

POLICY BRIEF

Recommendations for strengthening and effective implementation of the Sexual Harassment of Women at Workplace (Prevention, Prohibition, Redressal) Act, 2013 for Women Domestic Workers



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Published by:

Martha Farrell Foundation

January 2024



Background

Sexual harassment at the workplace constitutes a grave violation of a working individual's fundamental constitutional rights and principles. It compromises the safety, dignity, and, autonomy of women, erodes the quality of their professional lives, and perpetuates systemic gender discrimination. Such acts directly contravene the guarantees of equality enshrined under Articles 14 and 15 of the Constitution of India, as well as the Right to life and dignity protected under Article 21. Additionally, it infringes upon a woman's constitutionally recognised Right to pursue any profession, trade, or occupation under Article 19(1)(g), which inherently encompasses the right to a work environment free from harassment, intimidation, and discrimination. The pervasive nature of workplace harassment not only undermines gender equality but also subverts the rule of law by failing to uphold the principles of justice, fairness, and equal opportunity.

The protection against sexual harassment and the right to work with dignity are universally acknowledged as fundamental human rights, recognised through various international conventions and legal instruments. In India, the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 (SHW Act), along with its accompanying Rules, was enacted and came into effect on 9 December, 2013, to address this issue comprehensively and provide a framework for its prevention, prohibition, and redressal.

The SHW Act ensures a safe, secure, and enabling environment for every woman regardless of their age or employment status, protecting them from all forms of sexual harassment. It places the responsibility on employers to provide a safe workplace, including protection from individuals coming into contact at the workplace. Additionally, it mandates the District Officer (DO) of every district to implement measures to raise awareness about sexual harassment and women's rights.

The employer's responsibilities for preventing sexual harassment in the workplace are explicitly laid down under Section 19 in the SHW Act, as detailed below:

- Display penal consequences of sexual harassment.
- Display information about the Internal Committee (IC).
- Organise workshops and awareness programmes at regular intervals for sensitising the employees with the provisions of the Act.
- Organise orientation programmes for the members of the IC
- Treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct.
- Formulate and widely disseminate an internal policy for prohibition, prevention and redressal of sexual harassment at the workplace.

In addition to the above, the Act also places responsibility on:

A) The “Appropriate Government” to:

- Develop relevant information, education, communication and training materials to advance the understanding of the public of the provisions of the Act.
- Formulate orientation and training programmes for the members of the Local Committee (LC).

B) The DO to:

- Take such measures as may be necessary for engaging non-governmental organisations for creation of awareness on sexual harassment and the rights of the women.

Context

Sexual harassment of women workers in myriad forms is pervasive in informal workplaces. It is one of the most under-reported and invisible forms of violence. The SHW Act includes in its ambit workers working both in the organised and the unorganised sector. It mandates the constitution of a LC at the district level for prevention, prohibition and redressal of sexual harassment. The constitution of LC and its effective functioning is of particular relevance for the workers working in the informal sector.

A domestic worker leader working with the Martha Farrell Foundation was quoted in the Human Rights Watch report of 2020 on the poor enforcement of the anti-sexual harassment law in India. saying, "For women like me, what is #MeToo? Poverty and stigma mean we can never speak out. There is no place safe for women like us, not our workplaces, nor our homes, and not the road we take." ¹

Initiatives led by Women Domestic Workers (WDWs) and the Martha Farrell Foundation (MFF) in 2018 helped activate LCs in Delhi. However, a study conducted by MFF in April 2022 found that only 6 LCs were functional. Findings from another survey conducted by MFF and WDWs in 2024 with 817 WDWs, along with findings from ongoing interactions with LC members over the Initiatives led by Women Domestic Workers (WDWs) and the Martha Farrell Foundation (MFF) in 2018 helped activate LCs in Delhi.

¹ “No #Me Too for Women Like Us” Poor enforcement of India’s Sexual Harassment Law; Human Rights Watch, October 2020

However, a study conducted by MFF in April 2022 found that only 6 LCs were functional. Findings from another survey conducted by MFF and WDWs in 2024 with 817 WDWs, along with findings from ongoing interactions with LC members over the past year, highlights the pressing need for renewed efforts. In 2024, MFF organised a state-level consultation aimed at addressing these persistent challenges and strengthening institutional responses for the effective implementation of the SHW Act in Delhi. This policy brief provides key recommendations for effective implementation of the SHW Act for LCs and WDWs. They are based on findings from these studies along with recommendations and insights from previous state and national-level consultations held in 2018 and 2019, and the most recent consultation in 2024.

