



Better Factories Cambodia

The boundaries of tripartism illustrated by Cambodia's garment industry

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Abstract

In the 1990s the international community started the economic and political liberalization of Cambodia. Cambodia's garment industry was put in a favoured position to spur economic growth. In 1995 the US signed a bilateral agreement with the Cambodian government that gave Cambodian exports increased access to the US market if labour conditions would improve. Improvement of compliance with labour standards was monitored by the ILO. Good labour standards soon became the cornerstone of Cambodia's garment industry. The agreement phased out in 2005 but the monitoring program that monitored labour conditions was kept in place and named Better Factories Cambodia. BFC has undoubtedly contributed to the improvement of labour conditions in the Cambodian garment industry. However, workers claim that their biggest issues are currently not effectively addressed by BFC. This research aims to find out why BFC is unable to address their issues effectively.

Tripartism is at the core of the BFC program. Six enabling conditions need to be met in order for tripartism to function well: freedom of association, democratic foundations, legitimacy, political will and commitment, technical competence and capacity to deliver. Through conducting literature research and interviews this research found out that these six enabling conditions are not being met currently. The main reason for why these conditions have not been met is that it is not in the interest of the government and the national employers' organization to meet these conditions. This means that workers' issues are not effectively addressed because BFC has little to no influence on issues that are not prioritized by the government and employers. The research concludes that the success of BFC is completely dependent on tripartism, and with that on the government and employers.

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Acronyms

BFC	Better Factories Cambodia
C.CAWDU	Coalition of Cambodian Apparel Workers’ Democratic Union
CCC	Clean Clothes Campaign
CLC	Cambodian Labour Confederation
CLEC	Community Legal Education Center
CNRP	Cambodian National Rescue Party
CPP	Cambodian People’s Party
ECA	Ethnographic Content Analysis
FDC	Fixed Duration Contract
GMAC	Garment Manufacturers Association in Cambodia
ILO	International Labour Organization
ITUC	International Trade Union Confederation
LAC	Labour Advisory Committee
NGO	Non-governmental Organization
NIFTUC	National Independent Federation of Textile Unions in Cambodia
TATA	Textile and Apparel Trade Agreement
UDC	Undetermined Duration Contract
UN	United Nations
UNTAC	United Nations Transitional Authority in Cambodia
US	United States (of America)

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1. Introduction

The introduction of Better Factories Cambodia in the Cambodian garment industry

Cambodia was a late industrializer in the South East Asia region, mostly due to the civil war and its long aftermath ending only in the 1990s. Industrialization was led by the garment industry, which is still the biggest sector in terms of employment in Cambodia, with roughly 600.000 employees (Arnold & Toh, 2010: 402) and accounting for roughly eighty percent of the country's exports. Late-comers like Cambodia benefit from the fact that many competing countries have become too expensive because wages have increased (Yamagata, 2006: 4). Compared to other latecomers, Cambodia was particularly lucky because it was excluded from the many quota restrictions that were applied on most competitors in the region and because it got a very exclusive deal with the United States (US). In 1999 Cambodia and the US signed the US-Cambodia Textile and Apparel Trade Agreement (TATA). This bilateral agreement was unique because it linked trade with labour rights (Sibbel & Bormann, 2007: 235). It offered the Cambodian industry shelter against global competition and at the same time facilitated its expansion by the annual increase of quotas which gave Cambodia access to the US market. In return, Cambodia had to improve its labour practices and conditions in exporting factories. Cambodia had a guaranteed level of access to the US markets and was ensured that if it improved labour practices, new quotas would be increased on an annual basis (Polaski, 2009: 3). This means that 'the incentive was purely positive in the sense that nothing would be lost but something could be gained through improvement of labour conditions' (ibidem: 5). Improvement of working conditions soon became a cornerstone of the country's growth strategy (ibidem).

In 2001 the TATA was extended and the new, amended agreement offered an extra 18% annual increase of the previous export entitlements if the Cambodian government was willing to cooperate with a third party to monitor the improvements made in working conditions; the International Labour Organization (ILO) (ibidem). A third party was deemed necessary because in previous years decisions on quota allocation were based on very little data (Arnold & Toh, 2010: 407). The program now involved the ILO, the Cambodian government, employers' organization Garment Manufacturers Association in Cambodia (GMAC) and local trade unions and was named Better Factories Cambodia (BFC). Its initial task was to inform ongoing US quota decisions (ibidem). Eventually, its main task was monitoring of compliance with the 1997 Cambodian national Labour Code and the international standards. This gave Cambodia the reputation of being an ethical sourcing option for global buyers and consumers (ibidem: 408). This reputation has been used by producers to attract international buyers. Buyers have used Cambodia's good reputation to show off their ethical buying practices. With strong regional competition, the reputation that the Cambodian industry has is one of its most important comparative advantages and the industry is partially dependent on this

reputation nowadays. The TATA phased out in January 2005, meaning that there are no quotas anymore, but the BFC program is still in place. Currently, 536 garment factories and 12 footwear factories are enrolled in the program (BFC 2015, a). All exporting factories are registered with the program but it is unclear how many factories are left out, because non-participating factories are mostly also not registered with GMAC and are often only used for subcontract deals.

How Better Factories Cambodia works

The ILO aims to strengthen tripartism and social dialogue between employers, employees and governments worldwide (ILO 2015, b.). Social dialogue 'includes all types of negotiation, consultation or simple exchange of information between representatives of governments, employers and workers on issues of common interest relating to social and economic policy' (Ishikawa, 2003: 3). Social dialogue is promoted through international labour standards, technical cooperation and technical assistance or policy advice (ibidem: 7) and the ILO uses social dialogue mainly as a means to achieve other goals. In fact, in some of the ILO's conventions or recommendations the organisation directly refers to tripartism and social dialogue by ensuring the involvement of social partners in the ILO's standards-related activities (ibidem).

The BFC program is no exception when it comes to the ILO's modus operandi and tripartism and social dialogue are thus at the core of the program. In social dialogue at the national level, the government fulfils multiple roles as it can operate as a facilitator, mediator, regulator or law enforcer (ibidem: 5). In any way, the government's role is crucial, for the advancement and sustainability of social dialogue. If the government has confidence in the tripartite process, successful dialogue is more likely to be attained (ibidem). The basic BFC principles are copied from the 1998 ILO Declaration on Fundamental Principles and Rights at Work that should be adopted, promoted and realized by all member states. Firstly, freedom of association is a core principle. This includes the right to collective bargaining (Sibbel & Borrmann, 2007: 236). Secondly, all forms of forced or compulsory labour should be eliminated. Thirdly, child labour should be abolished. Finally, discrimination in respect of employment and occupation should be eliminated (ibidem). These objectives were to be obtained through five types of action. The first was to establish and operate an independent system to monitor working conditions in Cambodian garment factories (ibidem: 237). Secondly, the ILO decided to provide assistance in drawing new laws. Thirdly, the ILO wanted to increase the awareness of workers' and employers' rights under the Cambodian labour law. Fourthly, the ILO wanted to increase the capacity of workers and employers to improve working conditions and labour standards through their own efforts. The fifth action is to train government officials to ensure greater compliance with the Cambodian labour law and the core labour standards of the ILO (ibidem: 238).

When factories register with the BFC program, they have to sign a Memorandum of Understanding, in which the duties and responsibilities of both the ILO and the factory are outlined. This memorandum includes the duty of factories to provide full access of ILO monitors to the factories in the occasion of announced and unannounced visits (ibidem). During these monitoring visits, the ILO monitors use a checklist with over 500 items covering different aspects such as employment contracts, wages, hours of work, leave, safety and health, and healthcare (ibidem: 239). The list is checked by one of the ILO's monitors, whom are appointed by a special recruitment panel consisting of a Chief Technical Advisor and one person from each of the tripartite partners. The monitors visit the same factory at least twice. The first visit is used to observe abuses, after which a private report is sent to the factory management. The second visit is used to check whether the factory is making progress on the earlier reported abuses. The ILO aims to visit every factory once every six months, but due to the explosive growth of the number of factories in Cambodia, the ILO is only able to visit every factory once every twelve to fifteen months (International Human Rights and Conflict Resolution Clinic, 2013: 30). At the same time, it was proven that labour rights compliance increased when the number of BFC visits to a specific factory were increased when the TATA was still in place (ibidem: 31). However, compliance declined quickly after the expiration of the TATA. From 2005 onwards, Cambodia had to compete with other garment exporting countries without their favoured position. This led to the making undone of many of the improvements in Cambodia's labour conditions environment because production costs had to remain low in order to stay competitive (ibidem: 35). It was expected that Cambodia's garment industry would shrink after the phase out of the TATA, but the opposite happened because buyers praised the BFC project and Cambodia kept its good reputation, despite the fact that the ILO was not able to keep up the good work steadily.

Problem statement

The ILO-BFC program, in its current format, does not contribute enough to the improvement of livelihoods of Cambodian garment workers. The issues that are addressed by the program are mostly issues that occur in the garment industry, among other industries, worldwide. These issues are also mostly issues that are considered more serious internationally by buyers and international organizations. BFC has created a framework that 'plays well internationally but which fails to foreground the concerns of labour activists' (Hughes, 2007: 845-846). In other words, the BFC program does not empower garment workers or enable them to set out their own agenda of interest and grievance, but rather conforms its agenda to one that serves anyone else but the garment workers. A concrete example of this is the fact that in every BFC report, the format distracts attention from workers' empowerment rather than highlighting them (ibidem). All reports begin with mentioning numbers on child labour, forced labour and other issues that are not very prominent in

the Cambodian garment industry anymore. On the other hand, issues that are more problematic in the current industry remain undebated in BFC reports or are only mentioned briefly after child labour issues are discussed (ibidem). Main issues in the Cambodian industry include: subcontracting, weak enforcement power of international and national labour law, threats to freedom of association, poor wages, late payment of wages and additional bonuses or compensation and the frequency and duration of forced overtime. These issues are covered within the BFC synthesis reports, albeit not always as extensively as issues such as child labour and forced labour.

The fact that BFC in its current format does not contribute to the empowerment of garment workers in Cambodia implicates that it is the format itself that leads to this situation. The format of BFC entails its main methods of tripartism and social dialogue, two of the core principles of the ILO in general (ILO 2015, b.). However, for these methods to function optimally, a few conditions need to be met. The assumptions on which the ILO's methods are based might lead to the pitfalls of the BFC program, especially in combination with the fact that ILO does not have any legally binding enforcement power to combat low compliance by factories. BFC explains that the power to enact direct changes lies with the buyers and the factories, while at the same time the buyers are kept outside the whole process, even more so because names of non-complying factories are strictly kept secret to BFC and the individual factory ever since 2006 (CLEC & Clean Clothes Campaign, 2012: 22). Overall, it is of great importance to understand why the BFC project cannot function optimally in its current form or find out why the achieved results are the best possible results within the current model. Therefore it is necessary to understand which parties benefit from the status quo and why, and which actors do not. This research is about why BFC fails to effectively address the most prominent issues that garment workers face through using tripartism as its main method.

Research Questions

Even though the BFC program has undoubtedly contributed a lot to improvement of the labour conditions in Cambodia's garment industry, progress has stagnated with the phase-out of the TATA in January 2005. This research focuses on why the program is currently unable to address the most important issues that workers face in the Cambodian garment industry. The main research question is therefore: 'Why is BFC unable to improve labour conditions in the Cambodian garment industry?' The introduction already explained what BFC is and how it works. The chapter also shed light on some issues that are currently not being effectively addressed by the BFC program. This research focuses on why it is that these issues remain unsolved. To answer the main research question adequately, the following sub questions need to be answered:

- 1) What conditions need to be fulfilled in order for BFC to address the main issues regarding the labour conditions in the Cambodian garment industry?

- 2) Are these conditions fulfilled?
- 3) If not, why are certain conditions not fulfilled?

The first sub question has a theoretical character, as its main goal is to find out what conditions are necessary or ideal to ensure that the program does effectively address the industry's main problems. For this question it is important to understand BFC's methods, as these reveal how the BFC believes to be able to improve labour conditions in Cambodia. Therefore, the chapter's main focus is on what conditions are necessary for tripartism to function most optimally. Following Ishikawa's (2003) theory, all of the parties involved have to meet certain conditions for the system to be able to address the issues in the garment industry. Ishikawa's theory is chosen because of two reasons. Firstly, because he discusses tripartism on the national level, which is what is focused on in this research as well. A second reason for using Ishikawa's conditions is the fact that the document in which the conditions were listed was published by the ILO itself.

After the conditions are determined, the framework of conditions can be applied to the Cambodian case. Clear indicators are necessary for measuring the success of meeting these conditions. The methodology chapter explains what methods are used to answer the final two sub questions in terms of data collection and analysis. After the methodology chapter, the next chapter is used to answer sub question two, in which the focus is put on to what extent the tripartite parties have been able to meet Ishikawa's conditions. The analysis finally focuses on why parties have not been able to meet these conditions. In the end, the goal of this research is to create a clear picture of power relations in the Cambodian garment industry that may explain why even a large-scale program as BFC fails to address the most important issues that garment workers in Cambodia face nowadays.

Academic relevance

Cambodia's reputation of being an 'ethical sourcing option' was widely promoted by the ILO and the involvement of the ILO is an important reason for buyers to show off with their buying practices, since other involved parties view the ILO as independent and trustworthy. However, much of the research that is done into the functioning of the BFC project has been carried out by the ILO itself or by ILO-affiliated research institutions. This may have been fair and unproblematic when the ILO only fulfilled the role of monitor. But the role of the ILO changed as soon as buyers started to use BFC as a legitimization to buy from Cambodian factories. Especially since the ILO requires brands to give up their own monitoring programs as soon as they engage in the BFC project (Better Work 2015). This, in combination with the fact that the monitoring reports are not freely available, means that nobody is allowed or able to monitor the monitor anymore and that BFC has become fairly non-transparent. However, up until now the working methods of the ILO remain rather unchallenged.

Social relevance

The first reason for why this topic of research is socially relevant is that buyers and consumers are currently not at all involved in the progress of the labour standards in garment factories in Cambodia. More general trends of compliance are available publicly, but names of individual factories are not mentioned in these reports. Reports specifically written for a factory are only available to the factory management. They can decide to make them available to third parties (CLEC & CCC, 2012: 20). This also means that the reports are not available to factory workers either. Unions and workers do not know what happens with their input and more importantly, it creates an information gap which makes remediation at the local level harder. Apart from this unfair balance in the sharing of information, this is also an issue of responsibility. In the current BFC program, the actors that are held responsible for following up the recommendations of BFC are the suppliers mainly. Buyers do not pay anything extra for high labour standards, while it may cost the suppliers a lot to be able to comply with the recommendations (ibidem: 23). As said before, buyers are no longer allowed to undertake their own monitoring activities, but they are given the opportunity to join so-called 'performance improvement joint consultative committees'. These committees are established by factory management and are meant as a place to openly discuss factory compliance progress. Problematic about these joint committees is the fact that they are based on voluntary participation and organized by individual factories. The worst factories, with low labour standards and low compliance rates, are not obliged to organize these committees if they do not want to (ibidem: 20). So basically, buyers currently only have to do two things to engage in the BFC project. The first is to pay 750 US Dollars as a fee to the program. Before placing an order with any factory, a buyer must consult BFC to make sure the factory where the order is to be placed complies with the national Labour Code and international labour laws. Secondly, buyers can participate in a buyer's forum in which they get a chance to address non-compliance issues with labour representatives. The utility of this forum is questionable, since workers have complained that whatever is the outcome of the forums, does not matter because the outcomes do not put forward any binding obligations to any of the involved parties. Buyers' participation in the performance improvement joint consultative committees is voluntary.

