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FROM PERIOD POVERTY TO CONSTITUTIONAL PARITY: CASE NOTE ON DR JAYA THAKUR V. UNION OF INDIA, 2026 INSC 97

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“A period should end a sentence – not a girl’s education.” – Melissa Berton

The Supreme Court’s ruling in *Dr. Jaya Thakur v. Union of India* marks an important step in constitutional jurisprudence on gender and education. The judgment moves menstrual hygiene for school-going girls beyond the sphere of welfare policy and recognises it as an issue engaging enforceable fundamental rights relating to equality, dignity, health, and access to education.² By interpreting Articles 14, 21, and 21A alongside the Right of Children to Free and Compulsory Education Act, 2009, the Court places the problem of “period poverty” within a rights-based framework rooted in substantive equality and the Constitution’s transformative vision.³

This case note analyses several dimensions of the judgment: first, the factual background and procedural trajectory of the litigation; second, the Court’s doctrinal analysis concerning equality, dignity, privacy, and reproductive health; third, the integration of menstrual hygiene management within Article 21A and the framework of the Right of Children to Free and Compulsory Education Act; fourth, the remedial directions issued by the Court, including the use of continuing mandamus; and finally, the wider legislative and policy implications viewed from an interdisciplinary perspective.⁴

I. Facts, Reliefs and the Court’s Framing

The petitioner, a social worker, approached the Supreme Court under Article 32 in public interest, seeking nationwide directions to ensure (i) free sanitary products for

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² *Dr. Jaya Thakur v. Union of India*, 2026 INSC 97.

³ Id. ¶¶ 16(a)–(d), 30–33.

⁴ Id. ¶¶ 45–57; see also Divya Salim & Kavya Salim, *Ensuring Right to Menstrual Hygiene and Health*, in *Expanding Horizons of Article 21* 145–48 (1st ed. 2021).

girls in Classes VI–XII, (ii) separate and functional toilets for girls in all schools, (iii) dedicated staff for maintenance of sanitation facilities, and (iv) structured awareness programmes on menstrual health and waste management.⁵

The Court identified the core problem as twofold: recurrent absenteeism during menstruation and long-term school drop-out linked to inadequate menstrual hygiene management (MHM). It adopted the expression “menstrual poverty” to describe not only the inability to afford sanitary products, but also the absence of adequate water, sanitation and hygiene (WASH) infrastructure.⁶ The Bench crystallised the dispute into four constitutional issues: whether the lack of gender-segregated sanitation and menstrual products infringes (a) equality under Article 14, (b) dignity and life under Article 21, (c) equality of opportunity and participation, and (d) the right to education under Article 21A read with the RTE Act. The judgment proceeds by addressing each of these constitutional dimensions, drawing upon international human rights norms and comparative perspectives.⁷

II. Menstrual Health, Equality and Substantive Justice

A. From Formal to Substantive Equality

The Court begins by revisiting the traditional understanding of Article 14 as requiring like treatment of similarly situated persons. However, it underscores that formal symmetry is insufficient where initial conditions are shaped by entrenched disadvantage linked to gender, poverty, and disability.⁸

Relying on decisions such as *Joseph Shine*, *Janhit Abhiyan*, and *Gaurav Kumar*, the Bench reiterates that substantive equality demands a contextual inquiry. It requires recognition of structural disadvantage, adoption of affirmative and corrective measures, and differential treatment where necessary to achieve real parity rather than merely procedural fairness.⁹

Viewed through this lens, the absence of menstrual hygiene management (MHM) facilities cannot be characterised as a neutral infrastructural lapse.

⁵ *Dr. Jaya Thakur*, 2026 INSC 97, ¶ 2 (India).

⁶ *Id.* ¶ 7.

⁷ *Id.* ¶ 16(a)–(d).

⁸ *Dr. Jaya Thakur v. Government of India*, 2026 INSC 97, ¶¶ 30–33 (India).

⁹ *Joseph Shine v. Union of India*, (2019) 3 SCC 39; *Janhit Abhiyan v. Union of India*, (2023) 5 SCC 1; *Gaurav Kumar v. Union of India*, (2023) 6 SCC 1.

