

**ADVANCING CSR PERFORMANCE: EVIDENCE FROM AUSTRALIAN
INFORMAL WORK.**

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Abstract

CSR is voluntary firm activity aimed at improving the social effects of firm behaviour. Currently, CSR seems to be associated with superficial social outcomes. What could firms do to perform better in CSR? This paper utilises evidence from an Australian, community-union collaboration, undertaken to make improvements for home-based workers in the informal economy. Home-based work is spreading, due to such firm practices as outsourcing. Informal work is characterised by precariousness, lack of regulation of the work, and invisibility and lack of protection of the workers, who are among the world's poorest and most exploited. This paper suggests that firms must make significant organisational innovations in order to advance CSR performance.

Keywords: CSR; codes of conduct; outsourcing; value chain analysis; business ethics.

Introduction

While there is ample evidence that many firms engage in philanthropic activity, firm performance in CSR continues to remain a contested issue, and many firms are charged with implementing CSR as 'window dressing' only. CSR is purported to be a 'central issue to the agenda of organisations' (Vilanova, Lozano, and Arenas 2009: 57). The intention of CSR, according to the OECD Guidelines, is for firms, especially multi-national enterprises (MNEs), to engage in 'responsible business conduct' in relation to social, environmental and human rights issues which are linked to their activities (OECD 2008). However, CSR is defined and adopted in different ways by firms, and many commentators suggest that CSR implementation contradicts the intended purpose (Husted and Allen 2006; Jonker and Marberg 2007).

The most recent revisions of the OECD Guidelines extend the application of CSR to the business partners, such as in the supply chains of firms; however, there has been considerable opposition to this from business and some governments (Friends of the Earth Circa 2004: 9). Recent debates look at the 'sphere of influence' of firms, and their 'complicity' in so far as it is recognised that firm's actions have consequences beyond their immediate stakeholders, to their supply chains, local communities and the natural environment (IILS 2008). However, an influential report, such as the Ruggie's (2008), suggests there is a diminishing responsibility towards stakeholders such as workers in the supply chain. Further, various analysts suggest that firms have yet to incorporate ethical principles in their core business (Porter and Kramer 2006; Strike, Gao, and Bansal 2006; Vilanova et al. 2009).

Many argue that CSR, involving voluntary actions and being 'soft law' can only have limited benefits for workers rights and conditions. Moreover, even when CSR initiatives are targeted at employee rights, they only relate to 'first tier' workers (Marshall 2007). There is little evidence of CSR

initiatives relating to informal work, where many of the world's poor labour under the most exploited and uncertain conditions (ILO 2002b). On the other hand, firm activity, especially outsourcing, is a key factor in the existence and spread of current home-based work.

Home-based work, a key type of informal employment, is work undertaken in the home by either independent own-account workers or dependent subcontractors (Carr and Chen 2002). Homeworkers are predominantly women, engaged in various types of jobs (Boris and Daniels 1989; HWW 2002). Homeworkers are widely considered to be the most vulnerable and disenfranchised workers in the world (ILO 2002b). While homework is an ancient form of production (Boris and Daniels 1989), the literature advances various explanations for the current spread of homework. Among these is the behaviour of firms (Baylina and Schier 2002; Burchielli, Buttigieg, and Delaney 2008). Moreover, there is evidence of many firms who are linked to homeworkers via their chains of production (Delaney 2007). Although CSR offers firms the opportunity to do some good, there is mounting evidence that many firms are linked to opportunistic and unethical behaviours.

Are firms doing enough in CSR? What more could firms do to perform better in CSR? This paper utilises evidence from an Australian, community-union collaboration, undertaken to make improvements for home-based, informal workers in the garment sector. Our principal objective is to examine and identify the conditions in which CSR can have positive outcomes for homeworkers. In turn, these conditions have implications for CSR, and its advancement. This paper makes use of a unique data-set collected by garment homeworkers and their advocates. Data from homeworkers is extremely scarce due to the difficulties of contacting informal workers who are 'invisible' due to the nature of their working conditions (Burchielli et al 2008). We use these rare data to describe homework and its conditions, and to examine the most recent initiatives to unpack the complexities of supply chains, the role of firms in these, and subsequently, the potential for firms to use CSR to make a positive contribution to homeworkers and to improve firms' CSR performance.

