

Menstrual Equity- Economic Social and Legal Dimensions

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ABSTRACT

Menstruation is a natural process. Menstruation and menstrual practices face numerous challenges which includes social, economic, cultural and religious challenges. Those challenges act as a barrier for the menstrual hygiene. When a girl or women is denied from getting access to menstrual products then it can be considered as a human right violation. Such human right violations may emerge from the challenges or barriers of menstrual hygiene. When a girl or women is unable to get the menstrual products then it is affecting the dignity of a girl or women. The involvement of judiciary and the decisions of the court on various matters which uphold the status of women must be given eminence. One of the major reasons for the denial of women friendly toilets and lack of access to menstrual products for women and girls is the male dominated society. Charging costs for the menstrual products can also arise as a human right violation as many of the girls and women across the world are still not able to afford such costs. Many of the girls are lacking a proper education about menstrual hygiene and the need for the same, lack of knowledge about menstrual hygiene act as a great hindrance. There must be proper education about menstrual hygiene in order to overcome the difficulties and barriers they face at home, school and at work places.

KEYWORDS: Menstrual hygiene, Challenges, Judicial act, Human Rights, Economic barriers

INTRODUCTION

The World Health Organization (WHO) considers those persons between the age group of 10 and 19 as adolescent³. It is the period of transformation from a child to an adult and during this period there occurs numerous physical, biological and psychological development of a child.⁴ Menstruation is an eminent phase in the life cycle of women that requires special care and attention. It is the process by which the lining of uterus gradually thickens and sheds off and causes bleeding which may last from 3 – 5 days, along with blood menstrual fluid

³ World Health Organization, "Programming for adolescent health and development," WHO Technical Report Series No. 886 vol.2, World Health Organization , 1996.

⁴ S.B. Thakre, S.S. Thakre, M. Reddy, N. Rathi, K. Pathak, and S. Ughade, "Menstrual hygiene: knowledge and practice among adolescent school girls of Saoner, Nagpur District," Journal of Clinical Diagnostic Research, vol.5,no.5 pp.1027-1033, 2011.

contains mucus and vaginal secretions⁵ and two-thirds of the endometrial lining is shed during menstruation. The Indian society view menstruation as a taboo and considers it as impure and unclean,⁶ due to several social, cultural and religious beliefs. Lack of knowledge about proper management of hygiene during menstruation and due to shyness the situation becomes worse for girls.⁷ Lack of education and high costs for the menstrual products are adding to the situation. If practices related to menstrual hygiene are neglected it may lead to toxic shock syndrome, reproductive tract infections (RTI) and other vaginal diseases.⁸ Menstrual equity can only be assured if all women and girls are provided access to menstrual products free of cost and also by educating those girls about menstrual hygiene. It is possible only by developing and uplifting the status and dignity of women and the women and girls should have their voice in the society for the same the governments and judiciary can play a vital role.

WHAT IS MENSTRUAL EQUITY?

Menstrual equity refers to equal access to menstrual products irrespective of the income and status of persons and they must also be educated about menstrual hygiene. It means that all persons must get free menstrual products and free education of menstrual hygiene then only menstrual equity can be assured. The two components of menstrual equity are as follows:

- A) Access to Menstrual Products
- B) Menstrual Education

A. ACCESS TO MENSTRUAL PRODUCTS

The availability and use of menstrual hygiene products vary from nation to nation. More than 75%⁹ of women and girls in high income or upper middle income countries use commercial products, and more than 50%¹⁰ of women and girls in lower middle income countries use homemade products. The use of homemade menstrual products is due to the following reasons:

⁵ D. Sapkota, D. Sharma, H.P. Pokharel, S. Budhathoki, and V.K. Khanal, "Knowledge and practices regarding menstruation among school going adolescents of rural Nepal," *Journal of Kathmandu Medical College*, vol.2, pp.117-121, 2014.

⁶ A. Dasgupta and M. Sarkar, "Menstrual hygiene: how hygienic is the adolescent girl?" *Indian Journal of Community Medicine*, vol. 33, no.2, pp.77-80, 2008.

