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Period politics and policy change: the taxation of menstrual products in the United Kingdom, 1996–2021

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ABSTRACT

How, when and why do policies change? This article engages with this question through a focus on the taxation of menstrual products in the United Kingdom from its initial emergence as an issue in 1996 through to the eventual abolition of the ‘tampon tax’ on 1 January 2021. Despite the significance of this topic for broader debates concerning gender inequality, political efficacy and social change it is not one that has been the focus of close historical analysis. The research presented in this article fills this gap in the existing research base and reveals (*inter alia*): (i) the ebb-and-flow of the issue-attention cycle; (ii) the grating of domestic pressures against international obligations; (iii) incremental policy change in an attempt to assuage campaigners; (iv) the co-option of ‘period poverty’ as a strategic and symbolic issue by Brexit campaigners; (v) and the eventual resolution of the issue a quarter of a century after it was first raised. As such the *politics of policy change vis-à-vis* the taxation of menstrual products in the United Kingdom fits within a number of broader debates concerning: *how, when and why* policies change; the complexities of multi-level governance; and interpretations of policy success and policy failure.

KEYWORDS

Tampon tax; gender equality; period politics; policy-making; Brexit

Introduction

In recent years the taxation of menstrual products¹ has become a central element of broader debates concerning gender equality and human rights. Campaign groups have emerged all over the world, often forging international coalitions and pressuring governments into changing taxation policy. Since 2004 countries as varied as Kenya, Canada, India, Australia, Germany and Rwanda have abolished or significantly reduced sales taxes on menstrual products and the pressure for policy reforms shows little sign of abating.² It is in this context that this article seeks to fill a major gap in the existing research literature that can be set out as follows: first, despite the global scope and significance of the topic the *political and policy dynamics* concerning the taxation of menstrual products has not been the focus of extensive academic inquiry; where it has been studied (and second) analyses tend to focus on the United States (US) and generally adopt a strong constitutional law, human rights and ethics-focused approach; what is currently missing (and thirdly) from the research base are focused case studies that seek to identify and

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understand *the politics of policy change* through close historical scholarship.³ This article fills this gap by offering the first detailed historical analysis of the debate concerning the ‘tampon tax’ in the United Kingdom (UK). Its central argument is that adopting ‘the long view’ of the debate facilitates the identification of specific phases or waves of attention, debate and contestation which, when taken together, reveals the deeper politics of policy change *vis-à-vis* the taxation of menstrual products. It also reveals not only how campaigners utilised a number of pressure points within and beyond the Houses of Parliament but also how the policy-flexibility of ministers was itself constrained by wider macro-political constraints (i.e. membership of the European Union (EU)). Finally, this article speaks to the Critical Menstruation Studies literature that draws attention to the structural aspects of menstruation, including the political dimensions that underpin institutions, laws, policies, budgets, and taxation which have, hitherto, received very little attention.

The research presented in this article is derived from a major mixed-methods study that was undertaken during a two-year study that was launched in January 2019 and was divided into two main stages. The first stage was based around desk research and a close reading of the existing literature on the taxation of menstrual products. The second stage involved a detailed analysis and mapping of the policy debate and political response in the UK at the national level through a focus on parliamentary debates, questions, reports, ministerial speeches, government statements, etc. The starting point for this analysis was 8 February 1996 when the first parliamentary question to a minister was tabled on the topic by the Labour MP John Heppell, and the end point is the 1 January 2021 when the EU-UK ‘transition period’ came to an end and VAT on menstrual products was finally abolished. This time span embraces a policy debate lasting a quarter of a century which, in turn, underlines our emphasis on historical political analysis or ‘the long view’ (see Table 1).

Five inter-related elements make the analysis of the tampon tax in the UK a particularly significant and insightful case study with broader implications for the analysis of the *politics of public policy*. First and foremost, as a traditional majoritarian or ‘power-hoarding’ polity it might be expected that British governments would enjoy high levels of policy discretion when faced with domestic pressures.⁴ And yet (secondly) what this case study reveals is the existence of a policy domain to a large extent ‘trapped within’ a larger regulatory structure (i.e. membership of the European Union), thereby ‘tying the hands’ of domestic actors.⁵ The third distinctive insight is therefore the pattern of domestic decision-making through which a series of governments sought to assuage

Table 1. A historical account of the politics of policy change: Taxation of menstrual products in the UK, 1996–2021.

Phase	Epithet	Evolution	Government Response
1996–2001	‘Issue Emergence & Policy Response’	Narrow: Single-Issue	‘Hands are Tied’ but we can reduce VAT from 17.5% to 5% from January 2001.
2001–2014	‘Abeyance & Off-Stage Activity’	Narrow: Single-Issue	‘Hands are Tied’ remains the Government’s position.
2014–2016	‘Re-Emergence & Europeanisation’	Broadens: Into Brexit debate	‘Hands are Tied’ but we can use VAT receipts for a ‘Tampon Tax Fund’ from 2015.
2016–2021	‘Issue Expansion & Brexit’	Broadens: Into ‘Period Poverty’	‘Hands are Untied’ due to Withdrawal Agreement and VAT removed from Jan 2021

campaigners on this issue (i.e. reducing the rate, introducing new funding, establishing a task force) while operating *within* the external restraint. This complements a fourth finding and the manner in which the topic of the tampon tax evolved over time from a relatively specific issue to one that was framed as a core or, more specifically, a symbolic element of far wider socio-political tensions (i.e. in Phase 2 *vis-à-vis* Brexit and Phase 3 *vis-à-vis* gendered inequalities and period poverty). This flows into the fifth and final insight with regard to the manner in which the UK government was only able to deal with the root of the issue once their hands were 'untied' due to Brexit. The structure of this article reflects the four phases set out in Table 1 (above), and with a short fifth and final section reflecting on the broader implications of this case study. The next section explores the emergence of an issue.

Phase I: Emergence & domestic discretion, 1996–2001

One of the most interesting elements of the history of taxation on menstrual products in the UK is the way in which it was inter-twined with the UK's rather awkward relationship with the European Union.⁶ With the Second EC Directive on Value Added Tax (hereafter VAT) requiring all member states to adopt the system by 1 January 1970 future membership of the emergent supra-national association brought with it the requirement to harmonise tax systems. The importance attached by the EC to VAT stemmed from the perception that such a tax was a means through which indirect tax systems could be harmonised and, as Neil Warren has outlined in detail, with support growing for the UK to join the European Community the government took steps to align its taxation system through the *Finance Act 1972*.⁷ This replaced the previous Purchase Tax and Selective Employment Tax with a VAT from 1 April 1973 and, as such, paved the way for the UK's membership of the EU (formerly European Community). Despite being applied at two rates initially (a rate of 10% along with a zero rate on a select range of goods and services such as food, books, and children's clothing) the VAT structure has undergone numerous changes since 1973, including most notably: the standard rate being cut to 8% on 29 July 1974; a higher (25%) rate for selected goods and services being introduced on 18 November 1974; the higher rate being cut to 12.5% from 12 April 1976; the standard rate being increased to 15% and the higher rate abolished on 18 June 1979; the standard rate being increased to 17.5% from 1 April 1991; and domestic supplies of fuel and power being charged at a reduced rate of 8% from 1 December 1993.

