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MENSTRUAL HEALTH UNDER THE EXPANSIVE CANOPY OF RIGHTS: A CRITICAL LEGAL APPRAISAL OF THE INDIAN FRAMEWORK

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I. ABSTRACT

Health is a fundamental human right essential for human dignity and survival, impacting an individual's ability to live a meaningful life. Among the various dimensions of health, menstrual health, a critical aspect of reproductive health, has historically been stigmatized and neglected in public discourse due to cultural taboos and social norms. As awareness around health rights grows, the recognition of menstrual health as a fundamental human right has become more pressing. The International Covenant on Economic, Social and Cultural Rights, Universal Declaration on Human Rights, and other international instruments explore the significance of menstruation, analyzing how it is intertwined with the broader human rights framework, particularly the right to health. Through case laws such as "CESC Ltd. v. Subhash Chandra Bose" and "Consumer Education and Research Centre v. Union of India", the Indian judiciary has expanded the interpretation of the right to life to encompass health, including the right to medical care and a dignified life. Despite the increased awareness, there are still a lot of gaps in the laws and policies about menstrual health in India and around the world. This research also looks at issues affecting menstrual health rights, new legislative initiatives, and other relevant topics. It draws attention to the ways that systematic neglect is exacerbated by a lack of awareness, period poverty, inadequate infrastructure, and an unclear legal framework. This research highlights the pressing need for legal clarity, judicial recognition, and efficient policy execution by placing menstrual health within the larger human rights discourse. Ultimately, this paper advocates for a rights-based approach to menstrual health, which not only addresses the medical aspects but also integrates cultural, economic, and social dimensions to combat stigma, ensure equality, and protect dignity for all menstruators.

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II. KEYWORDS

Legal Framework in India, Menstrual Health, Menstrual Hygiene, Menstrual Health Rights, Right to Health.

III. INTRODUCTION

In India, the need for health as a fundamental right is becoming more widely acknowledged because everyone has a right to these necessities. The word 'health' refers to a wide range of health processes, both physical and mental.

Several international documents, such as the International Covenant on Economic, Social, and Cultural Rights-1966[2], The Universal Declaration of Human Rights, 1948[3], and the Constitution of the World Health Organisation 1946[3], recognise the right to health as a human right. These documents stressed that physical, mental, and social well-being are included in the definition of health. Despite widespread acknowledgement, the right to health is nevertheless difficult to achieve because of its complexity and the way that civil and political rights are sometimes prioritised over economic, social, and cultural rights.

The Indian Constitution does not specifically recognise the right to health as a fundamental right. Rather, it has been construed by Article 21, which upholds the entitlement of personal liberty and life. The obligation of the state to advance welfare and health is likewise emphasised in the Directive Principles of State Policy. Rajasthan became the first state in India to take a bold step to implement a bill on the right to health.[4]

Menstrual health is a specific right that falls within the general ambit of health rights. Half of the Indian population who are menstruating people experience menstruation naturally; however, it is still stigmatised or forbidden. Menstrual health as a right is

[2] International Covenent on Economic, Social and Cultural Rights (16 December 1966, entered into force 3 January 1976) 993 UNTS 3 (ICESCR).
[3] Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 a (III) (UDHR) [3] World Health Organization, Constitution of World Health Organization, adopted 22 July 1946, entered into force 7 April 1948 (1946) 14 UNTS 185 (WHO Constitution).
[4] TNN, 'Rajasthan Becomes First State to Guarantee Right to Health' Times of India' (*The Hindu,* 22 March 2023 <https://www.thehindu.com/news/national/other-states/amid-protests-rajasthan-becomes-first-state-to-passright-to-health-bill/article66646594.ece > accessed 26 August 2024.

becoming harder to obtain because of this long-standing stigma. Injustices against people who menstruate arise from the absence of a clear legal framework. Several obstacles keep those who menstruate from receiving basic knowledge and resources about menstrual health, which puts them at risk for health problems and social marginalisation. Menstruating individuals also view menstruation as a luxury rather than a right.

Even with international human rights agreements like ICESCR, UDHR that uphold the right to health in all its forms, menstrual health is still a neglected area of the law in India.

A. RESEARCH PROBLEM

In India, social, economic, and cultural variables continue to have a significant impact on menstrual health access. Widespread period poverty keeps many people from having access to sanitary goods and suitable facilities, particularly in rural and marginalized communities. Persistent stigma, cultural taboos, and a lack of candid conversation have also limited menstruation education and awareness. Cultural customs exacerbate exclusion and inequality by reinforcing prejudiced beliefs and attitudes.

The enjoyment of other rights is predicated on the recognition of the right to health as a fundamental entitlement under international human rights agreements. The right to health in India, however, is interpreted by the courts under Article 21 of the Constitution rather than being expressly acknowledged as a basic right. Although menstrual health has just lately come to light as a distinct right within this vast scope, there are currently no clear legislative provisions or all-encompassing policy frameworks that specifically address it.

Due to the lack of a robust legal framework based on rights, menstrual health is not sufficiently safeguarded; current policies and initiatives only address cleanliness, menstrual leave, and gender stereotypes, failing to address the wider socio-economic, cultural, and human rights aspects. This leads to the persistence of problems like as poverty, ignorance, and inadequate infrastructure.

Therefore, India's legislative and regulatory frameworks on menstrual health are inadequate and disjointed, failing to comply with international human rights norms and to offer fair, respectable, and inclusive access to menstrual health resources. This is the research problem. This study aims to critically analyze these gaps and suggest legislative and policy solutions that would improve India's rights regarding menstrual health.

B. RESEARCH OBJECTIVES

1. To explore the implementation of the right to health with a specific focus on menstrual health within the broader human rights framework in India.
2. To analyze the existing legal frameworks and policies in India related to menstrual health rights.
3. To assess the factors impacting access to menstrual health rights in India.
4. To propose suggestions aimed at strengthening India's approach to menstrual health rights.

C. RESEARCH QUESTIONS

1. How is the right to health implemented within the broader human rights framework in India, and how were menstrual health rights acknowledged?
2. How effective are the existing legal frameworks and policies in India in recognizing and addressing menstrual health rights?
3. What are the factors impacting menstrual health rights in India?
4. What suggestions can be proposed to enhance India's approach to menstrual health rights and ensure more effective protection and support?

D. RESEARCH HYPOTHESES

1. H1: Menstrual health is not specifically acknowledged by the Indian legal system as a constitutionally guaranteed fundamental right.
2. H2: In India, sociocultural taboos and financial obstacles severely limit access to menstrual health rights.
3. H3: India's current legal and policy frameworks are insufficient to provide a rights-based approach to menstrual health.

