



# Human Rights Now

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### **Cambodia: HRN calls for improvements in working conditions and prevention measures among global sportswear brands, such as ASICS, Puma and Nike following mass faintings by female workers at factories**

#### **1. Introduction**

Over recent years, large numbers of workers at garment and shoe factories in Cambodia have fainted. According to the National Social Security Fund (NSSF),<sup>1</sup> in 2015, 1806 workers in 32 factories were affected and in 2016 1160 workers in 18 factories were affected.<sup>2</sup> A spokesperson for NSSF noted that the major causes included: psychological and anxiety related issues (34%); physical impairments (22%); exposure to chemical substances (18%); and long working shifts (16%).<sup>3</sup> In 2017 June, Danwatch (a Dutch research institute) and The Guardian conducted joint research into these incidents focusing on laborers working for global sports brands and their supplier factories, including Nike, Puma, ASICS, Best Sellers, and VF Corporation.

Danwatch and The Guardian looked into the relationship between these notable global sports brands and their supplier factories. Both found a strong relationship between the mass faintings and poor working conditions.<sup>4</sup>

Human Rights Now (HRN), a NGO based in Tokyo, expresses grave concern about the poor working conditions in the supplier factories of notable sports brands, and we request that global sports brands which continue to place orders in these factories take fainting cases seriously and make progress with measures to prevent relapses.

#### **2. Successive faintings of workers in Cambodian Factories**

Interviews conducted by Danwatch of 14 female workers in factories where successive faintings took place revealed details of their labor conditions, commutes, food security, and shelter. Moreover, medical personnel, labor union members, NGOs, government officials, and business

<sup>1</sup> The National Social Security Fund, <http://www.nssf.gov.kh/default/about-us-2/>.

<sup>2</sup> "Hundreds of Cambodian garment workers faint," Al Jazeera, 4 April 2014, <http://www.aljazeera.com/news/asia-pacific/2014/04/hundreds-cambodian-garment-workers-faint-201443131659267499.html>.

<sup>3</sup> Mom Kunthear, "Large drop in factory fainting cases," Khmer Times, 19 Jan. 2017, <http://www.khmertimeskh.com/news/34489/large-drop-in-factory-fainting-cases/>.

<sup>4</sup> Louise Voller, Nikolaj Houmann Mortensen, "Mass faintings afflict the women who sew our clothes", Danwatch, June 2017, <https://www.danwatch.dk/undersogelser2/mass-faintings-afflict-the-women-who-sew-our-clothes/>; The Guardian, "Cambodian female workers in Nike, Asics and Puma factories suffer mass faintings", 25 June 2017, <https://www.theguardian.com/business/2017/jun/25/female-cambodian-garment-workers-mass-fainting>.

associations were also interviewed to investigate the causes of these cases. According to Danwatch and The Guardian, over 600 employees working for supplier factories of Nike, Puma, ASICS, Best Sellers, and VF Corporation fainted and were hospitalized in the six months prior to the release of their report.<sup>5</sup> In one of the largest incidents in November 2016, 360 employees workers were reported to have fainted within a three day period at a supplier factory in Kamong Speu Province manufacturing ASICS shoes.<sup>6</sup> In addition, Danwatch's report also confirmed cases where 28 employees fainted at a Nike supplier factory in 2017 February; 36 employees working for the Best Sellers supplier factory were hospitalized; and in March, 40 employees fainted while working in a Puma supplier factory.<sup>7</sup> The above statistics have been confirmed by the NSSF as well.<sup>8</sup>

### **3. Working Environment**

Danwatch's report revealed that in some instances successive faintings were caused by specific accidents that made workers panic, such as workers rushing to escape the outbreak of fire and smoke. The Danwatch report also suggests that poor working conditions also were related to many of the fainting accidents. The report mentions that in many of the factories the workrooms reached high room temperatures and humidity and also lacked proper ventilation. Additionally, workers had to endure long working hours without proper breaks, and their access to food and water was insufficient. Their poor working environment seems to be one of the major causes of these mass fainting cases. Some of the major issues pointed out in terms of working conditions based on the research conducted by The Guardian and Danwatch are detailed below.

