

**RESEARCH ARTICLE**

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# **Pain and Patriarchy**

## *A Sociological Analysis of Menstrual Leave*

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[ABSTRACT: In recent years, there has been an active debate on the legitimacy and effectiveness of Menstrual Leave as a calculative step towards gender inclusivity at the workplace. Menstrual Leave (or 'First Day of Period Leave' as some organisations call it) is a special kind of leave-of-absence that allows a menstruator to take time off if they are unable to attend work due to menstruation and discomforts resulting from it. This paper is an attempt to locate the debate of Menstrual Leaves beyond just the question of rationality and practicality. The demand for Menstrual Leave has to be seen in the larger context of (hetero)patriarchal norms and gender-expectations, that look at menstruation and the menstruating body in a certain manner. In doing so, the paper will highlight the policy measures adopted by various countries regarding Menstrual Leave, including India, and discuss why legislations cannot bring about a simple solution without factoring in the larger socio-structural issue at hand.

KEYWORDS: Menstrual Leave, Menstruation, Menstruators, Endometriosis, Dysmenorrhea]

### **Introduction**

*'It is just a little period cramp, get over it!'*

The menstrual period, in plain biological terms, refers to the shedding of the "unfertilized uterine lining expelled from the vagina along with blood in response to a drop in progesterone and estrogen" (Grandey et al cited in Zhang, 2024). Menstruation can be

marked by varying degrees of pain and discomfort to menstruators<sup>1</sup>, commonly due to uterine contractions. But there are certain chronic conditions that make the experience of menstruation particularly painful and difficult; mainly dysmenorrhea, endometriosis and polycystic ovary syndrome (PCOS). While the physical manifestation of each of these conditions may vary from person to person, they are mostly accompanied by lower abdominal pain, nausea, vomiting, constipation and/or diarrhoea. Some people with endometriosis even report of period pain that is so severe that it affects their daily activities (World Health Organisation).

Now, the question is how the experience of menstruation, particularly chronic discomfort, is viewed in the context of the modern professional environment, which also seeks to break out of the age-old barriers imposed on women (and other gender-minorities)? Organisations are making every attempt to adjust to the changing environment and implement progressive policies that support a diverse workforce with diverse needs. Various conscious steps have also been taken to alleviate hurdles that may arise due to gender bias, sexual orientation, impairments, etc., including implementing infrastructure improvements, developing grievance redressal systems, and initiating multiple other projects. It is all about inclusivity. And one such crucial topic, that is also equally controversial, is that of identifying menstruation as a valid ground for claiming leave from work.

This paper, in its attempt to analyse the complexities associated with recognising menstrual discomfort as the basis for concessions like leave-of-absence, addresses the following questions:

1. How are menstrual leaves connected to the larger societal perception of menstruation as a biological process and that of the menstruating body?
2. Do menstrual leaves defy the logic of feminism? Does it go against the claims of equality between men and women?
3. What could be the challenges to making menstrual leave a mandated/optional benefit for menstruating employees?

Given the topic at hand, especially in the context of ongoing debates regarding the necessity of Menstrual Leaves, this paper is largely exploratory in nature, examining existing laws around Menstrual Leaves, their clauses and provisions. Much of the understanding on the theme is based on theoretical analyses of menstruation, gender expectations, workplace perceptions, power structure and labelling based on the biological experience of menstruation. The study also relies heavily on academic reflections on the social perceptions of menstruation that have been carried out in contexts where the Menstrual Leave debates precede the immediate Indian situation. Also, given the insufficiency of resources or time for first-hand data collection, the paper is based on publicly available, online secondary data.

The structure of the paper is based on the flow of the major questions that it seeks to reflect upon (if not entirely answer). Beginning with a theoretical explanation of how patriarchy perceives menstruation and the menstruating body, references are made to the feminist conception of 'othering' and understanding the construction of stigma that opens up the argument of how validation/legal recognition of menstrual discomfort is heavily gendered. Subsequently, the paper discusses the factual developments in the Indian context with regard

to proposing Menstrual Leave as a reflection of equitable workspaces. Countries like Japan, South Korea, Indonesia, and some state governments and corporate houses in India already have provisions for Menstrual Leave available for their female employees. The paper further elaborates on how the factual existence of a provision is not the same as a taboo-free existence and fruitful implementation. Moving on to the next point of emphasis, the paper discusses the complex stances with regards to the necessity of Menstrual Leave and whether it paves the path to gender equity or hinders it. The major opposition between the sameness vs the difference theories of feminist thought also opens up the necessity of intersectionality in referring to the experience of menstruation as a biological process. Herein, the discussion expands beyond the conventional assumption of all menstruating bodies as female and highlights the challenges of trans-bodies in securing a voice in the debate.

The paper ends by attempting to discuss the potential ways of expanding the debate of Menstrual Leave beyond the domain of resource allocation in the form of concessions. Menstruation, its perception, resultant expectations of behaviour and recognition in the public domain as a legitimate ground for claiming measures of protective discrimination, are all connected to the question of justice and equitable membership in a democratic society. Let us look at each of these points in detail.

