

1913

## Problem of Illegitimacy in Europe

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### Recommended Citation

Victor von Borosini, Problem of Illegitimacy in Europe, 4 J. Am. Inst. Crim. L. & Criminology 212 (May 1913 to March 1914)

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## THE PROBLEM OF ILLEGITIMACY IN EUROPE.

VICTOR VON BOROSINI.

One of the most serious and complicated questions confronting many European countries at the present day is the problem of illegitimacy. The moral, social, and economic situation of the large, and in some countries even increasing number of unmarried mothers and their children, is far from satisfactory. The different governments realize that, under present conditions, it is not possible to check illegitimacy to any extent. It is, however, possible to prevent its fearful consequences, especially the appalling infant death rate and the great criminality of persons of bastard origin. Infant welfare work contributes to lower the mortality of illegitimate children, while their proper bringing up, and careful training in a decent trade, under the supervision of responsible public and private agencies should prevent bastards to a large extent from joining the criminal classes.

The courts for juveniles and adults, and charitable agencies in America have to deal with a similar phenomenon. Owing to the prevailing Puritan and hypocritical spirit, and partly also to the policy of the United States postal authorities it is almost impossible to discuss these highly important questions in public, so that not many people have an adequate idea of the alarming extent to which illegitimacy and all the evils connected with it, exist in the country. Reliable statistics are altogether lacking. It is pretty generally conceded that the treatment and settlement of bastardy cases in the courts of most American states is also far from satisfactory, and that the responsible agencies are grossly negligent in properly following up illegitimate children and supervising their disposal from maternity wards and their further care. A recent pamphlet of the Chicago Juvenile Protective Association is interesting reading on the subject. It might be worth while to hear about European conditions, and to see what is done abroad for illegitimate children. Though the subject can be treated in a way which will neither offend modesty nor poison nor pervert the mind, the matter is almost always discussed in Europe with the greatest reluctance and with considerable prudery. It was not considered until quite recently a fit topic for discussion in the presence of women, even though they are most vitally concerned in it. Many of the men and women who defend and protect the children of sorrow and their mothers, are even branded as immoral by some so called moralists. Young women who about nine years ago began to interest them-

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selves actively in this work in Berlin, were almost universally condemned.

Society everywhere believes that its cornerstone is the family, established by civil marriage, and everywhere churches insist that the civil contract requires ecclesiastical blessing. Neither of them considers that reasons often far from moral induce people to enter the bond of matrimony, and both are violently opposed to newer ideas, which are theoretically and practically accepted by radical men and women in Scandinavian and Germanic countries. One of the worst crimes in the eyes of many is to suggest a change in the form of marriage, as if marriage laws, as we have them today, had never changed. They forget that, until the council of Trent, about 1550, the Catholic church recognized the betrothal, the mutual agreement to live in matrimonial relations, as all that was necessary to make two people husband and wife. Luther said: "Know that marriage is something extrinsic as any other worldly action. If a man and a woman live together and are true to each other, the Lord will consider it a real marriage, though it might shock the neighbors. Sexual intercourse between engaged people is no sin if they plan to marry later." Only at the end of the seventeenth century did the Protestant church consider a religious ceremony essential before marital relations began. The children of so called "conscience marriages" were considered legitimate by law. In many countries custom still allows young people, intending to marry later, to have sexual relations, with the tacit permission and knowledge of parents, and the community of which they are members, without losing their social standing. The statistics of first born legitimate children reveal that in Berlin 45%, in Dresden 48%, in the kingdom of Saxony and in rural Denmark 39%, and in Amsterdam 26.4% are born less than seven months after the wedding. If one added the percentage of illegitimate, of still born children, and of miscarriages, the figures for Berlin, Saxony and Denmark would show that, at least 50 to 70% of the couples have sexual relations without waiting for a civil and religious ceremony. This is especially true in countries with a large surplus of women, where percentually fewer people get married. The surplus of women induces many men not to marry, since they can satisfy their sexual instincts in illegal unions. The general marriage rate is declining all over Europe. It rises and sinks of course, too, with the general prosperity of a country.

1. *Marriage rate for every thousand inhabitants:*

Country.	1871-1875.	1891-1895.	1901-1905.
Germany .....	18.8	15.8	16
Austria .....	18.3	15.7	15.8
Hungary .....	21.5	17.9	17.2
Italy .....	15.5	14.9	14.8
France .....	16	14.9	15.2
England .....	17	15.1	15.6
Holland .....	16.6	14.4	15
Norway .....	14.5	12.9	12.4
Sweden .....	14	11.4	11.8
Russia .....	19.6	17	...

Illegitimate origin is responsible for the high death rate of bastards, for their impaired physical condition, which is best revealed by their startling incapacity for military service, and their large representation in reformatories, prisons and hospitals for feeble minded, epileptics and insane. Quite a large percentage of unmarried mothers is mentally defective. More for social than for economic reasons are unmarried mothers led to kill their children either during, or shortly after their birth; these cases are considered with some clemency by the European criminal codes. Cases of criminal abortion, and perjury, in connection with affiliation proceedings, are increasing all over Europe. The menace of social ostracism, in case their pregnancy becomes known, especially when the mother belongs to the upper classes of society, forces many to imperil life, or at least, injure the health forever. The guilty man has nothing to fear.

Though the mortality of infants of illegitimate origin is about 10% higher, as table 5 shows, than that of legitimate children, and a large percentage of illegitimate children is legitimized or adopted, their decimated number finds itself more often in conflict with the law, as the following statistics prove:

2. *Inmates of prisons and reformatories:*

Country.	Illegitimate Birth Rate.	Illegitimate Males.	Females in Institutions.
England ....	4.52% of all born	6.8%	11.6% Industrial schools
Austria ....	13.7 % of all born	13.8%	20.7% Prisons
France ....	10.2 % of all born	9.4%	29 % Juveniles awaiting trial
Norway ....	7.33% of all born	11.8%	17.2% Prisons*
			11.1% Reformatories
Baden .....	7.7 % 1910	7.7%	15 % Prisons
Hesse .....	7.5 % 1910	9.4%	12 % Prisons
Prussia .....	7.5 % 1910	7.6%	12 % Short sentences

Of Berlin's registered prostitutes, 75.7% were of bastard origin, according to statistics published about 10 years ago. Of 88 girls between 15 and 17 dealt with by the juvenile court of Munich in 1911, 33% were of illegitimate origin. The same is the case in 23% of

