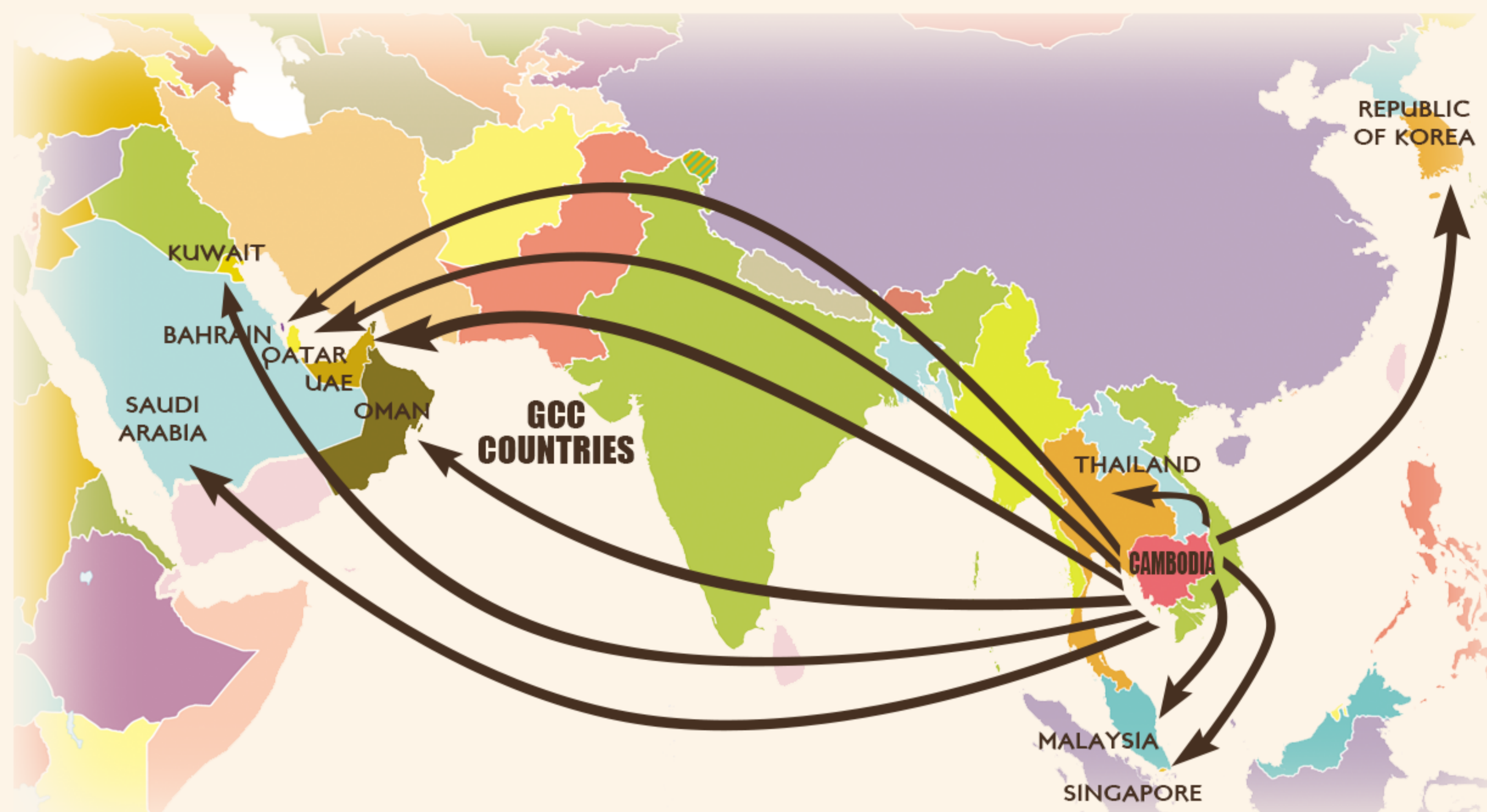


COUNTRY BRIEFER CAMBODIA

DECENT WORK FOR WOMEN MIGRANT WORKERS SERIES



BACKGROUND



Growing inequality, lack of economic opportunities for the poor and absence of decent working conditions act as drivers of migration from Cambodia. Economic growth over the last decade has mostly benefited wealthy and middle-class urban populations and poverty remains pervasive in rural areas. It is estimated that 250–300,000 new young workers enter the workforce every year. Low levels of education and lack of economic opportunities make labour migration the only viable employment option for both women and men.²

COUNTRY OVERVIEW

Main Countries of Destination	Thailand, Malaysia, Republic of Korea, Singapore, GCC countries
Women's share of total migration	35.6% of officially registered migrant workers from Cambodia. ¹
Main sectors of employment	Domestic work, construction, agriculture, manufacturing, entertainment and hospitality

250-300K

NEW YOUNG WORKERS ENTER THE WORKFORCE EVERY YEAR

WOMEN TEND TO USE INFORMAL CHANNEL AND MIGRATE INTO LOW-SKILLED JOBS



Women migrant workers from Cambodia tend to migrate into low-skilled jobs in domestic work, construction, agriculture, manufacturing, entertainment and hospitality sectors. Single, uneducated women are most likely to migrate internationally. They are also much more likely to use informal channels for migration due to restrictions – e.g. age restriction of 21 years and above for domestic work, requirement for parental permission and high costs associated with regular migration channels.

The main destination for the majority of Cambodian migrant workers is Thailand. For women migrant workers, another major destination country is Malaysia. The Indonesian government's moratorium on sending domestic workers to Malaysia from 2009 to 2011 meant a dramatic increase in the demand for domestic workers, which led to a large influx of domestic workers from Cambodia.³

Women migrant workers usually receive lower wages than their male counterparts but are more likely to remit a larger portion of their income – around 20 per cent more than male migrants. About 32 per cent of male migrant workers do not remit at all, compared to 23 per cent of women. Thirty-nine per cent of women remit one million or more Cambodian Riel (USD242) per year, compared to only 26 per cent of men.⁴



THE STATE OF 'DECENT WORK' FOR WOMEN IN CAMBODIA

Lack of decent work in the country is one of the key drivers of migration for Cambodian women. While the Labour Law provides a framework for decent work in the country, it applies to workers and employers with an employment contract. However, as most Cambodian women are

employed in the informal sector, they receive little protection under the provisions of the Labour Law.⁵ There are significant gaps between legislation and implementation and socio-economic conditions that consequently restrict women's access to decent work in Cambodia.

FULL AND PRODUCTIVE EMPLOYMENT



While the official unemployment rate in Cambodia is low, experts contend that this is an indicator of poverty and the need to work, rather than availability of decent work. Formal employment opportunities are rare and around 73 per cent of Cambodians are engaged in vulnerable employment. At the same time, working poverty affects nearly one in three of the employed. Prevalence of vulnerable employment and working poverty means that most workers lack formal work arrangements that are necessary to ensure stable employment and income necessary for decent living standards.



Article 36 of the Cambodian Constitution (1993) guarantees equal access to employment for Khmer



citizens of both sexes. However, in reality under-employment is most prevalent among women and rural workers. Women face greater challenges in gaining access to decent work opportunities. The rate of vulnerable employment is higher among women with 77.4 per cent of women engaged in vulnerable work, compared to around 69 per cent of men. The majority of unpaid domestic work in most of the country is also done by women.⁶

Gender stereotypes also play a part in dictating employment outcomes, with women still dominating sales and service-based occupations.



