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**Menstrual Health Management in Ethiopia: A Human Rights
Perspective**

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September 24, 2021

Addis Ababa, Ethiopia

Addis Ababa University
Law and Governance Studies
School of Law

**Menstrual Health Management in Ethiopia: A Human Rights
Perspective**

A Thesis Submitted in the partial fulfillment for the awards of Master Degree of Law (LL.M)
in Human Rights Law at the College of Law and Governance Studies, School of Law, Addis
Ababa University

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Ethiopia

Declaration

I, Lidet G/hiwot, hereby declare that the thesis titled “*Menstrual Health Management in Ethiopia: A Human Rights Perspective*” is my original work and that it has not been submitted for any degree or examination in any other university. I also pledge that all sources used in any form are duly acknowledged.

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Lidet’s thesis, titled “**Menstrual Health Management in Ethiopia: A human Rights perspective**” is approved by the undersigned members of the examining Board.

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Acronyms (In Order of Appearance)

MHM- Menstrual Health Management

SNNP- Southern Nation Nationalities and People

RTI- Reproductive Tract Infections

UNICEF- United Nations Children’s Fund

SRH- Sexual and Reproductive Health

MOH- Ministry of Health

WASH- Water Sanitation and Hygiene

WHO-World Health Organisation

FDRE- Federal Democratic Republic of Ethiopia

HRBA- Human Rights-Based Approach

ICCPR- International Covenant on Civil and Political Rights

CESCR- Committee on Economic, Social and Cultural Rights

MHH- Menstrual Health and Hygiene

ICESCR- International Covenant on Economic, Social and Cultural Rights

CEDAW- Convention on the Elimination of All Forms of Discrimination against Women

CRC- Convention on Rights of Child

STP- Sanitary Towels Program

UN- United Nations

HIV- Human Immunol Virus

ASRH- National Adolescent Sexual and Reproductive Health

SRH- Sexual Reproductive Health

TOT- Training of Trainers

CSO- Civil Society Organizations

NGO- Non-Governmental Organizational

UK- United Kingdom

CNN- Cable News Network

VAT- Value Added Tax

EU- European Union

SWASH- National School Water Sanitation and Hygiene

SDG- Sustainable development goals

AU- African Union

FBO- Faith-based organization

CBO- Community based organizations

TOT- Training of Trainers

SRHR- Sexual and Reproductive Health

IDP- Internally displaced peoples

Abstract

Women, due to a simple biological fact, face multiple diverse barriers attributable to poor menstrual health management (MHM). Poor MHM consists of several elements such as the inability to access basic information, facilities and products necessary to manage menstruation properly, with dignity and safety. The fact that women cannot access the necessary facilities and products essential to manage their menstruation entails a serious problem impeding them from enjoying their legally recognized rights. In Ethiopia, the impact of menstrual hygiene, which is critical for women, has not received nearly enough attention. Menstrual needs of women are not prioritized as a key national concern and its association with the context of human rights is not well-addressed in Ethiopian law. The state has not fully met its obligation to take the necessary legislative and other necessary measures. Therefore, this study aims to examine MHM within the context of human rights in Ethiopia. Being supported by comparative experiences of Kenya and Scotland that have thrived with better practice on MHM, this paper argues for the need to recognize menstruation as a pure physiobiological process and calls upon the state to fulfill its obligations relating to MHM.

Keywords: Menstruation, Women and girls, Menstrual health management, Rights, Human rights law

Chapter One

Introduction

1.1 Research background and statement of the problem

The commencement of menstruation is one of the most significant physiological changes that girls experience during their adolescent years. Around the time girls hit puberty, they start to experience a monthly menstrual cycle which is a vaginal discharge of blood resulting from the shedding of the inside lining of the uterus or womb.¹ This physical process onset during menarche² and stays until a woman reaches menopause and is experienced by all healthy women and girls of reproductive age.³ On average, a woman will have about 450 menstrual cycles for approximately 38 years of her life.⁴

Referring to 'women and girls', it encompasses all who have a monthly cycle, experiencing menstruation differently, depending on their life experiences, needs, and circumstances.⁵ This includes women of different ages, cultures, religions, place of residence, homelessness, housing instability, disability, detention conditions, migration, disaster, insecurity, displacement and many other factors that influence menstrual experiences.⁶

Even though menstruation is a purely physical process a woman's body undergoes, it is often perceived by many, especially in developing countries such as Ethiopia, as a taboo, impure, unclean and shameful.⁷ In developing countries like Ethiopia, the concept of menstruation stems from a stigmatized culture and is surrounded by myths and misconceptions and girls' shared

¹ Jackie Kirk and Marni Sommer, 'Menstruation and Body Awareness: Linking Girls' Health with Girls' Education' (Toolkits, 2006) <<https://toolkits.knowledgesuccess.org/sites/default/files/2-1200-kirk-2006-menstruation-kit-paper.pdf>> accessed 19 September 2021.

² Menarche is the first occurrence of menstruation.

³ Robyn Boosey and Emily Wilson, 'A Vicious Cycle of Silence: What are the Implications of the Menstruation Taboo for the Fulfilment of Women and Girls' Human Rights and, To What Extent is the Menstruation Taboo Addressed by International Human Rights Law and Human Rights Bodies?' (The University of Sheffield 2013) <https://www.path.org/publications/files/RH_outlook_mh_022016.pdf> accessed 19 September 2021.

⁴ 'Outlook on Reproductive Health, 'Girls' and Women's Right to Menstrual Health: Evidence and Opportunities' (2016) 1 <https://www.path.org/publications/files/RH_outlook_mh_022016.pdf> accessed 19 September 2021.

⁵ Hennegan, Julie et al. 'Menstrual health: a definition for policy, practice, and research. Sexual and reproductive health matters' vol. 29, (2021) 1.

⁶ *Ibid*

⁷ Khansadhia Afifah Wardana, 'Human Rights Framework on Menstrual Health and Hygiene' (2020) ADVANCES IN ECONOMICS, BUSINESS AND MANAGEMENT RESEARCH AEBMR 140, 1.

belief that menses is dirty and should be kept hidden⁸. In such societies, the fact that menstruation is perceived as a taboo will make life harder for women and might lead to discrimination against them from other members of society.⁹ Aside from that, it is a popular opinion that menstruation is unclean and shameful practice, which hinders women and girls from openly discussing and caring for their needs.¹⁰

Unease, taboo, embarrassment, shame, and stigma associated with menstruation affect not only how women and girls feel and speak about menstruation, but also restrict their access to clean menstrual management materials and other opportunities that they can make use of to maintain a good MHM¹¹. MHM is defined as:

‘A state of complete physical, mental, and social well-being, includes adequate facilities, notably water and sanitation infrastructure, which enable women and girls to manage their menstruation in privacy, with dignity and in safety, availability and affordability of sanitary pads or tampons and access to timely diagnosis including getting medicines that relieve menstrual pain or cramps and access accurate, timely, age-appropriate information about menstrual cycle.’¹²

Human rights practitioners found in their findings that, poor MHM can negatively impact some of their internationally recognized rights.¹³ The right to clean water and sanitation as well as the right to health, the right to education, the right to work and the right to non-discrimination and gender equality are some of the rights affected by poor MHM¹⁴.

8 Dana Smiles, Susan E. Short and Marni Sommer “‘I Didn't Tell Anyone Because I Was Very Afraid’”: Girls' Experiences of Menstruation in Contemporary Ethiopia, *Women's Reproductive Health* (2017).

⁹ Ibid

¹⁰ Sommer M, Phillips-Howard P., Mahon T, et al, ‘Beyond Menstrual Hygiene: Addressing Vaginal Bleeding throughout the Life Course in Low and Middle-Income Countries (2017).

¹¹ Inga T. Winkler and Virginia Roaf, ‘Taking the Bloody Linen out of the Closet: Menstrual Hygiene as a Priority for Achieving Gender Equality’, (March 2015).

¹² Julie Hennegan *et al*, ‘Menstrual health: A Definition for Policy, Practice, and Research’ (2021) 29 SARHM 3.

¹³ Human Rights Watch and WASH, ‘Understanding Menstrual Hygiene Management and Human Rights’ (2017) <https://www.hrw.org/sites/default/files/supporting_resources/mhm_practitioner_guide_web.pdf> accessed 19 September 2021.

¹⁴ Ibid

In Ethiopia, a country where 50.2% of the population are women¹⁵, it can be seen from practical experience that the government has not given proper attention to the menstrual aspect of girls and women rights.¹⁶ Reports show that 52% of adolescent females do never have any information regarding menstrual hygiene.¹⁷ Only 25% of schoolgirls in Northeast Ethiopia had learnt about menstruation and sanitary management at school.¹⁸ In addition, as per another survey conducted in Afar, Gambella, Oromia and SNNP, such kind of knowledge is not incorporated in the education system. School principals, teachers and even concerned bodies have not given due emphasis to the issue.¹⁹ Also, Teachers and health extension workers are under-trained in MHM, which limits access to accurate information both inside and outside of the school setting.²⁰

Studies also found that only 28% of Ethiopian women have all the products and facilities they need to manage their menstruation.²¹ In addition, more than 70% of girls are reported for not using sanitary pads due to lack of unaffordability.²² One of the reasons that contribute to the high cost of menstrual pads is the unnecessary excessive taxing of period products which will in turn raise the cost of these products by about 70%, making them unaffordable to consumers.²³ Under the current tax proclamation, menstrual products are not excluded from taxation rather the tax on menstrual products includes customs duties on finished pads as well as imported raw materials

¹⁵ Country Meters <<https://countrymeters.info/en/Ethiopia>> accessed 19 September 2020.

¹⁶ <<https://bmcpublihealth.biomedcentral.com/articles/10.1186/1471-2458-14-1118> > accessed 19 September 2021.

¹⁷ UNICEF and WASH, 'Menstrual Hygiene Management in Ethiopia, National Baseline Report from Six Regions of Ethiopia'(May2017)<<https://www.unicef.org/ethiopia/media/3096/file/MenstrualHygieneManagementinEthiopia.pdf>> accessed 17 September 2020.

¹⁸ Take to Kassaw Tegegn, and Mike Molla Sisay, 'Menstrual Hygiene Management and School Absenteeism among Female Adolescent Students in Northeast Ethiopia' (2014) BMC Public Health 14, available at: <https://bmcpublihealth.biomedcentral.com/articles/10.1186/1471-2458-14-1118> [accessed on September 19 2021]

¹⁹ Selamawit Tamiru *et al*, 'Girls in Control: Compiled Findings from Studies on Menstrual Hygiene Management of Schoolgirls- Ethiopia, South Sudan, Tanzania, Uganda, Zimbabwe' (Wash- SNV, 2015) <https://snv.org/cms/sites/default/files/explore/download/snv_girls_in_control_baseline_report.pdf > accessed 19 September 2021.

²⁰ Ibid

²¹ Shannon Rosenberg, 'Expanding Access to Menstrual Hygiene Products for Adolescent Girls and Young Women in Ethiopia' (PSI, 2018) < <https://www.psi.org/publication/expanding-access-to-menstrual-hygiene-products-for-adolescent-girls-and-young-women-in-ethiopia-a-market-development-approach/> > accessed 19 September 2021

²² Alexandra Geertz *et. al*, 'Menstrual Health in Ethiopia | Country Landscape Analysis'(FSI, 2016) <https://menstrualhygieneday.org/wp-content/uploads/2016/04/FSG-Menstrual-Health-Landscape_Ethiopia.pdf> accessed 19 September 2021.