### **The Patriarchal Perception of Menstruation**

*‘Don’t touch that pickle jar, you will pollute it’*

Rachel B. Levitt and Jessica L. Barnack-Tavlaris, in their article “Addressing Menstruation in the Workplace”, point out how it is significant to realise that menstruation has been utilized to “marginalize and oppress women and other menstruators through the process of objectification and the ideology of sexism” (2020, p. 565). The process of objectification occurs under the influence of the male gaze, an imperceptible but inevitable force that encompasses hetero-patriarchal expectations of women’s behaviour and appearance. This gaze detaches women from their own needs, wants, and desires as well as their own well-being (Bartky, 1988; Roberts, Calogero, and Gervais, 2018; Roberts et al. as cited in Levitt and Barnack-Tavlaris, 2020, p. 566). It is only when women internalise this male gaze and engage in self-monitoring body disciplines corresponding to it that they retain their status as desirable in a hetero-patriarchal society (Bartky, 1988; Roberts, Calogero, and Gervais, 2018; Roberts et al. as cited in Levitt and Barnack-Tavlaris, 2020, p. 566). One aspect of that male gaze is the need to conceal the ‘ugly’ truth of menstruation. The natural experience of the female body is reduced to an ‘abnormality’ that needs to be concealed/ dealt with in secrecy. For the most part, this explains the lack of medical understanding of many menstruation-related ailments, even to this day: the dominance of men in the medical field objectifying the menstruating bodies as subordinate ‘other’.

As Elizabeth Kissling (2006) states, a woman’s othered status is upheld by the idea that menstruation is the essence of womanhood (p. 32). Yet, it is not the biological process of menstruation in itself that makes the menstruating body as ‘Other’, rather it is the denigration of the process that is linked to the inferior female identity (2006, p.32).

To quote Simone De Beauvoir's description of menstrual blood:

Just as the penis derives its privileged evaluation from the social context, so it is the social context that makes menstruation a curse. The one symbolizes manhood, the other femininity: and it is because femininity signifies alterity and inferiority that its manifestation is met with shame. (1952, p. 354)

Menstruation, therefore, is a curse and a shameful event *because* it is a phenomenon that affects women (Kissling 2006, De Beauvoir 1952). A similar argument is raised by Gloria Steinem in her essay "If Men Could Menstruate" (1978). According to Steinem, since males in a patriarchal setup have the authority to name and assert what is 'normal', they create the binary between which physical process is worth boasting or feeling ashamed of. Therefore, if men would, what Steinem calls "men-struate", their privileged social standing would render menstrual bleeding a "boast worthy, masculine event" (2020, p. 388). Instead, because of the institutionalised and structurally established gender distinction that devalues and divides the female experience from that of males, the menstrual cycle is perceived negatively (2020, p. 388). By socially placing women in dualistic opposition to males, this construction seeks to legitimise women's status as inferior and 'other' by stigmatising and tabooing their bleeding bodies.

Here, it is also significant to make a reference to Erving Goffman's views on *Stigma and Social Identity* (1963). He writes, "any stain or mark that sets some people apart from others; it conveys the message that those people have a defect of body or of character that spoils their appearance or identity" (p. 9). Because stigma stems from rejection, it isolates a particular group and labels them as 'other'. Similarly, menstrual stigma is the taboo marking of a woman's period, typically caused by disgust of blood (Mostafa, 2019, p. 3). Although menstrual taboo varies greatly among cultures, there are certain similarities between them. For example, women are often required to follow similar cultural norms, such as hiding their periods, avoiding particular activities, and not discussing them in public. (2019, p. 4).

Similar to the workings of stigmatising and taboos, sexism, Levitt and Barnack-Tavlaris (2020) point out, uses menstruation to marginalise women. They point towards two distinct kinds of sexism: hostile and benevolent. While hostile sexism takes an extreme form of subjugating the menstruating bodies, through physical force and violent control (like rape), benevolent sexism, according to the authors, "is a way of viewing sex and gender in stereotypical, traditional ways" (Forbes et al. 2003; Glick and Fiske as cited in Levitt and Barnack-Tavlaris, 2020, p. 567). By that logic, menstruation becomes a symbol of feminine fragility. As an extension, it stereotypes the menstruating bodies as necessarily female and hence destined to become mothers and nurturers. Benevolent sexism perpetuates a patriarchal system of gendered power dynamics, yet it can be difficult to identify and may not directly elicit aggressive behaviour.

Benevolent sexism can also be seen as the primary ideology behind the dichotomisation of the 'public' and 'private' spaces in a gendered fashion. The menstruating bodies, with the delicacy of childbirth and the burden of emotions, are deemed unsuitable to function in a rational public domain. Public domain is for the instrumental roles, the ones that do not get swayed by 'erratic emotions' (hysteria, as Freud popularised); hence, it is for men. The body

that menstruates, on the other hand, with the corresponding *uncontrolled* hormones and presumably unstable capacity to rationally make decisions, is designed for the domestic spaces. Unsurprisingly, many cultural practices have even translated this gendered segregation as a privilege for women. The protective, familiar spaces of the household are seen as an ideal environment for her nurturing capabilities to flourish.

Ironically, the ideas of fragility and stigma are also complemented with the expectation of higher pain tolerance in the body that menstruates. As pointed out earlier, benevolent sexism assumes that a body that menstruates is also a body that is designed to go through the process of childbirth. This is, therefore, the body that should learn to have higher pain tolerance as an extended gift of motherhood. This idea of 'tolerance' often percolates down to the behaviour expectations and accepted demeanour of young girls. They are expected to be forgiving, nurturing, sacrificing and have higher tolerance for physical (or even emotional) pain. By that logic, a 'good woman' is not just a woman who hides her menstruation from common gaze but also goes through it without complaining about pain or discomfort.

