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Menstrual Health Matters: States' Obligations Under International Human Rights Conventions



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Official Masters Research Thesis

A research report submitted to the faculty of Humanities University of Witwatersrand, Johannesburg in partial fulfilment of the requirements for the degree: Masters of Arts (International Relations)

Supervisor: Natalie Zahringer

By Candice Chirwa (866635)

Declaration of Authorship

I declare that this research report is my own, unaided work. It is being submitted for the Degree of Masters of Art in International Relations at the University of the Witwatersrand, Johannesburg.

Name: Candice Chirwa

Signed:

Date:

Abstract

Women make up 52 percent of the world's population and yet a normal body function, such as menstruation, often interrupts the ability of women or girls to take part in daily activities. This is a long overdue problem that needs to be addressed. Menstrual health management (MHM) is a new theme for education, health, hygiene and sanitation. MHM has emerged as an under-recognized human rights barrier. Activism and research have highlighted the different challenges faced by women in managing their menstruation in low-and middle-income countries (LMICs). Fortunately, MHM is beginning to emerge as a norm that is taking place within domestic and international spaces. Due to the broad and open language of International Law which has been left open to interpretation, has thus created an opportunity for norm entrepreneurs to realize the implementation of MHM as a human right. The paper seeks to stress the importance of how when menstruation is not prioritized, it will thus have socio-economic consequences on women's and girls' fulfilment of their human rights, especially within LMICs.

By understanding this opportunity for MHM, the research report will conduct a document analysis of the core international treaties on human rights to investigate the extent to which menstruation is mentioned within the human rights regime. This report will illustrate that due to the allusions contained within the treaties and the socio-economic consequences that menstruation leaves on women and girls, there exists an opportunity for the emergence of MHM as a norm to be granted as a human rights agenda, and this is evident seen in the case studies of policies and commitments of certain states that are ensuring good MHM in their respected countries.

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My family and friends, for their continued love and support through the good and bad times.

"I bleed every month. But do not die. How am I not magic." – Nayyirah Waheed

Finally, this work is dedicated to all the women and girls around the world who menstruate and face difficulties.

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Abbreviations List

AU	African Union
CEDAW	Convention on the Elimination of Discrimination Against Women
CSW	Committee on the Status of Women
CRC	Convention on the Rights of the Child
CSO	Civil Society Organisations
LMICs	Low and Middle Income Countries
GAD	Gender and Development
HRW	Human Rights Watch
MDGs	Millennium Development Goals
MHM	Menstrual Health Management
ICESR	International Covenant on Economic, Social and Cultural Rights
IMF	International Monetary Fund
IR	International Relations
IWHC	International Women's Health Coalition
NGO	Non-Governmental Organisation
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNCHR	United Nations Commission on Human Rights
UNESCO	United Nations Educational, Scientific and Cultural Organisation
UNICEF	United Nations Children Education Fund
UNIFEM	United Nations Development Fund for Women
UNFPA	United Nations Population Fund
UNRISD	United Nations Research Institute for Social Development
WAD	Women and Development
WASH	Water, Sanitation and Hygiene
WID	Women in Development
WINS	Water, Sanitation and Hygiene in Schools
WHO	World Health Organisation
VCLT	Vienna Convention on the Law of Treaties

SDG Sustainable Development Goals

Key Terms and Definitions

Term	Definition
Adolescent	A transitional stage of development and growth between childhood and adult life. The United Nations and the World Health Organization define adolescents as anyone between 10 and 19 years of age.
Menarche	When a girl has her first menstruation. This occurs during adolescence, usually between 10 and 15 years of age, although this can vary.
Menstruation	A natural part of the reproductive process which prepares the body of a woman for pregnancy. If a woman is not pregnant, the cervix will shed her lining. This shedding is known as menstruation and is shown by the blood flow through the canal of the uterus.
Menstrual Health Management	The means by which women and adolescents absorb or collect menstrual blood.
Menstrual Materials	Any material used to soak or absorb menstrual blood during menstruation. These may include cotton wool, pads, menstrual cups, tampons etc.

Chapter One: Introduction

Menstruation is a natural biological function of all females worldwide. All reproductive women and girls experience this natural bleeding on a monthly basis. However, the challenge of managing menstruation is a difficult problem that many women and girls around the world face. It is essential to women and children that they are able to manage it well to lead a healthy life without any socio-economic and cultural constraints. Menstrual Health Management (MHM) is an emerging topic of interest in education, health, as well as the water, sanitation and hygiene (WASH) sector. This is a recent term used to refer to the process of managing menstruation. Menstrual Health is regarded as "an encompassing term that includes both menstrual health management as well as the broader systemic factors that link menstruation with health, well-being, gender, education, equity, empowerment and rights" (FSG 2016). 52% of the female population are estimated to be of reproductive age (15-49) and are likely to menstruate every month, however, this natural occurrence is overlooked in policy, programming, and research. It is a problem that has long since been overdue as a normal body function such as menstruation interrupts the ability of a woman or girl to participate in everyday social and professional interactions. Effective MHM is vital in terms of respecting the fundamental human rights of women and girls around the globe, yet it still remains a taboo in many backgrounds and is often associated with behaviour limitations. The United Nations Children's Fund (UNICEF) and the World Health Organization (WHO) (2012, 16) stipulate that good MHM requires access of essential education, facilities, resources and MHM education for both women and men. This is the criteria used by the research report in relation to 'adequate', 'appropriate' or 'sufficient' in relation to MHM facilities and resources.

Despite the rise of MHM, it is still a neglected topic due to the reluctance to openly talk about the subject. This impacts greatly on the health and well-being of women and girls. Menstruation carries with it negative norms and is generally perceived as a private matter which should not be discussed publicly. Contemporary media and educational materials frequently portray menstruation as something that should be kept as a secret, dirty and disgraceful. Furthermore, the silence by society increases the perception that menstruation, which is seen to be disgraceful, needs to be hidden and thus can strengthen misunderstandings and negative attitudes towards it.

The experiences lived by women in regional contexts differ as women and girls are better suited to managing their menstrual health in high income environments (Dunnavant and Roberts 2013, 122). Women and girls in low-income environments are faced with the twofold burden of social constraints and misunderstandings whilst having difficulty accessing facilities, information, and resources in order to have good MHM.

Attaining equality between women and men and eliminating all forms of discrimination against women are fundamental human rights and United Nations (UN) values. Women around the world regularly suffer violations of their human rights throughout their lives, and realizing their human rights has not always been a priority (United Nations 2014). The contribution of the international human rights regime must be examined in order to investigate the opportunity of internationalization and institutionalization of MHM as a norm through the document analysis of the two relevant core international treaties on human rights. The UN has a long history of addressing women's human rights and much progress has been made in securing women's rights across the world in recent decades (United Nations 2014). The attention is on the concept of human rights due to the fact that it is a moral vision that has received wide acceptance globally. However, important gaps remain and women's realities are constantly changing with new manifestations of discrimination against them in particular period poverty regularly emerging. The research report refers to the UN system which includes treaties and monitoring mechanisms on human rights called human rights bodies. However, the research report will only focus on analysing two core treaties relevant to menstruation which is the Convention on the Elimination of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC). Although state parties may have different domestic initiatives, the human rights regime must be responsible for setting minimum standards to ensure the realization of human rights. The only way states can address the issue of gender inequality is to engage with the international human rights regime (Bunch 1990, 486-87).

Due to the taboos surrounding menstruation, it is important to justify the need of the subject within academia. Menstrual Health Management is extremely relevant in the context of International Relations (IR). Menstruation affects everyone differently, but the crux of the research report is to illustrate how the lack of resources can have a socio-economic impact on the

women and girls especially in Low and Middle Income Countries (LMICs). The lack of sufficient menstrual needs have and continue to place women and girls in a major disadvantage to men and thus contribute to their global subordination which further prevents women and girls from having the same access to schools and the place of employment compared to their male counterparts (Mason et al. 2013). Furthermore, the negative perceptions surrounding menstruation have led to the lack of countries recognition of menstruation as an issue and thus in turn has had an impact of the implementation of good MHM. Thus, the research report will argue that due to the growing awareness of MHM in both local and international society, international law has created a window of opportunity for the human rights regime along with states to ensure good MHM is implemented for the fulfilment of the rights of women and girls. However, this can only be achieved once MHM, through the work of norm entrepreneurs, is institutionalized and internationalized within international affairs.

The main question of this research paper has been formulated in order to provide recommendations on how states and the international community should address private issues like menstruation as follows:

Due to the ambiguousness and vagueness of International Law which is left open to interpretation, where does this leave menstruation as a norm and how does this affect MHM internationally and in domestic contexts?

To facilitate the answer to the principal research question, two supportive research questions were formulated. In relation to the document analysis of the treaties CEDAW and CRC, the paper answers the following question:

Are there clear references or allusions to Menstrual Health in the two core relevant human right treaties?

The last supportive research question reads in order to define the principal focus of the paper's analysis and identify states' obligations to women's rights:

How does a state's human rights obligations relate to something as 'private' as menstruation?

Aim and Rationale

The definition and purpose of international law is an ongoing debate amongst scholars due to the varied perspectives that exist. It seems certain that international law "has a general function to fulfil, namely to safeguard international peace, security and justice in relations between States." (Tomuschat, 2001, 23). Or as Article 1 of the UN Charter understands international law, it has the purpose to "be a centre for harmonizing the actions of nations in the attainment of [...] common ends" such as international peace and security, friendly relations among nations, and international co-operation. There are many legal approaches (naturalists, positivists, eclectics) that have a view on what the purpose of international law should be like, however this research report aligns with the "process theory" perspective of international law. International law is to be understood as a process which takes into account past decisions, current international affairs and the future (Çali 2010, 79). The process theory views the relationship between law and policy as unavoidable but also necessary for international law to be responsive to the emerging needs of international society. Furthermore, the process school states that international law has a purpose and direction which is to 'realize human dignity' (Cali 2010). Thus, human rights norms are at the core of this historical evolution when it comes to international law (Forsythe, 2011). This perspective strengthens the case of the effectiveness of international law and states' obedience to it in the light of MHM. Thus, the research report believes international law in this sense to be a bottom up approach as international law is not made by states but by decision makers with authorized powers (such as state officials, intergovernmental organizations, and non-state actors). It is still better that states openly show how their policy choices are influenced by international law rather than them viewing international law as a set of rules that no state effectively obeys. Along with the purposes of international law, Article 1 of the UN Charter identifies "promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion" (U.N Charter art. 1, para 3). The emphasis on human rights in the UN Charter illustrates that the treatment of individuals by states and the use of political powers are not simply domestic matters for individual states to deal with. Thus, international law has a role to play in setting minimum standards for states to follow. Although many states have asserted a liberal and progressive commitment to internationally recognized human rights, most states have depended on national policy making over the realization of universal human rights (Forsythe, 2011).

From a human rights perspective, the research report will analyse how MHM links with human rights and whether states fulfil these obligations in practice. Human rights offer an objective standard for practitioners to hold governments accountable. International human rights can be understood as a relationship between the state and the people living in that state. The state is to be understood as the "duty bearer" of rights, whereas the people living in that state are "right-holders" (Cook, 1993). Furthermore, the UN with the assistance of experts regularly reviews the compliance of countries and allows for some individuals to file cases for violations against state parties. Thus, the state is left with the primary responsibility of ensuring its "right-holders" can enjoy the full fulfilment of certain human rights. Human rights can be implemented nationally, by national human rights mechanisms or by court systems, if integrated in domestic law (Human Rights Watch, 2017). At the national level, it is important that states comply with international standards. These standards, as will be discussed further, often provide only the minimum safeguards and it is thus preferable that states provide a higher level of protection, for example CEDAW informs states to ensure the right to health care, but a state can go further by making available resources such as access to safe and affordable clinics for a higher enjoyment of certain socio-economic rights. Effective domestic protection and the success of international standards ultimately lie in the power of the states. Adherence to principles of human rights requires a focus on the needs of vulnerable and marginalized groups and an assessment of the effects of programmes.

However, international law scholars see much of the human rights research problems as hidden in the detailed argument and analysis rather than in general patterns of compliance (Cali 2010, 287-289). This is due to the fact that the idea of human rights is in need of constant interpretation, reinterpretation and concretization in order to have relevance and effect in actual situations. This is seen through how international monitoring mechanisms interpret human rights law to give it concrete application. Cali (2010, 289) presents the issue of interpretation through the example of water boarding. 'Water boarding' (i.e. the act of pouring water over the face of a person when they are stretched and/or upside down and their face/mouth is covered) is prohibited in international law because the United Nations Committee against Torture interprets it to be torture, however there is no human rights treaty that says 'water boarding' is prohibited in

international law. Furthermore, critics of the human rights regime, in particular third world feminists, argue that the human rights system has emerged from a liberal context. The Sustainable Development Goals (SDGs) for example were implemented in 2015 and it is argued that it was influenced by the norms of liberal feminism and economic neoliberalism in the global human rights agenda as it failed to consult relevant civic groups, local individuals, and states on their priorities and needs (Cudd 2005, 172). Critics such as postcolonial feminists argue that global agendas like the Millennium Development Goals (MDGs) have enabled Western policy-making priorities and interests to take precedence (Khumalo and Porter 2013). Despite the Universal Declaration of Human Rights' (UDHR) claims for universality and neutrality, feminists argue that the conceptual foundations of the international human rights system is based on a model of human nature which considers the experiences of an elite group as the standard, with the non-Western world being mainly excluded from being 'knowers and subjects of knowledge' (Quereshi 2012, 41-43). Along with the analysis of the human rights regime, the research report will examine how menstruation is categorized as a 'second generation right' and thus fails to receive public attention due to the private-public split.

In addition to the analysis, the research report will set out to analyse the postcolonial feminist critiques of the human rights regime and in particular will focus on the development frameworks that sought to empower women in the third world. This narrative will briefly analyse the postcolonial feminists' perspective that tends to argue that feminism in general reflects the experiences of middle-class women in developed states and excludes particularly women of colour and women from the global south. Postcolonial feminists rearticulate the subaltern women's history and emphasize that feminism must examine the actual experiences, lives and material histories of the 'Third World' women (Mohanty 1984). Postcolonial feminism acknowledges that gender inequality links economic, political, and social dimensions that include inequalities of power and discriminatory norms.

In the 1960s till about the 1980s, three approaches were instituted in the global system to ensure women's participation within national, regional and global economies. The first two are called Women in Development (WID) and Women and Development (WAD) which laid the foundation of equality of opportunity for women as well as providing better access to education, training,

property, and employment (Rathgeber 1990, 491). The third approach emerged as an alternative attempt to include the experiences of grassroots women's organizations and the work of postcolonial feminist scholars. This approach emerged from the experience of grass-roots women's organisations and the work of postcolonial feminist scholars and has been clearly articulated by a transnational feminist organisation called Development Alternatives with Women for a New Era (DAWN). The paradigm of gender and development (GAD) argues that the status of women in society is heavily affected by their material circumstances and positions in national, regional and global economies. The GAD perspective poses the argument that a woman's geographical location determines her relationship and access to rights and state protection (Agathangelou and Turcotte 2010, 45). In addition, GAD acknowledges the differential impacts on women and men of development policies and practices and sees women as agents, not as merely developmental beneficiaries (Connelly et al. 2000, 61). Alternatively, DAWN called for an approach to women's development that recognises the importance of global and gender inequalities (Parpart 1989, 10). The GAD and DAWN perspective is key to the research question at hand, as it provides the narrative of states obligation to women's socio-economic rights. However, the case study in chapter four will present a unique challenge to the GAD paradigm as these two LMICs countries are providing policies in support of MHM.

