

MENSTRUAL LEAVE AT WORKPLACE: EMPLOYEES' POINT OF VIEW

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ABSTRACT

Women are biologically different from men. They face unique bodily challenges. One of them is their hormonal cycle, commonly known as menstruation. They bear both physical and mental stress during that period. Coping with such stress is more difficult for working women. On the one hand, workplaces are becoming progressively inclusive. More women are joining the workforce and are contributing to the growth of the economy. On the other hand, organizations have not been very sensitive to this unique need of women. During menstruation period, more than work, what women need is rest. But there are no policy initiatives to take care of such a need. This subject has been debated in the parliament, but no law has yet been passed. A law mandating Menstrual Leave or Period Leave in every organization can be a step in the right direction. In this research paper, the authors have tried to find out the opinion of employees about such a leave. This empirical study has been done by selecting samples from Agartala, Bhubaneswar and Raiganj.

Key Words: Period Leave, Menstrual Leave, Leave Policy , Inclusive Workplace , Gender Equality.

1. Introduction

Economic progress of a nation is dependent on optimum utilization of the productive human resources. With changing gender roles , women are no more limited to household work and are increasingly joining the workforce and are engaged in various forms of economic activities. Women are excelling in many fields and are now trading into vocations traditionally earmarked for men. Such influx of women has happened in both the unorganized and the organized sector. In the unorganized sector , they are either the primary income earner or are supplementing efforts of their men counterpart. Most of the time such contributions from her side is not remunerated but the fact that she is part of the economic activity is a step in the right direction. In the formal sector , participation of women in the service sector has been significant. In the manufacturing sector also companies are recognizing their capability and have been working towards higher gender ratio . In spite of all theses positive actions , India's female Labour Force Participation Rate (LFPR)—the share of working-age women who report either being employed, or being available for work—has fallen to a historic low of 23.3% in 2017-18, meaning that over three out of four women over the age of 15 in India are neither working nor seeking work.

From time immemorial, men and women both have been engaged in employment in various sectors. However, there always remained

a disparity between the working conditions of men and women and the scenario was almost the same till the 20th century. But with the advent of the 21st century, we witnessed various women-centric policies in the workplace . Such a shift in outlook first started in Europe with adoption of various women-centric policies . From there it spread to all over all the world. Even in countries like India, which have been historically male-dominated society, the Government introduced many policies particularly for women so that they get benefited and enjoy an equal status as that of their male counterparts. However, one of the major areas which has been continuously neglected by the successive governments in India for the benefit and relief to women has been the policy of period leave for working women.

Menstrual leave or Period leave is a kind of leave where the working women have the option to avail either paid or unpaid leave from the institution of her employment during her period of menstruation as such a condition adversely affects her ability to work .

In this study we investigate whether there is a need for a policy regarding period leave for women and if needed, whether such a policy should be made by the legislature or be institution specific. Through this research paper, we aim to find out the need for a period leave policy for the working women which will either be formulated by the legislature or by the institution in

which the women are be employed because it will lead to better working conditions, promote healthy mental and physical environment and further uphold the right to a dignified life to the women.

This research is intended to tackle a problem which is faced by the working women everywhere, still no policy has been made or has been tried to be promulgated either by the legislature or the institutions, barring an exceptional few. Also, the research into this topic has remained limited because of social taboo and lack of quantifiable data on the subject.

By the outcome of this research we intend to fill the gaps in various other studies relating to women which would benefit them or are meant for their further social, economic as well as physical well being and progress. The data collected for this research can be used as a guiding factor to formulate such a period leave policy or any other related policy either by the legislature or the respective institutions. The various limitations which have been highlighted in this research can be taken up by the appropriate authorities to tackle them for smooth implementation of such a policy.

2. Literature Review

The researchers delved into the existing resources on the topic to get a clear understanding of the existing state of affairs and then tried to identify the gap which needs to be bridged. The following articles have been instrumental in giving a brief

idea about the debates and identifying the problems underlying the topic of period leave so far.

According to an estimate by the IMF, equal participation of women in the workforce will increase India's GDP by 27% and will add a whopping USD \$700 billion to its GDP by 2025. Thus as observed in this report, economic growth and gender equality go hand in hand. This warrants women to be provided with better working conditions and conducive terms of employment.

Millions of girls and women face discrimination and health challenges in India because of their lack of awareness regarding menstruation. According to a study by the UNICEF, in India 71 percent of young women, until their first menstrual cycle, remain unaware of it.

