Universal access to sanitary products: A South African case study

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DECLARATION

I, **Zamaswazi Vuyiswa Mokobi**, declare that this research article is my own work except as indicated in the references and acknowledgements. It is submitted in partial fulfilment of the requirements for the degree of Master of Business Administration in the Graduate School of Business Administration, University of the Witwatersrand, Johannesburg. It has not been submitted before for any degree or examination in this or any other university.

Zamaswazi Vuyiswa Mokobi *ZVMokobi*

Signed at …….Johannesburg……

On the ……31st…… day of ……March…… 2021…..

DEDICATION

I dedicate this body of work to my late mother, Nokuthula Vuyokazi Brenda. Momz, thank you for always seeing the best in me and for encouraging me to be the very best version of myself. You went above and beyond to make the completion of this MBA qualification my reality; thank you for cheering me on in life and in death, I am forever grateful to be your daughter. My life's goal is, and will always be, to make you proud.

Dlakadla, Suthu, Mbikiza, Phamba Phamba, Songancome…Ngiyabonga MaZaNita!

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Lord God Almighty…if it had not been for the Lord who was on my side, where would I be. My greatest thanks goes to the Lord, without whose love, covering and mercy this body of work would not have been possible. Lord I thank you. May this body of work bring glory to Your kingdom.

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ABSTRACT

Menstruation, which occurs as a result of the basic biology of a female who is of reproductive age is sadly a burden to many who experience it. Many women and young girls struggle with accessing basic facilities required to adequately manage their menstruation in a healthy manner. The ability to manage menstruation in a healthy manner is now internationally recognised as an essential human right that is a requirement for the realisation of gender equality. Not having access to sanitary products impedes women and girls' human right to manage their menstruation. The South African government has intervened to make sanitary products more affordable and available to the female population through the implementation of the Sanitary Dignity Framework and the zero VAT rating of disposable sanitary pads. Through the Framework, government affirms "its commitment to the provision of sanitary dignity to indigent persons [and] that it will fund the provision of sanitary products" (Department: Women, Youth and Persons with Disabilities, 2019). The Framework aims "to promote sanitary dignity and to provide norms and standards [for the provision] of sanitary products to indigent persons" (*Ibid*). These interventions are aimed at achieving universal access to sanitary products. Achieving universal access is premised on ensuring that a service or product is acceptable, affordable and available to all. This research explores the effects of these government interventions on the achievement of universal access to sanitary products in South Africa. It is based on document analysis, literature review and the use of video recordings.

Government's interventions indicate that there is a political will to intervene in the plight to achieve universal access to sanitary products however these interventions have been minimally impactful. A finding of this research is that the zero rating of sanitary pads has had a questionable impact on the lives of poor females and seems to have been a decision unsupported by evidence of its impact. The Framework prioritizes the sanitary needs of some poor females who meet the definition of indigent persons over the sanitary needs of those who do not. An indigent person is defined as a "woman [or girl] who, due to poverty, lacks necessities of life such as sanitary products and other requirements to achieve

sanitary dignity" (*Ibid*) and who falls within defined categories of women and girls that are considered to be indigent under the Framework. These categories include girls who attend quintiles 1 – 3 schools, girls who live in child-headed homes, and females who are admitted to state-owned institutions. The narrow definition of the Framework's beneficiaries curtails the reach of the sanitary dignity programme (SDP) in terms of which free sanitary products are supplied to indigent persons, and excludes many poor females from having their sanitary product needs met. In addition, to date, the implementation of the SDP has been characterised by financial constraints, lack of uniformity and a general disorganisation. These government interventions have had a limited impact in achieving universal access to sanitary products in South Africa.

Keywords: universal access; sanitary dignity; menstrual health/hygiene management; MHM; Sanitary Dignity Framework; government intervention

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CHAPTER ONE

Introduction

"Menstruation is a natural and regular occurrence experienced by women [and adolescent girls] of a reproductive age [for a significant period of their lifetime]" (Keith, 2016, p. 1). According to the United Nations Children's Fund (UNICEF) (2018), roughly half of the global female population (approximately 26% of the total global population) is of reproductive age. Menstruation occurs monthly on a 28-day cycle and lasts for five days on average. According to Keith (2016, p. 1) it is estimated that "the average woman will experience about 450 menstrual cycles over approximately 38 years of her life, [which] translates to managing menstruation [daily] for roughly 6,25 years". Menstruation, which occurs as a result of the basic biology of a female of reproductive age is sadly a burden to many who experience it. In her article examining the role of menstrual hygiene in achieving sustainable living and gender equality, Tiwary (2018) highlights how various prevailing stigmas such as 'menstruation is pollution, women are unclean during menstruation, and menstrual blood is linked to black magic' have

underpinned several taboos associated with menstruation. As a result, women's monthly experience of menstruation has globally been characterised by secrecy and the isolation of women during menstruation. The challenges associated with the natural phenomenon of menstruation have traditionally been viewed as a "woman's problem" to be dealt with by a female audience only. This segregated approach has further been complicated by the status of women in many societies around the world that has been, and in some instances continues to be, characterised by disempowerment, discrimination and patriarchy. Many women and young girls struggle with accessing basic facilities required to adequately manage their menstruation in a healthy manner yet this ability to manage menstruation in a healthy manner is now internationally recognised as an essential human right that is, at its most basic level, "an issue of equity for girls and women" (Keith, 2016, p. 7) (Okojie, 2019). Not having access to sanitary products impedes women and girls' human right to manage their menstruation.

According to Sommer, Hirsch, Nathanson, & Parker (2015, p. 1302):

> *Around the world, a growing [informal] coalition of academics, donors, non-governmental organisation (NGOs), United Nations agencies, grassroots women's organizations, multinational feminine hygiene companies, and social entrepreneurs are mobilizing to bring attention and resources to address the menstrual-related shame, embarrassment, and taboos experienced by many girls in low-middle income countries (LMICs).*

These efforts over the past two decades have led to the acceptance and ascension of menstrual health/hygiene management (MHM) to the status of a global public health challenge mandating international attention (Geismar, 2018, p. 12) (Sommer, Hirsch, Nathanson, & Parker, 2015, p. 1305). In a 2014 manual, the United Nations Educational, Scientific and Cultural Organization (UNESCO) stated that "menstrual health requires comprehensive puberty education; menstrual management materials; safe and private latrines, water and soap; and adequate disposal options" (UNESCO, 2014, pp. 10, 13). The United Nations and World Health Organisation (WHO) define adequate MHM as:

> *women and adolescent girls using a clean menstrual management material to absorb or collect blood that can be changed in privacy as often as necessary for the duration of the menstruation period, using soap and water for washing the body as required, and having access to facilities to dispose of used menstrual management materials (*own emphasis) (Elledge, et al., 2018; Habaieb, 2019; Kuhlmann, Henry, & Wall, 2017, p. 357; Swedish International Development Cooperation (SSIDC), 2016).

These four broad categories are internationally accepted as the requirements for managing menstruation in a healthy manner. In 2019, the former minister in the presidency responsible for women in South Africa, Ms Bathabile Dlamini issued a statement painting a grim picture of the state of MHM in the country. Dlamini first agreed that "the issue of women and girls being able to manage their menstrual cycle with dignity is a human rights issue" and secondly, she stated that while some achievements had been made to ensure the realisation of this human right, several gaps and challenges remain (Dlamini, 2019). Dlamini identified all four broad categories of MHM as areas requiring improvement in South Africa (*Ibid*). This research focuses on one of the four internationally recognised requirements for MHM – the ability to access products required to manage menstruation, and in particular whether access to sanitary products is being universally achieved in South Africa.

The term "universal access" is often used in relation to sanitary products, yet it has largely remained undefined. The human right to MHM is comparable to the right to health. The concept of universal access to healthcare dominates literature and has been clearly defined. Universal access to healthcare is achieved when acceptable healthcare services are physically and affordably accessible to all. Access to healthcare services has three dimensions, namely physical accessibility; financial affordability; and acceptability.

> *Physical accessibility encompasses the availability of a quality service within close location to people as well as the availability and quality of the service relative to the population's needs; financial affordability is a measure of people's ability to pay for the service without financial hardship;*

> *and acceptability captures people's willingness to seek services, which is premised on whether the available services are appropriate to norms, expectations and the cultural behaviours of the population* (Evans, Hsua, & Boermaa, 2013; Savedoff, 2009; Penchansky & Thomas, 1981).

