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MENSTRUATION AT WORK SHOULD NOT BE A PROBLEM – PERIOD!

Abstract: *Even though menstruation is a normal part of female biology, it still represents a taboo, a source of stigma, prejudice and practices that create further rifts in already heavily divided society. Not only is such a situation unjust and offensive, but it also creates problems in the work environment. The mere fact that a woman is menstruating puts her at risk of being perceived as incompetent, creates potential hygienic and logistical issues, and, in certain cases, fairly aggravates the possibility of female employees performing at work. Such a situation calls for policies that can accommodate the needs of menstruating employees, as well as for their protection from any unwanted behavior that could weaponize an individual's innate biological feature. Hence, the purpose of this paper is to analyze the position of menstruating employees at work, as well as possible policies that can be introduced by the employer in order to facilitate their position.*

Key words: Menstruation, Work environment, Period Policies, Menstrual Health, Menstrual Leave.

1. INTRODUCTION

Menstruation is a natural part of the female biology. It is medically defined as the periodic shedding of the lining of a woman's uterus, and as one of the phases of the menstrual cycle.¹ Most notably, it is accompanied by bleeding.

On every given day, according to the data provided by the World Bank Group, more than 300 million women worldwide are menstruating.² By definition, a significant portion of that number is attributed to women who menstruate at work.

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1 Idoko, L. *et al.*, 2022, Knowledge and Practice of Menstrual Health and Hygiene among Young People in Jos, Plateau State, Nigeria, *Open Journal of Obstetrics and Gynecology*, Vol. 12, No. 4, p. 293.

2 World Bank Group, 2022, Menstrual Health and Hygiene, Brief, 12 May, (<https://www.worldbank.org/en/topic/water/brief/menstrual-health-and-hygiene>, 3. 3. 2025).

However, even though menstruation is a normal, natural process, it comes with great stigma, the level of which depends considerably the given society, culture and religion.³ Hence, alongside the questionable practices, as well as the cultural perception of this process as something that makes women unhygienic and polluting, resulting in the need to be managed in order to prevent odor and staining,⁴ comes the feeling of personal shame and the need to hide evidence of its occurrence.⁵

However, menstruation is an amazing process which, from a biological standpoint, empowers women, as they are the only ones that are able to bring life into this world, in a form of a newborn child. This is also one of the reasons why Gloria Steinem makes an interesting remark that if things were other way around, i.e., if men were the ones menstruating, menstruation would become an enviable masculine event, one which would call for bragging about its duration and volume.⁶

It is therefore mind-boggling that in the present day and age menstruation is still an issue. This statement is equally true in the working environment, as it is in any other setting. Not only does the stigma and taboo of menstruation follow women throughout their lives – including their professional ones – but the workplace also allows for some other work-related issues to appear. It is therefore important to be aware that menstruation can be a tool to discriminate against menstruating workers or to violate their dignity in other inappropriate ways, while also creating some logistical and hygienic issues that one would not face in the comfort of their own home. For that reason, the purpose of this study is to focus on possible policies (period policies) that could normalize and facilitate menstruation-related experiences of women at work.⁷ The starting hypotheses is that the

3 The practice of exiling menstruating women and girls from their homes into huts in Nepal is one of the blatant examples. Parker, S., Standing, K., 2019, Nepal's menstrual huts: What can be done about the practice of confining women to cow sheds?, *Independent*, 28 January, (<https://www.independent.co.uk/news/health/nepal-menstrual-huts-cow-sheds-women-chhaupadi-india-a8744766.html>, 3. 3. 2025).

4 Roberts, T. *et al.*, 2002, "Feminine Protection": The Effects of Menstruation on Attitudes Towards Women, *Psychology of Women Quarterly*, Vol. 26, No. 2, p. 132.

5 A practice referred to as the "menstrual closet". For more on this topic, see McHugh, M., Menstrual Shame: Exploring the Role of 'Menstrual Moaning', in: Bobel, C. *et al.*, (eds.), 2020, *The Palgrave Handbook of Critical Menstruation Studies*, Singapore, Palgrave Macmillan, pp. 412–413.

