



Future In Our Hands, Center for Alliance of Labor &  
Human Rights, and Action Labor Rights  
Report May — 2019

# Overworked & exposed

Short term contracts and gender issues  
in the Myanmar and Cambodian garment industries.

Title: Overworked & exposed. Short term contracts and gender issues in the Myanmar and Cambodian garment industries.

Authors: Charlotte Ruud Granum and Carin Leffler, Framtiden i våre hender (Future In Our Hands), Center for Alliance of Labor & Human Rights Team and Action Labor Rights Team

Comments and special advice: Ilona Winterstein and Clean Clothes Campaign

Publication: May 2019

Publisher: Framtiden i våre hender, Mariboegate 8, 0183 Oslo, Norway

Editor in chief: Anja Bakken Riise

Project manager: Carin Leffler

Cover image: Janne Hulkkonen

All photos except on page 6 and 21 are by Action Labor Rights.

Future In Our Hands is Norway's largest environmental and solidarity organisation with some 30 000 members. We raise awareness on climate change, work to ensure a fair distribution of the world's resources and support workers in their struggle for decent working conditions. Framtiden i våre hender hosts the Norwegian platform of Clean Clothes Campaign. Read more at <https://www.framtiden.no> and <https://www.framtiden.no/english/>

Center for Alliance of Labor & Human Rights (CENTRAL) is a Cambodian non-governmental organization registered with Ministry of Interiors of the Royal Government of Cambodia as a legal entity. CENTRAL is working to empower Cambodian working people to demand transparent and accountable governance for labor and human rights through legal aid and other appropriate means. Read more at <https://www.central-cambodia.org/>

Action Labor Rights (ALR) was set up in 2002 and focuses on the promotion of freedom of association and the abolishment of forced and child labour in Myanmar. The organisation provides trainings to workers about labour rights, labour laws and the formation of unions. Furthermore, ALR conducts research on labour rights issues, mainly in the garment industry. Read more at <http://actionlaborrights.org/>

The organisations behind this report are grateful to all workers, trade unions, labour rights organisations and individuals who devoted time and effort to share their knowledge, insights and stories.

We urge readers and others to quote and disseminate the information in this report. Please refer to Future In Our Hands, CENTRAL and Action Labor Rights as a source. This report has been produced with the financial assistance of The Norwegian Agency for Development Cooperation (Norad). The contents of this document are the sole responsibility of Future In Our Hands and can under no circumstances be regarded as reflecting the position of Norad.



# Innhold

Sammendrag .....	5
Executive Summary.....	9
1 Methodology, terminology and aim of research.....	13
2 Company information .....	16
3 Cambodia, the context .....	17
4 Myanmar – the context.....	23
5 Employment contracts in Cambodia and Myanmar.....	27
6 A gendered garment sector.....	29
7 Factory findings in Cambodia.....	35
8 Factory findings in Myanmar.....	39
9 Analysis: Contracts.....	45
10 Analysis: Gender related issues in Cambodia and Myanmar.....	49
11 Recommendations.....	59



# Abbreviations

BWU	Burmese Womens Union
C.CAWDU	Coalition of Cambodian Apparel Workers Democratic Unions
CCC	Clean Clothes Campaign
CENTRAL	Center for Alliance of Labor & Human Rights
CTUM	Confederation of Trade Unions of Myanmar
FDCs	Fixed duration contracts
GEN	Gender Equality Network
GMAC	Garment Manufacturers Association
ILO	International Labour Organization
ITUC	International Trade Union Confederation
NGO	Non-governmental organisation
STUM	Solidarity of Trade Union Myanmar
UDCs	Unlimited duration contracts



# Sammendrag

Denne rapporten er resultatet av et samarbeid mellom Framtiden i våre hender, The Center for Alliance of Labor and Human Rights (CENTRAL), Cambodia, and Action Labor Rights (ALR), Myanmar. Alle tre organisasjonene arbeider med å kartlegge arbeidstakerrettigheter i klesindustrien og driver påvirkningsarbeid for å bedre forholdene ved fabrikker i disse landene.

Researchen er basert på individuelle intervjuer med 66 tekstilarbeidere i fire fabrikker, to i Kambodsja og to i Myanmar. De skandinaviske kleskjedene H&M, KappAhl og Lindex kjøpte klær fra én eller flere av disse fire fabrikkene når researchen ble gjennomført. I tillegg gjennomførte researcherne gruppeintervjuer til sammen 38 arbeidere var tilstede og diskuterte ulike problemstillinger.

Det fleste tekstilarbeidere i verden er kvinner. Det er derfor nødvendig å ta utgangspunkt i et kjønnsperspektiv for å forstå utfordringene disse tekstilarbeiderne opplever.

Arbeidere vi har intervjuet sier de er utsatt for seksuell trakassering, føler seg tvunget til å jobbe overtid, er pålagt restriksjoner med hensyn til toalettbesøk, og at deres personlige sikkerhet utfordres når de jobber sent og må komme seg hjem etter mørkets frambrudd. De sier også at rettigheter knyttet til barselpermisjon ikke realiseres. Disse og andre utfordringer har til dels stor innvirkning på kvinnenens liv og må snarest adresseres av kleskjedene.

Fordi seksuell trakassering er et følsomt tema og ofte er vanskelig å diskutere åpent, kan det være en stor utfordring for kvinner å gjøre noe med slike hendelser når de skjer. Selv om funnene i intervjuene er blandet, tyder våre undersøkelser på at seksuell trakassering er et reelt problem for de kvinnelige arbeiderne. En del av dem forteller om seksualisert språk, uønsket berøring og krav eller oppfordringer om seksuelle handlinger av mannlige arbeidere og overordnede. Flere oppgir at de har blitt tafset på. En kvinne sier at en mannlig kollega trakk opp skjørtet på en annen, en arbeider fikk BH-stroppen sin åpnet av en kinesisk tolk, mens en mannlig mekaniker inviterte kvinnelige tekstilarbeidere hjem "... slik at han kunne behandle dem". Noen har også fått kommentarer om kroppene sine: At de «... ser ut som jomfruer» eller at de "... ser ut som de har fått mange barn".

Det virker likevel som om noen arbeidere ikke oppfatter visse handlinger fra kollegaer eller overordnede som former for seksuell trakassering, selv om de oppleves som både ubehagelige og uønskede. Mange arbeidere sier at seksuell trakassering er noe som *andre* kvinnelige arbeidere er utsatt for, mens de ikke opplever slikt selv. Samtidig oppgir mange av de samme ansatte at det er et behov for komiteer som kan håndtere seksuell trakassering på fabrikken. Andre arbeidere mener at saker som omfatter seksuell trakassering burde håndteres av en fagforening, og da helst av kvinnelige fagforeningsrepresentanter.

Rapporten kartlegger også hvilken innvirkning korttidskontrakter, i motsetning til faste kontrakter, har på arbeidstakere. Den utbredte bruken av korttidskontrakter (kontrakter med varighet i vanligvis to, tre eller seks måneder) i Kambodsja blir av mange arbeidere sett på som en taktikk fabrikkene bruker for å sikre seg "føyelige" arbeidere.

I henhold til kambodsjansk lov må alle korttidskontrakter konverteres til faste kontrakter etter to års tjeneste. Imidlertid hadde noen av de intervjuede arbeidstakere vært ansatt på gjentatte korttidskontrakter i opptil fem år på samme fabrikk, hvilket betyr at arbeidsgiveren opererer med illegale kontrakter. De kvinnelige arbeiderne forteller at de jobber under en vedvarende trussel om

ikke å få sin kontrakt fornyet, og at de er redde for å stå opp mot urettferdig behandling og kreve sine rettigheter. Erfaringer viser at bruken av korttidskontrakter også er en måte for arbeidsgivere å unngå sitt ansvar overfor de ansatte. Angivelig unngår noen å betale barselpermisjon ved å nekte å fornye arbeidskontrakten til gravide arbeidere etter at barnet er født, og moren mister derfor svært tiltrengt inntekt.



Rundt 90 prosent av tekstilarbeiderne i Myanmar er kvinner.  
(Illustrasjonsfoto: Janne Hulkkonen)

I Myanmar løper som regel tekstilarbeidernes kontrakt i inntil to år. De fleste som ble intervjuet for denne rapporten sa at de trodde kontrakten deres ville bli fornyet, hvilket fremstår som positivt. Situasjonen er imidlertid mer komplisert enn som så. Omtrent en av fire arbeidstakere vi snakket med sa at de ikke hadde en kontrakt. Uten bevis for at man er ansatt er ens rettigheter meget svekket og kontraktløse arbeidere står i en utsatt posisjon ved for eksempel en arbeidskonflikt eller ulykke. Dessuten sa noen av arbeidere at de var usikre på om kontrakten deres ville bli fornyet. Den uforutsigbare økonomiske situasjonen skaper stress, og gjør arbeidstakere mer medgjørige og mindre tilbøyelige til å klage på arbeidstid

eller oppgaver. For eksempel må noen akseptere overtidsjobbing, til tross for at det, ifølge dem selv, øker risikoen for å bli utsatt for ran, seksuelle overgrep eller voldtekt når de ferdes hjemover etter at det har blitt mørkt.

Andre sentrale funn:

- I Kambodsja tjente alle de intervjuede arbeiderne den lovfestede minstelønna, USD 153/måned. Inkludert betydelig overtid og ulike typer tillegg, tjente de fleste USD 170-200. En håndfull tjente USD 210-230 eller mer på grunn av utstrakt overtidsarbeid, inklusivt arbeid på søndager og i ferier.
- I Myanmar baserte arbeidernes minstelønn i begge fabrikkene seg på hvilket arbeidsforhold de sto i - enten som lærling, i prøvetid eller som vanlig arbeidstaker. Alle arbeiderne med unntak av to ved fabrikk 3, tjente den lovpålagte minstelønna. I fabrikk 4 sa mesteparten av arbeiderne at de endog tjente USD 80 i grunnlønn. Ved tidspunktet for intervjuene vare var dette litt over lovbestemt minimumslønn.

I begge fabrikkene var arbeidstakernes reelle månedslønn langt høyere, da den inkluderte ordinær overtid og bonuser: På fabrikk 3, hvor angivelig daglig overtidsarbeid var vanlig, lå den reelle lønna mellom USD 124 og USD 155. I tillegg arbeidet mange overtid på søndager og noen endog om natta - noe som angivelig ikke ble ført opp på lønnslisten, men ble betalt separat. På fabrikk 4 hadde de fleste arbeiderne en reell månedslønn (inkludert overtid og bonuser, men unntatt arbeid på søndager og sporadiske nattskift) mellom USD 96 og USD 118.

I begge land viste gapet mellom om minstelønna og den reelle lønna at arbeiderne er helt avhengige av ekstraintekter fra overtid, arbeid i ferier og en rekke bonuser (for eksempel produksjonsbonuser, oppmøtebonuser eller årlig bonus) for å tjene lønn som dekker deres grunnleggende behov.

- Mange av arbeiderne vi intervjuet fortalte om utstrakt overtidsarbeid, noen ganger utover natta. Selv om overtidsarbeid er en vanlig måte for arbeidere å supplere sine lave lønninger på og derfor til tider ønsket, var en del av dem opprørte over å bli tvunget til å gjøre det regelmessig. I en av de to fabrikkene i Myanmar fortalte dessuten arbeiderne at det er umulig å nå produksjonsmålene (antall produserte enheter per time eller dag) uten å jobbe i lunsjpausen og/eller overtid om kvelden.
- Kvinnene føler seg utrygge når de må gå hjem i mørket fra fabrikk etter overtidsarbeid - mange uttrykte redsel for å bli ranet, seksuelt trakassert eller voldtatt. De få arbeiderne som får tilbud om transport føler seg langt tryggere.
- Arbeiderne, spesielt i de to fabrikkene som ble undersøkt i Myanmar, rapporterte at de er utsatt for regelmessig verbal trakassering fra overordnede dersom de ikke jobber fort nok, ikke oppfyller produksjonsmålene, nøler med å jobbe overtid når de ble bedt om det, eller ber om sykemelding som varer lenger enn et par dager.
- I tre av fire fabrikker sier arbeiderne at de misfornøyd med renholdet på toalettene. På noen av fabrikkene har arbeiderne kun lov til å bruke toalettet noen få ganger om dagen og/eller i maksimalt fem minutter per toalettbesøk. Slike restriksjoner kan føre til helseproblemer og er spesielt utfordrende for gravide eller arbeidere som har mensesmen.
- I Myanmar hevdet flere arbeidere at noen ansatte ikke får betalt fødselspermisjon. En del av dem er heller ikke klar over at de har krav på slik permisjon, selv om det er lovfestet. Dette etterlater gravide arbeidstakere i en svært sårbar situasjon.



## Kleskjedene må ta ansvar

Vår undersøkelse avdekker til dels svært kritikkverdige arbeidsforhold ved H&Ms, Lindex og KappAhl's leverandører – forhold som ikke bare medfører brudd på nasjonale lover i respektive land, men som dessuten er i strid med ILOs kjernekonvensjoner, med FNs retningslinjer for ansvarlig næringsliv, OECDs retningslinjer for flernasjonale selskaper og kleskjedenes egne etiske retningslinjer.

H&M, Lindex og KappAhl har et klart ansvar for arbeiderne som syr klær for dem. De må ta konkrete skritt for å sikre at tekstilarbeiderne behandles med respekt, at menneskerettighetene blir respektert på fabrikkene og at arbeiderne får lønn og tilleggsbetaling i henhold til loven.

Våre undersøkelser viser at bruken av korttidskontrakter, noen av dem i strid med loven, skaper usikkerhet og begrenser arbeidernes muligheter for å kreve sine rettigheter i frykt for ikke å få kontrakten fornyet. For å snu den negative utviklingen må kleskjedene sette i verk strakstiltak for å avskaffe bruken av illegale korttidskontrakter og på sikt kreve at alle arbeidere som er ansatt hos deres leverandører sikres en fast kontrakt.

H&M, KappAhl og Lindex må i langt større grad være oppmerksomme på kjønns spesifikke utfordringer i sin leverandørkjede. Et slikt fokus bør gjenspeiles i deres etiske retningslinjer og aktsomhetsvurderinger. De må sette i verk tiltak for å hindre kjønnsbaserte brudd på fabrikkene de kjøper varer fra, helst i samarbeid med organisasjoner med spisskompetanse på kjønnsproblematikk. Kleskjedene oppfordres til å støtte opprettelsen av en internasjonal konvensjon som skal hindre seksuell trakassering i yrkeslivet.

En viktig forutsetning for å sikre arbeideres rettigheter er å ha god oversikt over produksjonsforholdene i leverandørkjeden og samarbeide med demokratisk valgte fagforeninger og andre organisasjoner som støtter opp om arbeidernes rettigheter. Kleskjedene må vise en nulltoleranse for handlinger og holdninger hos sine leverandører som hindrer arbeidstakerne å realisere sine rettigheter.



*Workers waiting to cross the road on their way to the factory.*

## Executive Summary

This report is a collaboration between Future In Our Hands (Framtiden i våre hender), Norway, The Center for Alliance of Labor and Human Rights (CENTRAL), Cambodia, and Action Labor Rights (ALR), Myanmar. All three organisations campaign for labour rights within the garment industry. The research is based on the individual responses of garment workers in four factories – two in Cambodia and two in Myanmar. The Scandinavian retailers H&M, KappAhl and Lindex all sourced garments from at least one of these four factories at the time of the research. In addition, the researchers undertook group discussions with a total of 38 workers, delving deeper into issues highlighted in the face-to-face interviews.

Through a gender lens, this report analyses workers' rights issues within the garment industry. The vast majority of garment workers worldwide are female and gender is therefore key to any analysis of the main challenges issues workers face.

Commonplace problems for the workers interviewed include sexual harassment, excessive overtime, toilet use restrictions, personal safety on leaving the factory at night and insufficient insight into their rights to enjoy maternity leave, as well as the implementation of such rights. These challenges disproportionately affect female workers and urgently need addressing within the garment industry.

Given that sexual harassment is a sensitive subject that may be difficult to discuss openly,

addressing cases of such harassment can be challenging. Although the findings are mixed, our research at factories in Myanmar indicates that sexual harassment is a concern among the female workers interviewed. They report of sexualized language, unwanted touching and demands or requests for sexual acts by male workers, superiors and translators: Touching parts of their body, lifting female workers' skirt or opening their bra, inviting to a male worker's home "... so that he could treat them" or making comments about female workers' bodies, saying they ... looked like virgins" or like "... they had a lot of children".

While saying so, some workers might not perceive that certain actions by colleagues or superiors are acts of sexual harassment, although found unpleasant and unwanted. Many workers say that sexual harassment happens to other female workers but that they themselves do not experience this. At the same time many of the same workers felt specific sexual harassment complaints committees within factories would allow sexual harassment by male managers or colleagues to be more readily addressed. Other workers stated that their preference would be for sexual harassment cases to be dealt with by a trade union or a workplace coordinating committee, ideally with female staff dedicated to the role.

The report also aims to take stock of the impact that short-term and fixed duration contracts have on garment workers. The widespread use of fixed duration contracts in Cambodia is by workers considered a tactic used by suppliers to ensure a more compliant workforce.

According to Cambodian law, all fixed duration contracts should be converted into permanent contracts after two years of service. However, some of the workers interviewed had been on repeated fixed duration contracts for up to five years in the same factory. Employers therefore operate with illegal contracts. Workers said they lived under the continuous threat of not having their contracts renewed and they were scared to stand up against unfair practices or demand their rights. Experience has shown that the use of fixed duration contracts is also a way for employers to avoid their responsibilities towards workers, for example by getting around paid maternity leave requirements for pregnant workers by refusing to renew a contract until after the baby has been born.

In Myanmar, garment workers' contracts normally run for two years or less. The majority interviewed for this report said they were confident that their contract would be renewed, however the picture is complicated: Approximately one in four workers in the factories researched said they did not have a contract and are therefore in a vulnerable position. Still, some workers with contracts said they did not know whether they would be able to renew their contract. The ensuing financial instability causes stress and make workers more compliant and unwilling to complain or refuse tasks. For example, they may agree to work overtime, although this brings with it the associated risks of being robbed, sexually assaulted or raped when returning home after dark.

A closer look at the findings reveal the following:

- In Cambodia, all those interviewed received the minimum wage, USD 153. Including substantial overtime and benefits, the majority of workers earned approximately USD 170-200 and a handful earned USD 210-230. A few earned even up to USD 300 due to excessive overtime, i.e. until 8.30 pm, and on Sundays and holidays.
- In Myanmar, workers' minimum wages in both factories depended on their employment status (whether they were an apprentice, on probation or a regular worker). All workers except two in factory 3 earned their legally entitled basic wage and in factory 4 the majority of workers said they even earned USD 80 as their basic wage. At the time of the research



this was slightly above the statutory minimum wage. In both factories workers' take home monthly wage was significantly higher as it included regular overtime and bonuses: In factory 3 where allegedly daily overtime was the normal the take home wage ranged from USD 124 - USD 155. In addition, many did overtime work on Sundays and at nights, which was not written on the pay slip and paid separately. In factory 4, for most of the interviewees the monthly take home wage (including overtime and bonuses but excluding work on Sundays and occasional night shifts) was between USD 96 - USD 118.

In both countries, the discrepancy between the minimum wage and the take home wage showed that workers were completely dependent on overtime work, work during holidays and a variety of bonuses (e.g. production bonuses, attendance bonuses or annual bonus) in order to earn a wage that covered their basic needs.

- Most workers interviewed for this report did overtime work, sometimes working into the night. Although overtime is a common way for workers in both Cambodia and Myanmar to supplement their poverty wages, those interviewed expressed anger about being forced to do so regularly. In one of the Myanmar factories, several workers stated it was impossible to reach their targets without continuing to work during lunch and/or doing overtime in the evening.
- Workers felt unsafe when having to walk home from a factory after overtime. A few workers were offered transportation after overtime work and therefore felt much safer.
- Workers, especially in the two factories researched in Myanmar, reported that they suffered regular verbal harassment by superiors if they did not work fast enough, could not meet the production targets, hesitated about working overtime when requested to, or asked for sick leave beyond a couple of days.
- Sanitation facilities in the factories were not uniformly kept to an acceptably clean standard. In some factories use of the toilet was restricted or workers were only allowed to visit the bathroom for a maximum of five minutes. This can have negative health implications, particularly for pregnant women or those menstruating.
- Among the workers, maternity leave rights were not well known and paid maternity leave was not given in every case, as it should be according to the law. This leaves pregnant workers at risk and in a very vulnerable position.

