

Women @ Work: Sexual Harassment in India's Informal Economy¹

Indira Gartenberg²

Introduction

1992.
Rajasthan.

A government employee, Bhanwari devi, working with the Women's Development Project as a grassroots worker, is gang-raped by a group of upper-caste men after she tries to stop a child-marriage in their family. The sessions court and high court find the rapists 'not guilty'. Five years later, women's groups in Rajasthan come together under the title 'Vishakha' and move the Supreme Court of India through a Public Interest Litigation (PIL) to get justice for Bhanwari devi. In the hearing, the Supreme Court acknowledges the lack of legal recourse available for women who face sexual harassment at workplace and issues guidelines (known as 'Vishakha guidelines') until a proper law is passed by the Parliament. Bhanwari's case garners much national and international attention for a long time to come.

Today 27 years later, Bhanwari devi is still waiting to get justice. The men who raped her never faced punishment. Bhanwari devi and her family faced social boycott and continue to be ostracized by her village community. It would seem like the case of this courageous woman from India's low-caste strata was one among the millions that got silenced by the powerful nexus of rich upper-caste men. It was facilitated by the patriarchal thinking that a lower-caste woman trying to transform the gendered power-relations in society threatens social stability, and that she should be 'put in her place', 'taught a lesson she will never forget'. This kind of thinking emerges from generations of misogyny which seeks to 'keep the woman in her place' as well as blaming her for the violence she faces.

Despite the disappointing outcome of Bhanwari devi's saga, her courage marked a watershed moment in the women's movement in India. Women's groups got the language to articulate issues of inappropriate behaviour at the workplace and in the public sphere. Prior to this incident, there was no understanding of sexual harassment as a violation of women's rights. At max, it was considered an occupational hazard that working women had to expect and ignore.³ It took the Parliament of India sixteen long years to replace the Vishakha guidelines with a law that would prevent, prohibit and redress cases of sexual harassment at the workplace.

On 22 April 2013, the 'Sexual Harassment of Women at Workplace (Prevention, Prohibition And Redressal) Act, 2013' came into force in India.⁴ It was heralded by lawyers as a well-articulated and comprehensive legislation, and welcomed by women's groups as a progressive step in the right direction. The law notes that sexual harassment 'includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication):

- physical contact and advances
- a demand or request for sexual favours
- making sexually coloured remarks
- showing pornography
- any other unwelcome physical, verbal or non-verbal conduct of sexual nature

As far as the definition of workplace, employer and worker are concerned, the law is unique, in that it acknowledges women workers in the informal economy and their workplaces. It is the implementing institutional mechanisms where it starts to become complicated.

¹ This article was written in September 2019. Later, a shorter version of it was written together with the experiences from the formal sector and published by [The Wire](#)

² Dr. Indira Gartenberg is a labour researcher and the chairperson of Labour Education and Research Network (LEARN). This commentary is informed by her ethnographic work with LEARN Mahila Kangaar Sanghatana, which is a grassroots collective of working women in the informal economy of Mumbai, Nashik and Solapur. Contact: learn-india@outlook.com

³ Women were and are supposed to expect and ignore sexual harassment in public spaces or on public transport as well.

⁴ For details, See: https://indiacode.nic.in/handle/123456789/2104?view_type=browse&sam_handle=123456789/1362

In the formal sector of public and private enterprises, i.e. offices, branches, government departments, organisations, agencies, the law mandates the formation of an internal committee (IC).⁵ For cases of sexual harassment outside the purview of the formal sector, the law mandates the formation of a local committee (LC) at the district level.⁶ The redressal is supposed to be expedient.

After the law came into force, several corporations and organisations formed ICs and proactively conducted gender-sensitisation trainings. There was a buzz on social media, and the dawn of the #MeToo campaign led to further awareness. However, much of this awareness remained restricted to the educated, middle and upper-middle class urban Indians, leaving out the vast majority of the uneducated, poor, non-internet users trapped in a caste-based occupational system guarded by strict social hierarchies. Often, India's image as a promising IT capital of the world is misleading, as the technological revolution has only touched a small fraction of its 1.2 billion people. The explosion of hashtags and blogs have excluded the large majority of the women in the informal economy, more so in the rural areas.

