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CAPTURING THE GAINS



*economic and social upgrading
in global production networks*

**Workers' agency and re-working power
relations in Cambodia's garment industry**

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Abstract

This paper explores Cambodian garment factory workers' collective voice and ability to negotiate a living wage. Workers' agency is examined through a case study of a large-scale strike in September 2010 over national minimum wage negotiations, led by two Cambodian trade union federations. Analysis is centred on four structural impediments to workers' wage demands. First, the Cambodian People's Party (CPP) consolidated power in 2008. As a result, space for independent trade unions and civil society is decreasing. Second, Cambodia is not deemed 'competitive' as a global sourcing option in terms of price, quality and speed to market. As a result, low wages and a proliferation of unmonitored subcontract factories are increasingly becoming the industry's competitive advantage vis-à-vis Bangladesh and Vietnam. Third, the proliferation of fixed-duration contracts in Cambodia means work is less secure, with attendant impacts on workers and unions' negotiating strength. And fourth, the unusually high number of plant-level and national trade union federations makes it difficult for 'genuine' unions to promote the rights of their members, and workers' agency potential is marginalized. The intersection of these four structural forces circumscribes workers and independent trade unions' ability to rework power relations with the employers association, the Garment Manufacturers Association in Cambodia (GMAC). Despite the challenges, workers and independent unions recognize themselves as the agents who must shape key demands, including on wages.

Keywords: Cambodia, textiles and garments, global production networks, labour politics, workers' agency, economic development

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Abbreviations

| | |
|-----------|--|
| ACILS | American Center for International Labor Solidarity |
| BFC | Better Factories Cambodia |
| CCAWDU | Coalition of Cambodian Apparel Workers Democratic Union |
| CIDS | Cambodia Institute of Development Study |
| CLC | Cambodian Labour Confederation |
| CMT | Cut-Make-Trim |
| CPP | Cambodian People's Party |
| CPRC | Chronic Poverty Research Centre |
| DFID | Department for International Development |
| EIC | Economic Institute of Cambodia |
| ESRC | Economic and Social Research Council |
| EU | European Union |
| FDC | Fixed-duration Contract |
| FOB | Free-on-Board |
| FUNCINPEC | National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia |
| FTU | Free Trade Union of Workers of the Kingdom of Cambodia |
| GMAC | Garment Manufacturers Association in Cambodia |
| GPN | Global Production Network |
| GVC | Global Value Chain |
| ILO | International Labour Organization |
| LAC | Labour Advisory Committee |
| LICADHO | Cambodian League for the Promotion and Defense of Human Rights |
| MFA | Multi-fibre Arrangement |
| NGO | Non-governmental Organization |
| NIFTUC | National Independent Federation Textile Union of Cambodia |
| SCI | Sustainable Consumption Institute |
| sme | Square Metre Equivalent |
| SRP | Sam Rainsy Party |
| UDC | Undetermined Duration Contract |
| UK | United Kingdom |
| US | United States |
| USAID | US Agency for International Development |
| WTO | World Trade Organization |

Introduction

In the past three decades, a major transformation has occurred in the global economy, as supply chains originating in 'core economies' have further expanded their sourcing networks into new frontier regions of production across East and Southeast Asia (Arnold and Pickles 2011; Gereffi 2005). Scholarship on this phenomenon has expanded accordingly. Global value chain (GVC) analysis describes the functionally integrated but geographically dispersed range of activities that firms and workers do to bring a product from its conception to its end use and beyond (Gereffi 2005). Global production network (GPN) analysts have critiqued the GVC framework and its chain metaphor that assumes an invariably vertical and linear sequencing (Coe et al. 2008). GPNs are a tool to conceptualize intricate linkages formed through multidimensional layers of economic activity. Thus, GPNs are better able to understand firm-centred production networks and the concrete political economic contexts in which they are embedded. However, absent from both frameworks is labour as agency (Cumbers et al. 2008). Selwyn (2012) argues that the most significant weakness of the GVC approach is firm-centrism and the failure to conceptualize capital-labour relations as co-determinates of economic development. Drawing on Coe and Jordhus-Lier (2010), this paper contributes to GPN analysis by demonstrating that the potential for worker action should always be seen in relation to the formations of capital, the state, the community and the labour market in which workers are variably embedded.

This paper focuses on whether garment factory workers in Cambodia have the collective voice and ability to negotiate a living wage. Workers' agency is examined through a case study of a large-scale strike in September 2010 over national minimum wage negotiations, led by two Cambodian trade union federations. Analysis is centred on four structural impediments to workers' wage demands. First, the Cambodian People's Party (CPP) consolidated power in 2008. As a result, space for independent trade unions and civil society is decreasing. Second, Cambodia is not deemed 'competitive' as a global sourcing option in terms of price, quality and speed to market. As a result, low wages and a proliferation of unmonitored subcontract factories are increasingly becoming the industry's competitive advantage vis-à-vis Bangladesh and Vietnam. Third, the proliferation of fixed duration contracts in Cambodia means work is less secure, with attendant impacts on workers and unions' negotiating strength. And fourth, the unusually high number of plant-level and national trade union federations makes it difficult for 'genuine' unions to promote the rights of their members, and workers' agency potential is marginalized. The intersection of these four structural forces circumscribes workers and independent trade unions ability to rework power relations with the employers association, the Garment Manufacturers Association in Cambodia (GMAC). Despite the challenges, workers and independent unions have come to recognize themselves as the agents who must shape key demands, including on wages.

The paper is organized as follows: the first section provides an overview of the garment industry in Cambodia, its significance and its governance structure. The following four sections address, in turn, the formations of the state, capital, labour market and community in which Cambodian workers are embedded. These four sections are followed by a case study on the 2010 garment workers' strike in Phnom Penh and its vicinity. The central contention is that Cambodia's garment industry is a paradox – it is characterized by a highly

confrontational industrial relations environment while maintaining an extensive workplace monitoring programme. It is promoted as a 'showcase' for ethical production, yet tripartite dialogue is dysfunctional, with few institutional means for workers to engage stakeholders, including trade unions, on the concern that is most pressing for any garment factory worker seeking to alter distributional relations in capitalism: wages.

