

A woman with long dark hair, wearing a brown turtleneck and a black and white striped jacket, is smiling and holding a small blue card with both hands. The card has text in Khmer and English. In the background, a factory setting with sewing machines and other workers is visible. The right side of the image has a large orange and pink graphic overlay.

# SOCIAL PROTECTION

**FOR THE  
APPAREL INDUSTRY  
IN CAMBODIA:  
GAPS AND  
OPPORTUNITIES**

Sabina Lawreniuk & Veasna Nuon  
OXFAM CAMBODIA | JUNE 2021

Laudes ———  
—— Foundation



**OXFAM**

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#### **Oxfam in Cambodia**

The Point, 3F, No. 113C, Mao Tse Tung Blvd.,  
Tuol Svay Prey I, Beung Keng Kang,  
Phnom Penh, Cambodia

📞 (855) 23885 412 / (855) 23885413

✉️ [Info.Cambodia@oxfam.org](mailto:Info.Cambodia@oxfam.org)

🌐 [www.cambodia.oxfam.org](http://www.cambodia.oxfam.org)

#### **Laudes Foundation**

Freyja Moorhead, Senior Manager, External Relations

✉️ [f.moorhead@laudesfoundation.org](mailto:f.moorhead@laudesfoundation.org)

🌐 [www.laudesfoundation.org](http://www.laudesfoundation.org)

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## LIST OF ACRONYMS

ASEAN	Association of Southeast Asian Nations
BFC	Better Factories Cambodia
EBA	Everything But Arms
EII	Employment Injury Insurance
EU	European Union
FDC	Fixed Duration Contract
GMAC	Garment Manufacturers Association of Cambodia
GRET	Groupe de Recherches et d'Echanges Technologiques
IFC	International Finance Corporation
ILO	International Labour Organisation
KHR	Khmer Riel
MoC	Ministry of Commerce
MoLVT	Ministry of Labour and Vocational Training
MoP	Ministry of Planning
NSPC	National Social Protection Council
NSPPF	National Social Protection Policy Framework
NSSF	National Social Security Framework
RGC	Royal Government of Cambodia
SHI	Social Health Insurance
UDC	Unlimited Duration Contract
UK	United Kingdom
UN	United Nations
USD	United States dollar

# EXECUTIVE SUMMARY

- In recent years, Cambodia has seen significant positive progress in the development of its social protection agenda, which aims to be more inclusive and better address the needs of the most vulnerable. As the country's largest formal sector employer, the garment and footwear sector has been at the forefront of Cambodia's push to extend contributory social insurance mechanisms through the establishment and expansion of the National Social Security Fund (NSSF).
- Contributory social mechanisms, such as the NSSF, which rely on contributions from individuals and/or employers are particularly important instruments in low-income contexts, such as Cambodia, as they are more financially sustainable than tax-financed alternatives.
- The Cambodian apparel industry employs more than 800,000 workers, 90 percent of whom are women. The incomes of these workers indirectly support hundreds of thousands of family members, as well as a wide range of informal sector workers in industrial zones, including food vendors, clothes sellers, and transport operators. Employees in the sector are now entitled to a range of social security protections via the NSSF, including Employment Injury Insurance (EII) and Social Health Insurance (SHI).
- The COVID-19 pandemic has highlighted the limitations and challenges of the current national social protection system. The garment and footwear sector workforce is among the most adversely impacted by the pandemic. The collapse in retail demand in consumer markets has resulted in the cancellation of orders throughout the garment supply chain. In Cambodia, suppliers have suspended production or closed factories, putting hundreds of thousands of employees out of work on a temporary or permanent basis.
- In response to the urgent challenges posed by COVID-19, this report assesses the status of contributory social security protections for workers in the garment sector. It intends to serve as a resource for those working on improving social protection provision in pursuit of a just and sustainable recovery.

## SUMMARY OF KEY FINDINGS

### SCOPE OF EXISTING NSSF BENEFITS

- The National Social Security Fund (NSSF) is the administrative institution “at the forefront of Cambodia’s efforts to protect people of working age.”<sup>1</sup>
- Current benefits include an Employment Injury Insurance (EII) scheme, Social Health Insurance (SHI) scheme, and sickness and maternity leave entitlements, financed by employers at a rate of 4.2 percent of reported wages each month.
- However, the scope of existing benefits offered by the NSSF is still limited. There remains a substantial gap towards meeting the minimum standards established by the ILO’s Social Protection Floors Recommendation 2012 (No.202). Notable omissions include:

- The addition of the NSSF’s SHI branch moves toward guaranteeing essential health care for the garment sector workforce, however, the duration of eligibility, where rights to benefits expire three months after employer contributions cease (irrespective of contribution period) effectively withdraws treatment and care from the unemployed and retired. The ILO recommends that all in need have access to essential health care across the lifecycle, ensuing cradle to grave coverage.
- Inadequate maternity and child support leads to the attrition of women from the female-dominated labour force. Immediate family members, including children and other dependents, are not included within the scope of SHI for working parents.
- A lack of income protection and pension schemes fails to guarantee security during periods of unemployment and contributes to vulnerability in older age. Temporary unemployment support measures have been put in place during the COVID-19 pandemic. However, these provide limited support of up to US\$70 per worker per month, equivalent to a minimum of 38 percent of the 2020 legal minimum wage of US\$192 per worker per month.



### QUANTIFYING THE ACCESS GAP

- The NSSF’s continued expansion since its launch in 2007 has extended the right to social security coverage to all paid employees in Cambodia. Self-employed workers remain excluded, but a three-year pilot (2018-2021) is underway to assess their incorporation.

<sup>1</sup> ILO, 2017

- In practice, there remains a significant gap between the number of apparel sector workers eligible to register for NSSF coverage and those who are registered in practice. Accurate and reliable figures are difficult to obtain, however, a comparison of NSSF registration records and Ministry of Labour and Vocational Training (MoLVT) data suggests as many as 220,603 garment and footwear sector workers were not registered with the NSSF in 2020, representing 26.9 percent of the workforce (up from 17 percent of all workers in 2019).



## ACCESS CHALLENGES

- Employers are legally obligated to register workers and make timely and accurate contribution payments. However, limited inspection and monitoring mechanisms, and a lack of enforcement powers, lead to significant rates of non-compliance, preventing eligible workers from registering and/or accessing benefits. NSSF inspection data indicates a minimum of 14 percent of enterprises were found non-compliant in 2015.
- The NSSF provides a digital app that enables workers to monitor employer contributions, however, knowledge and use of the app among workers is low and some may only discover they have been denied cover at moments of acute need. A 2017 survey by the ILO found that 95 percent of workers were not aware of this facility.
- Levels of employer non-compliance are likely higher in second-tier sub-contracting facilities compared to first-tier export-production facilities. Better Factories Cambodia (BFC) monitors compliance in export-licensed factories and found non-compliance at 2.66 percent in 2018. By contrast, there is little regulatory oversight in sub-contracting facilities, which employ an estimated 150,000 people or 18.5 percent of the total garment sector workforce.
- Workers reported that those employed on short-term (known as Fixed Duration Contracts) or casual contracts are more likely to lack NSSF protections than workers on open-ended or permanent contracts (known as Unlimited Duration Contracts).





## COVID-19 IMPACTS

- COVID-19 is exacerbating access challenges, as ongoing order volatility forces production shutdowns at Cambodian factory sites. The government has put in place emergency measures to support workers facing periods of temporary employment suspension, jointly financing a US\$70 monthly wage subsidy with employers and suspending employer NSSF contributions from employers, whilst guarantee ongoing health and maternity care entitlements for workers. However, the wage subsidy is equivalent to only 38 percent of the statutory minimum wage, raising concerns for worker welfare. Moreover, no emergency support has been made available for workers whose contracts are permanently terminated rather than temporarily suspended by employers.
- Indicative data suggests COVID-19 is pushing workers into less secure forms of employment with fewer social security protections, including an increase in workers employed in sub-contracting facilities and short-term and casual contracts. Between 2019 and 2020, there was an estimated more than 50 percent increase in the number of garment and footwear sector workers not registered with the NSSF.



## USER AWARENESS AND SATISFACTION

- General awareness of the NSSF scheme is high among workers but detailed knowledge about entitlements is limited. A 2017 survey found that although 91 percent of workers have heard of the NSSF, only 1 percent can name all six benefits provided by its Employment Injury Insurance (EII) branch. The same study found that workers are more likely to rely on employers (82 percent) or friends (36 percent) for information about the scheme rather than the NSSF (32 percent) or unions (2 percent).
- Recent improvements are acknowledged but workers report different levels of satisfaction with elements of the registration, service, and benefit claims process:
  - Although registration is regarded as simple because it is employer-led, this can contribute to worker disenfranchisement when employers fail in their legal duties to register employees.
  - The claims process, by contrast, is worker-led but un-user-friendly. It is seen as complex and not suited to the needs of a workforce with low literacy and limited awareness of entitlements. Frequent delays in receiving reimbursement for out-of-pocket expenses mean some workers take on interim debt to meet up-front costs.

- Standards of service at health treatment facilities are widely regarded as unsatisfactory due to perceptions of discrimination against NSSF card holders relative to private patients.



## ACCOUNTABILITY MECHANISMS

- Despite widespread dissatisfaction reported by workers in this study, gendered and classed expectations placed on female workers in Cambodia constrain their ability to raise grievances with the NSSF and seek redress. Many are young women from rural areas who depend on apparel sector livelihoods to support immediate and extended families.
- Worker hesitancy to raise grievances is compounded by weak internal mechanisms to ensure accountability and transparency within the NSSF. Issues include limited internal regulation governing the complaints handling and resolution process and a lack of independent oversight.
- Trade unions offer support to workers in raising grievances and seeking redress through formal channels, including escalating complaints to the Arbitration Council or NSSF governing board. However, the availability and efficacy of union assistance is uneven, and the civil society environment in Cambodia is deteriorating. Recent legal curbs on trade union activity, including the 2016 Law on Trade Unions, limits the capacity of independent unions to protect rights and promote worker interests.



## NSSF GOVERNANCE

- While workers and their unions can in theory play a direct role in determining NSSF policy through the role of labour representatives on the NSSF governing board, in practice their voice is weak:
  - There are only two labour representatives from a total 11 board members.
  - These two labour representatives are not democratically selected but appointed by the MoLVT, limiting genuine representation.
  - The government can bypass the tripartite board in its decision-making process, leaving it open to political interference.
- There is a reported lack of transparency from the NSSF governing board and wider institution about the scheme's finances, implementation, and impacts. Limited data is published, making it difficult for external stakeholders to hold the NSSF to account.



## SOCIO-ECONOMIC OUTLOOK

- COVID-19 has shifted policy attention to the lack of social protection for workers in the garment and footwear sector in Cambodia. While this may catalyse attempts at reform, the severe negative economic impact on the NSSF, enterprises, and workers has raised concerns about the sustainability and affordability of any protection expansion. The proposed introduction of a pensions branch, which the National Social Protection Policy Framework (NSPPF) committed to in 2016, has been delayed again in response to the pandemic.
- The economic challenges resulting from COVID-19 are compounded by the recent decision by the European Union (EU) to partially withdraw trade preferences extended to Cambodia through the Everything But Arms (EBA) agreement on human rights grounds, including a specific concern for labour rights. At present, it is too early to reliably gauge the impact of EBA withdrawal as distinct from COVID-19. Between January and September 2020, the share of exports from Cambodia to the EU fell from 41 percent to 31 percent.<sup>2</sup> However, the impact of tariffs are at best inconclusive, as they have been applied only from August 2020 and the EU has been at the epicentre of the global pandemic over the same period.
- The full impacts of the EBA withdrawal may be offset by Brexit and the UK's own withdrawal from the EU. The UK is Cambodia's primary export market within the EU and it has notified the Garment Manufacturers Association of Cambodia (GMAC) that it will extend trade preferences to the same countries covered by the EU's original system of preferences, potentially compensating for some losses.<sup>3</sup>
- Since this research was conducted, there has been a more significant outbreak of COVID-19 in Cambodia, centred on the garment industry workforce. The impact of factory suspensions, quarantines, and lockdowns further exacerbate worker vulnerability and undermine prospects for a swift economy recovery.
- Based on the findings of this review of the social security system for garment workers in Cambodia, the following priority actions are recommended to industry stakeholders. Although social security remains the primary responsibility of the national government, a coordinated response is required. International partners can play a supportive role in catalysing meaningful inclusion of civil society in social protection policy development and oversight, creating a system that works for and with its beneficiaries.

