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Keywords: Menstrual Leave, Reproductive Health, Labour Law, Pakistan, CEDAW, Gender Equality, Workplace Accommodation, Dysmenorrhoea, Eighteenth Amendment

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Menstrual Leave and Reproductive Health Accommodations in Pakistan: Statutory Recognition in the Light of International Studies

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Abstract

Menstruation which is most important matter but still is an unattended issue for most of the developed and under developed countries. There is no legislation In Pakistan, there is no provision on this is serious concern for taking step forward to enact any law at federal or even provincial level to recognize this basic and fundamental right of working women. This entitlement of women may be recognized as a ground for leave or accommodation. It is the need of the time that Pakistan should take steps for legislation to acknowledge this fundamental right of working women in Pakistan on International pattern. This research also highlight that such measurement of Government will be encouraged at international level and is practically achievable.

Keywords: *Menstrual Leave, Reproductive Health, Labour Law, Pakistan, CEDAW, Gender Equality, Workplace Accommodation, Dysmenorrhoea, Eighteenth Amendment*

Introduction

Menstruation is an important topic but neglected in Pakistan. If this facility be given to women like other developed countries then the productivity and standard of work can be more fruitful and positive. In 2023, Spain became 1st state in Europe, for making legislation on menstrual leave, it enacted this law, and state funded medical leave. In Pakistan, the law of the Maternity and Paternity Leave Act, 2023 and the Day Care Centres Act, 2023 at the federal level, alongside provincial home-based workers legislation extending maternity and sickness benefits to informal workers, demonstrates a legislature increasingly willing to treat reproductive and care responsibilities as proper subjects of employment regulation (Paul Hastings, 2024).

The Medical and Social Foundations of the Problem

The dysmenorrhoea arises from an underlying condition such as endometriosis, adenomyosis or uterine fibroids. It is the more severe presentations of both forms that bear on the workplace, and it was precisely this category expressed in the Spanish legislation as *secondary incapacitating menstruation* that the most recent comparative reform sought to capture (Ius Laboris, 2023).

The prevalence figures are significant. A systematic review synthesising data across multiple populations found that dysmenorrhoea affects a large proportion of menstruating women to some degree, with a clinically important minority reporting pain severe enough to limit ordinary activity (Ju et al., 2014). Occupational studies sharpen the point: a survey of 975 women in sales and call-centre work in Seoul found dysmenorrhoea prevalence of 43.0 per cent among sales workers and

61.1 per cent among call-centre workers, with emotionally demanding work independently associated with higher odds of painful menstruation (Cho et al., 2014). Endometriosis alone, a leading cause of secondary dysmenorrhoea, is estimated to affect approximately one in ten women of reproductive age, frequently after diagnostic delays measured in years. These are not marginal numbers. In a workforce of any size, a meaningful fraction of women employees will periodically experience pain that a comparable acute condition would, in any other context, be accepted as a reason for rest.

The social dimension compounds the medical one. Menstruation is heavily stigmatised across a wide range of cultures, and Pakistan is no exception. Menstrual stigma operates through silence, euphemism and the framing of menstruation as impure or shameful, with the practical consequence that women are discouraged from naming menstrual pain as the cause of reduced capacity. This dynamic is not confined to conservative societies; the comparative evidence from Japan and South Korea, discussed below, shows that even long-standing legal entitlements go substantially unused where stigma persists (Levitt & Barnack-Tavlaris, 2020). Stigma is therefore not a peripheral consideration but a central design constraint: a menstrual leave law that requires a woman to announce her menstruation to a male supervisor in order to claim it may, in a stigmatising environment, be a law that is never invoked.

There is, further, a productivity and participation dimension that reframes the issue in terms familiar to economic policy. Untreated menstrual pain is associated with reduced concentration, absenteeism and *presenteeism* attending work while functioning below capacity. Where women suppress pain and attend regardless, the cost is borne invisibly in reduced output and wellbeing; where they are absent without protection, the cost is borne in lost pay and, potentially, in disciplinary exposure. Female labour-force participation in Pakistan is among the lowest in the region by some estimates only around a fifth of women are in employment, against a large majority of men and the barriers to women's sustained employment are multiple and well documented.

The Constitutional and International-Law Framework

The measures addressing a specifically female health condition are inherently discriminatory. In *Sobia Nazir v. Province of Punjab* (2022), the Lahore High Court decided that maternity leave is the fundamental right of a working woman and that its refusal is toward forcing the women to work under forced labour, which is violation of the Constitution of Pakistan 1973 (Munir, 2022).

