

# Menstruation Matters

Challenging the Law's Silence on Periods

## Instructor's Guide

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CHALLENGING THE

LAW'S SILENCE

ON PERIODS



BRIDGET J. CRAWFORD and EMILY GOLD WALDMAN

Approximately half the population menstruates for a large portion of their lives, but the law is mostly silent about the topic. Until recently, most people would have said that periods are private matters not to be discussed in public. But the last few years have seen a new willingness among advocates and allies of all ages to speak openly about periods. Slowly around the globe, people are recognizing the basic fundamental human right to address menstruation in a safe and affordable way, free of stigma, shame, or barriers to access.

*Menstruation Matters* explores the role of law in this movement. It asks what the law currently says about menstruation (spoiler alert: not much) and provides a roadmap for legal reform that can move society closer to a world where no one is held back or disadvantaged by menstruation. Bridget J. Crawford and Emily Gold Waldman examine these issues in a wide range of contexts, from schools to workplaces to prisons to tax policies and more. Ultimately, they seek to transform both law and society so that menstruation is no longer an obstacle to full participation in all aspects of public and private life.

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**“If the question is, ‘Are You There, Law? It’s Me, Menstruation,’  
this book provides much needed answers.”**

Judy Blume, author of *Are You There God, It’s Me Margaret*

## SUMMARY

This book explores the actual and potential intersections of law and menstruation. It analyzes why law has historically been so silent about menstruation, why and how a movement has recently gathered steam to raise and address menstruation-related issues, and what the existing law can be interpreted to say about these issues, and—perhaps most importantly—what the law should say. A central premise of the book is that both law and society need to change so that menstruation is not a barrier to anyone’s participation in public life.

The introduction provides the historical background for contemporary menstrual activism, pointing to the women’s health movement of the 1970s, feminist art from the same time period, and early efforts to use the law to force the government to respond to the public health crisis of toxic shock syndrome and to bring attention to the unfairness of the sales tax on menstrual products, also known as the “tampon tax.”

The introduction then shows how, in the twentieth-century, menstrual activism got a great boost from social media, which facilitated the sharing of images and information designed to destigmatize menstruation. In 2015, menstrual activism in the United States began to gain momentum, as activists and leaders of all ages became engaged in a variety of grassroots organizing and more sophisticated campaigns, including an online petition to repeal the tampon tax.

### **The introduction alludes to many of the book’s major themes, including:**

- Menstrual activism is a leaderless movement powered by people of all ages and projects ranging from micro-local to national;
- Longstanding stigma and shame surrounding menstruation builds on and perpetuates harmful gender stereotypes;
- The failure to explicitly consider menstruation in schools, workplaces, and public settings create obstacles for approximately half the population;
- The lived experience and material reality of menstruation may be informed by issues such as gender identity, gender expression, race, socio-economic class, religion, geography, and many other factors;
- Social media is a powerful tool to effectuate social and legal change;
- Cultural attitudes can change law and vice versa; and
- Menstrual management is not just a “personal” issue, but also a business that often benefits from private data voluntarily provided by consumers, from the withholding of information by manufacturers, and the lack of widespread understanding of the health and environmental impacts of menstrual products.

## SUMMARY

This chapter addresses the global, historical, and cultural roots of “period poverty.” At the most literal level, period poverty refers to the inability to afford or access needed menstrual products or services. More broadly, period poverty is closely connected to—and partially caused by—menstrual myths, ignorance, stigma, and shame. The chapter begins with the account of one woman who could not afford menstrual products, but felt too ashamed to ask anyone for help, to the point where she had to choose between buying menstrual products or food for her family. Indeed, for many people throughout the world, menstruation is a serious impediment to full participation in school, work, and other aspects of public life.

In recent years, scholars and activists have used social media to raise awareness about issues of period poverty in general and about the “tampon tax” in particular. The “tampon tax” is the state sales tax on menstrual products (in the US; in other countries, the tax might be called a “VAT” or “GST”). As discussed further in Chapter 2, the tampon tax movement has highlighted that in many jurisdictions, numerous other products are tax-exempt (both in various states and throughout the world), but menstrual products are not. These tampon tax-focused efforts have become a gateway into broader menstrual advocacy.