<sup>2</sup> Central 2021

<sup>3</sup> Arnold, 2021

## **PRIORITIES FOR INTERVENTION**

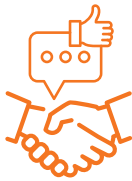
### **RECOMMENDATIONS TO GOVERNMENT**

- 1** — Establish a relationship between the NSSF and the relevant department of the Ministry of Commerce (MoC) to ensure that proof of employee registration and up-to-date contributions to the NSSF become part of the process for securing business and export licenses.
- 2** — Make the granting and renewal of export licenses by the Ministry of Commerce conditional on proving NSSF registration and up-to-date payment for all paid employees, including those in authorised sub-contracted factories.
- 3** — Increase the scope of Social Health Insurance benefits (for example, to include chronic and routine care) and improve the quality of services at health treatment facilities to deliver more attractive benefits as the NSSF expands, to ensure enrolment and sustainability.
- 4** — Build on the wage subsidy measures implemented during the pandemic to create a permanent system of unemployment protection for workers.
- 5** — Deliver existing commitments to implement a joint employer- and employee-funded pensions branch of the NSSF with mandatory enrolment of all paid employees.
- 6** — Simplify and expedite the claims process for workers to seek reimbursement for out-of-pocket expenses by engaging expertise or conducting a review of user-friendly health administration.
- 7** — Produce and disseminate clear resources to clarify social security entitlements, registration requirements, claims processes, and grievance mechanisms for trade unions and workers.
- 8** — Ensure that the NSSF establishes a transparent and independent mechanism for raising grievances, with oversight by worker representatives.
- 9** — Increase the number of labour representatives on the NSSF governing board and move to a system of democratic selection to provide greater accountability.
- 10** — Collate and publish transparent, timely, and accurate reports on NSSF revenue and expenditure to allow external stakeholders sufficient oversight to hold the Fund to account.



## RECOMMENDATIONS TO TRADE UNIONS AND CIVIL SOCIETY

- 1** — Build cross-sectoral alliances and mechanisms to share experience and resources among trade unions and civil society organisations working on social protection to strengthen advocacy efforts by developing clear demands, strategies, and campaigns for reform.
- 2** — Strengthen worker education to address gaps in knowledge and awareness and, in doing so, build demands for improvement and extension of social security.
- 3** — Carry out political and advocacy on the local, national, regional, and international level, mobilising credible proposals and wide support for the expansion of NSSF coverage and benefits including the pension scheme, social health insurance (for example, chronic and longer-term conditions, preventive healthcare and sexual and reproductive health services, expansion of coverage to dependents), unemployment scheme, and improvements to maternity protection schemes (including children care, paternity leave).



## RECOMMENDATIONS TO DONORS AND DEVELOPMENT PARTNERS

- 1** — Conduct investigations and support pilot programmes to provide evidence on how to integrate a permanent unemployment protection branch within NSSF architecture.
- 2** — Support the capacity of civil society organisations to demand and leverage improvements and extensions to social security benefits and infrastructure by advocating for the protection and promotion of civil society in Cambodia.
- 3** — Provide technical, management, and financial support to build and strengthen civil society alliances and other collective structures to catalyse engagement in social protection policy planning.

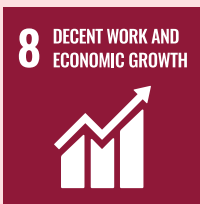


The Cambodian apparel industry employs more than 800,000 workers, 90 percent of whom are women.

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# 1

## INTRODUCTION



Social protection is a human right anchored in the Universal Declaration of Human Rights. Achieving the right to social protection is a key target of the United Nations Sustainable Development Goals (SDGs) for 2030, however there remains a significant amount of progress to be made towards achieving this target. According to the International Labour Organisation (ILO), only 45 percent of the global population is covered by at least one social benefit and only 29 percent is covered by comprehensive social security systems.<sup>4</sup>

In recent years, Cambodia has seen significant progress in the development of its social protection agenda, which aims to be more inclusive and better address the needs of the most vulnerable. In the space of a decade, the recently established National Social Security Fund (NSSF) has extended protection for employment injuries and social health insurance to paid employees nationwide. This is a considerable achievement.

Nonetheless, the COVID-19 pandemic has highlighted limitations of the current national social protection system. The garment workforce is among the most adversely impacted by the economic fallout from the pandemic. The collapse in retail demand in consumer markets has resulted in the cancellation of orders throughout the garment supply chain. In Cambodia, suppliers have suspended

<sup>4</sup> ILO 2017: xxix



production or closed factories, putting hundreds of thousands of employees out of work on a temporary or permanent basis. In the absence of existing unemployment protections, emergency measures have been needed to support workers but these remain limited and temporary solutions.

Prior to the pandemic, there were over 600,000 employees<sup>5</sup> in Cambodia's export-oriented garment industry, rising to an estimated 800,000 when including domestic sub-contracting facilities.<sup>6</sup> Most are young women from poor, rural households, working to support extended families. The COVID-19 pandemic has brought to light the lack of security for these women and their dependents, and the limitations of Cambodia's social protection

## 1.1

### OBJECTIVES



system to respond to current and future crises. This report provides an overview of contributory social security protections for workers in the Cambodian garment sector to serve as a resource for those working on improving social protection provision in recovery from the crisis. It focuses attention on the provisions contained in the NSSF, as described in Section 2, and provides an empirical analysis of the current state of social security for garment workers, addressing four main objectives:

**REVIEW VERTICAL GAPS<sup>7</sup>** in social protection provision, assessing how current benefits respond to the needs of the sector's female workers.

**REVIEW HORIZONTAL GAPS** in current social protection provision, assessing levels of access and coverage.

**REVIEW THE MAIN CHALLENGES** for workers in accessing and using the system, including accountability mechanisms for raising grievances and seeking redress.

**IDENTIFY INTERVENTION POINTS** to improve and extend social protection provision for garment workers in Cambodia.

<sup>5</sup> ILO 2018

<sup>6</sup> MoLVT 2020

<sup>7</sup> The report refers to 'vertical' coverage as the value and duration of current benefits for existing beneficiaries. By contrast, 'horizontal' coverage refers to levels of eligibility and access for those who fit programme criteria.



## 1.2

### METHODOLOGY



**16 KEY  
INFORMANT  
INTERVIEWS  
WERE  
CONDUCTED**

The research for this report included data collection with primary sources and analysis of existing secondary data.

In total, 16 key informant interviews (KIs) were conducted with a range of industry stakeholders in Phnom Penh, including four leaders of trade union federations and confederations; two private sector representatives; two government institutions; five labour and women's rights' organisations; and three technical experts from international organisations.

In addition, the research team held three focus group discussions (FGDs) with female workers to obtain first-hand perspectives on workers' experiences of the social protection system, including a group of urban workers, rural workers, and workers affected by a temporary suspension of their employment. All focus groups comprised between six and eight participants, with representation of women across the employment lifecycle, from age 26 to 60. Findings were triangulated and corroborated through a desk review of existing literature and data sets, including reports and journal articles. The majority of interviews and all FGDs were conducted in person by a team of researchers based in Phnom Penh. Two interviews were conducted remotely online. A full list of organisations consulted for KIs, as well as focus group respondents, is provided in Annex 1.

Social protection in Cambodia is a relatively new concept, as is the NSSF scheme established to provide current contributory social security to workers. Monitoring and evaluation of the scheme remains limited, resulting in a lack of official quantitative data and reviews. Where possible, researchers have attempted to provide quantitative estimates of coverage gaps by drawing on existing limited data sources and/or drawing inferences from alternative indicative data available from government and development partners. For example, data provided by the MoLVT on the size of the garment sector workforce is compared with data from the NSSF on the number of registered members to derive a baseline estimate of the 'horizontal' access gap: that is, those workers who are eligible but not registered to receive NSSF benefits.

Section 2 provides an overview of social protection goals and instruments; a review of the development of social protection in Cambodia; and an introduction to the garment sector and its workforce. Section 3 reviews the current status of social protection and is structured in three parts:

**PART ONE —** reviews outstanding vertical gaps in the social protection system, particularly towards meeting SDG commitments for a social protection floor for garment workers;

**PART TWO —** reviews horizontal gaps towards ensuring equitable access and coverage for all workers in the garment sector, including an analysis of the impacts of COVID-19;

**PART THREE —** reviews workers' knowledge and experiences of the system, identifying problems in registering for or claiming benefits and accountability mechanisms for seeking redress.

Section 4 contextualises the landscape for interventions, reviewing the impacts of current socio-economic challenges, including COVID-19 and the EU's Everything But Arms withdrawal, and ongoing NSSF governance challenges for implementing reform. Based on the findings of this report, it suggests priority areas for intervention to improve and extend social protection coverage for workers in the Cambodian garment sector.





**SUOS NGEAN, 81,**  
holding ID poor 1 card,  
Banteat Bos village,  
Preah Net district, Banteay  
Meanchey province.  
*©HelpAge Cambodia*

# 2

## BACKGROUND

### 2.1 SOCIAL PROTECTION FLOORS FOR WORKING AGE CITIZENS

Article 22 of the Universal Declaration of Human Rights states that “everyone, as a member of society, has the right to social security.” Achieving the right to social protection is a key target of the United Nations Agenda 2030, with the SDGs calling for countries to guarantee at least a basic level of social security – a “social protection floor” – for all. The ILO Social Protection Floors Recommendation 2012 (No.202) defines a social protection floor as a “nationally-defined set of basic social security guarantees, which... should ensure at a minimum that, over the lifecycle, all in need have access to essential health care and basic income security.” The Recommendation further specifies that a social protection floor should “comprise at least the following four social security guarantees, defined at the national level:

**ACCESS —**  
to SDG3 “Good Health  
and Well-being”



**BASIC INCOME —**  
security for children,  
providing access to  
nutrition, education,  
care, and any other  
necessary goods and  
services;

**BASIC INCOME —**  
security for persons  
in active age who are  
unable to earn  
sufficient income, in  
particular in cases  
of sickness, unem-  
ployment, maternity,  
and disability; and

**BASIC INCOME —**  
security for older  
persons.”

Social protection encompasses a broad range of instruments that can be deployed to work towards these guarantees, including:<sup>8</sup>

### **SOCIAL ASSISTANCE**

non-contributory transfers in cash, vouchers, or in-kind support to individuals or households in need;

### **SOCIAL INSURANCE**

contributory schemes providing compensatory support in the event of contingencies such as illness, injury, maternity/paternity, unemployment, and old age;

### **SOCIAL CARE SERVICES**

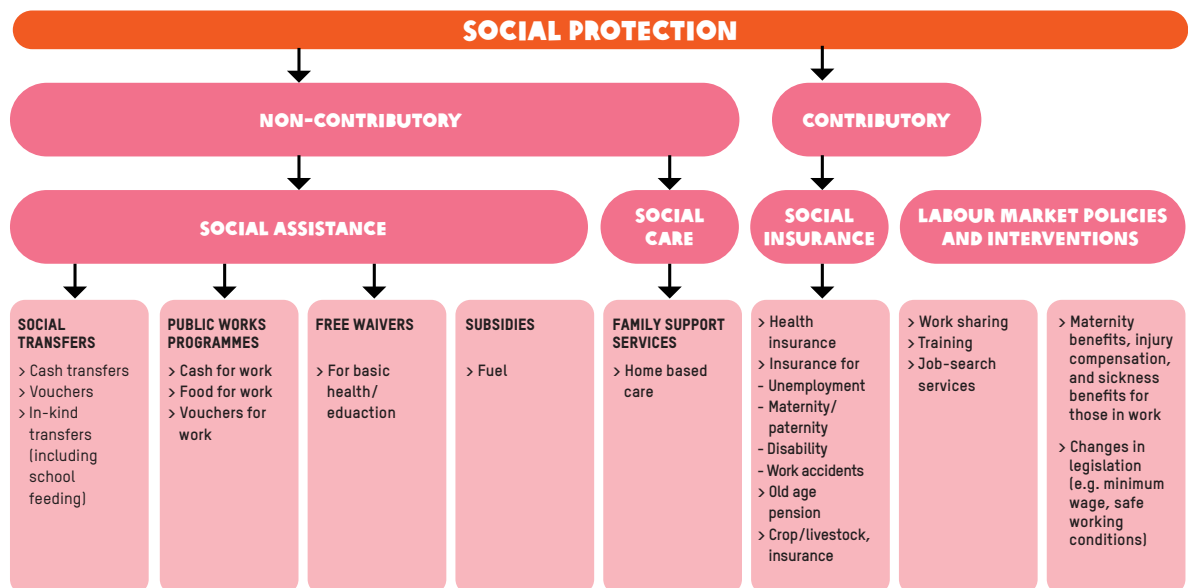
for those facing social risks such as violence, abuse, discrimination, and exclusion; and

### **LABOUR MARKET PROGRAMMES**

promoting participation (active) or setting standards (passive).

The different types of social protection are illustrated in Figure 1. Social assistance and social insurance together constitute 'social security', a term often used interchangeably with 'social protection' by ILO and other UN bodies.<sup>9</sup> However, the Royal Government of Cambodia typically uses 'social security' to refer to its contributory social insurance programmes, as distinct from its non-contributory social assistance programmes.

**FIGURE 1. TYPES OF SOCIAL PROTECTION**



<sup>8</sup> adapted from Carter et al 2019:13

<sup>9</sup> Ibid

(Source: Carter et al 2019:13.)



