



Flow Forward

Enhancing Workplace Support with Menstrual Leave Support

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Abstract. The discourse on menstrual leave in India has gained renewed visibility amid evolving conversations on workplace equity, dignity, and inclusive labour governance. This paper critically examines menstrual leave as a labour rights issue rather than a discretionary welfare measure, situating it within India's constitutional mandate and contemporary labour law architecture. Drawing upon Articles 14, 15(3), 39, and 42 of the Constitution, the study argues that substantive equality in employment necessitates recognition of biological realities that disproportionately affect menstruating individuals. The new labour codes enacted and enforced in India, particularly on concerns regarding social security and occupational safety, put emphasis on humane working conditions and other broad traditional aspects of social protection. The 2020 labour codes remain silent on the issue of menstruation and lack statutory inclusion to give way to other streams of lawmaking, like through delegated legislation. Silence of hard law has birthed fragmented state practices, discretion of employers and non binding institutional policies, all of which is a lacuna in public policy rather than a need for explicit statutory provisions. By comparing the evolution of welfare legislations in this context and doctrinally analyzing public policy through popular narrative produced by individuals and institutions, this paper explores developments within the country alongside initiatives taken by other state and non-state actors, including global models on menstrual leave or a policy thereon from other jurisdictions, Japan, Spain and South Korea, *per se*. A broader study from different legal systems has allowed this paper to evaluate how menstrual leave could be integrated into labour frameworks and other means of social security. This paper contends that such leaves can be accommodated normatively within the age-old paradigm linked with proper physical and mental well-being without undermining gender equality or upholding discriminatory, unequal or exclusionary gendered practices. Menstrual health accommodations in certain sectors of employment through delegated legislation, standing orders and welfare schemes under the new labour regime of India may align Indian labour policy

with the constitutional mandate of promoting menstrual health by upholding dignity, equity and inclusive workforce participation. This paper shall not attempt to draw conclusions on which particular sectors should such policy affect as it is assumed that for such study empirical data would be required. This paper examines the absence of menstrual leave within India's labour law framework, analyses constitutional and comparative legal developments, and proposes welfare-oriented menstrual health accommodations, while excluding empirical determination of sectors requiring mandatory implementation.

Keywords: Menstrual Leave, Labour Welfare, Social Security

1. Introduction

Over past few decades, workplaces have been increasingly scrutinized for their inclusionary employment and hiring practices which had led to the conversation around need for menstrual leaves gain momentum with a plethora of recommendations and preservations. A recent statement of 2025 made by S.N. Subrahmanyam of Larsen & Toubro (L&T) and reported by the Times of India dated December 15, 2023, on the company's move to grant female employees one day of paid menstruation leave each month (Zachariah, 2025) has led to a divisive debate in the corporate spheres across India. While the decision has been taken in good spirits for being a constructive step to acknowledge biological differences, akin to maternity benefit, and fostering dignified workplace environment, several others have argued that it may unintentionally reinforce marginalization of women in professional settings. A similar wave of debate was mirrored in national political and other stake holding institutions when the then Union Minister Smriti Irani claimed that menstrual cycle “is not a handicap” and it shouldn't warrant a specific policy for "paid leave" at a parliamentary session on December 14, 2023, advising against laws that might result in advancing inequalities against women (Tnn & India, 2023). Her remarks reflect a larger conflict between the drive to institutionalization of menstrual health policies and the apprehension of institutionalization of exclusionary practices.

Women's integration into labour force has been historically bandwagoned with disproportionate familial and reproductive responsibilities with expectation of productivity similar to their male counterparts. Early laws on maternity benefit (Maternity Benefit Act, 1961) were initial steps towards recognition of female reproductive health within labour and employment law. Although, the biological reality of menstruation being more common and recurrent remained unaddressed.