²³ Peter Feldman, 'Should sanitation be taxed?'(IRC, 2019) <<https://www.ircwash.org/blog/should-sanitation-be-taxed>> accessed 19 September 2021.

used to manufacture pads in Ethiopia.²⁴ In such situations where women are not able to afford period products, they are forced to use dry grass, rags, newspapers, and sometimes cow dung as absorbent alternatives.²⁵ The most expected outcome arising from conditions when women and girls are unable to manage their menstrual hygiene properly is the endangerment of their health and wellbeing, for instance, it's a major factor in female morbidity and contributes to the high prevalence of reproductive tract infections (RTIs).²⁶ It also has other health consequences such as vaginal infections arising from the usage of improper absorbents as sanitary pads. While at school, a National baseline report from 6 regions by UNICEF reported that a significant proportion, 11-46% of girls in rural areas miss school due to menstruation, which has a big impact on their academic performance over the course of the year. The reasons range from unavailability of proper sanitation facilities to lack of sanitary pads.²⁷

Nevertheless, government, legal experts, policymakers and academicians fail to prioritize menstrual health as a key national concern. Most attention and discussions about MHM come mainly from other sectors such as field of Sexual and Reproductive Health (SRH), Education, and WASH. Regrettably, it has not been much of a legal issue. The impact of menstrual hygiene, which is critical for women, has not been given the attention it deserves by the government as a duty bearer in respecting, protecting and fulfilling the rights. There is relevant data on the prevalence of poor MHM in Ethiopia. However, its association with the context of human rights has not been well-addressed in Ethiopian law. Though proper MHM is one component of human rights and Ethiopia ratified various international and regional legal instruments to abide by them and incorporated detailed human rights provisions under the FDRE constitution, the menstrual health aspect has not been enacted to clear enabling legislation.

The Ministry of Health (MOH) has launched a policy and implementation guideline for MHM in 2016 with the support of UNICEF, and recently, promises have been made to remove the tax on

²⁴ Ibid

²⁵ Omolara Uthman, 'Every Queen Bleeds: Normalizing Menstruation in Ethiopia' (July 15, 2019) <<https://assembly.malala.org/stories/normalising-menstruation-in-ethiopia>>.

²⁶ Divya A. Patel, 'Reproductive Tract Infection' (CDC, 2003) REPRODUCTIVE HEALTH EPIDEMIOLOGY SERIES MODULE 3 <https://www.cdc.gov/reproductivehealth/productspubs/pdfs/epi_module_03a_tag508.pdf> accessed 19 September 2021.

²⁷ UNICEF and WASH (14).

sanitary pads.²⁸ However, government ministries have not yet designated it as a public health priority and has not been extended to enabling legislation and made applicable. This entails a serious problem impeding women and girls from enjoying their internationally guaranteed basic rights to clean water and sanitation, the right to health, the right to education, the right to work and the right to non-discrimination and gender equality.

Therefore, this study aims to examine MHM within the context of human rights in Ethiopia. It reviews legal, policy/strategy and program documents that impinge on MHM. It will also identify existing legislative and policy gaps, concerns and challenges by also taking good lessons from other selected countries for this purpose. This study argues for the need to recognize menstruation as pure physiobiological process and calls upon the state to fulfill its obligations relating to MHM.

1.2 Objective of the Research

The general objective of the research is drawing lessons from other countries that have incorporated MHM in to their laws, policies, and programmes. To this end, the thesis aims:

1. To bring the understanding of the complexities of poor MHM in Ethiopia to the attention of the legal sector.
2. To explore how legal interventions in girls and women's menstrual health right serves as one way of enforcing human rights;
3. To extract lessons from other countries with better practice on MHM.

1.3 Research Questions

The research will try to respond to the following questions:

1. How legal interventions in girls and women's menstrual health right does serves as one way of enforcing human rights?
2. What is the place of the menstrual health aspect of human rights in Ethiopia?
3. What lessons can Ethiopia take from other countries that have recognized the human rights aspect of MHM and have better practice on it.

²⁸ "የሴቶች የንፅህና መጠበቂያን ከቀረጥ ነፃ እናደርጋለን" ዶ/ር አሚር አማን"የሴቶች የንፅህና መጠበቂያን ከቀረጥ ነፃ እናደርጋለን" ዶ/ር አሚር አማን - BBC News አማርኛ, Nov 2019

1.4 Methodology

The research adopts doctrinal research that employs comparative analyses method both employing a black-letter analysis of law and comparative analysis. By Doctrinal approach, applicable laws, that is, international, regional and national legal framework within the context of menstrual health will be evaluated. It will also adopt a comparative analysis in order to address how selected countries handle the issue so as to identify best practice best practices for Ethiopia to learn from. The comparative exploration, will be limited to cover the practice of Kenya and Scotland. The selection is principally based on the quality and relevance of the practice they have when it comes to MHM, focusing on their policies, institutions and impact of the adopted law on the promotion and advancement of MHM. By using a comparative approach, it will contribute to showing selected countries which are not necessarily similar to Ethiopia deal with MHM. It aims to draw lessons from the systems, processes, policies, laws and institutions of the other countries, with a view of seeing what could be relevant for Ethiopia. The selection in favor of Kenya and Scotland for this comparison therefore is justified by the status that the countries have established in relation to the problem to be studied.

1.5 Scope of the Study

The study explores comparative lessons from others best practice to Ethiopia. Therefore, it is limited to the legal analysis and creating awareness about the topic. Furthermore, the comparison is limited to be between the Ethiopian practice and the practice of Kenya and Scotland. Content wise, the discussion is limited only to practices that can be accomplished through laws, policies and programme mechanisms.

1.6 Significance of the Study

The thesis may have the following significance:

1. Creating awareness and opening the discussion of MHM within human rights context.
2. Delivering better and workable experiences of other countries to concerned bodies
3. It paves the way for further researches on the issue and may also serve as a reference for further studies pertaining to MHM and human rights in Ethiopia.

1.7 Thesis organization

This thesis is divided into four chapters underlining different important aspects, to navigate different subjects. Chapter One presents the background to the study, and provides an overview of the research topic and rationale. It further describes the methodology adopted for the research, and discusses the advantage for employing comparative doctrinal research methodology to analyse the issue. Chapter two presents a review of relevant literature by basically showing the intersection between MHM and other human rights in order to establish Human Rights-Based Approach (HRBA) towards MHM and show its implication upon the rights of girls and women. Chapter Three captures details of the study findings from analysis of the doctrinal assessment where Ethiopian laws and policies will be reviewed to the extent which they protect MHM and comparative analysis with other countries with good policies and laws on the matter. Chapter four provides the conclusion and recommendations of the study.

Chapter Two

The Right to Menstrual Health and Hygiene under International and Regional Human Rights Instruments

2.1 Introduction

All healthy women and girls of reproductive age experience menstruation, which is a natural monthly bleeding.²⁹ Not to be confused with the word MHM, Menstrual Health and Hygiene (MHH) function as an umbrella definition that include MHM and link it to broader systemic components with health, well-being, gender equality, education, empowerment and rights³⁰. UNESCO summarized these systematic components as ‘‘Accurate and timely knowledge, available, safe, and affordable materials, informed and comfortable professionals, referral and access to health services, sanitation and washing facilities, positive social norms, safe and hygienic disposal and advocacy and policy.’’³¹.

The early conceptualization of MHH as a public problem was motivated by efforts to close the gender gap in schooling..³²

2.2 Human Rights Framework on Menstrual Health and Hygiene

Women and girls encounter difficulties in managing hygiene during menstruation when there is no an enabling environment to manage menstruation hygienically. Specifically, they will have trouble managing their menstruation if they have problems getting water, sanitation, and/or healthcare. When women and girls are unable to manage their menstrual hygiene, it can have a detrimental impact on their ability to exercise certain rights, such as right to education, work, and health.³³ The lack of proper management of menstrual hygiene has an impact on a range of rights that women and girls have, including the right to health, right to sanitation, right to education, and right to work, as well as the right to non-discrimination and gender equality.

²⁹ Boosey et.al (n 2) 10.

³⁰ UNICEF, ‘Guidance on Menstrual Health and Hygiene’ (2019).

³¹ Ibid.

³² Barbara Herz and Gene BSperling, ‘What Works in Girls’ Education: Evidence and Policies from the Developing World’ (Council on Foreign Relations, 2004) 47.

³³ Ibid.

Approaching MHH through human rights lens helps to act effectively and thoroughly in improving conditions for women and girls.³⁴ International human rights law provides a foundation for asserting rights for women and girls in respect to menstruation. The specific treaties protecting the rights of women are the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol).³⁵

This chapter will consider how international human rights law and its interpretation by treaty bodies and special mandates holders apply to rights of women and girls in relation to menstruation.

2.3 The Need for Sufficient Menstrual Health Management

In order for women and girls to lead healthy and dignified lives, in which they are not held back by their menstrual flow, it is crucial for them to be able to manage it well.³⁶ MHM is a contemporary term that has recently emerged to refer to the process of handling menstruation. According to the World Health Organisation (WHO) and the United Nations Children's Fund (UNICEF), good MHM requires access to necessary resources such as menstrual materials to absorb or collect menstrual blood effectively, soap and water, facilities such as "a private place to wash, change and dry re-usable menstrual materials in privacy during menstruation, and an adequate disposal system for menstrual materials, from collection point to final disposal point, and education about MHM for males and females."³⁷

Every culture has its own beliefs and traditions, but menstruation is often regarded as dirty or unclean, and contact between men and women during menstruation is discouraged and viewed as something that should be avoided.³⁸ And sometimes, girls and women are denied access to the same restrooms as men or are barred from certain areas.³⁹ After their first menstruation, girls in

³⁴ Khansadhia Afifah Wardana (n 4) 2

³⁵ Linda Steele and Beth Goldblatt, *The Human Rights of Women and Girls with Disabilities: Sterilization and Other Coercive Responses to Menstruation* in Chris Bobel *et. al eds* (The Palgrave Handbook of Critical Menstruation Studies 2020) 79.

³⁶ Kirk J & Sommer M (n 1)

³⁷ Ibid

³⁸ The UN Special Rapporteur on Human Rights to water and sanitation., 'Report on Gender Equality and the Human Rights to Water and Sanitation' (2014) A/HRC/33/49, para. 37.

³⁹ Ibid.

many cultures are considered adults and may drop out of school, marry, and begin having children.⁴⁰ Poor menstruation management has far-reaching societal effects, and a lack of understanding by both women and men perpetuates the taboos surrounding the subject.⁴¹

Article 5(a) of CEDAW requires state:

To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women. In this regard, a State party must take all appropriate measures to scarp laws and policies that still cause indirect discrimination towards girls and women, especially in relation to MHH practice.

