

Menstrual Leave Policies In Mainland China: Implementation, Controversies, and Future Directions

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ABSTRACT

In 2023, China marked the 30th anniversary of the introduction of its first menstrual leave regulations. These regulations were put in place to support the well-being of female workers who suffer from menstrual discomforts like dysmenorrhea. Despite being in effect for three decades, many workplaces across mainland China have yet to fully implement these regulations due to a variety of constraints. Additionally, there is still considerable debate regarding whether such regulations should even exist in the first place. This ongoing disagreement has led to a need for potential solutions to be proposed and implemented to help resolve the debate and effectively address the issue of menstrual leave in the workplace.

Keywords: Menstrual leave, Menstrual leave policy, mainland China, workplace.

INTRODUCTION

Menstruation is a natural biological process that occurs periodically in the female reproductive system, regulated by a complex interplay of hormones. This periodic activity involves the shedding of the uterine endometrium, which is a crucial aspect of female reproductive physiology [2]. However, for many women, menstruation can bring along certain discomforts, such as primary dysmenorrhea, which is characterized by painful menstrual periods and related distress [7]. According to a 2020 study conducted at the Xiangya School of Public Health, the prevalence of

primary dysmenorrhea among Chinese reproductive-age females is 41.7% [4]. For those who experience intense discomfort during their menstruation, menstrual leave offers female workers the opportunity to take time off from work due to their temporary inability to attend to work-related responsibilities. As Rachel Levitt and Jessica Barnack-Tavlaris of the Department of Psychology at the College of New Jersey has described in their review article “Addressing Menstruation in the Workplace: The Menstrual Leave Debate,” menstrual leave policies have been implemented nationally in various countries, including Japan, China, South Korea, Indonesia, Zambia, and Mexico [6]. However, there has been an ongoing debate regarding the efficacy of menstrual leave policies in promoting women’s empowerment in the workplace.

Many experts consider menstrual leave as a legal workplace benefit. Menstrual leave rules, in the opinion of attorney Hilary H. Price, would be beneficial in numerous situations where menstruation resulted in

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Received April 5, 2024; **Accepted** April 17, 2024
<https://doi.org/10.70251/HYJR2348.211619>

unfavorable job outcomes. In situations where courts refuse to acknowledge long-term or chronic menstrual conditions as qualifying medical illnesses, a menstrual leave policy would undoubtedly be helpful. It would also benefit those with short-term menstrual conditions. Therefore, there could be a significant decrease in the negative effects on workers' employment that originates from temporary menstrual disorders, isolated menstrual-related occurrences, and chronic problems that the law hasn't yet recognized as qualifying disabilities [8].

While some experts consider menstrual leave policies as beneficial for inclusivity and female workers' physical well-being, others have rather a pessimistic view of the policies. Dr. Sally King, a menstrual specialist at King's College London, has expressed her concerns about the negative impact of menstrual leave policies on removing persisting discriminatory social norms against women. In her book "Aligning Perspectives in Gender Mainstreaming," she argues that "menstrual leave policies could reflect, and contribute to, unhealthy and discriminatory practices against women in the workforce" [5]. That is, the assumption that female workers require extra days off from work may create the notion that all female workers are less reliable and more expensive employees than their male counterparts, which may eventually widen the existing gender gap in employment rates and average salaries.

CURRENT MENSTRUAL LEAVE POLICIES IN MAINLAND CHINA

Mainland China's first menstrual leave-related policy was enacted in 1993 and revised in 2012. In the third chapter of the 2012 Regulations on Health Care for Female Workers, two regulations specifically referred to menstruation. The first regulation states that "female workers shall not engage in the work prescribed in Article 4 of the Provisions on the Scope of Forbidden Work for Female Workers during Menstruation," where "work prescribed in Article 4" refers to low-temperature operations, physically intense labor, and overhead jobs [11]. The second regulation states that "female workers suffering from severe dysmenorrhea and menorrhagia, after diagnosis by medical or maternal and child health institutions, can be appropriately given 1 to 2 days of leave during menstruation" [10]. In summary, the 2012 Regulations on Health Care for Female Workers essentially prohibits menstruating female workers from doing physically demanding or dangerous work, and it allows for 1~2 days off from work in special cases

acknowledged by medical professionals. However, it does not specify whether the extra days off are paid or unpaid.

THE POOR IMPLEMENTATION OF MENSTRUAL LEAVE POLICIES IN MAINLAND CHINA

Although the first national menstrual leave regulations were enacted over 30 years ago and the latest revised version was established more than a decade ago, the majority of employees in mainland China do not seem to feel the presence of the regulations. This is made evident by discussions in China's largest public forum – Zhihu (<https://www.zhihu.com>). Judging from the title of the four most recent posts around menstrual leave, the four separate bloggers all assumed that menstrual leave policies were yet to be enacted in mainland China (Figure 1). The four discussions were all posted in 2023 – thirty years since the establishment of the first menstrual leave regulations in mainland China. This indicates that the menstrual leave policies have been largely underimplemented in the workforce.

