

## Policing the Prostitute: The Impact of the Contagious Diseases Acts on Sex Worker's Agency

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In 1864 an act passed quietly through parliament. This was the first iteration of the Contagious Diseases Act was in response to the high rates of “venereal disease”<sup>1</sup> amongst British soldiers and set our provisions to have “common prostitutes” in certain port towns made subject to examination for venereal disease.<sup>2</sup> In 1866 and 1869 subsequent revisions were made that extended the regional scope as well as the power over women who were alleged to be “common prostitutes” in the region by introducing a new provision allowing detention in hospital for up to five days until the surgeon could “properly” examine her (thereby allowing detention without evidence of infection) and more penalties on missed or refused examination.<sup>3</sup> By this time, the attention of the public was caught, so much so, that a Royal Commission was formed to investigate the “violence” of the act.<sup>4</sup> This essay asks the question: How did the Contagious Diseases Acts directly or indirectly impact the agency of sex workers in late-Victorian England? By illustrating elements of both Campaigns in favour of and against the Acts rose, it will be demonstrated that despite each side claiming to campaign for what seemed to be vastly different things they did share some commonalities. While the supporters of the Contagious Diseases Acts sought to control lower class women through an implementation of law and justified by public health, the religious and moral rhetoric used by those in favour of repeal also recommended an element of control over women. Neither response positively impacted the agency of poor women and sex workers, despite some claims to do so. This essay begins by explaining the controlling nature of the Acts themselves as well as the rhetoric used to defend them, before explaining how, despite depicting themselves as liberators, the campaigners for repeal also sought to exercise

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<sup>1</sup> The term “venereal disease” refers to Sexually Transmitted Infections. The term will be used throughout the essay as that was the terminology of the time and the term used in the legislation. The term “common prostitute” is also a legal term used in English law and refers to a woman who is engaging in sex acts for money.

<sup>2</sup> The exact port towns that fell under the Act can be found in the Schedule attached to the bill. *Bill for Better Prevention of Contagious Diseases at Naval and Military Stations*, 27 & 28 Victoria c. 85; *Bill for Better Prevention of Contagious Diseases at Naval and Military Stations*, 1866, Volume II, 219.

<sup>3</sup> *Bill to Amend Contagious Diseases Act 1866*, House of Lords, 32 & 33 Victoria, Volume I, 495.

<sup>4</sup> Jim Jose, and Kcasey Mcloughlin, “John Stuart Mill and the Contagious Diseases Acts: Whose Law? Whose Liberty? Whose Greater Good?,” *Law and History Review* 34, no. 2 (2016): 249–79.

power over the women affected by the acts. Finally, the campaigns will be contrasted, and the strategies for agency carried out by the women themselves will be examined.

As the original Contagious Diseases Act of 1864 was repealed in the 1866 version, only the 1866 and 1869 versions will be discussed in this paper. The alleged goal of the Contagious Diseases Acts was to protect the British military from venereal disease, which was running rampant in the army in the late Victorian Era. The funding for the Acts came from the British Admiralty and the acts were only valid within the boundaries of various military towns.<sup>5</sup> It is the way in which this goal of disease prevention was enacted that was entirely problematic. Any woman accused of being a “common prostitute” could be summoned to a Justice and if there was deemed to be sufficient proof, she would be ordered by the Justice, in the absence of a jury, to submit to “periodical medical examination.”<sup>6</sup> The Acts went further in surveilling women by giving the police or a physician the power to send any woman found to have a venereal disease to a hospital<sup>7</sup> for recovery, wherein she was required to stay for a minimum of 3 months.<sup>8</sup> When the Acts were amended and extended in 1869, they increased the number of districts that the legislation applied to, increased the hospital’s capacity to extend a woman’s stay (increased from six months to nine months), and included a provision that allowed a surgeon to detain a woman if he could “not properly examine her.”<sup>9</sup> Clearly, the Acts were extended in a way that blatantly gave the state and the admiralty more control over women in England. As explained by the MP and philosopher John Stuart Mill, the Acts not only infringed on the general liberty of women deemed to be prostitutes, but they also infringed on the Magna Carta right of *habeus corpus* as the women could be detained without cause or warrant, and they had extremely limited means to challenge their imprisonment. As Mill put it, the Contagious Diseases Acts took away “the security of personal liberty ... almost entirely from a particular class of women intentionally.”<sup>10</sup> Mill’s emphasis on the *intentional* removal of women’s liberty is particularly significant as he was a Member of Parliament at the time and therefore his read on the intentions of the legislation is valuable. Through reading the Contagious Diseases Acts themselves, and by noting the