Also, campaigns to raise awareness and modify both men's and women's mindsets and attitudes should be devised by utilizing all available channels, including the media, at the community level and in schools, with civil society participation.⁴²

2.4 Right to Health

When discussing about the right to health, it is important to understand that the right to health does not just refer to the right to get healthcare and medicine, rather it also includes the right to ‘access to health-related education and information, including on sexual and reproductive health’⁴³. Poor Poor MHM knowledge, which is especially prevalent in low-income areas where education is scarce, leads to unclean menstruation practices that violate women's and girls' health rights.⁴⁴

Because of lack of knowledge and awareness about menstruation and its conditions, many girls expressed their fear and worry when they first experienced it.⁴⁵ Because of the stigma associated

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Ibid.

⁴³ UN Committee on Economic, Social and Cultural Rights, ‘General Comment No. 14, The Right to the Highest Attainable Standard of Health’ (2000) E/c.12/2000/4, <<https://www.refworld.org/docid/4538838d0.html> > accessed 25 September 2021.

⁴⁴ Uzochukwu U. Aniebue, Patricia N. Aniebue and Theophilus O. Nwankwo, ‘The impact of pre-menarcheal training on menstrual practices and hygiene of Nigerian school girls’(2009) 2 PAN AFR MED. J. 1

⁴⁵ T. Saeed Ali and Syeda Naghma Rizvi, ‘Menstrual Knowledge and Practices of Female Adolescents in Urban Karachi, Pakistan’ (2014) 33 JOURNAL OF ADOLESCENCE 531.

with menstruation, some girls may be held back to seek proper information which results a lack of knowledge about how to manage health and hygiene during menstruation. As long education on MHM is not improved, girls will pass on inaccurate information to the next generation when they become mothers: thus a vicious cycle is formed. Furthermore, teachers mostly play a little part in MHM education since they are uncomfortable teaching on the subject and lack the essential resources.⁴⁶

The highest attainable standard of health for every person is guaranteed under article 12 of the ICESCR.⁴⁷ This provision has guaranteed the right to the ‘highest attainable standard of physical and mental health’ for every person. In addition, the Committee on Economic, Social and Cultural Rights (CESCR) identifies four key elements of the right to health namely.⁴⁸ In addition, in order to eliminate discrimination against women in the field of health care and ensure equality of men and women in accessing health care services, CEDAW under Article 12 requires member states to take all appropriate measures to achieve it.⁴⁹ Further, Article 14 of the same stated rights of rural women to enjoy adequate living conditions, particularly in relation to sanitation.⁵⁰ The CEDAW Committee elaborated the biological differences between women and men by noting the “distinctive features and factors which differ for women in comparison to men, such as their menstrual cycle.”⁵¹

Therefore, enabling women and girls to have a safe, healthy and effective access in managing their menstruation is important. The state has a legal obligation to ensure that every woman and girl can exercise their right to health to the utmost extent possible.

2.5 Right to Water and Sanitation

Addressing women's and girls' human rights to water and sanitation is a necessary precondition for having a proper MHM. Everyone has the right to sufficient, safe, physically accessible, acceptable and inexpensive water for personal and domestic use under the human right to water.

⁴⁶ Kirk J & Sommer M (n 1)13.

⁴⁷ ICESCR Article 12

⁴⁸ Rosenberg (n 10); UN General Comment No. 14 (n 28) para. 11.

⁴⁹ CEDAW Article 12

⁵⁰ CEDAW Art 14

⁵¹ UN Comm. on the Elimination of Discrimination against Women, “General Recommendation No. 24, Article 12 of the Convention Women and Health” (1999) <<http://www.un.org/womenwatch/daw/cedaw/reports/21report.pdf>> accessed 18 September 2020.

The human right to sanitation guarantees that everyone, in all sectors of life, has physical and affordable access to sanitation that is safe, clean, secure, socially and culturally acceptable, and guarantees privacy and dignity.⁵²

States are obliged to take steps for the progressive realization of the socio economic recognized under ICESCR ‘to the maximum of its available resources.’⁵³ And inadequacy of available resources cannot be a reason for failure to ensure the realization of the rights.⁵⁴ Even when severe resources constraints exist, the state is mandated to protect vulnerable members of society by adopting a relatively low-cost targeted programmes.⁵⁵ States can also seek international assistance and cooperation to make the rights realized.⁵⁶

The right to water and sanitation is closely intertwined to MHH since the effort to advance the issue would be followed by WASH practice. Those terms (Water, Sanitation, and Hygiene), established a clear link between hygiene and the right to water and sanitation when they are used together. Under article 11(1) of the ICESCR The right to water and sanitation is recognized as a component of the right to an adequate standard of living, despite the fact that it is not directly stated in UN human rights treaties.⁵⁷ The Human Rights Council adopted Resolution 27/7, which affirmed the right to water and sanitation⁵⁸, where it observed and elaborated, ‘the lack of access to adequate water and sanitation services, including menstrual hygiene management, and the widespread stigma associated with menstruation have a negative impact on gender equality and the human rights of women and girls’. It also sets the standard for facilities that help women and girls manage their menstrual cycles, in terms of sanitation.⁵⁹

⁵² Rosenberg (n 10) 6.

⁵³ General comment No. 3: The nature of States parties’ obligations Fifth session (1990) Art. 2, para. 1, of the Covenant para 9

⁵⁴ Ibid para 11

⁵⁵ Ibid. para 12

⁵⁶ Ibid para 13

⁵⁷ 11(t) of the ICESCR

⁵⁸ UN Human Rights Council, ‘Res. Human Rights and Access to Safe Drinking Water and Sanitation’ (2010) U.N. Doc A/HRC/RES/15/9 <<http://www.ohchr.org/en/Issues/WaterAndSanitation/SRWater/Pages/Resolutions.aspx>> accessed 10 October 2020.

⁵⁹ Human Rights Council, ‘Res. The Human Right to Safe Drinking Water and Sanitation, Preamble’ 2011A/HRC/RES/16/2 <http://ap.ohchr.org/documents/alldocs.aspx?doc_id=24180> accessed 10 October 2020.

⁵⁹ CEDAW, ‘General Recommendation 34 on Article 14’.

On the other hand, the Committee on the CEDAW in its general recommendation 34 advised States parties to ensure that schools in rural areas have ‘adequate water facilities and separate, safe, sheltered latrines for girls, and offer hygiene education and resources for menstrual hygiene, with special focus on girls with disabilities⁶⁰ and also ‘adequate sanitation and hygiene, enabling women and girls to practice menstrual hygiene and access sanitary pads’. to ensure rural women have goods and facilities to manage their menstruation⁶¹. In terms of school environments, the CEDAW Committee in its general recommendation 36, address concerns related with school infrastructures that are barriers to menstruating girls such as inadequate gender-segregated water, sanitation and hygiene facilities, untrained or unsupportive staff, lack of appropriate sanitary protection materials and lack of information on puberty and menstrual issues and recommends state to work on addressing these problems.⁶²

In order for women and girls to be able to practice appropriate MHH, they must have access to the right to water and sanitation in different spheres of life, including at home, school, work, and other institutions.

2.6 The right to education

The right to education is guaranteed by several international human rights instruments, including ICESCR and CEDAW, which guarantee free and compulsory primary education as well as universal access to secondary education. State parties are obliged to take all reasonable steps to eliminate discrimination against women in order to ensure that they have equal rights to males in the field of education,” as stated under Article 13 of CEDAW. One of the most critical tools for empowering girls is education and hence reducing the number of female students who drop out of school is crucial. There is a lower rate of maternal death, HIV infection, and increased economic benefits when girls stay in school longer.⁶³

Although data regarding the impact of menstruation upon girls' absenteeism in school is scarce and based on small sample sizes, most studies have found evidence of menstruation related

⁶⁰ CEDAW, ‘General Recommendation 34 on Article 12’.

⁶¹ Ibid.

⁶² CEDAW, General Recommendation 36, para 33.

⁶³ C. Sumpter, Torondel B, “A Systematic Review of the Health and Social Effects of Menstrual Hygiene Management,” PLoS ONE 8(4), 2013.

absenteeism and poor school performance.⁶⁴ Several sources detail the amount of class females in low-income communities miss at school due to menstruation.⁶⁵

Girls' education is affected as a result of absenteeism due to menstruation. A lack of effective menstrual materials, a lack of adequate sanitary facilities in school, minimal toilet breaks permitted at school, menstrual pain, the long distances that girls must walk to school, and fear of bullying by boys are all reasons for school absenteeism.⁶⁶ Such barriers harm girls' education, adding to the gender gap in education at both the primary and secondary school levels and infringing on their right to an education.⁶⁷ And it will also be hard for them to catchup with the class they miss due to a lack of academic support. Furthermore, the emotional change related with menstruation make it difficult for them to concentrate and fully participate in class and they also fear that other children may see menstrual bloodstains on their clothes.⁶⁸

CESCR mention of the need for States to take affirmative measures for the modification of social misconceptions, prejudices and taboos about menstruation.⁶⁹ CRC, on the other hand, has pointed out that the "initiating and supporting measures, attitudes, and activities that promote healthy behaviour by including relevant topics in school curricula" This is very significant in the context of adolescent health and development.⁷⁰ States party to CRC and CEDAW are obliged to take all appropriate measures to reduce school drop-out rates and to eliminate discrimination against girls that may exacerbate female drop-out rates. The human rights viewpoint emphasizes the importance of ensuring that schools and other learning institutions are structurally free of discrimination against girls.⁷¹

2.7 The right to work

The right to work has two main components: the freedom to accept or refuse work without fear of retaliation, and the right to safe and healthy working circumstances or surroundings. All

⁶⁴ Jackie Kirk and Marni Sommer (n1)14.

⁶⁵ Ibid.

⁶⁶ Ibid.

⁶⁷ Jackie Kirk and Marni Sommer (n1) 14.

⁶⁸ Ibid.

⁶⁹ CEDAW, 'General Comment 22' para 10

⁷⁰ UN Committee on the Rights of the Child (n10) para. 17.

⁷¹ S. Marni, 'Structural Factors Influencing Menstruating School Girls' Health and Well-Being in Tanzania' (2012) 43 J. COMP. & INT'L. EDUC. 323.

workers, even those in the informal sector, are covered by both components of the right. ICESCR protects both of these rights. When considering MHM from a human rights viewpoint, it is the latter part of the right to work that is most significant. The CESCR emphasized the need of workplace facilities for meeting women's special hygienic needs. Employers therefore are required to provide enough water and sanitary facilities in the workplace.⁷²

States' obligation under the ICESCR and the CEDAW, is to ensure that women in workplace have access to a private, safe and hygienic facilities in order to manage their menstruation. If the state itself acts as an employer, the duty to ensure safe and healthy working conditions applies to the state itself. On many occasions, women workers, especially those who work in factories, find it difficult to access hygienic and safe washroom facilities to change their menstrual materials. With such poor conditions their health would be affected and their right to work would jeopardized, thus their ability of earning income would be lessened

2.8. Non-discrimination and gender equality

All human rights is built on the principles of equality and non-discrimination. All major human rights instruments envisage that everyone should be able to enjoy their rights equally, hence current inequalities must be uncovered and addressed.⁷³ Any direct or indirect discrimination in the existing enjoyment of human rights amounts to a violation of human rights and should be addressed immediately.⁷⁴

The aspect of non-discrimination and gender equality is the cornerstone in framing a MHH through human rights lenses. There is a strong relation in discussing both non-discrimination and gender equality since the problem is rooted in the existence of discriminatory law that failed the goal of gender equality. Unmet menstrual needs place women and girls at a significant disadvantage in comparison to men, contributing to their subordination and exclusion (socially, economically, and politically) on a global scale, denying them access to schools and workplace,

⁷² ILO Convention No. 161 of 1985 on Occupational Health Services' (1985)
<http://www.ilo.org/wcmsp5/groups/public/ed_norm/normes/documents/genericdocument/wcms_569988.pdf>
accessed 20 December 2020.