The legislative and constitutional foundation for women's welfare is unequivocal: Article 15(3) of the constitution provides the State the authority to enact special laws for women and children (India Const. art. 15(3)), Article 42 stipulates maternity leave and humane working conditions (India Const. art. 42), and the Equal Remuneration Act of 1976 ensures equal pay for equal work (Equal Remuneration Act, 1976). Together, these provisions establish the ethical and legal basis for positive discrimination, acknowledging that formal equality alone is insufficient to ensure substantive equity at the workplace. However, despite this progressive structure, menstruation leave is not specifically covered by any statutory labour law. Menstrual leave, thus, stands in a quagmire of Indian labour jurisprudence, neither mandated nor prohibited. This lacuna leaves it to the discretion of state governments, employers, and institutions to design policies that align with the constitutional vision of dignity and humane work.

2. Existing Jurisprudence

Indian patriarchal society has integrated into the very essence to be of a woman the thought of subordination and subjugation. To worship, enslave themselves and totally submit to their male counterparts seems to be a rite of passage for Indian women. Through inception of plantations in India, women for the first time were brought under formal employment in the organized sector (Ministry of Labour & Employment, 2009). But they had to bear the brunt of working at par as their husbands would, in the fields, while also carrying the entire responsibility of managing the household. At the wake of the industrial revolution, the British lords of the country became conscious about the working conditions of women in the “great” Britain however, the Indian populace was not worthy of humane working conditions in mills and factories. After abject treatment thereof, in the economic spheres led to a sudden realization in the Bombay Presidency of the erstwhile Dominion of India by the enactment of the Maternity Benefit Act (1929). Nonetheless, the situation of working women remained pathetic with prolonged working hours, lesser wages, no control over their bodily autonomy, being treated guilty for becoming mothers and, obviously, being excluded time and again from integration into the society due to the biological phenomenon they are subjected to, namely, menstruation, socially stigmatized as “impure” rather than natural (Mumtaz, 2015). This historical bias highlights need to reframe menstruation leave as a labour rights issue, rather mere welfare concession.

Article 15(3) of Indian Constitution states that “Nothing in this article shall prevent

the state from making any special provision for women and children” (India Const. art. 15(3)). This provision empowers the State to enact special laws and policies for women and children. The main objective of this article is to address systemic discrimination against women, promote gender equality and ensure that women have equal opportunities in various aspects of life. This Article of Indian Constitution would not only grant equal treatment to women but also empowers the state to adopt measures to practice positive discrimination against women. Directive Principles of State Policy provide guidelines to be followed by the government of India for the mellifluous inclusion of women at workplace. Article 39 sub-clause (a) of Part IV of the Indian Constitution states that both men and women have equal right to an adequate means of livelihood (India Const. art. 39(a)). Sub Clause (d) of the same Article empowers women to receive equal pay for equal work as men (India Const. art. 39(d)). Section 4 of Equal Remuneration Act, 1976 pivots the duty onto the employer to ensure equal pay to both men and women workers for work of similar nature (Equal Remuneration Act, 1976, § 4).

Furthermore, the State is expressly directed by Article 42 to provide maternity relief and humane working conditions (India Const. art. 42), which can reasonably extend to menstrual relief as part of humane working standards. Therefore, rather than being a particular privilege, a menstrual leave policy should be perceived as an equitable tool that prevents biological disparities from becoming a disadvantage at work.

The Constitution of India mandates the state to enact laws and provisions that promote gender equality and provide equal opportunities to both men and women in various facets of life. To comply with the Constitution's mandate, the State has implemented an array of statutes that aim to protect equal rights, combat social discrimination, curb multiple forms of violence and atrocities, and offer support services, particularly to working women. Legislations have been implemented to enable Indian women to enjoy equal rights and protection against discrimination, as stipulated by the Indian Constitution. India's modern labour framework under the Labour Codes (2020), especially the Occupational Safety, Health, and Working Conditions Code (2020) prioritizes employee welfare, health, and humane working conditions.

