Fact Sheet: The Labor Law 1997  
**CCHR Classification: YELLOW**  
**Snapshot:** The Cambodian Center for Human Rights (“CCHR”) has classified the Labor Law as yellow, because, in spite of all the positive provisions introduced by the law, some of its dispositions incite job insecurity. Moreover, the Labor Law fails to provide a more coercive system that obliges factories and authorities to implement the provisions of the Labor Law.

**Introduction**

This fact sheet provides an overview of the Labor Law, whose aim is to provide comprehensive protection for labor rights in Cambodia, and a consistent and accessible dispute resolutions system through the creation of specific and independent institutions. This fact sheet is written by CCHR, a non-aligned, independent, non-governmental organization (“NGO”) that works to promote and protect democracy and respect for human rights – primarily civil and political rights – throughout the Kingdom of Cambodia (“Cambodia”).

**Background**

The past decades in Cambodia has seen rapid economic growth, with a growth of approximately 7% in 2012. However, despite a GDP per capita of $2,400, millions of Cambodians still live on less than $1.25 per day, and many remain in vulnerable employment, with little access to social protection, union representation, and with poor working conditions. Gender inequality remains high, as women are faced with traditional barriers to equal access to education and employment and are particularly vulnerable to trafficking, forced labor and sexual abuse in the workplace.

**Analysis of the Labor Law**

Introduced in 1997, the Labor Law includes broad protection for labor rights, resulting in a significant step towards the full acknowledgement of human rights in Cambodia. For instance, Article 15 forbids any kind of forced labor and Article 12 prohibits any discrimination based on race, gender, ethnicity, religion, union membership, or other characteristics, when making professional decisions such as hiring, advancement, promotion, remuneration, discipline, or termination (except as provided by law). Chapter VI stipulates minimum standards relating to general working conditions, Chapter VIII establishes work safety and health conditions, and Chapter XI guarantees trade union rights, including Article 319, which guarantees the right to strike. The Labor Law also guarantees in Article 137 a maximum of eight hours working day, and a maximum of 48 working hours per week, with a compensatory payment for overtime work and a minimum paid annual leave (Article 166).

Along with the protection of fundamental rights, the Labor Law also introduces in Chapter IV two categories of contracts: fixed duration contracts (“FDC”) and unspecified duration contracts (“UDC”). An FDC is a two-year contract (or shorter), with a precise starting and end date to employment, which can be renewed as long as it does not exceed the maximum duration of two years. UDCs, as their name entails, are contracts with no specified end dates. The Labor Law establishes specific conditions for terminating both FDCs and UDCs, including mandated timeframes for noticing employees of termination of their contracts and subsequent compensations, both which are dependent on the length of a person’s employment.

CCHR classifies each law according to how acceptable it is in terms of its consistency with the Constitution and Cambodia’s obligations under domestic and international law, and the clarity of its provisions. Laws that are classified as green are acceptable in the opinion of CCHR; laws classified as yellow contain a number of concerns that should be reviewed and amended; and laws classified as red are draconian and/or in violation of the Constitution and/or the country’s obligations under domestic and international law, and should therefore be rejected, annulled or re-drafted, as appropriate.
Finally, the Labor Law provides a system for resolving disputes. For individual disputes, complainants must refer the case to a Labor Inspector at the capital, provincial or municipal level. Agreements resulting from these hearings are legally binding on both parties. Meanwhile, in the case of non-conciliation, the complainant may file a complaint in court, pending the establishment of Labor Courts as mandated by Article 387 of the Labor Law. For collective disputes (where there is no collective agreement in place establishing a specific process for dispute resolution), the dispute is first referred to the Labor Inspector. In cases of non-conciliation, Article 309 outlines the process for arbitration. The majority of cases are then referred to the Arbitration Council, which was established by a ministerial decree in 2003.

Concerns
Although the Labor Law represents an exceptional improvement for the protection of labor rights in Cambodia, there nevertheless remain a number of concerns, especially with regards to the implementation of the Law. The current punitive system contained in the Labor Law fails to realistically dissuade employers from violating the provisions therein, so that employers have little incentives to fully implement and respect them. For instance, garment factory managers are regularly reported to be failing to complete fire drills and are rarely implementing health and safety and overtime policies.

Moreover, another main concern with the Labor Law regards FCDs, which only require a termination notice if contracts are more than six months in length, and only require a very limited severance pay if no amount is specified in the collective agreement. Most factories may opt not to set a severance amount for any collective agreements in which they enter, knowing that ultimately they would only have to pay workers 5% of their total wages. The majority of contracts implemented by factories in Cambodia are FDCs, setting UDCs aside as exceptions. Factory owners often advantage of FCDs, which make it easier to manage flexible production and help prevent union organizing and striking, generating thus job insecurity as workers are threatened with dismissal. Finally, the lack of labor courts leaves both employers and employees with few options to resolve disputes.

Recommendations
In order to address the shortcomings of the Labor Law outlined above, the Royal Government of Cambodia (the “RGC”) – through the National Assembly – should review and amend the Labor Law in order to establish more substantial sanctions to dissuade violations of the Labor Law and to prevent employers from continuing to violate the Law, including through legislating higher fines, procedures for closing businesses in cases of continued, serious violations and higher punitive damages to victims of violations. In addition, the RGC must ensure that victims of labor rights violations have access to effective remedies, including through the creation of domestic Labor Courts and take appropriate steps to prevent, investigate, punish and redress labor violations that take place within its territory or jurisdiction. Finally, the RGC must also review the contracting system, adding restrictions to the use of FDCs in order to ensure that the contracting system is not abused by employers at the detriment of the employees.

For more details, please contact Business and Human Rights Project Coordinator Piseth Duch via telephone at +855 (0) 12 71 23 71 or via e-mail at duchpiseth@cchrcambodia.org or Consultant Juliette Rousselot via telephone at +855 (0) 15 35 06 20 or via e-mail at julietterousselot@cchrcambodia.org.