

## EXPLORING THE INTERSECTION OF MENSTRUAL LEAVE AND THE RIGHT TO HEALTH IN INDIA

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### ABSTRACT

*The study offers a comprehensive overview of the intersection between menstrual leave and the right to health in India. It explores the concept of menstrual leave, its implementation, and its link to the broader framework of health rights. It discusses various elements, such as recognizing women's health challenges, the legal basis of the right to health, healthcare infrastructure, public health initiatives, regulations, and health insurance schemes. The paper highlights how menstrual leave aligns with health rights, acknowledging women's unique needs and enabling them to manage their health during menstruation. It emphasizes gender equality, workplace well-being, and inclusivity. The integration of menstrual leave reflects a movement towards employee wellness, gender equity, and progressive workplaces.*

**Keywords** – Menstrual Leave, Right to Health, Women's Health Challenges, Gender Equality and Workplace Wellness

### INTRODUCTION

Menstrual leave, a progressive and increasingly relevant concept, entails providing women with the option to take paid or unpaid time off from their professional responsibilities during their menstrual cycle.<sup>223</sup> This initiative acknowledges the potential for severe discomfort and health issues that some women encounter during this natural physiological process. The growing recognition of menstrual leave has garnered significant attention on an international scale, with countries like India actively engaging in discussions about women's health, gender equality, and workplace policies.<sup>224</sup>

In the Indian context, the implementation and regulation of menstrual leave have not followed a uniform path across the nation.<sup>225</sup> Diverse approaches have emerged, particularly within the private sector, where certain forward-thinking companies have taken the lead in offering menstrual leave as a part of their comprehensive employee benefits package. These companies have realized the importance of accommodating the unique health challenges that some women face during menstruation, fostering a more compassionate and supportive work environment.

By introducing menstrual leave, companies aim to address the physical and emotional strains that menstruating individuals may undergo, which can range from painful cramps and fatigue to mood swings and heightened sensitivity. Providing this type of leave not only acknowledges the legitimacy of these

<sup>223</sup> Sruthi Darbhamulla, 'Explained | Menstrual Leave and Its Global Standing' *The Hindu* (27 February 2023) <<https://www.thehindu.com/news/national/explained-menstrual-leave-and-its-global-standing/article66554246.ece>> accessed 17 August 2023.

<sup>224</sup> Bhumika Indulia, 'Looking Beyond the Law: The Case of Menstrual Leave in India' (*SCC Blog*, 7 March 2023) <<https://www.seconline.com/blog/post/2023/03/07/looking-beyond-the-law-the-case-of-menstrual-leave-in-india/>> accessed 17 August 2023.

<sup>225</sup> *ibid.*

challenges but also empowers women to prioritize their health without the added stress of work commitments.<sup>226</sup> Such a policy not only aids in maintaining the physical well-being of female employees but also contributes to overall workplace morale and productivity.<sup>227</sup>

Nonetheless, the implementation of menstrual leave in India comes with its share of complexities and considerations. Striking a balance between promoting gender equality, supporting women's health, and ensuring operational efficiency is crucial. This requires open dialogues and cooperation between employers, employees, and policymakers to establish guidelines that are fair and accommodating to all parties involved.

As discussions around menstrual leave continue to evolve, it's important to recognize that this concept is part of a broader movement toward more inclusive and empathetic workplace practices. The integration of menstrual leave into company policies reflects a shift towards workplaces that prioritize employee well-being, gender equity, and progressive values. This movement not only benefits women but contributes to fostering a more diverse, compassionate, and forward-thinking work culture overall.

### RIGHT TO HEALTH IN INDIA

The right to health in India is a pivotal component of the broader framework of fundamental rights guaranteed by the Indian Constitution.<sup>228</sup> While the Constitution itself does not expressly outline a specific "right to health," this crucial entitlement is implicitly woven into the fabric of India's constitutional ethos. Article 21 of the Indian Constitution, which pertains to the "right to life and personal liberty," serves as

the foundation upon which the right to health is built.

