

National Level Consultative Workshop on the Implementation of the Sexual Harassment at Workplace Act 2013 for Domestic Workers in India



Place: PRIA Head Office and Constitution Club of India

Date: 26th and 27th July

Preface

Although they make up one of the world's most long-standing and widespread workforce, domestic workers are frequently overworked, underpaid, and unprotected. Global estimates have established that domestic workers tend to have lower wages, fewer benefits, and hardly any legal or social protections. Very few domestic workers have labour contracts and have been confined to the informal economy. They usually have no access to pension, provident funds, maternity leave or health care. Since they work behind the closed doors of private households, domestic workers are shielded from public view and attention, and are often hard to reach by conventional policy tools (ILO 2013).

The extremely invisible and privatized nature of domestic work also makes domestic workers very vulnerable to sexual harassment at workplace (SHW). Their lack of education, low awareness about the law, fear of loss of livelihood and stigma associated with the issue exacerbates their vulnerability, deterring them from reporting this violence. Also, lack of adequate redressal mechanism, continued indifference from policy-makers, employers and trade unions further obscures the sexual harassment of domestic workers at their workplaces.

Ending Sexual Harassment: Making Institutions Accountable towards Women Workers in the Informal Sector is a collaborative effort of the Martha Farrell Foundation (MFF), PRIA and Embassy of Netherlands in India. It aims to enable safe, secure and dignified workplaces for women domestic workers. For the past three years, the project has been working with domestic workers in Gurgaon, Faridabad and South Delhi to collectivize them and build their capacities around the issue of sexual harassment at workplace. The work has also been focusing on strengthening redressal mechanisms and preventive measures, where it has been working closely with District Administration, unions and civil society organizations to mainstream the issues of sexual harassment of domestic workers.

This National Level Consultative Workshop on the Implementation of the Sexual Harassment at Workplace Act 2013 for Domestic Workers in India is organised as part of the project. It aims to understand the status of implementation of Sexual Harassment of Women at Workplace Act, 2013 in various states of India, various challenges towards its effective implementation and bring out best practices to overcome these challenges to ensure meaningful country-wide compliance of the law. It is envisaged that the proposed consultation will bring together a country-wide multi-stakeholder dialogue for enabling safe and dignified workplaces for women workers in the informal sector through policy reforms and implementation of the 2013 law.

Day 1

Dr. Tandon (Founder-President, PRIA) welcomed the audience to the conference. The short-film, “Dignity of my Labour” introduced the agenda of the conference to the audience in an audio-visual format. It speaks about how despite the passing of the Sexual Harassment at Workplace Act of 2013, domestic workers in houses all over India remained at the mercy of their employers, choosing to repress acts of harassment rather than acting against it. This is compounded by the lack of Local Committees which have been constituted, despite the act stipulating it as so.

“Domestic work remains one of the most unrecognised, vulnerable and insecure occupations in India.” began Dr. Tandon. He went on to add how despite being such a vital cog in the Indian household, being a domestic worker remained a thankless job, with little to no job security and a lack of recognition of the role they play in helping large populations in India function on a daily basis. He especially found it interesting how on the one hand, feminism and women's issues seem to be receiving an increasing amount of attention, whether on social media or in real life. But on the other hand, the number of women withdrawing from the labour force seems to have increased, with numbers lower than they were six years ago. The main reason for this is due to the underlying issue of the feeling of being unsafe that women face, from the moment they step into the world outside their homes. This is not just a women's issue, but everybody's issue

Ms. Nandita Pradhan (Director-Operations, Martha Farrell Foundation) introduced herself as well as the aim of the national-level consultative workshop. This conference is designed to promote discussion on the issue, the various definitions under the act, and what we can do to fight the rising issue of sexual harassment at workplace.

Invisibility of the workplace, lack of boundaries to clearly define what the workplace, etc. are some of the points of contention which need to be discussed. Despite it being six years since the Act was passed, a discussion on the Act itself has not taken place at a national level.

With this context in mind, this national-level workshop and conference was convened, which would act as a national call for action, to inspire women who may not have the benefit of social media, to provide confidence to the unorganised workers and domestic workers who form 94% of the female workforce, to rise up in one voice and demand better working conditions and more importantly, safer workplaces. After a round of introductions, we became aware of the diversity of the audience, as people from different parts of the country (Kerala, Telangana,

Haryana etc.) as well as other nationalities (Tibetan), had come together to bring up and discuss this important issue.

The first point of discussion was of course, the Act itself. How is the domestic worker situated in the sexual harassment at workplace act? Sexual harassment is a violation of fundamental human rights guaranteed by the constitution of India. The definitions of an aggrieved woman, an employee, an employer were mentioned, which highlighted the wideness of the ambit of the definitions as per the Act. The definitions have been framed in such a manner that they are designed to cover most employer-employee relationships, except that of a domestic worker-household. This seems to be paradoxical but the act was also one of the few laws in India to properly outline what characteristics are shared by domestic workers. Furthermore, the definition of a workplace is what makes the Act so powerful, as it tries to cover every part of what we consider the “world of work”. Whether it is the route that one takes on the way to work or any place that one has to attend for work, these are all workplaces.

First Discussion Session



Ms. Nandita continued by giving us insight on the importance of sexual harassment being discussed and indeed deliberated upon as a “women’s issue” and not as a “labour issue”. Despite the Vishakha guidelines mentioning the importance of it as a labour problem and indeed,

stipulating the Labour Commissioner to handle issues related to it, the Act of 2013 is still handled by the Women and Child Department of state and central governments. The Act has been completely taken out of the ambit of the responsibilities accorded to the labour commissioner, who is not involved with dealing with sexual harassment issues in India.

This in a way undermines the importance of the issue and the debilitating effect sexual harassment has, not just on the aggrieved woman, but on the workplace environment as well. This short discussion was followed by much larger focussed group discussions as the audience was divided into various groups to discuss these definitions and how they can be improved to better counter the issue and strengthen action against it.

The recommendations made by each group are as follows:

Group 1

During the initial discussion, the participants said that the aggrieved person in the Act was a woman, but it does not talk about other genders or identities in the Act. Men who also work as domestic workers are completely ignored because it is assumed that they cannot/aren't sexually harassed.

