



THE PLIGHT
OF HOME WORKERS
IN BALI, INDONESIA
A STUDY OF THE HOME WORKERS
IN THE GARMENT SECTOR

by King Oey and Siska Widya Eswara



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Fair Wear Foundation (FWF) is an international multi-stakeholder non-profit organisation that works with clothing companies—and their supply chains—to improve working conditions in the garment industry. By becoming a member of FWF, a company commits to implementing the FWF Code of Labour Practices throughout its supply chain. Currently more than 130 brands have joined FWF.

Fair Wear Foundation strives to increase awareness about working conditions and workers' rights in textile factories. For more information, please visit www.fairwear.org. This report is published with financial support from the Dutch Ministry of Foreign Affairs.



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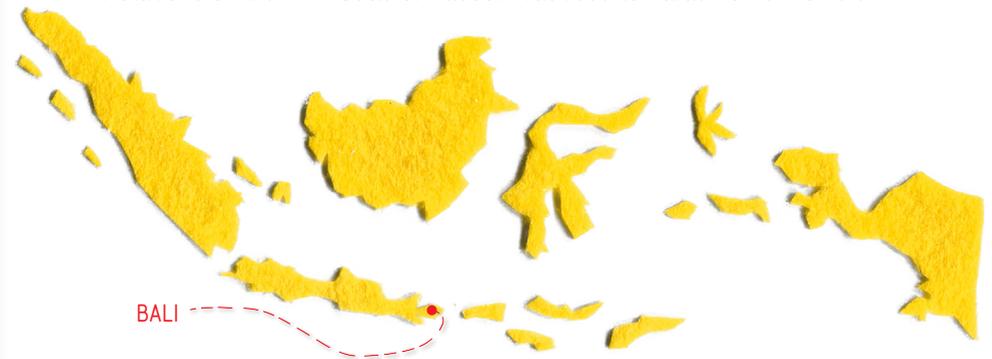
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LIST OF ABBREVIATIONS

APINDO	Indonesian Employers' Association (Asosiasi Pengusaha Indonesia)
BPS	Central Agency for Statistics (Badan Pusat Statistik)
BPJS	Social Security Agency (Badan Penyelenggara Jaminan Sosial)
Disnaker	Local unit of the Ministry of Labour
FBLP	Federasi Buruh Lintas Pabrik; trade union
FSPMI	Federasi Serikat Pekerja Metal Indonesia; trade union
FWF	Fair Wear Foundation, based in the Netherlands
GARTEKS	Federasi Serikat Buruh Garmen dan Tekstil; trade union
GSBI	Gabungan Serikat Buruh Indonesia; trade union
HUKATAN	Federasi Serikat Buruh Kehutanan, Perkebunan dan Pertanian; trade union
KASBI	Kongres Aliansi Serikat Buruh Indonesia; trade union
KEMENKOP	Ministry of Cooperatives and Small & Medium-sized Enterprises
KEMNAKER	Ministry of Labour (also known as Ministry of Manpower)
KSPN	Konfederasi Serikat Pekerja Indonesia
MAMPU	Australia-Indonesia Partnership for Gender Equality and Women Empowerment
MWPRI	Mitra Wanita Pekerja Rumahan Indonesia
OSH	occupational safety and health; in Indonesian known as K3.
SPASI	Serikat Pekerja Aneka Industri; trade union
SPN	Serikat Pekerja Indonesia; trade union
SP-PAR	Tourism TU federation (Serikat Pekerja Pariwisata); trade union
TURC	Trade Union Rights Center; a labour NGO based in Jakarta
UU	Law/Act
YASANTI	Yayasan Anissa Swasti; NGO based in Yogyakarta

1. EXECUTIVE SUMMARY

Home workers are part of the supply chains in many of Indonesia's production sectors. While no hard data is available, home workers are a common sight in the Indonesian ready-made-garment sector. Such workers are mainly working for factories producing for the domestic market; however, international brands can come across suppliers that have home workers produce their garments. Fair Wear Foundation (FWF) requires that all members conduct human rights due diligence in their supply chains. Identifying production locations, including the use of home workers is part of FWF members' responsibility. FWF's Guidance on home-based work specifies what FWF member brands can – and should – do to identify, prevent and remediate violations of the FWF Code of Labour Practices towards home workers.¹



This study highlights the working conditions of home workers in the Indonesian state of Bali. Balinese home workers have more favourable working conditions than home workers in other Indonesian states such as Java.² Based on a 2015 ILO study in Java³, Balinese and Javanese home workers'

¹ Fair Wear Foundation, Guidance on home-based work, October 2015, at: https://www.fairwear.org/wp-content/uploads/2016/06/FWFGuidance_homebased_work-oct15.pdf.

² International Labour Organisation, Homeworkers in Indonesia: Results from the Homeworker Mapping Study in North Sumatra, West Java, Central Java, Yogyakarta, East Java and Banten, 2015, at: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms_438252.pdf

³ International Labour Organisation, Homeworkers in Indonesia: Results from the Homeworker Mapping Study in North Sumatra, West Java, Central Java, Yogyakarta, East Java and Banten, 2015, at: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms_438252.pdf

working conditions differ significantly, with – Balinese home workers having more favourable circumstances. For instance, Balinese home workers typically receive orders directly from factories without intermediaries and receive the same piece – or even a bit higher – as factory workers. Another characteristic is that the factories are small and medium-sized, often run as a family business where work relationships are felt as family relations. Additionally, Bali, with its Hindu religion, was found to put significant emphasis on harmonious relations between employers and employees.

Despite these positive changes, Balinese home workers' situation is precarious and serious issues exist that need to be addressed. Notably, a lack of social security (health care insurance and pension coverage) means home workers have little financial protection from work-related accidents. This is exacerbated by the fact that home workers rarely earn the official minimum wage for Bali province and job orders do not come regularly, causing earnings to fluctuate widely. These issues are partly caused by home workers' insufficient knowledge of the rights that they are entitled to.

2. INTRODUCTION

FWF adopts the same definition of home workers as the International Labour Organisation (ILO) Convention 177:

“Work carried out by a person in his/her home or on other premises of his/her choice, other than the workplace of the employer, for remuneration which results in product/service as specified by the employer; irrespective of who provides the equipment, materials or the other inputs used, unless this person has the degree of autonomy and economic independence necessary to be an independent worker under national laws, regulation or court decisions.”⁴

⁴ FWF, Guidance on Home-Based Work, 2015.

Home workers are part of the supply chain in many of Indonesia's production sectors. In the ready-made-garment sector, they are a common sight especially in the factories producing for the domestic market, although no hard data is available. Suppliers working for international brands sometimes make use of home workers. Fair Wear Foundation (FWF) members have an obligation to identify, monitor and communicate about home workers in their production chains.

ILO Home Work Convention (1996)

ARTICLE 1

For the purposes of this Convention:

- A the term home work means work carried out by a person, to be referred to as a homemaker,
 - I in his or her home or in other premises of his or her choice, other than the workplace of the employer;
 - II for remuneration;
 - III which results in a product or service as specified by the employer, irrespective of who provides the equipment, materials or other inputs used, unless this person has the degree of autonomy and of economic independence necessary to be considered an independent worker under national laws, regulations or court decisions;
- B persons with employee status do not become homeworkers within the meaning of this Convention simply by occasionally performing their work as employees at home, rather than at their usual workplaces;
- C the term employer means a person, natural or legal, who, either directly or through an intermediary, whether or not intermediaries are provided for in national legislation, gives out home work in pursuance of his or her business activity.



Home workers in the highly populous Indonesian island of Java have received lots of attention, largely because of the precarious conditions home workers find themselves in and since there seems to be little possibility of escape. Indonesia has not ratified the ILO Home Work Convention. Indonesian legislation and policies towards home workers are ambiguous and are not clear on the legal status of home workers – leaving these workers unprotected and prone to exploitation.

PURPOSE AND METHODOLOGY

This study aims to form a clear picture of home workers' conditions in the Indonesian State of Bali. It is a rapid assessment based on 14 interviews with management and home workers, as well as a literature review. The study did not include a review of factory documentation, only audit reports. This study hopes to bring together stakeholders such as home workers, trade unions, labour NGOs, suppliers, buyers, employers' associations and government agencies that are concerned – or should be concerned – by the working conditions of home workers.

3. GENERAL CONTEXT

Home workers are very common in Indonesia and make up a large proportion of the informal sector that employs 63.48 percent of Indonesia women and 54.94 percent of Indonesian men.⁵ Home workers evolved from workers that were engaged in 'home industries'; producing snacks, simple meals, and other food products. They work from home and usually sell their products directly in their neighbourhoods or within the city. Nevertheless, some home workers are engaged in long production chains, where they are mostly at the beginning of the production chain.⁶

⁵ Dhania Sarahtika, Jakarta Festival Highlights Plight of Women Homeworkers, December 2017, at <https://jakartaglobe.id/features/jakarta-festival-highlights-plight-women-homeworkers/>.

⁶ Dinda Zakia Wahid et al., Geliat pekerja rumahan dalam pusran industri padat karya: studi kasus tiga daerah, Trade Union Rights Center (TURC), 2017.

The majority of home workers are women. The globalising world increasingly pushes women to enter the job market⁷, and low education levels (typically lower than senior secondary school)⁸ cause the majority of these women have only been able to find work in the informal sector, which includes home workers. In Indonesia, the formal and informal sectors exist side by side, and the informal sector overlaps with small and medium-sized enterprises.

Until recently, the formal and informal sector existed side by side, with the majority of workers still engaged in the informal sector. In the Indonesian context, the informal sector overlaps with small and medium-sized enterprises. Whether the informal sector is expanding over the formal sector cannot currently be ascertained.

