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## **Regulation 40D: punishing promiscuity on the home front during the First World War**

Laura Lammasniemi\*

*In 1918, the British War Office introduced Regulation 40D as an amendment to the Defence of the Realm Act (DORA). The short lived regulation allowed the state to remand and imprison a woman for the transmission of venereal disease to a member of His Majesty's armed forces. This paper examines discourses on national security and female promiscuity surrounding the enactment of Regulation 40D and the prosecutions under this controversial measure. The paper argues that the regulation was merely symbolic, and that it empowered magistrates to assess, judge and ultimately control women's sexual behaviour in the name of national security.*

**Key words:** first world war – Defence of the Realm Act – venereal disease – women on trial – sexuality

In September 1918, Lucy Adams of Wakefield was convicted under Regulation 40D of the Defence of the Realm Act (DORA)<sup>1</sup> for infecting a member of HM armed forces with venereal disease (VD). She was young, married and unknowingly suffering from VD when she engaged in a brief affair with the unnamed soldier. After a highly public trial, she was sentenced to six months' imprisonment with hard labour. She protested her innocence during the trial, claiming she did not know of the disease, yet the judge stated in his conclusion that it was in the public interest that she should not be at liberty and 'hoped she would become a proper citizen' when her sentence was completed.<sup>2</sup>

This is one among many cases where women were publicly humiliated and imprisoned for illicit sexual encounters towards the end of the first world war under the controversial Regulation 40D. These sexual encounters, that might have been considered only undesirable before the war, were effectively criminalised during the war in the name of national security. This paper examines motivations and discourses around the passing of 40D as well as the trial proceedings under it. Although no court transcripts have survived, the

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Association for Moral and Social Hygiene (AMSH) archives, together with newspaper reports and court registers reveal details of the trials and how proceedings were conducted. This paper draws from those records to examine who were the women on trial and the role of the magistrates in passing judgment on ‘promiscuous’ women.

The War Office files show that 40D was passed under pressure from the Canadian and other Dominion governments who were worried about the safety of their troops. The pressure from the Dominions was not openly discussed, but rather the War Office justified the measure for the protection of British troops and national security. Although the War Office was keen to portray 40D as a matter of national security only, there were multiple narratives and loci of power that were operating around the legislation. This paper argues that regardless of the foreign policy motivations behind its implementation, Regulation 40D empowered magistrates to conflate chastity and patriotism and thereby control women’s sexuality in the name of national security. In their judgments, they passed not only heavy prison sentences but words of condemnation on the lifestyle, demeanour and behaviour of the women on trial. Regulation 40D, introduced as an amendment to DORA in 22 March 1918, stated

no woman who is suffering from venereal disease in a communicable form shall have sexual intercourse with any member of His Majesty’s forces or solicit or invite any member of His Majesty’s forces to have sexual intercourse with her.

This regulation made it an offence for *any* woman to solicit or have sexual intercourse with a member of the armed forces if she was suffering from VD. In criminal law today, transmission of venereal disease is in some circumstances criminalised as an offence against the person but in 1918, it was not. Rather than offence against a person, the transmission of VD to a soldier was seen as a crime against the state, by weakening the armed forces both physically and morally. As Philippa Levine points out, beyond the issue of physical safety, abstinence and maintaining morals became questions of loyalty to one’s country.<sup>3</sup> The first world war, she argues, was also a site of moral struggle, so contracting VD, and thereby weakening the armed forces, was viewed as unpatriotic.

Regulation 40D allowed for a woman charged with an offence under the regulation to be remanded for a period of not less than a week for the purpose of medical examination to ascertain whether she was suffering from VD, solely based on an accusation by a soldier.<sup>4</sup> In some instances women with small children were arrested and held in remand with their children with no means to challenge their detention. This controversial section applied only to women, and members of the armed forces knowingly suffering from VD could have affairs

with no sanctions other than losing pay while hospitalised. Furthermore, as becomes evident in the cases analysed later in this paper, there were no safeguards against malicious accusations and women frequently were remanded and tried without evidence, based on a wrongful allegation from a soldier.

