

# ANNIE BESANT'S SEXUAL POLITICS OF MARRIAGE IN VICTORIAN ENGLAND

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## RESUMEN

La sexualidad victoriana a menudo ha sido considerada como paradigma de templanza y castidad, como reflejo de un periodo en que se enfatizaba el control de la sexualidad y del cuerpo de la mujer como medio para mantener y asegurar el control social y cultural. Sin embargo, esta conceptualización modernista del periodo victoriano gradualmente se abandonó cuando historiadoras y teóricas de mediados del siglo veinte miraron hacia el pasado con el afán de recuperar la complejidad de un periodo de contrastes que predicaba la ética de la modestia y la virtuosidad, mientras la población aumentaba de forma alarmante. El objetivo de este artículo consiste en revisar las presunciones acerca de las sexualidades victorianas a través de los trabajos y las ideas de Annie Besant acerca de las políticas del matrimonio con el fin de esclarecer concepciones contemporáneas neo-victorianas, restaurando así la posición de Besant como figura canónica dentro del feminismo victoriano de finales de siglo diecinueve.

PALABRAS CLAVE: Annie Besant, sexualidad/es victorianas, matrimonio, piedad, autoayuda.

## ABSTRACT

Victorian sexuality has often been regarded as the epitome of prudery and chastity, as a reflection of a period which placed great emphasis on the control of sexuality and women's body as way to maintain and ensure social and cultural control. Nonetheless, this modernist conceptualisation was gradually left behind when mid-twentieth century historians and theorists looked back to the past to recover the complexity of a period of contrasts which both preached the ethics of prudery and virtuousity, while the overwhelming increase of population remained a plain fact. The aim of this essay is to reassess assumptions of Victorian sexualities through Annie Besant's works and ideas as regards marriage policies in an attempt to shed light over contemporary Neo-Victorian conceptions of sexualities, thus restoring Besant's position as a canonical figure at the end of nineteenth-century Victorian feminism.

KEY WORDS: Annie Besant, Victorian sexuality/ies, marriage, piety, self-help.



## REINTERPRETING VICTORIAN ASSUMPTIONS OF SEXUALITY

The term “Victorian” has often been associated with rigorous moralism and sexual repression mainly as a result of Lytton Strachey’s seminal work *Eminent Victorians* published in 1918. According to Eli Adams (2005), this image of Victorian sexuality has often been entertained because it provided the basis for proclaiming the modernist and contemporary subsequent liberation and enlightenment as opposed to the repression and constraint that presumably characterised the immediately previous age. Nonetheless, well into the twentieth-century, this vision of Victorian prudery was subverted and challenged on two main fronts. Firstly, archival research contributed to a more thorough knowledge of Victorian private lives and public discussion on these commonly assumed lives of prudery and virtuosity. A seminal volume like Steven Marcus’ *The Other Victorians* (1966), drew attention to a remarkable contemporary wishful thinking about the Victorians. Secondly, later on, Michel Foucault’s *The History of Sexuality* (1978) arose as a more radical questioning of the received views about Victorian sexualities, interpreting them as discourses of power and knowledge, of control and regulation, thus merging them within broader social, economic, and cultural ideas that both shaped and reflected the construction of Victorian ideas about sexualities. In this respect, Eli Adams contends that «the very concept of ‘sexuality’ [...] is a nineteenth-century invention which took shape when the traditional moral agency of the priest was subsumed and transformed by developing discourses»<sup>1</sup> pertaining to all disciplines of knowledge which emerged and intermingled, thus attesting the multifaceted nature of the Victorian period as a reflection of the conception of society both as an organic and compartmentalised body at the same time.

In relation to modernist and contemporary assumptions about Victorian constructions of sexuality, Sheila Jeffreys (1982) refers to often perceived notions of historians on the evolution of sexuality such as the assumption that the last one hundred years represent a story of progress from the darkness of Victorian prudery to the light of sexual freedom, while sexuality played an important role as a way of regulation in Victorian England<sup>2</sup>. Secondly, Jeffreys also considers the assumption there is an essence of sexuality which turns out to be unquestionably heterosexual, when homosexuality and other forms of sexuality coexisted with heterosexual constructions. Moreover, historians also tend to take for granted there is a unity of interests between men and women in the area of sexuality, while it was clear that women’s interests were subjected to those of men. Finally, a most fundamental assumption about sexuality according to Jeffreys is that sexuality was conceived as

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<sup>1</sup> J.E. ADAMS, «Victorian Sexualities», in H.F. TUCKER (ed.), *Victorian Literature and Culture*, London, Blackwell, 2005, pp. 125-138, 126.

<sup>2</sup> S. JEFFREYS, «‘Free From All Uninvited Touch of Man’: Women’s Campaigns Around Sexuality, 1880-1914». *Women’s Studies International Forum*, vol. 5, núm. 6 (1982), pp. 629-645.

private and personal, when manuals pertaining to different disciplines and conduct books proliferated throughout the period.

## 1. SEXUALITIES WITHIN VICTORIAN ECONOMIC, SOCIAL AND ETHICAL FRAMEWORKS

The origins of Victorian attitudes toward sexuality should be rooted in the late eighteenth-century religious revival known as the Evangelical movement under the leadership of William Wilberforce in an attempt to transform British politics by reinvigorating Christian piety and interpreting human life as a permanent moral struggle of resistance to desire and temptation. In the nineteenth-century, sex became the subject of a range of disciplines to be tackled in larger economic and political subjects. As Eli Adams points out, economic tropes were often used in order to discuss sexualities, understanding sex as a vital force to be carefully regulated, with perilous consequences awaiting those who proved too extravagant<sup>3</sup>. The close relationship between *homo sexualis* and *homo economicus* betrays the Victorian faith in the capital power of will and self-help, relying on duty and labour, and willing to defer present gratification for later reward.