The garment sector is the third largest sector in Indonesia (after palm oil (agriculture) and oil and gas). According to the Indonesian Textile Association (API), in 2015 there were over 5,000 garment manufacturers in and in 2017, the sector's revenues were worth 150 trillion rupiahs (USD 12 billion).⁹

According to the Indonesian Central Agency for Statistics, there were 22 million people (18% of the total working population), self-employed (non-agriculture) or active as a micro-enterprise category.¹⁰ These figures cannot be used to extract what the number of home workers is, let alone for the garment sector. However, a sizeable proportion of home workers are believed to work in the garment sector. According to an ILO and MAMPU study, it is questionable whether home workers can be labelled as micro-

7 MAMPU, Mitra MAMPU Adakan Konsolidasi untuk Tingkatkan Perlindungan Pekerja Rumahan Perempuan, May 2018, at: <http://mampu.or.id/cerita-perubahan/cerita-pentingnya-pengakuan-dan-perlindungan-bagi-pekerja-rumahan-di-indonesia/>.

8 ILO, Pekerja Rumahan di Indonesia: Hasil dari Penelitian Pemetaan Pekerja Rumahan di Sumatera Utara, Jawa Barat, Jawa Tengah, Yogyakarta, Jawa Timur dan Banten, 2015, p 21, at: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms_438251.pdf.

9 Indonesian Textile Association, IPTT Fact Sheet 2018, February 2018, at: <http://indonesiatextile.id/wp-content/uploads/2018/02/IPTT-Fact-Sheets-2018.pdf>

10 Dinar Dwi Prasetyo, Kepingan pengalaman hidup pekerja perempuan rumahan, 2018.

entrepreneurs as they do not have access to capital, loans nor to business markets. With the work home workers do, they can barely survive, let alone thrive as entrepreneurs.¹¹

Home workers are often recruited through agents (pengepul) who receive orders directly or indirectly from the factory (Dinda et al. 2017). Each link takes a cut of the piece rate given by the factory, leaving the home worker with a meagre piece rate. For instance, when the company pays Rp 21,000 per piece to the agent, the home worker may only get Rp 7,000.¹² Minimum wages vary enormously from district to district within Bali. However, most home workers earn less than the local minimum wage.¹³

Another difference with factory workers is that home workers do not have fixed working hours; there are times when they are not working, and at other times they must work long hours to make the deadline. Often, they do not see long working hours as a problem. It is difficult to assess whether they work more or less than 40 hours per week on average, as seasonal demands also play a role.



In Indonesia, Occupational Safety and Health (OSH) is regulated in various Ministerial Decrees. Factories' implementation of OSH remains a concern because of a lack of capacity of the Labour Inspection units of the Ministry of Manpower.¹⁴ Outside factories, there is no inspection at all - home workers are left with no information on how to ensure OSH at home.

11 ILO, Home-based workers: decent work and social protection through organization and empowerment: Experiences, good practices and lessons from home-based workers and their organizations, 2015, at https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms_436853.pdf

12 Maysaroh, home worker, interviews were conducted between 8-12 August 2018.

13 ILO, Home-based workers: decent work and social protection through organization and empowerment: Experiences, good practices and lessons from home-based workers and their organizations, 2015, at https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms_436853.pdf.

14 Fair Wear Foundation, FWF Country Study for Indonesia, 2018, at: <https://www.fairwear.org/wp-content/uploads/2018/11/Indonesia-Country-Study.pdf>.

Having no contract leaves the home workers without essential social benefits other workers have, such as social security in healthcare and employment (pension), holiday bonus, maternity leave, and overtime payment. Since 2015, Indonesia has had a universal health coverage system. The law stipulates that all employers and employees in the formal sector have to contribute to health care and pension funds, with the employers paying the lion's share.¹⁵ Persons employed in the informal sector, or without contracts, are expected to register voluntarily and pay the whole contribution.

The unclear contributions arrangement for informal workers might hamper the universality of social security as a full package. In a country where a significant part of the economy is informal, the comprehensive social security scheme for informal workers is done on a voluntary basis. In cases where informal workers cannot afford to pay the monthly sum, the government offers a subsidy, albeit with certain conditions.¹⁶ For instance, they need the endorsement of the local neighbourhood officer.

4. GENDER CONTEXT

Home workers in the garment sector are overwhelmingly female, and gender relations between men and women largely cause this. In Indonesia, the common perception remains that women should stay at home and do domestic work, such as cleaning, washing, cooking and attending to their children. Even when children enter school, mothers are expected to take and fetch them from school. Women are not expected to be the breadwinner of the family. Even if a woman finds work and earns money, it is considered supplementary to what the husband



¹⁵ Better Work Indonesia. The national social and healthcare security for the workforce, 2012, at https://betterwork.org/in-labourguide/?page_id=617.

¹⁶ Devina Heriyanto. Q&A: BPJS Kesehatan. health for all Indonesians. (The Jakarta Post, 2018), at <http://www.thejakartapost.com/academia/2018/04/06/qa-bpjs-kesehatan-health-for-all-indonesians.html>.

earns. However, women generally receive less education than men, and are subsequently often only able to access low-paid jobs.¹⁷ This situation explains why women are happy to work as a home worker, which provides them with flexible working hours. In that way, they can still do domestic chores before, during and after their home-based work. In contrast, if women would find a regular job, they often have to commute long distances, to work long working hours with only one break time in between.

As most women work as a home worker in the garment industry, this affects wage gaps between male and female workers, especially compared to those in the garment factories. Furthermore, as home workers are generally not covered by the social security system, this affects women more than men, who do not have access to maternity rights, pensions, and unemployment benefits.

5. SOCIO-CULTURAL CONTEXT

Bali has an overwhelmingly Hindu population, with a unique blend of the original Hindu religion and the local religion. For instance, although the caste system exists, it is not practiced as rigidly as in India.

Bali differs significantly from the rest of Indonesia because of its religious festivities. Indonesia recognises several national holidays, which contain the major holidays of the six 'official' religions: Islam, Christianity (both Protestantism and Catholicism), Buddhism, Hinduism, and Confucianism. On top of that, Balinese Hindus celebrate another 15 officially recognised religious festivities.¹⁸ Additionally, each temple has additional festivities where the neighbourhood, called Banjar, must participate. Despite the influence of mass tourism and globalisation, the Balinese still form a tightly knit society, where the influence of the Banjar authorities is strong; one's obligations in a Banjar are often stronger than working relationships.

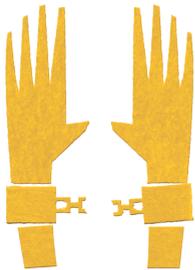
¹⁷ Dinda Zakia Wahid et al. Geliat pekerja rumahan dalam pusran industri padat karya; studi kasus tiga daerah. (Trade Union Rights Center (TURC), 2017, p.258.

¹⁸ Provincial memorandum. Hari libur, cuti bersama dan dispensasi Hari Raya Suci Hindu Bali di Bali tahun 2018, 2017.

6. THE LEGAL CONTEXT

The ILO Home Work Convention (C177) clearly outlines the position on home workers,¹⁹ and the ILO published a brochure “Knowing home workers” that explains the rights of home workers in a simplified language.²⁰ However, Indonesia did not ratify the convention, and the Indonesia Labour Law (UU13/2003) does not shed sufficient light on the position of home workers. This section describes labour standards in relation to FWF’s Code of Labour Practices, ILO Conventions and related documents, as well as Indonesian law.

EMPLOYMENT IS FREELY CHOSEN



Home workers should be free from forced labour, including bonded or prison labour. The Employment Law (UU 13/2003) mentions neither forced nor bonded labour. It only states that “everyone who is available for a job shall have equal rights and opportunities to choose a job, get a job, or move to another job and earn decent income irrespective of whether they are employed at home or abroad”.²¹

THERE IS NO DISCRIMINATION IN EMPLOYMENT



Home workers have the right to be treated fairly and without discrimination from their employer. This means that they should be treated as any other worker, including the provision of secondary benefits and rights.

The Indonesian Law No.13/2003 states that all people seeking work have an equal opportunity to obtain work and have the right to be treated in a

¹⁹ ILO. Home Work Convention, 1996 (No. 177), 1996. at: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms_223990.pdf

²⁰ ILO. Mengenal Pekerja Rumahan; a brochure, 2018. at: https://www.ilo.org/wcmsp5/groups/public/@asia/@ro-bangkok/@ilo-jakarta/documents/publication/wcms_318038.pdf

²¹ State Gazette of the Republic of Indonesia, Act of the Republic of Indonesia Number 13 Year 2003: Concerning Manpower, 2003. at: <https://www.ilo.org/dyn/travail/docs/760/Indonesian+Labour+Law+-+Act+13+of+2003.pdf>.

non-discriminatory way by management. Employers must provide reasonable accommodation to workers with a disability.

Furthermore, female employees are entitled to 1.5 months of fully paid maternity leave before giving birth, and 1.5 months after. Additionally, women are eligible for leave on the first and second day of their period. It is illegal to make women redundant on the grounds of pregnancy, birth, miscarriage or breastfeeding. Women must be provided with facilities and time to breastfeed if needed during work time under the law.

NO EXPLOITATION OF CHILD LABOUR



The ILO Convention on Child Labour (C182) provides that 13- to 15-year olds are allowed to help out and do some light work as long as it does not involve hard physical, mental and social labour. Additionally, 13- to 15-year olds cannot work more than 3 hours a day, and the work should not interfere with their school education.

The Indonesian Law No.13/2003 is in line with this Convention. In cases where children are employed in line with the laws and regulations, the employer must have written permission from a parent or guardian and a labour contract between the employer and the parent or guardian. If the work takes place in a workplace that employs adults, a separate workspace must be provided.

