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Pactics Factory Strike on Hold, Awaiting the Labor Minister's Decision



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Pactics factory workers, shown here during their strike earlier this month, are back at work Monday (Sept. 7) except for their two union leaders. Photo: Cambodia Tourism Workers Union Federation (CTWUF).

Gerald Flynn -- September 7, 2020 12:30 AM



As unionists face rising challenges throughout the region during the pandemic, Pactics workers return to the factory on Monday (Sept. 7) with their demands unheeded.

PHNOM PENH--By Sept. 4, the strike at Pactics in Siem Reap City had been underway for a week, with some 400 workers gathered outside the factory demanding the reinstatement of two unionists who were dismissed last June. By Sept. 7, it was all over.

Late last Friday (Sept. 4), a truce was forged between workers and management at Pactics, with employees agreeing to return to work on Sept. 7 even though their demand of reinstating two fired unionists remains unheeded.

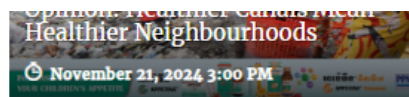
“Each of the Department of Labor Disputes in Phnom Penh, the Department of Labor in Siem Reap and the Committee for Resolving Strikes and Demonstrations requested the union suspend the strike whilst waiting for the Minister of Labor to make his decision on their appeal,” explained Patrick Lee, a consultant for the local Center for Alliance of Labor and Human Rights (CENTRAL), adding that Labor Minister Ith Sam Heng’s decision is expected to be issued in the coming days.

“While there’s always going to be an imbalance of power in a case like this, I think here members are cognizant of the fact that the minister is treating the resolution of this case as a priority and, in recognition of that, have acceded to his request to return to work while he makes his decision,” Lee said in a telephone interview.

The Pactics saga began last April when the factory announced it was terminating 75 employees due to reduced orders in the wake of the Coronavirus Disease 2019 (COVID-19) pandemic. The garment manufacturing sector in Cambodia—a lucrative industry employing some 800,000 Cambodians—has been ravaged by the pandemic as international orders have dried up and supply chains continue to face severe disruption.

By last June, more than 130,000 garment workers had lost their jobs or had lost shifts as the Labor Ministry estimated that 256 factories had either closed or suspended operations. The impact of COVID-19 was cited as the chief reason for these losses, but experts warn that it is unions—both their members and their leaders—who are among the first to be dismissed under the guise of COVID-19 related disruption.

The Pactics Group has operated its Siem Reap factory since 2010 and supplies international fashion brands such as [ChicoBag](#). Following the



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mass terminations of employees' contracts, two unionists stood up last May to demand the suspended workers receive backdated seniority pay, payment of wages during the period of suspension and be reinstated.

The demands were made by Met Ratt, president of the Employees' Independent Solidarity Union of Pactics, and Touch Kosal, president of Cambodia Tourism Workers Union Federation (CTWUF), with Ratt sharing the demands with his union's members via [Facebook](#) on May 28. Another union activist, Ping Teav, was also fired for his role in disseminating information to fellow unionists.

A Factory of Repute

Pactics website is [brimming with testimonials](#) speaking of the employee-centric values of the factory. And yet, following Ratt's Facebook post, he was summoned by management on June 6 and told he was being terminated—a decision he suspects is a direct result of his sharing information online. However, sources familiar with the dispute have noted that Pactics did not submit any official request to the Siem Reap Provincial Department of Labor to request Ratt's termination, which is necessary when dealing with union leaders.

[It was only on June 8 that such a request was made by Pactics, despite Article 26 of the Cambodian Labor Law](#) stipulating that employers have seven days to terminate an employee following serious misconduct.

A complaint was submitted to the Arbitration Council in June, with Ratt and other workers again demanding reinstatement, backdated wages and benefits. The [council agreed](#) that workers were due backdated wages, seniority pay and other benefits conferred upon employees in the garment sector.

Previous media coverage has heaped praise on Pactics for their higher-than-average factory wages and the perks afforded to employees. However, the company has long denied that it falls under the garment manufacturing sector. On their website, [Pactics claim that they are](#) “[t]he manufacturing and sublimation specialists creating high quality, innovative and technical items for travel & luggage, luxury packaging and sportswear in an environmentally and socially responsible way, supporting the world's leading fashion and lifestyle brands.”

The Arbitration Council, upon reviewing the dispute over Ratt and Teav's dismissal, found that Pactics is indeed a garment sector company and subsequently has been underpaying its workers for years. The minimum wage for the garment sector in 2020 was [set by the government at \\$190 per month](#), but Pactics employees claim they have been receiving just \$155 per month and few of the other benefits guaranteed under the Labor Law.

