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# Menstrual Health Rights

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## ABSTRACT

*The raison d'être of the paper is to dispense an overview on the importance of Menstrual Health and the Constitutional and Human rights which come associated with it. Providing an introduction about the basics of health and process of menstruation, the paper proceeds to discuss how various religions perceive the biological process and court set precedents which emphasize the right to health. The paper analyses the pertinent and landmark case of the Sabrimala Temple. The paper moves forward with the Government policies in place to ensure dignity and rights of women followed by an in-depth analysis of The Women's Sexual, Reproductive and Menstrual Rights Bill, 2018 introduced by Thiruvananthapuram, Kerala M.P.- Mr Shashi Tharoor. Furthermore, The paper talks about menstrual health rights of women across the globe and the UNFPA initiative regarding the same. The paper in its last section talks about the impact and consequences of poor menstrual health and hygiene on the physical and mental health of women. The paper aims to spread awareness among stakeholders as well as citizens of India that it is high time we honour women and give them the share of dignity they deserve and move forward to a society that does not see menstruation as a taboo.*

## I. INTRODUCTION

Health- The state of being free from illness and injury. Health is one of the essentials of survival of any living organism on Earth. Menstruation is also part of such health and healthy processes. Menstruation is a monthly process when uterus shed of its endometrial lining along with blood and mucus. It is a natural or more precisely a biological process that happens to females in humans. It begins at the age of 10 or 12 years and ends at the age of 50 in females. Irrespective of its reproductive and biological importance in females, it has been one of the key reasons for discrimination and oppression of females in society. The wrongful interpretation and lack of knowledge of this process have led to even the death of females in many cases. Our forefathers drafted a constitution intricately designed and developed which emphasised on Equality, Liberty of all citizens and their Right to Life. However, the Indian System, state and society have always lacked in the implementation of such rights, thus failing our duty.

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Menstrual health rights are rights designated to females for their health and well-being during the process of menstruation. These rights are inviolable for the health and well-being of females. Women have the right to have knowledge, resources and environment so that they can manage their menstrual cycle with dignity. Menstruation is a part of the reproductive system of the female body. It constitutes an essential segment of the life function of reproduction. However, women have been oppressed and discriminated for centuries in the pretext of this. Indian society has seen this process as a taboo for a very long time.

## II. HISTORY, RELIGION AND MENSTRUATION

Our religious beliefs and ancient texts have often been the guiding basis for such an untoward attitude of insensitivity and inhumanity towards women. Hinduism considers women as impure and ‘polluted’<sup>3</sup>. Women were compelled to live outside the house during the cycle into a small hut<sup>4</sup>. This is still a common practice in India. The guardian narrates the story of Poornima Javardhan of Sitatola Village in Maharashtra who has to live in a hut called *gaokar* during the menses<sup>5</sup>. Women were often deprived of collecting water from common sources like village spring, pond, well etc<sup>6</sup>. Furthermore, According to Garud Purana, “A Brahmana having touched a dog, a Sudra, or any other beast, or a woman in her menses, before washing his face after a meal, shall regain his purity by fasting for a day, and by taking Panchgavyam<sup>7</sup>.”

Quran, the holy and most revered book of the religion of Islam, treats menstruation as impure for performing religious and sacred processes and functions<sup>8</sup>. Judaism is one of the strictest and most orthodox religion regarding this biological phenomenon. Women are asked to take *Mikavaah* which is the holy bath until the 7 days of the menses known as *nidah* came to end<sup>9</sup>. Women were seen as spiritual threats to men and these mechanisms were used to enforce stricter laws on women to maintain purity of women<sup>10</sup>. Early, Buddhist beliefs considered menstruation as a natural process<sup>11</sup>, however on later interaction with other religions some

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<sup>3</sup> Janet Chawla, *the Rig Vedic Slaying of Vrtra: Menstruation Taboos in Mythology*, 29 Economic and Political weekly 2819, (1994).

<sup>4</sup> 82 APFFEL- MARGLIN, *THE SECRET GROVE* 22-32, (W. Sachs, 1994).

<sup>5</sup> Gagandeep Kaur, *Banished for menstruating: the Indian women isolated while they bleed*, THE GUARDIAN (May 19, 2020 at 09:42 AM), <https://www.theguardian.com/global-development/2015/dec/22/india-menstruation-periods-gaokor-women-isolated>

<sup>6</sup> Deepa Joshi & Ben Fawcett Water, *Hindu Mythology and an Unequal Social Order in India*, Second Conference of the International Water History Association, Bergen, Norway (2001)

<sup>7</sup> GARUDA PURANA, ch. 231.

<sup>8</sup> Asghar Ali Engineer, 45 *Journal of Islamic Studies* 389, 389-414 (1987).

<sup>9</sup> M.A. Guterman, *Identity conflict in Modern Orthodox Judaism and the laws of family purity. Method & Theory in the Study of Religion*, 37 *Arch Sex Behav* 340, 343 (2006).