Challenges

1. Awareness about the SHW Act

The SHW Act mandates the "Appropriate Government" to notify a DO for every district to take necessary steps to raise awareness about sexual harassment and the rights of women.² It also requires the "Appropriate Government" to organise public awareness programmes on the provisions of the Act.³ However, awareness about the SHW Act remains low among WDWs, police, employers, Residential Welfare Associations (RWAs), and district administration. A 2021 study by MFF, involving 1,937 WDWs in Delhi-NCR, found that 92% were unaware of LCs formed under the SHW Act. The survey in 2023 found that, despite having access to information about the LCs, 90% of WDWs were unsure and hesitant about reporting complaints to these committees.

2. Grievance redressal

A. Filing of complaint: WDWs have the right to file a complaint of sexual harassment under the SHW Act. This can be understood from:

- Section 2 (a) (ii) which states that an aggrieved woman under the law can be “in relation to dwelling place or house a woman of any age who is employed in such a dwelling place or house”.

² Under Section 20 of the SHW Act: “Duties and powers of District Officer”

³ Under Section 24 of the SHW Act: “Appropriate Government to take measures to publicise the Act”

- Section 2 (e) specifically defines “domestic worker” as a woman who is employed to do the household work in any household for remuneration whether in cash or kind, either directly or through any agency on a temporary, permanent, part time or full-time basis, but does not include any member of the family of the employer.
- Section 2 (g) (iv) mentions that “in relation to a dwelling place or house, a person or a household who employs or benefits from the employment of domestic worker, irrespective of the number, time period or type of such worker employed, or the nature of the employment or activities performed by the domestic worker”.
- Section 6 (1) of the Act which states that the DO shall constitute a LC to receive complaints of sexual harassment.
- Section 11(1) of the Act which states that the LC has to forward a complaint of sexual harassment received from a domestic worker to the police within seven days of filing.

However, based on the experiences of WDWs several barriers prevent them from doing so. These include:

- Lack of information about the nodal officer and LC, and their location.
- Commuting to the office of the DO is both expensive and time-consuming for WDWs, often resulting in loss of daily wages.
- There is a possibility that LC members may not be physically present at the office of the DO, as they are not employees of the District Office.
- There is a looming fear of losing their job, further harassment by employers, and lack of transparency and trust in the process, which creates apprehensions to file complaints.
- Upon notification that their complaint will be forwarded by the LC to the police for registering a case under Section 509 of the Indian Penal Code (Section 79 of the Bharatiya Nyaya Sanhita), WDWs often experience apprehension and fear regarding potential police action or apathy towards them.
- There also seems to be a lack of an established protocol at the District Office for receiving such complaints. For instance, one of the WDWs associated with MFF shared that when she visited the office, the guard did not allow her entry and instead told her to leave her complaint with him to forward to the relevant office. This reflects the absence of a formal and structured process for handling complaints.

⁴ Under section 6(2) of the SHW Act, 2013: “ Constitution and jurisdiction of Local Committee”

B. Accessibility of nodal officers: The SHW Act mandates every DO to designate one nodal officer in every block, taluka and tehsil in rural or tribal area and ward or municipality in urban areas to receive and forward complaints to the LC within a period of seven days⁴. However, as observed in Delhi, officials such as the Tehsildar and Sub-Divisional Magistrates (SDMs) from various district departments have been designated as nodal officers. Since these officers are not specifically appointed for this role and are stationed at district levels in Delhi rather than at the municipality or ward level as outlined in the Act, they are largely inaccessible to WDWs.

C. Interim relief: The SHW Act under section 12(1) provides that on written request of an aggrieved, the IC or the LC may recommend employers to provide the following interim relief, amongst others, to the aggrieved during the pendency of the inquiry: (a) transfer the aggrieved woman or the respondent to any other workplace or (b) grant leave to the aggrieved woman up to a period of three months. However, the implementation of this provision faces several challenges:

1. Upon an examination of the SHW Act, it appears that the LC is primarily mandated to forward complaints from WDWs to the police within a period of seven days, provided a prima facie case is established. This raises ambiguity regarding the LC's authority to resolve matters through conciliation.
2. Domestic workers often work in multiple households. If an incident occurs in one household, applying the interim relief provisions becomes complex.
3. For domestic workers, since the employers themselves are the respondents, it becomes unclear how interim relief can be practically enforced.