Our research reveals intolerable working conditions at H&M's, Lindex' og KappAhl's suppliers. Some superiors' hostile attitude towards workers - shown as verbal harassment and other disrespectful behaviour - belittle the employees and create an environment where workers feel forced to silently comply with orders. In addition, violations such as illegal short term contracts, forced overtime, inadequate sick leave and maternity leave and restricted access to bathroom facilities are clearly not in line with ILO's core conventions, UN Guiding Principles for Human Rights, OECDs Guidelines for Multinational Enterprises and the brands' own Code of Conduct.

H&M, Lindex and KappAhl have a clear responsibility to the workers who make their clothes. They must take concrete and transparent steps towards ensuring garment workers are treated fairly, that human rights are respected in their supply chain and workers' benefits are given as stipulated by law.

This report concludes that brands need to take urgent steps to address the use of short-term fixed duration contracts by their suppliers. A prevalent practice in the industry, it is highly problematic and affectively limits workers from demanding their rights due to the fear of not having their contract renewed.

The brands also need to be aware of gender specific problems in the supply chain, and they have to take the steps necessary to prevent gender-based violations. This also needs to be reflected in their code of conduct and due diligence processes. The brands should actively support an ILO Convention to end harassment and violence in the workplace.

A key step to ensuring these rights is to actively monitor the supply chain and to increase interaction with democratically elected trade unions and worker rights organisations. Taking a zero-tolerance stance with suppliers on all issues that impede workers' human rights is vital.

# 1. Methodology, terminology and aim of the research

## Countries and research partners

The main aim of this research is to highlight the use of short-term or fixed duration contracts (FDCs) at four garment factories, two located in Myanmar and two in Cambodia. The second aim is to apply a gender perspective on the garment industry and to take a broader look into gender-based issues in the factories selected for this research.

The report is made in collaboration with two labour rights' organisations, Center for Alliance of Labor and Human Rights (CENTRAL) in Cambodia and Action Labor Rights (ALR) in Myanmar. It is based on one-on-one and group interviews with female garment workers from four factories, all of whom produced clothing for at least one of the Scandinavian retailers H&M, KappAhl and Lindex.

As a part of the research, Future In Our Hands went on a field trip to Myanmar in January 2018 to gain insights into the country's booming garment industry. While there, the research team met with several local organisations aiming to empower garment workers and support women's rights. Therefore, some elements of this report are based on information gathered during this trip.

## The interviews and group discussions

The one-on-one interviews held with female garment workers, were conducted locally by CENTRAL and Action Labour Rights. The two factories in Cambodia and two factories in Myanmar were selected on the following criteria: 1) they were producing for at least one Scandinavian brand, 2) they were hiring workers on fixed duration contracts and 3) there was access to workers willing to share their experiences. CENTRAL and Action Labour Rights conducted off-site interviews with a total of 66 workers. The workers were not approached on the factories' premises but asked to join the research once they were in their housing areas or while visiting the offices of either CENTRAL or Action Labour Rights. The one-on-one interviews, and subsequent group discussions (see below), were conducted throughout December 2017 – May 2018. The suppliers were selected from the brands' suppliers lists and their production for these specific brands confirmed by the workers interviewed. The brands covered in this report were all buying garment from one or more of the factories. The factories and all the data from workers have been anonymised to protect the workers' privacy and repercussions upon them. The consent of all respondents was sought before interviews were conducted and the purpose of the research was clearly communicated. Interviewers had undergone training on qualitative research methods and interviewing skills.

When conducting the one-on-one interviews, CENTRAL and Action Labor Rights used a questionnaire developed in collaboration with Future In Our Hands. It consisted of 33 questions





*Workers at one of the group discussions in Myanmar.*

concerning the background of the workers, employment contracts, job (in)security, production targets, wage levels, sexual harassment, maternity leave, access to health care and toilet facilities. The interviews were conducted by female researchers. This was to ensure that the female garment workers felt as comfortable as possible while discussing sensitive issues.

In addition, the two organisations conducted group-based discussions with workers in three of the four factories, with a total of 38 workers, in order to create a space in which participants could speak freely together and share experiences about several issues, among them employment contracts, wages and sexual harassment at the workplace.

Drawing on experience from previous research projects, group sessions can often provide a more comprehensive picture of workers' views and opinions than relying on one-on-one interviews only. While it can be difficult to talk about personal matters with a stranger, being part of a group of other women that might share similar experiences can make it easier to voice concerns. However, the opposite can also apply. For some, talking to a stranger in a one-on-one-situation might be easier than talking openly about sensitive issues in a group setting with colleagues. Therefore, this report is based upon the findings from both one-on-one interviews and group discussions.

Provided the limited number of interviews conducted for this specific report, the result could not be claimed to be quantifiable, but rather contribute to anecdotal evidence. Both researpartners, CENTRAL and ALR, notes that the findings of the report correlate well with the organisations' experiences in the field.

## Gender-based violence

Gender-based violence is a term used to describe a violation of human rights and discrimination based upon gender. It can cover a wide range of actions including verbal abuse, physical and sexual abuse, economic harm, discriminative practices related to access to health care, and other forms of gender-based violations.<sup>1</sup> When discussing gender-based violence, it is vital to analyse the structures and institutions that enable this violence to occur.

Gender-based violence is often used synonymously with violence against women, however it is important to note that gender-based violence can happen to people of all genders. Harassment and discrimination can happen to male workers, as well as to lesbian, gay, bisexual, queer and transgender workers. However, this report mainly focuses on the power inequalities between women and men in the garment sector, and the problems experienced by female garment workers.

## Challenges in documenting gender-based violence

Gender-based violence is often perceived as a sensitive issue and therefore one that is difficult to talk about, let alone challenge. This is especially true when it comes to sexual harassment<sup>2</sup> and, as a result, it can be difficult to document. For many female garment workers, physical or sexual abuse may, to some extent, be normalized and perceived as something they have to put up with. Many female workers are used to being bullied, verbally abused, and such harassment is part of their everyday life.<sup>3</sup> Essentially, because harassment in a variety of forms is so prevalent, and embedded in the power structures, it can be hard for women to recognize it, especially when it occurs frequently and no counter-measures are available.

In trying to overcome these challenges we tried to highlight the issue from different angles, by posing similar questions. However, we acknowledge that in some instances, this approach created slight confusion and therefore required to be interpreted with caution.

## Cambodia: Fixed Duration Contracts

A fixed duration contract (FDC), also called a short-term contract, is an employment contract that normally lasts between 1 and 6 months. In Cambodia, at present the total period for fixed-term employment cannot exceed two years or the FDC will automatically be deemed to have converted to an unlimited duration contract (UDC)<sup>4</sup>, also called a permanent contract, which has no end date.

## Myanmar: Contracts with end date is the norm

In Myanmar, short term contracts is the norm, where in practice few workers have signed contracts lasting more than two years. Upon expiry, and provided that there was no breach of the terms of the employment by the employee, termination or change of work and/or payment conditions, the employment contract will be extended.<sup>5</sup>

---

<sup>1</sup> "Gender Based Violence in the H&M Garment Supply Chain", Asian Floor Wage Alliance, 2017.

<https://asia.floorwage.org/workersvoices/reports/gender-based-violence-in-the-h-m-garment-supply-chain> and Factsheet on gender-based violence. European Institute for Gender Equality. <https://eige.europa.eu/gender-based-violence/what-is-gender-based-violence>

<sup>2</sup> In this report we use ILOs definition of sexual harassment: "A sex-based behavior that is unwelcome and offensive to its recipient.

Behavior that qualifies as sexual harassment:

PHYSICAL: Physical violence, touching, unnecessary close proximity

VERBAL: Comments and questions about appearance, life-style, sexual orientation, offensive phone calls

NON-VERBAL: Whistling, sexually-suggestive gestures, display of sexual materials" [https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_decl\\_fs\\_96\\_en.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_decl_fs_96_en.pdf).

<sup>3</sup> "The Myanmar Dilemma. Can the garment industry deliver decent jobs for workers in Myanmar?". SOMO, 2017.

<https://www.somo.nl/the-myanmar-dilemma/>

<sup>4</sup> <https://www.taylorvinters.com/article/cambodia-draft-law-regarding-fixed-term-contracts/>

<sup>5</sup> [https://www.luther-lawfirm.com/uploads/tx\\_fwluther/ME\\_Employment\\_Law\\_06\\_2018\\_v3\\_01.pdf](https://www.luther-lawfirm.com/uploads/tx_fwluther/ME_Employment_Law_06_2018_v3_01.pdf)

## 2. Company information



### Hennes & Mauritz, Sweden

**Origin:** Hennes & Mauritz AB (H&M) is a multinational company based in Sweden. It went public on the Stockholm Stock Exchange in 1974. Founded by Erling Persson in 1947, it was initially called Hennes (Swedish word for "hers"). In 1968, the company was renamed to Hennes & Mauritz and, since then, has diversified over the years and expanded its product portfolio to include womenswear, menswear, childrenswear, footwear, accessories, cosmetics and home furnishings.<sup>6</sup>

**Ownership:** Today H&M is a registered entity on the stock market and is primarily owned by the Persson family.

**Wealth:** Main shareholder and H&M's Chairman, Stefan Persson, was rated number 73 on the Forbes list of billionaires in 2018.<sup>7</sup>

**Sales/Profit 2017/Gross margin:** SEK 232 billion (incl. VAT)/16.184 billion SEK/54%. Forbes has ranked H&M the 8<sup>th</sup> largest apparel company in the world (2018).<sup>8</sup>

**Brands:** The H&M group owns nine brands: H&M, COS, Monki, Cheap Monday, & Other Stories and Weekday, AFAOND, ARKET and H&M Home.<sup>9</sup>

**Stores:** More than 4,800 stores in 71 markets. H&M's biggest market is Germany: Sales of 36 789 million SEK (incl. VAT) took place in 463 stores in 2017.<sup>10</sup> The retailer also has substantial online sales worldwide.

**Workforce:** In 2017 H&M had 117,000 employees.<sup>11</sup> In addition, another 1,6 million workers are employed in H&M supplier factories.

**Suppliers:** H&M disclosed its suppliers list in 2013. Today the company gets its products from 1,668 factories in 40 countries. According to H&M, the supplier/factory list includes first tier manufacturing supplier factories that account for about 98.5% of all commercial pieces produced for the H&M group. Additionally, it includes all processing factories, which can be subcontracted by H&M's first tier manufacturing supplier factories for specific tasks. Some of the most important mills that provide H&M's suppliers with fabrics and yarns are also listed.<sup>12</sup> Most of its suppliers are based in China (632) followed by Turkey (301), Bangladesh (295) and India (215).



### Lindex

**Origin:** The company was founded in Sweden by Ingemar Boman and Bengt Rosell in 1954. In the beginning Lindex only sold lingerie but now they sell a wide range of women's and children's garments.

**Ownership:** Since 2017 Lindex has been a part of Stockman Group, Finland.<sup>13</sup>

**Sales/Profit 2017/Gross margin:** The turnover in 2017 was 606 million Euros.<sup>14</sup>

**Stores:** Lindex has 480 stores in 18 markets.<sup>15</sup>

<sup>6</sup> <https://www.statista.com/statistics/268522/number-of-stores-worldwide-of-the-hundm-group-by-country/>

<sup>7</sup> <https://www.forbes.com/billionaires/#2d3ea805251c>

<sup>8</sup> <https://www.forbes.com/pictures/5b18568d4bbe6f74868bd5bc/8-hm/#ddd66d770b48>

<sup>9</sup> <http://about.hm.com/en/brands.html>

<sup>10</sup> [https://about.hm.com/content/dam/hmgroup/groupsite/documents/en/cision/2018/01/2110334\\_en.pdf](https://about.hm.com/content/dam/hmgroup/groupsite/documents/en/cision/2018/01/2110334_en.pdf)

<sup>11</sup> They were directly employed, i.e. garment, shoe and accessories workers are not counted in this figure.

<sup>12</sup> <http://sustainability.hm.com/en/sustainability/downloads-resources/resources/supplier-list.html>

<sup>13</sup> <https://about.lindex.com/en/the-organisation/>.

<sup>14</sup> <https://about.lindex.com/en/the-organisation/>

<sup>15</sup> Ibid.

**Workforce:** In 2018 Lindex had approximately 5000 employees.<sup>16</sup> There is no information about the number of workers in their supply chain at Lindex' web page.

**Suppliers:** According to Lindex 97% of its production takes place in eight counties.<sup>17</sup> The retailer disclosed its suppliers list in 2013. Most of Lindex' suppliers are based in China (99) followed by Turkey (38), Bangladesh (38) and India (32).<sup>18</sup>

## KappAhl KappAhl

**Origin:** KappAhl a company based in Sweden. It was founded in the beginning of the 1950s by Per-Olof Ahl.

**Ownership:** The company is registered at Nasdaq Stockholm Mid Cap (Sweden). The company Mellby Gård is the main owner of KappAhl with near 30% of the shares.<sup>19</sup>

**Sales/Profit 2017/Gross margin:** Operating profit was 448,60 SEK million in 2017.<sup>20</sup>

**Brands:** KappAhl owns three brands: KappAhl, Hampton Republic and Newbie (baby clothes).

**Stores:** KappAhl has approximately 370 stores in Sweden, Norway, Finland, Poland and Great Britain.<sup>21</sup>

**Workforce:** Around 4000 employees in 2018.<sup>22</sup> There is no information about the number of workers in their supply chain at KappAhl's web page.

**Suppliers:** KappAhl production takes place in 11 countries. The company disclosed its suppliers list in 2013. Most of the factories are based in China (116) followed by Bangladesh (24) and India (14) and Myanmar (11).<sup>23</sup>

## 3. Cambodia - the context

Cambodia has a turbulent history including foreign invasion, occupation, and the Khmer Rouge communist regime, which ran from 1975-1979. During the Khmer Rouge era almost two million people died from starvation, overwork or execution. The current Prime Minister, Hun Sen, was himself a former Khmer Rouge commander who subsequently defected and distanced himself from the Khmer Rouge. Hun Sen is Cambodia's strongman prime minister and has been in power since 1985, making him one of the world's longest-serving leaders. Hun Sen first became prime minister in 1985, then lost his seat in 1993 but did not accept the results of the election and went on to seize power, with the Cambodian People's Party behind him, in a coup in 1997. He has maintained in power ever since and shows no signs of wanting to relinquish it. In fact, in June 2018 he vowed to rule for another ten years.<sup>24</sup>

---

<sup>16</sup> Ibid.

<sup>17</sup> <https://about.lindex.com/no/wp-content/uploads/sites/4/2016/04/lindex-sustainability-report-2017.pdf>

<sup>18</sup> As per April 2018: <https://about.lindex.com/en/manufacturing-factories/> and <https://about.lindex.com/en/processing-factories/> (some overlap might occur)

<sup>19</sup> [https://www.mellby-gaard.se/company\\_post/kappahl/](https://www.mellby-gaard.se/company_post/kappahl/).

<sup>20</sup> <https://www.kappahl.com/nn-NO/om-kappahl/investerare/investerare/rapporter--presentationer/2018/kappahl-bokslutskommunike-20172018-ett-utmanande-ar/>

<sup>21</sup> KappAhl: <https://www.kappahl.com/nn-NO/om-kappahl/om-oss/om-oss/markeder/>

<sup>22</sup> <https://www.linkedin.com/company/kappahl>.

<sup>23</sup> As per October 2018: [https://www.kappahl.com/globalassets/corporate/sustainability/documents/kappahl\\_supplier\\_factory\\_list.pdf](https://www.kappahl.com/globalassets/corporate/sustainability/documents/kappahl_supplier_factory_list.pdf)

<sup>24</sup> <https://www.phnompenhpost.com/national-politics/hun-sen-repeats-vow-serve-10-more-years-noting-it-could-be-more>



Cambodia is the sixth fastest-growing economy in the world. Driven by garment exports and tourism, Cambodia has sustained an average growth rate of 7.7% between 1995-2017. As global demand for garments peaked in 2018, economic growth is expected to reach 7%, compared to 6.9% in 2017. Growth is expected to remain robust.<sup>25</sup>

Cambodia's opposition party, the Cambodian National Rescue Party (CNRP) gained unprecedented support in the 2013 elections, and they won gains in the regional elections of 2017. Ahead of the national election in July 2018, the government arrested Kem Sokha, the leader of the CNRP, on treason charges.<sup>26</sup> On November 16 2017, the Supreme Court, presided over by a senior ruling party official, dissolved the CNRP and banned 118 CNRP of its politicians and officials from political activity for five years, following a complaint by the Minister of Interior. Many of them have since gone into exile. The ruling party duly won the 125 seats in parliament.<sup>27</sup> In addition to the legal steps taken against the main opposition party, independent news outlets were shut down and political activists and human rights defenders were reportedly harassed. Institutions all over the world, among them national governments, the EU, trade unions and human and labour rights NGOs protested vehemently against the government crackdown on civil rights. One of these, the ASEAN Parliamentarians for Human Rights, said the elections took place in a "highly repressive political environment".<sup>28</sup>

In October 2018 the European Commissioner, Cecilia Malmstrom, sent a warning to the Cambodian authorities, saying that the EU had begun the process of withdrawing the country's Everything But Arms<sup>29</sup> status. This scheme provides the world's poorest nations with duty-free access to the European market, as long as governments respect the democratic and humanitarian principles of the UN charter and the EU's Lisbon treaty, as well as the conventions of the International Labour Organisation (ILO) on workers' rights.<sup>30</sup>

## The Cambodian garment industry

Cambodia's garment and footwear sector engages some 750,000 workers in more than 1,000 factories.<sup>31</sup> An estimated 87% of the workers are women<sup>32</sup>, many of them young migrants from rural areas. The sector has grown considerably over the past two decades. In 2016, Cambodia's garment and footwear exports were worth USD 6.8 billion, a steep rise from 1996 when the export mounted USD 80 million.<sup>33</sup> Today, garments and footwear currently make up roughly 70% of the country's total exports.<sup>34</sup>

As wages and operation costs surge in China, many manufacturers and brands are looking to relocate or diversify their labour-intensive production to destinations where labour costs are lower, such as Cambodia, which now ranks ninth among the world's leading garment suppliers.<sup>35</sup> An abundant supply of cheap labour has led to increased production and exports of garments from Cambodia and contributed to the employment and economic growth of the last decade. According to the World Bank, Cambodia and Vietnam have become increasingly important in the global apparel market because Chinese investors have been attracted by lower wages and the proximity

<sup>25</sup> World Bank Country Overview: Cambodia. <https://www.worldbank.org/en/country/cambodia/overview>

<sup>26</sup> <https://www.theguardian.com/world/2017/sep/05/cambodias-opposition-leader-kem-sokha-charged-with-treason>

<sup>27</sup> Se e.g. <https://www.europeaninterest.eu/article/eu-threatens-tear-tariff-regime-cambodia/>

<sup>28</sup> <https://www.theguardian.com/world/2018/jul/29/cambodia-hun-sen-re-elected-in-landslide-victory-after-brutal-crackdown>

<sup>29</sup> Everything but Arms (EBA) is an initiative of the European Union under which all imports to the EU from the Least Developed Countries are duty-free and quota-free, with the exception of armaments.

<sup>30</sup> <https://www.europeaninterest.eu/article/eu-threatens-tear-tariff-regime-cambodia/>

<sup>31</sup> "When Best is Far from Good Enough", Future In Our Hands, report 10/2016. <https://www.framtiden.no/rapporter/rapporter-2016/800-when-best-is-far-from-good-enough/file.html>

<sup>32</sup> [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_541288.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_541288.pdf)

<sup>33</sup> Ibid.

<sup>34</sup> <https://www.worldfootwear.com/news/-cambodias-garment-and-footwear-exports-up-by-7/2429.html>

<sup>35</sup> "Bestseller - a good deal for all? Lack of transparency and violations of workers' rights at two of Bestseller's suppliers in Cambodia and India". Future In Our Hands, report 8/2017. <https://www.framtiden.no/dokarkiv/rapporter/rapporter-2017/821-bestseller-a-good-deal-for-all/file.html>



to China.<sup>36</sup> Cambodia also enjoys trade benefits, which allow many Cambodian products to enter markets with reduced tariffs or duty-free. The EU is the largest market for Cambodian garment exports, accounting for about 40% of the total, followed by the USA (30%), Canada (9%) and Japan (4%). Large multinational brands that buy from Cambodia include H&M, C&A, Adidas, Gap, Marks & Spencer, Bestseller and Uniqlo.<sup>37</sup>

According to the Hong Kong Trade Development Council, the majority of Cambodian garment and footwear factories are located in Phnom Penh and the surrounding provinces including Kandal, Kampong Speu, Kampong Cham, Kampong Chhnang, Kampot and Sihanoukville.<sup>38</sup>

While Cambodia has seen an increase in minimum wages during the past few years, the country continues to enjoy trading advantages via the Generalised System of Preferences (GSP), the Everything But Arms scheme, and the Most Favoured Nation (MFN) status. Both GSP and MFN give duty-free access and/or lower tariffs for Cambodian goods. However, as outlined above, the political situation escalated prior to the national elections in June 2018, leading to strong reactions from national governments, the EU and a wide range of organisations in Cambodia and globally. In February 2018 EU foreign ministers said in a statement that they were considering "specific targeted measures" against Cambodia, which diplomats said was a warning to Prime Minister Hun Sen that senior government officials could face sanctions.<sup>39</sup> Despite this warning, few concessions were made before the election took place and therefore the European Commissioner reacted in October 2018 by initiating the process of reviewing Cambodia's Everything But Arms status.

