



SISTERS
FOR CHANGE



ELIMINATING VIOLENCE AGAINST WOMEN AT WORK

Making sexual harassment laws real
for Karnataka's women garment workers

IN PARTNERSHIP WITH MUNNADE

CONTENTS

03 Executive Summary
08 Introduction

CHAPTER 1 VIOLENCE AGAINST WOMEN IN INDIA

13 Context: “Brand India”
13 India’s apparel market
14 Violence against
women in India
14 Sexual harassment
and violence against
women in the
workplace

CHAPTER 2 SPOTLIGHT ON KARNATAKA

18 Bangalore: The hub
of Karnataka’s textile
and garment industry
18 Violence against
women in Bangalore
19 Violence against
women garment
workers

CHAPTER 3 LEGAL FRAMEWORKS FOR COMBATING VAW AT WORK

International legal standards

23 Elimination of
discrimination
against women
23 State accountability
for VAW
24 Discrimination
and violence
in the workplace
24 India’s record under
CEDAW
25 ILO standards on
sexual harassment
in the workplace

Indian domestic law

27 The Prevention of
Sexual Harassment
Act 2013
28 Duties of employers
28 Internal Complaints
Committees

CHAPTER 4 PROJECT FINDINGS

Sisters For Change / Munnade project

31 Project area for
evidence collection

Survey and case analysis findings

32 Prevalence of
harassment
and violence
34 Impunity of
perpetrators of
harassment and
violence
37 Lack of functioning
grievance
mechanisms
38 Impact of harassment
and violence
38 Social security and
access to medical
treatment
39 Knowledge of laws
on sexual harassment
and VAW
39 Oversight of factories

CHAPTER 5 STAKEHOLDER ROUNDTABLE DISCUSSION

42 Commitments
to action

CHAPTER 6 44 CONCLUSIONS, FINDINGS AND RECOMMENDATIONS

APPENDICES

47 Appendix 1: Due
diligence framework
48 Appendix 2:
Stakeholder
engagement

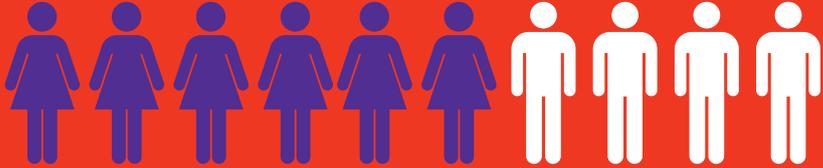
THIS REPORT

This report presents the findings of a legal capacity-building project conducted during 2015-2016 to empower women garment workers in Bengaluru (Bangalore), Karnataka to challenge sexual harassment and violence at work. Sisters for Change partnered with Munnade, a local NGO working to support women garment workers with close ties to the only women-led garment worker union in Karnataka, the Garment Labour Union (GLU). We held workshops for 100s of garment workers to raise awareness about India's Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013, worked with Munnade to conduct a survey of women workers to evidence the scale of harassment and violence they face and trained a cadre of Paralegals to advise and support women garment workers suffering harassment and to hold factory management to account for investigating complaints of harassment and crimes of violence against women workers.

This report evidences the high levels of sexual harassment and violence suffered by women garment workers in Bangalore and the failure of current internal grievance procedures to effectively investigate complaints and sanction perpetrators. Following a Roundtable with State policy makers and government officials in March 2016, this report makes 9 concrete recommendations for action to improve implementation of the Prevention of Sexual Harassment Act and to combat the unacceptable levels of sexual harassment and violence suffered by women garment workers on a daily basis. Although focused on one State, the findings and recommendations made in this report have relevance beyond Karnataka given the levels of violence experienced by women garment workers at other garment and textile sector hubs in both Tamil Nadu and Delhi. We hope those working to support women workers' rights in the public, private and NGO sectors across the country will find it of value.

Sisters For Change
June 2016

© Sister For Change 2016

45m 

people are employed in India's textiles and clothing sectors
- 60% are women

1 in 14 

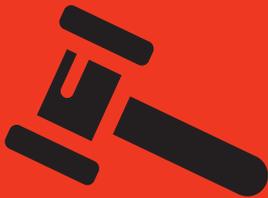
women garment workers has experienced physical violence

1 in 7 

women garment workers has been raped or forced to commit a sexual act

3.6% 

of reported cases of violence resulted in action by factory or police

0 

criminal charges were brought against perpetrators
(SFC survey data)

EXECUTIVE SUMMARY

ELIMINATING VIOLENCE AGAINST WOMEN AT WORK

Between 2015-2016, Sisters For Change partnered with Munnade, a local NGO providing social support to women garment workers in Karnataka State with close links to the only women-led garment worker union, the Garment Labour Union (GLU), to build its capacity to challenge the high levels of workplace sexual harassment and violence suffered by garment workers in Bengaluru / Bangalore, Karnataka. We held workshops for 100s of garment workers to raise awareness about violence against women (VAW) and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013 (Prevention of Sexual Harassment Act) and established a team of VAW Paralegals to conduct a survey to evidence the scale of harassment and violence suffered by garment workers and to monitor and investigate the effectiveness of current procedures to investigate complaints of harassment and sanction perpetrators.

CONTEXT

India's share of the global garment and textile trade stands at roughly 4.5% and it is the second largest exporter after China. The industry is critical to the country's economy - it contributes 4% to GDP and 14% to industrial production annually, and accounts for 17% of India's export earnings. Estimates suggest that over 45 million people are employed in India's textiles and clothing sectors, with 8 million people employed in India's garment industry alone. Nationally, between 60 - 80% of the workers are women. Yet much of India's garment industry operates in the informal sector and remains poorly regulated, resulting in limited or no legal protection for workers, a lack of trade union protection and collective bargaining, denial of employment related benefits, few functioning grievance mechanisms and widespread caste and gender based discrimination.

Karnataka is known as the Textile Capital of India, accounting for 20% of national garment production and 8% of national exports. Bangalore is a major hub for the garment industry in South India. Most of the leading multinational brands like GAP, H&M, Tommy Hilfiger, ZARA and C&A source from Bangalore. The sector employs some 500,000 workers and of these, 80% are women. Most are migrants from rural Karnataka although female migrant workers from neighbouring states of Andhra Pradesh and Tamil Nadu and from the Northern States of Odisha, Uttar Pradesh,



Logo for Government of India campaign to increase manufacturing output

Jharkhand, Maharashtra and Madhya Pradesh make up around 10% of workers. Many women garment workers are young, unmarried and have come to Bangalore to work as a result of financial hardship. Many are from Scheduled Castes or Scheduled Tribes.

WORKING CONDITIONS FOR WOMEN GARMENT WORKERS

The working conditions and treatment of women workers in Bangalore's garment factories range from difficult to appalling. Women workers have little job security and dismissals for time off work due to pregnancy or illness is well known. Wages for low-skilled work are mostly beneath the minimum wage, payment for mandatory overtime is sporadic and wages are frequently withheld until major production targets are reached. Verbal abuse, humiliation and sexual harassment of women garment workers are part of daily life. Gender discrimination is manifest in organisational structures of all-male managers, recruitment practices which source young women workers from rural villages 100s of kilometres away or outside of the State, and hostel living conditions that deprive women and girl workers their rights to privacy and liberty, creating an enabling environment for exploitation.

LEGAL STANDARDS TO ELIMINATE DISCRIMINATION AND VIOLENCE AGAINST WOMEN

India became a State party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in July 1993. CEDAW requires State parties to eliminate discrimination against women and take practical and effective steps towards the realisation of substantive equality for women. All forms of gender-based violence constitute discrimination against women under CEDAW. One of the most significant developments in international legal standards to combat VAW has been the development of the due diligence standard. In the context of this report, this means that the Karnataka State Government and its agents are required to ensure that private corporations in Karnataka, such as garment factory owners, comply with domestic laws designed to protect women workers from sexual harassment and violence, in particular the Prevention from Sexual Harassment Act.

In 1997, the landmark case of *Vishaka v. State of Rajasthan*, the Supreme Court of India set out for the first time a legal definition of sexual harassment in the workplace and guidelines for its prevention and redress (the Vishaka Guidelines). The **Vishaka Guidelines** have been translated into legislation through the Prevention of Sexual Harassment Act. Since the introduction of the Act in 2013, the Government of India has not supported implementation with either significant resources or effective sanctions.

SISTERS FOR CHANGE / MUNNADE VAW PROJECT

Sisters For Change and Munnade identified an urgent need to support women garment workers combat violence in the workplace. We were aware that women garment workers have little knowledge of their rights, have limited access to justice and are disadvantaged by low literacy levels and meagre means. We recognised that the Prevention of Sexual Harassment Act will not be implemented until women garment workers are able to evidence the scale of harassment and violence they face; to demonstrate the failure of current procedures to effectively investigate complaints and sanction perpetrators; and to hold factory management to account for tackling sexual harassment and violence.

The objectives of this report are to quantify the prevalence of sexual harassment and violence perpetrated against women garment workers in Bangalore; to evidence factory management and criminal justice responses to sexual harassment and violence; to make practical recommendations to improve compliance with the Prevention of Sexual Harassment Act and reduce sexual harassment and violence against women in Bangalore's garment factories; and to evidence the critical role that legal empowerment plays in building the capacity of women to challenge the discrimination they face.



Sisters For Change VAW workshop with Mysore Road workers

SURVEY FINDINGS

14%

of women garment workers have been raped or forced to commit a sexual act

1 FINDING 1: Abuse and sexual harassment of female garment workers at work is routine. Physical and sexual violence is widespread.

Our survey found 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% of women have been intimidated or threatened with violence, while between 40-50% have experienced humiliation and verbal abuse. This is an alarmingly high statistic and important – it paints a picture of a workplace where managers and supervisors use abusive and sexualised language to subordinate women workers and create a hostile and intimidating working environment.

2 FINDING 2: Perpetrators of sexual harassment and violence enjoy widespread impunity.

Garment workers surveyed were clear that supervisors and Floor-in-Charge managers commit the majority of harassment and violence in factories. These perpetrators, because of their supervisory or management roles, have significant power over women workers (with the ability to terminate employment or stop wage payments) and enjoy widespread impunity.

3 FINDING 3: The top 3 reasons why garment workers think sexual harassment and violence in garment factories are routine:

No.1: Male workers think they have the right to harass women workers.

No.2: Senior management never punish supervisors or managers who harass women.

No.3: Victims of sexual harassment and violence are threatened by perpetrators to stay silent.

Human Resources and factory management are slow to take action to stop sexual harassment and violence against women workers, perpetuating the impunity enjoyed by the majority of perpetrators. Of all sexual harassment cases reported, action was taken against perpetrators in 3.6% of incidents but no criminal charges were brought.

75%

of garment workers report that there is no functioning complaints procedure in their factory for investigating and punishing cases of sexual harassment or violence

4 FINDING 4: The majority of garment factories have no functioning grievance mechanism or Internal Complaints Committee, as required by law, to investigate complaints of sexual harassment and violence.

82% of workers surveyed reported that they did not tell anyone about the sexual harassment or abuse they suffered, whilst an even larger number – 89% – did not formally report the sexual harassment or abuse to factory management or the police. Victims of violence cannot be blamed: the survey indicated that of all sexual harassment cases reported, action was taken against perpetrators in only 3.6% of incidents but criminal charges were brought in no cases. Although there is the pretence of an Internal Complaints Committee in many factories, 75% reported that there was no functioning Internal Complaints Committee in their factory.

80%

of women garment workers report their health and safety is at risk because of working conditions

5 FINDING 5: 80% of women garment workers report their health and safety is at risk because of working conditions and 1 in 4 feel unsafe at work.

Workers suffer health consequences as a result of their hostile working conditions and the abusive treatment they receive at work. 19% of respondents classified themselves as having bad health. 79% stated they considered their work negatively affected their health. 15% 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.

6 FINDING 6: Over 2 in 5 pregnant workers were not allowed time off to attend medical check-ups.

The survey indicated a low level of social welfare protection accessed by women garment workers. Nearly 30% of garment workers surveyed claimed to have no social security insurance. Of respondent workers who were pregnant while working at a garment factory, 43% were not given maternity leave; 48% were not allowed to take time off work when ill with pregnancy-related symptoms and 27% were not paid maternity leave.

7 FINDING 7: 75% of women garment workers did not have confidence they would receive equal protection under the law if they reported a case to the police.

Women garment workers do not have confidence that if they report sexual harassment or violence they will receive justice: 65% of survey respondents do not believe women garment workers can access justice because they are too poor, have insufficient knowledge, or are scared to go to the police.

8 FINDING 8: Statutory oversight bodies have to-date taken little action to ensure effective implementation of the Prevention of Sexual Harassment Act or to monitor legal compliance by factories.

