# MENSTRUAL LEAVE IN INDIA: THE CASE FOR A UNIFORM NATIONAL FRAMEWORK

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## Introduction

"Men and women stand equal in the eyes of the law; yet, they are biologically distinct. To acknowledge such differences, particularly in matters concerning health, dignity, and bodily autonomy, is not to transgress the guarantee of equality, but to give it substantive meaning."[1]

Despite the biological reality of menstruation and the varying degrees of discomfort/ conditions associated with it, India lacks a comprehensive national framework for menstrual leave. The result is that millions of menstruating persons navigate their workplaces without any formal recognition of a recurring biological need.

This article examines the constitutional foundation, judicial pronouncements, legislative developments, and policy considerations that support the case for a uniform national menstrual leave framework in India.

## Constitutional Foundation and Judicial Recognition

The Constitution of India provides a robust foundation for menstrual leave legislation. Article 14 guarantees equality before the law and equal protection of the laws. Article 15(1) prohibits discrimination on the grounds of sex, and Article 15(3) empowers the State to make special provisions for women and children. Article 21 protects the right to life and personal liberty, which the Supreme Court ("**SC**") has progressively interpreted to include the right to live with dignity, the right to health, and the right to a safe workplace. Article 42 directs the State to make provision for just and humane conditions of work. Read together, these provisions create a constitutional obligation to accommodate biological realities that affect workplace participation.

Indian courts have progressively expanded the understanding of dignity, equality, and bodily autonomy through a series of landmark judgments. In *Vishaka*[2], the SC held that the right to life under Article 21 includes the right to a safe and secure workplace. The SC observed that the fundamental right to carry on any occupation under Article 19(1)(g) depends on the availability of a safe working environment. While *Vishaka* specifically addressed workplace sexual harassment, the foundational legal reasoning based on gender equality and creation of an enabling work environment extends naturally to menstrual health: a workplace that fails to accommodate menstruation cannot be considered truly safe or dignified.

In another landmark judgment on privacy (i.e., *Puttaswamy*[3]), the SC affirmed that decisions about one's body, including decisions related to reproductive health, are protected under

[1] *Chandravva Hanamant Gokavi v. State of Karnataka*, MANU/KA/1137/2026.
[2] *Vishaka v. State of Rajasthan,* AIR 1997 SC 3011.
[3] *Justice K.S. Puttaswamy v. Union of India*, AIR 2017 SC 4161.



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Article 21. Menstrual leave, which enables persons to manage their menstrual health without workplace penalty, directly furthers the values of bodily integrity and dignity that *Puttaswamy* enshrines.

However, the SC, in the case of *Shailendra Mani Tripathi*[4], declined to lay down a nationwide paid menstrual leave policy, observing that the matter involved multifarious policy considerations to be addressed by the Union and States, and accordingly directed the Union Government, the States and the Union Territories to formulate appropriate policies for the grant of menstrual leave.

**Legislative and Policy Developments**

At least six (6) private member's bills have been introduced in the Lok Sabha over the past decade, but none have been enacted. In 2017, Shri Ninong Ering introduced the Menstruation Benefits Bill, 2017, proposing two (2) days of paid menstrual leave per month for all women, including students. In 2018, Dr. Shashi Tharoor introduced the Women's Sexual, Reproductive and Menstrual Rights Bill, 2018, which, among other things, required public authorities to provide sanitary pads at no cost on their premises. Member of Parliament, S. Jothimani introduced the Right to Menstrual Hygiene and Paid Leave Bill, 2019, proposing three (3) days of paid leave during menstruation for women working in establishments registered with the government. In 2022, Shri Hibi Eden introduced the Right of Women to Menstrual Leave and Free Access to Menstrual Health Products Bill, 2022, proposing three (3) days of paid leave per month alongside free access to menstrual health products. More recently, Dr. Kadiyam Kavya introduced the Menstrual Benefits Bill, 2024, proposing four (4) days of paid leave during menstruation, and Smt. Shambhavi introduced the Menstrual Leave and Hygiene Bill, 2024, proposing paid menstrual leave and free menstrual hygiene products. The repeated failure of these bills to be enacted reflects not a lack of merit, but the broader challenge of advancing gender-specific labour legislation through private member's bills.