In this respect, Evangelical ethos gradually moved to secular uses within the political and economic domains to the extent Karl Marx alluded to «the science of renunciation». It was also at this stage that Malthus placed sexuality at the very core of his socioeconomic deliberations with his *Essay on the Principle of Population* (1798), contending that human reproduction exceeded advances in food supply. Despite the fact his work shocked many conservative commentators, Malthus, as an Anglican clergyman, believed sex was intended solely for reproduction, and thus, he chose to refuse any claim to contraception, defending moral restraint instead. Likewise, William Godwin's *Political Justice* (1793) also envisioned an antisensual progress of civilisation, outstripping humanity of sexual desire and imagining reproduction as a social duty subjected to rational regulation. Similar ideas became widespread in Mary Wollstonecraft's *A Vindication for the Rights of Woman* (1792), which claimed that the education of women solely for marriage rendered them mere animals, and John Stuart Mill's *On the Subjection of Women* (1869), which contended no great improvement in human life could be effected as long as the animal instinct of sex occupied such a disproportionate place in society. Thus, despite the will of reform spread in these works, self-restraint still excelled as a basis to claim moral authority for the middle-classes, ultimately finding its epitome within the Victorian conception of the home as a shelter from public life, and the domestic figure of the angel of the house, preached by John Ruskin and Coventry Patmore, as an idealised patriarchal vision of the Victorian middle-class woman.

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<sup>3</sup> ADAMS, *op. cit.*, p. 127.



Nevertheless, this idyllic conception of the Victorian woman coexisted with the medical belief of women's powerful, sexual, and therefore, destructive if unrestrained, nature as the uterus was considered the centre of the anatomical web that shaped the female body<sup>4</sup>. The angel of the house was pervaded with the arising presence of the new woman, often conceived as an euphemism to refer to the fallen woman. Nonetheless, as Eli Adams argues, what we now know about the rich sensuality of many Victorian marriages and lives makes this peculiar ideal seem all the stranger to present-day Victorianists<sup>5</sup>. Thus, the pulsion between dignity and desire, and the collision between morality and sexuality often culminated in Victorian asceticism whereby, on the one hand, sexual instincts were hard to reconcile with the demands of culture, and on the other hand, capitalist ethics of consumption also predated the most intimate intricacies of sexual life, thus undermining the persistent belief in the separation of spheres between a private and a public existence. In this respect, the separation and confluence of spheres bears also reflection on the Victorian conception of the body as marking the border of two worlds separated through skin, which allowed the passage of substances into and out of the body through its permeability, while at the same time clothed and covered the body, rendering it a separate entity from the surrounding environment<sup>6</sup>. Due to these conceptions of the Victorian body as both unity and integrity, and as a microcosm of the well-structured social body, the sexual act was often perceived as a crisis in the integrity of the body. This dislocation of integrity was specifically true in the case of women as, within the middle-class ethos, it was believed that women became different after marriage, adding to their legal and social change in status, an inherent transformation of their bodies.

Consequently, while repression was often subtly eroticised in Victorian novels with angel-of-the-house heroines presenting secondary fallen women characters as projections of themselves, mid-Victorian culture became entangled with the uses of pleasure as a result of a shifting focus of economic theory from production to consumption, bearing in mind women made up most of the readership. Moreover, in medical manuals, such as George Drysdale's *The Elements of Social Science* (1855), the issue of contraception was often tackled, marking the decline in middle-class family size towards the decade of the 1860s. Consequently, the Victorian concern about sexuality from the perspective of different discourses, together with the coexistence of often contradictory and opposed ideas about conceiving and understanding sexualities, rather betrays a contemporary anxiety of our powerfully divided understanding of sexuality which is projected onto Victorian conceptualisations.

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<sup>4</sup> L. ROTHFIELD, «Medical», in H.F.TUCKER (ed.), *Victorian Literature and Culture*, London, Blackwell, 2005, pp. 170-182, 177.

<sup>5</sup> ADAMS, *op. cit.*, p.129.

<sup>6</sup> H. MICHIE, «Under Victorian skins: The bodies beneath», in H.F.TUCKER (ed.), *Victorian Literature and Culture*, London, Blackwell, 2005, pp. 407-424, 408.

## 2. THE AWKWARD POSITION OF ANNIE BESANT

Despite the ethics of meekness and the cult of true womanhood within the context of Victorian England, during the decades of the 1880s and 1890s, women became visible as never before. Activists like Josephine Butler, Florence Fenwick Miller, Frances Power Cobbe, Clementina Black, and Annie Besant raised their voices, shaping public discussion and political policy on a wide range of issues. Women's rights advanced substantially to the extent a number of different legal reforms were effected. Women's property rights culminated in the «Married Women's Property Act» of 1882, the «Contagious Diseases Acts» of the 1860s were repealed, and different moves toward suffrage began to gain some ground. Moreover, the 1870 «Education Act» enabled women to stand for election to school boards. In 1888, women gained the vote in municipal and county elections, and in 1894 the «Local Government Act» established no person should be disqualified by sex or marriage from being elected to district or parish councils. Nevertheless, women were still barred from voting in national elections in spite of the introduction of full suffrage bills into Parliament during the 1890s, and female students did not receive degrees from Cambridge or Oxford until well into the twentieth-century.

These isolated, though significant, efforts to advance women's rights arose within a larger political concern to reform and redress the social framework of the time. Within this context, Annie Besant became an active agent for change across a range of causes<sup>7</sup>. A former devoted wife to an Anglican minister, Besant renounced both marriage and faith in 1873 to become a leading figure in the National Secular Society; the Malthusian Society, which advocated birth control; and the socialist Fabian Society. Meanwhile, she also became a frequent contributor to the radical paper *National Reformer*, a co-founder of the Freethought Publishing Company, and a captivating public speaker. In the 1880s, Besant turned toward socialist and labor causes, earning fame from the role she played in the Bryant and May match-girl strike in 1888, which focused public attention on the industry's precarious working conditions and unfair wages, underlining the outstanding political ferment that characterised the last decades of nineteenth-century England.

Late Victorians often disentangled the public from the private as a key feature characterising the Victorian *fin-de-siècle* to be often dismissed by their immediate modernist successors. In this respect, Annie Besant brought the private sphere into the public domain writing on a diverse range of topics such as marriage, private property, population control, land reform, socialism, prostitution, art, imperialism, labour, religion, and political equality. Nevertheless, as Arata (2005) mentions, none of her works are widely read any longer by literature students<sup>8</sup>, wondering whether

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<sup>7</sup> J. SAVILLE (ed.), *A Selection of the Social and Political Pamphlets of Annie Besant*. New York, Augustus Kelly, 1970.

