

DELHI FOR INFORMAL WORKERS

State Level Consultation for Effective Implementation of Sexual Harassment of Women at
Workplace Act 2013 for Women Informal Workers

Organised in partnership with women informal workers and

Martha Farrell Foundation
SEWA Delhi

Nirmala Niketan Gharelu Kamgar Cooperative Construction and Labour Society Ltd.
Community for Social Change and Development

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Introduction

Background

Women informal workers were among the worst hit by the Covid-19 pandemic, including home-based workers, street vendors, garment workers, construction workers and women domestic workers. The impacts on their economic and social well being have increased their vulnerability to sexual harassment in their world of work.

An ongoing study by Martha Farrell Foundation and women domestic workers of Delhi-NCR (13 districts, including Faridabad and Gurgaon) on the issue of sexual harassment in the workplace, revealed that out of 1937 women domestic workers who participated in the study, 100% said they had experienced sexual harassment in their world of work. Further, 77.4% said that they had experienced sexual harassment in their direct workplace.

Local Committees set up under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 are the first point of access for domestic workers seeking protection for their experiences of workplace sexual harassment. However, as of September 2021, Martha Farrell Foundation's audit of Local Committees in the NCR revealed only 1 such committee had been formed in eleven districts. The Act also mandates that every district appoint Nodal Officers to forward complaints from informal workers to Local Committee members. The audit revealed that no such officers had been appointed.

A focused study conducted by SEWA Delhi Trust in North-East District of Delhi revealed 98% of 1000 women informal workers were not aware of the Law for protection of women workers from sexual harassment in the workplace.

This was corroborated in Martha Farrell Foundation's study in which 84.2% of 1937 women domestic workers said they weren't aware of the Act.

In 2018, women domestic workers had led a State Level Consultation with Shri Manish Sisodia, Deputy Chief Minister of Delhi on this issue, which had given them immense courage and hope, as his commitment to their cause resulted in the immediate formation of all Local Committees in the state.

Three years down the line, however, the challenges have made a comeback.

Lack of access to justice delivery systems, particularly after the onset of the pandemic, have left women domestic workers very vulnerable to sexual harassment in the world of work. Economic duress leaves them with no room to negotiate their safety in the workplace.

Purpose for the Consultation

Using this data and experience-based narratives collected through their participatory studies with their community in Delhi-NCR as the bedrock for seeking change, women informal workers seek to work with decision makers and authorities on changing this post-pandemic status quo.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, is among the few laws that extends its purview to women informal workers, particularly women domestic workers. Under the law, every woman worker in the country is entitled to work in safe non-threatening workplaces. Evidently, implementation is severely lagging.

In 2018, women domestic workers had led a State Level Consultation with the then Deputy Chief Minister of Delhi, Shri Manish Sisodia, which had led to the activation of Local Committees in Delhi.

Through this Consultation, women informal workers, led by women domestic worker leaders, seek to replicate the impact and reinstate the now unformed and unavailable Local Committees, and institute systemic checks and balances to enable sustainable change and meaningful compliance with the 2013 law.

Based on the deliberations and key recommendations made during this Consultation (elaborated below), women informal workers will make presentations to State authorities, seeking to work with them on implementation of these recommendations. The presentations will be made to the Deputy Chief Minister of Delhi, the Chairperson of Delhi State Commission for Women, the Director of Delhi Department of Women and Child Development and all eleven District Commissioners of Delhi, among others.

The event was co-organised with women informal workers by Martha Farrell Foundation and SEWA Delhi Trust, in association with Nirmala Niketan Gharelu Kamgar Cooperative Labour and Construction Society Ltd. and Community for Social Change and Development. The event is supported by UN Trust Fund to End Violence against Women and Rise Up.



Women domestic workers share insights and findings from their research.

Session Highlights: Introduction and Context Setting

The Consultation was led by women domestic workers, who began by presenting their data from the study of 1939 women domestic workers in Delhi-NCR that they co-led with Martha Farrell Foundation. They interspersed it with narratives on the issue received from participants in the study, setting the context for the conversation and the challenge they are attempting to resolve with and for other informal workers.

Sexual harassment occurs in a variety of settings, including employers' homes, the streets, factories, and so on, all of which constitute the 'workplace.' When confronted with these incidents, employers either blame the workers or deny the allegation entirely. In such situations, informal women workers have nowhere to go. They acutely feel the lack of functional structures to represent and address their complaints.

The problems were further exacerbated during the COVID-19 pandemic. Many lost their jobs, or had to work for meagre wages. There was little to nothing to eat. They have not been able to get the benefits of many social security schemes like widow pension and Jan Dhan Yojna. Many migrants had to go back to their hometowns from Delhi. Workers had to pay the full fees for their children's schools, and on top of all this, some faced serious health emergencies. The cost of all of these things combined, along with less salary, caused high stress on the workers. It also increased their vulnerability to sexual harassment in the workplace. They presented their *sari* (traditional Indian garment) on which they had stitched their experiences of sexual harassment along with other women informal workers across Delhi-NCR.