Although these various changes played out over the course of two decades it was not until 8 February 1996 that the issue of VAT on menstrual products was first raised in Parliament by Labour MP John Heppell, who in a written question, proceeded: 'To ask the Chancellor of the Exchequer what plans he has to reduce the rate of VAT on sanitary products', to which Paymaster General, Conservative MP David Heathcoat-Amory simply responded 'None'.⁸ A more detailed written question was laid shortly thereafter on 28 February 1996 by Labour Co-operative MP Alfred Morris who questioned:

[W]hat representations he has had in relation to the imposition of VAT at 17.5 per cent., on sanitary protection products for women; what response he has made; what action he is taking; what was the yield of the tax on these products in each of the last three years for which figures are available; and if he will make a statement.⁹

On this occasion, David Heathcoat-Amory responded that:

Because VAT is intended to be a broad-based tax on consumer expenditure generally, sanitary protection products for women have been taxed at the standard rate from the outset. The revenue yield is approximately £35 million a year. Around 160 representations for tax relief have been received since April 1995. Since the last Labour Government agreed with other EU member states in 1977 that the UK would not extend the scope of its existing zero-rates, there is no possibility now of zero-rating these products.¹⁰

MPs were nevertheless undeterred from pursuing this general line of inquiry further. On 3 April 1996 Labour MP Tessa Jowell, for example, likewise questioned how much was raised from VAT on sanitary products, how much it would cost to reduce the tax, and whether consideration had been given to reducing VAT to the lowest permissible rate, to which David Heathcoat-Amory once again iterated that:

Since the last Labour Government agreed with other EU member states in 1977 that the UK would not extend the scope of its existing zero rates, it is not possible to zero-rate these products. Member states may apply to them a reduced rate of not less than 5 per cent, but it remains Government policy not to have a reduced rate for anything except domestic fuel and power in the interests of having as simple a rate structure for the tax as possible.¹¹

These responses were heavily influenced by the constraints associated with the UK's membership of the EU which placed numerous obligations on member states in relation to VAT rates. The most substantive of these was the sixth VAT directive (77/388/EEC) adopted on 17 May 1977 which Seely (2021, 7) suggests 'marked a turning point in EU VAT law—as governments agreed on common criteria for the VAT base in all Member States (i.e. specifying those goods and services which could be exempted from the tax)'. Although concerned initially with the VAT base as opposed to actual rates, member states were nevertheless allowed to maintain reduced rates and exemptions under Article 28(2) on the proviso that: (i) they were already in place on 31 December 1975, (ii) were for clearly defined social reasons, and (iii) were for the benefit of the consumer. Despite a common commitment to harmonise the rates of VAT being agreed this did not actually occur until June 1991 with Directive 92/77/EEC which came into effect on 1 January 1993. This required that all Member States: apply a standard VAT rate of 15% or more from 1 January 1993; gave them the option of applying one or two reduced rates, no lower than 5% to certain specified goods and services, as listed in Annex H of the Directive; and allowed them to continue charging any lower rates that had been in place on 1 January 1991 for the duration of the 'transition period' assuming these were in accordance with Community law. The UK did, however, secure a special right to bring any zero VAT rates into a reduced VAT rate band. This did not allow the UK to re-introduce a zero rate that had been in place on 1 January 1991 which it had then withdrawn, nor, in one of the most significant aspects of this arrangement, were member states allowed to introduce a new zero rate. Although there have been some minor revisions to the list of supplies chargeable at a reduced rate, there has been little change since, with any amendment to these rules requiring, as with any VAT Directive, unanimous agreement amongst all member states.

Notwithstanding these legal constraints, the issue of VAT on menstrual products resurfaced after the May 1997 election of a Labour government under Tony Blair. On

25 May 1998, for example, the Liberal Democrat MP Jackie Ballard raised the topic again at Treasury Questions:

Jackie Ballard: Does the Minister agree that, for 15 million British women, sanitary products are as an essential part of the family budget as food or clothing? Is the hon. Lady aware that Britain has one of the highest rates in Europe of valued added tax on sanitary protection? Will she therefore respond positively to the 171 Members, many of whom are her hon. Friends, who signed early-day motion 683, and asked the Government to reduce VAT on sanitary protection to the European Union minimum of 5 percent?

Mrs. Liddell [Economic Secretary to the Treasury]: I am grateful to the hon. Lady for making that point, and I am well aware of the anxiety that exists not only in the House, but in women's groups; it has been well represented in women's magazines. Value added tax is levied on a wide range of other essential health and hygiene products that affect men or women, or both, and they have to pay VAT. The history of VAT on those products dates back to 1977, and there has been a debate about the matter. At the moment, there is no proposal to reduce VAT on sanitary products.¹²

At this juncture there was therefore little discernible difference between the two main parties, with VAT on menstrual products consistently justified along the lines that it would be both inappropriate to extend special treatment to just one product, and that, when introduced in the UK VAT was designed to be as broadly based as possible in the interests of fairness, simplicity, and legal certainty. Introducing reduced rates in one area might then, it was suggested, encourage lobbying for reductions on other 'essential items' thereby eroding government revenues. And yet as Weiss-Wolf (2020) justly observes, the laws and tax rates/exemptions governments set 'make an affirmative and deliberate statement about the values for which we stand'.¹³ Viewed in such a manner, the argument for reducing the VAT rate on menstrual products was strengthened by the fact that numerous exclusions were originally applied to a range of products not conventionally considered essential such as postage stamps, Jaffa Cakes, exotic meats, male shaving products and edible cake decorations whereas menstrual products, subject to VAT from the outset, were alternatively classed as 'luxury' or 'non-essential' items. In this respect VAT (and its parallels around the world) have been presented as discriminatory from the outset, and indicative of the gendered nature of a VAT policy (and tax system more broadly) which was archaic, unfair, discriminatory and acted as an obstacle to the pursuit of economic parity and gender equality.^{14, 86} This point was not lost on public campaigners who continued to lobby the Government throughout the first half of 1999. In response to a written question from Plaid Cymru MP Elfyn Llwyd on what representation the Government had received on the subject the Paymaster General, Dawn Primarolo, responded that 'In the last two years Treasury Ministers have received almost three hundred letters and a few small-scale petitions on reducing the rate of VAT on sanitary products'.¹⁵ Building on this growing momentum an Early Day Motion (1999) was laid down in November 1999, signed by 252 Members of Parliament, which argued:

[T]hat sanitary products should be classed in the category of essential to the family budget, just as food, children's clothing and books already are, and that, like such products, they should be classed as VAT-free under the EC Sixth Directive; notes that Britain currently has one of Europe's highest rates of VAT on sanitary products and that 15 million British women spend in excess of £300 million a year on products that are necessary to personal hygiene; further notes that removing VAT from sanitary products would only cost the Treasury one

penny a year for every woman in the country using them; calls on the Government to reduce the VAT on sanitary products to the EU minimum of five per cent; and asks the Government to support a change in the European law so that such products can be zero-rated.

In response to increasing pressure the March 2000 Budget stated that the VAT on women's menstrual products would be reduced from 17.5% to 5% from 1 January 2001 which would provide sufficient time for businesses to adjust their pricing structure and retailers time to adapt their accounting systems. Announcing this policy, the Paymaster General nevertheless noted that:

[T]oday's measure shows the Government's willingness to listen to the views and concerns of women throughout the country. This is not a luxury product. This is about fairness and doing what we can to lower the cost of a necessity. Our action today sends a signal to women that we will continue to work towards equality in the tax system, the workplace and in society as a whole.¹⁶

Reflecting the relatively low-key nature of the campaign, however, the announcement did not feature in the budget speech itself but was instead contained in the much longer Budget Report, about a third of the way into the over two-hundred page document which stated that 'To make the tax system fairer for women, VAT on women's sanitary products will be cut from the standard rate of 17.5% to a reduced rate of 5%'.¹⁷ Moreover, the announcement received scant media coverage (discussed below). Given the absence of substantive and sustained external pressure or media interest the key driver of policy change appears to have been the changing demography of MPs themselves. The 1997 General Election was particularly notable in this regard, having led to a doubling of the number of women in Parliament from 60 to 120. The link between the changing character of the Commons and the government's *volte-face* was noted at the time. *The Financial Times* (22 March 2000), for example, observed that the announcement was welcomed by Labour female MPs who had lobbied the Chancellor on the issue throughout the course of the parliament; with *The Guardian* (2000) similarly citing the now numerous female Cabinet Ministers as a key contributory factor in the decision.¹⁸

Following the Budget, HM Customs & Excise consulted trade groups to establish a workable definition of those menstrual products to be taxed at the reduced rate. In June a draft of the proposed legislation and a draft regulatory impact assessment (RIA) were published; in a covering letter, Customs explained the scope of the new VAT relief:

In drafting the legislation we have sought to produce a clear, simple and workable reduced rate for products that are clearly designed for women's sanitary protection e.g. of the pad, tampon, panty liner nature. The reduced rate will not apply to complimentary products such as feminine wipes, lined pants and sprays. The reduced rate specifically excludes all products designed for urinary incontinence because relief in the form of a zero rate is already available when such products are bought by incontinent people living in their own homes. Clearly there is no intention to introduce VAT on a supply where VAT does not currently apply.¹⁹

