
Comparing Australian garment and childcare homeworkers' experience of regulation and representation

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Abstract

Labour markets in Australia have long been segmented by gender and race. This study compares two highly gendered and racially segmented labour markets, home-based family day care workers and garment homeworkers. The comparative cases examine the broader trends of migration, production and consumption that reinforce gender and racial stereotypes, and discourses that underpin representations that women workers are ideally suited to such work. We theorise the gender and racialised inequalities of homework based on the literature on invisibilisation and social reproduction to explore the vulnerable position of migrant women and the consequences of having limited options, such as legal and social protections and any capacity to collectively organise. Our analysis examines the roles and responses of institutions and conceptualises the socio-political factors that affect the characterisation of homework as non-work or as self-employed entrepreneurial activities. By mapping the differing regulatory trajectories of these two groups of homeworkers in terms of regulation and representation, we find both similarities and differences. While garment homeworkers have achieved recognition through legislation and social mobilisation, their circumstances leave them

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less likely to access such rights. By contrast, the failure to recognise family day care homeworkers, has left them to market forces.

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Keywords

Homework, family day care workers, garment homework, gender, migration

Homeworkers, that is, those who choose or are induced to perform paid work from home rather than their employers' premises, are a particularly vulnerable class of workers who struggle for recognition of their industrial rights. Migrant women, who may not know how to access their rights or collectively mobilise, are overrepresented in the homeworker sector (Wardlaw and Curtin, 2005). As they conduct their work in their homes outside of the public gaze, homeworkers may find their work to be invisibilised or devalorised.

This article compares two highly gendered and racially segmented labour markets in Australia: home-based family care workers and garment homeworkers. We have chosen to compare the situation of these homeworkers because of the very different regulatory trajectories for these sectors. In the garment industry, extensive advocacy has led to workers in this sector gaining legal recognition. On the other hand, the family day care (FDC) workers have not collectively mobilised and consequently remain marginalised. Nevertheless, the recent walkout of childcare workers in 2017 orchestrated by the United Voice union may herald the beginning of a new era of representation for these workers (Stein, 2017).

Accordingly, this article aims to address two main questions:

- What are the regulatory trajectories of childcare homeworkers and garment homeworkers in Australia?
- What are the implications for low-paid migrant women workers in terms of recognition and representation?

Towards this end, the article will review and connect the literature on migrant women and work, homework in Australia, and invisibilisation, as well as examine the particular contexts of FDC and garment homeworkers. The article will then examine the regulatory trajectories of these two homeworkers in terms of advocacy, stakeholders and recognition, and analyse the roles of institutions and the impact of advocacy in shaping regulatory outcomes. We will theorise the gender inequalities of homework based on the literature on invisibilisation and social reproduction to explore the marginalised position of migrant women and the consequences of having limited options, such as legal and social protections, and any ability to collectively organise.

This article contributes to literature by its in-depth comparative analysis of FDC and garment homeworkers, focussing on migrant women's experiences, a neglected aspect of existing literature. The article also makes a theoretical contribution by drawing upon the

lens of invisibilisation to critically analyse the outcomes of regulatory processes on homeworkers.

Migrant women and work

A growing body of literature explores the experiences of migrant women in re-entering the workforce, both in Australia and in other developed countries. This research shows that men and women experience migration differently (Donato and et al, 2006), and that women are at risk of downwards occupational mobility. Many women migrants arrive as the secondary applicant of a skilled migrant, also referred to as ‘trailing wives’ (Mayes and Koshy, 2017) through the family stream, or as refugees, having gained qualifications or highly skilled work experience in their country of origin but with no guarantee of employment in Australia (Webb, 2015). They face significant challenges in securing employment commensurate with the qualifications and experience from their home country. Often their qualifications are not recognised, they lack ‘local’ experience and networks, they confront discrimination against women in the labour market, and are less likely to possess easily internationally transferable skills (Webb, 2015).

Gendered family divisions of work also present a barrier. In fact, prior studies in the Australian context have found that after migration, women tend to be more dependent, both socially and economically, on their spouses, leading them to take up more traditional gender roles as wives and mothers and reorient towards the domestic sphere (Ho, 2006). Research also suggests that women dilute and men intensify their work effort with increasing family responsibility (Ressia et al., 2017). This ‘feminisation’ of post-migratory life negatively impacts women’s employment opportunities (Ho, 2006) and increases the likelihood of migrant women ultimately being responsible for unpaid and low-paid reproductive labour (Mayes and Koshy, 2017). The confluence of these factors leads many to seek work in segmented, secondary labour markets, forcing them into lower-skilled, lower-paid jobs, often with casual or part-time hours and little job security (Man, 2004). Man (2004) suggests that migrant women – especially those of colour – are ‘increasingly being used as “flexible” and disposable labor, suited to the demands of the globalized economy’ (p. 137).

