A study on the ‘Implementation of the Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Act 2013’ in the Garment Sector
Fair Wear would like to thank all the stakeholders who participated in the research study and International Resources for Fairer Trade (IRFT) for conducting the research.

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Introduction

From June to June of 2019, Fair Wear Foundation commissioned International Resources for Fairer Trade (IRFT) to conduct a study in India of the Sexual Harassment of Women at Workplace (Prevent, Prohibition and Redressal) Act, 2013. It was commissioned in the context of the Strategic Partnership for Garment Supply Chain Transformation and was funded by the Dutch Ministry of Foreign Affairs. The study aimed to investigate awareness of the Act and highlight gaps in its implementation in Indian garment factories. This document outlines the main recommendations for government, based on the study results in order to reduce sexual harassment in the sector. The full research is available from Fair Wear Foundation and can be shared on request.

Fair Wear is an international multi-stakeholder non-profit organisation that works with clothing companies and their supply chains to improve working conditions in the garment industry. Currently Fair Wear works with 130+ apparel member brands to create a garment industry that is fair for everyone. About 40 member brands buy from India. Fair Wear works with its brand members and their suppliers to prevent violence and harassment in garment factories and to ensure supply chain practices reduce the risks of violence and harassment for garment workers esp. women workers. Our vision is to see a world where the garment industry supports workers in realizing their rights to safe, dignified and properly paid employment.

International Resources for Fairer Trade (IRFT), established under the Bombay Public Trust Act in 1995, has been working towards the cause of 'fairness to all' along the supply chain. On the basic platform of 'fairness in trade', IRFT operates from three verticals: Community Business Support, Ethical Business Services and Fair-Trade Support.

Recommendations at a glance

Recommendation 1: Put in place an effective system to monitor the implementation of legislation to address sexual harassment.

1.1 Clearly define responsibilities for monitoring the Act and ensure awareness of relevant reporting channels among all stakeholders.

The Act does not identify any specific government department(s) as responsible, significantly impeding its implementation. Employers are not always aware to which local officials they should report.
1.2: Conduct compliance audits and ensure functioning Internal Committees.

Strict government audits/checks need to be enforced regarding compliance with the Act, in combination mandatory disclosure requirements for each company’s Internal Committee (IC). Currently, many factories either have a poorly functioning IC or none at all.

Recommendation 2: Create targeted efforts to raise awareness of the Act and ensure its implementation.

2.1 Train law enforcement agencies and private sector employers on addressing and preventing violence in the workplace.

Government needs to make provisions to ensure law enforcement and employers are aware of and equipped with tools to address sexual harassment and deal with victims without judgment or bias.

2.2 Ensure that employers conduct periodic awareness training.

The government needs to verify that employers fulfil their responsibility to periodically train their workforces on the Act.

2.3: Enact a legal directive enforcing the use of surveillance measures for harassment prevention.

Surveillance measures like closed-circuit television (CCTV) can increase the sense of safety for female workers and deter perpetrators.

Recommendation 3: Extend and enforce time frame for filing complaints beyond the six-month limitation.

At present, allegations of sexual harassment need to be filed within three months of the incident, with possible extension up to six months. Victims should be allowed more time, given the social and physiological impact and delays caused by a fear of job loss and not knowing where to report a complaint.
Background

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013\(^1\) was passed by the Lok Sabha (the lower house of the Indian Parliament) on 3 September 2012. Despite positive developments in Indian legislation related to human rights and labour law, effective implementation of laws and the allocation of financial resources to support their execution adequately are often lacking.

From January 2015 to October 2018, the National Commission for Women (NCW) reportedly received 2,383 complaints of sexual harassment occurring in the workplace, with the number increasing annually.\(^2\) The sum-total of sexual harassment cases dealt with by corporate India is likely much higher, as these are only those reported to the NCW.