Menstrual advocates describe their goals in many different ways. The phrase “menstrual equity” refers to the safety, affordability and availability of menstrual products. It also includes efforts to improve menstrual education, combat menstrual stigma and shame, prioritize menstrual health, and incorporate reproductive care. “Menstrual justice” is another phrase used to emphasize the importance of addressing menstruation-related discrimination and harassment.

Menstrual myths are pervasive in almost all societies. These are misunderstandings (or ignorance) about menstruation that can create and exacerbate stigmas and taboos. Silence around menstruation is a major factor contributing to the problem of period poverty, both because it prevents individuals from speaking up about it and because it affects policy. (For example, the failure to include menstrual products on various lists of tax-exempt products seems closely related to that silence.) From an early age, individuals are taught that it is socially unacceptable to talk about periods or that menstrual status should be secret. Historically, at least in the US, the media and pop culture have perpetuated silence about menstruation.

The COVID-19 pandemic brought menstruation-related issues to the forefront. Being unable to leave the house made some people think about “period poverty” for the first time. Many people were cut off from school, work, stores, communal laundry or waste facilities, and/or healthcare providers for many weeks. The pandemic revealed

just how “essential” menstrual products, as well as soap and basic hygiene materials, are. Any government needs to take menstruation into account when developing a response to a global health crisis like the COVID-19 pandemic.

At the height of the pandemic, Scotland passed a law guaranteeing access to free menstrual products for anyone who needs them. The law has a role to play in advancing menstrual equity, and Scotland demonstrates how powerful that role can be. Law and society need to take into account bodily functions such as menstruation (along with pregnancy and breastfeeding). These processes should not stand in the way of anyone’s full participation in any aspect of society.

## QUESTIONS FOR DISCUSSION

1. Did this chapter bring to mind any experiences you have had around issues of menstruation-related silence, stigma, or shame?
2. Why do you think menstruation is a “taboo” topic in so many societies? Another way of thinking about this question would be to ask yourself what purposes menstrual taboos might have served in the past. Who benefits from menstruation-related taboos? Who is hurt?
3. Are there other areas of law or life where silence, stigma or shame play a big role? What is the result of that silence, stigma, and/or shame?
4. The authors explain that menstrual products are not covered by government assistance like the Supplemental Nutrition Assistance Program (known as SNAP or “food stamps”) and the Special Supplemental Nutrition Program for Women, Infants, and Children (known as WIC). Why do you think that is? Is this a good policy or a bad one? Do you think cultural stigmas, silence or taboos about menstruation contributed to shaping this law?
5. Have you ever experienced a lack of access to something essential? What was it like? Could law have solved that problem?
6. Many non-profit organizations (like food pantries) experienced extraordinary demand during the pandemic, due to economic uncertainty and loss of jobs. Other than food, what services or products do people need during difficult times?
7. Social media campaigns and the media have sometimes been effective catalysts for law and policy. Can you think of a justice-related issue that you learned about through social media? Have you ever been inspired to act because of what you learned on social media?

## SUMMARY

This chapter explains what the “tampon tax” is and how it connects to gender equality. The “tampon tax” is not a specific tax on tampons; rather, it is a sales tax imposed by some states in the U.S. on menstrual products. Many other countries have analogous taxes on menstrual products. Outside the U.S., that tax might take the form of a value-added tax or a national goods and services tax. The precise form of the tax is not especially relevant, except for tax scholars. What is notable, though, is that in many of these states and countries, menstrual products are taxed even while other products—including both necessities and various non-necessities—are tax-exempt. Many people from diverse points on the political spectrum are frustrated—even outraged—when they find out that the tax system exempts certain “necessities” like food, but then treats tampons and pads like “luxuries.” Tax systems make some illogical distinctions.

Social media and internet-based petitions played a key role in bringing about tampon tax reform in the U.K., Canada, and Australia. A U.S.-based petition begun in 2015 brought much-needed attention to the issue, but it took class action litigation to spur some states to action. State-by-state efforts to repeal the tampon tax through legislative reform are ongoing.

The chapter sketches out the legal argument that the tampon tax is an impermissible form of gender discrimination. Acknowledging that the tax does not map neatly onto existing jurisprudence, the chapter explores two theories for challenging the tampon tax as unconstitutional. The first theory is that the tax amounts to facial sex discrimination; the second theory is that the tax has a disparate impact on the basis of sex and, because the tax stems from discomfort toward menstruation, it is a form of gender-based discrimination.

