



## MENSTRUAL HEALTH AND HYGIENE: LEGAL RECOGNITION OF PERIOD LEAVE AND TAX REFORMS

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### ABSTRACT

*Menstrual health and hygiene (MHH) remain pivotal yet under-addressed aspects of public health and gender justice. In many parts of the world, including India, menstruation continues to be surrounded by social taboos, misinformation, and systemic neglect. This article examines two key aspects of legal reform necessary to promote menstrual equity: the legal recognition of menstrual or period leave and the introduction of tax reforms to ensure access to menstrual hygiene products. Though period leave policies have been initiated in some jurisdictions, such as Japan, South Korea, and recently, Spain<sup>1</sup>, Indian law continues to be fractured and does not incorporate a universal, rights-based plan. The fact that menstrual leave provisions are not codified emphasises the urgent need for intense legislative action balancing workplace equality with biological realities. In tandem with this, this article takes into account the effect of taxation on menstrual items and its repercussions of presenting them as 'luxury' goods under indirect tax schemes. The abolition of the Goods and Services Tax on sanitary napkins in India was a breakthrough.<sup>2</sup> Nonetheless, the general issue of accessibility is still not solved, particularly for marginalised groups. The legal framework must address tax exemption and state responsibility through subsidies, school-based distribution schemes, and the inclusion of menstrual health in public health policy. By combining legal analysis, constitutional principles such as the right to health and dignity,<sup>3</sup> and comparative jurisprudence,<sup>4</sup> the article argues for a rights-based approach to menstrual health. It critiques the gender-neutral discourse that*

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<sup>1</sup> Labour Standards Act 1947 (Japan), art 68; 'Spain Approves Paid Menstrual Leave, a First in Europe' (BBC News, 16 February 2023) <https://www.bbc.com/news/world-europe-61429022> accessed 12 June 2025

<sup>2</sup> Press Trust of India, 'Sanitary Napkins Exempted from GST' *The Hindu* (New Delhi, 21 July 2018) <https://www.thehindu.com/business/Industry/sanitary-napkins-to-be-exempt-from-gst/article24483128.ece> accessed 12 June 2025

<sup>3</sup> *Maneka Gandhi v Union of India* (1978) 1 SCC 248; *Paschim Banga Khet Mazdoor Samity v State of West Bengal* AIR 1996 SC 2426

<sup>4</sup> Period Products (Free Provision) (Scotland) Act 2021 (asp 1)

*often invisibilises menstruators and calls for a jurisprudence that acknowledges menstruation as a critical axis of gender equality. The aim is to provide a doctrinal and policy-oriented roadmap to ensure menstrual justice in both the workplace and the market, rooted in constitutional values and global human rights standards.*

**Keywords:** Menstrual Justice, Period Leave, Tax Reform, Gender Equality, Right to Health.

## INTRODUCTION

Menstrual health and hygiene (MHH) are a significant yet often overlooked public health and gender rights issue. While menstruation is a natural biological function experienced by nearly half the global population at some point in their lives, legal systems have historically failed to incorporate it into the framework of health rights, labour welfare, or fiscal policy. The discourse around menstruation has been taken over primarily by stigma, invisibility, and patriarchal unawareness, thereby preventing any earnest legal or policy response. In India, it is also reinforced by cross-cutting societal factors such as poverty, caste, rural-urban differences, and scant access to clean water and sanitation, which together impair menstrual equity.<sup>5</sup>

This article explores two critical domains where the law can be transformative in advancing menstrual justice: (1) the legal recognition of menstrual or period leave in the employment sector and (2) tax reforms and policy initiatives to ensure access to affordable menstrual hygiene products. The discussion is anchored in the Indian legal framework but draws upon comparative perspectives from countries pioneered in these areas.<sup>6</sup> The study is grounded in constitutional principles such as the right to health, dignity, equality, and non-discrimination under Articles 14, 15, and 21 of the Indian Constitution.<sup>7</sup>

It is rights-based and doctrinal, drawing on legislative instruments, judicial precedents, public health literature, and feminist jurisprudence. It attempts to provide a holistic legal analysis and policy structure to address menstrual disparities by instituting structural reforms. This article contends that menstruation must be recognised not only as a health concern but as a human rights issue warranting state intervention, employer responsibility, and social re-narrativisation.