In the draft impact assessment HM Customs closely echoed the government's rationale for reducing the VAT rate conceding that the standard-rating was unfair inasmuch as: 'it discriminated against women; was an additional tax burden on families because sanitary protection is needed by all women of childbearing age (including daughters); and was essential to hygiene. Consequently the Government's preferred option is [to cut VAT to 5%] which goes as far as possible in lowering the VAT on sanitary protection. It is a simple,

relatively cheap change which addresses what many have seen as an anomaly and - provided the benefit is passed on in the purchase price - is a real benefit to women' The legislation to introduce the new reduced rate was agreed to on 23 November 2000 with 'women's sanitary protection products' added to the list of items chargeable at a reduced rate. These products are defined as 'products that are designed, and marketed, as being solely for use for absorbing, or otherwise collecting, lochia or menstrual flow', 'panty liners, other than panty liners that are designed as being primarily for use as incontinence products', and 'sanitary belts'. 'Protective briefs or any other form of clothing' are specifically excluded from the scope of this relief. Paymaster General, Dawn Primarolo, set out the purpose of the Order as follows:

As part of the 2000 Budget, the Government announced that women's sanitary protection would be charged at a reduced VAT rate of 5 per cent. from 1 January 2001. The announcement was greeted with widespread support from Members on both sides of the House and we have since consulted the appropriate trade bodies. The order fulfils our commitment. The Government agree that, for social reasons, certain strictly limited goods and services should be subject to a reduced VAT rate of 5 per cent., which is the lowest rate allowed under our agreements. Sanitary protection is one of those items . . .

The Government have made it clear to manufacturers and suppliers of sanitary protection products that we expect the VAT reduction to be passed on to customers. Many of the larger retailers have lowered their prices before the introduction of the measure on 1 April 2001. It would be disappointing to discover that businesses were using the reduced rate to increase their profit margins at the consumer's expense. I am confident that smaller traders—who will find it more difficult to make the adjustment—will none the less pass the price reduction on to consumers. Women across the country have applauded the benefits of the measure, for which many campaigns have taken place over the years.

It was difficult to apply the border line in terms of the benefits and dis-benefits of the 5 per cent. rate. We hope that we have achieved the correct definition.²⁰

The opening phase of this analysis (1996–2001) reveals three core features: firstly, the emergence of VAT on menstrual products as an issue on the parliamentary and therefore political agenda; secondly, the existence of initial executive resistance to policy change, as reflected in the statement in the summer of 1998 that 'there is no proposal to reduce VAT on sanitary products'; thirdly, the gradual build-up of pressure through the use of both formal and informal *intra*-parliamentary and *intra*-party processes; until (finally) the government conceded and utilised domestic discretion *within* the confines of an international framework.²¹ Put slightly differently, although the government was willing and able to lower VAT on menstrual products its 'hands were tied' due to membership of the European Union when it came to removing VAT completely.

Phase II: 'Abeyance & off-state activity', 2001–2014

The first phase was characteristic of an issue that rose onto the agenda and was then (albeit not wholly) addressed. What therefore followed was a prolonged period of inactivity from campaigners both within and beyond Parliament (see, for example, Table 3, below). The reasons for this are unclear but we might reasonably speculate that campaigners felt that as much as reasonably feasible had been achieved, particularly given the constraints associated with EU membership. Moreover, numerous significant

events throughout 2001 and beyond arguably conspired to displace the tampon tax from MPs' agenda including the 2001 election, 9/11 and the Afghan and Iraq Wars. One notable exception, however, was an intervention from Labour Party MP Bob Blizzard who, in a Written Question in December 2003 went beyond the immediate concerns of addressing VAT on menstrual products to:

Ask the Secretary of State for Health if he will offer financial support to women for the purchase of sanitary products.²²

Although acknowledging the importance of menstrual products to health and hygiene, in response, Stephen Ladyman Junior Minister in the Department for Health nevertheless responded that:

These are not for medical use and cannot be provided on the national health service. To show the Government's willingness to listen to the views and concerns of women throughout the country, VAT on women's sanitary products was cut to five per cent. from January 2001.²³

Phase III: 'Re-emergence & europeanisation', 2014–2016

If Phase I revolved around the emergence of 'the tampon tax' as a political issue and its partial resolution through domestic discretion, and Phase II was defined by the relative abeyance of the issue on the political agenda, it is possible to suggest that a third phase began in 2014 with demands to address the final 5% VAT rate surfacing. What is interesting about this phase is that pressure built beyond the Palace of Westminster and then utilised relatively new channels of public engagement in order to draw attention to the topic within Parliament. This 'outside-in' narrative is reflected in Laura Coryton's online petition - '*George Osborne: Stop taxing periods. Period*' - of May 2014 which utilised social media and the internet to generate support and quickly secured well over 300,000 signatures.²⁴ The following month the Coalition Government set out the legal position regarding a lower rate of VAT on menstrual products in answer to this PQ in June 2014:

Mr Jim Cunningham: To ask the Chancellor of the Exchequer (1) what consideration he has given to changing the 5% VAT rate applied to female sanitary products; (2) for what reason HM Revenue and Customs considers female sanitary products non-essential for tax purposes; and if he will make a statement; (3) if he will lower the VAT rate applied to female sanitary products.

Mr Gauke: A reduced rate of VAT of 5% currently applies to female sanitary products. This has been in place since 2001 and is the lowest rate possible under EU law. The application of VAT in the EU, including rates and flexibilities afforded to member states in this regard, is governed by EU law. The Government cannot introduce a new zero rate as this would require a change to EU VAT legislation, which would require a proposal from the European Commission and the unanimous agreement of all 28 member states.²⁵

This petition was followed in March 2015 with large public protests outside Downing Street in which activists armed with blow-up tampons and menstrual towels pinned to placards helped to bring the tampon tax into public consciousness. The following day seventy MPs signed an EDM which stated:

That this House is concerned about the level of Value Added Tax (VAT) levied on women's sanitary products, such as tampons and sanitary towels; notes that, whilst female sanitary

products are subject to a five per cent rate of VAT, shaving razors are subject to a zero per cent rate, as are other essential items such as food and children’s clothing; believes that sanitary products are also essential and should be subject to the zero per cent rate of VAT; further notes Treasury estimates that VAT on these products raises just £15 million in revenue per year; acknowledges that the setting of VAT rates is a matter for the EU; and calls on the Chancellor to urge the European Commission to bring forward a proposal to remove VAT from women’s sanitary products as part of measures in the 2015 Budget.²⁶

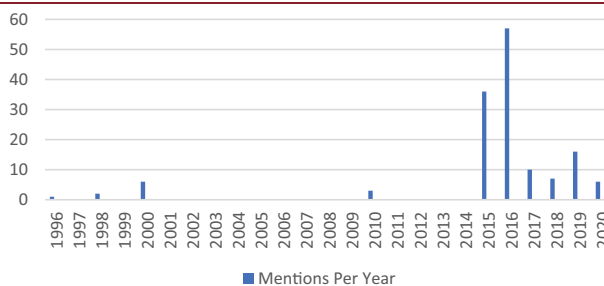
Notwithstanding the ongoing legal constraints associated with EU membership, the tampon tax campaign captured the attention of, and was increasingly politicised by, political parties and their leaders in the run-up to the May 2015 General Election. This was nowhere more apparent than in the case of the United Kingdom Independence Party (UKIP) who, in one of the earliest political interventions, pledged to scrap the tampon tax in their election manifesto which was, in the words of Suzanne Evans UKIP’s deputy chairwoman and head of policy (July 2014 to February 2016), the result of a skewed distribution of political representatives that were mostly men who did not understand real life, let alone real life for women (*The Independent*, 9 April 2015). This commitment was nevertheless accompanied by a significant caveat: that because tax sovereignty had been given over to a ‘bunch of faceless’ – and mostly male—EU Commissioners who prevented the UK from making unilateral decisions on VAT, this could only be achieved if the UK left the EU. The commitment from the other, and particularly major parties was, however, much more muted (see Table 2, below). Despite expressing a desire to address the issue, for example, membership of the EU acted as a clear constraint on the scope for

Table 2. Party manifesto commitments to reducing the tampon tax and/or extending free access of menstrual products to schools, colleges, universities.

