

FORMALISING MENSTRUAL LEAVE IN SPAIN

Harsh Rawat

Devi Ahilya Vishwa Vidhyalaya (DAVV), Indore

ABSTRACT

The article deals with the provision of menstrual leave which was recently approved by the Spanish Parliament and a law has been made in that regard subsequently. The importance of women's rights has also been enshrined in the given article. The author strives to give a holistic view of the right of women to have menstrual leave to all its readers. This article discusses the need for the provision of menstrual leave by recognizing the reproductive rights of women as well as considering the unbearable nature of the pain that every woman endured during their periods. The article further unveils the reactions faced by the society and the critics. A major question posed by the above legislation was whether the law of Menstrual Leave would aid or hinder the progress of women at work. The legislation proved to be a starting point that provided a dignified status to the women workforce. The article highlights the provisions taken by the Spanish Parliament to give the benefit of this leave to all the women employees thus setting a benchmark for other countries to get inspired by it.

INTRODUCTION

Spain has become the front-runner nation to have recognized the concept of menstrual leave by sanctioning menstrual leave. In Spain, now women have the alternative to take their menstrual leave for three to five days when they feel uncomfortable during their periods. If they find that this pain is becoming unbearable, they can take their menstrual leave. In February 2023, Spain passed some laws recognizing sexual and reproductive rights, comprising one's rights over abortion and the rights of transgender, thus making it the first European nation to grant the right to paid menstrual leave to all workers¹.

Spain's Equity Minister Irene Montero stated in the Spanish parliament that in the absence of these rights, women are not entitled as citizens. She further stated that the provision for the

¹ 'Spain Becomes the First European Nation to Pass Law Permitting Menstrual Leave' (*The Economic Times*, 21 February 2023) <<https://economictimes.indiatimes.com/news/new-updates/spain-passes-law-for-menstrual-leave-becomes-europes-first-country-to-give-special-leave/articleshow/98013125.cms?from=mdr>> accessed 6 September 2023

menstrual leave would be solely funded by the government. According to the Equality Minister, Irene Montero, the above decision is historic in terms of women's health status. This law has granted women the right to paid absence during their periods. Women are now permitted to take this leave during the menstruation cycle. A total of 185 votes were cast in the parliament, out of which 154 were in favor of the above-mentioned menstrual leave provision in Spain. These days, women are also provided leave of absence during their periods by some nations. They included Indonesia, Japan, and Zambia.

According to estimation by the Spanish Association of Obstetrics and Gynaecology, approximately one-third of women go through very painful periods. Many organizations have also raised concern and have voiced opposition to the plan to provide women with menstrual leave during their periods. The prominent labor organization in Spain i.e., UGT has also opposed the measure. According to this group, the above law would lead to the stigmatization of women in the workplace. Women endure extreme pain at the time of periods for three to five days a month. This pain is frequent and it has an impact on both their personal lives and their professional lives. Due to this pain, the women workers experience during their periods, Spain's Legislature has introduced an approved law for the grant of paid menstrual leave to the women.

REACTIONS FACED

The above law has led to intense debate about whether it would aid or hinder the progress of women at work. In a very short period, Spain has passed this law. This bill was approved by the Spanish parliament, which permitted anyone who is 16 and above to have an abortion or to openly change the gender on their identity cards.

This law has provided women workers the right to take menstrual leave of absence for three days, which can be extended to five days, especially for those who have disabling periods that can cause nausea, severe cramps, dizziness and even vomiting. It requires a note given by the doctor and the general public social security arrangement will support the bill. It was stated in the bill that the new law would aid in effectively combating various myths and stereotypes associated with the term 'periods' which demoralizes women's status. The law was staunchly supported by Spain's Equality Minister, Irene Montero. She was herself a feminist in the left-wing parliament who appraised the bill and called it a historic day in the progressive development of feminist rights. According to her, there will be opposition to its

application and implementation, as had been seen in the case of opposition by the main labor organization UGT, and thus we all should work together in the enforcement of the said law so that the benefits it wish to convey to the people reach to them. Otherwise, it would be of no use.

