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Legitimate and illegitimate infants in rural and urban areas

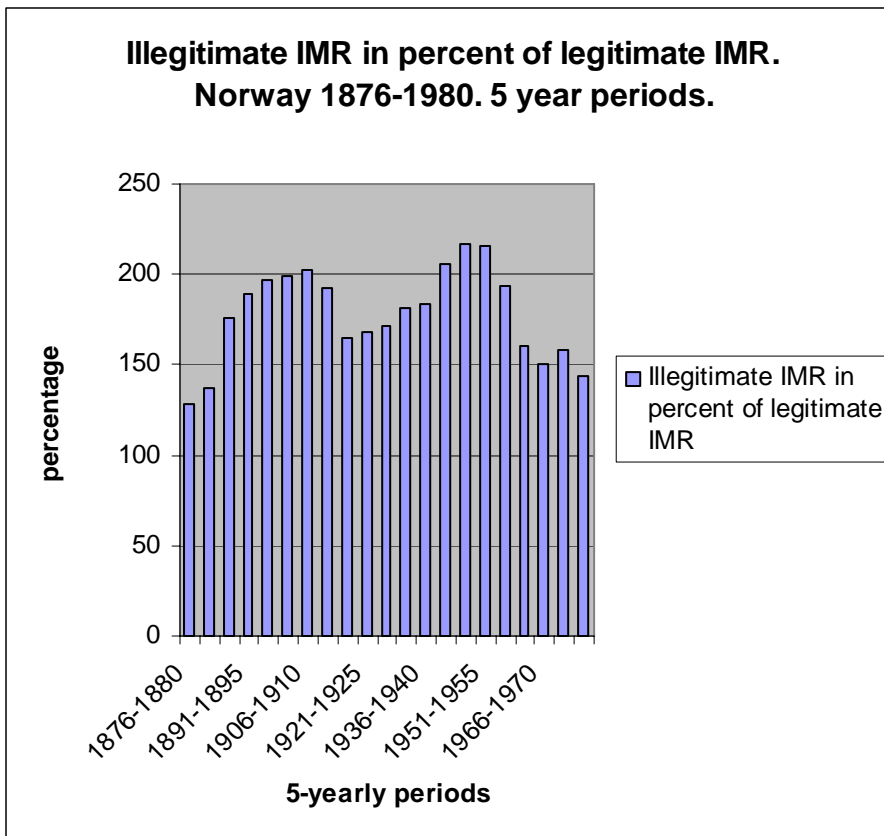
The title of my paper – a title I was given – does not include the word ‘mortality’. When infants are concerned, it is almost always about ‘infant mortality’. My focus, however, will be more on the *life* and not the *death* of infants. How do they come to be? Why do we sort infants into these two categories? Why this dualism between legitimate and illegitimate infants?

Infant mortality as such is regarded as an important indicator of the living standards of the population in general. Illegitimate infant mortality is an important indicator of women’s position in society.

Infant mortality in Norway was historically low, the lowest in Europe in the 19th century.¹ Norway has figures for national infant mortality back to the 1830s, when the rate was about 140 per thousand. At the end of the 19th century it was between 90 and 100. What about the Norwegian *illegitimate infant mortality* rate? Was that commendably low as well?

It is a universal observation that illegitimate infant mortality is significantly higher than legitimate infant mortality. When the national infant *mortality rate* in Norway is split according to legitimacy/illegitimacy – which can be done from 1876 – we find the same as is found everywhere else, there is a clear difference between the two rates, and to the detriment of the illegitimately born infants. From the last quarter of the 19th century the illegitimate infant mortality rate was regularly one and a half to twice the level of the legitimate mortality rate. (FIGURE 1).

FIGURE 1

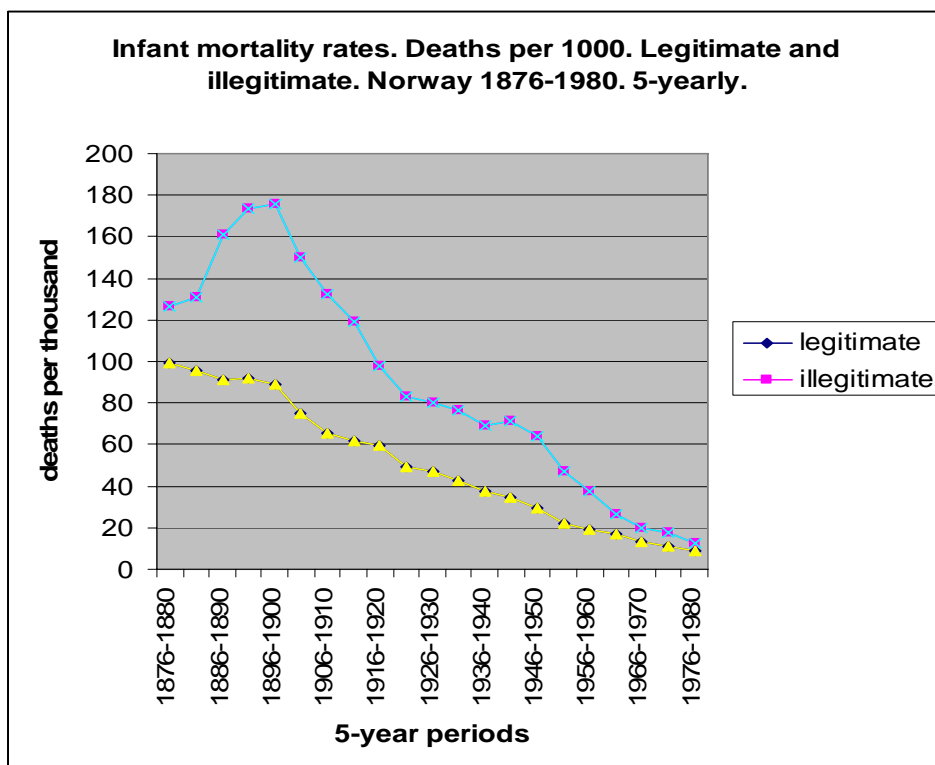


NOS XII 245. *Historisk statistikk 1968*. SSB. Oslo 1969.

