

Is Menstrual Leave Improvising the Social Psychology towards Women Employees' Basic Human Right

¹Dr. Nituja Singh, ²Jyotish Kumar Gupta, ³Arvind Gupta,
⁴Dr. Pankaj Dwivedi,

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¹Assistant professor (Sharda School of Law, Sharda University, Greater Noida)

²Assistant professor (Sharda School of Law, Sharda University, Greater Noida)

³Advocate on Record, Supreme Court of India

⁴Associate Professor (ABVSL), Chhatrapati Shahu Ji Maharaj University, Kanpur

Abstract

Menstruation cycle is one of the fundamental and distinguish biological characteristic of women. Studies on women health show that almost every woman faces certain health issue whether mental or physical during this menstrual periods viz. stomach-ache, headache, thy ache, fever, breast-pain-swelling, vomit-impulses, itching, mood-swing, irritation, lack of appetite, etc. And, these all symptoms are in addition to constant blood-flow for on and average three to five days. It may be twice in a month to some woman or to every woman during certain period of age or illness. This was one of the post covid-19 impacts on women health that they observed some abnormalities in their menstrual cycle or flow.

Women have always been found in every socio-cultural research studies more sensitive. Surprisingly; her sensitivity never compelled her to spare or claim an extra holiday to have rest during menstrual cycle from her family, society or from the legal system in which she has been living as citizen. If they could have been so sensitive towards their own biological unique features, surely they could have a rest day since time immemorial because the menstrual characteristics are as old as the human evolution itself.

She did not ask any relaxation, does not mean she did not suffer pain or she did not observe health crisis during menstruation. Of course, she does. But, as a community fellow, we did not ever notice their pain, grief, sufferings and their expectations of care during such period. Even in 21st century, not much has been talked about it. In fact, a blood stain on the cloth of women is still a matter of shame for her and for the next fellow either inside home or in public. We hesitate in discussing women menstrual issues in public. The privacy sense of society towards menstruation can be understood by a fact that the name of one of the sanitary pads is given as '*Whisper*'.

Though it's already too late but distance doesn't matter, it's always the first step towards a right decision; that matters. This paper is an empirical study to analyse and describe the issues and challenges related to women menstrual cycle and to look forward what appropriate legal redressal can be provided to them especially to working women in India.

Key Words: Working Women, Menstrual-Health Issues, Menstrual-leave, Constitutional Framework, Human-rights, etc.

1. Introduction

India is a society always proud over its ancient culture with reference to female related matters. They have been claiming that it is we, who have been worshipping female goddesses, child girls during Navratri, etc., etc. However; they never see a discriminatory and gender evil in the female child girl feeding and worshipping practices during Navratris. Actually, the religious practice among Hindus is to worship and feed girl, if they have not attained the age of puberty. Meaning thereby; if menstruation of a girl child starts, she will not be considered to be worshiped for the purposes of 'Navratri Kanya Puja'.

The question is why a girl is stopped to be considered for worshipping after the age of puberty? Does menstrual cycle make a girl lesser girl? What exactly get changed in the quality of girlhood that society starts to look differently the same girl?

Another example is the tradition and practices of Sabrimala temple women entry age related issue which has now been declared unconstitutional by the Hon'ble Supreme Court of India.

Prima facie it seems as if the ancient Indian society had associated menstruation, a biological characteristics of women, with matter of sanctity i.e. purity and it continued status quo during the course of time. The different phases of Indian civilization have changed social behaviour towards women in many aspects but not towards menstruation.

Menstruation of women should has many layers which really should be discussed in public and oriented towards addressing the socio-eco-legal viz. a viz. health issues implicated therein. Indian society should move on from its primitive outlook wherein menstruation of women has been limited either to a blot on her clothes as a matter of shame or a sign of purity of womanhood.

This paper is an original and empirical research wherein a descriptive and explanatory method of research has been adopted. It focuses on the socio-cultural-eco-legal as well as health aspect of women's menstrual issues and challenges and its proper way outs.

This paper is advocating for legal provisions for menstrual leave to working women in India as a matter of basic human rights of women.

2. Research Methodology: The research design is empirical for this study. And, method is descriptive. The primary data has been collected from working women as well as girl students on/above 18 years old. In comparison to the actual population of working women as well as girl students above 18 years old, the sample size is too small i.e. 120. The reason is that the menstrual issues among women across globe are less or more very common. That why; sample size of 120 has been selected by using the simple random sampling. And, secondary data has been collected from Bare Act, books, research articles, news archives as well as other research material available online. The deductive reasoning method has been adopted to analyse empirical data.

3. Cultural Perception to Menstruation

Across the world there has been different culture and civilization in human history but if observed closely, there would be a common thing among all of those civilization that the perception towards 'menstruation' has almost always been negative, say something abhorrent. This menstruation as a taboo may be seen as one of the key reasons to keep women away from any authority positions in any social-religious system.

Ms. *Aru Bhartiya* reports in her research that menstruation has been considered as unclean even in the eastern orthodox Churches. She reports that participating in religious sacraments especially in any religious union or prayer meetings or to touch holy religious icon like Bible, etc. are not permissible for menstruating female. Though it's not universal behaviour to menstruating female nevertheless it is still in practice and perception across the world. The researcher further finds that Russian orthodox Christian population also thinks about menstruation as taboos. She writes that menstruating women have to live in separate and isolated huts during such period of time. They are not allowed to attend church-prayers or services and they cannot touch even fresh food meal. The Western Christian community perceptions towards menstruating women are comparatively less extreme but to certain extent they also have negative attitudes thereto."¹

She writes about Indian practices that in India the cultural and social influences appear to be a problem for advancement of knowledge regarding menstruation and issues related thereto. No need to say that culturally in almost all parts of India, during menstruation period, women are considered to be dirty and impure for religious purposes. The researcher reports that the origin of such myths relates back to the Vedic saga and is connected with

¹ . Aru Bhartiya, "Menstruation, Religion and Society", International Journal of Social Science and Humanity vol. 3, no. 6, pp. 523-527, 2013.

