

## ABSTRACT

Title of Thesis: MENSTRUAL EQUITY INN PRISONS

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Menstrual equity is the concept that all females have a right to menstrual hygiene products on demand and at no cost (Menstrual Equity for All Act, 2019). While many agree that women are entitled to products, 63% of all women in the United States (US) do not have proper access. A large portion of underserved women are currently incarcerated (Unequal Price of Periods, n.d.). There are roughly 231,000 women incarcerated in jails and prisons in the US, and most of them suffer from a lack of products (Kajstura, 2019). Inmates only receive 7-12 products per cycle, which is not enough to last an average woman during her period (University of the District of Columbia David A. Clarke School of Law, 2018). Menstrual equity is a relatively new concept, first defined and publicly acknowledged by the United Nations in 2011, and then again by the US government in 2017. However, while it is an issue that has been addressed by the government, the legislation enacted is only applicable in federal prisons. States have slowly been passing their own legislation. There are currently 12 states that have passed legislation and 4 to fully enact it. In this paper, I define menstrual equity and discuss the harmful effects and negative impacts on

women. Additionally, I examine accounts of current and former inmates, as well as legislation that has been passed or enacted in the past 10 years. I then propose a qualitative study in two state prisons, one in Maryland and one in New Jersey, in an effort to see if the legislation passed has made an impact on the quality of life of female inmates.

Keywords

Menstrual equity; menstruation; period; menstrual products; female inmates; incarcerated females; prison; legislation; access; gender equity

MENSTRAUL EQUITY IN PRISONS

by

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## Chapter 1: Introduction

Article 25 of the Declaration of Human Rights states that “Everyone has the right to a standard of living adequate for the health and well-being of [themselves] and [their] family, including food, clothing, housing and medical care” (Universal Declaration of Human Rights). Health care is an essential component of an adequate standard of living. For women who menstruate once a month, access to hygiene products is an essential component of health care. This human right is universally granted as defined in the Menstrual Equity for All Act, which defines the right to products as the right of all individuals, including female inmates and detainees, to “have access to menstrual hygiene products on demand and at no cost” (Menstrual Equity for All Act, 2019).

While women are entitled to products as defined by legislation, a majority of the incarcerated population does not have access. Nearly 63% of women do not have access to basic resources in order to manage their period (Unequal Price of Periods, n.d.). According to a study conducted by the University of the District of Columbia David A. Clarke School of Law (2018), the average woman uses 4 tampons per day per cycle, 20 total per cycle. In comparison, inmates receive on average about 7 to 12 “free” pads per month from their prison or jail. They are not allowed to get products from visitors and may have to pay for additional pads and/or tampons themselves, demonstrating that female inmates are being provided insufficient products for a single cycle, and thereby are denied a basic human right.

The lack of sufficient products forces many women to find creative, often unsanitary, solutions to deal with their menstruation. Some use bunched up toilet

paper, some wear multiple products at a time, some make their own tampons out of mattress stuffing (Shaw, 2019). These non-sterile “alternatives” increase the risks of infections and even Toxic Shock Syndrome (TSS), which is a severe bacterial infection caused by the improper use of or unhygienic use of menstrual products with the potential to cause serious health complications, including death (Shaw, 2019; O’Shea Carney, 2020). While TSS affects about 3-6 people per 100,000 per year, the risk is disproportionately high in correctional facilities; 28 percent of female inmates in Missouri reported that they had some type of vaginal infection, including TSS, over the past 6 months, showing that female inmates are more likely to get TSS than other women (Mitchell, 2018; Michaels, 2019).

The extent to which lack of access to resources permeates women’s lives in detention facilities is unknown. The purpose of this study is to highlight and address menstrual inequity in prisons. I begin by reviewing research on the social stigma of menstruation using evidence from current and former inmates. I then review menstrual equity legislation passed at the global, national, and state levels to explore recent developments in menstrual equity legislation generally and more specifically, the provision of feminine products in prison in the past 10 years. Finally, I propose a comparative qualitative study of female inmates in Maryland and New Jersey female correctional facilities. These states are distinguished by whether or not legislation has been passed on the state level. Results from this study will provide insight into whether these legislative changes have been followed, and assay if the changes impact the quality of life of female inmates.