"The world is of our making" is a statement that I believe to be true (Onuf 2013). And norms over time have and continue to create ideas that impact and shape the world as I know it. At the basic level, norms influence the community and behavioural conduct of people in their everyday life. Norms govern the way communities conduct their behaviour within the national level. On the international level, norms have become part of the IR tool-kit for analysing behaviour of international actors. The fact that today not even the boldest dictator would stand up in the United Nations and state that it is their sovereign right to kill their own people or how when a girl is menstruating she is restricted from social activities such as attending church, cooking or taking a bath (Druet 2017), show that norms have an ability to limit and control an actor's fate. The most applicable theory in IR that looks at the relationship between actors and structures is social constructivism. Constructivism in general is an approach to IR that focuses broadly on the roles that norms, ideas and culture play in world politics. Alexander Wendt (one prominent constructivist), famously stated that international politics is about 'ideas all the way down'. In

other words, we cannot understand the world without understanding the identity and self-understanding of the actors that make up world politics (Wendt 1999). Constructivism argues that states are social entities that are concerned with what they deem and prioritize to be appropriate behaviour in world politics and do not always act out for power and self-interest purposes. States' priorities are often shaped by their own national identity, which is informed by a unique set of cultural, historical and institutional traditions. Thus, states are influenced by international norms that prescribe what is considered to be appropriate and inappropriate behaviour (Krupa and Weber 2013). In approaching some of these issues, I will focus on the concept of 'norm entrepreneurship' which has had a large influence on normative thought and on IR since the late 1990s (Moses 2014, 57-60). After first examining the terms of the norm cycle and the role of the norm entrepreneur, I will then argue that despite the various menstrual taboos that exist, MHM deserves to be a new norm within the human rights framework.

Research Design and Research Methods

The paper uses an inductive approach. The inductive approach best suits this research question based on the fact that the paper is set on starting with explaining the variables (i.e. detrimental impact on women and girls rights) and finding what causes the outcome. Process tracing evaluates the cause and effect link that connects the IV and the outcome to find evidence of each step (Van Evera 1997, 64). In terms of finding causality, the research report focused on looking at the two relevant treaties to menstruation (CEDAW and CRC) as well as evaluating the unique policies that states have taken. This research takes on a mind-monist approach (Jackson 2011, 24-40). As the researcher I am attached to the world that I study, including the fact that I am an African woman experiencing menstruation on a monthly basis. It must be noted that I am privileged in the sense that I have access to information and materials to properly manage my menstruation even though the prices of such materials is costly. I wrote this research report to validate the experiences of thousands of girls and women who do not have the platform to convey their struggles surrounding inadequate MHM.

In terms of research design, firstly, the paper evaluated a search of peer-reviewed and grey literature by accessing online journals such as JSTOR and PubMed with the keywords: "Menstrual Health", "Menstruation", "MHM and Human Rights" and the paper presents the

challenges and barriers that women and girls within Sub-Saharan Africa face surrounding menstruation (Elledge et al. 2018; Hennegan and Montgomery 2016; Hennegan et al. 2019). Grey literature is an important source of information due to the uniqueness of the content that gets published as well as the fact that it can be more current compared to commercially published information. With regards to the case study, I decided to focus on two Low and Middle Income Countries. In the 1980s, the World Bank established a categorisation based exclusively on income level, as measured by per capita Gross National Income (GNI), which today comprises of low-income countries, lower-middle income countries, upper-middle-income countries, high-income countries and high-income OECD members. For the purpose of this research report, the focus will be on LMICs according to the World Bank's categorisation. LMICs are classified as "economies with a GNI per capita of more than $1045 but less than $4,125" (Fialho and Van Beregeijk 2016). To understand and evaluate the government's obligation and programmes surrounding menstruation and to challenge Agathanelous and Turcotte's argument, the paper will look at two LMICs. In terms of data collection, I worked at the United Nations Populations Fund (UNFPA) in July-September 2017. The research involved consulting 23 country offices in East and Southern Africa to evaluate the policies and programmes that various governments are in the process of implementing. This data will be helpful in unpacking and analysing the policies of the two LMICs.

Evidence within the literature shows that menstruation tends not be practised effectively in LMICs (Hennegan and Montogmery 2016; Mason et al. 2013; Sommer et al. 2015). To investigate possible effective alternative approaches, the study chooses two LMICs. The proposed two countries are Kenya and Zimbabwe. Several sources detail the number of schoolgirls who miss school during their menstruation in low-income settings (Hennegan et al. 2019). 50.2% of schoolgirls self-reported missing school at least once during menstruation in Kenya, whereas in Zimbabwe 62% of girls are using unhygienic materials during their menstruation whilst 20% of rural primary school girls do not attend school (Wilson et al 2014; Everson 2016). However, these two countries contain unique policies that address MHM and the analysis of these policies will serve as an insightful tool for how the international human rights regime should learn from these two countries and potentially create scope for reform with the current international treaties. The close proximity of both these countries provides better access

to information as a researcher. The case study analysed both the government's commitments and policies through accessing the relevant Ministry's databases (Health, Education, Gender) to evaluate the progressive policies that each country contains and trace back to how the international human rights regime should effectively deal with menstruation. This case study was an important opportunity to assimilate key policies from these two countries to effectively address menstruation.

To evaluate the opportunity of internationalization and institutionalization for MHM, the paper analysed the two international treaties to identify clear references or allusions to menstruation within the human rights framework. The two core international human right treaties were selected for specific analysis. The two treaties are Convention on the Elimination of Discrimination Against Women and Convention on the Rights of the Child as they are relevant to menstruation since their scopes are particularly relevant to menstruation and because most states are party to them (188 and 194 countries, respectively) (UNTCa, UNTCb 2015). Furthermore, CEDAW requires governments to take appropriate measures to address abusive gender norms as stated in article five. These two treaties have been obtained from the UN Treaty Collections site and the Office of the High Commissioner for Human Rights. In all treaties applicable, the paper carried out an electronic keyword search and categorized the findings in three groups:

1. No clear references or allusions to menstruation
2. Allusions to menstruation
3. Clear references to menstruation

In chapter four, the document analysis reference codes were developed for specific allusions or clear references. The codes of reference are as follows:

1. Treaty in question
2. Reference type: Allusion (A) or Clear Reference (CR)
3. Number of the specific reference or article in question

For instance, CEDAW/A/1 is the reference code to the first allusion to menstruation. I searched in the two core international human rights treaty electronically for the following keywords on menstruation. The keywords chosen for finding clear references and allusions were:

"Menstruation, menstrual, menses, sanitation, sanitary, hygienic, toilet(s), puberty, adolescent, girl(s), women, women and gender." I have analysed and classified the results into the following groups: The first group shall be treaties with no references or allusions to menstruation and the second group shall be treaties with only allusions to menstruation, and the third group shall contain treaties with clear references and allusions.

Outline of the Study

Following this chapter, chapter two focuses on the emergence of the global south feminist movements in critique of the human rights framework and sets to analyse the relationship a women has with the state based on her position in the world. Following that, there will be a discussion of the realization of women's rights in particular women's sexual and reproductive rights within international and domestic law. In chapter three, a brief analysis of the life cycle of norms will be presented in relation to menstruation and the argument will be made as to where in the cycle of norms should menstruation be institutionalized. Following that, this chapter argues for the case for menstruation as a norm by briefly looking at menstrual taboos and the work Civil Society Organisations (CSO) have done as norm entrepreneurs to ensure that MHM is a human right. Following this, chapter three will further justify the need for MHM by examining the implications menstruation has on education and the workplace. In chapter four, the paper will investigate states obligations to 'private' human rights issues as well as linking the human rights regime to MHM. Following this, there will be a brief discussion of the normative framework relevant to MHM. Furthermore, the issue of ambiguous language in international law will be discussed and then the chapter will conduct a document analysis of the two international human right treaties (CEDAW and CRC) and analyse the allusions most relevant to menstruation. In chapter five, there will be an investigation into African states' compliance with women's human rights with a specific focus on the African Union treaties. Furthermore, the chapter will present the case study on two LMICs (Kenya and Zimbabwe) to understand their normative framework towards women's human rights and as well evaluate governments' commitment and policies surrounding menstruation. The conclusive chapter will summarize the importance of MHM for the international human rights treaties and provide recommendations to ensure that menstruation is internationalized and institutionalized as a norm within the human rights regime.

Chapter Two: Perspectives on international law

Feminist perspectives have informed the development of international law since the early 20th Century, when women's international peace organizations supported the development of international law and international institutions in the hope that they would provide a means to resolve international disputes peacefully. International law was understood as a hopeful site for feminist engagement, as providing a means for the improvement of women's lives as well as enabling a permanent peace (Otto 2012). The real question however lies in whether the law is accommodating for feminist practices and perspectives in the 21st Century. When it comes to the international human rights regime, feminists analyse international law from the perspective of gender and the gender inequalities embedded within the legal system. Feminists offer a critique of the consequences of an androcentric system of international law and this critique plays an important role in determining the realization of women's human rights in particular sexual and reproductive rights within the domestic and international level. Androcentrism and the public-private split are part and parcel of patriarchy (understood here to mean the degree to which society is male-centred, male-dominated, and male-identified). Various contemporary feminist analysis of international law on human rights, institutions and practices are based on criticism of a broader patriarchy. As mentioned within the introduction, international law is understood here as outcome orientated, that it is to be focused on the realization of human rights, human dignity, democracy, gender and distributive justice. Human rights and global justice in the past have received the most attention within the international arena due to the strong moral appeal these ideas have on states in general. However, feminist perspectives on human rights especially from the Global South have argued that the human rights regime, although universal, tends to be exclusionary of different voices and experiences. In this chapter, there will be the analysis of the development of women's human rights to accommodate for the discussion on the emergence of the global south feminist movements, such as Women and Development (WAD), Women in Development (WID), Gender and Development (GAD) and the Development Alternatives with Women for a New Era (DAWN), within the human rights framework. This chapter also seeks to analyse and unpack the GAD paradigm in understanding the development framework towards women in the Third World. Finally, the chapter will provide a brief contemporary focus on the realization of women's rights in particular sexual and reproductive rights within domestic and

international law through the analysis of the South African Constitution in aiming to show that international law sets the minimum standards.

Feminism and international law

The rallying cry of Hillary Clinton at the 1995 Beijing Conference for women's rights raised awareness of the exclusionary nature of the human rights system and emphasised the idea that "Women's rights are human rights." (Human Rights Watch 2017, 3). Feminists involved in the area of human rights are concerned about the way women are excluded by universal rights. The history of the modern western feminist movement is divided into four "waves". In the "first wave" of feminism, activists and theorists focused on the gendered notion of citizenship which was used to deny women and other minority groups freedom of civil and political liberties. (Thorpe 2018). The primary way to achieve sexual liberal feminist ideal of "sameness", according to first wave liberalists, was through legislative means i.e. suffrage (right to vote), education and labour rights. Many of the debates which occurred during the first wave spread before and after World War II, particularly during the establishment of the UN and the drafting of the Universal Declaration of Human Rights (UDHR). The central liberal feminist argument during this time period was that the rational capacity, individual autonomy and ability of men and women are the same, therefore, full citizenship and its accompanying rights, protection and opportunities should be afforded to all (Humm 1990). However, it has been suggested that women must be seen as a separate group characterised by sexual differences and that special protection is needed to "level the playing field" to ensure that women are on equal terms as their male counterparts. Women could advance individual autonomy and self-government only through this method (Lake 2001, 255).

The drafting of the UDHR in 1948 and the establishment of the UN accommodated the liberal feminist ideal of "sameness" and thus laid the basis for the future of international women's human rights. The theoretical tension was caused by this "sameness" principle between different feminist agendas that created an impact in the women's human rights movement. In Article 2 of the UDHR, there are subtle hints of sexual equality as it states: "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth

or other status." Those who insisted that "sex" should be included within Article 2, hoped to address gender inequality by placing women on "equal footing" with men (Johnson 1998, 61). For many decades the UN Committee on the Status of Women (CSW) and the UN Commission on Human Rights (UNCHR) has laid the theoretical basis for policies. Liberal feminists paid special attention following the establishment of CSW and the ratification of the International Bill of Rights to protect civil and political freedoms for women. However, as this chapter will progress, these liberties perpetuated by the UN system tended to benefit only women from developed nations and excluded the experiences of the Third World women.

It has already been argued by feminists that liberal rights which interact with human rights are in no way universal. The androcentric construction and nature of human rights as well as the continuation of the false dichotomy between the public and private sphere are the two most significant criticisms of this discussion. The public-private split "refers to the distinction between home (private or reproductive sphere) to which women are assigned and the workplace (the public or productive sphere) to which men are assigned" (Peterson and Runyan 1999, 259). Examining liberal history shows individual men's rights were protected due to their participation in the public sphere whereas women, who participated in household duties in the private sphere, did not have rights that protected them (Pateman 1989). This is referred to as the public-private dichotomy. These concepts can primarily be traced to John Locke's work in the Second Treatise on Government for which he advocated for natural and inalienable human rights (Locke 1980). Locke's liberal ideas focused on the notion of the individual being rational enough to exercise these rights. During Locke's era, private property ownership was the "criteria" for "rationality", which meant that women, low-wage workers and slaves were excluded from exercising rights, thus undermining the notion of universality. Within the context of elite male experience, Locke's notions of inalienability and universality were theorised based on the exclusion of women and other marginalized groups. Thus, this male experience intertwined with the definition of human rights and had become recognised as the "norm", and thus feminists sought to challenge the social construction of human rights and rearticulate it (Charlesworth and Chinkin 2000). Furthermore, Locke provided also a theoretical basis for the exclusion of women from the individualist notion. Locke distinguished between public political power and paternal power in a family's private sphere. Locke thought the subordination of women in the private

sphere to their husbands was natural and non-political (Rao 1996: 445). This natural subordination of women, which the state supported and endorsed, indicates that they cannot be free and equal people at the same time. Locke, therefore, effectively consigned women to the private sphere, where they were unable to claim the rights of the public sphere, through the separation between public and paternal power (Pateman 1989, 33-57). As seen with focus on the individual in liberal theory, it can be concluded that liberal law is a universal principle which necessarily neglects the special concerns and interests of women. Although all states would not subscribe to these liberal principles, the crux of the matter is the context in which international law emerged from, as international law is responsible for establishing minimum standards for states to abide by. If these minimum standards are based on liberal principles that inherently seek to exclude women, then states can easily neglect the realization of gender rights. The context in which human rights are developed plays an important role because they reflect a "distinctive, historically unusual set of social values and practices," (Donnelly 1999, 81). As Charlesworth (1995, 103) conveys that

> because the law-making institutions of the international legal order have always been, and continue to be, dominated by men, international human rights law has developed to reflect the experiences of men and largely to exclude those of women, rendering suspect the claim of objectivity and universality in human rights law.

In addition to this, tracing and understanding the development of human rights regime is important to understand the implications of the exclusionary nature on women's rights. The claim of androcentrism in human rights development is raised by Charlesworth on the issue of objectivity. It is important to assess who and on whose behalf makes claims to human rights. Tracking the historical process shows that mainstream human rights including individual autonomy, is largely influenced by liberal ideology that reflects the desirable and ideal aspects of human rights. The human rights regime is essentially based on ancient Greek polis and remains solidly integrated into liberal thinking (Grant 1991, 12-13). As a result, "human rights law was gendered male: it protected a male subject, who experienced violations primarily directed at men, in largely male spaces" (Friedman 2006, 480). This has implications for the public-private distinction and women's ability to function in the private sphere since "the duties and activities

of citizenship have strongly depended on manliness" (Voet 1998, 7). Emphasizing the public sphere as the legitimate sector of human rights detaches women's social and political experience in the private sphere and thus reinforces the androcentric constructs of human rights. The distinction between the public and private allows the state to appear as non-gendered and overlooks the contribution of formal legal equality to the complicity of states in their handling of gender issues in the private sector. Feminist perspectives on international law believe that the legal system discourages states from intervening in the private sphere because of the priority given to family sanctity and the right to privacy (MacKinnon 1991). This reinforces the rule that states are responsible for violations of human rights and not the conduct of individuals in the private sphere, where most gender-based violations are committed (United Nations High Commissioner for Human Rights 2011).

GAD and Development

There has been a monumental shift in attitudes among development practitioners. Since Ester Boserup's study in 1970 which highlighted the crucial role of women's labour in sustaining local and international economies, the development framework has recognized the links between the status and welfare of women and a whole range of development goals. As the 1995 Beijing Platform for Action proclaimed: "The advancement of women and the achievement of equality between women and men are a matter of human rights and a condition for social justice […] they are the only way to build a sustainable, just and developed society." Across the board, investment in a country's women has proven to be one of the most effective and cost-effective means of generating sustainable development gains (Roy, Tisdell and Blomqvist 1999). Thus, having policies that are gender-sensitive are crucial in this attainment of sustainable development.

