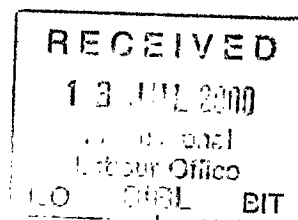


WORKING PAPER

No.1

Home Work in Selected Latin American Countries: A Comparative View

Manuela Tomei



InFocus Programme on Boosting Employment
through Small Enterprise Development
Job Creation and Enterprise Department

INTERNATIONAL LABOUR OFFICE GENEVA



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FOREWORD

This report is part of a series of studies carried out by the International Labour Organization (ILO) in connection with the Latin American component of the ILO inter-regional project "Homeworkers in the Global Economy", financed by the Government of Denmark.

The purpose of these studies is to ascertain/explore whether home work in Latin America is a residual form of work that is "becoming extinct", as was considered for many years to be the case, or whether it is in fact a mode of employment that is re-emerging in a context characterized by the fragmentation and relocation of production processes, an increasingly flexible labour market and the individualization of labour relations.

With that end in view, an attempt has here been made to provide an overview of the number and profile of workers engaged in this form of employment, and to analyse the relevance and effectiveness of the legal framework governing home work. Likewise, the perceptions and attitudes of governments and employers' and workers' organizations towards this modality of work are examined.

The countries reviewed reveal major differences in terms of the relative preponderance of the rural and urban populations, the structure of work (incidence of modern work and composition of the informal sector), levels of employment and unemployment, level of industrialization and openness of the economy, among other aspects. Nonetheless, the studies are unanimous in indicating that the number of homeworkers is significant and may be increasing, although evidence to that effect tends to be of an anecdotal nature. Similarly, although home work is the subject of extensive legal regulation in many countries, it is not registered or protected in practice.

The scant attention that has traditionally been devoted to this subject by public policies, particularly those relating to the labour market, and by public institutions and social stakeholders is to be attributed to the fact that no clear and common criteria exist regarding the nature of home work and exactly what the concept covers.

These and other aspects were highlighted during the Technical Tripartite Consultation organised in Santiago, 26-28 May 1999, by the former Department of Development Policies (POLDEV), in collaboration with the Santiago Multidisciplinary Technical Team (MDT) and the Regional Office for the Americas.

One of the main objectives of this consultation and of the project was to identify possible areas of study and action in order to better understand home work, its characteristics and future trends, and to outline possible support policies. Follow-up activities are underway within the framework of the recently-established InFocus Programme on Boosting Employment through Small Enterprise Development of the Employment Sector. We would like to express our thanks to the Bureau for Gender Equality, which kindly financed the translation of these studies into English.

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Table of contents

	Page
Introduction	1
1. Home work, a long-standing form of flexible work: some considerations	2
1.1 What is home work? Conceptual and methodological challenges	2
1.2 Home work and flexible work	6
1.3 Home work and globalization of the economy	8
2. Home work in the labour market of selected countries of Latin America	9
2.1 Employment trends and composition in Latin America in the 1990s: a brief overview	9
2.2 Size and characteristics of home work	12
2.3 Profile of homeworkers	17
2.3.1 Age, gender and marital status	17
2.3.2 Education and skills	20
2.3.3 Prior employment experience and total duration of home work	21
2.3.4 Advantages and disadvantages of home work for the worker	23
2.4 Home work: only “bad” jobs?	24
2.4.1 Subcontracting practices	24
2.4.2 Systems of remuneration	25
2.4.3 Access to social security and other benefits	27
2.4.4 Intensity of the working day	28
2.4.5 Employment stability and prospects	29

3. Home work in law and in practice: reality and challenges	31
3.1. The legal framework: outline	31
3.2. The main reasons why the law is ineffectual	34
3.3. More or less regulation? Or different regulation?	36
4. Final considerations	37

ACRONYMS

EAP	Economically active population
ENE	National Employment Survey
IBGE	Brasilian Institute of Geography and Statistics
ILO	International Labour Organization
INE	National Statistics Institute
OECD	Organization for Economic and Cooperation Development
TUPA	Single Text of Administrative Procedures

Introduction

Home work is an enduring, flexible mode of work which, according to various sources, is acquiring a new impetus as a result of the current processes relating to more flexible production and economic globalization. Traditionally, home work used to be associated with low-productivity activities engaging principally non-organized female labour, in situations of over-exploitation, precariousness and poverty. Today, however, it is emerging also in cutting-edge sectors and absorbing qualified manpower with substantial bargaining power.

In the light of the new facets and characteristics acquired by this mode of work, the analytical concepts and categories traditionally used should be reviewed, and employment policy reformulated accordingly. The subject was discussed by the International Labour Conference of the International Labour Organization (ILO) in 1995 and 1996, and culminated with the adoption of Convention No. 177 and Recommendation No. 184, thus reflecting efforts, at the international level, to gain a clearer understanding of this phenomenon and of the most appropriate measures to deal with it.

In Latin America, as in other regions of the world, reliable and precise data is not available regarding the extent and characteristics of this form of work. For the most part, available information is confined to case studies, or surveys of restricted geographical coverage (neighbourhood surveys) and/or focuses on sectors or branches of activity in which this form of employment traditionally exists, namely the textile sector, garment manufacture and footwear manufacture. This situation is due to a large extent to a lack of understanding and to confusion regarding what exactly constitutes home work.

Meanwhile, a number of indicators exist in Latin America, such as an increase in the rate of female participation in the labour market, an increase in the number of family workshops operating in the home under sub-contracting arrangements, and the number of workers carrying out independent work, which suggest the possibility that home work in the region not only continues to exist but may even be expanding.

Specifically, it is interesting to ascertain whether this form of employment is confined to the production of low quality products targeting the less affluent population segments or whether it is part of a company's strategy to modernize its productive system and make it more flexible. Similarly, it should be established whether all home work is precarious or whether it also covers situations where work is flexible without being precarious. Finally, it is of interest to determine whether, and to what extent, existing labour laws and regulatory regimes cover, encourage or discourage work of this type.

To that end, a research project on home work was carried out in eight countries of Latin America¹, but this analysis focuses on five of them, namely Argentina, Brasil, Chile, Paraguay and Peru. Three multidisciplinary teams of experts from the ILO (in Lima, San José and Santiago) and national consultants collaborated in these studies. Given the budgetary restrictions on the project, extensive autonomy was granted to the research teams regarding the scope of studies and the methodology to be

¹Argentina, Brasil, Chile, Costa Rica, Guatemala, El Salvador, Paraguay and Peru.

employed. In some cases, preference was given to household studies in selected urban areas; in others, the choice was made to undertake a critical review of national employment statistics and literature on informal employment and micro and small enterprises; in yet other cases, preference was given to case studies in "non-traditional" sectors, analysis of work advertised in newspapers and structured interviews with key informants. To a large extent, the instruments and approaches employed in each study reflect the level of progress achieved in discussion of and familiarity with the subject at the national level.

It goes without saying that the results obtained are of a preliminary and indicative nature. Indeed, the main aim of this research was to gain a better understanding of the subject, and to lay the foundations for the design and development of subsequent more far-ranging and focussed research.

The countries reviewed differ in terms of size, proportion of the rural population, level of industrialization, behaviour and composition of employment, degree of employment flexibility and rates of economic growth. Meanwhile, in recent years, although at different times, all have introduced substantial reforms in their economic models, including stabilization policies, opening up to international markets, privatization, deregulation and regional integration. This diversity of national situations, combined with the fact that similar approaches had been adopted in economic policy, would, it was felt, enrich the analysis by providing a comparative view.

The report is divided into three chapters. The first offers a brief overview of the context in which home work has developed, together with the factors and processes which have, more recently, contributed to the re-emergence and qualitative change of this form of employment.

The second chapter seeks to gain some insights into the extent of home work in Latin America and to analyse its distribution by sectors, with a view to ascertaining whether, in addition to the "traditional" sectors, home work is gaining ground in other branches of production of goods and/or in the services sector, and in what type of activities. Likewise, an analysis is made of the socio-economic profile and characteristics of homeworkers, including their gender composition, with a view to establishing whether the same occupational segmentation by gender occurs in home work as in the rest of the labour market in the countries in question.

Chapter three looks at how home work is dealt with in the different regulatory frameworks and their underlying rationale, and level of compliance.

1. Home work, a long-standing form of flexible work: some considerations

1.1 What is home work? Conceptual and methodological challenges

Convention No. 177 defines home work as work carried out by a person:

- ◆ in his/her home or in other premises of his/ her choice, other than the work place of the employer;
- ◆ for remuneration;

- ◆ which results in a product or service as specified by the employer, irrespective of who provides the equipment, materials or other inputs used, unless this person has the degree of autonomy and economic independence necessary to be considered an independent worker under national laws, regulations and law court decisions.

According to this definition, the existence of a relationship of subordination or dependence constitutes the prime characteristic of home work. Indeed, payment is received for the work incorporated in the production of a certain good or service and not for the value of the product manufactured or the service provided. Moreover, although the worker chooses the place of work and decides how to organize his/her work hours, it is the employer who lays down the characteristics of the product or service and fixes the terms and conditions of delivery and payment. In practice, however, as will be discussed hereafter, serious difficulties arise in establishing whether or not a worker is indeed carrying out a paid or independent job.

For the purposes of this study, it was decided to take, as a basis, the definition of home work contained in the ILO report on the same subject, which was submitted to the International Labour Conference in 1995. This definition states that: "Home work is normally understood as the production of goods or the provision of services for an employer or contractor under an arrangement whereby the work is carried out at a place of the worker's own choosing, often the worker's own home. It is normally carried out without direct supervision by the employer or contractor".² This definition is less restricted than that employed by the Convention, in that it does not exclude situations in which the homemaker is considered to be independent under national laws, regulations or court decisions, and is more suited for socio-economic analyses.

Several different criteria are used to determine the existence of a relationship of subordination, depending on the nature of the existing regulatory framework. The indicator most frequently employed is the degree of control exercised by the employer over the worker.³ However, significant problems arise in seeking to gauge the degree of such control.⁴ The employer or intermediary does not directly supervise the work carried out by the homemaker, as the latter operates in a place of his/her choice, and neither does the former exercise any disciplinary power, nor does he/she dictate the number of daily hours worked. It has been argued that, in fact, such supervision is carried out *ex ante* when the employer lays down the specifications and characteristics of the good or service to be produced and *ex post* at the time of their delivery, when the employer checks that the product meets the said specifications. Consequently, the autonomy enjoyed by the worker in organizing his/her work time does not constitute a sufficient criterion to exclude homeworkers' dependent status.

² ILO, *Home work*. Report V(1). International Labour Conference. 82nd Session, 1995, Geneva.

³ Eileen Boris and Elisabeth Prugl (editors), "Homeworkers in Global Perspective, invisible no more", Routledge New York and London, 1996.

⁴ Maria Luz Vega Ruiz, "Home work: a comparative analysis of legislation and practice", doc. no. 10, ILO, Geneva, 1995.

The ambiguity regarding the degree of subordination/independence with which the homeworker operates arises mainly from the fact that many engage in more than one type of occupation. Frequently, the same individual may work as a salaried employee during particular periods or seasons of the year while, during the remaining period, he/she may produce directly for the market. Similarly, a person may engage in both forms of work during the course of a single day.⁴

The fact that a single worker can have several occupational identities may cause home work to be under-recorded as the worker may identify himself/herself with another category. The identification with a given occupational category may frequently be conditioned by gender, the worker's previous work experience and the status he/she attributes to it. Instances also exist in which, out of fear of losing the work or some benefit, workers may declare themselves to be inactive or unemployed, although it is not their intention deliberately to conceal such work.⁴

The task of distinguishing between situations of salaried employment and of independent work may be further complicated by the worker's level of expertise and the trust that employer may have in his/her skills⁵ together with the fact that a single worker may maintain an employment relationship with more than one employer or intermediary. The new information technologies which require a higher level of training and greater capacity of initiative also give rise to particular problems⁶. By its very nature, intellectual work implies a certain level of autonomy on the part of the worker in terms of decisions concerning not only the use and organization of time in carrying out work activities, but also in regard to the procedure to be followed and the characteristics of the product or service.⁷

Another element contributing to this ambiguity involves the contractual arrangements imposed by employers or work-givers with a view to ruling out any assumption of employment dependence, in order to avoid complying with tax and/or labour-related obligations. Frequently, prior registration as an independent worker is made an essential prerequisite in obtaining home work.⁸ This relieves the employer of the obligation to pay social security contributions and paid holidays. Consequently, many salaried employees state themselves to be self-employed. .

