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FUNCTIONAL JUSTICE AND MENSTRUAL RIGHTS OF WORKING-CLASS WOMEN IN INDIA: AN EMPIRICAL AND LEGAL ANALYSIS

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Abstract: *Menstruation is a universal biological fact that 355 million women of reproductive age of India experience and therefore is conspicuously missing in the mainstream discourse of labour law, constitutional jurisprudence and institutional policy. This paper develops the idea of functional justice as an analytical and normative theory to assess whether current legal protections, constitutional assurances, and workplace institutionalizations are effective in terms of rendering substantive dignity and equality to the working-class women who do face menstrual health difficulties in the Indian workplace occupation. Based on an innovative empirical survey of 300 working women representing different socio-economic classes, targeting different sectors, and geographical locations, as well as an intensive doctrinal review of legal provisions and statutory frameworks, and judicial verdicts, the study questions the structural disjunction between constitutional rights and their actualisation. The empirical data indicates that 73.33% of the respondents are employed in organisations that lack any menstrual health policy; 62.33% have experienced discrimination or humiliation due to instances of menstrual leakage; 58% have experienced a moderate to severe drop in work performance during menstruation; and 69% have faced an increased level of psychological stress as a result of the compounded burdens of Despite these harsh facts, legislative awareness is appallingly low, with 54.67% of respondents being unaware of some of the most important proposed legislative tools such as the Menstrual Benefit Bill, 2017 and the Right of Women to Menstrual Leave and Free Sanitary Products Bill, 2022. The paper places these observations in the theoretical framework of classical and modern theories of justice, between Rawlsian distributive justice and Sen on capabilities, and feminist legal theory and Nussbaum on dignity, and shows that functional justice does not only require the establishment of gender-sensitive laws but also their internalisation into institutions, their pedagogical spread, and their cultural application. The paper ends with a multi-dimensional policy framework that suggests mandatory menstrual health policies, codification of legislation, expansion of Article 21 protections in the judiciary, development of workplace infrastructure and intersectional legal literacy programmes.*

Keywords: *Functional Justice, Menstrual Health, Working-Class Women, Constitutional Law, Labour Rights, Reproductive Justice, India, Gender Equality, Workplace Policy, Bodily Autonomy*

1. INTRODUCTION

The overlap between biological embodiment, legal entitlement and institutional performance is one of the least theorised areas of Indian jurisprudence in modern times. Menstruation, a physiologically normative, periodically repeated event that impacts a significant percentage of productive labour-force, has been epistemologically invisible in the mainstream of labour welfare law, constitutional

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gender jurisprudence, and occupational health policy. Such invisibility does not happen by chance; it is the result of a historically gendered legal structure which created the normative worker as a male (unmarked) and unaffected by the reproductive biology that constitutes the female body and the cyclicality of health which is the mark of the female body.

The so-called functional justice, which is used in this paper, goes beyond the traditional formalist understanding of justice as procedural and institutional correctness. In the lineage of sociological jurisprudence (Roscoe Pound) and the capability-based approach to development (Amartya Sen), functional justice questions whether the substantive benefits are delivered by legal systems, institutional structures, and normative systems to those they claim to protect. It is not just a question of whether a right is formally recognised but whether that right is practically achievable in the circumstances of being at the margin of institutional power. When applied to the area of menstrual health in the workplace, functional justice requires an evaluation of whether the working population, especially those in the working class that lack the bargaining power, social capital and institutional access of the more privileged groups, can exercise their constitutional rights to dignity, equality and autonomy of their bodies in menstruation without facing economic penalty, occupational discrimination, or institutional disregard.

The constitutional architecture of India has a rich normative basis that answers such an inquiry. Articles 14, 15, 16 and 21 of the Constitution all guarantee equality in the face of the law, a ban on discrimination based on sex, equal opportunity in the employment sector and the right to life with dignity. Articles 39(a), 39(d) and 42 of the Directive Principles of State Policy positively bind the State to provide equitable terms of employment and humane working conditions to women. The constitutional horizon has been expanded gradually through judicial interpretation, most notably in Maneka Gandhi v Union of India (1978) and Vishaka v State of Rajasthan (1997) by the Supreme Court to include the workplace safety, bodily integrity, and a right against being subjected to circumstances that undermine human dignity. A gap, however, remains, persistent and highly worrying, between these constitutional pledges and their institutionalisation.