Access to justice, healthcare, and education for women is essential to give way to mechanisms and changing societal perspective by enacting equitable laws. The increasing involvement of women in workforce, considering they also make about half of the population theoretically, is crucial from a standpoint of country's development and requires

robust frameworks and rules. Women participation is no longer limited to agriculture and primary sector. It is exceeding to relatively newer fields like the ones in tertiary, quaternary and quinary sectors. Legislative reforms that are specifically focused on women have played a pivotal role in elevating the status of women in society, often using positive discrimination. The state has made the following notable advancements in women's legal reforms:

2.1 The Maternity Benefit (Amendment) Act, 2017

The paid maternal leave period for female employees who have a maximum of two surviving kids has been lengthened from twelve (12) weeks to twenty-six (26) weeks by the Maternity Benefit (Amendment) Act (2017). Utmost 8 weeks' leave can be availed prior to the projected due date and the final few weeks postpartum. Additionally, women who were expecting a third child were entitled to twelve (12) weeks of earned maternal leave, which was divided into six weeks prior to and six weeks following childbirth. The amendment has done a great job of fulfilling the natural desire of women to accrue twelve (12) weeks of maternal leave starting on the day they receive their kid, whether they are adopting a child below three months old or are contracting mothers. After twenty-six (26) weeks of absence, employees may work from home with permission from their employer, depending on their job profile. These regulations allow women to rest and recover before returning to their jobs and encourage them to get more involved in the workforce.

2.2 Improved Earnings for Women in the Formal Sector

The Employees Provident Fund and Miscellaneous Provisions Act (1952) as amended to lower women employees' contributions to 8% for the first three years of their employment, from the current rate of 12% or 10% (National Commission for Women, n.d.), with no change in employers' contributions. This move was made by the Finance Ministry in the Budget of 2018 (Ministry of Finance, 2018) to encourage the employment of more women in the regulated industry and to larger take-home earnings.

2.3 Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

There are numerous instances of sexual harassment in the workplace. Since sexual harassment of women has occurred everywhere, there is a need for strict legislation to stop

these crimes. In India, the Supreme Court's historic decision in *Vishaka v. State of Rajasthan* (1997) established the foundation for the Sexual Harassment at Workplace statute. Bhanwari Devi, a so-called socially backward caste woman working as a social worker for the Rajasthan Government's Rural Development Programme, was sexually assaulted by a gang in 1992. This demonstrated the severity of sexual harassment cases that occur in Indian workplaces. It exposed the risks faced by working women in the workplace and touched a nerve throughout the country. The Union of India received directives from the Supreme Court to draft legislation to stop sexual harassment in the workplace. These guidelines' primary goal was to give victims a forum for grievance procedures and remedy against sexual harassment at workplace. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act (2013) ("POSH") was created with these rules as its driving force. Employers are required by the POSH Act to take preventive measures against and to deal with sexual harassment in their place of work. The Act contributes to the creation of a more secure and supportive workplace for females by defining explicit policies, offering awareness programs, and putting in place channels for complaints and remedies. This encourages Women to remain in workforce. This encourages a culture in which women are treated with respect and feel appreciated, which contributes to their increased participation in workforce.

3 Empowering Women, Indian Outlook on Menstrual Leave Policy

The Right of Women to Menstrual Leave and Free Access to Menstrual Products Bill (2022) was presented in the Lok Sabha in 2022. Bill suggested:

- I. All working women (including students in educational institutions) are entitled to three days of paid menstruation leave every month;
- II. Provision of free menstrual products through a state-regulated supply chain; and
- III. Establishment of a Female Menstrual Health Products Price Regulation Authority.

Although the bill was never passed, it was a progressive attempt to incorporate menstrual health into the framework of social security and labour welfare.

