

Homeworkers in Thailand and their Legal Rights Protection

Prepared by

**HomeNet Thailand
2013**

Table of Contents

1. Situation of Homeworkers in Thailand.....	3
Number of Homeworkers	3
Overall Situation of Homeworkers	4
Sample Cases of Unfair Employment of Homeworkers.....	13
Employment Pattern and Relationship.....	14
Wage System.....	18
2. Protection of Homeworkers under the Home Workers Protection Act B.E. 2553	22
References	26

1. Situation of Homeworkers in Thailand

Number of Homeworkers

Home work is the subcontracted work to be done at home, which can be seen in all regions of Thailand. This method is used by business places to reduce their production costs and increase their competitiveness in trade. As competition in trade gets fiercer, the subcontracting of production to out-of-factory places tends to increase rapidly. Most homeworkers use their houses as the workplace for producing or putting together things and then delivering them to the employers, who might be mediators, brokers or employers. This is not the same as production for direct sale.

In 2007, the National Statistical Office (NSO) reported that out of the 249,290 households, there were 440,251 people earning their livelihood through homeworking. Of this number, 337,526—or slightly more than three quarters—of them were women and 102,725 were men. Most of these homeworkers lived in the Northeast. It was believed that the number of homeworkers surveyed by the NSO was much lower than the reality. This could result from different definitions of the term “home work” or because the NSO’s surveying period coincided with the unemployment duration of the homeworkers (see Table 1).

Table 1
Number of Households and Homeworkers, Aged 15 Years and Over by Sex, Area and Region 2007

Area and region	Number of households	Number of homeworkers	Male	Female
Total	294,290	440,251	102,725	337,526
Bangkok	21,618	52,118	21,079	31,039
Central	73,819	116,583	31,792	84,791
North	79,742	102,098	18,990	83,108
Northeast	80,771	119,276	25,322	93,954
South	38,340	50,176	5,542	44,634

Source: Survey of home work in 2007 by National Statistical Office and Ministry of Information and Communication

Many industries rely on subcontracted home work. Of all the 440,251 homeworkers surveyed by the NSO in 2007, most (22,066 of them) engaged in manufacturing, such as textile and garments, wood and pulp products, basketry, artificial flower making, food processing, leather goods and plastics, metal products and jewelry (see Table 2).

Table 2
Number of Homeworkers by Group or Industry and Area 2007

Industry	Nationwide		
	Total	Inside municipal area	Outside municipal area
Grand total	440,251	115,834	324,416
1. Agriculture and fishery	80	-	-
2. Manufacturing	22,066	2,363	19,702
Food and beverage product	760	21	739

Garment and textile	13,858	1,246	12,611
Leather product	681	112	569
Wood and pulp product	3,381	298	3,082
Chemical, plastic and metal product	1,099	284	815
Gems	276	276	-
Furniture and toys	2,011	125	1,866
3. Wholesale and retail trade, repair motor vehicles and motorcycle, personal and household good	217	10	207
4. Others*	353	-	353

* Real estate, business activity, health, social work and community, social and personal services.

Source: Survey of home work in 2007 by National Statistical Office and Ministry of Information and Communication

Overall Situation of Homeworkers

In 2011, the Foundation for Labour and Employment Promotion under the Project for the Strengthening of Homeworkers' Legal Rights collected information through an interview of 105 homeworkers, who were members of the Homeworkers' Network. Twenty-seven of the interviewees lived in Bangkok, 24 in the North, 22 in the Central Region, 17 in the Northeast and 15 in the South. The collected information could build a profile of the homeworkers' working and employment condition as well as their problems, as follows:

Characteristics of homeworkers: Most homeworkers are women, 56.2% of them ranged in age from 31 to 45 while 34.3% of them are in the 46-60 age bracket. More than half of these women, or 67.6% of them, were uneducated or had primary schooling. They were married and still living with their spouses and had 4-5 family members on average. Most of them had family members, whose age was under 16. (see Table 3).

Table 3
General information on respondents

General information	Number (person)	Percentage
I. Sex		
Male	12	11.4
Female	93	88.6
Total	105	100.0
15 - 18 years	2	1.9
19 - 30 years	5	4.8
31 - 45 years	59	56.2
46 - 60 years	36	34.3
61 years up	3	2.9
Total	105	100.0
Uneducated /primary	61	58.1
Secondary	16	15.2
High School or equivalent	20	19.0
Diploma or equivalent	2	1.9
Bachelor degree	5	4.8
Not specified	1	1.0

	Total	105	100.0
	Single	8	7.6
	Married	71	67.6
	Divorce	2	1.9
	Widow	12	11.4
	Living together	12	11.4
	Total	105	100.0
	1 person	3	2.9
	2 person	10	9.5
	3 person	14	13.3
	4 person	36	34.3
	5 person	21	20.0
	6 person	13	12.4
	7 person	5	4.8
	10 person	2	1.9
	no specified	1	1.0
	Total	105	100.0
	Have family members under 16 years old	69	65.7
	No have	35	33.3
	No specified	1	1.0
	Total	105	100.0

Their livelihoods: Most homeworkers, or 67.6% of them, earned their primary income from home work where as 32.4% of them earned their secondary income as homeworkers. It was also found that most of those earning their primary income as homeworkers lived in urban areas and had no other supplementary job. The homeworkers in rural areas often did additional jobs; most of them were engaged in agriculture, trade and temporarily waged working. On average, 29.6% of homeworkers earned 151-200 baht¹ a day; 22.5% of them made a daily income of 101-150 baht; and only 14.1% of them could earn at least 301 baht a day. The homeworkers had been engaged in home work for 11 years on average. Before becoming homeworkers, most of them were factory workers; more than half of them had been trained or had their skills developed. Most of them organized into occupational groups, clubs, organizations and associations (see Table 4).

Table 4
Respondents by occupation, income, working experience, training and skill development and organizing as occupational group or other form of organizations

Occupation	Number (person)	Percentage
1.Main Occupation		

¹ Conversion rate: Thai baht = USD .034 (per mid-market rate at www.xe.com on May 16, 2013).

