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Police Court Rota: women's archiving and access to legal life in early twentieth-century England

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ABSTRACT



The period of the early twentieth century is marked by an intense struggle on the part of women to gain access to professional careers and the public sphere. This paper contributes to a wider discourse on women's professionalisation, by focusing specifically on women's access to legal professions and the role archiving played in that process in the years preceding the Sex Disqualification (Removal) Act 1919 in light of the Police Court Rota, run by the Association for Moral and Social Hygiene (AMSH). The members of the Rota acted as observers in criminal cases, interviewers, writers and activists at the time when women were formally excluded from courtrooms and legal life. The paper draws extensively from the archives of the AMSH and National Vigilance Association and argues that observations, legal record creation and archiving gave middle-class women volunteers access to legal professions and power, despite formal exclusions. These records and collections, in part, counter law's missing archive on women and criminal justice. This paper examines what these counter archives tell us about exclusion of women from legal history and the role archiving played within women's professionalisation, and in turn, how class and colonial bias manifested within that process of archive creation.

KEYWORDS

Women's history; legal history; archiving; criminal justice system; courtroom observations; association for moral and social hygiene; Police Court Rota

Introduction

In August 1919, a young woman was sitting in the public gallery of the Marlborough Street Police Court in a police uniform, observing a trial for sexual offences and taking notes of the proceedings. The magistrate, Mr Mead, was appalled when he spotted her in the gallery, reprimanded her for attending the court, and told her in no uncertain terms to leave the courtroom. Mead told the woman: 'your own proper feeling should have taken you out of court instead of listening to the shocking things you hear here'.¹ A courtroom was no place for a respectable woman, according to Mead and most of his peers. Women were formally excluded from legal professions, and could not act as lawyers or jurors, or even attend the courtrooms when 'sensitive matters' were discussed. The woman in Mead's courtroom did her best to argue to stay but eventually was

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removed. She was a member of a group of women who formed the Police Court Rota. These women volunteers attended court hearings, organised training, and, importantly, kept notes of every single action they undertook. These notes, minutes of meetings, and related correspondence are immaculately preserved at the Women's Library in London. In this paper, I examine those records, consider their place in legal history and analyse what those records tell us about the women who created them.

This paper draws extensively from the collections of the Women's Library (held at London School of Economics), specifically, the archives of the Association for Moral and Social Hygiene (AMSH), who established and maintained the Police Court Rota and, in the final section, of the archives of National Vigilance Association (NVA), an organisation invested in campaigning for moral and social reform and order through legal means. The AMSH was the most prominent abolitionist organisation in Britain and its colonies during the interwar years.² Abolitionism, in the context of AMSH, meant that the organisation was focused on campaigning for the abolition of all forms of regulation of prostitution through lobbying, protest, and other direct action.³ AMSH came into existence in 1915 following the merger of organisations invested in fighting against the regulation of venereal disease (VD).⁴ While the movement more broadly was focused on wider issues around sexual morality and women's exclusion from public life, much of their action focused on fighting against the regulation of VD and the related over-criminalisation of marginalised women, building on a long legacy of the women's rights movement protesting against regulation of VD.⁵

Through an exploration of the court observations, and specifically the Police Court Rota of AMSH, this paper shows the important role that record creation and archiving played in women's access to the legal profession at a time of formal exclusions. The Sex Disqualification (Removal) Act 1919 enabled women to enter the professional life, and for the first time in England, women could become legal practitioners, magistrates, and jurors, and could enter professional bodies.⁶ The years preceding the enactment of the Sex Disqualification (Removal) Act 1919 were characterised by an intense struggle by women to gain access to professional life, with many taking up positions that enabled them to undertake 'professional' roles, but on a volunteer basis. There is a wealth of women's history from this period, exploring women's professionalisation and roles during the War, from women police personnel to ammunition workers.⁷ This paper contributes to that wider discourse, by focusing specifically on women's access to legal professions and the role archiving played in that process.⁸

By examining the archives of AMSH, and the silences that lie within, the paper will highlight the role archiving played in the women's rights movement, and their relationship to legal power.⁹ The AMSH, along with other feminist and social purity organisations, took an active role in the criminal justice system in the early twentieth century. It lobbied extensively for new laws and the abolition of existing ones, drafted bills that went on to become laws, and subsequently took a particular interest in enforcement of these laws.¹⁰ The AMSH also provided legal education and observed trials, often as an act of protest against the arbitrary powers that magistrates held over poor women in particular. These archives are legal archives, although they are not deposited in the state records, forming that official narrative of the law's past.¹¹ The archive that the AMSH and other such organisations have left behind are not just a repository of historical records and sources; they are dynamic, partial, and deeply political documents. They

give insights into women's role within the criminal justice system and their marginalisation from that system, and how it has been recorded.