One reason that the tampon tax has gained traction as a political issue is that the tax itself is highly visible: one can literally see on a receipt obtained at the cash register that sales tax applies to purchases of tampons and pads. The unfairness of the tampon tax also has a clear legal solution: repeal the tax. These salient and straightforward features of the tax issue have helped propel menstrual advocacy on this issue. Since 2015, advocates in the United States have been engaged in a multi-faceted, state-by-state campaign to end the tampon tax. Their strategies include litigation, legislative reform, and public advocacy. The end goal is to make menstrual products more affordable and to eliminate any stigma or shame associated with menstruation.

## QUESTIONS FOR DISCUSSION

1. Find out if your state/jurisdiction taxes menstrual products. Did this surprise you? How does the sales tax rate of your state compare with other states?
2. Do you think that state lawmakers intended to tax women in implementing a sales tax on menstrual products? What do you think of the argument that the “tampon tax” amounts to a “tax on women,” given that people of all genders may buy menstrual products?
3. Is the demand that states end the tampon tax (i.e., cease taxing menstrual products) the equivalent of seeking an “accommodation” or it is merely asking for equal treatment? How does this connect to the feminist legal debate about whether the law should ignore gender (i.e., treat everyone the same) or take gender into account (i.e., recognize biological differences historically associated with the “female” sex)?
4. Does the tampon tax impact all people equally? How might factors like geography, race, age, family status, income, wealth, and/or religious beliefs factor into the conversation?
5. The United States does not have a federal sales tax. (Federal tax revenue comes mostly from income tax.) Why do some states have sales taxes and others do not? Why do some states exempt menstrual products from taxation and others do not?
6. Can you think of other times that individuals are financially penalized “because of” their gender? What about costs associated with pregnancy, childbirth, or breastfeeding?
7. If the amount of the sales tax imposed on any one particular purchase of menstrual products is relatively small, why make a big deal about it?
8. How might the stigma historically associated with menstruation impede success in efforts to repeal the tampon tax? Should advocates focus on changing cultural attitudes about menstruation before trying to change the law? Can changing law be a way of changing the culture, too? What is the relationship between cultural or social change and legal change?

## SUMMARY

Issues at the intersection of menstruation and schools are important for many reasons. First, school is a physical place—with architecture and rules that limit student movement—where many students are when menstruating, some for the first time. Second, school is a place where many (but not all) students receive formal education about menstruation. Third, interactions with both adults and peers at school play an important role in the attitudes that students may develop about gender roles generally and menstruation in particular. This chapter considers menstrual advocates efforts toward the related goals of alleviating period poverty in schools and reducing menstrual stigma.

At school, students frequently face a variety of challenges related to menstruation. Consider the fact that adolescents' menstrual cycles are often more irregular than adults' cycles are. Students may be especially uncertain about when to expect a period (even most adults cannot predict with certainty the arrival of their periods!), so they may be caught unaware by the onset of a menstrual cycle. Students may not have brought menstrual products with them to school or may not be able to afford them at all. Measures intended to assist students who need menstrual supplies—such as making pads available in the nurse's office—may not be especially practical, if a student has to travel a long distance to obtain the supplies, or if school policies limit a student's access to toileting facilities. Even dress codes can have an adverse impact on menstruating students. Light colored skirts or slacks will show blood more easily than darker colored clothes. Some students are so fearful of the humiliation, stigma, or shame associated with menstruating at school, or even possibly revealing their menstrual status, that they choose to leave school early or stay home entirely.

Menstrual advocates of all ages have made a difference in many local schools, school districts, towns, and beyond. The book provides numerous examples of the ways that students themselves have identified and articulated how having free and accessible menstrual products at school helps to reduce menstrual stigma. New York City was the first jurisdiction to legally require that menstrual products be made available in public schools. Many other jurisdictions have followed suit, as more people become aware that students' lack of access to menstrual products was holding them back from fully participating in school.

The law has a role to play in pushing schools toward providing free menstrual products. Title IX is the federal law that prohibits sex discrimination in federally funded schools (i.e., all public schools, colleges, and universities, as well as nearly all private colleges and universities). The law provides that no one shall be excluded from participation in any educational program on the basis of sex. Although Title IX does not speak to the issue of menstruation (the word is not mentioned anywhere in the law), the authors assert that Title IX's guiding principle of equal opportunity strongly

points in the direction of school districts adopting “best practices” that include making menstrual products freely available, at least for low-income students, if not for all students. Title IX might also be used to challenge light-bottomed dress codes and restrictive bathroom policies.

