

SENATE STANDING COMMITTEE ON EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS

Inquiry into the Fair Work Amendment (Textile, Clothing and Footwear Industry) Bill 2011

Submission of Asian Women at Work Inc

Summary

1. Asian Women at Work has regular, direct contact with hundreds of migrant women workers in the TCF industry, and has had contact with thousands of migrant women workers through our outreach activities over the past 18 years. Several of our staff have also worked as sewing machinists before working with Asian Women at Work, some of them as outworkers.
2. Asian Women at Work strongly supports the Fair Work Amendment (TCF Industry) Bill 2011, and the additional protections it provides for outworkers and sweatshop workers in the TCF industry.
3. These workers are highly vulnerable and have been exploited over a long period of time. They want fair wages and conditions, and they want a legal framework and practice that can deliver these for them.
4. We support the submissions of FairWear and the TCFUA in relation to this Bill.

Introduction to Asian Women at Work

5. Asian Women at Work Inc (AWatW) is a community organization working with Asian women factory workers, outworkers, restaurant workers, cleaners, and other low paid women workers, who experience injustice and exploitation in their workplace and in our Australian society. They are also isolated from information and support services due to long hours of work, including extensive overtime to supplement their low wages.
6. Asian Women at Work seeks to assist these women to overcome this exploitation, stand up for their rights and contribute more significantly to Australian society by working with them to access information, resources, relationships and confidence in themselves.

7. Our work responds to the family, community, legal, social and other issues which these migrant women face, in addition to their workplace issues. Our current activities include English classes, seminars, telephone information and referral service, volunteer training programs, support groups, social activities, hobby groups, vocational training, casework and advocacy work.
8. We have a current membership of over 1800 Asian women workers, and have had contact with thousands of other women over the 18 years of our existence. The majority of our members are Chinese and Vietnamese, however we also have contact with Filipino, Khmer, Korean, Indonesian and Thai women.

AWatW knowledge of the TCF industry

9. Some 50% of the migrant women workers in our networks over the years have been or are currently working in the TCF industry, mostly in the clothing industry.
10. Our experience is that the nature of work in the clothing industry is not simply a case of being either an exploited outworker or a protected factory worker. There is a continuum of employment experiences in the clothing industry between these two and the same factors which have led to the massive number of exploited clothing outworkers have also had an impact on the nature of employment of other workers across the continuum of the clothing industry.
11. The range of working experiences our members describe include – outworker, sweatshop worker, award waged workers who receive no other entitlements, award waged workers who are paid below their real classification level, award waged worker who receives only some of their other entitlements but not overtime pay and fully award compliant workplaces.
12. The full spectrum of this workforce contains a large proportion of non-English speaking background women and they are all vulnerable to exploitation if they are not adequately protected by a strong award. Not only outworkers and sweatshop workers, but many other clothing workers need additional protections because of their vulnerability.
13. The vulnerability of migrant women workers comes from a range of factors. Limited English language skills reduce the options for work and impacts on their capacity to access information to assist them. Their need to help establish their family financially in Australia often means they may take any job. Their lack of knowledge of Australian laws and systems leads to an acceptance of circumstances well below the legal minimums. Their experiences from their home country in many cases is a lack of legal framework or legal frameworks don't apply to small businesses. And long term work in poor conditions has fostered a belief that it can't be any other way, and speaking out might risk them losing even what they have. These are just a few of the factors.

Outworkers

14. Asian Women at Work first began working with outworkers in the TCF industry in 1994, when we employed a former Chinese outworker to assist us in outreach to Chinese migrant women workers. She had an injury in her arms and shoulders from being pushed to work 12

hours a day in her employer's home, with the final damage being done from two weeks of sewing thick elastic into the waistbands of skirts, involving stretching the elastic out by hand while she sewed the material onto the elastic. She was never able to work as a sewing machinist again and to this day continues to have some pain from that injury.