6 Steinem, G., If Men Could Menstruate, in: Bobel, C. *et al.*, (eds.), 2020, *The Palgrave Handbook of Critical Menstruation Studies*, Singapore, Palgrave Macmillan, pp. 353–354.

7 Leahy, S., 2021, Benefits and Challenges to "Period Policies" – Menstruating Individuals Are Empowered Through Inclusive Dialogue and Advocacy, *Columbia Journal of Gender and Law*, Vol. 41, No. 1, pp. 1–5.

menstrual wellbeing of female workers primarily depends on the destigmatization and normalization of menstruation as a process, principally done through simple policies such as is the possibility to address menstruation in a hygienic way without fear of repercussions, rather than on more complex and controversial ones, such as menstrual leave policy.

This paper will therefore first and foremost present the problems attributed to menstruation at work. Later, it will present possible policies that can be introduced in the working environment, with particular attention being given to the period leave policy as an especially controversial one. The conclusion includes the research findings.

2. THE “PLIGHT” OF MENSTRUATION AT WORK

Menstruation represents a source of various stereotypes, which ultimately form prejudice towards women and their capabilities. The fact that such treatment has also been scientifically proven speaks volumes.

Namely, a psychological study has proven in a rather interesting way that women whose menstrual status is revealed are viewed as less competent.⁸ The observations were conducted on the basis of different treatment of a female who, to all appearances, accidentally dropped either a tampon or a hair clip from her handbag. As expected, the object that was accidentally dropped created completely different perceptions of the female in question, the tampon being a reason of viewing her as less competent and less likeable.⁹ Therefore, it is very possible that a female's coworkers and superiors are going to think lesser of her, solely because she made it known that it is “that time of the month”.

Such a distorted perception of menstruating women is, at least in part, likely the result of negative messages conveyed by the media, which have (apparently successfully) constructed a stereotype of menstruating and pre-menstruating women as irrational and emotionally labile beings, while simultaneously playing on women's fear of their stigmatized menstruation being discovered.¹⁰ In that sense, some practices such as the practice of forcing female workers to wear period bracelets or red signs at work, for the purpose of excusing them in order to use toilet more frequently,¹¹ are being less than helpful, and can be the cause of serious distress.

8 Roberts, T. *et al.*, 2002.

9 *Ibid.*, pp. 131–139.

10 Johnston-Robledo, I., Chrisler, J., 2011, The Menstrual Mark: Menstruation as Social Stigma, *Sex Roles*, Vol. 68, No. 1, p. 3.

11 Mahon, T., House, S., Cavill, S., 2012, *Menstrual Hygiene Matters: A Resource for Improving Menstrual Hygiene Around the World*, London, WaterAid, p. 175. In practice,

Therefore, not only are some female workers having to deal with the shame of having their period, but in some cases, they also have to deal with a lack of privacy as well as possibilities to manage their menses with dignity. Furthermore, blue collar workers are also facing a greater threat of not having access to clean toilet facilities.¹²

Menstruation is often accompanied by period pain (dysmenorrhea)¹³ which, when severe, can make normal functioning difficult – not to mention the person's capability to perform at their job. Such a plight, combined with the general feeling of shame, can be the cause of workplace absenteeism,¹⁴ as well as an even higher degree of presenteeism.¹⁵

In the United States of America, Alicia Coleman was fired for soiling workplace property after sudden onsets of menstruation on two separate occasions (one which resulted in a stained chair and the other in a stained carpet),¹⁶ while Alicia Adams faced unjust dismissal when she disclosed to her employer that she had menorrhagia.¹⁷ Moreover, in another case, a person found herself a victim of hostile sexist comments and menstrual jokes at work, which got to the point of being serious enough to qualify as harassment.¹⁸

frequent usage of restroom facilities has also been viewed as an issue by some employers in the case of pregnant employees. For more on the topic of discrimination of pregnant employees, see Misailović, J., 2020, Posebna radnopravna zaštita materinstva, *Zbornik radova pravnog fakulteta u Nišu*, Vol. 56, No. 86, pp. 240–243.