Garments in Cambodia: an overview

Cambodia's four economic 'growth pillars' are textiles and garments, tourism, construction and agriculture. Cambodia's lack of economic diversification and heavy dependence on the garment sector for export earnings has made it particularly vulnerable to external shocks or fluctuations. The garment industry directly employed 350,000 workers in 2008. Employment dropped to 296,800 in 2009 during the economic crisis, and rose close to pre-crisis levels by mid-2011. In the first quarter of 2012 there were 356,609 workers in 320 registered textile and garment factories (BFC 2012). The Economic Institute of Cambodia (EIC 2007) estimates that direct production-related employment accounts for only 53 percent of employment generated, meaning total employment related to this sector may exceed 600,000, significant for a country of some 14 million people.¹

Over 85-90 percent of textile and garment workers are rural-urban migrant women who contribute a significant proportion of their earnings to their families in rural areas, who comprise roughly 80 percent of the country's population (EIC 2007). This is increasingly critical, as landlessness and land poverty have reached epidemic proportions. Of roughly 3,900,000 hectares of arable land in Cambodia, research shows that the government has leased 2,033,664 to private companies under its land concession schemes – approximately 800,000 hectares in 2011 alone (LICADHO 2012).² This increases workers' and their families' dependence on urban and peri-urban labour markets.

The first factories producing textiles and garments for export opened in Cambodia around 1994, with investors from Hong Kong, Taiwan, Malaysia and Singapore. The industry remains dominated by foreign investors, with Cambodian investors accounting for only 7 percent of ownership in 2008. By comparison, the majority of firms in Bangladesh and to a lesser extent in Vietnam are locally owned, which increases economic upgrading possibilities and the potential for local linkages and spillovers as more decision-making power is located locally (Staritz 2011). The largest investors in Cambodia are from Taiwan (accounting for 25 percent of factory ownership), Hong Kong (20 percent), China (15 percent) and Korea (12 percent) (Kang et al. 2009). Management is generally made up of migrants, often from the investors' home country. This means Cambodians are generally employed in the lowest-wage, least-skilled aspects of the production process (Yamagata 2006).

GMAC had 284 members in July 2011, down from its peak of 330 in 2007. Membership is required of all exporters. Ken Loo, General Secretary of GMAC, explained that this owes

¹ Food sellers represent almost 40 percent of indirect jobs, housing 25 percent and transportation 5 percent. Another 30 percent include small traders, clothing shops and other supporting businesses (EIC 2007).

² According to Mu Sochua of the opposition Sam Rainsy Party (SRP) (Mu and Wikstrom 2012), roughly 420,000 Cambodians have been affected by evictions since 2003.

primarily to consolidation (interview, 11 July 2011). Top buyers currently include retailers and big box stores, mainly from European companies, in addition to East Asian intermediaries and US companies. Gap and H&M have long been the top two buyers; other prominent buyers include Levi's, Li&Fung, Wal-Mart, Inditex, Zara, Adidas, Target, Sears and VF.

Work conditions in the early years of Cambodia's garment production (1994-2000) were poor. Cambodia's labour relations were defined in the mid-1990s to mid-2000s by the state's structural inability or indisposition to implement labour standards. This was a direct result of years of war and devastation in Cambodia from the late 1960s through the mid-1990s.

In June 1998, labour and textile manufacturer groups in the US petitioned their government to review the alleged abuse of workers' rights in Cambodian factories (Polaski 2004). In 1999, the US and Cambodian governments initiated the three-year US–Cambodia Textile and Apparel Trade Agreement. This was extended for another three years, ending on the same day as the phase-out of the Multi-fibre Arrangement (MFA) on 31 December 2004.³

Along with US–Cambodia Trade Agreement, an independent but complementary factory monitoring project, later named Better Factories Cambodia (BFC), was established in 2001, involving the International Labour Organization (ILO), the Cambodian government, GMAC and trade unions. The initial purpose of this was to inform on-going US quota allocation decisions.⁴

The ILO leads the project with funding from donor countries, the Cambodian government, GMAC and international brands. It is the first project of its kind, later serving as a model for the ILO's global Better Work programme. Its scope has expanded beyond monitoring to service provision directed at boosting working conditions, production quality and productivity. Trainings and resources are offered on topics such as workplace cooperation, dispute resolution and occupational health and safety.⁵

In summary, through much of the US–Cambodia Trade Agreement/BFC era, workers' rights have been discursively prominent; international buyers use the situation in Cambodia as a showcase for their ethical commitments and the US, ILO and World Bank have promoted it as a new model of export-led development (Arnold and Toh 2010).

Underlying the BFC programme is a set of mechanisms to initiate tripartite industrial relations systems in a country with no such history. A basic contention argued elsewhere

³ The MFA, also known as the Agreement on Textile and Clothing, governed the world trade in textiles and garments from 1974 through 2004, imposing quotas on the amount developing countries could export to industrialized countries, particularly the US and the European Union (EU). It came under the jurisdiction of the World Trade Organization (WTO) with the Uruguay Round.

⁴ This was deemed necessary, as Miller et al. (2007) point out, since in the early years of the US–Cambodia Trade Agreement, US decisions on quota allocation were based on very limited data and reporting. This leads to the conclusion that, at least in the early years of the project, implementation of the labour rights component was secondary to ensuring continuation of the programme (ibid.). In other words, the politics behind the programme were more important than improving labour rights (Kolben 2004).

⁵ See the BFC website at <http://www.betterfactories.org/ilo> for details.

(Arnold and Toh 2010) is that BFC played a defining role in Cambodia's garment sector in the early years. Much attention has been paid to the workplace-specific initiatives that comprise BFC, particularly the impacts of monitoring on compliance and the role of international buyers, among other issues (see Gregoratti and Miller 2009, Miller et al. 2007, Oka 2012, Polaski 2004, 2009, Wells 2007). Lacking are studies on workers and trade unions' bargaining power in the wider political economic context comprising capital, state, the labour market and workers' communities.⁶ This is surprising, since the former chief technical advisor of BFC contends that the heart of the programme is whether or not workers themselves have the collective voice and ability to defend their rights and fight labour rights violations (interview, Tuomo Poutiainen, 16 September 2011).

The large-scale garment workers' strike in September 2010 was a defining moment in this process – namely, workers and trade unions recognizing themselves as active agents who must shape the outcomes of the structures and institutions built over the 2000s. The strike centred on wage and income, an issue that currently does not directly involve BFC and other international organizations, buyers, foreign governments, non-governmental organizations (NGOs) or other actors. Rather, trade unions and workers, GMAC and the government determined the outcome.

