

Cambodia

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I. Legal framework for occupational safety and health in Cambodia

1.1 Existing laws on OSH

The Department of Occupational Safety and Health was established within the Ministry of Labour after the first term of the Royal Government of Cambodia. At that time, this department was implemented under the Labour Code, 1992. However, implementation was not effective. It was not until the enactment of the current labour law in 1997 that occupational safety and health (OSH) was provided to workers. Chapter VIII of the Labour Law of Cambodia clearly shows the official national concern over the safety and health of workers and provides the scope of application of the regulations, followed by Chapter X which deals with work-related accidents.

Since then, the Ministry of Labour and Vocational Training has issued several dozen pieces of legislation, aimed at providing better protection of workers, their health and better regulation of the environment of the workplace. In all, the following regulations concerning OSH issues have been released in the past 12 years:

- Prakas No 052 dated 10 February 2000 concerning the sanitary toilet;
- Prakas No 053 dated 10 February 2000 concerning the seating arrangement at the workplace;
- Prakas No. 054 dated 10 February 2000 concerning the provision of safe drinking water;
- Prakas No. 330 dated 6 December 2000 concerning the Creation of Enterprise Infirmary;
- Prakas No. 124 dated 15 June 2001 concerning the lifting of heavy objects by hand;
- Prakas No. 125 dated 15 June 2001 concerning air ventilation and sanitation;
- Prakas No. 139 dated 28 June 2001 concerning Conditions and Missions of the Enterprise Physicians;

- Prakas No. 147 dated 11 June 2002 concerning the Temperature Ambience at the Workplace;
- Prakas No. 138 dated 22 April 2003 concerning Noise at the Workplace;
- Prakas No. 139 dated 22 April 2003 concerning Working in a Confined space;
- Prakas No. 484 dated 23 December 2003 concerning the Light and the Lighting;
- Prakas No. 106 dated 28 April 2004 concerning the prohibition of working children working in dangerous workplaces;
- Prakas No. 086 dated 03 May 2006 concerning the Creation of the HIV/AIDS Committee in Enterprises and Establishments and Managing HIV/AIDS in the workplace;
- Prakas No. 305 dated 14 December 2007 concerning Maritime Fishing;
- Prakas No. 306 dated 14 December 2007 concerning the Working and Living Conditions on Plantations;
- Prakas No.308 dated 14 December 2007 concerning the Working and Living Conditions in Salt Fields;
- Prakas No. 309 dated 14 December 2007 concerning the Working and Living Conditions in Brick Enterprises;
- Prakas No.307 dated 14 December 2007 concerning the Occupational Health and Safety Conditions in Garment and Shoe Factories.
- Prakas No.077 dated 30 March 2011 concerning the Information at the Construction Site
- Prakas No. 075 dated 30 March 2011 concerning the Sanitation at the Construction Site
- Prakas No. 076 dated 30 March 2011 concerning the Prevention of Risks associated with the Changing Weather Conditions at the Construction Site
- Prakas No. 078 dated 30 March 2011 concerning the Storage, Waste Management and Cleanliness at the Construction Site
- The Law on Social Security Schemes for Persons Defined by the Provisions of the Labour Law, promulgated by Royal Krom (Order) No. NS/RKM/0902/018, dated 25 September 2002. The law comprises six chapters and 41 articles. Chapter 1: General Provisions; Chapter 2: Pension Scheme; Chapter 3: Occupational Risk; Chapter 4: Common Provisions; Chapter 5: Penalties; and Chapter 6: Final Provisions;
- Prakas No. 343 dated 10 September 2002 concerning the Notice on work-related accidents, compensation and invalidity;

- Announcement No. 003 dated 10 February 2004 of the Ministry in charge of Labour to remind all enterprises and establishments to comply well with the provisions of all Prakas issued by the Ministry concerning OSH;
- Announcement No. 089 dated 4 September 2009 concerning the preventive measures on new avian influenza A (H1N1).
- Circular concerning application of Joint Prakas No. 330 dated 6 December 2000 and Joint Prakas No. 139 SKBY dated 28 June 2001.

1.2 Rectangular Strategy for Growth, Employment, Equity and Efficiency in Cambodia

While the government's concern over OSH issues is clear, there is no one law or policy specifically addressing OSH matters. However, regulations contained in the Royal Government Rectangular Strategy (Phase II) of the 4th mandate on Side 3 and Side 4 of the Rectangular III and Side 2 of the Rectangular IV address OSH issues and labour law reforms.¹

The Side 3 of Rectangular III focuses on “job creation and ensuring better working conditions for workers and employees”. The Royal Government will implement a systematic policy aimed at:

- (i) Creating jobs, especially for young people entering the labour market, and for all Cambodian workers through various measures which encourage domestic investment in priority sectors, especially agriculture, agro-industry, labour-intensive industries and tourism;
- (ii) Establishing skills' training networks for the poor, linked to employment assistance, especially for young people and new graduates to respond to new labour market needs;
- (iii) Developing a Labour Statistical System. More attention will be focused on improving the management of foreign workers in Cambodia to create jobs for Cambodian citizens and facilitate the transfer of new technology for national development.