Indra's killing of Vritras. It is a saying in Veda that guilt of the killing of a Brahmana occurs every month in the form of menstrual flow because women had taken upon themselves a part of Indra's guilt of the killing Vritras. She also writes that the Hindu faith prohibits women from participating in normal life during menstruation. As per Hindu religious belief the researcher reports that a woman must be "purified" before returning back to her family daily life and chores.²

Hence the perception of human society towards menstruation has almost always been something stereotyped. Women have been subjected to many illogical restrictions in their lives during menstruating period. Such restrictions are justified in the name of regions belief. Almost every religious belief considers women during their menstruation as 'impure', 'dirty', 'evil', etc. For example, among Hindus this is very common and normal that during the menstruation, women don't do worship, don't touch god idols or religious books, don't enter into temple premises. Sabarimala practices go to the limit that during the age of menstruation, women cannot enter into this temple i.e. even between the intervals of two menstruation, a woman cannot enter into Sabarimala temple.

Such perceptions to menstruation as a taboo has been a phenomenon rooted in Hindu religious-mythological holy book texts like 'Rig Veda'. The story says that there was an evil called 'Vritra' who controlled water away from people and had called the devil of droughts. Then the king of Gods namely 'Indra', in his supreme glory killed the devil with a thunderbolt into the chest releasing water for the common people. The above said scripture mentions that 'Indra' said that the mind of woman brooks not discipline, her intellect hath little weight.³

The story goes further saying that "Indra was subject to the guilt of killing 'Vritra' and who was a learned Brahmana and in Hindu religious belief there is no relief for killing a Brahmana. So, Indra had gone to women asking them to take his guilt of killing Vitra upon them through a regular cycle of repentance namely 'menstruation'. To get Indra relieved from his sin of killing Vitra, women with their blood every month, the process of menstruating is a sort of eternal punishment that women had undergone to accept.⁴

In another Sanskrit scripture namely 'Vasishtha Dharmasutra' a water demon incident is mentioned. Perhaps that has influenced the Hindu public belief and justified as well as normalised women secondary treatment among Indian Hindu society.⁵

If other religious scriptures like Muslim religious book Qur'an be seen, it also reads under its verses 2:222 that, "They ask you about menstruation. Say: "It is a state of impurity; so keep away from women in the state of menstruation and do not approach them until they are cleansed. And when they are cleansed, then come to them as Allah has commanded you."⁶

Hence, the socio-cultural and religious practices be examined, the approach seems very common regarding stereotyped perceptions against menstruation and women. These perceptions are so deep rooted in the society that even science educated woman looks menstruation from her childhood societal-cultural view and does not observe worshipping or touches any so called auspicious things.

There are many other perceptions against menstruation like evil, black magic, witching, etc. but those are not relevant to this context, so better to skip here.

² .Ibid

³ . Rajvi Desai, 'From Riches to Rags: The Evolution of Menstrual Taboos in India' published on 29/03/ 2019 available @ <https://theswaddle.com/from-riches-to-rags-the-evolution-of-menstrual-taboos-in-india/#:~:text=It%20has%20been%20declared%20in,during%20three%20days%20and%20nights.%E2%80%9D> retrieved on 23/06/23

⁴ .Ibid

⁵ .Ibid

⁶ .Towards Understanding the Quran, Surah Al-Baqarah 2:222-228, available on [https://www.islamicstudies.info/tafheem.php?sura=2&verse=222&to=228#:~:text=\(2%3A222\)%20They%20ask,them%20until%20they%20are%20cleansed.](https://www.islamicstudies.info/tafheem.php?sura=2&verse=222&to=228#:~:text=(2%3A222)%20They%20ask,them%20until%20they%20are%20cleansed.) Retrieved dated 23/06/23.

4. Menstruation & Biology Science

Menstruation and women sex identity may be termed synonymous for a while. The society has claimed to forecast life after death i.e. hell and haven but could not understand a living and experiencing truth since its existence that menstruation is just a biological-reproductive identity of woman. It has nothing to do with religion, purity, evil, vice, virtues, black magic, etc. etc.

A woman herself has not ever negated such social negative perceptions against her own bodily identity. She never shouted louder that my menstruation has nothing to do with rest of world except health and emotional care during such periods. Women as a separate gender community, one of the parts of the whole society, never objected to menstrual perceptions convincing society that during bleeding-days of menstrual cycle, we, the women, need your support. During this period we observe various hormonal changes causing some pain, some uneasiness, some irritation, some physical swelling and these all along with continuous bleeding for an on and average three to four days. So, we seek your emotional, physical, medical and many times financial supports too.

According to the World Health Organization (WHO), 'health' is "a matter of physical, mental and social fitness/wellbeing and not just an absence of illness or disease. Menstrual health is *quid pro quo* for normal health of any woman. It is observed that during menarche or menopause, most of women menstruate have an adverse impact on the physical as well as mental health.

Normal menstruation means a cyclic bleeding occurring from the uterine corpus starting from menarche ending with menopause phase of women life.