The process, according to the EU, is expected to take up to six months, and garments, sugar and other exports could face tariffs within 12 months.<sup>40</sup> If the EU rules that Cambodia will lose the duty free access under the Everything But Arms scheme it would certainly be a serious blow to the country's garment industry as its main customers are located in EU.

Some multinational brands such as Nike, Adidas and Puma, have made an effort to push the government to respect human rights, labour rights and a true democratic system. In October 2018 these brands, among others, joined a delegation to Cambodia, led by an industry group, the American Apparel & Footwear Association. The group met with Cambodian government officials to express concern about the shrinking space for independent trade unions and rights activists and communicated a desire to work with officials to improve these conditions.<sup>41</sup> Their reactions compliment those of the EU, and although few brands have voiced their opinion in public, a handful have responded in a positive way when approached by media. For example, a spokesman for H&M in November 2018 declared "We fully understand the need for the European Union to look into how to address the human rights situation in Cambodia".<sup>42</sup>

A recently signed trade deal between EU and Vietnam will most likely exacerbate Cambodia's competitive challenges.<sup>43</sup> If the EU's threats turn into action and they withdraw Cambodia's Everything But Arms status due to a lack of adequate steps taken by the government, the future for the garment sector in the country would be in question.

---

<sup>36</sup> "Stitches to Riches", World bank group, 2016:

<https://openknowledge.worldbank.org/bitstream/handle/10986/23961/9781464808135.pdf?sequence=2&isAllowed=y>

<sup>37</sup> Ibid.

<sup>38</sup> <https://hkmb.hktdc.com/en/1X0A9EN7/hktdc-research/Cambodia-Manufacturing-Relocation-Opportunities-1>

<sup>39</sup> <https://jakartaglobe.id/international/eu-threatens-cambodia-sanctions-election-purge/>

<sup>40</sup> <https://www.reuters.com/article/cambodia-politics/cambodia-weighs-easing-opposition-pressure-amid-eu-sanctions-threat-idUSL4N1Y83FX>

<sup>41</sup> <https://euobserver.com/opinion/143252>

<sup>42</sup> <https://www.europeaninterest.eu/article/eu-threatens-tear-tariff-regime-cambodia/>

<sup>43</sup> <https://www.phnompenhpost.com/post-depth-business/moodys-warns-credit-negative-if-eba-lost>

## Wages

The minimum wage for Cambodian garment workers in 2017 was USD 153 per month, increasing to USD 170 in 2018.<sup>44</sup> As from 1st of January 2019 minimum wage is USD 182 per month in 2019.<sup>45</sup> Workers are also entitled to USD 7 per month for transport or housing allowances. In addition, workers can earn an attendance bonus of USD 10 if they complete a full month of working six days per week, eight hours per day, without any absence. However, the attendance bonus is not guaranteed and often deducted at a variety of rates when a worker is absent, late without permission, or sick without a doctor's certificate, which is expensive to obtain.

From 2019, employees engaged on UDCs are entitled to be paid a seniority bonus twice per year.<sup>46</sup> In addition, employees engaged on UDCs in the garment and footwear industries working in a company prior to 2019 must be 'repaid' 30 days of seniority bonus for each year.<sup>47</sup> Therefore, from 2019, workers in the garment and footwear sectors engaged on UDCs, who have worked in a company prior to 2019, will receive 45 days of seniority bonus paid to them each year.<sup>48</sup> Beginning in 2019, all companies who fall under the provisions of the Labour Law, which includes factories in the garment and footwear industry, must pay workers their wages twice a month.<sup>49</sup>

The inability for workers to cover their basic needs with their low wages is the main reason why workers take on overtime. Similarly, workers will still go to work when they are sick or should take care of ill family members. The attendance bonus creates a constant pressure to attend every day, affecting workers' health, social needs and the welfare of their families. The overtime meal coverage is USD 0.50 per day, but in reality it is very hard to find nutritious food for this scarce amount, meaning workers eat poorly while doing long hours.<sup>50</sup>

Lack of sufficient nutritious food, extensive work pressure due to high production targets, long hours, poor ventilation and excessive heat all contribute to the high numbers of sudden fainting in factories, either by individuals or by groups of workers fainting simultaneously. The latter has been termed "mass fainting" and has attracted increased attention and heated debate since the first public recordings in 2010. According to the National Social Security Fund (NSSF) in 2017, at least 1,603, of which 1,599 were women, fainted at work.<sup>51</sup> The most recent figure, also from NSSF, reveals that at least 1,665 workers fainted in the first seven months of 2018, a higher figure than of the previous year.<sup>52</sup> There are, however, reasons to believe that this figure does not represent the full extent of the problem. In a report from 2016<sup>53</sup>, workers in three out of four researched H&M

<sup>44</sup> <https://wageindicator.org/salary/minimum-wage/cambodia-1/>

<sup>45</sup> Prakas No. 465/18 on The Setting of the Minimum Wage for Garment and Footwear Industry Workers for 2019, available at [http://www.mlvt.gov.kh/index.php?option=com\\_k2&view=item&task=download&id=495\\_07e776d44dbf57d49c9a094b09f4d251&Itemid=210&lang=en](http://www.mlvt.gov.kh/index.php?option=com_k2&view=item&task=download&id=495_07e776d44dbf57d49c9a094b09f4d251&Itemid=210&lang=en)

<sup>46</sup> Article 2, Prakas No. 443/18 on the Payment of Employment Seniority Bonus, available at [http://www.mlvt.gov.kh/index.php?option=com\\_k2&view=item&task=download&id=489\\_9f444da7416ae76bfff7706948fb537&Itemid=210&lang=en](http://www.mlvt.gov.kh/index.php?option=com_k2&view=item&task=download&id=489_9f444da7416ae76bfff7706948fb537&Itemid=210&lang=en) The total yearly seniority bonus is to be equal to 15 days of wages and fringe benefits, with 7.5 days' worth paid in June and another 7.5 days' worth paid in December of each year. Ibid.

<sup>47</sup> Ibid., Article 3.

<sup>48</sup> The maximum amount for this 'repayment' cannot exceed 6 months' worth of the average earning wage. Ibid.

<sup>49</sup> Prakas No. 442/18 on the Payment of Wages to Employees, available at [http://www.mlvt.gov.kh/index.php?option=com\\_k2&view=item&task=download&id=488\\_1bd413b99429365a69292b465a52d6f2&Itemid=210&lang=en](http://www.mlvt.gov.kh/index.php?option=com_k2&view=item&task=download&id=488_1bd413b99429365a69292b465a52d6f2&Itemid=210&lang=en) "In the second week of each month, employers must pay their employees 50% of their average monthly earning wage, whilst in the fourth week of each month, they must pay workers their remaining wages as well as all fringe and other benefits for the whole month." Ibid., Article 1.

<sup>50</sup> Ibid.

<sup>51</sup> <https://www.khmertimeskh.com/50107115/pm-investigate-fainting-causes/>

<sup>52</sup> <https://wmc.org.kh/%E1%9E%81%E1%9F%81%E1%9E%8F%E1%9F%92%E1%9E%8A%E1%9E%80%E1%9F%84%E1%9F%87%E1%9E%80%E1%9E%BB%E1%9E%84%E2%80%8B-%E1%9%96%E2%80%8B-%E1%9E%80%E1%9E%98%E1%9F%92%E1%9E%98%E1%9E%80%E1%9E%B6%E1%9E%9A%E1%9E%B7/?fbclid=IwAR3GhvV91AljLZqo1q98EV73KEfOz7VE1nscOzBDIV0DMirsOcfJ0aZgPaY>

<sup>53</sup> "When best is Far from Good Enough", Future In Our Hands, report 10/2016. <https://www.framtiden.no/rapporter/rapporter-2016/800-when-best-is-far-from-good-enough/file.html>



best-in-class factories observed faintings within the last year and estimated that, on average, between two to four workers faint each month. Based on these figures, this would mean between



*Garment workers get medical care after a mass fainting of more than 100 workers at a factory in 2018.  
(Photo: CENTRAL)*

70 - 140 fainting incidents happened annually in these three factories alone.

### **Unions and organized struggle**

It has been estimated that 60% of the garment industry workforce is organised, and in 2015 there were approximately 78 union federations representing workers in the garment industry.<sup>54</sup> Although these numbers might seem high, it is important to note that many of the unions are inactive and that the ruling party actively seeks to control the major unions in order to support their agenda. There are several crucial hurdles that disrupt effective union activities, the most important being the following:

<sup>54</sup> "Data of Trade Union Movements and Labor Associations in Cambodia". Solidarity Center, 2015. See also <http://bnlegal.com/cn/wp-content/uploads/2013/03/Unions-Collective-Bargaining-in-Cambodia.pdf>

- Retaliation against trade union leaders, members and potential members.<sup>55</sup>
- Factory level unions' lack of sufficient leverage to effectively negotiate for Collective Bargaining Agreements.
- The high level of foreign ownership of factories.<sup>56</sup> The majority of middle management positions at factories are filled by foreign nationals<sup>57</sup> and widespread sub-contracting dilutes responsibility.
- Unions loyal to political parties and to factory management undermine the function of independent trade unions.
- Corruption, including bribes for auditors and officials, to conceal bad working conditions and low wage levels.<sup>58</sup>
- The widespread use of fixed-duration contracts (FDCs).
- The Trade Union Law.

## The Trade Union Law

In April 2016, the Cambodian Parliament passed the Trade Union Law (TUL) which regulates how unions are formed, operated and dissolved. The law is controversial, and over two years after the law came into existence there are clear signs that it is inhibiting the function of existing unions and is a hurdle for the formation of new unions. The International Trade Union Confederation (ITUC), labelled the draft law "Anti-Union," claiming that the law would, 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 impose only miniscule penalties on employers for unfair labour practices."<sup>59</sup> Several unions, both at the national and international level, repeatedly tried to influence the law during the drafting process, but their efforts resulted in only minor changes.

The TUL excludes certain categories of workers from joining unions, relegating them to "associations", a status regulated by a separate law. Critics claim the TUL is a barrier to the right of association and the rights to organize and bargain freely. The law is cumbersome as there are a lot of requirements to register a union. A recent report shows that 81% of 72 monitored trade unions found registration forms difficult to complete, with only 45% of those unions successfully registering with the Ministry of Labor and Vocational Training. Unions who had been unable to properly register reported that their applications remained pending due to minor issues such as formatting, font and spelling.<sup>60</sup>

The impact of the TUL is widely considered to be the reason that the number of labour dispute cases passed to the Arbitration Council significantly dropped, from 248 labour disputes in 2016 to only 50 cases filed for arbitration in 2017.<sup>61</sup> In 2018, the number of cases dropped even further as only 41 cases were processed.<sup>62</sup>

---

<sup>55</sup> There are numerous examples. One of the most cases happened after January 2014, in the wake of a violent assault by Cambodian security forces on workers who were protesting for higher wages, 170 factories authorized the Garment Manufacturers Association in Cambodia (GMAC) to file a criminal complaint against the leaders of six major union bodies. The charges placed severe restrictions on the union leaders' mobility and ability to operate their unions as normal.

<sup>56</sup> The country's leading investors are China, South Korea, Vietnam, Malaysia and Taiwan, e.g. see <https://www.aseanbriefing.com/news/2018/02/13/cambodias-investment-outlook-2018.html>. For an overview of GMAC Factory owners by nationality (2018), see <https://www.central-cambodia.org/archives/2124>

<sup>57</sup> <https://www.export.gov/article?id=Cambodia-9-2-Labor-Policies-Practices>

<sup>58</sup> According to the Corruption Perception Index 2018 by Transparency International Cambodia is perceived to be the most corrupt country in Asean and ranked 164 out of 180 countries globally. <https://www.phnompenhpost.com/national/cambodia-drops-corruption-index-taking-bottom-spot-asean-third-year-running>

<sup>59</sup> <https://www.ituc-csi.org/cambodia-ituc-deplores-new-anti>

<sup>60</sup> "Cambodia Fundamental Freedoms Monitor". The Fundamental Freedoms Monitoring Project (FFMP), 2018.

[https://cchrcambodia.org/index\\_old.php?url=media/media.php&p=report\\_detail.php&reid=128&id=5](https://cchrcambodia.org/index_old.php?url=media/media.php&p=report_detail.php&reid=128&id=5)

<sup>61</sup> <https://www.phnompenhpost.com/national/report-labour-council-says-kingdom-disputes-down-2017>

<sup>62</sup> <http://www.arbitrationcouncil.org/en/ac-decisions/arbitral-decisions>



The ILO has stated publicly that the law could hinder Cambodia's obligations to core labour conventions 87 and 98, while acknowledging that the full effects of the law would depend upon its implementation. As of March 2018, nearly two years after the law passed, the number of strikes had dropped significantly. According to a report by the Ministry of Labour, in 2017 there were 97 cases of strikes at 97 factories, a decrease of 55.9 % compared to 2016 when there were 220 strikes. The report added that the number of demonstrations in 2017 also decreased when compared to 2016, from 212 cases to just 89 in 2017.<sup>63</sup> The employers and the government have expressed great satisfaction with the effects of the TUL and say the situation has "stabilised". Yet, many union leaders argue that protests against poor wages and bad working conditions are effectively curtailed by the repressive new law.

## 4. Myanmar: The context

Myanmar is a fragile state, undergoing rapid transformations and facing huge challenges having been ruled by an oppressive military junta for nearly fifty years, since 1962. The first multi-party election since the military took control was held in 1990, yet even though the National League for Democracy party won the election the military continued to rule the country. It was not until 2010 that the leader and spokesperson of National League for Democracy, Aung San Suu Kyi, was released from house arrest, and in 2015 she became The State Counsellor of Myanmar. Presently, the military still hold around 25% of the parliament, and the military is in control of defence, home affairs and border affairs.<sup>64</sup>

Over the past couple of years, the political situation has grown increasingly tense and the country is facing allegations of severe violations of human rights, and suppression of freedom of speech and freedom of the media. Following decades of state-sponsored discrimination and persecution towards the Muslim Rohingya minority in Myanmar, in August 2017 the security forces executed an estimated 25,000 Rohingya in the Rakhine province.<sup>65</sup> This triggered a mass exodus of approximately 750,000 stateless Rohingya refugees into neighbouring Bangladesh, adding to the estimated 200,000–300,000 Rohingya refugees already in Bangladesh, who fled Myanmar earlier.<sup>66</sup> A recent UN report<sup>67</sup> has characterized the torturing and killing of the Rohingyas as genocide, calling for the government in Myanmar to take immediate action and hold the perpetrators accountable. The report also criticizes Aung San Suu Kyi's silence and unwillingness to condemn the atrocities.<sup>68</sup>

In December 2017, two journalists working for Reuters, Wa Lone and Kyaw Soe Oo, were arrested after reporting on massacres of Rohingya Muslims in the Rakhine State. In September 2018 they

---

<sup>63</sup> <https://www.khmertimeskh.com/50113862/labour-ministry-says-number-of-strikes-continues-to-decline/> and <http://www.atimes.com/article/how-cambodia-killed-its-unions/>

<sup>64</sup> "The Myanmar Dilemma. Can the Garment Industry Deliver Decent Jobs for Workers in Myanmar?". SOMO, 2017. <https://www.somo.nl/the-myanmar-dilemma/>

<sup>65</sup> "Forced Migration of Rohingya: The Untold Experience". Ontario International Development Agency, 2018. See also <https://www.thedailystar.net/news/frontpage/killing-rohingyas-death-toll-could-be-over-10000-1622392>

<sup>66</sup> UN High Commissioner for Refugees, October 2017. <https://reliefweb.int/report/myanmar/culture-context-and-mental-health-rohingya-refugees-review-staff-mental-health-and>

<sup>67</sup> "Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar". Human Rights Council, 2018, [https://www.ohchr.org/Documents/HRBodies/HRCouncil/FFM-Myanmar/A\\_HRC\\_39\\_CRP.2.pdf](https://www.ohchr.org/Documents/HRBodies/HRCouncil/FFM-Myanmar/A_HRC_39_CRP.2.pdf) and press release "Myanmar: Tatmadaw leaders must be investigated for genocide, crimes against humanity, war crimes - UN report".

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23475&LangID=E>

<sup>68</sup> <https://www.theguardian.com/world/2018/aug/27/myanmars-military-accused-of-genocide-by-damning-un-report>

were each sentenced to seven years in prison, after being found guilty of breaching the Official Secrets Act, a little-used law left over from colonial British rule. The international community, among them the United Nations, see their imprisonment as a grave injustice, and an attempt to curb freedom of the press and the democratic forces in the country. The United Nations, the European Union, countries including the USA, Canada and Australia, as well as press freedom advocates have called for the men to be acquitted. In Myanmar a number of press organisations and networks have voiced their concerns about this landmark case and the declining press freedom, urging the government to release the jailed reporters and promote freedom of the press.<sup>69</sup>

The work of civil society organisations is also facing increasing pressure and government scrutiny. For example, in September 2018 in the Karen Province, the same province in which the Reuters journalists were investigating state-sanctioned atrocities against Rohingyas, the authorities issued a statement ordering non-governmental organisations, international non-governmental organisations and community-based organisations to provide two weeks of notice of any meeting or workshop they plan to hold in the region.<sup>70</sup>

### The Myanmar garment industry

In recent years, Myanmar's garment and textile sector has undergone substantial and uninterrupted growth. After being ruled by the military for almost 50 years, trade and investment sanctions have been lifted and foreign investors have returned to the country. Between 2010 and 2017, the total export value of garments increased from 337 million USD<sup>71</sup> to 2.7 billion USD. The 2017 figure reflects a near doubling of garment export revenue in just two years, up from 1.7 billion USD in 2015.<sup>72</sup> Experts believe that garment exports in 2018 will reach approximately 3 billion USD.<sup>73</sup> It is not an overstatement to say that Myanmar's textile sector has boomed in the last decade, and this will most likely continue in the years to come.<sup>74</sup>

Growing numbers of garments from Myanmar are exported to the EU, and the region is now ranked as the 6<sup>th</sup> biggest trade partner of Myanmar. The EU imported goods worth €1,549 million from Myanmar, with 72%<sup>75</sup>, €1,131 millions of these being garments. Compared to 2015, when EU garment imports from Myanmar had a value of €423 million<sup>76</sup> it is beyond a doubt that Myanmar's growing production and export of garments is not only bringing revenue and jobs to the sector, but also increasing the country's dependence on stable investors. The flip side of this dependence is its vulnerability to the withdrawal of favourable trade agreements due to increasing criticism against the escalating military-led human rights violations. The EU is currently considering trade sanctions on Myanmar due to the Rohingya genocide.<sup>77</sup> Such sanctions would likely have vast consequences for the garment sector in the country.

