

Bill No. 276 of 2022

THE RIGHT OF WOMEN TO MENSTRUAL LEAVE AND FREE
ACCESS TO MENSTRUAL HEALTH PRODUCTS
BILL, 2022

By

SHRI HIBI EDEN, M.P.

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BILL

*to provide the right to paid leave during the period of menstruation for working women,
menstrual leave for female students and free access to menstrual health products
including menstrual cups, tampons and sanitary pads irrespective of status
or region and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Right to Women to Menstrual Leave and Free Access to Menstrual Health Products Act, 2022.

Short title and commencement.

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(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State and in other cases, the Central Government;

(b) "Authority" means the Female Menstrual Health Products Price Regulating Authority established under section 4; 5

(c) "educational institution" means any secondary or higher secondary school, college or institution or University imparting higher education;

(d) "establishment" include an office of the appropriate Government, *quasi* Government or department including telegraph office, post office, telephone exchange, a mine, a plantation, an agricultural field, a hospital or nursing home, a shop or any business establishment, a brick kiln, construction site, any banking establishment, any private office or house, any school, college university or like institution, establishment for the exhibition of equestrian, acrobatic and other performances and any other such place where a women is employed for any work whatsoever; 10

(e) "factory" means a factory as defined in the Factories Act, 1948; 15 63 of 1948.

(f) "industry" means an industry as defined in the Industrial Disputes Act, 1947; 14 of 1947.

(g) "menstrual health products" means products used to absorb or collect menstrual flow including menstrual cups, tampons, sanitary towels, panty liners, sanitary pads and articles;

(h) "prescribed" means prescribed by rules made under this Act; and 20

(i) "working woman" means a woman who is employed whether directly or indirectly through any agency or contractor, as the case may be, for wages in any establishment, factory or industry.

Rights of Women.

3. Every women shall be entitled to the following rights:—

(a) In case of working women— Right to paid leave and absence from work for three days during her menstruation in any establishment registered with the appropriate Government; 25

(b) In case of female students— Right to leave of absence from educational institution for three days during her menstruation; and

(c) Right to access to free menstrual health products. 30

Establish of the
Female Menstrual
Health Products
Price Regulating
Authority.

4. (1) **The Central Government shall, by notification in the Official Gazette, establish on an Authority to be known as the Female Menstrual Health Products Price Regulating Authority for carrying out the purpose of this Act.**

(2) The Authority shall consist of,—

(a) Union Minister of Health and Family Welfare, Chairperson, *ex-officio*; 35

(b) Union Minister of Women and Child Development, Vice-Chairman, *ex-officio*;

(c) Union Minister of Finance, Education and Labour and Employment, Member, *ex-officio*; and

(d) **six other member to be nominated by the Central Government in such manner as may be prescribed:** 40

Provided that out of six nominated members, four shall be women.

(3) **The salary and allowances payable to and other terms and conditions of service of members nominated under clause (d) of sub-section (1) shall be such as may be prescribed.** 45

(4) The Authority shall meet at least once in a month and shall regulate its own procedure.

5. The Authority shall, —

Function of the Authority.

(a) ensure availability and distribution of menstrual health products free of cost to every women;

(b) regulate the prices of menstrual health products;

(c) create awareness, responsiveness and consciousness regarding the importance of menstrual health products;

(d) identify and give priority in access to menstrual health products to target group including women not enrolled in full-time education or living in poverty;

(e) maintain accounts in accordance with international standards;

(f) collaborate with the appropriate Government regarding availability menstrual health products under their jurisdiction; and

(g) undertake such other functions as it deems necessary for carrying out the purposes of this Act.

6. Every local authority shall endeavour to ensure that menstrual health products are available free of cost to every women under its Jurisdiction.

Duties of Local Authority.

7. The Central Government shall for the purposes of redressal of complaints under this Act establish grievance redressal mechanism in such manner as may be prescribed.

Grievances Redressal Forum.

8. The Central Government shall, after due appropriation made by the Parliament by law in this behalf, provide adequate funds, from time to time, to the State Governments for the effective implementation of the provisions of this Act.

Central Government to provide adequate fund.

9. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Act not in derogation of other law.

10. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in the making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.