	Conservative	Labour	Liberal Democrats	Green Party	UKIP	SNP
1997	X	X	X	N/A	N/A	N/A
2001	X	X	X	X	N/A	N/A
2005	X	X	X	X	N/A	X
2010	X	X	X	X	X	X
2015	X	X	✓	✓	✓	✓
2017	X	X	✓	✓	✓	✓
2019	✓	X	✓	✓	N/A	✓

N/A denotes no manifesto.

Table 3. Key word search in Hansard for ‘VAT + sanitary products’ (01/01/1996 to 24/11/2020).



policy agency. Labour leader Ed Miliband, despite calling the tampon tax ‘ridiculous’ on an appearance on Radio 4’s *Woman’s Hour* nonetheless conceded that ‘I can’t promise I will go further because there are these rules in place, but I will keep trying’²⁷; the Liberal Democrats and Conservatives on the other hand made no such commitment, with the latter simply stating that they would not raise VAT, income tax or national insurance after the election.

Upon winning the 2015 General Election outright provisions were put in place by the Conservative government to set a tax lock for income tax and VAT in the form of ss1 & 2 of the *Finance (No 2) Act 2015*. Both provisions were agreed to at the Committee stage on 17 September 2015. Although these government provisions were not originally linked to the tampon tax debate, when considering the second clause a new clause tabled by the Scottish National Party (SNP) was debated which required the Treasury to report on the impact of exempting women’s menstrual products from value added tax. Introducing this, SNP MP Alison Thewliss argued that ‘our new clause would leave a window open to resolve the injustice of VAT being levied on sanitary products’, because although ‘these are essential items that are very much required in households across the country . . . there is currently no recognition that [sanitary products] are essential items, and a zero rating would go some way to addressing that’.²⁸

Labour MP Barbara Keeley concurred, adding that:

Labour supports the new clause. We welcome the opportunity to call again for those essential healthcare products to be made tax-free. Women do not choose to use sanitary products; they are essential. Although the reduction in the rate of VAT on sanitary products in the UK from 2000 was welcome, more needs to be done. This is not just a female issue, but a family and household issue. Women supporting families across the country should be able to purchase those necessary items VAT-free. We recognise the complexity of the EU rules on VAT and the challenges faced by national Governments that want to make such unilateral changes. I ask the Minister to take action at an EU level to support the exemption of women’s sanitary products from VAT in the UK.²⁹

In response the Treasury Minister David Gauke stated, ‘I very much sympathise with the aims of the new clause, but this is not simply a case of the Government taking action’, rather:

Different countries have different priorities, setting their tax rates to meet the economic conditions prevalent in their own jurisdictions. Across the EU, the average rate of VAT applied to sanitary protection products is more than 17% . . . A zero rate on these products was not in place when the UK joined the EU, or the Common Market as it then was . . .

A strong case is made from all parts of the House that greater flexibility in this context would be helpful, but the point I would make is that we see little indication that other member states . . . share that objective . . . Other than when an accession country joins the EU and negotiates a zero rate, there is no particular indication that the Commission or member states as a whole are prepared to introduce new zero rates. Indeed, quite a lot of the advice coming from organisations such as the OECD and the general position that the Commission takes tend to be against that, so I do not want to underestimate the difficulties.³⁰

On 26 October 2015 the House debated the issue a second time at the Report stage in the context of a new clause, tabled by the Labour MP Paula Sherriff and supported by a cross-party selection of Members, which required:

(1) within three months of the passing of this Act, the Chancellor of the Exchequer shall lay before both Houses of Parliament a statement on this strategy to negotiate with the European Union institutions an exemption from the value added tax for women's sanitary protection.

(2) A minister of the crown must lay before Parliament a report on progress at achieving exemption from value added tax for women's sanitary protection products within European Union law by 1 April 2016.³¹

This was supported by Eurosceptic MPs including Labour's Kate Hoey who observed that 'we need to get back in our own country control of how we levy VAT, which is why we should vote to leave the European Union'. Conservative MP Sir William Cash likewise iterated that:

I entirely agree with the hon. Lady's last remark, for the reasons that she has given. We need to get back control over our own power to make laws, levy taxation and deal with all the matters which we do not need to go into today. The supremacy of this House affects tax, spending, and the way in which we run our own country. We have a right and a duty to return to the people of this country the right to govern themselves. This happens to be an extremely good example of the kind of thing that would help women in a way that I would much like to see.³²

On this occasion David Gauke committed to raise the issue with the EC and other Member States:

The UK does not have the ability to extend zero rating to new products unilaterally. We have more extensive zero rating than most, if not all, other member states, but any change to EU VAT law would require a proposal from the European Commission and the support of all 28 member states. Without that agreement, we are not permitted to lower rates below 5%. None the less, as this debate illustrates, there is considerable cross-party support for the UK to abolish VAT on sanitary products.

To that end, I undertake to raise the issue with the European Commission and with other member states, and to set out the view, which has been reflected in this debate, that it should be possible for a Member State to apply a zero rate to sanitary products . . . I do not want to conceal from the House the fact that we do not have flexibility in these circumstances. Nor do I want to conceal the challenge that we would face in reaching agreement on this . . . It was striking that [a] vote in the French Assembly just a couple of weeks ago on an attempt to move the rate down from 20% to 5.5% was defeated. I do not wish to pretend that this would be a mere formality; other member states do take a different approach to this issue.³³

With the Treasury minister having already conceded that he would raise the issue with his EU counterparts, Paula Sherriff's amendment was defeated on the floor of the House.³⁴ But it was also clear that pressure on the government was building and that the issue of VAT on menstrual products could not easily be deflected through government claims that its 'hands were tied' due to EU membership. This might explain the Chancellor of the Exchequer's decision to use the 2015 Autumn statement to announce the creation of a new domestic scheme that would use the money raised by VAT on menstrual protection to provide grants for women's charities.

There are many great charities that work to support vulnerable women, as was mentioned in Prime Minister questions. My hon. Friend the Member for Colchester (Will Quince) has proposed to me a brilliant way to give them more help. Some 300,000 people have signed

a petition arguing that no VAT should be charged on sanitary products. We already charge the lowest rate—5%—allowable under European law and we are committed to getting the EU to change its rules. Until that happens, I will use the £15 million a year raised from the tampon tax to fund women’s health and support charities.³⁵

Following Mr Osborne’s statement, Labour MP Jess Phillips asked the Chancellor how this funding scheme would operate. In his response, the Chancellor noted that:

The £15 million from the tampon tax will be available to charities that support women: not just women’s health causes but domestic violence causes, where they do brilliant work. I have announced the allocation to four charities, some of which are already involved in domestic abuse prevention. Having listened to the hon. Lady over the past few months as a new Member of Parliament, I suspect that we will not agree on many things in this Parliament, but if she has some good causes that she would like to be funded by this money, I will take a very serious look at them.³⁶

Running broadly parallel, in October 2015 the European Commission confirmed that, as part of its work programme for 2016, it would present an initiative on VAT rates allowing Member States more freedom to set their reduced VAT rates. Writing in *The Tax Journal* Richard Asquith observed that this review ‘represents a reversal of the position of the EC on reduced VAT rates. Since as recently as 2013, the EC had been calling for a full withdrawal of the use of reduced VAT rates based on them being a distortion of the single market for goods and services.’³⁷ More significantly for campaigners and politicians, Jim Pickard, writing for *The Financial Times*, reported that ‘Britain could be allowed to exempt women’s sanitary products from VAT under proposals being considered by the European Commission which would give member states greater powers over sales tax.’³⁸ Subsequently the Government confirmed that it had made the case that the review should consider the VAT treatment of menstrual protection. In his Budget statement on 16 March 2016, however, the Chancellor did not address the question of zero-rating menstrual protection, though a second round of grants from the ‘Tampon Tax Fund’ worth £12 m was announced, albeit this was not without controversy.³⁹ Concerns were raised, for example, in respect of the (mis)use of the fund when it was discovered that one charity (‘Life’) which campaigned against abortions had been awarded a quarter of a million pounds.⁴⁰ Although pressured to withdraw the funding, this was resisted by government on the basis that allocated monies could not be used for advertising or campaigning but would instead be limited to providing housing, practical help, and emotional support.

