodian labour market. The model indicates that between 2010 and 2025, the demand for a mix of managerial, technical and core employability skills will expand by 45 per cent (ibid: 52). Meanwhile, the demand for medium-skill employment, where the estimated impact of AEC is greatest, will grow by 71 per cent (ibid: 54).

According to World Bank (2018: 38), Cambodia's jobs picture is heterogeneous: Half of jobs are in the traditional sector, which accounts for at least 4.2 million jobs in family farming (one-third of all jobs) and non-farm household enterprises (18% of all jobs), while another half are in the modern sector (3.3 million in wage employment). Wage employment has been increasing in Cambodia. In 2015, half of Cambodian households' income was derived from salary and wages, a big increase from 30 per cent in 2009.

As Cambodia's economy shifts from agriculture to industry and services, mostly low-value added jobs are being added. Occupation-specific data from the World Bank (2018) indicate that the top three fastest growing occupations in Cambodia are garment and related trades, building frame and related trades, and general office clerks, while eight of the ten fastest shrinking occupations are in agriculture, forestry, and fisheries. The productivity growth of the fastest growing occupations such as garment and related trades is among the lowest: Between 2007 and 2014, annual productivity in garment and footwear grew at a meagre 0.9 per cent (ibid: 41). Thus, employers in Cambodia are particularly dissatisfied with the skills that the labour force offers. In an enterprise survey conducted in 2016 involving eight countries in Asia, Cambodia ranked second to Lao PDR in terms of employers being affected more by inadequately skilled labour force (ibid: 48).

Since 2000, Cambodia has made limited progress in its efforts to shift to skill-intensive industries. At present, the literacy rate in the country is not high. Educational attainment of the labour force remains low. Cambodia's labour force with primary school completion and below accounts for 67.5 per cent (World Bank, 2018: 48). Secondary education deficits are high, among the highest in ASEAN. Cambodia's net enrolment rate for secondary education is less than 50 per cent. Among Cambodian youths, half are engaged in informal employment and two-fifths are undereducated for the job that they hold (ILO and ADB, 2014: 59). In fact, there is a large stock of current workers—numbering 8 million people—who have low education levels (World Bank, 2018: 49). A survey of more than 500 enterprises identified skills gaps in vocation-specific competencies and considerable shortages in communication and foreign language skills (Bruni et al., 2013). Indeed, at present, there is a huge deficit in higher education and training in Cambodia. Thus, the World Bank points out that "it will take more than a generation for today's improvements in the education system to shift the skills profile of the labour force" (2018: 49).

If the present trends in the labour market in Cambodia persist in the coming years, under the AEC scenario, “more than half of high-skill employment could be filled by workers with insufficient qualifications in 2025” (ILO and ADB, 2014: 61).

## 2.7 Cambodia’s National Employment Policy (NEP)

To take advantage of the potential gains from as well as the impact of the economic integration in ASEAN and to complement its Industrial Development Policy, Cambodia came up with its National Employment Policy (NEP) 2015-2025. The NEP was developed with the extensive support of the ILO. The NEP has set the following goals and strategies to achieve a higher level of development:

- More decent and productive employment opportunities through macroeconomic policy and sectoral development policies supporting decent/productive employment and formalisation;
- Enhanced skills through core employability skills, access to quality education and technical and vocational training in line with labour market needs; and
- Improved labour market governance through: Better quality and access to labour market information and employment services; better working conditions and worker protection, including stronger labour inspection, possibly new ratifications of ILO conventions, and broader social security coverage; harmonised industrial relations and strengthened wage-setting mechanisms (Arbitration Council and Labour Advisory Committee, evidence-based wage-setting mechanism, labour dispute mechanism, and capacity-building on representation and collective bargaining at all levels); establishment of an unemployment insurance scheme, and better protection for migrant workers.

At the time of writing, a more evidence-based wage-setting mechanism has been put in place in the LAC in the aftermath of the large-scale strikes in 2013 and 2014. The Law on Minimum Wage, which will extend the minimum wage to all workers covered by the labour law, was passed in July 2018. In 2015, the Cambodian Training Institute was established. The institute, which is located in the Phnom Penh Special Economic Zone, will train unskilled garment workers and other Cambodians to undertake higher level jobs in garment factories. The institute will also train garment workers to fill technical and middle-management positions which are currently held by foreigners. Long-term skills training, about 12 months, is targeted for four qualification areas: (i) garment construction experts (pattern-making and adaptation); (ii) garment production engineers (manufacturing processes); (iii) apparel merchandisers (garment designers); and (iv) quality assurance specialists (quality controllers) (World Bank, 2016: 32). Short-term courses, meanwhile, involve on-the-job training and are meant for three qualification areas: (i) supervisory skills; (ii) specialized skills in pattern market, design, and merchandising; and (iii) technical skills: cutters, sewing operators,

pressers, electricians, and mechanics for the garment industry (ibid). The institute is initiated and managed by the Garment Manufacturers Association in Cambodia (GMAC).

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As noted in the previous chapter, Cambodia's robust economic growth has resulted not only in an overall economic upgrading but also in social upgrading. This chapter provided key indicators, including an increasing trend in the labour force participation rate and employment-to-population ratio, declining overall unemployment rates, strong growth of wage employment, and significant increases in the minimum wage in the garment and footwear sector in recent years.

However, the quality of employment remains a problem. Much of employment in the country is informal, vulnerable, unstable and poorly rewarded. Micro and small enterprises, which are mostly informal, comprise nearly all enterprises in the manufacturing sector, and employ over a third of all workers in the sector. The vast majority of non-agricultural employment remains informal. In the garment sector, women account for a large majority of informal employment.

Nonetheless, since 2004, the proportion of workers in vulnerable employment has been declining, although they still account for a majority of all workers. This is due to the decline in the share of unpaid family work. In contrast, own-account employment has been increasing so that by 2014, own-account workers made up nearly all vulnerable employment. This promising downward trend in vulnerable employment may, however, be upset in the long-term by the labour market impact of deepening economic integration in ASEAN. As noted by an ILO and ADB (2015) study, although Cambodia is expected to have significant job gains by 2025 from ASEAN's economic integration, more than half of the additional jobs would mostly be vulnerable employment. This scenario would be most likely to happen if appropriate labour market policies such as up-skilling the labour force, among others, were not to be put in place. The impact of ASEAN's economic integration on Cambodia's labour market is greatest in the demand for medium-skill employment which is at present in shortage in Cambodia.

At the time of writing, the minimum wage only covers workers in the garment and footwear sector. Although the minimum wage is the base wage, it is the actual paid wage rate in the sector. In the past decade, real wages declined. However, beginning in 2015, after the spontaneous large-scale strikes mounted by workers from various sectors in 2013/2014, minimum wage increases started to rise, exceeding the prevailing inflation rates in 2015 through 2018. Compared with other countries, Cambodia's minimum wage in 2016 was higher than those in Bangladesh, Myanmar, and Laos, but lower than that of Vietnam.

Nonetheless, Cambodia, together with Laos, had the lowest average monthly wages in the ASEAN region in the period 2003-2013.

The social upgrading experienced by Cambodia resulted, in turn, in an upgrading of its economic status by the World Bank, from LDC status to low-middle income status. While this is a welcome development, such upgrading, however, may have an impact in the medium- or long-term on Cambodia's EBA privileges. Further upgrading by the UN, in terms of increasing per capita income, would graduate Cambodia from the UN's LDC category, which, in turn, would result in the eventual loss of EBA privileges. If this happens, the impact on the garment sector and the economy as a whole would be huge as the EU is the largest market for Cambodia's garment and footwear exports. Cambodia would then have to develop other sources of competitive advantage. The previous chapter identified several of these, including further developing the country's 'ethical producer' image by continuously improving labour standards compliance as a form of 'reputation insurance'. There are promising policy developments that point in this direction. As noted earlier, Cambodia's Industrial Development Plan (2015-2025) contains a section on the promotion of good industrial relations. Its National Employment Policy underscores the importance of decent work. Both plans offer strategies and measures that seek to address Cambodia's main labour market issues, i.e. skills mix, earnings, and working conditions.

The developments and constraints in the Cambodian labour market present opportunities and challenges to trade unions. Trade unions have focused their organizing initiatives on industry and services, as employment in these sectors has been rapidly expanding. Also, trade unions have increased their organizing efforts in the informal economy. Workers in the informal sector are organized into an association which is then affiliated to a federation. As discussed in Chapter 4, trust-building initiatives, community-based organizing, building networks, and using social media are the key strategies and measures adopted by unions in organizing informal workers successfully.

The increasing number of wage employees provides trade unions with a growing mass of potentially organizable workers. The expansion of employment in the services sector challenges unions to organize in this sector.

One key labour market challenge brought about by ASEAN's economic integration is the need to develop medium- and high-skilled workers if Cambodia stands to gain from the AEC. For trade unions, the challenge would be in organizing these categories of workers. It is also projected that job gains from the AEC would be in the agriculture, trade, transportation, construction, textile, garment and chemical sectors. These sectors comprise a 'greenfield' for union organizing.





# **Chapter III**

## **The industrial relations landscape: Developments and continuing challenges**





Since our book *Trade Unions in Cambodia: History, Challenges, Strategies* came out in 2010 there have been notable developments in industrial relations in Cambodia. This chapter discusses these developments, and identifies and analyses which patterns persist and what changes have taken place in the last seven years.

### 3.1 The US trade agreement, the EU's EBA and the rise of a labour rights regime

In Chapter 1, we saw how the US-Cambodia Bilateral Textile Trade Agreement (1999-2004) and later the EU EBA trade preferences system (from 2001 up to the present) have rooted and expanded the garment and footwear industry in Cambodia. In the first three years of the US-Cambodia trade agreement, Cambodia's garments enjoyed an export quota to the US market of up to 14 per cent of the total garments exports, but this was contingent on improvements in the working conditions of Cambodian garment workers and Cambodia's adherence both to its Labour Code and to internationally recognized core labour standards (Nuon and Serrano, 2010). Sibbell and Borrmann (2007: 244) point to the impact of the US-Cambodia trade agreement on working conditions and the garment exports performance of Cambodia from 1999 to 2002.

The progress made in improving working conditions in Cambodia has also been recognized by the United States in its decisions to provide a bonus quota for every year for which the Trade Agreement was in force. For the years 1999 to 2002, the United States provided a 9% bonus quota; for 2003, it provided a 12% bonus quota; and for 2004, it provided an unprecedented 14% out of the possible 18%. In addition to this, Cambodia's improved reputation in the area of working conditions has attracted more orders from existing buyers as well as new buyers... From January 1, 2005 until April 30, 2006, nearly 30,000 new jobs were created in Cambodia's garment industry, bringing the total in April to 293,600.

Meanwhile, the EU's EBA, established under the GSP scheme, provides Cambodia's exports, since 2001, with duty-free access to the European markets for all tariff lines, except arms and munitions. As a consequence, Cambodia's exports to the EU have more than doubled since 2003. Today, the EU is Cambodia's largest market for its export products.

The EBA goes beyond respecting labour laws and core labour standards. Under the scheme, the continued enjoyment of trade privileges is conditioned on the respect and recognition of core human rights, labour rights, and environmental and governance principles. The EBA

scheme follows EU regulations that contain temporary withdrawal provisions for tariff preferences where serious and systematic violations of these rights and principles have been found.

Nonetheless, the EBA has no mechanism to monitor and enforce social and labour clauses.<sup>19</sup> It does not have its own legal framework to monitor the labour rights situation. Instead, an EU mission (e.g. German, Swedish or French missions) monitors BFC, ILO, and UN annual reports and brings any issues or concerns to the attention of Cambodia's Ministry of Commerce. Trade talks between Cambodia and the EU always have labour issues on the agenda. There is also a joint committee every two years and decent work is always a key agenda item. Decent work is therefore always present in the diplomatic and policy dialogues between Cambodia and the EU.

Arguably, these two trade arrangements have to a large extent fuelled the emergence and institutionalization, albeit very slowly, of a labour rights regime in Cambodia between 1997 and 2010. In other words, international trade and labour rights regimes developed alongside each other, but not in equal terms, in Cambodia.

### 3.1.1 Better Factories Cambodia

To track improvements in working conditions, the governments of the US and Cambodia jointly requested the ILO's technical assistance. In January 2001, the ILO began to implement the Garment Sector Working Conditions Improvement Project which sought "to improve working conditions in Cambodia's textile and apparel sector via the establishment of an independent system for monitoring working conditions, assist in drafting new laws and regulations where necessary, and develop awareness and capacity for employers, workers and government officials to ensure greater compliance with core labour standards and Cambodian labour laws" (Miller et al., 2007: 1). Thus between 1999 and 2002, the ILO assisted and supervised compliance. This was extended to December 2004. The project was later renamed the Better Factories Cambodia (BFC) programme. BFC had an initial three-year plan (2005-2008) to hand over its tasks to a tripartite body composed of government representatives, employers, and unions to assure continued compliance. The programme was further extended for another two years or until 2010 as it was assessed that the continuance of the programme could not be successful without continued direct input from the ILO (Ryan and Suson, 2010). In late 2016, the programme was given another three years of operation covering the period 2017 to 2019.

BFC monitors assess nearly 253 checklist items of labour standards that are grouped as follows: Contracts, wages, hours, leave, welfare, occupational safety and health, labour relations, and fundamental rights. These labour standards are based on the Cambodian Labour Law and the international core labour standards. BFC monitors conduct unannounced

visits that span an entire day. The monitoring process includes on-site inspection, meetings with human resource managers, union leaders, and shop stewards. Workers are also interviewed during the visit. Monitors collect copies of pay slips and records of work hours for verification. They assess each item on the checklist and determine whether a factory complies with a specified standard or not.

The BFC monitoring system, however, faced several challenges in its early years of implementation. The ILO monitors had no law enforcement powers and their advisory role, which was limited to the first three years of the project, was mainly to provide clarifications on the content and requirements of the law during monitoring visits (Sibbel and Borrmann, 2007). After the removal of export incentives in 2005, the process of BFC monitoring became entirely voluntary on the part of buyers and started to increasingly resemble factory auditing programmes: “providing confidential factory monitoring reports to factory owners, and, on a for-pay basis, to international buyers” (International Human Rights and Conflict Resolution Mills Legal Clinic, Stanford Law School and Worker Rights Consortium, 2013: ii). Today only 10 per cent of the factories registered with BFC use its advisory services (Human Rights Watch, 2015).

Indeed, while the incentives scheme provided the conditions for increased unionization, it also resulted in union multiplicity, which, in turn, leaves “many unions weak, under-funded, competing with one another and subject to corruption and political interference” (Arnold 2013: 13). The International Human Rights and Conflict Resolution Mills Legal Clinic of Stanford Law School and Worker Rights Consortium argue that under the BFC programme, “wages and basic job security have actually declined for Cambodian garment workers, and that ... genuine bargaining between employers and workers and basic elements of occupational safety and health, continue to be elusive” (2013: ii). Yet, the ILO and the World Bank have continued to promote the Cambodian garment industry as a model of decent work in global supply chains.

In light of the above, BFC has adopted several measures aimed at increasing the compliance rate. In March 2014, BFC introduced public disclosure of garment manufacturers who fail to comply with BFC monitoring. A number of measures have been taken as well to cope with possible management coaching of workers in the monitoring process, such as unannounced visits, observance of a 30-minute limit on the time monitors can be made to wait outside the factory when they arrive unannounced, monitors’ discretion to convene a fresh group of workers if the first group appears to be coached, and interviews with some workers offsite. Nonetheless, the programme still covers only the formal garment sector, notwithstanding evidence of the existence of an informal garment sector which is large compared to the formal sector. There are pressures for the programme to extend to the informal sector which is unidentifiable for the time being. The programme’s inability to

address challenging issues of discordant industrial relations (i.e. high number of strikes and disputes), poor working conditions of low-wage workers, mass fainting, pervasiveness of short-term contracts, and others put BFC under great pressure.

Despite these challenges and limitations, BFC is still significant for Cambodia's garment industry in a number of ways. Firstly, factory monitoring is compulsory for all factories producing for export even after the removal of quotas in 2005. Secondly, BFC continues to be directed by the ILO in light of the limited inspection capacity and governance challenges of the Cambodian Ministry of Labour. Thirdly, the BFC programme provides factories with savings on monitoring costs. As Sibbell and Borrmann (2007: 244) explain: "By only being monitored by the Project, factories save money by not having to pay monitoring fees, and save even more money by eliminating the time and management requirements needed to deal with all these different monitoring visits." This is important as factories almost always produce for more than one buyer and thus may be subjected to multiple monitoring visits per year (*ibid*). Fourthly, the programme is well participated in by the main stakeholders—the buyers, their manufacturers, the employer association GMAC, the Cambodian government, and trade unions. Finally, the comprehensive checklist based on national and international labour regulations is an important reference point to indicate the trend of compliance of garment factories since Cambodia has officially pledged its commitment to labour compliance as a way to run the industry.

Although much remains to be done in Cambodia in improving working conditions and creating an environment where labour relations are free from political interference and violence, Cambodia's case shows how "linking trade with labour, when accompanied by sufficient technical assistance, can have tangible, long-term benefits ... The lessons learned from the Cambodia model, namely the effect of providing positive incentives in trade agreements, the benefits of transparency of monitoring, the need to back up monitoring with capacity-building activities in order to tackle structural problems, and the need to work together with the parties directly involved (employers, workers, government, and buyers) could be applied elsewhere" (Sibbell and Borrmann, 2007: 248-249).

### 3.1.2 The national legal framework

Cambodia's first modern Labour Law was enacted in 1997 in an effort to qualify for US trade benefits (Nuon and Serrano, 2010). It created the legal landscape for the exercise of freedom of association, the right to collective bargaining, and the right to strike. In 1999 and 2006, Cambodia ratified most of the ILO core conventions as shown in Table 8.

Cambodia's Labour Law is a comprehensive law that includes aspects of labour protection (e.g. payment of wages, minimum wages, working hours, overtime and leave, maternity rights, occupational health and safety), employment protection (e.g. use of fixed-term

contracts, severance pay), freedom of association, collective bargaining, and dispute resolution. However, to the extent that the Labour Law only covers workers in formal employment, as defined by the existence of an employment contract, only a minority of workers are covered (ILO, 2015; Nuon and Serrano, 2010). Moreover, workers in the public sector, the judiciary, police, army, maritime transportation, and household workers are not covered by the Labour Law.

Table 8: ILO core conventions ratified by Cambodia

Number of Convention	Name of Convention	Date ratified
C. 4	Night Work (Women) Convention, 1919	24 Feb 1969
C. 6	Night Work of Young Persons (Industry) Convention, 1919	24 Feb 1969
C. 13	White Lead (Painting) Convention, 1921	24 Feb 1969
C. 29	Forced Labour Convention, 1930	24 Feb 1969
C. 122	Employment Policy Convention, 1964	28 Sep 1971
C. 87	Freedom of Association and Protection of the Right to Organise Convention, 1948	23 Aug 1999
C. 98	Right to Organise and Collective Bargaining Convention, 1949	23 Aug 1999
C. 100	Equal Remuneration Convention, 1951	23 Aug 1999
C. 105	Abolition of Forced Labour Convention, 1957	23 Aug 1999
C. 111	Discrimination (Employment and Occupation) Convention, 1958	23 Aug 1999
C. 138	Minimum Age Convention, 1973 (Minimum age specified: 14 years)	23 Aug 1999
C. 150	Labour Administration Convention, 1978	23 Aug 1999
C. 182	Worst Forms of Child Labour Convention, 1999	14 Mar 2006

Source: ILO (n.d.). NORMLEX.

The Labour Law identifies the MoLVT as the government entity responsible for labour administration and for setting national industrial relations and employment policies. The MoLVT took the lead in the development of Cambodia's National Employment Policy 2015-2025, which was discussed in the previous chapter.

The years that followed the enactment of the Labour Law saw the rise of a multiplicity of unions comprised of a mix of unions with close ties with major political parties and those that seek to establish themselves as independent organizations (ibid). The rapid increase in the number of trade unions over the years was, however, not accompanied by an increase



in the number of collective bargaining agreements concluded. In fact, collective bargaining remains stunted in Cambodia, as discussed later in this chapter.

With the Labour Law in place, the establishment of other key industrial relations institutions followed. In 1999, the national tripartite LAC was established under the purview of the MoLVT. The LAC has a legally mandated role of studying, consulting with the tripartite partners and responding to issues related to labour, employment, wages (including minimum wage review), vocational training, migration, improvements to the material and moral conditions of workers, and health and safety. The LAC also serves as a mechanism for promoting social dialogue at the national level. To date, despite its broad mandate, the LAC has mainly engaged in negotiations on setting minimum wages in the garment and footwear sector.

The LAC consists of 28 representatives of the government, trade unions, and employers' association. Half of the LAC is comprised of government officials from various ministries and state agencies, seven are trade union representatives, and the remaining seven represent employers. The minister of labour chairs the LAC, while a trade union representative and an employer representative both sit as vice chairmen. In 2014, to have a broader participation of parties involved in the process of minimum wage negotiation, a technical working group on the minimum wage was set up with a bigger composition of government agencies and representation of employers and unions. The role of this working group is limited to technical discussion on the minimum wage, including suggesting minimum wage figures and supporting arguments to the LAC for their decision. For union representation, non-LAC member unions can also participate in this working group.

It was also in 1999 that the Government-Private Sector Forum was established by the prime minister. The forum serves as a mechanism for dialogue between the government and the private sector on a range of issues, including taxation, agriculture, and tourism (ADB and ILO, 2015). In addition, the Industrial Relations Working Group (IR-WG), the so-called 8th Working Group, was set up in 2006 to coordinate discussions on labour-related issues at a technical and policy level between the government and the private sector, with the participation of trade unions and with the ILO providing technical advice and recommendations (Nuon and Serrano, 2010). The IR-WG presents a report twice a year in a special formal cabinet meeting chaired by the prime minister. Decisions that emanate from this meeting become binding. It should be noted that, unlike around 2010 when labour issues were high on the forum's agenda, for example, when the need to resolve union issues was identified including the adoption of the Trade Union Law, the years after have seen this working group less active, mainly because other issues have been given more priority in the forum.

In 2003, the Arbitration Council, a national tripartite independent institution with an equal number of representatives from workers, employers and the government, was established.

The Arbitration Council is tasked to resolve collective labour disputes through conciliation and arbitration. It encourages mediation before arbitration. The Arbitration Council has been viewed by many trade unions as a neutral body that settles disputes effectively and speedily (Nuon and Serrano, 2010).

The labour inspection system is another important institution in industrial relations. The MoLVT is mandated by law to monitor working conditions, conciliate in disputes, give advice for corrective actions by the involved parties, and take action against non-compliant and persistently negligent enterprises (Nuon and Serrano, 2010). Inspection of garments and shoe factories producing for export is conducted by the ILO BFC, which monitors conditions, gives advice, and provides training to management and unions on workplace cooperation. This leaves factories not producing for export unmonitored.

In terms of social protection, the Law on Social Security was passed in 2002, which mandated the establishment in 2007 of the National Social Security Fund (NSSF), a government-run insurance scheme. The NSSF is meant to alleviate the difficulties of old age, disability, death, work risks, and other incidents such as maternal illness. The NSSF is supervised by a tripartite governing board consisting of high-ranking public officials from relevant ministries and representatives from both employers and workers. It is headed by an official from the MoLVT.

At the time of writing, the NSSF covers employment insurance injury (i.e. medical care, nursing cash allowance, temporary disability allowance, funeral benefit, permanent disability benefit and caretaker benefit, survivor benefit, and rehabilitation benefit) and social health insurance (i.e. health insurance, maternity leave, and sickness leave). In January 2016, the NSSF broadened its coverage to include healthcare services. However, the NSSF covers only formal private enterprises with at least eight workers, although the government plans to expand the coverage to companies with at least five workers; for companies with less than five workers, workers will receive free healthcare through the Health Equity Funds. The health insurance scheme was rolled out in May 2016, but only covered the garment and footwear sector. Originally, under the scheme, a worker and her employer contributed 1.3 per cent each, or a total of 2.6 per cent, of the worker's wages. In early September 2017, Prime Minister Hun Sen announced that the worker contribution of 1.3 percent will also be shouldered by the employer, in addition to the 0.8 per cent contribution to the employment injury insurance. This makes employers liable for the full NSSF contribution of 3.4 per cent of a worker's wage. Other recent developments in the NSSF include the following: (1) maternity beneficiaries will receive through the NSSF insurance 70 per cent of their wages for 90 days of maternity leave, in addition to the 50 per cent of their wages which employers will pay directly to them; (2) new mothers will also receive from the government 100 US dollars for every baby born; and (3) free two-year access to public transportation for workers in the garment and footwear sector. The third phase of the NSSF, which concerns pensions for workers in the private sector, is slated to be established in 2019.

The NSSF's healthcare scheme commenced implementation on 1 May 2016 in Phnom Penh, Kandal, and Kampong Speu, and continues to be rolled out in other provinces (ILO, 2017b). By the end of 2016, the NSSF has signed agreements with some 783 public hospitals and healthcare centres (including a few private healthcare centres) to provide healthcare services to NSSF-covered workers in the private sector (ILO, 2017a).

Meanwhile, the National Social Security Fund for Civil Servants (NSSF-C), which was initiated in 2008, covers insurance for work-related injuries, illnesses and accidents and healthcare for civil servants, retirees and veterans. At the time of writing, a separate sub-decree is yet to be issued regarding the monetary contribution rates under the NSSF-C. Also, the exact timeframe and the implementation phase of the scheme is yet to be determined by a Prakas to be jointly issued by the MoLVT and the Ministry of Economy and Finance.

For the informal sector, there are various non-contributory programmes (except the community-based health insurance, which operates with some minimal premium from the beneficiaries) of varying scale and coverage. These include: health insurance programmes for the ultra-poor (e.g. health equity fund) and the near-poor (e.g. community-based health insurance); conditional cash and/or kind transfers to targeted poor; wage-based labour-intensive public works programmes; food stamps, food rations, school meals programmes, and mother and child supplement programmes; price subsidies on food and energy; fee waivers for essential services such as healthcare, utilities, transport, etc. (Muqtada, 2012). However, these programmes are often ad hoc and many are donor-driven.

In March 2011, the Cambodian government adopted its first National Social Protection Strategy (NSPS) for the poor and vulnerable. The NSPS is a comprehensive mapping of Cambodia's social protection strategy that is built on four elements, namely, labour market policies, contributory social insurance, non-contributory social safety nets, and complementary social welfare services. Many of the existing programmes and schemes for the informal sector have been integrated among the strategies of the NSPS. The financing of the NSPS is not very clear, though. Moreover, it is yet to crystallize into an integrated mechanism that blends and elaborates the various elements (Muqtada, 2012).

In June 2018, a draft law on social security was issued by MoLVT which updates the 2002 Law on Social Security. This new draft law has a broader scope as it covers public, private and self-employed workers, and all social security schemes, including employment injury insurance, health insurance, pension and unemployment.

Indeed, in terms of laying down the legal and institutional framework for growing a labour rights regime, Cambodia progressed significantly between 1997 and 2010. However, as discussed later, what has been achieved in practice leaves much to be desired.

### 3.1.3 The new Trade Union Law

On 4 April 2016, the National Assembly of Cambodia adopted the Law on Trade Unions. The law was approved by the Senate on 12 April 2016 and declared constitutional by the Constitutional Council of Cambodia on 5 May 2016. On 17 May 2016, King Norodom Sihamoni signed the law for its promulgation.

The drafting of the Trade Union Law started in 2008. The ILO was very much involved in this legislative initiative in terms of providing assistance in drafting the legislation, providing extensive comments, and facilitating numerous tripartite discussions. According to an ILO officer in Cambodia, the Trade Union Law has a strong potential to provide stability in industrial relations.<sup>20</sup>

Nonetheless, international and national trade unions (among the latter the independent unions and those supportive of the now dissolved opposition party CNRP), have raised several concerns about this law. According to the International Trade Union Congress (ITUC), there are provisions of the new law that place administrative and legal burdens on unions, hinder the process of forming a union, allow the dissolution of whole unions if individual officials act illegally, and impose onerous restrictions on the right to strike (Merk, 2016). The ITUC also points to the high financial penalties that could bankrupt the union in case a union is found to have breached the law, intrusive government controls on union finances, and restrictions on who can be elected as a union office-bearer (*ibid.*).

Article 3 of the Trade Union Law restricts its scope to enterprises or establishments and persons covered by the existing labour law and personnel serving in the air and maritime transportation services. This provision effectively excludes other categories of workers, including domestic workers, informal economy workers, civil servants, workers in state-owned enterprises, and municipal workers, from forming or joining a union.

Article 13 puts further restrictions on workers' right to strike. The new law mandates that the union statutes should have a provision that sets a quorum of at least 50 per cent +1 of the total members in a meeting to declare a strike. Further, a secret ballot must be cast by at least 50 per cent +1 of the total number of members participating in the decision-making meeting to authorize a strike. This provision effectively changes the intent of Article 323 of the Labour Law, which states that: "A strike shall be declared according to the procedures set out in the union's statutes, which must state that the decision to strike is adopted by secret ballot." Thus, Article 13 is viewed by unions as an act of interference of the state in union affairs which does not conform with Article 3 of the ILO Convention 87, which Cambodia ratified and which states that: "Workers' organizations shall have the right to draw up their constitution and rules, to elect their representatives in full freedom, to organize their administration and activities and to formulate their programmes. The public authorities

shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.” This restriction on the right to strike will mostly affect the independent and opposition party-supportive unions as these unions are more likely to go on strike.

Another contentious provision of the Trade Union Law is Article 29. This provision allows for the dissolution of a union by the Labour Court as a result of a complaint from any “party concerned” or from 50 per cent of the total union members for any of the following reasons: a) the establishment or activities of the union contravene the law or the objectives of the union as stated in the statutes; b) the union is not independent from employers and actually the union is unable to restore its independence; and c) leaders and those responsible for administration were found guilty committing serious misconduct or an offence in the capacity of the union. The Labour Court may determine a period in which the union is required to rectify these shortcomings or errors before it makes a decision. Section (c) of Article 29 is the most controversial provision. Many of the leaders of independent unions as well as leaders of unions linked or affiliated with the political opposition party CNRP have experienced judicial harassment in the aftermath of the 2013 elections and in the wave of strikes in December 2013 and January 2014. These unions fear that this provision will pave the way for the disbanding of unions that are critical of the ruling party and thus further entrench the government’s control over unions. In an interview, a labour activist from a local NGO stressed that with Article 29 of the Trade Union Law, the Labour Court can decide to dissolve a union that staged a strike for a political purpose.<sup>21</sup>

The trade unions are also concerned about the vague language of Article 65 on workers’ actions considered to be unfair labour practices given the contentiousness of industrial relations in Cambodia. For example, section (g) considers a union blocking an entrance and exit gate of an enterprise to be an unfair labour practice. Unions fear that this may be used by employers to try to undermine an otherwise legal strike that takes place outside an enterprise if too many strikers gather in front of the entrance. In addition, section (f) includes as a union unfair labour practice a union’s agitation for purely political purposes. Unions argue that the ban on this action could be used to prohibit a union activity or action aimed at changing a government policy.

At the time of writing, a number of independent trade union federations, together with some labour organizations, have assessed the impact of the Trade Union Law after six months of implementation and have expressed their serious concerns about the law. Firstly, they are concerned about the additional requirements of information and data for union registration. In practice, the Ministry of Labour has been stricter in registering new unions. Secondly, the unions point out that their ability to represent workers has been undermined, as employers and the authorities do not recognize the unions’ legitimate representation role by allegedly mistakenly interpreting Article 54 to mean that the representation role could be taken only by unions which have been granted MRS by the government. Finally,

they complain that the right to strike is severely curtailed by both the general restriction of the government on strike actions and specifically the high threshold for a strike vote set by the Trade Union Law.

There are, nonetheless, notable provisions of the Trade Union Law that may facilitate collective bargaining at various levels. The minimum membership requirement for unions to be eligible to apply for MRS has been reduced to 30 per cent of the total workers in an enterprise (Article 54) whereas before it was 51 per cent. Article 63 considers the following to be employer unfair labour practices: Violation of the duty to bargain collectively; violation or causing to intentionally violate the statute, employment contract, memorandum of understanding (MoU), collective bargaining agreement (CBA)<sup>22</sup> or regulations; and obstructing the bargaining process and the implementation of a collective bargaining agreement. Finally, Article 69 of the law allows for bargaining at various levels—workshop or site level, enterprise or establishment level, provincial or municipal level, and national level. It also allows bargaining based on an occupational framework (i.e. a particular occupation, a number of combined occupations or similar occupations, an economic activity or a particular sector of economic activity, many economic activities or many sectors of economic activities), sectoral framework, and air and maritime transportation framework. To the extent that this provision may well encourage higher levels or more centralized forms of bargaining, there is potential for better bargaining coordination, broader coverage of workers, and better agreement provisions, if this provision is implemented.

The ILO Committee on the Application of Standards (CAS), during the 105th International Labour Conference in Geneva in 2016, examined the new Trade Union Law and the general situation of Convention 87 in Cambodia (ILO, 2016c). In its conclusions, the committee aired its concerns over the law and arranged a Direct Contact Mission (DCM) to Cambodia and examine the effects of the law. The DCM conclusions and recommendations clearly address many areas of concern outlined above, including that MRS requirements, while appropriate for collective bargaining, should not be a requirement for collective dispute representation. The DCM conclusions also reiterated the need to address concerns over registration of unions, registration of MRS status, and procedures for legal strike action (ILO, 2017c). All these should be addressed by a roadmap of reforms by the government, which, at the time of writing, has not been published.

On 16 October 2017, the MoLVT, after meeting with the Executive Director of the Ethical Trading Initiative, issued a notice declaring, among others, that a national workshop will be organized with tripartite representatives to review and improve the procedure on union registration to make it transparent and effective, and ensure the enforcement of the freedom of association of professional organizations.

### 3.2 The increasing role of buyers in promoting labour standards and labour rights

Brands and international buyers have increasingly played an important role in encouraging employers and the government to comply with labour standards and respect workers' rights. Firstly, many buyers involve themselves in BFC monitoring programmes by both purchasing the reports and addressing the identified areas of non-compliance, albeit on a limited scale. Secondly, buyers at times intervened in individual cases at the factory when unions or other labour NGOs called for their intervention. Some selected brands also have their representatives in the country to both observe and address any emerging problems in their sourcing factories. Thirdly, some buyers also work with global unions to implement some significant projects like the Global Framework Agreement concluded in 2016 between H&M and the global union federation IndustriALL and the ongoing industry-wide bargaining initiative called *Action, Collaboration, Transformation (ACT)*<sup>23</sup>. Finally, several buyers' organizations have been actively advocating for amendments in the Labour Law and the Trade Union Law, as well as the introduction of new laws (e.g. Law on Minimum Wage), that are aimed at protecting labour rights and promoting workers' welfare.