FREEDOM OF ASSOCIATION AND THE RIGHT TO COLLECTIVE BARGAINING AGREEMENTS



Home workers have the right to organise themselves and form trade unions. Furthermore, they are allowed to enter negotiations for a collective labour agreement to pursue their interests and rights. The Law No. 21/2000 and Law No.13/2003 regulate the freedom to form trade unions. As few as ten workers can form a union

and multiple unions are permitted to operate in a single workplace. The law allows for multiple union federations and confederations and permits enterprise-level unions to affiliate with any union federation or confederation at the regional or national level.

PAYMENT OF A LIVING WAGE



ILO explains that every worker, including home workers, has the right to remuneration for their work. This remuneration should be sufficient to support their family. The home worker has the right to know their wage in advance and how large deductions are before they start working. Additionally, home workers have the right to full payment of their wage on the agreed time.²²

The Indonesian Law No.13/2003 states that every worker has the right to a living wage. Wages agreed to by employers and employees are not to be set at a rate lower than the applicable minimum wage unless an employer has successfully applied for a suspension because they are incapable of paying that minimum wage. Furthermore, Government Regulation No.78/2015: Minimum wage, sets out a formula that uses a decent living rate set every five years alongside the inflation rate and GDP. The regulation also requires employers to provide proof of payment to workers that includes a detailed account of the wages received when they are paid.

REASONABLE HOURS OF WORK



ILO further explains that the standard working week is 40 hours per week. Accordingly, the number of orders a home worker receives in a week should not take more than 40 hours to complete unless there is an agreement the home worker gets paid for the overtime he/she has to make to finish the order. The home worker should be

²² ILO, Mengenal Pekerja Rumahan: a brochure, 2018, at: https://www.ilo.org/wcmsp5/groups/public/@asia/@ro-bangkok/@ilo-jakarta/documents/publication/wcms_318038.pdf

able to refuse an order if the estimated work time exceeds the 40 hours/week norm.²³ The Indonesian Law No.13/2003 limits working hours to 40 hours per week over five or six days unless stipulated under a sector-specific regulation. Workers must agree to reasonable requests to do overtime, which are subject to legal limits of three hours per day or 14 hours per week. Additionally, women under the age of 18 may not work between 11 pm and 7 am.

SAFE AND HEALTHY WORKING CONDITIONS



According to ILO, any home worker must be provided with safety equipment and tools. This means that the employer or contractor must assess the health and safety conditions in a home workers' workplace and provide necessary equipment as well as training in health and safety.²⁴

The Indonesian Law No.13/2003 stipulates that the employer must guarantee the occupational health and safety needs of every worker. A worker may not be fired for being ill, as long as the illness does not exceed 12 months. Workers who have developed a permanent disability or chronic illness as a result of a work-related incident must be paid 100 percent for the first four months, then 75 percent for the second four months, 50 percent for the third four months and 25 percent for the remaining time until the employer ceases the employment relationship.

A LEGALLY BINDING EMPLOYMENT RELATIONSHIP



According to ILO, a home worker can bind themselves to a work contract through a written or verbal agreement. Even without a written agreement, a home worker has employment rights and rights to secondary benefits, which are mandated by the Labour Law and other labour-related laws.²⁵

²³ Ibidem.

²⁴ Ibidem.

²⁵ Ibidem.

The Indonesian law No.13/2003 states that work relations are relations between employers and workers based on a work agreement, which has elements of employment, wages, and orders. An employment agreement should include the provision of social security. Currently, Indonesia has two universal social security systems: BPJS 1 for healthcare and BPJS 2 for employment (including pension, disability, and death). For both, they have to pay monthly dues. These social security systems should cover everyone. While in the formal sector employers are automatically registered by the factory, self-employed workers have to register themselves and pay the full amount of dues. In the formal sector, the dues are split between the employer and employee, with the employer paying the lion share.²⁶

IMPLEMENTATION AND MONITORING

The biggest obstacle to ensuring fair labour practices, including for home workers, is the Manpower Ministry's limited capacity to monitor and enforce regulations. This is due to the limited budget for the Labour Inspectorate to operate, and the vast number of enterprises that it is supposed to supervise and monitor (Fajerman 2013).²⁷ Currently, factories are not obliged to report the use of home workers in their production line, and labour inspectors do not monitor the whereabouts of home workers.



FAIR LABOUR
PRACTICES

²⁶ BPJS Kesehatan. Peraturan BPJS Kesehatan Nomor 6 tentang Administrasi Kepesertaan Program Jaminan Kesehatan, 2018, at: <https://bpjs-kesehatan.go.id/bpjs/arsip/detail/1133>.

²⁷ Miranda Fajerman, Review of the regulatory framework for homeworkers in Indonesia, ILO, 2014.

7. THE EMPLOYERS

Two factories participated in this study, both of which fulfil orders for an FWF member. FWF policy stipulates that member brands must report when one of their suppliers utilises home workers in their production line. Both factories can be considered medium-sized enterprises as they employ less than 100 workers. They have only one factory building, strategically situated in the tourism cum export hub of Denpasar, where the infrastructure and the supply of labour force are sufficient.

FACTORY A

Factory A is located in the southern corner of Denpasar – the capital of Bali – and was established in 1984. It produces for around 42 buyers from all around the world. The FWF member covers only 13% of the production. The FWF member and the factory have a long-term relationship which started in 1990, with a period of no production between 2010-2015.

The factory employs around 50 workers. The audit report shows that the majority of the factory's employees are permanent workers. There is no production line; each worker makes whole dresses from start to finish. The factories permanent workers and home workers do the same type of production. A problem for factory management is that workers often take (unpaid) leave to attend a temple ceremony, which is an obligation for Balinese Hindus. The factory workers are paid by time rate, although few are paid per piece. The workers are also allowed to take work home, but they have to deliver the products that they have finished each day because they are also paid a fee for each day that they show up for work (attendance fee). According to the audit report, they usually do not reach the minimum wage level, which is at Rp 2,499,000 per month (2018).

To cope with the irregularity of workers' attendance, Factory A employees around 70 home workers. According to the factory's owner, the factory deals directly with 50 of them; the rest are assisting the home workers.

The production manager oversees five assistants who go around to the home workers to bring the materials and collect the finished garments. The home workers live in the districts of Badung and Tabanan. Some embroidery work is done in the neighbouring province of East Java (Banyuwangi).

The factory prefers to use ex-workers as home workers as they already have the requisite training and skills. The home workers get a lead-time from five to 20 days. They are paid per piece, on a monthly basis at the factory. An example of a payment slip was shown: one home worker received IDR 1,360,800 for the month of June 2018. According to factory management, home workers can negotiate on price and lead-time. Additionally, factory management says that they consider the capacity of a home worker; whether they have a team or works alone. The factory supplies sewing machines and hemming machines on credit, which the home workers have to pay back in monthly instalments.

FACTORY B

Factory B was established in 1995 and was passed on from father to son. The factory currently has 15 buyers. The FWF member has been placing orders for two years and employs 36 workers in the factory as well as eight home workers. Both factory workers and home workers do the same type of production: rolling and assembling.

The latest audit report showed that two third of the factory workers are paid on a time rate basis, whereas one third get paid on a piece rate basis. Factory workers are paid monthly. They are paid the legal minimum wage, and the majority of the workers are covered by BPJS Health care as well as BPJS Pension. A recent audit report showed that they were required to work six days per week (Saturday from 8 am till 4 pm), amounting to 47 hours per week.

Like Factory A, almost all home workers are former factory workers as the factory believes that they are reliable and trustworthy. Home workers do

not have contracts. According to factory management, home workers are afraid to sign contracts, fearing that it will hamper their freedom. They are paid in cash every on the 25th of every month. The price per piece is set 25 percent higher than for in-house workers to compensate for electricity usage. The factory provides the cut materials, free threads, and sewing machines can be borrowed from the factory. There is one person who is in charge of the deliveries to and from the home worker; who also keeps track of where all the borrowed sewing machines are.

THE ADVANTAGES AND RISKS FOR FACTORIES

Both the employers and home workers say that this arrangement benefits them. Companies based in Bali often have to cope with the fact that workers are taking leave days to attend religious ceremonies at the temples. To some degree, the companies can anticipate the loss of working hours during the most important religious holidays. The smaller, infrequent ceremonies at the local temples are more difficult to anticipate. As the workers are paid per piece, there is only a minimal financial loss for the factory. However, when there is a tight deadline to make any loss of working hours can become crucial. Making use of home workers helps to buffer the shortfall of workers in the factory. For the company, the benefit lies in the fact that they have a convenient fall-back option in times when they need extra hands; they are much cheaper because they do not have overhead costs (except for electricity, which is compensated by Factory B). Additionally, neither Factory A or B pays the social security contribution, overtime or a holiday bonus.

8. THE SITUATION OF THE HOME WORKERS

For this study, interviews were conducted with ten home workers from the Factory A and B. Almost all the home workers interviewed came from rural areas where the most common job is as a farmer or farm labourer. During the interviews, it was revealed that they are happy working as a home worker and that there is no ambition to have additional knowledge through training, such as cutting skill, pattern making, or printing.

Though few in numbers, these interviews enabled a general picture of home workers' working conditions to be drawn. There are a variety of other studies on home workers that serve as a comparison to this study's findings. This describes the home workers' situation, and compares their situation to the FWF Code of Labour Practices.

THE VIEWPOINT OF THE HOME WORKERS

Factory workers often choose to become home workers because the work they had in the factory becomes unmatchable with their living conditions. All the home workers interviewed are married, and almost all have school aged children. For women, becoming a home worker provides the flexibility required to dedicate more of their time to raising their children, including taking them to school. Elementary schools start at 07.30 and end at 12.00. Noontime is the perfect time for home workers to have a break and fetch their children from school, so the noon breaks are generally longer than what factory workers get.