Lines of authority for overseeing implementation and enforcement of the Prevention of Sexual Harassment Act are unclear. Although the Commission for Women is the nodal agency responsible for implementation of the Prevention of Sexual Harassment Act, it is the Labour Commission who has responsibility for inspecting factories and ensuring the health and welfare of workers (which includes protection from sexual harassment), and the District Collector who is the designated under the Prevention of Sexual Harassment Act to receive Annual Reports on sexual harassment complaints from companies. Given this range of interested parties mandated by the Act, clear coordination needs to be agreed to ensure that effective oversight occurs.

43%

of women workers were not given maternity leave

65%

do not believe women garment workers can access justice because they are too poor

RECOMMENDATIONS



Munnade VAW paralegals discuss survey findings and legal cases with officials

Sisters For Change convened a stakeholder roundtable on Friday 18 March 2016 in Bengaluru to discuss the findings of our report with representatives from the Karnataka Department of Labour, the Karnataka State Commission for Women, the Karnataka State Police and civil society representatives. The Factories Department and the Department of Women and Child Development declined to send any representatives.

In light of the conclusions and findings in this report and the commitments made by State officials at the March 2016 stakeholder roundtable, we make the following recommendations for action:

- 1** The State Commission for Women should convene a high level cross-Ministry meeting with the Labour Department, Factories Department, Women & Child Development Department and the Bangalore Urban District Collector to agree responsibilities and mandates of each under the Prevention of Sexual Harassment Act and to ensure that guidelines for implementation of the Act are adopted.
- 2** The State Commission for Women, Factories Department, Labour Department, Women & Child Development Department and the Bangalore Urban District Collector should agree an action plan to monitor compliance of garment factories in Bangalore with their responsibilities under the Prevention of Sexual Harassment Act.
- 3** The Legal Services Authority, in consultation with garment worker unions, should provide training to factory management and garment workers on the Prevention of Sexual Harassment Act.
- 4** The Bangalore Urban District Collector should write to all garment factories in Bangalore requiring them to submit an annual report on the work of their Internal Complaints Committee and information on complaints received and action taken, as required under the Prevention of Sexual Harassment Act. Where a company fails to comply, the District Collector should notify the Commission for Women, which should take action against the factory.
- 5** Over the next 12 months, the Labour Department and Factories Department, in consultation with garment worker unions, should draft a 'Code of Conduct' for how garment factory employees - male and female - should behave at work.
- 6** Over the next 12 months, the Labour Department and the Factories Department should initiate a series of garment factory inspection visits in the Mysore Road and Peenya areas of Bengaluru specifically focused on sexual harassment against women garment workers and the adequacy of internal grievance procedures for investigating complaints.
- 7** The Karnataka State Women & Child Development Department should convene a meeting with Bangalore Protection Officers, Munnade and GLU to discuss how to support women garment workers who have experienced sexual harassment and violence and run awareness sessions to advise workers on their legal rights.
- 8** The State Commission for Women should investigate cases of violence against women garment workers submitted by Munnade and GLU.
- 9** GLU should engage with factory owners / managers in Mysore Road and Peenya areas of Bengaluru where women workers have reported cases of sexual harassment and violence. GLU should brief factory management on the findings of the Sisters For Change / Munnade Report and discuss action to combat sexual harassment and violence against women garment workers.



Ministry of Labour officials respond to the alarming findings of violence against women garment workers

INTRODUCTION

ABOUT THIS REPORT

This report is the result of a legal capacity-building project to empower women garment workers in Bangalore, Karnataka. Sisters For Change partnered with Munnade, a local NGO that works to provide social support to women garment workers and has close links to the only women-led garment worker union in the State, the Garment Labour Union (GLU). Sisters For Change held workshops for 100s of garment workers to raise awareness about violence against women (VAW) and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013 and established a team of VAW Paralegals consisting of Munnade's leadership and other women garment workers and trained them in women's rights and domestic laws on violence against women; on how to conduct surveys on treatment of workers and prevalence of sexual harassment; on advising victims of violence and managing cases; and on engaging with factory management and criminal justice authorities.

METHODOLOGY

The scope of the project – and thus the area to which the findings of this report relate – was across two major industrial areas of Bangalore where the majority of garment factories are located – Mysore Road and Peenya. Both fall within the Bangalore Urban district of Karnataka State.

This report sets out evidence and data collected from the field during the course of the Sisters For Change / Munnade project using four primary research methods:

- (i) A comprehensive review of domestic and international laws and standards relating to VAW and sexual harassment in the workplace, as well as a detailed review of national reports and studies on labour conditions and violence against women in India's textile and apparel sector.
- (ii) Evidence gathered from legal cases undertaken by Munnade VAW Paralegals over the course of the project.
- (iii) A survey on women's health and life experiences conducted among 148 women garment workers in Bangalore between September and November 2015.¹ The survey was conducted using the snowball sampling technique,² to ensure a sample that was representative of the garment sector community.
- (iv) Qualitative evidence, data and commentary gathered from individual interviews, meetings and focus group discussions with government officials, women's groups, victims of violence, civil society representatives and national advocacy organisations from January 2015 – March 2016. A full list of stakeholders with whom Sisters For Change engaged is set out at Appendix 2.



Women garment workers conduct a role play during a SFC workshop



Women garment workers discuss workplace harassment

¹ The survey was conducted according to the World Health Organization's ethical research guidelines, *Putting women first: ethical and safety recommendations for research on domestic violence against women*. WHO/EIP/GPE/01.1 (2001).

² Snowball sampling is defined as "[a] technique for finding research subjects. One subject gives the researcher the name of another subject who in turn provides the name of a third, and so on (Vogt, 1999)": *Snowball Research Strategies* by Rowland Atkinson & John Flint, Social Research Update, University of Surrey 2001.



Munnade VAW
Paralegals discuss
cases of violence in the
workplace

OBJECTIVES

The objectives of this report are to:

- 1** Quantify the nature and prevalence of sexual harassment and violence perpetrated against women garment workers in factories in Bangalore.
- 2** Evidence factory management and criminal justice system responses to complaints of sexual harassment and violence against women garment workers and identify the barriers inhibiting garment workers from reporting cases and preventing them from obtaining justice or remedy when they are victims of sexual harassment or violence.
- 3** Make practical recommendations by engaging in dialogue with critical stakeholders to
 - (i) improve compliance with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013 (Prevention of Sexual Harassment Act) in garment factories, specifically in relation to internal factory grievance procedures; and
 - (ii) strengthen oversight of implementation of the Prevention of Sexual Harassment Act.
- 4** Evidence the critical role that legal empowerment plays in building the capacity of women garment workers to
 - (i) challenge the discrimination they face in the workplace which perpetuates harassment and violence against them; and
 - (ii) hold corporate entities and oversight bodies to account for enforcing the Prevention of Sexual Harassment Act.

ABOUT THE AUTHORS

Sisters For Change³ is an international non-profit organisation that combats violence against women through legal empowerment and social accountability strategies. We work to generate systemic change in how governments tackle violence against women and to create social change by mobilising marginalised women and communities to end social acceptance of violence against women.

In our programmes in India, Indonesia and the UK, we build the legal capacity of marginalised women, human rights defenders, women's organisations and activist networks by developing a frontline cadre of 'community paralegals' with knowledge of human rights, women's rights and domestic laws relating to VAW. We provide technical expertise to help our paralegals establish legal monitoring systems to track cases of VAW in their communities and ensure that local officials and criminal justice authorities (community leaders, police, prosecutors, courts) are held to account for taking action to prevent, investigate, prosecute and punish VAW crimes. Where state authorities fail to implement domestic laws or investigate incidents of violence, Sisters For Change supports its partners in publicising these failings and lobbying senior State officials to take action. Sisters For Change also promotes collective action and organisation – whether through associations, unions or collaborative networks – to strengthen the voices of marginalised women.

Munnade, *March Forward* in Kannada (the language of Karnataka State), is a social organisation founded by former and current women garment daily-wage workers. It was formed in 2004 to support women workers in their communities, build their collective strength and provide awareness-raising programmes in labour rights and women's rights. Past activities have included:

- + Assisting a women's rights NGO deliver a 'Safe City Campaign' to survey and identify spaces that are not safe for women
- + Supporting workers in domestic violence cases and counselling
- + Conducting Kannada language classes for migrant workers new to the State
- + Conducting voter registration drives in their areas of work
- + Improving sanitation and water accessibility at the community level

Out of the initial work of the organisation a trade union was formed in 2006, but with an all male leadership who themselves discriminated against the women members and activists, women workers grew dissatisfied and broke off to form the first women-led garment sector union in 2012, the Garment Labour Union (GLU).

Munnade and GLU both operate across the two main industrial textile manufacturing areas of Bangalore, Mysore Road and Peenya, and have members in 20 large factories. Munnade aims to build the collective strength of workers in the sector and to protect the interests of its members and stop injustice and exploitation of women in the workplace. It takes up cases related to pay and working conditions, sexual harassment and unfair dismissal and collaborates with other civil society organisations and campaigns to improve working conditions. Low resources and poverty among workers (who are unable to pay for services or training provided) constrains the organisation's activities.



Munnade office off Mysore Road, Bengaluru

1



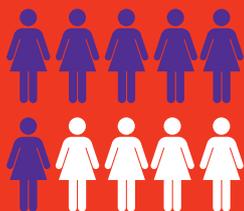
**VIOLENCE
AGAINST
WOMEN
IN INDIA**

VIOLENCE AGAINST WOMEN IN INDIA



926

women reported raped, burnt, molested, kidnapped or murdered in India every day



45m

people employed in India's textile and garment sectors - 60% women



60%

of women garment workers have suffered verbal, physical or sexual violence

Prime Minister Modi, hailed an economic moderniser, is focusing his government on the economic revitalization of India, fashioning the country as an industrial juggernaut, the world's manufacturer and a soon-to-be rival to the technology haven of Silicon Valley. But amidst schemes to promote industrial development, huge infrastructure projects and national skills training programmes to recruit young rural workers into urban jobs, there is less focus on safe-guarding workers rights and ensuring that they too benefit from the new economic revolution – or at the very least are not exploited by or excluded from it.⁴

⁴ The Government's policy of providing skills training to get young rural people into industrial sector jobs has been both welcomed as the first major effort to help young people into organised employment and criticized as a gimmick to hide the reality that the government is subsidizing cheap labour supply to meet industry demand.

CONTEXT “BRAND INDIA”

This report, which focuses on women in the garment sector – a sector with the second highest number of women workers in India – is perhaps a timely reminder of the challenges that face the government and corporate sector in ensuring “Brand India” does indeed bring benefit to all, including women. For as Union Minister for Women & Child Development, Maneka Sanjay Gandhi, states in the Preface to her Department’s *Handbook on Sexual Harassment of Women at Workplace*:

“It is the responsibility of every employer to ensure safety of women in a work environment and improve their participation. This will contribute to the economic realisation of their right to gender equality and result in economic empowerment and inclusive growth and benefit the nation as a whole.”⁵

If India is serious about harnessing the GDP growth that can come about by enabling women to participate in the economy on par with men,⁶ it will need to signal to women that it really cares about ending discrimination against women in the workplace and the violence that this discrimination perpetuates.

INDIA’S APPAREL MARKET

India’s share of the global garment and textile trade stands at roughly 4.5%⁷ and it is the second largest exporter after China. The industry is critical to the country’s economy – it contributes 4% to GDP and 14% to industrial production annually, and accounts for 17% of India’s export earnings. The sector is expected to grow from USD 45 billion in 2012 to USD 200 billion in 2025, a compound annual growth rate of 12%, representing the highest projected increase in market size of any country in the world.⁸ Estimates suggest that over 45 million people are employed in India’s textiles and clothing sectors, with 8 million people employed in India’s garment industry alone. Nationally, over 60% of the workers are women, with regional variations seeing this figure rise to 80%.

Yet much of India’s garment industry operates in the informal sector and remains poorly regulated, resulting in a lack of legally binding employer relationships, limited or no legal protection for workers, a lack of trade union protection and collective bargaining, denial of employment related benefits and very few functioning grievance mechanisms. Many workers receive a minimum, but not a living, wage and caste and gender based discrimination and harassment are widespread.⁹

5 Women & Child Development, *Handbook on Sexual Harassment of Women at Workplace*, 2015.

6 In its report, *The Power of Parity: How equality for women could drive \$12 trillion in global growth* (September 2015), McKinsey Global Institute suggests that India could increase its 2025 GDP by between 16-60% simply by reducing its gender gap in terms of labour force participation. According to the report, India currently has one of the largest gender gaps in the world, with women accounting for only 23-24% of the total labour force.

7 *India’s textiles, apparel exports to rise by 10% this year*, Live Mint (Online publication) 29 September 2014 <http://www.livemint.com/Politics/bw4nJV1PUll49IVgARe4tO/Indias-textiles-apparel-exports-to-rise-by-10-this-year.html>.

8 Statista, *Apparel market size projections from 2012 to 2025, by region* available at: <http://www.statista.com/statistics/279757/apparel-market-size-projections-by-region/>

9 Clean Clothes Campaign, *India’s Garment Industry Factsheet*, February 2015.

VIOLENCE AGAINST WOMEN IN INDIA

“Sexual harassment in the workplace is an extension of violence in every day life and is discriminatory and exploitative, as it affects a woman’s right to life and livelihood.”