An Internal Committee (IC) where these complaints can be reported and followed up on is mandatory in every public and private organisation with 10 or more employees. Yet, over a third of Indian companies and a quarter of multinationals do not have an IC, while half the companies that do indicate that their IC members are not legally trained.\(^3\)

In the garment industry sector, Fair Wear recognised the need to address the legislation-implementation gap to reduce sexual harassment and ensure safer workplaces. Fair Wear commissioned a study to investigate awareness of the aforementioned Act and identify ways to improve its implementation.

Study sample and methodology

FACTORY SELF-ASSESSMENT QUESTIONNAIRES
(35 RESPONDENTS)

A self-assessment questionnaire was sent to all 7,637 garment factories registered with the Apparel Export Promotion Council (AEPC). Of these, only 35 (0.45%) factories responded. The low response rate may reflect that only those with an anti-sexual harassment mechanism in place chose to respond. This in turn sheds light on how factories (do not appear to) prioritise this area, and it had an impact on the study results.

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\(^1\) Referred to throughout this document as ‘the Act’.


Study sample: Data collection from workers (150 women, 75 men) and other stakeholders

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<th>Tirupur</th>
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Data was collected in the south (Tirupur and Bangalore) and the north (Delhi NCR) of India, where the main textile and garment sector hubs are located. A garment workforce sample of 150 female and 75 male workers were drawn from the community living near the factory area, using a convenient sampling method. Visits and interviews were conducted with factory management and NGOs in each area.

**DESK RESEARCH: FAIR WEAR COUNTRY STUDY AND 37 FACTORY AUDITS**

Desk research was conducted using the Fair Wear India Country Study 2019, and 37 Fair Wear factory audits from 2016 to 2018. Of these, 19 audits were completed in the north (most in Delhi/NCR), 13 in and around Tirupur, and five in Bangalore.

**Recommendations and research data**

**RECOMMENDATION 1: PUT IN PLACE AN EFFECTIVE SYSTEM TO MONITOR THE IMPLEMENTATION OF LEGISLATION TO ADDRESS SEXUAL HARASSMENT**

Several factors need to be addressed in order to have an effective monitoring system in place, the lack of which is currently significantly impeding implementation of the legislation. The two sub-recommendations below relate to the need for clarity on who is responsible for monitoring the Act and how to effectively enforce its implementation.

1.1 Clearly define responsibilities for monitoring the Act and ensure that all stakeholders are aware of the relevant reporting channels.

Several key responsibilities for implementation and monitoring of the Act come under the mandate of the ‘appropriate government’, which can be the state or central government, depending on the workplace in question. However, the Act does not identify any specific government department(s) as responsible, and stakeholders are often unaware of which local officials they should report to.

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Data from research:

- Factory managers in all factories visited were unaware of responsible local government officials as per the Act, including the district officer, nodal officer, and members of the local committee in their area.
- Only 12 of 35 factories (self-assessment respondents) were aware of the government authority to which the mandatory IC annual complaint report should be submitted.

1.2: Conduct compliance audits/checks and ensure functioning Internal Committees.

Strict government audits need to be conducted regarding compliance with the Act. To further strengthen implementation, this is to be combined with the enforcement of mandatory disclosure requirements by each company’s Internal Committee (IC). Thus, each company needs an effectively functioning IC in place, which is rarely the case according to this study.

Data from research:

