



When “best” is far from good enough

Violations of workers’ rights at four of H&M «best-in-class» suppliers in Cambodia

By Joel Preston, CENTRAL and Carin Leffler, Future In Our Hands



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Authors: Joel Preston, CENTRAL and Carin Leffler, Future In Our Hands

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Editor in chief: Arild Hermstad

Project manager: Carin Leffler

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Clean Clothes Campaign (CCC) is an international alliance that works to improve conditions and support the empowerment of workers in the global garment industry. The Clean Clothes Campaign has national campaigns in 17 European countries, with a network of 250 organisations worldwide and an international office based in Amsterdam. Read more at cleanclothes.org

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Abbreviations

AC	Arbitration Council
BFC	Better Factories Cambodia
CBA	Collective Bargaining Agreements
C.CAWDU	Coalition of Cambodian Apparel Workers Democratic Unions
CCC	Clean Clothes Campaign
CTTU	Cambodia Confederation of Trade Unions
CENTRAL	Center for Alliance of Labor & Human Rights
CFITU	Cambodian Federation Independent Trade Union
CNCLP	Cambodian National Confederation for Laborers Protection
CUFWS	Cambodian Union Federation of Workers Spirit
FDCs	Fixed duration contracts
FTUWKC	Free Trade Union of Workers of Kingdom of Cambodia
FUCW	Federation Union for Cambodian Workers
GMAC	Garment Manufacturers Association
ILO	International Labour Organization
IndustriALL	IndustriALL Global Union
ITUC	International Trade Union Confederation
MoLVT	Ministry of Labour and Vocational Training
NGO	Non-governmental organisation
SIDA	Swedish International development Agency
UDCs	Unlimited duration contracts
UFID	Independent and Democratic Union Federation

Research into some of H&M's Platinum and Gold Suppliers in Cambodia

Executive Summary

As with many other garment producing countries exporting to the European and American market, Cambodia has been in the spotlight because of its poor working conditions and low wages for apparel workers. The country's garment sector engages some 750 000 workers in more than 1000 factories. Cambodia exported garment and footwear products in equivalent to 7.1 billion U.S. dollars in 2015.¹

This report is a joint effort of the Cambodian NGO Center for Alliance of Labor & Human Rights (CENTRAL)² and the Norwegian NGO Future In Our Hands (Framtiden i våre hender).

Interviews were conducted during February and March 2016 by CENTRAL. The report was written by CENTRAL and Future In Our Hands and finalized with the assistance of Clean Clothes Campaign International Office and the Swedish NGO Fair Action.

Several violations were identified in each of the factories. The H&M platinum suppliers, Eastex, Vanco and Seduno, were presumed to perform better than the selected gold supplier, M&V. However, general working conditions at the platinum suppliers were actually worse than the gold rated supplier M&V.

Main findings

Demographics

37 female workers and one male worker were interviewed.

The youngest worker interviewed was 16 years old, the oldest 40 years. Average age was 27 years.

Average education level was 6 grade.

20 out of 38 workers were married with no children. 12 workers had between one and three children.

All workers were residing in the area surrounding the factory.

All workers were rural migrants.

28 workers were engaged in the sewing section, the others in other departments/positions.

Length of employment was between 0,5 years to 18 years, on average 5 years.

Conditions of employment

Wages:

The average total wages per month before overtime at the three platinum suppliers – Eastex, Seduno and Vanco - were US\$174.05, US\$167.52 and US\$175.97 respectively, making an average of US\$172.51.

The average total wage was found to be US\$235.03 at Eastex, US\$216.49 at Seduno and US\$202.43 at Vanco. The average total wage per month was close to US\$218.

Considering the monthly legal minimum wage for garment workers is only US\$140 for a standard working month of 208 hours, the total amounts per month seem very high but it is important to

1 http://news.xinhuanet.com/english/2016-02/01/c_135063970.htm

2 CENTRAL is a Cambodian non-governmental organization funded by Bread for the World, TRAIID, UNISON and Action Aid. 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.

take into account that almost all compensation beyond the minimum wage is paid only when certain conditions are met, e.g. overtime work, long-term engagement and good performance.

In 2015, the DC Institute³ concluded that the median total wage (excluding overtime) was US\$166/month. In 2016, this should be adjusted by \$12 to reflect the recent minimum wage increase, i.e. US\$178/month. As we can see the wages at the three H&M platinum suppliers are very much standard across the industry.

Despite H&M's Fair Wage Method project, that was initiated in 2013, and since then has been rolled out to 20 of the brand's strategic suppliers in Cambodia, the platinum suppliers are below the industry median in terms of wages.

In contrast, initial investigations conducted at M&V, a gold supplier, in mid-2015 found that average wages before overtime there were considerably higher than at other H&M strategic suppliers, i.e. US\$181/month at M&V, compared with US\$148 – US\$158/month.⁴

In November 2015 however only 7% of the total workforce was working standard work weeks due to lack of orders. This decreased the average wage to meager US\$143.50/month. Since then work suspension has decreased even further and in the first months of 2016 the wages went down to \$136 per month despite the increase to the garment sector minimum wage.

As we can see, since mid-2015 M&V has gone from paying above-average wages to paying wages below the legal minimum.

H&M has committed to support factory owners to develop pay structures that enable a fair living wage. Better planning of orders and more stable purchasing practices are identified as one of four key elements to this. Further, social dialogue is recognized as an integral element in this process.

The current situation at M&V and the platinum suppliers does not reflect these commitments.

Contracts:

Of serious concern is the use of illegal fixed duration contracts. Workers interviewed at both Eastex and Vanco are engaged through fixed duration contracts with durations of two to six months. As workers have the right to sign an unlimited duration contract after two years of work, and the interviewed workers at Eastex and Vanco were employed longer than that, this is an illegal practice. Workers at the other two suppliers, Seduno and M&V, had legal contracts.

On 18 March 2015, H&M informed CENTRAL staff that the company had adopted a new internal policy for suppliers that all fixed duration contracts for workers with at least two years seniority would be converted to contracts of unlimited duration. Contract conversion was set to commence July 2015, starting with H&M's strategic suppliers, those being platinum and gold suppliers. More than a year has passed and there has been no movement on the conversion of contracts at Eastex or Vanco.

3 DC Research/CORD, Survey on Living Expenses of Garment and Footwear Workers in Cambodia, supported by IndustriAll Global Union, Friedrich-Ebert-Stiftung (FES), American Center for International Labor Solidarity (ACILS) and in cooperation with Union Representatives, (September, 2015).

4 <http://labourbehindthelabel.org/report-do-we-buy-it-a-supply-chain-investigation-into-living-wage-commitments-from-ms-and-hm/>.

Production targets:

Productions targets vary between the factories, depending on product and styles. Each worker belongs to a production line of 30-50 workers and produces only a part of the garment (e.g. stitching a collar or attaching sleeves to a jumper) before handing it over to a colleague for further changes. If workers at Vanco, Eastex and Seduno work hard and reach their production targets



Many workers cannot meet production targets unless they do overtime. Photo: Will Baxter.

they can receive bonuses of between 12.5 - 50 cents/day.

21 out of the 28 workers at the same factories said overtime was required to meet production targets. At M&V all workers were employed on a piece rate basis - no production targets are set.

Annual leave:

All workers interviewed for this report said that 18 days annual leave is provided, as required by law. If annual leave is not used it is paid out at 200%, i.e. the equivalent of 36 days per year. All workers said they rarely, if ever, use annual leave as they prefer to use payments to supplement low wages.

Maternity leave:

All workers said that 90 days of maternity leave is provided at 50% pay in their factory, as required by law.

Working hours

Overtime:

Workers at Eastex, Seduno and Vanco complete an average of 10 hours of overtime per week, which is within the legal limit. They all told that overtime is voluntary, but that they very rarely refuse overtime as they need the money to increase their low wages.

At M&V, a H&M gold supplier, there is no overtime. The factory has been under partial work suspension since June 2015 due to decreasing orders, and under full suspension from December 2015 to April 2016, leaving many workers only partly engaged or jobless. These workers have suffered economic hardship and serious problems to meet even the most basic expenses.

Arriving late to work:

Workers tell they face wage cuts if they are just a few minutes late to work. Eastex and Vanco workers told that if they are more than five minutes late, their wages are cut by US\$2.50.

If Seduno workers arrive 6 to 10 minutes late their wages are reduced by US\$1.00. More than 10 minutes of delay means a deduction by US\$15.00, equivalent to the total wage of almost two working days. Whilst this practice is not illegal, the deductions further reduce already low salaries and are viewed as excessive in the Cambodian garment sector.

M&V is an example of best practice in the garment industry as workers are said to face no penalties if they arrive late to work.

Freedom of association

Unions, membership and union discrimination:

At Seduno and Vanco, workers could identify only one union at their workplace while in Eastex two unions were mentioned in the interviews. None of these "best-in-class" suppliers have what could be considered an independent union. Eastex and Seduno workers said that if anyone would try to form an independent union they would be discriminated against or forced to resign, and recalled specific examples of this. At Vanco male workers are allegedly recruited through an agency and are not considered permanent employees. They are confined to the ironing department, are strictly monitored and easily terminated, therefore it is especially hard for them to form a new union.

At M&V there are several unions workers can choose between. Two of them are considered independent. The unions engage in collective bargaining.

Since 2014, H&M have been running an Industrial Relations Project, the goal of which is to make it possible for employees and employers to negotiate about rights and obligations collectively and to resolve conflicts peacefully and in good faith through established processes. After more than two years in operation, the three major platinum suppliers are still without independent representation and workers face termination for independent union activity.

At Eastex six out of ten workers are union members and some of them say that they are members because "... union fees would be deducted from their pay regardless". All Seduno workers interviewed were union members as membership, according to the workers, is mandatory. It is assigned to them by the factory and deductions are said to be automatic.

In many respects, the general working conditions at gold supplier M&V are better than those in the platinum suppliers. Most likely, this can be attributed to the existence of independent union activity.

Workplace environment

Toilet breaks:

All Eastex and M&V workers, most workers at Seduno, and a few at Vanco said they are free to use the toilet. However, some workers at Vanco said that there are restrictions on toilet breaks and that they need to show toilet cards to gain access. In general, there were also complaints that there are too few toilets.

Light and air:

All Eastex, Seduno and Vanco workers reported excessive heat during the dry season.

Fainting:

All workers at Eastex, Seduno and Vanco reported observing faintings within the last year and estimated that on average, between two and four workers faint every month. Based on these figures there are reasons to believe that some 70 to 140 fainting incidents happen every year in these factories. M&V workers reported observing occasional incidents of fainting within the last year.

The faintings occur in H&M's platinum and gold suppliers - assumed to be among the "best-in-class" factories. It is justified to ask what conditions leading to faintings one can expect to find in factories not scoring that high in H&M's supply chain, and elsewhere in the garment sector.

Health

Sick leave:

Eastex workers say that sick leave is not provided in accordance with the law. Vanco workers say that there is paid sick leave – but limited to two days only. In addition, at Eastex the attendance bonus is said to be reduced by US\$2.50 and the daily wage is lost if a worker is sick. This is against the law if workers can provide a proper doctor's certificate.

Seduno and M&V workers claim that sick leave is available with a doctor's certificate, which is in accordance with the law.

Drinking water:

In Eastex and M&V clean drinking water is provided. Half of the workers at Vanco, and three workers at Seduno complained about the water quality.