As discussed in the previous chapter, in the wake of the explosion of large-scale strikes in late 2013 and early 2014, the international buyers called on the Cambodian government to establish, with the help of the ILO, a more robust and evidence-based minimum wage setting process. In fact, in late 2013, H&M Chief Executive Officer Karl Johan Persson personally called on the Cambodian government to review its minimum wage on a yearly basis (Crothers, 2014). Further, brands, together with some global union federations, have been working as well with trade unions, such as the Coalition of Cambodia Apparel Workers Democratic Union (C.CAWDU), in demanding a living wage. As the union campaigns in 2014 shifted toward buyers, at least eight major brands wrote to the Cambodian government that they were ready to absorb the increase in minimum wage of workers in their supplier factories.

One recent example of how international buyers try to improve labour standards compliance is the industrial relations project of the Swedish clothing giant H&M, the world's second-largest clothing retailer by sales, which was launched in early 2014 with the support of the ILO. This project was initiated by the union of H&M in Sweden. Apart from H&M, the initiative is also funded by the Swedish International Development Cooperation Agency and the Swedish trade union IF Metall. The project ran for three years from 2014 to 2016.

The H&M-ILO project aimed to improve industrial relations in the garment sector through a mixture of policy advice and capacity building at three levels: At the enterprise level, industry level, and national level. The project provided training and awareness-raising to eliminate unfair labour practices and promote good labour practices, including collective bargaining and gender equality, in selected enterprises. The selected unions and factories

were encouraged to sign an MoU on Improving Industrial Relations. At the industry level, the project worked with the GMAC and the major union confederations and federations to raise awareness of the MoU and the labour law among social partners, and train managers and unions on communication and negotiation skills. At the national level, the project endeavoured to work with the MoLVT to improve conciliation skills, support legal and regulatory reform, clarify rules and regulations concerning industrial relations, and continue to build a database on union registration, MRS certifications, and collective bargaining agreements.

As of June 2016, the project covered 19 factories. The ILO (2016b) reports that between 28 August 2014 and 5 May 2015, six of the seven participating companies had signed both an enterprise-level MoU and an Unfair Labour Practices (ULP) agreement. One dropped out of the project. Between 12 March and 11 June 2015, the project identified a new batch of six factories that participated in the project's training and capacity building programme.

The project also conducted follow-up visits to the first batch of six factories to review the progress following completion of the training programme in January 2015. Improvements have been recorded, according to the ILO (2016b: 5-6):

...the overall labour-management relations and the level of cooperation and communication in those factories had been improved from moderately to considerably. Both management and union/workers' representatives were reported to have been able to apply the knowledge and skills acquired from the training to facilitate and resolve the workplace issues. Five factories had already adopted and improved their own grievance procedures based on ILO's standard grievance procedure that was developed specifically for Cambodian enterprises.

The H&M initiative, with the support of the ILO, is an example of how international buyers and brands are increasingly playing an important role in improving the level of compliance of labour standards in particular, and industrial relations in general, at the enterprise level, industry level, and national level in Cambodia. However, at the time of writing, no other international buyer or brand has embarked on a similar significant initiative.

There are many international buyers and brands that either directly or indirectly (through sourcing agents) transact with suppliers in Cambodia. Aside from H&M, they include Nike, Levi's, Old Navy, Adidas, Calvin Klein, Gap, Puma, Clarks, Marks & Spencer, Tesco, Inditex, N Brown Group, Tchibo, Next, New Look, C&A, Walmart, and others. According to Oka (2012), buyer types in the apparel industry can be broadly classified into two kinds: Specialty retailers and mass merchandisers. Specialty retailers, like H&M and Nike, specialize in certain apparel products and target certain market segments, whereas mass merchandisers, like



Walmart and Target, offer a variety of products, including non-apparel products, and appeal to the mass market. Table 9 distinguishes these two types of buyers.

Table 9: Characteristics of specialty retailers and mass merchandisers in the garment/apparel industry

Characteristic	Specialty retailer	Mass Merchandiser
Products	Innovative products that have short life cycles (e.g. fashion apparel)	Functional products that have long product cycles (e.g. basic clothing)
Mode/type of transaction with suppliers	Prefer hierarchy or vertical integration; direct transaction with suppliers as specialty retailers are reputation-conscious and thus require stringent quality, delivery time, and labour standards	Market or arms-length relationships; indirect transaction via sourcing agents; more emphasis on price and quantity
Duration of relationship with suppliers	Long-term relationship; better in controlling supplier opportunism through repeated transactions	Short-term relationship as mass merchandisers often rely on agents to pick suppliers from one season to another
Profit margins	Higher profit margins	Lower profit margins, but mass merchandisers can use their market power to drive down supplier margins

Source: Oka (2012: 10-12).

Being a specialty buyer may explain in part H&M's launch of its industrial relations initiative in 2016. Buyers like H&M may prefer sourcing from better compliant suppliers to safeguard their reputation, as these buyers derive most of their profits from branding that is, in turn, dependent on their image and social legitimacy (Oka, 2012). Oka (2010: 4) further emphasizes that "reputation-conscious buyers are more likely to carefully select and monitor their suppliers to minimize potential problems and to safeguard their reputation". In her earlier work, Oka (2010) shows that factories producing for reputation-conscious buyers had better labour standards compliance than other factories in Cambodia's garment sector.

Oka (2012: 8) points out that buyers concerned about labour conditions in their supplier firms try to influence the level of compliance through *pre-order sorting and post-order monitoring*. However, the attention to labour standard compliance appears to figure more prominently at the pre-order stage than the post-order stage. Her survey in 2008 involving 13 buyers<sup>24</sup> in Cambodia provides interesting findings: (1) buyers check the compliance levels of their potential supplier factories before placing orders and rate the compliance performance of existing supplier factories; (2) almost all the buyers surveyed use the compliance rating to identify poor performers rather than good performers; (3) all the surveyed buyers have some kind of monitoring procedure to ensure an acceptable level of compliance; (4) they occasionally issue warnings to suppliers of possible cancellation of orders for certain areas of non-compliance (e.g. child labour, forced or involuntary labour, wage and contract issues), but cancellation is rarely done, indicating that very few buyers

exit supplier factories because of non-compliance with labour standards; (5) even the buyers concerned about suppliers' labour conditions rarely reward compliant suppliers through increased orders; and (6) buyers have more leverage in influencing supplier behaviour and selecting more compliant suppliers before than after placing orders due a switching cost associated with changes in suppliers. The last point may partly explain the motivation behind H&M's industrial relations initiative in the garment sector in Cambodia. Being a reputation-conscious specialty retailer, H&M prefers to have a long-term relationship with its suppliers. Therefore, instead of terminating its relationship with non-compliant or less compliant suppliers, its industrial relations initiative seeks to enhance the capacity of the social partners to improve working conditions through social dialogue and effective grievance procedures.

Many of the findings of Oka's 2008 survey on the types of buyers and buyer behaviour towards the compliance performance of their suppliers demonstrate important implications for labour standards compliance of garment and footwear factories in Cambodia. As fewer violations are reported for suppliers of specialty retailers than those of mass merchandisers, attracting and retaining more specialty retailers may improve the level of labour standards compliance in the garment sector. To the extent that "better compliance is a necessary condition to produce for specialty retailers" (Oka, 2012: 22), improving labour standards compliance and upgrading supplier competencies are key in attracting such buyers. Preference for this type of buyer is also a way to upgrade Cambodia's place in the garment global value chain as specialty buyers and brands offer more opportunities for higher value adding and long-term relationships. Specialty retailers have larger supplier factories too that are more likely to have a union. Finally, as international buyers tend to not reward better compliance through increased orders, making compliance a cost of doing business borne by suppliers, Oka (2012) suggests buyers share the burden through offering long-term contracts or guarantees for stable orders, if not premium prices or increased orders.

In recent years, international buyers have raised concerns about the shrinking democratic space, weakening of democratic institutions, and government crackdown on political parties, independent and opposition party-linked trade unions and their leaders, civil society organizations, and the press in Cambodia. In November 2017, the Supreme Court dissolved the CNRP, the only existing electoral threat to the ruling CPP-led government of Prime Minister Hun Sen. The ruling not only disbanded the CNRP but also banned its senior officials from any political activity in Cambodia for five years. The dissolution of the CNRP was based on a complaint filed by the Ministry of Interior which accused the former of trying to overthrow the government, allegedly with the aid of the US, through a so-called "colour revolution"—the popular protest movements that toppled regimes in the former Soviet bloc and the Middle East. The court ruling came after the midnight arrest of CNRP leader Kem Sokha on 3 September 2017, who was later charged with "treason" based on an old video in which he mentioned "receiving assistance from people in the US to pursue a

‘bottom-up’ strategy of changing a ‘dictator’, and mentions the events in Serbia that led to the downfall of former President Slobodan Milosevic at the hands of a popular uprising, though Sokha goes on to seemingly distance himself from such tactics” (Sokheam, Nachemson and Turton, 2017). The “controversial amendments to the Law on Political Parties rammed through by the CPP in July paved the way for the ruling, making it illegal for a party to associate with a convicted criminal or to conspire with individuals ‘against the interest of the Kingdom of Cambodia’” (ibid).

Following the arrest of Sokha and the dissolution of the CNRP, many CNRP officials, trade union leaders, and human rights activists were slapped with criminal charges. Thus, many went into hiding or fled the country.

Given these recent developments, several organizations of brands and retailers, such as the American Apparel & Footwear Association (AAFA), amfori-Trade with Purpose, Ethical Trading Initiative, Fair Labor Association, Fair Wear Foundation, and Social Accountability International, formally raised concerns to Prime Minister Hun Sen about the criminal charges filed against several human rights activists (i.e. Tola Moeun, But Buntenh, Pa Nguon Teang), six prominent trade unions leaders (following the January 2014 workers’ protests for higher wages), and other independent union leaders (AAFA et al., 2018). The AAFA, in particular, earlier wrote to Prime Minister Hun Sen twice (one dated 7 June 2017 and the other 17 October 2017) expressing its views on the draft minimum wage law and the dispute settlement law. AAFA advocated for full freedom of expression regarding the minimum wage (i.e. not limiting research and discussion on the minimum wage within the LAC). It also pointed out that having a dispute settlement law could impede the work of the Arbitration Council.

As discussed later, the provision in the draft version of the minimum wage law granting sole authority to the LAC to conduct research and discussion on the minimum wage was removed and the move to introduce a law on dispute settlement was abandoned. In May 2014, the MoLVT requested the courts to drop the pending criminal charges brought by the pro-government Cambodian Youth Party leader Pich Sros against labour and human rights defender Tola Moeun, executive director of the Center for the Alliance of Labor and Human Rights (CENTRAL). The Cambodian Youth Party was one of the political parties that sought the dissolution of the CNRP. Pich accused Tola of mishandling of funds raised for the funeral of assassinated political analyst Kem Ley. In July 2018, the Phnom Penh Municipal Court dropped breach of trust charges against Tola (Vida, 2018). Sustained pressure from international buyers and retailers urging the government to uphold and improve workers’ rights and livelihoods has certainly contributed to these encouraging developments.

### 3.3 The role of global unions and labour support organizations

There are three groups of labour-oriented organizations that are working quite actively with Cambodian trade unions. The first group is comprised of the ITUC (and its regional organization in the Asia-Pacific region) and the sectoral global union federations (GUFs) such as IndustriALL, Building and Wood Workers' International, International Union of Food and Allied Workers, International Transport Workers' Federation, Public Services International, Education International, and International Domestic Workers Federation.

International trade union solidarity and support organizations (TUSSOs) make up the second group of organizations that cooperate and provide support to Cambodian unions. They include the American Center for International Labour Solidarity (ACILS), National Federation of Christian Trade Unions in the Netherlands (CNV), Swedish Trade Union Confederation-Swedish Confederation of Professional Employees, Confederation of Christian Trade Unions of Belgium, and the Friedrich-Ebert-Stiftung (FES), among others. These organizations are trade union-based in their home countries.

The third group of organizations include local and international NGOs which are not really union-based or are not originally and largely focused on trade union issues but nonetheless have programmes related to trade unions and workers' rights. The local NGOs include the Community Legal Education Center (CLEC), Center for Alliance of Labor and Human Rights (CENTRAL), Cambodian League for the Promotion and Defense of Human Rights (LICADHO), and Cambodian Human Rights and Development Association. The international NGOs, meanwhile, include OXFAM International, Action Aid, CARE International, and Worker Rights Consortium (WRC).

The support that Cambodian trade unions get from TUSSOs varies. In particular, they may include any or a combination of the following: (1) building union capacity in organizing and bargaining by providing training courses locally and internationally according to the needs of the affiliates; (2) providing financial support to enable unions to develop training materials, hire staff to undertake some of the unions' work, and pay for office rent; (3) advocating their affiliates' representation in policy-making and in dispute cases in various areas and organizations (the ITUC and IndustriALL, for example, intervene in dispute cases with buyers, government and some specific employers. They even help build the cases for them. Currently, the ITUC compiles cases of workers' rights violations of companies, especially the most abusive ones, to advocate improvements in national and international arenas.); and (4) securing funds and technical projects to support their affiliates to do sustained and better planned lobby and advocacy work, including campaigns.

ACILS works with all trade unions, but only provides technical support. The Dutch confederation CNV has been supporting and working directly with the CLC for around 10

years. FES provided support to FTUWKC between 1997 and 2006/2007. Since 2006, it has been supporting IndustriALL's regional meetings, national workshops, and studies needed by their affiliates. The other FES programmes are mostly on gender training, labour research capacity building, awareness-raising, etc.

Local and international NGOs also work in different capacities and roles in supporting workers and unions. Their major roles include capacity building through training and education, research including wage surveys, providing some financial support and technical services for workers, and advocacy support for labour demands.

### **3.4 The labour rights regime in practice: The scorecard on labour rights and labour standards in Cambodia**

Over the years, from the time the Labour Law was introduced in 1997, there have been significant gains in laying down the regulatory framework for the recognition and exercise of workers' rights in Cambodia. However, these gains, not to mention the heavy involvement of the ILO in the improvement of labour standards compliance through BFC, have been overshadowed by the erosion of workers' rights in recent years due to a host of factors, such as the continued hostility of employers to unions, lack of effective institutions (for monitoring and enforcement of labour standards), politicisation of institutions and labour issues (some of the labour issues have been labelled political issues by the government), and fragmentation, multiplicity, and weakness of trade unions.

In their review of sixteen BFC reports that had been published as of 16 July 2006, Sibbell and Borrmann (2007) observe that although Cambodia was doing well in terms of compliance with some of the fundamental conventions of the ILO, such as prohibition of forced labour and child labour and sex-discrimination,

Freedom of association, for which the reports indicate harassment and dismissal of union leaders/members, as well as efforts to hamper the establishment of unions and occasional violence, remains a serious issue. The main problems, though, are in the areas of payment of wages and the frequency, duration, and non-voluntary nature of overtime. With regard to the payment of wages, the reports indicate that these problems relate not so much to irregularities concerning the payment of minimum wages, with the exception of minimum wage payments to casual/short-term workers, but mostly relate to other payments, such as overtime, bonuses, or leave entitlements. The reports are straightforward when it comes to overtime. Workers are often forced to work overtime, and they work overtime too often and too long. (ibid: 242)

A decade after, the 2016 ITUC Global Rights Index<sup>25</sup> puts Cambodia among the 10 worst countries where working people have no guarantee of their rights (ITUC, 2016).

In recent years, Cambodian workers have been exposed to retaliation, violence and imprisonment, in particular when they campaigned for a minimum wage that would allow them to cover their basic needs. However, with the approval of the new Trade Union Law this year, the government has further limited workers' ability to negotiate over their working conditions and pay. Despite relentless opposition from unions, the ILO and several global garment brands, the government approved the law which will among other things impose new limits on the right to strike, facilitate government intervention in internal union affairs and permit third parties to seek the dissolution of trade unions—while at the same time imposing only miniscule penalties on employers for unfair labour practices. The government has also continued to violently crack down on protests by unions through its security forces. Workers demonstrating peacefully and chanting slogans near the National Assembly against the new law were beaten and a union leader was punched in the face drawing blood. (ITUC, 2016: 23-24)

Cambodia's overall low score in the Labour Rights Indicators (LRI)<sup>26</sup>, an initiative of the Global Labour University and the Center for Global Workers' Rights at Pennsylvania State University that measures country-level compliance with freedom of association and collective bargaining rights, reaffirms the above report of the ITUC. The LRI scoring ranges from a value of 0 to 10, the best and worst possible scores respectively. Individual countries are scored based on reported violations in three categories—overall, in law, and in practice. Violations of fundamental civil liberties, the right of workers to establish and join organizations, other union activities, the right to collective bargaining, and the right to strike are covered in the LRI.

For 2012, Cambodia's overall LRI score was 6.22; 2.94 in law and 6.90 in practice (33 violations coded overall: 10 in law and 23 in practice).<sup>27</sup> In 2016, violations slightly increased as the country's LRI score slightly went up at 6.36; 4.57 in law and 5.50 in practice (35 violations coded overall: 16 in law and 18 in practice). This suggests that violations both in law, albeit to a lesser extent, and in practice of fundamental civil rights, freedom of association, the right to collective bargaining and the right to strike remain endemic.

Nonetheless, the 33rd Compliance Synthesis Report of the BFC for the garment sector notes substantial improvements in the overall compliance rate of garment factories in the country. The BFC (2016: 5) reports that:

...since the start of the initiative, the percentage of low compliant factories has dropped from 10% at the start of public reporting to a little bit over 4% of all factories included in the database. In addition, the percentage of factories complying with all 21 critical issues has increased from 28% before public reporting to 47% after public reporting, among the factories covered in the database in the past year. Although there are some

individual critical issues that have not improved, overall it can be concluded that the public reporting initiative is driving change at the factory level.

The 33<sup>rd</sup> Synthesis Report covered the results of the assessments done in 381 garment factories in Cambodia for the reporting period between May 2015 and April 2016.

### **3.4.1 Minimum wage setting and payment in the garment and footwear sector**

At the time of writing, minimum wages are set only in the garment and footwear sector in Cambodia. Article 107 of the Labour Law stipulates that the minimum wage applies nationwide but it also allows for regional variations on the amount of the minimum wage. Between 1997 and 2013, the minimum wage in the garment and footwear sector was adjusted every three to four years. However, since 2014, minimum wages in the sector have been adjusted annually based on negotiations and analyses of relevant social and economic data.

Workers in the garment and footwear sector also enjoy additional bonuses and benefits. As mentioned earlier, they are entitled to a seniority bonus after one year of employment, good attendance bonus and housing/transportation allowance. Some of these allowances have been revised or upgraded over the years. The attendance bonus, which started at 5 US dollars a month in August 2000, went up to 7 US dollars in March 2011 and to 10 US dollars in September 2012. The overtime meal allowance started at 0.25 US dollars per day in August 2010 and went up to 0.50 US dollars per day beginning March 2011. Between August 2000 and October 2010, workers were entitled to a seniority bonus of 2 US dollars per month in their second year of employment, rising to a maximum of 5 US dollars in their eleventh and subsequent years of employment. Between March 2011 and January 2016, the maximum bonus was increased to 11 US dollars per month in the eleventh and subsequent years of employment (ILO, 2016a: 1).

Compliance with the minimum wage is not a problematic area in Cambodia. According to the 33<sup>rd</sup> BFC Synthesis Report (covering the period May 2015 to April 2016), only 2 per cent of the 381 factories assessed did not pay at least the minimum wage and compliance levels concerning the minimum wage have not deteriorated since the minimum wage increased.

### **3.4.2. The minimum wage as a political arena for contestation**

The minimum wage nonetheless has been at the heart of labour unrest in Cambodia. As workers and their trade unions have been used by and can mobilize support for political parties and candidates, the minimum wage has become a highly politicized issue, with both

the ruling party, the CPP, and the (dissolved) opposition party, the CNRP led by Sam Rainsy, including it among their top campaign promises.

In October 2016, the MoLVT came out with its draft of a new law on the minimum wage that seeks to expand the minimum wage to all formally employed workers or those workers covered by Cambodia's Labour Law, and the creation of a National Minimum Wage Council (NMWC) to recommend changes to the minimum wage. This council is tasked, among others, to conduct scientific studies on matters related to the minimum wage, facilitate and enable all relevant parties to study, meet and discuss the minimum wage, and provide recommendations on the minimum wage and benefits and the scope of minimum wage implementation to the minister of labour. The proposed law provides a defined schedule for the annual discussion on the minimum wage, beginning in July when internal discussion on the minimum wage by each party of the NMWC commences. In September, a tripartite minimum wage discussion among and within the NMWC is convened. The process continues in October when the NMWC adopts and recommends to the minister of labour the minimum wage to be applied the following year, and ends on 1 January of the following year when the new minimum wage is applied.

In March 2017, the ITUC, Solidarity Center, and the Cambodian Center for Human Rights (CCHR), released the results of their joint legal analysis of the draft law on the minimum wage. These organizations raised a number of concerns about some provisions of the draft law, particularly its potential to severely restrict the fundamental freedoms of assembly, association and expression of workers, unions, civil society organizations, journalists, and academics. For example, they cited that the proposed ban on any form of 'objection' to the agreed-upon minimum wage (Article 26), and the prohibition on conducting independent research related to the minimum wage outside the NMWC (Article 23), would constitute severe violations of the fundamental freedoms of expression, assembly and association. The excessive fines in the draft law's punishment provisions, which disproportionately target workers and civil society, rather than employers, along with the criminal penalties for non-payment of fines (Article 22), combine to effectively criminalize the peaceful exercise of fundamental freedoms. They also raised concerns about the draft law's processes for wage-setting. For example, they pointed out that the participation of independent/democratic unions is not guaranteed, and the organization and functioning of the NMWC are not outlined in the draft law, leaving the details at the discretion of a ministerial sub-decree (Article 18). In addition, they are worried that the draft law gives significant discretion to the minister of labour to set different minimum wages based on employment sector and geographic region, threatening to undercut the objectives and spirit of the law (Article 9). The three organizations proposed some amendments and additions to the draft law to bring it into line with international human rights law, the ILO conventions, and Cambodia's Constitution.



On 16 October 2017, the MoLVT, after a meeting with the Executive Director of the Ethical Trading Initiative, issued a notice that allowed the conduct of an independent study on the minimum wage in the draft law.

On 6 July 2018, three weeks before the national elections, the Law on Minimum Wage was adopted. This new law covers workers outside of the garment sector, albeit limiting the scope to those covered by the Labour Law. This means that domestic workers, air and maritime transport workers, civil servants and judges, and workers in the informal economy are excluded. Moreover, the actual implementation of the law in other sectors is yet to be determined. Articles 10 and 11 of the law state that it is the Minister of MoLVT who would set the schedule for the discussion of the minimum wage after having received a recommendation from the NMWC. Nonetheless, the law addresses some of the criticisms raised on the earlier drafts, including removing the outright ban on independent research into minimum wage matters and the penal provision for criticizing the minimum wage rate.

The Law on Minimum Wage provides for the establishment of the NMWC mandated to conduct scientific studies on matters related to minimum wage and provide recommendations on minimum wage, benefits and the scope of the minimum wage implementation to the MoLVT (Article 16). The same provision also stipulates that any person, other than the NMWC, conducting a study on minimum wages have to submit the findings and sources of related data to the NMWC within 15 days after the completion of the study. According to the CCHR, Solidarity Center and ITUC (2018), this provision represents an unnecessary restriction on the freedom of expression. They argue that: “When read in conjunction with Article 28, the new language could allow for the heavy sanctioning of even criminalization of an actor who conducts minimum wage research, but fails to report it within the 15-day deadline. These provisions would place minimum wage-related research activities under an excessive and arbitrary level of state control” (ibid: 13).

Article 18 of the new law stipulates that the composition and organization of the NMWC shall be determined by a sub-decree and its regular and alternate members shall be determined by a Prakas of the MoLVT. The CCHR, Solidarity Center and ITUC argue that this provision falls short of guaranteeing the equal participation of the major independent unions in the wage-setting process, a critique raised in the earlier drafts of the law. In light of this, these three organizations proposed the following amendments to the law: (a) outline in the law the procedures for appointments to the Council, rather than in a Prakas; (b) outline in the law the composition, organization, and functions of the Council, rather than in a sub-decree; (c) ensure that the selection of unions to be represented in the Council is based on verifiable union membership data; and (d) ensure the fair, effective and genuine representation of all workers and employers in the NMWC, through representation by worker organizations and employers from a broad range of sectors of the economy (CCHR, Solidarity Center and ITUC, 2018: 14-15).

While an earlier draft of the law included a definitive schedule for an annual discussion of the minimum wage, the law removed this provision and instead stipulates that the schedule shall be determined by a Ministerial discretion. The new law also fails to include dissuasive fines on employers who violate the law (CCHR, Solidarity Center and ITUC, 2018: 20).

While the government's initiative of extending the minimum wage to other sectors is a welcome development<sup>28</sup>, some observers see this as a way for the CPP to attract voters, especially with the general elections held in 2018. As Hutt (2016: 1) points out: "In the prelude to most elections, the ruling CPP is adroit in making half-promises with the explicit implication that they will only come to fruition if the party wins ... since 2013 the CPP has been skillful in appropriating the pre-election pledges made by the opposition in an apparent effort to win back the hearts and minds of the Cambodian people." In the commune (city and village councils) elections on 4 June 2017, the popularity of the CPP remained strong with unofficial results indicating that it won 1,163 of the 1,646 communes, while the opposition CNRP got 482 communes (Po, 2017). Nonetheless, the popularity of the CNRP was also on the rise; it won 46 per cent of the popular vote, up from 30 per cent in the last local elections five years ago (Po, 2017; VOA News, 2017). Meanwhile, the CPP got 51 per cent of the popular vote. In the July 2018 national elections, with the CNRP dissolved by the Supreme Court, the CPP ran virtually unopposed, winning all the 125 seats in the parliament.

In the 2013 elections, the CNRP actively campaigned for a significant hike of the minimum wage among its top agenda items, targeting the 600,000-plus garment workers as its core voter base. In the aftermath of the 2013 elections, when large workers' protests erupted, CNRP politicians and activists took part in the strikes by garment workers who also showed up in the CNRP rallies (Hutt, 2016). Thus, the ruling party CPP's promise of an expanded minimum wage was a direct challenge to the CNRP. Meanwhile, the CNRP kept supporting the demands of opposition party-supportive unions and independent unions for higher wages. In November 2016, the CNRP's 125-member steering committee approved a draft policy manifesto intended to guide the policies it would take to the elections (i.e. commune elections in June 2017 and national elections in 2018). A report notes that the draft focused on seven areas: Improving people's livelihoods, respecting human rights, modernising the state, pursuing development with equality, protecting territorial integrity, and improving both national defence and foreign relations. The same report notes that an earlier version of the draft manifesto distributed by Sam Rainsy<sup>29</sup> in August 2016 had listed job creation, albeit without going into further specifics, as the party's first priority and also mentioned that a CNRP government would introduce a free health-care system for the poor. However, with the dissolution of the CNRP in November 2017 and the ban on its leaders from engaging in any political activity in Cambodia for five years, the future of this opposition party or any other political party that will be established by leaders of CNRP remains uncertain, at least in the medium term.

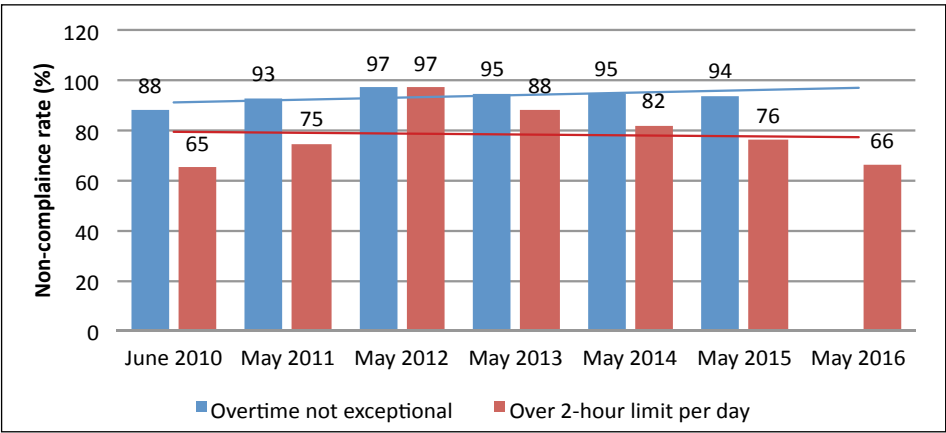
3.4.3 Hours of work and overtime

Cambodian garment workers continue to experience excessive working hours particularly overtime work. Regulations stipulate that overtime is allowed for a maximum of two hours per day. However, the compliance rate on this overtime limit is very low. In the 33rd BFC Synthesis Report, overtime work was found to exceed the two-hour limit in 66 per cent of the factories assessed, as of April 2016.

Many workers are forced to do overtime work. Human Rights Watch (2015: 59) reports that in many factories workers who refuse overtime are marked as “unproductive workers” by managers and are either threatened with non-renewal of their employment contracts or dismissal.

Excessive overtime remains a sticky issue in the garment and footwear sector in Cambodia, particularly after 2009. Between 2009 and 2011, Oka (2012) observed a declining rate of compliance with the two-hour overtime limit per day. However, based on the BFC Synthesis Reports<sup>30</sup> for the period May 2012 to May 2016, there was noticeable improvement in the compliance rate with the two-hour overtime limit per day (Figure 20). From a non-compliance rate of 97 per cent in May 2012, the rate went down to 66 per cent in May 2016, a difference of 31 percentage points. Between May 2012 and May 2016, the decline in the rate of non-compliance with the two-hour overtime limit per day averaged 9.2 per cent yearly.

Figure 20: Rate of non-compliance with overtime regulations (%)



Source: Graph constructed by the authors using data from various BFC Synthesis Reports, June 2010 to May 2016.

Nonetheless, the non-compliance with the regulation that overtime work is only used for exceptional cases remains high and in fact on the uptrend between June 2010 and May 2015. This suggests that overtime remains a regular occurrence in the garment and footwear sector in Cambodia.

### 3.4.4 Employment security

According to Merk (2016), the spread of FDCs has been a point of great concern in Cambodia over the last decade. FDCs are short-term contracts with a maximum duration of two years. By law, a worker whose contract goes beyond this period is automatically awarded an Undetermined Duration Contract (UDC). It is prohibited to repeatedly hire workers on short-term contracts. However, the rate of non-compliance with the regulations on the two-year limit on the use of FDCs is quite significant—over one in four or 28 per cent of the garment factories assessed by BFC between May 2015 and April 2016 (BFC, 2016). BFC further reports the most common non-compliance issue practised by one in three of the factories assessed relates to the failure of management to adequately explain the terms of a contract to workers (ILO-BFC, 2016).

BFC (2016) reports that there are factories that had agreements with workers (or their representatives) on the use of FDCs beyond two years. In the 33rd Synthesis Report, such cases were not considered as a way to circumvent the FDC regulations. This means that the rate of non-compliance with the two-year limit of FDCs as reported by BFC may be higher. Thus, the ILO suggested that the pretty low non-compliance rate (with the two-year limit of FDC contracts) of 28 per cent in the 33rd Synthesis report would be higher in the next round of monitoring as the programme will no longer accept the practice of having a consent agreement between factories and workers for the latter to work on a short-term contract beyond the legal limit.

It is thus estimated that a big proportion of garment workers do not have permanent contracts with their employers. Most of them are employed under fixed-term contracts. A survey by the Center for Policy Studies in 2016 found that 55 per cent of workers had fixed-duration contracts and 32 per cent were working under unlimited-duration contracts. However, only 44 per cent of the workers expressed their preference for fixed-duration contracts.<sup>31</sup>

A study by the Allard K Lowenstein International Human Rights Clinic of Yale Law School (2011: 60) found that many garment factories in Cambodia operate with nearly 100 per cent of their workers on FDCs.

Workers on FDCs lack protection. An employer can choose to renew or not an FDC at any time without having to provide any justification. In addition, many factories ignore the justifications for hiring workers on FDCs, such as the seasonality of labour demands or other temporary business needs (Human Rights Watch, 2015). Many workers on FDCs do not receive seniority bonuses. In addition, minimum wage regulations are less frequently enforced among workers on FDCs. Merk points out that employers often use FDCs to suppress wages and to allow summary dismissals of workers (2016: 47). Workers on FDCs are thus more

likely to experience labour abuses and face greater risk of experiencing union discrimination (e.g. getting fired for joining a union), pregnancy-based discrimination, denial of maternity benefits and sick leave, and getting fired for refusing to work overtime (Human Rights Watch, 2016; Merk, 2016).

The repeated use of FDCs and other forms of short-term hiring practices makes it increasingly difficult to form and maintain unions. As noted, FDC workers are scared to join a union for fear of termination or non-renewal of their contract. As unions take time to be set up, workers on three-month FDCs, for example, may have only a month left of their employment in the factory if they spend two months forming a union (Allard K Lowenstein International Human Rights Clinic, 2011). The use of FDCs also threatens the stability of union leadership in a factory. Under the Cambodian Labour Law, to become a local union president or vice president, a worker must have at least one year of work experience in the factory. Union leaders are elected for a term of two years. In factories where nearly 100 per cent of workers are on FDCs, workers are constrained to elect union leaders whose contract will expire before their union term of office ends (*ibid*). When an FDC worker becomes a leader in her local union, her employer will often refuse to renew her contract when it expires (*ibid*).

In June 2018, a labour law amendment was adopted by the National Assembly, which effectively obligates employers to pay workers on both FDC and UDC termination compensation every six months. Before the amendment, workers on UDC could only get the compensation when they are dismissed.

### 3.4.5 Freedom of Association

As mentioned earlier (and discussed further in the next chapter), with the enactment of the Labour Law, the number of trade unions has increased over the years, although the bulk is concentrated in the garment and footwear sector. Unions have spread too in other sectors, such as hotels and tourism, airport services, the civil service, agriculture, rubber, tobacco, construction, beer promotion, and *tuk-tuk* transport.

In 2016, there were 3,224 local unions, up from 1,944 in 2010, according to the MoLVT. This data may not provide the actual number as local unions whose registrations have expired or have ceased to operate for other reasons, such as factory closure, are still included in the registry. At the time of writing, the overall unionization rate in Cambodia is estimated at between 5 and 7 per cent of the total workforce, while in the garment sector, the unionization rate is very high at 60 per cent. However, as discussed in the next chapter, government-supportive unions make up a majority of unions and membership in the garment sector.

