Sexual Harassment of Women at Workplace in India: Journey from a Workplace Problem to a Human Rights Issue

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Abstract
In October 2013, the media widely reported about a lab assistant who set herself ablaze outside the Delhi Secretariat and succumbed to injuries. She was protesting against sexual harassment from the college principal and termination from job. Though she repeatedly filed complaints with several authorities including the University, it was in vain. Such incidents highlight break down of grievance redress mechanisms within the organisations and throw light on the predicament of women facing sexual harassment at workplace in India.

Keywords: sexual harassment, workplace, India, human rights.

Introduction
In October 2013, the media widely reported about a lab assistant who set herself ablaze outside the Delhi Secretariat and succumbed to injuries. She was protesting against sexual harassment from the college principal and termination from job. Though she repeatedly filed complaints with several authorities including the University, it was in vain. Such incidents highlight break down of grievance redress mechanisms within the organisations and throw light on the predicament of women facing sexual harassment at workplace in India.

Bunch (1990) put forth that it was worth noting that though significant numbers of women in the world are routinely subject to various kinds of human rights violations, these are not clearly recognised and classified as civil and political crisis including gross violation of humanity. This reflects not just the way society looks at the issue of violence against women but has serious results in terms of the way society treats core issues pertaining lives of women.

This article is an attempt to position sexual harassment of women at workplace as human rights issue. The argument put forth is that discrimination against women anywhere in the world affects the human rights of women everywhere (Hosken, 1981). Realization of human rights will be a mirage as long as human rights of women continue to be violated. Article is based on the premise that sexual harassment of women at workplace is violation of rights of women. Further this article looks at the development of legal discourse on sexual harassment at workplace till date in India from the perspective of human rights by tracing the developments backwards. The Indian Supreme Court Vishakha ruling (1997) not only firmly grounded the argument that each incident of sexual harassment of women at workplace was a human rights violation; additionally it laid the foundation and paved the way for legislation on sexual harassment at workplace in India.

Violation of Human Rights of Women
The ILO Committee on Gender Equality (2009) recorded that apart from many other problems that women face at their workplaces, they are also subject to widespread sexual harassment, often excluded from protections and benefits, and face multiple forms of discrimination, such as race and age, among others. Gruber (2011) says that there is no doubt that gender was important in sexual harassment. Women are the targets of sexual harassment perpetuated most often by men. Male dominance is a crucial factor. This was supported by Coles (1986) who noted that sexual harassment is often a power play opposed to sexual desire. Further Wilson and Thompson (2001) argued that it is primarily about men exercising power over women. They stated that sexual harassment is connected with disadvantaged status of women at work and subordinate position in society. Mostly it is used as a weapon to punish women who deviated from traditional gender roles (Berdahl, 2007).

MacKinnon (1979) outlined the personal and professional impact of sexual harassment on women. She depicted the cost of enduring sexual harassment as both physical and psychological and outlined a range of responses that included humiliation, degradation, shame, embarrassment, guilt, intimidation, frustration, a sense of hopelessness and emotional breakdown. Disruption to working lives of women, the impact on employment opportunities and restrictions on access to economic benefits were highlighted by her. These difficulties were often compounded by economic vulnerability and the lack of choices offered to women by the labour market. It is evident from research done by Barling et al. (1996), experiences of women and their reactions to sexual ha-
Definitions of sexual harassment given by MacKinnon (1979), Aggarwal (1992) and Stanko (1988) analyse sexual harassment from gender relations perspective and bring out its impact on women. These definitions enumerate that sexual harassment at workplace is an unwanted sexually oriented behaviour resulting out of unequal power relations at workplace and it has serious consequences on the employment of women. Moving forward from the understanding of it being an unwanted sexually coloured behaviour Haspels, Kasim, Thomas and Mckann (2001) define sexual harassment as a clear form of gender discrimination based on sex and a manifestation of unequal power relations between men and women. According to them, the problem relates not so much to the actual biological differences between men and women rather but to the gender or social roles attributed to men and women in social and economic life, and perceptions about male and female sexuality in society resulting in unbalanced male-female power relationships. Further Haspels et al state that sexual harassment at workplace is a form of gender discrimination because decisions at work are based on gender which is an attributed characteristic rather than on qualifications or job performance of the employee. From this point of view it can be understood that sexual harassment at workplace is a form of gender discrimination targeted towards women.