#### *(1) Labor Conditions: long working hours, low salary, and unstable employment*

The Guardian confirmed cases where many of the female employees work over 10 hours a day, 6 days a week, leading to exhaustion and hunger.<sup>9</sup> These employees are often the breadwinners for their families, but they are not paid a high enough wage to provide for their families and save money, despite working extended overtime.

The minimum wage in Cambodia was \$153 per month in early 2017, and \$170 per month in 2018. Authorities estimate that approximately \$300 is required for a Cambodian family to make a minimum living.<sup>10</sup> However, in the cases of the supplier factories of these global sports brands, living wages are not paid, and only the base minimum wage (around half of the living wage) is given to the employees.<sup>11</sup>

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<sup>5</sup> Danwatch, supra, note 4.

<sup>6</sup> The Guardian, supra, note 4.

<sup>7</sup> Danwatch, supra, note 4. The Guardian reported that 150 workers fainted in the latter case based on its own interviews. The Guardian, supra, note 4.

<sup>8</sup> Danwatch, supra, note 4.

<sup>9</sup> The Guardian, supra, note 4.

<sup>10</sup> Guzi M., Kabina. K, Tijdens KG, "Living Wages in Cambodia", Wage Indicator Foundation, Aug. 2016, <https://wageindicator.org/documents/publicationslist/publications-2016/guzi-m-kabina-k-tijdens-k-g-2016-living-wages-in-cambodia-amsterdam-wageindicator-foundation>. The NPO Asia Floor Wage reports that a Cambodia worker cannot pay for basic expenditures with an income under \$430/month, according to Danwatch's report, supra, note 4.

<sup>11</sup> The Guardian, supra, note 4.

The reports by The Guardian and Danwatch suggest that in addition to saving money by not buying nutritious food, employees are forced to work extended overtime to earn a living wage. Moreover, many of the female workers in these factories are only on short term employment contracts, making their job security extremely unstable. The research information suggests that these women are unable to refuse long overtime shifts because they are frightened of losing their jobs.<sup>12</sup> Thus, these short-term contracts put the employees in a highly stressful position. There is an urgent need for the immediate improvement of these harsh working conditions. Cambodian labor law limits the maximum overtime to two hours per day beyond regular working hours and prohibits any additional work beyond this limit by management.<sup>13</sup> Overworking is only legally permitted in the case of emergencies and only with the employees' agreement.<sup>14</sup> Further monitoring of these factories is necessary to check whether the factories abide by labor law.

*(2) Factory Environment: High room temperature and humidity and insufficient ventilation*

The research by The Guardian and Danwatch suggests that the working environments of the supplier factories are subject to extremely harsh conditions. The interviews with workers indicate that in many of the factories, the workrooms reach high room temperatures and ventilation is insufficient.

For example, Danwatch interviewed a female employee working for an ASICS' supplier factory who revealed that "several department[s] have small fans to lower the room temperature, however in other departments, the fans are only set up to prevent dust from piling up and [are] not enough to cool the temperature, and it gets extremely hot."<sup>15</sup>

On behalf of Danwatch, the female employee measured the temperature of the factory. The results showed that the room temperature was between 32-34 degrees Celsius at around 11:30am, and a few hours later rose up to 35-36 degrees Celsius. In one of the buildings, a room temperature of 37 degrees Celsius was found. In these harsh conditions, this female employee was required to produce 24 items per hour and 240 per day, and she stated that "The work is hard". The same investigation showed that a Puma supplier factory had a room temperature of 35 degrees Celsius.

Even though the temperatures are extremely high, in most of the factories air conditioners are not installed, sufficient ventilation is not provided, and employees do not have sufficient access to water and food. Moreover, the medical specialist in the Danwatch investigation indicated that some of the chemicals used in the production process are harmful to humans.<sup>16</sup>

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<sup>12</sup> Bent Gehrt, Southeast Asia Director of the NGO Worker Rights Consortium points out that short-term contracts are the root cause of employment instability, and that workers cannot refuse overtime work out of fear of their contract not being renewed. Danwatch, *supra*, note 4.