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<sup>5</sup> UNICEF, *Guidance on Menstrual Health and Hygiene* (2019) <https://www.unicef.org/documents/guidance-menstrual-health-and-hygiene> accessed 12 June 2025

<sup>6</sup> Labour Standards Act 1947 (Japan), art 68; Period Products (Free Provision) (Scotland) Act 2021 (asp 1); 'Spain Approves Paid Menstrual Leave, a First in Europe' (BBC News, 16 February 2023) <https://www.bbc.com/news/world-europe-61429022> accessed 12 June 2025

<sup>7</sup> Constitution of India 1950, arts 14, 15 and 21; *Maneka Gandhi v Union of India* (1978) 1 SCC 248

## MENSTRUAL HEALTH AS A LEGAL AND HUMAN RIGHTS CONCERN

### The Right to Health and Menstrual Hygiene

The right to health, although not expressly mentioned in the Indian Constitution, has been read into Article 21—the right to life and personal liberty—by judicial interpretation. The Supreme Court has held that the right to live with human dignity includes the right to health, clean water, and a hygienic environment.<sup>8</sup> Menstrual hygiene, which impacts the physical and psychological well-being of menstruators directly, comes under this definition squarely. Denial of access to safe and affordable menstrual products, proper sanitation facilities, and education impacts health adversely, as well as sustains gender-based discrimination and inequality. In *Laxmi Mandal v Deen Dayal Harinagar Hospital*, the Delhi High Court recognised maternal health as a constitutional entitlement under Article 21, laying the groundwork for similar claims in menstrual health.<sup>9</sup> International human rights documents like the Convention on the Removal of All Forms of Discrimination Against Women, to which India is a signatory, obligate states to secure women's access to healthcare and logically must require states to extend this access to menstrual hygiene management.<sup>10</sup>

### Stigma and Socio-Cultural Barriers

Cultural taboos surrounding menstruation also contribute to the issue. In India, menstruating women are frequently barred from social, religious, and educational arenas, practising what amounts to cultural silence and shame. Such practices have immediate legal ramifications under the anti-discrimination enshrined in Articles 14 and 15 of the Constitution.<sup>11</sup> Denial of access to education or workspaces due to menstruation can arguably constitute indirect discrimination, which the courts are yet to engage with robustly.

Legal scholars argue that the State's failure to provide menstrual products or safe facilities to menstruators in public institutions such as schools and prisons may amount to gender-based

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<sup>8</sup> *Paschim Banga Khet Mazdoor Samity v State of West Bengal* AIR 1996 SC 2426

<sup>9</sup> *Laxmi Mandal v Deen Dayal Harinagar Hospital* 2010 SCC OnLine Del 2232

<sup>10</sup> Convention on the Elimination of All Forms of Discrimination Against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13 (CEDAW)

<sup>11</sup> Constitution of India 1950, arts 14 and 15

neglect.<sup>12</sup> Therefore, menstrual health is not merely a matter of personal hygiene or medical care—it is an issue of legal entitlement, state accountability, and human dignity.

## **LEGAL RECOGNITION OF PERIOD LEAVE IN INDIA AND GLOBALLY**

### **The Concept and Justification of Menstrual Leave**

Menstrual or period leave refers to the policy that allows menstruating individuals to take leave from work or academic duties during their menstrual cycle, particularly on days of severe discomfort. The idea stems from a recognition of biological differences and the need for inclusive workplace and educational policies that do not penalise menstruators for their physiological realities. Period leave is not merely a welfare measure—it is a recognition of the right to work with dignity under safe and humane conditions, anchored in Article 21 (Fundamental Right to Life & Personal Liberty) of the Constitution of India and reinforced by Article 42 of the Directive Principles of State Policy, which mandates just and humane conditions of work.<sup>13</sup>

Medical studies show that conditions such as dysmenorrhea, endometriosis, and menorrhagia significantly impair the ability of many menstruators to work effectively during their menstrual periods.<sup>14</sup> Thus, a statutory period leave policy would align with the constitutional guarantee of the right to health, freedom from discrimination, and the broader aim of substantive equality under Article 14.<sup>15</sup>

### **Global Legal Framework and Comparative Analysis**

Several countries have recognised period leave through legislative action or labour policy. Japan has had a menstrual leave law since 1947 under Article 68 of the Labour Standards Act, although cultural factors often discourage its use.<sup>16</sup> South Korea, Taiwan, Indonesia, and Zambia also provide some form of menstrual leave, either paid or unpaid.<sup>17</sup> Most recently, in