One difficult period stands out: the late 19th century. Both rates go consistently down from around 1900, but the illegitimate IMR decreases more slowly and even has a little upturn during the Second World War (FIGURE 2).

FIGURE 2

ⁱ Julie E. Backer, *Trend of Mortality and Causes of Death in Norway 1856-1955*, Oslo 1961.



Source: NOS C 188. *Historical Statistics 1994*. Oslo-Kongsvinger 1995. Table 3.21, p. 85.

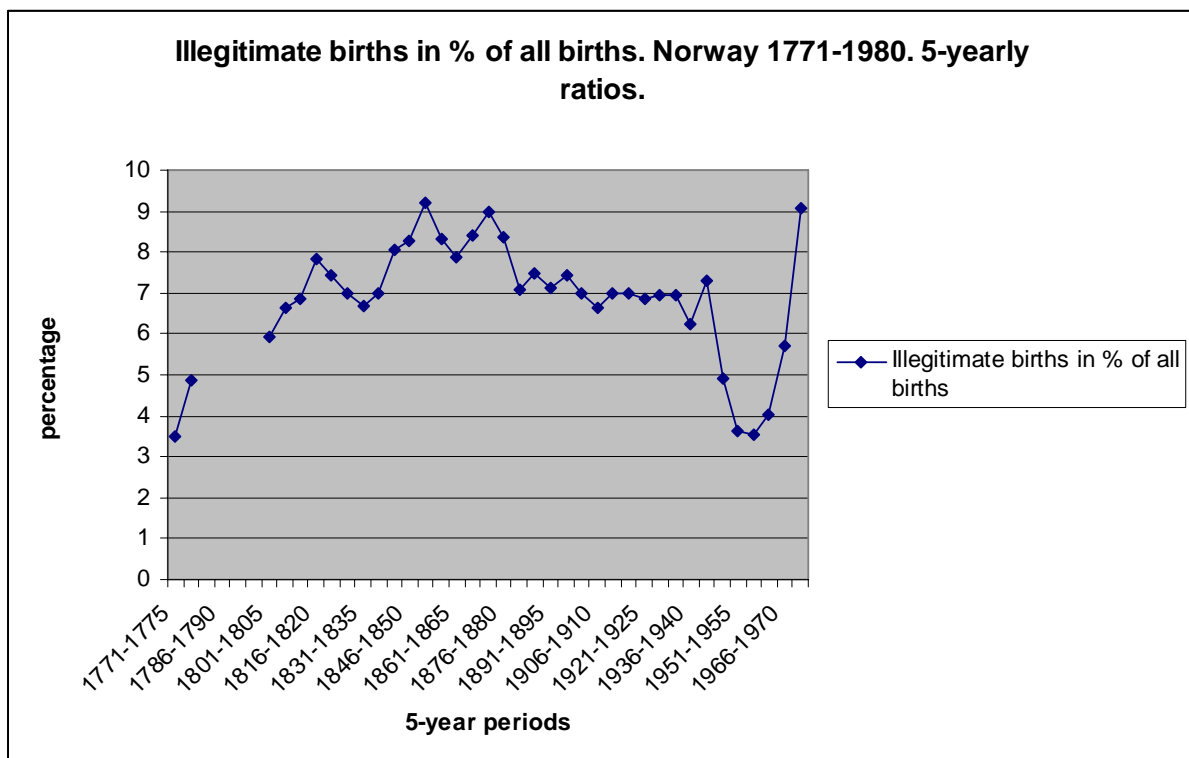
Basis for Figure 2: Legitimate and illegitimate IMR 1876-1980. Norway.

	Legitimate IMR	Illegitimate IMR	Illeg. IMR in % of legitimate IMR
1876-1880	98,9	126,3	128
1881-1885	95,8	131	137
1886-1890	91,2	160,7	176
1891-1895	91,7	173,8	189
1896-1900	89,2	175,8	197
1901-1905	75,3	149,8	199
1906-1910	65,4	132,4	202
1911-1915	62,1	119,4	192
1916-1920	59,2	97,9	165
1921-1925	49,4	82,8	168
1926-1930	47,2	80,5	171
1931-1935	42,5	76,8	181

1936-			
1940	37,4	68,8	184
1941-			
1945	34,5	71,2	206
1946-			
1950	29,4	63,7	217
1951-			
1955	21,7	46,9	216
1956-			
1960	19,2	37,3	194
1961-			
1965	16,7	26,8	160
1966-			
1970	13,5	20,2	150
1971-			
1975	11,1	17,5	158
1976-			
1980	8,6	12,4	144

We shall take a special interest in the late 19th century rise of the illegitimate IMR. The figure shows that the preceding period seems to be the period when the discrepancy between the two rates was at its lowest (128: 100). And the long term trend for illegitimate *fertility* soars in this period, reaching maximum levels: 9 % of all births were illegitimate 1871-1875, a level not reached again until unmarried cohabitation became the vogue a century later. (FIGURE 3).