In sum, BFC has been central in constructing a tripartite negotiating table in Cambodia, and the programme may continue to invite participants to it and facilitate. Yet it is 'embedded' stakeholders – trade unions and workers, manufacturers and state officials – who are primary in shaping the outcomes on the issue – wages – that matters most to a majority of workers. The following section examines the changing Cambodian state and its role in these processes.

The state and protest space

Cambodia's political economic and social context is unique. The 30 years of war from the late 1960s to the late 1990s left Cambodia's state and society eviscerated and without a clear centre of political gravity or autonomous development agenda. Cambodia's specific history of social struggles, war and political disintegration is a key factor in understanding why Cambodia entered the global economy from a position of weakness (Arnold and Toh 2010). Initially, the US–Cambodia Trade Agreement programme was seen as a means for Cambodia's economy to be inserted favourably into the global economy and to overcome Cambodia's past political and economic problems. Given that Cambodia's political economy was a relative blank canvas, this provided opportunities in developmental experimentation for foreign governments, international organizations and NGOs, which were granted wide latitude to operate (Hughes 2003). This created much dependency and lack of autonomy in the socioeconomic development process, a situation few other countries have been willing to accept.

Coming from a position of abject weakness vis-à-vis regional and global economies, the policy options in the 1980s-1990s were limited to those suggested by major lending

⁶ See Arnold and Toh (2010) for a garment-specific study, and Hughes (2003, 2007) and Hughes and Un (2011) for analysis of Cambodia's political economy and implications for labour.

organizations, international organizations and foreign governments. This situation has changed in the 2000s. Following a coup in 1997, the CPP came to power, led by Hun Sen. The CPP is a reformulated version of the Kampuchean People's Revolutionary Party, which governed Cambodia during Vietnam's occupation from 1979 to 1989. The CPP and Hun Sen have remained in power, winning disputed elections, in on-again, off-again coalitions with FUNCINPEC (the National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia) since the 2003 elections. In the 2008 National Assembly elections the CPP further consolidated its position, winning 90 of 123 seats, securing Cambodia's position in the 'electoral authoritarianism' camp (Hughes 2007: 835). A common critique summed up by Hughes and Un (2011: 10), is that, 'The Cambodian state is authoritarian, corrupt and based heavily upon neo-patrimonial institutions, whose survival and expansion represent key interests driving, and limiting, public policy'.

The return to authoritarianism in Cambodia has gone virtually unchallenged in the international community. Springer (2009: 156) contends that 'the donor community views authoritarian action taken by Hun Sen and the ruling CPP as conducive to maintaining their own interests, although this remains unspoken and hidden behind rhetorical appeals for greater democracy'. This means Cambodia's government, or more accurately the CPP, has more power to govern economic policy and labour relations as it becomes more deeply integrated in the global economy. Garment manufacturing is considered a key link.

As demonstrated more fully in the following section, Cambodia's garment industry is not deemed competitive in global markets, owing to high prices, low quality and long lead times, in addition to other factors. A firm-centred GVC or GPN approach includes the following policy recommendations (Staritz 2011: 131; see also Nathan Associates Inc. and Werner International 2007):

1. Improving productivity, skills and capabilities at the firm level and developing from cut-make-trim (CMT) to free-on-board (FOB) and full-package supplier;
2. Increasing backward linkages and reducing lead times;
3. Improving physical and bureaucratic infrastructure, particularly with regard to transport, logistics and customs, electricity and access to finance;
4. Diversifying end markets;
5. Increasing local involvement in the industry at the management and owner level; and
6. Increasing regional integration.

Hughes and Un (2011) counter such contentions, asserting that the failure of Cambodian state institutions to conform to liberal development models is a matter of political choice, rather than one of technical incapacity. The Cambodian government has shown low effectiveness and coherence in terms of solving governance issues, including the high cost of electricity (four to five times higher than in neighbouring Vietnam and Thailand) and labour relations (Ear 2011). Ear argues that the industry has survived in part because of GMAC's capacity to get things done with the government, in particular the Ministry of Commerce. GMAC has become the primary institution to solve collective problems associated with the industry while maintaining close relationships with the government (ibid.).

The conflict-ridden industrial relations environment in Cambodia has long been the ire of GMAC. This, in combination with the government's directive to sponsor a range of unions as a means to undermine the independent and opposition-oriented unions (Arnold and Toh 2010; Ear 2011; Hughes 2007), means space for independent trade unions and other social movement organizations in Cambodia has been under constant pressure throughout the 2000s. Prime Minister Hun Sen, in response to suggestions that he should be concerned about his position in light of the overthrow of the Tunisian dictator in 2011, is quoted as saying, 'I not only weaken the opposition, I'm going to make them dead [...] and if anyone is strong enough to try to hold a demonstration, I will beat all those dogs and put them in a cage' (Adams 2012). This is an indication of the trend to silence or put down those deemed to be challenging the government, both Cambodian and foreigners.⁷ If empowering the people entails the simultaneous disempowerment of those who currently occupy a privileged position in society, then Cambodian elites will try to impede any movement towards redistribution of power and wealth (Springer 2009).

In summary, if states remain the pivotal institutional apparatus that regulates the lives and politics of workers (Coe and Jordhus-Lier 2010), then the CPP is a powerful force delimiting the space for workers' agency. Furthermore, GMAC has a very strong hand with the government – given the lack of policy initiative on the part of the state; GMAC has enjoyed considerable legitimacy for having facilitated the alternating expansion and survival of the industry. As a result, heavily skewed power towards the interests of government and employers marks tripartitism in Cambodia. Either or both of these actors, as a later section demonstrates, control or influence a majority of trade unions. As a result, rank and file workers and leaders of the few independent unions have limited opportunity to enter negotiations on an equal footing. It is little surprise that frustration builds and workers take to the streets to air their grievances and seek resolution to their demands for a decent wage.