Secretary V Somasundaran, Ministry of Women & Child Development¹⁰

Crimes against women in India have more than doubled over the past ten years and in 2014, the crime rate rose again by nearly 10%. 926 women are reported raped, burnt, beaten, molested, kidnapped or murdered in India every day.¹¹ Reported cases are of course only the tip of the iceberg. Due to social stigma, intimidation and fear, many women do not report violence and suffer alone.

The high levels of violence against women in India are a result of a society based on a patriarchal culture where unequal gender power dynamics perpetuate discrimination against women, reducing their social and economic participation, and normalising abuse and violence against them. The level of violence against women is another barrier holding back Modi’s “Brand India”. The Government of India’s annual report, *Women & Men in India 2015* sums up the point:

“Social evils like crimes against women, non-accessibility to the justice system on the basis of caste, creed and gender are the hurdles for a country to become self-reliant, vibrant and to become an economic super power in the world.”¹²

SEXUAL HARASSMENT AND VIOLENCE AGAINST WOMEN IN THE WORKPLACE

The Indian Government has had a poor record of recognising sexual harassment in the workplace and taking measures to combat it. After the watershed Supreme Court judgment, *Vishaka v State of Rajasthan*, in 1997 – which produced the **Vishaka Guidelines** against sexual harassment¹³ – it took the government another decade to draft a bill prohibiting sexual harassment in the workplace and another six years for its enactment in the form of the Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act 2013 (Prevention of Sexual Harassment Act).

Since the introduction of the Prevention of Sexual Harassment Act, the Government has not supported implementation with either significant resources or effective sanctions. So while current Minister of Women & Child Development, Maneka Gandhi, has attempted to improve compliance by underlining corporate risk of failure to act – “Any organisation that does not have a sexual harassment committee [required under the Prevention of Sexual Harassment Act] will face serious legal action”¹⁴ – the reality is that awareness of the Act and compliance with its provisions remains weak.



The Government of India has a poor record of combating VAW in the workplace

¹⁰ Forward, *Handbook on Sexual Harassment of Women at Workplace*, Ministry of women & Child Development, November 2015.

¹¹ National Crime Records Bureau, *Crime in India 2014*, Ministry of Home Affairs, July 2015.

¹² Secretary Anant in Foreword, *Women & Men in India 2015*, Government of India Ministry of Statistics & Programme Implementation published November 2015.

¹³ For full details, refer to http://www.iitg.ac.in/iitgicc/docs/Vishaka_Guidelines.pdf

¹⁴ Minister of Women and Child Development, Maneka Gandhi, press conference, 18 September 2014.

One survey by a Corporate Compliance Firm last year suggested that up to 97% of companies may still be unaware of aspects of the Prevention of Sexual Harassment Act¹⁵ and another by Ernst & Young¹⁶ found that 31% of commercial respondents were still not compliant with requirements to constitute an Internal Complaint Committee (ICC) to receive grievances from workers and 44% did not display the disciplinary or penal consequences of sexual harassment at conspicuous places within the workplace.

While the National Commission for Women reports that complaints of sexual harassment in the workplace have more than doubled between 2013-14,¹⁷ the total complaints received by the Commission in 2015 – which is tasked with implementation and oversight of the Prevention of Sexual Harassment Act across India – was only 522 (4 less than the proceeding year).¹⁸ With a limited annual budget in 2015-16 of Rs 23.15 (£2.4 million/\$3.45 million) and a legislative oversight framework that actually gives the Women’s Commission few real teeth – it does not have the power to summon respondents (in contrast with the Commission for Protection of Child Rights) nor to enforce action from other government departments¹⁹ – it is clear that the Commission faces challenges in providing effective oversight and monitoring of the Prevention of Sexual Harassment Act. This is a major obstacle to securing the Government’s legal obligations to take preventative measures and provide protection for women against sexual harassment and violence at work.

For, in contrast to the paltry number of complaints of sexual harassment in the work-place reaching the National Commission for Women,²⁰ workplace surveys estimate that over 60% of factory workers have been exposed to harassment at work, ranging from verbal to physical and sexual violence.²¹

And in the garment sector, what begins as sexual harassment in the factory often extends beyond the factory gates to forced prostitution controlled by abusive male supervisors and managers. Against this context, women garment workers have few protections – less than 3% of them are unionised, meaning they still have relatively little collective bargaining power to improve conditions or ensure management act to investigate complaints and punish perpetrators.

15 The Economic Times, *97% of firms are not aware of sexual harassment at workplace law: Survey*, The Economic Times, 23 August 2015 accessed February 2016 via http://articles.economictimes.indiatimes.com/2015-08-23/news/65769697_1_internal-complaints-committee-sexual-harassment-women-employees.

16 Ernst & Young (Mumbai, India), *Reining in sexual harassment at the workplace in India. A survey* by Fraud Investigation & Dispute Services, May 2015.

17 The Hindu newspaper, *Sexual harassment cases at workplace more than double in 2014*, 27 November 2015 accessed February 2016 via <http://www.thehindu.com/business/sexual-harassment-cases-at-workplace-more-than-double-in-2014/article7924191.ece>

18 Statistics compiled by the National Commission of Women 2015 accessed February 2016 via http://ncw.nic.in/frmComp_Stat_Overview.aspx. Complaints numbered 167 in 2012, 249 in 2013 and 336 in 2014.

19 The Women & Child Development Ministry has been pushing for greater powers for the Commission For Women since 2014. They have made a proposal to give the body powers of a civil court, including the authority to order police to arrest an accused in cases of crimes against women, to investigate, summon and sanction. This is in line with the authority conferred upon the National Human Rights Commission. However, to date, the inter-ministerial committee headed by Finance Minister Arun Jaitely has failed to approve the proposals.

20 While the Commission receives few workplace violence complaints, it does receive thousands of other complaints relating to VAW in general. In 2015, it registered a total of 23,300 complaints, according to the Commissions website.

21 Fair Wear Foundation, *Standing Firm against Factory Floor Harassment*, 2013.

2

**SPOTLIGHT
ON
KARNATAKA**

SPOTLIGHT ON KARNATAKA



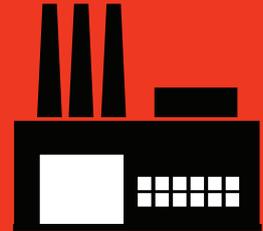
28%

increase in reported rapes
in Karnataka State in 2014



3rd

most unsafe city in India
for women is Bangalore



80%

of Bangalore's 500,000
garment factory workers
are women

Karnataka State in Southern India has a total population of just over 61 million people – almost the size of the United Kingdom – and accounts for 5% of the Indian population. The state is a hub of both the Indian technology sector and the Indian garment and textile industry and Bangalore City is the third largest city in India, after Mumbai and Delhi, with a population of 8.4 million people. But while the urban population has exploded in the last decade, the majority of the state's population – over 61.3% - continue to live in rural areas. It is from these rural areas that a majority of the women and girls who work in the garment sector come in search of work.

BANGALORE: THE HUB OF KARNATAKA'S TEXTILE AND GARMENT INDUSTRY

Karnataka is known as the Textile Capital of India, accounting for 20% of national garment production and 8% of national exports. Bangalore is a major hub for the garment industry in South India.

Most of the leading multinational brands like GAP, H&M, Tommy Hilfiger, ZARA and C&A source from Bangalore.²² According to official figures, there are 962 officially registered garment factories but industry figures put the total nearer 1,200 garment factories, located in different industrial areas around Bangalore, with a concentration in three locations – Peenya Industrial Area, Mysore Road and Bommanahalli.²³

The sector employs some 500,000 workers and of these, 80% are women. Most are migrants from rural Karnataka although female migrant workers from neighbouring states of Andhra Pradesh and Tamil Nadu and from the Northern States of Odisha, Uttar Pradesh, Jharkhand, Maharashtra and Madhya Pradesh make up around 10% of workers. Many women garment workers entering the sector for the first time are young (some under 18 years of age), unmarried and have come to Bangalore to work as a result of financial hardship and a lack of suitable jobs with which to support their families in their native villages. Many are from Scheduled Caste (or Dalit) or Scheduled Tribe (or Adivasi) communities,²⁴ often leaving home at the age of seventeen to become “helpers” in a factory on a wage of less than £40 per month.

VIOLENCE AGAINST WOMEN IN BANGALORE

Bangalore, Karnataka's capital, was classed as the third most unsafe city in India for women in 2013.²⁵ In 2014, while crimes against women increased nationally by 9.2%, there was an increase of nearly 14% in Karnataka State and a rise in rape of 28.5%.²⁶ Crimes against women as a proportion of all crime in the state has increased by nearly 70% in the last 3 years and now account for nearly 1 in every 7 crimes.²⁷

In December 2015, the Chairman of the Karnataka Legislative Committee on Prevention of Violence against Women & Children,²⁸ MLA V. S. Ugrappa, submitted an interim report to the Karnataka State Government on the key factors contributing to the current failure to tackle violence against women. The Expert Committee made 18 recommendations to improve State efforts to combat violence against women. The final report is due to be published in June 2016.

22 India Committee of the Netherlands, *Unfree and Unfair. Poor Living Conditions and Restricted Freedom of Movement of Young Migrant Garment Workers in Bangalore*, January 2016.

23 S. Saha, *Women employees in garment industries: A case study conducted in selected garment industries of Peenya industrial area, Bangalore*, Int. J. Mgmt Res. & Bus. Strat., Vol. 3, Issue 3, July 2014.

24 Some estimates have put SCs/STs at 60% of the worker population, although most workers suggest a lower figure of between 30-40%.

25 National Crime Records Bureau, *Crime in India 2013*, Ministry of Home Affairs, 2014.

26 Government of Karnataka Police Department, Police Computer Wing & State Crime Records Bureau, *Crime in Karnataka 2014*, published 2015.

27 Ibid.

28 The Karnataka Expert Committee was established in August 2014 following the sexual abuse of a child in a private school. MLA Ugrappa was appointed in May 2015 (following the resignation of the first Chair in March) and the Committee submitted their interim report in December 2015.

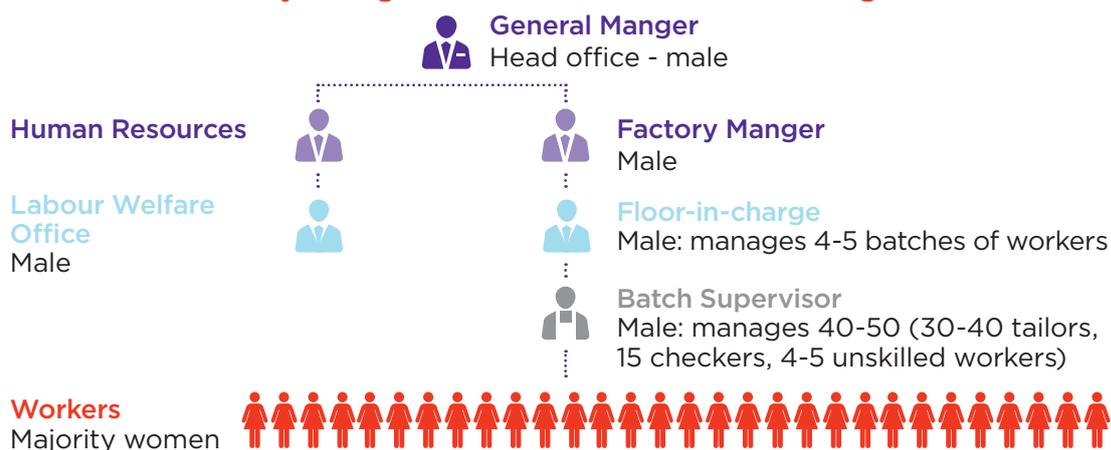
In a meeting with Sisters For Change in February 2016, Chairman Ugrappa was frank in his assessment of the targeted and discriminatory nature of violence against women in Karnataka: “most rape victims are from Scheduled Castes or Scheduled Tribes or other OBC groups.... They have a low social status, are very poor and are often not literate, so they are not able to safeguard their own position.... Alternatively offenders are usually socially, politically, educationally well placed and financially well placed...and they will go, use connections and can ‘manage’ the system.”

VIOLENCE AGAINST WOMEN GARMENT WORKERS

The working conditions and treatment of women workers in Bangalore’s garment factories range from difficult to appalling. Women workers have little job security and dismissal for time off work due to pregnancy or illness is well known. Wages for low-skilled work are mostly beneath the minimum wage, payment for mandatory overtime is sporadic and wages are frequently withheld until major production targets are reached. Following the revised minimum wage rates set by the State Government, with effect from 1 April 2015, workers receive on average between Rs. 7000 (£72/\$105) and Rs. 8500 (£87/\$128) per month.²⁹ This is in comparison with a State proposal in early 2016 to increase the minimum wage to Rs. 10,520 (£108/\$158) per month for 23 labour sectors in Karnataka – including domestic workers, hotel staff and laundry workers – but excluding garment factory workers.³⁰

Verbal abuse, humiliation and sexual harassment of women garment workers are part of daily life. Gender discrimination is manifest in organisational structures of all-male managers (see Figure 1).