Most of the female home workers interviewed worked in the factories before they were married. Their marriage changed priorities in their work-life balance. As spouses, they support their husbands in providing additional income. Most of the women have been unemployed for a while before they started working as a home worker. This is probably a factor in why they



A home worker assisted by his younger sister. Photo: King Dey

regard home-based work as rewarding. One male worker was the only one who continued home-based work after he resigned, as he was already taking home-based work while still an employee at Factory B. Only one home worker hoped that one of her children would follow her footsteps but in a more upscale mode, such as, as a fashion designer who owns their store and brand.

THE SITUATION COMPARED TO THE FWF CODE OF LABOUR PRACTICES

In general, government regulations and policies are not specific in protecting home workers. According to the Ministerial Regulation No.19/2012 outsourcing is legally allowed, but only for a limited number of non-core activities, such as catering, cleaning, and security. There is no control mechanism to oversee its implementation, which gives companies the freedom to decide the extent to which they want to make use of home workers as an outsourcing practice.

This study found that the practice of home-based workers in the two factories in Bali is not as harsh as in other places and that the home workers are genuinely happy with their job. Partly, this is because they do not recognise that being a home worker entitles them to certain rights that other workers already enjoy, which will be described more in detail below.

FORCED AND CHILD LABOUR

During the interviews, no forced or child labour was found. As a general risk at home worker sites, production pressure can lead to the involvement of children.

FREEDOM OF ASSOCIATION

Neither Factory A or B have a trade union, although the size of both factories allows for trade unions to exist. Typically, a lack of knowledge on how to form a union and apprehension at how management would react prevents workers from forming a union. Bali has a very low level of trade

union coverage in general, including in the garment industry. There are only a few active trade unions, which are mostly found in the hospitality sector. The garment sector has seen a declining trend in the number of trade union members (see par. 9.4).

Similarly, home workers are not organised into trade unions, and the practice of approaching home workers on an individual basis makes it harder for home workers to know who else are home workers for the same factory. Occasionally, neighbours and relatives end up working for the same factory. For the rest, they live and work from different places and do not know each other. This prevents them from organising themselves. Similarly, several trade unions indicated that they have difficulties organising home workers because it is so hard to locate and reach out to them. In some cities in Java, a few home workers associations have sprung up thanks to the efforts from NGOs like Yasanti and TURC in bringing them together and training them on their rights and how to organise.²⁸

Home workers interviewed

Wayan*, when interviewed was in a rush to finish an order. So instead, his wife did the answers. He worked for 13 years for Factory B and 8 years for another factory before starting as a home worker. The reason was that it gave him more satisfaction to work as an independent producer, having the freedom to accept or turn down factory orders. He was also able to employ two women to form a work team. He is also assisted by his wife in finishing the dresses. Aside from that his wife also runs a home store.

* Wayan is a fake name used for this research

WAGES AND HOURS

Audit reports showed that some factory workers are paid by time rate and others by piece rate and that their wages fluctuate. What they take home is often less than the legal minimum wage of IDR 2,363,000 (2018, Denpasar).

²⁸ Yasanti, at: <http://yasanti.or.id/> and TURC, at: <http://www.turc.or.id/home3/>

The wages for most workers in one factory are below the legal minimum wage. The factory owner said that the Manpower Bureau allowed the factory to pay below the minimum wage as long as the workers agree.²⁹ The factory probably referred to the provision under the law to request a deferment (penangguhan) of minimum wage payment as long as the workers agree³⁰; the request must be written to the local Manpower Bureau. However, in 2016, the Supreme Court affirmed that a deferment means that the factory still owes money to the workers; the factory has to pay out the payment shortfall at the end of the year.³¹

The interviewed home workers were also paid a piece rate. They were paid once a month, and they have to go to the factory to get the payment. What they earn fluctuates a lot depending on the number of job orders. They usually accept any job order that comes along unless they are already busy with another job order, and the number of working hours is seldom a point of consideration. The biggest reason for not earning a minimum wage for workers and home workers is because the amount of orders fluctuates a lot.

In factory A, workers work 40 hours a week, while in factory B they work 47 hours per week. In both factories, workers are allowed to take work home when they have not reached their target. Both factory and home

Home workers interviewed II

Galuh * worked at Factory B for a couple of years until she got married. Now, she has to take care of the children and take them to and from school. Her husband works as a construction worker, which means that he is often out of work and Galuh's Her contribution to the family income seems to be very important. Having flexible hours also means a lot to Galuh.

*Galuh is a fake name used for this research

²⁹ Interview with factory management, interviews were conducted between 8-12 August 2018.

³⁰ State Gazette of the Republic of Indonesia, Act of the Republic of Indonesia Number 13 Year 2003: Concerning Manpower, 2003, p. 31, at: <https://www.ilo.org/dyn/travail/docs/760/Indonesian+Labour+Law+-+Act+13+of+2003.pdf>.

³¹ Adminbpl, Verdict of the Constitutional Court No. 72/PUU-XIII/2015, 2017, at: <https://bplawyers.co.id/2017/08/31/pengusaha-tetap-wajib-membayar-upah-tertangguh/>.

workers are paid per piece. The overtime premium varies between Rp 6000-8000 per hour (factory B) and Rp 7500-10000 per hour (factory A). However, if a worker chooses to work on a public holiday that day is not considered overtime. On the other hand, some workers are often absent, which also affects the amount they earn.

OCCUPATIONAL HEALTH AND SAFETY

In the relationship between factories and home workers, the responsibility for ensuring safe and healthy working conditions, including the provision of health benefits, is shifted to the home worker. Government regulations and policies lack clarity on the responsibilities for the enforcement of safe and healthy working conditions. Home workers often do not use safety equipment. Additionally, the use of non-ergonomic chairs is a concern that needs to be addressed as home workers complained about back pains.³²

CONTRACTS AND SOCIAL SECURITY

Workers in the two factories did not get a contract agreements are made verbally. Similarly, home workers neither receive a written contract, only verbally. Usually, the order slip is considered a contract, although the order slips only mention the number of pieces to be made and price per piece. The agreement on lead-time is done verbally.³³

Each home worker, regardless of their status as a temporary, daily or seasonal worker, should be covered by social security with a contribution from the job provider or employer. This means that home workers, regardless of the frequency of job orders, should be included in the social security scheme by the employer or job agent, who should make their contribution on behalf of the home workers.³⁴ However, in reality, government regulation on this matter is vague and does not recognise home workers as workers.

³² Interviews with factory management and home workers, interviews were conducted between 8-12 August 2018.

³³ Interviews with factory management and home workers, interviews were conducted between 8-12 August 2018.

³⁴ ILO, Mengenal Pekerja Rumahan: a brochure, 2018, at: https://www.ilo.org/wcmsp5/groups/public/@asia/@ro-bangkok/@ilo-jakarta/documents/publication/wcms_318038.pdf

Audit reports showed that both factories provide social security to only a few of their workers. The majority of the workers are not receiving their health care or pension coverage. Similarly, home workers did not receive any contributions from the factories for the payment of social security. There is a universal social security system available, and while companies are not currently required by law to enlist home workers in the social security system, companies could still encourage them to register themselves and join the national social security provider (BPJS I) by providing an extra amount for the dues. Many home workers are reluctant to register because their unstable income prevents them from paying their monthly dues.³⁵

The interviews showed that they do not know that these secondary benefits, such as maternity leave, holiday bonus, overtime payment, and social security could be part of the bargaining with the factory. These are benefits that, to some extent, factory workers do receive, while home workers execute the same type of work as the factory workers and sometimes only have one client.

³⁵ Devina Halim, BPJS Healthcare has little to offer to independent members (Peserta Mandiri), 2018, at: <https://nasional.kompas.com/read/2018/09/27/23132641/bpjs-kesehatan-dinilai-belum-beri-banyak-keuntungan-bagi-peserta-mandiri>.

9. KNOWLEDGE OF WORKERS' RIGHTS AND BARGAINING POSITION OF HOME WORKERS

Home workers are often not aware of their rights which severely weakens their bargaining position. As long as home workers believe that they are getting enough from the deal, they will not look further than the present relationship. It can be said that they still adhere to the paradigm of a patron-client relationship, rather than an employer-employee relationship. Therefore, overtime, OSH, social security are not part of the equation for them. Home workers see themselves as independent workers; they do not view the insecurities as something that can be avoided by proper bargaining with the job provider. Furthermore, most of the home workers that produce for a specific factory don't know the other home workers which makes it complicated to organize themselves and bargain collectively.

Some of the workers in the factories are covered by BPJS Healthcare but not BPJS (un)Employment, whereas the home workers are generally not. Home workers can apply to the two social security systems: BPJS Healthcare and BPJS Employment (including pension). For both, home workers have to pay monthly dues. Whereas in the formal sector this payment is automatically registered, self-employed workers have to register themselves and pay the full amount of dues. In the formal sector, the dues are split between the employer and employee, with the employer paying the lion share.

Of the ten interviewed home workers, only two have health insurance. In both instances, this is because of the employment status of the home workers' husband - one is a bank employee, while the other is a security guard. None of the other eight interviewed home workers have partners with a job in the formal sector. All of these are aware of the possibility of registering, but they have chosen not to do so. When asked why they have not registered, they were evasive in their answer.

The interviewed home workers did not show a lot of concern for health and safety issues. For instance, a fire extinguisher could not be found at any of their work places. On the other hand, the interviewees reported never having major accidents; only minor ones, like getting pricked by a needle. This is happening because none of the sewing machines are equipped with a needle guard and strained back and shoulder muscles are the most common health complaints. This might be caused by none of the home workers using ergonomic chairs and tables. No awareness training on health and safety issues was provided to them by the companies.

The equipment is typically a mixture of borrowed from the factory or already being in the home owner's possession. With factory A, the home workers have to pay instalments for the machines. With factory B, they do not have to pay for rental or credit. The usual machinery includes sewing and hemming machines. Machinery loaned by factory B is maintained by the company for major repairs and replacements, except for small maintenance such as lubricant filling. For the home workers of factory A, maintaining the machinery is the responsibility of the home workers themselves, but they can ask the company for help, if necessary.

