
MENSTRUAL LEAVE POLICY DEBATE: THE NEED FOR IT AND ITS LEGAL STATUS IN INDIA INTRODUCTION

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ABSTRACT

The debate surrounding the need for menstrual leave policies in India has gained attention in recent years. Menstruation is a natural process that can cause discomfort and health issues for women. Many countries have implemented menstrual leave policies to address these concerns, but in India, the Menstruation Benefit Bill introduced in 2017 has not been passed. Proponents argue that menstrual leave is necessary to address the challenges women face during menstruation and promote gender equality. They cite constitutional provisions on positive discrimination and fair working conditions for women. Critics argue that such policies may lead to gender discrimination and reinforce stereotypes. They also raise concerns about pay discrepancies and hiring practices. The debate calls for a comprehensive examination of the advantages and disadvantages of menstrual leave policies. Alternatives like work-from-home arrangements during menstruation have been proposed. It is crucial to prioritize women's health and consider implementing policies that support their well-being in both public and private workplaces.

1. INTRODUCTION

Today in the 21st century, we may boast of gender equality and women empowerment but truth is somewhat implausible. It's odd that in order to affect positive change, we constantly bring up concerns that affect women. The question of whether or not those who are on their period should receive paid time off is important. Although India's menstrual leave legislation has long been disputed, there is no to the issue still.

Menstruation is a normal biological process that is most frequently seen in females, who bleed for four to six days each month. Every woman's body goes through this dynamic physical

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process differently depending on her age. While it may not be too difficult for other girls, others may feel unpleasant cramping, exhaustion, and backaches. Menstruation causes discomfort, suffering, emotional concerns, and other health problems that make it challenging for people to work. Many recommend taking a day or two off each month to ease this soreness. Menstrual leave is a particular kind of time off for people who have period pains. It suggests that employees be granted time off for menstruation just like they would for a sickness. These leaves are taken on top of the standard sick leave that is given to all employees but are not paid for.

Men and women have different biological variances from one another. Period leave may be helpful for women who are enduring any level of menstrual discomfort or who have conditions including dysmenorrhea, endometriosis, ovarian cysts, or mental disorders. Some women's daily lives can be disrupted by menstrual symptoms, making it more difficult for them to do their regular daily chores. Keeping in mind that mentioning menstrual symptoms is socially taboo might put pressure on women to hide their period discomfort when they are at work and engaging with co-workers. Women may use menstrual leave as an opportunity discuss their menstrual cycles and to recover or obtain treatment for any menstrual-related health issues

2. MENSTRUAL LEAVE POLICY AROUND THE WORLD

There are several nations that grant women menstruation leaves, including:

- Indonesia offers two paid vacation days each month.
- The menstrual leave policy in South Korea, which was introduced in 2001, mandates that women be paid for any unused menstrual leave.
- Taiwan offers paid time off for three days each month, which should not be confused with sick time.
- Zambia has a monthly holiday.
- Italy is the first nation in Europe to offer three days of paid vacation.
- Japan—this legislation was established in 1947, and as of right now, Japan made mandatory to offer paid menstruation leave.

3. STATUS OF MENSTRUAL LEAVE POLICY IN INDIA

Menstruation Benefit Bill (2017)

In order to give women who work in the public and private sectors two days of paid menstrual leave each month, Ninong Ering, a former member of parliament from Arunachal Pradesh's Lok Sabha,

introduced the **Menstruation Benefit Bill** in 2017 but it was not passed. Here are the some of the main provisions of the bill-

Section 4 of the bill mentions that 4 days of paid leave for women who are working with government registered establishment and students in class 8th and above during menstruation and if they opt to work during menstruation they should be given overtime work allowances .

Section 5 of the bill mentions that thirty minutes break twice a day during menstruation for not more than 4 days of month.

Section 6 of the bill mentions that every establishment having fifty or more than fifty employees should have a crèche facility.

Section 7 of the bill mentions that every establishment shall intimate in writing and electronically to every woman at the time of her initial appointment regarding every benefit available under this Act.