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<sup>12</sup> Priya Nath and Anubhuti Yadav, 'Menstrual Hygiene and the Indian Legal Framework: A Critical Study' (2018) 10 NUJS L Rev 115

<sup>13</sup> Constitution of India 1950, arts 21 and 42

<sup>14</sup> Ankita Rani and Anjali Goyal, 'Menstrual Health and the Workplace: Medical and Legal Perspectives' (2021) 5 Indian J Health L 75

<sup>15</sup> Constitution of India 1950, art 14

<sup>16</sup> Labour Standards Act 1947 (Japan), art 68

<sup>17</sup> Gwendolyn D. Pimentel-Gana, 'Menstrual Leave: An Emerging Human Rights Issue in Asia' (2019) 7 Asian J Comp L 121

2023, Spain became the first European country to legalise paid menstrual leave, granting three to five days of leave for women experiencing painful periods, with the cost borne by the State.<sup>18</sup>

These examples offer varied models—some state-mandated and others negotiated through collective bargaining. The main point is that period leave is progressively considered to be a key aspect of labour welfare and gender-sensitive employment policy. Contrarily, Indian labour laws are mum on this matter.<sup>19</sup>

### **The Indian Legal Landscape: Gaps and Possibilities**

Currently, India does not have a national law mandating menstrual leave. However, there have been piecemeal efforts. The state government of Bihar brought in a menstrual leave policy as early as 1992, allowing women government servants two days' leave every month.<sup>20</sup> In 2020, the private food delivery company Zomato adopted a 10-day leave policy for its staff per year, kickstarting a national debate on whether such provisions were necessary and what the implications would be.<sup>21</sup>

A Private Member's Bill—the Menstrual Benefit Bill, 2017—was introduced in Parliament by MP Ninong Ering, proposing two days of paid leave each month for menstruating women in both public and private sectors, along with better restroom facilities and awareness campaigns.<sup>22</sup> However, the Bill lapsed without discussion, revealing the lack of political will and the discomfort surrounding menstrual issues in legislative discourse.

Despite judicial activism in several spheres of labour welfare and gender justice, the Indian judiciary has not recognised menstrual leave as a legal right. However, jurisprudential foundations exist for such a claim. In the case of *Vishaka v State of Rajasthan*, the Supreme Court recognised the right to a safe and dignified workplace as part of the fundamental right to

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<sup>18</sup> “Spain approves paid menstrual leave, first country in Europe to do so” *POLITICO* (16 February 2023) <https://www.politico.eu/article/bill-europe-spain-parliament-creates-first-menstrual-leave-in-europe/#:~:text=The%20new%20bill%20gives%20women,&text=The%20Spanish%20parliament%20on%20Thuesday,in%20Europe%20to%20do%20so> accessed 13 June 2025

<sup>19</sup> The Factories Act 1948 and the Maternity Benefit Act 1961 make no mention of menstruation or period leave

<sup>20</sup> Government of Bihar, Department of Personnel and Administrative Reforms, Resolution No. 1/Pers-1022/92, dated 2 October 1992

<sup>21</sup> Zomato, ‘Zomato Introduces Period Leave for Women Employees’ (Official Blog, 8 August 2020) <https://blog.zomato.com/period-leaves> accessed 13 June 2025

<sup>22</sup> The Menstrual Benefit Bill 2017, Bill No. 156 of 2017 (Lok Sabha)

life and equality.<sup>23</sup> Similar reasoning could justify period leave as a component of dignified working conditions.

### **Critiques and Counterarguments**

Certain feminist researchers and activists are against menstrual leave, contending it may reinforce gender stereotypes, discourage employers from employing women, or put menstruators in the spotlight with unwanted attention. Detractors also caution against essentialising women's bodies and making biological determinism a labour law fixture. While these concerns are valid, they must be addressed through sensitisation and robust anti-discrimination frameworks rather than rejecting the policy altogether.

