

Menstruation, Taboo, and the Law: A Jurisprudential Study of Menstrual Rights in India

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Abstract

This paper examines menstruation as a site at which biology, culture, gendered power, and law intersect. The existing jurisprudential argument is extended through sociological and anthropological scholarship on taboo, ritual purity, stigma, and the social construction of the body. Mary Douglas's account of "matter out of place" helps explain why bodily processes may become culturally classified as polluting; Erving Goffman's theory of stigma clarifies how menstruation can become a socially discrediting mark; and feminist scholarship demonstrates how apparently private bodily experiences are shaped by public institutions and gendered norms. Indian empirical studies further show that menstrual restrictions can affect mobility, education, worship, communication, and participation in public life. The paper argues that menstruation should be addressed not through exceptionalism or pity, but through equality, bodily autonomy, public health, dignity, and social inclusion. The constitutional framework of Articles 14, 15, 17, and 21 provides important normative resources, while jurisprudence such as *Indian Young Lawyers Association v. State of Kerala* and *Francis Coralie Mullin v. Administrator, Union Territory of Delhi* illuminates the relationship between dignity and exclusion. A progressive society must therefore replace secrecy with accurate education, stigma with informed public discourse, and discretionary welfare with durable institutional responsibility. Menstrual equity is presented as an interdisciplinary question of law and social justice rather than merely a question of hygiene.

Keywords: Menstruation; Menstrual Taboo; Stigma; Purity And Pollution; Sociology; Anthropology; Feminist Jurisprudence; Constitutional Dignity; Menstrual Equity; India

1. Introduction: Biology, Culture, Stigma, and Law

Menstruation is a routine biological process, yet the meanings attached to it are neither biologically inevitable nor socially uniform. Across societies, menstruating bodies have been surrounded by rules concerning food, sexuality, movement, worship, domestic work, cleanliness, and disclosure. The crucial analytical question is therefore not simply why menstruation occurs, but why a normal bodily process becomes a basis for secrecy, shame, exclusion, or unequal access to public life. The existing legal analysis of this paper identifies the consequences of such practices in terms of dignity, equality, health, sanitation, and education. Sociological and anthropological approaches deepen that analysis by showing how taboo is produced and reproduced through everyday norms.

In India, research has documented the persistence of menstrual restrictions even where education and urbanization have altered other dimensions of social life. A study of women in an urban slum in Delhi

found that menstruation was associated with restrictions concerning work, sex, food, bathing, and religious practice, while also emphasizing the need for continuous education beginning before menarche (Narayan et al. 116). More recent qualitative research among young women in Lucknow found stigma, limited opportunities to discuss menstruation, restrictions on mobility, and inadequate school sanitation facilities. The researchers also observed that communication describing menstruation as natural could help normalize the experience (Caruso et al.). These findings are significant because they demonstrate that taboo is not merely an abstract cultural idea: it can become embodied in institutions, relationships, routines, and material conditions.

The paper consequently moves from a purely legal question—whether menstrual exclusion is constitutionally permissible—to a broader interdisciplinary question: how does a society construct menstruation as a problem in the first place, and what would it mean to build institutions that do not reproduce that construction? The answer requires attention to anthropological theories of purity and pollution, sociological theories of stigma and social control, feminist theories of the body and law, and constitutional principles of substantive equality and dignity.

2. Anthropology of Menstrual Taboo: Purity, Pollution, and Social Order

Anthropological scholarship cautions against treating menstrual taboos as irrational curiosities belonging only to “traditional” societies. Mary Douglas’s classic analysis in *Purity and Danger* argues that ideas of dirt are connected to systems of classification and social order. Her famous formulation that “dirt is matter out of place” (44) shifts attention from the physical substance itself to the cultural boundary it is perceived to cross. Menstrual blood becomes especially significant within this framework because it is both natural and socially regulated: it is produced by the body, but its visibility can challenge expectations concerning bodily containment, sexuality, cleanliness, and gendered respectability.

Douglas’s insight is useful for understanding menstrual restrictions without assuming that every culture attaches identical meanings to menstruation. A menstruating body may be classified as temporarily unsuitable for particular spaces because the body has been symbolically placed outside an expected category of purity. Such classifications can become institutionalized through rules about kitchens, temples, sleeping arrangements, food, physical contact, or domestic responsibilities. Anthropological analysis therefore helps distinguish the biological event from the cultural meanings attached to it. Menstruation does not inherently signify pollution; rather, particular social systems can assign it that meaning and then reproduce it through ritual, language, and habit.

