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THE MATERNITY LEAVE IN CAMBODIA

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Introduction

The protection of women is a main matter because more and more women are exercising professions, in a local and international fragile economic context.

The maternity leave concerns mothers who are employees. Maternity leave is the time off work because of pregnancy and for the care of the baby. Depending on the country, maternity leave is more or less favorable.

We can observe some differences concerning maternity protection in countries in South-East Asia. We can notice that women in Cambodia have a stature which can vary more or less from one country to another in South-East Asia. For example we can observe that women in Cambodia have ninety days off amount of leave and in Philippines they have only sixty. Nevertheless, women are paid half of their wage, while in Thailand; Laos and China women get a full wage. There are lots of issues about women that could be mentioned around the world, but we will focus on the case of maternity leave in Cambodia.

There are lots of international texts like the CEDAW, and national texts like the Constitution of Cambodia (September 24, 1993), which protect women, and specially women workers and their maternity rights.

There are many confederations that have different goals; they defend labor rights, find justice from them, prevent disagreements, and try to give law education to the workers. They aim at increasing rights and at making more comfortable the life of workers, and specially the pregnant women workers.

One of the key issues are that most women workers don't trust themselves, some of them try to access to the high jobs with responsibilities, but they are often hopeless because the other women don't support them. In fact, women are not educated enough because their families give priority to boy education. So most women are not independent, as they have to rely on men. On top of that they have to take care of their family. There is limited opportunity for leadership. Furthermore, in general the leadership belongs to men. The most common sectors of activity of female workers are in factories, restaurants, housework and « prostitution ».

This report will try to understand what the current situation in Cambodia is like for pregnant women workers and what the main issues and the improvements to be implemented in the future are..

To do this, we have to understand what laws have to be applied as well as, (I) how this application evolves, (II) the Confederations negotiate Collective Bargaining Agreement (CBA) to improve current conditions.

I) the national and international texts protecting the women pregnant workers :

First of all, there is the Constitution of the Kingdom of Cambodia dated on September, 24 1993. The constitution recognizes and respects human rights as defined in the Charter of the United States, the Universal Declaration of Human Rights and the others treaties and conventions which deal with human rights. It's articles 45 and 46 from chapter III, which deal with the condition of the pregnancy and the maternity leave. Article 45 «All forms of discrimination against women shall be abolished....». Article 46 «...A woman shall not lose her job because of pregnancy. Women shall have the right to take maternity leave with full pay and with no loss of seniority or other social benefits....».

Furthermore, The Chapter VI «General working conditions» Section VIII, Articles 182 to 187 of the Cambodian Labor Law of 1997 deals with the situation of the women workers, in case of pregnancy. They outline the rights of pregnant women. After the maternity leave and during the first two months after returning to work they are only expected to perform light work. The employer is prohibited from laying off women in labor during the maternity leave (Article 182). During the maternity leave, women are entitled to half their wages (Article 183). The Articles 184 and 185 deals with the right of breast-feed. The enterprises according to the percentage of women in the workplaces, have to create a nurturing room, or a day-care center.

The Constitution recognizes international texts relating to human rights, such as The Universal Declaration of Human Rights which was adopted on December 10, 1948 by the United Nations General Assembly. The Declaration is a milestone document in the history of the human rights. The moral and values of human rights can be traced through the history of religious beliefs and cultures around the world. The Declaration proclaims «the Equality between men and women».

The Convention on the Elimination of All Forms of Discrimination Against Women's (CEDAW) is a universal instrument to protect rights of women. It was adopted in 1979 by the General Assembly of the United Nations. The 185 nations, who ratified it, pledge to stop all forms of discrimination in relation to the women in every matter. Article 11 prohibits discriminations against women on the basis of their marital status or because they are pregnant.

The Convention 183 about maternity protection of 2000, takes into consideration women who work and provides protection for pregnancy, which is seen as the shared responsibility of government and society. Article 4 outlines that every female citizen of the States where the Convention applies, must have a maternity leave of a minimum of fourteen weeks at least. This article explains in details the conditions of application of the maternity leave.

II) Current status in Cambodia

A) General Issues :

One of the main issues we can meet is the non-respect of the rules at the international or national level. The application of the rules is the first condition to protect the human rights in general, and in specific cases, as the maternity leave. The government has to punish every breach, and the employers have to comply with the law. Despite all difficulties, I realized during interviews that Cambodian people are quite confident because of the improvements during the last years.