Ms. Im Sopheap, one of a union leaders at a garment factory in Phnom Penh. She has actively organised various activities to raise awareness about social protections amongst workers. ©Oxfam



## 2.2

### **SOCIAL PROTECTION FOR WORKING ADULTS IN CAMBODIA: THE DEVELOPMENT OF THE NATIONAL SOCIAL SECURITY FUND**

Cambodia's Constitution enshrines the right to social protection. Articles 36 and 75 of the Constitution, promulgated in 1993, entitle every Khmer citizen to obtain social security and commit the State to establishing a social security system for workers. In pursuit of these commitments, the Royal Government of Cambodia (RGC) has recently developed the National Social Protection Policy Framework 2016-2025 (NSPPF). The NSPPF establishes a long-term vision for building an effective and financially sustainable social protection system to reduce poverty, vulnerability, and inequality, while promoting human development and national economic growth. Following publication of the NSPPF, the National Social Protection Council (NSPC) was established in 2017. The NSPC is responsible for the overall coordination and development of social protection strategies and policies. It is tasked with integrating and harmonising existing social protection schemes and formulating institutional framework and governance mechanisms to ensure efficient implementation of the social protection system, providing greater coherence to a set of policies and mechanisms previously distributed across many line ministries and institutions.

Currently, the Cambodian social protection landscape encompasses two broad programmes (Figure 2), which the RGC describes as ‘social assistance’ and ‘social security’:



**SOCIAL ASSISTANCE**

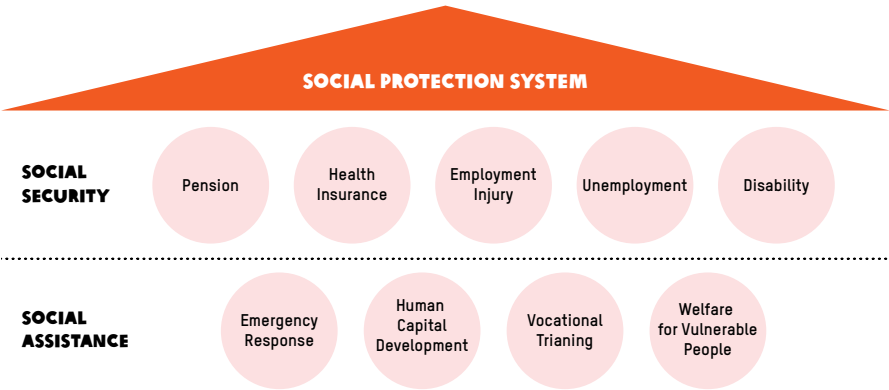
provides non-contributory cash and in-kind support to the poor and vulnerable, including a Health Equity Fund and school scholarship programme. All programmes use the Identification of Poor Households Programme (known as IDPoor), a social registry administered by the Ministry of Planning (MoP), to target assistance. Support is mostly provided on a small scale, financed from national revenues through taxation or official development assistance, and non-governmental organisations. As elsewhere in low- and middle-income countries, due to limited fiscal resources, the scheme provides protection only for “the poorest of the poor”.<sup>10</sup>



**SOCIAL SECURITY**

is a contributory system, which requires participation from employers and employees, and provides a social insurance contingency for periods of income insecurity. The social security system aims to be “self-dependent... increasingly financed by contributions and the investment return of the accumulated fund.”<sup>11</sup> This goal of self-sufficiency offers a more sustainable prospect for extending social protection beyond the poorest of the poor and has therefore become Cambodia’s most important social protection for working adults, under the auspices of the National Social Security Fund (NSSF) established in 2007.

**FIGURE 2.  
THE SOCIAL  
PROTECTION SYSTEM  
IN CAMBODIA**



<sup>10</sup> Kolesar 2020:37

<sup>11</sup> Royal Government of Cambodia, 2017

[Source: Royal Government of Cambodia, National Social Protection Framework, 2016–25].



## BOX 1 — TIMELINE OF SOCIAL SECURITY FOR THE PRIVATE SECTOR

1993 Constitution Art. 36 establishes “every Khmer citizen shall have the right to obtain social security” and Art. 75 grants “the State shall establish a social security system for workers and employees”

1997 Labour Law

2002 Law on Social Security introduces benefits for workers and establishes NSSF

2007 NSSF launched

2008 EII branch pilot in Phnom Penh, Kandal, and Kampong Speu

2009–2016 Health Insurance Project pilots SHI for garment workers in Phnom Penh, Kandal, and Kampong Speu

2010–2013 EII branch gradually extended to 25 provinces

2016 SHI branch mandatory for workers in enterprises >8 employees

2016 Social Protection Policy Framework aims for universal health and pensions coverage

2018 SHI branch mandatory for workers in enterprises >1 employee

2018 SPIN project pilots SHI for informal workers in Phnom Penh

The legislative foundation for the rights of workers, including access to social security, are found in the **Labour Law (1997)** and the Law on Social Security Schemes for Persons Defined by the Provisions of the Labour Law (2002).

The Law on Social Security (2002) stipulates the introduction of social security benefits for workers and established the NSSF as the administrative institution “at the forefront of Cambodia’s efforts to protect people of working age”.<sup>12</sup> The NSSF was formally established by sub-decree in 2007 under the authority of MoLVT and the Ministry of Economics and Finance.

### **The Law on Social Security stipulates the introduction of the following social security benefit branches of the NSSF:**

- a compensation fund for victims of employment injuries and occupational diseases;
- a pension insurance fund; and
- other benefit branches, as relevant.

The provisions were initially limited to workers covered by the Labour Law 1997, defined in practice by the MoLVT as workers in enterprises with eight or more employees. In 2017, the MoLVT extended the provisions of the Law on Social Security to workers in enterprises with one or more employee. This has extended the right to social security coverage to all paid employees in Cambodia. Self-employed workers or those in the informal economy are still excluded from coverage, although there is an ambition to include them and a pilot is underway with technical support from Groupe de Recherches et d’Échanges Technologiques [GRET], an international NGO (GRET 2019).

The development and expansion of the NSSF’s existing branches are summarised in Table 1.

<sup>12</sup> ILO 2017:11

**TABLE 1. NSSF BRANCH DEVELOPMENT AND EXPANSION**

<b>EMPLOYMENT INJURY INSURANCE BRANCH</b>	<b>SOCIAL HEALTH INSURANCE AND SICKNESS AND MATERNITY LEAVE BRANCHES</b>	<b>PROPOSED PENSION BRANCH</b>
<ul style="list-style-type: none"> <li>• The first NSSF branch to launch was the Employment Injury Insurance (EII) scheme in 2008, with ILO technical and financial support.</li> <li>• The EII branch covers “work-place accidents and work-related diseases, including road accidents during commutes between home and work” (ILO 2017:16).</li> <li>• As a pilot project, expansion was initially limited to the garment sector, concentrating on three provinces with the highest density of workers: Phnom Penh, Kampong Speu, and Kandal.</li> <li>• Between 2010 and 2013, it gradually expanded to include all 25 provinces of Cambodia.</li> <li>• The EII branch is financed through wage-based contributions paid by employers at the rate of 0.8 percent of reported wages, initially up to a ceiling of KHR 1 million per month (~US\$250) and which has subsequently risen to KHR 2 million per worker per month (~US\$500).</li> </ul>	<ul style="list-style-type: none"> <li>• The Social Health Insurance (SHI) branch of the NSSF became the second branch to launch in 2016, alongside sickness and maternity branches.</li> <li>• It was launched following a seven-year pilot of the Health Insurance Project 2009-2016 with technical support from GRET, which enrolled 7,144 workers in Phnom Penh, Kampong Speu, and Kandal on a voluntary basis.</li> <li>• From 2016, the scheme became mandatory for all workers in larger enterprises (more than eight employees) and, from 2018, for all workers including SMEs (those in enterprises with more than one employee).</li> <li>• The SHI, sickness and maternity branches are jointly financed through additional wage-based contributions. Initially, the three branches were co-financed by employers and workers at a rate of 1.6 percent of reported wages each, with a minimum contribution of KHR 2,600 (~US\$0.65) and a maximum of KHR 13,000 (~US\$3.25) per month.</li> <li>• From 2018, employers have been required to exclusively finance these schemes at a rate of 3.4 percent of reported wages each month.</li> </ul>	<ul style="list-style-type: none"> <li>• In 2017, the RGC published the National Social Protection Policy Framework (NSPPF), which targets an integrated social protection system towards the realisation of the Social Protection Floor.</li> <li>• The NSPPF covers the period from 2016 to 2025 and sets an “ambitious vision”<sup>13</sup> to harmonise and expand the country’s social protection system, coordinated at the policy level by the newly established National Social Protection Council (NSPC).</li> <li>• Among its explicit goals is the achievement of universal health coverage.</li> <li>• The NSPPF commits to assessing the possibility of operating a pension scheme for all employees covered by the Labour Law. Initial consultations suggested the scheme would be financed jointly by workers and employers, at a rate of 5-7 percent of reported wages each month. After a minimum 20 years of contributions, workers could draw a pension from the age of 63.<sup>14</sup> The scheme has missed several proposed dates for initiation, however, and its final financing mechanism is yet to be confirmed.</li> </ul>

<sup>13</sup> OECD 2017:13<sup>14</sup> Hiilamo et al. 2020:104

## 2.3

### THE GARMENT SECTOR IN CAMBODIA

Cambodia entered the export-oriented global garment and textile industry in the 1990s and the garment and footwear manufacturing industry is central to the country's socioeconomic development strategy. To foster its development, the RGC introduced a series of business-friendly benefits including tax holidays for new enterprises and tax breaks on imports. The growth of the industry was spurred through granting of preferential trade access from the US under the Generalised System of Preferences in 1997 and the EU's Everything But Arms (EBS) scheme in 2001. In 1995, Cambodia had 20 factories, generating exports worth US\$27 million.<sup>15</sup> Prior to the pandemic, there were more than 600 factories registered for export, generating a combined value of US\$8 billion annually and accounting for over 75 percent of merchandising exports.<sup>16</sup> Including sub-contracting factories, the likely number of factories nears, and may even exceed, 1,000.<sup>17</sup> The rapid growth of the industry has fed record rates of GDP growth, averaging 7.2% in the two decades to 2014.<sup>18</sup> During this period, the national poverty rate fell dramatically, from 47.8 percent in 2007 to 13.5 percent in 2014.<sup>19</sup> In 2015, Cambodia's impressive economic growth secured its elevation to lower-middle-income status.

The growth of Cambodia's garment industry has been an important contributor to expanding employment, especially for women. Prior to the pandemic, the export industry employed more than 600,000 workers.<sup>20</sup> Including sub-contracting factories, however, the likely figure neared 800,000.<sup>21</sup> Around 90 percent of workers are women (Care 2017), predominantly young women from rural areas who have few other labour market opportunities given the lack of economic diversification and limited educational backgrounds. The incomes of these workers indirectly support hundreds of thousands of family members, as well as a wide range of informal sector workers in industrial zones, including food vendors, clothes sellers, and transport operators.

<sup>15</sup> Bargawi 2005: 9

<sup>16</sup> ILO 2018

<sup>17</sup> Arnold 2021

<sup>18</sup> World Bank 2014

<sup>19</sup> World Bank 2017:12

As the country's largest formal sector employer – absorbing approximately 77 percent of all manufacturing employees or 6 percent of the total labour force<sup>22</sup> – the garment and footwear sector workforce has been a primary target and beneficiary of the NSSF since its establishment in 2007. Labour rights, conditions, and protections for workers in the sector are monitored by the ILO-IFC's Better Factories Cambodia (BFC) programme, which conducts independent inspections and assessments of garment factories to ensure compliance with labour standards. BFC has been a model for the ILO-IFC Better Work Programme that has since been extended to other garment producing countries, including Vietnam, Indonesia, Bangladesh, and Ethiopia. However, the mandate of BFC extends only to export-production factories registered with the Garment Manufacturers Association of Cambodia (GMAC). This has facilitated the rise of a substantial, much less regulated, sub-contracting sector. Despite the presence of BFC, concerns about the erosion of labour rights in Cambodia have recently been cited as a key factor in the EU's decision to partially withdraw trade preferences extended under the EBA agreement.

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<sup>20</sup> ILO 2018

<sup>21</sup> MoLVT 2020

<sup>22</sup> Nuon 2021:4





A garment worker who gave up her job after delivering her baby. She is staying with her aunt taking care of her baby and a few other nieces and nephew while her husband is working in one garment factory in Phnom Penh.