In this context, any potential provision of Menstrual Leave has to be seen as a superimposition to the patriarchal gaze and socio-cultural belief systems surrounding menstruation, not separate from it. Before delving deeper into the implications of the stereotypes and sexism directed towards the menstruating body (and by extension, to the logic of Menstrual Leaves), let us look at the public debates surrounding the possibility of making Menstrual Leave a legalised provision.

### **The Provision of Menstrual Leave**

*'The whole issue of menstrual leave policy is in that sense purely a policy issue for employers to consider, especially at the government level'*<sup>1</sup>

In July 2024, the Supreme Court of India rejected a petition that demanded making Menstrual Leave mandatory at the workplace. The debate around Menstrual Leave has, in fact, been simmering at the legislative level for quite some time. In 2017, Mr Ninong Ering, a former Lok Sabha Member of Parliament from Arunachal Pradesh introduced a private member's Bill before the Lok Sabha that would have allowed women employed by any Government-registered establishment to receive four days of paid menstruation leave per month. Aside from that, the 'Menstruation Benefit Bill, 2017' lays out a grievance redressal procedure and suggests implementing menstrual leave along with other relevant benefits. Nevertheless, the Bill was not brought up for debate in Parliament (Prakash et al, 2023). As a member of the Legislative Assembly for Arunachal Pradesh, Mr. Ering again introduced the Bill during the 2022 Budget Session. However, the Bill was quickly withdrawn (Prakash et al, 2023). In relation to the same, two other bills were consecutively proposed: the 'Women's Sexual, Reproductive and Menstrual Rights Bill' in 2018 and 'Right of Women to Menstrual Leave and Free Access to Menstrual Health Products Bill' in 2022. Both bills aimed to ensure women's access to menstrual health products and entitlement to paid leave for women and transwomen during their periods, as well as extending the benefit to students. However, the same fate met these bills, too. They failed to see the light of day.

The former Minister of Women and Child Development, in response to questions related to the provisions of menstrual leave in Rajya Sabha (2023 session), stated that the Central Government servants are not entitled to any provisions for menstrual leave, and the Government was not keen on examining any proposal to include such leaves in the Central Civil Services (Leave) Rules, 1972. A public interest litigation (PIL) was also brought before the Supreme Court of India in January 2023, requesting that all States be directed to develop policies for menstrual pain leave for working women and female students in accordance with the Maternity Benefit Act, 1961. However, the Supreme Court has dismissed the PIL, stating that the petitioner should submit a representation to the Union Ministry of Women and Child Development so that it can make the proper judgment in this regard (Prakash et al, 2023).

The complex experience of India regarding Menstrual Leave legislation is not unique. Indeed, except for a few countries that have incorporated menstrual leave into their legal frameworks, it remains an elusive subject for the majority of other nations, and as a result, the issue has not yet been addressed in any substantive fashion. In fact, the debate over (paid or unpaid) Menstrual Leave has had a history tracing back to the earliest phases of women entering the workforce.

In Japan, a law enacted in 1947 legally required employers to provide female employees with time off on their menstrual cycles if they so wish (Labour Standards Law No. 49 of 7 April 1947, as cited in Prakash et al, 2023). Many countries followed Japan's example and began incorporating such laws into their legal frameworks. In Indonesia, female workers who experience pain during their menstrual cycle are required to inform their employer and therefore have the right not to come to work during the first two days of their period [Act Concerning Manpower (Indonesian Labour Law) No. 39, 2003, as cited in Prakash et al, 2023]. Further, South Korea offers one day of paid leave per month, granted to female workers according to their special requirements in this regard (Labour Standards Act, as cited in Prakash et al, 2023). In Taiwan, female workers who find it uncomfortable to work due to their menstrual cycle can apply for three days of leave per year, with a limit of one leave per month (Act of Gender Equality in Employment, as cited in Prakash et al, 2023). Any leave in excess of these three special leaves will be deducted from the number of days of sick leave available. This prescribed three days of menstrual and sick leave is available at half the rate of pay/compensation of such employees. In Zambia, female employees are entitled to one day's leave each month without having to produce any valid medical certificate in that regard (The Employment Code Act, No.3 of 2019, as cited in Prakash et al, 2023). Spain recently became the first European country to introduce menstrual leave into its legal system, whereby female workers can receive three to five days of leave for menstrual pain with a medical certificate, and the leave is funded by the official social security system (Prakash et al, 2023).

As previously stated, there is currently no legal obligation for Indian companies to grant their employees menstrual leave because the country's Union labour laws do not specify or provide for paid or unpaid leave due to menstruation. Nevertheless, it is interesting to note that the State Government of Bihar has been required by an order dating back to 1992 to provide two consecutive days of 'special' leave each month to female employees who work for organisations that fall under its purview. Such special leave for female employees is also mentioned in the Human Resource Manual adopted by Bihar Vikas Mission, an organisation



established by the State Government for the implementation of several projects (Prakash et al., 2023). Beyond the aforementioned, Kerala, in 2023, granted menstrual leaves to female students in all universities and institutions with up to 60 days of maternity leave, and the Odisha government introduced a one-day menstrual leave policy for women employees in the state government and private sector in 2024. Menstrual leave advocacy has also benefited from actions performed by private companies such as Culture Machine, Zomato, and others (Prakash et al., 2023). But these are isolated incidents of provisions targeted at the physical well-being of menstruating women.