In 2023 menstrual leave was sought to be implemented nationally in 2023 by a Public Interest Litigation (PIL). However, the Court declined to step in, noting that such issues are within the purview of executive and legislative policy (Lok Sabha, 2023). Though the

current labour laws do not specifically mention or allow for paid or unpaid leave due to menstruation, however, organizations are free to take any decision in this matter and extend leave than those provided under the existing legal regime. The Bihar government offers two consecutive days of "special" leave monthly to female employees who work for organizations affiliated with the state government. Such special holiday for female employees is also included in the Human Resource Manual adopted by Bihar Vikas Mission (Bihar Vikas Mission, n.d.), an organization established by the State Government for the execution of several projects.

In a key step towards the advancing of gender sensitive reforms at workplace, the Karnataka State Government Cabinet adopted the Menstrual Leave Policy, 2025 on 9 October 2025. It grants women employees in the entire state a right to one paid menstrual leave each month. This has made Karnataka the first Indian state to implement a Menstrual Leave Policy that is effectively made applicable to both the public and private sectors which is a new step for an inclusive labour governance in Indian legislative framework. The policy recognizes menstruation as a legitimate health concern affecting the workplace rather a personal inconvenience. Institutionalization of such leaves acknowledges physical pain *viz.* psychological discomfort that is experienced by several women during their menses and there are several factors that may inadvertently affect the productivity and well-being of the persons concerned. The policy moves away from discretionary or makeshift arrangements that were earlier found seldom, establishing a statutory claim that may reduce stigma of burdening oneself with justifying their needs as employees (The Hindu Bureau, 2025). The state government has positioned the policy forming part of a broader scheme of ensuring equal participation and dignity at workplace for various genders. Extension of benefit to the private sector has helped in addressing a long-standing gap in the labour laws that provided protections related to reproductive health but had confined itself to maternity benefit which too was confined in the earlier years to the public sector. This ensures that women in any field regardless of sector or industry in which they might be employed can access such benefits without risking job security or fear of discrimination, from agro-based industries to IT hubs of Bangalore.

Critically, the Policy also hold the potential of transforming the workplace norms by bringing menstruation into an open discourse, thereby breaking deep-seeded taboos and promoting an inclusive and equitable workspace. While concerns have been raised regarding its execution potential misuse or possible reinforcement of gender roles advocates contend

that these challenges can be addressed through well-defined guidelines and awareness programmes. Overall, the Menstrual Leave Policy (2025) sets a avant-garde approach for other Indian states and the central government. It suggests a positive shift towards recognizing gender related health concerns under the ambit of “workmen” rights instead of a privilege, and upholds the constitutional ethos of social justice for working women.

Apart from the aforementioned, a state-run school in Kerala allowed its pupils to take menstrual leave during their exams in 1912, and to retake them at a later time, a unique move for an Indian state in so early years (Chronicle, 2019). At a recent occasion, Hon’ble former Chief Justice of India (CJI) DY Chandrachud emphasized the value of workplace flexibility and open discussions about menstruation well-being. Additionally, he said, “When women law clerks have menstrual cramps, I let them work from home” (The Statesman, 2023). Menstrual health concerns should be publicly discussed in society, according to CJI Chandrachud, who emphasized the need for these discussions. We must admit that these problems are there in our culture. He said that although if menstruation leave is not specifically covered by law in India, institutions are allowed to choose to give more favourable terms of employment than those required by laws.

Some private companies in India, such Byju's, Zomato, Mathrubumi, Megzter, FlyMyBiz, and Culture Magazine, have unilaterally introduced menstruation leave policies for their female employees despite the absence of an exhaustive legal framework (Singh, 2025). Tata Steel has served as a beacon for worker welfare initiatives since its founding. Since they genuinely think that their employees are their most valuable resource, they follow best practices to guarantee positive working relationships, professional development, and job happiness. As a result, they also instituted one day of menstrual leave every month, which may be taken without prior authorization (Joshi, 2020).