The 33rd BFC Synthesis Report reveals a low non-compliance rate of 6.8 per cent on freedom of association among 381 garment factories assessed for the period May 2015 to April

2016 (BFC, 2016: 23). Acts of non-compliance mostly relate to salary deduction of union dues without workers' free consent. Cases involving workers being threatened with job loss if they form or join a union, as well as owners of factories in industrial zones preventing the formation of unions, were also noted. Interference and discrimination by employers concerning workers' freedom of association was observed in 31 factories. This took the form of having union leaders with management positions in the factory, factories controlling the management of union finances, factories paying unions and unions accepting these payments, and illegal dismissal of union leaders. The non-compliance rate in this sub-category is, however, low at 8 per cent (*ibid.*). The ILO-BFC attributes these problems to several factors, including management's control of unions, rivalry between unions for membership, or inadequate worker representation from unions.

Similarly, Human Rights Watch (HRW) reports that some factory managers in Cambodia have used multiple strategies to obstruct union organizing or reduce the effectiveness of independent unions (2015: 74 & 77). Accordingly, managers intimidate or lure workers with bribes or promotions to leave the union. Often, the moment union leaders have filed their application for union registration they are dismissed or otherwise harassed. HRW adds that legal protection has done little to prevent union-busting practices by employers, which are often directed at independent unions. Thus, many independent unions have been facing difficulties operating freely in factories (Merk, 2016). Finally, the widespread and repeated use of FDCs and other forms of short-term hiring practices in factories exacerbate the difficulty of union organizing.

### 3.4.6 Collective bargaining

Collective bargaining still remains in its infancy stage, although it is slowly gaining ground in other sectors, including hotels and tourism, airports, and other services. The MoLVT listed 478 registered CBAs between 2003 and September 2014; 425 or 90 per cent of these CBAs were from the garment and footwear sector (Table 10). There were also 18 CBAs in the hotel and tourism sector and 13 CBAs in the service sector.

If we assume that there were still 626 garment factories in 2015 (World Bank, 2016: 24), and with 425 CBAs in the sector, this translates into having 68 per cent of all garment factories with a CBA in 2015. Offhand, this represents a significant progress in terms of CBA coverage of garment and footwear enterprises since 2003. However, the 425 CBAs reported by the MoLVT include all CBAs since 2003. There is no data that would specify the actual number of CBAs that are still in force. Nonetheless, with only 29 registered CBAs in 2014 (Table 10) in over 620 garment factories, this means that less than 5 per cent of these factories had a CBA.

The big majority of the registered CBAs are nonetheless very limited in terms of coverage, barely exceeding what the Labour Law and other labour regulations provide. Although a small number of CBAs include entitlements such as bonuses, working hours, overtime, health and safety, and others, a majority of CBAs focus on a single issue—the frequency of payment of wages (Prake, 2015; Reeve and Hwang, 2015).

Table 10: Collective bargaining agreements registered with the MoLVT, by industry and year (as of October 2014)

YEAR	INDUSTRY										YEARLY TOTAL NUMBER OF CBAs
	GARMENTS & FOOTWEAR	BANKING	HOTELS	SERVICES	HOSPITALITY	PLASTICS	EMBROIDERY	MANUFACTURING	PRINTING	EDUCATION	
2003	5										5
2004	12	1	1								14
2005	12		3	1							16
2006	12		2		1						15
2007	13		2								15
2008	20		1	1							22
2009	113	1	3	2		1	1	4			125
2010	45	1	2	3			1				52
2011	62		1	3			1	2		1	70
2012	73	1	1	2			1	1	1		81
2013	29	1	2				1				33
2014 <sup>21</sup>	29			1							30
TOTAL NUMBER OF CBAs	425	5	18	13	1	1	5	7	1	1	478

Source: Reproduced from Reeve and Hwang (2015: 27). The authors used data from the MoLVT.

The reasons for the low level, limited coverage, and rather poor quality of collective bargaining in Cambodia are discussed in the next chapter.

### 3.4.7 Developing industry bargaining: The ACT initiative

The Action, Collaboration, Transformation (ACT) is a foundation jointly created by global brands and retailers in the garment and textile sector and IndustriALL, the global union federation representing workers in the manufacturing sector, including garment and textile. ACT began with the signing of a Memorandum of Understanding (MoU) between IndustriALL and 19 global brands in 2015. As a joint and long-term effort, all signatories of the MoU

commit to support higher wages and facilitate the payment of a living wage in the garment industry by linking purchasing practices to collective bargaining at industry level between national unions and employer associations (i.e., GMAC). ACT member brands also commit to make Cambodia a preferred sourcing and investment destination for a number of years.

The ACT initiative is premised on the assumption that the cost of higher wages and better working conditions resulting from negotiations between unions and the employer association will in some way be covered by buyers. This opens up space for collective bargaining on wages in Cambodia's garment industry. If successful, a collective bargaining agreement will be achieved from this negotiation and coordination process and it will be applicable for the whole industry. ACT is the first initiative to link purchasing practices of buyers with collective bargaining on wages, and the first collaborative effort by brands to assess and reform their purchasing practices. Nonetheless, the ACT commitments are contingent on the full exercise of freedom of association, a collective bargaining agreement which sets continuous and significant wage increases, and the development of a robust monitoring and enforcement mechanism within the CBA.

At the time of writing, the ACT process in Cambodia has picked up speed after the establishment of a permanent secretariat and appointment of an executive director in 2017. In November 2017, a series of stakeholder workshops was held in Cambodia. ACT member brands and IndustriALL presented the development of country level commitments and began a consultation with the relevant main stakeholders—the MoLVT and the Ministry of Economy and Finance, Cambodian trade unions, and the employer association GMAC. The ACT delegation also held meetings with national and international actors involved in labour relations where the involvement of ACT in the national sectoral collective bargaining was discussed.

It should be noted that sectoral bargaining between the trade union bargaining council and the GMAC already began in early 2017 with technical support in the form of training and coordination from the ILO Cambodia wage project. A draft working proposal prepared by unions, which cover working conditions, wages and benefits, has been the subject of negotiation between the trade union bargaining council and GMAC throughout 2018. The ACT country consultation in late 2017 and 2018 provided further support to the process. At the time of writing, there has been significant progress in the consultations between the unions and GMAC, and it is possible that a bilateral agreement may be signed in late 2018.

Once an industry-wide agreement is signed, the ACT member brands' commitments will begin. The ACT will develop a monitoring and enforcement system to guarantee the enforcement of the industry level agreement and monitor the fulfillment of the ACT member brands' commitments.



### 3.4.8 Occupational safety and health

Safety and health at the workplace is another aspect of working conditions which is often overlooked by employers, workers and trade unions alike. It is among the areas where the rate of compliance has been declining in recent years (Oka, 2012). The findings of the BFC assessment involving 381 garment factories for the period May 2015 to April 2016 (BFC, 2016: 28-29) highlight the need to give more attention to increasing compliance on occupational safety and health issues:

- Chemical and hazardous substances were not properly labelled in almost 50 per cent of the factories assessed;
- There was non-compliance in emergency preparedness as escape routes were not clear of obstruction in 43 per cent of the factories;
- About 73 per cent of the factories did not have a functioning and accessible nursing room and a functioning day care centre; and
- Over 50 per cent of the factories were found to have poor lighting, poor ventilation, and unacceptable noise levels.

Merk (2016) adds that in many factories garment workers are also exposed to excessive dust and they have little access to personal protective equipment. In addition, a report by Human Rights Watch (2015) mentions that sexual harassment is common in garment factories. There are also cases where workers had been bullied, harassed, or subjected to humiliating treatment, largely in the form of shouting, inappropriate language and/or disrespectful behaviour of line supervisors. The BFC (2016: 26) reports these cases in 12 per cent of the factories assessed for the period May 2015 to April 2016.

Over the past few years, factory collapses and mass fainting infamously put the garment sector in Cambodia in the global spotlight. In 2013, the Wing Star factory, a supplier of Asics, partly collapsed, killing two workers and injuring several others (Merk, 2016: 46-47). A similar incident happened 17 months earlier where two workers were killed and seven others seriously injured.

The mass fainting of workers—in groups of up to 300 at a time—reported in 2011 has likewise become a regular occurrence in garment and footwear factories. According to a study by CLEC and Labour Behind the Label (LBL), a UK-based NGO and the UK platform of the international Clean Clothes Campaign (2013), there were more than 2,100 recorded incidences of mass fainting in 29 factories in 2012, and more than 500 workers fainted in five factories in the first quarter of 2013. Incidences of mass fainting have taken place at numerous factories, including those supplying Puma, Adidas, H&M, and Polo Ralph Lauren (Merk, 2016). While research suggests that there is no single cause for these incidents, the combined effects of excessively hot workplaces, under-nutrition and malnutrition among

many garment workers, and their lack of access to quality food due to low wages, play a role.

The study by CLEC and LBL (2013) brings to light some worrying facts about the state of health of garment workers in Cambodia. It found that 33 per cent of the 95 workers they sampled were malnourished by medical standards, and 25 per cent were dangerously emaciated. In addition, factory workers in Cambodia consumed just 1,598 calories a day on average—around half the recommended amount for the physically demanding work they performed (*ibid*: 2). Body Mass Index figures gathered from workers indicate that 33 per cent of garment workers were medically underweight, and 25 per cent seriously so.

The same study found that workers spent on average a meagre 1.53 US dollars daily on food, when a nutritious diet of 3,000 calories with sufficient nutrients and protein would cost 2.50 US dollars daily. This required food spending of 75.03 US dollars a month was an amount that garment workers could not afford given the monthly minimum wage of 80 US dollars (in 2013), including health bonus.

Workers are also exposed to unsafe transport in their daily commute, often through flatbed trucks and minivans, to and from work. These forms of transportation have been involved in a high number of accidents yearly. Merk (2016: 33-34) cites some reports of work-related accidents: In 2014, 73 garment workers died in crashes during their commutes, an almost 10-per-cent increase over the 67 fatalities recorded in 2013.<sup>32</sup> In 2015, the number of casualties rose dramatically to 130 fatalities and 7,000 injuries.<sup>33</sup>

### 3.4.9 Social protection

Social protection programmes both for the formal- and informal-sector workforce in Cambodia are of recent origin and are rather limited. Social protection institutions remain underdeveloped and under-resourced. The total government expenditure for public social protection and health care accounted for a meagre 2.23 per cent of GDP in 2013 (ILO, 2014: 299). If health care is excluded, government expenditure for public social protection was a minuscule 0.79 per cent of GDP (*ibid*). Since 2007, public spending on social protection has been increasing at an average of 11 per cent annually. In 2013, public health care expenditure as a proportion of GDP was 1.45 per cent. About 1 in 4 (26 per cent) of the population was covered by health social protection in 2009 (*ibid*). Nonetheless, the ILO reports a health coverage gap of 55.3 per cent due to a deficit in health spending<sup>34</sup> (excluding out-of-pocket spending) and a health professional staff deficit<sup>35</sup> of 55.8 per cent (based on the World Health Organization benchmark) (*ibid*: 103 & 290). According to the ILO (2014: 51), the NSSF's employment injury scheme covered about 1,800 enterprises and more than half a million workers, about 20 per cent of total paid employees, mostly women, by the end of 2010. In 2012, about 34 per cent of wage workers were covered by the NSSF.<sup>36</sup> In

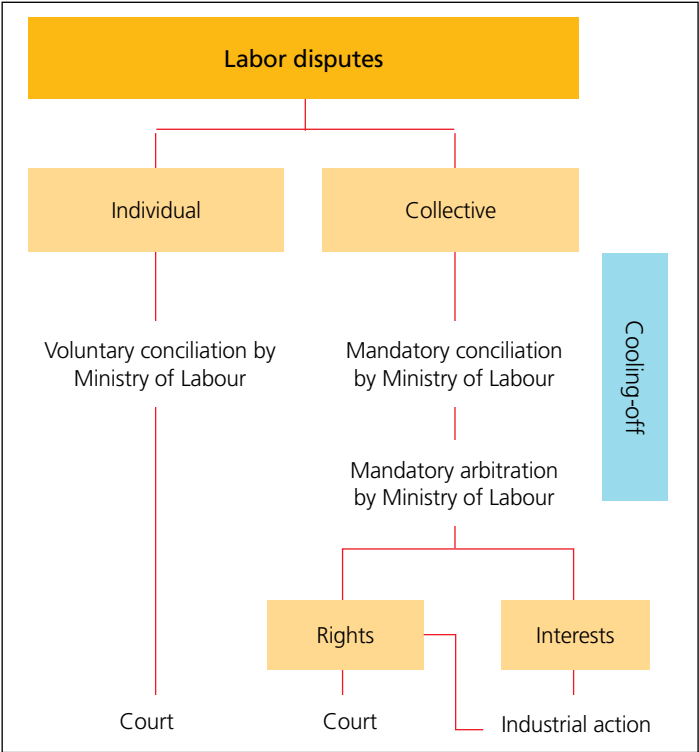
terms of numbers, there were 700,000 formal workers covered by the NSSF, and 180,000 public employees covered by the NSSF-C in 2012. It is estimated that about 11 per cent of the labour force was covered by these two NSSFs. Informal and self-employed workers are not covered by the NSSF.

Meanwhile, only 5 per cent of women and men over the pensionable age of 55 were receiving old-age pension benefits in 2010.

3.5 Developments and constraints in labour dispute resolution

The large swings in the frequency of industrial actions in the garment sector indicate the instability of industrial relations in Cambodia and the general failure of the country's labour dispute resolution system. Although on paper Cambodia has a comprehensive formal labour dispute resolution system (see Figure 21) that includes the Arbitration Council, courts, and numerous other entities involved in labour dispute resolution, in practice, employers and workers primarily rely on the Arbitration Council for the effective resolution of labour disputes (ADB and ILO, 2015).

Figure 21: Cambodia's Labour Dispute Resolution Process

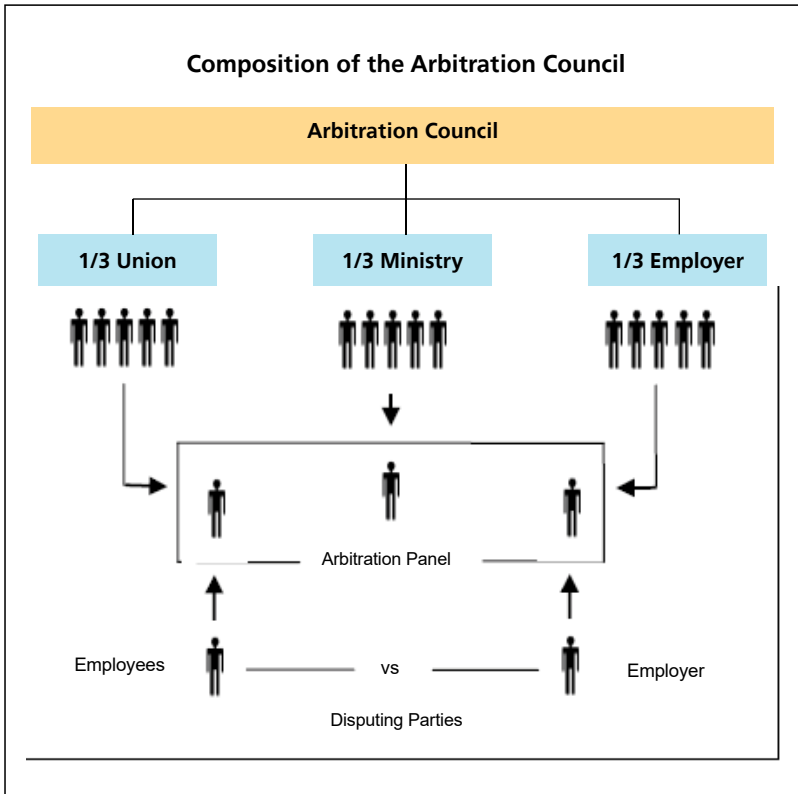


Source: Arbitration Council (2014) Annual Report 2013. Phnom Penh.  
Figure reproduced from ADB and ILO (2015: 76).

The tripartite Arbitration Council is made up of appointed arbitrators, and currently there are 30 of them. Trade unions, employer organizations and the MoLVT each nominate one-third of the arbitrators who are then formally appointed by the MoLVT as members of the Council. Figure 22 illustrates the composition of the Council.

Reeve and Hwang (2015: 12) describe the arbitration process: “At the commencement of the arbitration process, two arbitrators are selected by each of the parties from the respective lists of union- and employer-nominated arbitrators; and those two arbitrators in turn select the third arbitrator from the ministry list; these three arbitrators make up the arbitration panel which will hear the case.” Council arbitrators are employed on a case-by-case basis and generally have separate employment outside of the Arbitration Council (Adler and Hwang, 2012; Reeve and Hwang, 2015).

Figure 22: Composition of the Arbitration Council



Source: Adler and Hwang (2012: 8).

### 3.5.1 Volatility in industrial actions

The right to strike is recognized both in the Cambodian Constitution (Article 37) and the Labour Law (Articles 318-337). The latter, nonetheless, and recently the new Trade Union Law, provide limitations on the exercise of this right. The Labour Law provides a number of procedural requirements for calling a strike. Union members must approve the strike by secret ballot and the union must provide seven working days' notice of the strike to the employer and the MoLVT. For establishments providing essential services, 15 days' notice is required. As mentioned earlier, the Trade Union Law increased the required quorum for a union meeting where union members decide whether they will hold a strike.

Conciliation is conducted by the MoLVT and, if successful, results in binding agreements. For the period 2009-2013, of the 859 collective dispute cases received by MoLVT in Phnom Penh, 288 were successfully conciliated, equivalent to a 33.5-per-cent conciliation rate (ADB and ILO, 2015: 77). If conciliation is unsuccessful or leaves issues unresolved, the case is forwarded to the Arbitration Council. For disputes within the jurisdiction of the Arbitration Council, workers may not strike until arbitration is concluded. Strikes are therefore considered actions of 'last resort' after all amicable means of resolving a labour dispute (i.e. conciliation and arbitration) have been exhausted.

However, workers and trade unions are consistently ignoring these procedures in conducting strikes. For example, BFC reports that none of the 268 strikes that took place in 2012 and 2013 complied with the procedural requirements. In short, illegal strikes are a common occurrence in the garment sector in Cambodia. In recent years, construction workers, teachers, and miners have also joined strikes for higher minimum wages (ADB and ILO, 2015). The large-scale strikes that broke out in December 2013 and in January 2014, to raise the minimum wage in the garment sector, coalesced into strikes and demonstrations from other sectors, including civil servants and informal sector workers (*ibid.*)

### 3.5.2 The upsurge in strikes over time

There are a number of factors that influence the level of disputes and frequency of strikes in Cambodia. According to the ADB and ILO (2015: 76), these include the following: An under-resourced and inadequate labour administration system, especially in inspection and conciliation; the failure of state-sanctioned institutions (including the courts, but not including the Arbitration Council) to gain the public's trust; unfair labour practices, extortion and bribery; and distrust between employers and workers and between their organizations. In addition, strikes are also a result of employers' failure to respect workers' rights and improve the terms and conditions of their employment. Thus, workers resort to strikes as a way to effectively enforce compliance with legal standards. To the extent that collective bargaining

is limited to a few enterprises, arguably, the use of strikes in a way substitutes for the limitations of collective bargaining.

The ADB and ILO (2015) add that since the practice of industrial relations is relatively new in Cambodia, employers, employer organizations, workers, and trade unions, as well as the government, have a limited grasp of collective bargaining, open social dialogue, and tripartism. They nonetheless stress that the lack of experience in dispute prevention and resolution, and the limited capacity of both employers and workers to engage in dispute prevention and resolution, account for many of the labour disputes in Cambodia (*ibid*).

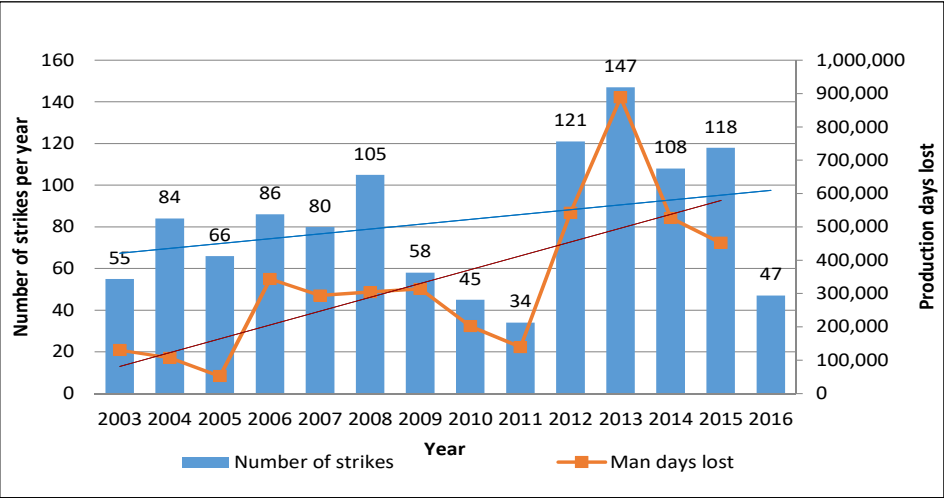
In recent years, the garment and footwear sector in Cambodia has witnessed volatility in the number of disputes and industrial actions. Data on strikes is limited. However, based on data collected by the GMAC (2016), the strike trend in the garment sector in Cambodia is quite erratic, marked by upswings and downswings: The number of strikes increased from 2003 to 2008, then decreased from 2009 to 2011; rose again between 2011 and 2013, then dropped in 2014 to 2016 when the number of strikes dramatically dropped to 47. Nonetheless, viewed over a longer period (between 2003 and 2016), there was a general upward trend in the number of strikes. On average, there were 82 strikes per year in the same period.

There was also a general uptrend in the number of production days lost due to strikes in the garment sector between 2003 and 2015 (Figure 23). Based on GMAC data, the highest number of production days lost was recorded in 2013 at 888,527 days. An average of 330,647 production days per year was lost due to strikes during the same period. Nonetheless, after the government crackdown on union leaders and activists in December 2013 and the subsequent restriction on public assembly and mobilization, including strike action, the number of strikes was lower between 2013 and 2016, as shown in Figure 23.

The number of strikes declined significantly in 2016 and, according to the MoLVT, it declined even further in 2017 (MoLVT, 2018). Nonetheless, the strike trend over time suggests that simply reducing the number of unions and constricting the legal avenues to express collective concerns may not be a sustainable pathway to more peaceful industrial relations. In fact, if all strikes across industries were considered, figures from the MoLVT indicated 220 strikes in 2016 and 97 strikes in 2017 (*ibid*). Union federations interviewed by the authors in 2018, on the other hand, claim that protests and strikes at factories have increased again in 2017. They find it increasingly difficult to operate in a more restrictive environment which has closed the possibility for legal strike activities. The numbers reported by the Ministry of Labour may therefore not tell the whole story. Although it is expected that the number of strikes would be reduced due to the new restrictions on trade union activities and workers' rights set out in the Trade Union Law, it is likely that, unless the conditions in workplaces

improve, Cambodia will experience a rise in wildcat strikes. Increases in benefits and wages can mitigate these concerns to some extent, but without the full exercise of freedom of association and collective bargaining rights, wildcat strikes are likely to be prevalent. As Anner (2015) points out, wildcat strikes are more common in more authoritarian industrial relations environment where other avenues for interest representation are cut off.

Figure 23: Number of strikes and production days lost, 2003-2016



Source: Graph constructed by the authors using data from GMAC (2016).

A key contributing factor to the high incidence of strikes in Cambodia is the continuing weak relationship between unions and their employers (Reeve and Hwang, 2015). This relationship has not improved significantly since the introduction of the Trade Union Law, but rather simply reduced the space for unions to engage with their employers. In the past, strikes in Cambodia were also exacerbated due to workers’ limited knowledge of their rights and entitlements (CCHR, 2014), which arguably has been further impaired by the Trade Union Law. Confusion and uncertainty remains around the law, which means trade unions, and specifically factory-based unions, do not have the capacity to stay up to date with all that the law requires. This, in combination with continued high level of non-compliance with labour standards, is likely to result in a return to wildcat strikes.

It is interesting to note the two peaks in strike numbers in 2008 and 2013 (Figure 23) coincided with the national elections in the same years (Reeve and Hwang, 2015). As discussed in the next chapter, a majority of unions in Cambodia have a political affiliation with or provide support to either the ruling party or the opposition party. This indicates the political dimension of strikes in the country; “unions appear to be using their collective strength to support broader political outcomes at these times” (ibid: 25).

The union campaigns to raise the level of the minimum wage may also explain the increase in strikes in the garment sector in 2006 and 2008. In 2010 and 2013/14, strikes involving thousands of workers across a range of industries took place in pursuit of increases in the minimum wage.

Meanwhile, the decline in the number of strikes in some years may be linked to certain economic phenomena. As shown in Figure 23, strikes fell from 84 in 2004 to 66 in 2005, a decrease of 21 per cent. This has been linked to the scheduled end of both the Multi-Fibre Arrangement and the US-Cambodia Bilateral Textile Trade Agreement (Reeve and Hwang, 2015). Concerns about a reduction in exports, mass layoffs, and an economic downturn may explain in part the decrease in the incidence of strikes. Likewise, the sharp decrease in strike numbers, from 105 in 2008 to 58 in 2009 (a 45 per cent decrease), and a further decrease in 2010 to 45 strikes can be linked to the global economic crisis (*ibid*). Concerns about lower market demand and job security may have contributed to the decline in the number of strikes in those years.

The relevant findings of our 2016 survey likewise point to the propensity of strikes in Cambodia. On average, about two strikes have occurred in the establishments we surveyed since the local unions were organized in these establishments. The 70 local unions surveyed have been operating in the establishments for six years on average. The unionists also said that their most recent strike lasted for 10 days on average.

The local union respondents likewise identified the main reasons or causes of strikes in the last five to six years. These include: The refusal of employers to increase the minimum wage; poor working conditions; solidarity strike/industry strike for a minimum wage increase; and bargaining deadlock. Our federation respondents mentioned other reasons, including the refusal of management to grant benefits to workers and the dismissal of union officers.

Meanwhile, the decline in the number of dispute cases in the garment sector is likely not due to a rapid improvement in working conditions. Although the increases in the minimum wage may have had an effect on workers' living standards, the traditional areas of workplace disputes have seen little improvements. In fact, data indicates a slight increase in non-compliance in some cases. Although the overall cases dropped significantly, the type of cases submitted to the MoLVT and AC have stayed the same. The most common basis for disputes are unfair dismissal, often freedom of association cases, and wages. Although the wage component is not related to the payment of the minimum wage, which has very high compliance (BFC, 2017), the concern is rather on the payment of wage-related bonuses and holiday pay (ACF, 2018). The BFC, in its 2017 report, shows that compliance with these standards and benefits has deteriorated (BFC, 2017). Although the trend in non-compliance may be due to a change in monitoring criteria, the fact that these



areas remain a compliance issue is a cause for concern. The BFC reports that significant improvements have been made in compliance with regulations on child labour and forced labour since public reporting began. However, non-compliance remains high regarding freedom of association, overtime, and occupational safety and health (BFC, 2017). The rising levels of non-compliance in the garment sector, in areas that are often at the core of collective disputes, suggest that the decline in collective cases at the AC does not mean that workers are experiencing less grievances at the workplace.

### 3.5.3 The legal 'activism' of the Arbitration Council

In the years since its establishment, the Arbitration Council has become an important institution in dispute resolution. While the council's mandate extends to all sectors covered by the Labour Law, about 90 per cent of all the cases the council has received to date arise from the garment and footwear sector (ADB and ILO, 2015).

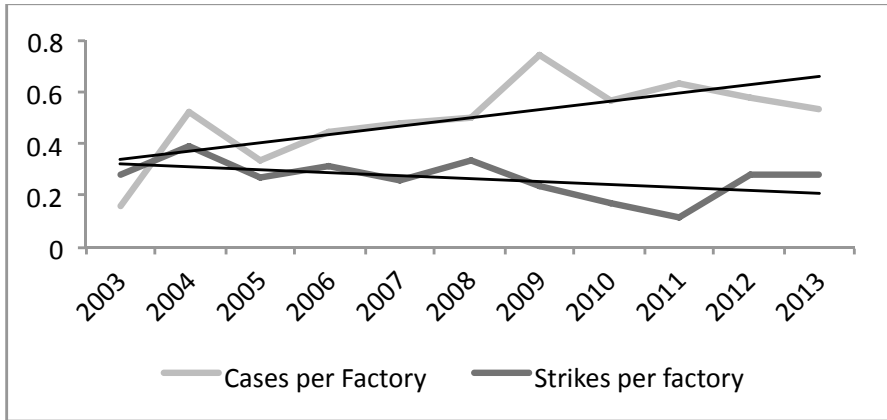
The council is mandated to resolve collective disputes through mediated agreements or, failing that, formal arbitration and the issuance of decisions in the form of written and reasoned arbitral awards (ADB and ILO, 2015). However, the Arbitration Council's awards are generally non-binding; parties have the right to file an objection to an award. The council's decisions and awards contribute to the development of industrial relations and legal jurisprudence. In fact, the council is one of the few governance institutions in Cambodia that is accepted by both employers and workers (Adler and Hwang, 2012).

Reeve and Hwang (2015) observe a downward trend in the number of strikes as a proportion of employee numbers in the period 2003 and 2013 as the arbitration cases per factory are trending upward (Figures 24 and 25). The authors suggest that employers and workers are increasingly taking their disputes to the Arbitration Council instead of resorting to industrial actions.

The data in Figure 25, together with the Arbitration Council's rate of issuance of binding awards (42 per cent overall) and its high success rate in resolving cases (75 per cent overall), demonstrate the council's important role in reducing the escalation of disputes into strikes (Reeve and Hwang, 2015: 22).

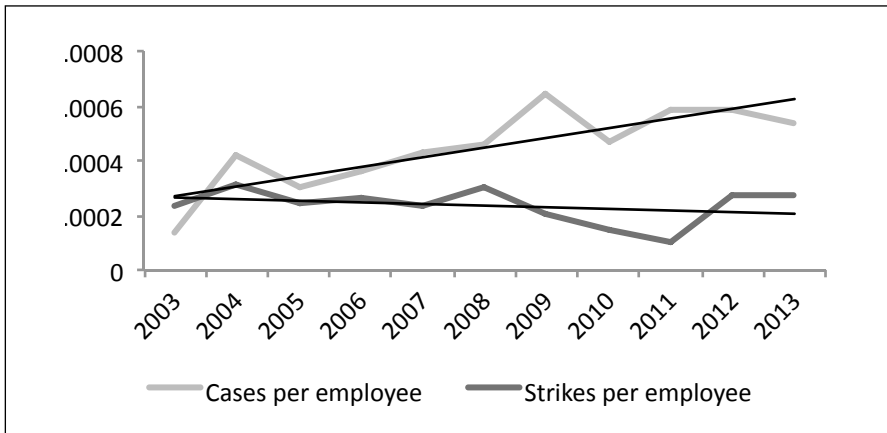
Reeve and Hwang (2015) provide in Figure 26 the subject matter of disputes involving strikes that were registered with the Arbitration Council between April 2014 and April 2015. Clearly, claims relating to remuneration were most common. In particular, claims for the provision of, or an increase in, meal allowances were the subject of dispute in 76 per cent of the 85 cases (*ibid*). Nearly half of the cases involved demands for the disciplining or dismissal of employees and strike payment. About one-third of the disputes involved

Figure 24: Arbitration Council cases and strikes as a proportion of enterprises, 2003-2013



Source: Figure reproduced from Reeve and Hwang (2015: 22).

Figure 25: Arbitration cases and strikes as a proportion of employees

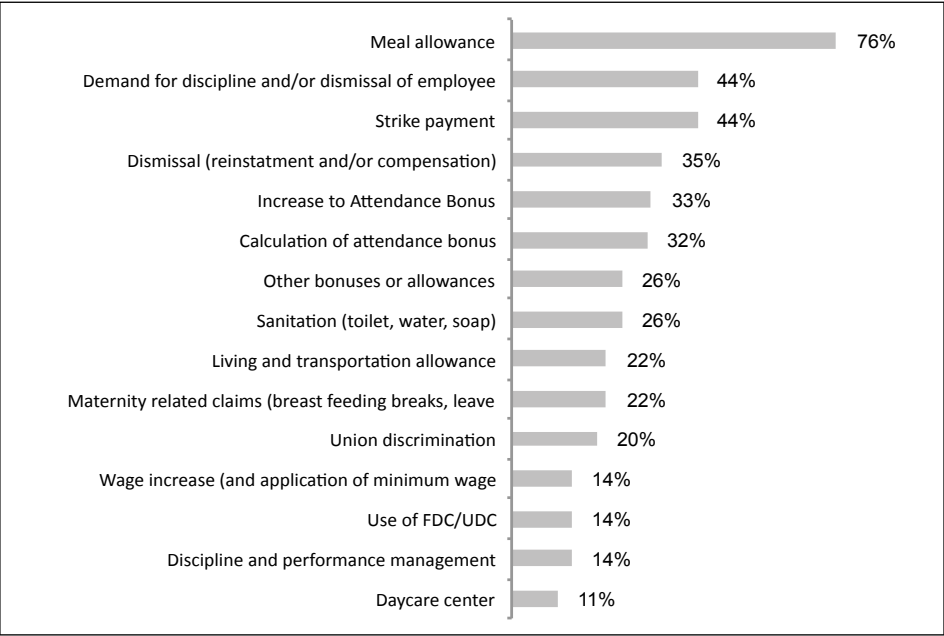


Source: Figure reproduced from Reeve and Hwang (2015: 22).

reinstatement and/or compensation for (illegal) dismissal, increase in attendance bonus, and calculation of attendance bonus.

While the Arbitration Council plays an important role in stabilizing industrial relations, it has not yet been allotted a budget from the government. At the time of writing, the Council continues to rely primarily on external international donor funds for operational support, as it has since its establishment in 2003 (ADB and ILO, 2015: 77). This puts the Council's financial sustainability in question and consequently puts at risk the provision of labour arbitration services in Cambodia (ibid).

Figure 26: Subject matter of disputes involving strikes registered with the Arbitration Council (April 2014 - April 2015)



Source: Reeve and Hwang (2015: 23).

3.6 Social dialogue

Social dialogue remains stunted in Cambodian industrial relations. As noted, collective bargaining is seldom practised outside the garment and footwear sector. In addition, there are few formal bipartite and tripartite institutions and processes, and most of the trade union representatives in these institutions are labelled government-supportive unions. In the World Economic Forum annual survey of cooperation in labour-employer relations,<sup>37</sup> Cambodia's overall score and ranking among 144 countries remained unchanged in the last seven years (Table 11) suggesting the persistence of weak cooperation between the social partners.

Nonetheless, in recent years, there has been a significant development in the promotion of social dialogue at the national level. In September 2010, the GMAC and six of the largest garment sector union confederations and federations<sup>38</sup> (representing approximately 80 to 85 per cent of all unions in the sector) signed the Memorandum of Understanding on Promoting Industrial Relations in the Garment Industry effective from January 2011 (Reeve and Hwang, 2015). The MoU aimed to promote collective bargaining and committed the parties to a more peaceful and productive industrial relations environment, including agreeing to respect the role of MRS unions in bargaining. Parties that signed the MoU were prohibited

from making extra claims and/or conducting strikes during the duration of an applicable CBA, and were instead obliged to submit their disputes to binding arbitration by the Arbitration Council (ibid).