Home-based workers	71	67.6
Vendors	5	4.8
Agriculturists	16	15.2
General employee	7	6.7
Workers in factory	3	2.9
Others	3	2.9
Total	105	100.0
2. Secondary occupation		
Homebased workers	34	32.4
Vendors	7	6.7
Agriculturists	10	9.5
General employee	5	4.8
Others	1	1.0
No secondary occupation	48	45.7
Total	105	100.0
3. Income from main occupation of respondents		
	Number (person)	Percentage
Less than 50 Baht	8	7.6
51-100 Baht	15	14.3
101-150 Baht	19	18.1
151-200 Baht	27	25.7
201-250 Baht	14	13.3
251-300 Baht	6	5.7
300 Baht	14	13.4
No answer	2	1.9
Total	105	100.0
4. Working experiences		
Less than or 1 year	4	3.9
2-5 years	33	31.4
6 - 10 years	20	19.0
11 years up	48	45.7
Total	105	100.0
5. Previous occupation before working at home		
Vendor	12	11.4
Factory worker	31	29.5
Agriculturist	22	21.0
General employee	5	4.8
Never	25	23.8
Others	10	9.5

Total	105	100.0
6. Training and skill development		
Have had	60	57.1
Never had	45	42.9
Total	105	100.0
7. Organized as occupational group or in other forms of organizations		
Have	61	58.1
Have not	44	41.9
Total	105	100.0

Sources of homeworking: About 33.3% of homeworkers received their jobs from private business operators, 25.7% from group representatives, 22.9% from contractors and subcontractors, and only 18.1% received the jobs directly from production companies. Mostly the home work related textile industry—such as ready-made clothing, weaving and fishing nets making—food processing and leather goods industry (amounting to similar proportions). Usually, the homeworkers made only verbal employment agreements without any written employment contracts (see Table 5).

Table 5
Respondents by source of work, type of work and employment contract

Work	Number (person)	Percentage
1. Source of work		
Manufacturing company	19	18.1
Group leader	27	25.7
contractors /sub- contractors	24	22.9
Personal enterprise	35	33.3
Total	105	100.0
2. Type of work		
Food processing industry, processing and preserving fruits, vegetables and seafood	11	10.5
Textile industry, such as sewing, cloth weaving and fishing net producing	63	57.1
Wood processing industries and basketry	8	7.6
Paper and paper flowers industry	3	2.9
Metal products industry	6	5.7
Non-metal industry	2	1.9

Other types of industry such as toys	2	1.9
Leather industry	11	10.5
Other (seeding)	2	1.9
Total	105	100.0
3. Type of contract / agreement		
Verbal	95	90.5
In writing	10	9.5
Total	105	100.0

Provision of production raw materials and tools: Most employers, 53.3%, provided partial raw materials for their employees while the homeworkers would supply production tools and machinery as well as the remaining raw materials, bought mostly in cash, for themselves (see Table 6).

Table 6
Origin of raw materials/ tools used in the workplace

Raw material / tools used in the workplace	Number (person)	Percentage
1. Person responsible for materials/tools		
Employer provides all raw material	49	46.7
Employer provides some raw material	56	53.3
Total	105	100.0
2. Person responsible for supplying tools		
Employer provides all tools	11	10.5
Employer provides some tools	4	3.8
Homeworker provides their own tools	87	82.9
No use of machine or tools	3	2.9
Total	105	100.0
3. Method of purchasing working machines and tools		
In cash	57	54.3
By installments	24	22.9
Loan	7	6.7
Others (such as provided by or borrowed from employers, not	14	13.3
Non use of machine	3	2.9
Total	105	100.0

Wages and payment of them: Most of homeworkers, 87.6%, said they were paid on a piecework basis, ranging from 1-10 baht. Most of them could produce 1-20 pieces of work each day. Most of them delivered their work every week while 24.8% of them deliver the work on completion. Most homeworkers relied on their personal vehicle to send and receive their work.

The employers would often pay the wages as soon in cash as the delivery was made at their workplace. Some homeworkers said, however, that they had been told in advance that their wages would be deducted because the work did not meet the employers' quality standards. Others were fined for late delivery of work (see Table 7).

Table 7
Amount and percentage of wage and payment

Payment		Number (person)	Percentage
1. Type of payment			
	Per piece	92	87.6
	Per day	3	2.9
	Per job	8	7.6
	Others	2	1.9
	Total	105	100.0
2. Wages per piece (by piece)			
	Less than 1 Baht	6	6.5
	1 – 10 Baht	47	51.1
	11 – 20 Baht	14	15.2
	More than 20 Baht	25	27.2
	Total	92	100.0
3. Amount of work done (pieces/day)			
	Not specified	9	8.6
	1 – 20 pieces	46	43.8
	21 – 40 pieces	9	8.6
	41 – 60 pieces	12	11.4
	Over 60 pieces	29	27.6
	Total	105	100.0
4. Delivery period			
	within 1 -7 days	54	51.4
	within 8 -15 days	12	11.4
	within 16 - 30 days	9	8.6
	When works completed	26	24.8
	Total	105	100.0
5. Transportation of products			
	By employers	44	41.9
	By workers	61	58.1
	Total	105	100.0
6. Travel mode in case of self delivery			
	Personal Transport	29	47.5
	Bus	9	14.8
	MRT/BTS	2	3.3
	Motorbike	5	8.2
	Walk	10	16.4
	Bicycle	4	6.6
	Others (Postal)	2	3.3
	Total	61	100
7. Payment duration			
	Not longer than 3 days after delivery	12	11.4
	Not longer than 7 days after delivery	27	25.7
	Not longer than 15 days after delivery	17	16.2
	1 Month after delivery date	9	8
	Paid immediately upon delivery	33	31.4
	Not certainly	7	6.7
	Total	105	100.0