A normal menstrual cycle may be explained in terms of 4 different domains: i.e. (a) how frequently a woman has tendency of bleeding, (b) the regularity or predictability of such menstrual cycle episodes or tendencies, (c) the period or count of days or duration of such bleeding episodes, and (d) the quantity or heaviness of bleeding. It is observed that not all women experience "normal" menstrual bleeding cycle. Generally around 30% of women experience alterations in the quantity or tendencies of menstrual blood flow which is termed as a symptom of 'abnormal uterine bleeding' (AUB) and which in turn can be caused by multiple etiologies and sometimes more than etiology at the same time.⁷

However; many women may have other symptoms such as pain, dysmenorrhea, anxiety, depression, and fatigue associated with their menstrual cycle that requires attention for them to achieve early diagnosis of reproductive health issues such as endometriosis, premenstrual syndrome, and premenstrual dysphoric disorder and attain optimal health. In research and related clinical care, an understanding of menstrual health is needed to develop awareness that how menstrual health issue may affect women physical as well as mental health. And, it is highly required for a good health and happiness outcomes that everyone [irrespective of their sex or gender] along with medical service providers that menstrual health can be well achieved through health literacy drives especially menstrual health awareness in public domain. And; for that matter health communication is highly desired.⁸

Science says that menstruation is the shedding of the lining of the uterus (endometrium) resulting into bleeding. It happens generally once in a month cycles during a woman's reproductive age except during pregnancy phases.⁹

⁷ .Infra Note.

⁸ . Kristen A. Matteson, Missy Lavender, Erica E. Marsh & Ors., 'Menstruation: science and society' published (Nov.,2020)223(5): 624–664. Available on <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7661839/> retrieved dated 24/06/23

⁹ . 'The Menstrual Cycle: An Overview' retrieved from <https://www.stanfordchildrens.org/en/topic/default?id=menstrual-cycle-an-overview-85-P00553> dated 24/06/23

The Menstrual cycles normally rounds between 24 to 38 days. Only 10 to 15% of women have cycles that may be of 28 days which is considered as normal range of cycle. However; among at least 20% of women, menstrual cycles is found irregular. In other words; cycle may be longer or shorter than the normal range.¹⁰

From a common observation menstrual bleeding cycle has been seen lasting on and average from 4 to 8 days and blood loss during such cycle usually occurs between 1/5 to 2 & 1/2 ounces. This is unique characteristics of the menstrual blood that unlike injury bleeding it does not usually clot unless flow is too heavy. The menstrual cycle is regulated through biological hormones. Luteinizing hormone and follicle-stimulating hormone, which are produced by the pituitary gland, promote ovulation and stimulate the ovaries to produce estrogen and progesterone. Estrogen and progesterone stimulate the uterus and breasts to prepare for possible fertilization.¹¹ This is the basic scientific facts relating to menstruation. It can easily be understood that it has nothing to do anything else but science. Though it is already too late nevertheless; there should be an honest effort to break all sorts of cultural-religious perceptions against menstrual and should be looked from health and legal perspectives.

5. 1 Human Rights: An Overview

Before discussing why menstrual leave should be sanctioned as a matter of basic human rights to women, it is pertinent to know the concept and rational of human rights.

Human rights are seen as universal legal guarantees to protect individuals as well as communities against any action that may negatively affect human individual dignity anywhere in world. The legal rationale behind recognising human rights advocates that it is inherent in all every human irrespective of their race, caste, creed, ethnicity, religion, colour, gender or language, etc. identity.

Human rights are a sign of basic human needs in the sense of dignity and equality for individual life. All set of human rights are a kind of standard of universal humanity to which a creative use of tools like indicators, both qualitative and quantitative, may contribute by strengthening its understanding and implementation.¹²

In pursuance of the Universal Declaration on Human Rights (UDHR), 1948, every member country of the United Nations Organisation (UNO) has codified a specific legislation ensuring and protecting human rights of their citizens, domiciles and alien during specific crisis like refugee and asylum.

Therefore, in nut shell it can be said that human rights are meant to protect the basic need of every individual as per their backgrounds; not as per the standard set by law makers in any given system of law. For example; availing maternity leave to women keeping in mind feminine gender based biological characteristics as well as social-economic justice in consonance with gender justice.

5.2 Human Rights Perspective to Menstrual Leave

The underlying principles of human rights are the process of finding out such rights holders who may have a claim of certain specific and distinguish entitlements on the basis of being a natural person. And; there must be an authority to hold liable for assuring such claim or interest connecting with those entitlements. While claiming such entitlements, it is crucial not only to find out elements that are considered to be entitlements, but also to specify the agencies that have legal onus to ensure the exclusive enjoyment of such entitlements. Thus, there are certain rights of an individual or a particular class, group or community putting corresponding responsibilities on States or State's agencies. Human rights are a set of negative as well as positive exclusive, non-alienable and un-

¹⁰ .Supra Note.

¹¹ .Ibid.

¹² .‘Human Rights And Indicators: Rationale And Some’ available @CONCERNShttps://www.ohchr.org/sites/default/files/documents/issues/HRIndicators/AGuideMeasurementImplementationChapterI_en.pdf retrieved on 25/06/23

comprisable rights. Negative human rights examples are like ‘right to privacy’ or ‘right to livelihood’ and positive human rights examples are like ‘right to education’ or ‘right to have equal remuneration for equal work’ etc.

Therefore, if the discourse of legal recognition for ‘menstrual leave’ be analysed, it would be a question of positive human rights. If it is granted to women, the State or state agencies would have to make laws compelling organisations or institutions to make separate provisions and arrangements for female employees or students to avail an extra facility of ‘absence’ from reporting premises such as working or educational places in the name of ‘menstrual leave’.