Section 8 of the bill mentions that every woman shall have a right to self-perception of her menstruation, in accordance with the provisions of this Act.

Section 8 was somehow problematic because self-perception is not a right way to describe menstrual cycle as it differs from women to women.

This bill started a debate. This bill was welcomed by many but also was opposed by some ministers and women organisations that it would marginalise women more. Prior to Ering's bill, there have been several significant developments in this area. The Bihar government has given female employees two days of menstruation leave every year since 1992. Women don't have to give a reason for choosing which two days of the month they want to work. Similarly, since 1912, pupils at a ladies' school in Kerala have had access to menstrual leave.

The phenomenal judgment on the Sabarimala issue, wherein the menstruating women have now been allowed to enter the premises of the temple is one such milestone example set by the Indian judiciary to help in empowering the status of women in the society, but still, there is a long way to go.

Menstrual leave policies have been implemented in the corporate sphere by businesses like *Zomato* (a very well-known food delivery start up) which announced that all women and transgender people working under at *Zomato* are entitled up to 10 days extra pay leave per annum, under the new period policy. This would not be included in the category of sick leaves. In this view, this will foster a culture of trust, truth, and acceptance.

Nike a renowned company providing menstrual leave to its female employees since 2007. *FlyMyBiz*, a digital media company in Kolkata offers extra leaves to women employees. Other businesses have made it possible for staff members to work from home. Even though several well-known corporations have stepped forward, the transition has been gradual and has received both praise and criticism.

4. ARGUMENTS IN FAVOUR AND AGAINST THE MENSTRUAL LEAVE POLICY

There are two schools of thought on this subject. One, a lot of female security employees believe that taking a "first-day period break" can help them avoid the excruciating pain of menstruation and the embarrassment of wearing blood-stained clothes. Two, looking for an explanation would be used against ambitious women, and will be used as an excuse not to recruit more women in companies. To

have a suitable end and implementation, both the advantages and disadvantages must be taken into account.

i. Arguments in favour of the menstrual leave policy

Menstruation has always been a hush-hush topic in the society. Not only are the ambiguous and smirk face expressions are embarrassing, but the mention of menstruation also causes insensitive awkwardness. It has always been a surprisingly awkward and rude subject that is rarely brought up with male students or co-workers. Why does society have a hard time accepting that women's periods cause them pain?

And exception to Article 15 under 15(3) of Constitution of India, which allows the legislative body the authority to create regulations and specific provisions on positive discrimination that would assist the victims of patriarchy, namely women and children, also protects the menstrual leave policy.

Additionally, the state is given authority to ensure that there are fair and appropriate working conditions for women as well as maternity leave under Article 42 of the Indian Constitution's Directive Principles of State Policy (DPSP).

ii. Argument against menstrual leave policy

Critics have asserted that women have been working throughout their period week as well and that the concept of menstruation leave only emerged in response to the "feministic wave" that is currently sweeping across society.

It is argued that because women will receive the pay even after taking a day or two off, this measure may result in gender discrimination. The proposal will result in a significant pay discrepancy between male and female workers in the labour market.

Another argument is that women will be more susceptible as a result because employers will favour hiring men over women. Why would a business want a female employee who can take off at least twice a month, excluding sick days, and who can additionally take time off for maternity care? However, the corporation is unable to reduce her pay; instead, female employees are entitled to receive their full salaries under the law.

Finally, it will promote the stereotype that women are too sensitive, too emotional, or even too expensive to work as employees.

5. CONCLUSION

We have reached an age when science and religion have evolved in ways never before .. We live in an age that offers us promises and opportunities. It's needed of the hour that attention shall be paid to women's health at both public and private places where women work.

Whether India should has a menstrual policy or not is debatable. We are living in time where the employees and workers are struggling to implement the labour law. Maternity benefit laws

are given only when there are unions to fight for them. if not, then people turn blind for it .Same goes for menstrual leave.

An alternative to menstrual leave is work from home facility for women during menstruation. During pandemic the work from home has become normal and it can be replaced from work from office for women during menstruation. Work from home will give a chance to women to work from their comfort and they can get relief without compromising from work.

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