©Naratevy Kek/Oxfam

# 3

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## UNDERSTANDING THE EXISTING SOCIAL SECURITY CHALLENGES FOR GARMENT WORKERS

### 3.1

#### VERTICAL COVERAGE

##### 3.1.1. GAPS IN VERTICAL COVERAGE BASED ON THE ILO SOCIAL PROTECTION FLOORS RECOMMENDATION

Vertical coverage gaps in social protection provision are typically associated with underinvestment, particularly in Africa, Asia, and the Arab States.<sup>23</sup> In the Association of Southeast Asian Nations (ASEAN), for example, coverage and levels of protection across countries remains “unequal and insufficient” despite “a growing consensus that the progressive extension of social protection to all is a key objective in policy formulation for reducing poverty and inequalities”.<sup>24</sup> From a macroeconomic perspective, Cambodia’s public spending on social protection “remains low both by regional and international standards”.<sup>25</sup> World Bank data shows that, globally, countries spend an average of 1.5 percent of their GDP on social protection. In Cambodia, however, only 0.9 percent of the national budget is allocated to social protection.<sup>26</sup> The distribution of spending is also highly unequal, with beneficiaries of current schemes “predominantly nonpoor”.<sup>27</sup> Public servants and formal sectors workers, including garment workers, whose incomes are relatively high are among those who have access to the widest range of benefits. However, although recent gains have been made, even garment workers and other key beneficiaries in the formal sector continue to have access to only a “limited range of instruments”.<sup>28</sup>

<sup>23</sup> ILO 2017:xxix

<sup>24</sup> ILO 2018:1

<sup>25</sup> UNDP 2020:18

<sup>26</sup> Ibid

<sup>27</sup> Ibid

<sup>28</sup> OECD 2017:82



The recent expansion of the NSSF to include the SHI branch has moved garment workers closer to the achievement of the first of these social protection floor guarantees. The agreed benefits package includes “outpatient care; inpatient care; maternity-related care; child general medicine; family planning; medium surgical intervention; and transport (referral and corpse). Inclusive of: rehabilitation, daily allowance, and room with air conditioning.”<sup>29</sup> Though broad, this benefits package contains notable exclusions, particularly related to chronic conditions and diseases that require longer-term care. As technical experts explain, the exclusion of these conditions has been determined in the interests of the wider financial sustainability of the NSSF, given the high cost of treatment and care. However, they are likely to present significant out-of-pocket costs for affected workers. For female workers, addressing these outstanding concerns represents a priority to remedy gendered and intersectional health inequities since “women encounter more risk than men, particularly older women” (FGD).

“In SHI, there are a number of diseases NSSF won’t reimburse. Most of those diseases require expensive medical treatment such as cancer and such related to kidney care, blood transfusion. The kind of diseases that requires high cost treatment is the challenge.”

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#### TECHNICAL EXPERT

Moreover, the SHI currently covers individual workers and not their dependents. Where household members fall outside the scope of existing social assistance and social insurance programmes, which currently target the poorest households and formal sector workers, respectively, the financial burden can be significant in the event of a household member’s accident or ill health. As such, one union representative explained, “if their family members fall sick or have an accident, they are vulnerable to fall into poverty”. The NSPPF sets a target for universal health coverage by 2030 to meet the ambitions of the UN SDGs, which, if

implemented, should alleviate this pressure on workers’ household finances. The NSPC confirmed that “achieving universal health is our... ultimate target.” However, they also acknowledged that there are still significant steps to achieve before this goal becomes a reality, as the mechanism for expanding the scope of coverage has yet to be determined. Since 2018, the NSSF has initiated a three-year pilot scheme to provide NSSF coverage to informal sector workers, targeting tuk-tuk drivers and domestic staff.<sup>30</sup> The NSSF itself is leading the practical implementation of the project, with technical support from GRET, whose health microinsurance pilot for garment workers was developed into the current NSSF infrastructure.<sup>31</sup>

<sup>29</sup> Kolesar 2020:8

<sup>30</sup> GRET 2019

<sup>31</sup> ILO 2019



“The ILO has looked into NSSF membership. Most members are female, aged 18 to 30. There is a drop off of membership when they hit 25 and beyond. As they reach child-bearing age, the pressures of Cambodian society and family lead them to exit the garment sector. This is a much more regulated sector: there’s a minimum wage law, collective bargaining. So the ILO is looking at how social protection can be used to facilitate young mothers to stay in formal work when they are of child-bearing age... like extended maternity leave and childcare grants... For the ILO, keeping women in long-term employed would give them income and security across the lifecycle.”

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#### TECHNICAL EXPERT

Towards the second social protection floor guarantee, as the OECD reports, maternity provisions under the SHI and Labour Law offer some support to workers beyond immediate ante- and post-natal care and maternity leave.<sup>32</sup> For instance, “for the first two months after returning to work, employers should by law only expect women to perform light work, and for one year from the date of child delivery, mothers who breastfeed their children are entitled to one hour per day during working hours to do so. An enterprise employing 100 or more women must establish a day care centre within their establishment or nearby for children between the ages of 18 months and three years.” Technical experts raised concerns, however, that current provisions do not provide adequate support for working mothers and lead to low labour force retention in the garment sector. ILO research into NSSF membership has shown that the scheme has a majority membership of young women aged 18-30 but that female membership begins to decline after the age of 25. The ILO advocates targeted social protection schemes to keep women employed long term for “income and security across the lifecycle.”

Income insurance during periods of unemployment remains a notable gap for achieving the third social protection floor guarantee. Some basic income security measures for working age people have been introduced through the EII and SHI branch extension, including sickness and maternity leave, and disability allowance in the event of a workplace accident. Workers receive some protection in the form of severance pay upon termination of an employment contract. The protection offered differs according to contract type, with workers on Fixed Durations Contracts (FDCs) entitled to 5 percent of total wages over the term of the contract. For workers with Unlimited Duration Contracts (UDCs), the rules have recently changed to award a regular seniority indemnity payment instead of a lumpsum severance payment. The seniority indemnity is equal to 15 days of wages and fringe benefits, and is paid twice annually, in June and December. However, the absence of a more robust unemployment income guarantee has been brought into sharp focus during the COVID-19 pandemic, where employment in the garment sector has been profoundly affected by a global contraction in retail demand. At the peak of the pandemic, various sources estimate that between one quarter and one half of all factories suspended production, alongside temporarily suspending the employment contracts of hundreds of

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<sup>32</sup> OECD 2017:75

thousands of workers<sup>33</sup> The MoLVT has introduced a series of emergency measures, including a wage subsidy scheme, to support the livelihoods of workers in the garment sector specifically. However, the scheme is temporary and only supports workers whose employment contracts have been suspended temporarily rather than permanently terminated.

The impacts of COVID-19 on social protection in the garment sector are discussed in greater detail in section 3.2.4.

“When workers are unemployed, their NSSF ID is valid for only three months of unemployment. That is, when we stop working at a factory and we don’t have a new job, we can continue to use our NSSF ID for only three months. So, if a worker does not get a job at a new place during the three months, he or she will lose their NSSF benefits forever.”

#### UNION REPRESENTATIVE

Worker vulnerability during periods of unemployment is exacerbated by the design of the SHI branch, where contributions and entitlements are tied to periods of ongoing employment. Where contributions cease on the termination of a contract, entitlements also expire after a period of three months, unless the employee finds a new formal sector job. This occurs irrespective of the length of time a worker has made contributions to the scheme and raises the possibility that workers

who have paid into the scheme over one, five or even 10 years are left without SHI coverage following just three months of unemployment. This raises acute concerns, particularly as health problems increase with age and age discrimination is a noted feature of recruitment practices.<sup>34</sup>

Finally, income protection for those beyond working age has yet to be secured to achieve the fourth social protection floor guarantee. The Law on Social Security stipulates the introduction of a pension insurance fund and the NSSF has previously “expressed its intention to launch its Pensions branch in 2019”.<sup>35</sup> In March 2018, for example, the Prime Minister of Cambodia announced in a statement to workers that coverage would start from 2019 with the pension fixed at 80 percent of an employee’s salary, with a pensionable age of 60.<sup>36</sup> However, there have been repeated delays to the implementation of the scheme, largely in response to concerns about financial affordability for employers in anticipation of the economic impacts from the EU’s withdrawal of the EBA and, more recently, the impacts of the COVID-19 pandemic. Similar to periods of working age unemployment, worker vulnerability is exacerbated in older age by the limited scope of the SHI scheme, where workers lose entitlement to NSSF benefits from three months after contributions cease, including when they enter retirement. This leaves retired workers vulnerable during old age.

<sup>33</sup> Arnold 2021:11

<sup>34</sup> HRW 2015:69

<sup>35</sup> ILO 2017:19

<sup>36</sup> Hiilamo et al. 2020:104

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## **3.2** **HORIZONTAL** **COVERAGE**

In interviews and focus groups, stakeholders and workers raised a broad range of gaps in social protection coverage. A list of further suggestions from stakeholders and workers is available in Box 2.

### **3.2.1. NSSF ACCESS AND COVERAGE IN THE GARMENT SECTOR**

The 2002 Law on Social Security mandates employers to ensure NSSF registration and contributions for all persons covered by the Labour Law. The scope of the NSSF was initially limited to employees in formal sector enterprises, defined in practice by the MoLVT as enterprises with eight or more employees. However, since 2017, this has expanded under MoLVT notification No. 307 to include employees in informal sector enterprises, with one or more employee (ILO 2017). All workers in garment, textile, and footwear enterprises are therefore now eligible for and required to be registered to receive NSSF entitlements and benefits, including those in first-tier export production, as well as sub-contractors. Self-employed workers, however, fall outside the scope of regulations. This category likely includes home-based workers in the garment sector.

In practice, the legal requirement for universal NSSF coverage of employees in the garment sector falls short of its target, though reliable estimates of coverage gaps are difficult to obtain given the lack of available monitoring or data from official sources.

The NSSF administration publishes no official estimates of the proportion of workers that are eligible for the scheme who have been successfully registered or who otherwise remain excluded. Relevant internal data and reporting are limited to membership figures, broken down by sector.

However, the extent of NSSF coverage in the garment sector can be estimated by comparing the NSSF memberships records to MoLVT data on the total number of workers in the garment sector.

As Table 2 shows, according to employment data from the MoLVT, employment in the garment and footwear sector in 2020 stood at 820,000 workers. NSSF data records the total number of NSSF members from the garment and footwear sector at 599,397 in the same year. This suggests that 220,603 garment and footwear sector workers were not registered with the NSSF in 2020, representing 26.9 percent of the workforce. According to similar data for 2019, the quantity and proportion of unregistered workers has risen considerably year on year, from 17 percent of all workers in 2019 to 26.9 percent of all workers in 2020 (Table 2).

**TABLE 2. NSSF ACCESS AND COVERAGE IN THE GARMENT SECTOR**

<b>GARMENT, TEXTILE AND FOOTWEAR SECTOR WORKERS</b>	<b>2019</b>	<b>2020</b>	<b>% CHANGE</b>
Total – All workers (N) <sup>1</sup>	830,000	820,000	-1.2%
Total – NSSF members (n) <sup>2</sup>	689,149	599,397	-13.0%
Estimate – Non-NSSF members (n)	140,851	220,603	+56.6%
Estimate – Non-NSSF members (%)	17.0%	26.9%	n/a

[Source: 1 Ministry of Labour and Vocational Training 2020; 2 NSSF Registration and Contribution Office 2020.]

### 3.2.2. COMPLIANCE CHALLENGES

The gap between total garment workforce and NSSF membership is attributed to non-compliant enterprises. Registration of both enterprises and workers is the legal obligation of employers, who must fill an Employer Registration Form and Employee Registration Form and submit these to the NSSF within a period of 45 days from the date of liability, which corresponds to any worker's first day of work.<sup>37</sup> However, the registration of new enterprises is "not systematic", with "no automatic mechanism"

<sup>37</sup> ILO 2017

to identify new firms.<sup>38</sup> Instead, the system relies upon employers to be aware and willing to comply with regulations. Workers whose employers fail to register either the enterprise and/or individual employee cannot make contributions to the scheme or receive benefits.

Compliance monitoring is regarded as a particularly weak point in NSSF operations. NSSF inspectorates are assigned to different geographic catchment areas to identify new enterprises. The NSSF maintains that capacity is high, with “a lot of inspectors”. However, it acknowledges that coverage is limited, as “not every Khan [district] is allocated inspectors,” only those with “potential enterprise openings, especially factories”, such as Dangkao and Chhbar Ampov. The ILO notes that the current system of monitoring is “a very inefficient way of capturing new enterprises.”<sup>39</sup> Instead, the ILO has recommended that “a more efficient way for the [Registration] Division to function would be to establish a link with the relevant department of the Ministry of Commerce (MoC), which handles all new business licenses. Ideally, new businesses would not be able to obtain or renew their licenses unless they provided proof of NSSF registration and up to date contribution payments.”

“NSSF registration is not difficult. The problem is transparency in the implementation of NSSF, to push companies and firms to register. We have a list of companies that registered with the Ministry of Commerce, along with patent and tax documents. If the NSSF have a willingness to enforce compliance, those documents are very helpful.”

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#### LABOUR RIGHTS REPRESENTATIVE

As stakeholders confirmed in this research, an ongoing governance challenge for the NSSF is limited cooperation and data sharing between relevant government ministries, and such a partnership has yet to be struck. Building better cooperation is complicated by the sometimes conflicting interests of business versus labour, potentially explaining why the ILO’s recommendation remains unfulfilled.

Another compliance challenge is ensuring that mandated contributions within registered factories are accurate, regular, and timely. Previously, underreporting was regarded as a major challenge, with factories only reporting a limited number of actual employees to the NSSF in order to avoid the financial burden of contributions for the entire workforce. As one union organisation illustrated: “For example, factory A employs 5,000 workers but the factory reports only 4,000 [to the NSSF], and the remaining 1,000 are not enrolled.”