Further it can be stated that sexual harassment is not only discrimination against women at work based on gender, but is also a form of gender-based violence. The UN Declaration (1993) on the Elimination of Violence against Women - Article one and two defined violence against women as any act of gender-based violence that results in or is likely to result in physical, sexual, or mental harm or suffering to women. It could be threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or in private life. It includes physical, sexual, and psychological violence occurring in the family and in the general community, including battering, sexual abuse of children, dowry-related violence, rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women, forced prostitution, and violence perpetrated or condoned by the state. Gutek and Morash (1982) compared sexual harassment of women at workplace with rape to show that they share common features. Exercise of power by one person over another exists in both. Just as rape is sexual intercourse that is unwanted, sexual harassment includes sexual attention that is unwelcome. As explained by them in rape, men use their greater physical strength to engage in sexual activity with women and in sexual harassment men use their superior organisational position to elicit sexual favors from women.

It can be concluded that whenever women are sexually harassed or abused at workplaces it involves sexual coercion, intimidation, deprivation of their right to work in a violence free atmosphere, and hostile work environment that affects their safety, well being and health. Therefore it can be arrived at that sexual harassment of women is a form of discrimination and violence based on gender which has grave outcomes on employment of women. Therefore it forms a suitable case for intervention from the perspective of human rights.

Approaching The Issue From Human Rights Lens

Bunch (1990) discussed four basic approaches for linking women’s rights to human rights. These approaches included rights of women as civil and political rights, socioeconomic rights, legal rights, and lastly feminist transformation of human rights. These approaches according to Bunch were overlapping, complementary and could be applied to examine the issue of violence against women. The civil and the political rights approach talked about general human rights and civil liberty violations, especially inflicted by the state agencies while the socioeconomic approach saw the need to end economic subordination of women to reduce their vulnerability to violence. Within the socioeconomic approach, violence against women was integrated with development to be seen as a health and development issue leading to negative consequences on social productivity. Bunch stated that development was not to be seen as an economic issue alone, rather as an issue of empowerment and human growth. Third one was the legal rights approach which sought creation of new legal mechanisms, making existing legal and political institutions work for women to counter sex discrimination and to expand the state’s responsibility for the violation of women’s human rights.

According to Bunch, one of the major illustrations of this approach was the CEDAW, a useful statement of principles endorsed by the United Nations around which women around the world could organise to achieve legal and political change in their regions. Bunch pointed out that though the Convention outlined a clear human rights agenda for women it was known to be toothless Convention. If acceded by governments, it would mean a huge step towards realising rights of women. But it faced the limitations of being an international document in the sense that there was little power to demand its implementation within the respective member nations. According to Bunch the reason was, it was treated as document on women’s rights and not as one on human rights. Lastly she talked about the feminist approach to
human rights that linked women’s rights and human rights. She said it was about knowing violations faced by women and then changing the concept of human rights accordingly. Focus of the approach was on forms of violence against women having their roots in gender which were often not declared as really human rights issues. According to her this view was most distinctly feminist as it was women-centred and it did not wait for some international agency to declare forms of violence against women as human rights violations. Bunch finally said it was needed that the human rights discourse addressed violence against women as a human rights violation and considered it as a legitimate human rights issue.