## Chapter 2: Literature Review

### **The Stigma of Menstruation**

A lack of menstrual hygiene products has a negative effect on women's biological health, but it also is detrimental to a female's mental health. When women have a lack of products, they often bleed through their clothes and become humiliated, leading some to decline to see their visiting family members and attorneys during their period (Shaw, 2019). A 2015 study shows that visits from family members have a positive impact on an inmate's well-being (De Claire and Dixon, 2015). Aside from being embarrassed during their cycles, humiliation arises in other ways. In some prisons, women are forced to beg correctional officers for menstrual products (Feldman, 2020). A New York Times article documented findings from interviews with women housed at Rikers Island, stating that "a correction officer threw a bag of tampons into the air and watched as inmates dived to the ground to retrieve them, because they didn't know when they would next be able to get tampons" (Greenberg, 2017). Humiliation also arises from public attitudes of disgust, which then leads to self-objectification. Take the example of a tampon falling out of a woman's purse at work: most women would rush to hide it as they are embarrassed that they had it with them in the first place, even though it is considered a necessity. The embarrassment a woman feels in the workplace when their tampon accidentally falls out of their bag is not even comparable to the embarrassment of having to sit in bloody clothes or fight for tampons with other inmates.

The humiliation and embarrassment these women feel contribute to the formation of menstruation as a social stigma. Goffman, a renowned social

psychologist, splits stigmata into three different categories: “abominations of the body” (for example, deformities), “blemishes of individual character” (for example, criminality), and “tribal” identities or social markers (for example, gender or sexual orientation) (Goffman, 1963: 4; Bobel et. al., 2020: 182). Using menstruation as an example, blood and other bodily fluids are considered to be an abomination of the body. In fact, in “some cultures women are believed to be unclean during their menstrual periods, and they must take a ritual bath to purify themselves” (Bobel et. al., 2020, 182).

Additionally, the menstrual blood itself is viewed as a stain or blemish. The stain on clothes can be seen as a blemish on character, making women seem unclean, but the term “blemish” also refers to the idea of contamination. An advertisement study conducted in the 1990s showed that readers believed menstrual blood taints femininity, further showing that people view menstrual cycles as a negative stain or blemish on a female’s character. (Raftos et. al., 1998; Bobel et. al., 2020).

Lastly, tribal identity in the case of menstruation refers to the identity of “femaleness” since only women and girls menstruate. This idea can be depicted when people treat females differently after they start menstruating. This includes telling girls to act more “grown up” or “ladylike.” Additionally, in some cultures people believe that women are physically and mentally disabled during their cycles which further creates a negative connotation. Aside from women being told that they need to be more ladylike, they are also hypersexualized which leads to them self-objectifying by having a more negative attitude towards menstruation and avoiding intimacy (Lee and Sasser-Coen, 1996; Bobel et. al., 2020).

Stigma not only has ramifications for individual mental health and well-being, but research also shows that stigma is associated with a heightened risk of offending and is a hindrance to desistance from offending. The stigma of blood as a blemish on a person's character causes women to want to isolate themselves in order to avoid embarrassment. When they do this, they are more likely to turn down family visitation. This visitation helps to maintain social ties to family and this social support is important in facilitating the transition back to the community following incarceration. In 2008, a study on inmate visitation and recidivism showed that inmates who had visitors decreased their likelihood of recidivism by 3.8 percent with each visit (Bales and Mears, 2008). While this study was not specifically centered on menstruating females, the idea that visitation reduces recidivism still applies. If women feel stigmatized during menstruation and this stigma leads to reduced visitation, stigma could indirectly impact one's level of social ties with potentially detrimental outcomes following release.

Menstrual stigma is perpetuated indirectly from silence - by avoiding discussions on menstruation, the more taboo it becomes. When people avoid those awkward conversations about menstruation, they make females feel as if they are inferior or as if there is something wrong with them. The idea that menstruation is an abomination, that the blood is a stain on a person's character, or that females must be held to a different standard based on biology may seem outrageous but contributes further to the overarching social stigma that has clouded discussions and policy changes.

## **Menstrual Experiences in Jail and Prison**

There are currently no studies on menstruation in prisons or jails. The only information available is drawn from personal experiences of former inmates or professionals who have worked on cases related to menstrual issues. They told newspapers, journals, and law reviews about how many products inmates receive, the kind of treatment inmates have endured previously, and serious medical conditions that have arisen due to a lack of products. For instance, Chandra Bozelko served more than 6 years in York Correctional Institution in Niantic, Connecticut (Bobel et. al., 2020). Bozelko recounted that at York each cell has 2 inmates who would receive 5 menstrual pads per week to split, which would total about 10 pads per month for each inmate in a single cell. Additionally, the products they received were reportedly of poor quality, not sticking properly to the inmates' undergarments and easily sliding off. Bozelko did not experience this as she had enough money to buy extra from the commissary so she could create a makeshift diaper out of the extra products she was able to purchase, stating that

“80% of inmates are indigent and cannot afford to pay the \$2.63 the maxi pads cost per package of 24, as most earn 75 cents a day and need to buy other necessities like toothpaste (\$1.50, or two days' pay) and deodorant (\$1.93, almost three days' pay). Sometimes I couldn't get the pads because the commissary ran out: they kept them in short supply as it appeared I was the only one buying them.” (Bobel et. al., 2020: 49-50)

Bozelko suggests that a reason for not having enough supplies was not just financial, but a way for the prisons to force inmates to submit, as they would be humiliated for either having stains on their clothes or having to ask the guards for more products.

