

menstrual leave policy India Smriti Irani

 theprint.in/opinion/paid-menstrual-leave-is-a-win-win-policy-make-workplaces-equitable-boost-productivity/1893193

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Union minister for Women and Child Development Smriti Irani's [comments](#) in Parliament against "paid menstrual leave" have renewed the debate on HR policies and periods. The discussion on the subject often frames menstrual leave as 'entitlement' rather than as an incentive for women to fully participate in the workforce. This, coupled with the male gaze in policymaking, makes matters even more worrisome. Forcing women to emulate men for equal opportunities in the workplace is not an effective solution.

Irani said that menstruation is not a "handicap" and, therefore, does not warrant a "paid leave policy". In her viewpoint, leave for menstruation may lead to women facing discrimination at the workplace. This stance reflects both the lack of awareness and social stigma around menstruation in India.

Constitutionally, paid menstrual leave is imperative for equality and dignity and any opposition to such a policy measure is a step back from making the workplace more comfortable and equitable for women. There is a dire need to shun patriarchy by normalising menstruation rather than invisibilising it.

Status of menstrual leave policy in India

Earlier this year, the Supreme Court dismissed a public interest litigation (PIL) advocating for 'menstruation leave' for female students and working women across India. However, the bench, comprising Chief Justice DY Chandrachud, Justice PS Narasimha, and Justice JB Pardiwala, recognised that the plea had raised some important points, including the absence of any provision on menstruation in the Maternity Benefit Act 1961. It then noted that the issue fell in the domain of policy and it would be more appropriate for the petitioners to approach the Ministry of Women and Child Development.

While there is no law governing menstrual leave in India, the recently released draft Menstrual Hygiene Policy 2023 recognises the need to address the issue of gender discrimination and create an enabling work environment which supports leaves and work-from-home options.

"It is important to emphasise that such arrangements should be available to all, to prevent perpetuating stigmas or assumptions about productivity based on menstrual cycles," the draft policy says. Furthermore, it recognises menstruation in the "trans and the non-binary population" as well.

Though there is no centralised direction for 'paid menstruation leave' in India, two Indian states, Bihar and Kerala, should be applauded for taking the lead in introducing menstrual leave policies for women. Bihar's policy was introduced in 1992, followed by Kerala in 2023. Moreover, despite the absence of any mandatory requirements, some industry giants, such as Zomato, Swiggy, Byju's, and several others have provided paid menstruation leave, thus setting the standard for industry practices.

Arguments for & against menstrual leave

Worldwide, paid menstrual leave is currently provided in a few countries, including Japan, Taiwan, Indonesia, South Korea, Spain, and Zambia. The debate on this policy has several compelling arguments on both sides.

Opponents of the menstrual leave policy argue that menstruation-related health issues are severe only for a small percentage of women, who can in any case claim sick leaves. Their position is that policy measures could backfire against women by discouraging employers from hiring them. In the long term, it might create severe challenges for women in finding paid work. It might even create an embarrassing situation in the workplace due to the stigma attached to menstruation.

Proponents of the policy contend that menstruation is a biological process and not an illness for which sick leaves can be claimed. According to them, implementing a menstrual leave policy would recognise gender differences in the workforce, make women more productive, and align with international human rights and domestic laws of most countries.

In India, menstrual leave would be in line with Article 21 (right to life) and Article 14 (right to equality) of the Constitution. Additionally, the Constitution empowers the State to make special provisions for women and children under Article 15(3).

Globally, women are striving hard to break glass ceilings, challenge stereotypes, and overcome gender bias in the workforce. The existence of systemic, structural discrimination and inequality in the workforce is reflected in the abysmal representation of women in leadership positions across sectors and industries. To bridge the 'gender leadership gap', the differences between men and women need to be recognised and addressed appropriately.

In the context of the ongoing struggle for workplace equity, a paid menstrual leave policy will not only align with constitutional principles but will also go a long way in boosting the productivity of women and reinforcing that they are valued, needed, and an indispensable part of the global workforce.

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(Edited by Asavari Singh)