STATEMENT OF OBJECTS AND REASONS

Undoubtedly, menstrual awareness has increased in urban areas, with more women opting for sanitary pads rather than cloth. Not only women, people, in general, have developed a better understanding of menstruation in metro areas. Innovations in products are happening, like menstrual cups, menstrual discs, and much more.

Unfortunately, society identifies women as the other half, but only for specific, indoor-bound duties, highlighting the biological difference as a mark of inferiority. Menstruation and its debilitating nature, though a reality, are often hushed.

According to research, approximately 40 per cent of girls miss school during their periods. The type of absorbent used, lack of privacy at school, restrictions imposed on girls during menstruation, the mother's education, and the source of menstrual information were all found to be important factors in school absenteeism. Nearly 65 per cent said it had an impact on their daily activities at school and that they had to skip class tests and lessons as a consequence of discomfort, anxiety, shame, and concerns about leakage and uniform discolouration.

While access to menstrual products is critical, equal attention should be paid to the mental trauma that girls experience during their periods. Girls should receive comprehensive counselling on menstruation and other associated issues.

The need is to ensure that all who crosses the age of menarche may avail paid leave for three days for working women and three days of leave with attendance and compensation of academic activities for girl students who menstruate. It is also required that access to menstrual products, at no cost shall be available to them as and when required.

It is intended to remove any barriers which stop women, girls and trans people accessing female health and hygiene products – items which are essential to the health, hygiene and wellbeing of those who has crossed menarche till the period of menopause.

The idea behind the proposed Bill is that certain circumstances make access to sanitary products difficult for women and trans people. These include homelessness, coercive, controlling and violent relationships and health conditions such as endometriosis.

This bill provides for the novel idea of a type of leave where women and trans women may have the option of taking a paid leave for three days from their workplace during the period of menstruation. Here 'leave' shall mean full entitlement of a women to complete wages during the period of menstruation subject to maximum of 3 days per month for a working women and of 3 days for a non-working women including students.

Countries like Japan, Taiwan, China, Korea, Indonesia, and Mexico have introduced within their legal framework the policy of menstrual leave, for the benefit and the welfare of women. Sanitation is considered to be the central pillar of health according to the World Health Organisation. Our directive principles of states policy propound that necessary provisions shall be made by the state to improve health and hygiene of its citizens. Several companies and organizations in the United Kingdom and Australia have also introduced within their local constitution, a policy of menstrual leave. But a legal framework in India is not envisaged yet.

The concept of menstrual leave is an expansion of article 21, the right to life under the constitution of India; one should not be expected to work during menstruation, because of the menstrual pains, and the body being weak and vulnerable, basic sanitation problems like lack of proper sanitary facilities, lack of clean, safe, and private facilities for women, and lack of adequate menstruation alternatives result in the infringement of their basic right to health and also human right to health.

Moreover, due to hormonal actions most menstruating girls and women are having mental issues facing those days. Worrying about their physically unfit situation and

the availability of hygiene facilities, they feel tortured.

Our Constitution is always concerned about the protection of the vulnerable as it is committed to the principle of inclusiveness. Prioritising women's health and safety is the primary sign of a civilized and egalitarian society.

Many of developing and developed countries are taking the happiness index to evaluate the good governance of their state. As our country is also looking forward to such new scales for measuring the well-being of the people, we should also think about such revolutionary ideas out of the traditional way of thinking. It is sure that this bill will be a milestone in that category which concerns the happiness of nearly half of the population of India.

Considering all the objectives stated above, in line with the principle of inclusiveness as envisioned by our founding fathers, there is a greater urgency for such a Bill.

Hence this Bill.

NEW DELHI;

HIBI EDEN

November 21, 2022

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for establishment of Female Menstrual Health Products Price Regulating Authority for carrying out the purposes of this Act. It also provides for appointment of member to the Authority. Clause 7 provides for the Central Government to establish grievances redressal mechanism for redressal of complaints under this Act. Clause 8 provides for the Central Government to provide requisite funds. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of rupees fifteen hundred crore is likely to be incurred from the Consolidated Fund of India.

A non-recurring expenditure of about rupees five hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the appropriate Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

LOK SABHA

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