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\*Bonger. *Criminalité et Conditions Économiques.*

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registered prostitutes and of 28% of the girls arrested for soliciting in Munich. Illegitimately born girls are, as these figures reveal, in greater danger of becoming law breakers, are more handicapped in the struggle for life, than the men, and ought for these reasons to be placed under the special care and supervision of the state and the municipality. European vital statistics, with the exception of those of the Balkan states and Russia, are most reliable sources of information but they do not tell us the whole story of illegitimacy. Quite a number of highly important facts concerning illegitimacy, are suppressed in the statistics by many governments, because they are ashamed of their criminal negligence and lack of prevention. Most civilized countries enforce the compulsory notification of births. The husband, the midwife, physician or director of the maternity ward are obliged to give notice without compensation. The legitimate or illegitimate origin should be revealed also in America for statistical purposes exclusively as a basis of moral statistics. It is not possible to gather vital statistics without having as a basis an exact registration of births.

The sources of error in European statistics are the following: A foetus born less than six months after conception, is not entered upon the register, except in Austria. Miscarriages are especially frequent among unmarried mothers, for they continue to work until the last, and lace in order to hide their condition as long as possible. Girl mothers are frequently told how to get rid of their child by great exertion, by using drugs, or by criminal operation. Children of widows, divorced or abandoned women are often registered under the name of the husband. This happens especially in countries with a large emigration of men, like Italy, Austria and Hungary. On the other hand, foundlings are considered illegitimately born children, though it is a fact that many legitimate children are abandoned by their parents for economic reasons.

### 3. *Comparison between legitimate and illegitimate birth rate.*

Year.	Country.	Birth Rate Per 1,000 Inhabitants.	Rate of Illegitimacy of Each 100 Births.	Total of Illegiti- mately Born.
1910	Switzerland .....	25.0	4.3	3,900
1910	Ireland .....	23.3	2.6	2,800
1910	England .....	24.8	4.5	36,000
1909	Belgium .....	23.7	6.5	12,000
1910	Italy .....	32.9	5.1	56,000
1910	Norway .....	26.1	7.3	4,000
1910	Germany .....	29.8	9.1	180,000
1910	France .....	19.7	10.2	71,000
1910	Austria .....	32.4	13.7	118,000
1910	Sweden .....	24.8	10.8	19,000

For the whole of Europe the number is probably about 700,000. The figures vary greatly from country to country, but on close examination we find just as great difference in the individual countries, due to racial, social and climatic conditions. In Germany, Westphalia, with a surplus of 100,000 men, has a minimum of 3%, Bavaria, with a surplus of 110,000 women, 13.3%, and Berlin, with 82,000 more women than men, 20.9% illegitimate children. In Austria, Dalmatia, with its small peasant holdings, has 3.8%, Tirol, with conditions very similar to those in Bavaria, 6.9%, while Styria has 23% and in Carniola, where the proportion of men to women is like 1,000 to 1,099, we find a bastardy rate of 38%. In many of its counties more illegitimate than legitimate children are born. In both these provinces the estate is generally transferred to the oldest son, while the father is still alive. At his death the rest of the children get only a paltry sum. If they do not prefer to emigrate they continue to work as servants on the farm. Marriage is for economic reasons and others (surplus of women) impossible for many, but an illegitimate child finds enough to eat in the house, and later is a welcome addition to the scanty labor force. He does not suffer from social ostracism, but is considered one of the family. In Galacia the high rate of illegitimacy is due to the gradually disappearing Jewish custom of having religious marriage rites performed only by the rabbi; the children of such unions are considered illegitimate by the law.

Religious beliefs do not influence the rate of illegitimacy. Styria and Carniola are altogether Catholic countries like Ireland and Italy; Norway and Sweden Protestant states like England. It is quite likely that in Germanic countries old legal institutions which allowed the name of the father and the right of inheritance, to children of a betrothed couple, continue to live in the subconsciousness of the people. We find in Northern Germany rural districts where people keep company until a son is born to them. As he guarantees that the estate will remain in the man's family, marriage takes place, and all the children are legitimized. Before binding themselves for ever, Catholics and Protestants in the South of Germany find out by so called trial nights whether they are really suited for each other. The fact does not remain a secret, and public opinion is strong enough in rural districts and small towns to force men to assume their responsibility, if the girl begets a child.

The publicly professed, but privately very much disregarded standards of morality of the upper classes are not accepted by the masses. This practice continues among the immigrants, especially Germans, Poles and Scandinavians, and many social workers complain

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about the immorality of foreigners in America. Rural districts and metropolitan centers are, after all, not so very different in their sexual life, as Berlin, Vienna, Carniola and Mecklenburg prove.

### 4. *Illegitimate birth rate of cities:*

Berlin .....	20.9 among every hundred births
Madrid .....	18.7 among every hundred births
Vienna .....	30.2 among every hundred births
Paris .....	25.2 among every hundred births

More unmarried mothers are, of course, found in the cities, where many of them seek refuge, because there they are unknown, can more easily hide their condition or their shame, as some people will say, get work, and finally find institutions where they may be confined. City conditions are of course directly responsible for much illicit intercourse and its consequences. Most European cities contain a large garrison. A private or a non-commissioned officer cannot get married while serving his time, except by a special permit from his colonel, otherwise he violates the military law for which he is punished. In Austria a like restriction holds good for three-fourths of the commissioned officers. All over Europe officers and other governmental officials cannot marry if they are unable to prove that they have a certain income. A steadily increasing number of young working people of both sexes is attracted to the cities by higher wages, greater freedom and better opportunities for amusement and recreation. Different considerations, including the high cost of living, prevent many from marrying. The natural sexual instincts are strong and unrestrained, they are stimulated by isolation, loneliness, craving for companionship and love and often by the use of liquor. The intimacy resulting from the overcrowded quarters offers the opportunity. Forced by dire necessity to occupy a single room, parents frequently are compelled to have sexual relations in the presence of their children, sexual matters are discussed freely. Can it be wondered at that boys and girls go wrong at an early age?