The act mentions that domestic workers are those workers who do domestic work inside an employer's homes, such as cleaning, washing clothes & dishes, mopping, etc. However, over the years, the area of work has significantly expanded and includes other responsibilities such as child rearing, running errands, driving, ironing clothes and gardening. Most of the time, the domestic workers are not compensated for these extra responsibilities as it is considered part of their routine work. The working hours usually range from a few hours, to half day to full time.

The discussions then focused on defining the workplace, as the Act does provide a range of examples which could be termed as a workplace for domestic workers, such as the apartment building, roads that leads to workplace, institution, etc. However, this definition is not very clear to an educated person, let alone domestic workers. Since the area of domestic work has expanded over the years, even an ironing lady should be seen as domestic help as she is ironing clothes for a household in exchange of money. She is providing her services by collecting the washed clothes, and delivering them once they are ironed. The same explanation can also be provided for the female gardener, female cook, female ayah (nurse) etc.

Basic remuneration, working hours, working conditions and punishment for the aggressor is also not clearly mentioned in the Act. This has also not mentioned that what relief/compensation will be given to the aggrieved (especially domestic workers), and whether the compensation should be given by the employer or the governing body in question. These are issues which need to be clarified for the Act to progress

Group 2

The group had the following recommendations:

- *a person who performs domestic work only occasionally or sporadically and not on an occupational basis is not a domestic worker* – point C, Article 1, 189 ILO Convention.

It was discussed that the above statement is not correct and should be removed from the definition. Same respect and consideration should be given to occasional domestic work also, whether that person is doing domestic work for full time, part-time, 1 day or 1 hour. Work is work and should be respected.

- Sometimes, a girl loses her family due to any reason. The relatives and extended family usually takes the responsibility of that girl and brings her to their home. They promise to give her education and other basic amenities but do not really fulfil it. That girl is forced to do all household chores without being paid for it. She also restricted to move out of the house and often harassed sexually, mentally and physically by these relatives. It was discussed that these type of girls should be considered as domestic workers and should be given all the perks/allowances as a normal domestic worker.
- Live-in domestic workers are mostly children between the ages of 14-17, therefore it was suggested that there should be a separate section in the act which specially talks about the child domestic work. The section should also detail out everything about child domestic worker including offences, punishments and penalties for various crimes against these children.
- The definition of workplace in the act should not be confined just to four walls of the employer's house. It should also start talking about the world of work as described in the article 3 of 190 ILO Convention.

Group 3

The first question for discussion was whether or not the definition of domestic worker was appropriate as it is given in the Act. The group deliberated on the nuances of the definition. There was a rigorous debate over the difference in the meaning of part time and full time workers. A domestic worker who was part of the group pointed out that from her perspective working one hour each in eight households per day meant working full time. But from the

perspective of the employer of one those eight households she was just a part time worker as she only came to his house for one hour per day. Another point of view was if a worker worked in only one household throughout the day, then she was a full time worker while if she worked four to five hours a day in different households she was a part time worker. The meaning of the two phrases varied a lot.

A point of consensus for the group was on the inclusion of the category of a “live-in worker” in the definition of domestic worker. It would include those workers who live in the accommodation provided by the employer, either attached to his/her house as a servant’s quarter or separate from it. These workers, the group believed, were even more susceptible to harassment at the workplace.

The next point of discussion was what was included in domestic work. Household chores, gardening, child and elderly care, pet care were agreed to but there was a disagreement on the inclusion of nursing and driving in the ambit of domestic work.

The definition of workplace was next under the anvil. The employer’s residence, servant’s quarters, any place the worker goes to in the course of her employment, the colony/ building where the employer’s residence is and the daily commute to and fro the worker’s house to the employer’s house. The definition of sexual harassment was also discussed at length and was largely found to be appropriate and inclusive of cases of sexual harassment of the domestic worker.

Group 4

The topic for the discussion was to ponder and discuss, whether the definitions provided in the sexual harassment law are inclusive or not, or it require some changes or it need broader meaning of definition.

The group discussed about the definition of the domestic worker. Some said that the definition of domestic worker should be according to the ILO Convention, which says:” A domestic worker may work full time or part-time basis, may be employed by a single household or by multiple employers; may be residing in the household of the employer (live-in-worker) or may be living in his or her own residence (live out).

Another audience member shared the definition of domestic worker used by her organisation which was “domestic workers are those who work in the house or for the house”. The group highlighted that the SHW Act’s definition of domestic worker does not include child labour. The

age of the aggrieved woman is not specified in the law. They also pointed out the fact that various laws have different definitions concerning womanhood.

They also discussed in length regarding the definition of employer and pointed out that 'not only the person who pays remuneration to domestic worker is her employer but also the family member, relative or whosoever is in the house at that point of time, when domestic worker is working is her employer.

They also talked about the word willingly employed because there are domestic worker who are not willing to work but have to work because of family constraints. Therefore, the group recommended the law must include the word unwillingly in the definition of domestic worker. Furthermore, this law should be seen in conjunction with other laws like labour laws because ultimately it is a labour issue.

Ms Nandita resumed the conversation after lunch, by asking the audience how they would deal with a sexual harassment case, filed either by them or a friend. The audience proceeded to discuss the various obstacles that prevent domestic workers from filing cases against their employers.

Some of the obstacles mentioned were:

- A lot of women are barely aware of the presence of Local Committees,
- Impact of cultural barriers imposed by society which prevent them from getting the confidence to speak out against such behaviour.

Nandita focused the nature of the arguments onto how domestic workers specifically tackle such issues, according to the law. While the act specifies a complaints and redressal mechanism, this is not sufficient to deal with problems unique to domestic workers. Furthermore, domestic workers are not in the ambit of this Act, thus exempting them from officially taking recourse against instances of sexual harassment. Domestic workers cannot be transferred to a different department; neither can they "change their supervisor". While they can file a complaint with the local committee (like any other employee), the lack of a time-enforced mechanism after the LC forwards the case to the police deters women from bringing forward their complaint. The police are also hesitant in filing the case and more often than not, try to deter the complainant from filing the case.