A further difficulty relates to the establishment of criteria to identify the place in which the work is carried out. One of the characteristics of this form of employment is that it is performed in premises

⁴ Labour Directorate, Dept. of Studies, National Statistics Institute, "Home work in Chile, an enduring and new phenomenon: results of a national measurement", ILO, 2000 (forthcoming); María Victoria Heikel, "Homeworkers in Paraguay", ILO, Geneva, 2000.

⁴ Ibidem.

⁵ Ibidem.

⁶ Lena Lavinas, Bila Sorj, Leila Linhares and Angela Jorge, "Home work: new forms of contractual arrangements", ILO, 2000 (forthcoming).

⁷ Ibidem.

⁸ Elizabeth Jelin, Matilde Mercado and Gabriela Wyxczykier, "Home work in Argentina", ILO, 2000 (forthcoming).

other than the work place of the work-giver. The homemaker's place of work usually coincides with his/her own home or premises adjacent to the home. However, situations do exist in which several workers decide to share workshops, centres or other premises which do not belong to the employer. Workers may also carry out their productive activities in premises made available by a "workshop owner" who assigns them work handed out by third parties.

On occasion, the operational definitions themselves that are used in gathering data for statistical purposes are partly responsible for underestimation of this form of work. In Brazil, for example, the IBGE (Brazilian Institute of Geography and Statistics) interviewers are instructed to register all persons engaged in established businesses (*emprendimientos establecidos*) as workers operating in the premises of such companies, even though they in fact carry out their activities outside them.⁹ It is likely that, as a result of this provision, employees who work for a company, in or from their homes, will be registered as though they were working in the company. In other cases, the homemaker himself/herself gives the address of the employer or work-giver, thereby obscuring his/her real occupational situation.¹⁰

Meanwhile, omissions in recording home work also derive from preconceived ideas and erroneous interpretations on the part of interviewers themselves. Such errors are due, to a large extent, to the lack of appropriate guidance and training in correctly identifying and classifying forms of work that fall outside the standard occupational categories. These difficulties are exacerbated in the case of home work, in view of the large proportion of women engaging in this form of employment. The limitations inherent in the employment indicators that are most commonly used to measure the female economic activity¹¹ also come to the fore in quantifying home work activity by women. The question of whether or not to include homeworkers in the economically active population (EAP) is based on the differing interpretations by interviewers and interviewees of such concepts as employment, work, principal activity and secondary activity; the period of reference and the parameters employed, such as, for example, the minimum hours of work required to ascertain whether a person should be classified as active or inactive, and the nature and number of people in the same household to whom the questions are addressed.

The perception of women, and of other members of the family regarding the value or economic importance of women's productive activity also has obvious implications in terms of whether this form of work is registered. Frequently, homeworkers do not consider themselves to be workers. This is true, in particular, when the work is assigned to them by another member of the household and/or they

⁹ Lena Lavinas *et al.*, op. cit.

¹⁰ María Victoria Heikel, "Homeworkers in Paraguay", ILO, 2000.

¹¹ Extensive analysis and debate has been devoted to the fact that women's contribution to the economy and women's participation in the labour force is underestimated. The failure to compute the product of a large part of tasks carried out by women in national statistics, such as subsistence production, unpaid work, as well as domestic production and similar tasks, is to be attributed to the definition of "economic activity", which continues to refer solely to paid activities. Molly Pollack, "Reflexiones sobre los Indicadores del Mercado de Trabajo para el Diseño de Políticas con un Enfoque basado en el Género", Series *Mujer y Desarrollo*, Unidad Mujeres y Desarrollo, ECLAC, Santiago, July, 1997.

receive no compensation for the task carried out. This type of economic activity is perceived as an extension of their domestic tasks or as a contribution to the family budget rather than gainful employment.

The sporadic and temporary nature of home work is another factor that contributes to its underestimation in employment statistics. The previous week is generally taken as the period of reference in determining whether a person is employed or unemployed, active or inactive. This period of time may be too short to seize a form of work which is typically irregular and seasonal. It is for these reasons that national statistics institutes have traditionally been reluctant to measure home work in a systematic manner. It is clear, nonetheless, that the far-reaching and rapid changes occurring in the world of work today call for an unflagging effort to innovate and experiment where statistics and systems for classifying work modalities are concerned. There are obvious advantages in computing home work regularly and systematically. It would provide precise information on the evolution, in time, number and nature, of this category of workers, hence informing/orienting policy-making in a more effective and targeted fashion. It is necessary to look into simple, low-cost ways of measuring home work, which do not involve extra work for interviewers, based on existing statistical recording instruments.

1.2 Home work and flexible work

The subject of home work is part of a broader debate regarding flexible and "atypical" work. "Atypical" or "non-standard" employment refers to a series of labour relationships which are distinct from "typical" work contracts, that relate to full-time work of indefinite duration for a single employer, which may be terminated by the employer only with just cause.¹²

Consequently, "atypical" work relates to situations characterized by more tenuous and non-exclusive labour relationships, and by the absence of guarantees and expectations that the work will be of a continuous nature. In other words, "atypical" work goes beyond the employer-worker dichotomy whereby the worker's identity is shaped in opposition to the figure of the employer. Other features of "atypical" work relate to conditions of work, earnings and social security benefits which are generally lower than those enjoyed by permanent workers, who carry out similar or equivalent tasks. The absence of unionization is another feature frequently associated with "non-standard" forms of employment.

However, greater flexibility does not necessarily imply greater precariousness.¹³ "Atypical" contracts certainly involve higher risks for workers as full employment security in the long-term is not guaranteed, they are more vulnerable to economic fluctuations. However, in some cases, such contracts may offer greater opportunities than those provided by traditional standard contracts. Some workers, depending on their skills, knowledge and contacts, may indeed prefer and even insist on flexible work

¹² A.S. Bronstein, "Labour Reform in Latin America:136" in *International Labour Review*, 1997/Spring, vol. 116, no. 1.

¹³ M. Carnoy, Castells and C. Renner, "Employment market and forms of work in the era of flexibility". Monographic study of silicone valley in *International Labour Revue*, 1997/Spring vol. 116, no. 1.

relations which allow them to negotiate more efficiently the manner in which they will allocate their human capital between different purchasers.¹⁴

Aside from home work, other forms of flexible work exist, including part-time work and temporary work which have undergone rapid growth particularly, although not exclusively, in the developed economies from the early 1980s onwards.¹⁵ Home work, for its part, has existed since the dawn of capitalism and of the industrial era. Far from being a residual form of production, home work in the garment, textile and artificial flower production industries constituted an integral part of the industrial revolution.¹⁶ This form of work had been displaced neither by technological progress nor by advances in the rights and guarantees enjoyed by workers. Its survival was due primarily to the low wages paid to male workers in factories, the abundant supply of labour and the absence of other work opportunities for women.¹⁷ This work was carried out primarily by low-income women, married and with children, who needed to boost their spouses' meagre income. Given its clandestine nature, home work constituted a "respectable" source of earnings for women of the middle- lower-class or lone women (widows, spinsters). According to the views prevailing at that time regarding the division of labour between the sexes, salaried employment outside the home represented a double social stigma for women. On the one hand, the respectability of the husband was undermined since he was to assume the full burden of supporting his family. On the other hand, the woman's position was also undermined as her role consisted of looking after her children and home.

In this connection, it should be emphasized that when, at the end of the last century, the first criticisms and social movements against home work began to surface, some sectors sought not to abolish it but rather to improve the conditions in which it was carried out. The fact that it was carried out in the worker's home was viewed, indeed, as a means of keeping together and strengthening the family. For women, therefore, home work was preferable to work in a factory.¹⁸ Ultimately, however, on the trade union front, the attitude prevailed of those who sought to eradicate such work because it not only distracted women from their domestic tasks and family responsibilities, but it also reduced work opportunities in factories for men who were responsible for the family's livelihood and weakened their bargaining position regarding conditions of work and levels of pay.¹⁹

Even the ILO condemned this form of work, on the occasion of the Havana Conference (Cuba) in the 1920s, and urged member States to work towards its elimination. In keeping with this approach, the ILO adopted conventions on the minimum wage, limitation of hours of work and night work, among others, which related solely to the work carried out in the factory or premises other than the worker's home, thereby contributing further to making home work "invisible".

¹⁴ M. Carnoy, Castells and C. Renner, *op.cit.*

¹⁵ Gerry Rodgers and Janine Rodgers, "Precarious Jobs in Labour Market Regulation, the Growth of Atypical Employment in Western Europe", ILS, 1989, Geneva.

¹⁶ Eileen Boris, "Sexual divisions, gender constructions. The historical meaning of home work in Western Europe and the United States", in Eileen Boris and Elisabeth Prugl editors, *op.cit.*

¹⁷ *Ibidem.*

¹⁸ *Ibidem.*

¹⁹ *Ibidem.*

1.3 Home work and globalization of the economy

This form of work which, until a few years ago, was considered to be an inefficient and obsolete mode of production and, therefore, destined to disappear in the wake of economic modernization, has recently acquired new momentum. This is due, primarily, to the technological revolution and economic globalization which brings with it, *inter alia*, fiercer competition between companies who are consequently obliged to introduce greater flexibility into the traditional forms of organization of production and work, with a view to achieving greater efficiency. The new forms of work organization no longer focus on strictly defined and compartmentalized tasks; instead, pride of place is given to multiple skills and occupational interdependence which in turn requires that companies' human resources are continually upgraded.²⁰ Another fundamental aspect of flexible production, which contrasts with mass production, relates to the attention given to product quality and to meeting clients' special needs. This calls for an ability to adapt to market fluctuations by outsourcing work, which was previously carried out by large to smaller enterprises and individual workers,²¹ whilst large companies execute themselves the tasks that they are best at and which generate greatest value-added.²²

Subcontracting is becoming more prevalent both between countries and within national economies. In some countries, the spectacular growth of small and medium-enterprises is attributed to the extensive practice of subcontracting.²³ Such companies, always with an eye to competition, can also transfer some operations to smaller, informal production units which, in turn, may engage homeworkers to carry out certain tasks. Subcontracting has contributed to a redefinition of the border line and of the relationship between the formal and informal economy. Traditionally, they were conceived as two separate entities which co-existed within a single economic context but, over time, the modern sector and the informal sector have established increasingly close links, whose substance and points of contact change over time, in accordance with technological innovations and the models of economic growth promoted.²⁴

The interesting and novel aspect of these subcontracting chains, particularly in low-skilled labour-intensive sectors, relates to the limited autonomy enjoyed by the companies that are part of the chain, and the dissociation between the production sphere and the product design and marketing stages.²⁵ The company which sells and distributes goods bearing its brand, although it takes no part in their manufacture, lays down in advance, the characteristics of the product, production procedures, the technology to be employed, among other things, as well as deciding on whether production will continue in a given region or country. In the case of garment and footwear industries, labour costs play

²⁰ ILO, "Work in the world. Labour relations, democracy and social cohesion", 1997/98, ILO, Geneva, 1997.

²¹ The Economist, "Manufacturing. The world as a single machine". 20 June, 1998.

²² Ibidem.

²³ ILO, "Work in the world. Labour relations, democracy and social cohesion", op. cit.

²⁴ Jeanne Havin, "The political economy of home-based work in India" in *Homeworkers in Global Perspective, Invisible no more*, op. cit.

²⁵ Ibidem.

a decisive role in the decisions taken by the companies holding the commercial capital.²⁶ Consequently, at the international level, wage disparities between countries become crucial while, at the national level, the segmentation of the labour market by given social groups becomes an important element. An ILO study identifies substantial differences between various countries and regions in terms of the objectives pursued in using subcontracting in the above-mentioned footwear, garment-making and textile industries.²⁷ For high/medium-income countries of Latin America and high-income OECD countries, it is used as a strategy to defend against competition from Asian products. In Southern and Eastern Asia, in contrast, subcontracting constitutes an integral part of an aggressive export promotion strategy. Other sectors which make intensive use of subcontracting include the automobile and electronics industry.²⁸ In these cases, evidence also exists of the presence of home work. Likewise, an increasing number of homeworkers are appearing in "new occupations" connected with information technology or office tasks which set them apart from the classical stereotype.²⁹

2. Home work in the labour market of selected countries of Latin America

2.1 Employment trends and composition in Latin America in the 1990s: a brief overview

Since the early 1990s, the labour market in Latin America has undergone a series of structural changes in the wake of the new liberal economic reforms introduced in connection with the structural adjustment policies and programmes promoted with the support of the Bretton Woods institutions. These reforms constitute a reaction to the import substitution and economic protectionism model that had prevailed in most countries of the region since the 1930s. There was evidence that efforts were being made to correct the "inward growth" model, albeit not in a consistent manner, in the 1970s. However, it was not until the 1980s, following the debt crisis, that the countries of the region began to introduce substantial changes in their economic models.

