



Menstrual Leave in Indian Educational Settings: A Need for Bridging Health Needs and Gender Inclusivity

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Abstract

The discourse on menstrual leave policies in educational settings and workplaces highlights the intersection of health needs and gender inclusivity. Despite national dialogue and legal challenges, several Indian universities have implemented menstrual leave policies, underscoring efforts towards gender inclusivity and student welfare. However, disparities persist across institutions, with some yet to adopt such policies, impacting students' rights and educational equity. This paper examines the constitutional and legal frameworks supporting menstrual health as a fundamental right in India, addressing issues of equality and health under Articles 14, 21, and other relevant provisions of directive principles of state policy. Drawing on international frameworks and feminist perspectives, this study explores the broader implications and recommends policy advancements for inclusive menstrual health management in educational institutions.

Keywords: *Period Leave, Menstrual Leave, Gender inclusivity, Right to Health, Menstrual Leave in Educational Institution.*

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In India, discussions around menstruation leave policies have become national discourse,⁴ and the voices of girls and women, both in educational institutions and the workforce, ring with a call for recognition and support. This demand is anchored not just in personal health and hygiene but also in broader issues of equity and economic stability, resonating deeply with constitutional principles enshrined in the Indian legal framework.⁵ Central to this discussion are the Directive Principles of State Policy, woven into India's constitutional fabric. Article 14 guarantees equality before the law, shielding against discrimination rooted in biological realities such as menstruation. Article 21 extends the right to health, encompassing menstrual health within the ambit of a dignified life.⁶ Moreover, Articles 39, 41, and 42 underscore worker welfare, including provisions for sick leave and humane working conditions that encompass menstrual leave as a critical component of reproductive health and dignity.⁷ However, recent statements by Union Minister Ms. Smriti Irani that “*menstruation is not a handicap*” have injected controversy into this discourse.⁸ Ms. Irani's argument against menstruation as a disability has sparked a challenging views on women's health benefits and reproductive rights. Despite several Public Interest Litigations seeking mandated menstrual leave being dismissed by the Supreme Court of India,⁹ there have been instances where various High Courts across the country have ruled in favor of granting menstrual leave to women. These judicial pronouncements underscore the evolving nature of legal interpretations surrounding gender equity and workplace rights in India.¹⁰

⁴ Jyothisna Latha Belliappa, *Menstrual Leave Debate: Opportunity to Address Inclusivity in Indian Organizations*, 53 INDIAN J. IND. RELAT. 604 (2018), <https://www.jstor.org/stable/26536484> (last visited Jul 6, 2024).

⁵ Sayed Quadrat Hashimy, *Legal Paradigm of Menstrual Paid Leaves Policy in India: A Jurisprudential Discourse*, AVAILABLE SSRN 4383915 (2023), https://www.researchgate.net/profile/Sayed-Quadrat-Hashimy/publication/382174082_Menstrual_Paid_Leave_Policy_and_Women_Empowerment_in_the_Shadows_of_Equality_under_the_Aegis_of_Indian_Legal_Landscapes/links/669018833e0edb1e0fdd415f/Menstrual-Paid-Leave-Policy-and-Women-Empowerment-in-the-Shadows-of-Equality-Under-the-Aegis-of-Indian-Legal-Landscapes.pdf (last visited Aug 2, 2024).

⁶ JSA, *Right to Health as a Fundamental Right Guaranteed by the Constitution of India*, JSA (Mar. 22, 2020), <https://www.jsalaw.com/covid-19/right-to-health-as-a-fundamental-right-guaranteed-by-the-constitution-of-india/> (last visited Jul 6, 2024).

⁷ Kimberly Peacock, Karen Carlson & Kari M. Ketvertis, *Menopause*, in STATPEARLS (2024), <http://www.ncbi.nlm.nih.gov/books/NBK507826/> (last visited Jul 6, 2024).

⁸ Menstruation not handicap, no need for paid leave: Smriti Irani, THE TIMES OF INDIA, Dec. 15, 2023, <https://timesofindia.indiatimes.com/india/menstruation-not-handicap-no-need-for-paid-leave-smriti-irani/articleshow/105970964.cms> (last visited Jul 6, 2024).

⁹ Krishnadas Rajagopal, *It's Centre's Call, Says Supreme Court on Menstrual Leave Policy*, THE HINDU, Feb. 24, 2023, <https://www.thehindu.com/news/national/supreme-court-refuses-to-entertain-pil-seeking-menstrual-pain-leave-for-female-students-and-working-women/article66548297.ece> (last visited Jul 6, 2024).