<sup>10</sup> J. Steinberg, “*Pot of filth*” to a “*hedge of roses*” (and back): *Changing theorizations of menstruation in Judaism*, 22(4) *Gender and Society* 409, 409-433(1997).

<sup>11</sup> Anonymous, *It is commonly believed that women are unclean. How true is this belief?*, *Women in Buddhism: Questions & Answers*, BUDDHIST DHARMA EDUCATION ASSOCIATION INC. (May 20, 2020 at 09:30)

anomalies occurred.

Various Religious institutions as well as ancient and modern societies have failed to realise the importance of this process and have failed in protecting women. Furthermore, our modern constitutional and legal provisions have also been equally weak in protecting the dignity of women. In the case of *CESC Ltd. vs. Subash Chandra Bose*<sup>12</sup>, the Supreme Court expressly stated Right to health as a fundamental right. Furthermore, in the case of *Vincent Panikurlangara vs. Union of India & Ors*<sup>13</sup>, the apex court held that was obligated to ensure the management of good health. However, in the case of women, the state has failed in its duty to ensure social equality and justice or give them their rights about health.

According to data and statistics from various thin-tanks and institutions of repute, women have faced innumerable problems because of the lack of implementation of precedent driven laws or its own intricately designed policies. As per the statistics of CENSUS 2011 which happens to be the latest census, about 336 million girls and women in India are of reproductive age and menstruate for 2-7 days, every month. Out of this, only 36% i.e. 121 million females are using sanitary pads as per the survey of 2015-16 by National Family health mission. The rapid increase in the population of India doesn't help the scenario as well.

### III. RELIGION ON MENSTRUAL RIGHTS AND THE SABARIMALA ISSUE

The Indian religion laws have been stagnant about the women rights and the practice of forbidding women from practising their religion during the phase is not limited to Sabarimala. However, in recent years the women have been protesting against the rules at places of worship which have put a blanket ban on them. Activist Trupti Desai and women from the Bhumata Mahila Brigade fought for and won the right to worship in the innermost sanctum of Maharashtra's *Shani Shingnapur* and *Trimbakeshwar* temples in the year 2016. That same year, a Muslim women's rights group moved to the Supreme Court and won the right to enter the inner sanctum of Mumbai's famous *Haji Ali Dargah*.<sup>14</sup> The rules are sometimes not even coded but unspoken which have been passed from one generation to another, for instance, in Hindus, Jains, Shia mosques and Parsi fire temples. Menstrual discrimination thrives in women's religious and domestic lives and not only this, the impurity designated to women during this cycle has been used as an excuse to exclude them from holding positions of priests, pundits,

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AM) <http://www.buddhanet.net/e-learning/history/wbq21.htm>

<sup>12</sup> *CESC Ltd. vs. Subash Chandra Bose* 1992 AIR 573 (India)

<sup>13</sup> *Vincent Panikurlangara vs. Union of India & Ors* 1987 AIR 990

<sup>14</sup> Aarefa Johari, *Why just Sabarimala? It is time to discard menstrual taboos in all social spaces*, SCROLL.IN (May.20. 2020, at 16:40 PM), <https://scroll.in/article/896400/why-just-sabarimala-it-is-time-to-discard-menstrual-taboos-in-all-religious-spaces>

qazis, imams and a range of other positions. Every time a menstrual taboo is followed, it takes a form of untouchability, active gender discrimination that the men and women practice may be unknowingly or unconsciously.

In a country where the menstrual cycle is not only condemned despite it being a completely natural process, the discussion of laws on the same has been affected by various cultural and religious laws which term the same as being unreligious. India is home to diverse cultures but when it comes to the discarding of laws that hinder advancement and scientific reasoning, a lot of religious counterparts have to be fought with before actually framing them. The discriminatory codes or practices in Hinduism or for that matter in any other religion too are so deeply embedded that mere some social movement is not sufficient to bring out reforms. The religious discrimination has sought refuge in several practices like Sati to legitimate entry in temples to untouchability that reforms have been judicial and legislative from time to time. The recent Sabarimala issue was based on combat with a similar belief where two equally claimed rights stood against each other.

In *India Young Lawyers Assn. v. The state of Kerala*<sup>15</sup>, popularly known as the Sabarimala issue, the writ petition was preferred under Article 32 of the Constitution<sup>16</sup>, to direct the State Government of Kerala to issue directions allowing the entry of women between the ages of 10 to 50 years in the *Lord Ayyappa Temple* at Sabarimala (Kerala), which has been prohibited to them based on some customs and beliefs long-tailed in the state. Rule 3(b) of the Kerala Hindu Places of Public Worship (Authorization of Entry Rules, 1965 (Rules 1965)),<sup>17</sup> was the basis of the practice of excluding the specified women. These Rules were framed under Section 4 of the Kerala Hindu Places of Public Worship (Authorization of Entry) Act, 1965 (1965 Act).<sup>18</sup> The petitioner prayed to declare the mentioned rule unconstitutional as they violated sections 14, 15, 25 and 51A (e) of the Constitution.<sup>19</sup> It also prayed to pass directions for the safety of women pilgrims in the state.