- 12 Belliappa, J., 2018, Menstrual Leave Debate: Opportunity to Address Inclusivity in Indian Organizations, *The Indian Journal of Industrial Relations*, Vol. 53, No. 4, p. 611; The ETU National survey reveals disgraceful standards and access to amenities for blue-collar workers ETU, 2022, National survey reveals disgraceful standards and access to amenities for blue-collar workers, *ETU*, 14 December, (<https://www.etunational.asn.au/2022/12/14/etu-national-survey-reveals-disgraceful-standards-and-access-to-amenities-for-blue-collar-workers/>, 28. 3. 2025); Rutter, S., Needham, C., 2024, Where can care workers go to the toilet? The right to working conditions that “respect health, safety and dignity”, *Perspectives in Public Health*, (<https://eprints.whiterose.ac.uk/216023/>, 28. 3. 2025).
- 13 According to one study, up to 91% of women who menstruate experience dysmenorrhea to some extent, while 29% experience severe pain. Ju, H., Jones, M., Mishra, G., 2014, The Prevalence and Risk Factors of Dysmenorrhea, *Epidemiologic Reviews*, Vol. 36, No. 1, p. 107.
- 14 For more on this issue, see Ichino, A., Moretti, E., 2009, Biological Gender Differences, Absenteeism, and the Earnings Gap, *American Economic Journal: Applied Economics*, Vol. 1, No. 1, pp. 183–218.
- 15 Schoep, M. *et al.*, 2019, Productivity Loss Due to Menstruation-related Symptoms: A Nationwide Cross-sectional Survey Among 32 748 Women, *BMJ Open*, Vol. 9, No. 6.
- 16 For more on this case, see Karin, M., 2022, Addressing Periods at Work, *Harvard Law & Policy Review*, Vol. 16, No. 2, pp. 492–493.
- 17 Johnson, M., 2019, Menstrual Justice, *U C Davis Law Review*, Vol. 53, No. 1, pp. 35–36.
- 18 *Ibid.*, pp. 33–34.

In a world where the equality should be the norm, such a position is impermissible and it calls for action.

3. MENSTRUATION IN LIGHT OF THE RIGHT TO DECENT WORK

The right to work is a basic human right, enshrined in several international instruments, such as the Universal Declaration on Human Rights¹⁹ and the International Covenant on Economic, Social and Cultural Rights²⁰ and, as such, is guaranteed to everyone, regardless of their sex. Without equality between sexes, such a right could not be realized properly.²¹

It is also, to that point, important to note that, even though ambiguous, the concept of decent work undoubtedly embraces fundamental rights of workers, such as the right to be protected from discrimination at work and the right to occupational safety and health.²² Therefore, as Colussi, Hill and Baird note “if the right to work is to be properly ‘engendered’, then menstruation and menopause must be acknowledged as important processes.”²³

Hence, supporters of the principle of substantive equality advocate for the need to accommodate biological differences between sexes in the working environment, rather than to require from the members of the female out-group to conform to the dominant masculine norm.²⁴ Although a truly noble act in principle, if brought to an extreme, catering to the out-groups could have a negative effect on an environment as a whole, because

19 UN GA, Resolution 217A (III), Universal Declaration of Human Rights, UN doc. A/RES/217(III) (10 December 1948), Arts. 23–24.

20 UN GA, International Covenant on Economic, Social and Cultural Rights, Treaty Series, Vol. 993, p. 3 (16 December 1966), Arts. 6–7.

21 It is therefore no surprise that discrimination, as defined in ILO Convention No. 111, includes any distinction, exclusion or preference made on the basis of sex which can have an effect of nullifying or impairing equality of opportunity or treatment in employment or occupation. ILO Convention Concerning Discrimination in Respect of Employment and Occupation (No. 111) (25 Jun 1958), Art. 1.

22 For more on the concept of decent work and its indicators, see Ghai, D., 2003, Decent Work: Concept and Indicators, *International Labour Review*, Vol. 142, No. 2, pp. 113–145.

23 Colussi, S., Hill, E., Baird, M., 2023, Engendering the Right to Work in International Law: Recognising Menstruation and Menopause in Paid Work, *University of Oxford Human Rights Hub Journal*, Vol. 5, p. 4.