Universal access to healthcare exists when an identified spectrum of healthcare services are provided with or without cost to individuals through a systematic approach such as a government health system, affordable insurance coverage, refundable tax credits, or other health financing approaches (Weld, Padden, Ramsey, & Garmon Bibb, 2008). Universal access implies "the absence of geographic, financial, organizational, socio-cultural and gender-based barriers to care" (Ravindran, 2012, p. 1). Universal access calls for making health systems functional, removing supply and demand side barriers, and removing discrimination, lack of information and lack of decision-making power to seek healthcare (Ravindran, 2012). Similarly to the central role that access to sanitary products has in ensuring that women and girls can enjoy their human right to manage their menstruation, access to healthcare is central to enjoying the right to health. The concepts underpinning universal access to healthcare will thus be applied to define universal access to sanitary products. Achieving universal access is premised on ensuring that a service or product is acceptable and affordably available to all. In relation to sanitary products, this includes the removal of barriers that relate to the product's quality, cost and geographic availability.

Efforts to make MHM universally accessible have largely centred on ensuring that young girls of a menstruating and school-attending age are not adversely impacted by the natural occurrence of menstruation. Sommer, *et al.* (2015, p. 1302) attribute the initial interest in MHM to "the global concern for narrowing the gender gap in education" within LMICs. "The growing concern for promoting gender parity in education was bred from research linking girls' education to an array of positive societal outcomes such as gross domestic product growth, higher female wage earning, reduced infant mortality rates, and decreased prevalence of HIV" (Geismar, 2018, pp. 12 - 13). The mobilization of interest in MHM thus represented the coming together of two constituencies, one "aimed at

keeping girls in school and improving their educational outcomes, and [another] from the public health perspective aimed at responding to the decades of evidence indicating that educated girls contribute to healthier population outcomes" (Sommer, Hirsch, Nathanson, & Parker, 2015, p. 1302).

Many governments have looked beyond the schooling environment and are leading efforts to realise access to sanitary products for all menstruating females within their countries. This has taken the form of tax exemptions, zero rating, and applying reduced tax rates to the purchase of sanitary products in an effort to make sanitary products more affordable. Other governments, such as Scotland and the Haryanan state of India, have intervened by providing free sanitary products (Government of Haryana, 2020) (UK Government, 2021). In August 2020, the Haryanan state of India announced that it would be launching a scheme that will provide free sanitary pads monthly for a year to adolescent girls and women aged between 10 and 45 years living below the poverty line in the state (Government of Haryana, 2020). The Scottish Parliament passed the Period Products (Free Provision) (Scotland) Act in January 2021 that places a duty on Scottish ministers to ensure that period products are made available free of charge to all menstruating females in Scotland. The Act has made history for being the first and only legislation that makes sanitary products freely and universally accessible. The Act has simultaneously put the Scottish government in international headlines for being the only government that has taken responsibility for ensuring that sanitary products are universally accessible and at no cost to the female population within its borders.

Day (2018) highlights that change is happening in countries such as India and Scotland because influential ministers, both male and female, are prioritising the needs of menstruating girls and women. Similarly, the South African government has also implemented MHM interventions including incorporating menstruation into the school curriculum, applying a zero Value Added Tax (VAT) rating to sanitary pads, and introducing the Sanitary Dignity Framework[1] (the Framework)

[1] The Sanitary Dignity Framework, dated June 2019, was drafted by the Department of Women, Youth and Persons with Disabilities (formerly known as the Department of Women until June 2019). This is the second version of the Framework. The initial version was entitled "Sanitary Dignity Policy Framework" and was dated June 2017.

a policy framework for the provision of free sanitary products to indigent persons. The Framework defines an indigent person as a woman or girl “who, due to poverty, lacks necessities of life such as sanitary products and other requirements to achieve sanitary dignity” and who falls within defined categories of women and girls that are considered to be indigent under the Framework (Department: Women, Youth and Persons with Disabilities, 2019). Government’s efforts have been targeted at certain categories of the female population as well as certain sanitary products. In 2017 policymakers prioritised the MHM needs of this category of women and girls identified as “indigent persons” in the only policy document that addresses MHM in South Africa, and in 2019 government implemented a zero VAT rating for sanitary products that is only applicable to sanitary pads (South African Revenue Service, 2019).

Problem Statement

Literature shows that when governments aim to meet the MHM needs of a population through universal access to sanitary products, the interventions they implement are successful at achieving universal access to sanitary products. This is exemplified by the achievement of universal access to sanitary products in Scotland and the Haryanan state of India. In South Africa, the focus of government’s MHM interventions have extended beyond traditional efforts aimed at keeping girls in school during menstruation and purport to be aimed at achieving universal access to sanitary products. However, there is no literature that assesses whether the South African government’s interventions have been effective at achieving universal access to sanitary products. This research therefore seeks to close this gap in literature by assessing whether government’s interventions have contributed to the realisation of universal access to sanitary products in South Africa.

Research Objective

The objective of this research is to determine whether, through the implementation of government’s sanitary product interventions, universal access to sanitary products is being achieved in South Africa.

Research Question

To what extent have government's interventions been effective in the achievement of universal access to sanitary products in South Africa?

CHAPTER TWO

Conceptual Framing of Study and Implications for Research

Introduction

The premise of this study is that the ability to adequately manage menstruation is a human right that should be enjoyed by all menstruating girls and women and that access to adequate sanitary products is central to the realisation of this right. The main hypothesis of this study is that government's targeted MHM efforts have adversely impacted accessibility to sanitary products in South Africa. This literature review aims to set the theoretical foundation for the research by analysing theories that explain the concepts of universal access and government intervention.

Universal Access

The theory of distributional justice has been used to rationalise universal access to goods and services. Walzer (1983) "views society as a distributive community in which people produce a wide variety of goods that are subsequently shared, divided and exchanged in specific ways". The social meaning of a good "is the basis for determining what constitutes a fair distribution: all distributions are just or unjust relative to the social meanings of the goods at stake" (Walzer, 1983, p. 9). There can therefore be no single criterion in virtue of which all goods are to be made available to members of society (Martens, 2012). The basis for universal access is a societal construct because goods have different meanings in different societies. In each society only those goods with a social meaning that is valued within the society and which value, according to that society, warrants universal distribution will be prioritized.

One prominent line of argument in favour of universal access to a good or service builds on the contribution made by that good or service to the opportunities people can exercise within the society. For instance, many countries have adopted a policy of universal access to telecommunications in recognition that failing to do so will "create a world where citizens are deprived of accessibility to the many benefits of basic and advanced communications, including improved healthcare, education and economic opportunities, and the increased ability to participate in the political process" (Manner, 2004, p. 89). There is an international recognition that information flow and exchange are socially and economically beneficial, and that greater "informatization" is an indicator of progress. In recognition of the value of telecommunications within their societies, countries such as Ghana, South Africa and the United States of America have implemented a policy of universal access to telecommunications. Similarly, in relation to universal access to electricity, there is international recognition that access to electricity is an essential part of a high material living standard (Lars, 2020). Proponents for universal access to electricity argue that access to electricity is often necessary to protect basic human rights such as the rights to life, adequate housing, healthcare and education (*Ibid*). Value is therefore attributed to goods and services that expand the range of opportunities that people can exercise. The distribution of these goods and services is then prioritised for universal access.

The nexus between value and access to opportunities was first articulated in the fair equality of opportunity theory that was developed from John Rawls' theory of distributive justice. The theory of distributive justice is premised on the understanding that the basic structure of society is to distribute primary social goods and that societies should therefore attribute value to primary social goods (Rawls, 1971). The chief primary social goods at the disposition of society are rights and liberties, powers and opportunities, income and wealth (*Ibid*). Central to the achievement of equal access to primary social goods is ensuring that fair equality to opportunities is attainable for all. Flowing from this understanding, the fair equality of opportunity theory was developed. This theory aims to reduce initial inequalities (social and/or natural constructs) and thereby expand the range of opportunities available to all individuals. An opportunity is the "chance [that] an agent X [has] to choose to attain a goal Y, without the hindrance of obstacle Z"

(Westen, 1985, p. 849) or simply put it is “the lack of some obstacle(s) to the attainment of some goal(s) or benefit(s)” (Goldman, 1987, p. 88). All social positions, such as jobs, should be formally open and allocated by merit such that each individual has a fair chance to attain the position (Nunes, 2018) (Sardoč, 2016). For Rawls, an individual has a fair chance when their prospects for success in the pursuit of social positions are a function of their level of native talent and willingness to use them, and are not a function of arbitrary factors such as gender, race, background, or socioeconomic status (Rawls, 1971).

Notwithstanding that the theory of fair equality of opportunity was developed as a theory aiming to ensure a fair process of competition for advantaged social positions, Daniels used it to argue for universal access to healthcare (Daniels, 2009) (Arneson, 2002). Daniels’ argument is summarised in the following quote:

> *Maintaining normal health makes a significant contribution to protecting the range of opportunities individuals can reasonably exercise; departures from normal functioning decrease the range of plans of life we can reasonably choose among to the extent that it diminishes our capabilities…If we have social obligations to protect the opportunity range open to individuals, as some general theories of justice suggest, then we have obligations to promote and protect normal functioning for all* (Daniels, 2009).