Table 11: Cambodia's ranking and score in the WEF survey on cooperation in labour-employer relations

Period	Score*	Rank**
2012-2013	4.2	75
2013-2014	4.2	74
2014-2015	4.2	74
2015-2016	4.5	76
2016-2017	4.4	70
2017-2018	4.4	67

\*Scoring values range from 1 generally confrontational to 7 generally cooperative.

\*\*Ranking among 144 countries, except for the following periods: 2015-2016 (140 countries); 2016-2017 (138 countries); and 2017-2018 (137 countries).

Source: various years of the World Economic Forum's *The Global Competitiveness Report*. (WEF, 2012; WEF, 2013; WEF, 2014; WEF, 2015; WEF, 2016; WEF, 2017).

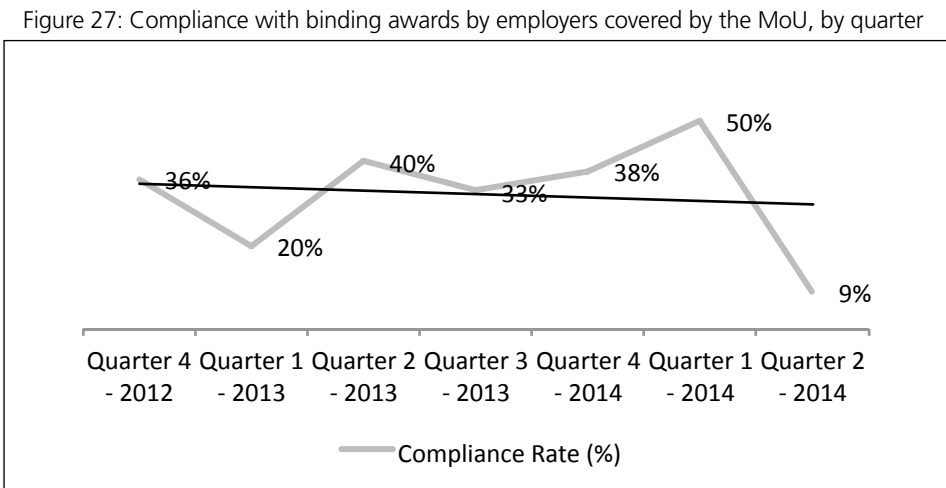
According to Reeve and Hwang (2015), in the immediate period after the MoU was concluded, there was a marked increase in the rate of binding arbitral awards issued by the Arbitration Council and a substantial decrease in the number of strikes in the garment sector. They explain: "Whereas 40 per cent of all awards issued by the Council from its establishment in May 2003 to the end of 2010 were binding, an increase to 66 per cent of the awards issued by the Council for 2011 were binding (25 per cent of binding awards issued relating to cases brought by parties to the MoU). In 2011, only 34 strikes occurred in the garment and footwear industry, the lowest figure ever recorded by GMAC" (ibid: 28).

The years that followed—2012 to 2013—saw the number of binding awards well above the pre-MoU average. However, the number of strikes continued to increase during those years to record levels. The increase in the incidence of strikes was partially attributed to industry-wide unrest related to the annual minimum wage fixing. Despite this, the MoU was renewed in October 2012 for another two years and with two additional trade union signatories (Reeve and Hwang, 2015).<sup>39</sup>

Between 2012 and 2014, the Arbitration Council registered 204 labour disputes involving parties to the MoU. This constituted 39 per cent of its total case load. Of these labour disputes, 26 per cent involved strikes (Reeve and Hwang, 2015).

Employers do not always comply with arbitral awards by the Arbitration Council. Reeve and Hwang (2015: 29) note that of the 92 arbitral awards issued by the Arbitration Council in

cases involving MoU parties, 62 arbitral awards (or 67 per cent) were complied with by the employer; with compliance rates taking a sharp downturn in the second quarter of 2014 (Figure 27).



Source: Graph reproduced from Reeve and Hwang (2015: 29).

The decline in the rate of compliance with arbitral awards by employers who are party to the MoU may have prompted one top union leader of a well-known independent federation to complain that the MoU with the GMAC is not working because employers lack commitment to implement the agreement.<sup>40</sup> He further laments the lack of mechanisms and resources to implement the provisions of the MoU.

At the time of writing, the MoU, which expired in 2014, is yet to be renewed. Although parties agreed in principle to extend the MoU, discussions to negotiate a renewal are still ongoing at the time of writing. The discussions primarily focus on ways compliance with the MoU could be improved and whether to include appropriate enforcement mechanisms in the agreement (Reeve and Hwang, 2015).

3.7 Industrial relations institutions as ‘transplants’

Cambodia’s industrial relations system is a paradox—it is highly conflict-ridden, yet it maintains a systematic workplace monitoring programme. It is predicated on a model of economic cooperation within a formal framework of tripartism, yet in practice processes of decision-making have been co-opted by the state and employers (Ward and Mouly, 2016), with the latter’s organization openly hostile to both the BFC programme and independent unions (Arnold, 2013).

Cambodia was a latecomer to the global garment trade, having emerged from the civil strife that lasted from the 1960s until the 1980s. As it stabilized in the 1990s, it sought to enter the global economy by transforming a few state-owned textile and apparel factories into an export industry (Polaski, 2006). Because Cambodia was not party to the prevailing system of quotas governing the global apparel trading system at that time (up until 2005), it was free to sell its garment products to the US and EU markets, although these were free to limit or cut off access at will in the absence of negotiated agreements (*ibid*). Despite this, investors from Taiwan, China, South Korea and other East Asian countries bought, leased, or built garment factories in Cambodia.

Polaski (2006) identifies converging issues leading to the US-Cambodia Textile Trade Agreement in 1999. Firstly, the nascent garment industry grew rapidly—from virtually no apparel exports in 1994 to almost half a billion dollars in export value in 1998. The share going to the US increased rapidly as well, so that in 1998 the domestic US textile and apparel industries called for import restraints. Secondly, due to increasing discontent among the burgeoning garment workforce with their working conditions in factories, strikes and demonstrations by workers became increasingly common. The workers sought the help of trade unions, many of which were affiliated to political parties. In June 1998, supportive labour groups in the US petitioned the US government to look into alleged abuses of workers' rights in Cambodia's garment factories. Lastly, the US government at that time was increasingly interested in linking trade privileges with improvement of labour rights.

The initial three years (1999-2001) of US-Cambodia trade agreement established quota limits on the 12 largest categories of garment exports. These quotas, however, could be increased yearly if the Cambodian government were able to ensure substantial compliance by garment factories with national labour laws and internationally agreed labour rights. The quota bonus was to be awarded to the country as a whole based on overall performance (Polaski, 2006). Both the US and the Cambodian governments sought the help of the ILO to undertake a monitoring programme—later on called BFC—to track factories' compliance. At the start of the monitoring programme, factories participated voluntarily, but this later on resulted in a 'free-rider' problem—factories that participated bore the burden of improvement while non-participating factories shared the increase bonus without the increased costs of better working conditions. Thus, the Cambodian government subsequently issued a regulation that limited the availability of the US export quota to factories participating in the BFC monitoring programme.

As discussed in Chapter 1, the US-Cambodia trade agreement and later the EU's EBA provided the impetus for the growth and expansion of Cambodia's export-oriented garment sector. The apparent success of the first three years of the US-Cambodia trade agreement and the ILO's monitoring role resulted in increases in US quotas: A 9-per-cent increase in 2000 and again in 2001 (Polaski, 2006: 4). The trade pact was extended for another three years,

from 2002 until 2004, and quota bonuses of 9 per cent, 12 per cent, and 18 per cent were awarded respectively for those years (ibid).

In anticipation of the US-Cambodia Bilateral Textile Trade Agreement, a new labour law, which was drafted with the assistance of the ILO, was promulgated in 1997, following pressure from the ILO and US trade unions seeking to embed freedom of association and collective bargaining in the regulatory framework (Ward and Mouly, 2016). Subsequent institutions (e.g. establishment of the Arbitration Council) were established by the Cambodian government to address institutional and procedural gaps in the labour law. In drafting regulations, the US and the ILO assisted the Cambodian government when invited to do so (Polaski, 2006). In this regard, "the labour consultations mandated by the textile agreement provided the impetus and contributed to the articulation of procedures and institutions that extended the rule of law and dispute settlement in Cambodia" (ibid: 11).

With the establishment of the ILO's BFC programme in 2001, 'reputation-conscious' international brands and buyers started to source the production of garments and footwear from supplier factories in Cambodia. The country's garment sector has been promoted as a 'showcase' for ethical production, so that 'reputation-conscious' buyers were even placing non-quota orders with compliant factories in Cambodia (Polaski, 2006). This shifted the composition of Cambodia's garment exports between 1999 and 2002; in 1999 only 19 per cent of exports were of non-quota items, but by 2002, 53 per cent of exports were not under quotas (ibid: 7). All this underscores that the welfare of workers in the garment sector has been critical to Cambodia's international 'legitimacy' (Ward and Mouly, 2016).

This shows that Cambodia's 'legitimacy' in the global garment markets was driven by external forces, which, to Ward and Mouly (2016: 261), "explains, in part, the tenuous commitment of the state to regulatory reform". Thus, institutions of industrial relations did not naturally take root; instead they were externally induced. Having emerged from civil strife in the 1970s and 1980s, and having experienced a violent authoritarian regime, industrial relations are yet to take root. Gradually, this is being done through the establishment of industrial relations institutions, starting with the Labour Law in 1997. Institutions, particularly those that are externally induced, take time to evolve to become durable. Cambodia's industrial relations system is no exception. Arguably, as Cambodia climbs the economic development ladder and becomes more integrated in an ethical global market, this may facilitate the development and embedding of better institutions of industrial relations.

# Chapter IV

## Trade unions in Cambodia: Persistent trends, new developments and continuing challenges







In our book *Trade Unions in Cambodia: History, Challenges, Strategies*, we discussed and analysed the key characteristics (and the factors influencing these characteristics) of Cambodian trade unions in contemporary times. From the time our book came out in 2010, there have been notable developments in the trade union movement in Cambodia. This chapter discusses these developments and identifies and analyses continuing patterns and changes that have taken place between 2010 and 2017.

In our discussion and analysis of patterns and changes in the trade union movement in Cambodia, we integrated the results of a survey and interviews with key informants that we conducted in 2016 to complement related studies. The survey covered two groups of respondents—leaders and members of local unions and leaders of union federations and confederations—in four sectors, namely, garment and footwear manufacturing, food and beverage manufacturing, hotels and restaurants, and construction. These are the fastest-growing sectors in Cambodia today.

Using two sets of questionnaires—one for local union officers and members and the other for officers of federations and confederations—our survey gathered data on the developments in the trade union movement in Cambodia as perceived and experienced by workers themselves. The Khmer version of the survey was fielded and administered by several enumerators from July to October 2016. The survey covered a total of 226 respondents, of which 210 were officers and rank-and-file members of local unions and 16 were officers of union federations and confederations. Our survey covered 70 local unions in the following sectors: Garments and footwear (40 unions); food and beverage manufacturing (10 unions); hotels, casinos and restaurants (10 unions); and construction (10 unions).

#### **4.1 Increasing number of trade unions and union density**

In Cambodia, trade unions are organized at the enterprise level (i.e. the local union), federation level, and confederation level. A local or enterprise union can be set up with at least 10 worker members in an enterprise. Setting up a federation requires at least seven registered local unions. A confederation, meanwhile, requires a membership of five registered federations. These number thresholds in establishing unions at the various levels are spelled out in the new Trade Union Law.

Trade unions continue to grow in number in Cambodia. From the time the Labour Law was adopted in 1997 until 2009, more than 1,687 enterprise unions registered with the MoLVT

(NIS, 2010). These unions were organized under 42 federations, five confederations, and several independent or non-affiliated groupings (*ibid*). According to the MoLVT, there were about 610 enterprise-level unions that were active in 2009.<sup>41</sup> In the same year, there were 39 union federations and seven union confederations. Twenty-eight federations represented workers in the garment sector. Overall, the union density rate in Cambodia was estimated at 5 per cent of the total workforce in 2009. In the garment sector, it was estimated that as many as 60 per cent of all garment workers were members of trade unions. It should be noted that before 2012, Cambodia did not have a systematic and updated labour force database system.

In 2012, Cambodia issued its first Labour Force Report, which contained the findings of its first-ever Labour Force and Child Labour Survey with technical assistance from the ILO. The findings from this survey indicated an overall union density of 9.6 per cent in 2012. An estimated 319,042 employees were members of a trade union, of which a majority (68 per cent) were female workers and 32 per cent were male workers (NIS and ILO, 2013: 88). In fact, about 16 per cent of all female workers were members of a union, while the proportion was 5.2 per cent among male workers. This indicates that the unionization rate of females is higher than that of males.

In 2012, the difference in union density in urban areas (at 10.5 per cent) and in rural areas (9.3 per cent) was small at 1.2 percentage points (NIS and ILO, 2013: 88).

In terms of sectoral grouping, industry had the highest union density rate in 2012 at 18.8 per cent. The services sector followed at 5.1 per cent. Agriculture had the lowest union density rate at 0.2 per cent. Within the industry grouping, the garment sector had the highest union density at 37.5 per cent, followed by transport at 3.1 per cent. The union density in the construction sector was 0.9 per cent. Previous studies estimated a higher union density rate—as high as 60 per cent—in the garment sector.

Table 12 charts the growth in the number of trade unions and union density in various years where data are available.

The results of our own survey in 2016 provide evidence of the general uptrend in union membership. The membership of a majority (69 per cent) of the local unions we surveyed has been growing since the unions were established. On average, about 3 in 5 (60 per cent) permanent rank-and-file workers of the unionized factories and companies surveyed are union members. Women union members outnumber men union members: On average, the former account for about 61 per cent of all union members in an enterprise, while the latter account for 39 per cent. Workers aged 15 to 30 years old comprise about 61 per cent of all union members in an enterprise. The average age of our surveyed local union respondents is 34 years old. These findings suggest that a typical Cambodian union member

is more likely a relatively young female, the same finding we had in our 2010 survey<sup>42</sup> (Nuon and Serrano, 2010: 85).

Table 12: Number of trade unions and union density

Indicators	As of 2009/2010	As of 2012	As of 2016	Growth (%) 2009/2010 & 2016
Number of enterprise/ local unions	1,687	No data available	3,497	107.3
Number of union members	No data available	319,042	No data available	
Number of federations	42	No data available	103	145.2
Number of confederations	5	No data available	18	260.0
Number of union chambers and council	1	2	2	100.0
Overall union density (%)	1.0 (Almazan, 2008)	9.6	No data available	
Union density in industry (%)	13 (Almazan, 2008)	18.8	No data available	
Union density in services (%)	No data available	5.1	No data available	
Union density in the garment sector (%)	60 (ILO-BFC, 2010)	No data available	60 to 70	As much as 10 percentage points
Union density in transport (%)	No data available	3.1	No data available	
Union density in construction (%)	5.8 (2011)*	0.9	3.1*	

\*Authors' own calculation based on data from Ministry of Urban Planning and BWTUC.

Source: Except otherwise indicated, 2009 data are from NIS (2010); 2012 data from NIS & ILO (2013); and 2016 data from MoLVT website.

Our survey also revealed that the respondents' local unions have been operating in the companies and factories for about six years on average. This suggests that most of the local unions may have been organized around 2010 and 2011, and thus are still in the early stages of their development and operation.

The dramatic rise in the number of local trade unions, national federations and confederations has been likewise observed by several of our main informants who were key officers of an independent federation, a TUSO, and an international NGO.<sup>43</sup> They stressed that since 2010, union density and union membership have been on the rise, though moderately. However, they also observe that the government-supportive unions have more members than the independent and opposition party-supportive unions.

Nonetheless, independent and opposition party-supportive unions continue to actively organize not only in the garment sector but also in the construction and the informal sectors. Their success in their campaigns to increase the minimum wage explains in part the rapid increase in the number of independent unions. However, independent and opposition party-supportive unions lament that the government has made union registration more difficult. Firstly, a new informal rule on union registration was introduced in 2014 which required union leaders to prove that they did not have any criminal convictions by showing a certificate from the Ministry of Justice. This rule was removed by the Trade Union Law, which, after much pressure from local and international organizations, reduced this requirement to just a self-declaration by union leaders that they do not have any criminal convictions. Secondly, the Ministry of Labour also suspended union registration in 2015, saying it was a temporary measure pending the promulgation of the new Trade Union Law. Lastly, more documentary and other requirements under the new Trade Union Law also make union registration harder. As discussed in the previous chapter, many leaders of independent unions, as well leaders of unions identified with the opposition party CNRP, continue to face criminal charges and actions for civil wrongs (e.g. destroying private property, inciting workers to go on an illegal strike) filed by either the government or employers, or are placed under judicial supervision.

#### 4.2 Deepening union multiplicity

Union multiplicity—the proliferation or overcrowding of mostly competing trade unions at various levels—has been identified as one of the key characteristics of the Cambodian trade union movement. Union multiplicity tends to typify decentralized (i.e. enterprise-based) systems of union representation and collective bargaining. This phenomenon arises as well in other countries in ASEAN, such as Indonesia, the Philippines, and Thailand. However, among the CLMV (Cambodia, Laos, Myanmar, and Vietnam) countries in ASEAN, it is only in Cambodia where union multiplicity is present.

In Cambodia, the number of enterprise unions, federations and confederations has been increasing over the years. Between 2009 and 2016, the number of enterprise or local trade unions grew by an astounding 107 per cent from 1,687 to 3,497 (Table 12). The number of federations more than doubled, from 42 in 2009 to 103 by December 2016, a staggering increase of about 145 per cent. Similarly, the number of confederations increased 260 per cent, from five in 2009 to 18 by December 2016. To the extent that the growth in the number of national-level federations and confederations is higher than the growth in the number of enterprise-level unions, union multiplicity tends to be more intensified among the higher-level union organizations.

At the enterprise level, union multiplicity is deepening as well. In our 2010 survey, although a big majority (76.5 per cent) of the local union respondents indicated the presence of a

single union in their workplace, nearly one in five respondents said there were two or more (Nuon and Serrano, 2010: 68). Six years later, this trend was reversed based on the findings of our 2016 survey. This time a little over half (50.5 per cent) of the local union respondents said there were two or more unions in their workplace. Among the respondents who said there were two or more unions in their enterprise, 49 per cent said there were two unions in their workplace while a bigger share (51 per cent) put the number at three or more unions.

Union multiplicity has been regarded as more problematic than advantageous for workers. As Nuon and Serrano (2010: 69) explain:

...multiplicity is an indication of the internal competition of the workers or a state of unstable cooperation among workers or unions in the same sector. Internal competition among workers is an opportunity for both the government and the employers to take advantage of workers. Divided workers as indicated by the existence of a multiplicity of unions weaken the voice of the workers during the negotiation for different purposes. Employers and government may take the existence of multiplicity as a pretext to avoid solving problems of workers who are not supportive of their policies and programmes. While multiplicity can be more practical in representing workers on a smaller scale, it also presents the challenge for workers as they have to find out in more detail which union to join to best serve their interest. Making such a choice between unions puts pressure on workers especially those who have limited knowledge.

Moreover, union multiplicity has been associated with low compliance with minimum standards relating to employment contracts. Oka (2015) points out that as the number of unions operating in an enterprise increases, so too does the probability of management using FDCs or extending an FDC beyond the two-year limit. Also, FDCs have been used to limit a union's influence in the enterprise. Oka explains that competition between unions at the enterprise level provides opportunities for employers to play off one union against another in negotiations, resulting in the weakening of workers' representation in the enterprise. Similarly, Human Rights Watch (2015) reports that local union leaders and activists who are on FDCs are particularly vulnerable to non-renewal of their contract.

One finding of our 2016 survey indicates that, among the four sectors (i.e. garments and footwear, food and beverage manufacturing, construction, and hotels and restaurants) where the enterprises of our local union respondents belong, union multiplicity turns out to be largely prevalent in the garments and footwear sector and to a lesser extent in food and beverage manufacturing. Among the local union respondents employed in garment and footwear factories, the biggest proportion (41.7 per cent) said there were three or more unions in their enterprise, while about 28 per cent said that there were two unions. Only 30 per cent of this sector's respondents have a single union in their enterprise. Meanwhile,

among the respondents engaged in food and beverage manufacturing, while a majority (57 per cent) declare having a single union in their enterprise, a significant 43 per cent of the respondents said there are two or more unions.

In 2010, we listed 37 union federations in the garment and footwear sector and two federations in the food and beverage sector (Nuon and Serrano, 2010: 76-80). In 2016, there were 88 garment and footwear federations and four food and beverage federations. As in previous years, most of the federations represent workers in the garment and footwear sector.

Another notable finding from our 2016 survey is the near absence of union multiplicity at the enterprise level in two sectors—hotels and restaurants, and construction. About 90 per cent and 80 per cent respectively of the local union respondents employed in the two sectors declare the existence of a single union in their enterprise. In 2010, we identified three federations that had local unions organized in restaurants, and only one federation with local unions in hotels and restaurants (Nuon and Serrano, 2010: 82-83). In the same year, there were three federations in the construction and wood sector.

Arguably, union multiplicity at the enterprise level is largely the result of union multiplicity at the national level. This is because national federations initiate the organization of trade unions at the enterprise level. As the number of federations increases each year, competition in organizing local unions in the same enterprise intensifies, resulting in two or more competing unions in a single enterprise. Nuon and Serrano (2010) explain that while many of the union federations started in the garment sector, they later branched out into other sectors so that today few locate their members solely in the garment sector.

### **4.3 Continuity of the political divide and union fragmentation**

Union multiplicity at the national level is a reflection of the strong influence of political parties in the labour movement and the resulting fragmentation of trade unions in Cambodia. Today, there is a clear division between federations and confederations affiliated with or supportive of the current government of the ruling party CPP<sup>44</sup>, and the recently dissolved opposition party CNRP. A third grouping of federations and confederations identify themselves as independent or non-affiliated with any of the political parties. Nonetheless, it is important to note that such political division is not translated down to the grassroots of union membership. In fact, many members of enterprise unions supposedly affiliated with federations supporting the government participated in mass strikes in the past, the most recent of which were the large-scale strikes that broke out in December 2013 and January 2014. Moreover, many union members do not even know whether their union is government-supportive, opposition party-supportive, or independent.

The re-emergence of 'new' trade unions several years after the promulgation of Cambodia's 1993 Constitution in fact began with the establishment in 1996 of the first trade union federation in Cambodia—the FTUWKC. The FTUWKC was the first union federation to be established after the regime change (Nuon and Serrano, 2010). The establishment of FTUWKC was led by Sam Rainsy, the leader of the opposition party KNP,<sup>45</sup> which was established in 1995. The KNP later became the Sam Rainsy Party (SRP).<sup>46</sup> In 2012, the SRP merged with another opposition party, the HRP, to form the CNRP in time for the 2013 general elections. The FTUWKC was thus originally a direct affiliate of the SRP/CNRP.

Chea Vichea became the first president of FTUWKC. Many workers joined FTUWKC during Chea Vichea's union leadership up to his assassination in 2004.

Meanwhile, beginning in the 1990s, with Cambodia's shift from a centrally-planned economy to a free market economy<sup>47</sup>, the once state-controlled unions during the Khmer Rouge regime (1975-1979) were broken up. The UFK, the sole union during the Khmer Rouge regime, was transformed into a mass organization. According to Nuon and Serrano (2010: 24), most leaders in the UFK were given important positions in state institutions. Between 1993 and 1994, Ros Sok, a former UFK leader, together with other former UFK unionists, started organizing workers in the private sector. By 1999, he and his colleagues had organised over 30 local unions representing workers in garment factories, footwear factories, rubber plantations, and ports. In July 1999, with over 30 local unions, he and his colleagues established a new union federation called the Cambodia Federation of Independent Trade Unions (CFITU), of which he was elected president. The CFITU is thus a direct descendant of the UFK. CFITU declares itself to be supportive of the CPP-led government. Earlier, the Cambodian Union Federation (CUF) was established in 1996. From the beginning, the CUF identified itself as supportive of the CPP.

The Cambodian Confederation of Trade Unions (CCTU) was formed in 2004 to combine all federations supportive of the government into one group. In 2007, there was a split in the CCTU, resulting in the establishment of another government-supportive labour group, the National Union Alliance Chamber of Cambodia, which consisted of three confederations (Confederation of Cambodia Price Worker or CCPW, Cambodian Confederation for Worker Rights or CCWR, and Confederation of Union National Independence Cambodia or CUNIC). In an attempt to consolidate government-supportive union groups at the national level, the Cambodian Council of National Unions (CCNU) was established in 2012, with the support of the government. The CCNU is an alliance of union confederations aligned with the current ruling party, the CPP. Under this umbrella organization, there are 10 confederations, comprising the CCTU, the CCWR, the CUNIC, the CCPW, the Cambodian Confederation of Trade Union Heritage, the Independent Confederation of Worker Protection, the Cambodian National Confederation for Labourer Protection, the National Labour Confederation of Cambodia (NLC), the Cambodian National Confederation (CNC), and the



Youth Spirit Confederation for Cambodia Labour. In 2017, four more confederations were established, and are more likely to affiliate with CCNU. These confederations have shown their support for the CPP and its youth wing, the Union of Youth Federations of Cambodia (UYFC). These confederations (along with their affiliated federations), which comprise the 'first current' of union grouping in Cambodia, have been active in supporting the ruling party by running political campaigns, supporting the government's labour and political positions, etc. Many of the senior union leaders of these federations and confederations are appointed advisors to the MoLVT and a few to the Ministry of Interior. It is clear that the new unions established at the three levels are mostly in this group.

The second union grouping—the 'second current'—is represented by the national confederation, the Cambodia Confederation of Unions (CCU), which was established in 2006. This confederation, together with six national federations and associations affiliated with it, was linked with or supportive of the dissolved opposition party CNRP. It should be noted that there was also one significant split in the CCU in 2014 when their old and well-known garment and main union affiliate FTUWKC left the confederation. The Cambodian Alliance of Trade Unions (CATU) was set up to take the place of FTUWKC in CCU. The CCU and the FTUWKC often take a stance against the government and is critical and vocal on a plethora of issues ranging from workers' rights to the broader issues of corruption and national territory (Nuon and Serrano, 2010). The CCU and its federations belong to the so-called 'second current' as their (previous) leaders were linked to or supportive of the opposition party (*ibid*). This group of unions does not cooperate with unions who have ties with the ruling party. As a consequence, the CCU and its federations have been placed outside any tripartite or bipartite structures and meetings. Nonetheless, these unions engage and work with independent unions, such as the Cambodian Labour Confederation (CLC) or other independent unions, on several issues. It should be noted that similar to the 'first current' union group, the opposition party-supportive unions (or unions linked with the opposition party CNRP) also had the same relationship with and provided similar services to those that the government-supportive unions provide to the ruling party, by supporting the party's (CNRP) political and labour stance, carrying out political campaigns, and getting key leadership positions in the opposition party organization. Prior to the dissolution of the CNRP, the former CCU president Rong Chhun used to be among the nine members of the National Election Committee as a representative of the opposition party.

The third union grouping—the 'third current'—is comprised of two subgroups of independent federations. One subgroup includes federations under the umbrella of the CLC and the federations comprising Solidarity House (SH), many of which split from the CLC. The other subgroup consists of one confederation and several other individual non-affiliated federations. These two subgroups of unions consider themselves to be 'politically independent' or non-party affiliated. Although the leaders of the CLC share similar views and positions with the opposition party-supportive trade unions, they are more pragmatic

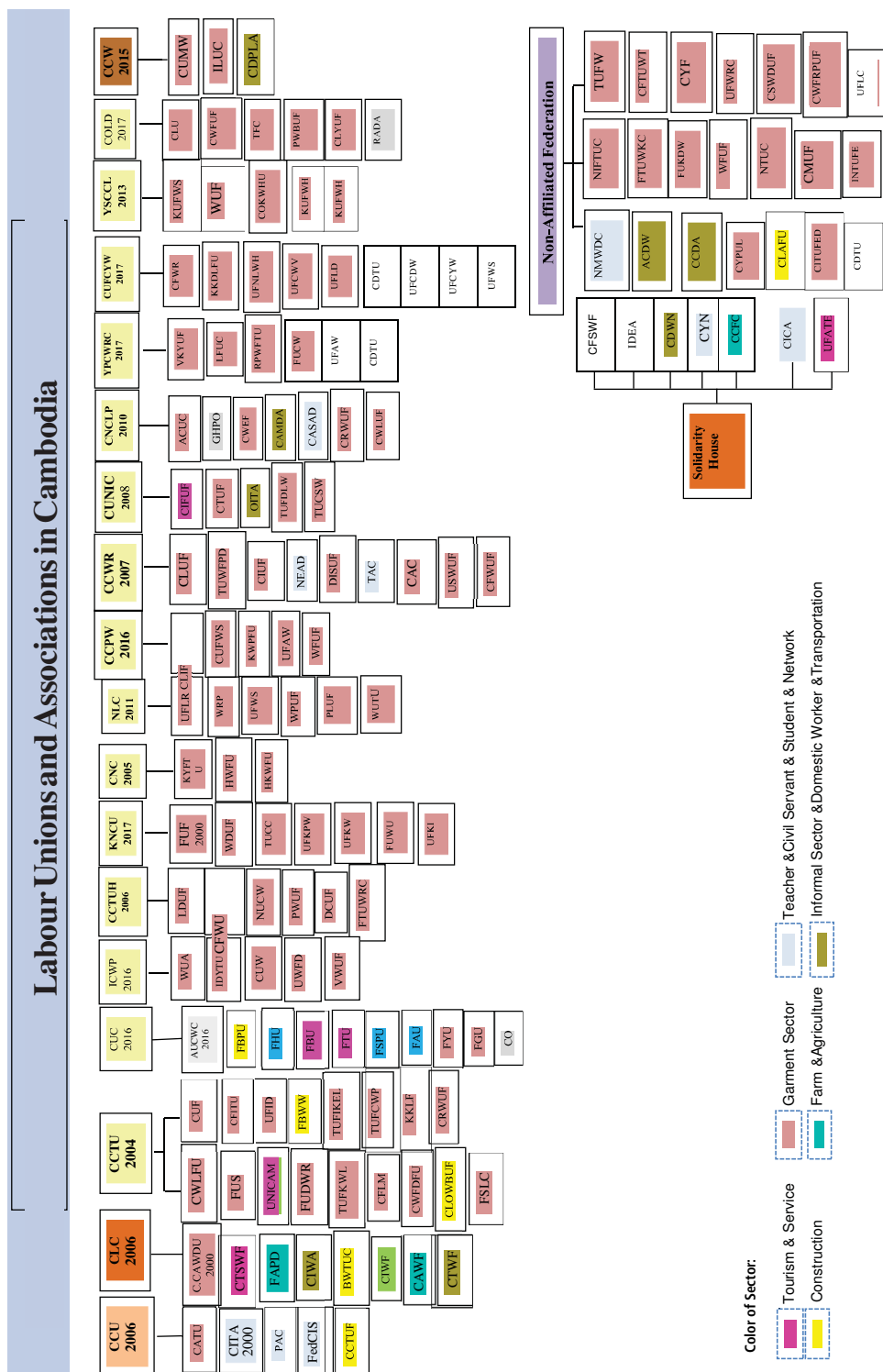
and flexible in working with other unions and they take part in tripartite and bipartite structures and processes. At the time of writing, the CLC has seven federations, including the C.CAWDU, the most prominent independent federation in Cambodia. Noticeably, the CLC has tried to establish sector union federations under it to replace the ones that broke away. The CLC has also started establishing its branches and organizing workers in several other main towns and cities across the country.

After 2010, there has been a growing number of 'non-affiliated' federations which are not (officially) affiliated with any confederation or have split from existing confederations. FTUWKC, which used to be part of the opposition-linked CCU, is among the federations in this group. Meanwhile, several of the 'non-affiliated' independent federations came together to form an informal coalition called Solidarity House in 2012. As of June 2016, Solidarity House is comprised of eight federations, three of which, namely the Cambodia Food and Service Workers Federation (CFSWF), the Cambodian Independent Civil Servant Association (CICA), and the Independent and Democratic Informal Economy Association (IDEA), were former affiliates of the CLC. They officially split from the CLC in 2014. In addition, another Solidarity House member federation, the Union Federation of ASEAN Tourism Employees (UFATE) is a breakaway from the Cambodian Tourism and Service Workers' Federation (CTSWF), an affiliate of the CLC. Most of Solidarity House's member federations organize informal economy workers (i.e. farmers, transport workers, petrol station workers, youths, beer promotion girls, tuk-tuk drivers, food service workers, domestic workers). It should be noted that Solidarity House was formed after a number of federations split from the CLC. Nonetheless, Solidarity House continues to periodically work with the CLC on an ad hoc basis, often dealing with national union demands on the Trade Union Law and wage campaigns.

Solidarity House is, however, not a confederation, at least at the time of writing. In fact, it is not yet registered as an organization and it has no official structure. Nonetheless, Solidarity House has a council that is comprised of two representatives from each of its member organizations that meets every month to discuss programmes and strategies.<sup>48</sup> According to an officer of Solidarity House, the grouping has no intention to set up a national centre. Instead, it focuses its efforts on building and strengthening sectoral and local unions.<sup>49</sup> At the time of writing, there were talks of a possible merger between Solidarity House and the CCU. Their respective garment federations, the Union Coalition of Labor (UCL) and the CATU, already merged in late 2016. This merger between Solidarity House and the CCU was proposed by Rong Chhun, the former CCU president. The discussion on the completion of the merger is slow and still under way.

In 2015, another confederation, the Confederation of Cambodian Worker Movement (CCW) was also established. It is comprised of four federations. This confederation shares many of

Figure 28: Trade union federations and confederations in Cambodia



Source: PREPARED AND UPDATED BY SOLIDARITY CENTER (ACILS), 19 JULY 2017.

the positions of the independent current, although it is too early to establish clearly its actual position.

Figure 28 illustrates the various confederations and their respective federation affiliates that make up the three currents of unionism in Cambodia today.

#### 4.3.1 The relationship between trade unions and political parties

How are trade unions connected to political parties? From our interviews with a union officer of a local union affiliate of CATU, a federation that was associated with the dissolved opposition party CNRP, and an officer of the confederation CCU, which was also closely associated with the CNRP, we found that the unions' link to the political party was characterized more by support and collaboration than by formal affiliation. According to the local union officer we interviewed, their national federation CATU had a friendly relationship with and supported the CNRP, but clarified that CATU was never a member of the political party. The union's support for the party was, however, confined to joining the latter's campaigns on labour issues only (e.g. minimum wage increase). He and his local unions supported the CNRP because they view the party's policies and their parliamentarians as being beneficial and helpful to their union. He explained that the CNRP had a clear policy on and actively campaigned for the increase of wages and improvement of conditions for workers. He enumerated some advantages his union got from supporting the CNRP:

We do like the support they [CNRP] have provided to us. CNRP's leadership come to us to learn about our problems, find out about our programmes, and give us encouragement and spiritual support in our campaigns. They involve themselves too in our campaigns. Because they wield political power, they provide strong and effective pressure to the government, employers and buyers regarding our demands. They raise our problems to the national and international levels. Some of their demands in turn add to our strength and fights. Other political parties never cared or listened to us. Some are even against us or discriminate us.