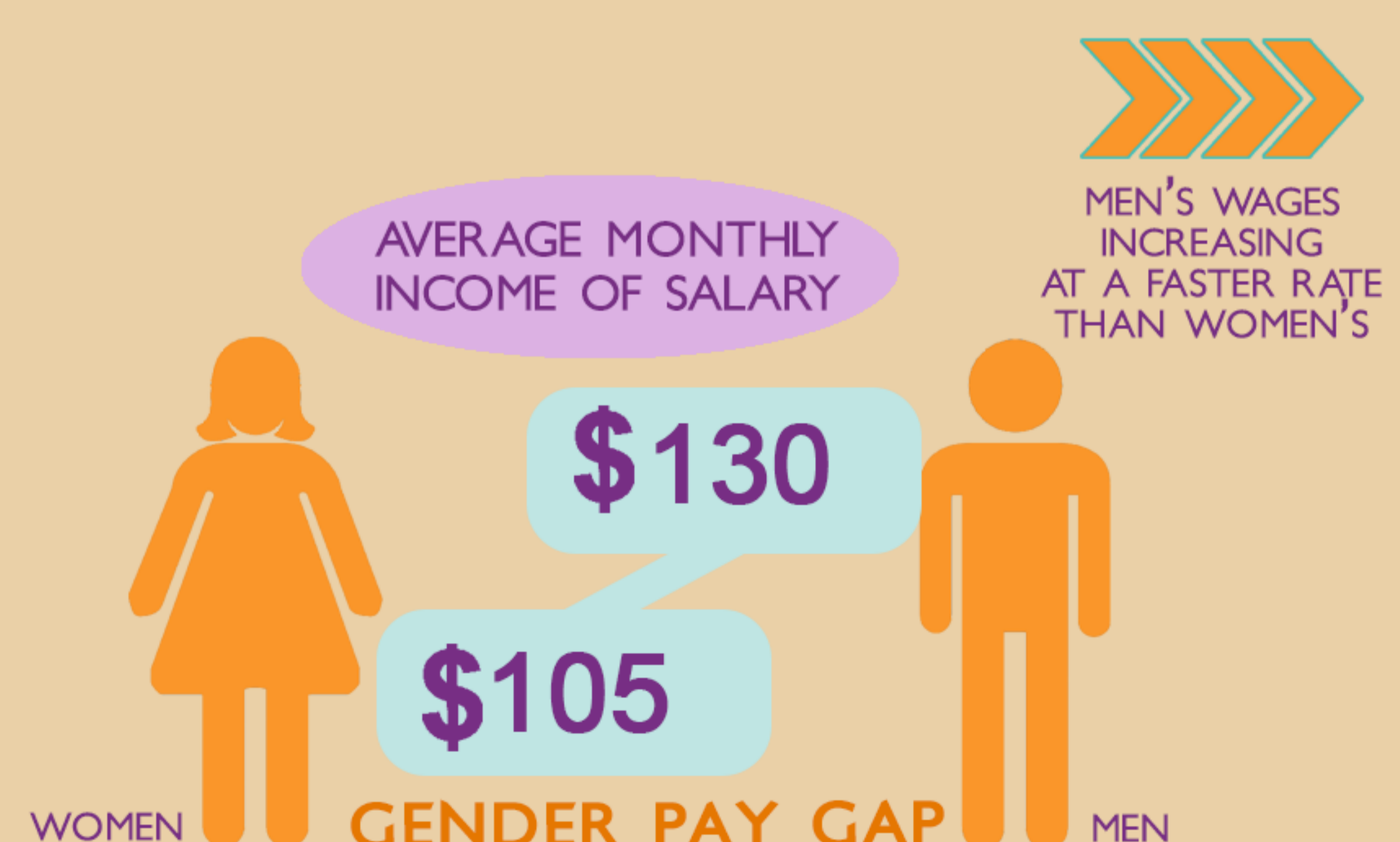
MINIMUM WAGE



Cambodia has no legally mandated national minimum wage. The Labour Law gives authority to the Ministry of Labour and Vocational Training (MOLVT) to set a statutory minimum wage. Article 104 of the Labour Law states that minimum wage must ensure every worker a decent standard of living compatible with human dignity. However, in practice, the only sector with a minimum wage is the textile, garment and footwear industry. In 2020, the Cambodian government set a new monthly minimum wage for the textile, garment and footwear industry at USD192/month for 2021, which was a 1.05 per cent increase from the previous USD190/month.⁷

Equal pay for equal work is guaranteed in the Labour Law (Article 106) and ILO Convention on Equal Remuneration, which Cambodia has ratified.

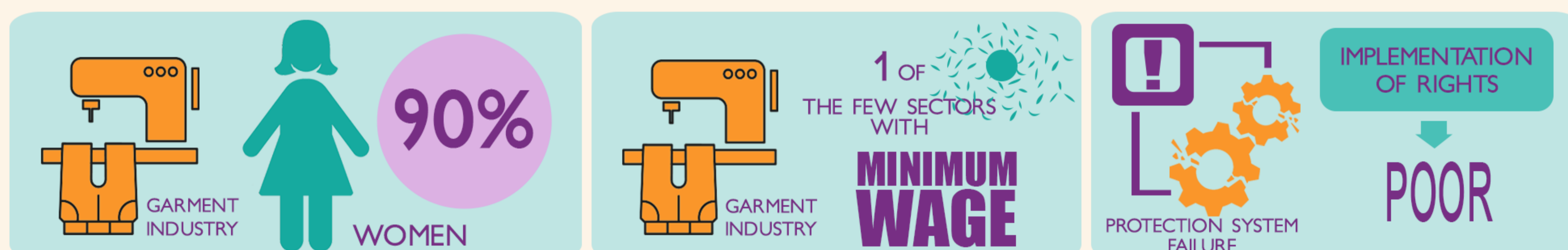
However, gender pay gap is prevalent with men earning higher wages than women – the estimated average monthly income of salaried male employees in 2012 was around KHR 518,202 (USD130), whereas women earned KHR 418,808 (USD105).⁸ Men's wages in the formal economy are also increasing at a faster rate than those of women.⁹



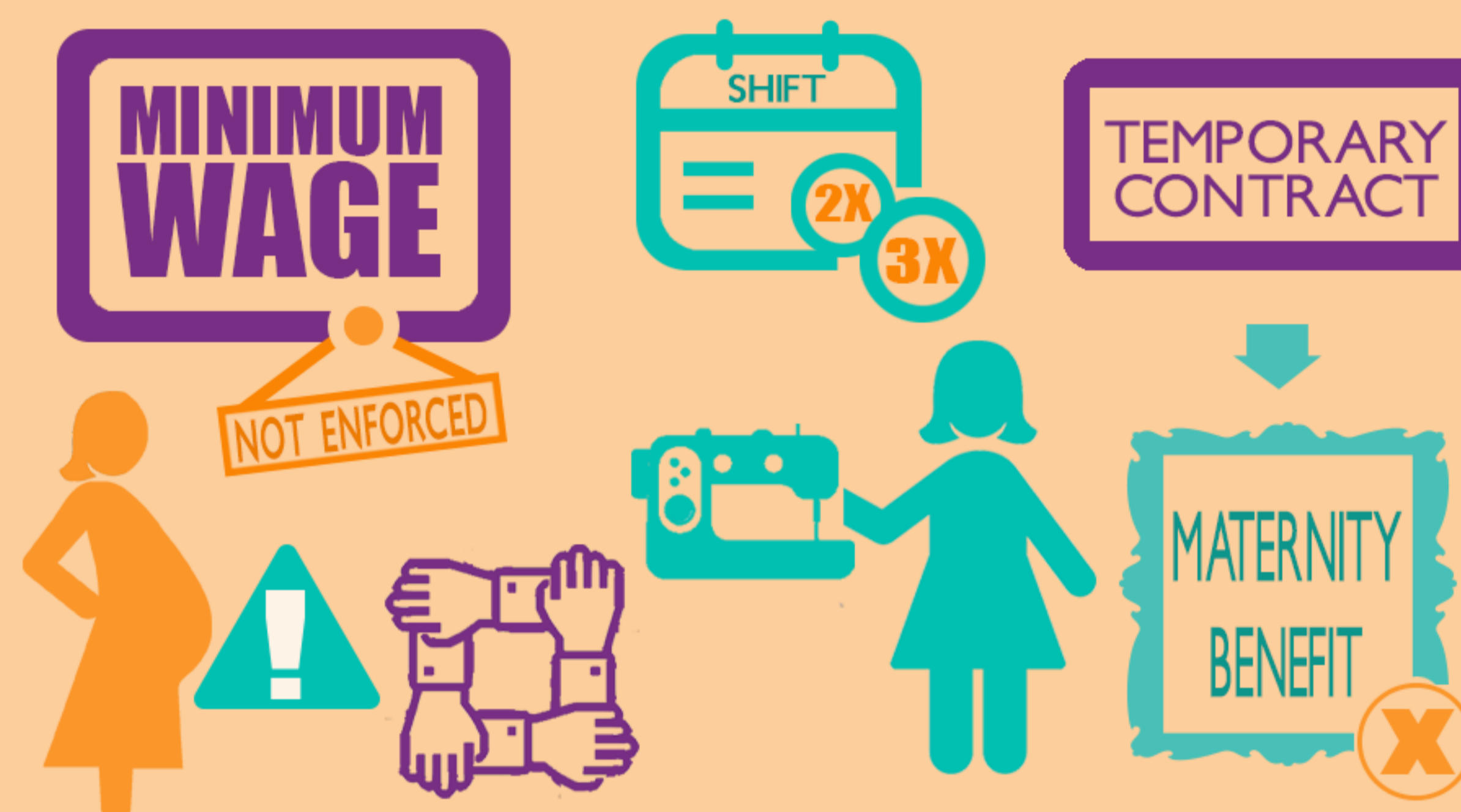
THE STATE OF 'DECENT WORK' FOR WOMEN IN CAMBODIA

