

# Report on SEWA: Law and Informality Project

November 2014

## WIEGO LAW & INFORMALITY PROJECT



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**Women in Informal Employment: Globalizing and Organizing** is a global network focused on securing livelihoods for the working poor, especially women, in the informal economy. We believe all workers should have equal economic opportunities and rights. WIEGO creates change by building capacity among informal worker organizations, expanding the knowledge base about the informal economy and influencing local, national and international policies.

WIEGO's Law & Informality project analyzes how informal workers' demands for rights and protections can be transformed into law.

The **Self-Employed Women's Association** (SEWA) is an Indian trade union of poor self-employed women workers. SEWA's main goal is to organize women workers for full employment. Full employment means employment whereby workers obtain work security, income security, food security and social security (at least health care, child care and shelter). SEWA organizes women to ensure that every family obtains full employment.

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## Introduction

In India more than 93 per cent of the total workforce is not protected by the law. These workers are considered to be working outside the purview of the legal system. Moreover, the workers also are not aware of their rights so it becomes difficult to collectively bargaining for their rights.

This project created a platform to initiate dialogue to build an inclusive law for the informal economy workers using a participatory process with the workers themselves. This platform gave a much-needed space for the street vendors, home-based workers and domestic workers to understand the current laws drafted for them, to understand the challenges faced in the actual implementation and to build upon collective bargaining strength.

### Project Activites (In synopsis )

Sr. no	City	Details	No of women's attended	Type of workers
1	Delhi,	1 Consultation meeting	117	Domestic workers
2.	Ahmedabad, Gujarat	2 Consultation meetings for 2 days	140	Street Vendors
		1 Capacity Building	20	Street Vendors
2.	Ajmer, Rajasthan	1 Consultation meeting	90	Home-based workers- <i>Beedi</i>
		1 Capacity Building	14	Home-based workers- <i>Beedi</i>
3.	Trivandrum Kerala	2 Consultation meeting	95	Domestic and Home-based Workers
		1 Capacity Building	20	Domestic and Home-based workers
4.	Lucknow, UP	1 Consultation meeting – for 2 days	90	Home-based – Chikan Embroidery

# Project Activities in Details

## I. Delhi

A consultation meeting was held with Migrant Domestic Workers to discuss and have a better understanding of their problems in order to propose a legal framework under a National Policy for Domestic Workers.

117 domestic workers, who have migrated from various states in India, assembled in Delhi to discuss the problems of their community. In the case of domestic workers, the issues of migration and child labour are most prominent. Draft National Policy for the home-based workers and ILO Convention 189 were also explained. It was observed during the consultation meeting that the employer and employee relationship was unprofessional and often abusive which leads to major problems. The following list contains the important points raised during the consultation meeting:



- Domestic Worker's sector is dominated by women employees.
- Remuneration and wages are low and unregulated.
- Overlap of Social & Economic roles and identities.
- Occupational isolation – based on caste/gender/class.
- Violence against workers due to poverty and insecure life.
- Excessive working hours without information.
- Wages or remuneration differences for the same work.
- Weekly time off not provided.

From the meeting it came out that the **legal framework required** should be comprehensive and address the following issues:

- (a) Social exploitation
- (b) Occupational hazards
- (d) Children's education
- (e) Community and caste based exploitation
- (f) Social and economical security

## II. Ahmedabad, Gujarat:

Two consultation meetings over two days were conducted for 70 street vendor leaders. Strong leaders from the different areas were identified. One capacity building meeting of 20 campaign team leaders was conducted.

The focus of the consultation meeting was three-fold:

1. Explain to the identified leaders and campaign team the provisions of “*The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014*”.
2. Make the leaders aware of the long struggle of SEWA to achieve the Act. Most of these leaders are second and third generation members of SEWA, so it was important for them to know the struggle made by their peers (either grandmothers, mother-in-laws and mothers).
3. Future implementation strategy.

The main provisions of the law are:

- The concept of the Natural Markets, which is very important to the Vendors. The natural market is defined in the act as “a market where buyers and sellers have traditionally congregated for the sale and purchase of products or services.”
- The Town Vending Committee will be constituted in terms of the Act.