The reforms introduced include the liberalization of foreign trade, through a unilateral reduction of customs tariffs and other barriers to free trade³⁰ and through the conclusion of multilateral trade agreements at the sub-regional level, and the reorganization of taxation. Other measures relate to the liberalization of the movement of capital, privatization of companies and activities previously under government control, together with the elimination of subsidies to the private sector and a cutback in social spending.

In a number of countries of the region, with the dismantling of the economic model based on protectionism and extensive State intervention, doubts began to emerge regarding the guarantees offered

²⁶ Jeanne Havin, "The political economy of home-based work in India" in *Homeworkers in Global Perspective, Invisible no more*, op. cit.

²⁷ ILO, "Globalization of the footwear, textile and garment industries", TMFTCI/1996, ILO, Geneva.

²⁸ The Economist, "Manufacturing. The world as a single machine", op.cit.

²⁹ M. Carnoy, M. Castells and C. Benner, op.cit.

³⁰ In 1985, for a group of representative countries of the region, the average level of customs' tariffs was approximately 35 per cent with peaks of 100 per cent. Only seven years later, these levels had fallen to 14 per cent and 22 per cent, respectively. Victor E. Tokman and Daniel Martínez, "Labour issues in Mercosur" in *Common Market of the Southern Cone: MERCOSUR. The impact of economic integration: a case study*, Labour Education 1997/4, No. 109, ILO, Geneva.

by the State to workers, which constitute an integral part of that model.³¹ The reforms introduced in Argentina and Peru during the 1990s, with a view to enhancing flexibility, were based on the assumption that the labour legislation of the day had had damaging effects on the competitiveness of companies and, therefore, on job creation.³² Likewise, it was held that rigid regulations regarding dismissal and the obligation to pay certain labour-related contributions encouraged non-registered or "black" work.

The main aspects of the labour reforms introduced focussed on the rules regarding dismissal, working hours and wages, among others, as well as the modalities of recruitment. Fixed term and part-time work contracts were introduced.³³ It was made easier and cheaper to dismiss workers, by extending the reasons justifying termination of the contract (permitting dismissal with just cause, without just cause or with no cause whatsoever), and reducing the period of prior warning and the compensation to be paid upon termination of the employment relationship. Provision was made for special labour-recruitment regimes in small companies.³⁴

It should however be emphasized that not all the countries of the region moved towards greater flexibility. In Brazil and Paraguay, the constitutional reviews of the late 1980s and early 1990s introduced extensive and substantial social protection guarantees. This guarantees-based approach was in line with the need to obtain the legitimacy and political consensus needed to consolidate democratic regimes of recent date.³⁵

Chile is a case apart. The introduction of measures intended to stabilize the macro-economic variables, open markets to international competition, privatize State enterprises and reduce the public administration and social spending date back to an earlier period, coinciding with the advent of General Pinochet's dictatorship. These economic reforms went hand-in-hand with significant changes in collective and individual labour relations.³⁶ After the establishment of the first democratic Government, in 1990, some important measures were adopted to ensure greater social equity and higher levels of worker protection, particularly for blue collar workers. Nonetheless, the reforms introduced and consolidated in the new Labour Code of 1994 failed to restore the levels of social guarantees and protection that had existed prior to the establishment of Pinochet's military regime.

Economic and labour reforms have had a marked influence on labour demand requirements and on the composition of employment in the region. The two main changes that occurred in the 1990s relate to an increase in the extent of informal employment, as a proportion of total employment, and the displacement of employment from industrial/manufactory sectors to the service sectors.

³¹ A.S. Bronstein, op.cit.

³² Ibidem.

³³ Adriana Marshall, "Employment in Argentina, 1991-1997; New models of behaviour since economic liberalization", ILO, no. 79, 1998, Chile.

³⁴ A.S. Bronstein, op.cit

³⁵ Ibidem.

³⁶ Ibidem.

According to the ILO,³⁷ out of every 100 new jobs generated between 1990 and 1996, only 15 corresponded to the formal economy, particularly private enterprises, while the remaining 85 were in the non-structured or informal economy. Chile and Colombia were the only two exceptions to the overall increase in the share of informal employment in total employment.³⁸

The low labour absorption capacity of the formal economy is due to: (i) the declining role of the public sector in job creation, as a result of the privatization and restructuring of State enterprises; (ii) the modernization and productivity increases in companies and branches which, in response to pressures deriving from international competition, introduced labour-saving technological innovations; and (iii) the closing down of companies which could not compete, together with moderate rates of economic growth.

The countries with the most pronounced decline in the participation of the public sector in total employment were Argentina (six points per hundred), Brazil (seven points), Paraguay (seven points).³⁹ Conversely, Chile experienced an increase in public sector employment. The low level of economic activity, combined with an increase in the EAP, particularly female EAP, which surpassed the rate of employment growth, explains the high average rate of open unemployment in the region (almost eight per cent). The level of this rate differs, however, considerably between countries. Argentina⁴⁰, Peru and Chile, for example, on average showed the highest rates of unemployment over the period, standing at 12.03 per cent, 8.4 per cent and 6.7 per cent respectively.

The proportion of informal occupations in total employment in the region reached 48 per cent in 1998, although significant variations exist between countries. In Peru, for instance, this percentage was 53.7 compared to 37.5 in Chile.⁴¹ The self-employed constitute the majority of informal workers (51.7 per cent), followed by workers engaged in micro enterprises and domestic workers.⁴²

Generally speaking, the quality of employment has deteriorated considerably in the region over the last decade.⁴³ This is due not only to the growth of informal work, but also to the expansion of tertiary activities. Of every 10 jobs created between 1990 and 1998, only 3 jobs, and all in the formal economy, qualified as "good".⁴⁴ Furthermore, of every 10 jobs generated between 1990 and 1996, 9

³⁷ ILO, 1997, OIT Informa. Panorama Laboral '97, núm. 4 (Lima, ILO).

³⁸ Ibidem.

³⁹ Ibidem

⁴⁰ The unemployment level in Argentina increased consistently from 1993, to reach 17 per cent in 1997, representing an increase of almost ten points over the 1990 figure.

⁴¹ ILO 1999, OIT Informa, Panorama Laboral '99, núm 6, (Lima, ILO).

⁴² Ibidem.

⁴³ Gerry Rodgers and Gerhard Reinecke: "The quality of work: prospects and examples from Chile and Brazil" in *Restructure, integration and labour market. Growth and quality of employment in open economies*. Chapter V, ILO, 1998.

⁴⁴ ILO 1999, OIT Informa, Panorama Laboral '99, op.cit..

were in the services sector, and, of these, 90 per cent were concentrated in the informal economy.⁴⁵ Formal enterprises also played a part in undermining the quality of work.⁴⁶

The expansion of informal occupations and the marked shift of employment from industry to the tertiary sector have significant gender dimensions. Women are over-represented in the informal economy. About 52 per cent of women's jobs are concentrated in the informal economy compared to 45 per cent of men's⁴⁷. Besides, women tend to be confined to the segments displaying the lowest productivity rates, lowest wages and highest instability (domestic service, family labour and wage work in micro-enterprises). Furthermore, in 1998, about 85 per cent of women's employment was in the tertiary sector and mainly in low-productive activities, including personal and community services and commerce. About 97 per cent of women's new jobs created between 1990 and 1998 belonged to the service sector, compared to 75 per cent of men's.⁴⁸

It may be concluded, therefore, that the introduction of flexibility measures, in the area of individual and collective labour relations, led to a significant increase in the participation of temporary workers in total private paid work, but did not achieve the desired impact in terms of generating new jobs, and nor were they able to reduce "black" or informal work. To what extent have these changes affected the size, trends and characteristics of home work?

2.2 Size and characteristics of home work

A number of authors have emphasized the invisible nature of home work.⁴⁹ National statistics, such as regular surveys of the active population or of industrial establishments or the population census, habitually fail to include this form of employment. The countries under study, namely Argentina, Brazil, Chile, Paraguay and Peru, are no exception.

Indeed, in none of the five countries these surveys include explicit questions on home work. This is the case not only in Chile, which excludes home work from any register because it is not considered to be an employment relationship, but also occurs in countries such as Argentina, Peru and Paraguay which have special laws on the subject or whose legislation contains specific provisions regulating home work.

Existing employment surveys and other statistical instruments are unable to seize this form of work because of the absence, internationally,⁵⁰ of clear criteria on what it encompasses and the methodology to measure it. This explains the scanty and unreliable character of the information available in the region. An attempt was made to estimate roughly the number of homeworkers in the

⁴⁵ ILO 1999, OIT Informa, Panorama Laboral '99, op.cit.

⁴⁶ In Argentina, for example, some 85 per cent of new jobs created in the sector, following the introduction of new modalities of hiring, have fixed-term contracts. In Peru, 13 per cent of employees in the private modern sector do not have a written employment contract; this figure stands at 18 per cent in Brazil. ILO, 1997, OIT Informa, Panorama Laboral, '97, op.cit.

⁴⁷ ILO, 1999, OIT Informa, Panorama Laboral '99, op.cit.

⁴⁸ Ibidem.

⁴⁹ ILO, Home work, Report V (1), International Labour Conference, 82nd Session, 1995, Geneva.

⁵⁰ No international statistical directive exists on home work.

five countries reviewed. To this end, data on the number of self-employed workers labouring at home were drawn from a range of instruments that identify home as a possible work site.⁵¹ This information was complemented with data obtained through case studies and in-depth interviews with key informants, as well as homeworkers, employers and representatives of the Ministry of Labour. The case studies and interviews sought, *inter alia*, to corroborate the existence of home work in “non-traditional” sectors and branches of activity, and identify its characteristics. Only in Chile, through the initiative of the Ministry of Labour and of the National Statistics Institute (INE), were precise data obtained, country-wide, on the number of homeworkers, the type of activities in which they engage, as well as their personal characteristics including age, sex and level of schooling⁵² (Box 1).

⁵¹ In Brazil, the independent non-agricultural population working at home was considered. Since 1990, in fact, the National Survey by Home Samples (PNAD) contains a question regarding the place of work which includes the workers' home as an option. In Peru, databases which comprise the latter question include: the National Population and Housing Census, the National Survey on Standards of Living (ENV), the Annual Household Surveys of the Ministry of Labour and Social security (MTPS), and the Survey on small enterprises in Lima carried out, in 1989, by the Central Reserve Bank of Peru.

⁵² Labour Directorate, *op.cit.*

In 1997, the Labour Directorate of the Chilean Ministry of Labour, in cooperation with the National Statistics Institute (INE), developed and employed a module, on an experimental basis, intended to ascertain the magnitude and other characteristics of home work in Chile. One of the central concerns was to reduce the possibility of this form of employment being under-recorded. The likelihood of omission exists given the methodological difficulties in seizing "atypical" forms of work, in general, and home work, in particular.

On the basis of the definition of home work contained in ILO Convention No. 177, the features of this type of work were specified. These are:

- ◆ that the work is carried out for a third person;
- ◆ that the worker has no decision-making power regarding the technical execution of the work, although he/she may enjoy flexibility regarding working hours and the sequence of operations;
- ◆ that the value of the work is fixed by those who give it out, and that the product of the work is not sold by the worker; and
- ◆ that the work is carried out in the worker's home at some time during the 12 months prior to the survey.

Similarly, it was decided that the homemaker category should not be confined to persons declaring home work to be their main occupation, but should also cover situations in which this modality of work exists as a secondary activity.

The possibility of conducting a special survey on homeworking was ruled out and the decision was taken to add a module, called the Supplementary Home Work Survey, to the National Employment Survey (ENE). The module was used in the survey carried out during July, August and September 1997, involving a sample of 34,000 homes in all regions of the country. The Supplementary Survey included nine questions reflecting the criteria adopted in defining home work. It was decided that the period of reference should be the 12 months prior to the survey, although a question was also asked as to whether the work declared had been undertaken during the previous week. To prevent overlaps, the Supplementary Survey questions were dovetailed with those of the ENE.

The questionnaire was altered on the basis of the results of informal and official trials carried out with "private" and INE interviewers. Before and after the pilot survey, careful attention was given to training all interviewers in all regions.

The Supplementary Survey identified three categories of homeworkers:

- ◆ primary homeworkers, who carry out this form of work exclusively and full-time and who are classified by the ENE as being employed;
- ◆ secondary homeworkers, who engage in two work modalities but whose main activity is not home work and who are considered to be employed by the ENE; and
- ◆ occasional homeworkers who carry out or have carried out home work during the last 12 months and who are classified as unemployed or inactive by the ENE.