Feminists do not neglect the importance of the human rights regime. However they note that the regime has failed to document women's experiences and needs (Brooks 2002). The term 'empowerment' is mainly adopted by governments and various institutions as an instrument to legitimise continued policies and practices which do nothing to empower women from a feminist perspective (Sardenberg 2008, 19-21). Chandler (2013, 4) highlights the increasingly important role of human agency in the debate of development. He argues that by pushing an agenda for

development, development must go beyond basic needs and create "a conducive environment for people, individually and collectively, to develop their full potential and to have a reasonable chance of leading productive and creative lives in accord with their needs and interests" (Chandler 2013, 4-5). Furthermore, he maintains that the development agenda should seek to extend the choice of individuals by removing different types of unfreedoms that prevent people from exercising the reasoned agency (Chandler 2013, 15). Chandler believes that people should have the opportunity to understand what they really want and be able to freely choose what is in their best interests and in society. Development frameworks should in particular recognise the roles of women and girls as agents of change, not intrinsic to vulnerability, but rather disadvantaged by unjust patriarchal powers that function as unfreedoms, preventing them from exercising their role. It is important not just to address the immediate problems faced by women and girls, but more importantly, to challenge and transform patriarchal power structures to ensure and enlarge women's agency (Stuart and Woodroffe 2016, 76). Feminist studies have suggested that both policies and analytical work are neglected if adequate attention is not paid to women. Women are most often seen as lacking agency, as merely victims in a system of cruel and unjust inequalities (Connelly et al. 2000). In addition to that, the work of liberal feminism which attempted to focus on the Third World, operated with a conception of third world women as beings without agency, or neglected to analyse 'double or triple' discrimination of the roles played by third world women in both the public and private spheres (Dube 1999). This divergence was a result of the second wave of feminism which started early in the 1960s in the United States and gained traction elsewhere over the next few decades. The Western feminist movement was largely the result of white middle class educated women. The emergence of the suffragists movement winning the vote for white women in most Western countries created a new status for the white women above women of colour (Hooks 1981, 153). There was a tendency to normalise and centre the experiences of middle class, able-bodied, Western and heterosexual women and to erase or marginalize the experiences of working class, queer, and differently abled feminists. Thus, postcolonial feminists argue that the differences between the experiences - for instance - of women, of class, of ethnicity, of race, of location and of religion should be acknowledged by feminism and development practices as a whole. It recognises that some women are facing double or triple discrimination not just because of their gender, but also

because of other perhaps more important factors (Dube 1999, 214). Postcolonial feminists argue that the international legal framework does not acknowledge or value the experiences of women.

As a result, the feminist movement that remerged around the 1960s advocated that women had to be more fully integrated into the development process (Reddock 2000, 34). The central point of the original women and development approach was that both women and men had to be lifted out of poverty, and that both women and men had to benefit from development efforts (ibid: 35). Due to the exclusionary nature of the neoliberal development projects, the norms surrounding the divergence between developed and developing women brought about the establishment of the following development frameworks. Women in Development (WID), sought to make women visible as a category in development, research and policy. The three categories of social actors – advocates, scholars, practitioners, were important in the establishment and framing of the WID perspective as a norm within the international arena (Tinker 1990). WID activists argued that the problem was that women were excluded from the economic sphere and other development processes. The WID approach made demands for women's inclusion in development, but it did not call for changes in the overall structure or economic system in which women were to be included (Regan 2016, 162). The WID approach gave little attention to the inequalities between men and women and ignored the social, cultural, legal and economic factors that perpetuate inequalities in society. Women and Development (WAD) argued that neoliberal capitalism was the main culprit in the underdevelopment of the Third World (Kay 2005, 1178). Advocates of WAD believed that WID's objective to integrate women into development was to sustain the status quo of existing global structures of inequality and maintain Third World countries economic dependency on industrialized, capitalist states (Rathgeber 1990, 491-492).

Gender and development (GAD) emerged in the late 1980s as an alternative response to the limitations of earlier attempts at feminist development practice. The GAD approach holds that the oppression of women stems largely from a neoliberal focus on improving women's reproductive and productive capacities (Rathgeber 1990, 494). GAD aims to 'not only integrate women into development, but to look for the potential in development initiatives to transform unequal social/gender relations and to empower women' (Braidotti 2004, 81). This approach emerged from the experience of grass-roots women's organisations and the work of postcolonial

feminist scholars, and has been most clearly articulated by a transnational feminist organisation called Development Alternatives with Women for a New Era (DAWN). DAWN called for an approach to women's development that recognises the importance of global and gender inequalities (Parpart, 1989, 10). Members of DAWN recognised that previous theoretical frameworks on development did nothing to improve the lives of Third World women, and that a broader, more comparative approach was needed to address women's development problems. GAD's contribution to development practice is significant for this research paper as it seeks to play a critical role in advancing gender equality, economic growth of women and women's empowerment by providing support and defending groups of women who are vulnerable. The GAD approach puts greater emphasis and onus on the participation of the state in promoting women's emancipation (Rathgeber 1990). The GAD paradigm also provides an interdisciplinary approach into understanding the experiences and expressions of women through different social contexts. Singh (2006) argues that one of the methods that the GAD paradigm seeks to contribute to the divergence between developing and developed women is through understanding identities of women. The GAD paradigm rejects a generalization about women's identity and encourages international institutions to accept personal narratives to serve as the actual voice of women in order to reflect the subtle differences between other individual women (Beneria, Berik and Floro 2015). This means that life stories (autobiographies and personal letters) can help understand the experiences and expressions of women and the way in which they differ from one another despite being in the same social context. Scholars like Agathangelou and Turcotte (2010, 45) argue that a woman's geographical location determines her access and relation to and protection by the state. Women in a third world state are afforded less rights and state protection than women in the West. Furthermore, women in the Third World are frequently exposed to severe measures of domestic and sexual oppression. Poor women's lived experiences in developing countries are often the victims of mainly underdeveloped infrastructural housing, unemployment, homelessness and high crime and violence (Fakier and Cock 2018, 7). The disparity between the accesses to rights as experienced by different groups of women therefore lead to further discrimination and marginalisation of the third world woman. GAD recognizes that patriarchy operates within and across classes to oppress women. It rejects the public/private dichotomy and it gives special attention to oppression of women in the family by entering the 'private sphere'.

The GAD approach emphasizes both the reproductive and productive role of women and argues that the states' duty is to provide social services in promoting women social reproduction role.

The GAD approach is also used within international organisations like the World Bank and the International Monetary Fund (IMF) to discuss the relationship between development processes and women's inequality. GAD emphasizes and prioritizes the 'bottom-up development' approach (Beneria, Berik and Floro 2015). This process is promoted by some women and development advocates to focus on collective action. NGOs are seen as playing a central role in organizing women issues to be resolved through collaboration and empowerment. UN agencies such as the Development Fund for Women (UNIFEM), the Research Institute for Social Development (UNRISD), and the Population Fund (UNFPA) have been central to carrying out research, conducting gender analyses, and implementing programmes aimed at gender equality and women's empowerment. These organizations have managed to shed light on a wide range of important issues, which include sexual/domestic violence, reproductive rights to health, child morality, sexual orientation, trafficking of women, and the global sex industry. These organisations have also drawn attention to concerns regarding women and the economy in the context of globalization.

Realization of Women's Rights

It is 2017, and although this country is 15 000km away from me, I vividly remember the moment the 45th President of the United States of America rolled back decades of women's rights by signing a ban on federal money going to international groups that perform or provide information on abortions (Thorpe 2018). A group of men standing around a desk, making decisions about women's bodies would always remain etched within my memory. Fast forward to 2019, Alabama has introduced a law banning almost all abortions in the state. This legislation makes abortion illegal at every stage of pregnancy, including cases involving rape or incest, unless a woman's life is at risk (Sabur 2019). The impact that the President's decision will send many women away from sterile, safe health facilities in an attempt to access the abortion services they should have by human right. His signature of the ban is not just pen and ink, his signing of the ban shows how despite international law recognizing the right to health care as stipulated in CEDAW, the final decision when it comes to the implementation lies with actors within the state. This section will show how international law can set important minimum standards for vulnerable groups such as women's rights, however, the issue lies at the domestic level of states not realizing these rights. This section will use South Africa as a prime example to support the argument that although the law protects women's rights, the implementation lies at the prioritization and willingness of states to implement these rights.

In South Africa, there are many laws that advance women's rights and South Africa is considered to have one of the most progressive constitutions in the world. The South African Constitution is unique because it includes "positive rights" which requires the state to enact policies that minimize inequality (van Staden 2018). The Constitution intends to free South Africans from discrimination and redress historical inequalities. Our law continues to be aspirational and seeks to be outcome orientated, it seeks to ensure that the law prioritizes that human dignity is realized. The South African Constitution declared women equal, and restricted discrimination against individuals on the basis of sex, sexual orientation, gender, and disability. South Africa's Constitution was the first in the world to prohibit discrimination on the grounds of sexual orientation. On top of that, the constitution provided for the right to health care, services, social support and to dignity and freedom. South Africa is also a signatory to a ream of

international and regional treaties that further commit to the advancement of gender equality and feminist principles.

In brief, there are a few acts that provide an overview of the progressiveness of South Africa's legal system. For example, the Labour Relations Act (1995) set out ways to prevent sexual harassment in the workplace and to respond when it does happen. When it comes to healthcare, South Africa has the Choice on Termination of Pregnancy Act (1996) which engaged with the public on a scale never seen before in South Africa on issues of sexual and reproductive choice, and went on to provide every woman with the right to safe, legal abortion until twenty weeks of gestation, and thereafter under restricted circumstances. The Commission for Gender Equality Act (1996) established the CGE, whose task remains to continue monitoring the actions of the state and the public to ensure that they advance gender equality, and to respond to issues if and when they occur. When it comes to gender based violence, South Africa has the Domestic Violence Act (1998) which prohibits intimate partner violence, protects women's rights in relationships, provides the option of seeking shelter and refuge when leaving an abusive relationship, and makes it possible to get a protection order against an abuser. The Traditional Leadership and Governance Framework Act (2003) required that forty per cent of traditional councils must be democratically elected, and a third of all members must be women. There exist a lot of acts that advance gender equality that are too exhaustive to list, but these acts show that South Africa has frequently used legislation as a means to advance gender and women's rights. The law in this case has been seen as an opportunity to change the lives of women's realities by changing the norms within the legal system. On paper, South Africa provides inspiration to other states to follow suit in strengthening gender equality and women empowerment within the domestic level.

When it comes to practice, there is an issue of implementation and allocation of resources to make sure that the rights within the Constitution are enshrined. For example, research found that less than a third of Home Affairs officials are willing to formalize same sex civil unions, something that they are allowed to refuse in terms of the Act (Collison 2016). With regards to GBV, South Africa has one of the highest rates of gender-based violence in the world (Zulu, 2019). Research shows that police stations and courts do not have even the most basic

information to give survivors of gender-based violence when they report a case (Tshwaranang Legal Advocacy Centre and Rape Crisis Cape Town Trust 2011). Facilities are not up to standard either due to the poor allocation of resources or poor political will to use those resources to implement the laws effectively. There are many reasons for the country's inability to realize the rights set out on the Constitution. These include a lack of political will, corruption and mismanagement (Andrews 2017). The ability of the constitution to change the lives of the majority of South Africans can be realized if enforcement involves a broad spectrum of societal actors. This includes government, the corporate community and civil society, the media, the trade union movement and religious bodies. The most successful case of enforcement was when the Treatment Action Campaign, a civil society organisation, forced the government to roll out anti-retroviral medication to HIV positive pregnant women in public medical facilities. When civil society advocates work closely with other non-state actors to ensure that the state realizes human rights, this provides possibilities of the realization and fulfilment of the constitution. The failure does not lie with the Constitution, but with the government that fails to deliver on the promises of it as well as society's willingness to embrace these rights as necessary and important. Despite the many challenges, the law can set important minimum standards for vulnerable groups to ensure access to equality. The only way for laws to be properly implemented is for individuals, NGOs and civil society to ensure that the law does not act simply as a rubber stamp or as an ideal 'wish-list'. It is the responsibility of states to ensure that if domestic or informal systems are used, that these systems are compliant with international human rights standards. In the South African case, the legal system is compliant, however the implementation and allocation of resources is the one of biggest hurdle to the realization of women's rights.

To conclude this chapter, attaining equality between women and men and eliminating all forms of discrimination against women are fundamental human rights. As seen in this chapter, through the tracing of the history of human rights, realizing women's rights has not always been a priority. Achieving equality between women and men requires a comprehensive understanding of the ways in which women experience discrimination and the human rights regime was critiqued for being androcentric in nature and for disregarding the values, principles and practices of women in particular non-Western women's agency, experiences, and identities. The

UN has a long history of addressing women's human rights and much progress has been made in securing women's rights across the world. Some groups of women face additional forms of discrimination based on their age, ethnicity, nationality, religion, health status, marital status, education, disability and socioeconomic status. Western liberal feminism, which has aimed at supposedly empowering women and producing gender equality, has not been able to establish a truly transformative and sustainable means of including and uplifting women in the Global South out of their highly disadvantaged positions. If a development framework that calls for the empowerment of women does not consider the importance of including various voices and experiences, then as seen with WID and WAD, it will be a framework that is exclusive in nature. This chapter argues that global south feminist movements like GAD provide valuable insights and proposals in relation to how current development agendas can be improved to take into consideration the actual lived realities, voices, knowledges and agency of women in the Global South. The GAD approach puts greater emphasis on the participation of the state in promoting women's emancipation, seeing it as the duty of the state to provide some of the social services which women in many countries have required on a private and individual basis. Finally, the issue of realization of these rights had been tackled through the South African analysis of the Constitution. International law provides a good framework or 'wish-list' for states to conduct their affairs within the domestic level, however struggles to implement the various laws to ensure the rights of all women are attained.

Chapter Three: Menstruation Matters

I remember the first time I got my period. My first reaction was shock, then excitement, then anguish. Like a lot of children, I found many conversations difficult, and a topic like menstruation was particularly hard. When I informed my mother, I was bestowed with norms that still continue to impact and restrict many girls and women's behaviour today. In many cultures, menstruation is not talked about. It is seen as dirty or impure and the silence around it can lead to a lack of knowledge, which can result in generating damaging misconceptions. In a study involving nearly 100,000 girls in India, almost half of them did not know about menstruation until the first time a girl has her period (van Eijk et al.2019) Many girls think that they are dying or have a horrible disease the first time they menstruate, as the pain and blood causes confusion and worry (Druet 2017). Menstruation has to be prioritized as a norm that not only seeks to debunk taboos and myths but will provide the relevant and necessary resources and facilities to school girls and women around the world. This chapter will briefly discuss the role and impact the norm cycle has within IR discourse and integrate the work civil society has done to ensure that MHM can be internationalized and institutionalized as a norm within the human rights framework. Finally, the chapter will justify the need for MHM as a norm by evaluating the implications menstruation has on education and the workplace.