In the great majority of cases we cannot consider parents of illegitimate children immoral or vicious elements, and it is quite proper to call many illegitimate children children of love. Many extremely young girls become mothers because they are absolutely ignorant in sexual matters. Preventive remedies are not widely known among the lower classes, with the exception of the French. It is a serious crime to advertise or sell them. As the risks are great, the prices charged are high. We see in some countries the decrease in the rate of marriages accompanied by an increase in illegitimacy.

5. *Increase in illegitimate births.*

	Germany.	Italy.
1906 .....	8.5%	....
1907 .....	8.7%	....
1908 .....	8.9%	4.9%
1909 .....	9 %	5.1%
1910 .....	9.1%	....

Most unmarried mothers are recruited from among the poorly paid and insufficiently protected industrial workers and domestics. The loneliness and lack of freedom of the latter all over Europe is pitiful. Long hours of work at low wages and abominable quarters is their lot. In Paris all servants live on the top floor of the big apartment houses under conditions of immorality and promiscuity, which have been admirably described by Paul Marguérite in his *Prostituée*. It is a miracle if a girl is not debauched after a few weeks stay in the capital. In Berlin servants sleep off the kitchen, or the toilet room, in a small, ill ventilated and often dark room, absolutely separated from the rest of the family. It is easy for the girls to either admit their lover during the night, or to go out to meet him. Many well-to-do families in Vienna let the servant sleep in the kitchen, the bed is placed during the day under the kitchen table. Domestics are not organized and the greed of the landlords and of the masters checks every effort of reformers.

6. *Dresden's unmarried mothers are:*

Factory workers, 37% ; servants, 32% ; waitresses, 11.3% ; clerks, 11.3% ; all others, 8.4% ; one-half of the girls are orphans. Only 8% of the mothers received more than \$12.50 a month. 35% are under 21 years of age. Of the above mentioned immoral young girls of Munich between 15 and 17, 44 are servants, 17 waitresses, 17 factory workers.

Except by some palliative measures of no importance, neither the governments, nor the churches, nor organized charity undertook to meet the problem of illegitimacy seriously, until Central Europe suddenly realized a few years ago, that its increase in population had either stopped entirely, or, at least, had become very small. Two causes contributed mainly to it: the decreasing birth rate, and a high, and to a large extent, preventable infant death rate, especially of bastard children. France, in spite of her being a country of immigration, showed a loss of 34,000 souls in 1911.

7. *Comparison between death rate of legitimate and illegitimate infants under one year:*



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Country.	Per Thousand		Year.
	Death Rate of Legitimate Infants.	Death Rate of Illegitimate Infants.	
Italy .....	16.6	23.2	1909
Austria .....	21.5	29.3	1896-1900
France .....	12.9	24.0	1896-1900
Belgium .....	15.1	23.6	1896-1900
Switzerland .....	13.0	22.4	1896-1900
Germany .....	15.2	25.2	1910
Prussia .....	14.8	26.9	1910
West Prussia .....	18.9	36.9	1910
Bavaria .....	20.2	27.6	1910

The high death rate of infants is mostly due to social, and therefore to controllable and preventable causes, namely the low standard of wages, and consequently low standard of life of the masses, who suffer especially under the high cost of living. Improper feeding, overcrowded housing, lack of parental care because the mother must go into the factory, in proletarian families with their overproduction of children are some of the chief consequences of this state of affairs. An overworked woman, who bears a child every other year, if not every year, cannot give much strength and health to her offspring.

By a generous and far reaching social legislation much has been accomplished in Germany and France to reduce the high infant mortality. Extremely valuable has been in both countries the cooperation of private agencies. While the death rate of infants could be reduced by proper social legislation and welfare work, it is impossible to legislate in order to increase the number of births. The causes of the decline of the birth rate were and are still studied by statesmen, physicians, social workers and the clergy. The latter blames the growing rationalism and the increasing disbelief for the decreasing legitimate and the high illegitimate birth rate. A more scientific study into the causes of the complicated phenomenon has, however, led to different conclusions:

A steadily growing army of men and women are on account of their employment condemned to celibacy. Therefore we notice in most European countries a decreasing marriage rate. The disproportion in the number of men to women caused especially by male emigration, and a disinclination on the part of the men to assume any responsibility in rearing, maintaining and educating children also influence the marriage rate. The whole standard of life is rising in Western Europe, and parents desire to facilitate the struggle for life for their children, hence a wilful restriction of their number. It has been proved for Bavaria, that where the highest number of savings bank books exist, the birth rate is smallest, and where people are thriftless more children are born. Bertillon furnishes the following statistics:

8. *Birth rate varies with wealth of parents:*

	Paris.	Berlin.
Very poor districts.....	14.3%	21.4%
Middle class .....	9.6%	17.2%
Very rich .....	6.5%	12.1%

Many women are afraid that motherhood might spoil their looks, or prevent them from assuming their place in society. Their husbands, dissatisfied naturally with their sexual life, seek real satisfaction outside the home, and, together with people forced to celibacy, increase the number of illegitimate children. The middle class imitates the example set by the upper classes, but the proletarians continue to propagate without any restriction. Physicians and social workers are generally in favor of a wiser regulation of the number of children, for a diminished birth rate gives a better chance of surviving to all the children born. An immense amount of physical and mental suffering as well as great economic waste, caused by providing and preparing for the coming child and paying for his funeral shortly afterwards, can be avoided by an artificial restriction of conception. Breast nursing of children further reduces the death rate, while at the same time it is supposed to retard another conception.

The general fertility of women is seriously affected by the spread of venereal diseases, and by the increase of women workers in factories and shops engaged in occupations harmful to them. Deterioration of the female organs, all kinds of women's diseases, and a general weakening of the whole system, as is revealed by many miscarriages, is the consequence. Women occupied in lead and quicksilver trades poison the child during pregnancy, and as a result, have either miscarriages or the child dies soon after birth.

The death rate of illegitimate children is increased by the impossibility of the mother to take any care of herself and her child during pregnancy; as a result, illegitimate children are often born too soon and cannot live, they are mostly underweight and of lower vitality than legitimate children. Lack of proper care after birth accelerates their death.

The figures of still born children show another serious danger to the issue of illegal unions.