Within the constitutional context, the right to life has been construed by the Indian judiciary to encompass a wide spectrum of rights that contribute to a dignified and fulfilling existence. The judiciary has consistently held that this right extends beyond mere survival and incorporates various aspects that directly impact an individual's quality of life. This interpretation forms the cornerstone for recognizing the right to health as an integral facet of the right to life.

India's Supreme Court, acting as the guardian of the Constitution, has played a pivotal role in clarifying and expanding the scope of the right to health.<sup>229</sup> The Court's jurisprudence reflects a profound understanding of the intricate connection between health and the overall well-being of citizens. While the Constitution itself does not explicitly mention the right to health, the Supreme Court has interpreted the right to life expansively, establishing that access to medical care and healthcare facilities are inherent components of this right.

This judicial interpretation is grounded in the understanding that the right to health encompasses the right to physical and mental well-being, access to medical treatment, sanitation, safe drinking water, nutrition, and preventive healthcare.<sup>230</sup> The Court's decisions have set precedent for the state's obligation to ensure that citizens have reasonable access to healthcare services, irrespective of their socioeconomic status.

The right to health's significance in India is particularly relevant given the country's diverse population and varying degrees of access to healthcare. It serves as a safeguard against inequalities and underscores the government's responsibility to implement policies and

<sup>226</sup> Sayed Quadrat Hashimy, 'Legal Paradigm of Menstrual Paid Leaves Policy in India: A Jurisprudential Discourse' (2023) 1 Trinity Law Review.

<sup>227</sup> Engineering National Academies of Sciences and others, 'Supporting the Health and Professional Well-Being of Nurses', *The Future of Nursing 2020-2030: Charting a Path to Achieve Health Equity* (National Academies Press (US) 2021) <<https://www.ncbi.nlm.nih.gov/books/NBK573902/>> accessed 17 August 2023.

<sup>228</sup> JSA, 'Right to Health as a Fundamental Right Guaranteed by the Constitution of India' (JSA, 22 March 2020) <<https://www.jsalaw.com/covid-19/right-to-health-as-a-fundamental-right-guaranteed-by-the-constitution-of-india/>> accessed 17 August 2023.

<sup>229</sup> 'The Fundamentality of Fundamental Rights in India: Right to Health in the Pandemic' <<https://timesofindia.indiatimes.com/readersblog/dash-insights/the-fundamentality-of-fundamental-rights-in-india-right-to-health-in-the-pandemic-39345/>> accessed 17 August 2023.

<sup>230</sup> Sayed Quadrat Hashimy, 'Menstrual Leave Dissent and Stigma Labelling: A Comparative Legal Discourse' (2022) 5 International Journal of Management and Humanities 1270.

initiatives that promote universal healthcare access and quality medical services.<sup>231</sup>

In practice, the right to health has led to the establishment of government-sponsored healthcare schemes, the development of public health infrastructure, and the provision of essential medical services. It has catalyzed the evolution of a comprehensive approach to healthcare planning, aimed at addressing the multidimensional health needs of a complex society.<sup>232</sup>

Henceforth, while the Indian Constitution does not explicitly articulate the right to health, the expansive interpretation of the right to life by the Supreme Court has solidified the relationship between the two. The right to health in India is an evolving concept that reflects the nation's commitment to ensuring the well-being of its citizens by guaranteeing access to medical facilities, healthcare services, and a life of dignity and vitality. The Indian government has taken several measures to promote the right to health, including:

### **Government Healthcare Infrastructure**

India has established a network of government hospitals and health centers to provide affordable healthcare services to its citizens. The National Rural Health Mission (NRHM) and other initiatives aim to improve healthcare access, especially in rural areas.<sup>233</sup>

India's commitment to public health and the well-being of its citizens is exemplified through the establishment of an extensive network of government healthcare infrastructure. This comprehensive framework is designed to ensure that affordable and quality healthcare services are accessible to people across the country, addressing the diverse health needs of its vast population.<sup>234</sup> Central to this effort are

initiatives like the National Rural Health Mission (NRHM) and various complementary programs that collectively contribute to bolstering healthcare access and quality, particularly in underserved rural areas.

