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**TABOO TO POLICY: UNDERSTANDING MENSTRUAL LEAVE'S  
EVOLUTION**

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**ABSTRACT**

Menstrual leaves have been in a heated debate today, but the hustle is not new, it has been in the limelight for years. This piece of work comprises a full-length discussion on the topic not being discussed the first time. The write-up introduces itself by throwing light on the Supreme Court verdict that has caused the recent uproar. It further explains what the concept actually means and unravels the sticky stigmas which are undoubtedly the so-called essential parts of the whole society. The writer has tried to explore the existing policies and the could-have-been alternatives and has not ignored the most important part i.e. the boons and banes of the discussed policy. And lastly, the article has turned up some conclusions based on the above research and write-up.

**INTRODUCTION**

On 24<sup>th</sup> of February 2023, the Supreme Court of India went ahead quashing a public interest litigation giving a hand to the menstrual leave policy, backing their decision by posing numerous drawbacks that can lurk in as a shadow of the discussed policy. The following judgment triggered brainstorming among the population regarding the particular issue, whether the given policy is to be regarded as a bane or a boon.

To get a deep insight into the topic, let's first have a look at what this controversial heading, "Menstrual leaves" actually means. Framing it in the easiest language, these leaves refer to the paid leaves which can be sought by a menstruator undergoing difficulties due to her menstrual

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days, which makes it even more difficult for her to show up for work or to be productive for the same, the concept goes same for the menstruating students as well who undergo severe issues resulting out of their menstrual cycle. Talking about the abovementioned issues, the most common issues attached to the monthly cycle of women are endometriosis dysmenorrhea, mood fluctuations, etc. The menstrual leaves policy is actually concerned with seeking one to two days of paid leave every month for menstruators suffering from menstrual difficulties. There is a worldwide concern sparking this particular issue, where some countries are responding to it positively while others still being skeptical and negative about the same.

### ADDRESSING THE STIGMA

Menstruation even in today's 21<sup>st</sup> century, has many orthodox and patriarchal stigmas attached to it. These stigmas lead to the concealment of the situations which are undergone by the menstruators during their monthly cycle. People are yet not open enough to frankly talk about a natural body function, and to date have a negative reaction towards the same. This non-acceptance and negative attitude of people in regard to a perfectly normal and natural situation, not only impacts the physical and mental health of the menstruator, but also attacks upon menstruators social standing and social confidence. There is an unknown unsaid expectation of menstrual etiquette which should be followed by every menstruator to soothe the rest of the world. The parameters of the said etiquettes are undefined and may differ from person to person. Researchers have found that for women to meet the unrealistic standards of femininity, they must choose to "adopt a menstrual etiquette that reinforces fear about the female body and its functions"<sup>2</sup>.

Objectification and sexism are some common tools that are used to marginalize women. Objectification dehumanizes women by reducing their worth to the surface of their bodies<sup>3</sup> whereas sexism can be bifurcated into hostile and benevolent. Hostile sexism is the explicit and

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<sup>2</sup>Grose, Rose G., and Shelly Grabe. 2014. "Sociocultural Attitudes Surrounding Menstruation and Alternative Menstrual Products: The Explanatory Role of Self-Objectification." *Healthcare for Women International* 35 (6): 677–94

<sup>3</sup>Bordo, Susan. "The Body and the Reproduction of Femininity." In *Unbearable Weight: Feminism, Western Culture, and the Body*, [1993] edited by Susan Bordo, 309–26. Berkeley: University of California Press.; Fredrickson, Barbara L., and Tomi-Ann Roberts. "Objectification Theory: Toward Understanding Women's Lived Experiences and Mental Health Risks." [1997] *Psychology of Women Quarterly* 21 (2): 173–206.