¹⁰ Damini Chopra, *A Demand That Could Hamper Gender Equality*, THE HINDU, Feb. 14, 2024, <https://www.thehindu.com/opinion/op-ed/a-demand-that-could-hamper-gender-equality/article67845843.ece> (last visited Jul 6, 2024).



Ultimately, the debate on menstrual leave policies continues to navigate between constitutional imperatives of equality and health on one hand, and practical considerations of workplace dynamics and economic impact on the other. As India progresses towards ensuring comprehensive gender equality, the debate over menstrual leave remains a pivotal battleground in the quest for women's rights and dignity.¹¹

In recent years, menstrual leave policies at Indian universities have evolved significantly, recognizing menstrual health as vital to gender equity and well-being.¹² Leading institutions like NALSAR University of Law, Hyderabad,¹³ allow menstruating students one day off per working month based on self-declaration, aiming to support their needs¹⁴. Similarly, Dharmashastra National Law University and Maharashtra National Law University have adopted similar policies,¹⁵ while NLIU Bhopal includes transgender women, ensuring inclusive support for all menstruating students.¹⁶ These initiatives set benchmarks for others to follow in promoting inclusivity and accommodating biological realities.¹⁷ Nevertheless, majority of Public and Private University stands out as an institution yet to implement a formal menstrual leave policy.¹⁸ This stance contrasts with the voices of its student body, as evidenced by a recent study where a majority of respondents expressed a desire for menstrual leave, citing feelings of discrimination and discomfort in discussing the topic openly. The legal landscape surrounding menstrual leave policies in universities presents a complex terrain.¹⁹ While some

¹¹ Sayed Qudrat Hashimy, *Menstrual Paid Leave Policy and Women Empowerment in the Shadows of Equality Under the Aegis of Indian Legal Landscapes*, 13 BANGALORE UNIV. LAW J. 34 (2024), <https://papers.ssrn.com/abstract=4892203> (last visited Aug 2, 2024).

¹² Stephanie R. Psaki, Katharine J. McCarthy & Barbara S. Mensch, *Measuring Gender Equality in Education: Lessons from Trends in 43 Countries*, 44 POPUL. DEV. REV. 117 (2018), <https://www.jstor.org/stable/26622795> (last visited Jul 6, 2024).

¹³ NALSAR University Of Law Implements Menstrual Leave Policy, <https://www.livelaw.in/news-updates/nalsar-university-of-law-implements-menstrual-leave-policy-240738> (last visited Jul 6, 2024).

¹⁴ Bhumika Indulia, *NALSAR Introduces Menstrual Leave Policy for Students of All Academic Programmes*, SCC TIMES (Oct. 23, 2023), <https://www.sconline.com/blog/post/2023/10/23/nalsar-introduces-menstrual-leave-policy-for-students-of-all-academic-programmes/> (last visited Jul 6, 2024).

¹⁵ Bhavya Singh, *In A Historic Move, Dharmashastra National Law University Jabalpur Allows Menstrual Leave for Female Students*, (2023), <https://www.livelaw.in/news-updates/dharmashastra-national-law-university-jabalpur-implements-menstrual-leave-for-female-students-239004> (last visited Jul 6, 2024).

¹⁶ Jelsyna Chacko, *DNLU Jabalpur Introduces Menstrual Leave Policy for Students*, BAR AND BENCH - INDIAN LEGAL NEWS (2023), <https://www.barandbench.com/news/dnlu-jabalpur-menstrual-leave-policy-students> (last visited Jul 6, 2024).

¹⁷ *Id.*

¹⁸ Sayed Qudrat Hashimy, *Exploring Menstrual Leave in Islamic Jurisprudence: Cultural and Religious Perspectives*, 6 3457 (2023).

¹⁹ Sayed Qudrat Hashimy, *Exploring Menstrual Leave in Islamic Jurisprudence: Cultural and Religious Perspectives*, 6 INT. J. LAW MANAG. HUMANIT. 3457 (2023).

institutions have embraced these policies to promote student welfare and gender equality, others lag behind.²⁰ Challenges such as ensuring fair implementation, addressing potential misuse, and navigating legal frameworks remain pertinent. Moving forward, policy recommendations should focus on harmonizing existing practices, ensuring consistency across institutions, and addressing the specific needs of all students who menstruate, including transgender individuals. Legal frameworks should evolve to support these initiatives, safeguarding rights while promoting inclusivity and dignity.