Source: Labour Directorate, Studies Department, National Statistics Institute: *Home work in Chile, an enduring and new phenomenon: results of a national measurement* (ILO, 2000 forthcoming).

It is clear that the data presented in this report provide very approximate estimates of the real magnitude of home work in the region and are unsuitable for any meaningful comparison. It is, thus, not possible to draw any conclusions as to whether this form of employment has increased or decreased over the last decade. There is a pressing need for further studies and for a greater uniformity of criteria and methodology for carrying them out.

Despite these limitations, the results obtained are of considerable interest since they highlight previously unknown aspects and characteristics of home work which alter conventional views of this modality of work and raise new questions.

Size of homework and geographical and sectoral distribution

In Chile, home work absorbed 1.5 per cent of the total employed population, in 1997.⁵³ In Peru⁵⁴, it accounted for 17.26 per cent of industrial employment, or 2 per cent of total employment, in 1993. In Brazil, 3.3 million urban workers, e.g. 6.47 per cent of the urban employed population, worked at home, in 1995. In Paraguay, the 1997 National Industrial Census issued preliminary data to the effect that 1,761 homeworkers carried out work for 8.7 per cent of the 2,980 industrial enterprises with seven employees or more covered by the census. In Argentina, in 1980, homeworkers, considered to be the employed who did not travel to a place of work, accounted for some 9 per cent of industrial labour in the three most industrialized and largest urban areas in the country.

Home work is shown to be an eminently urban phenomenon (84.3 per cent of home workers in Peru, and 96.4 per cent, in Chile). The same occurs in Paraguay,⁵⁵ although studies on rural labour point to the growing reliance of peasant farmers on wage employment and the emergence of new occupations, including homeworking, as a result of the fragmentation of peasant land holdings. In Brazil, the majority of non-agricultural workers who carry out their activity in their homes are concentrated in the South (12.6 per cent) and South-east (44.2 per cent) of the country, the two regions accounting for 72.4 per cent of the total non-agricultural EAPs.

⁵³It should however be clarified that of the 79,740 homeworkers, some 22 per cent had been classified as unemployed by the ENE and another 3.7 per cent as inactive. In other words, only 45,032 workers who had been classified previously as employed had been working in the home. This disparity between the Supplementary Survey and the ENE estimates is to be attributed to the different periods of reference used, namely one week for the ENE and 12 months for the Supplementary Survey. However, since only 6,840 of the 20,468 workers who declared to be employed or inactive had worked during the week prior to the survey, it may plausibly be concluded that the workers in question constitute not so much an indication of the extent of concealed home work as an indicator of the unstable nature of such work. Labour Directorate, op.cit.

⁵⁴The 1993 Census identifies 210,700 independent workers engaged in industry. Of these, 39 per cent, that is 82,300 workers, carried out their activity in the home, 25 per cent did not make use of the home for economic purposes and the remaining 36 per cent did not specify whether they used a space in their homes for such purposes. According to Verdera, the author of the study on home work in Peru, the large number of workers in the latter category (75,900 in all) suggests that the real number of workers carrying out their activity in the home was greater than declared. The inability to answer that question might indicate that interviewees may indeed use some space in the home for economic purposes but only on a temporary or non-exclusive basis. Verdera, therefore, applies the same proportion for those using their homes and those who did not do so, for those who failed to specify, giving a figure of 128,600 workers.

⁵⁵The 1993 census in Peru revealed that 78.6 per cent and 58.5 per cent, respectively, of one-person companies and production units of between two and four workers were located in the home, and the majority of units operated by a single worker (52 per cent) was concentrated in the garment industry.

Table 1: Incidence of home work in Peru, Brazil, and Chile

Country	Year	Homeworkers	Incidence home work in sectoral EAPs (percentage)			Incidence home work in total EAPs (percentage)		
			Total	Men	Women	Total	Men	Women
Peru	1993	128700	17.3	11.2	6.1	2	1.8	2.3
Brazil	1995	2700000	5.2	1.1	4.1	3.9	1.4	7.6
Chile	1997	79740	1.7	0.3	1.4	1.5	0.4	3.8

Source: Chile: Supplementary Home Workers Survey. Labour Directorate -INE, 1997.
ILO, Annual Labour Statistics, 1998.
Peru: INEI. Nacional Censuses 1993. IX population and IV housing.
Brazil: PNAD. Households Survey 1995.

* Peru: Industrial EAP working at home
Brazil: Non-agricultural EAP working at home (between 25 and 75 years)
Chile: Homeworkers

As per its sectoral distribution, homework prevails in the services sector in all countries reviewed, except for Peru, for which only industry-related data were gathered. In Brazil, for example, 63.5 per cent of the total were in the tertiary sector, whereas in Chile this proportion reached 51 per cent of the total. This is an interesting and novel factor since, traditionally, home work has been associated with the production of goods.

Personal and repair services, and, to a lesser extent, the promotion or sale of goods or services (insurance, credit cards, courses, travel, etc.), absorb the majority of homeworkers. Women constitute the large majority of the workers engaged in low-productive and low-paid service activities, whilst men tend to prevail in financial and technical services and retail trade. Men's participation in industrial homeworking is much more significant than women's, with the sole exception for the garment industry. In Peru, the majority (57 per cent) of industrial homeworkers are concentrated in the "textiles and garment manufacture", which also captures the majority of women engaged in home-working. Likewise, a positive correlation exists between the size of industrial establishment, the fact that they are located in the home, and branch of activity.⁵⁶ This suggests that many of the production units which classify themselves as micro enterprises, in fact, conceal situations of employment dependence.

Studies offer different results regarding the correlation between periods of recession and growth of the economy and the performance of homeworking. In Peru, the latter seems to rise at times of economic stagnation or crisis and to decline in periods of economic expansion. In Argentina, according to the information of the Ministry of Labour, which keeps a record of homeworkers and their

⁵⁶The 1993 census in Peru revealed that 78.6 per cent and 58.5 per cent, respectively, of one-person companies and production units of between two and four workers were located in the home, and the majority of units operated by a single worker (52 per cent) was concentrated in the garment industry.

employers, homework grows when the aggregate demand expands and shrinks during periods of economic recession. But evidence seems to indicate that the number of registrations is linked to the effectiveness of labour inspection activities rather than the performance of aggregate demand.⁵⁷

In Brazil, personal and repair services, in which jobs are generally of a lower quality, grew more rapidly during the period of recession, while services activities with high levels of productivity and pay registered a more marked growth during the period of economic expansion.⁵⁸

2.3 Profile of homeworkers

2.3.1 Age, gender and marital status

Most studies reveal that the majority of homeworkers are concentrated in the 25 to 45 year age bracket. These are, for the most part, workers who are in the reproductive phase and of an age that, in contrast to young people or the elderly, is not particularly vulnerable in terms of access to or expulsion from the labour market. However, in Paraguay, the average age is lower, between 30 and 37 years for male heads of households and wives, and between 17 and 22 years for sons and women. This might suggest that, in the case of Paraguay, home work serves as a form of initiation in the labour market.⁵⁹

It should also be noted that, in Brazil, the proportion of independent workers of 56 years or over who work in their homes is almost double that for the total non-agricultural EAP (15.5 per cent as compared to 8.4 per cent).⁶⁰ In Chile, 10.7 per cent of skilled homeworkers are 55 years or over. Likewise, attention should be drawn to the fact that they have only fairly recently taken up this type of work.

In general, women homeworkers tend to be younger than their male counterparts. A possible reason for this is that men engage in this form of work after prior employment experience, generally as salaried employees and, frequently, because of lack of other job opportunities. Meanwhile, for women, home work frequently represents the principal means of entering or remaining in the labour market. On occasion, home work is "passed down" from mothers or other family members. It would appear, particularly for activities which do not require specific skills or knowledge, that personal contacts and family relationships are essential requirements for obtaining home work.⁶¹

In other cases, home work allows women who have been obliged to leave a salaried job, as a result of modernization or restructuring of the company⁶², or to assume family obligations,⁶³ to continue to

⁵⁷Elizabeth Jelin et al., op.cit.

⁵⁸Edward J. Amadeo and Valeria Pero, "Adjustment, Stabilization and the Structure of Employment in Brazil", op.cit.

⁵⁹María Victoria Heikel, op.cit.

⁶⁰Lena Lavinas et al., op.cit.

⁶¹Labour Directorate, op.cit.

⁶²María Victoria Heikel, op.cit.

⁶³Elizabeth Jelin et al., op.cit.

contribute to the family budget without neglecting their domestic and family responsibilities. This is consistent with the marital status of most women homeworkers who generally have a husband or partner and are not the head of the household. A social survey of workers in the garment and leather and footwear industry in Greater Buenos Aires⁶⁴ (which included both workers in factories and workshops and homeworkers) which analysed the position of these workers in the home, by occupational category, revealed that while most adult female homeworkers were spouses, the majority of factory or workshop workers in comparable occupations were single men/sons.

The proportion of male homeworkers who have a wife or partner is higher than among women, but the majority are head of household. In Brazil, for instance, 86.6 per cent of male homeworkers are head of household, as compared to 23.8 per cent of women. Nonetheless, over 60 per cent of the independent EAP working at home occupy a secondary position in the family, either as spouses (54.7 per cent) or offspring (6.1 per cent).

Some literature on this subject dwells on the participation of child or adolescent labour and of family members in this modality of work. This may be true in particular for "traditional" and industrial activities in general which are more time- and labour-intensive. The use of family assistance, particularly offspring, in activities relating to garment manufacture has been identified as one of the factors which explain why women earn more than men per hour worked.⁶⁵ In Brazil, the case study of a company specializing in the manufacture of electrical and electronic power gauges confirms that women homeworkers receive assistance during periods of peak demand. It would appear that members of the household do not participate in services activities, on account of the sporadic nature of such work and the more limited time requirement.

Research confirms the prevalence of women engaging in home work, which bears out the fact that it should be analysed and dealt with it in the context of female employment. In the case of Chile and Brazil, female homeworkers far outnumber their male counterparts. In Chile, 82 per cent of those classified as homeworkers are women, corresponding to 3.8 per cent of employed women at the time of the survey,⁶⁶ while in Brazil they account for 78.5 per cent of independent workers who work at home.

In Peru, the household surveys of 1986 to 1995 reveal that the number of independent female workers engaged in an industrial activity who work at home exceeds that of men in the same category, with the exception of the years 1992 and 1994.⁶⁷ In Argentina, the distribution of homeworkers by sex appears to be more balanced, while the scant information available for Paraguay appears to indicate the opposite. One point that is clear is that there is a clear prevalence of either men or women in particular categories of activity.

⁶⁴Survey carried out by Adriana Marshall and mentioned in Elizabeth Jelin et al., *op.cit.*

⁶⁵María Victoria Heikel, *op.cit.*

⁶⁶Labour Directorate, *op.cit.*

⁶⁷Francisco Verdera, *op.cit.*

In fact, in all the countries examined, major variations are to be observed in occupational structure according to gender. In countries such as Brazil and Chile where home work is most extensive in the services sector, women are the majority. In Brazil, for example, some 70 per cent of women engage in services activities, as compared to 50 per cent of men. In Chile, these figures stand at 58 per cent for women and 18.8 per cent for men.

Another difference between men and women is that the latter are generally concentrated in a more limited range of activities which are less skilled and with lower levels of productivity and earnings. In Brazil, for example, the majority of women (59.7 per cent) engage in personal and repair services, as compared to 24.9 per cent of men. In 1995, the productivity of homeworkers devoted to such services, who did not pay contributions to social security, was lower than for all other homeworkers in industry and in the services sector who did not pay social security contributions.⁶⁸ Conversely, the homeworkers with the highest earnings were those providing technical and auxiliary services, while the productivity of workers providing financial services was four times that of those providing personal services.⁶⁹ The percentage of the male non-agricultural EAP working at home and carrying out services activities which offer higher quality jobs was notably higher than the female EAP.

In regard to industrial activities, all studies coincide in revealing that the presence of male labour far exceeds female labour, with the exception of the garment industry⁷⁰. In Brazil, for instance, 13.8 percent and 3.9 per cent respectively of male homeworkers are concentrated in the traditional processing industry and in more advanced industry, as compared to 12.4 per cent and 0.5 per cent of women. In Chile, the percentage of male homeworkers engaging in the production of goods stood, in 1997, at 72.1 per cent. Some manufacturing activities reveal an obvious predominance of men, such as assembly of leather, wood and metal articles. Studies in Peru and Paraguay also confirm a larger number of men in carpentry, metalworking and footwear.⁷¹

The inter-linkages between ethnic origin, home work and gender is another important aspect that should be analysed. It would be plausible to suggest that a positive correlation exists between these three variables, particularly as regards those sectors of activity requiring minimal or no skills. In Peru, the 1986 to 1996 households surveys confirm a predominance of migrants among independent workers engaging in industrial activities (ranging between 55.3 per cent and 62.9 per cent).⁷² Meanwhile, in Brazil, 58.3 per cent of the independent EAP engaging in home work are white, as compared to 41.7 per cent non-white. But if this distribution of EAP is compared by race and gender, it becomes clear that the proportion of white and non-white women in this occupational category is very similar (79.2 per cent as against 77.6 per cent). In Paraguay, no correlation is apparent.