Title IX might also be helpful in addressing two other areas that the authors identify as priorities at the intersection of menstruation and schools: the importance of timely and medically-accurate menstruation-related education for all students, and efforts to combat teasing and harassment.

## QUESTIONS FOR DISCUSSION

1. According to the National Institutes of Health, According to the National Institutes of Health, the typical age for the onset of puberty is between ages 8 and 13 in girls. In boys, it is between ages 9 and 14. What age is the “right” age for puberty-related education in schools, including education related to menstruation?

2. Think back to your own formal menstruation-related education, if you had any. Did students of all genders receive education together, as a group, or were there efforts to separate students? What did you know about menstruation before you learned about it in school, if you had formal school instruction on the subject? Was the education effective? What would you change, if you could?

3. What are some practical things schools can do to minimize the stigma and shame associated with menstruation?

4. Over half of all public school students in the United States are eligible for free or reduced-cost lunch, which is a rough proxy for financial need. Why is it generally accepted that students from families below certain income levels should have access to meals, but not menstrual products, at school? What happens when students are too worried about when or whether they will eat? Can an analogy be made to students who are worried they may get a period, or not be able to address their menstrual needs adequately and in a timely manner?

5. The chapter discusses Title IX’s guidance to schools on accommodating pregnant students. What are the justifications for extending Title IX to menstruating students, as well?



## SUMMARY

Public policy reflects a society's priorities and values. New York City made history in 2016 when it became the first city in the nation to require free menstrual products in public schools, prisons, and homeless shelters. This chapter turns its attention to the menstruation-related needs of vulnerable individuals in jails, prisons, homeless shelters, and immigrant detention centers. Like the menstruating students discussed in Chapter 3, individuals in these public institutions are subject to abuses of authority. They very often do not have access to adequate, if any, menstrual supplies. The ignorance or willful disregard of menstruation-related needs can also impinge on those who are visiting prisons or detention centers. The chapter concludes with a look at broader efforts to provide menstrual products in all public buildings.

## QUESTIONS FOR DISCUSSION

1. This chapter describes some efforts made by private individuals and organizations to mitigate period poverty through donations. What responsibility does the public have to provide basic necessities to the needy? Are private donations the best way to address those needs? What might the law look like if menstrual products were understood to be a necessity?
2. The chapter describes one specific policy “success”: menstrual products have now been added to the list of purchases that qualify for reimbursement from a flexible-spending account or health-spending account. Who does this legal change help? Who is left out?
3. Most of us would be surprised to enter a public restroom in a government building such as a town hall, library, or courthouse find no toilet paper, soap, or paper towels supplied for use. Should menstrual products be provided in these spaces just like other personal hygiene items? In what ways are menstrual products such as tampons and pads different from toilet paper and paper towels?
4. Withholding menstrual products from individuals in jails, prisons, homeless shelters, and immigrant detention centers is a form of abuse and dehumanization. What is the effect on society as a whole when people are treated this way?
5. The chapter concludes with some successful local efforts to provide menstrual products in public buildings, such as the initiative in Brookline, Massachusetts. What factors influenced Brookline's adoption of this policy, and what broader effects might it have?

## SUMMARY

For some employees, menstruation can function as a barrier to full participation in the workplace. This chapter opens with two real-life stories of wrongful termination. Although the fact patterns were somewhat complicated, the stories basically boil down to the fact that these two women were fired for menstruating at work. Both of them sued; one successfully, one not. The authors unpack the reasoning used by the two courts to explain why the women in both cases should have been successful.

There are, in fact, a variety of laws available to protect menstruating workers, but misperceptions about menstruation, cultural taboos about menstruation, and misapplication of the law mean that legal protection can be inconsistent. Title VIII of the Civil Rights Act, as amended by the Pregnancy Discrimination Act, is one very important source of protection for menstruating employees. But Title VII does not specifically mention menstruation (it does refer to pregnancy, childbirth, “or related medical conditions”), so the chapter suggests several ways the law could be clarified to prevent wrongful decisions. Congress could amend the Pregnancy Discrimination Act further to explicitly include menstruation. The Equal Employment Opportunity Commission could also issue regulations, explicitly stating that decisions based on menstruation are discriminatory. Relatedly, the chapter addresses how restrictive bathroom policies in factories and similar settings may have a disparate impact on menstruating employees, another form of sex-based discrimination.

