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the Global Economy*

Home Work in Argentina

by

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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 determine 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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Our thanks to all, and to colleagues who offered us their advice and shared their knowledge, particularly Rosalía Cortés and Adriana Marshall.

ACRONYMS

CGT	General Confederation of Workers
CUIT	Single Tax Identification Key
DGI	General Taxation Directorate
DIRI	Inspection and Individual Relations Directorate
DNT	National Department of Labour
DtaD	Homework Department
EPH	Permanent Households Survey
FONIVA	National Federation of Workers in the Garment and Similar Industry
GBA	Greater Buenos Aires
INDEC	National Institute of Statistics and Censuses
MT y SS	Ministry of Labour of Social Security
ILO	International Labour Organization
SOIVA	Union of Workers in the Garment Industry and Similar Industry
STAD	Union of Home Workshop Owners
UTICRA	Union of Workers in the Footwear Industry of the Republic of Argentina

1. Introduction

This report offers an overview of the home work situation in Argentina today. It explores both institutional aspects and the situation of workers (particularly in the area of the Capital and Greater Buenos Aires). It should be noted that the rates of unemployment and underemployment are the highest in contemporary Argentinian history. This coincides with an intensive employment flexibilization process, particularly in terms of labour relations practices, while the corresponding legislative changes are taking place more slowly. This background is of utmost relevance in placing the results presented in this report in context. Since flexibilization processes are well documented, the authors will concentrate their focus on the home work dimension.

Over the past decade, concern regarding unemployment has been accompanied by an analysis of the continuation and indeed increase in highly vulnerable forms of employment. In this sphere, attention has focused on the theory and practice of the concept of “precarious work”. It proves, however, to be extremely difficult to define, given the multidimensional nature of the phenomenon and its many and ambiguous forms. This difficulty is exacerbated by the fact that it is precisely the vulnerable and precarious situations that are frequently not recorded and for which no appropriate measurement methodologies exist.

The following analysis takes into account the conclusions of specific international studies on the subject, together with the conclusions of international meetings of experts on the current situation of home work. In both instances, the need for a clear definition of the term “home work” is emphasized, in order thereby to promote the institutionalization of the employment relationship, and make it possible, in turn, to enforce the rights and duties laid down in law. It should be noted that the subject has come to the fore in recent years in response to initiatives and projects sponsored by the ILO.

At first sight, precarious work is considered to be of a residual nature. Consequently, the term “precarious” is applied to all work that departs from some of the features attributed to employment considered to be “typical and/or normal” (Feldman and Galin, 1990).¹ In conventional terms, standard employment is full time, of unspecified duration, for a single, identifiable employer, carried out in the premises of the employer, generally protected by labour legislation and covered by social security. Any situation falling outside this description is considered to be “precarious work”.

Renewed attention has been drawn to this work modality, possibly on account of the perception (often merely hypothetical) that it is becoming more common and is being perpetuated in different contexts and countries (Rubery, 1992; Vega Ruiz, 1992). This has also triggered action

¹The authors warn of the problems inherent in definitions. One such problem is that atypical work is invariably associated with precarious work, when in fact there are atypical forms of work which are not necessarily precarious (Rodgers and Rodgers, 1992; Marshall, 1988). Rodgers endeavours to delimit the concept in a positive manner by saying that precarious work, in principle, implies instability, lack of security, and social and economic vulnerability, but warns that it should be identified as such only when a combination of a number of these factors exists.

by international bodies with a view to introducing measures to provide greater protection to those who engage in occupational activities in their homes.²

It immediately becomes apparent, however, that the characteristics attributed to home work are merely indicators, with researchers repeatedly encountering difficulties caused by the fact that no data or methodological tools exist to carry out a statistical study or more in-depth analysis of its particular features.³ On the methodological front, home work typologies must be formulated and indicators found to distinguish between different levels of precariousness. The absence of relevant data in regular employment statistics becomes a major obstacle.

Home work certainly falls within the broader sphere of employment precariousness and the processes whereby this occurs but the question remains, is all home work precarious in nature? It is our hypothesis that, as new information and communication technologies come to be more broadly employed, the importance of physical proximity for work purposes is reduced, with the result that new forms of home work in advanced sectors may be emerging. These new forms may not necessarily be of a precarious or vulnerable nature.

Finding a definition

The most current definition of home work is probably that contained in ILO Convention No. 177 (1996). Article 1 defines it as the work carried out by a person:

- 1) in his or her home or in other premises of his or her own choice, other than the work place of the employer;
- 2) for remuneration;
- 3) which results in a product or service as specified by the employer, irrespective of who provides the equipment, materials or other inputs used, as long as this person does not have the degree of autonomy and economic independence necessary to be considered an independent worker under national laws, regulations or court decisions; ...(Convention No. 177).

From the employment relationship point of view, the debate focuses on the circumstances which allow the paid or dependent homeworker to be differentiated from the independent worker (artisan or

²Over the past two decades, home work has received considerable attention by the International Labour Organization (ILO). We list the following references:

- I.L.C. GENEVA 1984. Conclusions regarding “future action” in the sphere of work conditions and environment (CyMAT) refer to the need to formulate methods designed to offer “more real protection” to homeworkers. [Report V(1) ILO, 1994]
- I.L.C. GENEVA 1985. In the conclusions annexed to the resolution on equality of opportunities and treatment for male and female workers in employment, the Conference invites the Governing Body to take home work into account in drawing up standards in the future. [Report V(1) ILO, 1994]
- I.L.C. GENEVA 1988. Conclusions on the promotion of rural work urge the ILO to consolidate its assistance to member States, by organizing advisory and technical cooperation activities, for “the formulation of programmes intended to document and improve the legal status and the socio-economic situation of homeworkers. [Report V(1) ILO, 1994]
- I.L.C. GENEVA 1989. The ILO Governing Body decides to hold a meeting of experts on “social protection of homeworkers”.
- GENEVA 1990. Meeting of experts on the social protection of homeworkers.
- San Pablo 1990. Latin American tripartite regional seminar on the social protection of homeworkers.
- 1996, ILO Convention No. 177 on home work is adopted.

³Among the difficulties experienced in Argentina is the absence of specific records of this work modality in official documents such as the Permanent Households Surveys and Censuses.

self-employed).⁴ In those countries with legislation on this form of work, the theoretical debate focuses on just how tenuous the situation of subordination is.

It is no easy task to establish a worker's subordination. The dividing line is always hazy. In reality, various dimensions come into play:

- 1) the use of the worker's own machinery;
- 2) the hiring of auxiliary labour by the person to whom the work is given out;
- 3) the supervision of production.

Controversy surrounds the concept of "supervision": in the strict sense, it is the direct presence of the employer in the place of work, in a broader sense, supervision takes the form of directions on how to carry out the work, and quality control of the finished product.⁵

The main problem regarding the dependence relationship is that it is very easy to lapse into disguised, concealed or fraudulent modes of behaviour, where the home "employee" passes himself off as an independent worker. This matter is reflected in practical terms in each country's specific regulations and in interpretations contained in case law (Goldín, 1991; Vega Ruiz, 1992) which reveals the difficulty in distinguishing the situation of the paid employee working for a company from precarious forms of independent work.⁶ The delays and conflicts inherent in implementing labour legislation, which fails to keep pace with the increasing flexibility of "real" employment relations, means that, in Argentina at least, employers and companies go to great length to avoid establishing relationships of dependence. Hiring "per task", payment of fees rather than wages, the requirement that workers should be enrolled as independent, etc., are increasingly common practices. Although workers are technically independent, a high degree of dependence frequently exists, and they may have virtually no autonomy in defining the task.

A number of researchers are of the view that this work modality is significantly under-registered, on account of the clandestine and illegal nature of the employment relationship (Roldán, 1987; Neffa, 1988; Cortés, 1988, ILO, 1996; Marshall, 1990; Meulders and Tygat, 1992; Etala, 1988; Caire, 1992). In Argentina, it is probable that illegal forms of hiring have increased, although total paid employment (registered and clandestine) has not increased (Marshall, 1990). Meanwhile, a study on the subject in Italy (Bettio and Villa, 1992) reveals that the success of decentralized production has caused home work to become one of the broadest categories of concealed work in industry (and may not be confined to industry). A large part of this growth is disguised as independent work, meaning that any reduction is artificial. This again raises the problem encountered by many researchers of how to distinguish between the paid worker employed by a company and precarious forms of independent work (self-employed and/or artisan).

⁴In the Meeting of Experts on the the Social Protection of Homeworkers (October 1990), (item 8), emphasis is placed on acknowledging homeworkers as dependent employees, and it is stated that national legislation should "find a clear definition of the term homeworkers ... and specify the need for a written contract laying down the terms and conditions of work" (page 11).

⁵On this point, the authors refer to conditions for distinguishing between employers, employees and/or precarious self-employed. For example, those who carry out piece-work at home receive work from various sources, they own the machinery and they may hire auxiliary labour, are labelled "disguised employers" (Gallart et al., 1988) or as "semi-employees" in relation to the work-giver and as "semi-entrepreneur" in relation to the workers they hire as helpers (Roldán, 1987).

⁶Some national legislations employ more or less generic, indirect formulae which refer to the situation of dependants ("work for"; "production as agreed", etc.)

Some features of home work are common to many countries. Studies carried out over the past decade agree that workers are concentrated in well-defined sectors. Firstly, it is emphasized that they continue to be present in the traditional manufacturing industries. Home work is carried out by a large proportion of workers in sub-sectors such as garment manufacture in the clothing and textile industry, in leather working (in particular, footwear) and in wool (for Argentina, among others, Marshall, 1990; Cortés, 1988, Ackerman, 1988).

Some recent publications are beginning to detect home work in information technology industries, which could become more widespread (Huws, 1984; Rubery, 1992; Espinoza, 1997; Gbezo, 1995). For instance, the results of a national survey in the United Kingdom (1981), which triggered an extensive controversy, revealed that a large number of “new homeworkers” exist; their activities include tasks connected with information technology or office tasks, setting them apart from the classical stereotype (labour-intensive manufacturing industry), except insofar as they continue to be women with children (Rubery, 1992; Huws, 1984 and Hakim, 1984).

Who are the homeworkers? According to a number of studies, female labour predominates. On the one hand, because it permits the traditional domestic role to be combined with work. On the other, because it frequently exists in sectors in which the proportion of female labour is high. Moreover, it tends to be concentrated in labour-intensive phases of the production process, for which female labour is generally sought (Bettio and Villa, 1992; Roldán, 1988; ILO, 1996). These trends are confirmed by the scant data existing for Argentina. Marshall (1990) reveals that 82 per cent of homeworkers in the garment industry in Buenos Aires are women.

Available data reveals that homeworkers are paid less in absolute terms, in terms of their training and qualifications, and frequently in comparison to the payment received for identical tasks by permanent employees in the same company.⁷ The seasonal nature of this situation makes the activities of such workers even more precarious, and their vulnerability is even greater when they carry out the activity illegally. Frequent reference is made to the characteristic isolation of homeworkers, since the absence of any relationship with the company and with other workers reduces the likelihood of trade unionization or collective action for the purpose of improving their position.⁸ If we take into account the facts reported by several researchers regarding under-registration of the “concealed” component (unregistered homeworkers or those “artificially” registered as independent workers) it may be inferred that, overall, they have a low level of legal protection, and non-compliance with legislation, if it exists, is high. Where legislation does exist, it is frequently as inflexible as it is exhaustive, and is rarely enforced, as stated by all researchers without exception.

Clearly, home work involves various employment relationships. The distinction most widely employed in categorizing the various types of home work is between the “paid” homemaker and the “independent” worker (artisan or self-employed). A second distinction exists between the formally recognized employment relationship and the clandestine and concealed forms of work. In this regard, such work is termed “clandestine” because it is partially or entirely absent from legal records, rather than because it is prohibited.⁹

⁷The title of an English report on the subject, “Sweated Labour” (Bisset and Huws, 1984) is a case in point.

⁸In 1994 the European Homeworking Group was formed, for the purpose of putting homeworkers in touch with their organizations in a number of European countries. The “International Network for all persons working in the home” (HOMENET).

⁹Clandestine work may be defined as a sole or secondary non-temporary paid occupation, which is carried out outside the confines of the law or of the terms of regulations or agreements. (de Grazia, 1980, Caire, 1992).

2. Homework regulations: Argentinian legislation and ILO Convention No. 177 (1996)

2.1 Argentinian legislation

In Argentina, Act No. 12.713/41-Regulatory Decree No. 118.755/42 lays down the **Special regime for home work**, enacted in 1941. What is home work under Argentinian legislation?

2.1.1 Sphere of application and definitions

Current Argentinian law, which provides for a special regime regarding home work throughout the country, states that this work modality must be “undertaken *for a third party*”. This factor may be interpreted as one of the elements distinguishing it from other forms of economic activity carried out at home, particularly that relating to the artisan or independent producer. This definition reflects the will to apply the home work concept specifically to the dependence relationship. Defining the nature of the employment relationship, and specifically whether a link of dependence or subordination is established, has generated considerable controversy in both national and international jurisprudence (Vega Ruiz, 1992; Goldín, 1991; Neffa, 1987). One of the sources of controversy relates to whether or not the employer controls and supervises the production process.