The cornerstone of India's government healthcare infrastructure is its network of government hospitals and health centers. These institutions, spread across urban and rural landscapes, serve as lifelines for individuals seeking medical attention. Government hospitals, often equipped with modern medical facilities and trained healthcare professionals, cater to a wide range of medical services, from routine check-ups to complex surgeries. Meanwhile, government health centers, including Primary Health Centers (PHCs) and Community Health Centers (CHCs), play a vital role in providing localized healthcare services, preventive care, maternal and child health services, and immunization programs.<sup>235</sup>

The National Rural Health Mission, launched in 2005, has been a transformative initiative in India's healthcare landscape. Aimed at addressing the glaring disparities in healthcare access between rural and urban areas, NRHM focuses on strengthening rural healthcare infrastructure, improving the availability of essential drugs and diagnostics, enhancing the skills of healthcare workers, and promoting health awareness and education in communities. Through NRHM, the Indian government has channeled resources and expertise to bridge the healthcare gap, making substantial strides in maternal and child health, disease control, and primary healthcare services.

Another integral aspect of the government's healthcare commitment is the development of specialized medical institutions and research centers. These institutions offer advanced medical treatments, research opportunities, and training for medical professionals,

<sup>231</sup> Yarlani Balarajan, S Selvaraj and SV Subramanian, 'Health Care and Equity in India' (2011) 377 *Lancet* 505.

<sup>232</sup> Sayed Quadrat Hashimy, 'Exploring Menstrual Leave in Islamic Jurisprudence: Cultural and Religious Perspectives' (2023) 6 *3457*.

<sup>233</sup> Canna Ghia and Gautam Rambhad, 'Implementation of Equity and Access in Indian Healthcare: Current Scenario and Way Forward' 11 *Journal of Market Access & Health Policy* 2194507.

<sup>234</sup> Hashimy, 'Menstrual Leave Dissent and Stigma Labelling' (n 8).

<sup>235</sup> VA Hedberg and others, 'The Role of Community Health Centers in Providing Preventive Care to Adolescents' (1996) 150 *Archives of Pediatrics & Adolescent Medicine* 603.



contributing not only to domestic healthcare but also to medical innovation on a global scale.

The initiatives within the government healthcare infrastructure also aim to tackle specific health challenges that India faces, such as infectious diseases, malnutrition, and maternal mortality.<sup>236</sup> Various programs under NRHM and other schemes target these issues, reflecting a comprehensive and multifaceted approach to healthcare improvement.

Despite these efforts, challenges persist. Issues such as inadequate healthcare funding, disparities in healthcare access between states, and the need for continued skill development of healthcare personnel remain on the agenda for further improvement.

Hence, India's government healthcare infrastructure embodies a commitment to the health and well-being of its citizens. The network of government hospitals, health centers, and specialized institutions, supported by initiatives like the National Rural Health Mission, reflects a holistic approach to addressing healthcare inequalities and improving the overall health of the population. While challenges exist, the progress made through these initiatives underscores India's dedication to providing affordable and quality healthcare services to all its citizens.

### **Public Health Programs**

The government has implemented various public health programs to address specific health challenges, such as immunization, maternal and child health, tuberculosis control, and more.

The Indian government has taken proactive measures to tackle the diverse health challenges faced by its populace through a spectrum of targeted public health programs. These initiatives underscore a dedication to enhancing the overall health and well-being of citizens by addressing specific health concerns

that necessitate focused intervention.<sup>237</sup> These programs are characterized by comprehensive strategies encompassing prevention, treatment, awareness, and community involvement. Among these initiatives, notable programs include immunization, maternal and child health, tuberculosis control, and more.

Immunization Programs stand as a linchpin in preventive healthcare, as the government has instituted extensive endeavors to safeguard citizens, particularly children, against vaccine-preventable diseases. Initiatives such as the Universal Immunization Program (UIP) endeavor to deliver free vaccinations to all children, even in remote and underserved areas. By adhering to a systematic schedule, these programs shield children from ailments like polio, measles, rubella, and more, thus sowing the seeds for a healthier future generation.