The chapter also discusses the possibility of workplace-related menstrual leave, a measure that has been adopted in some other countries. Supporters believe that menstrual leave is an appropriate recognition for gender-related differences in biology. Critics are concerned that menstrual leave is tantamount to treating menstruation—an inevitable biological process for approximately half the population—as a “disability,” and worry that women might come to be viewed as less desirable colleagues or employees. This chapter highlights one theme that emerges in menstrual advocacy: initiatives that involve minimal monetary cost and the provision of menstrual products attract less controversy than initiatives where there are “winners” who get a benefit (i.e., wide swaths of employees who are eligible for menstrual leave) and “losers” who might have to work more (i.e., employees who are not eligible for menstrual leave, by virtue of their biology) if others who are absent. For this reason, the authors advocate for more flexibility for all employees, without regard to biology.

# QUESTIONS FOR DISCUSSION

1. The true-life cases of Joyce Flores, the dental hygienist, and Alisha Coleman, the call center operator, open this chapter. Ms. Flores went through a screening device twice in one morning, once while wearing a tampon and once when she was not. Ms. Coleman's unexpected menstrual bleeding deviated from the employer's idea of "cleanliness" in the workplace. Based on what you know about these cases from reading this chapter, to what extent are issues of menstrual stigma and shame, or even suspicion of women who menstruate, the cause of the employers' reactions?

2. When an employee asks for "accommodations" due to a reproductive-related processes such as menstruation, pregnancy, childbirth, or breastfeeding, is the employee being asked to be treated the same or differently from other employees? Why does your answer to this question matter under the law?

3. What would you think about a policy that exempted students from testing if they were menstruating? What about a policy that exempted employees from working while menstruating? How should schools or workplaces account for those who experience heavy, unexpected or painful periods? Are there some types of educational environments or workplaces where flexibility is more or less likely? What are the demographics (in terms of gender, race, socioeconomic class, geographic location, or other factors) of students or employees in those places?

## SUMMARY

This chapter unpacks and explores the intersection of menstruation and gender. As awareness of period poverty crossed over into popular consciousness in roughly 2015, so too did greater trans visibility and awareness. The chapter may be called “Menstruating While Male,” but that phrase itself is incomplete. Some (but not) cisgender girls and women menstruate; some (but not all) trans men and boys, gender nonbinary individuals, and genderqueer people menstruate, too. Drawing on language recommended by GLAAD, the authors explain what these terms mean, for those readers who have not encountered them before.

In talking about sex and gender, menstrual advocates should use language that does not pathologize or “other” trans and gender-nonbinary individuals. Advocates also need to craft arguments that will be convincing to courts, legislatures, and administrative agencies—as well as public opinion. All of this must happen in a fraught cultural context in which feminists and other gender equality advocates often find themselves fighting with each other over the meaning of language, while violence against LGBTQI+ people and anti-trans legislation continues to rise in this country. The authors attempt to chart the course for an inclusive and effective legal strategy for menstrual advocates.

This chapter relies on the voices of trans boys, trans men, and gender nonbinary individuals to amplify their first-hand accounts of experiencing and managing menstruation. The diversity of trans and gender nonbinary experiences means that it is not possible to generalize. Based on the written work of many trans and gender nonbinary writers, as well as academic studies, it is fair to say that many trans and gender nonbinary individuals experience menstruation as a fraught experience. Trans and gender nonbinary people and their allies have been at the forefront of efforts to transform the hyper-gendered marketing of menstrual products (think pink flowered packaging) and the labelling of menstrual products as “feminine hygiene.”

Legal change often happens through court cases, legislative reform, and public-facing advocacy. In any particular case, lawyers may choose to use gendered language (such as describing menstruation as linked to the “female reproductive system” or referring to cases that have found certain practices to be “discrimination on the basis of sex”). This in no way suggests that only cis girls or women menstruate. It is language that fits into existing legal frameworks and also serves to highlight that the law’s negative treatment of menstruation is grounded in sexist and even misogynistic attitudes about menstruation and that deprivations and mistreatment of those who menstruate has a disparate impact on approximately half the population. Framing menstruation as a form of legally actionable sex discrimination thus ultimately redounds to the benefit of all who menstruate.