Indian scholarship similarly identifies “purity and pollution” as a major cultural framework through which menstrual restrictions are justified. Chitra Karunakaran Prasanna observes that menstrual stigma in India can curtail freedom of movement, education, worship, and access to the public sphere. Her analysis also emphasizes the emergence of feminist and legal challenges to such restrictions (Prasanna 91-95). The significance of this work lies in its recognition that menstrual taboo is not simply a private belief. Once a cultural classification determines where a person may go, whom she may touch, what she may eat, or whether she may participate in collective life, it becomes a question of social power.

3. Sociology of Menstruation: Stigma, Secrecy, and the “Normal” Body

Erving Goffman’s sociology of stigma offers a second important conceptual framework. In *Stigma: Notes on the Management of Spoiled Identity*, Goffman describes stigma as “an attribute that is deeply discrediting” (3). Menstrual stigma can be understood through this framework because the menstruating

person may be treated as socially discreditable when menstrual status becomes visible or known. Johnston-Robledo and Chrisler's analysis of menstruation as a stigmatized condition further explains that menstrual blood can operate as a stigmatizing mark associated with the body, character, and social identity. The stigma is intensified by concealment: the person is expected to manage not only menstruation itself but also the possibility that others may discover it.

This sociological perspective reveals why euphemisms, secrecy, and anxiety about menstrual leakage are socially important. If menstruation must be hidden, the individual is required to perform "normality" by ensuring that the body leaves no visible evidence of menstruation. The burden is therefore simultaneously material and symbolic. A person may need sanitary products, water, private toilets, disposal facilities, pain management, and time for rest; at the same time, she may be expected to behave as though none of these needs exist. Menstrual stigma thus produces a paradox: the body is biologically ordinary but socially required to appear exceptional only in its invisibility.

The concept of stigma also helps explain why gender-neutral or universal language around menstrual health can be socially useful. Menstruation is experienced by many women and girls, but not exclusively by women, and not every woman menstruates. Contemporary sociological work has therefore examined trans and non-binary experiences of menstruation and the way gender norms shape bodily expectations (Frank). A progressive framework should consequently avoid reducing menstruation to a simplistic equation between biological process and a single social identity. The core principle is access to dignity, privacy, health, and equality for every person who menstruates.

4. Indian Sociological Evidence: Taboo as Everyday Social Control

A sociological study of stigma and silence around menstruation in India reports that menstrual knowledge is frequently transmitted through mothers, sisters, and friends, while shame can make that knowledge partial or inaccurate (Jalan et al. 47-65). This finding demonstrates how taboo can reproduce itself intergenerationally. A prohibition does not need to be written into law to become socially powerful. It can be reproduced through ordinary instruction: what words may be spoken, which objects may be touched, where a person may sit, and which activities are considered inappropriate during menstruation.

Research in Northern India further shows that women can simultaneously reproduce and challenge menstrual taboos. A culture-centered study involving college-going women found that communication about menstruation was often shaped by secrecy and shame, while greater openness created opportunities for positive change. The study is especially important for a progressive model because it does not treat women simply as passive recipients of tradition; it recognizes their agency in sustaining, negotiating, and transforming social practices (Bharadwaj et al.).

Research conducted among young women in Lucknow likewise illustrates the layered nature of menstrual disadvantage. Participants described stigma at the family and community levels, restricted mobility and social interaction, and institutional shortcomings such as inadequate toilets. At the same time, participants who received affirming explanations that menstruation was natural reported feeling less anxious and more comfortable. The implication is clear: menstrual stigma is socially produced and therefore socially modifiable (Caruso et al.). Legal reform is important, but it is unlikely to be sufficient unless it is accompanied by education, institutional design, and changes in everyday communication.

5. Feminist Jurisprudence and the Critique of Legal Neutrality

Feminist jurisprudence asks whether apparently neutral legal standards reproduce inequalities by treating a historically dominant experience as universal. Catharine MacKinnon's critique is relevant because she argues that "the state is male in the viewpoint of law: objectivity is its norm" (162). Applied cautiously to menstrual rights, the point is not that every law is intentionally discriminatory. Rather, legal neutrality can overlook embodied needs when institutions are designed without accounting for the conditions under which some citizens participate in public life.