Instead, it operates as a systemic barrier that disproportionately impairs girls' access to education, participation, and long-term opportunity.¹⁰

B. Menstruation as a Barrier to Education

Empirical research plays a significant role in the Court's analysis. The judgment refers to studies indicating that many girls enter menarche without prior awareness of menstruation, and that inadequate sanitation facilities make safe and dignified management difficult.¹¹ Additional research from North India reports that a substantial proportion of girls miss school during their menstrual cycle due to pain, social taboos, anxiety about leakage, and the absence of private spaces to change absorbents. Absenteeism was found to be more pronounced in government schools and lower among girls with access to hygienic menstrual products.¹²

Drawing on this evidence, the Court establishes a link between menstrual deprivation and educational discontinuity. It reasons that the right to education cannot be meaningfully realised if access becomes intermittent or conditional during menstruation.¹³ In this sense, menstrual hygiene management (MHM) is repositioned not as a welfare concession, but as an equalising measure designed to remove structural barriers and secure parity in educational opportunity.¹⁴

C. Intersectionality: Gender, Disability and Poverty

A notable feature of the judgment is its clear engagement with intersectionality. The Court recognises that for girls with disabilities, the absence of accessible sanitation infrastructure intensifies pre-existing disadvantage, layering gender-based exclusion with disability-related barriers.¹⁵

By incorporating accessibility and reasonable accommodation into its equality framework, the Bench situates menstrual hygiene management (MHM) within

¹⁰ *Dr. Jaya Thakur*, 2026 INSC 97, ¶¶ 30–39 (India).

¹¹ *Dr. Jaya Thakur v. Government of India*, 2026 INSC 97, ¶¶ 33–39 (India) 35023_2022_7_1502_68117_Judgement; Karan Babbar et al., *Menstrual Health Is a Public Health and Human Rights Issue*, 7 LANCET PUB. HEALTH e10, e10–e11 (2022)

¹² See Anant Kumar & Kamiya Srivastava, *Cultural and Social Practices Regarding Menstruation Among Adolescent Girls*, 26 SOC. WORK PUB. HEALTH 594, 598–600 (2011).

¹³ *Dr. Jaya Thakur*, 2026 INSC 97, ¶¶ 16(d), 89–96 (India)

¹⁴ Shubhangi Baranwal & Kavita Solanki, *Breaking Barriers Through Law: A Constitutional Perspective on Menstrual Health Rights in India*, 3 J. ADVANCED RSCH. WOMEN'S STUD. 122, 123–25 (2025)

¹⁵ *Dr. Jaya Thakur v. Government of India*, 2026 INSC 97, ¶¶ 39–45 (India).

a broader commitment to inclusive constitutional governance.¹⁶ Drawing on Rajiv Raturi, Om Rathod, and Vikash Kumar, it affirms that accessibility is not a matter of administrative choice but a constitutionally enforceable requirement under Articles 14, 19, and 21. Without such enabling conditions, rights to education, dignity, and participation remain formal rather than real.¹⁷

The Court accordingly treats barrier-free facilities and tailored accommodation—such as inclusive sanitation design, availability of menstrual products, and sensitised awareness initiatives—as affirmative state obligations.¹⁸ It also acknowledges compounded disadvantage among economically weaker girls, where gender, bodily processes, disability, and poverty intersect to create structural impediments to safe and dignified menstrual management.¹⁹

III. Dignified Menstrual Health Under Article 21: Dignity, Privacy, Health

A. Dignity as the Core of Life

Drawing from *K.S. Puttaswamy, Common Cause*, and earlier Article 21 jurisprudence, the Court reiterates that the right to life extends far beyond mere survival. It protects conditions necessary for a dignified existence.²⁰ Dignity is treated as inherent and indivisible, operating as a foundational constitutional value that links equality, liberty, and personal autonomy under Articles 14, 19, and 21.²¹

Against this backdrop, the Court characterises the absence of safe and private menstrual facilities in schools as a constitutional injury. When girls are exposed to embarrassment, compelled to prioritise physical discomfort over attendance, or driven toward unsafe practices due to inadequate infrastructure, their dignity and bodily integrity are compromised. Such conditions transform a biological reality into a site of exclusion.²²

This reasoning is consistent with prior decisions recognising autonomy,

¹⁶ *Id.*

¹⁷ *Rajiv Raturi v. Union of India*, (2018) 2 SCC 413; *Om Rathod v. Union of India*, (2024) 2 SCC 101; *Vikash Kumar v. UPSC*, (2021) 5 SCC 370.

¹⁸ *Dr. Jaya Thakur*, 2026 INSC 97, ¶¶ 39–45.

¹⁹ *Dr. Jaya Thakur*, 2026 INSC 97, ¶¶ 41–44.

²⁰ *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1, ¶¶ 113–119; *Common Cause v. Union of India*, (2018) 5 SCC 1, ¶¶ 157–160; *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, (1981) 1 SCC 608, ¶ 8.

