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EDITORIAL ANALYSIS

# The Case for Menstrual Leave — Gender Equity vs Workplace Pragmatism



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# The Case for Menstrual Leave — Gender Equity vs Workplace Pragmatism

 The Indian Express

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## INTERVIEW ANGLE

*"Should India mandate menstrual leave by law? Would it help or hurt women employment prospects?"*

## WHY IN NEWS

The Supreme Court of India, in a bench led by Chief Justice Surya Kant and Justice Joymalya Bagchi, recognised menstrual health and hygiene (MHH) as a fundamental right under Article 21 but declined to mandate paid menstrual leave, calling it a potential “double-edged sword” for women professionals — reigniting the national debate on whether legislation or workplace flexibility is the better path to gender equity.

## THE EDITORIAL ARGUMENT

- 1 Recognition without enforcement is hollow:** While the Supreme Court acknowledged menstruation as a health issue worthy of constitutional protection under Article 21, its refusal to mandate leave leaves women dependent on employer goodwill — a historically unreliable safeguard in India labour market.
- 2 The “double-edged sword” argument has merit but is overstated:** The fear that mandatory menstrual leave will discourage employers from hiring women is real, particularly in the informal sector. However, maternity leave (26 weeks under the Maternity Benefit Act, 2017) faced identical opposition and is now normalised in the formal economy.
- 3 State-level experiments show the way:** Bihar (since 1992), Kerala (for students since 2023), and Karnataka (12 paid days annually since 2025) have implemented varying models — India should learn from their outcomes before legislating nationally.

- 4 **Global practice validates the concept:** Seven countries including Spain, Japan, Indonesia, South Korea, Taiwan, Zambia, and Vietnam have menstrual leave laws, though utilisation rates remain low due to **stigma** — suggesting that legislation alone is insufficient without cultural change.

## THE MEDICAL AND SOCIAL CONTEXT

### *Dysmenorrhea and Workplace Productivity*

Dysmenorrhea (painful menstruation) affects an estimated **50-90%** of women of reproductive age globally, with **10-15%** experiencing symptoms severe enough to interfere with daily activities. A **2023 BMJ study** of over 42,000 women across 193 countries found that menstrual symptoms caused an average of **23.2 days of reduced productivity per year** per woman, with **9 days** involving complete absence from work or education.

In the Indian context, where **~330 million women** are of menstruating age and the female labour force participation rate is already a low **37%** (PLFS 2023-24), unaddressed menstrual health compounds existing barriers to economic participation.

### *Stigma and Silence*

Menstruation remains deeply taboo in many Indian workplaces and communities. The **National Family Health Survey (NFHS-5)** found that **50%** of women aged 15-24 still use cloth instead of hygienic menstrual products, and **77%** of women in rural India lack access to sanitary pads. In this environment, asking women to formally request menstrual leave may itself feel like a privacy intrusion.

## STATE-LEVEL EXPERIMENTS IN INDIA

### *Bihar: The Pioneer (1992)*

Bihar became the first state in India to introduce menstrual leave, granting **two days of special leave per month** exclusively to female government employees. The policy has been in effect for over three decades, though data on its impact on female government employment is scarce.

### *Kerala: Student-Focused (2023)*

Kerala announced menstrual leave for female students in state universities and educational institutions, focusing on the educational rather than employment context. The policy acknowledges that absenteeism due to menstrual pain contributes to academic underperformance.

### *Karnataka: The Comprehensive Model (2025)*

In October 2025, Karnataka became the most ambitious state, introducing the **Menstrual Leave Policy 2025** covering **all sectors — public and private**. The policy grants **12 paid menstrual leave days per year** (approximately one day per month). It applies to all women employees across public and private sectors, making it the most comprehensive state-level menstrual leave policy in India.

STATE	YEAR	COVERAGE	LEAVE QUANTUM
Bihar	1992	Government employees only	2 days/month
Kerala	2023	State university students	Flexible
Odisha	—	Government employees	1 day/month
Sikkim	—	Government employees	1 day/month
Karnataka	2025	All sectors (public + private)	12 days/year

## GLOBAL PRACTICES

### Countries with Menstrual Leave Laws

COUNTRY	PROVISION	YEAR ENACTED	KEY FEATURES
Japan	1-3 days/month	1947	Under Labour Standards Act; no doctor note required; utilisation <1%
Indonesia	2 days/month	1948 (renewed 2003)	Under Labour Act; oldest policy globally
South Korea	1 day/month	—	Unpaid; low utilisation rate
Taiwan	3 days/year	—	Beyond sick leave quota
Zambia	1 day/month	2015	Called “Mother Day”; employer denial is prosecutable
Spain	3-5 days/month	2023	First European country; requires doctor note; state-funded
Vietnam	3 days/month	—	Under Labour Code

### The Japan Paradox

Japan lesson is instructive: despite having the oldest menstrual leave law (1947), fewer than **1%** of eligible women use it. Stigma, fear of being seen as “weak,” and workplace pressure to conform prevent utilisation. This underscores that **legislation without cultural transformation is insufficient**.

Spain approach — where the **public social security system** (not the employer) funds the leave — addresses the employer-discrimination concern by removing the direct cost from hiring decisions.