Homework Characteristics

Homework is work undertaken in the home by either independent own-account workers or dependent subcontractors (Carr et al. 2002). Homework is a type of informal employment which exists in both developing and developed countries. Workers employed in formal work are protected by various types of agencies and their instruments, including governments, unions and judicial systems. In contrast, informal work is conducted outside of the boundaries of employment-related institutions: thus, there is no record or register of where the work is going or where it originates, and there are few, and inaccessible forms of protection for workers, such as recourse to minimum standards and wages. Informal work includes casual, seasonal and sub-contracted work, such as agricultural, labouring, and piecework. Salient characteristics of informal employment are: no secure contracts, no worker benefits

and no social protection, such as social security or pensions (ILO 2002b). People undertake informal work because they need to survive and lack other employment choices; they need the income but have no access to formal employment (HWW 2004). Homework does not offer workers protection under traditional models of labour law because of the separation of workers from their employers through the use of subcontracting, which is often transnational. Protections are further impeded by the existence of many intermediaries and other forms of informal employment, such as home-based workshops. The characteristics of these chains disguise the employment relationship and obscure who is responsible for minimum legal terms for the worker.

Who are Homeworkers?

Homeworkers are among the poorest and most vulnerable engaged in informal employment. Previously, homeworkers were defined as *dependent* workers. These disguised wage workers have also been named industrial homeworkers, outworkers, subcontracted and piece-rate workers. In order to understand the range of employment relationships and variety of dependencies in homework, it is useful to think about it as an overlapping picture, like a Venn diagram. One part of the picture represents disguised waged workers. The other part represents the own-account workers. In-between, there are many overlapping types of relationships. Own-account homeworkers and dependent homeworkers share a strong, common element of economic dependence. This shared economic dependence is recognised in the ILO Convention on Home Work, which defines a homeworker by excluding only those who ‘have a degree of autonomy and of economic independence’ (ILO 1996), and who may thus be considered genuinely self-employed. Many reports have found that homeworkers are doing both dependent and own-account work (HWW 2004; ILO 2002b; Prugl et al. 1997).

A key characteristic of homework is its ‘invisibility’ (Burchielli et al. 2008) as homeworkers work from their own or neighbour’s homes. Homeworkers contribute to the global economy, but are invisible to labour market regulators, to consumers, and perhaps even to themselves, in the sense that they may not identify as workers (Hill 2005). In so far as homework is unacknowledged and unprotected by industrial laws (Prugl et al. 1997) homeworkers have no voice. A key question facing homeworker advocacy groups relates to encouraging homeworker voices to improve living and working conditions.

The Growth of Homework

International research shows that in all regions of the world informal employment is growing (Charmes 2000; Jütting and de Laiglesia, 2009). Various major, inter-related factors are contributing to the growth of informal work. Key among these are globalisation - which provides firms with opportunities to access new product and labour markets, and creates greater vulnerabilities for

workers; the movement of production and the widespread use of management innovations - in particular, practices associated with flexibility, outsourcing and subcontracting; the generalised adoption of neo-liberal philosophies and practices, especially increased deregulation; and an over-reliance on markets to provide regulating functions (Baylina et al. 2002; Beynon, Grimshaw, Rubery, and Ward 2002; HWW 2004). Through the use of homework in urban and rural locations, suppliers to national and multinational corporations reduce their overheads and economic risks by transferring the pressures of prices and tight deadlines imposed by buyer-driven chains onto the most vulnerable workers at the bottom of the heap.

Increasingly, there is evidence of a web of linkages between formal and informal employment. Formal enterprises are using informal enterprises in their value chains and purchasing products directly or indirectly from informal workers. Moreover, workers are moving between formal and informal work on a needs basis. According to recent evidence, the 2008-9 global financial crisis is causing many workers to lose their jobs (Jütting et al. 2009). In developing countries with no unemployment insurance, people are forced into informal employment with low pay, no protection and high risk exposure.