Another underlying boundary in identifying home work for a third party relates to the fact that what is produced belongs to “a third party” and not to the producer. The marketing and sale of the product are clearly attributed to those persons connected to the market:

The employer is the person who carries out the manufacture or sale of goods, for profit or not for profit, and who hands out work to a homemaker, workshop owner or intermediary (Art 2b/Reg.118.755/42).

Of those persons laid down as being covered by the regulation, only the “employer”, in the strict sense, has any connection with the consumer market. Meanwhile, legislation systematically employs the term “worker” as a concept in identifying the homemaker, based on the assessment of the degree of autonomy or economic independence of the individual. The detailed manner in which Argentinian law defines the figures involved in the employment relationships inherent in “homework for third parties” identifies this standard with the theoretical approach that postulates and affirms the dependence relationship.¹⁰

2.1.2 The workplace

Another important factor in defining this work modality relates to its geographical location, which may be, in principle, “the worker’s home” or a place chosen for that purpose. Another

¹⁰In a study on the subject, Goldín states that Argentinian law is not conclusive and leaves the matter to doctrinal and jurisprudential debate, although he does acknowledge that the prevailing trend in jurisprudential doctrine is that which maintains that the homemaker is normally a subordinate worker. For this reason, those holding this view maintain that the Work Contract Law applies (general law regulating dependent work) and extending it to cover standards relating to institutions not covered by home work legislation (Goldín, 1991).

“variation” is the workshop-owner’s home¹¹ - which is explicitly recognized by the act and by the regulatory decree as one of the work modalities that is subject to its provisions.¹² Lastly, the regulation includes public or private charity establishments, educational establishments, and juvenile non-penal houses of correction.

2.1.3 The employment relationship

A novel aspect of Argentinian regulations lies in the inclusion of the workshop owner. National legislation attributes to this one person the dual categories of the work-giver/work-taker relationship. **Workshop owners** are considered to be “**homeworkers**” in the sense of taking work handed out by an employer; meanwhile, since they have products manufactured in their home by workers under their supervision, they are also considered to be “**employers**”, who are subject to the obligations contained in law and in the regulations governing those who give out work.

The above culminates in an ambiguous legal figure, that of the “workshop owner-worker” and the “workshop owner-employer”,¹³ with consequent implications for the “homeworker” category. Workshop owners are homeworkers, as they take work for third parties and use their home or premises as a workplace, and are thereby subject to the legal provisions of the Home Work Act. The situation of workers who carry out work for the workshop owner is ambiguous, if not contradictory. It is stated in the Regulatory Decree of the Home Work Act that these workers are subject to the general law regulating employment relations for dependent work (Work Contract Act). Consequently, the workshop-employer is subject to the ensuing obligations.¹⁴ Meanwhile, the home work act considers the workers hired by the workshop owner to be homeworkers, in the light of their employer’s situation as workshop owner, and not of the characteristics of their work modality.

Where the scope of its provisions are concerned, the law generically refers to “*persons who are involved in carrying out a task*”, from which it may be inferred that any person may carry out home work for another. In addition the law refers to the “making of articles” thereby generating another area of ambiguity of interpretation. Should “making” be considered as a manufacturing activity? Can home work exist in services?¹⁵

¹¹See later for a discussion of the workshop owner, and the ensuing interpretations.

¹²Act 12.713 and Regulatory Decree 118.755/42 (articles 3 and 4 respectively).

¹³For the most part, doctrine and case law consider the figure of the workshop owner in the text of the law to be “a legal fiction” of which the objective is to protect the “homeworker” in the strict sense (Goldín, 1991).

¹⁴Article 3/Decree 18.118.755/42.

¹⁵None of the key sources of information interviewed mentioned services as falling within the scope of the law or of the Home Work Department.

2.1.4 Hiring of auxiliary labour

Another substantive condition laid down by legislation involves a restriction on the number of “home work helpers”. The detail entered into by the law regarding the **type and number of authorized work assistants** for the homemaker may be interpreted as a means of differentiating between the homemaker and the workshop owner, and indeed other workers carrying out economic activities at home. The regulatory decree describes in detail those considered as “family assistants”. On the other hand, the homemaker may only hire one person as “*homemaker’s helper or apprentice*”. The “*homemaker in the strict sense*” is thus distinguished from the other homemaker - the workshop owner - who may hire any number of people.

In short, in examining the various elements gathered by the law maker in defining the legal concept of the home work regime, it becomes apparent that they correspond to two “pure” extremes:

- 1) homemaker in the strict sense: the worker who works for a third party, in his home, with or without family help and with (a maximum) of only one outside helper;
- 2) employer in the strict sense: the work “giver”, in the first instance, who makes goods and sells the finished product.

The remaining legal figures are based on the combination of the two pure extremes: workshop owner, intermediary-workshop owner, intermediary, etc.

The law makes no reference to ownership of work equipment and of inputs, other than the single mention of the “*ownership of goods by the workshop owner for carrying out activities in connection with work handed out*”, which condition does not affect their classification as homeworkers.¹⁶

2.1.5 Means of institutionalizing the work relationship

Act 12.713 provides that, subject to making themselves eligible by registering in the Census of Employers, home work-givers must register with the relevant authority, report the people they engage as workshop owners and homeworkers, and keep a record of their transactions. On the basis of the employer’s declaration, homeworkers receive a work booklet from the relevant authority accrediting them as such. The law further requires work-givers to stamp the articles to be made in such a way as to reflect the work relationship: H.a D. (home-made).¹⁷

2.2 Compatibility between ILO Convention No. 177 and national legislation

It is considered appropriate at this point to carry out a comparative analysis of the legal aspects of the international regulations governing home work (ILO Convention No. 177) and the national legislation in force (Act 12.713/41), in order to identify possible points of convergence and disparity in their respective provisions. In fact, Argentinian legislation includes a range of provisions (retirement, dismissals and other social benefits) which are recommended in the Convention. This section will deal with only some points on which Argentinian law diverges or interprets the situation of homeworkers in a manner different from the Convention.

¹⁶A last point that appears not in the law but in the Convention, states that this work modality applies irrespective of who provides the “*equipment, materials or other inputs used*”.

¹⁷P. VII, art. 20, Decree 118.755/42.

2.2.1 Work-givers

The National Regulatory Decree specifies the action of making (to order) and **selling** goods as corresponding to the figure of the employer. This figure is distinguished from others in terms of ownership of what is produced and of the act of selling it. The Convention identifies employers only as the “givers of work for a company”, without dwelling on their role in the marketing process.

2.2.2 Home work in production and in services

Several articles of the law and respective decree describe forms of the work relationship in terms of whose conceptual categories relate primarily, although not exclusively, to the industrial manufacturing production sector. This relates specifically to such concepts as “worker”, “worker apprentice”, “workshop owner”, etc. In regard to “what is produced”, such terms are used as “making of merchandise, articles”, etc. It is likely that, in the context from which the regulations emerged, including those sectors in which such activity was concentrated (and continues to be concentrated), the law took it for granted that the corresponding sphere of implementation was the industrial/manufacturing sector, notwithstanding the fact that, as stated by Goldín, the law did not confine this modality to any particular worker.¹⁸ Meanwhile, Convention No. 177 explicitly covers the making of a product and the provision of services.

2.2.3 Work relationship

The definition of the degree of independence or subordination of homeworkers is a central consideration. The Convention refers this definition to the standards of each country, although maintaining the need to establish a distinction between the independent worker and the homeworker, based on the degree of autonomy.¹⁹ In the Argentinian case, as stated previously, sufficient references exist to the dependence relationship requirement and the case law analysed in Chapter IV bears this out.

2.3 Legislation and the ILO Convention No. 177 in the view of the stakeholders

Trade unions and officials are familiar with Argentinian law; they are also familiar with ILO Convention No. 177. The figure of the workshop owner certainly constitutes the main point of convergence, and will feature in the final considerations of this study. It will suffice at this point to reproduce a strong view on the subject, held by the Union of Workshop Owners:

“The Convention does not differ much from the law. It adds nothing, it takes nothing away. If those that have been ratified are not complied with, why should this one be any different? Moreover, Argentinian law provides for broader coverage and greater protection than in the Convention. And the Convention is guilty of the omission, which I consider to be highly obstructive, of prompting a stinting approach on the part of Argentinian officials who did not dare to draw attention to the need to include the figure of the workshop owner. [The figure of the workshop owner] is crucial to home work regulation. Because if you don’t regulate the figure of the workshop owner, who constitutes the borderline, the grey area, you have eliminated the

¹⁸According to Goldín, under Argentinian law, home work includes tasks relating to the making of merchandise, which effectively excludes tasks such as repairs, laundry, etc.

¹⁹Consideration referred by current ILO Convention No. 177 to each country’s standards ... *unless that person has the necessary degree of autonomy or economic independence to be considered as an independent worker, on the basis of national legislation or court decisions.*

figure of the homemaker. Because where employers are concerned - with their imagination which they exhibit every day, frequently to survive or alternatively to trick, whether to avoid taxes or whatever else - you may imagine that if you give them the possibility of saying that the workshop owner is not a worker, then there are no more homeworkers, they are all workshop owners! Without the figure of the workshop owner, you can say goodbye to the homemaker! And Argentina's experience over 50 years should have been used to put that figure forward in a sector like the ILO, to prevent a situation where member countries issue individual laws, which will surely be based to a large extent on the Convention, but a Convention which has failed to take account of important experience in combating clandestine home work". (S.T.A.D.)

3. The legislation enforcement authorities

3.1 The Home Work Department

Under Argentinian home work legislation, the National Labour Department is the enforcement authority. While professional associations and wage and conciliation and arbitration commissions serve as auxiliary enforcement bodies (Act 12.713/42 Chapter III; articles no. 15/16).²⁰

The Home Work Office was established in 1942. The resolution providing for its establishment states that its objective is to "provide for the better implementation ... and [to] "centralize in a single office" the functions assigned by Act 12.713/41 and its Regulatory Decree assigned to the National Labour Department (DNT)". Nonetheless, prior to that date (June 1941), the organizational structure of the DNT already included Home Work Wage Commissions, within the sub-structure of the Legislation Division.²¹

The Home Work Department has two separate functions. The first relates to the Register of Enrolments of workers, employers and workshop owners, with corresponding inspection and monitoring tasks. The second relates to the establishment of two types of tripartite commissions: the Wages Commission and the Conciliation and Arbitration Commission.²²

Since its foundation over 50 years ago, the Department has changed its position in the Ministry's organizational structure. However, the formal definition of its functions has not changed, except for the fact that, during the 1960s, the Conciliation and Arbitration Commission ceased to function and, as discussed hereafter, its operations are now extremely limited in practice.

In 1993, at the request of the authorities,²³ and (possibly) as a reaction by the staff of the Department to the danger that their functions might be curtailed, a memorandum was drawn up defining the Department's tasks. The document described the structure of the Department in

²⁰Details of the enforcement authorities' functions are laid down in article 17.

²¹Information Bulletin of the National Labour Department. January-March/1942, No. 237.

²²These Commissions include representatives of groups of entrepreneurs, trade unions and the Labour Ministry.

²³At that time, the Home Work Department was part of the structure of the National Labour Police Directorate.

detail.²⁴ This body clearly reaffirms the Department's function in implementing the law:

"...ensure strict compliance with Act 12.713, its Regulatory Decree, as well as other related provisions in force and, by the same token, to detect home work given out in a clandestine manner ... in the Federal Capital". (Home Work Directorate, Memorandum 1940/93).

Today, the Department employs two individuals (one with long experience as a home work inspector), keeps the Enrolment Register and carries out administrative tasks. Inspection personnel who were previously allocated to this department were reassigned to the General Inspection Department.²⁵ In addition, the new organizational structure (1997) of the Ministry of Labour and Social Security's National Labour Relations Directorate includes a Directorate of Inspections and Individual Labour Relations - which covers Home Work - consists of five departmental entities, none of which is devoted to Home Work (Ministry of Labour and Social Security Resolution No. 519/1997).

This information is borne out by trade union sources of information:

"This is where the Ministry of Labour's administrative structure has begun to go wrong. As far as I can see, the Home Work Office has been taken out of the work structure, and I don't know where it has been put." (interview with union leader, FONIVA).

3.1.1 Register of enrolments

The Act provides that, after receiving authorization, home work givers are obliged to register with the relevant authority, declare the people they engage as workshop owners and homeworkers, and keep a record of their transactions. On the basis of the employer's declaration, homeworkers are given a booklet from the relevant authority accrediting them as homeworkers; workshop owners are also given a booklet. Since it was founded, the Home Work Department has held exclusive authority for authorizing home work-givers and homeworkers.