This position can be well explained with the case of sexual harassment at workplace which saw its scope being expanded from a problem faced by women employees to being recognised as a legal issue of sex discriminationiv. Piotrowski (2002) explains that historically sexual harassment of women employees was ignored, denied, made to seem trivial, even implicitly supported. Women were blamed for it too. The term sexual harassment was coined through a consciousness raising session connected with the Women and Work course at the Cornell University. Farley (1978) explains that women in her class described their experiences in the workplace which had a distinct pattern. They either quit or were fired from a job because they were uncomfortable by the behaviour of men. This phenomenon of male harassment and intimidation of female workers had not been described in the literature and was not publicly recognised as a problem, although she continued to hear it described by women from all walks of life. Nemy (1975) says that it was in April 1975 that the phrase sexual harassment was used in the public for the first time by Farley during her testimony before the New York City Human Rights Commission Hearings on Women and Work. She defined it as unwanted sexual advances by male supervisors towards women such as constant leering / ogling, brushing against, pinching / squeezing bodies, forced intimacy and forcing sexual intercourse. Thus it can be understood that prior to the 1970s the term sexual harassment at workplace did not exist plus it was identified as a part of daily work life, a problem without any name.

The term sexual harassment was construed to look at the world from the point of view of women. It was an endeavour to reflect and construct women’s experience, and confirm that it was a behaviour that women will not endure passively rather could actively protest and resist. In keeping with the feminist approach to human rights, progression of sexual harassment at workplace as an issue can be seen happening in the US from late seventies onwards. First it was recognised by the feminists as form of workplace hazard affecting women to it becoming a legal rights issue. It was recognised in 1986 by the US Supreme Court as sex discrimination and consequently by an international body such as United Nations through the General Recommendation number 19 (1992) of the CEDAW which is one of the core international human rights treaties adopted by the UN General Assembly in 1979.

At the international level though sexual harassment is not the subject of any binding International Convention, the International Labour Organisation (ILO) covered it as a form of sex-based discrimination (ILO, 2000). McCann (2005) stated that the Discrimination (Employment and Occupation) ILO Convention 1958 (No. 111) addressed discrimination in employment on a number of grounds including sex, and required that ILO member States declare and pursue a national policy designed to promote equality of opportunity and treatment with a view to eliminating discrimination. McCann added, most recently it was stressed that elimination of sexual harassment and violence at workplace was a significant element in promoting decent work for women.

Similarly, sexual harassment at workplace was recognised as violation of human rights by the CEDAW. This was the time when awareness of sexual harassment was only beginning to emerge. Though the CEDAW did not mention the term sexual harassment at workplace, in its preamble, the Convention explicitly acknowledged that extensive discrimination against women continued to exist, and emphasises that such discrimination violates the principles of equality of rights and respect for human dignity. Article 1 of the CEDAW defined the term discrimination against women as sex as a basis of any distinction, exclusion or restriction which leads to and causes impairing or nullifying the recognition, enjoyment or exercise by women in the political, economic, social, cultural, civil or any other field. Article 11 specifically talks about discrimination against women in the field of employment, affirms right to work as an inalienable right of all human beings and right to protection of health and to safety in working conditions. Finally the CEDAW recommends the State Parties to take all appropriate measures to eliminate discrimination against women in the field of employment including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men (Article 3 and 11).

Further, the Committee on the Elimination of Discrimination against Women, set up under the CEDAW, explicitly addressed the problem. It’s General Recommendation Number 19 of 1992 recognized sexual harassment as a form of violence against women. It said gender-based violence was a type of sex discrimination and therefore a breach of CEDAW. Article 11 of the General Recommendation Number 19 recognised that equality in em-

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ployment was seriously impaired when women were subjected to gender-specific violence, such as sexual harassment in the workplace. It defined sexual harassment as unwanted sexually determined behaviour as physical contact and advances, sexually coloured remarks, showing pornography and sexual demand, whether by words or actions. It confirmed that such conduct was humiliating and could constitute a health and safety problem. It further stated that it was discriminatory and creation of hostile work environment if the work conditions made the woman believe that her resistance to sexual harassment would cause disadvantage to her in connection with her employment, including recruitment or promotion. Under this recommendation the Committee recommended the state parties to the treaty to take all legal and other measures necessary to provide effective legal, preventive and protective measures and provide procedures, remedies and compensation for women facing gender-based violence, including whether in public or private sphere. Specifically the Committee recommended that the States parties needed to include in their reports information on sexual harassment, and measures taken to protect women from sexual harassment.