Maternal and Child Health Programs, acknowledging the significance of maternal and child health, showcase endeavors like the Reproductive, Maternal, Newborn, Child, and Adolescent Health (RMNCH+A) initiative. These initiatives center on enhancing maternal care, promoting safe deliveries, ensuring adequate nutrition for expectant mothers and children, and addressing child mortality and malnutrition. The focus here is on laying a robust foundation for the health and growth of both mothers and offspring.

Tuberculosis Control Programs emerge as a response to the continued concern of tuberculosis (TB) within the public health sphere. The government has instituted the Revised National Tuberculosis Control Program (RNTCP) to bolster TB diagnosis, treatment, and control. Employing Directly Observed Treatment Short-course (DOTS) strategies, the program

<sup>236</sup> Hashimy, 'Legal Paradigm of Menstrual Paid Leaves Policy in India' (n 4).

<sup>237</sup> Gargi Thakur, Shalvi Thakur and Harshad Thakur, 'Status and Challenges for Tuberculosis Control in India – Stakeholders' Perspective' [2020] The Indian Journal of Tuberculosis <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7550054/>> accessed 17 August 2023.

fosters effective treatment adherence and strives to curtail drug-resistant TB cases.<sup>238</sup>

HIV/AIDS Prevention and Control Programs arise as a response to India's challenges in countering the spread of HIV/AIDS. The National AIDS Control Program (NACP) diligently combats new HIV infections, extends care and support to individuals living with HIV/AIDS, and works to alleviate the stigma and discrimination linked to the disease. The program is dedicated to raising awareness, offering testing and counseling, and ensuring access to essential antiretroviral therapy.<sup>239</sup>

The National Vector-Borne Disease Control Program aligns with the necessity of curbing the prevalence of vector-borne diseases like malaria, dengue, and chikungunya. Through this initiative, the government focuses on implementing vector control measures, early detection through surveillance, and fostering community awareness.

Complementing the array of public health efforts, the National Mental Health Program comes into play, acknowledging the rising importance of mental health support in India. This initiative seeks to render accessible and affordable mental healthcare services, diminish stigma, and heighten mental health awareness within communities.

These diverse public health programs epitomize the Indian government's unwavering commitment to addressing health disparities across myriad domains. By employing a blend of preventive, curative, and promotive strategies, these endeavors engender a comprehensive response. Key elements in the success of these programs encompass community engagement, public awareness drives, and collaborations with healthcare professionals and non-governmental organizations. In the face of complexity and

challenges, these collective endeavors forge a pathway toward a healthier and more prosperous future for India's population.

### **Healthcare Regulation and Standards**

Regulatory bodies like the Medical Council of India (MCI) oversee medical education and practice standards to ensure quality healthcare services.<sup>240</sup>

Healthcare regulation and standards play a pivotal role in maintaining the quality, safety, and efficacy of medical services provided to individuals. In India, regulatory bodies such as the Medical Council of India (MCI) serve as guardians of healthcare standards, overseeing both medical education and the practice of medicine. The existence of robust regulatory mechanisms is essential to instill public trust, protect patient rights, and ensure that healthcare professionals adhere to the highest ethical and professional standards.

The Medical Council of India (MCI), now known as the National Medical Commission (NMC), has historically been a central authority responsible for setting and maintaining standards in medical education and practice.<sup>241</sup> This body establishes guidelines for medical colleges, curriculum development, and training programs to ensure that aspiring healthcare professionals receive education that aligns with global best practices. By regulating medical education, the MCI/NMC aims to produce competent and skilled physicians who can provide quality care to patients.

In addition to shaping medical education, these regulatory bodies also oversee the practice of medicine by setting standards for licensing, registration, and ethical conduct. Healthcare practitioners must adhere to established codes of ethics, ensuring patient safety, confidentiality, and the delivery of evidence-based treatments.

<sup>238</sup> Ramesh Verma, Pardeep Khanna and Bharti Mehta, 'Revised National Tuberculosis Control Program in India: The Need to Strengthen' (2013) 4 International Journal of Preventive Medicine 1.