The international human rights make a distinction between State’s ‘immediate obligations’ and ‘remote obligations’. Immediate Obligation of State does not consider the financial capability of State. It mandates over every State to ensure the basic human rights of individuals while remote obligations may be discharged gradually depending upon the resources of States. For instance, the obligation not to discriminate between different demographic groups in the realization of human rights, whether civil, political, economic, social or cultural rights, is an immediate obligation. Similarly, the legal obligations of the State to respect such as the freedom of expression by not using unnecessary or disproportionate forces against demonstrators and to protect viz. the right to work or to just and favourable conditions of work by ensuring that private employers comply with basic labour standards; are seen as immediate obligations.¹³

There are other legal obligations of a positive nature holding State liable to do some positive concrete action and it is called remote obligations. Here, States have to adopt legislative, judicial and administrative measures critical and challenging for the realization of civil, cultural, economic, political and social rights to fulfil human rights which include such obligations that mean to promote the enjoyment of negative human rights. The State discharged such obligations by creating an institutional and policy framework to support and to provide allocating appropriate public resources. Here the human rights claimant entitlement relates to the implementation of the States’ commitments to pursuing certain policies for achieving a set of desired results that can be related to the realization of human rights. Even when the full realization of rights, such as the rights to food, housing, education and health, is likely to be achieved only progressively, States have an immediate obligation to satisfy a “minimum essential level” of those rights and to take deliberate, concrete and targeted steps towards their maximum realization. Furthermore, any deliberate retrogressive measures also require the most careful consideration and need to be fully justified by reference to the totality of the rights guaranteed in the International Covenant on Economic, Social and Cultural Rights and in the context of the full use of the maximum available resources.¹⁴

The claim of women for menstrual leave may be seen as a matter of remote obligation of every State.

5.3 Human Rights Law in India: Scope for Menstrual Leave

The Human Rights Act, 1993 defines the term ‘human rights’ under section 2(d) in the following words: “The connotation ‘human rights’ means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India.” It is noticeable here that the spirit of this given definition of ‘human rights’ were incorporated under Article 21 of the Indian Constitution years back to enactment of this Human Rights Act, 1993. That’s why, the Act, 1993 gives definition of ‘human rights’ with reference to Indian Constitution and international covenants on human rights. This legislation envisages for constitution of Human Rights Commission at central as well as state level namely National Human Rights Commission of India as well as particular state human rights commission. And, such commissions have been bestowed with various functions and powers to achieve the objectives of this legislation.

Section 12 of the Act, 1993 enumerates about the functions and powers of human rights commission in India.

¹³. ‘Human Rights And Indicators: Rationale And Some’ available @CONCERNSh https://www.ohchr.org/sites/default/files/documents/issues/HRIndicators/AGuideMeasurementImplementationChapterI_en.pdf retrieved on 25/06/23

¹⁴ .Ibid.

In the context of undertaken research, few functions of human rights commission (HRC) are relevant to cite here. For example; power of HRC to review the safeguards provided by or under the Constitution or any law for the time being in force in India for the protection of human rights and further recommending measures for their effective implementation,¹⁵ to study treaties and other international instruments on human rights and make recommendations for their effective implementation,¹⁶ to undertake and promote research in the field of human rights,¹⁷ to spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means¹⁸ or such other functions as it may consider necessary for the promotion of human rights¹⁹.

It seems that directly there are no such powers and functions of HRC in India to grant any leave or to make such provisions either at the State or centre level. The reason is very obvious. Making legal provisions granting any special type of 'permissible leave' on the basis of individual identity is a matter of policy making. And; it is the legislative body in India who is authorised to make policies resulting into law.

6. Indian Constitution, Gender Justice & Menstrual Leave: The Constitutionalism in Indian is based on, *inter alia*; two core facet of law i.e. 'equality' and 'justice'. The application of the principle of equality has always been more needed for a society like India where same two individuals may be treated differently [unequally] on many layers and grounds; e.g. caste and gender.

There are many aspects of gender related issues in India like social, economic, cultural, religious, emotional or biology, etc. Here for the study of undertaken research problem, only the socio-legal and economic aspects would be dealt with under the given provisions of Indian Constitution and judicial responses.

The preamble of the Constitution of India ensures social, economic and political justice as well as equality of status and opportunity to every citizen of India. To achieve the goal of such ensuring justice and equality, there are certain constitutional provisions that primarily commands States not to intervene with the fundamental rights like equality before law and right to life and liberty given by the very constitution to every individual in India and secondly; it empowers State to make do all possible things to ensure eradication of inequality on the basis of *inter alia*; sex. The eradication of inequality is *quid pro quo* for justice whether social, economic or political. The Constitution of India has used the term 'sex' in reference to all provisions dealing with principles of equality. 'Gender' is a social connotation while 'sex' is biological. Actually; it has been observed in Indian society that on the basis of biological identity, individuals may be treated differently. And; because of such differential treatment; one individual may be privileged and another may be deprived of the opportunity and status. It is established fact in Indian social context that girl child was not allowed to go out for education, no right to inheritance ancestral properties, etc. And; such social practices are one of the causes for economic dependency of women over their male relatives resulting into economic inequality on the basis of sex identity.

However; the legal status at least changed after independence of India and in the eyes of law women were put at par to male. The Constitution of India treats every individual equally but has empowers State that if needed; the State may take 'affirmative-action' to bring marginalised class of individuals equal to others and for that matter; to a certain extent unequal treatment among unequal may be justifiable.