Humiliation does not just come from having to ask correctional officers for more products or having menstrual blood stains on clothing items, but from objectification of the human body. As mentioned earlier, the stigma surrounding women revolves around their physical experience. People sexualize the female body, perpetuating the belief that “ideal female bodies are sanitized, hygienic, denuded, and deodorized” (Bobel et. al., 2020: 56). Women are constantly judged for their appearance, something Toni-Ann Roberts, psychologist and expert for a class action suit, notes in her menstrual inequity story. Roberts was asked to serve as a psychological expert in a suit against Los Angeles County Jail. The officers were conducting strip searches. First, they would ask the inmates to raise their hand if they were menstruating, calling them out in front of a group of strangers. Those who were menstruating were “required to remove tampons or pads or other menstrual products in the presence of the group, and then wait some period of time—until completion of the visual body cavity inspection portion of the search—before replacing them. According to both inmates and deputies, some of the women were heavily bleeding” (Bobel et. al., 2020: 58). The inmates who were interviewed stated that they “felt less than human” or “like an animal,” further contributing to the disgust they feel towards their body.

Additionally, counsel argued that the officers use of humiliation could be linked to discrimination against female inmates. The American Correctional

Association Code of Conduct states that members cannot discriminate against inmates, show favoritism, and “cannot sexually harass an inmate or engage in sexual activity or a relationship with an inmate” (American Correctional Association, n.d.; Muraskin, 2001). Sexual harassment includes forcing inmates to have sex with them in exchange for products. In 2014, correctional officers at the Tutwiler Prison for Women in Alabama were reported by the Department of Justice to have been forcing women to either have sex with them in order to receive products or walk around without access to products for months at a time (The Unequal Price of Periods, n.d.). This is not the only story to come out, however. The ACLU has also highlighted stories about women being groped and experiencing “other forms of sexual abuse by male staff during pat frisks and searches” (*Words From Prison: Sexual Abuse in Prison*, n.d.).

Dorothy, an inmate at a New York prison detailed her experience with sexual assault. She was reportedly singled out by an officer “asking for sexual favors in exchange for providing her with food or her normal share of personal hygiene products” (*Words From Prison: Sexual Abuse in Prison*, n.d.). Dorothy did not think much of the threat until some of her meals were being withheld from her; she was then locked in the laundry room with an officer and raped. The officer told her that she could not come forward because no one would believe her; in fact, Dorothy said that most women are reluctant to report sexual misconduct with officers, especially because upon request they still are denied access to adequate mental health services. Dorothy tried to come forward, but both her official grievance and lawsuit were unlawfully dismissed.

The success rate for inmate plaintiff lawsuits is under 15 percent (Schlanger 2003). Most inmates are unsuccessful due to the Prison Litigation Reform Act (PLRA) which restricts inmates' access to federal court. Regardless of the PLRA, the Department of Justice reported 351 allegations of sexual abuse between 2000 and 2004. Additionally, in 2011 there were 6660 allegations of sexual victimizations in U.S. prisons (Rantala, Rexcoat, and Beck, 2014). In a recent blog noting the sexual abuse of prisoners, Oh (2020), a malpractice attorney, stated that inmates underreport sexual abuse as they are often pressured into obeying since the guards can deprive them of essentials such as tampons or even write up fake disciplinary reports to keep them from seeing their families. Women thus feel as if they have to comply with the officers because they do not want to be forced into staying longer than what is necessary. When officers force inmates into sexual relations not only are they violating the ACA Code of Ethics, but they are violating inmates of their Eighth Amendment rights to not be subject to cruel or unusual punishments.

Kimberly Haven, a former inmate at the Maryland Correctional Institution for Women, was also subject to an abuse of power at the hands of her correctional officers. Haven was unable to get the products she needed when she was serving her 15-month sentence. After she was released, Haven spoke out about having to make her own products out of toilet paper. As a result, she got TSS and was rushed to the hospital to get an emergency hysterectomy (Witte, 2018; O'Shea Carney, 2020). In California, thousands of women were either forcibly sterilized or told they had cervical cancer and needed a hysterectomy so the prisons would not have to pay for more products (Naftulin, 2020; Chappell, 2013). All of these experiences detail how



inmates have felt as if they were deprived of their rights or how they were humiliated. Regardless of the actions that led to women being incarcerated, these women still have certain legal rights that should not be violated.

### **Legislation**

Recent legislative efforts underscore the argument that feminine products are a necessity and right for incarcerated populations. The following section details what legislation has been passed on the global, national/federal, and state level regarding feminine products.