After the Budget, and prior to the introduction of the annual *Finance Bill*, the government is required to obtain Parliament’s approval via a series of Ways and Means Resolutions.⁴¹ These allow for provisions to be included in the Bill that will impose a new tax, renew an annual tax, or increase/widen the burden of an existing tax. These are formally moved at the end of the debates on the Budget, when Parliament will divide on a number of these reflecting the major or most controversial aspects of the Budget.⁴² Following the 2016 Budget a coalition of cross-party MPs led by Labour’s Paula Sherriff and co-sponsored by Conservative MP Anne-Marie Trevelyan put down an amendment (amendment *a*) to allow for zero-rating on menstrual products. Upon its success this amendment constituted the first time an opposition backbencher had successfully moved an amendment to a Government Budget.⁴³ This was attributable to the large degree of

cross-party support which included not only Members of the Labour Party but also Eurosceptic MPs. These included Steve Baker co-chair of the 'Conservatives for Britain' group who stated that his support for the amendment was not about the Chancellor's Budget but rather 'whether our Parliament can determine these tax rates. Unless we take back control we will continue to be forced to go in supplication to the EU to ask to set particular rates for particular products'.⁴⁴ In the days between the Budget and the following debates, however, the Prime Minister attended the European Council on the 17th and 18th March 2016. Its conclusions noted that:

[T]he Commission intends to publish shortly a communication on an action plan on VAT. It welcomes the intention of the Commission to include proposals for increased flexibility for Member States with respect to reduced rates of VAT, which would provide the option to Member States of VAT zero rating for sanitary products.⁴⁵

When reporting back to Parliament before the conclusion of the Budget debates the Prime Minister, David Cameron, stated that:

I took the opportunity to deal with a long-standing issue we have had about the VAT rate on sanitary products . . . we said we would get this changed and that is exactly what we have done. The Council conclusions confirm that the European Commission will produce a proposal in the next few days to allow countries to extend the number of zero rates for VAT, including on sanitary products. This is an important breakthrough. Britain will be able to have a zero rate for sanitary products, meaning the end of the tampon tax. On this basis, the Government will accept both the amendments tabled to the Finance Bill tomorrow night.⁴⁶

The need for the UK to approach the EU in order to secure this concession at all was not lost on UKIP leader Nigel Farage who once again framed the tampon tax as an example of the unequal power relationship in which the UK had been reduced to pleading for permission from unelected bureaucrats to remove the tax: 'We have begged for crumbs from the table and for once we have got some . . . it's pathetic for our country to have sunk to this level' he told ITV News (quoted in Cooper 2016). The *Finance (No. 2) Bill 2015/16* was nevertheless published on 24 March, with clause 115 providing for a zero rate to apply to those menstrual products currently charged at 5% with effect from a date to be specified in regulations. Despite having the agreement of the Commission to reduce the tax, however, the European Parliament voted on 26 May 2016 against calls to reduce VAT on menstrual products as part of a wider vote on the Committee on Women's Rights and Gender Equality report, 'Poverty: A Gender Perspective'. This included a separate and specific vote on paragraph 39 of the report, rejected by a show of hands, which stated:

[T]hat taxation policies have a gender dimension; calls, therefore, on the Commission to promote best practice on taxation policies that takes gender impact into account and furthers gender equality, particularly in terms of taxation of household income, which in some cases can subject lower earners to higher rates of taxation, including VAT, also by introducing a reduced VAT rate for goods that are essential for women, such as tampons.⁴⁷

With the UK's Brexit referendum just months away campaigners therefore shifted their focus towards the potential impact of the public vote on the government's plans.⁴⁸ On 7th July 2016 the Labour MP Rebecca Long Bailey raised this topic during the fifth sitting of the Finance Bill:

Of course, those steps at European level have been somewhat overtaken by the vote to leave the EU, although, as we know, European law may remain in force for some years to come. None the less, the EU VAT action plan anticipated concluding the reforms by 2018, even if we had not completed the process of leaving by that stage, so it would be helpful if the Minister could say whether the UK will now have a say on the options put forward in the EU VAT action plan and, if so, what option is favoured. I hope that he can confirm that in either case, the tampon tax would be abolished, full stop.⁴⁹

In response, Treasury Minister David Gauke noted that:

In May, ECOFIN [the Council of European Finance Ministers] unanimously agreed that the Commission should bring forward proposals as soon as possible to allow member states to apply a zero rate to women's sanitary products. The next step in the process is for a proposal to be published by the Commission, which it has committed to do before the end of this year ... To ensure that there is no delay in zero-rating women's sanitary products for VAT at the earliest opportunity, we have included this clause in this year's Bill ... The Chancellor committed to [the tampon tax fund] continuing for the duration of this Parliament, or until we could introduce a zero rate for women's sanitary products. We are in sight of introducing a zero rate for women's sanitary products.⁵⁰

At the report stage on 5 September 2016 the Government tabled an Amendment stating that the date for implementing the new zero rate could not be after the later date of 1 April 2017 and the earliest date that may be appointed consistently with the UK's EU obligations. In order to try and maintain momentum, an amendment was tabled by Paula Sherriff which would have placed an obligation on Chancellor George Osborne to publish, within three months, a strategy for negotiating an exemption with EU institutions. These were nevertheless rejected by Treasury Minister Jane Ellison on the basis that:

Prior to the referendum we received assurances from the Commission that it would publish a legislative proposal ... at the earliest opportunity and definitely before end of this year. ... However, until we leave the EU we need the legislative change to introduce zero-rating; until we have it, fixing a date risks contravening EU law at a time when we are entering critical negotiations with the EU about our future.⁵¹

Parliament nevertheless rejected Paula Sherriff's proposed amendment and instead agreed the Government's amendment.

Once again it is possible to identify three critical elements of this third phase in the debate concerning VAT on menstrual products. First and foremost, this section has identified not only the building of pressure around this topic as protest and debate continued within and beyond the Palace of Westminster, but also the degree to which the issue became embroiled within far broader debates concerning the UK's membership of the EU (see [Table 3](#) above for how reference to VAT and sanitary products increased significantly during this time). To some extent the specific issue was co-opted by those in favour of Brexit and was framed almost as symbolising the impotence and inequities they argued were structurally imposed by membership of the European Union. This presents something of a paradox as many of the people campaigning for the abolition of the tampon tax (younger women) were much more likely to vote to Remain in the Brexit referendum, despite the issue being co-opted by Leave campaigners who were typically older men.⁵² The second critical element of this third phase was yet another attempt by the government to vent the growing pressure through a domestic policy response (in this case the Tampon Tax Fund). While this may have demonstrated some level of governmental understanding

and responsiveness, what it could not do was address the root issue and the fact that VAT was still being applied. Following on from this the third and final element revolved around the British government seeking to re-open the policy space at the European level in order to address domestic tensions. The Prime Minister's March 2016 success in terms of persuading the European Council and European Commission to develop proposals to facilitate greater domestic flexibility was an attempt to deal with the core of the issue. The European Union had essentially agreed to consider 'untying the UK's hands' when it came to zero ratings on VAT but such vague commitments did little to sate the appetite of campaigners.