These cases also make one wonder what has prevented the Central Government from mandating Menstrual Leave at a larger level. Also, it is worth questioning if the mere presence of provisions means that women are availing their benefits<sup>3</sup>. A relevant comparison can be made with Maternity Leave, which has been mandated by Indian Law. The 'Maternity Benefit (Amendment) Act' of 2017 grants 26 weeks of paid leave for female employees expecting their first and second child. A study by global professional services firm AON Plc titled "Voice of Women Study 2024, India" surveyed over 24,000 professional women across 560 companies in India. As per its reports, women in India, despite the legal protection of the Maternity Act, experience what economist Claudia Goldin popularised in her extensive labour market research as "motherhood penalty" (Goldin, Kerr and Olivetti, 2022). According to the study, 75 per cent of women experienced a career setback for one to two years after returning from maternity leave (Voice of Women Study, 2024, p. 34). Additionally, 40 per cent reported that taking maternity leave negatively impacted their pay, and many found their roles altered to positions that were not of their choosing upon their return (Voice of Women Study, 2024, p. 34). With this being the practical outcome of a mandated benefit, directly reflective of the bias associated with women's productivity following childbirth, the nuances of Menstrual Leave become even more complicated to distinguish.

### **The Double-edged Sword of Logic**

*'Why should a woman's menstrual cycle be known to her employer?'*<sup>4</sup>

Any discussion on Menstrual Leave needs to factor in the benefits or limitations of it, in case a law is actually underway. Who would benefit from it? Undoubtedly, menstruating persons, especially those who suffer from mild, moderate, or severe menstrual discomfort as well as those who suffer from illnesses associated with the menstrual cycle, such as dysmenorrhea, endometriosis, and ovarian cysts would benefit from Menstrual Leave. Menstrual leave, as Levitt and Barnack-Tavlaris (2020) highlighted, can also have a favourable impact on people who identify as trans or gender queer/non-binary. Menstruation may be a time when gender queer/non-binary people experience an increase in transphobia and other forms of gender discrimination; therefore, if granted this kind of leave, these people may feel more protected (Levitt and Barnack-Tavlaris, 2020, p. 566). In fact, the provision of Menstrual Leave may actually act as a mechanism of challenging the regressive belief system that requires menstruation to be dealt with in secrecy. It may offer the opportunity to openly discuss menstruation, health issues related to it and even expand it to a discussion on taxation of menstrual-hygiene products and lack of access to basic resources thereof. It may remove the logic of 'shame' and stigma associated with a biological occurrence.

But, unfortunately, in a very devious fashion, the opposite may also be true. The unintended consequences of Menstrual Leave may have greater negative outcomes than positive; the most significant one, as indicated in the comparison drawn to Maternity Leave pointed above, being the perpetuation of the gender stereotype that menstruation (and childbirth) makes a woman 'unfit' for working in the public domain. By extension, employees who utilise menstrual leave policies may be seen more adversely than those who do not. They may be labelled as inefficient, unreliable or even a liability at work. Numerous experts emphasise that this could also be a factor in the gendered wage gap and the glass ceiling that perpetuates a lack of advancement opportunities for women in any job. Owing to societal norms around childcare and household responsibilities, women's absence from work, as pointed out by Patton and Johns (2007), is frequently attributed to their gender role—she may be taking care of her child or caught up in cooking/cleaning, rightfully so, as that is her primary duty. Having a leave specifically designed around an aspect (menstruation) that is perceived as gendered may heighten such assumptions of women's productivity in workplaces. It may also lead to a 'medicalisation of menstruation' whereby menstruation is depicted as an *illness* that *impedes* all women, complete with symptoms and risks (Barnack-Tavlaris as cited in Patton and Johns, 2007; emphasis added).

Also, if the legislations supporting Menstrual Leave in many countries are actually read carefully, it becomes quite clear that the intention is not really to safeguard the interests of the menstruator but the biological *outcome* of that process, i.e., motherhood. Clear examples of this are visible in the Menstrual Leave Policies of Japan and Zambia. The menstrual leave policy in Japan was established to safeguard women's ability to become pregnant, and Zambia's policy calls Menstrual Leave 'Mother's Day', which highlights women's presumed role as mothers (Levitt and Barnack-Tavlaris, 2020, p. 566).

Instead of working in favour of menstruating bodies, these legislations become tools of benevolent sexism. Acknowledging the biological differences does not really work to provide accommodations and benefits to the menstruators; rather, it reinforces stereotypes and stigmatisation. As a result, even with legislation in place for Menstrual Leave as a health benefit, many women in countries such as China are reluctant to take advantage of menstrual leave days for fear that disclosing that they are menstruating will feed preconceptions of women as weak and unproductive (Forster as cited in Levitt and Barnack-Tavlaris, 2020, p. 569). It is possible that women may consciously decide not to take advantage of menstruation leave even if it is offered as paid leave, in an effort to safeguard one's position professionally (via promotions, training, and networking opportunities) and steer clear of criticism from others (Grose and Grabe as cited in Levitt and Barnack-Tavlaris, 2020). This becomes an unintended process of pitting menstruators against each other on grounds that are not really based on potential or skill, but rather on menstrual health. It becomes an unfair practice of structural discrimination against a group of people who have no control over the 'limitations' their menstrual cycle imposes on them. In a way, then, menstruation slowly begins to look like a disability that menstruators start either concealing (like they have been taught to do so) or subvert/suppress through artificial techniques like painkillers. True, there are prominent female figures in the Indian public domain like Barkha Dutt or Smriti Irani, who may have not experienced the debilitating pain of endometriosis and continue calling the plea for Menstrual Leave as a 'cry for attention' and 'shameful' but the debate is actually