The current paper attempts to fill this gap with a twofold approach of methodology. First, it conducts a doctrinal examination of the constitutional, statutory, and judicial frameworks applicable in India to the issues of menstrual health and the rights of women in their labour in India, placing this examination in the context of the intellectual genealogy of the theory of justice. Second, it introduces and discusses

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original empirical evidence based on a survey of 300 working women in a structured survey, which leaves quantitative evidence on the issues of awareness, workplace experiences, institutional support frameworks, and attitudinal orientations toward menstrual health policy. The combination of the doctrinal rigor and empirical base is what makes this paper stand out of the previous research in this field that has been prone to either side of the acceptation spectrum, either operating in a purely normative mode or in a paradigm of public health that is not connected to the legal analysis.

This study is structured as follows. Section 2 elaborates the theoretical framework of functional justice, including its intellectual roots and explaining its particular use to menstrual health in the workplace. Section 3 discusses the constitutional and statutory framework of women rights in India with specific emphasis on those that apply to reproductive and menstrual health. Section 4 provides an overview of the existing literature on menstruation, workplace discrimination and gender-sensitive labour policy.

2. THEORETICAL FRAMEWORK: FUNCTIONAL JUSTICE AND MENSTRUAL HEALTH

2.1 Classical and Contemporary Theories of Justice

The intellectual tradition that led to the theoretical construction of this paper is a multi-layered and rich tradition of justice theory. Aristotelian corrective and distributive justice, the elementary grammar of Western legal thought, made a distinction between the righting of personal injustices and the equitable distribution of social benefits on a basis of merit and proportion. Although these classical formulations furnished the vocabulary of structural forms of legal institutions, they were still focused on a reactive and process-based conception of justice that was not sufficient in causing structural inequalities within social arrangements.

Modern reconceptualisation The contemporary reconceptualisation of justice, most famously initiated by the A Theory of Justice (1971) by John Rawls, moved the centre of analysis away to procedural fairness and towards the substantive terms of social organisation. The difference principle advocated by Rawls (where social and economic inequalities are only acceptable to the extent that they benefit the poorest members of society) offers a strong normative framework on which the affirmative labour laws can be taken to protect the working women of the working classes. This is especially enlightening in the veil of ignorance thought experiment, which requires decision-makers to come up with institutional arrangements without information about their own social status: rational agents who design labour law without believing whether they would be menstruating workers in precarious jobs

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would, in any case, almost certainly designate menstrual health accommodations as a fundamental institutional rule.

The Idea of Justice (2009) and Development as Freedom (1999) by Amartya Sen offer an even more directly relevant framework, the capability approach. When Sen asserts that justice should be assessed not by access to primary goods or formal rights but by what people can do and be, their actual freedoms or capabilities, this rings with a sense of power with the functional justice concept that is used here. It is not enough that there is a formal right to equal employment and that the menstruating workers cannot in fact exercise the right because of physical, psychological or reputational harm. Further refocusing this analytical tool in the current investigation, Martha Nussbaum expounds on the capabilities approach by a dignity-focused list of the key human capabilities, especially bodily health and bodily integrity.

The third, necessary intellectual strand, is feminist legal theory. Since the failure of formal equality to deal with structural gender subordination was already identified by Catharine MacKinnon in her foundational critique of the failure of formal equality, and since the intersectionality paradigm, articulating the way in which the experience of race, caste, class, and gender compounds disadvantage in its unique formations, has been described by Kimberlé Crenshaw, feminist jurisprudence argues that justice This critique of the public-private divide in law - traditionally placing reproductive health, domestic labour, and bodily experience in a legally unregulated private sphere - is of particular importance in understanding the marginalisation of menstrual health in workplace law.

2.2 Functional Justice: Conceptual Architecture

The deployment of functional justice as used in this paper is a synthesis of these intellectual traditions into a consistent analytical tool that has four dimensions of constitutive elements. The first one is that functional justice demands institutional effectiveness: the ability of legal institutions, administrative agencies and workplace organisations to convert normative commitments into operational realities. The absence or inaccessibility of institutional mechanisms, through which equality guarantees can be enforced, monitored, and grievances redressed, is a functional hollowing of a constitutional guarantee of equality.