Article 15 of Indian constitution commands State not to discriminate among its citizens on the basis of their individual identity whether *inter alia*; social, religious or sex but under clause 3 this article reads as, "*Nothing in this article shall prevent the State from making any special provision for women and children*²⁰". It means the State has power to take any affirmative action and to make policies whether social, education, legal, economic or

¹⁵ .Section 12(d) of the Human Rights Act, 1993.

¹⁶ . Section 12(f)] of The Human Rights Act, 1993.

¹⁷ . Section 12(g)] of The Human Rights Act, 1993.

¹⁸ . Section 12(h)] of The Human Rights Act, 1993.

¹⁹ . Section 12(j)] of The Human Rights Act, 1993.

²⁰ . Article 15(3) of the Constitution of India.

employment purposes, to enable any group of citizen to achieve the justice ensured under the preamble of Indian Constitution.

Therefore; women citizen in India may claim an entitlement for 'menstrual leave' or called 'period leave' on the basis of their distinguish sex identity and implications associated thereto. On the very legal rationale on which women have been granted 'maternity leave' may be considered for the 'menstrual leave' too.

The Bihar government was compelled to approve two days in a month paid menstrual leave to women employees starting from 1992. It happened because of few social activist constant agitation and demand for policy making to approve menstrual leave.²¹ This decision implemented by then Bihar Chief Minister Mrs. Rabari Devi is still continue in Bihar. Women employees of Bihar Government are given two days additional leaves in the name of 'special leave' meant to be taken during the menstrual period.

The State of Kerala (India) Chief Minister *Mr. Pinarayi Vijayan* announced through social media that the Kerala government will grant menstrual leave to female students in all state's universities under the Department of Higher Education. This announcement came just after the Cochin University of Science and Technology announcement to avail menstrual leave to all of its female students. Mr. Vijayan had enumerated this decision as a part of government "commitment to develop a gender-just society".²²

It is good that few government and organisations have taken decisions to approve menstrual leave to women keeping in view unique health needs of women. However; it should be a matter of uniform policy and its application on the national level and for that matter the central government is supposed to come forward with some concrete policy and mandatory provisions so that there may be a uniform law in this regard in India. Approving period leave as compulsory whether to private or public institutions/organisations, for working women or girl students would surely make workplaces and classrooms more inclusive, accommodating and productive.

7. Menstrual Leave: Scenario across the Globe: The claim of women for menstrual leave as a matter of human rights is yet not clear in India. Though few state governments have approved it but law is still not expressive and clear. Therefore, to examine and understand the feasibility factors it is pertinent to know the legal status of menstrual leave in other countries. Such preview of other countries corresponding law may be used as a guiding torch either to amend current laws or to legislate a new law.

Recently; *Spain* has passed a legislative Bill granting paid leave to women having period pain certified by a doctor's prescription. This Bill does not talk about any specified timeframe for approving this leave. Meaning thereby, how many days as period leave would allowed to any individual women would depend upon the doctor's note. Among European countries, Spain is the first granting women paid menstrual leave. The Equality Minister of *Spain Ms Irene Montero* says, "No more going to work with pain, no more taking pills before arriving at work and having to hide the fact we're in pain that makes us unable to work."²³

Indonesia had made law granting women two days of paid menstrual leave per month without any prior notice in 2003. While *Japan* has a law since 1947 envisaging that companies must arrange to provide menstrual leave to women for as long as they request. Though; this law does not talk about 'paid menstrual leave'. However; in

²¹ . Kaushik Kashyap 'How Women in Bihar Fought & Won the Period Leave Battle 30 Yrs Ago' Published: 21/09/ 2020, 9:53 PM IST available @ <https://www.thequint.com/gender/how-bihar-women-fought-for-period-leave-in-1992> retrieved dated 27/06/23.

²² . An editorial 'Kerala announces menstrual leave: Time to talk period' published on January 24, 2023 06:55 IST available @ <https://indianexpress.com/article/opinion/editorials/kerala-announces-menstrual-leave-time-to-talk-period-8400131/> retrieved On 27/06/23.

²³ . Anshul Prakash, Archika Dudhwewala & Ors., 'Looking Beyond the Law: The Case of Menstrual Leave in India' published on March 7, 2023 by Bhumika Indulia available @ <https://www.sconline.com/blog/post/2023/03/07/looking-beyond-the-law-the-case-of-menstrual-leave-in-india/> retrieved on 28/06/23.

practice companies in Japan do pay their women employees either fully or partial for such leaves. Another country *South Korea* also provides women one day unpaid menstrual leave per month and if employers refuse; has to face fines up to 5 million won (\$3,844). In *Taiwan*, a law of Gender Equality approves women three days of menstrual leave annually and they receive only 50 per cent of their salary for such leaves. In 2015 *Zambia* enacted legislation allowing women to have a day off during their menstrual period without prior notice.²⁴

Apart from these few countries approving menstrual leave as a matter of right to women, there are many corporate bodies which are providing their women employees facilities of menstrual leave though these is no law as such in their legal system. For example; companies like *iVIPANAN*, *Zomato*, *Byju's*, *Swiggy*, *Mathrubhumi*, *Magzter*, *IndustryARC*, *FlyMyBiz*, *Gozoop*²⁵, etc are availing their female employees off days in the name of menstrual or 'period leave'.

