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An Interface between Menstrual Leaves and the Right to Health: *Analysis of Domestic Labour Legislation*

Solymosi-Szekeres Bernadett*

Abstract— Women persistently encounter considerable barriers in the labour market, including increased rates of non-participation, diminished wages, and constrained access to leadership positions. The job segregation has to be mentioned that exacerbates the gender pay gap and devalues female-dominated jobs. Despite commitments to gender equality, progress is often hindered by ineffective policies and a lack of political will. Women's disadvantages are often attributed to their biological and social roles, particularly child-rearing, but emerging issues like menstrual poverty underscore the need for reform.

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Menstruation, an important aspect of women's health, is largely overlooked in labour law, contributing to indirect discrimination in the workplace. There is a need for the regulation of menstruation in labour law, particularly through menstrual leave, as a necessary step toward gender equality. Menstrual health should be recognised as a human rights issue, requiring policies that address menstruation in the workplace. Menstruation, often overlooked in labour law, significantly impacts women's productivity and well-being at work. While gender-neutral labour laws fail to address specific challenges faced by women, menstrual health, including dysmenorrhea and related symptoms, contributes to absenteeism and presenteeism. Studies show that menstrual pain affects up to 90% of women, leading to missed work or reduced performance. This issue, along with reproductive health concerns, has largely been ignored by occupational health policies. This paper advocates for the inclusion of menstrual health in labour law, proposing flexible working hours, menstrual leave, and improved workplace conditions to support women's health and reduce productivity losses. Recognising menstruation in labour law not only advances gender parity but also supports broader goals of

reproductive health and social justice, improving women's rights and well-being in the workplace.

***Keywords-* Menstruation, labour law, reproductive health, human rights, health rights**

I. INTRODUCTION

The labour market participation of women is of interest to most national governments, but it is widely recognised that women do not participate in the labour market on equal terms or with the same results as men, which can be observed through several phenomena, for example, the glass ceiling theory. Despite gender equality being a basic human right, women still experience significant disadvantages in employment, largely due to societal norms surrounding motherhood and traditional gender roles. On a global scale, research indicates that the burden of family care predominantly rests on women. These circumstances often result in women's professional aspirations being overshadowed by the additional responsibility they shoulder, particularly when balancing it with motherhood. In the following lines, the author will illustrate this difference, starting with employment policy, then labour law issues. Next, it is important to draw attention to a circumstance that is generally not regulated, is linked to being a woman and also affects work. This circumstance is the reproductive health of women,

and in particular menstruation, which is not taken into account in EU Member States' labour law regulations, nor globally, apart from a few specific examples. Menstruation is a natural biological process, which may nevertheless cause discrimination or stigma for the persons concerned. The burden of menstruation on menstruating individuals is a problem that arises at several points, which requires scientific attention in order to justify appropriate legislation. These burdens are demonstrated by the relevant statistical surveys. For example, one survey of 2000 people in 2023 found that significant 79% of respondents have experienced symptoms related to menstruation, with the most frequent being abdominal cramps (60%), irritability (52%), fatigue (49%), bloating (49%), and low mood (47%). Among those who have dealt with these symptoms, 69% report that it has had a negative impact on their work. Additionally, more than half (53%) have had to take time off work due to their symptoms. Given these high rates, it makes one wonder how the law approaches this proven social phenomenon. A factor that affects society to such a large extent and has a serious impact on well-being cannot be ignored from the point of view of jurisprudence.

The study takes an unconventional approach to this issue, since the framework is not the usual gender equality as a

fundamental right, which can be found mainly in the literature, but the right to health as a basic, fundamental, core human right. In view of this, we build on the doctrine of labour law based on equality and health rather than feminist labour law. A key focus is the regulation of menstruation in employment law, with special attention to menstrual leave as a progressive legal institution that remains largely underexplored. The research employs a multidisciplinary approach, integrating legal analysis, policy review, and comparative case studies. The study draws from international legal frameworks, national labour laws, and human rights instruments to assess the extent to which menstruation is acknowledged within employment regulations. The case of Indonesia, which has implemented menstrual leave policies, is examined to highlight legislative best practices and potential challenges. In the research we examine, to what extent is menstruation recognised as a labour rights issue in national and international legal frameworks, and how can the regulation of menstruation in employment law contribute to reproductive health rights? By addressing these questions, the study aims to contribute to ongoing legal and policy discussions on menstrual equity, gender-sensitive labour protections, and the recognition of menstruation as a workplace issue requiring legislative intervention.