#### *Global Legislation*

The United Nations (UN) is a global organization that creates guidelines and standards of treatment that member countries agree to abide by, one of which is about the standards of treatments for prisoners. In 2011, the General Assembly implemented new international standards, otherwise known as the Bangkok Rules, for female inmates, addressing the “special needs of women” that were not previously acknowledged (Shaw, 2019). The Bangkok Rules are made up of 70 different rules, and 13 of them specifically address hygiene and health care; many of those rules include guidance on healthcare practices as well as legal and family advice. The most pressing rule in regard to hygiene is Rule 5, which specifically states that “The accommodation of women prisoners shall have facilities and materials required to meet women’s specific hygiene needs, including sanitary towels provided free of charge...” (*Bangkok Rules*, 2011:13). This is one of many rules that has been agreed to by all members of the General Assembly, including the United States (US). However, since the Bangkok Rules are a set of international laws agreed to by several

countries, the UN cannot strictly enforce these rules as “no government or international organization enforces international law” (*International Law*, n.d.; Kirgis, 1996; *Uphold International Law*, n.d.). The only way the Bangkok Rules could be enforced would be if the UN Security Council passed measures authorizing enforcement, but no measures have been taken in the ten years since the rules’ creation.

### *US Legislation*

While the US has signed and agreed to the global legislation passed, they do not have to obey and enforce it in their own country. The US has a set of their own laws passed since its creation to the present day, dictating protections that people currently have, including constitutional rights and the right to products.

### Constitutional Violations

The Constitution grants everyone certain protections. The 4<sup>th</sup> Amendment states that no person is subject to unlawful searches and seizures and the 8<sup>th</sup> Amendment provides that no person should experience cruel or unusual punishment (US Const. amend. IV, US Const. amend. VIII). In the case of Los Angeles County Jail, the class action lawsuit argue that deputies were violating both the inmates’ 4<sup>th</sup> and 8<sup>th</sup> Amendment rights by requiring them to have strip searches conducted by males and forced to remove their tampons in front of all other inmates, remaining without new products until all strip searches were complete (Bobel et. al., 2020). Other examples of 8<sup>th</sup> Amendment violations that happen to female inmates are shackling them when they are giving birth or tossing feminine products into the air and making all the inmates fight for them. The tossing of products is also a 14<sup>th</sup>

Amendment violation. Section 1 of the 14<sup>th</sup> Amendment provides that everyone is equal under law and is entitled to equal protection (US Const. amend. XIV). In the case of menstrual equity, women should not be subject to poorer hygiene than men in prison simply because of their physiology. By withholding feminine products, which are considered to be a bare necessity to female prisoners, jails and prisons are not upholding the Constitution.

### The Right to Products

In 2017, the US legislators realized that it is up to them to provide products for female inmates as many cannot afford them. The first piece of legislation passed was the 2017 Bureau of Prisons Memorandum that stated that “Wardens will ensure inmates are provided the following products (at no cost to the inmates): Tampons, regular, and super-size; Maxi pads with wings, regular and super-size; and Panty liners, regulars” (Provision of Feminine Hygiene Products, 2017, 1-2). Following that memorandum was the Menstrual Equity for All Act, the First Steps Act, and the Dignity for Incarcerated Women Act, each stating that *all* incarcerated individuals have a right to menstrual hygiene products and that each correctional facility must provide as many as necessary to meet the healthcare needs of each inmate.

Additionally, each act stated that these provisions must be implemented within a year (Menstrual Equity for All Act, 2019; The First Step Act, 2018; The Dignity for Incarcerated Women Act, 2018).

Congresswoman Grace Meng, a house representative from New York, is the person who introduced the Menstrual Equity for All Act back in 2017, pointing out that feminine products are not a luxury item but a healthcare item and a necessity

(Mackinnon, 2019). Recently, Meng introduced the Good Samaritan Menstrual Products Act to Congress, allowing products to be donated to and distributed by nonprofit organizations (Congresswoman Grace Meng, 2020). However, all acts only cover federal prisons, not state prisons, and must be reintroduced and repassed yearly (Weiss-Wolf, 2021).

### The Tampon Tax

The “tampon tax” is a highly controversial issue, and something that advocates are looking for policymakers to rectify through legislation. Feminine products are currently viewed as a luxury item, not a necessity for feminine hygiene. If toilet paper in schools were not provided free of charge, parents would be protesting that toilet paper is a necessity and must be provided because everyone uses it. By only taxing feminine products, it becomes a form of gender discrimination and encourages society to ignore the importance of proper menstrual hygiene (Mackinnon, 2019; Ooi, 2018; Period Equity Issues, n.d.). As of 2015, only Alaska, Delaware, Montana, New Hampshire, and Oregon had passed legislation that exempt the tax on menstrual products (Bobel et. al., 2020). As of 2019, 13 more states, including Maryland, New Jersey, and New York, passed similar legislation; however, 33 states still tax feminine products (Epstein, 2019; Weiss-Wolf, 2021; Period Equity Issues, n.d.).