MENSTRUAL LEAVE AND GENDER INCLUSIVITY

The Menstrual Leave Policy safeguards a significant number of menstruators, encompassing a diverse range of gender identities, beyond those who identify as transgender.²¹ Menstruation is associated with a biologically essentialist conception of corporeality, if one were to make the opposite claim.²² Menstruating persons come in many different forms, represent a wide range of political perspectives, identify as female or male, and can be at any stage of life, including youth, adulthood, perimenopause, and menopause.²³ A large sect of 1.9 billion people menstruate yet the natural biological phenomenon is a taboo or a stigma to address.²⁴ Menstruation is not a uniform experience but rather multifaceted. Just as transgender theory challenges binary understandings of gender, critical menstruation scholars challenge simplistic notions of menstruation as a purely biological process.²⁵ Instead, they argue that menstruation is influenced by social norms, cultural beliefs, and individual experiences.²⁶ Generally, the Adolescent girls begin to experience menstruation at the tender age of 10-12 and the cycle becomes a major process during the reproductive phase from 20-35 years.²⁷ It is necessary to note that the diversity in genders need to be considered to secure the rights of rather

²⁰ Kavya Mittal & Naren Maran, *Paid Menstrual Leaves: A Legal Enigma*, RSRR (2024), <https://www.rsrr.in/post/paid-menstrual-leaves-a-legal-enigma> (last visited Jul 6, 2024).

²¹ Klara Rydström, *Degendering Menstruation: Making Trans Menstruators Matter*, in THE PALGRAVE HANDBOOK OF CRITICAL MENSTRUATION STUDIES (Chris Bobel et al. eds., 2020), <http://www.ncbi.nlm.nih.gov/books/NBK565621/> (last visited Apr 18, 2024).

²² Sally King, *Menstrual Leave: Good Intention, Poor Solution* 151 (2021).

²³ Dani Jennifer Barrington et al., *Experiences of Menstruation in High Income Countries: A Systematic Review, Qualitative Evidence Synthesis and Comparison to Low- and Middle-Income Countries*, 16 PLOS ONE e0255001 (2021).

²⁴ Menstrual Leave Dissent and Stigma Labelling: A Comparative Legal Discourse, INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES, <https://ijlmh.com/paper/menstrual-leave-dissent-and-stigma-labelling-a-comparative-legal-discourse/> (last visited Aug 2, 2024).

²⁵ Rydström, *supra* note 20.

²⁶ *Id.*

²⁷ Amy E. Lacroix et al., *Physiology, Menarche*, in STATPEARLS (2024), <http://www.ncbi.nlm.nih.gov/books/NBK470216/> (last visited Jul 6, 2024).

Menstruating ‘person’ than a menstruating woman.²⁸ The variable experiences of all genders during menstruation are an untouched area for the policymakers to legislate upon gender sensitisation and right of access to sanitation and menstrual products to all the identities.²⁹

Physical labour forms an inevitable part of the work culture of women in the unorganised sector. It becomes pertinent to note how these women associate physical labour with menstruation. Physical labour in this case is referred to hard physical activities. They believe that, woman should necessarily take rest during her bleeding days or may perform light activities but must avoid carrying heavy loads, long distance walking or travelling. With reference to the estimation that about 50 per cent of women mature normally,³⁰ the mentioned that menstruation is moderate and free from discomfort, and the person's activities are in no way handicapped. Most of the women workers expressed that they were told to take rest during menstruation. In practice, barring women who are incapacitated to work due to menstrual disorders, women who experienced normal menstrual periods do not take rest. It is their responsibility of earning for the family that takes the priority and though they think rest should be taken by a menstruating woman, they were hardly able to follow it. Moreover, due to the unorganised nature of their work i.e. ‘No work no pay’, women are bound to continue working without rest. Associating physical labour with menstrual periods, two contrasting opinion emerged from the women workers. First group of workers believed that hard physical activities during menstrual periods leads to problems of heavy bleeding, cramps and other complications, hence is to be avoided.³¹ The second group of women workers believed heavy works is good for health and it eventually leads to easy delivery of children and should not be avoided. However, hard physical labour is commonly regarded as the perceived cause of heavy bleeding problems and cramps. Regarding health complaints, irregular periods, menstrual cramps, heavy bleeding with solid discharge and scanty bleeding that vary from dark spotting to bleeding for

²⁸ Elizabeth M. Whelan, *Attitudes toward Menstruation*, 6 *STUD. FAM. PLANN.* 106 (1975), <https://www.jstor.org/stable/1964817> (last visited Jul 6, 2024).

²⁹ Sayed Quadrat Hashimy, *The Legal Paradigm of Menstrual Leaves Policy in the United Arab Emirates, Kuwait, and Afghanistan*, *J. DIS. GLOB. HEALTH* 16 (2023), <https://ikpress.org/index.php/JODAGH/article/view/8159> (last visited Aug 2, 2024).