FIGURE 1: Customary management structure in factories in Bangalore



Recruitment practices which source young women workers from rural villages 100s of kilometres away or outside of the State, and hostel living conditions that deprive women and girl workers their rights to privacy and liberty, create an enabling environment for exploitation.

²⁹ India Committee of the Netherlands, *Unfree and Unfair. Poor Living Conditions and Restricted Freedom of Movement of Young Migrant Garment Workers in Bangalore*, January 2016.

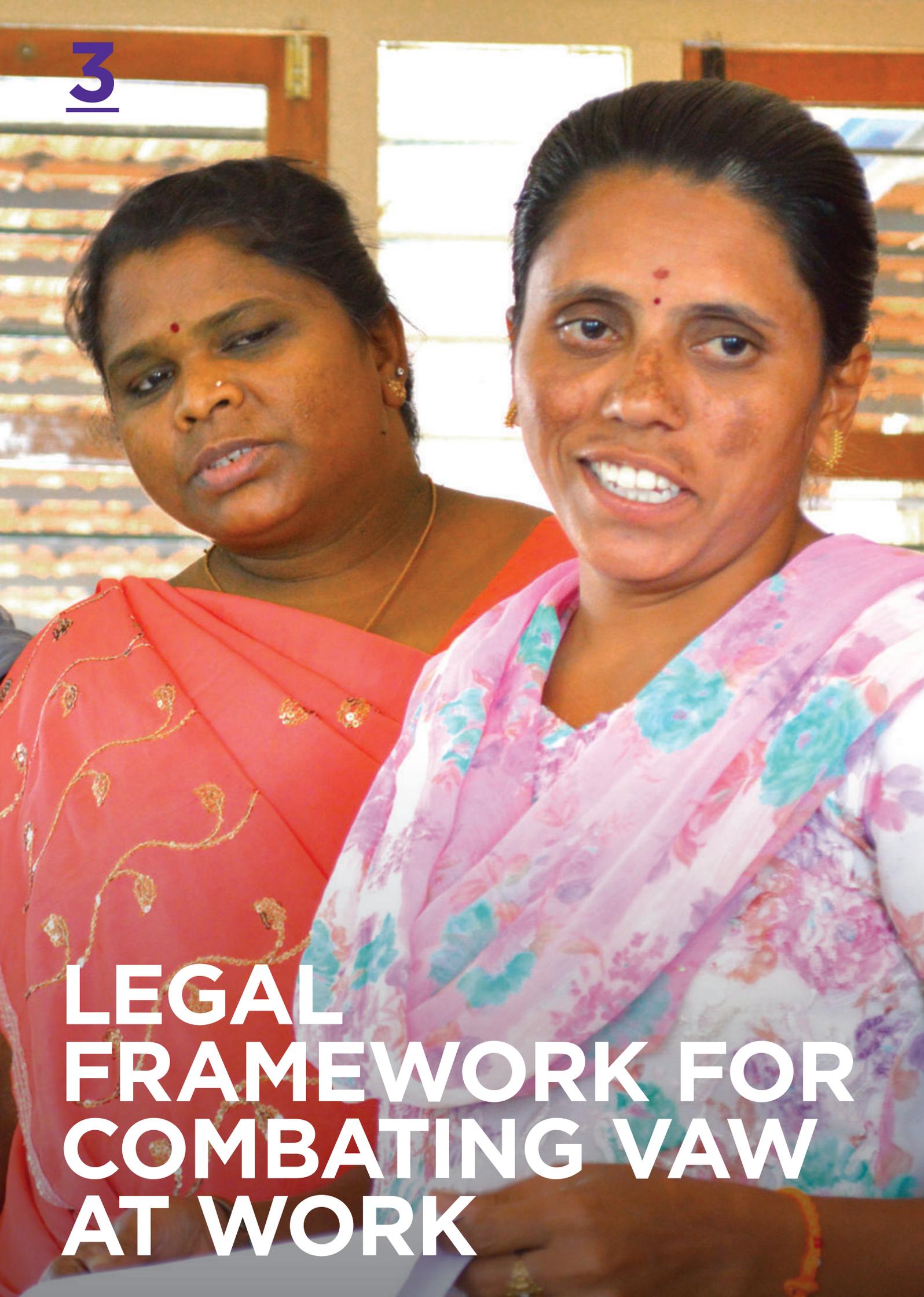
³⁰ The Hindu newspaper, *Proposal to hike minimum wage in 23 sectors*, 28 November 2015, accessed via <http://www.thehindu.com/news/cities/bangalore/proposal-to-hike-minimum-wages-in-23-industries/article7925687.ece>.

Both corporate management and criminal justice systems hinder women and girl workers from reporting complaints of sexual harassment or violence and, in turn, female workers have no trust in the police or senior management to take action. The result is the maintenance of workplace cultures that disempower and exploit women workers, non-implementation of domestic laws to protect women workers from harassment and impunity for perpetrators.

Most workplace surveys relating to garment factories have to date focused on pay, working hours and general conditions. None have systematically attempted to measure prevalence and types of violence and harassment experienced by women workers. This was the purpose of the Sisters For Change / Munnade survey in Bangalore. We present our findings in Chapter 4.

Various initiatives recognising and starting to address women workers' rights in the workplace have taken place across the sector in the last few years:

- + An NGO in Bangalore, Cividep, has perhaps led the most concerted campaign focusing on human rights of workers and the power of collective action. Cividep India is a partner with SOMO's Human Rights and Grievance Mechanisms Programme, a 4-year project (2012-15) to improve the accessibility and effectiveness of non-judicial grievance mechanisms for women workers who experience human rights violations at work.
- + Fair Wear Foundation launched a 3-year initiative in 2012, with funding from the UN, to work with local NGOs – the majority in Tamil Nadu but also some in Bangalore and Delhi – to provide awareness training on the Prevention of Sexual Harassment Act, establish a help-line for workers and increase the formation of formal complaint committees in factories.
- + Some international brands have launched local initiatives on women's empowerment or health and life skills programmes. Among them are Gap Inc, Primark and Walmart. These programmes focus on health and financial literacy, and some include legal and rights training.



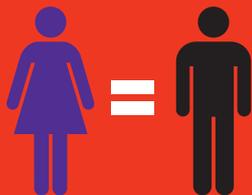
**LEGAL
FRAMEWORK FOR
COMBATING VAW
AT WORK**

LEGAL FRAMEWORK FOR COMBATING VAW AT WORK



Global

India became a State party to CEDAW in 1993 but is slow to implement reform



Equal

Women have equal employment rights and protections



Rights

Sisters For Change monitoring framework holds States to account for protecting women workers from harassment and violence

“Violence in the world of work is a human rights issue. An appropriate approach towards eliminating violence at work implies targeting the root causes of discriminatory practices.”

Secretary-General, International Organisation of Employers

States have legal obligations to prevent, investigate and punish acts of violence against women, whether those acts are perpetrated by the State or by private actors.

INTERNATIONAL LEGAL STANDARDS

Violence against women and girls persists in every country in the world as a pervasive violation of human rights and a major impediment to gender equality. In the most comprehensive global study on the prevalence of VAW to date, the World Health Organisation reported in 2013 that one in every three women has been beaten, coerced into sex, or otherwise abused by a man in her lifetime.³¹

ELIMINATION OF DISCRIMINATION AGAINST WOMEN

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) constitutes the framework for advancing and protecting women's human rights under international law. To date, 189 States have ratified CEDAW. India became a State party in July 1993. Each State party is required to eliminate discrimination against women and take practical and effective steps towards the realisation of substantive equality for women (Article 2). All forms of gender-based violence constitute discrimination against women under CEDAW.³² The CEDAW Committee's General Recommendation No.19 (1992) on violence against women defines gender-based violence as: "violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty."³³

STATE ACCOUNTABILITY FOR VAW

States have human rights obligations to eliminate violence against women.

There are three levels of obligation:

- 1** The obligation to respect women's right to be free from violence includes the duty to ensure that domestic laws are not discriminatory and that they provide an effective legal framework for punishing and redressing the wrongs caused to women who are subjected to violence. It also requires State agents to refrain from engaging in any act or practice of violence against women.³⁴
- 2** The obligation to protect is the positive obligation requiring States to take appropriate steps to protect women from violence committed by non-state actors. The obligation includes combating a climate of impunity, investigating allegations of violations and providing adequate and effective remedies and reparation for victims of violence.³⁵
- 3** The obligation to fulfil requires States to adopt short, medium and long term policies to eliminate violence against women in all its forms.³⁶

One of the most significant developments in legal standards to combat VAW has been the development in international law of the due diligence standard. A State is generally not responsible for the acts of non-State actors, such as private businesses or corporations, unless they are exercising the authority of the State in some way. A long-standing exception to this principle is that a State may incur responsibility where it fails to exercise due diligence to prevent, protect against or respond to illegal acts by non-State actors.³⁷ CEDAW recognises the due diligence obligations of States³⁸ and CEDAW General Recommendation No. 19 explicitly states that States may be responsible for private acts if they fail to act with due diligence.³⁹ The Declaration on the Elimination of VAW also requires States to exercise due diligence to prevent, investigate and punish acts of violence against women, whether those acts are perpetrated by the State or by private actors (Article 4).

31 WHO, *Global and regional estimates of violence against women. Prevalence and health effects of intimate partner violence and non-partner sexual violence*, 2013.

32 CEDAW General Recommendation No. 19 on Violence Against Women (11th session, 1992) UN doc. CEDAW/C/1992/L.1/Add.15 (GR 19) para.7.

33 *Ibid.*, para.6.

34 Declaration on the Elimination of Violence against Women, Article 4 (b) and (d).

35 General Recommendation No.19, para.24(i).

36 General Recommendation No.19, para.24(a), (f) and (t).

37 The seminal case on the application of the due diligence obligation is *Velasquez Rodriguez v Honduras*, judgment 29 July 1988, Inter-American Court of Human Rights, Series C, No. 4 (1988).

38 CEDAW Articles 2(e), 2(f) and Article 5.

39 General Recommendation No.19, para.9

In the context of this report, this means that the Karnataka State Government and its agents are required to ensure that private corporations in Karnataka, such as garment factory owners, comply with domestic laws designed to protect women from violence, in particular, the Prevention from Sexual Harassment Act.

In the event that State officials become aware that private corporations are acting unlawfully (violating workers' rights; failing to comply with domestic laws on VAW), then the State Government must exercise due diligence to prevent violations of rights and to investigate and punish acts of violence, and provide remedies to victims. We set out the specific due diligence obligations of States in Appendix 1.

DISCRIMINATION AND VIOLENCE IN THE WORKPLACE

CEDAW Article 11 requires States Parties to take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure equal employment rights and protections for women workers, including:

- + The right to promotion, job security and all benefits and conditions of service.
- + The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value.
- + The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity, old age, as well as the right to paid leave.
- + The right to protection of health and to safety in working conditions.

CEDAW recognises that equality in employment can be seriously impaired when women are subjected to gender-specific violence, such as sexual harassment in the workplace.⁴⁰

The UN Declaration on Violence against Women 1993 defines violence against women to include sexual harassment and intimidation at work.⁴¹

INDIA'S RECORD UNDER CEDAW

India submitted its 4th and 5th State party reports to the CEDAW Committee in July 2012. In its Concluding Observations in July 2014, the Committee recommended that India adopt comprehensive anti-discrimination law addressing all aspects of direct and indirect discrimination against women and all the forms of intersectional discrimination.⁴² The CEDAW Committee raised a wide range of concerns about VAW, including the stark increase in violent crimes against women in India.⁴³

The CEDAW Committee noted with concern the declining participation of women in the Indian labour force, both in rural and urban areas, and the situation of women working in the informal economy (agriculture, domestic and home-based work) not covered by labour laws or other social protection measures. The Committee referred to the gender wage gap, which indicated that Indian women earn only 50-75% of the wages earned by men, and data that evidenced women only own 9 per cent of land. The Committee referred to the Prevention of Sexual Harassment Act and was critical that of a number of its provisions, including prescribing conciliation as a preliminary step and its failure to include a complaints mechanism for domestic workers.⁴⁴



The GOI and State Governments have duties to prevent violence against women workers

⁴⁰General Recommendation No.19, para.17.

⁴¹ DEVAW, Article 2.

⁴² CEDAW/C/IND/CO/4-5, 24 July 2014, para.9.

⁴³ CEDAW/C/IND/CO/4-5, 24 July 2014, para.10.

⁴⁴ CEDAW/C/IND/CO/4-5, 24 July 2014, para.28.