Moreover, not all menstruators identify as women—trans men and non-binary persons may also menstruate. Therefore, gender-neutral menstrual leave policies must be drafted to ensure inclusivity and avoid reinforcing a binary gender framework.<sup>24</sup>

## **TAXATION AND ACCESSIBILITY OF MENSTRUAL HYGIENE IN INDIA**

### **The History of Taxation on Menstrual Products in India**

Before the coming of the Goods and Services Tax (GST) in 2017, sanitary napkins and other menstrual hygiene products were subject to Value Added Tax (VAT) at varying rates across Indian states. After the implementation of GST, menstrual products were subjected to a 12% tax slab. The step sparked a worldwide outcry with things of basic needs being labelled as non-essential or "luxury" goods. Other basics like condoms and sindoor remained exempt from the tax.<sup>25</sup> The step was labelled as regressive and unrealistic for millions of Indian menstruators, especially those belonging to poor families.

Civil society groups, students, and public health advocates launched the #LahuKaLagaan (blood tax) campaign, demanding the abolition of GST on menstrual products.<sup>26</sup> The campaign highlighted what defines a 'necessity' in fiscal policy and whose needs the state prioritises.<sup>27</sup>

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<sup>23</sup> *Vishaka v State of Rajasthan* (1997) 6 SCC 241

<sup>24</sup> Jennifer Weiss-Wolf, *Periods Gone Public: Taking a Stand for Menstrual Equity* (Arcade Publishing 2017)

<sup>25</sup> Ministry of Finance, Government of India, 'List of Exempted Goods under GST' (2017) <https://www.cbic.gov.in> accessed 13 June 2025

<sup>26</sup> 'Indian Women Protest Menstruation Tax' <https://www.radionisaa.ps/en/article/434/Indian-Women-Protest-Menstruation-Tax> accessed 15 June 2025

<sup>27</sup> Nikita Azad, 'Taxing Menstrual Hygiene: Whose Necessity?' (2018) 53(5) *Economic and Political Weekly* 10

## GST Exemption and Its Implications

In July 2018, responding to public outcry, the GST Council made sanitary napkins exempt from GST, a move that was greeted as menstrual justice.<sup>28</sup> The relief, however, appeared to unsettle producers, particularly small producers, who were no longer able to benefit from input tax credit (ITC) on raw materials such as absorbent cotton and packaging materials.<sup>29</sup> The unintended consequence of past reforms has led to increased production costs, ironically rendering relatively inexpensive sanitary products less available in the market. Moreover, the free GST has not been accompanied by similar price cuts of sanitary napkins on retail levels. In rural and poor regions, these products are still out of reach or unaffordable, in turn questioning whether tax reform can address the bigger question of having menstrual products in accessible abundance.<sup>30</sup>

## Menstrual Equity: Beyond Tax Exemption

Although tax exemption is a positive move, it is not enough to ensure menstrual equity. Much like vaccines or oral contraceptives, menstrual products should be considered public health goods and provided free of cost in government schools, colleges, prisons, and health centres.<sup>31</sup> Several Indian states—such as Kerala, Delhi, and Tamil Nadu—have initiated local schemes distributing free or subsidised pads in schools or through Anganwadis, but the coverage remains uneven and underfunded.<sup>32</sup>

In *Ramlila Maidan Incident v Home Secretary, Union of India*, the Supreme Court reiterated the importance of ensuring equitable access to public goods and health services as part of the right to life and dignity.<sup>33</sup> Therefore, a statutory framework mandating the distribution of menstrual products through the public distribution system or national health schemes like Ayushman Bharat is not only desirable but constitutionally justifiable.

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<sup>28</sup> Press Trust of India, 'Sanitary Napkins Exempted from GST' *The Hindu* (21 July 2018) <https://www.thehindu.com/business/Industry/sanitary-napkins-to-be-exempt-from-gst/article24483128.ece> accessed 15 June 2025

<sup>29</sup> 'Zero GST on sanitary napkins will not reduce prices' *India Today* (25 July, 2018) <https://www.indiatoday.in/india/story/zero-gst-on-sanitary-napkins-will-not-reduce-prices-will-create-burden-on-domestic-manufacturers-1295292-2018-07-25> accessed 15 June 2025

<sup>30</sup> Nikita Azad, 'Taxing Menstrual Hygiene: Whose Necessity?' (2018) 53(5) *Economic and Political Weekly* 10

<sup>31</sup> Ankita Rani and Anjali Goyal, 'Menstrual Health as a Public Health Issue in India: Legal and Ethical Considerations' (2021) 5 *Indian J Health L* 75

<sup>32</sup> Government of Kerala, 'She Pad Scheme' (Kerala State Women's Development Corporation, 2020) <https://kswdc.org> accessed 15 June 2025

<sup>33</sup> *Ramlila Maidan Incident v Home Secretary, Union of India* (2012) 5 SCC 1



## Global Practices and Lessons

Several countries have gone beyond tax exemptions to provide free menstrual products in public institutions. Scotland became the first country in the world to legislate the provision of free period products under the Period Products (Free Provision) (Scotland) Act 2021, placing a legal duty on local authorities to ensure availability.<sup>34</sup> New Zealand, Kenya, and some states in the United States have initiated similar programs in schools and colleges.

