

Voicing the Bloody Truth——
A Children's Rights Approach to Overcome Menstrual
Stigma and Taboos in Asia



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“When the whole world is silent, even one voice becomes powerful.”

— Malala Yousafzai

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Vineeca (Meng-Ting) Kuo, 2023

Executive Summary

The objective of this thesis is to examine menstrual stigma and taboos within the framework of international children's rights. It seeks to develop a legal and policy framework based on the CRC that aims to overcome menstrual stigma and taboos and advance adolescent girls' education right and right to health, challenging the existence of this hostile social norm.

Chapter 2 starts with an overview of the different perspectives through which menstruation has been understood. The historical, cultural, and social perspective reveals the longstanding origins of the negative perception surrounding menstruation and sheds light on the social and cultural construction of menstrual stigma and taboos over time. The feminist and gender equality perspective highlights the pervasive influence of male dominance leading to the culture of female oppression and the concealment of menstruation, and further brings menstrual-related issues from the private sphere to the public domain. The hygiene perspective is widely adopted by NGOs working in the Global South, which is successful in bridging the material gap but bears the risk of overlooking the structural and social stigma and taboos. The human rights perspective, on the other hand, focuses on human dignity and serves as an engine for reevaluating and shifting power relations that are fundamental to the stigma and taboos around menstruation.

Chapter 3 delves into the framework of the CRC, and proposes that menstrual stigma and taboos should be situated as a form of harmful practices under the CRC to effectively overcome them. Among the numerous violations inflicted upon adolescent girls, the impact on education and health emerges as the most significant consequence of menstrual stigma and taboos. As such, a legal and policy framework is proposed to overcome menstrual stigma and taboos, containing three components: States' obligations to eliminate harmful practices, States' obligations on education right and States' obligations on the right to health.

Chapter 4 analyzes existing policies in three Asian countries, Indonesia, India, and Taiwan using the legal and policy framework proposed in Chapter 3. It explores how the three countries have taken different approaches but all have diverse laws and policies in relation to their obligations on eliminating harmful practices and advancing the education right and the right to health of adolescents. It further examines the extent to which menstrual stigma and taboos are addressed within the policies, and clearly, they're not addressed enough.

Drawing on the legal and policy framework in Chapter 3 and the experiences learned in Chapter 4, Chapter 5 provides conclusions and a national action plan model as recommendations for States to adopt a comprehensive policy that touches upon all the important factors that should be addressed in this thesis. It also provides recommendations for the CRC Committee to address menstrual stigma and taboos in its future Concluding Observations.

Keywords

Children's Rights — CRC — CEDAW — Adolescents — Menstruation — Menstrual Stigma —
Menstrual Taboos — Harmful Practice — Education Right — Right to Health — Legal and Policy
Framework

Overview of Main Findings

This thesis contributes to the field of research and understanding of menstrual stigma and taboos by examining them through the lens of the international children's rights framework and assessing the obligations of States in addressing these issues to work towards improvement. The research question this thesis seeks to answer is: to what extent can a children's rights legal and policy framework assist in overcoming menstrual stigma and taboos, and thereby lift these barriers to adolescent girls' education right and right to health in Asia?

Firstly, the thesis brings attention to the specific vulnerability of adolescent girls and emphasizes the significant role of adolescence in fostering positive development. This underscores the importance of examining menstrual stigma and taboos from a children's rights perspective. Secondly, by exploring the definitions provided by the CRC Committee and the CEDAW Committee in Joint General Comment No. 18, this thesis finds that menstrual stigma and taboos, with their gender-discriminatory nature and significant impact on human rights, fall under the classification of harmful practices. This would substantiate the obligations of States to take action in eliminating menstrual stigma and taboos. Further, the assessment of the impact on the education right and the right to health has revealed a profound influence on the overall development of adolescents. Therefore, while menstruation, menstrual stigma and taboos are not explicitly mentioned in the CRC, the thesis finds that the provisions of the CRC and General Comments regarding States' obligations on harmful practices, education right, and the right to health can be interpreted and applied to establish an effective legal and policy framework for States to follow. These three obligations serve as communicating vessels under the umbrella of a holistic legal and policy framework: States' obligations to eliminate harmful practices are the linchpin in dismantling this social norm, while States' obligations on education right and the right to health are bedrock for safeguarding adolescent girls' rights, both as a minimum requirement and as an initial step in addressing the issue.

By analyzing the laws and policies concerning menstruation in Indonesia, India, and Taiwan, the thesis finds out that there are a few deficiencies in the current efforts by States. A common observation across all three countries includes that policies have been introduced to improve education and health aspects related to menstruation. Yet, fewer endeavors are seen to specifically aim at confronting the social stigma and taboos. Another shared shortcoming is the insufficient inclusion of effective child participation and a central coordination mechanism on menstrual-related policies. Further, by framing menstruation under sexual and reproductive health, Indonesia tends to disproportionately prioritize the physical and

mental dimensions and overlooks the social dimension of adolescent girls' well-being, undermining the gravity of menstrual stigma and taboos. While by situating menstruation within the framework of gender equality, Taiwan aligns more closely with the approach that should be taken to recognize menstrual stigma and taboos as harmful practices, in order to fully transform the negative social norm and promote adolescent girls' rights. On the other hand, civil society plays a vital role in all three countries in filling the gaps for governments and pushing for more progressive policies.

Nevertheless, the inadequate presence of a comprehensive legal and policy framework in all three countries can be attributed to the absence of guidance and recognition within the international children's rights framework. Thus, the thesis contributes practical solutions by proposing a national action plan model drawing from the children's rights framework and lessons learned from national policies. The action plan model requires the inclusion of all aspects of policy-designing, from a clear national lead and sufficient budget, to being in conformity with the obligations under the CRC and a monitoring and evaluation mechanism to ensure effective implementation. The thesis further suggests that more research on evaluating the outcomes and effectiveness of current policies is needed to improve policy design. It also suggests the CRC Committee acknowledge and directly address menstrual stigma and taboos in its future Concluding Observations to States, to send a powerful message of condemnation to breaking the cycle of this harmful stigma and taboos surrounding menstruation.

List of Abbreviations

ASEAN – Association of Southeast Asian Nations

CEDAW – Convention on the Elimination of All Forms of Discrimination Against Women

CEDAW Committee – The Committee on the Elimination of Discrimination against Women

CRC – United Nations Convention on the Rights of the Child

CRC Committee – The Committee on the Rights of the Child

FGM – Female Genital Mutilation

GC – General Comment by the CRC Committee

JMP – WHO/UNICEF Joint Monitoring Programme

MHH – Menstrual Health and Hygiene

MHM – Menstrual Hygiene Management

NHRI – National Human Rights Institutions

UDHR – Universal Declaration of Human Rights

UNICEF – United Nations Children's Funds

WASH – Water, Sanitation and Hygiene

WHO – World Health Organization

Chapter 1—Introduction and Background to the Problem

1.1 Problem Statement

Menstruation, as a natural psychosocial and biological event in every girl and woman's life, has been shrouded in stigma and misconception for a long time across the world. It has been painted as something 'polluted', 'impure', 'shameful', 'harmful' or 'a curse', just to name but a few, by traditional and cultural beliefs.¹ Menstruating women are stigmatized and frequently labelled as 'irrational' and 'too emotional'.² In the US, nearly half of the women have experienced 'period shaming' in their lives.³ The stigma surrounding menstruation further leads to taboos and silencing of this natural phenomenon, which linger to the present day and often without our noticing. Almost every girl and woman can relate to the experience of discreetly concealing a sanitary pad in their pocket while heading to the restroom with the fear of anyone seeing it, or using all types of euphemisms when we have to awkwardly talk about menstruation.

Menstrual stigma and taboos are constructed culturally and socially. Stigma is conceptualized by Link and Phelan as a result of the dominant culture "distinguishing and labelling individuals based on differences and linking those labels to undesirable stereotypes."⁴ Menstruation as a distinct biological feature of women is thus labelled by the social norm of patriarchy as something different, inferior, and shameful, which leads to the justification and execution of discrimination and exclusion against menstruators. Religious culture further perpetuates and reinforces the negative social attitude toward menstruation. This prevailing narrative portraying menstruation as an undesirable bodily event has cultivated the idea that menstruation should be hidden and controlled.⁵ Therefore, menstrual stigma and taboos have become a tool of social control, defining how adolescent girls and women should behave during menstruation.⁶ Very often it is through the concealment and silencing of their menstruation can menstruators claim normalcy in daily lives and society.⁷

¹ Winkler, I. & Roaf, V. (2014). Taking the Bloody Linen out of the Closet: Menstrual Hygiene as a Priority for Achieving Gender Equality. *Cardozo JL & Gender*, 21(1), at 5.

² Olson, M. M., Alhelou, N., Kavattur, P. S., Rountree, L., & Winkler, I. T. (2022). The Persistent Power of Stigma: A Critical Review of policy initiatives to break the menstrual silence and advance menstrual literacy. *PLOS Global Public Health*, 2(7), at 3.

³ The research was conducted by Thinx with 1,500 women and 500 men participating. See Swns. (2018, January 11). *Nearly half of women have experienced "period shaming."* New York Post. <https://nypost.com/2018/01/03/nearly-half-of-women-have-experienced-period-shaming/>. Retrieved June 22, 2023.

⁴ Link, B. G., & Phelan, J. C. (2001). Conceptualizing stigma. *Annual Review of Sociology*, 27(1), at 367.

⁵ Olson et. al, *supra* note 2.

⁶ Link & Phelan, *supra* note 4.

⁷ Shailini, V. (2020). The realities of period poverty: How homelessness shapes women's lived experiences of

This deeply-embedded stigma and taboo on menstruation have led to negative impacts on the human rights of adolescent girls and women. Associating menstruation with something shameful or harmful results in discrimination against menstruators. Traditional religious practices that isolate menstruators deprive them of the opportunities to participate in social, cultural, economic, and public lives. Further, the taboos and silencing of menstruation lead to inattention and disinterest in maintaining health and hygiene during menstruation. Inadequate access to hygiene products, services, and knowledge poses significant challenges for menstruators in attaining and maintaining an adequate standard of health. On the other hand, menstrual stigma and taboos contribute to the disruption or discontinuation of education for numerous adolescent girls. Additionally, school curriculums often lack accurate information about menstruation, or solely focus on promoting "bodily containment, management, and control", overlooking the agency and autonomy of adolescent girls during menstruation.⁸

In recent years, menstrual-related issues have caught the eye of the public, with menstrual activism taking over the world, advocating for menstrual justice and seeking to bring this private matter into the public. NGOs and international organizations, including UNICEF and World Health Organization (WHO), have taken the lead in implementing Menstrual Hygiene Management (MHM) programmes in middle- and low-income countries. These initiatives aim to address the gaps in hygiene practices and the availability of safe menstrual products and services, thereby supporting effective menstrual management. In 2013, WASH United, a Berlin-based international NGO, designated May 28th as Menstrual Hygiene Day.⁹ This significant day has gained global recognition and is celebrated by organizations across different regions while raising awareness about menstrual care on a global scale. The burgeoning of menstruation has further pushed policy-makers to enact progressive laws regarding menstruation, such as the elimination of tampon tax in the UK and Kenya. Nevertheless, the majority of efforts undertaken tend to be product-focused. The underlying barriers that significantly affect menstruators, namely the stigma and taboos, have not been directly and comprehensively addressed.

Despite the fact that menstruation is crucial in upholding every female's overall well-being, it is not explicitly mentioned in any international human rights instruments. In June 2022, the UN High Commissioner of Human Rights made an important statement about menstruation in relation to human rights, highlighting that "women and girls and other people who menstruate continue to face barriers in

menstruation. In *The Palgrave Handbook of Critical Menstruation Studies*, Singapore: Springer Singapore Pte. Limited, at 33-34.

⁸ Olson et. al, *supra* note 2, at 2.

⁹ Menstrual Hygiene Day is observed on May 28th to represent the average 28 days of menstrual cycles and that menstruators menstruate an average of five days each month.

the realization of their menstrual health deeply rooted in stigma and harmful stereotypes regarding menstruation, reinforcing patriarchal and discriminatory systems and societies, and resulting in denial of their human rights and further gender inequality.”¹⁰

Menstrual stigma and taboos are complex and multi-sectoral issues that intersect with various aspects of adolescent girls and women’s rights, including sexual and reproductive health, gender equality, non-discrimination, and other rights protected under international law. It is, therefore, of utmost importance to establish a legal framework to situate menstrual stigma and taboos under international human rights law.

1.2 Children under Menstrual Stigma and Taboos

Adolescent girls can be disproportionately affected by menstrual stigma and taboos, experiencing more profound impacts due to their particular vulnerability.¹¹ Additionally, adolescence signifies a time of rapid physical and mental development.¹² From the start of menarche, the hostile environment toward menstruation can adversely impact adolescent girls’ attitude toward their body, sexuality, self-image, and confidence, further affecting their future development.¹³ The lack of adequate sanitary products, services and knowledge also leads to violations of their education right and right to health, depriving them of an enabling environment to develop and transfer into adulthood. Therefore, it is of particular importance to focus on adolescent girls and adopt a children’s rights approach when assessing menstrual stigma and taboos, in order to identify what is required to break the deeply-embedded social norm, clarify the obligations of States, and establish accountability.

Unlike Europe and North America, the movement on menstruation arrived relatively later in Asia. The diversity in terms of culture, religions, and developmental process of different Asian countries also affects how menstrual stigma and taboos are viewed and addressed differently by different countries. Therefore, it is intriguing to examine the responses of these countries to menstrual-related issues following the emergence of the menstrual movement. By analyzing the variations and identifying key

¹⁰ *UN High commissioner for human rights statement on menstrual health*. OHCHR. (2022, June 21). <https://www.ohchr.org/en/statements/2022/06/high-commissioner-human-rights-statement-menstrual-health>. Retrieved June 10, 2023. Menstrual health is defined as “a state of complete physical, mental, and social well-being and not merely the absence of disease or infirmity, in relation to the menstrual cycle.” See Hennegan, J., Winkler, I. T., Bobel, C., Keiser, D., Hampton, J., Larsson, G., Chandra-Mouli, V., Plesons, M., & Mahon, T. (2021). Menstrual health: a definition for policy, practice, and research. *Sexual and reproductive health matters*, 29(1), at 32.

¹¹ According to General Comment No. 20, adolescents refer to those between the age of 10 and 18. See Committee on the Rights of the Child, General Comment No. 20 (2016), CRC/C/GC/20, para 5.

¹² Committee on the Rights of the Child, General Comment No. 4 (2003), CRC/GC/2003/4, para 2.

¹³ Link & Phelan, *supra* note 4, at 373.

aspects, valuable lessons and references can be derived that can contribute to the establishment of a more robust and comprehensive legal and policy framework.

1.3 Research Question

The research question this thesis seeks to answer is: To what extent can a children's rights legal and policy framework assist in overcoming menstrual stigma and taboos, and thereby lift these barriers to adolescent girls' education right and right to health in Asia?

To answer the research question, the following sub-questions will be addressed:

- 1) How has menstruation been framed throughout history?
- 2) Why is it important to look from a children's rights perspective? Where do menstruation, menstrual stigma and taboos situate in the Convention on the Rights of the Child (CRC), and how do they affect children's rights?
- 3) What are states' obligations under the CRC to eliminate menstrual stigma and taboos in the society? What are states' obligations under the CRC to protect children's education right and right to health against menstrual stigma and taboos?
- 4) Do the current laws and policies in Asia concerning menstruation address menstrual stigma and taboos? Are these laws and policies in line with the children's rights framework?
- 5) What are the crucial elements in a comprehensive and children's rights-based policy to effectively overcome menstrual stigma and taboos?

1.4 Aims and Methodology

The thesis aims to situate menstrual stigma and taboos within the international children's rights framework and establish a legal and policy framework under the CRC to eliminate menstrual stigma and taboos in society, further advancing children's education right and the right to health against this hostile social norm. The thesis seeks to further analyze existing policies concerning menstruation in Asia, identify gaps and seek improvements.

The thesis is academic desk-based research looking at both legal and academic sources. The international children's rights approach is used as the main framework for research and analysis. International human rights documents such as the CRC and General Comments, along with other legal documents such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) are used as primary sources to analyze the problem and draw a legal and policy framework

model for States to effectively address menstrual stigma and taboos. The thesis also entails a review of current national laws and policies concerning menstruation in three countries, Indonesia, India, and Taiwan. Academic literature and reports from UNICEF and other NGOs are used as secondary sources to support the research and findings. In addition, relevant books and peer-reviewed articles are also used.