Second, functional justice requires lived access: the capacity of rights-holders, especially those living in structural marginality, such as working-class women in informal jobs, rural workers, household workers, agricultural labourers, to access and exercise their legal rights without prohibitive economic,

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social, or informational burdens. The social stigma, legal illiteracy and economic dependency and institutional distance, which all constitute barriers to access to functional justice, are formidable barriers to providing such protections to those who most require them.

Third, functional justice involves substantive equality: the understanding that the formal identity of women and men whose physiological experience of work is different systematically continues structural inequality instead of remedying it. The concept of substantive equality as a constitutional jurisprudence in India defined by the doctrine of classification and the facilitating clauses of Article 15(3) requires that the law must give way to biological and social differences to serve the real equality of opportunity and dignity.

Fourth, functional justice demands the realisation of dignity: the institutional and cultural contexts that should be provided to all workers to discharge their professional functions with all the human dignity, without stigmatization, discrimination, and forced subordination of the needs of health to the demands of productivity. Dignity realisation in the menstrual context would include the provision of sanitary facilities, the right to privacy when managing menstrual conditions, the right to avoid harassment due to menstrual conditions, and the right to leave or flexible work practices during acute dysmenorrhea or other conditions.

3. CONSTITUTIONAL AND STATUTORY FRAMEWORK

3.1 Constitutional Foundations

The promise of justice - social, economic, and political - in the Preamble to the Indian Constitution is a normative commitment and an institutional aspiration that has evolved to inform the jurisprudence of gender equality. The fundamental provisions of Part III, especially Articles 14, 15 and 21, and the Directive Principles of State Policy in Part IV, provide a constitutional framework that, if interpreted and enforced correctly, is broad enough to embrace comprehensive protections for menstrual health as an aspect of constitutional justice. The guarantee of equality before law and equal protection of laws under Article 14 has been judicially construed to embody not just formal equality but also a substantive ban on arbitrary classification. The Supreme Court's articulation in E.P. Royappa v State of Tamil Nadu (1974) of the nexus test, and the progressive judicial trend towards a consequences-based judicial analysis of classification, opens doctrinal avenues for judicial validation of menstrual leave laws as not contravening, but instead, furthering equality. Article 15's explicit condemnation of sex discrimination, coupled with the enabling provision of Article 15(3) to make special provisions

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for women, offers explicit constitutional support for menstrual health accommodation legislation. The broad judicial readings of Article 21 have been the most vibrant constitutional stream in the field of gender justice. The Supreme Court's landmark decision in Maneka Gandhi v Union of India (1978) that the right to life includes the right to live with human dignity, expanded in Olga Tellis v Bombay Municipal Corporation (1985) to include the right to livelihood and in Vishaka v State of Rajasthan (1997) to include the right to workplace safety and dignity, offers a strong doctrinal basis for arguing that the lack of menstrual health accommodations, with its attendant effects of physical discomfort, mental suffering, and discrimination at work, is an affront to the constitutional right to life with dignity.

The Directive Principles of State Policy (DPSP), while not enforceable as individual rights, create positive constitutional obligations for the legislature and executive to adopt social and economic policies to promote gender equality and labour welfare. Articles 39(a), 39(d) and 42 together require the State to secure equal opportunity for all citizens for the means of livelihood; equal remuneration for equal work for both men and women; and humane conditions of work and maternity relief. The Supreme Court's repeated affirmation in various cases that Fundamental Rights must be interpreted considering the Directive Principles establishes a constitutional context in which the non-enactment of sufficient menstrual health policies and legislation amounts to a failure of the State's constitutional duties.