According to the Myanmar Garment Manufacturers Association (MGMA), about 450,000 garment workers are employed in more than 600 factories in the country.<sup>78</sup> Approximately 9 out of 10

<sup>69</sup> <https://www.irrawaddy.com/news/burma/local-condemnation-reuters-journalists-verdict.html>

<sup>70</sup> <https://www.irrawaddy.com/news/burma/karenni-govt-orders-csos-provide-2-weeks-notice-meetings.html>

<sup>71</sup> <http://economists-pick-research.hktdc.com/business-news/article/Research-Articles/Myanmar-Rising-The-Garment-Sector-Takes-Off/rp/en/1/1X000000/1X0A6IQS.htm>

<sup>72</sup> <http://www.myanmargarments.org/events-news/export-data/>

<sup>73</sup> <https://www.mmtimes.com/news/manufacturing-growth-banking-reform-key-economic-expansion-amro.html>

<sup>74</sup> "The Myanmar Dilemma. Can the garment industry deliver decent jobs for workers in Myanmar?". SOMO, 2017. <https://www.somo.nl/the-myanmar-dilemma/>

<sup>75</sup> The European Commission, Country profile for Myanmar, <http://ec.europa.eu/trade/policy/countries-and-regions/countries/myanmar/> and [http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc\\_113423.pdf](http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113423.pdf)

<sup>76</sup> "The Myanmar Dilemma. Can the garment industry deliver decent jobs for workers in Myanmar?". SOMO, 2017. <https://www.somo.nl/the-myanmar-dilemma/>

<sup>77</sup> <https://www.reuters.com/article/us-myanmar-rohingya-eu-exclusive/exclusive-eu-considers-trade-sanctions-on-myanmar-over-rohingya-crisis-idUSKCN1MD28E>

<sup>78</sup> <https://www.mmtimes.com/news/removing-gsp-privileges-derails-myanmars-hard-won-economic-progress.html>

workers are female.<sup>79</sup> Because Myanmar offers cheap labour and a huge pool of workers, it has become a popular country for international garment brands. This is part of a larger shift, where textile production has moved from countries including China to “new” countries in Asia and Africa, with lower production costs. According to MGEA estimates, export earnings from the garment industry is projected to reach \$8-10 billion in 2022, creating 1.5 million jobs.<sup>80</sup>

Several brands in the Scandinavian market, including H&M, KappAhl, Bestseller and Lindex produce garments in Myanmar. A recent check on H&M’s supplier list<sup>81</sup> shows that the multinational currently sources from approximately 55 factories in the country. This is a steep increase from 13 factories 2,5 years ago. Early 2016 KappAhl did not source from Myanmar while today the retailer is doing business with 11 units.<sup>82</sup> Lindex now sources from 9 units<sup>83</sup> in the country while in early 2016 the company did business with only one unit. The expanding production network is most likely only the beginning. In the coming years one can expect to see an increase in garments with the label “Made in Myanmar” on the Norwegian market and elsewhere.

However, even though Myanmar needs economic growth, and foreign investments are welcomed, this comes with several challenges. Investments in fragile democracies like Myanmar often bring negative side effects, such as worker exploitation, poverty pay, and poor working conditions, as a continuous “race to the bottom” on price<sup>84</sup> plays out.



*Lunch break in one of the garment producing areas in Yangon.*

<sup>79</sup> «Made in Myanmar». Oxfam, 2015. [https://www.oxfam.org/sites/www.oxfam.org/files/file\\_attachments/bp209-made-in-myanmar-garment-workers-091215-en\\_0.pdf](https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/bp209-made-in-myanmar-garment-workers-091215-en_0.pdf)

<sup>80</sup> <https://www.fibre2fashion.com/news/apparel-news/garment-sector-can-create-maximum-jobs-myanmar-minister-247440-newsdetails.htm>

<sup>81</sup> H&M supplier list as per November 2018.

<sup>82</sup> KappAhl factory list as per October 2018.

<sup>83</sup> Lindex factory list as per November 2018.

<sup>84</sup> “The Myanmar Dilemma. Can the garment industry deliver decent jobs for workers in Myanmar?”. SOMO, 2017. <https://www.somo.nl/the-myanmar-dilemma/>



## Wages

Workers in Myanmar's garment sector are among the lowest paid in the world, especially when compared to key garment hubs such as China, Thailand, Cambodia, Vietnam and India, making it a very competitive destination for manufacturers.<sup>85</sup> In March 2018, the minimum wage was revised from K3600/day (USD 2.25, as set in September 2015) to K4800/day (USD 3.60) or K600 (USD 0.38) per hour for an eight-hour day. Unions objected, declaring the hike was far too low while employers argued the opposite. In addition to their base wage, workers can earn a higher amount based on overtime compensation; attendance; skills; seniority; production bonuses; and housing and transportation allowances.

Because the current minimum wage is inadequate and does not cover the basic needs of workers and their dependents, including food, rent, healthcare and education, often workers feel forced to work overtime. Many factories avoid paying minimum wages by abusing the apprenticeship period (set to a maximum of 3 months<sup>86</sup>), meaning they can pay workers considerably less than the minimum wage during this period.<sup>87</sup> Many factories also make wage deductions if a worker is absent, for example, because of illness or a necessary day off.

According to the Myanmar Social Security Law, the employer is obliged to deduct a monthly social security fee. This fee is meant to cover a Social security card, which the worker is entitled to, and which gives workers the right to free medical treatment at social security clinics, paid sick leave, paid maternity leave and pre-natal examinations.<sup>88</sup> However, many workers are not provided with a Social security card, leaving them in a vulnerable position and without their entitlements including pre-natal healthcare<sup>89</sup>, which can endanger their health or that of their unborn child.

## Organising and Labour unions

In Myanmar, the Labour Organization Law, adopted in 2011, and the Labour Dispute Settlement Law of 2012, regulates the relationship between employer and employee. This includes the formation and function of trade unions, employers' associations, collective actions and lockouts. Prior to 2011, the right to form independent trade unions was not protected by law. Therefore, union meetings could not be held in public, and strikes were banned. Although these two laws were steps in the right direction, there are still numerous restrictions on an employee's right to form and join a union. For instance, although the law states that it is illegal to dismiss a worker for joining a union, in reality it does not sufficiently protect workers from being discriminated against.<sup>90</sup> One fairly recent example was the clash with assailants wielding iron bars outside Fu Yuen Garment Co Ltd., a Chinese-owned factory in Yangon, which led to 24 workers being hospitalised. This violent incident occurred following the firing of 30 unionised workers who had been campaigning for better working conditions, and the subsequent striking of hundreds of employees, demanding their reinstatement.<sup>91</sup>

---

<sup>85</sup> <https://www.mmtimes.com/news/garment-industry-must-raise-value-proposition-stay-sustainable.html> See also [https://www.ilo.org/wcmsp5/groups/public/--asia/--ro-bangkok/documents/publication/wcms\\_541288.pdf](https://www.ilo.org/wcmsp5/groups/public/--asia/--ro-bangkok/documents/publication/wcms_541288.pdf) and <https://frontiermyanmar.net/en/wages-first-productivity-later>

<sup>86</sup> Myanmar Labour Laws & Regulations. <http://www.myanmargarments.org/factory-information/laws-regulations/>

<sup>87</sup> "The Myanmar Dilemma. Can the garment industry deliver decent jobs for workers in Myanmar?". SOMO, 2017. <https://www.somo.nl/the-myanmar-dilemma/>

<sup>88</sup> Conversation with Burmese Womens' Union, January 2018.

<sup>89</sup> The Leave and Holiday Act, 1951 (amended July 2014) states that "Full wages may be taken for prenatal examination at the rate one day per time and up to maximum of seven times."

<sup>90</sup> "The Myanmar Dilemma. Can the garment industry deliver decent jobs for workers in Myanmar?". SOMO, 2017. <https://www.somo.nl/the-myanmar-dilemma/>

<sup>91</sup> <https://www.reuters.com/article/us-myanmar-garment/dozens-injured-in-crackdown-on-myanmar-garment-worker-protest-idUSKCN1MP29P>



As in most producer countries in Asia, many workers in Myanmar<sup>92</sup> are insufficiently aware of their rights. Although awareness has increased in recent years, it is often only after workers who have been approached by labour unions directly that they know of a unions' existence. Female workers tend to know less about their rights than male workers, as the majority have very limited time to engage in union activities due to household responsibilities.<sup>93</sup> When not working, many female workers are occupied with childcare and cooking, washing clothes and other household chores. Furthermore, even when workers might have some knowledge of their rights, many fear they will be monitored by the management and lose their jobs if they spoke up or joined a union. There have been several cases where female union leaders have been fired because of their struggle for labour rights. These workers will often face difficulties finding a new job, as many employers share information about "troublemakers".<sup>94</sup>

## 5. Employment contracts in Cambodia and Myanmar

### Cambodia

The use of fixed-duration contracts (FDCs, also called short-term contracts) has been on the rise in Cambodia's garment sector for many years. It is estimated that currently 80% of the country's exporting garment factories employ most of their workforce on FDCs, often lasting no longer than three months. Based on Article 73 of the Cambodian Labour Law, workers with two years' seniority must have their employment contracts changed to unlimited duration contracts (UDCs), also called permanent contracts. However, few legal actions are taken against employers who fail to change FDCs to UDCs and consequently many keep their workers on FDCs.<sup>95</sup> For example, a 2016 report by Future In Our Hands and Center for Alliance of Labor and Human Rights (CENTRAL) revealed illegal FDC usage in two of four H&M Platinum (best-in-class) suppliers.<sup>96</sup>

According to the Ministerial regulation Determination of Fixed Duration Contracts, the initial duration of an FDC must be no less than six months.<sup>97</sup> Worryingly, the Cambodian Ministry of Labour and Vocational Training has drafted new regulation ("a Prakas") that appears to try and extend the maximum period of employment on FDCs from two years to four years<sup>98</sup>. However, as the maximum period of employment on an FDC according to the Labour Law is two years, the attempt to change it through a Prakas should have no effect, as the legal force of a Prakas is less than that of the Law. The Draft Prakas also makes allowances for parties to switch from UDCs to FDCs, provided the switch is initiated by the worker.<sup>99</sup> While a few employees may prefer to be on FDCs in order to receive severance payments at the end of each contract period, typically it is employers that prefer to engage workers on FDCs, whereas most employees prefer the job security provided by UDCs. In this context, it seems highly probable that requests to change from

<sup>92</sup> <https://consult-myanmar.com/2017/12/19/a-baseline-survey-of-yangon-sector-workforce-garment-sector/>

<sup>93</sup> Burmese Womens' Union, 2015: Unpublished report.

<sup>94</sup> Ibid.

<sup>95</sup> See e.g. Arbitral Award 043/17-Pou Yuen (Cambodia) Enterprise available at <http://www.arbitrationcouncil.org/en/ac-decisions/arbitral-decisions>

<sup>96</sup> "When best is Far from Good Enough", Future In Our Hands, report 10/2016. <https://www.framtiden.no/rapporter/rapporter-2016/800-when-best-is-far-from-good-enough/file.html>

<sup>97</sup> Article 2, Draft Prakas on the Determination of Fixed Duration Contracts, available at [http://www.camfeba.com/legal/Prakas/2017/Draft%20Prakas%20on%20Determination%20of%20Fixed%20Duration%20Contract%20\(FDC\)%20\(Khmer\).pdf](http://www.camfeba.com/legal/Prakas/2017/Draft%20Prakas%20on%20Determination%20of%20Fixed%20Duration%20Contract%20(FDC)%20(Khmer).pdf)

<sup>98</sup> Ibid. See also <https://www.phnompenhpost.com/business/unions-and-companies-alike-unhappy-draft-changes-law-worker-contracts>

<sup>99</sup> Ibid., Article 7

UDCs to FDCs, purportedly initiated by workers, may in fact be forcibly initiated by employers with a corresponding threat of contract termination if the employee does not agree to "initiate" the change.

Workers employed on FDCs face many challenges. For instance, many of them abstain from trade union membership and union activities for fear of not having their contracts renewed. They find it hard to oppose illegal or unsustainable work practices, such as excessive overtime, sexual harassment, high production targets and the use of wage deduction as a disciplinary measure. Workers on FDCs also run the risk of losing seniority benefits, as such extras are exclusively granted to workers with more than one year of employment. A 2011 report by Yale Law School found already then that widespread use of FDCs leads to "increased worker vulnerability, decreased protection for freedom of association, and multiple violations of domestic and international law."<sup>100</sup> The report also found that continued use of FDCs results in "generally decreased job security and worker intimidation."<sup>101</sup> In addition, many pregnant workers on FDCs experience the loss of maternity leave benefits when the employer chooses not to renew their contract prior to delivery, only to rehire the worker once the child is born. In absence of permanent employment, workers find it hard to make plans beyond the contract period, leaving them in a highly vulnerable situation.<sup>102</sup>

## Myanmar

Short term contracts are the norm in Myanmar. While workers in Cambodia can be hired on either a long-term or a short-term basis, contracts in Myanmar are always limited because the law only permits contracts that have a start and an end date. However, the maximum period one can be employed is not clear.<sup>103</sup> Typically, a garment worker is hired for a period of two years or less. When their contract expires, it then has to be renewed.<sup>104</sup> A report by Oxfam in 2015 revealed that 64% of the workers interviewed did not know the length of their employment.<sup>105</sup>

In addition to the stress of not knowing whether they will have ongoing employment, being on a short term contract in Myanmar, as in Cambodia, makes workers vulnerable to exploitation, assaults and harassment, and creates a difficult and unstable situation for pregnant women.

Although required by law, many garment workers in Myanmar are not offered to sign an employment contract. Factories that do provide their employees with a contract often do not follow the correct legal procedures. For example, workers should have the right to read their contract before signing, but it is common for workers to be asked to sign the contract during their working time, which does not allow sufficient time to read it or ask questions.<sup>106</sup> In addition, reportedly some workers do not receive a copy of their contract.

---

<sup>100</sup> "Tearing Apart at the Seams", Yale Law School, report 04/2011, p. 77

[https://law.yale.edu/system/files/documents/pdf/Intellectual\\_Life/Cambodia\\_TearingApartattheSeams.pdf](https://law.yale.edu/system/files/documents/pdf/Intellectual_Life/Cambodia_TearingApartattheSeams.pdf)

<sup>101</sup> Ibid.

<sup>102</sup> "Bestseller – a good deal for all? Lack of transparency and violations of workers' rights at two of Bestseller's suppliers in Cambodia and India". Future In Our Hands, report 8/2017. <https://www.framtiden.no/dokarkiv/rapporter/rapporter-2017/821-bestseller-a-good-deal-for-all/file.html>

<sup>103</sup> "The Myanmar Dilemma. Can the garment industry deliver decent jobs for workers in Myanmar?". SOMO, 2017.

<https://www.somo.nl/the-myanmar-dilemma/>

<sup>104</sup> "ILO Guide to Myanmar Labour Law", 2017.

<sup>105</sup> [https://www.oxfam.org/sites/www.oxfam.org/files/file\\_attachments/bp209-made-in-myanmar-garment-workers-091215-en\\_0.pdf](https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/bp209-made-in-myanmar-garment-workers-091215-en_0.pdf)

<sup>106</sup> Burmese Women's Union, unpublished note, 2015.

## 6. A gendered garment sector

Globally, the vast majority of garment workers are female, and in some countries the garment workforce consists almost entirely of women. In Myanmar and Cambodia, the female workforce constitutes approximately 90%<sup>107</sup> and 85%<sup>108</sup> respectively. Because the garment sector is dominated by women, it is imperative to take a gender perspective while analysing the mechanisms which form and maintain inequality and looking at what measures are needed to change the status quo. Issues such as maternity leave, reproductive health, childcare and gender-based violence (such as sexual harassment and verbal harassment), are especially important to highlight.

One of the first reports to focus on the role of women in the global garment industry was the Clean Clothes Campaign's 2005 report, "Made by Women".<sup>109</sup> The report gave a platform to different women engaged in protecting workers' rights within the garment industry: workers, union leaders and human rights defenders. In 2012, the Swedish NGO Swedwatch published the report "A lost revolution"<sup>110</sup>, highlighting the situation of female garment workers in Bangladesh. The report shows that these women, and their children, face widespread human rights violations. Despite long hours and overtime, they cannot afford nutritious food, medicine, adequate health or sanitary care. The women also face harassment and sexual assaults on their way to and from the work place.

Although numerous trade unions in producer countries have focused on women workers' rights and empowerment for many years, seeking to build female union leadership in recent years has increased global focus on gender in the garment industry. This burgeoning awareness and global attention is partly triggered by the gender dimension emphasized in the UN Sustainability Goals, goal number 5<sup>111</sup>, focusing on women's equality and empowerment. One of the purposes of this goal is to end violence, including sexual violence, against women in both the public and the private sphere. This gender focus in the UN Sustainability Goals has also led to an increase in funding for activities contributing to reaching the gender-specific UN goal. In addition, the #MeToo movement has highlighted sexual harassment as a cross-cultural global problem. Even though the main focus of #MeToo has been on western women, it has made it easier and more accepted to address such issues in other parts of the world. Local actions under the #MeToo umbrella involving garment workers and workers in other low-paid sectors are few, but they do happen occasionally. Recently, women workers from various sectors joined forces in Bangalore, India, voicing their experiences of sexual harassment at their work place in an effort to bring attention to their working conditions.<sup>112</sup>

### Sexual harassment

The ILO defines sexual harassment as: "a sex-based behaviour that is unwelcome and offensive to its recipient. Behaviour that qualifies as sexual harassment [includes]:

<sup>107</sup> OXFAM, 2015: [https://www.oxfam.org/sites/www.oxfam.org/files/file\\_attachments/bp209-made-in-myanmar-garment-workers-091215-en\\_0.pdf](https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/bp209-made-in-myanmar-garment-workers-091215-en_0.pdf)

<sup>108</sup> Literature Review on Sexual and Reproductive Health and Rights of Migrant Garment Factory Workers in Cambodia, United Nations Population Fund [UNFPA], 2014. [https://cambodia.unfpa.org/sites/default/files/pub-pdf/SRHRofGarmentFactoryWorkerLiteratureReview\\_2.pdf](https://cambodia.unfpa.org/sites/default/files/pub-pdf/SRHRofGarmentFactoryWorkerLiteratureReview_2.pdf)

<sup>109</sup> "Made by women". Clean Clothes Campaign, 2005. <https://cleanclothes.org/resources/publications/made-by-women.pdf/view>

<sup>110</sup> "A lost Revolution. Empowered but trapped in poverty. Women in the garment industry in Bangladesh want more". Swedwatch report #47, 2012. [http://www.swedwatch.org/wp-content/uploads/2015/04/swedwatch\\_-\\_a\\_lost\\_revolution.pdf](http://www.swedwatch.org/wp-content/uploads/2015/04/swedwatch_-_a_lost_revolution.pdf)

<sup>111</sup> Goal 5: "Achieve gender equality and empower all women and girls". <https://www.un.org/sustainabledevelopment/gender-equality/>

<sup>112</sup> <http://www.newindianexpress.com/cities/bengaluru/2018/nov/02/workers-to-kickstart-their-metoo-movement-in-the-city-1893511.html>

- Physical: Physical violence, touching, unnecessary close proximity.
- Verbal: Comments and questions about appearance, life-style, sexual orientation, offensive phone calls.
- Non-verbal: Whistling, sexually-suggestive gestures, display of sexual materials.”<sup>113</sup>

As mentioned, sexual harassment is a very sensitive issue which makes it challenging to gather data on its' prevalence within the garment industry. Research reveals that workers often consider sexual harassment as restricted to physical assault and coercion, and not unwanted sexualised language.<sup>114</sup> Consequently, research about the occurrence of sexual harassment among female garment workers show mixed results.

However, research from Human Rights Watch shows that sexual harassment is widespread in garment factories in Cambodia, Bangladesh, Myanmar and Pakistan.<sup>115</sup> Human Rights Watch have for several years been focusing on sexual harassment in the garment industry. In an article from 2017<sup>116</sup>, Senior Counsel Aruna Kashyap emphasized the importance of correct methodology when it comes to documenting sexual harassment. Kashyap was especially critical towards brands relying on third part-party monitoring and audits to detect sexual harassment in factories. She claimed such methods are insufficient and often fail to target the problems, stating: “We found that multiple factors impede the effectiveness of factory-based audits in identifying labour abuses, including sexual harassment. Auditors frequently meet with workers in mixed groups for short periods. This is not conducive to revealing sexual harassment, which is often stigmatised. Workers also say they are intimidated because these discussions are inside factory walls, so managers know exactly who is speaking with the monitors.

In 2017, CARE International revealed that unwanted sexualised language, including jokes and rumours, is the most common form of sexual harassment reported by female and male workers in Cambodia. Likewise, female workers – to a far greater extent than men – also reported being exposed to physical harassment, e.g. coercive behaviour by management and supervisors<sup>117</sup>.

### Gendered structures in garment supply chains

In 2018, the Asia Floor Wage Alliance, in collaboration with several other organisations, published two thorough reports on gender-based violence in garment supply chains, one on H&M's supply chain and one on Gap's supply chain. The reports are based on three years of research in Cambodia, India, Bangladesh, Indonesia and Sri Lanka, and include interviews and group discussions with 331 workers employed in 32 of H&M's supplier factories.<sup>118</sup>

One of the main findings of these reports is that global supply chains in the garment industry are organised in ways that contribute to and maintain gender-based violence. For example, the hiring practices themselves are gendered and gender-based violence is embedded in the structures of the economy itself. The garment industry relies on, and is made possible by, the work of low-skilled and low-paid women on short-term contracts. Women's work is generally viewed as less valuable than men's work, hence women continue to be exploited. This is one of the reasons why

---

<sup>113</sup> [https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_decl\\_fs\\_96\\_en.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_decl_fs_96_en.pdf)

<sup>114</sup> “I know I cannot quit.” The Prevalence and Productivity Cost of Sexual Harassment to the Cambodian Garment Industry”. CARE, 2017: [https://insights.careinternational.org.uk/media/k2/attachments/SHCS\\_Full\\_Technical\\_Report\\_March\\_2017.pdf](https://insights.careinternational.org.uk/media/k2/attachments/SHCS_Full_Technical_Report_March_2017.pdf).