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<sup>38</sup> ILO 2017:43

<sup>39</sup> ILO 2017:43

Late, delayed, or missed contributions by employers threaten worker eligibility to receive benefits, for example, where there are statutory minimum periods of contribution required for social health entitlements to take effect. The NSSF annual report for 2015 showed that “within those enterprises selected for random general inspection, 14 percent were found to be underreporting their number of employees, 10 percent excluded allowances or overtime from the wage reported, and 6 percent declared incorrect wages.”<sup>40</sup> While it’s not clear whether the same factories were found responsible for numerous types of breaches, this provides a minimum baseline of 14 percent noncompliance for the EII branch. The 2015 report further showed that an additional 311 enterprises were inspected for suspected failure to make contributions. Of these 311 enterprises, only 12 percent went on to make payments following inspection.<sup>41</sup> In the ILO’s operational review of the EII branch, it was further noted that “the amount of contributions in arrears is increasing rapidly every year.”<sup>42</sup>

At the time of the ILO review, the NSSF had no legal powers to enforce compliance, giving enterprises little incentive to report employee numbers accurately or make contributions on time. The NSSF has since introduced a series of fines to penalise non-compliant enterprises, including a US\$100 fine per worker for nonregistration and an escalating fine starting at US\$200 for late payments. However, this relies on the capacity of NSSF inspection teams to identify cases of noncompliance, which remains a challenge. The NSSF believes its “heavy” penalties now serve as an effective deterrent and have reduced noncompliance. However, some rights organisations contend that ongoing “loose” monitoring, combined with high financial savings, mean underreporting “must be practiced by many employers”.

Other stakeholders have raised concerns about NSSF complicity in factory noncompliance. Allegations concern collections teams failing to report malpractice to supervisors, particularly where NSSF teams have built durable relationships with factories. However, the NSSF’s own description of its monitoring and compliance procedures depicts a deliberately flexible approach, designed to educate and encourage enterprises. “NSSF does not just fine any late enterprise quickly,” the administration clarified. “We look at reasons. It’s not like we set a machine for passing deadlines, and we fine every late person. It is not like that. Our measure here is gentle but firm. That is, if they are late, we guide them about what to do. If they don’t follow the guidance, then we will fine them.”

<sup>40</sup> ILO 2017:50

<sup>41</sup> ILO 2017:51

<sup>42</sup> ILO 2017:53

Limited monitoring by NSSF administrators is compounded by limited opportunities to monitor from below, through workers' own oversight of employer contributions. According to the ILO (2017:51), "an added measure of accountability that could be introduced is the requirement that employers should inform workers of the contributions made on their behalf

on a monthly basis, together with their salaries."

"[There are cases where], for example, workers are employed in a factory for one or two years, but the employers missed paying the NSSF fee. The worker may not know about this; it is the employers' obligation. Without monthly contributions, the worker's NSSF card expired. In one case, a pregnant woman held an expired NSSF card and thus could not access the hospital service. It is all the employer's mistake; they want to reduce their expenditure."

At present, workers can monitor the status of their membership and contributions through an NSSF mobile app. However, a survey of workers for the ILO's operational review of the NSSF EII branch notes that 95 percent were not aware of this facility. As described in section 3.2.1., despite efforts to boost engagement, technical experts confirmed that registration and use of NSSF digital tools remains limited. In theory, workers can also check the status of their membership and contributions by visiting a health facility. In practice, however, many "workers are fearful and have no time" to do conduct these checks routinely. As stakeholders explained, workers may be unaware that employers have lapsed contributions and may discover ineligibility to receive entitlements only at times of acute need.

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**LABOUR RIGHTS REPRESENTATIVE**

### 3.2.3. CHARACTERISTICS OF NON-COMPLIANT FIRMS AND WORKFORCE

As described, the levels and types of noncompliance across the total garment worker population are not monitored by the NSSF. The lack of information sharing between line ministries means that estimates of the types of firms and workers likely to be included or excluded from coverage are difficult to estimate or corroborate. However, stakeholders have clear ideas about the characteristics of enterprises and contracts that might make compliance more or less likely. A key distinction, for example, is drawn between first-tier suppliers and sub-contracting firms.

Among first-tier exporting factories, NSSF registration and compliance is high. For these factories, registration with GMAC and annual monitoring and reporting under Better Factories Cambodia (BFC) are a condition of their export licence. Payment of NSSF contributions is monitored by both BFC and, frequently, buyers too. In the most recent available BFC assessment data, noncompliance for NSSF payments among GMAC-registered exporting factories stood at 2.66 percent in 2018 (Table 3). This had risen slightly from 1.6 percent and 1.5 percent in 2016 and 2017, respectively. The type,

extent, and detailed reasons for noncompliance in negligent factories is not discussed. In addition to external pressure from BFC monitoring, NSSF compliance is frequently part of buyer auditing practices. As one brand representative explained, “before the factories receive the purchase order, buyers check whether working conditions are properly compliant. When they do so, they ask for information on NSSF... If [enterprises are not compliant] buyers themselves force the factories to register.”

**TABLE 3. NSSF NONCOMPLIANCE IN EXPORT-REGISTERED FACTORIES**

	<b>AR33 (2016)</b>	<b>AR34 (2017)</b>	<b>AR35 (2018)</b>
Does the employer pay the required employer contribution to the National Social Security Fund? (% noncompliant)	1.60%	1.52%	2.66%

[Source: Better Factories Cambodia Annual Report, 2018.]

Sub-contracting factories, meanwhile, sit beyond the scope of BFC assessments and brand audits, and are subject to less external pressure to fulfil NSSF registration and contribution requirements. Estimating the number of sub-contracting enterprises operating in Cambodia is difficult because of their often illegal nature. As Ath Thorn, one of the labour representatives on the NSSF governing board, explained, “sub-contractors are sometimes established to evade obligations required under the law”. However, an estimate of the number of sub-contracting factories can be made by comparing different sets of labour market data. The MoLVT, for example, provides a figure for the total number of workers employed in the garment, textile, and footwear industries in Cambodia. Ministry of Commerce (MoC) data on number of workers employed in the garment, textile, and footwear industries, by contrast, counts only those employed in export factories. Comparing the two sets of data allows for the number of workers in sub-contracting factories to be estimated (Table 4). The latest available data suggests there were approximately 150,000 workers in sub-contracting factories in 2018; around 18.5 percent of the total garment sector workforce in Cambodia.



**TABLE 3. NSSF NONCOMPLIANCE IN EXPORT-REGISTERED FACTORIES**

<b>GARMENT, TEXTILE AND FOOTWEAR SECTOR WORKERS</b>	<b>2018</b>
Total – MoLVT (includes all factories) (N)1	810,000
Total – MoC (includes export factories only) (n)2	660,327
Estimate – Subcontracting factories (n)	149,637
Estimate – Subcontracting factories (%)	18.5%

N.B. 2018 is the last year comparable data available.

(Source: 1 Ministry of Labour and Vocational Training 2020; 2 Ministry of Commerce, cited in ILO 2019.)

This estimate tallies with the overall estimate for workers in the garment sector who are unregistered with the NSSF. However, in practice, it is likely that these two populations do not overlap neatly. While there are around 600 garment enterprises registered with GMAC, there are over 1,000 garment enterprises registered with the NSSF. This suggests that some proportion of sub-contracting factories do uphold NSSF registration obligations. However, it is also feasible that data on registrations may be outdated, with enterprises that have ceased to operate or are operating under new names not removed from records. In this case, the number of enterprises actually paying into the scheme may be lower than those nominally registered.

Indeed, poor employment practices and working conditions in sub-contracting factories, including violations of NSSF regulations, are widely recognised among stakeholders and workers as an industry open secret. In one focus group, a worker said, “As I know, small factories do not register their workers with NSSF. I am not sure if the factories are a kind of sub-contractor. I just know small factories with 500 to 600 workers do not register their workers with NSSF.” Another worker elaborated, “Normally, small factories in Cambodia with 500 workers would not pay NSSF for workers. Such factories do not have unions, thus the situation in such places is hard. The factory owner would not dare to pay. They only know how to get profit. It is so hard for workers there.” Workers in sub-contracting factories are reported to “face additional barriers to unionising and filing complaints about working conditions.”<sup>43</sup> This limits their opportunity to raise grievances and seek redress.

Certain types of employment contract or relation may also render workers vulnerable to employer noncompliance. There are two principal formal employment contracts in use in the garment sector in Cambodia: Unlimited

<sup>43</sup> HRW 2015:6

Duration Contracts (UDCs), which are indefinite and have no term limit, and Fixed Duration Contracts (FDC), which are for a fixed-term of employment, typically three or six months. Legally, FDCs cannot be used to employ workers indefinitely, with a statutory two-year limit. However, BFC reports indicate an increasing trend for long-term use, finding 68 percent of factories breaching the two-year limit in the 2018 reporting period, rising from 35 percent in the 2017 reporting period.<sup>44</sup> Employers are mandated to register and pay NSSF contributions for both UDC and FDC workers but stakeholders raised concerns that some FDC workers may be less likely than UDC workers to receive all NSSF protections to which they are entitled. Union stakeholders suggested that FDCs may be used by factories to “evade their responsibilities in providing entitlements to workers”, by employing and terminating a series of employees for defined three-month periods. There are frequent reports, for example, that contract non-renewal is “is targeted at employees who form or join a union, or who exercise their right to strike.”<sup>45</sup> Moreover, “contract non-renewal may also be used as a means for the employer to avoid providing benefits such as (paid) maternity leave.”<sup>46</sup> It is difficult for workers who are targeted for contract non-renewal to seek legal redress, as securing evidence of employers’ reasons for terminating the contract is a challenge. Similar to workers at sub-contracting factories, therefore, “they are more likely to be denied benefits or face other discrimination, but have less access to reporting mechanisms and union support.”<sup>47</sup>

Other precarious forms of informal labour relations in the garment industry, such as casual forms of day waged work, are also unprotected by contract arrangements. Technical experts acknowledged the existence of “day wage workers” as “a tricky part of [NSSF] compliance” but identified the problem as less prevalent in the garment sector when compared to other industries such as construction. Without official data or reporting of casual work, it is hard to quantify the problem but it appears to remain widely known among workers. “The daily paid workers do not have employment contract,” an urban worker clarified. “These workers have a group leader. When a factory needs a labour force, they would come to fill in the gap. They are paid weekly or twice a month. So, when the factory needs labour force, they just contact the leader of daily paid workers.” These workers are reported to earn a fixed daily rate of US\$10 but “do not have NSSF”. Again, these casual workers “risk relatively easy retaliation by management through dismissal or contract non-renewal,” (HRW 2015:6) rendering them simultaneously more vulnerable to NSSF noncompliance and less able to seek redress.

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<sup>44</sup> BFC 2018

<sup>45</sup> Fair Action 2015:11

<sup>46</sup> Ibid

<sup>47</sup> HRW 2015:6

### BOX 3 — SOCIAL PROTECTION RESPONSES TO THE COVID-19 PANDEMIC

Factory owners have to submit the application form for employment contract suspension to the Labour Inspection Department for factories in Phnom Penh or Provincial Departments of Labour and Vocational Training for factories in provinces. During suspension, employers have to pay 40 percent of US\$190, which is the minimum wage for 2020 based on Instruction No. 014 dated February 28 2020. On April 7 2020, the Royal Government of Cambodia issued a press release allowing employers to pay only US\$30 per month to each suspended worker.

*(Labour Law, Art. 71; Press Release, 7 April 2020, Point 1)*

When factory owners suspend operations, they also must send a notice letter on suspension of NSSF contribution payments. During this employment contract suspension, workers/employees will continue to receive NSSF health care benefits and allowances.

*(Instruction No. 014/20, Point C)*

The employer is not obliged to pay the contribution fee to NSSF and the workers still benefit from the health insurance from NSSF. The employer can delay the payment of workers' seniority indemnity owing before 2019 and seniority indemnity in 2020 to 2021.

*(Instruction 14/20; Press Release, 7 April 2020, Point 7)*

(Source: BFC 2020)



#### 3.2.4. IMPACTS OF COVID-19 ON NSSF ACCESS AND COVERAGE

The COVID-19 pandemic continues to have a severe impact on the Cambodian garment industry. The sector has been hit by consecutive supply- and demand-side shocks. An initial wave of production disruption in January/February 2020, when the outbreak of the virus in China caused manufacturing shutdowns, resulted in shortages of raw material imports to Cambodia. Cambodia's garment industry specialises in low-value-add "cut-make-trim" production and lacks downstream capacity in textiles and raw material production. As imports recovered during the second quarter of 2020, Cambodian production suffered a second, demand-side shock, as consumer lockdowns caused reduced retail demand in major export markets, including the UK, EU, and US. Global retailers and brands have responded cancelling and reducing orders from suppliers.<sup>48</sup>

Recognising the potential impacts of reduced order volumes on employment, the RGC quickly moved to introduce a number of emergency social protection measures to support workers and enterprises in the garment sector (Box 3).

