

Menstrual Health Management: Period Leaves Policy

Mantasha Afaque*

Abstract: The Word Menstrual Health has been seen constantly in use through Advocacy, planning, and explorations but at the same time it has been devoided from a persistent self-contained meaning. In general, menstrual health refers to the state of mental, physical, and social well-being not only the non-appearance of any kind of health issues, disease, or ailment concerning the menstrual cycle. In broad terms, Menstruation is an autogenetic biological procedure experienced by almost half of human beings even though it is not given much significance that it is needed. It is not getting much of privileges due to unnecessary embarrassment, illiteracy, poverty, and shame. Women suffer irritation, aches, pains, and cramps periodically that couldn't be imaginable by men. The notion of first-day period leave is very important to this discussion. The paper holds features and details regarding. "The Menstruation Benefits Bill, 2017", A Law demanding all organizations to allow period leave or menstrual leave, a move in the right direction. Their approach is to provide hygienic clean and secure toilets and availability of sanitary pads at the workplace as well as in homes. The objective of the study is to grasp women's and men's points of view towards menstrual leave and how they differ. The discussion on the policy has raised major affairs concerning how the workplace can be comprehensive of women's bodies. The paper also provides knowledge about various Countries that give Menstruation leaves to their employees and makes some strategies to compensate for those leaves. This paper holds the requisite details linked with "The Scope of Menstruation Policy in India.

Keywords: *Menstrual Leaves, Special Leaves, Period Leaves, Unpaid Period Leaves, Biological Process.*

1. Introduction

"I agree, with hard work and persistent effort, it is indeed possible for women to do the same things, and gender doesn't necessarily deter us from setting career goals, but sometimes periods do."

Indira Nooyi
CEO of PepsiCo

Menstruation is a natural and biological process that every woman and girl experiences and is a natural phenomenon that ensures that her body is in perfect health. It is a normal and healthy part of women's lives. Almost half of the

* Fourth Year, B.BA. LL. B, Faculty of Law, Integral University, Lucknow

total female population on this planet is of reproductive age. Menstruation, which is also known as periods, is one of the main parts of a woman's life, her basic needs such as food, clothes, and sanitary napkins have also become essential items for her. Menstruation, or period, refers to the release of blood from the uterus out through the vagina - a marker of the end of puberty. It starts with Menarche, which is the first release of blood (first period), which is generally experienced by every girl between the ages of 12 and 13 and ends with menopause, which is between the ages of 40-45. It usually occurs for 4-5 days every month and varies from woman to woman with the difference in the length of menstruation. Discharge of blood every month is very common, but it comes with pain, anxiety, suffering, mental anguish, etc. Still, some women's menstruation is so painful that they are on the verge of death. In research conducted by the University College of London, period cramps are described as "almost as bad as a heart attack". According to reports from the Clinical Evidence Guide, 29 percent of women endure periods of symptoms such as anxiety, cramps, pain, nausea, etc. that debilitate and prevent daily activities. Menstrual letters as medico-legal aid are a powerful and reassuring concept. Menstrual leave is something that is the compulsion of every working woman and student studying in any educational institution because, during the first two days of the bleeding period, women suffer from excruciating pain, anxiety, and suffering or feel like they are going to die. They don't want to do any physical work, just lie on the bed for some women it can be a painless and natural process, but at the same time for some, it can be the most painful and miserable experience they undergo. Every month at the same time many women experience incapacities like PCODS, PCOS, and ovarian cysts. With the progress in social changes and with the changes in thinking from stereotypes and conservative thinking to liberal today more than 40% of the total number of girls are getting educational opportunities and about 30% of women are working in all sectors of the economy. They also observed that female students in the field of education are competitive men and, like female employees, show themselves to be more compatible than men in better and more systematic work management. It is very well said that "the education of a single woman in a family will lead to the education of the whole family" and so far, she has proved it in every field from education to every sector of the economy. One of the main things to consider is that their talent, efficiency, and ability to do everything in the best way are sometimes limited by menstruation.¹ Unfavourable pain, which every woman goes through about 4 or 5 days a month, hurts her physical and mental condition. This is an issue of need for which there is no policy yet.²