He clarified nonetheless that, although some of his union's campaigns and the CNRP's campaigns may be similar (e.g. 2013-2014 minimum wage campaign, campaign against exploitative practices of employers), the CNRP's other political agenda items did not find their way into the union activities.

The relationship between the confederation CCU and the CNRP was informal as well. Although some previous leaders of the CCU supported on an individual basis the CNRP's agenda, the CCU as an organization is neither a formal affiliate nor a member of the CNRP, according to the CCU officer we interviewed. The former president of CCU, Rong Chhun, who resigned from the CCU and who served as the representative of the CNRP in the

National Election Committee, had a cooperative relationship with high-ranking officials of the CNRP when he was in the leadership of the CCU and the Cambodian Independent Teachers Association (CITA). During that time, CNRP officials had irregular meetings with Rong Chhun to discuss the integration of the trade union agenda into the party's political agenda to raise wages and provide social protection for teachers and civil servants.

The CCU officer clarified, nonetheless, that there were a few local union leaders and activists that were activists of the CNRP. This suggests that membership of the party was an individual undertaking.

In fact, the CCU's internal statute clearly states that any CCU member or officer who holds any leadership position in a political party will be dismissed from the organization.

The CCU supported the CNRP's political agenda insofar as it served the interests of workers. The CCU officer stressed that this is what any other union in the world would do. He further explained that when Rong Chhun was in the leadership of the CCU, the CNRP used to include his union's agenda in the party's political agenda and used to issue statements that supported the union's campaigns (e.g. 2013 minimum wage campaign in the garment and footwear sector). However, the CCU officer made clear that the party's political agenda had not been part of the union's agenda. He stressed that the CCU has never issued any statement to support the CNRP.

Meanwhile, the relationship between government-supportive unions and the ruling party CPP is formal and direct. The leaders of these unions are members of the ruling party and are actually active and resolute in adopting the agenda of the ruling party and the government. Many of these union leaders hold positions in government and in the political party. They also dominate the tripartite industrial relations structures of the government (e.g. LAC). This suggests that these trade unions serve as political organizations of the party and the government.

The ruling party recognizes the importance of winning the support of youths and workers to maintain its legitimacy. And one way of doing this is to solicit the support of unions. It should be noted that about 65 per cent of Cambodia's population is under the age of 35; and it was the youth group that delivered the most number of votes to the CNRP in the 2013 national elections. It is therefore not surprising that the number of government-supportive unions is on the rise.

The ruling party's agenda is strongly embedded in the union agenda of government-supportive unions. However, the trade union agenda is not necessarily carried in the ruling party's agenda. This may suggest that trade unions have little influence in the political party. Nonetheless, these unions openly support the government and its pro-business positions

on labour issues. In fact, they publicly proclaim their strong support of the government and the ruling party in both formal and informal venues and channels. They support the ruling party's political campaigns and its position on wage increases and on labour law reforms (e.g. Trade Union Law). While government-supportive unions also go on strike in factories, they do not conduct or join strikes in public places like Freedom Park.

Clearly, the fragmentation in the labour movement in Cambodia is rooted in the divide in the political arena. The establishment of 'new' trade unions after the Khmer Rouge regime was largely instrumental in the contest for political power and influence. The political divide between CPP-supportive and CNRP-supportive federations and confederations became more visible in the past elections, including the disputed 2013 elections. An officer of an international union organization observed that the political affiliation of unions is becoming stronger over the years, even among the minority independent unions.<sup>50</sup> For example, the CCU under its former president Rong Chhun campaigned for the CNRP in previous national and commune elections. At one point, Solidarity House allied with opposition political groups. However, the dissolution of the CNRP in November 2017, the banning of its leaders from political activity for five years, the earlier arrest of CNRP leaders, and the arrest and judicial harassment of prominent leaders of independent unions and CNRP-supportive unions and labour activists, suppressed union action and mobilization aimed at supporting the opposition party and contesting the legitimacy of the elections held on 29 July 2018. Sam Rainsy and other leaders of the CNRP, who are exiled in France and the US, called for a boycott. However, as it turned out, the ruling CPP led by Prime Minister Hun Sen successfully won all the 125 seats up for grabs in the national elections.

#### 4.4 Union consolidation and union splits at the same time

As in the past, alignments, realignments and splits continue to take place in the Cambodian labour movement. It is a dizzying exercise to trace the alignments and realignments that took place after 2009. Nonetheless, there are key developments that are worth mentioning.

Firstly, between 2010 and 2016, there were 13 additional confederations set up, 10 of which were established between 2013 and 2016. Twelve of the 13 additional confederations are government-supportive unions. In addition, the CCNU was established in 2012 as the umbrella organization of 10 government-supportive confederations. The CNNU follows the government's position on labour issues, such as the minimum wage adjustment and the Trade Union Law. These trends suggest that the ruling party is consolidating and strengthening its hold on the trade union movement. As mentioned earlier, the government-supportive unions have the largest (or majority of) union membership, although data on this are lacking to date.

Secondly, while the FTUWKC left the opposition party-supportive CCU after 2010, the latter was able to increase its affiliates, from two in 2010 to six in 2016.

Thirdly, another independent confederation—the CCW—was established in 2015. In 2016, the CCW had four federations as affiliates.

Fourthly, the number of non-affiliated unions grew dramatically, from eight in 2010 to about 27 by the end of 2016. Many of these non-affiliated federations were splits from the CLC (e.g. the CFSWF, CICA, IDEA), from the CNC (e.g. the National Independent Federation Textile Union of Cambodia or NIFTUC), from the CCU (e.g. the FTUWKC), and from the CUNIC (e.g. the Worker Friendship Union Federation). There are also non-affiliated federations that were splits from older federations, such as the UFATE, a split from the CTSWF, and the UCL, a split from the C.CAWDU. It is also interesting to note that there are federations that cross from one political grouping to another. For example, the TGaFe was an affiliate of the government-supportive CNC. After 2010, it migrated to the opposition party-supportive CCU. Thus, splits and realignments are occurring at the same time within and among confederations and federations and across political groupings.

Finally, while in the past realignments and splits occurred both in the ranks of the CPP/ government- supportive and the opposition party-supportive federations and confederations, these developments have been more pronounced among independent national unions in recent years. The most notable is the split that occurred in the CLC as mentioned earlier. Three federations—the CFSWF, CICA, and IDEA—left the CLC in 2014 over issues relating to transparency, representation structure, participation in political activities, union strategies, internal democracy, and funding allocation among affiliates.<sup>51</sup> Thus, there are now two distinct groups among the independent unions—the CLC and Solidarity House—which are competing in organizing and recruiting members in similar sectors.<sup>52</sup>

In light of the above, while government-supportive national unions have had some success in consolidating their ranks and increasing their numbers, the independent bloc appears to have been bedevilled by splits and fragmentation.

#### 4.5 Collective bargaining remains a challenge

The findings of our survey in 2016 highlight the difficulty of concluding a CBA in Cambodia, as discussed in the previous chapter. Among the local unions surveyed, it takes an average of about three months for a CBA to be concluded and signed. This finding is consistent with the results of an earlier study by Serrano, Xhafa and Nuon (2011).

Just over one in five (22.4 per cent) of the local unionists we surveyed said they have a CBA in their workplace, and among those who said they did not have a CBA, about 80 per cent

stressed they tried, albeit unsuccessfully, to negotiate an agreement with the management. This finding nonetheless leaves much to be desired as it is likely that a majority of these CBAs may be single-issue agreements. The finding from the interviews with officers of 16 federations/ confederations may provide a more accurate picture: On average, only 6 per cent of their local affiliates has a CBA.

Content-wise, the CBAs concluded are far from meeting the needs and addressing the issues of workers at the workplace, as declared by more than half (55.5 per cent) of the local unionists who answered this item in our questionnaire. One in three (33.3 per cent) indicate that the provisions of their CBA adequately address the needs and issues of union members. Thus, except for job security and grievance machinery, which were identified by one in five of the unionists, very few acknowledge other bargaining gains (Table 13). These findings again emphasize the low quality of CBAs in Cambodia, as mentioned in the previous chapter.

Table 13: Key gains members get from the current CBA

Key gains from CBA	% of respondents
Job security	21.0
Grievance machinery	20.0
Death benefits	18.1
Wage increase	17.6
Maternity benefits beyond what the law provides	17.6
Medical services	15.2
Lump sum benefits	14.3
Health care benefits	9.5
Leave benefits beyond what the law provides	8.6
Loan benefits	7.1
Union security	6.7

The difficulty of securing MRS, a legal requirement to commence collective bargaining, adds up to the challenge of negotiating a collective agreement with an employer. To be certified by MoLVT as the most representative union, a union must meet the following criteria: (1) its membership must be at least 30 per cent of the total workforce in the enterprise where it is applying and (2) it must have a legal registration and have a programme and activities indicating its ability to provide services to its members.

About half (51.4 per cent) of the local unions we surveyed had a union with MRS; 37.6 per cent had no MRS union. Our survey revealed that having a CBA is associated with the existence of an MRS union in the enterprise. This finding suggests that enterprises with an



MRS union are more likely to have a CBA. Nonetheless, to the extent that, at best, only one in five of the local unions surveyed have a CBA, this suggests that getting MRS is not enough to have a CBA. As discussed later, there are other obstacles to having a collective bargaining agreement.

Our 2016 survey of local unions identified possible reasons for the absence of an MRS union in an enterprise. These are: The existence of multiple unions in the factory, employers blocking union efforts to secure MRS, a union's lack of knowledge in securing MRS, and lack of support of workers in applying for MRS. A majority of our federation respondents also identified the first two reasons cited by the local union respondents.

Similarly, our 2016 survey revealed several bargaining hurdles that may have contributed to the limited number of CBAs. Topping the list are the following: Employers' refusal to negotiate, a union's lack of MRS, lack of support from workers, a union's lack of bargaining skills, and a union's collusion with employers to block negotiations (Table 14). Other reasons are: A union's lack of awareness of the bargaining process and the benefits from bargaining, union scepticism about engaging in bargaining, and the existence of multiple unions in the enterprise.

Table 14: Reasons for the absence of a CBA in an enterprise

Reasons	% of local union respondents	% of federation respondents
Employer refuses to negotiate	33.3	62.5
No union had MRS	25.7	-
Lack of support from workers	23.8	25.0
Union lacks bargaining/negotiation skills	21.4	68.8
Union-management collusion to block negotiation	20.0	-
Union's lack of awareness of the process of bargaining and the benefits derived from it	18.6	-
Union scepticism about engaging in negotiation	16.7	-
Too many unions to negotiate with	16.2	-
Limited knowledge by unions of the labour law	-	56.3
Government's limited enforcement among employers of duty to bargain regulation	-	37.5
Inability of union to do research to help draft and justify bargaining proposals	-	18.8

Many of the bargaining obstacles cited by the local union respondents were also echoed by the federation respondents. In addition, they identified the following: A union's limited knowledge of the labour law, the government's failure to fully enforce against employers the regulation on the duty to bargain, lack of support from union members, and a union's inability to do research to justify bargaining proposals.

There is also a general lack of, or at best, limited skills in bargaining among unions in Cambodia. In our 2016 survey, very few of the local unions surveyed systematically (and scientifically) prepare for bargaining. Only about one in five of the unionists surveyed said their union made use of available wage surveys in the industry and consulted members about bargaining proposals (Table 15). Very few gathered and reviewed relevant company records, conducted seminars for members about the bargaining process, or participated in trainings on effective negotiation strategies provided by the federations and other organizations.

Table 15: Activities undertaken by local unions to prepare for bargaining

Preparatory activities	% of respondents
Consulting members about bargaining proposals	20.5
Making use of available wage survey in the industry	20.0
Gathering relevant company records	15.2
Conducting seminar for members on the bargaining process	11.4
Participation of union leaders in training on effective bargaining strategies provided by federations	11.0
Participation of union leaders in training on effective bargaining strategies provided by other organizations	9.5

As noted, national federations largely do bargaining for their local union affiliates. One finding of our 2016 survey supports this observation: All the 16 federation respondents declare their federation directly negotiates with the management. They consider this among the services and benefits local unions get from their federation. Many of the preparatory activities for bargaining that are undertaken by local unions are in fact provided by the federations they are affiliated to.

Federations utilize various strategies in negotiating with employers or management. All our 16 federation respondents said they undertake consultation with union members about bargaining proposals and use relevant statistics and data to back up the union's proposals. One in four (25 per cent) solicit support (e.g. wage and working conditions survey, training on collective bargaining, etc.) from NGOs and other labour support organizations. Other strategies utilized, albeit to a lesser extent (as cited by 19 per cent of federation respondents), include the following: Soliciting management's cooperation and willingness to negotiate;

mobilizing support from membership (members' readiness to go on strike in case of deadlock); and using a company's code of conduct provision on the right to collectively negotiate to push for bargaining with management.

A significant proportion of the local unions surveyed acknowledge their lack of capacity in bargaining. They identified the key capacities their union lacks, namely: Lack of or limited knowledge by union leaders of the labour law, lack of bargaining skills of the union bargaining team, inability of unions in the factory to coordinate among themselves, inability to do bargaining research (e.g., analysis and presentation of relevant statistics and research data), and inability of unions to solicit support from NGOs and other labour support organizations (Table 16).

The federation respondents also shared most of the responses of the local unionists (Table 16). They add that local unions lack the ability to mobilize support from their members in terms of the latter's readiness to go on strike in case of bargaining deadlock.

Table 16: Bargaining-related capacities that local unions lack

Capacities lacked by unions to negotiate a CBA	% of local union respondents	% of federation respondents
Lack of or limited knowledge of union leaders of the labour law	31.4	75.0
Lack of bargaining skills of union bargaining team	29.5	75.0
Inability of unions in the factory to coordinate among themselves	26.2	37.5
Inability to do bargaining research (e.g., analysis and presentation of relevant statistics and research data)	21.9	43.8
Inability of unions to solicit support from NGOs and other labour support organizations	17.6	-
Inability of unions to mobilize support from their members in terms of the latter's readiness to go on strike in case of bargaining deadlock	-	25.0

Many of the findings of our 2016 survey echo the factors and key constraints that contribute to the weaknesses of collective bargaining in Cambodia which we underscored in our earlier work: Difficulty in securing MRS; weak commitment of many unions to pursue negotiations; employers' refusal to negotiate with unions; existence of multiple and competing unions in the enterprise; low appreciation among many unions of the importance and benefits of bargaining; and unions' lack of skill in bargaining (Nuon and Serrano, 2010; Serrano, Nuon, and Xhafa, 2011). This suggests the persistence of these bargaining challenges over the years, and that few improvements in the area of collective bargaining have been achieved to date.

Nonetheless, our 2016 survey also identified several factors that may potentially increase the likelihood of having a CBA in an enterprise. We found a significant association<sup>53</sup> between the existence of a CBA and each of the following:

- Consulting members about bargaining proposals;
- Allocating specific positions for women in union leadership;
- Undertaking activities in preparation for bargaining, such as: Making use of available surveys in the industry, gathering relevant company records, conducting a seminar for members on the bargaining process, training union leaders on effective bargaining strategies, and organizing solidarity actions in the workplace to show management that workers are united;
- Utilizing a variety of bargaining strategies, such as: Consulting union members; soliciting management's cooperation in the bargaining process; putting pressure on government to enforce the regulation on the duty to bargain among employers; getting support from federations in terms of providing training on negotiation strategies, drafting proposals, and doing wage surveys; getting unions in the factory to cooperate in bargaining; doing research and presenting relevant statistics and data; mobilizing support from members (members' readiness to go on strike in case of deadlock); using the company's code of conduct provision on the right to bargain collectively, if any; soliciting support from NGOs and other labour support organizations; soliciting international support or solidarity from other unions in other countries in case of deadlock; and utilizing media support; and
- Having provisions in the CBA that provide protection to workers on short-term contracts.

A number of these factors were also identified in our earlier study (Serrano, Nuon, and Xhafa, 2011) as factors that may facilitate the bargaining process: Consultation with members during the bargaining process, support from federations; good bargaining skills of the union bargaining team; government enforcement of bargaining regulations; doing bargaining-related research; and mobilizing support from membership (e.g. members' readiness to go on strike in case of deadlock). The other factors mentioned in the said study include management's cooperation and willingness to bargain, a union's knowledge of the labour law, and adopting Khmer as the common language in bargaining. The same study underscores that the existence of a CBA in a factory is significantly related to the level of union capacity in key areas of union work and servicing (i.e. membership involvement in union work and activities, grievance handling and dispute settlement, provision of training and education, dealing with health and safety issues at the workplace, internal generation of financial resources, provision of welfare benefits, mobilization of support from external organizations, and generation of support from labour federations). The workers we surveyed who considered their union capacity adequate in these areas were those who also said they had a CBA.

It remains to be seen whether the ACT initiative of 19 global brands and the IndustriALL, as discussed in the previous chapter, would be able to address weaknesses and challenges of collective bargaining in Cambodia. To the extent that an industry-wide agreement covers more workers, and probably other sectors through extension mechanisms, the ACT initiative has the potential to alter the unionization and bargaining landscape in the country.

#### 4.6 Progress on the ‘union advantage’

The survey findings of our earlier study (Serrano, Xhafa and Nuon 2011) identified various benefits and services, both economic or monetary and non-economic or non-monetary, that workers get from unions. The most common services and benefits they were getting were: Grievance handling and resolution, improved working conditions, more benefits, protection from employer threats and discrimination, higher pay, and union education and training activities. Five years later, the results of our 2016 survey suggest a marked improvement of the ‘union advantage’—what trade unions can do for workers. Table 17 shows the benefits and services that members get from their union, as identified by a majority and a significant number of the local unionists we surveyed.

Table 17: Benefits and services members get from local unions

Union benefits and services	% of respondents
Improved working conditions	89.0
Job security	86.2
More benefits	81.9
Work-related grievances addressed with the help of the union	80.0
Members can air grievances at the workplace	77.6
Protection from employer threats and discrimination	73.3
Union education and training activities	72.4
Higher wages	69.5
Legal assistance on labour problems	59.5
Health and safety at the workplace	59.5
Death benefits	58.1
Health care benefits	41.0
Protection against sexual harassment	29.0
Employee financial assistance	26.7

Thus, although collective bargaining in Cambodia remains weak, we could infer from the results of our 2016 survey that there has been a significant improvement in terms of the breadth of services and benefits that unions provide to their members since our survey in 2011.

There are also benefits for local unions of being affiliated to a federation. All the federation respondents to our 2016 survey mention that they directly negotiate with management and provide education and training activities for their local union affiliates. The other services and benefits they provide are shown in Table 18.

The ability of many federations, particularly the independent ones, to provide the services listed in Table 18, among others, may have prompted an officer of an employers' organization to remark: "Union leaders in Cambodia are becoming more sophisticated."<sup>54</sup>

Table 18: Benefits and services local unions get from their federations

Union benefits and services	% of respondents
Directly negotiating with management	100.0
Providing education and training activities	100.0
Providing advice to local unions during negotiations	93.8
Providing legal assistance on labour-related problems	87.5
Pushing for laws and policies that protect workers	87.5
Representing workers in tripartite bodies	87.5
Launching campaigns to promote workers' rights and improve working conditions	87.5
Organizing unions at the workplace level	81.3
Soliciting the support of trade unions from other countries and international trade union solidarity and support organizations in campaigns for workers' rights	50

#### 4.7 Robustness in union organizing

In our earlier study (Nuon and Serrano, 2010), unions underscored their limited capacity in organizing among the internal problems they face. Five years later, however, and despite the persistence of union multiplicity in Cambodia, there are indicators of robustness of organizing, particularly among independent unions, as evidenced by a significant increase of nearly 10 percentage points in union density between 2010 and 2016, and unions being organized in other sectors including the informal economy. This suggests that Cambodian unions have had increased to some degree their capacity to organize over the years. The

training and education support that unions have been receiving over the years from their counterparts in other countries, the ILO and from international labour solidarity support organizations, their successes in the minimum wage campaigns, their intermittent display of mobilization power particularly in coordinating large-scale strikes (mainly on the issue of minimum wage increase), and the rise of worker activism as a result of workers' involvement in large-scale strikes—all these may have contributed to the improvement of the organizing capacity of unions.

Some of the findings from our 2016 survey support this observation. Union density among the rank-and-file permanent workers at the enterprises we surveyed was high at about 60 per cent. Nearly all (94 per cent) of the members of the local unions included in our survey pay their dues regularly.

The organizing efforts which were undertaken between 2010 and 2016 by the local unions were: Recruitment of new members who are permanent and short-term contract workers (as declared by 83 per cent and 49.5 per cent of respondents, respectively); organization of their own union (as declared by 41.4 per cent of respondents); and organization of unions in other enterprises (as declared by 37 per cent of respondents). Survey findings reveal the use of a variety of strategies and tactics by unions. This suggests a level of vibrancy and innovativeness in union organizing, at least for the unions and sectors covered in our survey. In our earlier survey (Nuon and Serrano, 2010), we identified a number of strategies used by

Table 19: Organizing and member recruitment strategies and tactics  
largely used by local unions

Strategies and tactics	2010 survey	2016 survey
Establishing a rank-and-file committee involved in organizing	✓	✓
Conducting survey among members on bargaining proposals	✓	✓
Holding small group meetings during an organizing campaign	✓	✓
Holding meetings away from the workplace	✓	✓
Enlisting the help of rank-and-file volunteers from already organized units during organizing (use of an 'organizing local')	✓	✓
Making home visits to target members		✓
Distributing leaflets to workers		✓
Identifying grievances as basis for recruitment	✓	✓
Launching media campaigns	✓	
Holding solidarity days, rallies and job actions, including strikes	✓	✓
Developing community-labour coalitions	✓	

unions in organizing workplaces and in recruiting new members. Most of these strategies were likewise identified in our 2016 survey (Table 19).

Arguably, the use of a combination of the strategies and tactics listed in Table 19 can enhance the success rate of an organizing initiative. Moreover, the use of strategies that involve rank-and-file union members suggests a more grassroots-oriented approach in union organizing.

Our 2016 survey revealed that worker- or member-centred strategies have mostly contributed to the success of an organizing drive. These include: having a rank-and-file committee involved in organizing; conducting a survey among members on bargaining proposals; using grievances as bases for member recruitment; doing home visits to target members; holding small group meetings during an organizing campaign; and enlisting the help of rank-and-file union members/ volunteers from already organized unions to help in organizing another enterprise.

#### 4.7.1 Organizing workers on short-term contracts

One interesting development in the trade union movement in Cambodia involves organizing workers on short-term contracts or FDCs. Our 2016 survey identified the most common types of FDC workers in Cambodia: Probationary, (directly-hired) casual workers, (directly-hired) contractual and project employees, and (directly-hired) seasonal workers. Hiring workers through third-party manpower agencies is hardly practised in Cambodia; only 12 per cent of the local unionists surveyed included agency-hired workers among the categories of FDC workers that are working in their enterprises. Probationary workers, (directly-hired) casual workers, and to a lesser extent (directly-hired) contractual/project employees, are the three categories of FDC workers that are often being recruited by the unions surveyed. These workers form part of the regular membership of the union and they pay the same amount of dues paid by permanent workers. Unions recruit these workers for several reasons: To increase their membership, to increase their bargaining power, and to express their union identity—that they represent all workers in the enterprise. A majority (87.5 per cent) of the federation respondents said that the growing number of non-regular workers in establishments motivated them to recruit workers on short-term contracts. They also add that these workers have requested representation by the union.

Once FDC workers become regular union members, they enjoy all the rights and benefits provided in the CBA, if one exists in their enterprise.

From the results of our 2016 survey, we found a significant association between having a CBA and having provisions in the CBA that provide protection to FDC workers. While we did not determine the direction of causality, it is possible that incorporating CBA provisions



that protect FDC workers may increase the likelihood of having a CBA. As mentioned earlier, local unions recruit FDC workers into their fold to increase their membership and their bargaining power. In a situation where FDC workers are big in number in an enterprise, their support to the union is critical in securing MRS. This may partly explain another interesting finding from our 2016 survey—that unions without a CBA are more likely to organize and recruit FDC workers.

Apart from recruiting FDC workers as union members, there are other ways unions act to accord protection to these workers and limit the propensity of employers to put workers on short-term employment contracts. Table 20 lists some of these strategies and measures.

Table 20: Other strategies and measures of local unions to protect FDC workers

Strategies and measures	% of local union respondents	% of federation respondents
Support the union federation's initiative in pushing for laws that further regulate the use of contracting and subcontracting	46.2	62.5
Participate in campaigns and mobilizations against employers' widespread use of short-term contracts	28.6	31.3
Dialogue with management regarding the use of FDCs	26.2	62.5
Make representations to the Ministry of Labour to enforce labour standards at the workplace	23.8	18.8
Build linkages and coordinate with unions in other companies that are part of the supply chain on issues pertaining to precarious employment	21.0	-

#### 4.7.2 Organizing workers in the informal economy

Contrary to the widely-held perception that workers in the informal economy frown upon unions, our 2010 survey revealed that more than three-quarters of the workers we interviewed from non-unionized sectors, including the informal sector (e.g. beer promotion, tuk-tuk transportation service), expressed readiness to be organized into a union (Nuon and Serrano, 2010). It also highlighted the importance of union visibility in the unorganized sectors if workers are to welcome a union in their enterprise or sector. The survey also revealed several critical factors to encourage informal sector workers to organize and/or join a union. These include: Ways to increase and stabilize income, improvements in job security, improvements in working conditions, safety and health, opportunities for skills

training and upgrading, having a voice to air grievances, and access to affordable credit particularly for the self-employed.

Both the CLC and Solidarity House are actively organizing and have had some success in organizing various groups of informal workers, including massage workers, petrol station attendants, beer promoters, tuk-tuk drivers, street vendors, workers in small informal restaurants, farmers, and domestic workers. Solidarity House, for example, says that about half of its 33,000 plus worker-members belong to the informal economy. More than half (over 8,000) of Solidarity House's informal sector members belong to IDEA.

In Siem Reap, the CLC and Solidarity House federations organize both formal and informal workers in the same sectors. From our interviews with some officers of the two labour centres, we gathered that although there was tension between competing federations in the beginning, this eventually wore off through dialogue (via telephone and Facebook conversations) between and among the federations concerned. However, at the grassroots level, this apparent 'healthy competition' creates confusion among workers about which union to join. This is especially true when both labour centres organized their respective unions in one enterprise.

#### 1. The CFSWF-Solidarity House's organizing initiatives in the informal economy

The Cambodia Food and Service Workers' Federation (CFSWF), a member-organization of Solidarity House, counts among its membership massage and spa workers, restaurant and karaoke television (KTV) workers, cleaners employed by private companies that are contracted by local governments, beer promoters, petrol station workers, and hotel and airport workers. Massage and spa workers comprise the biggest number of CFSWF members. CFSWF started organizing in 2007. Its organizing approach is enterprise-based.

In Siem Reap, Cambodia's famous tourist area, there is a huge population of informal workers. Most of the restaurants, massage and spa establishments, tour agencies, and bus companies are owned by South Koreans. In these establishments, workers often experience verbal and physical abuse. Cleaners (i.e. street sweepers, garbage collectors, garbage truck drivers), who are in triangular employment relationships, have a high turnover rate due to poor working conditions. They work long hours even during holidays. Taking a leave from work is very difficult for these workers.

Massage workers, meanwhile, are increasingly facing job insecurity. For example, at one of the biggest South Korean-owned massage and spa establishments in Siem Reap, before 2013, workers had permanent contracts after the probationary period. However, after a union was organized in 2013, employment contracts were changed into three-month contracts beginning in 2015, as a way to reduce the union's membership. Thus, the union went on

strike in 2015. The strike enabled the union to win better conditions for workers. Wages were increased from 45 US dollars to 50 US dollars a month. Work hours were reduced from 11 hours to 8 hours per day, and overtime work became voluntary at 1 US dollar per hour. In 2016, the union faced another challenge from the establishment. This time, new employees were given a three-month contract which will not be renewed if they join a union. At the time of writing, there were about 30 new employees in the establishment. The union has 90 members in four massage and spa establishments owned by the same South Korean employer.

## 2. The CLC's organizing initiatives in the informal economy

The CLC has been actively organizing in the informal economy for many years. In fact, organizing in this sector is one of the goals of the CLC and among the priorities set by its most recent congress. In Siem Reap, the CLC targets organizing 600 informal economy workers per year. The departure of IDEA from the CLC did not deter the latter from continuing its organizing initiatives in the informal economy. In place of IDEA, the CLC established the Cambodian Informal Workers' Association (CIWA) in 2015. Nonetheless, the task of organizing workers in the informal economy went to the CTSWF.

In Siem Reap, the CLC organizes in five sectors, namely, construction (workers employed in the renovation of temples and stone and wood carvings), tourism (workers in hotels, restaurants and massage establishments, casinos), transportation (drivers of tour buses, airport workers), the informal economy (tuk-tuk and motorcycle taxi drivers, street vendors, mobile vendors with pushcarts), and agriculture (farmers on disputed land). Organizing farmers was not originally part of the organizing targets of the CLC. However, farmers who have land disputes with local authorities (i.e. military bases, the office in charge of the preservation of Angkor Wat, the forestry authority) and some private businesses approached the CLC for representation and help in their legal battles over the land disputes.

Many of the establishments in Siem Reap that are owned by South Korean, Chinese, and Thai nationals are also co-owned or have links with military or police officers and government officials. There are now more businesses in Siem Reap that are either wholly or partly owned by Cambodians, but this does not make things better for workers. According to an officer of the CTSWF-CLC, Cambodian owners are more hostile to unions. Many workers are dismissed after a union is organized in their company.<sup>55</sup> For example, the cases involving the dismissal of union leaders and members in the Victoria Hotel took some years before they were resolved, albeit partially, in February 2017.<sup>56</sup> Thus, many union members do not aspire to become union leaders.

Most workers of the sectors where the CLC organizes do not have formal employment contracts even if they are employed by formal establishments. This is especially true among

restaurant workers, hotel workers, massage workers, and bus drivers. In one company where the CLC has a union, workers had no employment contracts. In the tourism sector, an uptrend in the use of short-term contracts, usually for an employment duration of three to six months for new workers, has been observed. The use of outsourced workers (e.g. security guards, cleaners, gardeners, etc.) and casual workers is also noted.

Organizing workers in the informal economy is more challenging and time-consuming. Their problems vary. It is difficult to meet and talk to these workers as well. Many fear joining a union as they are constantly threatened with the loss of their jobs by their supervisors and managers if they join a union. In this light, the CIWA makes the effort to study their conditions first before starting an organizing campaign. For example, vendors are not willing to share critical information (e.g. bribing authorities). Tuk-tuk drivers, who are themselves owners of the tuk-tuk they drive, are often subcontracted workers. Companies, such as hotels and tourism agencies, engage them for certain hours a day for their guests' and tourists' transportation needs and they get paid on commission basis. There are hotels that offer an accommodation package that includes a tuk-tuk service for the duration of a guest's stay. On average, a tuk-tuk driver earns 20 US dollars per day.

The CLC follows a specific approach in organizing workers in the informal economy. This includes doing social scanning or social investigation, making house visits or having meals with informal workers as a way to build trust, identifying problems together with these workers, preparing a good plan on how to deal with their problems and presenting it to these workers, and making representations for these workers and negotiating with authorities. The CIWA-CLC also provides legal services to informal workers.

One recent example of how the CIWA-CLC helps its members from the informal economy is the case of ice-cream sellers at a temple in Siem Reap. These workers pay various "fees", both legal and otherwise, to several local government offices. The union organized these workers and thereafter made possible that workers pay collectively to a single local office or authority.

In Siem Reap, there are many cross-sector businesses owned by a single employer. In this case, the CLC's approach is to organize in all the businesses of a single owner and conducts one issue-specific negotiation (e.g. wages) covering all the businesses of the owner. Negotiations over other issues (e.g. illegal deductions from wages) are done on a sub-sector level.

At the time of writing, there are other modest successes achieved by the CLC and its affiliates in Siem Reap. In a bus company where the CLC has 37 members, workers who are union members experienced discrimination in terms of delays in wage payments by an average of two months. The union was able to push management to negotiate so that the wage delay was reduced by a month. Through union pressure or negotiations, massage workers were

able to get their monthly or hourly tips from customers. Previously, these were withheld by the company. Similarly, restaurant workers started to receive their share from the tips of customers on top of their wages. In some foreign-owned restaurants, the union was able to negotiate for the workers' holiday pay.

In June 2016, the CIWA had a total membership of 220, about half of which were street vendors. The Farmers Association for Peace and Development, another affiliate of the CLC, had over 600 members. The Cambodian Transport Workers Federation, another CLC affiliate, had about 340 airport workers as members, 37 of which come from one company. The bulk of CLC membership in Siem Reap comes from the CTSWF. Of its total membership of 3,400 (as of June 2016), 2,100 or 61.8 per cent were found in Siem Reap, half of which were hotel workers. The rest were airport cleaners, workers in cultural villages, drivers of battery-operated and cable cars, massage workers, and restaurant workers.

#### 4.8 Uneven signs of institutional vitality

Institutional vitality comprises a union's "capacity to adjust to new contexts, internal enthusiasm to embrace new strategies, and a sense of introducing something new and 'fresh' to the union" (Behrens et al. 2004: 22). Institutional vitality also pertains to organizational capacity, including financial capacity (the ability to develop and deploy financial resources), human resources capacity (the abilities and behaviours of union staff and volunteers), and structural capacity (Hall et al., 2003). The latter include infrastructure and process capacities (organizational culture, rules, processes, practices, techniques and technology), relationship and network capacities (developing and drawing on relationships with members, other organizations, the government, the media, the general public), and planning and development capacity (the ability to plan, research and innovate approaches). Orfald (2006) adds another element which is central to the union as an organization—democratic and mobilization capacity. This last element may include internal union democracy and rank-and-file union membership involvement and activism.

Have there been improvements in these facets of union organization over the years? Here we focus on three areas: Union structures, financial capacity, and membership involvement and union democracy.

##### 4.8.1. Union structures

At all three union levels—local union, federation, and confederation—there are three main structures and bodies: Congress, board, and executive committee.