8. Where and how to pay		
Pay in cash at the place of employer	57	54.3
Pay in cash at the workplace of homeworkers	35	33.3
Pay by check at the workplace of the employer	1	1.0
Pay by check at the workplace of the homeworkers	1	1.0
Transfer to bank account	11	10.5
Total	105	100.0
9. Deduction of payment		
Ever	17	16.2
Never	88	83.8
Total	105	100.0
10. Notice in advance in case of withholding wages		
Have	10	66.7
No have	4	26.7
Not specified	1	6.7
Total	15	100.0
11. Causes of withholding		
Under standard / fail to reach standard	12	70.6
Loss / damaged of law material	4	23.5
Employers'' loss	1	5.9
Total	17	100.0
12. Penalty		
Ever	7	5.7
Never	98	94.3
Total	105	100.0
13. Causes of penalty		
Late delivery	6	85.7
Others (violating rules)	1	14.3
Total	7	100.0

Working hours: Most of homeworkers, 38.1%, worked 7-8 hours a day while 23.8% of them worked 9-10 hours a day. There were 18.1% of them working 5-6 hours a day and only 10.5% of them working more than 11 hours a day (see Table 8).

Table 8
Working hours per day

Working hours	Number (person)	Percentage
Less than / equal to 4 hours	9	8.6
5 – 6 hours	19	18.1
7 – 8 hours	40	38.1
9 – 10 hours	25	23.8
More than 11 hours	11	10.5
Not specified	1	1.0
Total	105	100.0

Safety equipment to protect from work danger: About 68.6% of homeworkers had no safety equipment installed to protect them from work danger whereas 31.4% of them had such tools installed and most paid for the purchase and installation of the equipment out of their own pockets. In addition, most of them were not informed of the work danger and ways to prevent or deal with it while 46.7% of them were told about the issues (see Table 9).

Table 9
Number and percentage using safety equipment and have information regarding work danger

		Number (person)	Percentage
1. Installing safety equipment while working			
	No have	72	68.6
	Have	33	31.4
	Total	105	100.0
2. Responsible person to install safety equipments			
	Homeworkers buy from their own pocket	29	87.9
	Borrow from employers	-	-
	Employer provided	3	9.1
	Not specified	1	3.0
	Total	33	100.0
3. Receive information regarding work danger			
	Ever	49	46.7
	Never	56	53.3
	Total	105	100.0

Welfare benefits: Most of homeworkers, 93.3%, received no welfare benefits or any other employment benefit. Only 6.7% of them were entitled to employment welfare benefits.

Problems and obstacles: Most homeworkers suffered from occupational health problems. As the homeworkers were mostly low income earners and used their houses—which were small-sized with low ceiling that resulted in being poorly ventilated—as their workplace. This resulted in an inappropriate working environment, such as poor lighting, dusty and humid atmosphere around the houses. Ranking next were problems related to low wages, irregular or few jobs, and long working hours (see Table 10).

Table 10
Problems and constraints in working

Problems and obstacles in working*	Number (persons)	Percentage
Health problems such as fatigue	79	75.2
Low wage rates	57	54.3
Irregular/little work	52	49.5

Long working hours	50	47.6
Most work is difficult and requires skill	38	36.2
Work is dangerous	16	15.2
Lack of money for investment: need to invest prior to getting the work	16	15.2
Lack of knowledge and skills	14	13.3
Other	5	4.8
* Note: Respondents were invited to offer more than one answer.		

Opinions on unfair employment: The first four types of unfair employment most homeworkers met were lower wages than those due to them, being paid the same wages in spite of the urgency of the jobs, having to do dangerous jobs that put their health and safety at risk, and unpunctual payment of wages (see Table 11). For the homeworkers, what put them at the most serious disadvantages were their lack of welfare benefits, compensation, work-related sickness benefits, employment contracts, and bargaining power on wages and relevant issues. Moreover, they had personal limitations, such as old age, low education and lack of information—especially about their employers—which hindered them from demanding accountability when there were problems. The most prevalent impacts of unfair employment on the homeworkers included insufficient income to support families, poor health, wasted time and money spent demanding delayed wage payment, and lack of investment funds (see Table 12).

Table 11
Inequality issues experienced

Inequality issue*	Number (persons)	Percentage
Lower wages	47	44.8
Urgent work at normal wage	40	38.1
Hazards / risks to health and safety at work	33	31.4
Delayed payment from employer	25	23.8
Working during pregnancy	18	17.1
Cheated in payment	16	15.2
Employer who did not collect work	12	11.4
Wages deducted for no reason	8	7.6
Termination of contract with no compensation	2	1.9
Unequal treatment	1	1.0
None	26	24.8
* Note: Respondents were invited to offer more than one answer.		

Table 12 Reported effects from unfair treatment (more than one answer)

Effects from unfair treatment	Number (persons)	Percentage
Not enough income for family	64	82.1
Health problems	44	56.4
Waste of time and money	30	38.5

No capital	14	17.9
Other	4	5.1
* Note: Respondents were invited to offer more than one answer.		

Sample Cases of Unfair Employment of Homeworkers

The Foundation for Labour and Employment Promotion gathered the information from 10 case studies of homeworkers engaging in clothes making, embroidery, shoe making, gems cutting, anchovy gutting and cleaning, and shelling of sugar-palm fruits. The 10 case studies of homeworkers—who were members of the Homeworkers’ Networks based in the Central Region, North, Northeast and South—are as follows.