Despite its short existence, the controversial regulation led to mass protests by women's movements and had a profound impact on those penalised under it. Yet, the history and administration of the regulation has not been thoroughly documented before, perhaps due to its short existence. While the regulation itself has not been examined at length, anxiety over the impact of VD during the era has, particularly so by Levine and Roger Davidson, whose work shows the extent of the measures adopted to curtail VD and how in the late nineteenth and early twentieth century, control of sexuality and VD became intertwined. Arguably, the fear over physical contamination and VD was also intertwined with the fear over the moral contamination. As Lucy Bland has noted with regard to the discussions on VD, the 'protection' of women meant the control over women's sexual behaviour.<sup>5</sup>

The impact of the war on women's lives, work and family life has been examined at length by Sonya O. Rose in her pivotal work on gender, class and the first world war. For some women, the war brought about the possibility of economic freedom through access to labour markets but at the same time, Rose argues, gender forms 'the basis for social exclusions and inclusions and constitutes inequalities in power, authority, rights, and privileges'.<sup>6</sup> This article adds to the wider debate on war, gender and sexuality by examining those exclusions and particularly, the role of the courts in controlling and judging working class female sexual behaviour through the 40D cases.

Although the implications of wartime emergency measures for class and gender roles is beyond the scope of this article, 40D cases should be understood in the context of the wider debate on gender, sexuality and war. On the surface, the wartime mobilisation reaffirmed traditional notions of manhood and womanhood, as in the war propaganda, for example, the soldiers' masculinity and women's role as nurses were emphasised.<sup>7</sup> Angela Woollacott has, however, argued the wartime mobilisation caused disjunctions as much as continuities in gender roles and in the public debates on working class women and sexuality.<sup>8</sup> Woollacott has demonstrated how concern over khaki fever, the displays of excitement over the presence of the troops, can be seen as representative of fear over women's sexual and social independence. The fear over sexualisation and rise in immorality in the context of young women can be seen as a continuum from early 20<sup>th</sup> century measures against white slavery as demonstrated by Woollacott's analysis, and this paper, particularly in relation to young girls.

## **Defence of the Realm Act and Prostitution**

As controversial as 40D was, it was not a sudden change in the law. Rather, it was enacted following a series of ever more repressive amendments to DORA. DORA, enacted days after the first world war broke out, gave the government wide-ranging powers to control many aspects of everyday life through Orders in Council and regulations issued by the secretary of state for war without parliamentary scrutiny. DORA was continuously amended, with the government giving itself new powers and introducing new restrictions on various aspects of everyday life from press reporting restrictions to turning off the lights at a particular hour. The level of control DORA gave the government over ordinary people's lives was unprecedented, particularly so over women considered to be from the 'lower classes'. In cities such as London or Cardiff women were banned from pubs and from consuming alcohol—even in restaurants—after 6pm. In Cardiff, women 'of certain character' i.e. those suspected of prostitution, also had a curfew imposed on them between 7pm and 8am.<sup>9</sup>

The drinking and curfew orders were implicitly aimed at 'promiscuous women', broadly defined as women who had extra-marital sexual encounter(s). These orders were soon followed by a series of more oppressive measures under DORA, targeting those labelled as professional prostitutes as well as 'amateur girls'. Amateur girls or amateur prostitutes were defined as women who had sexual encounters with soldiers for gifts or thrills rather than for money.<sup>10</sup> These definitions and boundaries between the categories imposed on women are highly problematic and artificial in themselves – yet, these terms were used by the War Office and civil society organisations at the time. The word 'prostitute' is used in this paper, as described by Linda Mahood,<sup>11</sup> as women who were labelled as 'prostitutes' by others due to their profession, physical appearance or behaviour regardless of whether they engaged in commercial sex. Defining prostitution as a fixed category of employment, let alone permanent identity, is very misleading and particularly so when referring to the war period, when sexual economy takes varied forms. Yet, these definitions are important to note in order to recognise the measures adopted under DORA as a response to a perceived rise in female promiscuity as much as, if not more than, an attempt to curtail professional prostitution.

