

# Regulating Homework in the Philippines: Little Progress in Enforcement after Three Decades

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## Key Points

- 1 Inclusion in the Labor Code means that, like other employees, homeworkers in the Philippines enjoy a right to bargain collectively once their organizations have registered as “legitimate labor organizations”.
- 2 The Code establishes the principle of “solidarity liability”, namely, the idea that employers or indirect employers are held responsible along with contractors and subcontractors for violations of the Code’s provisions.
- 3 A regulation on industrial homeworkers issued in terms of the Code (DO No. 5) includes detailed provisions for homeworkers regarding their wages, working conditions and social security, and sets out mechanisms for the enforcement of these provisions.
- 4 In practice there is little enforcement of homeworkers’ rights, or indeed of the rights of any employees. Nevertheless, in some instances, homeworker organizations are engaging in collective negotiations with subcontractors to set the wages and other conditions of work for their members.
- 5 Worker-centred and worker-led advocacy is critical to improve employers’ compliance with the Labor Code.



*The Philippines was one of the first countries in Asia to recognize homeworkers as employees. Photo credit: WIEGO*

## Introduction

The Philippines was one of the first countries in Asia to recognize homeworkers as employees. In 1974, when the government codified the national labour regulations into a single Labor Code, it included “industrial homeworkers”. The inclusion of homeworkers in the Code is significant because very few countries at the time included subcontracted homeworkers in their labour laws. It would be another two decades before the International Labour Organization adopted the Home Work Convention, 1996 (No. 177).

The codification process happened under an authoritarian regime and during a period of social and political unrest (Bacungan and Ofreneo 2002). The state’s motivations for introducing change included ending the unrest, stabilizing class relations and creating a favourable environment for foreign investment (Bacungan and Ofreneo 2002). These pacification measures have, however, been followed by weak enforcement (Hutchinson 2016).

The Labor Code, or Presidential Decree No. 442 (hereinafter the Labor Code), which was issued on 1 May 1974, governs employment relationships and working conditions.<sup>1</sup> The

Labor Code gives powers to the Department of Labour and Employment (DOLE) to issue specific regulations for the general welfare and protection of homeworkers.<sup>2</sup> In 1992, the DOLE issued Department Order No. 5 (DO No. 5) for industrial homeworkers. This followed advocacy by homemaker organizations with officials in the DOLE, who were sympathetic to their issues. DO No. 5 is a regulation that gives effect to the provisions in the Labor Code by providing rules for its implementation. It includes detailed provisions for homeworkers regarding their wages, working conditions and social security, and sets out mechanisms for the enforcement of these provisions.

Homeworkers in the Philippines have had a tumultuous journey, shaped by shifting national and international trade policies. These shifts have arguably also affected the attention paid to issues faced by homeworkers, both by the state and by worker organizations. The Labor Code of the Philippines is progressive, but there is very little research showing how its provisions have been enforced.

Through this brief, we seek to address this research gap by understanding how the Code is enforced and the challenges and

opportunities in its enforcement. The brief is part of a series examining national laws applicable to homeworkers and the role that worker organizations have played in their design, implementation and enforcement.<sup>3</sup> It is based on joint research conducted by WIEGO, HomeNet Philippines, and Pambansang Tagapag-ugnay ng Manggagawa sa Bahay (PATAMABA or the National Network of Home-Based Workers) from March to September 2024. The research involved:

- Semi-structured interviews with groups of homeworkers in Taytay, Rizal, and Valenzuela City, Bulacan, and with key informants to understand the challenges of subcontracted homeworkers who work as part of domestic and global supply chains;
- Semi-structured interviews with officials from the DOLE to understand how they are working on implementing DO No. 5 to ensure better working conditions for homeworkers;
- A workshop with leaders of subcontracted homeworkers and home-based workers<sup>4</sup> to analyze the degree to which the regulation aligns with the ILO’s Home Work Convention (C177) and the challenges and opportunities for strengthening its implementation; and

<sup>1</sup> The Decree’s title is ‘A Decree Instituting a Labor Code, Thereby Revising and Consolidating Labor and Social Laws to Afford Protection to Labor, Promote Employment and Human Resources Development and Insure Industrial Peace Based on Social Justice’.