INTERNATIONAL LABOUR ORGANISATION STANDARDS ON SEXUAL HARASSMENT IN THE WORKPLACE

For the International Labour Organisation (ILO), workplace sexual harassment⁴⁵ is a barrier towards its primary goal of promoting decent working conditions for all workers. The ILO identifies two primary forms of sexual harassment:

- + **Quid Pro Quo sexual harassment** – where a person’s rejection of, or submission to, such conduct is used explicitly or implicitly as a basis for a decision which affects that person’s job.
- + **Hostile working environment sexual harassment** – conduct that creates an intimidating, hostile or humiliating working environment for the recipient.

ILO Convention No. 111 Discrimination (Employment and Occupation) Convention addresses discrimination in employment on a number of grounds, including sex, and requires that ILO member States declare and pursue a national policy designed to promote equality of opportunity and treatment with a view to eliminating discrimination. ILO Convention No. 155 Occupational and Health⁴⁶ and the ILO Convention No. 161 Occupational Health Services require States parties to take action to prevent sexual harassment on the ground that such conduct is harmful to the physical and mental health of workers. The ILO has also enacted a number of non-binding instruments which contain provisions on sexual harassment at work.⁴⁷

ILO Convention No. 29 Concerning Forced or Compulsory Labour added a prohibition of forced or compulsory labour to the existing prohibition of slavery and servitude contained in the 1926 Slavery Convention. These instruments have been ratified by India. The ILO Convention No. 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour has not been ratified by India.

The ILO has determined indicators of forced labour which include: abuse of vulnerability; deceptive recruitment practices; restriction of movement; isolation; physical and sexual violence; intimidation and threats; retention of identity documents; withholding of wages; debt bondage; abusive working and living conditions; and excessive overtime.

The findings in this report evidence at least 6 indicators of forced labour – abuse of vulnerable young migrant women; isolation of women garment workers; physical and sexual violence perpetrated by supervisors in garment factories; intimidation and threats; withholding of wages by factory management and abusive working conditions.

⁴⁵ Defined as any physical, verbal or non-verbal conduct of a sexual nature or other conduct based on sex which is unwelcome, unreasonable and offensive to the recipient.

⁴⁶ As amended by the 2002 Protocol.

⁴⁷ Including the 1985 International Labour Conference Resolution (ILCR) on equal opportunity and equal treatment for men and women in employment; the 1991 ILCR concerning ILO action for women workers; and the 2003 ILO Governing Body Code of Practice on workplace violence in services sectors.

INDIAN DOMESTIC LAWS ON SEXUAL HARASSMENT AND VIOLENCE AT WORK

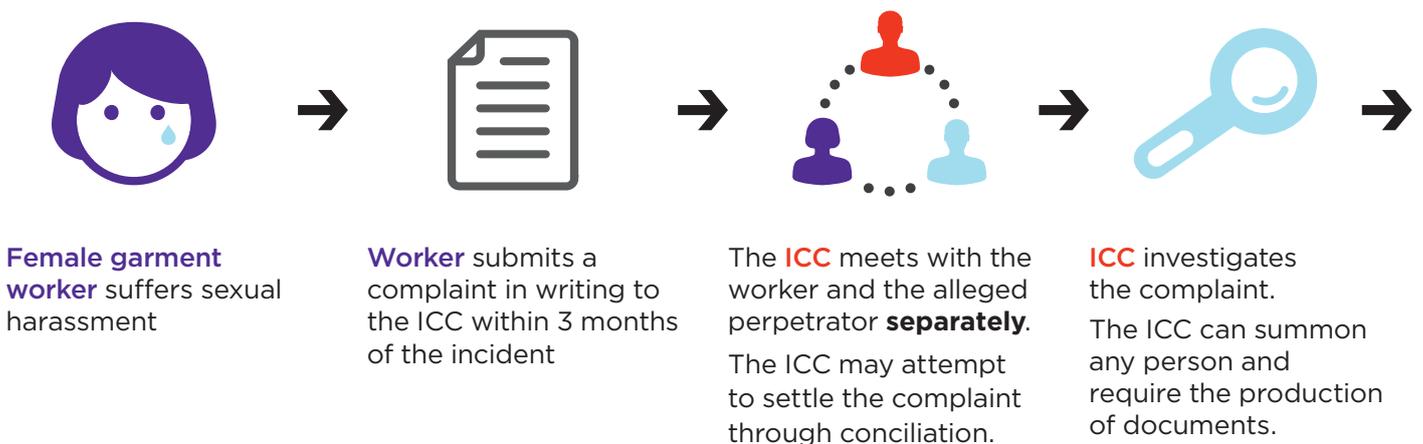
The right to be protected from sexual harassment and sexual assault is guaranteed by the Constitution and is one of the pillars on which the very construct of gender justice stands.

Verma Committee Report 2013

The Constitution of India guarantees human rights and fundamental freedoms to women and girls, including the protection of life and personal liberty (Article 21), the guarantee of equality before the law and the equal protection of the law (Article 14) and the prohibition against discrimination on grounds of sex and caste (Article 15).

In 1997, the landmark case of *Vishaka v. State of Rajasthan*⁴⁸ brought the absence of domestic laws to prevent, protect against and punish sexual harassment of women in the workplace to the attention of the Supreme Court of India. The Court recognised that sexual harassment violated women's human rights. It set out for the first time a legal definition of sexual harassment in the workplace⁴⁹ and guidelines for its prevention and redress (the Vishaka Guidelines). The **Vishaka Guidelines** have been translated into legislation through the Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Act 2013 (Prevention of Sexual Harassment Act), which states that sexual harassment is a violation of a woman's right to equality, her right to life and her right to live with dignity. Figure 3 sets out the procedure for reporting a complaint of sexual harassment under the Act.

FIGURE 3: Procedure for reporting a complaint of sexual harassment



⁴⁸ (1997) 6 SCC 241.

⁴⁹ It defined sexual harassment as unwelcome sexually determined behaviour (whether directly or by implication) which included physical contact and advances; a demand or request for sexual favours; sexually coloured remarks; showing pornography; any other unwelcome physical, verbal or non-verbal conduct of a sexual nature.

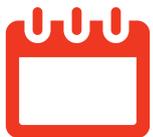
PREVENTION OF SEXUAL HARASSMENT ACT 2013

The Prevention of Sexual Harassment Act includes a broad definition of sexual harassment in the workplace:⁵⁰

Sexual harassment is defined as one or more of the following unwelcome acts or behaviour (whether direct or indirect):

- i. physical contact and advances;
- ii. a demand or request for sexual favours;
- iii. making sexual remarks or inferences;
- iv. showing pornography; or
- v. any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

If connected to any unwelcome sexual act or behaviour, the following circumstances also amount to sexual harassment of a woman worker: implied or explicit promise of preferential treatment in her employment; implied or explicit threat of detrimental treatment in her employment or regarding her present or future employment; interference with her work or creating an intimidating or offensive or hostile work environment for her; humiliating treatment likely to affect her health or safety.⁵¹



The **ICC** completes its inquiry within 90 days.

The **ICC** submits a report of its findings and recommendations to the employer.

The report is given to the worker and the alleged perpetrator who can challenge the recommendations.

If **ICC** concludes sexual harassment has taken place it recommends:

1. The employer take disciplinary action against the perpetrator.
2. The employer or perpetrator pay the victim compensation.

The **employer** must act on ICC recommendations within 60 days

⁵⁰ Prevention of Sexual Harassment Act, s.2(n).

⁵¹ Prevention of Sexual Harassment Act, s.3(2). A worker means any person employed (whether paid or unpaid) at a workplace for work on a regular, temporary or daily wage basis either directly or through an agent or contractor as a worker, probationer, trainee, apprentice or volunteer.

DUTIES OF EMPLOYERS

The Prevention of Sexual Harassment Act sets out specific duties of employers to prevent, protect against, investigate and provide redress for sexual harassment.⁵²

Employers are required to:

- a. Provide a safe working environment to all workers.
- b. Establish an Internal Complaints Committee to deal with complaints of sexual harassment.
- c. Initiate action for misconduct against perpetrators of sexual harassment and impose appropriate sanctions.
- d. Initiate action under the Indian Penal Code against a perpetrator of sexual harassment or support a victim of sexual harassment if she wants to register a complaint under the Penal Code.

INTERNAL COMPLAINTS COMMITTEES

An employer is required to set up an Internal Complaints Committee.⁵³ The Prevention of Sexual Harassment Act sets out the composition of the Committee⁵⁴ and the procedure for reporting and investigating a sexual harassment complaint. The Internal Complaints Committee must prepare an annual report for the employer on the number of sexual harassment cases filed and their outcomes. This information must be provided to the District Officer.⁵⁵

So why, despite this clearly defined legal framework, is sexual harassment in garment factories endemic? The answer is a complete failure of implementation of the Prevention of Sexual Harassment Act and a lack of legal accountability of factory owners and management.

The findings of our focused work with garment workers in Bangalore in Chapter 4 highlight the prevalence of sexual harassment and violence and its impact on garment workers. Our practical recommendations in Chapter 6, formulated in consultation with a wide range of government and civil society stakeholders, provide a concrete action plan to start moving towards more effective implementation of the Prevention of Sexual Harassment Act and compliance by factory owners and management with their legal obligations to tackle sexual harassment in their workplaces.

⁵² Prevention of Sexual Harassment Act, s.19.

⁵³ Prevention of Sexual Harassment Act, s.4(1).

⁵⁴ Prevention of Sexual Harassment Act, s.4(2).

⁵⁵ Prevention of Sexual Harassment Act, ss.21-22. Under the Act, States are required to monitor the compliance of the law through the office of the District Officer. In the event that ICCs are not established in corporate or commercial entities, the District Office is required to establish Local Complaint Committees (LCC) to receive complaints. To date, most states have not yet set up functioning LCCs.



PROJECT FINDINGS

PROJECT FINDINGS



1 in 14

women workers has experienced physical violence



1 in 7

women workers has been raped or forced to commit a sexual act



0

criminal charges brought against perpetrators (SFC survey data)

You asked me about my happiness, sorrows and difficulties. I am very thankful to you for this.

Garment worker survey respondent, December 2015

Sisters For Change and Munnade identified an urgent need to support women garment workers combat violence in the workplace. We were aware that women garment workers have little knowledge of their rights or sexual harassment laws, have limited access to justice and are disadvantaged by low literacy levels and meagre means. We realised that their vulnerability to exploitation is heightened by the fact that the majority are young migrant workers from rural communities, many (up to 60% by some estimates) are from Scheduled Castes or Scheduled Tribes and frequently are the major or sole source of income for their families. We recognised that the Prevention of Sexual Harassment Act will not be implemented until women garment workers are able to evidence the scale of harassment and violence they face and the impact on their lives; to demonstrate the failure of current procedures to investigate complaints effectively and sanction perpetrators; and to hold factory management to account for tackling sexual harassment and violence.

SISTERS FOR CHANGE / MUNNADE PROJECT

1200

garment factories
concentrated in Peenya
Industrial Area, Mysore
Road and Bommanahalli

Sisters For Change partnered with Munnade and trained a group of VAW Community Paralegals to advise and support women garment workers suffering sexual harassment and violence and to report and track complaints to factory management or cases registered with the police. Between October – December 2015, the VAW paralegals conducted a representative survey of garment workers to establish the levels of harassment and violence at their places of work. Our VAW Community Paralegals are between 30-45 years old, have worked in garment factories (most as tailors) for between 8-20 years each and, on average, attended school until they were aged between 13-15 years old. All of our paralegals are women leaders who have worked for years, often at personal expense and risk, to support their sister women garment workers.

PROJECT AREA FOR EVIDENCE COLLECTION

Sisters For Change worked with Munnade to target workers from the Mysore Road and Peenya industrial areas of Bangalore. Munnade has worked for 12 years in the Mysore Road area, which has between 25-30 large factories, and has supported women workers by setting up dozens of self help groups (SHGs) and outreach programmes. It has only been operational for the last 3 years in Peenya, which is a vast industrial area with over 400 factories. However, GLU is much more active in this area, given the number of workers, and the majority of complaints and cases that Munnade and GLU handle originate here. Munnade / GLU handle an average of 10-15 violence against women cases each month.

The principal factories where Munnade has supported women workers and from where participants for our survey and legal cases were drawn are as follows:

FACTORIES IN MYSORE ROAD	FACTORIES IN PEENYA
Tex Fort creations	Bangalore suits
Success Apparels	Shahi export
Shalini Creations part of Texport Overseas Export Group (700 workers)	Shashikar enterprises Private limited
Namasthe Exports (2 units – 1000 workers)	Outdoor clothing
Aravind Garments (1500 workers)	Dress Master Suites
Disha Designs part of Bombay Dyeing Group (1000 workers)	Mandaana Garments
Tex Port Industries (1500 workers)	Gokuldas Intimate wear
Vidya Creations part of Texport Overseas Export Group (800 workers)	
Wonder Blue (1200 workers)	Tex Fort Syndicate
Anvarth apparels	Indos Intex
Color lines	J B C
Bombay Rayah Fashion Limited (1300 workers)	Golden Seems
Devaki Designs	Sri Ram Garments
Hinduja Processing and Finishing Unit part of Gokuldas Export Group (2000 workers)	Brandis Private Ltd.
	Unitex
	Indian Design

SURVEY AND CASE ANALYSIS FINDINGS

SOCIO-ECONOMIC STATUS OF WOMEN GARMENT WORKERS

Of the women garment worker respondents from the factory area under study, 93% were between 21-49 years old and 73% were married. In terms of education, the majority could read or write (84%) but approximately 49% had left school before age 15 and more than 75% before age 18. 10% had started work between the age of 7 and 15 and over half by the age of 18.