The series of amendments to DORA were directly linked to protecting members of the armed forces from the threat posed by professional and amateur prostitutes. The first of these measures, Regulation 13A, was enacted in 1915 and was aimed at women with prostitution-related convictions. Under Regulation 13A, army officials could prohibit women

with convictions related to commercial sex from entering the vicinity of designated military bases under pain of imprisonment. The regulation was lobbied for by the Dominion governments and initially intended to be used only in Folkestone, Kent, where the Canadian troops were based.<sup>12</sup> It was later applied to Blackpool and Norwich but always with the guidance from the Admiralty to only use it against women who had travelled to the localities recently and not against local girls beyond giving them a warning. Fifteen months after passing of 13A, Regulation 35C was passed, extending the restrictions to those who had been convicted of indecency or public order offences. These measures only applied to women with earlier convictions and so were not effective in controlling VD, as most sexual encounters were not commercial ones. Lord Derby and the army medical authorities agreed that as high a number as 80% of servicemen contracted VD from a 'woman other than a prostitute' and so Regulations 13A and 35C remained ineffective in controlling the 'amateur girls' or 'girls of loose morals' who could not be expelled from the vicinity of the troops.<sup>13</sup> The rise of the 'amateur prostitute' and female promiscuity were a major concern for the state. In the words of an inspector from Norwich:

I am convinced that every year sexual immorality is becoming more the amusement of the amateur than the business of the professional, and in consequence is getting further outside the reach of the law and the control of the police... Nowadays young girls... have lost all sense of modesty and chastity.<sup>14</sup>

### **The Temptation and Protection of Overseas Soldiers**

The Canadian and US governments had long warned the British government of the threat promiscuous women represented to their troops.<sup>15</sup> It was said women in London were throwing themselves at Dominion soldiers so violently that it resembled a 'form of highway robbery' in some instances.<sup>16</sup> Fearful of moral and physical corruption of their men, Dominion governments had lobbied for Regulation 13A and 35C to restrict the movement of women but they remained anxious over the unfounded fears of growing rates of VD amidst the rest of the population.<sup>17</sup> Sir Robert Borden, the wartime Canadian prime minister, said in the Imperial War Conference 1918,

I say unhesitatingly that if I should be the Prime Minister in Canada at the outbreak of another war, I would not send one man overseas if the conditions

were such as have prevailed during the progress of the present war. I think it is a horrible outrage that they should be so exposed as they have been.<sup>18</sup>

The concerns of the Dominions were detailed in a large document entitled *Temptations of Oversea Soldiers in London* that included details of soldiers being harassed by prostitutes in London and General Child's assurances of government action to keep the Dominion soldiers safe.<sup>19</sup> The soldiers—particularly those encamped in London—were described by Dominion leaders as the victims of the incessant attempts by local women to lead the 'unsullied soldiers' to ruin. Not satisfied with the government response, the Imperial War Conference in 1918 adopted a resolution (No 24) calling for the authorities to legislate for the protection of their soldiers from 'women of the prostitute class'.

To maintain good relations with the Dominions and to be able to rely on their continuing support in the war effort, the secretary of state for war contended something had to be done, and so 40D was drafted. The first draft of 40D applied to both sexes but when the under secretary for war approved the draft, the regulation was amended to apply only to women.<sup>20</sup> The War Office, anticipating objections from Parliament and civil society, noted the regulation had its defects;<sup>21</sup> however, the secretary of state for war stated in a classified memorandum that the parliament had empowered the government to pass emergency laws in the interests of the safety of the realm, and this regulation was necessary 'not only for the safety of our Dominion troops, but for the safety of our own'.<sup>22</sup>

As anticipated, the regulation was unpopular amongst legislators and most members of parliament spoke against what they called 'unfair and degrading' legislation when it was discussed in Parliament.<sup>23</sup> The only way for women to refute allegations made by domestic or Dominion soldiers was to submit to a medical examination so the regulation in effect re-introduced a compulsory medical examination for some women. Dozens of civil society organisations came together led by AMSH and rallied against the regulation, denouncing it as an 'idiotic' move in the battle against VD and an outrage against all women.<sup>24</sup> AMSH argued for free, anonymous testing to be made available everywhere as the only way to tackle VD and organised numerous protests against the regulation. Once it was in force, AMSH members attended the court hearings for record keeping, and for instance, Mr and Mrs Bethune Baker, prominent AMSH members, privately funded a defence counsel for at least two women prosecuted in Cambridge.<sup>25</sup>

Despite the vociferous objections raised, Parliament had no power to amend or repeal measures that were enacted by the War Office under emergency powers. The documents

detailing the pressure from Canadians and internal discussions within the War Office and Admiralty were not made available to Parliament and most were declared secret till many years after the war had ended. Rather than framing the regulation through foreign policy, the War Office framed it through protection of innocent young soldiers and the ‘flower of manhood’ from physical and moral corruption imposed by ‘infectious women’.<sup>26</sup> Emphasising the preservation of home and purity, the secretary of state for war responded to the criticism from the House of Commons by declaring, ‘We feel strongly that we ought to do everything that is humanly possible to preserve their health, not only that they may fight our battles, but that they may go back unstained and unsullied to the homes from which they came’.<sup>27</sup>

