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Menstrual Leave Awakening to the New Dawn

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ABSTRACT

Throughout the world, the role of working women has altered drastically due to social demands and economic circumstances. This has also contributed to working women undergoing immense pressure to develop a career as vigorous and holistic as their male counterparts while retaining active involvement in personal life as well. However, managing menstruation at the workplace is one of the most overlooked issues that call for immediate attention and support, as it hinders the performance and efficiency of women at the workplace. In India, menstruation is still considered to be something dirty or impure due to antiquated beliefs and traditions, and the word menstruation is met with raised eyebrows and repugnance. The initiative of menstruation leave policy would be a helping hand towards women who suffer from extremely painful and uncomfortable menstruation and need a day or two off to rest at home and return back to work with a fresh mind to contribute to the productivity of the organization. Menstruation Benefits Bill, 2017 has been tabled in the Parliament that seeks to provide working women in both private and public sectors paid menstrual leave of two days every month in addition to the sick leaves. However, not acknowledging the core stigma, gender discrimination, sexist beliefs, or menstruation leave could invite adverse impacts on women. It would not be easy to implement Menstruation Benefit Bill, but it is a much-needed shift in the right direction. The paper discusses the significance of menstrual leave and analyses the merits and demerits of implementing the Bill in India. The paper further reflects upon other initiatives that challenge menstruation stigma and subsequently concludes with suggestions.

Keywords: Menstruation, Society, Stigma, Women, Menstrual Leave

I. INTRODUCTION

“Menstruation blood is the only source of blood that is not traumatically induced. Yet, in modern society, this is the most hidden blood, the one so rarely spoken of and almost never seen, except privately by women.”

- Judy Grahn

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India has seen several progressive changes in the recent past, but there are certain concerns that still continues to be taboo in our society, and one such topic is menstruation that remains an unexplored realm. Menstruation leave is where a woman is given an option to either take paid or unpaid leave or time off from the organization in which she is working, in case she is menstruating or is not in a position to work because of uncomfortable symptoms. It is essential to assess the requirement of this policy, the effect of menstrual leave and the relationship between menstrual health of women and work. When it comes to reformulating the working conditions for women whose quality of life and productivity are adversely affected due to menstruation related symptoms, the biggest hurdle is the stigma surrounding menstruation. For years menstruation is regarded as something very personal. It is not openly discussed in society and persists to be a taboo for some people. Menstruation leave has been considered to be controversial because it is often used as a means to criticize the work efficiency of women or as sexism. As a result, since time immemorial, women have been silently doing all their daily chores and duties, bearing the menstrual pain for few days each month even when they are unable to work efficiently and productively. Both secrecy and concealment can have a detrimental effect on the overall welfare of women, including their personal and professional accomplishments and success, physical and psychological health, the right to sense empowerment and experience equality. Now, as women are taking charge and climbing up the ladders in their careers, it is essential to consider and uplift the healthcare of women at the workplace. The milestone judgment by Supreme Court in the Sabarimala temple case³ wherein menstruating women devotees were allowed to enter the Lord Ayyappa temple premise is one such step taken by the Indian judiciary to break the patriarchy and empower women by establishing that women is neither lesser nor inferior to men.

The question that arises is whether the menstruation leave policy would benefit or increase negative attitudes and discrimination against women?

II. UNDERSTANDING THE PROBLEM

Menstruation is not a disease or a disability but a perfectly natural dynamic biological process that can range from slight discomfort to ruthlessly debilitating experiences for women. Around 20% of women in the world suffer from uncomfortable symptoms during their periods, including cramps, fever, weakness, bloating, backache, distress, vomiting, headache and nausea. Women also experience abridged emotional control and diminished concentration. These symptoms are devastating enough to hamper their everyday activities, but they still feel