This insight is particularly relevant to schools, universities, workplaces, prisons, shelters, and other institutions in which attendance and participation depend upon access to sanitation, privacy, water, and affordable menstrual products. If an institution provides toilets but they lack privacy, water, disposal mechanisms, or safe access, formal equality may coexist with substantive inequality. A person is theoretically free to attend class or work, but the material conditions required to exercise that freedom may be absent. Menstrual equity therefore asks the law to consider not only identical treatment but also the conditions necessary for meaningful participation.

6. Roscoe Pound and Social Engineering: Law as an Instrument of Reform

Roscoe Pound's functional conception of law provides a useful bridge between legal doctrine and social transformation. In *An Introduction to the Philosophy of Law*, Pound describes jurisprudence in terms of the adjustment and balancing of competing social interests. His approach is valuable for menstrual rights because the legal system must mediate between inherited customs, institutional convenience, public health, individual autonomy, and constitutional equality. Where a customary practice produces preventable exclusion or humiliation, the law can establish a baseline below which public institutions may not fall.

The concept of social engineering should not, however, be interpreted as permission for the state to regulate intimate bodily life excessively. A progressive legal order must balance reform with autonomy. The objective is not to compel particular menstrual behavior but to remove barriers and ensure that individuals have the resources and freedom to manage menstruation safely. Law should therefore regulate discrimination and institutional neglect while leaving individuals free to observe personal or religious practices that do not deny the equal rights of others.

7. The Constitutional Matrix: Dignity, Equality, and Exclusion

The original paper correctly places Article 21 at the center of the dignity analysis. The Supreme Court's decision in *Francis Coralie Mullin v. Administrator, Union Territory of Delhi* expanded the understanding of life beyond mere physical existence. The Court stated:

"the right to life includes the right to live with human dignity and all that goes along with it, namely, the bare necessities of life" (*Francis Coralie Mullin* 746)

Read in the context of menstrual health, this principle supports attention to basic conditions of dignified participation, including sanitation, privacy, health, and bodily integrity. It does not mean that every menstrual product or facility is automatically a constitutional entitlement in a particular form; rather, it provides a constitutional vocabulary through which courts and policymakers can evaluate conditions that make equal participation practically impossible.

Articles 14 and 15 provide a second constitutional dimension. Menstrual restrictions may reproduce sex-based inequality when a biological process becomes the basis for exclusion from education,

employment, worship, or civic participation. A substantive equality approach asks whether the practical effect of a rule or practice entrenches a gendered disadvantage, rather than stopping at the formal question of whether a rule is worded in neutral terms.

Article 17 requires particular care. In *Indian Young Lawyers Association v. State of Kerala*, the Supreme Court considered exclusion of women from the Sabarimala temple and addressed the constitutional significance of notions of purity and pollution. The judgment is highly relevant to menstrual-rights discourse, but its reasoning should not be simplified into the proposition that every menstrual restriction is automatically an Article 17 violation. The stronger and more defensible argument is that the constitutional prohibition of untouchability and social exclusion provides an important framework for scrutinizing practices that stigmatize persons through notions of bodily impurity. The judgment consequently contributes to the broader constitutional conversation about dignity, equality, and exclusion.

8. From Hygiene to Menstrual Equity

The language of “menstrual hygiene” has played an important role in public health, but hygiene alone is too narrow to capture the social dimensions of menstruation. Menstrual equity includes access to safe products, water, sanitation, privacy, healthcare, accurate information, affordable facilities, and freedom from discrimination and humiliation. It also requires attention to the economic consequences of menstrual management. When a student misses school because a toilet is unusable or products are unaffordable, the problem is simultaneously one of health, education, gender equality, and economic opportunity.

The distinction matters because a hygiene-only model can unintentionally place responsibility on the individual: manage your blood, buy the correct product, remain clean, and avoid embarrassment. An equity model shifts part of that responsibility to institutions. Schools need functioning toilets and disposal systems; workplaces need reasonable access to sanitation; public institutions need accessible facilities; healthcare providers need accurate and non-stigmatizing information; and educational curricula should explain menstruation before menarche rather than treating it as a secret discovered through crisis.

9. Menstruation and the Possibility of a Progressive Society

A progressive society does not require the disappearance of all cultural or religious beliefs about menstruation. Progress is better measured by whether individuals can participate in society without coercion, humiliation, or material exclusion. A person may choose to observe a personal or religious practice concerning menstruation, but that choice is qualitatively different from being compelled to sleep separately, excluded from education, denied employment opportunities, deprived of sanitation, or treated as physically contaminating.