<sup>2</sup> Labor Code 2017, art. 153

<sup>3</sup> Other briefs include Dinesh and Khan 2022 and Wiles and Macpherson 2023.

<sup>4</sup> Home-based workers are self-employed and produce goods or services in or near their homes for local, domestic or global markets. HomeNet Philippines has a mix of homeworkers and home-based workers as their members.

- A panel discussion<sup>5</sup> that provided insights from representatives of the Labour Department, trade unions and other worker organizations.

The next section outlines homework in the Philippines and introduces organizations involved in organizing homeworkers. Section three discusses the legal framework and its enforcement. In the fourth section, we analyze some of the overarching challenges with the regulation. In the final section, we outline learnings, challenges and opportunities.

## Organizing During the Rise and Fall of Subcontracted Work in the Philippines

In the 1970s, the government adopted strong export promotion strategies, with a focus on garments and electronic and semiconductor parts. There was a rise in garment firms from the 1970s to the mid-1990s. At the same time, there was an increase in subcontracted work (Ofreneo et al. 2002). Industrial homeworkers<sup>6</sup> were impacted during the 1990s, particularly during the Asian financial crisis of 1997 (Larsson 2018). The share of garment exports fell dramatically over this period, from 21.7% in 1990 to 8% in 1998 (Ofreneo et al. 2002). Cumulatively, there was a massive decline in

export value in the garment sector and the number of formally registered garment workers fell by two thirds in a span of ten years from 1994 (Beerepoot and Hernández-Agramonte 2009). Further, since the establishment of World Trade Organization in 1995, the phasing out of Multi-Fiber Arrangement<sup>7</sup> and the entry of Vietnam and China in the World Trade Organisation in 2001 and 2007 respectively, there has been increased global competition and shift of production to countries including Bangladesh, China, Vietnam, India, Indonesia and Cambodia (Anner 2019). The decline of the garment industry in the Philippines has led to a decrease in the number of homeworkers in the country (King-Dejardin 2021). However, despite the drop in subcontracted work in global supply chains, there is still work in domestic supply chains (Beerepoot and Hernández-Agramonte 2009).

Homeworkers' work includes sewing, smocking, embroidery and weaving. They also bind books, sew umbrellas, make bags and handicrafts, including Christmas balls (ILO 2015). Homeworkers visited as part of the research were mostly engaged in subcontracted work in domestic supply chains. Some worked for companies that exported the goods. The domestic supply chain is comparatively shorter, with workers sometimes getting the work directly

from a shop or a contractor. Subcontractors are also often homeworkers.

PATAMABA was one of the first organizations to organize homeworkers in garment supply chains in the Philippines. It was officially registered in 1991, but had been functioning prior to that. In 1975, an Association of the New Filipina (KaBaPa) was formed by women in rural areas to raise awareness of their need for steady employment and income (Jhavbala and Tate 1996). In 1988, the ILO worked with them on a project to organize home-based workers, which gave the direction to organize with a worker identity. Almost all members (98%) are women. They are between 18 and 75 years of age and are organized into 300 chapters in 34 provinces in 12 regions (Jhavbala and Tate 1996). PATAMABA registered as a workers' organization with the DOLE in 2005 (Haspels and Matsuura 2015). It also registered as a non-profit NGO with the Securities and Exchange Commission. An ILO study estimates that, out of its 19,000 members, 4,102 are subcontracted homeworkers, 14,986 are self-employed own-account workers, and 1,667 are both (Haspels and Matsuura 2015). In reality, the distinction between the two is often blurred, as many produce both for factories and sell directly to local markets.