India can draw from these models to formulate a centrally sponsored scheme integrating menstrual health into broader public health and education policy. A combination of tax incentives, public provisioning, and private-sector partnerships can ensure that no menstruator is denied access due to economic barriers.<sup>35</sup>

## CONSTITUTIONAL AND JURISPRUDENTIAL FOUNDATIONS FOR MENSTRUAL JUSTICE IN INDIA

### Right to Equality (Art. 14) and Non-Discrimination (Art. 15)

The Indian Constitution guarantees equality of treatment before the law under Article 14. Any practice, policy, or legislation that does not take into consideration biological differences and sustains indirect discrimination against menstruators denies this promise. Article 15(1) renders discrimination based on sex illegal, and Article 15(3) authorises the state to make special provisions for women and children.<sup>36</sup> These constitutional mandates create the foundation for recognising menstrual leave and public provisioning of hygiene products.

The jurisprudential expansion of Article 14 from formal equality to substantive equality, as seen in *Anuj Garg v Hotel Association of India*, mandates that laws and policies be sensitive to gender realities and not reinforce traditional roles or stereotypes.<sup>37</sup> The failure to provide for menstrual needs—either through public health schemes or labour policies—amounts to systemic neglect that disproportionately affects menstruators, thereby violating the principle of substantive equality.<sup>38</sup>

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<sup>34</sup> Period Products (Free Provision) (Scotland) Act 2021 (asp 1)

<sup>35</sup> Jennifer Weiss-Wolf, *Periods Gone Public: Taking a Stand for Menstrual Equity* (Arcade Publishing 2017)

<sup>36</sup> Constitution of India 1950, arts 14 and 15

<sup>37</sup> *Anuj Garg v Hotel Association of India* (2008) 3 SCC 1

<sup>38</sup> Gouthami S and Aparna Chandra, 'Towards Substantive Equality: Menstrual Leave and Gendered Labour' (2020) 12 NUJS L Rev 145



## Right to Life and Dignity (Article 21)

Article 21 of the Constitution of India ensures the right to life and personal liberty and has been expansively analysed to include the right to health, dignity, and safe working conditions. In the case of *Maneka Gandhi v UoI*, the Court held that "life" does not connote mere animal existence but living with dignity.<sup>39</sup> Menstrual equity—access to sanitation, privacy, leave when needed, and tax-free products—is central to this vision of dignity.

The Court has further reaffirmed in *Justice K.S. Puttaswamy v Union of India* that dignity is an inseparable facet of privacy, bodily autonomy, and choice.<sup>40</sup> Denying or trivialising menstrual health concerns infringes upon this integrated right to live with dignity.<sup>41</sup>

## DPSP and Fundamental Duties

Albeit non-justiciable, the Directive Principles in Part IV of the Constitution act as guiding lights in the making of welfare policies. Article 39(e) of DPSP mandates the state to make sure workers' health and strength are not exploited, and by economic necessity, people are not forced to work in unbecoming conditions.<sup>42</sup> Article 42 obliges the state to provide just and humane work and maternity relief conditions.<sup>43</sup> These provisions collectively support a strong case for menstrual leave and hygiene provisions as extensions of labour welfare.

Similarly, under Article 51A(e), every citizen's fundamental duty is to renounce practices derogatory to the dignity of women.<sup>44</sup> Menstrual health addressed by state and institutional interventions is a reflection of our constitutional dedication to this cause.