The tax is just one example of the problem of lack of access. In order to be an advocate for and provide menstrual equity to everyone, access needs to be available to all populations - whether they are homeless, have a low income, or are in prison. “In 2016, the New York City Council became the first jurisdiction to unanimously

pass” legislation that provides free access to thousands of students and is furthering that legislation by working with shelters to provide products for them as well (Bobel et. al., 2020, 544). The idea of abandoning the tampon tax impacts female inmates as well as the right to products should not be any different as many state governments have contended that products are to be considered a necessity.

### *State Legislation*

Legislative efforts at the Global and National levels are also observed at more local levels with various states enacting legislation aimed at menstrual equity. Certain states have recently passed legislation and others have proposed legislation. There are a total of 12 states that have passed legislation changing policy to provide free menstrual products to female inmates: Alabama, Arizona, Colorado, Connecticut, Georgia, Hawaii, Kentucky, Maryland, New York, Virginia, West Virginia, and Wisconsin. Of these 12 states, 4 of them have actually enacted the legislation into laws: Colorado, Kentucky, Maryland, and Virginia (University of the District of Columbia David A. Clarke School of Law Legislation Clinic, 2018). These states passed legislation because they did not want to bar female inmates from receiving something that is a necessity to their health. In the following section, state legislation and actions will be examined on a broad level, with one of the 12 states that has passed legislation and one of the 38 states that has not.

### Maryland

Maryland is one of twelve states that has passed legislation changing the policy in prison, and 1 of 4 states to actually enact said legislation (University of the District of Columbia David A. Clarke School of Law Legislation Clinic, 2018).

Maryland enacted legislation in 2018, stating that women are able to get products at an undefined rate at no cost to them as they are entitled to proper health and safety conditions (HB 787, 2018; MD Code Corr Servs 4-214, 2020). Although Governor Hogan enacted the legislation in 2018, there have been several reports that women at the Maryland Correctional Institution for Women are still having to pay for products (Marimow, 2019; Rodriguez, 2019).

### New Jersey

The second state chosen to examine is New Jersey as they are one of 38 that has not enacted legislation. In 2018, New Jersey made its first steps towards passing legislation, with the state legislator introducing a bill that would require correctional facilities to meet industry standards and provide products for female inmates (A. 3979, 2018). Senator Cory Booker has been leading the charge to change state policy; however, he is still facing opposition from many due to the additional costs it would take up (Sullivan, 2018; O’Dea, 2019). New Jersey was close to passing the bill, as it went before the assembly again in 2019. While the updated code says that there is supposed to be feminine products in inmate sanitary kits, there is conflicting evidence that legislative changes have actually been passed and enacted, alluding to the fact that they have not officially changed or passed anything (A. 6041, 2019; N.J. Admin. Code § 10A:14-2.1, 2021).

## Chapter 3: Proposed Research

This study is designed to assess if state-level legislative changes have impacted access to hygiene products and the quality of life of female inmates. The proposed study seeks to further investigate feminine hygiene in prisons, addressing what is and is not being done regarding providing resources during an inmates' menstrual cycle. In order to see if legislative changes have impacted access to hygiene products, two states were chosen to study: one having enacted state legislation and one state not passing nor enacting legislation.

## Chapter 4: Methods

### Sample Selection

Maryland enacted legislation in 2018, stating that women are able to get products at an undefined rate at no cost to them (HB 787, 2018; MD Code Corr Servs 4-214, 2020). The Maryland Correctional Institution for Women serves as the largest prison for adult women in the state of Maryland (“Maryland Correctional Institution for Women Visiting Hours, Inmate Phones, Mail,” n.d.; “Maryland Correctional Institution for Women, n.d.). In comparison, New Jersey has not enacted legislation. Aside from being the largest female prison in New Jersey, the Edna Mahan Correctional Facility for Women has a long history of sexual assault between guards and inmates, one report specifically stating that the inmates are “forced to have sex in exchange for toilet paper” (Deak, 2020; O’Dea, 2018; Sullivan, 2018; Condon, 2020; Heyboer and Livio, 2020). Sexual assault is an important issue because no one, regardless of gender, should be forced into having relations with another. Additionally, rape and other forms of sexual assault are linked to long-term health and psychological problems for the victims (Office for Victims of Crimes, n.d.). While the focus of the study is on menstrual products and not sexual assault, it is something that appears to affect the overarching issue of menstrual inequity in prisons and thus is important to address.