³Indian Young Lawyers Association & Ors. v. State of Kerala & Ors, **Writ Petition (Civil) No 373 of 2006**

shameful to discuss it openly in a work environment. As many as 25 million women in the world suffer from endometriosis which is a chronic condition under which menstruation pain can be so ruthless that women nearly pass out from it. John Guillebaud, Professor of reproductive health at University College London, in 2016 explained that “Menstruation pain can be as bad as having a heart attack.”⁴ Managing menstruation in the workplace is one of the most overlooked matters that call for proper care and attention as it hinders the productivity and input of women in the workplace. Menstruation leave policy will potentially help destigmatise dialogue of period at the workplace and offer an opportunity to women to express about their menstrual cycle related health concerns, thus neutralising it and reducing objectifying gawk of others. The policy will help a woman take time to recover her body and seek treatment while on her menstruation cycle and facilitate her to work from her comfort zone. The policy takes away the stress of travelling, crowded environments, uncomfortable chairs, and fear of stain. The idea is to create a more cycle literate workplace where both men and women are more conscious of the menstrual cycle and understand the difference between the physical pain that comes with menstruation and the emotional instability. Though it is true that menstruation is a severe medical problem that is weakening and challenging for some women only, but the figures are not inconsequential to avoid making a policy decision and act on it. If we are serious about tackling the gender pay gap and other gender disparities that have plagued women since they have joined workforces, we need to be serious about all types of complex issues that have a hand in the gender roles we have tied men and women to.

III. THE BILL

Menstruation Benefits Bill, 2017 was tabled in Parliament by Ninong Ering, a Member of Parliament from Arunachal Pradesh, as a private member Bill which seeks to provide working women in both private and public sectors paid menstrual leave of two days every month in order to ensure gender sensitive labour policy. These leaves will be in addition to sick leaves. The Bill intends to deliver improved amenities for rest at the workplace during menstruation which comprises flexibility to take leave and alternatives such as work from home. This benefit extends to female pupils of class VIII and above attending government recognised schools. The paid leaves shall be provided to every woman without fail, and no one shall be discriminated against on the basis of work they do. A woman working in a company and a woman labourer working in a factory shall enjoy the same benefit and be granted paid menstruation leave. However, the Bill has not yet been taken up by Parliament but has received mixed reviews,

⁴Available at <<https://feminisminindia.com/2019/09/20/need-menstrual-leave-policy-india/>> (last accessed on February 3, 2021)

with few welcoming this proposal while many have rightly spoken against it. **The Bill is an attempt to address the stigma surrounding menstruation in India that is still considered to be dirty or impure due to antiquated beliefs and traditions, and the word menstruation is met with raised eyebrows and disgust.** The Bill is a progressive move by India that not only demonstrates that the country values its female population but also pays close attention to their dire needs by eliminating period poverty.

IV. GLOBAL SCENARIO

However, paid menstruation leave has been in practice across the globe for a long time now. Several countries like Japan, Indonesia, South Korea and Taiwan have introduced the practice of paid menstruation leave to female staff members to ensure they feel more comfortable at the workplace. Indonesia, under its Labour Act, 1948 grants the first and second day of menstruation as paid leaves and Japan since 1947 has been offering this benefit to women. In Taiwan, women get three days of paid leaves per month which is not to be equated with sick leaves. Zambia permits one day menstruation leave per month to women, and the policy is named 'Mother's Day', which emphasises the potential of the woman of becoming mothers. Since 2001, the menstrual leave policy was initiated in South Korea, which states that women must be paid for unused menstruation leave. In 2017, Italy was the first European country that was considering offering three days of paid menstruation leave to its women workforce. There are continuing debates in Brazil, France, Hong Kong, Chile and Philippines to follow up with the same policy.