10. OTHER STAKEHOLDERS

THE SUPPLIERS

The characteristics of garment factories in Indonesia vary significantly in terms of size and product lines. Some are huge and employ thousands of workers. Others are small and employ just a few dozens of workers. They all are part of a wider value chain that often has international dimensions.

The factory owners consulted, reported that they have discussed their labour force with the local Department of Manpower (Disnaker) regarding wages. According to a factory owner, the Disnaker agreed that factory workers could be paid below minimum wages as long as the workers agreed to accept it.

THE BRANDS

Brands are crucial players in the value chain as they have substantial influence over the prices, production planning and volatility of orders. FWF requires member brands to monitor their suppliers, including home workers. FWF member brands should know the number of home workers used by a supplier and visit the home workers to assess their working conditions. As the FWF Code of Labour Practices also applies to home workers, member brands should ensure their rights, such as receiving an income at least equal to the legal minimum wage, payment of social security and securing healthy and safe working conditions.

INDONESIAN GOVERNMENT

The Indonesian Labour Act defines "a working relationship as a relationship between a job provider and a worker based on an agreement, where details of work, wage, and command are specified"³⁶. However, the law is silent



³⁶ State Gazette of the Republic of Indonesia. Act of the Republic of Indonesia Number 13 Year 2003: Concering Manpower, 2003, p. 31, at: <https://www.ilo.org/dyn/travail/docs/760/Indonesian+Labour+Law+-+Act+13+of+2003.pdf>.

on the subject of workers operating in the informal sector, including home workers; it mostly deals with the employment in the formal sector.

Research by a labour NGO showed that Indonesia's national government does not have data on the number of home workers. In its National Medium-Term Development Plan for 2014 – 2019, the government only mentioned home workers as belonging to the category of poor citizens.³⁷ So far, no specific policies or action plans have been developed by the Indonesian government to regulate the position and use of home workers.

The informal sector roughly overlaps with the term UMKM (micro, small and medium-scale enterprises); that the Indonesian government uses to refer to the informal sector.³⁸ The government has no policy on labour force in the UMKM sector. Instead, it focuses on entrepreneurial capacity development of those enterprises. The existing Labour Law (UU 13/2003) applies only to formal businesses. This law stipulates working hours, wage scales, recruitment, and dismissal. The two factories consulted as part of this study belong to the formal sector.

When it comes to home workers, responsibilities are split between two Ministries: The Ministry for Cooperatives and Small & Medium Enterprises (KEMENKOP) takes care of the micro, small and medium-sized enterprises, while the Ministry of Manpower (KEMNAKER) handles the formal sector with its medium and large-sized companies. KEMENKOP mainly focuses on enhancing the quality of entrepreneurship and focuses less on the labour aspects within the micro, small and medium-sized enterprises. The Ministry of Manpower should be the main Ministry responsible for regulating home workers' rights.

The Ministry of Manpower has only recently come to recognise home workers as workers, and it is yet to come up with a policy regulation (see also

³⁷ Dinda Zakia Wahid et al., *Geliat pekerja rumahan dalam pusaran industri padat karya: studi kasus tiga daerah*, Trade Union Rights Center (TURC), 2017.

³⁸ Miranda Fajerman, *Review of the regulatory framework for homeworkers in Indonesia*, ILO, 2014.

Section 9.5). Meanwhile, the rank and file of the bureaucracy still treat home workers rather as micro-entrepreneurs. Consequently, as far as the companies are concerned, home workers are treated differently as they can be considered a 'commercial' actor.

TRADE UNIONS

Trade unions have a chequered presence in Indonesia. Data from the Ministry of Manpower indicates a decrease from 3.4 million trade union members in 2013 to 2.7 million in 2016.³⁹

Table 1: Numbers of trade unions and union members

	2013	2016	2018
NATIONAL CONFEDERATIONS	6	11	14
INDEPENDENT FEDERATIONS	92	111	120
INDEPENDENT FACTORY UNIONS	11,852	7,294	7,294
TOTAL MEMBERSHIP	3.4 mil	2.7 mil	2.7 mil

The increase in the number of independent federations and national confederations is an indication of the fragmentation of trade unions. The 2.7 million unionised workers form only a fraction of the 128,878,153 persons of the total working population.⁴⁰ The vast majority of workers are engaged in the informal sector. No trade unions cater for the informal sector; at most, associations of certain professions can be found. Sometimes, trade unions do accept informal and home workers as members. Those members are usually factory workers who were laid off at some time.

³⁹ Oleh Medina, *Jumlah Serikat Pekerja Cenderung Turun*, Kompas, 2018, at: <https://kompas.id/baca/utama/2018/09/17/jumlah-serikat-pekerja-cenderung-turun/>

⁴⁰ The World Bank, *labor force data*, 2018, at: <https://data.worldbank.org/indicator/SL.TLF.TOTL.IN?locations=ID>

There are trade union federations which primarily organise garment workers, like GARTEKS, KSPN, and SPN, but many more federations are multi-sector trade unions which have absorbed garment factory workers as members; examples are FBLP, FSPMI, GSBI, HUKATAN, KASBI, and SPASI. There are still many more trade unions that exist only in one factory. This fragmentation of trade unions is often a stumbling block towards a unified approach to fighting for garment workers' rights. The formation of DWWG, which is an alliance of a number of trade unions, is a positive exception to the general rule.

GARTEKS had plant-level unions in Bali in the past; however, it lost all its members due to the closure of factories. The main reasons why trade unions lose members are factory closures and mass lay-offs.

Due to the low coverage of trade unions and the fact that they mainly focus on garment workers working in factories, home workers are not organised. This issue is further aggravated by the fact that home workers are often working in isolation and do not know the other home workers working for the factory. Bargaining with the factory is done individually and not collectively. Trade unions could have an added value to home workers if trade unions could find and organise home workers.

CIVIL SOCIETY ORGANISATIONS

Trade Union Rights Centre (TURC), is a labour NGO that has been taking up the issue of home workers' working conditions.⁴¹ Aside from organising home workers into small groups in different provinces, it has also conducted a dialogue with the national Ministry of Manpower regarding the findings of their research. In 2018, TURC submitted input for a draft Ministerial Regulation (Permen).

Yayasan Annisa Swasti (YASANTI) based in Yogyakarta is another NGO, which works with home workers. This labour group is very mobile and

⁴¹ <http://www.turc.or.id/pekerja-rumahan/>

flexible as factories will often change their product or location. As a result, YASANTI has focused on education and awareness rather than organisation – only when awareness is raised sufficiently can organising efforts be initiated. Their website mentions that “As the workers are isolated it makes organising difficult and YASANTI has sought to address this through concerted networking in local communities. This has enabled the workers to tackle issues such as pay (workers are paid on a per unit basis rather than hourly) and the lack of benefits such as holiday pay”.⁴²

BUSINESS ASSOCIATIONS

The Balinese wing of the Indonesian Employers' Association (APINDO-Bali) has 419 members, most of which are hospitality/service, banking, and export companies – only five are in the garment sector. APINDO-Bali follows the national APINDO, which takes up labour related issues. Most garment companies became members of API (Indonesian Textile Association) because it applied a quota system for export, of sorts.

APINDO-Bali takes part in the tripartite wage council, which is less relevant nowadays because of the Government Regulation No.78/2015. Regarding Minimum wages, APINDO-Bali has agreed with SP-PAR (Tourism trade union federation) on a sectoral minimum wage for the hotel sector, which applies to hotels classed 3-stars and upwards. Sectoral minimum wages are meant to be higher than the local minimum wage. There is no sectoral minimum wage for the garment sector. They also engage in bipartite negotiations with trade unions, especially with the Serikat Pekerja Seluruh Indonesia confederation.

APINDO-Bali also actively reaches out to companies which are not members to promote the same standards. Unfortunately, the mindset of most employers are still conservative; there is resistance from many employers to contribute to the BPJS health care insurance for their workers.

⁴² YASANTI, Perempuan Pekerja Rumahan, 2019, at: <http://yasanti.or.id/aktivitas/perempuan-pekerja-rumahan/>

APINDO believes that the use of home workers is a very common practice in Bali. The majority of home workers work for the tourism sector, making all kinds of handicrafts to be sold at the thousands of souvenir shops across the island. Recruitment takes place through mouth-to-mouth; family links are a very important mechanism. However, home workers must prove that they have the necessary skills for the job. APINDO agrees that home workers are on their own; for social security (health care) they must register themselves through an individual application (peserta mandiri).

ILO-INDONESIA

ILO has been active since 2012 in Indonesia in bringing various stakeholders together to improve home workers' working conditions. It has partnered with MAMPU (Empowering Indonesian Women for Poverty Reduction), a cooperation programme between Indonesia and Australia (ILO 2015)⁴³. MAMPU has supported various research projects on home workers as well as capacity building programmes and efforts to organise them.

Better Work, an ILO initiative, works in Indonesian factories in the apparel and footwear sectors to improve working conditions and boost competitiveness. Better Work operates in five provinces, all located on Java island.⁴⁴ Their efforts have resulted in more job security for workers, better health-care access and more attention to gender-based violence in the workplace. However, Better Work does not support home workers in the garment sector.

⁴³ MAMPU is an Australia-Indonesia cooperation to assist poor women in getting access to government services and programmes in line with gender equality and women empowerment. More information on MAMPU is available at: <http://mampu.or.id/>

⁴⁴ Better Work is a collaboration between ILO and IFC (International Finance Corporation) to improve working conditions in the garment industry. More information on Better Work is available at: <https://betterwork.org/where-we-work/indonesia/bwi-our-programme/>



A home worker who is assisted by two younger workers. Photo: King Oey

11. ROUNDTABLE ON HOME WORKERS IN BALI

On 30 November 2018, FWF organised its first roundtable meeting in Bali. Several important stakeholders attended the meeting: FWF, labour NGOs, home workers, international and national trade unions, employers, an employer's association, and the Ministry of Manpower. The meeting delved into the broader phenomena of home workers in Indonesia, efforts to organise home workers, and the legal status of home workers. Group discussions followed, and there was a general agreement to work towards improving the position of home workers.