Monitoring/responsibility

Audits/instruction/consulting workers:

Workers reported occasional audits of the factories. Some of them were not sure where auditors came from and if buyers were involved, while others (supervisors informed workers) recalled instances that buyers were involved. Some also indicated that the labour department and ILO had been involved in checking working conditions.

Workers from all factories reported receiving instructions from supervisors and management prior to audits. Workers said they are told not to report any grievances.

Workers from all factories reported they had been consulted or knew of other workers being consulted by auditors inside the factory.

Code of Conduct:

At Eastex and Vanco workers said they had no knowledge of any Codes of Conduct posted inside the factory. Five workers at Seduno had no knowledge of any Codes of Conduct posted inside the factory. The other five workers had seen Codes of Conduct posted on the premises. At M&V all workers were aware of Codes of Conduct posted inside the factory.

Expenses

The average monthly expense of all workers interviewed for this research was US\$210 per month. The major items of expense were food (US\$61, approximately US\$2 per day), remittance to family/childcare (US\$62 per month) and housing US\$20.

On average there were two wage earners in the family, supporting three other dependents.

12 workers experienced difficulties with all expenses, whilst rent (7 workers), remittance (7 workers) and health (5 workers) were identified as particularly difficult to manage.



Garment workers residential area, Phnom Penh. Photo: Sigurd Jorde, Future In Our Hands

Debt

Many workers, more precisely 22 out of 38, say there are indebted. The average amount owed was approximately US\$250 with an average interest rate of 16% per month. The average monthly loan repayment was US\$20. Most of these workers were lending from micro-finance institutions whilst the others borrowed from relatives or friends.

Living Wage

Workers estimated that on average a living wage should be US\$321 per month, earned during a standard work month consisting of 8 hours a day, 26 days per month.

This is considerably less than the total wage before overtime workers are earning.

Prospects

Workers were asked "Will your life improve/remain the same/get worse if you continue to depend on the income from your current work?". Almost all workers (37) responded they think their life will get worse if continuing to depend on the income from their current work.

Workers see little hope in improving their position at the factory: Only one worker said she thought there was any chance for promotion.

One third of workers, 13 persons interviewed, had no idea how many more years they would continue working in the garment industry. The other 25 workers said that they foresee to stay for some years, on average two years or slightly more.

Almost half of the workers could not identify their ideal job, if they were free to choose. The rest said "tailor", "own a dress shop", "vendor", "beauty salon" or "farmer".

Objectives of the Study

The aim of this research is to gain insight into the working conditions and wage levels of some of the Cambodian top suppliers of the Swedish multinational retailer H&M.

Trade unions and labour rights NGOs are deeply concerned about working conditions and wages in garment producing countries, including Cambodia. Despite long hours, wages are low and working conditions inhumane, it is alleged. Recent reports show that garment brands and their suppliers barely ensure the legal minimum standards mandated by national labour legislation. The suppression of freedom of association in many factories undermines dialogue with workers' representatives for a structured improvement in wages and working conditions. 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 hardly led to paying living wages in practice.

With this in mind, Future in Our Hands (FIOH), Norway, and Center for Alliance of Labor & Human Rights (CENTRAL), both civil society organizations, were interested in finding out about the working conditions at some of H&M's most trusted suppliers in Cambodia. H&M is not only one of the leading fast fashion brands, but also has a long record of verbal commitments in the field of ensuring better working conditions for the workers stitching their clothes. Before entering a business relationship with H&M suppliers and business partners have to sign the brand's Sustainability Commitment which holds legal requirements. The field study was carried out between February and March 2016.

Four key H&M suppliers - three platinum and one gold supplier - with long-term engagement with H&M were selected to test how they performed in the field of wages, freedom of association, contracts, overtime, as well as the prevalence of faintings on the factory floor. The research team assumed that these top ranked, strategic and preferred suppliers of H&M would perform well in meeting the brand's own "Sustainability Commitment", the Cambodian Labour Law and ILO's Core Conventions.

Another aim of the study was to gain a better understanding of the workers' struggle to make ends meet and ensure a decent living: looking into their spending pattern and exploring their ideas of what they would need to cover the basic needs for them and their dependents, including some discretionary income. The results of the research thereby not only test H&M's commitments to reality, but also add nuance to the widely repeated assurance that the garment sector contributes to development, welfare and greater opportunities in garment producing countries - especially for women.

Methodology

Thirty-eight garment workers between the ages of 16 and 40, at four authorized H&M supplier factories in Phnom Penh and surrounding provinces, took part in in-depth interviews, based on 42 questions, about their experiences of working conditions and wages in the H&M supply chain. Also workers were asked about their expenses, their debt situation, they were asked about how much they would need to earn per month to provide a decent living for themselves and their dependents, as well as questions on hopes for promotion, expected engagement in the garment sector and possible other profession.

Interviews were conducted during February and March 2016 by the Center for Alliance of Labor & Human Rights (CENTRAL).

Workers from H&M's strategic suppliers – three platinum suppliers and one gold supplier – were singled out to gain insight into wage levels and working conditions at those suppliers considered by

H&M themselves to be their best-in-class. This status signals long-term partnerships with the retailer including incentives such as joint capacity planning up to five years ahead.

Groups of potential interviewees were identified through local networks of trade unions, non-governmental organisations and organizers. After identifying these groups, interviewees were selected at random.

CENTRAL approached a total of 28 factory workers from the following H&M **platinum suppliers**:

1. Eastex Garment Co., Ltd (10 workers);
2. Seduno Investment Cambo Fashion Co., Ltd. (10 workers); and
3. Vanco Industrial Co., Ltd. (8 workers)

10 factory workers were also approached from H&M **gold supplier**, M & V International Manufacturing Ltd. (Main Factory).

According to H&M's disclosed supplier list, Eastex, Seduno and Vanco have all been H&M platinum suppliers since at least 25 April, 2014. M&V has been a gold supplier throughout the same period.

Interviews were conducted in the local language Khmer and took place during the workers' spare time, outside factory premises on a location identified as safe by the participants and with no employer representative present. Interviewees were informed of the purpose of the interviews and how the information obtained would be used.

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. CENTRAL notes that the findings of the report correlate well with the organisation's experiences with H&M workers over the past few years.

All workers but one that shared their views during the research were women as the research team could not get more men to participate. Still the selection of workers to a great extent mirrors the reality as women dominate Cambodia's garment sector, making up an estimated 90 to 92 percent of the industry's estimated 700,000 workers.⁵ Nevertheless it would have been interesting to gain more insight into male worker's wages and perception of working conditions. An additional research with a clear gender perspective might reveal patterns and show differences between men and women's positions and opportunities within the Cambodian garment sector.

Calculating the exact wage of workers poses some challenges as the wages are composed of a number of items; minimum wage, overtime compensation, Sunday and holiday extra, and, in some cases also seniority bonus, allowances for attendance, transport, health as well as bonuses. Regarding production bonuses, the majority of workers noted that overtime is required to meet targets and quotas are often difficult to meet. Bonuses are paid at between 13 and 50 cents per day.

As production bonuses are not recorded on payslips they have not been recorded in average total wages. Workers estimate the average of these bonus payments is around US\$3.5 per month, but it should be noted these bonuses could potentially increase average total wage by US\$0 to US\$15 per month.

5 "Work Faster or Get Out. Labor Rights Abuses in Cambodia's Garment Industry". Human Rights Watch, 2015. <https://www.hrw.org/report/2015/03/11/work-faster-or-get-out/labor-rights-abuses-cambodias-garment-industry>.

The context

Garment worker's wages

Article 104 of the Cambodian Labour Law states that "... 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 108 refers to piece rate workers: "The Labour Law also accounts for piece rate workers and their average monthly wages cannot be lower than the guaranteed minimum wage (Article 108)." ⁶

The minimum wage was established with the adoption of the Cambodian Labour Law 1997 and Article 107 gives authority to the Ministry of Labour and Vocational Training (MoLVT) to determine the minimum wage after receiving recommendations from the Labour Advisory Committee, a tripartite body consisting of representatives from the MoLVT, employer associations and trade unions.⁷ The negotiations have often been lengthy, with the trade unions demanding a wage covering at least workers' basic needs on one side, and the employers' association, Garment Manufacturers Association in Cambodia (GMAC), on the other side, proposing only meager increases⁸.

The national minimum wage as per 1. of January 2016 was US\$140 per month, a US\$12 increase of the 2015 minimum wage. In addition, workers are entitled to an attendance bonus of US\$10 if they complete a full work month of six days per week, eight hours per day without absence. Workers can add US\$7 for transport or housing allowances if entitled.⁹ However, these benefits are not guaranteed and are often deducted at various rates when a worker is absent or late without permission, or sick without a doctor's certificate which is expensive to obtain. Overtime meal coverage shall be paid US\$0.50¹⁰.

The current minimum wage for Cambodian garment workers is far below the figure of US\$177¹¹ per month demanded during the wage negotiations last year by a number of national trade unions, well supported by unions and human rights organizations on the international level.

It is also clearly below the figure presented already two years earlier by the tripartite government-constituted task force¹² which estimated that a living wage should fall between US\$157 and US\$177¹³. The current figure of US\$140 per month hence contradicts Article 104 of the Cambodian Labour law which states that the minimum wage must ensure a decent standard of living and human dignity.

6 <http://www.ilo.org/dyn/travail/docs/701/Labour%20Law.pdf>

7 <http://www.arbitrationcouncil.org/en/post/6/Minimum-wage-determination-in-Cambodia#>

8 <http://www.cleanclothes.org/news/press-releases/2014/09/17/cambodian-garment-workers-demand-higher-minimum-wage>

9 http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_463849.pdf

10 Notice 041/11 and AC Awards 73/04, 82/12(2), 163/12(2)

11 The Tripartite and Stakeholder Task Force for Carrying on the Research on a Decent Minimum Wage for Workers identified US\$177 per month as the minimum wage required to ensure a minimum standard of living for garment workers employed outside a special economic zone in Cambodia.

12 The tripartite task force was comprised of government officials and representatives of both the employer association in the garment sector, GMAC, and Cambodian trade unions.

13 <http://www.workersrights.org/freports/WRC%20Report%20-%20Crackdown%20in%20Cambodia%203.24.14.pdf>



Garment workers have repeatedly called for a minimum wage of US\$177/month but wages are still far below. Photo: Heather Stilwell.

Throughout the years garment workers participating in mass strikes and protests have fought for, and gained some increases: In 2010 the monthly minimum wage was US\$50, increasing to US\$61 in 2011 after masses of workers went on strike for a higher minimum wage¹⁴. In 2013 workers earned US\$80 per month, the wage went up to US\$100 in 2014 and to US\$128 in 2015. The actual increases have always fallen short of the trade union's demands of a level that can provide a dignified livelihood, but still above the sparse offers from the employers.

Until the recent wage increases Cambodian garment workers were relatively poorer than they were in the early 2000's¹⁵. Despite the first real wage increases since 2001, Better Factories Cambodia (BFC) survey results show that Cambodian garment workers spend only \$1.30 per day on food. A staggering 42% of workers suffer from anemia, 16% are underweight and 8% are severely food insecure¹⁶.