teleologically moving backward to the problems faced as early as the first wave of the Feminist movement: homogenizing experiences. The perception of homogeneity in experience is the central logic of the “Sameness/Difference approach” (Manjima, 2023). Sameness proponents emphasise that women should be treated in the *same way* as men, i.e., equality is seen in direct relation to equal treatment, experience and conditions of treatment. On the other hand, proponents of the difference approach argue that women should be treated differently to ensure equity because of their biological role in reproduction and historical subjugation, which turned their natural differences into social disadvantages, i.e., equality is seen as an expression of equity, in recognising differences of experience. The problem with the ‘sameness approach’ is that “they fail to see how the workplace is designed to appease the male body” (Manjima, 2023). As MacKinnon (2017) states, the problem is not of inequality but how “the dominant group (here, men) becomes the measure of everything, including the measure of the disadvantaged group’s entitlement to equal rights” (p. 15). A sexist assumption may hold that talking about menstruation openly, discussing its discomforts, is an anti-feminist act of ‘self-pity’, but in reality, going by the logic of equity and difference feminism, it can be transformative for the workplace and even emancipate women by not pushing them to conform to masculine standards. Despite the criticisms directed towards difference feminism that make it easy to assume that it is glorifying conventional assumptions of masculinity and femininity, debates around benefits linked to menstruation cannot be generalised as an anti-feminist stance.

### **The Intersectionality Debate**

A generic debate around Menstrual Leave fails to recognize that the “menstruating bodies are not merely gendered, but also sexed, and classed” (Manjima, 2023). The one-model-fits-all policy cannot work in understanding the nuances of menstruation and any policy that may be designed around it. Margaret E. Johnson (2019) argued that structural intersectionality—the overlap of oppressive forms like patriarchy, racism, transphobia, classism, and ableism—rather than the structural oppression of women alone, is responsible for menstrual injustice. We cannot destroy the institutional structures that perpetuate the oppressive practices of marginalisation and inadequacy if we do not embrace an intersectional understanding of menstruation. In the Indian context, the overlap of patriarchy with casteism, regionalism and minority status may also be added as potential dimensions of discriminatory experience.

For instance, taking the class aspect into focus, we can look at the work of Jyothsna Belliappa (2018) that highlighted the different experiences of menstruation amongst the white-collar and blue-collar woman workers in India. She provides a significant analysis of how access to Menstrual Leave is not a luxury/bonus but may be a necessity created by structural limitations of workspaces and workplace environment for many women workers in the unorganised sector:

Access to clean toilets, adequate water for washing and to soap and safe, absorbent menstrual hygiene products is a basic human right which has a direct impact on the physical health and psychological well-being of women. Many women do not drink enough water when toilet access is restricted and are thereby prone to dehydration, fatigue, gastritis, kidney damage and high

blood pressure. Other health risks associated with unclean toilets include hookworms which cause diarrhoea, anaemia, weight loss and urinary tract infection. (Belliappa, 2018, p. 612)

For these women, having to choose between skipping a day of work (with no legal protection against losing the job), or battling through poor working conditions (risking bigger health concerns), does not bring any good bargain.

Another intersectionality can be seen in the overlap of patriarchy and transphobia/invisibility of the non-binary. Debates on Menstrual Leave, especially in India, tend to primarily talk about women without significant emphasis on menstruating transbodies. This essentialises menstruation as a woman's experience (or assumes that a body that menstruates is a woman and every woman menstruates). There is a glaring lack of research and policy regarding menstrual justice for transgender persons in India. The majority of the articles used as sources for this paper also addressed the concept of menstruation in relation to women/girls. The necessity of attending to the menstrual needs of transgender individuals is not often acknowledged in the public or business sphere. Lack of access to health and sanitary facilities can be intimately associated with the persistent discrimination against marginalised communities, in this case, the trans-community (Biswas as cited in Tibrewala, 2024, p. 3).

In an interview in 2020, transgender activist and model Kenny Ethan Jones expressed this feeling of alienation in experiencing menstruation as a transman rather than a woman: "I felt isolated; everything about periods was tailored to girls, yet me, a boy, was experiencing this and nothing in the world documented that" (Atkins, 2020, para 2). The issue is not simply one of isolation, but the repercussions of stigma as well. If the patriarchal male gaze demands women to conceal the 'ugliness' of menstruation as a secret, it pushes the trans-community, non-binary identities to secrecy as a whole. Menstruation of trans people and the public acknowledgement of it becomes a glaring challenge to patriarchy. For trans men who are menstruating, using the men's restroom can be terrifying in the face of such stigma. As Atkins (2020) wrote, "The sound of opening a tampon or pad, or simply carrying one, can lead to unwanted attention" (para 18). Further, nearly 60% of transgender people, as per the 2015 U.S. Transgender Study, said they were too scared to use public restrooms for fear of being confronted (Atkins, 2020, para 20). It is inconvenient to say the least; the worst part is that it exposes transgender people to potential transphobic attack, violence and discrimination.