A second aspect of this research that makes it socially relevant is the fact that the sustainability of the Cambodian garment industry is for a large part dependent on the ILO program, because it gets its ethical label due to BFC. Competing countries in the region are more advanced in terms of technology, transportation, productivity and efficiency (Arnold & Toh, 2010: 403). Related to that is the fact that a large part of the Cambodian population is dependent on a wage earned in the garment industry. Garment workers often attempt to support at least one other person with their wage, if not their whole family. World Bank data show that poverty has declined ever since the

garment industry started to dominate the Cambodian economy (World Bank, 2013). The biggest group of people that have climbed out of poverty over the past decade are at the risk of falling back into poverty though, which is why it is of extra relevance to prevent the collapse of the Cambodian garment industry and make the industry more sustainable and a more reliable source of income.

Thesis overview

The thesis introduction served as a chapter that gave insight into what problem is discussed in the rest of the research. It has introduced the main concepts of the research in a rather explorative manner. These concepts will be further explained in the theoretical framework, where these concepts will also be placed in a more comprehensive context. The theoretical framework discusses the first sub question and thus gives an insight into what specific conditions need to be fulfilled in order to have the BFC's methods work. The chapter that follows is the methodological chapter, in which it is explained what methods are used to answer the remaining two sub questions and how the concepts that were earlier explained are researched and measured. Hereafter follows the analysis. In this part, the data that have been collected will be analyzed. The analysis answers the final two sub questions. Finally, the thesis is ended with a conclusion that summarizes the answers to each individual sub question and finally answers the main research question.

2. Theoretical Framework

This chapter discusses the theoretical basis of the research questions and aims to answer the first research question: What conditions need to be fulfilled in order for BFC to address the main issues regarding the labour conditions in the Cambodian garment industry? It starts by underlining that tripartism is a core principle of the ILO by drawing a brief historical overview of the objectives and means of the ILO. The chapter continues by stating that six conditions need to be fulfilled in order for tripartism to function.

The ILO and tripartism

The ILO was founded right after World War I in 1919 as one of the means to keep peace. The ILO was founded as a mechanism for shaping regulated labour markets on the national level. Since 1919 the ILO has adopted more than 180 Conventions on national labour practices that needed to support this goal (Standing, 2008: 356). Conventions and Recommendations are primarily considered to be guidelines along which governments form their policies dealing with relations between employers and employees (ibidem). When a member state ratifies a Convention, it commits itself to binding obligations. However, Conventions usually have a rather loose character in the sense that they can be interpreted in various ways. This allows governments of member states with very different orientations to comply with them or at least say that they do. Member states are not obliged to ratify all ILO Conventions, instead they can only ratify the Conventions they like and they can even denounce the Conventions that they have come to dislike over time (ibidem). Standing underlines that the ILO has been a rather European oriented organization right from the start, as the ILO was also to a certain extent a development agency: primitive economies would adopt the standards, policies and institutions of the advanced economies (ibidem). The ILO stood for a model of national capitalism in which employees would be treated decently in return for their acceptance of the employers' right to manage. But above all, the ILO stood for tripartism (ibidem). The ILO defines tripartism as 'Dialogue and cooperation between government, employers and workers in the formulation of standards and policies dealing with labour matters' (ILO 2015, c). According to the ILO, the tripartite approach to adopting standards ensures they have broad support from all ILO constituents. On the national level tripartism is important because through regular tripartite consultation, government can ensure that ILO standards are formulated, applied and supervised with the participation of employers and workers (ibidem).

The organization has two primary means of action: the setting of international labour standards and the provision of technical assistance (Trebilcock, 1994: 5). In 1976, two instruments were adopted in order to strengthen the involvement of independent workers' and employers'

organizations in relation to considering, ratifying and implementing international labour standards: the Tripartite Consultation Convention and the Tripartite Consultation Recommendation (ibidem: 6). Over the years, more recommendations were adopted on how the commitment to tripartite cooperation could be made more specific. These instruments heavily influenced the shaping of tripartite bodies in many developing countries (ibidem). Especially in the early 1990s, when tripartism became a popular and widespread phenomenon worldwide (Katz *et al*, 2004: 3). In 1991 for example, the ILO called upon its member states to 'ensure the full participation of workers' and employers' organizations in the process of preparing and implementing their economic and social development programs, especially during periods of structural adjustments' (Trebilcock, 1994: 6). In the Agenda for Peace of 1992, tripartism plays a central role again. Tripartism was expected to contribute to the prevention of disputes, generating action to bring hostile parties to agreement and to initiating post-conflict peace-building, because it was believed that peace could only be established if it were based on social justice (ibidem: 6-7).

Tripartism is based on each party's perception of the long-term advantage of participation. For the government tripartism also means it has to give up a bit of its monopoly on policy-making, whereas for employers and workers tripartism offers a means to influence government policy. However, to actually influence policy, workers and employers also depend on the political system. This is to say that tripartism can be implemented but might not always lead to true social dialogue. Domination of one or two of the social partners by the ruling political party may lead to what is called a tripartite accord, but it does not give way to true social dialogue (Trebilcock, 1994: 8). In such a setting, genuine tripartite participation is often killed.

Tripartism was not an invention of the ILO, as it already existed in nineteenth century Europe on the national level (Katz *et al*, 2004: 1). The topics addressed and the parties included varied between countries as did the extent to which tripartism was deemed successful. In the US, tripartism is insignificant and in some countries it is on its decline, such as Japan and Australia. In other countries however, such as the Netherlands, Ireland and Germany, tripartism is still flourishing (ibidem). In these countries, tripartism has developed to a basic reflect for addressing labour issues over the years (Trebilcock, 1994: 10). In most of these countries, tripartism has also expanded beyond the scope of more traditional forms of national social dialogue and now sometimes includes women's groups and other representatives of civil society. This has proven only to be possible in countries where the labour system has traditionally been most centralized and where the government is fairly neutral, which has most often been the case in Northern European countries. In other countries, one of the main problems is still partiality of the government and highly fragmented trade unions (ibidem: 11). In times of social or economic crises, it turns out that in most countries still, the government's first reaction is not to involve the social partners in the crisis management

(Rychly, 2009: 12). This is mostly done because they fear to trigger further erosion of confidence in the national financial or social systems. Only when crises deepen and start to hurt business, the social partners are called for assistance (*ibidem*). This is usually in the interest of the government, since then not only would they be judged on the painful measures that need to be taken to overcome the crisis, so would the other social partners. Tripartite arrangements may serve only as advice to the government, but sometimes they lead to social pacts that includes a framework for action during a defined period (Katz *et al*, 2004: 3).

In countries that previously had very centrally coordinated economies and with a strong tradition of centralized policy-making, Alvarez warns for 'legal fetishism'. This entails an obsession with having a perfect legal instrument on tripartism rather than letting tripartite institutions emerge spontaneously (Trebilcock, 1994: 29). This happens more often in countries outside Northern Europe, where industrialization took place later and there was thus no pressure to institutionalize industrial relations. These countries often only came in touch with tripartism in the 1990s, when the ILO made efforts worldwide to create some form of national tripartism (Katz, 2004: 3). The reason for the ILO to make these efforts was they believed that national-level social dialogue and partnership and other national-level interactions between representatives of labour, management and the government have played a positive role in addressing critical economic and social problems (*ibidem*: 1). 'Tripartite cooperation is an ideological thread that runs through the ILO from its founding in 1919 to contemporary statements by its international and regional conferences, its Governing Body and its Secretary General.' (Trebilcock, 1994: 5).

Conditionality of Tripartism

The use of tripartism as a means to achieve better labour standards has not remained unchallenged. According to Cox (1977) tripartism embodies the institutionalization of a particular version of corporatism in the ILO. He argued that 'the hegemonic power relations operating in the organization prevent the ILO from confronting effectively the real social issues of employment creation, land reform, marginality and poverty in general' (1977: 385). In the developing world, tripartism and the hegemonic relations of the ILO inhibited the emergence of a strong counter-hegemonic force in the post-war era. This led organized labour to neglect the interests of marginalized workers in the global south. Drawing from Gramsci, Cox argues that 'labour and hegemony inside the ILO reflect hegemony in international productive relations characterized by organized labour's participation in limited social reform rather than transformation and industrial relations under capitalism (1977: 387). Simpson (1994: 44) continues to argue that in the South-East Asian region, the right to organize and collective bargaining have been substantially limited by Western standards. This has resulted in the fact that industrial relations are closely bound up with industrialization and development

strategies that are generally accompanied by state control over labour unions in order to maintain control over the economy (ibidem).

In 2003, the ILO published a resource book for social dialogue in a tripartite setting in which positive features of tripartism were demonstrated with empirical examples. It is in this resource book that Ishikawa lists six enabling conditions for tripartism to work effectively. The first of these conditions is freedom of association (Ishikawa, 2003: 9). Freedom of association often counts as a core principle in democracies and therefore this condition is related to the second one. Freedom of association entails several elements. First, there is the right of workers and employers to form and join organizations of their own choosing and to do so without prior authorization. This means that employees and employers must be allowed to form unions that are independent from the government or other political parties. On the other hand, unions must also be allowed to align themselves with opposition parties. Secondly, unions or other form of association must be allowed to function freely, without the mingling of outsiders (ibidem). Third is the right to elect representatives in full freedom, which is related to the fourth element: the right of organizations to organize their internal administration. Organizations are accountable for their own functioning and other parties are not allowed to interfere in their internal administration. The fifth element is the right of organizations freely to organize their activities and to formulate their programmes (ibidem). The sixth element is the right to strike. Historically, the right to strike has been a powerful tool for unions and other types of organizations. It is usually used as a final means to place urgent topics of their interest on the political agenda (ibidem). Seventh is the right to form federations and confederations and affiliate to international organizations of workers and employers. Also, eighth, organizations and unions must be protected against anti-union discrimination and against acts of interference by third parties. In the case of employee organizations, this right has to be respected and guaranteed by both government and employer. Ninth, organizations should have the right to bargain collectively (ibidem). Freedom of association is thus a multifaceted right. This is an essential element of tripartism because only when freedom of association is guaranteed by both the government and employers it is possible to bargain at an equal level and have all parties equally represented in bargaining processes.

The second enabling condition is that the government needs to be democratic (Ishikawa, 2003: 9). Because being democratic is not outlined any further in the article, Dahl's five principles for democratic processes are used in this research. The first of Dahl's criteria is effective participation, which entails that all citizens must have adequate and equal opportunities to express themselves about the political agenda (Dahl, 1989). The second condition is that there must be voting equality, meaning that every member must have an equal and effective opportunity to vote and that all votes must be counted as equal. Third is what Dahl calls 'enlightened understanding', meaning that citizens

must have equal opportunities to learn about what choice could best serve their personal interests (ibidem). The fourth criteria is that citizens should be able to control the political agenda in the sense that they should decide what should be brought up for deliberation. Finally, the fifth condition is inclusiveness. This entails that all citizens are equal and have the same rights. All adults have a legitimate stake within the political process (ibidem). A perfect democracy still does not exist according to Dahl, but when a state can fulfill these five conditions, that state is a little bit closer to being truly democratic. Since these principles are rather broad, they can be applied to all states that claim to be democratic. Therefore, all of these five principles are measured in this research.

The third enabling condition determined by Ishikawa is legitimacy. According to Ishikawa, the success of social bargaining is largely dependent on the legitimacy of the social partners. Legitimacy is determined by the degree to which employers' and workers' organizations represent the interests of their members and to the extent to which decision-making and policy-making are transparent to all parties (ibidem).

The fourth enabling condition for tripartism is political willingness (ibidem: 11). All parties should be committed to engage in social dialogue. This entails two basic principles: social pluralism and mutual reconciliation of interests (ibidem). This means that all parties should enter social dialogue with a common framework and a common understanding of the purpose of the dialogue, regardless of the fact that their interests may differ. Parties must understand why certain issues are being addressed by the other parties and must be willing to engage in social dialogue on all topics brought up by the other parties. This condition is important for tripartism and social dialogue because all parties should be equally allowed to bring up issues. The other parties are obliged to allow all issues on their agenda, even though it is not in their interest.

The fifth condition that Ishikawa distinguishes is technical competence. This means that all parties should have equal technical tools and skills that enable them to bargain at an equal level. These tools are also necessary to engage in social dialogue on wider issues beyond one party's immediate interest (ibidem). These technical tools include access to relevant information and negotiation skills. This is somewhat related to the sixth and final condition, which is the capacity to deliver. This entails that the social partners must comply with the outcomes of their social bargaining processes. This firstly means that there should be the ability to implement the outcomes within the given timeframe. This also means that implementation should be monitored (ibidem: 12).

This research focuses on BFC, which uses tripartism as a means to create better labour standards in the Cambodian garment industry. Tripartism is dependent on six enabling conditions: freedom of association, democratic foundations, legitimacy, political wiliness, technical competence and capacity to deliver. If these conditions are fulfilled by the government and the social partners, social dialogue in a tripartite can take place on an equal and fair basis. Tripartism is used by the ILO

as a means to an end, the end being better labour standards and increased compliance with international and national labour laws. The extent to which the ILO can rely on tripartism for better labour standards is addressed shortly later in the research. First, focus is put on the extent to which these conditions are fulfilled.

3. Methodology

This chapter explains the methods that are being used to answer the final two sub questions and the main research question eventually. The chapter explains how the main concepts of the research are being measured, what methods are used to make these measurements and why these methods are chosen. The chapter also pays attention to the validity and reliability of this research.

The main concepts of this research have already been introduced in the previous chapters but need to be reduced to measurable indicators in order to be able to accurately measure or value these concepts. In qualitative research, which is what this research is, measuring and valuing are vaguer terms than they are in quantitative research (Golafshani, 2003: 598). This is mainly because qualitative research is more about understanding phenomena under specific circumstances and findings are not arrived at through statistical procedures or other means of quantification (ibidem: 600). The same counts for this research, as it is very hard to make the main concepts in this research numerical. The eventual value that is given to certain aspects of the concepts, the indicators, are therefore all specific to the context of the Cambodian garment industry.

The main concept that derives from the research question is 'tripartism'. The research is centered on this concept. The theoretical chapter has made clear that the likeliness of social dialogue taking place in a tripartite setting is dependent on six enabling conditions. These need to be operationalized in order to be able to measure them. Lawrence and Ishikawa (2005: 1) perfectly explain how the greater objective of the ILO and tripartism are related to each other within the BFC framework: 'A long-term goal of the ILO is to help to ensure decent work for women and men everywhere. This overarching objective embraces the strategic objective of strengthening social dialogue by encompassing national institutions, legal frameworks, labour administrations and all tripartite consultation processes. The organization aims to promote sound labour relations and to increase the participation of the social partners in economic and social policy making'.