2. Menstruation Leaves Policy and Its Global Standing

¹ Prithvi Raj and Antra Pandit, 'Implementation Menstrual Leaves Policy in India: An Empirical study, (*Natural Volatiles And Essentials Oils* 2021) <<https://www.nmimshyderabad.org/docs/Prithivi%20Raj%20-%20Paper.pdf>> accessed 12 March 2023

² Shreya, 'Menstrual Leave: still A Distant Dream?' (*Live Law*, October 18, 2022) <<https://www.livelaw.in/columns/menstrual-cramp-menstrual-leave-menstrual-hygiene-day-menstruation-benefit-bill-211977>> accessed 15 March 2023

Menstrual leave applies to all policies that allow employees and students to take leave from work and universities when they are on their period, which causes a lot of inconvenience in doing any work. Concerning the workplace, menstrual leave policies include paid and unpaid leave every month.

Globally, many countries have allowed paid or unpaid leave for their female employees who cannot perform their normal work during their high days.

- First Spain, Spain is the first European country to grant female employees menstrual leave based on their sexual health rights.
- Second, Japan introduced menstrual leave as part of labor law in 1947. Currently, women have the right not to work on difficult days under Article 68.
- Third, Indonesia has introduced a menstrual leave policy, which states that women experiencing menstrual pain are not bound to work on the first two days of their period.
- In the Philippines, women are allowed two days of menstrual leave every month.
- Taiwan has an article 14 law that states that workers can request one day of leave per month, allowing for three days of monthly leave per year with half pay.
- Zambia, an African country, allowed workers one day off without any reason, naming it as Mother's Day.
- Some international companies have also provided paid leave to their employees like Nike, Future Super, French furniture company Louis, etc.³

3. India's Menstrual Leave Policy: Are We Still Ready?

Periods are one of the most undisguised topics these days when we talk about women's empowerment, equality feminism, and so on. We feel that India is growing it is growing, but our mindset is still dominant when it comes to the development of gender equality. The shame and embarrassment associated with the menstrual cycle are so great that no one is ready to talk about it either. Because of this, the man in the society cannot realize the pain of the woman that she goes through every month in 365 days. Men sometimes feel that women who act foolishly and dramatically in the name of seasonal mood swings are dramatic and when they refuse any job based on the difficulties, they face due to visible periods, they apologize to her. The stigma attached to menstruation has women in pain crumbling behind closed doors instead of raising their voices to get some rest. Society has been women raising their voices demanding menstrual leave, the pain she goes through every month has a voice and is

³Prithvi Raj and Antra Pandit (n 1)

overlooked and ignored and this ignorance is a clear sign that there is still a dominance of the patriarchal system and the world of bias we live in.⁴

Some of the states in India that provide Menstrual Certificates are:

- Government of Bihar was the first state to provide two days of leave to women employees and it is up to the women employees to decide which two dates in the month they do not want to work without giving any reason.
- Government of Kerala since 1912 has been granting menstrual leave to all female students studying in an educational institution. Recently, reducing stressful days for female students The Kerala government has decided that a menstruating student can now sit exams with 73 per cent marks instead of the 75 per cent mandated by university rules, becoming the first state to provide menstrual leave to all female university students.

In 2020, private companies like Zomato, Swiggy, and Byjus took a step by taking the initiative to provide menstrual leave to their women and transgender for 10 days a year.⁵

4. Menstruation Benefit Bill, 2017- A Right Step but Taken Back

In 2017, Arunachal Pradesh Member of Parliament Ninong Ering came up with the Menstruation Allowance Bill with the idea of providing relief to the menstruating labor welfare of our country. Once he presented his proposal, the proposal acted as a match to the fire, sparking debates and discussions across the country. However, the bill does not get a majority and is still awaiting approval and no laws have yet been passed on the issue, of a protected and healthy environment in the workplace and schools.