²¹ *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1, ¶¶ 248–253; *Common Cause*, (2018) 5 SCC 1, ¶ 161

²² *Dr. Jaya Thakur v. Government of India*, 2026 INSC 97, ¶¶ 45–57 (India).

privacy, and bodily integrity as essential to human dignity.²³ As emphasised in cases such as *Indian Young Lawyers Association and Navtej Singh Johar*, constitutional guarantees cannot coexist with practices that stigmatise innate characteristics or treat them as grounds for exclusion.²⁴

By embedding menstrual hygiene management within this dignity-centred framework, the Court reclassifies access to adequate sanitation and menstrual products as a constitutional necessity rather than a discretionary welfare measure under Article 21.²⁵

B. Privacy and Decisional Autonomy

The Court connects dignity with privacy and decisional autonomy, drawing from *K.S. Puttaswamy*, which recognised privacy as intrinsic to individual self-governance in matters of intimate bodily choice. In this understanding, privacy shields personal decision-making not only from direct state interference but also from structural constraints that effectively curtail autonomy.

Applied to menstruation, the Court treats menstrual care as falling squarely within the protected sphere of decisional privacy-encompassing when, where, and how such care is managed. It further recognises menstrual management as part of bodily autonomy, which must remain free from coercive social norms and infrastructural deficiencies.

The absence of adequate sanitation or menstrual products, the Court observes, may indirectly compel girls to miss school or adopt unsafe practices.²⁶ Such conditions amount to a constitutional impairment of bodily integrity. Consistent with later decisions such as *Navtej Singh Johar* and *X v. Principal Secretary*, the judgment affirms that meaningful autonomy over one's body lies at the heart of Article 21.²⁷ Autonomy, as recognised in *Puttaswamy*, encompasses intimate

²³ *K.S. Puttaswamy*, (2017) 10 SCC 1, ¶¶ 297–298 (recognising bodily autonomy and decisional privacy as facets of dignity).

²⁴ *Indian Young Lawyers Ass'n v. State of Kerala*, (2018) 8 SCC 1, ¶¶ 95–102; *Navtej Singh Johar*, (2018) 10 SCC 1, ¶¶ 250–253.

²⁵ Dr. Jaya Thakur, 2026 INSC 97, ¶¶ 45–57; see also Divya Salim & Kavya Salim, Ensuring Right to Menstrual Hygiene and Health in India: A Microcosm of Right to Life, in *EXPANDING HORIZONS OF ARTICLE 21 OF INDIAN CONSTITUTION: A CRITIQUE* 142, 145–48 (1st ed. 2021).

²⁶ *Dr. Jaya Thakur v. Government of India*, 2026 INSC 97, ¶¶ 51–57 (India).

²⁷ *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1, ¶¶ 248–253; *X v. Principal Sec'y, Health & Family Welfare Dep't, Govt. of NCT of Delhi*, (2022) 10 SCC 1, ¶¶ 89–92.

personal choices relating to bodily integrity and reproductive health.²⁸

Accordingly, the right to manage menstruation privately and with dignity is treated as a legitimate constitutional expectation. The State's duty, therefore, extends beyond abstention from interference; it must secure the material conditions-functional sanitation facilities, reliable water access, menstrual supplies, and safe disposal systems-necessary to make autonomy real rather than theoretical.²⁹

C. Menstrual Health as Reproductive and Public Health

Extending the privacy and autonomy analysis, the Court places menstrual health within the broader constitutional guarantee of the right to health under Article 21.³⁰ Consistent with earlier decisions such as *Consumer Education & Research Centre, Devika Biswas, Independent Thought, and X v. Principal Secretary*, the Bench reiterates that the right to life encompasses access to health services and the conditions necessary for physical and mental well-being. Reproductive health, in this framework, is inseparable from dignity and bodily integrity.³¹ Adopting internationally recognised understandings reflected in World Health Organization standards and CESCR interpretations, the Court treats health as a holistic concept that includes physical, psychological, and social dimensions.³² Menstrual hygiene management (MHM) therefore falls squarely within this conception, requiring not only products but also sanitation facilities, reliable information, and supportive institutional environments.³³ The judgment highlights three connected concerns: first, that inadequate menstrual hygiene can contribute to infections and longer-term health complications³⁴; second, that lack of menstrual awareness limits informed

²⁸ K.S. Puttaswamy, (2017) 10 SCC 1, ¶ 298 (recognising decisional autonomy as integral to privacy).

²⁹ Dr. Jaya Thakur, 2026 INSC 97, ¶¶ 53–57.

³⁰ Dr. Jaya Thakur v. Government of India, 2026 INSC 97, ¶¶ 57–65 (India).

³¹ *Consumer Educ. & Research Ctr. v. Union of India*, (1995) 3 SCC 42, ¶ 24;

Devika Biswas v. Union of India, (2016) 10 SCC 726, ¶¶ 103–105;

Independent Thought v. Union of India, (2017) 10 SCC 800, ¶¶ 82–85; *X v. Principal Sec'y, Health & Family Welfare Dep't, Govt. of NCT of Delhi*, (2022) 10 SCC 1, ¶¶ 88–92.