In the absence of national legislation, several states have acted independently. Bihar has provided women government employees with two (2) days of leave per month since 1992. Kerala introduced two (2) days of menstrual leave per month in Industrial Training Institutes across Kerala[5] and revised its university attendance policy to reduce the minimum attendance requirement to 73% to accommodate students availing of menstrual leave[6]. Odisha grants female state government employees aged up to fifty-five (55) years twelve (12) days of additional casual leave, or one (1) day leave per month, per calendar year.[7] The High Court of Sikkim introduced two (2) to three (3) days of menstrual leave per month for women employees in the Sikkim High Court registry.[8] More recently, Karnataka became the first

[4] *Shailendra Mani Tripathi v. Union of India*, MANU/SCOR/81600/2024.
[5] Government Order No. 1231/ 2024/ LBR, issued by the Labour and Skills Department, Government of Kerala, dated November 28, 2024.
[6] Government Order No. 33/ 2023/ HEDN, issued by the Higher Education Department, Government of Kerala, dated January 19, 2023.
[7] Office Memorandum No. 30993/ F, FIN-CS2-LV-0021-2024, issued by Finance Department, Government of Odisha, dated November 11, 2024.
[8] Notification No. 24/ HCS, issued by the High Court of Sikkim, dated May 27, 2024.



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Indian state to cover both government and private sector employees.[9] The policy provides one (1) day of paid leave per month, twelve (12) days annually, for women aged eighteen (18) to fifty-two (52) years, across permanent, contract, and outsourced workforce categories.

**A Case of an Interesting Funding Model**

Spain became the first European country to enact menstrual leave legislation in 2023. It provides three (3) to five (5) days of paid leave per month for employees with a medical diagnosis of dysmenorrhea.[10] The social security system bears the costs, rather than individual employers. This funding model addresses a key concern about employer burden and prevents discrimination in hiring decisions.

**Path Forward**

Several key considerations must guide the design of a national menstrual leave framework.

(i) Inclusive terminology: Legislation must refer to "employees who menstruate" rather than gender-specific categories. This approach is consistent with the principles established in *National Legal Services Authority*.[11]

(ii) Self-declaration mechanism: No medical certificate should be required. A self-declaration model protects privacy in accordance with Article 21 and the dignity concerns identified in *Puttaswamy*.[12]

(iii) Coverage: Following Karnataka's model, national legislation must cover all employees, whether permanent, contractual, or outsourced, across both government and private sector establishments. Limiting coverage to government employees, as most state policies currently do, leaves the vast majority of India's workforce without protection.

(iv) Flexible implementation: The framework should allow employers to choose between two (2) models: (a) an expanded casual leave model, under which additional casual leave days are provided without requiring disclosure of the reason, thereby maximising privacy; or (b) an explicit menstrual leave model, which creates a distinct leave category, enhancing visibility and normalisation. The foregoing models have been detailed in a white paper released by the SC.[13] Employers should be permitted to select the approach best suited to their organisational culture, with mandatory minimum standards applicable to either model.

[9] Government Order No. KAI 466 LET 2023, issued by Government of Karnataka, dated November 12, 2025; Government Order No. FD 10 SRS 2025, issued by Finance Department, Government of Karnataka, dated December 2, 2025.
[10] Organic Law 1/2023, B.O.E n. 51, dated March 1, 2023 (Spain), https://www.boe.es/buscar/doc.php?id=BOE-A-2023-5364.
[11] *National Legal Services Authority v Union of India,* AIR 2014 SC 1863.
[12] *Justice K.S. Puttaswamy*, AIR 2017 SC 4161.
[13] Centre for Research and Planning, Supreme Court of India, *White Paper on Menstrual Leave* (2025).



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(v) Awareness programmes: Employers must be required to conduct regular awareness and sensitisation programmes on menstrual health. Such programmes address misconceptions, reduce workplace stigma, and ensure that employees can avail of their rights without fear of judgement or retaliation.

**Conclusion**

The constitutional architecture, judicial pronouncements, and emerging policy momentum collectively establish a compelling case for comprehensive national menstrual leave legislation. Karnataka's menstrual leave policy provides a practical template for national legislation, particularly because it covers the private sector and uses a self-declaration model.

India now stands at a critical juncture. The gap between constitutional promise and workplace reality can be bridged through a uniform national framework. Menstrual leave is not a concession or a privilege. It is a constitutional imperative, rooted in the fundamental rights to dignity, equality, health, and non-discrimination.



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