4. H4: Menstruating people's access, equality, and dignity can be improved by bolstering the legal recognition of menstrual health as a human right.

E. RESEARCH METHODOLOGY

This research paper is purely a doctrinal study. The study aims to explore the legal frameworks available for menstrual health rights, with an analysis of the right to health as a fundamental right in India. The mode of writing is descriptive and analytical.

Descriptive methodology is used in providing an overview and description of the menstrual health, factors impacting the rights, etc., and analytical methodology is used in analyzing the law, the gaps, and identifying areas for improvement, etc.

Primary and secondary sources of data were gathered for this study to ensure comprehensive coverage and reliable findings. The primary sources encompass both domestic and international legislation for understanding legal frameworks and regulations. Additionally, judicial decisions were taken into consideration for better legal insights. Secondary sources comprise scholarly articles, published journals, research papers, NGO reports etc. Google Scholar, Research Gate, and the Google search engine are used for journals, papers, e-books, and other similar purposes.

F. LITERATURE REVIEW

P. Mark (2013)[5] in his article mentioned the definition of "health" as stated by the 1946 WHO Constitution. It stated that health is more than just the absence of disease; it is a state of total physical, mental, and social well-being.

Tiwari and Ghosh (2014)[6] in their paper elucidated that to link the right to health within the human rights framework, it is crucial to explore the conceptual foundation of health as defined by the WHO, which emphasizes a comprehensive view of well-being encompassing physical, mental, and social dimensions. The right to health, recognized as a fundamental human right in international treaties under Article 12 of

[5] Stephen P. Marks, 'The Emergence and Scope of the Human Right to Health' in Jose M. Zuniga and others (ed), *Advancing the Human Right to Health (*1st edn, Oxford University Press 2013) 1, 3.
[6] Shishir Tiwari and Gitanjali Ghosh, Health- A Human Right? '(2014) 1(1) N.J Comp. Law <https://www.academia.edu/12133935/Health_A_Human_Right> accessed 21 August 2024.

ICESCR but faces challenges in practical implementation due to its lack of conceptual clarity and the frequent marginalization of economic, social, and cultural rights compared to civil and political rights.

They further pointed out that governmental obligations under this right extend beyond the provision of medical care to include creating social arrangements that ensure access to the underlying determinants of health, such as safe water, adequate sanitation, and housing, etc. The General Comment on the ICESCR further elaborates on the right to health by establishing criteria of availability, accessibility, acceptability, and quality for health services, thereby underscoring the importance of a rights-based approach to health.

Sarmah (2019)[7] in her paper rightly pointed out that the Constitution of India, while not explicitly recognizing a fundamental right to health, implicitly acknowledges it under Article 21, which guarantees the right to life and personal liberty. The Directive Principles of State Policy further emphasize the state's responsibility to promote health and welfare.

Sharma, Pradhan, and Jha (2021)[8] in their paper stated that the Indian Constitution, through DPSP, outlines the state's duty to promote health; enforcing this right remains challenging. The Apex Court of India, through landmark decisions, tried to put emphasis on the right to health as a fundamental right. The Supreme Court of India broadened the notion of health under

Article 21 of the Indian Constitution in the landmark ruling of "*Vincent Panikulangara* v. *Union of India*"[9] to encompass emergency care, access to medical facilities, and healthcare. This ruling highlighted the fundamental right to health, encompassing a range of issues such as workers' well-being and treating victims of acid attacks.

[7] Mridula Sarma, 'A Study of Right to Health under the Constitution of India' (2019) V (III) International Journal of Humanities and Social Sciences <https://ijhsss.com/files/10_ib71bw5y.-Mrs-Mridula-Sarmah19-02-19.pdf> accessed 21 August 2024.
[8] Chandni Shama, Devyani Pradhan and Nivedita Jha, 'RIGHT TO HEALTH INDIA: A CRITICAL ANALYSIS' (2021) III(II) Indian Journal of Law and Legal Research <https://3fdef50c-add3-4615-a675a91741bcb5c0.usrfiles.com/ugd/3fdef5_df212fba9e144c1eb20437bcd05e7f88.pdf > accessed 20 August 2024.
[9] *Vincent Panikulangara v. Union of India* (1987) AIR 990, (1987) SCR (2) 468.

Supreme Court in another case of *Paschim Banga Khet Mazdoor Samiti* v. *State of West Bengal*[10] established standards for better medical care in public hospitals, further reinforcing this entitlement. The Court ruled that the state must provide access to sufficient healthcare services. This ruling expanded the scope of Article 21 and established mandatory governmental responsibility for the provision of sufficient healthcare facilities.

Hennegan and others (2021)[11] in their paper elucidated that the term "menstrual health" as a word combining mental, social, and physical well-being is becoming more widely accepted. Though the phrase is widely used, it lacks a single, accepted meaning, which has complicated advocacy efforts and made it challenging for organisations to properly understand and address menstrual health in a way that aligns with their mandates. They further defined the term "menstrual health" as a condition of total physical, mental, and social well-being related to the menstrual cycle and not just free from medical conditions related to menstruation. To achieve menstrual health, a person must be able to manage their body with respect and privacy, obtain early medical attention for conditions connected to their menstrual cycle, and live in a stigma and distress-free environment.

Salim and Salim (2020) [14] highlighted in their paper that the right to menstrual health in India requires considering the relationship between health and the right to life guaranteed by the Constitution of India, which is a right necessary for leading a life of dignity. Despite this link, menstrual health is still a neglected topic in India, partly because of ingrained misconceptions, cultural practices, and societal norms that are supported by patriarchal ideology. The authors pointed out that India's current approach to menstrual health is narrowly focused and limited to sanitation and gender stereotypes. However, the state ought to support a more comprehensive, rights-based framework that treats menstrual health as a human rights concern,

[10] *Paschim Banga Khet Mazdoor Samiti v. State of West Bengal* (1966) SCC (4) 37, JT 1996 (6) 43.
[11] Julie Hennegan et al, 'Menstrual Health: a definition for policy, practice, and research' (2021) 29(1) Sexual and Reproductive Health Matters <https://www.tandfonline.com/doi/full/10.1080/26410397.2021.1911618#abstract> accessed 10 August 2024.
[14] Divya Salim and Kavya Salim, 'Ensuring Right to Menstrual Hygiene and Health in India: A Microcosm of Right to Life' in Dr Bindu Sangra and Dr Balwindar Singh (eds), *Expanding Horizons of Article 21 of Indian Constitution: A Critique* (1st edn, Delhi Law House 2021) 1, 9.

guaranteeing fairness and inclusion for all people who menstruate, not just women. The existing strategy is criticised for disregarding human rights and health.

