PERIODS, POVERTY, AND THE NEED FOR POLICY:
A Report on Menstrual Inequity in the United States

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BRAWS: Bringing Resources to Aid Women’s Shelters (BRAWS) is a volunteer-driven nonprofit organization founded in Vienna, Virginia in 2015. Its mission is to empower and bring dignity to women and girls by providing undergarments and menstrual supplies to low-income and homeless communities. For more information about BRAWS, including information about how to donate to and support BRAWS, please visit www.braws.org.

The Legislation Clinic at the University of the District of Columbia David A. Clarke School of Law (UDC Law) authored this report on behalf of BRAWS. The Legislation Clinic represents nonprofit organizations on systemic reform, statutory interpretation, and policy projects that advance the public interest and work to lift vulnerable populations out of poverty by improving gender equity, workplace equality, and access to other civil rights. Student attorneys Tonjanique Evans, Whitney Smith, and Demetria Themistocles prepared this report in the fall of 2017 and spring of 2018. Professors Monica Bhattacharya, Marcy Karin, and Laurie Morin supervised their work. For more information about the Clinic, please visit www.law.udc.edu/page/LegislationClinic. For questions about this report or the Congressional Briefing, contact Prof. Karin at marcy.karin@udc.edu.
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Voices of Women and Girls on Menstruation, Dignity, and the Issue of Access¹

Girls and women of menstruating age are suffering in silence. They are denied access to menstrual products and made to believe they should be ashamed of their periods. They are forgotten in their time of need, left to use unsanitary measures to manage their menstruation or simply go without protection.

Take, for instance, a girl at the age of twelve or thirteen who gets her period for the first time in school. Embarrassed, she requests permission to leave her classroom. When the teacher asks why, she is forced to reveal the reason in front of the class. The teacher admonishes her not to say those words out loud in school; they might make boys uncomfortable. As she grows up, this young lady equates her menstrual cycle with secrecy and shame.

Now consider a woman in her mid-twenties who is forced to leave her home due to safety concerns. She flees to a shelter with her daughters. She fights every day to put food in her children’s bellies and to keep them safe.

While trying to maintain a stable lifestyle for her family, the woman goes without menstrual products. There just is not enough money to purchase them, and the shelter ran out of donations from the community. Without these products, she is limited in her ability to leave the shelter. She may bleed through her clothes, affecting her self-confidence and embarrassing her as she tries to find a new job.

Think about a woman in her thirties who is sentenced to five years in a federal prison. A month into her sentence, she has her period and bleeds through her only set of clothes. The single thin pad she was allotted does not offer enough protection and she is unable to afford the items sold in the Commissary. She asks the Correctional Officer for menstrual products but does not receive them until the next day, after the Correctional Officers change shifts.

“We’re not talking about rocket ships; we’re talking about sanitary pads. Yet they both have the same effect. They take you places.”

– Diana Sierra, Founder, BeGirl²

¹ BeGirl
² BeGirl
Every day, women are forced to deal with inadequate access to menstrual products, often while already handling difficult circumstances. Girls risk staining their clothes and facing public ridicule when their period arrives unexpectedly during school. Some low-income women forgo food and sell their Supplemental Nutrition Assistance Program (SNAP) benefits for cash to purchase menstrual products. Women in prison are humiliated by being forced to ask male guards for products. While no person should have to choose between their health and their education, economic security, or sense of dignity, women and girls across the country are forced to make such challenging decisions on a regular basis.

On average, a woman or girl menstruates once a month, usually beginning around the age of ten to fifteen until she reaches menopause. Menstruation is a natural bodily function, yet it remains stigmatized and unsupported by policy. Public discourse about a woman's period and its effects on her daily life has been largely non-existent for decades, even though hundreds of millions of women are experiencing their periods on any given day. Jennifer Weiss-Wolf, a pioneer and voice for equitable menstrual policy, acknowledged this disconnect when she coined the term “menstrual equity.” This term refers to the belief that all menstruating individuals, regardless of their circumstances, should have adequate and appropriate access to menstrual products so that they can navigate life in the same way a non-menstruating individual would.

Only in the last few years has the menstrual equity movement really taken root. Advocates and lawmakers have spearheaded initiatives across the country to distribute menstrual products, to remove the “tampon tax,” a tax some states impose on the purchase of menstrual products, and to make these products free in schools, shelters, workplaces, and correctional facilities.
The Role of BRAWS in Ensuring Menstrual Equity

BRAWS: Bringing Resources to Aid Women’s Shelters (BRAWS) was founded by Executive Director Holly Seibold in Vienna, Virginia to help low-income and homeless women and girls. Since its creation in 2015, BRAWS has donated disposable menstrual products as well as new undergarments with tags on to over forty-five shelters in the D.C. metropolitan area, in response to the overwhelming need. BRAWS recognizes that menstrual equity is directly linked to women’s and girls’ feelings of self-esteem and liberation. Accordingly, it has dedicated its efforts to not only providing needed supplies but also to raising awareness on the local, state, and federal levels about the overall issue of insufficient access to menstrual products.

As a part of its commitment to helping women and girls attain independence and stability, BRAWS serves various populations of women, ranging from girls in schools to women and girls in shelters to formerly incarcerated women. The organization began its work by hosting distributions in local homeless shelters. Although varying circumstances have led women and girls to seek shelter – whether it be domestic violence, financial hardship, or otherwise – they are all united by a lack of access to menstrual products. BRAWS works hard in the community to illustrate that regardless of income or background, all women and girls have a right to the supplies they need. To ensure that girls in schools have equitable access, for instance, BRAWS serves at least ten different school districts and provides menstrual products for almost 400 girls through funding from the Cloudbreak Foundation, Robert I Schattner Foundation, KMZ Foundation, Bresler Foundation, and other donors. Each girl receives a box of pads.
and tampons, once a month, based on their individual needs. If necessary, the girls are fitted for bras and provided with underwear as well. In addition, BRAWS has partnered with Manassas Park City Schools (MPCS) to provide

“Our mission [is to] bring dignity and empowerment to women and girls living in shelters by providing new, personally fitted undergarments & menstrual supplies.”