<sup>13</sup> Prakas 80/99, Labour Law Article 139 (on Overtime Payment and Working Overtime on Normal Working Hours).

<sup>14</sup> *Id.*

<sup>15</sup> Danwatch, *supra*, note 4.

<sup>16</sup> Danwatch interview with *Robert Bartholomew, medical sociologist*, *id.*

According to the industrial medicine specialist, the compounding of conditions such as heat, lack of hydration, nutritional deficiency, and exhaustion will eventually cause a mass fainting.<sup>17</sup> Additionally, another industrial medicine specialist pointed out that the denial of access to food, water, or rest, and working in high temperature and humidity, all while working a mentally-taxing job, can amount to “slavery-like conditions”.<sup>18</sup>

Cambodian labor law currently requires employers to lower workroom temperatures when it makes employees unwell, but it does not require a specific temperature.<sup>19</sup> This contrasts with other nations, such as Vietnam, where the law requires all employers to keep the temperature in factory workrooms below 32 degrees Celsius.<sup>20</sup>

After the release of the Danwatch report, ASICS, Puma, and Nike publicly released their policies on working environments. For example, ASICS announced that in its Global Code of Conduct it promises to provide a safe and sanitary environment and requires global business partners to provide the same for their workers by maintaining a decent temperature and ventilation system.<sup>21</sup> However based on the findings of the investigation, these policies were evidently not being enforced in the factories where successive faintings took place.

#### **4. Policies of the Cambodian Government, Garment Industry, and Global Brands**

Currently in Cambodia, official responses to this issue by the government are inadequate.

While the Cambodian government recently increased the minimum wage to \$170 per month, the gap between this minimum wage and the required living wage has not been resolved, and as part of the crackdown on civil society by the Cambodian government, laws to curb labor union activities have gone into force.<sup>22</sup>

GMAC, an official organization regulating the garment industry in Cambodia, has not shown positive signs that they are willing to reconsider their policies or make changes. Ken Loo, the director of GMAC commented that reports on the number of people fainting have always been exaggerated. Loo also claimed that while GMAC considers the faintings to be problematic, they have not been a priority issue.<sup>23</sup> Loo further alleged that employees involved with mass faintings pretended to faint when they saw others do the same and that employees intentionally faint when they saw a government official.<sup>24</sup> Although it was reported that 126 of workers were victims, actually, none of the employees truly fainted. If a large numbers of employees like 126 fainted, doctors around the world would have come to Cambodia and investigated this

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<sup>17</sup> Danwatch interview with Erik Jørs, a senior researcher in occupational and environmental medicine at the University of Southern Denmark, id.

<sup>18</sup> Danwatch interview with Jane Frølund Thomsen, Senior Hospital Physician in the Department of Occupational and Environmental Medicine at Bispebjerg Hospital, *supra*, note 4.

<sup>19</sup> Prakas 147 (on Thermal Environment at the Workplace).

<sup>20</sup> The Guardian, *supra*, note 4.

<sup>21</sup> ASICS, “ASICS Global Code of Conduct”, [http://corp.asics.com/jp/p/code\\_conduct](http://corp.asics.com/jp/p/code_conduct); ASICS, “Policy of Engagement”, 23 Jun 2014, [http://asics-corporate-production-draft.s3.amazonaws.com/page\\_types/2235/files/policy\\_of\\_engagement\\_original.pdf](http://asics-corporate-production-draft.s3.amazonaws.com/page_types/2235/files/policy_of_engagement_original.pdf). ASICS, “Business Partner Management Policy” ([http://corp.asics.com/jp/p/agency\\_policy](http://corp.asics.com/jp/p/agency_policy), in Japanese).

<sup>22</sup> The Economist, “The Cambodian government threatens labour rights”, 26 Oct. 2017, <https://www.economist.com/news/business/21730633-textile-workers-find-unlikely-ally-against-state-repression-cambodian-government>.

