

# SCHOLAR'S PARADISE

A contribution to all the authors

Volume - XI

*VidhiAagaz – Inking Your Brain*

# **SCHOLAR'S PARADISE**

**Volume - XI**

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*SCHOLAR'S PARADISE*

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**Website:** [www.vidhiaagaz.com](http://www.vidhiaagaz.com), **E-mail:** [vidhiaagaz@gmail.com](mailto:vidhiaagaz@gmail.com)

**Maihar (H.O.):** Gyan Colony, Maihar dist. Satna, (M.P.) – 485771

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## ABOUT THE ORGANISATION

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Perseverance and endurance are the two pillars for attaining success. We, at VidhiAagaz, are determined to accomplish our goals with all efforts possible and by keeping our focus intact on achieving the greatest of heights. To introduce ourselves, we are an edifying organisation committed to provide academic excellence through virtual and interactive methods. Established in June, 2017, VidhiAagaz aims at providing a platform to students, lawyers and the entire academic fraternity at large, to showcase their researching and writing skills. Till date we have successfully conducted various national and global events.

To add to our credit we also have two International journals and we publish three series of books [30+ books are published as of now). We also put in efforts to -develop the writing skills of students through ways of seminars and sessions. To add to these achievements, we have an editorial board comprising of editors from **6 different countries i.e. India, France, Ethiopia, Indonesia, Ireland and Nigeria.**

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### JOURNALS UNDER THE AEGIS OF VIDHIAAGAZ:

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1. **“International Journal of Law Management & Humanities (IJLMH)”**,
  - a. ISSN 2581-5369
  - b. **Impact Factor** of 2.530
  - c. **Indexed** at 14 databases including **Manupatra, Google Scholar** etc.
  - d. 25000+ Readers
  - e. Authors include Supreme Court Advocates, High Court Advocates, Law firm Associates, Faculties, Research Scholars, PG and UG Students.
2. **International Journal of Legal Science and Innovation (IJLSI)**
  - a. ISSN 2581 – 9453]
  - b. **Indexed** at **Manupatra** and several other Databases.
  - c. 5000+ Readers month.
  - d. Authors include High Court Advocates, Law firm Associates, Faculties, Research Scholars, PG and UG Students.

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## **PREFACE**

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Persistence, dedication and perseverance together make the recipe of success. When it comes to the end result of the hard work put in by so many, the much awaited outcome is simply amazing. It gives me great pleasure to announce the book “SCHOLAR’S PARADISE” which is the true culmination of the relentless pursuit of many authors at large. The grand success attained by “VidhiAagaz” in a very short span of time is seldom seen.

In the present scenario it is very difficult to find a platform where intellectual talent is recognised. This book is truly the plethora of knowledge. I take this opportunity to congratulate all authors and contributors and everyone who have put in extra efforts to make this book a grand success.

Happy reading!

# MENSTRUAL BENEFITS POLICY: CHANGING LIVES OF INDIAN WOMEN

Donna Xavier<sup>176</sup> and Rayman Kaur<sup>177</sup>

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*Stop mansplaining menstruation, we've got this."*

-Sylvia Young<sup>178</sup>

The argument over gender equality has persisted since time immemorial all over the globe; India, in this regard has been labelled as a "Patriarchal society" by the feminists. Kamini Roy, a poet, social worker, feminist & the first woman honours graduate of British India has written, "*The male desire to rule is primary, if not the only, stumbling block to women's enlightenment...They are extremely suspicious of women's emancipation. Why? The same old fear- 'Lest they become like us.'*"<sup>179</sup> Despite progressive steps being taken by the society, this patriarchal mindset prevails, and this has been exhibited by the manner in which the whole notion of "menstruation" is treated in the country. It is a topic that is never discussed openly, in many instances it is treated as a 'plague' (*the Sabarimala Case*<sup>180</sup>), on purchase of sanitary napkins from a shop they are given in a jet-black plastic bag, such is the social conditioning the women have been accustomed to in a bid to make them feel ashamed of even talking about it. Under such circumstances, it is imperative to discuss the need for menstrual leave, as it would be a revolutionary step towards breaking the conservative perception & steering the Indian society towards a progressive way of life.

While the topic may be a taboo in India, it has been discussed in detail in countries such as Russia, S. Korea, Taiwan, Indonesia, Japan & Zambia; of these countries, all excluding Russia have incorporated menstrual leave policy within their labour laws. While Russia rejected the proposed legislation on the subject of menstrual leave, countries such as S. Korea, Taiwan, Japan & Indonesia had the policy inducted into their labour laws since the post WWII era. In Indonesia, females were granted the right to take 2 days menstrual leave each month, however this leave is unpaid; on the other hand, Japan had the menstrual leave policy enshrined in its standard labour laws referred to as '*seirikyuuuka*' meaning physiological leave, since post WWII era. The most recent legislation pertaining to this subject was introduced in Taiwan, wherein menstrual leave policy was added as part of 2013 amendment to Act of Gender Equality in Employment; the policy permits women to take upto 3 days leave in addition to the 30 days of half paid sick leave allotted to workers. In Zambia too the menstrual leave policy is enshrined in their labour laws & such time off granted to women is referred to as 'Mother's Day'. Further, it may be noted that while there may be not be any prevailing legislations on this matter in any part of the European Union, yet a company in U.K., named Coexist in Bristol, took the first step by introducing 'Menstrual Leave' with the aim of creating a healthy & happy working space for women.