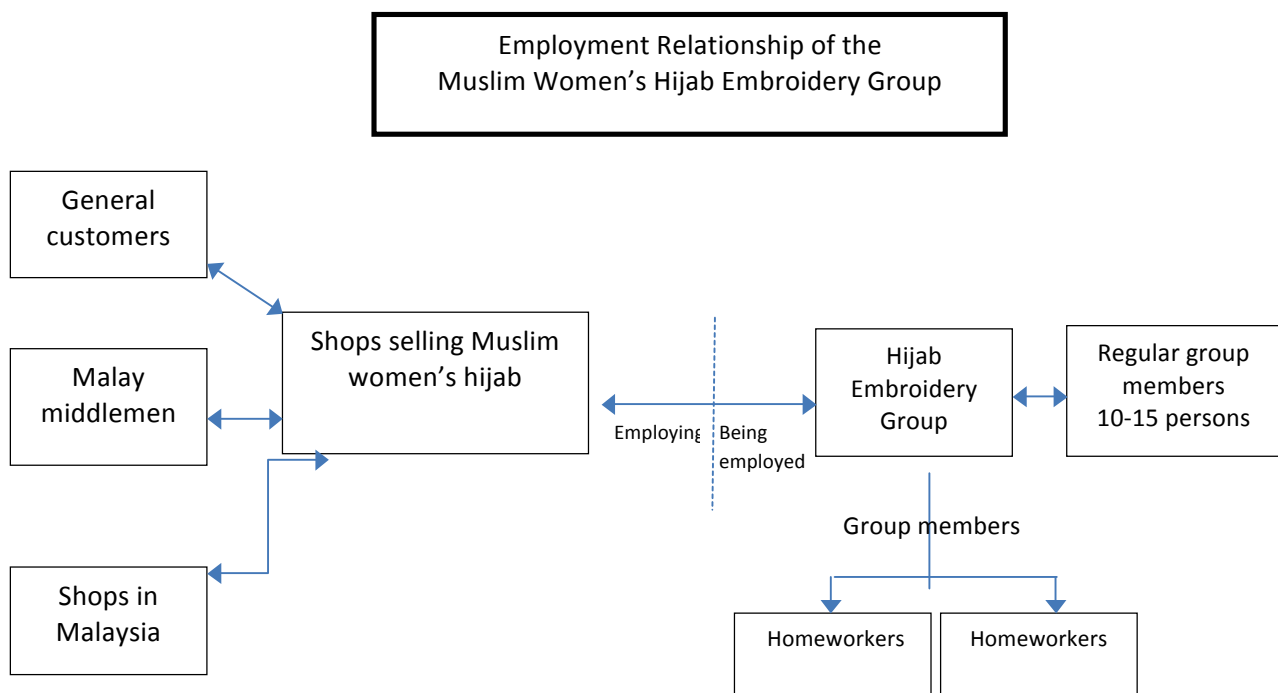
- Case study of shoe making, Rom Klao Zone 9 Community, Lat Krabang, Bangkok;
- Case study of organza embroidery, Lam Salee Community, Bang Kapi, Bangkok;
- Case study of clothes making, Ban Sing, Photharam district, Ratchaburi province;
- Case study of shoe making, Photharam district, Ratchaburi province;
- Case study of clothes making, Muang district, Suphan Buri province;
- Case study of clothes making, Mae Na Rua subdistrict, Muang district, Phayao province;
- Case study of gems cutting, Ban Nong Thum, Na Chum Saeng, Phu Wiang district, Khon Kaen province;
- Case study of shelling of sugar-palm fruits, Ban Klong Ree, Ban Klong Ree subdistrict, Sathing Phra district, Songkhla province;
- Case study of Muslim hijab embroidery, Ban Thon, Khok Khian subdistrict, Muang district, Narathiwat province; and
- Case study of anchovy gutting and cleaning, Ban Thon, Khok Khian subdistrict, Muang district, Narathiwat province.

These 10 case studies, taken together, are intended to show the concrete reflection of homeworkers’ employment issues and the problems they had to suffer, as well as the legal coverage and enforcement of the Home Workers Protection Act B.E.2553 (2010) in relation to such issues. The main findings of the case studies are as follows.

Employment Pattern and Relationship

Based on the data of 10 case studies, the pattern and relationship of employment could be divided into three types:

Type 1: Reception of work directly from private operators, without any mediators' arrangement



Employment Relationship

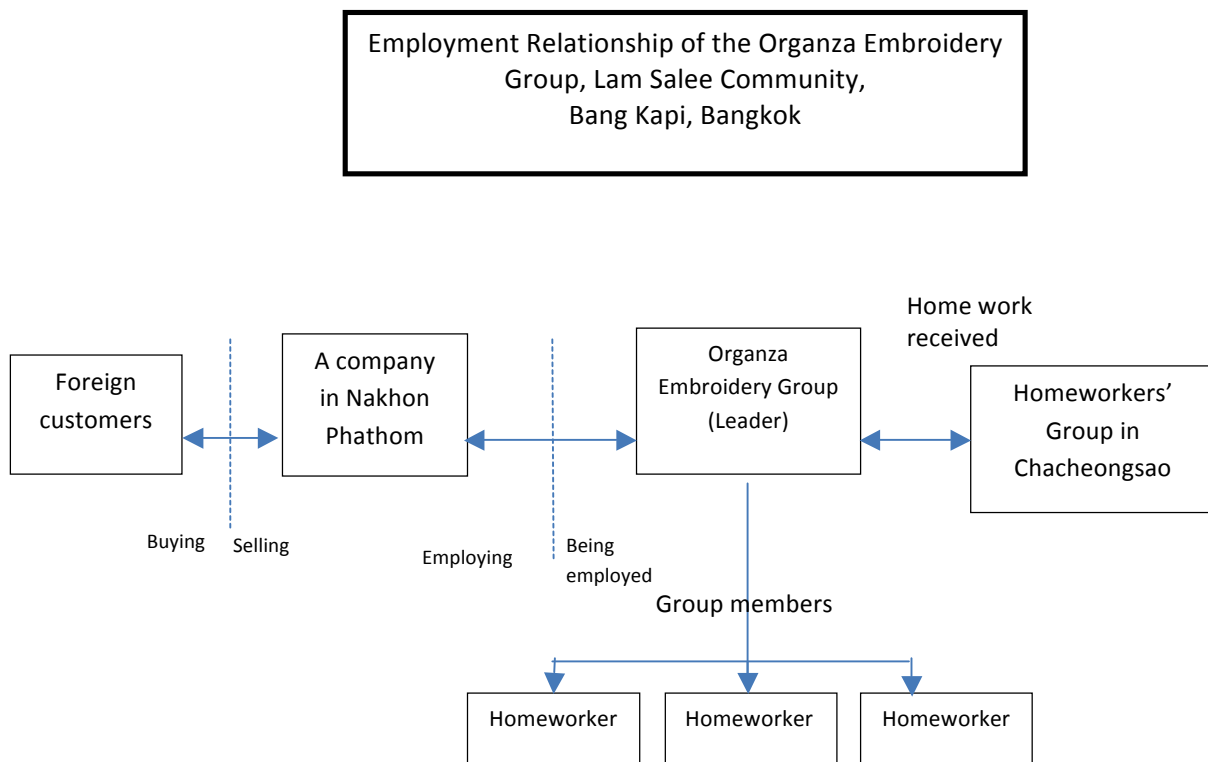
Employers, who were private entrepreneurs running shops selling Muslim women's clothes and hijab in Narathiwat's Muang district, hired the leader of the Muslim Women's Hijab Embroidery Group of Ban Thon in Khok Khian of Narathiwat's district to produce the hijab according to the employers' designs or samples. The employers would provide the fabric while the Group had to supply its own thread and other tools.