Capital: competitiveness in global markets

Textile and garment exports have comprised roughly 90 percent of Cambodia's annual export revenue throughout the 2000s. Roughly 70 percent of these exports have been destined for the US market, making Cambodia the US's eighth-largest apparel supplier in 2007 and 2010 measured by import value, accounting for just over 3 percent of total US imports in both years.⁸ From 1999 through 2004, Cambodia's garment exports were largely shielded from direct international competition owing to quotas that restricted exports to major markets from China, Vietnam and other major producing countries. US and EU WTO safeguard quotas on many of China's top garment exports extended Cambodia's protection

⁷ For example, the opposition SRP has effectively been eliminated, with Rainsy himself in exile since 2008. In 2004, one of the opposition's staunchest supporters, Chea Vichea, President of the Free Trade Union of Workers of the Kingdom of Cambodia (FTU), was murdered in an open market; the killers have never been found. A 2011 draft NGO Law is widely regarded as an effort to eliminate organizations critical of the government. Christophe Peschoux, former Head of the local UN Office of the High Commissioner for Human Rights was 'reassigned' in 2011 after his long-running criticism on issues such as land grabbing and crackdowns on government critics. This followed threats in 2010 from Foreign Minister Hor Namhong to expel UN Resident Coordinator Douglas Broderick after comments he made concerning the passage of the kingdom's anti-corruption legislation.

⁸ Total exports increased from \$1.5 billion in 2001 to \$4.1 billion in 2007, including garments, shoes, cigarettes, natural rubber, rice, pepper, wood and fish.

through 2008.⁹ This helped dampen the fact that Cambodia's textile and garment industry is not deemed competitive in terms of price, quality and speed to market (Nathan Associates Inc. and Werner International 2007), and Vietnam and Bangladesh are considered primary competitive threats to Cambodia's industry. With the elimination of quotas and more direct exposure to global competition, Cambodia is relying less on its labour monitoring for a competitive advantage and increasingly on managing more generalized competitive factors such as productivity, reducing transaction time and cost, maintaining low wages, streamlining regulatory burdens and the like (Arnold and Toh 2010, EIC 2007, Nathan Associates Inc. and Werner International 2007).

Following the lifting of MFA quotas in 2005, it was expected that major producers including China, India, Vietnam and Turkey would dominate global exports to the US and EU at the expense of less competitive exporters, including Cambodia and Bangladesh. China has come to dominate the US and EU markets, sending ripple effects throughout producing countries. However, Cambodia's garment industry exports expanded from 2005 through 2007. There appear to be three reasons for this (Arnold and Toh 2010). First, the imposition of US safeguard quotas against China in 2005, effective through 2008, aided Cambodian exports. Second, costs in coastal China have risen considerably, leading to capital relocation further inland in China or to other countries, including Cambodia. Third, Cambodia has been part of a post-MFA regional trend that has seen Asia-based suppliers increasing exports, while many suppliers in the Americas have seen significant declines (Textile Outlook International 2009). Overall, Cambodia has been a part of a growing concentration of US suppliers. In 2010, roughly 79 percent of US textile and clothing imports in value terms came from the leading 10 supplying countries, compared with only 54 percent in 2003 (ibid.).

Despite this initial increase, Cambodia's exports declined sharply in 2008 and 2009, rebounding in 2010 and 2011. For instance, garment exports dropped 21.6 percent in the first nine months of 2009, with 70 factories closing and approximately 70,000 workers laid off (CIDS 2010). Staritz (2011) offers three main factors explaining export decline in 2009: (1) reduction of orders owing to the global economic crisis, (2) phase-out of the China safeguards at the end of 2008 and (3) increased competitiveness of Cambodia's main competitor countries, Vietnam and Bangladesh. Indeed, apparel exports to the US from Cambodia's competitors, particularly Bangladesh, expanded during the same period.

Interviews with GMAC, industrial zone operators, factory managers, industry observers, logistics providers and other stakeholders between 2006 and 2011 elicited the following explanations for both Cambodia's export downturn in 2008-2009 and the more general lack of competitiveness regularly discussed since the end of the MFA in 2005: poor infrastructure, low workforce productivity, high frequency of strikes, high utility costs, high costs at customs and other 'administrative' costs (usually referring to corruption), a small domestic market (meaning nearly 100 percent of garment products are exported), insufficient trade facilitation and access to credit and 'dollarization', whereby a rising US dollar hurts competitiveness.

⁹ See Arnold and Toh (2010) for more thorough analysis of the implications of safeguard quotas.

Cambodia's garment factories also have a structural disadvantage – 60 percent are CMT or assembly factories, usually subsidiaries of corporations with operations in other countries (CIDS 2010). This means a majority of inputs must be imported, and factories do not generally engage in higher-value-added nodes of value chains. In Vietnam and Bangladesh, by comparison, an increasing share of firms offer more than CMT capabilities and are in charge of input sourcing and pattern making (Staritz 2011). Ken Loo of GMAC (interview, 18 July 2011) noted that in 2010 and the first half of 2011 the price of fabric rose by 80-100 percent, yet the price from buyers has increased by only 5-10 percent. Combinations of these factors have led to higher prices in Cambodia. Table 1 shows that average prices for Cambodia's exports to the US are significantly higher than those of 'competitors' relying on CMT orders, including Bangladesh and Honduras.

Table 1: Three tiers of US textile and apparel suppliers, 2008 (\$ per square metre equivalent, sme)

| | |
|---|---|
| High price (over \$4 per sme) | Italy (\$7.96 per sme) |
| Medium price (\$2.50-\$4.00 per sme) | Vietnam (\$2.99 per sme) Indonesia (\$2.63 per sme) Cambodia (\$2.62 per sme) |
| Low price (under \$2.50 per sme) | Pakistan (\$1.05 per sme) China (\$1.59 per sme) Honduras (\$1.93 per sme) Bangladesh (\$2.13 per sme) |

Source: Textile Outlook International (2009).

Factories in Cambodia have several mechanisms at their disposal to lower costs. Subcontract factories are increasingly prevalent. Subcontractors can be either registered or unregistered, yet are not GMAC members, and are outside of the BFC monitoring orbit. This creates challenges for implementing compliance programmes and trade union organizing efforts. The Coalition of Cambodian Apparel Workers Democratic Union (CCAWDU) estimates there are 200 unlicensed factories in the country (interview, July 2011). Of those, 90 are subcontractors for licensed companies. CCAWDU has presence in only one subcontract factory, compared with in about sixty registered GMAC factories.