FRAUGHT PROGRESS IN THE GARMENT SECTOR TOWARDS BETTER WORKING CONDITIONS

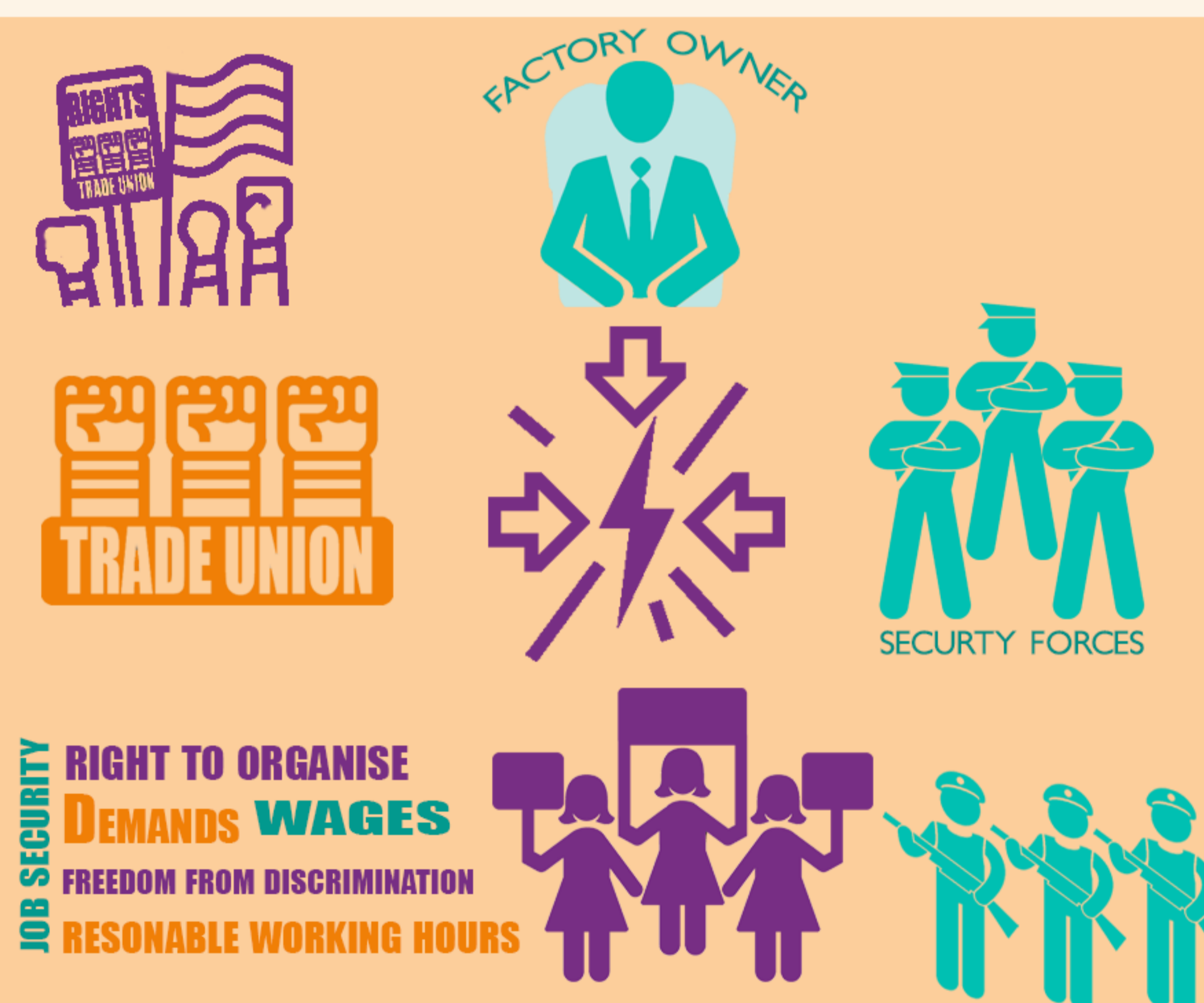
Garment sector is one of the main sources of formal employment for women in Cambodia – 90 per cent of garment workers are women. It is also one of the few sectors that have a legally mandated minimum wage. However, despite the comparatively stronger legal protections offered to garment workers, in reality implementation of rights has been poor.



Research by Human Rights Watch found that minimum wage standards are often not enforced. Many workers are forced to work double and triple shifts and kept on temporary contracts which bar them from accessing maternity benefits. Workers have also faced retaliation when they tried to unionise or become pregnant.



The garment sector in Cambodia in recent years has seen waves of unrest that has often led to violent confrontations between unions, security forces and factory owners. In addition to wage demands, workers and unions have also called for greater job security, reasonable working hours, the right to organise and freedom from discrimination. However, organising by workers have often been met with lethal force. Since 2013, dozens of workers and activists have been arrested, fired and even killed.



In September 2016, the government agreed to raise the minimum wage in the textile and footwear industry to USD153/month after facing intense pressure from the unions. While this is seen as a victory of sorts for the unions, it still fell short of the USD177/month sought by the unions and it is still far below the living wage of USD400 recommended by Asia Floor Wage.