<sup>115</sup> “Tackling Sexual Harassment in the Garment Industry”. Blog by A. Kashyap, 2017: <https://www.hrw.org/news/2017/12/11/tackling-sexual-harassment-garment-industry>

<sup>116</sup> Ibid.

<sup>117</sup> CARE International, 2017, ‘I know I cannot quit.’ The Prevalence and Productivity Cost of Sexual Harassment to the Cambodian Garment Industry’: [https://insights.careinternational.org.uk/media/k2/attachments/SHCS\\_Full\\_Technical\\_Report\\_March\\_2017.pdf](https://insights.careinternational.org.uk/media/k2/attachments/SHCS_Full_Technical_Report_March_2017.pdf).

<sup>118</sup> “Gender Based Violence in the H&M Garment Supply Chain”. Asia Floor Wage Alliance, 2018.

<https://asia.floorwage.org/workersvoices/reports/gender-based-violence-in-the-h-m-garment-supply-chain>.



women are at greater risk of being employed on a short-term contract and earn less than male co-workers.<sup>119</sup>

Even when female workers earn the same as male workers, social and cultural norms often place a greater burden on women. They are expected to support their families and send money home to their parents and siblings, whereas, in contrast, sons are not expected to support their extended families financially. In this way, even practices that may appear “neutral” can actually contribute to perpetuating existing inequalities between men and women.<sup>120</sup>

### **ILO and gender-based violations in the workplace**

Gender-based violations in the garment sector are widespread; however, there is no international, legally-binding legislation to protect workers. In an attempt to take the first steps towards a universal framework, the ILO worked on a draft that was discussed during the ILO Conference in May 2018. ILO labor standards can either be conventions or recommendations. While recommendations serve more as guidelines, conventions are legally binding. It has not yet been decided if the new draft on gender-based violence should take the form of a convention or recommendation. The American NGO International Labor Rights Forum (ILRF), proposed that the ILO should adopt a legally-binding convention, supplemented by a recommendation. They argued that a convention is an important tool to protect workers from gender-based violence and is essential for ensuring that brands and garment factories take responsibility for any violations in their supply chain. ILRF does not believe a recommendation alone will be sufficient to address and prevent gender-based violations at work.<sup>121</sup>

### **Gender in Cambodia**

With the end of the Cold War, the UN, led by “western” nations, set about a new era of nation building. Cambodia became an important stage for a new world order. From 1991-1993, the UN mission to Cambodia, UNTAC, attempted the wholesale rebuilding of the Cambodian state after decades of civil war. They were faced with a legal system that had been totally obliterated. As they attempted to prepare the country for democratic elections they also had to rebuild the country’s judiciary from the ground up and rewrite the constitution. The system that emerged was partly based on the French civil system, historically rooted in the country’s colonial past, and internationally recognised best legal practice.

Many of the subsequent written laws regarding female workers are sound, however the wider context must be taken into account to avoid an overly optimistic view of the situation for female workers in Cambodia. Although a new constitution was written, the traditional code of conduct “Chbab Srey” (Women’s Law) has largely taught women in Cambodia to be subservient to men, and it remains important in governing the society’s attitude and expectations towards women. The Ministry of Women’s Affairs called on the government to remove the Chbab Srey from the school curriculum in 2007, although a shorter version is still taught. Almost all teachers and more than ¾ of students agreed with the following statements: “The Chbab Srey must be taught to all students”, “The Chbab Srey represents Khmer culture”, and “Good women are those who follow and respect the Chbab Srey”.<sup>122</sup> This partly explains the gap between written laws and practice, as does the legal system that favours those with money and power.

Cambodia ratified the Convention on the Elimination of All Forms of Discrimination Against

---

<sup>119</sup> Ibid.

<sup>120</sup> Interview with Burmese women’s Union in January 2018.

<sup>121</sup> “Time for Change. Advancing Legal Protections on Gender-based Violence at work.” International Labor Rights Forum, 2017: <https://laborrights.org/sites/default/files/publications/timeforchange.pdf>

<sup>122</sup> “There is no place for “Chbab srey” in Cambodian schools.” Editorial Kelly Grace and Sothy En , 2015.

<https://www.cambodiadaily.com/news/%C2%ADthere-is-no-place-for-chbab-srey-in-cambodian-schools-85230/>

Women (CEDAW) in 1992. Article 31 of the Cambodian Constitution “recognizes and respects” CEDAW, alongside all other treaties and conventions relating to human rights and women’s rights. Under this same Article, all Cambodian citizens, regardless of sex, are granted equality before the law. Article 38 of the Constitution “forbids any physical abuse against any individual”. The Constitution also claims to abolish all forms of discrimination against women and to prohibit the exploitation of women’s labour, whilst extending equal rights to men and women.<sup>123</sup>

By 2005, the Cambodian Government introduced the Law on the Prevention of Domestic Violence and the Protection of Victims. Domestic violence is defined as violence perpetrated upon a husband or wife, dependent children or any other person living in the same household who is a dependent of that household.<sup>124</sup> The Law includes a relatively broad scope of acts that constitute domestic violence including murder, physical abuse, mental and psychological abuse, sexual abuse and harassment. It attempts to empower authorities by enabling them to immediately intervene in cases of domestic violence. The Law also makes provision for victims to apply to courts for protection orders, which may be issued by a judge without the perpetrators’ presence.<sup>125</sup>

However, this Law has been criticized by human rights advocates. The Cambodian NGO Committee on CEDAW notes several issues with the Law’s implementation<sup>126</sup>, namely confusion over the applicability of the Law in comparison with the Criminal Code and a failure on the part of officials to distinguish between civil compensation claims and criminal charges. For example, Article 222 of the Criminal Code imposes a term of imprisonment from 2 - 5 years and a fine of 4 - 10 million Khmer Riels for intentional acts of violence committed by a spouse or partner. However, Article 35 of the Domestic Violence Law states that any acts of domestic violence that are considered criminal offences are to be punished according to the Criminal Code. This means that a husband who rapes his wife should be charged with rape under Article 239 of the Criminal Code (which attracts a punishment of 5 - 10 years imprisonment) and not violence committed by a spouse or partner under Article 222. In practice, however, this often does not occur. Due to a misunderstanding of the application of the Domestic Violence Law on the part of the judges, perpetrators can be charged with the lesser offence under Article 222. In many cases, charges are never brought, with officials deeming the matter ‘settled’ simply because a sum of money has been paid as compensation.

A notable feature of Cambodia’s Criminal Code is that certain crimes against pregnant women draw a heavier penalty. For example, Article 199 of the Criminal Code sets a punishment of 10 - 15 years imprisonment for murder. However, if the victim is pregnant, and this was known by the perpetrator, the penalty increases to 15 - 30 years imprisonment.<sup>127</sup> Similar provisions apply for the crimes of torture and acts of cruelty, violence, rape, sexual assault, extortion and fraud.<sup>128</sup>

Workers in the garment industry report many instances of inappropriate sexual remarks and sexual harassment by male colleagues or managers. Under the Criminal Code, these are offences against Cambodian law, however the extent to which workers may seek redress is hampered by contradictions or gaps between Articles.

Indecent assault is defined in Article 246 as “touching, fondling or caressing the sexual organs or other part of a person without that person’s consent” or coercing a person to perform such acts on the perpetrator or a third party. Indecent assault is punishable by 1 - 3 years in prison, and a fine

---

<sup>123</sup> Constitution of the Kingdom of Cambodia, Article 45. <http://pressocm.gov.kh/en/archives/9539>

<sup>124</sup> Law on the Prevention of Domestic Violence and the Protection of Victims, <https://data.opendevelopmentmekong.net/dataset/0206f013-cad2-4ed0-ad71-c379e2b18464/resource/d6e1ebdf-0a35-42fd-8d43-af66f9f5f3dd/download/1b3ba851-965a-4da1-8dd1-fca99e695eb2.pdf>

<sup>125</sup> Ibid.

<sup>126</sup> Available at: <http://ngocedaw.org/our-activities/advocacy-lobbying/amending-the-laws-on-domestic-violence/>

<sup>127</sup> Criminal Code, Article 202.

<sup>128</sup> Criminal Code, article 211, 219, 241, 248, 365 and 379.

of 2 - 6 million Khmer Riels. Article 247 allows for increased levels of punishment if the offence is committed "by any person having authority over the victim" or "abusing the authority vested in him or her by his duties".<sup>129</sup> Article 250 defines sexual harassment as "the abuse by one person of the authority conferred by his or her functions... for the purpose of applying pressure repeatedly in order to obtain sexual favours", and carries a punishment of 6 days to 3 months in prison and a lower fine. Therefore, sexual harassment is only defined as a criminal offence when committed by a person in authority, so a worker could lodge a criminal complaint against a manager but not against a male colleague. Also of concern is the word "repeatedly", which is a vague term. It is unclear how many times it needs to have occurred to be recognised as an offence. Conceivably, under Article 250, a manager who pressurized a female employee into having sex with him under threat of contract non-renewal would not have committed a criminal offence, unless there had been repeated instances of pressure.

Sexual harassment is also addressed under the Labour Law. Article 172 states that all employers and managers "must watch over their good behaviour and maintain their decency before the public" and that all forms of sexual harassment are strictly forbidden. It could therefore be argued that any sexual harassment which falls outside the scope of Article 250, would fall within the remit of Article 172 of the Labour Law, provided it occurred within the workplace. However, no penalty is prescribed for contravening Article 172, leaving workers with no form of redress.

Ultimately, workers have very few legal protections under the Labour Law and even fewer practical options in the face of widespread gender-based violence in the workplace. Article 73 of the Labour Law allows for FDCs be terminated early in cases of "serious misconduct", with similar provisions for UDCs under Article 82. Article 83 defines "serious misconduct" as being, on the part of employers, abusive language, threats, violence or assault and, on the part of employees, threats, abusive language or assault against the employer or other workers. However, "serious misconduct" on the part of the employer only permits the employee to immediately terminate their contract. It is arguable that many cases of sexual harassment by male colleagues do not fall under this definition of "serious misconduct". The lack of inclusion of sexual harassment under the term "serious misconduct", which would lead to contract termination, combined with the restrictive definition of sexual harassment in the Criminal Code, leaves female workers with very little legal protection against sexual harassment in the workplace.

## Gender in Myanmar

The Myanmar legal system is pluralistic, based on both post-colonial influences and old Buddhist laws. Customary laws play an important role, and hence the legislation can differ from region to region and from ethnic group to ethnic group. The Burma Law Act states that Buddhist Law governs Buddhists, Hindu Law governs Hindus and Islamic Law governs Muslims.<sup>130</sup> Due to the radical political changes the country has undergone since 2010, the legislative system is under transformation, and there are currently several draft laws waiting to be revisited. Therefore, it is challenging to get a complete overview of the legal situation in the country.<sup>131</sup>

There is no comprehensive labour law that covers all aspects of work, and regulation is laid down in several laws. Wages are regulated by the Payment of Wages Act and the Minimum Wage Law, while sick leave and maternity leave is regulated by the Leave and Holiday Act.<sup>132</sup>

---

<sup>129</sup> *ibid.*, Article 247.

<sup>130</sup> UN Women, 2016: Women's Access to Justice in the Plural Legal System of Myanmar,

[http://www.burmalibrary.org/docs22/Justice\\_Base-2016-04-22-Women\\_in%20Myanmar-Plural\\_legal\\_systems.pdf](http://www.burmalibrary.org/docs22/Justice_Base-2016-04-22-Women_in%20Myanmar-Plural_legal_systems.pdf).

<sup>131</sup> ILO Guide to the Myanmar Labour Law. ILO, 2017. [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-yangon/documents/publication/wcms\\_577563.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-yangon/documents/publication/wcms_577563.pdf)

<sup>132</sup> *Ibid.*

Myanmar has ratified three of the eight ILO Conventions designed to protect and promote these core labour standards: Freedom of Association and Right to Organise (Convention 87), Forced Labour (Convention 29) and Worst Forms of Child Labour (Convention 182). However, each ILO member State has committed to respect and promote all eight universal principles and rights, even if the State did not ratify them.<sup>133</sup>

When it comes to gender equality and women's rights, Myanmar ratified the UN Convention on the elimination of all forms of discrimination against women, CEDAW, in 1997. This means Myanmar has committed to strive towards gender equality. However, a lack of proper implementation of the convention, as well as a general lack of focus on women's rights in Myanmar, are major hurdles for attaining the goals described in CEDAW.<sup>134</sup>

The legislation in Myanmar is weak when it comes to gender-based discrimination. Currently, women's organisations are trying to reform the 1982 Citizenship Law and to propose a new anti-discrimination law which is aimed at protecting women's rights. Female workers' rights, which is often highlighted in National labour laws, is not a part of the Myanmar Labour Law. For instance, there is a vital need for laws to prevent pregnant women from being fired.<sup>135</sup>

In regard to sexual harassment at work, this is partly covered by The Myanmar Penal Code from 1860, which is the only law that protects women and girls from sexual violence. The law states that even a gesture or word intended to insult the "modesty" of a woman is a criminal offence, and that any sexual assault is a criminal offence. However, the law has major flaws and has not proven to be effective in dealing with the challenges Myanmar faces today. It is also considered to have been highly influenced by out-dated colonial ideas and language. Therefore, the Ministry of Social Welfare, Relief and Resettlement, alongside women's organisations, have been working on a draft of a new national law, the "National Law on the Protection and Prevention of Violence against Women". If the law is passed, it will be the first law in Myanmar aimed at protecting women from various forms of violence and sexual harassment. However, until this bill is passed, there exists no law which adequately addresses and condemns sexual violence against women in Myanmar.<sup>136</sup>

Maternity leave and benefits are regulated by the Leave and Holiday Act but are also closely linked to the Social Security Law and Rules from 2012. While the Leave and Holiday Act states that women are entitled to 14 weeks of paid maternity leave (six weeks before birth and eight weeks after birth), maternity leave and benefits are also regulated in the Social Security Law. The Social Security Law states that every company with more than five employees must be a part of the Social Security Board. This involves registering and paying a Social Security fee for all employees in case the workers fall sick or pregnant. In these cases, maternity leave is covered by the Social Security Board. The Social Security fee is deducted from the workers monthly salary. Being a member of the Social Security Fund also comes with additional benefits, such as free medical care at certain hospitals and paid leave for pre-natal examinations. If a female worker is not a member of the Social Security Fund, her maternity leave pay must be covered by her employer. Thus, it is important to note that even if a female worker is not a member of the Social Security Fund, she is still entitled to paid maternity leave by law.<sup>137</sup>

If a factory has more than 100 female employees who have children under the age of six years old, the factory must provide childcare centres. The factories are free to cooperate with others or to arrange such facilities themselves. If a factory has less than 100 female employees with children

---

<sup>133</sup> Ibid.

<sup>134</sup> Based on information from Action Labour Rights, January 2018.

<sup>135</sup> Ibid.

<sup>136</sup> Ibid.

<sup>137</sup> ILO Guide to the Myanmar Labour Law. ILO, 2017. [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-yangon/documents/publication/wcms\\_577563.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-yangon/documents/publication/wcms_577563.pdf)



under six years old, the factories are able to make other arrangements.<sup>138</sup> In reality, childcare centres are rare, and there is an urgent need for adequate and safe childcare facilities in Myanmar.<sup>139</sup>

## 7. Factory findings in Cambodia

### Factory 1

15 female workers, ranging between 19 - 40 years old, were interviewed in this factory. The majority were in their early twenties and single, and the rest were married with children. All workers attended school for between 2 - 12 years, with the average being 7 years. They were all born in the provinces surrounding Phnom Penh: Takeo, Kampong Chhnang, Kampong Thom, Kandal and Svay Rieng, but moved into the neighbourhood near the factory, located in the capital. The majority worked in sewing, and three worked in the cutting section or did other tasks. The majority worked 8-10 hours per day, 6 days per week.

At the time of research, all those interviewed received the minimum wage, USD 153. Including overtime and benefits, they earned approximately USD 170-200 (seven workers), USD 210-230 (four) and USD 250-300 (two). A couple of workers earned as much as USD 300, but they worked excessive overtime, i.e. until 8.30 pm, and on Sundays and holidays. Those interviewed worked up to 60 hours overtime per month. Most workers said the overtime rate was USD 1 per hour, however some of them were not aware of the rate.

*The workers mentioned various reasons that the management might use for not renewing their contract, such as arriving late for work, the age of the worker, workers talking instead of performing their tasks, or a lack of orders.*

All workers interviewed were on FDCs and their contracts were in Khmer. Eight workers had been employed for 2 years or less. The remaining seven workers started at the factory 2.5 years ago or more, and some of them had been at the factory more than four years. Their contracts were renewed every 3<sup>rd</sup> or 6<sup>th</sup> month. The majority had been on FDCs since they began working for the factory.

Most workers worried that their FDC would not be renewed due to their age, or that increasing the minimum wage would lead to the reduction of workers, an increased pressure on them and therefore more mistakes made while sewing. The workers mentioned various reasons that the management might use for not renewing their contract, such as arriving late for work, the age of the worker, workers talking instead of performing their tasks, or a lack of orders.

Most of the workers had to fulfil high targets. Some of them specified their target (e.g. 2000 footbands per day, 200 trouser pockets per day, 700 trousers per day per group) and needed to

---

<sup>138</sup> Ibid.

<sup>139</sup> Based on information from Gender Equality Network, January 2018.

work overtime in order to meet it. Others said that they had no official target, but that they always wrote down the number of items they completed daily. Some of the workers wanted more overtime work. Half said that when the factory was busy they had to work overtime. Half of the interviewees said that they often worked overtime at night. All of the workers, however, said that they were not forced by the management to work overtime.

Almost all workers said the toilets were not sanitary and sometimes not cleaned. Half said they could go to the toilet whenever they wanted. The other half said that they could go, but only for a maximum of five minutes. One said that the pressure of targets restricted her from going to the toilet. Workers said that restrictions placed on accessing the toilet could cause bladder problems and affect the kidneys.

Workers said that if they had a certificate from a doctor the employer would give them permission for 2 - 3 days off for sick leave. Some workers claimed they had been on sick leave for as many as 7 days and still been paid.

There were mixed opinions on whether pregnant women were affected contractually. Some thought that pregnant women would not have their contract renewed, while others either did not know or said it would not affect their contractual relationship with the employer. Almost all workers said that female workers were paid maternity leave, however the perception of the length of such leave differed; some said 3 months while others said 4 months. Half of the interviewees said that pregnant workers were allowed time off to attend medical check-ups, in this case half a day per month.

Almost all workers wanted conditions to change at the factory: they wanted a higher minimum wage – at least USD 200 for 8 hours of work; unlimited duration contracts; reduced work targets; more overtime; clean toilet provision; no punishment for workers arriving only one or two minutes late to work; and to allow workers to have breaks and talk to each other.

Most of the workers said they had not experienced sexual harassment, while a few said that male workers sometimes touched them, but that they had chosen not to make any formal complaint. Half of those interviewed said there is no place to complain about sexual harassment. Only two workers said they could go to the union if problems occur and three suggested they could go to the administration.

*"The way back home is very dark and quiet".*

A few workers did not work after 6 pm and said they felt safe going home as it was still light then. A common notion among the workers interviewed was "Leaving at 6 pm is okay – but not at 8:30 pm". Some worked overtime and expressed fear of going home in the dark, concerned about encountering drug gangs, or being assaulted, raped and murdered. "The way back home is very dark and quiet" said one. Some of the women employed risk-reducing strategies, such as only walking when other people were around, riding a bike or renting a room near the factory. One worker rode her bike long-distance each day, not fearing attacks but said she felt unsafe in the traffic.

Half said they did not work overtime often at night, the rest said they worked "very often" at night, as expected by the management. One worker said she feels angry about this but does not complain as she is afraid of not having her contract renewed.

## Factory 2

14 female workers, ranging between 20 - 49 years old, were interviewed. 10 were married with children, one was married with no children and the three youngest were single. Their education varied from no education at all to being educated up to grade 7, with six of them having attended school up to year 2. On average, their education level was relatively low. They were all born in the Kandal province, and all still lived there, close to the factory. 10 of the workers did sewing or stitching, while four did other tasks.

The majority worked 8 - 10 hours per day, six days per week. A few of them worked seven days per week during busy periods or holidays.