By choosing facilities in Maryland and New Jersey, I can study institutions to see if legislation has made an impact on the inmates’ quality of life. The Maryland Correctional Institution for Women houses about 900 inmates at all levels, with an average sentence length of 10 years. (“Maryland Correctional Institution for Women



Visiting Hours, Inmate Phones, Mail,” n.d.; “Maryland Correctional Institution for Women, n.d.). Maryland does not have specific statistics available on the individual demographics in this facility and historically does not share that information.

According to Maryland statewide incarceration trends, most of the state prison population is comprised of Black offenders at 69%, White offenders at 25%, Latinx offenders at 4%, and Asian offenders at less than 1% of the overall prison population between the ages of 18 to 65 (“Incarceration Trends in Maryland,” 2019).

The Edna Mahan Correctional Facility for Women in New Jersey houses about 1000 women ages 16 years or older (65 and over) with an average sentence length of 5 years. Of those, 42% of inmates are 25 to 36 years old, with a median age of 36 years. Lastly, 45.5% of the population at Edna Mahan are comprised of Black offenders, followed by white offenders at 41%, Hispanic offenders at 11%, and Asian offenders at 1% of the population (Deak, 2020; O’Dea, 2018; Lanigan, 2017).

Both facilities chosen are prisons which house individuals for longer periods of time compared to jails which typically have a more transient population. By selecting participants who have been incarcerated for a longer period of time, the information gleaned will be more useful to this study as the inmates know more about the policies and procedures of their correctional facility. All inmates will be chosen through snowball sampling. This is the preferred method to get interviewees as inmates will refer other inmates, increasing the number of respondents who are willing to be interviewed (Small, 2009).

Prior to conducting the interviews and generating a sample, I will speak with both prison wardens, getting permission to speak with 30 inmates at each facility. For

the purpose of getting the most information out of my sample, the inmates interviewed will have had to spend at least 1 year in their respective facility to ensure that they know enough information about the prison itself as well as policies and procedures regarding menstrual products. Additionally, the inmates will be between ages 18 to 50. This age range was chosen because inmates in the different correctional institutions are as young as 16 years old and will be able to give their own consent once they turn 18. Additionally, while most inmates are in their 30's, the sample should still be inclusive to include anyone who is still menstruating. Menstruation typically ends around age 50, which is when menopause begins. However, some women start menopause in their 40s due to either low body fat or other health conditions, so being a menstruating female is a requirement ("Menopause," n.d.).

These qualitative interviews will be conducted one-on-one in the facility. Instead of doing a complete ethnographic study, the interviewees will only be observed during the questioning period and not in their regular environment. My hope is that I will be able to record the interview so it turns more into a conversation, having the inmates be as open and vulnerable as they can be. Taking notes can create barriers between the interviewer and interviewee and prevent the interview from flowing as a real conversation; by recording the interviews, it will allow me to have a more meaningful and real conversation with the interviewees. Recording can pose as an impediment as one or both of the facilities might not allow it, but there have been some prisons that have allowed researchers to carry official prison identification badges and bring whatever equipment necessary as long as it was on their approved

list, including tape recorders (Owen, 1998). However, if the facility does not allow any type of recording device, then handwritten notes will be taken.

### **Potential Questions**

The interviews will be semi-structured, with each inmate being asked a series of open-ended questions. While I have come up with a list of questions, not all will be asked as the list just serves as a guideline or roadmap for each conversation (Appendix). I will begin the interviews with more general questions that will give background information on each inmate, including questions asking about their sentencing such as what crime they were incarcerated for and how long they have been in their prison for.

Continuing with background questions, I will then ask questions regarding religious identity. Some research has shown that religion plays a large part in menstruation, whether it is how they view it in general or if religious groups are in charge of distributing feminine products to other inmates (Goffman, 1963, 4; Bobel et. al., 2020, 182). In Judaism, the Halakha, which is still observed by US Orthodox Jews today, expressly forbids any contact between men and women both during a woman's period as well as the following week, trying to ensure the purity of both parties. In early Christianity, Catholics believed that menstruating women were dangerous and should not be in positions of power; additionally, women were not allowed to attend church or even touch food during their periods. Lastly, in Muslim cultures women are not allowed to enter a mosque or touch the Qur'an during this period; they must complete a "ritual washing" in order to cleanse themselves

(Guterman et. al., 2007). While most of these thoughts are considered to be older, they could potentially have an effect on the inmates thought process.

After asking initial background questions, I will inquire about what the inmates know about state policies and the right that they may or may not have to products. After the inmates say whether or not they have knowledge of a right to products, I will then move on to questions about how and when the interviewees receive products, how many they receive, how often they receive them, and who the inmates receive it from: is it a correctional officer or is it another inmate who is placed in charge of distribution? I will additionally ask other questions including how many products they use per cycle and then transition to questions about correctional officers and attitudes surrounding menstruation.

