

# Ending Sexual Harassment at Workplace: Introducing Interventions in the Government of Sikkim

## Context

Martha Farrell Foundation (MFF) and the Government of Sikkim (Social Justice, Empowerment & Welfare Department) (GoS) signed a Memorandum of Understanding (MoU) wherein the Govt. of Sikkim sought technical support of MFF for rolling out a meaningful compliance mechanism of the *Prevention of Sexual Harassment of Women at Workplace (Prevention, Prohibition, Redressal) Act, 2013* in the State of Sikkim.

More than 5000 Government and Private sector employees were made aware of the Act through orientation sessions, more than 70 trainers were prepared, all Internal Committees in Government departments were formed and members trained, Local Committees in all districts were formed and trained in Sikkim.

## Background

The opening years of this century have witnessed an increasing proportion of women in the workforce. Even as the number of women entering the workplace was increasing, we found that workplaces continued to be a male oriented arena. Attitudes, policies, systems, infrastructure and the environment within the workplace often reflected the prevalent mind-sets within the larger society catering largely to the needs of working men.

The 1990s saw a sea change in the understanding of women's situation in the workplace. But despite national legislations, policies, committees and other efforts to focus on the issue of women's equality, most organisations did not understand and/or failed to address the root causes of gender inequalities and systemic biases in the workplace that operate against women.

Sexual harassment, one of the most insidious forms of gender discrimination at work which largely affects women employees came to be considered as one of the most pervasive forms of subjugation, intimidation and discrimination against women at workplaces.

It is now more than 23 years since the Supreme Court of India passed the Vishakha Judgement in 1997 and 7 years since the law on Prevention, Prohibition and Redressal of Sexual Harassment of women at workplace came into place in 2013.

A large majority of women at the work place are still regularly subjected to sexual harassment in all its forms in India. Sexual harassment is one form of discrimination that

women commonly face in the workplace. In a study conducted in 8 states of India among 400 women, 121 incidents of sexual harassment were reported, out of these, 102 were reported to be non-physical, whereas the remaining were physical. However, a majority of the victims did not resort to any formal action against the perpetrators.

And mechanisms to address the issue have still not been put into place. 76% of the CSO leaders who were participating in a Third Party Facilitator training being conducted jointly by Martha Farrell Foundation and PRIA in Lucknow early this year reported that sexual harassment exists in their workplace and more than 50% of them had not met any compliance standards. In another study conducted this year among 300 organisations in Delhi, only 69% were found to have constituted their internal complaints committees after the enactment of the law. Among these, 41% had not circulated their policies and 56% had not conducted any training for committee members.

Several studies have identified a range of economic benefits of a higher Female Labour Workforce Participation:

- The International Labour Organisation has suggested that women's work may be the single most important factor in reducing poverty in developing economies.
- Raising women's workforce participation to the same level as men's could raise per capita GDP, for example in the US by five per cent, and Egypt by 34 per cent.<sup>1</sup>
- Sexual harassment has been found to be one of the major factors for women's participation in the labour force being lower than that of men <sup>2</sup>

In India, as per National Sample Survey (68th Round), the worker population ratio for females in rural sector was 24.8 in 2011-12 while that for males was 54.3. In the Urban sector, it was 14.7 for females and 54.6 for males. Among the States/UTs, the worker population ratio for females in the rural sector was the highest in Himachal Pradesh at 52.4% and in the urban sector; it was the highest in Sikkim at 27.3%.<sup>3</sup> In another analysis in 2011, the female workforce participation in Sikkim was found to be 39.6 % higher than the Indian average of 25.5%.<sup>4</sup>

---

<sup>1</sup> 'Empowering the Third Billion: Women and the World of Work in 2012', DeAnne Aguirre, Leila Hoteit, Christine Rupp & Karim Sabbagh, Booz & Co

<sup>2</sup> <http://www.a-id.org/en/news/why-the-tradition-of-sexual-harassment-affects-egyptian-economy-and-society/>

