



FROM STIGMA TO SUPPORT: UNDERSTANDING THE EVOLUTION OF MENSTRUAL LEAVE POLICIES

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ABSTRACT:

This research paper examines the need for menstrual leave policies in India, focusing on the importance of addressing the unique challenges faced by individuals who menstruate in the workplace and educational institutions. Menstruation, a natural biological process, has often been stigmatized and neglected in Indian society, leading to significant barriers for individuals to manage their menstrual health effectively while pursuing their professional goals.

The paper begins by providing an overview of the cultural and societal context surrounding menstruation in India, highlighting prevalent taboos and discriminatory practices that perpetuate gender inequality. It explores the negative consequences of the silence and shame surrounding menstruation, including compromised health, reduced productivity, and limited educational and economic opportunities for women.

Additionally, the paper investigates international examples of successful implementation of menstrual leave policies, drawing insights from countries that have embraced such policies and examining their impact on workplace culture, gender equity, and employee well-being. These examples serve as valuable benchmarks for designing effective and inclusive menstrual leave policies in the Indian context.

Furthermore, the paper addresses potential challenges and concerns associated with implementing menstrual leave policies in India, including issues of equity, possible misuse, cultural sensitivities, and the need for comprehensive menstrual health education and support alongside policy implementation. The researcher surveyed the students and working populations regarding their choice to have menstrual leave or not through a Questionnaire-based approach and thereby tried to understand the minds of the people.

KEYWORDS:

Menstrual leave, Menstrual bill, Global perspective on menstrual leave, Menstrual leave in India, Is Menstruation a taboo, Kamakhya temple.

INTRODUCTION:

Menstruation as a biological phenomenon has long been stigmatized and misunderstood in many countries, even in India. Though it is a normal and natural process for some women, it may be a complex process for those who experience difficulties regarding menstruation such as PCOD, PCOS, Ovarian cysts, and others. It is not only the position of the woman who is in a downtrodden sector but also for a woman who is in a highly educated sector and lives a better life is still faces a significant barrier in her life. Though the idea of bringing the concept of menstrual leave is already a talk by the people it gained more attention in recent years after the Spain parliament approved the sick leave for women as a means of addressing the particular difficulties that people experience during their menstrual periods.

The execution and consequences of these laws in India, however, have aroused discussions and brought up significant issues that need careful attention.

WHY PERIODS ARE SO PAINFUL?

Pain is considered as an alarm to the periods, it starts from a day or two or three days before the periods. It generally lasts for a few days but for some women, it can last longer as well. The period pain is called Dysmenorrhea which is caused due to chemicals called Prostaglandins which result in the contraction of the uterus and bowel. The periods are so painful because the cell that forms the inner lining of the uterus, known as endometrial cells starts to break and flow throughout the uterus reducing the blood flow and level of oxygen to the uterus and releasing a large number of prostaglandins, resulting in a pain. After understanding how pain is caused there is one question that comes to mind that all women go through the same process but how do some women experience severe pain while others may not? The answer is prostaglandins, yes because it is the level of prostaglandins that determines the degree of pain the women who are with more amount of this chemical experience a higher amount of pain when compared to others. The painful periods are otherwise known as dysmenorrhea of two types.,

1] **Primary dysmenorrhea:** it begins as soon as the girl starts menstruating. It is generally recurrent and often gets better with aging. Specifically, there are no causes for primary dysmenorrhea.

2] **Secondary dysmenorrhea:** Secondary dysmenorrhea sometimes begins earlier than primary dysmenorrhea and lasts longer than the latter.

The causes of secondary dysmenorrhea

- 1] Endometriosis
- 2] Adenomyosis
- 3] pelvic inflammatory
- 4] cervical stenosis
- 5] fibroids

Endometriosis:

This is a common condition where tissue similar to the lining of the uterus grows in other places near the pelvic area. In some cases, it can cause issues in pregnancy. although many people find relief from this symptom after menopause.