As competition with Vietnam and Bangladesh becomes more robust, it is expected that subcontract factories will play a larger role (interview, Tuomo Poutiainen, 16 September 2011). CCAWDU finds that these factories have led to a general degradation of working conditions throughout the industry. This is compounded by a lessened impact of BFC monitoring reports, since they are no longer tied to quota allocations to the US market. From BFC's perspective, the subcontracting issue is central to overall standards in the industry, and a process was put in place to find ways and means to address it (ibid.). This resulted in new regulations in 2011 concerning subcontracting with the aim of bringing these units under better control, and possibly under BFC monitoring (ibid.). Yet it is up to the Cambodian government to find a systematic way to deal with the subcontracting issue if it wants to continue to link trade with labour rights.

Producers in Cambodia are generally lagging in price, speed and quality demands of buyers. Research shows that labour compliance is a consideration for buyers (Oka 2012), but it is

clearly not enough to sustain an industry. In fact, GMAC has made its position clear that the BFC adds little if any value to its competitiveness (interviews, 2006, 2008, 2011). The 2008 crisis, when orders declined precipitously in Cambodia compared with in Bangladesh, with its lower-paid workforce and lack of systematic compliance discourse or practice, confirms GMAC Secretary General Ken Loo's belief 'that indeed compliance or labour standards is icing on the cake – price is the cake' (Lazaro 2012). The commodity specialism of manufacturers, in this case producers at the lower end of the global garment industry, shape relations with workers. After nearly 20 years in global garments, the industry in Cambodia shows few signs of impending economic upgrading. To face workers' wage increase demands, it is clearly in the interests of employers to maintain an atomized labour movement and a flexible labour force to react to market fluctuations. Fixed-duration contracts are a strategy employers have adopted to manage both. The following section addresses these.

Labour market

Under Cambodian labour law, there are two main categories of employment contract: undetermined duration contracts (UDCs) and fixed-duration contracts (FDCs). As their names suggest, UDCs are valid for an unlimited time, whereas FDCs are probationary or valid for a specific period of time, usually three to six months, and can be legally extended indefinitely if workers and employers 'agree' on the terms. Kang et al. (2009) find that FDC terms have shortened since the onset of the global recession in 2008, generally going from six to three months.

CCAWDU stated in interview (June 2007) that, from 2001 until 2005, a majority of workers in registered textile and garment factories were UDC workers, with associated benefits such as sick leave and maternity leave, regular wages, holidays and the like. Since the end of the quotas, one of the significant changes in factories has been the increased use of FDCs. According to an unpublished investigation conducted by the Workers' Rights Consortium in 2009 (Arnold and Toh 2010), only one of 60 factories surveyed used UDC workers exclusively; most of the remaining factories surveyed either used FDCs exclusively or after 2005 employed all new workers on FDCs. According to the most comprehensive study on FDCs to date, 'The widespread shift from UDCs to FDCs has resulted in tremendous worker insecurity, heightened antagonism between unions and factory management, and a threat to peaceful industrial relations' (Yale Law School 2011: 15). The main findings of the study contend that it is clear that the conversion to FDCs is not the result of voluntary and informed decisions made by workers, 'but a top-down decision imposed by employers, often through coercion, manipulation, or deceit [which] clearly facilitates employers' anti-union discrimination and suppression of free association' (ibid.: 77).

According to CCAWDU, the use of FDCs began in larger knitting factories, employing 3,000 to 10,000 workers, primarily in Kandal province, where unionization rates have been highest. FDCs have now spread to both smaller knitting factories and garment assembly factories of all sizes (interview, CCAWDU, January 2009). CCAWDU reports that if these workers on FDCs are hired as regular employees, their time as temporary workers is not factored into their seniority and benefits. FDCs have become a major, if not the defining, challenge to trade union organizing and workers' livelihoods. Employers are increasingly using FDCs and

daily labour as part of efforts to maintain or increase profits and, not coincidentally, to avoid the demands of organized workers. Commenting on this trend to FDCs, Anne Ziebarth, Legal Advisor to BFC, stated that this was ‘troubling because it may indicate that they [employers] misunderstand the appropriate use of the different types of contracts, or that they are using FDCs to undermine workers’ employment security’ (BFC 2006b).

The ILO confirms that employers prefer workers on FDCs to those on UDCs ‘because they believe that it is easier to terminate workers’ (BFC 2006b: 1). Employers are under no obligation to renew a flexible worker’s contract after it has expired, but they are prohibited from firing FDC workers for illegitimate reasons, including anti-union discrimination. The expansion of FDCs is a major factor in the increase in plant-level strikes in Cambodia since 2005. In 2006, the ILO confirmed that, ‘We are seeing more disputes arising over the type of contract used to employ permanent workers, with workers in some factories complaining that they lack security of employment because they are working under repeating short-term FDCs’ (ibid.). Other factors prompting strikes include disputes over wage and entitlement payments, discrimination against union activists, firing and rehiring retrenched workers and sexual harassment. Increasing frequency of strikes is considered a detriment to Cambodia’s ‘competitiveness’ vis-à-vis China and Vietnam. These claims overlook fairly widespread and often large-scale strikes in China and Vietnam over the past decade (Lee 2006, 2007).

The increasing prevalence of FDCs signifies a break from the decent work principles of BFC, including job security, benefits and rights to freedom of association. In particular, an objective of the ILO programme is to encourage bureaucratic solutions attained by professional negotiators to decrease the likelihood of disputes disrupting industrial production (Hughes 2007). Use of FDC workers appears to be a strategy by employers to compete in global markets, yet it produces discontent among workers and independent trade unions, which increasingly take to the streets to make demands not met through institutionalized channels. Most importantly, FDCs affect workers livelihoods negatively (Yale Law School 2011). This is critical anytime, but particularly when young women workers are expected to send home remittances despite high inflation and stagnant wages. It is an issue that generates discontent and anxiety among workers (Arnold and Toh 2010).

Community – proliferation of trade unions

From the late 1990s, garment workers became part of a new social force emerging from the process of economic change in Cambodia, as it shifted from an almost exclusively agrarian to an industrializing economy. Garment factory workers became a prominent part of the upsurge of protest of discontented groups in Phnom Penh (Hughes 2003). This was a cause for concern for many international observers, who feared the return of widespread discontent and perhaps even violence, in this period when Cambodia was only just emerging from nearly 30 years of conflict (ibid.). The immediate causes of most demonstrations and walk-outs were to do with violence or threats of violence against individuals, forced overtime or, most commonly, racist slurs uttered by foreign managers (particularly ethnic Chinese), not issues of pay (Hughes 2007). The opposition SRP became a regular backer of workers’ demands. The CPP, recognizing the political significance of this group, came to form or support numerous trade unions.

