
Book Reviews

Scott Barclay, Editor

Girls on the Stand: How Courts Fail Pregnant Minors. By Helena Silverstein. New York: NYU Press, 2007. Pp. 256. \$40.00 cloth; \$22.00 paper.

Reviewed by John Brigham, University of Massachusetts, Amherst

There are many wonderful things about the research reported in this intimate study of the role of law in our collective life. One is its intimacy. It is “intimate” on a number of levels, including the subject matter and the treatment of law. The book is about what it means to be intimate in our society and to want to keep things from the people in one’s life. This protection is sometimes ignored in the name of the public good and sometimes due to the preferences of those charged with carrying out the law.

The book’s challenge is not just social, though it pays close attention to how society treats pregnant teenagers. It is also legal in that it raises new questions that go beyond how law deals with intimacy to what we can expect of law as it operates in the United States. This is a vivid portrayal of a politically charged area of research that ultimately empowers us with a deep knowledge of legal practice.

Silverstein’s research takes an important question, “How do judicial bypass provisions work?” and finds out by asking people who should know—the secretaries, clerks, advocates, and judges whose job it is to provide the bypass option. It is simple but it is also very impressive and results in scholarship that is thoughtful and compassionate as well as beautifully written. It involves research in opinions, interviews, and attention to public discussion of the issues. The resulting mix of gritty and careful observation with penetrating analysis and social theory makes a great book.

The picture presented in the research is far different from even the rosy official story of how America treats its daughters when they are “in trouble.” Silverstein points this out with her findings of incredible resistance to the law by those charged with enforcing it as well as deep and often self-serving ignorance of provisions meant to protect pregnant minors.

She also adds relevant material from the world of law more generally. One telling source is Supreme Court Justice Antonin

Scalia's impatience in 2005 at oral argument for *Ayotte v. Planned Parenthood* (126 S. Ct. 961 [2006]) with the idea that the judicial consent requirement in New Hampshire might endanger a woman's life. In the justice's optimistic view, judicial bypass was "a quick 30 second phone call" (p. 177).

Silverstein presents a very different story. Looking closely at Alabama, Pennsylvania, and Tennessee but also drawing on research from Texas, Massachusetts, North and South Carolina, Indiana, Florida, Mississippi, Ohio, and Minnesota, she shows the judiciary to be unprepared, partisan, and often simply uncaring when it comes to pregnant teenagers. In South Carolina, for instance, one of the few judges in the state willing to hear bypass petitions would only hear them for women in his own county.

Silverstein's insights about how law works are closely documented and delivered with restraint. She includes Peter Edelman's testimony at the John Roberts confirmation hearing that held the future Chief Justice to be "remarkably disingenuous" in describing what an appellate judge does as being like that of an umpire who calls balls and strikes. Silverstein would have us take into account the implications of current American judicial practice, which is more like umpiring from "two steps to the right of the strike zone" (p. 176).

I was struck when first reading *Girls on the Stand* in spring 2008 by the various movies at the time about pregnancy that told a very different story. Movies like "Knocked Up," "Juno," and "Baby Mama" make various unplanned or unusual aspects of pregnancy kind of fun. This fun aspect seemed new to me. And it is not part of the book. In my generation, sex was usually considered dangerous, and disfavor if not death was likely to accompany unwed pregnancy.

These movies are a very powerful counterpoint to Silverstein's treatment. It is almost as if they represent a "reverse" of the kind of gap law-and-society research was based on, the one between the ideal of law and the seedy reality of the world. With regard to pregnancy, we have a kind of subverted ideal. Law is an ominous and partisan authority, while unplanned pregnancy is newly cute. Where the popular culture view of pregnancy is upbeat and optimistic, the law is unfeeling and imperious. The convention has been turned on its head.

This picture is very different from the generally rollicking good time had by Juno McGuff and other pregnant movie stars. This is a powerful picture with scholarship challenging not just the law, but the status quo as well. This is one of the few books in my field that actually feels like it was written in order to save lives.

Case Cited

Ayotte v. Planned Parenthood 126 S. Ct. 961 (2006).

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Manifest Destinies: The Making of the Mexican American Race. By Laura E. Gomez. New York: NYU Press, 2007. Pp. 256. \$41.00 cloth; \$21.00 paper.

Reviewed by Sherene H. Razack, University of Toronto

Races are made, not born, and the making of Mexican Americans as a race, tracked so carefully by Gomez in *Manifest Destinies*, was highly instructive for me as someone engaged in thinking about the making of Muslim as a race in the post-9/11 period. Beginning with an important distinction, that racial group membership is mainly assigned by the dominant group, (although it often comes to be taken up by the racialized group itself), whereas ethnic group membership is chosen by members of the ethnic group themselves, Gomez shows readers how the involuntary nature of racial group membership is intimately bound up with conquest and accumulation. As Hannah Arendt remarked, race thinking, the division of humanity into the deserving and the undeserving according to descent, matured into a full-fledged ideology with imperialism when, attached to a project of accumulation, it became an organizing principle (Arendt 1973:159). What one sees in *Manifest Destinies* is how race works as an organizing principle in American history. The American racial project, commonly understood as a black/white paradigm, is in fact a complex and fluid system in which every group's status—from recently arrived immigrants to white “ethnic” groups—is overdetermined by race. This insight, more than any other, is why this book must be read.

One of *Manifest Destinies*'s greatest strengths is its exploration not only of the racial strategies of American colonizers (who built their own house of race on the foundations left by the Spanish) but also, more interesting by far, the responses of the first Mexican Americans as they navigated the colonial racial order. *Manifest Destinies* has a lot to teach about the colonial project as a multiracial project in which the color line was more fluid than one might have imagined. American colonizers courted the first Mexicans they conquered, offering Mexican men the vote, when there was no other way to manage them. Those who later argued that New Mexico should become a state emphasized that Mexicans had vestiges of Spanish culture and were therefore possibly redeemable. In this racial game, the colonizers could flirt with the legal con-