Homework in Australia

These trends are evident in the contours of homework as a category of employment in Australia. Homework is characterised by the absence of secure contracts, precariousness, a lack of worker status, a lack of work benefits, including social protection, and difficulty in accessing protections and rights (Delaney, 2017).

The precariousness of homework in Australia is shaped by its surrounding legal and policy context. Homeworkers have traditionally been considered ‘independent contractors’ for the purposes of industrial relations law and therefore have not enjoyed the benefits and protections attached to the employment relationship, leaving a regulatory gap in which workers labour for low pay in poor conditions. Moreover, the desire and ability of unions to engage with homeworkers has been sporadic, with homeworkers often cast as ‘difficult to reach’ (Wardlaw and Curtin, 2005).

Commentators have therefore sought to reveal the ‘independence’ of homeworkers as a fiction, and instead surface the dependence of the contracting relationship. Many homeworkers rely exclusively on a single contractor for work, have no authority over their work, or are in sham arrangements whereby an employment relationship is disguised as a contracting arrangement. Fudge and Owens (2006) suggests that women’s self-employment, including homework, differs from that of men in such important ways that it in fact challenges the stereotypical association of self-employment with independence and entrepreneurship.

This article is concerned with two distinct types of homework – garment homework (or ‘outwork’), and FDC – both of which employ large numbers of migrant women. The following sections provide an overview of each sector, and outline their regulatory histories.

Background: FDC. FDC is an approved form of childcare that is provided in the worker’s own home. A key feature of FDC in Australia is that workers operate within a government-regulated FDC scheme, which is a network of carers supported by a coordination unit and sponsored by either local government or non-governmental agencies (including for profit business enterprises). As of quarter 1, 2017, there are 963 FDC providers in Australia, representing 6% of early childhood education and care (ECEC) services (Australian Children’s Education and Care Quality Authority (ACECQA), 2017), and there are over 22,000 FDC workers (Family Day Care Australia (FDCA), 2017a).

Consistent with workers across the ECEC sector, FDC workers are overwhelmingly female (Productivity Commission, 2011; Social Research Centre 2014). They are the least qualified cohort of ECEC workers (Armenia, 2009), although they are subject to regulatory moves for increased professionalisation. FDC workers are also drawn heavily from migrant and non-English speaking communities – as of 2010, around one quarter of FDC providers were from culturally and linguistically diverse backgrounds and an estimated 38% speak a language other than English at home, with African and Southern Asian languages most widely spoken (ACECQA, 2013; Productivity Commission, 2011).

Women gravitate towards FDC work to contribute financially to their family without having to abandon their primary responsibility of caring for their own children (Armenia, 2009). The international literature suggests that while an educator’s role and identity as a mother is often a major reason for their career choice, other reasons also feature, including the need for money, a desire to contribute to the community, a wish to respond to the childcare needs of a family member or friend, and a desire to be their own boss (Armenia, 2009). These motivations vary across class, racial and ethnicity lines (Armenia, 2009).

Considering the challenges facing migrant women seeking employment, and the low barriers to entry into the ECEC profession, FDC has been framed by policymakers as an important pathway for migrant women. According to the submission by the South Australian government to the 2011 Productivity Commission report, ‘[family day care is] ... a way for individuals (mainly women) to become economically independent and can be a valuable pathway for women from Culturally and Linguistically Diverse (CALD) backgrounds’.

Background: Garment homework. Homework has been present in the Australian garment sector since colonisation (Delaney, 2017). However, globalisation, deregulation, and the

opening of markets since the 1970s have led to structural changes in the garment industry, leading companies to outsource production through global supply chains. This business model demands low-cost, flexible labour, which is satisfied through offshore manufacturing and outsourcing including to homeworkers (Diviney and Lillywhite, 2007).

Homeworkers mirror the demographic features of the migrant and refugee intakes to Australia over the last three decades. Predominantly from Indo Chinese communities, the number of homeworkers in 1996 was estimated to be over 300,000, but with the subsequent demise of manufacturing in Australia their numbers have declined (Diviney and Lillywhite, 2007). Garment homeworkers have been some of the most vulnerable workers in Australia, enduring endemic mistreatment and exploitation (Senate Education, Employment and Workplace Relations Legislation Committee, 2012). They routinely receive payment and conditions significantly lower than their award and statutory entitlements (Industry Commission, 1997; Productivity Commission, 2003), and have reported earning as little as AUD2 or AUD3 an hour (Diviney and Lillywhite, 2007). Homeworkers also endure excessive work hours and the inability to control or limit their hours, low labour and occupational health and safety standards, limited union representation and access to those in power, and marginalisation due to work location, gender, race and class (Diviney and Lillywhite, 2007; Wardlaw and Curtin, 2005).