1 In the official government English translation: *The Rectangular Strategy for Growth, Employment, Equity and Efficiency in Cambodia* is “...depicted as an integrated structure of interlocking rectangles that represent sustainability and stability in the same way as a strong table or chair firmly stands on four pillars.” The Rectangular Strategy is the Economic Policy Agenda of the Political Platform of the Royal Government, launched at the start of the Third Legislature of the National Assembly and continued in the Fourth Legislature.

Separately, Side 4 of the Rectangular Strategy focuses on the establishment of a social safety net for civil servants and private sector workers. The Royal Government has also stated it will seriously enforce the Labour Law and international conventions related to the role of trade unions to insure the rights and benefits of workers, employees and employers. The Royal Government will put special priority on improving the working conditions of workers and employees enhance the implementation of the Law on Social Security, encourage the implementation of pension funds, especially pensions for disability and dependents, and insurance for work accidents as stipulated in the Labour Law.

Side 2 of the Rectangular Strategy deals with ensuring enhanced health services: The Royal Government will continue to focus on the implementation of prevention programs and combat contagious diseases and promote maternal and child health care to reduce maternal and infant mortality, improve emergency services and provide health and sanitation education and information, especially in the rural areas. The poor shall be entitled to free health care in referral hospitals and health centres. Equity funds designed to help the poor in accessing quality health care services will be further strengthened and expanded.

1.3 OSH Master Plan, 2009-2013

While there is as yet no specific law on OSH, the government has an OSH Master Plan with proposals for related institutions on OSH in Cambodia. The Ministry of Labour and Vocational Training through the Department of Occupation Safety and Health has developed its master plan for the five-year period 2009-2013 with the support of the International Labour Organization (ILO).

The plan contains the following priority areas:

- Strengthening national OSH systems
 - o Enact and study essential OSH regulation
 - o Strengthen government OSH networks between central, provincial and workplace levels
 - o Develop tripartite consultation mechanisms
 - o Establish enterprise level OSH systems
 - o Disseminate practical OSH information and training
 - o Apply ILO OSH standards and prepare possible ratifications
 - o Promote inter-ministerial and inter-agency cooperation
 - o Promote international technical cooperation

- Improving safety and health inspection and compliance with labour laws
 - o Strengthen safety and health inspection capacities
 - o Increase inspection coverage
 - o Plan and implement strategic inspection in safety and health
 - o Strengthen work-related accident investigation and injury reporting systems
- Promoting OSH activities in employers' and workers' organizations
 - o Support employers to meet international business requirements in OSH
 - o Help trade unions to extend OSH protection activities
 - o Promote dialogue and cooperation in OSH between workers and employers
- Implement special programmes for hazardous occupations
 - o Improve compliance and training in various types of construction work
 - o Improve safety and health in mining
 - o Identify high-risk occupations to provide special protection measures
- Extend OSH protection to small enterprises and rural and informal economy workplaces;
 - o Promote Work Improvement for Small Enterprises (WISE) and Work Improvement for Safe Home (WISH) training programmes for small enterprises and home workers,
 - o Network small enterprises and home workers for exchanging OSH information and experiences,
 - o Promote OSH training for farmers
- Promote collaborative actions with hazardous child labour and HIV/AIDS projects for stronger compliance;
 - o Eliminate hazardous child labour,
 - o Enforce Prakas No. 086 concerning the creation of the HIV/AIDS Committee in Enterprises and Establishments and managing HIV/AIDS in workplace
 - o Promote cooperation between OSH and HIV/AIDS activities.

This master plan will be actively involved in by both workers and employers' organizations, together with the government. Currently, the Project Advisory Committee on OSH has been established as a

tripartite body. This committee will oversee project implementation. The committee works on bringing policy making from the national to the provincial level.

1.4 List of occupational diseases

In terms of occupational diseases, the department in charge of Occupational Safety and Health in the Ministry of Labour and Vocational Training` has been working hard to complete a list of all the occupational diseases that it might need to deal with. But as yet the list of occupational diseases in Cambodia has not yet been completely determined. It is likely that the Cambodian list may follow the list of injuries and diseases that the ILO has created. Hence, the list of occupational diseases developed by ILO may be the reference list for Cambodia in the meantime.

Determination of what constitutes an occupational disease, finally, according to the Prakas and sub-degree, is the burden of the Ministry of Labour and Vocational Training through the Department of Occupational Safety and Health. The department of OSH has formed a team called the 'Scientific Team' which has the authority to add and determine occupational diseases to be included on the national list.

