

Submission

to

Senate Employment, Workplace Relations and Education
References Committee

Inquiry into Workplace Agreements

Submitter: Annie Delaney and Daisy Gardener

Organisation: FairWear Campaign

Address: 130 Little Collins Street, Melbourne, 3000, Victoria.

Phone: 03 9251 5270

Fax: 03 9654 2136

Email: fairwear@fairwear.org.au



FairWear Campaign
130 Little Collins Street, Melbourne 3000
phone 9251 5270, fax 9654 2136, email
fairwear@fairwear.org.au
www.fairwear.org.au

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Mr. John Carter
Committee Secretary
Senate Employment, Workplace Relations and Education Committee
Department of the Senate
Parliament House
Canberra ACT 2600
Australia
2005

Dear Mr. Carter,

The FairWear campaign would like to thank the Committee for this opportunity to make a submission relating to The Senate Employment, Workplace Relations and Education References Committee Inquiry into Workplace Agreements. FairWear supports the submissions to this inquiry made by the Uniting Church of Australia Synod of Victoria and Tasmania and the Textile Clothing Footwear Union of Australia.

FairWear would like to address the following points:

- 1) the capacity for employers and employees to choose the form of agreement-making which best suits their needs;
- 2) the parties' ability to genuinely bargain, focusing on groups such as women, youth and casual employees;
- 3) the social objectives, including addressing the gender pay gap and enabling employees to better balance their work and family responsibilities;
- 4) the capacity of the agreement to contribute to productivity improvements, efficiency, competitiveness, flexibility, fairness and growing living standards; and
- 5) Australia's international obligations.

Background

FairWear is a national coalition of church, community groups, women's organisations, students and unions, which has been working to eliminate the exploitation of homeworkers and end sweatshop conditions in the garment industry since 1996.

There are an estimated 329,000 homeworkers in the garment industry in Australia¹. Homeworkers are amongst the most disadvantaged workers, earning an average hourly rate of \$3.60 and working up to 7 days per week.²

1) the capacity for employers and employees to choose the form of agreement-making which best suits their needs;

Homeworkers are largely migrant women, who speak English as a second language. They complete their work in their own homes. Their working hours can be anytime in the 7 days of the week and anytime during the 24 hour period of a day. These hours are not by choice but are a result of unrealistic deadlines given for completion of work.

In current circumstances Homeworkers are rarely offered any form of written agreement, let alone being allowed to choose what agreement is suitable. In the verbal arrangements that are made workers are given a very limited opportunity to negotiate about price or timetable for completion of work.

2) the parties' ability to genuinely bargain, focusing on groups such as women, youth and casual employees;

In a situation where homeworkers would be required to negotiate an individual workplace agreement, FairWear believes that these workers would be highly disadvantaged in the bargaining process. Homeworkers tell us that when they are offered work by their employer they are told what the price would be (which often converts to only on third of the minimum award rate of pay) and told the deadline to complete the work without any opportunity to negotiate. Any homemaker, who attempts to stand up for themselves and demand a higher price, is generally told that the employer will take the work elsewhere.

Homeworkers have extremely limited capacity to negotiate an agreement due to the nature of their work. Homeworkers receive their work in batches and are paid on a piece by piece basis. They perform work that is integral to the factory operation. They sew complete or part of garments and then return the sewn garments to the factory to be finished, labelled, pressed and hung to be moved to retail outlets.

In the majority of instances homeworkers are given the work and told a piece rate that often translates into an hourly rate from 3.60 to less than \$1.00 an hour³. Whilst

¹ Textile, Clothing & Footwear Union of Australia, Hidden Cost of Fashion, Sydney, 1996

² Christina Cregan, Home Sweat Home report on outworkers in the textile industry in Melbourne, Department of Management, University of Melbourne, Victoria, 2001.

³ Cregan, 2001

there are some homeworkers, who do receive \$4-5 an hour, very few of the highly skilled machinists occasionally receive \$8 an hour for their work. In fact there is no capacity to bargain at all and often workers must expend considerable time and energy to secure payment for the work they have completed.

'My boss said that the company hadn't paid him so he couldn't pay me.' Hong, Homeworker

Homeworkers have often reported to us that they fear not being paid for their work and they are often required to complete work within a very tight deadline. It is not uncommon for homeworkers to receive work at the end of the working day and be required to complete the work by the next morning. They state that unless they agree to complete the work by the designated time they may forfeit payment or be penalized for unfinished work.

The culture of the clothing industry in Australia is dependent upon maintaining workers in a vulnerable and fearful state where sweatshop conditions are the norm. The pressure for low prices comes not only from immediate employers, but is also generated further up the supply chain from retailers and manufacturers.

The nature of homework in the clothing industry has been extensively documented in the Senate Inquiry on Outwork in the Clothing Industry in 1996 and a subsequent review in 1997. Little change has occurred since this time and if anything the need for legislative protection has increased. Inquires over recent years in New South Wales, Victoria, South Australia and Queensland have all concluded that legislation is required to protect this vulnerable and disadvantaged group of workers.