II. CHALLENGES FOR WOMEN IN THE LABOUR MARKET

The labour market dynamics for women differ significantly from those for men. A notably high rate of inactivity among the women who are mothers of young children stands out by European standards. Additionally, those women, who are unskilled, retired, and increasingly, younger women, face considerable challenges in securing their labour relationship. Women often work longer hours while earning less than men, hold fewer managerial roles, and disproportionately shoulder the responsibility of balancing work and private life, a burden exacerbated by unequal domestic labour distribution and rigid working hours. Job segregation is one of several issues shaping women's employment conditions. Such segregation not only reinforces the gender pay gap but also affects the perceived value of these jobs and their associated working conditions. Work dominated by women is frequently undervalued, seen as less significant or productive, which directly impacts wages and workplace standards. Although both global and national commitments and socio-economic interests dictate that the position of women (regarding the absolute and relative positions as well) in the labour market must be strengthened.

The disadvantages women face in the global and national labour market can be normalised

in public discourse and policy. This problematic situation might be rooted in assumptions about their biological traits, such as the capacity for childbirth and breastfeeding, and their traditional social roles, including child-rearing and caregiving. These challenges are frequently viewed as inherent and unchangeable rather than issues to be addressed. However, growing social challenges, such as the feminisation of poverty and child poverty, are prompting policymakers to address these issues. The challenges women face are researched and proven, as can be seen in the following cite World Bank study, and the disparity is evident across multiple facets of women's employment. For instance, over 2.7 billion women globally do not have the granted right, as men do, to access the same labour relationships. A 2018 World Bank study of 189 countries revealed that 104 of them enforce laws barring women from certain jobs. Additionally, 59 countries lack legislation against workplace sexual harassment, and in 18 countries, husbands are legally permitted to prevent their wives from working. In addition to such employment policy factors, the structure of legislation, which is detached from them and thus able to pursue noble objectives, like equality and fair treatment, is particularly important, especially the impact of labour law on the situation of women, which has a major impact on women workers.

III. BASIC PRINCIPLES OF WOMEN'S LABOUR RIGHTS, WITH SPECIAL REFERENCE TO MENSTRUATION

As can be found above, while gender and cultural norms are important determinants of women's experiences in the labour market, the institutional system, and in particular labour law, has a significant impact on shaping women's position in the workplace. The regulation of the situation of women in employment law is therefore particularly important to avoid gender discrimination. In a large number of national legislations, labour law regulations concerning legal support and protection for women are largely centred around their role as mothers, such as measures preventing termination during maternity. This focus indicates that the decisions that are made by governments and impact women are more likely to be shaped by demographic concerns than by a broader commitment to gender equality. Demographic trends can be influenced by a range of policy instruments. If a nation's government continues to expand its family support system, it will have a positive impact on population decline. Therefore, the national legislation and other soft policies affecting the situation of women, especially their fertility, are in a very deep connection with the demographic problems and their possible solutions of one nation.

Women's reproductive process is also protected by social and labour law, thus contributing to the employment status security of the women concerned. Menstruation, however, is inextricably linked to women's fertility and is currently underappreciated in the labour and social law context, and this is a non-negligible health issue. Labour law protection is also intended to ensure that work is not hazardous to health, so labour law must protect all aspects of the worker's health. The societal stigma surrounding menstruation, coupled with the lack of legal recognition, creates an environment ripe for unequal treatment, often manifesting as indirect discrimination.