## QUESTIONS FOR DISCUSSION

1. Factually speaking, there is a connection between an individual's biology (in the sense that all who menstruate have a uterus and at least one ovary) but the definitions of "sex" are changing and evolving every day. In what way is menstruation-based discrimination a form of sex discrimination? Does it have to do with biology, how one is perceived by others, or something else?
2. What impact does the marketing and packaging of menstrual products have on your consumer choices? To what aspects of your personal identity are companies trying to appeal?
2. What are the words that you hear people using to describe tampons, pads, menstrual cups, period underwear, and the like? What difference does it make if someone calls a menstrual pad, for example, a "feminine hygiene" product, a "sanitary product," a "personal hygiene product," or a "menstrual product"?
4. Do you agree that menstrual products should be available in "male" restrooms as well as "female"? What about in schools with the youngest children in grades K-5?
6. How do you react to the phrase "people who menstruate"? Who is included? Who is left out? Why does it matter?
7. The authors believe that amplifying the voices of trans and gender nonbinary individuals is important for effectuating legal change, because without those voices, the law may not take them into account. Does this seem accurate to you? What role is there for advocates and allies in broadening the dialogue about menstrual equity?

# SUMMARY

This chapter addresses the “sustainability” of menstrual products, in the broad sense of the word: safety, health, and affordability of menstrual products as well as preservation of the environment and the planet’s natural resources and systems. The authors discuss many different ways that law can be harnessed to improve sustainability, through initiatives such as consumer disclosure laws, increased federal funds for scientific research, public awareness, new government requirements regarding safety or even “best practices” recommendations, and voluntary initiatives to be adopted by companies or industry groups.

At the federal level, the Food and Drug Administration is responsible for the regulation of the manufacture and marketing of menstrual products. However, because menstrual products are classified as “Class II” medical devices, there is no requirement that manufacturers disclose the contents of menstrual products or guarantee their safety. After illness and even death from toxic shock syndrome was linked to the use of super-absorbent tampons (now removed from the market) in the 1980s, there was modest change to federal labeling laws to include warnings about menstruation-related toxic shock syndrome and the importance of using the lowest absorbency tampons needed. Beginning in the late 1990s, there have been multiple attempts to pass federal laws to support the research, safety, and disclosure of menstrual product ingredients, but none have been enacted at the federal level.

Because of the lack of federal safety laws, some states have stepped in with laws that attempt to require greater disclosure of the contents of menstrual products. But the laws in even the most progressive states do not have enough “teeth” to fully protect consumers. For example, in New York, manufacturers are required to disclose only those that are “intentionally added” to menstrual products (such as fragrance), but there is strong scientific evidence that there are many dangerous ingredients that are found in the ingredients that make up the products in the first place. Because of the strength of the industry lobby, it is not likely that more rigorous disclosure laws will be enacted.

If tougher disclosure laws are difficult or impossible to enact, state governments could influence sustainability issues by adopting procurement rules. Just as New York State requires that cleaning products used in schools meet certain environmental health and safety standards, the state could require that when schools make menstrual products available to students in school bathrooms (as they are required to do under state law), those products must meet certain criteria. Manufacturers should be required to disclose the contents of these products, the products could use only ingredients contained on an “approved” list, and manufacturers would have to affirmatively demonstrate the absence of chemicals on the “unapproved” list.

Apart from government-based initiatives, manufacturers or retailers could also voluntarily commit to the sustainability of menstrual products by adopting certain

standards for what they sell. This may appeal to investors and consumers that are motivated by concerns that are related to the environment, social issues, or governance.

Layered on top of consumer health and safety concerns is the environmental “cost” in terms of their production and disposal. Most conventional pads and tampons contain plastic that ends up in landfills or as harmful waste in our sewage systems and waterways, endangering both human health and wildlife. The manufacturing of menstrual products requires chemicals and manufacturing of its plastic components and packaging are fossil-fuel intensive. Increased education and awareness is needed in order to promote more sustainable manufacturing and disposal of menstrual products.