Homework in the Garment Industry

The global garment industry is a pioneer in the subcontracting and the informalisation of work. Sweatshop conditions have become a common descriptor of garment production wherever it is located. Homeworkers constitute a significant proportion of garment workers globally, yet are the least organised and most marginalised. Homeworkers are commonly found at the bottom rung of supply chains, and face the most exploitative conditions (HWW 2004; Staples, 2006). The nature of homework in the garment industry in Australia typifies global trends. The workforce has shifted from being factory based to predominantly home-based (Rowbotham 1999; TCFUA 1995; Weller 1999). The home-based workforce is largely unorganized due to the 'invisible' nature of this work, and despite the existence of legal protection for garment homeworkers, few access such protections and only rarely. Work is given out at low piece rates, with unrealistic deadlines, commonly with links to national and global brands and supply chains (Cregan 2001a; Weller 1999). Women are predominantly doing the work at home, while responsible as carers and for the livelihood of the family (Boris 1994; Hill 2005; Wardlaw and Curtin 2005).

The majority of garment homeworkers in Australia are women, many of whom come from refugee or migrant communities. They have limited English language skills, are unaware of their rights or too frightened to make a complaint for fear of losing their work. They earn on average AUD \$3.50 an hour compared with the legal minimum rate of an average of AUD \$14.00 an hour (Cregan 2001a; Diviney and Lilywhite 2007). Australian homeworkers are rarely members of the union and

commonly accept work on the rates given by subcontractors, even at a quarter of the legal rate, because some work is better than none.

Homeworkers commonly work under an ambiguous status, as self-employed or independent contractor or worker. (Burchielli et al 2008; Tate and Brill 2003). The employment relationship distinction has been important for unions, since the dependent homeworker has an employer and there is some notion of an employment relationship. However, in many instances homeworkers cannot identify their direct employer. Nor do they have a workplace context to develop collective grievances and understandings in relationship to an employer and solidarity with co-workers (HWW 2004; Massey 1994). Isolation is a prevalent feature of their work, they remain marginalised in relation to their work location, gender, race and class, and despite being an integral part of the production cycle they remain invisible and are clearly located at the lower end of the informal continuum (Cregan 2001a, b; Hale and Wills 2005; Khattak 2002). The long struggle for recognition and securing legal protection for Australian garment homeworkers has been linked to the union. Over the years, the union has changed its thinking and actions towards homeworkers, and been able to develop strong alliances in the community. The FairWear Campaign is the result of such an alliance, and is discussed in relation to campaigning for and protecting homeworkers.

Corporate Social Responsibility (CSR)

CSR commonly refers to corporation's voluntary and discretionary relationships and activities with stakeholders, outside normal corporate governance (Waddock 2004). CSR has been defined as 'policies or actions that identify companies as being concerned with society-related issues' (Roberts 1992), such as employee rights, the environment and poverty. CSR efforts to date have rarely been linked to informal workers positioned along the supply chain (Jenkins, Pearson, and Seyfang 2002). While there are many corporations involved in different types of CSR initiatives, commentators note that the vast majority of corporations do not take CSR seriously, and that most firms use their resources to defend their non-compliance (Jonker and Marberg 2007). Corporations are often involved in CSR programmes to reduce public pressure, to engage in reputation saving, and to attain some social legitimacy. They may place 'ethical' conditions on their suppliers while at the same time leaning on them for the lowest price and imposing tight deadlines. Although CSR efforts are intended to apply throughout MNEs, including their supply chains, it is recognized that the various business units of a given firm may behave differently in terms of CSR: "one subsidiary of an organization [may] engage in a responsible activity, while another may act irresponsibly; MNEs may be simultaneously socially responsible and irresponsible" (Strike et al. 2006: 851).

