



# **Strengthening the Access of Women in the Informal Sector to their Right to Protection from Sexual Harassment in the Workplace**



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**MULTIPLE ACTION RESEARCH GROUP**



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**A STUDY TOWARDS  
STRENGTHENING THE  
ACCESS OF WOMEN IN THE  
INFORMAL SECTOR TO THEIR  
RIGHT TO PROTECTION FROM  
SEXUAL HARASSMENT IN THE  
WORKPLACE**

==== **2016** ===

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**Anju Talukdar**

Executive Director, MARG

# LIST OF ABBREVIATIONS

CRPC	CODE OF CRIMINAL PROCEDURE
CSOs	CIVIL SOCIETY ORGANISATIONS
DLSA	DISTRICT LEGAL SERVICES AUTHORITY
DM	DISTRICT MAGISTRATE
FGD	FOCUS GROUP DISCUSSION
GDP	GROSS DOMESTIC PRODUCT
ICC	INTERNAL COMPLAINTS COMMITTEE
IEC	INFORMATION, EDUCATION AND COMMUNICATION
ILO	INTERNATIONAL LABOUR ORGANISATION
IPC	INDIAN PENAL CODE
LCC	LOCAL COMPLAINTS COMMITTEE
LSAs	LEGAL SERVICES AUTHORITIES
NCEUS	NATIONAL COMMISSION FOR ENTERPRISES IN THE UNORGANISED SECTOR
NCR	NATIONAL CAPITAL REGION
NGOs	NON GOVERNMENTAL ORGANISATIONS
SHW	SEXUAL HARASSMENT AT WORKPLACE

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# EXECUTIVE SUMMARY

## INTRODUCTION

### Background

When it comes to sexual harassment in the workplace, women in the unorganized sector are most at risk. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, (SHW Act for short), was passed to address the particular challenges women face in their workplaces and the skewed power relationships that increase vulnerability and impede access to redress.

At least 120 million women in India work in the unorganized sector. Studies show that the three sectors that are most 'unsafe' for women are labourers (29%), domestic workers (23%), and small-scale units (16%)<sup>1</sup>. This can only change if the provisions in the SHW Act for women in the unorganised sector are properly implemented, women know about these rights and there is effective advocacy to address gaps.

### Purpose

This study examines whether the provisions in the SHW Act for women in the unorganised sector are properly implemented and if women know about these rights and there is effective advocacy to address gaps. It has been conducted to bring out the real situation vis a vis the legal avenues actually available to women from the unorganized sector (e.g. are Local Complaints Committees in place? Are they receiving complaints? How many cases have they dealt with? Are their members trained? Are District Officers appointed?)

### Methodology

The study combined empirical data and desk review. Its geographical focus is Ahmedabad, Bhopal, Bhubaneswar, Kolkata and Delhi NCR. Focus Group Discussions with primary stakeholders were conducted in all the five identified areas. Random Surveys were conducted of 2,500 women from the unorganised sector and domestic workers. Interviews were held with LCC officials as well as civil society activists. Information was also obtained through Right to Information applications on the formation and functioning of LCC.

### Concerns and Experiences of Women Working in the Informal Sector

Focus Group Discussions (FGDs) were organized in Delhi NCR, Bhopal, Bhubaneswar, Kolkata and Ahmedabad. The participants comprised of women from a broad cross section of the informal sector (domestic workers, rag pickers, tailors, anganwadi workers, construction workers, brick kiln workers etc). The FGDs had a common pattern of response from the

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<sup>1</sup> Sexual Harassment at Workplaces in India 2011-2012 (Oxfam India and Social and Rural Research Institute, a wing of IMRB International, 2012)

women: initial denial, then gradual willingness to discuss the issue (especially in terms of what happens generally or to other women they know). They also demonstrated a high threshold of tolerance and take many forms of sexual harassment as a matter of routine. There is almost near total ignorance of the SHW Act among women working in the informal sector.

Domestic workers said that even if there are remedies in the law for sexual harassment, they could never risk using them because they are always at risk of employers trapping them in false case of theft. Other challenges in their job such as easy dismissal, no paid holidays, routine humiliations (e.g. not being allowed to use the bathroom, or wear footwear in their workplace), ill defined job profiles and delays in payment, tend to overshadow the issue of sexual harassment. Those (a considerable majority) who regularly faced domestic abuse at home said that compared to that sexual harassment in the workplace is nothing to complain of.

Construction workers, particularly migrants, were vulnerable at all times as they are usually made to stay in temporary shelters in public places and are easy targets for abuse by contractors and strangers. Factory workers said that youth and looks were valued over experience and skills and this affected their opportunities in the workplace. Rag pickers, among perhaps the most traumatised sections, said they were used to being referred to as filthy people doing undignified work, and they did not expect to be treated with dignity.

Lack of safety for women in public spaces also meant that they have to limit their options of working hours and even places of work. In some areas women have no option but to go in groups. Women face regular taunts on their way to work. Their struggle just to survive is so overwhelming that these women have scant regard for sexual harassment that they face on a routine basis. "These things happen, men are like that," they say, "one must not let such things come in the way or it will be difficult to do one's work."

The common reasons for silence and tolerance to any kind of harassment at workplace: (i) they cannot afford to lose their jobs as their families desperately need the money (ii) they fear they will be blamed for the incident (iii) lack of support from the community (iv) fear of reprisal by harassers, which may be a threat to their lives.

## **The Legal Framework for Redressing Sexual Harassment in Workplace of Women in the Informal Sector: Provisions and Functioning**

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, was passed to address the particular challenges women face in their workplaces and the skewed power relationships that increase vulnerability and impede access to redress. It mandates setting up mechanisms to prevent and redress sexual harassment at workplace faced by women by way of constituting Internal Complaints Committee (ICC) by the employer and by constituting Local Complaints Committee (LCCs) by the government. LCCs are critical for redress for women working in unorganized sector, domestic workers, and also for women working in an employment having less than 10 workers. The LCCs are also the place for redress in case of cases against employers, regardless of how big or small the organisation.

The term 'unorganised sector' and 'informal sector' have been variously defined, and on some occasions used interchangeably. The SHW Act has defined 'unorganised sector' and 'domestic worker' separately, but given the same rights to both categories. In this study, for the sake of convenience, the term 'informal sector' has been used to include both the terms, 'unorganised' as well as 'domestic worker'.



## Table on LCC functioning

Areas	Formation of LCC	Capacity building of LCC members on SHW Act	Cases dealt with	Other measures taken	Other relevant issue
Delhi NCR	2 districts (Delhi) 8 (NCR) districts have formed LCC <sup>2</sup>	1 training workshop was organized by DLSA.	0	—	—
G u j a r a t	Formed in 24 districts in Gujarat. It is headed by the office of the District magistrate. <sup>3</sup> No LCC in Ahmedabad	In 4 districts training has been provided to the members regarding sensitization of the law and also pertaining to the responsibilities and duties as a committee member  The training consisted about their roles and responsibilities and the SHW act and were for collectors and woman counselors.  Training also consisted of presentation, Movie (named Moksya) Awareness on the SHW Act.	0	IEC materials posters have been developed on the law.	State Gender Resource center is the nodal body for imparting awareness and providing capacity building training on various laws to department and other functionaries.
B h u b a n e s w a r	LCC has been formed in every district of Odisha (including Khurda, where Bhubaneswar is situated) and there is a monitoring agency in every department.	Women's commission has organized workshops and trainings conducted in 2015 so that the LCC can facilitate complaints and handles cases. <sup>4</sup>	2	IEC materials have been developed that includes FAQ's, handbook.	There is no focus on unorganized sector, no idea on annual reports.  Notices have been sent to colleges and that they will be fined 50,000/- if they don't form an ICC. <sup>5</sup>

B h o p a l	LCC has been formed in all districts of Bhopal <sup>6</sup>	Training of the LCC members are done in most of the districts on sensitization of the law and also on the roles and responsibilities of the committee. Such trainings are imparted by the CSO or other resource persons. <sup>7</sup>	3	—	—
K o l k a t a	LCC has been formed in 3 districts of West Bengal, including North 24 Parganas and South 24 Parganas.	None	2 <sup>8</sup>	—	—

## ANALYSIS OF FINDINGS AND RECOMMENDATIONS

Interactions with and information from various stakeholders suggest the following thematic areas of concern:

### ECONOMIC

Extreme economic vulnerability and the fear of loss of livelihood: Where employment is a matter of day to day survival, the fear of losing a job is overwhelming, and overrides other concerns.

### ATTITUDINAL

Stigmatic nature of the issue and fear of blame.

High tolerance for sexually harassing behaviours: Sexual harassment is often dismissed with “men are like that”, “these things happen”, and “we must put up with this if we want to survive.”

### LACK OF SUPPORT

Even in cases where women have come forward to complain, they face opposition from family and community, which pressurizes them to abandon the effort, and discourages others from initiating any insert action.

<sup>2</sup>. As per RTI information received and interviews held by relevant stakeholders.

<sup>3</sup>. Information gathered during an interview of Director, State Gender Resource Centre and Gujarat State Commission for Women, Gandhinagar.

<sup>4</sup>. Information received by State Commission for Women, Bhubaneswar

<sup>5</sup>. Information gathered during an interview with the Protection officer, Khurda

<sup>6</sup>. As per the RTI information received.

<sup>7</sup>. Interview with the Chairperson, Local Complaints Committee, and Director, Sangini Resource Center for women.

<sup>8</sup>. Interview with the DSW, North 24 Parganas.

## **AWARENESS**

Lack of awareness on the law: the women workers are almost completely unaware of the SHW Act.

## **SYSTEMIC**

System for redress under SHW Act not functional: LCCs plays a critical role in ensuring redress to women in the informal sector. In most places, they are either not formed or are only 'in the process' of being formed. Even where they have been formed, the functioning is far from robust.

## **FEAR OF REPRISAL**

The more economically backward the woman, the more afraid she is of not just losing her job, but of more life threatening punishment if she confronts her harassers.

# **RECOMMENDATIONS**

Keeping in mind the factors above, the following recommendations are made towards advocacy strategies:

## **ECONOMIC**

Securing protection from sexual harassment in the workplace is intrinsically linked with economic security. Unless women in the unorganized sector are provided protection under an inclusive and equitable labour rights regime, the provisions of the SHW Act will likely remain beyond their reach.

## **ATTITUDINAL**

The patriarchal tendency to blame women and absolve men lies at the base of the tendency of society to stigmatise the woman in any case of sexual harassment. Attitudinal changes are the hardest to achieve, but necessary for complete transformation. Gender sensitisation programmes are necessary, especially among the young.

## **AWARENESS**

The near total ignorance of law and rights among women in the informal sector can only be countered by rigorous legal awareness programmes. The state is mandated to do this under the SHW Act, as are Legal Services Authorities and various Human Rights Institutions, several civil society organizations also focus on legal awareness. Convergence and synergies can go a long way in effecting change in this area.

## **SYSTEMIC**

The SHW Act will not work for women in the informal sector unless the LCCs are active and effective. For this it is not enough to merely appoint them (which basic milestone is yet to be achieved), They have to be adequately trained and equipped, and their progress monitored.

The SHW Act cannot work in isolation. An overall support system comprising LCCs, Legal Services Authorities and Human Rights Institutions need to work in tandem to reach this marginalised section. This will only happen when the state authorities take women's human rights seriously and make the connection between a woman's basic right to life, right to safety and the right to livelihood.

# INTRODUCTION

## BACKGROUND

“Whereas **sexual harassment** results in **violation of the fundamental rights of a woman to equality** under articles 14 and 15 of the Constitution of India and her right to life and to **live with dignity** under article 21 of the Constitution...which includes a right to a safe environment free from sexual harassment”

-Preamble to the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

Every individual under the Constitution of India is guaranteed equality of opportunity in employment. It also directs the State to secure equal rights for livelihood, equal pay for equal work as well as just and humane conditions of work for all. However, the status of women has neither been at par economically nor socially to that of men. Women continue to participate in labour markets on an unequal basis with men. **In 2013, the male employment-to-population ratio stood at 72.2 per cent, while the ratio for females was 47.1 per cent. While responsibilities bestowed on women both at work and at home are more because of the social system, they are paid less.**

“Several factors such a woman’s inferior status in society, patriarchal family set up, socioeconomic backwardness, proneness for occupation in the unorganized sector with low productivity and marginalization in employment opportunities account for their poor or low earning capacity. A majority of women work in unorganized sectors for low wages due to low level of skills, illiteracy, and surplus labor and thus face high level of exploitation. This hampers their bargaining power for higher wages and/or any opportunities for further development. Women enter the market as wage earners but occupy secondary position in the labor workforce.”<sup>10</sup>

The World Bank in its annual report in 1989 observed that 35 per cent of Indian households below the poverty line were headed by women and in most cases, were dependent exclusively on female income. The report observed that women’s contribution is significant in families with low economic status.<sup>11</sup> **Almost 400 million people (more than 85 percent of the working population in India) work in the unorganized sector and of these at least 120 million are women.** Women working in the informal sector are not included in the official statistics and their work is undocumented and considered as disguised wage work, unskilled, low paying and does not provide benefits to the worker.”<sup>12</sup>

Due to the process of massive and large-scale globalization and urbanization, there is an increase in women’s participation in both organized and unorganized sector. Since a considerable number of women work in the unorganized sector, it is imperative to understand

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<sup>9</sup> International Labour Organization (2014). Global Employment Trends 2014: Risk of a jobless recovery? P.19. [http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms\\_233953.pdf](http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_233953.pdf) - See more at: <http://www.unwomen.org/en/what-we-do/economic-empowerment/facts-and-figures#sthash.q8NE4UsL.dpuf>.