FIGURE 3



Basis for Figure 3: NORWAY. Total number of live births 1771-1980. Proportion illegitimate births of total. Illegitimacy ratio.

	total	illegitimate		% ille
1771-1775	107997	3791	1771-1775	3,51
1776-1780	116627	5672	1776-1780	4,86
1781-1785		n.i.	1781-1785	
1786-1790		n.i.	1786-1790	
1791-1795		n.i.	1791-1795	
1796-1800		n.i.	1796-1800	
1801-1805	125231	7438	1801-1805	5,94
1806-1810	121252	8066	1806-1810	6,65
1811-1815	122276	8380	1811-1815	6,85
1816-1820	154507	12136	1816-1820	7,85
1821-1825	170654	12674	1821-1825	7,43
1826-1830	179898	12614	1826-1830	7,01
1831-1835	181363	12111	1831-1835	6,68
1836-1840	171623	12012	1836-1840	7
1841-1845	195401	15731	1841-1845	8,05
1846-1850	210887	17479	1846-1850	8,29
1851-1855	234491	21570	1851-1855	9,2
1856-1860	257810	21490	1856-1860	8,34
1861-1865	262738	20657	1861-1865	7,86
1866-1870	257248	21639	1866-1870	8,41
1871-1875	268619	24186	1871-1875	9
1876-1880	295903	24800	1876-1880	8,38
1881-1885	298230	21085	1881-1885	7,07
1886-1890	301903	22587	1886-1890	7,48

1891-1895	307864	21922	1891-1895	7,12
1896-1900	325710	24246	1896-1900	7,44
1901-1905	326011	22792	1901-1905	6,99
1906-1910	309889	20629	1906-1910	6,65
1911-1915	305516	21337	1911-1915	6,98
1916-1920	317369	22179	1916-1920	6,98
1921-1925	301336	20631	1921-1925	6,84
1926-1930	250435	17425	1926-1930	6,95
1931-1935	216708	15055	1931-1935	6,94
1936-1940	225913	14113	1936-1940	6,24
1941-1945	280334	20488	1941-1945	7,3
1946-1950	329432	16166	1946-1950	4,9
1951-1955	312390	11408	1951-1955	3,65
1956-1960	315104	11245	1956-1960	3,56
1961-1965	319946	12949	1961-1965	4,04
1966-1970	333487	19078	1966-1970	5,72
1971-1975	306966	27750	1971-1975	9,05
1976-1980	258719	31998	1976-1980	12,37

Source: NOS C 188. *Historical Statistics 1994*. Oslo-Kongsvinger 1995.

After 1980 these series of figures are no longer presented by Statistics Norway. Unformalized cohabitation is now as common as legal marriage. In 1993 45 percent of *all* births were births outside of marriage, but this does not inform us about how many infants live with a father as well as with a mother. There is no longer such a phenomenon as an illegitimate infant. It has become history.

The statistics indicate that the late 19th century was a crucial period for our theme, a turning point. It was a period of heavy urbanisation, industrialization, outmigration, political re-orientation. Not least important, it was a period of changing norms. Traditional, centuries old norms were being challenged by new life styles. After the turn of the century fertility in general started a downward trend. The same was true of illegitimate infant mortality, but more slowly and only after a pronounced increase. The two rates did not come together until

fairly recently. To be born out of wedlock has been risky all along.

Contemporary society in the second half of the 19th century was not ignorant of what was going on. It caused much concern. A special study was undertaken by the Central Bureau of Statistics, in 1906 at the instigation by the Department of Justice.ⁱⁱ Information on the living conditions of illegitimate children was needed, with a view to reform the law concerning their legal status.ⁱⁱⁱ A questionnaire prepared by the Bureau was sent to all public medical practitioners in the country, as well as to all vicars.

My paper will tentatively explore insights from this report. I shall also make use of a history dissertation from 1985.^{iv}

I shall first discuss the situation in the late 19th century, the time when problems came to a head. Then I shall try to see the development from the historical long term perspective, drawing on what is known about the early modern period. Norms are slow to change. As often is pointed out, a *historical* explanation is frequently the most convincing. My contention will be that the root of the problem is the absence of the father as a responsible person, and the fact that public policy for a long time favoured this irresponsibility.

Illegitimate infant mortality

Even before entering this world, we find that there is a clear divide between being legitimate or illegitimate: illegitimate foetuses were seriously disadvantaged. *Stillborn rates* computed by decades 1866-1900 show that illegitimate infants had more than 50 per cent higher stillborn rates than legitimate infants.^v

In urban areas the situation was worse than in the rural areas. In the countryside,

ⁱⁱ N. Rygg, *Om Børn, fødte udenfor Ægteskab*, Chra 1907, preface.

ⁱⁱⁱ As we know, the famous Castbergske Barnelover were adopted by Parliament in 1915.

^{iv} Heidi Torstensen, *Ugifte mødre og barnefedre i Kristiania på 1800-tallet. Forskninger i forbindelse med fødsel, forpleining og forsørgelse av barn født på Fødselsstiftelsen*. Hovedoppgave i historie. Universitetet i Oslo 1985.