In other words, lack of health diminishes opportunity and these curtailments of opportunity are unjust. Society is under an “obligation to protect the opportunity range open to individuals” by protecting normal functioning for all through universal access to healthcare (Daniels, 2009; Sachs, 2010, p. 403). Similarly, a lack of access to sanitary products diminishes the opportunities available to females by exposing them to risks such as use of unhygienic alternatives, economic unproductivity due to an inability to attend work consistently, and increased school drop-out rates due to young girls falling behind with school work as a result of inconsistent school attendance. Applying the fair equality of opportunity theory, this curtailment of opportunity is unjust and places an obligation on society to protect the opportunity range open to females through measures such as universal access to sanitary products.

Various actors in South Africa's society, including individuals, civil society, and government, have acted on this obligation. Through their small-scale distribution programs, individuals and civil organisations play a critical role in providing sanitary products and education to females who may otherwise lack access to these tools. For example, Proctor & Gamble implements the Always Keeping Girls in School campaign in partnership with various stakeholders in South Africa (including the Department of Basic Education) (Millington & Bolton, 2015, p. 6). "The campaign provides puberty education, sanitary [pads], access to educational resources and motivation to stay in school" to girls (*Ibid*). The work done by some civil organisations, such as Project Dignity also contributes to the product mix of available sanitary products. "Project Dignity distributes 'Subz Packs' containing panties, clip-on pads and an educational booklet to schoolgirls in grades eight through twelve at over 150 schools in South Africa" (Geismar, 2018, p. 10). The products contained in each Subz Pack can on average be used for a period of three to five years (*Ibid*). Literature shows that the initiatives of these individuals and civil society groups tend to be focused on certain demographics of people, areas, and communities that are aligned to the interests or geographical reach of the individuals or civil society groups. It is an assumption of this research that government's interventions in access to sanitary products will be universal in nature and not constrained by a lack of alignment of interests or geographical reach. The research will therefore be narrowed to an investigation into the effectiveness of government's sanitary product interventions in the realisation of universal access to sanitary products.

Government Intervention

"In a sense, universal access can be seen as the conjunction of political will with economic interest, towards building an interconnected society" (Emiliani, 2008). From a political will perspective, new institutionalism theory views government as a driver of change and not a reactor to circumstances, stating that "government is in the business of forming its environment, not adapting to it" (Thoenig, 2011). The role of government is to encourage the convergence of subjective models of the world by providing existing market constructs through which people understand the environment and solve the problems they confront with the

knowledge available in the environment (Yoon, Kim, Buisson, & Yuan, 2018, p. 7). New institutionalism theory suggests that government has a proactive role in identifying and solving societal problems. The core role that political life fulfils is to allocate scarce resources and this is legitimate to rationalize the criteria of choice that governments use (Thoenig, 2011). In order to maximise social welfare, government's choices should therefore be seen as legitimate. Thus, government is justified in intervening to ensure the fair distribution of a good whose value to society mandates government intervention.

Sommer *et al*. (2015) suggest that there are cultural and structural dimensions involved in a government accepting responsibility for intervening to solve a social issue. "The cultural dimension represents the way that a phenomenon is perceived within the society" (Sommer, Hirsch, Nathanson, & Parker, 2015, p. 1304). As has been articulated, the cultural dimension both globally and in South Africa has been to view menstruation and its management as an individual woman's issue. "The structural dimensions of a public problem relate to the successful attribution of responsibility onto institutions or personnel who may then see the designation as an obligation to society [that] they are responsible to address or, alternatively, as an opportunity to solve a public problem" (Sommer, Hirsch, Nathanson, & Parker, 2015, p. 1304). In South Africa, the structural dimension of MHM as a public problem that government is responsible to address is premised on the rights enshrined in the Constitution of the Republic of South Africa, 1996 (the Constitution) that champions human rights, dignity, and gender equality. The rights applicable to all South Africans are set out in the Bill of Rights, which is found in Chapter 2 of the Constitution. The Bill of Rights commences by stating in section 7(1) and (2) that:

> *(1) This Bill of Rights is a cornerstone of democracy in South Africa. It enshrines the rights of all people in our country and affirms the democratic values of human dignity, equality and freedom.*
>
> *(2) The state must respect, protect, promote and fulfil the rights in the Bill of Rights.*

The rights protected under the Bill of Rights include the rights to equality, human dignity and access to health care services (including reproductive health care). The ability to manage their menstruation is essential to the human rights of females and is upheld by the rights to equality, human dignity and access to reproductive health care in the Bill of Rights. The ability for girls and women to practice good menstrual hygiene lies at the heart of dignity as well as gender equality (Okojie, 2019, p. 10). This sentiment is echoed in the Framework, which further states that "in order to give effect to these constitutional [rights], it is imperative that government advance[s] and promote[s] women's rights to dignity" (Department: Women, Youth and Persons with Disabilities, 2019). In South Africa, the perception that menstruation is a woman's issue remained unaddressed by government until February 2011 when, in his State of the Nation address, former President Jacob Zuma announced government's intention to provide sanitary towels for the indigent. Zuma indicated that government would broaden the scope of reproductive health rights to include the provision of services related to sanitary towels for the indigent (Government of South Africa, 2011). This address marked a turning point in the perception of MHM as a woman's problem and indicated that government had accepted responsibility for solving problems associated with MHM. Following this address MHM was integrated into the school health policy in 2012; the first draft of the Framework was published in June 2017; sanitary pads were zero VAT rated in 2019, and a national programme for the distribution of free sanitary products to indigent women and girls was established. This research will focus on two government interventions, namely (i) the Framework; and (ii) the zero VAT rating, as these interventions transcend the traditional focus on the MHM needs of school-attending girls.

South African Government MHM Initiatives

The Sanitary Dignity Framework

"The Framework [is] a guiding policy document that does not carry the force of law and is thus subordinate to the Constitution and all relevant legislation

regulating health care, education, the environment, [and] human dignity [that apply] to the provision, manufacturing, and distribution of sanitary products" (Geismar, 2018, p. 9). Notwithstanding its status as a guiding policy document, the Framework is important because it is the only South African codification guiding the achievement of women and girls' ability to safely and comfortably manage their periods. Through the Framework, government affirms "its commitment to the provision of sanitary dignity to indigent persons" and "that it will fund the provision of sanitary products" (Department: Women, Youth and Persons with Disabilities, 2019). The Framework "aims to promote sanitary dignity" and to provide "norms and standards for the provision of sanitary products to indigent persons" (Department: Women, Youth and Persons with Disabilities, 2019). According to the Framework (2019, para 3.1.7), "achieving equitable sanitary dignity in South Africa will require that ***all*** women and girls…can manage their menstruation with normalcy and dignity". The emphasis on "all" women and girls is watered down by the definition of sanitary dignity, which is defined as "the preservation and maintenance of the self-esteem of an indigent girl or woman especially during menstruation" (Department: Women, Youth and Persons with Disabilities, 2019).

Under the umbrella of striving towards gender equality, government has identified unequal access to sanitary products among women and girls as being problematic. For government, having some females able to manage their menstruation effectively while others who are indigent are not able to do the same, hinders efforts to achieve gender equality. As such, only persons identified as being "indigent" are eligible to benefit from the implementation of the Framework. Qualifying as an "indigent person", as defined in the Framework, is therefore essential. Those who qualify are entitled to the provision of free sanitary products through the Framework's government programme (the "sanitary dignity programme"). An indigent person is defined as a woman or girl "who, due to poverty, lack[s] necessities of life such as sanitary products and other requirements to achieve sanitary dignity" and who falls within defined categories of women and girls that are considered to be indigent under the Framework (Department: Women, Youth and Persons with Disabilities, 2019). The definition of indigent person applies a dual criterion as detailed in Figure 1 below.