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<sup>5</sup> *Bill for Better Prevention of Contagious Diseases at Naval and Military Stations*, 27 & 28 Victoria c. 85

<sup>6</sup> Ellen L. O’Brien, “The ‘Medical Plot Thickens’: Bad Medicine and Good Health in the Contagious Diseases Acts Repeal Campaign,” *Literature and medicine* 39, no. 1 (2021): 69.

<sup>7</sup> Hospitals that imprisoned women who were found guilty are also known as “Lock Hospitals”.

<sup>8</sup> *Bill for Better Prevention of Contagious Diseases at Naval and Military Stations*, 27 & 28 Victoria c. 85.

<sup>9</sup> *Bill to Amend Contagious Diseases Act 1866*, House of Lords, 32 & 33 Victoria, Volume I, 495.

<sup>10</sup> Jose and McLoughlin, “John Stuart Mill and the Contagious Diseases Acts,” 251.

manner in which they were extended, it is clear that the stated goal of protecting soldiers from venereal disease was laid to the wayside in legislation that ultimately sought to tightly control women.

This rhetoric of using the Acts as a mode of control over women is also abundantly clear in the letters sent to Parliament that were in favour of the acts. Often these letters included a morally based argument, similar to the arguments used by those in favour of repeal which will be addressed later in this paper. One letter sent to the Secretary of State by a group of physicians claimed that the Acts were necessary to protect “innocent victims” (read: not prostitutes) and that the “seclusion of these diseased women [contributes] their restitution to the paths of virtue” and “they have been thereby raised in the scale of humanity”<sup>11</sup>. There are two clear ideas here that point to their conception of prostitutes as a group that needed to be controlled. The first is that they have presented these women as having a lower degree of “humanity” and distinguished them from “innocents”. Therefore, by placing prostitutes in a binary opposite to “innocent,” the authors imply that prostitutes are the opposite: sinful, immoral, and bad. It is through creating this dichotomy that keeping these women in “seclusion” from the rest of society is deemed to be appropriate and positive. Additionally, their praise of the hospitals as leading women to a more virtuous path clearly illustrates that their positive view of the Acts is not solely rooted in a concern for the public health of soldiers. Indeed, they make little mention of disease decreasing, but rather their reason for supporting the Acts is because they believed that they have reduced behaviour that they deem “immoral” through incarceration and state control. A separate letter sent to the Board of Admiralty by a group of people from Portsmouth echoed this position writing, “We feel [the Acts have been beneficial] in lessening the number of brothels and prostitutes, improving the behaviour and appearance of the women, and so freeing our town from the sad scenes of evil.”<sup>12</sup> Their emphasis on how the Acts had controlled women’s “behaviour” and “evil” once again demonstrate how the perceived benefit of these acts was the control and suppression of women. Even if one takes the charitable interpretation that the original intention

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<sup>11</sup> “Memorial to Secretary of State for Home Dept. in favour of Contagious Diseases Acts, signed by Members of Medical Profession Resident in London.” *House of Commons Papers*, 1872, Paper 80, Vol. 47, 489.

<sup>12</sup> “Memorials to Admiralty from Inhabitants of Portsmouth and Devonport respecting Working of Contagious Diseases Acts” *House of Commons Papers*, August 9 1882, Paper 356. Vol. 53, 455, <https://parlipapers-proquest-com.ezproxy.library.dal.ca/parlipapers/docview/t70.d75.1882-058558?accountid=10406>.

was to improve public health, in the public perception the Contagious Diseases Acts benefitted society insofar as they controlled prostitutes, and evidently many saw that control as positive.