1.5 Structure of the Thesis

The thesis first looks at how menstrual stigma and taboos have been understood throughout history in Chapter 2. It reviews four perspectives, the historical, cultural, and social perspective; the feminist and gender equality perspective; the hygiene perspective, and the human rights perspective to provide an understanding of the emergence of menstrual stigma and taboos and the rise of the menstrual movement.

Chapter 3 examines menstrual stigma and taboos within the framework of the CRC. It argues to view menstrual stigma and taboos as a form of “harmful practices” and analyzes their impact on adolescent girls’ education right and right to health. A holistic and rights-based legal and policy framework in conformity with the CRC is established, to clarify States’ obligations to eliminate menstrual stigma and taboos and further advance adolescent girls’ education right and right to health.

Chapter 4 conducts a comparative analysis of the laws and policies on menstruation in Indonesia, India, and Taiwan, using the legal and policy framework proposed in Chapter 3. Gaps are identified in order to seek further improvement by the States. Chapter 5 concludes the thesis with an action plan model recommended for States to follow, drawing on the framework established in Chapter 3 and the insights gained from the country analysis in Chapter 4. Additionally, it offers an overall conclusion to the thesis.

1.6 Research Scope

Children’s rights are indivisible, interdependent, and interrelated. Menstrual stigma and taboos affect not only adolescent girls’ education right, right to health and protection against non-discrimination but also a series of other rights under the CRC. Moreover, the thesis recognizes that not only women and adolescent girls menstruate. Menstruators are of diverse gender identities including transgender, intersex, and non-binary people who also experience menstrual cycle. This thesis, however, limits its research to addressing adolescent girls and their education right and right to health, which are the two most directly impacted rights by menstrual stigma and taboos.

Chapter 2—Exploring Menstruation: How It Has Been Understood

2.1 Introduction

While menstruation is biologically connected to human reproduction and survival, its social and conceptual significance has varied throughout history, giving rise to issues and concerns including stigma and taboos. This chapter will give an overview of four different perspectives through which menstruation has been understood: the historical, cultural, and social perspective; the feminist and gender equality perspective; the hygiene perspective, and the human rights perspective. Additionally, it will delve into the emergence of stigma and taboos surrounding menstruation and explore how they have become deeply ingrained social-norms.

2.2 The Historical, Cultural and Social Perspective

Going down the history, traditional cultural and religious beliefs have greatly influenced how people view menstruation. The negative perception of menstruation can be found as far back as 73 AD, during which in the Latin encyclopedia, menstruation was first mentioned as follow: “contact with [menstrual blood] turns new wine sour, crops touched by it become barren, grafts die, seed in gardens are dried up, [...] to taste it drives dogs mad and infects their bites with an incurable poison”.¹⁴

Scholars held different views on the fear and negativity that emerged from menstruation. Sigmund Freud believed that it was out of the fear of blood, while a more common belief is that it came from the fear of women, reflecting the general hegemony of patriarchy in the past.¹⁵ Historian Robert S. McElvaine further pointed out the concept of “reproductive envy” among males, which led them to stigmatize menstruation, using it as a way to dominate women for the “psychological compensation for what men cannot do biologically”.¹⁶ The stigmatization of menstruation further resulted in the imposition of various restrictions and practices of avoidance placed upon menstruating women and girls across cultures. In central and Eastern Europe, menstruating women should avoid any productive activities.¹⁷ For example, in France, menstruating women were banned from wine-making, mushroom-picking, and sugar-refining, in order to protect these products ‘from ruin’.¹⁸ Other types of restrictions, such as menstruating women

¹⁴ Pliny the Elder. (1938). Natural history. *Digital Loeb Classical Library*, at 549.

¹⁵ Hatch, L. (2020). From One Period to the Next...: Menstruation and the Psychoanalytic Process of Working through to the Feminine. *ProQuest Dissertations Publishing*, at 31.

¹⁶ Pettegrew, J. (2003). Deepening the history of masculinity and the Sexes. *Reviews in American History*, 31(1), at 136-137.

¹⁷ Montgomery, R. E. (1974). A cross-cultural study of menstruation, menstrual taboos, and related social variables. *Ethos*, 2(2), at 139-140.

¹⁸ *Id.*

should eat or sleep in a different room than other family members, also exist in African and Asian societies, with many still being practiced today. While this negative perception of menstruation persists, it has gradually become ingrained in the society as a prevailing norm and regulation.

Religions have been another huge factor that influence the perception of menstruation. In some of the most common religions in Asia, such as Hinduism, Buddhism, and Islam, menstruation is generally perceived as 'impure and polluted'.¹⁹ In Hinduism, some even consider menstruation as a 'curse' and prohibit menstruating women to enter temples or other religious sites, or participating in religious practices²⁰, because the "polluted female bodies" would "angry their gods and bring bad luck for their families."²¹ The perception of impurity further fosters extreme ritual practices. In rural western Nepal, *chhaupadi* is a practice isolating menstruating women from the rest of the family. Menstruating women are required to sleep in a small shed without windows or locks, usually 20-25 meters away from their residential houses.²² This isolation sometimes leads to serious physical harm to women such as rape, animal attacks or death.²³ Restrictions to religious practice are also found in traditional Buddhism, prohibiting menstruating women to enter temples or to participate in auspicious ceremonies like weddings.²⁴ Warnings of prohibition are commonly hung at the entrance of temples announcing that an "unclear person should not enter".²⁵ In Islam, under Qur'an, religious restrictions on menstruating women include prohibiting them to enter shrines or mosques, or pray or fast during Ramadan.²⁶ In addition, women have to cleanse themselves through a "ritual washing" after menstruation²⁷, and some

¹⁹ Sharma, N., Vaid, S., & Manhas, A. (2006). Age at menarche in two caste groups (Brahmins and Rajputs) from rural areas of Jammu. *The Anthropologist*, 8(1), at 55-57, cited in Guterman, M., Gibbs, M., & Mehta, P. (2008). Menstrual taboos among major religions. *The Internet Journal of World Health and Societal Politics*, 5(2), at 4; Furth, C., & Chen, S. (1992). Chinese medicine and the anthropology of menstruation in contemporary Taiwan. *Medical Anthropology Quarterly*, 6(1), at 31.

²⁰ Anthony, N. (2020). Menstrual taboos: Religious practices that violate women's human rights. *International Human Rights Law Review*, 9(2), at 294; Karki, R. & C. Espinosa, C. (2018). Breaking taboos: Menstruation, female subordination and reproductive health, the case of India. *Insights of Anthropology*, 2(2), at 114.

²¹ Karki & Espinosa, *supra* note 20.

²² Kadariya, S., & Aro, A. R. (2015). Chhaupadi practice in Nepal—analysis of ethical aspects. *Medicolegal and Bioethics*, at 54. Though a law was later carried out to prohibit *chhaupadi* in Nepal, families and communities continue to practice today due to the lack of reporting and deeply rooted belief. See also Thapa, S., & Aro, A. R. (2021). 'Menstruation means impurity': Multilevel interventions are needed to break the menstrual taboos in Nepal. *BMC Women's Health*, 21(1), at 2-3.

²³ Anthony, *supra* note 20, at 295.

²⁴ Furth & Chen, *supra* note 19.

²⁵ Chu, C. (1980). Menstrual beliefs and practices of Chinese women. *Journal of the Folklore Institute*, 17(1), at 45-46.

²⁶ Engineer, A. (1987). Status of Women in Islam. *Ajanta Publications*, cited in Guterman et al., *supra* note 19.

²⁷ Fischer, M. (1978). On changing the concept and position of Persian women. *Women in the Muslim World*, at 204-206; Whelan, E. M. (1975). Attitudes toward menstruation. *Studies in Family Planning*, at 106-108, cited in Guterman et al., *supra* note 19.

are not allowed to eat at the same table as other family members when menstruating.²⁸

The negative view and stigma of menstruation have resulted in the prolonged silencing and societal taboos surrounding this natural biological process. Not only do societies shy away to talk about menstruation, but many women themselves also feel an inexplicable shame and pressure when it comes to menstruation, even just mentioning the word. In some cultures, the culturally inherited stigma leads to secrecy or absolute silence about menstruation, while in other cultures, euphemisms or covert references are used commonly.²⁹ According to a survey conducted by Clue and The International Women's Health Coalition, there are around 5,000 slang terms and euphemisms in 10 languages used to describe menstruation.³⁰ Interestingly, among Chinese speakers, 91% of them utilize slang terms or euphemisms when discussing menstruation.³¹ The use of euphemisms further results in the inability to communicate or discuss openly this biological process, as such terms "signal to the listener and the speaker alike that discussions of menstruation should remain secretive."³² Hence, a harmful cycle is established: the societal transmission of stigma manifests the taboo, silencing, and concealment surrounding menstruation, while in turn, the taboos perpetuate and strengthen the stigma and stereotype associated with menstruation.³³

2.3 The Feminist and Gender Equality Perspective

The women's health movement that emerged around the 1960s is believed to be the mother of menstrual activism led by feminists.³⁴ During this time, health and reproductive issues such as abortion rose to the table, and a women's health movement gradually formed as feminists fought for the empowerment of women as agents of their own health care.³⁵ Feminists argued that the dominant male-centered design of the medical system ignores "women's unique bodily experiences", thus resulting in women's limited agency and control over their own bodies.³⁶ In the late 1970s, a Toxic Shock Syndrome

²⁸ Guterman et al., *supra* note 19.

²⁹ C Pascoe, C. (2007). Silence and the History of Menstruation. *The Oral History Association of Australia Journal*, (29), at 28-29.

³⁰ Clue. (2021, April 14). *Menstrual euphemisms by language*. Clue. <https://helloclue.com/articles/culture/top-euphemisms-for-period-by-language>. Retrieved May 30, 2023.

³¹ *Id.*

³² Crawford, B., & Waldman, E. (2022). Menstrual stigma, shame, and period poverty. In *Menstruation Matters: Challenging the Law's Silence on Periods*, New York University Press, at 18-21.

³³ *Id.*

³⁴ Bobel, C. (2020). The Emergence of Menstrual Activism, In *New Blood*, Ithaca, NY: Rutgers University Press C, at 43.

³⁵ *Id.*, at 43-45.

³⁶ *Id.*, at 42-44.

crisis in the US caused by super-absorbent Rely tampons³⁷, which led to the death of 38 women, provoked a huge concern regarding the safety of menstrual products. As a response, an increasing number of women began demanding stricter safety and performance standards from the industry.³⁸ The Boston Women's Health Book Collective contributed to this movement by publishing "*Our Bodies, Ourselves*", which criticized the conventional menstrual-product industry for promoting myths about menstruation by introducing products such as scented pads.³⁹

The menstrual consciousness cultivated through the recognition of safe menstruation management further challenged the social constructs surrounding menstruation and sought to transform the negative narrative associated with it. Feminists focused on the long-dominant rhetoric of male supremacy that led to the culture of female oppression and the concealment of menstruation, and refused to use men's bodies as the standard of normality.⁴⁰ Gloria Steinem described this social norm manifested by menstruation with an interesting presumption in her article *If Men Could Menstruate*:

*"What would happen, for instance, if suddenly, magically, men could menstruate, and women could not? The answer is clear—menstruation would become an enviable, boast-worthy, masculine event: Men would brag about how long and how much. Boys would mark the onset of menses, that longed-for proof of manhood, with religious ritual and stag parties. Congress would fund a National Institute of Dysmenorrhea to help stamp out monthly discomforts. Sanitary supplies would be federally funded and free."*⁴¹

This quest for gender equality under menstruation was further presented by actions for a gendered distribution of sources. In the 1980s, campaigns calling for the eradication of "tampon tax" emerged.⁴² Kenya became the first country to successfully eliminate its VAT on menstrual products in 2004⁴³, and

³⁷ Toxic shock syndrome is an infection caused by certain types of bacteria potentially leading to life-threatening result. In the 1980s in North America, more than 1000 cases were reported and around 90% of the patient were menstruating women when they felt ill. A super-absorbent tampon from the brand Rely was found to led to the crisis, as women changed the menstrual products less, leading to higher risk of infection.

³⁸ Bobel, *supra* note 34, 42-45.

³⁹ Crawford, B. & Waldman, E. (2022). Introduction, In *Menstruation Matters: Challenging the Law's Silence on Periods*, New York University Press, at 2.

⁴⁰ Bobel, C., & Fahs, B. (2020). From bloodless respectability to radical menstrual embodiment: Shifting menstrual politics from private to public. *Signs: Journal of Women in Culture and Society*, 45(4), at 970.

⁴¹ Steinem, G. (2020). If Men Could Menstruate, In *The Palgrave Handbook of Critical Menstruation Studies*, Singapore: Springer Singapore Pte. Limited, at 353-354.

⁴² Crawford and Waldman defined "tampon tax" as "the national or local taxes that different countries and jurisdictions impose on the sale, manufacture, and/or production of a range of menstrual products, including pads tampons and menstrual cups". See Crawford, B. & Waldman, E. (2022). The Tampon Tax, In *Menstruation Matters: Challenging the Law's Silence on Periods*, New York University Press, at 34-35.

⁴³ Crawford & Waldman, *supra* note 42, at 36.

the successful experience further stimulated petitions in UK, US, and Australia. In addition to calling for equity in access to menstrual products, efforts were made in designing “better and more user-friendly menstrual products”.⁴⁴ The innovation of diverse menstrual products such as reusable menstrual cups, menstrual discs, and absorbent underwear signifies a better understanding of the female body and the growing autonomy of menstruating women in choosing what suits them best instead of being limited to the often-male rhetoric commercial considerations. Advocating for menstrual leave in the workplace is another action under the framework of promoting gender equality, by recognizing and supporting women’s health needs. Nevertheless, whether or not to adopt menstrual leave and how to adopt it is still a widely-debated issue nowadays. Some argue that menstrual leave can reinforce discrimination against women in the workplace, as employers may favor hiring men to avoid potential absences.⁴⁵

A momentum around menstruation was gradually formed by the efforts of feminists and activists, shifting the issue of menstruation from the private sphere to the public domain. The movement also garnered significant media attention, with mainstream media increasingly covering the topic. The year 2015 was marked the “year of the period” as the movement widely expanded across social media platforms.⁴⁶ The extensive media coverage not only generated public interests in redefining menstrual discourse but also pushed the movement beyond geographical borders, reaching diverse regions across the globe.⁴⁷ In 2018, the Agreed Conclusions by the annual UN Commission on the Status of Women advised governments to “take steps to promote educational and health practices in order to foster a culture in which menstruation is recognized as healthy and natural [...]”⁴⁸, recognizing menstruation as a matter of global development and formally putting menstrual health on the global agenda.

2.4 The Hygiene Perspective

Framing menstruation as a matter of public health and hygiene is an approach commonly adopted by NGOs and social enterprises working in the Global South, predominantly Sub-Saharan Africa and South

⁴⁴ Bobel & Fahs, *supra* note 40.

⁴⁵ Crawford, B. & Waldman, E. (2022). Periods at Work, In *Menstruation Matters: Challenging the Law’s Silence on Periods*, New York University Press, at 121.

⁴⁶ Bobel, C. (2018). Making Menstruation Matter in the Global South: Mapping a Critical History, in *The Managed Body*, Palgrave Macmillan, at 96.

⁴⁷ Bobel, C. (2018). Introduction: What a Girl Needs..., In *The Managed Body*, Palgrave Macmillan, at 2-5.

⁴⁸ The Agreed Conclusions is the principal output by the UN Commission on the Status of Women every year, usually revolving around a priority theme and include recommendations for governments and other stakeholders to implement the conclusion. See UN Women. (2018). 2018 Agreed Conclusions: Challenges and opportunities in achieving gender equality and the empowerment of rural women and girls, available at (<https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/CSW/62/CSW-Conclusions-62-EN.PDF>).