The Group's leader received the jobs and distributed them to members, working at the leader's house and at their own houses. On completion of the jobs, the leader would deliver the work to the employers and received the wages. The leader would deduct 10-15 baht per piece as a transport expense from the workers' pay.

There was only verbal employment agreement; no written contract was made.

If the jobs were flawed, the Group’s leader would take them back to correct them; if the fabric was damaged, the Group would be liable to compensate for damage.

Type 2: Reception of work directly from production companies, without any mediators’ or brokers’ arrangement



Employment Relationship

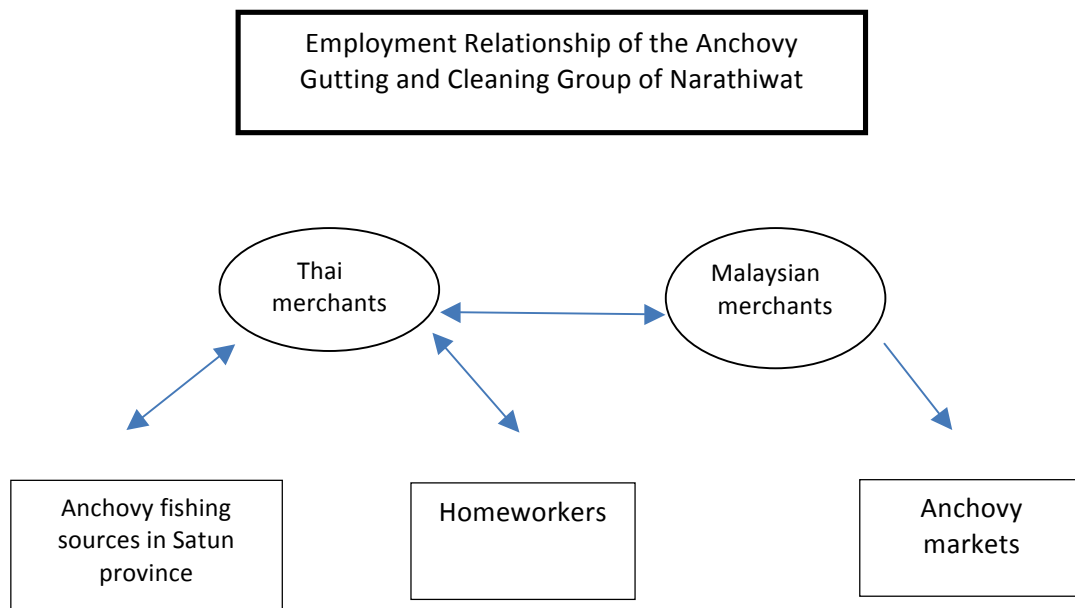
A company, producing and exporting children’s clothes made of organza and operating an office and a factory in Nakhon Pathom, received orders from foreign employers or purchasers (in Nigeria).

Part of the order was done by the factory’s regular workers, another part was sent to the homeworkers of the Organza Embroidery Group. The company would provide cut fabric together with samples of the clothes. The Group would distribute the orders and provide its members with thread while the homeworkers had to supply their own needles and sewing machines.

No written employment contracts were made. There were only reception-delivery notes and a notebook recording the deliveries' dates, quantities of the products, and the receipts of the products that had been countersigned. There was no guaranteed money for the products.

If there were too many orders for the Group to handle, the Group leader would subcontract the jobs to the homeworkers' group based in Chacheognsao province; the subcontracted workers had to receive and deliver the products by themselves.

Type 3: Reception of work from contractors and subcontractors or mediators or brokers



Employment Relationship

Middlemen or the Thai merchants generally called *thao kae* (literally means “owner of a shop or enterprise”), who lived in Narathiwat’s Tak Bai district, would buy anchovy in Satun and send it to the homeworkers’ houses, making verbal employment agreements and setting the delivery dates.

On completion of anchovy gutting and cleaning, the Thai merchants would come to collect the fish on the pre-set dates and pay the wages in cash to the homeworkers at their houses.

The Thai merchants would deliver the fish to the Malaysian merchants, who would then send it to the anchovy markets in Malaysia.

Based on the 10 case studies, it was found that most homeworkers had no direct access to their employment sources. Mostly, they would receive their jobs through the private business operators (Type 1), such as clothes wholesalers or retailers located in Bangkok’s Pratunam or Bo Bay areas and contractors and subcontractors (Type 3), who were mediators and

addressed by the homeworkers as *thao kae*. Receiving jobs via the subcontractors prevented the homeworkers from knowing all about their employers—who they were, where they were located, etc. So when the subcontractor swindled the homeworkers out of their wages, they would often claim that the business operators (real employers) had not paid them wages, hence there was no money to pay the homeworkers. Therefore, the homeworkers could not turn to anyone to demand the facts. Though the homeworkers could get direct access to the employing companies, all three types of employment relationship still relied on verbal agreements with the homeworkers, not on written employment contracts.