<sup>239</sup> Sukarna Tanwar and others, 'India's HIV Programme: Successes and Challenges' 2 Journal of Virus Eradication 15.

<sup>240</sup> Himanshu Pandya, Thomas Chacko and Ciraj Ali Mohammed, 'Regulatory System to Promote the Culture of Quality at Indian Medical Schools: Are We Doing Enough?' (2022) 34 The National Medical Journal of India 298.

<sup>241</sup> 'Understanding the National Medical Commission Bill, 2019' <<https://prindia.org/theprsblog/understanding-the-national-medical-commission-bill-2019-191>> accessed 17 August 2023.

These regulations not only protect patients but also help maintain the integrity and reputation of the medical profession.

Healthcare regulations extend to areas like patient rights, informed consent, clinical research, and the proper handling of medical records. By defining clear guidelines for these aspects, regulatory bodies ensure that healthcare institutions and professionals prioritize patient welfare and transparency.

Furthermore, the establishment of standards for medical equipment, infrastructure, and facilities contributes to the overall quality of healthcare services. Stringent regulations regarding the procurement, maintenance, and usage of medical equipment and facilities are crucial for patient safety and accurate diagnoses.

In recent years, the healthcare regulatory landscape in India has undergone changes to adapt to evolving challenges and advancements in medical science and technology. The transformation of the MCI into the NMC reflects a commitment to modernizing and strengthening healthcare regulation to meet contemporary healthcare demands.

However, despite the efforts of regulatory bodies, challenges such as discrepancies in healthcare quality across different regions, issues of corruption, and the need for consistent enforcement of standards persist. Addressing these challenges requires collaborative efforts from regulatory bodies, government agencies, healthcare institutions, and the medical community.

In conclusion, healthcare regulation and standards, overseen by bodies like the National Medical Commission, constitute a vital framework for ensuring quality healthcare services in India. By setting guidelines for medical education, ethical conduct, patient rights, and facility standards, these regulations safeguard patient well-being and contribute to the credibility of the healthcare profession. In an ever-evolving healthcare landscape, the continuous refinement and enforcement of

these regulations are essential to uphold the highest standards of care.

### **Legal Framework**

The Clinical Establishments (Registration and Regulation) Act, 2010,<sup>242</sup> and other laws have been enacted to regulate healthcare facilities and ensure minimum standards of care. The legal framework in India pertaining to healthcare is designed to ensure the provision of safe, effective, and ethical medical services to the population. Among the various legislations, the Clinical Establishments (Registration and Regulation) Act, 2010, stands as a significant milestone. This Act, along with other laws, establishes a structured approach to regulating healthcare facilities, upholding the principles of patient safety, quality assurance, and ethical conduct.

The Clinical Establishments Act, enacted at the central level, aims to bring consistency and accountability to the functioning of healthcare institutions across the country. It mandates the registration and regulation of all clinical establishments, ranging from small clinics to large hospitals. This registration process involves the establishment meeting specified standards in terms of infrastructure, equipment, staffing, and patient care practices. By setting these benchmarks, the Act ensures that patients receive medical attention in facilities that adhere to prescribed norms, minimizing the risk of substandard care.<sup>243</sup>

Beyond the Clinical Establishments Act, several other legislations contribute to the legal framework governing healthcare. The Drugs and Cosmetics Act, 1940, and its subsequent amendments regulate the manufacture, sale, and distribution of drugs and medical devices. This legislation safeguards patients by ensuring

<sup>242</sup> 'The Clinical Establishments (Registration and Regulation) Act' <<http://www.clinicalestablishments.gov.in/cms/Home.aspx>> accessed 17 August 2023.

<sup>243</sup> 'An Overview Of The Clinical Establishments (Registration And Regulation) Act, 2010 - Healthcare - India' <<https://www.mondaq.com/india/healthcare/446404/an-overview-of-the-clinical-establishments-registration-and-regulation-act-2010>> accessed 17 August 2023.



that pharmaceutical products meet quality standards and are safe for consumption or use.