Asia.⁴⁹ The increasing concern for gender equality in developmental work in the early 2000s pushed WASH (water, sanitation and hygiene) programmes to include issues on menstruation in their work. They noticed that the lack of access to basic menstrual supplies and infrastructure has led to poor hygiene during menstruation, which further becomes a barrier for adolescent girls to attend schools regularly.⁵⁰ MHM is the primary initiative of these organizations, with a focus on addressing the gender gap in education by providing essential facilities like clean toilets and water in schools, as well as supplying menstrual products such as sanitary pads.⁵¹ MHM was defined by WHO and UNICEF in the Joint Monitoring Programme (JMP) in 2012:

“Women and adolescent girls are using a clean menstrual management material to absorb or collect menstrual blood, that can be changed in privacy as often as necessary for the duration of a menstrual period, using soap and water for washing the body as required, and having access to facilities to dispose of used menstrual management materials.”⁵²

In addition to hygiene, ‘management’ is another important aspect of MHM, which underlines assisting menstruators to privately care for menstruation.⁵³ In sum, MHM aims at removing the material barriers for adolescent girls, to further create a friendly environment to keep adolescent girls in schools, as many believe that ensuring children’s educational access serves as an important factor to uplift the communities, and even more, the whole nation.⁵⁴ Aside from focusing on hygiene and the provision of hygiene-related products and services, some MHM programmes promote menstrual health education and awareness, seeking to increase menstrual literacy in the region and a better understanding of menstruation.⁵⁵

However, MHM has faced criticism, mainly regarding the over-simplification of this complex issue through an emphasis on service and product provision, therefore overlooking the structural and social stigma and taboos that need to be challenged and removed.⁵⁶ In addition, the terms ‘hygiene’ and ‘management’ are criticized as reinforcing the negative image of menstruation as dirty and impure, and

⁴⁹ Bobel, *supra* note 47, at 6. See also Gaybor, J., & Harcourt, W. (2021). Seeing the colour red: Menstruation in global body politics. *Global Public Health*, 17(10), at 2393.

⁵⁰ McLaren, M. A., & Padhee, M. (2021). A sexual and reproductive health rights approach to menstruation. *Gender & Development*, 29(1), at 135.

⁵¹ Gaybor & Harcourt, *supra* note 49, at 2392-2393.

⁵² Gibson, L., Yamakoshi, B., Burgers, L. & Alleman, P. (2019). Guidance on Menstrual Health and Hygiene. UNICEF, at 13.

⁵³ Bobel, *supra* note 47, at 5-7. See also Bobel, *supra* note 46, at 74.

⁵⁴ Bobel, *supra* note 47.

⁵⁵ Bobel, *supra* note 47.

⁵⁶ Bobel, *supra* note 47, at 7 & 10.

the alternative terms 'menstrual health and hygiene (MHH)' is proposed to replace MHM.⁵⁷ Bobel further criticized that the framing of 'body management' by MHM can be problematic, as it signifies regulating girls' bodies and posing a burden on girls themselves, and potentially imposing the Western imaginary on the Global South.⁵⁸ Nevertheless, the work of MHM deserves recognition as it serves as a starting point for developing countries to address, or at the very least, bring this issue to the forefront of policy-making discussions. The efforts of MHM have broken the boundary of menstruation as an issue solely discussed within the private sphere, and elevated menstrual hygiene as a public health concern.

2.5 The Human Rights Perspective

In recent years, several scholars have pointed out the importance of situating menstruation in the human rights framework. Many argued that menstruation as a unique process of the female body has prevented women's achievement of rights because it "separate women from the world of men."⁵⁹ As stated by Winkler, menstruation is "fundamental" because it can "impede or facilitate the realization of a whole range of human rights."⁶⁰ The earliest efforts by UN entities to identify menstrual stigma and taboos as a human rights concern is from the UN Special Rapporteur on the right to safe drinking water and sanitation in 2012. In the report to the UN Human Rights Council, the Special Rapporteur identified the socially-entrenched stigma and silencing of menstruation, how the stigma excludes and marginalizes people and leads to several human rights violations, in particular the right to water and sanitation and non-discrimination.⁶¹

Alongside gender equality and the right to water and sanitation, human dignity emerges as a common lens invoked by human rights advocates in their efforts to address menstrual-related issues. Human dignity is the foundation of all human rights, as enshrined in Article 1 of the Universal Declaration of Human Rights (UDHR), which states that "all human beings are born free and equal in dignity and rights."⁶² Cooper pointed out the importance of addressing dignity in terms of menstruation because dignity directly relates to "the principles of bodily integrity" and women's "ability to manage them safely

⁵⁷ McLaren & Padhee, *supra* note 50, at 134.

⁵⁸ Bobel, *supra* note 47, at 7.

⁵⁹ Bobel, C. (2018). "Dignity Can't Wait": Building a Bridge to Human Rights, In *The Managed Body*, Palgrave Macmillan, at 217.

⁶⁰ Winkler, I. (2020). Introduction: Menstruation as Fundamental, In *The Palgrave Handbook of Critical Menstruation Studies*, Singapore: Springer Singapore Pte. Limited, at 9.

⁶¹ UN General Assembly, Report of the Special Rapporteur on the human right to safe drinking water and sanitation, Catarina de Albuquerque (2012), A/HRC/21/42.

⁶² UDHR, Article 1.

and affordably”, which further affects the ability to fully engage in the external world.⁶³ Jacobson identified dignity in two parts. The first part is “dignity-of-self”, which refers to self-respect and self-worth.⁶⁴ Stigmatizing menstruation as foul, impure, and unclean creates a feeling of shame and embarrassment in adolescent girls and women, which adds difficulty to maintaining their dignity when menstruating and further affects the way they view themselves.⁶⁵ The second part is “dignity-in-relation”, which relates to how individuals are treated by others and the “mores and traditions of a particular community or society.”⁶⁶ In addition to the constraint placed on menstruating women and girls by stigma, the constant fear of possible smelling, staining, or leaking can make it difficult for menstruators to maintain their dignity when they are not able to manage their menstruation in a comfortable and discreet way.

Some scholars and advocates further link the concept of dignity with privacy, proposing that the right to privacy should be guaranteed for adolescent girls and women to have a private and safe space to clean or change sanitary materials.⁶⁷ Nonetheless, Bobel pointed out that emphasizing the right to privacy under dignity can be dangerous as it strengthens menstrual invisibility.⁶⁸ Some MHM programmes aim at “keeping menstruation hidden through ‘upgraded’ menstrual care facilities and materials”, in order to uphold the dignity of girls and women.⁶⁹ The cost and effect of the theory behind this is to protect women’s privacy by showing no evidence of menstruation; therefore no feeling of shame emerges, and dignity is preserved.⁷⁰ However, this approach can fail to challenge and even reinforce the deeply rooted silencing and taboos around menstruation, further contributing to the problematic social norm and stigmatization of menstruation by keeping menstruation invisible.

Framing menstruation within the context of the right to sexual and reproductive health is another common approach taken by States and field workers. Shifting from menstrual hygiene to a broader frame of sexual and reproductive health takes into account the “physical, mental, and social well-being” of menstruators, instead of simply remedying hygienic deficiency through product provisions.⁷¹

⁶³ Cooper, E. (2021). What’s Law Got to Do with It? Dignity and Menstruation. *Columbia Journal of Gender and Law*, 41 (1), at 41.

⁶⁴ Jacobson, N. (2009). A Taxonomy of Dignity: A Grounded Theory Study. *BMC International Health and Human Rights*, 9 (1), at 6, cited in *Id.* at 42.

⁶⁵ Winkler & Roaf, *supra* note 1, at 14.

⁶⁶ Jacobson, *supra* note 64.

⁶⁷ Winkler & Roaf, *supra* note 1, at 14-15.

⁶⁸ Bobel, *supra* note 59, at 227.

⁶⁹ Bobel & Fahs, *supra* note 40, at 968.

⁷⁰ Bobel, *supra* note 59, at 230-233.

⁷¹ McLaren & Padhee, *supra* note 50, at 133.

Nevertheless, human rights are indivisible and interrelated; thus, menstrual stigma and taboos affect the enjoyment of diverse economic, social, cultural, civil, and political rights in addition to the rights mentioned above. In 2019, the Statement on International Women's Day by a group of UN experts stated that "the stigma and shame generated by stereotypes around menstruation have severe impacts on all aspects of women's and girls' human rights, including their human rights to equality, health, housing, water, sanitation, education, freedom of religion or belief, safe and healthy working conditions, and to take part in cultural life and public life without discrimination."⁷²

In sum, reframing menstruation as a human rights issue provides opportunities to expand the limited emphasis on hygiene and address the underlying structural causes faced by menstruating women and girls.⁷³ The human rights perspective serves as an engine for reevaluating and shifting power relations that are fundamental to the stigmatization, shame, and silencing around menstruation.

⁷² International Women's Day, 8 March 2019. OHCHR. (2019, March 5). <https://www.ohchr.org/en/news/2019/03/international-womens-day-8-march-2019>. Retrieved June 22, 2023.

⁷³ Winkler & Roaf, *supra* note 1, at 13.

Chapter 3—Menstrual Stigma and Taboos under International Children’s Rights Law

3.1 Introduction

Menstruation or menstrual stigma and taboos are not explicitly mentioned in international legal documents; nonetheless, approaching menstruation from a human rights perspective signifies the growing recognition of the importance of addressing the stigma and taboos attached to it. Further, adolescent girls as a group of particular vulnerability, experience significant impacts from menstrual stigma and taboos, resulting in violations of their rights at various levels.

This chapter will first address the importance of focusing on adolescent girls when addressing menstrual stigma and taboos, thus looking at the issue from a children’s rights perspective. It will then explore menstrual stigma and taboo under the CRC, followed by an examination on States’ obligations to eliminate menstrual stigma and taboos to further protect adolescent girls’ rights. A holistic legal and policy framework to overcome menstrual stigma and taboos will be proposed in the end.

3.2 Addressing Menstrual Stigma and Taboos as a Children’s Rights Issue

There are several reasons why particular attention should be given to adolescent girls when addressing menstrual stigma and taboos. Firstly, the experience of menarche can greatly influence and shape how girls and women view menstruation in their lives. In the JMP by UNICEF and WHO in 2012, it is understood that having prior knowledge about menstruation contributes to improved socio-emotional responses.⁷⁴ The research indicates that girls who are already familiar with menstruation before menarche tend to exhibit reduced levels of shock or fear.⁷⁵ This early awareness can have potential lasting effects on their psychosocial well-being as they transition into adulthood.⁷⁶ Additionally, adolescence signifies the onset of sexual awareness and the time when children begin to explore and form their own identity, often influenced by interactions with the people around them and their cultural history.⁷⁷ Therefore, the negative and harmful social perception about menstruation can lead to distress and confusion, and negatively impact their confidence as well as the way they develop their sexual identity. For example, in some countries, girls are told to avoid males because they are fertile after menarche. This indication of sexual initiation, therefore, prompts adolescent girls to hide menstruation

⁷⁴ WHO & UNICEF. (2021). Progress on household drinking water, sanitation and hygiene 2000-2020: five years into the SDGs. Geneva, at 85-86.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ GC No. 20 (2016), para 10.

for fear of punishment and criticism.⁷⁸

Secondly, children possess unique vulnerability that requires “special safeguards and care”, as stated in the preamble of the CRC.⁷⁹ The physical and mental immaturity of children makes them especially vulnerable to poor living conditions, inadequate health facilities, clean water and a safe living environment. The “rapid physical, cognitive and social changes, including sexual and reproductive maturation” during adolescence further pose new challenges to adolescents’ health and development which require special attention.⁸⁰ Moreover, adolescent girls are mentioned particularly by the CRC Committee as a group that can be subject to multiple vulnerabilities, as gender inequalities become more significant during adolescence.⁸¹ Menstruation, which often leads to increasing stereotyping and discrimination against adolescent girls, therefore contributes to these vulnerabilities.⁸²

Thirdly, as children develop rapidly during adolescence, their evolving capacities should be highly respected during this phase of life. Evolving capacities are defined by the CRC Committee as “the process of maturation and learning through which children progressively acquire competencies, understanding and increasing levels of agency to take responsibility and exercise their rights.”⁸³ This increasing level of competency and responsibility further signifies that adolescents have the potential to act as change agents to contribute positively to their communities.⁸⁴ The development of adolescents, therefore, determines their contribution or cost to society, which further affects the overall well-being of the whole society.⁸⁵ In other words, as adolescents have the potential to play a pivotal role in reshaping social norms, fostering a healthy and positive perception of menstruation among them can have a ripple effect, which further promotes a positive attitude toward menstruation in society at large.

In sum, adolescence is a critical stage of development and transition to adulthood. The vulnerabilities and growing competencies during this stage of life can serve as both a driving force or pushback on future development, thus requiring to treat adolescents with extra attention and delicacy and pay particular attention to viewing menstrual stigma and taboos through the lens of children’s rights.

⁷⁸ Hennegan, J., Shannon, A., Rubli, J., Schwab, K., Melendez-Torres G., & Myers, J. (2019). Women’s and girls’ experiences of menstruation in low- and middle-income countries: A systematic review and qualitative metasynthesis. *PLoS Medicine*, 16(5), at 20.

⁷⁹ CRC, preamble.

⁸⁰ GC No. 4 (2003), para 2.

⁸¹ GC No. 20 (2016), para 26-27.

⁸² GC No. 20 (2016), para 28.

⁸³ GC No. 20 (2016), para 18.

⁸⁴ GC No. 20 (2016), para 2.

⁸⁵ GC No. 20 (2016), para 2.

3.3 Menstrual Stigma and Taboos as a Form of Harmful Practices under the CRC

Harmful practices have been mentioned and condemned by international and regional human rights laws over the years. In the CRC, Article 24 (3) states that States should “take all effective and appropriate measures with a view to abolishing *traditional practices* prejudicial to the health of children.”⁸⁶ These practices are usually derived from tradition, culture, and religion and contribute to gender inequality and stereotype in society, leading to negative impacts particularly on women and girls. In 2014, the CRC Committee and CEDAW Committee made a more specific definition of harmful practices in Joint General Comment No. 18, dropping the word “traditional” from the context to include both “traditional or emerging practices” that are “prescribed by social norms, which are often embedded in the culture.”⁸⁷

The two elements highlighted in Joint General Comment No.18 for a constitution of harmful practices are: they are the products of discriminatory gender construction and sociocultural norm, and they further lead to physical and/or psychological harm.⁸⁸ More specifically, practices are harmful when they:

(a) constitute a denial of the dignity and/or integrity of the individual and a violation of the human rights and fundamental freedoms [...];

(b) constitute discrimination against women or children and are harmful insofar as they result in negative consequences for them as individuals or groups, including physical, psychological, economic and social harm and/or violence and limitations on their capacity to participate fully in society or develop and reach their full potential;

(c) are traditional, re-emerging or emerging practices that are prescribed and/or kept in place by social norms that perpetuate male dominance and inequality of women and children [...];

*(d) are imposed on women and children by family members, community members or society at large [...].*⁸⁹

Though menstrual stigma and taboos are not listed by the two Committees as an example of harmful

⁸⁶ CRC, Article 24 (3).

⁸⁷ Committee on the Rights of the Child & Committee on the Elimination of Discrimination against Women, Joint General Comment No. 18 (2014), CRC/C/GC/18, para 16 (c).

⁸⁸ GC No. 18 (2014), para 15: “Harmful practices are ‘persistent practices and forms of behavior that are grounded in discrimination on the basis of, among other things, sex, gender and age, in addition to multiple and/or intersecting forms of discrimination that often involve violence and cause physical and/or psychological harm or suffering’.”

⁸⁹ GC No. 18 (2014), para 16.

practices, closely examining the nature and impact of menstrual stigma and taboos on adolescent girls, they tick all the boxes above to constitute a form of ‘harmful practices’. Firstly, as discussed in Chapter 2.5, the feeling of shame and embarrassment derived from menstrual stigma and taboos makes it difficult for adolescent girls to maintain their dignity during menstruation. Secondly, the constraint placed on adolescent girls and women by menstrual stigma and taboos has affected a wide range of their rights, in particular the education right, the right to health and non-discrimination. Article 2 of the CRC provides that all children should be able to enjoy their rights “without discrimination of any kind”.⁹⁰ However, adolescent girls are often discriminated against and excluded from social participation during menstruation either by force of explicit restrictions or social expectations, or on their own will due to the fear of leaking, being detected of odour or bullying.⁹¹ Such discrimination can range from unfair treatment at schools or in everyday life, to placing physical restrictions such as isolating menstruating girls and women in a small shed or prohibiting them from religious practices, as discussed in Chapter 2.2. Many of these physical restrictions, either rooted in cultural or religious beliefs, or the unequal male-dominant power structure in society, are continued to be practiced by family and community members until today. Such restrictions not only result in potential serious physical harm, but also lead to negative short-term and/or long-term psychological impacts, as they marginalize adolescent girls and women by labelling them as a separate category of inferiority. In some cultures, the signification of maturity and reproduction of menarche further puts adolescent girls at potential risk of child marriage and other sexual-based violence.⁹² In addition, menstrual stigma and taboos have been kept in place in society for a long time by becoming invisible and internalized by adolescent girls and women, as they feel compelled to hide and keep menstruation a secret.⁹³

Hence, taking into account the discriminatory nature of menstrual stigma and taboos and the profound consequences they have caused, they can be classified as harmful practices within the framework of the CRC. This approach would serve to further clarify States’ obligations in overcoming such harmful practices in the society, while safeguarding and upholding the rights affected of adolescent girls.