New laws and regulations have recently been introduced in each of the aforementioned states, which coupled with the newly invigorated voluntary arrangements will finally start to make a real difference for a significant number of Homeworkers over the next few years as long as the legislative framework is not undermined by changes at the Federal level.

Homeworkers are currently deemed to be employees in the majority of Australian States. Any reduction in legislative and Award protection will ultimately create a system that legalizes the current exploitative conditions.

3) the social objectives, including addressing the gender pay gap and enabling employees to better balance their work and family responsibilities;

Homeworkers are generally women and often mothers. Sometimes both parents are Homeworkers. Pressure on families from homeworking is enormous as mothers have limited time to spend with children and one part of the house (sometimes a living area) is a part time or full time factory.

"Working at home has affected my children. When they get home from school, they do homework eat dinner then help my husband and I for two hours each day. On weekends they help me sew all day. I feel sorry for my children because they can't go out and be with their friends." Lei, Homeworker

There is no evidence to suggest that any increased access to workplace agreements would remedy this exploitation.

Homeworkers in Australia will face less security and more pressure on their families should legislative changes remove award conditions and limits to their status as employees.

FairWear does not believe that the proposed industrial relations reforms will encourage a fair and equitable working environment for homeworkers in Australia. Access to awards without any additional regulation, as is currently implemented across a number of states, has not been able to protect outworkers. Homeworkers do not need greater flexibility from individual arrangements. They need greater security and reliability through national and state interventions to curb the worst of their employer's activities.

There is wide spread community support for companies to ensure workers such as Homeworkers receive their minimum entitlements and that the Government ensure legislation does not further disadvantage Homeworkers⁴.

Consumers have adopted ethical shopping practices by supporting companies that have become signatories or accredited to the Homeworkers Code of Practice, a voluntary industry Code supported by key industry groups. Any legislative changes that lessen Homeworker's protection under the Clothing Award, diminish their rights to be treated as employees, or hinder the capacity for the Textile, Clothing and Footwear Union to access workplaces and monitor the supply chain will threaten the viability of this industry initiative to end exploitative practices.

4) the capacity of the agreement to contribute to productivity improvements, efficiency, competitiveness, flexibility, fairness and growing living standards

Homeworkers often work long hours and have a high level of output. They must work efficiently in order to fulfill orders within a short time span. There is little flexibility for workers within this environment, where they have little choice, but to accept whatever they are offered by employers. Homeworkers often accept low piece rates, because this is all they are offered. The fact that most homeworkers receive below award rates, means that companies, who operate ethically and pay award wages are at a disadvantage.

Supply chain management projects funded by the NSW Government have revealed that the "race to the bottom" of reliance on low pay to homeworkers for competitiveness has actually introduced a wide range of inefficiencies into the clothing industry. These include multiple movements of garments through many levels of the subcontracting chain, repeated bundling and unbundling at several of these sites/ levels and insufficient instructions to homeworkers completing work so that unnecessary mistakes are made.

Homeworkers tell us that it is a struggle for them to have a decent living standard under these conditions.

The highly individualised, informal, verbal agreements between clothing industry employers and homeworkers make employers highly competitive and flexible. This is at the cost of the health and family lives of the homeworkers involved. Unfairness and decreasing living standards are the hallmarks of workplace arrangements for homeworkers.

⁴ The FairWear campaign is endorsed by more than 70 organisations, community groups, churches and politicians. Schools are also very active in the issue of homeworker rights.

5) Australia's international obligations

Australia as a member state of the International Labour Organisation (ILO) is party to the Declaration of Fundamental Principles and Rights at Work which includes the ILO core labour standards. The ILO Declaration on Fundamental Principles and Rights at Work was adopted in 1998. It is an expression of commitment by governments, employer and worker organizations to uphold basic human values - values that are vital to the wellbeing of our social and economic lives.

The ILO Convention on Home Work No. 177 was passed in 1996. The Homework convention and its recommendations outline the necessity for Governments to introduce and implement national policy to ensure protection of homeworkers is incorporated across a range of Government departments and policy areas. Government policy and assessment of how Australian legislation meets its international obligations is an essential element towards ensuring that homeworkers in Australia are adequately covered by labour laws and social protection. The Australian Government's capacity to uphold basic human values must be scrutinized according to the proposed legislative reform threatening homeworker's security and access to an adequate livelihood with appropriate protection.

FairWear recommends the following:

1. That the Federal Government ensure current deeming provisions for homeworkers or 'outworkers' in State legislation are exempt from any federal legislation changes.
2. That the Federal Government maintain the current no disadvantage test and include current Award entitlements as a minimum application to any work agreement.
3. That the outworker clauses within Federal Clothing Award are maintained in their entirety and that any changes to legislation exclude homeworkers.
4. That the appropriate union has access to workplaces to ensure monitoring of the supply chain can occur without restrictions.
5. That the Australian Federal Government ratifies the International Labour Organisation's Home Work Convention no. 177.