The congress, which is comprised of all the union members or, in the case of national unions a proportion (or representatives-delegates) of the total number of union members, is the

highest decision-making body of the union. It is normally organized every two years for local unions and every four years for national unions (i.e. federation and confederation). In the new Trade Union Law, there is a new quorum requirement of 50 per cent+1 membership attendance at the union congress. While this may be clear and easy for enterprise-based unions, it is unclear if the same requirement would be imposed on federations and confederations. It would be difficult to meet this quorum requirement for federations and confederations with say 40,000 or 100,000 members.

The congress elects the officers of the executive committee—the union president, vice president, secretary general, treasurer, and adviser—and the members of the board. For example, in a congress of 500 union delegates, 20 may run for the leadership positions in the executive committee and the board. Five of these 20 are elected as members of the executive committee and the remaining 15 are elected to the board. In this case, the national union is comprised of 20 leaders/officers (i.e. the total members and officers of the executive committee and the board).

The congress also determines and approves the programmes, activities, and the funds or budget of the union.

The executive committee is usually comprised of a president, vice president, general secretary, treasurer, and adviser. The executive committee takes charge of the day-to-day functions and activities of the union. Under the executive committee, there are several sub-committees, including ones on organizing, education, dispute resolution, women, advocacy, etc.

In between congresses, the board acts as the highest decision-making body of the union. It exercises control over the executive committee. In practice, however, union boards do not function well as they are 'controlled' instead by the executive committee partly because the same leaders are in both bodies.

It is common that the elected leaders of the executive committee are also the leaders of the board. In fact, the union statute does not restrict the double leadership roles of the president in the executive committee and the board at the same time. This poses a problem in terms of accountability and transparency. If the same leaders populate the board and the executive committee, how could the former hold to account the latter? Who would check the decisions and actions of the executive committee? This peculiar leadership structure of most unions in Cambodia may have contributed in part to the problem of leadership entrenchment in unions.

In our earlier work, we found that many unions in Cambodia are weak in organizational development owing to the lack of vision and commitment among leaders who usually do not have the knowledge and skill in improving union structures and administration (Nuon and

Serrano, 2010). For example, a survey we did in 2011 involving 299 workers in 30 garment factories revealed that only two union structures—a union committee and a grievance handling committee—existed in the unions of a majority of respondents (Serrano, Xhafa and Nuon, 2011). A majority of respondents didn't know of the existence of other committees (e.g. bargaining committee, election committee, education and training committee, women's committee, health and safety and HIV/AIDS committee, and membership welfare committee) in their union. The lack of awareness or uncertainty among workers of the existence of these committees may mean either that these structures did not actually exist at all, or if they did they were not functioning, or that only a few union officers make up these committees. The lack of key union structures may be indicative of the low level of organizational capacity among many garment unions in Cambodia. Considering that many (if not most) of the unionized garment factories are large (employing at least 2,000 workers), the absence of these union structures significantly impairs the delivery of member services, membership development and involvement, and the implementation of internal union democracy.

The results of our 2016 survey indicate significant progress in terms of the existence of more union structures. A big majority of the local unionists interviewed declare their unions have the following structures: Union organizing committee, bargaining committee, election committee, grievance handling committee, education and training committee, and women's committee. Nearly one in five notes they have a membership welfare committee.

The 16 federations included in our survey also have all the structures mentioned above. Three have a membership welfare committee and two have a health and safety and HIV/AIDS committee.

#### **4.8.2 Membership involvement and union democracy**

In our previous study (Nuon and Serrano, 2010), we highlighted the low level of grassroots member involvement in union affairs and decision-making and, therefore, the general lack of democratic practices among many unions in Cambodia. Power was concentrated in the hands of union leaders who are mostly men even in enterprises where a majority of workers are women. Many local unions did not organize and convene their congress as frequently as their bylaws state. There was a disconnect between national and local unions and their members and, therefore, there was little consultation and engagement between the various levels of the unions. The union ruptures that occurred in the ranks of independent unions were largely a result of the lack of democratic processes—the absence of clear structures, lack of transparency, and lack of internal democracy.

The findings from our 2016 survey suggest an improved union environment for membership involvement and internal democracy. A majority of local unions we surveyed implement a

variety of ways and measures to encourage and deepen the involvement of rank-and-file union members in decision-making. These include involving members in preparing bargaining proposals, actual bargaining, handling grievances, conducting education and training, policy-making on training and education, making proposals to amend the union constitution and bylaws, and policy-making in membership recruitment.

To enhance membership involvement in union activities, unions implement various strategies as shown in Table 21.

Table 21: Union strategies to enhance membership involvement

Strategies	% of respondents
Sending rank-and-file members to seminars and training provided by labour-oriented institutions	62.4
Using local union members to do organizing in unorganized workplaces ('organizing local' approach)	56.7
Electing shop stewards	53.8
Organizers visit new employees	43.3
Members participate in joint labour-management discussions on employment-related issues	38.6
Having a rank-and-file organizing committee that does much of the member recruitment activities	37.6
Securing paid time from management to enable workers to join union activities	36.7
Involvement of members in collective bargaining negotiations	27.6

Our 2016 survey also revealed that a majority (69 per cent) of the local unionists surveyed convene their congress and hold elections of officers every two years. Only about 10 per cent declare they never had a congress or held elections of officers. Meanwhile, among the federations surveyed, the biggest proportion (43.8 per cent) avers they convene their congress and hold elections of officers every three years. Nearly one in three (31.3 per cent) state they do the same every two years.

Nonetheless, the unionists emphasize that more needs to be done in strengthening membership involvement in union decision-making processes and in embedding democracy in unions, particularly among the government-controlled unions. As emphasized by a labour activist: "Grassroots membership involvement is very weak. Many workers do not know



that they are members of a union. Unions remain leader-driven. Democratic structures are missing in most unions.”<sup>57</sup>

One finding of our 2016 survey suggests a link between a union’s capacity to represent its members’ interests and needs and membership participation: A majority (62.5 per cent) of the local unionists who did not witness an improvement of their unions’ capacity in this area since they were established also stated that enhancing membership participation should be the primary focus of union strategies aimed at increasing union membership. To deepen membership involvement in the union, a majority of the local unionists identified increasing training opportunities for members on negotiation and dispute settlement skills, leadership and membership development, and effective organizing strategies. They also point to the need to enhance women’s participation in union activities and put more women in the union leadership.

#### **4.8.3 Women’s participation and leadership role in unions**

In Cambodia, as elsewhere, men dominate union leadership even in enterprises and sectors where women workers outnumber men. Our 2010 survey underscored the limited participation of women in local union activities and leadership as the top internal problem of the unions surveyed. This survey found that women comprise only one in three of local union officers. In terms of the composition of the bargaining team, women’s participation is even lower at 30.5 per cent. Moreover, less than half (45 per cent) of respondents said they had a union policy allocating a certain percentage of leadership positions to women members. A majority (66 per cent) did not know if their union had a policy allocating a certain number of positions in the bargaining team for women members.

The related findings of our 2016 survey covering local unions suggest some degree of improvement in union efforts aimed at enhancing women’s representation and role in union leadership. On average, women comprise 39 per cent—nearly two in five—of union leadership. Over 36 per cent (or more than one in three) of the composition of the local union bargaining team are women. A majority of the unionists surveyed also confirm the existence of a women’s committee in their union.

However, women appear to be less represented in leadership at the federation level. Findings from our 2016 survey involving 16 federations show that women comprise 28.5 per cent of federation officers.

To effectively increase and institutionalize women’s leadership role, the unions have adopted relevant policies as shown in Table 22.

As can be discerned in Table 22, it is only in terms of setting targets or quotas for women's representation in union leadership that a big majority (three in four) of the federations have in place. Other policies aimed at increasing women's representation in union leadership are taken up by fewer federations.

Table 22: Local union policies to enhance women's role in union leadership

Policies	% of local union respondents	% of federation respondents
Setting targets or quotas for women's representation at union congresses	59.0	31.3
Allocating specific positions for women in union congress/conference	53.8	18.8
Setting targets or quotas for women's representation in union committees	53.3	31.3
Allocating specific leadership positions for women	51.9	25.0
Setting targets or quotas for women's representation in workplace bargaining teams	49.0	25.0
Setting targets or quotas for women's representation in union leadership	46.7	75.0
Allocating specific positions for women in union committees	43.3	12.5

Pertinent findings from our 2016 survey also suggest a correlation between the existence of certain affirmative policies and how workers perceive in general the capacity of their local union to represent and meet union members' interests and needs. The local union respondents who noted an improvement in this area since the unions were established also declared the existence of the following union policies: Policy setting targets or a quota for women's representation at union congresses; policy allocating specific positions for women in union congress/conference; policy allocating specific leadership positions for women; policy setting targets or a quota for women's representation in the union committee; and policy setting targets or a quota for women's representation in union leadership.

However, despite the existence of policies and structures aimed at increasing and deepening women's representation in union leadership, women-friendly provisions are either seldom or rarely included in CBAs. Only one in five of local union respondents of our 2016 survey declared the inclusion of the following provisions in their CBA: Maternity leave beyond what the law provides, equal opportunities for women and men on training and education, and equality in pay (to reduce or eliminate the gender pay gap). In fact, women-related bargaining

proposals are either seldom (as indicated by one in three respondents) or rarely (as stated by one in four of respondents), accepted by employers. Notwithstanding the improvements mentioned above, the continued low level of women's representation in union leadership and bargaining may account for these survey findings. That said, it is not surprising that a majority of unionists surveyed include the need to have more women in the union leadership among the areas that unions need to improve on.

#### 4.8.4 Resource generation and financial sustainability

The capacity of unions to generate financial resources within the union organization still remains impaired. According to Nuon and Serrano (2010), financial viability remains a big challenge to Cambodian unions.

[Unions] do not have many members or the members do not pay dues, or when they do payment is irregular. Second, unions representing labour intensive sectors like garments or construction have members whose wages are extremely low. This means that even if dues are collected, they are necessarily set at a level that makes it impossible to meet the financial commitments of a modern and vibrant organisation. Third, unions have dues structures that operate from the grassroots level up, meaning that dues are collected in the workplace, then a proportion, about 50% of the money collected, is passed on to the branch level, then a proportion of that to the national level. (ibid, 102)

Although our 2016 survey revealed that nearly all (94 per cent) of the members of the local unions surveyed pay their dues regularly, a big majority (61 per cent) of respondents said that the money collected is not enough to provide for member services and pay the union's operational costs. Only about one in three of the unionists we interviewed said that the monthly dues they collect are just enough for these costs. On average, a union member pays monthly dues of 2,832 Cambodian riel or about 0.70 US dollars<sup>58</sup>. About half of this amount is remitted to the federation to which the local union is affiliated. The other half is retained by the enterprise union to use for member services. A majority (57 per cent) of local union respondents also state that their unions have no other sources of funds, whereas 30 per cent get grants or donations from either NGOs, or international labour solidarity support organizations, or trade unions from other countries. With a meagre amount of membership dues collected, half of which go to the federation, it is not surprising that local unions have not been able to provide adequate services to their members.

Among the federation leader-respondents<sup>59</sup> of our 2016 survey, 44 per cent said they have other sources of funds aside from affiliation dues from their local unions. A majority of those who said they have other sources of funds receive grants or donations mostly from international NGOs, TUSSOs, national trade unions from other countries, and faith-based development organizations. These international organizations include, among others,

OXFAM, ACILS, ActionAid, Australian People for Health Education and Development Abroad, the Foundation for Sustainable Development, Adelaide Training and Employment Centre, Diakonia, FES, the Norwegian Confederation of Trade Unions (LO-Norway), CARE International, Christian Outreach Relief and Development, Danish National Church's Relief Aid, the American Jewish World Service, and national trade unions from the Netherlands and Belgium. The national NGO CENTRAL also provides funding support to several federations but mainly for training.

Local unions rely solely on membership dues for their union budget. They do not have other sources of funds. In fact, membership dues make up the total budget of a majority of local unions we surveyed in 2016. This was confirmed by four local union leaders<sup>60</sup> we interviewed. Nonetheless, the leaders of the unions we interviewed said that they receive training support, through their federations, from several international and national organizations and NGOs (e.g. the ILO, ACILS, LICADHO, and CLEC). These organizations provide funding support for transportation, accommodation, and food when local union leaders and members attend training or do advocacy campaigns during some key labour events such as the May 1 labour day celebration and international Human Rights Day. The leader of the local union supportive of the opposition party, however, clarified that his confederation does not receive any financial support from any national or international organization.

In contrast, union federations complement the affiliation dues they get from local unions with grants or donations that they get from international NGOs, TUSSOs, and trade unions from other countries. In fact, external sources of funds make up the large part of a federation's budget. Based on our interviews with four federations<sup>61</sup>, this may range from 50 per cent to as much as 95 per cent of the total union annual budget.

The externally-sourced funds are used to cover the union's administrative costs (i.e. office rental, supplies, salary of full-time staff), and programme costs (i.e. organizing, dispute settlement and legal training, capacity-building, and advocacy campaigns). The union dues are used to cover the following: Some of the administrative costs, partially pay for the welfare programmes of local affiliates, pay the cost of transportation of local leaders who attend training activities and meetings, and the union's affiliation fee to a confederation and a global union federation. A small portion of the dues is put in a reserve fund (in the bank account of the federation) for emergency situations (e.g. financial crisis).

Meanwhile, the external funding support that an opposition party-supportive federation receives is more modest compared to the support received by independent federations. According to a leader of the opposition party-supportive federation whom we interviewed, the external funds are used to conduct training, outreach, and organizing activities, including advocacy campaigns. Union dues collected are used to pay the salaries of the full-time staff.

Like the federations, confederations derive much of their budget from external sources. From our interviews with key officers of two independent confederations (or national centres), external funds make up between 59 per cent and 82 per cent of the total annual union budget. An officer of one of the independent confederations whom we interviewed explained that the externally-sourced funds are divided among the member organizations of the confederation. The grants or donations are used to pay the organization's administrative and programme costs. The other confederation officer explained that his union uses both the membership dues and the grants or donations from external sources for administrative and staff costs and for the union's work on organizing, training, dispute resolution, and advocacy.

In contrast to the independent confederations interviewed, the opposition party-supportive confederation does not receive any funding support from other sources. It relies solely on the affiliates' fees which are meagre. It receives on an irregular basis training support from several NGOs and international organizations. The leader laments that with this meagre budget, it is very hard for the organization to survive.

The findings of an earlier study (Serrano, Nuon, and Xhafa, 2011) suggest that having both an MRS union and a CBA is an important factor in increasing the capacity of unions to internally generate financial resources, as unions are assured of a stable source of funds to provide member services through dues check-off and increased wages of workers as a result of successful bargaining. As noted, however, collective bargaining remains limited in Cambodia and agreements are concentrated in the garment and footwear sector. This inhibits the capacity of unions to generate their own resources and consequently constrains the sustainability of union funds.

#### **4.9 The rise of worker activism and the increasing role of trade unions in improving compliance with labour standards**

The recent developments in Cambodian industrial relations (e.g. the Trade Union Law, continued labour repression and judicial harassment of union leaders) and the persistence of employer practices that inhibit union formation (e.g. widespread use of FDCs, harassment of and violence against union organizers, leaders and members of independent unions, other anti-union discrimination practices) further narrow the space for independent unions to represent and negotiate better working conditions for workers. Despite this, workers and independent trade unions continue to struggle to tilt the balance of power, however marginally, towards their side.

The gradual development of worker activism may relate to Hobsbawm's (1964) concept of 'natural time-lag' before workers become an effective labour movement. Studying the phenomenon of 'leaps' or 'explosions' in militant strike activity throughout Europe from the

1860s up until the First World War, Hobsbawm notes that economic fluctuations of an industrial and capitalist economy were of decisive importance. Economic changes in the 19th century and early 20th century in Europe coincided with the periodic and sudden expansions in size, strength and activity of social movements. In Britain, for example, Hobsbawm observes that the model of explosions or leaps “occurred on the upswing of trade cycles, but appear to have been hatched in periods when important groups of workers become less well off” (1964: 133). As money was getting tighter in the working-class household in the later 1860s, there was a stronger tendency to buy smaller quantities of staple foods. This dire economic situation tended to appear before the explosions of militant labour activity.

Hobsbawm argues that explosions in militant strikes must be considered as a whole, in relation to the structure of the economy, and the particular phase of economic change in which they occur. That said, he observes that under the 19th and early 20th century conditions, the normal process of industrial development tends to produce explosive situations, which appears so in all three phases of the economy: The transition to industrialism, classical ‘free competition’, and modern forms of state and corporation capitalism (1964: 139). For Hobsbawm, changes in the productive apparatus or the composition of capital involve adjustment that is not likely to be smooth or immediate. A period of experimentation both by employers and workers certainly ensues, and “hence of latent or open unrest—before a new pattern of industrial relationships succeeds the old one” (ibid: 141). Moreover, by-products of technical change and the consequent changes in work arrangements and relations also produce explosive material, rather than explosions. For Hobsbawm, these factors, among others, artificially retard the entrances of workers into organized and militant labour activity.

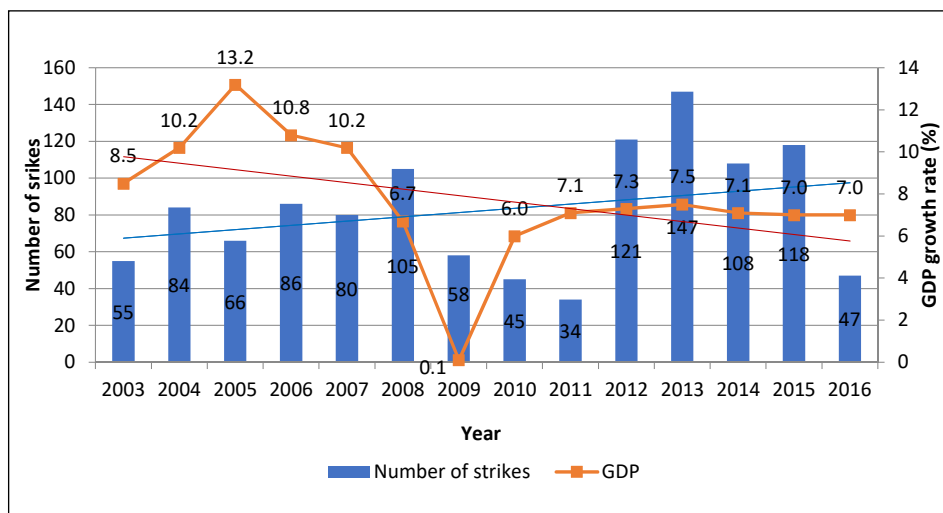
It is in light of the above that Hobsbawm points to a ‘natural time-lag’ in the development of more militant labour activity. For him, this time-lag prevents any gradual dissipation of unrest. During this time-lag, “the habit of industrial solidarity must be learned, like that of working a regular week; so must the common sense of demanding concessions when conditions are favourable, not when hunger suggests” (1964: 144). This time-lag strongly holds true to Cambodian migrant workers coming from the villages, who were used to working on farms, to work in industrial plants and factories. They needed time to learn the habit of industrial solidarity. Time-lags may also pertain to periods of industrial expansion which force workers to take on precarious jobs (e.g. FDCs). Finally, for unions, the time-lag may also involve experimenting with new techniques of organization, mobilization, and labour action that would effectively resist and confront an existing repressive regime.

Ward and Mouly (2016: 261) emphasize that labour has been critical to Cambodia’s economic growth, yet the state has also framed labour “as a problem to be managed through semi-authoritarian modes of governance”. They explain:

The success of accumulation through export-oriented manufacturing has relied on a cheap, mobile workforce with limited alternative employment options. At the same time the welfare of labour, specifically in the garment sector, has been critical to international legitimacy...[H]aving allowed some space for autonomous labour representation, the state has been confronted by the need to engage in pacification in regard to industrial conflict and labour mobilisation. Workers and unions challenge illegal labour practices through strike action and other modes of contentious action. Employers and the state respond with threats of legal action against unions and workers or physical intimidation...a tactic that has proven to be highly effective in the absence of judicial neutrality...

Figure 29 shows how the number of strikes fluctuated with Cambodia's GDP growth rate year-on-year. However, over a longer period—between 2003 and 2016—the general downtrend in annual GDP growth rates (downward straight line) was accompanied by a general uptrend in the number of strikes per year (upward straight line). As mentioned, Cambodia's minimum wage is far from a living wage. With collective bargaining weak and limited, workers resort to 'bargaining by riots' or strikes, mostly illegal, as a way to pressure the government and employers to raise the level of the minimum wage.

Figure 29: Number of strikes & GDP growth rates in Cambodia



Source: Graph constructed by the authors using strike data from the GMAC and GDP data from World Bank.

Ward and Mouly (2016) point out that the number of strikes in the garment sector increased by 225 per cent between 2010 and 2013. Strikes in fact peaked in 2013. As noted, workers suffered a 16.6 per cent drop in real wages for regular work from 2000 to 2010 despite the wage increase in 2010 (International Human Rights and Conflict Resolution Clinic of Stanford University and Worker Rights Consortium, 2013: 7). This decrease was estimated

to be 30 per cent in 2014 (*ibid*). In fact, there is also a declining trend in the proportion of prevailing wages relative to the 'living wage'. According to the WRC (2013), the minimum wage in Cambodia in 2011 was only 19 per cent of the 'living wage'.

As discussed in the previous chapter, the 'successes' achieved by the independent trade unions' strike actions in 2010 made workers realize that they can influence the outcomes of wage negotiations. The minimum wage increased by a record 31 per cent, from 61 US dollars in 2010 to 80 US dollars in 2013, the highest increase in the minimum wage to date. In 2014 and 2015, the minimum wage went up by 25 per cent and 28 per cent, respectively, following the large-scale labour unrest in December 2013/January 2014. Between 2016 and 2018, the year-on-year increases in the minimum wage moderated at an average of 10 per cent.

Apart from their material objectives, strikes have become an effective platform to educate workers about their rights and engage in collective actions. Taking part in strikes helps workers develop critical consciousness—that through collective action they can change their material conditions. According to Serrano and Xhafa (2014: 4), critical consciousness encompasses "an understanding of the systemic nature of oppression and injustice based on the lived experiences of people; an understanding of the need to resist the underlying causes of peoples' oppression and exploitation; and the recognition that people have the capacity to act to change their circumstances. This critical consciousness propels people to struggle and in the process they transform themselves and develop capacities to become agents for social change."

Hutt (2016) underscores that strikes and trade union action have led to a growth of political activism, particularly among garment workers in Cambodia. For many of the hundreds of thousands of workers who have protested in recent years, mainly beginning in 2013, the strikes have been their first taste of real political engagement. As a result, many Cambodians have grown accustomed to the mechanisms of trade unions which have the potential to offer a well-needed alternative to the ruling elite power and privilege (*ibid*). In short, strikes and other trade union action have fuelled worker activism in Cambodia.

Strikes also provide opportunities for workers to develop their organizational and leadership skills. Serrano and Xhafa (2014: 27) identify some of these critical skills which, for them, comprise what they call 'transformative capacity': Organizing, mobilizing, educating, analysing critically, debating, mounting campaigns, lobbying, doing research, running organizations in a democratic way, networking and negotiating, community-building, and cooperating across political differences.

Strikes have also become ways to organize a union and recruit union members. As one officer of a TUSSO pointed out, since the 2010 strikes for minimum wage increases, which



were coordinated by two independent union federations (i.e. the C.CAWDU and NIFTUC), union density has been going up<sup>62</sup>, albeit incrementally. One could wonder if this may have prompted the government's action in early 2014 suspending the registration of new unions.

It is important to clarify that, according to Oka (2015: 19), "government-supported unions often threaten or actually go on strike at the factory-level, but they rarely lead or participate in sector-wide rallies and demonstrations demanding wage increases".

A member of the Arbitration Council remarks that independent and opposition party-supportive trade unions are now playing a very important role in the pursuit of political and economic democracy in Cambodia.<sup>63</sup> These unions have exhibited their ability to mobilize thousands of workers, for example, in the 2013 national elections. As a result, there is ambivalence in the government's attitude towards unions. On the one hand, the government tries to win the support of workers and the public by adopting social policies including social security, rent control, electricity regulation, etc. On the other hand, independent and opposition party-supportive union leaders and activists have been subjected to judicial harassment. This contradiction is even more highlighted with the observed shift in the political landscape. There is a perception that the ruling CPP is weakening; it lost many seats in the parliament in the 2013 elections. Meanwhile, prior to its dissolution in November 2017, the opposition CNRP was slowly gaining ground in the political arena, with garment workers forming its core voter base. Thus, as a prelude to the 2018 general elections, the CPP-led government issued the Minimum Wage Law that extended minimum wage coverage to all sectors in a bid to win the workers' and the public's trust and their votes.

The upsurge in strikes in recent years, despite the government's attempts to suppress labour unrest through the courts and the military, is indicative of growing worker and union activism. Between 2010 and 2013, the number of strikes in the garment sector increased by 225 per cent. As noted, the widespread strike action in early 2014 in response to the LAC's minimum wage increase decision occurred in factories and other establishments across the country, regardless of whether workers were unionized, or whether their local union was independent or government-supportive, or whether national unions were present to coordinate the strikes. The upsurge in strikes suggests "both the constrained agency of unions and workers (Arnold, 2014) and a potential tipping point" (Ward and Mouly, 2016: 269).

Using the 2010 nationwide strike of garment workers as a case study<sup>64</sup>, Arnold (2013) underscores the potential of Cambodian workers to shape wage negotiations. Though workers fell short of their demands, Arnold argues that given an authoritarian and often violent political context, the strike was "a major step for independent unions and workers in terms of making their collective voice heard" (2013: 19). In fact, the substantial increases in the minimum wage in 2014, 2015 and 2016 were largely attributed to the large-scale strikes mounted by workers across sectors in 2013/2014. In light of this, some scholars see

the threat of strikes and the rise of independent unions altering power asymmetry, however slightly, between workers and employers, in favour of the former (Arnold, 2013; Oka, 2015).

#### 4.9.1 The minimum wage campaign and large-scale strikes in 2013/2014

In December 2013 and January 2014, demands for higher wages by workers employed in various industries and conflicting claims about minimum wage adjustment resulted in large-scale strikes that led to violent clashes, the death of several demonstrators, the temporary closure of garment factories, and ultimately a ban on public demonstrations in Phnom Penh. These strikes were organized by “teachers, civil servants, gas station workers, brewery workers, garbage collectors, and staff at the Extraordinary Chambers in the Courts of Cambodia (the UN-backed Khmer Rouge tribunal), as well as garment, textile, and footwear workers” (ADB, 2015: 74). This time, however, except for some unions supportive of the opposition party CNRP, there were no other unions, including the independent ones, which coordinated the strikes of the workers. Earlier, between 2006 and 2010, the surge in the number of strikes in the garment sector was mainly attributed to the large-scale union campaigns launched by both independent and opposition party-supportive unions to raise the minimum wage levels. As the government had been strict about allowing strikes, and pressure is needed to compel the employers’ association and the government to act on the workers’ demand for an increase in wages, the unions raised their demand for a 177-US-dollar wage in 2014 directly to the international buyers. This prompted some key buyers to issue a public statement declaring their support for an appropriate wage increase.

##### 1. The historical pressure for the minimum wage demand in 2013/2014

There was a historical context for the minimum wage demands in 2013/2014. Before 2010, there was no clear system or criteria for minimum wage adjustments. In 2010, CENTRAL, a labour and human rights NGO, commissioned a study from a group of economists to determine the appropriate level of minimum wage for the garment sector. Following the presentation of the results of the CENTRAL study, the C.CAWDU organized a nationwide strike in 2010 demanding a minimum wage of 150 US dollars a month. In response, the government adjusted the minimum wage to 80 US dollars a month. Around 600 of the C.CAWDU strikers were dismissed during that national strike.

##### 2. The political context: The role of the opposition party prior to its dissolution

The role of the opposition party CNRP was clearly visible in the run up to the 2013/2014 large-scale strikes. It should be noted that much earlier, the opposition parties, together with the unions that support them, had a long history of demanding better working conditions and rights for workers. In the 2013 national elections, the CNRP was able to mobilize youths, farmers, and other marginalized groups to come out and express their

demands for change. The CNRP's political platform drew massive support from the public. Its platform included, among others, a minimum wage for workers in the private and public sectors, pensions for the elderly, and the promotion of domestic products of farmers. Many workers campaigned and voted for the CNRP candidates. The CNRP was able to mobilize more than a million people, many coming from the provinces, in the streets of Phnom Penh in 2013 and 2014. As it turned out, the alleged massive cheating and manipulation of election results in 2013 resulted in the spontaneous display of 'people power'; voters demanded a vote recount. In short, the move to increase the minimum wage in 2013/2014 was largely due to the political pressure coming from the Cambodian people who were demanding a monthly minimum wage of 160 US dollars<sup>65</sup>, the same amount adopted by the CNRP. These developments arguably gave courage to many workers to go on strike later even without the guidance of their trade unions.

### 3. The absence of independent unions

The spontaneity of protest actions largely characterized the large-scale strikes that simultaneously broke out across various sectors in 2013/2014. In 2013, the CCU and CATU unions in several garment factories went on strike in protest at the LAC award on the amount of the minimum wage increase. Solidarity House issued a statement supporting the CATU-initiated strike. The CLC-member unions did not go on strike until 30 September 2016. However, C.CAWDU union members already went on 'wildcat' strikes even before said date.

The C.CAWDU, which organized the big strike in the garments sector in 2010, did not participate in the organization of the 2013/2014 strike, but instead focused on building alliances with other unions in the campaign to increase the minimum wage. The C.CAWDU decided not to participate in the strikes as it was in the middle of negotiations in the LAC for the wage increase. Moreover, since many of the leaders of the independent unions were under "judicial supervision" and are barred from being involved in politics (independent unions professed themselves to be non-aligned with any political party), they distanced themselves from the CNRP, which was visibly supporting the strikes of several unions (i.e. the CATU and CITA) which support the party. Thus, the other union federations did not support the strike for fear of being identified with the CNRP. During the 2013 strike, union leaders and activists in a small factory, in an industrial complex and who were supportive of the CNRP were arrested.<sup>66</sup> On 2 to 3 January 2014, some military personnel surrounded the office of Solidarity House allegedly to intimidate the union.<sup>67</sup> Lawsuits (e.g. destruction of property, disturbance of public order) were also filed against union leaders of the opposition party-supportive CCU in an attempt to intimidate and harass unions that oppose the wage increase suggested by the government.<sup>68</sup>

In the early January 2014 strike that turned violent, up to 80 per cent of all garment workers, including members of government-supportive unions and non-union members, spontaneously downed their tools to demand a monthly minimum wage of 160 US dollars. Workers from other sectors joined in. Only the CCU, CATU and CITA, union federations supportive of the opposition CNRP, mobilized their members. Overall, the strikes were a combination of strikes organized largely by the CATU and wildcat strikes of members of the C.CAWDU local unions.<sup>69</sup> As one international trade union officer observes, the mass of strikers included union members and non-members who self-organized in the everyday actions during the strike based on the developments at the workplace and in the neighbourhood industrial zone rather than the announcements or advice of the unions.<sup>70</sup>

Why did the 2013/2014 strikes turn violent? There is a confluence of factors. One, the results of the 2013 elections deeply angered the workers who supported the CNRP. Two, workers were disappointed over the absence of their unions during the strike. Three, the lack of union guidance might have provoked the violence. Four, the C.CAWDU-CLC and the CATU-CCU were not well prepared for the strikes so that the strikes became uncontrollable. The 2010 strike proved to be more powerful because it was carefully organized and coordinated by trade unions.

#### 4. The outcomes of the 2013/2014 strikes

The material outcome of the strikes was the record high adjustment of the minimum wage to 128 US dollars a month in 2015 from 100 US dollars in 2014, an increase of 28 per cent. The unions also started campaigning for the extension of the minimum wage to workers in the tourism and construction sectors.

Institutional improvements in minimum wage fixing were also introduced. The concerns raised by international garment buyers prompted the government to collaborate with the ILO “to establish a more robust and evidence-based minimum wage setting process that takes due account of the interest of workers and employers” (ILO and ADB, 2014: 28). Before 2014, it was the labour minister, who also chairs the LAC, who unilaterally determined the minimum wage without providing any justification for the amount set. This practice contradicted Article 357 of the Labour Law, which stipulates that the LAC has to conduct research on the minimum wage and advise the labour minister of the wage adjustment. Moreover, union representation in the LAC was overwhelmingly dominated by unions that were affiliated or linked with the ruling political party CPP (Nuon and Serrano, 2010). These unions adopted and followed the views and decisions of the government, despite grassroots views that the wage adjustments did not meet workers’ needs.

Thus, in mid-2013, a working group led by a former minister of economy and finance was created to work on a new minimum wage setting policy (BFC, 2014: Reeve and Hwang,

2015). Initially, the committee was composed of nine representatives each from the government, employer associations (garment enterprises), and trade unions, but in early 2015 the representation was increased to 15 representatives from each of the social partners (ibid). This committee is still part of the LAC. In 2014, the LAC adopted five principles in minimum wage fixing: (1) regular and annual adjustment; (2) gradual, steady and predictable adjustment; (3) interest-based strategies for negotiation; (4) recommendations on minimum wage set by consensus, and only where this is not possible, a vote; and (5) social and economic criteria<sup>71</sup> to form the basis for the adjustment (ibid). Clearly, these developments in minimum wage fixing were a consequence of the actions of non-state actors—the workers, the unions supportive of the opposition party CNRP, the independent unions, and later on the international garment and footwear buyers. As noted, in the context of ineffective state institutions for labour protection, a regime of non-state enforcement of workers' rights and labour standards appears to be emerging in Cambodia. This highlights the increasing role of trade unions and international buyers in industrial relations in the country.

The minimum wage adjustment in 2016 therefore went through the 'new' process of minimum wage setting. As there was no consensus reached among the members of the LAC working group, a vote ensued that adopted the minimum wage recommendation (to the LAC) of 135 US dollars (Reeve and Hwang, 2015: 32). A majority of the representatives of trade unions that were allied with the government went with this vote. Thereafter, the LAC proposed the said amount to the MoLVT. Prime Minister Hun Sen added an additional 5 US dollars, making the minimum wage 140 US dollars a month in 2016 (ibid).

The 2013/2014 strikes around the minimum wage issue highlighted some important lessons and insights. Firstly, workers no longer fear intimidation. Secondly, workers' anger can be effectively channelled to economic demands. Thirdly, the combined effects of workers' strikes and political pressure can compel the government to meet workers' demands. Fourthly, and important for any opposition party, both workers and the public at large can be mobilized around the minimum wage issue. Fifthly, national unions' leadership and coordination is essential in the conduct of strikes, especially large-scale ones, to avert occurrences of violence. Lastly, the wage campaign provided the opportunity for independent unions (e.g. the C.CAWDU) to organize and recruit more members across the country.

Many of the outcomes, lessons, and insights from the 2013/2014 strikes discussed above are similar to what the local union respondents of our 2016 survey consider to be positive outcomes of the strikes that occurred in their workplaces between 2011 and 2015. These include wage increases (noted by 46 per cent of respondents); improved working conditions (reported by 44 per cent of respondents); increased awareness of workers of their rights (declared by 36 per cent of respondents); increased participation of union members in union activities (disclosed by 28 per cent of respondents); and increased union membership (reported by 23 per cent of respondents).