MHM as a 'Norm'

An international norm is defined as a "set of standards for the appropriate behaviour of states" (Finnemore and Sikkink 1998, 893). The existence of an international norm does not necessarily imply that all actors follow the norm, but rather that local actors employ the norm as a standard to evaluate their behaviour. Constructivists believe that states are concerned with status and world opinion (Theys 2017). States often make decisions and determine their actions based on the logic of appropriateness i.e. their concern is focused on what is socially appropriate and deemed as good behaviour. Thus the function of norms in this regard is to be understood as a regulative ideal that sets the standard for behaviour. These expectations of what constitutes proper behaviour can diffuse across the population to the point that they are taken for granted. Norms, therefore, do not simply erupt but rather evolve through a political process. A central issue within social constructivism is the internationalization and institutionalization of norms, or

what is now referred to as the life cycle of norms. Social constructivists Martha Finnemore and Kathryn Sikkink have focused on the role that individual 'norm entrepreneurs' play in promoting and institutionalizing new international norms. They argue that international norms emerge in life cycles. The life cycle of an international norm has three stages: emergence, cascade and internalization (Finnemore and Sikkink 1998). The first stage, norm emergence, is where norm entrepreneurs attempt to convince a mass of people to embrace new norms. A norm cascade, the second stage of the cycle, occurs when a combination of different techniques are exercised such as advertising any specific policy preferences as well as applying social pressure for conformity through events that include influencing a large audience. Finally, when norms get to the last stage of the cycle, they are known to be internalized. At this stage, norms reach the point where they develop into a social fabric within our societies to the extent that they can rarely be questioned (Moses 2014). The claim 'anarchy is what states make of it' articulated by Alexander Wendt (1992) becomes relevant in the field of social constructivism because people and states can start thinking about international and domestic affairs in new ways and thus create new norms that may be radically different from old ones.

When it comes to the case of menstruation, unfortunately, menstruation is a norm that carries negative perceptions and thus has serious socio-economic implications on women and girls (Druet 2017). 'Auntie Flo', 'on the rag', 'girl flu', 'howling at the moon', these are just some of the many English expressions used to avoid the embarrassing subject of menstruation. Historically, literature around menstruation has focused on the understanding of menstrual blood as culturally symbolic and meaningful (Dunnavant and Roberts 2013). In some instances, menstrual blood is viewed as an emblem or manifestation of creative power particularly in the sense of fertility. In medical instances, menstruation signifies the onset of womanhood and is often associated with fertility, growth, childbirth and sexuality (Gómez-Sánchez 2012). However, some cultural practices have perceived menstrual blood (and its management) as polluting and taboo. Certain cultural practices have encouraged a particular set of beliefs that affects the way in which women are expected to develop relationships with their bodies and selves (Bobel and Kissling 2011). A menstrual taboo is a social restriction or negative connotation attached to female menstruation and is not specific to one region or religious practice (Bobel 2011). In understanding menstruation taboos, it will be important to understand

the reason as to why MHM deserves to be institutionalized within the human rights framework in a positive light. There are societies that punish girls and women for menstruation through banishment. In countries such as Tanzania, Mali, Nepal and India, women are forced to remain isolated in 'menstrual huts' during their menstrual cycles. In 2017, in Nepal, a 15 year old girl (Roshani Tiruwa) died due to smoke inhalation as she was expected to remain in the menstrual hut. This practice is otherwise known as 'chhaupadi' (Horton and Selk 2017). As well as being forced to sleep in huts, girls and women having their period have to do extreme outdoor labour during the day. They are restricted in who they can work with, and are only given limited food. In certain extreme cases, many girls and women are banned from reading and writing. A survey conducted by the Women and Children Office in Nepal showed that around 74 percent of women in Jumla are still sent to the sheds during menstruation (Buda 2017). Officially, chhaupadi was outlawed by the Supreme Court of Nepal in 2005, but it has still remained to be a harmful cultural norm and tradition. The state is now providing penalties to those forcing menstruating women into a period hut and this is now punishable with three months in prison and 3,000 rupee (R614) fine (Adhikari 2019).

Menstrual activism is a product of third-wave feminism. Attitudes are slowly changing thanks to the work of norm entrepreneurs and international organisations. Cultural practices like in Nepal encourage the discreet management of blood flow and discomfort, resulting in girls keeping the experience of menstruation hidden from boys and men. Therefore it is essential to create a discourse that defines menstruation as an empowering event and to tackle the cultural dimensions of the MHM agenda. States play an important role in the destigimization of menstruation. Perception of menstruation is affected by government policies on education, development, business, taxes and healthcare (Fan and Jeong 2018, 5). The state's obligation in relation to MHM will be unpacked in the following chapter. Due to feminist activism and scholarship within the MHM field, recent initiatives such as Menstrual Hygiene Day and MHM in Ten both aim to bring non-profits, government agencies, the private sector, media and individuals to promote MHM (Sommer et al. 2016). These initiatives raise awareness of the challenges faced by women and girls worldwide while highlighting the solutions that address these challenges and utilising the global community. In 2014, the United Nations declared 28th May as an annual Menstrual Hygiene Day. The date was chosen because the average menstrual

period lasts five days and usually happens every 28 days. It is now celebrated by 380 partner organisations all over the world. There are hundreds of websites and Facebook groups dedicated to periods such as Menstrual Matters, Period Positive etc. Large NGOs like the World Health Organization (WHO), Human Rights Watch (HRW) and the International Women's Health Coalition (IWHC) conduct research and advocate for human rights. HRW (2017) has recently classified safe and healthy menstruation as a human right. Water, Sanitation and Hygiene in Schools (WinS) for Girls supported by Grand Challenges Canada is a notable research project that aims to inform interventions focused on building the capacity of local researchers to understand girls' menstrual health needs in 14 countries. Donors, governments and other private actors have increased the momentum to address the challenges related to menstrual health, however the focus to date has largely been on "hardware interventions" i.e. products and infrastructure. Smaller organisations may perform less advocacy, focusing their efforts on providing direct aid. Organisations like Zana Africa that provide reusable sanitary pads to girls in Zimbabwe (Bloom 2018), or organisations like Period Movement, which focus on providing educational content around menstruation (Duberman 2018). The use of mass media and other media channels for communication can affect social norms by reducing taboos, especially about menstruation. Procter and Gambles' "Touch the Pickle" campaign aimed to defy taboos that surround menstruation in India that restricted women and girls from entering the kitchen, worshipping and "touching the pickle" during menstruation. The ad campaign encouraged women to talk openly about menstruation and led to 2.9 million women pledging to talk about menstruation (Vinaya 2014).

These organisations are crucial where they have the power to make cultural change within the domestic level where foreign NGOs cannot. Despite the taboos and myths that surround menstruation, menstruation is beginning to emerge as a norm that requires the attention of states to eradicate the socio-economic implications that menstruation provides. Some state actors are slowly beginning to become aware of these implications and create policies that deal with how to implement effective MHM. Thus, taking into consideration the normative theoretical framework as well as the menstrual activism that has occurred recently, menstruation would fall within the 'norm cascade' stage as a result of the work that NGOs such as the UN and HRW have done.

There is an attempt to socialize the new norm of menstruation with few state actors in an attempt to get the norm institutionalized by all state actors.

Implications of Menstruation on Education & Workplace

All around the world girls, women, transgender and intersex people suffer from the stigma of menstruation through cultural taboos, discrimination, and the inability to afford sanitary products. This is also known as period poverty. When 'that time of the month' arrives, there comes a range of economic and social burdens on young girls during their time of transition into adulthood. As noted by Balls (2017) and Mills et al. (2016), universal agreement on the parameters to define what "appropriate" MHM criteria is still needed. Although there is no universal estimate, smaller studies on school girls indicate that interventions such as providing sanitary materials illustrate a higher school retention rate for the girl child. Thus, it is important to understand the impact 'period poverty' has on education and the workplace.

Education

The human right to education includes the right to free and mandatory primary and secondary education for all to be "generally available and accessible." In addition to the right of girls to education, educating girls undoubtedly has greater benefits for the economic development of a country, civil society's formation and the overall health of the population (Behrman and Rosenzweig 2002). Not only is education a human right. Education is more than reading, writing and arithmetic. It is one of the most important investments a country can make in its people and its future. It is also one of the main ways of empowering girls. Girls would have a better possibility of education, health, safety and security by keeping girls in school (Paddison 2017). Educated women have a greater chance of escaping poverty, leading healthier and more productive lives and raising the standard of living for their children, families and communities. It also benefits nations as a whole, increasing the share of women with a secondary education by 1 percent boosts annual per capita income growth by 0.3 percent according to the World Bank (2011, 2-5). Consequently, policy makers and institutions such as UNICEF and UNESCO focused more on narrowing the gender gap in education (UNICEF 2003; UNESCO 2007; UNICEF 2010a). In Sub-Saharan Africa, gender equality has improved in the last decade, at both

primary and some secondary levels (McCarthy, Brady and Hallman 2016). However according to a World Bank report, progress continues to be eroded by the high school dropout rates that are influenced by six areas: earnings and standards of living; child marriage and early childbearing; fertility and population growth; health, nutrition and well-being; agency and decision-making and social capital and institutions (Wodon et al. 2018). This challenge has affected more girls than boys (Holmes 2003). According to the MDG report for 2015, schools at a tertiary level have deteriorated between 2000 and 2015 (UN 2015). In studies done from the East and Southern African region, the link between menstruation and educational outcomes is confirmed (Hennegan et al. 2019; Elledge et al. 2018; Wilson et al. 2012; Tamiru et al. 2015). A study carried out in the Masvingo district of Zimbabwe shows that the participants perceived a strong relationship between insufficient MHM and poor school performance and absenteeism (Ndlovu et al 2016). Menarche is a unique challenge for schooling, in particular since more young girls remain in school after puberty. In the management of menstrual health with dignity, many schools do not support women or girls as well as teachers. Failure to manage menstruation with adequate water and sanitation facilities means that poor sanitary protection materials can result in blood-stained clothes which lead to school girls being stressed and embarrassed. As seen in Kenya, many schoolgirls expressed being distracted from school work as they fear being marginalised by other girls or sexually harassed by boys (McMahon 2011). A conference held by the Columbia University, Emory University, and UNICEF provided helpful insight into the obstacles faced by girls in various contexts and geographies (Sommer et al. 2013) The challenges identified by girls during interviews include pain, teasing, and shame related to menstrual leaks and odour, lack of understanding of menstruation, and inability to manage the menstrual flow in school efficiently. However, despite the emerging research by various institutions, the process of establishing adequate menstrual health practices is difficult due to the lack of a universal standard.

Furthermore, a study by Miiro et al. (2018) involving policymakers had ‘reported poverty and menstruation as the key factors associated with school attendance’. Although empirical data is based on small samples, the majority of the studies have shown evidence of menstrual related challenges and school performance. Overall, menstruation has a significant impact on African school girls as various studies present their findings (Kelly et al. 2014; Venkatraman and Patel 2017; Crofts 2014; FSG 2017; Hennegan and Montogmery 2016). For reasons related to

menstrual issues, 90% of girls in Malawi reported missing school (Pillitteri 2011, 12). At least once during menstruation, 50.2% of school girls reported missing school in Kenya (Wilson et al 2012). During menstruation, 14% of students have missed school (Crofts 2010, 72). Pillitteri's study in Malawi provides a more detailed breakdown of girls' menstrual-related experiences and absenteeism, and the study finds that approximately 57% of girls reported missing during school time whilst on their periods for one to two hours, 11% for three to five hours, over 14% for one to two days and 15% for over three days (2011, 12). It must be noted that menstrual-related absenteeism has a harmful impact on girls' education since they fail to meet the curriculum on time because of the lack of academic support (Kanyike et al. 2005). If schoolgirls menstruate for 3-5 days and do not have the necessary resources to attend school, it is often hard to catch up a week's worth of work (Sivakami et al. 2018). In addition, poor MHM prevents girls from being able to reach their potential when they attend school during menstruation. This is due to the fact that girls cannot concentrate in school because their blood stains could appear on their uniforms as teachers expect that children have to stand up to answer a question or write the answer on the board (Kirk and Sommer 2006, 8).

The long distances that girls have to walk to school, fear of bullying by boys along with the lack of effective menstrual materials and adequate facilities, all have a significant impact on girls' education (Sommer 2010; Sommer et al. 2012). If there is a presence of sanitation facilities to allow menstruating girls to wash and change, the act/event at times can reveal a girl's menstrual status thus putting her at risk of shame and ridicule which results in avoiding doing so. Another major challenge for MHM for girls and their surrounding communities is the lack of knowledge about menstruation. The lack of knowledge surrounding their own bodies and menstruation is an overwhelming time for any girl and thus can be a barrier to attending school. Literature that is expansive and rapidly growing shows the general knowledge and perceptions of menstruations, particularly amongst teenage girls in LMICs (Sommer et al. 2015; Sommer 2010; Sumpter and Torondel 2013). It is imperative that girls are well informed and educated about the changes in their body as the relevant school curricula can have an important role to play in their adolescent development. This also links with the right to health which includes having "access to health-related education and information, including on sexual and reproductive health" (UNFPA-ESARO 2017). The right to public health is strongly linked to the right to education, which in

turn plays an important role in making good MHM possible. However, many teachers face challenges in addressing MHM in the classroom due to the lack of educational resources surrounding menstruation. Globally, including in the East and Southern African region, misconceptions, negative cultural and social norms surrounding menstruation affect girls' perceptions of their bodies. Some communities believe that once a girl has started her menses, she is ready for sexual activity, thus many girls fear disclosing their menstruation due to the association of menstruation being equated to sexual behaviour which is considered improper. Education of girls can end in communities where menstruation is linked to sexuality, and so there is social stress due to early marriage of girls, leading to the termination of school attendance (Kamlongera 2007). A systemic review found that mothers and teachers have had difficulties when talking about menstruation to their children in Ethiopia, Kenya, Malawi and Uganda (Chandra-Mouli et al. 2017). The conclusion of the review was that participants had discomfort talking with girls about menstruation and were inclined to promote misunderstandings. Furthermore, religious and cultural leaders have reported negative perceptions about menstruation, whereas men and boys often do not have menstrual knowledge either leading to boys bullying and taunting girls (UNICEF 2015). These are just a few of the menstrual obstacles that girls in LMICs have to face on a monthly basis. It is important to understand that these obstacles that girls face during their period can have harmful effects on schooling which further contributes to the gender gap in primary and secondary education and thus violates their right to education. There is a gap in the literature to improving the understanding of menstruation such as knowledge of cycle length, requirements for hygiene and sexual health to improve the management practices and reduce anxiety. In a study trial done in 2015, the findings concluded that the knowledge and practice of menstrual hygiene is low (Upashe, Tekelab and Mekonnen 2015). The literature on MHM overwhelmingly focuses on the girl child in school. However, half of the youth in Sub-Saharan Africa are out of school (Inoue et al. 2015). The majority of MHM studies focus on adolescent school girls. And although menstruation lasts long after adolescence, women over the age of 20 and working women and girls are largely overlooked in MHM literature.

Workplace

Work is often interpreted in literature as "paid work outside the home". There are two aspects to the human right to work: the right to choose or accept employment freely and the right to fair and favourable working conditions which include the right to safe and healthily conditions (Human Rights Watch 2017, 13). All employees including, those in the informal sector are subject to both aspects of the right to work. However, in this case, it is the latter aspect of the right to work that is most important in terms of human rights when thinking about MHM. The right to safe and healthy working conditions must be complemented by adequate water and sanitary facilities in the workplace. It is particularly important to note that all employees, including formal and informal workers, are subject to the obligations of the state. The role of the state is to develop, apply and monitor adequate labour standards, including standards that require employers to provide safe, healthy working environments that meet the needs of women during menstruation. Yet, the state tends to overlook the challenges women face when they are menstruating. The risk of vaginal infections or any negative effects may be increased if women workers have to change menstrual materials at improper places or not to change materials frequently enough. Thus, this barrier often leads to women not going to work whilst menstruating and having an impact on their ability to earn an income. Furthermore, working women are left to being discriminated against at the workplace and this is one aspect of broader gender inequality especially in the economic context.

In the United States of America, there is an estimated work loss of $1 692 per woman per year because of menstruation (Cote et al 2002). The MHM challenges faced by working adolescent girls and women in LMICsis dependent on the nature of their work. In Sub-Saharan Africa and South Asia, 60% of women work in the agricultural sector. Women in Africa contribute significantly to the development of Africa. African women as employees, farmers and entrepreneurs in particular are more economically active in Africa than elsewhere. African women make up approximately 70% of the workforce, in particular the agricultural sector (Doss 2011). There is therefore no legal obligation for employers in informal environments to provide women with a working environment that addresses their sanitary needs. A study by Business for Society (BSR) among factory workers in Bangladesh found that 60% used menstrual rags from the factory floor, which is particularly important since 80% of factory workers are women (WSSC 2013, 2). These rags, which were highly chemical-charged and often freshly dyed, were

the only option for women. Furthermore, the BSR reports that it found Bangladesh's female factory workers were sometimes obliged to take contraceptive pills to reduce regular toilet use during menstruation as the toilet infrastructure is not suited for MHM (BSR 2010). Furthermore, when sanitary pads are provided, this statistical figure drops to three percent (WSSCC 2013).

