

Grievance Mechanisms in the Textile and Garment Sector in Cambodia



This study was produced by:



Published by:

Deutsche Gesellschaft für
Internationale Zusammenarbeit (GIZ) GmbH

No. 27, Street 302, BKK1
Phnom Penh, Cambodia

E info@giz.de
I www.giz.de

Project:

FABRIC Cambodia
Initiative for Global Solidarity

Authors:

The present study represents a summary produced by GIZ FABRIC Cambodia based on the original study report by
Ann-Mar & Associates Law Office:

Ms. Ann Vireak
Mr. Koy Neam

Design:

Tinkerbelle GmbH, Berlin

Photo credits:

Cover: Roman Koenig

URL references:

Responsibility of the content of external pages to which reference is made lies exclusively with the respective provider. GIZ expressly distances itself from this content.

On behalf of
Federal Ministry for Economic Cooperation and Development (BMZ),
Division 120 - Sustainable Supply Chains
Reinhard Junker, Berlin

Phnom Penh, July 2023

Table of contents

| | |
|--|----------|
| Table of figures | 2 |
| 1. Introduction | 3 |
| 2. Context | 3 |
| 2.1 Types of grievances | 3 |
| 2.2 Relevant stakeholders | 3 |
| 2.3 Legal framework conditions | 4 |
| 3. Factory-level grievance mechanisms | 4 |
| 3.1 Effectiveness | 5 |
| 3.2 Challenges | 5 |
| 4. External grievance mechanisms | 6 |
| 4.1 Awareness | 7 |
| 4.2 Effectiveness | 7 |
| 4.3 Challenges | 7 |
| 5. Recommendations | 7 |

Table of figures

| | |
|--|----------|
| Figure 1: Labor dispute resolution process set out by Cambodian Labor Law | 4 |
| Figure 2: Typical factory-level grievance process | 5 |

1. Introduction

Grievance mechanisms play a crucial role in improving working conditions in the garment and footwear industry. They provide a channel for workers to voice their concerns and complaints related to prevalent workplace issues such as health and safety, discrimination, harassment, or wages. With effective grievance mechanisms, workers are able to express their grievances without fear of retaliation, advocate for their rights, initiate changes that can improve their working conditions and access legal remedies. This can ultimately lead to better labor standards, increased transparency, and improved worker-management relations in the industry.

The following study analyses the landscape of existing grievance mechanisms in the garment and footwear industry in Cambodia, assessing both local mechanisms at the factory level as well as external mechanisms that require third-party intervention. It provides an overview of existing grievance structures and evaluates their capabilities for dispute resolution in the industry. The aim is to offer insights into the present state and effectiveness of the grievance mechanism ecosystem in the Cambodian garment and footwear industry, identify current challenges, and formulate recommendations to improve dispute resolution in the industry.

The analysis is based on intensive desk research as well as qualitative interviews with a total of 76 factory staff working in five different factories and 17 individuals from relevant stakeholder groups such as unions, employer associations, brands, labor NGOs, and international NGOs. The study was commissioned and funded by the Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (GIZ) as part of the FABRIC Cambodia project.

2. Context

2.1 Types of grievances

There are two main categories of grievances that are relevant in the context of dispute resolution in the Cambodian garment and footwear industry:

- Workplace-related grievances of **individual** character such as quarrels between workers or workers and supervisors, or complaints to factory-management about high production targets, facilities, leaves, etc.
- Workplace-related grievances of **collective** character that arise between one or more employers and a certain number of their staff such as complaints about the duration of employment contracts, benefits, severance or seniority payment, freedom of association, attendance, etc.

2.2 Relevant stakeholders

In the course of this study, a total of 35 relevant stakeholders for dispute resolution in the Cambodian garment and footwear industry were identified. The most important of those stakeholders are:

- The Ministry of Labor and Vocational Training (MoLVT)
- The Arbitration Council (AC)
- Textile Apparel Footwear and Travel Goods Association in Cambodia (TAFTAC)
- Union Federations
- Textile brands
- Non-governmental organizations (NGOs)