3.2 Statutory Framework and Legislative Gaps

India's statutory framework for women's labour rights includes several important laws that offer limited, albeit not comprehensive, protections for the health and well-being of female workers. The Maternity Benefit Act, 1961 (amended in 2017) is the most significant statutory acknowledgment of female reproductive biology as an important consideration in labour law, requiring employers to provide women with paid maternity leave, nursing breaks, and prohibiting pregnancy discrimination and termination. But the Act's sole emphasis on pregnancy and post-natal health care leaves the cyclical health aspect of menstruation untouched, constituting a serious conceptual gap in the reproductive health protection of working women.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (enacted in response to the Supreme Court's Vishaka guidelines), offers institutional pathways through which to address workplace harassment, but does not specifically address menstruation-based discrimination and humiliation, thereby creating a legal gap that the empirical evidence of this research

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shows is often exploited in ways that disadvantage working women. The Factories Act, 1948 and the Mines Act, 1952 provide for health and safety, including sanitary provision, but the provisions were not made about the menstrual health of women employees. In this context of legislative gaps, two important proposals have been made to specifically address menstruation in the workplace. The Menstrual Benefit Bill, 2017, a Private Member's Bill, recommended two days of menstrual leave a month for women workers. The Right of Women to Menstrual Leave and Free Sanitary Products Bill, 2022, aimed to expand these rights and include provisions for free menstrual products. Neither Bill has been enacted to date, and as the empirical evidence presented in this research demonstrates, the knowledge of these Bills amongst working women is alarmingly low, with 54.67% of respondents in this study claiming that they were unaware of the existence of both Bills.

4. REVIEW OF LITERATURE

The literature pertinent to this study cuts across several scholarly disciplines, such as constitutional jurisprudence, feminist jurisprudence, labour economics, public health and sociology of law. This review incorporates the key contributions in each of these areas and highlights the key gap that the current project fills. Ancient and modern justice theory from Aristotle's Nicomachean Ethics to Hart's The Concept of Law (1961) and Fuller's The Morality of Law (1964) defined the traditional vocabulary of legal justice as procedural justice and the legitimacy of institutions. John Rawls's groundbreaking work, A Theory of Justice (1971), reshaped justice theory to focus on the substantive justice of social structures, while Amartya Sen's The Idea of Justice (2009) and Development as Freedom (1999) framed justice evaluation in terms of the capabilities and freedoms of individuals. Nussbaum's Women and Human Development (2000) brought the capabilities framework to bear on women's rights and dignity, offering the most relevant theoretical tool for this investigation. Upendra Baxi's The Future of Human Rights (2002) placed these international models in the Indian judicial context, to advocate for a transformative model of rights that addresses the structural conditions of the marginalised.

Indian constitutional scholarship such as Granville Austin (The Indian Constitution: Cornerstone of a Nation, 1966), H.M. Seervai (Constitutional Law of India, 1991) and M.P. Jain (Indian Constitutional Law, 2018) provide the doctrinal backdrop to the constitutional framework for gender equality and social justice in India. S.P. Sathe's Judicial Activism in India (2002) and Marc Galanter's Law and Society in Modern India (1989) provide insights into the possibilities and limits of judicial expansion of fundamental rights. Upendra Baxi's The Crisis of the Indian Legal System (1982) highlighted the

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structural impediments to access to justice that continue to be relevant to the current study. Feminist legal theory, built on MacKinnon's Toward a Feminist Theory of the State (1989), Carol Smart's Feminism and the Power of Law (1989) and Martha Minow's Making All the Difference (1990), provided the theoretical framework to critique the limits of formal equality in redressing structural gender subordination. Susan Moller Okin's Justice, Gender, and the Family (1989) applied this analysis to the family and the division between paid and unpaid work. Kimberlé Crenshaw's seminal article "Mapping the Margins" (Stanford Law Review, 1991) coined the term intersectionality to describe the intersectional disadvantage of multiple marginalisations. Nancy Fraser's Justice Interruptus (1997) brought together redistribution and recognition as two aspects of gender justice, while Joan Williams's Unbending Gender (2000) applied these insights to workplace law and the ideal worker norm.

The body of labour rights litigation, led by the International Labour Organization's Maternity Protection (Convention No. 183, 2000) and Decent Work and Gender Equality conventions, provides the international normative standards for gender-sensitive labour protection. Indian labour literature has highlighted the institutional discrimination facing women workers in the informal sector, the enforcement challenges of labour laws and the continued discrimination in spite of legislation. The Municipal Corporation of Delhi v Female Workers (Muster Roll) (2000) case is a landmark judicial decision in extending maternity protection to contract workers, with implications for similar extensions of menstrual health protections. The nascent literature on menstruation and occupational health has captured the effects of menstruation on workplace productivity, the presence of menstruation stigma in the workplace, and the policy debates around menstrual leave in India and beyond. But this work has been largely confined to the fields of public health and organisational behaviour, with limited attention being paid to the legal and justice issues in menstrual health at work. This paper seeks to redress this oversight by bringing together the legal-theoretical and empirical aspects through the lens of functional justice.

