
Exploring Menstrual Leave in Islamic Jurisprudence: Cultural and Religious Perspectives

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ABSTRACT

Menstruation is often stigmatized and surrounded by taboos, causing women to feel guilty about a natural bodily process. Women may find it challenging to carry out their daily activities, particularly during the first day of their period. In Islam, menstruation is regarded with great importance, and women are exempted from prayer and fasting during their periods. Proper hygiene is also emphasized. Men are prohibited from divorcing their wives during their menses, and sexual intercourse is prohibited during menstruation, for forty days after childbirth, during daylight hours in Ramadan, and during pilgrimage. This article aims to explore whether Muslim women still face menstrual stigma, including the stigma surrounding the exemption from fasting and praying during their periods. It also examines traditional restrictions placed on Muslim women and initiatives offered by Muslim countries to support working women in the corporate world. The questions are pondered for discussion; Do Muslim women still experience stigmas related to menstruation? Are they being stigmatised for not fasting and praying while women are on their periods? What are restrictions based on tradition are placed on Muslim women? What initiatives are being offered by Muslim countries to support working women in the corporate world? The research employs a qualitative method with a normative doctrinal approach, which focuses on positive legal principles outlined in statutory regulations and aims to conceptualize law as an Islamic principle in writing.

Keywords: *Menstruation, Menstrual Leave, Period Leave, Menstrual Leave under Islamic Law.*

I. INTRODUCTION

In Islamic jurisprudence, the topic of menstrual leave has been a subject of discussion for centuries. Menstruation is a natural process that occurs in women and is considered a state of impurity in Islamic law. As such, it has significant implications for women's daily lives, including their ability to perform religious duties and attend work or school. Classical Islamic jurists recognized the challenges that menstruation presented for women and created allowances

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for them in various aspects of their lives, including work and religious obligations. These allowances were based on the principle of "mashakka," which refers to difficulty or hardship. In Islamic law, the principle of mashakka allows for certain exemptions or concessions when a person faces significant hardship or difficulty in fulfilling their obligations. Regarding menstrual leave, classical Islamic jurists permitted women to take time off from work or school during their menstrual periods, recognizing that it could be challenging to perform daily tasks and duties while experiencing physical discomfort and emotional distress. This permission was granted based on the principle of mashakka and was seen as a way to ease the burden on women during this time. In modern times, the topic of menstrual leave has gained renewed attention, with some countries and companies implementing policies that allow for menstrual leave for women. However, there is still debate and discussion surrounding the issue, including questions about the length of time allowed for menstrual leave and whether it should be paid or unpaid.

According to Islam, the definition of menstruation is the blood that comes out of a woman's womb in a healthy state and is not caused by giving birth or illness at a particular time. Broadly speaking, menstruation is a biological cycle for females every month.² In this context, the rise of business in Muslim countries is followed by an increase in working women in the service sector. There are differences in the men's workforces and the women's workforces; For instance, from the biological point of view, women experience different reproduction phases from men, which are menstruation, pregnancy, giving birth, breastfeeding, and menopause. The menstrual cycle is one of the aspects of women's reproductive systems that differ from men. Menstruation is divided into two, which are abnormal menstruation and regular menstruation. Menstruation accompanied by pain until the woman cannot work is called abnormal menstruation.³ Considering reality, In Muslim countries, Menstrual paid leave should be a mandatory maternity right that must be fulfilled by employers for women while working. There should be a move from 'period-shaming' to a 'period-friendly' environment.

II. CLASSICAL REHTHORIC ON MENSTRUATION

In Islam, menstrual leave is recognised as a legitimate need for women. During menstruation, women are exempt from performing religious duties such as praying and fasting. The Quran instructs women to maintain proper hygiene during this time and prohibits sexual intercourse. In addition, a man cannot divorce a menstruating woman during her menses. Despite these

² Mazokopakis EE. Sexual activity during menstruation in the holy bible and Quran. *Int J Fertil Steril.* 2020;14(1):78. doi:10.22074/ijfs.2020.6060

³ Proctor M, Farquhar C. Diagnosis and Management of Dysmenorrhoea. *Br Med J.* 2006;332(7550):1134-1138. doi:10.1136/bmj.332.7550.1134

religious guidelines, there are still cultural stigmas and taboos surrounding menstruation in some Muslim communities. Some women may feel guilty or ashamed for experiencing a natural biological process, which can impact their daily activities and relationships. There may also be restrictions placed on women during their menstrual cycle based on tradition.

To address these issues, some Muslim countries have started to offer initiatives to support working women who experience menstrual leave. This includes providing menstrual products in the workplace, offering flexible working hours, and allowing for menstrual leave to be taken without stigma or discrimination.