⁷ S.Nagar and K.R. Aimol, "Knowledge of Adolescent Girls Regarding Menstruation in Tribal Areas of Meghalaya," *Studies of tribes and tribals*, vol.8,no.1, pp. 27-30, 2017.

⁸ T.Rajaretnam and J.S. Hallad, "Menarche, menstrual problems and reproductive problems and reproductive tract infections among adolescents in rural and urban areas of northern Karnataka in India," in *proceedings of the European population Conference*, vol.4, pp. 1-4, Vienna Austria, 2010.

⁹ Chalabi, Mona. "How Many Women Don't Use Tampons?" 538, October 1, 2015.

¹⁰ Sebastian, Ashwini, Vivian Hoffmann and Sarah Adelman. "Menstrual Management in Low-income Countries: Needs and Trends." *Waterlines* 32, no. 2(April 2013): 135- 153. doi:10.3362/1756-3488.2013.015.

1. Availability: Homemade alternatives are made using the materials that are readily available to girls and women such as straw, rags, pieces of cloth etc.¹¹
2. Affordability: Homemade alternatives are cheaper than those commercial products.¹²
3. Cultural Acceptability: Homemade products are culturally more acceptable than the commercial products.¹³ Most of the women still use homemade alternatives instead of commercial products because of the high cost and limited availability of commercial products, the cultural barrier is also adding to the situation.

B. MENSTRUAL EDUCATION

Most of the girls lack knowledge about menstruation prior to their first period. In Ethiopia 49% of girls are lacking knowledge about menstruation before experiencing menarche.¹⁴ Similarly 32.5% girls of South Asia,¹⁵ 51% of girls in Afganistan,¹⁶ and 82% of girls in Malawi¹⁷ had no knowledge about menstruation before their first period.

a) Role of Mass media:

Girls are not comfortable in open discussions about menstruation. Studies show that mass media plays a vital role in developing self awareness.¹⁸ In Egypt, 92.2% of girls get primary awareness about menstruation through mass media.¹⁹ It means that mass media has a significant role to be played in developing self awareness in the adolescents.

b) Role of teachers:

Teachers play an eminent role in creation of women friendly environment in the school and they can educate students about menstrual hygiene. Sex education in schools help the students to identify their sexual identity, avoid unwanted pregnancies, reduce sexually transmitted diseases, create

¹¹ Gultie, Teklemariam Ketema "Practice of Menstrual Hygiene and Associated Factors among Female Mehalmeda High School Students in Amhara Regional State, Ethiopia". Science Journal of Public Health SJPH 2 no.3(2014):189.

¹² Good Policy and Practice in Health Education Booklet 9: Puberty Education & Menstrual Hygiene Management. Paris: United Nations Educational, Scientific and Cultural Organization, 2014.

¹³ ibid

¹⁴ Tegegne, Teketo Kassaw, and Mitike Molla Sisay. "Menstrual Hygiene Management and School Absenteeism among Female Adolescent Students in North East Ethiopia." BMC Public Health 14, no.1118 (October 29, 2014) doi:10.1186/1471-2458-14-1118.

¹⁵ Dasgupta, A, and M Sarkar. "Menstrual Hygiene: How Hygienic Is The Adolescent Girl?" Indian Journal of Community Medicine 33, no.2, 77-80. doi:10.4103/0970-0218.40872.

¹⁶ House, Sarah, Therese Mahon, and Sue Cavyill. Menstrual Hygiene Matters: A Resource for Improving Menstrual Hygiene around the World. WaterAid, 2012.

¹⁷ ibid

¹⁸ Feliciano David. "Factors of Adolescent Self Concept: Mass Mediated, Peer, and Family Communication". University of West Florida.

¹⁹ El-Gilany, AH, K. Badawe, El-Fedawy, S. "Menstrual Hygiene Among Adolescent Schoolgirls in Mansoura, Egypt." Reproductive Health Matters 13 no.26 (November 2005) 147-52.

awareness about the physiological changes and helps them in proper menstrual hygiene management.²⁰

c) Role of Family

Family can play a vital role in giving proper education about menstruation even before the first period. Such awareness helps the adolescents to take proper care and maintain hygiene in their menstrual cycle.