Of the survey sample, the majority worked full time and their average wage was approximately INRs. 7,336 per month (£76/\$109). 1 of every 2 women workers interviewed said they were the primary wage earner in their family or household. The majority (55%) stated that they could provide for the needs of their family only with difficulty or great difficulty, showing clearly their disadvantaged economic status. This was underlined by findings that suggested less than 2 in 10 women workers own a place to live and even fewer – approximately 1 in 8 – own land.

PREVALENCE OF HARASSMENT AND VIOLENCE

1 FINDING 1: ABUSE AND SEXUAL HARASSMENT OF FEMALE GARMENT WORKERS AT WORK IS ROUTINE. PHYSICAL AND SEXUAL VIOLENCE IS WIDESPREAD.

Chart 1 opposite illustrates the prevalence and types of violence experienced by women garment workers in Bangalore. As can be seen, over 60% of women have been intimidated or threatened with violence, while between 40-50% have experienced humiliation and verbal abuse. This is an alarmingly high statistic and important – it paints a picture of a workplace where managers and supervisors use abusive and sexualised language to subordinate women workers and create a hostile and intimidating working environment. It is against this backdrop that we must see the results relating to levels of physical and sexual violence in the workplace:

- + 1 women worker in 14 has experienced physical violence
- + 1 women worker in 7 has either been forced to commit a sexual act or have been forced to have sexual intercourse (7.4% and 5.4% respectively)

Added to the high levels of violence are very concerning statistics on frequency of violence: 16% of those who experienced violence said they had suffered violence on multiple occasions and 5% indicated they had suffered violence on 5 or more occasions.

The cases of harassment and violence against women workers that our VAW Community Paralegal team managed over the course of the project support the findings articulated by the survey.

The cases give a sense of the daily occurrence of abuse, the workplace subordination of women workers and the human rights violations committed against them in a climate of impunity. Importantly, they also highlight that it is not only young rural and migrant women who are vulnerable to sexual harassment and abuse, but that older women – often the single head of the household or the sole wage-earner in the family and therefore completely dependent on her factory job – who are targeted by male managers who exploit their economic and social vulnerability.

10%

of garment workers began work when they were 7-15 years old.

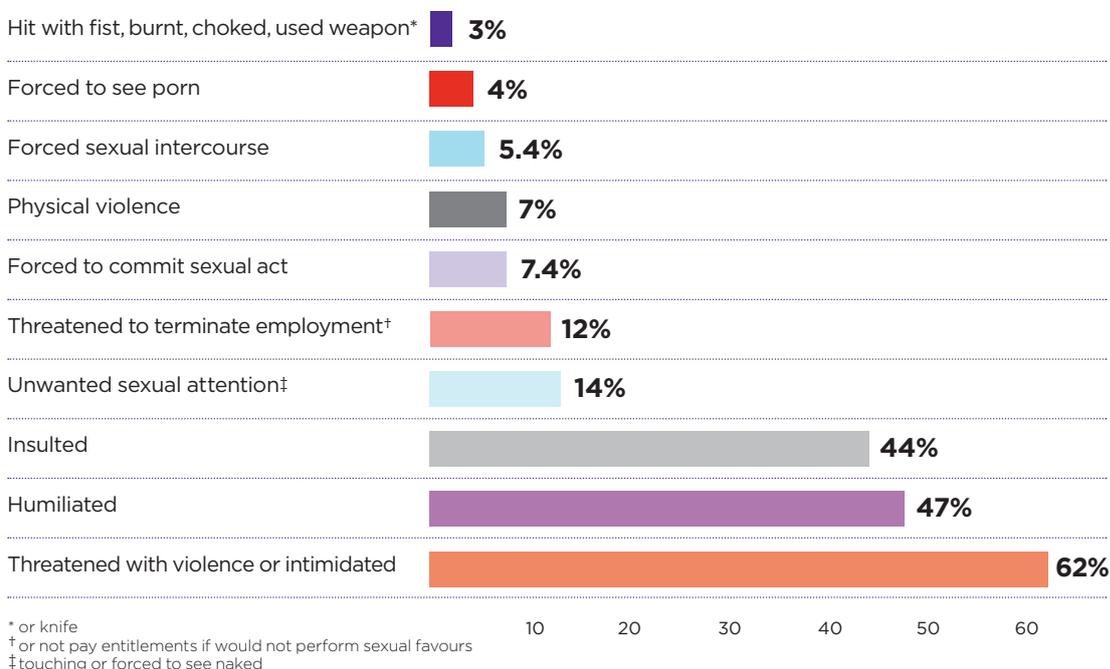
50%

of women garment workers are primary wage earners for their families

60%

of women workers have been intimidated or threatened with violence

CHART 1: Types of violence experienced by women garment workers in factories in Bangalore



Case 1

A garment worker travelled to and from work in a factory vehicle everyday. A friendship developed between her and the factory driver but then the driver started threatening the worker and forced her to pay him money. One Sunday, the driver went to the garment worker's home and physically assaulted and raped her.

Commentary

A workplace includes any private organisation, enterprise, office or unit carrying on commercial activities including production, supply, sale, distribution or any place visited by an employee arising out of or during the course of her employment including transportation provided by the employer for travelling to and from work.⁵⁶ Thus, any unwelcome acts or behaviour of a sexual nature committed by the driver in the factory vehicle constituted sexual harassment under the Prevention of Sexual Harassment Act.

Case 2

A young rural woman came to Bangalore to work as a tailor in a garment factory. After a year at the factory, a new manager was appointed. One day he came to the work station of the young worker and told her to accompany him as he wanted her to inspect some work. The manager took the young woman into a dark, empty room. The manager told the young woman that he wanted to have sex with her. He said he would increase her wages and give her jewellery if she agreed. The young woman refused, telling him she was married with two small children. The manager ignored her, forcefully grabbed her and began touching her sexually. The young woman told the manager she was menstruating. He stopped touching her and left the room. Five days later, the manager told security to instruct the young woman to stay behind after her shift because he wanted to speak to her. The young woman

⁵⁶ Prevention of Sexual Harassment Act, s.2(o).

refused and left the factory. She stayed off work for 15 days. She was afraid to tell her family what had happened so she left her job. A few months later, the young woman heard that the manager had raped a garment worker in the factory where she used to work.

Case 3

A supervisor repeatedly abused and harassed a 20 year-old unmarried garment worker, touching and violently pinching and squeezing her, which caused bruising. The supervisor threatened that she would lose her job if she reported him. Eventually, the young worker told her union representative about the sexual harassment she was suffering. Her representative supported her to report her supervisor to Human Resources department. No action was taken against the supervisor.

Commentary on cases 2 & 3

The acts perpetrated by both the manager and supervisor fall within the definition of sexual harassment under the Prevention of Sexual Harassment Act. Every employer is required under the Prevention of Sexual Harassment Act to provide a safe working environment for workers, which includes protection from physical and sexual intimidation, harassment and violence from persons they come into contact with at their workplace. They must establish an Internal Complaints Committee to deal with complaints of sexual harassment and initiate action for misconduct against perpetrators of sexual harassment.⁵⁷ The garment workers' employers failed to meet any of these requirements and therefore violated the Prevention of Sexual Harassment Act.

Case 4

A 35 year-old garment worker was employed as a tailor. She was the sole wage earner for her family. Between July and October 2015, she suffered repeated verbal intimidation, abuse and physically threatening behaviour by her Floor Manager. The women did not disclose the harassment to anyone because she was scared she would lose her job.

IMPUNITY OF PERPETRATORS OF HARASSMENT AND VIOLENCE

“If people are punished then physical and sexual harassment of women workers might come under control.”

Garment worker surveyed November 2015

Women respondents were clear that supervisors and Floor-in-Charge managers commit the majority of harassment and violence in factories. Chart 3 identifies the most frequent perpetrators of each type of violence.

⁵⁷ Prevention of Sexual Harassment Act, s.19.

CHART 3: Main perpetrators of violence as defined by respondents who had experienced violence

TYPE OF VIOLENCE	MAIN PERPETRATOR/
Insulted	61% Supervisor
	28% Floor in Charge
	10% Co-worker
Humiliated	60% Supervisor
	31% Floor in Charge
Intimidation	57% Supervisor
	31% Floor in Charge
Threatened with violence	68% Supervisor
	23% Floor in Charge
Physical violence (slapped, pushed, shoved)	55% Supervisor
	18% Floor in Charge
	18% Manager
Unwanted sexual attention (touching, forced touching)	71% Supervisor
	14% Floor in Charge
Forced to watch or see or subjected to pornography or illicit images	68% Supervisor
	23% Floor in Charge
Forced to commit sexual act	70% Supervisor
	20% Floor in Charge
Forced sexual intercourse	62% Supervisor
	38% Floor in Charge
Threatened to terminate employment (if worker would not perform sexual favours)	88% Supervisor
	12% Floor in Charge
Refused to pay entitlements or social benefits (if worker would not perform sexual favours)	88% Supervisor
	12% Floor in Charge

61%

of women workers were prevented from reporting cases of harassment & abuse

1 in 7

women workers left their jobs due to harassment or violence

95%

Factory management took no action in 95% of reported cases of abuse and violence

2 FINDING 2: PERPETRATORS OF SEXUAL HARASSMENT AND VIOLENCE ENJOY WIDESPREAD IMPUNITY.

Perpetrators of sexual harassment, because of their supervisory and management roles, have significant power over women workers (with the ability to terminate employment or stop wage payments) and enjoy widespread impunity. 61% of garment workers surveyed indicated that they had been silenced and prevented from reporting cases of sexual harassment and violence by the threats made by perpetrators. And over 1 in 7 women workers said they had left their job due to harassment or violence.

Survey respondents reported that factory management routinely fail to take action when sexual harassment and abuse is reported to them: no action was taken in incidents of abuse and violence experienced by survey respondents in 94.5% of cases.

From the experience of our VAW paralegal team and data gathered from our workshops, it is clear that sanctions are imposed on perpetrators often only after legal or union representatives intervene or collective groups of garment workers demand action in relation to serial abusers.

3 FINDING 3: THE TOP 3 REASONS WHY GARMENT WORKERS THINK SEXUAL HARASSMENT AND VIOLENCE IN GARMENT FACTORIES ARE ROUTINE:

Nº1: Male workers think they have the right to harass women workers.

Nº2: Senior management never punish supervisors or managers who harass women.

Nº3: Victims of sexual harassment and violence are threatened by perpetrators to stay silent.

The cases managed by our VAW Paralegal team again reflect the survey findings that factory management is slow to act to stop abuse, harassment and violence against women workers and therefore perpetuate the impunity enjoyed by the majority of perpetrators.

Case 5

The Production Manager of a garment factory started victimising a young garment worker who worked on the finishing line. The garment worker had worked with the manager before in another factory where he had a history of sexually harassing women workers. The manager clearly targeted the young worker by moving her from the finishing line to sit at a work-station in front of his office. He made it clear that he intended to prevent her from telling anyone about his history of sexual harassment of workers. He constantly criticised her. One morning, the young garment worker came to work and was refused entry by security. She was told that the manager had ordered security not to let her in because her employment had been terminated. The garment worker went to her union for advice. They helped her write a letter to the factory owner regarding her dismissal and the behaviour of the manager. The factory owner did not respond. The garment worker registered a case at the Labour Court for wrongful dismissal. The Court awarded her compensation.

Commentary

The manager was not only guilty of unlawfully dismissing the garment worker, his behaviour also constituted sexual harassment under the Prevention of Sexual Harassment Act.

Every employer is required under the Prevention of Sexual Harassment Act to provide a safe working environment for workers and is required to initiate action for misconduct against perpetrators of sexual harassment.⁵⁸

Upon receiving the letter of complaint from the garment worker following her dismissal, the factory owner was required to conduct an investigation into the allegations of harassment and intimidation. The owner failed to do so in violation of the Prevention of Sexual Harassment Act.

Case 6

Over a period of five months, a 33 year-old married garment worker suffered repeated verbal abuse and intimidation from her supervisor. She informed Human Resources (HR) but no action was taken. In November 2015, the harassment escalated and the garment worker and supervisor had a quarrel. The garment worker went to her welfare representative who reported the harassment and abuse to HR. HR called the garment worker and her supervisor to a meeting. HR did not discuss the supervisor's behaviour but told the garment worker to improve her work. In December 2015, in response to continuing abuse by the supervisor, the garment worker and supervisor had another quarrel. This time HR called a public meeting. HR publicly humiliated and chastised the garment worker and told her to improve her behaviour. After the meeting, the garment worker went home and attempted to commit suicide.