Oladeinde(2024)[12] in her article said that menstruation is frequently perceived as filthy, unclean, or shameful in many lower-income nations, including India. Period poverty, which is defined by the inability to purchase sanitary items like pads or tampons and the lack of clean bathrooms, complicates this scenario even further. Due to a shortage of resources, many girls in underprivileged and rural areas are forced to use rags or leaves, which puts their health in danger and makes them miss school due to shame or fear of leakage. The UN draws attention to the fact that millions of girls lack access to safe toilet facilities at school, which increases absenteeism and causes educational deficits during menstruation. These difficulties highlight the need for a legal and human rights approach to menstrual health, especially when it comes to guaranteeing that women and girls in India have access to reasonably priced sanitary products, hygienic facilities, and thorough education on menstrual health.

UNFPA (2022)[13] Their FAQs stated that the stigma and shame associated with menstruation undermine human dignity and contribute to violations of fundamental human rights. Gender inequality, extreme poverty, and age-old traditions increase these issues, leading to a range of human rights violations for menstruators, including women, girls, transgender men, and non-binary individuals. The right to menstrual health must be thoroughly examined in order to address these concerns, emphasising the necessity of legislative and policy changes to guarantee equality, dignity, and access to necessary resources.

Agarwal and Raj (2020)[14] Their paper stated various aspects related to menstruation and menstrual health rights. They stated that menstruation in India is connected to

[12] Kizzy UfumwenOladiende, 'Empowering Girls: Championing Menstrual Health in India' (*ChildFund Alliance*, March 19, 2024) <https://childfundalliance.org/2024/03/19/fighting-period-poverty-in-india/> accessed 22 August 2024.
[13] UNFPA, Menstruation and human rights- Frequently asked questions' (*UNFPA*, May 2022) <https://www.unfpa.org/menstruationfaq> accessed 22 August 2024.
[14] Shailza Agarwal and Rishi Raj, 'Menstrual Health Rights' (2020) 3(4) International Journal of Law Management and Humanitities <https://heinonline.org/HOL/LandingPage?handle=hein.journals/ijlmhs6&div=67&id=&page=> accessed 22 August 2024.
[18]Isobal Day, 'Menstruation, Human Rights and the Patriarchy: How International Human Rights Law Puts Menstruating People at Risk' (*HARVARD HUMAN RIGHTS JOURNAL*, 03 April 2024)

religious beliefs and texts, thereby highlighting the Sabrimala case. They further stated about the laws present to address the menstrual health rights in India, like government programs to educate teenage girls about menstruation and health, but those schemes have major issues.

Day (2024)[18] in her article pointed out that the unique needs of women and menstruating individuals have been largely disregarded by international human rights law, which has resulted in daily breaches of their rights. The author mentioned the argument of the "Gender in Geopolitics Institute" as how the division of "public" rights (such as labour and education) from "private" issues (like family, menstrual health, etc) promotes a patriarchal outlook in international legal language, which has been shaped primarily by men. This gendered division pushes menstrual health into the private domain, which lessens its significance.

Huang (2024),[15] in her article, stated that Scotland became the first nation in the world to offer period products free of cost. Scotland, on August 15, 2022, brought "The Period Product (Free Provision) (Scotland) Act 2021[20]" marking a significant historical day. This law combats the stigma attached to menstruation and removes the financial burden of it, addressing period poverty and advancing gender equality. She also argued that the lack of explicit legal provisions about menstrual health under international human rights legislation makes it more difficult to hold nations responsible for providing for the needs of those who experience menstruation. For human rights commitments to be upheld and the rights of menstruating individuals to be advanced, a robust legal framework is essential.

IV. RIGHT TO MENSTRUAL HEALTH AS A HUMAN RIGHT

Health is a fundamental human right and essential for individual well-being and societal development. World Health Organization's Constitution and various international treaties acknowledge the "right to the highest attainable standard of

<https://journals.law.harvard.edu/hrj/2024/04/menstruation-human-rights/> accessed 23 August 2024.
[15] Yanyan Huang, 'Menstruation and Human Rights' (*RAOUL WALLENBERG INSTITUTE*, 05 July 2024) <https://rwi.lu.se/blog/menstruation-and-human-rights/> accessed 20 August 2024.
[20] The Period Product (Free Provision) (Scotland) Act 2021.

health, "but the term "right to health" remains relatively unfamiliar. Viewing health issues through a human rights lens provides a critical perspective when considering health outcomes.[16] *The General Comment No. 14*[17] to International Covenant on Economic, Social and Cultural Rights also sets out four key criteria to evaluate the right to health:

1. **Availability**: There must be enough health facilities, services, and goods, like clean water and medicine, to meet the population's needs.
2. **Accessibility**: Health services should be accessible to everyone, without discrimination, and should be physically, economically, and informationally reachable.
3. **Acceptability**: Health services should respect medical ethics, be culturally appropriate, consider gender and age needs, and protect patient confidentiality.
4. **Quality:** Health services should be scientifically and medically sound and of high quality.[18]

Menstruation or menstrual health is a vital aspect of health specific to reproductive health.[19] Menstruation is the monthly release of tissue and blood from the uterus, which starts at menarche and lasts until menopause.[20] However, this natural function frequently turns into a cause of shame, inequity and health issues if menstrual health is not sufficiently acknowledged as a human right.

The definition of menstrual health was developed by the "*Terminology Action Group of the Global Menstrual Collective*", which was established in 2019. They stated that to fully participate in life, menstrual health requires having access to reliable

[16] Shishir Tiwari and Gitanjali Ghosh, 'Health- A Human Right? '(2014) 1(1) N.J Comp. Law 13, 13 <https://www.academia.edu/12133935/Health_A_Human_Right> accessed 19 September 2024.
[17] ibid.
[18] ibid.
[19] Topline Md, 'Periods: What's Normal and Why It's Called Menstruation' (*Topline Md*, 25 February 2022) <https://www.toplinemd.com/blog-news/periods-whats-normal-and-why-its-called-menstruation/> accessed 19 August 2024.
[20] 'About Menstruation' (*NICHD*) <https://ww.nichd.nih.gov/health/topics/menstruation/conditioninfo> accessed 19 August 2024.

information, reasonably priced goods, secure facilities, prompt medical attention, and freedom from stigma and discrimination.[21]

There have been some developments that recognize the right to menstrual health.[22]