The enrolment archive (begun in 1941) records all new inscriptions. The data contained in this register record the number of workers and workshop owners who, for different reasons, decide to comply with the regulation and register. There is no register of homeworkers who have ceased to carry out such activities. Table 1 presents the data from this register, including the number of enrolments registered on the basis of related research, which calculates enrolments up to 1987 (Marshall, 1990), updated by the authors to 1996.

²⁴According to the report, the Home Work Department has two divisions: 1) Inspection and 2) Administrative/Technical. Inspection functions include:

i) Inspection procedures. ii) Drawing up reports. iii) Advice to firms visited and to workers on correct implementation of regulations. Inspections are carried out a) in response to complaints by homeworkers and by trade union bodies, or b) routine.

The administrative/technical operations are:

i) Administrative; Compilation of lists, files and reports of all documentation; ii) Incoming and Outgoing Bureau; -iii) Controller Section: handling of complaints and all documentation relating to the Inspection Division; -iv) Skills and categories section: enrolment, skills and recording of employers and homeworkers; v) Wage Commission section: archive of rates, resolutions and decisions, relevant to the activities of the Commission. vi) Case proceedings section: registration of developments regarding the initiation of proceeding.

Technical tasks include - *matters of relevance to the Wage Commission's resolutions.* Mention is made of its role in fixing the minimum wage level and the rate of payment for garments. (D.T.a.D., Memorandum 1940/93).

²⁵This apparently involves five individuals. According to information provided by key sources, the Home Work Department at one time had a team of 50 inspectors. According to the study by A. Goldín, this figure stood at 14 in 1988.

Table 1**Workers and intermediaries (new registrations)
January 1950 - December 1996**

	Workers	Intermediaries*
1950-1954	39019	3403
1955-1959	25052	2092
1960-1964	7993	1310
1965-1969	5207	4 232
1970-1974	3757	2042
1975-1979	4408	1994
1980-1984	2706	1611
1985-1989	1426	1035
1990-1994**	2014	1800
1995	81	144
1996	51	89

*: includes “workshop owners”, “work givers” and “intermediaries-workshop owners” in Marshall’s data, and “workshop owners” and “employers” in the 1988 to 1996 data.

** : 1992 stands out in the five-year period for the exceptionally high number of registrations: 866 workers and 673 intermediaries.

Source: For the period 1950-1987, Marshall, 1990. For the period 1988-1996, calculations by the authors based on data from the Archive of Registrations of the Home Work Department, Ministry of Labour and Social Security.

As demonstrated by the table, the number of enrolments is declining. An analysis of new enrolments from 1988 reveals that the decline identified by Marshall has become more pronounced, with the exception of 1992 when there were an unusual number of enrolments (866 workers and 673 intermediaries). According to data provided by key sources of information, this was a reflection of the arrival of an energetic home work inspection official. Overall, however, the number of homeworkers enrolled for the period 1988-1996 (2,502) is lower than for the period 1980-1987 (3,689) and 1975-1979 (4,408).

The new enrolments for the 1988-1996 period reveal that the majority of homeworkers and workshop owners continue to be concentrated in the clothing industry.²⁶ The footwear industry takes second place although it lags far behind the first (Table 2).

²⁶On the basis of a sample (of 20 per cent) taken from the Labour Ministry’s Register between January 1986 and January 1988, Marshall (1992) estimates that the majority of homeworkers and workshop owners are concentrated in the garment manufacture branch (85.1 per cent and 85.4 per cent respectively), followed at a considerable distance by footwear (7.7 per cent and 6.9 per cent, respectively). According to the author, the relative positions of the main industrial branches employing homeworkers coincides fairly closely with the estimates based on the National Population Census of 1980.

Table 2**Branches of activity of homeworkers and workshop owners,
by three-year periods, in percentages (new registrations)**

	Workers			Workshop Owners		
	Garment	Footwear	Others	Garment	Footwear	Others
1988-1990	91.4	7.0	1.4	88.5	11.4	0
1991-1993	89.6	6.4	4.2	95.7	4.2	0
1994-1996	89.5	7.5	2.8	100	0.0	0

Source: Archive of Registrations of the Home Work Department, Ministry of Labour and Social Security

As to distribution by sex, the register (1988-1996) shows that 48 per cent of homeworkers (workers and workshop owners) are women. In the garment industry, women account for 52 per cent of workers registered and for 40 per cent of those registered in the “workshop owner” category.

3.1.2 Inspection

With a view to ensuring closer compliance with the relevant legislation, the appropriate authority may designate individuals to serve as official inspectors, who act together with or independently of the members proposed by the professional associations, in a manner and in numbers laid down in article 20, to carry out the following functions:

- 1) to carry out inspections and verifications;
- 2) to monitor merchandise delivery and reception tasks;
- 3) to ensure payment of wages and ascertain related conditions; and
- 4) to apply to the relevant authority for intervention by the forces of law and order to seize effects and documents serving as evidence against those who break the law (Act 12.713, Article 18).

Despite the fact that such a law exists, sources of information refer repeatedly to the fact that no inspection is carried out. It is of note that such information arises from a range of sectors - the Department in the Ministry of Labour, former inspectors, authorities and officials of the trade union

of workshop owners and of the garment industry union, etc.²⁷ They all commend the role and specialist knowledge of the home work inspectors, and regret the current situation in which this function has ceased to exist. Responses to the question on the task of inspectors are clear:

*“In response to complaints. Whereas the ideal would be automatically. If I am a home work inspector ... then every day I have to do my time inspecting and verifying whether or not the home work legislation is complied with, **that was the function of the home work inspector** ... Because another advantage of the home work inspector was that they have specific knowledge of Act 12.713 [Home Work Act], and also the knowledge necessary to carry out inspections with reference to 20.744 [Work Contract Act].”*

“In other words, both in-house and external workers, which is something that other inspectors don’t have. As a home work inspector ... I go into a business, and I already know. And, let me tell you, with the advantage that, with very few exceptions, the home work inspectors have all been in this business as long as I have. We’re experts! If there is a case in a court and they need Rates Experts, they come and look for them here, among the home work inspectors, not just any inspectors ... The tendency now is for [the Department of] Home Work to disappear ... And that began when they removed us inspectors. There were about 50, reduced to 25 and now there are only six. They cut the number right down to six. The six we had until 1994. No, it’s not for budgetary reasons ... it’s because they were seconded to the General Inspectorate. But the sad thing is that the General Inspectorate has made no attempt to have home work specialists. They have eliminated home work as such. In the Directorate, we’ve recently got them to look at the subject ... How is it possible that, with all this publicity about combatting clandestine work ... the office, the department in which illegal work is rooted, you might say, hasn’t shown any concern?” (General Supervisor. Home Work Department).

(Former official of the Labour Police Directorate) *“We believe that our inspectors are very competent. The subject of home work is so technical, so specific ... for example, establishing rates for a garment. Second, carrying out an inspection on pay day, or to see how the cut garments are handed out, that is, whether they are given out individually, two by two, four by four, what each rate specifies”.* (Union leader, SOIVA).

“For many years, the Workshop Owner’s Union had a very good relationship with the Home Work Department. Complaints were made about the fact that inspectors could inspect and authorize both workshop owners and workers, that is, regularize the situation of work givers. In 1993, the Ministry of Labour practically dismantled the inspection structure.” (Legal advisor, Union of Workshop Owners).

“Unfortunately, the lack of support from the relevant authority in 1993, and even suspicions of encouragement to breach existing legislation, has caused this sector to lose some status for want of inspection. Home work inspection is non-existent! (Formerly) ... compliance was fairly good. Home work inspection came to a halt in 1986 with the first delegation to the provinces.” (former official of the Labour Police Directorate).

²⁷The country does not have a trade union that brings together homeworkers specifically, with the result that those who do join unions opt for those representing employees in general, according to activity and respective branch of production. For example, SOIVA (Trade Union of Workers in the Garment and Similar Industry) is the trade union grouping which represents homeworkers in the garment industry; UTICRA (Union of Workers in the Footwear Industry of the Republic of Argentina) represents homeworkers in the footwear industry. Meanwhile, workshop owners have their own specific Trade Union of Home Workshop Owners (STAD).

With the removal of inspectors, a change occurred in the Department's tasks.

"When we had the inspectors, complaints were lodged here. Some workers presented their complaint through the trade union. But since we have not had the inspectors, we have not received complaints either. Neither is there a specific department to receive all complaints." (General Supervisor, Home Work Department).

In the early 1990s this absence of specialized inspectors was exacerbated by a measure raising fines for violations.²⁸

Through this downsizing of activities, the Department retained responsibility only for accrediting work-givers and takers, in other words, the function of keeping the register.

"...we lost all track of the inspections carried out, we were unable to programme any more officials to verify compliance with the law, and complaints were received in the Inspection and Supervision Department. Here in the Directorate, there were two inspection departments, one was the Inspection and Supervision Department²⁹, which dealt with anything relating to the inspection of business establishments in the Federal Capital, while the home work inspectors were responsible purely and exclusively for verifying compliance with home work legislation and related labour standards. When the inspection officials were seconded to the General Inspectorate, this function was removed. That was in 1996. But two years before they had already started to second staff, home work was neglected" (General Supervisor, Home Work Directorate).

As in any field involving inspection, two typical policing dilemmas arose, with implications on the ethical front. If the inspection function is interpreted purely in policing terms, it is hardly surprising that sources of information speak of "complaints", "accomplices" or "clandestinity", and harassment techniques. A number of dissenting views exist in respect of such an approach ...

[The Labour Police Directorate] *"exists to register workers and ensure that the law is observed and, where appropriate, if it is not observed, to apply the penalty. Because the penalty is of a corrective rather than disciplinary nature. Under this criterion, the only thing that inspectors should do is to apply penalties, but that is not right. The inspector should instruct, persuade and, as a last resort, punish."* (former official, Labour Police).

In this connection, the Ministry's approach to policing appears to be changing (recently and incipiently). The fact that the Home Work Department is now in the Directorate of Inspection and Individual Relations, and that it has no special inspectors, gives the impression that the "repressive" function has been attenuated - especially as it was previously placed in the Labour Police Directorate with a large body of inspectors. However, new guidelines have recently been introduced in the

²⁸A previous law existed which provided that inspectors received 10 per cent of the fines. Since pay for inspectors is low, two problems arise: the first problem is that they will impose fines for the sake of it, which makes the penalty meaningless. Why? Because the inspectors get 10 per cent of it. And that is when they were proceeding in a correct manner. But when they act in an incorrect manner, they go and say: "Look, this fine is going to cost you \$3,000, and I will get \$300". And then they frequently take that ten per cent in advance. This is a form of corruption ... And it was exacerbated because the fines were increased, and the Labour Police Directorate was then seen as a cash register, rather than an inspection authority ... because it is not the function of the Labour Police Directorate to collect money ... and, the only objective of the change that was made was to bring in money ... nobody knows why or who for" (former official, Labour Police).

²⁹Coincides with Memorandum No. 1940/93.

Ministry, which affect the entire organization, introducing a new figure (or is it a matter of restoring an old figure?) of the “employment controller” with responsibility for monitoring non-registered work. Under the new guidelines, trade union associations may put forward candidates for the post.³⁰ The question remains of how this new provision, if implemented, will combine labour flexibility with a new form of what would appear to be police supervision.

3.1.3 Wage Commissions³¹

Under the relevant legislation, wage commissions will be set up at the request of professional associations of employers and workers. Their main functions are: *to establish rates, the minimum wage of the worker, helper or apprentice, and the commissions of intermediaries and workshop owners, based on the nature of the work, the cost of living and remuneration in factories for similar work* (Act 12713: Article 26).

Decree 18755/42 also lays down the function of: *...inspecting premises and checking books to verify the conditions under which the work is undertaken in the corresponding industry, and the form and punctuality of payments* (Article 39 of Decree 18755/42).

The Department structure includes new wage commissions by categories of activity.³² These Commissions constitute a forum for negotiation between representatives of business and trade union associations. The main subject areas dealt with in meetings of the wage commissions relate to adjustment of rates, rate unification proposals, changes in the way rates are applied, and the incorporation of new categories. Discussion also centres on occasion on the confirmation of benefits and bonuses fixed for homeworkers by a given Collective Work Agreement in accordance with the branch of activity.³³

When the legal entrepreneurial and trade union representatives of the sectors (with a mandate of two years laid down by law) meet, they generally agree that it is necessary to adjust and update the rates in force. It is commonly suggested that appropriate studies and proposals should be drawn up. A time frame is then agreed for study of the matter and a date is fixed for a meeting to discuss and approve the study. Discussion also turns frequently to whether or not a detailed analysis should be carried out, rate by rate, or whether, on the contrary, the various specialist areas corresponding to the commission in question should be unified.³⁴

³⁰Ministry of Labour and Social Security Resolution No. 1029/December 1996.

³¹Bodies contributing to implementation of legislation (Chapter III. Act 12713).