<sup>10</sup> Women Workers in Unorganized Sector, Dr. Vandana Dave, Indian Social Institute, July-Sept 2012; Kumari, D.B. Krishna and Ramanna, D.V. 2001, “Employment for Gender Equality: Policy Interventions”, in Women and Employment (ed.), Murty RBSA Publishers, Jaipur, pg. 67-68.

<sup>11</sup> Women Workers in Unorganized Sector, Dr. Vandana Dave, Indian Social Institute, July-Sept 2012

<sup>12</sup> Women workers in unorganized sector in India: Problems and prospects abstract, Hajra Masood, Mrs. QaiserJahan, South-Asian Journal of Multidisciplinary studies, ISSN; 2349-7858, Vol.2, Issue 4, (SJIF:2.246), Pg.82

their issues and concerns. **One of the major risks that women are prone to face is sexual harassment in the workplace. Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, (SHW Act for short), was passed to address the particular challenges women face in their workplaces and the skewed power relationships that increase vulnerability and impede access to redress.**

According to the Report of the Committee on Unorganised Sector Statistics,<sup>13</sup> unorganised or informal sector constitutes a pivotal part of the Indian economy. More than 90 per cent of work force and about 50 per cent of the national product are accounted for by the informal economy. As per the Report on the Conditions of Work and Promotion of Livelihoods in the Unorganised Sector<sup>14</sup> **an estimated 93.46 percent of the labour force (at 5% GDP growth) will be employed in the informal sector by the end of the 12<sup>th</sup> Five Year Plan (2012-17). Also, the percentage of women in unorganized sector workers of total workforce is 91.3 percent as compared to men that amounts to 84.0 per cent.** The National Commission on Self-Employed Women also states that of the total number of women workers in India, **about 94 percent are in the informal or unorganized sector whereas just 6 percent are in the organized or formal sector.**<sup>15</sup> Women constitute 48.46 percent of the total population in India and about 25.67 percent of female population is designated as workers as per Census 2011.<sup>16</sup> However, the condition of women force particularly in the unorganised sector has not improved as they have to work for very less income, have no job security and without any social security benefits amongst many other problems.

Even though the women workforce in unorganised sector is huge, there are evidence based studies showing considerable number of sexual harassment incidents faced by women workers. Also due to fear of losing jobs seldom women complain about such harassments. Women are unaware of redress mechanisms available under law against such harassments at workplace. The study by Oxfam India and Social and Rural Research Institute, a wing of IMRB International, was done in Delhi, Mumbai, Bangalore, Chennai, Kolkata, Ahmedabad, Lucknow and Durgapur, in 2012 among working women from the organised and unorganised sectors. **It showed 'high incidence' of sexual harassment cases, with 17 percent working women reporting facing such acts. The three sectors that mainly emerged as 'unsafe' for women were labourers (29%), domestic helps (23%) and small-scale units (16%) amongst others.**<sup>17</sup>

The study conducted by Unni<sup>18</sup> concluded that female workers had to bear the work burden the most and they remained still the most disadvantaged class of workers. They put in at least 12-14 hours of work every day but their economic activities were not fully recognized, counted and included in the national product, though women's work included many activities which lead to the economic gain of the household. Saran and Sandhewar<sup>19</sup> studied the problems of women workers engaged in unorganized sector. It was revealed by their study that **the women were exploited, low paid, worked for long hours i.e. 14-16 hours in case of migrants and 8-10 hours in case of local workers.**

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<sup>13</sup>. Report of the Committee on Unorganised Sector Statistics National Statistical Commission, Government of India, February, 2012

<sup>14</sup>. Report on Conditions of Work and Promotion of Livelihoods in the Unorganised Sector, National Commission for Enterprises in the Unorganised Sector, August, 2007, website: nceuis.nic.in.

<sup>15</sup>. The National Commission on Self-Employed Women (1988)

<sup>16</sup>. Women workers in unorganized sector: socio-economic perspective-Neha Mittal, Asian Journal of Multidimensional Research Vol.1 Issue 3, August 2012, ISSN 2278-4853.

<sup>17</sup>. Sexual Harassment at Workplaces in India' 2011-2012

<sup>18</sup>. Women Workers in Unorganized Sector, Dr. Vandana Dave, Indian Social Institute, July-Sept 2012, Unni, Jemmol 1989, "Changes in Women Employment in Rural Areas 1961-81", Economic and Political Weekly, pg. 23.

<sup>19</sup>. Ibid, Saran, A.B. and Sandhewar, A.N 1990, "Problems of Women Workers in Unorganised Sector (Brick Klines, Quarries and Mines of Bihar and West Bengal)", Northern Book Centre.

There prevailed mass illiteracy, belonged to Scheduled Castes, Scheduled Tribes and Backward Classes, and indebtedness was common. Further, rebuking, cheating, threatening, beating and sexual abuses were a common feature reported by women working in unorganized sector. <sup>20</sup>Anand analyzed the characteristics of the construction workers, predominantly migrant workers and the intervention strategies adopted to facilitate the reach out services to these women workers along with awareness of their rights and utilization. He suggested that NGOs and other organizations can play a vital role through creating awareness amongst these women workers and campaigning and active participation by unionism and cooperatives would yield results as far as struggle for better wages and working conditions are concerned. Srinivasan<sup>21</sup> studied the conceptual issues of the unorganized sector along with profile of women's employment and its trend. He concluded that employment for the unorganized women workers moved to the sectors where these women had no say at all and were away from the legal protection.

Despite advances women have made in many societies, women's concerns are always given lesser priority. Women workers in unorganized sector lag behind their male counterparts in terms of level and quality of employment. In reality women in the unorganised sector face severe challenges in terms of safety and protection which is a blatant violation of the law of the land and also in consequence impedes in economic empowerment of women.

Sexual harassment is a serious form of discrimination at the workplace and a violation of human rights and fundamental rights, enshrined in the Constitution of India. It is yet another form of violence against women reflecting patriarchal mindsets and gender based discrimination that women experience at work. It is also a manifestation of power relations, **as women are much more likely to be the victims of sexual harassment because of their already existing vulnerability, insecurity, and social conditioning to accept discrimination in silence.**<sup>22</sup>

Fundamental Rights and Directive Principles of State Policy as envisaged in the Constitution of India guarantee dignity of human labour and the need for protecting and safeguarding the interest of labour.<sup>23</sup> Several other legislations such as Maternity Benefit Act, 1961, Equal Remuneration Act, 1976; The Minimum Wages Act 1948, The Contract Labour (Abolition and Regulation) Act and Rules 1970, The Factories Act, 1948 and Social Security Act, 2008 are provided for the welfare of the labor force.

In a survey of 1200 women done by National Commission for Women, nearly 50 percent complained of gender discrimination and physical and mental harassment at work.<sup>24</sup> "A survey of 400 women working in various formal and informal sectors finds that 17 per cent of respondents had faced sexual harassment at work."<sup>25</sup> Construction labourers were perceived as particularly insecure"<sup>26</sup>. As women in a vulnerable and impoverished sector,

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<sup>20</sup> Ibid; Anand, Vaijayanta 1998, "Advocating for the Rights of Construction Workers: Nirman's Experience", The Indian Journal of Social Working, Vol. 59, No.3.

<sup>21</sup> Ibid; Srinivasan, M.V. 2000, "Women Workers in Unorganised Sector", Women's Link, Vol. 6, No. 4.

<sup>22</sup> Focus group discussion on prevention of sexual harassment of women at workplace (prevention, prohibition and redressal) act, 2013, NRCW, NMEW and UN Women, 3rd March, 2014.

<sup>23</sup> Constitution of India, 1950, Fundamental Rights as enshrined in Chapter-III (Articles 14,15, 15(3)1 16, 19, 23 & 24) and Directive Principle of State Policy Chapter IV (Articles 39, 41, 42, 43, 43A & 54).

<sup>24</sup> Perceived Sexual Abuse and Quality of Life of Female Workers of Unorganized Sector- An Exploratory Study from Four Districts of West Bengal, Dishari Gupta, Dr. Ishita Chatterjee, The International Journal of Indian Psychology ISSN 2348-5396 (e) | ISSN: 2349-3429 (p) Volume 3, Issue 1, No.4, DIP: C00355V3I12015 <http://www.ijip.in> | October – December, 2015.

<sup>25</sup> Social and Rural Research Institute (2012), 'Sexual Harassment at Workplace in India', study supported by Oxfam India, Delhi: SRI.

<sup>26</sup> Thorny Transition Women's Empowerment and Exposure to Violence in India, Oxfam India, 2014.



they face the additional inequalities of gender. These translate into many tangibles -- unequal wages, no maternity benefits, sexual harassment, and poor nutrition and ill- health. Acharya and Saradmoni state that women workers are exposed more to the risk of sexual harassment and exploitation.<sup>27</sup>

Domestic workers come from vulnerable communities and backward areas. The majority are poor, illiterate, unskilled and do not understand the urban labour market. Their work is undervalued, underpaid and poorly regulated. Lack of decent wages, work conditions and defined work time, violence, abuse, sexual harassment at workplace, victimization at the hands of traffickers/placement agencies, forced migration, lack of welfare measures and lack of skill development avenues resulting in stagnation are major issues that they face. There is as of yet no data on the exact number of domestic workers in India however the estimates vary from 4.75 million (NSS 2005) to over 90 million according to different sources. While the former is a gross under-estimation, the latter may be exaggerated. However, it can be safely estimated that they number over 50 million in the country.<sup>28</sup>

It is widely recognised that women find it very difficult to report sexual harassment at workplaces and are forced to remain silent. This could be because women are often blamed for the harassment. The power dynamics between employers and employees and fear of discrimination or dismissal also ensure they keep silent. Lack of awareness of laws, little confidence in complaint mechanisms or stigma due to breach in confidentiality can also be responsible for the silence.<sup>29</sup> It is harder to accuse the harasser and then prove the charges. Their economic vulnerability further forces them into silence. Likewise, cases of sexual harassment faced by part-timers are seldom reported. The only recourse available to the domestic workers who face sexual harassment was to stop working which eventually amounts to loss of work and wages. When domestic workers protest against any form of sexual harassment, they are threatened with loss of employment or accusations of theft.

In most instances the sexual harassment faced was subtle. The most common experience was that of being stared at while working, especially while sweeping and swabbing floors. In similar cases, some workers shared that men of the households asked them to re-do the cleaning, especially of the floors, in the absence of the women employers. They faced this with male members of households across different ages, including older men. Another kind of sexual harassment faced is in form of suggestive comments.

Sexual harassment is directly linked to their economic vulnerability, as they fear that they would lose their jobs if they raised their voices. Losing earnings from a household proves rather difficult. There is a chain of exploitation between poverty and gender in the realm of work. It is well known that in rural India the bond or contract that ties laborers to their masters implies an inclusion of services of the laborer's wife as well.<sup>30</sup> Besides being at the beck and call of the master's family for all kinds of household chores, low caste women often had to be 'available' sexually to the landlord. In traditional agrarian relations, caste and economic oppression is closely linked to gender oppression.<sup>31</sup> Women of lower caste sharecroppers/laborers had to be sexually available to the landlord and "their sexual harassment added to the symbolic subjugation of their families as well"<sup>32</sup>. Raising a voice amounted to loss

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<sup>27</sup> Saradmoni, K. 1995. 'Crisis in the fishing industry and women's migration: The case of Kerala' in Schenk Sandbergen (ed.): Women and seasonal labour migration. New Delhi: IDPAD Sage.

<sup>28</sup> Domestic Workers Laws and Legal Issues in India, November 2014, Wiego Law & Informality Project.

<sup>29</sup> Domestic Workers: Conditions, Rights and Responsibilities- A study of Part-time domestic workers in Delhi- December 2010, Jagori

<sup>30</sup> Leela Dube. 2003. 'Caste and Women' in Anupama Rao (ed.) Gender and Caste. New Delhi: Kali for Women.

<sup>31</sup> Bina Agarwal. 1994. A Field of One's Own. Gender and Land Rights in South Asia. New Delhi: Cambridge University Press and Foundation Books.