1. *Committee on Economic, Social and Cultural Rights, para. 48* said that states must take active steps to remove social barriers, such as norms and beliefs, that prevent individuals of all genders and ages, including women, girls, and adolescents, from fully exercising their right to sexual and reproductive health. [23]
2. *Committee on the Elimination of Discrimination against Women, paras. 42, 43(h), 85(b)* said that rural women and girls face multiple challenges, including menstrual hygiene. Therefore, rural schools should provide menstrual hygiene education and resources, particularly for girls with disabilities.[24]
3. On July 12th, 2021, the *UN Human Rights Council* made a historic move by adopting a resolution focused on menstrual health, gender equality, and human rights. The resolution calls on States to ensure that women and girls have access to adequate facilities, information, and products for effective menstrual hygiene management.[25]
4. At the 56th session of the *United Nations Human Rights Council* (June 18 -July 12, 2024), a landmark resolution on *Menstrual Hygiene Management (MHM)*, human rights, and gender equality was adopted. This resolution underscores the critical

[21] Julie Hennegan and others, 'Menstrual health: a definition for policy, practice, and research' (*National Library of Medicine*, 29 April 2021) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8098749/> accessed 19 September 2024.
[22] Lea Barbara Kuhlmann, 'Staining International Law Human Rights, the Menstrual Cycle, and Gender Equality' (*Völkerrechtsblog*, 09 March 2024) <https://voelkerrechtsblog.org/staining-internationallaw/#:~:text=Lea%20Barbara%20Kuhlmann%2C%20Staining%20International,/20240308%2D220149%2D0. &text=Lea%20Barbara%20Kuhlmann%20is%20currently, human%20rights%2C%20and%20international%20l aw> accessed 19 September 2024.
[23] Economic and Social Council, 'Committee on Economic, Social and Cultural Rights General Comment No. 22 (2016) on the right to sexual and reproductive health' (*United Nations*, 2 May 2016) <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmlBEDzFEovLCuW1a0Szab0oXTdImnsJZZVQfQejF41Tob4CvIjeTiAP6sGFQktiae1vlbbOAekmaOwDOWsUe7N8TLm%2BP3HJPzxjHySkUoHMavD%2Fpyfcp3Ylzg> accessed 22 September 2024.
[24] UN Committee on the Elimination of Discrimination against Women, 'General recommendation No. 34 (2016) on the rights of rural women' (7 March 2016) UN DOC CEDAW/C/GC/34.
[25] 'Human Rights Council Adopts Resolution on Menstrual Health' (*Sanitation and Water for All*, 03 August 2021) <https://www.sanitationandwaterforall.org/news/human-rights-council-adopts-resolution-menstrualhealth> accessed 22 September 2024.

role of Menstrual Hygiene Management in promoting the human right to health and gender equality.

Other UN agencies have also acknowledged menstrual health as essential to sexual and reproductive rights, such as the World Health Organization and the *Working Group on Discrimination Against Women*.

V. Menstrual Health Rights in India

Though India lacks specific legislation that recognizes menstrual health as a fundamental right, the judiciary has interpreted Article 21 of the Constitution to include the right to health, thereby viewing menstrual health as a crucial aspect of dignity and well-being. Menstrual hygiene laws have been enacted in a number of states, but they are still fragmented and contain serious deficiencies that necessitate a comprehensive national legal framework.

India's broader healthcare crisis also aggravates the problem. With over 1.44 billion population and an underfunded public system, it disproportionately affects vulnerable groups, mainly rural women and girls with inadequate sanitation, crowded facilities, contaminated water, and malnutrition.[26]

Although the State is required to raise living conditions, health, and nutrition, the Directive Principles of State Policy (Articles 39, 43, 47, and 39A) are not legally binding. The Judiciary has bridged the gap, though by dynamically interpreting Article 21. In the landmark Judgements such as *Paschim Bengal Khet Mazdoor Samiti v. State of West Bengal*[27], *Vincent Panikurlangara vs. Union of India &Ors1987*[28], *CESC Ltd. v. Subhash Chandra Bose 1992*[29] and *Consumer Education and Research Centre v. Union of India*[30] etc, the Supreme Court upheld the enforcement of the right to health against both public and private actors by ruling that denial of health services, hazardous working conditions, or refusal of emergency care violate the right to life and dignity.

[26] UNGA 'Report of the Working Group on discrimination against women and girls' (2021) A/HRC/47/38.
[27] *Paschim Bengal Khet Mazdoor Samiti v. State of West Bengal* 1996 SOL Case No. 169.
[28] *Vincent Panikurlangara vs. Union of India &Ors*1987 AIR 990.
[29] *CESC Ltd. v. Subhash Chandra Bose* (1992) 1 SCC 441.
[30] *Consumer Education and Research Centre v. Union of India*1995 S.C.C. (3).

Menstrual Health is inherently linked to the right to health as it is a critical aspect of overall health and well-being for individuals who menstruate. Thus, menstrual health in India must be viewed as a component of the Article 21 fundamental right to health, which is backed by both constitutional and international recognition. However, societal stigma and disjointed regulations continue to erode menstrual dignity in the absence of a specific legal framework. For menstruators in India to exercise their right to bleed with equity, fairness, and dignity, a rights-based strategy that balances international commitments with constitutional guarantees is necessary.

VI. LEGAL FRAMEWORK ON MENSTRUAL HEALTH IN INDIA

India does not have an explicit law that addresses menstrual health, as there is no fundamental right to health in India. It is the courts that interpreted the right to health within the ambit of Article 21 of the Constitution of India. The government undertook various policy initiatives, which up to some extent, helped in addressing menstrual health, but it is still underdeveloped.

A. Data on Menstruation and Menstrual Health in India

In India, there are 355 million women who are menstruating. Two-thirds of the approximately 60,000 cervical cancer deaths that occur in India each year are linked to poor menstrual hygiene.[31] *National Family Health Survey*-5 data show that over 77% of Indian women utilised sanitary absorbents to prevent menstrual bloodstains.[32] Bihar had the lowest percentage of women using safe menstruation products, at 58.8%.[33] Almost 23 million Indian girls drop out of school every year due to menstruation[34]. Surveys highlight widespread stigma, lack of education, and

[31] Madhya Pradesh Police, 'From Stigma to Understanding: A Multifaceted Perspective of Menstrual Health' (*Madhya Pradesh Police*) <https://ashoknagar.mppolice.gov.in/wp-content/uploads/2024/02/padbank-andmestrual-education-article-3.pdf> accessed 21 September 2024.
[32] Swagata Karjee and others, 'Menstrual Hygiene Practices and its Predictors Among Young Women in India: Findings from the National Family Health Survey-5 (2019-2021)' (*Sage Journals*, 17 April 2023) <https://journals.sagepub.com/doi/10.1177/0974150X231158472?icid=int.sj-full-text.similararticles.2#:~:text=Nearly%20one%2Dthird%20(64%25),5%20(2019%E2%80%932021)> accessed 21 September 2024.
[33] Ashmita Sengupta and others, 'More women opting for safe menstrual practices, NFHS-5 data shows' (*Down to Earth*, 23 December 2020) <https://www.downtoearth.org.in/health/more-women-opting-for-safe-menstrualpractices-nfhs-5-data-shows-74758> accessed 20 September 2024.
[34] 'Spotlight on period poverty in India' (*ToyBox*, May 2021) <https://toybox.org.uk/news/spotlight-on-periodpoverty-in-

workplace barriers.[35] These statistics show that, in spite of recent advancements, menstrual health is still not well discussed in public health discourse.