Currently, the benchmark in use in Cambodia is a list of occupational accidents prepared and classified by the National Social Security Fund (NSFF). These are:

No	Types of accidents
1	Electrocution
2	Fire resulting in burns to the body
3	Fall from height
4	Crushing by materials or equipment
5	Slipping on slippery surfaces
6	Squashing by objects or machines
7	Explosion of objects with high pressure
8	Lacerations
9	Piercing
10	Stumbling or contacting with objects
11	Twisting or tightening
12	Activity using ultimate power
13	Improper atmospheric pressure

14	Exposure to radioactivity
15	Exposure to dangerous substances
16	Suffocation
17	Fainting
18	Accident during commuting
19	Accident in mining operations
20	Occupational diseases
21	Respiratory diseases
22	Heart disease
23	Brain (mental) diseases
24	Other kinds of accidents

Furthermore, the NSSF also classifies occupational accidents by the types of injury incurred. These are:

No	Types of injuries
1	Bone fracture
2	Ache (e.g. in the leg, arm, back)
3	Sprain
4	Cut
5	Pierced
6	Split or cuts
7	Bruise and internally injury following contact with heavy objects
8	Subcutaneous wound/injuries
9	Burns
10	Blinding
11	Poisoning
12	Drowning
13	Internal injuries
14	Other kinds of injuries

II Implementation of legislation, claiming compensation

2.1 Implementation

Currently, the Royal Government has assigned personnel to work on OSH issues. Among them, the National Social Security Fund (NSSF) plays an important role in OSH. There are three insurance programs in the National Social Security Fund: Employment injury insurance, health insurance and pension insurance. The NSSF is implementing Phase one of the occupational injury insurance. It is managed under the State fund of the Ministry of Labour and Vocational Training. This insurance is not yet in effect in terms of its application for workers who are seeking justice.

The process toward compensation is practical and straightforward, if we look at what the NSSF has been doing so far. All employees of the enterprises and institutions who have registered at the NSSF have the right to receive compensation when they have accidents in the workplace. Occupational accidents also include accidents during the commute to work and occupational diseases. This allowance is totally the burden of the NSSF. Hospitals and polyclinics handling those who have had a workplace accident must be recognized by the NSSF.

2.2 Reporting accidents, claims for compensation

There are a number of steps to inform the authorities of an occupational accident. After being informed about the case of the accident by employees or employees' representatives, the employers or enterprise owners who are participating in the implementation of the NSSF must report the incident within 48 hours by filing forms with the Ministry of Labour and Vocational Training and the Ministry of Health. After getting the report, the compensation department reports immediately to the inspection department. The inspection department will investigate and give its findings to the compensation department. The investigation is done according to procedures determined by the inspector.

When an accident occurs at the working place, the employers must provide emergency aid by sending the worker to the nearest hospital or clinic and then later send the victim to the hospital or policy clinic which is a partner of the NSSF. All of the expenses during this period are the responsibility of the NSSF.

On the worker's side, in order to complain or sue for compensation, workers must follow a number of steps. Firstly, they

have to report the accident that they have encountered to the company with the assistance from the trade union representative, if there is union representative in the factory. After that, the company will report to the NSSF for investigation of the accident or injury. After the investigation, the staff of the NSSF will inform and ensure that the accident or injury is really an occupational accident. If it is found to be so, they will calculate the compensation due to the victim. The calculation of the compensation follows a procedure determined by the NSSF.

III Barriers and challenges in seeking compensation

3.1 Analysis of the laws and system

There are many challenges for the worker in seeking compensation for a workplace injury or illness, the most challenging of which is that workers do not understand what OSH is. More importantly, though a number of workers have already been introduced to OSH, they still do not understand clearly the procedures to get compensation when they encounter an occupational accident or contract an occupational illness.

What is more, the procedure to get compensation is so complicated that it is difficult to understand and even the point person, the trade union representative who is responsible for OSH for the workers in a factory, may not be as knowledgeable as he or she should be to give proper assistance. Most workers have heard of OSH, but there are few who clearly understand the whole procedure for claiming and securing proper compensation. For this reason, training and other campaigns to raise awareness on OSH should be conducted more frequently and more widely so that workers can get their due social justice and benefits.

In addition, the length of time that a worker must wait for the compensation is so long that he or she usually cannot wait for a formal decision. Another factor is that the employers ignore the issues and do not want this system to exist in the company. The fact is that if they accept the system, they have to register with the NSSF and make monthly payments to the fund for all their workers.