3.4 The Impact of Menstrual Stigma and Taboos on Children’s Rights

3.4.1 The Impact on the Education Right

⁹⁰ CRC, Article 2 (1).

⁹¹ *Id.* See also Hennegan et al., *supra* note 10, at 34.

⁹² OHCHR, *supra* note 10.

⁹³ Winkler & Roaf, *supra* note 1, at 4-5.

Menstrual stigma and taboos as a form of harmful practices have led to the violations of several rights of adolescent girls under the CRC. In particular, the education right and the right to health, which are fundamental to the holistic well-being of children and their ability to exercise other rights, demonstrate the most immediate and widespread effects among a range of impacted rights.⁹⁴

Children's education right is protected in Article 28 of the CRC, which states that education should be provided to children "on the basis of equal opportunity".⁹⁵ Article 29 of the CRC further states the aims of education, which should be directed to "the development of the child's personality, talents and mental and physical abilities to their fullest potentials"⁹⁶, "the development of respect for human rights and fundamental freedoms"⁹⁷ and "the preparation of the child for responsible life in a free society, in the spirit of understanding, [...] equality of sexes [...]"⁹⁸.

Despite the importance of education to children's development, according to research, around 41% of girls do not attend school during menstruation globally, while in Nepal a high 70.7% of girls skip school during menstruation.⁹⁹ In addition to the physical discomfort during menstruation, multiple aspects resulting from menstrual stigma and taboos lead to adolescent girls' absenteeism and premature departure from school. The lack of adequate sanitary products and supportive hygienic facilities creates a challenging environment for adolescent girls to manage their menstruation at schools. The social pressure, discrimination and physical restrictions imposed by stigma and taboos create barriers for adolescent girls to attend schools regularly during menstruation. In some cases, adolescent girls even drop out entirely after menarche.¹⁰⁰ In addition, period shaming, bullying and name-calling at schools due to lack of knowledge and sensitivity of other children also cause menstruating girls to feel reluctant to go to school. As such, a vicious cycle is created when girls are kept away from schools, as the lack of education reinforces the misunderstanding of menstruation, and girls continue to see menstruation as a sickness or disease, therefore justifying their absence in schools.¹⁰¹

⁹⁴ Lundy, L., & O'Lynn, P. (2018). The Education Rights of Children. In *International Human Rights of Children*. Singapore: Springer Singapore, at 260; Committee on the Rights of the Child, General Comment No. 15 (2013), CRC/C/GC/15, para 7.

⁹⁵ CRC, Article 28 (1).

⁹⁶ CRC, Article 29 (1) (a).

⁹⁷ CRC, Article 29 (1) (b).

⁹⁸ CRC, Article 29 (1) (d).

⁹⁹ Adhikari, P., Kadel, B., Dhungel, S.I., Mandal, A. (2007). Knowledge and practice regarding menstrual hygiene in rural adolescent girls of Nepal. *Kathmandu University Medical Journal*, 5(3), 382-386, cited in Karki & Espinosa, *supra* note 20, at 119.

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

Another negative impact on education concerns participation in schools. According to a study in Kenya, girls face difficulties engaging in class during their period due to “the fear of smelling and leakage, and subsequent teasing.”¹⁰² Further, having to wear light-coloured uniforms can result in girls constantly fearing staining, thus being absent-minded or losing concentration in class.¹⁰³ The consequences of decreased engagement and limited participation in classroom activities can negatively impact their academic performance and learning outcomes.

In short, menstrual stigma and taboos have created barriers for adolescent girls to access education and hinder their ability to achieve academic success, leading to unequal opportunities to fully exercise their education right.

3.4.2 The Impact on the Right to Health

Article 24 (1) of the CRC recognizes the right of the child “to the enjoyment of the highest attainable standard of health”.¹⁰⁴ In other words, the right to health under the CRC is not the right to “be healthy”, but rather the right to enjoy “a variety of facilities, goods, services and conditions necessary for the realization of the highest attainable standard of health”.¹⁰⁵ Moreover, the CRC Committee emphasizes that it is an exclusive right that should extend beyond health services, but a right to live in conditions that enable children to attain the highest standard of health that further allows them to grow and develop to their full potential.¹⁰⁶

The stigma and taboo around menstruation have led to inattention to safe and healthy menstrual management, resulting in several negative health impacts on adolescent girls. The first impact is the increased risk of potential infections or disease. The issue of ‘period poverty’ is intensified in various regions due to the magnification of menstrual stigma and taboos, depriving adolescent girls of access to adequate and safe menstrual products and hygienic services.¹⁰⁷ The lack of accurate information,

¹⁰² Mason, L., Nyothach, E., Alexander, K., Odhiambo, F.O., Eleveld, A., Vulule, J., Rheingans, R., Laserson, K.F., Mohammed, A. & Phillips-Howard, P.A. (2013). ‘We Keep It Secret So No One Should Know’—A Qualitative Study to Explore Young Schoolgirls Attitudes and Experiences with Menstruation in Rural Western Kenya. *PLoS one*, 8(11), at e79132, cited in Tellier, S. & Hytte, M. (2018). Review Menstrual Health Management. United Nations Population Fund East and Southern Africa Regional Office, South Africa, at 13.

¹⁰³ Winkler & Roaf, *supra* note 1, at 8; Joshi, D., Buit, G., & González-Botero, D. (2015). Menstrual Hygiene Management: Education and Empowerment for girls? *Waterlines*, 34(1), at 56.

¹⁰⁴ CRC, Article 24 (1).

¹⁰⁵ Committee on Economic, Social and Cultural Rights, General Comment No. 14 (2000), E/C.12/2000/4, para 8-9.

¹⁰⁶ GC No. 15 (2013), para 2.

¹⁰⁷ Period poverty refers to the inability to afford menstrual products and the lack of available washing and hygiene facilities. Period poverty has been a concern in low- and middle-income countries, as well as for low-income adolescent girls and women in high-income countries. See Cardoso, L. F., Scolese, A. M., Hamidaddin,

knowledge and awareness about how to manage menstruation therefore leads to unhygienic menstrual practices. Consequently, poor menstrual management causes genital discomfort, irritation, rashes, and bruising¹⁰⁸, further increasing the risk of more serious reproductive and urinary tract infections such as Urinary Tract Infections (UTI).¹⁰⁹ The lack of timely treatment of these infections can later lead to future birth complications and infertility, affecting adolescent girls' reproductive health conditions.

Secondly, around 80% of adolescent girls and women suffer from menstrual cramps regularly during their periods.¹¹⁰ Other menstrual discomforts are also common among adolescent girls including fatigue, headache, diarrhea, depressed moods or premenstrual symptoms (PMS) which can affect their livelihood and even lead to the inability to function. Additionally, some adolescent girls suffer more serious gynecological problems which heavily impact the quality of their life, such as heavy bleeding, irregular cycles or endometriosis. However, such discomfort is often neglected or characterized as over-exaggeration due to the stigma, taboos and lack of awareness. As a result, girls choose to suffer the discomfort in silence for long hours, in the absence of sensitization and support from their families, schools or health service.¹¹¹

The long-lasting menstrual stigma and taboos also greatly affect the psychosocial well-being and mental health of adolescent girls. The feeling of shame, guilt and embarrassment or the physical isolation and discrimination that comes with menstruation leads to psychological pressure, anxiety and depression.¹¹² Many girls are reported to feel lonely, fearful, stressed and wanting to cry during their negative menstruation experiences.¹¹³ These further result in low self-esteem and the disempowerment of adolescent girls throughout their development.

To sum up, menstrual stigma and taboos have infringed upon the rights and opportunities of adolescent girls to access essential health services and appropriate treatments, consequently resulting in substantial detriments to their physical and mental well-being.

3.5 States' Obligations to Eliminate Menstrual Stigma and Taboos under the CRC

A., & Gupta, J. (2021). Period poverty and mental health implications among college-aged women in the United States. *BMC Women's Health*, 21(1).

¹⁰⁸ Hennegan et al., *supra* note 78, at 28.

¹⁰⁹ Karki & Espinosa, *supra* note 20, at 121.

¹¹⁰ Grandi, G., Ferrari, S., Xholli, A., Cannoletta, M., Palma, F., Romani, C., Volpe, A., & Cagnacci, A. (2012). Prevalence of menstrual pain in young women: what is dysmenorrhea?. *Journal of pain research*, 5, at 171.

¹¹¹ Karki & Espinosa, *supra* note 20, at 121.

¹¹² Hennegan et al., *supra* note 78, at 28-30.

¹¹³ Hennegan et al., *supra* note 78, at 28-30.

3.5.1 States' Obligations to Eliminate Menstrual Stigma and Taboos as Harmful Practices

3.5.1.1 States' Obligations under Joint General Comment No. 18

While stigmatizing and silencing menstruation constitute a form of harmful practices that leads to violations of children's rights, stigma and taboos themselves are deeply-embedded social and cultural norms that are hard to be 'criminalized'. Because they are socio-culturally constructed, it also implies that they should be deconstructed by changing the social and cultural norms.¹¹⁴ Therefore, as stated in Joint General Comment No. 18, a holistic, rights-based and multi-sectoral policy approach that includes both legal and non-legal actions is required from States to achieve effective prevention and elimination of the stigma and taboo around menstruation in the society.¹¹⁵ Measures preventing and eliminating menstrual stigma and taboos can be further categorized into two aspects: measures toward the general public and measures toward adolescent girls.

The first measure States should take toward the general public is the enactment and implementation of legislation prohibiting harmful practices derived from menstrual stigma. In countries where extreme physical restrictions such as *chhaupadi* or limiting menstruating women from entering religious sites are practiced, such restrictions and exclusion should be prohibited by law to send a clear message of the condemnation of menstrual stigma and taboos in addition to protecting the rights of menstruating girls and women.¹¹⁶ The enactment of legislation should be followed by an effective reporting and protection system for victims, as well as follow-up and monitoring measures for the results achieved.¹¹⁷ Secondly, the establishment of rights-based social and cultural norms is essential in preventing stigma and taboos.¹¹⁸ States should put in efforts to reframe and promote a positive and healthy perception of menstruation. Active participation of adolescent girls and women should be highly encouraged and included in reframing the attitude toward menstruation, since they are the ones menstruating and should therefore take the lead in shaping the normative on this natural biological process from their own views and experiences. A rights-based social and cultural norm further implies the establishment of an enabling environment, where, according to UN High Commissioner Michele Bachelet, "women and girls can make informed choices about their lives and bodies, including their menstrual health, free of stigma, violence, and discrimination."¹¹⁹ More details on the establishment of an enabling environment for

¹¹⁴ Olson et al., *supra* note 2, at 4.

¹¹⁵ GC No. 18 (2014), para 33.

¹¹⁶ GC No. 18 (2014), para 40.

¹¹⁷ GC No. 18 (2014), para 41.

¹¹⁸ GC No. 18 (2014), para 57.

¹¹⁹ *Removing the shame and stigma from menstruation*. OHCHR. (2022, July 8).

adolescent girls to menstruate will be further elaborated on below under States' obligations on the right to health in Chapter 3.5.3.

Thirdly, States should prioritize the capacity building of all relevant professionals that come in contact with adolescent girls, including health care providers, social workers, teachers and community leaders.¹²⁰ These professionals should receive trainings and be provided with adequate information about menstruation, menstrual care and sexual and reproductive health, so that they are able to assist in conveying a healthy image of menstruation and provide accurate information when adolescent girls seek their help. Additionally, States should undertake public awareness-raising campaigns to challenge the hostile social norm around menstruation.¹²¹ Raising public awareness include the dissemination of accurate information about menstruation in the society, and the initiation of public discussion and dialogue on menstruation. Media, including mainstream and social media, can serve as important partners and effective tools in reaching different communities and engaging different age groups, as well as platforms to host debates and discussions about menstrual stigma, taboos and menstrual well-being.

Aside from targeting society as a whole in eliminating menstrual stigma and taboos, it is important to empower adolescent girls and women to contest this prevailing social norm around them and overcome the barriers imposed by it. Education plays a critical role in empowering adolescent girls, with which States have the obligations to ensure that all adolescent girls receive education and provide age-appropriate education that "includes science-based information on sexual and reproductive health".¹²² This aligns with States' overarching responsibility to uphold children's education right, which will be further discussed in Chapter 3.5.2. Furthermore, facilitating discussion on menstruation, gender equality and related social norms among children and adolescents is another important aspect, as it assists adolescent girls in adopting more positive roles and behaviours in their daily lives, further asserting their rights and overcoming discrimination and marginalization.

The holistic policy should be mainstreamed and coordinated both vertically and horizontally.¹²³ Vertical coordination signifies coordination among local, regional and national authorities. Horizontal coordination requires not only governmental authorities cross-sectors, but also the inclusion of civil

<https://www.ohchr.org/en/stories/2022/07/removing-shame-and-stigma-menstruation>. Retrieved June 22, 2023.

¹²⁰ GC No. 18 (2014), para 70-73.

¹²¹ GC No. 18 (2014), para 74.

¹²² GC No. 18 (2014), para 68.

¹²³ GC No. 18 (2014), para 34

society, private sectors and UN entities. Further, Article 18 of the CRC recognizes that parents have the primary responsibility for the upbringing of children; therefore, parents also have an important role in the approach to addressing menstrual stigma and taboos.¹²⁴ States should provide appropriate guidance for parents to reframe their perception of menstruation, thereby fostering positive experiences and attitudes towards this natural biological process with their children.¹²⁵

3.5.1.2 Using Article 12 as an Empowerment Tool

As mentioned in the section above, facilitating discussions and participation is essential in both establishing a healthy and positive social narrative regarding menstruation and empowering adolescent girls. Therefore, Article 12 of the CRC, which guarantees children the right to be heard and to participate, plays a pivotal role in the comprehensive policy framework designed to tackle the pervasive issue of menstrual stigma and taboos.

Article 12 is a unique provision of the CRC that changes the long-standing image of children as incompetent human beings that need protection under international laws. According to Freeman, this right is the 'lynchpin' of the CRC, because it "recognizes the child as a full human being with integrity and personality and with the ability to participate fully in society".¹²⁶ In addition, because it is recognized as one of the four general principles of the CRC by the CRC Committee¹²⁷, all duty-bearers should consider Article 12 in the interpretation and incorporation of all other rights in the CRC.¹²⁸

There are two main components of children's right to be heard. The first one is the "right to express views". Article 12 states that States shall "assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child".¹²⁹ It implies that every child is capable of forming his or her views, and that it is States parties' obligation to "assess the capacity of the child to form an autonomous opinion to the greatest extent possible."¹³⁰ The second component of this right is that the views of the child must be given due weight "in accordance with the age and maturity of the child".¹³¹ This means that simply listening to the child is not enough, but their views should

¹²⁴ CRC, Article 18 (1).

¹²⁵ CRC, Article 18 (2).

¹²⁶ Laura, L., Tobin, J. & Parkes, A. (2019). Art.12 The Right to Respect for the Views of the Child. In *The UN Convention on the Rights of the Child*. Oxford University Press, at 398.

¹²⁷ The four general principles of the CRC are: Article 2 the right to non-discrimination; Article 3 best interests of the child as a primary consideration; Article 6 the right to life, survival and development; and Article 12 the right to be heard. See Committee on the Rights of the Child, General Comment No. 5 (2003), CRC/GC/2003/5, para 12.

¹²⁸ Committee on the Rights of the Child, General Comment No. 12 (2009), CRC/C/GC/12, para 2.

¹²⁹ CRC, Article 12 (1).

¹³⁰ GC No. 12 (2009), para 20.

¹³¹ CRC, Article 12 (1).

be taken seriously and given due weight. On the other hand, the CRC Committee states that participation is the “exchange between children and adults on the development of policies, programmes, and measures in all relevant contexts of children’s lives.”¹³² Thus, even though “participation” is not explicitly mentioned in Article 12, it is widely accepted to fall under the scope of Article 12 in order for children to be actively heard in all matters affecting them.