However, experiences of sexual harassment cut across geographies, classes, castes, religions, ethnicities, age-groups and settings. In the wake of the recently passed ILO Convention 190, in this article I focus on what it means for poor women workers in the informal economy to access resources, information, support and institutional mechanisms to get help with their experiences of sexual harassment at the workplace.

I draw primarily on my learnings from a community-based union of informal women-workers in three urban centres in Maharashtra state of India, and as its organising secretary, I have the subjective bias of reflecting on cases of sexual harassment experienced by women workers in the *urban* informal economy.

Sexual harassment of women workers in the informal economy

The instances of sexual harassment faced by women in public places and workplaces are innumerable. Both emerge from the sexist mindset which suggests that men can get away with inappropriate behaviour. Let me begin by providing some real-life examples:

- A 7-year-old child street-vendor selling vegetables in a busy market is frequently grabbed and fondled by the male street vendors in full public view. Sometimes, the squeeze is so tight she writhes in pain as tears roll down her cheeks. She is too afraid to scream or ask for help, but wants it to stop. Her elder brother, all of 9 years old, understands her helplessness and informs their mother. The mother tells her daughter that such instances will keep happening and that she will have to learn to survive among the sharks. She suggests that her 7-year old girl should ignore it, be brave, and continue to focus on the work. Today, 31 years later, this girl is a mother to 3 daughters and is the president of a women-workers union. Her childhood experiences have sensitised her to sexual harassment faced by poor women and girls, and she channels her pain and anger by helping others through a community-based 'women support cell' started by her union.

- A 33-year old construction worker, a new mother, is a helper at a construction site. She and her entire family live and work at the site. A contractor known to her family has brought them from the village to the city to work. Her work is hard enough, she is also nursing her newborn daughter, and cooking, cleaning, washing for her family. She wakes up before everyone else and goes to sleep last. The contractor knows that her family has multiple debts. He and the site supervisor frequently whistle and sing songs when she (and the other women-workers pass-by) and touch her at any chance they can get. She has been a construction worker since her childhood and has come to expect and accept this kind of lecherous behaviour by powerful men and her male coworkers. She does not utter a word about it to her husband or other family members. The other women do the same.

- A 47-year-old widow works in a tiny garment unit located near her home in a slum, snipping threads off of the rims of readymade garments, neatly folding and packaging them. She works 10 hours every day, her work is considered unskilled, her wages are low and irrespective of the work-volume she is paid the same amount each month. Her unit supervisor, *masterji* (the fabric-cutter, also the most powerful man in the garment unit) offers to increase her monthly salary and reduce her working time per day, provided she agrees to having sexual intercourse with him whenever he feels like it. She refuses and faces intimidation from him. Her male colleague, an assistant

⁵ Internal complaints committees are also called 'POSH' committees, which stands for Prevention of Sexual Harassment Committees.

⁶ The terms Internal Complaints Committee (ICC) and Local Complaints Committee (LCC) have been changed in the recent years, and are now referred to as Internal Committee (IC) and Local Committee (LC) respectively. Their meanings have not changed.

to *masterji* shows empathy towards her and once, in confidence suggests she approach a women-workers union in the slum. The union's 'women support cell' takes up the case and ask her how she would like it to be handled. Ten women show up at the manufacturing unit and mention the complaint filed anonymously. Initially, *masterji* throws his weight around, intimidates the activists. They try to reason with him but he is adamant. They threaten police action and leave. Few hours later, *masterji* and the owner of the garment unit show up at the women's support cell and profusely apologise. The owner promises to reduce the working hours and increase the salaries of all women-workers in all the units owned by him in the slum. Most importantly, *masterji* confirms he will stop his lewd behaviour and keep his communication with the women to the minimum, only in the presence of other colleagues and workers.

- A 65-year-old domestic worker, working in an affluent upper-class household is forced to see pornographic films by one of the younger men in the family. She is scared and embarrassed, but does not know what to say and to whom. The next day, she tries to avoid being in the same space as this young man. When she goes to clean one of the rooms of the opulent house, another male member of the household takes off all his clothes in front of her and sits on the bed, reading. She leaves the room, picks up her bag and immediately leaves the house trembling. She is too afraid to speak. Her neighbour and friend, who happens to be from the same village, notices that something is wrong. She confides in her neighbour who then takes her to a women-workers union in the slum. The union activists take down details of her case and ask her what she would like to do. She wishes to stop working in that household but does not want to quit because that would mean risking her unpaid wages. The union fixes an appointment with the head matriarch of the employer's family in the union office. The domestic worker narrates her two experiences to her madam. After initial denial, the madam says she would speak to the men in her family. The worker and the union demand a verbal as well as written apology. She gets both, along with severance pay worth six months' salary.