The call for higher wages have come at a high cost for protesters and unions as they have often been met with resistance from employers and the Government. This was especially the case during the wage demonstrations in December 2013 and January 2014 when hundreds of thousand workers took to the streets, voiced their discontent with the current wage level and demanded a hike from US\$80 to US\$160 per month. On January 2nd and 3rd the police and military forces turned violent and four people were killed¹⁷, 39 injured and 23 detained. Five months later the court convicted and then released the 23 garment workers and unionists who were arrested during

14 <https://www.theguardian.com/world/2010/sep/21/cambodia>

15 Workers' Rights Consortium, *Global Wage Trends for Apparel Workers, 2001–2011*, (2013), p. 3.

16 Summary results from the ILO Better Factories Cambodia's *Study on the Impact of Food Provision on Garment Workers' Health and Productivity*, available at: <http://betterfactories.org/?p=8970>.

17 <http://www.aljazeera.com/indepth/features/2014/01/cambodia-garment-worker-strike-unravels-20141755530526443.html>

the wage protest. Their sentences were suspended after huge pressure from international campaign groups and unions¹⁸. No one has ever been charged with the killings and those injured have received no compensation. In later protests, the police or security guards have been using force to break-up local demonstrations and filed legal complaints against union activists¹⁹.

Trade unions fear the struggle for higher wages will be even harder to take on after the new Trade Union Law, initiated to regulate the formation of trade unions and their activities, was passed in May 2016.

Unions and the struggle for improved working conditions

There are some 78 union federations representing workers in the garment industry²⁰. Citing Labour Ministry and GMAC data, employers say there are over 3,000 labour unions in Cambodia, 90 per cent of them representing garment workers.²¹ However, many of the unions are inactive.

Despite the relatively high number of federations it is well documented that “the ruling party has tried to control the major unions to support their agenda.”²² Only a small share of these federations could be considered independent and genuinely representing the interests of workers.

Cambodia made the list of the 10 worst countries in terms of labour rights, according to a report released by the International Trade Union Confederation (ITUC). The annual report said that Cambodia dropped in its rankings for two reasons: the passage of the new Union Law, which “further limited workers’ ability to negotiate over their working conditions and pay”; and violent police crackdowns on labour protests.²³

Even though a relatively great share of the garment industry workforce is unionised (in excess of 60%²⁴) there are some crucial hurdles to efficient and safe unionising, union activities and improved working conditions. The most important hurdles identified are:

- **Retaliation against trade union leaders, members and potential members**

Cambodia has a long history on union busting. There is strong and widespread evidence that workers seeking to join a trade union of their own choice, trying to establish a factory level union or trying to organise their colleagues are harrassed, forced to take on work they are not qualified for or barred from promotion at the factory. Others are dismissed and even black-listed, hindering them from seeking job at nearby facilities. In worse cases workers and their representatives face court cases due to their struggle for higher wages and improved working conditions, or are beaten, shot at or even killed.

In the past two years, CENTRAL staff have consulted more than 3,500 union leaders and members illegally dismissed, more than 100 beaten, injured or killed as retaliation for union activity or strikes and has defended more than 100 criminalized for union activity.

18 <http://www.cleanclothes.org/news/2014/06/02/victory-all-23-now-released-from-jail-in-cambodia>

19 E.g. in the special economic zone in Bavet; <http://www.dw.com/en/cambodia-police-break-up-8000-strong-garment-protest/a-18931690> and <https://thehimalayantimes.com/world/cambodian-police-crack-down-on-striking-garment-workers/> and in Kandal province: <http://www.phnompenhpost.com/national/labour-unrest-continues>

20 Solidarity Center, Data of Trade Union Movements and Labor Associations in Cambodia, July, 2015.

21 <http://www.phnompenhpost.com/business/too-many-unions-owners>

22 “Building Unions in Cambodia. History, Challenges, Strategies”. Veasna Nuon and Melisa Serrano, Friedrich Ebert Stiftung, 2010. <http://library.fes.de/pdf-files/bueros/singapur/07907.pdf>

23 <http://www.phnompenhpost.com/national/intl-union-report-ranks-kingdom-bottom-ten;and> <http://www.ituc-csi.org/cambodia-ituc-deplores-new-anti>

24 “Building Unions in Cambodia. History, Challenges, Strategies”. Veasna Nuon and Melisa Serrano, Friedrich Ebert Stiftung, 2010. <http://library.fes.de/pdf-files/bueros/singapur/07907.pdf>

- **Factory level unions struggle to negotiate for Collective Bargaining Agreements**
Often there is limited leverage among the factory level unions to enter into negotiations for Collective Bargaining Agreements (CBA). Uneven balance of power between factory unions and the management lead to very few CBAs signed in the garment sector, as with other sectors in Cambodia. The process for receiving most-representative status requires government approval, making it near impossible for independent unions to negotiate binding agreements. Consequently, it is estimated that independent unions in the garment sector have less than 10 CBAs in place.
- **High level of foreign ownership and widespread sub-contracting dissolving responsibility**
An estimated 85% of the garment factories are foreign controlled, mostly by Chinese, Taiwanese, Singaporean and Malaysian investors, who moved to the country in the 1990s to take advantage of the low-cost labour market and the country's quota-free access to US and EU markets.²⁵ The most recent bulletin from the International Labour Organization (ILO) says there are 655 factories registered with the institution Better Factories Cambodia²⁶, meaning 655 factories are permitted to export.²⁷ However, the Ministry of Industry and Handicraft recognises the number of garment factories registered in Cambodia reached 1,200 at the end of June 2014.²⁸ The significant difference between these two figures clearly indicates the widespread use of sub-contracting as most garment factories produce for export. Manufacturers frequently use sub-contacting factories to evade monitoring. Working conditions in these factories are typically significantly worse and trade unions are virtually non-existent. Some factories are known to have up to 12 subcontracted facilities²⁹.
- **Unions loyal to political parties and to factory management**
Links between trade unions on one side and politics and business on the other exist in numerous countries, Cambodia no exception. It is commonly known that several national federations are politically, ideologically and/or financially supported by the government. Due to the close ties these trade unions are labelled pro-government.³⁰ It has been noted that "... Some union leaders also tend to have positions in the government. Some enjoy strong connection and protection `from behind.`" As a consequence, many union organizations that enjoy support from their political parties seek the approval of their `bosses` before they act. As pro-government unions, they rarely or never involve themselves in mass and collective actions with other social movements that fight for higher wages, improved rights, and social justice."³¹ Consequently, in several wage negotiations unions loyal to the Government have shown relatively low ambitions on the minimum wage hike figures³².

The establishment of so-called yellow unions is a tactic widely deployed by companies to prevent the emergence of genuine worker representation in the factories^{33,34}. These yellow unions or unions close to the government have few difficulties registering their organisations, unlike independent unions. The latter often have to wait over a year to be

25 <http://www.cleanclothes.org/livingwage/cambodia>

26 <http://betterfactories.org/>

27 http://www.ilo.org/asia/whatwedo/publications/WCMS_421104/lang--en/index.htm

28 <http://www.phnompenhpost.com/business/registration-garment-factories-first-half>

29 "10 Years of the Better Factories Cambodia Project - A critical evaluation". Clean Clothes Campaign and CLEC, 2012. <http://www.cleanclothes.org/resources/publications/ccc-clec-betterfactories-29-8.pdf/view>

30 "Making the Cut?: Low-Income Countries and the Global Clothing Value Chain in a Post-Quota and Post-Crisis World", Cornelia Staritz, World Bank Publications, 2010. See also "Building Unions in Cambodia. History, Challenges, Strategies". Veasna Nuon and Melisa Serrano, Friedrich Ebert Stiftung, 2010.

<http://library.fes.de/pdf-files/bueros/singapur/07907.pdf>

31 "Building Unions in Cambodia. History, Challenges, Strategies". Veasna Nuon and Melisa Serrano, Friedrich Ebert Stiftung, 2010. <http://library.fes.de/pdf-files/bueros/singapur/07907.pdf>

32 See e.g. <https://libcom.org/news/cambodian-government-unions-agree-wage-increase-strikes-could-still-be-09072010> and <http://www.khmertimeskh.com/news/16640/unions-slam---133-minimum-wage-proposal/>

33 <http://www.phnompenhpost.com/business/too-many-unions-owners>

34 <http://survey.ituc-csi.org/Cambodia.html?lang=en>

registered whilst yellow unions are registered within a day or two. Workers are often placed under heavy pressure to join yellow unions and workers seeking to join independent unions run the risk of being harassed or dismissed.

- **Bribes for auditors and corruption on officials concealing bad working conditions and low wage levels**

An ILO Report from 2014 estimated that 10 per cent of Cambodia's GDP is lost annually to corruption, which in the garment industry equates to more than US\$600 million annually³⁵.

- **Lack of permanent contracts**

A large share of workers are employed on contracts that are renewed periodically and which prevent workers from voicing the discontent on working conditions and wage levels. For more information, please see the later chapter, «Contracts».

- **The Trade Union Law**

The implementation of the recently passed Trade Union Law will most likely bring negative effects on the formation of trade unions and for execution of trade union activities.

The Trade Union Law

In 2014 the Ministry of Labour intensified its work on the draft for a Trade Union Law. From its inception in 2008 the law, and to what extent the final outcome would harm workers' rights has been heavily debated. Cambodian trade unions and allies both at the national and international level have concluded that the drafts from at least 2014 and onwards have been too restrictive on workers' rights and violating international labour standards.

A joint union proposal with comments and revisions from 31 Cambodian unions was presented in December 2015 but few amendments were made. The drafting process suffered from lack of transparency, no clear timeline was set for the process or final proposal, trade unions were treated as observers rather than crucial stakeholders participating in true consultations, critics claimed.

The new law has been described as "anti-union" by the International Trade Union Confederation (ITUC)³⁶, stating that "The law, backed by Prime Minister Hun Sen's ruling party, 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 imposing only miniscule penalties on employers for unfair labour practices.". In November 2014 the Confederation was issuing a list of 10 main concerns on the contemporary Draft pointing out that «...there has been a complete lack of consultation with trade unions since October 2014. Unions are only now seeing a revised draft, which had been released by the media. It is our understanding, however, that employers have had consistent access and influence on the draft law all along».³⁷

ITUC was just one of many organizations reacting on the drafting process as well as the final outcome. Already in May 2015 ITUC and the global union IndustriALL wrote to the prime minister of Cambodia, urging the government to reassess a law which is "seriously regressive... far out of compliance with international norms".³⁸ In March 2016 IndustriALL reiterated its concerns in a

35 «The enabling environment for sustainable enterprises in Cambodia», ILO, 2014.
http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms_237459.pdf

36 <http://www.ituc-csi.org/cambodia-ituc-deplores-new-anti>

37 "Top Concerns with the November 2015 Trade Union Law", ITUC, 30 November 2015.

http://www.ituc-csi.org/IMG/pdf/top_10_concerns_with_the_2015_draft_of_the_cambodia_tul.pdf

38 http://www.industriall-union.org/sites/default/files/uploads/documents/Cambodia/ituc_letter_to_pm_hun_sen_trade_union_law_may_20152.pdf

letter to the PM.³⁹ The United Nations Human Rights Commission in Cambodia (OHCHR)⁴⁰ released a 32-page detailed analysis of the draft law finding key clauses (i.e. on financial reporting requirements and criteria for electing union leaders) to be in violation of existing Cambodian law, human rights norms and the ILO's conventions to which Cambodia is a signatory.⁴¹

The International Labour Organization (ILO) expressed concerns over the lack of protections afforded to workers in the law but gained much criticism for reacting late and tame.⁴²

In December 2015 and March 2016 the multistakeholder organisation Ethical Trading Initiative, in which many global brands hold membership, requested to the Ministry of Labour and Vocational Training that "... full consultation takes place with employers and trade unions with respect to the development of Cambodia's new Trade Union Law."