Islam holds that a woman who is menstruating is not spiritually or physically dirty; rather, the impurity is "ritualistic." For participating in various acts of worship, such as Salah or before touching the Holy Quran, ritualistic purity is required. This can be accomplished by performing ritual washings such as wudu (for small pollutants) and ghusl (for major impurities). The fact that the wudu is rendered ineffective by bodily excretions like menstruation, farting, and urine implies that the necessity of ceremonial purity is not inherently gendered or exclusive. For instance, according to Sahih Muslim Hadith, there was no practice of performing untouchability with menstruating women, nor was she restricted from touching things.

Book 3, Number 0587:

'A'isha reported: The Messenger of Allah (may peace be upon him) said to me: Get me the mat from the mosque. I said: I am menstruating. Upon this, he remarked: Your menstruation is not in your hand '

Book 3, Number 0591:

'A'isha reported: The Messenger of Allah (may peace be upon him) would recline in my lap when I was menstruating, and recite the Quran.

Book 3, Number 0577:

'A'isha reported: When anyone amongst us (amongst the wives of the Holy Prophet) menstruated, the Messenger of Allah (may peace be upon him) asked her to tie a waist-wrapper over her (body) and then embraced her'.

The Qur'an makes specific mention of menstruation in Quran 2:222 which instructs:

وَيَسْأَلُونَكَ عَنِ الْمَحِيضِ قُلْ هُوَ أَدْنَىٰ فَاَعْتَرِلُوا النِّسَاءَ فِي الْمَحِيضِ وَلَا تَقْرُبُوهُنَّ حَتَّىٰ يَطْهُرْنَ فَإِذَا تَطَهَّرْنَ فَأْتُوهُنَّ مِنْ حَيْثُ أَمَرَكُمُ اللَّهُ إِنَّ اللَّهَ يُحِبُّ النَّوَّابِينَ وَيُحِبُّ الْمُتَطَهِّرِينَ ٢٢٢

They ask you 'O Prophet' about menstruation. Say, "Beware of its harm! So keep away, and do not have intercourse with your wives during their monthly cycles until they are purified.¹ When

they purify themselves, then you may approach them in the manner specified by Allah. Surely Allah loves those who always turn to Him in repentance and those who purify themselves.⁴

Remarking on the discussion, the language is taken to imply that sexual relations during menstruation are prohibited. Women must perform ritual cleansing (ghusl) before resuming religious duties or sexual relations upon completion of their menstruation. Sexual intercourse is also prohibited during menstruation,⁵ for forty days after childbirth (puerperium), during the daylight hours of the month of Ramadan (i.e. while fasting) and on pilgrimage. While in the sanctuary (in Ahram) at Mecca, pilgrims are not allowed to have intercourse, and marriages performed during the pilgrimage are invalid.

Accordingly, Muslim women going through menstrual bleeding are exempt from fasting and praying but have to make them up after menstruation. It is prohibited for a man to divorce a menstruating woman during her menses. Women are supposed to maintain proper hygiene and should not perform prayer. They do not have to make up for the prayers they missed during menstruation. When the menstruating period is over, women must perform ritual purification (ghusl). For women who are on their periods throughout Ramadan, there is also a break from fasting. However, neither the Hadith nor the Quran justifies this flexibility. According to scholars, bodily discharges like those from intercourse, wilful vomiting, and menstruation weaken the body. However, this understanding should not be confused with the weakening that results directly from fasting, which is the entire point of the holy month of Ramadan. A woman can be another explanation for this calmness. Menstruating is also physically draining and shouldn't be burdened further at this time. Women are, however, obliged to make up for missed fasts, but this is not the case for prayers, which are otherwise required. A few Islamic scholars have a radical interpretation of Islam's teachings and use phrases like "forbidden" and "prohibited" about menstruation. The simple act of forbidding something implies that it is impure and subject to punishment. Such an interpretation may be supported by patriarchal biases, which may also cause women to be stigmatised in various Muslim communities worldwide. Therefore, it is crucial for health to relax the body's state during the first and second days of the menstrual cycle.

In Islamic teachings, menstruation is viewed as a natural biological process that women experience. However, during this time, women are considered ritually impure and are prohibited from performing certain religious activities such as praying and fasting. This is based on the

⁴ Surah Al-Baqarah Ayat 222 (2:222 Quran) With Tafsir, My Islam, <https://myislam.org/surah-baqarah/ayat-222/> (last visited Oct 17, 2022).

⁵ Suad (2007). *Encyclopedia of Women and Islamic Cultures*. Brill. p. 531.

belief that purity is a prerequisite for engaging in worship activities and that menstruation temporarily interrupts this state of purity. Islamic teachings also emphasize the importance of maintaining proper hygiene during menstruation. Women are instructed to clean themselves thoroughly after each menstrual cycle and to refrain from engaging in sexual intercourse until they have completed their menstrual cycle and have undergone a ritual cleansing known as ghusl. While menstruation is viewed as a natural process, Islamic teachings do not condone the stigmatization of women during their menstrual cycles. In fact, it is considered a social and religious obligation to treat women with respect and dignity at all times, regardless of their menstrual status.