Phase IV: 'Issue expansion & brexit', 2016–2021

Just over fifty years ago Bernard Crick published a book titled *'In Defence of Politics'* that made a profound argument: politics is messy, it grates and grinds, it tends to be slow and cumbersome, but this simply reflects the increasing demands placed upon politics and the increasingly complex institutional structures through which policies are brokered and then implemented. Much of the policy analysis scholarship produced in the intervening half a century has added detail to this broad argument by focusing on (*inter alia*) veto players, path dependencies and implementation failures as elements of why policy can often appear so difficult and slow to change. What this historical analysis has so far provided is a case study in a simple demand (i.e. remove VAT from menstrual products in the UK) falling upon the procrustean realities of complex multi-level governance structures.⁵³ What is also interesting is the manner in which Labour and Conservative governments both sought to address the issue through domestic policy responses (Labour in 2001 with the VAT reduction, the Conservative government in 2015 with the 'Tampon Tax Fund'); and how the issue became embroiled almost as a lightning-rod for broader tensions within the Brexit debate. The central argument of this fourth section is that after the Brexit referendum the locus of the debate shifted as a number of issues and events served to push the issue off the agenda *within* the House of Commons. (The most obvious of which included the 2016 Conservative Leadership election, Brexit negotiations, and subsequent 2017 General Election). However, outside of parliament the 'tampon tax' became framed within, and a key element of, a far broader social movement that aimed to highlight 'period poverty' and related embedded social inequalities.⁵⁴

For many campaigners the tampon tax acted as a strategic entry point that became increasingly subsumed within a much broader 'menstrual equity movement' which aimed to eliminate the stigma around menstruation and ensure that periods did not act as a barrier to girl's and women's access to education, healthcare and other opportunities.⁵⁵ Underpinning this movement was a growing effort to unite the personal and the political, the intimate and the public by shifting existing structural power relations and foregrounding the rights, dignity and agency of every individual.⁵⁶ This approach built on decades of menstrual activism that laid the groundwork for a popular movement concerned with advancing systemic solutions to address societal and financial inequalities (of which the tampon tax was arguably the most prominent exemplar) through the greater foregrounding of the values of democratic participation, citizen engagement, gender parity and economic opportunity.⁵⁷ This broader shift incorporated a range of associated branches of a movement developing alongside protests against the tampon tax and was characterised by an enormous increase in reference to period poverty. Sara De Benedictis who

leads the Period Poverty Project, for example, noted 149 articles in UK national newspapers throughout 2016, along with over 1000 in local newspapers, thereby pointing to the importance not only of nationwide exposure and awareness-raising, but also of grassroots activism in propelling the topic into public consciousness.⁵⁸ This was further supported by the creation of a range of charities, organisational examples of which include 'Flow Aid' which campaigns for the right for, particularly, homeless women to get free menstrual products; 'Bloody Good Period' which supplies menstrual products for refugees and asylum seekers, while also providing education at drop-in sessions; 'Freedom4Girls' which provides education and menstrual products for people unable to afford them; and longer and more established children's charities such as 'Plan UK' that seeks to advance children's rights and equality for girls all over the world.

Many of these themes were catapulted into public consciousness in October 2016 with the UK release of Ken Loach's film '*I, Daniel Blake*', which centred on the reality of poverty in the UK and highlighted the issue of period poverty. In the film a young single parent Katie was caught shoplifting a box of menstrual pads after having her benefits sanctioned, and in another scene asks for a pad from a food bank who did not have any. These scenes helped to link period poverty with broader notions of poverty and deprivation associated with government policy. Cuts to benefits brought about by austerity in particular were linked to the root causes of period poverty, with women increasingly forced to choose between menstrual products and providing food for families already under intense pressure due to welfare reforms and a lack of childcare support. Not only was this exacerbated by the fact that women were more likely than men to live in poverty, the effects of austerity and period poverty were particularly acute for women with disabilities, from BAME communities, asylum seekers, refugees and homeless women.⁵⁹ Many of the issues raised in the film were supported by one of the most significant pieces of research undertaken on the issue of period poverty by Plan International which showed that: one-in-ten girls and women aged between 14 and 21 were unable to afford menstrual products; one-in-seven had struggled to afford them at some point; one-in-seven had to ask to borrow menstrual products due to affordability issues; and that more than one-in-ten girls had had to improvise menstrual products due to affordability issues.⁶⁰

The effects of period poverty therefore had a particularly disproportionate knock-on effect for girls from low-income families who were left with no viable option other than to miss school days during their periods.⁶¹ A poll by Always found that this adversely affected their education, hindered their ability to make friends and socialise, but also had the potential to adversely affect mental health and confidence, with evidence of girls and women experiencing period poverty being more likely to suffer from anxiety and depression.⁶² A perceived lack of government action, however, meant that the shortfall was increasingly being made up by charities and supermarkets (including Tesco and Waitrose) who not only dropped the price of menstrual products in 2017 (thereby essentially removing the VAT) but were increasingly acting as drop off locations for donated menstrual products to be distributed to local charities and foodbanks. Contrary to the tampon tax, where the government's discretion to alter policy was largely constrained by EU membership, the concepts of 'period poverty' and 'menstrual equity' allowed considerably more scope for activist, and particularly political, action. In the run-up to the General Election in 2017 for example, despite neither a concrete pledge to end the tampon tax nor period poverty appearing in the actual manifesto, a general

commitment to addressing the consequences of period poverty was nevertheless expressed in a speech by Shadow Minister for Women and Equalities Labour MP Dawn Butler on the 23 September 2017 in which she stated that:

Low income families should not have the additional burden of struggling to afford sanitary products; or homeless women suffering on the streets; or young girls having to use socks in their pants; or missing school once a month because they just can't afford sanitary protection ... The next Labour Government will provide funding for free sanitary products for secondary schools, foodbanks, and homeless shelters.⁶³

The Green Party, for its part, pledged to end period poverty in its manifesto by providing menstrual products to secondary schools and women in financial need, to be paid for by adding VAT to products currently exempt, with aircraft repairs in particular being singled out as a priority.⁶⁴ This policy was attributed to teenage campaigner Amika George who, in addition to accruing over two hundred thousand signatures on an online petition calling on the government to provide free menstrual products for students on free school meals, also invested time writing to politicians and human rights organisations and charities urging them to support her campaign to provide free menstrual products to girls unable to afford them. In an interview with the *i* newspaper George stated that the inspiration for her campaign came from being horrified when she discovered that girls from low-income families across the UK were routinely skipping school during their periods because they did not have the funds to purchase menstrual products, describing it as 'beyond shocking' that British schoolgirls were being forced to use socks or to tape tissues to their underwear during their period.⁶⁵

This pressure for more substantive government interventions was supported by a range of trade unions who increasingly campaigned on the broader issue of period poverty and its link to low pay and changes to the welfare system, with Universal Credit singled out for having a particularly disproportionate impact on women.⁶⁶ These included the shopworker's union (USDAW), professional workers' union (Prospect), teacher's union (NASUWT) and Unite whose Anna Rothery captured the essence of this approach stating that 'no woman should be subject to the indignity of choosing between food or sanitary products'.⁶⁷ Reflecting this collaborative approach, and general commitment to campaigning for the government to provide free menstrual wear to low-income families, schools, colleges, universities and homeless shelters, the Trade Union Council's (TUC) 2019 conference motion called for tackling period poverty to be a priority for the trade union movement.⁶⁸

Although no explicit reference was made to period poverty in the 2017 Conservative manifesto (see Table 2, above), the Minister for Women and Equalities, Penny Mordaunt, nevertheless used International Women's Day (4 March 2019) to announce a new Period Poverty Taskforce.⁶⁹ Its aims being to bring together government, business and the third sector to develop a comprehensive and sustainable response to period poverty in the UK to address both the stigma and taboo that surrounds menstruation and the lack of access to menstrual products.⁷⁰ Just weeks later the minister used the national Menstrual Hygiene Day to announce that the taskforce would be co-chaired by the organisations Procter & Gamble and Plan International UK.⁷¹ The Taskforce was formally launched on July 23rd 2019 with a focus on three outcomes, each forming its own workstream: (i) tackling the stigma and shame around menstruation through better awareness, improved

knowledge and education; (ii) improving the data and evidence on period poverty and menstrual stigma and education in the UK; and (iii) ensuring access for all, providing period products whenever they are needed, in particular to vulnerable women and girls. Later that year the Shadow Minister for the Cabinet Office, Chris Matheson, used a written question to the Minister for Women to ask 'what progress has been made by the joint taskforce on period poverty on bringing together (a) public, (b) private and (c) third sector organisations to tackle period poverty'. The response illustrated the slow progress made by the Taskforce in noting that:

The Period Poverty Taskforce has made excellent progress in bringing together organisations such as the PSHE Association from the public sector, the phs group from the private sector, Bloody Good Period from the third sector and other experts to tackle period poverty in the UK. The Taskforce and its composite workstreams have met twice and begun to identify: access barriers and the groups that are most affected by them; a programme of work to tackle the stigma and shame surrounding menstruation; and research priorities to improve the evidence surrounding period poverty and menstrual stigma in the UK.⁷²