Misogyny was encountered in its oldest part in the given judgment wherein the 21st century the bench finally put down that the menstrual process is a physiological function and not

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<sup>15</sup> India Young Lawyers Assn. v. The State of Kerala (2017) 10 SCC 689

<sup>16</sup> INDIA CONST. art. 32.

<sup>17</sup> The Kerala Hindu Places of Public Worship (Authorization of Entry) Act, 1965, No. 7, Acts of Parliament, 1965 (India).

<sup>18</sup> The Kerala Hindu Places of Public Worship (Authorization of Entry) Act, 1965, No. 7, Acts of Parliament, 1965 (India).

<sup>19</sup> INDIA CONST. art. 14.

INDIA CONST. art. 15.

INDIA CONST. art. 25.

INDIA CONST. art. 51A(e).

pollution. Ironically, in the 4-1 verdict, the only dissenting opinion was of the female judge, Justice Indu Malhotra. The issue in question was whether the exclusion of women from practising their religion in the temple of Sabarimala adds to infringement of Right to equality and prohibition of discrimination based on gender and whether such exclusion constitutes “essential religious practice” of Sabarimala. “Hindus of all kinds, Muslims, Christians etc., all visit the temple as worshippers, without, in any manner, ceasing to be Hindus, Christians or Muslims,” the majority judgment said. In the dissenting note, Justice Indu Malhotra said, “religious customs and practices cannot be solely tested on the touchstone of Article 14 and the principles of rationality embedded therein”.<sup>20</sup>

The Sabarimala judgment was a ray of hope in the direction of upholding rights against general religious norms. The basic human rights as promised by the Constitution cannot be challenged without grave reasonability and rationale which was absent in the above case. The bench favoured the right of the women as equal to that of men and allowed entry in the temple stating that such an exclusion does not constitute to be an “essential religious practice” as argued by Justice Malhotra. The Supreme Court verdict, with its allowance to let women climb the 8 steps of Sabarimala, upheld their right to dignity and equality while assassinating the menstrual taboo the society is lived with.

#### **IV. GOVERNMENT POLICIES AND THEIR IMPACT**

The Government over the years has launched a lot of schemes and policies to bring equality and dignity to women in the society as well as to ensure that their rights to healthy and hygienic menstruation. One such scheme is the Rajiv Gandhi Scheme for Empowerment of Adolescent Girls (RGSEAG) Sabla scheme, launched by Government of India in the year. The scheme was launched in the year 2011 and is still in the ploy. The scheme was aimed at the target group of 11 to 18 years and to provide them with education regarding health, hygiene, reproduction, menstruation and provide them with nutritional requirements. As per the statistical data on the site of the ministry, there shows underutilisation of money allocated by the centre. For example- In the year 2015-16, the government allocated 24,203 lakhs and the money utilised under the scheme was 3,543 lakhs. There we can see a clear underutilisation of money in the scheme. Furthermore, the number of beneficiaries under the scheme dropped by more than 1 lakh beneficiaries. Another scheme is the National rural livelihood mission by Ministry of rural development. It was also launched in the year 2011. Its purpose has been to help Self-Help

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<sup>20</sup>Charmy Harkishan, *Sabarimala verdict: SC strikes at the roots of prejudice against menstruation*, THE ECONOMIC TIMES (May.14. 2020 at 13:08 PM), , <https://economictimes.indiatimes.com/news/politics-and-nation/sabarimala-verdict-sc-strikes-at-the-roots-of-prejudice-against>

Groups and Co-operatives to produce sanitary pads on thus enabling livelihood for women as well as sanitary pads supply. Thanks to this scheme women are getting their rights to dignity, livelihood and health. One of its success stories is the village of Amba Khodra, jhabua district of Madhya Pradesh<sup>21</sup>. Despite strong opposition and threats, women have started manufacturing sanitary napkins under the scheme. They have formed a self-help group 'Padwomen.' The group earns up to 900-1100 per month and produces 600-700 napkins per month. Their aim is a menstrual disease-free village. The amount they earn may seem small but it is a revolution of its own towards, equality and independence.

We need to develop and encourage more schemes and stories like the Padwomen so that India and Indian women can come to parity and nation can develop.

## **V. THE WOMEN'S SEXUAL, REPRODUCTIVE AND MENSTRUAL RIGHTS BILL, 2018**

The parliamentarian Mr Shashi Tharoor introduced The Women's Sexual Reproductive and Menstrual Rights Bill, 2018 addressing the problems that have only been the concern of the liberal mind-sets. Theoretical discussions have long taken place on the topics relating the issue but the pragmatic solutions to the same have encountered ignorance of the Indian Law. The availability of the rights across the social and the economic strata of the society should be made possible beyond the air-discussion on the issue. India has a land of cultural and beliefs which have confided the liberalization of certain important issues which take the back seat in the discussions which affect the country as a whole.