– BRAWS: Bringing Resources to Aid Women’s Shelters

Inspired by the clients at Friends of Guest House, BRAWS has been a voice for change, pushing for menstrual products to be provided free of charge to inmates and detainees.

While BRAWS’ commitment to increasing access to affordable menstrual products has proven to be effective in aiding women and girls in the D.C. Metropolitan area, it has yet to achieve one of its ultimate goals: implementation of a comprehensive public policy that would render its services unnecessary in the communities it, and organizations like it, serve locally and nationally. What hinders BRAWS in fulfilling this objective are the cultural realities surrounding the issue of equitable access to affordable menstrual products. The taboo nature of periods and menstrual products, combined with society’s desire to liken menstrual products to extravagant items rather than necessities, has prohibited productive conversations about menstrual equity from occurring in homes, workplaces, and legislatures. Girls in schools, women and girls in shelters, and incarcerated women are shortchanged by the absence of public concern for their health and wellbeing, during their periods and beyond.

To encourage continued discussion around these issues, BRAWS, along with the Legislation Clinic at the University of the District of Columbia David A. Clarke School of Law (UDC Law), held a Congressional Briefing on November 29, 2017. The Briefing, titled
“Voices of Women and Girls on Menstruation, Dignity, and the Issue of Access,” was co-sponsored by Senators Tim Kaine (D-Va.) and Cory Booker (D-N.J.) and Representatives Gerry Connolly (D-Va.-11) and Grace Meng (D-N.Y.-6), who also provided opening remarks. During the Briefing, congressional staffers, community organizations, advocates, and the general public heard a range of perspectives from people directly affected by the issue of adequate and appropriate access to menstrual products. Panelists included girls in schools, women and girls in shelters, and formerly incarcerated women, as well as the teachers and service providers who work directly with them. The goal of the Briefing was to demonstrate the need for federal policy that responds to these collective experiences and increases access to menstrual products.

This report aims to highlight and contextualize the stories shared at the Congressional Briefing by providing a synopsis of what menstrual inequity looks like for women and girls across the country. First, the report describes the importance of access to menstrual products in schools for girls’ attendance, productivity, and sense of self. Second, it outlines the impact of a lack of access on women and girls in shelters. When they do not have adequate menstrual supplies, their dignity and ability to participate more fully in society are compromised. Third, it explains how critical the need is for incarcerated women, who have little control over when or if they receive products, leaving them humiliated and facing significant health risks. Each section follows with a brief overview of the local, state/district, and federal legislation that has been proposed or passed to improve the experiences of the respective population. A movement is underway to address these issues via thoughtful public policy on the local level, but federal legislation is imperative to comprehensively address menstrual inequity in these settings.
For many young girls, getting their first menstrual cycle can be terrifying. Their bodies are experiencing a lot of new changes, and they might not understand why. Periods can also be unpredictable, arriving inconsistently and varying in duration, causing girls to feel self-conscious. In schools, girls are often encouraged to conceal menstrual products, which can inaccurately shape their perception of menstruation.

Girls may also be taught to keep their menstrual needs a secret, to prevent boys from being uncomfortable. During the Congressional Briefing, twelve-year-old Nicole Hartogs shared the story of her fellow Teen Leadership Council member, relating that girls in her school were told to call tampons and pads “turtles” and “penguins” when requesting them from the teacher. These and other types of social stigmas attached to menstruation have led girls to feel embarrassed and ashamed of a perfectly natural process.

This sense of humiliation is heightened when girls lack access to the menstrual products they need. Because menstrual products are typically not stocked in schools, nor are they required to be, girls who are otherwise unable to secure them may stay home from school. Even if school nurses carry the necessary supplies, Nicole explained during the Briefing that some students might be too “nervous” to ask their teacher to go to the nurse’s office. The issue of access to menstrual supplies is further complicated for transgender and gender nonconforming students. For instance, in the absence of gender-neutral bathrooms, a transgender boy may need but will likely not find tampons or pads in the bathroom appropriate for their gender identity.

Girls may not have access to menstrual products for a variety of reasons, including their family’s inability to afford them and the shame of having to ask for the products. Awareness about the issue is also simply lacking. As Allie Lytle, a senior at a Virginia High School, pointed out during the Briefing, “we have food drives . . . we have clothing drives and fundraisers, but nothing for feminine products, a basic medical necessity.” Regardless of the reason, no girl deserves to go without the necessary menstrual protection she needs. As a part of her Let Girls Learn initiative, Former First Lady Michelle Obama linked menstrual inequity to girls’ productivity in school. Noted global health researcher Dr. Marni Sommer agrees, stating that access to menstrual supplies is a “neglected public health, social, and educational issue that requires prioritization, coordination, and investment.”

The Need for Menstrual Equity for Girls in Schools
Experiences with Menstruation in the United Kingdom

Plan International UK surveyed 1,000 girls and women aged 14-21 in the United Kingdom to understand their attitudes about menstruation and how it impacts their lives.35

- **42%** have used makeshift menstrual supplies during their periods
- **49%** missed at least one day of school due to their period
- **68%** reported their period distracted them from school or work
- **48%** experienced embarrassment during their period
Access to Menstrual Protection Is Essential to the Productivity and Development of Girls in Schools

Globally, menstrual hygiene management is an obstacle for schoolgirls, causing many to be absent from school. There are ample studies that have tied limited access to menstrual products to a decline in school performance for girls in low- to middle-income countries. A study funded by the Department for International Development in the United Kingdom, for instance, found that 95% of the girls surveyed in Ghana missed school during their period out of fear that they would be humiliated or teased. Similarly, in Ethiopia, 51% of girls participating in the study reported missing one to four days per month of school due to menstruation, and 39% of the girls experienced a decline in performance.