Invisibilisation

The concept of invisibilisation provides a helpful lens through which to examine the experiences of garment homeworkers and FDC workers. Invisibilisation ‘refers to the processes by which certain jobs or occupations (such as caring and service work) and certain employment modes (such as casual, temporary, or voluntary work) are diminished, renamed, or recast in such a way that they are redefined as different from proper paid “work”’. (Delaney, 2017: 195). In this sense, invisibilisation involves the *denial of work*, that is, rendering types of work as non-work (Burchielli and Delaney, 2016; Krinsky and Simonet, 2012), and in turn placing them away from the regulatory gaze. The literature on invisibilisation refers to precarious and devalorised work, where workers have little or no power or collective identity (Krinsky and Simonet, 2012). This may include modes of work such as casual or voluntary (Krinsky, 2012), and types of work, such as caring and domestic work (Krinsky and Simonet, 2012). The literature also contemplates a continuum that includes partial and full visibilisation. Full visibilisation would entail high levels of recognition and worker rights, with the level of valorisation of work diminishing in partial visibilisation (Delaney, 2017).

However, the concept of invisibilisation is not simply descriptive, but goes beyond categorising specific conditions of work to consider the power relations that produce it (Burchielli and Delaney, 2016). It is therefore concerned with the processes – social relations and enabling discourses embedded within current socio-political, economic, organisational and regulatory environments – which diminish particular categories and modes of work (Delaney, 2017). This analysis has been explicitly extended to homeworkers (Burchielli and Delaney, 2016; Delaney, 2017).

The invisibilisation literature has links to literature on precariousness. Precarious work – that which departs from the normative model of the standard employment

relationship, and is poorly paid, uncertain, unpredictable and risky – has been on the rise since the 1970s, and has emerged as a core concern of researchers (Kalleberg, 2009; Quinlan, 2012). The literature on both invisibilisation and precariousness link the changes in standard work to structural and institutional arrangements arising from neo-liberal globalisation (Kalleberg, 2009; Krinsky and Simonet, 2012).

There is a rich literature examining precarious work as a gendered phenomenon (Fudge and Owens, 2006). The focus has been on how globalisation and economic changes have challenged the gendered standard employment relationship, and within this context the competing demands of production and social reproduction (Fudge and Owens, 2006; Vosko, 2010). Hunter suggests that the growth of precarious employment in Australia has distinctly gendered patterns, with women experiencing less secure employment, and rates of job growth for women in low-skilled precarious occupations outstripping that of men (Hunter, 2006). Vosko adds a new dimension to this research by examining how concepts of national citizenship intertwine with the gender dimension to exclude migrant women from the standard employment relationship (Vosko, 2010). In a similar vein, invisibilisation literature acknowledges that while the process of invisibilisation affects many workers, it is disproportionately related to gender, class, and race (Delaney, 2017; Krinsky and Simonet, 2012).

Method

We conducted a comparative inquiry of two cases of homework, garment, and FDC workers in Australia. The case of garment homeworkers is constructed from existing literature and supplemented by data collected between 1994 and 2015. The garment homework case literature draws from publications, fieldwork, observations, interviews, organisational documents, government and media reports and document analysis over this period.

The case analysis of FDC workers has drawn on the existing literature, and secondary data. This is supplemented by 12 interviews with FDC workers from India, Pakistan, Bangladesh, and Sri Lanka (Indian subcontinent) conducted during 2016–2017 in Melbourne, researcher field notes, organisational documents, and government and media reports. This data are part of a broader research project examining issues of migrant women and their work choices. Preliminary findings from this project interview data are drawn on in analysing the FDC workers' case.

The comparative case method inquiry facilitated the identification of core characteristics and the exploration of theoretical concepts to understand the social processes affecting both groups of workers. The case method facilitated the work of analysing and synthesising the data to arrive at understanding the similarities and differences between the two cases (Blatter and Haverland, 2012). In line with the aims of this article, we categorised and analysed data making use of invisibilisation literature (Krinsky and Simonet, 2012). Therefore, guiding the analysis of data, we focused on the nature and characteristics of each group of homeworkers, the historic and current themes and discourses to experiences of migrant women's work, representation and outcomes such as the forms of regulation in place. The data highlighted the limited attention that has been given to homework in Australia and demonstrates how this contributes to making these

women workers fully or partially invisibilised. In the following section, we compare the regulatory trajectories of garment and FDC homeworkers in Australia in terms of employment protections and broader industry regulation.

Regulation and homework

Homeworkers can fall into two main legal employment categories: 'employees' or 'independent contractors'. The legal categories determine the employment rights enjoyed by these workers. If a worker is classified as an employee, they have the legislative protections of the national employment framework, the *Fair Work Act 2009* (Cth), including the right to a minimum wage, long service leave and superannuation, and are protected from unfair dismissal (Stewart et al., 2016). Employees have the capacity to make or be covered by registered enterprise agreements, and have industry-wide awards made by industrial tribunals.