This paper makes two inter-related arguments. It begins with positioning the AMSH archives, or the counter archives, in the wider context of legal archiving, arguing that these records form an important part of women's legal history. Building on a rich body of scholarship on women's rights movements and archiving—as discussed in the first part—this paper shows that the early twentieth-century women's rights movements and the women volunteers' relationship to archiving were far from neutral. Record creation and maintenance, for those discussed within this paper, was an intentional act, indeed often an act of resistance, and it formed part of wider campaigning aims and efforts. Secondly, the paper argues that the process of courtroom observations, creating records and the care invested in the record-keeping process was part of the early professionalisation of middle-class women in the late nineteenth and early twentieth centuries. Women only gained access to legal professions in the final days of 1919, and so the process of record creation and maintenance gave them access to the legal profession and to legal power despite being formally excluded from it.¹² The final part of the paper will discuss the Police Court Rota and the women volunteers of AMSH who observed criminal trials with women defendants and the records that they created. Through examination of the Police Court Rota, and the role played by the women volunteers of the National Vigilance Association, the paper will focus on the class and colonial dynamics of those records.

Part I: law's missing archive

British common law is built on the judgment of previous cases, with those cases forming not only legal precedent, but also law's history and its archive. By its very nature, British common law leaves mountains of paper trails, all adding to 'law's self-generating truth claims' as Renisa Mawani has argued.¹³ The 'file' occupies a very particular place in this legal imagination and 'the very structure and layout of the court is premised around paper and the production and maintenance of files' according to Mayur Suresh.¹⁴ Cornelia Vismann, analysing the Latin maxim—*quod non est in actis, non est in mundo* ('what is not in the file is not in the world')—has showed how the file, in the legal world, takes precedence over perceived or even experienced reality.¹⁵ If there is a conflict between the file and the world, it is for the world to evidence that something did or did not happen. The file is at the core of any legal proceeding and also of legal history. But what if the file simply does not exist? Or if the file exists outside the state archive?

Law, and those invested in it, often have a particular idea of what an archive is. Stewart Motha and Honni van Riswijk have argued that the legal archive and state law often speak with 'one voice and one authority, guarding its singularity'.¹⁶ While many would contest the notion or even possibility of one archival voice, legal historians are conditioned to prioritise certain sources and the state archives above all other sources. In recent years, some legal historians have challenged this privileging of state archives and primary legal sources as the only authorised source of legal history and turned to alternative archives, family history, and even art.¹⁷ Despite this attempt to reimagine sources of legal history, Mawani argues that this reconceptualization has not yet extended to challenging what law is and what constitutes the legal record.¹⁸

Those official archives, formal legal files and mountains of paper trails are full of silences and gaps, in particular, when it comes to women. Historical records and court transcripts from the early twentieth century are not well preserved, and only piecemeal case records remain. According to Daniel Grey, only about 2% of depositions to the assizes have been preserved in the National Archives in the period leading up to the First World War, and police court records are particularly poorly preserved.¹⁹ Even after the War, the court records—where they have survived—are piecemeal. Some files include only basic details of parties of the case, others some depositions, or merely the post-trial correspondence.²⁰ These files are partial and often fragmented, at best, often excluding details of outcome, sentences, or details of those who spoke during the trial. This is particularly true of trials of sexual offences or offences dealing with morality, which was often the case where women were complainants or defendants. Such trials and the history of the criminal laws surrounding them remain largely unrecorded in the official state archives. The vast majority of cases dealing with sexual offences never made it to court, and so, the state archives hold fragments of fragments when it comes to women's experiences of sexual violence, and of their encounters with criminal justice more broadly.²¹

This absence of women from official court records has left women out of legal history too. Felice Batlan has written that for a long time it was 'acceptable to write legal history, even excellent legal history, without including women or gender', as legal historians deemed women irrelevant to 'serious' legal history.²² Erika Rackley and Rosemary Auchmuty have argued that legal historians and 'the discipline of legal history itself, have been heavily invested in preserving the illusion of legal objectivity, neutrality and inevitability' which in turn has contributed to the erasure of women and their hard-fought campaigns from the field.²³ Throughout history, women have been portrayed as passive subjects of law rather than the reformists or legal thinkers that many actually were. While this exclusion is true for many fields, feminism has arrived particularly late to the field of legal history.²⁴