<sup>48</sup> Arnold 2021:10

New regulations allowed factories to apply to suspend employment contracts, with a portion of worker incomes protected by a wage subsidy scheme. From 28 February 2020, workers were entitled to receive 60 percent of the minimum wage (then US\$114 from US\$190 during periods of suspension, with contributions split between the employer, at 40 percent of the minimum wage, and the government, at 20 percent of the minimum wage. As the number of employment contract suspensions grew over March 2020, the government announced a revision of the wage subsidy. Since 7 April 2020, suspended workers have been entitled to a reduced payment of US\$70 per month, equivalent to 38 percent of the 2020 minimum wage, with contributions split between the employer at US\$30 and the government at US\$40. Specific measures were also introduced to protect workers' rights to NSSF benefits and entitlements during periods of employment contract suspension. Employer contributions to the NSSF scheme were waived in respect of suspended workers, on receipt of notification, while suspended workers remain entitled to continue accessing NSSF entitlements during this period. These emergency measures remain in place as of June 2021.

The exact number of workers affected by the crisis is difficult to discern. A recent review of COVID-19 impacts in the garment sector finds that "reliable and comprehensive data on the production and employment impacts in Cambodia is not as yet available, with figures varying."<sup>49</sup> The MoLVT publishes regular updates on the payment of wage subsidy allowances, which suggest that workers in 410 garment sector enterprises received allowances between May 2020 and January 2021. According to Central (2021:8), a prominent labour rights organisation which has tracked MoLVT information, payments peaked in July 2020 when more than 207,000 payments were made to individual workers. This dropped to just over 14,000 payments to individuals in January 2021. These figures relate to factories that suspended employment contracts through formal channels, only. Stakeholders reported additional instances where factories have suspended production through informal agreement with workers. Where applications and notifications of suspension are not received through the requisite channels outlined in Box 3, workers are not entitled to receive wage subsidy allowances, and if employer contributions to the NSSF cease, they lose their right to NSSF benefits.

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<sup>49</sup> Arnold 2021:11

Employment contract suspensions represent only a subsection of employment impacts. Due to continued volatile demand, some factories have permanently closed or otherwise permanently reduced their workforce through contract terminations. As previously stated, workers whose contracts are terminated, irrespective of the length of previous contributions to the scheme, lose NSSF entitlements after a transitional period of three months. MoLVT data puts the official number of factory closures across all sectors at 110 enterprises by October 2020, with 65,000 workers terminated.<sup>50</sup> In Arnold's (2021:12) review of COVID-19 impacts, Ken Loo of GMAC suggests that the number of garment factories has remained relatively stable, with an estimated 50 to 60 closures and an estimated 65 new factories opening. GMAC figures relate only to export factories, however, and do not indicate the effects on sub-contracting factories.

The NSSF membership figures for 2020 offer a more nuanced interpretation of employment impacts in the garment sector. MoLVT data suggests that total employment in the garment, textile, and footwear sector has remained relatively stable between 2019 and 2020 (Table 2). However, the total number of NSSF members in the garment sector has reduced by almost 80,000, representing a 13 percent change. If these workers have not been permanently laid off, as the MoLVT data highlighting stable overall employment figures suggests, then two things could be occurring: (1) faced with economic difficulties, noncompliance is rising as employers fail to pay NSSF contributions to save costs or smooth cashflow in light of extended payment terms by buyers; or (2) a qualitative change in employment relations is underway, where workers are being shifted out of UDC or FDC work into more casual forms of employment, typically without NSSF protections. Stakeholder interviews and worker focus groups suggest both these trends may be occurring simultaneously. Where workers have lost jobs during the pandemic, they likely encounter limited opportunities on the labour market. As such one union leader explained, "after being dismissed from work during this pandemic, workers cannot find a job. So, they become a daily paid worker for sub-contract factory". Workers in focus groups recounted being found ineligible for treatment at NSSF facilities: "during this pandemic, workers from our factory were not accepted to be treated [at the health clinic] because our employer didn't pay contributions to NSSF. When we went to the hospital, they asked us for the NSSF card. Then [after checking] they said, 'We cannot provide you the service because your employer has not paid. Please go to the market to buy medicine for self-consumption'."

<sup>50</sup> Arnold 2021:11

## 3.3 SOCIAL ACCOUNTABILITY MECHANISMS

### 3.3.1. KNOWLEDGE AND AWARENESS

Developments like the National Social Protection Council and National Social Security Fund are pioneering in Cambodia and, as such, remain young institutions. One of the persistent challenges identified for ensuring social protection access and coverage in the garment industry, and beyond, is building worker awareness of entitlements and benefits offered by these new institutions. As the ILO (2019:3) highlighted, “policymakers and administrators have focused their efforts on developing the policies and administrative aspects” since the NSSF launched in 2007. By contrast, “less efforts were dedicated to explaining the functioning and benefits of insurance to the public”. Developing the administrative functions of the service has been prioritised over communicating the service to its client base, based on the reasoning that “there is little sense in raising awareness if the system is not prepared to respond to beneficiaries’ needs.”

A 2017 survey of Cambodian workers by the ILO highlights the ongoing knowledge gaps among intended beneficiaries of the EII branch. The sample included workers from several sectors, including garments, hospitality, and transport. It found that general awareness of the scheme among workers was high, despite its relative novelty; 91 percent of respondents reported to have heard about the NSSF. Despite high levels of awareness of the scheme, few workers were familiar with the full range of entitlements and benefits offered. Only 1 percent of surveyed respondents could identify all the benefits available under the NSSF (Table 5). Most widely known were the EII’s in-kind medical treatment followed by sick leave cash payments. The least widely known were the EII’s longer-term benefits, including rehabilitation support, permanent disability allowance, and survivor benefits.

**TABLE 5. WORKERS’ KNOWLEDGE OF NSSF EII BENEFITS**

KNOWLEDGE OF NSSF EII BENEFITS	% RESPONDENTS
Have not heard of NSSF	9%
Have heard of NSSF but no idea about its benefits	14%
Knowing only 1 item	42%
Knowing 2 items	21%
Knowing 3 items	7%
Knowing 4 items	4%
Knowing 5 items	3%
Knowing 6 items	1%

(Source: ILO 2017, n=1532.)

For unions and workers' rights organisations, one of the underlying challenges is the "very technical" and "complicated to understand" regulation. The Law on Social Security promulgated in 2019, for example, was described by one rights organisation as "a new law", with "a lot of space for prakas and royal decrees," and "a lot of difficult terms". As such, they argued, "garment workers don't understand their rights to benefits and obligations". This lack of clarity not only applies to workers' understanding, but also to union leaders and rights organisations. As one explained, "Even someone like myself, I have to think even though I'm an expert in law". Another agreed, "there are lots of regulation in NSSF and changes in the regulations, even I get confused". This awareness-building challenge is exacerbated by widespread lack of financial literacy among workers. Not only are the key institutions in a young stage of development, but concepts such as social protection and social insurance, while "commonplace" (ILO 2019:3) in many country contexts, remain relatively unfamiliar in Cambodia. As one NGO informant underlined, many people, "don't really know what social insurance is. For some of them, they don't even know the principle, concept of insurance. So they don't see the benefit or see value" of services like the NSSF. Recognising these challenges, the ILO (2019:1) has partnered with the NSSF to "build a culture of social security" in Cambodia, aiming to "create awareness of social security benefits and foster a culture of participation in social protection."

This work builds on findings from the same survey that show workers have typically relied upon employers (82 percent) and friends (36 percent) for information about the NSSF, followed by the NSSF itself (22 percent). The ILO reports highlights that only 2 percent of respondents identified unions as a source of information, pointing to the possibility of a more active role for unions in disseminating information and building knowledge and awareness among members. Where knowledge and awareness among union leaders is weak, however, this requires first ensuring that labour rights organisations and unions receive adequate training and support to build sufficient expertise. As Solidarity Centre explained, a lack of clarity from above can seed misunderstanding, as, "if we are not clear, we pass on unclear information to unions, and they confuse their members."

The survey also identified workers' preferred or most effective information channels as television (74 percent), social media (69 percent) and radio (52 percent). From late 2017, the ILO and NSSF have designed and implemented a three-year Communication Strategy that has developed digital content through two primary channels including an enhanced web presence and

social media campaigns (ILO 2019). Interviews suggest ongoing limitations to the NSSF's digital outreach strategy. A technical expert outlined how the intended goals of using digital and social media to "allow garment workers to connect with social security operators" and "bring the administrators closer to members", for example, are challenged by "low registration" for the digital app, released in 2019. The digital app, called "NSSF Member", has been downloaded more than 10,000 times in the Google Play store. However, the number of active users is low, at around 3000, according to another technical source.

Rights organisations engaged in information outreach with workers and unions report that although the NSSF's new Facebook page and online app contain useful and accessible content including "short videos and photos about benefits," awareness of them is low. "Based on reflections and discussion, people don't know about these two things," Solidarity Centre explained. The app allows users to check their contribution status and identify available health facilities for treatment services. Recent media reports indicate that the NSSF is planning to augment its digital provision with a second app to facilitate faster payments of cash benefit claims, delivered in collaboration with GIZ and expected to launch in November 2021 (see also Mao 2021).

The NSSF describes a trajectory of improvement where, "in the past, it was possible that lots of workers were unaware [about their rights and entitlements]. But recently, since one or two years ago, the NSSF has been working on information dissemination almost everywhere." The team explained that working groups have been set up to deliver messaging directly to workers at factory sites, including recorded broadcasts in factory canteens and information forums at workplaces and residential areas. An acknowledged weakness, according to the NSSF, is the lack of monitoring on the impacts of this outreach. Without monitoring, concrete data and information on current levels of awareness and understanding is unavailable. "That's our weakness," the NSSF team identified, "We have not surveyed to know how many workers have not been aware of NSSF's service."

Despite these efforts, workers maintain that the knowledge gap has not yet closed. Similar to the ILO's earlier survey (2017), workers in FGDs reported general familiarity with the scheme but a lack of detailed understanding of full rights and entitlements. There is clear demand for further information. "I want to know more clearly about it [the NSSF]," one worker asserted, continuing, "we know some things [about it]. But we want to know more



“There is no difficulty in registering for NSSF. The difficulty is when we claim the benefit. At my factory, when women are delivering babies, they are supposed to get 70 percent of their salary, but the claim documentation process is too slow. They only got their claim a month after submitting the documents...”

#### URBAN WORKER

“There are very few workers that are fully aware about the NSSF! They just know that they are holding an NSSF card, but they do not know the full meaning of it. What they know is that they can use it for health check and working injuries, but they do not know the full benefit and legal process. So, the awareness level is very low. As you may know, garment worker education is also low. Hence, their understanding of the policy framework of the benefit is very limited.”

#### LABOUR RIGHTS REPRESENTATIVE

that is relevant.” In this research sample, workers suggested that face-to-face meetings that permit dialogue and engagement are the most efficient means of communicating information. “There should be meetings in person with questions and answers.” Another agreed, “I want to talk in person. It’s easy to ask questions. I can ask what I want to know.”

### 3.3.2. REGISTERING AND ACCESSING BENEFITS

As responsibility for NSSF registration sits with employers, the process is reported as straightforward for workers. “It doesn’t matter if workers are literate or illiterate,” one brand representative explained, “because processing documents is the responsibility of the factory”. Once factory staff have completed the paperwork, workers are required to present copies to NSSF to complete the registration process. An ILO survey (2017:19) indicated that, previously, companies experienced problems with workers’ lack of ID documents, but this has been circumvented by the introduction of a biometric ID system, “managed and issued internally by the NSSF”. Currently workers have to present hard copies of certification to the NSSF at site visits or branches, however, the NSPC team said this is set to change in 2022 when the NSSF undergoes digitisation. The ongoing challenge around registration therefore sits with factory compliance, as outlined in section 3.2. Where “workers don’t have access to the registration until employers fulfil their obligations,” one union

explained, the process “depends on the company. If employers don’t register them, they cannot register. That’s the big challenge”.

By contrast, responsibility for making claims rests with workers and this is one area in which stakeholders identify frequent challenges. As one urban worker put it, “there is no difficulty in registering for NSSF. The difficulty is when we claim the benefit.” Informants reported two main unsatisfactory elements of the benefit claims process. First is the complexity of the claims making system, which unlike the registration process, was described as “not employee-friendly” by a rights organisation. The claims criteria, application form, and requirements for supporting documentation, they

“The process of claiming benefits from NSSF is a bit slow. For example, it was urgent for us to go to private hospital, so we had to borrow money from others to pay for the treatment. Thus, we were desperately waiting to get money from the NSSF to pay back the debt. The claiming process took one to three months. I want NSSF to improve this.”

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#### **SUSPENDED WORKER**

specified, are all excessively “complicated”. This is compounded by often low levels of literacy and low levels of awareness and understanding about NSSF entitlements and benefits (section 3.3.1). Where “some workers face difficulty in completing the application by themselves”, they rely on support from such rights organisations and unions to make claims.