The Bill revolves around three major issues that need amendment with time and should be taken into consideration dynamically rather than stringently.

- Criminalizing Marital rape
- Free access to sanitary pads
- Right to terminate a pregnancy

The Bill is provisioned to establish women autonomy over sexual assault by bringing it under the ambit of consent. It proposes to deal with the issue as about consent which when not given should not be assumed. The availability of free pads at the educational institutions and workplaces is also highlighted to help recognize the menstrual cycle as a natural and involuntary biological process free from disgust. The necessity of changing the mindset of the

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<sup>21</sup> Think Change India, *Padwomen' in Madhya Pradesh manufacture sanitary napkins to fight age-old stigma*, YOURSTORY (May. 22, 2020 at 14:30 PM), <https://yourstory.com/2018/02/padwomen-mp-sell-sanitary-napkin>

population in this direction is important to ensure women health safety in the close correlation with a cycle that should not be reticently addressed. The Bill also constitutes provision to grant the children victims of rape, the absolute right to termination of pregnancy in the cases where there is no risk to life involved.

## VI. ANALYSIS OF THE BILL

### The issue of marital rape

Section 375 of the *Indian Penal Code*<sup>22</sup> states the exceptions to the definition of “rape”. The Bill proposes an amendment to the fourth exception with section 2(a). It highlights the fact that the exception upholding the decriminalization of the crime so committed in cases of the man so involved being the lawful husband of the victim should rather be based on the issue of consent and not on the relation between them. Section 2(a) of the Bill proposing the substitution reads,

“With her consent, when the man knows that he is not the person she believes she has given consent to engage in sexual intercourse or sexual acts and that her consent is given because she believes that he is another man with whom she wants to engage in sexual intercourse or sexual acts.”; shall be substituted;”

The Indian Society has constrained its laws to settle with the norms and the taboos so established with a time that the needs to bring change in them through amendments are a task fearing the population’s resentment and opposition to interfere with the establishments. The amendment decides on the fact that a woman has complete autonomy over her body and is legitimate to withdraw her consent from developing a sexual relationship whether it is with her husband or otherwise.

Section 2(b) of the Bill<sup>23</sup> proposes omission of the second exception to the definition of rape in Section 375 of the Indian Penal law to accumulate the exception in case of feudal relationships also. The presumption of consent is challenged with Section 2 (c) where it is said that women's ethnicity, religion, caste, education, profession, clothing preference, entertainment preference, social circle, personal opinion, past sexual conduct or any other related grounds should not justify the ambiguous idea of consent based on subjective interpretations. The social environment that a woman lives in and her demeanour should not be subjected to scrutiny to conclude subjectively, ignoring the factual disciplines.

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<sup>22</sup> The Indian Penal Code, 1860, No. 45, Acts of Parliament, 1860 (India).

<sup>23</sup> The Women’s Sexual, Reproductive and Menstrual Rights Bill, 2018, No.255, 2018 (India).

The Bill with these provisions shifts from the “no-means-no” paradigm to “yes-means-yes” paradigm.

### **Free access to sanitary pads**

The Right to Free and Compulsory Education Act, 2010 in its 2009 Schedule’s entry 2 of column 3 requires setting up of toilets separately for boys and girls. The Bill proposes to extend the said under the heading of “norms and standards” to include the facilitation of cost-free sanitary pads in the girls’ toilet. The Bill identifies the fact that access to sanitary pads is a basic human right and in a country like India, the taboo has been attached for long. The population should be educated on the fact that the menstrual cycle is a completely natural biological process and women should not be outcast during those days. With Section 13 of the Bill<sup>24</sup>, the availability of sanitary pads in women’s toilets managed by public authorities free of cost as under Section 2(h) of the *Right to Information Act, 2005*.<sup>25</sup>

Before its withdrawal, the government charged a heavy 12% GST on sanitary pads which compelled the rural population to switch to the cloth which is very unhygienic and can cause health concerns women. The rural population is still not educated on the subject matter and 60% of the women feel shy to buy these sanitary pads. “Rastriya Kishore Swasthya Karyakram”, an initiative by the Ministry of Health and Family Welfare sought to provide 6 pads for Rs.6 which was a commendable initiative on paper but could not be implemented successfully. The stigma on menstrual health is the root cause for the failure of these initiatives and the absence of groundwork to pull off the schemes still renders a problem in the imposition of these schemes.

The availability of the free sanitary pads under the scheme has to be channelled through the Consolidated fund of India. The Bill also suggests amending the *Right of Children to Free and Compulsory Education Act, 2009* and recognizing every public authority as defined under the *Right to Information Act, 2005*, to better align itself with its objectives. However, it cannot be ignored that the channelization of these funds gives rise to corruption, general apprehension and red-tapism. The Bill, however, is narrow in its perspective and covering when dealing with menstrual hygiene while including only sanitary-pads as a way out. Cotton pads, menstrual cups and tampons must be given as options of menstrual hygiene if the issue is to be taken fully into consideration. The machinery for the manufacturing of the sanitary pads in bulk for their free distribution has to be kept under check to prevent compromise on quality and indulging in

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<sup>24</sup> *Id.* At 8.