³² World Health Organization, *Constitution of the World Health Organization* pmb., July 22, 1946, 9 U.N.T.S. 186; *Comm. on Econ., Soc. & Cultural Rts., General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12)*, ¶ 11, U.N. Doc. E/C.12/2000/4 (2000).

³³ Julie Hennegan et al., *Menstrual Health: A Definition for Policy, Practice, and Research*, 27 *SEXUAL & REPROD. HEALTH MATTERS* 1, 3–6 (2019).

³⁴ A. Dasgupta & M. Sarkar, *Menstrual Hygiene*, 33 *INDIAN J. CMTY. MED.* 77, 78–80 (2008);

Thérèse Mahon & Maria Fernandes, *Menstrual Hygiene in South Asia*, 18 *GENDER & DEV.* 99, 102–05 (2010).

reproductive decision-making³⁵; and third, that reproductive rights extend beyond contraception and abortion to encompass menstruation-related information and services.³⁶

Public health research supports this constitutional reasoning, demonstrating that unsafe practices and deficient WASH infrastructure disproportionately affect girls from economically weaker backgrounds.³⁷

The Court further reinforces its analysis by reading Article 21 alongside Directive Principles such as Articles 47, 15(3), 24, and 39(e)–(f), thereby grounding menstrual health in the State’s broader obligation to safeguard public health and protect vulnerable groups. Through this synthesis, menstrual hygiene is recast not as discretionary welfare support, but as a rights-based entitlement essential to meaningful equality and health protection.³⁸

IV. Participation, Equality of Opportunity and Social Justice

A. Participation as an Equality Value

Extending its equality analysis beyond formal access to schooling, the Court conceptualises participation as a core dimension of equal citizenship. Drawing from decisions such as *Navtej Singh Johar* and *Jane Kaushik*, it recognises that constitutional equality is not limited to entry into institutions but includes the ability to engage meaningfully in collective and public life.³⁹

Within this framework, the lack of adequate menstrual hygiene management (MHM) facilities is treated as more than an administrative shortcoming. It operates as a structural impediment to full participation. The Court notes that deficient sanitation affects not only classroom presence but also involvement in sports, extracurricular activities, leadership opportunities, and peer interaction.⁴⁰ Similarly, in *Jane Kaushik*, the Court underscored that structural

³⁵ Shobita Rajagopal & Kanchan Mathur, *Breaking the Silence Around Menstruation: Experiences of Adolescent Girls in an Urban Setting in India*, in *GENDER AND WATER, SANITATION AND HYGIENE* 163, 166–70 (Caroline Sweetman & Louise Medland eds., 1st ed. 2019).

³⁶ *Devika Biswas*, (2016) 10 SCC 726, ¶ 104 (recognising reproductive rights as integral to Article 21); *Independent Thought*, (2017) 10 SCC 800, ¶¶ 82–85

³⁷ Sarah House et al., *MENSTRUAL HYGIENE MATTERS: A RESOURCE FOR IMPROVING MENSTRUAL HYGIENE AROUND THE WORLD* 91–95 (1st ed. 2012)

³⁸ *Dr. Jaya Thakur*, 2026 INSC 97, ¶¶ 62–65.

³⁹ *Dr. Jaya Thakur v. Government of India*, 2026 INSC 97, ¶¶ 72–80 (India).

⁴⁰ *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1, ¶¶ 248–253 (linking equality, dignity, and participation in public life).

barriers preventing women's participation in sports and institutional spaces violate equality guarantees.⁴¹

Such recurring exclusions, though episodic, accumulate over time. They influence confidence, skill development, and social networks, thereby shaping long-term educational and professional trajectories. In this sense, menstrual deprivation is understood as reinforcing gendered inequality through subtle but persistent constraints on participation.⁴²

B. Equality of Opportunity and Cascading Disadvantage

The Court's account of equality of opportunity reflects a structured, distributive understanding of fairness. It differentiates between initial conditions, the fairness of ongoing processes, and recognition of natural differences. Within this framework, menstrual hygiene management (MHM) measures are viewed as necessary to secure:⁴³

- a) equitable starting conditions, so that biological cycles do not place girls at a recurring disadvantage;
- b) uninterrupted educational processes, ensuring that attendance and concentration are not periodically compromised; and
- c) meaningful regard for girls' long-term aspirations, including higher education and employment prospects.

The judgment underscores that opportunity cannot be genuine where structural barriers repeatedly interrupt learning. Regular absenteeism linked to inadequate menstrual infrastructure contributes to incremental academic setbacks, weaker performance, and eventual disengagement from schooling.⁴⁴ Over time, these effects narrow access to future educational, occupational, and civic participation. In this sense, menstrual deprivation is portrayed as generating cumulative disadvantage rather than isolated inconvenience.⁴⁵

⁴¹ *Jane Kaushik v. State of Haryana*, (2019) 17 SCC 248, ¶¶ 29–34 (affirming women's right to equal participation in sports institutions).