### **The Fear of Venereal Disease**

Rather than an effective piece of legislation, 40D can be seen as a symbolic attempt to protect public morality by publicly punishing promiscuous women. There were over 200 40D prosecutions and 101 convictions, the majority of which were based on a guilty plea from the accused. The majority of the allegations were dismissed when after examination, the woman was found not to be suffering from VD. These are low figures in contrast to the 20,000 arrests that were made for various solicitation offences in the same era.<sup>28</sup> Regardless of limited numbers, the cases were an important reflection of what the government called ‘a battle to uphold morality and fight female promiscuity’.<sup>29</sup>

Due to the symbolic nature of the legislation, the cases and their reporting, arguably, became a prism through which femininity was assessed and judged. The trials were public and therefore degrading for the women who were subjected to invasive medical examinations and the ordeal of hearing the details of these examinations recounted to courtrooms that ordinarily only consisted of men. The police already knew the majority of women who were arrested and tried under 40D as many had previous solicitation convictions. Yet, the regulation was not used solely against known prostitutes, as in some cases the women recorded their profession as domestic servant or other service professions, such as dressmaker. Whether the women on trial were labelled as professional prostitutes, amateur girls or simply promiscuous, 40D was only used against women and girls, who based on their profession, localities and behaviour, can be identified as working class.

To talk about *women* is perhaps misleading, as the majority of those charged under the regulation were under the age of twenty, with some as young as fifteen. This has to be set

in the context of obsession with age and sexuality following the turn of century white slavery panic that saw the age of consent raised from thirteen to sixteen in 1885.<sup>30</sup> Decades later much of the fear over lack of morality and loss of social control still focused on adolescent girls as demonstrated by concern over the khaki fever.<sup>31</sup>

Rather than openly discussing the pressure from the Canadian and Dominion governments, the government focused on the threat of the presence of VD and ‘poisonous women’. The connection between death, sex and moral and physical contamination was played out continuously in military reports and the discourse on VD. The discourse on VD at the turn of the century came to symbolise everything that was considered wrong with commercial sex.<sup>32</sup> There was no evidence to show that there was a VD epidemic and in fact, there was no statistical increase of VD until the final years of the war.<sup>33</sup> Nevertheless, the secretary of state for war wrote that ‘the regrettable fact remains that every woman with this disease is a centre of infection and every centre of infection may be prolific of “ineffectiveness” and wastage of man power as German poison gas’.<sup>34</sup> The Lancet concurred with this view as ‘it must be remembered that a poisonous woman can poison a regiment, and it should be a point of conscience with the authorities to let nothing outweigh in their minds the meaning of this fact’.<sup>35</sup> It is therefore unsurprising that measures to tackle prostitution and promiscuity came under the guise of VD. Davidson has argued that alarm towards and discussion on VD allowed a platform on which concerns about the changing moral direction of society could be discussed.<sup>36</sup> While there were strong objections raised against 40D by civil society organisations, at the same time it legitimised the views of those who equated prostitution with illness and filth, highlighting the physical and moral contamination. The captain chief constable of Surrey, where only two prosecutions under 40D were brought, said he needed more facilities allocated for the police ‘for the examination, cleansing and disinfection of verminous and diseased prostitutes’.<sup>37</sup>

Dr Wilson, the then secretary of AMSH, stated that nowhere in preventable medicine has there been as much as a focus on those who carry the disease as in the case of VD.<sup>38</sup> The focus on women who carried VD was remarkable and in the trial reporting on 40D, the press focused solely on the woman on trial; on her demeanour and occupation – accompanied by graphic details of her illness. The accusing soldier was often mentioned to be present but there was no mention of his rank, branch of the armed forces or where he was serving, let alone details of his medical condition. The majority of reports after accounting for the

accused' failures, ended with the chairman or judge's words of condemnation over the woman's actions and on the seriousness of her crime to the safety of the nation.