Adenomyosis:

It is a condition in which the issue from the lining of the uterus grows into the muscle of the uterus and makes the uterus double or triple in size. The cause of Adenomyosis is generally unknown, however, some researchers suggest that it may be either caused due to genetics or inflammation, hormones sometimes even because of trauma.

Pelvic Inflammatory disease:

It is an infection that occurs in the uterus, fallopian tubes, or ovaries. sexually transmitted diseases play a typical role in causing it; however, it is not the only cause even the bacteria which is normally found in the vaginal area can cause pelvic inflammatory disease. survey found that globally women acquired SITS daily, Among which the U.S. ranks top.

Cervical stenosis:

It is a condition that shows no symptoms and causes some menstrual abnormalities or rarely in premenopausal women, infertility.

Uterine fibroids:

It is a common type of non-cancerous tumor that grows either in or on the uterus. not all fibroids need medications or surgery only the larger fibroids need.

MENSTRUATION – A TABOO IN INDIA:

In many regions of India, menstruation is still seen as unclean and polluted. This myth's origins can be traced back to the Vedic era, and it is frequently connected to Indra's killing of Vritra. Because women are said to have shared some of Indra's guilt, it is said in the Veda that the guilt of killing a brahmana-murder is said to manifest itself every month as menstruation. The Hindu religion also forbids women from engaging in regular life when

they are menstruating. Before being allowed to rejoin her family and resume her daily responsibilities, she must first be "purified. However, according to science, ovulation, followed by a missed pregnancy opportunity, causes endometrial bleeding, which is then followed by cycle preparation. Therefore, there doesn't seem to be any justification for the myth that menstruating women are "impure. "Because they are menstruating, many girls and women have limitations in their daily lives. For urban girls, the main limitation during menstruation is to avoid the "puja" chamber; for rural girls, it is to avoid the kitchen. Girls and women who are menstruating are forbidden from praying and from touching sacred books. This myth also has its roots in cultural notions of the impure nature of menstruation. Consequently, the food they touch or prepare could become contaminated.

In some cultures, women bury the clothes that they use for their periods to keep evil spirits from using them. Women have no idea why periods occur or what occurs to our bodies during this time. Elderly women in society demand consistent and unwavering conformity to the accepted norms and condemn any disagreement. No one wants to challenge the exclusionary practices, and the quiet manner in which this subject is treated reinforces preconceptions. When a family is watching television together, these adverts for sanitary napkins that use blue ink to highlight the absorptive ability of the product are disconcerting. Menstruation is a problem that affects all people, not just women. It's vital to recognize that the issue is one of hygiene, not purity.

Menstruation-related taboos, which remain in many civilizations, have an impact on women's and girls' physical and mental wellness, as well as their mindsets and ways of living. For example, many girls in India drop out of school when they start having periods in large numbers.

The highest caste in the nation, which is centered on the ideals of sterility and hygiene, has the most widespread taboos. By maintaining the restricted and limited definition of cleanliness and purity they set themselves apart from other castes and religious organizations. For example, according to the bible, a woman is considered to be menstrual impure for seven days if her dischargers are blood, and anyone who comes into contact with her is considered to be unclean for seven days. Everyone who touches her bed must wash their clothes, take a bath, and remain unclean until dusk. Everything on which she sits must be considered dirty. even though menstruation is not considered to be an issue of stigma according to Islamic principles, Indian Muslim women can experience menstruation taboos as a result of living close to Indian customs

NEED FOR MENSTRUAL LEAVE:

Menstrual leave also known as period leave refers to the policy that allows women who all employed to take a break when they are experiencing menstrual pain. these policies are aimed at recognizing the challenges that women face during menstruation and try to resolve them by allowing them to take the necessary time off to manage their health both mental and physical well-being. Menstrual leave not only the well-being of women but also promotes and increases the productivity of work, and creates greater flexibility and equality in the workplace. The menstrual leave policy would benefit the health of the women, it prevents the risk of infections and improves the sexual reproductive health.