A POTENTIAL EXPLANATION FOR THE LACK OF IMPLEMENTATION OF MENSTRUAL LEAVE POLICIES

In China, there are no national regulations that mandate menstrual leave for all enterprises. Xixiong Xu

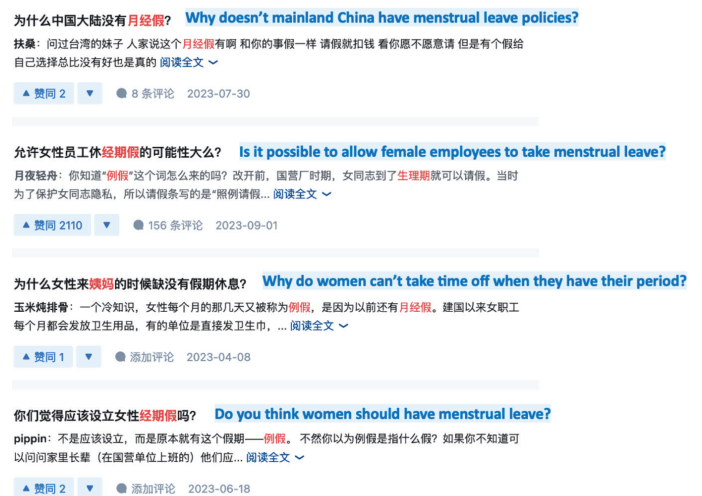


Figure 1. The Menstrual Leave Debate in China's Largest Public Forum. *Note:* The titles of the four most recent posts on menstrual leave in China on Zhihu.

and colleagues from Chongqing University have classified corporations in mainland China into two categories - those within and outside of the “Tizhi” sector. Tizhi refers to the national sector, and state-owned enterprises that fall under this category are required to follow national regulations, including those related to menstrual leave. However, private enterprises outside of Tizhi are not bound by these regulations and are not required to implement menstrual leave policies [12].

Furthermore, private enterprises have become increasingly significant since the “reform and opening up” starting in 1978 and the establishment of China’s market economy in 1992, both of which encouraged free trade and private-owned businesses, as described by Rui Hao in the *Asian Economic Journal* [3]. According to Edward Cunningham of Harvard Kennedy School, China’s private firms contribute approximately 60% of China’s GDP, 70% of its innovative capacity, 80% of urban employment, and 90% of new jobs in 2022 [1]. This indicates that a large proportion of the workforce is contained within private enterprises outside of Tizhi that are not obliged to implement menstrual leave policies, which may explain why many people failed to feel the presence of these policies.

THE CONTROVERSY OF MENSTRUAL LEAVE POLICIES

Despite the existence of regulations regarding menstrual leave in mainland China, their implementation is often limited due to various constraints such as being outside of Tizhi. This has led to a lack of enthusiasm among the public towards the enforcement of such policies. To gain a better understanding of the issue, we again looked into the public forum Zhihu to examine the different perspectives of three key stakeholders: female workers, their male colleagues, and business owners. We chose a post on menstrual leave at the workplace with the most replies (156 replies in total) and reached the following conclusions: Out of the respondents who identified themselves as female employees, only 12.5% (7 out of 56 posts) expressed explicit support for the implementation of menstrual leave policies, claiming that rest at home is very much needed on days when severe menstrual discomfort hits. However, the majority of female workers were concerned about being seen as less reliable and more expensive employees who require additional days off from work, which would put them at a disadvantage in the workplace. Their male counterparts were also in disagreement: while some supported women’s right to

take time off during menstruation, others either claimed that women would use menstrual leave for other purposes or expressed pessimistic views on whether women could take time off even if the work policies allow for extra days off. One specific respondent replied that her female colleagues were indispensable at the hospital where he was working. Business managers expressed empathy for female workers with menstrual discomfort in general, yet a great deal of them admitted that they would consider hiring fewer female workers with poor menstrual health conditions if the policies were to be carried out, confirming the worries of many female workers that menstrual leave policies would make them less-desirable employees.

A POTENTIAL SOLUTION TO MENSTRUAL DISCOMFORTS OF FEMALE WORKERS

A possible solution to address the negative effects of menstrual leave policies is to include it as part of regular sick leave. This would allow female employees to take time off from work, with a doctor’s prescription, just like any other sick employee. By doing so, the potential harm that menstrual leave can cause to female workers’ employment and promotion prospects can be minimized since all employees may need to take sick leave at some point. At the same time, this can also encourage women to properly deal with diseases caused by abnormal menstrual activities. By consulting medical professionals for permission to take menstrual leave, they can access medical assistance if needed. Finally, including menstrual leave as a part of regular sick leave can also address concerns about female workers taking their menstrual leave for other purposes because female workers would have to be approved by medical workers.

However, this potential solution does not guarantee that female workers who need to take extra days off during their menstruation are not discriminated against. Meanwhile, some foreseeable obstacles are as follows: first, existing menstrual stigma may cause women to feel embarrassed to ask for sick leave due to menstruation; second, business managers who lack knowledge about menstrual discomforts may refuse to permit sick leave due to menstruation.

In summary, menstruation is not just a physiological process but is also intertwined with social issues like equality, opportunity, and human well-being. To empower those who menstruate in today’s world, we need to carefully consider all parties involved to make sure that any proposed solutions don’t have unintended negative consequences.

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