The Contagious Disease Acts
by Wendy McElroy, March 2000

The Contagious Disease Acts (1860s) in Britain occasioned "the western world's first feminine revolt of any stature." So wrote historian Michael Pearson in his book The Age of Consent: Victorian Prostitution and Its Enemies. The revolt was for sexual equality and against a double standard in the law. The 20-year crusade against the C.D. Acts was led by a quiet, upper-middle-class woman named Josephine Butler. And the grassroots campaign that ended in the repeal of the acts (1886) offers a textbook example of how to challenge state power and win without violence.

The three euphemistically titled C.D. Acts (1864, 1866, 1869) were an attempt by the British government to regulate prostitution in the manner of other European countries, such as France. That is, a woman suspected of prostitution had to register with the police and receive a compulsory medical exam. If the exam revealed disease, the woman would be confined to a lock hospital until she was pronounced "clean." The specific goal of the acts was to reduce the sexually transmitted diseases that plagued the British army and navy. Thus, the acts applied to specifically named ports and garrison towns, although the ultimate intention was to include all of Britain.

One thing the C.D. Acts did not include was examining the men - the clients. Moreover, the acts gave police sweeping powers to determine who was a prostitute. No warrant or probable cause was needed. The woman could be detained on the word of a jealous suitor or because her garb was too colorful to be decent. Butler observed at a lecture she delivered in 1871:

“Under the present Acts, a man whose infamous proposals have been rejected by a girl, may inform the police against her, and on his evidence the girl may be subjected to examination and ruined. A like power would be legally vested in the hands of the brothel-keepers. If one of these wretches should mark a young and friendless girl for his victim his course would be easy. A secret information could be given to the sanitary officer that the girl had been ruined and was diseased.”

If the young girl signed papers agreeing to an exam, her agreement was a de facto acknowledgement of prostitution. She was then required to be reexamined regularly. If the girl refused to sign the papers, she could be held in prison for months.

The exams were often brutal. Typically, the woman's legs were clamped open and her ankles tied down. Surgical instruments - sometimes not cleaned from prior inspections - were inserted so inexpertly that some women miscarried. Others passed out from the pain or from embarrassment. Some women with harmless conditions were misdiagnosed and locked in hospitals without recourse. Yet because the acts affected the working class - the women who had to walk and live in poor districts - the backlash against these measures produced few results at first. Those with political influence - middle- and upper-class men - were more interested in protecting "their boys in service" from unclean women.

Early resistance to the Acts
In 1862, when a committee began to examine how to contain the spread of sexual disease in the British army, the classical liberal Harriet Martineau had sounded an alarm. For years, her articles in the Daily News attacked the C.D. Acts. But Martineau was in her sixties and in delicate health. Other women who might have stepped forward as leaders were undoubtedly intimidated into silence. Sex - particularly sexual disease linked to prostitution - was an acutely embarrassing subject to any respectable Victorian woman. Yet this was precisely why the leadership required a respectable woman. Josephine Butler was a wife and mother from a solidly upper-middle-class background. She also had a reputation as a feminist springing from her work The Education and Employment of Women and her involvement in a feminist magazine, The Kettledrum. More important, Butler had a history of charity work with prostitutes in workhouses and prisons that led her to view prostitutes as victims of poverty and exploitative men.

A limited range of choices
Prostitution in Victorian society was literally a matter of life and death for many working-class women. Legally barred from most occupations,
largely deprived of education and unable to claim their own property after marriage, working-class girls faced lamentable choices.

Three paths commonly led them to the brothel or the street. After becoming pregnant by a member of the family they served, domestics would be released without references and, thus, be unable to find other work. Young girls who were orphaned or otherwise vulnerable were forced into "service," while corrupt police looked away. In 1857, The Lancet, a respected medical journal, estimated that 1 in every 16 women in London engaged in prostitution. Although the figure may sound inflated, it is a common estimate. Now working women - even those who had not been "forced" into prostitution by the poverty caused by employment and education barriers - were being registered as "whores" under statute law.

Butler leads the charge against the Acts
Through her analysis, Butler moved the debate on prostitution from its usual focus upon vice to one of individual or citizen's rights. She declared that the C.D. Acts were contrary to the Magna Carta and to the constitutional rights of women. Her pamphlet "The Constitution Violated" accused the Acts of suspending habeas corpus for every woman in Britain. In doing so, she accomplished something remarkable: she made middle-class and upper-class women identify with their working counterparts.

Butler argued further that by embedding a sexual double standard into British law, the C.D. Acts gave state sanction to male sexual privilege. Before a Royal Commission, Butler declared: "There is a double motive in these Acts one the providing of clean women for the army and navy, the other the reclamation of women. We cannot serve two masters." Clearly, women were not being reclaimed. They were being regulated to better gratify the natural lusts of man.