While working with MFF to try to create a better system for domestic workers to file complaints, it was found that the LC was completely inaccessible to people, with no visible

phone numbers. One member of the audience brought up how there was also no system in place to make the employer accountable to domestic workers. While placement agencies are required to register domestic workers to give them opportunities, there are no requirements to register employers. This absolves the employer of responsibility.

Yet another audience member mentioned how if the domestic worker was not satisfied by the conciliatory mechanisms, they had little to no power to do anything about it, other than approach the police (which domestic workers do not want to do) or approach the same LC. After all, why would someone come back to the same legal system which had already disappointed and distressed them? Nandita exhorted the audience to think more about this issue, so that domestic worker-friendly guidelines with respect to sexual harassment could be formulated. Lawyer bro asked the audience to also consider what are the possibilities of providing final relief to domestic workers? As mentioned above, domestic workers are unique, compared to other types of workers. They cannot be shifted out of department or have their supervisor changed.

At this point, the audience was divided into the same groups so that they could discuss possible recommendations which could improve the Act.

Second Discussion Session



Participants presenting their recommendations after the group discussion

The discussion would be based on the following points:

- **Awareness Generation:** How can we raise more awareness among domestic workers regarding the law?
- **Relief:** What type of relief can we offer to the aggrieved domestic worker?
- **Authority:** Who can deliver relief to the domestic workers in a time-bound and efficient manner?

The recommendations made by each group are as follows:

Group 1

Taking from the previous group discussion, the redressal mechanism has a lot of grey areas. It doesn't clearly say what kind of relief will be provided to the aggrieved women and punishment to the aggressor. The groups discussed and came up with a range of recommendation:

- There should be a toll-free number which will provide aid the domestic workers to access help. The toll free number will also explain about the law briefly and the redressal mechanism.
- Anganwadi centres, local police stations, RWAs and hospitals should also be included in the law and they should also be able to provide help to the workers.
- The government must allocate budget for insurance of the domestic workers, relief/compensation for loss of work due to sexual harassment by employer, etc.
- RWA's should also be included as they can oversee the redressal mechanism. For example, if a domestic worker complains that she is harassed by one of the employers in that particular residential area, then no other domestic worker should be placed there until the employer has given a written apology.
- More than one nodal officer should be appointed in one district as the population of districts can vary across states. If the district has a large population, it becomes burdensome for one nodal officer to look out for all the domestic workers in that district.
- More awareness should be spread using media and print media about the law, who are included in the law, redressal mechanism and the contact number of all the IC members.
- In case of a medical emergency, the employer should pay for all medical expenses of the domestic worker. The domestic workers should not be forced to work under unfit conditions and her job must also be secured in that period.
- If a domestic worker is employed by a particular employer/s for a superannuation of 5 years, she should be liable for gratuity.

Group 2

The group had an interesting discussion which had the following recommendations:

- Constitution of sub-committees of the Local Committees at block, taluka or tehsil level so that the more information is shared with more people.
- Appoint representatives from the unorganized sector in these committees so that their voices are heard.
- Nodal officers should be the link between sub committees and LC.
- The flow of information should be from CDPO –to- Anganwadi workers –to- Community.
- LCs should have statutory power to support women domestic workers. On completion of the enquiry/investigation, Local Committees should be able to impose penalties (financially or otherwise) on the employer of the domestic worker.
- The law already provisions States to make rules for the implementation of the Act. The Central government must ensure that all States have made adequate rules under the Act which suit the individual needs and peculiarities of the female domestic worker in that state.

Group 3

The Act says that on receipt of a complaint from a domestic worker, the local committee shall transfer the complaint to the police within 7 days for further registration of case under Section 509 and other relevant sections of the Indian Penal Code. In this instance, the local committee should adopt the same procedure for inquiry and redressal for domestic workers as it adopts for complaints of other female employees under the Act.

The group also discussed at length the compensation that should be provided to the victim of sexual harassment. They suggested that there should be a government reserve fund from which these compensations should be paid out or the concerned resident welfare association (RWA) should be responsible for it.

The group also said that the Local Committee should have more punitive powers with regards to punishing the accused in case of sexual harassment of a domestic worker. It was suggested, for instance, that the LC should have power to give an order that no domestic work service be given to that particular household where the incident has taken place.

Group 4

In session 2, the group particularly discussed about how to create awareness among domestic workers for filing complaints & how functioning of local committee can be made more effective.

The group put forward the idea that we can follow the same model for sensitisation as used by ASHA workers for sensitisation. They also said that women and child development ministry (WCD) can collaborate with the labour welfare department for awareness generation and strengthening of local committee. Additionally, at block level, there should be a sub-committee of the LC so that it could be more accessible for women to file a complaint. They also talked about continuous monitoring and evaluation of the local committee regarding its complaint redressal mechanism. Group also said that, for relief of the victim, there should be compensation in the form of salary.

They also said that Residential welfare association (RWA) or some other union must be the authority for creating awareness among domestic workers.

After all of the groups presented their recommendations, Ms. Nandita introduced the next speaker to address the participants of the conference, Mr. Amod Kanth who is the chairperson of DWSSC (Domestic Workers Sector Skill Council).



Mr. Kanth addressing the participants

He began by discussing the importance of domestic workers in our daily lives. He said, “Domestic workers are an integral part of our life, yet they do not have a government sponsored organisation. In India, if the government is not aware of you, it does not recognise you, and then,

it becomes really hard to take any action to improve your situation and change the pre-existing conditions.” “The need for domestic workers to be represented across India,” said Mr. Kanth “was extremely urgent.” According to the government of India, there were around two crore domestic workers in India, out of which 90% were women. These large numbers make them an important part of society which needs representation. “This tendency is”, Mr. Kanth said, “what contributes towards making this a ‘weird sector’ where there is the presence of a very large workforce, yet there is little to no representation of their needs and demands.”

He goes on to give the example of Filipino domestic workers who are known worldwide for being able to provide domestic work services across the world. They have representation and they have the power to make demands. Why? It is because of their efficiency and their desire to do work, making them trustworthy and indispensable. They treat unskilled work as skilled work and as a result, their focus makes them very valuable, making them able to make and fulfil the demands they make to their employers.