However, there can be more interventions that businesses and the state can do to ensure that women are allowed the opportunity to work effectively. A report by Public Health England shows that women's concerns about period pains and periods are their third biggest reproductive health worry (Mann et al 2018). A paper called The Girl Who Cried Pain (2001) found extensive evidence that women's pain is treated as less important than men's by healthcare workers. Although the literature focused on women working in the informal economy, there have been efforts in the formal economy that have catered for the needs of menstruating working women. Some countries have introduced a policy called 'menstrual leave' which ensures that women may have the option to take paid or unpaid leave from her employment if she is menstruating and is unable to go to work. Women in India, Japan, Korea, and a few other Asian countries are allowed to request days off work. Although some have deemed Menstrual leave as controversial due to it being seen as a criticism of women's work efficiency or as sexism (Luliano 2013). Furthermore, the article tries to ascertain whether menstrual leave sends the message that menstruation is a disease or an affliction to employers (ibid 2013). However, I believe that the policy allows for employers to play a big role in normalizing women's health care by lifting the silence about women's bodily functions. There is a gap in the literature with respect to studies that focus on working women and MHM. The literature that does exist concludes that the working environment lacks policies that create conducive environment for women during their menstrual cycle. Along with that, there needs to be better empirical data that suggests that work policies that cater for women's reproductive needs will in fact create a better efficient work force.

Overall, the implications of menstruation paint a clear picture of the challenges women and girls face on monthly basis. The geographical location of a women's position determines her accessibility into state protection and health rights. A woman living in a higher income country, for example, would have different experiences of menstruation to those in low middle-income

countries as menstruation violations are more prevalent in low middle-income countries. Through the analysis of the norm cycle, menstruation is therefore, linked to privacy although poor MHM is economically, politically and socially very relevant for the public sphere. MHM is conveyed as a matter that is not worthy of public debate due to societal perceptions that associate menstruation with 'privacy' and 'shame' (Bobel and Kissling 2011). As seen within this chapter, it is without a doubt that girls in school and working women face difficulties due to the challenges with managing their menstruation. Despite the various challenges, NGOs, donors and governments are attempting to tackle issues related to menstrual health by providing resources, infrastructure and education. Therefore, the following chapter will highlight the immediate obligation states have under international human rights law in order to effectively ensure that menstruation is no longer a hinderance to women and girls' fulfilment of human rights.

Chapter Four: Human Rights Analysis

Since the founding of the UN, equality between men and women has been among the most fundamental guarantees of human rights. Thinking of development and advocacy work in human rights terms will often require assessment of the systemic problems which affect the geographical area, as these are likely to form the barriers to the realisation of human rights. The research report is now tasked with asking the important question, what obligations states have to human rights, more specifically in dealing with private human rights issues with reference to MHM. In this chapter, I firstly and briefly highlight the importance of states obligations to human rights, as well as linking the human rights regime to MHM. In addition to this, the issue of vagueness and interpretation will be discussed with reference to Articles 31 and 32 of the Vienna Convention and what impact this has on the realization of women's rights. Finally, the paper will review the international normative framework as well as provide the results of the document analysis of the two relevant treaties to menstruation (CEDAW and CRC).

States Obligations to Human Rights

Human rights are increasingly vital as a result of interest in globalisation, both theoretically and practically. Human rights are often invoked in rhetorical terms to bring weight and importance to situations of injustice. International human rights law is a legal framework that defines the relationship between a state as "duty-bearers" of human rights and people living in that state as "rights-holders" (Parisi 2017). This means that the government bears the responsibility of ensuring that people can experience and enjoy their human rights. The treaties and their optional protocols are ratified or acceded to by states on a voluntary basis; once a state becomes a party to a treaty or a protocol, the state takes on the legal obligation to implement its provisions and to report periodically to a "treaty body" composed of independent experts (OHCHR 2014). Although not all human right treaty bodies are part of the UN, all UN states have ratified at least one of the core human rights treaties and over three quarters have ratified at least four. Treaties remain important because they send out a strong political message about the boundaries of acceptable state behaviour. When a state ratifies one of the international human rights treaties, it assumes a legal obligation to implement the rights recognized in that treaty. Through ratification,

states put in place domestic measures and legislation compatible with their treaty obligations (Forsythe 2011). While states are the primary duty-bearers, NGOs, operating as non-state actors, need to respect and promote these human rights treaties in their day-to-day operations (Glendon 1998). A rights-based approach focuses on the principles and legal framework of human rights, which requires that planning and operationalisation of their activities be centred on the respect for the human rights of those affected. This approach recognises beneficiaries of aid as "right-holders with legal entitlements and identifies governments and their partners as duty-bearers with correlating obligations to meet those entitlements" (Olafsen et al. 2018). Adhering to human rights principles requires the needs of the vulnerable and marginalised group to receive special attention, by carefully mitigating the impact of programmes on this group's rights, and laying a foundation of procedures to ensure accountability and participation in an organisation's operations (Cook 1993). Moreover, all stages of programming must be guided by human rights standards. All human rights should be ensured without discrimination, which means that any direct or indirect discrimination on any grounds must be eliminated immediately. The typology of a legal framework is crucial in understanding the human rights regime. No two legal frameworks are the same. However, there are some similarities and a common hierarchy in legal frameworks. By ratifying an international human rights treaty, a state commits to giving effect to the human rights contained in the respective treaty at a national level. In that sense, human rights are a commitment towards an outcome. The state is free to choose how it realises human rights.

With regards to the national legal and policy frameworks, most states have a constitution. The constitution is the supreme and fundamental law in a country and commonly includes a set of human rights. While most states of the world have a well-written, codified constitution, a few countries rely instead on multiple documents for help with decision making. Constitutions are not the only form in which the rules may be expressed. Rules may also take the form of ordinary laws such as statutes or decrees, judicial decisions or well-established customs and conventions (Coleman and Sebok 1994). The laws, also commonly called 'acts', 'bills' or 'statutes', are created by legislatures and contain more detail than a state's constitution. They are important to give effect to human rights in more concrete terms, thereby setting parameters within which the executive branch of government has to act. Finally, policies shape the 'plan of action' that the executive uses to put its vision into practice. Policies generally serve as a declaration of intention

rather than as a description of rights and obligations and therefore generally are difficult to enforce. Many constitutions, laws and policies now explicitly guarantee many human rights. However, the realisation of human rights has to work in practice, and challenges to this are common. Local regulations or even administrative procedures most often act as a tool or a barrier to the implementation of realising human rights.

Good MHM requires a holistic approach in ensuring the full realisation of human rights. The full and equal enjoyment of all human rights and fundamental freedoms by women and girls is a priority for governments and the UN, and is essential for the advancement of women. The Platform for Action developed at the United Nations Fourth World Conference on Women reaffirmed that all human rights – civil, cultural, economic, political and social, including the right to development – are universal, indivisible, inter-dependent and interrelated as expressed in the Vienna Declaration (UN 1995). Equality and non-discrimination form the foundation of all human rights law. All major human rights instruments are designed to ensure equal rights for all and therefore require that existing human rights violations must be addressed immediately. The CEDAW treaty requires governments to take adequate action to deal with abusive gender norms as stated in article 5 (a):

> modify the social and cultural patterns of conduct of men and women with a view of achieving the elimination of prejudices and customary and all other practices which are based on the idea of inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.

Human rights are, therefore, meant to be protecting people not just from the state but also from violations by third parties who attempt to impose restrictions on women and girls (Appiah 2009).

Vague and Conflicting Obligations

Ambiguity, vagueness, interpretive leeway, and loopholes, these are common features of international law. Law relies upon language, and often language can either be vague or ambiguous. Hans Morgenthau explains the reason and purpose for vagueness of international treaties as a way to find a "common basis on which all those different national interests can meet in harmony. Rules of international law embodied in general treaties must often be vague and ambiguous, allowing all signatories to read the recognition of their own national interests into the legal text agreed upon." Louis Henkin articulates that "almost all nations observe almost all principles of international law and almost all of their obligations almost all the time" (Henkin 1979). The benefit of this quote is that full compliance is said to lead states into a pattern of obedience and predictable behaviour. However, if international law, in particular treaties, is argued to be ambiguous and vague, does this impact the compliance of states behaviour in the realization of human rights?

A theory of interpretation for human rights law should tell us who should interpret the law, and how the interpreters should do their work. The eight human rights treaty bodies or committees fulfil a number of vital functions in the human rights system. These treaties supervise states parties' compliance with their obligations under a treaty, monitor progress and provide public opinion on realization of these efforts. Treaties assist states in assessing achievements and in identifying implementation gaps. Treaties try to induce changes to the law, policy, and practice in member states and provide guidance on the measures needed to realize rights at the national level. Given the importance of treaties, the issue lies at the interpretation of implementation of these treaties within domestic level. The principles of interpretation of international treaties contained in the Vienna Convention on the Law of Treaties (VCLT) are considered to be the customary international law principles of treaty interpretation. The rules for treaty interpretation are contained in Articles 31 and 32 of the VCLT. The VCLT provides two interpretive rules. Article 31(1) contains the basic rule of interpretation. It establishes that a treaty shall be interpreted in good faith and that the ordinary meaning of its terms, its context and its object and purpose are the three relevant factors of interpretation. These three factors must be viewed together and none may be given greater weight than the others. The interpretation of the text in light of the object and purpose is required to make human rights provisions practical and

effective and to take into account present day conditions for the protection of the individual. Human rights treaties are required to be interpreted in a manner sufficiently favourable to the effective protection of individual rights. Article 32 adds that recourse may be had to supplementary means of interpretation in order to confirm the meaning resulting from the application of Article 31, or to determine the meaning when the interpretation according to Article 31 'leaves the meaning ambiguous or obscure' or 'leads to a result which is manifestly absurd or unreasonable.' The application of the method of interpretation set out in Articles 31 and 32 provides significant flexibility. The role of states cannot be completely ignored in the process of interpreting a human rights treaty. Interpretation of treaties lies with state parties with the support of monitoring mechanisms. This could result in states interpreting treaties for their own state interest and not necessarily for the interest of citizens (Henkin 1985).

There are implications when laws are not clearly articulated and supported by the state. As articulated by Cook, Dickens and Fathalla "laws that prohibit medical procedures but that do not have clearly stated or indeed any exceptions where women's lives […] are at risk can be shown to violate human rights requirements" (2003, 51). The content of treaties can send out mixed messages, if not interpreted correctly. During the drafting on the CRC, there was disagreement among states on the stage at which a child has rights, with some arguing for the rights of the unborn child from the moment of conception. No lower age limit was set, leaving the interpretation of the word "child" to individual states. Eventually, it was suggested by Italy and accepted by states that the "right to survival" should be integrated and linked to the "right to life" (Alston 1990, 164). Thus, the right to life was included in the Convention on the Rights of the Child, and is left sufficiently vague in terms of starting point, so that it could be interpreted by states to protect the right to life or the right to be born of an unborn child, even when to do so would endanger the right to life of an adult woman.

The example of Indonesia shows the implications that vagueness and interpretation have on women's reproductive rights. Indonesia ratified CEDAW on the 9th of July in 1993. The only reservation it entered was to say that it does not consider itself bound by the provisions of Article 29, paragraph 1 which essentially articulates that the government of Indonesia has ensured that it does not need to apply the Convention in any future legislation nor indeed address the existing

discriminatory legislation in Indonesia that defines a wife's responsibility as "taking care of the household to the best of her ability" and has yet to criminalize martial rape (Walton 2019). In terms of reproductive rights, the government in Indonesia has shown a total disregard to the articles within the Convention. For example, while the convention clearly states that women have a right to information, education and means to control the number of children they conceive, the Indonesian Criminal Code states that it is a criminal offence to provide information to anyone on means of preventing or interrupting pregnancy (Walden 2018). While CEDAW states that women have a right to access this information, the Political Covenant does contain exceptions under which states may restrict people's right to impart information. Contained within Article 19(3)(b), one such exception is for "the protection of national security or of public order, or of public health or morals" (Cook, Dickens and Fathalla 2003, 209-210).

States may conform but not necessarily obey. According to Hart et al. (2014), international law contains rules that nations comply out of a moral, not legal, obligation. Furthermore, Hart defined obedience to international rules as conforming or complying, but never obeying. However, conforming and not obeying does not necessarily mean states are not committed. Instead, the capacity of a state to comply with the law and accepted norms is a key factor (Moses 2014). States do not always comply with norms because they may lack the capability to carry out their obligations. Powerful states can lack the capacity if domestic institutions hamper compliance. For example, the USA remains one of a handful of countries not to ratify CEDAW. Women's rights remain in flux depending on who is in power (Thorpe 2018). President Trump, and the Republican controlled Congress, rolled back on some important women's rights protections, domestically and in foreign policy (Lynch and Grammer 2019). Congress passed legislation dismantling a rule protecting family planning funds in Title X, a national program that funds services to more than 4 million Americans, ensuring access to reproductive health care. This will leave many women without affordable access to cancer screenings, birth control, and testing and treatment for sexually transmitted infections. Thus, the international human rights regime can provide a framework for states to follow, however the final decision lies with those who are in power and what norms and values exist within the states' administration. Until human rights law explicitly states which rights take priority, and what constitutes or does not constitute public morals, states will be able to interpret the rules in a way that is fitting to their pre-existing

legislation and conventions like CEDAW become almost meaningless to the women of Indonesia and USA.

International Normative Framework

The core value to live in dignity is enshrined in the international human rights framework together with international humanitarian law, international criminal law and international refugee law. The normative framework are complementary bodies of law that share a common goal: the protection of lives, health and dignity of persons (Bantekas and Oette 2016). The international normative framework provides a structure through which the exercise of power is subjected to agreed rules, guaranteeing the protection of all human rights. Thus, it is important to be familiar with the international normative framework and what the provisions mean in practice because the international normative framework specifies the duties and obligations concerning the specified issue. The international normative framework provides a common, objective set of rules to which different actors can refer to for the fulfilment of human rights.

The right to social security has been enshrined in several human rights instruments, including the Universal Declaration of Human Rights, adopted by the General Assembly in 1948. The International Covenant on Economic, Social and Cultural Rights adopted by the General Assembly in 1966, further specified a set of rights that State Parties must respect, protect and fulfil without discrimination on the basis of sex; including the right to social security (article 9), the right to adequate standard of living; including adequate food, clothing and housing (article 11), the right to the highest attainable standard of physical and mental health (article 12) and the right to education (article 13). CEDAW which was adopted by the General Assembly on December 18 1979 and took legal effect in 1981, requires State Parties to eliminate discrimination against women to ensure their equal enjoyment of the 'right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work as well as the right to paid leave' (article 11, e). The Beijing Declaration and Platform for Action (1995) recognises the importance of social protection, public services and infrastructure for poverty eradication and progress for women & girls more broadly.