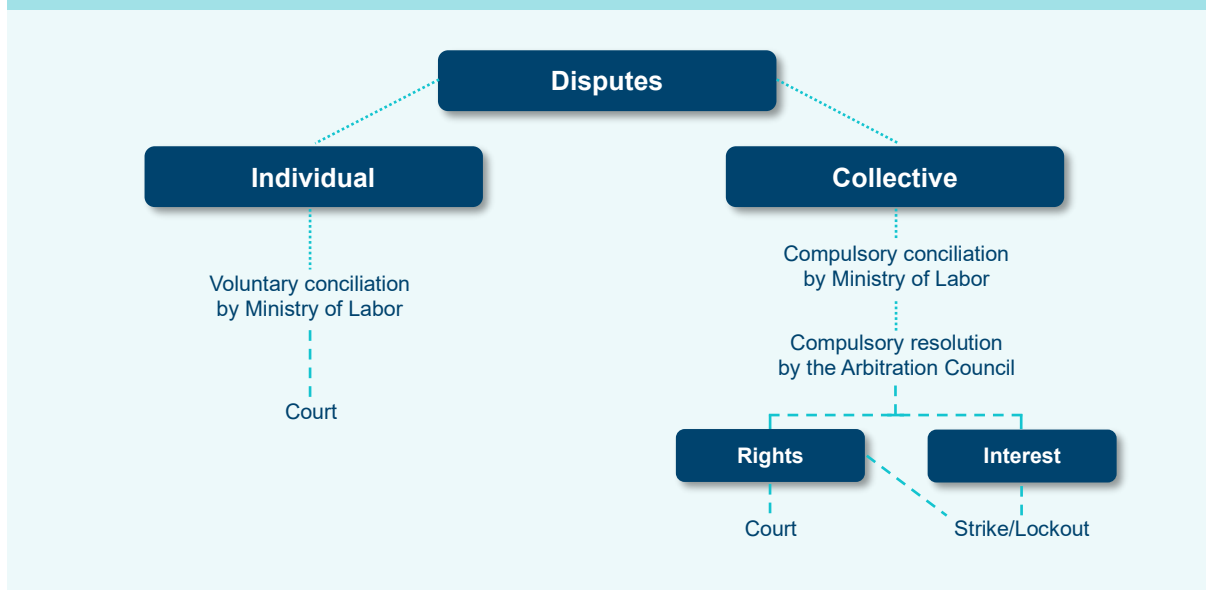
2.3 Legal framework conditions

Dispute resolution in Cambodia is mainly regulated under the Cambodian Labor Law. The law defines three main channels for addressing grievances which are ideally to be used in a hierarchical manner:

- Factory internal dispute resolution of grievances to the employer with the assistance of the workers' representatives or union representatives
- Dispute resolution through conciliation by a labor inspector or a person designated by the MoLVT, and
- As a last resort, dispute resolution through the AC

The Cambodian Labor Law requires that an enterprise of at least eight employees establishes internal regulations regarding dispute resolution either by determining its own rules in line with the collective bargaining agreement (CBA) or incorporating the rules of the Labor Law. The establishment or amendment of the internal regulation must be created in consultation with the workers' representatives. According to the law, when resolution at the factory level fails, conciliation through the MoLVT is either voluntary or compulsory, depending on whether the dispute is of individual or collective character (see Figure 1). If conciliation of individual grievances through the MoLVT fails, the case is to be taken to court. If conciliation of collective grievances fails, they will be referred to the AC. If arbitration through the AC fails, the dispute parties can either go to court or resort to other measures such as strikes.