Operationalization

As the ILO aims for social dialogue in a tripartite setting, no difference is made between these two concepts in this research. Ishikawa (2003, 9-12) distinguishes six separate basic enabling conditions for stable social dialogue in a tripartite setting. These are used as dimensions to the concept, as is illustrated below. The variables that are derived from these dimensions are also distinguished by Ishikawa (ibidem). The eventual indicators are based on these variables and translated for this specific research. This means that it must be achievable to research these specific indicators and at the same time, the indicators must be specific to the context of this research and exactly measure what they are intended to measure.

Concept	Dimensions	Variables	Indicators
Social dialogue in tripartite setting	Freedom of association	Formalized in Cambodian Law	The right of workers to join and form unions of their own choosing
			The free functioning of these organizations
			The right to elect representatives in full freedom
			The right of organizations to organize their own internal administration
			The right of organizations freely to organize their activities and to formulate their programmes
			The right to strike
			The right to form federations and confederations and affiliate to international organizations of workers and employers
			Protection against anti-union discrimination
			Protections against acts of interference
	The right to bargain collectively		
	Democratic Foundations	Democratic governance according to Dahl's five principles	Effective participation
			Voting equality
			Enlightened understanding
			Control of the agenda
			Inclusiveness
	Legitimacy	Legitimacy of social partners	Organizations need to be representative and reflect the interests of their members
			Decision-making and policy-making need to be transparent
	Political will and commitment	Social pluralism	Interdependence of partners with an appreciation of their divergent views

Social dialogue in tripartite setting	Political will and commitment	Mutual reconciliation of interests	Commitment of social partners to identify common objectives and priorities
	Technical competence	Access to relevant information	Access to independent social, legal and economic information
		Negotiation skills	Communication and conflict management skills
	Capacity to deliver	Compliance with outcomes of social dialogue	Implementation of agreements
			Monitoring of agreements

Table 1. Operationalization table.

Since Ishikawa did not specify what exactly was meant by ‘democratic foundations, Dahl’s classic five principles are used here in this framework, since they provide very basic foundations of democracy. In political science Dahl is one of the most outstanding authors on democracy. He was the first one to provide a very static checklist for democratic regimes: if a regime operates all six institutions, it counts as a democracy. If it lacks any of them or a few of them are not really working, it does not count as a democracy. Democracy is hard to measure, as opinions on what it entails vary enormously. Dahl’s checklist might therefore come forward as too black and white, but on the other hand most of his claims are legitimate. As Tilly states, together Dahl’s principles describe a very minimum package of democratic institutions that are incontestable (Tilly, 2007: 11).

The remaining indicators are copied from Ishikawa because they suit this case study perfectly, as this is about social dialogue at the national level. The indicators that were formulated here guide the literature research and are used to formulate the interview questions. The operationalization table is thus also used for the third sub question. The second sub question asks whether or not the conditions are fulfilled and the third sub question continues to ask why certain conditions are not fulfilled. All of the indicators are therefore transformed into a why-question.

Data Collection

This research is done using two research methods: interviewing and literature research. The collected data are used complementarily. The operationalization table is used as a guideline for both the literature study and the interviews. For the second sub question, the operationalization table is used as a checklist to find out whether or not conditions have been fulfilled. The third sub question elaborates on these findings by asking why certain conditions have not been met. The second sub question can be answered using literature solely. This sub question only focuses on whether or not the government, employers and workers are able to fulfill the conditions that are necessary for

enabling social dialogue in a tripartite setting. To answer this sub question, several kinds of documents need to be analyzed: official documents deriving from the state, official documents deriving from private sources, official documents deriving from national and international organizations, in this case the ILO, academic literature and mass media outputs. An advantage of using these documents as a source for research is that they are often not specifically created for social research, apart from the academic literature, which means they are non-reactive sources (Bryman, 2008: 515).

For answering the third sub question, interviews are a necessary component next to literature study as well. The main reason for this is that there is relatively little literature that embodies the point of view of employees because of the simple fact that trade unions do not publish reports, let alone reports in English. In order to gain primary information it is therefore necessary to conduct interviews. This means that interviews are only necessary when literature does not provide a sufficient amount of information or when the quality of a document is not sufficient. Ideally, interviews would be held with several individuals involved in the tripartite setting of BFC to create an honest and objective picture of the situation. However, due to limits in both financial assets as well as access it is not possible to conduct interviews with members of each of the tripartite members. Here, it is necessary to complement data collected from interviews with other members with literature in order to create a complete enough picture. Literature is thus a necessary component to prevent for bias and demonstrate all sides of this story and because it is not possible to interview a representative number of people.

For this research, semi-structured interviews were chosen as a method. Semi-structured interviews allow interviewees to explain themselves more broadly as the interviewer is allowed to pick up on things said by the interviewee (Bryman, 2008: 438). On the other hand, the interviews are not completely unstructured because an interview guide forms the red line through the interviews. This is important because the indicators that need to be measured in order to answer the research questions have already been determined before the interviews are taken. This means that to certain questions an answer is definitely needed in order to be able to 'measure' the indicator (ibidem: 439). Again, since it is not possible to interview a representative number of respondents it should be tried to prevent bias. Primary literature is preferred as the other source of information when conducting an interview is not possible. Primary literature is preferably written by the actor, or group of actors, of interest personally. In the case of this research this means that official statements made by the government or certain ministries can be used as primary sources. Even if these documents do not tell a complete or objective story, they do portray the vision and statements of the actors as do interviews. When primary sources are not at all available, secondary sources are used to fill up the gaps and broaden the perspective on certain issues.

The interviews with people in Cambodia are held over Skype or other digital channels. Because of language barriers, it is only possible to conduct interviews with English-speaking respondents. This could create a bias since only a small percentage of Cambodians speak English well enough to have a serious interview with. However, in this research it is of no importance to represent the Cambodian population accurately, as they are not the topic of interest. It is important that the respondents represent the units of analysis well, which in this case is either the government, the trade unions or the employers. The interviews are recorded for two reasons. First of all it is easier to transcribe an interview when it has been recorded and secondly, it allows the interviewer to keep notes during the interview as well (Bryman, 2008: 419). These notes can be put into two categories: jotted notes and full field notes. Jotted notes are small notes taken during the interview that serve as reminders for things to be elaborated on later. Full field notes are notes that are taken shortly after the interview, preferably on the same day. These notes are very detailed and count as main data source (ibidem: 420).

Interview guides

Interview guides are used to guide the interviewer through the interview. In semi-structured interviews they are used for two reasons: to create a certain logic in the sequence of the interview questions and to remind the interviewer what questions to ask on basis of the operationalization table. This research used two interview guides, one was made to guide interviews with representatives of independent trade union C.CAWDU. The other interview guide was used during an interview with a CCC representative.

Since the interviews are only used to answer the third sub question, the interviews focus on the question why conditions have not been fulfilled yet. This means that the interviews can only be held when the second sub question has been answered. This allows the interviewer to ask more specific questions about certain indicators. Ideally, interviews would be held with at least one representative of each of the involved parties. From the government, a representative of the Ministry of Commerce or the Ministry of Labour and Vocational Training would be interviewed, as these are the ministries responsible for the implementation of labour agreements and are involved in the wage debates in the industry. Also, preferably one or two representatives of GMAC would be interviewed. Finally, interviews with independent union representatives are favoured over interviews with CPP-aligned union representatives, as the latter copy their vision from the CPP.

Three interviews are held for this research, due to practical limits in time and financial resources and language barriers. Two interviews are held with representatives of C.CAWDU, an independent union that is represented in the LAC as well. C.CAWDU is known to be one of the most active unions when it comes to demonstrations, strikes and negotiations. The interviews are held

with the president of the union and with the program manager of the union. Both representatives are able to participate in an interview held in English, have knowledge of the internal administration of the union, as well as its goals, its achievements, its means and the Cambodian garment sector more generally. The president of the union was chosen because he embodies the union, has worked in the garment sector himself, has had to deal with a lot of discrimination and is best capable of explaining the vision of the union. The program manager of C.CAWDU was chosen because of her broader knowledge of the political history of the country, since she studied political science in Phnom Penh. Also, because of her function as program manager, she is able to provide detailed information about the trainings that workers and union leaders participate in. The interviews with the C.CWADU representatives focus on one of the six enabling conditions mainly: freedom of association.

A third interview is done with a representative from CCC Norway. CCC conducted a research on BFC in 2012 and is considered one of the major players in the international garment sector. The organization aims to create better labour standards in the garment industry through other means than the ILO. CCC has close ties with C.CAWDU and NIFTUC and is therefore well aware of the main issues of garment workers. A representative of CCC Norway was chosen because she is an expert on the Cambodian garment industry specifically. She has close ties with the main buyers in the industry, as well as with unions and GMAC to a lesser extent. Therefore, her interview does not focus on one enabling condition specifically but aims to pay attention to all six conditions.

The fact that only three interviews were conducted can possibly cause a bias. However, the bias is limited because of several reasons. Firstly, C.CAWDU is an independent union, meaning it is neither pro-CPP nor pro-opposition. Secondly, interviews with pro-CPP unionists would only generate information that is similar or even identical to information that can be obtained from the government itself. Pro-CPP unions represent the interests of workers only to the extent that is allowed by the CPP, whereas C.CAWDU and other independent unions truly represent the interests of workers. This independent vision is necessary in this research because each of the three tripartite partners needs to be heard. Thirdly, triangulation takes place, meaning that information obtained from interviews is complemented with information obtained through literature study and vice versa.

The interviews have been divided into three parts: opening with some general questions on cooperating with BFC, followed by more specific questions necessary to answer the third sub question and ending with BFC's role in these issues.

Interview C.CAWDU	Interview questions
BFC	<ul style="list-style-type: none"> • What is C.CAWDU's relation with BFC? <ul style="list-style-type: none"> - Follow up: Is C.CAWDU dependent on BFC? • Is BFC an important part of the Cambodian garment industry? <ul style="list-style-type: none"> - Follow up: Why? /Why not?
Freedom of association	<ul style="list-style-type: none"> • C.CAWDU is an independent, non-political union. Why do GMAC and/or the government interfere with elements of the right to freedom of association? • What are the consequences of this interference? • How does C.CAWDU deal with interference? • Why are the government and GMAC able to ignore the right to freedom of association? <ul style="list-style-type: none"> -Follow up: what happens with these cases when they are brought to court? - Follow up: how does the international community respond?
Main issues	<ul style="list-style-type: none"> • What are the most urgent issues concerning freedom of association? • What is BFC's role in these matters? • To what extent are C.CAWDU and BFC able to address these issues without any contextual change?

Table 2. Interview Guide C.CAWDU Representatives.

Interview CCC	Interview questions
BFC	<ul style="list-style-type: none"> • What is CCC's relation with BFC? • To what extent differ the goals of CCC and BFC? • To what extent differ the methods of CCC and BFC? • To what extent has BFC become a part of the Cambodian garment industry?
Enabling conditions for tripartism	<ul style="list-style-type: none"> • Why are Cambodia's industrial relations skewed towards the government and GMAC? • Why do priorities of workers, GMAC and the government differ so much, when a sustainable industry seems to be a valid mutual goal? • Why has the garment industry become such a political sphere? • Why are the government and GMAC able to ignore the issues of garment workers and fail on all of the enabling conditions? <ul style="list-style-type: none"> - Follow up: where is the international community?
Main issues	<ul style="list-style-type: none"> • Why does the international community lack binding mechanisms to enforce labour rights? • What are the most urgent issues in the garment industry currently? • What is BFC's role in these matters? • To what extent can these issues be solved or addressed without any contextual change?

Table 3. Interview Guide CCC Representative.

Data analysis

Before the data can be analyzed it is useful to categorize the collected data. For the basic categorization of data it is useful to use the research questions as a guideline, since they need to be answered after all. Scott (1990: 6) distinguished between four criteria to assess the quality of documents for research: authenticity, credibility, representativeness and meaning. Documents deriving from a state that is known to be not very democratic at times and in which corruption is not uncommon can pose a threat to at least two of Scott's criteria. These documents can often be said to be authentic and clear in terms of their meaning. But credibility can be an issue in these kinds of documents, since there is a chance that they are biased. Abraham (1994) states that this is exactly what makes these documents even more interesting and real, because they reveal bias. The extent to which these documents are representative is complicated, because government statements are

usually unique in the sense that they are only made once (Bryman, 2008: 521). The same issues more or less count for documents published by garment unions, as they cannot be said to be unbiased either, and for GMAC. In the case of mass media output, in this research mostly newspaper articles, authenticity can be a problem. Outputs can be deemed genuine if the authorship of the article is clear (ibidem: 525). For all types of documents counts the idea that they were created in a certain context and with a certain readership in mind. Therefore, they do not actually depict a distinct level of reality but rather create an impression that is favourable for the author or those whom they represent (ibidem: 527).

Qualitative content analysis is one of the ways in which documents can be analyzed in qualitative research. More specifically, a method called ethnographic content analysis (ECA) is used in this research. As Altheide (1996: 16) puts it, the aim of ECA is 'to be systematic and analytic but not rigid'. In this research, the indicators guide both the data collection and the analysis but this does not mean that important other factors should be ignored over the course of the analysis. In grounded theory this principle is called 'constant comparison', which ensures there is a fit between indicators and concepts (ibidem: 545). However, this research differs from grounded theory in that it does not have an inductive character and that indicators have been predetermined.

The third sub question has a more explanatory character as this chapter aims to find out why certain conditions are not being met. For this sub question the interviews form a part of the data as well, next to documents. The first step for analyzing data for this sub question is categorization. Categorization can only be done after the interviews have been transcribed, after which the coding can take place. Coding is a central process in qualitative research, as it reveals the direction that the research is going to take. Certain elements gain priority over others or are left out completely. These choices shape the research and therefore need to be taken on valid grounds. Bryman describes coding as the process that 'gives labels to component parts that seem to be of potential theoretical significance and/or that appear to be particular salient within the social worlds of those being studied. Codes serve as shorthand devices to label, separate, compile and organize data' (Bryman, 2008: 542). Categories are flexible, meaning they may still change in a later stadium of the research if the analysis forces the researcher to do so. Data are constantly compared to the created categories until the right categories are found. This creates flexibility and increases the validity of the research at the same time. The final categories of codes must be discrete, which means they cannot overlap each other in theoretical or empirical terms (ibidem: 288).

During the analysis it is important to not lose sight of the original interview transcripts and taken notes, because they have been least influenced by personal interpretation. As stated by Brink (1993: 35) the major sources of the creation of bias and thus errors are the researchers themselves, followed by participants in the research, the social context of the research and the methods of data

collection and analysis. Errors usually pose a threat to either the reliability or the validity of a research.