A recent study in the United Kingdom makes clear that this phenomenon extends across the globe. Plan International UK, a children’s charity, surveyed 1,000 girls and young women between the ages of fourteen and twenty-one and discovered that nearly half experienced embarrassment during their period, and a quarter said they felt unprepared when their period began. Furthermore, a shocking 42% of menstruating girls and women surveyed reported that they had to use makeshift menstrual supplies – fashioned out of toilet paper, for example – when they could not afford store-bought products. For these reasons, nearly half of those surveyed admitted that they had missed at least one day of school due to their period, and 68% reported that it distracted them during school or work.

In the United States, there has been little documentation to show the economic and opportunity costs of menstruation until recent years. Similar to their peers around the world, when girls in the U.S. lack access to sufficient menstrual protection, they also may miss school during their cycle. Certain communities, including young Native American women living on reservations, are disproportionately impacted due to the limited supply and exorbitant costs of tampons and pads sold in local stores. On the Pine Ridge Indian Reservation in South Dakota, for instance, some girls report having to miss up to a week of school during their periods. In addition, there are consequences beyond missed educational opportunities when girls miss school. For example, in California, students who miss more than thirty minutes of instruction, unexcused, at least three times in a school year are defined as “truant.” Some penalties to truancy include: weekend classes, charges in juvenile court, and fines or infractions against the parents.
Amy Makrigiorgos is trying to combat the problem of girls missing classes or staining their clothes due to limited access to menstrual protection firsthand. Ms. Makrigiorgos, known by her students as the “pad teacher,” has taken on the task of providing girls at Oakton High School with tampons and pads, often when they are caught unawares by sudden bleeding. During the Congressional Briefing, Ms. Makrigiorgos shared her own personal story of getting her period in sixth grade. She explained how ashamed she was to ask her male basketball coach or the male staff for a pad during practice. She later engaged in a snowball fight with her teammates, and because she had not been able to change her pad, she visibly bled on the snow. This inspired Ms. Makrigiorgos to make sure that her own daughters, and other girls in the school where she works, “wouldn’t be embarrassed to talk about their periods” and to always carry a supply of disposable menstrual products for easy distribution.

Additionally, Ms. Makrigiorgos described the difficulties her students with intellectual disabilities experience while menstruating in school. She stressed the importance of having menstrual products accessible for these students especially because they cannot always communicate their need for these products to their parents or to her. In response to this, Ms. Makrigiorgos helped maintain a “pad pantry” for her students’ use.

Ms. Makrigiorgos also operates the Oakton Pantry at Oakton High School, which provides food and menstrual products at any time of day to students who are on free or reduced lunch – roughly thirteen percent of the school population. At the Briefing, she recounted seeing students hug the boxes to their bodies, in recognition of how precious these products are. She shared that even male students had this reaction, grateful to be able to pick up menstrual products for their mothers and sisters.

Unfortunately, not every school has a period superhero like “pad teacher” Amy Makrigiorgos. As a result, many girls in schools are left without easy access to disposable menstrual products. Without that protection, students may end up with visible stains on their clothes or opt to miss school altogether. Menstruation should not be the reason any girl misses out on educational opportunities, endangers their health, or suffers humiliation. Girls in schools need comprehensive reform to ensure regular access to menstrual products when they need it most.48

"I use the bathroom that’s right outside the cafeteria, and that’s where the majority of the students are using the bathroom. And inevitably, every time I walk into the bathroom, there’s a student in a stall [and] I can hear the sigh and the groan of ‘Oh god,’ and I say ‘Hold on! I’m a teacher, let me run and get you something!’ . . . and I’ll bring back a pad or a tampon for them.”

– Amy Makrigiorgos,
Teacher at Oakton High School in Vienna, Virginia

VOICES, AMPLIFIED: Amy Makrigiorgos
Poverty remains a prevailing reason for girls’ inability to access the menstrual products they need. According to a recent report from the Girl Scout Research Institute, there were twenty-six million girls between the ages of five and seventeen living in the United States in 2015. A shocking 41% of those girls live in low-income families, and 19% live in poverty. Schoolgirls from low-income families often strain to manage their monthly periods due to the costliness of disposable menstrual products. Considering that tampons and pads may cost $7 to $10 a box, this could be an impractical expense for struggling households.

A Path to More Inclusive Policy for Girls in Schools

Some states and cities have proposed or passed legislation to ensure that menstrual products are readily available in school bathrooms, so that students neither have to miss classes or risk their health because they do not have them on hand, nor do they have to suffer the embarrassment or delay of asking a teacher or nurse for them. To date, at least fourteen state and local jurisdictions have proposed legislation providing girls in schools with access to menstrual products, free of charge: California, Connecticut, the District of Columbia, Illinois, Maryland, Michigan, New York City, New York state, South Carolina, Tennessee, Virginia, Washington, West Virginia, and Wisconsin. Bills in at least four of these states – California, Illinois, Maryland, and New York – and New York City have been enacted into law.