On the other hand, if the worker is an independent contractor, they are supplying a service as a business. Contractors are not entitled to any of the protections afforded to employees. The legal classification as employee or independent contractor is therefore crucial to determining their rights and protections. In the context of migrant women without much control over their working conditions in precarious industries, the designation of independent contractor is a form of invisibilisation that precludes them from claiming proper working entitlements.

Regulation and FDC workers

Most FDC workers operate their service as a small business which is then independently contracted to a FDC coordination scheme. The status of a self-employed sole trader implies a degree of autonomy and entrepreneurship which would seem to support the framing of FDC work as a pathway to the development of human capital. Indeed, many FDC educators value being their own boss (Corr et al., 2014). However, the structure of FDC in Australia limits its entrepreneurial potential. A FDC business cannot be expanded, sold or operated independently of a scheme. The combination of a high degree of control by schemes and ECEC regulations can mean that a worker's power to operate their business as they see fit is tightly constrained, and for many, 'the contrast between being beholden to schemes, yet ultimately alone in bearing the risks of running a small business [is] difficult to reconcile' (Corr et al., 2014: 1225).

FDC has been subject to government regulation since the 1970s. However, in recent years, the sector has undergone significant reform, as part of a broader ECEC reform process undertaken since 2007 by the Council of Australian Governments (COAG, 2009, 2012). Chief among the reforms have been the National Partnership Agreement on Early Childhood Education, which aims to better harmonise ECEC regulation and licencing across states and territories, and a National Quality Framework, which includes a National Quality Standard and a common curriculum (the Early Years Learning Framework). Prior to 2012, the regulation and licencing of FDC fell to states and territories, since 2012, FDC has operated under the National Quality Framework and Standards (ACECQA, 2013).

FDC has most recently been the subject of reforms designed to rein in growth in the sector, and to professionalise it. In 2014 and 2015, funding arrangements were tightened, placing many FDC providers under significant pressure to increase efficiencies and raise fees (Social Research Centre, 2014). As expected, growth in the sector contracted after these reforms (ACECQA, 2017; Education Council, 2017). In 2017, the COAG Education Council endorsed additional changes, including measures to improve oversight of and support within FDC services, such as mandating a ratio of FDC coordinators to educators, and providing regulatory authorities with the discretion to limit the number of educators per service on a case-by-case basis (Education Council, 2017). Additional changes to funding delivery will also come into effect 2018, under the *Jobs for Families Child Care Package*.

The reform process has also sought to professionalise the ECEC and FDC workforce (Cook et al., 2017). In 2014, new qualification requirements came into effect, requiring educators to have or be actively working towards at least a Certificate III level education and care qualification. FDC coordinators must have at least an approved diploma level qualification in education and care (Social Research Centre, 2014). The Early Years Workforce Strategy describes the need for reform in the following terms: ‘There is increasing recognition that the work of caring for and educating young children is complex and requires enhanced qualifications and ongoing professional development’. This reflects the broader trend towards aligning ECEC with discourses on education and schooling (Cook et al., 2017).

Regulation and garment homeworkers

Homeworkers have traditionally been characterised as self-employed, or independent contractors, positioned at the end of long and often complex supply chains. Under this model, homeworkers are distanced from their ultimate employer using subcontracting arrangements and intermediaries. According to Burchielli et al. (2014), ‘these chains disguise the employment relationship and obscure who is responsible for the actual terms of the worker’ (p. 85).

Regulation of homework in the Australian garment supply chain began in the late 1980s, with the inclusion of ‘outwork’ clauses in the Clothing Trades Award to make principal companies take responsibility for the work conditions of homeworkers (AIRC, 1988). However, homeworkers continued to face appalling conditions, and in the early 1990s civil society groups campaigned for stronger protections for homeworkers. These campaigns gained significant traction, as the media and public became increasingly concerned about the ethics of garment production. This led to greater regulatory scrutiny, and eventually reform. The issue of garment homeworkers was considered by a Senate Economic Committee inquiry in 1996 and a review of the inquiry in 1998, as well as Productivity Commission inquiries in 1997, 2003 and 2008. Since the mid-1990s, a suite of regulatory mechanisms protecting garment homeworkers has been in place, including the national Textile Clothing, Footwear and Associated Industries Award 2010, the Homeworkers Code of Practice 1996 (HWCP), homework-specific state legislation, and the *Fair Work Act 2009*.

Each mechanism features aspects that are interdependent or inclusive of several key components of the other mechanisms. For example, the voluntary scheme, the HWCP,

emerged from a government inquiry process (Senate Economics References & Committee, 1996, 1998), which led to the development of an accreditation scheme through which firms can seek accreditation by providing evidence of compliance. The accreditation scheme is now administered through Ethical Clothing Australia, with representatives from both unions and employers. The HWCP among other things stipulates that homeworkers are employees, defines standard contracts firms must enter into with their subcontractors, and sets out a role for the Textile, Clothing and Footwear Union of Australia (TCFUA) in monitoring compliance (Burchielli et al., 2014).