Another challenge is equipment. Since Cambodia is a developing country and the term OSH itself has just been introduced in Cambodia, the nation currently lacks the diagnostic equipment to implement it. Progress thus may be slow. At this time, Cambodia, through the Department of Occupational Safety and Health of the Ministry of Labour and Vocational Training has formed a Scientific

Investigation Team to search and develop the list of occupation diseases. However, due to the fact that the team does not have modern equipment, such as medical facilities with diagnostic equipment and instruments to investigate diseases, it has been unable to develop the list and get it approved.

This weak point – the lack of modern equipment – means that there is no clear cut system of identifying the types of occupational diseases as they are defined. Currently, some applications for compensation could not be solved due to the fact that the authorities do not or cannot accept the type of disease that the claimant says is an occupational disease

3.2 Case studies

The following cases show some of the common difficulties in making simple claims for OSH compensation system. The first case study describes a freak accident on factory premises, the second comes from the textile and garment industry, and the third is a nasty traffic accident involving a textile worker.

Case study 1

Khun Sokhom is a 24-year-old factory worker who met with a freak accident while on her lunch break. While waiting for her food at a food stall outside the factory on 10 August 2012, a gas cylinder exploded. The explosion injured her face, arms and legs. The company collected all the information related to this accident and reported her case to the National Social Security Fund.

At first, Sokhom had to pay all the costs of her treatment herself. She prepared the invoice, which stated the cost of treatment, for the company to submit to the National Social Security Funds and asked for assistance from the trade union. However, the agent of National Social Security Funds there worked very slowly and demanded some extra fees from her. After seven months, the National Social Security Funds still had not yet calculated the compensation due to her. Sokhom would like the National Social Security Funds to try to solve her case as soon as possible because she really needs the money. In addition, she has not received her salary for two months.

Case study 2

Chi Phea is 26 years old and works in the textile and garment industry. He had an accident on 18 October 2012, when he went as usual

to put in overtime work on the weekend. Travelling on his motorbike to work on Sunday at around 5 am, he was blinded by the lights of an oncoming car and crashed into a gully at the side of the road. He was knocked out and remained unconscious the whole day. His family reported his accident to the company and informed the leaders of the trade union based in his company to prepare the documents, the traffic police report, and the cost of the treatment.

However, when the family met with the company regarding the accident, the company refused to accept the report and replied that this case was not an occupational accident. After that, Phea took the invoice of the treatment and tried to submit it to the company, but the company responded that the National Social Security Fund would not accept this invoice because it was just the copy. The original invoice was lost and when the victim asked for another original copy, the doctor said he could only provide a copy of the invoice to him. He twice went to ask the company about paying for the cost of his hospital treatment, but the company told him that it takes a few months for a case like his. The case is still ongoing, and Phea has demanded that action be taken immediately as he really needs the money.

Case study 3

Kai Sareth is 32 years old and works in the garment and textile industry in Kandal province. In October 2012, Sareth had a traffic accident on her way home from work one evening. As she was just about to reach home, she was hit by the motor car coming from the opposite direction. Her knee, face (eyebrows), and chin were injured. She was also very frightened due to the fact that the motor driver who hit her accused her of pretending to be hit and falling down by herself. After the accident, she informed the leaders of the trade union which is based in her factory. Then, she prepared the documents, including the invoice of the medical treatment she received and the record of the accident from the traffic police. In the end the company sent all those documents to the National Social Security Funds.

As of the writing, Sareth has been waiting for almost two months for the compensation, amounting to 660,000 Riels (approximately US \$165) from the NSSF.

3.3 Recommendations for OSH in Cambodia

One good way to improve the OSH conditions in Cambodian would be to establish the list of occupational diseases as quickly as

possible. To do this, there should be the best effort and support from the government to provide resources for the OSH team. For instance, the government should invest in buying the necessary equipment and diagnostic instruments needed. This will be fundamental to the whole process of implementing OSH programmes. More importantly, the ability of the scientific team has to be upgraded, so that useful research will be performed to best serve the OSH area.

The law also has to be strictly applied to all companies and information on OSH made available to employers and workers, and accessible by all workers. Everyone must make the working environment more favourable for workers and ensure the workplace is a suitable and safe place to work and that workers are not knowingly placed in dangerous or hazardous positions.

Training to raise the awareness of the workers regarding OSH matters should be made widely available, so that workers understand OSH, and the accessibility of the OSH system should be made known to them. There should be improved and streamlined services delivery which should be available at all times, including speeding up registration of NSSF members, and clear diagnosis and treatment.

Finally, the most unsettling issue for those in the OSH field and one which must be faced is the potential for corruption. If corruption is allowed to exist, it will ruin the whole process of OSH implementation. Hence, the institutions that are in charge of OSH implementation must ensure that they will not be compromised, corrupted or negligent in their duties. If this can be achieved, it can help greatly to promote safe and healthy conditions for workers, and in this way we will bring social justice to the nation's working men and women.

References

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