Validity and reliability

Maintaining internal validity in qualitative research is within control of the researcher, as this concerns whether or not the research has measured what it was intending to measure. This is for a large part dependent on the strength and clarity of the indicators but also for a large part on to what extent respondents have the same interpretation as the researcher. Important here is that the indicators cannot be ambiguous. Although the indicators can have varying degrees of concreteness, they cannot be ambiguous or overlap, because this poses a threat to the internal validity of the research. The validity of this research is increased by the types of documents that are used for the literature study. Bryman (2008: 515) describes the main sources for this research, such as official documents, mass media outputs and academic literature, as 'non-reactive'. This means that these documents were not specifically created for social research, which minimizes their reactive effect. Internal validity of this research is also increased because two different methods are used to answer the third sub question. Triangulation reduces the disadvantages inherent in the use of one single method and is mainly used to check which inferences from data obtained from these two sources are valid (Long & Johnson, 2000: 35). However, triangulation cannot contribute to the external validity, or generalizability, of this research. In qualitative research, the design often does not allow systematic generalization to some wider population (Maxwell, 1992: 293). Rather, qualitative research aims to develop or test a theory that not only makes sense of specific persons or situations but also shows how the same process, in different situations, can lead to different results (ibidem). This research indirectly does so too, because this research claims that tripartism fails, or is more likely to fail, when six conditions are not fulfilled. This research uses Cambodia as a very specific case, but the theory can be applied to basically every country. However, this still means that the results of this research are very specific to this case and cannot be generalized. Therefore, the strength of this research is not its generalizability but rather its uniqueness and its explanatory power on this specific case. Maintaining external reliability in qualitative research is quite hard in itself, since it is impossible to freeze a certain social context (Bryman, 2008: 376). This research is no exception to this threat, meaning the outcome of this research can only be said to be valid in the specific context of this research.

4. Tripartism in the Cambodian Garment Industry

This chapter covers the second sub question and thus aims to find out to what extent the conditions that were distinguished in the theoretical framework have been fulfilled by the Cambodian government and the social partners. It does so by discussing each of the conditions separately. The chapter ends with a conclusion in which an overview is given on which of the indicators are fulfilled and which ones have not yet been fulfilled.

Freedom of Association

Freedom of Association is guaranteed by Cambodian Law, article 266 of the 1997 Labour Code. The article states that ‘workers and employers have, without distinction whatsoever and prior authorization, the right to form professional organizations of their own choice for the exclusive purpose of studying, promoting the interests, and protecting the rights, as well as the moral and material interests, both collectively and individually, of the persons covered by the organization's statutes’. The Labour Code continues by stating that these organizations have the right to draw up their own statuses and administrative regulations, to freely elect their representatives and to formulate their own work program (article 267). Article 321 guarantees the right to strike, as long as they are peaceful nonviolent strikes. Employers are not allowed to put any sanctions on employees that have participated in a strike (article 333). The Labour Code covers all of the points that Ishikawa mentions as being part of freedom of association. On paper therefore, freedom of association is present in Cambodia. In reality, the right to freedom of association is often violated by both employers and the government. From the ten indicators that have been determined in the previous chapter, three are most often violated: the right to form and join unions, the right to strike and the right to protection against anti-union discrimination. However, it is important to underline that the remaining seven indicators are worth less if these three are violated.

Cambodia has an unusual high number of trade unions, especially in the garment sector. In 2006, GMAC estimated the industry to count no less than 892 trade unions. The ILO counted 440 active unions in 2008, which came down to an average of 1.7 active unions per factory (Arnold, 2013: 13). Also, there are twenty-nine active union federations in the Cambodian industry. Sixty per cent of union membership is considered to demonstrate high worker representativeness. In Cambodia, total membership is estimated to be just a little over sixty per cent (ibidem). However, in 2014 the Cambodian government sharply limited the registrations of unions (International Trade Union Confederation 2015). Human Rights Watch found this trend has been going on since 2011 already, based on official government registration licenses and interviews with union leaders (ibidem). The

same research has pointed out that the Cambodian Ministry of Labour is deliberately obstructing processes of unions' registration and leadership changes within unions (ibidem). This means that ever since 2011 it has been very hard to form unions and also that the government has interfered in matters that are actually internal to unions themselves by making leadership changes a burdensome process.

When it comes to the right to strike, there is much evidence that speaks against the government and employers. The most recent strikes in Cambodia called for an increase of the minimum wage and were organized by two of the largest independent unions of the country: Coalition of Cambodian Apparel Workers Democratic Union (C.CAWDU) and National Independent Federation of Textile Unions in Cambodia (NIFTUC). In September 2013 some 200,000 workers participated in one of the largest strikes in the history of the garment industry. After the strike, more than 260 union representatives were illegally dismissed, even though the strikes were nonviolent and deemed legal by Human Rights Watch (Labour Behind the Label 2015). A NIFTUC spokesperson states that dismissals are common after strikes, regardless of the fact that workers and unions have the right to organize and participate in strikes (ibidem). Factory owners are punishing union activists for their union activities, which is in direct violation with several ILO Conventions, Cambodia's Labour Code and the national constitution. However, factory owners hardly ever face any sanctions for violating the law (International Trade Union Confederation 2015). Not only is the right to strike often violated after the strikes and demonstrations, also during the event workers often face oppression. Strikers and unionists are often target of illegal disciplinary action and violence. Hall (2010: 450) claims that the police is sometimes even willing to serve as heavies on behalf of employers resorting to violent tactics to break up otherwise peaceful demonstrations. In 2003, two trade unions leaders were murdered, along with eleven other political activists in the run-up to the 2003 national elections (ibidem: 451). In January 2004, the police and military injured more than a hundred workers that went on strike. Events similar to these return every year, but not often as violent and deadly as in early 2014. Reuters reported that during strikes in January 2014, Cambodian military forces opened fire in an attempt to quell the protests, while workers were peacefully demanding a raise of the minimum wage (Reuters 2014). The violence killed at least four workers, left many injured and sparked a new round of protests until eventually, the government prohibited demonstrations in public places for a specific period of time (ibidem). In early 2014 the government also appointed the heads of the armed forces to a new committee that is to solve strikes and demonstrations. The International Trade Union Confederation (ITUC) states that this further militarises future government responses to strike activity and demonstrations (ITUC 2015). In order to prevent strikes from occurring, Hall (2010: 453) states that many factories do not fear to

intimidate union leaders or activists. Usually they are told to be suspended or dismissed if they initiate a strike or demonstration.

A third indicator of freedom of association that is often violated is the right to protection against anti-union discrimination. As said earlier, union activists are often suspended or dismissed after having initiated or only participated in a strike. More rare but sadly not uncommon is the killing of union activists during strikes or, as in the case of the two 2003 killings, not even accidentally during demonstrations or strikes. Most violence is, logically, aimed at independent unionists (Hall, 2010: 450). The two killed union activists were openly critical of the government, which is why their murders have always been linked to opposition violence and not anti-union violence. Although anti-union discrimination is not always as manifest as public violence, it is also present in the hidden daily routine within factories. A well-known problem is that factories often refuse to hire men, only because it is thought that they are more likely to engage in or start activist behaviour (Better Factories Cambodia, 2012: 16). The same report states that anti-union discrimination was reported in only three percent of all garment factories in Cambodia (ibidem: 9). However, BFC immediately adds that it is hard to detect anti-union discrimination at the factory level, simply because discriminated workers often do not work in a specific factory anymore by the time the BFC monitoring takes place. The collected data therefore do not always draw a good picture of how many workers have been unlawfully dismissed (ibidem: 11). Also, the number of casualties in a certain factory is hard to determine, which is why only the amount of factories where discrimination has taken place is stated. The number of casualties is simply unknown.

So although freedom of association is guaranteed in the national law, some elements of the right to freedom of association are often severely violated. Violation of the above-mentioned indicators directly marginalizes the remaining indicators. The right of a union to organize their own internal administration is worth nothing if the forming of a union has become almost impossible, for example.

Democratic foundations

Both Un (2005) and Hughes (2007) argue that Cambodia is not completely democratic. Un describes Cambodia as a hybrid democracy meaning that it has some characteristics of a democracy, but as many characteristics that are undemocratic (2005: 205). A primary element of democracy is the voting for representatives. Both Un (2005) and Hughes (2007) admit that the elections of 1993, 1998 and 2003 can be labelled fair and free. The 1993 elections were the first democratic elections to be held after the civil war and were heavily monitored by United Nations monitors. Elections in 2008 and 2013 were marked by more tumult and the outcome of the elections was contested by opposition parties, especially in 2013. Human Rights Watch stated that voter rolls were severely

manipulated in a way that allows for so-called 'ghost-voters' and excludes opposition voters (Human Rights Watch 2015, b). This has heavily undermined the 2013 elections and possibly also the 2008 elections. The Cambodian People's Party (CPP), the political party that has been ruling Cambodia ever since the civil war has ended, denies these accusations and claims the elections have been fair. However, the elections can be labelled the least unfair and undemocratic of all democratic processes within the country. Dahl's principle of voting equality is not fulfilled in Cambodia. All citizens have equal rights and opportunities to vote, but there are strong indications that the results have been manipulated in a way that disadvantages opposition voters. The 2013 results sparked many demonstrations in the capital of Phnom Penh, which were violently suppressed by militant forces.

The processes leading up to elections are even more controversial and make the realities of Cambodia's political life far from democratic, just and open (Springer, 2009: 138). According to Human Rights Watch, problems surrounding the pre-elections phase include: unequal media access for opposition parties, pro-CPP bias within the national and local electoral apparatus, lack of an impartial dispute resolution mechanism and campaigning by senior security forces for the CPP (Human Rights Watch 2015, b). So even if the elections were to proceed democratically, the odds have already been manipulated in favour of the CPP before the elections take place. The CPP is known to oppress opposition leaders ever since 1998, when opposition leaders were arrested on spurious grounds (Springer, 2009: 147). In 2003 opposition activists were violently attacked by police because they were accused of illegal practices (Sokheng, 2003). In 2010 Sam Rainsy, Cambodia's most prominent opposition leader, was being jailed in absentia. The charges were made by the CPP and according to Rainsy, all charges were politically motivated (BBC 2010). Only days before the 2013 election, Rainsy was granted a royal pardon so his Cambodia National Rescue Party (CNRP) could participate in the national elections. Not only are opposition leaders jailed or banned from the political stage, numerous opposition activists have been killed or kidnapped too. Apart from the murders mentioned earlier, more politically motivated murders happened in 2008, 2013 and 2015 (Springer, 2009b). Un (2005: 210) states that violence and opposition suppression is a decisive part of the CPP's strategy: 'the CPP uses its domination over state and security apparatus to intimidate and organize violence that ranges from verbal threats to armed attacks against opposition parties. Although in all of those incidents no smoking gun was ever found, persuasive evidence suggests that violent acts and threats are an integral part of the CPP's tactics to block opposition parties from winning or even campaigning'. Suppression of opposition activists and leaders undermine the second principle of Dahl; effective participation.



Photo 1. Supporters of the CNRP after the 2013 elections. Source: Today, 16 September 2013.

Dahl's third principle is enlightened understanding. This means that Cambodians must be able to make their political choices on solid grounds, knowing what would serve their interests best. Un (2005: 211) claims that opposition parties are still disadvantaged when it comes to resources for campaigning. Opposition parties lack resources, access to state institutions and the media and they are disadvantaged in terms of organization. These parties still rely on international support. Sam Rainsy, representing the CNRP, admitted that he relies on moral, diplomatic and financial support from the international community (ibidem). In urban areas this reliance on international support pays off, as the city is increasingly becoming the center of opposition to the political system and urban citizens can be reached also through more international sources. The urban combination of pluralist voices, a sophisticated electorate and open political space is more conducive to opposition parties than are rural contexts (ibidem). Most Cambodians are therefore still not within reach of the opposition parties, since most Cambodians live in rural areas where international media are absent and the CPP dominates most of the press. Huntington (1996) suggested that the ruling party in the developing world usually secure their support in the countryside through both fair means and foul. Un (2005: 213) explains that in Cambodia, the foul means 'include the restriction of rural space for opposition party workers and continued surveillance of rural voters.' Freedom House found that authorities, both on the local and the national level, continue to develop and utilize legal mechanisms to silence independent media (Freedom House 2015). However, also illegal means are used to silence independent media. The Committee to Protect Journalists claims that twelve journalists have been murdered in Cambodia since 1992, of which 67% is believed to have had a political motive (Committee to Protect Journalists 2015). The Cambodian Center for Independent

Media confirmed that 2014 has been the deadliest year for journalists covering the news, with two murdered journalists and a foreign reporter found dead under suspicious conditions (Cambodian Center for Independent Media 2015). The government also uses defamation to intimidate independent journalists, reports Freedom House (Freedom House 2015). This is especially problematic since most of the courts lack independency as well, with many judges tied closely to the CPP. The fact that independent journalists are threatened or suppressed with violence and the fact that independent media often do not reach the rural areas of the country ensure that Dahl's third principle is not being met in Cambodia. The CPP still dominates the media, has massive financial resources to finance large political campaigns and has many local offices in rural areas, making it a political party that most Cambodians are familiar with only. Newspapers are too expensive for almost all Cambodians, but radio and television have a wider reach as they are also part of the daily life of rural Cambodians. However, almost all radio and television channels are owned by the CPP.

Dahl's fourth principle for democracy is control of the agenda. Every Cambodian must be able to put a certain issue on the political agenda, as the people should decide what is deliberated. Earlier mentioned examples already implicate that the Cambodian government does not always allow the people to do this, as proof the violence used against protesters and the ban on public gatherings in early 2014. The lack of independent media and the suppression of independent journalists also indicate that the government does not allow too much input from the people. Most of Cambodia's state institutions are weak and very bureaucratic, not aimed at helping citizens but rather strengthen the position of the existing political regime (Adler *et al*, 2009).

The final principle of Dahl characterizing a democracy is inclusiveness. Cambodian law dictates that all Cambodian citizens are equal, citizens from eighteen years or older have the right to vote and citizens over twenty-five years old have the right to stand as candidate for the elections (Cambodian Constitution, 1993: article 31, 34, 35). In the political sphere there is no structural discrimination against a certain group of people on the basis of sex, race or other grounds. Discrimination on the basis of political beliefs does happen in the political sphere, as is proven by the fact that several prominent opposition activists have been banned, killed or jailed by the government, depriving them from their political rights as citizens.

Even though democracy is a complex concept to measure with only five indicators, it is clear that Cambodia is not completely democratic yet. Inclusiveness is the only principle that has been fulfilled while the remaining are severely violated. It can thus be said that the second enabling conditions for tripartism is not fulfilled.