## QUESTIONS FOR DISCUSSION

1. Before reading this chapter, how many of these terms had you encountered before? Do you know what they are? Does it make you concerned that these ingredients have been shown to be found in menstrual products?

- 2,3,7,8-tetrachlorodibenzo-p-dioxin / 2,3,7,8-tetrachlorofurandioxin
- chlorethane
- chloroform
- dichlofluanid
- dioxins
- fesulfothion
- malaoxon
- malathion
- mecarbam
- methidathion
- methyl dibromo glutaronitrile
- nanosilver
- piperonyl butoxide
- polyethylene
- polypropylene
- procymidone
- pyrethrum
- styrene
- tributyl phosphate

2. What are some reasons for the lack of federal laws requiring manufacturers to disclose the contents of menstrual products, or to guarantee their health or safety?

3. What factors influence a person’s choice of a particular menstrual product? At top of mind may be cost, accessibility, and the appropriateness of a particular product for an individual’s menstrual flow. How do factors like race, class, religion, and other important identities also affect one’s selection of menstrual products?

3. Menstrual cups and period underwear are reusable, but more expensive to purchase (at least up front). Do you think that most people would choose to use menstrual cups and period underwear, if the price were lower? Why or why not?

4. What incentives do you think manufacturers need to create safer and more affordable menstrual products? What can consumers do to urge manufacturers in this direction? What can the government do?

5. How do positive or negative attitudes about menstruation (and menstrual waste) affect the products people use and how they choose to dispose of used menstrual products or material?

6. What type of education have you received about the best way to dispose of menstrual waste at your home, school, or place of employment?

## SUMMARY

Menstrual products are big business. Every year, consumers spend approximately \$3 billion in the US and \$26 billion globally. This chapter takes a critical look at the ways that menstrual products are marketed with empowerment rhetoric, menstrual equity themes, and celebrity endorsements. For-profit companies attempt to create a “halo effect” to generate more business. The authors critique the effects and rationales of “menstrual capitalism,” meaning the marketing and selling of menstrual products through feminist-oriented messaging.

Some menstrual product manufacturers explicitly adopt a corporate form known as the “B-corporation” that facilitates the pursuit dual goals: increasing value for shareholders while also pursuing social or environmental goals. (In contrast, traditional “C-corporations” are supposed to pursue the sole goal of maximizing shareholder profit.) B-corporations and C-corporations alike often emphasize their commitment to social goals. Some retailers of menstrual products also engage in give-away programs in order to alleviate period poverty, while also generating publicity and anticipated loyalty among consumers.

In pursuit of profits, some enterprising companies have entered the market for menstruation-related goods and services with products such as period underwear, Bluetooth tampons, technology-enhanced menstrual cups, and period underwear, as well as period subscription boxes and period-tracking apps. Some of these products play on stereotypes about menstruation being unclean, mysterious, or illness-like.

Consumers of menstrual products need to be aware of the many ways that information they voluntarily enter into period apps and other tracking devices may, in fact, pose privacy risks. Users should be aware that, in many cases, extremely intimate information that they enter into these apps could be shared with employers or even governmental authorities, raising the possibility of gender-based discrimination or even criminal prosecution—a heightened concern in light of new restrictive abortion laws. Period tracking has also become a part of elite sports coaching; sports are big-business, too.



## QUESTIONS FOR DISCUSSION

1. How is “menstrual capitalism” different than capitalism overall? What are the authors’ concerns about menstrual capitalism?
2. Have you used any “health” or “fitness” apps that track your biological functions? What concerns, if any, do you have about that information being used in a way that you may not anticipate?
3. There are apps that can automatically track sleep patterns, specific food and calorie intake, what type of exercise a person does and for how long. Where is this data stored? What company is using it and for what? If you have used one of these apps, did you read the privacy agreement that came with the app?
3. As a consumer, how impacted are you by a company’s positive messaging around menstruation or its commitment to charitable giving? How important are social issues to you in making consumer decisions generally?
5. The chapter tells the (true) story of two different supermarkets in the UK that offered free menstrual products to customers. One store, Lidl, offered a coupon redeemable for a box of period products in exchange for registering via the company’s app (and presumably providing at least an email address). The other store, Morrisons, allowed customers to approach the service desk and “ask for a package Sandy left for you.” How do these two models differ, and which do you prefer?