The issue of the legal regulation of menstruation is extremely important and is justified by fundamental rights considerations. It is a general social phenomenon that menstruation, and therefore the menstrual cycle, is a health circumstance that is ignored, taken for granted and considered taboo. The same applies to menopause, the final milestone of the reproductive life cycle, which is also a specifically female problem and is generally not considered in legal research. The concealment of menstruation and menopause is almost the norm, and a change is needed. An important initial step is to explore the research questions and social justice perspectives that become possible when menstrual health

and policy are examined across the life course. What new understandings arise when menstruation is treated as a dynamic and evolving category of analysis?

The acknowledgement of menstruation-related challenges and health burdens is a relatively new concept among policymakers. It has never been a topic widely discussed either in private or in public spaces. Once menstruation becomes a subject of discourse, the frame term 'menstrual equality' refers to the pursuit of democratic credentials and civic, economic, and political participation, along with access to opportunities, which are integral to the broader concept of "menstrual equality and equity." This concept extends beyond the realms of hygiene, health, or public health, incorporating a human rights perspective that offers a concrete foundation for advocacy efforts.

A notable and unique provision in labour law regarding menstruation, present in certain countries and workplaces, is menstrual leave. Menstrual leave is one of the most progressive labour law provisions recognising menstruation, offering women a designated rest period. It also functions as a pro-natalist "safeguard clause," reinforcing the idea that women's biological uniqueness forms the basis of their social and professional engagement. Despite the crucial role of labour legislation in promoting gender equality,

menstrual leave remains an underexplored and largely unregulated area. While the topic has been gaining attention from both academia and the public sector, research on its implementation and impact is still limited. There are few interdisciplinary or comparative global studies on menstrual leave, and little is known about its actual use or its influence on gender dynamics in the workplace. This is despite the increasing attention the topic is receiving from both academic circles and the public sector. There are not many interdisciplinary and comparative global studies on menstrual leave, and little is said about its use or its impact on relations between the sexes in the workplace. There is also a paucity of research on menstruation and employment, menstruation in the workplace, and equal treatment of employees. For example, in Central and Eastern Europe, including Hungary, there are only a few scientific studies in the literature. In the grey literature, the topic has recently been re-examined, but from both the legislative and the scientific point of view, the examination and treatment of the relationship between menstruation and labour law is incomplete. However, menstrual leave is nowadays an increasingly recognised need, so its introduction into labour law can be seen as a progressive legislative development. As this is a relatively new field of research, it has faced significant challenges in related research, the

most important of which are the lack of scientific analysis and the lack of empirical evidence on the use or impact of policies.

IV. CHANGES IN THE 'NEW' LABOUR CODES: SPECIFIC ENTITLEMENTS AND IMPROVEMENTS

One important area of fundamental rights is the issue of health rights. The right to health or the right to health protection is undeniably a social right in human rights instruments and national constitutions, which, together with other social rights, creates regulatory obligations for states. The scope of the international institutions in this context is noteworthy. Given that health is defined in the preamble to the Constitution of the World Health Organization (WHO) as a state of complete physical, mental, and social well-being, rather than merely the absence of illness or infirmity, and serves as a fundamental reference point in defining the scope of protection of the right to health. This concept encompasses social security, along with the factors that influence an individual's physical and mental well-being, aiming to achieve overall well-being. The attainment of this broadly understood state of health is defined as a human right in the Preamble to the Constitution: the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being. Health is therefore a fundamental human right, in the broad conceptual

framework of which menstruation is also a circumstance to be considered.

The main fundamental rights organisations and international coalitions mentioned below all value menstruation because of its enormous impact on society. The UN emphasises that the stigma and shame linked to stereotypes about menstruation significantly affect all areas of the human rights of women. This includes their basic rights to equality, health, but also the basic rights to education, proper and safe working conditions, and protection from discrimination. And the UN Human Rights Council calls for menstruation to be recognised as a health and human rights issue, not just a hygiene issue. In 2018, the UN Commission on the Status of Women recommended taking action to foster a culture where menstruation is considered to be a natural and healthy process. It was also highlighted that girls shall not be stigmatised because of it. Looking at further international efforts, we must highlight the findings of UNICEF. According to UNICEF, menstruating women should have access to clean menstrual products that can be changed as needed throughout their cycle, in private and out of public view. They should also have access to proper facilities for the disposal of used menstrual products.