MENSTRUAL EQUITY AND ROLE OF MEN

Menstrual hygiene is neglected because of several hindrances and challenges one of such challenge is gender inequality. Some cultural norms view menstruating women as impure and due to such cultural norms and stigmas they are denied from using water and sanitation facilities and in some cases they are even expelled from their home.²¹ In almost all the families the decisions are taken by the male members of the family and in many cases they refuse to give money to purchase menstrual products as they consider it as an additional expense and because of the same women has to depend on cheap reusable cloth pads. In such situations women are forced to compromise with their menstrual needs and personal hygiene.²² The construction of toilets and the decisions regarding the same are made by the male members. It can also act as a barrier for menstrual hygiene and women find it difficult to clean and change menstrual materials in privacy.²³ In some places like Nepal and some tribal areas in India, women have to stay outside their home during menstruation. Such cultural norms are promoted by both men and women and such practices make it difficult for the women to survive during winters.²⁴ In order to ensure menstrual equity men should also play their part in the social reforms and the politicians must make women friendly developments in the society. Women must be given proper chances to raise their voice and their needs should not be neglected and suppressed. Menstrual equity can be obtained by empowering women in the society and there by uplifting the status of women. Gender equality must be promoted and women must be given equal opportunities and equal access to the resources.

JUDICIARY & GENDER EQUALITY

Judiciary has always molded itself to protect the rights of women, if any law is of such a nature that affects the rights of women then the judiciary will interfere and strike down such laws. Judiciary has upheld the status of Article 15(3) of the constitution through various

²⁰ D.B. Kirby, B.A. Laris, and L.A. Rolleri, "Sex and HIV education programs: their impact on sexual behaviours of young people throughout the world," *Journal of Adolescent Health*, vol.40, no.3, pp.206-217, 2007.

²¹ Water Aid, "Is Menstrual Hygiene and management an issue for Adolescent Girls?" Water Aid in South Asia Publication, 2009.

²² S. Piper-Pillitteri, *School Menstrual Hygiene Management in Malawi: More than Toilets*, Water Aid, London, UK, 2011.

²³ K. O'Reilly and E. Louiss', "The toilet tripod: Understanding successful sanitation in rural India," *Health & Place*, vol. 29, pp.43-51, 2014.

²⁴ R.George, *What Is Life like When Your Period Means You Are Shunned by Society?* New Statesmen, 2014

decisions which promotes protective discrimination to rise the status of women. In the case of *Government of Andhra Pradesh Vs. P.B. Vijaykumar & Ors.*²⁵ the Supreme court observed the concept of protective discrimination under Article 15(3) must be given eminence and the court upheld reservation of jobs for women in public employment. In *Rajesh Kumar Gupta Vs. State of Uttar Pradesh*²⁶, the reservation of 50% of posts in favour of female candidates to the post of primary school teachers was held valid by the court as there are many young girls below the age of 10 are studying and it is preferable to have lady teachers. The Apex Court in the case *C.B. Muthamma Vs. Union of India*²⁷ the court observed that the gender biased employment laws is something that harm women rights and it must be removed. In *Municipal Corporation of Delhi Vs. Female Workers*²⁸ the court held that the maternity benefits are also extended to the temporary workers. In case of *Neera Mathur Vs. L.I.C.*²⁹ the court asked L.I.C. to remove personal and offensive questions from the application form such as the date of the last menstrual cycle as it harm the right to privacy and dignity guaranteed under Article 21 of the constitution. The Supreme Court in the path breaking judgment of *Vishakha Vs. State of Rajasthan*³⁰ laid down the guidelines for prevention of sexual harassment at work place. It suggests for creation of women friendly working atmosphere that helps to maintain menstrual hygiene. In the case of *Associate Banks Officers Vs. State Bank of India*³¹ the court upheld the Equal Remuneration Act and held that there should not be any discrimination on the basis of sex on the payment of remuneration. In the case of *Anuj Garg Vs. Hotel Association of India*³² it was held by the court that section 30 of the Punjab Excise Act which prohibited the employment of women in those places where liquor and intoxicants are consumed by the public as unconstitutional. In the case of *Indian Young Lawyers' Association Vs. State of Kerala*³³ held that not allowing entry to the women of the age group of 10-50 years (menstrual age) in Sabarimala Temple is unconstitutional. The court has through various decisions paved the way towards gender equality and menstrual equity. Menstrual equity can be reached only through women empowerment. Judiciary is actively playing its role for the same.