<sup>8</sup> S. ARATA, «1897», in H.F. TUCKER (ed.), *Victorian Literature and Culture*, London, Blackwell, 2005, pp. 51-65, 63.



the continued enthrallment to modernist critical standards is still to blame for such a neglect. Actually, despite her numerous output of volumes tackling women's situation at the *fin-de-siècle*, such as *The Political Status of Women* (1874), *The Law of Population* (1877), or *Marriage As It Was, As It Is, and As It Should Be: A Plea for Reform* (1878), her essays and autobiographies are still excluded from the canon, critics have often overshadowed her from the Victorian sage writing, and the non-availability of some editions confirm her still somehow precarious situation in contemporary studies. Having abandoned her clergyman husband to preach freethought and feminism, her final conversion to teosophy and her ultimate plea for celibacy as a consequence may have played a major role in her marginalisation both in Victorian social and feminist writings<sup>9</sup>. Consequently, her exclusion in Victorian times due to her transgressive behaviour also echoes her canonical exclusion in modernist and often contemporary syllabus. Moreover, her life as depicted in her autobiography is not exempt from contradictions. Actually, it was through her marriage and the oppressive situation she experienced that Besant felt the need to free herself and denounce women's submission in marriage, becoming a public lecturer and playing an active role in the public sphere, although she was often overshadowed by much more numerous male public figures such as Edward Pusey, Charles Voysey, Thomas Scott, Edward Aveling, or Charles Bradlaugh.

As an active member of the National Secular Society and a public orator in the Hall of Science, Besant met Charles Bradlaugh to begin a fruitful and challenging professional companionship. One of her utmost achievements was the pamphlet *The Legalisation of Female Slavery in England*, issued in 1885 and originally published in the *National Reformer* in 1876, as a contribution to the campaign to repeal the «Contagious Diseases Act» (1885). This pamphlet questioned the myth of feminine chastity as well as the duality of Victorian sexual values. Within a context of social purity endeavours, Besant's work was unique as she fought for sexual rights for women and included contraceptive information in the new editions of *The Law of Population* (1877), often banned through the «Obscene Publication Act» (1857), and in the preface she wrote together with Charles Bradlaugh of Charles Knowlton's *Fruits of Philosophy*, which led to the 1877 famous trial<sup>10</sup>. Besant and Bradlaugh tried to fight for the right of free publication and raised the issue of contemporary ideology defending male control over women's sexuality as a social danger. Gradually, Besant perceived gender differences were a justification for the inequality between women and men, pointing out that women's oppression was not founded on biological principles, but on culturally-constructed notions. This permanent process of cross-examination, shifting identities, and looking into her private life in order to prove her social and feminist ideas led her conversion to

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<sup>9</sup> A. BESANT, *Autobiographical Sketches*. 1885; A. BESANT, «Why I Became a Teosopist». 1889; A. BESANT, *An Autobiography*. 1893.

<sup>10</sup> R. MANWELL, *The Trial of Annie Besant and Charles Bradlaugh*. London, Elek/Pemberton, 1976.

teosophy<sup>11</sup>. From Evangelism to Freethought and Fabianism up until her teosophical phase, Besant underwent different changes. However, it has often been agreed the turning-point of her career as a woman and as a thinker was her marriage and her resulting volume *Marriage As It Was, As It Is and As It Should Be* (1878).

### 3. ANNIE BESANT'S RITE OF PASSAGE: MARRIAGE AND AWAKENING

In 1877, Annie Besant and her associate, Charles Bradlaugh, were arrested and tried for testing their legal right to publish the American birth-control campaigner Charles Knowlton's *The Fruits of Philosophy*<sup>12</sup> under English jurisdiction. The book was allegedly despised as indecent and obscene for advocating family planning and birth-rate control. As a result, Besant was deprived of the custody of her daughter after separating from her husband. Subsequently, Besant declared she considered the book as an imperfect one, and ceased to advertise it in order to publish her own volume *The Law of Population: Its Consequences, and Its Bearing upon Human Conduct and Morals* in the same year. Through the publication of both books, Besant advocated the need of birth control and family planning as a result of the overwhelming increase of population of the time. Different methods of contraception were presented and advised to both men and women in their marriage, which especially granted women a higher degree of freedom and independence. As Winnifred Harper Cooley states, the New Woman was characterised by her capacity «to decide herself if, when and whom she wants to marry and how many children she wants to have»<sup>13</sup>.

Besant belonged to a family of high position and received an excellent education. She travelled all through Europe and learnt French, German and Italian. Once she returned to England, at the age of twenty, she married a clergyman of the English Church and became fond of theological issues. Gradually, her views differed significantly from those of her husband, and they legally separated after six years of marriage and the birth of their two children, Digby and Mabel. From then onwards, she began to write for different periodicals and delivered numerous lectures. In 1874, she published her first book *The Political Status of Women*, where she started to ascertain her consciousness as a woman once many changes, at different levels, had taken place in her own life. According to Chandrasekhar, «Besant later wrote that after marriage, she and her husband discovered their profound ignorance

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<sup>11</sup> A.H. NETHERCOT, *The First Five Lives of Annie Besant*. London, Rupert Hart-Davis, 1961.

<sup>12</sup> Ch. KNOWLTON, *The Fruits of Philosophy: An Essay on the Population*. London, Freethought Publishing Company, 1877.

<sup>13</sup> W. HARPER COOLEY, *The New Womanhood*. New York, Broadway Publishing Company, 1904, p. 31.

of sex»<sup>14</sup>, which made her very aware of the need for sex education and the politics of sexuality of married couples.