D. Conciliation or enquiry: Under the SHW Act, Section 10 allows for conciliation between the aggrieved and the respondent without monetary settlement. Additionally, Section 11(1) mandates that if interim relief terms are not complied with, the LC shall forward the case to the police. However, the process for implementing this in the case of WDWs remains ambiguous. According to Section 11(1) of the SHW Act, the LC is mandated to transfer the case to the police within seven days of receiving the complaint. This raises the question of “when” the conciliation process, as outlined in Section 10 of the Act, will occur. The current framework does not provide clear guidelines on this matter, leading to uncertainty.

⁵ The Tehsildar and Naib Tehsildar are key officers in the revenue administration, primarily responsible for overseeing and managing revenue collection within their respective jurisdictions.

⁶ Under Section 12 of the SHW Act: “Action during pendency of inquiry”

E. Time-bound justice: Section 11 (4) guarantees time-bound justice of ninety days. However, in the case of a domestic worker, the complaint is forwarded by the LC to the police with directions to file a case under Section 509 of the IPC. This essentially deprives the WDWs' of the right to time-bound provisions as assured under the SHW Act. The protracted duration required to achieve justice under criminal matters often limits WDWs from filing a complaint.

F. Confidentiality: The SHW Act under Section 16 guarantees confidentiality by prohibiting publication or making known, contents of complaint and inquiry proceedings. However in the case of a domestic worker, as the case is forwarded to the police by the LC, it is unclear how this right is going to be upheld.

G. Local Committee (LC): To ensure that LCs formed under the SHW Act can efficiently fulfil their responsibilities, the Act under Section 19 (d) mandates the DO to provide the necessary resources for LCs to handle complaints and conduct inquiries.⁷ The Act under Section 7 (4) also entitles LC members to receive fees or allowances for holding proceedings.⁸ There is significant ambiguity on the role of LC when dealing with complaints of sexual harassment from WDWs.

However, discussions with LC members during fieldwork and consultation held with LCs in 2024, highlighted significant challenges. LCs across Delhi face a lack of office space, untimely and non-payment of fees or allowance and lack of capacity building on the SWH Act and sexual harassment issues. Based on these challenges and practical experiences, the following policy recommendations are proposed for the Union Government and DO to strengthen grievance redressal mechanisms for WDWs:

⁷ Under Section 19 (d) of the SHW Act: "Duties of employer"

⁸ Under Section 7(4) of the SHW Act: "Composition, tenure and other terms and conditions of Local Committee"



Key recommendations

Prevention and prohibition

1) Awareness: The DO to launch awareness campaigns periodically in their Districts on sexual harassment and redressal mechanisms for WDWs through different mediums like nukkad nataks, wall paintings at Anganwadi centres, posters at one-stop centres, bus and metro stations, and other public spaces.

2) Employer awareness: DOs to collaborate with NGOs and RWAs to conduct awareness sessions for WDWs and employers. RWAs must display posters and share helpline numbers of the DO and LCs in residential societies.

3) Publicising LC details: DOs to display the names and contact details, room numbers etc. of LC members as well as the nodal officers in district offices, bus stations, metro stations, and public spaces, as well as on district websites in multiple languages.

4) Nodal officers:

- The DO should designate nodal officers in municipalities to ensure every ward has a designated nodal officer who is accessible to any WDW who wishes to file a complaint of sexual harassment with the LC.
- The role of the nodal officer should be expanded to include responsibilities for raising awareness and sharing information about the SHW Act and LCs.
- The DO should publicise information about nodal officers and how they may be contacted in all regional languages through various channels to enhance accessibility for domestic workers.

5) Engage Anganwadi workers: The DO should engage Anganwadi workers because of their access to every household in the community for door-to-door campaigns to inform domestic workers about LCs and their roles.

Redressal

1) Filing complaints: Women helpline numbers such as “181” should also make available information about DO and the LC under the SHW Act. Accordingly, capacities of people managing such helpline numbers to be built. Such initiative to be replicated across women’s shelters/ NCW/ SCW/ NHRC/ Women’s cell in the police stations/ Legal Aid centres/ SHe-Box/ etc. throughout the country.