<sup>32</sup> Ibid, pg-439.

of livelihood which they cannot afford. In a similar vein, employers often sexually exploit women domestic workers. Complaining certainly leads to loss of jobs or counter accusation of theft.

In the above discussion on respect and dignity, it is important to note that even if workers did not view their own work as one with dignity, they expected their employers to speak and treat them with respect and dignity. When treated with indignity, few did attempt to question the employers but preferred to quit work there. It is clear that all decisions on how to treat the worker are completely in the hands of the employer – the manner of speaking, access to toilets, or using the same dishes. The hierarchy is spelt out even by employers who treat workers well as they set the boundaries of interaction.

Workers providing care face discrimination,<sup>33</sup> anganwadi workers being a “concrete manifestations of discriminations”. Women are chosen to be anganwadi workers as they are socially considered ideal for the work of childcare. The state considers them to be volunteers and provides them an honorarium instead of wages and hence has no responsibility of being an employer. Yet, Anganwadi workers have organised themselves and have struggled for legal recognition as workers, and demanded better standards of working conditions, including wages and social security entitlements.<sup>34</sup>

Verbal abuse, humiliation and sexual harassment of women garment workers are part of daily life. Gender discrimination is rampant and women and girl workers are deprived of their rights to privacy and liberty, creating an enabling environment for exploitation. Findings show that 1 women garment worker in 14 has experienced physical violence, while 1 women worker in 7 has been raped or forced to commit a sexual act. Over 60 percent of women have been intimidated or threatened with violence; while between 40-50 percent have experienced humiliation and verbal abuse. It was also reported that of all the sexual harassment cases reported, action was taken against perpetrators in 3.6 percent of incidents but no criminal charges were brought. 82 percent of workers surveyed reported that they did not tell anyone about the sexual harassment or abuse they suffered, whilst an even larger number 89 percent did not formally report the sexual harassment or abuse to factory management or the police. Victims of violence cannot be blamed as they do not have confidence that their complains will be taken seriously or some kind of action would be initiated. Survey indicated that of all sexual harassment cases reported, action was taken against perpetrators in only 3.6 percent of incidents but criminal charges were brought in no cases. Although there is the pretense of an Internal Complaints Committee (ICC) in many factories, 75 percent reported that there was no functioning of ICC in their factory. 15 percent of garment workers said that they had left their job due to harassment or violence, whilst nearly 2 in 5 women workers said they had been absent from work due to mistreatment or violence.

There is gender discrimination in labour markets too. Certain occupations (such as domestic work and beedi rolling) are not considered worthy for males to pursue them and are relegated to women and children, female children in particular.

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<sup>33</sup> Indrani Mazumdar 2007. 'Rights of Women Workers: Some Issues and Questions'. Labour File. Vol5, Nos: 5 & 6, September – December, pp. 16 – 21.

<sup>34</sup> Ibid, Neetha, N. 2009 'Placement Agencies for Domestic Workers: Issues of Regulation and Promoting Decent Work' prepared for International Labour Organisation, New Delhi and presented at the National Consultation with the Civil Society on Domestic Workers Issues, 15-16 July, 2009; Palriwala, Rajni and Neetha Pillai (2009) 'Paid Care Workers in India: Domestic workers and Anganwadi workers', unpublished report, Geneva: UNRISD.

## PURPOSE

This study examines whether the provisions in the SHW Act for women in the unorganised sector are properly implemented and if women know about these rights and whether is effective advocacy to address gaps.

This study has been conducted to bring out the real situation vis a vis the legal avenues actually available to women from the unorganized sector e.g.:

- Are Local Complaints Committees in place? Are they receiving complaints? How many cases have they dealt with? Are their members trained?
- Are District Officers appointed? Are they briefing the appropriate governments on functioning of LCCs? Are they engaging with NGOs on spreading awareness on the SHW Act?
- Are Nodal Officers appointed? Are they connecting communities to the LCCs?
- Are governments (central and state) monitoring implementation? Are they carrying out inspections? Are they developing awareness materials? Are they training LCC members?

The study also has been able to bring out the concerns and experiences of women on the ground. The broad objectives of the study that it has been able to put together are as follows:

- Assessing the implementation of the statutory structures and duties envisaged under the SHW Act vis a vis women in the unorganized sector
- Articulating concerns/impediments/experiences of primary stakeholders in accessing their right to protection from sexual harassment in the workplace
- Advocacy for strengthening the access of women in the unorganized sector to their right to protection from sexual harassment in the workplace.

## METHODOLOGY

### Period of study

The duration of the study was for 6 months, commencing from March and ending in August. The field research was conducted till the month of June. Subsequently, the data was collated and compiled and the report was prepared.

### Methodological tools

The study combines various methodological tools including desk review, interviews with relevant stakeholders and government officials, questionnaires, RTI applications filed, focus group discussions and random surveys were conducted.

### Desk review

For the purpose of this study literature review and desk review was conducted. Publications and writings of various experts on the subject have been examined. Desk review of the relevant books and articles on the issue was undertaken in a detailed manner.

### Category of Interviewees

Interviews of CBO's that work on the issue of sexual harassment of women at workplace and on functioning of LCC was conducted. Interviews of relevant stakeholders and government officials responsible in implementation of Local Complaints Committee (LCC) were also conducted.

Survey and interviews of 500 unorganised sector women workers was conducted in each of the five study areas of the states (covering domestic workers, factory workers, Anganwadi, bricklin worker, gardener, construction workers etc.)

RTI's to all the concerned study areas in the five states were filed and information was collected on the formation and functioning of LCC that has been later compiled.

### **Focus Group Discussion**

11 Focus Group Discussions were conducted in all the five districts of the states, i.e., Ahmedabad, Bhopal, Bhubaneswar, Kolkata and Delhi NCR.

### **Area Selection**

This study focuses on the urbanized sector stretching to different geographical areas as Ahmedabad, Bhopal, Bhubaneswar, Kolkata and Delhi NCR.

The study is an evidence based advocacy tool to reach duty bearers, policy makers, donors and CSOs to build systems and practices to make the working lives of women in the unorganized sector safe and free from sexual harassment.

# Concerns and Experiences of Women Working in the Informal Sector

## FOCUS GROUP DISCUSSIONS WITH WOMEN FROM THE INFORMAL SECTOR

Focus Group Discussions were organized in Delhi NCR, Bhopal, Bhubaneswar, Kolkata and Ahmedabad. The participants comprised of women from a broad cross section of the informal sector (domestic workers, rag pickers, tailors, anganwadi workers, construction workers, brick kiln workers, etc). There was a common pattern to the responses of the women in all the FGDs: initial denial, then gradual willingness to discuss the issue (especially in terms of what happens generally or to other women they know). Also, they generally have a high threshold of tolerance and take many forms of sexual harassment as a matter of routine.

### Delhi NCR

A Focus Group Discussion of 22 domestic workers was organized at Dwarka, New Delhi along with Action India. All the participants work in the nearby area of Dwarka. This FGD was undertaken to understand the issues faced by women in the unorganised sector, including sexual harassment. Furthermore, their knowledge as regarding laws for their protection was brought out by way of this discussion. The intended result was to understand whether the women are aware of the sexual harassment at workplace Act and to also equip women with the know-how of laws for their safety.

They also faced occasional sexual harassment. They have to report at a fixed time early in the morning. They get 2 days a leave in case of emergency they complained that during delivery were terminated as she had to take

The domestic workers have to compete in a competitive market and therefore bargaining. They replace each themselves. Their salary is not paid. Sometimes strange and inhumane demands are made to them by their employees e.g. **they are asked to work inside the house, and to keep their**

**“I have heard of a domestic help who complained of sexual harassment that she faced by her employee, but her employee thereafter brought theft allegations against her and she had to leave her job”**

- Domestic worker, Dwarka, Delhi

harassment at their workplace. and are often asked to come leave a month, and if they take have a salary cut. One woman of her daughter her services longer leave.

report even if sick. There is a demand that they don't have any collective other in the jobs to sustain before the 10<sup>th</sup> of each month. demands are made to them by **to not wear their dupattas chappals outside.**

**The domestic workers stated that their children aren't allowed inside, and they are made to consume drinking water from the toilets, if thirsty. There is no provision of using bathrooms for them, they are forced to go in the jungle which is at quite a distance and is quite risky.**

The workers are constantly supervised when they prepare meals for their employers. If they are unable to finish any task as desired by the employer their salary is denied to them. They are frequently accused of theft and are often verbally abused by their employers. The domestic

workers hardly retaliate unless the employer crosses a certain limit of humiliating them. **They are subjected to lewd conduct and telephonic harassment by their male employers.** They complain that domestic work is considered lowest of the low, and thus their complaints are given least priority.

**“When we walk to our workplace we are often abused and harassed on the road by onlookers, especially when we walk back from work in the evening”**

Domestic worker in Dwarka, Delhi

Another Focus Group Discussion of 16 domestic workers in the unorganized sector was organized at Tilak Lane, New Delhi along with NIRMANA. The workers were interviewed and asked about how they were treated by their employers and the benefits, if any, which were provided to them.

The workers were mostly employed in the houses of Grade I Government servants who are entitled to accommodations in very high end residential places in Delhi. Their accommodation includes servant’s quarter as well, where these domestic workers reside. **However since the accommodation is free for the domestic workers, the employers do not pay any remuneration to the domestic workers. They are almost utilized as slaves by the employers.** The domestic workers are engaged in entire household work and almost any time of the day they are asked to work as per the needs of the employer. Their employers do not allow them to work at multiple places/houses and the workers have to be constantly available on call of the employers. They do not get any paid holidays and even for taking a day off they have to appoint a replacement for themselves before leaving. **When the domestic workers take leave, they have to pay the worker whom they must bring as a substitute. This leaves them with no paid leave.**

They had to pay for each and every facility which they receive and some even had to pay the electricity bill (which is a perquisite for the employer within his job). Although the employers did not misbehave with the workers but they made them to do extra work which the workers were not paid for e.g. washing slippers, utensils, sweeping in the lawns and courtyard, giving massages, staying as a guard for the house in the absence of the employers etc. If the workers refuse to do a particular work they are asked to vacate, thus the workers generally work quietly without any demands or raising any objections. They face difficulties in finding new employment as the new employers ask for recommendation from the previous employers, who may not necessarily give a good recommendation. **Workers were keen to know about the legal aid available and the legal procedures to get justice.**

**“We are not provided any salary for our work except the accommodation. If we have a bigger family or more children, we are denied the servant quarter too. We cannot avail any leave from work and have to arrange for a substitute for work even for a day, whom we have to pay from our own pocket”.**

- Domestic Worker, Tilak Lane, New Delhi

A Focus Group Discussion was organized at Seemapuri, New Delhi along with Action India with 28 participants consisting of domestic workers, factory workers, Anganwadi worker in the unorganized sector. Some of them said they have been cheated by their own house owners promising them an LIC or insurance policy and later have been duped. The domestic workers confessed that they have to lie while taking any leave, because they will lose their job if they say that they are sick or unwell.

The factory workers said they have weekly one day-off. They earned around 5,000 rupees a month, but for extra leave there is loss of pay. In case of overtime they are occasionally paid. Factory owners insist on overtime, so in case a factory worker refuses to do overtime they are most likely to lose their job. Women are mostly engaged in packing, finishing etc. But they



don't get any appointment letter while joining nor any notice period before termination. They can be dismissed with immediate effect. The managers ask to bring "good looking women" to be recruited in the factory. They say this to the women workers when there is a vacancy.

**"The supervisors often tells us to bring more good-looking and well dressed women to work in the factory"**

A small factory women worker near Seemapuri

The "young smart women workers" are posted in the 1<sup>st</sup> floor-2<sup>nd</sup> floor, where the supervisors are present but the older ones are made to sit downstairs where no one generally sees them. "You need to be well dressed to get work". Some women workers have also witnessed a young woman worker being asked to come inside the supervisor's room. And she returns from his room after having taken a bath. None of the others ask questions for fear of losing their jobs.

Factory workers are groped, felt up, abused and face harassment on the road while commuting for work. The factory workers complained of very subtle sexual harassment that they face every day. They face abuse while going to work and sometimes when they come back after doing overtime they often compromise their safety and thus raising their vulnerability at the workplace.

The more senior women workers said, "the younger you are, the more likely you are to be liked by the supervisor, and also you may expect flexibility at work".



