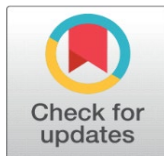


WOMEN'S RIGHTS AND MENSTRUAL LEAVE: THE INDIAN SCENARIO

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ABSTRACT

Menstruation is a grossly neglected health issue in India. It is considered as a taboo, although menstruation is a natural biological process. Therefore, it is very difficult to openly discuss about menstruation in public places. As a result, majority of the women often go through the sufferings and pains of menstruation. Moreover, due to the attached stigma, it often becomes both health and psychological issue for girls and women primarily in developing countries. The question of menstrual hygiene management of adolescent girls in educational institutions, promotion of paid menstrual leave for working women etc. has often debated in different platforms. But, unlike countries like Japan, South Korea, Italy the legislative system of India is lagging behind in introducing the menstruation-friendly provisions and policies for women. This article is an attempt to address the issue of women's right and menstrual leave in context of India.

Keywords: menstruation leave, women, legislation, workplace, educational institution

1. INTRODUCTION

Menstruation, more commonly known as periods is a natural biological cycle that adolescent women undergo every month. Menstruation brings pain, emotional problems, discomfort and other health issues that make it difficult to work. Though the menstruation is a serious concern for women but it is still treated as taboo in India. It is very difficult to have an open discussion about menstruation or period in public places, because of the stigma attached to it. Women because of hesitation are often become the silent sufferers of the pains and problems originate from the menstruation, which is of course a natural biological process. When we say menstrual leave, it simply means, leave from work while menstruating. These leaves are not covered within usual leave provided to the employees. Over the period of time numerous efforts have been initiated by different governmental and non-governmental platforms to raise awareness regarding menstruation and necessity of leave during menstruation.

Menstruation is universally experienced by adolescent girl which is related to their hygiene, sanitation and health. Though, the Indian parliament is yet to pass legislation on the menstruation issue, it is seen few states in India have taken initiative to introduce paid menstrual leave for women in organised sector. Since, 1992 the state of Bihar is exercising two day paid menstrual leave for working women. Very recently, a private members bill has been introduced in the assembly of state of Kerala supporting menstruation benefits for women. This article attempts to understand issue of

menstruation benefits for adolescent girls in educational institutions and working women in India. It argues that, menstrual benefit is a part of women's rights which needs to be protected by legislative regulations.

2. HISTORICAL BACKGROUND OF GRANTING MENSTRUAL LEAVE:

The history of menstrual leave policy is associated with controversy and debate across the world. In India too, the menstrual leave policy has been contested, but it still waits for a suitable decision. Contrast to this, countries like Japan, Indonesia, South Korea, Taiwan have been providing female employees with paid menstrual leave dating back to World War II. However, it was the Russian workers in the 1920's that actually pioneered the idea of menstrual leave. But, the difficulty was that women had to undergo shame and humiliation to prove that she was actually on her periods which led many women less interested in availing such leaves.

Further Japan has provision for such leave rules which says "When a women for whom work during menstrual periods would be especially difficult has requested leave, the employer shall not have the said women work on days of the menstrual period" (The Indian Express 22/02/2023).

Indonesia also passed a law in 2003 giving women the right to two days of paid menstrual leave per month without giving prior notice. In 2015 Zambia provides "A female employee is entitled to one day's absence from work each month without having to produce a medical certificate or give reason to the employer" (Indian Express 22/02/2023). If a female employee is denied this entitlement she can rightfully prosecute her employer.

Very recently on 16 February 2023 Spain marked itself the first European country to introduce the paid menstrual leave to menstruating women in workplace from 3 to 5 days. It also said that provision would also be made for free menstrual hygiene products, to be made available in educational institutions, prison, social centres etc. But, in India till date there is no such menstrual benefit national policy though the issues has been debated both in legislative and judicial platform. However, certain states have taken initiatives to address the issue. Since, 1992 the state of Bihar is providing two day paid menstrual leave for working women. Very, recently, a private members bill has been introduced in the assembly of state of Kerala supporting menstruation benefits for women. Few corporate houses have also made provisions for menstruation benefits for its female workers.

3. DEBATE OVER MENSTRUAL LEAVE OR MENSTRUAL BENEFIT IN INDIA:

Menstruation is considered of being dirty and impure. Menstruation prohibits women from numerous socio-cultural, religious activities. Even dietary restrictions are also there for women during menstruation. Most Hindu temples though allow women to enter inside when they are not menstruating; Sabarimala temple of Kerala is one such temple that restricts menstruating age women to enter inside even when they are not on their periods. They believed that to protect chastity, the women between the ages of 10 to 50 year were customarily prohibited from entering the temple. To get entry in the temple the male devotees have to undertake a religious 41 day fast abstaining from smoking, alcohol, contact with menstruating women before they begin their journey to the temple.

The women's right activist groups vehemently oppose this discriminatory customary law and appealed to the Supreme Court to lift such ban on women as it violates the right to equality and right to freedom guaranteed under the Constitution of India. But majority did not want any change in the practice which has been in effect for centuries. Even the Kerala High Court in 1991 declared that the exclusion was justified and reasonable as it was a long standing custom. This way after several hearings finally in 2018, the Supreme Court of India passed a historical judgement allowing the entry of women inside the Sabarimala temple. The Supreme Court of India pointed out that barring women from this temple violated the fundamental rights of women. But there were protests even after the Supreme Court's verdict where the pilgrims or the religious people do not support legal verdict as it is disrespectful towards the deity. Menstruation still a taboo for the society which otherwise is natural biological process, which is not created by the womanhood.