⁶⁸ Lena Lavinas et al., op.cit.

⁶⁹ Ibidem.

⁷⁰ Francisco Verdera, op.cit. and Elizabeth Jelin et al., op.cit.

⁷¹ Ibidem.

⁷² Ibidem.

2.3.2 Education and skills

Home work has traditionally been associated with low levels of formal education and occupational skills. Some studies confirm this view while others, as in Chile, qualified this finding by indicating that the composition of homeworkers, by level of schooling, is very similar to the average for the remainder employed population. Another novel aspect lies, in some countries, in the higher level of schooling of women homeworkers in comparison to their male counterparts.

In Chile, the educational profile of homeworkers is similar to the total employed population (between 9 and 12 years of schooling), with the exception of intermediate schooling which absorbs a higher proportion of homeworkers than of the rest of the occupied workers. However, it should be noted that educational levels vary in accordance with the importance of home work as an employment relationship for the worker. Thus, primary and secondary homeworkers have a higher level of education than the occasional homeworkers. Another interesting aspect is that women have more years of schooling than men (64.7 per cent of women homeworkers in Chile have over nine years of schooling as compared to 62.5 per cent of men).

In-depth interviews carried out in Argentina reveal, moreover, that when home work is a secondary occupation and relates to the promotion or sale of goods and services, the educational profile may vary enormously (from primary schooling to university education).⁷³

In contrast, in Brazil, the educational profile of independent workers working at home is lower than that of the remainder of the employed population. Indeed, while in 1995 over half of the total employed population had not completed primary schooling, this proportion stood at almost 70 per cent for the independent EAP working at home. Moreover, only 16.7 per cent of that EAP had completed 12 or more years of schooling, as compared to 30.4 per cent of the remainder of the employed population. In regard to schooling of homeworkers by gender, the proportion of women was higher than that of men in each educational bracket, except in the most highly educated bracket (14.3 per cent of women as compared to 25.5 per cent of men). This is consistent with the higher concentration of men in services and technical activities characterized by higher levels of productivity.

In Peru, according to the household surveys of 1986 to 1995, the educational level of homeworkers is higher than for the remainder of the employed population, having begun but not completed secondary education and, from 1989, with an increasing number of years of schooling.⁷⁴ However, the lowest educational level is found among garment industry workers who, as stated previously, are usually women.⁷⁵ In Paraguay, the large majority of the homeworkers studied have completed primary schooling.⁷⁶

⁷³ Elizabeth Jelin et al., *op.cit.*

⁷⁴ Francisco Verdera, *op.cit.*

⁷⁵ *Ibidem.*

⁷⁶ María Victoria Heikel, *op.cit.*

The information revealed by studies in connection with specific skills in the activities carried out by homeworkers vary. In the "traditional" categories of activity, particularly those characterized by a higher concentration of women, skills are generally acquired "through experience", "learned from the family", or in a factory. In the specific case of persons with physical disabilities, training also appears to offer access to this form of work.⁷⁷

In industrial activities which require a higher level of skill and knowledge, such as footwear manufacture, some workers have received years of training through specialized courses.⁷⁸ In one of the case studies analysed in Brazil, the training offered to homeworkers in a technologically advanced industrial company is of a continuous nature and is carried out on company premises whenever modifications are introduced in the product or in production processes.⁷⁹

Continuous training, meanwhile, constitutes an important aspect of those categories of activity in which home work has emerged more recently, such as technical work, sales promotion of goods and services. On occasion, training is provided free of charge by the company; in others (more frequent) the corresponding costs are transferred to the worker, in the interest of keeping costs to a minimum.⁸⁰

In contrast to homeworkers in the more traditional activities, those in the tertiary sector for the most part advocate the importance of training to boost occupational status.⁸¹ This is certainly related to the greater technological input and technical skills required for certain services activities. Such considerations also occupy an important place in official policy which emphasizes the importance of occupational skills as protection against unemployment.⁸²

2.3.3 Prior employment experience and total duration of home work

It would appear, however, that the total duration of this form of work is for the most part limited, with the exception of those workers who carry out home work on a full-time basis. This might suggest that home work constitutes a temporary situation for a significant proportion of such workers.

Indeed, 66.4 per cent engaged in homeworking in 1995, while only four per cent were already employed in such work prior to 1979. Moreover, while the length of time devoted to home work tends to increase with age, nonetheless 60 per cent of workers between the age of 35 and 54 years have taken up such work within the last three years.

For instance, women in general, as well as individual age groups, have a much shorter history as homeworkers than men. Almost 70 per cent began to work in their homes from 1995, as compared to 50.5 per cent of men. Moreover, 25.2 per cent of men had become homeworkers before 1990, as

⁷⁷ Elizabeth Jelin et al., op.cit.

⁷⁸ María Victoria Heikel, op.cit.

⁷⁹ Lena Lavinas et al., op.cit.

⁸⁰ Elizabeth Jelin et al., op.cit.

⁸¹ Ibidem.

⁸² Ibidem.

compared to 10.9 per cent of women. In addition, the greater the importance of home work as occupational category, the longer the period devoted to it; in other words, home work is of a more markedly occasional and sporadic nature for those workers who have only recently become homeworkers.

Indeed, in the period 1986 to 1995, the independent industrial EAP working at home had only engaged in such work for between five and nine years.

Men appear to have greater prior experience as salaried employees than women. In Chile, for example, 51.3 per cent of men had worked as dependent employees, as compared to 32.5 per cent of women. This, to some extent, confirms the differing perceptions of men and women regarding the desirability of home work as a possible occupation.

While men had engaged, in declining order, in manufacturing/industrial activities, trade and services, women had engaged primarily in the provision of communal and personal services and, to a lesser extent, industry and commerce.

Particularly striking is the weak link between home work and prior experience as a wage-earner.⁸³ In other words, skills and knowledge acquired in previous occupations do not appear to be decisive in obtaining home work. As previously stated, the importance of prior work experience lies primarily in the fact that it provides a network of contacts and relationships that make it easier to find a new occupation.

This would also appear to be the case when home work constitutes a secondary activity. The Paraguayan study, for example, mentions the case of a woman who worked as a salaried cleaning lady for a publishing house which also gave her binding work to do at home, as a homeworker. Likewise, particularly in the garment manufacture sector, home work is frequently obtained through the mother or another family member who is already engaged in the occupation.

A further element corroborating the scant importance of prior work experience, particularly for certain activities, such as direct sales of cosmetics or household products or telemarketing, is the absence of any prerequisite such as enrolment on the register of independent workers, or age limits, or the presentation of employment references⁸⁴ In fact, in such activities, it is more important to have relationships and friendships within and outside the worker's home neighbourhood who constitute a portfolio of potential clients. These considerations are also important for independent professionals seeking premises to set up a surgery and who apply to housewives who have space in their homes. While the latter are paid for the rent of the space made available to the practitioner, in reality these "housewives" carry out a series of tasks such as promotional activities, taking appointments, etc., which take advantage of their network of contacts.⁸⁵

⁸³ Labour Directorate, *op.cit.*; Elizabeth Jelin et al., *op.cit.*; María Victoria Heikel, *op.cit.*

⁸⁴ Elizabeth Jelin et al., *op.cit.*

⁸⁵ *Ibidem.*

In Brazil, for example, the case was encountered of a company which produces and sells software to luxury hotels and multinationals which decided, as part of a strategy to reduce fixed costs, to decentralize activities to their workers' homes.⁸⁶ The latter, consequently, ceased to be dependent employees and became homeworkers.⁸⁷

2.3.4 Advantages and disadvantages of home work for the worker

It is generally accepted that the main attraction of home work lies in the fact that it permits domestic responsibilities, such as caring for the home, children or sick or elderly family members, to be undertaken in conjunction with income-earning activities.

This form of work is also attractive for individuals with physical disabilities for whom it may constitute the only means of access to the labour market.⁸⁸ Other advantages associated with this type of work relate to savings in terms of time, transport costs and clothing.⁸⁹ Another aspect that is highly valued, more so by men and particularly those engaging in highly productive and technology-intensive activities, is that the "quality of life" is enhanced. This is because autonomy in establishing the pace and intensity of work and the greater time available as a result of not having to commute to work, allows them to devote more attention to their children and their hobbies.⁹⁰

Although the majority of women homeworkers interviewed, and particularly those engaging in activities requiring minimum or no skills, recognized the advantage of being able to work and simultaneously attend to their household tasks, in a context in which child care services are scarce and excessively expensive, they nonetheless complained of the stress and isolation experienced in this form of work.

As previously noted, regardless of the branch of activity, the number of hours devoted to homeworking tends to be higher for men than for women. But women continue to bear primary responsibility for chores and family responsibilities. For this reason, many women workers opt to concentrate their working activities during the night hours, thereby reducing their sleeping time. Home work tends to remove the separation between working life and the personal sphere.

Home work also implies that other family members are deprived of space, which has serious disadvantages in terms of health and family life, particularly in situations of overcrowding. Most women workers seem to regret the lack of contact with the outside world. The work dynamic itself does not facilitate interaction with other workers and reduces contact with the work-givers or the intermediary merely to the delivery of inputs and of the product. It is hardly surprising, therefore, that a number of the women homeworkers interviewed stated that, once the age of their children ceased to constitute an obstacle to carrying out a job outside the home, their preference would be for salaried

⁸⁶ Lena Lavinas et al., op.cit.

⁸⁷ Ibidem.

⁸⁸ Elizabeth Jelin et al., op.cit.

⁸⁹ Lena Lavinas et al., op.cit.

⁹⁰ Ibidem

employment that allows them to work outside the home and extend their network of contacts and relationships, even if they earn less.⁹¹

2.4 Home work: only "bad" jobs?

2.4.1 Subcontracting practices

Home work is an integral part of subcontracting network relationships at the international and/or national level between different economic agents (shops, intermediaries) and companies of different sizes and level of formalization, who endeavour to become more flexible and competitive by reducing business risk and fixed costs. The advantage of subcontracting lies in the possibility of enlarging a company or workshop's production capacity without having to invest in human resources and fixed assets.⁹² In effect, risks and costs are transferred from one link to another of the chain of these inter-firm relationships and between the latter and other economic agents.

These sub-contracting chains may provide for a direct relationship between the company and the homeworker, or workshop owners or intermediaries may be interposed. The latter are generally essential in the case of products which are manufactured in a highly fragmented manner and require specialized inputs. Intermediaries guarantee the production of a range of elements, quality control and assembly to produce the final product, in circumstances that entail least cost and risk for the company. The presence of intermediaries also satisfies the rationale of removing a direct link between the worker and the company with a view to diluting or eliminating any obligation or social responsibility on the part of the company.

The number of stakeholders and the "invisibility" and/or concealed nature of the company-worker relationship accounts for the "blindness" apparent in a number of studies of the informal urban sector, which fail to observe that some "micro entrepreneurs" - independent workers who work in their homes and produce and sell their products to a few large clients - are in fact homeworkers.⁹³ Indeed, the providers of the main inputs and the "clients" of these micro enterprises are frequently one and the same. Moreover, credit is frequently obtained from these clients in the form of advance payment.⁹⁴

The varying nature of subcontracting practices and chains explains the heterogeneous nature of homeworkers' employers or work-givers. Homeworkers may receive work from retailers, intermediaries, workshops, factories and large stores.⁹⁵ The nature, duration, terms and conditions of the relationship between a homeworker and his employer or work-giver depend on the characteristics of the latter and the reasons for which he opts for this type of work.

⁹¹ Elizabeth Jelin et al., op.cit.

⁹² Romeo Grompone, "Talleristas y vendedores ambulantes en Lima", DESCO, Lima, 1985, quoted in Francisco Verdera, op.cit.

⁹³ Francisco Verdera, op.cit.

⁹⁴ García Núñez, Gonzalo, Rodolfo Falconi and Daniel Peñaflor, "Circuitos productivos. La pequeña producción de Villa El Salvador", Lima, IPIA, F.F. Ebert, 1989, quoted in Francisco Verdera, op.cit.

⁹⁵ Romeo Grompone, op.cit.