Legitimacy

Legitimacy is the third enabling condition necessary for tripartism. The first indicator for legitimacy is the degree to which each of the tripartite parties represents their group and is able to reflect the interests of its members. In case of the government, or CPP, and GMAC it can be stated that they are representative for their members. Although it should be stated that, taking into account what has already been said about the level of democracy, the government does probably not represent the Cambodian population accurately, as it is supposed to. Rather, the government should be seen as representing the CPP and reflecting the interests of the CPP. GMAC represents the employers of the Cambodian garment industry. Only exporting factories can become a GMAC member, therefore GMAC does not actually represent all employers of the industry. However, BFC only focuses on exporting factories so in this case it can be said that GMAC is representative as well. In the case of workers it is questionable how well they are represented. Although BFC cooperates with every union at the factory level, not all unions are involved in decision-making and policy-making. In the Labour Advisory Committee (LAC), composed of seven government representatives, seven GMAC representatives and seven worker representatives, only two independent unions are represented: C.CAWDU and NIFTUC. The remaining five unions are openly pro-government (Nuon & Serrano, 2010: 37). The other five unions that are represented in the LAC are: Cambodian Federation of Independent Trade Unions (CFITU), Cambodian Unions Federation (CUF), Cambodian Labour Union Federation (CLUF), Cambodian Workers Labour Federation Union (CWLFU), Trade Union Workers Federation of Process Democracy (TUWFPD) (ibidem: 76-77). The largest unions of the country automatically receive a seat in the LAC. However, it is hard to determine whether the LAC is truly representative for all workers, because exact numbers on membership are non-existent.

The first reason for why it is questionable that the seven unions in the LAC truly represent the interests of garment workers is the fact that many Cambodian trade unions are in fact paper unions (Kolben, 2004: 87). Paper unions exist on paper but in reality do very little in the interest of the workers they purport to represent. Instead, these unions serve as vehicles to mobilize political support (ibidem). These paper unions are all aligned to the CPP and are also controlled by the party (ibidem). A second reason to question the representativeness of workers in the LAC is that members of CPP-aligned unions enjoy several benefits in comparison to workers that do not. These benefits come in the form of higher salaries, bonuses, undetermined duration contracts (UDCs) or promotion, all very attractive to workers that live on a wage still far below the calculated living wage. A survey that asked workers why they joined unions, the reasons most frequently cited were: the benefits derived from union membership, improvement of working conditions, enhanced job security and finally belief in the principles and objectives of unionism (Nuon & Serrano, 2010: 86).

The second indicator to measure legitimacy is transparency of the decision-making and policy-making processes. According to Nuon and Serrano (2010: 37) many workers and unions decry a lack of transparency in negotiations in the LAC. This is partially due to, again, the many pro-government unions that are immediately ready to accept any suggestion or decision from the government (*ibidem*). GMAC is known to have close relationships with the government, which makes it even harder for independent voices to be heard within the LAC (Arnold, 2013: 7). Since the LAC is only an advisory body and the government is allowed to make the final decisions, it can be said that in general the decision-making process is not very transparent. In the case of BFC, transparency used to be a core value of the program, which was visible in the reporting methods used by the ILO. However, the reporting system of BFC has changed after 2005. Between 2001 and 2006 BFC did publicly report factory names and their compliance level (CLEC & CCC, 2012: 22). This method of naming-and-shaming has proven to spur compliance levels in factories, which makes sense because buyers are free to end commercial contracts with suppliers if they disagree with their labour policy (*ibidem*: 8). During this period, BFC was an outstanding example of transparency. However, this changed when the TATA expired and Cambodian factories no longer benefited from the quota system through BFC monitoring (*ibidem*: 22). Currently, after having completed an inspection at a certain factory, a report is sent to that specific factory. This report is not made publicly available. The manufacturer can decide whether or not it wants to make the report available to third parties, for example buyers (*ibidem*: 20). The synthesis reports that BFC writes are publicly available, but there are no names to be found in these reports as they only cover general trends of compliance of the industry as a whole. Workers are not able to see what their contribution has been to the factory reports and what has been done with their input. The BFC reports are advisory reports. Compliance is checked by monitors, but a certificate of compliance can only be handed out by the government and indicators for compliance were determined on a vague basis (Kolben, 2004: 95). This makes the program sensitive to for example corruption and partiality. Decision-making and policy-making are not transparent to both workers and buyers, as buyers rely on the willingness of manufacturers to make the factory reports public or not.

Legitimacy in terms of representation of workers is rather complex, since this is not a matter of whether or not workers are represented in unions but rather the degree to which they are well represented. In the LAC only two independent unions are represented, countering five CPP-aligned unions. This makes it very hard for independent workers to have their voices heard. Legitimacy of CPP-aligned unions is undermined by the fact that many workers are bribed to join these unions, which often do not represent the interests of workers. Also, legitimacy in terms of transparency of the decision-making processes within the LAC and considering BFC is low. The CPP has the exclusive right to adopt or reject advice given by the LAC or the ILO and is not obliged to further motivate their

decisions. Transparency of BFC has become significantly lower ever since the ILO decided to quit their naming-and-shaming policy and made the factory-specific reports exclusively available to the factory management, excluding both workers and buyers. Thus, the third enabling condition for tripartism has not been fulfilled yet.

Political will and commitment

The fourth enabling condition for tripartism is political will and commitment, which can be measured using two indicators: the interdependence of partners with an appreciation of their divergent views and commitment of all social partners to identify common objectives and priorities.

In terms of interdependence, there seems to be a heavily skewed bias in favour of the government and the employers, as their interests usually overlap (Arnold, 2013: 8). Not so much resistance is found in the tripartite setting because, as said before, a significant majority of trade unions is government-allied as well, meaning they do not pose a threat to the interests of both the government and the employers. For genuine unions this means they are completely dependent on the priorities of the government, which ensures there is no balanced interdependence within the tripartite structure.

When it comes to identifying and acknowledging common objectives and priorities in the sector, the same bias exists. The wage debate is an accurate example of this. The minimum wage in Cambodia is still far below the calculated living wage as it was calculated by the Asia Floor Wage Alliance (Asia Floor Wage Alliance 2015). A living wage is a wage that should be earned in a normal working week, which has no more than forty-eight hours. It should allow a garment workers to pay for food for him-/herself and his or her family, pay rent, pay for healthcare, clothing, transportation and education and allow the worker to save a small amount of money (CCC 2015). The lack of a living wage forces many workers to work many extra hours, which often leads to exhaustion and other physical inconvenience. Unions have been trying to raise the minimum wage to the same level as the living wage for a long time, with peaks in the form of demonstrations in 2014 and early 2015. The wage issue has long remained a non-issue for the government and employers, as they are more concerned about what increased wages will do to the competitiveness of the sector compared to competing countries (CLEC & CCC, 2012: 23). Therefore, both the government and employers always argue for a freeze on minimum wages. Demonstrations in 2014 and 2015 that considered a rise in

minimum wages were deemed illegal by the government and decision on wages kept being delayed by the government and employers (Phnom Penh Post, October 7, 2014).



Photo 2. Garment Worker Demanding a Raise of the Minimum Wage. Source: Phnom Penh Post, October 7, 2014.

GMAC declined to negotiate with trade unions after having offered to raise the minimum wage from \$100 to \$110 monthly. A final decision on the issue was still postponed by the government until 2015 (ibidem). Garment workers pushed for a raise of the minimum wage to \$177 monthly but received a raise from \$100 to 128 monthly (Phnom Penh Post, June 23, 2015). Even though a raise of \$28 is significant on a wage of \$100, the decision came too late to cover both inflation and rising prices for basic goods. This means that the nominal wage of workers has been raised considerably but the real wage has remained more or less the same.

The minimum wage debate is an extreme example of how the government, backed by GMAC, aims to keep issues of the political agenda and with that dismisses the topic as being an issue. However, it does prove that when it comes to identifying common objectives the government and GMAC are not always willing to hear the voice of the garment workers. Apart from the wage issue being held off the political agenda, it should be clear that even though an issue is deliberated on by the LAC, the LAC still only serves as an advisory body. Outcomes of deliberations are not binding to the government, the party that is responsible for implementation of policies. Therefore, also the fourth enabling condition for tripartism cannot be said to have been fulfilled.

Technical competence

Two variables determine technical competence: access to relevant information, which means that all parties must have access to independent social, legal and economic information, and negotiation skills, meaning that all parties must possess communication and conflict management skills.

Access to general information on economic, social or legal matters is usually available through mass media. Independent mass media is scarce in Cambodia (UN, 2005: 215). Most of the independent newspapers are written in English, which significantly decreases their outreach since only five percent of the population has a working knowledge of the English language. Also, newspapers are relatively expensive, costing approximately \$0.20 which is almost half of the daily income of a rural Cambodian citizen (ibidem). Newspapers are therefore usually only available in the more urban areas, where most of the garment workers live. With a wage of \$128 monthly, a garment worker earns \$4,25 daily. Newspapers therefore seem to be more affordable for garment workers. However, life in the city is much more expensive in urban areas than it is in the Cambodian countryside. Non-written media are more popular in Cambodia, with approximately ninety percent of all Cambodians watching television on a daily basis (ibidem). However, most of the television channels and radio stations are owned by or affiliated to the CPP. All six Cambodian television channels are owned by the CPP and only two out of thirteen radio stations are completely independent of the government (ibidem). The CPP uses their media not only to glorify the CPP, and prime minister Hun Sen in particular, but also to manipulate electoral behavior and create a system of surveillance and intimidation. This is not only harmful to opposition parties in the build-up to the elections, but also harmful in more general terms because it prevents people from receiving accurate, independent non-propaganda information. This also means that, in the light of the garment industry, it remains difficult for garment workers to receive impartial information on important events in the industry, such as demonstrations and protests and the wage debate. The CPP used mass media channels during the 2014 wage protests to condemn the strikes and scare workers in order to prevent their participation in the strikes. Independent unions do not have access to these mass media channels, as the CPP can simply deny parties access to mass media (ibidem).

The BFC reporting system also does not provide all parties with independent and objective information. As mentioned earlier, the factory-specific reports are only made available to the factory itself and the Cambodian government. Since the reports are not made publicly available, workers are denied access to yet another relevant source of information.

Negotiation skills are a second variable of technical competence. Important negotiation skills in the garment industry are communication skills and conflict management skills. Unions are allowed to, and responsible for, the training of their own union leaders. From 2005 onwards, after the collapsing of a Bangladeshi garment factory, international trade union confederations stated that

Labour Codes on the national level were not sufficient enough in providing garment workers with a safe workplace (Gregoratti *et al*, 2011: 88). Labour Codes in the global south were deemed almost useless if they did not go hand in hand with efforts to empower both management and workforce to make them capable of dealing with labour disputes and advance overall core labour standards (ibidem). Communication and negotiation trainings are thus provided by unions and given to union leaders and union leaders at the factory level. In cases of disputes at the factory level, union leaders are responsible for representing the union's members' interests. When employer and union leader are unable to solve the dispute, the issues are referred to the Arbitration Council (ibidem: 92). This council is the only tripartite council in the country and is a product of the ILO. The Arbitration Council is specialized in dealing with labour disputes and is considered the most independent Council of the country (Adler *et al*, 2009: 8). Decisions made by the Council are not legally binding but only count as an advice to the involved parties (ibidem).

However, this is not so much an issue of possessing negotiation and communication skills but rather an issue of being allowed to actually use these skills. CCC and WAC (2007) found that employers use multiple tactics to prevent the workforce of becoming skilled in terms of negotiating. One of these tactics is putting union leaders at the factory level on fixed duration contracts (FDCs). When an employee is contracted for a short term, the employer is entitled to dismiss the employee on shorter notice and on basically no grounds (Gregoratti, 2011: 91). In case of a dispute, it is therefore very easy for an employer to simply dismiss the union leaders, the most skilled workers in terms of negotiating, to weaken the negotiation position of workers. The use of FDCs is overall feared by independent unions, because it makes it harder to form unions (ibidem).

The fifth enabling condition is partially fulfilled, mainly because unions are allowed to train and educate their own union leaders. However, the use of these trainings is significantly marginalized by the severe discrimination against union leaders which enables employers and the CPP to maintain dominance over independent or pro-opposition unions. Also, technical competence is not fulfilled because workers, like most Cambodians, do not have access to independent media.

Capacity to deliver

The final enabling condition for tripartism is the capacity to deliver, which means that parties must be able to implement what has been discussed during tripartite meetings and that compliance must be monitored. BFC does not have any legal binding power. This means that decisions made by the tripartite parties in the LAC only serve as advice to the government, employers and workers. Policy is to be implemented by the government. Capacity to deliver is mostly threatened by corruption. World Bank data show that corruption is indeed a big issue within Cambodian society. Cambodia performs extremely badly on indicators such as 'voice and accountability', 'political stability', 'government

effectiveness', 'regulatory quality' and 'control of corruption' (World Bank 2015). In 2008 Cambodia scored a 1.8 on TI's Corruption Perceptions Index, which gave Cambodia a ranking of 166 out of 180 countries with 180 being the most corrupt country (Anti-corruption Resource Center 2015). It is estimated that corruption drains off approximately 10 percent of Cambodia's GDP. A very simple explanation for the high number of bribes for example is the fact that wages of government officials are very low. Most government officials earn less in a month than garment sector workers do. Bribing government officials is therefore everyday business in exchange for services. GMAC and factory owners in general are known to have close ties with the government officials. Government officials detecting violations of Labour Code or other agreements on labour standards in garment factories are easily bribed by factory owners, which is why consequences for non-compliance are usually very limited for factory owners.

Government officials are not the only ones to monitor compliance as part of their duty to make sure employers abide by the national and international labour laws and standards. For the BFC program the ILO uses their own independent monitors. These monitors are supposed to pay at least two visits to each of the factories involved in the BFC program. However, according to BFC's thirty-first synthesis report, the explosive growth of the industry has made it impossible to visit every factory twice annually (BFC, 2014: 4). In other words: there are simply too few monitors to keep up with the growth of the industry. According to CLEC and CCC (2012) monitor visits are often pre-announced, allowing factory owners to improve little things and cover others.

The final enabling conditions has not been fulfilled mainly because of corruption of government officials and the fact that there are too few BFC monitors to effectively monitor violations of labour standards.

Chapter conclusion

Six enabling conditions need to be fulfilled in order for tripartism to function. Although the conditions do not overlap, they are related and thus interdependent. This became visible in the past chapter as some of the indicators were not fulfilled or lost their importance because other indicators had not been fulfilled. None of the conditions had been completely fulfilled, suggesting that social dialogue in a tripartite setting cannot take place on equal terms.