A Focus Group Discussion was organized with 42 participants consisting of rag pickers and women working as domestic workers, security guard, godown workers working in the area. This FGD was conducted in Mahipalpur, New Delhi in collaboration with Bal Vikas Dhara. The rag pickers particularly spoke about the harassment they face because of the nature of their work. People often shun them and say that they are dirty as they spend their time in filth. They suffered particularly at the hands of landlords who would evict them at the slightest pretext even when they are willing to pay rent. Here again it was because of the

**"I have seen a young woman who enters the room of the factory manager and stay there for hours. When she comes out, it is after a change of clothes. If I question her about it, she will inform the boss and I may lose my job"**

- Woman working in plastic factory near Jhilmil, Delhi

nature of their work. The rag pickers also use their premises as a store for their goods as they don't have any alternative. When they are arbitrarily evicted, they lose both their homes and part of their workplaces. Their struggle just to survive is so overwhelming that these women have scant regard for sexual harassment that they face on a routine basis. **“These things happen, men are like that,” they say, “one must not let such things come in the way or it will be difficult to do one’s work.”** The workers did not receive any maintenance from their employers. Many worked in the nearby godowns received a salary of Rs. 4000 per month. They did not receive any holidays, their wages were cut if they were absent and they were marked if they took a half-day.

The people working as domestic help also did not get any paid holidays; their salary was Rs. 600 per month. They had to walk a lot to go to the houses where they worked. During the long walk they would sometimes face harassment in the form of comments or improper behaviour by men. Their attitude to this was indifference and avoiding the situation.

It must be noted, that when spoken about sexual harassment they mentioned that, to earn and fetching for their survival tops their priority, so sexual harassment is an issue of less importance to them. Thereby even if they face sexual harassment at workplace they prefer to ignore it, as raising their voice against such an issue may lead to losing their earning. Redressing sexual harassment without ensuring that their employment remains unaffected is meaningless for these workers.

## Ahmedabad

A Focus Group Discussion was held along with Bandkam Mazdoor Sangathan of 79 participants consisting of women belonging to Devipujak Community having migrated from Rajasthan. They were working either as domestic workers, daily wage labour or hawking of toys, balloons, statues of gods and goddesses etc. They all live in constant fear of eviction from their residence as their slum area falls under prime locality and influential builders have been eyeing their property.

Even at hawking places, they are constantly harassed by municipal corporation, cops and local goons for weekly “Hafta” to secure the spot else their “larrys” (handcarts) are vandalized which would result into heavy loss.

Domestic workers are made to work for longer duration and not given any raise in wages. Their men folk indulge in alcoholism and other substance abuse wasting their hard earned money, which results in financial crunches at the domestic front for the female members where they are unable to provide basic necessity of life like food due to rising prices. If the





women resist, the men beat them up and hence they are compelled to keep their mouths shut. Men often drink after work giving various lame excuses and pick quarrels and beat the women and children. Due to financial constraints, especially girls are not encouraged to study further and are forced to accompany their parents to work.

Girls of this community are not sent out for domestic work after reaching puberty as the parents fear of sexual harassment. Most of the women though were outspoken were still discreet about their problems at work place and only confided with moderator during the one on one survey regarding their and other's sexual harassment problems. They had problems concerning their safety, sanitation and ill-behavior by their employers. **There were problems concerning sexual favors demanded by the employers to retain job or to get raise in the wage.**

**Awareness about sexual harassment and relevant laws is completely absent and they do not even recognize sexual harassments. Also since their toughest challenge they face at home with their partners with regard to domestic violence, they find their workplace relatively safe as there is no comparable violence.**

Another FGD was conducted in collaboration with Human Development Resource Centre (HDRC) near Gandhi Ashram with 20 migrant laborers that constitute a major part of the unorganised sector workforce. They were initially reluctant to open up about their issues. They had problems concerning their safety, sanitation, ill-behavior by their contractors or employees, short payments by contractors, inability to get employment on regular basis, privacy issues at both the construction site as well as place where they reside, inaccessibility to various welfare schemes of the State, to name a few. There were problems concerning sexual favors demanded by the contractors to retain job or even to get paid. **Some contractors compel men to send their wives for sexual exploitation. And as they usually stay in temporary shelters in public spaces (roads, pavements), the women are particularly vulnerable at night. They are sometimes molested by strangers who grope them to take their money.**

**In a particular case, a lady was demanded a sexual favor and upon resentment, the contractor accused the lady of being of "loose character" and filed the case in the court. Eventually, the case was dismissed with no compensation.**

Finally the participants were apprised about the SHW Act 2013, the provisions made there under and the grievance redressal mechanism provided there under and was further asked to access the same in case of necessity.





## Bhubaneswar

A Focus Group Discussion was organized with 18 domestic workers along with Institute of Social Development (ISD). They were all domestic workers working in the nearby area and earned around 500-1000 rupees per month per homes and they go twice a day for their work like cleaning, sweeping, cooking etc. Although they did not face any sexual harassment at their workplace, most of them face domestic violence at home by their husbands/partners. The men in the workplace do not talk with them much as a result there is very little interaction between them and the employer. The harassment they face is mostly whenever they ask for increase in their wages and if they do not come on time.

There are several domestic workers available so if one wishes to take a day off from work, they are unable to, as they fear they will lose their job to some other domestic worker. So they are compelled to agree to wages paid most of the times and there is little or no chance of any negotiation.

Another focused group discussion was conducted at Saliasahi, Bhubaneswar. There were 45 women from unorganized sector from the slum area who participated in the FGD. Many of the participants worked in the field of construction. Some of the participants had knowledge about the Domestic Violence Act but nobody was aware of the Sexual Harassment at Workplace Act. **The women expressed that sexual harassment was rampant in their workplace, but they never raise their voice or show their resistance when such harassment occurs. They bear with it helplessly and many a times such cases remain undisclosed or suppressed. Some of the women admitted that the nature of sexual harassment was such as they could not even disclose at the FGD, both out of a sense of shame and fear.**



Most of the participants narrated a list of reasons for their silence and tolerance to any kind of harassment at workplace: (i) they cannot afford to lose their jobs as their families desperately need the money (ii) they fear they will be blamed for the incident (iii) lack of support from the community (iv) fear of reprisal by harassers, which may be a threat to their lives.

The group had no awareness about the SHW Act among this community and therefore they must be legally empowered to ensure their rights.

## Bhopal

Two Focus Group Discussions was organized in Bhopal with 25 casual labors and 27 domestic workers. One of the FGD's was organized along with Eka. The respondents were mostly casual laborers and worked in construction site, railway yards, catering in parties etc. They earn around 150- 250 per day.

**"We are asked to come well dressed and apply lipstick by the contractor who gives us work for catering in weddings"**

- casual labour from Chola, Bhopal

**"The younger and prettier ones will get the daily wages even if they do not work"**

- casual labour from Chola, Bhopal

But there are several days of the month they do not get a job for the day as the same is provided through contractors (Thekedar). However for the same job the men are paid double. They work from around 8 am to sometimes late at night as well (especially for caterings). Sometime the contractors do not even pay them. For the parties/wedding where they go for catering, guests stare at them and pass abusive comments, and also tell them "How can their husbands send them for work, as going out alone is not safe". The contractors are male. They often tell them to wear "nice Clothes and lipstick" when they come to work. The older women said that the younger good looking ones sometimes don't have to work as they can sit for the entire day but get the wages at the end.

**" 3 years back, an ASHA worker in the city was raped, while she was taking a pregnant women for delivery in the middle of the night, so now we are advised to call the ambulance only and not accompany the pregnant woman alone at night"**

- An ASHA worker in Bhopal

There have been extreme cases of sexual assault at the workplace and an ASHA worker in the area mentioned that they do not take women for delivery at night, although instructed by the authorities, after a rape of an ASHA worker 3 years back. They only call ambulance for the pregnant woman.





## Kolkata

A Focused Group Discussion was organised in collaboration with Association for Human Rights Awareness (AHRA) at Barasat, North 24 Parganas, which was attended by 34 participants. All of the women are working in the brick kilns, stone quarries and domestic work in Sandeshkhali, Hasnabad, Baduria, Shyamnagar, Kajipara, Maligram. Three of the participants were Asha workers. The women working in the brick fields earn between Rupees 150 to 200 per day while those who work as domestic workers earn Rs. 250 per month. They work for seven days in a week and there is no provision for holidays. They are not paid on days they take leave even on account of illness.

**Some women complained that obscene songs and words are hurled by men on their way to workplace and thus they travel in groups while returning from their workplace in the evening. At workplace, some men keep staring at the female workers making them feel uncomfortable and some men also discuss obscene things about the female workers.**

**“We do not even have any toilet inside our workplace so have to relieve ourselves in open, which sometimes is very unsafe”**

- woman who works in a brick kiln in North 24 parganas , West Bengal

The brick kilns do not have toilet facilities and the ladies are compelled to travel to nearby river side or fields and attend nature’s call in the open. The participants shared that **they tolerate all such harassments including other forms of harassments and unfair labour practices because they are poor and if they protest against any issue they would be removed from their jobs.** Another reason for not protesting is that the women working in the brick fields work under the contractors and are not direct employees of the brick field and hence they are denied even basic entitlements and the brick field owners take no responsibilities. Most of the workplaces do not have a trade union. Also, there is no registered trade union of the domestic workers and it is known that the State Government does not allow registration of domestic workers’ association as trade unions.