According to Mr. Kanth, the domestic worker sector is worthy of our concern due to the following reasons:

- It is one of the fastest growing sectors of employment in India
- It is unique because in most households, both the employer (housewife) and the employee are part of the unorganised sector

The Domestic worker sector also has several issues which make them vulnerable to poor working conditions and treatment:

- Domestic workers are generally migrants
- They are women which exposes them to the risks of being trafficked or physical and sexual exploitation
- The nature of the work is limited to the private space of the household
- Most of the domestic workers belong to backward castes or SC/ST categories, adding the element of potential caste discrimination as well

This is why; the ILO (along with Mr. Kanth) took the initiative of creating the DWSSC to ensure representation of DWs at an international, national and local level. The problem for Indian domestic workers was of specialisation. Their work, while being undoubtedly difficult, was treated as unskilled work (which could be done by anyone). The reasons for this perception are manifold, but the truth is that there is as much skill in doing household chores as there is for other tasks. Therefore, by tying up with academic institutions and open universities; DWSSC helps provide certification and specialisation in a certain course of work such as cooking,

general housekeeping, child caretaker etc. This sense of legitimacy is something that improves pay, improves working conditions and most importantly restores a sense of respect to the profession. DWSSC also organises training camps and partners with training centres and then helps in the placement of these workers with their industry partners. All of this is provided free of cost.

DWSSC has also helped prepare a draft national policy on domestic workers, where they are fighting for domestic workers to be:

- Included in existing labour legislation
- Able to form unions and associations
- Able to seek rights to fair employment, social protection and labour welfare
- Avail protection if they seek to work abroad
- Right to skill development

This was the conclusion of Day 1, as the participants expectantly looked forward to the proceedings of the second day of the National Level Workshop on the Implementation of the Sexual Harassment at Workplace Act (2013) for Domestic Workers in India.

Day 2

For the last one and a half years, PRIA and MFF have worked with the government as well as domestic workers and local committees to combat sexual harassment at workplace. Yesterday, we spoke about issues regarding SW with DW and tried to understand the characteristics of the law as well as to suggest recommendations. Day 2 was based around creating an actionable list of recommendations which will not only improve the Act but also the enforcement mechanisms related to the Act.

Ms. Nandita Pradhan:

Yesterday was an interesting discussion where we looked at this law, which defines who a domestic worker is, but there is a passage in the bare act, where it says domestic workers are not applicable under this law. Where is the domestic worker situated in this act? We tried understanding the role of the domestic worker and their issues as well (such as understanding the role of the employer), but this raises equally difficult questions. How can the employer be held responsible? How can the workplace be better defined?

The second half discussed the redressal mechanisms. For domestic workers, the redressal mechanism is just the local committee, but they are requested to forward this complaint to the police, where further action *may* be taken. The entire point of the LC is to deal with complaints in a time-bound manner, and swift action to be taken. It is apparent that according to the Act, rules which apply to other workers do not seem to apply to domestic workers. We have experienced panellists today who will share their perspective on what the situation is currently, and how we can proceed forward.



From L to R: Dr. Bharti Sharma, Ms. Nandita Pradhan, Ms. Sonia George and Dr. Ellina Samantroy

The panellists were introduced as follows:

- Dr. Bharti Sharma (Former chairperson, South-East Delhi Local Committee)
- Sonia George (Secretary, Self-Employed Women's Association Kerala)
- Dr. Ellina Samantroy (Fellow and Coordinator - Centre for Gender and Labour at V.V. Giri National Labour Institute)

Dr. Bharti Sharma:

The way this issue is being talked about and the length of discussions shows the clarity required for this issue. Who is a domestic worker? What is a workplace? What do these terms mean? We know that domestic workers are part of the unorganised sector. We know that it is not one person who is a domestic worker but a huge number of people. We also know that if we remove the domestic workers from the scene, all of the families in India will collapse. If this is the relevance and importance of the domestic worker in our lives today, then why are they not treated with more importance? And this is why, this issue is one that we have to discuss openly, that we have to deliberate and improve their situation. If someone in the organised sector is sexually harassed, they are able to raise their voices and can expect swift action from the Internal Committee. As the former chairperson of the Local Committee of South-East Delhi, I dealt with people who do not have the luxury of an Internal Committee and have no one to turn to raise this issue but the LC. The consequences of bringing up the issue against the employer is

also grave; they may be fired, lose their income, be black-balled in the society they work in, among other consequences. All of these domestic workers, by and large, have been the subject of sexual harassment, either while going to work or working. This law is the only avenue for these individuals to get justice but it does not do enough to safeguard their interests and working conditions.

The aim of the LC is to listen to the complaints of the unorganised sector workers, not only domestic workers but other unorganised workers as well. Where will the DW go for a complaint? The answer is, to the LC. She has to give the complaint in writing, despite usually not being able to read or write. She has to take help to get it written, who will she ask? As literate men and women, we take these things for granted but this is not easy for many people in our country. Whoever brings the complaint, the LC needs to process the complaint and ask the deposition of the complainant before the LC. The respondent will also be called to depose. If the complainant says that there are witnesses, then even they will be called.

How will domestic workers reach the LC? The LC usually sits in the district office, which in itself takes effort to reach out to. It may also be intimidating for someone like a domestic worker to approach a government office regarding a complaint on sexual harassment. This is where the model that the South-east Delhi LC prepared with MFF comes into action. The first step was to include anganwadi workers in the process, who are generally in contact with domestic workers and their children. We asked anganwadi workers to help domestic workers who approach them with problems of sexual harassment, to listen to them and help the domestic worker write the complaint and send it to the CDPO (Child Development Protection Officer, who is her supervisor). Anganwadi workers are like a postman in this regard, not counselling or giving any advice but simply moving the letter from the local office to the district office. Anganwadi workers are already overworked and have a lot of responsibilities, so we do not want to put any more burden on them. The CDPO, similarly to the anganwadi worker, also passes it on to her supervisor (sitting at the district office), who in turn sends it to the LC. None of the people open the envelope except the LC. This model allows the domestic worker to not take holiday from work and eases the burden of the various obstacles prevalent in the current system.