### **Magistrates as Moral Guardians**

Although the majority of the allegations were brought by Canadian soldiers, this was not publicly acknowledged. All soldiers, including British and Dominion soldiers suffering from VD were questioned about their sexual history in hospitals, but most of the women if traced, were not prosecuted.<sup>39</sup> In the majority of cases, charges were brought by Canadian soldiers, which indicates that the allegations made by them were either taken more seriously or that there was more pressure from Canadian commanding officers to press charges. In a rare admission to this effect, Mr Muskett, a treasury solicitor who was prosecuting most of the cases in London, said in an unsuccessful prosecution against a dressmaker Nellie Morris by a Canadian serviceman that he 'wished to show some evidence to his colonial friends we [are] doing the very best in these cases'.<sup>40</sup>

There is no evidence to show the regulation was welcomed by police officers<sup>41</sup> and reports show that in the early months many military towns were not using 40D at all; Aldershot, Colchester, Folkestone, and Windsor had no cases at all under the regulation, where Chatham had one. Plymouth and Folkestone had a particularly bad reputation for disease amongst Canadian soldiers, yet no cases were brought under 40D until the very end of the war.<sup>42</sup> While there were towns where only a few or no charges were brought under 40D, women were still at the mercy of the good will of soldiers in those towns.<sup>43</sup>

The trial settings themselves were symbolic in terms of power balance. In most instances, the women were undefended. In a case from October 1918, an unnamed domestic servant from Bedford, described as quiet and proper, was charged under 40D. She, like most women charged under 40D, faced the accusing soldier, the military doctors, court officials and no fewer than four magistrates presiding over her case alone. She had neither advocate nor a female doctor to speak for her, nor did she put forward any defence on her own behalf. The chairman who, although sympathetic, chastised her for the 'seriousness of her offence' sentenced her to three months' imprisonment with hard labour.<sup>44</sup>

Although most magistrates used the full extent of the law to assert their power, not all magistrates were supportive of the regulation. For instance, in Scarborough both the local magistrates refused to preside over a 40D case. The defendant admitted guilt but Judge Alderman J.W. Rowtree said even if the defendant pleaded guilty 'he found the regulation so

iniquitous that he wishes to take no part in it'. The second magistrate followed Rowtree's decision to step down and said 'the two sexes should be treated equally and alike'.<sup>45</sup> They were the exception however, as only a few judges had sympathetic words towards the defendant, even when the defendant was wrongly accused, or lacked capacity. A case from Grimsby where 16-year-old girl named as Dixon was held in remand after an accusation from an HM naval officer demonstrates well the power imbalance in the proceedings. It was reported that the girl lacked capacity and was 'mentally defective'. The mother of the girl challenged the naval officer in court, telling him he should be 'ashamed of himself' for taking an advantage of a girl who clearly lacked capacity. The court, refusing to release her or assign blame on the soldier, maintained that the girl was not 'absolutely irresponsible for her actions'.<sup>46</sup> Dixon's case demonstrates the extent the double standard of sexuality was enforced by the courts, and the considerable difficulties women faced in building a defence against the allegations.

The judgments on individual cases, partially reprinted in the local and national press, passed judgement on the individual woman and on promiscuity. The improper behaviour of the accused women was highlighted by the publication by descriptions of their sexual encounters and details of the disease. The medical records of the accused were publicly reported since the doctor's statement on the severity and stage of the disease were included in court and press reports. News of the World, the most widely circulated paper at the time, had sympathetic reporting on 40D cases at times with commentary calling for the repeal of the regulation. Other papers such as the Herald in Plymouth used the 40D trials as an opportunity to warn others of the dangers of vice and failures of the women on trial. For instance, when Flossie Pointing was convicted under 40D and sentenced to six months' imprisonment with hard labour, the Herald labelled her as white slaver who had 'led many girls to ruin'.<sup>47</sup> She was labelled as a very bad example for other girls in town; therefore, the prison sentence was not only justified, but necessary for the protection of the community. These cases show how undesirable female sexual behaviour was conceptualised through threat and social disorder - in contrast to victimisation as in the earlier decades and in the white slavery discourse.