The directions of Article 35's and 37(e) are very much clear that the State protects the mother and the family. Article 9, 14 and 25 of the Constitution of Pakistan 1973 ensures all persons should be given right of life, right of respect and dignity, equal opportunity for all citizens and healthy environment and to conditions conducive to human dignity, provides an interpretive foundation for treating reproductive health as an aspect of the constitutionally protected interest in a dignified life.

Pakistan's international obligations point in the same direction and add specificity. Pakistan ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1996. Article 11 of CEDAW obliges States Parties to eliminate discrimination against women in employment and, significantly, to ensure the right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction. Article 12 addresses access to health care, and Article 5 requires States to work toward modifying social and cultural patterns of conduct grounded in stereotyped roles or in the idea of the inferiority of either sex. A reproductive health accommodation would represent a concrete measure toward the health-protection obligations that Article 11 imposes, and toward the modification of stigmatising cultural patterns that Article 5 contemplates.

Pakistan is also a party to the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified in 2008. Article 7 recognises the right of everyone to just and favourable conditions of work, including safe and healthy working conditions, and Article 12 recognises the right to the highest attainable standard of physical and mental health.

The Existing Statutory Landscape and the Location of the Gap

Maternity leave is most useful facility in Pakistan. The Legal framework from the Maternity Benefit Ordinance, 1958 and its provincial legislations of the provincial employees' social security ordinances, give right to women workers in covered establishments to paid leave around childbirth and protection during that period. This edifice has recently been substantially strengthened. The Maternity and Paternity Leave Act, 2023 has also been enforce recently in Pakistan which is applicable to enforce under federal administrative control. It also extended the maternity leave s 180 days for the first child (PK Laws, 2026).

The Day Care Centers Act, 2023 necessitates to launch and offer day-care facilities, speaking one of the hurdles to women's constant employment after childbirth (Lexology, 2024). Home-based workers legislation at provincial level and the Punjab Home-Based Workers Act, 2023 have protracted sickness assistances, maternity assistances and medical care to categories of informal workers historically excluded from labour defense (Paul Hastings, 2024). It is not a case of general sick leave provisions that consciously encompass menstruation; those provisions are simply silent, and their silence is filled, in practice, by the stigma-driven reluctance of workers to characterise absence as menstrual. The gap is one of omission and of default, and it is precisely such gaps that comparative study is well suited to illuminate, because other jurisdictions have already confronted the question Pakistan has not yet asked.

Comparative Study: Seven Decades of Menstrual Leave Legislation

The value of comparative analysis here is unusually high, because menstrual leave is one of those rare areas of employment law in which several jurisdictions have decades of operational experience with statutes Pakistan has yet to enact. The comparative record is not uniform; it discloses a spectrum of design choices and a corresponding spectrum of outcomes, and it is from the correlation between design and outcome that the most useful lessons emerge. This Part examines six systems Japan, South Korea, Indonesia, Taiwan, Zambia and Spain before drawing the analytical threads together.

Japan

Japan deals with the oldest constantly working menstrual leave period and, for that purpose, the most useful advisory story. Article 68 of the Labour Standards Act of 1947, endorsed during the post-war access of women into industrial labour, offers that an employer must not force a woman who cannot work and is difficult for her to work during menstruation time (Japanese Law Translation, n.d).

South Korea

There are different thoughts in South Korea on the same issue. Since 1950s, the Korean law has presented for menstrual leave. Korea, has now introduced this entitlement as a right for one day leave per month if it is requested by a woman employee. Korean Law expresses through evidence that the need of leave addresses is genuine even if the leave remains unclaimed (cho., 2014).

Indonesia

Indonesia has approved legislation for a menstrual leave prerogative in its manpower codification, which entitles a working woman who suffers in pain during her menstruation and intimates the employer is not glad to work on the first and second days of menstruation. The prerogative is, it more liberal than the one day. Practically, just due to a notification, its exercise has been weak and in some organizations, demands of proof, and by distinction in whether the leave is paid or not.

Zambia

In Zambia, the certification of absence requirement is significant, because it removes the disclosure barrier that suppresses uptake elsewhere; a worker may simply take the day. This design choice trades administrative verification for accessibility, and in doing so directly addresses the stigma problem, albeit at the cost of the medical anchoring that characterises the Spanish approach. The Zambian model has generated public debate about potential abuse, illustrating the tension between accessibility and verifiability that any design must negotiate.