24 Fredman, S., 2016, Substantive Equality Revisited, *International Journal of Constitutional Law*, Vol. 14. No. 3, pp. 733–734.

it has the potential of being discriminatory to the rest of the collective.²⁵ However, if applied properly, through some accommodations that could help menstruating women deal with this biologically inherently female issue, such a practice would be more than welcome. To behave otherwise could cause such a policy to be qualified as discriminatory in nature, since discrimination as a concept implies not only situations of unequal treatment of the equals, but also situations of equal treatment of unequals.²⁶

An adequate period policy could be as simple as allowing employees to take time to address their period without fear of repercussions,²⁷ or providing access to female-friendly toilets that are hygienic and equipped with soap, water, menstrual products, and disposal options.²⁸ At the end of the day, it is job of the employer to ensure safety and health at work,²⁹ and menstrual health³⁰ at work should also be viewed as part of that duty. Under the same logic, such an obligation of the employer should also include not only the duty to ensure that employees are not being discriminated against, but also that they are protected from harassment and mobbing. Namely, not only are such behaviors deeply disturbing and morally questionable, but they can also be the cause of unwanted consequences to both the physical and mental health of a person.³¹

Harassment represents a special form of discrimination that is established by repeated behavior, motivated by the employee's innate or acquired personal characteristics (traits, beliefs or status), which thus

- 25 A blatant example of negative effects of these policies could be seen recently in sports. Schlott, R., 2024, Volleyball player 'fights for truth' after being severely injured by trans opponent: 'If only my rights had been more important than a man's feelings', *New York Post*, 17 December, (<https://nypost.com/2024/12/17/us-news/female-athlete-permanently-hurt-by-trans-athlete-speaks-out/>), 6. 3. 2025).
- 26 Brković, R., Urdarević, B., 2023, *Radno pravo sa elementima socijalnog prava*, Belgrade, Službeni glasnik, p. 73.
- 27 Sparks, I., 2010, Boss orders female staff to wear red bracelets when they are on their periods, *MailOnline*, 30 November, (<https://www.dailymail.co.uk/news/article-1334400/Female-staff-Norway-ordered-wear-red-bracelets-period.html>), 6. 3. 2025).
- 28 Schmitt, M. *et al.*, 2018, Making the Case for a Female-Friendly Toilet, *Water*, Vol. 10, No. 9.
- 29 For more on this subject, see Petrović, M., 2023, Employer's Liability in Serbia for Damage Caused by Work Injury: The Case of Professional Athletes, *Pravni zapisi*, Vol. 14, No. 1, pp. 100–106.
- 30 For more on the definition of the concept of menstrual health, see Hennegan, J. *et al.*, 2021, Menstrual Health: A Definition for Policy, Practice, and Research, *Sexual and Reproductive Health Matters*, Vol. 29, No. 1, pp. 31–38.
- 31 For more on the consequences of mobbing and discriminatory harassment, see Einarsen, S., 2000, Harassment and Bullying at Work: A Review of the Scandinavian Approach, *Aggression and Violent Behavior*, Vol. 5, No. 4, pp. 386–388.

fundamentally violates the dignity of an employee.³² In the case at hand, the underlying motive would primarily be the sex of an individual, due to the fact that menstruation is an innate trait of a particular sex, and behaviors such as inappropriate comments with a menstrual connotation could just be the tip of the iceberg. However, such comments and inappropriate menstruation-related behaviors could also be motivated by other innate or acquired traits of a person such as political or sexual orientation, and not the sex of the individual.

On the other hand, repeated menstruation-related comments and inappropriate behaviors do not always have to constitute an act of discriminatory harassment. Namely, repeated behaviors that violate dignity of an employee can also represent simple acts of malice, not motivated by reasons related to the innate or acquired trait of a person. Therefore, such behaviors would not be perceived as acts of discriminatory harassment but could be qualified as mobbing.³³ This due to the fact that, in the case of work-related mobbing, the mobber is guided by the intention to harm another person at work, and this intention to harm is the dominant motive of the unwanted behavior.³⁴

All of these behaviors however – regardless of the motive and their legal qualification – are to be deemed impermissible, and should be adequately addressed as such by the employer. If they would fail to do so, they would not only be as culpable as the perpetrator but even more so, because they carry the burden of ensuring the safety of their employees at work and in relation to their work.³⁵

32 Kovačević, Lj., 2013, *Pravna subordinacija u radnom odnosu i njene granice*, Belgrade, Pravni fakultet Univerziteta u Beogradu – Centar za izdavaštvo i informisanje, p. 420.