³²**First Commission:** Tailoring for men, adolescents and boys; **Second Commission:** garment manufacture in general for men, adolescents and boys; **Third Commission:** tailoring and garment manufacture for ladies; **Fourth Commission:** garment manufacture for ladies, adolescents and girls and dolls, in general and similar; **Fifth Commission:** manufacture of shirts, ties and underwear for men; **Sixth Commission:** manufacture of linen, napery and embroidery; **Seventh Commission:** tailoring and manufacture of civilian, military and naval uniforms; **Eighth Commission:** production of shoes for men, women, adolescents, babies and infants. Boots. Sports footwear, slippers, etc.; **Ninth Commission:** watch repair.

³³C.2/May 1993. Work Agreement No. 204/93.

³⁴For example, according to an internal document of the Home Work Department, the official rates for military clothing and uniforms total 55; 10 for footwear manufacture, 1 for the watch industry. Memo 1940/93.

It is no easy matter to achieve the quorum without which the commissions cannot function. Lack of quorum may frequently be interpreted as part of the negotiation strategy of the absent representation.³⁵

Despite these details of form, reading an analysis of the material contained in the record of the Minutes of the Home Work Department corresponding to the different wage commissions reveals that:

- The last Wage Commission meeting was held in 1993.³⁶ The previous meeting had been held in 1991, prior to which it had not met since 1976.
- The wage commissions have not met since 1993.³⁷
- The information provided by officials of the Department reveals that, while the administrative formalities necessary to set up the commissions and hold meetings (designation of a representative of the Ministry as the chairman of each Commission, preparation of circulars and notice of meetings to professional associations of employers and workers for the nomination of new representatives, etc.) continue to be carried out, they are not at present functioning.
- Finally, an analysis of the Minutes of all Commission meetings held during 1993 reveals that eight wage commissions met, but only three issued resolutions with the agreement of the parties.³⁸

3.2 The law in action: Home work and clandestinity

Sources of information coincide in considering home work to be a paradigm of clandestine work today:

“There is probably no other sector in which the level of clandestinity is as high as for home work ...” (Official, Department of Home Work).

Registration and inspection serve as means to rectify and legalise the situation of homeworkers. But who will insist on registration at a time of high unemployment and low wages? Workers cannot demand it. Stated frankly:

³⁵The business chamber representatives are consistently absent, this fact being recorded in the reading of the corresponding Minutes.

³⁶According to the Minutes consulted, the Ninth Commission corresponding to watch repair has never met. Ministry of Labour and Social Security Resolution No. 490/91 does not list employer representatives, and the only names appearing are those representing the Unified Union of Watchmakers and Jewellers of Argentina. The First and Fifth Commissions met last in 1992.

³⁷The official documentation drawn up by the Department at the request of the International Affairs Coordination regarding the method of fixing minimum wages for homeworkers and the functioning of the wage commissions, requested as material for the formulation of a government report to the ILO, states that: *It should be made clear that the commissions in question met until 1993, and have not subsequently reconvened ... The terms of the members of all the wage commissions expired in June 1993* (Home Work Department, Memorandum 18/7/1997).

³⁸The Second, Sixth and Eighth Commissions issues resolutions which, in each case, increased the rates in force or approved for the new minimum wage rates.

“Today active workers are subject to extortion by employers. How can we remedy this? Political power must have the will ... The late Secretary of the General Confederation of Workers said as much in 1990 about the well-known “maquiladora” plants [in Mexico], ‘leave them, at least they are working.’ (UTICRA).

Interviewees state that the few employers who register do so for reasons other than the desire to comply with Act 12.713:

“They must have somebody registered ... Sometimes the work-giver has to register in order to keep on the right side of the DGI. He shows the DGI all his invoices. And he shows the Ministry inspector the workshop owners noted in the book, which certainly don’t reflect the real situation.” (Legal advisor, Home Work Department).

Interviewees continue to consider that the Inspectorate and the Wage Commissions were adequate mechanisms to protect workers’ rights. They blame the current situation on difficulties relating to the Inspectorate and monitoring, in themselves or in conjunction with the subordination and fears of the workers themselves.

“For fear of not being given any more work, people sign what the employers give them to sign; that they were paid for the full holidays when in fact they were only paid for half ... During the time of hyperinflation, they recorded in the book that they paid workers less. The employers say it, or the workers when they are fired, in attempting to claim compensation as a proportion of the money they had earned. These problems are reported when workers cease to be given work.” (Official, Home Work Department.)

The Home Work Department is well aware of the situation. The memorandum of 1993 (No. 1940/93) clearly states:

“Despite the shortage of inspectors ... and with the complicity of workers themselves who, fearing that they will not be given further work, do not insist on the corresponding work booklet or give the address of the culprits, although those who are checked admit that the number of garments recorded is less than they actually receive.”

“The ‘black market’ in home work grew ... which would show up clearly if inspection concentrated specifically on that subject. Because we have no way of verifying this.” (Official, Home Work Department.)

4. Home work in Argentina: Workers and labour relations

Scant research has been carried out into home work in Argentina today. A single study seeks to estimate the numbers involved (Marshall, 1990), while other studies deal with home work as one aspect of the broader category of “precarious work”, and do not consider the extent of the specific phenomenon under discussion (Cortés, 1988).

The most broad-ranging point of information is perhaps the result of a question in the Precariousness of Employment module in the Permanent Households Survey carried out in May 1990 in Greater Buenos Aires. The module (to be answered by wage earning and unemployed workers who

had been employees during the twelve months prior to the survey) included a question³⁹ which touches on the subject. The responses revealed that 1.3 per cent of wage-earners worked at home (Cafferata and Roudil, 1992). This percentage is significantly higher among non-registered workers (“those who work illegally”) than among those who are registered. It also varies according to whether the employment relationship is of a temporary or permanent nature: 3.4 per cent of the non-registered permanent wage-earning population and 6 per cent of non-registered temporary workers work at home, as compared to only 0.4 per cent of registered permanent workers.⁴⁰

Marshall’s study concentrates on *industrial homework*, concentrating on the branches of *garment manufacture* and *leather* in the area of Greater Buenos Aires. The data is taken from the Permanent Households Survey of 1989 (from October 1988 and May 1989), a special exploratory survey carried out with a sample of 50 per cent of workers registered in the garment making and footwear industry in Greater Buenos Aires (Federal Capital and the 19 districts of the urban area) during the two periods coinciding with of the Permanent Households Survey, and the data from the 1980 population census.

None of the sources used contains direct questions on homework, for which reason the report is based on indirect estimates. The 1980 Population Census includes a question (for other purposes) regarding “whether or not the worker travels to the place of work”.⁴¹ Marshall uses this information in order to identify the body of homeworkers as closely as possible:

“The number of those occupied in the manufacturing industry who work in their home [that is, who do not travel to work] represents an estimate of industrial home work” (p. 28).

According to data of the 1980 Census, homeworkers accounted for 8 per cent of total industrial labour in Greater Buenos Aires. In turn, “garment manufacture” and “leather and footwear manufacture” absorbed 40 per cent and 7 per cent respectively of total homeworkers in Greater Buenos Aires (p. 28). The majority of industrial homeworkers stated that they worked independently: 80.5 per cent in garment manufacture and 55.7 per cent in footwear manufacture. In turn, the “employer or partner” proportion stood at 4 per cent and 14.3 per cent, respectively, and only 8.8 per cent of workers in garment manufacture and 21.3 per cent of those in the footwear industry declared themselves to be wage-earners. According to the 1980 Census, women account for a large share of this work modality, particularly in the garment manufacture industry, in which 82 per cent of homeworkers are women.

An alternative source of information is also used by the author who analysed the enrolments in the Register of Homeworkers in the Ministry of Labour. The data denoted a pronounced downward trend. This may be connected to the shrinking economy and the continued job losses in the branches in which home work is concentrated. It may also be connected to an increasing propensity during the 1980s to engage in clandestine home work.

Marshall also carried out a special survey of workers in the garment and leather/footwear industry, taking the Permanent Households Survey in the area of Greater Buenos Aires as a basis. Sixty-eight interviews were carried out, distributed in approximately equal parts between workers in factories and

³⁹The question read: *Do you carry out your work principally a) in your home; b) in other home/s; c) in the street; d) in a specific establishment or premises? e) in different establishments or premises; d) in another place?*

⁴⁰ The most detailed information on this matter is obtained by cross-referencing with other characteristics of these workers. It was not possible to gain access to the original records in order to carry out such an analysis.

⁴¹This question was not repeated in the 1991 Census.

workshops and homeworkers. The latter were divided in equal parts between wage-earners and self-employed workers. This exploratory study concluded that:

- 1) The propensity to engage in home work increases among adult women, including elder women and those with responsibilities in the home;
- 2) Most homeworkers and self-employed workers occupy the position of “spouse” within the household (50 per cent and 53.3 per cent respectively), which clearly sets homeworkers apart from factory or workshop workers in comparable occupations (including a higher proportion of single men/sons).
- 3) The number of homeworkers who work part-time is almost double that of workers in similar categories in factories or workshops.
- 4) The irregularity of work is not due only to seasonal variations but also to shifts in demand, and to sudden changes in purchasing power, or in circumstances in an industrial branch that does not accumulate stock.
- 5) Homework constitutes the sole occupation in 81 per cent of cases.
- 6) Homeworkers more frequently use family members and friends as a means to obtain work, although it is also obtained through public advertisements in newspapers or posters. Unlike “in-house” workers, homeworkers maintain contacts with work-givers.
- 7) There is little difference between employees and self-employed workers in terms of ownership of the instruments of production. The majority of interviewees (63 per cent) owned all the instruments they use, or some of them (19 per cent).
- 8) Employees are set apart from the self-employed in regard to the ownership of production inputs. The latter buy all the inputs for what they produce, while employees never do so.
- 9) Payment: while official rates exist for various tasks, and overall the rates paid to homeworkers are equivalent or sometimes higher than those received by factory workers, in practice (usually clandestine) the rates paid are half the official rates.
- 10) Where social protection is concerned, it is striking that no interviewees are registered with the relevant authority. The proportion of homeworkers (in the garment manufacturing industry) receiving social benefits stands at barely 10 per cent, while the number of employees in factories and workshops in the same industry who are covered is substantially higher: depending on the type of benefit, this figure stands at between 60 and 90 per cent in factories and between 30 and 70 per cent in workshops.

In short, this research bears out the fact that home work in “traditional” Argentinian industry is of a precarious and, in addition, clandestine nature. Likewise, it reveals that real conditions of work fall far short of standards, in terms of wages and of social benefits. The author’s conclusions suggest that many people work in a clandestine manner in part because they are immigrants, although they may have lived in the country for many years.

The information on home work contained in other research reports, particularly in connection with the precarious situation of workers, is very limited and less systematic. Cortés (1988, p. 77) states that in the clothing industry, restructuring of traditional forms includes *a “swing” away from factory production to home production, which has subsequently come to be organized around workshops ... This change in the organization of production has served to boost the black economy and clandestine work.* This is due to production decentralization processes and to the increasing prevalence of subcontracting through workshop owners. Cortés describes the figure of the workshop owner as an intermediary between the work “giver” and the “operatives” who compete to carry out the task in workshops. This figure is in fact an organizer of production for a third party, who directs the work of the workers in his sphere. This analysis of labour relations in an economic sector reveals that the figure

of the workshop owner is as ambiguous and confused in practice as it has been shown to be in legal terms.

Lastly, Neffa (1987) analyses the nature and characteristics of paid home work in the leather/footwear industry and in the garment manufacture industry. Information provided in interviews with key sources of information (givers and takers of homework: entrepreneurs, workshop owners and workers) coincides with the conclusions of other studies mentioned: failure to comply with legal provisions (regarding recognition as wage-earning workers and corresponding social benefits, remuneration and rate fixing system). The author points out that legislation dates back some time and continues to be confined to a limited number of activities, and that appropriate labour policy measures should be drawn up with two objectives: to promote the possibility for these workers to set up a small business (credit, tax facilities, access to markets) on the one hand; and to amend legal and social regulations in such a way as to put these workers on an equal footing with those who work as dependent employees, on the other.

4.1 The worker and the labour market

The preceding discussion shows that it is not always possible readily and directly to identify home work. There are more grey areas than clear distinctions. This is particularly true in day to day relations in the labour market. Ambiguities exist both in seeking work and in conditions of hiring. The majority of situations are characterized by non-registered work, and by relationships of subordination that are not formally acknowledged as relationships of dependence, etc.

4.1.1 How is work obtained?

Homeworkers may obtain information on work available through informal channels, such as personal recommendations, or from more formal sources such as advertisements published in newspapers and magazines. References were made continually in interviews (see below) to personal contacts.

An analysis has been made of the nature of work offered in the press advertisements, including type of task and requirements for carrying it out, and of advertisements by workers offering their services to carry out various tasks in their homes. It should be mentioned that the field work in this research coincided with a period when unemployment and underemployment in Argentina reached unprecedented levels. Therefore, the press advertisements reflect an “atypical” demand from new sectors, since the demand for work in the more traditional and established sectors was virtually non-existent, and was no doubt met through the pre-existing channels and links between givers and takers of work in each branch.