Dimension	Indicators	Violations
Freedom of Association	The right of workers to join and form unions of their own choosing	<ul style="list-style-type: none"> • Limit on union registration • Obstruction of processes of registration
	The free functioning of these organizations	No violations found, but limited by violations of other indicators
	The right to elect representatives in full freedom	<ul style="list-style-type: none"> • Obstruction of processes concerning leadership changes
	The right of organizations to organize their own internal administration	<ul style="list-style-type: none"> • Obstruction of processes concerning leadership changes
	The right of organizations freely to organize their activities and to formulate their programs	No violations found, but very limited by violations of other indicators
	The right to strike	<ul style="list-style-type: none"> • Ban on protests and public assembly • Violent suppression of demonstrations
	The right to form federations and confederations and affiliate to international organizations of workers and employers	No violations found, but very limited by violations of other indicators
	Protection against anti-union discrimination	<ul style="list-style-type: none"> • Dismissal of union activists • Discrimination against men during hiring process • Intimidation of union leaders • Assassination of union leaders
	Protections against acts of interference	No violations found, but very limited by violations of other indicators
	The right to bargain collectively	No violations found, but very limited by violations of other indicators

Democratic Foundations	Effective participation	<ul style="list-style-type: none"> • Manipulation of voter rolls • Unequal media access for opposition parties • Pro-CPP bias in national and local electoral apparatus • Violence against opposition activists • CPP opponents jailed in absentia • Assassination of political opponents
	Voting equality	No violations found, but limited by violations of other indicators
	Enlightened understanding	<ul style="list-style-type: none"> • Lack of independent media • Assassination of independent journalists
	Control of the agenda	<ul style="list-style-type: none"> • Suppression of demonstrations • Ban on public gatherings
	Inclusiveness	No violations found
Legitimacy	Organizations need to be representative and reflect the interests of their members	<ul style="list-style-type: none"> • Only two independent unions present in the LAC • Many paper unions • Members of pro-CPP unions are often bribed
	Decision-making and policy-making need to be transparent	<ul style="list-style-type: none"> • LAC negotiations are not transparent • BFC reports have become less transparent
Political Will and Commitment	Interdependence of partners with an appreciation of their divergent views	<ul style="list-style-type: none"> • GMAC and government form a block against unions in the LAC
	Commitment of social partners to identify common objectives and priorities	<ul style="list-style-type: none"> • Government and GMAC have the power to keep things off the political agenda • No recognition of priorities of workers

Technical Competence	Access to independent social, legal and economic information	<ul style="list-style-type: none"> • Dominance of CPP-owned media • Lack of independent media
	Communication and conflict management skills	<ul style="list-style-type: none"> • Unions responsible for training of union leaders • Independent arbitration council • Arbitration Council does not have legal binding power
Capacity to Deliver	Implementation of agreements	<ul style="list-style-type: none"> • LAC and BFC have no legal binding power • Government officials can be very corrupt
	Monitoring of agreements	<ul style="list-style-type: none"> • Too few monitors • Corruption of government officials

Table 4. Fulfillment table.

This table shows none of the six conditions has been fulfilled. The pivot of the obstruction to fulfillment is the block that is formed between GMAC, the government and yellow unions, which makes it very hard for genuine unions to achieve something. There is a persistent division between a formal reality and what happens in practice. At first sight many of the indicators seem to have been fulfilled, but just beneath the top layer of formality, the foundations of many of the indicators are just too weak or absent overall.

5. Tripartism in a Hybrid Democracy

None of the enabling conditions distinguished by Ishikawa have been completely fulfilled. This means that social dialogue in a tripartite setting is very unlikely to happen on an equal and fair basis currently. This chapter focuses on why the conditions have not been met, because meeting conditions is not only about capabilities but also about will, commitment, power and interests. This chapter discusses each of the conditions separately and uses both interviews and literature to find out why the conditions have not been met. After the six conditions have been discussed, the complexity of addressing workers' issues is discussed. This is done to underline the fact that BFC's failure to address working conditions effectively is a consequence of failed tripartism in Cambodia. The chapter ends with a conclusion.

Freedom of association

The previous chapter showed that all the rights related to freedom of association are guaranteed by the Cambodian Labour Code (1997). In reality it turns out that the rights of workers in terms of freedom of association are more than often violated by the government and GMAC.

Three explanations for why unions remain marginalized can be given. Firstly, BFC aims to conquer issues such as discrimination of unionists, but ironically, Hughes (2007: 844) claims that BFC itself has significantly contributed to the weakness of unions in Cambodia. In the late 1990s, a period that was marked by many strikes on issues of workers' treatment by foreign managers, the ILO wanted to depoliticize unionism by de-linking union issues from party politics. This was one of the two strategies used by international actors, among which the ILO was one, vis-à-vis labour activism (ibidem: 843). The other strategy was trying to replace public collective action by demobilizing and regimenting forms of participation by isolated representatives of the labour movement in negotiations with powerful political actors behind closed doors (ibidem). In practice this means that nowadays 'workers are encouraged to wait passively for professional negotiators to resolve their grievances in a removed site of participation, to which workers themselves have no access.' (ibidem) In earlier times, the power of a union was dependent on its ability to mobilize the greatest number of people. Currently, any union that can maintain an organizational structure is rewarded with a seat on the negotiating committee (ibidem). The motivation for the ILO and other international actors present in Cambodia by that time was that stability was seen as the first priority, rather than empowered representation of the poor workforce (ibidem: 836). This focus on stability emerged from the neo-liberal approaches that were favoured by the actors that were dominant in the international system by that time, such as the World Bank and the IMF (Hughes, 2007: 836). As a result of these measures, the number of CPP-aligned unions increased sharply while opposition-

affiliated and independent unions became the significant minority which limited their ability to compete for membership with patronage-based unions offering benefits to members (ibidem). This, in turn, results in the fact that the LAC is still not very representative for the complete population of garment workers. Government-affiliated unions form the majority mainly because of their advantages in terms of resources, which is attracts many of the poor, young garment workers.

Second is another historical explanation for the weak position of unions and overall biased industrial relations is given by Arnold & Shih (2010). They argue that in Cambodia, industrial relations in the garment sector, among other industrial sectors, were not formed bottom-up. When peace finally returned to the country in the 1990s, it was mostly the aid industry and Western NGOs that rebuilt the country, including its economy and its economic relations. That is why since the early 1990s, donor aid has formed the economic foundation of Cambodia (Arnold & Shih, 2010: 405). Between 1993 and 2003, Cambodia received five billion dollars of Official Development Assistance (ODA) annually, which represents roughly thirteen percent of the country's GDP (Ear, 2007: 74). In 2003 alone, thirty-one different donors contributed to this number. Because of this heavy reliance on foreign aid, Cambodia became subject to donor requirements, which more than often embodied 'Western' notions of development. Also, Cambodia did not have any domestic sources of resistance against the neo-liberal policies that were implemented to foster the development of the circulation of capital (Arnold & Shih, 2010: 406). When the TATA was signed this led to a promotion of the regulation of production under tripartite functions, which engaged government, employers and trade unions, as this was the model that was dominant in donor countries (ibidem: 408). Instantly, TATA gave way to economic trade unionism based on Western notions. This meant that unions were not founded on political or social beliefs but rather in favour of co-operative economic arrangements between capital and labour, what happened to be in the interest of the political elite by that time (ibidem: 409). The mingling of Western organizations in the forming of industrial relations in Cambodia also led to the copying of the Western terminology of industrial relations. However, it was forgotten that this terminology had its roots in very specific historical arrangements of capitalist labour relations in the West. The fact that circumstances in Cambodia differed from these arrangements was neglected. Cambodia's industrial relations are therefore a good example of a neo-Fordist model (ibidem: 420). Neo-Fordism is a term used by sceptics of Post-Fordism and entails a strong belief in the fact that many mechanisms of Post-Fordism are used within a system that is still dominated by top-down control of workers instead of a genuinely shared commitment (Hodkinson, 1997: 70).

Third and final, the fact that unions were depoliticized by BFC and that unionism in Cambodia is originally not rooted in political beliefs still works in the advantage of the government, who can now claim that many of the strikes held have a too political character and therefore cause social

unrest. The most important opponent of the CPP, Sam Rainsy, is often associated with strikes in the garment industry, especially over the past two years when electoral protests coincided with protests held by garment workers. The concerns of garment workers have been a key campaign point for Rainsy's CNRP (Arnold, 2013b). Rainsy promised workers a minimum wage of \$150 if he were elected in the 2013 elections. In urban areas, where most of the garment workers live, this meant a serious threat to the power of the CPP and Hun Sen specifically (ibidem). Political power and the fear to lose political power can therefore be seen as important reasons for the CPP to pose impediments to the formation of new unions and the activities of independent unions. Securing political power has also been the reason for the CPP to form an enormous amount of so-called 'paper unions'. As earlier explained, these unions do very little to improve working conditions for garment workers, but rather aim to gain as many members as possible through offering financial benefits to their members. This is done to ensure that the bargaining position of independent unions remains weak.

The president of independent union C.CAWDU explains that the government and employers are taking advantage of the fact that there are so many unions in the country. It means that there is competition among the workers and instead of forming a strong block, workers are now heavily divided (interview 19 July 2015). 'Multiplicity of unions weakens the voice of workers during negotiations, which is exactly what the government wants and what happens all the time'. Multiplicity is used by the government and employers as a pretext to avoiding solving problems that favour workers who are not supportive of their policies and programs (Nuon & Serrano, 2010: 69). According to the president of C.CAWDU (interview 19 July 2015) workers agree that there is little use in having more than one union in the factory. Employers use it to further divide workers and violate workers' rights. The public perception of unions has also worsened due to the explosive growth of the number of unions. People find it hard to identify genuine unions from the many political unions. Unions are perceived to be either an employers' tool or a government's tool. This jeopardizes the legitimacy of the few independent unions, as public support can be very important in times of strikes or protests (ibidem).

To conclude, freedom of association is not present in Cambodia due to several actors. The ILO, among other international organizations, wanted to depoliticize Cambodian trade unions to improve stability in the country after the war. This caused unions to become weak and passive institutions. Secondly, the basis for the industrial relations in Cambodia was copied from Western countries that offered Cambodia aid in the 1990s. Aid went hand in hand with donor requirements, which led to implementation of a neo-Fordist model of industrial relations. Finally, the CPP took advantage of the weak foundation of unions and weakens independent and opposition voices by several means.

Democratic foundations

Although Cambodia is a democracy on paper, when compared to the current Cambodian political environment, there are many signs that Cambodia lacks democratic foundations necessary for tripartism. The democratic foundations of the country were not created bottom-up but implemented top-down by the international aid industry that came to the country to rebuild it after the civil war. A first cause of Cambodia's inability to consolidate democracy are the neo-liberal policies that were implemented by the international community (Springer, 2009: 138). The largest UN operation in history, at that time, took place in Cambodia from February 1992 until December 1993 (ibidem). The United Nations Transitional Authority in Cambodia (UNTAC) had two mandated outcomes: a democratic institution and a liberalized economy (ibidem). Order and stability were deemed priorities. In Cambodia, order and stability are perceived to have served the interests of capital on the international level, and political elites at the national level (Brenner & Theodore, 2002: 375). The city of Phnom Penh became the national locus of neo-liberalization, as cities are increasingly recognized as 'central to the reproduction, mutation and continual reconstitution of neoliberalism itself' (ibidem). The UNTAC decided that neoliberalism was a requirement of Cambodia's post-transitional government. Therefore it can be argued that the UNTAC was not necessarily concerned with democracy per se, but rather with conferring legitimacy on a regime that was previously under Vietnam's communist wing (Springer, 2002: 143). The UNTAC initiatives were executed by the Cambodian government. However, what makes Cambodian neoliberalism distinctively Cambodian is how the local elites co-opted, transformed and re-articulated neoliberal reforms (ibidem: 144). Springer claims that the CPP, through doing this, has created a shadow state. The shadow state allows elites to amass extraordinary wealth that is not put back into developing the country because this money is obtained through unofficial and illegal channels (2009: 145). The shadow state was used by the CPP as a response to the neoliberal changes in politics and the economy. 'Rather than opposing the dominant neoliberal paradigm, the Cambodian polity, when placed into a transitional phase, had an interest in coopting its general shell in an effort to reshape it into an instrument of coercive power and subsequently benefit from the opportunities it presented the elites for self-enrichment' (Le Billon & Springer, 2007). Elections are held to create the image of a democracy and to confer a semblance of legitimacy, but the CPP does not allow democratic empowerment through processes of policy orientation or decision-making.

Hughes (2007) also argues that the Cambodian government is far from being truly democratic, mostly due to the international community intervening in various ways in Cambodian politics (Hughes, 2007: 835). Hughes (2007: 835) even claims that 'international organizations have promoted neo-liberal approaches to governance that have determined the new sites and modes of political participation in modern Cambodia'. Political participation in Cambodia is not characterized

by its representativeness but rather by its atomizing modes. Due to this approach, the international community has 'assisted rather than limited the ascendant faction within the ruling Cambodian People's Party (CPP) in consolidating power through a strategy of neo-patrimonialism' (ibidem). The CPP consolidated power after a series of well-planned actions that gave the CPP control over local authorities and marginalized the political opposition (Hughes, 2009: 206). Because the international community was more concerned about stability in the country than it was about empowered representation of the collective interests of the poor, they let it happen. This has resulted in what can be called plural but very weak political spaces, such as multi-party elections, contested election campaigns, a multi-party legislature and 'threatened but plural public sphere within which an emergent civil society can tentatively organize' (Hughes, 2007: 835-836). Un (2005: 205) labels these 'elements of a hybrid democracy'. Beneath the fairness and freeness of the 1993 and 1998 elections existed CPP-instituted elements of surveillance, intimidation and violence that effectively restricted competition by other political parties in mainly the rural parts of Cambodia' (ibidem: 206). Part of the CPP patronage politics takes place in the form of material inducements, such as individual gifts. Therefore, Un claims that patronage politics feeds other elements of illiberal democracy such as corruption and the absence of genuine political participation and representation (ibidem). Arnold even claims that Cambodia has become just as authoritarian as it used to be without the international community actively trying to prevent this return to authoritarianism. 'The donor community views authoritarian action taken by Hun Sen and the CPP as conducive to maintaining their own interests, although this remains unspoken and hidden behind rhetorical appeals for greater democracy. This means Cambodia's government has more power to govern economic policy and labour relations as it becomes more deeply integrated in the global economy. Garment manufacturing is considered a key link.' (Arnold, 2013: 7).

A second reason for why Cambodia has failed to consolidate democracy is the aid dependency of the country. Ear (2007: 69) argues that heavy aid dependence has negative consequences for governance and can be counterproductive for economic development. Of course, lack of political will and poor leadership are important factors responsible for the poor governance of Cambodia, but the role of the international aid community should not be ignored. Boone (1996: 322) was the first to claim the link between aid and governance by stating that aid does not significantly increase investment but it does increase the size of the government. This contradicted the view that had been widespread in the decades before that aid is essential for development under incomplete market conditions. According to Knack (2001) heavy reliance on aid can worsen corruption, the quality of the bureaucracy and rule of law. Donor assistance has not benefited Cambodian governance because the need to move the country from war to stability was bigger than the need to establish good governance. No donor investments were made to improve the quality of governance,

for example through programs that established strong and independent court systems (Ear, 2007: 90). This way, the donor industry has basically funded the regime that came into power and still is.

BFC was founded right after the international community thought it had made Cambodia ready to enter the international markets. Cambodia's industrial relations and Labour Law are copy-pasted from their Western donors, making Cambodia a seemingly organized and democratic country. The framework of BFC is more or less dependent on institutions that were implemented by the international community. These institutions have resulted in what Arnold calls Neo-Fordist structures. 'Within the Neo-Fordist structures established in the BFC program and the TATA are highly atomized trade unions and disempowered workers with low wages and insecure jobs.' (Arnold & Toh, 2010, 409) The BFC framework is not built to challenge these structures, but has become part of it and therefore does not work in the benefit of workers.