The New York Times¹ in one of its articles has discussed the factors that has led to the introduction of period leave in USA. One of the prominent points it discussed is the taboos related to menstruation which goes beyond any geographical territories and the demeaning ways of life it thrushes upon women.

Live wire² formulated a commentary which primarily discussed a very important concept of gender equality

¹ Geneva Abdul, *Company's Paid Leave for Periods Takes On a Workplace Taboo*, N.Y. TIMES, Aug. 11, 2020

² Sanjukta Bose, *A Quick Note on Gender Equality For Critics of Zomato's New Period Leave Policy*, L.W., August 14, 2020

and how affirmative action is not the same as discrimination. This article directly attacks the belief system which speaks against period leave because , when women assert to be treated equally, it means women wants to be treated as men, which is not the case at all. This article also discusses in brief the biases the women face in various nations.

A news article published in Aljazeera³ discussed the various reactions even among the women of India towards the introduction of the “period leave” by Zomato. It particularly focused on the contrasting views even among the sections of women towards such a women-centric policy, while some in favour of it while others against it. The Hindu⁴ once highlighted how the State of Bihar has proactively adopted such a policy of providing two days of leave every month to the women employees since 1992. This is highlighted because this State is considered a laggard in the aspect of gender equality and women empowerment. Also, this article highlights the pain which women employees have to undergo every month due to menstruation.

In Manupatra⁵ the article presented an all-round approach to the whole conception of period leave. It discussed

at length the Menstruation Benefits Bill of 2017, a private member's Bill and an analysis of the sections contained in it. It also supported the schemes of period leave which are adopted by some of the countries around the globe. It further discussed the biological approach for the policy relating to menstruation and menstrual leaves. The most important aspects which have been dealt by this article are the constitutional aspects of such policy, the area of privacy for women, and the first and foremost point being properly upholding the dignity of women through such menstrual leaves.

2.1 Legal Prospective

Lets dive into the Constitutionality of the Menstrual leave before proceeding into finding the opinion of the employees and employers.

Article 14 of the Indian Constitution reads as-

“14. Equality before law- The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.”

This Article has been brilliantly drafted by the wise framers of our Constitution to include not only a negative duty but also a positive liability upon the State. Negative duty of the State refers to the duty that the State shall not intervene in the rights of the subjects whereas, the positive duty places the liability upon the State to frame laws that shall protect the ones who need it. Thus,

³ News Agencies, Zomato's 'period leave' policy triggers debate among Indian women, AL JAZEERA, Aug 12, 2020

⁴ Urvashi Prasad, India needs a menstrual leave policy, B.L. The Hindu, June 07, 2018

⁵ Vrinda Aggarwal, Leave to Bleed: A Jurisprudential Study of the Policy of Menstrual Leaves, 8 JILS 1,8-9 (2017)

the meaning that this Article implies isn't that everybody should be treated equally, but that there should not exist any special treatment between classes without justifiable reasons attached for the same. Equal protection of the laws means that people similarly situated ought to have the same laws applicable to them.

If an act which protects the right of women to take maternity leave is valid and has been welcomed, it is difficult to argue why the notion of menstrual leave needs to be targeted as being unfairly prejudicial to ones who can't avail it given that nobody has a choice when it comes to period or the way it effects both mental and physical wellbeing.

One of the provisions from which such a policy of providing period leave for the women can be justified is Article 42 of the constitution.

This Article falls under the chapter of Directive Principles of State Policy. As per this article, the State is mandated to "make provision for securing just and humane conditions of work and maternity relief". Further, under Article 15 discrimination on the grounds only of sex has been prohibited. However, clause 3 of the said article provides that the State can make special provisions solely for women and children and nothing in article 15 shall prevent the State from making such provisions. Thus, from the above two Articles it can be observed that the Constitution itself casts a duty on the State for providing relief to

women in matters of employment and a healthy working environment for the women employees, both physically and mentally.

The former specifically relates to the "just and humane conditions of work". Now considering the policy of period leave with regards to this it can easily be concluded that the women employees who, because of the absence of such a policy are bound to work during their menstruation period, such a practice would qualify as unjust and inhumane and a violation of this Article. The State is under an obligation, by virtue of Article 42, to ensure "just and humane conditions of work" for women employees and to fulfil its obligation.

Another aspect for the constitutional validity of such a policy derives its strength from Article 21 of the Indian constitution which guarantees to every person the right to life.

Article 21 of the Indian Constitution reads as-

"21. Protection of life and personal liberty- No person shall be deprived of his life or personal liberty except according to procedure established by law."