However, this erasure of women that Batlan, Rackley, and others have pointed out is far from accidental.²⁵ The women activists discussed throughout this paper made an explicit and clear claim on legal power through their work, as well as attempting to resist the erasure of women from official legal history. If the state has not taken particular care to preserve criminal and legislative records, these organisations did. Organisations such as AMSH engaged in extensive legal work and organised courtroom observations—discussed later in the paper—that create a record of trials and convictions otherwise not preserved. Their records are immaculately preserved and a stark contrast to the poorly preserved state files. The archives and collections do not centre or catalogue legal detail. Yet, through often seemingly mundane minutes, forms, and notes, rich detail of women's encounter with criminal justice can be found. Both the AMSH and NVA records reveal long-lost stories of women who came to them for help after being victims of crime; they reveal details of trials of women, sentences that were appealed, and the stories of those women who were sent to prison.²⁶ This volunteering work women did in obtaining information, creating records, and carefully preserving them, creates a unique window into the criminal justice system as women would have experienced it in the early twentieth century.

For a long time, women's archiving, more broadly, was understood either explicitly or implicitly as a form of domestic labour, as a way of chronicling the private sphere.²⁷

Writing about attitudes to women's archiving for most of the twentieth century, Tom Nesmith has said:

Women had a distinct responsibility as guardians and bearers of memory, and so they wrote histories, formed women's historical societies, took a major part in historic sites and war memorial movements, maintained family records and correspondence—a duty the photographic industry quickly perceived—and ensured that anniversaries, birthdays, and special occasions like Christmas were remembered and properly celebrated.²⁸

This framing served to depoliticise women's archival practices and placed it in the home and familial spaces. Yet, women's administrative and archiving practices were not limited to the domestic sphere as women increasingly occupied paid roles as clerks, typists, and administrative assistants in the period. Caswell has argued that through this framing of the very process of archiving as feminised and female, the field has become viewed as not worthy of academic scrutiny.²⁹ The undeniable yet complex relationship women's and feminist movements have had with archiving was far more pronounced in the movements of the 1960s and 1970s when archiving was construed as an explicitly political act. Creating and preserving records was not only a way to ensure growth and stability of organisations but was also viewed and undertaken as an act of resistance.³⁰ While there is a wealth of scholarship on feminist and radical movements and archiving in the latter half of the twentieth century,³¹ the work of Antoinette Burton, Laura Mayhall, and Sarah Lubelski demonstrates that archiving played an important part in the women's movement of the nineteenth and early twentieth centuries too.³² In the 1970s and 1980s, Brian Harrison recorded hundreds of interviews with members of suffrage and women's rights movements and their surviving family members.³³ While the interviews focus on the movements, their personal politics, and final days, the role that paper and paperwork played within the movement is striking. Many of the interviews allude to rich collections of newspaper clippings, organised notes, and training materials. Women activists created and collected these as a resource site and also to build an archive of women's history.³⁴ This later led to the establishment of women's library which was specifically founded to preserve the history of the suffrage movement. The process of archiving for women was, therefore, intentional and deeply political.

Part II: the file, archive, and professionalisation of women

The collections of AMSH and other organisations such as the NVA, created and maintained by women volunteers, give a glimpse into the social and moral questions of the time, and the fervour with which topics such as sex work and immigration were debated.³⁵ They reveal changing social norms and women's status in public life. These archives also reveal the shared aims that the organisations had and the very different means they utilised to reach these aims. The records are at times contradictory, inconsistent, partial, and always subjective. They are an important part of social and organisation history but they are also part of legal history. Beyond details of cases and lobbying, by showing the struggle women faced in attempting to gain access to the legal profession, the ways in which that struggle manifested, and how they fought those formal exclusions, the collections comprise a particularly important part of women's legal history.

The collection of AHSB spans over 165 boxes, each filled with folders and note books covering their administration, campaigns and international work. The Police Court Rota

sub-committee forms a small but important part of this overall expansive collection, consisting of hundreds of pages of minutes, correspondence and case notes. Most of the minutes and official documents are typed onto wafer-thin paper. These reports, notes, and guidance papers have no typos and no corrections. Where there are handwritten notes scribbled on a report, this is often followed by a full amended document typed out neatly. The multiple records of the same document, each with a slight variation, allow us to see the care that went into preparing the lobbying and training documents that AMSH produced. The archives allow us to see how each policy was a collaborative effort and the multiple drafts, with scribbles, preserved along with the impossibly neat final documents, preserve that history.