There are several approaches to implementing and integrating Article 12 into the policy framework of addressing menstrual stigma and taboos. Firstly, States should ensure that adolescents have the opportunity to participate and have their voices heard during the decision- and policy-making process concerning menstruation. The CRC Committee emphasizes the importance of the participation of children in such process because their views “may add relevant perspectives and experience”.¹³³ Through participating, children can negotiate and advocate for their rights and hold States accountable, further leading to service, policy or strategies provision that best responds to their utmost needs and preferences.¹³⁴ Children can be either directly or indirectly involved or consulted during the decision- and policy-making process. National human rights institutions (NHRI) or other independent children’s rights institutions play a key role in implementing Article 12, as they can serve as the bridge between children and decision-makers to facilitate communications and dialogue while ensuring appropriate safeguarding.¹³⁵

To ensure the fulfilment of child participation in the decision and policy-making process, States should ensure the diversity of children included in the process, so that voices of different groups of children, particularly deprived and marginalized children such as minorities or disabled children are taken into account. States should also ensure that children receive all necessary information and advice to make a decision or give out their opinions in favour of their best interests throughout the process.¹³⁶ Information should be accessible and provided in a child-friendly way. Further, appropriate safeguards should be provided to child participants. For example, as discussions about menstruation can be triggering or hard to speak about for adolescent girls, States should create a non-threatening atmosphere for adolescent girls to feel comfortable in, in order to provide their honest views and experiences.

¹³² GC No. 12 (2009), para 13.

¹³³ GC No. 12 (2009), para 12.

¹³⁴ De Wijn, M. (2017). *Child Participation in Local Government: A UNICEF Guidance Note*. UNICEF, New York, at 3.

¹³⁵ Committee on the Rights of the Child, General Comment No. 2 (2002), CRC/GC/2002/2, para 16-17.

¹³⁶ GC No. 12 (2009), para 8.

Even in a society with fewer physical restrictions on menstruating girls, menstruation continues to be subject to inadequate discourse or is frequently approached with veiled communication. Being able to freely express their experience about menstruation is not only a fulfilment of children's rights to be heard and freedom of expression under Articles 12 and 14 of the CRC respectively, but also an important empowerment process to build the resilience of adolescent girls facing shame and negativity in the society. As such, frequent, direct and positive discussion is another approach that States should take, to normalize menstruation and further break the stigma and taboo in the society.

Bobel proposes a *360-degree approach* to discuss menstruation, menstrual stigma and taboos, which can present as an instructive reference for States. The *360-degree approach* puts girls in the center of the social orbit, surrounded by family members, boys, teachers, community and religious leaders, health workers and governmental officials...etc.¹³⁷ This means that the encouragement of conversations about menstruation should not be limited to within school environments only, but in all settings that adolescent girls are involved in such as families and communities, to advance the overall menstrual awareness and literacy in the society. Bobel stresses that everyone in the sphere of girls must "substantively engage" and "take responsibility for creating a world where menstruation is neither a cause for secrecy nor shame".¹³⁸ Including boys and men in the conversations, therefore, constitutes a critical yet frequently overlooked aspect that warrants significant attention, as they can assist in playing a positive and supportive part in girls' and women's life and avoiding rejections and frustrations.¹³⁹

Additionally, correct language instead of euphemisms or any coded language should be used in conversations regarding menstruation. It is imperative to refrain from succumbing to the prevailing perception of menstruation as a burdensome phenomenon while engaging in discussions.¹⁴⁰ Instead, meaningful and honest dialogue should be facilitated, such as dialogue about the biological facts of the menstrual cycle, the social and cultural meanings, and realities including the discomfort and inconvenience during menstruation.

3.5.2 States' Obligations on the Education Right

In light of the significant impact of menstrual stigma and taboos on the education right of adolescent girls, States are obligated under the CRC to respect, protect, and fulfil this right. Verhellen's proposed

¹³⁷ Bobel, C. (2020). Beyond the Managed Body: Putting Menstrual Literacy at the Center. In *The managed body: Developing girls and Menstrual Health in the Global South*, Palgrave Macmillan, at 296-297.

¹³⁸ *Id.*, at 298.

¹³⁹ Olson et al., *supra* note 2, at 8-9.

¹⁴⁰ Bobel, *supra* note 137, at 300.

three-track typology serves as a valuable tool for evaluating the obligations of States concerning the broad and multifaceted nature of education right. The three-track typology includes States parties' obligations in the realization of the right *to* education, the right *in* education and the right *through* education.¹⁴¹

Firstly, to ensure the right *to* education, States should guarantee that education is available to be and accessible to all children.¹⁴² Availability refers to the sufficient quantity provided, while accessibility indicates that education should be accessible to all children without discrimination. It is, therefore, States' obligations to ensure that girls are not excluded from receiving education based on their gender and biological characteristics. In addition, ensuring accessibility of education implies that States should "encourage regular attendance at schools and the reduction of drop-out rates", as stated in Article 28 (1) (e) of the CRC.¹⁴³ Thus, it is States' obligations to remove the barriers caused by menstrual stigma and taboos for adolescent girls to attend schools comfortably, regularly and without fear.

Children's right *in* education refers to the treatment of children within education systems.¹⁴⁴ States have the obligations to ensure that children's rights are protected and respected in schools, as the CRC Committee states in General Comment No. 1 that "children do not lose their human rights by virtue of passing through the school gates."¹⁴⁵ This also reflects the importance of the quality of education, as it should be "child-centred, child-friendly and empowering."¹⁴⁶ Therefore, schools should be a safe and empowering place for all children to learn and develop, and be protected from any discrimination or inhuman treatment. In addition to addressing stigma and misconceptions surrounding menstruation, it is crucial to establish safe, healthy, and enabling school environments that can cater to the menstrual needs of adolescent girls. This endeavour is closely linked to States' obligations concerning the right to health, which entail providing hygienic space and products for girls to manage their menstruation and fostering an enabling environment that supports their learning and menstrual management in schools. Teachers, both male and female, should also be trained and sensitized to assist adolescent girls in coping with physical and mental discomfort.¹⁴⁷

Children's right *through* education refers to providing education that "teaches children about their

¹⁴¹ Lundy & O'Lynn, *supra* note 94, at 261.

¹⁴² Lundy & O'Lynn, *supra* note 94, at 261.

¹⁴³ CRC, Article 28 (1) (e).

¹⁴⁴ Lundy & O'Lynn, *supra* note 94, at 269-270.

¹⁴⁵ Committee on the Rights of the Child, General Comment No. 1 (2001), CRC/GC/2001/1, para 8.

¹⁴⁶ GC No. 1 (2001), para 2.

¹⁴⁷ Karki & Espinosa, *supra* note 20, at 119.

rights.”¹⁴⁸ This echoes one of the aims of education under Article 29, which is the development of respect for human rights. Children should learn about their rights, be enabled to claim their rights and defend their rights when needed. As such, in the context of eliminating menstrual stigma and taboos, it is important for States to ensure that accurate and practical health education about menstruation is included in school curriculums. Such education should include biological information about menstruation, menstrual cycle and sexual and reproductive health, as well as the social and emotional aspects, while engaging menstrual beliefs and traditional practices and restrictions.¹⁴⁹ Moreover, health education should be provided from a younger age, preferably before menarche, so that adolescent girls are well-prepared with a healthy mindset to embrace this natural biological process, instead of being shocked and frightened by menarche. It is important to include boys in promoting menstrual literacy, as non-menstruators play a key role in shaping a supportive environment for menstruators.¹⁵⁰ In short, ensuring a rights-based and informative education is key for adolescent girls to access accurate information, be empowered to overcome barriers and further break the harmful menstrual stigma and taboos.

3.5.3 States’ Obligations on the Right to Health

States bear the obligations to respect, protect and fulfil adolescent girls’ right to health as outlined in Article 24 of the CRC against menstrual stigma and taboos. This entails refraining from conduct that interferes with the freedoms and entitlements to respect the right to health, protecting the freedoms and entitlements to the right to health from interference of third parties, environment or social threats, and providing measures to fulfil the entitlements to the right to health.¹⁵¹

Firstly, because the health and development of adolescents are significantly influenced by the environment they are in, States should create a safe and supportive environment, including family, peers, schools and the wider community for adolescents.¹⁵² Creating a supportive environment involves addressing both attitudes and behaviours surrounding menstruation.¹⁵³ This includes promoting a positive perception of menstruation and abolishing harmful practices that stem from menstrual stigma and taboos, such as imposing physical restrictions.¹⁵⁴ By doing so, States reinforce their obligations to eliminate these harmful practices, as discussed in Chapter 3.5.1. Further, States should provide support

¹⁴⁸ Lundy & O’Lynn, *supra* note 94, at 261.

¹⁴⁹ Bobel, *supra* note 137, at 295-297.

¹⁵⁰ Olson et al., *supra* note 2, at 8.

¹⁵¹ GC No. 15 (2013), para 71.

¹⁵² GC No. 4 (2003), para 14 & 39 (a).

¹⁵³ GC No. 4 (2003), para 14.

¹⁵⁴ CRC, Art. 24 (3): States should take “all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children”.

and guidance to parents or legal guardians throughout the development of adolescents.¹⁵⁵

Secondly, a supportive environment entails ensuring adequate and sufficient material provision. States should ensure that health facilities, goods and services for mental and sexual and reproductive health “sensitive to adolescents’ concerns” are available to all adolescents.¹⁵⁶ Under the 4-A typology, States should ensure that health facilities, goods and services are available in quantities, accessible to all children without discrimination, acceptable by respecting children’s needs and of appropriate quality, in order for children to fully realize their rights to health.¹⁵⁷ Health facilities and goods should include affordable and safe menstrual products, and adequate water, sanitation and hygiene facilities to change menstrual materials, dispose of menstrual materials and wash and clean their bodies during menstruation. Accessible counseling and treatment for menstrual discomfort and disorders should also be included in the health facilities provided by States.¹⁵⁸ These services should aim at providing timely treatment of any physical or mental discomfort, and strategies for self-care during menstruation.¹⁵⁹

Thirdly, access to accurate information is essential in creating a safe and supporting environment for adolescents’ health, in particular menstrual health.¹⁶⁰ States parties should ensure that accurate, timely, practical and age-appropriate information about menstruation and related health issues is given to both adolescent girls and boys, as well as parents and guardians.¹⁶¹ This can be done through education, as well as awareness-raising campaigns that disseminate such information to the general public.

3.6 Conclusion

The significance of adolescence in shaping positive development, the vulnerabilities of adolescent girls, and the pivotal role that adolescents play in reshaping societal attitudes as they transition into adulthood all underscore the importance of examining menstrual stigma and taboos through the lens of children’s rights. This chapter has examined the impact and the nature of menstrual stigma and taboos and proposes that menstrual stigma and taboos should be situated in the CRC as a form of harmful practices,

¹⁵⁵ GC No. 4 (2003), para 16; CRC, Article 18 (2).

¹⁵⁶ GC No. 4 (2003), para 39 (c).

¹⁵⁷ The 4A typology: “Availability” means sufficient health facilities, goods, services and programmes are provided; “accessibility” includes non-discrimination and physical, economic and information accessibility to children; “acceptability” means that health-related facilities, goods and services are provided in a way that is respectful of children’s needs, medical ethics, and cultural context; and “appropriate quality” requires that treatment and medicines are evidence-based, medical personnel are well-trained and health facilities are of appropriate quality.

¹⁵⁸ Head, A., Huggett, C., Chea, P., Suttor, H., Yamakoshi, B. & Hennegan, J. (2023). *Menstrual Health in East Asia and the Pacific: Regional Progress Review*. UNICEF, Burnet Institute & WaterAid. Bangkok, at ix.

¹⁵⁹ *Id.*, at vi.

¹⁶⁰ GC No. 4 (2003), para 39 (b).

¹⁶¹ Head et al., *supra* note 158.

therefore providing a clear framework for identifying States' obligations in confronting this matter. In addition, as adolescent girls' education right and the right to health are severely impacted by menstrual stigma and taboos, States also have their obligations under the CRC to safeguard these two rights against menstrual stigma and taboos. Thus, even though menstruation is not explicitly mentioned in the CRC, the provisions of the CRC and General Comments can be interpreted and applied to establish a holistic legal and policy framework to overcome menstrual stigma and taboos.

As such, the obligations on eliminating harmful practices, and the obligations on education right and the right to health are two communicating vessels under the umbrella of a holistic legal and policy framework. Menstrual stigma and taboos cannot be completely lifted if States do not act proactively to disrupt and eliminate them as harmful practices. At the same time, the obligations to protect education right and the right to health serve as essential foundational measures to safeguard the rights of adolescent girls in the face of menstrual stigma and taboos, and provide a starting point which also contribute significantly to the eventual eradication of the deeply ingrained menstrual stigma and taboos.

The elements that should be included in the holistic legal and policy framework to address such issue are organized as follows:

(See next page)

**Legal and policy framework to eliminate
and prevent menstrual stigma and taboos**

Obligations to eliminate harmful practices

1. Legal prohibition on harmful and discriminatory practices, such as physical restrictions
2. Reframe the social attitude toward menstruation
3. Encourage child participation and hearing children's voices in decision- and policy-making, and facilitate positive discussions about menstruation among children and within the wider society
4. Empower adolescent girls by providing a rights-based education that promotes menstrual literacy
5. Build capacity and sensitize professional workers, parents and legal guardians
6. Promote awareness-raising campaigns, which should include children's voices and encourage child participation

Mainstream and coordinate the policy both vertically and horizontally



Obligations to safeguard the education right

1. Ensure non-exclusion of and non-discrimination against adolescent girls to education based on the ground of menstruation
2. Ensure regular attendance and active participation of adolescent girls at school
3. Ensure a rights-based education that promotes menstrual literacy

Obligations to safeguard the right to health

1. Provide accessible health and menstrual facilities, products and services
2. Ensure a supportive environment that abolishes harmful practices detrimental to children's health
3. Provide accurate and accessible information about menstruation and menstrual well-being

Chapter 4—Comparative Analysis of Menstruation Policies in Asia

4.1 Introduction

This chapter will conduct a comparative analysis of the laws and policies on menstruation in three Asian countries, Indonesia, India and Taiwan. The selected policies from each country below are primary and nationwide initiatives implemented by the central governments. The objective of the chapter is to analyze where menstruation is situated in national policies, the extent to which these laws and policies address the issue of menstrual stigma and taboos, and how much the States have been in line with the legal framework under the CRC as proposed in Chapter 3.

The three countries are chosen due to their differences in terms of culture, social construction and developmental progress. Indonesia is a Southeast Asian country with a wide population of Muslims. Several efforts have been made by the Indonesian government to propose a comprehensive national-wide policy addressing the sexual and reproductive health of adolescents in the last decade. India is a South Asian country with a deeply-rooted patriarchal system and gender stereotypes bounded since ancient times. A thriving activism and social movement on menstrual taboos have pushed the Indian government to act more actively on menstruation-related policies. Taiwan is an East Asian country that has included menstruation in its health education since decades ago. The continuously evolving social attitude has pushed the government to adopt more progressive policies in recent years.

4.2 Indonesia

4.2.1 Introduction

Indonesia ratified the CRC in 1990. The latest Concluding Observations received from the CRC Committee in 2014 did not specifically address issues related to menstruation. Within the section on adolescent health, the CRC Committee mainly focused on sexual and reproductive health concerns relating to teenage pregnancy, free contraceptive choices and abortions. The mention of harmful practices was limited to topics such as female genital mutilation (FGM) and child marriages.

According to the JMP 2021 data, only 47% of schools in Indonesia are equipped with a basic sanitation service, and 66% with a basic hygiene service.¹⁶² Indonesia is an Islamic country, with 87% of the population identifying themselves as Muslim.¹⁶³ Therefore, heavily influenced by the religion, there is a

¹⁶² JMP. (n.d.). <https://washdata.org/data/school#!/idn>. Retrieved June 16, 2023.