The first step toward such a society is linguistic normalization. Children should learn the biological facts of menstruation in age-appropriate ways, and boys should be included rather than positioned as outsiders to the subject. The second is institutional normalization: menstrual products, toilets, water, disposal facilities, and health information should be treated as ordinary components of public infrastructure. The third is cultural normalization: families, schools, workplaces, media, and religious communities should have space for informed dialogue rather than silence. Recent Indian activism demonstrates that public discussion can itself become a form of resistance to shame and social control (Mitra and Karunakaran).

A progressive approach must also resist stereotypes that portray menstruating persons as weak, irrational, impure, or inherently less capable. Menstruation can involve pain, fatigue, or other symptoms, but these experiences should be addressed through healthcare and reasonable institutional accommodation rather than generalized assumptions about competence. Likewise, menstrual equity should not become another form of surveillance in which institutions monitor menstrual cycles or demand disclosure. Privacy is an essential part of dignity.

Finally, menstrual justice should be intersectional in its institutional design. Economic disadvantage, rural or urban location, disability, age, caste-based exclusion, migration, incarceration, and gender identity can shape access to menstrual resources in different ways. A universal policy may establish the baseline, but effective implementation requires attention to the different environments in which people menstruate. The goal is not to create a special category of citizenship, but to remove barriers that prevent equal citizenship from becoming real.

10. International and Legislative Models

Scotland's Period Products (Free Provision) Act 2021 illustrates one legislative approach: it establishes duties concerning the provision of period products free of charge. The significance of such legislation lies less in its replication as a model and more in its conceptual shift from charity to institutional responsibility. India has developed menstrual-health initiatives, but a durable framework can strengthen accountability by clearly identifying institutional duties, minimum standards, funding responsibilities, grievance mechanisms, and monitoring procedures.

Any Indian legislative framework should combine at least five elements: universal access to essential menstrual products in educational and custodial institutions; adequate water, sanitation, privacy, and disposal infrastructure; scientifically accurate menstrual education; protection against discrimination and humiliation; and accessible complaint and accountability mechanisms. Such measures would transform menstrual health from an episodic welfare concern into a component of public infrastructure and equal citizenship.

11. Toward a Rights-Based and Socially Transformative Framework

The jurisprudential argument can therefore be reframed as a rights-based continuum. At one end lies biological necessity: menstruation requires practical management. At the next level lies public health: safe products, water, sanitation, and healthcare are necessary to prevent avoidable harms. Beyond public health lies equality: institutional arrangements should not make participation more difficult for those who menstruate. Finally, dignity and autonomy require freedom from humiliation, forced disclosure, and social exclusion.

This continuum also clarifies the role of law. Law cannot abolish prejudice by decree, but it can establish institutional conditions in which prejudice has fewer material consequences. It can require schools to maintain usable facilities, prohibit discriminatory treatment, establish access to products, protect privacy, and create remedies. Education and cultural change can then address the meanings and stereotypes that law alone cannot transform. In this sense, constitutional law and sociology are complementary: sociology explains how stigma is reproduced; law can identify and regulate the institutional practices through which stigma becomes unequal citizenship.

12. Conclusion: From Menstrual Taboo to Menstrual Citizenship

Menstruation is neither a purely private event nor merely a medical issue. It is a social fact whose meanings are shaped by systems of classification, stigma, gender, religion, economics, and institutional design. Anthropology helps explain how ideas of purity and pollution turn bodily processes into symbolic boundaries. Sociology shows how stigma operates through secrecy, disclosure, labeling, and social control. Feminist jurisprudence reveals the limitations of supposedly neutral institutions, while constitutional law supplies principles of equality, dignity, bodily autonomy, and non-exclusion.

The central task for Indian society is therefore not to “solve” menstruation but to remove the social disadvantages attached to it. This requires a shift from secrecy to informed communication, from individual burden to institutional responsibility, and from hygiene alone to menstrual equity. Such a shift is consistent with the constitutional aspiration to secure dignity and equal citizenship. A progressive society is not one in which menstruation is romanticized or politicized at every moment; it is one in which menstruation ceases to be a reason for humiliation, exclusion, educational disadvantage, or denial of ordinary participation in public life.

The law has an important role in this transformation, but the law should operate alongside education, public-health infrastructure, social dialogue, and cultural change. The most sustainable model is therefore one in which constitutional principles establish a floor of equality and dignity, institutions provide the material conditions for safe menstrual management, and society gradually abandons stereotypes that equate menstruation with impurity or diminished personhood. Menstrual rights, understood in this broader sense, are not claims for exceptional treatment. They are claims that the ordinary promise of equal citizenship should apply to bodies as they actually exist.

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