Some of the raw materials were provided for the homeworkers for their production while most of the homeworkers had to supply their own production tools, especially essential equipment such as sewing and overlock sewing machines and gem cutters, and other part of the materials. As most of the homeworkers were poor, they could either buy used tools or had to take out high-interest loans from informal lenders to buy them. Moreover, these homeworkers had to bear additional production costs when they were required to supply part of the materials. As in the case of those engaged in making clothes and quilts and embroidering organza or Muslim women's hijab, they had to buy needles and thread out of their own pockets.

According to the homeworkers' statements, it was mostly the employers who decided who the persons would be to receive the orders from and deliver the finished jobs to them. This resulted in the homeworkers' having to bear the transport expenses, which were part of the production costs. Although the homeworkers succeeded in making the employers pay for the transport expenses of the finished products, their wages were then reduced by the employers, who claimed that fuel costs were increasing.

A Case Study of Reduced Wages Because of Rising Transport Expenses

Maew was 52 years old and lived in Suphan Buri. She took orders for sewing 'J.J.' jeans directly from private operators. She formed a group of homeworkers, with 12 members and herself as the group's leader. She took the orders and delivered the finished products to her employers, who paid five baht for each piece of product. In cases where the employers sent the work to her, 1.50 baht would be deducted from the wage as a transport expense. So Maew and her group members would get only 3.50 baht per piece. In spite of the reduced wages, this sewing group continued doing the sewing jobs; otherwise they would be unemployed and would have to look for work with other sewing groups or else take other jobs for the sake of their family survival. This would negatively affect their grouping.

The case of Maew clearly showed that, without any bargaining power, the homeworkers had to shoulder the burden of transport costs get the work from and deliver the finished products to the employers. In cases where the employers sent their work to and collected the finished jobs from the homeworkers, they could be in an advantageous position to reduce the homeworkers' wages, citing them as transport costs.

Briefly, the informal employment relationship resulted in the homeworkers being treated unfairly, as follows.

a) Without any clearly written employment contracts, the homeworkers could not make any demands or enter into any negotiations.

b) The reception of work through the mediators or brokers barred the homeworkers from knowing all the facts about their real employers and actual wages paid by them. Thus it was very difficult for them to ask about or examine what the problems they had faced were all about.

Wage System

Most homeworkers received low wages and had to work very long hours to produce as many pieces of work as possible to earn adequate income to cover their daily household expenses. Particularly if they were rush jobs, they had to work even longer hours to meet the rush deadline. According to the 10 case studies of eight production types, all the homeworkers' wages were paid on a piecework basis, resulting in their daily income and working hours, as follows.

Table 13
Details of work by type, time, wage, quantity and income

Type of Work	Working Time	Working Hours *	Wage per piece/Baht	Daily Production Quantity	Daily Income (Baht)
1. Anchovy gutting and cleaning	8.00 am - 10.00 pm	13	30-40 baht per bag (weighing 10 kilos)	1 bag	30-40
2. Shelling sugar-palm fruits	3.00 - 9.00 am	6	1 baht per bag (containing 12 pieces)	50 bags	50
3. Gem cutting	9.00 am - 10.00 pm	12	1.30 baht	100 pieces	130
4. Mass clothes making	8.00 am - 9.00 pm	12	3-5 baht	40-50 pieces	150-200
5. Shoe making	10.00 am - 9.00 pm	10	3-4 baht per pair	40-50 pairs	200
6. Muslim hijab	9.00 am -	10	50-80 baht (simple	2 pieces	160-250

embroidery	3.30 pm		embroidery)		
	6.00-10.00 pm		250 baht (intricate embroidery)	1 piece	

Remarks* Not including a lunch-break hour

Low wages, lack of standard wage criteria and dissimilar wage payment for similar work

Comparing the working hours of the homeworkers, based on the six production types of the above mentioned 10 case studies, with those of the formal industrial workers, it was clear that the wages of homeworkers were lower than the minimum wage. Furthermore, according to the above table, the production costs were not paid in addition to the wages paid to the homeworkers engaged in making clothes, quilts, shoes, and Muslim hijab and organza embroidery. Main production costs borne by the homeworkers consisted of the following:

Raw material costs: Mostly, the clothes makers and embroiderers had to supply themselves their own thread, needles, and pattern-making paper; while the shoemakers had to provide sewing needles and glue on their own.

Water and electricity fees and production equipment costs: These costs included sewing machines, gems cutters, and hemstitchers.

Transport costs: Many times, homeworkers had to collect the jobs and deliver the finished products.

The piecework rates paid to the homeworkers were set by the employers, depending on how simple or intricate the work was. For example, the wage for embroidering a piece of Muslim hijab depended on the size of the hijab and intricacy of the embroidery. A small-sized bouquet embroidery was paid 50 baht per piece; a medium-sized, 80 baht; and a large-sized, 250 baht. In the case of hemstitching without any flowery embroidery, 20 baht would be paid. As for shoe making, it also depended on how easy or elaborate the job was. For the sewing of only the ankle straps of a pair of leather sandals, 3-4 baht per pair would be paid while the sewing of the part around a pair of leather sandals or shoes would get 7-100 baht.

A case of dissimilar wage payment for a similar type of work in clothes making

Mrs Chaweewan, or Pin, 44 years of age, lived in Phayao and earned her living through making quilts at home. A subcontractor living in another village sent her the job and came to collect the finished quilts from Pin's home. Pin was paid six baht per piece. She later was told that this similar type of work done by homeworkers in some villages was paid 10 baht per piece. Thus, she realized it was the employers who set the piecework rates, which had no standard—but neither were they negotiable. She had to spend long hours working to meet the schedule and earn adequate income to support her family's living. With very low wages, no matter how long she worked she could not earn enough to help her husband, who was a farmer, to support their family's expenses. Over 10 years, Pin developed health problems such as back pain and blurred vision because of sewing at night.

A case of dissimilar wage payment for a similar type of work in the shelling of sugar-palm fruits

Mrs Manee, 56, lived in Klong Ree subdistrict of Songkhla province's district and was employed to shell sugar-palm fruits at her home. Her husband was a small-scale fisher earning a daily income of about 100-200 baht. Manee has done this work for more than eight years. She was paid one baht per a bag of 12 pieces of shelled sugar-palm fruits. According to Manee, there were four local factories—located in Klong Ree, Pha To, Sathinphra, and Bo Daeng—employing the locals to shell sugar-palm fruits for them. Though the work was similar, each factory paid different wages. Manee said she wanted the government to guarantee that the same piecework rate would be paid for the same type of work.