MENSTRUAL LEAVE

Menstrual leave is something that is debated all over the world. In India Bihar is the only state providing 2 days of special leave every month to the female employees from the year 1992. Countries like Japan, Taiwan, Indonesia and South Korea are providing menstrual leave to the female employees every month. Most of the women are employed in unorganized sector. In

²⁵ AIR 1995 SC 1648

²⁶ 2005 (5) SCC 172

²⁷ 1979 SC 1868

²⁸ AIR 2000 SC 1274

²⁹ AIR 1992 SC 392

³⁰ (1997) 6 SCC 241

³¹ AIR 1998 SC 32

³² (2008) 3 SCC 1

³³ 2018 SCC OnLine SC 1690

India 86% of persons are working in unorganized sector and out of them 91% are women.³⁴ In India there are several legislations for the protection of women rights but those Acts are silent about menstrual leave. The menstrual hygiene management needs of the women working in the factories of Asia and Africa was explored by the Business for Social Responsibility through HER project which aimed at improving women's health while also improving economic productivity.³⁵ Article 15(1) of the Constitution says that there should not be any form of discrimination on the basis of race, religion, caste, sex, place of birth. At the same time Article 15(3) of the Constitution empowers state to make special laws for women and children. Women are physically different from men so there is nothing wrong in providing them with menstrual leave. So the authorities must make proper laws to provide menstrual leave for the women.

CONCLUSION

Menstrual equity could be obtained only by changing the mindset of people towards menstruation. The eyes of the society that view menstruation as a taboo and impure³⁶ must be changed. Courts, Judiciary and the governments should play their role actively to improve the life of women and girls. The high costs for the menstrual product is the violation of the basic human right of women/girl. There must be distribution of menstrual products in schools and educational institutions free of cost.³⁷ Our education system should be enhanced to play a vital role in the growth and development of a child by allowing them to respond to the changes and challenges they are facing.³⁸ Women friendly toilets must be designed and built.³⁹ There are institutions with sanitary napkin vending machines which are semiautomatic and can be operated by inserting coin on it, such technologies and practices must be spread. In order to reach the concept of menstrual equity the men, society and those barbarian customs should change and development of the society is possible only through changes towards betterment.

³⁴ Mohapatra K. Women workers in informal sector in India: understanding occupational vulnerability. *Int J Human Soc Sci.* 2012;2:197-207

³⁵ Yeager R. HER project: health enables returns. 2011. The business returns from women's health programs. *Business for Social Responsibility*

³⁶ A. Dasgupta and M. Sarkar, "Menstrual hygiene: how hygienic is the adolescent girl?" *Indian Journal of Community Medicine*, vol. 33, no.2, pp.77-80, 2008.

³⁷ R. Garg, S. Goyal, and S. Gupta, "India moves towards menstrual hygiene: Subsidized sanitary napkins for rural adolescent girls – issues and challenges," *Maternal and Child Health Journal*, vol.16, no.4, pp. 767-774, 2012.

³⁸ A.O. Fatusi and M.J. Hindin, "Adolescents and youth in developing countries : Health and development issues in context ," *Journal of Adolescence*, vol.33, no.4 pp.499-508, 2010.

³⁹ M. Kjellen, C. Pensulo, P. Nordqvist, and M. Fogde, "Global review of Sanitation System Trends and Interactions with Menstrual Management and Sanitation System Project, Stockholm, Sweden,2011