These examples highlight the ubiquitous nature of sexual harassment faced by women-workers in different sectors of the informal economy. They also show that sexual harassment happens irrespective of the stage in a woman's life-cycle— as a girl, a new mother, a middle-age widow or a senior citizen. It cuts across age-groups and marital status. Often, the perpetrators are known to the victim, and in some cases they are even related through caste/kinship networks. It is important to notice that the interlocking of multiple factors of dependency and multiple layers of power-relation intensify a woman's vulnerability in each of these cases. The other major factor instrumental in shaping the outcomes of each of these examples is that of support—whether it is from a co-worker, a family-member, or a neighbour. In cases where no support or help was available, the women and girls didn't have a choice but to put up with long-years of continuing sexual harassment.

Although these examples illuminate the different forms of sexual harassment faced by women, they do not cover the full range of men's unwelcome acts or behaviours, in that, this commentary certainly has lacunae. However, these examples will suffice for the present discussion to make certain important arguments about the efficacy of the 2013 law in India. Does the law prohibiting sexual harassment at workplace open up the possibilities for women from historically marginalised backgrounds to bring their abusers and oppressors to book? The answer is yes. But before delving into the practical possibilities of enabling higher numbers of Indian women to benefit from the provisions of the 2013 law in India and now the new ILO convention, it is important to understand the context within which these women live and work.

Context

Informality, dependency and vulnerability go hand-in-hand. Even a cursory understanding of employment arrangements in the informal economy will uncover the intricate linkages of caste and kinship networks, village and linguistic networks, and community and religious networks at play. Individuals are not free agents who find work off of their own qualification or prior experience. Rather, they are considered parts of a much larger social system that, provides jobs, better livelihood opportunity, regulates their social conduct, bestows acceptance upon the family, participates in their times of celebration and provides support in times of crisis. Economic relations are firmly embedded in social relations. Indians adhere to these divisions with great tenacity and steadfastly participate in religious and caste associations, regional and linguistic groups as the most promising avenue for developing and sustaining social acceptance, status, work and employment opportunities, marriage and other social relations. The socio-economic location of the poor in the caste-class hierarchy makes them particularly vulnerable, and in the near absence of state social security, this informal support system is the only safety net they

have. Patriarchy facilitates this social order. One is tied into this complex system through one's family unit, and it is therefore not easy to question it or break out of it. A lone woman who finds herself at the intersection of this multi-layered social hierarchy, risks her entire existence and her family's well-being when she raises her voice to fight the exploitation. It is therefore not surprising that fearing the disastrous consequences, many women in the informal economy do not report cases of harassment, much less so when it concerns sexual harassment at work. Her feelings of fear increase in huge proportions if she finds herself completely alone and unable to share her humiliating experience. Keeping her struggles bottled up, she moves about in the world uncomfortably and fearfully. Like most women, she is not aware of the local committee set up by the government to handle cases of sexual harassment at the workplace. The perpetrators of her crime go unpunished and roam around the world freely, waiting for their next prey. It is easy enough for men to prey on women in the informal economy precisely because they are aware of this vulnerability.

Having said that, it must be noted that historically, tens of thousands of grassroots movements have emerged in response to this divisive social order— anti-caste and anti-class movements, gender justice and women's rights movements, land rights and land reforms movement, and tribals rights movements— and more are continuing to emerge. These movements have laid the foundation for a dialectic process, providing a reflective space over deeply-contested hegemonic ideas, and provide a strong countervailing force to the dominant narrative which seeks to control and suppress the voices from below.

In this context, the grassroots collectives of women workers in the informal economy have been significant. Usually, such collectives are formed and led by women who themselves work in the informal economy and belong to the same socio-economic milieu as their members. Their collectives may or may not be formally registered as trade unions or NGOs. In their work as representative organisations of women-workers, they far outstretch their primary role to support women's working rights in terms of wages and working conditions, to include a whole gamut of issues that affect women in all aspects of their lives, such as redressal for domestic violence and family discord, childcare support, access to government entitlements and benefits, linkages with employment opportunities and scholarships for their children, and even providing support during health emergencies. Keeping work at the centre of their mobilisation and organising activities, these collectives emphasise the centrality of the woman's identity as a worker, an income-earner and an equal contributor to her household and the nation. They adhere to their central message: unity among women, despite the divisions in society.