8. Data Analysis: This research is based on the hypothesis or theory that generally women; irrespective of their territorial identity, bear some health issue during menstrual periods. Meaning to say the uneasiness or the health related complications during menstrual days may vary among women depending upon atmosphere temperature²⁶ of territory or season but this variation would only differ in the sense of intensity or degree of health-issues. Therefore, because menstrual pain is because of hormonal changes inside women, so it can be said that less or more, it is a kind of universal characteristics among women with few variations. Therefore, in proportion to the population or universe for this study, too little size of sample has been approached through a questionnaire circulated through Google form. The sample size is just 120 women who are in the strata of working women as well as girl students from university and all women are only from India. Out of these 120 women, 49.6 per cent are working women while 50.4 per cent are girl students.

The age group of women who are respondents to this study are from the age group of 18 to 50 onwards wherein 36.4 per cent are of 26-30 age groups, 31.4 per cent are of 21-25 years, 15.7 per cent are of 31-35 years, 7.4 per cent are of 16-20 years, 5 per cent are of 41-45 years old women, 3.3 per cent are of 36-40 years and 0.8 per cent is 46-50 years old women.

Majority of women i.e. 24.8 per cent of respondents observed her first menstrual at the age of 14. While; 20.7 per cent respondents had experienced her first menstruation at the age of 12 and 19.8 per cent at her 13 while 19 per cent had observed during her 15 year of age. There were women who expressed that exactly they did not remember but to the best of her memory perhaps during the age of 16 to 18. Though; not many but there were also such respondents who told that they experienced her first menstrual cycle during the age of 9 to 11 years. Such respondents are as such: 3.3% during 10 years of age, 2.5% during 11 years and 0.8% at the age of just 9 years [Figur-1].

²⁴ .Ibid

²⁵ . Waqar Azmi , 'Menstrual Leave in India: These 9 Companies Offer Period Leave' available @ <https://www.startuphrtoolkit.com/menstrual-leave-in-india/> retrieved on 30/06/23.

²⁶ . Natalie Condie, "How The Winter Season Can Affect Your Menstrual Cycle" published on 07/01/ 2022 available @<https://www.cvwomenscenter.com/blog/how-winter-can-affect-menstrual-cycle/#:~:text=You%20may%20also%20notice%20your,an%20increase%20in%20period%20pain> retrieved on 30/06/23.

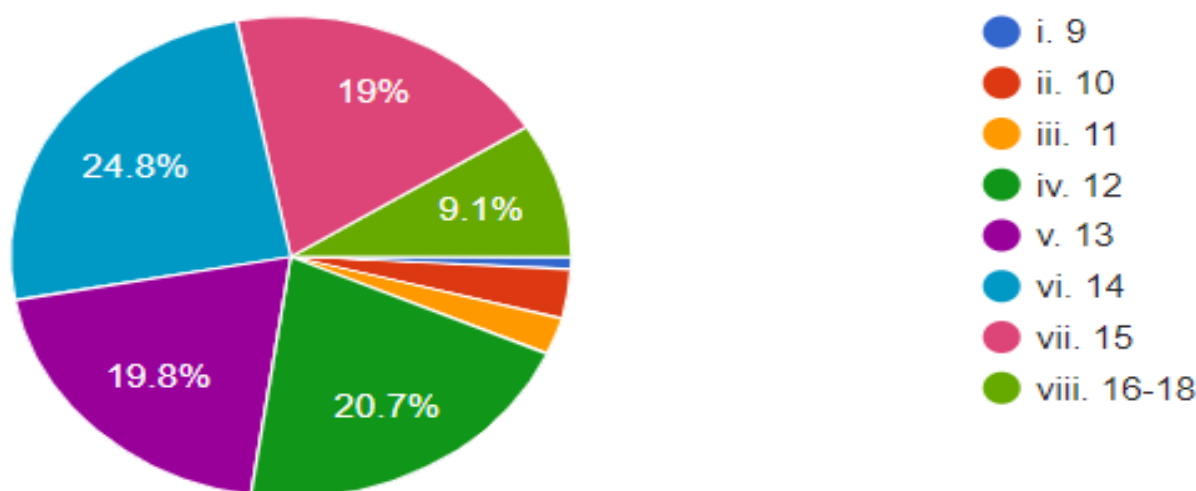


Figure-1: Age of Experiencing First Menstrual Cycle.

Awareness about PMS among Women in India:

When it was asked that whether they are aware about something like PMS [pre-menstrual Syndrome], only 76.9 per cent of respondents nodded in yes. The other 23.1 per cent did not even know about PMS. As this is a well-established fact that menstruation and issue related to it; is still not talked or discussed in public spaces in India, especially in rural areas. Majority of the respondents for this study are from urban areas or girls though belong from rural background but because of her education came out to big cities like Delhi, Bombay, Kolkata, Bengaluru, etc. If only samples from rural areas would have been asked the same question, the ratio of ‘yes’ and ‘no’ for the same question might have been just opposite to the instant result. [Figure-2]