For the following issues, some first actions and solutions have been defined (see Annex 4):

- **Social security:** Home workers should have access to, and be provided with, health and employment insurance (BPJS I and II). All stakeholders should take steps to ensure home workers can participate in the BPJS programmes. Brands and factories should consider taking into account the cost of social security in their prices. The Ministry of Manpower could work towards registration of home workers through the factories.
- **Occupational health and safety:** Living in poor neighbourhoods, often in rented houses, home workers have no control over their working environment; electricity cables are often faulty, and the lighting is insufficient. The problem is both technical and knowledge based. Home workers need to be trained in safety and ergonomic aspects of work, but the means to do that have to come from both employers and brands, who profit from home workers' work. Many NGOs and trade unions have plenty of knowledge on OSH issues and could support brands and factories to improve home workers' health and safety.
- **A legally binding employment relationship:** Factories and home workers only have verbal agreements and no signed contracts. To better protect home workers, agreements should be signed providing clarity on responsibilities on prices, lead times, social security, maintenance of machines and other relevant terms. The government should provide the legal framework while NGOs and trade unions can support home workers by training them on their rights and the content of agreements.
- **Freedom of association:** Home workers are not organised, and do not know the advantages of being part of an organisation. Most trade unions find it difficult to organise home workers as they are often scattered and hard to locate. NGOs have a bit more success primarily because they organise based on a village or neighbourhood. Based on what they perceive as common interests home workers should be able to form their association or join a (trade) union. Once established their association should be recognised by government and employers and their demands heard.
- **Social dialogue:** The capacity of an individual home worker to negotiate a better deal is minimal; at least, without an organisation representing home workers. Social dialogue takes place between representatives of employers, factory workers and home workers, and where applicable, with agents/middlemen/intermediaries. It is the task of the government, NGOs and trade unions to train and organise home workers on how to conduct social dialogue.

FWF will bring stakeholders together again in 2019.

12. CONCLUSION

Interviews with home workers showed that being able to do their work at home provides women with access to work and income. After marriage and having children, society requires that women take care of their children, making it more difficult for them to commute to work and requiring that they have flexible working hours. While many women in the garment industry choose to work in factories, working at home provides access to work while still being able to have a family life. In Bali, it also enables women to decide on their working hours and perform religious ceremonies. Where women choose to become home workers, they often find themselves in a vulnerable position. Measures by governments, brands, and factories need to recognise the preference for flexibility, family life, and the protection of religious life. At the same time, home workers have a right to decent work and an adequate standard of living.

Compared to the situation in Java,⁴⁵ the Balinese home workers appear to have a more favourable position that is close to that of workers in Balinese factories. Balinese home workers received their orders directly from the factory instead of via agents. Research by TURC showed that being provided orders through agents leads to a higher risk of exploitation and low prices.⁴⁶ One Balinese factory provided the home workers with a higher piece price to pay for the use of electricity. Additionally, most home workers received the largest part of their orders from one factory, where long term relationships exist.

At the same time, workers in the Balinese factories were not guaranteed a legal minimum wage or social security coverage. The home workers received a similar piece price to factory workers. Still, there were cases

where the employer paid for social security for factory workers, while home workers have to register themselves. Whereas the employer's factory must ensure a safe and healthy workplace, is being audited and receives support from brands, home workers have limited knowledge on how to ensure a healthy and safe work environment. This is further aggravated by the fact that home workers' bargaining power is limited; they work in isolation and accordingly encounter several barriers to organise themselves.

Despite the advantages for home workers, other actors in the value chain profit from their vulnerable position. At the national level, laws and policies do not recognise and describe the position of home workers, thereby giving factories and brands the opportunity and room not to take responsibility for their workers. Home workers are neither an employee nor self-employed as they do not have an enterprise. The Indonesian government, brands, and factories need to take steps to ensure that home workers' rights are guaranteed, in particular, guaranteeing income comparable to a living wage including holiday payment, social security, a legally binding employment relationship, and workplace safety.

Currently, there is no trade union or NGO in Bali that is specifically concerned with the situation of home workers. Consequently, home workers are not represented to the Balinese government, business associations and in negotiations with employers. With the cooperation of the FWF member, steps can be made to start improving the situation of the home workers related to their suppliers. Nevertheless, bigger steps need to be taken by all parties to ensure that home workers will be legally recognised, and that their position improves.

⁴⁵ ILO, *Pekerja Rumahan di Indonesia: Hasil dari Penelitian Pemetaan Pekerja Rumahan di Sumatera Utara, Jawa Barat, Jawa Tengah, Yogyakarta, Jawa Timur dan Banten*, 2015, p 21, at: https://www.ilo.org/wcmsp5/groups/public/-/asia/-/ro-bangkok/-/ilo-jakarta/documents/publication/wcms_438251.pdf.

⁴⁶ Dinda Zakia Wahid et al. (2017) *Geliat pekerja rumahan dalam pusaran industri padat karya: studi kasus tiga daerah*. Trade Union Rights Center (TURC). 258 p.

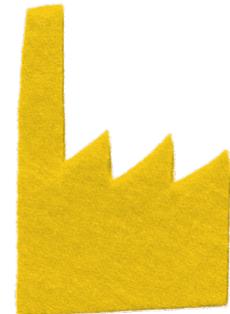


Workplace of a home worker. Photo: King Dey

13. RECOMMENDATIONS

1. FWF member brands and other brands should work with factories to map home workers and their working conditions. They should conduct due diligence on pricing. Brands should make sure that their price covers the payment of an income comparable to at least the legal minimum wage, benefits, and social security. Brands should work towards the implementation of a written contract for home workers. Together with NGOs and trade unions, FWF member brands should work to remove barriers and ensure that home workers can organise themselves. The benefits companies receive from employing home workers, who are willing to work with highly flexible hours, should be duly compensated with better payment.

2. Factories should be open and transparent about their relationship with home workers and work with brands towards improving home workers' working conditions. Factories should provide comparable benefits to workers inside and outside the factory. Factory management is an important link between the home worker and the brand, where management can monitor the working conditions of the home workers. At a minimum, factories should register their home workers, ensure that prices are comparable to the legal minimum wage plus benefits and check whether home workers are enrolled in the social security system. The responsibility to carry the costs of maintenance and repairs by factories becomes bigger when home workers produce the bulk of their orders for a particular factory.



Based on the principle of non-discrimination, factories should treat home workers the same way as factory workers; provisions need to be in line with the existing regulations: for instance, minimum wages,

social security, and a functioning grievance mechanism. If this is difficult to achieve in the short term, a first step can be to pay a higher piece rate to home workers.

3. Informal work is not limited to the Balinese garment sector; it is a widespread problem in Indonesia. Most of the home workers consulted had one main customer, which leads to false self-employment and is close to an employer-employee relationship, where risks and costs are shifted on to the home workers. **The Ministry of Manpower** should regulate the use of home workers by companies and affirm the relationship between employers and home workers as a genuine employment relationship. The mutual set of rights and obligations of employment must be extended to home workers as a matter of regulation.

The Local Manpower Office of Bali should start a database of factories employing home workers in their supply chain so that it knows the number of home workers and the characteristics of their work.

To get more insight into the use of home workers, the Local Manpower Office could develop a permitting mechanism for factories that want to make use of home workers. This mechanism should include a planning and reporting scheme that companies use to document their use of home workers. Registration and providing written contracts should be made compulsory. The Local Manpower Office should also play a role in disseminating the needs of OSH in the workplace of home workers, as well as the employer's obligation for social security coverage. Social security can be tackled directly or indirectly. Social security can be addressed directly by factories enrolling their home workers to the BPJS Healthcare and BPJS Employment. Social security can be tackled indirectly by making factories responsible for checking whether home workers have enrolled themselves in the BPJS system and if they are paying their dues. Penalties could be applied in case home workers are not registered and factories did not monitor the payment of social security by the home workers.

4. Trade unions and labour NGOs should provide information and knowledge to home workers about workers' rights and assist in advocating for clearer and better policies in protecting home workers at the governmental level. They should also educate and organise home workers into associations or unions to strengthen their bargaining position. Organisations for home workers do not necessarily have to follow the template of trade unions, as they operate in a different setting. The nature of home workers being scattered over a large area poses a big challenge in organising them; However, the availability of social media can be utilised to spread information and education. For trade unions to embrace home workers into their ranks; they must open up to different types of labourers, not only cater to factory workers. Organising home workers will be especially challenging considering the socio-cultural context of Bali, where home workers are not familiar with labour rights issues and are culturally prone to avoid labour conflicts. At the very least, attempts should be made by all stakeholders to educate workers on labour rights.