New York City was the first jurisdiction to implement menstrual equity law, via a trio of bills providing free pads and tampons in schools, shelters, and correctional facilities, respectively. Council Member Julissa Ferreras-Copeland, a sponsor for all three bills, explained that she introduced the school legislation in the hopes that “[p]roviding young women with pads and tampons in schools will help them stay focused on their learning and sends a message about value and respect for their bodies.” This law requires the city’s Department of Education to provide free menstrual products in the bathrooms of schools serving girls in grades six through
Though full implementation data is not yet available, attendance has increased at its inaugural pilot site, rising from 90% to 92.4% in just six months. It is anticipated that this law will ultimately give access to nearly 300,000 students in New York City, where 79% of students come from low-income families.

Similarly, in October of 2017, the Governor of California signed a bill into law that will require all public schools in the state serving grades six through twelve to provide free menstrual products in half of their bathrooms if 40% of their students meet the poverty threshold. In areas like Los Angeles, where more than 80% of students in the district live at or below the poverty line, this bill will greatly affect their ability to attend and remain at school. While lobbying for the passage of this law, Assemblymember Cristina Garcia argued that menstrual products are “medical necessities” and underscored the impact that a lack of access could have on a girl’s education.

Some school districts or cities are reforming their policies without (or in advance of) legislation, sometimes partnering with companies or nonprofit organizations for supplies and logistics. Prior to introducing the school bill in New York City, for instance, Council Member Ferreras-Copeland launched a pilot program that installed free tampon dispensers in twenty-five public schools, reaching 11,600 girls. The first iteration of this pilot took place in a single Bronx school, and the machines and menstrual products were donated by Hospeco, a personal care products supplier.

The growing popularity of policy reform in states and localities demonstrates the clear need for all girls in schools to be able to access menstrual products. The sort of legislation that has passed in jurisdictions like California and New York City should be implemented countrywide. Despite this, there are currently no federal legislative proposals that explicitly address menstrual equity in schools.
The Need for Menstrual Equity for Women and Girls in Shelters

For women and girls in shelters, issues with managing menstruation are intensified due to a lack of access to disposable menstrual products. Menstrual products have been deemed so essential for the “health, well-being and full participation of women and girls across the globe” that the United Nations and Human Rights Watch have both associated menstrual hygiene with human rights. And yet, women and girls experiencing homelessness are often not afforded this “right.” Menstrual products are either unaffordable or outright unattainable, even in shelters. According to period policy expert Jennifer Weiss-Wolf, a lack of access to menstrual products can seriously compromise the health, productivity, and dignity of low-income women and girls. Women and girls in shelters should not have to worry about obtaining these products when they are simultaneously struggling to secure housing and food.

Access to Menstrual Protection Bolsters the Dignity of Women and Girls in Shelters

In 2017, the United States Department of Housing and Urban Development reported that 553,742 people experienced homelessness in the United States on a single night, in their annual point-in-time count. This report estimated that, of that population, nearly 40% (215,709) were women, and 21% (114,829) were children. More than half (55%) of people staying in emergency shelters or transitional housing programs were women, and 90% of children experiencing homelessness were sheltered. Many of the women and girls in shelters are survivors of domestic abuse, and cities and states across the country have cited it as a primary or immediate cause of homelessness. Access to basic menstrual necessities can prove challenging in these situations. Because survivors of domestic abuse may leave their homes with few resources and do not always qualify for financial support or aid, purchasing

“[Women] are half the population... and not solving these problems is an equity issue.”

– Catherine Read, Board Director at Britepaths and Board Member for Equality Virginia
Wanda Steptoe is the Executive Director of New Endeavors by Women, a nonprofit organization in the District of Columbia that provides homeless women with twenty-four-hour transitional and permanent supportive housing as well as skill-building programs. During her remarks at the Congressional Briefing, Ms. Steptoe shared that most of the women at New Endeavors were survivors of domestic violence and had been afflicted with trauma. She related stories they had told her of having to resort to using toilet paper from public restrooms as menstrual protection while experiencing homelessness. She expressed her gratitude for organizations like BRAWS that donate these essential items, which are even more crucial for women who have to go through several pads or tampons a day.104

“\textit{We should help women with things they can’t control, not punish them for it.}”
– Allie Lytle, Senior at a Virginia High School100

Without shelter support, the cost of managing menstruation may be too high for women and girls experiencing homelessness to bear. In 2015, the Huffington Post estimated that, on average, a woman will “endure[] some 456 total periods over 38 years, or roughly 2,280 days with her period — 6.25 years of her \textit{life}.”95 Due to risk of infection,96 it is advised that a tampon be changed every four to eight hours.97 This means that the seventy percent of women who use tampons need an average of four tampons a day, or about twenty per cycle.98 That can be extremely costly, especially considering the relatively high price of menstrual products. For example, a box of thirty-six tampons is priced at $7 at Walgreens.99 Huffington Post estimates that, assuming a woman uses a box of that size, she will require 253.3 boxes during the course of her period, totaling $1,773 that she will spend in her lifetime on tampons.101 Furthermore, this tally is multiplied for women also supporting children who are menstruating,102 and compounded for low-income women who cannot afford to buy in bulk and thus must spend more per product.103

\section*{VOICES, AMPLIFIED: Wanda Steptoe}

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The inflated cost of tampons and pads has put women and girls in shelters in an untenable position, forced to choose between food, menstrual products, or other daily supplies. As a result, a number of women and girls in shelters go without necessary menstrual products. Some women may resort to selling the food stamps they receive under programs like SNAP and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) in order to pay for pads and tampons. For those women and girls who do not have food stamps to sell, menstrual equity is simply unavailable. They may have to resort to homemade remedies, which are neither sufficient nor safe.

Women have used rags, old socks, tissue paper, paper towels, torn pieces of clothing, or diapers to satisfy their menstrual needs. When these items are not attainable, some women simply go without menstrual protection, causing them to bleed through their undergarments and clothing. The result, according to Jennifer Weiss-Wolf, “is not just unsanitary and unhealthy for the days one is menstruating, but also amounts to having to wear blood-soaked clothing for days or even weeks.”