III. MENSTRUATION BENEFITS FOR WOMEN

As a biological process, menstruation has its benefits for women's health. Menstruation indicates that a woman's reproductive system is functioning correctly. It also helps to flush out the uterus, reducing the risk of uterine infections. Hormonal changes during the menstrual cycle can also have positive effects on a woman's mental health, such as increased focus, creativity, and energy during certain phases of the cycle. Additionally, menstruation can be a signal for women to take time for self-care and rest, which can improve overall well-being such as the following:⁶

- i. Trying to identify signs and infection prevention. Menstrual blood's colour, consistency, and scent can help doctors determine whether a woman has the condition early on so that preventative measures can be implemented.
- ii. *Can halt ageing in its tracks. Because menstruation causes their bodies' iron levels to drop, women generally age more slowly than men. More crucially, lower iron levels in women can also lower the risk of heart disease, Alzheimer's disease, and stroke.*
- iii. *Organic cleaner. As a result of the extra iron and harmful germs released during menstruation, the risk of cardiovascular cancer and many other diseases is decreased.*
- iv. *Get rid of your frustration and rage. Menstruation is said to be able to relieve the annoyance of a "stuck" heart. Traditional Chinese medicine holds that the liver plays a crucial part in the menstrual cycle. Women frequently feel dissatisfied, furious, and tight in their chest when their heart energy is "stagnant."*
- v. *Both appearance and mood can improve. The hormones produced during menstruation*

⁶ Committee on Adolescent Health Care. Menstruation in Girls and Adolescents. Am Coll Obstet Gynecol. 2015;651:1-4.

contribute to improved mood and appearance; typically, by the third or fourth day of menstruation, women feel and look better than they did previously.

However, women frequently complain of pain during their periods, which makes it difficult for them to concentrate at work.

IV. MENSTRUAL LEAVE - LEGAL FRAMEWORK

There is currently no international legal framework specifically addressing menstrual leave. However, several countries have implemented laws or policies that allow for menstrual leave or accommodations for menstrual-related issues. In Asia, both Japan and South Korea have laws that provide for menstrual leave. In Japan, female workers are entitled to menstrual leave if they experience severe pain during menstruation, while in South Korea, female workers are entitled to menstrual leave for one day per month. In Taiwan, female workers are entitled to three days of menstrual leave per year.

In Italy, women can take up to three days of menstrual leave per month if they experience painful periods that require medical attention. Zambia and Nigeria also have laws that allow women to take menstrual leave.

In addition to specific menstrual leave policies, several countries have laws that require employers to provide accommodations for menstrual-related issues. For example, in the United States, the Americans with Disabilities Act requires employers to provide reasonable accommodations for employees with medical conditions, which can include menstrual-related conditions. Similarly, in Canada, employers are required to provide reasonable accommodations for employees with disabilities, which can include menstrual-related conditions. While the debate around period leave has a long way to go, here is a list of all the countries where women are provided paid menstrual leave.

- 1) *Indonesia - Two days per month.*
- 2) *South Korea - Women must be paid for unused menstruation leave.*
- 3) *Taiwan - Three days per month are not counted as sick leave.*
- 4) *Zambia - One day off per month.*
- 5) *Japan - According to a New York Times report, Japan had offered menstrual leave policies since 1947, when a law was passed allowing any woman with painful periods or whose job might exacerbate period pain to take time off.*
- 6) *China - According to reports on China. Women can take one or two days off to produce*

a certificate from a legal, medical institute or hospital.

Many businesses and organisations in the UK and Australia have also incorporated a period leave policy into their local founding documents. In the case of India, the state of Bihar in 1992 gave women who worked for the state's government services a two-day leave. Then, in 2017, a Mumbai-based digital media company announced the "first day of leave," a one-day break for women. For all of the organization's female employees, the policy was implemented. The private schools in Kerala implemented a period leave policy for all the female instructors working there in 2017 following a similar regulation.⁷ The menstrual cycle varies among countries and religions. Regardless of faith, it is acceptable to argue that stigma and taboos still exist worldwide. There are pros and cons to Menstrual Paid Leave, which are remarked in two segments as a following;

V. MERITS OF MENSTRUAL LEAVE POLICY

Menstruation can often be accompanied by severe physical discomfort, such as cramps, headaches, nausea, and fatigue, which can make it difficult for women to carry out their daily activities, including work. In some cases, menstrual pain can be debilitating and lead to decreased productivity and absenteeism. By offering menstrual leave, employers can help women manage their symptoms and reduce absenteeism. This can help to create a more supportive work environment for women, promoting gender equality and work-life balance. Additionally, allowing women to take menstrual leave may reduce the stigma surrounding menstruation and encourage greater awareness and acceptance of women's health issues.