5. METHODOLOGY

This research adopts a mixed-methods approach, combining doctrinal legal analysis and primary empirical research, to gain a holistic understanding of functional justice about menstrual health for working-class women in India. The doctrinal element included the review and analysis of

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constitutional, statutory and judicial norms, as well as proposed legislation, concerning women's labour rights and menstrual health, within the theoretical frameworks discussed in Sections 2 and 3.

The empirical component involved the survey of a purposive sample of 300 employed women across Rajasthan, India, from a range of socio-economic backgrounds, educational levels, sectoral categories and geographical locations. The questionnaire consisted of 25 well-crafted questions grouped into four major themes: socio-demographic characteristics; knowledge of relevant laws and menstrual health; menstruation in the workplace; and coping strategies and institutional arrangements. The questionnaire was piloted with a sample of 30 working women to assess clarity, relevance, and construct validity and modified to reduce the likelihood of social desirability bias on sensitive queries.

The sample profile is typical of urban working women in semi-organised and organised sectors: 63% of respondents lived in urban areas, 22.33% in metropolitan cities and 14.67% in rural regions. Most (69.67%) were aged 25-45 years, the most economically productive reproductive age group. Educational levels were high, with 46.33% having master's degrees and 27.33% holding professional degrees, as this reflects the nature of the sample that was available for study, rather than the larger population of working class women workers, which include many informal workers with lower levels of education. This sampling issue is discussed and addressed in the discussion sections. Descriptive statistical analyses were conducted, with results shown in frequency and percentage tables and bar graphs.

6. EMPIRICAL FINDINGS AND ANALYSIS

6.1 Socio-Demographic Profile

The sample's socio-demographic profile offers a crucial backdrop to the substantive results. The fact that most of the respondents (77.33%) are married, and most of them (42%) have two children, highlights the multiple roles that most working women in India juggle in their occupational settings. The distribution by sector (34.33% in educational institutions, 28.33% self-employed, 22.67% in private companies and 14.67% in government organisations) highlights that many working women are employed in institutional settings that lack specific policies on menstrual health and grievance redressal mechanisms.

Of note in the socio-demographic analysis is the lack of policy coverage: 73.33% of respondents indicated that their workplaces had no menstrual health policy. This is not restricted to the informal or marginalised sectors; it is a reality for women in all types of organisations, including educational and

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government organisations. This represents empirical evidence of the institutional component of the functional justice deficit: although women have formal constitutional and statutory rights, the institutional environment in which they operate is yet to mature sufficiently to operationalise these rights.

Table 1: Socio-Demographic Distribution of Respondents (N=300)

Variable	Category	Frequency (N)	Percentage (%)
Age Group	25–45 years	209	69.67
	Above 45 years	44	14.67
	18–25 years	33	11.00
	Under 18 years	14	4.67
Living Area	Urban community	189	63.00
	Metropolitan area	67	22.33
	Rural community	44	14.67
Marital Status	Married	232	77.33
	Unmarried	55	18.33
	In relationship	13	4.33
Education	Master's Degree	139	46.33
	Professional Degree	82	27.33
	PhD or Higher	48	16.00
Organisation Type	Educational Institution	103	34.33
	Self-employed	85	28.33
	Private Company	68	22.67
	Government Sector	44	14.67
Menstrual Policy	No policy available	220	73.33
	Policy available	80	26.67

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6.2 Awareness and Knowledge of Legislative Frameworks

The analysis of awareness demonstrates a striking and significant gap between legislative efforts in menstrual health and women's awareness of legislative activity. A mere 29.33% of the respondents were aware of the Menstrual Benefit Bill, 2017 and the Right of Women to Menstrual Leave and Free Sanitary Products Bill, 2022. A further 6.67% were aware only of the 2017 Bill, and 9.33% only of the 2022 Bill. The most important finding, however, is that 54.67% of respondents were not aware of either legislative initiative - a statistic that represents not only a lack of information, but also a lack of functional implementation.