In contrast, the movement that advocated the repeal of the Contagious Diseases Acts was primarily founded on religiously and morally informed rhetoric, yet this change in ideology did not necessarily indicate a change in goals. One of the most prominent leaders in the repeal campaign was Josephine Butler, who was the founder of The Vigilance Association for the Defense of Personal Rights<sup>13</sup>. Butler's qualms with the Contagious Diseases Acts were many. She felt that the Acts were an excuse for the "state regulation of vice"<sup>14</sup> and critiqued the examinations conducted under the Acts as violent and a humiliating treatment of women.<sup>15</sup> Fundamental to Butler's lobby for repeal was her religiously informed identity.<sup>16</sup> In many of her repeal works as well as her autobiography Butler emphasised her religious affiliation. One clear example was that the title of her autobiography was *Personal Reminiscences of a Great Crusade* in a nod to her campaign against the Contagious Diseases Acts being like the Crusades of the Middle Ages.<sup>17</sup> It is important to understand the significance of her religious views because they informed her motivations for repeal, as well as her vision for an alternative way to address venereal disease and prostitution. While Butler was firmly opposed to the CD Acts, she still wished to limit venereal disease and prostitution, and she even ran her own version of a hospital called the *House of Rest*. She claimed that she had healed women there through only faith care and prayer.<sup>18</sup> Evidently Butler still believed that these women needed help, she just understood that help as coming from religion. It is important to note that it was not wrong to want to help these women, many of whom were vulnerable and living in poverty, rather the concern is that she saw herself and her ideas as the way to solve those problems. She still saw prostitution as a problem to be solved and still advocated for a "remedy" to be forced upon women. The

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<sup>13</sup> Lucy Bland, "'Purifying' the Public World: Feminist Vigilantes in Late Victorian England," *Women's history review* 1, no. 3 (1992): 400.

<sup>14</sup> Lucinda Matthews-Jones, "'Granny Thinking What She Is Going to Write in Her Book': Religion, Politics and the Pontefract by-Election of 1872 in Josephine Butler's *Personal Reminiscences of a Great Crusade* (1896)," *Women's history review*, 26, no. 6 (2017): 939.

<sup>15</sup> Ellen L. O'Brien, "The 'Medical Plot Thickens': Bad Medicine and Good Health in the Contagious Diseases Acts Repeal Campaign," *Literature and medicine* 39, no. 1 (2021): 83.

<sup>16</sup> Lucinda Matthews-Jones, "'Granny Thinking What She Is Going to Write in Her Book'" *Women's history review*, 26, no. 6 (2017): 939.

<sup>17</sup> Matthews-Jones, "'Granny Thinking What She Is Going to Write in Her Book,'" 947.

<sup>18</sup> Ellen L. O'Brien, "The 'Medical Plot Thickens'," *Literature and medicine* 39, no. 1 (2021): 83.

difference between her and the government was that the government saw the solution as forced examination and hospitalisation, and she saw it as forced religion and moral instruction. Her attitude towards prostitution could be described as paternalistic based on how she still wished to see herself as a benefactor for her “poor girls”<sup>19</sup>. Even in her description of prostitutes experiences she placed them in a rhetorically victimised role before pivoting to advocate for solutions based in faith.<sup>20</sup> While her intentions and the severity of her desired action are certainly less grave than that of the government, her “solution” still involved a form of Lock Hospital<sup>21</sup> and a degree of paternalism towards the women she wished to help. Her conception of what “help” looked like still centred around turning women away from prostitution through moral instruction which demonstrates a desire to control women’s lives.