Spain

Spain represents the most recent and, for a reformer designing from first principles, the most carefully theorised model. The reform enacted in early 2023 does not create a free-standing gendered leave category at all; instead it recognises *secondary incapacitating menstruation* as a form of temporary incapacity for work that is, as sick leave triggered by a medical diagnosis and funded, from the first day, by the state social security system rather than by the employer (Ius Laboris, 2023). The features of the Spanish design are salient. Medical leaves, public funding, integration into entitlement. The medical leaves anchoring, the leave attaches to a diagnosed incapacitating condition, not to menstruation as such, which both targets the provision at those who need it and frames it as health rather than concession.

Reform Model for Pakistan

The comparative analysis results in a list of design rules; the list should not be viewed as a checklist that can be mechanically transferred. Pakistan's challenge is not to simply pick and stitch the most generous foreign model and implant it but build a model that embodies the four lessons mentioned above and is compatible with the constitutional and administrative system and social realities in Pakistan. This Part presents such a model, in each of its conceptual, substantive, funding and administration, federal-provincial division of labour, and overall framework of accommodation for reproductive health dimensions.

The key decision is a preliminary one of framing, and in this the Spanish approach is the safest. Menstrual health leave in Pakistan shouldn't be conceived as a gender deviant leave or category, it should be recognized as incapacitating menstruation being a part of sick leave and temporary incapacitation. This framing has several benefits the first of which is to address each comparative lesson directly. It helps to de-institutionalise the entitlement as a "health provision" and lessen the "mole bred mole" mentality that tends to stir up opposition. It provides a basis for incapacity and not just menstruation per se, to deal with issues of abuse and scope. Moreover, it puts the entitlement in an already existing administrative service, sick leave and if necessary social security, rather than creating a new administration. In short, the recommendation is that incapacitating dysmenorrhoea should be inculcated into the sick-leave and social-security provisions of the law in Pakistan and given specific features.

With regard to the content, the model must specify entitlement for paid leave to be taken during periods of incapacitating menstruation which has to balance accessibility with verifiability.

A sensible legislation would provide an equal number of days (one or two days a month) to factory workers who are incapacitated due to painful menstruation, in keeping with the international allowances that have been established. One of the design controversies that repeats itself throughout time is to require medical certification (which verifies the situation but creates a burden in terms of disclosure and access for a recurring condition) or not to require it (which maximises accessibility, but brings up verification issues). A calibrated compromise would be as follows: a number of days are available by self-certification, in line with the accessibility of the Zambian model and eliminating the disclosure barrier which inhibits uptake in other impressive models, while the medical certification kicks in bite should a longer term leave, or more frequent leave, be sought, reflecting the medically framed severity threshold for the Spanish model. This is a system of carrots and sticks that is directly linked to the comparative lesson, that the primary means by which stigma can be overcome is through disclosure.

The most important protective feature in limiting the access of funding and in ensuring the cost bearing mechanism, by comparative evidence, is the single most important of the design. Either menstrual leave would have to be paid directly by employers or it would require some scheme for the cross-subsidiation of leave. If it is paid directly by employers, then it would create exactly the "disincentive to employ women" that menstrual leave advocates say they are countering, and that would be particularly problematic in a labor market that is already characterized by low female participation and widespread informal activity, where employers might be more likely than their formal counterparts to have an economic interest in avoiding menstruating workers. The reform should thus consider, as far as is reasonably possible at administrative level, the costs of menstrual health leave to flow through the provincial employees' social security institutions that carry these costs for maternity and sickness leave, instead of on the employer. If social security coverage doesn't cover the entitlement, this will necessarily have an impact on the way it works: where social security is not available (as is the case for many in the informal sector) the entitlement will have a different impact, as discussed below. The rule of thumb is that the reform cannot make the use of women more visible, or else it would be self beating, as it would make their entry into work less desirable and less attractive than it had been before the reform.

The route for legislation depends on the federal-provincial system devised under the Eighteenth Amendment. Given that the provincial governments now have the primary jurisdiction over the provision of labour, comprehensive menstrual health will depend on the development of provincial legislation; ideally, harmonised to prevent a mosaic of different entitlements, which would make it more difficult for employers to comply if they operate in more than one province. The institutions under the direct control and administration of the federal government, including the Islamabad Capital Territory, have retained the competency to legislate in that domain and the federal government can take a lead to establish such a standard (as it has done in the case of Maternity and Paternity Leave Act, 2023) that provinces may follow. A realistic sequencing would be for the federal government, in its competence, to enact a legislation first, with a view of establishing a model provision to be adopted on the provincial level with adaptations to the social security model prevailing in each province. This follows the pattern of diffusion of maternity and day-care reforms in the Pakistani federation.