There were very few sympathetic words for the defendant, who was blamed for her predicament - with no guilt assigned to the soldier bringing the claim. In smaller towns where only a single prosecution was brought, the magistrates would often be people known to the defendant, which could account for the harsh words of condemnation many magistrates passed. In the small town of Stony Stratford, Alice Cowley seemingly faced a malicious prosecution. She had pleaded not guilty and after being held in remand in excess of a week,

the doctor confirmed she was not suffering from VD. The Chairman of the Bench, W.W. Carlile, who had to acquit her, said it ‘had been shown by the evidence she was a very wicked woman and ought be ashamed of herself’. Regardless of no evidence of a crime put forward, he further noted that ‘the dismissal of the case did not relieve her of the sin and the crime she had committed.’<sup>48</sup> Even if she was not guilty for the crime she was charged with, presumably her past behaviour rendered her guilty in the eyes of the magistrates. As with Amy Adams, discussed at the beginning of this paper, where the judge ‘hoped she would become a proper citizen’ after her punishment, the inherence of vice is emphasised. These judgments demonstrate that the women on trial were not judged on the single offence they had committed but for their perceived degeneracy and past sins. As Davidson has argued, sexual promiscuity was seen as ‘a behaviour lapse in men but an inherent and lasting trait in women’.<sup>49</sup>

### **Protecting the home in the home front**

During the first world war, Susan R. Grayzel has argued, women were requested to be the protectors of the home while their men were away fighting and be the ‘embodiment of perfect, traditional morality’.<sup>50</sup> The measures under DORA to restrict the movement, drinking and behaviour of women must be seen in the context of attempts to preserve the ideal feminine identity that was challenged by the ‘modern woman’: the tabloid press’s term for women who would walk around town unchaperoned, drinking and smoking in public. During the war, many women from all social classes were working outside the home and often for the first time had disposable income to spend. The fear of the changing in gender norms as well as the ‘decline in morals’ can be seen to be directly linked to the measures imposed under DORA, particularly in relation to orders prohibiting women from drinking or entering pubs.

The protection of the state, local community, and home were recurring themes in judges’ deliberations. Sexual difference within the trials is manifest: although soldiers were not encouraged to be promiscuous, they had no criminal penalties imposed on them and the magistrates paid little attention to their actions in rulings. Men were described as victims of women who were physically and morally corrupting. Appropriate female sexual behaviour was contained within marital relations and so deviancy could not be separated from female promiscuity. The judgments under 40D highlight the threat posed by female promiscuity—particularly in the absence of local men—to the family unit and the health of the community.

Women who were married to servicemen received a separation allowance while their husbands were at war. Summerfield has argued that the separation allowance given to families of servicemen was a way for the state to assume the role of breadwinner as well the disciplinarian role of the absent husband over his wife.<sup>51</sup> The 40D trials can be seen as an extension of this function of the state by giving the courts the power to publicly punish the unfaithful wife or promiscuous woman. Many of the women tried, and convicted, under 40D were in fact married. In few instances, the charge was brought by the defendant's husband, at least on one occasion maliciously. Although no wider conclusions can be drawn on the link between sentence given and the defendants' marital status, at least in one case the marital status of the woman was used as aggravating grounds. Ethel Roberts from Surrey was married to a Canadian soldier who contracted VD upon returning from battle, leading to a prosecution against her. She was given a maximum sentence of six months with hard labour and the judge, highly critical of her actions, said he 'regretted he could not give her more'.<sup>52</sup>

Police were asked to monitor women who received the separation allowance by the Home Office to ensure they were not acting in a manner that would be considered 'unwifely'.<sup>53</sup> The 'good behaviour provision' was later amended so that payments could only be stopped if the woman was convicted of an offence.<sup>54</sup> The press would usually note if the defendant was married, and when a woman married to serviceman was convicted under 40D that they would be losing their separation allowance. Losing the separation allowance was a further punishment highlighting how the woman had failed not only her husband, but also the state.

The impact of women's rights movement, AMSH in particular was significant in public agitation against the regulation. The War Cabinet noted strong public opinion which was being aroused all over the country by enforcement of 40D and how it had become political liability.<sup>55</sup> In the final months of 40D, the secretary of state introduced penalties to those who attempted to blackmail women by threats of 40D allegations and instructed the press not to print the name of the accused woman in the hope that this would silence some of the agitators against it.<sup>56</sup> Beyond the pressure from organisations, some women had gained the right to vote and when the regulation was debated in Parliament, the Chancellor stated that the Regulation 40D was introduced 'against the wishes of the 6,000,000 or 7,000,000 newly enfranchised women who will have something to say on the matter when the next election comes'.<sup>57</sup>

In the final months of the war a royal commission was appointed to review 40D and just over six months after being introduced, it was repealed on 26 November 1918. No

compensation was ever given to women who had been remanded, sometimes for weeks at a time, until charges were dropped. As part of the royal commission report on the repeal of 40D, Sir Malcolm Morris concluded that ‘even from the military point of view it [40D] has been a failure’.<sup>58</sup> Beyond the impact the regulation had on ordinary people’s lives, the trials show the power the state had over women’s lives and how that power was used, and at times abused, by the magistrates to enforce double standards of sexual morality.