Dr. Ellina Samantroy:

This is a very important issue to talk about and I thank PRIA and MFF for bringing it up. I would like to discuss about as facets of the problem which have not been subject to attention.

The first thing is that when we define domestic workers, we find that they are statistically invisible. This is especially relevant when you are in a country like India where 92% of the workforce is in the informal sector. India is one of the countries where informality is increasing. The second point is the current labour market scenario. In the present scenario, we (at the National Labour Institute) have observed that women in India are predominantly in vulnerable employment. The ILO reports confirm this, as we can see in the 'world employment and social outlook trends for women in South Asia (2019)' which tells us that around 27.6% women are in the labour force in South Asia, as compared to 49% globally. This is very worrying. In India, according to the periodic labour force report, only 24% of women are in the labour force. This shows that women's work is not adequately captured or paid attention to. We need to have improved methodologies to capture all of the work done, within and outside the household, so that we can legally recognise these people and their problems.

Recently, the VV Giri National Labour Institute conducted a study with UNICEF, where we conducted a mapping study on the state of the child workers in India. One of the important conclusions that we came to, was that girl child labour, are a major aspect of the informal sector. We have observed that those who are also dropping out of schools are increasingly being engaged in marginal work inside and outside households, acting as source of income or doing unpaid labour. If you corroborate this with the National Sample Survey report, it presents a very troubling picture. According to the NSS report, majority of girl children between the ages of 5 and 14 had to drop out of school because they had to contribute towards domestic duties. While attending to these duties, they are also vulnerable to the environment within and outside the household.

This is really a big issue which we need to take up. In the national accounting statistics, we need to find a way to include these types of women workers in the methodology. We have seen in the 19th International Conference on Labour Statisticians (2013) where there were recommendations on the same and we need to recognize and include that in our studies and reports. The best way is to do a "time-use survey", which shows how many hours they are contributing in each household. The minimum wage regulations are applicable to domestic workers only in 6 states, and states have to do more to include domestic workers in the schedule of employment, especially since labour is a concurrent subject. The Indian Ministry of Statistics has already started the time-use survey which will not only give domestic workers statistical visibility but will also help assess how many hours these people are working and how many they have to engage in skilling work for personal growth and mobility.

We must also recognise the need to regulate the private placement agencies which give these women opportunities in households, where most of the harassment-related cases originate from. Domestic workers are mostly recruited from these agencies, and are vulnerable to the 'middleman' since they are dependent on them for work.

Coming to the enforcement part, much needs to be done on the front. Domestic workers need to be included in the Rashtriya Swasthya Bima Yojana, which would help give legal recognition to domestic workers but none of the states of India have included them in the RSBY. Massive registration of domestic workers needs to be done in this regard so that they can be brought into the fold.

The Unorganized Workers Social Security Act needs to be stream-lined with respect to enforcement. At the International Labour Convention which was organized in June last month, the role of the labour inspectorate was stressed upon to improve working conditions of women in the informal sector, and esp. domestic work. The 2013 law on Sexual Harassment is under the Women and Child Development ministry for **purely monitoring purposes, and not enforcement**. Post the passing of the convention, we need to work upon developing a stringent enforcement mechanism where powers and duties of the inspector are identified. This legislation needs to be in the arms of not just the Women and Child Welfare Department but also the Labour Ministry. Labour inspectorates become an important cog in this machine and need to be given more power so that the conventions of the act as well as modern labour conventions can be monitored and enforced. If we manage to do these steps, the labour department will be empowered to establish the enforcement mechanism required to combat the issue.

Ms. Sonia George:

We have been looking forward to work with PRIA and MFF on this issue. I think it is high time for us to come together and collaborate to improving the current situation. SEWA was one of the first organisations in India to experience the various issues regarding organising of domestic workers, as we established the first domestic workers union to represent and organise the interests and concerns of domestic workers. It was a huge task, where we collectivised them in terms of work so that they could bargain and form their own demands. SEWA is in 18 states where in almost all states, we have organised them. It was not easy.

The main issue with organising the workers are the uniqueness of their workplace, since their workplaces are our homes, and their employers by that extension, being people like you and me. This makes it difficult to organise them towards any action. Take the example of Kerala, where

despite being considered one of the most labour-progressive states in the country, we are unable to convince labour inspectorates to inspect homes. While the labour inspectors understand the delicate nature of the issue, where somebody's workplace was another person's home, they were willing to investigate the matter and agreed to conduct routine checks. However, there were officials in higher positions (who were themselves "employers") who stopped it within a week. This is the unique issue faced by domestic workers. Since everybody is an employer, nobody wants to get them into their houses to inspect work conditions. We should have a different way to include women workers in these surveys and account for them as labour. The second facet to this issue was how do we approach employers regarding domestic worker issues? An international domestic workers federation was formed where more than 100 organisations are members of the organisations. The My Fair Home Campaign (which was also set up by the same international domestic workers federation) set up guidelines for a "fair home" and asked domestic workers all over the country to ask their employers to sign the guidelines before joining them, highlighting their commitment to providing a safe working environment for their household help. This campaign was successful as we have managed to cover more than one lakh households through this campaign.

In many states we have minimum and less than minimum wage for domestic workers, largely because the schedule for employment does not cover domestic workers in its ambit. The 190th ILO convention will be largely influential in changing this, despite the reticence of the current government to sign the convention (although Indian government did end up being one of the signatories). One of the big achievements of the convention was to define the "world of work" which shows the concern and the regard that the ILO has for improving the working conditions of informal workers, not just in India but across the world.

In conclusion, as organisations working in this space, we need to collectivise the domestic workers and give them confidence to fight for their rights. Blackballing of harassing households is one way of giving them collective bargaining power. It is a small step, but an important one so that one day, in the future, domestic workers in India will be able to make demands to improve their working conditions.

Q&A Session

Dr. Tandon: What is the attitude of labour inspectors?