Accepting this via negotiations mediated by the Ministry of Labor, Pactics allegedly acquiesced to make backdated payments of both wages and

seniority, but still refused to reinstate either Ratt or Teav.

Union representatives of the Pactics factory workers negotiate with the factory managers. Photo: Cambodia Tourism Workers Union Federation (CTWUF).

As such, on Aug. 10, Kosal of CTWUF—one of Cambodia’s larger unions—submitted a notification of an impending strike to Pactics. Negotiations collapsed with the factory owners refusing to reinstate the unionists and the workers refusing to yield. So from Aug. 28 until Sept. 4, the factory stood almost empty, with some 400 of its estimated 500 employees abandoning the production lines in solidarity with their dismissed union leaders.

On the day the strike began, Pactics issued a [press release via their website](#), touting the benefits they provide to Siem Reap Province as an employer, the perks enjoyed by their employees and the positive coverage they have received in international media outlets. In its statement, Pactics stressed that it “has always been considered a non-garment company” and added that it has launched an appeal against the Arbitration Council’s characterization of the factory as a garment sector employer.

While Pactics recognized in its statement that a strike could have been avoided by reinstating Ratt and Teav, the company wrote that, “[a]s a matter of principle, PACTICS believes these employees were dismissed for valid reasons under the Cambodian Labor Law and has not agreed to the reinstatement.”

“[P]actics has always been considered a non-garment company” and added that it has launched an appeal against the Arbitration Council’s characterization of the factory as a garment sector employer.

“The main point is the reinstatement,” explained Kosal of CTWUF. “Ratt is the union president and, if the company can fire a union leader at will, then nobody will want to lead the union: It’s the company trying to reduce the power of unions.”

Kosal added that the workers who went on strike would have been happy to negotiate with Pactics if the unionists had been able to return to work, but noted that laying off unionists has been a trend in Cambodia throughout the year.

“During the pandemic, companies have targeted union leaders and fired them—we’ve seen it at the [Le Meridien Angkor Hotel](#), we’ve seen it at the [Cultural Village in Siem Reap](#) and now Pactics—they’re going after unions because they’re standing up for workers’ rights,” said Kosal.

“Unionists have to be very careful right now, employers are using any excuse to get rid of them,” he added, noting that employers have received support in their treatment of unions from the government who is also afraid of strong unions.

To Be or Not to Be a Garment Factory

CENTRAL Program Manager Khun Tharo has been heavily involved in the Pactics dispute, listening to workers’ grievances and being present at negotiations between the two sides. For Tharo, there is a clear solution that the company could have taken, had the strike not been called off.

“There were about 50 or 60 workers inside working because they’re scared, they’re on fixed duration contracts, and they’ve been lobbied and threatened by the employers not to go out and strike or they’ll lose their jobs,” said Tharo.

Under such short-term contracts, the Pactics employees who remain at work are not as well protected by the Labor Law as their striking counterparts, and employers are free to terminate their contracts at any time for any reason, he said.

Tharo suggested that the company should comply with the law, cooperate with the unions and work to find a solution that meets legal standards.

“The strike [was] necessary to make the company respect the rule of law: The company has exploited workers for years by not paying them the minimum wage—this is serious misconduct. In the face of serious misconduct, it is up to union leaders to stand up and make the company respect the law,” he said, adding that between the back-payments of minimum wage, transportation allowance and seniority payments, there is a lot of money owed to employees by Pactics.

“In accordance with the Labor Law, they have to pay back workers’ wages for the last three years, meaning that workers can still demand their wages that the company owes them for the last three years,” Tharo added.

Met Ratt, the president of the Employees' Independent Solidarity Union of Pactics who has been laid off, said that Pactics has exploited workers in the past because the company has refused to recognize itself as a garments and textiles manufacturer, offering just \$155 minimum wage with no seniority pay.

Ratt went on to reiterate the demands of the unions and added that the company should pay employees the backdated payments they are owed.

“Since [the start], the company should have followed the norms of the textile sector including travel, food compensation, other benefits, seniority money. But in fact, the company didn't do that,” he said. “In 2017 and 2018, the company just gave the basic salary of around \$145 per month.”

However, Arjen Laan—chief executive officer of the Pactics Group—stated that the dismissal of Ratt and Teav was a matter of protocol. While unable to go into the details of their dismissal, Laan suggested that the unions were strategizing against him and Pactics.