Some of the main points of the action plan are listed below:

- The bill provides 4 days of leave to a woman working in a private or public organization.
- The bill extends not only to providing relief for working women in public and private workplaces but also includes female students above 8th class.
- Women availing the benefits of this plan will be sanctioned with overtime or work from home whichever suits them best
- Section 8 of the Act was the most important part of the Act which enshrined that every woman has the right to self-control her menstruation to get the benefit of the Act.

⁴ Shreya (n 2)

⁵ Mahek Nankani and others, "The Case for a Menstrual Leave Policy" (*Deccan Herald*, March 18, 2022) <<https://www.deccanherald.com/opinion/the-case-for-a-menstrual-leave-policy-1092477.html>> accessed 15 March 2023

- The bill also mentions punishment for those organizations or employers who deprive women of their right to menstrual benefits.

Last but not least, the draft law also talks about setting up grievance redressal committees, the sole aim of which is to solve the public problems a woman, may face while using the benefit from the bill.⁶

However, the Menstruation Bill was rejected on several grounds and the main reason given by MPs for rejecting the bill was that it would fuel gender inequality and bias. Congress spokesperson Priyanka Chaturvedi, who is a woman, also criticized the bill, saying it would pave the way for discriminatory behaviour against men and women in the workplace. the employer will start hiring more male workers from the kitchen to the CEO of the organization a woman who fought a lot to keep her position and prove herself and her intellectual abilities and we hope that this menstruation, which is a natural precursor, comes with the birth of a girl should not hamper her intellectual abilities and long struggle. Therefore, the underlying motive and idea of the bill should not be misconstrued or criticized based on gender equality. Coming up with a menstruation policy and its implementation will be seen as a big milestone in a gender-inclusive society and will act as a safety net for women against a society that has stigmatized the word menstruation.

5. Menstrual Leave Policy Versus Right to Life

Every individual has certain rights given to him by our constitution makers and of all the rights the most important right of every individual is the Right to Life - the right which has transformed human life into a dignified life⁷ the right to life is provided under Article 21⁸ of the Constitution of India Since no one shall be deprived of his life and personal liberty except by procedure prescribed by law, this is only one line of the article with a broad interpretation and it is still an interpretation. the meaning of this fundamental right has evolved from time to time and today article 21 includes the right to life, the right to health, the right to medical assistance, the right to the internet right to dignity, and many others, this right is somehow related to menstrual leave as a right cheer.

Some of the cases where we have seen the connection between the menstrual leave policy and a right to life are discussed below through their judgments as follows:

In *Delhi Labour Union v Union of India & Anr*⁹ was petitioned for granting 4 days paid menstrual leave to all its female employees. The Delhi High Court asked the Centre and the state to legislate according to the rules and

⁶ Shreya (n 2)

⁷ *Maneka Gandhi v Union of India* (1978) AIR 597

⁸ Constitution of India 1950, art. 21

⁹ *Delhi Labour Union v Union of India & Anr* (1995) SCC 62

options regarding the demands raised in the case. The center and the state are violating the right to dignity by not ensuring women their right to dignity by not providing clean and hygienic toilets.

By referring to several decided cases of the Supreme Court, we can say that the right to health is an integral part of the right to a dignified life enshrined in Article 21 of the Constitution of India. In *Francis Coralie Mullin v Administrator, Union Territory of Delhi*¹⁰ the Supreme Court gave its broad interpretation of the word 'life' mentioned in Article 21 when it said that "the right to life includes the right to live with human dignity" and not the mere existence of animals. The word "life" includes all the requisites of an individual's life to lead a dignified life.

In *Nevada Department of Human Resource v Hibbs*¹¹ the US Supreme Court ruled in this case that organizations must take into account the inequality and differences that exist between men and women in the department, and the way legal mediation and change, inequality should be approached to fulfil the basic and basic needs of women and the most exclusive need of women was the problem they face in the workplace is pain, cramps, and sanitary pads during menstruation.

In the case of *Consumer Education and Research Centre v Union of India*,¹² it was held that the right to life includes the right to hygienic living conditions and basic hygienic necessities at the workplace for a healthy and lasting life. This basic need must be expressed and linked in such a way that legislators when creating laws and employers when creating rules and regulations for their employees keep in mind the needs and requirements regarding the differentiation of the human body.