The right to life under this article includes the right to live with human dignity.⁶ In a country like India where women have to face many kinds of social stigmas, either in the society or at their workplace, in many cases

⁶ *Francis Coralie Mullin vs UT of Delhi*, AIR 1981 SC 746

women employees face discrimination and humiliation because of periods, even from their female counterparts. This results in the violation of their constitutional right to live with human dignity. To prohibit such practices and to prevent the sufferings of such women employees as well as violation of constitutional right, the legislature has all the rights to step in and formulate such a policy.

3. Research Gap & Research Problem

From the above valuable articles, the one key element that seems to be missing is the opinion of the public and the analysis thereof. This topic being typically of public importance has to be understood from the attitudes and reasoning of important stakeholders ,namely women employees , men employees and employers. Thus, the researchers shall try to analyse a limited sample to predict whether the thesis shall be responded to in positive or negative.

Today women are employed in almost every sector of the economy and their performance has been at par with their male counterparts. It has also been observed that in many of the sectors, the women employees have outperformed the male employees and have handled work-related problems more tactfully than the latter. However, one of the major issues which continue to hinder the performance of working women is the problems they face during their periods. The tremendous amount of pain which women face during that period affects their mental and physical health. According to

one Australian study, menstruation might lead to an increase in the body temperature and cardiovascular strain, thereby possibly rendering a negative impact on the performance of women. The energy level of women may also get lowered, however it differs from woman to woman.

In this research project, we examined various factors and issues related to period leave for working women .The opinion of both male and female employees towards Period leave for woman and their view regarding gender equality in the workplace was also brought out in this research . The most important point captured in this study is the need for a period leave policy. Quantitative data analysis approach to draw conclusion from empirical data was used in this research.

So the Research questions are :

- What are the opinions of employees, men and women, towards Period Leave.
- What should be the length of such leave and if that will be a paid or unpaid leave.
- Should the leave policy be left to the employer or the Government should make it compulsory by passing of a legislation.

4. Research Methodology

This is an exploratory research. Descriptive and Quantitative research methods has been used in this study . Details are as follows:

Research Approach: The research approach implemented has been that of interpretivism. It has been observed that one characteristic of interpretivism is that these facts are abstract in nature, and governed by a variety of factors which are non-tangible and difficult to measure.

Research Design: This research makes use of a quantitative research strategy. Quantitative research focuses on gathering numerical data and generalizing it across groups of people or to explain a particular phenomenon. **Research Methods:** For the purposes of this research, the authors have decided to use a classic social sciences research tool – questionnaires. Questionnaires were chosen for this research because they are a reliable and quick method to collect information from multiple respondents in an efficient and timely manner.

Sampling Strategy: For the purposes of this study, the authors had to examine two separate groups of participants. The first group of participants were more broad and general in nature, which is to say, that both men and women formed an equal share of it. The second group consisted of women alone, and the questions were specifically targeted to them to grasp the contrast or consistency between the major stakeholders. A sample size of 200 was used for the study and snowball sampling was used to get the respondents.

Ethical Considerations: All of the participants were informed in advance

about the purposes of this project, and gave their consent to participate. Their identity as well as the other personal details has been kept in strict confidentiality, thus meeting the requirements of the code of ethics.

Instrument of Data Collection: The researchers had framed the questions keeping in mind the social conditions prevailing in our society. The topic in itself attracts stigma and not many people are comfortable having a free discussion on it. Hence, options were provided and responses to the same were studied to reach the conclusion. Certain classes of question were also designed for women alone, they being the ones to be directly affected.

The factor of age group was of importance to study the change in approach when it comes to the fact of belonging to different generations. Marital status was kept a variable to study if it had any correlation when the answers that had been recorded. The awareness regarding the notion of menstrual phase and the concept of leave availing for menstruation was also an important factor that had high impact on the topic. Again, certain questions very clearly brought out the perception of the contributors regarding the condition or effect that period can have upon the work women undertake. The researchers also thought it wise to directly then proceed with the opinion polls regarding the leave, and whether it ought to be paid, and if yes, whether fully or partly. The interesting part was, another query was framed to bring into notice about

the outlook as to whether period leave could be prejudicial to men.

Certain questions, as mentioned earlier were framed particularly for women. This questions were significant because they involved the personal opinion regarding the availing of menstrual leave at a personal level. The reasons for not availing even though supportive of menstrual leave also had to be studied and understood to being about the analysis that the researchers were aiming at.

Data Analysis: The results were analyzed using MS Excel, due to the small sample of participants. The major results and findings of this research are discussed in the following chapter.