Some brands were also in contact with the Cambodian Government expressing their concerns on the draft Law, they said. However, the attempts to influence the authorities took place mainly in bilateral meetings and letters, hence generating little public pressure on the authorities.

In March 2016 Clean Clothes Campaign and 42 other organisations published an open letter to all brands sourcing from Cambodia to publicly support freedom of association and independent unions in the country. «We call upon the brands, representatives for H&M, Inditex, C&A, Levi Strauss, Marks & Spencer, Tchibo, Primark and other brands to widely disseminate a public support statement, for a Trade Union Law which fully complies with ILO Conventions 87 and 98 as a condition for future sourcing from the country.», the open letter said.⁴³ Their argument was that the big retailers, earning fortunes on cheap garment production in Cambodia "... should use their influence, collectively and individually, to voice their concern in public if they seriously want to see a law that respects worker's most fundamental rights."⁴⁴ A few brands, among them Tchibo⁴⁵ and H&M⁴⁶, later posted statements on their position on the draft law.

In April 2016 the Law, regulating the formation of unions, their operations and dissolution, was passed in the Parliament without any major changes⁴⁷.

There are reasons to believe that trade unions and many organisations as well as governments all over the world will follow closely the implementation of the Trade Union Law in the years to come and evaluate to what extent it will hamper trade union activities and workers' rights in Cambodia in ways that violate international standards.

Contracts

The use of fixed-duration contracts (FDCs) - as opposed to unlimited duration contracts (UDCs) – is increasing in Cambodia's garment sector. According to estimates, some 80 per cent of the country's exporting garment factories employ most of their work force on FDCs⁴⁸ that often lasts no more than three months.

39 http://www.industrial-union.org/sites/default/files/uploads/documents/2016/Cambodia/industrial_global_union_letter_to_cambodian_prime_minister_17-03-2016.pdf

40 http://cambodia.ohchr.org/~cambodiaohchr/sites/default/files/TUL_Analysis-Eng.pdf

41 <http://www.phnompenhpost.com/national/trade-union-law-passes>

42 <http://www.phnompenhpost.com/national/letter-reveals-ilos-cautious-criticisms-draft-union-law>

43 <http://www.cleanclothes.org/news/2016/03/22/open-letter-to-all-brands-sourcing-from-cambodia>

44 <http://www.phnompenhpost.com/national/workers-dark-controversial-draft-union-law>

45 <http://blog.tchibo.com/aktuell/unternehmen/cambodia-rights-for-trade-unions-need-to-be-in-line-with-international-standards/>

46 <https://about.hm.com/en/news/newsroom/news.html/en/Cambodian-Trade-Union-Law.html>

47 <http://www.reuters.com/article/us-cambodia-unions-idUSKCN0X11HX>

48 "A Short-term solution", FairAction, 2015. http://fairaction.se/wp-content/uploads/2015/09/A-Short-Term-Solution_Fair-Action.pdf

Workers employed on FDCs face a number of challenges: Many of them abstain from trade union membership and union activities in fear of not having their contract renewed. They find it hard to oppose illegal or unsustainable work practices, such as excessive overtime, sexual harassment, high production targets and deduction from wages as a disciplinary measure. Workers also run the risk of losing seniority benefits and as such extras are exclusively given to workers with more than one year of employment. Many female workers on FDCs experience loss of maternity leave benefits when the employer chooses not to renew the contract prior to delivery, only to rehire the worker once the child is born. In the absence of permanent employment workers find it hard to make plans beyond the contract period, leaving them in a highly vulnerable situation.

With the aim to reduce the use of FDCs in their supplier factories H&M in February 2015 initiated a project in which the company allegedly mapped the occurrence of FDCs and the instances of illegal use. In June last year H&M admitted that one third of their supplier factories in Cambodia employ a majority of their workers on FDCs⁴⁹. Nearly a year after there are few signs that the brand has taken sufficient steps to prevent illegal FDCs in its supply chain in Cambodia, let alone the entire use of FDCs.

H&M's code of conduct⁵⁰ as per January 2016 states the following on "Recognized Employment":
***Fundamental:** All work performed must be on the basis of recognized employment relationship established through national law and practice. Every employee shall be entitled to written contract, in their own language, that stipulates conditions for the employment. Obligations to employees, under labor or social security laws and regulations arising from the regular employment relationship, shall not be avoided through the use of labor-only contracting, fixed-term contracts or through apprenticeship schemes where there is no real intent to impart skills or provide regular employment.*

***Aspirational:** The employer takes steps beyond those required by law to limit the use of fixed-term contracts of employment. In countries where the social security system falls short – the employer provides alternative insurance for employees, including medical and retirement insurance.*

Faintings

In recent years the media, trade unions, non-governmental organisations, research institutions as well as the Cambodian authorities have highlighted the phenomenon of faintings among workers in the garment sector. Pictures of workers passed out in hospitals and health clinics have reached the public through media articles, social media and research reports. The exposure has ignited strong criticism towards factory owners, brands, the Cambodian government and other stakeholders held responsible. From 2012 there has been repeated calls from trade unions and campaign organisations on the business community to counteract further faintings but number of incidents remain high.

Cambodia's Ministry of Labour publicizes statistics on the number of fainted workers in garment factories in the country. Based on these public figures it can be assumed that on average at least five workers faint every day in Cambodia's garment factories. Lack of sufficient nutritious food, extensive work pressure due to high production targets, long hours, poor ventilation and excessive heat all contribute to sudden faintings, either by individuals or by groups of workers fainting simultaneously. The latter has been termed "mass faintings" and attracted increased attention and heated debate since the first public recordings in 2010.

The most recent public figure, from 2015, shows that at least 1806 workers fainted at work.

49 Ibid.

50

http://sustainability.hm.com/content/dam/hm/about/documents/en/CSR/Sustainability%20Commitment/Sustainability%20Commitment_en.pdf

Statistics on faintings:⁵¹

Year	Public figures on recorded faintings
2010	474
2011	1500
2012	1686
2013	823
2014	1800
2015	1806
Total 2010-2015:	7795

As can be seen in the above table numbers have been increasing, except for a drop in 2013, despite public attention to the phenomenon and attempts by the authorities, brands and trade unions to counteract further faintings.



Faintings occur at numerous Cambodian garment factories. Photo: FTUWKC

51 Source: CENTRAL, based on public figures.
For 2014: <http://www.fashiontimes.com/articles/22962/20150817/400-cambodian-garment-workers-experience-unexplained-mass-faintings-one-week.htm> For 2015: <http://www.khmertimeskh.com/news/19766/fainting-toll-nears-2-000-in-2015/>

A report from 2013, "Shop til they Drop", showed that factory workers in Cambodia consume just 1598 calories a day on average – around half the recommended amount for the physically demanding work they do. Body Mass Index (BMI) figures gathered from workers indicated that 33% of garment workers are medically underweight, and 25% seriously so, displaying figures that would be used to diagnose Anorexia in the UK.

Some Cambodian unions have initiated their own records of faintings as there are reasons to believe that not all incidents are recorded in the official register. Numbers accessible are significantly higher than the official figures: In 2011 and 2012 total trade unions in numbers were 300 and 500 higher than the official. There are no parallel statistics for recent years.

Organisations supporting workers' rights have made some basic recommendations to prevent further fainting incidents⁵²:

1. Workers must earn 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.⁵³
2. Brands should implement meal programmes with free or subsidised lunch at their suppliers in close collaboration with local NGOs.
3. Excessive overtime, lack of inadequate ventilation and other illegal compliance issues must be addressed.
4. In addition, any faintings should be reported to the Ministry of Labour for the annual publication on national figure for such incidents in the garment sector. Brands should immediately get in contact with the trade union(s) at the factory level to get their perspective on why the faintings took place and what preventive steps could be taken.



*Workers having lunch in a factory canteen.
Photo: Martin de Wals*

52 "Shop 'til they Drop. Faintings and Malnutrition in Garment Workers in Cambodia". Labour Behind the Label and Community Legal Education Center, 2013. <http://labourbehindthelabel.net/wp-content/uploads/2015/10/shoptiltheydrop.pdf>

53 "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>

H&M's Commitment

• H&M's Sustainability Commitment

H&M started to work with their Code of Conduct in 1997. The Code has been revised several times since, probably due to external pressure leading to internal policy change and external reputation management. In early 2016 the Code was replaced by the H&M "Sustainability Commitment" comprising three areas: "Healthy workplaces"⁵⁴, "Healthy ecosystems" and "Animal welfare". H&M outlines the idea behind their commitment: "We want to make sustainability an integrated part of all our global business relationships and work closely with our suppliers and business partners in order to achieve long lasting impacts across our entire value chain. Signing our Sustainability Commitment is mandatory for any supplier or business partner before entering a business relationship with H&M."⁵⁵

H&M further states that "Compliance with the law is the fundamental level for all businesses"⁵⁶ and has introduced two levels of commitment in their new code: The fundamental level "... is the basic compliance level that is expected of all business partners before doing business with H&M" whereas the aspirational level "... shows where we want to go long term, and that compliance is only the first step in creating a sustainable business. This means going beyond compliance with legal requirements and focusing on constant improvements."⁵⁷

H&M has made it a precondition for doing business that its suppliers comply with national legislation. However, our research shows that H&M has a long way to go before its suppliers can be said to comply even with this most fundamental level of compliance.

• A Fair Living Wage and the Model Factory Project

H&M's Roadmap, launched in 2013, deals with what the brand calls "a fair living wage" for garment workers: "A Fair Living Wage, covering worker's basic needs, should be paid by all our commercial goods suppliers." Further the global retailer plan is that "H&M's strategic suppliers should have pay structures in place to pay a fair living wage by 2018. By then, this will reach around 850 000 textile workers. Our strategic suppliers are currently 750 factory units producing around 60 % of our products."⁵⁸

H&M has been praised for their Roadmap and the initiative has yielded massive media coverage. Still a number of organisations and networks have been only cautiously positive, arguing that H&M has not set a clear benchmark⁵⁹ of what exactly is a minimum wage one can live on, especially given the fact that the national minimum wage in most production countries is far from one that

54 I.e. providing an income, employment enables people, their families and communities to flourish. Providing a safe and healthy workplace, guaranteeing rights at work, paying a fair living wage that meets workers' basic needs and promoting social dialogue are essentials for sustainable economic growth that creates jobs and enterprise development.

55 <http://sustainability.hm.com/en/sustainability/commitments/choose-and-reward-responsible-partners/code-of-conduct.html>

56 <http://sustainability.hm.com/en/sustainability/commitments/choose-and-reward-responsible-partners/code-of-conduct.html>

57 Ibid.

58 <http://about.hm.com/content/dam/hm/about/documents/masterlanguage/CSR/Others/HM-Roadmap-to-fair-living-wage.pdf>

59 "We do not endorse a specific definition [of a living wage], since we believe that this is for workers representative to decide, and conclusion on what specific wage level to bring to wage negotiations." in "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> p. 54

provides decent living. Also, H&M has so far presented disappointingly few concrete results that show progress towards a living wage in their supply chain, the same critics say.⁶⁰

In 2014 H&M initiated the Model Factory Project in order to "... support factory owners to develop pay structures that enable a fair living wage, ensure correct compensation and overtime within legal limits." Initially the project was seeking to implement the Fair Wage Method in H&M's Model Factories, two in Bangladesh and one in Cambodia. H&M claimed a 100% buying share at these suppliers.