⁷³ Ibid.

⁷⁴ Ibid.

and preventing them from being equal members of society.⁷⁵ A substantive approach to equality will be able to protect women and girls in situations where a law or practice formally distinguishes between men and women, impermissibly treating them differently, as well as situations where seemingly neutral laws, policies, or actions have the practical effect of disadvantaging women and girls without adequate protection..⁷⁶

In the above-mentioned situation, CEDAW article 3 requires States to take:

All appropriate measures, including legislation, to ensure the full development and advancement of women, for guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

The key point is to understand that equal does not mean the ‘same’ or identical treatment.

To achieve equality, States would need to take different actions or measures for each group and individuals that would help them in achieving substantive equality. To emphasize the point in gender equality the CEDAW Committee has observed:

In order to attain equality, for each group and individual, states would need to take different actions or measures to help them achieve substantive equality. To underline the point in gender equality, the CEDAW Committee stated,

It is not enough to guarantee women treatment that is identical to that of men. Rather, biological as well as socially and culturally constructed differences between women and men must be taken into account. Under certain circumstances, non-identical treatment of women and men will be required in order to address such differences.⁷⁷

⁷⁵ Kirk J & Sommer M (n 1)1

⁷⁶ Andrew Byrnes, “Article 1” in *The UN Convention on the Elimination of All Forms of Discrimination Against Women: A Commentary* in Marsha Freeman and Christine Chinkin (eds, (Beate Rudolf, Oxford 2012).

⁷⁶ UN Committee on the Elimination of All Forms of Discrimination against Women, ‘General Recommendation No. 25, on Article 4’ (2004).

⁷⁷ UN Committee on the Elimination of All Forms of Discrimination against Women, ‘General Recommendation No. 25, on Article 4’ (2004) <www.un.org/womenwatch/daw/cedaw/recommendations/General%20recommendation%2025%20%28English%29.pdf> accessed 15 September 2020.

When it comes to MHH, the conversation must transcend beyond women's and girls' biological needs. Many circumstances necessitate a shift to abolish the underlying stigma around menstruation, which necessitates the transformation of institutional and societal systems. When it comes to menstruation, which is often accompanied by prejudice and embarrassment, the goal of working for substantive equality is to eradicate those barriers. Article 5(a) of CEDAW requires state parties:

‘To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women. In this regard, a State party must take all appropriate measures to scarp laws and policies that still cause indirect discrimination towards girls and women, especially in relation to MHH practice.’⁷⁸

In terms of MHH, the right to non-discrimination means acknowledging women in minority groups and the difficulties they face in managing their menstruation. Women with impairments, women who live in rural areas, prisoners and students who attend school in rural settings are just a few examples. Article 2(2) of the ICESCR and Article 2(1) of the ICCPR both require states to implement human rights without discrimination.

To address gender inequalities in practice and improve women's voice and involvement, policies and special measures must be adopted.⁷⁹ It is important that policies and strategies explicitly mention and reflect the different experiences of men and women and marginalized groups.⁸⁰

2.9 Reproductive Rights

Article 14 of the Maputo Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol) mandates that States Parties respect and promote women's health rights, including sexual and reproductive health.⁸¹ Women's and girls' reproductive rights are also violated as a result of the menstruation taboo. It violates the ethical

⁷⁸ CEDAW Art 5

⁷⁹ Human Rights Watch and WASH (n 10) 5.

⁸⁰ Ibid

⁸¹ The Maputo Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol) (Maputo, Mozambique Adopted on 11 July 2003 and Entered into Force on 25 November 2005) Article 14.

principles of reproductive rights: bodily integrity, personhood, equality and diversity.⁸² Bodily integrity is violated when women and girls cannot manage their menstrual flow due to lack of resources, facilities and information. This is significant on personal and social levels because poor MHM prevents them from reaching their potential as individuals and, on a social level, from participating fully in their communities and achieving emancipation. Moreover, the principle of bodily integrity is violated when discussions of women's reproductive health omit menstruation because this involves treating the body as fragments and neglecting its integrity.⁸³

The principle of personhood is often violated because women and girls are not engaged as principal actors in policy and decision-making processes relevant to MHM, such as in the design and construction of toilets.⁸⁴ Due to the menstruation taboo, they do not have the space to express their needs and, as a result, menstrual needs are overlooked in policies and decisions made.⁸⁵

Overall, this section shows how international human rights law and its interpretation by treaty bodies and special mandates holders apply to women and girls in relation to menstruation. It shows how MHM is closely linked with human rights including access to knowledge, access to products, access to water, sanitation, and hygiene services, and improved social norms. It also indicates that effective menstruation management needs a holistic human rights approach and the menstrual needs of menstruating women needs to be addressed for the meaningful approach towards MHM. These international human rights instruments such as ICCPR, ICESCR, CRC and CEDAW are ratified and made part and parcel of the law of the land of Ethiopia as per the FDRE constitution. Hence, Ethiopian government assumes obligation to respect, to protect and to fulfil the rights stipulated in the instruments. This imply Ethiopia needs to follow a human rights based approach towards MHM. In the following chapter, the comparative experiences of selected states that have good practice on MHM will be explored with the view of collecting lessons to Ethiopia.

⁸² Ebenezer Durojaye, Gladys Mirugi-Mukundia and Charles Ngwena, *Advancing sexual and reproductive health in Africa: Constraints and opportunities*, (2021)

⁸³ HRW & WASH, (n 7) 26.

⁸⁴ *Ibid*

⁸⁵ *Ibid*

Chapter Three

MHM Practice of Selected Countries: A comparative lesson for Ethiopia

Introduction

As discussed in the previous chapter, addressing MHM from a human rights perspective helps to eliminate gender based discrimination and inequality, as well as ensure the components arising with MHM such as right to health, education and work which are internationally guaranteed rights. Laws/policies and programmes need to have a holistic human rights and multi-sectoral approach incorporating the various needs of menstruating women.

Poor MHM not only affects women and girls in developing countries, but also is a concern in wealthier developed nations. The practice on MHM is still far from perfect, anywhere in the world. But there are countries making relative progress in terms of recognizing and giving priority to the issue, making initiatives and developing progressive menstrual policies and laws. Their accomplishments so far can be an important source of lesson to other countries.

This chapter discusses the merits of having a human rights based approach to ensuring menstrual needs of women and have enabling laws and policies applicable to MHM in Ethiopia. Ethiopia have no enabling legislation that expressly governs MHM. Besides, the fact that the human rights aspect of MHM is neglected is a major problem that requires legislative measure to address. The chapter further presents the practice of two selected countries from which Ethiopia can draw lessons in MHM. As briefly provided in the first chapter, these countries are selected based on the better practice they have on MHM through enabling legislations. For the purpose of this study, Scotland and Kenya have been selected as countries that have better practice on MHM policy as discussed under the following sections. The chapter makes comparative analysis and assessment of the Ethiopian practice in reference to the practice of the two selected countries.

3.1 Status of MHM in Kenya

One of the greatest challenges Kenya and other developing African countries are facing is poverty. According to UNICEF, one out of every ten African Schoolgirls misses class or drops out entirely attributable to their Menstruation and they substitute less safe and absorbent items

such as rags, newspapers, or bark for pads or tampons.⁸⁶ Kenya has a total population of 44 million people, out of which 24 million (50.5 percent) are female. Among the total population of the country, 70% live in the rural areas and 42% live below poverty line. Nearly one in two people in rural Kenya are poor compared to only three in ten in the urban area. Given that most of the population live in the rural area, poverty is still a rural phenomenon according to the Kenya National Bureau of Statistics.⁸⁷ A study carried out on maturation in Kenya, Ghana, Uganda, Zimbabwe found out that menstrual materials used by girls during menstruation based on the family's socio-economic status. According to the study, girls who were fortunate enough to have access to cloth did not have enough of it, resulting in the sharing of menstruation cloth with other girls⁸⁸. The product's absorptive capability affected how secure the girl felt and how well she concentrated in class.⁸⁹ Another study conducted in Kenya indicated that up to 65 percent of women and girls cannot buy sanitary products because they are unaffordable, which makes girls and women have a hard time managing their menstrual periods.⁹⁰ Some young women, up to 10%, have had to resort to prostitution as a source of income to buy sanitary products in Western Kenya. Reportedly, only 24% of schools and communities were found to have adequate access to water and sanitary facilities⁹¹

3.1.1 Kenya's Progressive Legislations and its newly developed Policy

Kenya is one of the countries that has made progress in terms of developing menstrual hygiene policy, protocols and practice. Government intervention, together with the Ministry of Health, Education and Gender and the backing of NGOs and media and other sectors have significantly improved the menstruation management situation for girls in Kenya.

The Constitution of Kenya clearly stipulate under Article 43 the right to the “highest attainable standard of health, which includes the right to health care services including reproductive health

⁸⁶ World Health Organization and UNICEF, ‘Progress on Sanitation and Drinking Water’, (2013) 11 <https://apps.who.int/iris/bitstream/10665/81245/1/9789241505390_eng.pdf > accessed 20 September 2021.

⁸⁷ Birech, J. & Masinde, J. ‘The Influence of Self-help Groups in Enhancing Social Integration and Decision Making among the Widows in Kenya’ (2018) 5 ASSRJ 6.

⁸⁸ FAWE, ‘Country Profiles: Prepared for first FAWE Donor Consortium Meeting’ (2003) 8.

⁸⁹ Ibid

⁹⁰ Menstrual Health in Kenya | Country Landscape Analysis

⁹¹ Linda Mason, et al ‘Adolescent schoolgirls' experiences of menstrual cups and pads in rural western Kenya: a qualitative study’ (2015) Waterlines 15–30 <www.jstor.org/stable/24688188 > accessed 13 September 2021.

care.”⁹² Various Kenyan government agencies have also designed different policies that incorporate MHM to bring about lasting changes. The well-designed legal and policy frameworks guide these MHM initiatives and involvements, the Constitution being at the top.

In 2004, Kenya abolished the value added tax on pads and tampons, lowering the cost to consumers and ended an import duty on sanitary pads in 2011. In addition, since 2011, the Kenyan government has set aside a budget each year to give free sanitary pads in low-income schools to adolescent girls and those with special needs to minimize school absenteeism by launching the Sanitary Towels Program (STP) in public primary schools. The program has three components, namely provision of sanitary towels to schoolgirls, training of teachers on hygienic usage and disposal of sanitary towels, and monitoring and evaluation.⁹³ Moreover, training for teachers on hygienic usage and disposal of pads was also included in the initiative. More than **3.7 million** were addressed through this initiative.⁹⁴

Following the evolution of the international, regional and national legislative and policy context for National Adolescent Sexual and Reproductive Health (ASRH) including a change in the Constitution supporting reproductive health as a right for all citizens, a new ASRH policy was launched in September 2015. The aim of the Policy is to improve the Sexual Reproductive Health (SRH) status of adolescents in Kenya and contribute towards the realization of their full potential in national development.⁹⁵ The Policy intends to bring ASRH reaffirming commitment to ensure adolescents have access to comprehensive SRH information and services. Some objectives of the policy include promoting adolescent SRH, increasing access to ASRH Information and age appropriate comprehensive sexuality education and improving response address SRHR needs of marginalized and vulnerable adolescents.⁹⁶

In 2016, Kenya Environmental Sanitation and Hygiene Policy was launched, which included MHM. The policy makes managing Menstruation hygienically and with dignity an integral part of good sanitation and hygiene. This policy aims at promoting good menstrual health and

⁹² Kenyan Constitution (2010), Art 43(a).