15. This bi-lingual community worker established a range of outreach methods that tapped into the informal networks within the Chinese community and located outworkers who had had no prior contact with any Australian community service organisation or union or other form of assistance. Her networking capacity was so incredible she had mothers ringing her from China asking her to visit their daughters in Sydney who were outworkers, highly isolated and suffering under difficult circumstances. Our single greatest source of referral now is from other outworkers or migrant women workers who have had contact with Asian Women at Work.
16. This highly grassroots approach to outreach to outworkers has been the hallmark of all Asian Women at Work's work with this target group since, leading us to contact with hundreds of outworkers who have been hidden from the formal systems. Most of the outworkers in our network had no contact with any community organisation prior to making contact with us.
17. Through Asian Women at Work, and our funding partners, outworkers have been able to access English classes, social activities and hobby groups as well as information sessions, training programs and participation in action groups to take up their own issues.
18. Those outworkers who have gained confidence to speak up for themselves have been able to improve their wages and reduce the bullying and harassment they experience from their employers, but none have been able to negotiate award level wages and conditions without intervention in the supply chain by the TCF Union.
19. Those with the highest skills have the greatest advantage as their employers don't want to lose them. Many of these outworkers are making for high end fashion houses, and are in high demand because they produce high quality garments. Yet even these outworkers can be earning as little as \$5 to \$10 an hour. A small number are paid closer to the award rate of pay.
20. Some outworkers have chosen to work for low end fashion houses, where the designs are simpler and the material easier to work with, because the work is less stressful and they can work faster. Some high skilled outworkers say they can earn more this way than they can from the slow and highly complex garments they make for high end fashion houses.

Outworkers as Employees

21. All the outworkers in our networks are clear they want to be employees not contractors to the sub-contractors who give them work. They want recognition that their work and skills are as valuable as a factory worker, and want pay and conditions accordingly, while also being able to work from home and care for their family. They want the security of an

employment relationship and regular work. The single most frequent request from our outworkers is to “find us a good boss” who will pay them properly and treat them fairly.

22. Outworkers in our networks have been encouraged by their employers to register an ABN and set themselves up as a contractor and that some outworkers have felt pressured to do so.
23. One of our outworkers told us that on one occasion when she went to Centrelink to register her income, the Centrelink staff person advised her to get an ABN and set herself up as a contractor. She said “no, I am a worker [employee], I don’t want to be a contractor”. The Centrelink officer suggested that it was a good idea because she worked from home, but did not pursue it when she refused.

24. Asian Women at Work strongly supports the deeming of outworkers as employees to ensure all outworkers have the right to award wages and conditions.

Sweatshop workers

25. As reported earlier, Asian Women at Work has worked with migrant women from a variety of employment situations in the clothing industry, however there are many workers from the TCF industry in our networks over the years whose environment could be described as nothing other than a sweatshop.
26. Some of the features they have described that leads to this description include -
 - Working in a garage at their employer’s home
 - Being locked into the factory once everyone was there
 - Boxes stacked up in the small space, limiting movement and blocking exits
 - Being paid by the piece, at low rates of pay
 - Or Being paid an hourly rate that is half of the award minimum
 - Being bullied and harassed by employers to work faster
 - Being held back at the factory to complete orders well into the night, and even overnight, at the same rate of pay or for no pay
27. Sweatshop workers have spoken about the fear they have of speaking out. They have seen others victimised by their employer after speaking out. And others have lost their job for raising issues.
28. In many cases, sweatshop workers have told us they want the union or government inspectors to intervene but they are fearful the reporting will be traced back to them and they will lose their job and therefore their only income. They are fearful to even join the union, because of potential repercussions.
29. One sweatshop worker talked about her feelings after massive consequences in her life –

Chen worked for 5 years sewing in a sweatshop in a garage at the rear of her employer's home. She was paid by the piece. Using her work record sheets, which she kept for the whole period, she calculates that her rate of pay was about \$4 an hour.

Her teenage son died of lung cancer and Chen forever regrets that she sent him to the doctor alone several times for the strange cough he had, because she had to go to work 6 or 7 days a week for 10 to 12 hours a day.

Chen says "if I had worked the normal 38 hours I would have recognised my son's illness earlier and he might have been cured. If I had known my rights I would not have worked for as little as \$ 4 or \$5 an hour, without any entitlements. The employers know the law and they break the law. They know how to use the law to protect themselves and exploit workers.

"The law is standing there for many years, but still a lot of employers break the law. A lot of migrants work in awful and unlawful conditions. Who will care about us? I worked in a small sweatshop with 7 people. How can we respond to the unfair treatment from our employers?"

30. Asian Women at Work strongly supports the expansion of the special rights of entry for the TCF industry to allow the TCF Union to inspect records in sweatshops without the current restrictions, in order to respond to the exploitation and the powerlessness experienced in this sector of the TCF industry.