B. Constitution of India and Right to Menstrual Health

The Constitution of India recognizes the Right to Health through two key mechanisms: the Directive Principles of State Policy (DPSP) and Fundamental Rights. While the DPSP underlines the state's responsibility to improve health standards, the Supreme Court has interpreted the Right to Health as part of the Fundamental Right to Life under Article 21.[36]

As menstrual health is a relevant part of health, it should also be considered a fundamental right. Menstrual health, though not explicitly mentioned in the Constitution, is interpreted through Article 21.

C. Fundamental Rights

1. **Article 14:** Denying access to menstrual health care violates the equality clause and necessitates state action to eliminate barriers because it guarantees equality before the law and forbids discrimination.[37]
2. **Article 15:** Prohibits sex-based discrimination and therefore poor menstrual health facilities are equivalent to indirect sex discrimination; clause (3) gives the State the authority to implement affirmative action policies like free sanitary products or menstrual leave[38].

india#: ~:text=Just%2036%25%20of%20India's%20355, use%20sanitary%20towels%20for%20protection. &text
=An%20estimated%2070%20percent%20of, caused%20by%20poor%20menstrual%20hygiene. &text=1%20in% 2010%20girls%20below, products%20and%20use%20unhygienic%20substitutes> accessed 20 September 2024.

[35] Tanya Narang,' Addressing Period Poverty Can Boost India's GDP By 2.7%: Insights and Economic Implications' (*Munich Personal RePEc Archive*) <https://mpra.ub.uni-muenchen.de/114660/> accessed 20 September 2021.

[36] Divya Salim and Kavya Salim, 'Ensuring Right to Menstrual Hygiene and Health in India: A Microcosm of Right to Life' in Dr Bindu Sangra and Dr Balwindar Singh (eds), *Expanding Horizons of Article 21 of Indian Constitution: A Ctitique* (1st edn, Delhi Law House 2021) 1. 9.

[37] Salim and Salim (n 35) 12.

[38] Priyanshi Jain, 'Paid Menstrual Leaves: A Progressive Step in Harmony with the Constitution of India' (*Manupatra Articles*, 19 July 2024) <https://articles.manupatra.com/article-details/Paid-Menstrual-Leaves-AProgressive-Step-in-Harmony-with-the-Constitution-of-India> accessed 21 September 2024.

3. **Article 17:** Menstrual stigma and exclusion are comparable forms of discrimination that need to be eradicated to preserve dignity, since they prohibit untouchability[39].
4. **Article 21:** The State is required to ensure menstrual health as a vital aspect of wellbeing, as the right to life encompasses the right to health[40].
5. **Article 21A:** Ensures that children aged 6 to 14 receive free and mandatory education, which inevitably includes facilities in schools and menstrual education, without citing financial constraints as an explanation.[41]

D. Directive Principles of State Policies

1. **Article 38:** Requires that the state decrease inequality, especially that caused by menstruation, and advance welfare.[42]
2. **Article 39:** Demands that the State provide access to resources and menstrual health to eradicate stigma and inequalities.[43]
3. **Article 42:** requires equitable working conditions, including access to menstruation leave and health care at work.
4. **Article 47:** The State has the primary duty to strive for menstrual hygiene and health, aiming to enhance public health and achieve a better standard of living.[44]

E. Legislative Attempts

Despite numerous attempts to address menstrual rights over the last ten years, none of the following measures were passed:

1. The Menstruation Benefit Bill 2017, which included paid time off and childcare facilities, was criticized for perpetuating stereotypes.[45]

[39] Divya Salim and Kavya Salim, 'Ensuring Right to Menstrual Hygiene and Health in India: A Microcosm of Right to Life' in Dr Bindu Sangra and Dr Balwindar Singh (eds), *Expanding Horizons of Article 21 of Indian Constitution: A Ctitique* (1st edn, Delhi Law House 2021) 1. 12.
[40] Salim and Salim (n 38) 10.
[41] Sanjana Kumari, 'Menstruation, the right to education and India's positive obligations' (Right to Education, 18 September 2017) <https://www.right-to-education.org/blog/menstruation-right-education-and-india-spositive-obligations> accessed 19 September 2024.
[42] Salim and Salim (n 38) 10.
[43] Salim and Salim (n 38) 10.
[44] Salim and Salim (n 38) 10.
[45] Insights Editor, 'Menstruation Benefit Bill 2017:' (*InsightsIAS*, 31 March 2022)

2. The Women's Sexual, Reproductive, and Menstrual Rights Bill of 2018, although it excluded private schools and lacked oversight procedures, required free sanitary pads in workplaces and schools.[46]
3. The Right to Menstrual Hygiene and Paid Leave Bill 2019, which included transgender people and suggested employment leave, was condemned for being discriminatory and unworkable for the unrecognized sector.[47]
4. The Right to Menstrual Leave and Free Products Bill of 2022 is still pending.

Each of these bills represents changing perspectives on menstrual rights in India, even though none of them were passed. A table below provides a comparative summary that provides a clear picture.

Table 1. Legislative Attempts on Menstrual Health in India

Year	Bill/Proposal	Key Provisions	Criticisms/Limitations	Status
2017	Menstruation Benefit Bill	Four days of paid menstrual leave every month, along with workplace childcare facilities, are proposed.	The lack of a defined monitoring system and the reinforcement of stereotypes have been criticized.	Not passed
2018	Women's Sexual, Reproductive	Free sanitary pads at public areas,	Private schools were left out; enforcement measures were feeble.	Not passed

<https://www.insightsonindia.com/2022/03/31/menstruation-benefit-bill-2017/> accessed 20 September 2024.

[46] Shailza Agarwal and Rishi Raj, 'Menstrual Health Rights' (2020) 3(4) International Journal of Law Management and Humanities <https://heinonline.org/HOL/LandingPage?handle=hein.journals/ijlmhs6&div=67&id=&page=> accessed 21 September 2024.