This process of creating and maintaining records was also an intentional act on the part of the leaders and volunteers of the women's rights movement, beyond the AMSH. These hundreds of pieces of paper, of different sizes, fonts, and importance, have not been preserved accidentally. When the Women's Library was formally founded in 1926 as The Library of the London Society for Women's Service, it aimed to preserve the history of the women's rights movement and to provide resources for women who were gaining professional and public positions.³⁶ Many of the women's rights leaders had extensive personal collections that, where they survived, were donated to the Women's Library collections.³⁷ Papers, files, and clippings formed an integral part of the legacy of movements and individual campaigners. The daughter of Dorothy Evans, suffragette and a member of the Six Point Group, has spoken about how skilled her mother was with paperwork.³⁸ Teresa Billington-Greig, one of the founders of the Freedom League (WFL), whose papers are also maintained at the women's library, had a reference library of newspaper clippings.³⁹ She had carefully clipped out newspaper articles, and catalogued and indexed them in small boxes that would serve as reference material for herself or others when in need.⁴⁰

Women campaigners in the period had to create legal resources as none existed on the specific issues they were invested in. In the autumn of 1917, as part of the training of new Police Court Rota volunteers, AMSH organised a six-part public lecture series on women and the law.⁴¹ The series covered broad topics such as 'The position of Women under Laws of England' along with far more focused sessions on specific laws impacting women, mainly around solicitation and procuration, and procedural aspects of the Police Court, bail system, and so on.⁴² Each lecture was a manual, akin to contemporary legal reference guides, on the topics that had received little attention from legal writers. These lectures were written down and AMSH circulated 1000 copies of each talk to its members and interested parties.⁴³ The care that went into creating and preserving these records is indicative of the intentional nature of the work; the idea of building a legacy along with creating resources for women.

The alternative archive creation must be set against the backdrop of intense campaigning against formal exclusions of women from education and workplaces in the late nineteenth/early twentieth centuries. Alison Neilans, the long-term secretary of AMSH, wrote in a 1936 essay that the women's right movement which AMSH was building on:

[...] was not especially dealing with sex morality but fighting for the suffrage, for university education for women, for the married woman to be recognised in law as a human being, to have equal rights in her children, and to be acknowledged as the mistress of her own

property. It was fighting to attain economic independence for women: in short, it was challenging all artificial limitations and injustices with which women were surrounded in 1867.⁴⁴

The drive for women's professionalisation, as begun in the mid-nineteenth century, heightened and peaked during the First World War, with those formal barriers being removed—at least in law—only in late 1919. In practice, these barriers did not immediately fall; for example, married women often still had to resign from any posts they held.⁴⁵ The long-awaited Sex Disqualification (Removal) Act 1919 enabled women to enter professional life and train as legal practitioners, magistrates, and jurors, and to join professional bodies.⁴⁶ This was an outcome of a hard-fought battle from the mid-nineteenth century onwards, carried out by women's rights groups and activists such as Josephine Butler, who had run localised and national campaigns for women to gain access to education and professional public life.⁴⁷ By the early twentieth century, many middle-class women and women's rights campaigners actively contributed to public life, as—often unpaid—journalists, as philanthropists, and through roles within the church⁴⁸ and even as paid organisers as Krista Cowman's research into Women's Social and Political Union shows.⁴⁹ Women's rights groups and vigilance groups in particular gave women unpaid professional roles through which they could build careers, impact society, and take part in legal life as shown by the specialist work done by AMSH.

The women who were involved in these organisations came from a variety of backgrounds, and many had been activists and radicals for years. Alison Neilans, long-term Secretary of AMSH, came to the organisation from the suffrage movement.⁵⁰ During her suffrage years, she was arrested multiple times and imprisoned once when she poured acid into a ballot box and some of it entered the eye of an official.⁵¹ Chrystal Macmillan, the first Chair of the Police Court Rota Sub-Committee, was a long-term activist for women's access to the legal profession in England and Scotland. By 1908, Macmillan had already argued a case in the House of Lords, specifically that female graduates of Scottish universities should have the same voting rights as male graduates.⁵² When she joined AMSH, her work became focused on law, both as the chair of the Police Court Rota and in writing responses and amendments to existing laws. She also continued to work with the National Union of Women Workers (NUWW) to draft laws for the inclusion of women in the legal profession, and to give women rights to serve on juries and as Justices of the Peace.⁵³ After the passing of the Sex Disqualification (Removal) Act in 1919, Macmillan applied to take her bar exams to qualify as a barrister.⁵⁴ By the time she formally qualified, she was already juggling high-level legal work, including a number of domestic and international bills and reforms as part of her AMSH and NUWW work.