This insight is theoretically important for several reasons. From a functional justice standpoint, the value of legal rights that are formally recognised but substantively unknown to those to whom they are owed is limited by their ineffectiveness. This lack of knowledge is highly problematic in a system where rights-enforcement depends on the initiative of the rights-holder; without awareness of legal avenues to redress rights violations, women cannot advance the enforcement of the rights or engage in policy-making to strengthen them. The fact that 53.33% of the sample were uncertain whether proposed legislative provisions needed improvement (an uncertainty almost certainly due to a lack of familiarity with the provisions) is another example of the flow-on effects of legal illiteracy on rights-claiming. This legislative lack of awareness stands in sharp contrast to strong positive attitudes toward menstrual health. Regarding the efficiency of organisations, 76.67% believed that menstrual leave would enhance organisational effectiveness. As organisational leaders, would they support menstrual leave (83.33% said yes). Critically, 78.67% showed that they would like special protective justice in the Indian legal framework in matters of menstruation and other issues. This combination - high awareness and support for recognition of the need for menstrual health-related protections, and low awareness of the legislative proposals - indicates that the political momentum for reform is present among the beneficiaries but has not been mobilised through better information and participatory policy-making.

Table 2: Awareness and Attitudinal Findings (N=300)

Dimension	Response Category	N	%
Legislative Awareness	Aware of both Bills	88	29.33
	Aware of 2017 Bill only	20	6.67

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	Aware of 2022 Bill only	28	9.33
	Unaware of both	164	54.67
Impact on Efficiency	Will improve efficiency	230	76.67
	No significant change	42	14.00
	Will decrease efficiency	28	9.33
Support as Decision-Maker	Would support policy	250	83.33
	Would not support	50	16.67
Demand for Legal Protection	Yes	236	78.67
	No Comments	55	18.33
	No	9	3.00

6.3 Workplace Experiences: Discrimination, Dignity, and Performance

The examination of workplace experiences represents the core of the functional justice analysis, and provides direct evidence about the extent to which female workers are able to exercise their constitutional rights to dignity and equality when menstruating. The results are concerning from a constitutional and human rights point of view. Only 11.67% of the sample reported menstruation has no effect on their performance. The other 88.33% reported varying levels of performance impact: 21.33% a slight decrease, 36.67% a moderate decrease, 21% a significant decrease, and 9.33% an inability to work at all. This breakdown suggests that menstruation is not an isolated or incidental factor in the workplace but a systematically significant factor impacting the working capacity of almost 90% of women.

The evidence of discrimination and stigma is the most disturbing. That 62.33% of respondents reported they had faced discrimination or humiliation in the workplace for menstrual leakage is a violation of the constitutional guarantee of dignity enshrined in Article 21 and as understood in the jurisprudence of Maneka Gandhi and Vishaka. The workplace support analysis reinforces this: while only 2.67% reported their workplaces to be very supportive of menstrual leakage incidents, 31.33% found their workplaces to be unsupportive and 4% stigmatising. The 26.33% of respondents who chose not to

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answer questions on workplace support for leakage incidents is itself a reflection of the generalised shame and institutional silence in relation to menstruation.

The evidence from the COVID-19 pandemic, when many respondents worked from home, offers a natural experiment that highlights the structural basis of workplace menstrual difficulties. While 39% of respondents reported they were able to manage menstruation when working from home and 29.33% reported no issues, the figures for conventional workplaces are significantly more difficult. This implies that the difficulties reported by working women during menstruation in traditional workplaces are not natural biological realities but are largely a product of the design, culture and institutional arrangements of these workplaces - and therefore open to policy change.