These makeshift practices are likely to increase serious health risks to women and girls. Using unclean rags has been found to cause the introduction or growth of unwelcome bacteria, and ultimately, infection. Some girls and women may roll up pads and insert them to mimic the use of a tampon, although they are not designed for internal use. Without proper protection, women run the risk of a number of health-related issues such as toxic shock syndrome and an overall lack of basic comfort, all of which could be eliminated by women’s unequivocal access to menstrual equity.

Even if products are made available, they need to be provided in sufficient quantity, so women can change them when necessary. If a tampon is used for more than eight to twelve hours, it can lead to yeast infections, bacterial vaginosis, or toxic shock syndrome, according to gynecologist Jessica Shepherd. Extended use of the same pad also increases the chance of infection. Furthermore, individual women and girls have different needs. For instance, endometriosis, which may afflict more than 11% of women and girls between the ages of fifteen and forty-four, causes far longer and heavier periods, requiring the use of more menstrual supplies as a result. Access to the appropriate quality and quantity of menstrual products is a clear healthcare necessity for women, and policy reform is needed to ensure that it is available for all.

“Being homeless, I could never afford what I wanted in hygiene supplies. I would use whatever I could get.”
- Anonymous BRAWS Client
A Path to More Inclusive Policy for Women and Girls in Shelters

The political climate is ripe for legislation supporting women’s access to menstrual products in shelters. Since 2016, at least five states and localities have proposed or passed legislation specifically providing women and girls in shelters with access to menstrual products, free of cost: Connecticut, the District of Columbia, Maryland, New York City, and New York state. Maryland, for example, enacted its new law in 2017, requiring the state’s Department of Human Resources to provide certain homeless service providers and their local administering agencies with a “sufficient” supply of tampons and pads. To serve female students experiencing homelessness, the law makes the same requirement with respect to county boards of education. While the increasing existence of this type of legislation is encouraging, the lack of uniformity amongst the states demonstrates the need for a more concrete federal policy solution.

Representative Grace Meng (D-N.Y.-6), who was also active in the effort to secure menstrual equity in New York City, has responded to this need by introducing the Menstrual Equity For All Act of 2017 (H.R. 972). With five sections addressing menstrual equity in workplaces, shelters, and correctional facilities, H.R. 972 represents an effort at the federal level to ensure affordable access to menstrual products for all women. During her opening remarks at the Congressional Briefing, the Representative shared how she first learned of the need for menstrual equity. She stated that she started working on this “human rights” issue after receiving a letter from one of her constituents, a high school girl, regarding a lack of access to menstrual products in homeless shelters. After some research, Representative Meng discovered, to her dismay, that menstrual products are not treated as “essential” items and were viewed instead as “luxury” items for women. In response, she began the fight for menstrual equity by introducing legislation that would enable individuals to purchase menstrual products with pre-tax dollars in a flexible spending account. Her commitment to the cause has not wavered since then, and she has introduced a number of bills that would provide for menstrual equity and safety across the nation.

During the Representative’s Congressional Briefing remarks and in a *Marie Claire* op-
Catherine Read is a Board Director at Britepaths, a Fairfax County, Virginia organization that provides emergency assistance to the working poor to avoid homelessness. Britepaths offers families a variety of programs, ranging from food stipends to financial literacy assistance. During her remarks at the Congressional Briefing, Ms. Read shared that it can be difficult to collect donations for menstrual products from their faith-based donor organizations, and some of the women they serve shy away from requesting these items because of a perceived cultural stigma. In addition, because government benefits programs like SNAP and WIC do not cover menstrual products, Britepaths has begun giving women grocery gift cards that can be used to purchase the items they need. Due to the expensive cost of menstrual products, however, women are still forced to choose between buying food for their families and using a portion of their already limited funds to purchase menstrual protection.

“My bill may be the first effort at addressing menstrual equity on the national level, but it won’t be the last.”

–Representative Grace Meng

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VOICES, AMPLIFIED: Catherine Read

Run by the Federal Emergency Management Agency (FEMA), EFSP helps local human service organizations provide food, shelter, and support services to individuals and families. Thus, even those shelters that might have had the funds to provide menstrual products for their residents would not have been able to use them for this purpose. In 2016, Representative Meng sent then-Secretary of Homeland Security Jeh Johnson – who oversaw FEMA – a letter voicing her concerns. FEMA Administrator Craig Fugate replied, assuring her that menstrual products would be included as an allowable use of EFSP funding. Sure enough, “feminine hygiene items” were added in 2016 to the eligible program costs listed in the EFSP Manual. The caveat, however, is that the purchase of those items by recipient organizations is subject to local board approval, which is not guaranteed. Additionally, EFSP’s manual is consistently updated and is not permanent. This means the promising addition of “feminine hygiene items” could possibly be removed in the future.
As encouraging as this change in policy is, a law is stronger than a manual. Legislation is necessary to require accessibility across states, programs, and agencies. Section Four of the Menstrual Equity For All Act offers a promising avenue. It amends the McKinney-Vento Homeless Assistance Act by requiring the National Board governing the EFSP to establish guidelines that allow these funds to be used by private nonprofit organizations and local governments to supply women and girls in shelters with menstrual products.143

On February 7, 2017, Representative Grace Meng (D-N.Y.-6) introduced H.R. 972, the Menstrual Equity For All Act of 2017.144 Divided into five substantive sections, the bill proposes comprehensive policy changes that would increase women's and girls’ ability to access and afford “menstrual hygiene products.” More specifically, the bill would do the following:

- Amend the Internal Revenue Code (IRC) to enable individuals to purchase menstrual products with funds contributed to their health flexible spending arrangements. For reference, a flexible spending arrangement allows employees to use pre-tax dollars to pay for qualified medical expenses, which would include menstrual products under this bill.