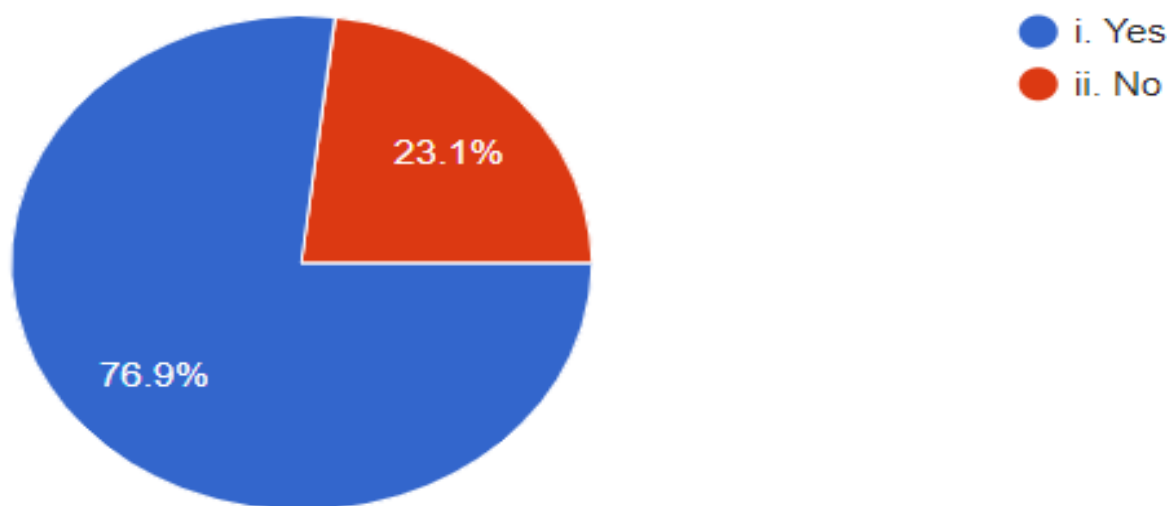


Figure-2: Awareness about Pre-Menstrual Syndrome (PMS) among women in India.

Observation of Health-Issues during Menstrual Periods:

About health issues during menstrual cycle, 83.5 per cent of respondents agreed from their personal experiences that they suffer health problem either mental or physical or both during menstrual periods. The significant numbers of respondents [16.5 per cent] are those who were not aware about PMS.

Regarding tendency of PMS among women i.e. whether they face health issues during each and every period or there is no such fix symptoms, collected data reflects that there is no such any consistent tendency. Even the same individual woman may observe different symptoms between two different menstrual periods. The highest data i.e. 38 per cent of respondents told that they observe PMS on the regular basis i.e. usually always while 33.9 per cent nod for ‘sometimes’. However; 14.9 per cent told that they often observe it and the minor but significant number of respondents told that they don’t experience any sort of PMS. The percentage of such respondents is just 13.2. If this data be analysed in dichotomy that is proportion of women bearing and not bearing PMS during her periods, the total per cent of women with PMS would be 86.8. Hence, the number or ratio of women bearing health related issues during her menstrual periods is fair larger than not having any PMS. And, it should also be recalled here that 23.1 per cent respondent were not aware about PMS [Vide Figure-3]. Therefore, the advocacy for claim of women for menstrual or period leave is quite justifiable keeping in mind the data coming from this small size of sample. [Figure-3]

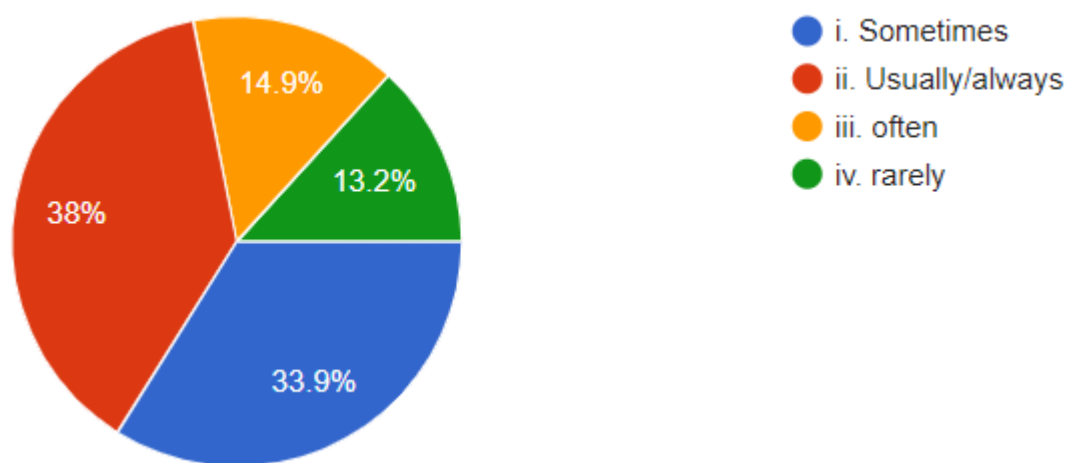


Figure-3: Frequency of health-issues during Menstrual Period.

Multilateral Variable to PMS

In response to the question that what specific health issues they observe as PMS, 27.3 per cent respondents said about stomach pain while 14.9 per cent assent to body ache as well. 5.8 per cent of respondent signified thy or knee ache as her PMS while 5.0 per cent bear strain or pain in her vegina and 3.3 per cent breast pain, and the same per cent of respondent i.e. 3.3 bears headache as her PMS. But, there are also such respondents; though comparatively few, who face vomit impulses or light fever during her periods. Such per cent is 2.5 bearing vomit impulses while 0.8 per cent with light fever. Respondents have added some other PMS issues based on her personal experiences which were not given among options. For example; back pain, mood swings, irritation or face-swellings, etc. However; 27.3 per cent of respondents are those who told that they bear any one or many of the above mentioned symptoms during different periods. Now, from the analysis of this small strata can easily be understood that how a woman can have to manage her work with such health issues. [Figure-4]