2) Interim relief: Develop clear guidelines and enforcement mechanisms to address challenges in implementing interim relief provisions for domestic workers. Specify the authority responsible for granting relief (e.g. LCs or DO) and outline the timeline and process.

3) Timely inquiry: To ensure timely completion of enquiry in case of a WDW, the ex-officio member of the LC can be made responsible for coordinating with the police to ensure timely completion of the enquiry.

4) Infrastructure support for LCs: Provide office/ meeting spaces, storage facilities, and essential technology to the LC for their effective functioning.

5) Allowances for LC members: Ensure regular payment of allowances, travel expenses, and other costs associated with holding LC proceedings as per section 5 of the SHW Act Rules, 2013.

6) Amending rules to operationalise Section 26: Designate an authority to collect penalties from workplaces which are in non-compliance under the SHW Act, as suggested by the Supreme Court in *Initiatives For Inclusion Foundation v. Union of India (2023)*. The collected fines can fund the costs towards the effective functioning of LCs as well as organising awareness programmes in the district.

7) Standard operating procedures (SOPs): Develop SOPs to establish regular LC meetings, designate specific days for hearings, and streamline the complaint acceptance process through nodal officers.

8) Capacity-building: The DOs, LCs and nodal officers should be trained on their responsibilities under the SHW Act as directed in the Supreme Court in *Initiatives For Inclusion Foundation v. Union of India (2023)*.



Conclusion

The effective implementation of the SHW Act for WDWs remains an urgent and critical issue. Despite the legal provisions intended to safeguard women from sexual harassment, numerous challenges persist. For WDWs, these challenges are compounded by a lack of awareness, barriers to accessing grievance redressal mechanisms, and systemic inefficiencies within the LCs.

The findings from the studies done by MFF highlight the deep-seated obstacles WDWs face, such as ignorance about their rights, fear of retaliation, and logistical hurdles in filing complaints. The current state of the grievance redressal system, especially in Delhi, underscores the necessity of urgent reforms. These women, who are often at the margins of society and the protection offered by the law, need more than just legal provisions; they require a system that is accessible, sensitive, and responsive to their unique challenges.

The proposed recommendations for strengthening the institutional mechanisms including better awareness campaigns, the establishment of accessible nodal officers, a clearer mechanism for interim relief, and improved infrastructure and allowances for LCs are essential for ensuring that the SHW Act functions effectively. It is crucial that stakeholders including the employers, Union Government and DO take responsibility for implementing these reforms, providing sufficient resources, and creating a supportive environment for WDWs to exercise their rights without fear or hindrance.

The path forward requires comprehensive, collaborative action to strengthen the institutional mechanisms that enforce the SHW Act. This will not only improve the safety and dignity of WDWs but also pave the way for broader societal change, promoting gender equality and ensuring that no woman is denied her fundamental rights due to her employment status or the environment in which she works. Only with these efforts can we create a truly safe, fair, and just working environment for WDWs in India.

About the Foundation

Established in 2016, the Martha Farrell Foundation (MFF) is committed to creating a gender-just society by eliminating sexual and gender-based violence. We believe that all individuals, communities, and institutions have the will and ability to facilitate change and invest in self-empowerment and growth.

To this end, MFF's programmes integrate holistic, participatory approaches to foster safe, empowering spaces where every individual can learn and work safely without the fear of sexual and gender-based violence or discrimination. Our initiatives are designed to work in harmony on three levels - individual, community, and policy - engaging diverse stakeholders to enable meaningful change.

About the #MainBhi programme

Empowering women informal workers to demand for their rights to a safe and harassment-free workplace and hold their employers and government institutions accountable

The right to a safe and harassment-free workplace is a right for all women, as noted in the Sexual Harassment of Women at Workplace (Prevention, Prohibition, Redressal) Act 2013 (SHW Act). Understanding that a majority of Indian women are employed in the informal sector, the Act also covers informal workers, including domestic workers.

Women informal workers experience sexual and gender-based violence in every sphere - private, professional, and public. Economic instability, a culture of patriarchy, and the fear of backlash from family and community prevent them from speaking about it, seeking justice, or taking action.

Martha Farrell Foundation's Making Workplaces Safe programme is one of the few programmes in the country focused on countering sexual and gender-based violence in the world of work of women informal workers. Given their contextual challenges, this programme has been co-designed with informal worker partners, and is being implemented with and by them.



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