Dichotomising of sexuality into normality and abnormality, respectability and deviancy during conflict is a way of making distinctions between what is healthy and nationally acceptable on one hand and what is nationally threatening on the other.<sup>59</sup> The 40D cases, although exceptional in terms of the severity of the punishment imposed, have to be seen in the wider context of state control over working class women’s sexual behaviour. The pressure from the dominions might have been influential in passing the regulation; however, this paper has shown gender, morality and discomfort over female sexuality was central to its enforcement.

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### **Notes**

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<sup>1</sup> Wakefield Petty Sessions, *Wakefield Express* (7 September 1918).

<sup>2</sup> *ibid.*

<sup>3</sup> Philippa Levine (2003) *Prostitution, Race and Politics: policing venereal disease in the British Empire* (Routledge) p. 146.

<sup>4</sup> William C. Dawson, *Criticism of the Regulation 40D* (undated) Women’s Library (WL) 3AMS/B/04/04/04 Box 042.

<sup>5</sup> Lucy Bland (1982) ‘“Guardians of the Race”, or “Vampires upon the nations’s health”?: Female sexuality and its regulation in early twentieth-century Britain’ in Elizabeth Whitelegg and others (eds) *The Changing experience of Women* (Basil Blackwell) p. 383.

<sup>6</sup> Laura Frader and Sonya Rose (1996) ‘Introduction’, *Gender and Class in Modern Europe* (Cornell University Press) p. 20.

<sup>7</sup> Leslie A. Hall (2013) *Sex, gender and social change in Britain since 1880* (2<sup>nd</sup> ed Palgrave Macmillan) p. 81.

<sup>8</sup> Angela Woollacott (1994) ‘“Khaki Fever” and its control: gender, class, age and sexual morality on the British home front in the first world war’ 29(2) *Journal of Contemporary History* p. 325.

<sup>9</sup> For DORA see, D.M. Simpson (1999) *The Moral Battlefield: the British army and venereal disease during WWI* (U of Iowa); Cheryl Law (1997) *Suffrage and Power: the women's movement 1918-1928* (I.B. Tauris) p. 28.

<sup>10</sup> See Woollacott, ‘Khaki Fever’; L. Bland, ‘Guardians of the Race’ p. 373-88.

<sup>11</sup> Linda Mahood (1990) *The Magdalenes: prostitution in the nineteenth century* (Routledge) pp. 68-69.

<sup>12</sup> Letter from the Secretary of Admiralty (8 March 1916) NTA HO 45/1080/307990.

<sup>13</sup> Various records from AHMSH WL 3AMS/B/05/01; and War Office at NTA HO 45/1080.