The sector has also been characterised by the co-existence of federal and state level regulation (Rawling, 2009). Most states have legislation specific to homework, such as the *Industrial Relations (Ethical Clothing Trades) Act 2001* (NSW), and the *Outworkers (Improved Protection) Act 2003* (Vic). Critically, it was states – initially NSW – that led the way in enacting provisions deeming homeworkers as employees and declaring joint and several liability along the supply chain, in turn allowing homeworkers to make claims for unpaid remuneration against whomever the homemaker believes to be their employer. In 2012, the *Fair Work Amendment (Textile Clothing Footwear Industry) Act* was passed, bringing federal legislation into alignment with most states by introducing a similar deeming provision.

In the following section, we compare the garment and FDC homeworkers in Australia in terms of advocacy and representation and how this has impacted their capacity to improve working conditions and worker mobilisation.

Advocacy and representation for garment homeworkers

Since the 1980s, the TCFUA has advocated on behalf of garment homeworkers to ensure that they were protected by award and labour regulation. Prior to the 1980s, the union's view of homework had been entrenched in an attitude of hostility and condemnation of homework, which reinforced homework being devalued and invisibilised (Delaney, 2017). A shift in thinking on homework led to the Union's winning a historic case before the Industrial Relations Commission in 1987 that strengthened the 'outwork clauses' of the Clothing Trades Award (CTA) (AIRC, 1988).

This approach by the TCFUA was successful in improving homeworkers' legal protection through the CTA and making homeworkers more visible to regulators. But this strategy failed to translate into homeworkers joining the union. Nor did it bring the work back into the factories, as many in the union had hoped (Delaney, 2010). The incentive for the union to address homework in the clothing industry originated from the drastic effects of industry restructuring. Yet, a primary motivation for the union leadership to address homework was the awareness that homeworkers were experiencing exploitative conditions, and the union believed it was the only organisation likely to intervene on the workers' behalf (Rowbotham, 1999).

In the 1990s, the TCFUA conducted a national homework information campaign explaining to homeworkers their award entitlements, the union's role and health and safety issues (TCFUA, 1995). The data collected from homeworkers was published in a report, *The Hidden Cost of Fashion* (TCFUA, 1995), which was then used to develop ongoing strategies to target companies responsible for poor working conditions

(Rowbotham, 1999). The publicity surrounding the TCFUA report and the Senate inquiries held in 1996 and 1998 increased the union's profile on homework. The Senate inquiries assisted the union to identify potential community allies and to discuss the establishment of a national anti-sweatshop campaign. The FairWear campaign was officially launched in 1996. The co-founders, the community organisation Asian Women at Work (AWATW) and the TCFUA, were successful in mobilising a broad range of community and faith groups to join the campaign.

Over these years, the union changed its thinking and actions towards homeworkers, and strengthened its alliances in the community through the FairWear campaign (Burchielli et al., 2010). The deeming of garment homeworkers as employees upheld the notion of the traditional worker and the capacity to establish a traditional employment relationship and reinforced the union's view that since they were workers they could be incorporated into the union. Liaison and support for homeworkers by FairWear has depended on participation by the TCFUA and AWATW. These organisations conducted training for homeworkers in the areas of leadership and English language classes, and supported homeworkers to be involved in activities to promote self-advocacy. In this way, they established a basis for consultation and representation of homeworkers. The community campaign approach facilitated through the FairWear campaign supported the TCFUA to conduct what amounted to collective bargaining strategies with industry and government on behalf of homeworkers.

Despite the effective campaigning over two decades that led to increased visibility of homeworkers in the supply chain, access to legal protection and minimum wages have evaded many homeworkers. Indicative of this, continuation of low wages and sham contracting arrangements were found in a recent study:

The average wage for the outworkers was \$7.74 per hour. While five (*of 51 surveyed*) of the workers earned close to the minimum wage, 80 per cent earned \$10 an hour or less. The clothing industry award wage is \$18.63 per hour ... 38 per cent were hired as so called 'contractors', illustrating that sham contracting remained a significant problem. (Cregan, 2014)

The legislative success to improve homeworkers' protection did not translate into union membership. Consequently, the union has depended upon external funding to support its activities on homework. This had implications for FairWear not being able to secure funds. At the same time, the shift by retailers to source garments offshore from China, Bangladesh, and other countries with less regulation and accountability has contributed to a drastic decline in Australian production and the workforce.