^v *Illegitimate still births in per cent of legitimate still births. 1866-1900. Norway.*

1866-75	159 percent
1876-85	154 percent
1886-90	143 percent
1891-95	165 percent
1896-1900	164 percent

Source: Rygg 1907, p. 30

stillborn infants counted 3.7 per cent of all births, in towns 4.7 per cent.^{vi} Venereal diseases were thought to be of importance in towns. In general, however, the mother's situation during pregnancy was considered crucial: deficient nourishment, bad living conditions, depressed state of mind, unhappy and distressed because of future shame. Unwed mothers-to be had less opportunity than married women to make allowances for their condition while working. Also, they might dress inappropriately – lacing themselves to hide their condition – or even resort to extreme physical exertions in an effort to provoke a miscarriage, even trying dangerous medicaments for the same purpose.

Conditions regarding actual infant mortality also differed between rural and urban areas. Figures for this were computed for the years 1891-1900. Illegitimate mortality rates in the 1890s were more than twice as high as legitimate infant mortality rates both in rural and urban areas. Also, urban illegitimate IMR was double its rural equivalent (Table 1). The problem as such must be seen as primarily an urban problem.

TABLE 1

**Illegitimate and legitimate infant mortality rate (IMR).
Rural and urban districts. NORWAY 1891-1900.**

	legitimate	illegitimate
Rural	57	131
Urban	113	250
% RURAL illegitimate IMR of rural legitimate IMR:		230
% URBAN illegitimate IMR of urban legitimate IMR:		221
% URBAN illegitimate IMR of RURAL illegitimate IMR:		191

Source: Rygg 1907, p. 33.

Exceptionally high illegitimate infant mortality rates are found in rural areas surrounding the big cities. Presumably this was due to illegitimate infants from the cities placed in foster homes in rural districts outside the cities, a question we shall return to.

Within cities the poorer classes had clearly higher legitimate infant mortality – ranging from 58 to 122 0/00, for the years 1902-04. The figures for Oslo show that illegitimate infant mortality was 192 per thousand. This was 3 times the level for legitimate infant mortality in the best parishes (Frogner and Fagerborg), twice the level for working

^{vi} Christiania had 4,8. Bergen 5,9.

class parishes (Sagene), and 50 % more than for the poorest districts (Gamlebyen, Vålerenga).^{vii}

Breastfeeding as an important determinant of infant mortality

Norway's low IMR was well known at the time. And nineteenth century researchers were in no doubt as to the reason for the positive situation: breast feeding was universally practiced, and should mother's milk be lacking, cow's milk was generally in good supply.^{viii}

Breast feeding was general and prolonged. Even *medieval* legislation was concerned with breast feeding: it was laid down that women should breast feed for no longer than two and a half years.^{ix} Professor F.C. Faye at the Maternity hospital in Christiania writes in 1866 that there is an old belief among women that they will not conceive as long as they are breast feeding.^x His own research into the subject led to a vast collection of data concerning breast feeding practices, post partum amenorrhoea, birth weights and infant mortality.

These data have been reanalysed in recent years, by i.a. Margit Rosenberg.^{xi} On the basis of 6.900 hospital records for live born babies in Oslo and Bergen 1860 –1930, she found that mortality was three times higher for non-breast fed babies than for breast fed babies.

For the period 1860-1984 data from three birth clinics have been looked into.^{xii} 90 % of the women breastfed for one week. Until 1890 more than 50 % of the mothers breastfed for 12 months, and as late as 1930 more than 50 % did so for 9 months. Until 1920 80 % of the mothers breastfed for minimum 3 months. Then there was a dramatic change. In the 1960s an all time low was reached: only 30 % breastfed for minimum 3 months. Married women carried on 1,5-3 months longer than unmarried, with greatest differences before 1920. Firstborns were breastfed for a somewhat shorter period than their younger siblings. Until World War II women from the lower social strata breastfed for the longest periods. Then this pattern was reversed. In the 1980s the figures had risen to 80 % for a period of at least 3 months. Today Norwegian women are on the top of the world's breast feeding list.

^{vii} Rygg 1907, p. 38

^{viii} Johannessen, op.cit. p. 8

^{ix} Borgartings kristenrett.

^x Faye, F.C. & H. Vogt, op.cit.,

^{xi} Margit Rosenberg, *On the relation between living conditions and variables linked to reproduction in Norway 1860-1984, Ph.d. thesis*, Oslo 1991.

What do we know about earlier periods? Family reconstitution studies going back to the beginning of the 18th century show long intergenetic intervals for farmers' and cottars' wives. Average intervals for non breast feeding mothers have been shown in international literature to be ca. 20 months. Average intervals in Norway are from 24 months to 48 months, varying a little with parity, and are good evidence of the postponement effect of breast feeding on the subsequent conception.

Were illegitimate infants breastfed?

We may safely assume breastfeeding to have been approximately universal. That is, universal for legitimate infants. What about illegitimate infants? Were they breastfed?

Already in the 18th century, in 1768, breastfeeding criminal women were given postponement for serving punishment until after the birth and after the weaning of the baby.^{xiii} A hundred years later, the beneficial influence of breastfeeding was universally accepted. The questionnaire sent out by the Central Bureau of Statistics to all public medical practitioners asked: "Can information be given regarding the causes of the greater mortality among illegitimate infants than among legitimate infants?" and the follow-up question concerns directly whether the mother breastfeeds her illegitimate child. There are three options regarding how to answer this question: "a little", "to some extent" or "mostly".^{xiv}

In 75 per cent of *rural* communities the answer is that *mothers "mostly" breastfeed*. Typical answers are: "The child stays one year with the mother and her parents, where it remains or goes with its mother into service" (Rakkestad), "If the child is placed as a foster child, this rarely happens before age 6 months" (Hedmark), "The mother gets poor relief in the first year if she is unable to support herself and the child, in order that she may breastfeed it" (Land), "Always breastfed by the mother, and for as long time as a legitimate child is breastfed" (Ål).