This research was carried out during three different periods, in order to allow for seasonal or cyclical fluctuations in demand. The research period was relatively short, consisting of two weeks in April, two weeks in June and two weeks in August of 1997. A compilation was made of the information contained in the classified advertisements of a major daily and weekly, in the categories

corresponding to the work requested by employers and that offered by workers.⁴² The analysis concentrates on advertisements mentioning “the home” as preferred place of work.

On the basis of the list of advertisements, contact was established with those offering work or services, in order to request further details of the type of work in question. On the basis of the data gathered, it was possible to establish an initial distinction between manual work, provision of services and activities connected with sales.

1) Demand for homeworkers to carry out *manual tasks*. First, the demand for homeworkers to carry out sewing, assembly of shoes, and tailoring, among others, is virtually non-existent. These activities appear more frequently, although sporadically, in categories of jobs sought by workers. The advertisements relate primarily to assembly of boxes in fabrics and cardboard for use as jewellery cases and chocolate boxes; the raw material is provided by the employer, who commits himself to buy everything produced. One requirement to begin production, for some of these enterprises, is that an initial investment should be made of \$25 for the instruction manual and for moulds and patterns; this investment must be repeated if the product being made is modified in any way. Payment of the finished items is made against their delivery, by the dozen or by the unit, according to the size of the product. Price varies by size of the box produced, which are delivered to the premises of the employer by the worker. Remuneration and production are carried out by the week and a verbal commitment is made by the company to provide work throughout the year. The worker is not required to submit any documentation and no record is kept of the items delivered. The worker’s personal details are the only information required. No references are sought regarding previous work. Those who are interested in such work are given a test in assembling the product. The companies offering such work are located in the Federal Capital and in Greater Buenos Aires.

2) In the area that might be labelled *provision of services*, a considerable number of advertisements appear addressed to housewives who have a space in which a doctor, generally practising homeopathy, can set up a surgery to see patients. Such requests are sometimes made by tarot readers, or groups of parapsychologists requiring premises in which to give their courses. The prerequisite in all cases is that two rooms must be available, one to be used as a waiting room and the other in which the practitioner can attend his patients. The housewife is responsible for publicizing the surgery in the neighbourhood, mainly through flyers and posters provided by the doctor, through the personal relationships and networks she establishes. The publicity that is circulated gives details of the day and hour of surgery (with the exception of an endocrinologist who undertook to provide information through his secretary). The function of the housewife is not only to publicize the service but also to receive patients and distribute the medication prescribed by the doctor. The proposal initially is that the house should be used as a surgery once or twice a month, with the possibility of increasing the frequency of consultations. The owner receives 50 per cent of the consultation fees and 10 per cent on the price of medicines. Medicines function as follows: the doctor has an agreement with a chemist who

⁴²Categories of work:

Diario Clarin

Category 11: Commercial and office workers. Sought.

Category 12: Miscellaneous Trades and Occupations. Sought.

Category 18: Miscellaneous Trades and Occupations. Offered.

Semanario Segundamano

Category 49: Jobs. Sought and Offered.

Category 50: Trades. Sought and Offered.

Category 56: Professional and Technical. Offered.

Category 59: Miscellaneous Objects and Services. Offered.

delivers the medicines requested by the doctor or the housewife. The medicines are picked up by patients from the latter's home.

The advertisements appear under the heading, *Homeopathic doctor seeks* or *Medical organization seeks* ... Some also offer free medical attention to the housewife and to any family member who may fall sick. Advertisements of this nature appear most frequently - approximately 60 during the periods under consideration - and repeatedly.

For parapsychology teachers seeking premises in which to give classes or attend clients, the housewife receives 25 per cent, both on courses and consultations. As in the previous cases, she is expected to serve as receptionist, attend course participants and those interested in the activity. Payment is in advance, and the teachers are responsible for finding clients and taking calls.

All these approaches create a form of partnership between the housewife and those wishing to use a space in her house, particularly in the case of doctors - which is most frequent - since she is responsible for promoting the surgery and increasing the number of patients through her publicity activity.

3) On the other extreme, *services offered by workers* are connected with graphic design, attending phone calls and correspondence, translations, typing and, to a lesser extent, technical tasks and teaching.

4) A special group of such advertisements in the press are connected with *direct sales*. Many advertisements appear in this category and it is the area most frequently mentioned by interviewees who have obtained work through advertisements, either in the press or posters in their neighbourhood. Most of the advertisements in this category relate to products in the cosmetic, cleaning or nutrition line. This aspect will be more fully analysed when a closer look is taken at one particular case of direct sales.

An advertisement in the same category sought a *telemarketer* to carry out telephone sales from home. The product was a "postal codes guide" costing US\$35. The sales person earned a commission on the sale of each copy (US\$4.50 per copy), in addition to US\$5 per day for telephone charges to be paid by the company. No direct relationship was established with the client, and the company undertook to distribute the product and to receive payment. The percentage earned by the sales person and the telephone costs were to be deposited once a week in a savings account opened by the worker in the bank of his choice.

4.1.2 Workers and their work

During the course of research into the situation of homeworkers, a series of interviews was conducted with people carrying out work in their homes, using a guide (see ANNEX) through which their occupational histories could be traced, together with the link between their work and other aspects of their lives (particularly family and domestic responsibilities), and various aspects of their work preferences and practices - ranging from awareness and practice of their rights to their views on the advantages and disadvantages of homework. A broad definition of homeworkers, although with limits, was used as a basis for this exploratory research. Cases that clearly involved self-employed workers in the strict sense (for example, dressmakers working for a large number of non-regular clients) or independent professionals were not included. But it was not possible to establish a strict definition, since - as was known before the field work was initiated and subsequently confirmed - the majority of home work is undertaken on the basis of an informal and/or precarious employment relationship, with no dependence relationship recognized by the employer or the worker.

In view of the range of situations encountered, the material obtained from interviews has been presented by categories corresponding to types of sector and employment relationships: traditional industries, direct sales and other forms (new and old) of home work.

a) Traditional industries

The data gathered suggests that conditions of work and wages are unfavourable for workers, in the context of a work market with high levels of unemployment, and with an ongoing economic restructuring process in which the traditional consumer industries are strongly affected by the readier access of imports (particularly from China). Simultaneously, the fact that the relevant offices of the Ministry of Labour have cut back on inspection activity means that legal provisions are ignored.⁴³

Work situations and conditions vary greatly. Some workers have a single employer - even on occasion (always under exceptional circumstances and for limited durations) working as a registered worker; while others take work from several sources. Overall, they prefer to have several sources of work, in order to diversify risks and ensure alternative sources of work. During a period of economic recession and declining demand, dependence on a single employer is dangerous, as revealed by Claudia's story. This account also demonstrates the reason (or lack of reason) for registering. Workers and intermediaries do so when, for some reason connected with the need to have "papers", it becomes unavoidable - generally for employers rather than for workers. The advantages or disadvantages, in practice, relate to practical considerations rather than to ensuring greater protection.⁴⁴

Claudia. 45 years, secondary education not completed, preferred to work rather than study. Separated and living with her mother - her daughter left home a year ago. She has always worked at home, on an upright "overlock" machine. During some periods, she had a girl to help her with sewing. She took up sewing like her mother before her. *"That's how my work started. My mother was getting older and gradually worked less. Then I started ... upstairs we had a room that I used as a workshop. Life was normal. The child went to school, I worked at home. I'd stop work on small jobs to do things with the child ... I worked all the hours I could. From the moment I got up, until last thing at night. I would have liked to work from 10 in the morning until 6 in the evening. But I could never do that, because if I worked those hours I couldn't meet the deadlines or earn enough money. I stopped as little as possible. Just to take and fetch the child from school and that was all. Because my mother did the shopping, prepared the food, everything."* There were seasonal variations, times of the year with less work. She nearly always worked for a single work giver " ... *Because I didn't want to get in a mess. But there were times when I had two people giving me work. I was always lucky. They brought it to my house and then picked it up. I didn't have to go to and fro. They brought it to me already cut out and I ran everything up. They would bring you the samples so that you could copy it. I charged per garment, per delivery. I was paid weekly.*" The contract was of a verbal nature but she never had any problems.

"That is how the story [of being a registered worker] begins. I worked illegally for this man for over eight or ten years. He had seamstresses in different houses, never on his premises. What he would bring the seamstresses were beach umbrellas, in plastic, with advertising. One day he came and he

⁴³Information on a particular case appeared in the newspapers (Clarín, 1.9.97). The article is entitled: *Ban on home work with shrimps*. The sub-title of the article stated: *Bahia Blanca: for "health reasons", 2,500 people are left without a livelihood. For decades, [shrimp] peeling has been carried out in private homes** Workers say there have never been health problems. **The measure introduced by the SENASA [National Agri Food Health Service] also affects boatmen and small tradesmen.*

⁴⁴The guide used for interviewing homeworkers is reproduced as ANNEX.

said to me: *'Let's make a deal. Out of a group of ten seamstresses, I have chosen some to be registered', because he was beginning to have problems with the DGI. I was registered for the first time in 1993. The deal was that he would pay our social contribution, he would deduct pension, but he wouldn't pay us holidays or bonuses. It was in my interest to have my pension discounted and to be registered, and it was in his interest because he didn't have to pay us holidays or bonuses. I have the work booklet. The social coverage was from SOIVA. I had everything. Full coverage. I was earning \$1,500 per month. I started working very hard, because you didn't get much per garment, but you made money on the quantity. I worked flat out, on Saturdays, on Sundays. He was a great guy, we got on well. He would bring me work and, since he was there anyway, he paid me. It was a crazy amount of work. And then I went to the trade union to see what the position was. That was all. **That was the agreement, I couldn't do other things.** I was registered for about two years. Because the man started to have less work. I'd have no work for two or three days and I'd go mad. I was paid for what I did. But things started to go badly for him and, since he didn't bring me work, I started looking elsewhere. There wasn't much I could do at my age. I couldn't get in the queue of those who had been fired. I went after lots of things in the newspaper, but I stopped because I couldn't compete with much younger people, who were really well educated, who queued and they still weren't taken on. He didn't say anything to me, but I realized that I couldn't live like that.'* When work became scarce, she did nothing to find out about whether she was entitled to compensation: *"I left things as they were. Since the deal was with that man ..."*.

She looked for other work. *"I was quite tired of working at home after so many years. I sold the machinery, I sold everything. I didn't want anything else. Tired of sewing for so many years, and so, when the work dropped off, I said "o.k., that's it". I went out to look for work, which was pretty frustrating. At my age and everything, if it wasn't for contacts through people I knew ... a family friend got me into this metal working factory. I'm a shop floor worker. We stick weather stripping on cars, what goes around the doors and the windscreens. It was a factory where women never used to work. But, now that the French have bought it, they hire women. I was one of the first four. Now there are more"*.

Claudia compares the two types of work: *"... the difference is enormous money-wise [she earns much less now than when she was working most intensely at home]. But here I recovered a bit of myself, because before I was a complete slave. Now I get home at 3 in the afternoon and I forget everything. I have Saturdays and Sundays. My home is my home: before there were piles of work on the stairs. I'm better off in terms of peace of mind and time for myself. Before, I earned more but I was a slave to time ... I have girlfriends, I have a different interaction with people. It's a complete change. The fact of having to go out, which I never did, was a huge challenge. It was like being weaned from the family home. But I didn't find it difficult, because I was under so much stress [mother's illness, among other things] ... For me it was like going outside into the open and breathing ... With home work you're inside. I didn't go out for anything. Always shut up!"*.

At the other extreme are the small workshop owners, with huge fluctuations in the pace and quantity of work. Although, technically speaking, it is open to debate whether Marcelo is a workshop owner or a homeworker, he considers himself to be a homeworker.

Marcelo works in a workshop, which he shares with a partner who lives there. He is a presser. He is 26 years of age, and has not completed secondary education. He has been working as a presser for 11 years, preparing garments for sale. He works with three industrial irons and a boiler, which produces steam for the irons. *"I began as an employee, and at the age of 17 I set up on my own. I started to work as an employee, and then I got the chance to set up a workshop. I had a greengrocer's shop, a chicken-rearing establishment. Always as a self-employed worker, in partnership with other people."*

Things have worked out well, and we are getting along. If things go wrong, you have to pick yourself up and start again.” He does not like to work in a relationship of dependence “... because I don’t like people to give me orders. I don’t last. Strictly speaking, I also have a boss, the work-givers, because they demand that you deliver. The difference is that I don’t have working hours. If I don’t want to work one day, I don’t. But if I have to work and deliver, come and go, I may have to work until one, two or five in the morning”.

Marcelo organizes the work, and draws up a schedule to ensure that deadlines are met, *“the quality of the pressing, that it comes out well pressed, that it is correctly folded, correctly tied. Everything to do with quality control. And at the same time, if I have to press, I press; if I have to fold, I fold.”* At the time of the interview, five people were working with him, although quantities varied greatly.