### **Main duties and responsibilities of the Town Vending Committee are:**

- None of the Vendors will be evicted without them being provided with alternative vending space.
- Surveys will be conducted of all existing vendors and accommodated in the vending zone subject to the norm of 2 to 2.5 per cent of the population of the ward.
- A certificate of vending will be issued to every vendor.
- Vendors representatives will constitute 40 per cent of the total members in the Town Vending committee out of which 1/3 will be women
- Thirty days notice will be given to vendors in case the need arises to evict them.
- Surveys will be conducted every five years. Until then, none of the vendors will be evicted.
- Vendors will have to pay fees to the Municipal Corporation. Vending Licenses will be renewed periodically.
- Municipal police can confiscate the wares (perishable/stationery) of vendors only after following the due procedure.
- A Dispute Redressal Committee will be constituted which will be presided over by a Civil Judge or Magistrate.
- Vendor duties will consist of maintaining cleanliness, conducting vending activities in allotted vending spaces and not damaging the public property.

**SEWA's Journey in the Struggle for the "Rights of Street Vendors"**. The struggle began in 1972. SEWA first filed the case for the recognition of the rights of the vendors of Manekchok Natural Market in the Supreme Court of India in 1981. Thereafter in 1988, Shri Elaben Bhatt, Founder of SEWA, introduced a Resolution for the Statutory Policy that recommended a Bill on the status of Street Vendors in the Indian Parliament. In 2001, SEWA organized a workshop with the ministry of Urban Development where the Minister announced the formation of a task force for street vendors that would formulate the "National Policy for Street Vendors". The National Policy for Street Vendors was declared in 2004. This Policy was further revised in 2009. In 2010, SEWA demanded that a Central Law for vendors should be enacted. In 2012, SEWA made a presentation before the Standing Parliamentary Committee regarding the changes in the law and the Group of Ministers approved the same. The law was framed after considering the changes, and, in 2013, the same was approved by the House of Commons. In 2014, SEWA, along with other unions, went on a hunger strike and strong advocating by SEWA resulted in the passing of the Bill in the Upper House of Parliament. On 5 March 2014, the president of India gave his approval and thus the Street Vendors Bill was unanimously passed by both the houses of Parliament.



### **Outcome – Way forward**

1. To implement the Act in Gujarat, State rules are required to be framed.
2. One of the important provisions of the Act is to frame the State rules within one year. SEWA should write a letter to the Minister regarding the same.
3. It was decided that when framing the Model State rules based on the Act it should be carried out through a participatory process with the SEWA leaders.
4. SEWA should submit the memorandum to the State ministry to implement the Act at the state Level.
5. In Ahmedabad, the Town vending committee is already constituted. So it was decided to strengthen it and lobby and advocate with Municipal authorities to convene it regularly.
6. SEWA should provide schematic and planning suggestions for the affected natural markets to be presented in the town vending committee, so the same can be deliberated and implemented.

### III. Ajmer, Rajasthan:

Most of the members of Ajmer are the home-based *Beedi* workers. The struggle of SEWA for the ILO Convention on Home Work and for a National Policy for the Home-based workers were explained to them. Moreover, as most of the participants were *Beedi* workers, the *Beedi* Welfare Schemes were also explained to them.

The object of the proposed policy is to provide minimum protection for home-based workers, which includes both piece-rate workers and own-account workers. The policy aims to provide (legislative) protection, welfare measures and social security to the large body of home-based workers in the country. Both categories lack bargaining power and social protection, but the problems faced by them are quite different. Homeworkers face exploitation, low wages and no secure contracts. In addition, they have to pay for many of the non-wage costs of production – costs of space and storage, utilities and equipment. To improve their situation, they need the capacity to bargain. The self-employed lack access and competition in local markets. To improve their situation, they need better access to financial markets and a greater capacity to compete in product markets. Also discussed was the fact that women are over-represented among home-based workers. Their needs must be recognized while designing policy.



The participants also discussed the main points that should be included in the policy, which are as follows:

The policy could have five key components:

1. Recognition of home-based workers
2. Addressing low remuneration, working conditions and skill development
3. Social protection and the importance of housing
4. Access to markets
5. Voice

As most of the participants were the *Beedi* workers, issues relating to the *Beedi* Welfare Schemes were discussed.

