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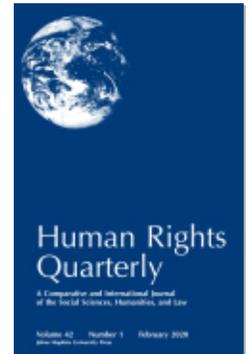
Hiding in Public or Going with the Flow: Human Rights, Human Dignity, and the Movement for Menstrual Equity

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Hiding in Public or Going with the Flow: Human Rights, Human Dignity, and the Movement for Menstrual Equity

Karen Zivi

ABSTRACT

Menstrual health and hygiene have become important parts of the human rights agenda in recent years. This article examines the ways in which human rights actors invoke the language of human dignity to illuminate and address the vulnerabilities menstruating individuals face. It argues that although the norms associated with conventional accounts of human dignity provide an important resource for this project, they can also present a stumbling block. To the extent that menstrual rights actors rely on conventional accounts of human dignity associated with bodily self-control they may unwittingly reinforce the period stigma at the heart of the problem.

I. INTRODUCTION

The numbers are staggering. Worldwide, approximately two billion individuals are of menstruating age and as many as 300 million will have their period on any given day.¹ Those who menstruate will spend, on average, 3500 days

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1. This article uses the language of “menstruating individuals” or “menstruators” rather than women and girls where possible to highlight the fact that not all girls or women menstruate nor are all who menstruate women or girls. On the experience of trans men and menstruation, see Colin J. Williams et al., *Trans Men: Embodiments, Identities, and Sexualities*, 28 Soc. F. 719 (2013).

of their lives bleeding² and, in the United States, those fortunate enough to have the resources can find themselves spending more than \$3000 in a lifetime buying menstrual products.³ Despite the ubiquity of the experience, menstruation remains a rarely discussed topic, an experience shrouded in secrecy, a subject that is taboo in many parts of the world. Period stigma has deep roots in religious, philosophical, and cultural traditions, and its manifestations vary from place to place, but dominant discourses tell us that menstruation is dirty and shameful. Rituals, traditions, jokes, media messages, and institutional configurations teach us that periods make individuals less than others: less rational, less capable, less entitled to appearing in public.⁴

The impact of the stigma and shame surrounding menstruation can be devastating as the associated policies, behaviors, and priorities place menstruating individuals at great physical and emotional risk. Many young girls have no idea why they bleed on a regular basis and come to believe that they are diseased. Those who do understand what is happening with their bodies are often humiliated by family and strangers alike, forbidden from touching food and banished from their homes every month. Individuals unable to access affordable menstrual hygiene products make do with rags, socks, or even newspaper to absorb the blood. If they have no access to clean water or private toilets, the results are stained clothing, unpleasant odors, and vaginal infections.⁵ In extreme cases, the result can be death.⁶

These realities amount to significant barriers to participation in the public sphere for menstruating individuals. In India, for example, almost a quarter of girls drop out of school when they begin their periods and those who stay may miss up to 50 days a year because they do not have the menstrual products to prevent stained clothing or have access to the sanitation facilities necessary to change products. In Bangladesh, women miss work approximately six days a month because of issues related to menstruation

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2. ROSE GEORGE, WATER SUPPLY & SANITATION COLLABORATIVE COUNCIL, *CELEBRATING WOMANHOOD: HOW BETTER MENSTRUAL HYGIENE MANAGEMENT IS THE PATH TO BETTER HEALTH, DIGNITY AND BUSINESS* 3 (2013).
 3. Sarah Larimer, *The "Tampon Tax," Explained*, WASH. POST (8 Jan. 2016).
 4. For historical and anthropological work on menstruation, see, e.g., *BLOOD MAGIC: THE ANTHROPOLOGY OF MENSTRUATION* (Thomas Buckley & Alma Gottlieb eds., 1988); JANICE DELANEY, MARY JANE LUPTON & EMILY TOH, *THE CURSE: A CULTURAL HISTORY OF MENSTRUATION* (1988); ELISSA STEIN & SUSAN KIM, *FLOW: THE CULTURAL STORY OF MENSTRUATION* (2009).
 5. See, e.g., GEORGE, *supra* note 2; HUMAN RIGHTS WATCH (HRW), *UNDERSTANDING MENSTRUAL HYGIENE MANAGEMENT AND HUMAN RIGHTS* (2017); SARAH SIMPSON, WATER SUPPLY & SANITATION COLLABORATIVE COUNCIL, *INSPIRING CHANGE FOR WOMEN'S RIGHTS AND DIGNITY* (2014); Chris W. Williams, *Women's Rights Are Human Rights, Period*, HUFFINGTON POST (7 Mar. 2017); Inga T. Winkler & Virginia Roaf, *Taking the Bloody Linen out of the Closet: Menstrual Hygiene as a Priority for Achieving Gender Equality*, 21 *CARDOZO J. L. & GENDER* 1 (2015).
 6. See, e.g., Heather Barr, *A Step in the Right Direction on Menstrual Stigma in Nepal*, HRW (10 Aug. 2017), <https://www.hrw.org/news/2017/08/10/step-right-direction-menstrual-stigma-nepal>; Jeffrey Gettleman, *Where a Taboo Is Leading to the Deaths of Young Girls*, N.Y. TIMES (21 June 2018).

and this, in turn, jeopardizes their employment status, income, and earning power.⁷ At refugee camps in Zimbabwe, girls miss school and avoid walking in public places because they lack access to menstrual products and fear for their safety when using the sanitation facilities.⁸

Attempting to mitigate these conditions are a new breed of advocates and activists. They range from high school students to international policy makers; from grassroots activists and community health workers to high-powered lawyers and government officials; and from millennial entrepreneurs to global corporations. They run menstrual product drives, lobby to reduce the cost of hygiene products, facilitate educational workshops, design less expensive and more environmentally-friendly products, and work to improve access to clean water and adequate sanitation. Whatever their focus, advocates and activists concerned about improving menstrual health and hygiene help shed light on the ways in which cultural norms, public policies, and systemic and structural factors place menstruators at great risk, undermining their health, their equality, and their human rights.

To be sure, menstrual activism is not a new phenomenon. Its contemporary roots can be traced back at least to the women's health movement of the 1970s and 80s.⁹ But three things make contemporary menstrual activism unique. The first is that periods have "gone public."¹⁰ One can now read articles in major newspapers and magazines about the challenges associated with menstruation, find environmentally-friendly menstrual products advertised on social media, hear policymakers discussing efforts to address barriers related to menstrual hygiene, and catch references to periods on internationally-televised sports and political programs.¹¹ Second, menstrual

7. GEORGE, *supra* note 2, at 10.

8. Jesilyn Dendere & Verena Bruno, *Empowering and Restoring Dignity to Vulnerable Girls in Refugee Camps in Zimbabwe*, U.N. POPULATION FUND: EAST AND SOUTHERN AFRICA (3 May 2018), <https://esaro.unfpa.org/en/news/empowering-and-restoring-dignity-vulnerable-girls-refugee-camps-zimbabwe>.

9. For a good history of menstrual activism, see CHRIS BOBEL, *NEW BLOOD: THIRD-WAVE FEMINISM AND THE POLITICS OF MENSTRUATION* (2010).

10. On "periods gone public," see, e.g., Abigail Jones, *The Fight to End Period Shaming Is Going Mainstream*, NEWSWEEK (20 Apr. 2016); Anna Maltby, *The 8 Greatest Menstrual Moments of 2015*, COSMOPOLITAN (13 Oct. 2015); JENNIFER WEISS-WOLF, *PERIODS GONE PUBLIC: TAKING A STAND FOR MENSTRUAL EQUITY* (2017).

