

**House Foreign Affairs Committee
Tom Lantos Human Rights Commission****Hearing
on
Labor and Human Rights in Cambodia****September 11, 2019 – 3:00 p.m.
2200 Rayburn House Office Building****Statement of Jessica Champagne
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Thank you to each of you and to the Tom Lantos Human Rights Commission and the Congressional Cambodia Caucus for providing us with the opportunity to highlight challenges facing workers in Cambodia.

Our team at the Worker Rights Consortium conducts independent investigations into workers' rights around the world, with a focus on the garment industry.

Respect for freedom of association in Cambodia has deteriorated significantly in recent years. Workers often contact us after they have attempted to resolve workplace problems and been met with threats, retaliation, and even their employers filing criminal charges against them. The lack of protections and respect for workers' right to form and participate in independent unions means that workers have little recourse when they experience pregnancy discrimination, wage theft, and other violations of their rights.

We have identified three key obstacles to Cambodian workers exercising their associational rights:

- The 2016 Trade Union Law
- The use of short-term contracts
- The use of false criminal charges to harass and intimidate advocates and unionists

1. 2016 Trade Union Law

Although workers faced repression – sometimes including physical violence – before Cambodia passed its Trade Union Law in 2016, they were nevertheless frequently able to form independent unions and win improvements on the job.

The 2016 Trade Union Law, however, created significant new roadblocks for workers attempting to exercise their associational rights. The most important of these was that the Law significantly restricted the ability of unions that do not have “most representative status,” or MRS, to represent their members in official proceedings.

Cambodian employers often seek to prevent the formation of independent unions by creating employer-dominated unions, which do not represent workers’ interests. Employers use threats, financial inducements, retaliation, and other tactics to ensure that the employer-dominated union maintains a majority, and to prevent workers from building independent unions. This is exacerbated by onerous union registration requirements, and the government’s practice of denying union registrations based on trivial mistakes such as clerical errors.

In this context, the limitations placed on unions that do not yet have MRS mean that many workers experience retaliation for trying to form their union, and then are denied the option of having that union represent them in seeking redress. This is exacerbated by onerous union registration requirements, and the government’s practice of denying union registrations for trivial reasons such as clerical errors.

The draft revisions to the Trade Union Law that the government has circulated do not adequately address several core issues, including MRS. The internal contradictions of the draft could move Cambodia backwards, instead of forwards, in terms of the rights of workers forming independent unions.

2. Short-Term Contracts

For more than a decade, Cambodia’s garment industry has chosen to employ the majority of its workforce on short-term contracts, or “fixed-duration contracts” as they are known in Cambodia. The widespread use of FDCs presents significant challenges to addressing violations of basic rights.

More than two thirds of factories producing for export are illegally maintaining workers on short-term contracts for longer periods than allowed by the law. While most U.S.

apparel companies have adopted voluntary codes of conduct requiring compliance with the law, few brands have acted to eliminate these illegal contracts.

This is an area where international companies' actions can have an immediate impact. At one factory supplying H&M and Gap, among others, the Arbitration Council found that 408 workers were being illegally denied permanent contracts. After the WRC engaged the buyers, the factory began, for the first time, to bring the contracts in line with the law. It is time for more U.S. apparel firms to require that their suppliers end the use of illegal short-term contracts.

3. Baseless Criminal Charges

Finally, the Cambodian government has repeatedly misused its judicial system as a means to threaten and harass human rights defenders, including union leaders and worker rights advocates. Both Tola and Pa Teang can speak to their experience of facing baseless charges and threats of detention. In another key example, six of the most important union leaders in the country were placed under restrictive court supervision orders for nearly five years, despite a lack of any evidence to substantiate the charges. In 2018, they were convicted; this year, the convictions were overturned in response to international outcry.

Cambodian unions have identified more than 100 baseless criminal charges currently pending against workers and union leaders. These charges serve as a tool for the government not only to harass these individual leaders, but to create a broader chilling effect on the entire country's labor relations climate.

Conclusion

Both the U.S. government and U.S. companies producing apparel, travel goods, and other products in Cambodia have a key opportunity to press the Cambodian government to change its approach. Over the past several years, when major apparel brands and industry associations have made clear the importance of key labor rights issues, the government has shown willingness to shift its position.

We encourage both the U.S. government and U.S. brands doing business in Cambodia to encourage the Cambodian government:

- to reform the trade union law and other Cambodian labor regulations to bring them in line with core ILO conventions, including ensuring that unions that do not yet have MRS can fully represent their members,
- to end the abuse of short-term contracts, and

- to end the misuse of the judicial system to retaliate against human rights defenders, including trade unionists.

Specifically, we suggest that this Commission issue a request to the U.S. Trade Representative that USTR engage further with the Cambodian government regarding the need to fully respect freedom of association, and in particular to address these three issues.

Thank you.