Since the initiation of the US–Cambodia Trade Agreement and BFC there has been a rapid proliferation of trade unions in Cambodia’s garment industry. While GMAC counted 892 trade unions in 270 GMAC-member factories in the mid-2006, ILO statistics counted 440 active unions in 314 factories in 2008.¹⁰ The ILO figure equates to 1.4 unions per factory, up to 1.7 in 2011, with total membership accounting for roughly 60 percent of the workers in the industry. Roughly 84 percent of factories have at least one union. In 2008, there were 24 union federations in the country; by 2011, this had increased to 29. An overwhelming majority of federations are aligned with the ruling CPP (Arnold and Toh 2010). Sixty percent union membership is usually considered to demonstrate high levels of worker representation. However, in the Cambodian context, the effectiveness of having so many unions is questionable, as it leaves many unions weak, under-funded, competing with one another and subject to corruption and political interference (ibid.).

From the perspective of the handful of independent federations, CCAWDU being the most prominent from the mid-2000s to the present, activities promoting workers’ rights are inhibited by four factors: first, government (which often directly or indirectly supports ‘friendly’ unions); second, employers and GMAC; third, the numerous pro-capital unions that contend with independent and other unions for representation in factories; and fourth, the mafia unions that extort money from both employers and members.

The implications of this situation are several. First, despite high union membership, basic rights are often neglected or abused. For example, overtime work beyond legal limits and occupational health and safety issues have not been sufficiently addressed at the industry-wide level (interview, Tuomo Poutiainen, 16 September 2011). Furthermore, unions claim freedom of association is regularly denied, and the increasing prevalence of FDC contracts means workers are reluctant or even unable to promote their rights, whether individually or as union members.

Second, and related, the high number of federations and plant-level unions makes it difficult for ‘genuine’ unions to promote the rights of their members. Competition and conflict among the unions and the national federations limits their effectiveness.

Third, the proliferation of unions and federations is associated with the rise of unions as businesses. Running a union can be lucrative, as corrupt unions can seek kickbacks from employers and ‘fundraise’ in other ways.

Fourth, an atomized and corrupted labour movement loses political economic effectiveness. Such unions and federations have not posed a serious challenge to employers or to the ruling CPP’s policies – an important consideration, as textiles and garments is the most highly organized sector in Cambodia. CCAWDU has claimed that the CPP is also encouraging the formation of friendly federations to prove that opposition/independent federations are a minority and do not represent the workers.

¹⁰ Conor Boyle of the ILO points out that this discrepancy is because GMAC statistics tally every union, active or inactive, from the date factories open operations, whereas the ILO counts active unions (interview, 24 February 2009).

For activist workers and trade unionists, several other problems inhibit their daily activities. Most serious have been the murders of three FTU leaders since 2004, including FTU President Chea Vichea, a once prominent opposition political figure. Activists also face violence, including assault and intimidation. Such threats are often associated with collective bargaining. For example, in June 2007, the president of a union federation was threatened by thugs during high-profile negotiations over labour rights violations at a factory producing for a major European buyer (interviews, June 2007). Employers also use legal threats against unions. For example, in 2007, an employer pressed criminal charges against CCAWDU for inciting workers to go on strike (Gregoratti and Miller 2009).

If trade unions are meant to be a meaningful component of workers' lives that promote and protect their interests at the workplace and in the community, then this section has not presented a flattering picture of the situation in Cambodia. Despite high levels of unionization, trade unions largely struggle to maintain representation at the factory level. Union leaders are also overwhelmed with court cases, arbitration and disputes, in addition to managing participation in a host of trainings, workshops and related matters. This is a critical factor preventing them from dedicating time and resources to becoming more prominent social forces representing the interests of their members, both inside and outside of the factory. In cases where union activists become prominent politically, they are more susceptible to violence or even death, as was the case with Chea Vichea. How, then, to explain a mass mobilization in 2010 that resulted in a relatively peaceful and meaningful expression of workers' interests in factories and streets?

Workers' agency – strike case study¹¹

Cambodia's garment workers are under increasing pressure to produce more for stagnant or declining wages, while families continue to rely on their remittances. A Cambodia Institute of Development Study (CIDS) report analysed the costs of basic living expenses for garment workers and found that a reasonable living wage (i.e. the standard required by Article 104 of the Labour Law 1997, see Box 1) was \$93 per month (CIDS 2009a). A subsequent CIDS study found that the absolute minimum wage on which a garment worker could afford to live was between \$72 and \$75 per month (CIDS 2009b). The key difference between a 'living wage' and a 'minimum wage' in the two studies was the ability to make small personal savings. Evidence suggests that workers earning below \$72-75 compromise basic nutrition. One worker said, 'I spend about 5,000 Riels (\$1.19) per day on food. It is enough based on my salary, but not enough to keep me healthy. I can't afford to buy foods with high nutrition, like fruits' (CIDS 2009b: 29). Half of the workers surveyed who were earning around \$59 per month had to overcome this insufficient wage by reducing spending on food and health care. 'Many workers [earning \$59/month] resorted to borrowing from external sources such as friends, family and private money lenders' (CIDS 2010).

Pay is low in Cambodia's garment industry and is considered one of its, if not its primary, competitive advantages. Minimum wages rose from \$45 per month for 'regular' workers (non-probationary) in 2000, to \$50 in 2006 and \$56 in 2008 after a living allowance was

¹¹ Data for this section are based on participant observation with CCAWDU in August and September 2010, and CCAWDU documents, unless otherwise noted.

allocated as a result of 25 percent inflation that year. After the 2006 minimum wage negotiations, the next round of negotiations was set for 2010. On 8 February 2010, the Labour Advisory Committee (LAC) convened a meeting to discuss the scheduled negotiations. The LAC is a tripartite institution that, through late 2010, comprised seven representatives from trade unions federations representing garment workers, seven representatives from GMAC representing employers and fourteen representatives from the government. Despite the February decision that negotiations would take place, no meeting of the LAC had been scheduled by the end of April 2010, nor had GMAC agreed to the bilateral wage negotiations favoured by many unions. In response to the perceived lack of action, various trade unions began planning rallies and demonstrations calling for negotiations and to build support for a wage increase.