Organisers like Macmillan and Neilans were using the tools, language, and format of the state law and the process of archiving simultaneously to fight the prevailing system and to be included in it. Neilans and Macmillan's stories are in many ways exceptional in terms of the successes and international recognition they gained. In other ways, they exemplify the work so many women volunteers and activists did, and the level of involvement they had in legal processes.⁵⁵ At a time when courts disallowed women's presence in courtrooms and attempted to maintain barriers for women, these women were drafting bills, negotiating international laws, and holding magistrates to account.

Their relationship with law was neither accidental nor fleeting; both Neilans and Macmillan had for decades fought against the legal system that excluded, and in the case of Neilans, imprisoned them.

Part III: Police Court Rota—creating an alternative legal history

In 1917, the AMSH established the Police Court Rota with the explicit aim of monitoring the actions of magistrates and police in the magistrates courts.⁵⁶ This type of operation was not new, as the NUWW, later known as the National Council of Women (NCW), had already introduced a police court rota in Cambridge in 1913 to support women and girls who were appearing before the magistrates.⁵⁷ The executive committee of AMSH wrote to a number of women's rights, religious and criminal justice organisations including The Penal Reform League, explaining their intention to start a new Police Court Rota and asking for representatives from the organisations to take part in it. AMSH explained they were hoping to gather 'valuable information' on trial practices and to improve practices as they believed that the 'presence of interested women would no doubt have a good effect in the Police Courts'.⁵⁸ The volunteer members of the Rota were placed and reported from different locations in England but most reports came from London. The Rota executive membership changed over the years of operation but several influential women's rights activists such as Chrystal MacMillan, Alison Neilans, discussed in the previous section, and Catherine Cox of Salvation Army played particularly prominent roles.

Courtrooms were lonely places for women and girls in the years around the First World War, regardless of whether they were on trial or acting as witnesses.⁵⁹ Women were formally banned from all formal roles within the court, and could not even attend a sexual offences trial unless it was presided over by an exceptionally sympathetic magistrate. Therefore, women and even young girls who had been victims of sexual violence were often the only women in court as the space was cleared of women when 'sensitive' topics were being discussed.⁶⁰ In one case where Police Court Rota attempted to intervene, a nine-year-old victim of sexual assault, had been left in court room with no support, 'trembling with anxiousness' when all women, including her mother and even the women police had been told to leave the room before evidence was heard.⁶¹ The local Police Court Rotas were established partially with this in mind, ensuring that there was a woman present to support the victims and those women who were on trial themselves.⁶² The women volunteers, therefore, explicitly challenged the women's exclusion from the legal sphere that persisted until 1919.⁶³ Their mere presence in courts, and their insistence on that presence, was an act of protest against the legal system that attempted to exclude women. Most volunteers observed trials dealing with sexual offences or sexual 'morality', such as solicitation. This is significant as women had traditionally be prohibited from attending trials of this nature. Volunteers were trained and sent to trials with pocket sized instructions and guidance on how to approach requests or orders to leave the court. The Rota and observation roles gave women access and information on criminal justice system. These women did not simply observe the trials but they also conducted interviews with women on trial, they researched the law, wrote about their findings, creating accessible public legal education materials on the topic on the topic.⁶⁴

While the cases involving venereal disease came to dominate the work and actions of the Police Court Rota, their work was not limited to those cases but they were involved in a number of cases where women were potentially unfairly treated, including false arrests and police harassment of women.⁶⁵ Soon after establishment, the AMSH became worried about magistrates overstepping their sentencing powers and detaining women unlawfully after hearing multiple stories of women being detained or confined in institutions when found suffering from VD.⁶⁶ The organisation was in receipt of anecdotal evidence that magistrates were committing women suffering from VD to infirmaries for months, as a form of punishment, although transmission of VD was not a general offence and no such power of detention existed in law.⁶⁷ The organisation repeatedly expressed concern over the extent of magistrates' legal knowledge, and how, combined with the magistrates' prejudices towards working women, this might lead to illegal detention of women.⁶⁸ The questions women volunteers of Police Court Rota were asked to report back on, therefore, included a range of procedural questions, asking the volunteers to assess whether the magistrate complied with the procedural aspects of the trials and laws of evidence.⁶⁹ AMSH was particularly keen for the observers to gather evidence on policemen's testimonies, which was used against the defendant women, and any details of VD. Volunteers had to report back on the cases and were asked to make a special note when women were convicted as 'common prostitutes' on the evidence given by a sole policeman.⁷⁰ Magistrates responded by attempting to exclude women observers wherever they could, and the training that volunteers received included what to do when they come into contact with particularly hostile magistrates and when asked to leave the courtroom.⁷¹ At times, women persuaded the magistrates to allow them to stay, but frequently they were forced to leave.