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- <sup>14</sup> Inspector of Constabulary at the Home Office, quoted in D.M Simpson, *The Moral Battlefield* p. 207.
- <sup>15</sup> Memo from US State Department to Home Office (3 November 1917) NTA HO 45/1080/307990.
- <sup>16</sup> Letter to Sir George Cave (2 May 1917) NTA HO 45/1080/307990.
- <sup>17</sup> Minutes of the War Cabinet Meeting (22 February 1918) NTA HO 45/1080/307990; 'Temptations of Oversea Soldiers in London' (24 April 1917) Address to HM King NTA HO 45/1080/307990.
- <sup>18</sup> War Office 'Defence of the Realm Regulation 40D: memorandum by Deputy Secretary of State for War' (26 August 1918) TNA CAB 24/62/7.
- <sup>19</sup> Temptations of Overseas Soldiers.
- <sup>20</sup> Letter from the Under Secretary of State for Home Department to Admiralty (6 February 1918) NTA HO. 45/1080/307990; Letter from the Admiralty to Under Secretary of State for Home Department to (7 January 1918) NTA HO 45/1080/307990.
- <sup>21</sup> Minutes of the War Cabinet Meeting (22 February 1918).
- <sup>22</sup> War Office, Defence of the Realm Regulation 40D Memorandum.
- <sup>23</sup> Hansard HC 19 June 1918.
- <sup>24</sup> Back to the C.D. Acts! 40D DORA: an infamous regulation (pamphlet dated August 1918) WL 3AMS/B/05/01.
- <sup>25</sup> WL 3AMS/B/05/01-028.
- <sup>26</sup> War Office, Defense of the Realm Regulation 40D Memorandum.
- <sup>27</sup> Hansard HC 19 June 1918.
- <sup>28</sup> Julia Laite (2012) *Common Prostitutes and Ordinary Citizens: commercial sex in London 1885-1960* (Palgrave Macmillan) p. 118.
- <sup>29</sup> D.M Simpson, *The Moral Battlefield* p. 207.
- <sup>30</sup> No evidence found for prosecutions under the Criminal Law Amendment Act 1885 against soldiers for underage sex when girl under the age of 16 was on trial for 40D.
- <sup>31</sup> Woollacot, "Khaki Fever" and its control, p. 325.
- <sup>32</sup> Levine (2003) *Prostitution, Race and Politics*; see also the work of Roger Davidson on VD in Scotland.
- <sup>33</sup> R. Susan Grayzel (1999) *Women's Identities at War: gender, motherhood and politics in Britain and France during the first world war* (University of North Carolina Press) p. 69; Philippa Levine (2003) *Prostitution, Race and Politics* p. 145.
- <sup>34</sup> War Office, Defense of the Realm Regulation 40D: memorandum.
- <sup>35</sup> As quoted in, Levine, *Prostitution, Race and Politics* p. 162.
- <sup>36</sup> Roger Davidson (1997) 'Venereal Disease, Public Health and Social Control: the Scottish experience in a comparative perspective', *Dynamis: Acta Hispanica ad Medicinae Scientiarumque Historiam Illustrandam*, 17 pp. 341-68.
- <sup>37</sup> Letter from H.L. Sant, Captain Chief Constable of Surrey to T.W. Weeding (15 June 1918) TNA WO 32/11403.
- <sup>38</sup> H.M. Wilson (1911) *Sanitary Principles Applied to the Prevention of Venereal Disease* (Sheffield) WL 3AMS/B/05/01.
- <sup>39</sup> Surrey History Centre records on Witley Hospital Records during WWI; Roger Davidson (1996) *On Contact Tracing; "Searching for Mary Glasgow": contact tracing for sexually transmitted diseases in twentieth century Scotland*, *Social History of Medicine* 9 pp. 195-214.
- <sup>40</sup> 6 October 1918, *News of the World*.
- <sup>41</sup> Letter from the Secretary of Admiralty (8 March 1916) NTA HO 45/1080/307990.
- <sup>42</sup> Reports in WL 3AMS/B/05/02.
- <sup>43</sup> Letter from Alison Neilans (2 September 1918) WL 3AMS/B/05/02.
- <sup>44</sup> Bedford Girl and a Soldier.
- <sup>45</sup> 1 November 1918, *Scarborough News*.
- <sup>46</sup> 20 September 1918, *News of the World* and AMSH records, WL 3AMS/B/05/01-028.
- <sup>47</sup> 16 October 1918, *The Herald* (Plymouth).
- <sup>48</sup> 11th May 1918, *Bucks Standard*.
- <sup>49</sup> Davidson, *Venereal disease, public health and social control* p. 68.
- <sup>50</sup> Grayzel, *Women and the First World War* p. 62.
- <sup>51</sup> Penny Summerfield, 'Women and War in the Twentieth Century' in June Purvis (ed) (1995) *Women's History: Britain, 1850 – 1945* (Routledge) p. 309.
- <sup>52</sup> Surrey History Centre, Records reference no. 2220/3/3.
- <sup>53</sup> G Braybon and Penny Summerfield (1987) *Out of the Case: women's experiences in two world wars* p. 108; Summerfield, *Women and War in the Twentieth Century* p.309.
- <sup>54</sup> *ibid*.

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<sup>55</sup> Simpson, *The Moral Battlefield*,

<sup>56</sup> 'Venereal Disease' (18 October 1918) *The Times*; Extract from 7th Meeting of the Committee of Home Affairs (1 August 1918) NTA WO 32/4745.

<sup>57</sup> Hansard HC 19 June 1918.

<sup>58</sup> Simpson, *The Moral Battlefield*, p. 280.

<sup>59</sup> George Mosse (1985) *Nationalism and Sexuality* (University of Wisconsin Press).