As stated previously, in Latin America, sub-contracting by micro-enterprises and homeworkers in the footwear, textiles and garment industries is part of a “defensive” strategy in response to Asian competition.⁹⁶ It is interesting to note that the practice of sub-contracting small enterprises and even clandestine workshops, which in their turn use undeclared homeworkers, became more prevalent after the crisis and the opening up of the economy in the early 1990s to include the production of manufactures for export.⁹⁷ Formerly, this practice had been limited to the garment industry targeting the national market.⁹⁸

A correlation would appear to exist between the technical level of the production process and the number of homeworkers. In the case of a publishing company in Paraguay, the number and type of homeworkers fell as the company introduced better technologies and consolidated its client base. Whereas all the company’s core activities had originally been outsourced, this solution came ultimately to be confined to those activities that were not specific to its area of work (accounting). In contrast, a Brazilian company manufacturing electrical and electronic power gauges opted to introduce this modality of work after restructuring and modernization, in order to meet seasonal peaks in demand, and minimize corresponding extra-time labour costs.

Outsourcing practices are based on agreements between the employer and workers, with whom a prior employment relationship may or may not have existed. Such arrangements, which may occur when the company decides to change activity (from production to marketing) or modernize machinery or cut back staff, provide that the employer will purchase everything that is produced by workers in their own homes with the equipment they receive as part of their compensation for termination of the contract, or using company resources. This is, in effect, a way of minimizing social conflicts, given that the nature of the work relationship changes rather than being terminated; dismissal costs are reduced and qualified labour assured at a much lower cost. Where no prior employment relationship exists, the employer may facilitate the purchase of the equipment by advancing money and discounting it from pay or offering guarantees to obtain the necessary credit for that purpose.⁹⁹ In both cases, the employer’s “help” in purchasing machinery contributes to diluting the dependency relationship and discourages disputes in connection with rights guaranteed in the Labour Code.

2.4.2 Systems of remuneration

The five studies highlight the heterogeneity of the modes of payment for home work. Although payment on a piece-work basis is the most usual form of remuneration, cases also exist in which the worker receives a basic wage to which additional remuneration is added, in accordance with particular circumstances.

Remunerations are directly linked to the dexterity of the worker, his/her yield (volumes produced), the type of garment, and the type of employer. In Peru, the majority of garment workers

⁹⁶ ILO, Programme of Sectoral Activities, “Globalization of the footwear, textiles and garment industries”, op.cit.

⁹⁷ Ibidem.

⁹⁸ Ibidem.

⁹⁹ María Victoria Heikel, op.cit.

receive an hourly wage which was 45 per cent higher than the corresponding legal minimum wage, although 21 per cent received less than the minimum wage.¹⁰⁰ Nonetheless, this sum must also pay electricity bills, rent or use of premises, and maintenance of machinery. The price for sale to the public ranges between 2 and 40 times the sum paid per piece.

Cases also exist in the manufacturing sector in Brazil, nonetheless, in which homeworkers have a regular employment contract with the company that employs them, which guarantees the same treatment in terms of wage, social security, paid holidays, etc., as workers operating within the factory. The wage received is based on the average monthly volume which a worker can produce within the factory.¹⁰¹ An extra payment is made on top of this wage, during periods of peak demand, for the additional volume produced at the request of the company within the deadlines previously agreed with the homeworkers themselves. The additional items produced are paid under the independent work regime (*receipt for payment of an independent*) and in a different name to that of the homemaker. The latter uses occasional assistants, for the most part housewives or young family members, to meet demand. The payment for each additional piece is equivalent to the sum received by the worker in "normal conditions" plus 50 per cent of same. This arrangement allows the factory to fill clients' orders during peak periods without having to pay overtime rates. The introduction of this practice appears to have led to increases in productivity as a result of technological improvements whereby workers themselves can carry out quality control directly at home, through regular periods of practical training in the factory, and through their participation in defining innovations and changes in the production process.¹⁰² It should be noted that the women workers involved opted voluntarily to carry out their work at home.¹⁰³

Activities relating to promotion and/or direct or telephone sales of goods and services from home also tend to be paid on a piece-work basis, although in some cases it may take the form of a minimum wage with the addition of sales commissions.¹⁰⁴ Nonetheless, non payment or irregularities in payment appear to becoming common practice in the telemarketing sector. This is because it is difficult for the worker to ascertain whether or not the sale agreed upon by telephone ultimately takes place.¹⁰⁵ In addition, although the arrangement is normally that the employer pays the telephone bill, the worker generally settles it initially and may then find that he/she is not fully reimbursed, if at all.¹⁰⁶ The employment relationship appears to be brief and based on verbal agreements.

In this case, workers not only do not receive a minimum wage or any type of social coverage, but they are also required to incur expenses in purchasing the products that they sell, together with information and promotional material.¹⁰⁷

¹⁰⁰ Francisco Verdera, op.cit.

¹⁰¹ Lena Lavinas et al., op.cit.

¹⁰² Ibidem.

¹⁰³ Ibidem.

¹⁰⁴ Elizabeth Jelin et al., op.cit.

¹⁰⁵ Ibidem.

¹⁰⁶ Ibidem.

¹⁰⁷ Ibidem.

The sum and predictability of earnings appear to be much higher for service activities which are more technology-intensive and which require higher levels of skill and qualifications. In Brazil, a company producing software and which had six employees with university and post-university qualifications subsequently relocated its activities to the homes of its employees when it became a "virtual" company. It maintained regular employment contracts with four of them and established commercial relationships with the remainder.¹⁰⁸ The employer provided the employees with the necessary equipment to allow them to carry out their work at home and assumed costs relating to the installation and use of a new telephone line. The salaried employees not only receive paid holidays, Christmas bonus and the social protection accruing to workers *with official work papers*, but they also receive a base monthly wage (for 40 hours work per week) which is competitive on the local market, with the addition of a productivity bonus on the basis of the company profits. Productivity control entails particular challenges in the light of the intellectual nature of the work involved. However, criteria for measuring productivity have been negotiated between the employer and the employees. The two former employees with whom the company currently maintains a commercial-type relationship set up their own micro-enterprise a few weeks after the mother company decentralized its operations.

2.4.3 Access to social security and other benefits

The absence of social protection for homeworkers is very marked both in countries which have expressly made provision for social security coverage of homeworkers as in those where measures applicable to ordinary workers apply also to homeworkers.

If payment of social security contributions by urban workers who pursue their activity in the home is taken as a benchmark for the level of social security enjoyed by homeworkers, it may be seen that in Brazil, in 1995, only 13.2 per cent of the urban EAP working at home paid contributions, as compared to 65.9 per cent of the total EAP. Moreover, women were markedly more unprotected and vulnerable than men.¹⁰⁹

In Argentina, a number of case studies on conditions of work of homeworkers in the "traditional" garment and leather footwear industries reported similar information regarding non-compliance with legal provisions governing the recognition of such workers as salaried employees and in regard to corresponding pay and social benefits.¹¹⁰ The proportion of homeworkers who receive social benefits is markedly lower than that for salaried employees employed in factories and workshops.¹¹¹ The illegal and clandestine situation of employees working at home encourages such practices.¹¹²

¹⁰⁸ Lena Lavinas et al., op.cit.

¹⁰⁹ Ibidem.

¹¹⁰ Julio Cesar Neffa, "Conditions and environment of work for homeworkers in Argentina" (mimeo), 1987, Buenos Aires, ILO; Rosalía Cortés "Clandestine work in the garment industry. Precarious employment in Argentina", Lima, CIAT-ILO, Ministry of Labour and Social Security: vol. 2, 1988, quoted in Elizabeth Jelin et al., op.cit.

¹¹¹ Ibidem.

¹¹² Ibidem.

On the other hand, the study carried out in Paraguay notes that some form of social security frequently derives for homeworkers from the insurance of other regularly-employed family members, or through other jobs that the worker himself/herself can combine with home work.¹¹³

Even when a work-giver seeks to evade his/her obligations in regard to pay and social benefits and requires that his/her homeworkers register as independent workers, the latter may fail to carry out this requirement. In Brazil, for example, where a homeworker is considered as a dependent worker and is entitled as such to his/her *signed card*, it is stated in a study by Abreu and Sorj¹¹⁴ that many companies in the garment industry turn the dependence relationship with homeworkers into a commercial transaction between independent producers. This would, however, appear to be a purely formal requirement which is not subject to any control by the employer, since the majority of these workers choose not to pay the necessary fee to register as independent workers.

The situation would not appear to be any different for workers engaging in services activities, such as telemarketing and direct sales. Frequently, not only is the relationship between the company and the worker not based on any written employment contract, but neither does it offer any social benefit or minimum wage, with payment being based on the volume of sales. In other cases, the prerequisite is imposed that the worker register as an independent worker. In this way, the worker himself/herself is responsible for paying contributions. Nonetheless, the irregular nature and low pay for such work means that many workers do not register or carry out black work.¹¹⁵

However, some more modern, legally-established companies pay homeworkers compensation, bonuses and holidays upon termination of the employment relationship, regardless of the fact that they have no contract¹¹⁶. Access to social security and other social benefits may be determined by the strength of the worker's bargaining position and his/her level of qualifications and work history.¹¹⁷ It would appear that this occurs in particular when home work is part of a company's strategy of modernization and innovation in work organization, involving the establishment of quality circles.¹¹⁸

2.4.4 Intensity of the working day

Home work has traditionally been associated with long working hours, particularly for women.¹¹⁹ The reasons why homeworkers work so intensively include the need to combine family and domestic

¹¹³ María Victoria Heikel, op.cit.

¹¹⁴ Abreu, Alice, R.P. and Sorj, Bila, "Relacoes entre trabalho a domicilio e redes de subcontratacao" (orgs.), *O Trabalho Invisível. Estudos sobre Trabalhadores a Domicilio no Brasil*, Rio de Janeiro, Rio Fundo Editora, citado en Lena Lavinas et al., op.cit.

¹¹⁵ Elizabeth Jelin et al., op.cit.

¹¹⁶ Ibidem.

¹¹⁷ Lena Lavinas et al., op.cit.

¹¹⁸ Ibidem.

¹¹⁹ Gerry Rodgers and Janine Rodgers, "Precarious Jobs in Labour Market Regulation, the Growth of Atypical Work in Western Europe", ILS, 1989, Geneva. Home work, Report V(1), International Labour Conference, 82nd Session, 1995, ILO, Geneva.

tasks with gainful work carried out at home, the pressure to meet deadlines, particularly during periods of peak demand, and the pressing need to ensure sufficient earnings.¹²⁰

The studies carried out offer a somewhat different view. Not only are working days relatively short (under 30 hours per week), but women tend to work shorter hours than men. In Chile, for example, 68 per cent of total homeworkers work under 30 hours per week, and 85.9 per cent work under 48 hours per week.¹²¹ Nonetheless, if these figures are broken down by sex, it may be noted that 73.3 per cent of women work under 30 hours per week as compared to 43.9 per cent of men. Similarly, the percentage of men working 49 hours or more per week is over triple the percentage of women (21 per cent against 6.5 per cent).

As stated earlier, however, women tend to end up having much longer working days than men, as, in addition to their gainful activities, they are the main if not the sole responsible for domestic chores and family caring. The difference in the number of hours worked is closely linked with the kind of activity in question. Manufacturing activities, such as garment manufacture, production of leather goods and footwear, are time-intensive and absorb the majority of male homeworkers. This explains why more men than women use assistants, particularly members of the household, to carry out their tasks. Services activities, where women predominate, are typically of a more irregular nature and less time-intensive.¹²²

Information obtained through the 1986 to 1995 households surveys in Peru bears out that the working hours of homeworkers are relatively short, although the surveys covered only industrial workers carrying out their activity at home. The average hours worked ranges between a minimum of 33 and a maximum of 41 hours.¹²³ In Paraguay also, the majority of homeworkers devote 40 hours or less per week to carrying out such tasks, with homeworkers who are wives or partners working an average of 32 hours.¹²⁴

2.4.5 Employment stability and prospects

It is customary for homeworkers to carry out work for a number of employers simultaneously or during the course of their working lives. This is true both of workers who combine home work with other work modalities, and of those who are engaged in home working on a full-time and exclusive basis.

It should be emphasized that, in Paraguay, workers combining different occupational categories are concentrated near the capital, and this practice becomes less common in the provinces. This

¹²⁰ Gerry Rodgers and Janine Rodgers, "Precarious Jobs in Labour Market Regulation, the Growth of Atypical Work in Western Europe", ILS, 1989, Geneva. Home work, Report V(1), International Labour Conference, 82nd Session, 1995, ILO, Geneva.