Dr. Samantroy: This is a very important question. Many of them don't have awareness of the law. One, because it seems to be a labour law, but the monitoring aspect of the issue is with the

WCD ministry, therefore they don't have the responsibility or the necessity to be aware of it. We (at the VV Giri National Labour Institute) are working with the government to organize sensitization sessions on sexual harassment with these labour inspectors when we are conducting our training programs. This sensitisation session is something that we have taken forward to all of our trainings, because it is an issue which applies to everyone: people from civil society, scholars etc. It is interesting to mention that experienced labour inspectors who are familiar with the law, however, have mentioned that their enforcement capabilities are very restricted. Firstly they feel that it is a labour law and needs an enforcement mechanism, like any other labour law. They have also given suggestions on how this can be done. Talks have been constructive and they are very interested to learn more and give suggestions.

Dr. Tandon: What is the attitude of your fellow LC members (government officials) towards the issue?

Ms. Sharma: It is a very important question, which is why it is necessary to understand what the position of the LC is. According to the act, the LC has a status similar to a civil court which makes it a very important and vital position. But the implementation is very tardy.

A large part of the reason is because the District Magistrate (DM) has not been made aware of the importance of the LC, especially for informal sector workers. There needs to be training of the DMs who are the nodal officers so that they can understand the gravity of the situation. This reminds me of one incident that we had, while I was chairperson of the south-east Delhi LC. We (the LC) raised an issue, that there were so many industries and institutions in SE Delhi, so it is important that this particular district should have data about the number of ICs (Internal Committees) in the district. Rather than allocating resources to obtain the data, the DM told us, "aap log door-to-door jake pata laga lena" (why don't you go door-to-door and find it out yourselves?). This is the attitude of the DM.

The LC comes at the lowest rung of importance for government officials. There need to be many awareness programs, to include the informal sector workers, as mandated by the act. They need to know that they too have a place, where they can go if they face sexual harassment. This awareness has to be built. There is also no money for the issue. Raising awareness requires money for transportation, logistics, IEC materials etc. Therefore, this law, in itself has to allocate funds.

These tendencies are directly reflected in the number of cases which the LC has reviewed. Over the past year, we have received five cases from women in the organized sector and just one from the unorganized sector. Additionally the one complaint we received was from a person

who was not strictly from the unorganized sector. She was more aware than the usual informal sector worker.

We are making attempts to change this, but without the support of bureaucrats, that is all it will be, an attempt. There needs to be willingness from government officials to change and enforce this law as it should be enforced. Otherwise, the LC by itself cannot do much.

Dr. Tandon: How do we get domestic work recognized as work?

Ms. Sonia George: Yesterday, we heard about the National Policy for domestic workers. This must be the 8th or 9th draft, and I don't know what is going to come of this as well. It has not been passed yet and it points towards the same situation that we discussed earlier, where we noticed that most of the people sitting in the cabinet are themselves employers. So to draft a fair policy that concerns them directly (the employers), is going to be a challenge. We have been campaigning for a national platform for domestic workers for the last 7 to 8 years. Last year, on 2nd August, we had a huge protest outside the parliament which was attended by 10000 domestic workers all over the country. This shows that domestic workers are ready now; they know what they have to do. We hope that we will be able to bring our concerns to a larger platform.



From L to R: Dr. Rajesh Tandon, Ms. Nandita Pradhan, and Ms. Aya Matsuura

The second panel discussion had now begun, where the panellists were:

Dr. Rajesh Tandon (Founder-President, Participatory Research in Asia)

Aya Matsuura (Technical Expert at ILO Decent Work Team for South Asia in New Delhi)

Ms. Nandita Pradhan:

PRIA has been working to create safety committees with informal workers since the 1980s, where PRIA was one of the first organizations to raise sexual harassment at workplace. This was a labour issue and was treated as one; until suddenly; in 2013 it went out of the ambit of the labour ministry and was placed under the WCD department. Could you please tell us your thoughts on the issue?

Dr. Tandon:

As a student of management in early seventies, I had read about workers participation and these committees which were made in organized sectors. These committees were to do primarily with safety of the workers, and were referred to as 'shop-floor safety committees'.

While working on my PhD, I had the opportunity to travel across the country to visit around 20 public sector enterprises, set up in rural areas, with the aim of boosting the local economy. As part of our visits, we would always talk to trade unions, workers organizations etc. There we found out that these shop-floor committees which were supposed to be set up were essentially dysfunctional. This is a major problem in India where all of these committees are established but none of them are functional. The committee members themselves don't know whether they are part of the committee since nobody has made them aware. Secondly, the activities of these committees are not monitored. This is something which was true 40 years ago and it is true now.

Furthermore, these safety committees were also very unidimensional where only physical injury (such as a hammer falling on somebody's hand and hurting them) was accounted for. Safety was not defined in a broader way. In an HMT watch factory, 90% of the workers were women. There the question of lack of safety was not based around safety from accidents but were actually situated around bullying and sexual harassment. That was the first time I observed that there was no voice to represent the concerns of the women working in the formal sector that trade unions would not take up these issues. When PRIA was established in 1982, one of the first things that we looked at was occupational health, where we worked with informal sector workers in Punjab, Karnataka. A large number of these workers were women.

While our focus was on occasional health and safety, we kept hearing of incidents of sexual harassment. For home-based workers, it was the middlemen who would supply work, who would also ask for sexual services. For agricultural labourers in Punjab, since they were also migrants, the regular employees of the landlord were the first call of sexual harassment and exploitation. Forty years later, the security guards of RWA campuses, are the first ones who exploit women from a sexual harassment point of view. Domestic work is one of the most vulnerable sectors of employment. We take it for granted that since they do the work they do, for not much money, we can have a little bit of “masti” with them. This shows that it does not need to be a small workplace in rural Bihar for such incidents to happen, it can also happen in urban buildings.

We need to take this forward from a variety of angles, but the most important angle is domestic workers themselves. We need to work with them and give them confidence. Caste is a big problem in this regard. Since we treat domestic work as lowly, lower caste, lower class, we feel that we are above these kinds of things. This needs to be addressed. Domestic workers (and their sense of important work that they are doing) needs to be restored. If domestic workers begin to feel this way, then we can take a step forward.