Advocacy and representation for FDC workers

The two unions responsible for representing workers in the ECEC sector are United Voice, which represents all childcare workers, and the Australian Services Union (ASU) that represents childcare workers working in local government. The ASU has a history of advocacy on behalf of FDC workers, having taken cases on behalf of individual FDC workers to the Australian Industrial Relations Commission (AIRC), and the inclusion of FDC workers in the Social, Community, Home Care and Disability Services Industry

Award 2010. In a submission to the AIRC in 2012 to vary the Children's Services Award 2010 to include FDC workers, United Voice argued for FDC to be recognised as piece workers, which would improve their hourly wage by 15%. The commission rejected the application to include FDC workers in the modern award (FWA, 2012 10367). However, unlike the TCFUA's success in securing garment homeworkers' employee status through deeming provisions, the collective employment status of FDC workers as employees or self-employed was never disputed through the court.

The other key advocacy agency in the ECEC sector is FDCA. The national peak body describes itself as the organisation representing the FDC sector and its role as having a 'collaborative national advocacy' role (FDCA, 2017a). The FDCA promotes FDC as an essential part of the ECEC sector. The FDCA's structure includes a national members' forum made up of representatives from each state FDC organisation, with one educator representative and one coordination unit representative from each state and territory. However, we could not find any evidence that indicates how FDC workers may feed into any such process.

FDC workers are required to purchase insurance through the FDCA. This appears to be the main way that they have contact with the association apart from communication via newsletters and magazines. The FDC state and federal associations support coordination units that operate locally through local government non profit or community and private for-profit services. These FDC operators coordinate local or regional FDC schemes and engage the FDC workers. It is unclear to what extent the FDCA or state or regional divisions seek the views of FDC workers on policy changes, and it seems that FDC coordinator/operators may have a stronger voice and their views are more likely to be represented by the FDC associations.

The FDC scheme coordinators are responsible for compliance, monitoring, and support of FDC workers. These roles make it less likely that FDC workers would complain to this service, since they depend on them to maintain their registration and therefore their ongoing work. FDC workers have reported a high level of connection with their coordinating scheme (89%) but less so with other organisations (Williamson et al., 2011). This is consistent with our interviews with FDC workers from Indian subcontinent backgrounds who felt isolated and disconnected from the broader community.

FDCA and affiliated state FDC associations promote FDC as an exciting business opportunity to potential carers. FDC workers are referred to as educators, and the FDCA website promotes how to become a FDC educator:

While several models of employment exist within family day care, in most cases you will enjoy the flexibility of running your own business with the support and guidance of your approved service. Based on the demand in your area and the policies of your approved service, you will often determine your hours of work and your fees and charges. (FDCA, 2017b)

This representation does not reflect the reality of FDC workers. In an online thread where FDC workers discussed the variation in prices set by their scheme, notably few FDC workers understood how the prices were set or that they had a right to set their own fees. There were considerable differences reported between areas, service providers and parental expectations regarding the setting of rates (Aussie Childcare Network, 2017).

In addition, FDC workers we spoke to felt the fees did not reflect the time and work required of them. They faced increased expectations regarding administrative compliance, education requirements and parental needs. A FDC worker stated,

To be honest, ... the wage rate that you get is not enough, because we are expected to work more ... You are doing all those things, learning stories, doing some planning or programming. So, it's just not that you know, your work is finished. It's a continuous cycle as well. (FDC worker interview 2017)

FDC workers we spoke to did not have much contact with FDCA. While this is a small sample and may not be indicative of the broader sector, it does raise concerns about the extent that workers from non-English-speaking or migrant backgrounds are encouraged to participate in FDC associations and have an opportunity to raise issues of concern to them. There are limited levels of engagement and a general lack of any strong advocacy group for FDC workers in general and migrant FDC workers. Most FDC workers reported being isolated and suffering the burden of increased administration associated with changes in the ECEC sector because of national government policy such as the national quality framework.

Advocacy around childcare has focused primarily on the needs of working parents and access to affordable childcare rather than the pay and conditions of childcare workers. FDC workers remain invisible in this discussion about their capacity to deliver educational services, how flexible they can be, and the remuneration they receive. Historically, being at the bottom of the ECEC work hierarchy (Corr et al., 2014), FDC workers have been the least visible, lowest paid and most isolated. They remain invisible voices within a large industry driven by the needs of working families and the politics of government childcare policy.

A report produced by Productivity Commission in 2014 following a review of ECEC noted that they had not heard any evidence in relation to National Quality Standards in relation to FDC services, indicating FDC workers' concerns are assumed to be captured by advocates for all ECEC workers. Though unions are mostly focused on members who are predominantly located in long day care centres, in submissions by the ASU and United Voice both mentioned that FDC workers should receive a comparable wage increase in line with other childcare workers.

The failure to secure their recognition as employees as opposed to independent contractors or business owners has hindered FDC educators' capacity to collectively organise and develop collective bargaining strategies through a union advocate. We will now examine the comparative cases through the lens of invisibilisation.