### 3.1. GENDERED RIGHTS

In 1878, once she had separated from her husband and had had a daughter, Annie Besant wrote her second book *Marriage: as it was, as it is and as it should be*, through which she strongly defended the need for a marriage reform. In the very first lines of this book, Besant states that «the recognition of human rights may be said to be of modern growth, and even yet they are but imperfectly understood»<sup>15</sup>, since «the Rights of Man have become an accepted doctrine, but, unfortunately, they are only rights of man, in the exclusive sense of the word»<sup>16</sup>. Besant argues that these kinds of rights are sexual, and not human, that is, they are deeply determined by sex. The fact of denying these rights to women is the same as denying them to humanity or rejecting women are part of humanity.

Nevertheless, Besant argues that «the difference between men and women in all civil rights, is, however, with few, although important, exceptions, confined to married women; i.e. women in relation with men»<sup>17</sup>. According to Besant, unmarried women are significantly liberated in comparison with their married counterparts, since it is actually marriage «which brings with it the weight of injustice and of legal degradation»<sup>18</sup>. In former times, at the dawn of humanity, marriage was conceived as «a matter of force, fraud or purchase»<sup>19</sup>, in other words, women were considered merchandise from whom their male relatives could profit. Once women were married, they became the possession of the men they married. As Besant portrays, «in the old Hebrew books [...] the wife is regarded as the property of her husband»<sup>20</sup>. Moreover, the author also makes references to the way marriage ceremonies are enacted in tribes from other nations, stating that «amongst many semi-barbarous nations the wives are still bought»<sup>21</sup>.

Besant also refers to the evolution of marriage from the old Roman laws up until her present-day times. She states that «by the old Roman laws, the married woman had no personal rights»<sup>22</sup> and, during the feudal system, it was the lord

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<sup>14</sup> S. CHANDRASEKHAR, *A Dirty, Filthy Book: The Writings of Charles Knowlton and Annie Besant on Reproductive Physiology and Birth Control and An Account of the Bradlaugh-Besant Trial*. London, University of California Press, 1981, p. 31.

<sup>15</sup> A. BESANT, *Marriage, As It Was, As It Is, and As It Should Be: A Plea for Reform*, New York, A.K. Butts, 1878, p. 3.

<sup>16</sup> *Ibidem*, p. 4.

<sup>17</sup> *Ibidem*, p. 5.

<sup>18</sup> *Ibidem*.

<sup>19</sup> *Ibidem*, p. 6.

<sup>20</sup> *Ibidem*, p. 5.

<sup>21</sup> *Ibidem*, p. 6.

<sup>22</sup> *Ibidem*, p. 7.

ensured the fields and properties descended in the male line, thus perpetuating the subjection of women. Besant states, in that respect, that «the pity is that English gentlemen to-day are content to allow the law to remain unaltered, when the whole face of society has changed»<sup>23</sup>. Moreover, Besant also makes reference to the Old and New Testament, stating that while the Old Testament sanctioned polygamy, the «ecclesiastical Christianity has generally been in favour of monogamy»<sup>24</sup>, sanctioning the husband as the head of the wife.

While commenting on the evolution of the institution of marriage, Besant quotes Blackstone's famous «Commentaries on the Laws of England», from which she highlights the three absolute rights corresponding to every Englishman. The first of them is the legal and uninterrupted enjoyment of his life. The second absolute right of man is personal liberty, and finally, the third is property. Taking these three inalienable rights into consideration, Besant seeks to «show that a married woman is deprived of these rights by the mere fact of her marriage»<sup>25</sup>. As regards the first right Blackstone states, Besant argues that «by marriage a woman loses her legal existence»<sup>26</sup>. Actually, law does not grant her any recognition. By marriage, man and woman are supposed to be united as one person, and consequently, «the very being or legal existence of the woman is suspended during the marriage»<sup>27</sup>. Besant argues that since husband and wife are one person, there is only one remaining, that of the husband. The wife's body, her reputation, and by extension, her persona, are no longer of her own. The law does not recognise her except «under the cover of her husband's suit»<sup>28</sup>, and as a consequence, she becomes incompetent to give evidence in criminal cases. Nevertheless, Besant argues that the husband does not benefit from the situation either since «he thereby becomes responsible, to a great extent, for his wife's misdoings»<sup>29</sup>.

### 3.2. MARRIED WOMEN'S LACK OF RIGHTS: LEGAL EXISTENCE, PERSONAL LIBERTY, AND PROPERTY

As regards the first of the men's rights stated by Blackstone, Besant defends that «a married woman is not protected by the laws in the 'interrupted enjoyment' of her limbs, her body and her reputation»<sup>30</sup>, since, again, she depends on her husband. As Besant states, in case a woman is damaged in any way, «she is not a damaged person; in the eye of the law, she is a piece of damaged property, and the

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<sup>23</sup> *Ibidem*, p. 7.

<sup>24</sup> *Ibidem*.

<sup>25</sup> *Ibidem*, p. 8.

<sup>26</sup> *Ibidem*.

<sup>27</sup> *Ibidem*.

<sup>28</sup> *Ibidem*.

<sup>29</sup> *Ibidem*, p. 9.

<sup>30</sup> *Ibidem*.





compensation is to be made to her owner»<sup>31</sup>. In case anyone receives a married woman into his or her house without the permission of her husband, he or she becomes liable to damages to him. Besant also refers to a case which she terms as peculiarly disgusting. In case a wife is unfaithful to her husband, he cannot only get a divorce but he is also able of claiming a money payment from the seducer «to make up for the damage he has sustained by losing his wife's services»<sup>32</sup>. In the case the girl is unmarried and under age, she is considered to be the property of her father, and correspondingly, the father, again, can interpose an action «against her seducer for the loss of his daughter's services»<sup>33</sup>. In any case, it seems it is the male owner who can claim his rights as reparation of the damages he has suffered. In case the wife separates from her husband, she remains unprotected by law, and consequently, has no remedy for injury «unless by the doubtful plan of using her husband's name without his consent»<sup>34</sup>. Besant argues that a separated wife is almost literally in a state of outlawry. She states a separate wife is unable to enter a contract since she has no means of enforcing it, she is destitute of civil rights, she is liable to every injustice, and ultimately, she can be wronged in all ways.