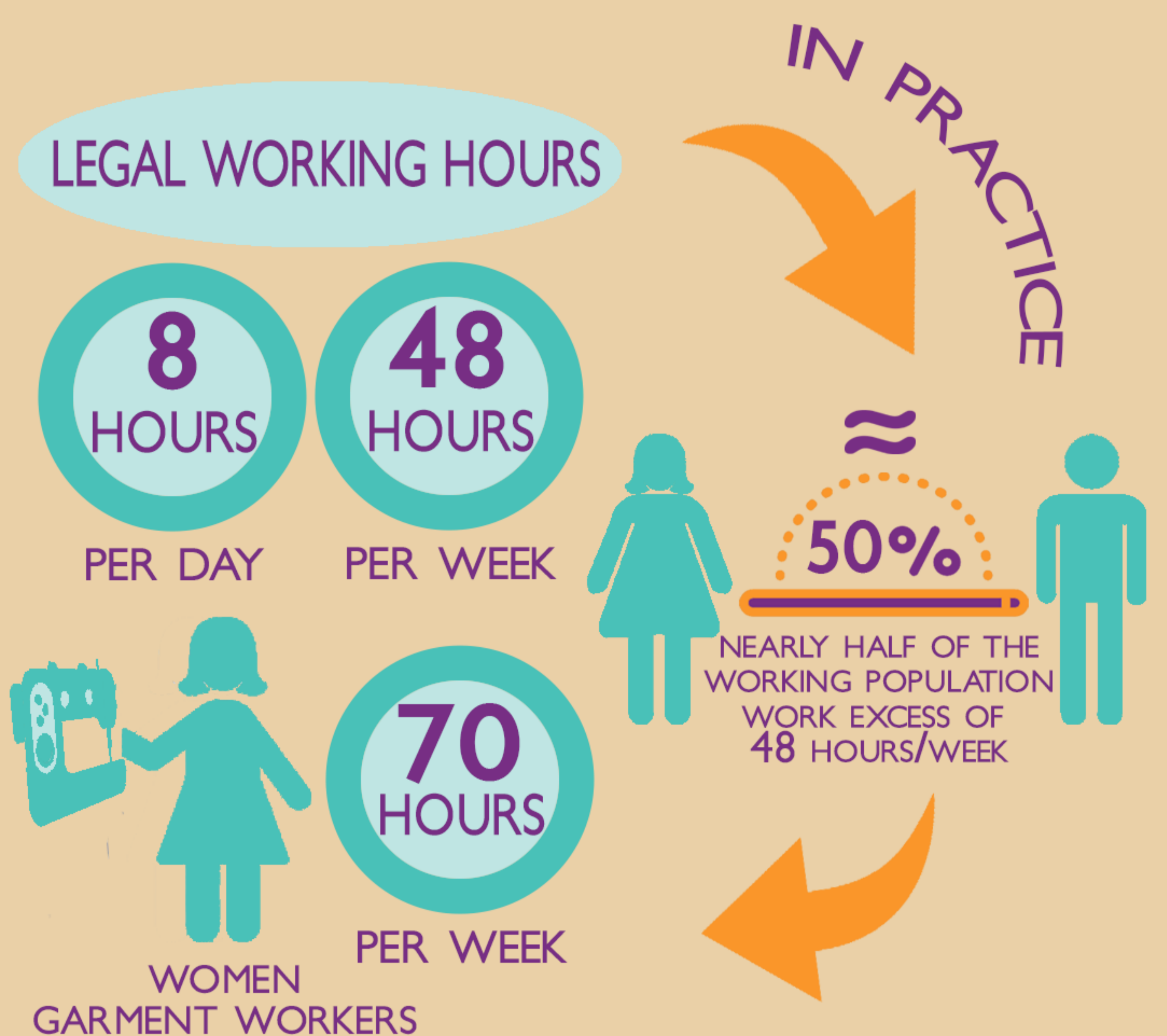


THE STATE OF 'DECENT WORK' FOR WOMEN IN CAMBODIA

WORKING HOURS



The normal, legal working hours is eight hours per day, or 48 hours per week. The maximum number of overtime is two hours per day.¹⁰ However, nearly half of the working population (both men and women) work excess of 48 hours per week, which is a threat to wellbeing and reasonable work-life balance. In garment industries, women workers need to work up to 70-hour weeks during the peak season. Many workers are forced to take up supplementary economic activities in order to survive, which is indicative of poor employment quality.



RIGHTS AT WORK



Articles 182 and 183 of the Labour Law entitles women to 90 days of paid maternity leave provided that they have worked for one uninterrupted year before that. For two months after the leave period, women are only expected to perform light work in order to ease their transition back into work. Employers are also barred from firing women during their maternity leave. However, as examples from the garment industry show, employers often either ignore the law or are able to circumvent them through the use of short-term contracts.

Job stability and security are important indicators of decent work. More than seven in 10 workers in Cambodia are engaged in vulnerable employment, which demonstrates severe lack of stability and security for most of the working population. People engaged in vulnerable employment are also much less likely to fall under the legislative protection of the Labour Law.

Occupational injuries have more than doubled in Cambodia since 2008, indicating decline in decent and safe workplaces. A report in June 2017 found that in the previous year, more than 500 women working in factories producing sportswear had to be hospitalised due to fainting. Excessive heat in the factories (over 37°C) combined with long working hours was pointed as the reason behind the mass fainting.¹¹



THE STATE OF 'DECENT WORK' FOR WOMEN IN CAMBODIA

SOCIAL PROTECTION



Social security in Cambodia is very limited in scope, quality and coverage. Most Cambodians pay for healthcare costs out of their pockets and these costs are rising.¹² Most workers do not benefit from pension coverage, which is currently limited to civil servants only. A new pension scheme for the private sector was announced in 2016 and will be rolled out in late 2017.¹³



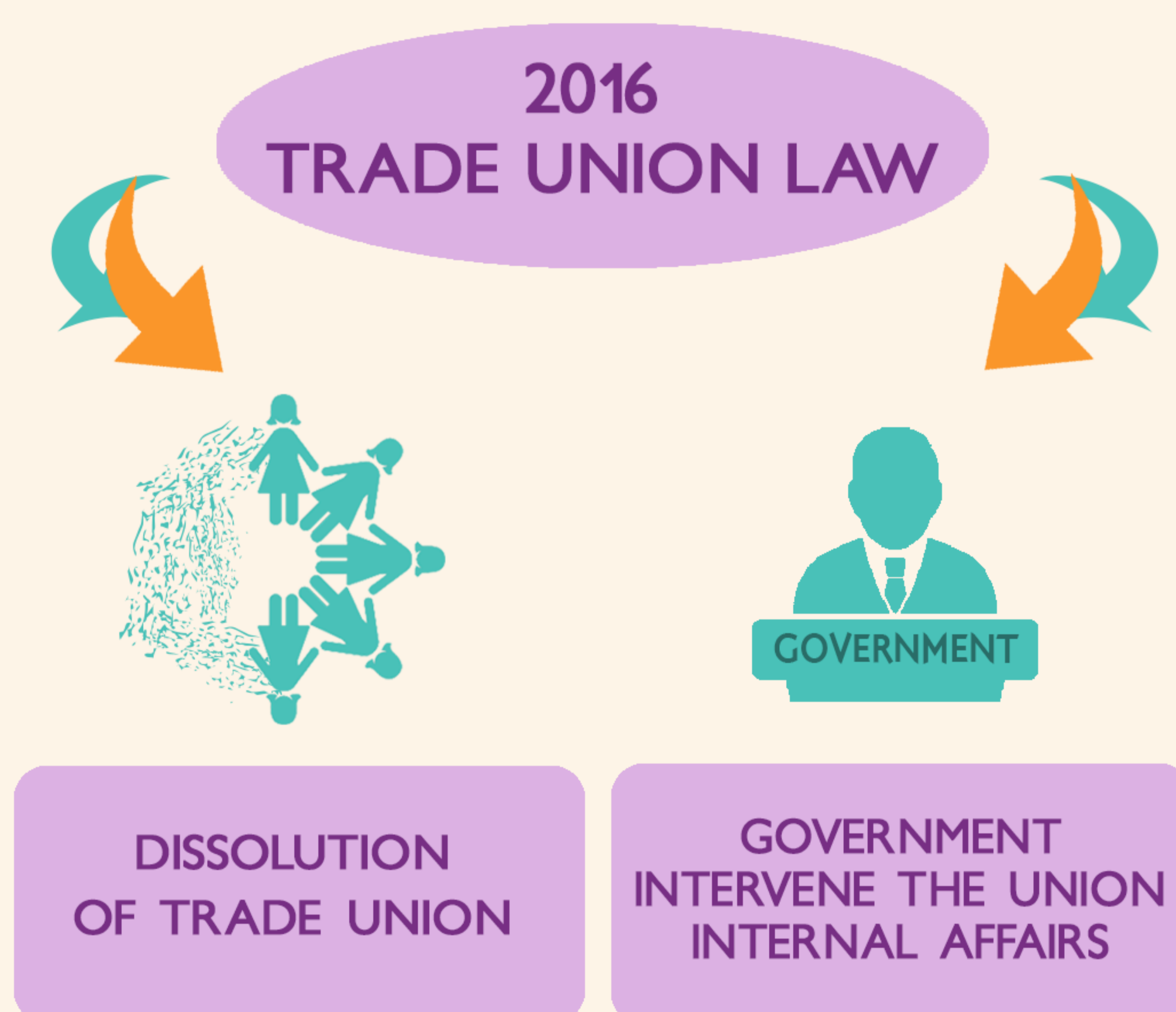
PROMOTION OF SOCIAL DIALOGUE



Cambodia has ratified ILO conventions 87 and 98, which set out the rights to freedom of association and collective bargaining, and these have been incorporated into the Labour Law. The number of union has expanded from the garments industry to other sectors such as construction, tourism and transport. However, increasing numbers of union registration and collective bargaining agreements do not necessarily indicate progress towards decent work as insufficient information is available on the quality of the labour agreements.

A highly controversial Trade Union Law (TUL) passed by the government in 2016 has been criticised by labour and human rights groups for imposing limits on the right to strike, making it easier for third parties to seek the dissolution of trade unions and facilitate government intervention in internal union affairs. At the same time, the law imposes minimal penalties on employers for unfair labour practices. This law is largely perceived as the result of pressure by garment employers to curb the power of trade unions. In fact, passage of the law was accompanied by large protests that were met with violence by government forces, leading to injuries of several trade unionists.¹⁴

In the years since its passage, the TUL has been cited as the primary contributing factor to the reduced numbers of workers' strikes and cases heard by the Arbitration Council (AC), the independent body established to help resolve labour disputes. AC's cases dropped 81 per cent in one year time from 248 cases in 2016 to 47 cases in 2017.¹⁵



CHALLENGES FACED BY WOMEN MIGRANT WORKERS FROM CAMBODIA

REGULATION OF RECRUITMENT AND PLACEMENT OF MIGRANT WORKERS

Sub-decree no. 190 on the Management of Sending of Cambodian Workers Abroad through Private Recruitment Agencies (August 2011) provides the regulatory framework to protect migrant workers from predatory behaviour from recruitment agencies. Subsequent prakas (regulations) developed in consultation with civil society, ILO and UN Women sought to ensure that migration governance is gender sensitive. These regulations dictate that recruitment agencies should be authorised by the MOLVT.