Maintaining good and healthy menstrual hygiene is very important because poor menstrual hygiene is often linked with several risk infections. Infections such as urogenital infections, non-sexually transmitted infections are raised with it, and unhealthy menstrual practices may even be linked with cervical cancer. These are the discomforts and pain which is associated with menstruation. Providing women with menstrual leave would help them to a certain extent in managing their menstrual symptoms and health, and promote their menstrual well-being.

According to the **International Labor Organization**, 81.8 percent of women are working in the informal sector. In many cases, the women who are working in informal sectors do not have access to basic sanitation facilities like toilets so they are forced to change their pads in open spaces where they may be at increased risk of sexual assault and they are also not provided with other sanitary products like menstrual pads and tampons compared to the women who are working in formal sectors, this is because the informal sector jobs by their nature tend to be less regulated than the formal sector jobs, and they were not subject to the same legal requirements and standards as like the formal sector jobs. Hence offering menstrual leave is an important part of creating an inclusive atmosphere where everything is comfortable and provides the space of the time to women to address their unique needs during their menstrual cycle.

EVOLUTION OF THE CONCEPT OF MENSTRUAL LEAVE:

The concept of the menstrual leave was first introduced in the year 19th century. Soviet Russia was the first country to implement the policy in the year 1922, however, the policy was abolished after 5 years as it resulted in discrimination against the female workforce. In 1947, Japan introduced the concept of menstrual leave and they enshrined it in their labor law which is in practice even today, and then it was adopted by Taiwan and South Korea. Though all these countries have provided their female workforce the menstrual leave, Zambia became the first country to offer a paid menstrual leave each month for all female workers without any explanation or a medical certificate. This policy is referred to as **the Mothers' Day policy** as it stresses the women's potential for becoming mothers. Most recently in 2023, Spain became the first European country to provide 3 to 5 days of menstrual leave with a supporting note from a doctor. There are some companies and institutions that initiated the policy of menstrual leave with their interest and not waiting to be compelled by law.

NIKE:

Nike was the company that introduced the concept of period leave in 2007, it had also obliged their business partners to comply with their code by making them sign a memorandum of understanding.

MODIBODI:

An Australian company that makes period underwear introduced the policy of menstrual leave and offers 10 days of paid leave annually. The staff were given the freedom to take their menstrual leave just by texting or mailing their manager.

FUTURE SUPER:

An Australian-based company introduced the policy of menstrual leave and gave a choice to women who experience menstrual pain either to work from home or the possibility of taking paid leave.

Not only these companies, but companies like French Furniture and an astrological-based company in Los Angeles provided menstrual leave to those who have a uterus.

IS MENSTRUAL LEAVE, STILL A DISTANT DREAM TO INDIA?

The concept of menstrual leave in India is not a Martian concept, in the year 1912, a government girls' school from Kerala began granting menstrual leave to its students because, of the reason that most students missed school on those days. This came to the notice through the book named “KERALA IN THE 19TH CENTURY” which was authored by historian

P. BHASKARAN UNNI. Followed which the Bihar govt grants two consecutive days of menstrual leave to women per month. The protestors from Bihar say that this period of leave did not come so easy for them, it required a lot of struggle.

In the year 2017, the menstrual bill was introduced by **Shri Ninong Ering** as a private member bill in Arunachal Pradesh. The bill is all about providing menstrual leave for those women who study in school, college, and work.

This bill brings out that, it is the right of every woman to be entitled to paid leave or leave from school or college. Every right has a corresponding obligation and duty, so, therefore, the Menstrual Bill 2017, confers a duty on the establishments or organization to provide menstrual leave to its employees and if they fail in their duty, then the women who face any difficulty in obtaining benefit from the MB can make a complaint to the committee for sexual harassment of women at workplace (prevention, prohibition, and redressal) or any other internal committee set up on the respective establishment once the complaint is filed, then the non-compliance of bill's provision, then such a person is sentenced to imprisonment for not less than one month, but not more than three months, and a fine of not less than 10000 rupees but not more than 50000 rupees.

The Menstrual Bill 2017, was made to serve the needs of the women workforce, however it has not been passed.

After the failure to pass the Bill, 2 private companies stood first in implementing the policy of menstrual leave with their interest.