The other salient group in the repeal movement was the National Vigilance Association (NVA). The NVA was a well-known social purity organisation in late Victorian England that supported the repeal of the Contagious Diseases Acts. Leaders like Josephine Butler were actively concerned about the NVA’s ambitions calling them “repressionists” who were “‘mistaken ...in their methods, [but still] honestly desirous of getting rid of prostitution’”.<sup>22</sup> Therefore, Butler suggested that they should be accepted into the movement, suggesting that she also agreed with getting rid of prostitution, yet she wanted it to be on the condition that the NVA understood that complete imposition of “moral” behaviour was not the right path.<sup>23</sup> While the NVA was less vocal and prominent in the overall repeal campaign, their views were extreme and had significant, lasting impact after the Acts were repealed. Their involvement in repealing the Contagious Diseases Acts was to end the “immoral” and barbaric treatment of women, because they felt it aligned with their desire to eliminate prostitution and shut-down brothels. Ultimately, the legitimacy that their involvement repeal campaign gave them allowed them to pursue these extreme ambitions that had equally harmful outcomes as the Contagious Diseases Acts. This is particularly evident in the NVA’s support of the Criminal Amendment Act of 1885 which further

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<sup>19</sup> O’Brien, “The ‘Medical Plot Thickens’,” 83.

<sup>20</sup> O’Brien, 82-83.

<sup>21</sup> As stated in section 12 of The Contagious Diseases Act of 1866 (as amended by select committee) “‘No Hospital shall be certified under this Act unless at the Time of the granting of a Certificate adequate Provision is made for the Moral and Religious Instruction of the Woman detained therein.’” Therefore, both Butlers *House of Rest* and the Lock Hospitals included moral instruction.

<sup>22</sup> Bland, “‘Purifying’ the Public World,” *Women’s history review* 1, no. 3 (1992): 400.

<sup>23</sup> Bland, 400.

regulated brothels and prostitution following the repeal of the CDAs.<sup>24</sup> The NVA supported and enforced the complete shutdown of brothels that the Amendment Act made legal, which resulted in women “being thrown out into the streets with nowhere to go”.<sup>25</sup> In their desire to control prostitution they supported legislation that forced already vulnerable women into even more precarious positions on the streets or under the “protection” of pimps.<sup>26</sup> A group that had once been collaborating with those in favour of personal liberty was now directly contributing to the danger sex workers were in. It has even been suggested that the Criminal Law Amendment Act led to the vulnerability of women such as Jack the Ripper’s victims.<sup>27</sup> A very real consequence of the movement to repeal the Contagious Diseases Acts was the fostering and legitimising of groups such as the NVA. The Acts had impact beyond their enactment as they set a precedent for a surveillance of women that continued well after their repeal. While the entire repeal movement was not in favour of this evolution of control, it was still a significant number of them and therefore it is important to the narrative of the Contagious Diseases Acts beyond the Acts themselves. This is an excellent example of a repeal group’s alternative vision of control still being harmful to the women they claimed to serve.

As it has been clearly outlined, groups in favour of and against the Contagious Diseases Acts often shared a common goal of controlling the lives of prostitutes. Whether or not their intentions were honourable or not is not being discussed, rather it is evident that neither group wanted to leave these women to be. It is important to note that women engaging in sex work were and still are particularly vulnerable, but neither the Contagious Diseases Acts nor the Criminal Law Amendment Act of 1885 (which was a follow up) yielded results that protected prostitutes despite proponents of the latter claiming that to be their aim. Another interesting similarity in how they justified their control is that both groups claimed to have sex workers on their side. In a Memorial sent to parliament by some physicians in favour of the Contagious Diseases Acts they claimed that they had “no difficulty in obtaining [the women’s] voluntary

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<sup>24</sup> Bland, 401.

<sup>25</sup> Ibid.

<sup>26</sup> Ibid.

<sup>27</sup> Katherine Crooks, “Jack The Ripper’s “Unfortunate” Victims: Prostitution as Vagrancy, 1888-1900” Master’s Thesis., Dalhousie University, 2015.

attendance” and that the women “flock[ed] in crowds.”<sup>28</sup> In almost complete parallel, advocates for repeal made similar claims that prostitutes were collaborating with *them* to resist the acts.<sup>29</sup> Yet, as was demonstrated through a closer look at the effects of the Contagious Diseases Acts in Kent, the reality of these women’s experiences was varied.