11. The number of articles appearing in mainstream media outlets has increased exponentially in recent years. A few published in 2018 include Kylie Cheung, *The Politics of Menstruation*, DAME MAGAZINE (26 Mar. 2018); Maride Espada, *Period Taboo Around the World: From the U.S. to China, Menstrual Stigma is Real*, TEEN VOGUE (28 May 2018), <https://www.teenvogue.com/story/period-taboo-around-the-world>; Rose George, *Menstrual Leave: A Workplace Reform to Finally Banish the Period Taboo?*, THE GUARDIAN (28 June 2018); Jeffrey Gettleman, *Where a Taboo Is Leading to the Deaths of Young Girls*, N.Y. TIMES (19 June 2018); Grace Meng, *Julissa Ferreras-Copeland & Jennifer Weiss-Wolf, Women are Finally Winning the Period Rights Fight*, NEWSWEEK (25 Jan. 2018); Katha Pollitt, *Are We Finally Getting Over the Belief That Periods Are Embarrassing?*, THE NATION (10 May 2018); Roli Srivastava, *Not a Dirty Word: Indian Girls Shatter Menstruation Myths*, REUTERS (30 Jan. 2018); Jennifer Weiss-Wolf, *The Politics of Periods*, MS. MAGAZINE

activism today often invokes the language of human rights in ways earlier advocacy did not. Advocates and activists make claims that both explicitly and implicitly draw on human rights ideals and documents while also engaging human rights organizations and institutions in the effort to expose and address the challenges menstruating individuals face. Third, menstrual advocates and activists link human rights concerns to the issue of human dignity. Whether they are talking about the rights to water and sanitation, the right to privacy, or the right to education, those engaged in what some call menstrual equity or the menstrual hygiene management (MHM) movement suggest that what is at stake is nothing short of human dignity.¹²

But what does human dignity mean in this context? What does it mean to say that breaking period stigma, enabling access to menstrual products, and advancing menstrual health and hygiene through infrastructural change is a matter of human dignity? Or that in advancing the human rights that make menstrual equity, health, and hygiene possible, human dignity is enabled or promoted? And what does this suggest about the value of invoking human dignity in a rights campaign, particularly one concerned with advancing the well-being mainly of women and girls? To answer these questions, I explore the public discourse and practice of menstrual rights advocacy and activism occurring at both the elite and the grassroots levels. More specifically, I examine when and how human dignity is invoked in the context of a claim to human rights. The goal here is not to make a case that barriers to menstrual health and hygiene are violations of human rights and human dignity; advocates and activists are already doing that important work. Nor is it to advance a definition of human dignity that best supports the rights claims being made, as philosophers often try to do.¹³ Instead, my goal is

(8 May 2018), <http://msmagazine.com/blog/2018/05/08/the-politics-of-periods/>; Karen Zraick, *It's Not Just the Tampon Tax: Why Periods Are Political*, N.Y. TIMES (22 July 2018). On remarks about menstruation on television, see, Emily Feng, *Uninhibited Chinese Swimmer, Discussing Her Period, Shatters Another Barrier*, N.Y. TIMES (16 Aug. 2016); Philip Rucker, *Trump Says Fox's Megyn Kelly had "Blood Coming out of her Wherever,"* WASH. POST (8 Aug. 2015).

12. Weiss-Wolf coined the term "menstrual equity" to capture the fact that menstrual activism seeks more than just equal rights or better public health for menstruators. WEISS-WOLF, PERIODS GONE PUBLIC, *supra* note 10.
13. The literature on dignity and human rights is extensive. Recent work includes, e.g., Rachel Bayefsky, *Dignity, Honour, and Human Rights: Kant's Perspective*, 41 POL. THEORY 809 (2013); SEYLA BENHABIB, DIGNITY IN ADVERSITY: HUMAN RIGHTS IN TROUBLED TIMES (2011); J. M. BERNSTEIN, TORTURE AND DIGNITY: AN ESSAY ON MORAL INJURY (2015); Colin Bird, *Dignity as a Moral Concept*, 30 SOC. PHIL. & POL'Y 150 (2013); Arthur Chaskalson, *Dignity as a Constitutional Value: A South African Perspective*, 26 AM. U. INT'L L. REV. 1377 (2011); DRUCILLA CORNELL, LAW AND REVOLUTION IN SOUTH AFRICA: UBUNTU, DIGNITY, AND THE STRUGGLE FOR CONSTITUTIONAL TRANSFORMATION (2014); HUMAN DIGNITY AND THE PROMISE OF HUMAN RIGHTS (Richard P. Hiskes ed., 2015); GEORGE KATEB, HUMAN DIGNITY (2011); Mika LaVaque-Manty, *Dueling for Equality: Masculine Honor and the Modern Politics of Dignity*, 34 POL. THEORY 715 (2006); Thaddeus Metz, *African Conceptions of Human Dignity: Vitality and Community as the Ground of Human Rights*, 13 HUM. RTS. REV. 19 (2012); Neomi Rao, *Three*

to consider how human dignity—or the dominant norms associated with the concept—functions in the fight for menstrual rights; how it is imagined and reimagined along the way.¹⁴ As I suggest below, the public discourse and action associated with menstrual human rights invokes the language of human dignity in ways that contest period stigma and expose structural inequities. In this way, it is not unlike other rights campaigns that turn to the language of human dignity to expand what counts as a human right. At the same time, menstrual activism poses an important challenge to conventional, and conventionally gendered, ways of thinking about human dignity that other campaigns linking human rights and human dignity do not. This challenge is not, however, without ambiguity. In fact, advocates and activists who invoke human dignity may unwittingly risk reinforcing conceptions of properly public embodiment that can undermine the fight against period stigma and for menstrual human rights.

The article unfolds in three parts. The first part seeks to bring visibility to menstrual health and hygiene human rights efforts, a project that has yet to receive much attention from mainstream human rights scholars.¹⁵ I place menstrual hygiene advocacy in the context of the human rights framework and analyze key documents and reports from those working in elite international spaces to show how human rights claims are linked to the language and norms of human dignity. This analysis reveals that advocates invoke human dignity in ways that reproduce the diverse and sometimes incompatible understandings of the relationship between human rights and human dignity already existent in the larger human rights paradigm.

In the second section, I plumb this diversity to a greater degree by linking it to dominant conceptions of human dignity found in the Western philosophical tradition. I briefly illustrate the way conventional accounts of human dignity that are often considered distinct and even at odds advance a common vision of human dignity that entails bodily and emotional self-control. These ideas about dignified embodiment, I argue, are gendered, and they form an important backdrop against which claims about menstrual human rights are made.

Concepts of Dignity in Constitutional Law, 86 NOTRE DAME L. REV. 183 (2011); Oliver Sensen, *Human Dignity in Historical Perspective: The Contemporary and Traditional Paradigms*, 10 EUR. J. POL. THEORY 71 (2011).

14. Unlike some human rights scholars who treat human dignity as a philosophical or moral concept that undergirds human rights claims, I treat human dignity as a performative social practice through which dominant ideas about and norms associated with the concept are contested. See, e.g., Karen Zivi, *Dignity at What Cost? Marriage Equality in the United States*, in HUMAN DIGNITY AND THE PROMISE OF HUMAN RIGHTS 48 (Richard P. Hiskes ed., 2015); Karen Zivi, *Human Dignity and Human Rights: Lessons From the Fight for Marriage Equality in the United States*, in CRITICAL PERSPECTIVES ON HUMAN RIGHTS 103 (Birgit Schippers ed., 2018). For a discussion of human dignity as part of an emancipatory human rights social praxis, see Michael Goodhart, *Constructing Dignity: Human Rights as a Praxis of Egalitarian Freedom*, 17 J. HUM. RTS. 403 (2018).
15. See Winkler & Roaf, *supra* note 5, for one of the few articles to address the issue in a rights-focused academic journal.

The third section returns to menstrual rights advocacy and activism and explores how and why the norms associated with these conventional accounts of human dignity provide important resources for, but also stumbling blocks to efforts to advance the well-being and rights of menstruators. In the struggle for menstrual rights, certain norms of human dignity are contested and transformed, particularly as they relate to gender. At the same time, the struggle for menstrual rights illustrates the powerful hold that norms about controlled embodiment have on menstrual rights actors, a hold that risks reinforcing the period stigma being challenged. Grassroots activism involving the public exposure of menstrual blood, I suggest, may hold a key to enacting and enabling a new way of understanding human dignity that disrupts conventional dignity norms more thoroughly while advancing menstrual human rights.

II. MENSTRUATION AND THE HUMAN RIGHTS FRAMEWORK

That contemporary menstrual rights advocates should locate their efforts in the context of a human rights framework is not necessarily intuitive. There are no explicit human rights provisions associated with menstruation in the documents that make up the International Bill of Human Rights. Nor is mention made of menstruation in any of the key documents addressed specifically to women's human rights. Article 12 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) does call on states to end discrimination against women in the realm of health care and ensure equal access to services for women and men.¹⁶ The 1994 Cairo Programme of Action¹⁷ and the 1995 Beijing Declaration and Platform for Action do identify sexual and reproductive health as arenas in which women's human rights need more robust recognition and protection.¹⁸ None of these, however, makes explicit mention of menstruation.¹⁹ Even the Sustainable Development Goals (SDGs) adopted by the United Nations in 2015 do not address the issue of menstruation in an obvious manner despite being explicitly concerned with gender equality (Goal 5) and access

16. Convention on the Elimination of All Forms of Discrimination Against Women, *adopted* 18 Dec. 1979, G.A. Res. 34/180, U.N. GAOR, 34th Sess., U.N. Doc. A/RES/34/180 (1980), 1249 U.N.T.S. 13 (*entered into force* 3 Sept. 1981). [hereinafter CEDAW]

17. *Programme of Action of the International Conference on Population and Development*, U.N. GAOR, Provisional Agenda Item 9, U.N. Doc. A/CONF.171/L.1 (1994)

18. *Fourth World Conference on Women: Action for Equality, Development, and Peace, Beijing Declaration and Platform for Action*, U.N. GAOR, U.N. Doc. A/CONF.177/20 (1995).