## Intersectionality and Marginalisation

These constitutional provisions have to be applied in awareness of intersectional realities. Rural women, Dalit menstruators, transgender men, persons with disabilities, and those in custodial institutions face additional barriers to accessing menstrual health services.<sup>45</sup> In *the Indian Young Lawyers Association v State of Kerala (Sabarimala case)*, the Court recognised the

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<sup>39</sup> *Maneka Gandhi v Union of India* (1978) 1 SCC 248

<sup>40</sup> *Justice K.S. Puttaswamy v Union of India* (2017) 10 SCC 1

<sup>41</sup> Naina Kapur, 'Dignity in the Indian Constitution: Menstruation and the Meaning of Equality' (2020) 9(1) *Indian Journal of Constitutional Law* 83

<sup>42</sup> Constitution of India 1950, art 39(e)

<sup>43</sup> Constitution of India 1950, art 42

<sup>44</sup> Constitution of India 1950, art 51(e)

<sup>45</sup> Asha Bajpai, *Child Rights in India: Law, Policy, and Practice* (3rd edn, OUP 2018) 287

discriminatory impact of religious exclusion on menstruating women and linked it to constitutional morality.<sup>46</sup>

A similar constitutional lens should be applied to other forms of menstrual exclusion—schools lacking restrooms, workplaces denying leave, and public systems failing to provide sanitary products. The judiciary and legislature must shift from tokenism to a framework that recognises menstruation as a site of structural exclusion, demanding systemic redress.<sup>47</sup>

## **TOWARDS A MENSTRUAL JUSTICE FRAMEWORK – POLICY, LEGISLATION AND WAY FORWARD**

### **Defining Menstrual Justice**

Menstrual justice is the comprehensive recognition of menstruation as an issue of equality, health, dignity, and social justice. It transcends access to hygiene commodities or leaves policies and includes structural change in law, policy, education, and culture. It acknowledges that menstruation intersects with class, caste, gender identity, geography, and disability, requiring an inclusive, rights-based approach from the State.

As legal scholar Jennifer Weiss-Wolf has written, menstrual justice means breaking down the stigma, making menstrual care universally accessible, and preventing menstruators from being economically, educationally, or socially punished for their biology.<sup>48</sup> In India, where menstrual taboos are so deeply ingrained, a legal system that enacts menstrual justice is a constitutional necessity.

### **Legislative Recommendations**

India must move towards a comprehensive legislative framework on menstrual health and hygiene to realise menstrual justice. Key recommendations include:

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<sup>46</sup> *Indian Young Lawyers Association v State of Kerala* (2019) 11 SCC 1

<sup>47</sup> Pooja Pande, 'Menstruation and Structural Exclusion: A Rights-Based Perspective' (2021) 13(2) *Indian Journal of Gender Studies* 215

<sup>48</sup> Jennifer Weiss-Wolf, *Periods Gone Public: Taking a Stand for Menstrual Equity* (Arcade Publishing 2017) 15

- **A Menstrual Health and Hygiene Management Act** at the central level will address menstrual leave, product accessibility, workplace provisions, and awareness campaigns<sup>49</sup>.
- **Mandatory menstrual leave policy** in public and private sectors, modelled after the Factories Act and Maternity Benefit Act provisions.<sup>50</sup>
- **Tax exemptions** coupled with **input tax credit restoration** to support small-scale sanitary product manufacturers.<sup>51</sup>
- **Free menstrual product distribution** through public health centres, schools, hostels, prisons, and shelters.<sup>52</sup>
- **Inclusion of transgender and non-binary persons** in all menstrual health schemes through gender-neutral drafting and outreach mechanisms.<sup>53</sup>
- **Dedicated budget allocation** under the National Health Mission and School Health Programme for menstrual health infrastructure.<sup>54</sup>

Robust monitoring, grievance redressal mechanisms, and community participation must back these reforms.

### Role of the Judiciary and Human Rights Institutions

The Indian judiciary could serve as a driver by embracing menstrual equity as a part of constitutional rights. PILs to urge state action on menstrual leave, access to products, or sanitary facilities in schools could trigger judicial pronouncements in favour of the right to menstrual dignity.<sup>55</sup>

Similarly, the National Human Rights Commission and State Commissions can release guidelines, make suo moto investigations, and carry out menstrual rights campaigns. Barring

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<sup>49</sup> The Centre for Policy Research, 'Proposal for a National Menstrual Health Policy' (2022) <https://cprindia.org> accessed 16 June 2025

<sup>50</sup> The Factories Act 1948; The Maternity Benefit Act 1961

<sup>51</sup> Aashish Mehra, 'Zero GST on Sanitary Pads Raises Costs for Small Manufacturers' *The Economic Times* (24 July 2018) <https://economictimes.indiatimes.com> accessed 16 June 2025