At the time of the research all workers received a minimum wage of USD 153. Including benefits and overtime they earned: USD 170-200 (seven workers), USD 230-250 (four) and USD 250-300 (three). Those with higher earnings often worked overtime, also on Sundays.

The women worked up to 60 hours overtime per month. Half of the workers did not know the overtime pay rate.

*"I simply follow whatever the company says".*

All workers were on FDCs. 10 had a written contract in Khmer, one worker said hers was in Chinese. One worker claimed she had no contract at all. Eight of the 14 workers had been employed for two years or less, while six had worked at the factory for 3 - 5 years. Their contract durations were for either 2, 3 or 6 months.

Most workers worried that their FDCs would not be renewed. They feared this would happen if they did not work hard enough, if they were not willing to do overtime or if there was a lack of work as a result of few or no orders. To avoid such scenarios, workers used different strategies: "I simply follow whatever the company says", "I try my best to work good", "I work hard" and "I work overtime".

The workers mentioned a number of reasons that the management could use for not renewing their contract: not working overtime, absence from work, not completing their work, making mistakes, taking breaks whilst working, arriving late for work, frequently taking sick leave, not fulfilling their tasks properly, protesting against working conditions, stealing from the factory or doing things that "...are against the factory rules".

However, three workers said they did not worry about not having their contracts renewed, mainly because they "work[ed] very hard" or "[had] the skills needed". One worker's FDC had been repeatedly renewed for several years and she therefore spoke from personal experience.

Those who worked in sewing were given targets and needed to produce 20 pieces per day. Some said they worked on piece rate and were paid per six pieces produced. One said: "I have no target, but if more work is done I get admired by the Chinese people". Some of the workers said they needed to work overtime to be able to meet their target: "I am forced to do overtime, if I do not work overtime I will be blamed by my line leader and my contract may not be renewed." This also seemed to be the case during busy periods, and some workers said they were forced to work beyond normal hours and feared going home in the dark. However, the majority of workers said they had never been forced to do overtime. Workers who performed tasks other than sewing and stitching said they did not have targets.

The majority of the workers were satisfied with the toilet facilities at the factory. Yet, a few others complained that the toilets were small and not clean. All said they could go to the toilet whenever they wanted, but some said they had a time limit. Many workers said that toilet restrictions did not affect their health, and viewed it as a non-issue, while others acknowledged that restricted use could cause bladder problems.

The majority of those interviewed said that they could take paid sick leave for up to three days, while two said "one week" or did not know.

Among the factory workers interviewed there were mixed opinions on whether pregnant women were affected contractually. Some workers answered "I don't know" when asked, while the majority said it had "no effect – they can work like always". However, one said that the contracts of pregnant women were routinely not renewed. The majority of the workers said that maternity leave at the factory was three months, but most did not know how much maternity leave pay was. Half of the workers said pregnant workers were entitled to 2 hours per month paid leave in order to attend medical check-ups, while the rest said they did not know how much pre-natal leave was granted.

When asked "Is there anything that you would like to change at the factory?" workers listed numerous wishes: A permanent contract so that they had job security, less stress and the chance to protest against unfair conditions, increased piece rate, increased wages and less overtime, more overtime to earn more, no forced overtime, and safer and better working conditions. One worker wanted nothing to change "because once the wage increases the amount of work will increase too".

*The last worker did not see the need for a complaint committee, because if she were to experience sexual harassment, she would prefer to remain silent.*

Almost all workers said they had never experienced sexual harassment, while one said she had experienced flirting from a male co-worker. Nine workers said there was no mechanism to complain about sexual harassment, while one didn't know. A few suggested they could go to the administration or team leader. However, five of the workers said that the factory should have a complaint committee while four workers wanted a union leader to be responsible for dealing with sexual harassment in the factory. The last worker did not see the need for a complaint committee, because if she were to experience sexual harassment, she would prefer to remain silent.

A few workers did not work after 6 pm and felt safe going home as it was still light then. Others, working overtime in the evening, expressed insecurity about going home: "There is no safety on the streets", "There are many gangsters" and "I am afraid of robbery and sexual harassment". One of the workers felt safe because she travelled by car. Four workers did not work overtime at night. Another four rarely worked late, while six workers said "if it is busy, [they] very often" worked late.





*Workers say they feel safe going home from work before 6 pm.*

## 8. Factory findings in Myanmar

### Factory 3

18 female workers, between 17 - 32 years old, were interviewed. Eight were single, six were married without children and the remaining were married with children. Their education varied between 5 - 12 years, and the majority were educated for 8 - 10 years. Most of the workers were born either in the Ayeyarwady Region, 138 km west of Yangon, or in Hlaingtharyar, only 5 kilometres from the factory. This is where almost all of them were living when interviewed.

All except for one interviewee worked in either quality control or cutting. Most spent at least 11 hours, some up to 13.5 hours, at work every weekday. They received a 30-minute lunch break each day, which was unpaid. Most of them also worked 9 hours on Saturdays, and some of them occasionally worked on Sundays. In addition, 14 out of the 18 workers said they also worked on holidays.

*Most spent at least 11 hours, some up to 13.5 hours, at work every weekday.*

Workers' minimum wages ranged between USD 53.33 - USD 61.33 per month, dependent on their employment status (whether they were an apprentice, on probation or a regular worker). The majority of workers earned the higher amount. However, two workers, both of whom were employed for 6 months or more, entitling them to earn the maximum minimum wage of USD 75.60, only received USD 53.33 as their basic wage.

Their take home monthly wage was significantly higher as it included regular overtime and bonuses, and ranged from USD 124 - USD 155. In addition, many of them do overtime work on Sundays and at nights, which is not written on their pay slip and paid separately. A couple of workers earned as much as US \$178, mainly due to multiple bonuses and overtime work. Taking all the workers into account, the average monthly wage was US \$131. Since the minimum wage is insufficient to cover basic needs, workers are predominantly reliant on overtime work and a variety of bonuses (e.g. for not taking leave or an annual bonus). Apparently, workers were paid different overtime rates: some of them were on US \$0.66 per hour while others said they were paid US \$0.74 per hour.

Six workers stated they did not have a contract, while 12 had signed an appointment letter. These contracts were in Burmese, however allegedly most of the workers were not allowed to read the contract before signing it and never received a copy of it.

At the time of the research the factory was fairly new and therefore all workers had been employed for less than one year. The majority had worked at the factory between 4 - 7 months. Most workers foresaw that their contracts would be renewed. The factory was also said to hire casual workers.

All workers were given daily targets that amounted to 20 - 400 pieces an hour, depending on what they produced. Some said that they needed to work during lunch or overtime to meet their target and feared they would be shouted at if they did not achieve the required amount.

*"I get shouted at with abusive words."*

All the workers said they were forced by the management to work overtime. According to the interviewees, this is especially likely close to the shipping date. Half of the workers said they could not refuse overtime work, while the others said they could or said it depended on the supervisor. Most workers said they worked overtime until at least 6.30 pm. Approximately half said that they sometimes worked until 8.30 pm or even 10 pm, several times per week.

Half of the interviewees, those who lacked transportation to get home safely in the dark, said they felt scared when leaving the factory late at night. One of them said she had been robbed for her purse and gold chain. Being forced to work overtime, especially late into the night, triggered a variety of reactions from workers: "I get very hungry and tired", "It is impossible to deny overtime work, even [when it is] illegal", "I get shouted at with abusive words", "I have to work overtime, it is impossible to get back home before dark", "I tried to refuse overtime but was not allowed even though I was pregnant" and "They gave me a warning that they would deduct my salary if I did not work overtime".

10 out of 18 workers said the toilets were satisfactory in terms of cleanliness, yet the rest complained that the toilets were not clean enough and that the toilets for men were too close to the women's toilets. The majority stated that they had no restrictions in terms of using the toilet, and therefore had experienced no negative effects on their health.

There were very different opinions in terms of the right to sick leave<sup>140</sup> and whether such leave was paid or not. A few stated that workers could take up to 20 days a year, while others said the employer would only allow a few days off, and any request for sick leave beyond that could trigger verbal harassment or even dismissal. Some workers said it was necessary to provide a doctor's certificate in order to be paid during periods of sickness. Half of the interviewees also mentioned the need for a Social Welfare Card as a precondition for receiving sick pay. However, several workers declared they did not have such a card.

Most workers said that pregnancy did not affect female workers' contractual status, while a few said they did not know or that they had heard that anyone who got pregnant was fired. Overall the workers received inadequate information about their maternity leave rights: a handful said that pregnant women could apply for a total of up to three months of maternity leave and the remaining interviewees said that they did not know how long maternity leave lasted. Just two workers knew that the maternity leave should be paid.<sup>141</sup>

A majority of the workers, including those with children, said that pregnant workers were not allowed time off to attend pre-natal medical check-ups. Some workers did not know their rights<sup>142</sup> on this point.

When asked if there was anything they would like to see changed at the factory, five workers said they would simply prefer to move to another factory. Others said they wanted higher wages; the establishment of a trade union; re-election of a workers' representative at the workplace coordinating committee; or simply a "warm work environment, like a family".

Eight of the workers reported having experienced unwanted sexual remarks at work, while a couple did not want to answer the question. Most of the workers described verbal harassment of a sexual nature in general terms, and as something that happened to others or to all workers in general but not specifically to themselves. Six said they had experienced unwanted sexual attention at work, while five workers said they had heard of co-workers being exposed to sexually-related actions. None of the workers said they had experienced requests or demands for sexual favours. None of the workers knew of a complaints process should they experience sexual harassment at work, and 15 of the workers expressed a need for a sexual complaints committee at the factory.

## Factory 4

19 female workers were interviewed, aged between 19 - 50 years old. 10 were single, eight were married with children, and one was married without children. Their education varied between 4 - 12 years, and the majority had spent 4 - 10 years at school. All workers were born in the neighbourhood of the factory and most still lived there.

14 of the 19 interviewees worked in sewing, while the others were in packing, quality control or other tasks. 16 of the 19 workers reported that they spent between 10.5 - 11.5 hours at work each weekday. Their 30-minute lunch break was unpaid. All but one also worked 9 hours on Saturdays, and more than half of them often worked on Sundays. Just a few said that they worked on holidays.

---

<sup>140</sup> According to the Leave and Holiday Act, 1951 (amended July 2014), workers are entitled to 30 days of medical leave with full pay if 6 months service has been completed. If 6 months service has not been completed, 'leave without pay' can be granted for medical leave.

<sup>141</sup> Ibid.: Workers can take maternity leave 6 weeks before and 8 weeks after the baby is born. Up to 14 weeks in total.

<sup>142</sup> Ibid.: Full wages may be taken for pre-natal examinations at the rate of one day per time and up to a maximum of seven times.

Workers' minimum wages ranged between USD 40 and USD 88 per month, dependent on their employment status (apprentice, probation or regular). The majority of workers earned USD 80 as their basic wage. At the time of the research this was slightly above the statutory minimum wage.

*16 of the 19 workers reported that they spent between 10.5 – 11.5 hours at work each weekday.*

Including overtime and bonuses, the workers earned more: For most the monthly take home wage (excluding work on Sundays and occasional night shifts) was between USD 96 – USD 118. The discrepancy between the minimum wage and the take home wage showed that workers were completely dependent on overtime work, work during holidays and a variety of bonuses (e.g. production bonuses, attendance bonuses or annual bonus) in order to earn a wage that covered their basic needs.

The majority of workers interviewed did on average 60 hours of overtime each month, which they said excluded overtime work on Sundays or at night, which was paid separately. Most workers said they earned USD 0.66 per hour for overtime work.

The majority of workers said they had signed a work contract that was written in Burmese but were never given a copy to keep. Three workers said they had no contract at all.

The factory has been in operation for several years. Most of the workers interviewed had been employed for one or two years, while the remaining had either worked there for only a few months or for more than five years. The majority of workers foresaw that their contracts would be renewed. However, five workers said they did not know whether they would have a new contract or not.

*"If I did not work [overtime], I'd be shouted at; "Don't come back to your job!""*

All workers who specialised in sewing were given a daily target – the amount depended on what item they produced. Those who were sewing a minor part of the garment had to deliver approximately 140 items per hour<sup>143</sup>, which equates to a staggering 1,500 in one 11-hour day. Two of interviewees said that they needed to work during lunch or do overtime to meet the target set: "Some workers must have their lunch very quickly to go back to work" and "It is not possible to meet the target without overtime work." One woman expressed despair and stated that her target could not be met even with overtime work.

Almost all workers stated they were forced by the management to work overtime. Some of them said they simply "Can't refuse". Others said that refusing would trigger repercussions: "If I did not work [overtime], I'd be shouted at; "Don't come back to your job!"", "I can refuse overtime work occasionally but if more than once in two months I get a warning". Two said that they could refuse "sometimes, but not always". Some workers stated that they could only refuse if they were "very sick". Two workers indicated that the workers who were hired as civil servants were more protected against injustice and could refuse overtime: "It is an agreement between the government and the company" and "The workers hired directly by the company (i.e. not by the government)

---

<sup>143</sup> It is not specified what kind of garment each worker is producing but the factory offers goods such as shirts and smaller, less complicated goods.



cannot refuse.”

Half of the workers said they worked overtime until 6.30 pm. The other half stayed until 7.30 pm on weekdays – one of them even worked until 10 pm occasionally. One of the workers stated that sometimes very high demands were placed on workers: “Workers in the finishing section have to work until 10 pm, sometimes even 2 am.”



*A worker tell about her experiences at the factory she works.*

The extent to which workers at the factory felt unsafe when going home at night depended on whether they were picked up and how far away from the factory they lived. Those who felt safe were either met by a family member upon leaving work or lived close enough to go home quickly. Several workers said they did not feel safe and that “workers from downtown are not safe. Village workers are”. One woman said: “People living downtown get robbed by criminals. But the factory is close to the village and such things won’t happen there”.

According to interviewees, working late was the norm and workers were told this is in-line with the law: “A labour officer explained that from 4.30 pm to 7.30 pm is legal overtime work. So, we have to work and don’t dare say no”. Another employee stated that she was bound to overtime by an agreement: “I have to sign up to overtime work one month in advance. Hence it is not possible to refuse... I don’t want to work until 7.30 pm. I don’t feel safe going back downtown. There are no people on the street while going home from the factory”.

Several workers stated they were shouted at if they voiced a need to go home before it began getting dark: “I totally cannot refuse. Then there will be shouting.” and “I can’t refuse. They will

scream at me”.

Eight workers said the toilets were satisfactory regarding cleanliness, yet they were outnumbered by their co-workers who stated their dissatisfaction with the hygiene of the toilets: “They are smelly and dirty”, “Workers can smell the toilet while working”, “There are floods in the toilets and this problem has not been fixed for a long time” and “There is often a water shortage”.

*Visits to the bathroom beyond 5 minutes could lead to workers getting a warning or their “... name underlined with red pen”.*

Although some workers said they were free to use the toilets, the remaining sample interviewed reported that visiting the bathroom came with restrictions: Many said they were limited to three visits per day within ordinary working hours and could be away from their station for a maximum of 5 minutes. Visits beyond this could lead to workers getting a warning or their “... name underlined with red pen”. Workers also stated that they needed a designated card to be able to go to the toilet, with one card issued for every 20 employees working in the same line.

The majority of those interviewed said that toilet restrictions could affect their and/or their co-worker’s health, listing several problems: Urinary tract infection, dry lips (due to a lack of water in order to avoid going to the toilet too often) and poor kidney health. One worker specifically mentioned that the toilet restrictions were challenging for pregnant workers.

Those interviewed expressed a variety of opinions on their right to sick leave and whether such leave was paid or not, with some workers unaware of their rights. Others stated that they could take sick leave – although it could be hard to get permission – for 2-3 days a month but these would be unpaid. The lack of Social security cards was also an issue specifically mentioned by several of the interviewees. The three most senior workers were most aware of their rights concerning paid sick leave.

*“One can take paid maternity leave for 3 months. Workers who have good relations with the Chinese management get 6 months”.*

Several workers stated that pregnancy did affect female workers’ contractual status, i.e. pregnant workers who held a contract for a maximum of one year would need to resign from their work. The remaining workers answered that they did not know whether pregnancy affected a workers’ status or that they did not think this was the case. Several workers were knowledgeable on their rights to maternity leave, saying 14 weeks or 3 months of leave was the norm after one year of service. There was mixed knowledge as to whether maternity leave was paid or not. Several workers said they simply did not know in terms of duration or compensation. One employee indicated there were various practices at the factory: “One can take paid maternity leave for three months. Workers who have good relations with the Chinese management get 6 months”.

The majority of the interviewees said pregnant workers were not allowed time off to attend medical check-ups. However, some indicated that pregnant colleagues might get sick leave to go for check-ups while others said they did not know their rights on this issue.

When asked if there was anything they would like to see changed at the factory, the most common reply was “increased wages”. Others wished for “the Labour Union to help workers”, “the ability to take sick leave, casual leave”, and “more rest time”. Two others called for the security staff to be changed and wished that experienced workers would be promoted.

When asked if they had experienced sexualised remarks while at work, 12 of the respondents reported incidents. However, most of the workers described this in general terms, as something happening to other workers or to workers in general, and not directly to themselves. Six out of 19 workers said they had experienced unwanted sexual attention while at work while seven refrained from answering the question. One worker said she had experienced this herself, while the other five said they had seen it happen to others. Three workers said they had experienced requests or demands for sex and seven workers had heard of co-workers being exposed to sexually-related actions.

Half of the workers said there was no reliable process for complaining if they experienced sexual harassment, and just as many expressed a clear need for a complaints committee with democratic elected workers' representatives in the factory.<sup>144</sup> When asked if they would consider reporting, or if they had ever reported unwanted sexual attention/actions, several indicated that they would consider doing so, if there was such a committee in place.

## 9. Analysis: Contracts

### Cambodia

The increasingly frequent use of FDCs (also called short-term contracts or limited duration contracts) seem to a large extent have replaced unlimited (permanent) duration contracts. The research confirms this trend. The most striking finding is that all the Cambodian workers interviewed for this report said they were hired on FDCs and that the contract period was quite limited, lasting only 2, 3 or 6 months. Such short-term employment makes it almost impossible for workers to make long-term plans, as their financial stability lasts no longer than the contract period. The lack of stability is especially challenging for single mothers, who often have no second income to fall back on during periods of unemployment. Workers on FDCs are also not eligible for formal loans, which can result in them becoming dependent on friends, relatives or money-lenders. However, and on a positive note, all but one worker said that they had a contract and all but one said it was in Khmer. Therefore, they have more legal protection than workers with no contracts, and they also have access to their conditions of employment, as written in their contract.

A second notable finding is that 13 employees, almost half of the 29 workers interviewed in Cambodia, are on *illegal* FDCs. According to the Labour Law, their contracts should have been converted into unlimited duration contracts after two years of service.<sup>145</sup> Instead, they continued working on the same terms despite meeting and then exceeding two years of service at the same factory. Some of these workers have been employed as long as 5 years, repeatedly signing on to new contracts lasting only a few months. Most of the workers interviewed clearly stated that they did not want to be employed on an FDC. Instead most of them would like an unlimited duration contract, yet feel very little hope that this will become a reality. One worker observed, "Fixed duration contracts will remain forever in this factory." Another worker added, "I think the company only uses fixed duration contracts."

---

<sup>144</sup> According to our information a complaints committee is in place but with persons selected by management which does address the problems properly.

<sup>145</sup> Based on Article 73 of the Labour Law (1997), workers with two years' seniority have the right to permanent employment.



Workers shared how working on an FDC caused on-going anxiety as they worried about not keeping their job and not being able to pay for their children's upbringing or support their families. For example, one worker shared, "I am getting too old," having just turned 40. "If I make any mistakes [they will not keep me]," said another. One of their co-workers was told by the team leader that the factory would be forced to reduce the number of workers if the minimum wage increased.

### *13 out of 29 workers interviewed in Cambodia, are on illegal FDCs.*

Several workers clearly felt that the management pressured them to work overtime in 'exchange' for keeping their job or renewing their contract. One worker stated, "If I do not work overtime I will be blamed by my line leader and my contract will not be renewed." Workers from another factory expressed the same fundamental concerns reflected in such statements as, "My boss threatens me by saying that the contract will not be renewed if I do not work hard or work overtime;" and, "I get angry [about working overtime at night] but do not complain because I'm afraid of not getting my contract renewed." Outside constraints also created stress among workers. Several interviewees said the inflow of orders was crucial in terms of determining whether they would have a job or not, noting, "If there are few orders there will be a lack of work."

Working under the continuous threat of not having their contract renewed is highly stressful, and to avoid losing their job and income several women said they "Don't dare to protest or complain" and "I simply follow whatever the company says." Other women stated, "We work as quickly and hard as possible;" and "I try my best to work good [and] to work overtime".