Initiation of Human Rights Discourse in India

Though India ratified the CEDAW in 1993, there was no discourse in India on the issue of sexual harassment happening at work in terms of both legal recourse and enacting a special legislation till about late 1990s. Vishakha guidelines (1997) issued by the Supreme Court of India were the first legal intervention in India specifically on sexual harassment at workplace. This particular ruling famous as the Vishakha judgment / guidelines restored the debate that was lying dormant since the Rupan Deol Bajaj vs. KPS Gill case judgement (1995) about sexual harassment of women colleagues by their male counterparts.

Sood (2006) says the Vishakha judgment filled a gap since for the first time the apex court upheld constitutional rights of women by directly applying the provisions of CEDAW to enact guidelines against sexual harassment in the workplace. The Vishakha judgment resulted out of a public interest litigation that arose out of the gang rape of a village level worker. As part of the state government campaign against child marriage, the worker attempted to stop the marriage of a one year old girl. Men from the community retaliated by harassing her with threats and imposing a socio-economic boycott on her family. In 1992, five men raped her in the presence of her husband. She faced numerous obstacles when she attempted to seek justice. Police publicly rejected her complaint and were reluctant to record her statement or carry out an investigation while doctors at two government health facilities refused to conduct a proper medical examination. The Sessions court acquitted the men saying it did not find it credible that upper caste men would rape a lower caste woman.

A number of women’s rights groups across the country got together to protest against the Session court order. They filed a petition in the Supreme Court of India saying that this was a matter of sexual harassment in the context of work and that the court should give certain directions in this matter. The petition was filed in 1992 by women’s organisations and groups in India against the State of Rajasthan, its Women and Child Welfare Department, its Department of Social Welfare, and the Union of India. It was argued that although the village worker complained of exhibitionism and sexual harassment to the local authorities that she faced for months before the gang rape took place, the State made no attempts to protect her.

The Supreme Court of India delivered the judgment on 13th August 1997. In the judgment the Court acknowledged the existence of sexual harassment at workplace as violation of the constitutionally guaranteed fundamental rights and emphasised need for legal recourse. The most important aspect of the judgment was that it recognised the structural and systemic nature of sexual harassment at workplace. The issue of sexual harassment at workplace was effectively expressed and situated in the language and framework of Constitution of India and international law. Integrating the Constitution of India with CEDAW, the Vishakha judgement recognised that sexual harassment violated the constitutional guarantee of gender equality, women’s fundamental rights to life with dignity, to personal liberty, and to carry on any occupation. The Court cited the Constitution’s Directive Principles requiring the State to secure just and humane conditions of work and maternity relief, and the fundamental duty imposed on all Indian citizens to renounce practices derogatory to the dignity of women. The Vishakha ruling relied profoundly upon CEDAW, quoting relevant provisions from the treaty and from the CEDAW Committee’s General Recommendation number 19. It included a definition of sexual harassment, a list of preventive steps, and a description of complaint proceedings to be strictly observed in all work places for the preservation and enforcement of the right to gender equality of the working women. The judgment specified that the guidelines would act as binding law until Parliament enacted legislation to replace them. The Supreme Court justified its reliance on international law by emphasising legal obligations of India to uphold women’s rights pursuant to its ratification of CEDAW, the official commitments it made at the UN Beijing Conference and the constitutional provisions directing the State to enforce the treaties it has signed. The Court said that gender equality included protection from sexual harassment and right to work with dignity, which is a
universally recognized basic human right. The Court added that since common minimum requirement of this right had received global acceptance, the international conventions and norms were important in the formulation of the guidelines. The judgment cited the Nilabati Behera v. State of Orissa (1993) judgment that had invoked a provision of the Civil and Political Rights Covenant in support of its argument. Therefore the Court stated it was all the more needed the international conventions and norms were to be used and relied upon for realisation of the fundamental rights expressly guaranteed in the Constitution of India which represented and upheld concept of gender equality in all areas of human activity.