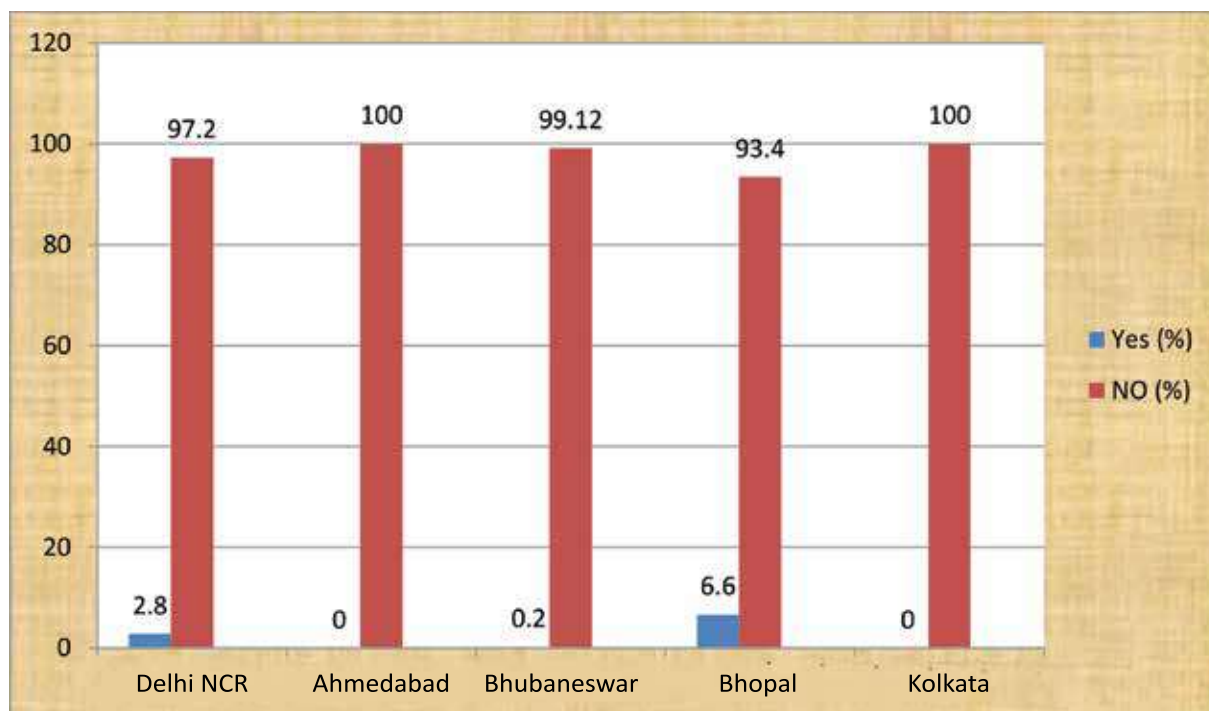




## Random Surveys of Women in the Informal Sector

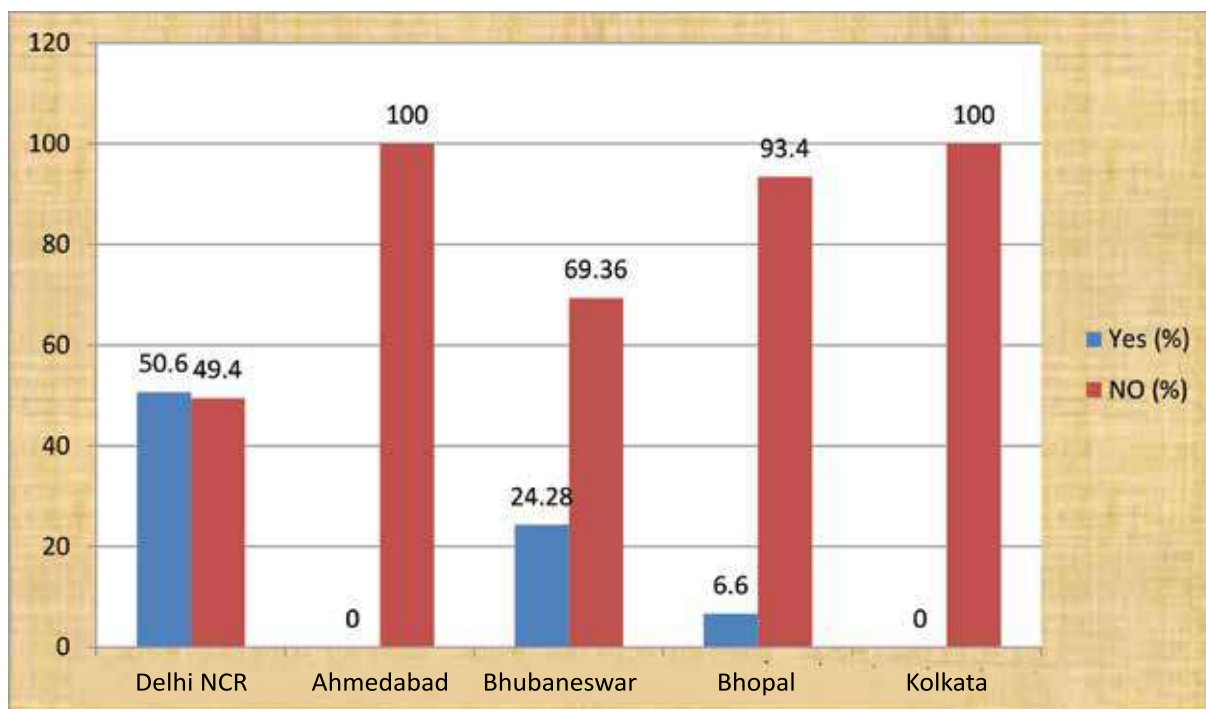
Random surveys were conducted in all the study areas of the states. 500 responses of the questionnaire (Annexure-1) were collected from Delhi NCR, Bhopal, Ahmedabad, Bhubaneswar and Kolkata. Questions were asked to 500 unorganised sector women in each state consisting of labour, factory worker, construction worker, street vendor, shopkeeper, parlor worker, sweeper, tea seller, tailor, massage parlor, cook, rag picker, migrant labour, mason, security guard, gardener, attendant, driver and domestic worker etc. The results of the random surveys are as under:-

**Q.1. Are you aware of Prevention of Sexual Harassment against Women at workplace Act 2013?**



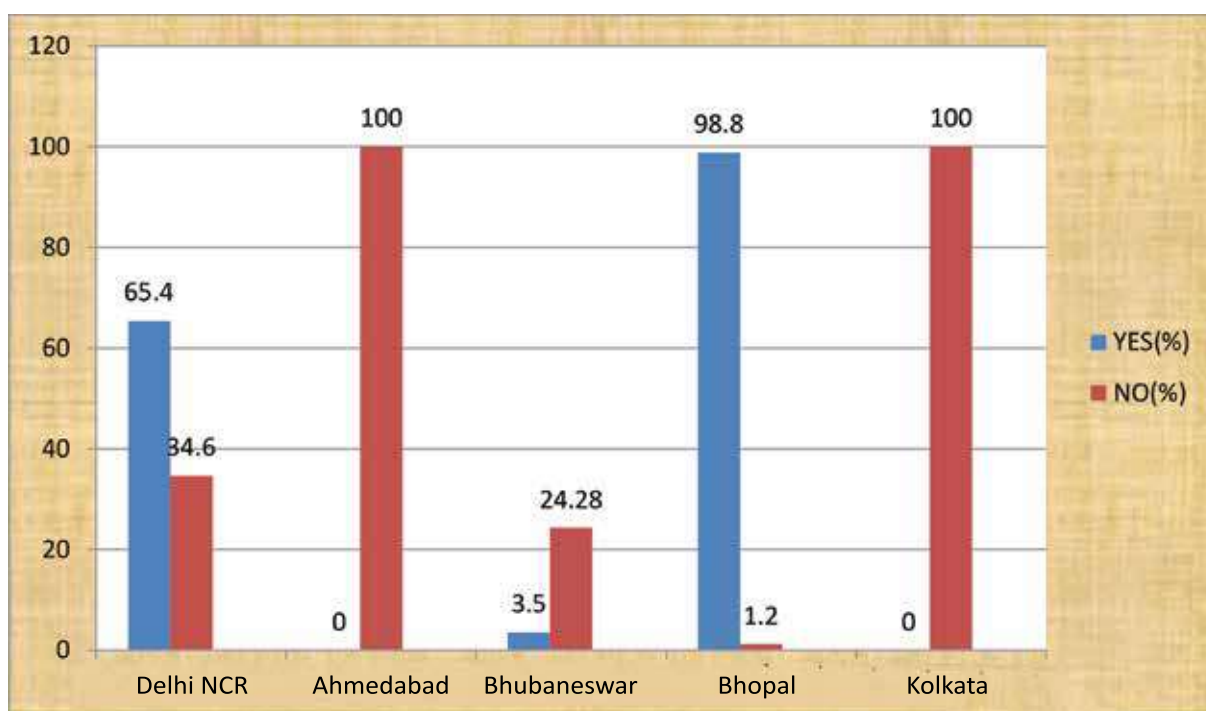
When questioned about the awareness level on prevention of sexual harassment against women at workplace act, 2013, while 2.8% answered that they were aware of the act in Delhi NCR, 0.2% in Bhubaneswar and 6.6% in Bhopal, there is absolutely no knowledge of the act in Ahmedabad and Kolkata. In Delhi NCR, 97.2% responded that they had no knowledge of the act, 99.12% in Bhubaneswar and 93.4% in Bhopal claimed ignorance regarding the act.

**Q.2. Have you ever faced sexual harassment at your workplace?**



As per the survey conducted on whether the unorganised sector women workers have ever faced sexual harassment at workplace, 50.6% admitted of facing sexual harassment in Delhi NCR, 24.28% in Bhubaneswar and 6.6% in Bhopal. 49.4% denied of any such harassment in Delhi NCR, 100% in both Ahmedabad and Kolkata, 69.36% in Bhubaneswar and 93.4% denied of any such sexual harassment in Bhopal.

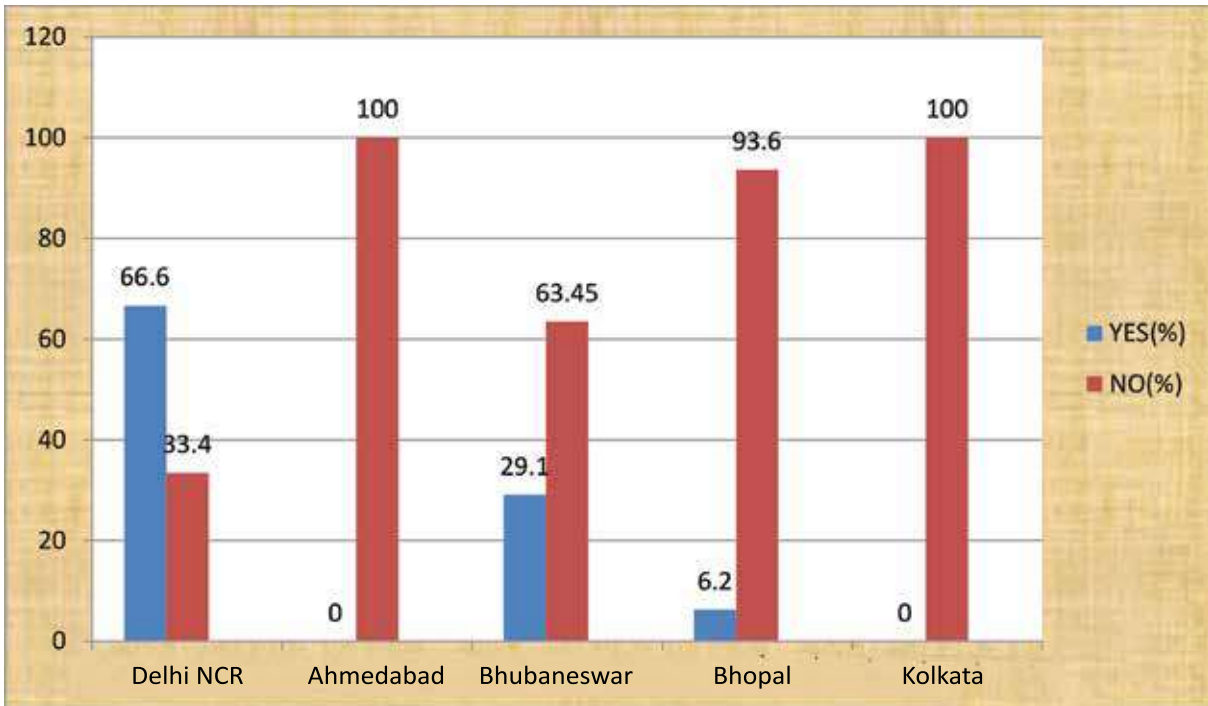
**Q.3 (i). Will you complain about such harassment?**



When asked if the unorganised sector women would complain of any sexual harassment at workplace, 65.4% said yes in Delhi NCR, 3.5% in Bhubaneswar and 98.8% in Bhopal. 100%

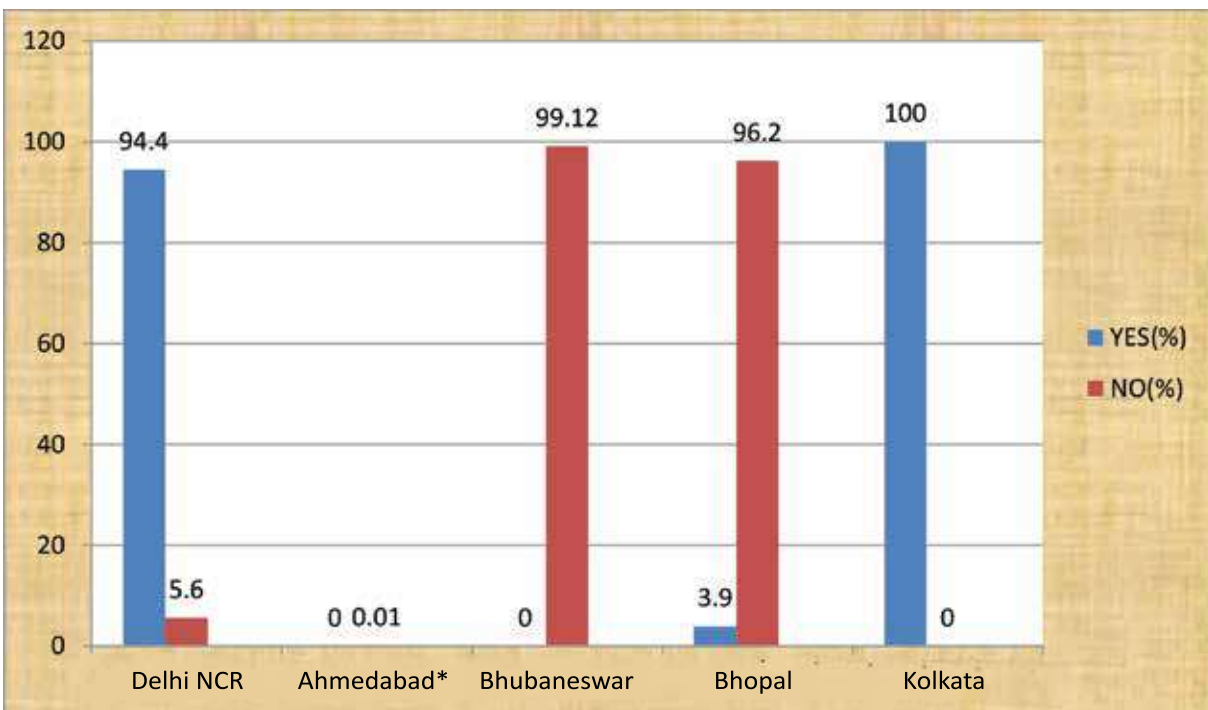
denied of filing any complain in Ahmedabad and Kolkata. 34.6% denied of making any complains in Delhi NCR while 24.28% in Bhubaneswar and 1.2% in Bhopal denied of making any complaints of sexual harassment at workplace.

**Q.3 (ii). Do you know where to complain?**



The unorganised sector women workers were asked whether they knew where they could complain, to which 66.6% in Delhi NCR said they knew where to complain, 29.1% in Bhubaneswar and 6.2% in Bhopal. 100% denied of having knowledge of complain in both Ahmedabad and Kolkata. 33.4% denied of having any knowledge in Delhi NCR, 63.45% in Bhubaneswar and 93.6% didn't have any idea in Bhopal.