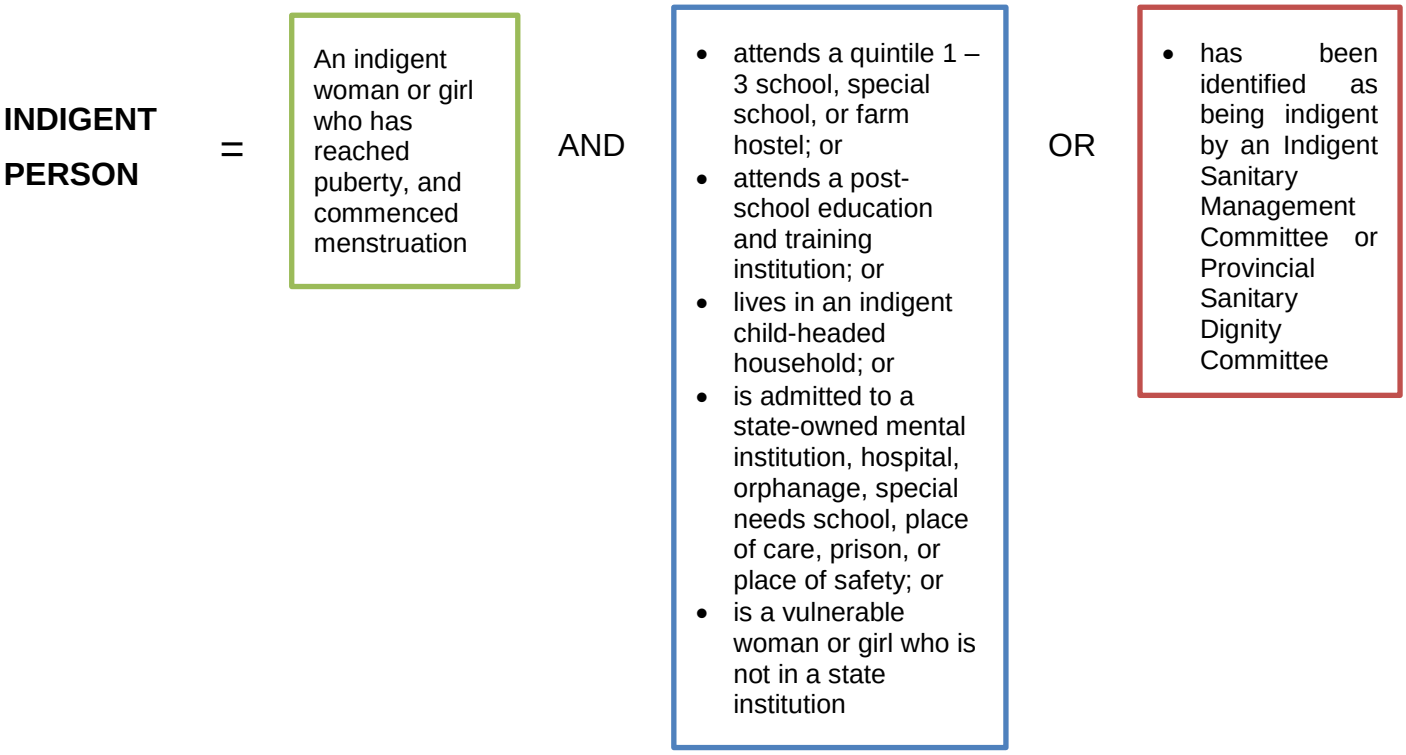


Figure 1: Definition of indigent person (Department: Women, Youth and Persons with Disabilities, 2019)

To qualify as an indigent person, a woman or girl must (i) primarily meet the requirements in the green box above and (ii) either fall within the categories of persons deemed to be indigent (blue box) or be identified as being indigent by a designated committee (red box). Being indigent relates to the financial status of an individual, however the Framework's definition does not articulate financial need as a requirement for qualifying as an indigent person. Instead, only segments of persons who are deemed to be financially constrained, such as child-headed homes or girls attending quintiles 1 – 3 schools, are included in the definition. It is unclear why these segments of financially needy girls and women are prioritised above others as, for instance, the categorisation of schools into quintiles reflects the socioeconomic status of the school's geographic area yet the Framework only benefits school attending girls within that area. The sanitary needs of these girls' mothers, sisters, and female guardians who share the same socioeconomic circumstances and often reside in the same household as the girls are disregarded. In a country plagued by poverty and inequality, the narrow

definition of ‘indigent person’ limits the reach of the sanitary dignity programme and threatens the achievement of universal access to sanitary products.

Within the category of persons deemed to be indigent (blue box), the phrase ‘vulnerable woman or girl’ is used seemingly as a catchall provision for financially needy persons to qualify as being indigent. The word ‘vulnerable’ is however undefined in the Framework and it is unclear what qualities one must have to be considered vulnerable. It is therefore unlikely that poor people who lack access to sanitary products but do not form part of an articulated deemed category of indigent persons will use this provision to qualify as beneficiaries of the Framework. Without the use of this catchall provision, the only other means to be considered indigent will be to be identified as such by a relevant committee. The Framework is however silent about this process and whether, and if so how, a person can volunteer to be considered indigent by a relevant committee. This is particularly important as the deemed categories of indigent persons are narrowly drafted and suggest that the main focus of the Framework is to meet the sanitary needs of young girls as well as women who are admitted to state institutions. The categories of persons deemed to be indigent (blue box) therefore minimally extend the traditional MHM efforts that were aimed at keeping girls in school during menstruation to include women within the care and responsibility of the state. Under these circumstances, being identified by a committee as an indigent person is the only viable option for the majority of poor people in need of assistance to achieve sanitary dignity. The definition of indigent person is therefore burdensome on the majority of poor females in South Africa who have to rely on an unarticulated process to benefit from the Framework. This unintended consequence of the definition jeopardises the reach of the Framework.

An assumption of this research is that the Framework’s definition of indigent person is narrow and that this leads to the sub-optimal allocation of the benefits of the Framework. This research will argue that the focus on indigent persons, disregards the sanitary product needs of a large segment of the female population and as a result it hinders government’s efforts to achieve universal access to sanitary products through government’s sanitary product interventions.

Zero VAT Rate

VAT is a tax on consumption that is designed to place the final burden of the taxation on consumers (Rüll, 2020). Throughout a supply chain, suppliers pass this tax along until it is ultimately paid for by the consumer in the price of the final product. This approach finds its justification in the thought that consumers show an ability to pay in spending money on goods and services (*Ibid*). Consequently, Rüll (2020) argues that VAT should not be charged on expenditures for basic necessity items as these items do not express a consumer's ability to pay in spending money on such goods and services. Taxing menstrual hygiene products "stresses pre-existing socio-economic inequalities [and yet] for many in very low-income countries, the additional tax burden might be decisive to the question of whether they are able to purchase these products" (Rüll, 2020, p. 1). When no VAT is charged on the supply of a good it increases the likelihood of a reduction in the final price of a product for the consumer.

In April 2018, South Africa's VAT rate increased from 14% to 15% and following this increase an Independent Panel of Experts (the Panel) investigated options to mitigate the impact of the VAT increase on lower income households. The Panel recommended that "sanitary products [be zero rated], combined with the free provision of sanitary products to women and girls" (Independent Panel of Experts for the Review of Zero Rating in South Africa, 2018, p. 7). In the document setting out the recommendations, the Panel defines sanitary products as "sanitary pads and tampons" being "the products used by women when they are menstruating" (Independent Panel of Experts for the Review of Zero Rating in South Africa, 2018, p. 57). Having reviewed the Panel's recommendations as well as public commentary on the recommendations, during his medium-term budget speech in October 2018, the Minister of Finance announced that with effect from 1 April 2019 "sanitary pads" would be included in the list of items that are zero rated for VAT purposes. The Minister acknowledged that the revenue loss associated with zero rating would be substantial but said that zero rating these products targets low-income households and restores the dignity of South Africans.

Following the Minister's speech, a Binding General Ruling 49 was issued by the South African Revenue Service (SARS) on 15 March 2019, stating that "sanitary pads and panty liners [would be] zero VAT rated [with effect from] 1 April 2019" (South African Revenue Service, 2019). The following sanitary products were expressly excluded from the application of the zero VAT rating: (i) tampons; (ii) menstrual cups; (iii) feminine sanitary wipes; (iv) period or leak-proof underwear; and (v) any incontinence towels or pads (South African Revenue Service, 2019). No reasons were provided for these express exclusions. This research will consider whether prioritising access to sanitary pads to the exclusion of other products in the sanitary product mix has had an impact in the realisation of universal access to sanitary products.

Implications for Research

The requirement for universal access to a good or service is a social construct that is unique to each society. It flows from the value attributed to the good or service in each society, which is underpinned by the contribution that the good or service makes to securing the range of opportunities available to members of the society. Diminished opportunities are a form of injustice that oblige societies to step in for the fair distribution of resources. Government is therefore justified in intervening to ensure the fair distribution of goods and services whose value to society mandate government intervention.

The South African environment is characterised by widespread poverty and embedded inequalities. Owing to a history of apartheid, South Africa has entrenched racial and gender inequalities and black women have borne the brunt of this entrapment and are amongst the most vulnerable population in the country. Within this context, the benefit to society of having a female population that is able to manage their menstruation effectively has compelled the South African government to rely on the Constitution to intervene in making sanitary products universally accessible.

While government's interventions purport to make sanitary products universally accessible, these interventions have however been targeted at categories of

persons and sanitary products. The extent to which the targeted nature of these interventions has compromised the achievement of universal access to sanitary products is yet to be determined. This research will therefore assess whether the targeted nature of government's interventions have contributed to the realisation of universal access to sanitary products in South Africa.

CHAPTER THREE

Data Collection and Analysis

This research employed qualitative research through document analysis, desk research, and the use of video recordings. In particular, the research relied on data collected from video recordings of parliamentary sessions, minutes of government department meetings, and reports prepared by government departments that were obtained from relevant government websites.