V. THE DARK SIDE: ARGUMENTS AGAINST THE MOTION

Menstruation leaves would prejudice employers against hiring women as not only they can take off at least twice a month except for sick leave but also go on maternity leave and still be eligible to get her full salary. The societal expectations of women and menstrual leave will propagate the assumption that women are unfit to work and perform their job, thus justifying gender discrimination. This would make women more vulnerable and result in their alienation at work. Thus, special leaves are a step backwards for the progress of women in the workplace as they may have to face unfair treatment such as slow promotion, lesser pay, and reduced partaking in board meetings. Since most women are proficient in functioning at maximum capacity even during their menstruation cycle and it is only a trickle of women that suffer from excruciating symptoms, thus making the existing sick leave option relevant and reasonable to cover such needs. Menstruation leave policy discriminates against men as only women are eligible to get surplus days off every year thus, whenever rights for any group are imbalanced,

stereotypes and discrimination are likely to occur. Also, it defeats the purpose of having equal pay for equal work as the policy will create a considerable pay gap between male and female employees in the working sector. Even when few countries have adopted policies of paid menstruation leaves, actually taking leave is still not culturally acceptable. For example, in Indonesia, companies need to perform a physical examination on female employees before they can take two days of menstruation leave resulting in women rarely using this provision, especially in a male-dominated workplace. It would lead to loss of privacy and invite sexist comments by male colleagues. In an attempt to gain advancement at the workplace, women may choose not to avail menstrual leave. It is also argued that the idea of menstruation leave is gaining momentum because of the feministic wave that is currently running in society. The Bill is likely to worsen the stereotypical image of women in a society that they are too emotional, too sensitive, or even too expensive to be hired as employees in any sector. Women workers who take benefit of the menstruation leave policy could be perceived more adversely and face social judgements than those who do not use the policy. The main issue arises that in a country like India will women be comfortable enough to avail paid menstruation leave amidst the entire social stigma surrounding it?

VI. THE NEO-RENAISSANCE: ARGUMENTS IN FAVOUR OF THE MOTION

Notions of purity and pollution which stigmatize individuals have no place in a constitutional order. The Bill takes forward gender equality dialogue in a balanced and constructive manner. The contention regarding the discriminatory nature of policy can be challenged by Article 14 of the Constitution of India that provides for equality before the law⁵ which means that if there are rules to supervise the behaviour of every employee, then there shall be equality on equal footing. Since men do not menstruate, women should not be treated inferior or fall behind because of their biological structure. **‘If women need to tolerate the pain in silence just to fit in and not be an outcast, then we are surely paddling the patriarchy cycle ahead.’** Article 15(3) of the Constitution of India provides that the legislature can formulate special provisions for the betterment and progress of vulnerable sections of society i.e., women and children.⁶ Thus, menstruation leave is not only constitutional but also fulfils the obligation of the State under the Constitution of India. Menstruation leave policy will be helpful to beat the extremely uncomfortable symptoms that come with menstruation. It is essential to remind ourselves that equality at the workplace means equal working circumstances for both men and women and not only those that can be recognized or excluded based on suitability. The topic

⁵INDIA CONST. art. 14

⁶INDIA CONST. art. 15

of menstruation is surprisingly uncomfortable and often hushed up. The vague and smirk facial expressions are not only humiliating but also creates an insensitive awkwardness. Formulating measures that give importance to women at the workplace will not only create an environment of empathy but also lead to openness within the organisation that will facilitate a comfortable and safe culture for women employees. The option of menstruation leaves will enable trans-men and individuals who identify as genderqueer or non-binary to avoid revealing their menstrual status. Granting paid menstrual leaves to women should not be considered as a special treatment but should be viewed as a basic need of every woman. It is essential that our society and culture should think beyond gender and stop viewing normal biological processes as something that a woman should be embarrassed or ashamed about. Steps should be taken to address the elephant in the room by eradicating the taboo associated with it and voicing their opinions and thoughts, and let us openly talk and normalise periods.