A BRILLIANCE ROD FOR THE FEMINISTS

It was further contended by the Equality Minister that those days are gone when the woman used to work in pain. She had also unveiled her government's proposal last year. But the path of this cherished bill was full of obstacles and rocks. All the politicians comprising those within the ruling party, as well as the trade unions, have been divided over the policy, as they fear that it would rebound or backfire, and can even stigmatize women in the workplaces in the world. The provision of menstrual leave is offered only in a few countries, which include Japan, Zambia, Taiwan, Indonesia and South Korea².

Italy also came up with an identical idea in 2016 when it proposed a bill that provided for three days of fully paid leave to those women workers who have obtained certificates from medical practitioners. However, this proposal ceased to function before the Legislature term ran out in the year 2018. As per Elizabeth Hill, an associate professor at Sydney University who had deeply studied menstrual laws and policies of different countries the arguments around the menstrual issues are very intense concerning whether such a law or policy can aid or hinder the women.³

STIGMATISING WOMEN IN THE WORKPLACE

A few socialists have raised concerns regarding the provision of menstrual leave which could backfire against women employees by demoralizing the employers from hiring them. Another prominent trade union of Spain, Comisiones Obreras has encouraged the idea of menstrual leave. However, it has raised some concerns regarding the contents of the policy formulated and does the females would have to show that they are suffering from a condition which is worsening the period pains to claim this menstrual leave. According to Carolina Vidal, its Confederal Secretary for Women, Equality & Working Conditions, 'How many women are

²Camille Bello and Laura Llach, 'Painful Periods? Spain Just Passed Europe's First Paid Menstrual Leave Law' (Euronews. next, 16 February 2023) <<https://www.euronews.com/next/2023/02/16/spain-set-to-become-the-first-european-country-to-introduce-a-3-day-menstrual-leave-for-women>> accessed 4 September 2023

³ Ibid

we neglecting? In many cases, periods became so unbearable, still they are still not considered illnesses⁴.

In the end, it is the doctor's discretion to judge and decide whether the pain is unbearable and disabling, and sick leave would be required for how many days. Menstrual leave is an important part of new comprehensive legislation, which provides for reproductive rights. Under the new policies and laws, Spain would also distribute free-of-cost feminine hygienic products and definite public facilities such as companies, hospitals, schools, colleges, prisons, etc. The above provision has now provided teenagers with the right to seek abortion in any public hospital in the absence of their parent's or guardian's consent. This law also comprises a new paid free pattern leave commencing from the 36th week of pregnancy until the time of birth, the facility of contraception, and the morning and after pills.

Employers need some time to navigate these changes. This leave is prescribed for those workers who have a history of repeating menstrual pain, which would ensure that they are not necessarily required to obtain a doctor's note every month.