19. Since 1979, the CEDAW Committee has reinterpreted certain articles to directly address issues of menstruation. See, e.g., Committee on the Elimination of Discrimination Against Women (CEDAW), *General Recommendation No. 36 on the Rights of Girls and Women to Education* CEDAW/C/GC/36 (16 Nov. 2017).

to clean water (Goal 6).²⁰ The closest the SDGs come to addressing the issue of menstrual hygiene and health is with SDG 6.2 which establishes a goal to “achieve access to adequate and equitable sanitation and hygiene for all and end open defecation, paying special attention to the needs of women and girls and those in vulnerable situations.”²¹

Despite this silence, advocates and activists find important resources in rights documents, discourse, and institutions, and they marshal the commitments and aspirations of the human rights framework to make visible and demand redress for a variety of problems associated with menstruation. One of the earliest efforts to identify menstrual hygiene management (MHM) as a human rights concern came in 2012 from Catarina de Albuquerque, Special Rapporteur on the right to safe drinking water and sanitation. Her report to the UN Human Rights Council (UNHRC) explores the ways in which stigma surrounding menstruation, manifest in cultural norms, accepted practices, and structural configurations, puts the well-being and the human rights of menstruating individuals at risk.²² As de Albuquerque explains, menstruation’s association with uncleanness and contagion often leads to the ostracization, harassment, and physical abuse of menstruating individuals. Menstruators are banished from homes and excluded from familial and cultural activities while on their periods and attacked for having periods. Widespread and insidious, period stigma gives rise to and condones behaviors and practices that obscure the needs of and dehumanize menstruating individuals. This includes denying women and girls access to education about periods, a practice that, de Albuquerque argues, leads them to internalize ideas about impurity and shame, often coming to see themselves in the same way members of their community do—as less than human.²³

De Albuquerque’s report does more than identify cultural norms and conventional behaviors associated with period stigma as a problem. It also identifies key structural factors that make the lives of menstruating individuals all the more precarious. Period stigma and its harmful effects, she suggests, are often present in and compounded by conditions of economic precarity.

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20. *Transforming Our World: The 2030 Agenda for Sustainable Development*, G.A. Res. 70/1, U.N. GAOR, 70th Sess., Agenda Items 15, 116, ¶ 4, UN Doc. A/RES/70/1 (21 Oct. 2015).
 21. According to the World Health Organization (WHO) and UNICEF, SDG 6.2 can be read as encompassing menstrual hygiene and implying that work needs to be done to enable women and girls to manage their menstruation with dignity. See Menstrual Hygiene Day Infographic, WASH UNITED & SIMAVI, http://menstrualhygieneday.org/wp-content/uploads/2016/05/MHD_infographic_MHM-SDGs.pdf. For more on the use of SDGs in the fight for menstrual hygiene and health rights, see Rosie Spinks, *Trying To Add The ‘M’ Word (Menstruation) To The U.N.’s New Goals*, NPR (25 Sep. 2015).
 22. Special Rapporteur, *The Human Right to Safe Drinking Water and Sanitation*, Hum. Rts. Council, U.N. Doc. A/HRC/21/42 (2012) (by Catarina de Albuquerque) [hereinafter de Albuquerque]. The report also addresses the human rights violations that result from the stigmas associated with a variety of issues like homelessness or class hierarchies.
 23. *Id.* at 7.

Poor girls and women lack access to clean water, adequate sanitation, or accessible and affordable menstrual products. Without access to affordable hygiene products, girls and women are often forced to resort to using unsanitary methods for absorbing blood that can lead to infections. Without adequate water to clean their clothing or access to private sanitation facilities in which to change used menstrual products, they are embarrassed by and punished for having stained clothing and unpleasant odors. These individuals then avoid school or work while menstruating thereby compromising the very avenues necessary for enhancing economic well-being and social standing.

These conditions, de Albuquerque contends, are manifestations of power that reinforce inequality and constitute clear violations of human rights. Most clearly, perhaps, these conditions violate the rights to clean water and adequate sanitation or what have come to be known as WASH human rights. However, according to de Albuquerque, the human rights violations do not end there as there is a clear link between WASH rights violations and additional human rights violations. A lack of access to adequate water and proper sanitation threatens one's right to life and to health as well as to privacy and to non-discrimination.²⁴ For menstruating individuals in particular, "[t]he lack of privacy for cleaning and washing, the fear of staining and smelling, and the lack of hygiene in school toilets are major reasons for being absent from school during menstruation, and have a negative effect on girls' right to education."²⁵

More contemporary menstrual rights advocacy echoes and expands upon de Albuquerque's findings. Like de Albuquerque, advocates often highlight the ways in which entrenched beliefs, cultural practices, and inadequate infrastructure lead to human rights violations, particularly those involving WASH human rights. But advocates do not stop there. For example, in 2013, Dr. Jyoti Sanghera, a section chief at the Office of the High Commissioner for Human Rights (OHCHR), argued for putting menstrual hygiene in a broad human rights framework that recognized menstrual stigma as a violation of "the right to non-discrimination, equality, bodily integrity, health, privacy and the right to freedom from inhumane and degrading treatment from abuse and violence."²⁶ A year later, at a meeting convened by the Water Supply & Sanitation Collaborative Council (WSSCC) and the OHCHR, political elites and grassroots activists once again raised concerns about the WASH rights violations menstruating individuals were experiencing. To those, they added concerns about the way menstrual stigma engenders and complicates discriminatory medical practices, particularly those related to reproduction, and is often exacerbated by homo- and transphobia.²⁷ By 2016, numerous

24. *Id.* at 12.

25. *Id.* at 7.

26. GEORGE, *supra* note 2, at 5.

27. SIMPSON, *supra* note 5.

human rights entities had taken up the cause of menstrual human rights including the Committee on the Rights of Women, the Committee on the Rights of the Child (CRC), and the UNHRC.²⁸

In many of these cases, menstrual rights actors link concerns about human rights to concerns about human dignity. In doing so, they follow a growing trend among rights actors to invoke ideas about human dignity as a way to underscore the urgency of the problem and add legitimacy to their argument.²⁹ Also like rights actors who link human rights violations to concerns about human dignity, those working in the sphere of menstrual hygiene management do not always mean the same thing by human dignity or understand the relationship between human dignity and human rights in the same manner. Nonetheless, certain themes emerge from the rights arguments that reference human dignity.

When advocates invoke the language of human dignity, they often implicitly posit human dignity as something that is ontological or inherent in the human condition that is then recognized and enhanced through human rights protections. These ontological accounts depict human dignity as a distinctive quality that all human beings have by virtue of the fact of their being human. While ontological accounts do not necessarily specify what this distinctive quality is, they suggest that human dignity is threatened when human rights are violated and such dignity can be protected and fostered when human rights are protected. For example, de Albuquerque argues that stigma and a lack of privacy “have a detrimental effect on [peoples’] . . . dignity” making it nearly impossible for them to lead “a life in dignity.”³⁰ And Chris Williams, Executive Director of WSSCC, contends that “[w]ithout access to toilets, women fear assault and a loss of dignity.”³¹ Both are suggesting that a menstruator’s human dignity is threatened by period stigma and infrastructural inadequacies but can be protected, promoted, and, in some cases, restored through proper sanitation and menstrual hygiene facilities.³² As one menstrual rights actor puts it, when menstruating individuals are

28. SIRI TELLIER & MARIA HYTTTEL, MENSTRUAL HEALTH MANAGEMENT IN EAST AND SOUTHERN AFRICA: A REVIEW PAPER, UNFPA ESARO 7 (2018).

29. Some philosophers argue that human dignity is something like a tool or a means to an end, “a powerful mechanism to realize . . . the underlying dignity of the person.” Jack Donnelly, *Normative Versus Taxonomic Humanity: Varieties of Human Dignity in the Western Tradition*, 14 J. HUM. RTS. 1, 11 (2015). Others argue that human dignity serves as the foundation or ground of rights claims, “the moral ‘source’” from which all of the basic rights derive their meaning. Jürgen Habermas, *The Concept of Human Dignity and the Realistic Utopia of Human Rights*, 41 METAPHILOSOPHY 464, 466 (2010). Both conceptions of human dignity are present in key human right instruments like the UDHR.

30. de Albuquerque, *supra* note 22, at 10, 4.

31. Williams, *supra* note 5.

32. *Ensuring Rights to Water and Sanitation for Women and Girls*, U.N. ESCOR, Comm’n on the Status of Women, 57th Sess. (2013) (by Lyla Mehta).