Like many parts of the world, menstruation is not mostly considered as an issue to discuss in public platforms in India. The issues like – superstition, lack of education, etc. keep menstruation a taboo in India. It was only in 2017, when Ninong Ering, a Member of Parliament (MP) representing Arunachal Pradesh introduced a private member's bill in the Lok Sabha. The issue of menstruation has triggered a crucial debate. The bill titled "Menstruation Benefit Bill" proposed to provide women working in public and private sectors with two days of paid menstruation leave each month. Further, the Bill also supports to provide facilities for rest to women at workplace during menstruation. The bill also said that the benefits should also be extended to female students of class VIII and above in government recognised schools. But the bill did not become an act. The debate stands still. Very recently in February 2023, junior Health Minister Bharati Pravin Pawar told at the Lok Sabha that the Government has not considered making provisions for mandatory paid menstrual leave in all

workplaces. She argued that menstruation is a normal physiological phenomenon and only a small portion of women or girls suffered from severe complaints and most of these cases are manageable with medication.

The issue remain contested. Many argued the bill is biased and favoured only the women engaged in white collar jobs. However, it needs to focus on all the women as women irrespective of the nature of their work undergone this same biological process. Some also argued that granting period leave means women are unfit to work which may lead to further gender discrimination. Such benefits may project that women are weaker. The Supreme Court of India has refused to entertain the PIL which seeks for period leave for female students and working women.

4. WOMEN'S RIGHT TO REST, MENSTRUAL LEAVE: AN ANALYSIS:

Whether menstrual leave is necessary or not has been debated in different platforms. It is seen that under National Health Mission, the Government of India has implemented numerous schemes for promotion of Menstrual Hygiene. Awareness programmes are conducted in educational institutions. Awareness programmes are also organised to create a general awareness on menstrual hygiene. Menstruation can often be accompanied by pain, cramps, vomiting, nausea, irritability etc. The intensity of these changes varies from person to person though even that can change over months. Man and women are biologically different. Women experienced illness related to menstruation like dysmenorrhoea, endometriosis, ovarian cysts, mood disorder etc. These problems can disrupt daily activities of women's life. In 2012, a study titled "Dysmenorrhea" was conducted which find out that, Dysmenorrhea (painful periods) is extremely common which may be severe enough to interfere with daily activities in up to 20% women. Again, in 2016 a professor of reproductive health at University College, London said that period pain can be as bad as having a heart attack. Another study published in the British Medical Association's Journal stated that menstruation related problem has decreased the productivity of women.

The structure of gender division of labour has put the male in the public sphere whereas women are relegated to private sphere engaged with household chores including child bearing and rearing. When the women go out for work that means they are doubly burdened with work. As more and more women continue to enter the workforce, it becomes even more important to acknowledge the need for more equitable and comfortable working conditions. The provisions for menstrual benefit would provide flexibility to women at the workplace and also would give a new meaning to women empowerment by removing the stigma associated with menstruation. Moreover, the Constitution of India gives special power to the central government as well as government at the constituent units to make laws for the upliftment of women and the children. Menstrual leave can be covered under Article 21 of the Constitution of India which implies that everyone has the right to life and the government can make provisions for safeguarding life of the people. One should not be expected to work during menstruation because the menstrual pains make the body and vulnerable. There are provisions for Maternity Benefit, in the same way Government can make provisions for menstruation benefits for more gender inclusiveness.

5. IN CONCLUSION

Menstruation is a natural occurrence and it is not a matter of choice. Women often face restrictions because of certain misbelieve associated with menstruation. Many believed that mandating period leaves would discourage hiring of women who are already underrepresented and underpaid in the workforce in most of the countries. The Patna University Teacher's Association sought the implementation of period leaves. However, most professors especially in co-educational colleges found it awkward to ask for such a leave. Though the Government is yet to bring out a central policy for menstrual benefit, most of the corporate organisations like Zomato, Wet and Dry etc. have introduced menstrual leave policy in their organisations. In the state of Assam institution like Central Institute of Technology (CIT, Kokrajhar) has also taken steps to grant two-day period leaves to girl students. Menstrual hygiene and menstrual benefits like period leave should be the basic right to health. It is found that period sensitivity is not even considered a topic for discussion apart from a few educational institutions and corporate houses. Period leave has to be normalised. Though women are excluded from many socio-cultural activities due to menstruation, on the other hand, when the question of granting of period benefit arises then its felt that women are getting some kind of undue advantage. Process of empowering women does not only mean enabling women to have greater control over their lives and to make their own decisions. Empowering also means giving better health conditions and conducive work environment to women. This results in positive outcomes including increased economic growth and development, improved health and well-being and greater gender equality. Recently, a three judge bench led by D. Y. Chandrachud, former Chief Justice of Supreme Court of India has opined that, issue of menstrual leave involves different dimensions and may also act as disincentives. It is the matter

of Ministry of Women and Child Development under the central government of India. Every year World Menstrual Hygiene Day is observed on 28th May and if our society does not rise above taboos and socio-cultural restrictions concerning menstruation then the observance of Menstruation Hygiene Day would be futile.

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None.

CONFLICT OF INTEREST

None.

REFERENCES

Belliappa, Jyotshna Latha (April 2018): Menstrual Leave Debate, *Indian Journal of Industrial Relations*, Vol. 53(4).

The Indian Express 04/02/2023

The Indian Express 22/02/2023

Why Do We Need Menstrual Leave Policy in India, <https://feminisminindia.com/2019/09/20/need-menstrual-leave-policy-india/>

Menstruation related leave in India: strategies for combating it, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4408698/>