⁹³ Eunice M., Emily F., and Karen A., ‘The Nia Project: Baseline Report’ (Nairobi: Population Council, 2017) 4. <https://www.popcouncil.org/uploads/pdfs/2017PGY_NiaProjectBaseline.pdf> accessed 20 September 2021.

⁹⁴ ‘Ministry of Public Service and Gender’, <<https://gender.go.ke/sanitary-towels-program/>> accessed 20 September 2021.

⁹⁵ ‘National Adolescent Sexual and Reproductive Health Policy’ (Republic of Kenya Ministry of Health, 2015) 6.

⁹⁶ Ibid 16.

hygiene practices among women and girls, ensuring their access to a safe, healthy environment and improved menstrual sanitation facilities at all levels.⁹⁷

In June 2017, the Basic Education Amendment act was entered in to force. Differing from the sanitary towel provision initiative that was being implemented by various offices, this legislation obliges the government:

*To provide free, sufficient and quality sanitary towels to every girl child registered and enrolled in a public basic education institution who has reached puberty and provide a safe and environmentally sound mechanism for disposal of the sanitary towels.*⁹⁸

The Act requires national and country governments as well as stakeholder collaboration to ensure that MHM is mainstreamed in various sector and workplace policies, plans and programs, to educate women, girls, and teachers about the benefits of MHM practices. This supports vulnerable girls and women in special circumstances such as disasters and emergencies, including internally displaced persons. Mainstreaming MHM further ensures appropriate sanitary facilities, including menstrual waste disposal, to be developed and constructed in schools, work places, public areas, and institutions in a way that recognizes women's and girls' security, privacy, and hygiene needs during menstruation. Above all, it helps to promote appropriate MHM practices at all levels, educate WASH and health practitioners about the different concerns relating to MHM.⁹⁹

A series of national and county-level trainings have been conducted, including training of trainers (TOT) at the national level and training of MHM champions at the county level. Senior Government officials of Kenya, decision-makers, CSO workers, persons with various disabilities, and prison service personnel are among the trainers. This had a significant impact, including the inclusion of people with disabilities in the program, raising awareness of key institutional personnel, (including country first ladies, media practitioners, celebrities and religious leaders) the need for cross-sectoral engagement in MHM, and encouraging the Kenyan government to become more involved in MHM.¹⁰⁰ There has also been the development of the

⁹⁷Kenya Environmental Sanitation and Hygiene Policy (2016-2020) 45.

⁹⁸Republic of Kenya Basic Education Amendment Act 17 (2017) Art. 39.

⁹⁹Ibid, Art. 31.

¹⁰⁰Ministry of Health-WSSCC, 'First National Training of Trainers on Menstrual Hygiene Management' Workshop Report (2016).

document ‘MHM in Schools: A Handbook for teachers.’¹⁰¹ To guarantee that the material reaches the greatest possible audience and that no one is left behind, all of the tools have been customized for users with visual and hearing impairments.¹⁰² The national acknowledgement of the need for puberty education, teacher training, and the allocation of additional funds for the ministry of education to implement the program was spearheaded by the parliament, the ministry of education, and the prime minister's office.

There are other policies that integrate MHM and worth mentioning here such as the National School Health Policy and Draft Neonatal Child and Adolescent Health.

3.1.2 Kenya MHM Policy and Strategy

Kenya is the first country to develop MHM policy and strategy with the engagement of multi-sectoral stakeholders spearheaded by the Ministry of Health. The policy was launched in 2019 and will remain in force until 2030. The policy starts with an assessment of the gaps that exist in menstrual hygiene management in the country and goes on to discuss strategic remedies for these issues. The gaps were better understood through analyzing people’s awareness on various aspects of MHM.¹⁰³ It has set out the goals, policies, priority areas, actions and strategic focuses for ensuring the best practices in Kenya. It aims to mainstream MHM, strengthen partnership and coordination among stakeholders; establishment and maintenance of WASH facilities; strengthening MHM education; and establishing an effective Monitoring and Evaluation (M&E) system for MHM. Moreover, it delineates the role of various government agencies such as the Ministry of Education, the Attorney General, the Ministry of Health, and the Ministry of Gender and different CSOs and NGOs.

The policy has set out the following objectives: (1) establishing an enabling legal and regulatory environment for MHM at both national and county levels and ensuring that myths, taboos and stigma around menstruation are addressed by providing access to information on menstruation. (2) ensuring women and girls have access to safe and hygienic menstrual products, services and facilities. (3) establishing a functionally effective monitoring, evaluation, research and learning

¹⁰¹Ministry of Health of Kenya, ‘Menstrual Hygiene Management in Schools: A Handbook for Teachers’,

¹⁰² Ministry of Education and Sports Ministry of Health Ministry of Water and Environment, MHM Learning Visit to Kenya Highlight, (2019) 5.

<https://www.ircwash.org/sites/default/files/20190522_mhm_learning_visit_report_final_.pdf> accessed 21 September 2021.

¹⁰³ Menstrual Hygiene Management Strategy: 2019-2024’ (Ministry of Health Republic of Kenya, 2019) 9.

framework for MHM in Kenya hence, ensure maximum accountability in policy implementation at all levels. (4) ensuring a clean and healthy environment for all appropriate technology choices for menstrual waste management and pollution control.

The policy shows that the government takes MHM seriously and that they are priority areas. It is designed to address the current gaps that exist, such as information gap, lack of access to sanitary products, lack of access to clean bathrooms and water, lack of appropriate disposal for sanitary products, and lack of access to facilities and services. It also highlights MHM and its multifaceted (economic, social, cultural, health, development and demographic) implication on women and girls.

The policy also set out specific focus areas, responsibilities, and roles of stakeholders. This policy puts MHM at the center of health and development issues. This policy does not only help to reiterate that MHM is a rights issue, it also stipulates the roles of each stakeholder. In addition, it is meant to tackle the issues of MHM in a holistic manner so that different government agencies collaborate through an MHM working group to bring lasting change. In this MHM initiative, agencies such as Ministries of Health, Education and Gender collaborate through a working group.

After the launch of the MHM policy, on December 2020, the Kenya's Bureau of Standards (KBS) decreed the quality of standard for reusable sanitary towels for the safe production of quality and reusable sanitary towels. This standard will help boost consumer confidence on sanitary towels.¹⁰⁴

3.2 MHM in Scotland

Scotland is the first country in the world to provide free and universal access to period products after a four-year campaign that has fundamentally shifted the public discourse around menstruation.¹⁰⁵ According to a survey conducted in Scotland, one out of every four students, college students, and university students experienced difficulty getting period supplies. 60% of

¹⁰⁴ Kenya's Bureau of Standards (KBS) Reusable Sanitary Towels
<https://www.kebs.org/images/marketing/Standards_Information_Packets/2021/March/Sanitary_towels_Standards_Jan_2021_compressed.pdf> accessed 21 September 2021.

¹⁰⁵ 'Period poverty: Scotland first in world to make period products free', BBC News, November 2020

them said this was because they did not have the products that they needed, while 43% said they could not afford to buy their required products.¹⁰⁶

Lack of education is also another reality in Scotland. Nearly half (48%) of girls aged 14 to 21 in the UK are embarrassed by their periods, a survey conducted revealed. Period stigmas, shame, and silence have an effect on this. Almost half of the girls (49%) have missed school because of their period. One in seven (14%) girls acknowledge that they had no idea what was going on when their period began, with more than a quarter (26%) claiming that they had no idea what to do when their period began.¹⁰⁷

Scotland's laws used to focus on the disposal of period products, where the Prisons and Young Offenders Institutions legislation is an exception dealing with the provision of period products. It states, "The Governor must provide suitable towels and toiletries as are necessary for the prisoner's health and hygiene, including: soap and shampoo; shaving materials if required; and in the case of female prisoners, sanitary protection." One of the legislations dealing with disposal of period products is the School Premises Regulations issued in 1967 that establishes requirements for period product facilities in schools, including the requirement to make suitable provision for the disposal of sanitary towels in female pupils' toilets if the school has students over the age of eight.¹⁰⁸ Then the Scottish Government held a consultation on secondary legislation to amend the 1967 requirements, which included requiring availability of period product disposal bins in all cubicles used by girls aged eight and up.¹⁰⁹ The Workplace Health, Safety, and Welfare Regulations on the other hand mandate employers to offer proper and sufficient sanitary facilities.¹¹⁰

Most of the Scotland's Government's action in relation to period products deals with the so-called 'tampon tax'.¹¹¹ The Scottish government has made period items free in schools, colleges,

¹⁰⁶Young Scot, 'Insight: Access to Sanitary Products in Scotland' (2018) <<https://youngscot.net/access-to-sanitary-products>> accessed 21 September 2021.

¹⁰⁷Plan International, 'Almost Half of Girls Aged 14-21 are embarrassed by their Periods' (9th October 2017) <<https://plan-uk.org/media-centre/almost-half-of-girls-aged-14-21-are-embarrassed-by-their-periods>> accessed 21 September 2021.

¹⁰⁸'School Premises: General Requirements and Standards' (Scotland, Regulations 1967) Section 15(2) <<http://www.legislation.gov.uk/ukSI/1967/1199/made>> accessed 21 September 2021.

¹⁰⁹ <<http://www.gov.scot/Publications/2017/07/3029>> accessed 19 October 2020.

¹¹⁰'Workplace Health, Safety and Welfare' (Regulations 1992) Section 20 (1) <<http://www.legislation.gov.uk/ukSI/1992/3004/contents/made>> accessed 21 September 2021.