<sup>23</sup> Tep Nimol, Vincent MacIsaac, “Stories vary on latest mass fainting incident”, The Phnom Penh Post, 26 Oct. 2011, <http://www.phnompenhpost.com/national/stories-vary-latest-mass-fainting-incident>.

<sup>24</sup> Danwatch, *supra*, note 4.

phenomenon.<sup>25</sup> As a result, Loo underestimated the situation and did not engage in analyzing the problem of labor environment sincerely

In September of 2017 GMAC posted on its website its existing guidelines on employment contracts, minimum wage, labor unions, cancellation of employment contracts, employment permit certificates, collective agreements, intermissions, strikes, sanitation, and safety.<sup>26</sup> The guidelines mention that there is a need to make sure that the heat in the working environment does not harm anyone's health, and that employers must take measures to cool the workplace, such as electric fans, ventilators, and air-conditioners, so that the heat does not hurt the health of the workers or impede their work.<sup>27</sup> Moreover, the guidelines state that the size of ventilation sources, such as doors, windows, and other ventilation, must not be less than one-fourth of the building's total size when measured in square meters.<sup>28</sup> Employers also have the obligation to provide sanitized drinking water.<sup>29</sup> In terms of working hours, unless there is an emergency, employees are not allowed to work for more than 9 hours a day and 48 hours a week.<sup>30</sup> However, the guidelines lack detailed methods to monitor these requirements and omit guidelines on regular breaks, a living wage, and short-term employment.

Following the reports by Danwatch and The Guardian, global brands such as Nike and Pumatook this issue seriously and allegedly were going to carry out investigations and make improvements.<sup>31</sup>

Nike claims that it has taken action to prevent future fires and that it has increased fire drill training for its employees.<sup>32</sup> Nike also claims that it requires supplier factories to maintain a temperature of 30 degrees Celsius or below, and in cases where factories were unable to do so, it has installed cooling systems and air conditioning. The company also states that they don't use short term contracts. Moreover, in the fall of 2017, after pressure from Georgetown University following calls by student activists, Nike agreed to examine labor conditions overseas and to have Worker Rights Consortium regularly visit the factories for an independent audit, making their activities transparent.<sup>33</sup>

Puma has investigated its own facilities and committed to conducting regular checkups on ventilation systems in supplier factories and medical examinations of employees and setting up a worker management committee.<sup>34</sup> Puma has also suggested to suppliers to provide energy bars, checkups, and regular maintenance of ventilation.

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<sup>25</sup> Elitsha, "What's behind mass fainting in Cambodia's garment factories?", 22 Sept. 2017, <http://wwmp.org.za/elitsha/2017/09/22/whats-behind-the-mass-faintings-in-cambodias-garment-factories-whats-behind-the-mass-faintings-in-cambodias-garment-factories/>.

<sup>26</sup> The guidelines are available at <https://www.gmac-cambodia.org/publications>.

<sup>27</sup> Garment Manufacturers Association in Cambodia, "Legal Pointer: Issue 16 for November, Hygiene, Security and Safety of Worker/Employee", [https://www.gmac-cambodia.org/publication\\_pdf\\_en/1505142709.pdf](https://www.gmac-cambodia.org/publication_pdf_en/1505142709.pdf).

<sup>28</sup> *Id.*, para. 5.

<sup>29</sup> *Id.*, para. 6.

<sup>30</sup> Garment Manufacturers Association in Cambodia, "Legal Pointer: For July (Number 13), Leave", [https://www.gmac-cambodia.org/publication\\_pdf\\_en/1505141920.pdf](https://www.gmac-cambodia.org/publication_pdf_en/1505141920.pdf), para. 2.

<sup>31</sup> Jennifer McKeivitt, "Mass faintings at apparel factories highlight employer's role in worker conditions", 27 June 2017, <https://www.supplychaindive.com/news/mass-faintings-nike-asics-adidas-puma-worker-conditions-cambodia/445863/>.

<sup>32</sup> The Guardian, *supra*, note 4.