Additionally, the Indian Medical Council Act, 1956, which established the Medical Council of India (now replaced by the National Medical Commission), governs the medical profession by setting standards for medical education, professional ethics, and licensing of medical practitioners. This ensures that healthcare professionals possess the necessary qualifications and uphold ethical standards in their practice.

Furthermore, consumer protection laws, including the Consumer Protection Act, 2019, play a crucial role in holding healthcare providers accountable for any negligence or deficiency in service. Patients have the right to seek compensation for medical malpractice or inadequate treatment, promoting transparency and accountability within the healthcare sector.

These legal frameworks collectively reinforce the principles of patient-centered care, transparency, and accountability. They address concerns related to medical negligence, malpractice, and unethical practices, thereby promoting public trust in the healthcare system.

However, while these laws serve as a foundation for healthcare regulation, challenges remain. Ensuring uniform implementation and enforcement of these laws across different states and regions, addressing issues of corruption, and continuously adapting to evolving medical practices and technology are ongoing tasks that require the collaboration of regulatory bodies, healthcare professionals, and policymakers.

### **Health Insurance Schemes**

The government has launched health insurance schemes like the Pradhan Mantri Jan Arogya Yojana (PMJAY) to provide financial protection to vulnerable populations. Health insurance schemes in India have emerged as crucial mechanisms to provide financial security and improved access to healthcare

services for a diverse and often underserved population. Among these initiatives, the Pradhan Mantri Jan Arogya Yojana (PMJAY) stands out as a significant effort by the government to extend healthcare coverage to vulnerable segments of society.<sup>244</sup>

The Pradhan Mantri Jan Arogya Yojana (PMJAY), also known as Ayushman Bharat, is a comprehensive health insurance scheme that aims to provide financial protection to over 100 million families, particularly those living below the poverty line. This transformative program is instrumental in granting beneficiaries access to essential medical treatments, surgeries, hospitalizations, and other necessary healthcare services. By mitigating the financial burden of medical expenses, PMJAY strives to ensure that people do not have to compromise their health due to financial constraints.<sup>245</sup>

The scheme's impact goes beyond just financial assistance. It enhances healthcare access in both urban and rural areas by facilitating treatments at public and private hospitals, fostering competition and quality improvement within the healthcare sector. It prioritizes the needs of marginalized communities, promoting inclusivity and ensuring that vulnerable populations receive the care they deserve.

In addition to PMJAY, several other health insurance schemes operate at various levels to cater to different demographic groups. These schemes cover segments such as government employees, informal sector workers, and those in rural areas, offering a wide range of coverage options. The Rashtriya Swasthya Bima Yojana (RSBY) and state-specific initiatives further contribute to the goal of expanding healthcare coverage across the nation.

The expansion of health insurance schemes contributes not only to improved healthcare access but also to a more equitable healthcare

<sup>244</sup> 'Early Lessons from India's Health Insurance Scheme, Pradhan Mantri Jan Arogya Yojana | Brookings' <<https://www.brookings.edu/articles/early-lessons-from-indias-health-insurance-scheme-pradhan-mantri-jan-arogyayojana/>> accessed 17 August 2023.

<sup>245</sup> Harpreet Grewal and others, 'Universal Health Care System in India: An In-Depth Examination of the Ayushman Bharat Initiative' 15 *Cureus* e40733.

landscape. These initiatives play a significant role in reducing the financial burden on families during medical emergencies, protecting them from falling into a cycle of debt and poverty due to healthcare expenses.<sup>246</sup>

However, challenges persist in ensuring the effective implementation and outreach of these schemes, including awareness, enrollment, and equitable distribution of benefits. Additionally, addressing the quality of healthcare services, controlling costs, and fostering cooperation between public and private healthcare sectors remain critical areas of concern.

In conclusion, health insurance schemes like the Pradhan Mantri Jan Arogya Yojana (PMJAY) play a transformative role in enhancing healthcare accessibility and financial protection for vulnerable populations in India. These initiatives not only alleviate the financial burden of medical expenses but also contribute to a more inclusive healthcare environment that prioritizes the well-being of all citizens. By continuing to address challenges and refine these schemes, the government takes significant strides toward realizing the vision of comprehensive and affordable healthcare for all.