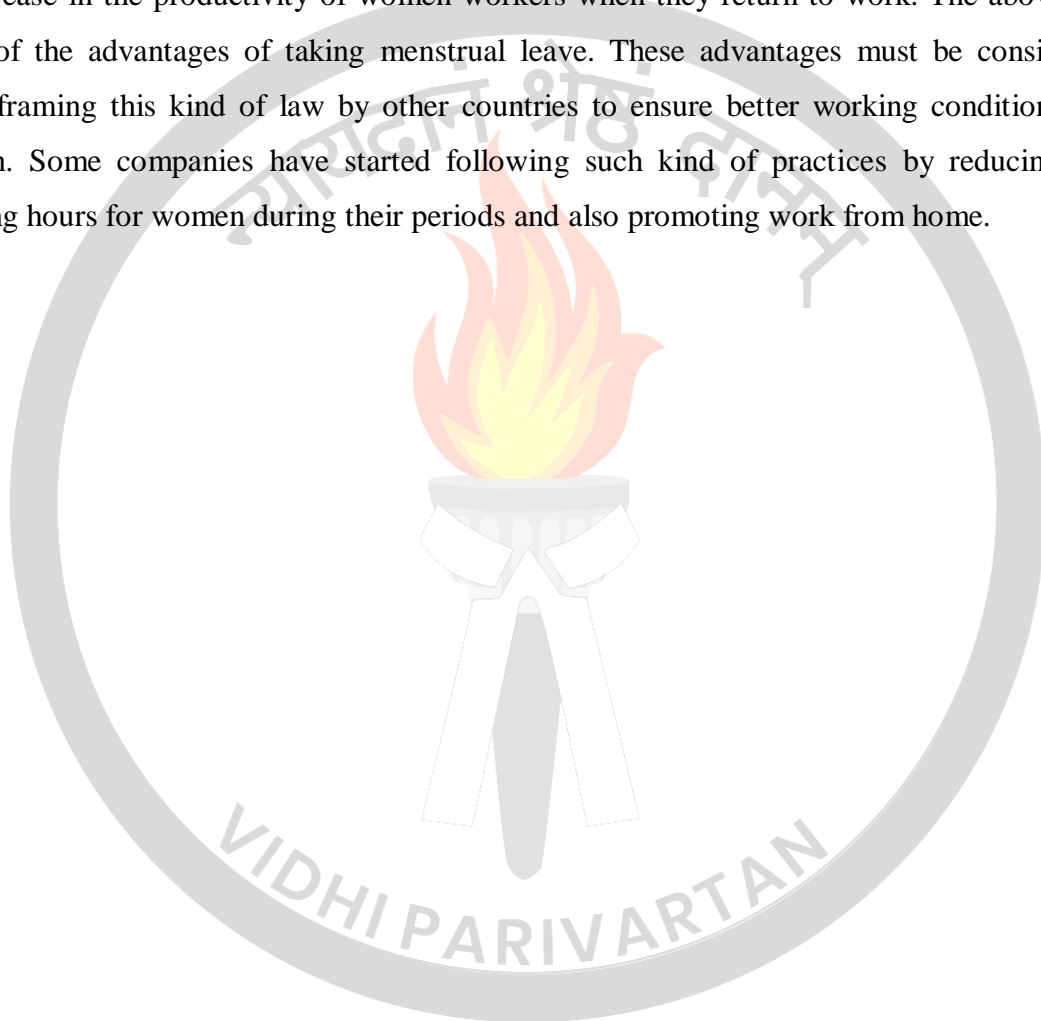
CONCLUSION

Menstrual leave would prove to be a special sick leave that is paid out of social security. The provision for menstrual leave is a very applaudable move that would prove to be very beneficial in securing various rights, including reproductive rights, the right to hygiene, the right to abortion, etc., for women passing the law for menstrual leave. Spain has emerged as a leader in the European countries by becoming the first nation to have secured the right to menstrual leave for women in the workplace. With the passing of this law, women can freely exercise this right by claiming paid menstrual leave for 3 to 5 days when they are on period. This law has provided social security to women by taking care of their health and profession. Women in their periods suffer from intense pain, making them feel angry less energetic, and less productive, which is not good for any workplace. With the help of this law, now employers can permit women workers to take menstrual leave during their unbearable periods⁵.

⁴ Katie Nadworny, 'Spain Requires Paid Menstrual Leave', (*shrm.org* 25 April 2023)
<<https://www.shrm.org/resourcesandtools/hr-topics/global-hr/pages/spain-paid-menstrual-leave.aspx>> accessed 6 September 2023

⁵*Ibid*

This law has provided women the right to equality by treating them differently due to their biological physique. This law proved to be a stepping stone that provided a dignified status to the women's workforce. This is a law that must be adopted in other countries also, as it provides women social security, dignity, and safety during their tough periods. Menstrual leave provided women with the necessary time to cope with symptoms, to take proper treatment, and to heal themselves quickly before facing work duties. This would also ensure an increase in the productivity of women workers when they return to work. The above are some of the advantages of taking menstrual leave. These advantages must be considered while framing this kind of law by other countries to ensure better working conditions for women. Some companies have started following such kind of practices by reducing the working hours for women during their periods and also promoting work from home.



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