The two Mumbai-based companies- **Gazoop and Culture Machine** became the 1st private companies to introduce period leave in India [In the year 2017]. In 2017 after the Mumbai-based startup, A startup named **Mathrubhumi** allowed its women employees to stay at home for the first day of their period. As time went on, the concept of Menstrual leave got attention from the organizations and as well as from people. The initiation by various companies became an eye-opener to the rest of the world. As a result, in the year 2020, the Indian food delivery service-based company, **Zomato** decided to give female employees and transgender menstrual

leave for a period of up to 10 days, which triggered the attention of people and led to the discussion about menstrual health and gender equality in India.

Followed by **Zomato, swiggy** the other leading online food delivery company took the initiative to grant its female employees 2 days per month. This decision was made by them to support their women delivery partners as they experience discomfort from traveling on the road and other reasons.

Wet and Dry, a New Delhi-based feminine hygiene products maker granted their employees to take two days off from the office, during their menstruation

Horses Stable News a Bangalore-based startup company that consists of 3:2 female and male employees respectively allowed its female employees to take two days of paid leave and it went a step ahead and offered an allowance of Rs. 250 per month to cope with the stress during the Menstruation.

India's leading education platform **Byjus** initiated the policy of granting its female employees leave for a period of up to 12 days in a year. In a recent attempt to revolutionize the concept of menstrual leave in the workplace and make it gender-inclusive, Uttar Pradesh women teachers started a campaign in the year 2021, and they made a demand for paid holidays to teachers and students as the dropout rates of girls and absenteeism increases.

The Indian government has not adopted the policy of menstrual leave as there is no mandate provision existing under labor law that persuades them to grant menstrual leave.

Recently, again the **Menstrual Bill** was tabled in the year 2022, by **Mr. Ering** in the Arunachal Pradesh Legislative Assembly but it was rejected by other legislators as it was an unwanted and unclean topic and made a comment that menstruation should not be discussed in the Holy place (i.e., Legislative Assembly). The irony is that in **Kamakhya Temple** located in Arunachal Pradesh people celebrate Ambubachi mela as an annual festival that celebrates the menstruation of a goddess. In this Kamakhya temple, there is no idol of Kamakhya located, the object of worship is the **yoni**, (female reproductive system) and it was assumed that Kamakhya lived in that stone.

From this we can see that even the state which celebrates the menstruation of goddess is not ready to respect the needs of the women in the state

Mrs. Smrithi Irani, the Minister of Women and Child Development shared her response to one of the questions raised in the Lok Sabha that, central government employees are not entitled to paid menstrual leave.

Currently, the government is not ready to accept any proposals to include menstrual leaves in the **Central Civil Services (Leave) Rules 1972**. She stated that the government is taking various initiatives to promote menstrual hygiene and have conducted various awareness program.

This was the current position regarding menstrual leave in India.

PERIOD LEAVE – PAVES THE WAY FOR GENDER INEQUALITY:

The question of whether menstrual leave policies pave the way for gender inequality under Article 14 of the Indian Constitution is under discussion. Some claim that menstrual leave policies do not infringe on the right to equality enshrined under Article 14 of the Indian Constitution as it legitimizes basic relief benefits. Others claim that menstrual leave policies could perpetuate gender stereotypes and prioritize men in the workplace, leading to gender inequality. At present, there is no legislation governing menstrual leave in India, and organizations are free to unilaterally decide whether to offer menstrual leave to their employees.

Menstrual leave policies are not specifically addressed in any one article of the Indian Constitution. The execution and control of such policies, however, can be addressed by how specific constitutional clauses are understood and applied. Discussions about menstrual leave laws and gender equality frequently reference the following articles:

The right to equality is protected by **Article 14** of the Indian Constitution. "The State shall not deny to any person within the territory of India, equality before the law or the equal protection of the laws," the constitution reads. Article 14 can be analyzed from various angles in the context of menstruation leave.

Non-Discrimination: Article 14 prohibits discrimination on grounds of gender. Menstrual leave policies can be seen as a positive step towards addressing the unique needs and challenges faced by individuals who menstruate, thereby promoting gender equality and non-discrimination.