While challenging laws and unfair practices throughout the First World War, the work of the AMSH multiplied in the final months of the War when the British War Office passed Regulation 40D.⁷² Regulation 40D was introduced in March 1918 as an amendment to the Defence of the Realm Act (DORA) 1914. This Regulation made it a criminal offence, punishable by six months' imprisonment, for any woman to have sexual intercourse with or to approach any member of the armed forces for that purpose if she was suffering from VD. Framed as an issue of the well-being of the troops and thus of national security, Regulation 40D allowed for any woman or a girl to be remanded for a week for the purpose of medical examinations to ascertain whether she was suffering from VD, solely based on an accusation by a soldier.⁷³ This was of particular importance as women who were suspected of working in prostitution or suffering from VD became subjects of increasing hostility in courtrooms and in the press.⁷⁴ During the War, as Philippa Levine has written, abstinence and maintaining morals became questions of loyalty to one's country.⁷⁵ The AMSH increased their action against the backdrop of the increasingly hostile environment towards women who were suffering from VD or considered to be at risk of suffering from VD. During that time, the AMSH ran multiple campaigns against various increasingly draconian laws curtailing the rights of women in the name of sexual morality, at times in direct opposition to social purity organisations such as NVA.⁷⁶

Regulation 40D was only in existence for a few months, yet the controversial regulation led to mass protests by women's movements, the AMSH, in particular, who denounced the Regulation as 'idiotic' and ineffective in tackling the epidemic of VD.⁷⁷ The Regulation was partially a symbolic attempt by the British War Office to reassure

the Canadian government that their troops would be protected from English girls throwing themselves at them, thereby endangering the physical and moral well-being of the troops.⁷⁸ Yet, across the country, women were arrested, tried, and convicted under the Regulation in highly public trials. Most allegations were dismissed when, after a medical examination, the woman was found not to be suffering from VD.⁷⁹ Despite the low conviction rate, the trials were public, and humiliating, for the woman on trial. The press attended the trials, reporting often in graphic detail on stages of syphilis that the defendant may or may not have been suffering from. Her personal details, including her address, profession, and marital status, were reported in the press while the soldier bringing the claim was effectively given anonymity in all cases.⁸⁰ Many of the women who were convicted were given the maximum sentence of six months' imprisonment, with one magistrate commenting that he 'regretted he could not give' the woman in question a harsher penalty.⁸¹

Despite their historical significance, the case reports from 40D have not been preserved, perhaps intentionally, as there are extensive archives on the political context of enactment of 40D in the War Office archives. The only surviving records of these cases are held in the archives of the AMSH and in the newspaper archives from local and national papers. Once Regulation 40D came into force, the AMSH Police Court Rota members attended the court hearings for record keeping, and prominent AMSH members even privately funded a defence counsel for at least two women prosecuted in Cambridge.⁸² The court observers of the AMSH made note of basic details of the case, and followed up on any reporting on the case, archiving the clippings.⁸³ The AMSH kept records of each prosecution brought across the country, attempting to send volunteers to observe where possible. It is only through these records that we know of the enforcement of 40D, the experiences of the women who had their lives turned upside down by the prosecutions, and the details of the judgments that were handed down. These records are fragmented at best, yet, they are the only record of those cases. By not preserving the details of these cases, the criminal law archives have written out the experiences of these working-class women from both legal history and history of the First World War.