The opposite is true for *urban* and *suburban* communities, especially in or in the vicinity of the bigger cities. A typical answer from the district around Drammen: "Young women, domiciled in the district, breastfeed their children, but most of the children belong to women who are in domestic service in Kristiania or Drammen, and they give birth at home and then return to service". "Mothers domiciled in the district breastfeed their children for some weeks, whereafter they are placed in foster home so that the mother can go back into

^{xii} Knut Liestøl et al., "Breast-feeding practice in Norway 1860-1984", *J. biosoc. Sci.* 20, 45.

^{xiii} Cancelli Skrivelse 29.10.1768.

^{xiv} Op.cit. 49-53.

service, whereas the infants, imported from Kristiania and other places, are bottled from birth” (Moss medical district). “Rarely breastfed by the mother more than 2-3 weeks” (Bergen).

I want to at this point remind you that infant mortality in general in Europe was still very high around 1900. Even the Norwegian figures for illegitimate infant mortality – peaking at 176 in 1896-1900, however high as compared to Norwegian legitimate infant mortality, compare fairly well to many foreign figures: In 1896-1900 illegitimate infant mortality rate in Austria was 293 per 10000, in Prussia 354, in Saxony 365.^{xv}

The conclusion seems to be that even illegitimate children to some extent were breastfed for longer or shorter periods. But this was not the case for all of them. Their living conditions varied.

General living conditions, with focus on Christiania and fostering

The state-appointed physicians were also asked to report on the general *living conditions* for illegitimate children. In almost 70 per cent of the medical districts conditions are reported as good, and even among the remaining districts there are only a few that are reported as bad. In the rural districts in general the child is brought up by their *grandparents or by other relatives*. Even if the mother is in service elsewhere, she comes home to give birth, and leaves the infant behind when she returns to work.

In general, conditions in *urban areas* are less satisfactory. *Main reason for complaint is the conditions for placing the child in foster home*. The pay that mothers are able to give is in general so low that it restricts the choice, which may have fatal consequences and cause the child to be neglected. Explicitly, in Oslo in 1905 the Health control commission commenting on this aspect, points out that failure to pay may cause breach of contract with the consequence that the child has to be removed from a good foster home to an inferior one, which charges less.^{xvi} What resources the mother disposes is thus of eminent importance. Be it family or income.

The MA-thesis referred to above, dealt with conditions in the capital in the 19th century.^{xvii} This was a period of heavy growth for Oslo, the population tripled between 1845

^{xv} Rygg 2007, p. 46.

^{xvi} Rygg 1907, p. 62. A law of 1892 places the farming out of illegitimate children under age 6 ½ under the inspection of the health commissions (in existence since 1860).

^{xvii} Heidi Torstensen, *Ugifte mødre og barnefedre i Kristiania på 1800-tallet. Forskninger i forbindelse med*

and 1885. The census 1875 shows that more than half of the population were born outside the city. 14.3 per cent of all births were illegitimate 1876-85, i.e. twice the national level.

One third of the illegitimate children in Christiania were born at the University Maternity Hospital, where single mothers-to-be were welcomed as a valuable research population for the training of gynaecologists, obstetricians and midwives. 130 mothers with live born child children at the University Maternity Hospital between June 1, 1874 and May 30, 1875 have been traced 7-19 months after birth in the January 1, 1875 Census. 67 – or 52 per cent – have been retrieved. Inaccuracies in the sources, name problems etc. will account for some of the “missing links”, and some will be accounted for by regular out-migration – 80 % of these women were born outside of the city and may have returned home. What can be gleaned from the histories of the 67?

Occupation before and after: Of the 67 that can be retrieved, 53 or almost 80 % were domestic servants before having her illegitimate child.

55 % of domestic servants, factory girls and seamstresses continued in their old profession, whereas 16 % had changed occupation. 19 % were supported by family (husband, parents, siblings), 9 % had become prostitutes or were publicly supported.

What about the child? Had they been able to keep it? Only 12 of the 67 lived with their child. 5 had married the father of the child, 3 lived with family, 3 were lodgers, 1 was in hospital.^{xviii}

The conclusion drawn in this thesis is: Single mothers found it very problematic to keep their child with them, and those who did needed to a large extent help from family.^{xix}

fødsel, forpleining og forsørgelse av barn født på Fødselsstiftelsen. Hovedoppgave i historie. UiO 1985.

xviii

occupation before occupation after living conditions

Factory worker	factory worker	lodgers
Servant	factory worker	lodgers
Servant	cleaner	with her mother
Servant	“in hospital”	in hospital
Servant	prostitute	lodgers
Servant	none	with her parents
Seamstress	servant	with her sister

What happened to the other illegitimate children?

Placing the children in foster homes was official policy. A stenographic rendering of barrister Stang in a board meeting of Christiania Poor Relief goes like this:

“Regarding girls with illegitimate children, it is the endeavour of the Poor Relief to make the girls place their children in fostering and go into service themselves, as experience shows that this is the best remedy to avoid repetition [...] if she does not get any help from the child’s father, the girl needs some help from the Poor Relief, as her wages as a servant are too low to fully support a child; the help she gets is seriously restricted, however, so that she keeps only 8-10 dollars a year to dress for. It is the assumption that they shall have a serious burden for such wantonness.”^{xx}

Only 1 of the 55 children who did not live with their mother was retrieved within the borders of Kristiania!