Researchers looking into transgender-inclusive sanitation in South Asia discovered that the largest obstacles preventing transgender people from using public restrooms are still societal stigma and fear of violence (Tibrewala, 2024, p. 3). It is not easy to say to what extent stigma will be resolved with a Bill that allows benefits of Menstrual Leave to the transgender community, but the possibility of highlighting the reality of a particular minority group's experience of menstruation needs to be brought out in the public domain.

Intersectionality also needs to factor in how the gendered rhetoric and facilities surrounding menstruation contribute to a rise in gender dysphoria, the psychological suffering caused by discrepancies between an individual's assigned gender and gender identity (Frank 2020, p. 382). As pointed out by Shalini Vora (2020), a menstrual cycle is not just a physical reality

but a “negative, emotional, and expensive experience” (p. 33). Menstruation should *not* be associated with gender (Vora, 2020). While men who identify as transgender and intersex can still get their period, a lot of women may not even get a period. Many women do not menstruate as a result of menopause and other external variables that might change the menstrual cycle, such as stress, body weight, anaemia, and contraception. Therefore, the assumption that menstruation health is solely a problem for women is fallacious from a social as well as scientific point of view (Vora, 2020, p. 34).

### **Stigmatisation Leading to Practical Challenges**

A significant problem that requires acknowledgement is that whenever any discussion of a Bill that names menstrual leave as a legal right is brought about, we are immediately directed towards the applicability of the right rather than understanding the complex layers of meanings behind the major subject of the Bill or identifying the degrees at stake for various stakeholders. Indeed, in the Indian context, if a Bill is actually passed that mandates Menstrual Leave, it would be under Article 15(3), which permits special provisions for women and children, and Article 21, which mandates the right to life. It would also invoke Article 23 of UDHR and Article 7 of ICESCR, which guarantee the right to safe and healthy working conditions. However, in the absence of a masculine counterpart, these rights would turn into ‘special rights’, which can occasionally have negative effects. This is the greatest challenge in making Menstrual Leaves available for all menstruators. Undoubtedly, men who do not menstruate would see it as an unfair advantage given to those who do. They would, as a retributive measure, demand greater compensation for not availing this leave or even state greater claims in promotions or important work projects. Some organisations may even stop hiring menstruating employees to prevent such hostile reactions and competitive claims by the non-menstruating group. All of this is possible because the law (or the debate around it) is in itself denying to recognise the power-dynamics that the stigma around menstruation has already created in the backdrop; a stigma that not only has a socio-psychological impact but structural implications as well. Simply passing a Bill and acknowledging menstruation as a social reality is not going to resolve the issue. It is equivalent to assuming that the incorporation of the ‘Right to Equality’ in the Constitution was enough to make Indian society—historically marked by various overlapping forms of inequality—embrace equality in body and spirit.

If menstruation itself is such a complex issue with social, political and questions of identity overlapped in its ambit, how can the debates on any policy formulation around it be so simplistic? Yet, the superficial understanding of menstruation and oversimplification of its social implications make the debate of Menstrual Leave look like a lost cause. The only way out is a shift in perception and actions.

### **What Is the Way Forward?**

*‘A regular biological fact like menstruation should not be shameful. It’s alright to not have to act as per normal if you are in pain or discomfort. This is a chance to stop the charade. If women*

*are in discomfort, they should be able to take the day off—and not pay a penalty for it.’<sup>5</sup> — Manjima Bhattacharjya (2024)*

The discussion on Menstrual Leave, in reality, is a discussion on Menstrual Justice. Throughout the paper, the sections have been structured around whether or not a Menstruation Benefits Bill is conducive, what challenges it would face in implementation without defeating the purpose of gender equality and how different countries have approached this provision. But the issue is bigger than simply passing legislation. The concept of justice, particularly social justice, needs to be invoked to understand where exactly the problem lies. At a very preliminary level, we discuss the idea of social justice in relation to the distribution of resources because a just distributive measure of resources is the bedrock of social equality and justice as philosophers like John Rawls have emphasised. Much of the debate on Menstrual Leave, in reality, is stuck at this point. We are looking at the availability or unavailability of a provision as a sign of equality and justice. But in reality, this is simply the tip of the iceberg. As political theorists Iris Young and Nancy Fraser contended, social justice is much more than simply distributional equality; it is about “unequal power relations or domination and oppression of social groups” (Harlan et al., 2015, p. 135).

Understanding social justice, then, requires us to focus on the social relationships and how they create patterns of inequalities. Legislation supporting the provision of Menstrual Leave without attempting to change how menstruation as a physical experience is perceived will not do much in terms of guaranteeing any larger change. As Fraser would say, recognition, a process of “acknowledging and valorising cultural and status differences and distinctions” (cited in Harlan et al., 2015, p. 135), is significant to uncovering how certain inequalities become a ‘normal’ part of our everyday lives. We teach young girls that their period is something ‘dirty’, ‘shameful’ and must be kept a secret. Attaining puberty for young girls often includes a loss of carefree childhood, playtime with friends (especially males) and, in some extreme cases, access to education. Why is this normalised behaviour is the major question that societies need to ponder upon. Young girls being told that menstruation makes them different from their male counterparts, and *different in a negative sense*, does all the groundwork for the patriarchal structure. Recognition of this process in the socialisation practices (and even re-socialisation at various stages of life) may open up avenues of potential change. Yes, biologically, human bodies are built differently. Some menstruate, some do not (and for some, menstrual cycles are painful, for others, they may not be). But differences are not to be seen as a problem; rather, they should be seen as the norm.