The major issues were:

1. The employer/contractor of the *Beedi* workers do not sign the ID cards.
2. The doctor at the dispensary refuses to sign and stamp ID card forms.
3. Not enough medicines are available for the entire year in the Dispensary.
4. At the end of the year expired medicines are still issued.
5. Similar medicines are issued for different diseases.

6. The Mobile Dispensary only moves around in the city; it does not reach the smaller areas around the city.
7. The doctor and the staff do not behave properly with the patients (*Beedi* workers).
8. The doctor's services are not proper and the check-ups are not done properly.
9. The Unique identity card is now compulsory for issuing the ID cards, and most of the *Beedi* workers are not aware of this.
10. Even though all the documents are completed and submitted to the school, scholarships are not provided to the workers.
11. ID cards of all the *Beedi* workers aged 60 or more are either torn or cancelled and the medicines are not provided to them.
12. Though the decided wages for 1,000 *Beedis* is Rs.90/-, here the workers do not get more than Rs. 50-60/-.

It was decided to take these issues to the Regional *Beedi* Welfare Office or, if necessary, to the Central *Beedi* Welfare Office.

### **The Way Forward**

#### Lobby and Advocate

1. For the Ratification of ILO Convention on Home Work at the international level.
2. For the National Policy for the Home Based Workers at the national Level.
3. For the fixation of minimum wages, identity cards and social security at the local level.
4. For the simultaneous collective strengthening at the local level.

## **IV Trivandrum, Kerala:**

**Two Consultation meetings were held in Kerala: one for domestic workers and one for home-based workers.**

### **Consultation Meeting With Domestic Workers**

Ninety domestic workers from Kozhikode, Trivandrum, Cochin, Malappuram, Kottayam and Alleppy attended the workshop. Some of the members from districts like Malappuram, Alleppey and Kozhikode were very new.

As this was the first time that domestic workers from different districts of SEWA were getting together, the importance of the union was explained (i.e. getting the workers organized so that they can take up their issues and have an impact on the government). The aim of the workshop was to help the members to gain an understanding of what legal provisions exist for them and how they can develop strategies for getting legal protection for themselves in Kerala.



The provisions of the ILO Convention 189, Decent Work for Domestic Workers, were explained:

- This is an international law for domestic workers.
- This law says that domestic work is a work like all other work and domestic workers are workers.
- This historical achievement is celebrated by domestic workers from all over the world on International Domestic Workers Day.

Participants from Kozhikode shared their experience of International Domestic Workers Day. In Kozhikode, SEWA organized a public meeting for domestic workers where they talked about SEWA and ILO Convention 189. Around 125 members attended the meeting. The Kozhikode MP inaugurated the meeting, and trade union leaders and activists also attended.

Participants from Kozhikode shared their impressions of the meeting as follows:

- *“Before this meeting we did not know much about the SEWA. We got a picture that the domestic workers also have a day. Through the public meeting we get to know about the Convention of Domestic Workers and its Policy. The MP promised that he will raise this issue in the Parliament”*
- *“As workers we do not bother about these things as we only want to make our little earnings and we continue to be exploited. Hence we do not unite to work together but compete with each other accepting to work for lower wages. If one woman demanded for Rs. 100 for work, someone else is ready to do the same work in Rs.60. This is the actual problem in Kozhikode. Still there are women working for Rs.20-30 wage per day”.*

Participants from Trivandrum shared their experiences:

- Sushamabika & Anitha said *“In Trivandrum SEWA organized a rally to the legislative assembly and demanded to reconstitute the minimum wage at Rs. 300 per day, to Ratify the ILO Convention 189, and to Constitute a Tripartite Board.”*
- Usha said that *“From decades domestic workers were fighting for their rights, but now the society begins to understand this but the Governments are still silent”.*

In the meeting it was explained that a Convention lays out an accepted understanding, norms and rules related to a particular issue/section of workers. This understanding is arrived at collectively by all the governments and representatives of the labour and employer organizations. This is called a tripartite process, which is what the International Labour Organization is about. Such an understanding, and the rules for domestic workers are laid out in ILO Convention 189, which was passed on 16 June 2011. It is accepted by all countries, including India. All the conventions are made by the tripartite body. In India, the Indian government accepted the Convention but has not yet ratified it. Only if it is ratified or is made an Act accordingly will domestic workers get such rights and recognition in India. It is now our responsibility to pressure the government into ratifying the Convention. Only 13 Governments internationally have so far ratified the Convention.