Besant also refers to a married woman's control over her own body. She states that a married woman's body «belongs to her owner, not to herself»<sup>35</sup>. Actually, possible violence on the part of the husband in conjugal relations is unregulated by law. Consequently, the married woman may be suffering ill, and she cannot redress her situation. As Besant defends, «force or constraint is recognised by the law as rape, in all cases save that of marriage»<sup>36</sup>, and so, no rape can be committed by a husband causing any offence in the eyes of the law, «for the wife is the husband's property, and by marriage she has lost the right of control over her own body»<sup>37</sup>. Besant even claims that it is by common law that the husband is able to inflict corporal punishment onto his wife, despite the fact this right has been restricted. Blackstone, in his «Commentaries», states that «the husband also (by old law) might give his wife moderate correction. For as he is to answer for her misbehavior, the law thought it reasonable to entrust him with this power of restraining her, by domestic chastisement, in the same moderation that a man is allowed to correct his apprentices or children»<sup>38</sup>.

As regards the second right of men stated by Blackstone, that of personal liberty, Besant states that a married woman has no such right, since the confinement of a person, in any case, is an imprisonment. Besant quotes Blackstone when he states «the courts of law will still permit a husband to restrain his wife of her

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<sup>31</sup> *Ibidem*, p. 10.

<sup>32</sup> *Ibidem*, p. 11.

<sup>33</sup> *Ibidem*.

<sup>34</sup> *Ibidem*.

<sup>35</sup> *Ibidem*, p. 19.

<sup>36</sup> *Ibidem*, p. 12.

<sup>37</sup> *Ibidem*.

<sup>38</sup> *Ibidem*.

liberty, in case of any gross misbehavior»<sup>39</sup>. Besant asks the readers the question whether any man would admit that, under similar circumstances, a wife should have legal power to deprive her husband of liberty. If not, Besant states, there is no reason in justice why the husband should be permitted to exercise this right.

In relation to Blackstone's third right, that of property, Besant claims it has no existence for married women. In this particular case, unmarried women have no ground to argue since she states that the «a *femme sole* may own real or personal estate, by, sell, give, contract, sue, and be sued, just as though she were of the 'worthier blood'; it is marriage that, like felony and insanity, destroys her capability as proprietor»<sup>40</sup>. The liberty as regards propriety that an unmarried woman possesses disappears once she gets married. Besant lists different instances that illustrate how the wife's status as a proprietor is significantly diminished by the sanction of marriage. According to Common Law, «whatever personal property belonged to the wife before marriage is by marriage absolutely vested in the husband»<sup>41</sup>. Moreover, the possessions the husband may have at the moment of his death pass on to his heirs or anyone he chooses by will, instead of his wife. If a wife possesses lands, they are not hers, but her husband's, and consequently, after her husband's death, even if she survives him, she is deprived of the lands. Accordingly, Besant concludes that «marriage, to a man, is regarded as a kind of lucrative business»<sup>42</sup>.

Since the common law, as regards women's property was particularly subjected to reprobation, Besant concedes that the wealthy devised some methods to escape it through the so-called «marriage settlements», which women contracted out of law. For woman's property to be settled on herself, as it were, the woman should be treated as incapable, and consequently, her property did not remain in her own power, but it was vested in trustees for her own use, since, if in any case, the property was received by the wife, it was possible for the husband to take it. As Besant states, «the moment it [woman's property] came into her possession it ceased to be hers»<sup>43</sup>. Another initiative was attempted to protect women's money in their own hands by parliamentary interference, which resulted in a Bill to amend the laws in relation to married women's property introduced in the House of Commons. As Mr. Russell Gurney stated, during the second reading of the Bill (April 14, 1869), «it is not proposed that, for the first time in our history, the property of one half of the married people of this country should receive the protection of the law»<sup>44</sup>. In seconding the motion, as regards the current law of property, Mr. Jessel stated in his speech that «the existing law is a relic of slavery, and the House is now asked to abolish the last remains of slavery in England»<sup>45</sup>.

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<sup>39</sup> *Ibidem*, p. 13.

<sup>40</sup> *Ibidem*.

<sup>41</sup> *Ibidem*.

<sup>42</sup> *Ibidem*, p. 14.

<sup>43</sup> *Ibidem*, p. 16.

<sup>44</sup> *Ibidem*.

<sup>45</sup> *Ibidem*.



### 3.3. NEW LAWS INTRODUCED

As a consequence of the Acts of 1870 and 1873, Besant states many improvements were enacted for the benefit of married women's property, «although much yet remains to be done»<sup>46</sup>. By the Act of 1870, married women were enabled to deposit money «in the saving's banks in their own names»<sup>47</sup>, among other beneficial dispositions such as holding property inherited, or even, being liable for maintaining their husbands and children under some circumstances. In the Act of 1873, women were enabled to recover the debts they had contracted before marriage. Despite the still inadequacy of these laws to place married women in a just position, Besant describes these Acts as «a step in the right direction»<sup>48</sup>. Nevertheless, she further discusses that a married woman may sue, but she cannot possibly be sued without joining her husband, which involves, as Besant states, that «non-liability to be sued means non-existence of credit»<sup>49</sup>.

In any case, the main principle of English law remained inalterable, that is, a married woman was unable to hold property. At this point, Besant goes even further and states that «married women share incapacity to manage property with minors and lunatics; minors, lunatics, and married women are taken care of by trustees; minors become of age, lunatics often recover, married women remain incapable during the whole of their married life»<sup>50</sup>. Another fact that derives from a married woman's incapability of holding property of her own is that, in general terms, she is unable of making a will «unless by virtue of a power reserved to her, or of a marriage settlement, or with her husband's assent or it may be by her to carry her separate estate»<sup>51</sup>. In any case, it seems plausible that a husband is legally justified to will away from his wife her property, whereas a wife is unable to will away her own, unless this right has especially been reserved to her. As a result, Annie Besant reaches the conclusion that «the rights of every Englishman are destroyed in women by marriage»<sup>52</sup>.

### 3.4. DISABILITIES DERIVED FROM MARRIAGE

Subsequently, not only does Besant claim that the rights of men are not contemplated in the case of women, but she also refers to the multiple disabilities that arise from this neglect. As regards legal disabilities, a married woman cannot be

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<sup>46</sup> *Ibidem*, p. 17.

<sup>47</sup> *Ibidem*.