33 Regarding the phenomenon of mobbing, there is some term overlapping. The term *bullying* is used to describe the same phenomenon in Australia, Great Britain and other countries with Anglo-Saxon law, while the term *mobbing* is being used in Scandinavian countries, as well as in German-speaking countries. Lippel, K., 2018, Conceptualising Violence at Work Through a Gender Lens: Regulation and Strategies for Prevention and Redress, *University of Oxford Human Rights Hub Journal*, Vol. 1, p. 146. However, there are legal systems, such as is Canadian legal system, where the term *harassment* or *workplace harassment* is used to denote what would otherwise be called *mobbing* or *bullying*. Lippel, K., 2010. The Law of Workplace Bullying: An International Overview, *Comparative Labor Law & Policy Journal*, Vol. 32, No. 1, p. 5. A similar observation can be made in Belgium and France, where the term *harcèlement moral* is used to denote the same phenomenon. Lippel, K., 2018, p. 146. To avoid confusion between *discriminatory harassment* and *mobbing*, in this paper such a phenomenon will be referred to as *mobbing*.

34 Reljanović, M., Petrović, A., 2011, Šikanozno vršenje prava, diskriminacija i zlostavljanje na radu – zakonska regulativa i praksa, *Pravni zapisi*, Vol. 2, No. 1, p. 188.

35 Under Serbian legislation, in the case of mobbing, they would also be the only one legally liable. The Law on Prevention of Harassment at Work, *Official Gazette of the RS*, No. 36/2010, Art. 9.

As it happens, in the beginning even menstrual leave was considered as an occupational health policy, with explicit purpose being to protect the fertility of working women.³⁶ Nowadays, however, it is mainly seen as a benefit for those who experience serious pain or other severe menstrual symptoms.³⁷ Nonetheless, even in these cases, critics of such period policies question the rationale and efficiency of staying at home in severe pain or with heavy bleeding, rather than treating the underlying health issue that is the cause of such symptoms.³⁸

4. THE CONTROVERSIAL RIGHT TO MENSTRUAL LEAVE

As mentioned before, period policies can range from as basic as simply allowing employees to take a break to address their period or providing access to a female-friendly toilet, to policies that are more difficult to apply, such as guaranteeing the right to menstrual leave.

When the news broke in 2023 that Spain was the first European country to introduce menstrual leave of three up to five days for those individuals dealing with painful periods, everyone was in awe.³⁹ Even though not a new concept,⁴⁰ such a step felt like the beginning of something new.

Spain was actually not supposed to be the first European state to pass such a law,⁴¹ since Italy was already well on its path to do the same in

36 In Bolshevik Russia, the negative impact of strenuous work on menstruating women, manifested in reported period irregularities, called for the introduction of period leave in some industries. For more on this subject, see Ilic, M., 1994, *Soviet Women Workers and Menstruation: A Research Note on Labour Protection in the 1920s and 1930s*, *Europe-Asia Studies*, Vol. 48, No. 8, pp. 1410–1414.

37 In Spain it is a policy that is restricted only to women with secondary dysmenorrhea. García-Egea, A. *et al.*, 2024, *Perspectives on Menstrual Policymaking and Community-based Actions in Catalonia (Spain): A Qualitative study*, *Reproductive Health*, Vol. 21, No. 1.

38 King, S., *Menstrual Leave: Good Intention, Poor Solution*, in: Hassard, J., Torres, L., (eds.), 2021, *Aligning Perspectives in Gender Mainstreaming. Health, Safety and Well-Being*, Cham, Springer, p. 158.

39 Bello, C., Llach, L., 2023, *Painful periods? Spain just passed Europe's first paid 'menstrual leave' law*, *Euronews*, 25 February, (<https://www.euronews.com/next/2023/02/16/spain-set-to-become-the-first-european-country-to-introduce-a-3-day-menstrual-leave-for-wo>, 8. 3. 2025).