Stakeholders agreed that the complex process is a likely deterrent for workers to use the scheme. As one rights organisation explained, “Many workers are reluctant to access services because they are unclear about the process – they have to fill in many forms. Some people don’t know how to write letters or words. So it is not their preferred way to access support, even if they are eligible”. A brand representative agreed,

“They think using NSSF would require them to fill in lots of documents, which is different from using normal medical services. Thus, they hesitate to use the service of NSSF”. The ILO’s 2017 survey of workers’ experiences with the EII branch of the NSSF found that 33 percent of workers had experienced a workplace injury. However, among all cases, 54 percent were not reported to the NSSF. The employer survey in the same ILO report offers similar findings, where 40 percent of injury cases went unreported by employers, the majority of these in the garment sector. Although the most commonly cited reason for not reporting cases was lack of severe injury, at 84 percent, in 23 percent of cases employers responded that workers themselves did not want to report accidents.

The second unsatisfactory element of the benefit claims process is the delay between application submission and receipt of funds. On a positive note, the ILO survey noted that 99 percent of filed claims did receive compensation. However, many workers report that reimbursement for any out-of-pocket expenses, such as those incurred at private facilities for emergency medical treatment, and payment of cash benefits, such as maternity or sickness benefits, can take several months to receive. In the case of out-of-pocket expenditures, these can be substantial, and some workers reported they had been compelled to take on interim debt to afford up front costs.

The ILO’s operational review of the EII branch cites two primary reasons as the likely cause of payment delays. The first is slow reporting by employers. Under the EII branch, employers must report accidents within 48 hours,

however, there is no penalty for late reporting. The review found that despite the 48-hour reporting requirement, only 20 percent of accidents are reported within seven days and only a further 20 percent within two weeks. The second identified source of delays is the high rate of claims investigations by the NSSF, at 80 percent of submitted claims. The report notes that this is “time and resource consuming for the institution and leads to delays in payments.”<sup>51</sup> Given the high rate of claim approval (around 99 percent), this level of vigilance against fraudulent or erroneous claims is almost certainly unwarranted.

“There has been no specific mechanism in the social protection framework for rendering social justice in addressing the challenges for workers... We don’t want to see such an environment that only when protests, roadblocks and demonstrations happen then there will be a solution. We want to see a smooth legal framework. We don’t want to see challenges in public order. Demonstrations may cause factories to close down... We want to have a peaceful solution under the social protection framework.”

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**NGO REPRESENTATIVE**

Though workers reported that delays remain common, their experiences may be outdated. According to Ath Thorn, one of the labour representatives on the NSSF governing board, recent changes have been made to expedite the claims process, including permitting workers to report accidents directly to the NSSF, cutting employer reporting delays, and installing agents to process cash benefits such as maternity leave, cutting NSSF administrative processing delays. In addition, media report that the NSSF is launching a second digital app “to add a function for quick payment” facilitated through digital transfer with partner banks in Cambodia.<sup>52</sup>

Workers’ main grievances are with service providers and the quality of care at point of use for those seeking in-kind treatment entitlements. As one worker explained, “For me, I use the service of NSSF. The service is good.

I would rate 10 out of 10. But the problem is the medical service. When the doctors hear that we are under NSSF, they do not want to treat us.”

Worker complaints centred on the speed of service and the quality of care. In both cases, workers perceived that medical providers discriminated against NSSF card holders and other recipients of social assistance, and prioritised the treatment of cash clients. A brand representative empathised and explained, “NSSF card holders are seated separately from other patients and... they are not paid enough attention... It is unavoidable to feel discriminated against. As a result,” he warned, “they hesitate to use NSSF card”. Although the service should be free at the point of use, stakeholders report that NSSF clients are typically expected to make “side payments” to care providers to avoid perceived discrimination and delays in care.

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<sup>51</sup> ILO 2017:54

<sup>52</sup> Mao 2021

Care and service quality are, however, generally agreed to be on an improvement trajectory where, according to NGOs, “workers see that the matter has improved over the last two years compared to four or five years ago.” However, “that improvement has not reached a point acceptable to workers yet”. For its part, the NSPC acknowledges that service provision has not yet reached a satisfactory standard. However, it also cautions that improvement is beyond the capacity and remit of the NSSF and its administrators. As representatives outlined, “the perception of our people toward the hospitals, particularly the public hospitals, is still limited. Consequently, they hesitate to use the medical service at public hospitals, and they prefer private hospitals. That’s their perception... We should improve the service, but this involves working with many stakeholders, particularly the Ministry of Health”.

“What we do know, it seems like for lots of health service providers, cash [clients] go first, then NSSF, then the social equity scheme – the non-contributory scheme from the government. So if they want to be seen first, they will make a side payment. In theory, with the NSSF card, there should be no payment but in practice there’s a trend of making a payment to go ahead of the queue.”

#### TECHNICAL EXPERT

### 3.3.3. GRIEVANCE MECHANISMS

Internal mechanisms to ensure accountability within the NSSF are identified as weak. Existing channels for workers to provide feedback and raise grievances are largely limited to the NSSF’s 1286 telephone hotline, Facebook, and Telegram platforms. According to the NSSF, teams are permanently available to monitor these channels, working 24 hours each day, including public holidays. However, problems remain, including:

- Government stakeholders raised concerns about the capacity of current infrastructure. A representative noted, “There are 1.6 million members of the NSSF. On average, there are thousands of members using the service each day. Sometimes, there is no one to pick up the phone via the hotline”. They suggested enhancing the system to fulfil demand by expanding the hotline into a call centre.
- Other stakeholders raised concerns about **a lack of transparency and due process** within these internal mechanisms, arguing that there is little internal regulation to define the complaint handling process, for example, identifying where and how a case warrants investigation or facilities require inspection.

“At unionised factories, there are events to share information... They have leaders and a flow of information. At non-unionised factories, workers are like orphans. They don’t know who to contact when there are problems.”

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**NGO REPRESENTATIVE**

- As case reports are handled by the NSSF, there are also concerns about a lack of independence. Unions and rights groups suggested significant improvements are needed to ensure **accountability**, including specifying internal standards and regulation for complaint handling and investigation, as well as establishing channels for oversight of the complaints process. As one rights organisation argued, “the complaints mechanism is ineffective until there is an **independent mechanism**, integrating worker representation at the board or regulation level of the NSSF that is responsible for handling complaints”.
- Without transparent and independent mechanisms to pursue complaints, there is heightened potential for grievances to find outlet in disruptive forms of direct action such as protests or demonstrations. An NGO representative outlined these forms of action as detrimental to the industry, arguing, “we don’t want to see such atmosphere that only when protest, road blocking and demonstration happen then there will be a solution. We want to see a smooth legal framework. We don’t want to see challenges in public order. Demonstrations may cause factories to close down... So, we want to have a peaceful solution under social protection framework”.

Beyond the NSSF’s internal mechanisms, garment industry workers can find support from trade union organisations to bring grievances to the attention of factory owners or NSSF administrators. Where necessary, they can escalate complaints to worker representatives on the NSSF governing board or pursue complaints through appropriate legal channels such as the Arbitration Council.

However, the availability and efficacy of union support is uneven and often limited. Although union density is high in Cambodia’s garment sector, consistently hovering around 60 percent of garment workers – one of the highest union densities among any industry in all of Asia<sup>53</sup> – this still leaves a sizeable minority of some 40 percent of workers outside the scope of union affiliation. Where the NSSF infrastructure relies upon unions to push for effective solutions to grievances, this results in inequalities in case outcomes. For example, as one NGO representative outlined, “it is not true that union voice is available to represent all factories,” describing

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<sup>53</sup> Nuon and Serrano 2010

workers in factories without union representation as being “like orphans”. Where unionised workers “have leaders and a flow of information”, non-unionised workers have “different levels of awareness of workers’ rights... They don’t know who to contact when there are problems... [They] don’t dare to speak out at all due to lack of reliable mechanisms. Especially they dare not take risks of affecting their jobs. So, they keep matters secret”.

Even among unionised workers, however, the playing field is not level. The union movement in Cambodia is “very fractured”, as one technical expert described, cleaved into hierarchic configurations of federations, confederations and councils aligned with different political and industry actors, each of which possess “varying degrees of influence”. Alongside independent unions, which are generally regarded to operate in workers’ interests – typically estimated to constitute one-third of federations, although exhibiting much diversity even within this – there are also unions established by employers or affiliated to the ruling party, whose interests and motivations are questioned. As one rights organisation elaborated, “They are not genuine unions... They do small things but don’t solve big problems. These unions don’t function fully to represent workers. If they are independent, they can push [for change]. But most are employer or pro-government unions, so they don’t push”.

“The workers here are not so proactive or brave enough. They are fearful. They have low education levels so they get scared if they meet problems. If they have a union, they might get help. But many are young women from rural areas, so they are afraid to challenge the authorities.”

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#### **LABOUR RIGHTS REPRESENTATIVE**

This is compounded by the shrinking political space in Cambodia in recent years, where freedoms of association, expression and assembly have been threatened by state violence, including legislative efforts to impede fundamental rights. Notably, for example, this legislation includes the Law on Trade Unions (2016), which the Cambodian Center for Human Rights has evaluated as “a grave threat to the ability of unions to effectively protect and promote the labour rights of their members.”<sup>54</sup> The law has discriminated against independent unions, in particular, for example, through its introduction of minimum thresholds for strike action (achieving support of a minimum of 50 percent +1 workers in an enterprise). Independent unions more commonly struggle to meet this threshold, often possessing only minority status in factories. As such, the ability of the independent unions to lead effective challenges to ensure or improve social protection rights for workers has been considerably

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<sup>54</sup> CCHR et al. 2016:2

weakened. As a labour rights organisation said, “I suggest there could be pressure from the union but now there is pressure on the union, due to COVID-19 and crackdowns. They have filed criminal complaints against the unions so they don’t push too hard to the government to bring new benefits like unemployment benefit” .

Similarly, many CSOs and NGOs work to advance workers’ rights, for example, by providing worker education or offering legal support. However, stakeholders noted that these services are also limited by capacity constraints. As one outlined, “not all workers are aware of these systems. The scope of NGO support is limited and not nationwide, depending on available funding”. These organisations have also been recent recipients of state interference and legislative restrictions, as exemplified by the 2015 Law on Non-Governmental Organisations.

Finally, power imbalances within the garment industry, which tend to favour employers at the expense of workers, create an environment in which many workers find the prospect of raising grievances difficult or even frightening. This is compounded by Cambodia’s shrinking political space and customary hierarchic social order, which places classed and gendered expectations on the majority female workforce. As a rights organisation explained, “The workers here are not so proactive or brave enough. They are fearful. They have low education so they get scared if they meet problems. If they have a union, they might get help. But many are young women from rural areas, so they are afraid to challenge the authorities”. A rural worker provided an example where she was denied compensation from the NSSF for apparently eligible surgery but did not feel empowered to raise a complaint for fear of reprisals from her employer. “I didn’t dare to speak out for fear that I would be hated,” she described. “I didn’t dare to speak further. We must continue to work after.”





Garment workers on  
modified trailer back home  
after work during the  
COVID-19 pandemic ,  
Phnom Penh, April 2018.

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# 4

## INTERVENTION POINTS

### 4.1 SOCIO- ECONOMIC CONTEXT

The COVID-19 crisis has thrown the lack of social protection for garment sector workers into sharp relief. It may yet prove a catalyst for social protection reform, given that “development partners, CSOs, and the government now acknowledge the weakness of our current social safety net” as one rights organisation asserted. Moreover, the rapid innovation and implementation of the wage subsidy scheme for suspended workers – an “exceptional achievement” (Central 2021:10) for a country with fledgling social security infrastructure – has evidenced that “Cambodia has the capacity to implement large scale social assistance programmes.”<sup>55</sup> There is an undercurrent of optimism among stakeholders that knowledge and experiences gained might inform and support the expansion and strengthening of social protection in Cambodia.

Despite providing purpose and building expertise, the economic impacts of the COVID-19 pandemic have nonetheless constrained the potential for reform, raising questions about the sustainability and affordability of any NSSF expansion. Foremost, according to the NSSF, the effects of employment disruption have had a “major impact” on the NSSF’s revenues. The RGC’s waiver of employer contributions to the NSSF scheme for suspended workers, for example, has protected workers’ right to coverage. However, it has cut NSSF income while demanding ongoing expenditure, creating a significant net deficit in scheme finances. The reduction of NSSF membership (Table 2) also reduces the overall financial sustainability of the scheme.

<sup>55</sup> Central 2021:10

The wider context of economic uncertainty generated by the pandemic has fed concerns about the financial affordability of any imminent expansion of social protection provision, both for employers and employees. According to a recent review of COVID-19 impacts in the sector, GMAC data suggests exports are down 9 percent year on year from 2019 to 2020.<sup>56</sup> The downturn has already caused further delay to the planned pension scheme for workers first mooted in the publication of the NSPPF in 2016. As the NSPC explained, “this pension scheme requires both employee and employer to contribute. Can they handle the contributions while COVID-19 strikes?... Our objective is to implement this year. It’s just that we don’t know when exactly. Hopefully nothing further strikes hard this year. If the situation is stable like this, we may be able to implement the scheme this year. However, if community outbreak is up again, we don’t know.” The resurgence of COVID-19 cases in Cambodia since the research for this report was conducted may have tempered these ambitions. Ongoing outbreaks have been concentrated in the garment sector (Khoun 2021), provoking a new wave of production suspensions. Some NGO stakeholders were concerned that, based on early responses to the pandemic in 2020, continued outbreaks may shift funding and attention “to preventing and combatting COVID-19”, thereby “slow[ing] down development activities because they are no longer a priority”.