**SUB-DECREE
NO. 190**

REGULATORY PROTECTION FRAMEWORK FOR MIGRANT WORKERS

RECRUITMENT AGENCIES SHOULD BE AUTHORISED BY MOLVT

Recruitment agencies are responsible for providing pre-departure training (that include rights at work, culture, tradition in destination countries, health awareness, financial literacy and how to access rights), have a permanent representative in the destination country for the welfare of migrant workers and assist workers with repatriation. If recruitment agencies do not satisfy these requirements, MOLVT can refuse to issue a license, issue a warning or revoke their license. The number of licensed recruitment agencies in Cambodia was 55 in 2014.¹⁶



The Association of Cambodian Recruitment Agencies (ACRA) has been set up by the MOLVT to ensure that all recruitment agencies are registered and licensed. However, there is evidence to indicate that agencies that are members of ACRA are still charging workers USD800–1,200 (equivalent to four months to one year's wages, depending on profession and destination) in placement and processing fees that are deducted from the workers' wages in destination countries. Workers are often unable to read the contracts provided by recruitment agencies, and even if they can understand the terms many workers feel obligated to agree to them as they have few viable alternatives to provide for their families.¹⁷

**\$ 800
1,200**

PLACEMENT FEES CHARGED TO WORKERS

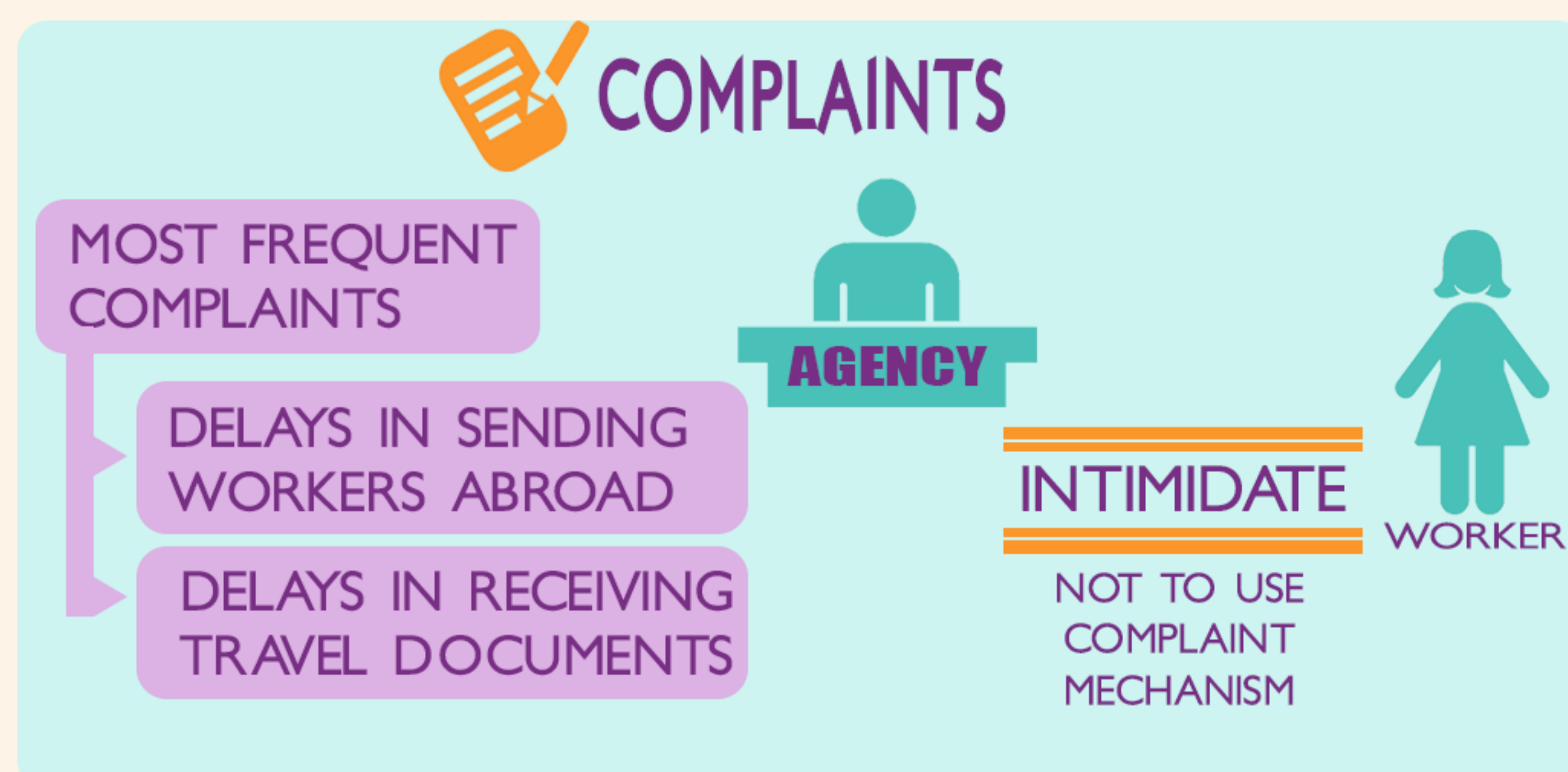


**4-12
MONTHS
WAGES**

The ILO report found that migrant workers are still regularly subjected to abusive, underhanded practices by recruitment agencies.¹⁸ The most frequently received complaints from workers was on delays in agencies sending workers abroad after an agreement had been signed, usually because workers were recruited before a job was available in the destination country. Delays can be as long as two years after workers have already paid their fees. Delays in receiving travel documents such as passports (after they have already been paid for) is another common complaint.

A complaint mechanism established by the Cambodian government in January 2014 received and resolved complaints from over 1,500 migrant workers in an 18-month period. However, a number of gaps in the implementation of the complaint mechanism was found in an ILO assessment. These include major gaps between the compensation sought by migrant workers and what was received, few sanctions on recruitment agencies that violate the law and little resources at diplomatic missions once workers go abroad.

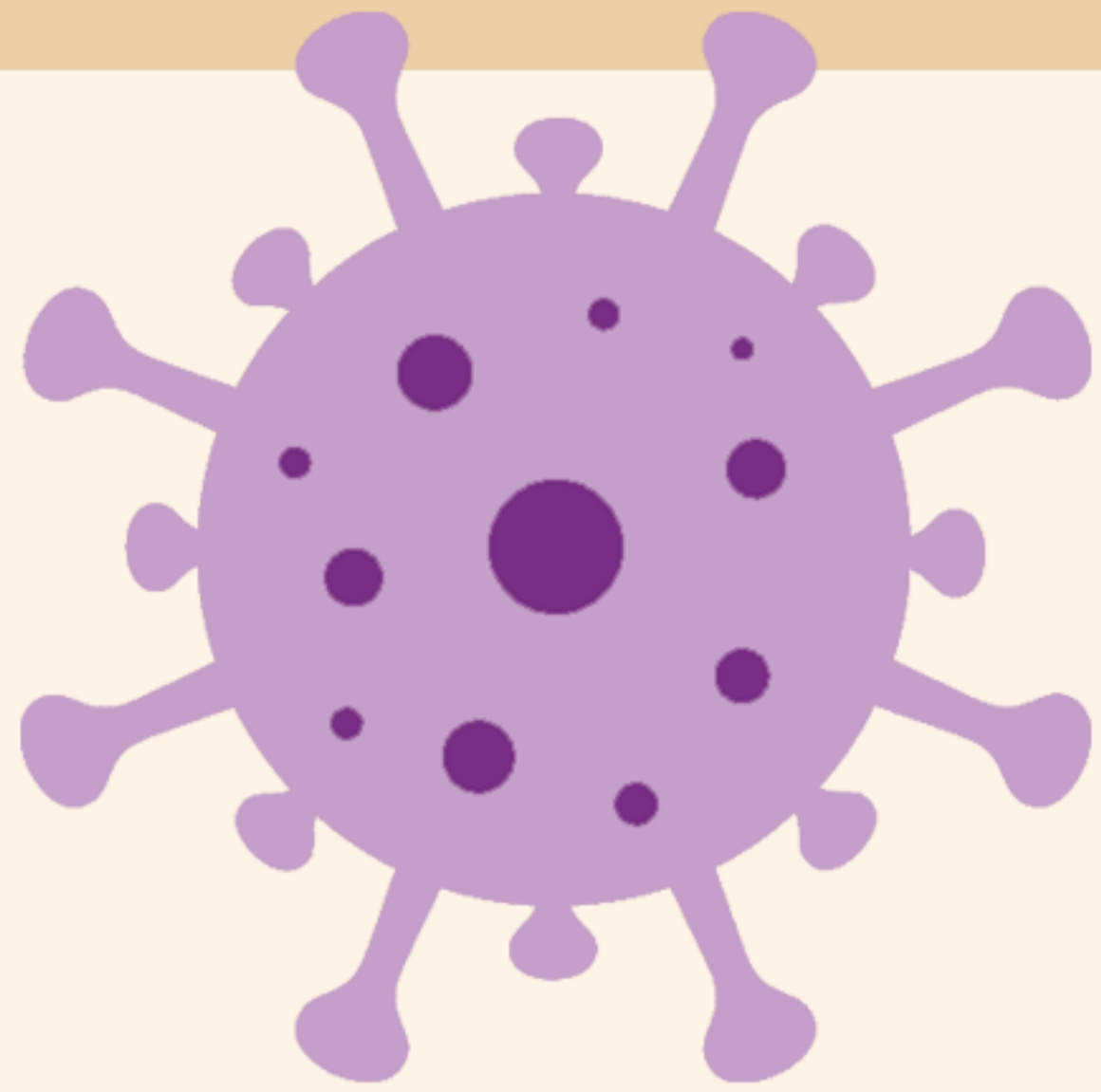
Recruitment agencies are also known to intimidate migrant workers not to use the complaint mechanism. They often do not provide workers with a written copy of their contract or receipts for payments, which creates difficulties in pursuing legal action. Women migrant workers are also much less likely to have opportunities to migrate regularly through recruitment agencies, resulting in lack of legal status, which bars them from using the complaint mechanism and other avenues to access justice.