Following the existing international examples, UNICEF also has a sharp definition for

menstrual health, which is a state of overall physical, mental and social well-being, and not merely the absence of disease or illness associated with the menstrual cycle. Menstrual health is assessed along five dimensions:

1. The availability of correct, timely, and age-suitable information regarding the menstrual cycle, menstruation, life transitions, and the corresponding self-care and hygiene practices.

2. Ensuring women can manage their menstruation to align with their preferences, hygiene needs, comfort, privacy, and safety. This involves providing access to affordable and reliable menstrual products, as well as adequate facilities and services for washing, changing products, and disposing of used materials, including access to water, sanitation, and hygiene services.

3. Prompt diagnosis, cure, and care for discomforts that are in connection with the menstrual cycle, and conditions, which include access to suitable healthcare services, self-care strategies, and pain relief options.

4. To be in a supportive, stigma-free environment regarding menstruation, with access to resources that enable confident self-care and informed choices during the menstrual cycle.

5. The right to participate fully in all areas of life – civic, cultural, economic, social, and

political – throughout all stages of the menstrual cycle, without facing exclusion, discrimination, coercion, or even violence.

Grassroots workers and activists have played a key role in bringing menstrual health to the forefront of global discussions on health, education, human rights, and gender equality. As a result, an increasing number of international organisations, including the WHO, are focusing on menstrual health. The WHO has also advocated for menstrual health to be seen as a matter of health and human rights, rather than just a hygiene concern. International organisations, like the mentioned WHO or the United Nations Population Fund, recognise menstrual health as a fundamental issue tied to human rights, gender equality, and basic rights. The WHO emphasises that menstrual health should be viewed not only from a physical perspective but also through psychological and social lenses. This includes fostering an environment where menstruation is free from stigma and shame. Such an environment, referred to as a menstruation-friendly or period-friendly workplace, necessitates specific actions and initiatives from employers. King highlights that knowledge about the nature, frequency, and effective management of menstrual symptoms remains limited among the general population. This widespread lack of understanding is not coincidental, especially

considering the availability of high-quality research, nor is it confined to a handful of East Asian countries. Instead, this global ignorance around menstrual health can be seen as strategic, reinforcing gender inequality by allowing entrenched myths to go unchallenged by empirical evidence. Consequently, effective menstrual health interventions must inherently include an educational element.

Legislators can affect promoting menstrual health in a number of ways, e.g. developing policies to combat menstrual poverty or, especially highlighted by this research, by regulating the connections and relationship of menstruation and labour. An example is the Indonesian legislature, which is trying to promote menstrual health through various policies. The country, highlighted below, has made significant progress in integrating menstrual health into policies on water, sanitation and hygiene (WASH), education and school health, and labour legislation in the workplace. Menstrual health is supported by the following policies, plans and guidelines. First of all, we have to mention Article 18 (Menstrual leave) of Labour Law No 13/2003, which allows female workers to take two days of paid leave during menstruation. Second is the Standard Regulation on the Design of Disposable Sanitary Pads in Indonesia (2000 and revised in 2015). This regulation sets standards for disposable

sanitary pads. The National School Health Strategy is also worth highlighting, because this strategy includes three menstrual health provisions, i.e., (i) health education by providing menstrual health knowledge and awareness; (ii) health services; and (iii) providing a healthy school environment for adolescent girls. Very exciting is the Water, Sanitation and Hygiene (WASH) programme, because this programme aims the schools, which include facilities that support menstrual health (for example, functional, clean, sex-segregated toilets and handwashing facilities with soap). They also address menstrual health knowledge and awareness in schools and communities, which is in connection with the educational goals. Regarding education, we have to mention other policies, like the Menstrual Hygiene Management Guide for Teachers and Parents (2017), the Menstrual Hygiene Management Communication Strategy (2019), and Sexual and Reproductive Health Guidelines (2021). These are all in connection with menstruation and education, communication in many forms.