³⁰ Radhika Kapur, *Women Workers in the Unorganized Sector* (2018).

³¹ Rachel B. Levitt & Jessica L. Barnack-Tavlaris, *Addressing Menstruation in the Workplace: The Menstrual Leave Debate*, in *THE PALGRAVE HANDBOOK OF CRITICAL MENSTRUATION STUDIES* (Chris Bobel et al. eds., 2020), <http://www.ncbi.nlm.nih.gov/books/NBK565643/> (last visited Jul 6, 2024).

one day only.³² Early menopause before the age of 40 was reported by some of the women workers. While there is a concern regarding early menopause due to associated health problems,³³ it is also seen as liberating from the social obligations of menstrual taboos. Hence, women look forward to menopause so that they can carry on their responsibilities without having to manage the hassles of monthly periods.³⁴

Thus, in this regard it can be said that belief and attitude towards menstruation, do not correlate with their practices. Rather, their practices were largely determined by the financial conditions of the family.

They largely ignore their health as financial condition and toil of life takes the priority. In reality life is so mundane and rigorous for them that they have no time to ponder over such facts of life. They live with the feeling that women had to endure problems and wait for the time to pass still shouldering other family responsibilities.³⁵

Though a natural phenomenon, women are bounded by socially prescribed norms of menstrual behaviour validated by their deep-rooted beliefs that menstruation is “pollution”, the result of “curse” and excrete of the waste products of the female body. The Socio-Cultural Taboos continue to exist due to lack of knowledge of Reproductive health, Puberty and medical facts about Menstruation.³⁶ Keeping the social norms, women street vendors selling flowers and religious items outside temples avoid vending during menstruation.³⁷ The menstruating girls face restrictions and discrimination.³⁸

Feminism Approach

³² Belliappa, *supra* note 3.

³³ Jang Bahadur Prasad, Naresh K. Tyagi & Pradyuman Verma, *Age at Menopause in India: A Systematic Review*, 15 DIABETES METAB. SYNDR. CLIN. RES. REV. 373 (2021), <https://www.sciencedirect.com/science/article/pii/S1871402121000151> (last visited Jul 6, 2024).

³⁴ Hashimy, *supra* note 28.

³⁵ Jitumoni Baishya, *Menstruation And Menstrual Hygiene: A Study On Knowledge, Attitude And Practices Of Women In The Unorganised Sector Of Guwahati City, Assam*, 2017.

³⁶ Sayed Qudrat Hashimy, *Menstrual Leave Dissent and Stigma Labelling: A Comparative Legal Discourse*, 5 ISSUE 6 INTL JL MGMT HUM. 1270 (2022), https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/ijlmhs20§ion=114 (last visited Aug 2, 2024).

³⁷ Hashimy, *supra* note 17.

³⁸ Suneela Garg & Tanu Anand, *Menstruation Related Myths in India: Strategies for Combating It*, 4 J. FAM. MED. PRIM. CARE 184 (2015), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4408698/> (last visited Jul 6, 2024).

Feministic perspective cannot be excluded in this research to explore further.³⁹ It is believed that the menstrual cycle was treated with dignity in a matriarchy rather than in patriarchal society.⁴⁰

Menstruation is a vital component for the birth of life through a woman and highly regarded for nurturing life. There are no rules for men restricting their movement whatsoever in a patriarchal society. Women today who are taking the primary role of earning a living and making decisions for the family are but expected to do all this within the dictates of feminine behaviour. The menstrual taboos and behaviour constantly remind the woman of her inferior position in society. The media campaign, Period Positive challenges negative media representations of menstruation and hopes to encourage menstrual education.

INTERNATIONAL FRAMEWORKS

The International Conventions and Treaties ratified by numerous countries protect assemblage of rights that are basic for a human being's dignity and protection. These rights encompass Good Health, Standard of Living, Working in dignified conditions, Non-Discrimination and Equality, Dignity and safety of Women, Education and more.⁴¹ Though the provisions encapsulate protection of Reproductive rights there is lack of discussion on Menstrual Rights and Equity under these documents⁴²

1- World Health Organization (WHO)

WHO promotes menstrual health and reproductive rights on Menstrual Hygiene Day, urging countries to improve water and sanitation services in schools, improve hygiene facilities, and educate on menstrual health.⁴³ WHO emphasized menstrual health as a health and human rights issue during the UN Human Rights Council's 50th session, focusing on hygiene management, human rights, and gender equality.