“guaranteed the fulfilment of their basic needs and the enjoyment of certain fundamental rights,” they will “be healthy and . . . live a life of dignity.”³³

In addition to depicting human dignity as an inherent characteristic of human beings that is enhanced or undermined to the degree that human rights protections are in place, menstrual rights advocates also use the language of human dignity to identify a set of practices or behaviors that reflect or signal this dignity. For example, advocates claim that protecting human rights, such as the right to clean water or adequate sanitation, enables menstruators to manage their periods “with dignity.”³⁴ Claims such as these suggest that when menstruating individuals have access to private toilets, to water for cleaning reusable menstrual cloths, and to places where they can discreetly dispose of single-use products they are able to avoid a host of situations and practices that would otherwise be commonly considered indignities or undignified. Access to menstrual products enables an individual to absorb blood that causes staining, access to water to wash allows menstruators to stave off infection and odor, and adequate sanitation facilities provide menstruators with the private space needed to change menstrual products without fear of harassment or physical violence. The right to education can challenge the association of periods with shame and disease thereby changing the way menstruators feel about themselves. When combined with infrastructural changes, education makes it possible for menstruating individuals to participate more fully in public sphere activities like school, work, and cultural events, all of which are commonly associated with having or living a dignified life.³⁵ The inherent dignity of the individual is, on these accounts, not necessarily compromised when a right is violated, but individuals are placed in situations where their actions and behaviors are considered to lack dignity or they are forced to experience indignities. Protecting human rights to clean water or affordable menstrual products, to education or to private toilets, not only recognizes the inherent dignity of the menstruating individual, it also makes behaviors and experiences we associate with dignity possible. This logic is illustrated nicely by the name that the UNFPA has given to the bags filled with menstrual pads and soap that are provided to menstruators in resource-poor settings like refugee camps. They are called “dignity kits.”³⁶

33. SIMPSON, *supra* note 5, at 5. See also WSSCC & U.N. Women, BEST PRACTICES OF THE JOINT PROGRAMME ON GENDER, HYGIENE AND SANITATION (2016).

34. See, e.g., ZACHARY BURT, KARA NELSON & ISHA RAY, U.N. WOMEN, TOWARDS GENDER EQUALITY THROUGH SANITATION ACCESS (2016); HRW, UNDERSTANDING MENSTRUAL HYGIENE MANAGEMENT AND HUMAN RIGHTS, *supra* note 5.

35. BURT, NELSON & RAY, *supra* note 34.

36. Dendere & Bruno, *supra* note 8. The emphasis on the relationship between menstrual hygiene and human dignity is also illustrated in the names adopted by various organizations working in the arena such as DIGNITY PERIOD, www.dignityperiod.org/; PROJECT DIGNITY, <http://www.projectdignity.org.za/>; DISTRIBUTING DIGNITY, <http://www.distributingdignity.org/>.

Less common, but still present in the menstrual rights discourse, are references to human dignity as a founding principle of the human rights framework or a right itself through which the state accords dignity to individuals. de Albuquerque, for example, embraces an understanding of human dignity as an inherent quality of individuals, but also describes human dignity as “the foundation of all human rights” and argues that menstrual stigma enables and justifies practices of dehumanization that are fundamentally at odds with “principles of human dignity.”³⁷ Craig Mokhiber from the OHCHR identifies dignity as a principle central to the human rights framework that needs to be applied to WASH projects.³⁸ Dr. Sanghera argues that menstrual stigma violates a host of human rights including what may be the most important from her perspective: a “woman’s right to dignity.”³⁹ In these cases, human dignity is something distinct from a quality of human beings; it is more akin to a legal principle which exists to some degree apart from the realities of individuals’ lives.

Of course, when menstrual rights advocates and activists make claims about human rights that invoke the language of human dignity, they are not necessarily engaged in the process of theorizing the meaning of human dignity or its relationship to human rights. The meaning and power of their claims comes, in part, from drawing on long-standing ideas about the meaning of human dignity implicit in the human rights paradigm itself, ideas that have sparked keen interest among scholars in recent years.⁴⁰ Consider the Preamble of the Universal Declaration of Human Rights (UDHR).⁴¹ There, dignity is posited as an ontological quality that all human beings have that is actually distinct from their having human rights. A world of “freedom, justice, and peace” requires recognition of both. And yet, in Article 22 of the UDHR, we learn that though we may all be born with human dignity, recognition alone is not enough to make it something we experience. Human dignity requires that certain economic, social, and cultural rights are protected. Here, then, human dignity is less a separate entity from human rights and instead the effect of having rights themselves (see also Article

37. de Albuquerque, *supra* note 22, at 12, 11.

38. SIMPSON, *supra* note 5, at 25.

39. *Id.* at 14.

40. On the role human dignity plays in the UDHR, see Glenn Hughes, *The Concept of Dignity in the Universal Declaration of Human Rights*, 39 J. RELIGIOUS ETHICS 1 (2011); Oscar Schachter, *Human Dignity as a Normative Concept*, 77 AM. J. INT’L L. 848 (1983). On the role of human dignity in the development of international human rights documents and discourse, see Charles R. Beitz, *Human Dignity in the Theory of Human Rights: Nothing But a Phrase?*, 41 PHIL. & PUB. AFF. 259 (2013); SAMUEL MOYN, HUMAN RIGHTS AND THE USES OF HISTORY (2014); SAMUEL MOYN, CHRISTIAN HUMAN RIGHTS (2015); MICHAEL ROSEN, DIGNITY: ITS HISTORY AND MEANING (2012); and JEREMY WALDRON, DIGNITY, RANK, AND RIGHTS (2012).

41. Universal Declaration of Human Rights, *adopted* 10 Dec. 1948, G.A. Res. 217A (III), U.N. GAOR, 3d Sess. (Resolutions, pt. 1), at 71, U.N. Doc. A/810 (1948) [hereinafter UDHR].

13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR)).⁴² Like the UDHR, the Preamble of the International Convention on Civil and Political Rights (ICCPR)⁴³ posits human dignity as distinct from human rights, ontological in nature, and necessary to founding a just world order. At the same time, however, the ICCPR Preamble suggests that our rights derive from rather than serve as the means to achieving dignity.

Similarly, varied ideas about what human dignity is and how it relates to human rights can be found in other important human rights documents. The Convention on the Rights of the Child, for example, posits human dignity as something children have that is recognized and respected through human rights provisions (Article 28) as well as something that human rights provisions foster in children (Article 39).⁴⁴ As these examples suggest, human rights documents offer different understandings of human dignity that range from positing it as the inherent worth or intrinsic value of human beings protected by human rights to depicting dignity as the foundation of all human rights themselves, and from understanding dignity as a moral principle that ought to guide our engagement with human rights to understanding dignity as a human right itself.

When menstrual rights actors make claims about human rights that invoke the language of human dignity, they reference ideas and norms implicit in the human rights paradigm itself. So too do they reference the ideas and norms that come from a philosophical tradition that has and continues to influence human rights practice, law, and theory. I turn to that tradition below in order to show how influential accounts of human dignity imagine human dignity in terms of physical and emotional control. These accounts provide a set of norms and conventions that form the background against which menstrual rights claims are made, norms that are both referenced and contested.

III. HUMAN DIGNITY AND BODILY SELF-CONTROL

The tradition of political philosophy upon which human rights theorists, lawyers, and actors often draw when they invoke the language of human dignity is even more varied in its understandings of the meaning of dignity and its relationship to human rights than what the human rights instruments discussed above suggest. Theorists of human dignity disagree about whether

42. International Covenant on Economic, Social and Cultural Rights, *adopted* 16 Dec. 1966, G.A. Res. 2200 (XXI), U.N. GAOR, 21st Sess., U.N. Doc. A/6316 (1966).

43. International Covenant on Civil and Political Rights, *adopted* 16 Dec. 1966, G.A. Res. 2200 (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, U.N. Doc. A/6316 (1966).

44. Convention on the Rights of the Child, *adopted* 20 Nov. 1989 (*entered into force* 2 Sept. 1990), G.A. Res. 44/25, U.N. GAOR, 44th Sess., Supp. No. 49, U.N. Doc. A/44/49.

human dignity is inherent or achieved, whether it is an ontological quality of human beings or a status granted by others, and whether it is the ground for or the effect of human rights. And they disagree about the capacities that constitute or the behaviors that reflect human dignity: autonomy, rationality, the capacity to survive, compassion towards others, etc. This disagreement has led some scholars to reject the language of human dignity as a viable resource for human rights campaigns. From some perspectives, human dignity is too vague a concept to be politically effective and too easily put in service of odious ends. Others argue that human dignity is problematic, particularly for projects involving the expansion of rights to marginalized communities, because it is inextricable from religious traditions that devalue women's human rights and LGBTQ human rights and from relations of power that compromise human freedom.⁴⁵

Despite these criticisms, many scholars believe that human dignity remains an essential component of an egalitarian human rights politics, and they take its contested meaning as a starting point from which to articulate a conception of human dignity meant to improve the political and moral power of human rights. The idea is that a robust theory of human dignity can serve as the foundation for human rights claims; providing justification for and legitimacy to the claim to universal human rights. It does this (or is supposed to), in part, by drawing attention to the specific and unique qualities that make human beings worthy of special treatment and respect and by emphasizing the shared nature of this uniqueness. Human rights claims may shed light on the conditions necessary for human flourishing, but human dignity claims tell us what it means to be human in the first place and why we should care about human flourishing at all.