<sup>33</sup> Judy Gearhart, Sarah Newell, "Nike Signs Factory Access Agreement", International Labor Rights Forum, 1 Sep. 2017, <https://laborrights.org/blog/201709/nike-signs-factory-access-agreement>; Dave Jamieson, "Nike Agrees To Help Watchdog Group Inspect Its Overseas Factories", The Huffington Post, 1 Sep. 2017, [https://www.huffingtonpost.com/entry/nike-watchdog-group-inspect-overseas-factories\\_us\\_59a70baee4b0a8d14572b383?ncid=inblnkushpmpg00000009](https://www.huffingtonpost.com/entry/nike-watchdog-group-inspect-overseas-factories_us_59a70baee4b0a8d14572b383?ncid=inblnkushpmpg00000009).

<sup>34</sup> The Guardian, *supra*, note 4.

ASICS also made a public announcement that it would commit to engaging with Better Factories Cambodia to investigate the issue, as well as take measures to better train employees and conduct ventilation checks. However, currently no information regarding the successive fainting issue has been mentioned on its Japanese website, so it is hard to recognize that ASICS has fulfilled its responsibility to be transparent.

Based on the research conducted by The Guardian and Danwatch, in November 2016, HRN contacted ASICS about the faintings at their supplier factory in Cambodia. ASICS disputed some of the report's findings. In response to HRN's inquiries, an ASICS representative replied "I have a report that states that it was not 37 degrees in the factory" and noted that the cause of the faintings was "workers who saw other workers crying out from influenza, who would then faint themselves."

ASICS also said that it currently monitors the factories to make sure that temperatures do not exceed 32 degrees, that they have installed large fans and ventilation devices, and that they provide subsidies to their workers to buy food.

ASICS stated that "although several factors have been pointed out as the potential cause of the faintings, such as room temperature, chemical substances, and prolonged mental problems from the time of the Pol Pot regime, even our company cannot identify them. We have heard that workers in Cambodia are often hypoglycemic and faint easily, but GMAC is trying to confirm whether there was feigned illness or not. In the meantime, we will continue to work with all the stakeholders on the ground to constantly improve the working conditions for the people making our products."

However, even if the facilities maintain a temperature of 32 degrees, the working conditions described above would still be stressful enough to violate international standard ISO7243 as well as the guidelines created by the International Labor Organization (Improving Working Conditions and Productivity in the Garment Industry).<sup>35</sup> Furthermore, even if ASICS assertions are true, employees impaired by influenza are still working without sick leave; thus, improvement of the working conditions is still necessary.

## **5. Responsibility of the Cambodian Government, Business Associations, and Global Brands**

As mentioned in the investigative report, the number of successive mass faintings has spread throughout Cambodia over the past few years, and it has placed the largely female employees at severe risk. The ratification of the ILO treaty and Cambodian labor law needs to be revised and enforced immediately. The Cambodian government has the obligation to provide employees with adequate protections and a safe working environment, and the government should take actions to improve working environment.

In the garment industry, there is a tendency to suspect that many faintings are feigned illnesses, and workers may be penalized harshly when their faintings are regarded as such. However, according to the investigation of The Guardian and Danwatch and the analysis of specialists, it is strongly suspected that a harsh working environment is a factor contributing to the fainting incidents. Under the current practice of treating faintings as a feigned illness and penalizing workers, workers are further threatened and cannot exercise their rights. Even if the statistics on the faintings show on the surface that the numbers are getting lower, the situation in the industry will continue to become more serious. GMAC needs to confront the issue and urgently make drastic changes and improvements to its policies to improve the current situation.

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<sup>35</sup> Hiba, Juan Carlos, "Improving Working Conditions and Productivity in the Garment Industry," International Labour Organization, 1998, p 55, <http://www.ilo.int/public//english/protection/condtrav/pdf/wc-jch-98.pdf>.

Local supplier factories have the obligation to provide a sanitized and safe working environment under articles 7 and 12 of the ICESCR, as well as ILO Convention 187. At the same time, global sports brands have the obligation to make sure that human rights are protected in their supplier factories and to eliminate any violations of the employees' rights mentioned in the UN Guiding Principles on Business and Human Rights, especially principle 13. Above all, these brands should make sure to gather enough information by interviews with factory workers on their opinions and environments, and then conduct an analysis to identify the causes of these mass fainting cases.