<sup>52</sup> Ministry of Women and Child Development, Government of India, 'Menstrual Hygiene Scheme' (2021) <https://wcd.nic.in> accessed 16 June 2025

<sup>53</sup> Richa Kaul Padte, 'It's Time to Make Menstrual Policies Trans-Inclusive' *GenderIT.org* (30 March 2021) <https://www.genderit.org> accessed 16 June 2025

<sup>54</sup> National Health Mission, 'Operational Guidelines for Reproductive Health Programmes' (2020) <https://nhm.gov.in> accessed 16 June 2025

<sup>55</sup> *Vishaka v State of Rajasthan* (1997) 6 SCC 241; *Justice K.S. Puttaswamy v Union of India* (2017) 10 SCC 1

menstrual health indicators in India's human rights monitoring functions will improve the responsibility of the state.<sup>56</sup>

### **Education, Awareness, and De-Stigmatisation**

Legal and policy reform must be accompanied by cultural change. Including menstrual health in school curricula—using scientifically accurate, inclusive language—will help deconstruct taboos.<sup>57</sup> Awareness campaigns led by celebrities, influencers, and local champions can normalise menstruation and encourage public dialogue.

The promotion of digital platforms and mobile apps to share information, improve access to products, and report menstrual discrimination should be supported under the Digital India initiative.<sup>58</sup> Sensitisation of teachers, healthcare workers, employers, and judiciary personnel is essential to ensure implementation fidelity.

### **Collaborative Governance**

A menstrual justice agenda requires coordination across multiple ministries—Health, Women and Child Development, Education, Labour, and Rural Development. The NITI Aayog can develop a national menstrual health dashboard to track access, outcomes, and gaps across states.<sup>59</sup> Public-private partnerships and CSR funding should be leveraged to support product development, distribution, and educational innovations.

Local self-governments, especially Panchayats and Urban Local Bodies, must be empowered and incentivised to address menstrual needs through locally relevant interventions. Gram Sabhas can also be used to hold community discussions and ensure accountability.

### **CONCLUSION – A CALL FOR MENSTRUAL JUSTICE AND CONSTITUTIONAL ALIGNMENT**

The public discourse regarding menstrual health and hygiene in India has changed from taboo and silence to piecemeal policy interventions and increasing public consciousness. Still, the

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<sup>56</sup> National Human Rights Commission (India), 'Annual Report 2022–2023' <https://nhrc.nic.in> accessed 16 June 2025

<sup>57</sup> UNICEF India, 'Guidelines on Menstrual Health and Hygiene Management' (2020) <https://unicef.in> accessed 16 June 2025

<sup>58</sup> Ministry of Electronics and Information Technology, 'Digital India: Empowering Citizens' <https://digitalindia.gov.in> accessed 17 June 2025

<sup>59</sup> NITI Aayog, 'Health Dashboard' <https://niti.gov.in> accessed 17 June 2025

lack of a unified legal and constitutional scheme goes on to buttress systemic inequities experienced by menstruators in various social, economic, and geographic contexts. The sporadic provision of menstrual leave by a few states or private companies, the ad hoc exemption of GST without input credit adjustments, and underfunded awareness schemes have failed to produce a nationwide impact. A stronger, rights-based, and inclusive model of menstrual justice is urgently required.

The constitutional guarantees of equality (Article 14), dignity (Article 21), and protection from discrimination (Article 15) should be interpreted alongside India's international commitments under the CEDAW, to which India is a signatory. Menstrual health must be considered intrinsic to reproductive justice, workplace dignity, and public health equity.

What is needed is not just technical reform but a reimagining of menstruation as a site of legal and social empowerment. This reimagining must begin with deconstructing menstrual stigma, followed by state-led initiatives to normalise menstrual discourse in public spaces, schools, and workplaces. A National Menstrual Justice Policy that institutionalises period leave, product accessibility, sanitary infrastructure, and menstrual education can help bridge the gap between constitutional ideals and lived realities.

India is on the threshold of change. As maternity relief, sexual harassment in the workplace rules, and reproductive freedom were established through liberal readings of the Constitution, menstrual justice needs to become a constitutional right, not an act of grace, but a state obligation. Legal recognition of period leaves and tax reforms are not peripheral demands—they are central to building a society where menstruation is not a cause for exclusion, shame, or structural disadvantage. The journey towards menstrual justice is not just a policy issue but a constitutional mandate.