But who is the human being who has dignity or lives a dignified life? Whose dignity would be protected, enabled, or accorded through a commitment to human rights? Answers to these questions are varied as well, but what I highlight briefly below is an often overlooked similarity in different theories—an emphasis on the importance of emotional and physical self-control. That is, theorists of human dignity whose work informs our everyday understandings of the concept as well as the overall human rights paradigm often describe human dignity as embodied and expressed through bodies in particular ways. They take the body, understood expansively to include flesh and form as well as affect and emotion, to be something that can and should be regulated and controlled in particular ways if an individual is

45. For critical perspectives on the discourse of dignity, not all of which are wholly dismissive, see Katherine Franke, *Dignifying Rights: A Comment on Jeremy Waldron's Dignity, Rights, and Responsibilities*, 43 ARIZ. ST. L. J. 1177 (2011); Ruth Macklin, *Dignity is a Useless Concept*, 327 BRITISH MED. J. 1419 (2003); Samuel Moyn, *Dignity's Due*, THE NATION (16 Oct. 2013); Steven Pinker, *The Stupidity of Dignity*, THE NEW REPUBLIC 28 (28 May 2008).

said to have dignity, have the capacity to achieve human dignity, or have the right to be accorded dignity. This narrative, as we will see below, is gendered⁴⁶ and thus has complicated implications for addressing inequities and harms associated with menstruation. As I suggest in the next section, menstrual rights advocates and activists reflect, reproduce, and sometimes transform these understandings and norms of human dignity in ways that both enable and compromise efforts to advance the well-being and human rights of women, girls, and others who menstruate.

One of the earliest accounts of human dignity, and one that clearly concerns itself with bodily self-control, comes from Marcus Tullius Cicero's *De Officiis* written around 44 BCE.⁴⁷ There, Cicero provides what has become an almost universally agreed upon understanding of human dignity as that which makes human beings distinct from and elevates them over other creatures. Interestingly, Cicero's account posits human dignity as something other than purely ontological or inherent in human beings. For him, it is an achievement, a particular disposition towards the body and the emotions that arises from careful cultivation. According to Cicero, only through the proper education and methods of nurturing the mind can a human being achieve dignity. Animals cannot. Animals are beholden to their instincts and "feel nothing save sensual pleasure."⁴⁸ Human beings alone have the capacity to foster their intellectual development in ways that then allow them to discipline their feelings and their bodies. Nurturing the mind rather than giving in to the body and living an ascetic life makes one truly human and marks the achievement of dignity. This ascetic life involves recognizing and controlling for the dangers associated with sensual pleasure and "disturbing emotions." As Cicero explains, "if we will only bear in mind what excellence and dignity belong to human nature, we shall understand how base it is to give one's self up to luxury, and to live voluptuously and wantonly, and how honorable it is to live frugally, chastely, circumspectly, soberly."⁴⁹ To be fair, Cicero does not ignore bodily needs completely: "food and the care of the body should be ordered with reference to health and strength."⁵⁰ Nonetheless, he suggests that the goal is to live a life in which one has the "serenity of mind, and that freedom from care which brings with it both evenness of temper and dignity of character."⁵¹

46. On the gendering of the supposedly generic subject of human dignity, see, e.g., Roxanne L. Euben, *Humiliation and the Political Mobilization of Masculinity*, 43 *POL. THEORY* 500 (2015); Karen Zivi, *The Gender of Dignity* (2015) (unpublished paper) (on file with author). For discussions of gender in Kantian notions of dignity, see Bayefsky, *supra* note 13; LaVaque-Manty, *supra* note 13.

47. MARCUS TULLIUS CICERO, *CICERO DE OFFICIIS* (Andrew P. Peabody trans., 1887) (ebook), <http://oll.libertyfund.org/titles/542>.

48. *Id.* ¶ 1.30.

49. *Id.* ¶ 1.30.

50. *Id.*

51. *Id.* ¶ 1.20.

The association of dignity with bodily and emotional self-control also makes an appearance in the work of eighteenth century philosopher Immanuel Kant, perhaps the most influential theorist on the subject. Unlike Cicero, who sees human dignity as a status to be achieved, Kant presents human dignity as an inherent characteristic of individuals that captures their innate and absolute worth.⁵² For Kant, human dignity is not something that needs to or can be attained; it is not something one earns or is granted by others. Instead, dignity is that quality or those capacities that make humans distinctly moral beings. This, as he explains, entails the capacity for rationality and autonomous decision-making: “the dignity of every rational subject consists in being a legislative member in the realm of ends.”⁵³ Such rational beings act in accordance with a set of principles that reflect their moral capacities and, in so doing, they act freely. It is dignity that generates both self-respect and the respect of others, dignity that requires others to treat individuals as ends rather than means, as subjects not objects.⁵⁴

But what does the Kantian notion of dignity as an innate worth expressed through rationality have to do with the body? Kant describes the dignified individual as one who is able to keep their emotions in check and exhibit a certain bearing. “This duty with reference to the dignity of humanity within us, and so to ourselves,” Kant writes, “can be recognized, more or less, in the following examples.”⁵⁵ Individuals with human dignity should not make a nuisance of themselves or become “a plaything of the mere inclinations.”⁵⁶ They should never grovel before others, complain, whine or cry out in pain. The dignified individual is to “[b]e no man’s lackey.”⁵⁷

Importantly, neither Cicero nor Kant thought of human dignity as universal. Indeed, the subject of human dignity for both thinkers is quite clearly gendered. In Cicero’s case, some individuals were human in name only and incapable of ever achieving human dignity because they were much too closely tied to their animal nature.⁵⁸ Cicero reserves the possibility of achieving human dignity for those who have “public office or social standing (1.38, 1.141, 2.65, 3.99), manly good looks (1.130), a commodious house (1.138, 139), eloquence (2.66), and a refined sense of humor (1.104).”⁵⁹ These

52. IMMANUEL KANT, *GROUNDWORK FOR THE METAPHYSICS OF MORALS* (Allen Wood ed., 2002). Sensen, *supra* note 13, argues that there may be more similarities between Kant’s account and Cicero’s than we usually recognize.

53. KANT, *supra* note 52, at 4:439.

54. For more detail on the Kantian notion of dignity see, e.g., Bayefsky, *supra* note 13; LaVaque-Manty, *supra* note 13; Sensen, *supra* note 13.

55. Immanuel Kant, *The Metaphysics of Morals*, in *PRACTICAL PHILOSOPHY* 363-603 (Mary Gregor ed., 2008) at 6:436.

56. *Id.* at 6:420.

57. *Id.* at 6:436.

58. Jack Donnelly offers the useful distinction between “normative” and “taxonomic” conceptions of human dignity in Donnelly, *supra* note 29.

59. *Quoted in id.* at 3.

quotes suggest that Cicero imagines the dignified individual as inhabiting a male body and enacting a certain form of masculinity. Kant's dignified individual is also defined by gender. As feminist philosopher Sally Sedgwick explains, Kant "finds [women] lacking in that quality which constitutes human dignity."⁶⁰ They lack "the capacity to be determined by practical reason" and are "guided in judgment for the most part by feeling." This makes women "imperfect members of humanity, or only imperfectly human."⁶¹

Though neither Cicero nor Kant writes about menstruation specifically, both inhabited worlds in which stigma and shame surrounded menstruation. From works of classical philosophy to biblical texts, and from the teachings of medicine to the folklore of different communities, menstruation was generally (and often continues to be) understood as something dirty and impure, a bodily function that renders one more akin to an animal than a human. Conventional accounts of human dignity like Cicero's and Kant's, at least by implication and in effect, exclude menstruating individuals from the category of dignified subject.