Menstruation is a taboo subject, so it is important to know and ask about the attitudes surrounding it. Prior research and news reports reviewed above have revealed that some correctional officers take advantage of their position of power, whether they are throwing tampons in the air for entertainment or coercing women into having sex in exchange for products. It is not the intention of this study to go in biased and accusing officers of misconduct, but to learn about the attitudes, culture and behaviors that surround menstruation at either correctional facility. Some of these questions are about the guards' reactions, being assaulted (there will be some questions leading up to that as to not trigger the inmates), and if the inmates have ever purposely turned down visitations due to blood stains on their clothes.

The information obtained in the interview will let me know how their quality of life has been impacted. Quality of life is a broad statement, but in terms of this

study it means the inmates comfort level, whether it is comfort in the prison itself or if inmates feel comfortable around corrections officers or threatened by their presence. Quality of life can mean the quality of the inmate's period, which we can obtain information on this by asking about the quality of products received, if the inmates have ever had stains on their clothes and if the inmates turned down any visitations due to the stains. Lastly, quality of life can be measured by the inmates mental or physical health, which we can obtain answers by asking about access to mental health resources, if the inmates have been mentally, sexually, or physically abused by the corrections officers, and about the prevalence of urinary tract infections or TSS.

### **Analytic Strategy**

This research proposal is seeking to understand if legislation that has been passed has made an impact on the quality of life of female inmates in regard to menstrual equity. The two main variables of this research question are legislation, which is the independent variable, and quality of life, which is the dependent variable. The proposal presented is to interview a sample of 60 total inmates, 30 from a correctional facility in Maryland and 30 from a correctional facility in New Jersey and see if quality of life differs in each state. When it comes time to operationalize the study, the independent variable being looked at will be if the inmates are receiving menstrual products and the dependent variable will be quality of life. Since menstrual equity has never been studied on a platform such as this, the general term "quality of life" is better to use as it encompasses the quality of an inmate's period, comfort level, and health and well-being. Additionally, the moderating variable used

in the study will be state legislation, as that could be the factor that causes differences in the menstrual experiences of inmates. The major themes to look for in the interviews are abuse and/or assault, inmate mistreatment, lack of products, and seeing if there is a stigmatized culture surrounding menstruation. When analyzing for these themes, inductive logic will be used as the interviewer will be observing how the inmates might react to each question both vocally and physically.

## Chapter 5: Discussion and Conclusion

### Discussion

I chose this topic and built my proposed study in order to normalize academic discussions surrounding periods and fill the gap in research regarding menstruating inmates. While most people would agree that men and women should be treated equally, there are biological factors at play that require the criminal justice system to treat women with a different standard of care than they do men, which includes providing products free of charge to those in the system. The idea of providing female inmates with products was first addressed by the UN in 2011 and then acknowledged by Congress in 2017 to address what changes need to be made on the federal level (*Bangkok Rules*, 2011; *Menstrual Equity for All Act*, 2019). Additionally, only 12 states have passed legislation with only 4 states fully enacting it. While legislation has been passed, it is unknown if it is enough to provide for the needs of female inmates (University of the District of Columbia David A. Clarke School of Law, 2018).

### *Implications*

There are several implications of this proposal, the first and main one concerning legislation. The proposed study will provide insight to whether women's experiences in correctional facilities differ based on their access to menstrual resources. Because Maryland has passed and enacted menstrual access legislation, it is expected that women at the Maryland Correctional Institution will have more positive accounts than their counterparts serving time in New Jersey's system that has not passed similar legislation. Differences in experiences mean that Maryland's legislation is working and being enforced. If we are able to see that the legislation is

working, it will show researchers and legislators that legislation should be enacted in all states. If there is no difference between the inmate accounts, that means that current legislative efforts are either not enough to help inmates get the products they need or are just not being enforced. If they are simply not being enforced, that means that there needs to be someone governing correctional institutions and making sure that current state legislation is being enforced.

Another implication to consider is the embarrassment of inmates. Menstruation is a taboo subject, both inside and outside of prison walls. Research has shown that many inmates are forced to go without products either because they do not receive enough or what they do receive is of poor quality (Bobel et. al., 2020). When this happens, many inmates bleed through their clothes which leads to embarrassment. Inmates are more likely to turn down visitations from families or attorneys when they are on their periods as they do not want those people to see them bloody and stained. When inmates do turn down visitors, they are then more likely to recidivate as their bonds to the outside world are being weakened (Shaw, 2019; Bales and Mears, 2008). A main goal of the criminal justice system is to lower the recidivism rate, and by not providing inmates with menstrual products, the criminal justice system is thus contributing to rising recidivism rates. This research could help inform this discussion by observing women's feelings and whether their experiences with shame and embarrassment differ across contexts.