The United Nations Sustainable Development Goals (SDGs) are 17 objectives that all 193 UN Member States have agreed to achieve by the year 2030. The UN SDGs has given world leaders,

national organizations and local communities the platform and chance to end poverty, protect the planet and ensure that all people's human dignity and human rights are respected. Although the SDGs are less binding than the treaties being analysed, menstruation matters to the following SDGs: SDG Three: "Ensure healthy lives and promote well-being for all at all ages". If women and adolescent girls lack access to affordable menstrual hygienic products, old rags, cloths or other unhygienic materials are frequently used. This can lead to reproductive tract infections and other health conditions. In 2014, 486 women were tested for bacterial vaginosis (BV), urinary tract infections and symptoms of urogenital infection at Odisha, India for a hospital case-control study (Das et al. 2015). The results of this study showed that the type of pad used during menstruation is an important factor in avoiding infection. Women using reusable absorbent pads are more likely than women using disposable pads to experience symptoms or diagnosis of at least one urogenital infection. A woman changing her menstrual absorbent materials outdoors is more likely to have BV than if she changes in a clean and private place. SDG Four: "Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all." According to the World Bank, girls in developing countries miss up to five days of school per month when they menstruate (Stover et al. 2016). SDG Five: "Achieve gender equality and empower all women and girls." Taboos and myths related to menstruation often portray women and girls as inferior to men and boys. SDG Six: "Ensure availability and sustainability of water and sanitation by all." 2.4 billion people have no access to improved sanitation facilities. The lack of access to facilities or inadequate facilities that do not ensure privacy and hygiene particularly affect women and girls. MHM provides the important link to a woman's sanitary needs across her life course whilst promoting dignity for all regardless of age, gender or physical ability. SDG Eight: "Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all." Birth control pills, as previously exemplified, are believed to stop menstruation and some women use it to prevent them from having to stop working or to manage their menstruation in inadequate facilities. SDG Twelve: "Ensure sustainable consumption and production patterns." Commercial products are often subject to sales and import taxes making them unaffordable to poor women and girls. Understanding these barriers and addressing them from a human rights perspective which aims for the outcome of enjoyment of rights and then programming and advocating for a response can reinforce efforts ("Menstrual Hygiene Day" 2017).

There is recent international interest in MHM and in the human rights sphere as global conferences, objectives and normative operational guidelines are growing rapidly. The General Assembly in 2010 acknowledged the importance of safe and clean drinking water and sanitation was a human right "essential for the full employment of life and all human rights" (UN 2010a; UN 2010b). In the human rights sphere, there was mention of MHM by the Special Rapporteur in 2012 on the right to safe water and sanitation. The significance of this Special Rapporteur was that it introduced MHM as a human right, with specific focus on WASH in schools (WASH United 2012). The Human Rights Office in 2014 noted the importance of MHM in achieving a wide range of cultural, economic and social rights (Sanghera 2014). The CRC and the UNHRC in 2016 made reference to MHM which included rural women in a resolution on sexual and reproductive health. In 2016, the Committee on Economic, Social and Cultural Rights also made an early mention of working conditions with reference to the ILO work in 1985. This follows up on the clarification of the fact that work facilities should "meet specific women's hygiene needs" (CESCR 2016). Human Rights Watch has recently published guidelines on MHM from a human rights perspective in collaboration with WASH United (Human Rights Watch, 2017). The numerous commitments and work being done to recognise MHM as a human right is noteworthy. When it comes to operational guidelines, various UN agencies have started to make commitments to operationalise MHM into schools and the workplace. The WHO makes detailed references to MHM in its 2009 guidelines on WASH in schools in operational regulatory guidelines and pilot programs among UN agencies (WHO 2009; Fan and Jeong 2018). UNESCO published in 2009 guidelines on sexual education and updated guidelines in 2018 including MHM (UNESCO 2016). Along with that, UNESCO also adopted the puberty education operational guidelines in 2014 with considerable attention paid to MHM. In addition, WaterAid and other NGOs have developed technical advice and support material on MHM. The WHO/UNICEF Joint Monitoring Programme on WASH advocated strongly for inclusion of MHM in the SDGs (WHO and UNICEF 2017). The importance of MHM in various sectors is high, although it may still have to be consolidated at the international human rights treaty level.

Human Right Treaties Document Analysis

International human rights treaties set the standards. The importance of human rights is due to the fact that all states have ratified at least one core human rights treaty, and over three-quarters have ratified at least four of them. Thus, they play an important part in the UN system (Kalin 2012, 16-17). Treaties remain important because they are sending a strong political message concerning the limits of acceptable national conduct (Jinks and Goodman 2003). In addition, a large proportion of countries have ratified the most relevant treaties to menstruation. 169 states are party to the International Covenant on Economic, Social and Cultural Rights (ICESCR), 189 to the CEDAW, and 196 to the CRC (UNTC 2013a; 2013b; 2013c). CRC and CEDAW express that states shall take all appropriate measures to reduce dropout rates at schools and eliminate discrimination against girls that could mitigate dropout rates. CEDAW has observed that there is a correlation between the lack of adequate water and sanitation for girls missing school particularly in rural areas. The committee recommends that states provide appropriate facilities for the interpretation of the human right to education, hygiene and menstrual health resources (CEDAW 2016). This willingness and commitment from CEDAW demonstrates that the international system can most likely to influence states to prioritize human rights concerns related to menstrual issues. It has specifically been clarified by the ICESR that work facilities "meets women's specific hygiene needs." The International Labour Organization (ILO) offers an opportunity to provide effective global guidance. In the Occupational Health Services No. 161 of the ILO of 1985, employers are responsible for the health and safety of their employees, including the functions and factors "that can affect the health of workers including health facilities." The ILO Recommendation No. 115 of 1961 on the Workers' Housing also emphasises the need for housing standards including the supply of safe water, sewage, waste, draining and sanitation. Trade unions also serve an important role in pushing for standards to be met. For example, in 2005, the Zimbabwe Congress of Trade Unions initiated a campaign called 'Dignity! Period' ("Dignity! Period 2019); trade unions in Philippines have argued for menstrual leave for women and in 2004 the state finally legislated an act (Congress of the Republic of the Philippines 2004); and in Indonesia, menstrual leave is a legal entitlement (Manpower Act 2003).

There are eight core international human right treaties, each of which has a committee of experts to monitor implementation and compliance. Out of the eight, two are relevant to menstruation. I focused on CEDAW and CRC because their mandates are especially important for menstruation and as mentioned earlier, most states are party to them. I evaluated the allusions that CEDAW and CRC attain and whether they address any menstrual health-related challenges. The results of this document analysis show that menstruation is not explicitly mentioned in any of the international treaties on human rights. There is a striking silence in the Covenant on Economic, Social and Cultural Rights, CEDAW and the CRC despite the fact that MHM is relevant within the scope of these treaties. The treaties do not expressly mention or even allude to menstruation when they referred to women's and girl's right to health (including, sexual and reproductive rights), water and sanitation, education and work (including, adequate conditions of work) or economic development.

Allusion that are made in CEDAW and CRC with regards to menstruation are in reference to discrimination and education. The CEDAW treaty in particular focuses on ensuring that the same 'conditions' for career and vocational guidance in educational establishments of all categories be ensured. However the focus on sanitation is limited as there is no concern and lack of recommendation for 'adequate', 'appropriate' , 'sufficient', 'separate' sanitary facilities for women and girls. There is also no mention of sanitary facilities in place that are 'inappropriate' for them; or that their 'poor' conditions pose a particular problem for them. The CEDAW treaty does call for the elimination of discrimination for girls and recognising that girls in rural areas face additional challenges. In particular (CEDAW/A/10) ensures that there should be equal access and opportunity of men and women. Article 10 (h) mentions the access to specific educational information to ensure the well-being of families including the access to information and advice on family planning. Furthermore, CEDAW alludes to the right to protection of health and safety in working conditions in particular 'including the safeguarding of the function of reproduction' (CEDAW/A/11). However, there is no detail about the criteria for discussing menstruation challenges with regards to education and the workplace. CEDAW also emphasises that State Parties need to take 'all appropriate measures' to eliminate discrimination in the field of health care (CEDAW/A/12). With regards to the allusions in CRC, there also exists ambiguous language. CRC alludes to the State Parties ensuring the enjoyment of the highest

attainable standard of health and access to health care services (CRC/A/24). In particular, article 24 (e) alludes to ensure that parents and children have access to information about the basic knowledge of hygiene and environmental sanitation and 'prevention of accidents.' CRC again provides information to ensure that states parties recognise every child to a standard of living to ensure the child's social development (CRC/A/27). Particularly, state parties have a responsibility to ensure that parents provide conditions of living necessary for the child's development. The most important of allusions in the CRC is the access to education. More specifically, (CRC/A/28) section (e) refers to state parties to take measures to encourage regular attendance at schools and the reduction of drop-out rates.

More recently, the Human Rights Council first mentioned "Menstrual Hygiene Management" in a resolution on the human rights to water and sanitation in 2014 (A/HRC/RES/27/7). In September 2018, the Human Rights Council adopted a resolution A/HRC/39/8, which includes significant new language on MHM. Paragraph 7(e) calls upon states to

> "address the widespread stigma and shame surrounding menstruation and menstrual hygiene by ensuring access to factual information thereon, addressing the negative social norms around the issue and ensuring universal access to hygienic products and gender-sensitive facilities, including disposal options for menstrual productions."

This paragraph is ground-breaking because a leading UN body calls upon states to address the challenges women and girls are facing in relation to menstruation and MHM. It also recognises that good menstrual hygiene requires not just access to hygienic products, but also access to accurate information, supportive social norms and gender-sensitive facilities, including disposal options. It is the strongest language on menstruation and MHM in any resolution to date. This resolution was co-sponsored by 50 countries. Although the document analysis of the two treaties should be cause for alarm due to the omission of MHM, reform is possible because the above mentioned allusions could potentially cover the menstrual needs of girls by calling for appropriate and sufficient sanitary facilities, ensuring appropriate sexual education for both girls and boys, providing free sanitary products for girls and women, and overall creating policies that do not hinder the fulfilment of girls and women's human rights. The allusions that CEDAW made in reference to work should be acknowledged. While CEDAW demands of states parties

that appropriate sanitation be ensured in the workplace, there are no criteria and no specific recommendations to be followed. Whilst it is encouraging that both treaties require state parties to ensure appropriate standards for women and girls in both the workplace and school as well as acknowledge the challenges rural women face, the recent resolution provides an opportunity for states to address menstruation. Despite the resolution, the ambiguity of the language contained in both treaties, could mean and still maintain the overlooking of the menstrual needs of girls. Given that the great majority of allusions are restricted to girls in school, girls and women not in school and in the working environment are left to be marginalised.

To conclude this chapter, menstrual hygiene rights are human rights, as the universal declaration of human rights states in its preamble that all human beings should be recognized for their inherent dignity. It is extremely important that women's rights in particular women's reproductive rights be recognized and fully acknowledged as human rights because they touch on other aspects of human rights. Acknowledging women's rights would empower women around the world to challenge their own states' oppressive and discriminatory laws and to allow states to take an interest in the treatment of women with the 'privacy' of their own states. It is clear to see that the international regime does enough to lay the foundation and framework to ensure that states do realize the dignity of its own citizens. However, the vagueness of international law that has resulted in the interpretation of treaties such as CEDAW has allowed for states to interpret the rules to benefit the state and not the citizens within it. Menstruation is not addressed in the core international human right treaties, in particular the most relevant treaties: CEDAW and CRC. The fact that it often comes through allusions instead of clear references when it is addressed highlights the challenges of mentioning menstruation. Most allusions refer to ambiguous standards of living and protection for children and women and thus leave the mentioned treaties open to interpretation when dealing with ensuring effective policies and practices of MHM for women and children. To conclude, the document analysis demonstrated that the international human rights treaties are overwhelmingly silent surrounding menstruation. Although the vast majority of CEDAW and CRC treaty bodies do not make any clear references or allusion to menstruation, their scope is broad enough to incorporate MHM under numerous clauses. The recent Resolution A/HRC/39/8 which was passed on 27th September 2018 has provided the necessary commitment from the human rights regime to set the minimum standards

for states to follow suit. Based on the findings of this chapter, it is noteworthy to see that there are efforts within the normative framework by NGOs to ensure that women and girls are protected and their human rights are to be fulfilled despite the silence from the CEDAW and CRC treaties. Therefore, the onus lies with states to fulfil their obligations when it comes to MHM.

Chapter Five: MHM in Africa

Around the world, it is without a doubt that women face challenges in accessing public health services. African women and girls account for 62 percent (179 000) of all global preventive deaths from pregnancy and birth-related reasons. Women in Sub-Saharan Africa account for the highest proportion of new HIV infections. Finally, a total of 123 million African women and girls have been married before the age of 18 (African Union et al. 2017). When it comes to menstruation, at least 500 million women and girls globally lack adequate facilities for MHM (Chen and Kiefer 2018). A UNESCO report estimates that in Sub-Saharan Africa, one in ten girls misses school during their menstrual cycle (Stover et al. 2016). According to some estimates, this amounts to 20 percent of a given school year. The lack of protection in the areas of family relations, health and marriage relations is particularly striking, as is the failure to recognise intersectional forms of discrimination. In many African countries, these gaps are also compounded by political instability. Thus, the task at hand is understanding whether African states - despite the various challenges - comply with ensuring women's human rights especially in dealing with the challenge of MHM. The worst indicators for health of women, particularly reproductive health exist in Sub-Saharan Africa. These indicators comprise of the most women living with HIV and the highest number of infant, maternal and HIV deaths in the world (Adjetey 1995). A woman's ability to make her own decisions about her body and reproductive life is essential for improving these indicators. Despite the challenges, across the continent there are provisions on ensuring that economic, gender and sexual violence, social and cultural rights and the principle of equality and the right to non-discrimination is recognised in constitutions, laws and policies. This provides an opportunity for the international human rights treaties to reflect, reconsider and reform the silence surrounding MHM. This chapter looks at the African Union's most progressive protocol, the Maputo Protocol to help understand the commitments and progress that African states have made in dealing with women's rights. Following that, the paper will analyse whether the protocol has any clear references or allusions to menstruation.

African State Obligations to Women's Human Rights

In Africa, the primary treaty that provides a framework for human rights in the region is the African Charter on Human and Peoples' Rights was drafted in 1980 to 1981 and it entered into

force in October 21st 1986. The purpose of the Charter was to create an instrument that sets human rights standards and at the same time recognize African values and traditions. However, its women's rights provisions are largely regarded as ineffective and inadequate. In three provisions the Charter affirms and recognises the rights of women. Article 2 stipulates that everybody shall enjoy the rights and freedoms enshrined in the Charter, regardless of race, ethnicity, colour, sex, language, national and social origin, economic status, birth or other status. In Article 3 of the African Charter, everyone is equal before the law and has the right to equal protection of the law. Only one out of the more than sixty articles in the African Charter makes specific reference to women. Article 18(3) requires state parties to "ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman." And yet the protocol notes that "despite the ratification of the African Charter… women in Africa still continue to be victims of discrimination and harmful practices."

Articles 17(2) and (3) of the African Charter state that every individual "may freely take part in the cultural life of his community" and that "the promotion and protection of morals and traditional values recognised by the community shall be the duty of the State." Moreover, the only specific reference to African women's rights in the Charter is contained in a clause concerning "the family and [upholding] tradition, thereby reproducing the essential tension that plagues the realisation of the rights of women". The African Charter on Human and People's Rights and the African Charter on the Rights and Welfare of the Child contains provisions – including the rights to equality, life, liberty, security of the person, health, and protection against cruel, inhuman, and degrading treatment underlying the rights of women. The African Charter on Human and People's Rights has been ratified by every country on the continent and legally obligates every African state to respect, promote, and fulfil African women's rights.

The Charter has its shortcomings when it comes to women's rights. The Charter fails to define explicitly discrimination against women, lacks guarantees on marriage consent and equality and ultimately fails to address the traditional values and practices which have long prevented the progress of African women's rights. I, as an African feminist, emphasise that African women have their own agency and it must be noted that some of the most serious violations of women's

rights take place in the private sphere of the family and are reinforced by traditional and cultural norms.

Advocates for women's rights recognised these weaknesses and sought to address them by adopting an additional protocol that focused solely on women's rights. The African Union (AU), the regional body that is charged with promoting unity and solidarity among its 53-member nations, entered into force in 2005 the Protocol on the Rights of Women in Africa (otherwise known as the Maputo Protocol) after being ratified by fifteen African governments (African Union 2003). Several countries have ratified the Maputo Protocol with reservations regarding certain articles of the protocol as they are deemed to be incompatible with their culture, national law, traditions and/or religion. Cameroon, Namibia, South Africa and Uganda are the four countries who have ratified the protocol. None of these four countries have made reservation to the CEDAW. The countries which have not yet ratified the protocol are: Algeria, Botswana, Burundi, Central African Republic, Chad, Democratic Republic, Egypt, Eritrea, Ethiopia, Madagascar, Mauritius, Niger, Sao Tome and Principe, Somalia, South Sudan, Sudan, and Tunisia.