5. Data Analysis and Findings

The researchers analyzed the answers to questions related to Period leave , to understand the opinion and the degree of acceptance of employees in the matter of menstrual leave. The sample strategy, as was mentioned under the research methodology, was mainly divided under two branches. The first one being the general and broad one, wherein both men and women were a part, and the second one consisted of women only. Therefore, with that in mind, the researchers would proceed with the analysis of individual questions.

There were a few other questions that were left behind from the analysis, because the responses were greatly

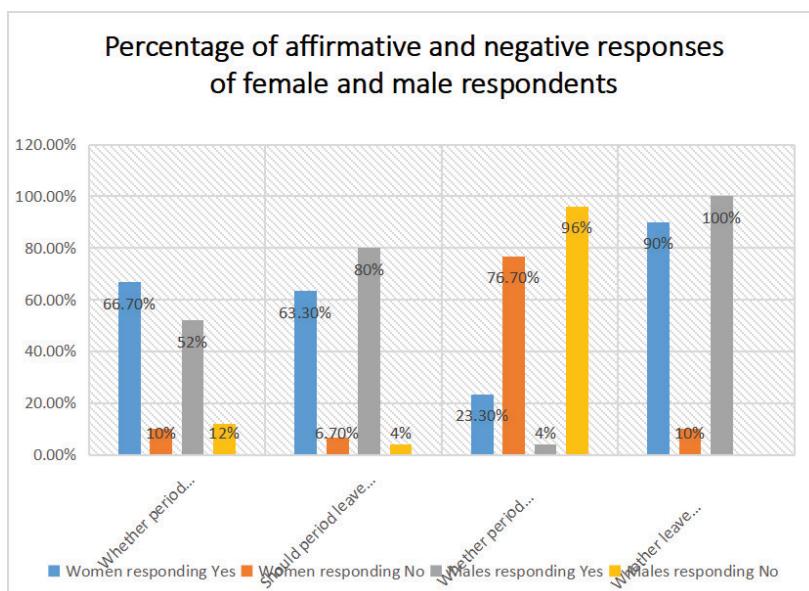


Fig. 1: Certain questions that were put forward to analyse the broad sample, i.e. both men and women being respondents. The question and the number of respondents to have said yes or no has been indicated in the graph.

unanimous, and there was not much to analyse. One such was whether respondents were aware of the concepts of menstruation and menstrual leave. Both were answered in affirmative, and hence the researchers have proceeded with the study of the responses of the queries from which can be understood as to the degree of acceptance of the concepts as discussed below.

The researchers would first proceed with the analysis of the general aspects of the questionnaire and later proceed to the specific ones.

5.1. The first question that was presented was whether the respondents believed that menstruation could result in any interference with the work they were undertaking, in any given field. The response from men and women equally, for both yes and no seems to have reached a harmony, wherein the percentage for both for and against the question presented doesn't seem to have a grave distinction based on gender. Hence, women and men from various fields have reached a consensus and have a clear acceptance to the fact that menstruation does have an impact and tends to hinder the job the woman might be undertaking.

Another very pertinent question put forward by the researchers was whether period leave ought to be granted. Even in this case, much like the previous one, the answer of yes and no, for both women and men stated that there was a general agreement with regard to the answer. Most of the respondents from either sex and all age groups agreed that menstrual leave ought to be granted to women.

5.2. Moving on to the next question, which was whether it would be unfair and prejudicial to men that women be granted menstrual leave. The very remarkable part is that, most respondents from either gender have agreed to the fact that granting women menstrual leave is unfair to men. This clearly brings out the ambiguity and the broken linkage of thoughts that the previous responses had knitted. It definitely might result out of the strong patriarchal society we still live in or the thought process we have cultivated along the way. This answer is in disagreement and clear contrast to the results discussed previously.

5.3. Moving on to the next query, the question that the researchers had put out forward was whether in case the menstrual leave if granted, it ought to be paid or unpaid. Given the similar circumstances, in case of maternity benefits it is a matter of right to receive their dues, and even as per our data, most women and unanimously all men have accepted that it ought to be paid. Certain women respondents were found to be have declined the prospect of getting paid in order to avail menstrual leave. Like has been stated in other articles previously, some people are sceptical and do not consider menstrual leave as a right. The researchers would then like to move on to analyze the questions and the responds that were received from the specific group, which consisted of women respondents only.