³⁹ R. D. Koeske, *Lifting the Curse of Menstruation: Toward a Feminist Perspective on the Menstrual Cycle*, 8 WOMEN HEALTH 1 (1983).

⁴⁰ Miren Guilló-Arakistain, *Challenging Menstrual Normativity: Nonessentialist Body Politics and Feminist Epistemologies of Health*, in THE PALGRAVE HANDBOOK OF CRITICAL MENSTRUATION STUDIES 869 (Chris Bobel et al. eds., 2020), https://doi.org/10.1007/978-981-15-0614-7_63 (last visited Jul 6, 2024).

⁴¹ Menstrual Leave Dissent and Stigma Labelling, *supra* note 23.

⁴² Isobel Day, *Menstruation, Human Rights and the Patriarchy: How International Human Rights Law Puts Menstruating People at Risk*, (Apr. 3, 2024), <https://journals.law.harvard.edu/hrj/2024/04/menstruation-human-rights/> (last visited May 29, 2024).

⁴³ WHO statement on menstrual health and rights, <https://www.who.int/news/item/22-06-2022-who-statement-on-menstrual-health-and-rights> (last visited Jul 6, 2024).

2- *Universal Declaration of Human Rights 1948*

The "Right to Equality," which encompasses gender equality for men and women regardless of gender, is a component of Article 7.⁴⁴ Similarly, Article 25 covers employment security, protected healthcare, and health and wellness protection.⁴⁵ This clause subtly requests that members declare that a woman should not be excluded or subjected to discrimination due to her menstrual leave. It implies that women should receive health and wellness benefits, just as transgender students and female girls do at educational institutions. Thankfully, the majority of National Law Universities have taken the initiative to balance women's rights and give consideration to motherhood and 'womanhood' without bias or condition.⁴⁶

3- *The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).*

This convention aims to prevent discrimination against women in various aspects such as health, employment, and public life, regardless of whether the discrimination is related to menstruation or not. However, it does not explicitly address issues like menstrual leave or the rights to health and leave in educational institutions or workplaces. It is suggested that the convention should recommend to all member states, WHO, ILO, and UDHR to implement policies regarding menstrual leave.

INDIAN LEGAL FRAMEWORK

Constitutional Provisions

Indian Constitution encapsulates that fundamental rights, including equality, life, personal liberty, and dignity, are enshrined in Articles 14, 15, and 21. The concept of paid menstrual leave is rooted in these rights, ensuring women can enjoy them meaningfully. Aristotle's concept of equality suggests equal treatment of similar persons prevents discrimination. The Supreme Court's *Ram Krishna Dalmia v. Justice Tendolkar*⁴⁷ and *Anjali Roy v. State of West*

⁴⁴ United Nations, *Universal Declaration of Human Rights*, UNITED NATIONS, <https://www.un.org/en/about-us/universal-declaration-of-human-rights> (last visited Jul 6, 2024).

⁴⁵ Navanethem Pillay, *Right to Health and the Universal Declaration of Human Rights*, 372 THE LANCET 2005 (2008), [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(08\)61783-3/abstract](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(08)61783-3/abstract) (last visited Jul 6, 2024).

⁴⁶ Sayed Qudrat Hashimy, *Menstrual Leave Dissent and Stigma Labelling: A Comparative Legal Discourse*, 5 Issue 6 INT. J. LAW MANAG. HUMANIT. 1270 (2022), <https://heinonline.org/HOL/Page?handle=hein.journals/ijlmhs20&id=1269&div=&collection=>.

⁴⁷ Law Essentials, *RAM KRISHNA DALMIA v. JUSTICE TENDOLKAR*, AIR 1958 SC 538, LAW ESSENTIALS, <https://lawessential.com/case-comments-1/f/ram-krishna-dalmia-v-justice-tendolkar-air-1958-sc-538> (last visited Jul 6, 2024).



Bengal have emphasized equality.⁴⁸ India's Constitution emphasizes equal opportunity for all citizens, empowering them to achieve their goals without discrimination.⁴⁹ The concept of 'Protective Discrimination' under Article 15 helps disadvantaged persons live meaningful lives. Article 15(5) provides special provisions for socially and educationally backward citizens, ensuring equal platform access.⁵⁰

Statutory Provision

The Equal Remuneration Act of 1976 mandates equal pay for men and women performing equal work under similar conditions.⁵¹ However, menstruating women are not working under similar conditions, only when granted paid menstrual leaves due to uncontrollable bodily phenomena. The Act's objective to promote employment opportunities for women contradicts concerns about paid menstrual leave policy implementation. The Act should be interpreted based on the employee's circumstances, ensuring equal opportunities for women based on their capacity to work, ensuring women's fundamental rights are not violated.