This broad package of measures presents a comprehensive concept, approaching the problem from many directions. The present research focuses on the labour rights focus, which is the only one that the Indonesian government emphasises exclusively from the perspective of equal treatment,

and the only one of its programmes that is linked to the principle of equal treatment.

In employment law, an important aspect of menstruation might be to ensure that menstruating persons do not have to fulfil their labour obligations if the painful menstrual symptoms persist and make it impossible to work. This may take the form of menstrual leave in employment law. The creation of this legal institution and the discussion on how to achieve it can be seen as an obligation on the state and the social partners, like trade unions, since it is motivated by the right to health. And the right to health must be understood as the right of access to the institutions, goods and services necessary for the highest attainable standard of health. It should therefore guarantee these actors access to the legal institution of menstrual leave. Of course, because of the divisive nature of menstruation and related legal institutions, addressing menstrual issues across the life course raises wider social issues and tensions, including gender inequality.

In addition to the concept of menstrual health, the concept of reproductive health should be highlighted in the context of the human right to health. It is thus an integral aspect of the right to health, encompassing both freedoms and entitlements. Freedom encompasses the individual's right to control his or her own health and body, including reproductive health.

Optimal sexual and reproductive health is defined as a state of complete mental, physical, and social well-being in all aspects concerning the reproductive system. Reproductive health is, therefore, intertwined with sexual health and will be referred to together. We can find that many examples, like the 1994 International Conference on Population and Development (ICPD), recognised sexual and reproductive health as a fundamental human right. This definition was further reinforced by the landmark agreements reached at the ICPD in Cairo and the Fourth World Conference on Women in Beijing in 1995. Both governments and advocacy groups have been working to implement and extend global commitments to sexual and reproductive health. Over time, alongside efforts to tackle gender inequality, the safeguarding and advancement of sexual and reproductive health have been integrated into the UN agenda and are now part of the Sustainable Development Goals. In addition, the concept of reproductive health is also emerging in Europe, as the European Parliament stresses the importance of women's reproductive health.

Sexual and reproductive health outcomes are heavily influenced by gender inequalities. Global organisations highlight the importance of gender-sensitive approaches as a cornerstone of public health efforts. Recognising that men and women have unique

sexual and reproductive health needs, gender-specific interventions are essential. Women, in particular, face numerous gynaecological conditions, and these definitely affect their reproductive health. These challenges are tied to the female reproductive cycle, such as menstruation and menopause, and are widespread, with conditions like dysmenorrhea (painful periods) and endometriosis being notably common. The issue of menstrual freedom, therefore, contributes to reproductive health. However, to support reproductive health, it is necessary to understand the extent of menstrual pain women experience, and it must also be managed by means that are effective and necessary.

Research into both menstrual health and reproductive health is in its infancy. MRS (menstrual-related symptoms) have a number of effects, most notably a reduction in productivity and an increase in the costs of the resulting absence or attendance at work. Yet, research in medicine or other disciplines on both the effects during attendance and the consequences during and associated with absence is very limited. Schoep et al. emphasise that studies on how menstrual symptoms affect quality of life should focus on a wide array of symptoms rather than just individual ones. This includes both common symptoms, such as heavy bleeding and cramps, as well as less common ones like nausea and cold sweats.

V. MENSTRUATION AT WORK - AND IN LABOUR LAW?

The right to health as a human right is described above in relation to menstrual health and reproductive health. The issue of women's health at work deserves further discussion. This is an issue that is receiving increasing attention in the modern labour market, as the proportion of women workers is increasing worldwide and more and more women are taking on positions of responsibility and leadership. While occupational health and safety is of fundamental importance for all workers, the specific health and safety risks for women workers, which arise from biological and social differences, like the MRS mentioned above or the challenges on the labour market shown above, deserve particular attention. The ergonomic, psychosocial and health challenges that women face may be different from those faced by men, for example, reproductive health risks, the stress of balancing work and family life, and the psychological impact of gender discrimination or harassment. A comprehensive examination of this issue will not only improve women's well-being at work but will also contribute to more inclusive workplaces and the long-term success of companies. The importance of creating equal working conditions and of health protection measures tailored to women is therefore high on the agenda of modern labour law and social discourse.