Fig. 1 | Labor dispute resolution process set out by Cambodian Labor Law



3. Factory-level grievance mechanisms

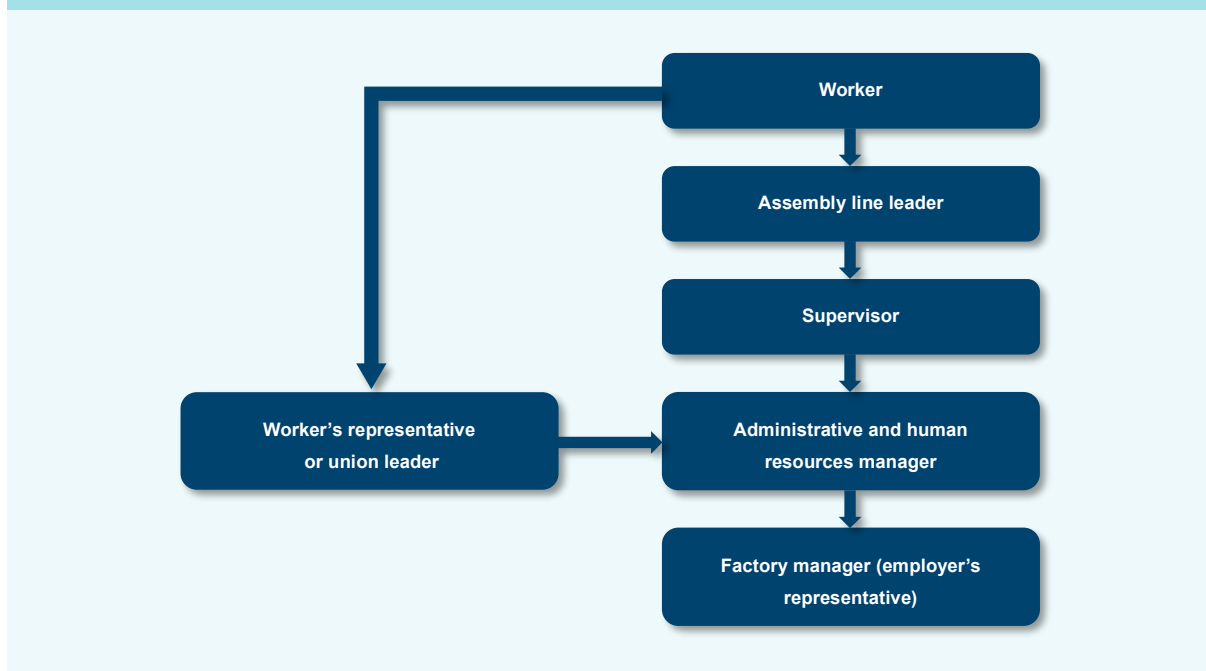
Grievance mechanisms at the factory level are an important instrument to resolve workplace related disputes locally in a low-threshold manner. In Cambodia, the MoLVT calls on garment enterprises to recruit at least one person to be in charge of resolving the demands or grievances expressed by the factory workers. The responsible person must work full time, receive remuneration from the employer, and their recruitment must be conducted in consultation with the workers' representatives to ensure their independence and neutrality. However, based on the interviews conducted, no factory has a person with the exclusive, independent authority to handle grievances in place.

Instead, the typical mechanism for dispute resolution at the factory level consists of a process in which grievances are submitted to different persons in the work hierarchy, depending on the nature, severity, and complexity of the grievance. Factory staff dealing with grievances are usually the assembly line

leader (supervises about 40 workers in an assembly line), the supervisor (in charge of supervising a certain number of assembly lines), the administrative and human resources (HR) manager, and less frequently, the factory manager. If a dispute cannot be resolved at lower hierarchy levels (e.g. by the assembly line leader), it is usually referred to a higher position. However, the mechanism is not necessarily hierarchical and more severe or complex grievances may be submitted directly to the HR manager or the factory manager, either by the workers themselves or by the workers' representatives.

All factories surveyed in this study gave their employees the option to submit complaints anonymously via suggestion boxes. In some factories, workers were offered different channels for communicating grievances in a confidential manner such as through discrete meetings with the HR manager, via telephone or messaging apps (e.g. Whatsapp), or through workers' representatives. Some factories also make use of mobile applications (e.g. by Labor Solutions) that allow their workers to submit grievances or voice their concerns online. Furthermore, some factories set up dispute resolution committees composed of the administrative and HR managers, workers' representatives, and union representatives (if the factory is unionized). In practice however, such committees rarely function as intended, as the decision-making power to handle complaints lies primarily with the administrative and HR manager or compliance manager.

Fig. 2 | Typical factory-level grievance process



3.1 Effectiveness

According to the interviewees, factory-level grievance mechanisms are relatively effective for resolving minor individual grievances concerning topics such as verbal arguments, sick or maternity leaves, breastfeeding, or canteen issues. Based on the interviews conducted, about 90% of the cases were resolved at this level. Only one of the factories participating in the study reported that they received suggestions or complaints from workers through their suggestion boxes.

3.2 Challenges

Grievance Mechanisms at the factory level are informal and improperly organized: One of the main challenges for dispute resolution at the factory level in the Cambodian garment and footwear industry is that local grievance mechanisms are rather informal and improperly organized and therefore inadequate for resolving complex, serious, or sensitive grievances such as discrimination and sexual harassment. There are usually no fixed rules or procedures to resolve grievances and they are mostly

settled through ad hoc negotiation and conciliation. Only one of the five factories participating in the study has an official record of grievances from workers.

Factory staff lack skills and training on dispute resolution: Additionally, staff working in administration and HR, who are supposed to handle the grievances, do not possess the necessary soft skills to adequately communicate with the workers (because of cultural differences, for example). At the same time, assembly line leaders and supervisors lack training to effectively handle the grievances submitted by the workers. As a result, small workplace related grievances may escalate into bigger ones due to mishandling during the dispute resolution process. Only a few factories attended training on effective labor dispute resolution from outside organizations such as Better Factories Cambodia (BFC). It was not possible to assess how the skills and knowledge acquired from such programs were effectively applied in the factories.