Discussion: Invisibilisation of garment and FDC homeworkers

Our comparative case of FDC workers and garment homeworkers indicates there are substantial points of both similarity and difference between the experiences of the two groups of home-based workers. Our analysis of the data indicates that both groups of workers have been channelled into these occupations in part through government policy

linked to migration patterns and influenced by societal stereotypes that devalue and invisibilise women's reproductive labour, underpinned by inequality linked to gender, race and class. These occupations have led both groups of homeworkers to experience isolation, low pay, and the devalorisation of their work, with the consequences of having limited representation to support collective organisation and agency.

Our discussion of the regulatory trajectory of each group of workers responds to our first research question regarding the regulatory trajectories of childcare homeworkers and garment homeworkers in Australia. In summary, garment homeworkers are deemed to be employees under federal law, while childcare homeworkers are treated as independent contractors. Although both categories of homeworkers have significant commonalities in terms of the overrepresentation of migrant women and precarity of employment, the regulatory paths of these workers have been radically different. Applying the lens of invisibilisation we analyse the reasons for the different regulatory trajectories and the processes, enabling discourses, and distinguishing characteristics for each group of homeworkers.

The invisibilisation processes, including enabling discourses, resonate in the broader literature on worker invisibility, from perspectives within regulation, employment and labour relations adopting gender, class and race perspectives (Nakano and Glenn, 2010). Enabling discourses include policies that channel refugee and migrant women into low-paid garment homework constructed around their suitability, according to their gender and race. Another enabling discourse is the feminisation of post migration and suitability of women to jobs, caring for children as an extension of their nurturing skills and sewing as part of expectation of women's natural skills of dexterity and nimble fingers. Facilitated by employers' need for low-paid workers, garment homeworkers were engaged under sham contract arrangements and told they are self-employed. In this way, their work was devalorised, and consequently, they were discouraged from developing a sense of worker identity and reinforced an industry discourse as being non-workers.

A further process of invisibilisation is the formation of discourses that 'rename' work as non-work, resulting in institutionalising devalorised work (Krinsky and Simonet, 2012). The status of FDC workers first as 'childminders' and second as independent contractors (despite having limited control over their work arrangements), therefore reinforces their position as a category of devalorised workers. The low position of FDC workers in the ECEC sector is institutionalised through societal stereotypes of women's reproductive labour and how care is conceived – this is not real work, since they are just doing what comes naturally, they are at home anyway. The discourse of professionalisation of the provision of FDC enables government, service providers and peak FDC organisations to promote and market FDC as fitting the needs of children and their families, over the requirements and needs of FDC workers for proper support and remuneration.

Regulation and invisibilisation

The regulation of the working conditions of garment homeworkers has been characterised by a combination of federal and state government legislation and industry awards setting out employment protections, combined with industry self-regulation through a

code of practice and accreditation process. The primary focus of this extensive regulation is on improving the working conditions of garment homeworkers and on integrating these workers into the national regulatory framework for employees. The invisibilisation literature describes processes relating to forms of non-recognition, such as legal constructions of the worker that may exclude some workers or limit the value of their work (Burchielli and Delaney, 2016). Garment homeworkers, being a highly gender and racially segmented labour market, reinforce the gender and racial stereotypes that women are ideally suited to this work. Failure by the state to monitor subcontracted work in supply chains further reinforces that this is not considered real work, but rather something women do alongside caring for family members and reflects societal stereotypes. With extensive regulation in place concerning garment homeworkers, the evidence demonstrates that while it makes some difference, alone it is insufficient to make workers visibilised, therefore garment homeworkers remain partially visibilised.

On the other hand, regulation of the FDC industry has focussed on the care of children and increased compliance processes, but has taken little notice of the employment conditions of FDC workers. FDC workers are conceptualised as independent contractors despite the lack of control they have over their working conditions and how they are required to structure a business to secure work. The evidence from the ECEC sector reinforces what we know from the invisibilisation and social reproduction literature, that the institutional and socio-political discourses underpin the social relations of FDC work (Mayes and Koshy, 2017).

The conversation on the ECEC workforce is largely around quality, and this has led to the professionalisation of the workforce, and increased adoption of the marketisation approach. FDC workers are considered to be 'independent' businesses, despite the fact that any changes in their operation are heavily regulated. Regulation of the FDC industry focuses on the needs of the end user, that is the needs of the parents and children, rather than the needs of FDC workers themselves. The federal government reforms emphasise the qualifications of the workers and the level of education that the children will receive under the care of the FDC workers. The decision to treat FDC in a like manner to centre-based services and to seek to professionalise its workforce therefore represents an unstable and contested shift in the way that FDC workers, services, and families, conceive their role.

Consistent with the invisibilisation literature (Burchielli and Delaney, 2016; Krinsky and Simonet, 2012), the conditions of precariousness, isolation, home location, race, class and gender all contribute to distinguishing homework from traditional 'standard' work, justifying the sub-standard conditions of homework and the exploitation that both groups of homeworkers experience. The devalorisation of women's reproductive labour is intrinsic to the processes and enabling discourses that shape and result in women FDC homeworkers' work being partially or fully invisibilised.