The Convention also highlights the issues of women who migrate for domestic work. There were also present workers who had worked abroad and two of them who had been rescued with the help of SEWA and they too shared their issues.

Lastly, the Domestic Workers Welfare Board in Kerala was also explained. Unfortunately this is not a real welfare board, only a scheme, and it is important that the workers create pressure to get a tripartite welfare board so that their work can be regulated and workers can get their true benefits.

### **Kerala Home-Based Workers Capacity Building Workshop**

The capacity building workshop started with a question. Every member was asked why they were assembled there and asked to find out who they really were through brainstorming. They identified themselves as students, homemakers and also as workers. Organizers and leaders of SEWA explained that, as they had never identified themselves as workers (working class), they also haven't enjoyed the benefits allotted to workers by the Government. The members explained it was because of the fear of being categorized into the higher income group (APL Card) that many didn't reveal themselves as workers.

The workshop continued with members describing their work. Each member had a different occupation, different working hours and a different work place. Women working under a person, self-employed and those who formed a work group were all part of the workshop.

Women running cottage industries making **papad (papdums), umbrellas, star and cora glass** all shared their work experiences:

- Women papad makers make the papad by themselves and earn income by selling the product.
- Umbrella makers receive a piece-rate, and only have contact with middle-men. They don't know for whom they are really working.
- Star makers deal with middle-men. They bring the quotation, and the workers are paid once a year.
- Cora glass makers work in a group and do not deal with middle-men. Decisions are made as a group.

In these work scenarios, it is unclear who the real employers are, and because of that the home-based workers never enjoy the rights of formal workers.

SEWA organizers and leaders then explained the importance of organizing, of increasing collective strength and about the ILO Convention on Home Work. They also explained that the Government of India had not yet accepted the Convention. The Home-based sector is complex. There are different kinds of works included in it. So it is a long and difficult process to sensitize governments to home-based workers. The first step of recognition is to enter the employment list of Government. Only after a long process can home-based workers be accepted and enter into the employment list, and only then will the workers get recognition

The participants have to share the workshop details with their units, and every unit has to identify the issues and inform the union organizers. Unionizing more workers is another responsibility of the participants.

## **V Lucknow, Uttar Pradesh:**

**One Consultation meeting was held in Lucknow for home-based workers.**

### **Consultation meeting with Chikan (type of embroidery) workers**

Ninety Chikan workers from Aliganj, Lucknow attended the workshop. SEWA organizers and leaders explained SEWA to them. SEWA organizers and leaders shared that they had gathered to discuss law and informality related to home-based workers and the challenges faced by home-based Chikan workers, whom account for an overwhelming proportion of the poor and vulnerable population in Lucknow, Uttar Pradesh. The Government of India constituted, among other measures, a National Commission for Enterprises in the Unorganized Sector (NCEUS) via the Ministry of Small Scale Industries, to act as an advisory body and watchdog for the informal sector.

Then SEWA organizers and leaders explained the informal economy to the participants, the challenges faced by Chikan workers at home, and the difficulties, both individual and legal in context, of home-based workers which are summarized in the following:

- Sheebaben from Aliganj, Lucknow, shared that when she is doing work from home there is no fixed wage for given work. *“It depends upon a middle-man who always suggests us to grab the work opportunity otherwise it will be given to anyone else. I also think if leave this opportunity to earn money it will be given to anyone else.”*
- Another worker Fatimaben, shared her opinion that *“when there is any misunderstanding we have no any authority for complain it.”*
- Seema ben shared that the homeworkers are fully dependent on the contractor/middleman for design, raw material and equipment and hence unable to negotiate the price of the product.

The issue of minimum wage was also discussed in the consultation meeting. It was collectively felt that a minimum wage is one of the important issues, and has been focused on in the context of the conditions of work for particular trades. Other important issues discussed were the national minimum wages and the regulation of working conditions.

The ILO Convention on Homework and the National Policy for the Home-Based Workers were also explained to the workers.

#### **Outcomes:**

- Increased collective strength
- Members’ identity as workers has been explained to them
- Raised awareness of the ILO Convention and National Policy for the Home-Based Workers
- Lobbying and advocacy for the Social Security Scheme and minimum wages has occurred at the State and Local levels