On various occasions H&M has claimed it is willing to pay more for the goods so that suppliers can pay higher wages to workers. However, how these words are put into practice and to what extent the Model Factory Project, or the entire Fair Living Wage approach, have yielded substantially higher wages for increasing numbers of workers in H&M's supply chain remain unclear.

Commendably, H&M publishes a public list of the names and addresses of its supplier factories. However, despite repeated calls by organisations and journalists H&M has refused to disclose the names of the three original Model Factories. The lack of transparency makes it impossible for independent institutions to monitor progress and outcome of the Model Factory Project.

Since 2015 H&M has scaled up the implementation of the Fair Wage Method: By end of 2015 there were a total of 20 factories in Cambodia covered by the scheme. However, no public reporting of the impact on worker's wages has been put forward so far.

• Industrial Relations Project in Cambodia

Since 2014 H&M has been performing an "Industrial Relations Project" in Cambodia in cooperation with the Swedish trade union IF Metall, the Swedish International development Agency (SIDA) and ILO. The aim of the project is to strengthen the structures for industrial relations in the country and increase collective bargaining. This, according to H&M, will be achieved by educating trade unions as well as employers on the "Swedish Model" and focus on solution-oriented, fair negotiation. As per December 2015, 12 factories had been involved in the project, covering the training of 1213 trade union member and 1030 factory managers.

The outcome of the Industrial Relations project has, according to H&M "... resulted in positive changes in attitudes as well as regular meetings between management and trade unions in the participating factories in Cambodia"⁶¹. However, information on impacts such as the signing of new Collective Bargaining Agreements or (increased) use of effective dispute resolution at the factory level has not been reported by H&M.

In order to distinguish between factories in terms of ethical and environmental standards, H&M in 2014 introduced a grading system in which their suppliers are placed in one of four categories.

The H&M supplier grading system

According to H&M suppliers are graded on four levels: Platinum, gold, silver and others.

Platinum and gold suppliers:

Platinum (i.e. top ranked suppliers) and gold suppliers are the strategic partners and preferred suppliers of H&M. According to the retailer these suppliers make around 60% of the products. However, it is not clear whether the figure relates to the volume or the value of the garment produced.

These suppliers "... benefit from long-term partnerships including incentives such as joint capacity planning up to five years ahead. This allows their factories to use their capacity as efficiently as possible and gives them greater planning security.". H&M continues "... Only suppliers with the best performance in all areas, including sustainability, can become such strategic partners. And we

60 <http://www.cleanclothes.org/news/press-releases/2015/04/09/h-ms-sustainability-promises-will-not-deliver-a-living-wage>

61 <http://about.hm.com/en/news/newsroom/news.html/en/hm-fair-living-wage-strategy-update.html>

work very closely with them to together become better every day, for example through trainings, workshops or even joint investments.”⁶²

Silver suppliers:

The Silver suppliers are suppliers that H&M has “... a long-term oriented and close relations with. We provide, for example, joint capacity planning up to one year ahead. We work closely with them and evaluate and discuss their performance regularly, providing training and support for further improvements.

Other suppliers:

The category “Others” are suppliers and factories that H&M has worked with for less than one year or just have placed a test order with. Likewise, this is the category in which suppliers that H&M only uses rarely due to uncommon products.

H&M further elaborates on their home page “... Our experience shows that the sustainability performance increases with the length and intensity of our partnership.”⁶³

The research focuses on some of the H&M suppliers that are considered to be the “best in class” according to the H&M grading system.

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

63 Ibid.

The Research

Demographics

38 workers were interviewed. 37 were female. The demographics are as follows:

	Average	Number	%	Minimum	Maximum
Age	27 years			16	40
Education	Grade 6			None	Grade 12
Single		20	53%		
Married, no children		4	11%		
Married, one child		5	13%		
Married, two children		6	16%		
Married, three children		1	3%		
Divorced		1	3%		
Divorced, one child		1	3%		
Residing in area surrounding the factory		38	100%		
Rural migrant		38	100%		
Sewing section		28	74%		
Quality control (QC)		4	11%		
Embroidery section		3	8%		
Packing section		2	5%		
Ironing section		1	3%		
Seniority	5 years			0.5	18

Table 1: Demographics



Many garment workers commute daily with trucks to the factories. Photo: Sigurd Jorde, Future In Our Hands

Working conditions

FACTORY #1: Eastex Garment Co., Ltd.

Production	T-Shirt, Cardigan, Anorak, Blouse, Top, Vest & Trousers
No. of worker	3,500
Owner From	Hong Kong
Address	Phum Trapeang Po, Sangkat Chom Chao, Khan Po Senchey, Phnom Penh, Cambodia.
Status	H&M Platinum Supplier

Source: Garment Manufacturers Association in Cambodia. 64

64 http://www.gmac-cambodia.org/members/mem_detail.php?mem_id=458&&screen=0&&RowNumber=20&&Request=Eastex%20Garment%20Co.,%20Ltd.

1.1. Conditions of employment

Contracts: The 10 Eastex workers interviewed were employed under fixed duration contracts (FDC). Nine of the contracts are six-month FDCs. The last contract is a two-month FDC. Based on Article 73 of the Labour Law (1997), workers with two years' seniority have the right to be employed under contracts of unlimited duration (UDC). Looking at the seniority of workers interviewed, eight of these contracts are illegal and need to be converted to UDC.

"All work performed must be on the basis of recognized employment relationship established through national law and practice. Every employee shall be entitled to written contract, in their own language, that stipulates conditions for the employment. Obligations to employees, under labor or social security laws and regulations arising from the regular employment relationship, shall not be avoided through the use of labor-only contracting, fixed-term contracts or through apprenticeship schemes where there is no real intent to impart skills or provide regular employment."

From H&Ms Sustainability Commitment⁶⁵

Production targets: The targets vary from 2,000 pieces per line, per day (a line consists of 38 workers) to 200-300 pieces per worker, depending on products and styles. Five out of 10 workers said overtime was required to meet production targets.

If workers reach their production targets they can receive bonuses of between 13 cents - 50 cents/day. These bonuses are paid weekly and not recorded on pay slips.

Annual leave: Workers said that 18 days annual leave is provided, as required by law. If annual leave is not used it is paid out at 200%, i.e. the equivalent of 36 days per year. All workers said they rarely, if ever, use annual leave as they prefer to use payments to supplement low wages.

Maternity leave: 90 days of maternity leave was said to be provided at 50% pay, as required by law.

1.2. Working hours

Overtime: Eastex workers average 10 hours of overtime per week, which is within the legal limit. They claim that overtime is voluntary but that they rarely, if ever, refuse overtime as they need the money to supplement low wages.

Arriving late to work: Workers told that if they are more than five minutes late to work, their attendance bonus is cut by US\$2.50. Whilst this practice is not illegal, it is not an example of best practice. Best practice refers to proportional deduction of attendance bonus, daily wage or other benefits.

1.3. Freedom of association

Unions: Workers identified two unions in the factory – the Independent and Democratic Union Federation (UFID) and the Cambodian Federation Independent Trade Union (CFITU). Both of these unions are affiliated to the same pro-government confederation, the Cambodia Confederation of Trade Unions (CCTU) and are not considered independent.

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http://sustainability.hm.com/content/dam/hm/about/documents/en/CSR/Sustainability%20Commitment/Sustainability%20Commitment_en.pdf

Membership: Six out of 10 workers interviewed were union members. However, of these union members most reported they joined the union because “union fees would be deducted from their pay regardless.” This is an illegal practice based on Articles 129 and 281 of the Labor Law which states that employers are forbidden to deduct union dues from the wage of their workers and to pay the dues for them. However, the worker can authorize deductions of her wage for dues to the trade union to which she belongs. This authorization must be in writing and can be revoked at any time.

The remaining four workers were not union members and had no desire to become members as they were concerned their contracts would not be renewed.

Union discrimination: All workers said that if anyone would try to form an independent union they would be forced to resign. Half of the workers recalled specific examples of this.

“All workers, without exception or distinction, have the right to join or form a trade union of their own choosing and to bargain collectively. Workers representatives are not discriminated against and have access to carry out their representative functions in the workplace.”

From H&Ms Sustainability Commitment

1.1. Workplace environment

Toilet breaks: Workers say they are free to use the toilet without restriction.

Light & air: All Eastex workers reported excessive heat during the dry season.

Fainting: All workers reported observing fainting within the last year and estimated that on average, around three workers faint every month.

1.2. Health

Sick leave: Sick leave is not provided in accordance with the law. All workers reported that during sick leave attendance bonus is deducted by US\$2.50. Based on Arbitration Council jurisprudence⁶⁶, the employer must reduce attendance bonus in proportion to the numbers of days of sick leave taken by the workers with proper doctor certificates. Further, all workers reported that daily wage is lost during sick leave. Based on Arbitration Council jurisprudence⁶⁷, the employer must maintain wages for workers who take sick leave with doctor certificates.

“Workplace safety and the health & safety of employees must be a priority at all times and a safe and hygienic working environment shall be provided. At a minimum, this means; Compliance with applicable laws and regulations.” [...]

From H&Ms Sustainability Commitment

Drinking water: All workers have access to clean drinking water.

66 Case no. 015/16 – In Jae Garment Co., Ltd

67 Case no. 196/15 - Long Lead (Cambodia) Co., Ltd.

1.3. Monitoring/responsibility

Audits: All 10 workers reported occasional audits of the factory but were not sure where auditors came from and if buyers were involved.

Instruction: All workers reported receiving instructions from supervisors and management prior to audits. Workers say they are told not to report any grievances.

Consulting workers: Five out of 10 workers had been consulted or knew of other workers being consulted by auditors inside the factory.

Code of Conduct: The workers said they had no knowledge of any Codes of Conduct posted inside the factory.



Food market outside factories providing workers with lunch. Photo: Martin de Wals

FACTORY #2: Seduno Investment Cambo Fashion Co., Ltd.

Production	T-Shirt (Men, Women, Children)
No. of worker	537
Owner From	China (100%)
Address	Street No. 271 (Plov Sala Chom Kadong), Phum Kva, Sangkat Dangkor, Khan Dangkor, Phnom Penh, Cambodia.
Status	H&M Platinum Supplier

Source: *Garment Manufacturers Association in Cambodia*. 68

2.1. Conditions of employment

Contracts: Seven of the workers interviewed were employed under unlimited duration contracts (UDC). Of the remaining three workers, two had six month FDCs and the last worker a two-month FDC. Looking at the seniority of workers interviewed all contracts were legal contracts.

Production targets: Targets vary from 1,200 pieces per line, per day (a line consists of 30-40 workers) depending on products and styles. Nine workers said overtime was required to meet production targets. If workers reach their production targets they can receive bonuses of 50 cents cents/day. These bonuses are paid daily and not recorded on pay slips.

“All wages shall be paid on a regular basis and in full, and the particulars of the wage for a pay period must be provided in written and understandable form.”

H&Ms Sustainability Commitment

Annual leave: 18 days of annual leave is provided, as required by law. If the annual leave is not used it is compensated at 200%, i.e. the equivalent of 36 days per year. All workers said they rarely, if ever, use annual leave as they prefer to add the amount offered to increase their low wages.