Bills

Several Bills have been tabled to address the Reproductive Health and Menstrual Issues:

Bihar Menstrual Leave Policy 1992

In Bihar, the All-India Progressive Women's Association organized a three-month-long strike for women. According to a government order dated January 2, 1992, in response to demands from various employee unions, all women government employees would be granted two days of special casual leave each month until the age of 45.⁵² The Right of Women to Menstrual Leave and Free Access to Menstrual Products Bill of 2022 expands Article 21, allowing three

⁴⁸ Anjali Roy v. The State Of West Bengal & Ors., Calcutta High Court, Judgment, Law, casemine.com, [HTTPS://WWW.CASEMINE.COM](https://www.casemine.com), <https://www.casemine.com/judgement/in/5ac5e3444a93261a1a74765d> (last visited Jul 6, 2024).

⁴⁹ ANJALI ROY Vs. STATE OF WEST BENGAL, <https://www.the-laws.com/Encyclopedia/Browse/Case?caseId=502591420000&title=anjali-roy-vs-state-of-west-bengal> (last visited Jul 6, 2024).

⁵⁰ Hashimy, *supra* note 10.

⁵¹ Manupatra, *EQUAL PAY FOR EQUAL WORK: A STUDY ON GENDER WAGE GAP AND EQUAL REMUNERATION ACT, 1976*, <https://articles.manupatra.com/article-details?id=undefined&ifile=undefined> (last visited Jul 6, 2024).

⁵² When Lalu Prasad gave nod for leave during menstruation, THE INDIAN EXPRESS (Aug. 30, 2020), <https://indianexpress.com/article/opinion/columns/when-bihars-women-got-period-leave-6575393/> (last visited Jul 6, 2024).

days of paid menstrual leave for menstruating women. This aligns with Article 21's concept of 'meaningful existence' and is part of India's legislative initiatives.⁵³

Implementation of Menstrual Leave in Indian Institution

| No. | Institution | Implementation Date | Number of Leave in a month | Condition to Such Leave | Medical Support |
|-----|-----------------------------------------------|---------------------------------------------------------------------------------------------|-----------------------------------|-----------------------------------|----------------------------------------------------------------------------------------------|
| 01 | Coachin University of Science and Technology | CUSAT-MLP ⁵⁴ Enforced from January 11 2023. | Subject to 73% attendance. | No | Medical Assistance |
| 02 | Kerala Univeristy | KU Special Menstrual Leave order issued on March 2023. ⁵⁵ | Subject to getting 73% attendance | No | Medical Assistance |
| 03 | NALSAR University of Law | NALSAR Menstrual Leave Act 2023, ⁵⁶ declared on October 5 th 2023. | ONE DAY | No condtion and no proof required | Workshop and Public Awareness porgramme Full Medical support and Free Medical facilities. |
| 04 | Dharmashatra National Law University Jabalpur | DNLUJ Menstrual | Menstrual Leave i.e. 6 | | |

⁵³ Sayed Qudrat Hashimy, *Menstrual Paid Leave Policy and Women Empowerment in the Shadows of Equality Under the Aegis of Indian Legal Landscapes*, 13 SSRN ELECTRON. J. 42 (2024).

⁵⁴ Menstrual leave for students will be extended to all state universities in Kerala: Minister, THE INDIAN EXPRESS (Jan. 23, 2023), <https://indianexpress.com/article/cities/thiruvananthapuram/menstrual-leave-students-extended-state-universities-kerala-minister-8399532/> (last visited Jul 6, 2024).

⁵⁵ The Hindu Bureau, *Kerala University to Implement Maternity, Special Menstrual Leaves*, THE HINDU, Mar. 4, 2023, <https://www.thehindu.com/news/national/kerala/kerala-university-to-implement-maternity-special-menstrual-leaves/article66581113.ece> (last visited Jul 6, 2024).

⁵⁶ THE MENSTRUAL LEAVE POLICY, 2023.



| | | | | | |
|----|---------------------------------------------------------------|--------------------------------------------------------------------------------------------------|-------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|
| | | Leave, Circulated 29/ 09/2023. ⁵⁷ | classes per subject in each semester ⁵⁸ | | |
| 05 | The National Law University and Judicial Academy, Assam | NLUJA Menstrual Leave circulated on 3 rd Novemeber 2023. ⁵⁹ | | | |
| 06 | Maharashtra National Law University | MNLU Menstrual Leave Act 2024, declared on April 2024 ⁶⁰ | ONE DAY | Self Declartion Subject to securing 67% attendance ⁶¹ Special proceudre is required to be followed. | Full Medical Supports and Medical support is provided under the MNLUMLA 2024 |
| 07 | National Law Institute University Bhopal | April 2024 | Six classes per subject per semester | Subject to 65% of attendance Medical Certiticate is required. ⁶² | |

⁵⁷ Singh, *supra* note 14.