- All 35 factories in the self-assessment stated that no sexual harassment cases had occurred, even informally, in 2015-2017. Only one of the 35 factories responded that the reason for a lack of complaints could be: ‘Workers being afraid of negative consequences if they raised a complaint’. All others stated it was because incidents do not happen in their factories. However, 22 female respondents in Tirupur (44%) said they were aware of incidents where either the female employee left her job or was fired for reporting sexual harassment. In comparison, 35 female respondents in Bangalore (70%) said they were aware of female workers who had left their job due to sexual harassment.
- The self-assessment data from the factory respondents also demonstrated non-compliance with the mandatory provision of annual IC reporting to the district officer, while they had not incurred any legal/penal consequences.
- NGOs interviewed stated that ICs are generally set up and paperwork is kept for factories to appear compliant to buyers. However, they are ineffective because workers are often not heard.
- None of the factories visited had set guidelines written by factory management for IC members about their roles and responsibilities, and IC members interviewed were not well informed of the reason behind their appointment, their role, or the complaint redressal process. IC members are often appointed by management and chosen from among ‘loyal’ workers. An IC presiding officer said: ‘Even though I am the presiding officer, I have never attended a single IC meeting in the last two years. The management chooses a new recruit or a submissive woman worker to attend the IC meetings so that no complaints are registered or minuted [sic] in meetings.’

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5 Under the Act, an employer is legally required to comply with certain statutory requirements. One of these is the constitution of an Internal Committee (‘IC’), a body envisaged to receive complaints on sexual harassment at the workplace from an aggrieved woman, as well as to inquire into and make recommendations to the employer on the action required pursuant to its inquiry of such complaint made.

6 Of 35 factories, 23 had not filed an annual report, even though IC annual reports are mandatory. The members claimed they did not file one because they had not received any complaints.
When asked about their complaint processes, IC members said they reported complaints to their direct superior instead of the IC presiding officer. They were also unaware that their employer needs to submit IC reports to the district officer.

External IC members are usually selected from a small handful of NGOs, which creates a monopoly situation. In Tirupur, for example, a local NGO was an external IC member in 300 factories.

In all three hubs, male worker respondents also believed the IC was simply set up to look good on paper but was ineffective: ‘If a woman worker complains about sexual harassment, she is forced to leave her job the very same day. In some cases, a woman has to leave without even clearing her dues and payments for the period employed.’

Interviews with factory management reveal that often both harasser and victim, or only the victim, are dismissed. These ‘addressed’ cases are not reviewed in IC meetings or reports.

In the self-assessment, 21 (60%) factories stated that their anti-sexual harassment policy includes defined grievance channels and remediation procedures. However, factory visits to all three regions found that little was done to raise worker awareness. For example, details of IC members, the nodal officer, the district officer, and awareness posters on sexual harassment were not posted in the factory common areas as mandated by law.

According to NGO Cividep, complaints of sexual harassment are filed with trade unions, as the ICs are not functioning, and these only include the gravest issues, as most abuses are normalised.

**RECOMMENDATION 2: CREATE TARGETED EFFORTS TO RAISE AWARENESS OF THE ACT AND ITS IMPLEMENTATION**

While the first recommendation relates to how to enforce the Act’s implementation, this one focuses on how actual awareness of its content and how to implement the Act are essential for its effectiveness and need significant improvement among law enforcement and factory management, as well as workers.

2.1 Train law enforcement agencies and employers on addressing and preventing violence in the workplace.

The government needs to make provisions to ensure law enforcement and employers are aware of and equipped with tools to address sexual harassment and deal with victims without judgment or bias.

**Data from research:**

- Female workers in Tirupur and Bangalore reported being afraid of making sexual harassment complaints, as complainants often get fired and receive no support from police or local authorities to address their cases.

- In Bangalore and Tirupur, male workers indicated not wanting to help a victim of sexual harassment, saying: ‘Why should we risk losing our jobs when we are clearly told by the

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management not to interfere with the women or their issues? So, we ignore all such talk and stories.' When they tried to intervene on behalf of a victim, five (of 25) male respondents in Bangalore reported they were abused, insulted, and forced to work overtime without wages.

Respondents in Delhi and Bangalore emphasised that training was necessary for management. One shared: ‘They (management) do as they wish and are not accountable to anyone. It is the only business that is of interest to them and workers are of least importance to them. If both of us are trained on the sexual harassment act, they would have some fear that we also know about it.’