⁵⁸ Prevention of Sexual Harassment Act, s.19.

LACK OF FUNCTIONING GRIEVANCE MECHANISMS

“This study is very good. But mostly women will not speak as there is no platform for women to speak.”

Garment worker surveyed December 2015

60%

of victims were disbelieved or blamed when they reported sexual abuse or violence.

4 FINDING 4: THE MAJORITY OF GARMENT FACTORIES HAVE NO FUNCTIONING GRIEVANCE MECHANISM OR INTERNAL COMPLAINTS COMMITTEE, AS REQUIRED BY LAW, TO INVESTIGATE COMPLAINTS OF SEXUAL HARASSMENT AND VIOLENCE.

Survey respondents who had been victims of sexual harassment or violence indicated that when they did tell someone they had suffered harassment or abuse, 60% were not believed, were blamed or were told not to make a complaint to avoid being dismissed. Such responses to reports of sexual harassment and violence stigmatise and further traumatise victims, shaming them into silence. This, together with a lack of functioning internal complaints procedures, inhibits reporting of violence with the result that 82% of workers surveyed reported that they did not tell anyone about the sexual harassment or abuse they suffered, whilst an even larger number – 89% – did not formally report the sexual harassment or abuse to factory management or the police. Victims of violence cannot be blamed: the survey indicated that of all sexual harassment cases reported, action was taken against perpetrators in only 3.6% of incidents but criminal charges were brought in no cases.

75%

of workers reported no functioning internal grievance system in their factory

Although there is the pretence of an Internal Complaints Committee in many factories, with a paper notice or poster stating its existence, in a poll of women garment workers conducted during a Sisters For Change / Munnade workshop, 75% reported that there was no functioning Internal Complaints Committee in their factory.

In the legal cases managed by our VAW Community Paralegals, there was a mixed range of responses from management, Human Resources, Welfare committees and others to complaints of sexual harassment. Some acted to remove perpetrators (usually under pressure from a collective mobilisation of women workers) but the overwhelming majority did not.

What was clear was the lack of any coherent code of conduct, personnel policy or formal redressal mechanism to hear women worker’s complaints, resulting in apathy and inconsistency in addressing grievances and dealing with harassment and violence.

Case 7

A supervisor repeatedly threatened and abused a 21 year-old garment worker. Human Resources refused to take any action until worker representatives intervened. After the representatives made the case on a collective basis, the supervisor was removed from his job.

Case 8

A supervisor repeatedly abused – verbally and physically – garment workers in his section. Despite complaints from women workers, the factory failed to intervene to stop the abuse. Women garment workers had enough and decided to collectively organise to make the Human Resources Department take action. They presented their case together and strength in numbers made an impact. Human Resources sanctioned the Supervisor.

IMPACT OF WORKPLACE HARASSMENT AND VIOLENCE

“You have discussed with me what I know and what knowledge I have. Thank you for this.”

Garment worker surveyed November 2015

5 FINDING 5: 80% OF WOMEN GARMENT WORKERS REPORT THEIR HEALTH AND SAFETY IS AT RISK BECAUSE OF WORKING CONDITIONS AND 1 IN 4 FEEL UNSAFE AT WORK.

The survey indicated that a significant number of workers suffered health consequences as a result of their working conditions:

- + 19% of respondents classified themselves as having bad health.
- + 79% stated they considered their work negatively affected their health.
- + 80% considered their health or safety to be at risk because of their work.
- + 25% of workers indicated that they feel unsafe or somewhat unsafe at work.
- + 77% reported that they are not allowed to cannot communicate with family or friends while they are at work.

The impacts of sexual harassment and violence are significant. 15% 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.

SOCIAL SECURITY AND ACCESS TO MEDICAL TREATMENT

The survey indicated a low level of social welfare protection accessed by women garment workers. Chart 4 illustrates that most women workers do not have any private pension, health, life or accident insurance. Nearly 30% of garment workers surveyed claimed to have no social security insurance. Although it is mandatory for export-oriented factories to provide Employee State Insurance (ESI)⁵⁹ – a social security and health insurance scheme for workers earning less than Rs 15,000 per month (where workers pay 1.75% and the employer 4.75% of contributions) – GLU representatives report that many women workers do not understand their entitlement to ESI and do not know how to apply or to make a claim under the scheme.

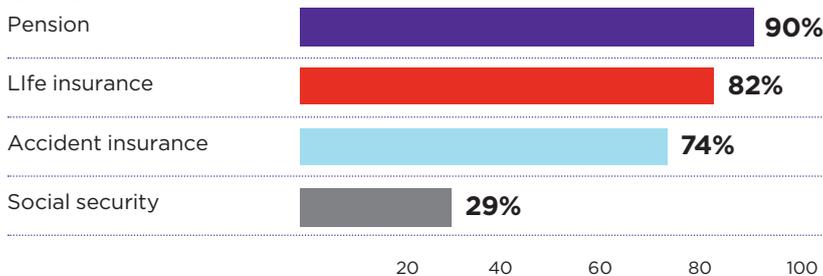
1 in 4

women garment workers feel unsafe at work

40%

of women workers have been absent from work because of mistreatment or violence

CHART 4: Women garment workers lack of insurance coverage (don't have this benefit)



⁵⁹ Employees registered under ESI are entitled to medical treatment for themselves and dependants, maternity benefit in the case of women workers, unemployment cash benefit in certain circumstances and disability benefit (if disability caused by work) and a family pension (in case of in-work death).

43%

of pregnant workers were not allowed maternity leave

6 FINDING 6: OVER 2 IN 5 PREGNANT WORKERS WERE NOT ALLOWED TIME OFF TO ATTEND MEDICAL CHECK-UPS.

Of respondent workers who were pregnant while working at a garment factory:

- + 43% were not given maternity leave.
- + 48% were not allowed to take time off work when ill with pregnancy-related symptoms.
- + 27% were not paid maternity leave.

In addition:

- + 41% of garment workers surveyed stated their employer did not provide sick leave.
- + 45% stated that their employer paid them no holiday leave.

KNOWLEDGE OF LAWS ON SEXUAL HARASSMENT AND VAW

65%

of women garment workers do not believe they can access justice

7 FINDING 7: 75% OF WOMEN GARMENT WORKERS DID NOT HAVE CONFIDENCE THEY WOULD RECEIVE EQUAL PROTECTION UNDER THE LAW IF THEY REPORTED A CASE TO THE POLICE.

The majority of workers surveyed indicated that they had not received training on the Prevention of Sexual Harassment Act. 46% of workers did not feel that women garment workers were aware of their rights or knowledgeable about laws protecting them from harassment and violence in the workplace. This was borne out by our Community Paralegal team who have found that the majority of garment workers reporting cases of sexual harassment have received no training on the Prevention of Sexual Harassment Act.

Women garment workers do not have confidence that if they report sexual harassment or violence they will receive justice: 65% of survey respondents do not believe women garment workers can access justice because they are too poor, have insufficient knowledge, or are scared to go to the police. 75% of women garment workers surveyed did not feel that women garment workers received fair and equal treatment in the criminal justice system.

OVERSIGHT OF FACTORIES: INSPECTION & IMPLEMENTATION OF THE LAW

0

No statutory body in Bangalore has received reports from garment factories (required by law) on efforts to combat sexual harassment

8 FINDING 8: STATUTORY OVERSIGHT BODIES HAVE TO-DATE TAKEN LITTLE ACTION TO ENSURE EFFECTIVE IMPLEMENTATION OF THE PREVENTION OF SEXUAL HARASSMENT ACT OR TO MONITOR LEGAL COMPLIANCE BY FACTORIES.

During the course of our work in Karnataka and in meetings with key stakeholders, it became clear that lines of authority for overseeing implementation and enforcement of the Prevention of Sexual Harassment Act are unclear. Although the Commission for Women is the nodal agency responsible for implementation of the Prevention of Sexual Harassment Act, it is the Labour Commission who has responsibility for inspecting factories & ensuring the health & welfare of workers (which includes protection from sexual harassment). And, to further complicate the picture, it is the District Collector who is the designated recipient of Annual Reports on sexual harassment complaints, which Companies & factories are required to submit under the Prevention of Sexual Harassment Act. Given this range of interested parties mandated by the Act, clear & careful coordination needs to be agreed to ensure that effective oversight occurs.

To date, this does not appear to be happening. When our partner Munnade wrote to the State Commission of Women and the District Collector under the Right To Information Act 2005 and requested details of the Annual Reports and complaints submitted by a well-known garment factory in Bangalore, both bodies reported that they had no information in this regard. This provides evidence of a lack of oversight on the ground to ensure factory management comply with their duties under the Prevention of Sexual Harassment Act. Separately, in discussions with the Labour Commission, it is clear that it sees its mandate as circumscribed by the Industrial Employment (Standing Orders) Act 1946. It is worth noting that this mandate includes the prohibition of sexual harassment in the workplace.



**SISTERS FOR
CHANGE /
MUNNADE
ROUNDTABLE
DISCUSSION WITH
STAKEHOLDERS**

SISTERS FOR CHANGE / MUNNADE ROUNDTABLE DISCUSSION WITH STAKEHOLDERS



Sisters For Change Legal Director discusses lack of enforcement of the Prevention of Sexual Harassment Act

“It’s a matter of law, need and compliance. Today we have spoken about the law; we have made clear the need; now we need to move forward – together – to secure factory compliance”

Sisters For Change Legal Director, Jane Gordon, 18 March 2016

Sisters For Change convened a stakeholder roundtable on Friday 18 March 2016 at SCMI House, Bengaluru to discuss the findings of our report. Representatives from the Karnataka Department of Labour, the Karnataka State Commission for Women, the Karnataka State Police, the Garment Labour Union (GLU), CIVIDEP, NGOs and civil society were present at the roundtable. The former State Public Prosecutor, human rights lawyers and independent business consultants also attended. The Factories Department and the Department of Women and Child Development were invited to the roundtable but failed to send any representatives.

Sisters For Change introduced the VAW project and the work of the Munnade VAW Paralegal Cadre. Sisters For Change explained the methodology employed to collect systematic data and evidence on prevalence of harassment and violence against women garment workers (see chapter 1) and outlined the key findings from the Sisters For Change / Munnade project (see chapter 4).

The representatives from the Karnataka Department of Labour recognised the compelling force of the survey statistics on prevalence of sexual harassment and violence against women garment workers.

An officer confirmed that the Labour Department was aware of the problem – “we know it is happening” – but acknowledged that they were not aware of the systematic nature and scale of the violence, or of the barriers faced by women workers in submitting complaints to factory management or reporting criminal cases to the police: “we are visiting factories and asking workers but no one is telling us.” Another officer commented that the main responsibility lay with the Factories Department and regretted their absence from the meeting. Another officer admitted, “we are not implementing the Sexual Harassment Act 2013 as we have no guidelines for how it should come into force in our State”, and confirmed that until State authorities issued formal guidelines to responsible departments, then little action would be taken regarding implementation. However Labour Department officials emphasised that they wanted to contribute to addressing the violence and harassment suffered by women garment workers stating, “Don’t take it that we are passing our responsibility to other Departments – we are ready to help.”

The representative of the Karnataka State Commission for Women reported that the Commission had issued guidelines to officials in the Ministry of Women and Child Development and to District Collectors on implementation of the Prevention of Sexual Harassment Act 2013, but that she would take steps to ensure that the guidelines were also disseminated to the Labour Department and the Factories Department. She agreed that the Commission should use its coining power to bring together stakeholders from the Women’s Commission, Labour Department, Factories Department and others to discuss the findings of the SFC / Munnade report and agree on action that should be taken to reduce sexual harassment and violence against women workers in Bangalore’s garment factories and improve implementation of the Prevention of Sexual Harassment Act 2013. She proposed that SFC / Munnade meet with the Women’s Commissioner to discuss their final report.

An independent business consultant referred to the I.T sector, which appeared to have a much higher level of compliance regarding investigation of sexual harassment complaints and submission of annual reports under the Prevention of Sexual Harassment Act 2013. She suggested that the Women's Commission collate and share examples of good practice from other sectors to improve compliance in the garment sector.

The representative of the Women's Commission indicated that she would raise the issue of non-functioning internal complaints committees with the Commissioner.

She also agreed that if Munnade obtained the consent of individual garment workers who had suffered sexual harassment and violence to report their cases to the Women's Commission, the Commission would take steps to investigate these cases.

Munnade suggested that the Labour Department provide training for garment workers on the Prevention of Sexual Harassment Act 2013 and legal rights of workers. Officers from the Labour Department were sympathetic to the request but stated that this responsibility lay with the Legal Services Authority, which should be approached directly.