The considerable debate amongst unions and labour rights activists has focused on the limitations of CSR programmes (Jenkins 2001). Generally, studies conclude that very few workers benefit from

CSR, and other such soft and voluntary mechanisms, such as Codes of Conduct, since they fail to deliver any improvement in core standards such as the right to organise and bargain. Codes and publicity around CSR often focus on consumer-weighted issues rather than the problems prioritized by the workers making the products. Homework advocates suggest it is vital that workers have a say in formulating campaigns; in articulating their demands to companies, and in code development (HWW 2003). From the perspective of homeworkers, the major limitations of CSR include: initiatives that are not binding or difficult to enforce; initiatives that are not linked to national and local union organising efforts (Stavis and Boswell 2007), which may limit their scope and application to informal workers; initiatives which do not equally apply to all business units and to the supply chain.

Global Union and Other Responses to CSR

Unions have had varying responses to CSR initiatives. While unions continue to participate in a range of multi-stakeholder agreement processes, they have begun to commit to other processes as a way to improve workers conditions and in particular core labour standards. Global Union Federations (GUFs) are promoting International Framework Agreements (IFAs) as an alternative to the corporate social responsibility (CSR) approach. These have advantages over mainstreamed CSR, and may be a valid strategy to improve visibility of homeworkers in the supply chain.

Homeworkers in the Australian garment industry are included in garment industry Awards, and awarded wage and work conditions equivalent to factory workers. In the past this has been subject to a case-by-case basis of legal determination that the homeworker is in fact an employee. The employment status of homework has long been fought in Australian courts and legislation at federal and state levels have settled this dispute: homeworkers (in the garment industry) are defined as employees for the purpose of labour laws (FairWear 2005; Rawling 2007). However, many homeworkers are reluctant to pursue their rights and report award breaches, largely for fear of loss of work and income. In response to this situation, the union and other homework advocates have sought to strengthen regulatory frameworks and control firm behaviour. This is illustrated in this paper's case-study of the Fairwear Campaign and the Homeworkers' Code of Practice.

Method

This paper constructs a case-study of the Homeworkers' Code of Practice (HWCP) and the Australian Fairwear Campaign (FWC), making use of data derived from primary documents sourced from the HWCP, and the FWC, and the international organisation Homeworkers WorldWide (HWW), who are advocates for homeworkers. Documents include reports and meeting notes, and email correspondence relating to the years 1996-2005. Documents were analysed using the techniques of content analysis, such as coding and categorizing, recording reflections, and seeking patterns and commonalities (Kvale 1996; Miles and Huberman 1994). Key themes were thus identified relating to working conditions and

wages; lack of worker organisation; reasons for not accessing protections or social assistance; reasons and conditions for participating in specific organising initiatives. These techniques enabled the construction of a coherent case-study, including an understanding of key participants and events, their relationships, and the sequencing of temporal events.

The case-study mode lends itself to a deep level exploration within a bounded context, leading to the elaboration of important insights. A unique, Australian context enabled researchers to penetrate the reality of homeworkers, and compare it with the international context to uncover meaning (Miles and Huberman 1994) and identify key issues with policy implications for governance and the improvement of homework.

The Australian Fairwear Campaign And The Homeworkers' Code Of Practice

Well known for its innovative campaign tactics, such as media-friendly creative stunts to highlight injustices against garment homeworkers (Nash, 2001), the FairWear Campaign (FWC), established in 1996, is the Australian anti-sweatshop movement, engaging in action and advocacy to improve the conditions of Australian garment homeworkers. The campaign has worked with key partners to combine information, industry knowledge, homeworker involvement, and to harness a broad network of supporters to maintain a critical voice around the garment industry. FWC partners are typically drawn from unions, churches, students, women and community organisations.

