

Child Marriage and Statutory Rape in the United States

Kaya Van Roost, McGill Department of Epidemiology, Biostatistics and Occupational Health

Introduction

Marriage before the age of 18, or child marriage, is legal and ongoing in 46 states in the United States. The practice has known negative sexual and reproductive health impacts on women who marry as children. The drivers of the practice in the United States are unknown. Some girls may marry in an effort to avoid having their intimate partners charged with crimes related to sexual activity with minors, often referred to as statutory rape.

Study Design and Methods

The legality of child marriage, coupled with the criminalization of sex with minors through statutory rape laws and their associated marital exceptions, could incentivize child marriage in some instances. Most states explicitly exempt sex between married persons from at least some of their statutory rape laws. These exemptions could motivate child marriage if sexually active couples whose relationship violates statutory rape laws perceive marriage as a means to avoid criminal prosecution.

To investigate this possibility, we created a longitudinal database of statutory rape laws in each state, which includes all current and past versions of such laws in place since January 1, 2000. We identified relevant statutes by searching Westlaw for sections of state criminal codes related to sex crimes. Statutes that criminalize sexual intercourse or other sexual contact based solely on the age of one or both parties involved were included in state-specific Excel databases. Laws that criminalized sex with minors based on circumstances in addition to their age were not included. We translated the text of all included statutes into conditional statements of statistical code using R software. All crimes were defined as binary outcomes, regardless of the severity of potential punishment.

We identified child marriages that took place across the United States by examining data from marriage certificates or marriage licenses filed with vital statistics agencies in 44 states and Washington, DC since January 1, 2000. Data included the age and gender of both spouses and the year in which the marriage occurred. We assumed that married couples were sexually active. We compared the age of both spouses and the age difference between them with the text of statutory rape laws to identify marriages that violated statutory rape laws at the time they occurred. We estimated the proportion of all child marriages in each state that met the definition of statutory rape. In states with marital exceptions to some or all statutory rape statutes, we also estimated the proportion of all child marriages that *would have* met the definition of statutory rape if marital exceptions to those laws were not in place.

Challenges and Opportunities

We did not have previous experience analyzing legal texts and statutory rape laws are notoriously opaque. Some laws contradicted others or overlapped with each other. Thus, understanding and coding them was challenging. To ensure that our understanding of these laws was correct and complete, the interpretation of each state's laws was reviewed by two research assistants and the project supervisor.

We also used Excel to construct our longitudinal databases. While this worked for our purposes, there are more intuitive legal mapping tools, such as MonQcle, that could have simplified this task.

METHODS BRIEF

Another challenge was measuring age differences between spouses. Our data described ages in completed years. Some statutes define sex crimes based on age differences, but usually do not state how precisely they should be measured. We resolved this issue by creating a lower and upper bound for crimes counts, which reflected our uncertainty about precise differences in ages.

Discussion Questions

1. We coded all crimes as binary outcomes, regardless of the severity of potential punishment. What kind of information did we potentially miss by doing this, and what are some suggestions to measure varying levels of punishment in this kind of project?
2. Similarly, we focused only on the criminal code in each state and did not consider case law that may modify the interpretation of included statutes. How could interpreting case law have changed our results and what are some methods for utilizing case law in this way?
3. What other epidemiological projects might involve the combination of legal mapping and large health (or vital statistics) datasets that could elucidate differences between the text and application of laws and/or potential unintended consequences of “laws on the books”?