The final point that I would like to address is that of the labour ministry itself. The value of the labour ministry has decreased drastically over the last few decades. Nobody wants to be a labour secretary anymore. In our socio-economic situation, labour and labour issues have lost its importance. Therefore, before we teach others to stand up for their rights, we must remember that all of us, in our own way, are labourers. Do we value the work we put in? What is the importance of work to our well-being? If we don't respect our work, if we don't respect ourselves and look at ourselves with an identity of a worker, we lose the ability to empathize and understand the grievances of others.

Ms. Aya Matsuura:

ILO is an organisation which was set up a hundred years ago to promote social justice for lasting peace. In this historical year, it is also worth mentioning that the ILO committed to a new convention for violence and sexual harassment workplace, which takes forward the conversations on domestic workers in 2011.

There was a strong agreement among government employers and organisations that violence and harassment should not happen to anyone and that it is a violation of human rights. There was also a spirit that nobody should be outside the coverage. The idea was to develop standards that were comprehensive and did not miss out anyone. It covers designations of violence and harassment, talks about scope of application and recommends the implementation of guidelines for prevention and redressal. It also addresses gender-based violence and harassment. The

scope is really wide and deliberately so. This is keeping in mind the modern style of working which requires us to be in different places (other than the office premises) at different times. The many places that one visits in “the world of work”, should also be similarly protected from sexual harassment, just like the office premises itself. This could be a training venue, the road you take to commute, post-work celebrations etc. This is something really significant as it shows that it is possible to compile a comprehensive internationally-backed convention where countries put aside their differences and prioritise removing violence and harassment at the workplace of every worker. This is a strong message from the ILO regarding the issue, however, we know that adaptation of the convention and proposing recommendations is not a solution to everything. As we have seen from the previous convention, at the ground level, there is still a lot of work to be done. The same can be said about this convention. YOUR role therefore, is very important. Coming from trade unions, domestic worker rights organisations etc., we need to use this convention to advocate for the rights of all workers including domestic workers. As mentioned by many people, the main strategy (and by extension, obstacle) continues to be organising and collectivising domestic workers to fight and combat sexual harassment. Without organising, it is hard to raise demands in unison.

Despite all the challenges, I hope this effort will continue at the national level as well as the local level. I hope you will continue to raise awareness at the local level, where people will be able to say NO and then get help. I think it is still quite difficult to say no, especially when we face unacceptable behaviours. We always think about whether we can say no, whether it is acceptable to do so, considering the taboo around discussion of topics related to sex. We need to introduce a culture where one can start talking about it casually without being attacked; this should be an important change that we can work towards.

We also need to raise more awareness about the importance of domestic workers and other care work in our lives. They form an irreplaceable part of a lot of our lives, so it is only fair that we do our bit and advocate for their rights as well. Since care work is not seen as real skilled labour, we don't think that domestic workers are “workers”. Also at the home level, a lot of care work is handled by the women, so we also need to talk about better equitable sharing of care work responsibilities

Unpaid care work for women is close to 300 minutes per day whereas men spend close to 30 minutes a day. This shows that this work is not recognised and is seen as not important. This is also related to power in relationships and this power is also a major force in violence and sexual harassment. By paying attention to different aspects of life, we can pay attention to sharing care responsibilities, giving them the power to say NO, as well as improving their work conditions.

The conference was concluded by all of the panellists coming onto the stage to present the Call to Action as well as to launch the informative guidebook, “Together, Let’s Counter Sexual Harassment at Workplace”. The Call to Action comprised of all of the recommendations put forward by the participants to prevent incidents of sexual harassment towards domestic workers in India.



All of the panelists come together to release the guidebook, “Together, Let’s Counter Sexual Harassment at Workplace”

CONFERENCE AGENDA

Day 1 – 26th July 2019
Venue – PRIA Conference Hall

S.No	Session	Time
1.	Introduction	10:00 AM to 10:30 AM
2.	Domestic Workers: Experiences, Challenges and Impact	10:30 AM to 11:30 AM
Tea Break		11:30 AM to 11:45 AM
3.	Gendered nature of Domestic Work: Increasing demand, drudgery and implications of working in a private space	11:45 AM to 1:00 PM
Lunch		1:00PM to 2:00PM
4.	Provisions of Sexual Harassment at Workplace Act 2013	2:00 PM to 3:30 PM
Tea Break		3:30 PM to 3:45PM
5.	How sufficient is the law for domestic/ Informal sector workers? Legal Provisions for domestic workers: What we have and what we demand.	3:45 PM to 5:00PM
6.	Call for Action: What is to be done?	5:00 PM to 6:00PM

Day 2 – 27th July 2019
Venue – Constitution Club of India, New Delhi

S.No	Session	Time
	Registration and Tea	9:30AM to 10:00 AM
1.	Setting up the context of the consultative workshop	10:00AM to 10:30 AM
2.	Sharing of experiences of domestic workers with the group	10:30 AM to 11:00 AM
3.	Sharing of the research findings on sexual harassment at workplace of domestic workers	11:00 AM to 11:30 AM
4.	Critical analysis of the SHW law for informal workers	11:30 to 12:00 AM
5.	Address by the Chief Guest	12:00 AM to 12:30AM
6.	Call for Action – Closing of the consultation	12:30 PM to 1:00 PM
7.	Thank you note	1:00 PM to 1:10 PM
	Lunch	1:10 PM onwards