“You get clients through acquaintances, through contacts, or because you go out and introduce yourself, ask for work, with the introduction folder. It is a relationship based on trust. They give you the garments, there is a big investment involved. So it is a question of mutual confidence, because I could steal the garments and how could they prove that I stole them, if there is nothing legal? The agreement is verbal, just a number, ‘I took so many garments’”.

Marcelo has heard of a union of workshop owners, but he does not expect anything from it. He values his independence. *“I provide a service for a factory, but I place great store on my independent status. I organize my life as I please. I could close down my workshop. For better or for worse, I control my own affairs”.* He also states that there is considerable competition, and that prices are dropping.

The drop in demand for such traditional forms of work (there are practically no advertisements for such workers; most who engage in such activity are following a family tradition in the category) could be due to a crisis in local industry or commerce, while the increasing volume of clandestine work in workshops using captive labour (generally illegal migrants), has been reported on occasion in the press.

b) Direct sales

One of the most visible and extensive modalities of home work (which is also increasing) is the system of *direct sales*. This type of work is carried out *from home*, rather than *in the home*, according to the distinction made by Hakim (1986). This no doubt does not fall under the typical modalities of home work, covered either by Argentinian legislation or by ILO Convention No. 177. However, this employment relationship involves thousands of people, particularly women, and it is becoming more widespread. This way of organizing sales allows producer enterprises to considerably reduce the number of permanent workers they employ, replacing them by workers without protection or stability, workers who must fend for themselves and who are subject to increasing competition with the entry of ever-larger numbers of precarious workers to the sales system.⁴⁵

Direct sales is a system of marketing a wide range of products (cosmetics, household items, food products, etc.) which are distributed through personalized channels, with a direct link between the sales person and the client. The goods in question cannot be purchased in established shops. Distribution is effected through a chain of sales persons who are in contact with each other and with the company. Anybody who is interested in participating has a “sponsor” who introduces them to the system (and earns a commission on the sales of the person sponsored). Would-be sellers must make an initial investment - the purchase of the products and necessary accessories (catalogues, brochures, containers,

⁴⁵In fact, this is a system which would function if demand for products were unlimited, in that workers increase their earnings by increasing their own sales and by introducing new sales persons who, in fact, ultimately compete with the “original” sales force in a market that is not infinite; hence, the “perverse” characteristics of the system.

receipt book, etc.) before they can begin working. The sales price of the product is fixed by the company, as is the percentage earned by the sales force.

One sales method is to organize a meeting to present the products to potential clients, either in the salesperson's home or in some other available premises, or the homes of prospective buyers. Potential clients are sought among friends, family members, neighbours and acquaintances, generally by telephone calls.

The sales person organizes work **from home**: (s)he draws up lists of potential clients, uses the telephone (or, more recently, the fax and the computer, sometimes offering products on Internet), (s)he uses space at home for meetings and storage of products. When required to do so by the product (a product to lose weight, monitor nutrition and stabilize weight, for example) the sales person carries out after-sales follow-up from home.

Since such work is organized principally from home, other members of the family collaborate, by answering the telephone and distributing advertising material or even products.

People enter direct sales through classified advertisements in the jobs pages (most are targeted at people who wish to work from home) or through personal contact with other sales persons. There are no requirements regarding age, education or sex. For some products, women predominate (in cosmetics, for example). Many take up this occupation in addition to another, more stable or lucrative job.

During the course of the year, the companies organize talks and seminars (many of them charging a fee) to "train" their sales force. These events, combined with the support of sponsors and the explanatory manuals and catalogues that are purchased upon making the first and then successive purchases, provide the "technical" tools to carry out the task. The company awards prizes (trips, new products, gifts, etc.) to those who beat certain sales targets.⁴⁶

The perceived advantages of this type of work are that it can be scheduled to suit the worker's needs, without employer supervision, using free moments left by day to day obligations. Disadvantages lie primarily in the difficulty of finding new clients and the need constantly to invest in new products for demonstration and, ultimately, sale.

For the company, this is a risk-free sales system. The seller tends to be a user of the product (and frequently recruited for that reason) who subsequently becomes a salesperson who is required to purchase the basic range of products and all the necessary promotional material. The company provides no social coverage for their sales force and does not guarantee any minimum earnings. The company requires no formal documentation (proof of registration as a tax payer or registration as a self-employed worker, or any other requirement).

Available data suggests that this is a type of work in which women predominate, particularly in the sale of cosmetics, household products, etc. Educational levels vary considerably; women interviewed were at primary, secondary and university levels. Marital status included widowed, separated or married women, the majority falling within 30-55 year age bracket. This type of work is "suited" to women who are accustomed to handling the home economy (housewives), even though they may also engage in other gainful occupations. The main consideration is that the sales work can be

⁴⁶Companies also carry out a strategy to attract and ensure the fidelity of their sales force and of promoters, using techniques based on the development of an identification with the product and a family-type collective identity.

directly dovetailed with household tasks - speaking on the telephone, going out to shop (fetch products), meet with groups of people, sell.

Prior work experience varies. Some of the women interviewed have carried out temporary work, or independent work, as teachers, owners of small (one person) enterprises or housewives. The experience of one woman is a case in point.

María is a qualified teacher of 53 years of age. Her previous work experience was very varied: as a private teacher, a teacher in a rural school, a caretaker, a self-employed homemaker (making wallets with a friend, which they subsequently went out to sell). She also worked in a relationship of dependence as manageress of a furniture store and of a restaurant. She set up her own take-away food business which failed. Her last job was as manageress of a “drug store”, where she earned a wage. However, the business also closed. She has five children, two of whom live with her, both involved in sales.

Maria divides her time as follows: Monday and Tuesday, devoted to direct sales; Wednesday, cares for her grandson; Thursday, presses in her daughter’s establishment; Friday, cooks in her sister’s home, for the whole week (cooking for the freezer); and weekends, cellular telephone promoter.

Both her daughter and sister pay her for her work, but she does not charge for caring for her grandson.

Her direct sales work is for a cosmetic company. *“I am a consultant. I demonstrate the product, I don’t sell it. People buy if they are interested. What takes up most time are the meetings, events, talks, special classes on the product. You have to look for people. First, you start with the people you know best, your family, friends, colleagues. You gradually build up a list of all the people you know. Then you start to make calls, either from the company premises or from home. Demonstration meetings can be held in your home, in the company, or in the home of a potential client. But the time comes when you run out of contacts, as you have to look for some other work ... The cosmetics are purchased. Everything has to be paid for: the brochure, the purchase orders, the products to display, the mirrors, all the stationery, ... that is why I always say that the consultant is the company’s best client. Because not only do you buy to sell, you buy for your own use. If you don’t use the product, you don’t know it. There is no point in going out to try and sell something you don’t know.”*

It is a hierarchical system: *“when you have a group of people, one becomes an entrepreneur with responsibilities for several consultants”*. There is no contract, no health or retirement coverage (she has a pre-paid health insurance).

María says that it is not her preferred type of work, and she would rather be in a dependence relationship, on account of the security of earnings and because she feels better working somewhere other than in her own home.

c) *New and old forms of home work*

It was anticipated that new forms of home work would be identified during the course of this research, connected with the expansion of information technology. However, this did not prove to be possible. In part, as a result of policies to make work more flexible and of outsourcing practices, such information technology home work tends to take the form of contracts for individual tasks. In these cases, the worker is independent and no dependence relationship exists. Moreover, the expansion of home work in the context of new technologies involves highly qualified specialists who are symbolically considered as equivalent to members of the liberal professions. The ambiguity between situations of disguised dependence and independent professional work is very much a grey area.

Daniel is a graphic designer, 31 years of age, who works in the family home.

“My task is to provide services both to printing works and to laboratories. I produce flyers, posters, brochures, catalogues. Let’s take the example of a catalogue for a business: I design it, I give a simulated presentation of what it will look like and, if they give me the go-ahead, we make an original that goes to the printers. It is the first stage in the printing process. I am the initiator”.

He works in the sitting room of his home with a computer, a printer, a telephone and a fax, which is how he receives most of his jobs. He usually returns his sketches by fax. He works principally for intermediaries who pick up the jobs from companies or clients (for example, a printer who prints for a large number of laboratories and who sends him the design work). He has a chain of intermediaries. The work is not regular, with periods of high demand alternating with slack periods. Daniel does not go out to look for work, depending on his circle of intermediaries. He distinguishes between the contract *“which would have to be drawn up if you do things properly, where you sign a prior contract”* and the reality of his situation. *“That would be the ideal but I work on the basis of purely verbal agreements”.*

He began to work in this way on small jobs given him by a family acquaintance. *“Payment is made monthly. Most clients issue a cheque a month after the work has been completed. Because I have a regular relationship, they don’t just disappear from sight for a month. I keep a record of the jobs I do”.*

He works black. Some clients ask for an invoice, but he explains to them that the work is much cheaper without one. The reason he works black is that, given the amount he earns and the irregular nature of the work, he would be unable to pay a pension and taxes. *“I have changed how I work. I used to visit clients, but since my job is very time-consuming, I had to gradually adapt. If I was always out visiting clients, I didn’t have time to do my work. Now clients visit me or they send me a fax”.*

He prefers to work alone, seeing more problems than benefits in hiring other people or becoming an employee. *“This is mine, it is what I like to do. To create and to see the results ... This way of working has its advantages and disadvantages. I see more advantages. I am comfortable. I have nobody over me, forcing me to do things and who can throw me out. I am independent. It’s a complicated matter, because I also have people who want to make me do things”.*

His mother is an invalid and needs someone to care for her, which Daniel does during the day. This circumstance exacerbates what he sees as one of the disadvantages of this type of work, in which home and work are combined, *“First, you’re taking up the space of the people who live in the house; the house doesn’t function as a house but as an office. The house is different when clients come. I have been offered work elsewhere. One client invited me to come and work with him, because he needed someone on the creative side in his office ... I might earn more, as a dependent. I wouldn’t be a partner. But I wouldn’t earn much more. In fact, it didn’t suit me, that is why I didn’t accept it. I have clients who have been coming to me for years, who are loyal. I know they don’t give work to other people. I need them and they need me”.*

Although a different category of home work, the behaviour in this case is very similar to that of homeworkers in the garment manufacture industry, working for several work-givers, who are all intermediaries. Since there is no “tradition” of considering these categories in the context of home work, it is practically impossible to imagine Daniel asking any of his “loyal, long-term” work-givers to pay him compensation or bonuses or holidays. He sees himself and others see him as an independent, self-employed worker.

Paula, 36 years, wheelchair invalid, about to complete a university degree, with wide range home work experience (English teacher, transcribing cassettes and typing). At the time of the interview, she was negotiating the special disability rate for a kiosk licence. She worked as a telemarketer for a photocopy distributor, selling supplies and supervising the servicing of machines.

The company gave her a list of clients. She telephoned them and asked them how the machine was running, whether they needed anything, whether they required any information. On occasion, the clients would ask for paper or toner or other input. She would send the orders to the company by fax and, once a day, she would send in information (by fax) on the calls made. *“It was very responsible work, because I was the only one dealing with the clients. The client received the goods and paid on delivery.”* She worked eight hours a day, which she could distribute, although ensuring that she worked during the hours that clients could receive her calls. She had an employer in the company, whom she called if necessary. *“It was better in terms of personal experience than as work. It was no good as work because the company didn’t serve clients well. And it was a great responsibility for me and I would become stressed when I listened to the clients.”*

The company provided her with the fax and the client list. They paid half her telephone bill (based on the calculation of the sum in excess of the bill normally paid by the household), although at the end they paid the whole bill. She had a base pay of US\$150 and commissions for sales (between 15 per cent and 25 per cent). She was paid on a monthly basis, sent to her home. She was treated well and paid punctually. The work ended because they decided not to have people outside the company. They invited her to come and work in the company premises, but it was impossible for Paula to go every day. They paid her compensation, bonuses and holidays.

She also transcribed conferences by foreign visitors for an advertising agency. The work lasted for a four-month trial period, after which they asked her to register as an independent worker. She calculated that, since the work was not permanent and was in fact of a sporadic nature, it was a big risk for her and she refused.

She obtained such work through a foundation helping disabled persons to find work. *“They put you in touch and also make sure you don’t miss work. They are go-betweens.”*

“I prefer to work outside my home. First for social reasons, you’re in touch with other people, you’re informed. And also because you are more your own employer. When you finish you do what you like. But home work takes you over ... For me it was the only alternative. I don’t think it is comfortable to work at home.”

Pedro, also with disability, has had a different experience with home work. Forty-two years of age, married, with five children, incomplete secondary education and a large number of short courses (computing, telemarketing, etc.). At the time of the interview, he referred to himself as telemarketer, with a training course provided by the Ministry of Labour which he discovered through a foundation helping disabled persons. He accepts telemarketing work, depending on what he can get and what is offered to him, often through the foundation.