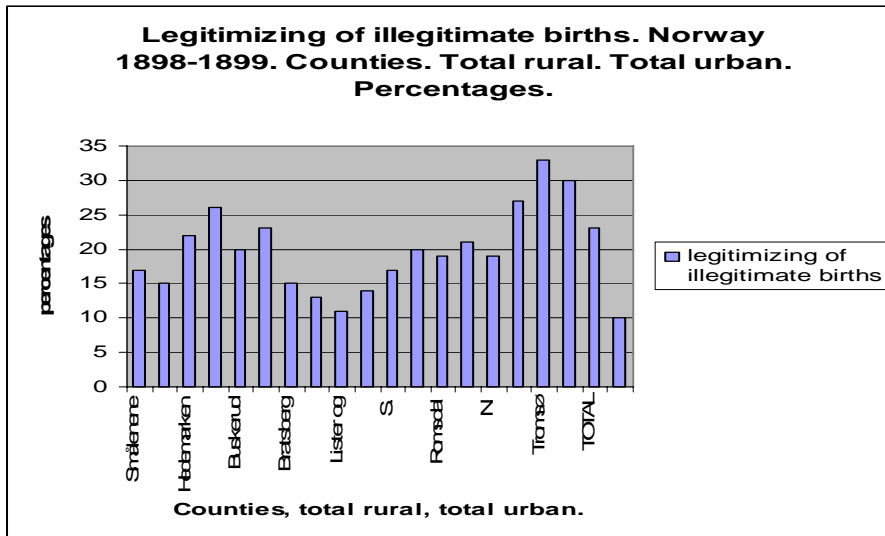
4 children and 5 mothers were found in the – at the time (in 1985) – only partially registrated Census for the neighbouring community of Aker, more or less the city suburbs. 2 of them were married. 1 of the single mothers had the child with her! Only 1 foster child was found. So in general, it is probable that these children were placed further away. The expense was no doubt less. Now when Digitalarkivet has made great parts of the 1875 census generally available on the internet, a new – geographically much wider – search may be undertaken!

Marriage with the father: In the city of Kristiania, 5 had married the father of the baby. This is about 7 per cent. This is a low figure for later legitimizing, when compared to the inquiry made in 1906: Statistics Norway asked all vicars in Norway to go through their parish registers and find out if parents of illegitimate children born in the years 1898 and 1899 had married later.

^{xix} Torstensen, p. 121.

^{xx} Advokat Stang, member of the Board of the Poor Relief in Christiania, stenographic minutes 1871. Here rendered from Heidi Torstensen, *Ugifte mødre og barnefedre i Kristiania på 1800-tallet. Forskninger i forbindelse med fødsel, forpleining og forsørgelse av barn født på Fødselsstiftelsen*. Hovedoppgave i historie. UiO 1985.

FIGURE 4



Basis for Figure 4: Legitimizing of illegitimate births. Norway 1898-99.

county	number	county	percentage
Smålenene	318	Smålenene	17
Akershus	320	Akershus	15
Hedemarken	671	Hedemarken	22
Kristians	441	Kristians	26
Buskerud	230	Buskerud	20
Jarlsberg og Larvik	175	Jarlsberg og Larvik	23
Bratsberg	156	Bratsberg	15
Nedenes	120	Nedenes	13
Lister og Mandal	63	Lister og Mandal	11
Stavanger	128	Stavanger	14
S. Bergenhus	223	S. Bergenhus	17
N. Bergenhus	189	N. Bergenhus	20
Romsdal	299	Romsdal	19
S. Trondhjem	654	S. Trondhjem	21
N. Trondhjem	362	N. Trondhjem	19
Nordland	689	Nordland	27
Tromsø	312	Tromsø	33
Finmarken	165	Finmarken	30
TOTAL RURAL	5515	TOTAL RURAL	23

Source: Rygg 2007.

Answers have been given from about 90 % of the parishes. For the whole country between one fifth and one fourth were legitimized. Great regional differences: For Troms and Finnmark almost one third, for Vest-Agder only about 1 out of 10. The same percentage is true for the cities, 1 out of 10. If the parents marry, they mostly did so place during the first couple of years after the birth.

So far – out of habit – we have concentrated on the mother. As a rule, the father is mostly absent in such studies, as it always seems to have been in real life. But it is fair to claim, as the European Community does today, that the newborn child has the right to support and care from the father as well as from the mother.^{xxi} They are the triad primarily concerned. This has not always been so. The dyad, mother and child, has been focused. And it is die-hard construction.

As an early modern historian I would like to argue that initially the father's role was more prominent then. Having sex outside of marriage, was regarded as a breach of promise if the man did not own up to his responsibility and married the woman. The man, ir unwilling, would be brought before the court, and either have to marry the mother of his child or pay her a recompense and restore her honour.^{xxii} Let us have a look at how things were during the preceding centuries:

Marriage and the law in the early modern period

In Norway in the middle ages marriage was a private contract, an agreement between the parent families of the young couple, with clear economic bindings. The new household was economically founded on contributions from either side, and land that women brought into marriage would return to her kin in case she bore no children in the marriage.

After the Reformation and the Marriage Ordinance of 1589 two ecclesiastical ceremonies were now required for a marriage to become legitimate, a formal betrothal before witnesses and a wedding. Being legitimate had important economic consequences for the child, as only legitimate children would inherit their father. Indeed, illegitimate children did not inherit their father until 1915, nor did they have the right to take their father's name.

^{xxi} One-sex couples' right to children is no concern here.