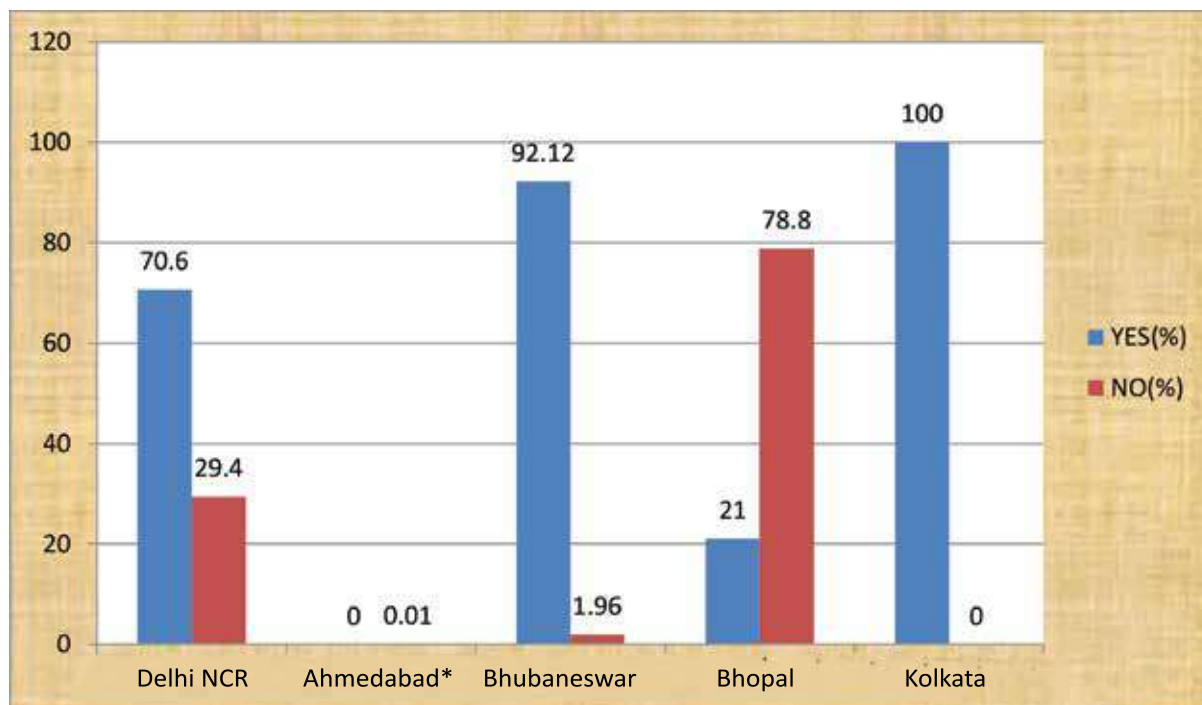
**Q4. Do you think women can be harassed at their workplace?**



\* There were no specific responses with regard to the above question.

When asked if they think women can be harassed at workplace, 94.4% said they feel women can be harassed at workplace in Delhi NCR, 3.9% in Bhopal and 100% in Kolkata. While 5.6% said they do not think women can be harassed at workplace in Delhi NCR, 0.01% in Ahmedabad, 99.12% in Bhubaneswar and 96.2% in Bhopal said they do not think women can be harassed at workplace.

#### Q.5. Can laws reduce such harassment?



\* There were no specific responses with regard to the above question.

Women of the unorganised sector workers were asked whether they thought law can reduce sexual harassment at workplace, 70.6% in Delhi NCR said they felt law can reduce harassment, 92.12% in Bhubaneswar, 21% in Bhopal and 100% in Kolkata agreed law can play a role in reducing harassment. 29.4% said they donot think law can reduce harassment in Delhi NCR, 0.01% in Ahmedabad, 1.96% in Bhubaneswar, 78.8% felt law cannot reduce harassment.

When asked what measures could be taken to reduce such harassment, some of the responses from the unorganized sector workers are as follows:-

1. The procedure is very time consuming and costly, hence it is easier to simply accept and be silent.
2. Very harsh and strict punishment should be provided.
3. Police should be more proactive about allegations and should act swiftly. Prompt and proper investigation by police.
4. Lack of awareness of existing legislations. There must be more awareness of the rights of the unorganized sector workers.
5. Complaints of any sexual harassment should be taken seriously.
6. Make the SHW Act more accessible to women and encourage women to speak about such harassment.
7. Stringent enforcement of law.
8. Help women to file complaint instead of doubting their authenticity.

9. Change in mindset of people.
10. Increasing women's safety and making women aware of their security rights.
11. Efficiency of police should be increased. There should be more women police at workplace.
12. Awareness programs must be organized in different levels like, schools, colleges and in state level. It will help people to change their attitudes and respect women.
13. Police should be stationed in areas where unorganised sector workers work at night and provide night patrolling.
14. Give the harasser strict punishment. Dismiss him from his job.
15. Some girls and women don't know how to face the problem of sexual harassment. They must be made aware by training, advertising, media etc. Girls should take self-defense training and complaint at police station.
16. Women are not only harassed at work place; they are also harassed at home, tuition centers, school, colleges, fair & festivals. So they have to know about their rights and take strong action against the person.

# The Legal Framework for Redressing Sexual Harassment in Workplace of Women in the Informal Sector: Provisions and Functioning

## PROVISIONS OF THE LAW

In 2013, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Act was passed to address the particular challenges women face in their workplaces and the skewed power relationships that increase vulnerability and impede access to redress. It mandates setting up mechanisms to prevent and redress sexual harassment at workplace faced by women by way of constituting Internal Complaints Committee by the employer and by constituting Local Complaints Committee (LCCs) by the government. LCCs are critical for redress for women working in unorganized sector, domestic workers, and also for women working in an employment having less than 10 workers. The LCCs are also the place for redress in case of cases against employers, regardless of how big or small the organisation.

### Understanding the Informal Sector Vis a Vis the Shw Act

Section 2(p) of the SHW Act states that workplace in an '**unorganised sector**' in relation to a workplace means an enterprise owned by individuals or self-employed workers and engaged in the production or sale of goods or providing service of any kind whatsoever, and where the enterprise employs workers, the number of such workers is less than ten.

Section 2(e) of the SHW Act states that '**domestic worker**' means a woman who is employed to do household work in any household for remuneration in cash or kind, either directly or through an agency, on a permanent/part time/full time basis, but does not include any member of the family of the employer.

International Labor Organisation (ILO) defines Informal Sector as all jobs in informal sector enterprises or all persons who are employed in at least one informal sector enterprise. Thus all unprotected workers in formal as well as informal sector are considered informal workers<sup>35</sup>. ILO defines informal employment as "employees are considered to have informal jobs if their employment relationship is, in law or in practice, not subject to labour legislation, income taxation, social protection or entitlement to certain employment benefits (advance notice of dismissal, severances of pay, paid annual or sick leave, etc.)". *Thus all unprotected workers in formal as well as informal sector are considered informal workers.*

National Commission for Enterprises in the Unorganised Sector (NCEUS) does not distinguish the unorganized from the informal, and these terms are used interchangeably. The Task Force on Definitional and Statistical Issues Relating to the Unorganized Sector defined the unorganized or informal sector as follows: "*unorganized sector consists of all unincorporated private enterprises owned by individuals or households engaged in the sale and production of goods and services operated on a proprietary or partnership basis and with less than ten total workers*"<sup>36</sup>



The term 'unorganised' is often used to refer to the huge number of women and men engaged in different forms of employment. These different forms of employment include home-based work (e.g. rolling papads and beedis), self-employment (e.g. selling vegetables), employment in household enterprises, small units, on land as agricultural workers, labour on construction sites, domestic work, and a myriad other forms of casual or temporary employment.

The **Unorganised Sector Social Security Act, 2008** defines; "Unorganised worker" means a home-based worker, self-employed worker or a wage worker in the unorganized sector and includes a worker in the organized sector who is not covered by any of the Acts mentioned in Schedule II to this Act.<sup>37</sup>

The **National Commission on Labour**<sup>38</sup> has defined "Unorganized Labour" as those who have not been able to organize themselves in pursuit of common objectives on account of constraints like casual nature of employment, ignorance and illiteracy, small and scattered size of establishments and position of power enjoyed by employers because of nature of industry. The unorganized sector is characterized by the presence of factors viz. long hours of work, wage discrimination of men and women, lack of job security, no minimum wages, lack of minimum facilities at work place, ill-treatment, heavy physical work and sexual exploitation etc.

*As can be seen above, the term 'unorganised sector' and 'informal sector' have been variously defined, and on some occasions used interchangeably. The SHW Act has defined 'unorganised sector' and 'domestic worker' separately, but given the same rights to both categories. In this study, for the sake of convenience, the term 'informal sector' has been used to include both the terms, 'unorganised' as well as 'domestic worker'.*

Section 2(n) of the SHW Act defines sexual harassment to include: - any one or more of the following unwelcome acts or behaviour (whether directly or by implication)-

- Physical contact and advances
- A demand or request for sexual favors
- Making sexually colored remarks
- Showing pornography
- Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.



<sup>35</sup>. 15th International Conference on Labour Statisticians.

<sup>36</sup>. Contribution of the Unorganised sector to GDP Report of the Sub Committee of a NCEUS Task Force, Working Paper No 2, National Commission for Enterprises in the Unorganised Sector, June 2008. Available at [http://nceuis.nic.in/Final\\_Booklet\\_Working\\_Paper\\_2.pdf](http://nceuis.nic.in/Final_Booklet_Working_Paper_2.pdf).

<sup>37</sup>. Section 2(m) of the Unorganised Sector Social Security Act, 2008.

<sup>38</sup>. The National Commission on Labour, (1966-69)

As an inclusive definition, the above list is far from exhaustive, and the term has to be construed liberally. The Act states that if the following circumstances occur or are present in relation to, or connected with any act or behaviour of sexual harassment, it may amount to sexual harassment at the workplace such as<sup>39</sup>:-

- Implied or explicit promise of preferential treatment in her employment; or
- Implied or explicit threat of detrimental treatment in her employment; or
- Implied or explicit threat about her present or future employment status; or
- Interference with her work or creating an intimidating or offensive or hostile work environment for her; or
- Humiliating treatment likely to affect her health or safety.



The SHW Act is concerned with sexual harassment only in the workplace. But the workplace too is very broadly construed.

### Under Section 2 (o) of the SHW Act, workplace includes

- any department, organization, undertaking, establishment, enterprise, institution, office, branch or unit in the public sector; either established/owned, controlled or wholly or partly financed by funds received directly or indirectly by the government or local authority or a government company or corporation or a co-operative society



- any private sector organisation or a private venture; undertaking, enterprise, institution, establishment, society, trust, non-governmental organisation, unit or service provider carrying on commercial, professional, vocational, educational, entertainment, industrial, health services or financial activities including production, supply, sale, distribution or services

<sup>39</sup>. Sec 3 of the SHW Act.

- Hospitals or nursing homes
- any sports institutes, stadium, sports complex or competition or games venue, even the residence if used for training, sports or other related activities
- **any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey**
- **a dwelling place or house.**

The duties of an employer and/or the appropriate Government towards the **prevention of sexual harassment in the workplace** have been explicitly laid down in the Acts as follows:

1. Provide a safe working environment at the workplace which shall include safety from third party (outsiders) coming into the contact at the workplace.
2. Display penal consequences of sexual harassment.
3. Display information about the grievance handling mechanisms including the Internal Complaint Committee/ Local Complaints Committee.
4. Organize workshops and awareness programs at regular intervals for sensitizing the employees with the provision of the Act.
5. Organize orientation programs for the members of the Internal Committee.
6. Treat sexual harassment as misconduct under the service rules and initiate action for such misconduct.
7. Advance the understanding of the public of the provisions of the Act.



**The Central and State Governments are mandated to develop relevant IEC and training materials and organise awareness programs to advance the understanding of the public on the provisions of the SHW) Act, 2013.**

**The SHW Act makes special provisions for securing women in the unorganized sector from sexual harassment. The primary duty bearers in this regard are:**

- **The Central and State Governments**
- **District Officers**
- **Local Complaints Committees (LCCs)**
- **Nodal Officers**

Their statutory duties range from receiving and processing complaints, conducting inspections, monitoring implementation and spreading awareness on this law. Unless these duty bearers perform their duties, women in the unorganized sector will continue to remain at risk.

Chapter III, Section 5 of the SHW Act says the appropriate government may notify a District Magistrate or Additional District Magistrate or the Collector or Deputy Collector as a District Officer for every District to exercise powers or discharge functions. Therefore, the District Officer will constitute an LCC in every district so as to enable women in the unorganized sector or small establishments to work in an environment free of sexual harassment.

The LCC will receive complaints:

- From women working in an organisation having less than 10 workers;
- When the complaint is against the employer himself;
- From domestic workers.