Despite the reservation, the Maputo Protocol was adopted by the AU. This protocol provides broad protection of women's human rights including, as referred to in Article 14 (2c), sexual and reproductive rights. Furthermore, in reference to Article 14, the protocol affirms women's rights to reproductive choice and autonomy, and clarifies African states' duties in relation to women's sexual and reproductive health. This protocol is an instrument for advancing reproductive and sexual rights for women in Africa. This protocol is crucial in helping advocates put pressure on governments to address the underlying social, political, and health-care issues that contribute to women's health throughout the continent (article 2, e). This protocol constitutes the first legally binding instrument of human rights to express the reproductive rights of women and to guarantee the right of women to control their reproductive health. In reference to Article 14 (g), more specific articulation of the rights of women to reproductive health and family planning services is also presented in the protocol.

Through the work of years of activism by supporters of women's rights in the region, the protocol has attempted to strengthen Africa's commitment to women's equality as well as provide a clear elucidation of states obligations to women's rights. States are obligated to take appropriate measures to ensure women's human rights are being effectively managed and fulfilled. Unfortunately, the protocol does not contain any clear references to menstruation despite the overwhelming evidence of the implications that improper MHM has on schooling and the workplace. However, if there is room for reform, the most interesting and perhaps most relevant provision of the treaty is the Practices Harmful to Women. The protocol defines harmful practices as "all behaviour, attitudes and/or practices which negatively affect the fundamental rights of women and girls, such as their right to live, health, dignity, education and physical integrity" (African Union 2003). The protocol affirms and reinforces state parties to take all appropriate steps to remove social and cultural behaviours that could be seen as harmful to women which is very similar as CEDAW. The Maputo Protocol on harmful practices also confirms the provisions already existing in the CRC and the African Charter on the Rights and Welfare of the Child, both of which prohibit practices that are detrimental to children's wellbeing. This provision allows for the AU to investigate and reform the protocol to have a provision that allows for states to comply to MHM.

African governments have recognised that the vision of Africa cannot be achieved until women have full rights as equal development partners. A number of normative and legislative protocols including the Maputo Protocol, the Solemn Declaration and Agenda 2063 have therefore been adopted. While some commendable progress has been made in the adoption of legal and policy frameworks promoting women's rights on the continent, much more needs to be done in terms of implementation and accountability, especially with regard to women's economic, social and cultural rights, as women still experience an excessive amount of poverty. Women still participate in the informal low-paying labour, unpaid care work and face discriminatory land ownership and inheritance rights. Infringement of these and other rights exposes women to a high risk of sexual violence, while limited access to resources and services such as education and health condemns them to a life of deprivation and poverty. The Maputo Protocol offers a strategic platform for advocates to draw the attention of citizens, governments, organizations and policymakers in Africa to women's human and reproductive rights. However, the real work lies

in ensuring that states uphold the protocol's objectives. Despite the ambitious progressive work of the Maputo Protocol, to date only four countries have submitted reports on their progress. There are big gaps between what is in the protocol, how countries apply it, and how women are able to realise their rights in practice. However, the Maputo Protocol serves as an opportunity to advance human right protections in Africa and to reflect and incorporate women's experiences.

There is momentum towards gender equality on the African continent. African governments' cannot afford to not have gender equality policies as there are huge socio-economic implications for not including women in the economy. The frameworks on human rights across the international, regional and national levels are robust, what is needed is for more research and inclusion of MHM within the Maputo Protocol and ultimately within the core international human rights treaties. The focus on MHM on adolescence girls and the influence on school attendance has been substantial and even though the results were inconclusive there have been many small-scale qualitative studies and reports that have been carried out. As mentioned in previous chapters, there are clear indications of the negative effect that menstruation has on both educational and workplace outcomes. Despite the gaps in the research, overwhelmingly it can be concluded that adolescent girls lack knowledge of the management of menstruation as well as the physiology of their bodies. Furthermore, cultural beliefs and social conceptions also contribute to poor MHM. Thus, African state parties' can no longer afford to ignore the implications menstruation has on education and the workplace. African states' need to make the commitment to ensure that effective MHM is implemented as it is essential to meet the basic human rights of women and girls. Luckily as the next paragraph will present, some states are taking proactive measures in ensuring good MHM in schools and the workplace.

African Case Studies: Mechanisms for improving MHM

It is without a doubt that African women, especially schoolgirls, face considerable challenges as a result of menstruation and its management. Often times, women are left to address the challenges on their own, which consequently affects their school, work and overall health performance. However, the task at hand is to understand what policies have been implemented to mitigate the challenges that women and girls face surrounding menstruation. Globally, the United States of America's government has introduced the Menstrual Equity Act of 2017, which

focuses on increasing the availability and affordability of menstrual health products for women and girls with limited access and for other purposes. This bill establishes a tax credit, tax exclusion and requirements that apply to the purchase or distribution of menstrual products ("Menstrual Equity for All Act of 2017" 2017). This bill also requires that private employers who have no less than 100 employees should provide their employees with menstrual products.

However, as previously mentioned, women and girls in higher and middle income countries face different challenges and obstacles to their female counterparts in LMICs. I will further present the impact menstruation has on women and girls in Kenya and Zimbabwe. The research presented will provide the information and data from two East and Southern African UNFPA country offices to understand the policies and commitments various governments had undertaken towards ensuring MHM within their region. I now will outline the methods of data collection and then present the analysis and results.

The UNFPA ESARO office conducted a questionnaire entitled 'Strengthening Menstrual Health Management in the East and Southern Africa region' in which 16 country offices responded to the questionnaire. With regards to policies, the majority of the offices stated that their government has made the commitment to providing information about puberty and menstruation with regards to educating and empowering young girls and boys and potentially empower community leaders and adolescent women and men. Before sending out the research, we reached out to the sixteen country offices and explained the aim of the literature review. Participation was voluntary and employees were allowed to remain anonymous. The questionnaire was created on an application called Google Forms and distributed via the UNFPA email networks. Out of the sixteen countries, eight countries have unique policies in addressing MHM within the East and Southern African region. These include but not limited to: Ethiopia, Kenya, Malawi, Mozambique, Namibia, Uganda, Zambia and Zimbabwe. The case studies will first briefly provide an analysis of the countries' landscape with regards to obligations to women's human rights and then will unpack the policies and commitments states have made in ensuring MHM.

MHM in Kenya

Kenya is considered to be the 9th largest economy in Africa as in 2014 it achieved middle-income status (Gundan 2014). The macro-economic growth in Kenya has been strong and experts predict this trend will continue over the next number of years. When it comes to human rights, Kenya has ratified CEDAW in 1984 and has ratified the Maputo Protocol. In 2010, the country adopted a new progressive constitution that included provisions on economic, social and cultural rights in Chapter four of the Kenyan Constitution - the Bill of Rights. Every person is equal before the law and has rights to equal protection and benefit of the law. Women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social sphere. Both direct and indirect discrimination is forbidden. The Kenyan state is expected to take legislative and other measures, including affirmative action programmes and policies designed to redress any disadvantage suffered by individuals or groups because of past discrimination. The new Constitution recognizes dignity, economic, social and cultural rights including the right to education, housing and right to health including reproductive health care. The principle of equality and non-discrimination is established as a core value of leadership. The national norms, values and principles of governance include human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination, and protection of marginalized groups among others. One of the most celebrated aspects was the recognition of gender equality and the achievement of gender parity in government by ensuring that no more than two thirds of the members of an elective or appointive body shall be of the same gender.

Adolescent girls are often excluded from society and remain vulnerable and isolated. There are significant geographic and socio-economic differences that affect Kenyan girls' and women's access to services, goods and opportunities that shape their long-term well-being and potential. In 2012, it was reported that one million children are still out of school in Kenya (Education for All 2012). The Population Council (2010) estimates that in the rural, conservative North Eastern province, 50% of girls who are aged 15-19 are illiterate. A further 43% of urban Kenyan girls aged 15-19 are out of school compared to 26% of their rural counterparts (Population Council 2010, 25). Girls are more likely to suffer sexual violence in urban and peri-urban areas than girls living in rural areas who are more likely to experience physical violence (Parkes and Heslop 2013). The African Population and Health Centre (APHRC 2014) noted that a girl is absent from

school for four out of the 28 days and loses thirteen learning days in every school term, which is equivalent to two weeks of learning. These stark disparities that have been examined shed a light on the lived unique experiences of girls. In recent years, Kenyan women and girls have seen their development indicators improve, despite the menstrual health and associated barriers. The Global Gender Gap index ranks 144 countries on the gap between women and men on health, education, economic and political indicators. The Global Gender gap aims at understanding whether countries equally share resources and opportunities between women and men. According to the Global Gender Report (2014), with 73% of men and 63% of women employed in Sub Saharan Africa, Kenya ranked 9th for gender parity in economic participation and opportunities. Gender equality for primary education was also achieved in Kenya as 82% of girls and 81% of boys enrolled in primary schools. Moreover, gross admission rates for secondary schools grew to 65% and 69% in 2012 (World Economic Forum 2014). In the recent Global Gender report, Kenya's performance in economic participation and opportunity is globally ranked 37, compared to last year's 44 (Ochieng 2019).

Significant barriers to high quality MHM persist across Kenya and remain a challenge for low-income women and girls. 65% of women and girls are unable to afford sanitary pads (Alexander et al. 2014). In Kenya, like many other countries, when girls have their first menarche, they still have limited access to high quality and comprehensive puberty education. A UNICEF study in Garissa (North Eastern Province in Kenya) found that 64% of girls self-reported their knowledge of puberty as fair or poor. In rural Western Kenya, girls reported shock, confusion, shame and fear during menarche due to lack of accessible and accurate information about puberty education. In a qualitative study examining adolescent school girls' attitudes and experiences with menstruation, one girl reported, "When I first started menstruating, my lower abdomen was stretching painfully and when I went back to the classroom, everybody was asking me what was on my clothes, then I told them I don't know" (Sommer 2010, 526). This limitation is further worsened with the myths that exist within communities. Common discriminatory practices include the belief that menstruating women and girls are polluted, restrictions on the type of food they can eat (e.g. menstruating women cannot eat meat) and the policing and restricting of adolescent girls' interactions with men and boys (Druet 2017). In more remote and rural areas, taboos play a stronger role. For example, in the Masai region, menstruating women and girls are

not allowed to enter goat pens or milk cows for fear they will contaminate the animal (Jewitt and Rylet 2014). In 2016, the Ministry of Health in Kenya conducted a study that highlighted the challenges with access to menstrual products like sanitary pads. In Kenya, adolescent girls and young women have to negotiate in order to access vital health care services and products. For example, research suggests that it is common for girls in Kenya to engage in transaction sex or seek out boyfriends to obtain goods that meet their basic needs, including sanitary pads. In rural Western Kenya, two-thirds of girls and young women aged 13-29 using sanitary pads reported receiving them from sexual partners. 65% of women in Kiberia have admitted to having sexual partners for access to sanitary pads whereas in Western Kenya, 10% of young adolescent girls admitted to the same activity (Phillips-Howard et al, 2015).

The Kenyan government is considered to be a global leader on improving women and girls' menstrual health especially in providing access to sanitary products. There is a growing national and regional political will to address menstrual health challenges in Kenya. In 2011, the Kenyan government allocated 240 million Kenyan shillings per year to provide girls with free sanitary pads through the National Sanitary Towel Program in public government schools (Kenya Ministry of Education 2012). It has repealed value added tax on pads and tampons in 2004 to lower the price, a tax which still exists in many countries including the United States of America. The Kenyan government has focused on providing MHM education and awareness and MHM products as means of keeping girls in school. The Kenyan government mandates puberty education in schools; the curriculum focuses primarily on the biological rather than psycho-social changes including the hygienic use and disposal of sanitary pads. From the UNFPA ESARO questionnaire, in addition to the dropping of the import tax on female sanitary products in 2011, the Kenyan government has been very active in addressing MHM (Kasere 2017). A collaborative process to develop national MHM guidelines is currently being led by the Ministry of Health (MoH). The MoH plans on establishing an MHM subcommittee with a team of consultants to provide a situational analysis of MHM and produce a strategy document. An MHM subcommittee developed national guidelines in partnership to produce a situational, policy and strategy analysis of MHM. Furthermore, the Ministry of Health has introduced a health prevention focus to the guidelines, as well as creating standards for MHM programming and establishing standards for reusable products.

There still exist barriers and gaps within the efforts of the Kenyan government. Most of these policies and programmes are centred only on the girl in school. MHM programs have excluded girls out of school as well as vulnerable populations including refugees and girls with special needs. Although MHM education and products have been provided by the Kenyan government, corporate partners and NGOs as a means for keeping girls in school, the programmes and policies are not sustainable in that the government is only focused on providing disposable sanitary pads. 62% of the Kenyan commercial MHM market is dominated by Procter and Gamble Always products. The dominance of P&G has been attributed to its strong marketing which includes education in women's hygiene and providing free samples to girls in school (Millington and Bolton 2015). ZanaAfrica, an NGO focused on helping girls with their menstruation and attending school, had the commitment from government that money would be allocated to distribute free pads to school girls (Bloom 2018). However, according to the organisation - the programme has not been implemented well. At times the pads are stolen and supplies run out. It is still unclear as to whether the programme has improved school attendance. Thus, it is imperative that the Kenyan government considers alternative sustainable products such as reusable pads (that last up to 5 years) to distribute in order to ensure the removal of economic and social barriers on adolescent girls and women.

MHM in Zimbabwe

Zimbabwe over the last ten years has attracted attention from the international community due to long years of misrule, violation of human rights, policy discrepancies, and former intolerance of the West and other nations. Zimbabwe is party to international and regional gender equality and girls' empowerment instruments. In 2013, Zimbabwe enacted a new Constitution including strong gender equality provisions that outlaw discrimination against women. The new Constitution promotes women's full participation in all aspects of society and abolishes all "laws, customs, traditions, and practices" that infringe upon women's rights and equality with men. Zimbabwe's Constitution contains provisions wholly dedicated to the rights of women and to gender equality. Chapter two identifies national objectives for women's rights in the areas of development, empowerment and employment creation, work and labour relations protection of the family, education, prevention of domestic violence, and marriage. Chapter four, the Bill of Rights, addresses women's rights in the areas of criminal justice, reproductive rights, equality

and non-discrimination, labour rights, maternity leave, and health care. When it comes to reproductive health, the Constitution of Zimbabwe provides a qualified right to make decisions regarding reproduction but also effectively outlaws abortion, except in rare cases, by requiring that an act of Parliament be made to protect the lives of unborn children. However, the country is still faced with challenges such as limited coordination of the national system of gender management, insufficient application of gender policy and political opportunities for women. Due to the recent political changes, according to the African Development Bank (2019), real GDP growth is projected to be 1.2% in 2019. Furthermore, according to the Global Gender Gap Report, Zimbabwe ranked at 57- place. Zimbabwe recently unveiled a new National Gender Policy in 2017 with a call for gender justice and equality (UNDP 2017).

Despite the policy commitments, young girls in Zimbabwe still face challenges in attending school whilst menstruating. A 2015 survey conducted in 212 schools in Masvingo, one of Zimbabwe's ten provinces of, noted that despite numerous efforts to promote girl-child education in Zimbabwe, issues of menstrual health have not been given adequate attention in schools (Mafoko 2017). Old cloths and panties, leaves, socks, fabrics, old newspapers and cotton wool are just a few items mentioned that girls used in their communities as common materials (Ndlovu and Bhala 2016). Shangwa (2011) claims that the majority of girls in Zimbabwe use inappropriate materials that compromise their health. It is therefore evident in the methods and materials that women and girls have to resort to that a large majority of Zimbabwean households cannot afford conventional sanitary pads. At least 20% of girls miss school every month during their monthly menstruation period. Some girls hide in the bush during the entire period of menses and walk back home after school hours, and parents or guardians assume that girls were attending school. A survey conducted by SNV Zimbabwe shows that 54% of girls are mocked or stigmatised during menstruation (SNV 2019). There is no standardisation in the school curriculum resulting in either different contextual assimilations of the content or possibility of some WASH topics being completely neglected. Teachers are generally inadequately equipped to handle the mainstreaming of MHM (Ministry of Primary and Secondary Education 2012). Most schools are unable to provide appropriate sanitary ware for girls and pain killers for those girls resulting in some girls choosing to absent themselves from school during menses to avoid the embarrassment, discomfort and stigma from their schoolmates. Menstrual health is a taboo in

Zimbabwe. Traditional perceptions surrounding menstrual health are often associated with economic hardships. Menstruating girls and women are not allowed to touch animals, to get close to water points, not to prepare or touch food that others would eat, and not to shake hands with men when greeting them (Druet 2017). According to Pillitteri (2011), the designation of male teachers as MHM counsellors is likely to fail due to discussing menstruation as a cultural taboo. Girls are excluded from religious rituals because they are considered unclean. Girls were not even allowed to pass in the midst of livestock as the animals would become barren (Ncube 2018).