Dispute resolution at the factory level is prone to conflicts of interest: As a result of the informal character of grievance mechanisms at the factory level, conflicts of interests are more likely to arise during dispute resolution. For example, factory management may be unwilling to handle and resolve certain complaints to avoid setting precedents for future complaints or demands. As a result, many workers prefer to voice their grievances to external stakeholders (especially brands), as they consider them more reliable and trustworthy than their employers. According to the interviews with workers, the main reason for this preference is that brands are considered a neutral party without a conflict of interest and have a high level of leverage with factory management. However, brands rarely step in to address the grievances, as they do not consider it to be their responsibility and prefer to not take sides in the conflict.

Poorly organized unions: Another challenge is that unions in the Cambodian garment and footwear industry are not well organized and sometimes even compete with each other. This diminishes their ability to support workers in voicing their grievances at the factory level and leaves the employer with almost exclusive authority to resolve disputes.

4. External grievance mechanisms

External grievance mechanisms are essential for providing effective dispute mediation and resolution when grievance mechanisms at the factory level are exhausted or fail. Additionally, they provide alternative independent and impartial channels for workers to report workplace related issues and initiate changes to improve their working conditions.

The main external grievance mechanisms in the Cambodian garment and footwear sector are the mechanisms established by the MoLVT, NGOs, brands, and the AC. The most common procedure for submitting grievances to external mechanisms involves workers and local unions requesting the union federation at the national level to forward the case to the MoLVT. The federation acts as a representative and assists the workers in the conciliation process. Alternatively, workers and the local union may seek assistance from NGOs. The factory management/employer may seek assistance from industry associations such as TAFTAC, who provide advice and/or represent the employer in the conciliation process.

When a grievance is forwarded to the MoLVT, the ministry appoints an official to conciliate the disputes. The conciliation may either result in a full or partial agreement between the workers and the employer. In the latter case, the grievance will be referred to the AC to arbitrate the grievance. However, the MoLVT will only refer the cases to the AC when it considers disputes to be of a collective character. The decision of the AC is not necessarily binding. If one of the dispute parties is not content with the verdict of the AC, the parties may take the case to court or resort to other measures such as participating in strikes.

If arbitration fails, workers may seek assistance from brands to find a solution. Brands are usually reluctant to get involved and prefer that the parties exhaust their formal channels of dispute resolution, such as the local grievance mechanisms, the MoLVT, and the AC. However, they may step in to investigate allegations made by workers and assist the parties by hiring independent consultants to mediate the disputes. Some brands also implement their own grievance mechanisms where workers and employers can file complaints through various channels.

Another external grievance mechanism in the Cambodian garment and footwear sector is the Commission for the Resolution of Cases of Strike and Demonstration in all Targets (CRCSD), which is operated by the Cambodian government. This mechanism may be utilized when workers request compensation from a factory after management abandons the business and disappears due to insolvency or other issues.

Additionally, there are some mechanisms established by NGOs, such as by the Worker Rights Consortium (WRC). Furthermore, some NGOs offer legal advisory services such as technical assistance in filing complaints or legal representation in collective disputes before the MoLVT, AC, or court. Notable stakeholders that offer these services are the Solidarity Center and CENTRAL. The NGO Workers' Information Center (WIC) offers physical facilities (drop-in centers) where workers can exchange knowledge and experiences made during dispute resolution.

4.1 Awareness

Based on the interviews, workers are usually unfamiliar with grievance mechanisms outside of their workplace, so they depend on the union or federation to identify those mechanisms. As there is a general lack of a standard operating procedures when submitting grievances using external mechanisms, some unions may also be unaware of where to submit complaints.

4.2 Effectiveness

In 2021, the MoLVT conciliated 849 disputes, 154 of which were collective disputes. Furthermore, the ministry resolved 62 cases of strikes and 13 cases of demonstrations. In terms of effectiveness, the AC is considered to be the most reliable external mechanism for dispute resolution in the Cambodian garment and footwear industry. A survey conducted by the Cambodian Development Resource Institute (CDRI) in 2018 showed that the effectiveness of the AC is highly judged by unions (74%), union federations (62%), and employers (63%) and there is a high level of overall trust in the AC.