<sup>25</sup> The Right to Information, 2005, No.22, Acts of Parliament, 2005 (India).

the use of toxic chemicals to facilitate quicker manufacturing. Information disclosure and ethical acquiescence by the manufacturing companies is necessary.

Indeed, the whole concern on menstrual hygiene could not be easily concluded in a country which has been in the shackles of orthodox mindset but the commencement of the same through the bill is noteworthy.

### **Termination of pregnancy**

Section 312 of the Indian Penal Code<sup>26</sup> recognizes the criminal liability of the medical practitioners if they engage themselves in abortion given that the abortion is not carried out in good faith. The incomplete understanding of the section has restrained medical professionals, especially in the rural areas to perform an abortion even if it is in the legitimate interest of the mother. The Bill proposes to identify the right to termination of pregnancy as a norm and not as an exception.

The Bill itself provides two explanations serving the need for the legalization in the form of explanation 1 & 2. Explanation 1 deals with the cases where the pregnancy is a result of rape and the woman's anguish in such a situation should be well understood which may even take the form of a grave mental injury caused due to pregnancy. Explanation 2, substituting the previous words "married women or her husband" with "any woman or her partner", talks about the situation where the woman or her partner used efficient means of protection which nevertheless failed resulting in unwanted pregnancy and the same problem of anguish and mental trauma is discussed. The Bill, however, highlights two exceptions to the given rule, 1) in case of female feticide and, 2) in a case where the foetus has acquired the right to life. However, to study it from a different dimension, the anguish or the mental and physical injury suffered by women has been categorized and restricted to only victims of rape, victims of incest and minors which is to say that any other woman suffering from the same injuries resulting from causes other than these would not be allowed to terminate their pregnancy.

Where on one side the Bill legalizes abortion in cases of foetal abnormalities, on the other hand, it imposes high liability on the Medical Board to shorten the delay in these cases which may increase the risk of late abortions.

The autonomy of a woman over her body is well-addressed in the bill but there still are certain negative aspects. The problem of distinguishing a legitimate unwanted pregnancy from feticide is raised. The cultural set-up of India still paves its way in stigmatizing a woman aborting her

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<sup>26</sup> The Indian Penal Code, 1860, No. 45, Acts of Parliament, 1860 (India).

child in the rural areas. Again, the necessity of educating the population and directing the provisions of the bill to their use in good faith arises.

## VII. THE SCENARIO IN INDIA V. WORLD- A COMPARATIVE STUDY

The scenario regarding menstrual health rights and benefits for females is very grim. The society still looks upon it as a taboo and discriminates females on this basis. Furthermore, such discrimination, lack of empathy and awareness has led to gross discrimination against women and thus, a violation of their fundamental and constitutional rights. Under Article 21-A<sup>27</sup> of Constitution of India, the state has to provide free and compulsory education from 6 to 14 years. Furthermore, the right to education which existed as a Directive Principle of State Policy was converted into a fundamental right by the court in the cases of - *Mohini Jain v. State of Karnataka and Ors...*<sup>28</sup> and *Unni Krishnan, J.P. And Ors. Etc. ... vs State of Andhra Pradesh And Ors.*<sup>29</sup> However, according to a report by NGO Dasra of 2014 titled 'Spot-on'<sup>30</sup>- about 23 million girls in India drop out of school annually, because of lack of menstrual hygiene management facilities like lack of washrooms and menstrual napkins. The same report held that those who don't drop out have to miss school 5 days a week. In my opinion, this is an infringement of their right to education- a fundamental right. "The Preamble also directs the state to initiate measures to establish justice, equality, ensure dignity, etc. which have a direct bearing on people's health."<sup>31</sup> However, females have to struggle and strive to seek justice and equality. Their Right to life is under a threat. There is a lack of education and awareness about menstruation and health rights. Studies say that 71% of females are not aware of this process until the first period. Today, only 20% of women use sanitary pads in India<sup>32</sup>. I opine that this lack and disregard of female's health and right to life is not only a violation of fundamental but that of a human right. India has a maternity benefit act, 1961 which envisages paid maternity leave for women. Yet, we have no law to protect women against this monthly process. Females who are from a poor socio-economic background have to work also during these 5 days to earn bread for themselves and their family.

Many countries have a leave policy for menstruating women. Example- Japan offers this

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<sup>27</sup> INDIA CONST. art.21A.