⁴² *Dr. Jaya Thakur*, 2026 INSC 97, ¶¶ 73–78.

⁴³ *Dr. Jaya Thakur v. Government of India*, 2026 INSC 97, ¶¶ 80–88 (India).

⁴⁴ *Dr. Jaya Thakur*, 2026 INSC 97, ¶¶ 82–85.

⁴⁵ *Id.*; see also Julie Hennegan et al., Menstrual Health: A Definition for Policy, Practice, and Research, 27 *SEXUAL & REPROD. HEALTH MATTERS* 1, 4–6 (2019); C. Sumpter & B. Torondel, A Systematic Review of the Health and Social Effects of Menstrual Hygiene Management, 8 *PLOS ONE* e62004, 6–9 (2013).

C. Social Justice as a Continuous Process

The judgment ultimately locates menstrual justice within the Constitution's larger commitment to social transformation. Drawing on decisions such as *Consumer Education & Research Centre, M. Nagaraj*, and *Indian Medical Association*, the Court treats social justice not as a static ideal but as an ongoing constitutional project aimed at dismantling entrenched disadvantage. It emphasises that equality of status and opportunity requires deliberate state intervention, particularly for historically marginalised and economically vulnerable groups.

Within this framework, the provision of accessible menstrual hygiene management (MHM) measures is understood as a concrete manifestation of social justice. Addressing menstrual deprivation is not symbolic; it directly counters a recurring gender-based barrier that affects dignity, continuity in education, and long-term opportunity.

Empirical studies further support this reasoning by linking menstrual-related absenteeism to weaker educational outcomes and reduced participation in the labour market, especially among economically disadvantaged communities.⁴⁶

The Court's analysis thus connects equality of opportunity with life-course fairness, recognising that constitutional guarantees must translate into sustained and tangible improvements over time rather than remain formal assurances.⁴⁷

V. Article 21A, the RTE Act and “Barrier-Free” Education

A. Education as a “Multiplier Right”

In examining Article 21A, the Court revisits the constitutional evolution of the right to education, beginning with its placement among the Directive Principles under Article 45 and progressing through *Mohini Jain* and *Unni Krishnan* to its recognition as a fundamental right following the Eighty-Sixth Constitutional Amendment. More recent decisions, including *Anjuman Ishaat-e-Taleem Trust* and *Devesh Sharma*, reaffirm this trajectory.⁴⁸

⁴⁶ Aparna Jalan et al., *A Sociological Study of the Stigma and Silences Around Menstruation*, 1 VANTAGE J. THEMATIC ANALYSIS 47, 52–56 (2020);

⁴⁷ *Indian Young Lawyers Ass'n v. State of Kerala*, (2018) 8 SCC 1, ¶¶ 95–102 (recognising equality as transformative and life-shaping).

⁴⁸ INDIA CONST. art. 45; *Mohini Jain v. State of Karnataka*, (1992) 3 SCC 666; *Unni Krishnan, J.P. v. State of Andhra Pradesh*, (1993) 1 SCC 645; Constitution (Eighty-Sixth Amendment) Act, 2002.

Within this jurisprudential framework, education is characterised as a “multiplier right,” since meaningful access to education enables the exercise of a wide range of civil, political, social, and economic rights.

The Court further clarifies that Article 21A does not guarantee schooling in a purely formal sense. Rather, it requires free and compulsory elementary education delivered in conditions that safeguard safety, dignity, and continuity of learning. As earlier emphasised in *Avinash Mehrotra and Shyam Sunder*, adequate infrastructure and a secure learning environment are integral to the constitutional promise of quality education.⁴⁹

B. Section 3 RTE: “Free” as Removing Financial Barriers

A key doctrinal move is the expansive reading of Section 3(2) RTE, which forbids “any kind of fee or charges or expenses which may prevent” a child from pursuing and completing elementary education⁵⁰. Building on *Society for Unaided Private Schools, Justice for All (Delhi HC)* and *Master Manjunath (Karnataka HC)*, the Court holds that:⁵¹

- i. “expenses” cover any mandatory outlay-uniforms, transport, washroom-related charges, digital devices-without which access is effectively blocked;
- ii. Menstrual absorbents fall within this category for menstruating students, because their recurring cost can deter attendance and lead to drop-out.