There was, however, also a downside to the 2013/2014 strikes. The government tightened its political control over unions and NGOs. At the time of writing, a number of leaders of independent and opposition party-supportive unions still face criminal charges for the general strike in 2013/2014. The criminalization of union leaders sowed fear among many independent unions so that subsequently they refrained from making radical demands on minimum wages and from organizing mass mobilizations.<sup>72</sup> It is also believed that the strike resulted in the split of three federations (which later on formed Solidarity House) from the CLC.<sup>73</sup>

#### 4.9.2 The increasing role of unions in improving working conditions

The threat of strike action influences factories' compliance with labour laws in some areas, primarily in regard to the minimum wage (Ward and Mouly, 2016). This is important given that Cambodia's industrial relations system is based on a model of 'state-employer bipartism' under the guise of tripartism (*ibid*; Frenkel and Peetz, 1998). While there are formal channels that privilege tripartite social dialogue over confrontational industrial action, in practice, "processes of decision-making through these channels have been co-opted by the state and employers to further their own interests of accumulation" (*ibid*: 266). Way and Mouly (2016) add that state-employer bipartism is evident in the fact that the government does little to enforce its own laws and regulations. Given this context and absent effective labour institutions, trade unions are increasingly seen as key to improving labour conditions in workplaces. This is especially so given the disappointing outcomes of buyer-driven regulation through codes of conduct and monitoring (Oka, 2015).

Oka (2015) provides quantitative and qualitative evidence to demonstrate that the presence of unions in the factory helps reduce labour standard violations, albeit with a varying impact on problem areas. Using the comprehensive factory-level data<sup>74</sup> collected by BFC, she found that: "Union presence significantly improves compliance with wage, hours and leave standards but less so with regard to safety and health issues" (*ibid*: 2). She clarifies, however, that having multiple unions does not help improve compliance. In addition, developing an independent labour organization at the enterprise level is an important condition for improving labour conditions in global supply chains.

Some of the findings of our 2016 survey corroborate Oka's findings. A significant proportion (42 per cent) of our local union respondents recognized the ability of their union to solve workplace-related problems. About 37 per cent noted that their working conditions have improved because of their union. Nearly one in five (18 per cent) mentioned their wages have increased because there is a union in their enterprise.

#### 4.10 Workers' general perception of unions' representation capacity

In light of the findings of our 2016 survey indicating notable improvements in various areas of union work, it is not surprising that the local unions we surveyed rated highly—nearly 4 on a scale of 1 to 5 with 5 the highest—the overall capacity of their unions to address the needs and interests of both union and non-union members in their establishments. This is a significant improvement from the rating of 7 (on a scale of 1 to 10 with 10 the highest) on union effectiveness given by the respondents of our 2010 survey. A corollary of this finding, a big majority (85.7 per cent) of the local union respondents of our 2016 survey said that their union's representation capacity has improved since their union was organized in their workplace.

From the results of our 2016 survey, we found that an improvement of a local union's representation capacity is significantly associated with the following: (1) the sector where the union is located; (2) growth in union membership; and (3) members' involvement in preparing collective bargaining proposals. Respondents from garment and footwear factories, hotels and restaurants, and food and beverage manufacturing companies saw improvement in the representation capacity of their unions since their establishment in the workplace. In contrast, respondents from the construction sector saw no improvement. The fact that union density in the construction sector is very low at about 3 per cent may partly explain the latter finding. Moreover, there are just two collective agreements concluded to date in the whole construction sector.

Local union respondents who declared an improvement of their union's representation capacity likewise said that their union's membership has been growing since the union was established. This suggests that membership growth is an indicator of an enhanced union representation capacity.

Another indicator of better representation capacity of local unions is when a union consults its members about proposals for collective bargaining. Nearly all the local union respondents (98 per cent) who noted improvement of their union's representation capacity also said their union consulted union members about bargaining proposals.

Other key players in Cambodia's industrial relations have likewise observed a general improvement of independent unions' representation capacity. An ILO officer remarks: "Trade unions have become more mature in social dialogue. They have become more knowledgeable, too."<sup>75</sup> Similarly, the president of the Cambodian Federation of Employers and Business Associations (CAMFEBA) observes that the leaders of independent unions are becoming more sophisticated in their negotiations and engagements with employers.<sup>76</sup>

#### 4.11 Continuing challenges facing Cambodian trade unions

In our previous work (Nuon and Serrano, 2010), we identified from the results of our survey several challenges, both internal and external, unions were facing. The most common internal problems and challenges confronting unions at that time included the limited participation of women in union activities and leadership, limited education and training opportunities for union members, limited bargaining capacity of unions, limited funds and low collection rate of union dues, and limited organizing capacity. The external challenges included the poor enforcement of labour laws and compliance of employers with labour standards, employers' union avoidance practices, and apathy of non-union members.

Six years later, notable improvements were observed in the organizing capacity of unions, women's participation in union leadership, and the collection rate of union dues (albeit still inadequate to fund member services and operational expenses), as discussed in this chapter. In contrast, all the external challenges identified in our 2010 survey persist to date. These challenges, in fact, comprised the top three external problems identified by a big majority of local union respondents in our 2016 survey. The other external challenges identified include limited public recognition and acceptance of unions (indicated by 42 per cent of respondents), the government's general anti-union stance (noted by 29 per cent of respondents), and the government's pro-business policies such as privatization, casualization, union-free zones, etc. (declared by 21 per cent of respondents). However, the fact that even non-union members participated in the large-scale strikes in December 2013/January 2014 arguably suggests a gradual dissipation of apathy among many non-union members towards unions.

Among a majority of our federation respondents, the external challenges identified in our 2010 survey (i.e. poor enforcement of labour laws and compliance of employers with labour standards, apathy of non-union members, and employers' union avoidance practices) remain the top external challenges they face to date. In addition, they said that unions continue to have little acceptance by the public. Nearly one in three identify other external challenges, including the government's pro-business policies and the government's general anti-union stance.

The results of our 2016 survey highlight areas of union work and processes which require further improvement. These include the need for more member involvement in decision-making, more women in union leadership, more opportunities for members to become union leaders, higher competency of union leaders and staff in running the union, provision of more member services, clearer definition of roles and responsibilities of union officers, and more transparency in the use of union funds. Table 23 indicates the proportion of respondents citing each of these areas that require further improvement.



Table 23: Areas of union work and processes that require further improvement

Areas	% of local union respondents
Need for more member involvement in decision-making	82.4
More women in union leadership	67.1
More opportunities for members to become union leaders	65.2
Higher competency of union leaders and staff in running the union	61.4
Provision of more member services	58.1
Clearer definition of roles and responsibilities of union officers	49.5
More transparency in the use of union funds	43.8

In terms of doing organizing work, the local unions surveyed continue to encounter a number of obstacles, foremost of which are workers' lack of interest in joining a union, workers' fear of losing their job if they join a union, limited union resources for organizing, union avoidance by employers, and negative public perception of unions. The other obstacles are shown in Table 24. The federation respondents identify the same obstacles in organizing.

Table 24: Obstacles in union organizing

Areas	% of local union respondents	% of federation respondents
Workers' lack of interest in joining a union	73.3	93.8
Workers' fear of losing their job if they join a union	68.6	93.8
Limited union resources for organizing	62.9	87.5
Union avoidance by employers	60.5	50.0
Negative public perception of unions	52.4	93.8
Limited skills in organizing	45.7	50.0
Competition among unions (i.e. union multiplicity)	33.8	87.5
Restrictive laws and rules in union organizing and registration	23.8	18.8
Perception among workers that they do not need a union as their company adequately provides for their needs and promotes their interests	19.0	25.0

From our interviews with several local union leaders, labour activists, labour researchers, and industrial relations experts, we identified other pressing challenges facing Cambodian

trade unions, particularly the independent unions and opposition party-supportive unions. These include:

- More restrictive legal framework (e.g., Trade Union Law);
- Discrimination at the enterprise level against leaders and members of independent unions, while management has a smooth relationship with leaders and members of government-supportive unions;
- Cases filed by the government against leaders of independent unions;
- Splits among the ranks of independent unions;
- Issues of leadership entrenchment and democratic deficits involving some independent federations/confederations;
- The disconnect between local unions and federations;
- The need to reconfigure union structures and processes for better representation of other sectors where new organizing is taking place (e.g. tourism, construction, food and services);
- Lack of qualified union staff to service union members;
- Limited union resources to maintain services for members;
- Continued dependence of trade unions on international labour support organizations.

To increase the capacity of local unions to address the needs of grassroots members, federations undertake various interventions and activities, albeit mainly in the form of training, as indicated in Table 25.

Table 25: Federations' interventions and activities to increase local unions' representation capacity

Interventions and activities	% of respondents
Conduct training on negotiation and dispute settlement skills	87.5
More education and training for union members	87.5
Encourage the participation of women in union activities and leadership	75.0
Conduct leadership and membership development training	75.0
Conduct training on more effective organizing strategies	68.8
Conduct training on organizational development tools and techniques	18.8
Help affiliates establish structures and systems to enhance internal union democracy and membership participation in decision-making	18.8

The growth and expansion of trade unions in terms of union membership, categories of workers represented (e.g. UDCs, FDCs, workers in the informal economy, etc.), and sectors covered necessarily require representational, organizational and union strategy adjustments and changes. This may partly explain several of the internal challenges pertaining to organizational and institutional issues in unions—leadership entrenchment and deficits in democratic processes, the disconnect between local unions and federations, inadequate representation of other sectors and groups of workers in the union, weak and limited human resources, and insufficiency of union funds.

The next chapter discusses what Cambodian trade unions are doing to address these challenges and suggests ways for unions to further strengthen their capacity in various spheres of union activity

# Chapter V

## Strengthening trade unions in Cambodia





Trade unions play an important function in promoting democracy both at the workplace and in the larger society. According to Freeman and Medoff (1984), where unions are recognized for collective bargaining, workers are more able to influence workplace decisions. At the macro level, Behrens et al. (2004) note that given a context where market regulation supplants government regulation, resulting in the reduction of the scope of issues which citizens can influence, “workplace representation might serve as a substitute” (2004: 15).

Unions as an integral part of civil society have an important function in interest aggregation and representation in democratic societies. As highlighted in the previous chapter, they can increase voter turnout and stimulate political awareness and participation not only among their members but also other citizens (Behrens et al. 2004). More importantly, unions can provide ‘spaces’ where workers can learn democratic processes and develop capacities (i.e. organize, educate, negotiate, mobilize, etc.) that could enable them to enhance their participation in decision-making in the workplace and in the community. Unions involved in social movements can broaden the spectrum of political discourse, offering alternative thinking and practices based on democracy, equity and cooperation that challenge undemocratic and unjust political and economic orthodoxies.

As noted in the previous chapters, labour has been critical to the growth and expansion of the garment sector in particular and economic growth in general in Cambodia. The country’s export-oriented garment manufacturing has relied on a cheap, largely female and migrant, workforce with limited employment alternatives. In most cases, it is not only these workers themselves who rely on their wages, but also their families living in rural areas.

Union presence and the threat of strike action have increased factories’ compliance with labour laws in some areas, particularly in regard to the minimum wage. Through strikes, workers and trade unions have been able to increase wages in the garment and footwear sector which has had a signalling effect in other sectors. Reputation-conscious buyers have been pressured to become more ethical in sourcing suppliers. As underscored by Oka (2015), Cambodian trade unions are key in the improvement of working conditions.

The wage struggles of Cambodian workers and unions resulted in the yearly review of the minimum wage, growth of the minimum wage in real terms beginning 2015, and enforcement of social insurance coverage. In July 2018, a few days before the national elections, the government adopted the Law on Minimum Wage that would extend the

minimum wage to other sectors. These initiatives comprise the unions' contribution in reducing income inequality in Cambodia.

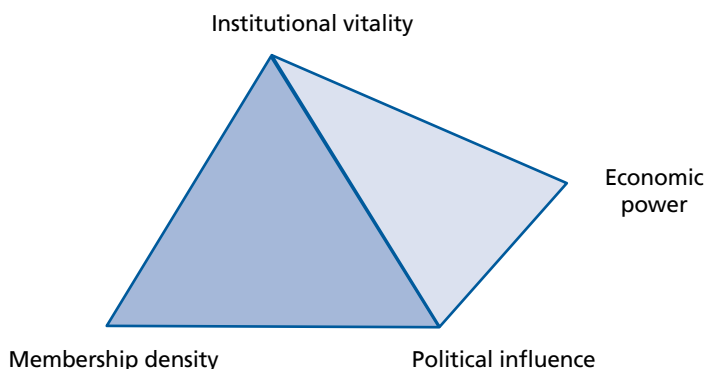
Also, trade unions have contributed to the development of democratic processes in Cambodia. The independent trade union movement has created an organized base of citizens who are highly conscious of their citizenship and employment rights and are committed to exercising those rights. Through the union, workers practise self-management of their own organization. The struggles of independent trade unions through the years, despite labour control and repression, earned them institutional and political power—the government has to consult these unions on labour and social policies, and political parties have to seriously consider trade union demands. Employers, too, are constrained to recognize them as social partners.

All these roles and functions of unions point to the centrality of trade union capacity.

### 5.1 Conceptualizing trade union capacity

According to Behrens et al. (2004: 20), union activity is multi-dimensional and unions “derive power resources from the various spheres they engage in”. Thus, union revitalization, which the authors define as “(re)gaining power along the various dimensions that capture the main orientations or spheres of union activity” (ibid), can occur along four dimensions: The membership dimension, the political dimension, the economic dimension, and the institutional dimension. They represented the four dimensions of union revitalization as a pyramid (Figure 30), suggesting that unions' revitalization efforts can either focus on one dimension, or on a combination of more than one dimension.

Figure 30: Dimensions of labour movement revitalization



Source: Behrens et al. 2004: 20 (Figure 2.1)

The membership dimension corresponds to membership density which may relate to an increase in membership numbers, increase in membership density, or a change (diversification or broadening) of union membership. The political dimension pertains to how a union achieves and exercises political power. Here political power is expressed in a union's ability to influence policy-making at various levels of government. This could be through elections, legislation, and implementation of laws and regulations. Economic power, meanwhile, corresponds not only to a union's bargaining power but to other union strategies that increase a union's economic leverage (e.g. corporate campaigns, living wage campaigns with social movements, coordination with employers, etc.). Modifying bargaining structures such as shifting to a more centralized or coordinated bargaining system also enhances bargaining power particularly in countries where enterprise-level bargaining weakens unions.

Finally, the institutional dimension pertains to institutional vitality in a union's organizational structure, governance and internal dynamics. Here the role of trade union leaders who promote new ideas and who have the political will to support change is critical. Behrens et al. (2004) explain that changes along the other three dimensions sometimes lead to revitalization along the institutional vitality dimension. For example, organizing other groups of workers and other sectors can lead to the creation of a new department (e.g. for these other sectors) in a union federation, which can then influence the federation's larger goals and eventually lead to a redefinition of strategies.

Institutional vitality also encompasses organizational capacity. For Hall et al. (2003), organizational capacity (i.e. financial, human resources, and structural capacities) refers to the ability of organizations to fulfil their mission and goals based on internal resources.

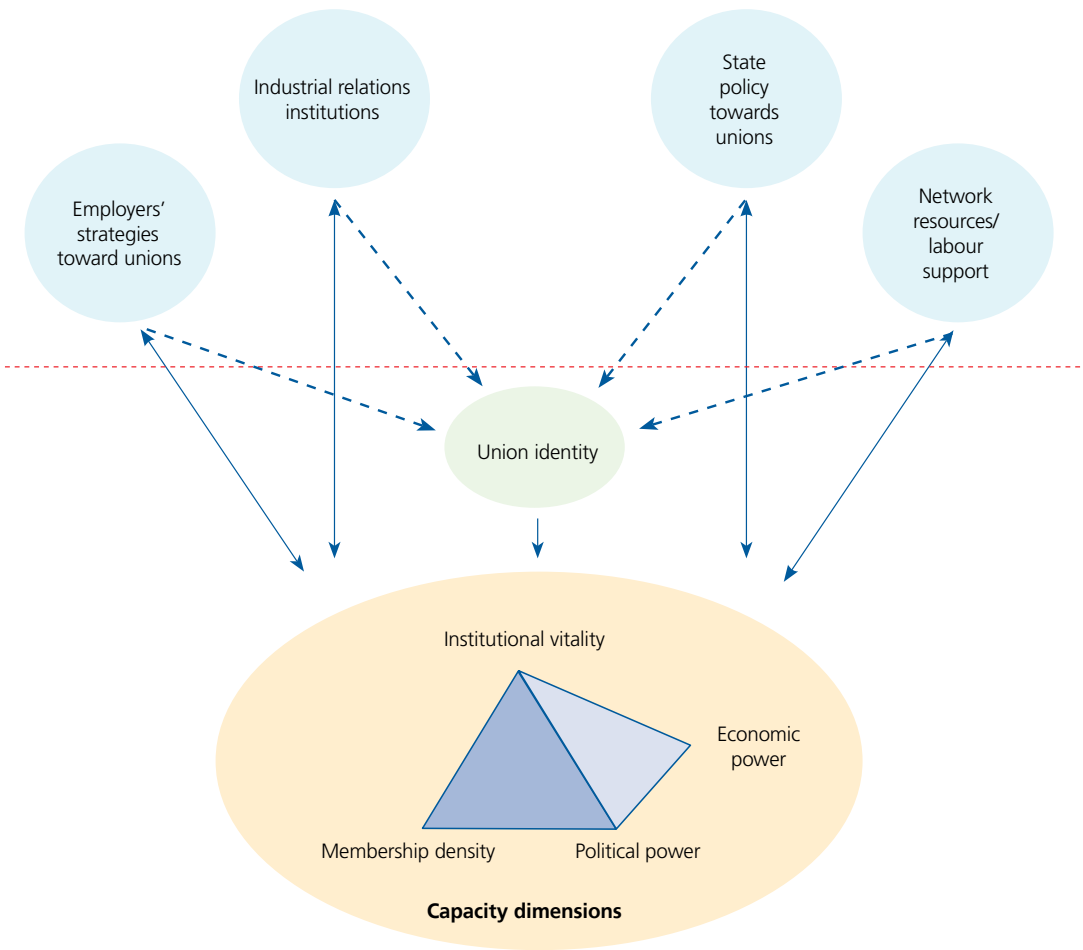
Following Behren et al.'s four-dimensional model (with the institutional dimension enriched by Hall et al.'s typologies of capacities and Orfald's additional element of democratic and mobilization capacity), Serrano, Xhafa and Nuon (2011) conceptualize trade union capacity as comprising the same four dimensions. Moreover, they see the four dimensions as interdependent and co-evolving; that an enhancement in one dimension may both require and trigger corresponding enhancements in the other dimensions. They add five key variables that influence union capacity: (1) institutions of industrial relations, (2) state policy towards unions, (3) employer strategies or attitude toward unions, (4) union identity, and (5) network resources/availability of union partners or support organizations. Figure 31 illustrates the authors' concept of trade union capacity.

Institutions of industrial relations, state policy towards unions, employer strategies toward unions, and the existence (or absence) of network resources/labour support organizations (political parties, international and local labour support organizations, non-governmental organizations, social movements, other people's organizations) are the key exogenous



variables that influence trade union capacity. Each of these factors may either limit or expand union capacity.

Figure 31: Conceptualizing union capacity



Source: Serrano, Xhafa and Nuon (2011: 6), Figure 2.

Institutions of industrial relations comprise the structure of bargaining that exists in a given country, the government regulations and procedures on union recognition and bargaining, and the existence of mechanisms for worker participation in the enterprise. State policy or attitude towards unions may either be oriented towards partnership and coordination or union exclusion. Similarly, employers' strategies or attitude toward unions may either favour partnership approaches or opposition (or avoidance). The existence of network resources or the availability of labour partners that provide support to unions may contribute to the

building of union capacity. Such support may come in various forms, some of which are: Financial, education and training, research and technical expertise, providing venues for dialogue and cooperation, waging union campaigns both nationally and internationally, and mobilization. This variable may have a direct influence on union capacity or may indirectly influence it via the potential of labour support organizations to (re)shape union identity.

As discussed in the previous chapters, weaknesses in some institutions of industrial relations (e.g. provisions of the Trade Union Law that restrict the right to strike, the lack of union independence in the LAC, weak enforcement of labour standards), the state's repressive policy towards (independent and opposition party-supportive) unions, and employers' general anti-(independent) union strategies (e.g. the high number of worker dismissals after the 2010 national strike on the minimum wage, lawsuits filed against independent union leaders) have largely limited union capacity in Cambodia. On the other hand, some industrial relations institutions (e.g. Arbitration Council, post-2014 minimum wage policies) and the support received by trade unions from various non-state labour partners and organizations have contributed to the strengthening and expansion of union capacity, especially among independent unions, in organizing, bargaining, influencing government policies and regulations, launching campaigns, mobilizing members, and social dialogue.

Union identity, which is an endogenous factor, also influences union capacity. How a union and its members articulate the union purpose (i.e. the meaning of trade unionism) shapes a union's identity (Serrano, Xhafa and Nuon, 2011). According to Hyman (2001), 'market-oriented unionism' appears to be the dominant union identity in many countries. This type of unionism mainly aims to raise the economic conditions of its members through collective bargaining. Market-oriented unionism also relates to 'labourism' which, according to Lloyd and Ramsay (2017: 9-10), "is essentially the defensive ideology and practice of organised labour that focuses almost exclusively on gaining a larger income share for employed labour through workplace struggles against capitalists, and mostly ignores wider issues of egalitarian citizenship, social organisation, social welfare, social equality and social justice".

However, as the crisis of unionism deepened, market-oriented unionism or labourism has been challenged. The experience and engagements of unions with social movements beyond labour have provided unions with new methods and strategies, particularly in organizing, mobilization and membership activism and participation. Increasingly, many unions have started experimenting and implementing a social movement repertoire of contention. Labelled 'social movement unionism'<sup>77</sup>, this type of union identity challenges the power of capital through mobilization and social transformation. In addition to the traditional union functions, unions that advocate social movement unionism usually adopt more radical strategies (e.g. strikes, political protests and mobilization, community organizing and mobilization, plant occupations) and a wider social agenda (e.g. policy engagement in the formulation of industrial policy, advocating universal social security, using workers' funds to

build social infrastructure to promote employment and social welfare), often with the support and cooperation of other non-trade union groups (e.g. community organizations, NGOs, social movements). For these unions, adopting a social movement agenda and repertoire of action enhances their strategic leverage and subsequently their organizational capacity.

Cambodian trade unions are largely market-oriented or labourist unions. The activism displayed by the independent and opposition party-supportive trade unions is arguably dominantly wage-centric. In our previous study, we found that Cambodian unions were mostly enterprise-focused (i.e. providing economic gains to members through bargaining) and member services-focused (Nuon and Serrano, 2010). Lloyd and Ramsay (2017) argue that wage-centric activism at the enterprise level does not drive social or political change.

Nonetheless, many independent and opposition party-supportive unions are increasingly embracing a social movement repertoire of action in terms of putting more focus on organizing work, mounting strikes, organizing political protests, organizing and representing workers in the informal economy, doing community organizing, and others. This is especially true among federations. In fact, nearly one in three (31.5 per cent) of the 16 federations we surveyed in 2016 declare that increased organizing is the primary focus of their union strategies. Moreover, many of the independent unions have started advocating a 'living wage', albeit confined to the garment and footwear sector. According to Lloyd and Ramsay (2017: 12), for trade unions to fulfil (again) their "'historic mission' of transforming the social conditions of existence of working people", "the distribution of income should be anchored by an institutionally determined 'living wage' that both usurps and stymies existing market mechanisms and at the same time operates as a countervailing force".

## 5.2 Strengthening union capacity: Insights and considerations from the study

Our study, particularly the results of our 2016 survey, provides key insights and considerations on how unions may be able to strengthen their capacity in the various dimensions of union work—the membership dimension, the political dimension, the economic dimension, and the institutional dimension.

### 5.2.1 Increasing and broadening union representation

The use of a variety of organizing strategies and tactics by unions suggests vibrancy and innovativeness in union organizing. These strategies include:

- Establishing a rank-and-file committee involved in organizing;
- Conducting surveys among members on bargaining proposals;
- Holding small group meetings during an organizing initiative;
- Holding meetings away from the workplace;

- Enlisting the help of rank-and-file volunteers from already organized units during organizing (use of an ‘organizing’ local);
- Making home visits to target members;
- Distributing leaflets to workers;
- Identifying grievances as basis for recruitment;
- Holding solidarity days, rallies and job actions, including strikes;
- Developing community-labour coalitions; and
- Using strikes as an opportunity to educate workers about their rights.

The use of a combination of the strategies and tactics listed above can enhance the success rate of an organizing initiative. Moreover, the use of a more grassroots-oriented approach in union organizing contributes to the success of an organizing drive.

In terms of membership coverage, organizing and recruiting workers on short-term contracts (i.e. FDC workers) not only increases union membership, but also the union’s bargaining power. It also enhances the legitimacy of unions—that they represent all workers in the enterprise. As our 2016 survey findings indicate, unions recruit FDC workers as regular members of the union and are covered by the CBA, if any.

### 5.2.2 Building bargaining capacity

There are several factors that may potentially increase the likelihood of having a CBA in an enterprise. These include:

- Consulting members about bargaining proposals;
- Allocating specific positions for women in a union leadership;
- Undertaking activities in preparation for bargaining, such as: Making use of available surveys in the industry, gathering relevant company records, conducting a seminar for members on the bargaining process, training union leaders on effective bargaining strategies, and organizing solidarity actions in the workplace to show management that workers are united;
- Utilizing a variety of bargaining strategies, such as: Consulting union members; soliciting management’s cooperation in the bargaining process; putting pressure on government to enforce the regulation on the duty to bargain among employers; getting support from federations in terms of providing training on negotiation strategies, drafting proposals, doing a wage survey; getting unions in the factory to cooperate in bargaining; doing research and presenting relevant statistics and data); mobilizing support from members (members’ readiness to go on strike in case of deadlock); using the company’s code of conduct provision on the right to bargain collectively, if any; soliciting support from NGOs and other labour support

organizations; soliciting international support or solidarity from other unions in other countries in case of deadlock; and utilizing media support;

- Involving members in union work and activities; and
- Dealing with health and safety issues at the workplace.

In addition, organizing and/or recruiting workers on short-term contracts (i.e. FDC workers) into the union and having provisions in the CBA that protect these workers increases the likelihood of having a CBA.

### 5.2.3 Embracing institutional vitality and embedding internal union democracy

Union splits are largely a result of the lack of democratic processes—the absence of clear structures, lack of transparency, and lack of internal democracy. Having various union structures, such as a union organizing committee, bargaining committee, election committee, grievance handling committee, education and training committee, women’s committee, membership welfare committee, and health and safety committee, among others, facilitates the delivery of member services, membership development and involvement, and the implementation of internal union democracy.

Involving rank-and-file union members in decision-making enhances internal democracy. This can be done by involving members in various union functions and activities, including preparing bargaining proposals, participating in the actual bargaining process, handling grievances, conducting education and training, participating in policy-making on training and education, making proposals to amend the union constitution and bylaws, and participating in policy-making and strategy-building on membership recruitment. There are several ways to prepare members to have more meaningful involvement in these activities. These include the following:

- Sending rank-and-file members to seminars and training (e.g. negotiation and dispute settlement, leadership and membership development, effective organizing strategies) provided by labour-oriented institutions;
- Using local union members to do organizing in unorganized workplaces (‘organizing local’ approach);
- Having a rank-and-file organizing committee that does many of the member recruitment activities;
- Electing shop stewards from among the rank-and-file members; and
- Securing paid time from management to enable workers to join union activities.

Enhancing women’s participation in union activities and placing more women in the union leadership is also a way to grow union internal democracy. As our 2016 survey revealed, there is a link between the existence of certain affirmative policies for women and the

capacity of a union to represent and meet union members' interests and needs. Policies that increase women's representation in union leadership include setting targets or quotas for women's representation at union congresses, allocating specific positions for women in union congresses/conferences, and allocating specific leadership positions for women, setting targets or quotas for women's representation in the union committee, and setting targets or quotas for women's representation in union leadership.

There are other ways unions can create an environment that could enable a more meaningful and deeper involvement of women in union activities and in union leadership. Nuon, Serrano and Xhafa (2011: 50-52) suggest the following:

- Appointing a gender equality representative (GER) trained to provide information on gender equality and identify and address gender discrimination and sexual harassment issues at the workplace and in the union. The GER may also be trained to do gender equality audits at the workplace and in the union;
- Adoption of a union code of conduct on appropriate behaviour;
- Negotiating for a long-term contract, equality in the job, and pay equity, on top of issues related to women's reproductive health (e.g. maternity, menstrual, health and medical care benefits);
- Disseminating and making accessible information on standard procedures and disciplinary consequences for sexual harassment. This could be done through noticeboards in the factory/enterprises;
- Educating women's family members about the importance of the union and women's role in the union may ease pressure on women and facilitate their participation in the union. Organizing 'Family Days' for women's families could be a good venue for informal, entertaining and creative education on the importance of unions and women's leadership;
- Consulting women in scheduling or arranging developmental training and education programmes and other activities may increase the participation and effectiveness of such activities; and
- Establishing links and cooperation with local NGOs and community groups that are involved on issues of violence against women, sexual harassment, reproductive health, etc. These NGOs may provide leaflets, brochures, toolkits, films, and other materials in the local dialect.

By deepening women's involvement in the union, they "learn and experience on a day to day basis how to lead workers, speak in front of members, make organizational plans, develop and understand budgets, negotiate with management, handle disputes and learn technical skills" (Nuon and Serrano, 2010: 145). In short, women's involvement in the union, particularly in union leadership, provides emancipatory opportunities for their empowerment.

To address organizational challenges (e.g. the disconnect between local unions and federations, leadership entrenchment, underrepresentation issues in union structures, lack of qualified union staff, limited union resources), some unions have started experimenting with new structures of representation (e.g. establishing decentralized union branches and workplaces), recruiting volunteer activists at the local level to address the limited availability of full-time union staff, utilizing team work in union activities, providing more opportunities for grassroots members to practice their learning from training and seminars, and collaborating with other trade unions and NGOs in the implementation of union projects and in the provision of member services<sup>78</sup>.

In addition, including rank-and-file union members in the union bargaining panel provides an opportunity for union members to gain actual experience in bargaining. It is also a way for unions to show transparency in negotiations.

What is required is to make these practices more widespread among trade unions in Cambodia.

Indeed, despite a regime of labour control, there is a growing independent worker movement in Cambodia. This movement has been playing an important role not only in addressing economic democracy but also in promoting democratic processes both at the workplace and at the national level. Strengthening union capacity is key in enabling this worker movement to become an alternative political force in Cambodia.

## Notes

- 1 The Multi-Fibre Agreement was an international trade agreement on textiles and clothing that was active from 1974 until 2004. The agreement imposed quotas on the amount that developing countries, like Cambodia, could export in the form of yarn, fabric and clothing to developed countries. The agreement expired on 1 January 2005, and it was replaced by the WTO Agreement on Textiles and Clothing (ATC), which set out a transitional process for the ultimate removal of these quotas. For a discussion on the effects of the end of the MFA on trade and employment in Cambodia and other developing countries, see: Ernst C, Alfons Ferrer A H, and Zult D (2006) The end of the Multi-Fibre Arrangement and its implications for trade and employment. Employment Strategy Papers 2005/16. Geneva: International Labour Organization. [http://ilo.org/wcmsp5/groups/public/---ed\\_emp/---emp\\_elm/documents/publication/wcms\\_114030.pdf](http://ilo.org/wcmsp5/groups/public/---ed_emp/---emp_elm/documents/publication/wcms_114030.pdf) (accessed 9 October 2016).
- 2 Micro enterprises are those enterprises having between 1 and 10 workers. Small enterprises employ between 11 and 50 workers. Medium enterprises have between 51 and 100 workers. Large enterprises employ 100 or more workers.
- 3 <http://atlas.media.mit.edu/en/profile/country/khm/#Imports> (accessed 12 October 2016).
- 4 Ibid.
- 5 The US-Cambodia Trade Agreement was forged on 20 January 1999. It ended in 2004. For a discussion of the US-Cambodia trade agreement and the establishment of Better Factories Cambodia, see: Nuon V and Serrano M (2010) Building Unions in Cambodia: History, Challenges, Strategies. Singapore: Friedrich-Ebert-Stiftung, pp. 47-50.
- 6 The EU's EBA was established in 2001 to allow all least developed countries full duty-free and quota-free access to the EU for all their exports with the exception of arms and armaments. Entry into the EBA is automatic and, unlike other GSP arrangements, the EBA has no time-limit. For more information about EBA, see: [http://trade.ec.europa.eu/doclib/docs/2013/april/tradoc\\_150983.pdf](http://trade.ec.europa.eu/doclib/docs/2013/april/tradoc_150983.pdf).
- 7 Cambodia's eligibility under EBA is expected to continue until it is no longer classified as "least developed" by the UN. Currently, Cambodia is still classified as a "least developed country" by the UN. Graduation thresholds (2015 triennial review) include the following:
  - (i) Per capita GNI of 1,242 US dollars; (ii) Human Asset Index (HAI) of 66 and above; and
  - (iii) Economic Vulnerability Index (EVI) of 32 and below. Eligibility for graduation has to be met at two consecutive triennial reviews (2+3) and graduation takes effect three years after the decision by the General Assembly (World Bank, 2016: 32, footnote 41).
- 8 According to Taglioni and Winkler (2016: 101), "The higher is the foreign value added embodied in gross exports and the higher is the value added of domestic inputs exported



to third countries and used in their exports, the higher is the participation of a given country in the value chain”.