Reasonable Classification: Article 14 also allows for reasonable classification. Menstrual leave policies, which specifically address the unique biological process experienced by individuals who menstruate, can be considered a reasonable classification based on physiological differences.

Equal Protection of Laws: Article 14 ensures that all individuals receive equal protection under the law. If menstrual leave policies are implemented, it is essential that they are applied consistently and without bias, ensuring that all individuals who menstruate have equal access to these benefits.

Article 16: Equality of Opportunity in Public Employment - Article 16 ensures equality of opportunity in matters of public employment. Menstrual leave policies can be seen as a step towards providing equal opportunities for individuals who menstruate to participate and thrive in the workforce by acknowledging and addressing the specific challenges they face.

Article 19: Right to Freedom - Article 19 guarantees certain fundamental freedoms, including the right to practice any profession, occupation, or trade. Menstrual leave policies can be seen to ensure individuals' freedom to manage their menstrual health and well-being, allowing them to fully exercise their right to work without compromising their physical or mental health.

Article 21: Right to life and personal liberty –

The right to life and personal liberty under Article 21 of the Indian Constitution, can also include menstrual leave. Firstly, one should not be expected to work during menstruation, because of the menstrual pains, and the

body being weak and vulnerable. Second, developing countries with basic obstacles concerning sanitation, including a lack of appropriate sanitary facilities, clean, safe, and private facilities for women, and a lack of adequate menstrual hygiene options. This has a consequence of violating both their fundamental right to health and the right to health of all people.

Article 42 of the Indian Constitution directs the state to make laws that ensure just and humane conditions at work and provide for maternity benefits.

While these articles provide a constitutional framework for addressing gender equality and non-discrimination, the specific implementation and regulation of menstrual leave policies would depend on legislation, regulations, and court interpretations at the national and state levels. It is important to note that these provisions can be subject to judicial interpretation and can evolve to reflect societal changes and emerging needs.

JUDICIAL APPROACH TOWARDS THE MENSTRUAL LEAVE:

The approach of the Indian judiciary towards the menstrual leave policy has been limited. The courts have not passed any specific judgments or rulings on this matter. The judiciary in India primarily relies on existing labor laws, such as the **Factories Act, of 1948, the Shops and Establishments Act** of various states, and the **Maternity Benefit Act, of 1961**, to address leave entitlements and benefits for female employees.

Under **the Maternity Benefit Act**, women in India are entitled to 26 weeks of paid maternity leave. However, this law does not specifically address menstrual leave. Some companies, especially in the private sector, have voluntarily introduced menstrual leave policies to provide additional support to their female employees.

The Supreme Court of India recently rejected a Public Interest Litigation (PIL) calling for the introduction of paid menstrual pain leave in the country. The court observed that such a policy could disincentivize employers from hiring women. The rejection of the PIL has sparked a debate on whether paid menstrual leave is necessary or if it will lead to discriminatory behavior in the workplace

Some argue that paid menstrual leave is necessary to address the physical and emotional challenges that women face during menstruation while, Others argue that such policies could trivialize the feminist agenda for equal opportunity, especially in male-dominated workplaces

The rejection of the PIL by the Supreme Court of India means that there is currently no legal requirement for employers to provide paid menstrual leave to female employees in India

Legal experts have weighed in on the issue, arguing that paid menstrual leave should be a reality in India. However, the issue of menstrual leave remains a highly neglected issue in India, and there is no law governing menstrual leave in India.

The Supreme Court of India advocated for menstrual leave as early as 1992 in the case of **SL Bhagwati Vs Union of India** and Ors, arguing in favor of menstrual leave so that women can take care of their health and families. In 1992, the Bihar Government introduced a policy of two days of paid menstrual leave every month. In March 2021, the Delhi Government announced that it would provide menstrual leave to all its female employees. The leave can be taken on any day of their menstrual cycle. Recently the NALSAR University of Law has introduced a menstrual leave policy to all female students and faculty whereby they can take one day of menstrual leave per month. Although there is no law governing menstrual leave in India, organizations are free to unilaterally take a decision and contractually extend more beneficial terms of policies governing menstrual leave. Menstrual leave may be construed as a special leave that an employer may offer to its female employees on account of experiencing discomfort during their menstrual cycle, in addition to other types of leave such as sick leave or casual leave.