## ARGUMENTS FOR AND AGAINST

### *The Case For Mandatory Menstrual Leave*

- **Biological reality:** Menstruation is an involuntary physiological process; forcing women to work through severe pain is neither humane nor productive.
- **Equity, not equality:** True gender equity requires acknowledging biological differences. The Constitution itself permits “special provisions for women” under **Article 15(3)**.
- **Productivity argument:** Women working through severe dysmenorrhea are present but unproductive (presenteeism); granting leave may actually improve net output.
- **Constitutional backing:** The Supreme Court recognition of MHH as an Article 21 right creates a strong foundation for legislative action.

### *The Case Against or For Caution*

- **Employer discrimination:** Small and medium enterprises, which employ the bulk of India women workers, may prefer hiring men to avoid the additional leave liability — the Supreme Court “double-edged sword” concern.
- **Privacy and stigma:** Mandating a gender-specific leave category forces disclosure of a biological condition that many women prefer to keep private.
- **Implementation in the informal sector:** India has ~90% of its workforce in the informal economy, where labour laws are already poorly enforced. Menstrual leave may remain a paper right.
- **Alternative mechanisms:** Flexible work arrangements, work-from-home options, and expanded sick leave may achieve the same goal without singling out menstruation.

## LEGISLATIVE ATTEMPTS AT THE CENTRAL LEVEL

Two private member bills have been introduced in Parliament:

- 1 **Menstruation Benefits Bill, 2017** — introduced by Ninong Ering (Arunachal Pradesh MP); proposed 2 days paid leave per month for all women employees; lapsed.
- 2 **Right of Women to Menstrual Leave and Free Access to Menstrual Health Products Bill, 2022** — broader in scope, covering both leave and product access; also lapsed.

Neither bill was taken up for discussion, reflecting the political reluctance to engage with menstrual health as a legislative issue.

## WAY FORWARD

The debate should not be framed as “menstrual leave: yes or no?” but rather as “what institutional design best supports women health without creating hiring disincentives?”

A **three-tier approach** offers the best balance. First, the central government should mandate **flexible menstrual wellness days** (not explicitly labelled “menstrual leave”) within the existing sick leave framework — **2 additional paid wellness days per month** for all women employees, usable without medical certification. Second, the **cost should be socialised** through the ESIC (Employees State Insurance Corporation) or a dedicated wellness fund, following Spain model, so that employers do not bear the direct burden. Third, a **parallel cultural campaign** — similar to the Swachh Bharat Mission approach to sanitation stigma — should normalise menstrual health conversations in workplaces, backed by mandatory menstrual health awareness training for all employees.

Karnataka experiment should be closely monitored over 2-3 years before scaling nationally. The data on female employment rates, utilisation patterns, and employer response will be invaluable for evidence-based national policy.

### UPSC RELEVANCE

Maternity Benefit Act, 2017 (26 weeks); Article 15(3) — special provisions for women; Article 21 — right to life and dignity; NFHS-5 menstrual hygiene data; Karnataka Menstrual Leave Policy 2025

#### MAINS GS-1:

Role of women and women organisations; Social empowerment; Population and associated issues

#### MAINS GS-2:

Government policies for women; Mechanisms, laws, institutions for the protection of women; Issues relating to development and management of social sector/services relating to health

#### INTERVIEW:

Gender equity vs. formal equality debate; biological essentialism concerns; employer incentive design

## ★ FACTS CORNER — KNOWLEDGEEDIA

### MENSTRUAL HEALTH IN INDIA – CORE DATA:

Women of menstruating age in India: ~330 million

Dysmenorrhea prevalence: 50-90% of women globally; 10-15% severe

NFHS-5: 50% of women aged 15-24 use cloth instead of hygienic products

NFHS-5: 77% of rural women lack access to sanitary pads

Female LFPR (PLFS 2023-24): ~37%

BMJ 2023 study: menstrual symptoms cause 23.2 days reduced productivity/year

### SUPREME COURT RULING (2026):

Bench: CJI Surya Kant and Justice Joymalya Bagchi

Recognised MHH as fundamental right under Article 21

Declined to mandate paid menstrual leave

Called it a potential “double-edged sword” for women professionals

### STATE-LEVEL POLICIES IN INDIA:

Bihar: 2 days/month for government employees (since 1992)

Kerala: Menstrual leave for state university students (2023)

Karnataka: 12 paid days/year for all sectors (2025) — most comprehensive

Odisha and Sikkim: 1 day/month for government employees

### GLOBAL MENSTRUAL LEAVE LAWS:

Japan: 1-3 days/month (1947) — oldest policy; <1% utilisation

Indonesia: 2 days/month (1948, renewed 2003)

Spain: 3-5 days/month (2023) — first in Europe; state-funded

Zambia: 1 day/month (2015) — “Mother Day”; employer denial is prosecutable

### LEGISLATIVE ATTEMPTS IN INDIA:

Menstruation Benefits Bill, 2017 (Ninong Ering, MP) — lapsed

Right of Women to Menstrual Leave Bill, 2022 — lapsed

### OTHER RELEVANT FACTS:

Maternity Benefit Act, 2017: 26 weeks paid leave for first two children

Article 15(3): State may make special provisions for women and children

Article 42: Directive Principle — State to make provision for just and humane conditions of work and maternity relief

ESIC covers ~3.6 crore insured persons (potential menstrual wellness fund vehicle)

India informal sector: ~90% of workforce — labour law enforcement is weak

Sources: [Indian Express](#), [Drishti IAS](#), [LiveLaw](#), [PIB](#)



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