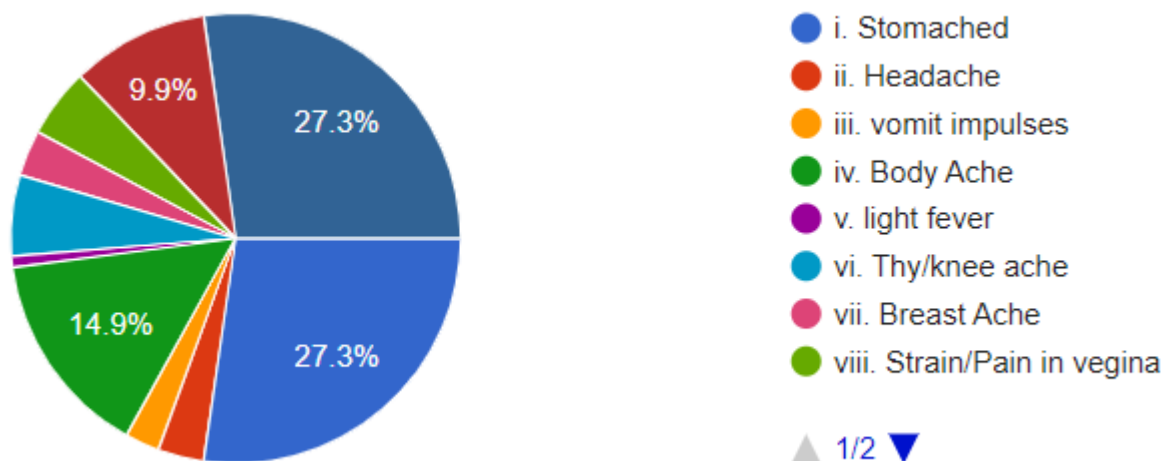


Figure-4: Health issues Variations as PMS among Women

Awareness about Menstrual/Period Leave

However; out of these 120 respondents, only 69.4 per cent were aware about menstrual or period leave [Vide **Figure-5**]. And, most remarkable here is the point that this result is from the women having exposure of metro cities of India. It shows that even in twenty first century, one of the women health related legal aspects are not well discussed at public, social as well as legal forums. That is the reason 30.6 per cent out of 120 women are not aware something like menstrual leave. If not aware, how could they claim any entitlement calling menstrual leave as a matter of legal or human rights!

However; whether women should be grated a paid leave in India or not so that they may have rest at home during the peak days of PMS or menstrual bleeding, 95 per cent respondents signified their responses in ‘Yes’ and same proportion of respondents agreed that women should be given menstrual leave as a matter of human rights and accordingly the employment laws of India should be amended to this extent.

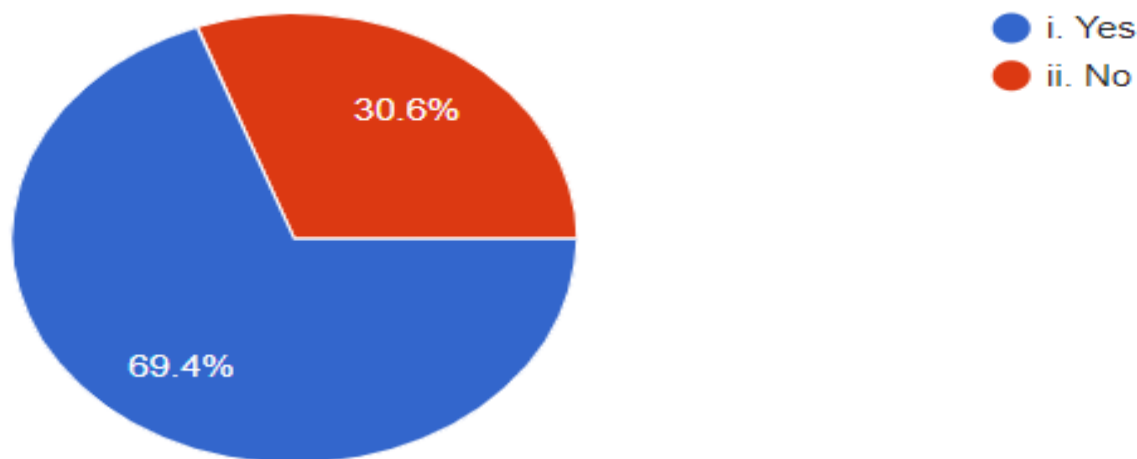


Figure-5: Awareness among women about Menstrual/Period Leave

9. Conclusion & Suggestions

It is well known fact in the context of Indian society that howsoever educated and howsoever higher position in profession a woman may have, she has to care her children and family along with the official schedule and work load. If an empirical research could be conducted, result would be like Indian working women are always overburdened. She sleeps late night and wake up early morning in comparison to family male partner. While; science says that women body needs more sleep than male. One of the reasons for it is menstruation bleeding and pregnancy women body faces different hormonal changes and for that matter she needs more mental as well as physical care.

For more inclusive working culture, it needs of time that women should be granted period- leave considering her distinguish biological identity and hormonal system.

Government of India should come with a legal draft applying equally to public as well as private institutions/organisation or employers so that there may be a uniform law regarding period leave. Currently; there is no such specific law or legal provision, that's why; employers and institutions are not thinking about it except few like Zomato and Swiggy corporations or Bihar and Kerala State Government.

The tradition and practice of non-menstruating 'Kanya' or 'Kanjak' worshipping along with feeding during certain days of years [Navratri Festival] does not anyhow empower Indian women. But; if they would be granted paid menstrual leave, it would surely make them feel a sense of relax during education and working life. It will be a kind of perk to adult women motivating to have a career oriented mind set and helping to have a quality family life.

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