Relevant data from existing reliable documents was collected. The document analysis covered publicly available information from web searches such as reports, assessments, and published articles including research articles about girls' experiences with sanitary products that are made available to them through South African government programs. Document analysis was supplemented by data collected through minutes and video recordings of meetings held on 13 October 2020 and 2 February 2021 by the Portfolio Committee on Women, Youth and Persons with Disabilities, Department of Women, and representatives of each province to discuss the progress of the implementation of the sanitary dignity programme in each province. In addition, two interviews were conducted with members of Treasury.

The two interviews (one hour long each) were conducted with members of Treasury (representing the VAT and expenditure departments, respectively) in December 2020 and January 2021. The aim of these interviews was to assess whether there are any financing gaps for the implementation of the Framework and to understand the decision to apply the zero VAT rating to sanitary pads only. Information obtained from these interviews that is not publically available was

incorporated into the final data set. The interviews were conducted on a one-on-one basis and were semi-structured in order to ensure that the interviews were guided by a structure while also leaving room for encouraging the interviewees to provide more information and elaborate further where such deviations were permissible. All interviews were conducted online (via Zoom) as a safety precaution because data collection took place during the corona virus pandemic.

Qualitative research methods are the ideal research methodology because this research is exploratory in nature and seeks to assess the effect of certain actions (government interventions) on the achievement of a defined concept (universal access to sanitary products). Qualitative research is about “seeking to contribute to a better understanding of social realities and to draw attention to processes, meaning, patterns and structural features” (Dahlberg & McCaig, 2010, p. 112). It entails collecting and analysing non-numerical data to understand concepts, opinions, or experiences. Due to the limitations of this study as detailed below, the research was dependent on literature review, use of video recordings of parliamentary sessions and document analysis. The final data set of the study comprised of secondary research supplemented by data collected in the interviews and video recordings. The final data set is sufficient to respond to the research question.

Ethical Considerations

Permission from Treasury was sought before engaging with interviewees and the prior written consent of the interviewees was obtained before conducting interviews. Interviewees were informed about the potential risks and benefits of their participation in this research and they received sufficient, understandable information to make a voluntary decision about whether to participate in the research. Research participants were not advantaged or disadvantaged in any way by participating in the research and no money was offered to them for their participation. Each participant was reassured that they could withdraw their permission to participate at any time during the project (before, during or after the interview) without any penalty. The confidentiality and anonymity of the research participants was and shall continue to be protected at all times.

Limitations of Study

The study was initially intended to be dependent on primary research. Data was meant to be collected by conducting interviews with the following participants:

- Representatives from the Department of Women - to get details on the progress that has been made in the implementation of the Framework as well as insights into the definition of 'indigent person';
- A representative from the Portfolio Committee on Women, Youth and Persons with Disabilities - to get a supervisory perspective on the sanitary dignity programme and the Framework from an office that has a supervisory role over the Department of Women;
- Representatives from Treasury - to assess whether there are any financing gaps in the implementation of the Framework and to understand the decision to apply the zero VAT rating to sanitary pads only; and
- Beneficiaries of the Framework (10 female prisoners at the Johannesburg Correctional Centre and 10 females residing at Ikhaya Lethemba, a state-owned shelter).

Several unsuccessful attempts to conduct research at the Department of Women and the Portfolio Committee on Women, Youth and Persons with Disabilities were made during the period commencing in October 2020 and ending in January 2021. To get these insights reports prepared by the Department of Women and minutes and video recordings of parliamentary meetings held by the Portfolio Committee and Department of Women (all pertaining to the Framework) were relied upon. The reports and minutes and videos of parliamentary sessions provided sufficient details on the implementation of the Framework and national progress on the sanitary dignity programme from the perspective of both the Department of Women and the Portfolio Committee on Women, Youth and Persons with Disabilities. In particular, during the parliamentary sessions, members of the Department of Women and members of the departments that are spearheading the sanitary dignity programme in each province were questioned at length regarding various aspects of the programme that are relevant to this research. In addition, during the parliamentary sessions the Portfolio Committee

expressed its views, concerns and recommendations on the implementation of the Framework. In the circumstances, interviews with members of the Department of Women and the Portfolio Committee would not have provided an alternate perspective or additional information. The researcher intended to conduct research on the experiences of beneficiaries of the Framework on the sanitary dignity programme. To this end, the researcher intentionally chose beneficiary groups (female prisoners and women in state-owned shelters) in respect of whom there is limited literature investigating their experiences with government intervention in MHM. However, research findings revealed that the Framework is in its initial implementation phase and that these beneficiary groups are not within scope in this initial phase. This was confirmed by the spending patterns on the sanitary dignity programme, parliamentary reports on the implementation of the programme as well as a telephonic discussion between the researcher and a representative of Ikhaya Lethemba on 8 January 2021 in which the researcher was made aware that the shelter does not receive sanitary products through the Framework and instead has to procure these products itself. Research findings revealed that the Framework is currently only being implemented for the benefit of students. The researcher however did not intend to interview students as there is extensive MHM literature on this beneficiary group therefore the researcher's ethics application also did not include interviews with this beneficiary group. Articles detailing the experiences of the initial target group of the sanitary dignity programme were therefore relied upon for this research. In the circumstances, interviews with female prisoners and females residing at a state-owned shelter would not have added value to the research. The literature that was relied upon for this research was sufficient.

CHAPTER FOUR

Findings

The Framework

"The Framework is being implemented in a progressive and incremental manner" (Department: Women, Youth and Persons with Disabilities, 2019); the current focus is on implementing the sanitary dignity programme (SDP) in quintiles 1 – 3 schools. All South African public schools are categorised into five groups called 'quintiles'. According to Ogbonnaya and Awuah (2019, p. 106), the basis of the categorisation of schools into quintiles is:

> *the socioeconomic status of a school and is determined by measures of average income, unemployment rates, and general literacy level in the school's geographical area. The schools in the most economically disadvantaged (poorest) geographical areas are categorised as 'quintile 1' schools and those in the most economically advantaged [(wealthiest)] geographical areas as 'quintile 5' schools*.

The categorisation is largely for purposes of financial resource allocation; schools in quintile 1 receive more government funding per learner than schools in higher quintiles (*Ibid*). In 2019 there were approximately 14,6 million learners at school nationally of which 66,2% were in non-fee paying schools (Statistics South Africa, 2020, p. 17). The initial target beneficiary group of the SDP are girls in grades 4 – 12 of schools in quintiles 1 – 3 nationally. In 2019 this initial target beneficiary group comprised of 3 835 689 girls (Department of Women, Youth and Persons with Disabilities, 2020) who accounted for +/- 13% of the total female population in South Africa in 2019. These initial beneficiaries are a subset of the menstruating, school attending, female population, which is in itself a subset of the total menstruating female population in South Africa. There is no clarity on when and under what conditions implementation of the SDP will progress beyond this initial target beneficiary group.

Lack of uniformity in the implementation of the SDP

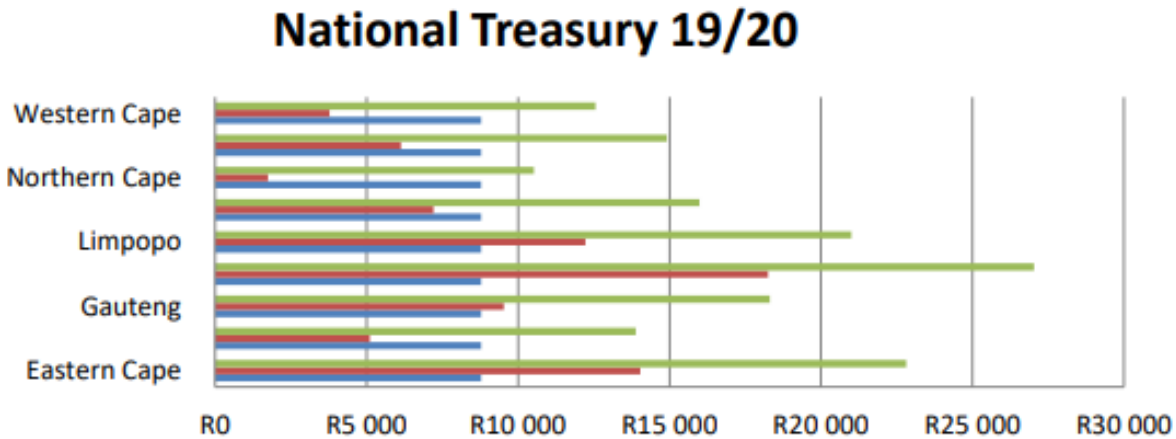
"The Framework is intended to provide for an integrated and coordinated, responsive government programme aimed at the provision of sanitary products free of charge to indigent girls and women as well as to provide for inter-departmental and inter-governmental cooperation" (Department of Women: Republic of South Africa, 2019, p. 4). To this end, during initial discussions about the SDP, the Department of Women proposed that implementation of the SDP should be standardised across all provinces to ensure uniformity. In response to this proposal, "provincial treasury heads indicated that they already had these programmes in their provinces and [suggested instead] that the Department of Women should integrate the Framework into existing [sanitary product] programmes" in their provinces (Department of Women: Republic of South Africa, 2019, p. 5). Each province has therefore implemented the SDP independently and in line with its existing sanitary product programme.