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aggressive or violent prejudice and discrimination against women (for example, rape culture and the belief that women are inferior to men)<sup>4</sup>. Attempts to overthrow patriarchal systems are met with hostility when people hold hostile sexist beliefs and attitudes<sup>5</sup>. Benevolent sexism on the other hand refers to promoting orthodox, stereotypical, and patriarchal ideas against women. It attaches a feminine identity to the existence of women by surfacing the meaning of their existence only to the extent of bearing children. The ideas discussed above are not to have a feminist discussion but to highlight the idea that these stigmas get reflected in the policies so formulated for menstrual leave by different countries. These stigmas are so sticky in the baseline structure of the society, that even the policy formulated for the welfare of women is being chased by these ideas. But, the same ideas when attached with positive awareness can lead to the welfare of the women race for themselves and not to protect their role as identified by the orthodox patriarchal society. Menstruation leaves policies in Zambia, which emphasizes women's presumptive position as mothers, and the policies in Japan, which designed the regulation to protect women's ability to have children, are two examples of benevolent sexism that occur in the context of menstruation leaves<sup>6</sup>.

### **EXISTING POLICIES AND FRAMEWORK FOR MENSTRUAL LEAVE**

USSR was the first one to execute paid menstrual leave after the First world war, it was implemented for sometimes but the women workers in the 1920s, themselves protested to repeal the policy as it was not required, and also it not only inculcated a bias among the hirer but also brought businesses to prefer more men workforce than women. And thus, because of all the protests witnessed later, it was repealed.

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<sup>4</sup>Forbes, Gordon B., Leah E. Adams-Curtis, Kay B. White, and Katie M. Holmgren. "The Role of Hostile and Benevolent Sexism in Women's and Men's Perceptions of the Menstruating Woman." [2003] *Psychology of Women Quarterly* 27 (1): 58–63; Glick, Peter, and Susan T. Fiske. "The Ambivalent Sexism Inventory: Differentiating Hostile and Benevolent Sexism." [1996] *Journal of Personality and Social Psychology* 70 (3): 491–512

<sup>5</sup>Good, Jessica J., and Laurie A. Rudman. "When Female Applicants Meet Sexist Interviewers: The Costs of Being a Target of Benevolent Sexism." [2010] *Sex Roles* 62(7–8): 481–93

<sup>6</sup>Levitt RB, Barnack-Tavlaris JL. Addressing Menstruation in the Workplace: The Menstrual Leave Debate. 2020 Jul 25. In: Bobel C, Winkler IT, Fahs B, et al., editors. *The Palgrave Handbook of Critical Menstruation Studies* [Internet]. Singapore: Palgrave Macmillan; 2020. Chapter 43. <https://www.ncbi.nlm.nih.gov/books/NBK565643/>

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Japan has implemented its menstrual leave policies<sup>7</sup> since 1947, According to 1986 research on the policy, the number of women using it dropped from 20% in 1960 to 13% in 1981, owing mostly to the social factors that inhibit the practice.<sup>8</sup>

Publicly Available data for menstrual leave policies in other countries is very limited. In China, only three provinces (Hubei, Shanxi, and Ningxia) offer menstrual leave<sup>9</sup>, and, in Indonesia, women are offered 2 days of menstrual leave<sup>10</sup>, but the policy is poorly implemented. In 2001, South Korea implemented a policy to grant menstrual leave<sup>11</sup>, but this policy was not accepted by men saying it is reverse discrimination. In 2002, Taiwan passed its Gender Employment Act<sup>12</sup>, which gave working women the right to apply for menstrual leave.

Italian government introduced a bill in 2017 to ensure every company grants 3 days of menstrual leave to its female employees<sup>13</sup>. In Mexico, female workers in federal will be granted 3 days of menstrual leave if they are facing any physical pain. In Zambia, Women are granted 1 day of menstrual leave, they call it Mother's Day<sup>14</sup>.

There are some companies and organizations that have framed some policies regarding menstrual pain, Coexist, it's a social enterprise organization in the UK, offers an optional one day of paid leave to its female employees during their menstrual period<sup>15</sup>. It also offers all its employees

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<sup>7</sup>Dan, Alice. 1986. "The Law and Women's Bodies: The Case of Menstruation Leave in Japan." *Healthcare for Women International* 7 (1-2): 1-14

<sup>8</sup>Aneri Pattani, 'In Some Countries, Women Get Days Off for Period Pain' *The New York Times* (The New York, July 25, 2017) 3

<sup>9</sup>Worley, Will. 2017. "The Country Where All Women Get a Day Off Because of Their Period." *Independent*. Retrieved from <https://www.independent.co.uk/news/world/africa/zambia-period-day-off-women-menstruation-law-gender-womens-rights-a7509061.html>.