¹⁶³ Nurmila, N. (2013). 7. the Indonesian Muslim feminist reinterpretation of inheritance. In *Islam in Indonesia*. Amsterdam: Amsterdam University Press, at 109.

wide perception in the country that menstruation is polluted, and many girls are taught to keep away from worshipping during their menstruation from a young age.¹⁶⁴ The legality of polygamy also reflects a deep gender stereotype in the society. Nevertheless, the rise of Muslim feminists in the last decade has led to some overall social changes in the country. Significant work by MHM programmes led by UNICEF also leads to the commitment from local governments to include issues relating to menstruation in national policies.¹⁶⁵

The National School Health Strategy (*Usaha Kesehatan Sekolah*, UKS) carried out in 2017 is a national-wide policy in Indonesia that touches upon adolescents' sexual and reproductive health and menstrual health. It is a joint strategy delivered by four ministries: the Ministry of Health, the Ministry of Education, Culture, Research and Technology, the Ministry of Religious Affairs and the Ministry of Home Affairs, with the aim of improving the quality of education and learning achievement of students through a clean and healthy lifestyle and school environment.¹⁶⁶

4.2.2 Laws and Policies Relating to Eliminating Harmful Practices

In the 2014 Concluding Observations, the CRC Committee expressed its concern about everyday discrimination against girls, and urged Indonesia to “eliminate negative attitudes, practices and deep-rooted stereotypes regarding girls by formulating a comprehensive strategy.”¹⁶⁷ In the 1945 Constitution of Indonesia, Article 28 B (2) guarantees that “every child shall have the right to survive, to grow and to develop and to be entitled to protection from violence and discrimination.”¹⁶⁸ Law no. 39 of 1999 on Human Rights further provides that discrimination refers to “all limitations, affronts or ostracism, both direct and indirect, on grounds of differences in religion, [...], social status, economic status, sex, [...] that results in the degradation, aberration, or eradication of recognition, execution, or application of human rights [...]”¹⁶⁹ Therefore, menstruation as a distinct characteristic of females can constitute a ground for discrimination under Indonesian laws; however, it is not yet addressed explicitly in any legal

¹⁶⁴ Riyani, I. (2016). *The Silent Desire: Islam, Women's Sexuality and the Politics of Patriarchy in Indonesia*. *The University of Western Australia*, at 231.

¹⁶⁵ *Indonesian students break taboos, misconception surrounding menstruation*. UNICEF Indonesia. (2022, April 25). <https://www.unicef.org/indonesia/water-sanitation-and-hygiene/stories/indonesian-students-break-taboos-misconception-surrounding-menstruation>. Retrieved June 16, 2023.

¹⁶⁶ Ministry of Health, Ministry of Education, Culture, Research and Technology, Ministry of Religious Affairs & Ministry of Home Affairs, Government of Indonesia. (2021). *Technical Instructions for the Implementation of Healthy Schools/Madrasas* (translated by the author), at 4.

¹⁶⁷ Committee on the Rights of the Child, *Concluding observations on the combined third and fourth periodic reports of Indonesia* (2014), CRC/C/IDN/CO/3-4, para 19 (a) & 20 (a).

¹⁶⁸ The 1945 Constitution of the Republic of Indonesia, Article 28 b (2).

¹⁶⁹ Republic of Indonesia Legislation Number 39 of 1999 Concerning Human Rights, Article 3.

documents or case law to prohibit discrimination or exclusion based on menstruation.

Some efforts have been made to promote child participation in initiatives aimed at enhancing menstrual well-being. *Forum Anak* (Child Forum) is a forum established by the Indonesian government aiming to listen to children's voices and needs in the developmental process, established by the Ministry of Women Empowerment and Child Protection (MoWECP) with child participant members from different children's groups.¹⁷⁰ Regarding menstruation, a few activities have been presented in different forms by *Forum Anak* recently, for example, some are discussion panels on MHM topics with child members, while others are activities facilitated by child members themselves to carry out menstrual hygiene education in local schools or communities.¹⁷¹ Nonetheless, the participation of children in *Forum Anak* is generally restricted to awareness raising or capacity building, and there is limited evidence to show the influence of children's involvement in *Forum Anak* toward advanced policy-making.¹⁷²

Civil society and UNICEF play a huge role in assisting the Indonesian government in addressing menstrual-related issues and raising awareness in the country. A period tracker app, *Okky*, was developed by UNICEF and co-created with adolescent girls in Indonesia (and Mongolia) to educate girls more on menstruation and puberty. UNICEF made sure that girls were included in the designing process, and hopes to normalize menstruation and promote positive behaviours through the usage of the app.¹⁷³ In addition, Menstrual Hygiene Day has gained broader recognition and participation in the country with both online and offline health events organized by UNICEF, Plan International and other local NGOs together with the Ministry of Health.¹⁷⁴ Notably, Islamic organizations have also become a contributing role in enhancing social support for menstrual health in the society, with efforts such as publishing educational books on menstruation and partnering with UNICEF to promote the *Okky* app.¹⁷⁵

In terms of capacity building to cultivate a healthy attitude toward menstruation, a Menstrual Hygiene Management Guideline for Teachers and Parents was carried out in 2017 by the Ministry of Education, Culture, Research and Technology. The Guideline emphasizes the roles of teachers and parents as the

¹⁷⁰ Octarra, H.S, Iustitiani, N.S.D, & Ajisukmo, C. (2022). *The Situational Analysis on Child and Adolescents Participation and Civic Engagement in Indonesia*. CSDS AJCUI, UNICEF, & BAPPENAS. Jakarta, Indonesia, at 40.

¹⁷¹ *Id.*

¹⁷² *Id.*

¹⁷³ *OKY: Co-created with girls, for girls*. UNICEF Office of Innovation. (2020, April 28).

<https://www.unicef.org/innovation/stories/okky-co-created-girls-girls>. Retrieved June 16, 2023.

¹⁷⁴ Huggett, C., Chea, P., Head, A., Suttor, H., Yamakoshi, B., & Hennegan, J. (2023). *Menstrual Health in East Asia and the Pacific Regional Progress Review: Indonesia*. UNICEF, Burnet Institute & WaterAid, 2023, at 7.

¹⁷⁵ *Id.*

main source of information for adolescent girls, thus aiming at providing a correct understanding of menstruation for teachers and parents.¹⁷⁶ Practical information such as basic biological knowledge about the menstrual cycle and ways to maintain cleanliness and hygiene during menstruation is provided in simple language. Some myths regarding menstruation such as food intake, encouragement of school participation and inclusion of men are also addressed.¹⁷⁷ In addition, a sexual and reproductive health module that includes menstrual health for teachers is developed by the Ministry of Health and the Ministry of Education, Culture, Research and Technology, with further trainings planned to be carried out in 2023.¹⁷⁸

4.2.3 Laws and Policies Concerning Adolescent Girls' Education Right

The right to education is protected in the 1945 Constitution of the Republic of Indonesia under Article 31 (1).¹⁷⁹ The 2003 Education Act further ensures the principle of non-discrimination in the access to education, in which Article 5 (1) states that “[e]very citizen has equal rights to receive a good quality education.”¹⁸⁰

Extracurricular topics about puberty and menstruation are delivered in Indonesia from grade 5.¹⁸¹ The UKS strategy further supports advancing health education and school environments regarding adolescents' menstrual hygiene management. Three sub-programmes are structured under the UKS strategy, which are 'health education', 'health services' and 'development of a healthy school environment'. Under the 'health education' programme, menstruation is included in the design of reproductive health education.¹⁸² One of the main resources to apply health education is 'My Health Report Book', which provides health information for students, parents, and family members to understand and follow, including basic information on menstrual cycle, menstrual management and menstrual care.¹⁸³ The 'health education' programme is further supported by the Guidelines on Sexual and Reproductive Health by the Ministry of Education, Culture and Research in 2021, underlining that

¹⁷⁶ Ministry of Education, Culture, Research and Technology, Government of Indonesia. (2017). Menstrual Hygiene Management Guideline for Teachers and Parents (translated by UNICEF), at 2-4.

¹⁷⁷ *Id.*, at 6-11.

¹⁷⁸ Huggett et al., *supra* note 174, at 6.

¹⁷⁹ The 1945 Constitution of the Republic of Indonesia, Article 31 (1): “Every citizen has the right to receive education.”

¹⁸⁰ Act of the Republic of Indonesia Number 20 of 2003 on National Education System, Article 5 (1).

¹⁸¹ Huggett et al., *supra* note 174, at 6.

¹⁸² Ministry of Health, Government of Indonesia et al., *supra* note 166.

¹⁸³ Ministry of Health, Government of Indonesia. (2018). My Health Report Book of Health Information for Students (translated by the author), at 4.

menstruation information should be a part of the reproductive health services at school.¹⁸⁴

Under the 'health services' programme, schools should carry out health screenings and periodic checks including reproductive health assessments of menstrual problems. As for the condition of school toilets, "clean and separate between male and female" is a mandatory requirement, while "available MHM toilets" which includes the provision of sanitary napkins and full-length mirrors is only an optional requirement for schools.¹⁸⁵ In addition, 'UKS rooms' should be provided in schools, where students can rest and receive primary health care services when needed.¹⁸⁶ On the other hand, 'development of a healthy school environment' programme aims at creating non-violence areas in schools free from physical, psychological and social violence which includes bullying, but without specifically mentioning menstruation as a potential cause for bullying and psychological violence.¹⁸⁷

4.2.4 Laws and Policies Concerning Adolescent Girls' Rights to Health

The right to reproductive health is regulated by the Government Regulation No. 61/ 2014 in Indonesia, which aims to ensure the provision of quality and responsive healthcare services to women and girls.¹⁸⁸ In Article 8 of the Regulation, every woman has the right to receive maternal health services, including adolescent reproductive health services.¹⁸⁹ Adolescent reproductive health services are further explained in Article 12, including the provision of communication, information and education; counselling; and medical clinic services.¹⁹⁰ However, menstruation or menstrual health is not mentioned among the materials and services that should be provided under Article 12 (2).¹⁹¹

Nonetheless, the Indonesian government has integrated menstruation into its existing WASH programmes within schools. In addition to the 'health services' programme under UKS, WASH programmes that include MHM are directed by the Guideline for WASH in Schools by the Ministry of Education, Culture, Research and Technology. This Guideline covers the provision of menstrual health services through WASH facilities like sanitary napkins, separate toilets for male and female students,

¹⁸⁴ Huggett et al., *supra* note 174, at 3.

¹⁸⁵ Ministry of Health, Government of Indonesia et. al, *supra* note 166, at 93.

¹⁸⁶ Ministry of Health, Government of Indonesia et. al, *supra* note 166, at 43.

¹⁸⁷ Ministry of Health, Government of Indonesia et. al, *supra* note 166, at 50-52.

¹⁸⁸ UN Office of the High Commissioner for Human Rights, The Government of Indonesia's Response to the Questionnaire of the Special Rapporteur on the Highest Attainable Standard of Physical and Mental Health (2021), para 5 (d).

¹⁸⁹ Government Regulation No. 61/ 2014, Republic of Indonesia, Article 8 (1) & (3).

¹⁹⁰ Government Regulation No. 61/ 2014, Republic of Indonesia, Article 12 (1).

¹⁹¹ Article 12 (2): "Provision of communication, information and education as referred to in paragraph (1) (a) includes materials about: (a) healthy life skills education; (b) mental resilience through social skills; (c) reproductive systems, functions, and processes; (d) healthy and safe sexual behavior; (e) risky sexual behavior and its consequences; (f) family planning." (translated by the author)

soap, and a closed trash can in the toilet.¹⁹² It also encourages schools to allocate budgets to WASH facilities.¹⁹³ Additionally, it includes menstrual health knowledge for both male and female students, and capacity building for teachers and parents regarding menstrual hygiene management, in coordination with the UKS programme.¹⁹⁴ One highlight of this Guideline is that it outlines girls' participation in schools, calling for the encouragement of girls to participate in the learning process at school comfortably, as well as minimizing absences during menstruation.¹⁹⁵

4.2.5 Conclusion on Indonesia's Laws and Policies

In summary, menstruation is mainly situated under sexual and reproductive health in policy-making and programme-designing in Indonesia. Current policies adequately address the provision of health entitlements at schools and education about menstruation to children, adolescents and parents. However, these policies are limited by focusing on hygiene, MHM and maintaining the 'cleanliness' of menstruation. Efforts made in child participation are also insufficient. Therefore, in light of the legal framework proposed in Chapter 3, it can be concluded that the Indonesian government's primary emphasis lies in fulfilling its responsibilities pertaining to education right and the right to health. Efforts are yet to directly address the stigma and taboos of menstruation to reframe social attitudes, although efforts can be seen by civil society and international organizations in contributing to the promotion of positive and healthy social attitudes on menstruation.

4.3 India

4.3.1 Introduction

India ratified the CRC in 1992, and in the latest Concluding Observations in 2014, a few recommendations related to the menstrual well-being of adolescent girls were raised, though not explicitly referring to menstruation. First, the Committee recommended India adopt and implement a comprehensive strategy addressing all forms of discrimination in the country to facilitate social and cultural change.¹⁹⁶ Second, regarding the right to health, the Committee was concerned about "insufficient access to safe water, sanitation and hygiene, in particular in rural areas" and urged India to

¹⁹² Ministry of Education, Culture, Research and Technology, Government of Indonesia. (2018). Guideline for WASH in Schools (translated by the author), at 28-29.

¹⁹³ *Id*

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

¹⁹⁶ Committee on the Rights of the Child, Concluding observations on the combined third and fourth periodic reports of India (2014), CRC/C/IND/CO/3-4, para 31-32.

increase its budget allocation to health sectors.¹⁹⁷ In particular, under the adolescent's health section, though the Committee mainly focused on abortion, it was recommended to ensure that adolescents "have effective access to confidential sexual and reproductive health information and services".¹⁹⁸ Regarding harmful practices, the Committee addressed child marriage, but still recommended India conduct "awareness-raising programmes and campaigns with a view to changing attitudes and instituting counselling and reproductive education."¹⁹⁹

According to the JMP 2021 data, 85.6% of schools in India have basic sanitation services, while only 52.9% have basic hygiene services.²⁰⁰ Hinduism as the predominant religion in India, significantly influences societal perceptions of menstruation, often associating it with impurity and pollution. This cultural stigma on menstruation is further compounded and reinforced by patriarchy and gender inequality. In addition, the caste system in India plays a discriminatory influence in the society, affecting information and resource access such as basic hygiene facilities in lower caste regions.²⁰¹ Nevertheless, menstrual movement has witnessed significant growth in India in recent years. With the continuous advocacy and activist work by local NGOs, many of which are led by female leaders, together with the promotion of MHM by UNICEF and other international organizations, menstruation has started to gain prominence on the policy agenda in India.

Among the strategies and action plans proposed, there are two main policies in relation to adolescent's health and menstrual management in India. The first one is a country-wide campaign *Swachh Bharat Mission* (SBM) which streamlined MHM at schools into the formal agenda with the Menstrual Hygiene Management National Guidelines (MHM Guidelines). The second policy is *Rashtriya Kishor Swasthya Karyakram* (National Adolescent Health Programme, RKSK) launched by the Ministry of Health and Family Programme to strengthen the health system in the country for the holistic development of adolescents.

4.3.2 Laws and Policies Relating to Eliminating Harmful Practices

There are a few provisions relating to the right to non-discrimination in the Constitution of India. Article 15 prohibits discrimination against any citizen on the basis of sex, among other grounds.²⁰² In particular,

¹⁹⁷ *Id.*, para 18 (a) & 63 (g).

¹⁹⁸ *Id.*, para 66 (b).

¹⁹⁹ *Id.*, para 52.

²⁰⁰ JMP. (n.d.). <https://washdata.org/data/school#!/ind>. Retrieved June 13, 2023.

²⁰¹ Rawat, M., Shields, A. N., Venetis, M. K., & Seth, J. (2021). Women's agentic role in enabling and dismantling menstrual health taboos in northern India: A culture-centered approach. *Health Communication*, 38(4), at 696.

²⁰² Constitution of India, Article 15.

Article 15 (2) prohibits discrimination in the access of “shops, public restaurants, hotels and places of public entertainment”; or “the use of wells, tanks, bathing ghats, roads and places of public resort [...]”.²⁰³ Nonetheless, it wasn’t until a groundbreaking judgement of the case *Indian Young Lawyers Association v. State of Kerala* (also known as the *Sabarimala* judgment) that menstrual restriction on women was addressed as a form of discrimination. The *Sabarimala* judgment states that the restriction of menstruating women entering places of public worship, in this case, the Sabarimala Temple, based on custom and tradition is a violation of women’s right to religion and non-discrimination.²⁰⁴ However, the case is later referred to a nine-judge bench hearing, leaving the future interpretation of the judgment regarding other forms of menstrual exclusion uncertain.²⁰⁵

In terms of promoting child participation to empower children as a way to eliminate harmful practices, the RKSK promotes mobilizing adolescents to participate in peer education meetings and activities like Adolescent Health Day. However, children and adolescents are often perceived as passive recipients of information concerning menstrual hygiene, rather than being recognized as active participants who can contribute their own opinions and take a leading role in such engagements. On the other hand, both SBM and RKSK provide capacity building for governmental and community professionals working with adolescent girls. SBM highlights the provision of trainings to individuals including state and district-level officials, teachers and school staff, and community and civil society leaders.²⁰⁶ RKSK focuses on the training and sensitization of ASHA (Accredited Social Health Activists), who serve as keys to creating community support in adolescent health.²⁰⁷

By publicly addressing menstruation, these policies have contributed to breaking menstrual taboos in schools and communities. Social movements and work by the NGOs further bridge the void in creating awareness about menstrual stigma in India. The pushback from some parts of the society on the *Sabarimala* judgment led to an initiation of a two-day menstruation festival, *Aarpo Aarthavam*, in 2019. Exhibitions of scientific evidence, cultural and art events, and talks on menstruation were held during the festival, aiming to address the stigma and discrimination.²⁰⁸ #StopPeriodPenalty is another

²⁰³ Constitution of India, Article 15 (2) (a) & (b).