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ANNEX 1: THE INTERVIEWED HOME WORKERS

Name	HW1 (Ms), 40 years	HW2 (Ms), 42 years
Civil status	Married with 2 children	Married with 2 children
Home worker	Since 2014. Worked at Company A from 1990-1998	Since 2006. Worked at Factory A from 1996-2006
Produce	Making dresses; average of 30 pieces/week; only for Factory A	Making dresses; 5-6 pieces/day; for Factory B and others.
Rate	Rp 23.000/piece	Rp 15-20.000 /pc; 40 pieces/week
Working hours	Averages 8 hrs/day	Averages 8 hrs/day
Quality control	Rarely gets rejected; if rejected, the garment needs to be made again.	Complained that Brand C orders have too many Quality Control points; very elaborate. Often rejected.
Work team	Works alone	Assisted by younger sister who never worked in factory; her work contributes 25% of the order

Name	HW3 (Mr), 47 years	HW4 (Ms)*, ± 40 years
Civil status	Married with 2 children	Married with 2 children
Home worker	Since 2005. Worked at Factory B from 1992-2005	Since 2006. Worked at Factory B from 1996-2001
Produce	Shirts, dresses etc., average of 100 pcs/2-3 days. Accepts orders from others, but Company B gets priority	Making rollings (at the time of visit)
Rate	Rp 25.000/pc	Rp 2000-3000/pc
Working hours	Flexible; from 8.00 to 17.00 hr, sometimes overtime till 20.00	Every day, 8 to 10 hours/day
Quality control	Rarely gets rejected	
Work team	He has two assistants (neighbours) who are paid per piece. His wife helps with the finishing.	Husband occasionally helps with hemming.
Social obligations	Twice a year they take a break to go to home town Singaraja for ceremonies; stay away for a week.	
Remarks	HW3 and HW4 are neighbours, but receive orders separately from Factory B.	

Name	HW5 (Ms), 53 years	HW6 (Mr), 53 years
Civil status	Married with 2 children	Married with 2 children
Home worker	Since 2018. Worked at Factory A from August 2018 – Current (3 months)	Since 2018. Worked at Factory A from August 2018 – Current (3 months)
Produce	Men's Shirt (Kuta Lines – Local brand) average of 50 pcs/4-5 days. Works only for Factory A.	Men's Shirt (Kuta Lines – Local brand) average of 50 pcs/4-5 days. Works only for Factory A
Rate	Rp 11.000/pc for panel assembling instead of full finished pieces.	Rp 11.000/pc for panel assembling instead of full finished pieces.
Working hours	Flexible; from 7.00 to 10.00 hr up to 16:00	Flexible; from 7.00 to 10.00 hr up to 16:00
Quality control	Rejects are given back to him for repair or are repaired at the factory depending on the decision of the Production Head.	Rejects are given back to him for repair or are repaired at the factory depending on the decision of the Production Head.
Work team	None	None
Social obligations	Twice a year he needs to go back his hometown for Galungan purpose. Each trip will take around 3 – 7 days depending on the situation at his hometown. He is a Gamelan player as well at his hometown, hence whenever there is social occasion at his hometown, he will be called back to do his duty. This calling can be 1-3 times in every 3 months.	Twice a year he needs to go back his hometown for Galungan purpose. Each trip will take around 3 – 7 days depending on the situation at his hometown. He is a Gamelan player as well at his hometown, hence whenever there is social occasion at his hometown, he will be called back to do his duty. This calling can be 1-3 times in every 3 months.
Social Security	None despite the government requirement that everyone registers through their employer if they work in a company or by themselves	None despite the government requirement that everyone registers through their employer if they work in a company or by themselves
Machinery	2 Single needle sewing machines. 1 was hers, 1 was loaned by Factory A. Self-maintenance for small matters and major repairs are done by the Factory A technician for the loaned machine.	2 Single needle sewing machines. 1 was his, 1 was loaned by Factory A. Self-maintenance for small matters and major repair are done by the Factory A technician for the loaned machine. The machines are shared with his wife.
Remarks	HW5 is the spouse of HW6	

Name	HW5 (Ms), 53 years	HW6 (Mr), 53 years
Civil status	Married with 2 children	Married with 2 children
Home worker	Since 2018. Worked at Factory A from August 2018 – Current (3 months)	Since 2018. Worked at Factory A from August 2018 – Current (3 months)
Produce	Men's Shirt (Kuta Lines – Local brand) average of 50 pcs/4-5 days. Works only for Factory A.	Men's Shirt (Kuta Lines – Local brand) average of 50 pcs/4-5 days. Works only for Factory A
Rate	Rp 11,000/pc for panel assembling instead of full finished pieces.	Rp 11,000/pc for panel assembling instead of full finished pieces.
Working hours	Flexible; from 7.00 to 10.00 hr up to 16:00	Flexible; from 7.00 to 10.00 hr up to 16:00
Quality control	Rejects are given back to him for repair or are repaired at the factory depending on the decision of the Production Head.	Rejects are given back to him for repair or are repaired at the factory depending on the decision of the Production Head.
Work team	None	None
Social obligations	Twice a year he needs to go back his hometown for Galungan purpose. Each trip will take around 3 – 7 days depending on the situation at his hometown. He is a Gamelan player as well at his hometown, hence whenever there is social occasion at his hometown, he will be called back to do his duty. This calling can be 1-3 times in every 3 months.	Twice a year he needs to go back his hometown for Galungan purpose. Each trip will take around 3 – 7 days depending on the situation at his hometown. He is a Gamelan player as well at his hometown, hence whenever there is social occasion at his hometown, he will be called back to do his duty. This calling can be 1-3 times in every 3 months.
Social Security	None despite the government requirement that everyone registers through their employer if they work in a company or by themselves	None despite the government requirement that everyone registers through their employer if they work in a company or by themselves
Machinery	2 Single needle sewing machines. 1 was hers, 1 was loaned by Factory A. Self-maintenance for small matters and major repairs are done by the Factory A technician for the loaned machine.	2 Single needle sewing machines. 1 was his, 1 was loaned by Factory A. Self-maintenance for small matters and major repair are done by the Factory A technician for the loaned machine. The machines are shared with his wife.
Remarks	HW5 is the spouse of HW6	

Name	HW7 (Ms), 39 years	HW8 (Mr), 35 years
Civil status	Married with 2 children	Married with 3 children
Home worker	Since 2003. Worked at Factory A from August 2018 – Current (3 months)	Since 2003. Worked at Factory A from August 2018 – Current (3 months)
Produce	Men's Shirt (Kuta Lines – Local brand) average of 50 pcs/4-5 days.	Men Shirt (Kuta Lines – Local brand) average of 50 pcs/4-5 days.
Rate	Rp 17,000- IDR 25,000/pc for fully panel assembling without accessories like buttons.	Rp 17,000/pc for fully panel assembling without accessories like buttons.
Working hours	Flexible; from 8.00 to 14.00 hr up to 16:00	Flexible; from 8.00 to 14.00 hr up to 16:00
Quality control	Rejects are given back to her for repair or are repaired at the factory depending on the Production Head decision.	Rejects are given back to her for repair or are repaired at factory depending on the Production Head's decision.
Work team	None	None
Social obligations	Once a month she needs to go back to hometown for Odalan. Each trip will require 3 – 5 days.	Once a month she needs to go back to hometown for Odalan. Each trip will require 3 – 5 days.
Social Security	None despite the government requirement that everyone registers through their employer if they work in a company or by themselves. The most common health problem is muscle strain due to non-ergonomic way of work.	None despite the government requirement that everyone registers through their employer if they work in a company or by themselves. The most common health problem is muscle strain due to non-ergonomic way of work.
Machinery	1 single needle sewing machine and 1 hemming machine are owned hence maintenance and repair are paid by herself.	1 single needle sewing machine and 1 hemming machine are owned hence maintenance and repair are paid by herself.
Remarks	HW7 is an elder sister of HW8. They rent a house with several rooms and share it between them and their family.	



A male home worker who is assisted by his wife. Photo: King Dey

ANNEX 3: LEGAL COUNTRY SITUATION REGARDING THE FWF CODE OF LABOUR PRACTICES⁴⁷

FWF STANDARD	RELEVANT LEGAL PROVISIONS
6.1. Employment is freely chosen	<p>Law No.13/2003:</p> <p>A worker may resign, having given 30 days' notice, unless he or she is bound by a contract to work for/serve the enterprise for a certain period of time in return for the training/education provided to him or her and paid by the enterprise to enable him or her to have the required qualifications to carry out his or her job at the enterprise.</p>
6.2. There is no discrimination in employment	<p>Law No.13/2003:</p> <ul style="list-style-type: none"> All people seeking work have an equal opportunity to obtain work and have the right to be treated in a non-discriminatory way by management. Employers must provide reasonable accommodation to workers with a disability. <p>Law No.4/1997:</p> <ul style="list-style-type: none"> Companies must hire one appropriately qualified person with a disability for every 100 employees. <p>Law No.13/2003:</p> <ul style="list-style-type: none"> Female employees are entitled to 1.5 months of fully paid maternity leave before giving birth, and 1.5 months after. Women are eligible for leave on the first and second day of their period. It is illegal to make women redundant on the grounds of pregnancy, birth, miscarriage or breastfeeding. Women must be provided with facilities and time to breastfeed if needed during work time under the law <p>Ministerial Decision No.224/2003:</p> <ul style="list-style-type: none"> Includes provisions for well-lit separate bathroom facilities for men and women
6.3. No exploitation of child labour	<p>Law No.13/2003:</p> <ul style="list-style-type: none"> Forbids the employment of children except in very particular circumstances. Children between the ages of 13 and 15 may undertake light work as long as it does not interfere with their physical, mental or social health. In such cases, the employer must have written permission from a parent or guardian and a work contract between the employer and the parent or guardian, and work may last for a maximum of three hours of daytime at a time that does not interfere with the child's schooling. If work takes place in a workplace that employs adults, a separate workspace must be provided.