Again, a simple recognition of inequalities that are internalised in the social structure is not enough. As Harlan et al. (2015) emphasised, social justice cannot be brought about without “procedures for participatory parity” (p. 135). There have to be mechanisms to allow the disadvantaged groups to be a part of decision-making that impacts their well-being and existence. Menstruators, with their varied experiences, should get a say on what provisions the state needs to provide them. Menstrual Leave, institutional facilities, visibility, empathy, care, compassion—whatever is seen as necessary should find its way in the domain of discussions regarding law-making. These laws should not be pitched as menstruators vs non-menstruators; rather they should expand their horizons to talk about the concept of well-being as a whole. An inclusive option suggested by Belliappa (2018) is to discuss the provision

of ‘wellness leave’ to all employees, regardless of gender or menstruation. This concept may be based on a recognition that there might be times when employees need to prioritise their well-being over work; a leave for times that do not necessarily fall under the category of ‘sickness’. Another suggestion to ensure the well-being of menstruators and non-menstruators alike is to provide ‘well-being rooms’ or rest/break areas, at workplaces for anyone who feels unwell, whether physically, mentally, or emotionally so that employees can “take some time away from work, whether this is for a cup of tea on the sofa or an hour away from their desk to rest . . . or to work in a quiet space away from the busy office environment, if needed” (Quarshie as cited in Levitt and Barnack-Tavlaris, 2020, p. 571). Although this sounds too simplistic, this logic does indicate what open dialogue affords. Possibly, at a legislative level, participatory democracy in terms of discussing what provisions Menstrual Leave should incorporate, how it can be complemented with undisturbed working hours, and guarantees of non-judgemental acceptance, can make the provisions look less demanding or gender-biased.

Finally, justice can be realised only when an individual’s capabilities, as Amartya Sen (as cited in Harlan et al., 2015) highlighted, are allowed to develop. Only when a person is capable of accessing “resources, opportunities, freedom, and institutions required for individuals and groups to exist as full members in a given society” (Sen as cited in Harlan et al., 2015, p. 136), can we claim that justice prevails (or at least attempts to be achieved). Menstrual Leave is only one simple provision in the larger universe of menstrual justice. Allowing menstruators the freedom to work, along with the acceptance that their menstrual experience is acknowledged, can do wonders for the self-perception of many. Knowing that the bodily experiences are not perceived as incapacities but rather as an accepted part of their being can boost the confidence of menstruators to freely exist in society. They would fear no taboo, no judgement and be assured that their potential would be allowed to flourish. That, in essence, is the beauty of ‘human development’, considering human beings and their well-being as ends in themselves. A major part of creating the scope of realising this well-being is in recognising that needs are contextual. Difference is strength, and any modern society with human development as its goal needs to celebrate and function around differences.

## **Conclusion**

To conclude, there are several limitations that can be identified in this paper; the most prominent one being that it is based entirely on secondary sources available in the public domain. The paper would have immensely benefited from inputs from menstruators regarding the practicality of Menstrual Leaves or the concerns surrounding their implementation. Nevertheless, as the first step towards attempting to bring the debate of Menstrual Leaves from the domain of opinions to academic analysis, this paper focuses on theoretical clarity, which would hopefully pave the way for practical political action. The goal was to understand menstruation and debunk misconceptions, even within academia; the first and most basic one being that menstruation is not about childbirth. It is not necessarily about women either. Recognising it as a physical process with a host of socio-political connotations is essential to devising any institutional measure against the injustices and experiential discrimination that have historically stemmed from it. For menstruators to

actually profit, though, a number of other actions both inside and outside the legal system must be taken. Menstrual leave has the potential to improve the health and rights of menstruators, but developing successful policy requires careful consideration of its social ramifications. Menstruation rules should not promote objectification, misogyny, or patriarchal ideas about menstruation; instead, the language used in these policies should aim to normalise and encourage open discussion about menstruation. Furthermore, cultural attitudes and ideas regarding menstruation need to shift for menstrual leave programs to actually benefit the well-being of menstruators. Dismantling heteropatriarchal ideas and combating menstrual stigma are ongoing challenges. Policies pertaining to menstruation leave will only promote gender equality if they are implemented in environments dedicated to combating menstrual stigma and eliminating gender-based injustice.

The bottom line is, from a sociological point of view, it is not really about whether legislation concerning menstruation and protective measures for those in need of them is feasible or not. The debates around it are a clear statement—*the personal is political*. Period.

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## Notes

<sup>1</sup> This paper uses the term ‘menstruator’ with purpose, to acknowledge that not all who menstruate identify as women.

<sup>2</sup>Quoting Chief Justice of India D Y Chandrachud, presiding over a three-judge bench on a petition hearing related to legalising Menstrual Leave. Source: <https://indianexpress.com/article/india/supreme-court-centre-model-policy-menstrual-leave-women-9439863/>

<sup>3</sup>The author could not find any statistical data in the public domain regarding the number of women that have availed Menstrual Leaves since the laws have made them available for employees. More in-depth primary research is required to discuss the actual implementation of these Provisions in India.