However, the homeworkers engaged in making mass clothes and quilts and shelling of sugar-palm fruits pointed out that the same production type of work did not get a similar wage rate. This meant that there was no standard wage payment for home work.

This was a common problem the homeworkers have suffered for a long time, as cited in the NSO's reports on the annual survey of informal workers. Since 2005, low wages have been the most common problem cited by homeworkers and the government has not come up with any measures to solve it. Based on the aforementioned case studies, the homeworkers stated the minimum piecework rates paid to them have been unchanged for many years. If they increased at all, the rises were too low to catch up with the current cost of living, which increased at a rate many times higher.

Delayed wage payment and being swindled

Apart from suffering from low and unregulated wages that have been frozen for a long time, other serious problems the homeworkers faced were delayed wage payment and swindling, as described below.

Muslim hijab embroiderers said they would be paid their wages for the latest delivered work when the new jobs were received. But the employers paid only part of the wages; the rest was still owed to them. Later on, the employers made excuses not to pay them at all, saying their Malaysian customers had not paid them. The homeworkers had no way to check what the facts were because they did not know who or where those Malaysian customers (their primary customers) were.

A case of wages not increasing in the shelling of sugar-palm fruits

Manee has been shelling sugar-palm fruits for eight years, receiving one baht per one bag. Her wage has never increased despite the increases of the selling price of shelled sugar-palm fruits from nine baht per bag to 15 baht and from 15 baht to 20 baht. In addition, consumer goods, such as rice, pork and chicken, were more expensive. Though Manee's wage was raised from one baht per bag to 1.50 baht once, it has stood still since then because her employer did not agree to any more increases.

A case of wages not increasing in anchovy gutting

Malee has been gutting and cleaning anchovy for 15 years, getting paid 30 baht for a bag of big-sized fish and 40 baht for a bag of small-sized fish, which was more difficult to gut and clean. She was also employed to boil the fish, getting paid one baht per kilo. She had once asked for rises in wages: from 100 baht per 100 kilos to 120 baht of boiling fish and from 30 baht to 40 baht per 10 kilos of gutting anchovy without success. The employer claimed that the transport costs were high because of the increasing price of petrol and other homeworkers still found the wages acceptable.

Wage deduction

Most homeworkers had their wages reduced by fines for delayed delivery of products or for causing damage to materials. For instance, gem-cutting workers would have two baht deducted from their wages for damaging a gem while the wage for gem cutting was 1.30 baht per piece. And they had not been informed that such a deduction would take place when they agreed to take up the jobs. In the case of shelling the sugar-palm fruits, the wage was one baht per bag. If the shelling was too deep into the flesh of the fruits, the pre-set weight would be reduced. Thus the workers would have to pay a fine worth a wholesaling price of the sugar-palm fruits (about 9-15 baht per bag).

In brief, the homeworkers described as unfair the wage payment of their informal work, as follows:

- Wages were low;
- Dissimilar wages were paid for similar type of work;
- The wage rates were not increased to make them relevant to the rising cost of living;
- There was no standard wage criteria to create fair employment; and
- Wages were swindled, delayed and unfairly deducted.

2. Protection of Homeworkers under the Home Workers Protection Act B.E. 2553

The legal rights of homeworkers in Thailand are now protected by the Home Workers Protection Act B.E.2553 (2010), published in the Government Gazette on 16 November 2010, which came into effect on 15 May 2011. Following are the detailed fundamentals of this Act.

Prerequisites for this Act

Thailand's industrial sectors have tried to increase their competitiveness by reducing their production costs and modifying their employment relationship by subcontracting their products to be made or assembled outside of the formal workplace. This subcontracting system was not covered by the Labour Protection Act B.E.2541 (1998) being currently enforced; therefore the homeworkers have been deprived of legal protection and exploited by unfair employment. Their wages are lower than a minimum wage. In addition to working in inappropriate and unsafe working environment, they have to bear the burden of production costs, such as raw materials and equipment. They also lack access to skills development, revolving funds, information about employment sources, and government support. With the new labour rights protection act being enforced, the homeworkers will be entitled to income security, reduced exploitation by employers and a better quality of life.

Fundamentals of the Home Workers Protection Act B.E.2553

The Home Workers Protection Act B.E.2553 provides protection for a **homeworker assigned by a hirer in an industrial enterprise to produce or assemble work outside of the workplace of the hirer or other works specified by the ministerial regulations**. This definition clearly shows that the Act protects only the homeworkers hired by an industrial enterprise hirer; those engaged in service work are not included.

The hirer shall prepare documents relating to the acceptance of homeworking and give a copy of the contract or document to the homeworker and another copy to be kept at the place of work to be readily produced for the inspection of the Labour Inspector.

The remuneration of homeworkers is protected by the Act, which provides that the remuneration for the ***home work of the same nature and quality and equal quantity shall not be less than that stipulated by the labour protection law*** with no discrimination. The employer shall pay remuneration to the homeworker at the homeworker's workplace, at the time of the delivery of the work or as specified in the agreement, but not more than seven days after the date of the homeworker's delivery of the work. The hirer's deduction of remuneration for the payment of damages or penalties for delayed delivery of the work shall not be more than 10% of the remuneration.

Under the provisions related to safety measures of the performance of work, it is forbidden for anyone to engage homeworkers to carry out work involving hazardous materials, The

hirer shall provide the protective and safety equipment for the homeworker. The hirer shall give a warning notice informing homeworkers of the dangers which may arise. Moreover, the hirer shall be responsible for medical, rehabilitation and funeral expenses in cases where the homeworker met with harm during the performance of work.