Invisibilisation and visibilisation through advocacy and representation

The disparate regulatory trajectory of these two categories of homeworkers reflects the significant differences in the level of advocacy for each sector. In the garment industry, there has been extensive social mobilisation and advocacy to recognise the poor working conditions of these workers. As a result, workers in this sector have gained the status of

employees. On the other hand, the childcare workers have not collectively taken any action. As a result, they remain marginalised and categorised as independent contractors. Our analysis turns to the lens of invisibilisation and visibilisation to understand the impact of advocacy and representation for garment and FDC homeworkers. In this way, we address our second research question, what are the implications for low-paid migrant women workers in terms of recognition and representation?

The home-based workforce is largely unorganised, mainly due to having limited visibility and the lack of union organising strategies that have incorporated homeworkers. The TCFUA has been successful in interlinking the legal and voluntary mechanisms, and therefore effective in improving overall supply chain transparency and regulation. Participation in FairWear activities has been critical to the successes in maintaining and improving these legal and voluntary mechanisms for homeworkers. Overall, garment homeworkers remain outside the minimum labour conditions despite the range of mechanisms in place to promote access to minimum labour standards. The dilemma 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. Improved visibility and partial visibilisation has been achieved through the combined advocacy activities of the TCFUA and FairWear campaign. This has occurred through making homeworkers more visible to regulators, retailers (through improved transparency in the supply chain), and consumers. In contrast, FDC workers are invisibilised since they have no advocates, nor have they been able to engage in policy reform debates that could impact on their working conditions, the redefining of their role or expectations of their caring, payment and broader ECEC service provision. FDC workers are invisibilised through the processes and discourses that make them invisible to policy-makers, and their wants subservient to the needs of service users and the priorities of service providers and peak organisation advocates.

For garment homeworkers, regulation and advocacy has focused on the homeworkers and their work conditions. Furthermore, the push for compliance to national regulation standards has also helped frame the discourse. In contrast, the focus of regulation and advocacy in case of FDC workers and the sector has been primarily on the consumers and the invisibilisation of the workforce frames the discourse in its conspicuous absence.

A tension therefore exists in how homework is often conceptualised – as exploitative of a vulnerable category of workers, or alternatively as a form of self-employment with the potential for empowerment (Prügl and Tinkle, 1997). The dimension of gender subordination at the heart of homework means that this dualistic understanding fails to capture the complexity of migrant women's insertion in the labour market.

In contrast to invisibilisation, visibilisation thus involves the engagement of institutional and social actors together with individual workers, to define, determine and acknowledge instances of work regardless of where it sits in the employee – self-employed continuum. Similarly, visibilisation relies on social relations and processes that support recognition, such as regimes that promote worker representation and rights, including state policies in favour of worker advocacy, and representation by active unions, functional regulation and monitoring regimes, together with parallel business behaviours. Unions are a key institution to support worker recognition and the social relations that facilitate and incorporate workers into a regulatory framework (Fudge,

2017). A key contribution of the invisibilisation literature is explaining that devalorisation of women's reproductive labour serves the dominant interests of business and governments at the expense of workers, therefore it constitutes a political project.

Conclusion

In this article, we analyse the regulatory trajectory of two groups of home-based workers, garment homeworkers and FDC workers applying the conceptual lens of invisibilisation. Both groups of homeworkers experience work devalorisation due to stereotypical notions that are both gendered and racialised. The patterns of migration and channelling of migrant women into low-paid undervalued home-based work underpins the traditional reproductive labour roles women are expected to perform.

Important lessons emerging from this research is the relational aspect of unions to the standard employment relationship. The role of the TCFUA who advocated on behalf of homeworkers who were not members of the union was decisive in improving garment homeworkers' recognition and visibility. The successful advocacy and community campaigning led to the securing of deeming provisions of homeworkers therefore determining them to be employees and brought into line with the standard employment relationship model. Yet employers continue to circumvent the regulatory rules that enshrine garment homeworkers' rights, therefore the obstacles that homeworkers face to overcome claiming such rights link to their limited associational power and capacity to assert any individual or collective agency. In contrast, the FDC workers are not encompassed within the standard employment relationship model, therefore unions struggle to represent them and advocate on their behalf.

We argue that the failure to link work with recognition as workers contributes to undervaluing of women's reproductive labour and contributes to degrees of invisibilisation of homework. The reliance of unions on establishing the standard employment relationship is understandable, but needs rethinking if workers that are disadvantaged through lack of union representation and advocacy are left behind. There are important lessons that emerge from the garment homeworkers' regulatory trajectory, such as the significance of mobilisation and community collaboration that improved the capacity of the union to secure protections for homeworkers. Equally, there are important lessons from the FDC workers concerning the politicisation of government childcare policy and migration patterns that contribute to the invisibilisation of women's productive and reproductive labour.

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