- 9 Countries upstream produce the raw materials or intangibles involved at the beginning of the production process (e.g. research, design) (De Backer and Miroudot, 2013: 15).
- 10 The minimum value of the index is 1 when no intermediate inputs are used to produce a final good or service (De Backer and Miroudot, 2013: 15).
- 11 The World Bank divided the world's economies into four income groups according to gross national income (GNI) per capita in 2015: (1) low income, 1,025 US dollars or less; (2) lower middle income, 1,026 to 4,035 US dollars; (3) upper middle income, 4,036 to 12,475 US dollars; and (4) high income, 12,476 US dollars or more (ILO, 2017b: 4).
- 12 According to the UN (2017: 152), “The list of the least developed countries (LDCs) is decided upon by the United Nations Economic and Social Council and, ultimately, by the General Assembly, on the basis of recommendations made by the Committee for Development Policy. The basic criteria for inclusion require that certain thresholds be met with regard to per capita GNI, a human assets index and an economic vulnerability index.”
- 13 The HDI is a summary measure for assessing long-term progress in three basic dimensions of human development: A long and healthy life, access to knowledge and a decent standard of living. A long and healthy life is measured by life expectancy. Knowledge level is measured by mean years of education among the adult population, which is the average number of years of education received in a lifetime by people aged 25 years and older; and access to learning and knowledge by expected years of schooling for children of school-entry age, which is the total number of years of schooling a child of school-entry age can expect to receive if prevailing patterns of age-specific enrolment rates stay the same throughout the child's life. Standard of living is measured by Gross National Income (GNI) per capita expressed in constant 2011 international dollars converted using purchasing power parity (PPP) rates. For more information about Cambodia's HDI, see: [http://hdr.undp.org/sites/all/themes/hdr\\_theme/country-notes/KHM.pdf](http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/KHM.pdf).
- 14 According to Taglioni and Winkler (2016: 203), economic upgrading is the average of the percentage change in export market share and the percentage change in export unit value. Social upgrading is the average of the percentage change in employment and the percentage change in real wages.
- 15 Most of the data used in this section were drawn from: Asian Productivity Organization. 2015. APO Productivity Databook 2015. Tokyo: APO.
- 16 Data on labour productivity of Myanmar and Laos for the period under review are not available.
- 17 For a discussion of the AEC Scorecard see: ASEAN Secretariat. 2015. A Blueprint for Growth: ASEAN Economic Community 2015: Progress and Key Achievements. Jakarta: ASEAN Secretariat, pp. 7-17.

- 18 The CGE model employed in this study was developed by Michael Plummer, Peter A. Petri and Fan Zhai in collaboration with the ILO. More detailed results of the model simulations are available in: Plummer M, Petri P and Zhai F (Forthcoming). Assessing the impacts of ASEAN integration on Labour Markets, background paper prepared for ASEAN Community 2015: Managing integration for better jobs and shared prosperity. Bangkok: ILO, forthcoming.
- 19 Interview with Daniel Gonzalez Levassor of the Trade and Private Sector Development, EU Delegation to Cambodia, September 2016, Phnom Penh.
- 20 Interview with Mr. Chhiey Veyara, industrial relations officer, ILO Cambodia, 7 June 2016.
- 21 Interview on 2 June 2016, Phnom Penh.
- 22 Under Article 70 of the Trade Union Law, a CBA can either have a definite or an indefinite duration. In case of the former, the CBA's duration is at least three years. When a CBA is for an indefinite duration, it may be repealed. However, it remains in effect for a period of one year from the date of receipt of repeal.
- 23 For more information about ACT, see: [http://s3-eu-west-1.amazonaws.com/www.ethicaltrade.org/files/shared\\_resources/act\\_factsheet.pdf?NOLqDau6XQP.b\\_YbAuXUs1DAwPS4jPPV](http://s3-eu-west-1.amazonaws.com/www.ethicaltrade.org/files/shared_resources/act_factsheet.pdf?NOLqDau6XQP.b_YbAuXUs1DAwPS4jPPV).
- 24 According to Oka (2012), the 13 buyers accounted for 45 per cent of Cambodia's garment export value at the time of her survey.
- 25 Cambodia got a rating of 5 which means that, while the legislation accords certain rights, workers have effectively no access to these rights and are therefore exposed to autocratic regimes and unfair labour practices. For more information about the ITUC Global Rights Index, see: ITUC (2016) 2016 ITUC Global Rights Index: The World's Worst Countries for Workers. Brussels: ITUC, pp. 17-20.
- 26 The LRI provides reliable and concise data on the status of freedom of association and collective bargaining rights in law and practice in various countries. The indicators are based on coding the findings of nine sources that include the following: Reports of the Committee of Experts on the Application of Conventions and Recommendations, Reports of the Conference Committee on the Application of Standards, Country baselines under the ILO Declaration Annual Review, Representations under Article 24 of the ILO Constitution, Complaints under Article 26 of the ILO Constitution, Reports of the Committee on Freedom of Association, National legislation, International Trade Union Confederation Survey of violations of Trade Union Rights, US Department of State's Country Reports on Human Rights Practices. The indicators entail five basic elements: The premises of definitional validity, reproducibility and transparency, the 108 evaluation criteria used to code violations in law and practice, the textual sources selected for coding, the general and source-specific coding rules and the weighting scheme developed through a two-stage survey of internationally recognized experts. The non-normalized score for any given country and year is normalized to a range in value from 0 to 10, the best and worst possible score respectively. For more information

- about the methodology of the Indicators, see: Kucera D and Sari D (2016) New “Labour Rights Indicators”: Methods and Results. Center for Global Workers’ Rights Working Paper 002, Pennsylvania State University, April 2016. <http://labour-rights-indicators.la.psu.edu/docs/Method%20Paper.pdf>.
- 27 For details of the areas of violations, see: <http://labour-rights-indicators.la.psu.edu/country/116>.
  - 28 It should be noted that the trade unions proposed the enactment of a law on a national minimum wage many years ago. This proposal was supported by global union federations, the ITUC, ACILS, and other international labour solidarity support organizations.
  - 29 Sengkong B and Willemyns A (2016) CNRP approves party policy manifesto. The Phnom Penn Post, 2 November 2016. <http://www.phnompenhpost.com/national/cnrp-approves-party-policy-manifesto> (accessed 19 March 2017).
  - 30 It should be noted that the BFC Synthesis Reports were issued twice a year until 2012. Beginning 2013, the BFC Synthesis Report comes out once a year.
  - 31 Center for Policy Studies (2016) Survey of Expenditures of Workers in the Garment and Footwear Sector in Cambodia.
  - 32 See: <https://news.vice.com/article/transported-like-pigs-cambodias-garment-makers-risk-death-just-to-get-to-work>.
  - 33 See: <http://www.khmertimeskh.com/news/18538/deadly-year-for-garment-factory-commutes--report/>.
  - 34 According to the ILO, a threshold of 239 US dollars per person per year is required to provide quality health care (ILO, 2014: 35).
  - 35 The health professional staff deficit is the percentage of the population not covered due to professional health staff deficit. The ILO staff access deficit indicator reflects the supply side of access availability – in this case the availability of human resources at a level that guarantees at least basic, but universal, effective access to everybody. To estimate access to the services of skilled medical professionals (physicians and nursing and midwifery personnel), it uses as a proxy the relative difference between the density of health professionals in a given country and its median value in countries with a low level of vulnerability (population access to services of medical professionals in countries with low vulnerability is thus used as a benchmark for other countries). The relative ILO benchmark corresponds to the median value in the group of countries assessed as ‘low vulnerable’ (regarding the structure of employment and poverty). Based on 2011 data from WHO (number of physicians, nursing and midwifery personnel per 10,000), the estimated median value is 41.1 per 10,000 population when weighted by total population. See: ILO (2014: 296).
  - 36 See: ILO Key Indicators of the Labour Market 2012.
  - 37 Cooperation in labour-employer relations is a component of the seventh pillar on labour market efficiency of the 12 pillars comprising the annual Global Competitiveness Survey of the World Economic Forum.

- 38 Trade union signatories included the Cambodian National Confederation, National Union Alliance Chamber of Cambodia, Cambodian Confederation of Trade Unions, Cambodian Labour Confederation, Cambodian Confederation of Unions, and the Khmer Youth Federation of Trade Unions.
- 39 Trade union signatories of the second MoU included the Cambodian National Confederation, National Union Alliance Chamber of Cambodia, Cambodian Confederation of Trade Unions, Cambodian Labour Confederation, National Labour Confederation of Unions, Cambodian Association of Trade Unions, Cambodian National Confederation for Labourers Protection, and the Free Trade Union of Workers of the Kingdom of Cambodia.
- 40 Interview on 7 June 2016, Phnom Penh.
- 41 The total count by the end of 2009 was 1,725 unions. Union registration in Cambodia is valid for only two years after which unions have to re-register. The total count of 610 enterprise unions was derived by adding up the 265 registered unions in 2008 and the 163 newly registered and 182 re-registered unions in 2009.
- 42 Our survey in 2010 gathered data on the characteristics of trade unions and developments in the trade union movement in Cambodia. The survey involved 316 unionized and non-unionized workers from seven sectors, including garments and textiles, services (hotel and restaurant, airport services, banking, telecommunications), construction, tobacco manufacturing, rubber plantations, the civil service, and the informal economy (tuk-tuk or motor taxi transport, beer promotion). About 42 per cent of the respondents were from the unionized sectors, while 58 per cent were from the non-unionized sectors. For more details about the survey, see: Nuon and Serrano (2010: 6-7, 63-64).
- 43 Interviews on 1, 2 and 7 June 2016, Phnom Penh.
- 44 The CPP is a reformulated version of the Kampuchean People's Revolutionary Party (KPRP), which governed Cambodia during Vietnam's occupation from 1979 to 1989. In 1991, the KPRP changed its name to the CPP. The CPP first came to power in 1997 following a coup that it carried out to consolidate its grip to power and abolish all opposition. The coup ousted Prince Norodom Ranariddh, the leader of the royalist party National United Front for an Independent, National, Peaceful and Cooperative Cambodia (FUNCINPEC), who prior to the coup was sharing the prime minister's post with CPP leader Hun Sen. However, following the rise of the opposition SRP which drew massive public support in the 1998 elections, the CPP was forced to enter into a coalition government with the FUNCINPEC.
- 45 Prior to the establishment of the KNP, Sam Rainsy was a leading figure of the royalist party FUNCINPEC, which is led by Prince Norodom Ranariddh, son of the late King Norodom Sihanouk. Rainsy's robust stance against corruption and economic mismanagement by the government led to his ouster in 1994 from his government post as senior minister for finance and economy, and his expulsion in 1995 as a member

of the National Assembly and FUNCINPEC. The CPP and FUNCINPEC have been in on-again, off-again coalition since the 1998 elections.

- 46 In early 1998, after government efforts to quash the KNP and prevent its registration as a political party, the KNP leadership re-grouped to form the Sam Rainsy Party (SRP). Despite experiencing perpetual intimidation, violence, and time constraints, the SRP was able to mobilize massive public support in the 1998 elections forcing the ruling CPP to concede 15 of the 122 seats in the National Assembly. The SRP also gained seven seats in the Senate in 1998, forcing CPP to form a coalition government with the royalist party FUNCINPEC.
- 47 This economic transition process was heavily influenced by the International Monetary Fund, the World Bank, some donor countries, and international organizations.
- 48 Interview on 7 June 2016, Phnom Penh.
- 49 According to an officer of a local NGO, Solidarity House leaders went to the Philippines in 2014 to study and learn from the experience on union consolidation and social movement unionism of SENTRO, a labour centre.
- 50 Email correspondence with Ms. Monina Wong, officer, Human and Trade Union Rights Unit, International Trade Union Confederation (ITUC) in Brussels, 14 February 2017.
- 51 Interviews with officers of two independent confederations on 7 June 2016, Phnom Penh.
- 52 Interviews with officers of two TUSSOs on 1-2 June 2016, Phnom Penh.
- 53 In analysing our survey results using the software SPSS Statistics, we used Pearson Chi-square test in determining the relationship between variables. A significant association or relationship exists between variables if the Chi-square p value is less than or equal to 0.05.
- 54 Interview with Mr. Matthew Rendall, president, Cambodian Federation of Employers and Business Associations, 9 June 2016, Phnom Penh.
- 55 Interview on 4 June 2016, Siem Reap.
- 56 According to a CTSWF-CLC officer, the union leaders and members dismissed received compensation from the Victoria Hotel in February 2017. The hotel also withdrew the complaint it filed against them at the Siem Reap provincial court. However, at the time of writing, the CTSWF president still faces a criminal case lodged by the court.
- 57 Interview with an officer of an international labour NGO on 1 June 2016, Phnom Penh.
- 58 Conversion as of 16 January 2016: 1US dollar = 4,065 Cambodian riel.
- 59 A majority of the respondents of the federation survey come from independent federations and to a lesser extent from opposition party-supportive federations. It was difficult to get the cooperation of many government-supportive unions to participate in the survey and even more so in the interview.
- 60 The local union leaders come from a local union of a national federation linked to an opposition party, two local unions affiliated with independent federations, and a national association affiliated with an independent federation.

- 61 One of the national union/association interviewees come from a federation associated with an opposition party, two from two independent federations, and one from a national association affiliated with an independent federation.
- 62 Interview on 2 June 2016, Phnom Penh.
- 63 Interview on 1 June 2016, Phnom Penh.
- 64 To learn more about the 2010 nationwide strike, see: Arnold (2013: 14-18).
- 65 In 2013, the government created a task force on the minimum wage adjustment. This task force, however, was comprised of CPP-supportive unions. The task force's minimum wage proposal for 2014 ranged from 150 US dollars to 177 US dollars per month, but averaged 160 US dollars. The CNRP adopted the people's demand of 160 US dollars per month.
- 66 Interview with key officers of Solidarity House and the CFSWF, 7 June 2016, Phnom Penh.
- 67 Ibid.
- 68 Interview with an officer of the C.CAWDU-CLC, 7 June 2016, Phnom Penh.
- 69 Interview with an officer of Solidarity House, Phnom Penh.
- 70 Email correspondence with Ms. Monina Wong, officer, Human and Trade Union Rights Unit, International Trade Union Confederation (ITUC) in Brussels, 14 February 2017.
- 71 These include cost of living (based on the poverty line as determined by the National Institute of Statistics and the Labour Force Survey), inflation, the needs of workers and their families, productivity and competitiveness, economic benefits of the sector, and labour market and employment factors.
- 72 Email correspondence with Ms. Monina Wong, officer, Human and Trade Union Rights Unit, International Trade Union Confederation (ITUC) in Brussels, 14 February 2017.
- 73 Ibid. The split may be caused by the three federations' active support of the opposition party CNRP. According to the CLC's statutes, the confederation and its federations should remain politically non-affiliated and should not engage in political activities.
- 74 Oka's full sample covers 579 factories from 2006 to 2013.
- 75 Interview on 7 June 2016, Phnom Penh.
- 76 Interview with Mr. Matthew Rendall, president of CAMFEBA, 9 June 2016, Phnom Penh.
- 77 To learn more about social movement unionism, see: Aganon M E, Serrano M R, Mercado R C and Certeza R A (2008) Revitalizing Philippine Unions: Potentials and Constraints to Social Movement Unionism. Quezon City: Friedrich-Ebert-Stiftung and U.P. School of Labor and Industrial Relations.
- 78 One example of an NGO initiative for workers is CENTRAL's savings programme. Many Cambodian workers are exposed to informal 'debt bondage'. A majority of workers borrow money from their supervisors who charge very high interest rates. This leaves workers indebted to their supervisors for a very long time. CENTRAL's savings programme encourages workers to save from which they can borrow money in time of need.

## References

AAFA, amfori-Trade with Purpose, ETI, FLA, FWF and SAI (2018) Letter addressed to Prime Minister Hun Sen, 19 March 2018.

ACF (2018) Presentation of AC Data [Power Point]. Phnom Penh: Arbitration Council Foundation.

ADB and ILO (2015) *Cambodia: Addressing the Skills Gap*. Mandaluyong City, Philippines: Asian Development Bank and International Labour Organization.

Adler D and Hwang H (2012) From Law on the Books to Law in Action: A Note on the Role of Regulation in the Production of Good Jobs in Cambodia's Garment Sector. Background Note for the World Development Report 2013. Washington, DC: The World Bank Group. [http://siteresources.worldbank.org/EXTNWDR2013/Resources/8258024-1320950747192/8260293-1320956712276/8261091-1348683883703/WDR2013\\_bn\\_From\\_Law\\_on\\_Books\\_to\\_Law\\_in\\_Action.pdf](http://siteresources.worldbank.org/EXTNWDR2013/Resources/8258024-1320950747192/8260293-1320956712276/8261091-1348683883703/WDR2013_bn_From_Law_on_Books_to_Law_in_Action.pdf) (accessed 20 January 2017).

Allard K. Lowenstein International Human Rights Clinic-Yale Law School (2011) *Tearing Apart the Seams: How Widespread Use of Fixed-Duration Contracts Threatens Cambodian Workers and the Cambodian Garment Industry*. New Haven, Connecticut: Yale Law School.

Almazan RV (2008) The Cambodian Construction Industry: Opportunities and Challenges for Workers and their Trade Unions. Research report submitted to the Building and Wood Workers International Asia Pacific Regional Office, Selangor, Malaysia.

Anner M (2015) Labour control regimes and worker resistance in global supply chains. *Labour History* 56(3): 292-307.

APO (2015) *APO Productivity Databook 2015*. Tokyo: Asian Productivity Organization.

APO (2017) *APO Productivity Databook 2017*. Tokyo: Asian Productivity Organization.

Arnold D (2013) Workers' Agency and Re-Working Power Relations in Cambodia's Garment Industry: Capturing the Gains. Working Paper 24, Maastricht University, The Netherlands.

Arnold D (2014) Workers' agency on power relations in Cambodia's garment industry. In: Rossi A, Luinstra A and Pickels J (eds) *Towards Better Working: Understanding Labour in Apparel Global Value Chains*. Basingstoke: Palgrave Macmillan, pp. 212-231.

Behrens M, Hamann K, and Hurd R (2004) Conceptualizing Labour Union Revitalization. In: Frege CM and Kelly J (eds) *Varieties of Unionism - Strategies for Union Revitalization in a Globalizing Economy*. Oxford: Oxford University Press, pp. 11-29.

BFC (2010) 23rd Synthesis Report on Working Conditions in Cambodia's Garment Sector, Better Factories Cambodia, Phnom Penh. [http://www.usfashionindustry.com/pdf\\_files/Cambodia%20Factories.pdf](http://www.usfashionindustry.com/pdf_files/Cambodia%20Factories.pdf) (accessed 20 January 2017).

BFC (2014) Thirty first Synthesis Report on Working Conditions in Cambodia's Garment Industry, Better Factories Cambodia, Phnom Penh. [http://www.usfashionindustry.com/pdf\\_files/Cambodia%20Factories.pdf](http://www.usfashionindustry.com/pdf_files/Cambodia%20Factories.pdf) (accessed 20 January 2017).

BFC (2016) 33rd Synthesis Report on Working Conditions in Cambodia's Garment Sector. ILO, Geneva.

BFC (2017) *Annual Report 2017: An Industry and Compliance Review*. Geneva: International Labour Organization.

Bruni M, Luch L and Kuoch S (2013) Skills shortages and skills gaps in the Cambodian labour market: Evidence from employer skills needs survey. ILO Asia-Pacific Working Paper Series, Bangkok.

CCHR (2014) Briefing Note: Freedom of Association for Unions. Phnom Penh: Cambodian Centre for Human Rights.

CCHR, Solidarity Center and ITUC (2018) Joint Legal Analysis of the Law on Minimum Wage, August 2018, Phnom Penh.

CLEC and LBL (2013) *Shop 'til they drop: Fainting and Malnutrition in Garment Workers in Cambodia*. Phnom Penh: CLEC and LBL. <https://cleanclothes.org/resources/national-cccs/shop-til-they-drop>.

Crothers L (2014) H&M, ILO Form New Industrial Relations Initiative. The Cambodian Daily, 14 June 2014.

De Backer K and Miroudot S (2013) Mapping Global Value Chains. OECD Trade Policy Papers No. 159, OECD Publishing. <http://dx.doi.org/10.1787/5k3v1trgnbr4-en>.

Ernst C, Hernandez Ferrer A and Zult D (2006) The end of the Multi-Fibre Arrangement and its implications for trade and employment. ILO Employment Strategy Papers 2005/16, Geneva. [http://ilo.org/wcmsp5/groups/public/---ed\\_emp/---emp\\_elm/documents/publication/wcms\\_114030.pdf](http://ilo.org/wcmsp5/groups/public/---ed_emp/---emp_elm/documents/publication/wcms_114030.pdf) (accessed 9 October 2016).



Freeman R and Medoff J (1984) *What Do Unions Do?* New York: Basic Books.

Frenkel S and Peetz D (1998) Globalization and industrial relations in East Asia: A three-country comparison. *Industrial Relations: A Journal of Economy and Society* 37(3): 282-310.

GMAC (2016) Strike Report, Phnom Penh. <http://www.gmac-cambodia.org/strike/> (accessed 20 January 2017).

Hall MH, Andrukow A, Barr C, Brock K, de Wit M, Embuldeniya D, Jolin L, Lasby D, Levesque B, Malinsky E, Stowe S and Vaillancourt Y (2003) *The Capacity to Serve: A Qualitative Study of the Challenges Facing Canada's Nonprofit and Voluntary Organizations*. Toronto, ON: Canadian Centre for Philanthropy. [http://library.imaginecanada.ca/files/nonprofitscan/en/nsnvo/capacity\\_to\\_serve\\_english.pdf](http://library.imaginecanada.ca/files/nonprofitscan/en/nsnvo/capacity_to_serve_english.pdf).

Hobsbawm E (1964) *Labouring Men: Studies in the History of Labour*. New York: Basic Books.

Human Rights Watch (2015) *"Work Faster or Get Out": Labor Rights Abuses in Cambodia's Garment Industry*. USA: Human Rights Watch.

Human Rights Watch (2015) *Work Faster or Get Out: Labour Rights Abuses in Cambodia's Garment Industry*. USA: Human Rights Watch.

Hunt L (2016) Will Cambodia's Rulers be Dragged to Court? *The Diplomat*, 9 September 2016. <http://thediplomat.com/2016/09/will-cambodias-rulers-be-dragged-to-court/> (accessed on 19 March 2017).

Hutt D (2016) Is Cambodia's Expanded Minimum Wage Really a Good Idea? *The Diplomat*, 4 November 2016. <http://thediplomat.com/2016/11/is-cambodias-expanded-minimum-wage-really-a-good-idea/> (accessed 9 January 2017).

Hyman, R (2001) *Understanding European Trade Unionism: Between Market, Class and Society*. London: Sage Publications.

International Human Rights and Conflict Resolution Clinic-Stanford University and Worker Rights Consortium (2013) *Monitoring in the Dark: An evaluation of the International Labour Organization's Better Factories Cambodia monitoring and reporting program*. Stanford: International Human Rights and Conflict Resolution Clinic-Stanford University and Worker Rights Consortium.

ILO (2014) *World Social Protection Report 2014/15: Building economic recovery, inclusive development and social justice*. Geneva: ILO.

ILO (2015) Labour standards in global supply chains: A programme of action for Asia and the garment sector. Cambodia Garment and Footwear Sector Bulletin Issue 1, Phnom Penh.

ILO (2016a) How is Cambodia's minimum wage adjusted? Cambodia Garment and Footwear Sector Bulletin Issue 3, March 2016, Phnom Penh.

ILO (2016b) Project on Improving Industrial Relations in Cambodia's Garment Industry Technical Progress Report, Phnom Penh.

ILO (2016c) *Report on the Conclusion of the Committee on the Application of Standards 2016*. Geneva: International Labour Organization.

ILO (2017a) What explains strong export and weak employment figures in the Cambodian garment sector. Cambodia Garment and Footwear Sector Bulletin Issue 6, May 2017, Phnom Penh.

ILO (2017b) Recent trade policy developments and possible implications for Cambodia's garment and footwear sector. Cambodia Garment and Footwear Sector Bulletin Issue 5, January 2017, Phnom Penh.

ILO (2017c) ILO Report on the Direct Contact Mission to Cambodia, Phnom Penh 27th – 31st of March 2017. Geneva: International Labour Organization.

ILO (2018) How has garment workers' pay changed in recent year? Cambodia Garment and Footwear Sector Bulletin Issue 7, June 2018, Phnom Penh.

ILO (n.d.) NORMLEX. [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200\\_COUNTRY\\_ID:103055](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:103055) (accessed 20 January 2017).

ILO and ADB (2014) *ASEAN community 2015: Managing integration for better jobs and shared prosperity*. Bangkok, Thailand: ILO and ADB.

ILO and Kingdom of Cambodia (2016) Kingdom of Cambodia Decent Work Country Programme (DVWP) 2016-2018, Phnom Penh. [http://www.ilo.org/public/english/bureau/program/dwcp/download/cambodia\\_18-16.pdf](http://www.ilo.org/public/english/bureau/program/dwcp/download/cambodia_18-16.pdf) (accessed 20 January 2017).

ITUC (2016) *2016 ITUC Global Rights Index: The World's Worst Countries for Workers*. Brussels: ITUC.

Kane G (2014) Cambodia Factsheet: Facts on Cambodia's Garment Industry. <https://cleanclothes.org/resources/publications/factsheets/cambodia-factsheet-february-2015.pdf> (accessed 10 October 2016).

Lloyd C and Ramsay T (2017) Resisting neo-liberalism, reclaiming democracy? 21st-century organised labour beyond Polanyi and Streeck. *The Economic and Labour Relations Review* DOI: 10.1177/1035304617693800, pp. 1-17.

Merk J (2016) Country Study Cambodia 2016: Labour Standards in the Garment Supply Chain, CNV International, Utrecht.

Miller D, Nuon V, Aprill C and Certeza R (2007) Business as usual? Governing the supply chain in clothing post MFA phase out: The case of Cambodia. International Labour Organization and Global Union Research Network, Geneva.

MoLVT (2018) *Ministry of Labour and Vocational Training 2017 Annual Report*. Phnom Penh: Ministry of Labour and Vocational Training.

Muqtada M (2012) Cambodia: Toward a National Employment Strategy for Sustained Poverty Reduction. ILO, Geneva. <http://www.social-protection.org/gimi/gess/RessourcePDF.action?ressource.ressourceId=34710> (accessed 15 November 2016).

Naren K and Chen DH (2012) Garment Jobs Grow, But Where are the Workers? Cambodia Daily, 28-29 January 2012, Phnom Penh. <http://betterfactories.org/?p=1945> (accessed 20 January 2017).

NIS (2015) *Cambodia Socio-Economic Survey 2014*. Phnom Penh: NIS Ministry of Planning.

NIS (2010) *Labour and Social Trends in Cambodia 2010*. Phnom Penh: NIS, Ministry of Planning.

NIS and ILO (2013) *Cambodia Labour Force and Child Labour Survey 2012: Labour Force Report*. Phnom Penh: ILO and NIS.

Natsuda K, Goto K and Thoburn J (2009) Challenges to the Cambodian Garment Industry in the Global Garment Value Chain. RCAPS Working Paper No. 09-3 (July 2009), Ritsumeikan Asia Pacific University, Japan. [http://www.apu.ac.jp/rcaps/uploads/fckeditor/publications/workingPapers/RCAPS\\_WP09-3.pdf](http://www.apu.ac.jp/rcaps/uploads/fckeditor/publications/workingPapers/RCAPS_WP09-3.pdf) (accessed 9 October 2016).

Nuon V, Serrano MR and Xhafa E (2011) Women and Gender Issues in Trade Unions in the Cambodian Garment Industry. Research report submitted to the International Labour

Organization, Phnom Penh. <http://betterfactories.org/cambodia/wp-content/uploads/2012/05/Cambodian-Women-and-Trade-Unions.pdf> (accessed 16 January 2017).

Nuon V and Serrano M (2010) *Building Unions in Cambodia: History, Challenges, Strategies*. Singapore: Friedrich-Ebert-Stiftung.

OECD (2013) Global Value Chains indicators–May 2013. [http://stats.oecd.org/Index.aspx?DataSetCode=GVC\\_Indicators](http://stats.oecd.org/Index.aspx?DataSetCode=GVC_Indicators) (accessed 15 October 2016).

Oka C (2010) Accounting for the Gaps in Labour Standard Compliance: The Case of Cambodia's Garment Sector. *European Journal of Development Research* 22(1): 59-78.

Oka C (2012) Does Better Labour Standard Compliance Pay? Linking Labour Standard Compliance and Supplier Competitiveness. Better Work Discussion Paper Series: No. 5, International Labour Office, Geneva.

Oka C (2015) Improving Working Conditions in the Garment Supply Chains: The Role of Unions in Cambodia. *British Journal of Industrial Relations* DOI: 10.1111/bjir.12118, pp. 1-26.

Orfald D (2006) Learning to Change? Union renewal and the challenge of intentional organizational change. Research essay as requirement for the degree of Master of Arts, Institute of Political Economy, Carleton University, Ottawa, Ontario, Canada.

Po S (2017) After the Commune Elections in Cambodia: What's Next? Can the CNRP reward voters' trust? *The Diplomat*, 6 June. <http://thediplomat.com/2017/06/after-the-commune-elections-in-cambodia-whats-next/> (accessed 28 June 2017).

Polaski S (2006) Combining global and local forces: The case of labour rights in Cambodia. *World Development* 34(5): 919-932.

Prake (2015) Data. <http://www.prake.org/home/labour-law/collective-agreements-database>.

Reeve M and Hwang H (2015) Industrial Relations in Cambodia. ILO Working Paper based on research commissioned to the authors by the International Labour Organization, Geneva, Switzerland.

Royal Government of Cambodia (2015) Cambodia Industrial Development Policy 2015-2025: Market Orientation and Enabling Environment for Industrial Development. Unofficial translation. <http://www.cambodiainvestment.gov.kh/content/uploads/2015/09/IDP-English-Version-FINAL1.pdf> (accessed 10 October 2016).

Ryan T and Suson A (2010) Ten years of experience with the US-Cambodia Bilateral Textile Agreement and the ILO Better Factories Program. Research report submitted to the Solidarity Center, Cambodia.

Samsen N, Marong C and Pisey K (2016) Cambodia's Garment Industry: Challenges Opportunities and Ways Forward. Research report submitted to ILO BFC, Phnom Penh.

Serrano MR, Xhafa E and Nuon V (2011) Trade Union Capacity in Cambodia: The State of Bargaining Capacity of Unions in the Garment Industry. Research report commissioned by the LO/FTF (Danish Trade Union Council for International Development Cooperation).

Serrano MR and Xhafa E (eds) (2014) *The Pursuit of Alternatives: Stories of Peoples' Economic and Political Struggles around the World*. Munich, Mering: Rainer Hampp Verlag.

Sibbel L and Borrmann P (2007) Linking Trade with Labor Rights: the ILO Better Factories Cambodia Project. *Arizona Journal of International and Comparative Law* 24(1): 235-249.

Sokhean B, Dara M and Baliga A (2017) 'Death of democracy': CNRP dissolved by Supreme Court ruling. The Phnom Penh Post, 17 November 2017. <https://www.phnompenhpost.com/national-post-depth-politics/death-democracy-cnrp-dissolved-supreme-court-ruling> (accessed 9 August 2018).

Sokhorng C (2016) Tourism sector 'needs 200K new workers'. The Phnom Penh Post, 12 October 2016. <http://www.phnompenhpost.com/business/tourism-sector-needs-200k-new-workers> (accessed 12 October 2016).

Taglioni D and Winkler D (2016) *Making Global Value Chains Work for Development*. Washington, DC: The World Bank.

TNS Cambodia (2014) Labor Study Estimating Labor Situation in the Cambodian Agriculture Situation 2014-2019. Unpublished research report, Phnom Penh, Cambodia.

UNDP (2015) Briefing note for countries on the Human Development Report 2015: Cambodia. [http://hdr.undp.org/sites/all/themes/hdr\\_theme/country-notes/KHM.pdf](http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/KHM.pdf) (accessed 12 October 2016).

Vida, T (2018) Court drops charges against labour activist. Khmer Times, 12 July 2018. <https://www.khmertimeskh.com/50510772/court-drops-charges-against-labour-activist/> (accessed 9 August 2018).


VOA News (2017) Cambodian Opposition Makes Gains in Local Elections. VOA News, 5 June. <https://www.voanews.com/a/cambodia-opposition-gains-local-elections/3886445.html> (accessed 28 June 2017).

- Ward K and Mouyly V (2016) Employment relations and political transition in Cambodia. *Journal of Industrial Relations* 58(2): 258-272.
- Worker Rights Consortium (2013) *Global Wage Trends for Apparel Workers, 2001–2011*. Washington, D.C.: Worker Rights Consortium.
- World Bank (2016) *Cambodia Economic Update: Enhancing Export Competitiveness Key to Cambodia's Future Economic Success*. Washington DC: World Bank.
- World Bank (2018) *Cambodia Economic Update: Recent Economic Developments and Outlook, April 2018*. Phnom Penh: The World Bank Cambodia Country Office.
- WEF (2012) *The Global Competitiveness Report, 2012-2013*. Geneva: World Economic Forum.
- WEF (2013) *The Global Competitiveness Report, 2013-2014*. Geneva: World Economic Forum.
- WEF (2014) *The Global Competitiveness Report, 2014-2015*. Geneva: World Economic Forum.
- WEF (2015) *The Global Competitiveness Report, 2015-2016*. Geneva: World Economic Forum.
- WEF (2016) *The Global Competitiveness Report, 2016-2017*. Geneva: World Economic Forum.
- WEF (2017) *The Global Competitiveness Report, 2017-2018*. Geneva: World Economic Forum.
- World Travel & Tourism Council (2015) *Travel and Tourism Economic Impact 2015: Thailand*. London: World Travel & Tourism Council. [https://www.wttc.org/-/media/files/reports/economic%20 impact%20research/countries%202015/thailand2015.pdf](https://www.wttc.org/-/media/files/reports/economic%20impact%20research/countries%202015/thailand2015.pdf) (accessed 11 October 2016).
- Xhafa E and Nuon V (2017) The future of ethical production for Cambodia's garment and footwear industry: What role for free trade agreements? In: *Who benefits from trade? Findings on the link between trade and labour standards in the garment, footwear and electronics industries in Bangladesh, Cambodia, Pakistan, and Vietnam*. Singapore: Friedrich-Ebert-Stiftung Office for Regional Cooperation in Asia.



The young trade union movement in Cambodia has gone through difficult challenges, including a tough political environment and a conflict-ridden industrial relations system, as it struggles towards transforming itself into a legitimate movement that genuinely represents workers' interests. But it is noteworthy that, from the time the authors' book *Building Unions in Cambodia: History, Challenges, Strategies* was published in 2010, positive developments have had taken place within the movement, including: the gradual emergence of worker activism, the existence of more union structures and processes that promote internal democracy, improved capacity in negotiation and social dialogue, and organizing initiatives in the informal economy. In recent years, the increasing role of buyers and trade unions in improving working conditions has been noted as well. Nonetheless, due to mutually reinforcing economic and political factors, a highly fragmented trade union movement endures in the country.

*Unions and Development in Cambodia* tracks and examines these developments and the new and continuing challenges that unions face. It underscores that despite the existence of an institutional framework that promotes a labour rights regime, which has been facilitated by the US-Cambodia textile trade agreement, the EU's Everything But Arms scheme, and the Better Factories Cambodia, paradoxically, industrial relations remain conflict-ridden. But, as the growth and dynamics of the labour movement are linked with Cambodia's economic growth and political landscape, trade unions' struggle towards independence and relevance will continue to intensify in the coming years. The book reflects on how trade unions may be able to meet this goal.

An abstract graphic at the bottom of the page consisting of several overlapping, curved shapes in various shades of blue and purple, creating a modern, layered effect.