Moreover, the acts could not even achieve the one goal of providing "clean women." The same style of regulation in France and in Prussia had not lowered the incidence of venereal disease there. Indeed, in her pamphlet "The New Era," Butler observed that an increase in disease more naturally accompanied such regulation because prostitution was driven underground, making disease uncontrollable. This was especially true when only women were targeted. Of course, the state regulation of vice did accomplish one thing: it allowed a self-righteous society to ignore the root causes of prostitution.

Women join in
Butler was the driving force in founding the Ladies' National Association (LNA) for the Repeal of the C.D. Acts. On January 1, 1870, the LNA issued a protest letter that was signed by prominent women, including Martineau, Florence Nightingale, and Ursula Bright. Published in the Daily News and reprinted elsewhere, the letter galvanized thousands of other women to join the LNA. To these women, Butler declared, "These Acts were passed in a Parliament of man, no woman knowing anything about them. At the very base of the Acts lies the false and poisonous idea that women (i.e., ladies) have 'nothing to do' with the question and ought not to hear of it, much less meddle with it." True to Butler's accusation, the government ignored the voice of the LNA.

The support of working men
Accordingly, Butler took her complaints directly to working-class men, many of whom had recently acquired the vote under the Reform Bill. After all, it was their wives and daughters who were being victimized. For three years, Butler addressed groups of working men whenever and wherever she could find them. She circulated hundreds of petitions, many of them signed by victimized women as they came out of medical inspection centers. In exposing the government's position on prostitution as a type of "class warfare," Butler won widespread support among working people. The government continued to ignore the anti-C.D. campaign.

Butler proceeded to interfere with by-elections by agitating among working-class voters. In halls and on street corners, she spoke over hecklers and dodged rocks hurled at her. When the liberal candidate Gen. Sir Henry Storks was defeated in a by-election that should have been a routine win, the government noticed. The reason for defeat was
evident: Storks had advocated the C.D. Acts to voters whose wives and daughters were being forcibly examined as prostitutes. A Royal Commission was appointed, more to soothe growing complaints than to change anything fundamental about the acts.

Butler was not soothed. In addressing the Commission, she declared, "I've no interest in the operation of the acts. It's nothing to me whether they operate well or ill but I will tell you what you wish to know as to my view on the principle." She wanted the principle - that is, the acts themselves - repealed.

The support of the victims
As to the individual prostitutes themselves, Butler explained, "My principle has always been to let individuals alone, not to pursue them with any outward punishment, nor drive them out of any place so long as they behave decently, but to attack organized prostitution."

Instead of persecuting the individual women, Butler pursued another strategy with them. She appealed directly to the women who were being arrested on the streets to empower themselves. Flyers were handed out, telling them, "Don't go willingly to the examination." In short, Butler organized a campaign of nonviolent resistance among suspected prostitutes. When the women were arrested for refusing exams, the LNA provided legal aid. In the courtroom, the conduct of defendants was calculated to embarrass authorities - e.g., they demanded open court trials and cried out appeals to Queen Victoria upon their convictions.

By this time Butler had taken the next step of going abroad to solicit international support. At home, there were signs of change. A minority report within the government acknowledged that venereal disease in areas controlled by the C.D. Acts had increased among prostitutes. During 20 years of agitation, a broad coalition of support had formed behind the drive to repeal the acts. Quakers, prostitutes, the Salvation Army, classical liberals, working-class men and women, feminists all these factions of society and more cried out for repeal.

Winning the battle and the war
In 1884, the C.D. Acts were suspended.

One spectacular event in particular ensured the death of the C.D. Acts. This was the publication of a series of articles entitled "The Maiden Tribute of Modern Babylon" in the Pall Mall Gazette, beginning in July 1885. The subject matter was white slavery - specifically, the abduction and rape of English children.

Through successive installments, William T. Stead - editor of the Gazette - made public the stories of children who had been tricked or forced into prostitution. It outlined the police and political corruption that allowed white slavery to thrive in the heart of London. Then the Gazette shattered Victorian sensibilities by graphically describing the sexual tastes that wealthy men were satisfying.

The series of articles caused a public outcry that has rarely been paralleled, not only in Britain but also in continental Europe. Victorian society with its deep hypocrisy and blindness toward sex had heard its death knell. Among the final casualties were the C.D. Acts, repealed in 1886.

Josephine Butler had succeeded. She had united women across class lines, made men reconsider their assumptions about sexuality, and exposed the corruption of authority. For Butler, the price had been high. At the time of repeal, her beloved husband, George, was seriously ill and she could take no joy in political victory. Butler determined never to leave his side again. At his death, she resumed activism but declared herself to be "so tired" that crusading was largely left to the new generation whose freedom she had expanded.