But the fact that some states are reluctant to comply with the CEDAW is a danger for the protection of the Humans Rights, it is a real obstacle for the application of the CEDAW. Some States put some reserves on the basis of their religion, beliefs, or national culture. It's a real problem because the rights outlined in the convention can be reconsidered or questioned for women. One of the most important principles, the equality between men and women, is no more meaningful. This kind of reserves takes down the sense of the convention. For example, the article (16 concerning the marriage is contested in lots of countries in Asia.

The absence of labor court can be another issue; in fact, the lack of independence of justice and the corruption denounced by some people, are strong obstacles to improve the maternity leave conditions, or any other issues, concerning labor law area.

B) Specific Issues:

I propose to focus on several specific questions those women workers meet in their every day working life and specifically on pregnancy.

There are eight confederations and forty-eight federations and associations which try to protect workers in every type of activities. I met three federations: Independent Democratic of Informal Economic Association (IDEA) who protects the workers of informal economy ; Coalition of Cambodian Apparel Workers Democratic Union (C.CAWDU) and Cambodian Workers Labor Union Federation (CLUF) which protect the garment workers, one confederation Cambodia Labor Confederation (CLC), and the Cambodian Women Movement Organization (CWMO) which provide education and leadership training to the working women, aiming to promote the empowerment and equal rights in the workplaces.

There are over 200 garment factories in Cambodia. Factories are required to pay the Cambodian minimum wage of US\$45 a month for the probationary workers and US\$50 for the regular workers. Officially, working hours in the garment factories are eight hours a day, and 6 days a week. But many workers do overtime. Under-payment of wage has been reported as a problem in some garment factories.

By experience, Federations said that the employers respect the law. The current situation is better than in the past. The issue in factories is that the more you produce clothes the more you will be paid, so in case of pregnancy it is a real difficulty, because women can't work as the same rhythm.

- *Working conditions:* First of all, in factories women are supposed to be at work during many hours sitting down without being allowed to move; so, for pregnant women, it's a real health issue. Furthermore, in some factories, when they want to go to the bathroom, they have to stamp their work-card, so they lose lots of time. They are only allowed four bathroom breaks for no more than ten minutes, if they stay longer, they have to pay one dollar. They have a very short space of time to eat and everybody is in a rush, so it's clearly not good conditions for their future baby. The food and the working conditions aren't safe for a baby. On top of that, the security in factories is limited because of violence and aggressions. Too often the only solution for them is to resign.

The CWMO explains that one woman being beaten by her husband. She does not know any association or lawyer to help her. So she came to CWMO for help. Women are victim of domestic violent while they are working hard to earn and serving the family. In fact, everybody lives at the factory, and the women have often left their family to come and work, they are alone, and in most cases they have to rely on men.

- *The maternity leave:* Normally, most women have the advantage of the ninety days outlined in the law, and sometimes of an extension of one or two months in case of complications. They can take leave without salary deduction. In some factories, the employers authorize one medical checkup per month – they have a pregnancy care card. The salary issue is essential; they need a full salary to live and baby costs money.

A factory of more than one hundred workers have to propose in the factory or near it a day-care center or nurse ring room, but women don't trust them, so they prefer that their parents in countryside take care of their baby.

- *Contract:* In addition, the consequences of fixed duration employment contract are the lack of stability and security, especially for the pregnant women. In fact, we can see a risk of non-renewal of the contract because of their pregnancy. In these cases employers beat the game. When labor

market started in 2000, there was discrimination on short-term contract, but the current condition now is to wait the end of the short-term contract to terminate contract. If it's a contract without term, there is no discrimination in general.

In practice, conditions depend on the sector of activity. On the one hand, IDEA explains that women who work in restaurants have no other choice than resigning. In fact, nobody protects them; they have to take care of their baby. On the other hand, a federation mentions that in the international airport women can enjoy a benefit of 100 days and full salary. Moreover, women working in tourist resorts or housekeeping have worse conditions than in factory, because there aren't replacement, so they have to do the same chores, like cleaning a wall, then can be a risk for their pregnancy.

Discriminations exist. IDEA addresses many women issues. In the restaurant, pretty and young girls are allow to work as waitresses and get paid better than the old women working in the kitchen, but they are subjected to harassment of rude clients. Generally, there are less and less discriminations and decreasing terminated contracts because since approximately 2004, people know more and more about their rights.

C) Women workers viewpoint:

After talking with some women workers from one garment factory, which counts 2 500 workers, I can confirm my first feeling, the workers and the organizations who try to help them (confederations, federations, associations...) don't complained of the same issues. In fact, some workers don't benefit much from the current Cambodian law. Obviously they would like more, but firstly, workers want that the current law has to be applied everywhere. In the Super Text factory, if you work in the same factory more than 3 or 4 years and you are pregnant, they don't terminate the contract. But if you have a short-contract, this one won't be extended. There are discrimination between short contract and indeterminate term contract.