### Composition of the Local Complaints Committee (LCC):-

Sl. No	Member	Eligibility
1	<b>Chairperson</b>	Nominated from amongst the eminent women in the field of social work and committed to the cause of women
2.	<b>1 Member</b>	Nominated from amongst the women working in the block, taluka or tehsil or ward or municipality in the district
3.	<b>2 Members</b>	Members nominated from amongst such NGO/associations/ persons committed to the cause of women or familiar with the issues relating to sexual harassment, provided that:  At least one must be a woman  At least one must have a background of law or legal Knowledge  One of the nominees shall be a woman belonging to the SC/ST/OBC/Minority community notified by the Central Government.
4.	<b>Ex Officio member</b>	The concerned officer dealing with social welfare or women and child development in the district

Section 7(2) states that the Chairperson and every member of the Local Committee shall hold office for a maximum period of 3 years. Section 9 mentions that any aggrieved woman may complaint of sexual harassment at workplace in writing to the LCC within a period of 3 months from the date of incident. However, the time period could be extended if any circumstances prevented the women from filing a complaint. Once a complaint of sexual harassment is brought to the Committee, it must be registered immediately and a written complaint filed.

A provision of Conciliation<sup>40</sup> is also provided under the SHW Act. The LCC may before initiating an inquiry under section 11 and at request of aggrieved woman take steps to settle the matter between her and the respondent through conciliation. Section 11 of the Act states that an inquiry into the complaint can be initiated by LCC where the respondent is an employee as per the service rules applicable to the respondent and where no such rules exist, or in case of a domestic worker, the LCC shall forward the complaint to the police, within seven days

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<sup>40</sup> Sec 10 of the SHW Act.

<sup>41</sup> Section 509 of IPC- Word, gesture or act intended to insult the modesty of a woman.—Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.



for registering the case under section 509 of the IPC<sup>41</sup>. For conducting inquiry, the LCC shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908.

During pendency of inquiry, LCC may recommend to the employer to transfer the aggrieved woman or the respondent or to grant leave to the aggrieved woman up to three months.<sup>42</sup> After the inquiry into the complaint is completed, the LCC shall provide report of its findings to the employer or the District officer within ten days from date of completion of the inquiry and the report shall be made available to both the concerned parties. In case, the LCC concludes that the allegation against respondent has not been proved, it shall recommend to the employer and the District officer that no action is required to be taken in the matter.

Section 14 of the Act states that in case the LCC arrives at a conclusion that the allegation against respondent is malicious or false, it may recommend to the District Officer, to take action against the woman or the person who has made the complaint.

While determining the amount of compensation, the LCC shall have regard to the mental trauma, pain, suffering and emotional distress caused to the aggrieved woman; the loss in the career opportunity due to sexual harassment; medical expenses incurred by the victim for physical and psychiatric treatment, the income and financial status of the respondent and the feasibility of such payment in lump sum or in instalments.<sup>43</sup>

The duties and powers of the District Officer includes monitoring the timely submission of reports furnished by the LCC and take measures as may be necessary for engaging non-governmental organizations for creation of awareness on sexual harassment and the rights of the women.<sup>44</sup> Therefore, the LCC shall in each calendar year prepare an annual report and submit it to the State Government.<sup>45</sup>

Section 24 of the Act mentions that appropriate government subject to financial aid and other resources develop relevant information, education, communication (IEC) and training materials and organize awareness programs to advance the understanding of the public for protection against sexual harassment of woman at workplace. IEC materials shall be formulated for orientation and training programs for the members of LCC. In the interest of public and women employees, appropriate government by order in writing, can call upon the District Officer to furnish in writing such information relating to sexual harassment.

**The law clearly states that women who are working in an unorganized sector with less than 10 employees may complain at the Local Complaints Committee formed at all the districts.** Thereby the Local complaints committees are very important redressal mechanism under the law and considering the huge percentage of women workforce in the unorganized sector these committees must be functional. However research suggests that even after 3 years of the passage of the law very few states have formed local complaints committee in the districts. Further to ensure equal opportunities of work to women, it is imperative to have grievance redress mechanism for preventing sexual harassment faced by women at their workplace.

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<sup>40</sup>. Sec 10 of the SHW Act.

<sup>41</sup>. Section 509 of IPC- Word, gesture or act intended to insult the modesty of a woman.—Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

<sup>42</sup>. Section 12 of SHW Act.

<sup>43</sup>. Sec 15 of the SHW Act.

<sup>44</sup>. Sec 20 of the SHW Act.

<sup>45</sup>. Sec 21 of the SHW Act.

## FUNCTIONING OF THE LAW

### Delhi NCR

As per information received from authorities through Right to Information applications, the following districts of Delhi NCR have constituted

#### LCCs:

- Karnal
- Gurugram
- Jind
- Palwal
- Faridabad
- Rewari
- Ghaziabad
- Narnaul
- Shahdara
- New Delhi

#### Formation of LCC is under process in the following districts:

- South East District
- West District
- North District
- Rajouri Garden
- Saket
- Bhiwani
- Kaithal
- North Alipur

**None of the districts in Delhi NCR has not have received any complaints since the formation of LCC.** Interactions with activists and other members of civil society in Delhi NCR revealed interesting insights. Aqueel Khan, Director of the Association for Stimulating Know-how (ASK), which has been working for many years with workers from unorganised sector noted that the complaint mechanism in Gurgaon (Gurugram) on sexual harassment at workplace is not effective. Gayatri, Project Director, Women Power Connect (WPC), pointed out that the state has done little towards the proper implementation of the SHW Act. There is no information about the district officer in each district. There are weaknesses in law too, such as the enforceability of LCC recommendations.

Advocate Monika of Maitri also said that there is not enough action taken by the district officials for proper functioning of LCCs. There is not much information regarding the unorganised sector either. Within the unorganised sector, the women themselves do not realise the gravity of the situation and take it as part of the work they do. They hardly open up. Unless a particular person is designated and appointed for formation of LCC and for



looking after the matter of sexual harassment faced by the unorganised sector workers, there will not be much improvement or awareness generation. Also, the provision of penalty for 'false cases' can compound the fear women have of seeking redress. The provision for only one LCC for each district is not enough. Some districts are big in size and therefore more sub-committees should be formed to hear the complaints.

Suneeta Dhar of Jagori said that there is no initiative undertaken by the state in terms of awareness generation on the SHW Act. There must be education and campaign for the entire unorganised sector woman for them to know their rights. Women face a plethora of problems such as non-payment or unequal payment if wages, number of hours of work, sexual harassment etc that deters women's productivity at work. Justice Verma Committee report also talks about institutional reform which is not been implemented. Mediation as a provision is also a lacunae in the law. Therefore, state must spend some of its finances on awareness generation and proper implementation of the Act as there is so much that has to be done on the ground.

## **Ahmedabad**

As per the RTI information from Gujarat, 24 districts have constituted LCC. However, LCCs have not been formed in key districts such as Ahmedabad, Rajkot. These districts have a significant numbers of workers in the unorganised sector, including migrant workers. E. Shailaja V. Pillai, a human rights lawyer in Ahmedabad, pointed out that there is deep reluctance among women to discuss sexual harassment due to social taboos, and the lack of effectively functioning LCCs has resulted in a huge gap in the SHW Act benefitting women in this sector. The state is taking no action in spreading awareness on the law. Even among groups working with women in the unorganized sector, the focus and advocacy is largely limited to wages – sexual harassment is not an area of focus.

## **Bhubaneswar**

As per the information received through RTI, 31 districts in Odisha have formed LCC. LCC has also been formed in Bhubaneswar. As per the information received, 10 districts have received complaints of sexual harassment. 10 districts responded that there are district officers appointed in each district in accordance with the section 5 of the SHW Act 2013. 13 districts replied that LCC members in each districts have undergone training on SHW Act and its provisions to execute their duties in accordance to the mandate of the Act. 12 districts have nodal officers appointed in the blocks as mandated under section 6 (2) of the Act.

Manju Prava Dhola, LCC member and President, Centre for Action Research and documentation (CARD), said that LCC has been formed in Khurda (Bhubaneswar is in Khurda district of Odisha) district last year, i.e., 2015 with 5 members. The chairperson is a retired District Social Welfare Officer. The LCC has met for 1-2 times after their formation. She discussed a case that came before the LCC regarding a tribal school girl who complained of sexual abuse by the headmaster. It was alleged that the headmaster was engaging students in household activities. The headmaster was transferred from school. Orientation session has been conducted by LCC. There are advertisements by DM, block and panchayat office. She said hierarchy in the system is a major problem, and added that the District Legal Services Authority should be a part of the LCC but at present they are not involved. No annual reports have been filed till date from time of formation of LCC. Subhashree Das, Director, Institute of Social Development, said that not many unorganized workers know about ICC and LCC being formed, although Government have taken steps to form LCCs.

## Bhopal

In Bhopal division of Madhya Pradesh, LCC has been formed in all districts: Bhopal District, Raisen District, Rajgarh District, Sehore District, Singrauli District, and Vidisha District. 3 complaints have been received by 1 district in the year 2015-16.

Prarthana Mishra, Chairperson, Local Complaints Committee, and Director, Sangini Resource Center for Women, said that the LCC was formed in 2014. There was call for application for the post of chairperson, and she was selected by the department as the LCC chairperson. The LCC. There are 5 members, 2 officials from District Department of WCD, 1 person from legal background and 1 social worker. The District Empowerment Officer is the district officer for the district as prescribed under the Act. The LCC has so far handled around 5 complaints. Most of the complaint were from private institutions, where the complainant was not satisfied by the decision of the ICC formed in their offices, or wherever there was no ICC formed in their workplace. Awareness level among the community is very low, resulting in hardly any cases being filed before LCC. Even the officials have very less information regarding the LCC. Mass awareness through mass media is essential for proper implementation of the law. Training of the LCC members are done in most of the districts on sensitization of the law and also on the roles and responsibilities of the committee. Such trainings are imparted by CSO or other resource persons as well. However, more detailed training is required for the members so that the hearings may be conducted with better efficiency. Annual reports are not filed yet, but will go to the Nodal officers.

Prarthana Mishra added that there are severe sexual harassment and assault cases during harvest season on the migrant agricultural laborers. But mostly due to lack of support system and the victims being migrant from different states, the cases go unreported and the accused are not brought to book. There was case of a domestic worker who was repeatedly raped by the employer's son with a false promise of marriage. When she got pregnant the accused denied any relationship. She was severely traumatized and required treatment as well. Thereafter even though cases were filed, the victim did not wish to pursue the case due to lack of family support.

Some other difficulties expressed were that duties of the committee are not clear and there is ambiguity. The appointment and role of the Nodal Officers are also not very clear from the Act. Lack of infrastructure for functioning of the committee for hearing, meeting etc. is a challenge. Maintaining confidentiality when the cases are heard by the committee is also a challenge.

Malini from Samhita (a company which provides micro finance loans to women working in the unorganized sector for production and asset building) said, women from the unorganized sector identify sexual harassment as inevitable. They fear that seeking redress will lead to losing their employment. For example, bidi workers often complain that while they deliver their products to the contractor, they unnecessarily hold the workers' hands. But the women will not raise a voice, as it is a common practice and they see no real alternative. Character assassination of domestic workers among the community is a common practice. Stigma attached to facing harassment forces them to keep quiet. The awareness must be among the anganwadi workers especially on the redress mechanism as they meet the community on a regular basis. Mass sensitization through media and other measures may raise the awareness level so that the community identifies sexual harassment at their workplace and also access to redress must be improved for effective implementation of the law.

## Kolkata

As per the information received, 3 districts have formed LCC in West Bengal, out of which 2 fall within Kolkata (North 24 Parganas and South 24 Parganas). 3 complaints have been filed in 2 districts and “necessary action has been taken”. Soma Sengupta, Director, Sanhita Gender Resource Center, said that although they are aware that across West Bengal LCCs are about to be formed and that the District Magistrate will be the District Officer, but they have no notification in this regard yet. She recommended need for clarity on definition of unorganized sector and more advocacy is needed with the State Legal Service Authority for the SHW Act to be implemented properly.

There is a major need to provide legal aid and assistance to the women working in the unorganized sector so that they can access the LCC which is grossly inadequate.<sup>46</sup>

### Table on LCC functioning

Areas	Formation of LCC	Capacity building of LCC members on SHW Act	Cases dealt with	Other measures taken	Other relevant issue
Delhi NCR	2 districts (Delhi) 8 (NCR) districts have formed LCC <sup>47</sup>	1 training workshop was organized by DLSA.	0	—	—
Gujarat	Formed in 24 districts in Gujarat. It is headed by the office of the District magistrate. <sup>48</sup> No LCC in Ahmedabad	In 4 districts training has been provided to the members regarding sensitization of the law and also pertaining to the responsibilities and duties as a committee member  The training consisted about their roles and responsibilities and the act and were for collectors and woman counselors.  Training also consisted of presentation, Movie (named Moksya) Awareness on the SHW Act.	0	IEC materials-posters have been developed on the law.	State Gender Resource Center is the nodal body for imparting awareness and providing capacity building training on various laws to department and other functionaries.

<sup>46</sup>. Interview with the Chairperson, West Bengal Commission for Women.

<sup>47</sup>. As per RTI information received and interviews held by relevant stakeholders.

<sup>48</sup>. Information gathered during an interview of Director, State Gender Resource Centre and Gujarat State Commission for Women, Gandhinagar.