Box 1: Articles 104 and 107 of the Cambodian Labour Law

Article 104 of Cambodia's Labour Law states: *The wage must be at least equal to the guaranteed minimum wage, that is, it must ensure every worker of a decent standard of living compatible with human dignity.*

Article 107, Point 2, of the Labour Law indicates the method of determining the wage: *The minimum wage is set by a Prakas (ministerial order) of the Ministry in Charge of Labor, after receiving recommendations from the Labor Advisory Committee. The wage is adjusted from time to time in accordance with the evolution of economic conditions and the cost of living.*

Article 107, Point 3, states:

Elements to take into consideration for determining the minimum wage shall include, to the extent possible:

A) The needs of workers and their families in relation to the general level of salary in the country, the cost of living, social security allowances, and the comparative standard of living of other social groups;

B) Economic factors, including the requirements of economic development, productivity, and the advantages of achieving and maintaining a high level of employment.

Source: Labour Law of Cambodia (1997).

By the end of May, CCAWDU (a member of the Cambodian Labour Confederation, or CLC) began to publicly threaten strikes in response to the lack of action on the minimum wage negotiations.¹² On 23 June at an ILO-sponsored meeting in Phnom Penh, the LAC group of unions agreed on a common position for negotiations, including the \$93 'living wage' derived from the CIDS study. On 24 June, the Ministry of Labour and the Ministry of Social Affairs released a joint press statement that forwarded a recommendation from Prime Minister Hun Sen that the minimum wage increase by \$5/month, and that the existing \$6 cost of living allowance from 2008 be included in the revised minimum wage.¹³ This would mean a minimum wage \$61 for UDC workers and \$56 for FDCs. The government offered no rationale or study to support this recommendation or to show how it adhered to Articles 104 and 107 of the Labour Law.

¹² See for example, Mom and O'Toole (2010) and Yun (2010).

¹³ Unpublished minutes of the National Union Consultation Meeting on the Minimum Wage in Cambodia Garment Sector, Phnom Penh, June 24 2010.

An LAC meeting was subsequently scheduled for 8 July. At this, certain unions argued for the \$93 wage in accordance with their earlier agreement. GMAC reportedly claimed that this increase was too large owing to difficulties associated with the global economic crisis, yet did not offer an alternative proposal. According to the then-chief technical advisor of BFC, GMAC did not take the wage negotiation process 'as seriously as they perhaps should have' (interview, Tuomo Poutiainen, 16 September 2011). GMAC did not provide a study arriving at a sufficient wage that meets workers' needs, and this was a major factor in the ensuing strike. After less than two hours of negotiations, the chairman of the LAC concluded that there was no agreement and called a vote on the government's proposal (a \$5 increase and inclusion of the existing cost of living allowance). Of 28 in attendance, only 3 voted against the proposal: 1 from government and 2 union representatives Ath Thorn, President of the CLC/CCAWDU, and Morm Nhim, President of the Cambodian National Confederation and the National Independent Federation Textile Union of Cambodia (NIFTUC). Three government representatives were not present. The Ministry of Labour later confirmed that the new minimum wage would come into force on 1 October 2010. The two unions that voted against the proposal (CCAWDU and NIFTUC) decided to continue campaigning for a higher wage, seeking to press GMAC and the government into reopening negotiations.

The unions' opposition to the LAC decision was based on the contention that the process lacked transparency and any logic or rationale for the \$5 increase, and was insufficient to meet the basic survival, much less living wage, needs of workers. Another argument was that the LAC appeared tripartite in form but not in practice. In other words, the government recommended a wage increase that would satisfy GMAC – the primary reason it had sought bipartite negotiations from the beginning of the process. Unions initially held a common platform, but this broke down, according to CLC, owing to co-optation by employers and government rather than workers' interests. Both GMAC and government denied subsequent requests to reopen discussions.

CCAWDU and NIFTUC unions continued to organize members to push for further negotiations. In response, government officials began to publicly threaten legal sanctions against union leaders who continued to express opposition to the decision by organizing worker demonstrations. For instance, on 23 July, Secretary of State of the Ministry of Labour Oum Mean stated publicly that, 'Ath Thorn would face criminal offences if he still fought against the decision of the Ministry'. On 8 August, a talk show was broadcast on the government-owned television channel TVK, during which a panel of five speakers took turns reinforcing the minimum wage decision and criticizing unions and NGOs that continued to oppose it. Two representatives from government-aligned unions appealed for the government 'to take serious action' against those unions currently opposing the minimum wage. An official from the Council of Ministers, Pa Angtoni, said he would investigate the possibility of charging union leaders with incitement, for which they could, if convicted, receive prison sentences of between one and five years.

On 18 August, CCAWDU and NIFTUC filed a letter with their demands, to reconvene wage and benefits negotiations, to GMAC and the Ministry of Labour. This, unions claim, met Labour Law requirements for strike notifications, with a strike set for 13-18 September.

Despite a rash of municipal-level court rulings against groups of striking workers at individual factories (see below), no ruling disputes the legality of the steps taken by the unions. The unions' demands were not met and the strike began on 13 September. According to union figures, on the first day of the strike 68,380 workers from 56 factories participated. By the third day, 201,770 workers from over 100 factories were participating. This would represent over two-thirds of all workers in garments and footwear. GMAC later claimed that at its peak the strike included only 10 percent of total workers (interview, Ken Loo, 11 July 2011), or some 30,000 workers. It is safe to estimate a figure between the two, or some one-third of the total textile and garment workforce. This would make it the largest industrial action in Cambodia's history. Regardless of the numbers, the magnitude appeared to have been unexpected, particularly for GMAC, but also for the unions leading the strike.

During the four-day strike, both government and GMAC members' reactions were aggressive. CCAWDU received three different court orders (dated 15, 16 and 17 September 2010) from Kandal Provincial Court (two letters) and Phnom Penh Municipal Court (one letter). The warrants stated that all striking workers had to return to work within 48 hours. The warrants also stated that certain workers, who were named, were forbidden from returning to work and the factory area until the case was resolved. No specific date was mentioned, nor was the nature of the resolution. Furthermore, in the warrant, CCAWDU President Ath Thorn was ordered to stop 'threatening and leading workers' in an 'illegal strike'. Observers concluded this was an unjustified crackdown on a legal strike action (ACILS et al. 2010). The director of the Cambodian League for the Promotion and Defense of Human Rights (LICADHO), a prominent human rights organization, contended, 'This misuse of the court to punish union activism is a blatant violation of the Labour Law' (ibid.).