The Vishakha judgment played a key role in demonstrating compliance by India to the CEDAW. India signed the CEDAW on 30th July 1980 and ratified it on 9th July 1993. Since then there have been three reports from the Government of India (GOI) to the CEDAW committee on the measures taken to effect to the provisions of CEDAW i.e. initial report (1999), second and third reports (2005). In all three final reports, the GOI referred and resorted to the key judgments by the Supreme Court of India to demonstrate compliance to the CEDAW of which Vishakha judgment was prominent. GOI informed the CEDAW committee that the Indian judiciary played a proactive role and paved the way to use principles of the treaty in many judgments. One of the key rulings quoted by the GOI was the Vishakha judgment. It was brought to the notice of the international community that Supreme Court of India adopted the definition of sexual harassment from the General Recommendation number 19 while laying down guidelines for employers with respect to sexual harassment.

Locating the Issue within India Post Vishakha

Before Vishakha, the language of sexual harassment remained coded, invisible, and frivolous in India. The sexual dimension of harassment was disabling and unspoken. Kapur (2009).

In the eighties there were attempts by the women’s groups to challenge to the cultural perception of sexual harassment as eve teasing. Patel (2002) while charting out the history of the struggle against sexual harassment stated that since the early eighties sexual harassment at the workplace remained one of the central concerns of the women’s movement in India. We can see the issue emerging for a discussion in India as late as the eighties and gaining momentum only in the nineties. This is confirmed by a report by Forum Against Oppression of Women (1991). The report revealed, during the 1980s, militant action by the Forum against the sexual harassment of nurses in public and private hospitals by inmates and their male relatives, ward-boys and other hospital staff; of air-hostesses by their colleagues and passengers; of teachers by their colleagues, principals and management representatives; of PhD students by their guides and so on and so forth received a lukewarm response from the trade unions and adverse publicity in the media. It is evident that, at that time the issue did not receive importance and attention from the society.

It can be said that discourse on sexual harassment at workplace both in research and practice began largely after the Vishakha guidelines (1997) came into existence. Sexual harassment is an issue that largely remained in closet in India till about the eighties. The Saheli report (1998) said sexual harassment was often trivialised as eve teasing and hardly recognised as an issue in the Indian society. There was a general tendency to belittle it or ignore it. Radhika (1999) states till 1997 sexual harassment was treated as personal problem till the Supreme Court acknowledged it as a criminal offense and infringement on a woman’s fundamental right of gender equality and the right to life and liberty.

Nature, extent and impact of sexual harassment on women can be understood with the help of studies done after the Supreme Court of India issued the Vishakha judgment. The Yugantar report (2003) provides an insight into nature of sexual harassment faced by the working women. It is described as a slow poisoning process. It started from simple actions through body language and if not stopped at that point reached to the stages of sexual advances, physical contacts and demand for sexual favours. The study jointly done by Sophia College and India Centre for Human Rights and Law (2003) brought forward that sexual harassment was inflicted verbally through slang remarks, talking on sexual intercourse, comments on dress and figure, asked to sit closer, invitation to join at a pub, lunch or dinner, pressurising to please clients, condition of increasing the pay if the woman went out with the boss. Some women faced non-verbal harassment such as staring while some others faced emotional harassment such as being given odd working hours, and an uncomfortable environment. Few women found it difficult to share the nature of sexual harassment they experienced. The Sakshi survey (2001) and the Yugantar study (2003) showed that sexual harassment of women resulted in loss of their productivity, ill health, depression and suicides. The Yugantar study further revealed, victims of sexual harassment were scared of every male member around them, developed a feeling that their life was meaningless, were depressed as their relatives tried to avoid them, the family members looked down upon them and suspected their character. Many of the victims of sexual harassment were disturbed to an extent that they were constantly thinking of resigning the job. The family life of the women was also disturbed and it became a trigger for onset of domestic vi-
ience in the marriage. Chevalwala (2012) in her article while enlisting the effects of sexual harassment stated, it could lead to temporary or prolonged stress and depression for the person along with lack of social support. She added, retaliation including isolation and bullying were common where the person resisted sexual harassment.