6. Analysis of Menstrual Leave Policy

"I wish I was a man" Zheng Qinwen, these were the words of the Chinese tennis player when she lost her French Open title due to menstrual cramps. I think that this word Zheng Qinwen is an open message for everyone, which means the pain, displeasure, and discomfort of a woman who faced during menstruation. Just a few months ago, not only our country, but the whole world celebrated Menstrual Hygiene Day on May 28 under the connotation "By 2030, create a world where no woman or girl is detained because they are menstruating." agenda for the development of our country. After all, the development of any country depends on the healthy well-being of that country and India has a long history of respecting motherhood, so as a sincere problem period, the Leaves policy needs to be satisfied. As we are developing and evolving every day, it has become essential for India to start caring about the women of our country who constitute more than 51% of the population, their needs, and what they

¹⁰ *Francis Coralie Mullin v The Administrator, Union Territory of Delhi* (1981) AIR 746

¹¹ *Nevada Department of Human Resource v Hibbs* [2003] 538 U.S. 721

¹² *Consumer Education and Research Centre v Union of India* (1995) AIR 922

want, giving them equal chances and a platform for discovery. and show your skills and talent. There may be a chance somewhere that the menstrual abandonment policy will create gender inequality and bias between men and women. Since maternity leave, itself has led to bias among employers in certain male workers, more preferences and somewhere and somehow this menstrual leave policy may also disadvantage women, but policymakers need to keep in mind while addressing this issue that for decades women have fought a lot to stand in the position they are in today and it was unimaginable if we look back 60 years, they played the same role in the development of the country. Today our country is represented in the United Nations Council by a woman, a permanent member Ruchika Kamboj India in the United Council and she is the best example to say that today women in all fields are giving their best. It is very important to remember that the workplace must embrace all the needs of women's bodies and should be in place as an understanding and mutual trust for a more fruitful, satisfying, and rewarding workforce, it should not burden women to endure suffering. and pain silently and expecting her to bear all the pain and suffering calmly and normally would be quite unfair and unjust. This should be considered that the policy of leaving women aims to promote gender discrimination in the workplace or educational platform instead, it aims to achieve a society that provides working women with a safety net against a corrupt and evil society that stigmatizes menstruation as a means of embarrassment in this society.¹³

7. Conclusion

Menstrual hygiene and women's health trigger every person in society, because it is the suffering of every person, not only the woman, but it affects every man born of a woman. Undoubtedly, it is a fact that a woman has to undergo many difficulties and face many challenges like body aches, cramps, mood swings, etc. during menstruation. It is a very big challenge for her to manage her household and offices and it is very sad to acknowledge the fact that the Indian legislation system is still considered backwards as it is not able to implement proper law and concrete policy. Regarding period sheets other countries like Italy Japan etc. have laws and rules in their country to provide women with period sheets monthly. There has been a lot of discussion about menstrual leave and there are many people in society who say that they will question a woman's ability to work, but it must be understood that menstrual leave does not mean a complete absence from work for certain days when a woman can return. her work even during menstruation from home. Working from home has become a trend today, and during the pandemic, all work and offices continued to function according to the concept of 'Working from home'. So, in the same way, a woman can continue to work from home according to her convenience and flexible working hours. It is a time when we recognize that women are biologically built differently and there is no shame in admitting that one has a period. Our country has a long history of respecting motherhood, so our government

¹³ Shreya (n 2)

needs to stand up to this agenda and should review this concern. Indeed, not every woman experiences pain, cramps, and nausea during menstruation, but most menstruating women are even in such bad conditions that some women seem to be dying.¹⁴ Instead of making a policy of giving 4 days leave they can give any two days leave which could be a crucial step to redress the historical injustices faced by women and this policy implementation could give new wings to women to fly. Coming up with the policy on menstruation and implementing it will be considered to be a big milestone in the gender-inclusive society and act as a safety web for women against the society that stigmatized the word menstruation.

¹⁴ Prithvi Raj and Antra Pandit (n 1)