9. *Stillborn legitimate and illegitimate children per 10,000 births.*

Countries.	1881 to 1890.		1900 to 1905.	
	Legitimate.	Illegitimate.	Legitimate.	Illegitimate.
France .....	42.4	78.8	42.8	69.4
Italy .....	33.7	44.8	42.0	56.4
Switzerland .....	37.4	62.1	34.0	58.0
Holland .....	47.7	62.1	40.0	73.2
Germany .....	30.2	43.3	29.7	41.2
Sweden .....	25.9	37.2	23.8	36.5

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All efforts to reduce the number of illegitimate still born children have been singularly unsuccessful. Italy and Holland show even a considerable increase in them. Their figures and those of France clearly indicate the indirect influence on stillbirths by an unjust bastardy legislation. As far as still births are unintentional they can be reduced by adequate factory and labor legislation for working women, especially pregnant women, and by an obligatory maternity insurance which provides medical aid and sick money in all confinement cases, as it exists in Italy. All women, married and unmarried, of child bearing age, i. e., between 17 and 45 or 50 years of age, earning less than a certain minimum, should have to contribute to it. A change in the social and legal status of illegitimate children would further beneficially influence the appalling rate of still births among unmarried mothers.

*Germany*—Out of 180,000 unmarried, or divorced mothers, who are each year confined in Germany, 100,000 are deserted at the crucial moment, or shortly before it, by the father of their child and by everyone else. In utter distress they must go to the maternity hospital. 80% of the unmarried mothers in Dresden went to the hospital just prior to confinement. These generally overcrowded lying-in places cannot care for the mother and her child for more than 10 days after confinement; a few fortunate women with their children are transferred from the hospital to convalescent homes, but the large majority have to look out for themselves when discharged from the ward. It is the policy of the lying-in homes of the Salvation Army, all over Europe, to keep mother and child in the house, until the indefatigable officers have found a place for the two. Quite a number of girl mothers are delivered in Catholic institutions. Immediately after birth the child is generally separated from the mother, to be reared in orphan asylums or by foster parents. The policy of Catholic institutions in the United States is to keep mother and child together as long as possible. Many of the girls, the so called "Magdalenes," continue to live in the institutions as workers and helpers. It is a blessing for society to be protected against their having more illegitimate children by this voluntary segregation, because a large number of the girls are mentally defective.

Germany's obligatory sick insurance provides for women in gainful occupations, whether married or not, in case of confinement, assistance by a midwife or a practitioner, and sick money for 8 weeks. The sick money is from one-half to three-fourths of the wages, but the expenses of getting ready for a baby are quite heavy. Therefore

the father of the child must contribute for these expenses, and maintain the mother for 6 weeks after confinement. In many cases it is impossible to locate the father at short notice, and other agencies, the public poor relief or private charitable societies must step in. As institutional care is the best way to check infant mortality, provided the mother or her family cannot properly care for the child, many illegitimate children are temporarily kept in institutions. When such a child has passed the critical period and is in good health, he is handed over to foster parents. Most of the unmarried mothers are greatly in need of disinterested advice and aid in their dealings with the father of their child.

Every large German city has either a free legal aid bureau of its own, or subsidizes a charitable institution which gives free advice to indigent people. Women's organizations have likewise taken up this activity. Their bureaus handle a great number of bastardy cases. Finally, the chief clerk of the court of guardianship and the professional guardians must give free advice and information about the legal proceedings an unmarried mother can take to force the father of her child to assume his responsibility. It might be said that none of these agencies is too eager to arrange marriages, because the results of such more or less forced matrimonies are, as a rule, not encouraging. Throughout Germany, Austria, Switzerland and the Rumanian countries about one-third of the illegitimate children are legitimized inside of 5 years after birth, mostly by the marriages of the mother, and not unfrequently by a man who is not their father. If a bastardy case is brought to the attention of either of the agencies, mentioned above, before the mother is confined, an effort is made to come to an understanding with the father in the hope of reaching a satisfactory settlement, which to be valid must be approved by the court of guardianship. This is an important factor for the development of the child, for his mother is relieved of much anxiety, and is able to take better care of herself. In Dresden fathers contributed toward maintenance of pregnant unmarried mothers in 29% of the cases. Many parents get married, or the father expresses his willingness to legitimize the child and to care for him and his mother. In any other cases the court is at once notified of the birth of an illegitimate child, and it takes immediate steps to have the putative father located and brought into court. The father may acknowledge his fatherhood, and promise to support the child, for which he must give security. If he denies his guilt, or contends that the mother had, at the probable time of conception, intercourse with other men, the case is regularly tried in court. If found guilty, he must pay for

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the support of the child according to the economic status of the mother. The sum varies. The courts of Berlin demand for children under 6 years of age \$90 a year; for older ones \$105. Frankfurt asks for the same \$75 and \$90, while rural Rothenburg is satisfied with \$20.

The father's wages can be attached, but a minimum must be left him for his maintenance. This varies from \$17.50 a month in Berlin to \$6 in Silesia. The problem of fatherhood for a well-to-do man is not the same as that for a common laborer. A rich man can easily afford to support several illegitimate children, while the financial situation of a poor man is seriously affected by having to pay for an illegitimate child. A rich man, unless he is afraid of scandal and settles the case outside of the court, cannot be forced to pay according to his means, because the economic condition of the mother is the determining factor. But in most cases both parents are poor. The court of guardianship appoints a guardian for every illegitimate child. The mother can serve as such under the supervision of the court. The local board of overseers of orphans is supposed to cooperate with the court in caring for the wards, but it is an altogether ineffective organization. It submits a list of reputable women and men to serve at the pleasure of the court without compensation. A woman can refuse the task without stating her reasons, but a man must say why he wishes to decline the honor. He cannot be forced to serve, but the city administration can disfranchise him temporarily, and can increase his rate of taxation. The guardian has rarely any interest in his ward, fulfills his duty often grudgingly, and does as little as possible. He must, on demand, report on the case to the court. The reports contain mostly negative facts. In case of recalcitrant guardians a fine can be imposed; the courts make, however, little use of this power.