Contemporary theories of dignity are similarly silent about the relationship between human dignity and the facts of menstruation, but unlike their older counterparts, they are beginning to grapple with the problems of gender bias.⁶² Jeremy Waldron's *Dignity, Rank, and Rights* offers one example of this effort to democratize and universalize human dignity more thoroughly. Waldron argues that human dignity is best understood as an "evolving social practice" that accords individuals a distinct normative status, a nobility even.⁶³ Looking to the way the law treats individuals, Waldron suggests that human dignity is a status available to all: "we now try to accord to every human being something of the dignity, rank, and expectation of respect that was formerly accorded to nobility."⁶⁴ While Waldron's account of human dignity seems to reject the ontology of Kant's, his description of the dignified individual's comportment sounds remarkably similar. Waldron describes the "physical connotations" or "moral orthopedics" of human dignity as involving walking upright, exuding gravity, and manifesting "self-possession and self-control." Individuals involved in the social practice of dignity will not be "abject, pitiable, distressed, or overly submissive in circumstances of adversity."⁶⁵ Instead, they can fine tune their "behavior effectively and

60. Sally Sedgwick, *Can Kant's Ethics Survive the Feminist Critique?*, in *FEMINIST INTERPRETATIONS OF IMMANUEL KANT* 89 (Robin May Schott ed., 1997).

61. *Id.* For efforts to wrest an egalitarian theory of human dignity from Kant that still acknowledge the gendered dimensions of his theory of dignity, see LaVaque-Manty, *supra* note 13; Bayefsky, *supra* note 13.

62. For contemporary accounts of human dignity that deal with gender or gendered issues such as rape or abortion, see, e.g., BERNSTEIN, *supra* note 13; KATEB, *supra* note 13; ROSEN, *supra* note 40.

63. WALDRON, *supra* note 40, at 5.

64. *Id.* at 33.

65. *Id.* at 22.

gracefully in response to the legitimate demands that may be made upon them, controlling external behavior—monitoring it and modulating it in accordance with one’s understanding of a norm.”⁶⁶

Waldron’s account makes no explicit distinction about dignity on the basis of gender, but he draws inspiration from earlier work done in the late twentieth century by Michael J. Meyer on the connection between dignity and self-control that is more explicitly gendered in its language. According to Meyer, human dignity is expressed in the way we respond to experiences of humiliation and degradation. It is expressed by those who refuse to allow their rights to be “trampled underfoot by others with impunity,” by those who respond forcefully but calmly and avoid being unnecessarily deferential or meek, impatient or rude, paranoid or needy.⁶⁷ It is okay to be angry and engage in protest, but this must be done with restraint and control rather than “out of blind and uncontrolled passion.”⁶⁸ Whatever we do, we should avoid being “the bumptious man” or the hopelessly dependent individual.⁶⁹ Given the characteristics that Waldron and Meyer associate with the dignified subject, it is not difficult to imagine that someone who is menstruating, particularly if they are menstruating in a part of the world where period stigma is pronounced, would not be considered as having or being capable of dignity.

These accounts of human dignity, while not exhaustive, have a powerful influence on our everyday understanding of what it means to have dignity or be dignified.⁷⁰ They depict the dignified subject in ways that have become familiar, and they provide the norms that underpin or are implicit in claims that invoke human dignity to bolster the case for recognizing, protecting, and promoting human rights. Of course, the norms having to do with keeping one’s body and one’s emotions under control are at odds with the experience and perception of menstruation. As such, a turn to the language of human dignity to challenge period stigma and infrastructural inequities is both radical and problematic.

IV. THE PARADOXICAL RADICALITY OF MENSTRUAL ACTIVISM

Period stigma is neither a new phenomenon nor a singular one. Indeed, the way we think of periods, the cultural practices associated with them, the state policies adopted, the infrastructural and institutional configurations

66. *Id.* at 53 (citations omitted).

67. Michael J. Meyer, *Dignity, Rights, and Self-Control*, 99 *ETHICS* 520, 520 (1989).

68. *Id.* at 528.

69. *Id.* at 525.

70. To be sure, there is an effort, particularly in disability studies, to theorize human dignity such that it can accommodate different forms of embodiment. Exploring that is, unfortunately, beyond the scope of this essay.

prioritized and available do vary from place to place. But, as menstrual hygiene rights advocates and activists detail, an overwhelming number of menstruating individuals, particularly those in resource-poor settings, experience forms of discrimination and violence that amount to significant human rights violations. Even economic privilege and a good education do not necessarily protect menstruators from the debilitating effects of stigma or the fact that infrastructure treats menstruation as something at odds with the normal functions of life that are to be accommodated. As feminist philosopher Iris Marion Young admits, “the dominant disembodied norms of clean and proper” built into and perpetuated by cultural messages, workday expectations, workplace configurations, and social priorities make “it . . . difficult for me not to experience my being as defiled and out of control.”⁷¹ As life conspires to ignore or demonize menstruation and to dehumanize the menstruating individual, making a claim that menstruators have human dignity, have a right to the conditions that enable human dignity, or have a right to human dignity itself is to make a radical claim.

Menstrual hygiene and health rights claims that invoke the language of human dignity are radical because they challenge us to rethink what it means to be a dignified individual. Recall that advocates and activists argue that period stigma fails to recognize or protect the dignity of menstruators while engendering policies, behaviors, and effects that undermine their ability to engage in dignified practices. For these reasons, menstruators’ rights to privacy and education, as well as their WASH human rights, must be protected. Moreover, some advocates and activists argue that the conditions that result from period stigma amount to a violation of the principle of human dignity inherent in the human rights paradigm. Human rights protections therefore require changes in policy and practice, particularly with respect to redistributing resources in the realm of WASH human rights. The goal is multipronged: end period stigma, normalize menstruation, and make it possible for menstruators to live healthier lives and participate in public sphere activities.

This is more than simply a demand that menstruating individuals be added to a category from which they have been excluded; it calls into question the meaning of human dignity itself. Calls for the recognition and protection of menstruators human rights challenge the idea that human dignity and human rights are the purview of only those whose bodies and emotions are properly ordered, rejecting a common belief that menstruation is at odds with bodily and emotional self-control in the first place. Human rights claims that advance the idea that menstruating individuals have a dignity that deserves recognition and fostering or that menstruating individuals

71. IRIS MARION YOUNG, *ON FEMALE BODY EXPERIENCE: “THROWING LIKE A GIRL” AND OTHER ESSAYS* 109 (2005).

can behave in a dignified manner under the proper conditions, refuse the reduction of menstruators to their bodies and reject the idea that participation in public sphere activities is closed to those whose bodies and emotions are not perfectly controllable. Menstrual rights actors reject Kantian ideas about the characteristics that reflect inherent dignity and make moral reasoning possible. They turn Ciceronian ideas on their head when they argue that if menstruating individuals are provided with the proper resources, they will be able to cultivate the kind of control over bodies and emotions demanded in public. In fact, they suggest that, given the proper resources, menstruating individuals can act with the kind of upright bearing and emotional stability that Waldron associates with human dignity. Making rights claims on behalf of menstruating individuals not only calls attention to the way period stigma threatens human dignity, it expands our understanding of who counts as a dignified individual and what counts as dignified behavior.

Moreover, menstrual rights claims that invoke the language of human dignity are radical because they draw our attention to and underscore the very real material dimension of human dignity. They help us see that human dignity is less a property of the individual than it is an effect of a set of social, political, domestic, and environmental relations and decisions, and shaped by conventional norms that can change. Menstrual activism forces us to confront the ways in which the choices we make and the priorities we set shape and constrain the meaning and the practice of human dignity.

Claims linking menstrual human rights to human dignity can, however, be problematic. They may unwittingly serve to bolster certain tenets of period stigma involving norms that require hiding evidence of menstruation in public. Rights claims that are couched in terms of recognizing and protecting inherent human dignity or making human dignity possible by creating the conditions necessary to appear in public without evidence of menstruation, reinforce ideas about human dignity as entailing particular forms of bodily and emotional self-control. If, in other words, human dignity is imagined as including menstruating individuals because these individuals, when afforded certain rights, are capable of controlling their emotions and bodies in public, capable of having upright bearing or acting dispassionately, without odor or stained clothing, then little is done to contest those aspects of period stigma that obscure or demonize the realities of its messiness. These claims may normalize certain aspects of menstruation without fully addressing the ideological and structural complexity of period stigma. This does not mean that the alternative is to deny menstruating individuals the resources they need to be healthy and thrive in public or private nor is to advocate that everyone bleeds freely. The point is to recognize that the language of human dignity may be limited and limiting when it comes to addressing what it takes to make human rights and human flourishing possible for menstruators. This complexity becomes a bit clearer when we look at how some grassroots activists use bleeding in public to make their case.