<sup>28</sup> *Mohini Jain v. State of Karnataka and Ors...*1992 AIR 1858

<sup>29</sup> *State of Andhra Pradesh And Ors.*1993 AIR 2178

<sup>30</sup> Anonymous, *Spot On! Improving Menstrual Health and Hygiene in India*, DASRA (May. 13, 2020 at 17:50 PM), <https://www.dasra.org/assets/uploads/resources/>

<sup>31</sup> N. B. SAROJINI & OTHERS, *WOMEN'S RIGHT TO HEALTH* 85 (1st ed. ,2006).

<sup>32</sup> Madhusudan Gopalan, *less than 20% menstruating girls & women in India use pads. Here's how to overcome barriers*, THE PRINTIN MEDIA PVT. LTD. (June. 2, 2020 at 09:30 AM), <https://theprint.in/health/less-than-20-per-cent-menstruating-girls-women-in-india-use-pads/317570/>

facility since 1947<sup>33</sup>. South Korea has also ensured the same since 2001. What has been an astonishing yet encouraging fact for me is that the Indian state of Bihar is offering this leave policy for women for 2 days every month since 1992. Countries like Indonesia, China, and Taiwan also have legal provisions to give menstrual leave to women<sup>34</sup>. India continues its debate on menstrual leave policy while women wade each day through pain, shame and discrimination. Even if we ensure equality and leave facilities for women, we would also have to ensure, necessities like food, water for females living under the poverty line. Work from home became a common culture amidst Covid-19 yet what about women who work in construction sites and factories. There exists neither leave nor work from home for them. They have to work in hazardous conditions even while undergoing such a painful process.

### VIII. A GLOBAL PERSPECTIVE ON MENSTRUAL RIGHTS

There are some universally agreed human rights associated with the way of treatment of girls and women during menstruation. 1) The right to human dignity talks about the unavailability of proper bathing and sanitary requirements for menstruating women which makes them incapable of maintaining proper menstrual hygiene and eventually exposes them to teasing, exclusion and shame. Over 2.4 billion people living around the world do not have access to improved sanitation<sup>35</sup> and, on any given day, more than 800 million girls and women between the ages of 15 and 49 are menstruating. 2) The right to an adequate standard of health and well-being encapsulates the health hazards resulting from improper care of menstrual hygiene. It is also largely noted that women don't seek professional medical help or treatment for menstrual-related problems and pain given the fear of stigmatization. The access to such medical help also depends on the women's marital status, geographical location and economic status, along with the gendered norms in the household. In the countries of Ethiopia and Ghana, a misconception that irregular bleeding may lead to them being perceived as infertile and unmarriageable has prevented women to seek their rights. 3) The right to education gets involved where the girls or women not provided with appropriate sanitation facilities and their fear to seek medical help may end up affecting their education because girls usually absent themselves from school in these circumstances which are detrimental to their education. 4) The right to work is related to similar circumstances for a different age group. The same lack of

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<sup>33</sup> Urvashi Prasad, *India needs a menstrual leave policy*, THE HINDU BUSINESSLINE (June. 2, 2020 at 10:30 AM), <https://www.thehindubusinessline.com/opinion/india-needs-a-menstrual-leave-policy/article24105589.ece>

<sup>34</sup> Anonymous, *Menstrual Hygiene Day 2019: Countries that Provide Women with Menstrual Leaves*, CABLE NEWS NETWORK LP, LLP (June. 2, 2020 at 13:25 PM), <https://www.news18.com/news/lifestyle/menstrual-hygiene-day-2019-countries-that-provide-women-with-menstrual-leaves-2162183.html>

<sup>35</sup> S. HOUSE, T. MOHAN & S. CAVILL, *MENSTRUAL HYGIENCE MATTERS* 90-91 (1st ed. 2012).

menstrual hygiene facilities and medical treatment limit the job opportunities for women. They end up giving certain jobs or forgo working hours and related wages. Menstruation-related needs, such as bathroom breaks, may be penalized, leading to unequal working conditions. In the otherwise highly evolved societies, the women at the workplace might still be stigmatized because of the pertaining menstrual taboos. 5) The right to non-discrimination and gender-equality comes into play when the physiological process gives rise to discriminatory practices. Menstruation-related barriers to school, work, health services and public activities also propagate gender inequalities.<sup>36</sup>

Health issues about girls and women have often been overlooked by the decision-makers, medical establishment, educators and even policy-makers. However, in the last few years, the advocates, educationalists and the global policymakers have agreed on the fact that the issue needs to be addressed concluding on a wide agreement as to what all an adolescent women's needs are. This has included the access of clean and hygienic absorbing material, facilitation to change these materials in privacy and secrecy and disposing of the used supplies, the availability of soap and water requirements, the disseminating of education on the topic to help manage their menstruation without fear and discomfort and access to healthcare addressing their menstrual-disorders.

Period poverty-The term 'period poverty' resonates to the economic struggle that the women go through in an attempt to afford the menstrual products for themselves. The economic vulnerability that the women are exposed to due to the financial burdening is also in the term's ambit. The affected area not only includes the developing countries but also the wealthy, industrialized countries. Studies in Kenya have shown that women get engaged in transactional sex to pay for their menstrual products.<sup>37</sup>Period poverty is not just an economical issue but a social and political issue too. Some advocates have put before suggestions regarding the menstrual products to be tax-exempt. Similar efforts successfully resulted in tampons and sanitary pads to be taxation exempted in India.