The various repeal activist groups encouraged women to protest the acts by refusing to be examined, as they saw it as better to be in jail than to condone such a reprehensible policy. In Kent, this form of resistance through non-compliance was encouraged by many repeal activists such as a Reverend Heritage who “urged prostitutes to resist the Acts and ‘go to prison rather than submit.’”<sup>30</sup> Yet, this method of protest did not gain traction in Kent where in the parish of Sheerness 11,521 examinations were conducted over a seventeen year period and there were only nine prosecutions for failure to attend examination.<sup>31</sup> This evidence is important in showing that while perhaps women were not eager to be examined, as the supporters of the Contagious Diseases Acts claimed, they did not seem to engage in any significant form of non-compliance despite urging from activists. These women’s seeming lack of organised resistance must be understood contextually and through the lens of agency. Non-compliance was punishable by detainment (with no warrant required) and a prison sentence with or without hard labour.<sup>32</sup> Seeing as these women were an already vulnerable group, the risk of further hardship for a cause that may not have yielded any change was probably not one they were willing to take. As Lee outlined in her article, these women were already pursuing “individual survival strategies” and the endurance of policies such as the Contagious Diseases Acts was another way to survive.<sup>33</sup> Understood within the context of survival, these women’s compliance or non-compliance does not cater to the contentions made by either the activists for Repeal or extension. Additional complexity is added by looking at how women moved within the legislation to attain a level of agency or for personal gain. There are reports of women advertising that they were “undiseased”

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<sup>28</sup> “Memorial to Secretary of State for Home Dept. in favour of Contagious Diseases Acts, signed by Members of Medical Profession Resident in London.” *House of Commons Papers*, 1872, Paper 80, Vol. 47, 489.

<sup>29</sup> Catherine Lee, “Prostitution and Victorian Society Revisited: The Contagious Diseases Acts in Kent,” *Women’s history review*. 21, no. 2 (2012): 308.

<sup>30</sup> Lee, “Prostitution and Victorian Society Revisited” *Women’s history review*. 21, no. 2 (2012): 309.

<sup>31</sup> Lee, 310.

<sup>32</sup> *Bill for better Prevention of Contagious Diseases at Naval and Military Stations: (as amended by Select Committee*. 27 & 28 Victoria, Volume II., 239.

<sup>33</sup> Lee, 312.

and wearing their certificates pinned to their dress so that they could charge more or find more work.<sup>34</sup> This further supports Lee's analysis that they realized agency not through "non-cooperation but through practical calculations of best interest."<sup>35</sup>

It is important to discuss the scope of women's agency while under the Contagious Diseases Acts because it highlights that perhaps neither interest group, in favour of repeal or against, truly understood the situation of these women. Both sides promoted "solutions" that in different ways sought to control prostitutes' outcomes and lives. Despite each group claiming to align their interests with, or at least have the support of, sex workers themselves neither of their methods were particularly appealing to women who did sex work. As demonstrated above, these women were focused on finding ways to survive within a society that did not want them, and therefore did not seem to be interested in organized resistance to the Acts because they had more immediate concerns. The evidence that prostitutes sought out their own fragments of agency illuminates the reality of their situation and undermines the claims of repeal activists and extension activists.

In conclusion, the Contagious Diseases Acts mark an important point in British history and their social and political effects are significant. Through a close reading of favourable and unfavourable positions on the Acts it is clear that there is not as much of a distinction between the interest groups as might be assumed. The Contagious Diseases Acts and their champions were near transparent in their desire to control women who engaged in sex work, but the repeal campaign was less obvious in their goal of controlling women. The point of this paper is not to debate the merits of either position but rather to show that neither side was concerned with the agency of the women themselves, instead looking to different methods of social control. The majority of activists still saw sex work as an immoral evil, and instead of looking to the social conditions which made it some women's only form of survival they blamed vice and the women themselves. The eventual repeal of the Acts did not see a meaningful shift away from the policing of sex workers. As previously discussed, the Criminal Amendment Act of 1885 only furthered the criminalization of sex work and forced sex workers into more dangerous situations.