- Amend the IRC to create a refundable tax credit of up to $120 annually for menstrual products, available to individuals under a particular income threshold who use these products (as well as their eligible dependents).

- Amend the McKinney-Vento Homeless Assistance Act to allow private nonprofit organizations and local governments receiving Emergency Food and Shelter Program funds to use them to provide menstrual products.

- Require states that receive grants under the Edward Byrne Memorial Justice Assistance Grant Program to certify that female inmates and detainees in the state have free access to menstrual products, or risk losing funding (which would then be reallocated to states that did submit certification).

- Amend the Occupational Safety and Health Act of 1970 to require the Secretary of Labor to issue a rule that requires each employer with at least 100 employees to provide free menstrual products.

SPOTLIGHT ON:
The Menstrual Equity For All Act of 2017

On February 7, 2017, Representative Grace Meng (D-N.Y.-6) introduced H.R. 972, the Menstrual Equity For All Act of 2017.144 Divided into five substantive sections, the bill proposes comprehensive policy changes that would increase women's and girls’ ability to access and afford “menstrual hygiene products.” More specifically, the bill would do the following:

- Amend the Internal Revenue Code (IRC) to enable individuals to purchase menstrual products with funds contributed to their health flexible spending arrangements. For reference, a flexible spending arrangement allows employees to use pre-tax dollars to pay for qualified medical expenses, which would include menstrual products under this bill.

- Amend the IRC to create a refundable tax credit of up to $120 annually for menstrual products, available to individuals under a particular income threshold who use these products (as well as their eligible dependents).

- Amend the McKinney-Vento Homeless Assistance Act to allow private nonprofit organizations and local governments receiving Emergency Food and Shelter Program funds to use them to provide menstrual products.

- Require states that receive grants under the Edward Byrne Memorial Justice Assistance Grant Program to certify that female inmates and detainees in the state have free access to menstrual products, or risk losing funding (which would then be reallocated to states that did submit certification).

- Amend the Occupational Safety and Health Act of 1970 to require the Secretary of Labor to issue a rule that requires each employer with at least 100 employees to provide free menstrual products.
## Menstruation by the Numbers

The average woman experiences

| 456 periods | over 38 years |

This equates to

| 2,280 days | or 6.25 years |

of menstruation.

The average woman uses

| 4 tampons per day |
| 20 per cycle |
| 240 per year |

The average woman spends

| $7 per box | $1,773.33 |
| 253.3 boxes | |

\(^{145}\)
The Need for Menstrual Equity for Incarcerated Women

Women's incarceration has risen exponentially over the last four decades: the number of women in federal and state prisons and local jails combined has increased by more than 700% since 1980. The growth rate for female incarceration has outstripped that of men by more than 50% between 1985 and 2014. With such a spike in women's incarceration in the United States, the various correctional facilities around the country are not equipped to provide for the basic human health needs—including menstrual needs—of the women they are housing. In jails across the country, for instance, a woman's menstrual cycle may be treated as an "inconvenience" or a "surprise."

Access to Menstrual Protection in Prisons and Jails Supports Health and Bodily Integrity

The issue of access to menstrual products in correctional facilities is further complicated because no two women’s experiences are the same. An incarcerated woman's degree of access to menstrual products may be based on a variety of factors, including whether they are housed in a state facility versus a federal facility, a jail versus a prison, or one state versus another. Prior to a policy change in August 1, 2017, for instance, there did not

Jennifer Smithmeyer, 24-year-old formerly incarcerated woman and Friends of Guest House client, showcases a "jail tampon" she made out of poor-quality pads during the Congressional Briefing. Ms. Smithmeyer shared that she and fellow inmate, Ashley Palmer (not pictured), learned to make similar ones while incarcerated at the Northwestern Regional Adult Detention Center in Winchester, Virginia.
appear to be a uniform standard regarding pricing, distribution, or availability of menstrual products for the 13,111 women incarcerated in federal facilities.150

If a woman is housed in a state or local prison or jail, the cost of menstrual products is left to the discretion of that jurisdiction’s legislative body or Department of Corrections. Nebraska’s Department of Correctional Services, for instance, makes some pads available at no cost but does not provide free tampons or panty liners to inmates.152 Moreover, Nebraska correctional facilities charge considerably more than outside retailers for tampons and other menstrual products in their commissaries or canteens.153 The inmates are also not able to purchase or procure these items from any other source.154 Left with little other recourse, incarcerated women, who are often indigent and/or working for pennies a day,155 may be unable to afford the hefty price tag156 for the menstrual products they need to “hygienically and comfortably care for themselves.”157

These are the realities that lead women like Friends of Guest House clients Jennifer Smithmeyer and Ashley Palmer to construct their own tampons to manage their bleeding, all while risking an in-house charge for making “contraband.”158 At the Congressional Briefing, Kari Galloway, the Executive Director of Friends of Guest House, explained that there were real consequences to the women’s ingenuity, since these in-house charges could affect their release dates.159 This was a necessary risk, however, since the homemade tampons would last twice as long as the flimsy pads they were given only intermittently.160

In many cases, access to menstrual products is hindered because the correctional facility simply does not have any. The New York Times interviewed a Miss Tara Oldfield-Parker who was arrested and brought to a police station’s holding cell in Queens, New York.161 She had gotten her period just before she was arrested.162 To her surprise, when she requested a sanitary pad, the officers in charge scrambled

“[Y]ou can always judge the greatness of a society by looking at who it imprisons and how it treats them: The United States of America doesn’t compare well to our industrial peers, doesn’t hold up well to the values we preach within our country and to the world.”