Menstrual leave must not be confused as the entirety of reproductive health accommodation however, and restricting change to leave alone will reproduce some foreign models of too narrow an approach. A fuller agenda comprises at least four further elements. The first is menstrual health infrastructure in the workplace: access to clean toilets, water, disposal facilities and, where feasible, the provision of menstrual products, without which the right to work through menstruation is compromised regardless of any leave entitlement. The second is flexibility short of full absence the ability to take rest breaks, to adjust tasks temporarily, or to work remotely where the role permits

which serves workers whose incapacity does not warrant a full day's leave but who nonetheless need accommodation. The third is protection against discrimination and retaliation, ensuring that the exercise of menstrual health entitlements cannot lawfully be made the basis of adverse treatment, a protection whose necessity the comparative stigma evidence makes plain. The fourth is the extension, so far as possible, of these protections to informal and home-based workers, building on the recent provincial home-based workers legislation, so that reform does not benefit only the minority of women in the formal sector.

A final design consideration concerns *implementation and stigma reduction*, because the comparative record warns unambiguously that a well-drafted entitlement can still fail in practice. The Japanese and Korean experiences show that formal rights lie dormant where the surrounding culture makes their exercise socially costly, and Pakistan's menstrual stigma is at least as strong as that of the jurisdictions where uptake has collapsed. Legislation should therefore be accompanied by measures aimed at the stigma itself: confidential administration that does not require a worker to disclose menstruation to an immediate supervisor, the routing of claims through gender-sensitive or medical channels, workplace awareness and training obligations analogous to those developed under harassment legislation, and the collection of anonymised data to monitor uptake and detect where the entitlement is failing to reach those it is meant to serve. Without such accompanying measures, Pakistan risks legislating a right that, like its oldest foreign analogues, exists on paper and nowhere else.

Objections and Responses

A reform of this kind attracts predictable objections, several of which have been voiced in the international debates surrounding menstrual leave and deserve direct engagement rather than dismissal. Each objection is not only defensive but leads towards the betterment of the development if treated as a suggestion seriously.

The primary, and most serious, critique is that it is not at all feminist to put women at a disadvantage by tying their absence from work to something unique to them as women, which would lead employers to think of them as less reliable workers. This worry was emphatically expressed by one of Spain's biggest trade unions, which stated that the measure could have a stigmatization effect on women and impede their access to work (Deccan Herald, 2023), and resonates with a larger ambivalence held by feminists towards laws targeting women despite their well-being. The objection is steep, and it is not something that can easily be dismissed, but the model of reform being proposed here is specifically designed to defuse the objection. By publicly funding the leave, the employer's direct financial disincentive to hire women the direct mechanism through which the feared discrimination would work is removed; by entitling an individual to a leave based upon health, not gender, it is made less salient for reasons of stigma; and by providing strong anti-discrimination/anti-retaliation protections, they directly respond to the residual risk. As a matter of fact, the objection is an argument against poorly designed menstrual leave and the historical record confirms this.

A second objection holds that menstruation is a normal physiological process, not a disability or illness, and that to legislate leave for it is to pathologise the ordinary and to imply that women are handicapped by their biology. This argument, articulated in comparable terms in the Indian debate when a Union Minister remarked that the menstrual cycle is not a handicap (RSRR, 2024), rests on a conflation. The reform proposed here does not treat menstruation as such as a ground for leave; it treats *incapacitating* menstruation dysmenorrhoea severe enough to impair work capacity as a qualifying health condition, exactly as any other transient but genuinely disabling condition would be treated. Normal menstruation requires no accommodation and receives none

under the model. The objection succeeds only against a strawman entitlement triggered by menstruation regardless of incapacity, which is not what is advocated.

A third objection is practical: that Pakistan's labour law suffers from a chronic and well-documented gap between the statutes on the books and their enforcement on the ground, such that adding another entitlement merely lengthens the list of unenforced rights (PK Laws, 2026). This is a genuine and sobering point, and it would be dishonest to pretend that a menstrual leave statute would be self-executing in an environment where even minimum wage and maternity protections are imperfectly enforced. Judged as a whole rather than in isolation, the reform is substantive; and a calibrated, defensible entitlement that is actually used is worth more than an ambitious one that, like its foreign predecessors, goes unclaimed.

Conclusion

Menstrual health sits at the intersection of medicine, culture and law, and Pakistan's labour law has thus far engaged with only the first two by omission and the third not at all. This article has argued that the omission is neither constitutionally required nor internationally consistent, and that it should be corrected but corrected with care. The constitutional guarantees of equality and dignity in Articles 9, 14 and 25, the protective clause that expressly authorises special provision for women, the Principles of Policy directing the State toward humane conditions of work, and the superior courts' recent characterisation of reproductive-health-related leave as a fundamental right in Sobia Nazir, together furnish a secure domestic foundation for reform.

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