CHALLENGES FACED BY WOMEN MIGRANT WORKERS FROM CAMBODIA

IMPACT OF COVID-19

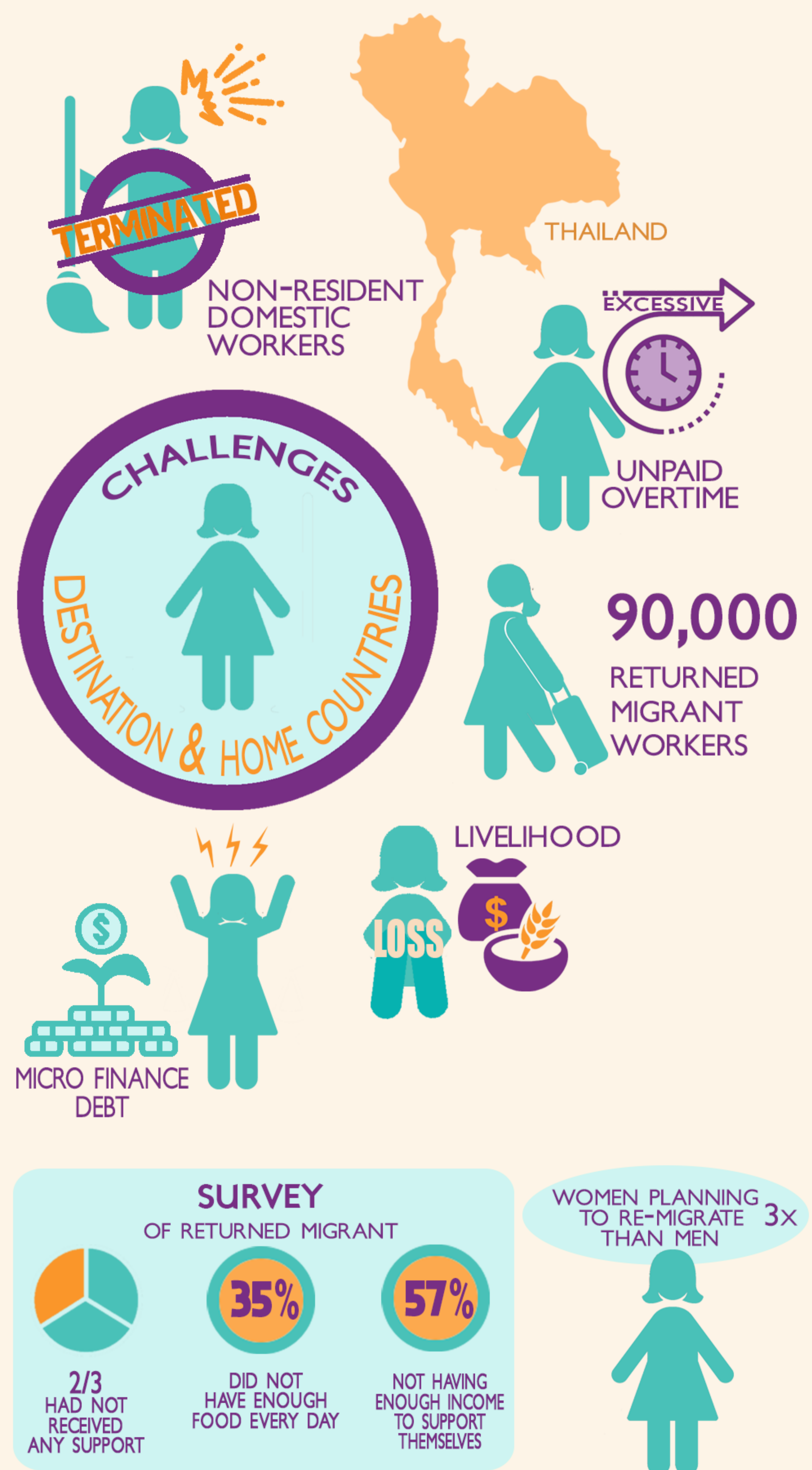
ON CAMBODIAN WOMEN MIGRANT WORKERS



Cambodian migrant workers faced a range of challenges due to the pandemic, not only in their destination countries but also upon return to their home countries. In Thailand, which is the biggest destination country for Cambodian migrants, non-resident domestic workers reported facing abrupt termination of contracts due to employers' inability to ensure workers are following hygienic guidelines to prevent Covid-19 when they are outside the employer's home. Cambodian domestic workers also reported working excessive unpaid overtime and fear of not being able to return home if they are laid off. Interviews with Cambodian migrants found that none of them were aware of healthcare benefits they are legally entitled to in Thailand.¹⁹

By May 2020, over 90,000 migrant workers had returned to Cambodia due to closure of businesses and work in the destination countries. These workers lost their livelihoods that they used to support their families and to repay debts to Micro Finance Institutions. Repayment of microfinance loans has emerged as one of the biggest sources of stress for workers (both migrant and non-migrant) in Cambodia after the COVID-19 pandemic hit.²⁰

A survey among returned migrants (both men and women) to Cambodia found that two-third respondents had not received any support since returning. Thirty-five per cent of respondents said that they did not have enough food to eat every day since returning and 57 per cent reported not having enough income to support themselves. The same survey found that returned women workers were re-employed in Cambodia at a much lower rate than men. It also found that the number of women planning to re-migrate is nearly three times higher than men. It is likely that the high level of unemployment among returned women migrants is the cause for the desire to re-migrate. However, this desperation is likely to leave women workers more vulnerable to risks of trafficking and forced labour.



LAW AND POLICIES ON MIGRANT WORKERS' RIGHTS

The Ministry of Labour and Vocational Training (MOLVT) is the primary body governing labour migration together with the Ministry of Foreign Affairs and International Cooperation and Ministry of Interior. The framework for governance of labour migration from Cambodia is set out in the Labour Migration Policy (LMP) 2015–2018.²¹ However, experts have pointed out that lack of adequate resource allocation and capable personnel within the government poses a serious challenge to the implementation of the policy.²²

The stated objectives of The Labour Migration Policy (LMC) 2015-2018 are:

1

Formulation and implementation of rights-based and gender-sensitive policy and legislation through social dialogue at all levels;



2

Protection and empowerment of men and women migrant workers regardless of their status through all stages of the migration process; and



3

Harnessing labour migration and mobility to enhance social and economic development in Cambodia recognising that migrant workers are agents of innovation and development.