<sup>10</sup>Matchar, Emily. 2014. "Should Paid 'Menstrual Leave' Be a Thing?" *The Atlantic*. Retrieved from <https://www.theatlantic.com/health/archive/2014/05/should-women-get-paid-menstrual-leave-days/370789/>.

<sup>11</sup>Matchar, Emily. 2014. "Should Paid 'Menstrual Leave' Be a Thing?" *The Atlantic*. Retrieved from <https://www.theatlantic.com/health/archive/2014/05/should-women-get-paid-menstrual-leave-days/370789/>

<sup>12</sup>Chang, Chueh, Fen-Ling Chen, Chu-Hui Chang, and Ching-Hui Hsu. 2011. "A Preliminary Study on Menstrual Health and Menstrual Leave in the Workplace in Taiwan." *Taiwan Gong Gong Wei Sheng Za Zhi* 30 (5): 436-50

<sup>13</sup>Momigliano, Anna. 2017. "Italy Set to Offer 'Menstrual Leave' for Female Workers." *The Independent*. Retrieved from <https://www.independent.co.uk/news/world/europe/italy-menstrual-leave-reproductive-health-women-employment-a7649636.html>.

<sup>14</sup>Worley, Will. 2017. "The Country Where All Women Get a Day Off Because of Their Period." *Independent*. Retrieved from <https://www.independent.co.uk/news/world/africa/zambia-period-day-off-women-menstruation-law-gender-womens-rights-a7509061.html>.

<sup>15</sup>Quarshie, Adam. 2017. "Coexist Pioneering Period Policy [Web Log Post]." *Hamilton House*. Retrieved from <https://www.hamiltonhouse.org/coexist-pioneering-period-policy/>.

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‘well-being rooms’ not only for menstruators but every employee working in the organization to go there and focus on their health.

Two Indian companies offer their female employees menstrual leave, in 2017, Gozooop, a digital communications agency, first implemented their policy which grants a one-day work-from-home policy for female employees during their menstrual period. Another Company named Culture Machine offers its female employees one day of paid leave called ‘First Day of Period Leave’<sup>16</sup>.

## **MENSTRUAL LEAVE POLICIES IN INDIA**

In the Labour laws of India, there is no express provision for a menstrual leave policy. So, there is no legal requirement for employers to provide any leave on periods.

In 1992, the government of Bihar issued a notification to grant a special 2-day leave per month to all the females working in any organization under the prevue of the Bihar government. The Human Resource Manual<sup>17</sup> framed by Bihar Vikas Mission (the State Government body to implement the various schemes) also referred to a special leave policy for female workers.

In 1912, Kerela's school, Government Girls School in Tripunithura, located in Cochin princely state, had given its pupils the option to have a menstrual period break during the time of their exam and to retake it later.<sup>18</sup>

In 2017, Mr. NinongEring, a former member of parliament from Arunachal Pradesh, introduced a Private Member Bill in the Indian Parliament about the menstrual leave policy, but the bill was not put on the table for discussion. During the Arunachal Pradesh legislature's 2022 budget session, he again introduced the bill.

## **PERKS OF THE POLICY**

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<sup>16</sup>Blush Originals. 2017. “First Day of Period Leave [Video File].” Retrieved from [https://www.youtube.com/watch?time\\_continue=11&v=avPgUxGC1Sg](https://www.youtube.com/watch?time_continue=11&v=avPgUxGC1Sg).

<sup>17</sup>Bihar Vikas Mission, Human Resource Manual, <[https://bvm.bihar.gov.in/Application/uploadDocuments/download/Document20220325\\_134819.pdf](https://bvm.bihar.gov.in/Application/uploadDocuments/download/Document20220325_134819.pdf)>

<sup>18</sup>PTI, ‘Ahead of its time! This Kerala school granted menstrual leave to students way back in 1912’, The Economic Times, (Thiruvananthapuram, Aug 20, 2017)

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The debate on the particular topic is real even in the feminist circle. We have both sides of the coin here as well. However, some common perks which are highlighted in the light of the above discussion are; proponents of the present policy argue that the policy will help in the positive upbringing of the society about the present scenario, it will not only promote healthy and open discussion about the menstruation situations but will also destigmatize the social unacceptability of this so very natural discussion. This will lead to positive awareness among the people which can gradually lead to the removal of the feeling of self-objectification and the fear of objectifying the gaze of another. It will also pay a helping hand to the health of the menstruator by recognizing their medical condition and the suffering they have to undergo during that time. It will ensure more productivity and efficiency of the female worker in the organization when they will work with the idea of their organization being concerned about their situation and thus looking after the same.