## SUMMARY

The final chapter explores the menstrual advocacy's movement across the globe, with a particular focus on India, Kenya, Australia, New Zealand, and Scotland. Menstruation is, of course, a routine experience for approximately half the population. In almost every country, there are issues of menstruation-related stigma and shame, discrimination, period poverty, barriers to access to school or employment, and health and environmental issues. The challenges are not the same for all.

In India, for example, menstrual taboos are strong in some parts of the country. The Supreme Court ruled that prohibitions on girls' and women's entering the Lord Ayyappa Temple at Sabarimala in the southern state of Kerala were unconstitutional, but the future course of the decision is unclear. In some parts of India, there are myths that menstruating women can contaminate food or exercise a special control over men.

Kenya has been one of the global leaders in the menstrual movement; it was the first country to eliminate the tampon tax in 2004. There is a formal government program that makes free menstrual products available in all Kenyan schools, but implementation has not been entirely successful due to corruption, among other factors. The ability to manage menstruation in a stigma-free manner is key to reducing school absenteeism by girls of menstruating age. School is a place where many Kenyan students receive important menstruation-related education.

Australia and Aoteroa New Zealand both acknowledge period poverty as an important social issue. Governments in both countries have taken steps to make menstrual products available in schools.

The world's leader in menstruation-related issues is Scotland. In November 2020, the Scottish Parliament passed the Period Products (Free Provision) (Scotland) bill that makes menstrual products available to anyone in need.

From these examples, one can see that when citizens and governments work together, real change is possible. Unless all those who menstruate can manage their menstruation in a safe, affordable, and sustainable way, human flourishing is hindered.

## QUESTIONS FOR DISCUSSION

1. What is the relationship between and among access to water, sanitation services, and menstruation? How might the lack of access to one of these impact the other? Why does that matter?

2. Menstruation-related education often takes place in schools. How did the COVID-19 pandemic impact education generally and menstruation-related education in particular? To answer that question, do need to know more about rates of access to computing devices and the internet? What about geography or culture might impact one's ability to access menstruation-related education or even health care during pandemic times?

5. How can one explain the fact that menstrual stigmas appear in so many different cultures and countries around the world, and over decades, centuries, and even millennia? Are you aware of, or have you had personal experience, with stigmas that are grounded in certain cultural practices or beliefs?

## SUMMARY

The book ends with the example of the “Pinky Glove,” the winning product on a game show for entrepreneurs. The internet reaction was international, swift, and overwhelmingly negative in response to the judges’ selection of these (literally pink) gloves intended to be worn while removing and disposing of a tampon. Through this example, one can see many of the book’s themes, including:

- Menstrual activism is a leaderless movement powered by people of all ages;
- Longstanding stigma and shame surrounding menstruation leads to harmful gender stereotypes (the notion that menstruation is gross or disgusting leads these male entrepreneurs to think that gloves are necessary to manage menstruation);
- The lived experience and material reality of menstruation may be informed by issues such as gender identity, gender expression, race, socio-economic class, religion, geography, and many other factors (these male entrepreneurs did not seem to understand much about menstruation)
- Menstrual management is not just a “personal” issue, but also a business that often benefits from private data voluntarily provided by consumers, from the withholding of information by manufacturers, and the lack of widespread understanding of the health and environmental impacts of menstrual products (these entrepreneurs sought to profit from the notion that menstruation is gross or disgusting by creating a “need” for gloves, even though menstruation has been a glove-free experience for millennia);
- Social media is a powerful tool to effectuate social and legal change (users’ critique of the game show judges’ decision led to a retraction of the funding of the “Pink Glove” concept)

## QUESTIONS FOR DISCUSSION

1. Why were people so offended by the “Pinky Glove”? Why do you think the judges of the game show chose that product as the winner? Does the gender of the entrepreneurs, judges, or internet commentators factor into your analysis?

2. Imagine a world in which there were no tampon tax (chapter 2); menstrual products were available in all schools (chapter 3), prisons, jails, detention facilities, and public buildings like libraries and government buildings (chapter 4); and laws explicitly prohibited discrimination in employment on the basis of menstrual status (chapter 5). In such a world, how would people’s daily lives be different? Would there be a cultural change surrounding menstrual stigma, too?

3. What is the relationship between menstruation and broader issues of gender justice?