FOREIGN EMPLOYMENT

The legal framework regulating overseas recruitment is Sub-Decree No. 190 on The Management of the Sending of Cambodian Workers Abroad Through Private Recruitment Agencies. The Sub-decree outlines the responsibilities of private recruitment agencies for recruitment, job matching, pre-departure training and the safe return of migrant workers.²³

RECRUITMENT

In conducting all pre-departure training and orientation courses, the recruitment agencies shall cooperate with the Ministry of Labor and Vocational Training and other relevant institutions.

The Ministry of Labor and Vocational Training shall confer certificates on the workers who have successfully completed the courses.

LAW AND POLICIES ON MIGRANT WORKERS' RIGHTS

SOCIAL PROTECTION

Little specific provision is made for extending Cambodian social security benefits in favour of Cambodian migrant workers. The provision of social security is based on the agreement of the Memorandum of Understanding (MoU) between Cambodia and the receiving countries. For instance, in the MoU with the Government of Malaysia, it states that Cambodian workers (except domestic workers) “shall be insured under the Foreign Workers Compensation Scheme (FWCS) under the Workmen’s Compensation Act 1952 [Act 273] and if applicable, the Foreign Workers Health Insurance Scheme (SPIKPA)” – an obligation that is placed on the employers.

OVERSEAS SUPPORT

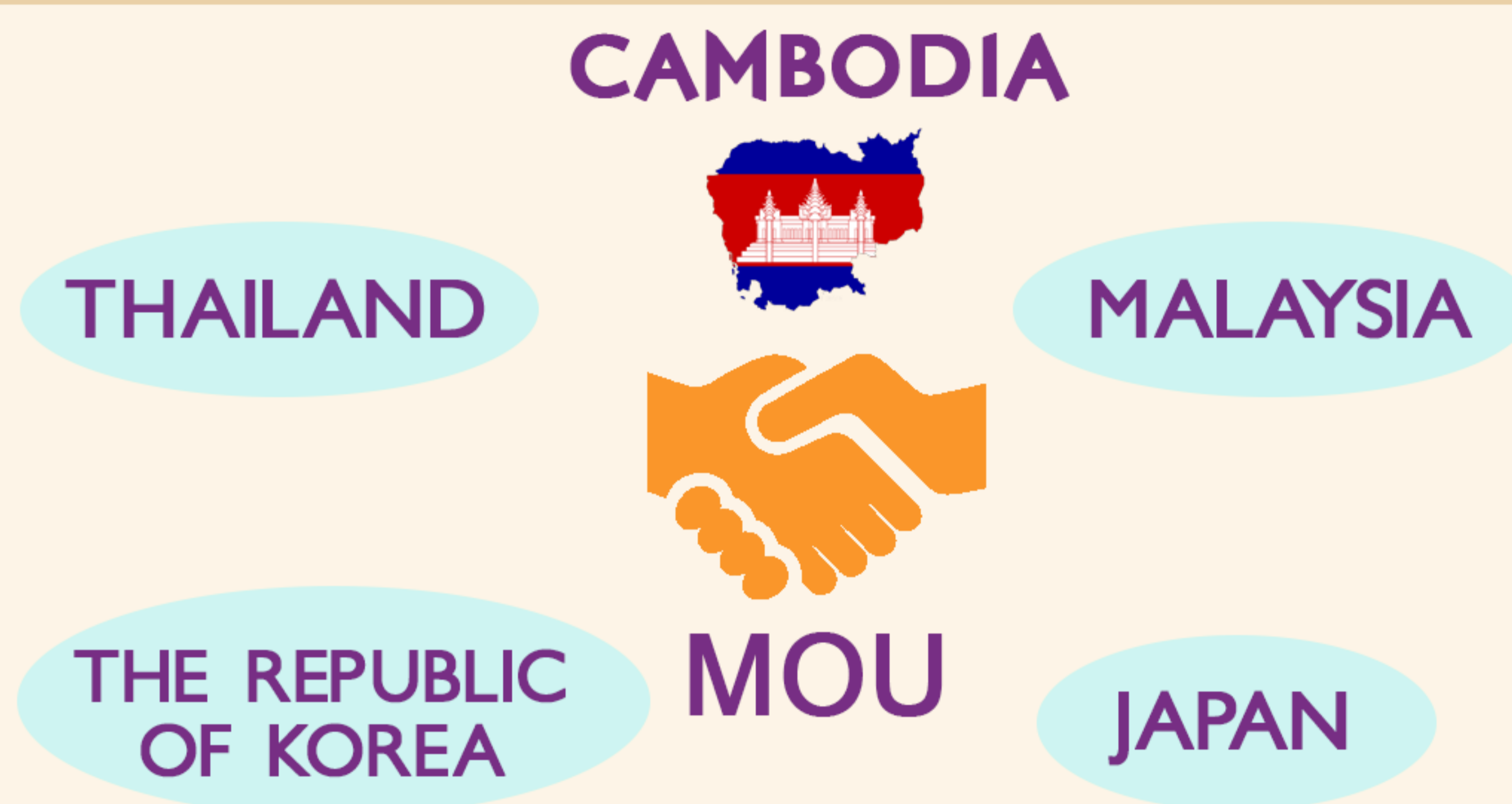
If a dispute arises between the foreign employers and the workers who are working abroad, the recruitment agencies and the embassy or representative mission of the Kingdom of Cambodia to the receiving country shall participate in the resolution process. In a necessary case which requires the participation of expert officials from the Ministry of Labor and Vocational Training or hiring of a lawyer, all costs shall be borne by the recruitment agencies.

REPATRIATION AND REINTEGRATION

When the employment contracts of the workers expire and are not to be renewed, the recruitment agencies shall make proper arrangements for the repatriation of workers by officially notifying the embassy or representative mission of Cambodia to the receiving country and the Ministry of Labor and Vocational Training at least 30 working days prior to each repatriation by clearly specifying the number and names of workers, time and border gates where the workers will cross.