Although women constitute more than half of the global workforce, they continue to grapple with distinct health challenges in professional settings. Reproductive health concerns, such as menstrual discomfort and pregnancy-related complications, can hinder their ability to work effectively and maintain a healthy lifestyle. Psychological health is another critical aspect, with stress being one of the most prevalent issues. Chronic stress can contribute to a range of health problems, including anxiety, depression, and cardiovascular diseases. Mental health concerns are further exacerbated by experiences of workplace discrimination and harassment. Studies reveal that women are disproportionately affected by stress and burnout in the workplace, often leading to significant mental health struggles.

Biological and physiological differences between men and women lead to distinct health challenges, which can influence women's participation in the workforce and public health overall. Over their lifetime, women experience significant changes, both within the menstrual cycle and across various life stages. While these changes are natural, they can also result in imbalances and health conditions. The monthly hormonal cycle, for instance, is often linked to issues like heavy bleeding and severe menstrual pain, which can persist throughout

a woman's fertile years until menopause.

During perimenopause, symptoms such as hot flashes, excessive sweating, disrupted sleep, and depression may result in discomfort for years in connection with the last menstrual period. Focusing specifically on menstruation, it affects daily life, expenses, and workplace participation, making it essential to connect menstrual health to labour law. This perspective highlights various issues related to menstruation in the context of work. Legislators also have a responsibility to address this, as menstrual pain and discomfort cannot be equated with other health conditions. Even with the rising presence of women in the workforce and growing attention to workplace well-being in the 20th century, research on menstruation management remains largely concentrated in areas beyond the workplace. Whereas, menstruation has a clear impact on work, which not only affects the workplace, but can also negatively affect the school performance of young menstruating women. Danish researchers have investigated both school and workplace underperformance in relation to menstruation and its many symptoms. Schoep and colleagues conducted a medical study involving 26,438 women and found that 13.8% reported missing school or work during their menstrual period, with 3.4% experiencing absences during

almost every cycle. On average, women missed 1.3 days per year due to menstruation. Additionally, 80.7% of respondents noted reduced productivity while present during their periods, amounting to an average of 23.2 days per year. The study concluded that Menstrual-Related Symptoms (MRS) lead to significant productivity losses, with reduced performance during attendance having a greater impact than absences. The findings highlight the need for more attention to the effects of these symptoms, particularly on women under 21, along with better treatment discussions for women of all ages and increased flexibility for students and workers. Similar research has been carried out in Australia. In a survey of 21,573 women in Australia, 90% reported experiencing debilitating menstrual pain, with 40% needing to take time off work or study to manage the discomfort. Many others chose to conceal their symptoms while at work or university, exacerbating their experience. A 2018 report by Public Health England found that menstrual pain and menstruation rank as the third most significant reproductive health concern for women, following the issues of preventing unwanted pregnancies and managing their sex life. Cote and his colleagues, studying a group of menstruating women in the United States, showed that heavier menstrual bleeding is often associated with absenteeism, with significant negative financial

consequences for women. The impact of menstrual health issues may be even more severe for individuals with additional gynaecological conditions. For instance, studies have shown that endometriosis leads to more frequent sick leave among Danish workers. The extended period between the onset of symptoms and diagnosis, along with delays in treatment, may contribute to reduced work capacity. And another study among Korean workers found that women with irregular menstruation had higher rates of part-time employment and unemployment. In the UK, Sang and colleagues conducted a survey of 627 individuals and found that a large number of respondents invested time and effort in managing menstrual symptoms at work. These included dealing with bleeding, frequent bathroom needs, and pain. Many reported continuing to work despite experiencing pain, even though they felt it negatively impacted their performance. Hungarian research has also looked at the extent to which women experience painful menstruation. The research involved a face-to-face test survey of more than 900 menstruating healthy women, which revealed that 20% of women surveyed reported that they subjectively experienced significant menstrual pain, 47% reported moderate menstrual pain and 24.4% of the sample reported moderate menstrual pain, that they have no pain, and when asked about the pain limiting their daily activities,

38% of respondents said that it was severe, 45% said that it had a slight effect on their daily activities and 20% said that their menstruation had no such effect.