Supply Chains in the TCF Industry

31. Outworkers in our networks know very little of the supply chains in which they work. They are aware of their employer's name and contact details. And they know what fashion labels they are sewing for as they are generally sewing the label into the garment. Sometimes outworkers' employers will tell them about the sub-contractor or maker they get their work from in the course of casual conversation. Some outworkers, for example, know the nationality of the sub-contractor their employer gets work from.
32. It is quite common for outworkers to make for more than one fashion label, because their employer is sourcing work from more than one fashion house. In some cases they are making for 3 or 4 fashion labels at different times.
33. At times when we have found out more about a particular supply chain and shared that with outworkers in our network, the outworkers have been surprised at the complexity and number of contractors involved.
34. In cases where fashion houses have become involved in accreditation with Ethical Clothing Australia, we have found outworkers are generally in shorter supply chains, often getting work directly from a maker who is sub-contracted directly to a fashion house.
35. Long and complex supply chains have contributed to the poor wages and conditions of outworkers. While the direct employer is legally responsible for wages and conditions of outworkers, the turnaround times and prices for the contracts are set by others above them

in the supply chain. There may be multiple contracts throughout the chain, and each entity in the supply chain takes their own income or profit from each order leaving less and less to pay the outworker or sweatshop worker producing the garments. And the greater number of levels there is between the fashion house and the outworker the harder it is to locate the outworkers actually involved in the production.

36. At the bottom end of these supply chains, outworkers are reluctant to challenge their employer to ask for their entitlement to award wages, or to report them to the union or other authorities. The biggest concern is that they might lose their job (and the small income they have) if they challenge their employer. The fear of losing their job is an even greater one in a declining clothing industry where it is harder and harder to get work. There can be cultural reasons contributing to this reluctance, for example respect for the authority of employers, and fear of losing face. Sometimes they have complex relationships with their employers because they were introduced to the work by a family member or friend, or their employer has also lent them money or assisted them in other ways. There is also a fear of authority and government which makes them reluctant to report.

TCF Code and Supply Chains

37. The TCF Code provided for in the Bill has the effect of sharing the responsibility for the wages and conditions of outworkers across the whole supply chain, and allows the tracking of production across the supply chain.
38. Outworkers welcome this Code because it allows the improvement of their wages and conditions from the top down, without them having to expose themselves to loss of work by reporting their circumstances to authorities. Others in the supply chain will be able to hold the outworker employers to account, ensuring outworkers get paid fair wages and conditions.
- 39. Asian Women at Work strongly supports the introduction of a national TCF industry code of practice modelled on the NSW, SA and Qld codes.***

Recovery of Unpaid wages and Supply Chains

40. “My boss hasn’t paid me” is a common complaint from outworkers heard by our community workers. And this means not being paid even the low rates they had been promised. It is common for outworkers to be paid very late, weeks after work is completed. It is less common in recent years, but sometimes employers close down and disappear without paying outworkers hundreds or even thousands of dollars owed to them.
41. Underpayment is a more widespread and well documented issue.

42. Outworkers do not often try to recover money through formal avenues, with the assistance of the TCF Union or others, until the relationship with their employer has broken down and they are getting no further work, or they are owed large sums of money and realise their employer is not going to pay them. They have usually held out for as long as possible, wanting to believe their employer would eventually pay. By this stage outworkers who have usually had very little information about their employer, often find it difficult to trace their employer and make the claim for unpaid wages directly to them.
43. The recovery of money provisions in this Bill allow the outworkers to recover the money they are owed from other indirectly responsible entity or entities in the supply chain, when the work has been done indirectly for them. In turn the indirect entity or entities can seek to recover the money from the responsible entity (i.e. the person who directly engaged the outworker).
- 44. *Asian Women at Work strongly supports the provisions which allow outworkers to recover money they are owed from the principal contractor in their supply chain, which they can identify from the labels they are sewing.***

In Conclusion

45. Outworkers in Asian Women at Work networks want the support and intervention of the TCF union and other authorities in order to gain fair wages and conditions, without losing their job or risking their livelihood. They want the protection of good laws to reduce their vulnerability and support them in bringing about positive change in their lives.
46. We look forward to more and more good news stories of outworkers who have been able to access fair wages and conditions as a result of the new protections provided by this Federal Bill complimenting the existing protections in state and federal laws and awards.

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