In sum, the situation over the first three days escalated. More workers participated in the strike with each day. Provincial and municipal courts issued irrational rulings that contradicted the country's laws. Furthermore, according to an anonymous source, there were concerns that the strike was affecting the Cambodian economy. Perhaps more importantly, voices emerged that it was an act of dissent against the ruling CPP. In the Cambodian context, as demonstrated earlier, this is a serious matter.

Finally, on the night of the third day of the strike, Prime Minister Hun Sen called the strike leader personally via cell phone and asked that the strike end. The following day, 16 September, the Minister of Social Affairs and the President of the Industrial Relations Working Group requested that trade unions and other stakeholders enter discussion on 27 September 2010 to seek a resolution to the strike. On the same day, CCAWDU and NIFTUC convened a meeting with strike leaders and they agreed to end it, with all members to return to work the following day.

On 17 September, at least 14 different factories posted notices in front of the factory gate stating that certain strike leaders were not allowed to return to work. In total, according to CCAWDU, nearly 900 striking workers were suspended or sacked during the strike. This hindered, and may have been intended to eliminate, CCAWDU's factory-level leaders' activities in the workplace in the weeks and months following the strike. In July 2011, 141 workers and activists from 13 factories were still seeking reinstatement. This is significant

since, in the days after the strike, Prime Minister Hun Sen and subsequent government requests were issued stating that employers should reinstate all workers and drop court cases. GMAC demanded a 'public apology' for the strike before all workers would be reinstated. CCAWDU and NIFTUC refused; from their perspective, they had done nothing to contravene the law at any point in the process. GMAC later claimed that the contracts of these workers had expired.

Over the course of the ensuing months a reformulated LAC met, this time including five representatives each from government, employers and unions. All sides agreed that minimum wage negotiations would not reconvene until 2014 – GMAC's primary position. Instead, workers' benefit packages and bonuses were negotiated and resulted in attendance bonuses increasing by \$2 per month; increased seniority pay; and increased meal allowance from \$0.25 to \$0.50 per day for overtime, among other points. CCAWDU estimates the combined increase equals roughly \$10 per worker per month. GMAC puts the increase at about \$7 per worker per month (Ken Loo, interview, 11 July 2011), in addition to the minimum wage hike set by the LAC in July. GMAC estimated that the average wage in 2011, including overtime, allowances and benefits, was \$94 per month. The ILO figure is \$87-94 per month.¹⁴

Prior to the strike, the leaders expressed concern over the potential for physical violence and legal action against strike leaders and workers. The strike provided a brief sense of optimism that the government was willing to mediate capital–labour relations. For unions, it was a risky move – only two of twenty-nine garment federations mounting a strike in the midst of a global economic crisis, knowing they would face a hostile reaction from employers. On the one hand, it made independent unions a 'part of the process' from which they had felt excluded. On the other hand, GMAC now sees them as proactive unions linked to global solidarity and support movements. GMAC seeks to mitigate this influence with workers and other unions, an integral aspect of capital–labour relations.¹⁵ For their part, workers challenged their place in the hierarchy of garment GPNs in Cambodia – a significant step for rural women in a patriarchal society and a sector dominated by powerful foreign investors with backing of Cambodia's CPP.

Conclusion

With the elimination of global garment quotas under the WTO, and the concurrent end of the US–Cambodia Trade Agreement on Textiles and Apparel that bound US market access with improvements in labour relations, BFC has lost the carrot and stick behind the programme. At the moment, workers and trade unions are the actors tasked with negotiating wage and work contracts. These issues are not a part of the BFC's mandate. A primary objective of BFC has been establishing a tripartite system to address labour relations issues, derived from Western models prominent in the post-war era. Yet the precarious nature of work in

¹⁴ On 11 July 2012, the LAC agreed further on: (1) an increase in the regular attendance bonus from \$7 to \$10 per month and (2) \$7 per month provided by garment and footwear employers for transportation and accommodation.

¹⁵ When asked, 'What are the implications of the strike in terms of labour relations?' the Secretary General of GMAC said, 'GMAC now refuses to work with CCAWDU. That's the implication' (interview, Ken Loo, 11 July 2011).

Cambodia's garment factories restricts possibilities for enduring forms of collective action and workers' ability to engage tripartite structures. This in turn limits the potential of workers' collective labour power.

Cambodia's garment industry is a paradox – it is characterized by a highly confrontational industrial relations environment but maintains a systematic workplace monitoring programme. It is promoted as a 'showcase' for ethical production (Polaski 2009), yet tripartite stakeholders consist of an 'electoral authoritarian' regime (Hughes 2007), an employers association that is openly hostile to both the BFC programme and independent trade unions and a remarkably high number of trade union federations that preclude attempts to build a labour movement. Furthermore, the proliferation of FDCs facilitates employers' anti-union discrimination and suppression of freedom of association.

This paper views Cambodian garment workers' potential for action in relation to these particular formations of capital, the state, the community and the labour market. The nationwide 2010 garment workers' strike demonstrates that Cambodian workers have the potential to shape wage negotiations – yet workers fell short of their demands. The strike demonstrates that workers' position vis-à-vis capital, state and even a majority of trade unions is highly precarious – these structural forces tightly delineate workers' agency potential. Viewed in isolation, the strike could be considered a failure. Yet, in an authoritarian and often violent political context, it was a major step for independent unions and workers in terms of making their collective voice heard. The strike has tilted the balance of power, however slightly, with the garment manufacturers of Cambodia. This slow and arduous process characterizes labour movement building.

GPN and GVC frameworks can better contribute to economic development analysis with more attention to labour's differential embedding in local contexts. From mid-2010 through September 2011, mass faintings occurred in numerous garment and shoe factories in Cambodia. The cause has not yet been determined, but a contributing factor may be malnourishment and excessive working hours (interview, Tuomo Poutiainen, 16 September 2011). If that is the case, it means the overall wellbeing of garment workers in Cambodia is being sacrificed for economic gain. This draws lack of social protections and poverty to the foreground. The actions of individual workplaces or segments of value chains are part of the problem, yet are one aspect of broader social phenomena in which young women are expected to keep sending remittances to families and communities despite inflation, the irregular nature of work and other factors beyond their control. There is a need to better understand and conceptualize how labour is situated in community and social relations in Cambodia and other contexts, and the ways in which workers and their communities shape both GPNs and local development processes.

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