[47] 'Menstrual leave for women UPSC NOTE' (*Learnerz IAS*, May 2024) <learnerz.in/2024/05/menstrual-leavefor-women-upsc-note.html> accessed 22 September 2024.

	and Menstrual Rights Bill	businesses, and schools.		
2019	Right to Menstrual Hygiene and Paid Leave Bill	Transgender people were included; free menstruation supplies were required; and menstrual leave was suggested for businesses.	Not feasible for the unorganized sector; potential for discrimination at work.	Lapsed
2022	Right to Menstrual Leave and Free Products Bill	Sought paid leave and free menstruation supplies across the country.	Issues about the expense, implementation, and exclusion of underrepresented groups.	Pending/Not Enacted

F. Policy Initiatives on Menstrual Health taken in India

Despite the lack of laws, plans, and policies have been developed:

1. **National Initiatives**: The Menstrual Hygiene Scheme (2011) [48], RKSK (2014)[49], and Menstrual Hygiene Management Guidelines (2015)[50] were designed to increase the awareness and accessibility of products for teenage girls. In 2018, the *Jan Aushadhi Suvidha* Scheme introduced inexpensive pads[51].

[48] 'Menstrual Hygiene Scheme' (*National Health Mission*) <https://nhm.gov.in/index1.php?lang=1&level=3&sublinkid=1021&lid=391#:~:text=The%20Ministry%20of%20Health%20and, adolescent%20girls%20on%20Menstrual%20Hygiene> accessed 22 September 2024.
[49] 'Rashtriya Kishor SwasthyaKaryakram (RKSK) ' (*Vikaspedia*) <https://vikaspedia.in/health/nrhm/nationalhealth-programmes-1/rashtriya-kishor-swasthya-karyakram-rksk> accessed 22 September 2024.
[50] NATIONAL INSTITUTE OF RURAL DEVELOPMENT AND PANCHAYATI RAJ and others, "Menstrual Hygiene Management in India: Still a Long Way to Go" (2019) Newsletter <https://www.nirdpr.org.in> accessed 22 September 2024.
[51] 'Suvidha Sanitary Napkins under PMBJP' (*Press Information Bureau,* 8 December 2023) <https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1983962> accessed 22 September 2024.

2. **State Initiatives**: The provision of menstruation cups in Kerala, Andhra Pradesh's Swechha, and Rajasthan's Udaan represents advancements in menstrual health.[52]
3. **Leave Policies**: Kerala, Bihar[53], Odisha[54] and the Sikkim High Court[55] introduced menstrual leave policies for women. On August 3, 2023, the Maharashtra government introduced the Maharashtra Shops and Establishment (Regulation of Employment and Conditions of Service) (Amendment) Bill, 2023, which proposes that female employees in Maharashtra's shops and establishments be entitled to paid menstrual leave, aiming to protect their health and well-being.
4. **Leave Policies in Companies**: Companies like Culture Machine, Gozoop, and Zomato were early adopters of menstrual leave policies in 2017 and 2020, and more businesses have followed the pursuit, including firms like Gencosys and the law firm Khaitan[56].
5. **Leave Policies in Universities:** NLIU Bhopal, Cochin University of Science and Technology (CUSAT), Gauhati University, Tezpur University, National Law University and Judicial Academy in Assam, Dharmashastra National Law University in Jabalpur, and National Academy of Legal Studies and Research (NALSAR) in Hyderabad, and Tezpur University, etc, adopted menstrual leave policies.[57]

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[52] Tanya Rana, 'Menstrual Health Services in India: A Comprehensive Overview of the Public System' (*Accountability Initiative*, 2 September 2022) <https://accountabilityindia.in/blog/menstrual-health-services-inindia-an-overview/#:~:text=Menstrual%20Health%20Services%20in%20India:%20A%20Comprehensive%20Overview%20of%20the%20Public%20System&text=English%20Blogs%2C%20Governance%2C%20Government%20Schemes, key%20initiatives%20(Table%201)> accessed 22 September 2024.

[53] 'Menstrual leave for women UPSC NOTE' (*Learnerz IAS*, May 2024) <https://www.learnerz.in/2024/05/menstrual-leave-for-women-upsc-note.html> accessed 22 September 2024.

[54] Odisha menstrual leave policy: Which other states have implemented this?' (*Times of India*, 15 August 2024) <https://timesofindia.indiatimes.com/life-style/health-fitness/health-news/odisha-menstrual-leave-policywhich-other-states-have-implemented-this/articleshow/112546495.cms> accessed 22 September 2024.

[55] Rimjhim Singh, 'Sikkim High Court introduces menstrual leave policy for its female staff' (*Business Standard*, 29 May 2024) <https://www.business-standard.com/india-news/sikkim-high-court-introducesmenstrual-leave-policy-for-its-female-staff-124052900698_1.html> accessed 22 September 2024.

[56] Menstrual Leave in India - Latest Trends & Perspectives' (*BCP Associates*, 15 December 2024) <https://bcpassociates.com/menstrual-leave-in-india-latest-trends-perspectives/> accessed 22 September 2024.

[57] Sheena Sachdeva, 'Over a dozen universities now have a menstrual leave policy. What does it promise? ' (*News Careers 360*, 18 March 2024) <https://news.careers360.com/menstrual-leave-policy-cusat-nlu-nalsargauhati-tezpur-university-attendance-rajasthan-panjab-pu-student-polls> accessed 22 September 2024.

6. **Menstrual Leave Policies in Other Countries:** Japan, Indonesia, South Korea, Taiwan, Vietnam, and Zambia are among the countries that have adopted menstrual leave policies.[58]

G. Role of Judiciary

While Indian courts have gradually broadened the scope of Article 21 to include health rights, menstrual health is not specifically mentioned. Menstrual health rights, stigma, and societal considerations have been mentioned in certain circumstances.

1. The Supreme Court ruled in *Indian Young Lawyers Association* v. *State of Kerala* (The Sabarimala Case) 2018 that denying women of menstrual age access to temples infringed upon their equality and dignity as guaranteed by Articles 14 and 21.[59]
2. The High Court ruled in *Nirjhari Mukul Sinha* v. *State of Gujarat* (2020) that barring women who are menstruating from public life constitutes discrimination and is against Articles 14, 15, 17, and 21 of the Indian Constitution. It also guided policy actions and awareness campaigns.[60]

VII. FACTORS IMPACTING MENSTRUAL HEALTH RIGHTS IN INDIA

India, as a nation, is progressing rapidly in various aspects, including economy, science, society, education, and technology. The legal system, too, is adapting to this transformation. Yet, the realization of emerging issues such as menstrual health remains challenging due to multiple factors, lack of legal policies, implementation gap, etc.