NALSAR has established a menstrual leave policy, making it the first institution in India to do so. Students and staff would be granted one menstruation leave every month in accordance with the policy (Supreme Court Cases, 2023). To be eligible for this vacation, the student must maintain a set attendance rate of 67%. This shows that India has made significant legal reforms to guarantee women's welfare, security, and benefits as well as to create an atmosphere that is welcoming to women in the workplace. The goal is to eradicate gender-based discrimination, which is a core tenet of the Indian Constitution.

4 Global Outlook for Menstrual Leave Policy

Globally, there is growing recognition that having access to menstruation health products, services, and education is a basic human right. The World Health Organization (WHO) and other international organizations have stressed the significance of menstruation health and cleanliness in attaining gender equality and general well-being (World Health Organization, 2022). Numerous nations have created their own national menstrual health policies or added menstruation health-related elements to already-existing health and education programs. These regulations frequently cover things like employment accommodations, menstrual education in schools, accessibility of menstruation products, and infrastructural upgrades to facilitate managing menstrual hygiene.

Employers are legally required to grant female employees the opportunity to seek and take vacation on menstruation days, as stipulated by a 1947 Japanese Regulation (Labour Standards Act, 1947). If a female employee in Indonesia has pain during her menstrual cycle, she has the right to notify her employer and is excused from work for the initial two days of her period (Indulia & Indulia, 2023). In South Korea, female employees are granted one day of paid absence every month upon making a special request in this respect (Indulia & Indulia, 2023). In Taiwan, female workers who are having trouble completing their work because of their menstrual cycle have the right to seek up to three days of leave every year (Act of Gender Equality in Employment, 2024). Recently, Spain became the first country in Europe to include menstruation leave in its legislative framework. This allows female employees to take up to three to five days of leave due to menstruation discomfort, provided a doctor's letter is produced, and the State social security system would provide financial support for the leave (BBC News, 2022).

5 Conclusion

It is imperative to develop a menstrual leave policy due to the progressive society we live in and the global trends that are emerging in the recent times. This demand arises from everyday realities faced by women at work, rather than from abstract ideals of reform (World Health Organization, 2024). It would not only promote inclusion in workplace and communities but would also encourage women to contribute more towards the economic growth of the country.

A well-designed policy, which has anti-discriminatory safeguards embedded by way of clear statutory guidelines, can prevent misuse and also protect autonomy of body and mental faculties of female employees. It is evident enough that professional conduct cannot be measured with a benchmark of ability to sustain discomfort, but by the quality and consistency of performance in terms of output and delivery. India has arrived at the crossroads of inclusion and promoting economic growth with the menstrual leave policy debate being part of a wider and multi-faceted conversation on labour jurisprudence and gender studies. It must be made explicit that acknowledging menstruation is not an act of charity, but rather an affirmative action in the field of equitable workplace practices and humane treatment of individuals. Statutory provisions will prove to be the touchstone of uniform standards which may provide ample flexibility for discretion of organisations and will allow them to take into consideration nature of work and other factors affecting financial growth. It remains the prerogative of the State to either formally recognize by way of legislation or by culling-out descriptive policy that how may menstrual leave be incorporated. Either approach must be guided by constitutional values, nay market convenience solely.

Recognizing menstrual health along with its ancillaries at the workplace reflects a feminist approach towards understanding of dignity of labour, which in its crude sense is not limited to safe working conditions and protection from imminent exploitation. Ability to work without fear of being penalised for biological differences and the stigma so associated could be inferred to be inclusive of this broader perception of holistic health of employees. Choice between productivity and well-being appears to be irrational and only circumstantial when female health is considered irrelevant to labour practices. This choice is arbitrary, non-est in law and orthodox. In this sense to "flow forward" refers to the realization of a global standard that harmoniously constructs constitutional mandates by providing substantive rights to individuals effectuating socio-economic justice. The real question is not whether such a policy creates special treatment, but whether a constitutional democracy committed to justice can continue to design workplaces around only one kind of body.

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