⁵⁸ Chacko, *supra* note 15.

⁵⁹ Bhumika Indulia, *NLUJA, Assam Introduces Menstrual Leave Policy*, SCC TIMES (Nov. 6, 2023), <https://www.scconline.com/blog/post/2023/11/06/nluja-assam-introduces-menstrual-leave-policy/> (last visited Jul 6, 2024).

⁶⁰ Menstrual Leave Policy, 2024.pdf,

<https://www.nlnunagpur.ac.in/PDF/2024/Menstrual%20Leave%20Policy,%202024.pdf> (last visited Jul 6, 2024).

⁶¹ *Id.* at 4.

⁶² Jelsyna Chacko, *NLIU Bhopal, MNLU Aurangabad Introduce Menstrual Leave Policy for Students*, BAR AND BENCH - INDIAN LEGAL NEWS (2024), <https://www.barandbench.com/apprentice-lawyer/nliu-bhopal-mnlu-aurangabad-introduce-menstrual-leave-policy-students> (last visited Jul 6, 2024).

| | | | | | |
|----|---------------------------------------------------------------------------------------------------------------|------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|
| 08 | Punjab University The first university in the region approved leave for the female students. ⁶³ | PU – Menstrual leave April 2024. ⁶⁴ | At least fifteen days must pass between classes, and students may take up to four leaves of absence in a given calendar month each semester. ⁶⁵ | | |
|----|---------------------------------------------------------------------------------------------------------------|------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|

REFLECTION AND DISCOURSE

Menstrual leave debates involve considerations of employer biases, gender discrimination, privacy rights, and potential benefits to employee well-being, retention, productivity, and women's economic empowerment. Despite cultural stigma, introducing menstrual leave policies can challenge social norms that perpetuate shame and secrecy around menstruation, empowering women to manage their health with dignity. Swiggy, Zomato, and The Mavericks India, among others, announced in 2020 their support for menstrual leave, but this initiative did not progress into law by Indian Parliament. Kerala became the first state to institute menstrual leave across all colleges, ensuring female students are entitled to leave during menstruation.⁶⁶

⁶³ PU committee accepts recommendations on one menstrual leave in one month, THE TIMES OF INDIA, Mar. 13, 2024, <https://timesofindia.indiatimes.com/city/chandigarh/panjab-university-committee-approves-recommendation-for-one-menstrual-leave-per-month/articleshow/108447274.cms> (last visited Jul 6, 2024).

⁶⁴ Panjab University V-C okays menstrual leave for students, HINDUSTAN TIMES (2024), <https://www.hindustantimes.com/cities/chandigarh-news/panjab-university-v-c-okays-menstrual-leave-for-students-101712783385459.html> (last visited Jul 6, 2024).

⁶⁵ Menstrual Leave: Panjab University Committee Approves Recommendation for One Menstrual Leave per Month | Chandigarh News - Times of India, <https://timesofindia.indiatimes.com/city/chandigarh/panjab-university-committee-approves-recommendation-for-one-menstrual-leave-per-month/articleshow/108447274.cms> (last visited Jul 6, 2024).

⁶⁶ Navya Benny, *Menstrual Leaves For Students In All Universities Across Kerala Under Consideration: State Higher Education Minister R. Bindu*, (2023), <https://www.livelaw.in/news-updates/period-leave-cusat-menstrual-benefits-kerala-minister-r-bindu-menstrual-leave-all-universities-state-219148> (last visited Jul 6, 2024); Kerala shows the way: Menstrual leave for students to be extended to all state universities, INDIA TODAY (2023), <https://www.indiatoday.in/india/story/kerala-shows-the-way-menstrual-leave-for-students-to-be-extended-to-all-state-universities-2322428-2023-01-16> (last visited Jul 6, 2024).



Reflecting on the implementation of menstrual leave policies across various universities reveals a significant shift towards recognizing and accommodating menstrual health needs. Each institution has tailored its policy to varying degrees, reflecting different conditions, support mechanisms, and procedural requirements. CUSAT and Kerala University, for instance, require 73% attendance and offer no specific medical support. These policies emphasize regular attendance while acknowledging menstrual health needs. On the other hand, universities like NALSAR, DNLUJ, and NLUJA have introduced more progressive policies. NALSAR's unconditional one-day leave and comprehensive medical support demonstrate a commitment to addressing menstrual health holistically through workshops and awareness programs. DNLUJ's approach of allowing six classes of menstrual leave per semester recognizes the need for flexibility in academic schedules.