“The only thing I can say is that it's been surprising,” said Laan in a telephone interview on Sept. 4. “Because they [Ratt and Teav] clearly did not follow the company rules and, in that sense, I have to follow them because otherwise you're not in control of who does the hiring and firing of [workers] and that's the end of it.

“So I will stick to my principles as long as the law allows me to: We are legal, we operate completely according to the law and we follow the procedures and that's what we do,” he added.

Laan noted that the strike had become focused on the two dismissed unionists and explained that he had received permission to terminate both of their contracts from the Siem Reap Provincial Department of Labor.

“Now the only thing, the only point of the whole strike now is that we have to take those two people back, but we didn't give them a warning because they were acting so wonderfully right? We did everything according to the law,” Laan said.

With no ground given, Pactics was able to quash the strike in just a week but has made concessions in recognizing itself as a member of the garment manufacturing sector in Cambodia. This, Laan explained, was due to the shift of focus the factory had been forced to make in the wake of COVID-19.

Pactics' business has suffered since the pandemic took hold, but the company was quick to pivot, turning the factory into a face-mask production line, which has in turn provided more opportunities for Siem Reap City, Laan said. The tourist hotspot has, as Laan noted, suffered immensely during the pandemic, with [more than 100,000 jobs being lost](#) and [a 99 percent dip in international arrivals recorded earlier this year](#).

“We have all of these reports from the Ministry of Labor [stating] that we're not garments from 2009,” Laan said. “2020 is the first time we became garments when we started to make face-wear. The normal business collapsed completely, so we changed very quickly to making facemasks, which is actually garments, I recognize that, no problem,” he said, adding that the company needed time to implement those changes.

Stressing that the cost of such a shift would be enormous, Laan said that the company officially began the process on Jan. 1, 2020, but conceded that the minimum wage guaranteed to garment sector workers was not applied until this month. On the matter of backdated payments of minimum wage, seniority payments and other benefits, Laan maintained that the company should not be forced to pay these.

“It's up to the legal authorities to decide who is correct. But I mean, otherwise, what is the value of the signed documents from the Ministry of Labor that we are completely compliant?” he asked.

Pactics factory workers line the street during their strike earlier this month, wearing masks according to the Ministry of Health's instructions to prevent the spread of COVID-19. Photo: Cambodia Tourism Workers Union Federation (CTWUF).

Better Wages for Pactics' Staff

Laan conceded that the Arbitration Council's decision would mean that

staff members would receive a pay rise, given that Pactics must now pay \$190 per month in line with the minimum wage. But he was emphatic that many workers already made well above the government certified minimum wage. He also pointed to Pactics' hiring of 20 to 30 employees with disabilities, citing that they may have brought down the average wage offered at the factory due to their reduced capacity in terms of production.

“We have a guaranteed wage of \$165 and then, based on the piece rate, you can earn more and the consequences of that is that there's an average of \$200 [per month] but there are people who earn \$300 or \$350, and there are also people who are less fast because they have a handicap and whatever, so they will maybe go home with \$170 or \$180—for them now the change will be that we pay everybody the guaranteed number,” explained Laan, with the guaranteed salary set by the state at \$190 per month.

He went on to say that Siem Reap City, with its economy focused on tourism, presents more challenges for factory owners than Phnom Penh and Sihanoukville, but added that Pactics had invested heavily to ensure the factory provided better conditions than most in Cambodia.

“We have at the moment, 150 vacancies: I can hire tomorrow 150 people more in Siem Reap,” Laan said. “We had an announcement [regarding vacancies] and there were 740 people in the streets applying for a job: That is the situation in Siem Reap at the moment.”

While Laan maintains that he is in no way seeking to replace the staff who participated in the strike, he reiterated that through making face-masks, his company was in the unique position of hiring staff, which is rare in Cambodia during these COVID-19 times.

“I can take all the strikers back tomorrow and have an additional 150 vacancies,” Laan said, noting that few of his competitors could make such a claim. “I think the strike, in that sense, is having a huge impact on many things because am I going to hire 150 people if everybody's going on strike every time they don't agree with somebody whom—according to the law, according to the internal procedures and the Labor Law—we decide to dismiss and is approved by the government? Then it's getting very difficult as a company.”

Despite the strike's failure to bring about the reinstatement of the union leaders, for Lee of CENTRAL, the whole episode has shown what workers can achieve in Cambodia through solidarity.

“Of the three demands made by the union, two have already been met by Pactics, including the provision of \$190 minimum wage up from the previous \$155 level, which will provide significant benefits to employees and their families,” he said, adding that even the expedited decision from the Labor Minister highlights the effectiveness of this strike.