²⁰⁴ Srinivasan, D., & Kannan, B. (2021). Establishing the unconstitutionality of menstrual exclusion practices in India. *Columbia Journal of Gender and Law*, 41(1), at 202-203.

²⁰⁵ *Id.*, at 207.

²⁰⁶ See Ministry of Drinking Water and Sanitation, Government of India. (2015). *Menstrual Hygiene Management: National Guideline*, at 6-9.

²⁰⁷ Ministry of Health and Family Welfare, Government of India. (2015). *Operational Guidelines: Promotion of Menstrual Hygiene among Adolescent Girls (10-19 Years) in Rural Areas*, at 12-15.

²⁰⁸ Thomas, E. (2019, January 12). *Festival of menstruation*. *The Asian Age*. <https://www.asianage.com/life/more-features/130119/festival-of-menstruation.html>. Retrieved June 16, 2023.

campaign by a social enterprise, Boondh, with continued efforts in legal advocacy on menstrual exclusion, receiving wide support from other activists in the country.²⁰⁹ These are just two illustrations among a multitude of endeavours undertaken by civil society in India. Notably, progressive movements such as raising awareness about sustainable menstrual management have been gaining momentum in recent years as well.²¹⁰

4.3.3 Laws and Policies Concerning Adolescent Girls' Education Right

The right to education is protected under Article 21A of the Constitution of India.²¹¹ The National Education Policy (2020) lays down details of quality education, including the inclusion of health and hygiene in school curriculum. The MHM Guidelines further include MHM into the school curriculums, and address the importance of providing accurate information to teachers and their roles in breaking menstrual silence in schools. Teachers should therefore provide MHM-related trainings to both girls and boys at schools, including biological knowledge and other related health aspects such as pain relief, as well as addressing myths and taboos around menstruation.²¹² Child peer support groups are also established to support girls outside schools.²¹³

In terms of ensuring a supportive and safe school environment, it is stated in the MHM Guidelines that there should be trained teachers to provide psycho-social support for adolescent girls in schools.²¹⁴ In addition, every school should have basic water and sanitation infrastructure for adolescent girls to “privately manage menstruation hygienically and with dignity”.²¹⁵ Such infrastructure includes separate toilets for boys and girls, water supply and soap availability, and facilities for the safe disposal of used menstrual absorbents.²¹⁶ The MHM Guidelines also state that adolescent girls should be provided with different choices of menstrual absorbents based on their preferences.²¹⁷ However, it does not explicitly mandate schools to assume the responsibility of providing such materials, despite recognizing multiple barriers that hinder adolescent girls from accessing hygienic menstrual absorbents. In 2022, the

²⁰⁹ See #stopperiodpenalty. Boondh. (n.d.). <https://boondh.co/pages/stopperiodpenalty>. Retrieved June 12, 2023.

²¹⁰ For example, the “Green the Red movement”.

²¹¹ Constitution of India, Article 21A: “The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.”

²¹² Ministry of Drinking Water and Sanitation, Government of India, *supra* note 206, at 12.

²¹³ Ministry of Drinking Water and Sanitation, Government of India, *supra* note 206, at 13.

²¹⁴ Ministry of Drinking Water and Sanitation, Government of India, *supra* note 206.

²¹⁵ Ministry of Drinking Water and Sanitation, Government of India, *supra* note 206, at 17.

²¹⁶ Sharma, S., Mehra, D., Brusselaers, N., & Mehra, S. (2020). Menstrual Hygiene Preparedness Among Schools in India: A Systematic Review and Meta-Analysis of System-and Policy-Level Actions. *International journal of environmental research and public health*, 17(2), at 4.

²¹⁷ Ministry of Drinking Water and Sanitation, Government of India, *supra* note 206, at 2-3.

Supreme Court received a petition urging the government to ensure the free provision of sanitary pads to girls in grades 6 to 12. However, the case is currently pending.

4.3.4 Laws and Policies Concerning Adolescent Girls' Rights to Health

There is no provision in the Constitution of India specifically guaranteeing the right to health. Nonetheless, in a 1996 case *State of Punjab & Ors v Mohinder Singh Chawla*, the Supreme Court reaffirmed that “the right to health is an integral to the right to life” and government “has constitutional obligation to provide the health facilities”.²¹⁸ Further, the Supreme Court stated in 2011 that all states and Union Territories should provide permanent separate toilets for boys and girls at schools.²¹⁹

Menstrual Hygiene Scheme (MHS) was proposed under RKSK, targeting providing affordable sanitary napkins and building community-based health education. One remarkable thing about MHS is the inclusion and focus on community health workers (ASHA) and other community mechanism for service delivery and conducting menstrual health-related meetings within communities.²²⁰ This is supported by a more thorough peer education system, with which peer educators in the community play an important role in providing information and referring adolescents to further health check-ups.²²¹

The RKSK also calls for the establishment of adolescent-friendly health clinics, which should provide commodities like sanitary napkins, information about menstrual hygiene and care, and treatment for menstrual disorders.²²² Though the work of SBM is mostly restricted to schools, RKSK has extended the supportive network to a wider community, to ensure that services are available and accessible outside of schools for adolescent girls to enjoy the highest attainable standard of health in terms of menstruation.

4.3.5 Conclusion on India's Laws and Policies

To conclude, while menstruation is not specifically framed as a sexual and reproductive health issue, the related policies in India primarily emphasize the health aspect and MHM in India. The two policies, SBM and RKSK, have responded to the recommendations in the Concluding Observations in creating an enabling environment for adolescents and contemplated each other by supporting adolescent girls both in schools and outside school environments. The *Sabarimala* case is a groundbreaking judgement

²¹⁸ State Of Punjab & Ors v Mohinder Singh Chawla Etc (Supreme Court of India December 17, 1996).

²¹⁹ Environment and Consumer Protection Foundation v Delhi Administration (Supreme Court of India October 3, 2012).

²²⁰ Ministry of Health and Family Welfare, Government of India, *supra* note 207.

²²¹ Ministry of Health and Family Welfare, Government of India, *supra* note 207.

²²² Ministry of Health and Family Welfare, Government of India, *supra* note 207.

in prohibiting discrimination against menstruating women; however, it remains to be seen how this judgment will impact other related issues in the future. As such, India has made significant efforts in fulfilling its obligations concerning the education right and the right to health of adolescents, while making some progress in addressing menstrual stigma and taboos mainly with the support of civil society. Nonetheless, increased efforts are still needed to promote meaningful child participation and specifically address the cultural dimension of stigma and misconceptions within policies.

4.4 Taiwan

4.4.1 Introduction

Due to the unique position of Taiwan in the international community, Taiwan is not a party to the CRC. However, Taiwan has made its own efforts to stay in conformity with the international children's rights standards by passing the Implementation Act of the Convention on the Rights of the Child, marking the official validation of the CRC in the country. In the latest Concluding Observations in 2022 by the Review Committee²²³, issues related to menstruation were not explicitly mentioned. However, under the right to sexual and reproductive health, the Review Committee reiterates the importance of an educational curriculum that is "co-designed with children consistent with CRC Art. 12" and educating parents and legal guardians "about the meaning and significance of a child's right to sexual and reproductive health."²²⁴

All schools in Taiwan are equipped with basic sanitation and hygiene service, as well as separate toilets for boys and girls. However, despite the high proportionality of such facilities and high health awareness, menstrual stigma and taboos persist in the society. Euphemisms are widely used to talk about menstruation in Taiwan, and religious customs from Buddhism and Daoism that forbids menstruating women from entering temples and pray are practiced among certain groups of people until today.

4.4.2 Laws and Policies Relating to Eliminating Harmful Practices

Article 7 of the Constitution of Taiwan states that all citizens "irrespective of sex, religion, race, class, or party affiliation, shall be equal before the law".²²⁵ However, there are no other regulations that concern

²²³ Because Taiwan cannot ratify the CRC, five independent international children's rights experts were invited by the government of Taiwan to form a Review Committee to review its first and second State Report. Experts of the Review Committee included: Jaap Doek (2017&2022), Judith Karp (2017), Nigel Cantwell (2017&2022), Laura Lundy (2017&2022), John Tobin (2017&2022) and Nevena Sahovic (2022).

²²⁴ International Review Committee, Concluding observations on the second report of the Republic of China (Taiwan) (2022), para 50 (c) & (f).

²²⁵ Constitution of the Republic of China (Taiwan), Article 7.

the protection against non-discrimination in Taiwan.²²⁶ In the Regulations on the Prevention and Handling of Bullying on Campus, one of the necessary conditions to constitute bullying is the “continuity” of such behaviours that causes mental, physical or property damage, or affects normal learning activities of another student. Therefore, a one-time discriminatory language or behaviour toward menstruating girls can hardly be recognized as bullying under the Regulations.

Nevertheless, civil society, in particular NGOs and product companies, has been the main driving force in Taiwan in raising awareness and bringing issues around menstruation to the fore of the discussion. The Little Red Hood Association is one of the main leading NGOs on menstrual topics, leading initiatives such as encouraging women from different generations to share their stories on menstruation and holding workshops for children, adolescents and adults. Since 2022, Good Moon Mood, a sanitary innovation company, has held the ‘Period Carnival’ on Menstrual Hygiene Day every year, during which menstruation is presented through different kinds of artistic creations, interactive games, performances and workshops, with the aim of facilitating more open discussions and promoting a positive and fun perspective on menstruation in the society.²²⁷

Innovation in menstrual products is another focus in promoting a healthy image of menstruation by civil society. ‘Kirakira’ is the first brand to launch a locally developed menstrual cup through crowdfunding and successfully promoted the legalization of the sale of menstrual cups in Taiwan in 2017. Following Kirakira, a variety and more sustainable menstrual products came out on the local market also through crowdfunding, such as menstrual discs and period panties. These companies and NGOs not only aim at providing diverse choices for women in accordance with their preferences and comfort, but also hope that through the introduction of these products, active discussions addressing the stigma and stereotype towards menstruation can be generated in the wider society. Nevertheless, these campaigns and activities are mostly designed and led by adults, leaving a significant gap in terms of meaningful participation and representation of adolescents’ voices.

In terms of building capacity and sensitizing professionals, the Gender Equity Guidance Group from the Ministry of Education of Taiwan has held workshops and seminars for teachers regularly to discuss and develop menstrual education teaching methods. The Little Red Hood Association also develops a variety

²²⁶ Discrimination is only mentioned in Article 62 of the Immigration Act of Taiwan, which states that “any person shall not discriminate against people residing in the Taiwan Area on the basis of nationality, race, color, class and place of birth.”

²²⁷ See *About Menstrual Carnival, A Menstrual Party for All* (translated by the author). Good Moon Mood. (n.d.). <https://goodmoonmood.com/about-period-carnival/>. Retrieved June 14, 2023.

of menstrual course materials for schools, and trains young adults as lecturers to hold seminars in local communities.²²⁸

4.4.3 Laws and Policies Concerning Adolescent Girls' Education Right

The right to education is protected in Article 21 of the Constitution of Taiwan.²²⁹ Due to the universality of safe hygienic facilities in schools in the country, adolescent girls skip classes during menstruation mostly due to menstrual pain and other discomforts. In 2014, the Ministry of Education announced that adolescent girls should be allowed to request one day of menstrual leave every month, without the need to provide any proof in order to respect their privacy. Nonetheless, in many schools, menstrual leave is regarded as a form of sick leave, thereby impacting students' academic records and the calculation of their overall attendance. Moreover, due to the prevalence of dual-income families in Taiwan, the situation arises where adolescent girls, even if they request menstrual leave to return home and rest, often find themselves without caretakers during the day. Therefore, in addition to the implementation of menstrual leave, it is vital to supplement it with other supportive measures, such as strengthening the care system within schools for adolescent girls to access safe space and proper care when needed.

Menstruation was first included in the health education curriculum of middle schools in the 1960s in Taiwan, focusing on maintaining the cleanliness of the reproductive organs during menstruation, and the anatomical and biological aspects of both male and female bodies.²³⁰ The enactment of the Gender Equity Education Act in 2014 has included menstrual education as an integral component of promoting gender equity within school curriculums.²³¹ Under the 12-year Basic Education Curriculum Guidelines, education about menstruation was included in health classes for all students from the fifth to twelfth grade, and contents about menstrual health care became the focus of these classes. Practical information about self-care during menstruation, such as suggested nutritional intake, psychological adjustment coping with hormone change, and ways to deal with menstrual pain is included in textbooks. Additionally, in response to the menstrual product evolution in the society, textbooks now incorporate a

²²⁸ See *Menstrual Education* (translated by the author). Little Red Hood Association. (n.d.). <https://www.littleredhood.org/project/education>. Retrieved June 14, 2023.

²²⁹ Constitution of the Republic of China (Taiwan), Article 21: "The people shall have the right and the duty of receiving citizens' education."

²³⁰ Tseng, F.Y. (2022, March 10). *How has "menstrual health care" been addressed in middle school health education textbooks in different times?* The News Lens. <https://www.thenewslens.com/article/162430/fullpage>. Retrieved June 22, 2023.

²³¹ In view of the increasing incidents of sexual harassment, sexual assault and sexual bullying in schools, the implementation of Gender Equity Education Act in Taiwan marks an educational reform in establishing a more comprehensive school system and education curriculum to address gender equality. See Shen, L. F. (2021). Gender and sexuality in Taiwan schools. *Oxford Research Encyclopedia of Education*.

wider range of sanitary product options, emphasizing the diverse experiences that females may encounter during their menstrual cycles. Overall, health education in Taiwan has transitioned from solely providing anatomical and biological information to addressing real-life situations, aiming to equip both male and female students with comprehensive knowledge and practical skills related to menstruation.

4.4.4 Laws and Policies Concerning Adolescent Girls' Rights to Health

After the hit of the COVID-19 pandemic in 2020, the financial burden of purchasing sanitary products has intensified for economically disadvantaged families and women, exacerbating the issue of period poverty in Taiwan.²³² In 2021, one of the municipal governments in Taiwan carried out a city-wide policy in collaboration with KNH Enterprise, a sanitary product company, and the Little Red Hood Association, aiming to foster a gender-friendly city and create a supportive environment for women and adolescent girls. Under the policy, the municipal government provides free menstrual products to women and adolescent girls from disadvantaged families and rural areas, and holds seminars to address menstrual stigma. The policy was later followed by five other cities in Taiwan, ultimately catching the attention of the central government.

The Ministry of Education announced in early 2023 to prepare a 228 million budget to provide free menstrual products in all schools in Taiwan, starting from the new academic year of 2023. The Minister of Education hopes that by providing menstrual products, it can stipulate healthy and positive discussions around menstruation on campus, further encouraging the mutual understanding of different gender perspectives among children and adolescents.²³³

On the other hand, since 2016, the Health Promotion Administration under the Ministry of Health has been promoting the certification of adolescent-friendly healthcare services within hospitals or clinics in Taiwan. Issues relating to puberty are one of the main categories targeted in these services, despite not specifically mentioning counselling or treatment regarding menstrual well-being. Several elements are listed for the fulfilment of adolescent-friendly health care services, including private or independent waiting rooms for adolescents, health professionals with specialized trainings in adolescent-friendly services, provision of accurate and related health information, and collaboration with communities in

²³² Little Red Hood Association. (2021, December 18). *Survey report / Menstrual poverty in Taiwan after the outbreak of COVID-19* (translated by the author). Medium. <https://medium.com/withred/covid-19-periodpoverty-c1c724c0ac8b>. Retrieved June 14, 2023.

²³³ Pan, N.-H. (2023, March 24). *First in Asia: Why did Minister Pan spend 200 million to provide free sanitary products on campus?*. Flipped Education. <https://flipedu.parenting.com.tw/article/008176>. Retrieved June 22, 2023.

organizing health-related activities which include the attendance of parents.²³⁴ Until December 2022, there are 26 hospitals and clinics in Taiwan certified with adolescent-friendly health services.