Another aspect about sexual harassment at workplace brought to light by the studies done in the post Vishakha phase was about its low reporting by women. Studies by various women’s organisations and groups across India done in the nineties and earlier decade showed sexual harassment happening at workplace went unreported due to various reasons. The Saheli survey (1998) done with sixty-five women concluded that despite the wide prevalence of the problem, sexual harassment at workplace was not recognised as a systemised form of violence. For the majority of women working in small private firms and factories it was difficult to take direct action due to job insecurity. The frequency and severity of harassment increased as the income levels decreased and that majority of the women had no option but to tolerate harassment. Similar findings were noted by the report namely Women Workers – Inequalities at Work (1999). It gave a distinct picture about the issue of occupational safety of women workers and employees across three major industrial belts of India. It revealed, there was politics of silence around the issue of sexual harassment which reflected in the fewer number of women unwilling to talk and report it. The issue was generally ignored by the management as is indicated by the absence of redress mechanism and the lack of punitive action in cases reported. On the contrary, women were punished for raising their voice against the sexual harassment. Studies by Sanhita (2000) in Kolkata, Yugantar Education Society (2003) in Maharashtra and multistate study done by Sakshi (2001) reconfirmed that sexual harassment of women at workplace was rampant but not reported due to fear of stigma, loss of reputation and widespread blaming and disbelief in the complaints.

Recent studies reconfirmed the existence of sexual harassment and gave an overview of its nature and prevalence within the private sector. Seriousness of the situation was reiterated by an UNDP report (2010) done at the end of the decade. It revealed that though India had a strong labour movement; trade unions did not take the issue of sexual harassment happening at workplaces seriously. Understanding was emerging only slowly in the region, despite the growing number of women in the paid workforce. Similarly India topped the IPSOS – Reuter’s survey (2010) done in 24 countries across the world with a participant size of 12 thousand persons. It showed, workers in India were most likely to report sexual harassment at workplace with a rate of 26 %. The Workplace Sexual Harassment Survey (2010) carried out by Centre for Transforming India in the Information Technology with 600 women working in IT and BPO industry across all the major IT destinations of India showed that nearly 88 percent of the women witnessed some form of workplace sexual harassment during the course of their work. Additionally there were poor awareness levels among female employees on the issues and workplace sexual harassment. Majority of female employees continued with their ordeal of suffering from the incidents of sexual harassments due to fear of professional victimisation. A CII study (2005) said that the attrition rate of women in larger companies was higher and in managerial positions the ratio of women dwindled further. The study attributed work-environment as a major deterrent for women looking for higher managerial positions and enlisted gender bias in recruitment, gender inequality and sexual harassment at workplace as major issues affecting women. An article highlighted that for every 500 instances of harassment, only 50 got reported and only one got registered as an FIR (Ghosh, Puri and Dewan, 2010). Thus it can be concluded that after the Vishakha guidelines came into existence sexual harassment continued to be widespread in India especially in the private sector as stated by Shukla (2002), yet it remained the most under reported form of gender discrimination.