Legitimacy

Legitimacy is dependent on whether representatives truly represent the interests of the people they are obliged to represent and whether decision-making and policy-making are transparent to all parties involved. The legitimacy of the government has more or less been discussed previously, as the legitimacy of a democratic regime should be very dependent on its actual degree of democracy. The legitimacy of trade unions in the garment industry has already been partially discussed and, considering the large amount of paper unions or government-initiated unions and limited number of independent unions, the legitimacy of the trade unions can be seriously questioned. The multiplicity of unions can be explained by six motivations. First of all, some union leaders establish unions for personal gains (Nuon & Serrano, 2010: 67). Many of them receive financial support in exchange for political support. Secondly, many union leaders lack actual commitment and care very little for workers' interests. They often form new federations once they are voted out or when they are dissatisfied with current leadership. Third, political parties fund and support many unions. Fourth, there has been little understanding about union principles such as democracy, independence and solidarity. With this limitation, people are prone to thinking short-term and do not have long term vision and high tolerance to keep their organisations running (ibidem: 68). Fifth, the legal framework also opens up for union multiplicity. With the ratification of the core ILO conventions and the comprehensive labour law relatively friendly to union leaders and union formation, unions could be established at ease. This gives a lot of opportunity for union leaders and workers to form unions whatever the motivations are. As a result the number of unions has increased remarkably (ibidem).

Comparing several studies on unionism in Cambodia reveals that measuring the exact number of unions is almost impossible because the number of unions changes almost on a daily basis. Distinguishing genuine from pro-government unions remains hard as well, but C.CAWDU

estimates that roughly thirty percent of all unions can be labelled paper unions or inactive unions, fifty percent of all unions are CPP-aligned and the remaining ten percent is either pro-opposition or independent (interview July 19, 2015).

The representativeness of the employers in GMAC has not yet been discussed. The Cambodian garment industry has been dominated by foreign investors, mainly from Taiwan, China and Hong Kong from the very beginning of garment manufacturing in Cambodia (CLEC & CCC, 2012: 9). In 2008 it was estimated that Cambodians accounted for only seven percent of ownership in the business (Arnold & Toh, 2010: 405). Foreign investors were attracted to Cambodia in the mid-1990s for several reasons. Firstly, they could benefit from the lack of quota restrictions in the US market (ibidem: 406). This allowed Cambodian manufacturers to export more to the US than other garment manufacturers in the region. A second reason why investors were attracted to Cambodia was that the US also granted Cambodia a most-favoured nation status. Finally, the abundance of cheap and unregulated labour in combination with low-cost land was a big pull-factor (ibidem).

Only in 1996, when the first opposition-oriented union was formed, the Free Trade Union (FTU), the often abusive nature of employment in the industry was revealed. As a 2012 report by Human Rights Watch reveals, employers are largely responsible for the often discriminatory and exploitative labour conditions in the Cambodian garment industry. Government monitors that are supposed to report this kind of behaviour are easily bribed by the corrupt factory owners. However, these issues cannot be labelled elements of illegitimacy. Employers represent their interests as a group, which mostly overlap with the interests of the government. Their main concern is sustainability of the industry, which is why the wage debate is a sensitive topic for GMAC. Increasing wages would make the industry a lot less competitive, is the dominant thought among employers and the government.

The representativeness of GMAC might not be an issue in itself, however, the transparency about what they represent is surely an issue. GMAC has earned itself a very good reputation by getting involved in programs such as BFC, allowing independent monitors into their factories and agreeing to comply with international as well as national labour laws. However, reports such as the Human Rights Watch report (2012) or the 2012 CCC report indicate that GMAC is far from always willing to cooperate and does not always comply with labour codes ratified by the Cambodian government. BFC claims that compliance rates increase with the number of visits paid to a certain factory (Robertson *et al*, 2011: 10). Even though this is a positive finding, it is insecure whether this finding is actually valid. CCC and CLEC (2012: 28-29) claim that factory owners know when BFC monitors will pay their factory a visit. Workers are bribed to tell lies, and many do so because they are afraid to lose their jobs. Another method of factory owners to evade monitoring is sub-contracting (ibidem: 19). Subcontracting factories are not being monitored because they do not have

an export license. Still, factory owners use these factories to produce clothing meant for export. Production is cheaper in these factories, but usually labour conditions are a lot worse than in exporting factories. Although subcontracting is a widespread phenomenon, GMAC and the government deny these practices as they both benefit from this phenomenon: production remains cheap and the Cambodian reputation improves because compliance rates increase.

As was discussed earlier, transparency in terms of policy-making and decision-making is very limited in the tripartite setting of the Cambodian garment industry. BFC plays a significant role in this, mainly because of their reporting practices but also because they do not allow international buyers that are member of the program to conduct their own monitoring programs anymore (Better Work 2015). Finally, there is only one party responsible for implementing and monitoring all Cambodian policy. Advice given by both the LAC and BFC is not mandatory and the government can still basically ignore the other parties. The World Economic Forum researched the transparency of government policymaking in Cambodia and found that the process is far from transparent. The country was ranked 95th out of 144 countries (World Economic Forum 2015). Major threats to transparency are corruption and the inefficient government bureaucracy (ibidem). In authoritarian regimes policymaking is never very transparent. In Cambodia, the government is given too much space to act like an authoritarian regime. While most countries worldwide are aiming to make their policymaking processes more transparent in an effort to improve their position in the current neo-liberal trade environment, Cambodia is not (Relly & Sabharwal, 2009: 148). The level of transparency is strongly related to national income, as high income countries are more likely to exhibit more transparency with government information than the poorest countries (Islam, 2003). Also, the strength of institutions is strongly related to the level of transparency. Democratic polity and freedom of press are historically associated with access-to-information and government openness (Relly & Sabharwal, 2009: 151). Rosendorff (2004) found that as democratic accountability rises, so does governmental transparency. Authoritarian regimes adopt access-to-information laws mainly to attract investment or to satisfy agreements with international organizations (Relly & Sabharwal, 2009: 154). Cambodia has not yet adopted a solid access-to-information law but instead the government is planning to introduce a state secret law in Cambodia (Phnom Penh Post, 18 February 2015). The government claims it is going to use the law for issues of national security. However, the law could also be used to conceal government wrongdoings and further limit the right to information (ibidem). 'Vagueness of the criteria used for classifying information as a "state secret" and a lack of transparency in the drafting process, which would not be new to the Cambodian government practice, are not an option when it comes to the right to information and in turn to democracy' (ibidem: 9). Reasons for why hybrid democracies like Cambodia lack political transparency are multiple but can be summarized by stating that openness would reveal the actual priorities of the government, that can usually only be

labelled as self-enriching practices that have very little to do with democratic principles (Relly & Sabharwal, 2009: 154).

To conclude, legitimacy of the government and the social partners is weak for several reasons. The government fears independent unions because they possibly pose a threat to their power. Therefore, many paper unions are created to maintain the CPPs power, an act that suits a government from a so-called shadow state. GMAC acts mainly out of self-interest as well, searching for the lowest production costs and ways to evade monitoring processes.

Political will and commitment

Tripartism in Cambodia is not based on social pluralism and mutual reconciliation of interests. 'The LAC comprises of a state that has consolidated power through electoral authoritarianism and an employers association that is openly hostile to both independent trade unions and the BFC program' (Arnold, 2013). This makes the LAC a heavily biased institution in favour of the government and GMAC. Because these two parties form a block within the LAC, together with the pro-government unions, it is very hard for independent unions to accomplish something since their priorities usually differ from those of the government and GMAC. A central debate within the LAC is the wage debate, in which the CPP and GMAC have also formed an alliance against the independent unions. The Cambodian government views cheap labour as its major comparative advantage within the Asian region (ibidem). Union demands for increased minimum wages are therefore of great concern of the government, since they cannot afford the garment industry to collapse as the shoe and apparel industry together comprise roughly eighty-five percent of the country's exports and one third of the country's GDP (OECD, 2014). The concerns of the government are substantiated, as the efficiency of Cambodia's garment industry is low and quality remains poor too (Arnold & Toh, 2010: 405). If wages rise, the government fears, buyers will purchase their apparel in Bangladesh, Vietnam, Indonesia or Ethiopia because production costs will rise. After the TATA phased out in 2005, the government was already afraid that international buyers would seek other places to have their production done. However, Cambodia's reputation of being an ethical sourcing option in combination with the so-called "China safeguards" saved the country then. The China safeguards entail restrictions on China's exports of cheap garments to the US market, which is Cambodia's main market. But these safeguards will be lifted soon, so then Cambodia loses yet another advantage.

On the other hand, the Cambodian government jeopardizes its political position if they ignore the demands of workers to increase wages, as political opponents started campaigning with rises in wage already and garment sector workers comprise a significant part of the population, especially in the urban areas. In this sense, the government tries to find a balance between popular support and economic profits.

Employers obviously try to prevent more wage increases from being enforced because this has an impact on their profit margin. As said, most of the employers in the Cambodian garment industry are not Cambodian but came to take advantage of the cheap labour. If wages were to rise to the same levels as in their home country, employers could still take advantage of the low-cost land and cheap material that is available in Cambodia. However, GMAC continues to close the door on wage increases.

For workers on the other hand, an increase in their monthly wage is crucial for survival. Not only for themselves but usually also for their family whom they are supposed to financially support. Even more so because, even though the minimum wages have increased incrementally over the past years, the increases were too small to keep up with the high inflation rates and the rising prices of basic goods such as food, water and housing (Arnold, 2013: 14-15). Workers only have very limited means to demand higher wages since the LAC is heavily skewed to the government and GMAC and strikes and demonstrations often end in violent interventions by the military.

Showing political will is not about having the same priorities but it is about acknowledging the interests of the other parties and considering it a mutual interest. Currently, GMAC and the CPP are willingly ignoring the priorities of workers. A CCC representative (interview July 16, 2015) adds to this that the CPP has done a smart thing to adopt the program from the US government after the TATA expired. The US government used to pay for the monitoring program with the help of some international organizations. As soon as the TATA phased out, the Cambodian government decided to pay for the program with the help of GMAC and some international investors. The CCC representative states that this gave a clear sign to the outside world that the Cambodian government was willing to continue BFC.

Technical competence

Press freedom is a major part of technical competence, but very scarce in hybrid democracies or, as Diamond labelled Cambodia (2002: 173), hegemonic electoral authoritarian regimes. Press freedom is also inherent to one of the indicators of a democracy, namely enlightened understanding. These indicators thus overlap. The explanation for why press freedom is scarce in Cambodia is to be sought in the political sphere. Executives in hybrid or electoral authoritarian regimes often seek to suppress the independent media, using more subtle mechanisms of repression than their counterparts in authoritarian regimes (Levitsky & Way, 2002: 58). In fact, for being labelled a hybrid democracy, the Cambodian regime uses mechanisms less subtle than supposed to, having assassinated several independent journalists. Other mechanisms used are: bribery, selective allocation of state advertising, the manipulation of debts and taxes owned by media outlets and restrictive press laws that facilitate the prosecution of independent and opposition journalists (Levitsky & Way, 2002: 59).

This is done because independent media outlets play a critical watchdog role by investigating and exposing government malfeasance (ibidem: 58). The government wishes to send out a unilateral, biased for that matter, message to improve their reputation and to make opposition parties look bad. Control of the press is therefore considered to be an important means to maintain power in hybrid democracies.

According to C.CAWDU's program manager the government does not interfere with unions' trainings. Workers are taught basic knowledge about what the union does and how they can report abuses. Only union leaders are given more trainings, for example on the rights of workers according to the national labour code and they are trained in solving disputes and more general negotiation skills. These trainings are given by union representatives almost every month. C.CAWDU's program manager states that the trainings in itself are not the problem, more important is what happens before and after that. 'For the government the core business is to make sure the independent unions remain weak in terms of their position. This is why there is so much discrimination against members of independent unions. Because the processes before and after trainings are made more difficult for independent unions, the government allows us to do the trainings freely, because they believe the trainings make no sense then' (Interview July 18, 2015). The process before the trainings is the formation of new independent unions, which the government has more or less prohibited. The process after the trainings refers to discrimination union leaders and members face at the workplace. A striking example of this is given in the Human Rights Watch 2015 report on labour rights abuses: 'Devoum Chivon helped form a union in the factory where he worked and was elected president in late 2013. Within days of being notified about the new union leaders, the factory managers pressured Chivon to quit the union and offered him a bribe, which he refused. The management then criticized the newly elected union leaders' job performance and fired them' (Human Rights Watch, 2015: 1). People who have just been trained to become a union leader often lose their job for no legal reason. This has two consequences according to C.CAWDU's program manager: 'It marginalizes our power in the workplace because we have to find a new union leader over and over again. Nobody can do this job for a long time in the same factory because they keep getting fired or face violence. Leadership in the factory is important but it can never be strong if leadership changes every month'. Secondly, it has resulted in the fact that not many union members are fond of becoming a union leader. Especially women are scared off because of the violence and the likeliness of losing their jobs (Interview July 18, 2015).

To conclude, the CPP uses several kinds of means to suppress independent media because they pose possibly pose a threat to the party's power. Suppressing independent media is a characteristic of a hybrid regime. The CPP and employers do not interfere with unions training their

union leaders. However, though intimidation and discrimination against unionists they weaken the independent forces active within the garment sector.

Capacity to deliver

The capacity to deliver is obstructed by flaws on the national as well as the international level. On the national level, corruption is the main issue. As said before, the implementation and monitoring of all policy is done by government officials, whom are easily bribed. In fact, it is no longer a secret that GMAC transfers a large amount of money to the Ministry of Commerce on a very regular basis (Morton, 2014). GMAC's only response to the accusations was that the donations do not have a political character. Nepotism and corruption are common in political regimes like that of Cambodia. Corruption is defined as 'the abuse of public office for personal gain' (Drury *et al*, 2006: 122). Obviously, bribing a government official serves the personal gain of the officer himself, but larger scale corruption, such as the suggested donations from GMAC to the government serve the benefit of the CPP. Amundsen (1999: 18) finds that corruption levels are highest in countries that are experiencing a rapid political and economic liberalization process. 'In countries with rather weak authoritarian regimes, however, and in countries in transition, the autocratic order has broken down, but the new political and administrative state institutions have not yet gained full political legitimacy and operational capacity' (*ibidem*). Corruption is present mostly in the 'mounting of electoral campaigns, in the struggle for senior political and civil service offices, in the lucrative possibilities of formerly state-owned property and businesses up for privatisation, and in securing oneself in a situation of both political and economic uncertainty. The sudden spread of civil, political and economic freedoms has in many places opened up to an era of licence without responsibility, where freedom from oppression has been confused with freedom from any authority and any responsibility' (*ibidem*). Even though corruption often hurts the legitimacy of a political regime, in Cambodia corruption seems to have become an integrated part of the overall control of the state apparatus and its operations, including the authoritative allocation of resources (*ibidem*: 20). The CPP is still securely in charge of who gains how much and from what kind of corruption.