Maternity leave: The interviewees said that 90 days of maternity leave is provided at 50% pay, as the law requires.

2.2. Working hours

Overtime: Workers do an average 10 hours of overtime per week, which is within the legal limit. Overtime is said to be voluntary. All Seduno workers said they rarely, or never, refuse overtime as they need the money to supplement low wages.

68 http://www.gmac-cambodia.org/members/mem_detail.php?mem_id=645&&screen=0&&RowNumber=20&&Request=Seduno%20Investment%20Cambo%20Fashion%20Co.,%20Ltd.

Arriving late to work: If Seduno workers are between 6 and 10 minutes late to work their wages are cut by US\$1.00. If workers are more than 10 minutes late their wages are cut by US\$15.00, equivalent to the total wage of almost two working days. Whilst this practice is not illegal, it is certainly not an example of best practice but rather the opposite. These are hefty deductions from an already low salary and are extreme compared to other H&M factories surveyed here, as well as prevailing industry norms in Cambodia.

"Deduction from wages as a disciplinary measure shall not be permitted."

From H&Ms Sustainability Commitment

2.3. Freedom of association

Unions: Workers identified one union in the factory – Federation Union for Cambodian Workers (FUCW). This union is affiliated to the pro-government confederation, the Cambodian National Confederation for Laborers Protection (CNCLP) and is not considered independent.

Membership: All Seduno workers interviewed were union members. However, all workers reported that union membership was mandatory, assigned to them by the factory and deductions were automatic. This is an illegal practice based on Articles 129 and 281 of the Labour Law which states that employers are forbidden to deduct union dues from the wage of their workers and to pay the dues for them. According to the Law only a worker can authorize deductions of her wage for dues to the trade union to which she belongs. This authorization must be in writing and can be revoked at any time.

Union discrimination: Six of the 10 workers said that workers trying to form an independent union face discrimination or termination. These workers recalled actual instances but also cited impended fears about termination.

2.4. Workplace environment

Toilet breaks: Eight of the workers reported they are free to use the toilet without restriction. However they complained there are not enough toilets in the factory. 2 workers reported restrictions on toilet breaks.

Light & air: All workers reported excessive heat during the dry season. One worker recalled instances where the cool wall systems had been turned on during audits.

Fainting: All workers reported observing fainting within the last year and estimated that on average, around 2 workers faint every month.

2.5. Health

Sick leave: Seduno workers claim that sick leave is available with doctor's certificate, which is in accordance with the law.

Drinking water: Half of the interviewees reported that the drinking water provided is not clean. Based on Arbitration Council jurisprudence⁶⁹, the employer must arrange sufficient clean drinking water and properly place it in a clean environment.

2.6. Monitoring/responsibility

Audits: All workers reported regular audits of the factory and half of the workers interviewed recalled instances (supervisors informed workers) that buyers were involved.

Instruction: All workers reported receiving instructions from supervisors and management prior to audits. Workers say they are told not to pass on any complaints to the auditors.

Consulting workers: Half of the workers had been consulted, or knew of other workers being consulted by auditors inside the factory.

Code of Conduct: Five workers had no knowledge of any Codes of Conduct posted inside the factory. The other five workers had seen Codes of Conduct posted on the premises.

FACTORY #3: Vanco Industrial Co., Ltd.

Production	Vest-Like Garment, Cardigan, Anorak, Blouse, T-Shirt, Trousers ,Top (Knitted Fabric)
No. of worker	1,140
Owner From	Hong Kong (100%)
Address	National Road No. 4, Phum Chork ,Khum Beik Chan, Srok Angsnourl, Kandal Province, Cambodia.
Status	H&M Platinum Supplier

Source: *Garment Manufacturers Association in Cambodia*⁷⁰

3.1. Conditions of employment

Contracts: The eight Vanco workers interviewed were employed under six-month fixed duration contracts (FDC). Looking at the seniority of workers interviewed, five of these contracts are illegal and need to be converted to unlimited duration contracts (UDC).

Production targets: Targets vary from 2,000 pieces per line, per day (a line consists of 40 workers), depending on products and styles. Seven out of eight workers said overtime was required to meet

69 Case no. 326/15 – Ren Heng Garment Co., Ltd.

70 http://www.gmac-cambodia.org/members/mem_detail.php?mem_id=391&&screen=0&&RowNumber=20&&Request=Vanco%20Industrial%20Co.,%20Ltd.

production targets. If workers reach their production targets they can receive bonuses of 12.5 cents to 25 cents day. These bonuses are paid weekly and not recorded on pay slips.

Annual leave: 18 days' annual leave is provided, as required by law. Further, if annual leave is not used by the worker it is paid out at 200%, i.e. 36 days per year. All workers interviewed said they rarely, if ever, use annual leave as they prefer to use payments to supplement low wages.

Maternity leave: 90 days of maternity leave is said to be provided at 50% pay, as required by law.

3.2. Working hours

Overtime: Workers complete an average of 10 hours of overtime per week, which is within the legal limit. They reported that overtime is voluntary. Also, in line with what appears to be practice at Eastex and Seduno, Vanco workers said they very rarely refuse overtime as they need the money to increase their low wages.

Arriving late to work: During the interviews Vanco workers reported that if they are more than five minutes late to work, their wages are cut by US\$2.50. Whilst this practice is not against the law, it is not an example of best practice and could have been abandoned or at least reduced to an acceptable level.

3.3. Freedom of association

Unions: Workers identified only one union in the factory – the Cambodian Union Federation of Workers Spirit (CUFWS). As with the union in Seduno, CUFWS union is affiliated to a pro-government confederation, the Cambodian National Confederation for Laborers Protection (CNCLP) and is not considered independent.

Membership: Two of the workers interviewed were union members. The remaining six workers were not union members and had no desire to become members. In various ways they reported that the union does not respond to their needs and expectations. As one of them expressed, "the union is not independent and does nothing to help workers".

A trade union not acting in line with the needs of their members are often rightfully suspected to have too close links with the factory management and owners. Employer control of a union is forbidden under Article 280 of the Labour Law.

Union discrimination: All the interviewees said workers trying to form an independent union are forced to resign. In addition, male workers at the factory are not considered permanent employees and are solicited through a recruitment agency. All male workers are confined to the ironing department, are strictly monitored and easily terminated, therefore it is especially hard for them to form a new union. This practice is illegal under Article 12 of the Labour Law which prohibits gender discrimination; especially gender discrimination used to limit freedom of association.

"There is no discrimination in hiring, compensation, access to training, promotion, termination or retirement on the grounds of gender or sexual orientation, race, color, age, pregnancy, marital status, religion, political opinion, nationality, ethnic origin, caste, disease or disability."

From H&Ms Sustainability Commitment

3.4. Workplace environment

Toilet breaks: Three of the Vanco workers reported they are free to use the toilet without restriction. However, the same workers complained there are not enough toilets in the factory. Five other workers reported restrictions on toilet breaks and the use of toilet cards. Based on Arbitration Council jurisprudence⁷¹ employers shall not use cards and fingerprint scanners for the workers' access to bathrooms.

"Workplace safety and the health & safety of employees must be a priority at all times and a safe and hygienic working environment shall be provided. At a minimum, this means; [...] There is access to clean drinking water and toilet facilities. Adequate ventilation and temperature is provided."

From H&Ms Sustainability Commitment

Light & air: Seven out of eight workers reported lack of ventilation and excessive heat.

Fainting: All workers reported observing fainting within the last year and estimated that on average, two to four workers faint every month.

3.5. Health

Sick leave: The Vanco workers told that paid sick leave is available with doctor's certificate but is limited to two days. The law does not require paid sick leave. However, following the policy of the Ministry of Labour⁷², employers should consider providing paid sick leave as follows:

- 100% of wages during the first month of sick leave
- 60% of wages during the second and third months, and
- Unpaid leave from the fourth until the sixth month.

Also in cases where workers can show a doctor's certificate that shows they are/have been sick their attendance bonus is still cut. The Arbitration Council has found that where employees are certified sick by an authorized and legally recognized doctor then the employer must pay the \$10 attendance bonus in proportion to the number of days worked that month.

Drinking water: Two of the workers said drinking water in the factory is not clean.

3.6. Monitoring/responsibility

Audits: Seven out of eight workers reported regular audits of the factory by the labour department, ILO and buyers.

Instruction: All Vanco workers reported receiving instructions from supervisors and management prior to audits and were allegedly told not to report any grievances.

71 Case no. 110/14 - Japan Rocks S.E.A

72 NOTICE 14/02 as well as AC Awards 26/03, 13/04 30/04, 62/04, 63/04, 42/12

Consulting workers: All interviewees had been consulted or knew of other workers being consulted by auditors inside the factory.

Code of Conduct: Workers say they have no knowledge of any Codes of Conduct posted inside the factory.



Garment workers leaving their shift. Photo: Martin de Wals

FACTORY #4: M & V International Manufacturing Ltd., main factory

Production	Sweater
No. of worker	2,108
Owner From	Hong Kong (100%)
Address	No. 1623, National road #2, Sangkat Chak Angre Krom, Khan Mean Chey, Phnom Penh, Cambodia.
Status	H&M Gold Supplier

Source: *Garment Manufacturers Association in Cambodia* 73

4.1. Conditions of employment

Contracts: All workers interviewed were employed under unlimited duration contracts (UDC) in accordance with the law.

Production targets: All workers were employed on a piece rate basis. However, a minimum wage of US\$140 is guaranteed.

Annual leave: Workers say that 18 days of annual leave is provided, as required by law.

Maternity leave: Also 90 days of maternity leave is provided at 50% pay, which is also in line with the law.

4.2. Working hours

Overtime: There is no overtime. The factory has been under partial work suspension since June 2015. Further, the factory was allegedly under full suspension from December 2015 to April 2016.

This means that many workers were left jobless or only partly engaged. Naturally, they experienced economic hardship and had serious problems to meet even the most basic expenses. According to Article 71 of the Labour Law, labour contracts can be suspended when the enterprise faces a serious economic or material difficulty or any particularly unusual difficulty, which leads to a suspension of the enterprise operation. However, this suspension shall not exceed two months and be under the control of the Labour Inspector. As per Article 72 of the same law, during a suspension beyond two months the obligation to pay workers in full remains. M&V was only paying 50% of wages during the extended suspension.

Arriving late to work: There are no penalties if workers arrive late. This is an example of industry best practice.

73 http://www.gmac-cambodia.org/members/mem_detail.php?mem_id=19&&screen=0&&RowNumber=20&&Request=M%20%26%20V%20International%20Manufacturing%20Ltd.

4.3. Freedom of association

Unions: Workers identified several unions in the factory, including the Coalition of Cambodian Apparel Workers Democratic Unions (C.CAWDU) and the Free Trade Union of Workers of Kingdom of Cambodia (FTUWKC) – both considered independent unions.

Membership: All the workers interviewed were union members in one of the unions present in the factory.

Union discrimination: There were no reports of union discrimination and unions were engaged in collective bargaining. There has been several strikes at the factory resulting in a piece rate increase.

4.4. Workplace environment

Toilet breaks: All workers reported they are free to use the toilet without restriction.

Light & air: There were no reports of lack of ventilation or excessive heat.

Fainting: All workers reported observing occasional incidents of fainting within the last year.

4.5. Health

Sick leave: The interviewees say that sick leave is available with doctor's certificate – which is in accordance with the law.