The data suggest that key characteristics of the FWC relate to its flat, participatory structure with autonomy for the diverse participating groups and its capacity to appeal to widely held values. FWC aims and structure suggest an emphasis on low bureaucracy and decentralization of structure and operations. Organisations linked to the FWC, such as trade unions and church groups, work within their own constituencies to raise awareness and to lobby or campaign in response to requests generated from the campaign office. The diverse groups each use their own strategies, from individual action, e.g., letter writing, to various forms of direct action. The decentralised structure of the FWC has enabled groups and individuals to engage in campaign activities without seeking approval for activities or being held to account for grassroots action. Public statements made by key activists linked to the FWC indicate that issues relating to the exploitation of homeworkers permit analysis from a variety of perspectives, which resonate with various key values for diverse groups in the wider community, resulting in the broad appeal of the FWC. Thus, while homework may be analysed from a labour and industrial perspective, with implications for regulators, the moral implications of homework stimulate a broader involvement in the campaign.

The aims and structure of FWC were intended to support the Textile, Clothing and Footwear Union of Australia (TCFUA), a key campaign member, in organising homeworkers and achieving improvement

of homeworkers' wages and working conditions. The campaign focused on promoting the Home Workers' Code of Practice (HWCP) –an initiative of the TCFUA- to consumers, while simultaneously targeting corporations for their failure to provide transparency and compliance of minimum conditions across the supply chain.

The Homeworkers' Code of Practice (HWCP).

The HWCP, a voluntary, but prescriptive industry code, led to the development of an accreditation scheme and to the use of a 'no sweatshop' label as the sign of compliance to the code. The code committee is jointly managed by union and employer representatives, and applies to the supply chains of garments produced in Australia. The code stipulates the records that corporations are required to keep; it defines standard contracts firms must enter into with their subcontractors, and recognizes the role of the TCFUA in monitoring the code.

Through the code, firms can seek accreditation by providing evidence of compliance. Firms seeking accreditation must provide a list of all suppliers/subcontractors; they must secure evidence of homework from each supplier; further, they must provide evidence that homeworkers in the supply chain are being paid their legal minimum entitlements. The accredited corporation shares joint liability with their subcontractors. If a subcontractor is found in breach of the code then the accredited firm is also in breach of the code, and is obligated to remedy the situation or lose accreditation. Accreditation confers a moral and ethical status to the firm, as it denotes that the product and the firm are sweatshop free. The HWCP and the *no sweatshop* label have become the public face of the industry legal standard and compliance toward homework and supply chain regulation. FairWear issues an ethical shopping guide to consumers, which lists the firms or brands meeting these minimum conditions through accreditation. Firms that are not accredited can become the subject of campaigning by the FWC, and are thus encouraged to seek accreditation to be promoted as ethical suppliers.

The prescriptions in the HWCP are aligned to existing national and state legislation covering homeworkers, such as The Clothing Trades Award 1999, (CTA), and the Industrial Relations (Ethical Clothing Trades) Act 2001 (NSW), or the Outworkers (Improved Protection) Act 2003 (Victoria). Together with the HWCP, the national and state laws function synergistically in dealing with the interdependent links of the supply chain. The HWCP facilitates retailers' compliance with the obligations of the CTA, even when they may not be legally bound to comply, since they are not manufacturers. Similarly, the state legislation provides requirements for reporting and record keeping as do the CTA and the HWCP. The three mechanisms are mutually supportive, in that each contributes to compliance of one or more of the other mechanisms. Moreover, the existence of the HWCP led to other improvements. The Retailers Association agreed to a new and strengthened version of the HWCP (Retail section-Part one), during the negotiation of a mandatory code, in New

South Wales. The outcome of improving the voluntary code and the development of the mandatory code is linked in the legislation. The mandatory code states that retailers in compliance with the HWCP are exempt from the legislation, therefore any retailer not in compliance and, or not signatory to the HWCP is covered by the legislated mandatory code.