<sup>4</sup> Said by the former Union Women and Child Minister, Smriti Irani, in Parliament. <http://164.100.24.220/loksabhaquestions/annex/179/AU2256.pdf>

<sup>5</sup> <https://indianexpress.com/article/opinion/columns/best-of-both-sides-were-already-too-late-india-needs-a-menstrual-leave-policy-now-9462316/>

## References

Aon Consulting Inc. (2024). *Voice of Women: The largest pan-India study of working women 2024*. Aon Plc. <https://www.aon.com/apac/asia/voice-of-women-2024-25#:~:text=The%20'Voice%20of%20Women%20Study,by%20women%20in%20corporate%20India.>

Atkins, C. (2020, January). For transgender men, pain of menstruation is more than just physical. NBC News. <https://www.nbcnews.com/feature/nbc-out/transgender-men-pain-menstruation-more-just-physical-n1113961>



- Belliappa, J. L. (2018). Menstrual leave debate: Opportunity to address inclusivity in Indian organizations. *Indian Journal of Industrial Relations*, 53(4), 604–617.
- Bhattacharjya, M. (2024, July 19). Best of both sides: We're already too late – India needs a menstrual leave policy now. *Indian Express*.  
<https://indianexpress.com/article/opinion/columns/best-of-both-sides-were-already-too-late-india-needs-a-menstrual-leave-policy-now-9462316/>
- De Beauvoir, S. (1989). *The second sex* (H.M. Parshley, Trans.). Vintage Books. (originally published 1952)
- Frank S.E. (2020). Queering menstruation: Trans and non-binary identity and body politics. *Sociological Inquiry*, 90(2), 371–404. DOI: <https://doi.org/10.1111/soin.12355>
- Goffman, E. (1963). *Stigma and social identity*. Penguin Books.
- Goldin, C., Kerr, S. P. & Olivetti, C. (2022). When the Kids Grow Up: Women's employment and earnings across the family cycle, (Working Paper No. 30323), National Bureau of Economic Research.  
[https://www.nber.org/system/files/working\\_papers/w30323/w30323.pdf](https://www.nber.org/system/files/working_papers/w30323/w30323.pdf)
- Harlan, S., Pellow, D., Roberts, J.T., Bell, S.E., Holt, W. & Nagel, J. (2015). Climate justice and inequality. In Riley E. Dunlap and Robert J. Brulle (Eds.), *Climate change and society: Sociological perspectives*. Oxford University Press.
- Johnson M. (2019). Menstrual justice. *UC Davis Law Review*, 53(1),1–79. DOI: <https://dx.doi.org/10.2139/ssrn.3389773>
- Ju, H., Jones, M. & Mishra, G. (2014). The prevalence and risk factors of dysmenorrhea. *Epidemiologic Reviews*, 36(1),104–13. DOI: 10.1093/epirev/mxt009
- Kissling, E. (2006). *Capitalizing on the curse: The business of menstruation*. Lynne Rienner Publishers.
- MacKinnon, C. (2017). *Butterfly politics*. Harvard University Press.
- Manjima, A. (2023, March 24). Tryst with blood: Deciphering the menstruation benefits bill, 2017. *The Dialogue Box*. [https://thediologuebox.com/benefits-menstruation-2017/#\\_edn2](https://thediologuebox.com/benefits-menstruation-2017/#_edn2)
- Mostafa, I. (2019). The real period stain: Menstrual stigma and its pressures in South Asia. Digital Common Resource, retrieved on 23 January 2025 from <https://digitalcommons.augustana.edu/celebrationoflearning/2019/presentations/3>
- Omidvar, S., Bakouei, F., Amiri, F. N., & Begum, K. (2016). Primary dysmenorrhea and menstrual symptoms in Indian women students: Prevalence, impact and management. *Global Journal of Health Science*, 8(8). 135–144. <https://doi.org/10.5539/gjhs.v8n8p135>
- Prakash, A., Dudhwewala, A., Malik, D. & Sukhtankar, S (2023, March 7). Looking beyond the law: The case of menstrual leave in India. SCC OnLine Blog. <https://www.scconline.com/blog/post/2023/03/07/looking-beyond-the-law-the-case-of-menstrual-leave-in-india/>

- Smart, C. (1989). *Feminism and the power of law*. New York: Routledge.
- Steinem, Gloria. 2020 (1978). If men could menstruate. In C. Bobel et al (Eds.), *The Palgrave handbook of critical menstruation studies*. Singapore: Palgrave Macmillan.
- The Menstruation Benefits Bill. (2017). Bill no. 249 of Lok Sabha 2017. [Accessed on 25 August 2024]
- Tibrewala, M. (2024). Transgender persons and structural intersectionality: Towards menstrual justice for all menstruators in India. *Indian Journal of Medical Ethics*, IX (2), 1–6. DOI: <https://doi.org/10.20529/IJME.2024.015>
- Vora S. (2020). The realities of period poverty: How homelessness shapes women's lived experiences of menstruation. In C. Bobel et al (Eds.), *The Palgrave handbook of critical menstruation studies*. Singapore: Palgrave Macmillan.
- World Health Organisation. (2023, March 24). *Endometriosis*. [https://www.who.int/news-room/fact-sheets/detail/endometriosis/?gad\\_source=1&gclid=EAIaIQobChMI9diQhLyQiAMVBqRMAh3CuhvREAAyASAAEgJpDfD\\_BwE](https://www.who.int/news-room/fact-sheets/detail/endometriosis/?gad_source=1&gclid=EAIaIQobChMI9diQhLyQiAMVBqRMAh3CuhvREAAyASAAEgJpDfD_BwE)
- Zhang, Y. (2024). A review of research on menstruation and menstrual leave. *Lecture Notes in Education Psychology and Public Media*, 51(1), 135–140. DOI: <https://doi.org/10.54254/2753-7048/51/20240961>

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