Bhubaneswar	LCC has been formed in every district of Odisha (including Khurda, where Bhubaneswar is situated) and there is a monitoring agency in every department.	Women's commission has organized workshops and trainings conducted in 2015 so that the LCC can facilitate complaints handles cases. <sup>49</sup>	2	IEC materials have been developed that includes FAQ's, handbook.	There is no focus on unorganized sector, no idea on annual reports.  Notices have been sent to colleges and that they will be fined 50,000/- if they don't form an ICC. <sup>50</sup>
Bhopal	LCC's have been formed in all districts of Bhopal <sup>51</sup>	Training of the LCC members are done in most of the districts on sensitization of the law and also on the roles and responsibilities of the committee. Such trainings are imparted by the CSO or other resource persons. <sup>52</sup>	3	—	—
Kolkata	LCC has been formed in 3 districts of West Bengal, including North 24 Parganas and South 24 Parganas.	None	2 <sup>53</sup>	—	—

<sup>49</sup> Information received by State Commission for Women, Bhubaneswar

<sup>50</sup> Information gathered during an interview with the Protection officer, Khurda.

<sup>51</sup> As per the RTI information received.

<sup>52</sup> Interview with the Chairperson, Local Complaints Committee, and Director, Sangini Resource Center for women.

<sup>53</sup> Interview with the DSW, North 24 Parganas.

# Analysis of Findings and Recommendations

## KEY FINDINGS

Women in the informal sector face multiple vulnerabilities, which must be taken into account in any attempt to secure their safety from sexual harassment in the workplace. Interactions with and information from various stakeholders suggest the following thematic areas of concern:

### ECONOMIC

**Extreme economic vulnerability and the fear of loss of livelihood:** Where employment is a matter of day to day survival, the fear of losing a job is overwhelming, and overrides other concerns. The perception is that complaining about sexual harassment will lead to dismissal, and that is just not an option. (This factor is linked with two subsequent factors (indicated below): knowledge of law, and implementation of the law. The SHW Act provides protection to complainants from dismissal, but lack of knowledge of the law, which the women are not aware of. Furthermore, the general sense that the law does not work in India, or at any rate does not work in favour of the poor, does not build the confidence of women to access legal remedies)

### ATTITUDINAL

**Stigmatic nature of the issue and fear of blame:** Patriarchal notions of 'loss of purity' stop women from coming forth with their complaints. They feel that they will be stigmatized and also be questioned and blamed for any incident.

**High tolerance for sexually harassing behaviours:** Women workers are so accustomed to various behaviours that amount to sexual harassment, that they may not even see it as a problem. Harassment is often dismissed with "men are like that", "these things happen", and "we must put up with this if we want to survive."

**Lack of support:** Even in cases where women have come forward to complain, they face opposition from family and community, which pressurizes them to abandon the effort, and discourages others from initiating any.

### AWARENESS

**Lack of awareness on the law:** the women workers are almost completely unaware of the SHW Act. They neither know what amounts to sexual harassment, nor what to do if they experience it. Their lack of knowledge of the law prevents them from understanding the protection that the SHW Act affords (e.g. from dismissal) or to free legal aid from the state, or to compensation.

### SYSTEMIC

**System for redress under SHW Act not functional:** LCCs play a critical role in ensuring redress to women in the informal sector. In most places, they are either not formed or are only 'in the process' of being formed. Even where they have been formed, the functioning is far from robust. Most LCC members do not receive adequate training on their roles. Many do not know what their duties are or indeed what the issue properly is.

**Fear of reprisal:** The more economically backward the woman, the more afraid she is of not just losing her job, but of more life threatening punishment if she confronts her harassers. This compels them to endure abuse helplessly. This stems from systemic failures in as much as these women have either had negative experiences with the formal justice system, or the system has failed to reach the most vulnerable, though mandated to.

## RECOMMENDATIONS

Keeping in mind the factors above, the following recommendations are made toward advocacy strategies:

### ECONOMIC

Securing protection from sexual harassment in the workplace is intrinsically linked with economic security. Economic vulnerability not only limits bargaining options, it can make the seeking of redress for sexual harassment an unviable option. Unless women in the unorganized sector are provided protection under an inclusive and equitable labour rights regime, the provisions of the SHW Act will likely remain beyond their reach.

### ATTITUDINAL

The patriarchal tendency to blame women and absolve men lies at the base of the tendency of society to stigmatise the woman in any case of sexual harassment. It is this same mindset that makes women accept abuse and fear reporting. Attitudinal changes are the hardest to achieve, but necessary for complete transformation. Gender sensitisation programmes are necessary, especially among the young.

### AWARENESS

The near total ignorance of law and rights among women in the informal sector can only be countered by rigorous legal awareness programmes. The state is mandated to do this under the SHW Act, as are Legal Services Authorities and various Human Rights Institutions, several civil society organizations also focus on legal awareness. Convergence and synergies can go a long way in effecting change in this area.

### SYSTEMIC

Perhaps the biggest challenge in India's legal system – making the law work. The SHW Act will not work for women in the informal sector unless the LCCs are active and effective. For this it is not enough to merely appoint them (which basic milestone is yet to be achieved), They have to be adequately trained and equipped, and their progress monitored.

The SHW Act cannot work in isolation. An overall support system comprising LCCs, Legal Services Authorities and Human Rights Institutions need to work in tandem to reach this marginalised section. This will only happen when the state authorities take women's human rights seriously and make the connection between a woman's basic right to life, right to safety and the right to livelihood.



# Annexures

## Questionnaire for Survey (Annexure-1)

Date: \_\_\_\_\_

Name of the Respondent: \_\_\_\_\_

Area: \_\_\_\_\_ State: \_\_\_\_\_ Age: \_\_\_\_\_

Workplace type: \_\_\_\_\_

1. Are you aware of Prevention of Sexual Harassment against Women at workplace Act 2013?

Yes:  No:

2. Have you ever faced sexual harassment at your workplace?

Yes:  No:

3. Will you complain about such harassment? Do you know where to complain?

Yes:  No:  Yes:  No:

4. Do you think women can be harassed at their workplace?

Yes:  No:

5. Can law reduce such harassment?

Yes:  No:

**Please tell how such harassment can be reduced?**

## Questionnaire for Officials (Annexure-2)

Name of the Respondent: \_\_\_\_\_

Designation: \_\_\_\_\_

Contact details: \_\_\_\_\_

1. Are you aware of SHW Act 2013?
2. Does the district have a local complaints committee to take complaints from women working in unorganized sector or in an office with less than 10 employees? If yes please inform about the members.
3. Do you know of any cases of sexual harassment at workplace that have been reported with the local complaints committee (LCC) in your district?
4. Do you feel that LCC can help women to access a safe workplace? If yes why?
5. How many women employees are there in your office?
6. Do you have an internal complaints committee in your office?
7. Have you filed annual report of the ICC to the Ministry of women and child development?
8. How passing information? Awareness? Measures to make it function better.

## Questionnaire for Women's Commission (Annexure-3)

Name of the Respondent: \_\_\_\_\_

Designation: \_\_\_\_\_

Contact details: \_\_\_\_\_

1. Does the districts in the state have a local complaints committee to take complaints from women working in unorganized sector or in an office with less than 10 employees? If yes please inform about the members

2. How many cases of sexual harassment at workplace have been reported with the local complaints committee (LCC) in the districts?
3. Do you feel that LCC can help women to access a safe workplace? If yes why?
4. Do the Offices/departments file their annual report of the ICC to the Ministry of women and child development?
5. Have you organized any training for the ICC or LCC members for handling and resolve complaints.
6. Are the any IEC materials available on the issue by the commission?
7. Any other mechanism used by the commission/WCD for spreading awareness on the issue?

### **Questionnaire for Focus Group Discussion (Annexure-4)**

Name of the Respondent: \_\_\_\_\_

Designation: \_\_\_\_\_

Contact details: \_\_\_\_\_

1. Where do you work?
2. How many employees are there? How many are women among them?
3. Do you feel safe in your workplace? Please explain
4. Do you know what is sexual harassment at workplace? Please explain
5. Have you ever faced SH? How?
6. Have any of your colleague, friends and relatives ever faced SH?
7. Are you aware of SHW Act 2013?
8. Are you familiar with the provisions and mandate of the Act?
9. Did you ever make complain of such harassment?
10. Have you ever heard of LCC?
11. What would you like to do if you ever feel that you are sexually harassed?

## RTI Questionnaire filed with District authorities (Annexure-5)

To,

Date: \_\_\_\_\_

The Public Information Officer

**Sub: Seeking information of the following for the Year April 2013 to March 2016 under the RTI Act, 2005**

Dear Ma'm/Sir,

I request you to provide me with the following information under Right to Information Act, 2005.

1. Is there any local complaints committee formed in the district to take up cases of sexual harassment at workplace faced by women working in unorganized employment in accordance to Section 6 of Sexual Harassment (Prevention, Regulation and Redressal) at Workplace Act (SHW), 2013.
2. If yes please provide details of the local complaints committees formed in district along with the names and contact details of the chairpersons and other constituting members of the committee?
3. How many complaints have been filed with the local complaints committees in district from 2014 till date? Please provide the data for all the blocks.
4. Is there any district officer appointed in each district in accordance to section 5 of the Sexual Harassment (Prevention, Regulation and Redressal) at Workplace Act, 2013. If yes please provide details of district officers in the district.
5. Have the LCC members in the district undergone training on SHW Act and its provisions to deal with the subject matter of their assignment, If yes, how many times a year and by whom have they been trained? Kindly provide details of the pattern and module adopted /developed for training.
6. Are the Nodal Officers as mandated under Section 6(2) of the Act been appointed in the blocks? Provide details of such appointments of Nodal officer and their role of connecting communities to the LCCs.
7. How many complaints have the nodal officers received and forwarded to the concerned LCC from 2014 till date? Please provide the data of district? In how many cases, action has been taken by the district officers under the Act based on submission and recommendation of the LCC? Please provide the data of district from 2014 till date.
8. Please provide a list of NGOs that are working in district on the issue of Sexual harassment at workplace along with the details of their role and responsibility.
9. What are the measures taken for awareness generation on the SHW Act in the district? Provide details of Information, Education Communication (IEC) materials available in Hindi or any other languages on Sexual harassment?

10. Please provide copies of annual report submitted by the District Office to the appropriate authorities in accordance to Section 21 of the Act from 2014 till date.

The requisite IPO No. \_\_\_\_\_ is affixed herewith for this application.

Please send me information through post.

Thanking you,

Yours Sincerely,

## **RTI Questionnaire filed with Women and Child Development Department (Annexure-6)**

To,

Date: \_\_\_\_\_

Public Information Officer  
District Program Officer  
Women and Child Development Department

**Sub: Seeking information under Right to Information Act, 2005 of the following for the  
Year April 2013 to March 2016**

Dear Ma'm/Sir,

I request you to provide me with the following information under Right to Information Act, 2005.

1. Is there any local complaints committee formed in each districts to take up cases of sexual harassment at workplace faced by women working in unorganized employment in accordance to Section 6 of Sexual Harassment (Prevention, Regulation and Redressal) at Workplace Act (SHW), 2013.
2. If yes please provide details of the local complaints committees (LCCs) formed in each districts along with the names and contact details of the chairpersons and other constituting members of the committee?
3. How many complaints have been filed with the local complaints committees in each district from 2014 till date? Please provide data for each district.
4. Is there any district officer appointed in each district in accordance to Section 5 of the Sexual Harassment (Prevention, Regulation and Redressal) at Workplace Act, 2013. If yes,

please provide details of district officers in each district.

5. Have the LCC members in each of the districts undergone training on SHW Act and its provisions to execute their duties in accordance to the mandate of the Act? If yes, how many times a year and by whom such trainings are being conducted? Please provide details of the pattern and module adopted /developed for training.
6. Are the Nodal Officers as mandated under Section 6(2) of the Act been appointed in the blocks? Provide details of such appointments of Nodal officer and their role of connecting communities to the LCCs.
7. How many complaints have the nodal officers received and forwarded to the concerned LCC from 2014 till date? Please provide the data district wise?
8. In how many cases, action has been taken by the district officers under the Act based on submission and recommendation of the LCC? Please provide the data district-wise from 2014 till date.
9. Please provide a district wise list of NGOs who are working on the issue of Sexual harassment at workplace and also provide details of their role and responsibility.
10. What are the measures taken for awareness generation on the SHW Act in the district? Provide details of Information, Education Communication (IEC) materials available in Hindi or any other languages on Sexual harassment?
11. Has the appropriate government created women helpline /toll free number to access for protection and if yes, please provide the contact number and other details.
12. Please provide copies of annual report submitted by the District Office to the appropriate authorities in accordance to Section 21 of the Act from 2014 till date.

The requisite IPO no. \_\_\_\_\_ is affixed herewith for this application.

Please send me information through post.

Thanking you,

Yours Sincerely,







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