Union-busting a Trend in Southeast Asia

The efficacy of unions is facing a severe erosion since the pandemic began, according to Business and Human Rights Resource Centre (BHRRC)—a company focused on tracking the human rights performance of more than 9,000 companies across some 180 countries, including Cambodia.

“More than 4,870 unionized garment workers have been targeted for dismissal by nine factories supplying for major fashion brands,” BHRRC said in a [recent report on the prevalence of union-busting in Southeast Asia](#). “Suppliers cited reduced orders and economic impacts of COVID-19 as the reason for dismissals while workers say they have been disproportionately targeted due to union membership and organizing.”

In their report, BHRRC found that there was a stark gap between the respect for human and labor rights espoused by brands and the lack of action they took when workers’ freedom of association were compromised within the supply chains of international fashion brands.

From March to July 2020, BHRRC collected 15 responses from nine brands—H&M, Primark, Inditex (Zara), Levi Strauss & Co., Mango, Bestseller, Michael Kors, Tory Burch and Kate Spade (Tapestry)—to allegations that garment factories are using COVID-19 as a cover to target and dismiss over 4,870 unionized workers and labor activists in nine factories across Bangladesh, India, Myanmar and Cambodia.

Michael Kors, Tory Burch and Kate Spade (Tapestry) did not respond to BHRRC’s inquiries, but among the nine factories analyzed, seven cited reductions in orders or economic impacts due to the pandemic as the reasons for mass dismissals.

In seven of the nine cases studied, BHRRC found that layoffs disproportionately targeted unionized workers and, in two cases, workers reported that the factories made new hires of non-unionized workers shortly after. Discriminatory targeting of labor activists, dismissals and blacklisting are among the most common reprisals garment workers face for speaking up about violations of their rights, and frequent tactics used by factory employers to stifle union organizing and collective action by workers, according to the report.

“The repression of trade unions and organized workers in the fashion industry isn’t new,” explained Thulsi Narayanasamy, BHRRC’s senior labor-rights researcher in Cambodia.

“An Industry Built on Poverty Wages”

“It’s an industry built on poverty wages, long hours and unsafe work, so you will always have workers resisting their exploitation collectively, [but] what is new is the excuse being given to sweep away unions from factories: a reduction of orders due to COVID-19,” she explained, adding that the

unprecedented lay-offs in Asia's garment sector has brought with it an unprecedented excuse to rid factories of unionized workers.

"The chilling effect of this on garment workers who will now be fearful of organizing means a rights rollback that we haven't seen at a scale like this before," she said.

As far as Narayanasamy is concerned, brands themselves are at fault for failing to use their leverage to address unfavorable environments that unions and other civil society actors face when attempting to carry out their activities freely.

"While it is their purchasing practices and pursuit of low prices and high profits by brands that keep workers in factories for long hours earning poverty pay, it is critical to ensure that workers have a voice as they are best placed to drive better conditions in their workplaces," she said, noting that Cambodia's Law on Trade Unions—[passed in May 2016](#) and [amended in December 2019](#)—presents a range of hurdles for would-be defenders of labor rights.

Narayanasamy went on to say that unions are, in Cambodia, required to be legally independent from employers, but that this does not happen in practice and that even so-called independent unions are not necessarily active or representative. This conundrum, she added, is for the brands to solve—who need to invest the time and effort to discern who is a genuinely independent and representative union so that their capacity to collectively organize and assert their rights are effective within the broader international supply chain.

"Big brands have offices and staff in Cambodia, they know [who] are active, independent unions, yet conversations with local unions suggest that brands may prefer engaging with non-independent unions because it presents less of a challenge to them," Narayanasamy said.

The difference, she noted, is that independent unions will raise issues, concerns and demands whereas non-independent unions will not, which, she said, allows for a willful blindness and the ability for brands to be satisfied about ensuring labor rights in their supply chain. She warned that, until brands get serious about their social responsibility, unions in their supply chains that are actively raising issues and genuinely attempting to solve them will go unheard.

"The exploitation of garment workers in the fashion industry is structural," she explained. "Industrial disputes that consumers learn about are just the tip of the iceberg. The onus is not on consumers to change the commercial practices of businesses to ensure that they respect labor rights in their supply chains.

"Pressure always helps, but it doesn't change the extractive nature of fashion companies who reap billions in profits selling clothes made by people who can't afford three meals a day," Narayanasamy said.



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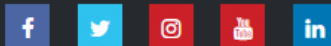
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