Menstrual Health is an active part of women's health, and since there are no health rights in India, the right to menstrual health is also not explicitly mentioned by any law. Various factors impact the menstrual health rights in India, including social,

[58] Niha Masih, 'Need time off work for period pain? These countries offer 'menstrual leave.'(*The Washington Pos*t, 17 February 2023) <https://www.washingtonpost.com/world/2023/02/17/spain-paid-menstrual-leavecountries/> accessed 22 September 2024.
[59] *Indian Young Lawyers Association* v. *State of Kerala* (2019) 11 SCC 1.
[60] *Nirjhari Mukul Sinha* v *Union of India* R/Writ Petition (PIL) NO. 38 of 2020.

cultural, and economic along with a lack of education, awareness, health management, framework limitations, etc.

A. Socio-Cultural Factors

Menstruation is a natural biological process, yet in this phenomenon is termed as impure or polluted due to some never-heard-of beliefs and cultural practices.[61] This stigmatization has resulted in gender discrimination, casteism, and taboos. The stigma associated with menstruation persists despite increased public discussion. Sanitary pads are still covertly wrapped in newspapers nowadays, and euphemisms like "girl problem" or "kapda" are frequently used in place of "periods."

1. **The Taboos**-There are several taboos in different groups, such as the prohibition against women cooking, going into kitchens, handling plants, or even introducing themselves to guests. Menstruating women are expected to remain in seclusion or adhere to pain-relieving traditions in certain cultures. In some areas, there are still beliefs linking menstrual blood to witchcraft, black magic, or supernatural damage. Such behaviors promote unsanitary period management techniques and foster shame, while being illogical and unscientific.[62]
2. **Religious Belief**- Menstruation is also deeply engrossed in religious beliefs in India. The reasons for women's menstruation are the subject of several myths in Hinduism.[63] Menstruation is portrayed as a type of impurity in Hindu literature, including the Vedas and Manu Smriti, which forbids women from handling food, entering temples or kitchens, or taking part in ceremonies.[64] In many Hindu communities, women are expected to remain outside the main house in a separate

[61] Divya Salim and Kavya Salim, 'Ensuring Right to Menstrual Hygiene and Health in India: A Microcosm of Right to Life' in Dr Bindu Sangra and Dr Balwindar Singh (eds), *Expanding Horizons of Article 21 of Indian Constitution: A Critique* (1st edn, Delhi Law House 2021) 1, 2.
[62] Suneela Garg and Tanu Anand, 'Menstruation related myths in India: strategies for combating it' (*National Library of Medicine*, June 2015) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4408698/> accessed 17 September 2024.
[63] Amruta Jalan and others, 'A Sociological Study of the Stigma and Silences around Menstruation '(2020) 1(1) Vantage: Journal of Thematic Analysis 47, 49 https://www.researchgate.net/publication/351421424_A_Sociological_Study_of_the_Stigma_and_Silences_around_Menstruation > accessed 17 September 2024.
[64] Ilana Cohen, 'Menstruation and Religion: Developing a Critical Menstrual Studies Appoach' (*National Library of Medicine*, 25 July 2020) <https://www.ncbi.nlm.nih.gov/books/NBK565592/> accessed 17 September 2024.

hut termed as a '*period hut*'.[65] For urban women, they are restricted entry in the '*puja*' ghar during menstruation and also forbidden to touch holy books or offer prayers.[66] The worship of the menstruating goddess at the *Maa Kamakhya Temple, Assam*, is one example of the customs that emphasise the sacred significance of menstruation in Indian culture. Based on readings of the Quran, Islamic doctrines prohibit women who are menstruating from praying, fasting, and entering mosques. While certain Christian communities prohibit fasting and prayer, Judaism recommends ritual purification following menstruation.[67]

3. **Gender Discrimination-** Gender discrimination is reinforced by the stigma associated with menstruation. Throughout history, ideas of purity and impurity have been used to uphold women's inferior status. Menstrual leave legislation and other progressive policies run the danger of perpetuating the notion that women are weaker or less productive, which could have an impact on hiring and advancement. As a result, systemic and cultural biases combine to sustain inequality.[68]

B. Economic Factors

Economic factors form a significant part of the challenges in realizing menstrual health rights in India. Period Poverty is one of those issues that affects lots of Indian Women, which can cause difficulties with their health, education, and finances, particularly during menstruation.[69]

[65] Amruta Jalan and others, 'A Sociological Study of the Stigma and Silences around Menstruation '(2020) 1(1) Vantage: Journal of Thematic Analysis 47, 50.
[66] Suneela Garg and Tanu Anand, 'Menstruation related myths in India: strategies for combating it' (*National Library of Medicine*, June 2015) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4408698/> accessed 17 September 2024.
[67] Shailza Agarwal and Rishi Raj, 'Menstrual Health Rights' III(IV) International Journal of Law Management and Humanities https://ijlmh.com/wp-content/uploads/Menstrual-Health-Rights.pdf> accessed 18 August 2024.
[68] Divya Salim and Kavya Salim, 'Ensuring Right to Menstrual Hygiene and Health in India: A Microcosm of Right to Life' in Dr Bindu Sangra and Dr Balwindar Singh (eds), *Expanding Horizons of Article 21 of Indian Constitution: A Critique* (1st edn, Delhi Law House 2021) 1, 7.
[69] Haafiz Jafar and others, 'Period Poverty: A Neglected Public Health Issue' (*National Library of Medicine*, 16 May 2023) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC10372806/> accessed 19 September 2024.

Affordability is still a significant obstacle even after the GST on sanitary items was eliminated in 2018.[70] Due to the average monthly cost of ₹300 and the minimum daily earnings of ₹180, many people are still unable to afford menstrual products.[71] Rural women are particularly affected by the lack of access to sanitary products, which affects about 64% of Indian women.[72] According to surveys, around 43 million women are compelled to use risky substitutes like rags, ash, or leaves because they cannot buy menstruation supplies.[73] Uneven distribution exacerbates this issue: urban families report using sanitary goods at a rate of about 67%, whereas rural households use them at a rate of approximately 42%[74].

Access to such products is further complicated by environmental issues. Large amounts of garbage are produced by disposable pads, which are frequently composed of non-biodegradable materials. Even while there are environmentally friendly substitutes like reusable cloth pads and menstrual cups, low-income women cannot afford or use them.

