

Practice Direction No. 2 of 1999

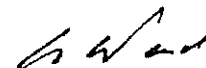
DIVORCE PROCEEDINGS

A number of cases have come to light recently where the petition omits to mention a child or children born during the marriage or that the petitioner is pregnant at the time of the hearing of the petition. This is frequently because the petitioner is claiming that the father of the child is a person other than the respondent.

Such a practice is wrong and contrary to the law. A child conceived during a marriage is a child of the family whether the petitioner claims her husband is the father or not and whether or not the husband acknowledges it is his child. Until there is a Court Order that the child is illegitimate, it is legally a legitimate child of the family (section 44, Evidence Act, Cap 15) and must be identified in the proceedings.

This practice frequently occurs in cases where the petitioner is represented by counsel and all practitioners must ensure they advise their clients of the position. If, having been so advised, the client refuses to make proper disclosure, counsel should decline to take the petition further.

In future, in any case in which it is discovered that such an omission or false statement has been made in the petition or to the Court, the case will be referred to the Attorney General for failure to bring a material fact before the Court. If he should decide to intervene, the Court may require the petitioner to show cause why the decree nisi should not be revoked.



Gordon Ward
CHIEF JUSTICE

DATED: 30 March, 1999.