<sup>5</sup> Organized on Informal Workers Day on May 9.

<sup>6</sup> The Labor Code of the Philippines refers to homeworkers as "industrial homeworkers". In this brief, we use the terms homeworkers and industrial homeworkers interchangeably.

<sup>7</sup> Multi Fiber Arrangement was an international trade agreement on clothing and textile established in 1974 which primarily gave developing countries only an apparel assembly function (Anner 2019).

PATAMBA played a role in advocating for a regulation for homeworkers and participated in the National Policy Workshop on Rural Women Workers. This 1989 workshop was key in laying the foundation for homeworkers' demands for the regulation (ILO 1992). The regulation also came at a time when the DOLE had officials who were well-versed in the issues of homeworkers.<sup>8</sup> Following a meeting organized by HomeNet Southeast Asia in 2006, PATAMBA was among the founding members of a coalition, HomeNet Philippines. HomeNet Philippines now brings together 30 home-based worker organizations.

## The Legal Framework

Homeworkers are entitled to the same rights as other workers in the Philippines. Labour rights are enshrined in the Constitution, which states that all workers are entitled to the right to collective bargaining, security of tenure, humane conditions of work, and a living wage. Workers also have the right to participate in policy and decision-making processes affecting their rights. The Constitution extends this right to all workers without distinction.

These constitutional rights are realized through the Labor Code. Homeworkers are included in the Labor Code through the broad definition of employee. Similarly, the broad definition of employer includes the intermediaries that contract homeworkers. In addition, articles 152 and 153 deal specifically with homeworkers.<sup>9</sup> DO No. 5 – issued by the DOLE in 1992 in terms of the Labor Code, which regulates the relationship between employers and homeworkers – had some of its provisions explained in a bulletin issued by the DOLE in 1993. Further, in 2017, the DOLE issued Department Order No. 174 to supplement some of the rules regarding subcontracting.

Articles 152 and 153 on homeworkers should be read within the context of the labour relations framework that applies to all employees. Already in the definition section it is clear that the Labor Code is intended to cover subcontracted workers. This is because it defines a contractor and subcontractor,<sup>10</sup> talks about an “indirect employer”, which means an employer that does not have a direct contractual relationship with its workers,<sup>11</sup> and introduces the idea of “solidarity

liability”,<sup>12</sup> namely, the idea that employers or indirect employers are held responsible along with contractors and subcontractors for violations of provisions under the Labor Code.

The Labor Code realizes the right to freedom in the workplace and collective bargaining by enabling both trade unions and associations to register as “legitimate labour organizations” that may apply to be certified as the exclusive representative of employees in a bargaining unit.<sup>13</sup> Presumably, an association of homeworkers could register as a “legitimate labour organization” and be certified as the exclusive representative of homeworkers as a bargaining unit in relation to a specific employer. Further, employers have a duty to bargain.<sup>14</sup> They cannot refuse to bargain with an association of homeworkers that is registered as a “legitimate labour organization” and is certified as the exclusive representative of homeworkers for the employers concerned.

As per the framework for collective bargaining,<sup>15</sup> once a homemaker organization is certified, it can send a written notice to an employer that

<sup>8</sup> Ruben Torres, a labour lawyer, was the Secretary of Labor and Employment from 1990-92 when the regulation was brought in. He contributed to the ILO study on Homeworkers of Southeast Asia (ILO 1991), authoring one of the papers, “*The State of Law and Jurisprudence Concerning Homeworkers in the Philippines*”, and participating in a workshop with the government, employers, worker organizations and NGOs.

<sup>9</sup> See Book 3, Chapter IV, Articles 151 and 152 of the Labor Code, which gives the DOLE the authority to issue regulations.