Despite the seemingly limited impact of the Taskforce, noticeable progress was evident elsewhere both outside and within Government. In February 2019 for example a commitment was made by NHS England to make menstrual products free of charge from July 2019 to those requesting them in a bid to ease care and combat period poverty (NHS England 2019). This was the result of significant lobbying from the British Medical Association (BMA) in particular, which was itself inspired by a motion proposed by medical student Eleanor Wilson in favour of free tampons to be provided by the state. In proposing the motion Wilson argued that 'access to sanitary products is a basic human right for all' and asked the BMA to consider that as 'we do not ask patients to bring in toilet paper or food, why are we asking them to bring in their own sanitary products?'.⁷³ The following month a commitment was made by the then Chancellor Philip Hammond in the March 2019 Spring Statement to ending period poverty by funding a scheme to make menstrual products available in English secondary schools and colleges from September 2019 in echoes of a scheme already implemented in Scotland in 2018. In doing so, Philip Hammond noted that:

[I]n response to rising concern by head teachers that some girls are missing school attendance due to inability to afford sanitary products, I have decided to fund the provision of free sanitary products in secondary schools and colleges in England from the next school year.⁷⁴

Finally, in October 2019 the UK concluded an updated Withdrawal Agreement (WA) and Political Declaration (PD) with the EU, and following Parliament agreeing to give a second reading to the revised agreement which was finally approved following the Conservative Party's November 2019 election victory the *European Union (Withdrawal Agreement) Bill* passed in Parliament by a margin of 358 votes to 234, the result being that the UK left the EU on 31 January 2020.⁷⁵ The UK was required to remain compliant with EU law (including in relation to VAT) throughout the so-called 'transition period', during which time the Government committed to negotiating a new relationship with the EU. Against this backdrop the Chancellor Rishi Sunak presented the 2020 Budget on 11 March in which he confirmed 'now we've left the EU, that I will abolish the tampon tax. From January next year [i.e. 2021], there will be no VAT whatsoever on women's sanitary products', congratulating 'all the Members and Right Hon. Members who campaigned for this,

including the former Member for Dewsbury [Paula Sheriff] who led the charge'.⁷⁶ With the Government having introduced enabling legislation in the *Finance Bill 2016*, this meant that the reduction was able to come into force as soon as the UK had discretion to do so under its legal obligations. HMRC has not revised its impact note on this measure which was published alongside the 2016 Budget and suggested that setting a zero rate would mean that '18 million women mainly of child bearing age ... will be able to acquire supplies of their sanitary products at a lower cost provided their supplier passes on the VAT reduction'. Mainstream media and press coverage of the Budget announcement however was once again relatively muted with two main factors seemingly central to overshadowing the elimination of the VAT: firstly, Rishi Sunak was widely praised throughout the mainstream press for making significant funding available to a range of public services; and (secondly) the budget took place under the shadow of a growing global pandemic in the form of COVID.⁷⁷

Conclusion & implications

'It's been a long road to reach this point' Felicia Willow, chief of the Fawcett Society—the UK's leading charity campaigning for gender equality and women's rights—stated on the 1st January 2021 'but at last, the sexist tax that saw menstrual products classed as non-essential, luxury items can be consigned to the history books'. The Chancellor of the Exchequer, Rishi Sunak, adopted a more restrained tone but stated, 'I'm proud that we are today delivering on our promise to scrap the tampon tax. Sanitary products are essential so it's right that we do not charge VAT' and sought to place this development within the government's broader commitment to 'end Period Poverty'.⁷⁸ The main contribution of this article has been to offer a research-based historical account of the evolution of the debate concerning the 'tampon tax' in the UK from when it was first mentioned in the House of Commons in 1996 through to its eventual abolition a quarter of a century later. The benefit of this 'long view' is, we suggest, the manner in which it reveals the ebb-and-flow of the issue on the political agenda and the range of tools and pressure-points that campaigners utilised in order to (eventually) secure their demands. The aim of this final section is to very briefly step back from a focus on the taxation of menstrual products in the UK to reflect on some of the broader insights and implications of this study. It achieves this through a focus on three issues: incremental policy expansion; Europeanisation; and policy success and failure.

Although this case study began with a very specific focus on the taxation of menstrual products it is clear from the analysis offered in this article that over time the campaign focus widened considerably to a far broader concern with 'period poverty'. Moreover, the actual financial benefit of removing the final five per cent VAT on menstrual products was itself unlikely to be of significant use to women who were trapped in poverty. Particularly noteworthy, therefore, is the manner in which the taxation of menstrual products became a symbolic policy that went far beyond the relatively small levels of revenue that were raised. 'The tampon tax' Mary-Ann Stephenson of the Women's Budget Group stated in December 2020 'has long been a symbol of policymaking based around men's needs, so removing VAT is symbolically important'.⁷⁹ A symbolic focus quickly expanded into far broader substantive demands. The #FreePeriods campaign, for example, was launched in January 2019 and called for the government to provide funding for menstrual products to

be freely available in all of England's schools and colleges. Just weeks after the campaign was launched the government reversed its long-standing opposition to this policy, subsequently expanding it to include primary schools. The policy was launched in January 2020 and is the largest education-focused scheme of its kind in the world. But even this was to some extent over-shadowed when Scotland became the first country in the world to make period products free for all through the *Period Products (Free Provision) (Scotland) Act* of November 2020. This made it mandatory for all public institutions to provide free menstrual products to 'anyone who needs them'.

The expansionary dynamic was also reflected in the controversy surrounding the proposed abolition of the Tampon Tax Fund in 2021 on the basis that the VAT levy that had led to the fund's creation had itself been abolished. Campaigners argued that the tampon tax fund, totalling around £45 m since its introduction in 2015, had become a critical source of funding for the wider women's sector that could not be simply withdrawn. 'We are concerned that the Tampon Tax Fund will now be abandoned by the Government' Vivienne Hayes, chief executive of the Women's Resource Centre, argued in March 2020 'and we hope to see a replacement fund for women's health and support charities announced in the near future'. The government had previously stated that a decision on the Fund's future would be made after the tax was scrapped but in January 2021 it was announced that funding would be continued.⁸⁰

If policy creep or expansion represents a critical dimension of the historical analysis presented in this article, a second issue relates to Europeanisation and the way in which this case study reveals the position of the UK within a broader framework of multi-level governance. Put simply, the UK's policy autonomy was heavily constrained due to its membership of the EU and the obligations in terms of harmonising tax regimes that this brought with it. Brexit removed these restrictions and 'untied the hands' of ministers, thereby allowing them to act. But an equally interesting dimension of the *politics* of policy making vis-a-vis the tampon tax in the UK is the way in which the issue was adopted by anti-European parties and politicians as a high-level exemplar of the perceived impotence of the UK. Put slightly differently, just as the tampon tax became a symbolic policy for women's groups so it also took on a symbolic significance within the Brexit campaign, albeit possibly as a rhetorical and emotive tool. It was not surprising that Bernard Jenkin MP—an arch-Brexiteer—attracted attention in January 2021 when during a House of Commons debate he highlighted the abolition of the tampon tax as one of the key benefits of leaving the EU.⁸¹ The strategic adoption of the issue had been criticised by campaigners. 'It is a day for celebration today' Laura Coryton noted as she looked ahead to New Year' Day 2021 'but it is just frustrating that the tampon tax is being used as a political football in terms of Brexit'.⁸²

This frustration brings us to a third and final point and to a focus on the often contested notions of policy success and policy failure and the 'grey areas in-between'.⁸³ To what extent should the abolition of taxation on menstrual products be interpreted as a case study in admittedly slow, cumbersome, procrustean but ultimately successful political success and triumph (i.e. the four stages reviewed in this article combining to reflect Weber's classic notion of the 'slow boring through hard wood')?⁸⁴ Or, conversely, does the existence of a twenty five-year gap between initial issue emergence and the complete resolution of the policy issue inevitably constitute a form of political failure? These questions matter because they exist within broader narratives concerning the

'death', 'crisis' or 'end' of democracy that tend to focus almost exclusively on examples of 'failure', 'fiasco' and 'blunders' with far less scholarly attention paid to the systematically studying successes or the positive evolution of policy.⁸⁵ This is thought to have led not just to a rather skewed scholarly research base but to have also contributed to the emergence of political disaffection and democratic disengagement amongst large sections of the public. The field of 'positive public administration' has been launched with a strong historical emphasis in order to produce a more balanced and therefore accurate account of policy successes and failures.⁸⁶ With positive public administration's emphasis on the manner in which and the conditions under which public policies evolve to advance important democratic values and produce widely valued societal outcomes it would seem that the analysis of the tampon tax in the UK could provide a rich vein of material.