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<sup>34</sup> Lee, 313.

<sup>35</sup> Ibid.

It is certainly an interesting parallel to the debate on sex work today. Is regulation overall positive or negative? The example of the Contagious Diseases Acts as well as its successor the Criminal Law Amendment Act, are important warnings of the danger of strict regulation as well as the ineffectiveness of building movements that do not take an intersectional and contextual approach to struggle. Perhaps, future activists would do well to learn from the political organization surrounding the Contagious Diseases Acts and ask themselves if the outcome they are striving for comes at the serious detriment of another.

## Bibliography

### Primary Sources:

*Bill for Better Prevention of Contagious Diseases at Naval and Military Stations.* 27 & 28 Victoria c. 85.

*Bill for Better Prevention of Contagious Diseases at Naval and Military Stations.* 1866 Volume II. pg. 219.

*Bill for better Prevention of Contagious Diseases at Naval and Military Stations: (as amended by Select Committee.* 27 & 28 Victoria, Volume II. pg. 239.

*Bill to Amend Contagious Diseases Act 1866.* House of Lords, 32 & 33 Victoria, Volume I. pg. 495.

“Memorial by Ministers of Religion and other Residents in Portsmouth, subjected to Contagious Diseases Acts, to First Lord of Admiralty” *House of Commons Papers*, 1878. Paper 20, Vol. 58. pg. 385.

<https://parlipapers-proquest-com.ezproxy.library.dal.ca/parlipapers/docview/t70.d75.1878-055461?accountid=10406>

“Memorial to Secretary of State for Home Dept. in favour of Contagious Diseases Acts, signed by Members of Medical Profession Resident in London.” *House of Commons Papers*, 1872. Paper 80, Vol. 47. pg. 489. <https://parlipapers-proquest-com.ezproxy.library.dal.ca/parlipapers/docview/t70.d75.1872-048485?accountid=10406>

“Memorials to Admiralty from Inhabitants of Portsmouth and Devonport respecting Working of Contagious Diseases Acts” *House of Commons Papers*, August 9 1882. Paper 356, Vol. 53. pg. 455. <https://parlipapers-proquest-com.ezproxy.library.dal.ca/parlipapers/docview/t70.d75.1882-058558?accountid=10406>

Secondary Sources:

Bland, Lucy. “‘Purifying’ the Public World: Feminist Vigilantes in Late Victorian England.”

*Women’s history review* 1, no. 3 (1992): 397-412.

<https://doi.org/10.1080/09612029200200013>.

Crooks, Katherine. *Jack The Ripper’s “Unfortunate” Victims: Prostitution as Vagrancy, 1888-1900*. Master Thesis., Dalhousie University, 2015.

Lee, Catherine. “Prostitution and Victorian Society Revisited: The Contagious Diseases Acts in Kent.” *Women’s history review*. 21, no. 2 (2012): 301-316.

<https://doi.org/10.1080/09612025.2012.657888>.

Matthews-Jones, Lucinda. “‘Granny Thinking What She Is Going to Write in Her Book’:

Religion, Politics and the Pontefract by-Election of 1872 in Josephine Butler’s Personal Reminiscences of a Great Crusade (1896).” *Women’s history review*, 26, no. 6 (2017): 935-952.

O’Brien, Ellen L. “The ‘Medical Plot Thickens’: Bad Medicine and Good Health in the Contagious Diseases Acts Repeal Campaign.” *Literature and medicine* 39, no. 1 (2021): 69-88. <https://doi.org/10.1353/lm.2021.0007>.

Jose, Jim, and Kcasey Mcloughlin. “John Stuart Mill and the Contagious Diseases Acts: Whose Law? Whose Liberty? Whose Greater Good?.” *Law and History Review* 34, no. 2 (2016): 249–79. <http://www.jstor.org/stable/24771452>.

Self, Helen J. *Prostitution, Women and Misuse of the Law: The Fallen Daughters of Eve*.

London; Frank Cass, 2003.

<http://ebookcentral.proquest.com/lib/dal/detail.action?docID=200966>.