⁴⁷ From FWF (2018) Indonesia country study 2018

FWF STANDARD	RELEVANT LEGAL PROVISIONS
6.4. Freedom of association and the right to collective bargaining	<p>Law No. 21/2000 and Law No.13/2003:</p> <ul style="list-style-type: none"> As few as ten workers can form a union and multiple unions are permitted to operate in a single workplace The law allows for multiple union federations and confederations and permits enterprise-level unions to affiliate with any union federation or confederation at the regional or national level. Forbids anti-union activities. Seven days' notice must be provided of the intention to strike. For a union to have the right to bargain, union members must constitute more than 50% of employees or have the support of more than 50% of employees. If multiple unions are present, they may enter a coalition to reach the more than 50% requirement. Collective bargaining agreements are valid for a maximum of two years but can be extended for a third year. Negotiation of a future collective bargaining agreement can only start three months before the expiry of the existing agreement. If no agreement is reached before that date, the existing agreement is automatically extended for a period of up to one year. <p>Ministerial Decision No.187/2004:</p> <ul style="list-style-type: none"> Outlines administrative requirements for trade unions. <p>Ministerial Decision No.232/2003:</p> <ul style="list-style-type: none"> Strikes are only permitted after the failure of negotiations, which is defined as the failure of the employer to respond to two written notifications from the union over a period of 14 days. <p>Ministerial Decision No. 620/2012: :</p> <ul style="list-style-type: none"> Restricts capacity of workers to strike within industrial parks that are classified as National Vital Objects.
6.5. Payment of a living wage	<p>Law No.13/2003:</p> <ul style="list-style-type: none"> Every worker has the right to a living wage. Wages agreed to by employers and employees are not to be set at a rate that is lower than the applicable minimum wage unless an employer had successfully applied for a suspension on the grounds that they are incapable of paying that minimum wage. <p>Government Regulation No.78/2015:</p> <ul style="list-style-type: none"> Minimum wage is set on a formula that uses a decent living rate set every five years alongside the inflation rate and GDP. Makes establishment of a wage scale mandatory. Requires employers to provide proof of payment to workers that includes a detailed account of the wages received at the time they are paid. <p>Ministerial Regulation No.22/2009:</p> <ul style="list-style-type: none"> Apprenticeships are available to job-seekers, students in training institutions or workers who wish to increase their skills. They are not paid a wage but must be paid an honorarium and a transport allowance.

FWF STANDARD	RELEVANT LEGAL PROVISIONS
6.6 No excessive working hours	<p>Law No.13/2003:</p> <ul style="list-style-type: none"> Limits working hours to 40 hours per week over five or six days unless stipulated under a sector-specific regulation. Workers must agree to reasonable requests to do overtime, which is subject to legal limits of three hours per day or 14 hours per week. Women under the age of 18 may not work between 11pm and 7am. Employers are required to provide transport to and from the workplace for women who finish work between 11pm and 5am. <p>Ministerial Decree No.102/2004:</p> <ul style="list-style-type: none"> All overtime must be paid at specified multiples of normal hourly wages unless the employee concerned is engaged in a professional position. There must be a written agreement between the employer and the worker concerned agreeing to overtime. Employers must provide workers completing three or more hours of overtime with a meal.
6.7. Safe and healthy working conditions	<p>Law No.13/2003:</p> <ul style="list-style-type: none"> The occupational health and safety needs of every worker must be guaranteed by the employer. A worker may not be fired for being ill, as long as the illness does not exceed 12 months. Workers who have developed a permanent disability or chronic illness as a result of a work-related incident must be paid 100% for the first four months, then 75% for the second four months, 50% for the third four months and 25% for the remaining time until the employer ceases the employment relationship.
6.8. Legally-binding employment relationship	<p>Law No.13/2003:</p> <ul style="list-style-type: none"> Work relations are relations between employers and workers based on a work agreement, which have elements of employment, wages, and orders. A work agreement is an agreement between a worker and a company or employer that contains the work conditions, rights and obligations of the parties. Letters of appointment must include the name and address of the worker, the date that they are to commence work, the type of work expected of them and the wages they are to be paid. <p>Ministerial Regulation No.19/2012:</p> <ul style="list-style-type: none"> Outsourcing of work is permitted but only in a limited number of non-core activities.

ANNEX 4: MATRIX OF HOME WORKERS' ISSUES AND SOLUTIONS

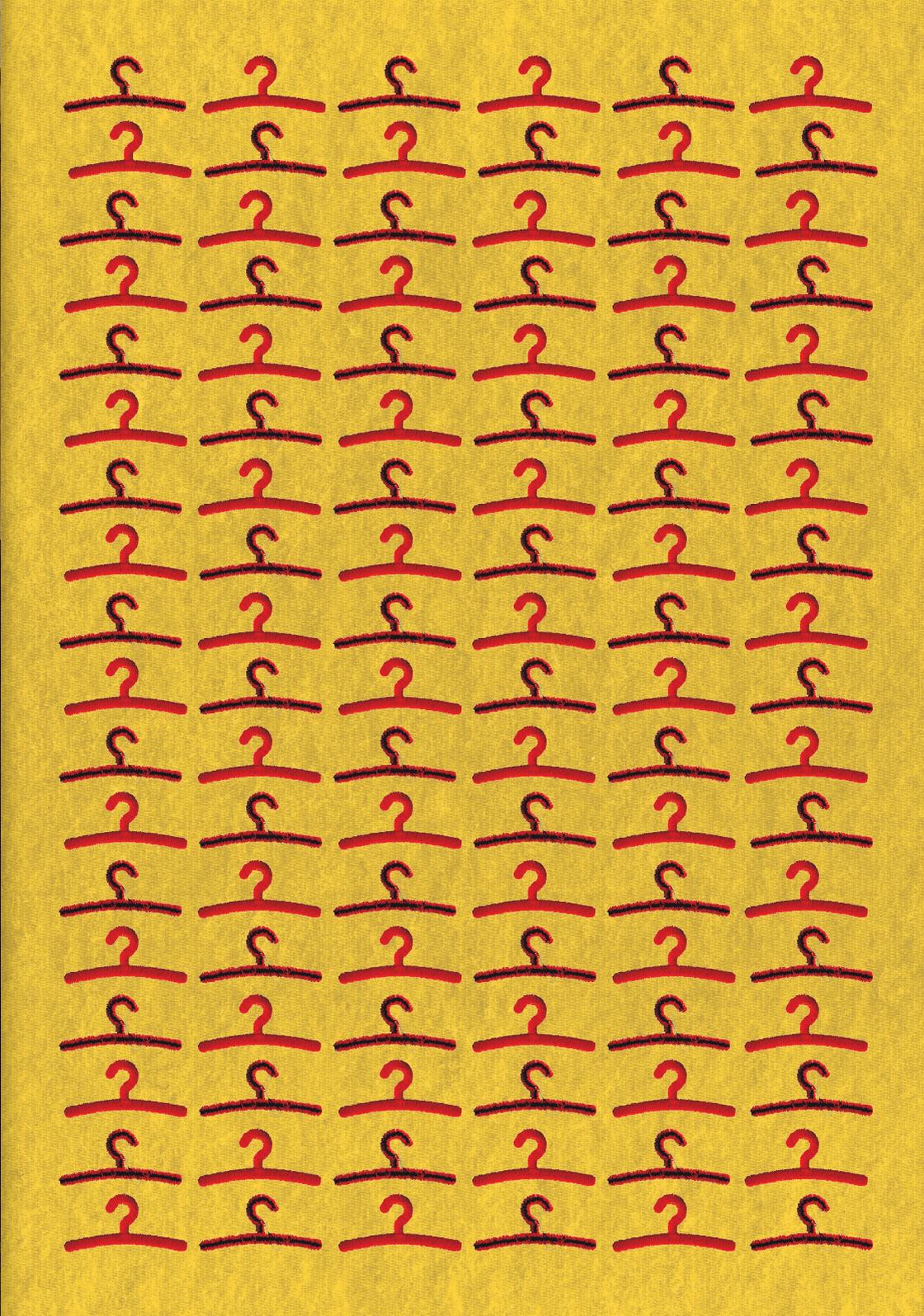
Results of the group discussions at the Roundtable on Home Workers, 30 November 2018, in Bali.

ISSUE	PROBLEM	SOLUTIONS					
		Home worker	Brand owner	Supplier	Trade union	NGO	Government
SOCIAL SECURITY	HWs are not insured for illness and old age.	Get information	Brand should know about the cost of voluntary BPJS; include that in the price.	Require HW to get BPJS before job order; include the cost in the price.	Provide information and training on how to get BPJS on a voluntary basis.	Provide information and training on how to get BPJS on a voluntary basis.	Inspect supplier data on HWs and their social security coverage.
WORK SAFETY	Electrical system often faulty; lighting not sufficient.	Get information on OSH	Brand should instruct supplier to extend technical compliance regarding safety equipment to HW	Provide safety equipment, including installation of safe electrical wiring if necessary.	Provide information and training on OSH.	Provide information and training on OSH.	Inspect supplier data on HWs and their safety compliance.
INDUSTRIAL RELATIONS	Work relations are only based on order; no contract, only order slip; no provision of secondary benefits.	Get information about industrial relations.	Brand should be willing to raise the price in order for the supplier to raise the standard of industrial relation with HWs.	Make contracts with HW that include other obligations but maintain the flexibility of the work.	Train and organise HWs.	Train and organise HWs.	National and local government should develop and implement a regulation concerning HWs.
FREEDOM OF ASSOCIATION	HWs are not organised.	Get information on HW associations; get organised.	Brand should instruct supplier to extend social compliance regarding HWs' freedom of association.	Allow and recognise trade unions for factory workers and HWs.	Organise workers in the factory, including the HWs.	Organise HWs based on locality.	National and local government should develop and implement a regulation concerning HWs.
SOCIAL DIALOGUE	HW capacity to negotiate is very low, especially without an organisation.	Get information on social dialog.	Encourage social dialog between employer, factory workers and HWs, and if applicable with the agents/middlemen	Conduct social dialogue between employer, factory workers and HWs, and if applicable with the agents/middlemen.	Train HWs in social dialog.	Train HWs in social dialog	National and local government should make a regulation concerning HWs.



INDRA
Pakaian Bali

- KEBAYA
- PAKAIAN WANITA
- SERAGAM SEKOLAH
- KAOS
- KEMEJA



A signboard to receive job orders outside a home worker's house. Photo: King Oey



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