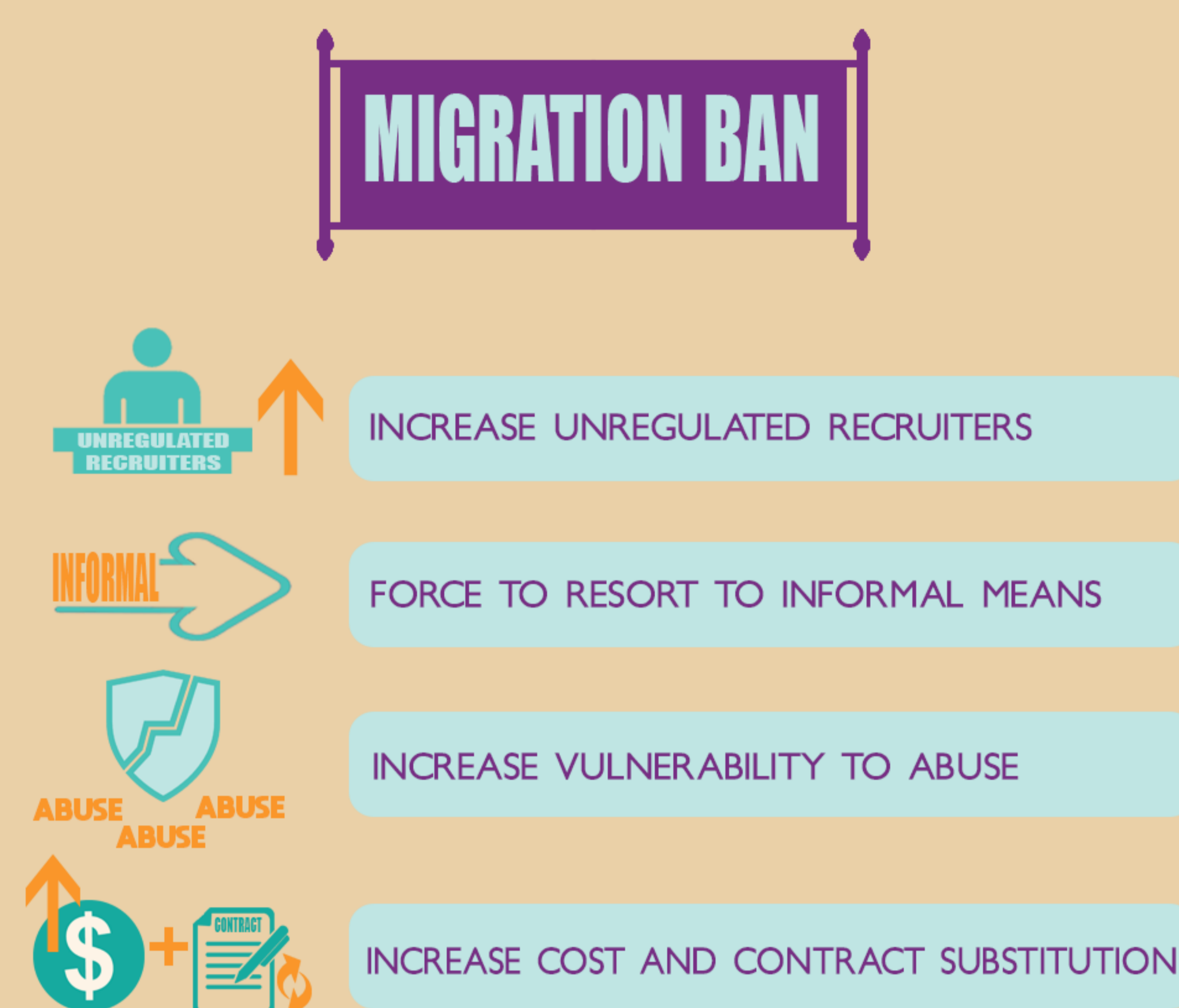
MEMORANDUM OF UNDERSTANDING (MOU'S), BILATERAL AGREEMENTS AND BANS

Cambodia has established a number of bilateral agreements and MoUs with labour destination countries in Asia and the Pacific region, such as Thailand, the Republic of Korea, Japan and Malaysia. Provisions for protection of women migrant workers have often been a stated focus of bilateral agreements.²⁴ However, there is no clear evidence that these bilateral agreements have actually led to improved protection for women migrant workers.



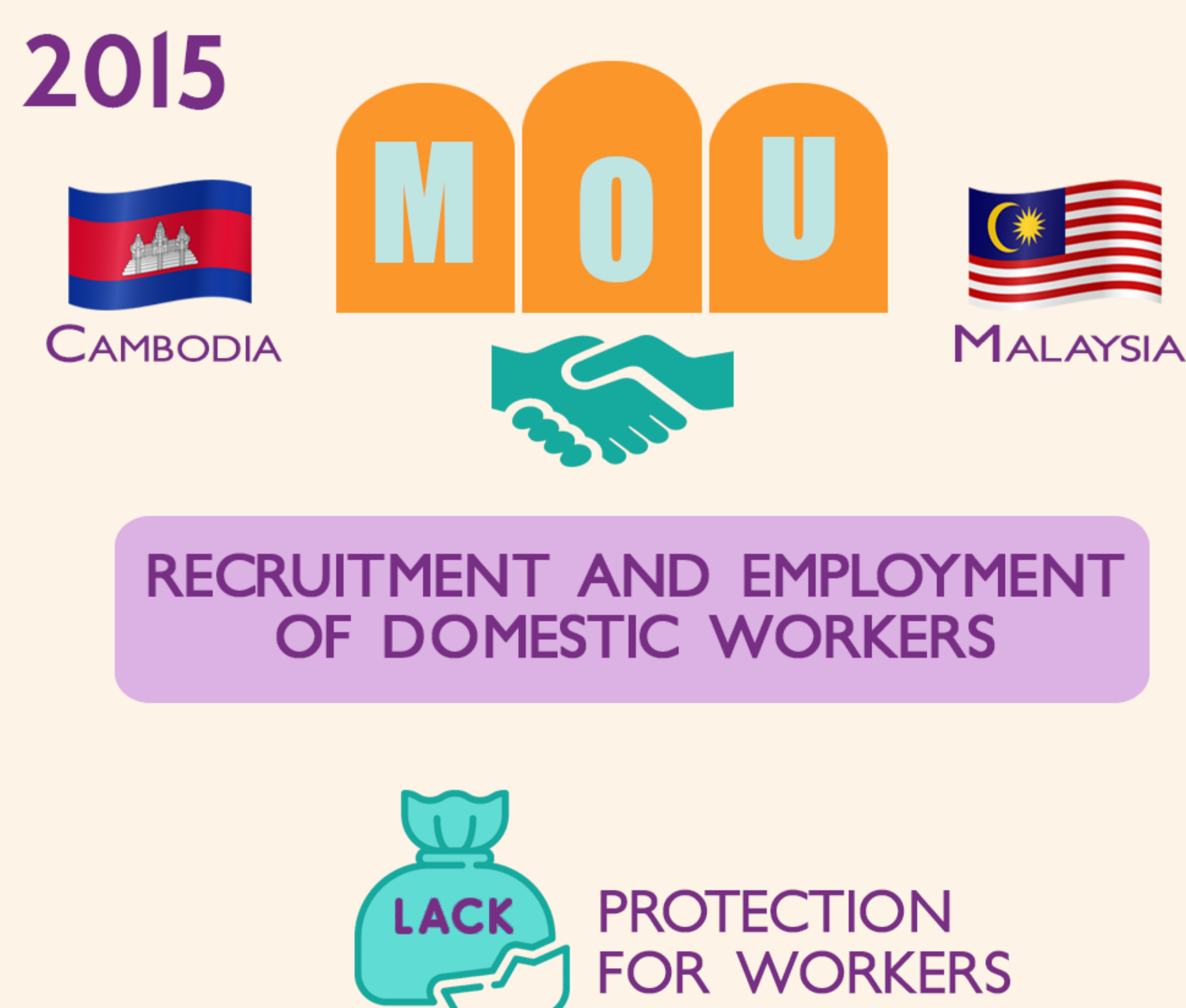
In October 2011, the government of Cambodia instituted a ban on the migration of women domestic workers to Malaysia in response to evidence of widespread abuse. Domestic workers who were already in Malaysia were allowed to renew their employment contracts. However, parental permission was required before they could extend their contracts or renew their passports.²⁵

Evidence indicates that the ban on migration of domestic workers resulted in the increase of small, unregulated recruiters in Cambodia, further forcing women to resort to informal means to migrate. It also made women migrant workers more vulnerable to abuse by recruiters, including increased costs and contract substitution. Moreover, little evidence could be found that the ban had led to reduction in the number of women migrating for domestic work.



In December 2015, a new MoU was signed between Cambodia and Malaysia on the recruitment and employment of domestic workers. The MoU aims to reopen domestic worker migration with enhanced labour rights protection. However, experts have pointed out that the agreement lacks some protections for workers – for example, it gives employers the option of not giving workers a rest day; and it does not specify how much rest should be given daily or how often workers can communicate with their families. Moreover, workers are not allowed to marry, must be over 21 years of age and need the employer’s permission to migrate or live with their family in Malaysia.

The first official ‘export’ of domestic workers from Cambodia to Malaysia restarted in May 2017.²⁶



STATUS OF RATIFICATION OF INTERNATIONAL INSTRUMENT AND CONVENTIONS

NAME	ADOPTION STATUS
INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS	✓
INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (ICESCR)	✓
INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIALDISCRIMINATION (ICERD)*	✓
CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)**	✓
INTERNATIONAL CONVENTION ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES (ICMW)***	✗
ILO 29 FORCED LABOUR CONVENTION	✓
ILO 87 CONVENTION ON FREEDOM OF ASSOCIATION AND PROTECTION OF THE RIGHT TO ORGANISE	✓
ILO 97 MIGRATION FOR EMPLOYMENT CONVENTION***	✗
ILO 98 CONVENTION ON RIGHT TO ORGANISE AND COLLECTIVE BARGAINING	✓
ILO 100 CONVENTION ON EQUAL REMUNERATION	✓
ILO 105 ABOLITION OF FORCED LABOUR CONVENTION	✓
ILO 111 DISCRIMINATION IN EMPLOYMENT AND OCCUPATION CONVENTION	✓
ILO 143 MIGRANT WORKERS (SUPPLEMENTARY PROVISIONS) CONVENTION	✗
ILO 181 ON PRIVATE EMPLOYMENT AGENCIES CONVENTION	✗
ILO 189 DOMESTIC WORKERS CONVENTION	✗
ILO 190 VIOLENCE AND HARASSMENT CONVENTION	✗

✓ Signed and Ratified

✗ Not ratified

* Acceded in 1983

** Optional Protocol to CEDAW on women migrant workers ratified

*** Signed, Not Ratified

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