There shall be a committee called the Home Work Protection Committee, composed of representatives of government agencies, hirers, and experts on home work. The committee shall have the power and duty to offer recommendations and opinions in matters relating to policies, the issuing of ministerial regulations and notifications; to determine the rates of remunerations for home work; and to encourage the setting up of guidelines for good work performance and the promotion of cooperation between government agencies, private organizations and other organizations concerned with home work.

Cases arising from disputes between hirers and homeworkers shall come under the jurisdiction of the Labour Court to try and adjudicate. The Labour Court shall have the power to order that employment contracts or terms in documents relating to the acceptance of work that give the hirer undue advantage over the homeworker are to be enforced only in so far as they are fair and reasonable.

Problems and constraints of this Act

Though this Act has already come into effect, most homeworkers have not been aware of it. Despite the fact that homeworkers' legal rights are protected by the law and their wage-related problems—low wages, swindling of wages, delayed wage payment and unfair deduction of wages—are supposed to be solved by this law, the homeworkers cannot access these rights. Certain problems and constraints of the enforcement of this Act could also arise, as follows.

1. The word “**homework**” under Section 3 means “work assigned by a hirer ***in an industrial enterprise*** to a homeworker to be produced or assembled outside of the workplace of the hirer or ***other works*** specified by the ministerial regulations”.

The question is: Are anchovy gutting and cleaning and shelling of sugar-palm fruits work of an industrial enterprise? Do they fall within the legal definition of homework of this Act? According to the Ministry of Labour officials, the two types of work fall within the definition of home work as they involve the processing, producing or reproducing of goods, which is considered the work of an industrial enterprise. Of particular concern is whether all the interpretations of the Ministry of Labour officials will be the same. And if the Ministry of Labour did not issue any ministerial regulations specifying other work, then the home work needs to be of an industrial enterprise and assigned to be produced or assembled outside of the workplace only.

2. The word “**hirer**” under Section 3 means an **entrepreneur**, who agrees to employ a homeworker, ***either directly or through an agent or acting as a subcontractor***.

The problem is: In the acceptance of mass clothes and quilt making through the **subcontractors**, who are the responsible hirers under this Act? In the case of the

homeworkers' acceptance of work from the hirers who are private entrepreneurs, such as those located in Pratumam or Bo Bay markets, are these hirers regarded as entrepreneurs under this Act? These people have no production section of their own; all they have are only market stalls.

3. Based on the case studies findings, no hirers signed any employment contracts or documents relating to the acceptance of home work. Thus, it could be a worrying situation, although the Home Workers Protection Act has already come into effect. But the signing of an employment contract or documents relating to the acceptance of home work required by Section 9 of the Act to help the Labour Inspector protect the homemaker was not carried out by the hirer and the homemaker had to keep quiet for fear of losing the work. It is important that the government take an active role in explaining the benefits of signing an employment contract to both parties.

4. Sections 20-24 of the Home Workers Protection Act forbid a hirer to procure or deliver raw materials or equipment hazardous to homeworkers. And the hirer shall give warning notice informing homeworkers of the dangers which may arise from the use of raw materials and equipment, as well as providing safety equipment for the homeworkers too. If the hirer did not obey the legal requirement and the homemaker met with harm or death as a result from the performance of work, the hirer had to be responsible for such problems. But the case studies showed that no personal protection or safety equipment was provided for the homeworkers. Neither was a warning notice given to the homeworkers to inform them of the possible work-related dangers. Nor were the homeworkers aware of how dangerous or not the work they accepted was. Therefore, the Department of Labour Protection and Welfare needs to seriously consider the homeworkers' health and safety as prescribed by the law. At the same time, the homeworkers often perform many types of work from different sources or hirers. When they meet with health problems, it can be argued that such problems are not related to work or not caused by the specific work accepted from a particular hirer. It is recommended that homeworkers keep a record of their health before accepting the work, noting how healthy they are, whether they are suffering from any diseases or injuries, and whether they have developed any health problems after accepting the work—and if so, what specifically those problems are. By so doing, the homeworkers can confirm the causes and sources of their ill health and diseases.

5. Under Section 3 of the Act, a homemaker is a person or group of persons, not a legal entity, such as a foundation or an association. In this case, if the homeworkers form a cooperative or other form of legal entity, they cannot accept the work in the name of that legal entity. All they can do is to accept the work as a group of persons by specifying all the names of homeworkers. Such provisions notably beg the question of **whether the homeworkers are encouraged to organize themselves or not.**

6. In the case of accepting the work as a group, the homeworkers must make it clear whether the acceptance is done in the name of a group or of a subcontractor. If in the name of a group, the employment contract must be signed as a group contract. But if the leader of the group acts in a business manner or for commercial profits, such as deducting wages for transport or

operating expenses, that group leader could be regarded as a hirer. If there is the deduction of wages but it is not done for profit making, that group leader is not considered as a hirer. So when the group accepts work, there must be full details about the group membership, its leader, its committee, and rules of work distribution among members so that the group leader will not be considered a legally responsible subcontractor.

7. The findings also revealed that most of the hirers and homeworkers are not aware of the existence of the Home Workers Protection Act B.E.2553. It is necessary that the Ministry of Labour urgently and widely disseminate information about the Act to both the hirers and homeworkers.

References

Center for the Study and Development of Homeworkers. (1999). Homeworkers' Organization. Bangkok: Edison Press Products.

Foundation for Labour and Employment Promotion. (2009). The Advocacy for Homeworkers Protect Act, Policy Brief on Legal Protection, 1-2.

Foundation for Labour and Employment Promotion. (2011). Situation of the Informal Workers and Legal Protection in Thailand.

Foundation for Labour and Employment Promotion. (2011). Proceedings of a seminar on the "The Home Workers Protection Act B.E.2553 and its Enforcement", organized by the Foundation for Labour and Employment Promotion, HomeNet Thailand, Faculty of Law, Thammasat University, and the Women and Youth Study Project of Thammasat University, on Friday 17 June 2011, at Jitti Tingsaphat Meeting Room, Thammasat University Tha Phra Chan Campus.

National Statistical Office. (2007). Survey on Homeworkers B.E.2550. Ministry of Information and Communication Technology.