The last implication is about the treatment of inmates by correctional officers. The American Correctional Association Code of Conduct (n.d.) is explicit in stating that officers "cannot sexually harass an inmate or engage in sexual activity."



Unfortunately, there have been some news reports that inmates are forced to have sex with their correctional officers in exchange for products (Words from Prison: Sexual Abuse in Prison, n.d.; Deak, 2020; O’Dea, 2018; Sullivan, 2018; Condon, 2020; Heyboer and Livio, 2020). This is a clear violation of the code of conduct and if this is happening, that means officers are abusing their power and need to be held accountable as no one is above the law. Unfortunately, the Prison Litigation Reform Act (1996) makes it nearly impossible for inmates to pursue legal action against prisons and prison officials, further making inmates feel unseen and unheard. If sexual assault is happening, measures need to be made to not only hold officers accountable, but to get inmates the help and closure they might need after being assaulted by their superiors.

### *Limitations*

The main limitation is that menstrual equity is a topic that has not been researched much, especially in the criminal justice field. The only information that is available is that given by news reports and a few public court cases. While this is not necessarily an implication on the proposed study as a whole, it is a limitation on what is known going into it. Additionally, while some legislation has been passed, information about its effectiveness is unknown to the public. Another limitation is that these facilities are not extremely diverse, with both institutions mainly having Black or White offenders; this means that the sample would not be entirely representative. One more limitation is that the correctional institutions would not grant me access to their facilities and inmates as this study could make them look bad.

If they do not grant me permission to interview these inmates, I would then overcome this by interviewing former inmates of both facilities.

### **Conclusion**

The proposed study aims to examine if legislative efforts are enough to mend gendered problems in the criminal justice system. If this proposed study shows that legislation has improved the quality of life (health and happiness) of inmates, then it shows that legislative efforts need to be more widespread and that every state should adopt and/or create their own legislation to provide every inmate with products. If this proposed study does not show a difference between either prison, then more research needs to be conducted on how the criminal justice system can meet the needs of female inmates. However, based on preliminary research, state prisons have not been providing women with adequate resources, including the states that have passed legislation. Menstrual products should be considered a necessity, not a luxury product that only some can afford.

Previous research in criminology has not highlighted the different needs of inmates. This proposed study will only scratch the surface of what needs to be addressed. Today, there are many people in the prison system that have different needs than others, such as transgendered individuals who need hormone supplements or female inmates who need birth control or medication for other medical reasons such as reducing risks of uterine cancer or anemia, regulating menstrual cycles, or even making periods less painful (Earnst, 2018). Feminine issues have been addressed in TV shows like *Orange is the New Black*, but that can only grab so much attention (Friedman and Kohan, 2013; Heder, 2013). It is imperative that we fill the

gap by conducting research and open the door to further research on the needs of all inmates, including products, medications, and treatments.

## Appendix: Sample Questions

### **Background Questions**

- How long have you been incarcerated for?
- What did you get sentenced for?
- How long is your sentence?
- What is your religious identity?
- How does your religion view menstruation?

### **Access to Products**

- Do you have any knowledge about how many menstrual products you should be receiving, if any, based on your state's prison mandates?
- Do you have knowledge about your rights to products?
- Do you receive products at the start of your sentence? If so, how many?
- About how many products do you receive per month?
- About how many products do you use on average per day and per cycle?
- If you receive products, who is the person in charge of distribution?
- Do you have to pay for products? If you do, are you able to afford them?
- Do you use the menstrual products provided for anything other than your period?
- Do inmates share products?
- Do the correctional officers help you obtain products?
- Do you need to ask correctional officers for (more) products?

### **Culture Surrounding Menstruation**

- What is the culture surrounding menstruation here at [Maryland Correctional Institute for Women/Edna Mahan Correctional Facility for Women]?
- Is the culture surrounding menstruation different than that outside of prison?
- Are you and other inmates open to speaking about your menstrual cycles? If yes, what types of conversations do you have with other inmates regarding your menstrual cycles?
- What is the culture surrounding your menstrual cycle in the restrooms?
- Have you ever said no to receiving visitors when you are on your cycle?
- How do guards react when inmates are on their period?

### **Assault/Abuse**

- Has/have a correctional officer or officers made fun of you while you are on your period?
- Have you ever been threatened by an officer?
- Have you ever been pushed (unlawfully) by an officer?
- Have you ever been touched inappropriately in this facility?
- Have you ever been intimate in this facility?
- Have you ever been assaulted or abused by an officer (physically, sexually, emotionally)?
- If yes, what happened after the assault?

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