In India, the discussion began with the introduction of the Menstrual Benefits Bill, 2017<sup>181</sup> by Ninong Ering, a Lok Sabha MP from Arunachal Pradesh, which was aimed at providing women in public & private sector with 2 days of menstrual leave & better facilities at workplace for rest, during the duration of menstruation and in addition, the bill also sought to provide students of classes 8 & above 2 days leave. However, this matter was not new to the Indian society as a girls' school in the state of Kerala had been granting its students menstrual leave since 1912 & Bihar already has in place the

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<sup>176</sup> Amity Law School, Noida, India.

<sup>177</sup> Amity Law School, Noida, India.

<sup>178</sup> Sylvia Young, My FemTruth: Scandalous Survival Stories (2017)

<sup>179</sup> <http://classprojects.kenyon.edu/wmns/Wmns36/bloodflow/legal.htm#leave>

<sup>180</sup> *India Young Lawyers Assn. v. State of Kerala*, 10 SCC 689 (SC: 2017)

<sup>181</sup> Shri Ninong Ering, The Menstruation Benefits Bill, 2017, Lok Sabha Bill (2017), <http://164.100.47.4/billtexts/lbills/asintroduced/2651LS%20As%20In.pdf>

‘special casual leave’ for 2 days since 1992 for working women. Yet there has been a need for legislation to ensure a uniform implementation of such leave for women in all states. However, the proposed legislation was eventually rejected owing to the fear among women of possible discrimination & exclusion at workplace and increased biasness in the society.

However, rejection of the bill didn’t dampen the spirits of Indians with companies such as Culture Machine, Gozoop, W&D, a female intimate hygiene company; ARC, a Hyderabad based market research firm &, Zomato, the famous food delivery giant introducing ‘Period leave’ for their female employees. Culture machine, the first company to start the trend of ‘Menstrual Leave’, adopted the policy of ‘First Day of Period’ leave inspired by an initiative from their own video channel titled ‘Blush’. Zomato, the giant food delivery company, re-ignited the debate around the topic with its adoption of period leave policy. The decision was met with mixed reactions; independent journalist & columnist, Rituparna Chatterjee has described the move as “progressive”, while journalist Barkha Dutt has described the move as a “stupid idea” that “ghettoizes” woman.

While the discussion rages on, the women need to take into consideration the report released by UNICEF, which states that 71% of women in India are unaware of menstruation. The women folk themselves are divided in opinion with regard to period leave, the section of society that is staunchly against the idea of such a legislation have argued that periods last approximately for 5-6 days, thus if we multiply 6 by 12 it equals to 72, which means that nearly two & a half months in a year. This clearly indicates that employing a female candidate would be a costly affair for the company and while compensating for the remedies they would be subjected to unfair practices such as hiring bias, lower pay, minimal promotions & participation in board meetings. Thus, an alternative that has been suggested in place of menstrual leave is to provide females with the option of working from home during their periods.<sup>182</sup>

However, the advantages that introduction of a legislation would bring in this matter cannot be overlooked for the fear of unfair treatment at workplace. Those who are in strong favour a legislation related to this matter have argued that it would encourage positive bias, i.e. encourage more participation of the women folk in all spheres of daily activities, it would be beneficial for girls who are studying in schools, since they tend to skip school during their periods which may be largely attributed to the lack of knowledge being provided to them regarding menstruation. Thus, such legislation if introduced will be a remarkable step towards educating the female population as well as the society at large regarding the notion of menstruation. It’ll be a step towards educating the female regarding importance of menstrual hygiene & enable them to uphold their dignity. Article 14, 15 & 21 of the Constitution talks about equality to all individuals therefore, within the purview of these articles, a legislation regarding menstrual leave policy would elevate the position of women in the society. Since the women experiencing periods are looked down upon & often belittled as seen in the *Sabarimala Case*<sup>183</sup> where women were shunned owing to the fact that they were experiencing periods. Thus, such a legislation would send out a strong message that women are not weak beings, they have as much potential as men, further it would increase their productivity & results in workplaces.

Overall, a change is required, that would lead the society in the direction of progress. In a society where the number of crimes against women are high and women are still treated in an inferior manner; smashing the wall of patriarchy is the need of the hour, and this can be made possible only by introduction of legislations to tackle the downplay of such relevant issues by the society.

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<sup>182</sup> UNICEF, 71% adolescent girls in India remain unaware of menstruation till menarche, Together we can make lasting change. Period. , <https://help.unicef.org/in/WASH/menstrualhygiene?language=en#:~:text=71%25%20adolescent%20girls%20in%20India,enrollment%20and%20retention%20in%20schools>

<sup>183</sup> *India Young Lawyers Assn. v. State of Kerala*, 10 SCC 689 (SC: 2017)

Further, it may be added that at a time when the judiciary is bringing about remarkable changes by striking away practice such as “triple talaq<sup>184</sup>”, a law in favour of period leave would only further the progress of the women folk, instead of furthering bias against them.

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<sup>184</sup> Shayara Bano v. Union of India, 9 SCC 1 (SC : 2017)