In each province, the department leading implementation of the SDP is either the Department of Basic Education or the Department of Social Development. The Department of Women has played an oversight role, focusing mainly on monitoring and evaluating each province's progress in implementing the SDP. To date, however, the Department of Women has not finalised the SDP's monitoring and evaluation framework. A monitoring apparatus is essential to ensure that progress is uniformly and consistently being made in each province across the country. Some of the challenges faced by the Department of Women have been that between the provincial "departments of [Basic] Education and Social Development, there has been no uniformity [and some provinces] have continued to implement their [existing sanitary product] programmes without aligning [them] to the Framework" (Department of Women: Republic of South Africa, 2019). Each province therefore has its own model for the implementation of the SDP including its own local provider of sanitary pads and its own schedule for the delivery of pads to qualifying schools (monthly or quarterly, and one pack per child or two packs per child). In the North West province, funds are dispersed to qualifying schools for them to procure sanitary pads for learners while in Mpumalanga a supply of 3 months' worth of sanitary pads are delivered to qualifying schools per

quarter (Department of Women, Youth and Persons with Disabilities, 2019). “The challenge therefore is not only [the] coordination of two departments ([basic] education and social development) but also the synchronisation of the nine different models in each province” (Department of Women: Republic of South Africa, 2019, p. 5).

Costs and funding of the SDP

With effect from 1 April 2019, Treasury allocated funds for the national roll-out of the SDP. Treasury has made provision to allocate funds for the programme during the 2019/2020 – 2022/2023 financial years (the medium term expenditure framework) however to date, no provision has been made for years beyond the medium term expenditure framework. A total initial amount of R157 million was allocated at national level for the SDP for the 2019/2020 financial year. This amount comprised of R79 million that was distributed equally to all provinces and a further R78 million that was distributed by equitable share allocation amongst all provinces according to the number of girls in grades 4 – 12 attending quintiles 1 – 3 schools in each province. Figure 2 below depicts how the initial R157 million was distributed to each province.



	Eastern Cape	Free State	Gauteng	KwaZulu-Natal	Limpopo	Mpumalanga	Northern Cape	North West	Western Cape
Total	R22 815	R13 881	R18 313	R27 032	R20 999	R15 984	R10 518	R14 908	R12 551
Proportional Allocation	R14 037	R5 103	R9 535	R18 254	R12 222	R7 206	R1 740	R6 130	R3 773
Base Allocation	R8 778	R8 778	R8 778	R8 778	R8 778	R8 778	R8 778	R8 778	R8 778

Figure 2: Treasury allocation for the national roll out of the sanitary dignity programme (Department of Women: Republic of South Africa, 2019, p. 3)

Treasury's initial allocation to provinces was done without insights into the budgetary requirements of each province for the SDP. The national financial provision for the SDP in the 2019/2020 and 2020/2021 financial years was based on available funds from the fiscus and has been increased by inflation for the 2021/2022 financial year. The allocations made at a national level are intended to be supported by provincial treasury allocations to meet each province's financial needs for the implementation of the SDP. Treasury's short term forecast for the 2019/2020 – 2022/2023 financial years indicates that the national budget allocation will meet the sanitary product needs of +/- 46% of the learners in the initial target beneficiary group in each financial year. This forecast is based on an initial costing exercise that was conducted by Treasury, in terms of which a standard cost per sanitary pad pack was multiplied by the number of girls in the initial target group. This coverage projection is however skewed as it is based on standardized costs and does not take into account that each province operates on its own model and applicable costs, such as product, delivery and storage costs. Each province is expected to finance coverage of the remaining +/-54% of beneficiaries. In the 2019/2020 financial year, only "three of the nine provinces…allocated additional provincial budgets for the sanitary dignity programme, namely Free State, (R1 572m); Gauteng (R52 124m) and the Western Cape (R11 222m)" (Department of Women, Youth and Persons with Disabilities, 2019, p. 6). The other six provinces had to rely on the allocation from the national fiscus. "One of the major challenges [of the programme], raised by the provinces, is that the funding allocated is not sufficient, particularly those provinces that do not have funding from their provincial treasuries" (Department of Women: Republic of South Africa, 2019, p. 4).

Implementation of the SDP

Implementation of the SDP has been inconsistent since its inception. In the 2019/2020 financial year, the primary focus was on creating an enabling environment for the SDP and planning for its implementation. At the end of the 2019/2020 financial year, 50.8% of the target group of beneficiaries had been reached as is detailed in Figure 3 below.

Implementation	Mpumalanga	Gauteng	KwaZulu-Natal	Eastern Cape	North West	Limpopo	Free State	Western Cape	Northern Cape	Total
Beneficiaries										
Target beneficiaries	177 593	200 000	956 000	60 000 (They based the number of targeted beneficiaries on the allocation received & price of pads)	93 000	538 701	64 395	90 000	Not indicated	3 835 689
Girls reached	177 540	100 000	785 000	None (Litigation matters)	30 397 Only 25% of the budget was used	None (delays in procurement)	13 832	None (Late procurement & Lockdown before distribution)	None (No cooperation)	1 106 769 = 50.8%

Figure 3: Progress with implementation during 2019/2020 (Department of Women, Youth and Persons with Disabilities, 2020)

In quarter 1 of the 2020/2021 financial year, no sanitary products were delivered under the SDP due to Covid-19 lockdown restrictions. In quarter 2 of the same financial year, delivery to qualifying schools only took place in four of the nine provinces, namely the Western Cape, Gauteng, the Free State and Kwa-Zulu Natal. The North West and Northern Cape provinces were identified as the most concerning provinces for their lack of progress in implementing the SDP. The North West only used 25% of the 2019/2020 budget and has not yet used the 2020/2021 budget while the Northern Cape has not spent its 2019/2020 and 2020/2021 budgets; both provinces have not expressed valid reasons for this lack of spending (Department of Women, Youth and Persons with Disabilities, 2020). Based on these concerns raised by the Department of Women, progress is being assessed from a spending perspective. It is however, also important to highlight that in quarter 2 of the 2020/2021 financial year, the Limpopo and Mpumalanga provinces spent some of their budgets but still failed to deliver any sanitary products to any qualifying schools. In addition, following litigious issues with the procurement process, in the Eastern Cape the first delivery of sanitary pads to qualifying schools is scheduled to take place in March 2021.

Quality and experience of sanitary products

In terms of the Framework, government is required to procure sanitary products that comply with the standards for such products as determined and approved by

the South African Bureau of Standards (SABS) (Department: Women, Youth and Persons with Disabilities, 2019). “This is in order to avoid women and girls being placed at risk due to the provision of inferior products, raising health concerns and exposing government to costly and unnecessary litigation and controversy.” (Department of Women, Youth and Persons with Disabilities, 2019, pp. 8-9). To date, SABS has passed standards for reusable and disposable sanitary pads (SAnews.gov.za, 2020). During the planning phase of the SDP, each province had its own procurement process in terms of which local manufacturers of sanitary products could bid to provide and deliver sanitary pads to the target beneficiary group of the SDP. At a National Task Team meeting held on 3 July 2019, SABS reported that there was “currently no sanitary pad product manufacturer in the country with SABS approval” (Department of Women, Youth and Persons with Disabilities, 2019, p. 9). This meant that no local manufacturer of sanitary pads had obtained SABS approval for their products. The SABS’ standard for disposable sanitary pads is currently voluntary and thus not mandatory for manufacturers of this product. Achieving SABS approval entails manufacturers putting their products through a number of tests and quality processes that cost up to R100,000 to undertake and maintaining the standard requires an additional annual fee of +/-R20,000 (*Ibid*). The Department of Women has approached the National Regulator for Compulsory Specifications to request that the regulator make it mandatory for sanitary products in the country to be SABS approved. Notwithstanding the Framework’s requirement that only SABS-approved products be procured for the SDP, local bidders whose sanitary products are not SABS approved have been awarded tenders for the provision of disposable sanitary pads in each province (Department of Women, Youth and Persons with Disabilities, 2019).