DATA ANALYSIS AND INTERPRETATIONS

SAMPLE: 150 RESPONDENTS

DATA COLLECTION METHOD: QUESTIONNAIRE

The researcher circulated the online Google form containing both quantitative and qualitative questions and thereby conducted a survey regarding the need for menstrual leave, and received 150 responses from students along with working men and women.

RESULTS:

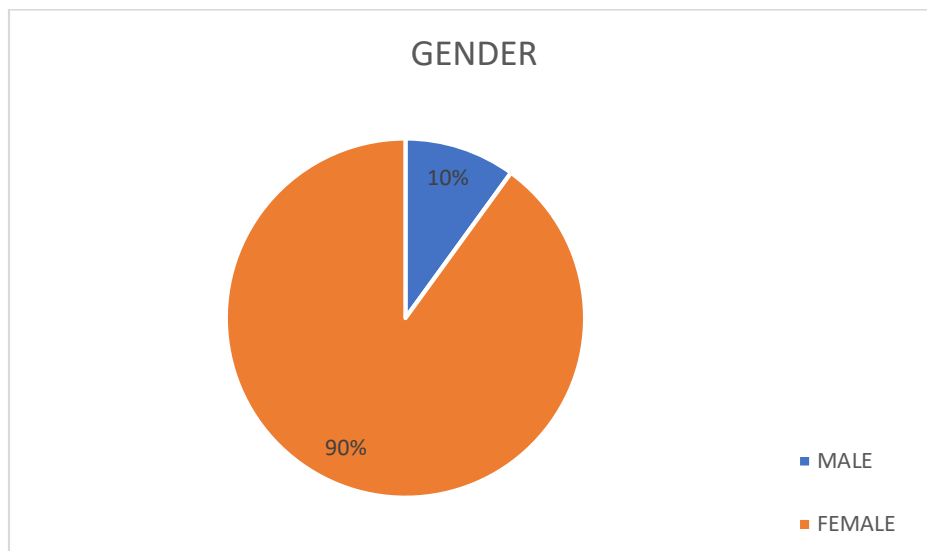
The results are presented in the form of the following data including a pie chart.

GENDER OF THE RESPONDENTS:

