

FOCUS



CONTRACEPTION AND CONFIDENTIALITY

The Court of Appeal ruling in favour of Victoria Gillick has come as a great shock to many people. There have been warnings of a change in the moral climate ever since the election of the Thatcher government; but the decision that it is illegal for doctors to give contraceptive or abortion advice and treatment to girls under 16 without parental consent represents the first major break in a consensus of the last two decades.

The ruling raises a number of important issues. To begin with there is the very practical issue of the health and welfare of girls under 16, and this should set the context for the moral and theoretical questions raised.

The DHSS guidelines under which doctors give advice in these matters were introduced in 1975 and they were far stricter than one would be led to believe; they say for example that doctors will 'proceed from the assumption that it would be most unusual to provide advice about contraception without parental consent'. The rate of pregnancy among 15 year olds had at that time risen to 11 per 1000 girls; after 1975 the rate dropped to below 10 per 1000.

It is hard to see how the number of pregnancies in girls under 16 won't now rise again. Indeed, one of the Appeal Court Justices said himself that the ruling could lead to increased pregnancies, abortions and even deaths. The reference to deaths is not a melodramatic one. Girls unable to obtain contraception and abortion advice will be forced into seeking back-street abortions. Those old enough to remember will know how dangerous and even fatal these can be. Or they will do what Ann Lovett did in Ireland last year - she was found dead with her dead

baby in the freezing cold of a graveyard, having delivered the baby herself, because she was too frightened to tell anyone she was pregnant.

The glaring inequality of the Gillick ruling is, of course, that it applies only to girls. Victoria Gillick specifically sought assurances that her *daughters* would not be given contraception or abortions without her consent. Her sons are apparently free to purchase condoms from their nearest chemist in complete independence.

It should be said that the issue of equal access to contraception is not a straightforward one. Many are concerned about the long-term effects on young girls of the pill. There is also concern at the possible exploitation of girls by their boyfriends - it is not unusual for girls to feel pressured into having sex when they may not be sure they want to. Nevertheless, denying contraception will not make refusal any easier; it will just make the consequences of their sexual activity greater. What is needed is far better sex education (what Gillick referred to as 'that rubbish'), and support for women's control over their own sexuality, with the back-up of adequate contraceptive advice and treatment, and access to safe abortions when needed.

The inequality of the Gillick ruling has to be kept clearly in mind when considering the issue of parental and children's rights. For if boys are exempted, then in reality the ruling is not a blow for the preservation of the family, with parental authority intact over all its offspring; it is the thin end of the wedge in perpetuating and extending the submission of females in the family and making them the sexual property of those who have authority over them. Thus Victoria Gillick's joy at this marvellous 'Christmas present for parents' has to be taken with a pinch of salt. It is a selective present indeed; it is being paid for

only by daughters. Parental rights are of course important, but so are children's; and a caring society would ensure that these rights were based on consent not coercion, on trust and education rather than oppression and fear.

The ruling will not make it any easier for unwilling parents or children to talk to each other. Indeed, doctors claim that under the now overturned DHSS guidelines, they were often able to persuade hitherto reluctant children to speak to their parents. This will no longer be possible.

The issue of confidentiality is also raised by the ruling. The British Medical Association is very concerned about this; but confidentiality is not only a matter of professional concern, but an important civil liberty for all of us. The Gillick ruling is a breach in the entitlement of both doctors and patients to medical confidentiality.

The DHSS has said it will appeal to the House of Lords against the ruling. There will certainly be a campaign to get the ruling overturned; many organisations, such as the BMA, the Royal College of Nursing, the Family Planning Association and Children's Legal Centre, as well as the Communist Party, were quick to condemn it. The National Abortion Campaign has already launched a petition and guidelines for action.¹ The majority of women are in favour of their daughters having access to contraception, and the support and action of women's groups will be essential; so will that of the TUC, whose backing helped in no small way to ensure the defeat of the Corrie Bill in 1979. Already calls are being made for a change in the law, especially if the appeal fails.

At the same time, however, there are moves to back the Gillick ruling. Tory backbench MPs have put down a motion saying that it would be wrong for the DHSS to challenge the ruling.

If the appeal is lost, it will be no comfort to us to know that we are in the majority, or that this break in the consensus on morality has only come about through an individual using the law. It will mean that life will be harder for thousands of under 16 year old girls, and just as importantly, that the clock has started to be turned back on women's sexual freedom.

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