Drinking water: Allegedly, all workers have access to clean drinking water.

4.6. Monitoring/responsibility

Audits: All workers reported regular audits of the factory by the labour department, ILO and buyers.

Instruction: All workers say they receive instructions from supervisors and management prior to audits. Also M&V workers, as with workers from Eastex, Seduno and Vanco, were instructed not to report any grievances.

Consulting workers: All workers had been consulted or knew of other workers being consulted by auditors inside the factory.

Code of Conduct: All workers were aware of Codes of Conduct posted inside the factory.

	Eastex	Seduno	Vanco	M&V
Contracts	Illegal	Legal	Illegal	Legal
Production targets	Some O/T required	O/T required	O/T required	Piece rate
Annual leave	Legal	Legal	Legal	Legal
Maternity leave	Legal	Legal	Legal	Legal
Overtime (O/T)	Not exceptional	Not exceptional	Not exceptional	Work suspension
Penalty for late at work	Not best practice ⁷⁴	Not best practice	Not best practice	Best practice
Unions in the factory	Two unions, not independent	One union, not independent	One union, not independent	Several unions, some independent
Union membership	Mandatory deduction	Mandatory membership	Not independent, so lack of incentive to join union	Free to choose
Union discrimination	Discrimination	Discrimination	Serious discrimination	No
Toilet breaks	No restriction	Some restriction	Restrictions	No restriction
Light & air	Excessive heat	Excessive heat	Excessive heat	No grievances
Fainting	Some fainting	Some fainting	Some fainting	Limited fainting
Sick leave	Illegal	Legal	Limited	Legal
Drinking water	Provided	Some	Mostly	Provided
Audits	Regular	Regular	Regular	Regular
Instruction during audits	Instruction	Instruction	Instruction	Instruction
Consult workers during audits	Some	Some	Yes	Yes
Code of Conduct	No knowledge	Some knowledge	No knowledge	Yes

Table 2: Summary of Working Condition

74 Best practice refers to proportional deduction of attendance bonus, daily wage or other benefits.

Wages, Expenses, Debts and Quality of life

Wages

As table 5 indicates average total wages at the three platinum suppliers were ranging from US\$202.43 to US\$235.03. The average total wage per month was US\$218. The average total wage per month excluding overtime was US\$172,5.

Factory	Average Total Wage	Average Total Wage Before Overtime
Eastex	\$235.03	\$174.05
Seduno	\$216.49	\$167.52
Vanco	\$202.43	\$175.97
Total average	\$217.98	\$172.51

Table 5: Summary of Monthly Wages at Platinum Suppliers

Considering the monthly legal minimum wage for garment workers is only US\$140 for a standard working month of 208 hours, the total amount per month seems very high. However, it important to understand the nature of garment workers’ wages: Almost all compensation beyond the minimum wage is paid only when certain conditions are met, including working overtime on Sundays and public holidays, length of engagement, attendance bonus which “encourages” workers to attend to work every day, transport/housing allowance if appropriate and performance bonus to workers with “good attitudes and high output”.

Factory	Hours	Min Wage (\$)	O/T Hours	O/T (\$)	Sunday Hours	Sun (\$)	Public Holiday Hours	Pub Hol (\$)	Seniority (\$)	Attendance allowance (\$)	Transport/housing allowance (\$)	Health allowance (\$)	Perform Bonus (\$)	Total (\$)
Eastex	195.34	135.05	37.35	38.82	5.20	7.23	10.80	14.93	4.60	7.75	10.00	5.00	11.65	\$235.03
Seduno	196.00	137.31	40.50	40.89	0	0	6.00	8.08	2.00	14.71	9.00	0	4.50	\$216.49
Vanco	197.50	142.53	17.63	20.15	3.56	6.31	0	0	3.25	8.44	10.00	5.00	6.75	\$202.43

Table 6: Breakdown of Monthly Wages at Platinum Suppliers

Hours worked: Normal working hours should not be more than 8 hours a day, or 48 hours a week (Labour Law, Article 137). Hence, a standard working month in Cambodia is 208 hours (twenty-six days, eight hours per day). In this research average monthly hours worked ranged between 195.34 and 197.5 hours, indicating that there were some small shortages in orders at some point in all of the platinum factories.

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Minimum wage: The national minimum wage as of the 1st of January 2016 is US\$140. This amount is paid for a standard work month. Given the fact that workers did not complete full standard work months, wages were deducted accordingly. Minimum wages were paid at between \$135.05 and \$142.53. Minimum wage turned out to be slightly higher at Vanco than in Seduno and Eastex.

Overtime: According to overtime authorization letters issued by the Ministry of Labour, overtime is usually limited to 2 hours per day. Overtime is only allowed for exceptional and urgent work and must be paid at 150% of the basic minimum rate (Labour Law, Article 139). Overtime averages were between 20.15 and 40.5 hours a month. This is within the legal limits. Regular hours are paid at approximately US\$0.67. Overtime hours were paid at approximately US\$1 per hour as required by law.

Sundays: Employees must get at least one full day (24 hours) off per week. This should normally be a Sunday (Labour Law, Articles 146-148). Overtime on Sundays must be paid at 200% of the basic minimum rate. Both Eastex and Vanco workers were working Sunday hours and were paid as required by law.

Public holidays: The Ministry of Labour issues a Prakas each year setting out paid public holidays Cambodia. Employers must pay employees their normal wages for public holidays. Employers who run businesses that cannot stop operating on public holidays may as employees to work on these days. This work must be voluntary and an employer must pay employees their regular wage plus 100% for working on a public holiday. This means that they get one extra day's pay on top of their normal pay⁷⁵ Both Eastex and Seduno workers were engaged on public holidays and were paid in accordance with the law.

Total overtime: Standard overtime, Sunday work and public holiday work are all considered overtime. It is also useful to look at all of these hours collectively. Eastex for example averaged 53.35 hours of total overtime during the month. Seduno workers did slightly less at 46.5 hours and Vanco at 21.19 hours total overtime.

Seniority bonus: Workers are entitled to a seniority bonus of US\$2 per month in their second year of employment, rising to a maximum of US\$11 in their eleventh and subsequent years of employment⁷⁶. The average seniority bonuses were paid at between US\$2 and US\$4.60 per month as required by law.

Attendance bonus: Those who "work regularly on each day which must be worked in a month" must be paid a bonus of at least \$10 per month⁷⁷. Employers must pay the attendance bonus if employees take authorized leave (e.g., for annual leave or public holidays). Further, the Arbitration Council has found that when employees take sick leave approved by an authorized and legally recognized medical practitioner, the attendance bonus must be paid in proportion to the days worked. Attendance bonus paid ranged between US\$7.75 and \$14.71. Vanco's attendance bonus was the highest, offering US\$15 per month for those working without absence.

Transport bonus: If employers do not provide workers with transportation or housing, they must pay workers at least US\$7 per month as a transportation and housing allowance⁷⁸. All platinum factories were paying slightly above the law, between US\$9 and US\$10 per month.

Health bonus: In 2012, workers needed be paid a health care allowance of US\$5 per month. This allowance was paid in addition to workers' base wages⁷⁹. However, in 2013 the health allowance was incorporated into the minimum wage as part of the increase from US\$61 per month to US\$80 per month. As such there is no longer a legal responsibility to pay the health allowance. Despite this, both Eastex and Vanco continue to pay a health bonus of US\$5 per month. This is an example of best practice. Seduno does not pay a health bonus and hence fail to implement best practice.

Performance bonus: Workers are also paid performance bonuses averaging between US\$4.50 and US\$11.65. Workers explained these bonuses were paid to those with good attitudes and high output. Performance bonuses at Seduno (US\$2 – US\$7) and Vanco (US\$0 – US\$20) were smaller but more consistent and more easily obtained. Those at Eastex were much higher (US\$0 – US\$85.22) but workers said they were rarely provided the bonus, only once or twice a year.

Wages are composed of a number of items presented on the wage slip. As noted in the methodology chapter, regarding the production bonuses, which does not appear on the wage slip

75 Labour Law, Articles 161, 162 and 164, Prakas 10/99, AC Awards 14/10 (2), 57/12 (5) and Prakas 317/13

76 Notices 017/00 and 041/11 and AC Awards 89/12 and 176/12

77 Labour Law, Article 10, Notices 017/00, 745/06 and 230/12, and AC Awards 04/03, 26/03, 03/04 62/04, 63/04, 10/12, 132/12

78 Notice 230/12

79 Notice 206/11

of the four factories covered in this research, the majority of workers noted that overtime is required to meet targets and quotas are often difficult to meet. Bonuses are paid at between 13 and 50 cents per day. As production bonuses are not recorded on payslips they have not been recorded in average total wages. Workers estimate the average of these bonus payments is around US\$3.5 per month, but it should be noted these bonuses could potentially increase average total wage by US\$0 to US\$15 per month.

Wages at gold supplier M&V

Despite its grading as a Gold supplier, M&V workers were experiencing a sharp decline in wages due to an illegal work suspension⁸⁰. Average total wage decreased by almost 40% between June 2015 and January 2016 despite the US\$12 increase to the garment sector minimum wage.

Factory	Average Total Wage	Average Total Wage – Overtime
M&V (Jan -16)	\$135.94	\$135.94
M&V (Nov -15)	\$143.49	\$143.49
M&V (Jun -15)	\$219.11	\$181.20

Table 7: Summary of Wages at M&V 2015 – 2016

Investigations in mid-2015 found that average wages before overtime were considerably higher than at other H&M strategic suppliers, i.e. US\$181/month at M&V, compared with US\$148 – US\$158/month.⁸¹ Orders to the factory were plentiful but soon to decrease.

Further investigation in November 2015 showed that with standard working weeks, average wages before overtime were as high as US\$191/month at M&V. However, orders to the factory had decreased and now only 7% of the total workforce was working standard working weeks. This decreased the average wage to a meager US\$143.50/month.

Given the extent of the work suspension this has decreased even further in the first months of 2016, down to \$136 per month despite the increase to the garment sector minimum wage on \$140.

Whilst there are weaknesses with the pay structures in place at M&V, many workers at this supplier are represented by C.CAWDU, an union considered to be independent. The trade union has been negotiating to increase the piece rate resulting in higher wages before overtime. This aligned well with the objectives of H&M's Industrial Relations project as well as the Fair Living Wage project.

However, since mid-2015 M&V has gone from paying above-average wages to paying wages below the legal minimum. H&M has committed to support factory owners to develop pay structures that enable a Fair Living Wage. Better planning of orders and more stable purchasing practices are identified as one of four key elements to this. Further, social dialogue is recognized as an integral element in this process.

The current situation at M&V and the three platinum suppliers does not reflect these commitments.

80 Article 71 of the Labour Law states that “Work suspension shall not exceed two months and be under the control of the Labour Inspector. Suspensions exceeding two months must be approved by the Labour Inspector.” In this case M&V did not have permission from the Labour Inspector.

81 "Do We Buy It? A supply chain investigation into living wage commitments from M&S and H&M", Labour Behind the Label, 2016. <http://labourbehindthelabel.org/report-do-we-buy-it-a-supply-chain-investigation-into-living-wage-commitments-from-ms-and-hm/>.



Expenses

The average monthly expense of all workers interviewed for this research was US\$210 per month. The major items of expense were food (US\$61, approximately US\$2 per day) and remittance to family/childcare (US\$62 per month). On average there were two wage earners in the family, supporting three other dependents.