40 According to available data, the first time a similar policy was introduced was in the early 20th century. Ilic, M., 1994, pp. 1409–1415. On the other hand, the first country to introduce the right to menstrual leave into legislation dealing with this subject was Japan, in 1947. For more on the origins of this right in Japan and the social context of that time, see Molony, B., 1995, *Japan's 1986 Equal Employment Opportunity Law and the Changing Discourse on Gender*, *Signs*, Vol. 20, No. 2, pp. 268–302.

41 Ley Orgánica 1/2023, por la que se modifica la Ley Orgánica 2/2010 (3 March 2010), de salud sexual y reproductiva y de la interrupción voluntaria del embarazo, *Boletín Oficial del Estado*, No. 51/2023 (28 February 2023).

2017.⁴² To feminists, this newly established right felt like a small victory, while others cautioned that such a policy could trigger the degradation of women's rights in the labor market.⁴³ The latter point of view prevailed.⁴⁴

Menstrual leave is a controversial right, one to which many possible pros and cons have been attributed. While such a policy can have various psychological benefits, e.g., the feeling that the employer cares about the wellbeing of their employees and reduced presenteeism, it can also lead to reduced privacy due to disclosure of an individual's menstrual status, abuses of such policies, and the disincentive to hire women.⁴⁵

If one was to look at the effects of menstrual leave in countries that have already introduced such a right, it becomes clear what the critics of this right are warning of.

While in Japan employers accept the fact that they are less likely to hire women because of the costs of such a right and the challenges to determine whether an employee is truly in a position of needing to take menstrual leave,⁴⁶ in South Korea an airline company actually made requests for proof of menstruation in order to approve claims to this right, guaranteed by Korean Labor Standards Law.⁴⁷ In addition to that, data has shown that in both of these countries the number of menstrual leave claims has recorded a significant drop because of the realistic fear of discrimination, due to the general culture.⁴⁸

Taking all of this into account, some researchers advocate for a different approach. Deborah Widiss, for example, advocates for workplace

42 BBC, 2017, Italy may pass a law that grants women monthly period leave, *BBC*, 29 March, (<https://www.bbc.com/bbcthree/article/84f67498-b882-49df-82c3-26d3847589db>, 8. 3. 2025).

43 Price, H., 2022, Periodic Leave: An Analysis of Menstrual Leave as a Legal Workplace Benefit. *Oklahoma Law Review*, Vol. 72, No. 2, pp. 187–188.

44 Hashimy, S., 2022, Menstrual Leave Dissent and Stigma Labelling: A Comparative Legal Discourse, *International Journal of Law Management & Humanities*, Vol. 5, No. 6, p. 1281.

45 For more on the topic of pros and cons of menstrual leave policies, see Price, H., 2022, pp. 214–216; Reljanović, M., Rajić Čalić, J., 2024, Menstrual Leave and Gender Equality, *Strani pravni život*, Vol. 2, No. 1, pp. 4–6.

46 Hashimy, S., 2022, p. 1276.

47 Karin, M., 2022, p. 505.

48 Hollingsworth, J., 2020, Should women be entitled to period leave? These countries think so, *CNN Business*, 20 November, (<https://edition.cnn.com/2020/11/20/business/period-leave-asia-intl-hnk-dst/index.html>, 8. 3. 2025). The registered number of claims is also not significant in Spain, however, the reason for such a situation may be the fact that it is a right that is restricted and requires doctor involvement. Kassam, A., 2024, A year on, Spain's 'historic' menstrual leave law has hardly been used. Why?, *The Guardian*, 4 June, (<https://www.theguardian.com/world/article/2024/jun/04/spain-historic-menstrual-leave-law-hardly-used-period-pain-endometriosis>, 8. 3. 2025).

accommodations such as period-friendly restrooms and free menstrual products, as an alternative to menstrual leave (combined with sick leave for those who experience severe menstrual symptoms).⁴⁹ Sally King is of somewhat similar opinion, as she notes that vast majority of women do not face debilitating pain when menstruating, while the ones that do experience such an ordeal nearly always have an underlying health issue.⁵⁰ Therefore, in her opinion, “menstrual leave policies are based on fundamentally flawed assumptions about menstrual health,” also due to the fact that taking time to rest during menstruation will not be an effective solution for women who experience severe menstrual symptoms.⁵¹ For those women, adequate sick leave policies would be a far better option, rather than just taking some time off work.⁵² To that she adds that it is highly likely that the very concept of menstrual leave actually came to existence due to intense and extreme working conditions, which prevented women who were menstruating to address their period in an adequate manner.⁵³ From this point of view, therefore, the need to take time off and claim the right to menstrual leave is actually a consequence of poor working conditions.