Notes

1. The term 'menstrual products' is used throughout to denote the push towards the use of more neutral language. 'Sanitary' is retained when directly quoting individuals, official documents, and legislation.
2. Crawford, 2017; Crawford and Waldman (2019); Do et al, 2017.
3. See, for example, Crawford, B., and Waldman, E., (2019) 'The Unconstitutional Tampon Tax', 53 U.Rich. L. Rev. 439; Crawford, B., and Spivack, C., (2017) 'Tampon taxes, Discrimination and Human Rights', Wisconsin Law Review, Issue 3, pp. 491–550; Weiss-Wolf, J., (2019) 'U.S. Policymaking to Address Menstruation: Advancing an Equity Agenda', 25 Wm. & Mary J. Race Gender & Soc. Just. 493; Hartman, V., (2017) 'End the bloody taxation: Seeing red on the unconstitutional tax on tampons', Northwestern University Law Review, Issue 2: 313–354. For an insider account of the case of the UK campaign see Coryton, LA., & Russell, LM., (2021) 'Paying for our periods: The campaign to tackle period poverty and end the tampon tax in the UK', Columbia Journal of Gender and Law, 41(1).
4. See Lijphart, A. 1999. *Patterns of Democracy*, Yale: Yale University Press.
5. On the concept of 'tying one's hand' *vis-à-vis* depoliticisation and multi-level governance see: Laussel, D and Van Long, N. (2020) 'Tying the Politicians' Hands', *Journal of Public Economic Theory*, 22(1), 25–48; Betz, T. (2020) 'The Electoral Costs of Policy Commitments', *Political Science Research and Methods*, 8(1), 30–44; Wolf, E and Van Dooren, W. 2018. 'Conflict Reconsidered', *Public Administration*, 96(2), 286–301.
6. See George, S. (1998) *An Awkward Partner: Britain and the European Community*, Oxford: Oxford University Press.
7. Warren, N. 1993. 'The UK Experience with VAT', *Revenue Law Journal*, 3(2), 75–99.
8. HC Deb 08 February 1996 vol 271 c361W.
9. HC Deb 28 February 1996 vol 272 cc542-3W.
10. Ibid.
11. HC Deb 03 April 1996 vol 275 cc257-8W.
12. HC Deb 25 May 1998 vol 314 c1168.
13. Weiss-Wolf, 2020 p. 539.
14. Crawford 2017; Crawford & Waldman, 2017; Hartman, 2017.
15. HC WA 7 July 1999, c550.
16. 1 HM Customs & Excise Budget press notice C&E7, 21 March 2000.
17. Report (2000) para 5.112.
18. These included Ann Taylor (Leader of the House of Commons and Lord President of the Council (1997–1998) and Chief Whip (1998–2001); Margaret Beckett (Secretary of State for Trade and Industry, and President of the Board of Trade (1997–1998; Leader of the House of Commons and Lord President of the Council (1998–2001); Mo Mowlam (Secretary of State for Northern Ireland (1997–1999), Minister for the Cabinet Office, and Chancellor of the Duchy of

- Lancaster (1999–2001)); Clare Short (Secretary of State for International Development (1997–2003)); Harriett Harman (Secretary of State for Social Security (1997–1998)); and Helen Liddell (Secretary of State for Scotland (2001–2003)).
19. HM Customs and Excise 2000.
 20. Value Added Tax (Reduced Rate) Order 2000 (S.I. 2000, No. 2954), Fourth Standing Committee, 23 November 2000.
 21. For a detailed discussion on inter-party and intra-party modes of executive-legislative relationships see: King, A. 1976. 'Modes of Executive-Legislative Relations', *Legislative Studies Quarterly*, 1(1), 11–36; Russell, M. and Cowley, P. 2018. 'Modes of Executive-Legislative Relations Revisited', *Political Quarterly*, 89(1), 18–28.
 22. Written Question to the Secretary of State for Health, 1 December 2003.
 23. HC Deb 4 December 2003.
 24. This petition was not formally linked to Parliament's Petitions Committee and did not therefore trigger a specific parliamentary response or debate. It did, however, demonstrate the increasing groundswell of public support for political action.
 25. HC Deb 12 June 2014 c257W—see also, PQ223436, 12 February 2015.
 26. EDM 866 2015.
 27. Quoted in BuzzFeed News, 2015.
 28. Public Bill Committee, 17 September 2015, c.20.
 29. *Ibid.*, c.18.
 30. *Ibid.*, c.24.
 31. HC Deb 26 October 2015, c 138–141.
 32. *Ibid.*, c. 101.
 33. *Ibid.*, c. 126.
 34. The amendment was defeated 305 Noes to 287 Ayes.
 35. HC Deb, 25 November 2015, c. 1368.
 36. *Ibid.*, c. 1394.
 37. Asquith, 2015.
 38. Pickard, 2015, p. 1.
 39. Hansard, 16 Mar 2016 : Column 964.
 40. for more details see Gulland 2017.
 41. Ways and Means resolutions are used by the Commons to give consent to parts of a Bill that will involve taxes or other charges being made on the public. They are usually approved without debate after a Bill has passed its Second reading; an exception being the annual Finance Bill whose ways and means resolutions are debated after the Budget statement and agreed before the Bill is introduced.
 42. Seely, 2021, p. 23.
 43. This was passed by 310 Ayes against 275 Noes (Hansard 2016 c. 1482–1485).
 44. Quoted in Cooper (2016).
 45. EC Press Release 18 March 2016.
 46. HC Deb 21 March 2016, c.2116.
 47. Committee in Women's Rights and Gender Equality, 2016, para.39; See also UKIP (2016); see also Crawford & Spivack 2017, p. 504).
 48. In what was becoming an increasingly symbolic policy in defining the EU-UK relationship, Vote Leave also vowed to abolish the tampon tax in the event of the UK exiting the EU.
 49. HC Deb 7 July 2016, c. 142.
 50. *Ibid.*, cc. 145–146.
 51. HC Deb 5 September 2016, c. 169.
 52. See Ehsan, 2019.
 53. See Bache and Flinders (2004).
 54. See Jarvis (2018); Stephenson (2019).
 55. Hartman 2017, p. 325.
 56. Winkler, 2020.
 57. On this see Coryton and Russell (2021); Weiss-Wolf (2019), p. 495.

58. Quoted in Jarvis (2018).
59. See Elliott 2019; Ryan 2017.
60. Plan International 2017.
61. Always poll, 2018.
62. see also Valles, 2018.
63. Butler, 2017.
64. Green Party Manifesto 2017.
65. Quoted in *The i*, 2019.
66. See Ryan, 2017.
67. Quoted in *The Morning Star* 2019.
68. See Elliott, 2019.
69. <https://www.gov.uk/government/news/penny-mordaunt-international-womens-day-speech>.
70. See Government Equalities Office (2019). Scotland had already piloted the free provision of sanitary products in 2017. This scheme was implemented in all schools, colleges and universities in 2018, and extended further to include community centres and youth clubs through the bill *Period Poverty* (Free Provision) in 2020.
71. <https://www.gov.uk/government/news/period-poverty-taskforce-minister-announces-next-steps-on-menstrual-hygiene-day>.
72. HC Deb, 31 October 2019 cW.
73. Quoted in *The Guardian*, 2019.
74. HC Deb. 13 March 2019 v.656, c.352.
75. Hansard, 20 December 2020, cc. 217–221.
76. HC Deb. 11 March 2020, c.284.
77. The announcement did receive some media coverage: see for example - *The Guardian*, *The Independent*, *Metro* and women's magazines including *Glamour* and *Elle*.
78. HM Treasury, 2021.
79. Quoted in Topping (2020).
80. See DCMS (2018); HM Treasury, 2021.
81. 'We will be able to do things like abolish the tampon tax, which so many honourable ladies opposite railed against the government about, only because we're leaving the EU'. HC Hansard, January 2021.
82. Quoted in Topping (2020).
83. See McConnell, 2010.
84. Weber, 'Politics as a Vocation', 1918.
85. See, for example, King and Crewe (2013).
86. See Douglas et al., 2019.

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