



Jailbait: The Politics of Statutory Rape Laws in the United States. By Carolyn E. Cocca. Albany: State University of New York Press, 2004. 228p. \$59.50 cloth, \$19.95 paper.

— Donald P. Haider-Markel, *University of Kansas*

In her book, Carolyn Cocca takes on an ambitious topic of a relatively sensitive nature—the politics of sexuality, gender, and morality in the context of statutory rape laws. Cocca recognizes the nature of her task from the start. She opens the preface with a discussion of the reaction of others to her research—comments by colleagues questioning her own beliefs about the topic and the implied notion that her interest must somehow be inherently political or personal. Such is the reaction of most social scientists to those who study the politics of sexuality.

Cocca seeks to explain how statutory rape laws have been defined and redefined over time in the United States as a means for understanding how these laws tend to reflect cultural narratives of female sexuality, children, race, social welfare programs, and homosexuality. She employs a traditional state politics theoretical framework but expands this framework to incorporate elements of morality politics, as well as other theories of the policymaking process. In Chapter 1, she provides a qualitative historical analysis of the narratives surrounding statutory rape policies, moving to qualitative and quantitative analysis of state adoption and revision of these laws from the 1970s through the 1990s in Chapters 2 to 4. Chapter 2 is focused on age revisions to statutory rape laws, Chapter 3 emphasizes revisions that incorporate gender-neutral language, and Chapter 4 examines the 1990s phenomena of linking statutory rape laws to broader social welfare policies, the politics of teen pregnancy, race, and deadbeat fathers. Each of these chapters is also peppered with discussions of the enforcement of these laws, with some emphasis placed on how the laws have frequently not benefited those they were intended to benefit and have disproportionately targeted some sexual activities over others, such as homosexual relations.

Cocca fluidly outlines the historical process by which different cultural narratives were linked to statutory rape laws. Beginning with colonial America, she describes how statutory rape laws were primarily an attempt to regulate sex outside of marriage, to reinforce cultural narratives concerning female sexuality, and to protect the chastity of (white) females in the law as property. These goals were accomplished in the law by not covering African American women and by allowing for the defense that “impure” or sexually experienced females could not have been raped. The first set of revisions to these laws began in the 1890s and was largely focused on raising the age of consent. White middle-class women, as part of a larger social reform movement, pushed to protect the morals of working-class females by raising the age of consent. In addition, reformers framed the issue as one where upper-class men were taking advantage of poor, young women, and measures had to be taken to protect these “victims.” Thus, early policy change reinforced cultural stereotypes concerning passive female sexuality and the notion of females as weak. Nevertheless, the language requiring that victims had to be female and of “chaste character” remained, while African American women were excluded on the basis of a stereotype that their sexuality was automatically impure.

The second period of reform occurred in the 1970s and 1980s. Cocca argues that it was feminists who pushed for reform during this period. Feminists were not uniform in their views, but the main drive for reforms focused on changing the laws so that the language was gender-neutral and on creating age-span provisions whereby teenagers close in age would not be prosecuted at all or at least not to the full extent of the law. In sum, feminists hoped to make the laws more empowering for females and at the same time protect males. Gender-neutral language was adopted in all states by 2000. In the latest wave of revisions, conservatives linked teen pregnancy and welfare reform to statutory rape laws in the 1990s. This push came from both conservative religious interest groups and Republicans, and was facilitated by national and state welfare reform legislation. Conservatives argued that teen pregnancy contributed to the high costs of social welfare programs, declining respect for marriage, and a culture of free handouts. This more recent wave also served to reinforce the notion of young people as helpless victims, even when the victims were male.

In each period of reform, Cocca makes it clear that attentive publics, usually in the form of organized interest groups, were the main impetus for revising existing laws. Although public opinion regarding sex outside of marriage has become slightly more liberal over time, her empirical analysis suggests that public opinion played only an indirect role in these periods of policy change, often diffused through the mobilization of interest groups and policy entrepreneurs.

Although I can praise *Jailbait* on several levels, and I believe it would be a nice supplement to many undergraduate and graduate-level policy courses, I also believe that Cocca comes up short at points. In particular, she overstates her case in terms of her challenge of traditional state politics research and morality politics research. For example, she deems statutory rape laws as morality politics. However, she argues that these policies are mostly only salient to active publics and not the broader public, which is supposed to be a key indicator of morality politics. In addition, morality politics researchers argue that in morality politics, at least one side must define the issue in terms of first principles, most often in terms of a religious-based morality. But as Cocca points out, religious-based morality has not always been a key component of debate in the waves of statutory rape law reforms.

Likewise, the author argues that her findings concerning the importance of interest groups in the policy process, relative to the role of public opinion, challenges previous research findings. To some extent I do think she is right in arguing that previous morality politics studies have downplayed the role of groups and emphasized the influence of public opinion. However, given her relatively weak and time-invariant measures of these concepts, she may overstate the case in the other direction. She also insists that the morality politics literature characterizes compromise as impossible in the policy process when first principles are at stake. Again this argument is overstated, and most scholars in the area would likely counter that compromise is less likely in morality politics relative to traditional policy areas, but not impossible. One merely needs to review policymaking on abortion to uncover a multitude of policy compromises. Finally, although I appreciate the relegation of methods and data discussion to the appendix, for some reason elements of the theory were also placed in the appendix, and this makes some of the arguments in the text appear out of context.

With these fairly minor criticisms aside, Cocca has written a thoughtful and engaging book that connects a variety of theoretical perspectives and makes use of multiple methodological approaches in a coherent manner. Although not all policy scholars would automatically see *Jailbait* as relevant to their research or courses, I would ask them to take a second look. I believe they would be impressed by the scope of Cocca’s work.