TABLE: 1.1

GENDER	NO. OF RESPONDENTS	PERCENTAGE
MALE	15	10%
FEMALE	135	90%
TOTAL	150	100%

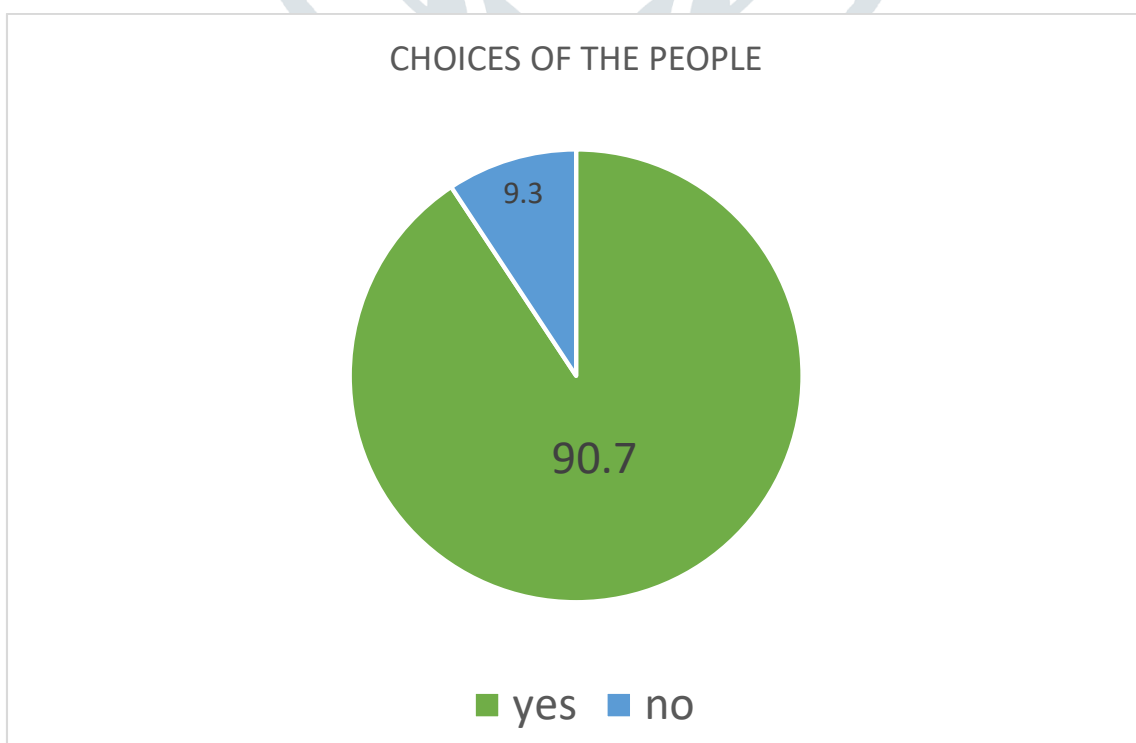
CHART 1.1



AWARENESS OF THE CONCEPT OF MENSTRUAL LEAVE BY RESPONDENTS:

The respondents were asked the question of “whether they were aware of the concept of paid menstrual leave”. Among 150 respondents, 136 of them were aware of the menstrual leave concept.

OPINIONS OF THE PEOPLE REGARDING THE NEED FOR MENSTRUAL LEAVE:



FAVOURABLE OPINION	UNFAVORABLE OPINION
Providing menstrual leave allows individuals to take time off from work and prioritize health and well-being.	Giving menstrual leave to women in the workforce leads to less productivity
Provides employees with flexibility to manage their personal and professional lives more effectively	The intensity of the period of pain may vary with the person to person, therefore the menstrual leave given by the employer is likely to be misused by those who women will not get period pain or less pain.
Providing menstrual leave creates a good working environment for women and they can speak up about their needs and concerns	It Leads to an increased workload for other employees
Provides a sense of belonging that is, when their needs are met, it increases their loyalty to the company and their willingness to give more of themselves starts to increase	It creates difficulties in managing work schedules
It helps break the taboo and stigma surrounding women's menstrual cycle	It tends to increase the chances of workplace bullying
Women will be empowered by this kind of support	Providing special leave to women leads to discrimination against women

It helps in reducing stress and anxiety	It leads to a decline in the labor force of women participating in workforce
To overcome Mood swings and to improve concentration on work	Employees feel discomfort when disclosing their menstrual cycle and concern about privacy and confidentiality.
To cope with the menstrual syndrome and trauma	Managing a workforce with varying menstrual cycles can be logistically challenging for employers.
To reduce work pressure and the sense of insecurity	There may be a chance by which granting menstrual leave to women may inadvertently affect women's career advancement.
Providing menstrual leave can boost work morale	It is costly for employers, so they may end up recruiting more males compared to females.

CONCLUSION:

Based on the analysis and synthesis of the research findings, the paper concludes with recommendations for policy-makers, employers, and other stakeholders. It advocates for the development and implementation of menstrual leave policies that strike a balance between gender equality, workplace productivity, and cultural sensitivity. The recommendations emphasize the importance of comprehensive support systems, education, and awareness campaigns to foster a supportive work environment that respects the bodily autonomy and well-being of individuals who menstruate.

Ultimately, this research paper aims to contribute to the discourse on menstrual health and gender equality in India by highlighting the necessity and potential benefits of implementing menstrual leave policies. By addressing the specific challenges faced by individuals who menstruate, India can foster inclusive workplaces and promote the overall well-being and empowerment of women in society.

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