The 40D cases exceptional due to their public nature, and the fact that they were reported on reflected this exceptional nature. Cases dealing with solicitation, prostitution, or sexual offences were rarely reported in the press or let alone in case reports prior to the war, or if they were, the details were sparse. The reporting on the 40D cases was far more frequent and thorough although rarely sympathetic to the women. The stories of women defendants were used as an illustration of dangers of immorality, serving as a warning to other women. While the newspapers reported on the 40D cases, the reporting often had graphic medical detail at the expense of legal one. The AMSH files, on the contrary, provide vastly different perspective on these cases. The Police Court Rota files include missing legal details on the cases, including details on police action and procedure, and times also background information, drawn from their own investigations. Their own investigations and records were of particular importance as the Rota sub-committee was founded due to fears that women were repeatedly the victims of miscarriages of justice by inept magistrates and police officers. The official records from police, courts, and newspapers were partial accounts, often unsympathetic

to the women in question, and the Police Court Rota files provide an alternative account of events, and often missing legal and factual detail.

The care taken in creating these records speak to their intentional nature and the importance the Rota placed in their preservation.⁸⁴ While some records in this collection are handwritten, the vast majority are typed and organised. The committee preserved the development of their concepts and ideas, newspaper clippings relevant to the work and correspondence. Much of this correspondence was produced in duplicate, so a record remains of incoming and outgoing mail, speaking to the intentional nature of preservation.⁸⁵ The sub-committee of the Police Court Rota met frequently, once or twice a month, always carefully minuting each gathering. These carefully crafted minutes always included the formal structure of the committee, those present, motions tabled and discussed, any pertinent cases, and ended with a note on finances. These minutes, while formulaic, are far from neutral records of history: at times they record disagreements and debates on key issues and actions. The format of the minutes is identical month after month, with no room for grand gestures or speeches. A month after a law—which AMSH had campaigned against with fervour, Regulation 40D—was finally repealed in November 1918, the AMSH executive and the sub-committee minutes noted simply that it had been repealed.⁸⁶ There was no fanfare, congratulations, or celebrations as the Executive Committee immediately turned their focus to other issues, having spent months relentlessly organising protests against the said Regulation, deputations to lobby parliamentarians and observations in trials where women had been charged under it.⁸⁷

Part IV: class and colonial bias in the archives

The earlier parts of the paper have shown how record creating and keeping became a way for women to inhabit the legal world and profession while being formally excluded from it. Batlan has argued that:

Law constitutes a discourse and acts on a symbolic level, but also has real and material power. Law can function as a means of social control used to enforce gender norms and contributed to and shaped patriarchy and women's oppression. Simultaneously, law could empower some women and act as a privileged site of change.⁸⁸

In this final part, this site of privilege will be explored further, specifically by focusing on how the legal power that women's rights campaigners yielded, at times, was obtained by co-opting into the oppression of other, more marginalised women.

The class hierarchy and power dynamics of the early twentieth-century women's rights and suffrage movements have been the subject of important scholarship that has shown the ways in which social class and gender divisions interacted.⁸⁹ These reveal, in the words of June Purvis, the 'multiple forms of simultaneous domination experienced by women and men in the past and how these influence historians' reconstructions'.⁹⁰ Organisations that were invested in social hygiene or purity such as AMSH also had inescapable class and gender divisions, with a largely middle-class membership seeking to challenge the treatment of working-class women.⁹¹ AMSH came into existence as a result of a merger of organisations that had been established and strongly influenced by Josephine Butler and the fight against the regulation of prostitution and VD in the nineteenth century.⁹²

Butler's understanding of prostitution, victimhood and her portrayal of sex workers have come under criticism from historians such as Nina Attwood and Lucy Bland, who have discussed how Butler frequently described sex workers as helpless victims, waiting for moral reformation, thereby denying their agency and voice.⁹³

By the First World War, it cannot any longer be said that these dynamics of victim, rescue, and rescuer were open or explicit in the work and rhetoric in AMSH, although they did re-emerge later in a colonial context. When AMSH shifted their focus outside Britain, their work in Palestine, for example, reveals deeply problematic, racialised, and colonial undertones.⁹⁴ The class dynamics of victim and rescuer became far less pronounced, yet as their work became increasingly focused on their own public roles and professionalisation, a more nuanced class dynamic emerges. The case work, while important, also acted as a stepping stone for members to gain skills and recognition in the fields they were hoping to enter. In other words, the members used the case work and struggles of working-class women to gain access to legal power.