One of the women explained to me her situation: «my husband left me after two months of pregnancy, so I didn't have enough money to deliver my baby and take care of him». We can notice that to deliver a baby women have to pay 100 0000 riles in hospital... Furthermore, she adds: «I had a short-term contract, so after having delivered the baby I had to apply for a new job, and I am not entitled to ninety days of maternity leave». She didn't read her contract, and was unaware of maternity leave right. She just knew that she was entitled to ninety days.

I feel a real solidarity between the women. The women in the workplaces pooled their money together to help women who get pregnant and who are abused by their husbands / boyfriends. At the unanimity, they said that general conditions are bad. They complain that the conditions are getting worse, not better. Before, even when they got pregnant their contract was extended. Now, when they know that the worker is pregnant, their contract does not get extended. Now they only have short-term contract (3-6 months). They notice that their health get worse. Some throat and abdominal pain are common. The drinking water is brought from the river in a basin, and the same water is used in the bathroom.

The first improvements that they want are first of all the increase of their wages, and then the improvement of their working conditions (better internal rules: long-term (undetermined duration) contracts, low temperature workplaces, sanitary water,). They want the same employment benefits as the long-term contract. It's clear that the economic crisis has affected working conditions. Before the crisis they received masks and water cleaner for the drinking water, now they don't have these equipments.

Cambodian garment factory workers hold banners during their May-Day rally in Phnom Penh, Cambodia, Saturday, May 1, 2009. Hundreds of Cambodian garment factory workers took part in the May-Day celebrations, demanding the government to enhance the minimum wage and their working conditions.



III) The improvements expected in the future

People I met want that there are actions to improve the implementation of the rights and protection for women workers, as an inheritance for the coming generations. I am a bit confused, because most people excepted women workers, the real persons concerned, said that there are still issues but it is better than in the past. But I don't have this feeling.

Lots of progress remains to be done:

-First of all, the full salary is the main issue. It's a necessary improvement to make the life easier. The full salary can solve lots of issues: people health, standard of living...

-Then, working conditions need quick improvements, the health of workers should be one of the most important priority; first we are human beings; and secondly the productivity depends on the working conditions. The issue of hygiene, water, warmth etc should be a priority .

-Furthermore, women in general and especially pregnant workers need time to rest, to take care of their family and to make housework. This is a problem that affects every woman, and provokes stress and tiredness. Specifically for women workers that will change the way they will combine pregnancy and professional activity for a better life.

-There is a lack of law texts about the duration and the period of time to leave on maternity leave. In fact, women can only be allowed to take leave one week before they deliver the baby. Women should be allowed to leave far before; the fact is that it is not the case yet for most of them, looks like crazy from my point of view. The Federations try to negotiate to leave after the seventh or the eighth month before having baby. The law texts about the maternity leave need to be more specific.

-Training of labor rights should be organized, people have to know their rights. It's necessary to decrease the violation of rights by unscrupulous employers. Federations talk about a possible petition to the government. It should promote and provide more information about benefits and protection.

- Workers have to join Unions to be protected. Without strong Unions their situation is difficult because they are isolated without any counter power and have to work overtime without protection. For example, some employers are «smart», they use short-term contracts, they close factory, and they reopen a new one. Without protection, workers are alone facing these manipulations. Furthermore, Unions and Government have to work together for workers. If every governmental and national organization joins their forces, they could improve drastically workers conditions by

limiting abuses and illegal or unacceptable practices.

Conclusion

To sum up, maternity leave rights need to be known by the workers and abided by the employers. Usually, every improvement in that field takes time, but the question of the pregnancy is vital for female workers and for the country. Unfortunately making profit/exploitation is too often an obstacle to improvement of working conditions.

According to some people I met during this survey, things are improving slowly but steadily. It is true in some area, but in my view, lots of things remain to be done. The easier way to improve the situation would be a common approach between the government, the confederations, federations, associations, and obviously the workers.

The courage, perseverance and goodwill of Cambodian women are strong, but too often they have no other choice than working in poor conditions. I admire these women.

I couldn't imagine these working conditions before coming to Cambodia despite the fact I was conscious of the difference of history, culture, and standard of living between France and Cambodia.

Nevertheless, I am confident about improvements in the future, through the international law and influence power that contribute to spread Human Rights around the world.

But according to me, the key factor of improvement will depend mainly on Cambodian people themselves, through the key role of local human rights organizations, and through the new better educated generations that will be more conscious about the importance of these issues for Cambodian people and for the future of Cambodia.