### **United Nations Population Fund (UNFPA)**

UNFPA is supportive of the reproductive and the sexual rights of women and henceforth distributes dignity kits containing menstrual hygiene products around the world, particularly in countries and communities that face humanitarian emergencies (In the year 2017, as many as 4,84,000 dignity kits were distributed across 8 countries). UNFPA works with the camp official

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<sup>36</sup> Tiril Skarstein, Santosh Chhetri & Julitta Onabanjo, *Period shame, misinformation linked to serious human rights concerns*, UNITED NATIONS POPULATION FUND (May. 27, 2020 at 17:40 PM), <https://www.unfpa.org/news/period-shame-misinformation-linked-serious-human-rights-concerns>

<sup>37</sup> Siri Tellier & Amaria Hyttel, *Menstrual Health Management in East and South Africa* 2018.

in displacement camps to help improve the toilet and bathing facilities by distributing flashlights and installing solar lights. Shame, stigma and lack of information on the subject are inviting a lot of human rights concerns for girls and women as commissioned by the UNFPA. Secondly, UNFPA works to educate girls on menstrual hygiene and related human rights. Youth programmes such as Y-peer programmes along with comprehensive sexuality education efforts in the direction, young boys and girls understand the normality of the menstrual cycle.<sup>38</sup>

The UNFPA-UNICEF Global Programme to Accelerate Action to End Child Marriage educates girls and communities about reproductive health and the harms caused by child marriage. Programmes to end female genital mutilation, including the UNFPA-UNICEF Joint Programme to Eliminate FGM, help in raising awareness of the negative consequences the practice can have on menstrual health. In addition to this UNFPA helps the national helps systems in different countries work upon the menstrual health issues and provide treatment to girls and women suffering from menstrual disorders.<sup>39</sup> To deal with the menstrual health complaints, it hires and trains health workers, particularly midwives, to provide relevant information in understandable language. Provision of reproductive health commodities such as hormonal contraceptive methods which treat symptoms of endometriosis and reduce excessive menstrual bleeding is also looked after by UNFPA. In the form of supported surveys, UNFPA seeks to provide an insight into girls' and women' knowledge about their menstrual cycles, health and access to sanitation facilities and henceforth compile the data so gathered to establish its connection to the global development.

## **IX. IMPACT OF POOR MENSTRUAL HEALTH ON FEMALES**

### **Physical health**

Females suffer through a lot of physical health issues. Poor menstrual hygiene has very poor effects on the overall health of women. Women suffer from diseases such as Reproductive Tract Infection, Yeast and Fungal Infection and sometimes also from sexually transmitted diseases like AIDS. Poor menstrual hygiene has been found as the 5<sup>th</sup> biggest killer in the world<sup>40</sup>. It is high time we realise our responsibilities towards women and their menstrual rights. It is our duty as humans to protect them and ensure that they receive resources adequate for maintaining their menstrual hygiene instead of discriminating them and seeing

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<sup>38</sup>UNFPA, *Menstruation and human rights - Frequently asked questions*, UNITED NATIONS POPULATION FUND (May. 29, 2020 at 19:40 PM), <https://www.unfpa.org/menstruationfaq>

<sup>39</sup> Siri Tellier and Maria Hyttel, *Menstrual Health Management in East and Southern Africa: A Review Paper*, May 2018

<sup>40</sup> Anonymous, *No access to menstrual hygiene is the fifth biggest killer of women in the world*, LIVING MEDIA INDIA LTD. (30. May, 2020 at 10:30 AM), <https://www.indiatoday.in/education-today/gk-current-affairs/story/no-access-to-menstrual-hygiene-fifth-biggest-killer-of-women-in-the-world-1552450-2019-06>

menstruation as a taboo. The physical impact of poor menstruation on a woman are- Urinary and Reproductive tract infections which often lead to kidney damage and failure, bacterial vaginosis leading to cervical cancer. Poor menstrual hygiene has been found as a major cause of cervical cancer. Furthermore, “Menstrual cycle patterns can have a direct influence on physical well-being, including ovarian function, pregnancy maintenance, cardiovascular disease, migraine headaches, diabetes mellitus, and breast cancer.<sup>41</sup>” The blood loss in menstrual cycle causes anaemia in women which drop in iron levels in a women’s body. It also impacts the haemoglobin level which thus impacts the supply of oxygen to organs and tissues. Women require iron-rich food and adequate supply of water to cope up from this situation.