The system of individual guardianship is a failure. A well known physician of Leipzig, Dr. Traube, suggested about ten years ago that the city administration should assume the professional or general guardianship, which was done. One official of the city is responsible for all the wards. He engages a number of well trained men and women as his assistants, who properly supervise the children, their bringing up, education and vocational training, and later their serving as apprentices with a decent master. The force gets an elementary training in law, and a sufficient salary to attract high class people into the service. As city officials they have a good deal of power and command respect, hence they are quite successful in their dealings with the fathers. Volunteer workers cooperate with the officials. The general or professional guardianship has been very effective, and is now embodied into law. At the option of the individual states or cities this system can be

adopted. Berlin introduced it in 1912. Each illegitimate birth is at once reported to the department of general guardianship, which in turn notifies the court of guardianship of the place of birth, the name of the mother and of the person who is willing to serve as guardian. The latter has in most cases already interested himself in the particular case; as a rule unmarried mothers are seen in the lying-in wards before confinement takes place. If the woman is confined at home, the next infant welfare station is notified, and they send a competent nurse. In this way most mothers receive all necessary care and information when they need it most. So far three professional guardians have been responsible for 3,100 wards, and only in 650 cases have they had to start suit against the putative father. Seven infant welfare stations supervise the children in their homes. During the first 6 months the child is visited twice a month by a nurse, and must be brought once a month to the station for a thorough medical examination. The guardian is kept informed about the results of the examination, and if the child needs additional help or is not properly cared for, he takes the necessary steps to relieve the situation with the help of the poor board, the police or the court of guardianship.

The introduction of the system of general guardianship in Dresden resulted during 1910 in making 1,209 fathers support their child for the first time, while before its introduction in 1907 only 137 had done so. In order to resist the pressure of the professional guardian, which was resented as unjust, a society for the protection of fathers of illegitimate children was formed in that city. It is true that in many cases considerable coercion is necessary.

The German code recognizes the right of the child to be supported by his father until he is 16 years of age. Only where the child is either mentally or physically deficient and not able to earn his living, the father or his heirs must support the child until his death. Unfortunately there are many avenues of escape. The responsibility of caring for the child rests in such cases with his mother alone, because it is a tenet of the German poor relief that one child can generally be taken care of by a woman's labor.

The father may leave the country. With only a few foreign governments treaties have been concluded which allow the arrest and civil prosecution of a fugitive father of an illegitimate child. Secondly he may go through bankruptcy procedure, by declaring under oath that he has no property nor other income besides his salary, which is only sufficient to keep him or his legitimate family. Many men are so mean as to work for very low wages simply because their hatred of the mother of their child is so strong that they do not care to support

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their child sufficiently. If a man does not work at all, the court can send him to the workhouse for a period not exceeding two years. While there, his earnings are used for the maintenance of his illegitimate child. The most expedient argument in court is that the mother was a prostitute, or that, at the time of probable conception, she had had intercourse with other men. In this case of *exceptio plurium concubentium* the German court cannot ascertain the real relationship of all men to the child, and the case must be dismissed. Only real fatherhood constitutes the basis for a claim of support in Germany.

The Austrian, Croatian, Slavonian, Swedish, Danish codes, and formerly the laws of the cantons of Uri and Baselland, do not admit of this *exceptio*. In Denmark all the mother's bedfellows are liable together. The one who is condemned by the court to support the child, can sue all others for contribution. In Austria a suit can be started against one of the putative fathers. If it can be proved to the satisfaction of the court that he had had intercourse with the mother, he is condemned to pay for the maintenance of the child. If he is not able to do so, it is not possible to sue any of the other bedfellows. Many criminal processes arise out of the *exceptio* in Germany. People will induce their friends to commit perjury; even temporary associations have been formed for the purpose of debauching women together, so that in case of a bastardy process several men could swear to have had sexual relations with the mother. Illegitimate children were well treated by the old Germanic laws. During the Middle Ages they were without any rights. After the reformation their legal status improved, until by the influence of French legislation a change for the worse took place.

The German illegitimate child has the name of his mother, belongs to her family, and has no right of inheritance from his father. The father may legitimize the child either by a formal act, without marriage, or by recognizing his fatherhood when he marries the mother. If the father is a married man, he must have the consent of his wife for the legitimation. As the law now allows women to adopt children, an unmarried mother could adopt her own illegitimate child. If the legal birth and baptism certificates could be modified so that by looking them over, it would not appear immediately that a person is of illegitimate origin, much unnecessary sorrow, mental anguish and suffering could be avoided. The adopted person, carrying the name of the adopting person, would start in life without the serious handicap, under which bastards suffer at present, and which frequently results in their moral breakdown, ending often in the penitentiary or in suicide.

Highly effective for the protection of all children, but especially those of illegitimate origin, are the German police regulations concerning the supervision of foster parents. Individual permits are issued to a family to care for one or two children only after a careful investigation of the people and the home surroundings has been made. The child or children must be regularly taken to a dispensary for examination by the district physician, and are seen at home by the visiting nurse and the officers charged with the supervision of all city wards. If a child is sent out of town, the local authorities must be notified, the latter at once inform the responsible agency in the new place so that the child is immediately placed under supervision in his new home. In this way baby farming with its terrible infant death rate has almost entirely disappeared.

Children's aid societies have recently begun to follow up advertisements in the daily press which offer illegitimate children with a dowry for adoption. The societies send to the given address a letter in which they offer their services as mediators. They ask to have all the answers submitted to them, and select from the offers the most suitable ones. These families are carefully investigated, and if found satisfactory an agreement of the following kind is proposed. Let us suppose that one thousand dollars is offered with the child. Three hundred and seventy-five dollars goes directly to the foster parents, with the interest on the remaining capital until the child is 14 years of age. At that time the foster parents receive \$375, while the rest is used to start the child in a decent trade. The society keeps the case under constant supervision, and counts quite naturally on the growing attachment between the foster parents and the child.

Berlin and other German cities have a detailed tariff for the placing out of children, varying with the age and the care the individual requires. Free municipal and private infant welfare stations, milk depots and day nurseries are most important cooperating agencies for the protection of illegitimate children, as no distinction is made in treating the cases of unmarried and married mothers who bring their children. In these places the children are bathed, weighed, examined, and the mothers are advised as to feeding and caring for their offspring. Breast nursing is encouraged. To help mothers who claim they cannot afford to lose their wages, and therefore want to wean their children and resume work, many cities give nursing money for several months or at least free milk. A few cities have established regular funds to which any woman may contribute. If she is confined after having been a member for 10 months, she receives a subsidy and later nursing money, if she has nursed her child for three



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months or longer, without regard to whether she is married or not. Berlin pays \$20,000 a year for nursing premiums, Leipzig and other cities pay midwives a large bonus, if they are especially successful in persuading mothers to suckle their children. Leipzig has developed another institution which ought to be imitated elsewhere. In five polyclinics, open day and night, baskets are kept which contain the necessary, sterilized linen for the first needs of a lying-in woman and her child. If a midwife or a practitioner send a call by telephone, a basket is at once taken to the house. Very poor patients are allowed to keep permanently some of the contents. The city subsidizes this undertaking.

As a result of the activity of the cities, we notice a general lowering of the death rate of legitimate and illegitimate children.

### 10. *Reducing infant mortality by proper care.*

Infant Death Rate.		Legitimate, Per 1,000.	Illegitimate, Per 1,000.
1900	Freiburg .....	20.9	48.3
1905	Freiburg .....	15.4	26.9
1910	Freiburg .....	10.6	12.9
1881	Koenigsberg .....	24.4	53.6
1905	Koenigsberg .....	18.9	34.4

Reducing the death rate of illegitimate children does, however, not help the survivors in their struggle for life. The military registers show that their disadvantages are enormous. In a military recruiting district, examined by Dr. O. Spann, 660 boys out of 1,000 legitimately born reached the age of 20, and 50.2% or 332 of them came up to the required standard. Of 1,000 illegitimately born boys only 181 reached their twentieth year, and only 83 or 46.4% of them were acceptable. It is the duty of society to remove as far as possible the disadvantages and discrimination doled out to these children. Besides the elementary and vocational training, the necessities of life must be provided; sufficient nourishment and decent housing must be supplied to give the children a chance. Fifty years ago a congress of German jurists declared itself against the prosecution of a bastard father for support of his child. At the present day everybody believes in it. While waiting for legislative changes which undoubtedly will come some day, German governments, municipalities and private charitable agencies can take steps to insure a better general protection for illegitimate children. The growing tendency to centralize the municipal child helping agencies in one responsible city department with great discretionary power is a step in the right direction.

*The Code Napoleon.*—Napoleon's civil code must be blamed for the criminally unjust prohibition *la recherche de la paternité est in-*

*terdite*, which kept the mother from suing the father of a bastard for support of the child in those European countries on which the code was forced at the beginning of the 19th century. The emperor said himself, "society has no interest in the recognition of illegitimate children."

A French law of 1556 made it compulsory for widows and unmarried girls to declare their pregnancy; a similar law existed in some cantons of Switzerland until the end of the 19th century. Having made the declaration, a mother could sue the father of her child for support. *Creditur vergini dicenti se praegnantem esse ex uliquo*. If by witness or by letters it could be proved to the satisfaction of the judges that the two had had intercourse during the probable time of conception, the father was condemned to pay for the expenses of confinement and to support his child. Legitimation was a simple matter. The father either declared his fatherhood at the time of birth or gave his name to the child. Marriage with the mother had the same effect. A royal decree would legitimize a child also.

The possibility of suing the father led undoubtedly to blackmailing, which became such a nuisance that at the time of the revolution the old bastardy process was abolished by general, if not unanimous consent "to protect the young men against exploitation by immoral women." Only voluntary recognition procured for the child the right of being supported by his father. These provisions were embodied in the code Napoléon, though quite a number of men protested against it. No legal relationship existed between the child and his parents, except if he was recognized. The child had the name and rank of the acknowledging parent and was under his parental power. Both parents could acknowledge the child by an official act. The mother could be compelled to do so, while action against the father could be taken only in case of abduction, rape or seduction of a minor; a plain incident of legislative discrimination in favor of men. Issues of adultery and incest could not be recognized. Every illegitimate child needed a guardian, appointed by the local justice of the peace. The family council, which assisted the guardian, when an orphan owned property, was here replaced by a council of six decent citizens. The unmarried mother and her child were by this legislation absolutely unprotected and, as a consequence, criminal abortions, child murder and abandonment increased at a fearful rate. To prevent these evils, a law of 1811 introduced the revolving cradle towers, *les tours*. A mother could deposit her child unseen by others at night. The ringing of a bell would announce to the sisters in the hospital that a child had been abandoned, whereupon the cradle was turned

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around. A medal for identification was immediately placed around the neck of the child, and he was cared for at the hospital, at least, temporarily. The number of children thus abandoned grew immensely. Many dead children, or those in a dying condition were left in the cradles. A large percentage became infected and died subsequently.

After 1862 the cradle towers were abolished. The abuses had become intolerable. Agents went around to the midwives daily to carry abandoned babies to the towers, for which they were well paid. The mortality of these children was in the department of Seine, *inferieure*, 93.2%, 1858. Children had now to be taken to the institutions either by the mother or a relative with a birth certificate. The public poor relief made inquiries about the family conditions in the hope of making it possible for mother and child to stay together if properly and sufficiently assisted. In Paris and other large centers children were always received without any investigation or questioning in order to prevent exposure or murder. The law of 1904 introduced this policy for the whole state by establishing the so-called *bureau ouvert*, whose receiving agents were mostly trustworthy women. A mother who goes to a lying-in hospital, is not obliged to divulge her personal history. She must deposit, however, with the management of the institution a sealed envelope containing this information. When discharged, the envelope is returned to her unopened. The state guarantees absolute secrecy, no investigation is made. Some people contend that, by providing in this way for the confinement of unmarried mothers, society encourages them to have more illegitimate children, though it really simply prevents crimes which threaten the born and unborn children. Moreover, are we sure that motherhood is so sweet to women, who frequently can not care for their children, that they should forget the hours of pain connected with it?

We find in France comparatively more maternity wards and lying-in homes than in Germany. Private societies maintain a number of them for the exclusive use of girl mothers. After confinement mother and child are often transferred to a convalescent home or to a so-called *pouponnière*, where the mother is obliged to nurse a second child, for which she receives good pay.

Quite a number of infants are left at the hospital, where they are cared for until they weigh 11 pounds, or, if sick, until they are in good physical condition. They are afterwards given out to foster parents where, during the first months, they are examined weekly by a physician. The mother can only, in exceptional cases, be informed

as to where her child is, but she is entitled to regular information about his well being. When 13 years old the child learns a trade, or is placed out as a domestic. When 15, he is generally able to earn his living. France was forced by public opinion to imitate the German system of general guardianship. The prefect of each department has supervision over all the children cared for by public agencies. The costs of the service are so divided that the city of birth contributes one-fifth and the remaining four-fifths are equally shared by the province and the state.

The law Roussel forbids a woman to act as a wet nurse until her own child is seven months old, unless she has enough milk for two. She may, however, place her child with a trustworthy woman, who is under strict state supervision. This is the practice in Normandy and Brittany, which furnish most of the picturesque nurses one sees in Paris. As a natural consequence, both these provinces show an immense death rate of bottle fed babies.

If a baby is sent out of town, the mother must notify the police at once, so that the child can profit from the infant welfare work in his new home. Breast feeding is encouraged by the state, the municipalities and private charitable societies. It is well remembered in Paris that during the siege of 1870-71, infant mortality showed a wonderful decrease, because mothers were obliged to suckle their babies, cow's milk not being obtainable. Pure milk delivery stations, owned, run or at least controlled by the municipality, are found in most cities. Great pains are taken not to furnish baby milk to mothers who are able to nurse their children. It is customary to charge more than cost price to well-to-do people, the poor get it at cost, the indigent free. Unique institutions are *l'oeuvre du lait maternel et les cantines maternelles* in Paris and Lyons. Any woman with a nursling can get free meals there, if she consents to have her child examined by the physicians, and follows the advice given by him. For home uses the mothers are provided with sterilized milk. Many mothers object unfortunately even to this mild form of coercion.

On the eighth day of November, 1912, the law regarding illegitimate children was amended, and at once their situation was revolutionized in France. An unmarried mother can now sue the putative father for support of her child in case of rape, seduction by a promise of marriage, or abuse of authority, or if evidence can be produced by letter or sworn testimony that the father had had sexual intercourse with the mother at the probable time of conception. The *exceptio plurius concubentium* is unfortunately admitted. The

mother must start suit inside of two years after confinement. When a child becomes of age he has one year during which he can start recognition proceedings against his father. Heavy penalties threaten blackmailers. A philanthropic French review expressed the hope that this new law will favorably react on the birth rate, but failed to mention whether it meant that of legitimate or illegitimate children. -

Civil codes, which are based on 340 Code Napoléon, will have to follow the French example. This is especially true in Italy, which adopted the French principle in her code after unification. Excepting the territory of the former kingdom of the two Sicilies in which the Code Napoléon had never been abolished, the other Italian states reintroduced their old codes after the downfall of the emperor. The pontifical law of the *Sacra Rota Romana* allowed the prosecution for support in case of notorious relations and the man's confession. The law of Piedmont allowed a claim for support where written proof existed or where the child had been treated as legitimate. The Tuscan code contained similar provisions.

As the new Italian civil code does not admit a suit for the support of the child except in case of rape, society is obliged to care for most of the illegitimately born children, abandoned *esposti* by their mothers. Children abandoned in cradle towers, *ruota* or *buca di trovatelli*, which are still found in Italy, Spain and Portugal, are reared in Italy in a *brefotropio*, or orphan asylum. In five years, from 1902 to 1906, 22,743 living and 494 dead children were taken out of the cradles. Their vitality is generally very low. The Santa Casa dell '*Annunciata* in Naples received in 1895, 856 infants, of whom only 3 were still alive in 1896. The scandal was enormous. Public opinion demanded and obtained reforms, but the mortality of *esposti* is still 37% for the whole kingdom and 50.7% in Calabria. The new children's code abolishes the *ruota*.

At the present day many of the surviving illegitimate children have a better chance to become decent citizens in Italy, than the legitimate children of the poor. The state educates them in well kept institutions, generally old monasteries, where they receive a fair education. At 12 they learn a trade, and at 15, when they leave the school, they are skilled apprentices, commanding good wages. A few private institutions, like the *Asilo Mariuccia* in Milan, are doing splendid work for unmarried mothers and their girls. A bill is pending in Parliament which would allow the suing of the father for support where the parents have been living together as a married couple during the probable time of conception. The new code introduces the excellent system of general guardianship for all illegiti-

mate children. Suit for legitimation of an illegitimate child is possible in Spain if a well authenticated document can be produced from which paternity can be adduced, and if the child has been actually treated as a legitimate in the father's household. When the father of an illegitimate child dies without any legitimate issue, his legitimized child is entitled to one-third of the inheritance. A father may legitimize his child at any time, as well as in his last will, which provision he can not revoke. Rape, seduction of a minor, and abuse of authority are grounds for starting suits for support of the child against the father. Living as a married couple constitutes *prima facie* evidence in Portugal, also the seduction of the mother by a promise of marriage. In Russian Poland, which is still under the Code Napoléon, civil and criminal proceedings can be started against a man guilty of kidnapping, rape, or procuring the consent of the woman by a promise of marriage.

Belgium allows the mother to start a suit in the name of her child, while she is entitled to be reimbursed for her confinement expenses and for her maintenance for four weeks after it. Confession of fatherhood, continuous and notorious relations, seduction of the mother by a promise of marriage, deceit or misuse of authority are the only admitted causes for taking proceedings. Of the 12,000 illegitimate children, born in Belgium in 1907, 7,800 were legitimized by subsequent marriage, and for 3,800 support was paid by the father soon after birth. Belgium knows of four different classes of illegitimate children. Those who are legitimized and have their father's name, issues of adultery who cannot be legitimized, children who can sue their father for support, and those who have no legal claims against him. Belgium has absolutely no provision for the supervision of boarded out children. Holland and Switzerland distinguish between legitimized children, issues of adultery or incest who cannot be legitimized, and all others who have a right to sue the putative father.

*All other countries.*—Until January 1st, 1912, a large part of Switzerland was under the civil Code of Napoleon. The cantons of Wallis and Appenzell allowed all illegitimate children the name of the father and Zurich only those of an engaged couple. The new code holds the father liable for support of the child until he is 18 years of age. The father or the grandfather may recognize an illegitimate child also in his will, which cannot be annulled. If the father got the consent of the woman by a promise of marriage, by force or by abuse of his authority, he can be obliged to legitimize the child, except in case of a married man, and to pay damages to

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the mother. The child has in this case his father's name and his citizenship, is educated according to his father's social and economic position, and enjoys the same rights as legitimate children. The suit can be brought before confinement takes place; it must be started at the latest within a year of it. No agreement between the father and the mother is valid until it is approved by the court of guardianship. The system of general guardianship is making rapid progress. It has a most beneficial effect in making fathers contribute regularly for maintenance of the child. Unmarried mother gets at once legal adviser, later a guardian is appointed by the court. Roumania and Russia allow suit for support of the child in case the woman's consent was got by a promise of marriage. Russia's laws discriminated, until very recently, in a most unjust way against illegitimate children. Custom and inborn inertia are very slow to overcome the prejudiced official attitude. The children belonged neither to the father's nor the mother's family. They were barred from high schools and universities, nor could they ever become government officials. Their unfortunate origin was clearly mentioned on the passport, which follows each Russian from the cradle to the grave. Members of the aristocracy were not allowed to legitimize an illegitimate child, all other classes could do so by petitioning the court. Illegitimate children were legitimized, however, by a subsequent marriage of their parents. The new law is said to be very radical. It is supposed to give illegitimate children practically the same rights legitimate children have. The father must support them according to his economic status. The children may attend high schools and universities, and can become governmental officials, the dream of many Russians. At the death of the father they have the right of inheritance.

In the Russian Baltic provinces, and in Sweden, according to old Germanic law, the seducer, if he promised marriage, can be forced to choose between marrying the woman, or giving her adequate damages or a dowry; if she was his bride she can demand marriage. If the man does not marry her, the court declares her the divorced wife of the man. All children of engaged couples or of a woman who consented under a promise of marriage, are considered legitimate, if parents marry later. The relations of the couple before marriage takes place are recognized as *quasi marriage* "*sponsalia le praesenti*." Legitimation by imperial order is likewise possible. In Sweden the illegitimate child inherits from his mother's estate, if he was properly registered in the church register. The wealth of the father is considered by the courts, when the question of the cost of maintenance of the child is discussed and decided. This applies likewise to the Baltic Provinces, Den-

mark, Finland and Norway. In all these countries children of a couple whose engagement was announced in church or before witnesses, are considered legitimate. The father can provide in his will for his illegitimate child, but his legitimate children are entitled to their legal share. Subsequent marriages of the parents legitimatizes the child in Denmark. Here the father must contribute three-fifths for the maintenance of his illegitimate child. About the collective responsibility of a group of men I have already spoken. The father is prevented from leaving the country until he has put up security for the continuous payment of his dues.

The Austrian civil code, which is likewise in force in Slavonia and Croatia, knows legitimation only by subsequent marriage; in very few instances, by an imperial decree. The Austrian law expressly says that, on account of the illegitimate birth, a person shall not be discriminated against. The child is entitled to support according to his father's means. The average amount is \$40. Quite a number of Austrian women in the United States receive each month a foreign money order for the maintenance of illegitimately born children. In case his father is killed by an industrial accident, the illegitimate child is entitled to a rent of 10% of man's wages, until he is 15 years old. Hungary has adopted a very wise measure for the protection of illegitimate and other neglected children. The mother and child are placed out together in peasant families at about four dollars a month. This seems little enough, but cash is hardly seen in the remote counties of Hungary, and even this pittance means a great deal to the peasant's household. Mother and child thrive in the country, and the state pays the bill.

A few words must be said about Great Britain. The English law is most unjust toward illegitimate children, as it does not allow adoption or legitimisation by the father. Only an act of parliament can make a bastard a legitimate child. The rule is "once a bastard, always a bastard." A child born an hour after the wedding is legitimate. The mother can summon the father to petty sessions within 12 months after confinement. If the court decides on the mother's oath and corroborative evidence against him, he must pay \$1.25 a week until the child is 16 years of age. Application for an affiliation order can be made before confinement. No agreement between the parents by which the father pays a sum of money in discharge of his liability, is valid without the consent of the court. The illegitimate child has only such rights as he can acquire himself. He is nobody's child, therefore cannot inherit from either parent. As the parish has eventually to assist the mother and child, it has the right of attaching the father's



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wages, and of suing the father for money due for the maintenance of the child. To reduce infant mortality, especially of illegitimate origin, English law demands that a person receiving children under 7 years of age for more than two days must notify the guardians inside of 48 hours. The name of the child, his birth day and birth place, and the address of the persons from whom he was received, must be reported. The guardians or their deputies must inspect these boarding places regularly.

Scotland allows legitimisation. The father must support the child according to his means. Proof that the man was familiar with the woman, is considered sufficient evidence of his fatherhood. Except in Scandinavian countries, and in Russia, the status of illegitimate children is entirely unsatisfactory in Europe. Most efforts of society tend to keep them alive after caring for the mothers inadequately during pregnancy and confinement. Children suffer for their parents' deeds. Even the clergy discriminates against them. They are not christened at the same time as legitimate children in some places. In some villages in the Ardennes the church bells are rung in honor of the birth of a child. The charges are sixty cents for a legitimate, \$1.00 for an illegitimate child. The ordeal begins in school. Especially in the high schools is the position of an illegitimate child far from pleasant. Children's cruelty knows of no limits. It is almost impossible for a fatherless child, should he have the means, to get a foothold in the higher professions. He has no social standing. During military service everybody knows of his mother's misfortune, and the man is frequently the target of very unpleasant jokes. It is well nigh impossible for illegitimate children to rise above the class of their mother, and marriage into a so-called decent family is impossible. If an illegitimate girl marries a higher governmental official, he is obliged to resign. To marry the mother of one's illegitimate children is a crime which society does not pardon. A very well known French statesman was considered a presidential possibility, until he married the mother of his children. Society had known his relations and his fatherhood, and always received him with due respect and courtesy, but when he legalized the position of his wife and children, he became impossible. Even non-commissioned officers in the German navy cannot advance, if they legitimize their children by marrying, while those who pay alimony, have an opportunity of advancement.

Social workers agree that the whole subject needs revising. They urge at least the following changes:

1. The father should contribute according to his economic means. J. H. Pestalozzi demanded it as early as 1778.

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2. The child ought to have his father's name and right of inheritance.

3. The official birth certificate ought to be issued in such a form that the fact of illegitimate origin does not appear.

4. No official discrimination should be made in public life between legitimate and illegitimate children.

5. As many illegitimate children are born because their mothers are absolutely ignorant in sexual matters, sex instruction should be given in the schools. The double standard of morality ought to be abandoned.

6. Abolish the *exceptio plurium concubentium*.

By introducing these changes illegitimate children and their mothers would be relieved of the burden under which they suffer at present. Their mothers could look towards the future in a more hopeful state of mind, which in turn would react favorably on their children.