LIST OF PARTICIPANTS

S.no	Name	Email.id	Organisation	Phone
1	Bijendra Sharma	bijendraaku@gmail.com	Asangathit Karamchari Union	9759152890
2	Raj Kumar Sharma		Asangathit Karamchari Union	
3	Rakesh Simon		Asangathit Karamchari Union	7523068484
4	Aarti Devi		Asangathit Karamchari Union	7097237521
5	Shiv Shankar Sahu		Asangathit Karamchari Union	7398511393
6	Risha Nusrat	rishasiddique@gmail.com	Jamia Millia Islamia	8218176778
7	Nadeem Sultan	nadeem.ganie@gmail.com	Jamia Millia Islamia	6005422240
8	Mohd. Imran	imranmohd65@gmail.com	Jamia Millia Islamia	
9	Uppali Mohanty	uppali@cysd.org	Centre for Youth & Social Development	9937626597
10	Tania Chatterjee	tania31795@gmail.com	Researcher	9891503406
11	Bharti Ben		Sewa Federation	9723245765
12	Sadhana Ben		Sewa Federation	7211107552
13	Sr. Jenestus	brosily26@gmail.com	Monfort Social Institute	9566231152
14	Sr. Amitha		Monfort Social Institute	7093961490
15	Mrs. Anasurya	anasuryakasa@gmail.com	Monfort Social Institute	8374290881
16	Mrs. Padma		Monfort Social Institute	9392831510
17	Mrs. Esther rani	kolarani41@gmail.com	Monfort Social Institute	9121448492
18	Renuka Kerketta		National Domestic Workers Movement (Jharkhand)	8002312544
19	Reena Kispotta		National Domestic Workers Movement (Jharkhand)	9297788130
20	Anjali Digani	anjali@cha-chi.in	Cha-Chi	7017094138
21	Mahboobhi	mahboobhi@rdtco.in	Rural Development Trust	9866931484
22	Tsening Kyi	empoweringforwomen@tibet.net	Women Empowerment Desk, Central Tibetan Administration	9971683035
23	Tenzim Tsetan	empoweringforwomen@tibet.net	Women Empowerment Desk, Central Tibetan Administration	7406224318

24	Tamdin Dolma	doma8947@gmail.com	Tibetan Women's Association	
25	Samakar Dolma	samkardolma@gmail.com	Tibetan Women's Association	9668259017
26	Antony CJ	antony.cj@prosportdev.in	Pro Sports Development	7291901663
27	Sr. Lissama	alexanderclara234@gmail.com	National Workers Movement	9492311766
28	B.Manohara		National Workers Movement	8466014020
29	Mary Alphonsia		National Workers Movement	9290443720
30	Ritu		National Domestic Workers Movement (Delhi)	8750772169
31	Moni		National Domestic Workers Movement (Delhi)	9560428283
32	Annu		National Domestic Workers Movement (Delhi)	9873545968
33	Shikhar		National Domestic Workers Movement (Delhi)	
34	Rakhi		National Domestic Workers Movement (Delhi)	9318457038
35	Raju		National Domestic Workers Movement (Delhi)	9910598910
36	Chaitali		Researcher	7042823760
37	Khadija		Gender Champion	9811325491
38	Shabiha Khatoon	kshabiha@yahoo.com	Shakti Shalini	9999266282
39	Chinmayee	chinmayee.sanal@nirmana.org	Nirmana	9289590269
40	Suman		Nirmana	
41	Diksha	dikshar@cha-chi.in	Cha-Chi	
42	Jyoti		Gender Champion	9650119312
43	Savita		Gender Champion	9650119312
44	Olida		Gender Champion	9811325491
45	Bindu		Delhi Gharelu Kamgar Sanghathan	9999372528
46	Sangeeta		Delhi Gharelu Kamgar Sanghathan	9211374008
47	Devosmita	devosmita1994@gmail.com	Researcher	
48	Elizabeth	narishaktimanch2011@gmail.com	Nari Shakti Manch	
49	Purvi	purvibarnawal@gmail.com	Bhartiya Kisan Sangh (Delhi)	
50	Sapna		Bhartiya Kisan Sangh (Delhi)	9654116782
51	Sakshi	Sakshi.agarwal@bwint.org	Building & Woodworkers	

			International	
52	Judith	juditalgevo@gmail.com	Consultant	
53	Deenanath Singh	dnsingh@sahbhagi.org	Sehbhagi Shikshan Kendra	9911837989
54	Kritika Chopra	kritika@sewabharat.org	SEWA Bharat	
55	Ananya	ananyabase11@gmail.com	Independent researcher	
56	Sonia George		SEWA Kerala	
57	Anjali Kumari	irrcdelhi@gmail.com	Bhartiya Kisan Sangh (Delhi)	
58	Soumya Bhowmik	bhowmik.soumya@gmail.com	Advocate	
59	Dr.Aparna Moitre	aparnamoitra@gmail.com	Researcher	
60	Ankita	ankita@dwssindia.in	Domestic Workers Sector Skill Council	
61	Annelein Schulte	annelein.schulte@minbuza.nl	Netherland Embassy	
62	Ilona Domanska	ilonadomanska@minbuza.nl	Netherland Embassy	
63	Anmol Arora	a.arora@unesco.org	UNESCO	
64	Monika		CHA-CHI	9953239262
65	Shaheen Hussain	hshaheen393@gmail.com	CARDS	8471889195
66	Sidika Sehgal	sidika@civilsocietyonline.com	Civil Society Magazine	9999448792
67	Nagendra Singh	parmans74@gmail.com	Gurgaon LCC (Nodal Officer)	9818707737
68	Rajeev Gothwal	gothwalrajeev@gmail.com	Gurgaon LCC (Nodal Officer)	9711729192
69	Meenakshi Tiwari	meenakshi@thewire.in	The Wire	9650982621
70	Dr. Ellina Samantroy		VV Giri National Labour Institute	9654654252
71	Dr. Bharti Sharma	bharti45@gmail.com	Shakti Shalini	9811390630
72	Ankita	ankita@dwssindia.in	Domestic Workers Sector Skill Council	
73	Ambika	ambika@cis-india.org	Center for Internet and Society	9810722637

74	Aayush	aayush@cis-india.org	Center for Internet and Society	
75	Saksham Jha	sakcham.jha@empowerpragati.in	Empower Pragati	
76	Dr. Rajesh Tandon	rajesh.tandon@pria.org	Participatory Research in Asia	
77	Parvesh	parvesh.mahor@yahoo.com	Bhartiya Kisan Sangh , RANCHI	8010744824
78	Aya Matsuura	matsuura@ilo.org	International Labour Organisation	
79	Caemel M. Tripathi	cltripathi@ibnc.in	Bahai Office of Public Affairs	9654077529
80	Shraddha Khumbhar	skumbhar@ibnc.in	Bahai Office of Public Affairs	9518971135
81	Neeresh		SEWA Bharat	9718009461
82	Mariha		SEWA Bharat	8587908009