<sup>10</sup> Labour Code 2017 art 106

<sup>11</sup> Labour Code 2017 art 107

<sup>12</sup> Labour Code 2017 art 109

<sup>13</sup> Labor Code 2017 art 251

<sup>14</sup> Labor Code 2017 art 262 and art 263

<sup>15</sup> Labor Code 2017 art 261



it wants to enter into collective negotiations. The employer must reply within 10 days and either party can request a conference with each other within 10 days of the notice. If the parties conclude a collective bargaining agreement at this conference, it must include a grievance procedure, should either party breach the agreement. If the homeworker organization and the employer/contractor are unable to reach agreement and negotiations break down, the association of homeworkers can request the Board to intervene to attempt conciliation between the parties.

If homeworkers conclude a collective agreement with an employer and the employer breaches the agreement, the association of homeworkers can use the grievance procedure and, if the matter is not settled within seven days, it will be referred to an arbitrator to make a binding decision (like a court).<sup>16</sup>

In cases where there is no collective bargaining agreement, DO No. 5 would apply. The next section sets out the provisions of DO No. 5 in relation to specific aspects of homeworkers' terms and conditions of work.

## Wages and Working Conditions

- **Wages/piece rates:** In terms of DO No. 5, the Secretary of Labour and Employment is obliged to set a standard output rate or piece rate for homeworkers, which can be determined through time-and-motion studies;<sup>17</sup> by means of an individual or collective agreement between employer and workers; or through consultation with representatives of employers and workers in a tripartite conference organized by the Secretary.<sup>18</sup> Interviewees noted that time-and-motion studies are undertaken on request of the Regional Office of the National Wages and Productivity Commission.
- **Deductions:** Employers (which includes contractors and subcontractors) are required to pay homeworkers immediately on receipt of the goods and cannot deduct the value of materials lost, destroyed, soiled or damaged from homeworkers' earnings unless it can be clearly shown that the homeworker is responsible for the damage. Even in such circumstances, the homeworker should be given a reasonable opportunity to show why a deduction should not be made.<sup>19</sup>

- **Social protection:** DO No. 5 obliges employers to pay social security contributions into the Social Security System. Additionally, there is the PhilHealth social security system, which is voluntary and applicable to everyone. The maternity provisions in the Labor Code are applicable to all workers. There is no explicit mention of maternity protection for homeworkers in DO No. 5.
- **Occupational health and safety:** DO No. 5 states that safe and healthy working conditions should be maintained in workplaces. Additionally, Department Order No. 198 of 2018 and Act No. 11058 elaborate on occupational health and safety for workers. They include obligations on employers, contractors or subcontractors<sup>20</sup> to give job safety instructions or orientations, to inform workers about hazards associated with their work, and to ensure that medical examinations, protective equipment and safety instructions are provided.
- **Technical assistance:** The Regional Office is required to provide technical assistance to registered homeworker organizations and employers, contractors and subcontractors on matters including information on wages, social security, employment compensation benefits, skills training, maintenance of

<sup>16</sup> Labor Code 2017 art 273

<sup>17</sup> Time-and-motion studies determine the standard time required for a specific task and help assess the remuneration that should be paid for the corresponding number of working hours (ILO 2021).

<sup>18</sup> Department Order No 5 1992 s7

<sup>19</sup> Additionally, the amount deducted should not exceed 20% of the homeworker's earnings in a week. Department Order No 5 1992 s 8(d)

<sup>20</sup> The regulation does not specify the division of responsibility between these parties.

safe and healthy conditions, and housing programmes. DOLE officials interviewed reported that the Office has general programmes that homeworkers can access, such as employment facilitation and emergency employment assistance.

### Enforcement Mechanisms

There are two ways to enforce DO No. 5 and the provisions of the Labor Code that apply to homeworkers: by the State through implementing the framework for collective bargaining and through workplace inspections; and by homeworkers themselves, using the complaints procedures.