C. Lack of Education and Awareness about Menstrual Health in India

The widespread ignorance about menstruation is another obstacle. Before their first period, about half of Indian girls do not know what menstruation is. Mother's silence and the lack of thorough menstrual education feed anxiety, shame, and false information.[75] The repercussions are dire: one in five girls quits school because of poor facilities or the stigma associated with menstruation. Even when schools try

[70] Leah Rodriguez, 'The Indian Government May Soon Make Period Products More Affordable' (*Global Citizen*, 26 August 2019) <https://www.globalcitizen.org/en/content/india-to-control-prices-of-sanitary-pads/>26 accessed 18 August 2024.
[71] Team Ujaas, 'Period Poverty in India - Understanding the Issue & Solutions' (*Ujaas*) <https://www.ujaas.in/blogs/importance-of-menstrual-health-education-in-india> accessed 17 August 2024.
[72] Sachika Khurana and Preetkiran Kaur, 'Period Poverty' 1(1) International Journal of Policy Sciences and Law <https://ijpsl.in/wp-content/uploads/2020/09/Period-Poverty_Sachika-Preetkiran.pdf>accessed 17 August 2024.
[73] Team Ujaas, 'Period Poverty in India - Understanding the Issue & Solutions' (Ujaas) <https://www.ujaas.in/blogs/importance-of-menstrual-health-education-in-india> accessed 17 August 2024.
[74] Madhulika Khanna and Shreya Bhattacharya, 'Menstrual Hygiene Day: Urban-Rural Divide Persists in Sanitary Products Usage' (*The Wire*, 28 May 2023) <https://thewire.in/uncategorised/menstrual-hygiene-day-urban-rural-divide-persists-in-sanitary-products-usage> accessed 18 September 2024.
[75] Team Ujaas, 'The Importance of Menstrual Health Education in India' (*Ujaas*) <https://www.ujaas.in/blogs/importance-of-menstrual-health-education-in-india> accessed 18 September 2024.

awareness initiatives, they frequently fall short of providing comprehensive instruction and instead amount to product pitches.[76]

Many people are still hesitant to bring up such issues in family settings, though, due to cultural discomfort. Additionally, awareness campaigns are dispersed unevenly, frequently focusing only on middle-class urban households while excluding rural women.

D. Lack of appropriate Health and Hygiene Facilities

Adequate sanitary facilities are also necessary for managing menstrual health, although they are still lacking in many parts of India. Especially in rural homes, workplaces, and schools, millions of women lack access to sanitary, private areas for washing or changing.[77] Due to social taboos, over 62% of women still use reusable cloth, frequently without properly cleaning or drying it. Reproductive tract infections and other health hazards are exacerbated by this. In the meantime, pads are frequently disposed of in an unsanitary manner, with items being burned, flushed, or dumped in public places.[78] The most impacted are marginalized populations, including slum dwellers, homeless women, and beggars, who lack access to both goods and sanitary services. Menstrual health, housing, poverty, and access to healthcare are all inextricably tied to them.

Systemic barriers in India that affect menstrual health rights include deep-seated cultural shame, restrictive religious dogma, gender-based discrimination, economic inequality, inadequate infrastructure, and limited knowledge. The persistence of taboo and institutional disregard highlights the need for a rights-based legal framework that recognizes menstrual health as a fundamental part of the right to

[76] Sourav Roy, 'One in five girls drop out of school due to lack of menstrual education, sanitary products' (*Indian Express*, 13 June 2023) <https://www.newindianexpress.com/nation/2023/Jun/13/one-in-fivegirls-dropout-of-school-due-to-lack-of-menst rual-education-sanitary-products-2584693.html> accessed 18 September 2024.
[77] Sachika Khurana and Preetkiran Kaur, 'Period Poverty' 1(1) International Journal of Policy Sciences and Law <https://ijpsl.in/wp-content/uploads/2020/09/Period-Poverty_Sachika-Preetkiran.pdf> accessed 17 August 2024.
[78] Rabindra Nath Sinha and Bobby Paul, 'Menstrual Hygiene Management in India The Concerns' (*Indian Journal Public Health,* June 2018) <https://journals.lww.com/ijph/fulltext/2018/62020/menstrual_hygiene_management_in_india__the.1.aspx> accessed 18 September 2024.

health, though governments and social movements have initiated the process of change.

VIII. SUGGESTIONS

The research uncovers that menstrual health in India is not explicitly recognized by law, despite several laws and judicial interventions. As a result, it is susceptible to stigma, inconsistent policies, and uneven access. Without a specific legal framework, state obligations are unclear, and enforceability under Article 21 of the Constitution is hampered. To close these disparities, well-thought-out legislative and policy measures that respect India's international human rights obligations while also relating menstrual health to the larger right to health and dignity must be put forth. The following suggestions are meant to serve as a legislative road map for addressing menstrual health as a fundamental right and guaranteeing its successful fulfillment.

A. An Omnibus Act on Menstrual Hygiene and Health

1. Enact legislation specifically recognizing menstrual health as an integral component of Article 21's right of health and dignity.
2. Explain the state's fundamental responsibilities, such as providing access to goods, clean facilities, healthcare, and education.
3. Financial commitments, oversight procedures, and mandatory execution goals, especially for underprivileged and rural communities.

B. Using Legal Mandates to Promote Menstrual Equity

1. Make sure that menstruation products are provided for free or at a reduced cost in workplaces, schools, jails, and shelters by law, not through short-term initiatives.
2. Assure marginalized and disabled populations of product accessibility and choice (pads, cups, cloth).

C. Recognition and Enforcement by the Judiciary

1. Urge judges to make decisions that will broaden the application of Article 21 to specifically include menstrual health.

2. Courts have the authority to compel the State to provide suitable facilities and refrain from menstruation-based discrimination.

D. Measures to prevent discrimination and promote education

1. Introduce legislation requiring schools to teach students about menstrual health.
2. Make sure that menstruation does not prevent people from participating in public or finding a job by enacting anti-discrimination laws.

E. International Alignment

1. Domestic Laws in India must align with the pledges made in the ICESCR, CEDAW, the CRC, and other UN resolutions.
2. The commitments made by India under the ICESCR, CEDAW, the CRC, and the UN Human Rights Council resolutions about menstrual health must be reflected in its national laws.

IX. CONCLUSION

Menstrual health remains a forgotten aspect of the right to health in India. International agreements such as ICESC, CEDAW, CRC, and UDHR have accepted health as a basic human right. However, when it comes to national legislation, menstrual health has not yet been found in this legal framework. Although the concept of health and dignity has been expanded through judicial interpretation of Article 21, the absence of clear legislation poses a challenge as a whole and enforceability. There are programs and regulations in place, but they are ineffective, poorly implemented, fragmented, or primarily focused on urban areas, which leaves marginalized and rural communities at a loss.

For a change to be long-lasting, policy approaches must give way to a rights-based strategy that incorporates menstrual health into the legal and constitutional framework. Crucially, legislative reform must accompany the removal of stigma and misinformation to guarantee that Indian menstruators can control their periods with equality, autonomy, and dignity.

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