¹¹¹ Scottish Bill, 'Policy Memorandum: Period Products (Free Provision)' (2019) 27.-memorandum-prodts-

and institutions since 2018. Scotland was a member of the EU, which considered period goods like sanitary pads and tampons as non-essential and required member nations to pay a 5% tax on them. In 2015, a 'Tampon Tax Fund,' was launched which used VAT on period products to fund programs that helped underprivileged women and girls. According to the government website, the government has donated 47 million pounds to charity since then from VAT collections. On 2021, Scotland government removed 5% Value Added Tax (VAT) on women's sanitary products.¹¹² Government estimates that eliminating the tampon tax will save the average woman roughly £40 over her lifetime, as a box of 20 sanitary pads will be 7 pence cheaper and 12 sanitary pads will be 5 pence cheaper.¹¹³

The first real consideration of MHM as a legitimate topic for discussion was started in 2016.¹¹⁴ Since 2016, Monica Lennon, a Scottish Parliament member who has led a years-long campaign to end period poverty and build support for the measure, raised the first discussion on period poverty in the Scottish parliament. She first proposed the bill on free provision of period products (the bill) in 2017. She considers these products to be a necessity, and believes that making them available is critical for people's dignity. She applauds the Scottish Government's efforts to provide free period supplies to people who are in need and wants to take it a step further and make it a legal obligation.¹¹⁵ She raised the topic in the Scottish parliament in the hopes of raising awareness about the financial and health inequities associated with menstruation. The financial burden of MHM was recognized in this discussion, as was the fact that adequate products are a necessary to preserving good health. It also acknowledged the shame and embarrassment associated with the topic in Scotland.¹¹⁶

3.2.1 The Period Products Bill

This bill was introduced by the Scottish Parliament on the 23rd of April 2019 became an act on the 12th of January 2021. The bill's goal is to provide free sanitary products to all individuals in need in Scotland, and it requires Scottish ministers to establish a period products scheme to

¹¹²<<https://www.gov.uk/government/news/women-and-girls-set-to-benefitfrom-15-million-tampon-tax-fund>> accessed 21 September 2021.

¹¹³<<https://indianexpress.com/article/explained/why-the-uks-decision-to-abolish-the-tampon-tax-is-significant-7131123/>> accessed 21 September 2021.

¹¹⁴Official Report of the Scottish Parliament (2016).

¹¹⁵The Scottish Parliament, 'Period Products (Free Provision)', Bill (Scotland, 2021) <<https://www.parliament.scot/bills-and-laws/bills/period-products-free-provision-scotland-bill>> accessed 21 September 2021.

¹¹⁶Official Report of the Scottish Parliament, 2016.

accomplish this. The act obliges local authorities to ensure period products are obtained ‘cost-free and reasonably easy’ as well as ‘reasonable privacy’. It specifies that period products must be supplied at schools, universities, and colleges in order to fight the adverse effects that menstruation can have on education, and it states that Scottish ministers can impose similar obligations on various public sector entities. In addition, the bill intends to eliminate the shame associated with menstruation.¹¹⁷

It is divided into three sections: the first section deals with general rights to and supplies of free period products, which establishes a right to free period products for those who require them, and requires Scottish Ministers to establish a period products scheme to make this right effective and facilitate. It also requires the ministers to ensure that the period products scheme allows individuals to obtain free period products with reasonable ease and privacy. It also requires a reasonable choice of different period products (for instance towels and tampons) to be made available under the scheme

The second section concerns provision for pupils, students, and others and imposes a duty on educational institutions to provide free period products in all appropriate toilets in all buildings or premises normally used by pupils or students. This obligation applies to all Scottish primary and secondary schools (including independent schools), as well as all Scottish colleges and universities (including private colleges). This section of the Bill also allows Scottish Ministers to make similar provision in relation to other public-service bodies that are specified.

Moreover, the last section gives a general information and provides that availability of free period products be required to be publicized by Scottish Ministers. Everyone else who is required by the Bill to make period products available free may provide information about their availability to those who may require it, and must adhere to any publication requirements that the Scottish Ministers may impose through regulations. This section of the bill also allows Scottish Ministers to make payments to anyone who is required to provide free period products as they see fit, as well as making provisions for regulations, definitions, and commencement

¹¹⁷The Scottish Parliament, ‘SP Bill 45-PM Period Products (Free Provision)’ Bill, Policy Memorandum (Scotland 2019) Session 5
<[https://www.parliament.scot/S5_Bills/Period%20Products%20\(Free%20Provision\)%20\(Scotland\)%20Bill/SPBill45PMS052019.pdf](https://www.parliament.scot/S5_Bills/Period%20Products%20(Free%20Provision)%20(Scotland)%20Bill/SPBill45PMS052019.pdf)> accessed 21 September 2021.

3.3 The reality in Ethiopia Compared to Kenya and Scotland

Of the total population in Ethiopia, half (50.2%) are women¹¹⁸ and proper MHM is needed by Ethiopian girls and women of reproductive age. A number of critical components, including access to knowledge, products, water, sanitation, and hygiene (WASH) services, and improved social norms are required for MHM interventions taking into consideration its complexities.

3.3.1 Education and Awareness

In Ethiopia, menstruation is subject to social sanctions, which has stemmed from stigmatized culture surrounded by myths and misconceptions.¹¹⁹ In a study conducted, menstruation was found to be described by females as dirty, humiliating and shameful, while in rural location, females regularly used the term *adef* to describe it, which means dirty or unclean. Girls also shared secret phrases or nicknames they used as code for menstruation among friends on by using phrases like "*I'm not clean,*" "*The dirt has come,*" and "*The hidden is here,*"¹²⁰ Poignantly, in some traditional rural communities, it is considered as a sign of maturity and sexual activity, which in turn makes them victim of early marriage.¹²¹ The fact that menstruation is perceived as a taboo leads to discrimination against girls and women from other members of the society. As a result, they do not openly discuss and care for their needs. It is the reality in Ethiopia that due to failures in the formal education system and impeding social norms, about half of the population of adolescent girls never received any information about menstrual MHM practices. Reportedly, 52% of adolescent girls nationally have never received any information about menstrual hygiene.¹²² Only 25% of Schoolgirls in Northeast Ethiopia had learnt about menstruation and sanitary management at school¹²³. The bad public attitude toward menstruation in Ethiopia still continues to be a concern for there is no visible awareness creation activities by government and concerned stakeholders as opposed to progressive practice in Kenya and Scotland in this regard.

¹¹⁸ Country meters: Ethiopia (n12).

¹¹⁹ Dana Smiles, Susan E. Short & Marni Sommer (2017) "I Didn't Tell Anyone Because I Was Very Afraid": Girls' Experiences of Menstruation in Contemporary Ethiopia, Women's Reproductive Health, "I Didn't Tell Anyone Because I Was Very Afraid": Girls' Experiences of Menstruation in Contemporary Ethiopia

¹²⁰ Ibid.

¹²¹ UNICEF & WASH (n 15) p 6.

¹²² Ibid.

¹²³ Teketo Kassaw Tegegn and Mitike Molla Sisay (n 15).

In addition, as per another survey conducted in Afar, Gambella, Oromia and SNNP, such kind of knowledge is not incorporated in the education system¹²⁴. School principals, teachers and even concerned bodies have not given due emphasis to it.¹²⁵ Teachers and health extension workers lack training on MHM limiting access to accurate information in and out of school settings.¹²⁶ This shows the depth of lack of awareness about MHM and not enough attention is given to the multifaceted importance of educating about MHM at schools in Ethiopia when compared to high public consciousness evolving in Kenya through trainings as well as formal education such as through a series of national and community level trainings reaching to many stakeholders including government decision-makers, religious leaders and teachers which was also inclusive of people with disability.

3.3.2 Accessibility of Sanitation Facilities

Lack of adequate sanitation and inaccessible sanitary infrastructure remain a significant barrier for women and girls in Ethiopia. The social norms and taboos contribute to this barrier. This in effect had made a drawback in improving and maintaining existing toilet facilities, sanitation, and hygiene for menstruating women and girls.

Only 28% of women in Ethiopia report having every product and facility environment they need to manage their menstruation sanitation infrastructure.¹²⁷ In such situations, girls are forced to use dry grass, rags, newspapers, and sometimes cow dung as absorbent alternatives¹²⁸. The most expected outcome arising from conditions when women and girls cannot manage their menstrual hygiene properly is endangerment of their health and wellbeing. Poor MHM is one of the major reasons for the high prevalence of reproductive tract infections (RTIs) and it also has other health consequences such as vaginal infections arising from the usage of improper absorbents as sanitary pads¹²⁹ Based on a study conducted, unclean latrines, not washing hands with soap before touching the genital area, changing blood-absorbent material only once per day, and washing the genital area only once per day during menstruation were significantly found to be

¹²⁴ Selamawit Tamiru (n 16).

¹²⁵ Ibid.

¹²⁶ Ibid.

¹²⁷ UNICEF and WASH (n 14) 7.

¹²⁸ **Omolara (n25)**

¹²⁹ Divya A. Patel, 'Reproductive Tract Infection' (CDC, 2003) REPRODUCTIVE HEALTH EPIDEMIOLOGY SERIES MODULE 3 <https://www.cdc.gov/reproductivehealth/products/pubs/pdfs/epi_module_03a_tag508.pdf> accessed 19 September 2021

associated with RTI.¹³⁰ It also contributes significantly to female morbidity.¹³¹ While at school, National Baseline Report from 6 regions by UNICEF reported that a significant proportion (between 11 – 46 per cent in pilot areas) of girls miss school due to menstruation, which have a big impact on their academic performance over the course of the year. The reasons range from unavailability of proper sanitation facilities to lack of sanitary pads.¹³²

Qualitative study in Ethiopia shows that because they lack access to cheap and preferred goods, private and secure facilities, and information about menstruation, women and girls feel shame, anxiety, restricted mobility, humiliation, and discomfort during menstruation.¹³³ Most girls have no privacy to wash and dry reusable (washable) products and underwear at home.¹³⁴ In rural regions, over 80% of women and girls utilize homemade alternatives for their menstruation. sanitary pads are not even available for some. 44 % of girls who have never bought sanitary pads say they don't buy them because they aren't available in their local market..¹³⁵

Different organizations and groups in Ethiopia have been working to make menstrual products more accessible. Mariam Seba Products factory which was founded by Freweni Mebrhatu who was voted as 2019 CNN hero for her contribution in the area of MHM, is one of the local manufacturers of reusable sanitary pads¹³⁶ Besides, Maryod Sanitary Pads¹³⁷ and Adey pads¹³⁸ are some of the local reusable sanitary pads manufacturers in Ethiopia. Whereas, Social movements such as #ICare and Jegnit have been providing trainings and distributing free period products to Schoolgirls to minimize school absenteeism. However, this effort has not been supported by enough government's commitment to make period products more accessible, unlike the Kenyan government which has worked on making period products accessible from setting

¹³⁰ Ayechew Adema *et al* 'Does menstrual hygiene management and water, sanitation, and hygiene predict reproductive tract infections among reproductive women in urban areas in Ethiopia?' (2020) 10 <<https://journals.plos.org/plosone/article/comments?id=10.1371/journal.pone.0237696> > accessed 21 September 2021.

¹³¹ Divya A. Patel (n 22) 2.

¹³² UNICEF & WASH (n 15) 6.

¹³³ FSG 'An Opportunity to Address Menstrual Health and Gender Equity, 2016 <<https://www.fsg.org/publications/opportunity-address-menstrual-health-and-gender-equity> > accessed 21 September 2021.

¹³⁴ Selamawit Tamiru (n 16).

¹³⁵ Ibid.

¹³⁶ CNN Heroes, Meet the 2019 CNN Hero of the Year, Freweni Mebrahtu is the 2019 CNN Hero of the Year - CNN (2019) <<https://www.cnn.com/2019/12/08/world/freweni-mebrahtu-2019-cnn-hero-of-the-year/index.html> > accessed 21 September 2021.

¹³⁷ Maryod Sanitary Pads <<https://maryod.com/about-2/>> accessed on 21 September 2020.