Table 3: Workplace Experience Variables (N=300)

Variable	Category	N	%
Impact on Work Performance	Moderate decrease	110	36.67
	Slight decrease	64	21.33
	Significant decrease	63	21.00
	No change	35	11.67
	Unable to work	28	9.33
Received Workplace Support	No	191	63.67
	Yes	109	36.33
Workplace Attitude to Leakage	Unsupportive	94	31.33
	Neutral	84	28.00
	Prefer not to say	79	26.33
	Somewhat supportive	23	7.67
	Stigmatising	12	4.00
	Very supportive	8	2.67
Discrimination Experienced	Yes	187	62.33
	No	113	37.67

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Variable	Category	N	%
Remote Work Experience	Comfortable	117	39.00
	No challenges	88	29.33
	Minor difficulties	58	19.33
	Severe challenges	23	7.67

6.4 Menstrual Management, Psychological Stress, and Support Systems

The study of menstrual management approaches and support systems demonstrates individual coping in the absence of institutional support that is typical of a functional justice deficit. Only 29.67% of respondents took medication to manage menstrual symptoms and maintain productivity; 70.33% managed symptoms without the use of medication, which is probably a combination of limited access to health care, cost factors, the social taboo of acknowledging menstrual discomfort and the structure of workplace cultures that discourage absence or reduced productivity even where physiologically justified.

The psychology of the menstrual experience at work is significant in its own right to the functional justice analysis. A minority of respondents (11.33%) reported that menstruation had no impact on their emotions; the majority reported one or more of several forms of emotional disturbance, including 29.67% who reported anxiety/stress, 26.33% who reported irritability/mood change, and 25% who reported sadness/low mood. Combined with the finding that 69% of respondents experienced increased psychological stress due to the dual pressures of work and domestic labour during menstruation, these data indicate that the functional justice deficit is experienced on physical, psychological and social levels.

The data on domestic labour support help us understand the structural reasons for this psychological stress. The fact that 55.67% of respondents did not receive support from family members with household chores during menstruation (even while experiencing discomfort and distress) exemplifies the gender normativity that continues to situate the primary responsibility for domestic work as the preserve of women, regardless of their physiological state. This statistic highlights the observation by Nancy Fraser and others that gender justice would require a reorganisation not only of legal arrangements but also of social and cultural arrangements surrounding the allocation of care work.

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The hypothetical use of menstrual leave (if offered) provides a nuanced clue to the limits of leave policy. Of the respondents, 30.33% said that they would use menstrual leave for rest (which is presumably the purpose of the provision), but 37.67% said that they would use it for domestic tasks, and 18.67% would use it for office work. This indicates that menstrual leave alone, unaccompanied by social and cultural shifts in workplace culture, domestic division of labour, and productivity norms, may not realise its full potential for dignity and welfare.

7. TOWARDS A FUNCTIONAL JUSTICE FRAMEWORK: POLICY RECOMMENDATIONS

7.1 Legislative Codification and Statutory Reform

The most obvious and urgent policy need is the statutory entrenchment of menstrual health protections as part of the India's statutory framework for women's labour rights. The introduction of legislation addressing menstrual leave, sanitary facilities, and the prohibition of menstruation-related discrimination and humiliation would signify the legal recognition of menstruation as a workplace issue, and address the most glaring gap in the statutory framework. This legislation should not be understood as a simple entitlement to menstrual leave, but should also include a range of institutional obligations such as the provision of adequate menstrual facilities and toilet disposal systems, private menstrual management spaces, supply of menstrual hygiene products, explicit prohibition of menstruation-related discrimination and humiliation, and the provision of institutional menstrual health policies for all organisations with over a given number of employees.

Legislative design should be mindful of the potential, identified in feminist research and exemplified in the history of protective labour legislation, that protective provisions are used as a mechanism to exclude women from lines of work or as a means of transferring costs to employers of female workers. Design considerations should therefore include anti-discrimination provisions explicitly excluding the use of menstrual health accommodations as a basis for adverse employment decisions, as well as provisions for the equitable distribution of compliance costs and government assistance for small and medium sized enterprises.

7.2 Constitutional Litigation and Judicial Development

In the absence of legislative reform, constitutional litigation can provide a supplementary avenue for judicial development of the functional justice framework. The doctrinal precedent for such litigation is robust: the Supreme Court's broad reading of Article 21 to include the right to live with dignity,

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bodily integrity, and freedom from conditions that undermine health and self-esteem provides a strong constitutional foundation for a claim that the denial of menstrual health needs is a violation of the right to life with dignity. The case of Vishaka, in which the Supreme Court interpreted the constitution to fill a statutory gap in the law on sexual harassment, is a useful precedent.