4.4.5 Conclusion on Taiwan's Laws and Policies

In summary, menstruation is predominantly framed within the context of advancing gender equality in Taiwan. The Taiwanese government has demonstrated efforts in promoting a rights-based education that fosters menstrual literacy and creating an enabling environment by advancing healthcare services and providing free menstrual products. In particular, a noticeable bottom-up approach can be seen with the active involvement of the civil society in addressing various issues related to menstruation. By framing menstruation within the context of advancing gender equality, a broader perspective is demonstrated that goes beyond considering menstruation solely as a hygiene issue. This approach offers a glimpse into the government's recognition of the social dimension surrounding menstrual stigma and taboos. Nonetheless, there is room for further progress in actively engaging children and incorporating their voices in policy-making and the collaborative development of health and gender equality education curriculum, as recommended by the Review Committee.

4.5 Conclusion and Lessons Learned

The above analysis yields several valuable lessons learned. Firstly, there is no central coordination addressing menstrual stigma and taboos in the three countries. Menstruation is commonly addressed through policies initiated by various government departments, particularly those responsible for health and education. This not only demonstrates that menstrual-related issues significantly impact adolescent girls' education right and the right to health, but also indicates that fulfilling the obligations regarding education right and the right to health serves as a shared starting point for States to enhance the menstrual well-being of adolescent girls. Nonetheless, the lack of a central coordination or uniform policy can potentially lead to overlapping of work or ineffective implementation. Secondly, as States strive to enhance education and health conditions within the country, the inclusion of menstruation in national policies can be considered a demonstrated effort to address the silence and taboo surrounding menstruation. However, the persistence of stigma and misconceptions surrounding menstruation that leads to discrimination and marginalization against menstruating girls, despite the presence of inherent non-discrimination principles in laws, including at the constitutional level, highlights the need for more

²³⁴ See Ministry of Health, Government of Taiwan. (2023). Operational Definitions for Adolescent-Friendly Care Programme Certification Scoring Instructions (translated by the author).

targeted and impactful policies aimed at directly dismantling them.

In spite of the shared characteristic of lacking centralized coordination, menstruation is framed differently in the three countries, with Indonesia situating menstruation under sexual and reproductive health, Taiwan situating it under gender equality, and India not specifically situating it under either category. However, even when menstruation is framed under sexual and reproductive health, policies in Indonesia tend to disproportionately prioritize the physical and mental dimensions and overlook the social dimension of adolescent girls' well-being, further undermining the gravity of menstrual stigma and taboos. On the other hand, by situating menstruation within the framework of gender equality, more recognition is given to the social and cultural dimensions that contribute to menstrual stigma and taboos. This aligns more closely with the approach that should be taken to recognize menstrual stigma and taboos as harmful practices, in order to fully transform the negative social norm and promote adolescent girls' rights.

Although States are the main duty bearers under the CRC, civil society plays an important role in advancing the menstrual well-being of adolescents in all three countries, and assists in further addressing menstrual stigma and taboos. A bottom-up approach is common to push the government to adopt more progressive policies. Nonetheless, common gaps are seen in terms of child participation and encouraging children's voices to be heard, in particular during the process of decision and policy-making. It is important not to neglect the fact that children are active agents that should be actively involved in issues and decisions affecting them, which can further empower them to challenge the harmful norm in the society. To sum up, efforts have been made by the three countries to advance the education right, the right to health and the overall menstrual well-being of adolescent girls, but not enough to lift the stigma and taboos in the society. To further evaluate the effectiveness and outcomes of current policies will require additional evaluation mechanisms, which fall beyond the scope of this thesis.

Chapter 5—Proposed National Action Plan Model to Overcome Menstrual Stigma and Taboos and Conclusions

5.1 Proposed Action Plan Model

5.1.1 Introduction of the Proposed Action Plan Model

As observed in the previous chapters, addressing menstrual stigma and taboos as harmful practices requires a comprehensive and multi-sectoral legal and policy framework. Chapter 4 shows that very often States overlook certain components within their policy framework, thereby hindering the successful elimination of menstrual stigma and taboos. Therefore, drawing from the legal and policy framework in Chapter 3 and the lessons learned from Indonesia, India and Taiwan, this chapter proposes a national action plan model to address the observed gaps among the three countries and identify the essential elements for an effective national policy targeting the elimination of menstrual stigma and taboos. The objective of proposing this action plan model is to provide States with a roadmap to assess their progress and identify areas that still require attention. It also aims to serve as a useful resource for civil society organizations to hold States accountable and enable advocates to lobby for more progressive laws and policies in cases where states are reluctant to take action.

However, certain elements in the action plan model are subject to variation and should be tailored by each State based on their unique circumstances and local customs. States should first assess the current situation in the country and clarify available resources. It is crucial to establish a timeline for each step in the plan to ensure effective implementation. Overall, the action plan should be children's rights-based and gender-sensitive, giving due consideration to the general principles of the CRC, particularly the best interests of the child and the right to be heard.

The structure and methodology of the proposed action plan model below draw inspiration from the Regional Plan of Action on the Elimination of Violence against Children by the Association of Southeast Asian Nations (ASEAN)²³⁵, and the Period Dignity Strategic Action Plan by the Welsh Government²³⁶.

5.1.2 Contents of the Proposed Action Plan Model

A. Objective of the Plan

²³⁵ See ASEAN. (2017). Regional Plan of Action on Elimination of Violence Against Children, available at (<https://asean.org/book/asean-regional-plan-of-action-on-the-elimination-of-violence-against-children-asean-rpa-on-evac/>).

²³⁶ See Welsh Government. (2021). Period Dignity Strategic Action Plan, available at (<https://www.gov.wales/period-dignity-strategic-action-plan.html#82397>).

1. The persistent stigma and taboos attached to menstruation have led to significant impacts on adolescent girls that prevent the full realization of their rights. This action plan aims to develop a comprehensive approach to disrupt the stigma and taboos as harmful practices that are deeply engraved in the society, and policies that go beyond the hygiene and health aspect of menstruation to ensure the overall well-being of adolescent girls, while staying in line with the international children's rights standards under the CRC.
2. The plan is developed with a vision that all menstruators can be free of stigma and "make menstruation a normal fact of life".²³⁷ The plan is grounded to work across governments and in cooperation with diverse stakeholders, including business sectors and civil society. Each measure should be further grounded with a specific timeline, proposed in accordance with available resources.

B. Action 1: Coordination and Arrangement of Responsibilities

3. Determine an accountable governmental lead for the overall policy development.²³⁸ The governmental lead is responsible for identifying roles and responsibilities, setting clear targets, defining indicators for effective implementation, ensuring realizable time frames, identifying and allocating available resources and ensuring all measures are realized in compliance with children's rights standards.
4. Establish an effective intra-government coordination mechanism. Because menstrual stigma and taboos are complex and multi-sectoral issues, all relevant government departments should be brought together under an effective coordination mechanism. Such a mechanism is aimed at effective communication among governments to contribute their expertise, ensure that plans and strategies respond to the needs of adolescents and avoid overlap or gaps in responsibilities.
5. Ensure strong coordination with relevant stakeholders, including civil society organizations and private sectors. The significant role of stakeholders in bridging the gaps and implementing plans and strategies should be recognized.
6. Conduct child impact assessment in all stages of the planning process to predict potential impacts on children, ensure the best interests of the child are a primary consideration and promote policy

²³⁷ "Make menstruation a normal fact of life" is the goal of Menstrual Hygiene Day in 2030. See *Menstrual hygiene day: making menstruation a normal fact of life by 2030*. MHDAY. (n.d.).

<https://menstrualhygieneday.org/page/2/?platform=hootsuite>. Retrieved June 23, 2023.

²³⁸ Head et. al, *supra* note 158, at 22.

coherence to children's rights standards.

C. Action 2: Allocation of Sufficient Budget

7. Include a clear and adequate budget allocation in national public budgets that is sufficient to respect, protect and fulfil adolescent girls' rights against menstrual stigma and taboos. The planning and execution of the budget should take into account the principles recommended by the CRC Committee in General Comment No. 19, including:
 - (a) Ensure the effectiveness of the budget. Prior to cost estimation, it is crucial to conduct thorough investigations, analyses, and studies on menstrual stigma and taboos to assess the current situation accurately. The government should consistently evaluate the implementation of the budget plan and assess its impact on children throughout the implementation process.²³⁹
 - (b) Ensure the efficiency and transparency of budget delivery. Approved expenditures should not be wasted, and service delivery and establishment to improve menstrual well-being should be conducted in a timely and transparent manner.²⁴⁰
 - (c) Ensure equity of budget delivery. No groups of adolescent girls or children should be discriminated against or excluded during the allocation and execution of budget and resources.²⁴¹

D. Action 3: Law Reform

8. Review current legislations to identify provisions and language used that are discriminatory against adolescent girls and women. Such provisions and language should be revised to ensure gender equality before the law, further contributing to cultivating an equal and positive social norm against gender discrimination and stereotype.
9. Outlaw menstrual exclusion and other related harmful practices, such as physical isolation of menstruating girls and women. An accessible and efficient reporting system should be established to ensure that such prohibition is effectively implemented in local communities.

E. Action 4: Strategy Enhancement on Education

²³⁹ Committee on the Rights of the Child, General Comment No. 19 (2016), CRC/C/GC/19, para 59.

²⁴⁰ GC No. 19 (2016), para 60 & 62.

²⁴¹ GC No. 19 (2016), para 61.

10. Design a rights-based school curriculum that introduces students to menstruation and menstrual well-being in an accurate and healthy manner. The curriculum should be designed from the perspective of promoting gender equality and mutual understanding among genders, while addressing the existing social norm and stereotypes. The curriculum is suggested to be conducted from the age of 10 (before menarche) to 18.
11. Ensure safe and supporting environments at schools where menstruation is openly discussed among teachers and students, for adolescent girls to be empowered and build confidence through discussions.
12. Ensure non-discrimination and non-exclusion from education of menstruating girls. Care services, counselling and other support systems should be established at schools to decrease drop-outs of adolescent girls during menstruation and encourage their participation on campus.
13. Design family and community education on menstruation to increase overall menstrual literacy in the country. Such education should aim at delivering accurate knowledge, a healthy image of menstruation and improved thinking on gender equality, and remove menstrual stigma, taboos, shame and misconception.
14. Actively include and engage boys and men in menstrual education to build a sensitive and welcoming environment.

F. Action 5: Strategy Enhancement on Health

15. Ensure all schools and public facilities have safe, clean, adequate and accessible hygiene and sanitation infrastructures. The minimum requirement for such infrastructure includes separate toilets for boys and girls, clean and safe space in toilets, clean water and soaps and hygienic options for the disposal of used sanitary products.
16. Ensure access to affordable hygienic menstrual products to prevent possible infections or discomfort, and promote a variety of menstrual product options to support adolescent girls' autonomy, enabling them to make informed choices that best suit their needs. Collaborating with local businesses is suggested to produce low-cost sanitary pads to enhance their availability and accessibility. The provision of free menstrual products for low-income families should be further achieved.
17. Promote sustainable and eco-friendly menstrual products such as menstrual cups, menstrual discs

and period panties to reduce environmental waste.

18. Establish and ensure the accessibility of adolescent-friendly health services, which includes counselling, menstrual-related information provision, menstrual discomfort treatment, and psychological support. Professionals working in these services should be specially trained to communicate and support adolescents.
19. Ensure accurate information dissemination on menstruation. Such information includes biological knowledge on menstruation and menstrual cycles, elimination of myths and misconceptions, and practical guidance for self-care during menstruation.
20. Create an enabling environment by extending the supportive network beyond families and schools to encompass the broader community. The State should ensure that the above infrastructures and services are provided in local communities to support out-of-school adolescent girls.

G. Action 6: Child Participation

21. Actively invite children to participate in all menstrual-related policy-making, campaign designing, service delivery, and other decision-making concerning their rights. The State should ensure that children's voices are heard during the process and be given due weight. Accurate and sufficient information in relation to the participation should be provided to children in child-friendly language and manner. The State should also strive to ensure the inclusion of a diverse range of children in the participation process. Appropriate safeguards should be provided to child participants throughout the process.
22. Cooperate with NHRI to encourage and facilitate child participation.
23. Employ correct language and avoid euphemisms in all forms of communication related to menstruation at all levels.

H. Action 6: Capacity Building and Awareness Raising

24. Develop comprehensive capacity-building plans for professionals working with adolescents and service providers, including teachers, school staff, health care professionals, social workers and others, for the provision of adolescent-friendly, well-coordinated and gender-sensitive services. Capacity-building plans should include training programmes that address the root cause of menstrual stigma and taboos, and manuals for best practices.

25. Develop public awareness-raising campaigns that challenge the existing menstrual stigma and taboos and aim at disseminating accurate information and stimulating open dialogue on menstruation. Such campaigns can be developed in different forms such as offline exhibitions, festivals, entertainment activities, panels or online social media campaigns.
26. Cooperate with civil society in developing and delivering capacity training programmes and manuals, and making use of both traditional and social media in awareness raising to reach different communities and age groups.

I. Action 7: Monitoring and Evaluation

27. Establish effective monitoring and evaluation programme for the overall plan and each sub-strategy. The State should establish clear and validated indicators related to children's rights, as well as periodic evaluation to monitor developmental progress, with active and meaningful participation of stakeholders and adolescents.
28. Make progress and evaluation reports accessible to the general public to ensure accountability.
29. Strengthen the collection of sufficient and reliable data and conduct research and case studies on menstruation and menstrual-related issues. The data collected and research conducted should be further ensured that they are used effectively and properly for future policy planning and progress evaluation.

5.2 Conclusion and Looking Forward

The long acceptance, inaction, and perpetuation of stigma and taboos surrounding menstruation have created a system of oppression and secrecy around menstruating girls and women, resulting in the compromise and violation of their fundamental human rights. The thesis has looked at this issue through a children's rights perspective by exploring the CRC and examining national policies, and sought to answer the research question: To what extent can a children's rights legal and policy framework assist in overcoming menstrual stigma and taboos, and thereby lift these barriers to adolescent girls' education right and right to health in Asia?

Through an examination of the CRC framework, the thesis argues that due to their inherent discriminatory nature and significant impact on children's rights, menstrual stigma and taboos should be regarded as harmful practices within the scope of the CRC. This would substantiate the obligations of States to take action to eliminate menstrual stigma and taboos. Among the numerous violations inflicted,

the impact on the education right and the right to health have the most profound influence on the overall development of adolescent girls. Therefore, while the CRC does not explicitly mention menstruation or menstrual stigma and taboos, its provisions and General Comments regarding States' obligations on harmful practices, education right and the right to health can be interpreted and applied to establish an effective legal and policy framework for States to follow. These three obligations serve as communicating vessels under the umbrella of a holistic legal and policy framework, which is illustrated as follows: States' obligations to eliminate harmful practices are the linchpin in dismantling this social norm, while States' obligations on education right and the right to health are bedrock for safeguarding adolescent girls' rights, both as a minimum requirement and as an initial step in addressing the issue.

However, the analysis of existing policies in Indonesia, India, and Taiwan has shown deficiencies in the current efforts by States. It is evident that policies have been proposed to advance the education and health situations pertaining to menstruation in the three countries. Yet, fewer efforts are seen to specifically aim at confronting the stigma and taboos. This inadequate presence of a comprehensive legal and policy framework can be attributed to the absence of guidance and recognition of the issue within the international children's rights framework. Thus, a national action plan model is proposed by this thesis, which requires the inclusion of all aspects, from a clear national lead and adequate budget allocation, to the compliance with CRC obligations, and an evaluation mechanism to ensure effective implementation, hoping to close the existing gaps in current efforts and act as a useful starting point for developing comprehensive guidance to address this complex yet significant issue. Moreover, it would be beneficial to conduct further research to assess the effectiveness and outcomes of current policies to improve future policy design and facilitate more impactful interventions.

This thesis hopes to contribute to boosting menstrual stigma and taboos higher up on the global agenda of children's rights, and recommends the CRC Committee to acknowledge and directly address menstrual stigma and taboos in its future Concluding Observations to States. This would send a powerful message of condemnation and actively contribute to breaking the cycle of this harmful perception surrounding menstruation. Nonetheless, it is also important to remember that the long-standing menstrual stigma and taboos imply that changing societal attitudes and fully overcoming them will require time and persistence. Progress can be achieved through small steps as long as we continue moving forward. As Malala Yousafzai said, "When the whole world is silent, even one voice becomes powerful." Advancing the menstrual well-being of adolescent girls and women is more than staying hygienic and clean, but is being able to break the silence, giving voices to the oppressed menstruating

girls and women, treating this concealed biological event as normal, and ensuring the full realizations of their rights even when they are menstruating.

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