¹³⁸ Adey Pads <<https://adeypads.com/about/>> accessed on 21 September 2020.

aside a budget each year to give free sanitary pads in low-income schools to later mandating the government *to provide free towel and provide a safe and environmentally sound mechanism for disposal of the sanitary towels.*

3.3.3 Affordability of MHM Products

Affordability of sanitary pads is a huge concern for Ethiopian women and girls. In certain Ethiopian rural communities, the cost of sanitary pads is a tenth of a poor family's monthly income.¹³⁹ High import duties, limited domestic production options, and distribution issues all contribute to the high cost of disposable pads. Survey shows, 70% of women and girls, especially in remote and rural areas, are not capable of getting or buying high quality MHM products and use homemade alternatives due to lack of financial resources.¹⁴⁰ Another concern worth considering is a lack of control over family resources. Women and girls' access to and control over household money, as well as the topics that girls and women want to discuss with their fathers and spouses are all influenced by social norms. Only 10% of girls found it easy to speak with their fathers about their need for sanitary pads¹⁴¹ and this has an impact in Ethiopia as fathers usually make ultimate financial decisions.¹⁴²

Furthermore, menstrual hygiene products are not excluded from tax under the current proclamation as opposed to other supplies, imported items, and rendered services. Customs taxes on finished pads, as well as imported raw materials that are used to manufacture pads are all subject to taxation in Ethiopia.¹⁴³ Among the taxes imposed on sanitation, products and services are Customs duties (varying from 0 to 35 percent on imported goods and raw materials), Value Added Tax (15 percent), Surtax (10 percent), and Withholding Tax (2-3 percent).¹⁴⁴

¹³⁹ Geertz *et. al* (n 11)11.

¹⁴⁰ Ibid.

¹⁴¹ Yared Abera, 'Menarche: Menstruation Related Problems and Practices among Adolescent High School Girls in Addis Ababa' (Master's thesis, Addis Ababa University, 2004) in Alexandra Geertz Et al (Eds.) 'Menstrual Health in Ethiopia | Country Landscape Analysis' (FSI, 2016)

¹⁴² Selamawit Tamiru (n 16)

¹⁴³ Global Waters, 'Menstrual Hygiene Taxes and Tariffs in Ethiopia'

<https://www.globalwaters.org/resources/blogs/menstrual-hygiene-taxes-and-tariffs-ethiopia#:~:text=In%20late%202020%2C%20USAID%20celebrated,30%20percent%20to%2010%20percent> accessed 21 September 2021.

¹⁴⁴ Report on Menstrual Health in Ethiopia, (n4) 14

Applying existing tariffs on sanitary products in Ethiopia is found to raise the cost of those products by about 70%, making them unaffordable to consumers. It also reduces the private sector's engagement and involvement in the market¹⁴⁵. Manufacturers, importers, distributors, wholesalers, and retailers have all complained about the government's lack of support in promoting menstruation hygiene as a major public health priority.¹⁴⁶ To ensure affordability and local production, tax exemptions and/or low tax rates are required. These tax exemptions and/or low tax rates keep these products affordable and accessible. Their markets can continue to expand at a faster rate if import duties and other taxes on sanitation and hygiene items are eliminated or considerably reduced.¹⁴⁷

In 2019, Dr Amir Aman, former minister of Health said that they would make women's hygiene products more affordable and more accessible by making it tax-free. He added that for women who can afford the sanitary pads, the product will be available at affordable prices.¹⁴⁸ Similarly, in late 2020, the Ministry of Finance announced that it has made tax improvements on menstrual hygiene products. Accordingly, taxes were said to be removed on imported raw materials for the local manufactures of menstrual products, and while these sanitary products were imported, it was decided that the tax rate would be reduced from 30% to just 10%.¹⁴⁹

For years now the Ethiopian government have been promising exemption and/or minimization of tax on sanitary pad. Nevertheless, the truth is that despite all the promises, the government so far have neither taken action to fulfill its promises nor able to ensure MHM as a priority concern in every sector. As opposed to Kenya and Scotland where Sanitary pads are tax-exempted and there is free products availability, sanitary products come with excessive tax in Ethiopia. Women and girls are still denied of their basic rights since they are neglected as principal actors in policy and decision-making processes relevant to MHM. From this, one can draw the weak level of

¹⁴⁵ Peter Feldman, 'Should sanitation be taxed?'(IRC, 2019) <<https://www.ircwash.org/blog/should-sanitation-be-taxed>> accessed 19 September 2021.

¹⁴⁶ ibid

¹⁴⁷ Feldman (n 12).

¹⁴⁸ "**BBC News አማርኛ**,(n28)

¹⁴⁹ "በኢትዮጵያ የወር አበባ ንጽህና መጠበቂያ ምርቶች ቀረጥ ላይ ከፍተኛ ቅናሽ ተደረገ", BBC News አማርኛ, Jan 5 2021

commitment of the government of Ethiopia in ensuring menstrual hygiene that has a clear ramification on the human dignity of girls and women.

3.3.4 Legal and policy framework

There is no legislation in place relating to MHM in Ethiopia. While Kenya and Scotland address MHM through legislation, there is no arrangement in place for MHM in Ethiopia. Unlike the Constitution of Kenya which explicitly recognize MHM as a human right providing *the right to the highest attainable standard of reproductive health care for all*¹⁵⁰, no legal instrument in Ethiopia explicitly incorporate sexual reproductive health which is an integral part of MHM as Human rights. Kenya, besides its constitution which recognize MHM as a human rights and the consistent effort to integrate MHM into each sector, has legislated number of legislation and policies. The same is true for Scotland¹⁵¹. Ethiopia, however, have no such extended laws/policies/programmes that are integrated in various sectors.

In Ethiopia, a core challenge is that there is no holistic legal and policy framework integrating the various components of MHM. Only few policy documents cover MHM. Thus far, MHM has been covered under the Ethiopian MHM policy developed in 2016¹⁵², the National School Water Sanitation and Hygiene (SWASH) implementation Guideline developed in 2017¹⁵³ and the National Adolescent and youth health strategy developed in 2016¹⁵⁴. The Ethiopian MHM policy launched in 2016, for instance, is not comprehensive and satisfactory, it also has not yet been extended to enabling legislation, and government ministries have not yet designated it as a public health priority. And the latter policy and strategy documents that mention menstruation do not highlight MHM as a key priority.

Moreover, content wise, the MHM policy adopted in 2016 has some gaps when compared to the MHM policy Kenya launched in 2019. *Firstly*, the Ethiopian MHM policy adopted in 2016 does

¹⁵⁰ Kenya's Constitution (2010), Art 43/a/

¹⁵¹ UK Workplace Health, Safety and Welfare Regulation 1992

<<http://www.legislation.gov.uk/uk/si/1992/3004/contents/made> > accessed 21 September 2021.

¹⁵² Federal Democratic Republic of Ethiopia Ministry of Health, 'Menstrual Hygiene Management in Ethiopia An Intersectional issue: Policy and Implementation Guideline' (July 2016).

¹⁵³ Federal Democratic Republic of Ethiopia Ministry of Education, 'National School Water, Sanitation and Hygiene (SWASH): Implementation Guideline' (October 2017).

¹⁵⁴ Federal Democratic Republic of Ethiopia Ministry of Health, 'National Adolescent and Youth Health Strategy' (2016).

not have a time frame until when the policy works like the Kenyan policy which is adopted in 2019 and lasts till 2030. *Secondly*, the objectives stated in the Ethiopian policy are increasing awareness of the general public about menstrual hygiene; building self-esteem and empowering girls and women for greater socialization, increasing recognition of MHM in national policies, strategies and guidelines, related to a wide range of issues including health, workplace environment and school infrastructure and enhancing inter-sectoral collaboration among different actors (government, Civil Society Organizations (CSO), Community Based Organizations, the Private Sector, influential leaders, etc.) towards effective and efficient MHM system. However, these objectives are not straight forward and are more focused on the specific MHM challenges to be addressed by the policy unlike the Kenyan Policy which are progressive in their nature and scoped down to the county level/lower level. *Thirdly*, there was a situation and gap analysis that was conducted before the adoption of the Kenyan policy. Whereas the Ethiopian MHM Policy does not show whether the response is based on assessments made before. *Fourth*, the Kenyan Policy provides an analysis of International, regional and national human rights instruments such as the Constitution, National Policies, international agreements, SGD Goals and AU documents that Kenya has ratified. But the Ethiopian policy did not incorporate such analysis.

Fifth, the Kenyan policy clearly provided that MHM is closely linked to the right to education, the right to water, the right to sanitation, the right to health, the right to work and right to Non-Discrimination and Gender Equality. Whereas the even though the Ethiopian MHM policy recognized the link with the right to access to information, it fails to expressly connect with other human rights, which implies that it does not consider MHM as a human right. Moreover, the Kenyan Policy provides an intersectional way of inclusivity in addressing the issue of MHM by giving priority to women with disability, internally displaced women and refugees. It also provides definitions for key words such as female friendly facilities, hygiene, menstrual management materials, and products to avoid misinterpretation. The Ethiopian Policy does not define key words.

What is more, the policy of Kenya considers as guiding principle that menstruation is a human right issue that implies the responsibility of the state to employ the best and equitable measures to enable the widest possible enjoyment of rights through an integrated approach requiring the

involvement of all stakeholders in all stages from the preplanning stage, through implementation to monitoring and evaluation stages. In comparison, the principles of the Ethiopian MHM policy provide intervention based on the specific context (development, humanitarian emergency, workplace, schools, health facilities) and different needs of girls and women in such context. From this we then say that the Kenyan Policy follows a human rights-based approach, while the Ethiopian policy follows a needs-based approach. Like the Kenyan Policy, the Ethiopian policy also provides for the inclusion of different groups of women and involves the whole community, including boys and men to change harmful attitudes and shift social norms. Unlike the Kenyan policy, the Ethiopian policy did not say anything about establishing safe disposal facilities and the duty of the state to provide support to the private sector.

The comparative gaps in the Ethiopian MHM policy show that it is not progressive in a way that does not thought of the current situation and the environmental impacts. *Lastly*, the Kenyan policy also establishes national and county MHM Task Force coordinated by the Government ministries/departments, political leaders, CBOs, NGOs, FBOs, private sector, research institutions, and learning institutions by giving detailed and focused obligations to different organs of the government. However, the Ethiopian policy gave responsibility only for selected bureaus such as Ministry of Health, education, women and children affairs and the private sector. This shows that there is a gap in the policy to establish proper implementation mechanism at different levels.