4.3 Challenges

Lack of clear and formal standard operating procedure: Although there are common practices for submitting grievances to external stakeholders such as the MoLVT, NGOs, brands or the AC, there are still no formal and clear standard operating procedures or mechanisms, and workers are often unaware of when to take their cases to court or to the AC.

Limited scope of the AC: Another challenge arises from the fact that the AC, which is considered to be the most effective platform for dispute resolution, is unable to handle grievances which are labeled as individual grievances by the MoLVT. As already mentioned, the MoLVT will only refer cases to the AC that are considered collective in nature. Based on the interviews conducted during this study, some unions reported that the ministry blocked some complaints from reaching the AC by classifying them as individual, even though they were considered collective by the unions. To enable the handling of individual grievances by the AC, the Cambodian government passed an amendment of the Labor Law. However, there is currently no procedure in place at the AC to deal with such grievances. To help facilitate this, an implementing Prakas (ministerial act) is needed.

5. Recommendations

1. Formalize grievance mechanisms at factory level

As outlined in this study, one of the main challenges for dispute resolution in the Cambodian garment and footwear industry lies in the informal and unreliable nature of factory-level grievance mechanisms. To ensure consistency and effectiveness of dispute resolution across factories, a clause in the internal factory regulations on the structure and procedure for resolving grievances and disputes should be developed and implemented. The clause should clearly define the structure of the mechanism as well as roles and responsibilities of the appointed factory staff to avoid duplication of work or conflicts of interest. Workers' representatives should be actively involved in the development of the mechanism,

ensuring a participatory and inclusive approach. The procedure should be disseminated to all workers and a system for recording grievances and resolutions should be implemented.

2. Ensure independence and sustainability of grievance mechanisms at factory level

Because grievance mechanisms at the factory level are primarily managed by the factory management, they often lack objectivity, particularly when addressing complaints submitted by workers against their employer. To ensure independence and sustainability, grievance mechanisms should be restructured by establishing a more equitable and well-balanced model, respecting both the employers' and workers' sides, with clearly defined roles and responsibilities. A manual for grievance resolution should be developed for easy reference and continuity. Brands should take a more active role in dispute resolution rather than solely relying on compliance systems.

3. Ensure safe access to grievance mechanisms at factory level

Factories should implement grievance mechanisms that offer various channels for confidentially submitting complaints such as confidential meetings, text messages or suggestion boxes. Advocacy should be conducted in the factories to encourage implementation and ensure workers' confidence in using the channels. The structure/procedure of the grievance mechanism and the respective contact persons should be made public to the workers (e. g. in the form of a poster in the factory) to ensure the accessibility of the mechanism. Challenges of workers with limited literacy or computer skills should be considered and addressed by providing means of assistance. Based on the interviews, most workers prefer to submit grievances verbally to the responsible persons (e.g. HR representatives). Factory management should therefore establish closer communication channels with workers, allowing them to directly express their requests and suggestions. Regular information sharing and the use of accessible communication tools, such as messaging applications, should be established.

4. Establish a mediation center for dispute resolution

Establishing a mediation unit, such as within the Arbitration Council Foundation (ACF), would facilitate early-stage mediation of grievances or disputes at the factory level. This unit should comprise professional mediators who can promptly respond to requests for mediation. To ensure sustainability, the unit can be funded initially and then charge fees from the disputants. Co-funding from the MoLVT could also be considered.

5. Train factory staff comprehensively

Comprehensive training on dispute resolution skills should be provided to workers, union leaders, supervisors, administrative staff, and HR officers. Soft skills, basic supervisory skills, and knowledge on fundamental labor rights should be incorporated into the training. Dedicated time should be allocated by the factory for the physical training of their staff. Additionally, visual materials and audio-visual resources should be developed and made accessible to workers to enhance understanding (e. g. during break times to avoid interference with working hours). The training should also cover sexual harassment, including defining its forms and implementing a sexual harassment policy (e. g. utilizing the ILO Sexual Harassment Policy).

6. Involve industry associations, particularly TAFTAC

Support and cooperation of industry associations such as TAFTAC are essential for capacity-building programs related to factory-level grievance mechanisms. Any draft agreements or MoUs should be carried out in consultation with TAFTAC to secure their endorsement and avoid any misunderstandings with their member factories. Factories may require a letter of endorsement from TAFTAC to participate in studies or initiatives, highlighting the need for involving industry associations.



Deutsche Gesellschaft für
Internationale Zusammenarbeit (GIZ) GmbH

No. 27, Street 302, BKK1
Phnom Penh, Cambodia

E info@giz.de
I www.giz.de