Despite the challenges, the Zimbabwean government has made the commitment on the removal of tax on sanitary materials, providing information about puberty and menstruation as well as intensifying access to clean and private WASH infrastructure. In terms of the VAT act, the Zimbabwean government has made the commitment to have 15% removed on importation of raw materials used to make sanitary wear. However, the tax on imported sanitary pads remains in Zimbabwe, as does the 15% sales tax. With regards to sexual education, the Standard National Adolescent and Youth Sexual and Reproductive Health (ARSH) Training Manual of 2016 provides information on puberty, menstruation and hygiene of sexual reproductive health organs. Finally, the Zimbabwean government has created a draft on the School Health Policy: Under safe school environment states that all schools shall uphold the principles of disability friendliness as well as gender equity and ensure the availability of safe water and age-specific appropriate adequate sanitation amenities. Despite the commitments made by the government, disposable pads are sold at expensive prices and not distributed for free.

The two case studies provide a glimpse of hope if states are willing and committed to empower and educate young girls and ensure clean and safe work environments for working women. Not only that, but these two case studies challenge the GAD paradigm's assumption that a women's location affects her access and protection by the state. Although these two case studies are LMICs, there is an attempt in policy and legal framework to advance the rights of women when it comes to reproductive rights like menstruation. The National MHM guidelines seen in both case studies can guide strategic implementation and action at the community level for improved health. It is interesting to note that Kenya is investing in a collaborative process to develop

national guidelines to standardise and create a baseline vision for improved menstrual health practices. However, there are still gaps that need to be reflected on. The design of sanitary and hygiene facilities ignore the need for women and girls to manage their menses. Furthermore, girls and women are being taught how to be hygienic without being provided the necessary facilities that cater to menstruation. It reinforces the stigma of menstruation by ignoring disposal facilities and mechanisms needed for soiled materials. MHM products still are expensive due to the luxury tax placed on them. MHM must be holistically defined and recognised as the articulation, awareness, information and trust to manage menstruation with security and dignity, using safe hygienic materials along with sufficient water and washing spaces, and to change in dignity and privacy. It is important to point out that MHM guidelines do not include a component of regulatory enforcement and may stand in isolation from existing policies or ongoing programmes within relevant ministries as seen in the Zimbabwe case study. Inconsistent implementation affects the quality and leads to product variability of low-cost commercially available sanitary pads. There are substantially different product standards between countries, many of which only have standards for specific types of MHM products. The Kenyan and Zimbabwean governments, for example, currently only offer standards for disposable pads, leaving reusable options unregulated and subject to product quality and safety variability (UNFPA 2018, 15-16). Nonetheless, the Kenyan and Zimbabwean case studies are a good example of countries investing in collaborative process to develop national guidelines to standardise and create a vision for improved menstrual health practices. Furthermore, national MHM guidelines can guide strategic implementation and action at the community level for improved health and influence the international normative framework. The two case studies provide menstrual health guidelines which determine what constitutes "good" menstrual health in each country and serves as a guiding framework for future action.

To conclude this chapter, the issue of MHM has remained a secret at the global level until recently. However, the case studies add to the upsurge of policies and guidelines that have recently surfaced in the last five to ten years. The lesson for the international human rights system is that MHM should not be a stand-alone programme. This chapter illustrated that the human rights system has the regional case study of Kenya and Zimbabwe to learn from. The East African Legislative Assembly which is a sub-organ of the larger East African Community has

most recently drafted a resolution which urges partner states to waive taxes on sanitary pads and make pads and painkillers available to school girls (The Citizen, 2013). Despite its gaps and challenges, Kenya and Zimbabwe have solid MHM policy framework. It has to be integrated with the existing programmes of school health and workplace policies, puberty education programmes, and emergencies. It is crucial that MHM is incorporated, integrated and extended into all relevant policy areas and that good practices can be shared among countries in the region. The wealth of national solutions and experiences that cannot be captured in academic literature is often helpful to share. African states can rely on the African Peer Review Mechanism or any other mechanism to perhaps convey and monitor the progress of MHM policies. MHM needs to be integrated and mainstreamed in national education, health, and WASH programming, strategies, guidelines and monitoring. It is important to that state parties understand that Menstruation Matters to all, not just girls.

Conclusion

Methods to improve menstrual issues can only be implemented when everybody dares to say 'menstruation.'

- Pillitteri (2011: 19)

Menstruation is important in all aspects of life because women and girls need to be able to manage their menstruation in all areas of life. The menstrual cycle revolves around equality. Women and young girls pass up education, training, work and different open doors in life when they can not deal with their menstrual cycle with commonality and in pride. Menstruation is a human rights matter. Numerous human rights are essential to guarantee that women and young ladies can deal with their period sufficiently and with pride. This incorporates the right to water, sanitation, health, education, including sexual and reproductive health education. Menstruation is important because misguided judgements and negative social standards surrounding menstruation are maintained by society as a whole including the current androcentric human rights system. Ensuring that menstruation is incorporated in the treaties is critical to cultivating normalcy and nurturing a supportive environment for women and young ladies.

We have seen with the establishment of the United Nations and other international human rights institutions that international law can set important minimum standards for vulnerable groups, women's rights and access to equality. The silence sends a powerful message that while the mandate for the international regulatory framework is prepared to speak out in the broader context of menstrual needs it is less willing to do so in terms of the treaties. It is important to understand that international law does not simply act as either a rubber stamp for women's rights, or as a kind of ideal 'wish list'. In chapter two, international law is seen to provide a framework and foundation for states to conduct their domestic affairs accordingly. By understanding and unpacking the purpose of international law as a means to realize human dignity, the paper believes that the onus lies on states to take steps towards the progressive achievement of human rights. Therefore, every state has a duty to prioritize minimum core obligations to ensure the satisfaction of each of the rights irrespective of availability of resources.

The silence in the treaties provides a window of opportunity for the human rights system to institutionalize MHM as a 'new norm.'

Furthermore, through the tracing of the development of the human rights regime, it is clear to see that men's issues are regarded as human, whereas women's concerns are seen as being separate and limited (Charlesworth 1995, 104). The report examined how the human rights system's androcentric culture is prominent in its dissociation of the public and private spheres, and its devaluing of social and economic rights over political and civil rights (Bunch 1990). Menstruation which is viewed as a private matter and therefore, irrelevant to the public sphere of human rights is categorised as a 'second-generation' right and these are seen to be less in need of immediate attention. A key reason why menstrual needs are largely overlooked is that, due to the discourse of the human rights system i.e. 'private', 'public', 'first-generation', 'second-generation', women and girls struggle to articulate their menstrual needs and, as those in power who are predominantly men will struggle to get these unmet needs to be recognised and accounted for (Boosey and Wilson, 2013). As a result of the analysis of the development of women's rights, the research report viewed the various critics on the limited emphasis in international law on 'universality' for many feminists particularly of postcolonial feminists. This was further corroborated with the critique of postcolonial feminism by rejecting the "sameness" principle of the liberal feminism and thus bringing attention to the various development frameworks that arose due to the liberal development agenda. In analysis of the WID, WAD and the GAD perspectives, the chapter found the GAD paradigm's assumption to be of importance and relevance as it articulated that the geographical location of a women's position determines her accessibility into state protection and health rights was unpacked.

As a result of the ambiguous and vague language within the treaties CEDAW and CRC, women and girls' menstrual needs are largely unmet in poor income settings, as are several violations of their human rights. The inability to mention menstruation has a significant impact as the human right treaties and bodies as well as taboos and myths convey the message that menstruation is a shameful and private matter, not worthy of discussion in the public sphere. This indifferent attitude towards menstruation has serious socio-economic implications as presented in chapter three. The inability to mention menstruation sends a strong message that it does not matter,

which makes it less likely for states to allocate resources to MHM. Despite the stigma surrounding menstruation, Norm entrepreneurs including NGOs and civil society have invested in research and interventions to attempt to provide an empowered, healthy and fulfilling life to vulnerable girls and women. Chapter three briefly unpacked the social constructivism argument and emphasised the need for MHM as a norm with reference to the famous life cycle of norms. Based on the menstrual activism work that has surfaced throughout the years, it was concluded that MHM falls within the norm cascade stage as there are a few states who are accepting MHM domestically. There is still work to be done, but the international human rights system including states must recognise and acknowledge MHM as a norm that includes the articulation, awareness, information and resources to manage menstruation with security and dignity through the use of safe hygienic materials along with sufficient water and washing spaces. The international human rights system has great potential for breaking this cycle. The international community can make MHM matter if different factions within the international human rights system make clear references and all states make specific recommendations in tackling menstruation. There is great power in speaking openly about menstruation as it could contribute to the removal of societal and cultural conceptions that menstruation is a shameful, and private event that must be kept a secret. Thus, the onus lies on the international human rights system to lead the way to ensure that menstruation is rearticulated in a way that honours women and girls. Due to the international normative framework commitments and policies made as well as the menstrual activism that is currently taking place, I remain hopeful that the UN human rights system will embrace this window of opportunity.

Chapter four laid out the states obligations to human rights in particular women's reproductive rights. This chapter briefly unpacked the issue of ambiguity and vagueness within international law and the impact it has on the fulfilment of women's rights. The chapter acknowledges the importance of the CEDAW and CRC treaties and despite their overwhelming silence in addressing menstruation, the treaties provide an opportunity for reform to ensure that menstruation is seen as a normal event. Once the treaties can openly proclaim that menstruation matters and create provisions for state parties to oblige to, then there will be a stronger momentum to ensure the fulfilment of rights for women and girls.

Chapter five looked at commitments and policies by the international normative framework along with the African case study of Kenya and Zimbabwe supported by the African Union's Maputo Protocol. During the last fifteen years, the MHM's focus on human rights, international frameworks for development such as the SDGs as well as operational guidelines and public discourse in general have increased rapidly. Fortunately, the discussion continues in different sectors. There, however, seems to be a need for a clearer, more comprehensive end goal and strategy, clarification of roles and cross-sectoral collaboration opportunities and before the collaboration occurs, more evidence is needed to fully understand the impact of menstruation and of problems with MHM on a range of women's and girl's human rights. Collecting evidence and information about MHM and its impact on a variety of human rights can allow policymakers to develop targeted interventions to remove menstrual problems as an obstacle to gender equality. It might be helpful for the international human rights system to see MHM not as a separate sector, but as something which can help achievement of a wide range of existing goals such as the SDGs, and possibly the SDGs could form the basis for such a framework. At the regional level in East and Southern Africa, Kenya and Zimbabwe with solid MHM policy frameworks focus mostly on schools and WASH while broader MHM inclusion focuses on sexual and reproductive health education as well as work and labour policies. It must be acknowledged that the treaties are an opportunity to rectify the silence and raise awareness on issues like MHM. Treaties can provide advocates with an opportunity to articulate the nature and content of women's human rights as set out in the Maputo Protocol. The Maputo Protocol offers a platform for raising public awareness of sexual and reproductive rights for women. Therefore, women and men, policymakers and advocates may learn the language of the Maputo Protocol on the legal standards, rights and duties of women's rights. It can help educate and remind policymakers of existing obligations towards women by saying that the protocol largely confirms, and as mentioned earlier, sometimes exceeds the existing worldwide standards. Besides raising awareness of the rights and obligations under this protocol, training people who play a role in protecting and promoting the rights of women is critical.

Menstruation is central to all girls' and women's experiences. Poor MHM is a comprehensive human rights problem relating to economic and social rights, reproductive health, which falls within the wider range of gender equality. The lack of menstrual management has devastating

consequences for women's' and girls' human rights, especially in LMICs. Not only are menstrual human rights violations preventing women and girls from achieving all they can, but also prevent them from becoming active members in the public field of their communities at the social level. The menstrual-related human rights violations and implications that I have explored merely touch the surface of deeper-rooted issues. Additional research on the impact of menstruation on the human rights of women and girls, in particular in the workplace, humanitarian and conflict situations is needed to better understand the more widespread human rights effects of menstruation. As the evidence of the impact of menstruation on the education of girls grows, practitioners should try to better understand these links and take human rights based arguments into account in their advocacy work. Menstruation is a largely neglected topic despite its relevance to key treaties on human rights. If menstruation is discussed, it is only in a limited way through allusions that omit crucial details and criteria. The silence discovered in the document analysis has huge implications. Firstly, it draws attention to the need for the human rights system to be reconstructed and reformed due to ambiguity of the treaties. Secondly, the silence from the treaties further perpetuates the androcentric nature of the human rights system. Unfortunately, I could not analyse the treaty bodies and special procedures mandates as the research question required focus on the core human right systems. This would be an important area in the near future for expanding this research project.

On the basis of the implications investigated, it should be understood that MHM requires holistic approach to human rights of women and girls. The human rights system must reflect on the adequacy, acceptability, and affordability of menstrual management materials and the impact it has on women and girls. Secondly, the human rights system should reflect on the inclusion of relevant facilities required for the dignified and safe management of women's and girls' menstrual materials. This must be made available most notably where women and girls spend substantial time at home, in schools, the workplace, healthcare facilities and public institutions (including penal facilities). Thirdly, menstrual education must be provided in order to mitigate the stigma and shame surrounding menstruation and thus work on providing confidence to girls and their surrounding communities. Finally, international organisations, activists, practitioners engaged in advocating for MHM must be aware of and incorporate human rights principles in their policy implementation and advocacy. States must be strongly encouraged by the

international human right treaties and bodies to meet and reflect MHM needs in their domestic legislation.

To conclude, it is time for the international human rights regime to realize that menstruation is not shameful. Period.

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Appendices

Human Right Treaties Relevant to Menstruation

There are no clear references to or allusions to menstruation in any of the treaties.

List of UN Treaties on Human Rights that do not make allusions or clear references to menstruation

- The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
- The International Covenant on Civil and Political Rights (ICCPR)
    - Optional Protocol on the abolition of the death penalty (1966)
- The International Covenant on Economic, Social and Cultural Rights (ICESCR)
    - Optional Protocol on ICESCR (2008)
- The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)
    - Optional Protocol (2000)
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT)
    - Optional Protocol (2000)
- The United Nations Convention on the Rights of the Child (CRC)
    - Optional Protocol on child prostitution, child pornography and the sale of children (2000)
- The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW)
- The International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families
- The International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED)
- The Convention on the Rights of Persons with Disabilities
    - Optional Protocol (2006)

International Law Articles relevant to menstruation

Education

- Article 13-14 in ICESCR
- Article 10 in CEDAW
- Article 28 in CRC
- Article 26 in Universal Declaration of Human Rights UDHR
- UNESCO Convention against Discrimination in Education

Health

(including sexual and reproductive rights)

- Article 12 in ICESCR
- Articles 10(h), 11(1f), 12 and 12(b) of CEDAW
- Article 24 of CRC
- Article 25 of Convention on the Rights of Persons with Disabilities
- Article 25 UDHR

Water and Sanitation

- Article 14 (2h) in CEDAW
- Article 24 (2e) in CRC
- Article 28 (2a) in Convention on the Rights of Persons with Disabilities
- Article 5 in International Labour Organisation Convention No. 161 concerning Occupational Health Services,

Work

- Articles 3, 6, and 7 in ICESCR
- Article 11 in CEDAW
- Article 27 in Convention on the Rights of Persons with Disabilities
- Article 24 in UDHR