This difficulty in balancing genuine care and resistance to oppressive state action with the attempt to establish a role within that state is by no means limited to AMSH. While AMSH's work in Britain can be seen as benign, easily celebrated action, many more woman members of social purity organisations actively sought roles that colluded with the state, against other women. Some women, many of whom were part of women's rights groups, fought hard to become recognised as Women Police, for example, as Philippa Levine has shown.⁹⁵ The Women Police patrolled the streets, hospitals, and factories, tasked with keeping men and woman apart, albeit without the same rights or remuneration as their male counterparts. The Women Police, many of whom had come from a background of social purity feminism, clearly had to conform in order to maintain their positions. During the First World War, while AMSH and other women's rights vehemently campaigned against increasingly draconian laws and regulations impacting women such as Regulation 40D, the Women Police did not say anything on the matter.⁹⁶ However, this loyalty was not rewarded. Long after the War ended, people like Eilidh MacDougall, a pioneer in the Woman Police who had supported hundreds of victims of sexual assault and successfully proposed structural changes to the criminal justice system in cases of rape, were fighting for a decent salary and the right to a pension.⁹⁷

The idea of the file or archive, as argued in this paper, which was so important to women making a claim to the legal world, also had a deeply oppressive potential. Some women used the very process of record creation and keeping to target and further criminalise already marginalised women. Women members of National Vigilance Association (NVA), for example, yielded legal power through the process of record creation as de facto immigration officers. NVA was created in the aftermath of Criminal Law Amendment Act 1885 as monitor its enforcement and to lobby laws dealing with public and private morality. In addition to direct involvement with drafting laws that dealt with public and sexual morality, volunteer members of the NVA took on a role in enforcement of certain laws.⁹⁸ They established port controls which patrolled stations and ports, monitoring women who were travelling alone or who might—in their estimation—be destined for sex work. As an extension of this work, during and immediately before the First World War, the NVA mobilised so-called Lady Visitors, sanctioned by the Home Office.⁹⁹

The NVA Lady Visitors interviewed women who were held in remand and created official records of those interviews, thereby participating in the procedural aspects of

repatriation.¹⁰⁰ The Lady Visitors would question the woman about 'her history and the causes which led her to following a life of prostitution, the method she has adopted in carrying on the business of prostitution in this country' and 'whether she would be willing to give up the life and return to her home'.¹⁰¹ During the interviews, The NVA Lady Visitors investigated the women's claims and often found, for example, evidence to refute their declaration as to their country of origin. Those born in British Dominions were exempt from deportation and so, as explained by one Lady Visitor, many women suspected of being 'alien prostitutes, [...] escaped being recommended for expulsion merely by claiming birth in His Majesty's Dominions'.¹⁰² The Lady Visitors who were effectively adopting the newly invented role of the immigration officer examined the woman's accent and knowledge of the alleged country of origin to ascertain whether she had lied about her country of origin in order to escape expulsion.¹⁰³ The Lady Visitors, in this role, acted not only as guardians of sexual morality but also guardians of the Empire and its borders.

The power that those neatly written and catalogued files created by the Lady Visitors possessed was immense. The meticulous and impossibly neat reports written by the Lady Visitors were passed to the police and later to magistrates presiding over the case with a recommendation as to whether the 'alien prostitute' should be deported. At times, the NVA Lady Visitors are reported to have attended the court hearings and escorted those who were given an expulsion order to their ships 'so as they cannot go back'.¹⁰⁴ Here, the act of record keeping and the formal role it enabled Lady Visitors to undertake, can be seen as reinforcing patriarchal and colonial structures, against other women who were already marginalised in society.

Conclusion

This paper has offered reflection on women's archiving practises in the early twentieth century from a legal historical perspective. Legal history due to its very nature has always been invested in 'official' state records, primary sources of law and the fifteenth and sixteenth century legal writers like William Blackstone or Sir Matthew Hale. In time, words of these men have shaped and become law. Women, as shown in the first part of the paper, have been markedly absent from legal history, narratives of law, and from those 'official' records. The archives created and maintained by AMSH, NVA, and numerous other organisations not discussed within the paper create counter archives to those official archives that are full of silences when it comes to women. These counter archives are often bursting with paper. Often, these papers are filled with mundane, even trivial, detail. They can be formulaic and repetitive, preserving superficial details rather than deeply thoughtful discussions, or clear rationales for their policy decisions. The files do explicitly claim to be legal records but legal historical detail can be found amidst all those forms, minutes, and correspondence. Beyond this, this paper has shown that within those seemingly mundane and repetitive volumes of minutes, something else can be found. Within that repetition and the attempt to create the 'perfect' file, and archive, there is something intentional. The seeming perfection of these records form part of wider attempt to gain access to professional and public roles and that archiving played an important and unacknowledged role within that process of professionalisation.

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