COMMITMENTS TO ACTION

Participants made the following commitments to tackle the levels of harassment and violence against women garment workers and to improve implementation of the Prevention of Sexual Harassment Act:

- + The State Commission for Women undertook to convene a high level cross-Ministry meeting with the Labour Department, Factory Department and the Women & Child Development Department to coordinate responsibilities under the Prevention of Sexual Harassment Act and improve factory compliance.
- + The State Commission for Women undertook to investigate cases of violence against women garment workers submitted by Munnade/GLU.
- + The Labour Department noted the urgent need to raise awareness among factory management staff and workers and proposed working with the State Legal Services Authority to provide training in factories.
- + GLU and Munnade proposed working with the Factories Department to monitor garment factory compliance with the Prevention of Sexual Harassment Act and ensure management establish Internal Complaint Committees and grievance procedures.



Munnade leaders lobby for Government action to tackle abuse of women garment workers



CONCLUSIONS, FINDINGS & RECOMMEND- ATIONS

CONCLUSIONS, FINDINGS & RECOMMENDATIONS

A. CONCLUSIONS

HOSTILE WORKING ENVIRONMENT

1 Over 60% of women have been intimidated or threatened with violence, while between 40-50% have experienced humiliation and verbal abuse. This is an alarmingly high statistic and important – it paints a picture of a workplace where managers and supervisors use abusive and sexualised language to subordinate women workers and create a hostile and intimidating working environment.

EXPLOITATION OF ECONOMIC AND SOCIAL VULNERABILITY OF WOMEN GARMENT WORKERS

2 It is not only young rural and migrant women who are vulnerable to sexual harassment and abuse, but that older women – often the single head of the household or the sole wage-earner in the family and therefore completely dependent on her factory job – who are targeted by male managers who exploit their economic and social vulnerability.

IMPUNITY OF PERPETRATORS

3 The perpetrators of sexual harassment, by dint of their supervisory or management roles, have significant power over women workers (with the ability to terminate employment or stop wage payments) and enjoy widespread impunity.

FAILURE OF FACTORY MANAGEMENT

4 There remains huge system wide ignorance about the Prevention of Sexual Harassment Act amongst workers, management, auditors, inspectors and regulators. Although there is the pretence of an Internal Complaints Committee in many factories, with a poster stating its existence, 75% of garment workers reported that there was no functioning Internal Complaints Committee in their factory.

5 Human Resources and factory management are slow to take action to stop sexual harassment and violence against women workers, perpetuating the impunity enjoyed by the majority of perpetrators. Of all sexual harassment cases reported, action was taken against perpetrators in 3.6% of incidents but no criminal charges were brought.

IMPACT OF HARASSMENT AND VIOLENCE

6 Workers suffer health consequences as a result of their hostile working conditions and the abusive treatment they receive at work.

OVERSIGHT

7 Lines of authority for overseeing implementation and enforcement of the Prevention of Sexual Harassment Act are unclear.

EMPOWERMENT OF WORKERS

8 Women garment workers will report sexual harassment and violence if they are made aware of the law and are given meaningful support.

B. PROJECT FINDINGS

- 1 FINDING 1:** Abuse and sexual harassment of female garment workers at work is routine. Physical and sexual violence is widespread.
- 2 FINDING 2:** Perpetrators of sexual harassment and violence enjoy widespread impunity.
- 3 FINDING 3:** The top 3 reasons why garment workers think sexual harassment and violence in garment factories are routine:
 - Nº1: **Male workers think they have the right to harass women workers.**
 - Nº1: **Senior management never punish supervisors or managers who harass women.**
 - Nº1: **Victims of sexual harassment and violence are threatened by perpetrators to stay silent.**
- 4 FINDING 4:** The majority of garment factories have no functioning grievance mechanism or Internal Complaints Committee, as required by law, to investigate complaints of sexual harassment and violence.
- 5 FINDING 5:** 80% of women garment workers report their health and safety is at risk because of working conditions and 1 in 4 feel unsafe at work.
- 6 FINDING 6:** Over 2 in 5 pregnant workers were not allowed time off to attend medical check-ups.
- 7 FINDING 7:** 75% of women garment workers did not have confidence they would receive equal protection under the law if they reported a case to the police.
- 8 FINDING 8:** Statutory oversight bodies have to-date taken little action to ensure effective implementation of the Prevention of Sexual Harassment Act or to monitor legal compliance by factories

C. RECOMMENDATIONS

In light of the conclusions and findings made in this report and the commitments made by State officials at the March 2016 stakeholder roundtable, we make the following recommendations for action:

- 1** The State Commission for Women should convene a high level cross-Ministry meeting with the Labour Department, Factories Department, Women & Child Development Department and the Bangalore Urban District Collector to agree responsibilities and mandates of each under the Prevention of Sexual Harassment Act and to ensure that guidelines for implementation of the Act are adopted.
- 2** The State Commission for Women, Factories Department, Labour Department, Women & Child Development Department and the Bangalore Urban District Collector should agree an action plan to monitor compliance of garment factories in Bangalore with their responsibilities under the Prevention of Sexual Harassment Act.
- 3** The Legal Services Authority, in consultation with garment worker unions, should provide training to factory management and garment workers on the Prevention of Sexual Harassment Act.

- 4 The Bangalore Urban District Collector should write to all garment factories in Bangalore requiring them to submit an annual report on the work of their Internal Complaints Committee and information on complaints received and action taken, as required under the Prevention of Sexual Harassment Act. Where a company fails to comply, the District Collector should notify the Commission for Women, which should take action against the factory.⁶⁰
- 5 Over the next 12 months, the Labour Department and Factories Department, in consultation with garment worker unions, should draft a 'Code of Conduct' for how garment factory employees – male and female – should behave at work. The Code should explicitly define sexual harassment and set out disciplinary sanctions for perpetrators. The Labour Department and Factories Department should recommend adoption of the Code of Conduct by Human Resource Departments in all garment factories across Bangalore.
- 6 Over the next 12 months, the Labour Department and the Factories Department should initiate a series of factory inspection visits in the Mysore Road and Peenya area specifically focused on sexual harassment against women garment workers and the adequacy of internal grievance procedures for investigating complaints. Inspectors should meet with Internal Complaints Committee members, Human Resource departments and women worker committees and review internal grievance procedures. Following each inspection, the Labour Department and the Factories Department should publish their findings and recommendations.
- 7 The Karnataka State Women & Child Development Department should convene a meeting with Bangalore Protection Officers, Munnade and GLU to discuss how to support women garment workers who have experienced sexual harassment and violence and run awareness sessions to advise workers on their legal rights.
- 8 The State Commission for Women should investigate cases of violence against women garment workers submitted by Munnade and GLU.
- 9 GLU should engage with factory owners / managers in Mysore Road and Peenya areas where women workers have reported cases of sexual harassment and violence. GLU should brief factory management on the findings of the Sisters For Change / Munnade Report and discuss action to combat sexual harassment and violence against women garment workers.

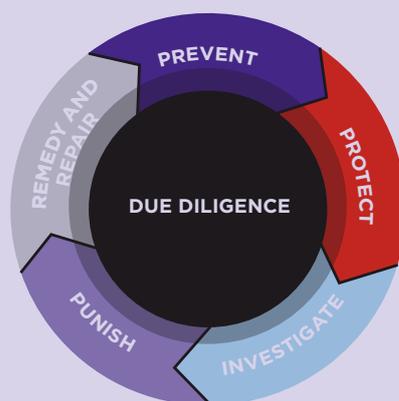
⁶⁰This approach has been implemented in Tamil Nadu, where the Madras High Court by order dated 2/9/2014 directed a company to pay ad hoc compensation of Rs 1.68 crore as damages for not establishing an Internal Complaints Committee as mandated by law. The Court stated that non-compliance with the law could invite prosecution for abetment of the case of harassment.

APPENDIX 1 DUE DILIGENCE FRAMEWORK

CEDAW recognises the due diligence obligations of States.⁶¹ CEDAW General Recommendation No. 19 explicitly states that States may be responsible for private acts if they fail to act with due diligence.⁶² The Declaration on the Elimination of VAW also requires States to exercise due diligence to prevent, investigate and punish acts of violence against women, whether those acts are perpetrated by the State or by private actors (Article 4).

Figure 1 defines the five elements of the due diligence obligation, each of which is described in more detail below.

FIGURE 1: Sisters For Change Due Diligence Wheel



PREVENT

States are required to create effective policies, systems and structures that identify the types and prevalence of VAWG; address the root causes of VAWG; and reduce / prevent incidents of VAWG.

PROTECT

States are required to develop appropriate legislative frameworks, policing systems and judicial procedures (such as restraining orders; expulsion orders; victim protection procedures) that will provide the necessary protection for all

women and girls, including a safe environment for women to report acts of violence. States must ensure that women and girls who are victims of, or at risk of, violence have access to legal assistance, medical care and support services. In situations where particular women and girls are known to be at risk of violence, States must take reasonable steps to protect them from harm.

INVESTIGATE

The duty of investigation is not conditional upon the State being guilty, directly or indirectly, of misconduct itself. The duty to investigate is triggered where there is a credible claim that a person has been subjected to serious violence, torture, inhuman or degrading treatment at the hands of a private party.

PUNISH

The obligation to punish imposes on the State the duty to effectively prosecute and appropriately punish perpetrators of violence against women and girls.

REMEDY AND REPAIR

States must provide adequate reparations for acts of VAWG. This involves providing access to criminal and civil remedies and the establishment of effective rehabilitation and support services for women survivors of violence. Compensation for acts of violence against women and girls may include payment of monetary damages for physical and psychological injuries suffered and for loss of employment, as well as any legal, medical or social costs incurred as a consequence of the violence.

The due diligence obligations of States comprise both an individual and systems duty. The individual duty is the obligation States owe to particular individuals, or groups of individuals, to prevent, protect, punish and provide effective remedies on a specific basis. The systems duty is the obligation States have to ensure a holistic and sustained model of prevention, protection, punishment and reparations for acts of violence against women.⁶³

⁶¹ CEDAW Articles 2(e), 2(f) and Article 5.

⁶² GR 19, para.9.

⁶³ Decisions of the CEDAW Committee under the Optional Protocol have made a substantive contribution to the development of the due diligence standard in relation to violence against women, particularly in relation to rape and domestic violence. See, for example, *Fatma Yildirim v Austria* CEDAW/C/39/D/6/2005, *Sahide Goecke v Austria* CEDAW/C/39/D/5/2005, *Karen Tayag Vertido v The Philippines* CEDAW/C/46/D/18/2008, *Isatou Jallow v Bulgaria* CEDAW/C/52/D/32/2011.

APPENDIX 2 STAKEHOLDER ENGAGEMENT

During the course of the project, Sisters For Change met and engaged with a wide range of Government and civil society stakeholders regarding its work to combat harassment and violence against women garment workers. We wish to recognise and thank all of those listed below for their time, advice and assistance.

GOVERNMENT OF INDIA

Ministry of Law & Justice (Department of Justice)
 Ministry of Social Justice & Empowerment
 Ministry of Women & Child Development
 National Commission for Women
 National Human Rights Commission
 Ministry of Human Resource Development
 National Legal Services Authority
 Bureau of Police Research & Development
 Ministry of Rural Development, National Rural Livelihoods Mission (NRLM)

KARNATAKA STATE GOVERNMENT

Karnataka Department of Social Welfare
 Karnataka Labour Department
 Karnataka Factories Department
 Karnataka State Women & Child Development Department
 Karnataka Women & Child Development Department Protection Officers
 Karnataka State Legal Services Authority
 Karnataka State Public Prosecutor II
 Karnataka State District Police Officers (Circle Inspectors & Sub-Inspectors)
 Karnataka State Commission for Women
 Karnataka State Human Rights Commission
 Legislative Expert Committee on Preventing Violence against Women & Children

NATIONAL CIVIL SOCIETY ORGANISATIONS

Human Rights Law Network, Delhi & Bangalore
 IndustriALL Global Union, Delhi
 International Labour Organisation, Delhi
 Ethical Trading Initiative, Delhi & Tamil Nadu
 World Bank, Delhi
 iProbono, Delhi
 Oxfam, Delhi
 Christian Aid, Delhi
 Centre for Advocacy & Research, Delhi, Karnataka & Rajasthan
 Centre for Health & Social Justice, Delhi
 Commonwealth Human Rights Initiative, Delhi

KARNATAKA STATE CIVIL SOCIETY ORGANISATIONS

Centre of Indian Trade Unions, Bangalore
 Fedina, Bangalore
 Cividep, Bangalore
 Karnataka Garment and Textile Workers Union
 Karnataka Garment Workers Union
 Indian Social Institute Research Department, Bangalore
 Shanti Sadhana Trust, Bangalore
 National Alliance of Women, Bangalore
 Open Space, Bangalore
 Centre for Women & the Law, National Law University, Bangalore
 Alternative Law Forum, Bangalore
 Amnesty, Bangalore
 Samvada, Bangalore
 Vimochana, Bangalore
 Global Prospects, Bangalore



Xy
**SISTERS
FOR CHANGE**

www.sistersforchange.org.uk
@sisters_4change
✉ research@sistersforchange.org.uk

MAKING JUSTICE WORK FOR WOMEN