The Court is candid: conditions that force a girl to choose between dignity and education are incompatible with the idea of “free and compulsory” education and convert a constitutional guarantee into a conditional entitlement.⁵²

C. Section 19 RTE and the Schedule: “Barrier-Free Access”

A particularly notable aspect of the judgment is its interpretation of Section 19 of the Right of Children to Free and Compulsory Education Act, 2009, together with the Schedule’s requirement of “barrier-free access” and gender-segregated sanitation facilities. The Court reads these provisions expansively to emphasise

⁴⁹ Id. ¶¶ 96–104.

⁵⁰ Right of Children to Free and Compulsory Education Act, 2009, § 3(2), No. 35, Acts of Parliament, 2009 (India).

⁵¹ *Soc’y for Unaided Private Schs. of Rajasthan v. Union of India*, (2012) 6 SCC 1; *Justice for All v. Govt. of NCT of Delhi*, 2016 SCC OnLine Del 3798; *Master Manjunath v. State of Karnataka*, 2018 SCC OnLine Kar 3021.

⁵² *Dr. Jaya Thakur v. Government of India*, 2026 INSC 97 ¶¶ 101–104 (India).

that statutory standards under the RTE Act apply uniformly to all schools. Institutions that fail to meet these norms face different consequences depending on their status: private schools may risk withdrawal of recognition, while deficiencies in government schools attract direct state responsibility.⁵³

The Court also clarifies that the idea of “barrier-free access” cannot be confined to architectural design alone. Instead, it must be understood in functional terms, requiring the removal of conditions that impede students’ effective participation in education, including barriers related to menstrual hygiene management.⁵⁴

In this context, the Bench stresses that compliance cannot be satisfied merely by the nominal presence of toilet facilities. Sanitation infrastructure must be usable, secure, and properly maintained, with reliable water supply, privacy safeguards, and design features that preserve dignity. Facilities that exist only formally, without operational adequacy, undermine both Article 21A and the statutory standards under the RTE Act.⁵⁵

To reinforce this approach, the Court refers to decisions from several High Courts—including Rajasthan, Kerala, Uttarakhand, and West Bengal—which have recognised that inadequate sanitation facilities are a significant contributor to school drop-outs among girls. These rulings also emphasise that financial limitations cannot be invoked to dilute statutory obligations tied to the right to education.⁵⁶

VI. Directions and Enforcement: From Norm-Setting to Implementation

The judgment concludes with a detailed set of directions that effectively establish a nationwide baseline for menstrual hygiene management in schools. Moving beyond declaratory constitutional principles, the Court translates its reasoning into concrete operational requirements.⁵⁷

First, all schools-government and private, across rural and urban areas-must ensure

⁵³ Right of Children to Free and Compulsory Education Act, 2009, § 19 & sched., No. 35, Acts of Parliament, 2009 (India).

⁵⁴ *Dr. Jaya Thakur v. Government of India*, 2026 INSC 97, ¶¶ 104–110 (India).

⁵⁵ *Id.* ¶¶ 106–108

⁵⁶ See, e.g., *Suo Motu v. State of Rajasthan*, 2015 SCC OnLine Raj 2733; *Kerala Legal Services Authority v. State of Kerala*, 2016 SCC OnLine Ker 14876; *Social Action for Education v. State of Uttarakhand*, 2018 SCC OnLine Utt 512; *Paschim Banga Khet Mazdoor Samity v. State of West Bengal*, (1996) 4 SCC 37 (affirming State obligation in public health and infrastructure contexts).

⁵⁷ *Dr. Jaya Thakur v. Government of India*, 2026 INSC 97, ¶¶ 112–125 (India).

functional, gender-segregated toilets with reliable water supply. Sanitation infrastructure must guarantee privacy, safety, and accessibility, including for students with disabilities. Hand-washing facilities with soap and running water are also mandated, recognising hygiene as integral to dignity and public health.⁵⁸

Second, the Court directs the provision of free oxo-biodegradable sanitary napkins compliant with ASTM D-6954 standards. These may be distributed through vending machines or designated access points. Schools are also required to establish menstrual hygiene management (MHM) corners equipped with emergency supplies such as spare uniforms, innerwear, and disposal materials to prevent disruption to schooling.⁵⁹

Third, sanitary waste must be managed through safe and environmentally compliant disposal mechanisms consistent with the Solid Waste Management Rules, 2016. Each toilet unit must include covered disposal bins and regular maintenance to ensure hygienic conditions.⁶⁰

Fourth, recognising that infrastructure alone cannot address stigma, the Court directs NCERT and SCERTs to incorporate gender-responsive curricula on menstruation, puberty, and related health concerns.⁶¹ Teacher sensitisation programmes are mandated so that both male and female educators can respond appropriately and create supportive classroom environments.⁶² Public awareness campaigns are also encouraged, including promotion of Jan Aushadhi Suvidha sanitary napkins and the Child Helpline.⁶³

Finally, the Court establishes a monitoring framework. District Education Officers must conduct annual inspections focusing on sanitation infrastructure, product availability, waste disposal, and awareness initiatives.⁶⁴ These inspections must include anonymous student feedback to capture the lived experiences of girls.⁶⁵

⁵⁸ Id. ¶¶ 113–116.