MNLU and NLIU Bhopal's policies also highlight evolving practices. MNLU's self-declaration policy with a 67% attendance requirement and full medical support under the MNLUMLA 2024 reflects efforts to simplify the process while ensuring adequate support. NLIU Bhopal's requirement of a medical certificate for six classes of leave per subject per semester balances flexibility with verification. Punjab University's initiative, allowing up to four leaves per month with specific timing requirements between classes, signals proactive steps in accommodating menstrual health needs in the region.

The Karnataka government has begun consultations to offer one-day paid menstruation leave for individuals working in factories, information technology, the garment industry, and multinational corporations where several lakh women are employed, amid a national discussion about implementing provisions for menstrual leave.⁶⁷

In India, granting menstrual leave remains voluntary, lacking statutory provisions mandating government departments or academic institutions to implement such policies. Nonetheless, the Karnataka government has taken steps to implement a one-day leave for employed women. It remains unclear whether it is going to be implemented by all the educational institutions including private and public or not.

⁶⁷ Sharath Srivatsa, *Consultations on Providing Menstrual Leave in Karnataka under Way*, THE HINDU, Jun. 17, 2024, <https://www.thehindu.com/sci-tech/health/consultations-on-providing-menstrual-leave-in-karnataka-under-way/article68300678.ece> (last visited Jul 6, 2024).

Implementing a paid menstrual leave policy in India faces legal complexities regarding potential employer discrimination. It must align with constitutional principles and labor laws to effectively protect women's rights. Supporters argue that menstrual leave promotes gender equality and workplace inclusivity, while critics raise concerns about operational challenges and unintended consequences.⁶⁸ A balanced approach, addressing stigma, discrimination, and educational gaps, is essential.

Suggestion

Menstruation, a natural biological process, should be accommodated for school-aged girls, colleges and universities. Implementing government-mandated school leave and universities could include additional study sessions to ensure understanding of academic concepts. This initiative aims to foster a culture that values menstrual health, which can transition into workplaces offering paid menstrual leave, tailored to meet employer needs. The paper advocates for government safeguards in the unorganized sector, such as paid menstrual leave and non-discriminatory leave entitlements, to uphold women's rights and prevent exploitation by employers.

Introducing menstrual leave can be a sensitive matter due to cultural considerations. Parameters for the policy could include offering a fixed number of leave days per month or annually, determining whether a doctor's note is necessary, or providing the option to study from home. Establishing a clear reporting structure ensures proper implementation, confidentiality safeguards protect students' privacy, and fair appraisal processes guarantee equitable treatment for all employees. These steps are essential to responsibly introducing and managing menstrual leave policies within any educational institution. Additionally, if educational institutions do not offer leave or medical support like free sanitary products, the government could implement tax-free menstrual products and make them available at affordable prices for students. In order to educate the public about menstruation as a normal biological occurrence, high schools and universities must host seminars and conferences.

CONCLUSION

In conclusion, the discourse on menstrual leave policies in Indian educational settings reflects a pivotal juncture in the journey towards gender inclusivity and health equity. While several universities have taken commendable steps to implement menstrual leave policies, disparities persist across institutions, impacting students' rights and educational equity. These policies are rooted in constitutional principles such as equality, dignity, and the right to health under

⁶⁸ Hashimy, *supra* note 10.

Articles 14, 21, and other relevant provisions, which highlight the evolving legal landscape supporting menstrual health as a fundamental right in India. The implementation of menstrual leave policies varies widely, from basic attendance requirements to more progressive measures like unconditional leave with comprehensive medical support. Such initiatives not only acknowledge the biological realities of menstruation but also aim to foster inclusive environments where all students, regardless of gender identity, can access necessary support. However, challenges remain, including the need for uniformity in policy implementation, addressing cultural sensitivities, and navigating legal frameworks to ensure effective protection of women's rights in educational institutions. The debate surrounding menstrual leave underscores broader societal attitudes towards menstruation and the ongoing struggle for gender equality.

Moving forward, it is imperative to advocate for harmonized policies that uphold the dignity and rights of all menstruating individuals, encompassing transgender students and others beyond traditional binary gender norms. Ultimately, menstrual leave policies are not merely about providing time off but about recognizing and affirming the diverse experiences and needs of individuals. By advancing these policies with sensitivity and inclusivity, India can further its commitment to gender equity and ensure that menstruation is treated with the respect and support it deserves in educational settings and beyond.

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