The policy will also prove to be efficient to deal with trans-phobia undergone by the queer community during this period of the month. They will also be able to seek acceptance for their identity and reality and be franker about who they are.

The debates in favor of the policy surfaced on the idea that the monthly struggle and pain suffered by the women and other menstruators is real and thus it is the need of the hour to recognize their condition and to have some policy in place for their welfare.

### **FALLOUTS OF THE POLICY**

Debaters on the other side of the river debate against the policy on numerous points. Their baseline argument is that the policy will result in the marginalization of women in the workplace, the menstrual leave will perpetuate the idea that women are less worthy and inefficient to be in the working environment, it may lead to widening the already existing gender gap in the workplace, the manager might also get reluctant in offering good job opportunities to the menstruators when having this policy in place. It will not only lead to undermining the role of women in the workplace but will also allow the male co-workers to take negative advantage of this given situation, it will be a blessing in disguise for them as they will try to gain their plus

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points in the event of regular absence of women in the office, they would surely peel off their selfish motives without taking into consideration the bigger picture.

Furthermore, this policy will somewhere justify gender discrimination and promotes the already existing stigmas. It will perpetuate the idea that women are made to be household workers whose sole duty is to bear children. Rather than having the possibility of more open discussion, it will lead to a situation of increased objectification. And thus, the idea of this policy can go drastically against the idea of pacifying gender discrimination and promoting healthy and positive awareness.

In a similar vein, journalist Barkha Dutt, in an opinion piece for *The Washington Post* in 2017, argued against paid menstrual leave. “First-day period leave may be dressed up as progressive, but it actually trivializes the feminist agenda for equal opportunity, especially in male-dominated professions. Worse, it reaffirms that there is a biological determinism to the lives of women, a construct that women of my generation have spent years challenging,” she had written.<sup>19</sup>

Also, it can cast a scenario where the queer community might feel more ousted, neglected, and discriminated against. The disclosure of their situation might get them facing devastating results of the given policy leading to an enhanced level of negative attitude and non-acceptance among their co-workers. Additionally, there is complete silence on the topic that whether menstrual leave have been or will be offered to menstruators who do not identify themselves as women. Therefore, the need of the hour is to include fair policies and provide more vital options for confidential disclosures.

### **ALTERNATIVES AND THE WAY AHEAD**

There is a need to have a comprehensive and inclusive policy to bridge the gaps of equality. The Policy should be implemented regardless of the gender of the employees.

Self-Care Leave paid leave should be there in every organization and company for all employees regardless of the gender of employees under which the menstrual leave will be covered. The

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<sup>19</sup>Tahira Noor Khan, ‘The period leave conundrum: An encouraging policy or a roadblock to women’s careers?’ The Indian Express, (New Delhi, March 8, 2023)

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organizations should also start providing basic menstrual resources to their female employees similar to the sick people. They should be giving awareness regarding menstruation and its pains to all the employees to create an environment of trust and support so that female employees feel comfortable talking about their menstruation problems.

This can be an alternative to the menstrual leave policy, This Policy will promote Equality among the employees, and the female employees will also not be treated as worthless or anything.

## CONCLUSION

The discussion invited varied kinds of viewpoints ranging from arguments saying that it will promote more inclusive workspaces with regards to women and will promulgate an understanding among the peers as to what a woman undergoes. And on the other hand, there were arguments claiming that the policy will lead to discrimination and hamper women's career growth. The said policy cannot be counted upon as a solution for everything, there is a paucity still to an adequate amount of information as to what is the attitude, perception, and viewpoint of the people in the regards of the policy. To access the pros and cons of the given policy thorough research is required on each and every level existing in different organizations to have a clear judgment on the views of the peers in respect of not only the policy but their overall attitude towards the working women and towards the working queer community. What is clear is that no policy can change or cast a positive or negative attitude about the given issue until gender oppression shapes the perception of menstruators.