⁵⁹ Id. ¶¶ 117–119.

⁶⁰ Solid Waste Management Rules, 2016, G.S.R. 451(E), Gazette of India, Apr. 8, 2016 (India).

⁶¹ *Dr. Jaya Thakur v. Government of India*, 2026 INSC 97, ¶¶ 126–129 (India).

⁶² Id. ¶¶ 127–130.

⁶³ Id. ¶ 131.

⁶⁴ Id. ¶¶ 132–134.

⁶⁵ Id. ¶ 135.

Oversight is further assigned to the National and State Commissions for Protection of Child Rights under the Commissions for Protection of Child Rights Act, 2005.⁶⁶

Significantly, the Court retains jurisdiction through continuing mandamus, requiring the Union Government to report within three months on implementation across all States and Union Territories.⁶⁷

The judgment also emphasises that menstrual health must be understood as a shared responsibility within school communities, encouraging the involvement of boys and male teachers in reducing stigma. In this way, the decision moves beyond legal doctrine to promote broader institutional and cultural change.⁶⁸

VII. Legislative and Policy Implications: Beyond the Courtroom

Beyond resolving the immediate dispute, the judgment carries significant implications for law and policy. By grounding menstrual health within Articles 14, 21, and 21A, the Court reframes it as a rights-based entitlement rather than a matter of discretionary welfare. This approach creates an important intersection between constitutional doctrine, public health policy, educational governance, and gender justice.⁶⁹

A. Reframing Menstrual Health as a Legal Entitlement

The decision points toward several legislative and policy developments. First, it encourages amendments to central and state education regulations so that menstrual hygiene management (MHM) requirements are explicitly incorporated within the norms and standards framework under Section 19 of the RTE Act.⁷⁰ When viewed through the lens of the right to life and education, such measures become part of the constitutional guarantee of quality schooling rather than optional policy initiatives.⁷¹

Second, the judgment signals the need to integrate menstrual health

⁶⁶ Commissions for Protection of Child Rights Act, 2005, §§ 15, 24, No. 4, Acts of Parliament, 2006 (India); *Dr. Jaya Thakur*, 2026 INSC 97, ¶¶ 136–138.

⁶⁷ Commissions for Protection of Child Rights Act, 2005, §§ 15, 24, No. 4, Acts of Parliament, 2006 (India); *Dr. Jaya Thakur*, 2026 INSC 97, ¶¶ 136–138.

⁶⁸ *Id.* ¶¶ 128–130.

⁶⁹ *Dr. Jaya Thakur v. Government of India*, 2026 INSC 97, ¶¶ 57–65, 89–96 (India).

⁷⁰ Right of Children to Free and Compulsory Education Act, 2009, § 19, No. 35, Acts of Parliament, 2009 (India).

⁷¹ *Consumer Educ. & Research Ctr. v. Union of India*, (1995) 3 SCC 42, ¶ 24.

considerations into related regulatory regimes, including municipal sanitation policies and environmental frameworks governing waste management in schools. This reflects the broader constitutional duty to safeguard public health and dignified living conditions.⁷²

Third, the Court's reasoning underscores the necessity of sustained financial commitment at both Union and State levels. Budgetary allocations-potentially supported through mechanisms such as Finance Commission grants-must recognise MHM infrastructure and supplies as essential components of educational systems. The Court's broader jurisprudence makes clear that financial limitations cannot justify the dilution of fundamental rights obligations under Article 21.⁷³

Taken together, these directions establish a framework that may shape future reforms across sectors such as labour regulation, juvenile justice, and public health governance. Empirical research linking inadequate menstrual hygiene to health risks, stigma, and educational exclusion further reinforces the constitutional logic underlying this rights-based approach.⁷⁴

B. Data, Monitoring and Evidence-Based Governance

The Court's directions on inspections, reporting, and anonymous student feedback create an institutional basis for evidence-driven governance. If implemented effectively, these mechanisms can generate systematic data on menstrual health infrastructure, product availability, sanitation standards, and students' lived experiences in schools.⁷⁵

Such a framework opens several avenues for further engagement. It enables empirical socio-legal studies examining compliance patterns, regional disparities, and the effectiveness of different implementation models. It also facilitates public health assessments of how free menstrual hygiene management (MHM) provisions influence absenteeism, school retention,

⁷² INDIA CONST. art. 47; see also Solid Waste Management Rules, 2016, G.S.R. 451(E), Gazette of India, Apr. 8, 2016 (India).