- **Inspections:** DO No. 5 does not provide for labour inspections in the home, but a DOLE representative who was interviewed confirmed that inspection could be extended to the homes of homeworkers. But, as is the case in other countries, inspectorates are inadequately resourced and therefore concentrate on workplaces with more employees (Hutchinson 2016).
- **Complaints:** If the contractor or subcontractor fail to pay homeworkers their wages, the employer is jointly and severally liable with the contractor and subcontractor.<sup>21</sup> Homeworkers can lodge complaints involving money claims or the violations of

labour standards and terms and conditions of employment with either the Regional Director or the Regional Arbitration Branch, depending on the amount involved.<sup>22</sup> If there are disagreements between homemaker and employer, contractor or subcontractor, they should raise it with the Regional Office under whose jurisdiction they fall.<sup>23</sup> The Regional Office has to decide the case within ten days. The regulation does not specify the definition of disagreement.

If employers fail to comply with orders issued by the Regional Director, homeworkers can challenge their non-compliance using the penal provisions under the Labor Code. A non-compliant employer or contractor/subcontractor can be criminally prosecuted under the Labor Code.

### In Practice, Labour Rights are Paper Rights

Despite the broad legal protections that the Labor Code provides, there is little evidence of compliance and enforcement. This is for several reasons: First, although labour officers have considerable inspection and enforcement power, they have been inadequately resourced for decades (Hutchinson 2016). Second, less than 1% of the total workforce is unionized and only 1 in every 10 union members has a collective

bargaining agreement (Hutchinson 2016). Third, the government is hostile to trade unions and responds to trade union activity with violence and intimidation (ITUC 2021).

Finally, with respect to homeworkers, the interviews reveal the following :

### Outdated Time-and-Motion Studies

The last time-and-motion study was conducted in the 1990s. A copy of the study is, however, not accessible. Worker leaders interviewed report that, in practice, piece rates vary according to the sector, the company, region, etc, and generally are less than the minimum wage (King-Dejardin 2021).

Workers interviewed reported that, in practice, wages are negotiated by the subcontractors or worker organizations on behalf of homeworkers. For instance, in Valenzuela, the Samahang Kabuhayan aa Mapulang Lupa Homeowners Association, which has homeworkers as members, has constituted a livelihood committee. The livelihood committee negotiates for wages and the terms of the working arrangement (agreed upon verbally). They also negotiate in instances of deductions by subcontractors on goods made by homeworkers.

<sup>21</sup> Department Order No 5 1992 s11

<sup>22</sup> For claims up to PHP5,000, the homeworkers approach the Regional Director and for those exceeding PHP5,000 the Regional Arbitration Branch. Department Order No 5 1992 s 10

<sup>23</sup> Department Order No 5 1992 s 10

## Informal Negotiations over Deductions

Workers interviewed reported that no particular procedure is followed when deductions are made for goods that are damaged or fail to meet quality checks. Interviewees stated that they negotiate informally with the contractors to avoid deductions. Often, it is difficult for the homeworkers to keep track of whether alleged damage relates to a product they made or one made by somebody else.

## Complaint Mechanisms Expensive and Difficult to Access

One of the challenges faced by homeworkers advocating for the enforcement of the law is the cost of making complaints. The last known complaint was in 1992-93, when PATAMABA assisted a group of homeworkers in Bataan to file a complaint with DOLE (King-Dejardin 2021). They dropped the complaint after three months because it was too expensive to cover the costs of travel to the offices. Additionally, the subcontractor against whom they filed the complaint shifted the work to another village (King-Dejardin 2021).

Even though this is the only known complaint, it provides lessons. Interviewees shared that the complaint was dropped by the homeworkers because it was too expensive to pursue, the Labour Department's office was far from the homeworkers, and the homeworkers faced the loss of work. They noted that there is a constant threat of work being taken from one place to

another if there are complaints against the subcontractor or contractors.