Hence it is difficult not to note that the number one catalyzer for the introduction of menstrual leave in Japan was the lack of access to adequate toilet facilities for female bus conductors, where they could address their periods.⁵⁴ Furthermore, the menstrual leave policy discourse in Russia began following menstrual irregularities reported by women who were working in specific industries, such as the leather and textile industries.⁵⁵ Therefore, menstrual leave could be seen as a “safety break” of sorts for those situations where other menstrual policies have failed and everything took a turn for the worse.

Period policies in general, however, do not have to be state-guaranteed in order for them to work.⁵⁶ It is up to the employer to organize the

49 Widiss, D., 2023, Time Off Work For Menstruation: A Good Idea?, *New York University Law Review Online*, Vol. 98, No. 170, p. 172.

50 King, S., 2021, pp. 158–159.

51 *Ibid.*, p. 162.

52 *Ibid.*, p. 162.

53 *Ibid.*, p. 163.

54 Molony, B., 1995, p. 279. This is an issue that has also been reported fairly recently at construction sites in Australia. Hislop, M., 2021, Toilets for female tradies ‘overlooked’ on construction sites, *Women’s Agenda*, 18 August, (<https://womensagenda.com.au/latest/toilets-for-female-tradies-overlooked-on-construction-sites/>, 6. 3. 2025).

55 Ilic, M., 1994, p. 1410.

56 As the matter of fact, the examples of Japan and South Korea indicate that menstrual leave, introduced by law, might in fact be a counterproductive step. Therefore, a more viable solution may be to introduce such a right at the company level, via the gen-

work and the work environment in a way that will promote the wellbeing of their employees. The same goes for the matter of period policies and menstrual wellbeing of employees. An interesting approach is the one taken by an Indian company Gozoop, which opted to offer its menstruating employees the right to take one day off from the office and work from the comfort of their homes, rather than to grant period leave.⁵⁷ Thus, instead of offering the right to menstrual leave, this company chose to offer its employees flexibility at work. Not all employers however can afford to provide such flexibility in the workplace, as not all of the business activities are the same. However, what all of them can do is create a respectful and healthy work environment which would respect menstrual wellbeing of their employees. This type of environment is the only thing that can put an end to the stigma, taboo and shame unjustly attributed to such a natural and normal process as is menstruation.

On the other hand, in an unhealthy work environment, menstrual leave does not seem to be an effective solution, but rather a route for a short escape from the harsh reality of the real everyday world. Moreover, as demonstrated in the example of Japan, not only can such a leave be a possible escape route, but it might not even be a viable getaway option in situations where it leads to fear of repercussions. It is therefore far more important to destigmatize and accept menstruation as something normal, rather than to introduce menstrual leave as a policy. On the other hand, for employees who face severe menstruation symptoms due to underlying health issues, an adequate sick leave policy may be a viable solution, not because menstruation itself should be perceived as an issue, but because such conditions are not a universal experience and should be treated as seriously and as carefully as any other health-related issue.⁵⁸

eral act of the employer. Still, that would imply that not everyone in the labor market would be able to count on such a right. On the other hand, such an issue could also be subject to collective bargaining. However, that would imply a strong culture of social dialogue, which is something not many countries can boast of. ILO, n.d., ILOSTAT data explorer, (https://rshiny.ilo.org/dataexplorer35/?lang=en&id=ILR_CBCT_NOC_RT_A, 28. 3. 2025).