5.4. The first question that was put forward to conduct this study was whether the nature of work was that of a desk job primarily. The respondents

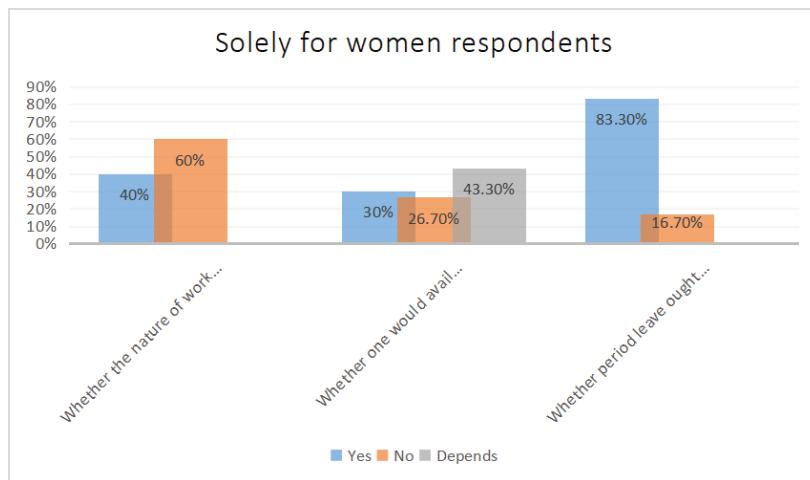


Fig. 2: The graph represents that questions that were put forward to specifically the women respondents and their respective responses.

mostly answered in negative even though the difference was noticeable, it wasn't entirely marginal.

5.5. The next question that was pertinent was whether one would personally avail menstrual leave if provided. The interesting fact that was observed was the respondents who has previously supported the introduction of the leave were themselves reluctant to avail it, even if available. This brings the topic of menstruation being a social humiliation in the stage again. People are not yet comfortable enough to even talk about it, hence this might have resulted in the discrepancy when it comes to a discussion at a personal level. It is difficult to decipher the reasoning behind the cause, because it can be varied.

5.6. The next question that the researchers were concerned with was if the menstrual leave, if

introduced should be applicable to all organizations, irrespective of the nature of their work rather than the ones which requires most, i.e. barring white collar jobs. Most of the respondents established that irrespective of the nature of work one undertakes, menstruation can be uncomfortable to deal with. Most have agreed that menstrual leave needs to be applicable to all sectors and not a selective few.

6. Limitation of the study

Through this research, we intended to find out the perception of both men and women towards the need for such a leave and then the need of a policy of period leave for the working women .

This is an exploratory research and various limitations are as follows:

Sample size: The sample size which was taken into consideration for the analysis is limited because of the

hurdle in collecting data during corona pandemic.

Lack of available data: The research topic undertaken hereby is still in a nascent stage. Not much secondary data is available on the subject.

Geographical area: As already stated, because of the various restrictions imposed by the government due to the pandemic, the geographical area for the research was limited to three cities.

Technological limitation: The restriction hindered the strength of the pool of respondents. Data was collected only in online mode.

Nationality: The research pool for this topic was restricted only to the Indians.

Stakeholder: We collected the opinion of the employees only. There are other stakeholders in the subject like Employers , Government , Civil society etc. Opinion of these people have not been considered.

7. Conclusion

Although, there have been many pro-women policies introduced by the successive Governments in India for equal participation and equal treatment of women employees, the aspect of period leave has mostly remain untouched. The topic for which this research was conducted was to look whether the introduction of a policy of period leave for women employees is required or not.

From the empirical data collected from the cities of Agartala, Bhubaneshwar and Raiganj, this research therefore

throws light on the perception of the various men and female employees towards the introduction of such a policy.

Upon conducting the research, it was found out that the lion's share of the female and male respondents find it necessary for the introduction of a period leave policy in their institution. More surprising finding which the empirical data shows is that whereas 23.3% of female respondents believe that introduction of such a policy will be unfair to the male employees, merely 4% of the male employees believe that such a policy won't be unfair to them. Although conducted on a small scale, still it shows that the general notion prevalent among the general public that male employees are generally against any pro-women policies does not hold true in case of period leave policy.

Therefore, if such women-centric policies for women are not introduced at Pan-India level, proper working conditions or equality to the women employees won't be availed. Such a situation shall serve as a hindrance both to the overall development of the women, which in turn would have a catastrophic cascading effect on the development of the country. More research work needs to be undertaken into the field of such women-centric policies and great efforts should be made so that those findings can be translated into policies. Also, the proper implementation of these policies should be strictly scrutinized by the concerned authorities.

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