On average workers interviewed spent US\$61 on food for themselves and their dependants.

Photo: Martin de Wals

Item	Average expense/month (USD)	Min	Max
a. Housing	\$20	\$11	\$45
b. Food	\$61	\$20	\$100
c. Clothes	\$11	\$0	\$25
d. Transport	\$7	\$0	\$20
e. Healthcare	\$14	\$0	\$70
f. Education	\$6	\$0	\$55
g. Entertainment	\$3	\$0	\$50
h. Savings	\$11	\$0	\$100
i. Money send/given to family/relatives	\$62	\$0	\$125
Others	\$4	\$0	\$25
Debt payment	\$11	\$0	\$150
Average Total	\$210		
Total minimum/maximum spent		\$135	\$340
Average other earners	2	0	5
Average dependents	3	0	8

Table 3: Summary of expenses, all workers interviewed

12 workers experienced difficulties with all expenses, whilst rent (7 workers), remittance (7 workers) and health (5 workers) were identified as particularly difficult to manage.

Most difficult expense	Number/% of workers interviewed
All expenses	12 workers/32%
Rent	7/18%
Remittance	7/18%
Health	5/13%
Food	3/8%
School fees	2/5%
Both remittance & health	2/5%

Table 4: Summary of Most Difficult Expenses

Debt

Workers were asked about their debt situation: If they have to borrow money, if so where do they borrow the sums needed (bank, moneylender, pawn broker, neighbours, relatives), the amount of their current debt, what interest they are charged and how much they have to pay back every month.

22 out of 38 workers say they are in debt. The average amount owed was approximately US\$250 with an average interest rate of 16% per month. The average monthly loan repayment was US\$20.

The majority of indebted workers (13), were lending from micro-finance institutions whilst the other 11 workers borrowed from relatives or friends.

Living Wage

Workers estimated that on average a living wage should be US\$321 per month (i.e. a standard work month; 8 hours a day, 26 days per month).

Factory	Living Wage Estimate	Average Total Wage Before OT82	Average Total Wage as % of living wage
Eastex	\$300	\$174	58%
Seduno	\$394	\$168	43%
Vanco	\$277	\$176	64%
M&V	\$312	\$136	44%
Total average	\$321	\$164	52%

Prospects

All workers were asked "Will your life improve/remain the same/get worse due to income from your current work?" Almost all workers (37) responded they think their life will get worse due income from their current work.

Feedback on the question “Do you think you will get promoted at the factory?” shows that the workers see little hope in improving their position at the factory: Only one worker said she thought there was any possibility for promotion.

One third of workers, 13, had no idea how many more years they would continue working in the garment industry. The other 25 workers said that they foresee to stay for some years, on average two years or slightly more.

Replying to the question “If you could choose freely what would be your profession?” 17 workers could not identify their ideal job. Eight workers said they would like to be a tailor or own a dress shop, six would like to be a vendor, four would like to operate a beauty salon and three would like to be a farmer.

Ways forward

H&M have made several commitments under their various sustainability initiatives. Is it time for those commitments to become a reality, for relevant laws to be respected and for real and tangible benefits to be realized by H&M supply chain workers.

Wages

The problem: Wages are insufficient to enable a decent life for workers.

Despite H&M's commitment to the Fair Wage Method, initiated in 2013 and later rolled out to 20 strategic suppliers in Cambodia, the platinum suppliers researched are still paying wages below the industry median. Average total salary per month before overtime was US\$172.51, while including overtime compensation the amount was US\$218 at the time of the research. Still one has to take into account that almost all compensation beyond the minimum wage (US\$140) is paid only when certain conditions are met, e.g. overtime work, long-term engagement and good performance. At the gold supplier M&V wages before overtime were higher than other H&M strategic suppliers, i.e. US\$181/month, but dropped dramatically due to decreasing orders from the Autumn 2015 and onwards.

Recommendation: H&M has committed to support factory owners to develop pay structures that enable a fair living wage. Better planning of orders and more stable purchasing practices are identified as one of several elements to achieve this. H&M needs to ensure stable orders to M&V (main factory) as well as to other suppliers to secure workers a predictable, full income. So far, H&M has not indicated what it believes should constitute an absolute minimum salary - a living wage benchmark - in their Cambodian supply chain, but is strongly recommended to do so. By putting a figure on living wage, the labour cost can be calculated and embedded into pricing breakdowns which H&M in turn could use to ensure suppliers are getting a price for their products which is high enough to pay their workers a living wage. Similar commitment from other companies could open up space in wage negotiations between workers and factory owners, making a living wage more attainable.

H&M must take practical measures to ensure that freedom of association and the right to organise and collectively bargain are respected inside all workplaces in order to allow trade unions to negotiate wages at a workplace level.

If workers earn a living wage they would feel less forced to take on overtime work, they could go on annual leave instead of working on public holidays to supplement low wages.

H&M should act transparently and report on the concrete outcome of their efforts to provide a Fair Living Wage for workers and the Pilot Factory Project the company has been running in Cambodia since 2014.

Freedom of Association

The problem: Lack of independent unions at suppliers, lack of freedom of association, illegal deduction of membership fee.

Recommendation: H&M must make sure that workers at all their suppliers in Cambodia and elsewhere «... have the right to join or form a trade union of their own choosing and to bargain collectively» as stated in H&M's Sustainability Commitment and safeguarded in ILO's core conventions.

H&M should communicate explicitly to its suppliers that the brand has zero tolerance to 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*. H&M 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. Vanco factory should be a priority and H&M should immediately ensure permanent work status and end the isolation of male workers. Also, H&M must make clear it does not accept the practice whereby suppliers deduct membership fees from workers' salaries, unless this is done with workers' explicit consent. Mandatory, automatic deductions often happen to nurture «yellow» unions set up by the suppliers themselves. In all instances, H&M must make sure workers have access to safe complaints mechanisms so that they have opportunities - also in the absence of unions truly representing the workers - to voice their discontent with low wages and bad working conditions. H&M should request their suppliers to make a public notice at the factory's notice-board that workers will not experience reprisals of any kind for forming a factory-level union, becoming a union member or engaging in union activities.

H&M are called to act in a transparent way and report on the concrete outcomes of the Industrial Relations Project the company has been running in Cambodia since 2014.

Contracts

The problem: Illegal use of fixed duration contracts. There are reasons to believe that two of H&M's suppliers, both classified as platinum suppliers, are engaging workers on fixed duration contracts (duration of two to six months). This is also the case where workers have been working beyond two years. Such practice is obviously violating H&M's code of conduct regarding employment. It also shows that the management of the same factories falls short of offering *all* workers permanent employment in line with the H&M's aspirational commitments.

Recommendation: H&M should immediately and in cooperations with workers' representatives identify the prevalence of FDC - legal or illegal - at their suppliers. The brand should announce a zero tolerance policy for illegal contracts and monitor the rapid implementation of permanent contracts for workers engaged beyond two years at the same facility. Clear timelines for contract conversion need to be set and communicated to workers' representatives. Contract conversion at Eastex and Vanco factories should be a priority, and should be completed before 1 October 2016. Only by doing this H&M will get one step closer to fulfill its promise made in July 2015; to convert illegal contracts into legal ones at H&M's strategic suppliers. However, the same policy and practice should be implemented at all of H&M's suppliers as the continuation of illegal contracts is violating the Cambodian Labour Law and H&M's Sustainability Commitment. H&M should as soon as possible make the brand's aspirations a reality, namely to ensure that «... The employer takes steps beyond those required by law to limit the use of fixed-term contracts of employment.»

Deductions from wages

The problem: Unfair deductions from wages for arriving late.

Recommendation: H&M should, in line with their Sustainability Commitment, demand that standard penalties applied when workers arrive late to work are abolished with immediate effect. In other words, H&M's suppliers should be asked to follow best practice from the industry. Reactions concerning repeated, serious delays should be dealt with in discussions between the factory management and the local union.

Workplace environment

The problem: Excessive temperatures, insufficient access to toilets and clean water.

Recommendation: H&M should ensure that workers have free access to toilets, i.e. no restrictions on toilet breaks and an immediate termination of the use of toilet cards. The brand should protect the workers' right to fresh air, acceptable indoor temperature and access to clean drinking water in line with their own promises: "Workplace safety and the health & safety of employees must be a priority at all times and a safe and hygienic working environment shall be provided. At a minimum, this means; [...] There is access to clean drinking water and toilet facilities. Adequate ventilation

and temperature is provided.”

Faintings

The problem: Workers at all of the four factories researched had observed faintings within the last year, on average 2-4 incidents every month. The research material presented in this report refers to 2-4 incidents of faintings per month per factory, i.e. between approximately 70 to 140 faintings every year for the factories Seduno, Vanco and Eastex. These faintings take place in H&M's platinum and gold suppliers, assumed to be among the “best-in-class” factories.

Recommendation: In collaboration with other buyers, local NGOs and the suppliers, H&M should initiate and implement meal programmes at their factories in order to stave off malnutrition which contributes to faintings among workers. Conditions triggering faintings, such as excessive heat, long working hours and high production targets causing stress and exhaustion, must be addressed and solved in close cooperation with union representatives and the factory management. However, the most important measure counteracting the root cause of malnutrition and faintings is to ensure that workers are paid a living wage through measures recommended above.



A factory worker with stickers that say, “The buyer must provide basic wages \$177.” The sticker features the logos of major apparel brands, including H&M, Walmart, Levi’s, Gap Puma, C&A, Adidas and Zara, that outsource their production in factories in Cambodia. Photo: Licadho.

Further reading on labour issues:

In English:

Labour Behind the Label: "Do We Buy It? A supply chain investigation into living wage commitments from M&S and H&M" (2016). <http://labourbehindthelabel.org/report-do-we-buy-it-a-supply-chain-investigation-into-living-wage-commitments-from-ms-and-hm/>.

Human Rights Watch: Work Faster or Get Out. Labor Rights Abuses in Cambodia's Garment Industry (2015). <https://www.hrw.org/report/2015/03/11/work-faster-or-get-out/labor-rights-abuses-cambodias-garment-industry>.

FairAction: A Short-term solution. A study of the use of fixed-duration contracts in the Cambodian garment industry (2015).

http://fairaction.se/wp-content/uploads/2015/09/A-Short-Term-Solution_Fair-Action.pdf

Future In Our Hands & Cividep: Mind the Gap: How the global brands are not doing enough to ensure a dignified life for workers in the garment and electronics industry in India (2014)

<http://www.framtiden.no/rapporter/rapporter-2015/749-mind-the-gap-arbeidsforhold-i-kles-og-elektronikkbransjen/file.html>

Campagna Abiti Puliti: Can you earn a living wage in fashion in Italy? (2014)

<https://cleanclothes.org/resources/publications/italian-living-wage-report/view>

Labour Behind the Label and Community Legal Education Center: Shop 'til they Drop. Faintings and Malnutrition in Garment Workers in Cambodia (2013).

<http://labourbehindthelabel.net/wp-content/uploads/2015/10/shoptiltheydrop.pdf>

Clean Clothes Campaign and The Asia Floor Wage Alliance: Tailored Wages. Are the big brands paying the people who makes their clothes enough to live on? (2014)

<http://www.cleanclothes.org/livingwage/tailoredwages/tailored-wage-report-pdf>

Guiding Principles on Business and Human Rights (2011): United Nations Human Rights Office of the High Commissioner

http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf