

MASTER

# Illegitimacy



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## UNMARRIED PARENTHOOD

Neither the Pill nor sex education to the young have made much difference to the increasing number of Australian children born out of wedlock.

The attitude of society to such children has become much more humane in recent years.

Common comments from disinterested people are:

"It should be the parents who are considered illegitimate, not the innocent child" and "it's the good girl who has the baby. The bad girls are much too shrewd."

They are only comments.

The fact remains that a child is better off when, born with the right to have two parents who are married to each other and happy in their marriage and parenthood.

The law makes every effort to lessen the disadvantages of illegitimate birth.

Recent legislation has improved the lot of the child who is adopted.

But practically no girl expects to have an illegitimate child.

A girl who has been living with a man who does not want to marry may decide to become pregnant because she wants him to marry her. She cannot make him marry her. She may have an illegitimate baby.

The man may be already married. He cannot marry the mother of his expected child, which is illegitimate.

Practically no family thinks of an unmarried daughter becoming pregnant, much less do they know the law in such circumstances.

Nowadays there are more parents to whom their daughter's need is more important than their feeling of shame.

But there are still unmarried girls and women who face motherhood in ignorance complicated by loneliness. They either will not or cannot tell their parents. Maybe they have none. Often

they take leave from their jobs and go to another state to get over the confinement.

Every country in the world has different legal set-ups and welfare positions for unmarried mothers.

### WHAT TO DO?

As with all pregnancies, the first and most important step is to see a doctor and get his advice. A baby is handicapped enough without a health handicap. This is of special importance if the child is to be adopted. His help usually includes arranging for her confinement at the most convenient hospital.

If from the onset she decides that she wants her child to be adopted; if the girl lives in a country town and is to be confined there, either the doctor, the matron or the girl herself will get in touch with the Child Welfare Department.

If there is a Child Welfare Department office in the town, this contact will be made to the district officer. If not, a letter will be written to the Child Welfare Department in Perth, and arrangements made.

There are a number of officers of the Adoptions Sections and the expectant mother is allocated to the officer in whose area is the hospital in which she will be confined.

If it is arranged for her to go to a lying-in hospital (N'Gaia or Hillcrest), she makes the arrangements with the matron herself. An officer of Child Welfare Department Adoptions visits her at the hospital.

If she attends the King Edward Memorial Antenatal Clinic, she is referred to the hospital social worker who arranges for her to visit the Adoptions Section at 45 Havelock Street, West Perth. If her confinement is to take place at a smaller metropolitan hospital she can ring the Adoptions Section (22-1811) and make an appointment, having said at which hospital she expects to be confined.



Keep him? . . . Have him adopted? Of about 2,000 unmarried mothers who face these questions in this State each year, many like the schoolgirl in the picture (posed) are children themselves. Yet the unmarried mother must make the decision herself without pressure from her parents.

The number of illegitimate babies is increasing in Australia (in England it is significantly on the decline), but so is the number of girls who decide against making the baby available for adoption. A schoolgirl posed with a borrowed baby for Ken Hotchkin's photograph, but it can still tug at the heart-strings.

The Adoptions Section of the Child Welfare Department stresses that it is the responsibility of the expectant mother to contact the Child Welfare Department or to check that her parents or doctor have done so.

Too many girls get no pre-confinement counselling because nobody thinks to let the C.W.D. know early enough.

This is up to the girl herself, and more mature friends should tell her so.

## ILLEGITIMACY

An unmarried girl has a baby. That is, an illegitimate child.

What is the position as regards the mother, the baby, the father, the law and the parents of the mother? Particularly when she is a young teenager, perhaps a schoolgirl.

She must leave all the emotional considerations aside and consider the facts.

An illegitimate child is one whose parents are not married to each other.

If the mother is a married woman and the father of the child is a man other than her husband, the child may not be regarded as illegitimate in law. It would be difficult to prove him so.

But the illegitimate child with whom most people are concerned nowadays is the carelessly conceived by-product of teenage sex.

### WHAT IS THE CAUSE?

Girls and boys are maturing earlier, by three to four months in every ten years. So puberty is reached at an age of 2½-3½ years earlier than it was a century ago.

The age of the menarche, the girl's first menstrual period at which she achieves sexual maturity, is not fixed but varies according to a number of factors which range from race and heredity to the quality of nutrition. In a three-generation family it is useful to compare the ages of the onset of the menarche. Normally a granddaughter is likely to have her first period as much as a year earlier than her grandmother did.

Better living conditions over the last century at any rate appear to be the reason for earlier maturity.

That is, it is not that earlier maturity should be a continuing thing but become a fixed and normal thing under favourable conditions. If they continue, by the end of this century the trend to earlier maturity should have gone about as far as it can go. It should have settled down to a pre-

dictable figure but still varying from person to person according to genetic influences.

But as it is, girls are physically capable of motherhood much younger than when they are old enough to marry and set up a home.

Increasing freedom between the sexes and the "new morality" attitude to sexual experimenting are reasons often given for teenage pregnancies nowadays.

Many psychological writers agree in the theory that teenage girls who become pregnant are love-deprived in the family setting.

Dr. Derek Miller, an American educational psychologist in his book "The Age Between—Adolescents in a Disturbed Society" comments: "When unmarried girls become pregnant adults try to be helpful in a variety of ways. Sometimes an abortion is suggested. Although this may be socially convenient it often carries the implication to a girl that the important adults in her life do not see her as fit to be a woman. If lack of security about her feminine role is the emotional conflict that led her to getting pregnant in the first place, abortion increases one problem as it solves another."

"Pregnant girls are often sent away from school—partly because of society's anxiety that others will be tempted to follow in their footsteps, partly because of concern about the attitudes of other children's parents.

"But girls almost always know when one of them is being sexually active: there is little reason for removing a girl from school because she becomes pregnant. If the pregnancy of a girl is felt to be shameful then there would appear to be no alternative but to "hide her"; but the attitude of the young in these cases can be more mature than the attitudes of the older generation.

"When girls are unmarried and having a child they need emotional

support and help from adults who care for them. Unfortunately they are often the victims of society's unconscious punitive attitudes."

Dr. Miller's experience is with American and English adolescents. Australia is only just thrashing out its attitudes to the termination of pregnancies, even in the case of rape victims. As a result the socially convenient abortion is no national solution.

In spite of the contraceptive Pill being freely advised for young girls who are sexually active there appears to be no decline in the number of young girls who give birth without marriage.

The majority whose social, educational and financial circumstances lead them to seek help from the Child Welfare Department are about 17, with the father of the baby about 19. Some are much younger, some older. Because of the number of childless couples anxious to have a child, and offering good homes, adoption is a generally accepted solution.

### WHO "OWNS" THE BABY?

Parents of a schoolgirl daughter are her legal guardians. That being so, many parents think that if the daughter should give birth to an illegitimate child, her parents automatically become the legal guardians of the baby. That is not so. The mother is the legal guardian of her own baby.

If the baby is to be made available for adoption, it is the young mother who must sign the consent form.

If the girl's mother is unwilling to have her baby adopted, and the parents or anyone else pressure her to agree, this pressure is a breach of the law and they are liable to a stiff penalty.

Say they say "We will send you back to school and not reproach you now or ever again if you have the baby adopted" and she says "But it's my baby and I don't want to give him up never to see him again"?

This is a difficult situation from a number of viewpoints.

But what the Child Welfare Department sees as the most important thing in this matter is that pressure should be removed.

If the question of adoption is considered, the C.W.D. is always involved but the extent varies.

The department is always involved in the assessment of applicants—those wishing to adopt. But in some hospitals the staff and the doctors arrange their own placements and the Child Welfare Department never sees the girls.

The Department becomes involved when the girl is referred to it by the hospital or the doctor. There are no restrictions placed by maternity hospitals on admitting unmarried girls for childbirth but there are several hospitals which are specially co-operative and give counselling.

### COUNSELLING

Whether with a social worker at the hospital or Child Welfare Department, counselling is most necessary so all facts about adoption must be presented to the young mother for consideration. For she is to be called upon to make a most important and mature decision. In the case of a very young mother, it is her first adult decision if she is to give up her baby for adoption.

She has alternatives.

- (1) She may want the baby to be adopted.
- (2) She may want to keep the baby.

### ADOPTION

(1) If the mother prefers to have the baby adopted, the Child Welfare Department's attitude is that the decision must be hers alone and the Department does not want to persuade her either way but is anxious to ensure that all the facts are made known

to her. It is the department's function to help her if she asks for help.

### HANDICAPPED BABIES

Children who are born with severe handicaps which make them unsuitable for adoption may be fostered.

The Child Welfare Department and the parent(s) can request the Minister for Child Welfare to commit the child to the care of the department, in which case the parent(s) must agree to contribute, if asked, to the child's maintenance. *No financial assistance*

If the mother, having left the hospital a few days after the child's birth, merely abandons it, the Child Welfare Department goes to the Children's Court where an application is made to have the child declared destitute, in which case the mother, and father if known, may be required to agree to contribute to the child's maintenance.

### MONEY MATTERS

Both in the case of the baby made available for adoption and when the mother decides to keep her baby, expense plays a large part.

There is an increase in the number of girls who keep their babies, but financial pressure is one of the big influences on the decision.

Here again, the counselling she has had makes her aware of what she faces at a time when she has bills coming in. She may want to go back to school or back to her job. Her parents may not want a daughter who is an unwed mother in their home. A surprising number do. Some mothers look after the baby while the young mother goes to work. Some parents apply, with

their daughter's consent, to adopt their grandchild.

The young mother may apply for financial assistance under the Welfare and Assistance Act. If she earns more than \$10 a week the amount is subject to a means test and adjusted accordingly.

If she earns \$10 or less the means test does not apply.

To receive this monetary assistance she should have made some attempt to obtain maintenance from the father of the child. She is urged to do so but if this is not practicable help may still be given. She may ask him to agree to pay maintenance or can ask for an order to be made against him in the Married Persons' and Children's Summary Relief Court.

A maintenance order is made against the father until the child is 16.

### THE ILLEGITIMATE FATHER

The father of an illegitimate child should not be assumed to be a villain.

There are occasions when the girl is actually the seducer. There are times when he believes she has a contraceptive device or is on the Pill. Often they have had sexual relations without any thought of possible pregnancy.

Many young people believe that premarital intercourse, or rather non-marital intercourse, is psychologically desirable.

He may be a student too or otherwise too young to undertake the responsibilities of married life.

He may want to marry her, but not yet.

He may want to marry eventually, but not her.

His parents may have refused their consent.

"Shotgun" weddings have in many cases proved to be no solution when merely entered into "to give the baby a name". Modern wisdom is against that type of marriage.

But the father of an illegitimate child, whether his paternity is admitted or legally established, is responsible for payment of maintenance until the child is 16 years of age.

A maintenance order is made against him. In cases where the young man is able to undertake only small payments, the Child Welfare Department makes up the balance. If he stops paying his share the Child

## THE BABY'S GUARDIAN

As guardian of her baby, the mother must, of her own free will, sign the consent form, but not before the eighth day after her confinement, unless certified as fit to do so by a doctor or certified midwife.

Of her own choice, she may not have seen the baby at all.

She may have left the baby in the hospital and have returned home to her parents. But she is still guardian of, and responsible for the child until she has signed the consent form.

At that stage, the Director of Child Welfare becomes the legal guardian

of the baby, to the exclusion of all other persons until the adoption goes through.

There is however a cooling-off period. Once the mother of the baby has signed the consent form she is allowed to revoke it within the next 30 days. But not after that period.

Then the child has gone out of her life altogether. She does not know who the adopting parents are or do they know who she is. She can be assured that the Child Welfare Department have done all in their power to fit the child with parents who match as near as possible.



Welfare Department can pay it and chase him up.

This is a long-lasting responsibility. But all fathers of such children are not essentially either callous or anxious to run away.

Sometimes a father who is unable for some reason to marry the mother, who has decided to keep her child, visits the child and takes a father's pride and interest.

If the mother of the baby wants to have the child registered under the father's name and names the father

in the form, his consent must be obtained.

Usually if she intends to continue association with the father, if he is interested and they intend keeping the child, the child may be registered in his name.

If he has admitted paternity and a maintenance order is made against him and he agrees to the adoption of the child he can sign the adoption consent form at the same time. This is not legally necessary, but preferable.

There are three alternatives when the mother has signed the adoption consent:

- (1) straight-out adoption.
- (2) child definitely unsuitable for adoption, so fostered.
- (3) child may be later suitable, so is fostered with a view to adoption.

There is no pressure on fosterers to adopt the child in the second case. But often affection for the fostered child and conviction that the foster parents are the solution to his problem exerts a pressure of its own. He has become their child in their own eyes.

In the third case the fostering parents take the child on the understanding that the child will be available for adoption eventually when the legal or medical problems are solved.

What happens to the child when the natural mother has signed the adoption consent form and given up the child, should the child not be adopted?

This question does not arise at the present time. If the child has problems, they are known before his placement. The child is committed to the department's care and fostered. Children who are available for adoption are always adopted.

## MONEY MATTERS

Finance is one of the biggest influences on the decision to have a child adopted.

There are the hospital costs. If she is a member of a hospital benefit fund she is mostly covered for her own hospital costs.

If she is over 16 she can in her own right transfer her individual membership to a family membership—that is a family of her and her baby.

There is good sense in this.

After the birth, while the mother is in hospital with her baby government hospitals do not make a separate charge for the baby.

But the stay in hospital for a confinement is not long nowadays, may be two or three days. If the mother is fit and wants to have the child adopted it is better for her to go home.

Being with ordinary married women at feeding time for instance may be an upsetting experience.

But when the mother is discharged from hospital the child must remain in the hospital and the hospital begins to charge a boarding fee. In the case of a government hospital this is \$5 a day in some, \$6 in others, and it is usually more in private hospitals.

If the baby is not sick and not listed as a patient Hospital Benefits will not pay in respect of boarding fee.

If the child is ill and registered as a patient and the charge is about \$20 a day and the mother has hospital benefit as a family unit, she can obtain hospital benefits.

In cases of hardship some hospitals charge special rates.

Though the baby is still in hospital and the mother not see it again, she is still its legal guardian until she has signed the consent form (not before

eight days after birth) and so has handed the child over to the Child Welfare Department.

### AREAS OF RESPONSIBILITY

Then the Director of Child Welfare becomes the legal guardian of that child to the exclusion of all other persons until the adoption goes through.

When the adoption is completed through the Supreme Court the adopting parents become the legal guardians of the child.

That the mother still remains the "natural mother" is only a legal definition. She cannot have her child back. She has no right to have him back.

So at this stage there are three sets of people involved in the baby—

- the natural mother,
- the Director who is the legal guardian, and
- the adopting parents.

Once the department have offered the baby to the adopting parents they have said they will take the child, though not legally yet their own, they assume responsibility for the child.

### THE HANDICAPPED CHILD

The Child Welfare Department will not make a child available for adoption if he has severe handicaps.

Then the department can request the Minister for Child Welfare to commit the child to the care of the department.

If the mother when discharged from hospital just abandons such a child, the department goes to the Children's Court and an application is made to declare the child to be destitute and the parent may be required to agree to contribute to the child's maintenance.

*"such a child"  
being handicapped*