– Senator Cory Booker151
to provide her with anything that would control the blood.\textsuperscript{163} They ultimately had to call an ambulance to secure one.\textsuperscript{164} After Oldfield-Parker sat in her own blood for an hour and a half, an officer could only provide her with a sterile gauze pad – a bandage typically used to patch up a wound.\textsuperscript{165}

Unfortunately, there are also power dynamics involved when women have to ask a male officer for a pad or tampon.\textsuperscript{166} This can be humiliating and degrading.\textsuperscript{167} Additionally, male officers may not understand the need to receive a menstrual product in a timely fashion to avoid bleeding through clothing or that some women require more products than others to meet their biological needs.\textsuperscript{168} As Ms. Palmer shared at the Congressional Briefing, incarcerated women suffer the “indignity” of having very little privacy or control in handling their body’s needs.\textsuperscript{169} Providing free menstrual products would help redress these issues.

Menstrual equity is about eliminating the disparate effects that inadequacy of access to menstrual products has on a menstruating individual’s ability to function in today’s society. Incarcerated women are denied access in various ways, daily. This denial of access is also a denial of basic human dignity that requires a remedy.

A Path to More Inclusive Policy for Incarcerated Women

Thankfully, this call has not gone unheard, as politicians and litigators have been working to improve the experiences of incarcerated women through legal and regulatory reform.\textsuperscript{170} At least twelve state and local jurisdictions have introduced or passed legislation to provide free menstrual products to female inmates and detainees in recent years: Alabama,\textsuperscript{171} Arizona,\textsuperscript{172} Colorado,\textsuperscript{173} Connecticut,\textsuperscript{174} Georgia,\textsuperscript{175} Hawaii,\textsuperscript{176} Kentucky,\textsuperscript{177} Maryland,\textsuperscript{178} New York City,\textsuperscript{179} New York state,\textsuperscript{180} Virginia,\textsuperscript{181} West Virginia,\textsuperscript{182} and Wisconsin.\textsuperscript{183} Of these jurisdictions, laws have been enacted in Colorado,\textsuperscript{184} Kentucky,\textsuperscript{185} Maryland,\textsuperscript{186} New York City,\textsuperscript{187} and Virginia.\textsuperscript{188}

“Women who are incarcerated are already paying their debt to society. They have made mistakes but that should not bar them from common human necessities.”

– Jennifer Smithmeyer, Friends of Guest House Client\textsuperscript{189}

New York City’s legislation was the first in the country,\textsuperscript{190} and requires the city’s Department of Correction to provide female inmates or detainees (who have been detained for at least forty-eight hours) with free tampons and pads “as soon as practicable upon request.”\textsuperscript{191} Other legislatures and governing bodies are following suit. The Los Angeles County Board
of Supervisors, for example, unanimously approved a motion in January of 2017 to provide young women and girls in probation camps and juvenile halls with better access to pads and tampons.

On the federal level, Members of Congress such as Representative Grace Meng (D-N.Y.-6) and Senators Cory Booker (D-N.J.), Dick Durbin (D-Ill.), Kamala Harris (D-Cal.), and Elizabeth Warren (D-Mass.) have introduced groundbreaking legislation that proposes to change the way correctional facilities across the nation treat the health of incarcerated women. The first of these bills is the Menstrual Equity For All Act of 2017 (H.R. 972), introduced by Representative Meng in February of 2017. Like women and girls in shelters, discussed earlier in this report, women who are incarcerated by their states would also benefit from the bill’s proposals to increase access to menstrual products. In Section Five, it adapts pre-existing legislation, the Omnibus Crime Control and Safe Streets Act, to allocate funding to states based on their ability to certify to the federal government that all female inmates and detainees in their states have access to menstrual hygiene products “on demand and at no cost to inmates and detainees.” If a state is unable to certify that their correctional facilities are in compliance with this mandate, the Attorney General will reduce their funding under the Edward Byrne Memorial Justice Assistance Grant Program by 20% and provide those funds to the states in compliance. This provision does not specify the type or quality of products that each state correctional facility must supply to inmates and detainees. Rather, it leaves the definition of “menstrual hygiene products” to the discretion of the Attorney General.

The Dignity for Incarcerated Women Act of 2017 (S. 1524), another recent federal bill, would also require correctional facilities to provide female inmates with menstrual products. Senators Booker, Durbin, Harris, and Warren introduced the bill in July of 2017 with the goal of improving the overall treatment of federal prisoners who are primary caretaker parents, most of whom are women. In a subsection of the bill, the Dignity for Incarcerated Women Act proposes free access to tampons and sanitary napkins for federal prisoners. The bill includes these items alongside other “healthcare products” – including soap, aspirin, and toothpaste – to be made available to the inmates in “a quantity that is appropriate to the healthcare needs of each prisoner.” It further provides that these products should be of good industry quality.

While expansive, the Dignity for Incarcerated Women Act applies only to women incarcerated...
at the federal level. There are far more women incarcerated at the state and local levels than at the federal level; thus, the Menstrual Equity For All Act has the potential for much greater impact. Also, the Dignity for Incarcerated Women Act does not provide a methodology for federal correctional facilities to procure funding to comply with the required increase in access to menstrual products.