**Employer Compliance to the Vishakha Guidelines**

Although the Supreme Court Vishakha guidelines (1997) began a discourse in India on sexual harassment and helped women by reconfirming their right to a safe working environment; studies done by organisations across India and media coverage over the years revealed that employers either chose to ignore the guidelines or not take them seriously. Articles by Radhika (1999), Pinglay (2012), Deshpande (2012, 2013) provide insights into long drawn struggles of several employed women who protested against sexual harassment, challenged the employer for not complying with the legal provisions on sexual harassment and in return were terminated from their jobs for doing so. These articles highlight and emphasise repeated defiance of the legal provisions on sexual harassment by the employers and revictimisation of the women by the employers. Poor and faulty implementation of the Vishakha guidelines was discussed in articles by Oversier (2010) and Majumdar (2003). They confirm that the issue of sexual harassment has largely been swept under the carpet in India. Further they disclosed that considering the social taboos still associated with sexual harassment and the long pending issues in courts; these provisions were never been successfully invoked. These articles reveal that overall awareness among Indian companies about the need for a well-defined mechanism to tackle sexual harassment at the workplace is terribly poor. Report by the Joint Parliamentary Committee (2011) that reviewed the Sexual
Harassment Bill, 2010 summarised the issue pertinently. It said there in the absence of a laid down central mechanism was no database available with the Ministry of Women and Child Development (MWCD) with regards to the number of complaints of sexual harassment, their resolution and action taken especially in the context of the private sector. The Committee concluded that so far Supreme Court guidelines remained on paper in majority of workplaces. Further taking cognisance of this situation the Supreme Court of India directed in Medha Kotwal vs. Union of India (2012) directed that since legislation on sexual harassment at workplace was not in place and many women were struggling to have their basic rights protection implementation of the Vishakha guidelines needed serious attention.

Way Ahead
It was only after Vishakha directions and subsequent non compliance to them that the GOI and the National Commission for Women brought out draft Bills on sexual harassment at workplace and placed them in the public for a discussion and feedback. Sixteen years of sustained efforts by the women’s movement resulted in enactment and enforcement of a legislation in December 2013. The 2013 Act is the codification of the Supreme Court Vishakha directions regarding sexual harassment at workplace. It recognises that every woman has a right to work with dignity and sexual harassment as violation of fundamental rights of working women.

It can be said that the Vishakha judgment was an outcome of the feminist approach to human rights that linked women’s rights and human rights. Sood (2006) brought out that the Vishakha judgment represented a quantum leap forward not only for gender justice, but also for the development of Indian jurisprudence on international law. It compelled the Indian government to acknowledge the issue as a form of violence against women. The ruling saw use of international law for the purpose of expanding the scope of existing constitutional guarantees, and also for filling the gaps wherever gaps existed for the purpose of enlargements of human rights. Vishakha was a landmark case as it laid down a new path. It was not intended merely to deal with sexual harassment since it opened new vistas in the field of international law becoming part of national law. Through its integrated use of CEDAW, Vishakha established a strong precedent for the direct application of international conventions in future cases. Sood (2006) further explained that Vishakha being a public interest litigation that arose from personal experience of a woman worker was targeted towards empowering working women. The public interest petition used her life experience as a concrete illustration of systemic rights violations, and then demonstrated a pattern of abuse by providing examples of five other women who experienced sexual assault while doing public health or social work. The Vishakha judgment was instrumental in carving out a path which created multiple stakes for various groups and it continued to remain in the public domain. It was seen that subsequently it was used in all the other judgments on the issues of violation of human rights at work thus leaving a powerful legacy. The judgment upheld the idea that concept of equality was much more than treating all persons in the same way. It pronounced that equality between men and women in the true sense of the term could be realised by making concentrated efforts towards rectification of already existing power imbalances in the society. This broader view of equality is the core principle and the goal in the struggle for recognition and acceptance of the human rights of women.

In keeping with the feminist approach to human rights, progression of sexual harassment at workplace as an issue can be seen India from the gang rape case in the nineties to being raised by the feminists to it being recognised by the Supreme Court of India as human rights violation. Conclusively it can be said, approaches towards women’s rights need to be integrated with the mainstream human rights movement. They are connected and not mutually exclusive as women want food, liberty and possibility of living with dignity and life free from violence and domination. In the words of Eisler (1987) foundations for a just social order prerequisite the recognition that women’s rights are the leading edge of human rights, both operationally and conceptually.

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3. Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (14 of 2013) was enacted on 9th December 2013.
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