¹²¹ This is the normal working week in Chile.

¹²² Labour Directorate, op.cit.

¹²³ Francisco Verdera, op.cit.

¹²⁴ María Victoria Heikel, op.cit.

indicates that there are less job opportunities outside the capital, since the propensity to engage in a single occupation is true also of those who work part-time.

In both cases, homeworkers take work from a number of different employers or work-givers with a view to minimizing risks and ensuring stable earnings. In Peru, a study reveals that 44 per cent of the garment makers interviewed had worked for an average of three different work-givers during the course of their production activities.¹²⁵ A positive correlation also exists between the number of employers and the frequency with which workers receive family assistance.¹²⁶

The relationship between employers/work-givers and homeworkers may also be of a lasting nature, albeit less frequently, although subject to variations in demand for the product and other work commitments of the workers themselves. Such situations appear to occur, primarily, in regard to specialized workers in specific categories.¹²⁷

The fact that employment relations are of an unstable and fragile nature, in addition to being highly informal, becomes an obstacle in claiming statutory rights. Information regarding labour demand requirements is obtained primarily through a system of personal and direct contacts in a specific geographic area and/or by recommendation, although newspaper advertisements may also fulfil this function.¹²⁸ A number of the homeworkers interviewed emphasized that mutual trust was an essential aspect of relations with the employer, since agreements are generally verbal.¹²⁹

Home work may also become a means of achieving upward occupational mobility; workers engaging in such activity may subsequently become micro entrepreneurs or self-employed. This is true of many of the family footwear-producing workshops in the area of the city of Trujillo, Peru. The individuals in question began as salaried homeworkers of two local footwear factories who provided them with the technical and organizational skills which enabled them to become small informal producers. In time, they began to produce products of higher quality and at lower prices. As a result, the factories in question were obliged to close down.¹³⁰ The software company in Brazil that has been mentioned previously also highlights the potential of home work for generating better work opportunities. In both cases, prior skills and qualifications proved to be a decisive factor in facilitating improved job chances.

¹²⁵ Francisco Verdera, *op.cit.*

¹²⁶ María Victoria Heikel, *op.cit.*

¹²⁷ *Ibidem.*

¹²⁸ María Victoria Heikel, *op.cit.*; Elizabeth Jelin et al., *op.cit.*

¹²⁹ María Victoria Heikel, *op.cit.*; Elizabeth Jelin et al., *op.cit.*; and Lena Lavinas et al., *op.cit.*

¹³⁰ José Távara, "Cooperando para competir. Redes de producción en la pequeña industria peruana", Lima, DESCO, 1994.

3. Home work in law and in practice: reality and challenges

3.1 The legal framework: outline

Two trends seem to emerge in regard to the legal protection of homeworkers in the countries under study. The first relates to the existence of special laws for homeworkers (Argentina) or the inclusion, in Labour Codes and labour legislation (Paraguay and Peru), of provisions regulating this form of work to some extent. The second trend extends general labour legislation to homeworkers on the basis that their employment relationship is considered as an employment contract (Brazil). The fact of including this category of workers within the general scope of legislation gives rise to a legal vacuum which, as we will see subsequently, may be remedied in part by court rulings.¹³¹

Chile is a case apart. The homeworker is considered to be part of a commercial relationship and, as a result, to be subject to the provisions of the Civil Code. However, the 1993 reforms of the Labour Code permit this relationship to be classified as an employment contract, whenever particular conditions are met.¹³²

While it is specified, in Peru and Argentina, that the product must be manufactured or the service provided in compliance with the employer's specifications, the law in Peru omits this detail, thereby exacerbating the difficulty of distinguishing between the dependent and the independent worker.

Argentinian legislation also provides for the possibility that the home of the "workshop owner" may serve as a place of work. The workshop owner is one of the figures in the labour relationship, together with the homeworker and the employer. The originality of the situation, which also gives rise to ambiguities and contradictions, is that the workshop owner may be considered either as a homeworker or as an employer, depending on whether it is his/her relationship with the employer or with the homeworker that is in question. Nonetheless, this dual situation excludes the possibility of the workshop owner to operate on an autonomous basis or place his/her products directly on the market. The intention is to prevent employer fraud by turning home work into independent work. Nonetheless, in practice, the figure of the workshop owner generates many ambiguities, particularly in regard to normative provisions to be applied to homeworkers *strictu sensu*.¹³³

Overall, restrictions are imposed regarding the use of assistants by homeworkers. In Paraguay, for instance, the concept of the "family workshop" is introduced and is defined as being composed of the head of the family and his wife and family members residing in the same house. This means that anybody working at home for third parties and who, for that purpose, employs a non-relative is not covered by the provisions relating to home work. In Argentina, the homeworker *strictu sensu* may hire a maximum of one additional worker (assistant or apprentice), while the workshop owner is not subject

¹³¹ María Luz Vega Ruiz, "Homework: a comparative analysis of legislation and practice", doc. no. 10, ILO, Geneva 1995.

¹³² In order to be able to say that home work may be assumed to exist, it must be proved that a relationship of subordination exists. Circumstances regarding supervision or instructions/directions by the person hiring the worker's services may serve this purpose. Martha Márquez Garmendía, "Labour legislation in regard to women in countries of MERCOSUR and Chile: a comparative study". Working documents 182 (Santiago ETM/ILO), 1998.

¹³³ Elizabeth Jelin et al., op.cit.

to any restriction in terms of the number of assistants. In Peru, meanwhile, the family labour or the family workshop is excluded from the scope of the relevant special legislation. Conversely, no restrictions exist regarding the number of employers for whom the homemaker may work.

As per the scope of provisions by category of activity, the Peruvian and Paraguayan law contain no restrictive criterion. In contrast, Argentinian legislation may give rise to ambiguities of interpretation in that the words "making articles" may be considered to confine its scope of application to manufacturing activities only.¹³⁴

The range of possible employers of workers under this modality of work is fairly broad. They may include retailers, entrepreneurs, contractors, subcontractors (Paraguay and Peru), workshop owners and intermediaries (Argentina and Paraguay), without further specification. The three countries also adopt a similar approach to the institutionalization of the employment relationship. The employer must register with the competent authority and provide information regarding his/her homeworkers, as well as regarding delivery of materials, return of products and pay. On the basis of the employer declaration, workers obtain a booklet accrediting them as such and which includes the above information. In Peru, legislation also requires the employer to issue a written contract in triplicate, a copy of which should be given to the worker and to the relevant administrative authority. This requirement has been identified by some authors as discouraging compliance with the law.¹³⁵

It should be emphasized that, while the relevant laws in Argentina and Peru recognize and regulate homeworkers' rights to paid holidays, this right is explicitly excluded by Paraguayan legislation.

In regard to social security, while Paraguayan legislation provides that all salaried workers should be included in the social security system, regardless of the type of contract, age and earnings, homeworkers have to date not been able to contribute to the social security system because the specific calculation of contributions for this category of workers has not yet been set by the competent authority.¹³⁶ In Peru, homeworkers are included in the National Pension System and in the health care regime, including benefits for pregnant and nursing women. However, the formalities to enrol in the social security system and the calculation of contributions are cumbersome and costly.¹³⁷ The administrative procedure that the work-giver must carry out to ascertain his/her contributions is particularly onerous, and this is magnified when a large number of homeworkers are involved. These contributions are calculated on a month by month basis according to the remuneration received by each worker. Employers frequently avoid this inconvenience by employing alternative contractual arrangements or concealing home work by setting up micro enterprises with these workers. Such practices might be discouraged if fixed monthly sums were set for employer contributions, with subsequent global adjustment.¹³⁸

¹³⁴ Elizabeth Jelin et al., op.cit.

¹³⁵ Francisco Verdera, op.cit.

¹³⁶ María Victoria Heikel, op.cit.

¹³⁷ Francisco Verdera, op.cit.

¹³⁸ Ibidem.

The manner in which industrial accidents and occupational diseases are provided for in legislation is striking, particularly in view of the frequency and severity of the accidents and health problems associated with this form of work. Argentinian law recognizes as industrial accidents only those that occur in workshops involving workshop owners and their workers, whilst accidents occurring in the worker's home are not covered. Peruvian law also excludes such workers from their industrial accident systems, while the Paraguayan Labour Code does not mention them explicitly in the chapter relating to occupational safety and health.

In the three countries in question, remuneration takes the form primarily of payment by piece. The computing of wages for this category of workers gives rise to particular difficulties given the inherent dynamics of the work in question, which requires that the calculation be made on the basis of output as opposed to hours of work. With the exception of the mention of general principles intended to guarantee equality and parity of wages with permanent workers in the same category, and to prevent gender discrimination (Peru), the three legislation that have been briefly examined do not specify the parameters to be taken into account in calculating remuneration in such cases.

It should be noted that only Argentina has a tripartite body incorporating representatives from employers, trade unions and the government that is specifically responsible for fixing and adjusting wage rates, proposing and agreeing changes in the criteria for determining them, or in relation to the inclusion of new categories of activity. This entity is called the Wages Commission and is part of the National Department of Labour, the authority responsible for implementing labour legislation. The Commission, which has nine sub-commissions, each dealing with a particular production activity, constitutes a real forum for negotiation between the social parties and the government. Nonetheless, as indicated by the agenda of meetings over the last 20 years (the last meeting dates back to 1993 and the two prior to that took place in 1991 and 1976), its activities have been extremely limited. It is striking to note the contrast between the scant dynamism of this committee and the regularity with which posts are re-confirmed and the corresponding appointments made. In connection with the object of payment, attention may be drawn to the remuneration for waiting time that is expressly provided for in Peru and Paraguay. In the latter, it is also provided that payment should be made on a weekly basis.

The foregoing reveals that the legal situation of homeworkers is covered in a detailed and exhaustive manner. In the case of Paraguay, such provisions are relatively recent and coincide with the period of consolidation of democracy. The adoption of special provisions in this area is part of a broader endeavour to recognize and consolidate workers' rights.¹³⁹ In Peru, which has a much longer standard-setting tradition in this domain, the current labour reform process addresses the subject. A recent series of administrative measures, including the Single Text of Administrative Procedures (TUPA), which puts forward a model individual home work contract with a view to encouraging registration of such contracts, and the Basic Labour Inspection Guide, testify the continued attention paid to this form of employment.¹⁴⁰ In Argentina, which is the only country which has a specific legislation on the subject, no substantial changes have occurred in the content of the law, although, in practice, significant restrictions have been placed on its scope and effectiveness.

¹³⁹ María Victoria Heikel, *op.cit.*

¹⁴⁰ Francisco Verdera, *op.cit.*

3.2 The main reasons why the law is ineffectual

As stated previously, in the countries under review this form of work is frequently under-registered and is commonly clandestine and informal in nature.

This situation is to be attributed to a number of causes. One relates to the difficulties in monitoring it, as a result of the failure to register it, of the scattered nature of this form of employment and the legal restrictions on free access by inspection authorities to the workers' home. The inviolability of the home, which is a right embodied in the Constitution of many countries, constitutes a major obstacle to labour inspection.¹⁴¹ Nonetheless, in Argentina, such restrictions may be overcome when sound reasons exist to suspect the presence of contagious diseases or serious health risks.

Another reason why the law is ineffectual is that the institutions responsible for registering and monitoring home work are ill-suited to the task and are understaffed. Frequently, the corresponding responsibilities and functions are not clearly defined, giving rise to inaction and omissions.¹⁴² Even where the law provides for the establishment of complex institutional mechanisms intended exclusively for this purpose, the results leave much to be desired. This is clearly reflected in the case of Argentina where the various bodies entrusted with a series of tasks, such as registration and inspection, conciliation and arbitration or fixing of wages, have either been in abeyance for long periods or¹⁴³ have drastically scaled down their operations.

Today, for example, the National Department of Home Work in Argentina only authorizes and registers home work-givers and takers. It does not deal anymore with complaints of violations of the law which are now channelled, instead, to a single department responsible for all labour complaints. Added to this is the decline of personnel specializing in home work inspection. Labour inspectors who used to inspect solely home work have been seconded to the general inspection department.¹⁴⁴ This measure, which affects all inspectors and not just those responsible for home work, is part of a policy which attaches a higher value to versatility than to sectoral specialization, which tended to prevail until a few years ago. This new approach, which is widespread in the region, is aimed at optimizing the scant available human resources, whilst combatting labour fraud. Corrupt practices are facilitated if an official remains for long periods of time in a single inspection area and is not rotated.¹⁴⁵ Several of the labour inspectors interviewed pointed to the loss in terms of expertise, coverage and effectiveness deriving from the adoption of this policy. Home work inspection requires a high level of specialization and specific knowledge.¹⁴⁶

¹⁴¹ María Luz Vega Ruiz, *op.cit.*

¹⁴² Francisco Verdera, *op.cit.*

¹⁴³ During the 1960s, the Conciliation and Arbitration Commissions ceased to operate and only resumed their activities, on a far more limited scale, at a later date.