⁷³ *Consumer Educ. & Research Ctr.*, (1995) 3 SCC 42, ¶ 24.

⁷⁴ A. Dasgupta & M. Sarkar, *Menstrual Hygiene: How Hygienic Is the Adolescent Girl?*, 33 INDIAN J. CMTY. MED. 77, 78–80 (2008); Thérèse Mahon & Maria Fernandes, *Menstrual Hygiene in South Asia: A Neglected Issue for WASH Programmes*, 18 GENDER & DEV. 99, 102–05 (2010).

⁷⁵ *Dr. Jaya Thakur v. Government of India*, 2026 INSC 97, ¶¶ 132–142 (India).

infection prevalence, and psychosocial well-being.⁷⁶ In addition, it invites administrative law analysis of how oversight bodies such as the NCPCR and SCPCR interact with district-level educational authorities in enforcing constitutional and statutory obligations.⁷⁷

Seen in this light, the judgment goes beyond recognising rights in the abstract. It embeds those rights within a governance structure capable of producing data, enabling oversight, and supporting ongoing institutional reform.

C. Menstrual Justice and Broader Equality Jurisprudence

Doctrinally, the judgment can be read alongside decisions such as *Vishaka*, *Navtej Singh Johar*, *K.S. Puttaswamy*, *Jane Kaushik*, and disability-rights cases as part of a developing constitutional approach that places lived, embodied experiences at the centre of equality analysis. In these cases, the Court increasingly engages with realities such as sexual harassment, sexuality, disability, privacy, and now menstruation when interpreting constitutional guarantees.⁷⁸

Several common themes are visible. The Court recognises that constitutional harms often manifest through the body—whether through violence, stigma, exclusion, or lack of essential infrastructure.⁷⁹ It also draws upon social science research and empirical evidence to contextualise constitutional interpretation, acknowledging that equality cannot be assessed in isolation from social conditions.⁸⁰ Finally, the jurisprudence emphasises that dignity, equality, and autonomy under Articles 14, 19, and 21 require enabling material conditions rather than purely formal assurances.⁸¹

⁷⁶ Right of Children to Free and Compulsory Education Act, 2009, §§ 3, 19, No. 35, Acts of Parliament, 2009 (India).

⁷⁷ Commissions for Protection of Child Rights Act, 2005, §§ 15, 24, No. 4, Acts of Parliament, 2006 (India); *Dr. Jaya Thakur*, 2026 INSC 97, ¶¶ 136–142.

⁷⁸ *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241; *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1; *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1; *Jane Kaushik v. State of Haryana*, (2019) 17 SCC 248; *Vikash Kumar v. UPSC*, (2021) 5 SCC 370; *Dr. Jaya Thakur v. Government of India*, 2026 INSC 97 (India).

⁷⁹ *Navtej Singh Johar*, (2018) 10 SCC 1, ¶¶ 248–253; *Vikash Kumar*, (2021) 5 SCC 370, ¶¶ 49–52.

⁸⁰ *Dr. Jaya Thakur*, 2026 INSC 97, ¶¶ 33–39 (relying on empirical studies); *Vishaka*, (1997) 6 SCC 241, ¶¶ 7–15 (drawing from international norms and social realities).

⁸¹ *K.S. Puttaswamy*, (2017) 10 SCC 1, ¶¶ 297–298; *Consumer Educ. & Research Ctr. v. Union of India*, (1995) 3 SCC 42, ¶ 24.

Seen within this broader trajectory, the menstrual health judgment strengthens an emerging model of substantive equality that focuses on removing structural barriers. Its reasoning may also inform future claims involving menstrual leave, workplace hygiene standards, prison sanitation, and access to menstrual products for vulnerable or institutionalised populations.⁸²

VIII. Conclusion

Dr Jaya Thakur is a landmark not because it discovers a brand-new right, but because it refuses to treat menstrual health as a marginal, “soft” issue and instead threads it through the hardest edges of constitutional law-equality, life, education and social justice. The judgment’s power lies in its insistence that something as routine as menstruation should never be allowed to eject a girl from her desk, her playground or her future.

For law and policy, the message is clear: budgets, building plans, curricula and monitoring frameworks must now internalise menstrual health as a non-negotiable condition of meaningful education. For research, the judgment opens a wide interdisciplinary agenda-spanning doctrinal analysis, public health metrics, and feminist theory and governance studies-on how to translate constitutional principles into everyday practices that ensure no girl’s education ends with her period.

⁸² See *Devika Biswas v. Union of India*, (2016) 10 SCC 726, ¶¶ 103–105 (reproductive autonomy and institutional accountability); *Independent Thought v. Union of India*, (2017) 10 SCC 800, ¶¶ 82–85.