<sup>48</sup> *Ibidem*, p. 18.

<sup>49</sup> *Ibidem*.

<sup>50</sup> *Ibidem*, p. 19.

<sup>51</sup> «Commentaries on the Laws of England», BROOM and HADLEY, vol. III, pp. 427-428, quoted in A. Besant, *op. cit.*, p. 20.

<sup>52</sup> BESANT, *op. cit.*, p. 20.

released from prison by her recognisances, as any prisoner can be, because of the fact «she is incapable of becoming bail or giving her own recognisances»<sup>53</sup>. As a married woman, and thus incapable of holding property, she cannot «enter into the necessary recognisances to pay costs in the case of conviction»<sup>54</sup>. As for business matters, the married woman is again placed in troubled waters, since, as Besant claims, she is termed incapable of making a contract. If the married woman takes a house without the husband's consent, the landlord may reject the contract. In case she tries to purchase, she cannot be sued for non-payment unless the husband acts as a defendant, and consequently, she is granted no credit. If she is cheated, she cannot sue, except in the cases mentioned in the Acts. Furthermore, Besant also contemplates the difficulties a married woman may undergo in case she decides to separate and attempt a living of her own. Besant claims that the separated woman «is constantly pained and annoyed by the marriage-fetter, which hinders her activity and checks her efforts to make her way»<sup>55</sup>, and as a consequence, the only careers that are open for married women are authorship and servitude.

In any case, Besant also refers to the presumable «advantages» that may derive of the marriage laws. Besant quotes Broom and Hadley's dispositions relating to married women's crimes: «if a woman commits theft, or burglary, by the coercion of her husband, or even in his company, [...] she is dispunishable, being considered to have acted by compulsion, and not of her own will»<sup>56</sup>. As a consequence, of this alleged advantage in favour of women, Besant questions «it is hard to see what advantage society gains by this curious fashion of reckoning married women as children or lunatics»<sup>57</sup>. By contrast, numerous advantages arise for the criminal husband such as the fact that the wife cannot be punished for concealing her husband from justice, but a husband cannot possibly conceal his wife under the same circumstances. As a result, Besant concludes that «any advantage which married women may possess through the supposition that they are acting under the coercion of their husbands ought to be summarily taken away from them»<sup>58</sup>. Ironically, Besant adds that the fact that criminals may escape justice because of the mere fact they happen to be married women will not aid in contributing to the safety of society.

In order to redress the wrongs related to property that a married woman may suffer, Besant advocates the necessity to pass an Act of Parliament defending that «marriage shall in no fashion alter the civil status of a woman, that she shall have over property the same rights as though she were unmarried, and shall, in all civil and criminal matters, be held as responsible as though she were a femme sole»<sup>59</sup>.

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<sup>53</sup> *Ibidem.*

<sup>54</sup> *Ibidem.*

<sup>55</sup> *Ibidem*, p. 21.

<sup>56</sup> *Ibidem*, p. 22.

<sup>57</sup> *Ibidem.*

<sup>58</sup> *Ibidem*, p. 23.

<sup>59</sup> *Ibidem*, p. 24.



Likewise, Besant claims marriage should no longer affect the position of women or involve any legal disabilities. Moreover, marital control should be vanished and the institution of marriage should be conceived as «a contract between equals, and not as a bond between master and servant»<sup>60</sup>.

Farther in the text, Besant alludes to the different reasons raised by those who oppose the idea that a woman should not be deprived of her property on marriage. Besant refers to the smooth legal systems of other countries where marriage does not entail women's forfeiture. Moreover, she also defends that, if marriage was no so solely based on the transaction of property, it would become «the highest order of durable and happy attachments»<sup>61</sup>, since the affection that would unite both sexes would be based on the «genuine friendship which only exists between equals in privileges as in faculties»<sup>62</sup>. To her mind, married women's deprivation of their property only contributes to the unhappiness caused by the husband's «tendency to tyrannise»<sup>63</sup>, which arises out of the authority that marriage laws grant him.

As Besant continues, in any case, «no grown person should be under the arbitrary power of another»<sup>64</sup>. Maturity inevitably brings the need for self-support, which married women cannot possibly gain, since their presumed helplessness and dependence render them perpetual minors. In this respect, Besant makes reference to an article from the *Westminster Review* (July, 1874), where the author questions:

Would it not, to begin with, be well to instruct girls that weakness, cowardice, and ignorance, cannot constitute at once the perfection of womankind and the imperfection of mankind? It is time to do away with the oak and the ivy ideal, and to teach each plant to grow strong and self-supporting. Perfect quality would, under this system, be found in the home, and mutual respect and deference would replace the alternate coaxing and commandment now too often seen. Equal rights would abolish both tyranny and rebellion; there would be more courtesy in the husband, more straightforwardness in the wife. Then, indeed, would there be some hope of generally happy marriages<sup>65</sup>.

taking these premises into consideration, Besant argues that, until social and legal equality between the sexes becomes the basis of marriage, «the truest love, the truest sympathy, the truest happiness in it, will be the exception rather than the rule, and the real value of this relation, domestic and social, will be fatally missed»<sup>66</sup>. Besant even argues that marriages, under this law, often contribute to the promotion of unhappiness.

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<sup>60</sup> *Ibidem.*

<sup>61</sup> *Ibidem*, p. 26.

<sup>62</sup> *Ibidem.*

<sup>63</sup> *Ibidem.*

<sup>64</sup> *Ibidem.*

<sup>65</sup> *Ibidem.*

<sup>66</sup> *Ibidem*, p. 27.

Subsequently, Besant refers to the wrongs the mother may suffer under the marriage laws. She declares that the unmarried woman has a claim over her child, while the married woman has none, since her husband is given the custody of the child until it reaches the age of sixteen. Moreover, the father's custody over his legitimate children is complete, whereas the mother has no right over them as against his, that is, the husband can easily take his children from his wife and even place them in the care of a different woman, while his former wife cannot redress. The father can also appoint a guardian for his children in his will, and the surviving mother cannot do anything to alter the situation. In case the parents hold differing religious beliefs, the children are brought up in that of the father. As a result, Besant argues that «the married woman has no rights over her own children; she bears them, nurses them, toils for them, watches over them, and may then have them torn from her»<sup>67</sup>. In any case, despite the highly respected woman's sphere and her duty in the home, Besant states that «the law has no reverence for the tie between mother and child, and ignores every claim of the mother who is also a wife»<sup>68</sup>. In this respect, the unmarried mother is in a better position than the married mother, since the former has «an absolute right to the custody of her own children»<sup>69</sup>, while the maternal tie seems to blur once the legal contract of marriage has taken effect.