¹⁴⁴ Elizabeth Jelin et al., *op.cit.*

¹⁴⁵ Interview with an official of the National Labour Relations Department of the Argentinian Ministry of Labour and Social Security.

¹⁴⁶ Elizabeth Jelin et al., *op.cit.*

The fear and complicity of workers themselves also contribute to the infringement of the legal provisions governing home work. In a context of high underemployment and unemployment, characterized by informalization of employment, workers themselves encourage unlawful practices, such as declaring less pay than they actually receive or stating that they received full holiday pay when that was not the case. Another situation that has already been mentioned, and which occurs frequently, is that the homeworker registers as an independent worker because the employer makes this a prerequisite for giving out work.

Irregularities are unlikely to be reported or complaints pursued, given the informal nature of the mechanisms and networks through which workers learn about home work opportunities, and of the ties based on kinship or friendship that frequently exist between the work-giver and the worker. Trust and verbal agreements tend to prevail.

A worker's own perception of his/her occupational situation also plays an important role in determining his/her readiness to seek or demand compliance with certain labour obligations. On occasion, the mere fact that the worker no longer works under the direct supervision of the employer is viewed as a clear demonstration of his/her independent status.¹⁴⁷ In other cases, the worker's perception that he/she is independent lies in the fact that he/she has several work-givers, even though these may not change over time, and that payment is made on a weekly basis.¹⁴⁸

In the, albeit rare, cases in which the homeworker decides to claim and demand respect of his/her rights, labour-related court rulings may constitute an effective means of achieving recognition and protection of such rights. However, while in Brazil they have provided a means of compensating, to some extent, for *lacunae* in legislation,¹⁴⁹ they have proved much less effectual in Paraguay. Indeed, in that country, only a limited number of cases have been taken to court by homeworkers. The most common practice in labour disputes is to arrive at an informal settlement.¹⁵⁰ The very high percentage of unregistered wage-earners in Paraguay makes it unlikely that any action might be initiated against the employer by a homeworker. The costly and cumbersome nature of any such action and the difficulty which workers experience in collecting relevant proofs for submission to the court act as powerful deterrents.

Lastly, cases exist in which the dividing line between autonomy and dependence is blurred. These include home work related to the new technologies or entailing intellectual work which, by definition, is characterized by a greater capacity for initiative on the part of the worker.

In Brazil, home work is treated in the Labour Code as disguised dependent employment and, as such, may be formalized through court decisions. However, laws protecting formal employer/employee relationships have always co-existed with contractual arrangements that are not envisaged by law and with commercial type arrangements that conceal the true nature of the underlying relationship. In

¹⁴⁷ María Victoria Heikel, op.cit.

¹⁴⁸ Elizabeth Jelin et al., op.cit.

¹⁴⁹ María Luz Vega Ruiz, "Homework: a comparative analysis of legislation and practice", op.cit.

¹⁵⁰ María Victoria Heikel, op.cit.

recent years, these *sui generis* arrangements have become increasingly common as a result of the opening up of the economy, structural changes in the production system, the organization of work and the composition of the labour force. It should be made clear that changes in existing regulations may not necessarily cater to fraudulent intentions but may, on occasion, constitute legitimate attempts to adjust to changes in the organization of work.

This situation has sparked an intense debate in Brazil regarding the desirability of amending the current regulatory framework with a view to reflecting and regulating accordingly new forms of employment entailing differing degrees of independence/dependence.

3.3 More or less regulation? Or different regulation?

Where does the solution lie? In adopting special provisions for homeworkers, where these do not exist? Or in amending the relevant legislation that is currently in force, in order to remove potential ambiguities, and/or simplifying procedures for registration of homeworkers or calculation of social security contributions? Or in establishing more effective supervisory and monitoring mechanisms? Or in broadening the conventional occupational categories in order to better reflect the range of changes which have occurred in the organization of work and labour relations?

Clearly, shortcomings in the relevant legislation may be resolved by amending the provisions which encourage non-compliance or practices of hidden employment. Strengthening employment inspection services, through adequate staffing and budgeting, may also contribute to achieving that objective. Likewise, a serious effort must be made to train labour inspectors in this area. However, such endeavours are hampered by the fact that the Ministries of Labour of the region have been seriously affected in recent years by drastic public spending cuts. In Argentina and Paraguay, for example, only one labour inspector exists for every 5,000 urban workers.¹⁵¹ In Brazil, the situation is graver yet, with one inspector for every 20,000 workers.¹⁵²

To be effective, any measure must recognize the heterogeneous nature of homeworking and the different levels of insecurity in terms of earnings, employment stability, social protection and bargaining capacity and power associated with the various segments comprising the homeworkers' universe. The circumstances of homeworkers vary greatly. At one end of the spectrum are unskilled workers engaged in precarious and low-quality employment, highly vulnerable to fluctuations in demand and with no bargaining power. At the other extreme are workers who enjoy a higher degree of independence and feature a high level of employability and stronger bargaining power. Whatever the characteristics of the homeworker, an urgent need exists to establish adequate levels of protection for all segments of workers. The subject of home work is part of a much more extensive debate which must examine and resolve the problem of the ambiguity of many relationships that exist in the production sphere, as a result of the restructuring of production and work.

Recognition must be given to the existence of groups of workers who place themselves outside the conventional employment relationship by engaging in forms of employment that do not correspond

¹⁵¹ Victor E. Tokman and Daniel Martínez, "Labour issues in Mercosur", op.cit.

¹⁵² Ibidem.

to the usual occupational categories. The challenge here is to establish when labour legislation is applicable and when commercial legislation is relevant, instead. The main problem lies in identifying the substantive criteria for measuring without ambiguities the degree of subordination and/or independence that exists between parties and, on that basis, drawing a clear-cut dividing line between the employment relationship and the commercial relationship.

Different responses should be developed to adjust to the specific conditions and problems of each segment of the homeworkers' universe. This requires identifying and understanding first the characteristics and needs of each group. Only on that basis, indicators pointing to the differences between the various segments with regard to the corresponding levels of protection and vulnerability, can be formulated to shape the content and composition of the relevant legal measures.

4. Final considerations

Home work is associated both with situations of economic recession, higher unemployment and precarious work, and with situations characterized by high and sustained rates of economic growth and significant reductions in the levels of open unemployment and poverty.

This review confirms that home work exists in both labour-intensive sectors in which it has traditionally been concentrated (garment, footwear and textiles), as well as in cutting-edge industrial sectors which employ advanced technology and feature high productivity margins. Evidence also exists of the presence of home work in the services sector, particularly in countries where, in recent years, industrial employment has declined significantly as a proportion of total employment. This is a new phenomenon which alters the conventional perception that home work is confined to the manufacturing or industrial sector.

As in the occupational structures of the countries of the region, this form of employment predominates in low productivity and low income services activities. However, some evidence exists that home work can also be found in high productive services activities, which absorb highly qualified labour, enjoying satisfactory conditions of work, and earning incomes which are competitive, if not higher, with those received by in-factory employees carrying out similar or equivalent tasks.

This suggests that, as a result of the current economic restructuring, a process of segmentation has occurred in the home work labour market. Forms of home work featuring low and irregular remuneration, considerable occupational instability and the absence of any type of social protection, and others with a higher level of remuneration and quality of employment. The engagement in either type of home work appears to be determined by differences in educational endowments, previous work experience and the network of social contacts.

The extensive presence of homeworkers in services activities has a considerable bearing on the length of the working day and the use of help. Such activities would appear to be less demanding than industrial activities in terms of hours of work required, with the result that less family assistance is needed to meet deadlines. These two considerations contradict the conventional notion of home work which has traditionally been associated with long working hours and the use of family labour. Likewise, pay would appear on average to be lower and more precarious than that received by industrial

homeworkers. Another interesting point revealed by research relates to the high incidence of home work as a secondary occupation. This is connected with age, gender and the marital status of workers, as well as with the decline or stagnation of real wages.

The research carried out confirms that, in the vast majority of cases, this type of employment is carried out by female labour and that women are over-represented in the less productive and more precarious activities. Indeed, women tend to be concentrated in a much more limited range of occupations, which generally require lower levels of qualification than men.

The great majority of men who carry out home work tend to be heads of household and are usually older than female homeworkers. Men become homeworkers after having been dismissed from salaried employment and in the absence of other employment opportunities. Cases also exist of men engaging in activities relating to the computerization of services with extremely attractive conditions of work.

It is of interest to note the different views held by men and women regarding the advantages/disadvantages of engaging in home work. Men value the possibility of organizing their own time and dividing it, without any restriction, between leisure and remunerated activities. Savings in transport costs and clothing associated with homeworking are also greatly valued. Generally speaking, particularly when no major differences exist in terms of earnings, men prefer to work at home. Conversely, whilst women welcome the possibility of combining, through homeworking, their domestic and family responsibilities with a gainful activity, they prefer to work outside the home. This reflects their wish to overcome the isolation in which they work and to separate their working life from their private sphere.

The fact that home work is generally carried out in isolated, precarious, unstable and invisible circumstances explains the absence of representative organizations and the scant attention devoted to them by the trade union movement. It would be plausible to assume that mobilizing and organizing workers devoted to service activities would be more difficult than in the case of industrial homeworkers.

Another factor which makes workers reluctant to engage in collective action with a view to redressing unfair labour practices is that the employment relationship is frequently based on friendship and family ties. Furthermore, homeworkers are unaware of the number and type of actors involved in the subcontracting chain, and their corresponding responsibilities and obligations. Likewise, the number and range of interlocutors (intermediaries, employers, workshops, companies) with which the homeworker may maintain relations, either simultaneously or during the course of his/her working life, contributes to generate an illusion of independence or confusion regarding the worker's occupational identity, thereby hampering his/her ability or initiative to improve his/her conditions of work.

The law in all countries examined, with the sole exception of Chile, considers home work to be wage employment and grant, to different degrees, equality of treatment to homeworkers in a series of fundamental aspects. Notwithstanding most standards are largely disregarded. Non-compliance is due, to some extent and in some cases, to high administrative costs and the cumbersome nature of the

relevant processes, the inappropriate monitoring mechanisms and services, but also to the existence of a culture in labour matters rooted in fraud. A distinction should therefore be made between situations in which non-compliance reflects an objective difficulty in meeting particular requirements and those cases in which the goal is to perpetrate fiscal or labour-related fraud.

In recent years, literature on informal employment and micro-enterprise has proliferated. Special and targeted state and private programmes have been developed. The “myth” of the micro-enterprise has given rise to major omissions in the recognition and analysis of home work. It has also generated policies and programmes to promote micro-enterprises which have proved ineffectual or which have achieved only some of the intended goals due - *inter alia* - to an erroneous reading of the characteristics and needs of homeworkers.

The heterogeneous nature of home work by sector and branch of activity, levels of productivity, conditions of work and earnings, degrees of dependence of the worker on the employer, together with levels of social protection, call for equally heterogeneous political responses and measures. A typology of homeworkers must be drawn up and, on this basis, a series of indicators identified so as to measure for each type of homeworker the existing levels of precariousness, lack of protection and vulnerability. Such an approach would allow formulating specific programmes and policies for each homeworker segment, tailored to their needs and aspirations.

For this purpose, further research is required to analyse the qualitative changes that have occurred in homeworking, as a result of international competition, technological revolution, and increased flexibility and fragmentation in the organization of production and work. It is necessary, in particular, to carry out further case studies in sectors other than the “traditional” ones and to examine the factors and conditions which promote situations of flexibility which do not entail precariousness, with a view to exploring to what extent public policies may contribute to broadening the scope of quality-home work. It is equally important to gain a more precise insight of the magnitude of home work. The usefulness of such an exercise has been amply demonstrated by the survey carried out in 1997 by the Ministry of Labour in Chile, in conjunction with the National Statistics Institute. This exercise not only adds to and alters traditional perceptions of home work, but has also made important contributions of a conceptual and methodological nature, of which advantage may be taken by the other countries of the region. Clear methodological criteria might also be drawn up in order to gain a clearer understanding of the relationships and subcontracting chains both through household surveys and industrial censuses.

Promoting and protecting homeworkers' interests and rights should not fall solely to the appropriate national legislation, but should also have a place in collective bargaining.

It is of crucial importance also to promote information and sensitization campaigns targeting public opinion, government bodies and social parties, as well as academic circles. These campaigns should be complemented by round tables and other multisectoral meetings and debates.

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