As Central further observes, “COVID-19 could not have come at a worse time for the Cambodian economy”,<sup>57</sup> arriving coincidentally with the European Commission’s decision to withdraw 20 percent of Cambodia’s tariff-free access to the European market for selected garment and footwear products. The EBA withdrawal was formally approved on 12 February 2020 and came into effect on 12 August 2020. As Cambodia’s largest trading partner, absorbing almost 50 percent of garment exports, the impact of the withdrawal on the garment industry has been watched with interest. However, the impacts of the EBA withdrawal are difficult to disentangle from the broader effects of the pandemic. According to Central, “from January to September 2020, exports of [garments, footwear and travel goods] to the European market had dropped by more than 36 percent, or just over [US]\$1 billion.” Over the same period, the proportion of goods being exported to Europe relative to other markets reduced from 41 percent to 31 percent.<sup>58</sup> However, given the concentration of the pandemic’s health and economic impacts in Europe, it may be too soon to parse the root cause of this decline. Moreover, the impacts of EBA withdrawal may be cushioned by the UK’s own withdrawal from the EU. The UK is Cambodia’s primary market within the EU and has notified GMAC that it will extend trade preferences to the same countries as the EU GSP, compensating for some loss.<sup>59</sup>

<sup>56</sup> Arnold 2021:12

<sup>57</sup> Central 2021: xiii

<sup>58</sup> Central 2021:8

<sup>59</sup> Arnold 2021:17

## 4.2 GOVERNANCE CHALLENGES

In theory, workers and their unions possess the capacity to direct policy and oversee implementation of the social protection architecture through the statutory role of labour representatives on the NSSF governing board. The NSSF board, as depicted in Table 6, contains 11 members (ILO 2017:23): the Executive Director (automatic member); a representative from the MoLVT (President); a representative from the Office of the Council of Ministers (member); a representative from the MEF (member); representative from the MOH (member); two representatives of employers (members); as well as two representatives of workers (members). The two labour representatives are currently Mr Ath Thorn, President of the Cambodia Labour Confederation, and HE Mr Heng Bunchhun, President of the Confederation of Union National Independence Cambodia.

**TABLE 6. THE NSSF GOVERNING BOARD**

REPRESENTATIVE	NSSF BOARD ROLE	INCUMBENT, 4TH MANDATE
Ministry of Labour and Vocational Training (1 member)	President	H.S. Seng Sakada
Council of Ministers (1)	Member	H.E. Erm Sithol
Ministry of Economy and Finance (1)	Member	H.E. Norng Piseth
Ministry of Health (1)	Member	Dr. Lo Veasnakiry
Employers (2)	Member	H.E. Oknha Dr. Nang Sothy Oknha Van Sou Ieng
Workers (2)	Member	Mr Ath Thorn H.E. Heng Bunchhun
Executive Director of NSSF (1)	Automatic Member	H.E. Ouk Samvithyea

(Source: Adapted from [www.nssf.gov.kh](http://www.nssf.gov.kh))

Policy initiatives can be formulated through top-down proposals from the NSPC or bottom-up proposals by the NSSF. According to Ath Thorn, the unions have had past success at proposing policy. However, “the requests to have union members in National Consultation Council, to have equal members in the Advisory Board, to have the NSSF chief of the Board appointed by the board members not by others, the possibility to monitor other matters, and such, have not been successful.” A list of proposals made by the CLC in 2020 is attached in Annex 2.

In practice, the capacity of unions to direct policy and oversee implementation through representation on the NSSF governing board is limited by two factors: the weak voice of (particularly independent) unions within the governing board, and the board's wider lack of independence and authority. On the tripartite board, for example, labour representatives hold only two of 11 seats. The two seats are split between the two dominant union groups: one affiliated to the ruling party, the second held by a representative of the independent grouping. In practice, therefore, unions argue, "there is only one voice" for workers. The allocation of labour representatives to the board is not democratic but made by the appointment of the MoLVT. The garment industry is represented among the two current members. However, other sectors are not. There is also a lack of female representation. As such, there are calls for a larger and more diverse group of labour representatives among board members. As a rights organisation challenged, "the representatives should be representative".

The capacity of the NSSF governing board is challenged by its new position with the NSPC framework and a legacy of political interference. As one of the labour representatives on the board described, "we are part of the board, but we are not the implementer. We only examine policy and meet annually. The decision of the board is not final. We meet and send to the minister of MoLVT to make the decision, or to the Prime Minister to make the decision". The ILO operational review of the NSSF illustrates that the government can bypass the tripartite board in its decision-making process. For example, employers and unions were not involved in the decision to incorporate the civil service, once funded through a separate NSSF-C branch direct from the state budget, into the contributory social insurance EII and SHI branches (ILO 2017). As one union argued, the NSSF "lacks transparency because there are some regulations of NSSF that were legalised without letting the NSSF governing body know or discuss".

Other stakeholders raised concerns about a wider lack of transparency from the governing board and NSSF administration about the scheme's implementation and impacts, making it difficult for external stakeholders to hold the NSSF executive to account. For example, a rights group observed, "There is no relevant information on the NSSF website about the money collected, the number of firms, the investment capital, and how it is invested". A brand representative agreed that, as "we do not have transparency... there is no sharing information," therefore it is difficult for stakeholders to push for reform and expansion: "we could hardly comment... We need to know what the main problems of workers are... we do not know the capacity of the implementation... when they do not share for us to see, we have no comment. We do not know about it, so it is hard".

## 4.3 PRIORITIES FOR INTERVENTION

Based on the findings of this review of the social security system for garment workers in Cambodia, a coordinated response is required. Although social security remains the primary responsibility of the national government, international partners can play a supportive role in catalysing the meaningful inclusion of civil society in social protection policy development and oversight to ensure a system that works for and with its beneficiaries.

### RECOMMENDATIONS TO GOVERNMENT

- 1** — Establish a relationship between the NSSF and the relevant department of the Ministry of Commerce (MoC) to ensure that proof of employee registration and up-to-date contributions to the NSSF become part of the process for securing business and export licenses.
- 2** — Make the granting and renewal of export licenses by the Ministry of Commerce conditional on proving NSSF registration and up-to-date payment for all paid employees, including those in authorised sub-contracted factories.
- 3** — Increase the scope of Social Health Insurance benefits (for example, to include chronic and routine care) and improve the quality of services at health treatment facilities to deliver more attractive benefits as the NSSF expands, to ensure enrolment and sustainability.
- 4** — Build on the wage subsidy measures implemented during the pandemic to create a permanent system of unemployment protection for workers.
- 5** — Deliver existing commitments to implement a joint employer- and employee-funded pensions branch of the NSSF with mandatory enrolment of all paid employees.
- 6** — Simplify and expedite the claims process for workers to seek reimbursement for out-of-pocket expenses by engaging expertise or conducting a review of user-friendly health administration.
- 7** — Produce and disseminate clear resources to clarify social security entitlements, registration requirements, claims processes, and grievance mechanisms for trade unions and workers.
- 8** — Ensure that the NSSF establishes a transparent and independent mechanism for raising grievances, with oversight by worker representatives.

- 9** — Increase the number of labour representatives on the NSSF governing board and move to a system of democratic selection to provide greater accountability.
- 10** — Collate and publish transparent, timely, and accurate reports on NSSF revenue and expenditure to allow external stakeholders sufficient oversight to hold the Fund to account.

### **RECOMMENDATIONS TO TRADE UNIONS AND CIVIL SOCIETY**

- 1** — Build cross-sectoral alliances and mechanisms to share experience and resources among trade unions and civil society organisations working on social protection to strengthen advocacy efforts by developing clear demands, strategies, and campaigns for reform.
- 2** — Strengthen worker education to address gaps in knowledge and awareness and, in doing so, build demands for improvement and extension of social security.
- 3** — Carry out political and advocacy on the local, national, regional, and international level, mobilising credible proposals and wide support for the expansion of NSSF coverage and benefits including the pension scheme, social health insurance (for example, chronic and longer-term conditions, preventive healthcare and sexual and reproductive health services, expansion of coverage to dependents), unemployment scheme, and improvements to maternity protection schemes (including children care, paternity leave).

### **RECOMMENDATIONS TO DONORS AND DEVELOPMENT PARTNERS**

- 1** — Conduct investigations and support pilot programmes to provide evidence on how to integrate a permanent unemployment protection branch within NSSF architecture.
- 2** — Support the capacity of civil society organisations to demand and leverage improvements and extensions to social security benefits and infrastructure by advocating for the protection and promotion of civil society in Cambodia.
- 3** — Provide technical, management, and financial support to build and strengthen civil society alliances and other collective structures to catalyse engagement in social protection policy planning.

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# ANNEX 1

## LIST OF KEY INFORMANT AND FOCUS GROUP RESPONDENTS

### KEY INFORMANT INTERVIEWS

#	ORGANISATION
<b>GROUP 1. TRADE UNIONS</b>	
1	Cambodia Labour Confederation
2	Cambodian Alliance of Trade Unions
3	Cambodian Union of the Movement of Workers
4	Free Trade Union of the Workers of the Kingdom of Cambodia
<b>GROUP 2. PRIVATE SECTOR</b>	
5	H&M
6	Gap
<b>GROUP 3. GOVERNMENT</b>	
7	National Social Security Fund
8	National Social Protection Council
<b>GROUP 4. NGOS AND CSOs</b>	
9	Central
10	Solidarity Centre
11	Care International
12	Worker Rights Consortium
13	Groupe de Recherches et d'Echanges Technologiques (GRET)
<b>GROUP 5. TECHNICAL EXPERTS</b>	
14	Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ)
15	International Labour Organisation
16	United Nations Development Programme
<b>FOCUS GROUP DISCUSSIONS</b>	
1	Urban workers, female
2	Rural workers, female
3	Suspended workers, female

## ANNEX 2

### **REQUEST TO INCREASE EFFEC- TIVENESS OF NSSF THROUGH:**

- Educate and raise awareness among employers and workers to understand more about the social protections;
- Strengthen occupational risk work and attend to taking actions to prevent work injuries;
- Strengthen cooperation with the Health Ministry to improve health quality and responsiveness through increasing agreement with public and private hospitals to increase health facility access;
- Strengthen compensation service to workers, making it easy and fast, not more than a week and in special cases, the employers could pay first and get reimbursed later.
- Increase cooperation with other ministries and companies to establish clear data on membership and make this data available publicly;
- Increase awareness raising on traffic law and encourage companies to enter an agreement with worker transport companies to make their transport safe for workers and meet transport standard;
- Strengthen inspection at worker's workplace at least on a quarterly basis to ensure convenience and safety, and meet and make discussion with all representatives from all independent labour unions;
- Enhance occupational safety by inspecting construction work and worksite of the company in compliance with existing laws and construction technical standards;
- Promote comprehensive dissemination about duties of enterprises-institutions to register at NSSF;
- Enforce strict administrative disciplines on any companies who refrain from law-compliance duties on social security regime;
- Strengthen clear management of workers who fell sick in their professions; and
- Promote social dialogues and assess performances among independent labour unions, RGC, employers, and NGOs on progress of NSSF.

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**REQUEST BIGGER  
SCOPE OF NSSF  
SERVICES:**

- Increase NSSF implementation to cover all workers in informal economy and agricultural farmers;
  - Request comprehensive membership registration for any enterprises and institutions with few workers;
  - Request operationalisation of pension fund by 2020;
  - Request registration extension for workers from sub-contract companies, handicrafts, and other companies; and
  - Request ongoing implementation of allowance provision for children of unmarried parents, and cremation expense provision for workers who die of illness as soon as possible.
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**REQUEST NSSF  
ARRANGEMENTS  
ACCORDING TO CERTAIN  
PRINCIPLES WHICH  
PROVIDE ADDITIONAL  
BENEFITS TO MINIMUM  
LEVEL PER ILO  
GUIDELINES:**

- For healthcare regime, ensure coverage on workers and their dependent families (husband or wife and three children);
- Implement pension funds and benefits for retired senior citizens (up to 80 percent of their total salaries);
- Provide workers who have work-related accident and general illness with 100 percent allowance from relevant company and 70 percent allowance from NSSF; and

Provide workers with 170 percent bonus during their maternity leave (70 percent from the company and 100 percent from NSSF), and allow for 100-day leave from working days.

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**REQUEST NSSF TO  
SET CONTRIBUTION  
FROM WORKER  
SIDE AND EMPLOYER  
SIDE AS BELOW:**

- For work-related accident, it is still the burden of the employer, but contribution rate should be increased from 0.8 percent to 2 percent for each worker on a monthly basis; and
- For pension fund, set total rate at 5 percent (3 percent from employers, 1 percent from RGC, and 1 percent from workers).





