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Menstrual leave and its global standing

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Why is in news? Recently, the Supreme Court refused to entertain a PIL about menstrual leave for workers and students across the country. Calling it a policy matter. It directed a petitioner to take up the issue of menstrual leave with the Ministry of Women and Child Development.

Concept of Menstrual Leave

Menstrual leave policies are designed with a view to allow women time off if they suffer from symptoms which may hamper their functioning and productivity.

Menstrual leave or period leave refers to all policies that allow employees or students to take time off when they are experiencing menstrual pain or discomfort.

In the context of the workplace, it refers to policies that allow for both paid or unpaid leave, or time for rest

Argument for Menstrual leave

Most women experience a menstrual cycle of 28 days— a normal cycle may vary from 23 to 35 days. For some, period pain, or dysmenorrhea, is an uncomfortable component of it.

More than half of those who menstruate experience pain for a couple of days a month; for some it is debilitating enough to hamper daily activities and productivity.

Between 15% to 25% of people who menstruate will experience moderate to severe menstrual cramps

A 2017 survey of 32,748 women in the Netherlands published in the British Medical Journal also found that 14% had taken time off from work or school during their periods.

According to research, approximately 40 per cent of girls miss school during their periods.

Nearly 65 per cent said it had an impact on their daily activities at school and that they had to skip class tests and lessons as a consequence of discomfort, anxiety, shame, and concerns about leakage and uniform discolouration

The researchers estimated that employees lost around 8.9 days' worth of productivity every year due to menstrual-cycle related issues.

Argument against Menstrual leave

However, not everyone, not even all those who menstruate are in favour of menstrual leave.

Some believe either that it is not required or that it will backfire and lead to employer discrimination against women.

For example, in response to the plea filed in the Supreme Court, a caveat was filed by law student Anjale Patel, represented by advocate Satya Mitra, highlighting a potential issue with menstrual leave, If employers are

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compelled to grant menstrual pain leave, it may operate as a de facto disincentive for employers to engage women in their establishments

Further, Menstruation was a biological process and women should not be discriminated against in educational institutions and workplaces

Menstrual leave policies at global level

Spain became the first European country to grant paid menstrual leave to workers, among a host of other sexual health rights. Workers now have the right to three days of menstrual leave— expandable to five days— a month. The government will pay for the provision, with the country's equality minister Irene Montero saying in Parliament that women are not “full citizens” without such rights.

In Asia, Japan introduced menstrual leave as part of labour law in 1947, after the idea became popular with labour unions in the 1920s. At present, under Article 68, employers cannot ask women who experience difficult periods to work during that time.

Indonesia too introduced a policy in 1948, amended in 2003, saying that workers experiencing menstrual pain are not obliged to work on the first two days of their cycle.

In the Philippines, workers are permitted two days of menstrual leave a month.

Taiwan has an Act of Gender Equality in Employment in place. Under Article 14 of the Act, employees have the right to request a day off as period leave every month, at half their regular wage. Three such leaves are permitted per year— extra leaves are counted as sick leave.

South Korea takes a slightly different route, allowing for monthly physiologic leave under Article 73 of their labour law, allowing all female workers to get a day off every month.

Vietnam's labour law takes a different approach too, stipulating a 30-minute break for women every day of their period cycle. However, in 2020, a three-day leave per month was added, and those who didn't take the leave needed to be paid extra.

Among the African nations, Zambia introduced one day of leave a month without needing a reason or a medical certificate, calling it a Mother's Day. The petition also mentioned that the United Kingdom, China and Wales have menstrual leave provisions.

In 2016, a proposal to introduce menstrual leave in Italy failed in Parliament, allaying the concerns of those worried that it would affect hiring of women. The U.S does not have a formal policy in place either; the U.S also does not have a federal requirement for paid sick leave.

Companies across nations, such as Nike and Coexist, have introduced menstrual leave as an internal policy.

Attempts made in India

In India, too, certain companies have brought in menstrual leave policies— the most famous example being Zomato in 2020, which announced a 10-day paid period leave per year. Other such as Swiggy and Byjus have also followed suit.

Time reported that 621 employees have taken more than 2,000 days of leave after the policy was introduced.

Among State governments, Bihar and Kerala are the only ones to introduce menstrual leave to women, as noted in the petition before the Supreme Court.

The Bihar government, then headed by LalPrasad Yadav, introduced its menstrual leave policy in 1992, allowing employees two days of paid menstrual leave every month.

Recently, Kerala Chief Minister Pinarayi Vijayan announced that the State's Higher Education department will now grant menstrual and maternity leaves for students in universities that function under the department

Parliament has seen certain measures in this direction, with no success.

In 2017, MP Ninong Ering from Arunachal Pradesh introduced 'The Menstruation Benefits Bill, 2017' in Parliament. It was represented in 2022 on the first day of the Budget Session in the Lok Sabha, but was disregarded as an "unclean topic

Similarly, Dr. Shashi Tharoor introduced the Women's Sexual, Reproductive and Menstrual Rights Bill in 2018, which proposed that sanitary pads should be made freely available for women by public authorities in their premises.

Congress MP from Kerala Hibi Eden announced that he will be moving a private member's Bill seeking the right to paid leave during menstruation for working women, menstrual leave for female students, and free access to menstrual health products, in the ongoing Budget session of the Parliament.

The Bill titled 'The Right of Women to Menstrual Leave and Free Access to Menstrual Health Products Bill, 2022' provides for three days of paid leave for women and trans women during the period of menstruation. It also seeks to extend the benefit for students

The Way ahead

As directed by Supreme Court, The Parliament should look into the issue and should bring suitable policy in order to better empowerment of women in India