Most of the factories visited had not conducted any relevant capacity building training for their IC members. Respondents were also not aware of the mandatory establishment of an IC at every factory. As previously noted, many factories either do not have, or have poorly functioning, ICs.

2.2 Train factory workers so they can enact their rights when faced with sexual harassment.

Both male and female workers need to be made aware of the Act, their rights, and redressal procedures.

Data from research:

- All male workers interviewed in Tirupur were aware of what constitutes sexual harassment, while 15 (60%) were not aware that it is a punishable offence. In Bangalore, awareness of the Act was limited to five male respondents (20%). In Delhi, most male respondents were aware it was an offense, but stated: ‘In reality this does not happen, in fact, if the harasser is sacked from the factory, he gets re-appointed after a while’. They also said, ‘preferential treatment is given to managers, because the management does not want to lose skilled and qualified employees.’

- In Tirupur, 30 female respondents (60%) said they did receive the supposed training on sexual harassment. However, this was focused on women’s moral behaviour, like how to dress, how to talk and behave in front of male workers, and cleanliness and hygiene practices. Similarly, in Bangalore, all 50 women respondents shared they had been trained in how to dress decently and not share contact details with men but no training on dealing with sexual harassment had occurred.

- None of the factories interviewed involved training institutes or relevant materials developed by the Ministry of Women and Child Development. Generally, if there was training, it was offered by an external IC member, not by a gender or legal expert.

2.3: Enact a legal directive to enforce the use of surveillance measures for harassment prevention.

To reduce and address sexual harassment complaints in the workplace, surveillance measures like closed-circuit television (CCTV) can increase the sense of safety for female workers and deter perpetrators. An assessment of this legal directive and any potential surveillance measures should be included to ensure there are no adverse unintended consequences (e.g. privacy issues) for those this is intended to protect.
Data from research:
- Workers at factories in Tirupur and Delhi with installed CCTV units reported reduced incidents of sexual harassment and exploitation. Workers from Bangalore shared that sexual exploitation was common, but not within factory premises, and CCTV cameras could be one of the reasons.
- In Tirupur, 13 female workers (26% of female respondents in the area) said they felt unsafe in their workplace and, as mentioned under 1.2, many female workers reported women being fired as a result of making complaints related to sexual harassment by male colleagues. A surveillance measure like CCTV could provide workers with proof to support their complaints.

RECOMMENDATION 3: EXTEND AND ENFORCE TIME FRAME FOR FILING COMPLAINTS BEYOND THE SIX-MONTH LIMITATION

At present, allegations of sexual harassment need to be filed within three months of the incident, with possible extension up to six months. Victims should be afforded more time, given the social and physiological impact of sexual harassment. The study data also indicates possible delays, as victims may not be aware of their rights, where to report complaints, fear losing their jobs, and may experience shame.

Data from research:
- Respondents across all three textile and garment hubs stated not being aware of the Act.
- In Tirupur, only seven women (14% of respondents) were aware that they could approach the IC for reporting sexual harassment. Respondents from Delhi had never approached the IC to lodge a complaint. In Bangalore, only three (6%) of the respondents were aware that they could approach IC members to report a complaint, but none had done so.
- Only four (8%) of female respondents in Bangalore stated they felt comfortable reporting a complaint, and only with a senior female employee. Men usually hold senior positions, making reporting less likely.
- Nine (18%) female workers in Delhi stated they would not report due to fear and the threat of losing their job.
- Shame also appears to form a barrier that significantly affects the reporting time frame. Tirupur respondents strongly believed that: ‘If a young woman complains about her personal experience [with sexual harassment], it will cause shame to her family and, if she is unmarried, she would never get a groom in the future.’

In conclusion, by increasing awareness of the Act, clarifying who is responsible for its implementation and enforcement at all levels, and with a solid compliance monitoring mechanism in place, Fair Wear believes a win-win situation of both safer and more productive workplaces can be fostered in the Indian garment industry.