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MENSTRUATION BENEFIT BILL: A SUI GENERIS APPROACH



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MENSTRUATION BENEFIT BILL: A SUI GENERIS APPROACH

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Menstruation, considered to be a nearly universal female experience, functions as a literal and symbolic marker of sex, sexuality, fertility, age, and gender. As a “natural” bodily process, seems self-evident, this allows it to work as an enduring and central marker of difference in essentialist conceptions of sex and gender. The cultural and scientific categories with which we categorize and study menstruation are important to how we understand, experience, and intervene in it.

Advertisements for menstrual products have significantly shaped popular discourse and understanding of menstruation across the twentieth century. Emerging scientific understanding of menstruation and new

public discourses of the body coincided with the mass production of disposable personal products and the advertising intended to popularize them. Early advertisements for sanitary pads and tampons sought to instil in women a new “modern” understanding of the body and menstruation, emphasizing hygienic practices and secrecy. They worked towards persuading women so that they did not restrict their activities during menstruation particularly with the assistance of commercially produced products that would allow them to conceal evidence of menstruation¹. Later advertisements emphasized freedom, empowerment, and continuous productivity. These have had long-term effects on women’s embodied experiences. Women’s understanding and experiences have changed throughout as they embodied the shift to modernity through the use of these manufactured products.

Often the problems faced by women during menstruation are overlooked. The Menstruation Benefits Bill, 2017 seeks to provide for women working in public and

¹Sharra L. Vostral, Under Wraps: A History of Menstrual Hygiene Technology, pg. no., (2008)

private sectors two days of paid menstrual leave every month as well as better facilities for women at the workplace during menstruation. In 2016, John Guillebaud, Professor of Reproductive Health at University College, London, explained that the period pain can be as “bad as having a heart attack.” A Study² conducted in year 2012 found that “Dysmenorrhea (painful periods) is extremely common, and it may be severe enough to interfere with daily activities in up to 20 percent of women. Women have become responsible for an increasing range of self-monitoring and body management task but who exactly can decide against menstrual leaves?

Many women activists are of the opinion that women should not be punished for their biological framework. Lok Sabha MP Ninong Ering from Arunachal Pradesh thus proposed a private Bill in the Lok Sabha. If a woman finds it intricate to work on her period, then it should be her discretion to avail such paid leaves. The dialogue and conversation around it needs to be well-versed and formulated for better working conditions of the female employees. While we often take for granted what menstruation is, this Bill reveals coordinated efforts across multiple realms

to redefine the menstruation pain and the collective efforts that have been taken by various sectors to solve the same. Employers ought to be cognizant of women’s health and sensitive towards women employees’ requirements, irrespective of it being Government-mandated.

In countries such as India, where menstruation is stigmatised, it can be particularly difficult to implement the idea of menstrual leaves. As per Rig Veda, the Sruti of Hindu sect says that women are required to be in completed isolation from the Society during menstruation and the idea of leave from work justifies this notion. The Indian Labour Law lends little voice to female labour as a collective, even though the law establishes equality between the two genders. We cannot be said to be talking about equality, if on hand we consider giving the two sexes equal opportunities and on the other hand go on giving special privileges to women because of their bodily anatomy. Women face a number restrictions on their daily activities, potency, validation from parents and practices for managing hygiene during menstruation.³ People are affected not just by individual-level factors like their own knowledge and attitudes, but also by

²Pallavi Latthe, Pelvic Pain: A Neglected Reproductive Health Morbidity, pg. no., 2006

³ hereinafter

interpersonal/social, institutional, community, and policy-level factors that shape their specific context. Previous research in India suggests that boys and young men are sympathetic to the challenges to menstruation and can be effective participants in menstruation-related interventions⁴ but the policy of menstrual leaves will be criticized on the grounds that it legitimizes the very same gender inequality which it seems to be fighting against.

Globalization, changes in the literacy level of women, and the availability of employment opportunities have influenced the role of women in Society and in being social and economic partners at home. These trends, which are prominent in most developing countries, require the attention of policy makers to ensure adequate social security protection of women. There are countries that have mandated the system of menstrual leave. For example in Indonesia a unique provision of their Labour Law is that female workers, in addition to cash maternity benefit, are also entitled to two days of paid leave for the first and second day of their menstrual cycle, in Taiwan the Act of Gender Equality in Employment,

female employees are entitled to one day leave per month and if the menstruation leaves do not exceed three days in a year they shall not be counted as sick leaves in which case women is 3 more than men), In South Korea according to Article 71 of the Labour Standards Law not only are female employees entitled to menstrual leave but also they are also ensured additional pay if they do not take those leaves⁵, In Italy, the Government was also voting on offering paid menstrual leave to its female workforce in March last year and in Zambia, in 2015, the Government revised its employment laws to grant all women one day of leave each month during their menstruation. In 2018 a lawmaker proposed a Bill in Russia giving women two days off work each month because, "During that period (of menstruation), most women experience psychological and physiological discomfort.

In a country where the word menstruation is met with raised eyebrows and disgust, proposing for a 'Menstrual Leave' policy will worsen the stereotypes women currently face in the workforce: that women workers are too emotional, too unreliable or too expensive for employers. All of these

⁴ Mahon T, Tripathy A & Singh N, Putting The Men Into Menstruation: The Role Of Men And Boys In Community Menstrual Hygiene Management, pg.no., (2012)

⁵ Jung Min-ho, Kim Bo-eun & Bahk Eun-ji, Menstrual Leave - An Entitlement Men Reject, The Korean Times, (Oct 30th 2012, 10:19 PM) http://www.koreatimes.co.kr/www/news/culture/2014/04/399_123535.html.

stereotypes conveniently serve to justify employers being less likely to hire women, their competence or desire for growth and responsibilities is going to be overlooked. The employees in the public and private sector are not the only ones who menstruate. There are housewives, female students in schools and colleges too that struggle with the same issues and still continue to work. If we are talking about equality in a workspace, then treating women different because of their biological diversities is going to increase that wall even more. Menstrual leave policies for women just to break down the old-gender bias could result in differentiated opinions and heated debates across the globe. Efforts to make a workspace more comfortable for women like cleaner toilets, proper disposable for used sanitary napkins, paid or un-paid supply of tampons and work from home facility could be the probable measures taken instead of providing additional leaves. We cannot compromise excellence for moral mediocrity. It becomes important, both for individuals as well as institutional and political feminists, to deepen the discussion around the Bill, introspect and course-correct if required, and rise up, stronger and better-armed.