However, opponents of menstrual leave argue that it can reinforce negative stereotypes about women and limit their professional opportunities. They also argue that it could be difficult for employers to manage and track menstrual leave, and could result in discrimination against women in the workplace. Proponents of menstrual leave argue that it can offer several advantages for women.⁸

- 1) Women typically have headaches, stomachaches, and nausea during their periods; menstrual leave gives them flexibility and the ability to relax.
- 2) Taking a menstrual break is seen to show respect for and appreciation of women as they indeed are.

⁷ Understanding Menstrual Taboos In Muslim Households: A Survey, Youth Ki Awaaz (2020), <https://www.youthkiawaaz.com/2020/06/menstrual-stigma-and-islam-2/> (last visited Oct 17, 2022).

⁸ Sukmarani ME, Nugroho A. Legal Protection for Female Workers / Laborers for Menstrual Leave (Study at PT Wahyu Manunggal Sejati). J Novum. 2016;3(4):1-12. [In Indonesia]

- 3) In essence, menstruation leave includes the payment of full earnings, which means that even though female employees miss two days of work, they continue to be paid.
- 4) If approved, period leave would offer women a healthy atmosphere that complies with their right to health, allowing them to manage any disease and discomfort brought on by their menstrual cycle.
- 5) Women would have the option to take time off thanks to the policies, giving them more flexibility at work.
- 6) The policies might lessen the stigma associated with menstruation and increase awareness of it among the general public.
- 7) Women would be able to talk openly about this biological process on public venues thanks to the policies, bringing the idea of "Normalizing Periods" into the mainstream.
- 8) Menstruation would be normalised and de-stigmatized in these interactions, which would make them and the custom stigmatised.

(A) Demerits of Menstrual Leave Policy

One of the main concerns is the potential for discrimination against women in the workplace. If employers see menstruation as a burden, they may be less likely to hire or promote women. Additionally, some argue that menstrual leave could perpetuate the idea that women are weak or less capable than men. Another concern is that menstrual leave policies could be misused or abused by employees. For example, some women may falsely claim to be on their period to take time off work, while others may feel pressure to disclose personal health information to their employer in order to justify their absence. Furthermore, menstrual leave policies may not be practical for all workplaces, especially those with limited staffing or in industries with tight deadlines or high demand for work. This could put additional pressure on other employees to cover for those on menstrual leave, potentially leading to resentment and burnout. Finally, the implementation of menstrual leave policies could be a challenge for small businesses or those with limited resources. Providing additional paid leave for female employees could place a financial burden on these employers, which could ultimately impact their ability to remain competitive in the market. Menstrual leave has Drawbacks, including the following:⁹

- i. Some female employees/workers are menstruation but are not in discomfort, and they request permission to take a menstrual break.

⁹ Levitt RB, Barnack-tavlaris JL. *The Palgrave Handbook of Critical Menstruation Studies*. Springer Singapore; 2020. doi:10.1007/978-981-15-0614-7

- ii. Some female employees or labourers claim to be menstruating despite not actually having periods and request permission to take paid time off. Menstruation is a valid reason to miss work and still receive compensation.
- iii. The idea of granting period leave is mostly attributable to the socially pervasive feminist wave that will lead to feminism, according to the numerous organisations in the society.
- iv. The provision of period leave has the force the notion that women are unsuited for the workforce, which could result in increased discrimination against women.
- v. Women may be reluctant to take use of their granted leave because doing so could feed misconceptions about how weak women are.
- vi. Periodical leave policies may be viewed as a breach of the fundamental right to equality and contribute to the widening gender disparity.
- vii. Menstrual leave, according to certain women's organisations, might make women appear weaker.

Especially if most employees are women, the company may suffer if female employees choose not to report to work due to menstruation.

VI. CONCLUSION

The menstrual cycle varies among countries and religions. Regardless of faith, it is acceptable to argue that stigma and taboos still exist in our culture. Men and women need to talk more about periods so that women don't feel ashamed of bleeding and can do so with dignity and safety in private. Women have proven themselves in all fields and areas of the workforce in this contemporary era of women's empowerment, from participating in the military to being on the front lines during the pandemic. However, despite these developments, the idea of menstruation is still stigmatised, and legal institutions still do not recognise period leave. Including the leave period in the legal frameworks will increase public awareness of menstruation, removing the social stigma associated with the menstrual cycle and forbidding its treatment as a taboo. Hence Menstruation is implied to be a biological and natural occurrence over which women have no control, and as such, they should be permitted to take period leave. This would also be beneficial to a woman's health.

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