^{xxii} Kari Telste, *Mellom liv og lov. Kontroll av seksualitet i Ringerike og Hallingdal 1652.1710.*

The early modern state was religiously fundamentalistic. From about 1600 onwards, a series of decrees criminalized sexual offences. Having children outside of marriage was made a criminal offence and heavily fined. (Also being pregnant at the wedding, but with a reduced fine.) Public norms and social norms were brought into conflict.

From then on we are confronted with two types of crime, that are treated differently by the courts: unmarried persons having illicit sex, i.e. fornication or *leiermål*. Couples had had sex without being married also earlier, but it had been regarded as a breach of promise, called *møykrenking*, which means «offending a virgin». The sexual act itself is regarded as synonymous with a promise of marriage. It can be followed back in time to the national codex of 1274. It was repeatedly renewed. An offended virgin could take her case to court and sue a faithless lover for breach of promise. And she did. She would have her honour restored as well as a financial compensation which might come in handy when she went looking for a better husband.

The transition had come gradually. The new important national codex of 1687, Christian 5's Norwegian Law, gives the forewarning of what is to come. The concept «ill famed woman» is introduced. Such a woman cannot be regarded as an offended virgin. If the man denies, and she cannot prove him wrong, he can swear himself free, and she is fined as a liar because she is «displaying her shame and turning herself into a whore». It is a far cry from the offended virgin.

Women continued for some time to summon her unfaithful lover before the court. Cases of this kind were numerous before the courts until 1734, when they were no longer accepted, according to an ordinance of that year. From then on the crime of fornication is the most frequently committed crime by women. The clergy reported from the parish registers to the bailiff, and legal persecution was based on these lists.

Traditionally an unmarried pregnant woman could either expect marriage -- the sexual act constituting a promise of marriage -- or, if the man remonstrated, she could sue for breach of promise, with the probable outcome of having her honour restored as well as a remuneration, both of which would enhance her future marriage prospects. Now this line of action was no longer possible. The woman was punished and heavily fined, and had to undergo a ceremony in church for her public absolution. The man might go almost scotfree.

The formal as well as the real responsibility for the fornication crime was now totally laid at the door of the woman. Her honour could no longer be restored, which was quite fatal since women's honour was intimately tied to sexuality, far more so than for men. The

responsibility for the child became hers and hers alone -- and there is always a child in these cases, otherwise they are usually not raised. The father's economic responsibility for the child had to await the future (1763) to be legally upheld; in practice this has functioned badly till this day.

If the father of the illegitimate child was a soldier, which he very frequently was in the militarized state that was being built up from the seventeenth century onwards, the state supplied him with other legal loop holes to rid himself of the responsibility for the illegitimate child. In 1671 soldiers were being automatically pardoned from civil litigation for their first and second case of fornication, from 1696 limited to only first offences.

The importance of this legal provision can be seen when considering that the state from the middle of the seventeenth century is building up a military system based on what may be termed general conscription. The most recent research on the military history of the period claims that conscription in Norway without doubt was the most comprehensive in Europe. During the period 1650-1725 a military state was set afoot. Soldiers were being protected from commitments other than military. This led to control with the marriage of the soldiers, they could not marry without a written permit from their officer -- which pleased Malthus immensely when informed of it during his visit to Norway in 1799. Untimely court suits, family providing duties and impoverishing fines for soldiers were not popular in the army.

As the outcome of the state's normative intervention into the private lives of men and women in cases that naturally involve a person of each sex, we get an asymmetric judicial persecution. Women more and more appeared alone before the court or in church to take their punishment.

The very serious economic and social consequences of this development for women led eventually to changes in the legal system. Where king Christian 4 in the beginning of the seventeenth century had fought sorcery and vice in order that God should not punish his lands, the lawyers of the Enlightenment no longer saw the moral crime, only the economic consequences. In 1812 women were pardoned for their first and second offence, more than a century after men got off this particular hook.

The state building project of the seventeenth and eighteenth centuries had dire consequences for the relationship between men and women. The policy pursued by the state had, as I see it, contributed to disturb or worsen an earlier existing, be it precarious balance between the genders regarding sexuality and marriage -- at least if the woman did not have a family to support her in her claims. In theory the new laws made individual women legally

responsible in fornication suits, on a par with men. Practice, however, proved much more inimical to women. The position of the individual woman in her negotiation with her partner was undoubtedly seriously impaired through legal provisions introduced by the early modern state.

The long term impact on people's attitudes is hard to assess. When the humane ideas of the Enlightenment led to – around 1800 – that public reactions become less rigid, the idea of the woman as the responsible person was well established. Then concern for the child – the absolutely innocent party – was gradually awakened.

Female agency plays an important part in deciding matters of life and death of the infant born or the infant to be born. But her possibilities for action may be circumscribed. How things are sorted out between the parents is influenced by different institutions in society and prevailing norms. Society has, historically, been concerned with infants, directly or indirectly, from many different perspectives, such as: The Church: a religious-moral perspective. The State: concern for military, demographic, poverty, criminality aspects: It was a criminal offense to have an illegitimate child until 1812. Law of inheritance: a legal-economic perspective (transfer of property, inheritance). Medical profession: teaching hospitals, abortion, birth limitation, breast feeding. More recently: Women's rights concern. Still more recently: Men's rights again – modern fathers fighting for their offspring.

The nineteenth century

Norway after 1814 was gradually becoming a modern state, uprooting old habits.