#### CONNECTION BETWEEN MENSTRUAL LEAVE AND RIGHT TO HEALTH

The concept of menstrual leave intersects with the right to health as it recognizes the need for women to have the flexibility to take care of their health during menstruation. Providing menstrual leave can contribute to women's overall well-being and ensure that they can manage their health without being penalized at work.<sup>247</sup> While menstrual leave is not a strict legal requirement in India, it reflects a recognition of women's health needs and can be seen as a step towards promoting gender

equality and a woman's right to manage her health. The connection between menstrual leave and the right to health is a significant and intricate one, underscoring the importance of upholding women's well-being and gender equality. Menstrual leave embodies a progressive approach to acknowledging and addressing the unique health challenges that women face during their menstrual cycles. This intersection with the right to health amplifies the concept's significance by advocating for women's physical and mental wellness, free from the constraints of workplace responsibilities.

At its core, the right to health encompasses the idea that everyone has the entitlement to enjoy the highest possible standard of physical and mental health. This includes access to healthcare services, information, and the ability to make informed decisions about one's health. Menstrual leave aligns with these principles by recognizing that menstruation can bring about a range of discomforts, from physical pain and fatigue to emotional distress, that might impede a woman's ability to perform optimally in the workplace.

By providing women with the option of menstrual leave, employers acknowledge the legitimacy of these challenges and create an environment where women can prioritize their health without fear of repercussions. This approach aligns with the fundamental tenets of the right to health, enabling women to manage their well-being in a holistic manner. It ensures that they can seek rest, medical attention, or even engage in self-care activities during their periods without compromising their professional standing.

In the context of India, where gender disparities and societal norms have historically influenced women's access to healthcare and opportunities, introducing menstrual leave underscores a commitment to gender equality. While not a strict legal obligation, offering this type of leave reflects a society's evolving understanding of women's rights and the

<sup>246</sup> Margaret E Kruk and others, 'High-Quality Health Systems in the Sustainable Development Goals Era: Time for a Revolution' (2018) 6 *The Lancet. Global Health* e1196.

<sup>247</sup> Rachel B Levitt and Jessica L Barnack-Tavlaris, 'Addressing Menstruation in the Workplace: The Menstrual Leave Debate' in Chris Bobel and others (eds), *The Palgrave Handbook of Critical Menstruation Studies* (Palgrave Macmillan 2020) <<http://www.ncbi.nlm.nih.gov/books/NBK565643/>> accessed 17 August 2023.



broader landscape of inclusivity. It demonstrates a proactive step toward leveling the playing field for women in the workplace, recognizing their unique physiological experiences and the need to support their well-being.

Moreover, integrating menstrual leave aligns with the broader global movement to create workplaces that prioritize employee wellness, mental health, and work-life balance. By accommodating women's health needs, companies foster an environment that values diverse experiences and supports the overall health of their workforce.

Therefore, the connection between menstrual leave and the right to health is rooted in the principle of ensuring that women can manage their health and well-being with dignity and autonomy. By acknowledging the significance of women's menstrual health and providing avenues for them to take care of themselves, societies and workplaces can make strides toward gender equality, inclusivity, and the realization of the right to health for all individuals.

### CONCLUSION

In conclusion, the concept of menstrual leave not only responds to the unique health challenges that women face but also aligns with the principles of the right to health and gender equality. By offering women the flexibility to manage their health during menstruation, employers and policymakers acknowledge the importance of holistic well-being and the need to create workplaces that support individual health needs. The integration of menstrual leave reflects a progressive step toward a more inclusive, empathetic, and equitable society, where the right to health is not only upheld but also celebrated in all its dimensions. This intersection underscores the essential role that supportive workplace policies can play in promoting a woman's physical and mental well-being. As discussions surrounding menstrual leave continue to evolve, it becomes

evident that this initiative goes beyond addressing a specific health concern; it embodies a commitment to gender equality, human rights, and the broader notion of comprehensive healthcare access.

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