Provincial governments have relied on schools for the implementation of the SDP. Schools are tasked to provide lists of beneficiaries and to handout the sanitary pad packages to these girls. In some provinces, the process of selecting beneficiaries involves applying objectively determinable qualifying criteria such as the gender and grade of the student; however, in other provinces subjective criteria are applied. The Limpopo provincial government for instance relies on schools to provide lists of orphans and vulnerable children in order to determine

beneficiaries for the SDP (Parliament of the Republic of South Africa, 2021). It is unclear how schools determine the vulnerability of the girls and whether the same criteria is applied by all quintiles 1 – 3 schools in the province. The beneficiaries of the SDP in such provinces therefore represent a sub-category of the initial target beneficiary group, being girls attending grades 4 – 12 in quintiles 1 – 3 schools. Research has shown that where there is no guiding policy for schoolteachers to apply in selecting beneficiaries of sanitary distribution programmes, this has the potential to lead to an abuse of power by teachers (Crankshaw, Strauss, & Gumede, 2020). Where learners are required to volunteer to be recipients of such programmes, research has also shown that such learners find this embarrassing and avoid having to do so (*Ibid*).

Zero VAT Rating

In the Recommendations on Zero Ratings in the Value-Added Tax System prepared by the Panel, data was presented showing "that zero rating sanitary products [would] have only a limited impact on improving women's access to sanitary products in low-income households" (Independent Panel of Experts for the Review of Zero Rating in South Africa, 2018, p. 60). The Panel was however cognisant of the high "economic and social costs to women of inadequate access to commercial sanitary [products]", how burdensome and restrictive alternatives to commercial sanitary products can be on women's ability to move freely as well as how these alternatives often do not protect women's clothing (Independent Panel of Experts for the Review of Zero Rating in South Africa, 2018, p. 59). As such, and notwithstanding the minimal impact that zero rating would have, the Panel recommended the zero rating of sanitary products "together with the provision of free access to sanitary products for low-income women" (Independent Panel of Experts for the Review of Zero Rating in South Africa, 2018, p. 60).

When considering the Panel's recommendations in relation to sanitary products, Treasury weighed the following broad policy issues against the cost to the economy of applying the recommendations:

I. the need for government to intervene to safeguard the girl child's right to education by ensuring that girls do not miss school due to a lack of sanitary products; and
II. a recognition that taxing sanitary products is synonymous with a tax on women, which adversely impacts gender parity.

Zero VAT rating entails a broad application of financial relief that not only benefits those who need it but also benefits members of the public who do not require the relief and would otherwise contribute to revenue creation. According to Treasury, zero rating is not an appropriate instrument to provide financial relief for the poor as it distorts revenue that is raised efficiently for the economy through the charging of VAT and thereby decreases the financial resources that could otherwise be used to benefit the poor. Treasury therefore holds the view that the best way to provide relief for the poor is through targeted expenditure programmes that provide free sanitary products or grants for sanitary products to the poor. According to Treasury therefore, the Minister's decision to apply a zero VAT rate to sanitary pads and to provide free sanitary products to certain members of the public is a double loss of revenue to the economy.

The decision to apply a zero VAT rating to sanitary pads and not to other products in the sanitary product mix was influenced by the following views:

I. pads are used by poorer households while other sanitary products are considered to be premium products that are used by more affluent consumers; and
II. to zero rate all the products in the sanitary product mix would be too burdensome to the fiscus.

The views on consumer preferences were derived from the personal knowledge of female members of the team tasked with considering the Panel's recommendations and are said to have been supported by the prices of sanitary products in the market. No clarity was provided about why the opinions of the female members of the team were elevated to statements of facts that could be relied upon in the determination of the scope of a government initiative. The sanitary product mix in South Africa is comprised of "disposable sanitary pads; reusable sanitary pads; tampons; and menstrual cups" (Department: Women,

Youth and Persons with Disabilities, 2019). Reusable sanitary pads and menstrual cups are not available in most commercial franchise retail stores and pharmacies. Table 1 below sets out the average price of various brands of disposable sanitary pads (10 pack) and tampons (16 pack) as at 31 January 2021.

	Checkers	**Pick n Pay**	**Shoprite**	**Dischem**	**Clicks**	**Average Price**
	Disposable Sanitary Pads					
Always	R24.99	R24.00	R24.99	R24.95	R24.99	***R24.78***
Kotex	R24.99	R21.99	R24.99	R23.95	R24.99	***R24.18***
Stayfree	R15.99	R16.99	R14.99	R14.50	R14.99	***R15.49***
	Tampons					
Lil-Lets	R28.99	R27.00	R29.00	R19.95	R22.99	***R25.56***
Kotex	R24.99	R24.00	R24.99	-	R24.99	***R24.74***
Stayfree	R26.99	R24.99	-	R24.95	R24.99	***R25.48***

Table 1: Prices of disposable sanitary pads and tampons as at 31 January 2021

The average price of a pack of disposable sanitary pads is R20.14 and the average price of a pack of tampons is R25.15. These prices incorporate the zero VAT rating of sanitary pads and the application of VAT (at a rate of 15%) to the price of tampons. Prior to the introduction of zero VAT rating to sanitary pads, the average price of a pack of disposable sanitary pads was R23,00 (Mills & Howe, 2019). Zero rating sanitary pads has resulted in a +/- R3.00 (+/- USD0.20) reduction in the price of these sanitary products, which, as predicted by the Panel is a minimal cost reduction for low-income households. In 2019, the upper bound poverty line was R1,227 (+/- USD80) per person per month (Statistics South

Africa, 2020). At the upper bound poverty line, people are able to afford both adequate food and non-food items (Statistics South Africa, 2020). In 2019, 55.5% of the population was living below the upper bound poverty line (Pietermaritzburg Economic Justice and Dignity, 2019). In a country where the majority of the population lives on less than R1,227 (+/- USD80) per month, a price reduction of +/- R3.00 (+/- USD0.20) is likely to have a limited impact on improving women's access to sanitary products in low-income households.

Consumer preferences for a particular sanitary product are influenced by a range of factors including cost, comfort, access to supporting facilities for product use such as WASH and disposal facilities at a household level, product availability and cultural acceptability. Nhlapo *et al*. (2019, p. 589) conducted a survey on the menstrual management product preferences of 50 women above the age of 18 in South Africa and found the following:

- 92% preferred disposable menstrual management methods;
- 69% preferred using disposable pads; and
- 23% preferred using tampons.

In a survey conducted on 500 school girls attending quintiles 1 – 5 schools in Gauteng, 86% of the participants reported preferring or only using sanitary pads and 2.3% reported using tampons (Crankshaw, Strauss, & Gumede, 2020, p. 54). Qualitative interviews with the participants also revealed that the lack of uptake for tampons was largely due to a cultural resistance to the use of tampons; girls used disposable sanitary pads because they were the products that their mothers used, bought for them, and taught them how to use (*Ibid*). If indeed zero rating all sanitary products would have been too burdensome to the fiscus, research supports government's decision to apply the zero rating to sanitary pads as this is the sanitary product that is preferred by the female population in South Africa. However, notwithstanding the preference for disposable sanitary pads, reports have highlighted a lack of supporting infrastructure for disposable sanitary pad use in many parts of the country that make the use of disposable sanitary pads burdensome (Elledge, et al., 2018) (Statistics South Africa, 2019).

CHAPTER FIVE

Discussion

Universal access to sanitary products is achieved when sanitary products are acceptable, affordable and available to all menstruating women and girls. As stated, this entails the removal of barriers to the product's quality, cost and geographic availability. Through the Framework and zero VAT rating of sanitary pads, government has taken steps to make sanitary pads universally accessible in South Africa.

The Framework

The Framework is a progressive policy document that seeks to champion the advancement of women's socio-economic empowerment and the promotion of gender equality. It purports to advance the constitutional commitment to uphold the human rights to dignity, equality and reproductive health care by addressing the sanitary dignity needs of indigent persons. "South Africa has been applauded for this initiative on numerous platforms and in particular UN institutions like UN Women and [the] United Nations Population Fund" (Department of Women, Youth and Persons with Disabilities, 2019, p. 26). The Framework is indicative of government's decision to take responsibility for the sanitary dignity needs of indigent persons. The Framework's definition of indigent person is therefore central to government's efforts to achieve universal access to sanitary products through the Framework.

In a country plagued by poverty and inequality, the narrow definition of 'indigent person' limits the reach of the SDP and threatens its success. The narrow application of the Framework has already proven to be problematic in the initial implementation phase of the SDP. According to the Department of Women, "…in targeting the first group of beneficiaries, other members of the beneficiary households may also need sanitary products and may thus utilise the free products provided to girl learners" and this "would result in the girl beneficiaries running out of products before the next disbursement of them" (Department of

Women, Youth and Persons with Disabilities, 2019, p. 26). As implementation of the SDP extends beyond the initial target group, concerns about the SDP products being used by unintended users is likely to remain owing to the narrow definition of 'indigent person'. It is likely that the free sanitary pads delivered under the SDP will be used by unintended users who do not meet the definition of indigent person but who have similar socioeconomic circumstances as beneficiaries of the SDP.