V. TAKING TO THE STREETS IN SOUTH AFRICA

In 2009, sixty women from the township of Phiri marched through the streets of Johannesburg, South Africa in underwear stained red by “menstrual blood” and carrying banners that linked access to water to dignity for women. When they reached the steps of a government building, they dropped their drawers at the foot of riot police in a spirit of playfulness.⁷² This protest was part of the “Women and Water” campaign being waged in the streets as well as in the courts by the Coalition Against Water Privatization. And the Coalition was part of a larger water rights access campaign that began in 2003 in response to the installation of prepaid water meters that cut off the water supply to homes when the prepaid supply was exhausted.⁷³ If a household used up their supply of water early in a month and had no money to pay to reactivate the supply, they would go without water to drink or with which to cook, clean, bathe, or flush toilets. Such conditions, activists argued, denied citizens the ability to meet their basic human needs and meant that the South African government was abdicating its constitutional commitment to promoting socio-economic rights and the right to human dignity.⁷⁴

Excessively restrictive water meters certainly condemned all Phiri residents to unacceptable and unhealthy conditions of squalor, but it visited a particular kind of hardship upon menstruating individuals. The Johannesburg “Women and Water” protest brought attention to these unique and often overlooked challenges by offering a visual reminder that women bleed and that without water to clean, the public might be exposed to something that would be likely to make them uncomfortable. The march through the streets in “soiled” undergarments made visual the argument that without water, menstruating individuals would soil their clothes and be forced to expose the facts of their periods publicly or else have to hide in their homes. The results would be unpleasant for all, not simply for the women who would be shamed, humiliated, and embarrassed as a result. As banners suggested and leaders of the protest claimed, without water “women . . . are as good as dead and have no dignity.”⁷⁵ And these claims were repeated in court in

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72. The account of the women and water campaign draws from and is indebted to the ethnographic work of Antina von Schnitzler. See Antina von Schnitzler, *Performing Dignity: Human Rights, Citizenship, and the Techno-Politics of Law in South Africa*, 41 AM. ETHNOLOGIST 336 (2014).
 73. For more details on the campaign, see, e.g., Jackie Dugard, *Choice From No Choice: Rights for the Left? The State, Law and the Struggle Against Prepayment Water Meters in South Africa*, in SOCIAL MOVEMENTS IN THE GLOBAL SOUTH: DISPOSSESSION, DEVELOPMENT AND RESISTANCE (Sara C. Motta & Alf Gunvald Nilsen eds., 2011); Jackie Dugard, *Rights, Regulation and Resistance: The Phiri Water Campaign*, 24 S. AFR. J. HUM. RTS. 593 (2008).
 74. The South African Constitution establishes rights to certain socio-economic goods as well as a right to human dignity. The South African Water Services Act 108 (1997) further specifies what a basic water supply right entails.
 75. Louise McAuliffe, *Bloody Underwear Protest in Johannesburg—to Demand Free Water*, THE SOWETAN (12 Feb. 2009), <http://abahlali.org/node/4796/>.

the case of *Mazibuko & Others v. City of Johannesburg and Others* (2008).⁷⁶ As one affidavit submitted in the legal case explained, if the plaintiff did not have access to water, she would be unable to flush away evidence of her menstruation and unable to bathe in the family-style manner necessitated by a limited water supply. Furthermore, the inability to hide the facts of her bleeding body would lead to shame and embarrassment in front of her family. Because flushing that evidence away or taking a solo bath would deprive the rest of her family of necessary water, she was left with choosing between one indignity or another.⁷⁷

As anthropologist Antina von Schnitzler's compelling ethnography makes clear, the marching women and the participants in the court case worked hard to make these distinctive struggles visible to the court.⁷⁸ They shared stories about household size, health problems, and periods in order to counter the claim that all individuals needed roughly the same amount of water, a claim woefully out of touch with the realities of women's lives in the township. They framed their experiences as a form of suffering in which their basic human needs were going unmet. These stories worked both with and against the dominant discourses of human dignity circulating in South African social and legal arenas.⁷⁹ For example, activists and plaintiffs reinforced the idea of human dignity as status accorded or recognized by the state and limited to meeting basic human needs when they positioned themselves as victims in need of state support. But they called this understanding of dignity into question by making a distinction between their human rights to basic goods and their inherent human dignity, a distinction that government experts unfortunately ignored.⁸⁰ And they challenged, indeed rejected, the status of pure victim. Plaintiffs may have presented themselves in court as individuals who were suffering an indignity by virtue of being unable to meet their basic needs, but the fact that they were protesting as well as coming forward to speak out against state policy signaled their agency and their strength.⁸¹ They may have used the court's association of dignity with the mitigation of certain kinds of bodily vulnerabilities to demand state action, but their protest and lawsuit enacted a form of dignity that had far more to do with upright bearing and moral decision-making.

At the same time, by drawing attention to the relationship between menstruation and water access, the protestors and applicants in the case challenged the court to recognize the gendered nature and gender blindness

76. *Mazibuko & Others v. City of Johannesburg and Others*, Judgment, (CCT 39/09) ZACC 28 (2009).

77. von Schnitzler, *supra* note 72.

78. *Id.*

79. On African conceptions of human dignity see, e.g. Chaskalson, *supra* note 13; CORNELL, *supra* note 13; Metz, *supra* note 13.

80. von Schnitzler, *supra* note 72, at 343.

81. *Id.* at 344-45.

of dominant conceptions of human dignity. Specifically, the protest exposed the gendered form that indignity takes by highlighting the kinds of suffering that come from public exposure of menstrual blood while also suggesting that public exposure of menstrual blood need not be something of which to be ashamed. The protest, particularly its jovial nature, made the claim that having one's period, even bleeding in public, does not disqualify individuals from participating in public sphere activities. In so doing, it turned notions of female impropriety against the state. The women refused to be shamed and instead shamed the state for its lack of compassion and its appalling treatment of those marginalized by poverty. The protesters showed up in public simultaneously as menstruating women and as citizens, as individuals whose basic needs were not being met and as actors with the political agency to do something about that. They thus challenged, and exposed as senseless, the idea that female propriety requires hiding evidence of one's period and that menstruation disqualifies one from active engagement in the social, cultural, or political life of a community.

Outside of the courtroom and beyond the streets, these women embraced another understanding of human dignity that was distinct from its equation with having one's basic needs met. Women viewed dignity not only as living without the fear of water disconnection but also as being able to engage in certain cultural practices of hospitality that evinced respect for others. They associated dignity with "respect or obligation, rather than with intrinsic values or basic needs."⁸² In the court, they may have defined dignity in terms of having basic necessities, and they conceded to seeing the state as the institution which could confer dignity on those who would otherwise not have it. But in their own homes and everyday lives, women understood and practiced a more expansive and communal form of human dignity in which they took responsibility for its realization.

This, of course, does not mean that the alternative forms of human dignity embraced, promoted, or enacted by protestors and plaintiffs were without their problems. In associating dignity with familial responsibility, the women von Schnitzler describes risked reproducing and reinforcing cultural stereotypes about the responsibilities and subordinate roles of women in families. And the demand for enough water to clean one's body and clothing and to flush away the evidence of menstruation risked perpetuating the idea that human dignity is only illustrated by controlling one's body and emotions. Intentionally or not, these arguments reproduced some degree of period stigma by sending the message that there is something publicly unacceptable about menstrual blood, that it must be hidden in public if human dignity is to be established. The irony is, of course, that the protest used the public exposure of menstrual blood to make that point.⁸³

82. *Id.* at 345.

83. Unfortunately, in the end, the rights claims that invoked human dignity proved unconvincing, at least to the judges. The Constitutional Court found the government's restrictive

VI. BLEEDING FREELY IN LONDON (AND ELSEWHERE)

The menstrual activism in the South African water rights example simultaneously reinforces norms of human dignity that treat certain forms of bodily disorderliness as a marker of a lack of dignity and yet refuses to reduce menstruating individuals to their monthly periods. It rejects the idea that menstruation disqualifies one from being a human with dignity. In marshalling a public performance of menstruation and personal narratives to challenge inadequate infrastructure, the activists were doing crucial work to make “dignified” living possible for those who menstruate. And that is by no means something to dismiss. Nonetheless, in emphasizing the importance of giving menstruating individuals the tools they need to appear in public without evidence of their periods, activists perpetuated elements of the idea that menstruation and dignity are at odds. Indeed, when outward appearance and presentation of normality requires menstruators to hide their periods, it reinforces a sense of disconnect and alienation that is not far removed from the stigma activists seek to eradicate in the first place. The implication is that the public display of dignified behavior rests on the private hiding of shame.⁸⁴

This is one of the concerns to which musician and activist Kiran Gandhi sought to bring attention when she ran the 2015 London Marathon while bleeding freely. With the support of her friends and family, Gandhi decided to forgo using a tampon or pad during the race for practical and political reasons. Practically speaking, she found it uncomfortable to run a long distance while using either product and she knew it would be difficult to stop during the race to change them.⁸⁵ Politically, she saw her actions as a form of “radical activism” meant to illuminate, educate, and motivate social change.⁸⁶ Like other menstrual rights activists, Gandhi sought to make visible and challenge the stigma associated with menstruation and to reject the idea that menstruating individuals should feel ashamed, diseased, or inferior to others because of their periods. But she did this by taking on the prohibition against public displays of menstrual blood. Gandhi knew that this display would make people uncomfortable, and that was her point. She wanted people to confront the realities of a biological fact and get them, at least subconsciously, to acknowledge the work and costs that go into maintaining the illusion that periods do not actually happen. Her act brought attention to an aspect of menstrual stigma that is less commonly addressed.