Corruption is hard to fight for organizations such as BFC, because corruption can only be battled from the top levels of the state, thus by the government itself and entails serious movements to consolidating democracy.

Corruption also influences international monitoring of labour laws in Cambodia. Another factor that makes it hard to implement international and national agreements is that there are no international mechanisms to enforce these agreements. Even though Conventions of the ILO are legally binding, there are no sanctions attached to these Conventions and implementation is to be done by local governments. Most of the Conventions are also not very specific in order to have them

ratified by a large number of countries. Recommendations are more specific but they are not legally binding and serve as guidelines.

The complexity of addressing workers' issues

The success of tripartism in Cambodia is thus very limited, considering the fact that none of the enabling conditions is fulfilled and that it is not at all in the interest of the most powerful people of the country to soon fulfil these conditions. This explains to a large extent the inability of the program to address workers' issues. However, it does not explain why the program has succeeded in addressing workers' issues before, like abandoning child labour and forced labour, and fails now without having changed their methods. Four possible explanations for this can be given. Firstly, the ILO claims that some of these issues are not within the ILO's mandate. Wages are the most prominent example of this. Wages, being at the core of most of the issues workers daily face, have always been considered to be a matter of national politics by both the ILO-BFC. Both the ILO and buyers have always held on to this idea (Arnold, 2013b). In this issue, among other issues, buyers could play a major role. In the current BFC model, buyers may require compliance to labour standards but the cost of implementation is passed on to the suppliers. BFC could put more pressure on buyers to take up more responsibility. A CCC representative (interview July 16, 2015) agrees and states that that CCC and other organizations do not agree with wages being an issue of national politics. 'In the basis, wages are subject to national negotiation. But when negotiations do not take place or do not result in acceptable measures, the international community has the right to step up. Through alternative means CCC tries to put this item on the political agenda not only in Cambodia, but we try to make it an international issue by engaging buyers and labels in it as well.' (Leffler, interview July 16, 2015).

Secondly, the clear carrot-and-stick principle that was present in BFC during the TATA does not exist anymore. When suppliers complied with the labour standards of national and international labour codes, they would be granted increased access to the US market. If they did not, they would be punished by being excluded from these quotas. Improving labour standards was a means to an end for employers and the government. So when the quotas were dropped, improving labour standards was no longer a priority of the government and employers. Only after the TATA phased out, it became apparent that the priorities of the workers were not at all equal to those of the government and employers. This is when social dialogue became necessary but it never actually happened on equal terms because of conflicting priorities. Only then did it turn out that the power of BFC was limited and very dependent on the government's vagaries.

A third reason is given by Hughes (2007) who argues that BFC has always used a framework that played well internationally. This means that priority was given to issues such as child labour and

forced labour rather than the poor empowerment of workers and discrimination on the work floor. A final and related reason is that BFC's focus is currently more on easily detectable issues. As BFC underlines (BFC, 2014: 4) discrimination is hard to monitor during the monitoring visits. This causes a bias in the focus of BFC towards issues that are in fact easily detectable and easily solved, for example the lack of a first aid kit or the unlocking of emergency exit doors during working hours. These issues are not unimportant, but they are not core problems for workers. The core issues of workers are thus not being effectively addressed simply because BFC is not allowed into this core.

A CCC representative underlines that BFC cannot play a significant role in the Cambodian garment industry any longer if they do not acknowledge more structural issues going on in the industry. 'What the program does now is what we call 'polishing', no rough or structural changes are made. The reason this happens is because the sustainability of the industry is at stake. If the program were to undertake stronger measures, it risks the collapse of the industry. Collapse of the industry will take place when buyers leave the country to have their clothes and shoes produced somewhere else. Buyers could leave Cambodia for two reasons, the first being rising production costs. This is what is feared by the government and GMAC and this is why they refuse to raise wages or continue significant improvement of their labour standards. A second reason for buyers to leave Cambodia is basically the opposite: buyers can decide to quit sourcing from Cambodia because labour standards remain low. Either way, buyers play a major role and this is what BFC needs to realise. A collapse of the sector means massive unemployment and directly throws thousands of Cambodians back into poverty' (interview July 16, 2015). CCC thus underlines the need to engage buyers in the BFC framework, as they are currently almost completely excluded from the program. C.CAWDU agrees that the international community and buyers are required to improve BFC. 'In this industry, it is impossible to generate meaningful changes, being an independent union. The government and GMAC form an alliance and they play it smart. They know what the international community wants: better labour standards and more democracy. They also know what garment workers want: increased wages and decent work. They have found a balance in which they manage to satisfy both just enough to prevent the collapse of the industry. Incrementally, they raise the wages of the workers while at the same time, they also manage to maintain Cambodia's status of being an ethical sourcing option for international buyers. The government and GMAC are in control of everything that happens in the industry because they are rich. And being rich means being powerful' (interview July 18, 2015). The only actors that can pose a serious threat to this alliance are buyers. Therefore, C.CAWDU decided to not only try to address workers' issues through the channels suggested by the ILO and BFC, which would be either through the LAC or through BFC, but also through alternative channels. Like CCC, C.CAWDU believes that buyers and international organizations are able to put pressure on the alliance of the CPP and GMAC, more so than independent unions can. 'What

C.CAWDU can do on the national level is trying to break through the divide and rule strategy of the CPP. The power of unions has remained marginalized because the CPP has always been able to prevent us from forming one strong union. Rather, workers remain very much divided, which is exactly what the CPP wants' (interview July 18, 2015).

Both literature and the interview respondents suggest that the BFC framework is limited in its scope and therefore limited in its ability to address workers' issues. What is necessary is that buyers and international organizations are engaged in the framework rather than remain excluded from it.

Chapter conclusion

This chapter aimed to explain why none of the enabling conditions has been met by the Cambodian government and the social partners. Although the indicators of the conditions do not overlap, it turns out that the reasons for why indicators are not fulfilled do sometimes overlap. When the Cambodian civil war ended in the 1990s, the international community aimed to rebuild the country and forced it to enter two transitional phases: an economic transition towards an industrial economy based on capitalist beliefs and free market thinking and a political transition towards democracy. The combination of the limitless intermingling of the international community that resulted in weak state institutions, a large amount of ODA and a political party with a lust for power turned out fatal for working conditions in the garment industry. The CPP uses its power to obstruct fulfilment of all the enabling conditions simply because they pose a threat to the authoritarian power that the party still has. The government does not at all prioritize the main concerns of garment workers, which makes it significantly harder for BFC also to address these issues effectively.

6. Conclusion

The BFC program stems from the TATA, a unique agreement that linked labour standards with trade in the form of export quotas. BFC aims to create better labour standards in the Cambodian garment industry through a monitoring program that involves all Cambodian factories with an export license, the government and trade unions. During the TATA, which expired in January 2005, labour standards improved significantly. During this time, Cambodia earned the reputation of being an ethical sourcing option, partially also because the ILO was involved in the monitoring program and was deemed a legitimate partner. But progress stagnated after the TATA had phased out, which makes the claim that Cambodia is an ethical sourcing option questionable. This research focused on why BFC is currently unable to address the main issues of workers in the Cambodian garment industry.

BFC was built on one of the core beliefs and main methods of the ILO: tripartism. Through establishing strong tripartite relations, labour issues could be effectively addressed. However, this research questions tripartism as a means to obtain better labour standards in the context of Cambodia, because it has turned out that workers' issues have not been effectively addressed ever since the TATA phased out. This research started by determining what conditions are necessary for tripartism to function, which was the first sub question. Literature study revealed that six enabling conditions for tripartism can be distinguished: freedom of association, democratic foundations, legitimacy, political willingness, technical competence and capacity to deliver.

The second sub question focused on whether or not the six enabling conditions were fulfilled. This sub question was answered through conducting literature study using several kinds of documents: official documents deriving from the state, official documents deriving from international organizations, mass media outputs and academic literature. Each of the six enabling conditions was to be measured by several indicators.

Freedom of association, the first enabling condition, was to be measured using ten indicators. Five of these indicators were directly violated by the government and employers' organization GMAC: workers' right to form and join unions, the right to elect representatives of unions in full freedom, the right of unions to organize their own internal administration, the right to strike and the right to protection against anti-union discrimination. The remaining five indicators were indirectly violated through the violation of the earlier-mentioned five.

The second enabling condition, democratic foundations, was measured using five indicators based on Dahl's five principles for a democracy. Three of these indicators were directly violated by the government: effective participation, enlightened understanding and control of the agenda. Instead of being a truly democratic regime, Cambodia qualifies as a hybrid regime or an electoral

authoritarian regime. A fourth indicator, voting equality, is indirectly violated because of the severe violation of other indicators. No violations of the fifth indicator, inclusiveness, were found.

The third condition, legitimacy, has neither been fulfilled mainly because workers' unions are not representative and because decision-making processes lack transparency. BFC also plays a significant role herein, with its decision to quit their naming-and-shaming policy and to refrain from making the factory-specific reports publicly available.

The fourth indicator, political willingness, was measured using two indicators: the interdependence of workers and their commitment to identify common objectives. Both are not fulfilled because employers and the government have formed a block in the Labour Advisory Committee and are willingly ignoring the priorities of workers. This heavy bias in favour of employers and the government makes it impossible for genuine unions to effectively put their main issues on the political agenda.

Technical competence, the fifth indicator, is determined by two indicators: the access to independent social, legal and economic information and communication and conflict management skills. The first indicator has not been met, because of a severe lack of independent media in Cambodia. The second indicator has been partially met. Unions are allowed to train their union leaders, and thus improve their communicative skills. However, the independent Arbitration Council to which labour disputes are referred has no legal binding power, which puts the government in the position to make a final decision. Considering the alliance the government forms with GMAC, these decisions often do not turn out in favour of workers.

The final enabling condition, capacity to deliver, was measured by two indicators: the implementation of agreements and the monitoring of agreements. Both are not fulfilled, firstly because government officials responsible for implementation and monitoring of agreements are often very corrupt. Secondly, there are too few BFC monitors and finally, both BFC and the LAC have no legal binding power.

This sums up to the fact that none of the enabling conditions has been fulfilled. The third sub question focused on why none of the conditions has been met. For this sub question, two research methods were used: literature study and semi-structured interviews. The methods were used complementarily and found that although the indicators do not overlap, the reasons for why the indicators have not yet been fulfilled do sometimes overlap and are a mixture of neo-liberal policies, greed of both the government and GMAC and mostly, the CPP's fear to lose power.

When the Cambodian civil war ended in the 1990s, the country was flooded with the aid of international organizations as well as with bilateral agreements that aimed to rebuild the country. Attached to their large amounts of ODA were neo-liberal policies that were aimed at creating a democratic regime and a capitalist, industrial economy. The main concern of the international

community was to create order and stability, which silenced independent bottom-up voices and turned out to be in favour of a small political elite: the CPP. The CPP consolidated power by creating a shadow state, with all the characteristics of a hybrid democracy. A hybrid democracy creates the illusion of being truly democratic mainly by having relatively free elections. In reality however, self-enriching activities are at the core of the CPP's policies with little to no regard for interests of others, in this case the garment workers. To maintain power, the CPP uses a palette of semi-illegal and illegal mechanisms ranging from violence against political opponents, independent journalists and union leaders to the creation of paper unions and dominating the national media. The international community, partially responsible for the weak democratic institutions that characterize Cambodia's state, does hardly interfere. When it comes to labour rights in the garment industry, it might seem as if the government only fails to effectively implement labour laws. However, when labour rights are put into a bigger socio-political framework, it becomes clear that the CPP does openly violate both national and international rules.

In an attempt to maintain power, each enabling condition for tripartism is violated by the CPP and GMAC. BFC does not have any influence over any of the enabling conditions, which is rather unfortunate because the success of the program is almost completely dependent on these factors. BFC does not at all challenge the industrial relations that were implemented by the international community and that have grown to be heavily biased on favour of the CPP. Instead, BFC strengthens the neo-Fordist structures within the Cambodian garment industry and has created a framework that has been particularly friendly to those already in power: the CPP, and GMAC to a lesser extent. The BFC framework does not focus on empowering workers but instead keeps putting focus on issues that do not deserve to attract so much attention because they are almost non-existent in the Cambodian industry and not in fact deemed priority by workers. Issues such as child labour gain much attention from BFC because they are deemed more serious than forced overtime for example. However, child labour is almost non-existent in Cambodia, partially due to BFC. BFC has rightfully gained credits for combating child labour and other issues that have been abandoned from the Cambodian industry. However, it fails to create an agenda that matters for people currently working in the garment industry. At the same time, buyers and the ILO itself are showing off with the good labour standards in the Cambodian industry.

BFC portrays the powerlessness and incapability of the ILO in the context of the Cambodian regime. The aim of the research is not to argue that BFC has become irrelevant, because it has not. Rather, this research underlines the need to find alternative ways to reach the same goal, namely better compliance with labour standards. Also, this research is not about arguing against tripartism. But in Cambodia, the enabling factors are still absent for tripartism to work well. Several actors are to blame for this situation apart from the ILO-BFC program itself: the CPP, GMAC and the international

community. Currently, BFC is not making enough effort to make the fate of garment workers in Cambodia less dependent on the power of their semi-authoritarian regime. What is needed are binding mechanisms that empower workers, in which independent unions have a chance to utilize their power to negotiate living wages and other priority issues. However, 'such efforts can only be effective if situated in broader efforts to redistribute wealth and power in favour of workers, rather than create new forms of dependency' (Arnold, 2013b).

Recommendations

BFC is currently dependent on tripartism for its success, and with that the vagaries of the CPP. Buyers are now completely excluded from the program in terms of responsibilities. BFC could make a significant contribution by seeking apparel buyers' commitments that a decent wage would not induce capital flight, as is feared by the government and GMAC. Also, BFC could raise more international awareness for the issues that actually matter in the Cambodian garment industry instead of keeping international attention on irrelevant issues. This could be done by engaging third parties in the program.

Limitations of this research and suggestions for further research

A limitation of this research is the fact that primary literature is almost non-existent. There are numerous sources that portray the vision of any of these parties, but there are only few that are written by the actors themselves and even less that have been written in English. Primary literature is necessary in a qualitative research to ensure the reliability of certain statements. Because primary sources were not often available, it was necessary to use secondary sources. In most cases, more than one source was used to support statements, judgements or findings in this research. Therefore, the lack of primary sources has not caused a serious threat to the quality of this research.

A second limitation of this research is that only a very limited amount of respondents was interviewed. Due to a lack of time, financial resources and connections, it turned out to be impossible to interview more relevant people. However, the small number of respondents has not caused gaps in the data since literature filled all existing gaps.

This research only reflects the current situation in the garment industry in Cambodia. Over the past two years, the wellbeing of garment workers has gained more media and political attention worldwide. BFC has announced that it will revise its transparency policy and that it is likely that the program will return to its previous transparency policy, in which factory-specific reports are no longer private to the factory management but are made publicly available (BFC: July 29, 2015). This could have a positive effect on some of the enabling conditions that were discussed in this research,

mainly the capacity to deliver. Further research could be done in order to measure the effect of this policy change for the ability of BFC to address workers' issues.

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