A number of experiences ended badly. In 1994, he worked as a telemarketer from home, for a health insurance company. The databases that the company gave him from making telephone calls were of

no use since they were out of date. Consequently, he sold nothing and even lost money because the company paid only a part of the telephone bill and not what he had spent.

On another occasion, he “made masses of sales”. The first and second months they paid him correctly, but the third month they failed to pay his sales commissions (although he received the salary of \$100 per month).

His next experience was in selling alarms. This company paid him only the telephone costs, but not the commissions, although he had information that the company had made sales on the basis of his work.

The problem is a recurrent one: on the one hand, to get the company to hand over the money to pay the telephone bill (by the deadline); and, on the other, to get them to pay the commission when there is no way of verifying whether the sale was made.

He has had only one work contract, but without benefits (pension, and social security) and agreed verbally. He has a paper from one company relating to a debt of \$164, but he can do little to collect it (among other reasons, because he would have to spend money that he does not have on special transport in order to carry out the formalities).

He maintains that homeworkers are more exploited and also that companies are more likely to renege.

His last job was as telemarketer, working on a company premises. He was required to register as an independent worker. In fact, the contract is between the company and the foundation and he had to enrol in order to invoice the foundation. He resigned because of too-low earnings and now has to cancel his registration because he does not have the wherewithal to continue it.

Although these details are of a restricted, anecdotal nature, they reveal the extent of the worker’s vulnerability and the precarious nature of the employment relationship. It might be true to say that in the “new” areas, more so perhaps than in the traditional industries, there is no way of establishing an employment relationship that recognizes the worker’s rights. Indeed, pressure is brought to bear on the worker to register as an independent worker, in order immediately to dispel any idea of work carried out in a dependence relationship.⁴⁷

The interviews carried out allow certain inferences and conclusions to be drawn regarding particular aspects of the situation of workers, albeit of an exploratory and preliminary nature.

d) *The private context and the public world*

For people with domestic responsibilities, one of the main attractions of carrying out paid work in the home is that the two can be combined, as is the case of housewives with small children.

Many of the advertisements analysed make mention of domestic responsibilities, particularly those seeking “housewives” with space in their homes to be used as a surgery. In such cases, although it is actually space that is being rented, the intention is to make use of typical women’s skills, not only

⁴⁷One exception exists which, despite efforts to do so, could not be researched. The company in question was a multinational which, according to information published in the Clarín newspaper, had set up an office in the home of one of its managers, so that he could work in his own home and communicate with his subordinates and colleagues by electronic means. Efforts made to interview the manager in question, and the authorities promoting the case, were not successful. In addition, information gathered through informal contacts with architects specializing in the installation of home offices suggests that this modality is increasing in management circles, among other reasons because the cost of installing a home office (with access to new communication and information technologies) is considerably lower than providing a similarly equipped office on company premises.

in managing and supervising the areas in the house, but also, and more importantly, for her social relationships with neighbours and acquaintances in the neighbourhood, who constitute potential clients for the person setting up the surgery.

The presence of elderly people who need special care constitutes another period in family life when family responsibilities make home work attractive, viz. the case of Daniel and his invalid mother.

Combining work and raising a family does present problems and disadvantages. As Daniel states, home and work overlap, *“You’re depriving the people who live in the house of space; the house doesn’t function as a house but as an office.”*

Finally, for persons with motor disabilities, an aspect is not given sufficient attention - home work may mean the difference between being able or unable to work.

e) Training

Another factor arising from the interviews is the distinction between workers carrying out a productive activity in traditional areas and those who are engaged in “new” areas of economic activity. Workers in services and sales refer to the need for training, to update and increase their knowledge so as ensure that they are not excluded from a work market in which skills and the ability to keep abreast of technological advances are of critical importance.

The specialization and training mentioned frequently involves a financial investment to acquire new technology, such as computers, software and other technological inputs which take time to master. One of the workers (Daniel) states:

“I could die of old age adapting to advances in technology. I drew by hand, but progress brought the computer and, whether I liked it or not, I had to learn to adapt to it. And to keep adapting to changes as they occur.”

Mastering information technology and its associated instruments calls for language knowledge. Consequently learning a new language such as English becomes a necessary condition for understanding programmes, catalogues and instruction brochures, among other things.

It would appear that the gradual acquisition of knowledge by attending short courses and talks has become a new habit among workers seeking to optimize their task performance and to prepare the ground for exploring other work opportunities. Another of the workers (Pedro, disabled) states:

“I have studied quite extensively. I completed primary, and three years of secondary. I am now doing a computer course. I have done courses in English, telemarketing, etc. They were all short courses, lasting a few months. Except for one I took through the PAR Foundation, the rest were private courses.”

For activities connected with the direct sale of products, training also appears to be valued as a way of boosting earnings. One of the saleswomen interviewed said that she considered the time devoted to training courses offered by the company to be an essential part of the time she devotes to her work.

“I am a consultant. I demonstrate the product, I don’t sell it, that is, people buy from me if they are interested and, apart from that, what takes my time are the meetings that I hold, events, talks,

special classes on the product. The courses were in telemarketing and then a highly trained person came from an outside company and gave us two classes in marketing. We had to pay for the telemarketing course, but not for the marketing one.” (María)

Regarding the importance of such talks for her work, María says:

“I always attend these meetings. For anything else, I’m replaced by my sister, or daughter-in-law, but meetings on telemarketing I never miss.”

The importance she attributes to this training lies in the problems she experiences in organizing meetings and getting people to attend:

“Because people give you endless excuses and I find it difficult to persuade people. That’s why I was so interested in the telemarketing.”

It is not only the quest for personal growth that underlies the increasing importance that workers attribute to training. They are also bombarded by messages telling them that to become integrated into today’s work market is impossible without appropriate training. Training is good business for companies, since most courses are paid and are intended for a semi-captive audience of direct sales staff.

It is also the recurring concern of intermediate social organizations who act as go-between, seeking to place workers in production enterprises. The executive director of one such association (which seeks work opportunities for disabled individuals) states:

“We have a regular English course, and every 45 days we set up a telemarketing course and a seminar on alternatives in seeking work, so workers can learn to find their niche in the market, how to draw up their curriculum, how to go to a meeting, to perceive the importance of creativity, all this in a single seminar. And we have just signed a cooperation agreement with a UOCRA trades school, for people who haven’t completed secondary school. It will be a three-month course offering an officially recognized qualification, in installing tiles and ceramics. It will be given in the UOCRA school. And this year’s training programmes also include the training each month of ten students in rapid data entry. We are focusing on the population with hypoacusis.”

Homeworkers, in services, are particularly subject to outside influences and can not remain aloof from the changes and prerequisites imposed upon their incorporation in the market. Homeworkers engaged in traditional productive activities differ in that their tasks involve little technological investment, and the skills required, once mastered, merely speed up the pace of work. Interviews with trade union leaders and officials or with officials involved in monitoring home-workers did not make reference to the need for training. However, with the introduction of new machinery, production and work processes in garment and footwear manufacture are also changing.

This situation of frequent attendance of courses and training programmes on a wide range of subjects goes hand in hand with an official discourse stressing the importance of skills training in confronting unemployment. This discourse serves to transfer responsibility for unemployment to workers themselves or to those who wish to be workers, instead of attributing it to the economy’s limited ability to generate work opportunities. Therefore, while skills and upgrading of human resources is of basic and essential importance to economic development, it is somewhat paradoxical to advocate it when there are no jobs.

f) *Workers' sense of belonging and identity*

How do homeworkers evaluate their experience of working at home? Overall, many consider it a sub-optimal alternative, and would prefer working in alternative premises.

Interviewee María (in direct sales) prefers the dependence relationship, on account of the security of earnings and her preference for a workplace that is not her home. Claudia compared both types of work (home and factory) and, although she earns much less in a factory, she values to the distinction between the home and work spaces, the limitation of working hours and the social life connected with work. Paula (disabled) who is applying for a permit to set up a kiosk, confirmed this view.

While generalizations cannot be made on the basis of these exploratory interviews, a possible gender distinction emerges. The three women interviewed, and women in other interviews expressed their preference for keeping work and home separate, and the added advantages of “going out” and being with other people. Meanwhile, although men acknowledge the difficulties of working in the home, they place a greater emphasis on the advantages of independence (not mentioned by the women interviewed) and the independence of home work.

In addition to the social isolation of home work, workers fail entirely to recognize the existence of labour rights in connection with their work, or the existence of institutions offering protection. For example, although Daniel knows that a trade union of workshop owners exist, it is practically impossible to imagine that he would demand that any of his *loyal, long-standing* work-givers should pay him compensation, bonuses or holidays. He defines himself, and others define him, as an independent, self-employed worker.

4.2 The special situation of people with disabilities

During the course of research, contact was established with the private PAR Foundation devoted to seeking work for the disabled population between 18 and 55 years. The Foundation caters for those with motor and sensory disabilities, without mental disability, and does not include progressive disabilities. It functions as a link between private companies and workers, as well as offering training courses (English, telemarketing, writing curriculums, alternative work possibilities, some trades, etc.). The Foundation keeps a database of disabled individuals with whom a number of introductory meetings are held. Listings of potential employers are also kept.

On the subject of homework, the executive director of the Foundation stated that:

“We have had companies asking for homeworkers. But we did not agree to put the parties in contact. Our legal department has advised us that no sufficiently clear legislation exists to ensure that the relationship between the parties is transparent. We have had two or three experiences of home work, especially telemarketing [the two cases interviewed in this report, among others]. Experiences were not satisfactory in that, in telemarketing, motivation is essential and we found the work relationship to be very erratic. We felt that the worker was not respected. We had been advised by the legal department which told us ‘here you will be biting off more than you can chew’. They asked things like: ‘what about the worker’s risk?’, or ‘what about the dependence relationship?’. But, since we wished to leave no stone unturned, we decided to carry out a trial. It was not successful and so we no longer promote home work.”

The Foundation is researching and gathering information on telework in different countries, for possible application in Argentina. In the opinion of the authorities, however, the priority is to have clear legislation, both in terms of defining the dependence relationship and of risk coverage. In addition, for people with disabilities, the work environment outside the home may constitute a very important element of their well-being, countering over-protection by their family. *“For persons with a disability, I continue to believe that the ideal is a combination, a few days at home and a few days in a company, working as part of a team.”*

4.3 The justice system

Although it has been stressed that current legislation in this sphere is being breached, and that illegal work predominates, a justice system exists for labour concerns. As does the possibility that homeworkers may demand their rights if they consider them to have been infringed.

The study of how the justice system is used entailed analysing the archives of the Chamber of Labour Appeals. Six judgments of the second instance involving homeworkers were encountered in the appeals archives for 1991 to 1996. The plaintiffs considered themselves to be homeworkers, and the proceedings were brought against factories and, in one case, against a workshop owner. All the workers in question engaged in tasks relating to garment or footwear manufacture, sewing or pressing.

The complaints centred primarily on demands for compensation for dismissal, payment of bonuses or overtime. In one case, a year’s earnings were demanded as severance pay when the worker stopped work following a stroke.

In every case, the prime point of dispute related to the dependence relationship. If a verdict is to support a compensation claim, workers must demonstrate the existence of a subordinate work relationship. In one case, for example, the judge considered it proven that the plaintiff was a homemaker. Mention is made of the evidence of witnesses who confirmed that the plaintiff carried out tailoring work in his home, that the merchandise was delivered to his house, that he worked for the defendant’s tailoring business and that the latter gave him jackets to work on in his home. In another case, the ruling upheld that the person in question was an independent workshop owner, based on evidence such as his pension contributions as an independent worker, his enrolment in the tax register, CUIT and invoices to several other clients. The judgments clearly reveal that judges do not consider enrolment in the records of Home Work Department to be necessary and that the declarations of witnesses and some form of documentation suffice to prove the relationship.

The points discussed in the judgments refer to those rights which distinguish homeworkers from other workers in the dependence relationship. For example, it creates an entitlement to compensation for dismissal, but not to the payment of overtime or work on public holidays or to the minimum wage, in that the homemaker does not have working hours and cannot therefore making any claims relating to periods of work.

In short, the few cases of legal proceedings (in this case, solely from the archive of appeal judgments, which was the only data available) reveal that they are based simultaneously on the Work Contract Act and on the Home Work Act. The current reform of the Work Contract Act, the ongoing process to introduce greater flexibility into the employment relationship and the increase in contracts in which no relationship is established between the worker and the company above and beyond commercial contracts, will certainly lead to a reduction in legal disputes of this nature. It will become increasingly difficult to provide evidence of these subordinate employment relationships.