A few workers seemed to have fewer concerns about their contract renewal when they felt confident about their skills saying: "I don't worry because I work very hard and therefore my contract will be renewed" and "I work very hard and have the skills needed."

The use of FDCs can make workers more vulnerable to unsubstantiated accusations that might lead to a non-renewal of the contract. Workers listed numerous reasons the management might use for not renewing their contract and extending their employment including their age and being perceived as "too old to work"; refusing to work overtime; protesting against poor working conditions; going to the toilet "too often" and/or spending "too much time" in the toilet; arriving late to work; talking "too much"; not reaching their production target; or making mistakes.

FDCs were initially used to meet the short-term needs of employers, such as peak production periods and seasonal work. As a result, regulation concerning FDCs in Cambodia is quite limited and does not protect the majority of garment workers who are hired on FDCs, often beyond the legal limits. For example, the law stipulates that employers are only required to give notice of whether an FDC will be renewed or not if the FDC is for more than six months. If the FDC is not renewed, employers are not required to provide an explanation of any kind justifying their decision.

The discrepancy between the widespread reality of FDCs, and workers' needs and desires to receive unlimited duration contracts provide a disheartening picture of the state of the garment industry in Cambodia. A combination of low wages and permanent job insecurity forces many into overtime and allegedly deters them from joining unions. The use of FDCs can also be a strategy that enables employers to avoid providing and paying for workers' benefits, such as paid maternity leave.

All the workers who took part in this research were asked the same question: "How does working on a fixed duration contract impact your personal life and your work life (at the factory)?" When collating their answers there was one common theme, summarised by the following worker quote:



"If the company uses short term contracts it is easier for them to manage, pressure and control the workers."

*One worker, aged 32, feared she would soon be out of work:  
"I can't find other work now as I'm old".*

According to the workers interviewed, FDCs are used to coerce workers into accepting poor working conditions: "Workers have no right to protest, employers are oppressive and can easily put pressure on workers" says one. Workers on short-term contracts said they were under continuous pressure: "I feel stressed and afraid of the manager, afraid of losing my job and income. It is hard for me to find a job at another factory and then I cannot support my family." Their low wages mean they have little to no savings, leaving them in a very vulnerable position: "I worry about losing my job and income. Then I might be forced to borrow money from others to survive". One worker, aged 32, feared she would soon be out of work: "I can't find other work now as I'm old".

### **H&M is dragging its feet**

In a response<sup>146</sup> to a 2015 report<sup>147</sup> by Tokyo-based NGO Human Rights Now, which revealed the illegal use of FDCs in H&M's supply chain in Cambodia, the Swedish multinational responded: "H&M views the widespread misuse of FDCs as a practice that enables violation of core labour rights across the industry, leading to lack of job security and, in worst cases, discrimination and endangering Freedom of Association."

In February 2015, with the aim of reducing the use of FDCs in their supplier factories, H&M initiated a project in which the company allegedly mapped the occurrence of FDCs and the instances of illegal use.

In June 2016<sup>148</sup>, H&M admitted that one third of their supplier factories in Cambodia employed the majority of their workers on FDCs.

In October 2016 H&M made a public statement<sup>149</sup> in which they wrote:

"From H&M's point of view, the illegal use of short-term contracts is a violation of our code of conduct (Sustainability Commitment). We support the legal use of employment contracts and require that the suppliers we work with follow national legislation and implement awards from Arbitration Council Foundation. Since 2015 – to further improve the protection of the employees at the suppliers – we require that workers employed for more than two years should have a contract valid for an unlimited time."

At the time of writing this report there are no signs that H&M has taken sufficient steps to prevent illegal FDCs in its supply chain in Cambodia, let alone stopping the use of FDCs entirely.

<sup>146</sup> [https://www.business-humanrights.org/sites/default/files/documents/2015\\_05%20H%26M%20response%20HRN%20cambodia.pdf](https://www.business-humanrights.org/sites/default/files/documents/2015_05%20H%26M%20response%20HRN%20cambodia.pdf)

<sup>147</sup> "Cambodia: Labour Exploitation in the Garment Industry -Responsibilities of the Cambodian Government and International Brand Companies". Human Rights Now, 2015. <http://hrn.or.jp/eng/news/2015/04/16/cambodia-labour-exploitation-in-the-garment-industry-responsibilities-of-the-cambodian-government-and-international-brand-companies/>

<sup>148</sup> "A Short-term solution", FairAction, 2015, page 12. [https://fairaction.se/wp-content/uploads/2015/09/A-Short-Term-Solution\\_Fair-Action.pdf](https://fairaction.se/wp-content/uploads/2015/09/A-Short-Term-Solution_Fair-Action.pdf)

<sup>149</sup> «Joint Solutions to Adress Short-Term Contracts».

<https://about.hm.com/sv/media/news/general-2016/joint-solutions-to-address-short-term-contracts.html>

## Myanmar

In Myanmar, FDCs, although not known as such, are the norm. Rarely will contracts within the garment sector exceed two years in duration. Until recently, the length of an employment contract was limited to a (renewable) maximum term of two years. However, the term of employment is no longer regulated under any applicable law, although the starting date and end date still need to be defined in the contract.<sup>150</sup> Although this makes it possible for workers to enjoy contracts providing them with more long-term security, in practice no workers enjoy permanent contracts and job security as the contract provides an end date.

One of the factories in Myanmar was fairly new at the time of the research and therefore all workers have been employed for less than a year – most of them between 4 - 7 months. All workers foresee that their contracts will be renewed. The other factory has been operating for several years. The majority of the workers interviewed have been employed for one to two years, while a small percentage were either recently employed or had worked there for more than five years.

According to the Employment and Skills Development Law (2013), an enterprise must enter into written employment contracts with its employees within 30 days of employment.<sup>151</sup> In both factories, the majority of workers had a contract, written in Burmese. However, most of the workers also said they were not allowed to read the contract before signing it and never received a copy of their contract. This is illegal, as the law states that the details of the employment contract need to be explained to the employee and that she/he should be provided with a signed copy.<sup>152</sup> This unlawful practice is also in violation of the brands' codes of conduct sourcing from these factories, including H&M, KappAhl and Lindex.

Even more worrying, 1 in 4 workers interviewed at the two factories in Myanmar said they did not have a written contract at all. Without contracts, workers have no reliable information about their wages, working hours, maximum overtime hours and compensation, holidays, leave days and the obligations of the employer. Furthermore, the employee is deprived of information about any possible meal arrangements during working hours, provision for medical treatment or training programmes.

According to the law, upon expiry, provided that there was no breach of contract by the employee, termination or change of work and/or payment conditions, the contract should be extended. The employment contract template issued by the Ministry of Labour explicitly states that the employer shall not refuse to extend the contract term without valid reasons, i.e. extending the employment contract should be the norm.<sup>153</sup>

This, in addition to relatively high labour demand in the sector, could account for why most workers in the two factories had hopes that their contracts would be renewed without issue.

---

<sup>150</sup> Memo: Myanmar Employment Law: [https://www.luther-lawfirm.com/uploads/tx\\_fwluther/ME\\_Employment\\_Law\\_06\\_2018\\_v3\\_01.pdf](https://www.luther-lawfirm.com/uploads/tx_fwluther/ME_Employment_Law_06_2018_v3_01.pdf)

<sup>151</sup> Ibid.

<sup>152</sup> "Under Pressure". Action Labour Rights, 2016. <https://cleanclothes.org/resources/national-cccs/under-pressure>

<sup>153</sup> "Memo: Myanmar Employment Law". Luther Rechtsanwaltsgesellschaft mbH, 2017. [https://www.luther-lawfirm.com/uploads/tx\\_fwluther/ME\\_Employment\\_Law\\_06\\_2018\\_v3\\_01.pdf](https://www.luther-lawfirm.com/uploads/tx_fwluther/ME_Employment_Law_06_2018_v3_01.pdf)

However, five workers in one of the factories were more concerned, questioning whether their contract would be renewed. Yet, workers live under uncertainty and insecurity, regardless of their well-grounded hopes that contract renewal will happen. Not knowing for sure that one's contract will be renewed is likely to contribute to shape the workers' and trade union activists' behaviour and willingness to "adapt" to the wishes of the management. As described below, workers in both factories feel forced to work overtime and late at night, with the added fear for their own safety when making their way home in the dark.

## 10. Analysis: Gender related issues in Cambodia and Myanmar

### Sexual harassment

The findings of the research, in terms of sexual harassment, are mixed. If we look at Myanmar, most of the women were willing to answer questions about other issues, but several did not want to answer questions regarding sexual harassment. It seems reasonable to believe that this reflects the sensitive subject matter.

However, at one of the factories we researched in Myanmar, sexual harassment appears to be widespread. When women at this factory were interviewed individually, several said that they or their co-workers had experienced acts that can be defined as sexual harassment, mainly in the form of sexualised language and unwanted touching. For example, they said that male mechanics touched and teased them, and that one of the mechanics also took their photo without permission. One of the workers said that she saw a Chinese interpreter lift the skirt of one of her co-workers, and other women reported that they had experienced demands or requests for sexual acts. One said that a mechanic at the factory had asked female workers to visit him at his home "so that he could treat them".

At the second factory in Myanmar there were some incidents of sexual harassment, although they did not appear to be as frequent. For example,



"Girls Unite". Garment worker wearing a H&M sweater.

one woman said that a Chinese interpreter touched the hips and shoulders of one of her co-workers. Another observed a Chinese manager attempting to open the bra of a female employee, as well as touching her on the stomach, waist and hips as he spoke to her in a sexualised manner. The women mentioned that one of the administrators often touched the workers and held their hands. They also referred to an incident where the brother of a supervisor talked to the female workers in a sexualised manner while they were working. If they tried to stop him, he would lift his longyi<sup>154</sup> and expose himself, continuing to speak in an inappropriate manner.

The group interviews from Myanmar paints a somewhat similar picture as the one-on-one interviews. While some women have not experienced sexual harassment, others have experienced it themselves or heard of cases. For instance, they reported that an interpreter sometimes held the female workers hands, touched their shoulders or hugged them, and that a Chinese administrator held their hands and touched them.

However, according to the women in the group interviews, making complaints about the harassment is difficult. Some do not know where they can go to report it or whom they should talk to. They are also reluctant to make complaints, as they fear that the men will retaliate by, for example, refusing to repair their sewing machines or preventing them from completing their work in other ways. If this happened, the women would not be able to meet their daily production targets and would risk verbal abuse from the management. This situation leaves female workers with few options. If they choose to report sexual harassment, they risk retaliation from the male perpetrators. If they do not report it, the sexual harassment will continue.

In the one-on-one interviews from Cambodia, most of the female workers said they had not experienced sexual harassment. However, a few said they had experienced being touched by male co-workers, but that they did complain. The group interviews presented a somewhat different picture, perhaps due to the group setting, where workers felt more comfortable sharing such stories. In the group discussion workers shared experiences of male co-workers talking to them in a sexualised manner and making comments about their bodies. Some examples included that they had a nice butt, looked like virgins or looked like they had a lot of children. A few workers also experienced being touched in a sexualized way by several male co-workers; one on her way to the bathroom, while another experienced that male co-workers tried to touch her ears and shoulders.

An interesting finding from the one-on-one interviews in Myanmar was the request by many workers for sexual complaints committees (or other complaint mechanisms) at the factories. This specific need was identified even by those who had not indicated any personal experience or knowledge of sexual harassment occurring in their factory. One explanation for this could be that sexual harassment is widespread but not openly talked about. One of the women said that she did not see the need for a complaint committee because she would prefer to remain silent if she were to experience sexual harassment. This attitude reveals just some of the negative effects of such acts, which silence women after they have been subjected to unwanted sexual attention. It is evident that further research on sexual harassment in the garment industry is needed. However, it is important to note that some of the interviewed workers in Myanmar mentioned trade unions when asked where they could seek support.

The one-on-one interviews from Cambodia show that opinions regarding complaint committees are more mixed than in Myanmar. While the majority of the workers in Myanmar expressed a need for complaint committees, several of the Cambodian workers said that complaints about sexual harassment should be taken directly to the trade unions, and that there is no need for separate

---

<sup>154</sup> Traditional Myanmar dress.



sexual complaints committees. It is reasonable to assume that this might reflect the fact that trade unions have a more widely accepted role in the Cambodian garment industry than in the Myanmar counterpart. The garment sector has been booming in Cambodia for decades, while the Myanmar textile industry is still relatively young and has fewer trade unions.

As mentioned earlier, a few years ago it was estimated that 60% of the Cambodian garment industry workforce was organised.

It is possible this relatively high level of unionization reflects the workers' recognition that trade unions have more of a potential to bring about change than a committee, having seen the results of union action such as an increase in the minimum wage, compensation after factory closures and the release of detained union activists. More research is needed to better understand the relationship between workers and their perception of unions as problem solvers.

### ***Lack of documentation***

In a 2018 meeting between Future in Our Hands and the Gender Equality Network (GEN), a network organisation working with gender-related issues in Myanmar, GEN stated that sexual harassment is a big problem within the garment sector. And yet despite this, due to a lack of basic data and documentation it is hard to bring attention to the issue. This urgent need for documentation of sexual harassment and gender-based violence was something that was highlighted by several of the organisations that Future in Our Hands met with in Myanmar.

### ***Need for awareness raising***

Another important issue identified during interviews which is closely linked to documentation, is the need for awareness raising among workers. Research has indicated that one challenge to addressing sexual harassment is that many female workers may not be aware of what actions are considered as sexual harassment.<sup>155</sup> During field interviews, some organisations in Myanmar stressed the importance of considering the methodology for developing awareness raising programs. For example, Solidarity for Trade Unions of Myanmar (STUM) highlighted the difference between awareness raising and awareness training, with the latter perceived to be more of a top-down approach. One way in which to organise awareness raising is to have grassroots-based group sessions, where women can meet and discuss these issues themselves. The purpose of such training is to empower women through creating safe spaces where women can share experiences and make sure their voices are heard. In this way STUM believes women will be better equipped to stand up against discrimination and harassment.

### ***Internal complaints mechanisms***

As we have seen, several workers expressed a need for internal complaints mechanisms to enable women to report sexual harassment. At one of the factories in Myanmar, there are a workplace coordinating committee, but workers questioned their efficacy. Several of the workers did not know how to proceed if they have a complaint, nor did they know who is responsible for the committees. In addition, there seemed to be a common understanding that these committees exist merely to please the foreign brands sourcing from the factories.

The group interviews from Myanmar also pointed to the fact that such committees often consist of male representatives, which can make it difficult for women to discuss issues, particularly sexual

---

<sup>155</sup> "Eliminating violence against women at work: Making sexual harassment laws real for Karnataka's women garment workers". Sisters for Change, 2016: [http://sistersforchange.org.uk/wp-content/uploads/2016/06/SFC\\_WomenatWork\\_FullReport\\_25June2016.pdf](http://sistersforchange.org.uk/wp-content/uploads/2016/06/SFC_WomenatWork_FullReport_25June2016.pdf)

harassment, openly. Many female workers identified the need for female representatives in cases of sexual harassment.

When developing a successful complaints mechanism, research indicates that other factors in addition to gender need to be considered. Research of the garment sector in India showed that differences between female workers position and status at the factory also had a role in the efficacy of a complaints mechanism. For instance, if a “low-ranking” female worker experienced sexual harassment and the complaints committee consisted of “higher” ranking female workers, it was then more likely that the women members in the committee were closely linked to the factory management, which is usually male. This dynamic and the composition of committee members can then still prove to be an obstacle for a female worker to report sexual harassment, especially if the harasser is a male supervisor. The research in India revealed that ‘high-ranking’ female workers can feel greater loyalty towards their male colleagues of a similar professional status, than towards their female colleagues who work under them. Therefore, when providing complaints mechanisms, it is essential to be aware of uneven power relations between female workers.<sup>156</sup>

When we spoke with two Myanmar organisations about the issues mentioned above, their opinions differed. According to STUM, awareness raising should be prioritised, and it would be premature to focus on complaints committees if women are not first informed about their rights. However, GEN emphasised the need to develop awareness raising and establish proper complaints mechanisms concurrently. GEN also underlined the importance of male supervisors receiving awareness training as well in order to clearly understand what actions are defined as sexual harassment.

### **Verbal harassment**

Verbal harassment is a widespread problem both in Myanmar and Cambodia. The one-on-one interviews from Myanmar illustrate that many workers faced verbal abuse on a regular basis, for things such as being late, not reaching targets or for damaging textiles. Sometimes the management also cut workers’ wages when they arrived late or for products they consider to be damaged by the workers.

In Cambodia, female workers reported being verbally abused every day by production managers. They were shouted at for making mistakes in their work or for not being able to reach their daily targets. The Myanmar organisation Lets Help Each Other, who provide workers with legal advice and training, said verbal abuse is a common and damaging problem. A group of workers were present during the time of our visit, and one of the female workers said that verbal abuse happens daily, and that the management claim they are allowed to shout at workers. She also said that the workers get very stressed, and that some of them cry, lose their appetite or become unwell due to the stress.

The prevalence of verbal abuse in Myanmar and Cambodia is in line with other research of the industry which confirms that such abuse appears to be widespread throughout the garment industry, generally. A 2018 report<sup>157</sup> by the Asia Floor Wage Alliance showed that verbal abuse is common at factories in Cambodia, India, Bangladesh and Indonesia.

It is very important to acknowledge the harm verbal abuse can inflict on workers. Being exposed to frequent shouting, scolding and bullying can be deeply traumatic and have long-term

---

<sup>156</sup> Conversation with Cividep, January 2018.

<sup>157</sup> “Gender Based Violence in the H&M Garment Supply Chain”. Asia Floor Wage Alliance, 2018, <https://asia.floorwage.org/workersvoices/reports/gender-based-violence-in-the-h-m-garment-supply-chain>.

consequences on the health and well-being of workers. In some cases, workers become physically and mentally ill from such abuse.<sup>158</sup>

### **Safety when leaving the factory**

The inadequate provision of safe transportation to and from the factories, seemed to be very challenging for female workers in both Myanmar and Cambodia. They expressed feelings of insecurity and were worried about the risk of being attacked, robbed or raped when going home from work in the evening. In the rare cases transportation was provided it increased the sense of safety, female workers said.

*"Sometimes I am forced to work overtime until it's dark and have to find my own way home."*

In Cambodia, the workers did less overtime work after dark than their colleagues in Myanmar. Even so, the one-on-one interviews as well as the group discussions revealed that many workers in both countries were fearful about travelling in the evenings, including those living close to the factory. Workers at the two facilities in Myanmar, many of whom felt forced to work overtime until very late several times a week, were the most negatively affected. "I have to work overtime; it is impossible to get back home before dark", said one woman. Her colleague shared her insecurity about returning home late stating, "I don't want to work until 7.30 pm. I don't feel safe going back downtown. There are no people at the street while going home from the factory."

A third female worker reported, "Sometimes I am forced to work overtime until it's dark and have to find my own way home." Another worker claimed, "I have been forced by the company to work overtime until midnight." Several of the workers stated they were verbally abused if they voiced a need to return home before it got too late, noting how "then there will be shouting," and "they will scream to me."

Workers said that although robberies mostly occur on pay-day, other types of attack can happen at any time but primarily during the evening and night. In both Cambodia and Myanmar, the fear of being attacked has a great impact on women's lives and can severely limit their freedom. Many of the interviewees said that they avoided returning home alone. Instead, they walked home in groups for safety. Some of them used bicycles or motorcycles to travel to and from work, however this does not eliminate the risk of being attacked. The risk increases if the factory is located in remote areas outside of the city centre. Such areas often have limited electricity and are poorly lit. A few workers rented rooms near their workplace to limit their walking distance, and therefore lower the risk of assault at night.

During the Future in Our Hand's field visit to Myanmar, several organisations expressed similar concerns to that of the workers' about going home after dark and underlined the need for safe transportation to and from the factories. One organisation mentioned a recent incident where a female worker was walking home from the factory late at night and was stopped by a taxi, only for the driver to get out and molest her. The worker was terrified and defended herself with an umbrella. The following day she told her supervisor, but he ignored her. With no support from her manager, and fearing a repeat attack, she felt she had no option but to resign from her job.

---

<sup>158</sup> Interviews with various organisations in Myanmar, 2018.