Additionally, global brand producers should support improvements by suppliers of their working conditions such as overly long working hours, low wages, a lack of ventilation in working environments and high temperatures and humidity, insufficient water and food access, short rest times, chemical exposures, and instability and stress caused by short-term employment contracts.

## **6. Recommendations**

These notable global sports brands have publicly claimed to be in compliance with international standards in the face of serious violations of employee's rights.

Based on the UN Guiding Principles on Business and Human Rights, situations in violation of international human rights treaties ratified by Cambodia, ILO Conventions, and Cambodian Labor Law, should be resolved promptly. While all the brands involved are global brands, ASICS specifically is a worldwide Olympic Partner as well as a Gold Partner of the 2020 Tokyo Olympics.

In 2017, the Tokyo Olympics' Association released its Sustainable Sourcing Code, which includes instructions to follow international human rights treaties and other international labor standards.

However it is unclear if the goods procured by the Organizing Committee for the Tokyo Olympics are currently—or are planned to be—manufactured in the factories in question. The Sustainable Sourcing Code states that “[i]t is hoped that suppliers, etc., will not only observe the provisions of this Sourcing Code, but also appropriately identify the latest social challenges and needs and strive to further enhance sustainability.”<sup>36</sup>

To ensure compliance with international standards and local laws, as well as to prevent the recurrence of abnormal situations such as mass faintings among the workers, HRN makes the following recommendations.

### **To the Cambodian Government:**

- Conduct a detailed investigation into the causes of mass faintings and take all appropriate and necessary countermeasures to prevent future cases;
- Improve monitoring systems, strengthen sanctions against violations of the labor law, and ensure adequate application of the laws so that the regulations concerning laborers' rights under the labor laws are effectively carried out at all factories;
- Consider revising the laws to ensure that factories cannot refuse the renewal of short-term contracts in order to coerce and exploit workers;

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<sup>36</sup> The Tokyo Organising Committee of the Olympic and Paralympic Games, “Tokyo 2020 Olympic and Paralympic Games Sustainable Sourcing Code (1st edition)”, 24 March 2017, <https://tokyo2020.org/en/games/sustainability/data/sus-procurement-code.pdf>, p. 12.

- Work with labor unions to ensure that living wages are properly paid to all employees.

**To GMAC and the designated supplier factories:**

- Require that temperature control systems and proper ventilation methods are utilized in all factories;
- Require employers to give sufficient food, water, and regular breaks and allow workers to drink water during their working hours;
- Crack down on overwork exceeding the hours permitted by law;
- Develop and implement training programs for administrative staff about worker rights under labor laws and international treaties;
- Create employee education programs regarding their health, safety, and labor rights along with medical checkups;
- Require that all employees receive an adequate living wage;
- Never misuse short-term employment contracts and use workers' fear of losing their jobs to force them to do unwanted work.

**To Nike, Puma, ASICS, and other Global Sportswear Brands:**

- Conduct comprehensive investigations into the causes of mass faintings, make the results public, and create and implement action plans to prevent recurrences of incidents. Ideally ensure that investigations are conducted by impartial third parties, and pay sufficient attention to ensuring that workers who tell the truth in response to interviews are safe from any sanctions from their employers;
- Make public the measures taken to prevent relapses and explain clearly the current situation and any shortcomings identified;
- Ensure that supplier factories do not allow employees to overwork or work in extremely hot and dangerous environments, and ensure that workers' health and safety are guaranteed;
- Take initiatives to ensure living wages are paid;
- For companies that have not accepted an independent audit investigation or released their supplier list, make sure that these are conducted.

**To Tokyo Olympics/Paralympics Association:**

- Appropriately enforce the Sustainable Sourcing Code, promptly set up an efficient and accessible grievance mechanism, and broadly notify workers about the existence of this mechanism;
- Apply the Sustainable Sourcing Code by paying sufficient attention to the risk that violations of workers' human rights still widely exist in the sportswear-making process.