The most important aspect about such community-based collectives are their proximity to a poor woman-worker— not only in terms of their proximity from her home, but also in terms of the social distance. The LC as an institutional mechanism is far removed from her reality and her grievance goes unreported, unregistered. The power of such collectives lie in providing a safe space for women to talk about issues that matter to them, share their experiences of exploitation and oppression, and collectively find solutions to these issues. Such grassroots collectives of women are ubiquitous and can be found all over India's rural and urban landscape. There has been no systematic or focused study to enumerate such collectives of women-workers, or qualitatively document their focus areas. However, over the past 15 years of working in this field, I have met several activists from all over India who have been unanimous in stating that organising women workers in the informal economy necessarily entails crossing the doorstep of the worker, entering her private sphere and social realm, questioning patriarchy and challenging the social order. The importance of such grassroots collectives, trusted by women in that geography, cannot be emphasised enough.

Response

As most of the work in informal economy depends on the individual's social network, work-related issues also need a response that take this into account. In order to meaningfully address the endemic problem of sexual harassment at workplace, the first and most important point is to look at it not as a 'women's problem' but as a labour issue. As such, it requires a collective response from the ground-up, not an individual fight. In order to do so, it would be useful to activate and strengthen grassroots women's collectives trusted by women as 'safe-spaces' to confide among women who understand them. The women leaders of these collectives must be provided sufficient training to build a nuanced understanding of the phenomenon of sexual harassment.

Equally important is to open up the discursive space through sensitisation and awareness workshops about the law which would help self-reflection and self-awareness through a collective process, to understand socio-economic

dependencies of different social groups, unlearn gendered notions about men and women, and understand the intricacies of inappropriate and unwelcome behaviour. As the interpretations of sexual harassment vary from one region to another and one woman to another, this process would play a crucial role in creating a common, expanded understanding of the phenomenon to cover the entire range of unwelcome behaviours in the spectrum. It does not help that the LC gives a victim a 90-day window to register her complaint after the 'incident' has occurred, because often sexual harassment is a gradual progression of several minor instances over a long period of time. If the employer or contractor is a community key-person, it is often difficult to interpret for certain if his touch was 'fatherly' or 'friendly' or 'exploitative'. The vast majority of women in the informal sector do not know of the existence of the LC. A testament to this is the fact that LCs even in large cities like Mumbai have received very [few](#) formal complaints despite the everyday experience of harassment endured by women.

As the LC, the police force and the medical fraternity also play a key role, it would be wise to sensitise them through orientation workshops to deal with their prejudices, and periodic reflect workshops to address their questions. Instead of laying the burden of proof on the victim, the investigations could take a holistic approach by honouring the perspective of the victim and her experience of the incident. The media too has a role to play, in speaking truth to power where the perpetrators of sexual harassment are influential, rich and powerful people, confident to get away with their inappropriate, criminal behaviour. The media could also help to chronicle (by consent) inspirational, courageous women who have come forward to share their stories, challenges and victories.

India is yet to ratify ILO C190. In the meanwhile, Indian women and girls have this law as a weapon to chart the course of a concerted, collective struggle for respect at the workplace.

Concluding Remarks

One may ask if small groups of resourceless, poor women in parts of India can truly bring about a meaningful difference in the alarmingly high incidence of sexual harassment in a country of over a billion people.

Change does not occur overnight. Often, it is the buildup of small incremental successes that create the right conditions for revolutionary change. That said, this article began by talking about the grit and courage of one Bhanwari Devi, whose resolve to get justice shaped the course of the women's rights movement in India. Needless to mention, her experience gave us the Vishakha guidelines, and then a law that unequivocally prohibits sexual harassment of women at the workplace. When thousands of collectives of grassroots women-workers are powered and activated with information, resources and linkages to the right institutional support, they are bound to create an environment of public discourse where the unacceptability of sexual harassment is a norm. As they fight for the rights of the victim using the legal and the institutional machinery, support each other, and question patriarchy, the situation for women and girls in this country will change. In closing, I am reminded of a quote by the famous anthropologist Margaret Mead: *Never doubt that a small group of thoughtful, committed citizens can change the world; indeed, it's the only thing that ever has.*