A study titled Menstruation and the Cycle of Poverty trial was conducted in Uganda to check that statistics and parameters in girls for ideal menstrual hygiene. In the study at Uganda, 90.5% of girls failed to meet the criteria of menstrual health hygiene<sup>42</sup>. The sample size of this study was 205 girls between the ages of 10 to 19 years. The study was extracted from the Pan African Clinical Trials Registry. A similar study was conducted Singur, West Bengal India. This was a detailed study to check upon if girls knew what really menstruation is and are girls taking adequate care of their health. The key highlight of this study concerning our paper is that out of the sample size of 160 students, only 16 used sanitary pads. About 10 girls believed it to be a curse of God. The most astonishing fact of this study was that 82 which is half of the sample size, is using cloth during their menstrual cycle. In a similar study of Rajasthan conducted by Anoop Khanna of Indian Institute of Health Management Research<sup>43</sup> were the results said that 3/4<sup>th</sup> of the girls used cloth while only 1/4<sup>th</sup> have the knowledge and use sanitary pads.

### **Mental Health**

Just like physical health issues, menstrual cycle and the process of menstruation has an impact on the mental health of females too. A female’s body goes through a lot of changes due to menarche because it brings in a lot of hormonal and physiological changes in a female’s body. Hormones- estrogen and progesterone affect the brain and mental activity in a great way. Many females have a common problem known as PMS or pre-menstrual disorder which causes hype

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<sup>41</sup> 14 KARTHYRN L TERRY, MENTRUAL CYCLE CHARATERISTICS AND INCIDENCE OF PREMENOPAUSAL BREAST CANCER 1510 (Final ed. 2005).

<sup>42</sup> Julie Hennegan ,Catherine Dolan & Maryalice Wu , et al. *Measuring the prevalence and impact of poor menstrual hygiene management: A quantitative survey of schoolgirls in rural Uganda*, BMJ OPEN 2016 (30 May, 2020 at 12:30 PM), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5223625/pdf/bmjopen-2016-012596.pdf>.

<sup>43</sup> Anoop Khanna, R.S. Goyal & Rahul Bhawsar, *Menstrual Practices and Reproductive Problems: A Study of Adolescent Girls in Rajasthan*. 7(1) Journal of Health Management 91, 91–107(2005).

in anxiety and fear levels in the body of females. This is caused by the hormone progesterone<sup>44</sup>. The rising and falling of hormones like estrogen and progesterone cause a rapid change in neurotransmitters- Dopamine and Serotonin. Neurotransmitters are chemicals between 2 neurons that facilitate effective coordination, control and communication. The constant fluctuation in the neurotransmitter levels causes anxiety, irritability and sleep problems. Another common problem woman goes through, while menstruation is premenstrual dysmorphic disorder (PMDD) which is similar to PMS yet is more harmful and harsher on female's mind. Mental health issues remain a taboo in India so imagine female suffering from all this in silence and not even getting a clean piece of cloth to protect her bleeding uterus. Over time, many pieces of research show that problems like Bi-polar disorder (BPD) are also caused by menstruation. Reproductive hormones also cause long term depressions. "The prevalence of one of the most common mood states, depression, increases with reproductive developmental events: puberty, pregnancy, postpartum and perimenopause".<sup>45</sup>

The purpose of mentioning above is not to complicate minds or to divert from the issue here. The purpose is to show and aware you, the readers that menstruation and menstrual cycle is not as an easy process as it seems. Females have to bear a lot inside their bodies and when we add discrimination to it, we are doing irreparable damage to society and the world. It's not a taboo- it's a health condition, a life process which lacks our attention because of a superiority complex in our mind.

## X. CONCLUSION

The simple biological fact of menstruation should not serve as an excuse to forbid women and girls of their rights as a human. The process needs elimination from the stigma and acceptance from a perspective that is not subjected to shame, abhorrence and aversion. Women all over the world face challenges in the form of privacy and health, fighting for basic human rights; human rights that should not be conditional. Maintaining menstruation hygienically with normalcy and dignity, free from any ignominy will make the women enjoy their human rights. India, as a country, needs advancement in framing the laws dynamically and, re-analyse the ones that have been stagnant historically. Religion and culture cannot be sought as a justification for prejudice against a biological phenomenon. It is not imposed that a country known for its ornamental religious practices should give away of its belief system; but if it is

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<sup>44</sup>Sara Shah, *How the Menstrual Cycle Affects Our Mental Health*, CORA (Jun. 4, 2020 at 15:45 PM), <https://www.bloodandmilk.com/how-the-menstrual-cycle-affects-our-mental-health/>

<sup>45</sup> 18 BERNARD L. HARROW, BIPOLAR DISORDERS 70-194 (Wiley Network, 2003).

at the cost of human rights, consideration is no harm.

Support from the governments of countries in form of building infrastructure and provision of free sanitary pads along with other necessities helps remove the stigma and taboo with a promising step towards a broader mindset and appreciation of factual cycles. The worldwide efforts to engage the world leaders in community-building, educate young boys and girls about the process and spread awareness about the correlated rights about it is appreciable, yet somewhere the needs of millions of women and girls earn little significance amongst the global health agendas. Menstruation, being a sign of good health, should be normalized and appreciated.

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