### 3.5. ADVANTAGES OF UNMARRIED WOMEN

In general terms, Besant ascertains that marriage presents direct disadvantages for women. Unmarried women preserve their natural rights; they control their actions, their body and their property; they receive protection from all courts; they maintain her independence and they only owe obedience to the laws. In case a child is born out of wedlock, unmarried women maintain all rights over it. Nevertheless, Besant points out two advantages affecting unmarried women. Firstly, an unmarried woman is made to face social disapprobation, and secondly, children born from unlegalised unions do not hold the same rights as those born from married couples. As a consequence, Besant concludes that both legal and unlegalised unions have disadvantages, but «these evils are, however, overwhelmingly greater on the side of the disabilities imposed on women by marriage»<sup>70</sup>. Besant even adds that:

So great are these [disadvantages] that no wise and self-respecting woman should, with her eyes open, enter into a contract of marriage while the laws remain as they are, and no man who really honors a woman should ask her to subject herself to the disadvantages imposed on the English wife, or should ask her to take him as literally her master and owner. The relative position is as dishonouring to the man

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<sup>67</sup> *Ibidem*, p. 28.

<sup>68</sup> *Ibidem*.

<sup>69</sup> *Ibidem*.

<sup>70</sup> *Ibidem*, p. 29.

as it is insulting to the woman, and good men revolt against it as hotly as do the most high-spirited women<sup>71</sup>.

Furthermore, Besant proposes different courses of action for those who aim at establishing «a healthier and purer sexual morality»<sup>72</sup>. In her view, the first action that should be taken should be to promote a reform of the marriage laws by passing an Act of Parliament, and she even speaks of a Marriage Reform League to organise such petition. This legal determination should be accompanied by the resolute purpose of not contracting legal marriages as long as these marriage laws regulate legalised unions. One of the major changes that Besant defends is that, in the new legal contracts of marriage, the law «should interfere just as far as it does in other contracts, and no further; [since] the law has no right to dictate the terms of the marriage contract»<sup>73</sup>, but it is the contracting parties who should arrange their affairs as they wish. In addition to this plea for autonomy, Besant also defends the reform should regulate the position of children. The new law should «impose the full discharge of the responsibilities of parents towards those to whom they have given life»<sup>74</sup>. Moreover, Besant also claims no marriage should be contracted by minors. In any case, it is claimed that the purpose of this needed reform should be devised «to substitute for the present semi-barbarous laws a scheme which shall be sober, dignified, and practicable, and which shall recognise the vital interest of the community in the union of those who are to be the parents of the next generation»<sup>75</sup>.

In this respect, as a kind of drawback, Besant contemplates that, under no legal force, «a libertine»<sup>76</sup> may decide to desert his wife and children taking advantage of this unusual situation unregulated by law. In that case, Besant argue that men like that would have acted in the same way if the form of marriage contracted had no legal binding force, and thus, she defends marriage should be legally binding to oblige men to support children. Nevertheless, Besant repeats that if this legal union must necessarily involve the disability of the married woman, an unlegalised union should be preferred, since «there is as many an unhappy woman who would be only too glad if the libertine who has legally married her would desert her, and leave her, even with the burden of a family, to make herself and her children»<sup>77</sup>.

In any case, Besant concludes the first part of this volume by reaffirming that a reform is necessary, directly addressing the legally married men and women to lead the march, since they are «happy in their marriages —yet feel the immorality of the law, and desire to see it changed»<sup>78</sup>. She is convinced that «the advocacy of

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<sup>71</sup> *Ibidem.*

<sup>72</sup> *Ibidem.*

<sup>73</sup> *Ibidem*, p. 30.

<sup>74</sup> *Ibidem.*

<sup>75</sup> *Ibidem.*

<sup>76</sup> *Ibidem*, p. 31.

<sup>77</sup> *Ibidem.*

<sup>78</sup> *Ibidem.*

change in the marriage laws does not mean the abolition of the home»<sup>79</sup>, but the improvement of women's situation in marriage.

### 3.6. DIVORCE

Through the second part of this volume, Annie Besant deals with the question of divorce. She argues that marriage differs from any other contract in the difficulty of its dissolution, mainly because it is more often viewed as a religious bond rather than as a civil contract. Consequently, when the Reformers advocated divorce, it was considered a heresy. In England, different instances gradually brought about the acceptance of divorce under particular conditions. In principle, divorce remained under the jurisdiction of ecclesiastical courts until the reign of Edward VI. However, his death repelled the proposed reform based on the remodelling of the marriage laws. In 1701, Besant refers to the passing of one bill enabling a petitioner to remarry. Almost a century later, in 1798, Lord Loughborough's «Orders» became effective. Much later, in 1857, an Act was finally passed establishing a Court for Divorce and Matrimonial Causes. This court was enabled to grant judicial separation in cases of «cruelty, desertion for two years and upwards, or adultery on the part of the husband»<sup>80</sup>.

Besant argues that the divorce laws should undergo reformation. In her view, «the first reform here needed is that husband and wife should be placed on a perfect equality in asking for a divorce»<sup>81</sup>. The present law permitted that, provided husband and wife lived together, a husband can keep «as many mistresses as he will, and [...] he is perfectly safe from any suit for dissolution of marriage»<sup>82</sup>. Moreover, Besant claims that «adultery alone, when committed by the husband, is not ground for dissolution of marriage»<sup>83</sup> since it must involve any other additional offence. On the other hand, the husband can obtain the dissolution of marriage for adultery. As a consequence, Besant claims «the system of judicial separation should be entirely swept away»<sup>84</sup>, and thus, whenever divorce is granted, its derived effects should be absolute. Besant also lists the possible causes that may lead to a case of divorce, which are adultery, cruelty and habitual drunkenness, while making no differences according to sex.

