

US women charged with murder following miscarriage

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In a growing number of US states, pregnant women who miscarry their babies are being criminalized, some charged with murder. Ultimately, the move by state prosecutors is more widely aimed at stripping women of the legal right to abortion sanctioned by the US Supreme Court in its 1971 ruling in *Roe v. Wade*.

In 2006 in Mississippi, Rennie Gibbs, who became pregnant at the age of 15, lost her baby in a stillbirth at 36 weeks into the pregnancy. Prosecutors charged her with the “depraved-heart murder” of her child after they discovered she had abused cocaine, although there was no evidence that the baby’s death was connected to the mother’s substance abuse. The murder charge carries a mandatory life sentence.

Some 70 organizations across the US have filed amicus briefs in support of Ms. Gibbs in this ongoing case. In particular, they take aim at the claims by anti-abortion forces that such prosecutions protect mothers and their unborn children. One of the briefs says that to treat “as a murderer a girl who has experienced a stillbirth serves only to increase her suffering.”

Another woman, Bei Bei Shuai, has been imprisoned for the last three months without bail in Indianapolis, Indiana, charged with murdering her baby. According to police records, the 34-year-old woman attempted suicide last December 23 by ingesting rat poison after her boyfriend abandoned her when she was 33 weeks pregnant.

Shuai was rushed to the hospital and survived, giving birth to her baby the next week. The baby died four days later, and in March Shuai was charged with murder and attempted feticide.

Alabama has prosecuted at least 40 cases brought under the state’s “chemical endangerment” law, which was introduced in 2006. The law, purportedly designed to protect children from fumes inhaled from

methamphetamine being cooked by their parents, is now being used to criminalize pregnant women who miscarry.

Alabama mother Amanda Kimbrough delivered her baby prematurely in April 2008, and the baby died 19 minutes after birth. Kimbrough learned during her pregnancy that her child possibly suffered from Down’s syndrome, but she chose to carry the child to term.

Six months after the birth, she was arrested and charged with “chemical endangerment” of her unborn child on the grounds that she had taken drugs while pregnant. She denies the claim.

“That shocked me, it really did,” Kimbrough told the *Guardian*. “I had lost a child, that was enough.” She is now awaiting an appeal ruling in the Alabama courts. If she loses her appeal, she will begin a 10-year prison sentence. “It’s just living one day at a time, looking after my three other kids,” she said. “They say I’m a criminal, how do I answer that? I’m a good mother.”

These women are being victimized after losing their babies, facing charges as steep as murder, despite the fact that abortion is a legally protected right. Civil rights lawyer Robert McDuff, defense attorney for Rennie Gibbs, argued before the Mississippi Supreme Court, “If it’s not a crime for a mother to intentionally end her pregnancy, how can it be a crime for her to do it unintentionally, whether by taking drugs or smoking or whatever it is?”

Mississippi anti-abortion groups are also pushing to amend the state’s constitution through a referendum, widening the definition of a person under the state’s bill of rights to include a fetus from the moment of conception. The obvious aim of such a bill would be to criminalize abortions by prosecuting the doctors who perform them—and the mothers who receive them—as

murderers.

At least 38 of the 50 US states have introduced “fetal homicide laws.” Backers of these laws have claimed that they are intended to protect women and their unborn children from attack by an abusive partner or other third parties, but state prosecutors have seized upon the legislation to attack the rights of pregnant mothers.

According to the National Advocates for Pregnant Women, prosecutors in South Carolina, one of the first states to introduce a fetal homicide law, have only charged one man under the legislation, and his case was subsequently dismissed. By contrast, as many as 300 South Carolina women have been arrested for their alleged actions against their unborn children during pregnancy.

Woman across the country are being increasingly prosecuted for their alleged drug and alcohol abuse during pregnancy, with charges ranging from misdemeanor counts of endangering the welfare of a child to criminal homicide. According to the *Dominion Post*, at least two women so charged have been sentenced to life in prison.

Illinois was the first state to charge a woman with manslaughter in connection with a stillborn baby. Prosecutors claimed the baby died as a result of high levels of cocaine, but a grand jury refused to indict. Texas, New York, Arizona, Hawaii, Utah and California are among the states with similar laws on the books.

In Riverside County, California, police authorities have declared prosecutions of mothers addicted to methamphetamine as a “top priority.” Dozens of public health organizations, including the American Public Health Association and the American Academy of Addiction Psychiatry, have denounced the prosecutions because they discourage woman not only from seeking substance abuse treatment, but from getting any prenatal care at all.

In Utah, following several high-profile prosecutions in the 1990s of women for substance abuse during pregnancy, state officials saw a sharp drop-off in requests for treatment from drug addicted women. After widespread coverage of the prosecutions, calls to the state health department’s Pregnancy Risk Line fell to almost zero per month.

“Women were showing up at hospitals in droves to

deliver babies having had no prenatal care and no substance abuse treatment,” Lynn Martinez, director of the hotline and of the state’s birth defects and genetics program, told the media.

She added, “When asked why they hadn’t sought help, their answers were almost universal: They were worried they would either lose their children or be prosecuted. So suddenly you had a double whammy: babies exposed to drugs and babies not getting prenatal care.”



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