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Women domestic workers share present the *sari*

Words from Nandita Bhatt, Director - Martha Farrell Foundation

"The Consultation has happened because it has been seen that there is very little awareness about the 2013 Act. There is a need to push towards effective and complete implementation of the Prevention of Sexual Harassment of Women at the Workplace Act of 2013.

There are several things that this Consultation will take up - for example, complaints filed by domestic workers are to be forwarded to Local Committees within seven days. How will time-bound justice be delivered to women domestic workers under this Act, in that case? The District authority must set up Local Committees. But where are these committees? Should women informal workers hold a consultation like this every three years for committees to be formed? When do street hawkers approach Local Committees, and which committee to approach, given that every street across the state of Delhi, regardless of the District, is their workplace?

This Consultation can also decide how workers can be represented on the Committee - as nodal officers."





Words from Aya Matsuura Gender Specialist - ILO

"At the C-189 and C190, the International Labour Organisation (ILO) adopted a law mandating fundamental rights for domestic workers.

This was historical, because it provided an International recognition to domestic workers as workers. This Law elucidates social protection and labour protection for domestic workers, including regular wages, working hours, weekly hours and paid leave. Since 1970s, ILO has international law to recognise home-based work as work, mandating rights for home-based workers, like minimum wage, safety from violence and harassment, including sexual harassment.

India has made progress in mandating many schemes to the benefit of workers. The ILO's international laws do not directly affect the issues here, but certainly raises awareness on the rights of workers and the protections and security they are entitled to."

Words from Ruby, Chairperson - Local Committee, South Delhi

[Paraphrased] Our Local Committee has been working well for years. There was no lack of coordination from the district, however, all three district magistrates over the last three years had their hands so full of COVID-19 relief work, that the work required for the Local Committee suffered.

There is a need for a more efficient system, one that is strong, well-documented, and doesn't depend on individual choices and actions of Committee members. One outreach strategy our Committee had used to reach informal workers was to distribute sanitary napkins and speak with them when they came to collect it. Every district must have a display board with the names and phone numbers of the Local Committee, like the South District of Delhi.

Provisions are needed to support those and reach those who cannot read as well. The way forward is for all Local Committees in Delhi to engage in dialogue, and work together, that the Local Committee mechanism continues to be in place lawfully for all women workers, without challenges.



Session Highlights: Challenges and Solutions

After the introductory session, women informal workers broke up into groups, by sector, for focus group discussions. Each discussion was facilitated by a woman informal worker, with the first half of the session focused on mapping challenges for informal workers to access mechanisms under the 2013 Act for the prevention of sexual harassment of women at workplace. The second half of the session was focused on ideating solutions to the challenges, that women informal workers could work with different stakeholders to implement. Informal women workers presented their solutions in groups. The groups were as follows:

1. Domestic workers (group 1)
2. Domestic workers (group 2)
3. Street vendors
4. Garment workers
5. Home-based workers
6. Construction workers



Key Challenges Expressed

<p>Women Domestic Workers</p>	<p>Difficulty in filing complaints with Local Committees Punishments, if not severe, will result in repercussions on us Our employers may even have political power Local Committees must be trained about our contexts We are workers and we must be called workers, as it is a matter of our dignity There's too much fear of job loss and loss of wages</p>
<p>Street Vendors</p>	<p>No clear definition of workplace, as we sell our products in different localities Harassment and sexual harassment are extremely common on the streets but we don't know where to go and complain, apart from filing a police complaint We have a deep fear of police, there is a fear of safety being further compromised, and fear of family and community backlash Our workplace is the street, it includes also the market, the footpath and the societies we enter to sell our products</p>
<p>Garment Workers</p>	<p>Our employers use a lot of 'double meaning' words and offensive language when they are around us, harassing and sexually harassing us Some sing songs or show us inappropriate images at our workplace We have no unity among ourselves to unanimously work against harassment and sexual harassment.</p>
<p>Home-Based Workers</p>	<p>There is no clear definition of what constitutes our workplace None of us know about our Local Committee Even if we knew about our Local Committee, we don't know how to reach it We also feel there might be backlash on us if the perpetrator is not duly punished</p>
<p>Construction Workers</p>	<p>Gender wage gap in the construction field is very common, as are quid pro quo types of sexual harassment in the case of women workers Workers are forced to agree to sexual advances made by employers or work for lower wages under threat of being fired A woman worker shared that she experienced sexual harassment in the hands of her employer in front of her child Women are sometimes forced to wait until late at night to collect their wages, which increases the safety risk</p>