Public Interest Litigation, as a means of access to justice for marginalised groups in the Indian constitutional order, is the preferred procedural means for such constitutional growth. A petition in relation to the non-provision of statutory protections for menstrual health, and request for directions to the Central and State governments to enact menstrual health protections, citing the empirical evidence of the functional justice deficit found in this research, would be well supported.

7.3 Institutional Development and Organisational Policy

The implementation aspect of functional justice calls for organisational action that cannot wait for legislative enactment. All employers should be encouraged, via a combination of regulatory guidance, financial incentives and best-practice dissemination, to adopt and implement menstrual health policies. These policies should cover: menstrual health leave; provision of sanitary hygiene facilities; training for managers and co-workers in menstrual health literacy; confidential reporting systems for menstruation discrimination; and flexible work arrangements for severe menstruation symptoms.

The empirical findings revealing that educational institutions are the largest organisational type in the sample (34.33%) and that self-employment is the second largest (28.33%) has policy implications. Educational institutions are both workplaces and sites of cultural reproduction; their uptake of progressive menstrual health policies will have an impact beyond their employees, shaping the mindsets and expectations of students and professors, as well as the communities they serve.

7.4 Legal Literacy and Awareness Programmes

The fact that 54.67% of the respondents were not aware of both the legislative proposal for improving menstrual health highlights the importance of legal literacy as an integral element of functional justice. Rights that people don't know about aren't usable. A robust legal literacy program targeting working women, especially in the informal and unorganised sectors, is thus a crucial supplement to reform in both law and institutions. These initiatives should be tailored to consider the intersectional aspects of disadvantage - ensuring that rural, low-income and informally employed women, who experience the greatest functional justice gaps and have the greatest information access barriers, are targeted. Legal literacy initiatives should not just provide information about legislative reforms and statutory

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entitlements but also about processes of complaint and redress, the role of labour courts and the National Commission for Women, as well as the existence of free legal assistance under the 1987 Legal Services Authorities Act. Local delivery channels such as para-legal networks, women's self-help groups and trade union outreach are the most efficient means of reaching groups with low access to the formal justice system.

7.5 Intersectional and Inclusive Policy Design

The functional justice approach requires that menstrual health policy be crafted with attention to the intersectional factors of disadvantage that shape the relative vulnerability of working women. Caste, class, geography and sector of employment intersect to produce different combinations of vulnerability and disadvantage that cannot be captured by generic, "one size fits all" policy tools. Menstrual health risks are the most acute for working-class women in informal sector jobs - rural and urban labourers, construction workers, domestic workers, street vendors - who are also the least likely to benefit from the existing and proposed legislation that have tended to focus on formal sector workplace relationships. An intersectionally sensitive functional justice agenda would include: statutory menstrual health protections extended to informal and unorganised sector workers; regulatory guidance for different sectors developed in consultation with affected communities; public health measures targeted at the menstrual health needs of rural and migrant workers; and reservation of menstrual health policy positions for women from marginalised communities in administrative and consultative bodies.

8. CONCLUSION

This paper has proposed functional justice as the right lens to evaluate the sufficiency of India's legal and institutional response to the menstrual health of working-class women. By bringing together doctrinal legal analysis and original empirical research, it has shown that a deep and multi-dimensional functional justice deficit exists in the experience of working women in India during menstruation: a deficit that manifests in the absence of institutional policies (73.33% of workplaces surveyed), discrimination and humiliation (62.33% of respondents), lack of legislative awareness (54.67% unaware of key proposals), negative impact on performance (88.33% of respondents), and absence of family support (55.67% receiving no support from family to manage household work during menstruation). The current paper's theoretical contribution is the articulation of functional justice as a four-dimensional concept (institutional effectiveness, lived access, substantive equality, and dignity

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realisation) that not only offers an analytical framework for the diagnosis of the justice deficit, but also a normative guide for policy reform. The empirical contribution is in the production of quantitative data on the experiences of working women in the workplace in relation to menstrual health, supplementing the socio-legal literature on gender justice in India. The policy framework proposed in this paper is not utopic; it is premised on the legal and institutional framework that already exists and builds on the successful international and domestic experiences of gender-sensitive workplace policy.

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