In 1851 it was laid down what was from then on to be defined as an illegitimate infant: *A baby born before the marriage of its parents*. Their subsequent marriage, however, would automatically legitimize it. Until 1851 much of the definition power had been left to local vicars. From 1589 an infant was legitimate if the parents were betrothed. In 1799 public betrothal was abolished. A period of uncertainty ensued. In 1851 things were cleared up. Why was clarity important? For economic reasons, for one thing: The law on inheritance of July 31 1854 differentiates between several categories of illegitimate children: If both the parents are unmarried it is *slegfredebarn*, if one or both is married it is *horebarn*, if the parents are too closely related it is *blodskamsbarn*. The child would inherit its mother and its mother's kin if she was single, but not if she was guilty of adultery or incest. *No illegitimate child could inherit the father and his kin unless he had formally in court acknowledged the child and included it in his family ("lyse i Kuld og Kjøn")*. Even so it would inherit only half

as much as legitimate children, but as much as legitimate children if there were none. But if the illegitimate child was the outcome of an act of adultery or incest, no inheritance could be acquired through such a process.

The father was thus without legal familial bonds to the child. The child was left fully in the mother's care, according to a law in 1821.^{xxiii} His one and only duty towards the child was an annual contribution towards its support until age 15. If he denied being the father, and swore to it, he could be relieved of contributing. The law replaced an earlier – dormant – decree of October 14, 1763, according to which the father was obliged to contribute half of the costs of the upbringing of the child until it was 10 years of age. The father's contribution could now be forcibly collected, from 1851 under threat of incarceration.

And in any case the father was under no economic obligation towards the mother. Not until the law of July 6, 1892, did the father have to contribute towards the expenses in connection with the birth and the care of the mother during confinement. Otherwise the unwed mother was wholly dependent on her own resources for survival.

There was no automatism in the system of how to secure economic support for the child from the father. Even according to the law of 1821, the mother would herself have to take the legal initiative to make the father pay for the upbringing of the child. She had to make a formal request to the *bidragsfogd*, the official in charge of these specific contributions, to obtain a Resolution for child support (*Opfostringsresolution*). Only in one third of relevant cases was this done, according to information collected for two periods, 1860-64 and 1880-89.^{xxiv} And it seems that this was usually not done until it had developed into a case of poor relief, and the legal complaint was instigated by the Poverty commission. The women may have been ignorant of their rights, doubtful of the outcome of such a legal approach, entertaining hopes for marriage in spite of all. Some may even have been given some support privately by the father. In most cases, they will have had severe and increasing economic problems, which in turn must have had repercussions on the living conditions of the infant.

The official annual cost of an infant in a foster home in 1891 according to the Health Commission, was 144 NOK for 12 months. Could the mothers afford to pay this amount? How were her possibilities of keeping the child?

What was the situation of the single mothers? Most of them, it has been shown, were

^{xxiii} Should she fail in her duties, the father might be allowed to take care of it with the consent of the public authorities! *Lov angaaende Underholdningspenge for Børn som enten ere udenfor Ægteskab, eller hvis Forældre ere separerede*. 1. august 1821.

servant girls. Domestic service was the most important occupation for women until the Second World War. It was badly paid, and provided no independency for a single mother with child. Becoming pregnant while in service was legitimate cause for dismissal.

For a domestic servant in the capital it was next to impossible to have her child with her.^{xxv} Her lodging facilities and work obligations would not permit it. No such cases have been retrieved in the thesis referred to on domestic servants in Kristiania (Oslo). Annual wages for a domestic servant 1876-90 was 76-90 NOK, board and lodging excluded.

A father paying through the legal system, contributed 60-70 NOK for an infant for a year, allegedly half the cost. If the father did contribute his share, the mother might just be able to pay her half of the cost, at the skin of her teeth. Without it she was unable to.

Female industrial workers – spinners, weavers, match-workers – working 10-12 hours per day for an annual pay of 3-400 NOK could barely pay for food and lodging for herself, far less for keeping a baby in a fosterhome without support from the father.

Seamstresses, working at home, making approximately the same as the industrial workers might just barely manage to keep her infant.

Cf. the pathetic letter sent by a single mother to the *stiftamtman*:

Kristiania, August 10, 1875.

To the Prefect in Kristiania!

I take the liberty to most respectfully apply to the county that the upbringing contribution of 60 crowns annually that my child's father, salesman Nathaniel Johannesøn, by Resolution of July 16 this year has been sentenced to pay, be raised, as it is impossible for me by my own work to contribute what is necessary for my child's upbringing.

The provisioning of a child cannot be acquired for less than 16 crowns per month, and in addition it needs clothing etc.

My work, which is glove-sewing, a trade in which I am a beginner, brings in at most 1 crown per day, and hardly pays for living costs.

I request the high County to take my application under consideration,

Most respectfully,

Charlotte Samuelsen.

Address: Øvre Vollgade No. 7 A.

^{xxiv} Torstensen p. 84.

^{xxv} Torstensen, p. 88ff.

SAO. Bidragsfogden i Oslo, Underfogden i Kristiania. Here rendered from Heidi Torstensen, *Ugifte mødre og barnefedre i Kristiania på 1800-tallet. Forskninger i forbindelse med fødsel, forpleining og forsørgelse av barn født på Fødselsstiftelsen*. Hovedoppgave i historie. UiO 1985, p.103. My translation.

CONCLUSION

The urban illegitimacy figures are high at the end of the nineteenth century as young country women go into towns to earn their living as domestic servants. Unfamiliar with the lifestyle and the surroundings of urban society, and without close family support, they behave traditionally and get themselves “in a family way” but with little or no realistic expectancy of marriage. The drastic consequences lead to changes in the public view of these matters, and important law revisions are made in 1915.