In order for the Framework "to champion the advancement of women's socio-economic empowerment and the promotion of gender equality" (Department: Women, Youth and Persons with Disabilities, 2019), the definition of indigent person must be articulated in terms that support the purpose of the Framework. Prioritising the needs of some categories of indigent females over others without justification threatens the achievement of universal access to sanitary products. The definition of indigent person should therefore be articulated in terms of financial need requirements instead of solely focusing on categories of poor persons. In this way, the SDP will benefit the population of females who have sanitary dignity needs. The revised definition must be expressed in clear and defined terms so as to eliminate doubts about who qualifies as a beneficiary of the Framework. Under these conditions, less reliance will be placed on being considered indigent by a committee and this avenue will serve its intended purpose as a last resort for qualifying as a beneficiary of the Framework.

Implementation of the Framework

Financial constraints

The initial phase of the SDP aims to meet the sanitary pad needs of girls in grades 4 – 12 of quintiles 1 – 3 schools nationally. The costing for this initial phase was not done in consultation with the provincial governments that are spearheading its implementation. It therefore does not take into account that each province has separate costs for the SDP and that these costs also include non-sanitary pad costs such as transportation and storage costs. This has created a funding gap between the amounts allocated for the SDP by Treasury and the actual costs of the SDP in each province. In addition, there was a lack of financial preparation

prior to the implementation of the SDP. At a national level, financial provision for the SDP was made from funds available in the fiscus and without regard to the actual costs of the SDP. As such, the allocations made by Treasury are arbitrary. Provincial governments were, and continue to be, expected to top up the finances required to cover shortfalls in the implementation of the SDP. Not all provinces have the resources to cover the SDP's financial shortages and as a result, lack of finances have been a leading complaint amongst provinces. In addition, no provision has been made for the outer years of the medium term expenditure framework, which will potentially result in an aggravated funding gap beyond the 2022/2023 financial year for provinces that are already experiencing funding gaps while Treasury allocations are being made. These financial constraints threaten the SDP's sustainability and raise alarm bells about the adequacy of the Framework as a government intervention method in the achievement of universal access to sanitary products. Research that considers whether government has the financial means to implement the Framework sustainably is required and should have preceded the approval of the Framework. Without adequate financial resources, the aims of the Framework cannot be achieved and the Framework will remain an aspirational policy document with unattainable good intentions.

The initial target group of the SDP represents a limited percentage of the female population that is of menstruating age in South Africa in a society where more than half of the population lives below the upper bound poverty line. Notwithstanding the limited reach of the SDP thus far, to date government has failed to meet the sanitary dignity needs of all girls in the initial target group. As the SDP enters its third year, there is no evidence to suggest that government will be able to meet the sanitary dignity needs of this entire initial target group in a sustainable manner that can be replicated as the SDP's target beneficiary group expands. Until government is able to formulate a clear financial path to support the Framework, the purpose of the Framework will not be realised and the Framework will remain an aspirational policy document.

Inconsistencies in the implementation of the SDP

The Framework aims to provide norms and standards for the provision of sanitary products to indigent persons, however this is not being achieved. The realisation

of a national standard has been compromised by the lack of uniformity amongst provinces in the planning and implementation of the SDP. In terms of the Framework, the Department of Women is responsible for the SDP however; the Department of Women was not included in the provincial procurement processes and therefore did not assess the tenders or provide input to ensure that there was uniformity in the outcomes. There are essentially nine different models in existence as each province has implemented the programme at its own pace and on its own terms. This has led to inconsistencies that are a threat to the sustainability of the SDP. From a monitoring and supervisory perspective, the Department of Women has not yet established control over the SDP. Poor monitoring structures compromise the Department of Women's ability to ensure adherence to the principles and objectives of the SDP. The onset of the global corona virus pandemic led to the introduction of lockdown regulations, which resulted in schools being virtually attended for much of 2020. As delivery of sanitary pads to the initial target group happens in schools, this haltered the SDP for several months in 2020. None of the nine provincial models adapted to meet the needs of the initial target group; it is likely that this situation would have been better handled if there was one model for the Department of Women to adapt. The lack of uniformity, poor monitoring structures and financial issues experienced with the SDP have been detrimental to its implementation and to the achievement of universal access to sanitary products through the Framework.

Failure to reach full coverage

Government has failed to organise itself accordingly in order to reach full coverage in the initial phase of the SDP. This inability to meet the sanitary dignity needs of the initial target group raises concerns about government's ability to reach full coverage of all beneficiaries of the Framework and thereby meet the sanitary dignity needs of all indigent persons. Even if full coverage of the beneficiaries of the Framework were to be achieved, the sanitary dignity needs of many segments of the female population would continue not to be met through the Framework because of the narrow definition of 'indigent person'. Universal access to sanitary products will therefore not be realised through the Framework

unless implementation of the SDP is standardised and monitored through control structures, and the limited reach of the Framework is expanded.

Zero Rating

Following the implementation of zero VAT rating to sanitary pads, the average price of disposable sanitary pads decreased minimally and remained comparable to the average price of tampons. The price reduction suggests that zero rating has made sanitary pads more affordable, albeit marginally. However, the minimal price change is indicative of the limited impact of the zero rating on improving women's access to sanitary products in low-income households. It is therefore questionable whether the benefit to low income households of the zero rating of sanitary pads outweighs the opportunity cost to the economy from the loss of revenue. More research needs to be done to assess the impact and value to low-income households of zero rating sanitary pads in order to determine how viable this government intervention is in the endeavour to realise universal access to sanitary products.

Notwithstanding the uncertain benefit to society of this tax intervention, the limited application of the zero VAT rating in South Africa has been criticised for creating an unfair disadvantage for some consumers in a market of price sensitive consumers (Nonyane, 2019). Globally tax interventions to sanitary products are not solely applied to a single sanitary product; however, research has shown that in South Africa consumers of sanitary products have an overwhelming preference for disposable sanitary pads. This preference is influenced by factors such as the price range of sanitary pads relative to other products in the market, particularly in light of the extent of poverty in the country, as well as a cultural acceptance for sanitary pads that is passed down from generation to generation. In light of this consumer preference, more needs to be done to facilitate a supportive environment for the use of sanitary pads. If this tax intervention is to be applied to other products in the sanitary products mix, more will need to be done to increase acceptance for other products in the sanitary product mix such as educating users about how to use the products and increasing the availability of these products in commercial retail stores.

CHAPTER SIX

Conclusion

Following international recognition of MHM as a human right, the South African government took steps to uphold this human right within its borders. Access to sanitary products is essential to MHM and through the introduction of the Framework and the zero VAT rating of sanitary pads, government has shown an appreciation for the central role that access to sanitary products plays in MHM. These government initiatives seek to make sanitary pads universally accessible to the female population by removing barriers to the affordability and availability of these products. The objective of this research was to determine whether universal access to sanitary products is being achieved in South Africa by assessing the extent of the effectiveness of these government interventions in the achievement of universal access to sanitary products.

The study found that these interventions have been minimally effective at achieving universal access to sanitary products. The zero rating of sanitary pads resulted in a marginal reduction in the retail price of these products and has had a questionable impact on the access to sanitary pads for low-income households. The decision to zero rate sanitary pads is indicative of government's political will to intervene in the plight to achieve access to sanitary products; it is not a decision supported by evidence of its benefits to low-income households. In particular, while the zero rating made sanitary pads more affordable, the extent of how marginally more affordable the products became is likely to have a negligible impact on making sanitary pads more accessible to females in low-income households. Thus the decision to apply a zero rating to sanitary pads instead raises questions about whether its benefits to low-income households outweigh the opportunity cost to the fiscus of the loss in revenue.

The application of the Framework is divisive, prioritizing the needs of some poor females over others without justification. The narrow definition of the beneficiaries of the Framework curtails the reach of the SDP and excludes many poor females from having their sanitary product needs met. The initial implementation phase of

the SDP aims to meet the sanitary dignity needs of a population group that makes up less than 15% of the South African female population. However, notwithstanding the limited focus of the SDP currently, government has been unable to meet the sanitary product needs of this initial target group. Implementation of the SDP has been characterised by a lack of provincial uniformity, lack of finances, disorganisation, and a lack of supervisory authority. These challenges are a threat to the realisation and sustainability of the aims of the Framework. They are indicative of the reality that more work that needs to be done to ensure that universal access to sanitary products is achieved. In South Africa, universal access to sanitary products remains an ideal that government's interventions have had a limited impact in achieving.

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ANNEXURE A: RESEARCH INSTRUMENT

National Treasury

Representative of expenditure department relating to the Sanitary Dignity Programme

- Was the sanitary dignity programme under the Framework costed?
- What is the budget allocated for the programme?

Representative of VAT and excise duties department

- Why were sanitary pads prioritised in the zero-VAT rating decision that was announced in October 2018?
- What are the reasons for explicitly excluding other sanitary products?