## Working Conditions: Little Enforcement

With respect to working conditions, interviewees noted that:

- There are no measures for occupational health and safety taken for homeworkers by employers or the government.
- Few homeworkers have availed themselves of the benefits under the Social Security System mentioned in the D.O 5 (King-Dejardin 2021) because they find the contribution amounts too high.
- Homeworkers have not made use of maternity leave.

## Fragmentation of State Responsibilities

Several departments of DOLE are responsible for the implementation of DO No. 5. Given the limited information flow between departments, it is challenging to implement the Order. For instance, DOLE officials interviewed noted that the Bureau of Working Conditions and the Bureau of Special Concerns do not have access to time-and-motion studies or to any registries of workers, subcontractors, contractors or employers. This is because the Regional Office of the National Wages and Productivity Commission conducts the time-and-motion studies. The Bureau of Labour Relations keeps the record of registered homeworkers, while the Bureau of Local Employment keeps the record of registered

subcontractors and contractors. The Regional Conciliation and Mediation Board in the DOLE regional offices is supposed to maintain the record of disputes.

## Strengthening Realization of Homeworkers' Rights

The Philippines' experience provides insights into the gaps that need to be addressed to make regulations for homeworkers effective. It highlights several learnings about what is needed for better enforcement of labour rights for subcontracted workers:

- **Worker-centred and worker-led advocacy**  
Effective enforcement of labour law relies on workers to organize and to bargain collectively. The decrease in exports in the garment sector and, consequently, a decrease in subcontracted homework may have impacted organizing, given the absence of a "critical mass" of homeworkers. To realize the rights that have been fought for, homeworkers need to organize and to engage in worker-centred and worker-led advocacy.
- **Worker-friendly grievance redressal**  
Developing dispute resolution mechanisms that are more accessible to workers is crucial. Homeworkers, who are usually paid less than the minimum wage and have few resources to pursue complaints, find it difficult to

pursue complaints as it involves travel, loss of a day's work, and other expenses.

- **Coordination between departments**

Information sharing and coordination between state departments is essential for implementation of DO No. 5. One of the suggestions from DOLE officials interviewed was to have the registry of worker organizations or associations subcategorized into sectors to make it easier to identify homeworkers in specific sectors.

- **Transparency across the chain**

Homeworkers need to know who they are ultimately producing for – the brand and the principal employer (von Broembsen 2022). Australia provides examples of innovative enforcement mechanisms that give powers to the union to access data from companies on their supply chain, inspect workplaces, and pursue complaints on behalf of subcontracted workers (Wiles and Macpherson 2023).

- **Measures to tackle power asymmetries**

As noted above, one of the concerns expressed by interviewees is the threat that if they complain, they will lose their work. The Philippines experience highlights that, even with a regulation in place, workers are hesitant to raise complaints because of their lack of job security. Laws and regulations for subcontracted homeworkers often do not consider the lack of job security homeworkers face and the ease with which

companies are able to switch the work locations (von Broembsen 2022). Workers coming forward to complain should be given mandatory job security at least until their complaints have been addressed.

- **Ratification of C177 to push for enforcement of the Labor Code**

The Philippines experience highlights the vulnerability of homeworkers in global supply chains to shifts in global politics and trade. Among the key areas that HomeNet Philippines identified as crucial for realizing homeworkers' rights is advocacy for the ratification of C177.

The Labor Code already aligns well with the Convention. The value of ratification is that the government would have to submit a report on the enforcement of the provisions relating to homework to the ILO's Committee on the Enforcement of Conventions and Recommendations, which it is hoped would focus attention on the need to be proactive about enforcing the law for homeworkers.



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### About WIEGO



Women in Informal Employment: Globalizing and Organizing (WIEGO) is a global network focused on empowering the working poor, especially women, in the informal economy to secure their livelihoods. We believe all workers should have equal economic opportunities, rights, protection and voice. WIEGO promotes change by improving statistics and expanding knowledge on the informal economy, building networks and capacity among informal worker organizations and, jointly with the networks and organizations, influencing local, national and international policies.

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