The relationship between work conditions and menstruation emerges as a critical factor in the findings mentioned. While it is widely recognised that stress can exacerbate menstrual pain, the specific impact of workplace stress on severe dysmenorrhea remains underexplored. A study conducted in Hungary with over 400 participants examined how dysmenorrhea affects workplace performance. It found that 16.3% of the participants experienced severe menstrual pain that disrupted their daily activities. This group also indicated lower levels of workplace support and job security compared to a control group. Although this study was focused on Hungarian women, similar patterns have been observed in research from other countries. Additionally, while there is some association between the psychosocial work environment and menstrual pain, the number of studies on this topic is limited, and the results remain inconsistent. The results published by Thurston and colleagues in 2000 and by Christiani and colleagues in 1995 support the concern that high levels of psychosocial risks at the workplace increase the risk of dysmenorrhoea. This suggests that forward-thinking employers should aim to create period-friendly workplaces, as such

environments may help alleviate the perception of menstrual pain for those affected.

The severe menstrual pain itself, dysmenorrhea, is closely linked to the ability to work productively. De Sanctis and colleagues reviewed studies on dysmenorrhoea in several countries, some of which included data on the absence of menstrual irregularity. The research noted that school absences caused by dysmenorrhea among adolescents range widely, from 7.7% to 57.8%. This data was collected from 41,140 women across 27 countries, and there were significant variations in how outcomes were measured. This makes it difficult to draw definitive conclusions from the findings. Another important survey of 706 Spanish-speaking teenage girls found that 38% had skipped school due to dysmenorrhea (with no information about its secondary or primary nature) in the previous three months, and 59% said it negatively affected their ability to concentrate in class. In addition, Hungarian researchers came to a similar conclusion in the 1990s, when they observed that 1-1.5% of work absenteeism was due to menstrual difficulties.

Yet these phenomena are not addressed by labour law, but why? This question might have its answer in the field of gender issues. The largely gender-neutral stance in labour law is encapsulated in a 1964 ILO declaration, which asserts that the

issues faced by women workers are largely similar to those of men, but that additional measures are required due to women's multiple responsibilities, particularly related to motherhood. Feminist labour researchers have also sharply criticised the lack of attention to gender-specific concerns.

Menstrual leave policies have been introduced in various countries with mixed success, aiming to support women experiencing painful periods while often facing resistance due to stigma and workplace discrimination. Japan pioneered menstrual leave in 1947, though social stigma has led to underuse, while Indonesia, South Korea, and Taiwan implemented similar policies with varying levels of paid or unpaid leave. Vietnam grants extra rest time, and Zambia allows one day of menstrual leave per month without requiring medical proof. Spain became the first EU country to introduce paid menstrual leave in 2023, covering severe cases like endometriosis. Other countries, such as Mexico and parts of China, have introduced policies with bureaucratic requirements that may discourage use. While menstrual leave is seen as a step toward gender-inclusive work environments, concerns remain about reinforcing stereotypes or discouraging employers from hiring women, making its implementation a balancing act between health rights and workplace equality.

If one looks at existing international examples, it can be observed that the justification given by governments and employers for menstrual leave in many respects mirrors the arguments used to develop policies on maternity and parental leave or even childcare, for which there is an extensive literature on the impact on gender equality. However, I am of the opinion that we are talking about a much more complex issue of menstrual regulation. From a labour law point of view, too, there are several arguments in favour of regulating menstruation, since menstruation is not just a "private health matter", and therefore it is not just a "private matter" for the woman suffering from dysmenorrhoea to deal with this problem. Moreover, since menstruation is essentially a female phenomenon, an inherent part of being female, its regulation in labour law is an integral part of the redefinition of the workplace in a way that takes account of women, since it concerns the specific needs of the female part of the workforce.