Nonetheless, Ethiopian government is duty bound by the FDRE constitution and human rights instruments to realize the rights of its citizens. The basic problem is the failure of practical applicability of the provisions of the constitution which provide detailed provisions of human rights and recognize gender equality and non-discrimination and also the seven core international conventions as well as regional instruments which Ethiopia ratified. These instruments are made an integral part of the laws of the land upon ratification and are part and parcel of the law of the country as provided under Article 9(4) of the constitution¹⁵⁵ and are legally binding and the government assume obligations upon ratification. Article 13(2) of the same provides that fundamental rights and freedoms shall be interpreted in a manner conforming to International

¹⁵⁵ FDRE constitution, Article 9(4)

instruments adopted by Ethiopia.¹⁵⁶ The constitution also guarantees equal rights of women under Article 35(1) of the Ethiopia's Constitution, stating ‘ *Women shall, in the enjoyment of rights and protections provided for by this Constitution, have equal right with men.* ’’.¹⁵⁷ Right to Equality and Non-Discrimination is also stipulated under Article 25 that all persons are equal before the law and are entitled without any discrimination to the equal protection of the law on grounds including sex.¹⁵⁸

Most importantly, International human rights establish the duty of government as a duty bearer to respect, protect and fulfill human rights of the people, right holders living in the state. Government shall refrain from interfering with or restricting the enjoyment of human rights under the requirement to respect, it is also required to safeguard persons and groups against human rights violations under the obligation to protect and under the obligation to fulfill government is obliged to take proactive measures to make basic human rights implemented. Hence, the primary responsibility for meeting obligations and ensuring that people can exercise their human rights rests with the government. Thinking of these state obligation in light of MHM, the Ethiopian government laws, policies and all measures should be in a way that does not affect the menstrual health of women. Also, specific positive measures such as putting more investment on women's health to increase the access of getting medicines that relieves menstrual pain or cramps, providing adequate facilities, notably water and sanitation infrastructure, lifting the tax on sanitary pads or tampons to increase its availability at cheaper price, incorporating menstrual education to be part of national health and education plans/policies/strategies to educate and nurture the society and by having an awareness of stigma and harmful practices related to menstruation in the specific cultural context where they are working, with an aim to enable women and girls to overcome menstruation-related restrictions could be some of the actions that government is obliged to take to improve girls and woman's menstrual hygiene and health. Moreover, government should work to change the attitude towards menstruation through education and awareness-creation programs so that women are able to enjoy their rights as states are required in international human rights instruments.

¹⁵⁶ Ibid Art 13(2)

¹⁵⁷ Ibid 3(1)

¹⁵⁸ Ibid Art 25

Additionally, as per the constitution, the State also has the obligation to allocate an ever increasing resources to provide to the public health, education and other social services as per Article 41(4) of the constitution. ¹⁵⁹Article 90(1) of the same provides that the extent the country's resources permit, policies shall aim to provide all Ethiopians access to public health and education, clean water, housing, food and social security.¹⁶⁰

Contrary to these provisions of the Constitution and international as well as regional human rights instruments which Ethiopia is a state party, it can be seen that Ethiopia has not fully met its obligation to take necessary law, policy and other measures to ensure MHM management. It's important to underscore that Ethiopia has not fully discharged its obligation as a duty bearer.

3.4 Good Lessons Ethiopia Could Draw from the MHM of Kenya and Scotland

The following lessons can be drawn from the practice of Kenya and Scotland

- The starting point to address MHM must be breaking the taboo and shame and initiating open conversations around the issue. Such conversations and engagements should involve every part of the society. Kenya is the prime example where a series of national, county and community trainings including training of trainers (TOT) to Senior Government officials, decision-makers, country first ladies, media practitioners, celebrities and religious leaders, CSO workers, persons with various disabilities, and prison service personnel have been provided.

While doing so, schools should be given special attention, as their involvement helps to create destigmatized society and creating a generation aware of MHM. The training for teachers on hygienic usage and disposal of pads, access to age appropriate comprehensive sexuality education and SRHR, inclusion of MHM training manuals to the Educational curriculum are best practices that Kenya has implemented to break the menstrual taboo and ensure access to information at every level of the society.

- Progressive policies and legal frameworks- such as explicit inclusion of menstrual hygiene in legal policies as well as total abolition of tax upon supply or import of sanitary pads as in the case of Kenya; and the Scotland's Bill that provides for 'cost-free

¹⁵⁹ Ibid Art 41(4)

¹⁶⁰ Ibid Art 90(1)

and reasonably easy’ as well as ‘reasonable privacy’ with respect to access to menstrual hygiene facilities can be good examples to follow.

- Continued advocacy to untangle the right violations women face due to poor MHM is needed. The years long advocacy and activism by public figures, such as the impact brought by Monica Lennon, a Scottish Parliament member, to raise awareness about the financial and health inequities associated with menstruation can be mentioned as a good example to follow.
- While taking various actions to address MHM, it is crucial to understand that MHM is integrated in to a number of critical components, including access to knowledge, products, access to water, sanitation, and hygiene (WASH) services, and improved social norms. The Kenyan policy for example, clearly provided that MHM is closely linked to the right to education, the right to water, the right to sanitation, the right to health, the right to work and the right to non-discrimination and gender equality.
- MHM cannot be addressed by the effort of one or some institutions; rather its proper implementation necessitates a well-coordinated involvement of all sectors or collaboration of state, non-state actors, private sector, academicians. In the MHM initiatives in Kenya, different government agencies such as Ministries of Health, Education, and Gender collaborate through working groups to tackle the issues of MHM in a holistic manner.
- Vulnerable women and girls such as women with disabilities and women in prisons must be given priority. The Kenyan practice can be a good example in this respect. The Kenyan Policy provides an intersectional way of inclusivity in addressing the issue of MHM priority to be given to women with disability, IDP women and refugees, persons with various disabilities have been part of MHM trainings, SRHR educations have been incorporated to address the needs of marginalized and vulnerable adolescents and inclusion of MHM training manuals to the educational curriculum was implemented in a way inclusive of people with disability are some of the efforts Kenya has made to address marginalized sections of the community.

The forgoing discussion reveals that the MHM practice as well as the policy and legal framework of MHM Ethiopia is encumbered with several problems. Some of the major

problems, principally, the taboo and stigma surrounding menstruation, lack of facilities and products are rooted in the weak government commitment towards addressing the problems by taking legislative and other necessary measures. In addition, though Ethiopia's constitution and the international as well as regional human rights instruments oblige the state to realize the menstrual needs of women, it can be seen that it has not met its obligation as a duty bearer.

Chapter Four

Conclusion and Recommendations

4.1. Conclusion

Women, particularly those in low-income countries, face multifaceted barriers due to failure to manage their menstruation properly. Poor MHM is a continued reality in Ethiopia and it is not treated as a key national priority. It is either a secondary agenda considered as luxury or not considered an agenda important enough, while the truth is that women cannot choose to menstruate and the related concerns follows a rights issue. Understanding MHM from a human rights perspective requires a holistic approach which is tied to the right to clean water and sanitation, the right to health, the right to education, the right to work and the right to non-discrimination and gender equality. Government bears the duty to respect, protect and fulfill the human rights of women and is mandated to take all appropriate measures to ensure women exercise rights on the basis of equality with men.

However, in practice, the human rights of women and girls in Ethiopia, including the rights of women in rural areas, women with disabilities, women prisoners, and women in school relating to the simple biological fact of menstruation are not enjoyed in everyday life. It puts them at a disadvantage based on their gender due to entrenched societal taboo and stigma, lack of information, resources and facilities. This is partly attributed to inaccessibility and unaffordability of period products necessary to manage menstruation and the heavy indirect discriminatory tax on sanitary pads. Moreover, Ethiopia's legal framework focusing on MHM is underdeveloped and needs of women are neglected as key concern in relevant policy and decision making processes.

As it stands today, Ethiopia has no enabling legislation either targeting or mainstreaming MHM. Furthermore, though international instruments recognize that women's right to health includes sexual and reproductive health and the FDRE constitution recognizes women's right and lays out important provisions, yet legal policies lack a provision explicitly declaring Sexual and reproductive health rights.

On the other hand, the Ethiopian MHM policy, which is currently in force, is not progressive and holistic and fails to link MHM comprehensively to other human rights. Nor does it mainstream

MHM in to different sectors. This demonstrates the necessity for policymakers and program implementers to have a better grasp of the problems that women face. In addition, the National School Water Sanitation and Hygiene (SWASH) implementation Guideline and the National Adolescent and Youth Strategy do not highlight MHM as a key priority, although both mention menstruation issues. Hence, Ethiopia is yet to take necessary and comprehensive policy and legal measures to ensure proper MHM.

These practice, policy and legislative loopholes show the depth of poor attention and failure to give priority to the multifaceted importance of ensuring the menstrual aspect of women's rights by taking all appropriate measures, including legislative measures, and integrating MHM in policies and programs within each sector. It further depicts Ethiopia's failure to incorporate MHM education to every level of the society; ensuring menstruation-friendly sanitation facilities and infrastructure; and making sanitary pads affordable by lifting the heavy tax on sanitary pads to ensure women exercise equal rights with men. If the government was serious about granting equal rights and fundamental freedoms to those who menstruate inequality with those who do not, an intensive effort would have been made to implement the pertinent human rights stipulated under the Constitution of the country and international and regional instruments adopted by the country

The thesis examined the practice of Kenya and Scotland with a view to drawing good lessons and experiences to address the problem relating to the practice of MHM in Ethiopia. The lessons altogether feed that the Ethiopian government should show commitment to fulfill its obligations, in such a way that prioritizes the menstrual needs of women and enable legal and policy intervention to ensure investment on women's health to enable women to manage their menstruation in privacy, with dignity and in safety. Most essentially, the experience from the two countries shows that it is very crucial to note that menstruation is not a standalone issue and needs to be integrated in law and policies, and shared responsibilities needs to be addressed among sectors.

Overall, it is crucial to underscore that the Ethiopian government has not fully met its obligations to ensure accessibility and affordability of menstrual hygiene facilities for women in Ethiopia. This study strongly asserts that menstruation needs to be recognized as pure physiobiological process and calls the state to work towards fulfilling its obligations relating to MHM. Above all,

it is the researcher's conviction that a win for proper menstrual health of women, is a win for the country overall.

4.2. Recommendations

It is concluded in this study that government should fulfill its obligations relating to MHM by taking appropriate measures. To this effect, the following recommendations are forwarded as are found to be worthy out of this comparative study: The following recommendations are forwarded as are found to be worthy out of this study:

1. Explicit legal recognition of the right to sexual and reproductive health which facilitates implementation on the issue of sexual and reproductive health as it asserts the essence and urgency of the issue.
2. The Government of Ethiopia and more particularly the Ministry of Health, the Ministry of Education and other concerned stakeholders should promote the menstrual aspect of women's right by fully incorporating MHM into education curricula thereby addressing the multifaceted health impact of menstruation upon women and the pervasive school dropouts of girls due to menstrual taboos.
3. The Relevant ministries should engage concerned actors, initiate and take an immediate step towards adopting enabling legislative and policy measures that enables effective MHM for all relating to MHM in such a way:
 - Considerate of the biological as well as socio-cultural constructed reality and multifaceted problems women face.
 - Inclusive of the needs of vulnerable groups such as women with disabilities, women IDPs and refugees and women in prisons.
 - Understand menstruating women in different parts of the society with varying living conditions who experience menstruation differently such as women in rural area, working women, women in school, women in prison and homeless women.
 - Adopt a holistic approach to MHM from the standpoint of human rights (Human rights-based approach)
 - Ensure coordination and collaboration of state and non-state actors.
 - Engage different levels of the community for sustainable change.

4. The Government should allocate its resources and invest more for implementing MHM-related activities, including providing education, adequate facilities including water, women friendly sanitation infrastructures and products necessary such as medicine to help with menstrual cramps.
5. Finally, but most importantly, as a bare minimum, the Government should include period products as a 'necessity under the existing tax proclamation and keep its promises to eliminate the heavy tax on imported pads and local manufacturing raw materials, by making it implementable.

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