As a general rule, Besant is in favour of the dissolution of marriage and justifies it by stating «how utterly wrong and foolish it is to promise for life that which can never be controlled by the will»<sup>85</sup>. Moreover, she also argues that «a

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<sup>79</sup> *Ibidem*, p. 32.

<sup>80</sup> *Ibidem*, p. 34.

<sup>81</sup> *Ibidem*.

<sup>82</sup> *Ibidem*.

<sup>83</sup> *Ibidem*.

<sup>84</sup> *Ibidem*, p. 35.

<sup>85</sup> *Ibidem*, p. 41.



husband and a wife ought to continue so long united as they love each other»<sup>86</sup>, and so, an easier dissolution of marriage would ensure the existence of true married partners, since their union would certainly be based on the true essence of the institution. Besant states at this point that «prostitution lies in the union of the sexes without mutual love»<sup>87</sup>, and therefore, if divorce was more easily obtained, «the majority of marriages will be far happier than they are now»<sup>88</sup>, since their union would be based on «a bond of kindness, thoughtfulness, and actual helpfulness»<sup>89</sup>.

On the other hand, Besant argues that there may be those who claim that, if divorce might be so easy to obtain, it would be better not to marry at all. Besant defends that marriage is desirable since it is a legal written contract which grants children the necessary protection. Moreover, Besant discusses that though «love is essential to true and holy marriage, marriage implies more than love; it implies also a number of new relations to the outside world which [...] cannot be wholly disregarded»<sup>90</sup>. In addition, Besant emphasises the need of marriage as a contract desirable for the sake of children. Although she also remarks that «if all men and women were perfect, no contract would be necessary»<sup>91</sup> to secure protection and stability. Besant is well aware of the way marriage and its subsequent dissolution may affect children. She states that «in all cases of divorce the interests of the children should be carefully guarded»<sup>92</sup>. Nevertheless, she concedes that there exists common unfairness as regards the arrangements that permit parents' access to their children, especially in the case of adulterous mothers.

### 3.7. FAMILY PLANNING AND BIRTH CONTROL

Well aware of the position of children in a faulty marriage and the overwhelming increase of the population of the time, two years before, Annie Besant had collaborated in the publication of Charles Knowlton's famous volume *The Fruits of Philosophy*, which mainly copes with family planning and birth-restrictions. It is in the third chapter that Knowlton refers to four main methods by means of which women can control their sexuality. Firstly, women should be aware of the fact their fertility is more prominent in some periods of time over others. Secondly, Dr. Knowlton refers to the preventive check, which consisted in the use of an ordinary syringe after intercourse. Thirdly, he quotes Carlile's advice, included in «Every Woman's Book», asserting that the use of a fine sponge at the end of the vagina

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<sup>86</sup> *Ibidem.*

<sup>87</sup> *Ibidem*, p. 42.

<sup>88</sup> *Ibidem*, p. 43.

<sup>89</sup> *Ibidem*, p. 44.

<sup>90</sup> *Ibidem*, p. 48.

<sup>91</sup> *Ibidem.*

<sup>92</sup> *Ibidem*, p. 36.



should prevent impregnation. As a doctor, Knowlton even refers to popular methods to prevent conception which are ineffective, such as the belief that the long persistence in nursing a baby would prevent contraception. Finally, he mentions another method of contraception, regarded as criminal, which is the procuring of abortion.

In any case, Besant believes that «just as true marriage is invaluable, so is unreal marriage deteriorating in its effects»<sup>93</sup>. Consequently, if man and woman are enabled to be freed from their injuring union and are allowed to seek for fit partners, in their new happy marriages, they will become «joyful servants of humanity, worthy parents of the citizens of tomorrow»<sup>94</sup>, that is, «free instead of enslaved, bound by love instead of by law»<sup>95</sup>. Annie Besant's remarkable contributions and theories as regards women's situation, birth control, the need for reform of the marriage laws, and the broadening of the cases of legal divorce guarantee her status as one of the most outstanding defenders of women's cause at the *fin-de-siècle*.

#### 4. CONCLUSIONS

Annie Besant's contribution and involvement is significant to the extent it renders Victorian idealisations and conceptualisations of sexuality and married life more intricate, thus disrupting later assumed and perceived notions of Victorian prudery modernists entertained with regard to the period. Moreover, the transformation her ideas and notions underwent throughout her career, from her Evangelical background, through her feminist endeavours and her final Teosophical phase, defines her as a complex figure, representative of the intricacy and richness of a period of contrasts. As Jeffreys points out, Besant moved from a background of social prudery to becoming an advocate and practitioner of free love, and eventually, as a convert to teosophy, Besant became a most energetic proponent of celibacy and psychic love, avoiding sexual intercourse to evade damaging the so-called higher self. Her situation as a middle-class Victorian woman renders her in an awkward position, moving through the borders of Victorian femininity to challenge assumed notions of prudery in order to attain social goals for women shifting from a private to a public sphere. Precedent outstanding female figures had advocated for improvements in women's situation, but never dared defend contraception as a real and attainable measure to exert control over their sexuality. Male voices had drawn attention to the overflowing situation of population, and the consequent need for food supply but refused taking measures that opposed the cultural ethos of the time. Consequently, despite the fact some female and male voices had already raised the issue of women's question, what mostly rendered Besant's work remarkably note-

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<sup>93</sup> *Ibidem*, p. 51.

<sup>94</sup> *Ibidem*.

<sup>95</sup> *Ibidem*, p. 52.



worthy was her concern as a woman to bring intimate and private issues of contraception and birth-control to public exposure and discussion, thus subverting the politics of separate spheres, protecting wives and mothers from invisibility in married life, and granting women the opportunity to exert some control over their sexuality, rescuing them from their dependent situation and enabling them to take control over their own lives. Despite Besant's often raised marginalisation in Victorian times, one cannot help but notice how representative she is of the intricacies and complexity of an age of contrasts, which has only been discovered fairly recently within a postmodern and Neo-victorian look into the the mirror of the Victorian past.