In addition to challenging the norm that evidence of menstruation must be hidden in public, Gandhi’s free bleeding also exposed a set of entrenched

water policy to be constitutional despite the South African Constitution’s recognition of the state’s role in advancing human dignity and socio-economic well-being.

84. YOUNG, *supra* note 71.

85. Kiran Gandhi, *Here’s Why I Ran the London Marathon on My Period and Didn’t Wear a Tampon*, THE INDEPENDENT (14 Aug. 2015).

86. *Productive Spontaneity: A Conversation with Kiran Gandhi*, LUNAPADS BLOG (16 Sep. 2016), <https://lunapads.com/blog/2016/09/interview-kiran-gandhi/>.

gender norms that are distinct from and yet inextricably tied to menstrual stigma. Gandhi anticipated that the exposure of her menstrual blood would upset people and draw condemnation, but she refused to let the comfort and perspective of others dictate her priorities. In putting her own needs before others', Gandhi rejected the often unacknowledged belief that it is women's responsibility to make others feel comfortable, a norm that is part of a broader way of thinking about women's bodies that makes them available for others' consumption and pleasure and that allows others to dictate what they are comfortable consuming (e.g., breasts in push-up bras but not breasts used for breast feeding, evidence of motherhood but not the biological processes by which pregnancy comes to be).⁸⁷ Her choice of a marathon as the site for bleeding freely also made visible the gendered nature of the treatment of leaky bodies in the context of athletics. Here was a woman engaged in an arduous physical task who was clearly menstruating, an action that, on its own, still surprises many. And here was a woman leaking a particular bodily fluid that shocked people even more. While Gandhi's free bleeding was met with disgust and contempt, and Gandhi's post-race picture showing blood on her running tights between her legs drew ire, pictures of men leaking bodily fluids received a far different treatment. In fact, men who posted post-race pictures of bleeding nipples, a result of chafing, were celebrated for their heroic efforts.⁸⁸

Gandhi, an already established public figure with a reputation for being outspoken, had little to lose by exposing the facts of her embodiment in the way she did. She opened herself up to harassment but avoided the kind of violence inflicted on others whose menstruation cannot be hidden. Gandhi acknowledged the importance of her social support systems as well as the economic privilege that made it possible for her to access and afford menstrual products so that free bleeding became a choice. She used this privilege to bring attention to the obstacles others face in doing the same. Gandhi made clear, both through her actions and her words, that the secrecy and shame surrounding menstruation, the inability to access the resources necessary to prevent bleeding or staining, and the continual struggle to keep bodies and clothing clean, all worked to undermine the ability of menstruating individuals to be full participants in the public sphere: "[s]ecrecy prevents real change by hampering the ability to vocalise innovative solutions."⁸⁹

87. Erin Hanafy, *Kiran Gandhi—the Menstrual Badass of the London Marathon—Speaks Out*, WELL+GOOD (30 Sept. 2016), <https://www.wellandgood.com/good-advice/kiran-gandhi-london-marathon-period/>.

88. Matt Stopera, *Can You Make It Through This Post And Still Want To Run A Marathon?*, BUZZFEED (14 Oct. 2013), <https://www.buzzfeed.com/mjs538/can-you-make-it-through-this-post-and-still-want-to-run-a-ma>; Elizabeth Licorish, *Kiran Gandhi's Marathon Menstruation was a Smashing Success*, PHILLYVOICE (11 Aug. 2015), <http://www.phillyvoice.com/kiran-gandhis-marathon-menstruation/>.

89. Gandhi, *supra* note 85.

The practice of publicly exposing menstrual blood in order to illuminate and challenge menstrual taboos and identify structural inequities continues in other forms. Later in 2015, for example, several women stood outside of the London Parliament building in clothing stained with menstrual blood in order to draw attention to the financial costs associated with periods. They wanted passersby to know what it might look like to live in a world where menstruators had no choice but to bleed freely in public.⁹⁰ Their protest was part of growing effort to contest the “tampon tax,” the tax levied on menstrual products that comes from treating them as luxury items. In other places, menstrual activists have turned fountains red with food dye, covered the walls of a university classroom with “used” menstrual pads, and have held “bleed-ins” to draw attention to the structural, economic, and socio-cultural barriers to menstrual health and hygiene.⁹¹

The acts highlighted here break the taboo against seeing menstrual blood and discussing menstruation in public, but not all are specifically meant to challenge these injunctions. In fact, some of these protests are meant to do precisely the opposite, to make it more likely that menstruating individuals can appear in public spaces without any evidence of their periods. This is, of course, a powerful challenge to those aspects of period stigma that deny the humanity of menstruating individuals, barring them from public places while on their periods. It does the vital work of identifying and helping to ensure that the products, the norms, and the conditions necessary for menstruators’ well-being and equality are put in place. And even when the protests are meant to promote a certain kind of hiding in public, they challenge the gendered norms about bodily self-control associated with conventional accounts of human dignity. Together with free bleeding, menstrual rights activists of all sorts, enact and imagine human dignity, or the dignified subject, anew and as something that can be expressed in a variety of ways reflecting the complexity and diversity of bodily experiences and needs.

90. Ruth Howarth & Charlie Edge, *Does our Period Blood Protest Make you Feel Uncomfortable? That’s the Point*, THE INDEPENDENT (10 Nov. 2015).

91. Caroline Mortimer, *Tampon tax Protest: Feminist Campaigners Turn Zurich’s Fountains Blood red*, THE INDEPENDENT (4 Oct. 2016); Leigh Cuen, *Pakistani Students Are Covering a Wall at Their University With Menstrual Pads*, MIC (12 Apr. 2016), <https://mic.com/articles/140520/pakistani-students-are-covering-a-wall-at-their-university-with-menstrual-pads>; Matt Payton, *Pakistani Students are Covering University Walls With Sanitary Towels in Protest Over Period Taboo*, THE INDEPENDENT (13 Apr. 2016), <https://www.independent.co.uk/news/world/asia/pakistani-students-university-sanitary-towels-protest-sexism-period-taboo-a6982631.html>; Daniel Weldon, *Students Hold ‘Bleed-in’ to Demand Free Menstrual Products*, CAMPUS REFORM (25 Jan. 2018), <https://www.campusreform.org/?ID=10432>.

VII. CONCLUSION

Policy makers in the US are working to repeal the tampon tax at the state level.⁹² Indian policy makers have decided to forgo it altogether.⁹³ Innovators and entrepreneurs are designing affordable and environmentally-sustainable menstrual products and getting them to menstruating individuals in need. NGOs are creating innovative ways to educate girls and boys about periods. Thousands of organizations and communities across the globe have raised awareness about menstrual health and hygiene every 28th of May since 2013, on what has come to be known as Menstrual Hygiene Day. Bollywood has even made a movie on the subject, *Padman*, and an American-made documentary, *Period. End of Sentence*, won the 2019 Academy Award for Best Documentary Short. Together, these efforts are going a long way to contesting period stigma and advancing the health, equality, and human rights of menstruators all over the world. Of course, much work remains to be done, and it is likely that rights claims that invoke the language of human dignity will continue to play an important role in that effort.

The analysis above offers a few lessons for scholars and activists going forward. To the extent that we rely on or advance conventional accounts that define human dignity in terms of a certain kind of bodily and emotional self-control, we perpetuate norms that are problematic not just for menstruators, but for all who fall outside those norms. Recognizing and contesting narrow visions of human dignity, and enacting human dignity in ways that acknowledge and address the varied experiences of individuals as well as the specificities of gendered embodiment are, then, essential to advancing the human rights of menstruators and others.

Of course, this may be a difficult task. As the struggle for menstrual rights reveals, conventional notions of bodily orderliness have a powerful hold on us and still do important work in the realm of human rights. Fortunately, menstrual human rights activism, particularly projects involving the public exposure of menstrual blood, shows us possibilities for reimagining human dignity through action. And they show us that human dignity cannot be captured by a single human quality or practice, just as they remind us that embodiment is not experienced by all in the same way. Dominant norms of human dignity may regulate some bodies more than others, but whether they must or will continue to do so in the future is something that menstrual human rights advocates and activists are working hard to address.

92. See, e.g., the partnership between Period Equity and LOLA to eliminate the tampon tax in the United States by April 2020, *Tax Free Period*, PERIOD EQUITY & LOLA, <https://www.taxfreeperiod.com>.

93. Rishi Iyengar, *India Scraps Controversial tax on Sanitary Pads*, CNN (22 July 2018).