Co-Created Solutions

<p>Women Domestic Workers</p>	<ul style="list-style-type: none"> • There should be an individual with whom workers can share complaints • Burden of proof should be with the accused and employers must know the law and their responsibilities under the law • Nodal Officers should be appointed from among sensitive, approachable persons, preferably women from NGOs • Whoever receives our complaints of sexual harassment at workplace should follow up and update us in at least every 15 days • Employers who expect us to work late into the evening or night must take responsibility to drop us back home safely • A decision must be taken based on our complaints within 30 days • There should be no mandate of how soon a woman should complain • LCs should have a mix of members of all genders to ensure representation • Confidentiality about the name of the complainant should be maintained with the utmost strictness • All expenses incurred by the survivor during the case must be borne by the perpetrator • All domestic workers should have a contract with their employers, with an undertaking from employers that they will ensure their safety • Every housing society and locality must have display boards of LC members' names and numbers, in different languages
<p>Street Vendors</p>	<ul style="list-style-type: none"> • A help desk should be set up across cities and public spaces where we work, which we can approach to reach Local Committee members easily • There should be robust awareness programs on this law and the mechanisms for justice delivery that are available to us • CCTV surveillance and properly functioning street lights are a must • A female street vendor should be a member of every LC • There should be a toll-free number and helplines to reach the Local Committees.
<p>Construction Workers</p>	<ul style="list-style-type: none"> • Employers should be responsible for our safety and awareness of this Law and support us when there are cases • The Construction Workers' Welfare Board should have a role to play in our safety to enable further effectiveness of this law • The committee must take swift action on the complaint • Children of construction workers must also be protected • School curricula should include awareness building on this law so our children also learn about their rights to safety in the workplace

<p>Garment Workers</p>	<ul style="list-style-type: none"> • Local committee should have full power to deliver justice within the time period, and the case should not be forwarded to police under any circumstances • The perpetrator/accused should be suspended during the period of investigation and must bear the expenses of the case if they are proven guilty • A taxi service with a female driver should be available for informal workers in the district to reach the Local Committee with ease • Information about Local Committee members and their contact details should be available and displayed throughout the district
<p>Home-Based Workers</p>	<ul style="list-style-type: none"> • It must be recognised that our workplace includes our home, the factory, the streets and every means of transportation we take for work • Government must take responsibility to ensure every one of us knows about this Law, the LC mechanism, process for complaints, and more critical information regarding our safety in the workplace • Identity and contact details of Nodal Officers should also be available to us • In case the survivor cannot go to the Local Committee, an official should come to her house, listen without judgement, understand and support her in filing the complaint



Strategic Inputs: Highlights

"We at UN Women India **are with you on your advocacy efforts** to create safe workplaces for women informal workers."

POULOMI PAL

Program Specialist Ending Violence Against Women, UN Women India



"Strengthening of the 2013 SHW Act should be done in such a way that it cuts across all levels - from central, to state to district, to ward governments - so much so, that **every woman worker is safe in her place of work.**"

SUMAN VERMA

State Coordinator - Self Employed Women Association (SEWA Delhi)

"**My Ambar is a pan-India service directory on women's safety.** One can reach their emergency contact persons at one touch of a button. There are details of organisations, helpline numbers, for different services."

SAKCHAM JHA

NASSCOM Foundation



Strategic Inputs: Suman Verma

"In the informal sector, a lot of harassment takes place. Women can't speak out and if they do, they have to sacrifice being able to work. If we keep quiet about such experiences, we get mentally disturbed by it. We are blamed that we must have done something, or worn the wrong clothes, or done make-up and gone to work. In terms of solutions, the economic empowerment of women is the first step. Unless there are finances in her hand, empowerment is out of question.

Many women migrate and come to Delhi, it seems easiest for them to find work at another person's home. But there is no bargaining power, no awareness about rights, and in that condition sexual harassment increases.

Strengthening of the 2013 Act should be done in such a way that it cuts across all levels - from central, to state to district, to ward governments - so much so, that every woman worker is safe in her place of work."



Strategic Inputs: Poulomi Pal

[Paraphrased]

The UN Women has several initiatives to create more awareness about this issue and training and awareness generation on several laws for the prevention of sexual and gender-based violence, including the 2013 Protection of Women from Sexual Harassment at Workplace Act.

The recommendations from this Consultation should be forwarded to the Ministry of Women and Child Development and the Labour Ministry.

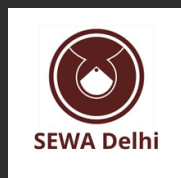
Conclusions and recommendations made through this consultation are extremely crucial and must be pursued and implemented within the legal framework.

We at UN Women India are with you on your advocacy efforts to create safe workplaces for women informal workers.





Organised By:



**Nirmala Niketan Gharelu
Kaamgaar Co-operative
Labour and Construction
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