*Transportation to and from the factory increases the feeling of safety, female workers said.*

### **Contracts and pregnancy**

The widespread use of FDCs further complicates the issue of paid maternity leave. In Cambodia, female workers must be employed continuously for at least one-year to qualify for paid maternity leave. By refusing to renew a pregnant worker's FDC but re-employing the same worker on a new contract a few months later, factories are able to circumvent legislation and avoid paying the maternity leave entitlement. Factories are not obliged by law to provide paid maternity leave when there has been a break between FDCs.<sup>159</sup>

In both the Cambodian factories taking part in this research there were mixed opinions among the interviewees whether pregnant workers were affected contractually. Some workers said that "pregnant workers' contracts are routinely not renewed". Some stated that pregnancy meant greater uncertainty in terms of their employment. One of them suggested that the employer might use ulterior motives to avoid prolonging the contract, stating, "The employer can say that pregnant women do not work as fast as other workers and therefore not renew their contract." However, the majority of the interviewees said that pregnancy would not hinder the re-signing of contracts – "they can work like always" – or that they did not know the impact their pregnancy might have on their contracts.

<sup>159</sup> "A Short-term solution", FairAction, 2015, page 12. [https://fairaction.se/wp-content/uploads/2015/09/A-Short-Term-Solution\\_Fair-Action.pdf](https://fairaction.se/wp-content/uploads/2015/09/A-Short-Term-Solution_Fair-Action.pdf)



Earlier research reveals that female workers taking time off for delivery and care for their baby have been rehired, but only as new staff. As a consequence, they need to complete the probationary period again. Others do not receive their maternity pay until after they return to work.<sup>160</sup>

In sum, many garment workers are discriminated against throughout their pregnancy and put them in a de facto vulnerable position leaving their job for a short or longer period. This is clearly in violation with the Cambodian Labour Law (especially Article 182) outlining the maternity rights of workers. In general, employers cannot lay-off women during their maternity leave or at a date when the end of the notice period would fall during the leave.<sup>161</sup>

In the researched factories in Myanmar, some workers did not know whether pregnancy affected a worker's contractual status, while others had "heard that anyone who gets pregnant is fired", or that workers with a contract of one year or less "will need to resign from work". Even so, several workers stated that pregnancy would not have any negative affect on future employment.

According to the Employment and Skills Development Law (2013) if an employer desires to terminate the employment, he or she shall inform the employee 30 days in advance. The employer must provide a "sound reason" to put an end to the employment relationship.<sup>162</sup> Likewise, the new Employment Contract Template explicitly provides that the employer shall not refuse to extend the contract term without valid reasons, i.e. the extension of the employment contract shall be the normal case.<sup>163</sup> Hence, it is illegal to terminate or not renew an employment contract due to pregnancy.

Unions and labour rights organisations in Myanmar told that in general the practice varied from factory to factory, and that in some factory's workers were not aware of their rights and were routinely asked to resign when they were close to their baby's due date.

In sum, the research shows that in both Cambodia and Myanmar there is a lack of awareness of the rights of pregnant workers in terms of contract renewal, which clearly adds to the stress and financial worries workers are already under.

## Maternity leave

One finding of concern is the insufficient implementation of paid maternity leave for female workers in Myanmar. By law, female workers are entitled to 14 weeks maternity leave with pay.<sup>164</sup> Male garment workers in Myanmar are entitled to 15 days of paternity leave.<sup>165</sup> However, weak implementation of the law for both women and men is a general problem, not only at the two factories we researched but throughout the country<sup>166</sup>. According to the interviewees, some female workers receive maternity leave with pay, but they also said it was not uncommon for women to take unpaid maternity leave even if they were entitled to it. Later also local organisations Future In

<sup>160</sup> "Literature Review on Sexual and Reproductive Health and Rights of Migrant Garment Factory Workers in Cambodia". United Nations Population Fund [UNFPA], 2014. [https://cambodia.unfpa.org/sites/default/files/pub-pdf/SRHRofGarmentFactoryWorkerLiteratureReview\\_2.pdf](https://cambodia.unfpa.org/sites/default/files/pub-pdf/SRHRofGarmentFactoryWorkerLiteratureReview_2.pdf)

<sup>161</sup> <https://prake.org/labour-law/maternity-and-work/maternity-regulations-1>

<sup>162</sup> ILO Guide to the Myanmar Labour Law. ILO, 2017. [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-yangon/documents/publication/wcms\\_577563.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-yangon/documents/publication/wcms_577563.pdf)

<sup>163</sup> Memo: Myanmar Employment Law: [https://www.luther-lawfirm.com/uploads/tx\\_fwluther/ME\\_Employment\\_Law\\_06\\_2018\\_v3\\_01.pdf](https://www.luther-lawfirm.com/uploads/tx_fwluther/ME_Employment_Law_06_2018_v3_01.pdf)

<sup>164</sup> ILO Guide to the Myanmar Labour Law. ILO, 2017. [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-yangon/documents/publication/wcms\\_577563.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-yangon/documents/publication/wcms_577563.pdf)

<sup>165</sup> Ibid.

<sup>166</sup> Interviews with organisations in Myanmar February 2018.

Our Hands met with confirmed that mothers far too often do not get paid maternity leave. The combination of the weak enforcement of relevant laws and an uneven power distribution between workers and supervisors means it is challenging for female workers to make complaints when the management does not comply with the law. As a result, women might find themselves with no income and may become fully reliant on their husband's income or they may need to borrow money from friends, relatives or pawnbrokers. Such loans can be very difficult to pay back, leading some workers to find themselves trapped in a spiral of debt.

### *One finding of concern is the insufficient implementation of paid maternity leave for female workers in Myanmar.*

The challenges regarding maternity leave in Myanmar are closely linked to the implementation of the Social Security Law and Social Security Fund.<sup>167</sup> The law states that there is an obligation of employers to register every newly appointed employee with the Social Security Office.<sup>168</sup> They should also deduct a certain amount of each worker's monthly salary and deposit it in the public social security fund. Once the worker is a member of the Social Security fund, he or she is entitled to social benefits, such as paid maternity or sick leave.<sup>169</sup> To access these social benefits workers need to show their Social security card. However, it is a widespread problem that workers are often not issued with a card, and therefore are denied paid maternity leave, sick leave and other benefits.<sup>170</sup> Organisations including the Burmese Women's Union, Action Labour Rights and Let's Help Each Other are often needed to assist workers to obtain their Social security cards. One way to ensure that workers receive their social benefits, even if they do not have a physical Social security card, is to use their social security number as proof of entitlements in dealing with the institutions providing such benefits. However, many workers may not be aware that this is an option or may not know their number. The law requires it to be written on pay slips, yet often this does not happen.

Among the organisations Future in Our Hands consulted with in Myanmar there was no consensus on who is responsible for ensuring workers receive Social security cards. Some claim that it is the responsibility of the state authorities, while others say that the factories should provide all workers with these cards but do not follow up properly.

In Cambodia, most of the workers interviewed said that the female workers they know of were granted paid maternity leave, in line with the law<sup>171</sup>. However, many workers were not sure how much money maternity pay equated to, nor how many months leave women were entitled to, and guessed at between three to four months.<sup>172</sup>

In an attempt to win support prior to the national elections, Prime Minister Hun Sen announced in August 2017 that for the three months of maternity leave workers would be paid 120% of the minimum wage. In January 2018 the maternity leave was adjusted accordingly.<sup>173</sup>

---

<sup>167</sup> Based on interviews with Action Labour Rights, Burmese Womens Union og Let's Help Each Other, February 2018.

<sup>168</sup> <https://www.smartmyanmar.org/en/laws-regulations> and ILO Guide to the Myanmar Labour Law. ILO, 2017.

[https://www.ilo.org/wcmsp5/groups/public/--asia/--ro-bangkok/--ilo-yangon/documents/publication/wcms\\_577563.pdf](https://www.ilo.org/wcmsp5/groups/public/--asia/--ro-bangkok/--ilo-yangon/documents/publication/wcms_577563.pdf)

<sup>169</sup> "ILO Guide to Myanmar Labour Law", ILO, 2017. [https://www.ilo.org/yangon/publications/WCMS\\_577563/lang-en/index.htm](https://www.ilo.org/yangon/publications/WCMS_577563/lang-en/index.htm)

<sup>170</sup> Based on interviews with Action Labour Rights, Burmese Womens Union og Let's Help Each Other, February 2018.

<sup>171</sup> "The employer is prohibited from laying off women in labor during their maternity leave or at a date when the end of the notice period would fall during the maternity leave." (Article 182)

<sup>172</sup> According to the Labour Law during the maternity leave, women who have worked at the enterprise for one year or more are entitled to half of their wage for three months, including any in-kind benefits or other benefits paid by the employer. <https://prake.org/labour-law/maternity-and-work/maternity-regulations-1>

<sup>173</sup> Workers receive 50% of their salary from the employer and 70% from the National Social Security Fund (NSSF).

## Bathroom facilities

Free access to clean sanitation facilities is essential to women's health. In Myanmar, workers' experiences regarding sanitation facilities were mixed. A lack of clean and adequate bathroom facilities is a common problem at the two factories in Myanmar. A large proportion of the workers at both factories said that the toilets were not clean enough. Some complained that they had a bad odour and were dirty, and that they could smell them as they worked. Others mentioned regular flooding or water shortage in the toilets.

In terms of being able to use the toilets as required, there were some differences between the two factories in Myanmar. At the first, the workers said they were allowed to use the toilets as often as necessary. Workers at the second factory experienced restrictions in how often and how long they were allowed to use the toilets. Many said they are only allowed to use the toilets three times per day, and each visit must last no longer than five minutes. If they exceeded this time limit, it might lead to them being issued a warning or their name being "underlined with red pen". The workers said they needed a key card to visit the toilet, and that 20 employees shared the same card and were only allowed to use it one at a time. One worker said: "When I go to the toilet, the security scans me. If it takes more than five minutes, workers will get warned. There is not enough time to go during the lunch break". Another worker indicated that those who had been employed for a long time were treated differently from workers hired more recently, stating, "There are not such restrictions for workers who worked for a long time in the factory".

At the factories in Cambodia, the interviewees also had mixed experiences. At the first factory, the majority of workers said that the toilets were not clean, and half of them said they could use the toilets whenever necessary. However, the other half said that although they can use the toilets when necessary, they can only use them for a maximum of five minutes. One worker stated that the pressure of high production targets prevented her from going to the toilet.

At the second factory in Cambodia the conditions appeared to be better, and most workers said they could use the toilets as necessary. However, some said that they also had a time limit for using the facilities. When asked if toilet restrictions had a negative impact on their health, most answered "no", yet some acknowledged it could cause bladder problems, and one woman said "previously the company restricted bathroom access, and then my health suffered".

It is important to underline that poor sanitation facilities, as well as restricted access to these facilities, can have negative impacts on the health of workers. This is especially a concern for female workers, as women are more susceptible to bladder infections than men, as well as requiring more frequent access during menstruation and pregnancy. Several workers in Myanmar said that toilet restrictions affected their and/or their co-workers health, and problems concerning the bladder and kidneys were mentioned by workers in Cambodia. These issues were also highlighted by the Swedish NGO, Swedwatch, in their 2012 report about female garment workers in Bangladesh.<sup>174</sup>

## Other issues

---

<sup>174</sup> «A lost Revolution. Empowered but trapped in poverty. Women in the garment industry in Bangladesh want more.». Swedwatch report #47. Swedwatch, 2012. [http://www.swedwatch.org/wp-content/uploads/2015/04/swedwatch\\_-\\_a\\_lost\\_revolution.pdf](http://www.swedwatch.org/wp-content/uploads/2015/04/swedwatch_-_a_lost_revolution.pdf)



During Future in Our Hand's meetings with worker rights organisations in Myanmar, we were confronted with issues that were not covered in the questionnaire. One of the most concerning was the lack of childcare facilities in the factories and the consequence this has for the children of garment workers. One of the NGOs noted that young children were often left unattended or with extended family member or strangers while their parents were at work. Other organisations expressed concern about garment workers' children being brought to the industrial zones where the factories are situated. Several NGOs identified the urgent need for childcare facilities at the factories. One suggestion was to establish a joint childcare facility in each industrial zone, although the ideal solution would be to have organised childcare arrangements at each factory.

The lack of adequate childcare facilities for garment workers is a widespread concern in many countries. Research from the Indian labour rights' organisation Cividep<sup>175</sup> supports this, as factories in Bangalore, producing garments for brands including C&A and H&M, do not have adequate childcare facilities, even though this is required by law. At the time of writing, Cividep is in collaboration with the German organisation FEMNET to ensure that brands sourcing from Bangalore work with suppliers to provide qualified and well-run childcare at each factory.<sup>176</sup>



<sup>175</sup> "Needs Assessment for Child Care Facilities in Bangalore's Garment Industry". Cividep, 2015:

<sup>176</sup> <https://femnet-ev.de/index.php/en/childcare-in-india/889-qualified-childcare-for-the-children-of-textile-workers-in-bangalore-south-india-a-project-by-femnet-and-cividep-bangalore-india>



# 11. Recommendations

The findings of this research report indicate that companies producing in Cambodia and Myanmar need to take their responsibilities for combating human rights abuses seriously – both at the factory level and on a broader political scale.

Companies, not least the brands covered in this report – H&M, Lindex and KappAhl – must increase their interaction with democratically elected trade unions, NGOs and other organisations at local and national levels. Companies must continuously and actively monitor their supply chains, and immediately remedy any situation that may be harmful to workers and trade unions.

It is essential that the brands apply a gender perspective to their supply chains. They need to be aware of the huge gender-specific challenges in the garment sector and they must actively take steps to combat and prevent gender-based violations in their own supply chains. This needs to be reflected in their code of conduct, as well as in their due diligence practices. As a part of this, the brands should actively support an ILO convention on gender-based violence in the workplace.

Due to the weak implementation of laws protecting workers in both Cambodia and Myanmar, brands should strive to be a progressive force and not rely on national governments to protect workers. Production in compliance with national laws and with brands' self-imposed codes of conduct is no longer acceptable as the minimum standard. It is only once brands take an active interest in protecting workers rights that they will truly contribute to decent working conditions, a life of dignity for garment workers, a sustainable industry, and economic growth. Being proactive will also increase brands own credibility among consumers, governments and investors and their actions might stave off preventable "accidents" and worker rights' abuses. However, it is important to note that focusing on reputation risk management and the needs of business, over the needs and rights of the workers, will undermine true and lasting change in the industry.

## **Implement Freedom of Association and a Living Wage**

Instead of relying on audits, brands are called upon to ensure that their suppliers build an environment where workers can organize freely and negotiate for improved working conditions and a living wage. Strong, democratic trade unions are the key to improving the labour situation on the ground. H&M, KappAhl and Lindex should communicate explicitly to their suppliers that each brand has zero-tolerance for any obstacles blocking the formation of independent unions or blocking workers from joining a union of their own choice, or any other legal union activity. Brands should closely monitor their suppliers and react strongly against any attempts to crack down on legal union activity, i.e. discrimination of workers, dismissals or forced resignations.

Recent reports show that garment brands and their suppliers just barely ensure the legal minimum standards mandated by national labour legislation. In most production countries a minimum wage is not enough to provide even the most basic need – nutritious food for the worker and her/his family. Although a living wage ensuring a decent living is increasingly considered to be a *human right* – even by major garment companies – this recognition in principle has not led to paying living wages. Workers should be guaranteed a living wage, i.e. a wage that can be earned within a standard working week, that covers the basic needs of worker and her/his family and provides

some discretionary income.<sup>177</sup>

To promote a living wage for workers in their supply chain, each brand must:

- Respect all applicable laws e.g. on minimum wages, overtime etc. in their supply chain
- Indicate what it believes should constitute an absolute minimum salary – based on a living wage benchmark – in their supply chain for various countries.
- Commit to stable orders with their suppliers to secure workers a predictable, full income.
- Look at the labour costs and embed them into their pricing breakdowns. In turn, this should be used to ensure suppliers are paid a fair price for their products, one that is high enough to pay their workers a living wage. Similar commitments from other companies could open up space in wage negotiations between workers and factory owners, making a living wage more attainable.

H&M bears special responsibility regarding a living wage: in 2013 H&M unveiled its Living Wage Road Map and promised that 850,000 of its workers would be paid a living wage by 2018. This never happened. In fact, H&M has not been able provide any independent reliable evidence that workers have been paid more as a result of H&M's promises and activities. In the future, H&M is strongly called upon to act transparently and to report on any concrete outcomes of their projects and other activities undertaken.

### **Put an end to forced or excessive overtime**

If workers earned a living wage, there would be significantly less pressure on them to work overtime and on holidays in order to supplement poverty wages. To prevent excessive and forced overtime brands need to explicitly demand that all overtime must be voluntary, i.e. in line with the labour law in both Cambodia and Myanmar, and brands must monitor its implementation. Brands should also ensure that delivery times do not require workers to do excessive overtime to meet deadlines.

### **Unlimited duration contracts**

In Cambodia, H&M and Lindex should, in cooperation with workers' representatives, immediately identify the prevalence of FDCs – legal or illegal – at all their suppliers. Brands should announce a zero-tolerance policy for illegal contracts and push for unlimited duration contracts for workers. Clear timelines for contract conversion need to be set and communicated to workers' representatives. In Myanmar, where contracts include an end date, brands should make sure their suppliers use the maximum length of a contract period as the norm and brands should monitor closely to ensure the re-signing of the contract follows. In addition, brands must support any efforts by the union movement seeking to build laws with the aim of converting FDCs into permanent contracts. Workers must be given time to read through and understand their contract before being asked to sign it, and they should also be given a copy to keep.

### **Provide safe transportation**

Many of the workers contributing to this report expressed fear about going home after working late due to the risk of robbery or assault. Therefore, brands must ensure that their suppliers provide safe transportation for workers whenever they work overtime. Again, brands must look at their own buying practices and pricing and pay suppliers enough so that they can provide safe transportation for their workers.

---

<sup>177</sup> "Tailored Wages. Are the big brands paying the people who makes their clothes enough to live on?" Clean Clothes Campaign and The Asia Floor Wage Alliance, 2014.  
<http://www.cleanclothes.org/livingwage/tailoredwages/tailored-wage-report-pdf>

### **Prevent verbal abuse and threats**

Brands must demand zero-tolerance in terms of any threats or verbal abuse against workers in their supply chain, including shouting, bullying, humiliation or the use of threatening language. As a preventive measure, raising awareness on the devastating effects that verbal abuse can have on workers' mental health and self-esteem is important.

### **Ensure workers receive paid maternity leave**

Buyers must monitor and get reassurances from the factory union or from other reliable sources that all workers qualifying for paid maternity leave receive it, in line with the law. Under no conditions should a pregnant worker be forced to give up their position before their maternity leave starts. Pregnant women must be reassured that they will be able to return to their previous positions and tasks after their maternity leave, should they wish to do so.

### **Social security card for all employees**

In Myanmar, brands must ensure that all workers are given a physical Social security card, in accordance with the law. The Social security card is essential to allow workers to receive benefits including paid sick leave, paid maternity leave and free check-ups for pregnant workers and for new mothers and their babies<sup>178</sup>. Likewise, it is also important to ensure that each worker has their individual Social Security number written on their payslip. In the absence of a Social security card, providing the number can allow workers to access paid benefits as a temporary solution, while they wait for their card.

### **Put an end to sexual harassment**

To prevent sexual harassment in the workplace, awareness raising and having clear policies on the issues are vital. Trainings and workshops should include all employees and factory management. Brands should ensure that workers have access to 'safe spaces', absent management involvement, in which workers can speak openly about their grievances. At a factory level this could be a well-functioning union (preferably with female union staff handling sexual harassment cases), or a separate sexual harassment workplace committee, not staffed by factory management. Brands must also ensure that effective, appropriate and swift remedial action is taken if sexual harassment occurs.

### **Free access to clean and adequate sanitation facilities**

The right to a healthy work environment, including free access to hygienic sanitation facilities, is a basic right outlined in national laws, international standards, as well as the code of conduct of all three brands covered in this report. H&M, KappAhl and Lindex must make sure that their suppliers provide adequate and hygienic bathrooms. The workers must be able to use the facilities as often as they need to. Any form of disciplinary action against workers for accessing this right must be prohibited and met with a strong reaction from the brands.

---

<sup>178</sup> ILO Guide to Myanmar Labour Law. ILO, 2017. [https://www.ilo.org/wcmsp5/groups/public/--asia/--ro-bangkok/--ilo-yangon/documents/publication/wcms\\_577563.pdf](https://www.ilo.org/wcmsp5/groups/public/--asia/--ro-bangkok/--ilo-yangon/documents/publication/wcms_577563.pdf)

**Framtiden i våre hender**

Mariboës gate 8, 0183 Oslo  
(+47) 22 03 31 50 - [post@framtiden.no](mailto:post@framtiden.no)  
[www.framtiden.no](http://www.framtiden.no)

Vi jobber for en rettferdig verden i  
økologisk balanse.

**Framtiden i  
våre hender**