<sup>3</sup> [http://mospi.nic.in/Mospi\\_New/upload/women\\_men\\_india\\_2013\\_part1.pdf](http://mospi.nic.in/Mospi_New/upload/women_men_india_2013_part1.pdf)

<sup>4</sup> [http://www.ijhss.com/files/Ananta-Pegu\\_qu2wq74n.pdf](http://www.ijhss.com/files/Ananta-Pegu_qu2wq74n.pdf)

## The Act

The Sexual Harassment of Women at Workplace Act recognises that sexual harassment results in the violation of a woman's fundamental rights to equality under Articles 14, 15 and 21 which speaks of equality before law, prohibition of discrimination on grounds of religion, race, caste, sex or place of birth and protection of life and personal liberty. It also established that the actions resulting in a violation of one's rights to 'Gender Equality' and 'Life and Liberty' is in fact a violation of the victim's fundamental right under Article 19 (1) g.

Under the Government of India's new law on Sexual Harassment of Women at Workplace, the prevention of sexual harassment at workplace is the responsibility of the employer. It mandates the constitution of an Internal and Local Complaints Committee at the institutional and district levels to deal with cases of sexual harassment at workplace including orientation of all staff on the issue. Having a third party facilitator in such a committee is also made mandatory by the law.

The Act makes it mandatory for employers to provide a safe working environment for women. Duties of employers as mandated by the law are to:

- Observe guidelines to prevent or deter the commission of acts of Sexual Harassment within the Workplace, and
- Provide adequate mechanisms for the resolution, settlement or prosecution of acts of sexual harassment

Martha Farrell Foundation conducted an orientation for presiding Officers of Internal Complaints Committees from Government departments on 15<sup>th</sup> March 2016 in Gangtok. Some of the learnings that emerged from the training were:

- 3 cases of sexual harassment were shared with the trainer, 2 were personal examples
- 80% of the participants shared that they did not know what sexual harassment was
- 100% of the participants were unclear about their roles as Presiding officers prior to the training
- It was however discovered that the constitution of all the committees but 1 were wrong as they only had female members
- All felt that the workshop was useful, informative and timely and they require more trainings to be able to fulfill their roles as presiding officers
- Some significant quotes were:
  - o "This is a very serious issue and everyone in all workplaces have to be oriented and sensitized on the issue"
  - o "We need more workshops and trainings on understanding gender ... as a presiding officer, at the moment, I feel rather unprepared"
  - o "I was unaware of what sexual harassment is... now that I know, I know it is something that most of us face every day at the workplace"

- o “I am more confident now”
- o “I like many have faced sexual harassment ... in my workplace”



## Partnership

Keeping the above in view, Martha Farrell Foundation provided technical support to the Government of Sikkim to achieve 100% meaningful compliance for the Prevention of sexual harassment at workplace Act, 2013 in the State of Sikkim. The partnership would make Sikkim the first State in India to achieve 100% compliance to the Sexual Harassment at Workplace Act, 2013.

Martha Farrell Foundation helped build a comprehensive and sustainable model for compliance in Sikkim which included:



1. Rolling out strategies for compliance and monitoring of the law:
  - a. Formation and strengthening of Internal Complaints Committee (ICC)
  - b. Formation and strengthening of Local Complaints Committees (LCC)
2. Capacity building of members of:
  - a. ICC of Government departments in all 4 districts of Sikkim
  - b. LCC including other nodal agencies from all 4 districts of Sikkim
3. Support to design relevant handbooks, posters, audio/video materials in English and other local languages.

The Foundation also provided support to the State by:

1. Conducting Training of Master Trainers to create a pool of resource persons (3-4) in each district of the state
2. Facilitating consultations on the issue with senior members of GoS, stakeholders from private and government sectors with the purpose of Orientation and awareness
3. Training all advocates attached to the State and District Legal Services
4. Training of employees from public and private sectors
5. Training of ICC members from private organisations