- 57 Levitt, R., Barnack-Tavlaris, J., Addressing Menstruation in the Workplace: The Menstrual Leave Debate, in: Bobel, C. *et al.*, (eds.), 2020, *The Palgrave Handbook of Critical Menstruation Studies*, Singapore, Palgrave Macmillan, p. 564.
- 58 In Serbia, *exempli causa*, the Regulations on Medical-doctrinal Standards for Determination of Temporary Incapacity to Work, enlists conditions such as Endometriosis and Menorrhagia as grounds for a sick leave. Pravilnik o medicinsko-doktrinarnim standardima za utvrđivanje privremene sprečenosti za rad, *Official Gazette of the RS*, Nos. 25/2020 and 78/2020. The indirect labor law protection to menstruating workers, on the other hand, is offered through the right to occupational safety and health, as well as the right to the protection of personal integrity and dignity of a person. Zakon o radu, *Official Gazette of the RS*, Nos. 4/2005, 61/2005, 54/2009, 32/2013,

5. CONCLUSION

Despite the fact that menstruation is a natural biological process, innate to female biology, it has always been a source of stigma, taboo and prejudice towards women, both in everyday life and in the working environment.

Due to menstruation, women can be perceived as less likable, less competent and emotionally labile, thus imposing on them a feeling of shame as well as the need to hide their menstrual status.

However, menstruation is nothing short of a miracle that enables the creation of new life, and it is in no way, shape or form a reason to hide, to feel unclean, unworthy or lesser.

Nevertheless, unwanted menstrual-related practices in the workplace seem to persist and withstand the test of time. It is therefore not unheard of, nor particularly rare, to witness discriminatory practices aimed at workers who menstruate or be a victim of negative period-related comments and other unwanted behaviors, which can, at times, even constitute an act of harassment or mobbing (depending on the motive of the unwanted behavior).

However, it is indisputable that the right to work is asexual and as such is guaranteed to everyone. Such a right, on the other hand, also implies the right to decent work and, therefore, the right to occupational safety and health, and protection from discrimination and other unwanted behaviors, such as harassment and mobbing.

It is therefore the responsibility of the employer to create an environment that will promote the health and overall wellbeing of their employees through various policies (including period policies) that will accommodate the needs of their menstruating employees. Such policies can range from simply allowing employees to take breaks to address their period or providing access to a female-friendly toilet, to policies that are more difficult to apply, such as the right to menstrual leave.

On that note, if previous experience is to be considered, menstrual leave, as a policy in an unhealthy work environment, does not seem to be an effective solution, but rather a questionable and mostly inefficient escape route. Therefore, it seems to be far more important to destigmatize and accept menstruation as a normal, natural process, through different accommodation policies, such as the access to period-friendly restrooms with free menstrual products, rather than to introduce menstrual leave as

75/2014, 13/2017 – decision CC, 113/2017 and 95/2018 – authentic interpretation, Art. 12, para. 1.

a policy. On the other hand, for those employees who experience severe menstruation symptoms as a consequence of underlying health issues, an adequate sick leave policy might be a viable solution. This not because menstruation should be perceived as an issue, but because such conditions are not the norm and should therefore be treated as seriously and as carefully as any other health-related issue.

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MENSTRUACIJA NA RADU NE BI TREBALO DA BUDE PROBLEM – TAČKA!

Mila Petrović

APSTRAKT

Iako je normalan deo ženske biologije, menstruacija i dalje predstavlja izvor tabua, stigme, predrasuda i praksi koje stvaraju dalje rascepe u već teško podeljenom društvu. Ne samo da je takva situacija nepravedna i prilično uvredljiva, već ona stvara i probleme u radnoj sredini. Sama činjenica da žena ima menstruaciju dovodi je u opasnost da bude percipirana kao nesposobna, stvara potencijalne higijenske i logističke probleme i, u određenom broju slučajeva, prilično otežava mogućnost zaposlenih žena da obavljaju svoj posao. Takva situacija zahteva politike koje mogu da zadovolje potrebe zaposlenih u menstrualnom ciklusu, kao i da pruže zaštitu od bilo kakvog neželjenog ponašanja koje bi moglo da ovu urođenu biološku osobinu pojedinca pretvori u oružje. Stoga je svrha ovog rada da analizira položaj zaposlenih koji imaju menstruaciju na poslu, kao i moguće politike koje poslodavac može uvesti kako bi olakšao njihov položaj.

Ključne reči: menstruacija, radna sredina, menstruacione politike, menstrualno zdravlje, menstrualno bolovanje.

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