5. Concluding observations

Firstly, the results of this research may be summarized in a series of points:

- A large proportion of home work in Argentina is of a clandestine nature.
- The special home work regime that is currently in force contains regulations focusing on the traditional manufacturing industry, without incorporating new sectors or modalities of work. In practice, its coverage is limited to the garment manufacture and leather working industries.⁴⁸ This legislation contrasts with ILO Convention No. 177 which covers the manufacturing and services sectors.
- Although legislation does not exclude any sector, no means [or apparent interest] exists to establish an employment relationship which recognizes worker rights, in the “new areas”. Indeed, the prevailing trend (for all branches) is for the worker to enrol as an independent worker, in order to rule out any dependence relationship.
- In view of the high levels of unemployment on the job market and the current economic restructuring process, conditions of work and wage conditions are unfavourable to workers; meanwhile, regulations are clearly being breached as a result of the reduction in supervision by the relevant offices of the Ministry of Labour.
- The tripartite Wage Commissions - bodies contributing to the implementation of legislation - and systematic inspection and monitoring activities regarding compliance specifically with act 12.713 have effectively been suspended since 1993.
- The fact that work-givers are officially registered (albeit in declining numbers) is not to be attributed to the desire to comply with Act 12.713, but to other forms of pressure (more closely connected with pressure brought to bear by the tax authorities).
- The job market situation in recent years has led to a drop in general union membership levels. This situation, in conjunction with the specific characteristics of the home work modality, hamper the establishment of any specific organization bringing together scattered homeworkers.
- All workers interviewed were unaware of the existence of the Act.
- With one exception, the workers interviewed were not registered as homeworkers.
- Only when a dispute arises between the parties, involving fairly substantial demands, do workers seek channels of access to the relevant entities and to the bodies that can regularize and defend their position. Frequently, the action brought by the worker jeopardizes the survival of the source of work.
- Professional associations and official bodies unanimously recognize the fact that no programmes or projects exist to ascertain the total extent of the “home work” phenomenon. They also acknowledge the absence of programmes to publicize information on the rights and duties embodied in a law passed more than 50 years ago.

⁴⁸See composition of the relevant Wage Commissions.

- In regard to information on homework, no records exist of statistical information throwing light on the extent and characteristics of this work modality. Only one question in a special module in the 1990 Permanent Household Survey enquired into the phenomenon, in the context of a study on precarious employment.

These observations, in conjunction with the more detailed analysis presented, prompts a number of observations which are considered to be germane in drafting specific home work policies. Three types of observation are presented here. The first sphere is the inherent situation of the homeworker, including the ambiguous figure of the workshop owner. The second places the home work sector in the broader context of work and change in the production structure. Although the research carried out focuses on the first sphere, it cannot be considered in isolation from the conditions generated by trends in the job market and in ongoing employment regulation. Third is the direction taken by the different social stakeholders involved in decision-making and implementation of actions to monitor and regulate opportunities for homeworkers.

5.1 The defenceless, uninformed worker

It is well known that one of the salient features of home work relates to workers' isolation and lack of organization. This point emerges clearly from the numerous interviews conducted with workers themselves. In many cases, workers state that it is preferable to work outside the home, to separate work and the home, and to become part of the broader social networks that are established in the world of work outside the home. However, even where this preference exists, home work is nonetheless a desirable option for many, given the flexibility of working hours or on account of physical or social factors (those who have dependants at home) or for any other reason.

The isolation of home work and the lack of communication with other workers in the same circumstances may mean that workers are not aware of their rights or of the bodies to whom they may apply in the event of a dispute. It is striking that, in response to questions relating for instance to the absence of programmes to publicise rights and duties, or of regular publications discussing the situation of homeworkers, both officials of the Ministry Department and trade union leaders interviewed stated that they were not planning any steps to remedy the matter. They also recognized that no such action has been taken in the past.⁴⁹

“No. As far as I know, there was never any magazine that specifically discussed home work, or an information campaign, nothing. What is more, we never appeared in a job exchange”.
(Official, Home Work Department)

“The fact is that there is no press secretariat or department [in the trade union] that monitors this subject specifically.” (SOIVA)

With the Home Work Department practically having been closed down and trade unions growing weaker - both on account of the job crisis and of changes in labour legislation - the situation of homeworkers is more vulnerable and precarious than ever. They know that the job market is against them and that there is no institutional body to support their (virtually non-existent) demands.

⁴⁹According to key sources of information, registered workers are given some type of information or advice when they enrol or when they apply to any of the institutional headquarters.

In the current situation, dominated by pressure to introduce greater flexibility into labour relations, there is no institutional pressure to acknowledge workers' rights, while they are required to register as independent workers, so that it is clear that no dependence relationship exists with the employer.

5.2 The legal figures of the employment relationship: The ambiguities of the workshop owner

No consistent opinions or policies exist regarding the very particular figure of the workshop owner. From the point of view of workers, as expressed by trade union officials, workshop owners and employers are, effectively, one and the same thing.

“There are workshops which occupy up to 250 workers. This is one of the weighty topics which is detrimental to the worker, because the workshop owner is also required to apply the rate. In the eyes of my workers I'm a employer, but to the work-giver I am a worker, which is a two-sided situation that has to be discussed. ”

The trade union official explains that if a worker takes a workshop owner to court, the latter will take refuge in his condition as a worker vis-à-vis the entrepreneur:

“The workshop owner need not covered by the rate. What happens is that abuses can occur involving workers who are union members, but when you take them to court, they have the same rights as somebody who is working with one family helper. To me that seems unjust.” (UTICRA)

As might be expected, the view of the workshop owners' trade union is somewhat different:

“The workshop owner serves as a buffer. If he was just another employer, which is not the case because a situation of economic, technical and disciplinary subordination exists vis-à-vis the work-giver, then the day that there are no more workshop owners in law, there will be no more workers either. Because any worker, to get round the law, is going to invent two helpers and that way he obviously avoids the commitments and obligations involved. And then there will be no more homeworkers. In Argentina, they will all be workshop owners (independent). Whereas if the figure of the workshop owner exists, there is a buffer. The legal figure cannot be altered. What is in question is the number of staff a workshop owner can have ... What the judges must decide is whether the economic activity and the volume handled by the workshop owner makes him an entrepreneur or a worker. That would be the only means of establishing with any precision when a person is a workshop owner and when they cease to be one.” (S.T.aD.)

From “outside”, and reading between the lines of the statements by the various protagonists, it is clear that they take it for granted that “where there is a law, there is a loophole”, that is, there is always a way to get round the law. *“If you want to put yourself down as a workshop owner, then any worker will invent two helpers in order to get round the law; if you want to show that it is a contract for an individual job, you can simulate it... Then, if one employer invoices another, the law doesn't apply, and they are not recognized as workshop owners since it appears as the provision of a service”,* as explained by a SOIVA union official.

In conclusion, the figure of the workshop owner is ambiguous in theory, but even more so in practice. This form of work organization has existed for a long time in the traditional branches of garment and footwear manufacture, generating social relationship patterns of a continuous and lasting nature. When the job market changes, when production in these branches is cut back and companies

are restructured, then the figure of the workshop owner, his identity vis-à-vis employers and workers, appears to be one of historical debate rather than one of relevance to the present or the future.

5.3 Increasing work flexibility and the role of labour regulation

A paradoxical outcome of this research may have important implications in drafting policies. In a nutshell, while the ILO is promoting the ratification of Convention No. 177, that is, encouraging countries to introduce a new body of legislation - with the corresponding institutions to implement it - in Argentina, the Home Work Department, which has been in existence for 55 years, is being dismantled.

The disappearance of the Department is by no means arbitrary; it is part of a global policy to make employment more flexible. This process affects the paid employment relationship in two ways. The first, increased flexibility of conditions relating to the hiring of workers and changes occupied stability criteria. Secondly, a shrinking of the sphere of paid employment relationships, many of which become commercial relationships between enterprises and individuals. The different modalities of “hiring by job” and “provision of services”, entered into with “independent” workers (who are frequently required to register as such), are replacing forms of subordinate work (which is likewise precarious and vulnerable).

In these circumstances, the specific question regarding homeworker regulation and protection of the homeworker cannot be answered without more broadly analysing trends relating to conditions of work in general.

5.4 The stakeholders and the law

The world of home work includes a number of protagonists with different interests and responsibilities. The state regulation and monitoring institutions (the Ministry of Labour and its specialized agency), dispute settlement institutions (the Judiciary, mediation institutions), bodies defending the interests of employers and workers, employers themselves, workshop owners and workers. Recent developments have seen the introduction of a number of intermediate organizations revolving around all the stakeholders and which are intended to promote employment and citizens' rights (basically not-for-profit NGOs, but also some government or joint employment promotion programmes).

The consensus that exists among these actors, who frequently represent opposing interests, is striking and, indeed, worrying. All take it for granted and no longer question the fact that, in practice, home work regulation does not adhere to the corresponding legal provisions. It is agreed by officials of the Home Work Department, trade union representatives, legal advisers, as well as NGOs promoting equality of opportunity, that the regulation of employment relationships in connection with home work is by no means straightforward. This view hampers and restricts initiatives taken by some of these entities in connection with home work, which some have described as “controversial”.

This exclusion and/or self-exclusion manifests itself in different ways and in different contexts. These range from an agency's decision not to deal with home work on account of the difficulties and conflictive situations it may cause, or the fact that trade unions and entrepreneurs recognize that, in fact, the figure of the workshop owner is a “buffer” serving to conceal or obscure employment relationships. In the case of direct sales, meanwhile, companies develop a strategy to attract and ensure loyalty of the sales force and promoters, using techniques based on developing an identification with the product and a collective family-type identity, which disguises the fact that it is first and foremost an employment

relationship. This implicit consensus, which does not question the criteria and parameters governing the situation, corresponds to a very limited conception of representation and responsible participation. Too many aspects of the situation are taken for granted and considered to be immutable parameters. The current situation in which workers are eminently vulnerable and enjoy no protection could be attenuated to some extent if a more in-depth study were to be undertaken of these intermediate bodies and of the attitudes of the various parties involved in labour regulation, together with a broad-ranging academic and political debate of a public nature, its agenda to include discussion of the concepts of representation and responsible participation.

GUIDE FOR THE INTERVIEW

No:
Date:
Name:
Village/Town:

1. Basic data on the interviewees

- S** Place of origin:
- 1.2 Sex:
- 1.3 Age:
- 1.4 Position in the household:
- 1.5 Highest level of education achieved:
- 1.6 Occupational category:
- 1.7 Occupation:

S Basic data: composition of the current household

Relation of relatives/age/education level/occupation

S Characteristics of current occupation

- ' Sole occupation/other
- ' Place where the activity takes place (exclusive use of the space, shared use, etc.)
- 3.1 Description of the tasks carried out
 - ' The goods received have gone through some previous process of production
 - ' She/he carries out all operations necessary to produce the product
 - ' The task to be executed corresponds to the final activity
 - ' Other
- 3.2 Instruments and materials of production
 - ' Quantity and ownership of the instruments of production (some/all of them)
 - ' Ownership of the materials used to produce the product (some/all of them)
- 3.3 Work intensity
 - ' How many hours per day, days per week (week-ends and public holidays)
 - ' Work in rotation: fixed or on a rota basis (In case of preference for any rotations in particular, investigate the reasons)
 - ' How many months per year (help to estimate)
 - ' Would she/he prefer to work more hours/months? Based on the reply, investigate the obstacles
 - ' Are there frequent breaks in the accomplishment of the task? (Assess the reasons).

- 3.4 Use of auxiliary labour
 - ' Family member/contracted/permanent/occasional
 - ' Sex/age
 - ' Place where the work is carried out

- 3.5 Type of employment relationship
 - ' Contract (verbal/written agreement)
 - ' Work-givers (single/several/intermediary/employer/other) ...
 - ' Registration in front of the authority (home worker, artisan, independent worker, other)

 - ' Quality control
 - Supply of the material and delivery of the product (Specify how the goods are brought to the household, means of transport, distance, etc.)
 - Specifications received (verbal/written instructions)
 - Deduction for defective work, recount of the goods provided/ delivered/ others

 - ' Form of payment
 - on a piece-work basis/on delivery of the final product/other
 - weekly/fortnightly/monthly
 - he/she receives an official receipt of payment/other

 - ' Labour benefits: (bonuses/holidays/social security/trade union membership)
 - ' She/he is informed of her/his labour rights
 - ' How did she/he get involved in this work? (While looking for a job/the opportunity arose)

4. Satisfaction/dissatisfaction with the work

- ' Prior employment experience (dependent/independent)
- ' Main reasons for which she/he engages in this activity
- ' Comparison with previous jobs
- ' Advantages/disadvantages (economic/family reasons/others)
- ' She/he foresees remaining in this activity/ temporary activity

5. Labour and family context

Confirm how many family members and who among them work outside the household. In case of a couple, assess the working conditions of the spouse: employed (hours and weekly work load of the spouse), unemployed, retired, other.

- ' Are domestic responsibilities shared and/or interchanged among family members? Has this always been the case or has the distribution of tasks changed? If so, why?

- ' If there are children, elderly people or others in the household, who looks after them when she/he works? And when they are sick?
- ' Does someone complain about your type of employment? If yes, who? (Please assess the household's opinions regarding this issue)
- ' Your input to the family budget (Try to assess a proportional estimation of the total income)
- ' Income distribution
- ' Ownership patterns of the house and land
- ' House facilities
- ' Telephone
- ' Car

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