Fairwear Campaigning Around the HWCP

FairWear successfully utilized industry information from the TCFUA to select brand targets that posed strategic obstacles to the take up of the code in Australia. As the union launched prosecutions in the federal court for breaches of the CTA, FairWear would target these brands outside the court, at the stores, or through various other stunts. FairWear used union CTA prosecutions to promote reasons why corporations should sign the code. An example of this occurred in 1999: Nike having refused to sign the HWCP, found itself in the Federal Court, in regard to breaches of the CTA. FairWear made life sized, bright pink pencils, with the words 'just sign it' written on them. Protesters would wear the life size pencils outside Nike stores, the corporate headquarters or at tennis and other sporting events. FairWear effectively linked the Nike brand and the extensive documentation of poor labour conditions in the international supply chain and the weak Nike company code, to the campaign for improvement to homeworkers' working conditions and upholding minimum standards. Nike settled the prosecutions with the union, agreed to having breached the CTA and paid a fine to the TCFUA. Later after ongoing public protests, Nike negotiated with the union and signed the HWCP, creating a new part three of the Code, the Sports and Corporate Wear section.

Discussion

This case highlights that the major weakness of CSR, in respect of worker rights, relates to its voluntary nature. The activities and strategies described in the FWC/HWCP case clearly suggest that many firms do not voluntarily implement CSR initiatives in their own supply chains. The case shows that the FWC made a strong contribution to improving supply chain regulation and improved legal protection for homeworkers, especially through its campaign activities that promoted firms becoming accredited by the HWCP. The diversity of activities undertaken by FairWear proved effective in providing a range of community voices and broadening the debate beyond an industrial relations, union-versus-employer debate, to one of public ethical standards and workers rights. This is more closely linked to the intentions of CSR. The capacity to link homeworkers to these diverse activities proved critical to strengthening the message for firms and the wider community, and achieving effective outcomes for homeworkers.

The strength of the HWCP lies in its prescriptions: corporations must provide evidence of meeting all the requirements across the supply chain before being able to secure accreditation. The code strengthens the legislative provisions since it mirrors the legal requirements laid out in those

instruments. The range of regulatory mechanisms is consistent with a 'regulatory pyramid' approach that includes 'hard' punitive sanctions positioned at the top end, and educational and 'soft' approaches at the bottom (Marshall, 2007). Underpinning each of these mechanisms are requirements on corporations and their suppliers to increase supply chain transparency. Legislation at state and federal level reinforce the CTA obligations and the voluntary requirements of the HWCP.

The Code has a number of weaknesses, one of which is the limited number of manufacturers that have become accredited to it. However, in those States where legislated mandatory codes are in place, these provide a legislative safety net. A further weakness relates to monitoring requirements of the Code. This has largely fallen to the union, whose lack of resources and low capacity to involve homeworkers limits any effective monitoring of the supply chain. The dilemma Australian garment homeworkers face is that in attempting to access legal rights and conditions they are likely to lose their work or be excluded from receiving work. Thus, while protections exist, homeworkers are reluctant to invoke them as they stand to lose their source of income. Overall, homeworkers remain outside the minimum labour conditions despite the range of mechanisms in place to promote access to the minimum labour standards.

The case suggests that for CSR to benefit homeworkers, firm behaviour must change. Specifically, firms must develop and adopt practices and processes which enable the firm to quantify, and develop a detailed understanding of the social effects of its activities; specifically of the areas where firm activity is contributing to social harm. For example, accounting processes could identify areas of negative impacts and simultaneously quantify the value added to the firms by outsourcing to homeworkers. This would enable the firm to direct CSR and other initiatives more closely to areas more relevant to firm activity, such as their own supply chains. CSR cannot remain as an adjunct to the core activities of the firm. Firms could also simultaneously develop an understanding of the impact of CSR on competitiveness and integrate CSR with their other strategic objectives (Porter et al., 2006). Firm strategy must first identify areas of harm caused by the firm throughout its value chains.

While discretionary CSR activities are largely ineffectual for homeworkers, the reporting and disclosure elements of the HWCP provides a useful model to inform the development of organizational innovations to increase firm knowledge into the effects of their business activities. The case further suggests that appropriate regulatory policies must be developed and implemented. The HWCP is a useful model to inform the development of new legal mechanisms internationally. These are required to pinpoint who is responsible for the poor pay and working conditions of homeworkers, and other informal workers, in supply chains. The HWCP model creates transparency about subcontracting chains. Providing for the joint liability of suppliers and the principal employer can lead to employer accountability.

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