Shortly following the introduction of the Dignity for Incarcerated Women Act, the Federal Bureau of Prisons, under the direction of U.S. Attorney General Jefferson Sessions, reformed its policy to provide incarcerated women with free menstrual products. In an operations memorandum issued in August of 2017, the Bureau required Wardens of federal correctional facilities to ensure that regular and super-size tampons, regular and super-size maxi pads with wings, and regular panty liners are made available for free to all female inmates. Under this memorandum, inmates should not have to purchase menstrual products from the commissary unless they want a specific type or brand not provided under this mandate. Despite requiring institutions to make these products available, the memorandum also instructs them not to spend a significant amount more than they currently do, which may make implementation difficult. Furthermore, this memorandum is only applicable until August 1, 2018, and reports indicate that several facilities are failing to implement the policy change.

In the absence of comprehensive policy reform, organizations and individuals are addressing the issue of inadequate access to menstrual products by filing lawsuits. For instance, the American Civil Liberties Union of Michigan sued Muskegon County for not providing menstrual products to inmates and for not providing privacy for women to use the toilet or attend to their menstrual needs. One woman named in the complaint described having to “plead[] again and again for several hours” before she was given what was ultimately an insufficient supply. Another woman was instructed not to bleed on the floor when she had to wait for hours on end, and yet another bled through her clothes when she was forced to wait for two days. The count related to denial of access to menstrual products was dismissed in later court proceedings. However, the very fact that the women at the Muskegon County Jail felt that these circumstances were appalling enough to merit bringing a suit is itself significant.
The patchwork of local and state policies addressing women’s and girls’ access to menstrual equity demonstrates the need for a uniform policy solution. The movement is growing, and these proposed and existing policies serve as a blueprint for lawmakers to enact coherent federal legislation or regulation. Ultimately, future policy should ensure affordable access to disposable menstrual products for all menstruating individuals.

The purpose of the Congressional Briefing was to empower women and girls to tell their stories of inadequate access to menstrual products – in shelters and schools, as well as correctional facilities – to congressional and community stakeholders. This report is designed to ground that dialogue, by highlighting individual stories, contextualizing those experiences, and providing a full understanding of the current scope of legislation. Together, we hope the Briefing and report will foster an open dialogue that continues far beyond the event itself. For instance, we chose to focus on women and girls in shelters, girls in schools, and incarcerated women in part because BRAWS has identified these populations as being in severe need. BRAWS recognizes, however, that true menstrual equity requires access for all women and girls, regardless of background or income.

BRAWS and the UDC Law Legislation Clinic hope these voices have inspired you to join the movement. Additional work is needed to combat menstrual inequity for women and girls nationwide. With this demonstrated need for thoughtful policy reform, BRAWS encourages you to raise your voice, help expand awareness of the intersection of periods and poverty, and advocate for equity in access for all women and girls.
1 Recommended Citation: BRAWS & UNIV. OF D.C. DAVID A. CLARKE SCH. OF LAW LEGISLATION CLINIC, PERIODS, POVERTY, AND THE NEED FOR POLICY: A REPORT ON MENSTRUAL EQUITY IN THE UNITED STATES (2018).  
10 Id.  
16 BRAWS: BRINGING RESOURCES TO AID WOMEN’S SHELTERS, supra note 14.  


For an interview with BRAWS Founder Holly Seibold and UDC Law Legislation Clinic Instructor Monica Bhattacharya about the themes and goals of the Briefing, see Sound Advice: BRAWS (UDC-TV television broadcast Jan. 1, 2018), available at https://www.youtube.com/watch?v=_bOj5C-HGxQ&feature=youtu.be.


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51 Id. at 8. Low-income families are defined as being below 200% of the poverty threshold. Id.

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124 Id. For more information about the Menstrual Equity For All Act, including its potential impact on women, girls, and families, see UNIV. OF D.C. DAVID A. CLARKE SCH. OF LAW, ISSUE EDUCATION SPOTLIGHT: AN OVERVIEW OF THE MENSTRUAL EQUITY FOR ALL ACT OF 2017 (H.R. 972) (2017).

125 Meng, supra note 3.


127 Id. For more information about the Menstrual Equity For All Act, including its potential impact on women, girls, and families, see UNIV. OF D.C. DAVID A. CLARKE SCH. OF LAW, ISSUE EDUCATION SPOTLIGHT: AN OVERVIEW OF THE MENSTRUAL EQUITY FOR ALL ACT OF 2017 (H.R. 972) (2017).


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130 Rep. Grace Meng, Congressional Briefing Notes.

131 Rep. Grace Meng, Congressional Briefing Notes.

132 Meng, supra note 3.


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154 Id. Other sources may include family, friends, or community groups.
157 Ashley Palmer and Jennifer Smithmeyer, Congressional Briefing Notes.
158 Jennifer Smithmeyer, Congressional Briefing Notes.
159 Kari Galloway, Congressional Briefing Notes.
160 Jennifer Smithmeyer, Congressional Briefing Notes.
161 Greenberg, supra note 148.
162 Greenberg, supra note 148.
163 Greenberg, supra note 148.
164 Greenberg, supra note 148.
165 Greenberg, supra note 148.
Bozelko, supra note 5.

Ashley Palmer and Jennifer Smithmeyer, Congressional Briefing Notes; Bozelko, supra note 5.


Ashley Palmer, Congressional Briefing Notes.


19. Jennifer Smithmeyer, Congressional Briefing Notes.

20. Weiss-Wolf, supra note 73.


24. Id. § 5.

25. The Omnibus Crime Control and Safe Streets Act of 1968, 34 U.S.C. § 10101 (1968). This law was enacted to enable Congress to assist state and local governments in strengthening and improving law enforcement at every level by national assistance.


27. Id.

28. Id.

29. Id. §5(d).


Id. § 2(a).

Id.

Id.


Id.


Id. at 13.

Id. at 13-14.


See id.

*Back cover photo: BRAWS Advocacy Director Sneha Mody with UDC Law Legislation Clinic students and faculty preparing to testify before the D.C. Council*