In support of this, the issue of regulation of working conditions, the well-being of workers, and expectations of a healthy and safe working environment should also be highlighted. In relation to the right working conditions, Article 23 of the Universal Declaration of Human Rights affirms that everyone has the right to work, to free choice of employment, to just and favourable conditions of

work, and to protection against unemployment. Thus, the human right to work is intended to guarantee, on the one hand, the right to choose or accept work freely and, on the other hand, to ensure the right to just and favourable working conditions.

It is striking that the management of menstruation is generally ignored by legislators and enforcers in relation to this issue, even though Baird, Hill and Colussi highlight the important role of menstrual leave in addressing the economic costs of poor hygiene and absenteeism. Cycle-specific working conditions can cover a wide range of areas, such as adequate hygiene, equipment at the workplace, rest facilities, flexible working hours and even leave. For example, if we look at the European Union level, it is noteworthy that in the European Agency for Safety and Health at work (OSHA-EU) Report "New risks and trends in the safety and health of women at work", published on January 20th, 2013, meant to examine "the specific challenges in terms of health and safety posed by the more extensive integration of women in the labour market", the word menstruation is used only once (page 48) in its 382 pages. There is a clear need to broaden the perspective on reproductive health, with a stronger emphasis on incorporating reproductive issues within the context of overall occupational risks in research agendas. While some research exists on the new

mothers and expecting women, much less attention has been given to other aspects of women's health, such as hormonal effects, menstrual disorders, and menopause.

It is clear that menstruation has not been taken into account either in labour legislation or in occupational risk prevention, and only very recently has it been given minimal attention in experiences that we can still define as almost anecdotal at the global level. However, there are already studies that prove that menstrual symptoms typically do not lead to higher absenteeism, but they do contribute to increased presenteeism, where individuals attend work despite being unwell or in pain due to fear of job loss.

Presenteeism resulting from menstruation can lead to a decline in productivity. Recognising this, potential solutions to address these challenges may involve providing individuals experiencing menstruation with increased flexibility during their period (such as the option to work from home or adopt flexible hours), free access to workplace facilities, and the implementation of period leave policies, among other innovative approaches.

VI. CONCLUSION

Labour law must not lag behind in the development of gender equality, especially in light of recent labour law trends that aim to achieve the well-being of workers. Labour law scholars

are increasingly advocating for the creation of a new framework called "Labour Quality Law," influenced by the Fourth Industrial Revolution. This approach prioritises the qualitative dimensions of employment, such as ensuring equal opportunities in the workplace and promoting personal flexibility and autonomy, and the mental and physical well-being of workers. It emphasises placing the worker at the forefront of socio-economic transitions and reimagining the principles of Labour law. These lines reinforce the view of Baird, Hill and Colussi that labour law and industrial relations were designed for men, analysed from men's perspectives, which inherently limits the possibilities, scope and subject matter of academic research, and are subject to constant criticism for failing to respond adequately to the increase in women's participation in paid work. In addition, as long as male-dominated labour law standards prevail, menstruating women in uncompensated situations will be the victims of a performance-oriented organisational culture that does not take into account menstrual symptoms (and the difficulties caused by menopause). Because the workplace of the future is menstruation-friendly, and so is

the labour legislation of the future. This is clearly a human right to health, as everyone has the right to work without pain. As it has been said, one of the approaches to menstrual-friendly working environments is menstrual leave, allowing individuals to take time off work due to menstruation-related challenges. A proper assessment of reproductive health, including menstruation, in labour law is essential to ensure that gender differences are properly addressed in health-protective labour law. This paper does not seek to systematically present the arguments against labour law regulation of menstruation, but instead focuses on the right to health, which is not an element of the list of arguments against, but a fundamental requirement that cannot be weighed. This needs to be decided when the rules are drafted, as does the precise way in which they are to be developed. As regards the specific regulation, it is worth examining national solutions from the point of view of the governments and social partners wishing to transpose the given regulation, while at the same time, due to the sensitivity of the subject, the way of regulation should be tailored to the national culture. This is the way to make legal development work.

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