VII. INITIATIVES BY MODERN INDIA: THE NAYA BHARAT APPROACH

The government of India and Indian companies have taken some remarkable initiatives to promote healthcare of women in the working sector that not only maintain their dignity and autonomy in a patriarchal society but also help in curbing the stigma surrounding menstruation. For example, though not explicitly referred to as menstruation leave but Bihar had special leave for women since 1992 where women can choose any two days of the month, they would prefer to take off without providing justification or prior reason for doing so. The Karnataka Government is also raising its voice regarding the introduction and implementation of paid menstruation leaves. A Mumbai based digitally integrated communication company called Gozoop has also implemented a menstruation leave policy. A well-known food delivery start-up Zomato announced on 8th August 2020, that under its new period policy, all women and transgender employees working in the company are entitled up to 10 days extra paid leaves per annum, which will not be included in the sick leaves category. As per the CEO of the company, “There should not be any shame or stigma attached to applying for menstruation leave.” The company believes that this step will help foster a culture of acceptance, truth, and trust. Since 2007, Nike has been providing paid menstruation leaves to its female employees. Horse stable start-up that began in Bangalore is granting two days menstruation leave to its female employees and is also providing an allowance of Rs. 250 in order to help them through their stressful menstruation. In July 2017, a Mumbai based company named Culture Machine took the initiative in this aspect and started for its female employees a ‘first day period leave policy’. The company also started an online petition directed at the Ministry of Women and Child Development and the Ministry of Human Resource Development in order to apply this policy

across the country. A leading media group of TV channels in Kerala, namely Mathrubumi, has implemented menstruation leaves that will benefit around 50 female employees presently working in the channel. Magster, a Chennai based start-up, has also joined the forces for uplifting its female employees. ARC, market research and strategic consulting start-up in Hyderabad, has incorporated a period leave policy. A Surat based firm called iVIPANAN founded in 2014 with a total of nine employees, out of which eight are female, declared on 9th August 2020 that they will be granting 12 days period leaves for their women employees with immediate effect. A digital media company in India, namely Thomson Reuters Foundation, is offering, as part of its official policy, menstruation leaves to female employees and calling out authorities to legislate on this matter and provide all working women with the option to take the first day of their menstruation off work. Digital media company, namely FlyMyBiz in Kolkata, started offering extra paid menstruation leaves to its female employees from 1st January 2019. Kerala in 19th century (1988) written by P. Bhaskaranunni, a government girl's school in Cochin allowed its students to take menstruation leave during annual exams and permitting them to do this on later occasions after taking note of absenteeism due to menstruation and menstrual taboos, a decision taken on 24th January 1912⁷.

VIII. CONCLUSION

We live in an age where religion and science have evolved like never before, offering us opportunities and promises. It is essential to move from period shaming to creating a period friendly environment in India. Embracing the menstrual leave policy will be a welcoming step in this direction. Paying attention to the health of women at both public and private workplaces is the need of the hour. Though the Menstruation Benefit Bill has received mixed reviews but it has gained momentum, and in order to ensure the firm practice of such a law, there is a need for proper dialogue and conversation around it so that a subtle, finely chalked out and prudently planned policy is formulated. The idea is not to give women special concessions but to provide them flexibility when menstruating. In order to formulate a policy that significantly adds value to the welfare of women instead of subverting it, myths and stigma surrounding menstruation must be actively questioned and eradicated both within and outside the workplace. Alongside the menstruation leave policy, measures to increase participation of women at the workplace must also be introduced as making the workplace more inclusive, and gender sensitive is essential. Menstruation is something that happens only to women, which is part of the uniqueness and does not necessarily imply gender inequality; thus, accepting and normalising

⁷Available at <<https://www.period.media/quotes1/the-case-for-menstrual-leave/>> (last accessed on February 3, 2021)

biological differences between men and women is of utmost importance. Today we use superwomen as a synonym for women. Women of today desire to move forward by eliminating stereotypes rational and barriers that hinder the contribution of women towards society. After all, **‘you exist because we bleed!’**
