



Written by [Selwyn Duke](#) on March 2, 2010

Legal vs. Illegal Murder: Abortion in Utah

She is now a healthy baby, bouncing about, playing with bubbles in the bathtub, and taking in everything this mysterious world she entered has to offer. But she almost never was.

Or, at least, she almost never was outside the womb.

In fact, she certainly never would have been had the aspiring abortionist in whose crosshairs she found herself been more skilled. But, in this case, the man had no medical degree — just consent from the baby’s mother and a pair of fists and feet.



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It’s a story that comes to us out of Utah. When a 17-year-old small-town girl (whose name has been withheld owing to her age) from eastern Utah found herself pregnant and facing threats of abandonment from her boyfriend, she enlisted the aid of an acquaintance to induce miscarriage. Sheena McFarland of the *Salt Lake Tribune* reports on the story, [writing](#):

According to charging documents, 21-year-old Aaron Harrison brought the girl to his home near 1900 East and 2500 South in Naples around midnight on May 20 after she asked him to help her terminate the pregnancy.

... Harrison, an acquaintance of the girl, allegedly struck and bit her, leaving bruises on her belly and a bite mark on her neck. The girl paid \$150 for the beating, according to charging documents.

Obviously and thankfully, the attempt was unsuccessful. And the amateur abortionist now sits in jail. The girl, however, will not endure the same fate. Though she was charged with a crime, she was acquitted by Eighth District Juvenile Court Judge Larry Steele. Under the law, a woman cannot be prosecuted for seeking an abortion, and Judge Steele ruled that the actions taken in the case met the definition of one. His reasoning was that since the law protecting women from such prosecutions doesn’t specify “medical” abortions, her recourse to Harrison’s “services” was legal.

This has inspired the Utah legislature to take action and pass Utah State House Bill 12. Proposed by Representative Carl Wimmer, the legislation would close the loophole in state law that Judge Steele exploited. And a big loophole it is. As it stands now, [says Wimmer](#), “A woman going out to seek any way to kill her unborn child, no matter how heinous or brutal, couldn’t be held liable.” Under Bill 12, however, a woman found to have harmed her unborn child through “intentional, knowing or reckless” acts could be charged with criminal homicide.

The bill was passed in the legislature by wide margins — 24 to 4 in the Senate and 59 to 12 in the House — and awaits the pen of Governor Gary Herbert, who, [writes](#) the *New York Times*, “agrees generally with its goals but is still studying the particulars.”



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But both the goals and the particulars have their usual pro-abortion opponents. These critics generally warn that legislation such as Bill 12 could, writes the *Times*, “open up a vast frontier around the question of intent and responsibility and give local prosecutors huge new powers to inquire about a woman’s intentions toward her unborn child.” As to this, the *Times* cites a case wherein a pregnant Iowa woman “fell down the stairs at home [and] confided to emergency workers that she was not sure she really wanted to have her child.” The woman was arrested “under a state law that makes it a criminal act to harm a fetus” but was “released after two days in jail, and the charges were dropped,” wrote the paper.

While such cases are emotion-grabbing, the argument they buttress is specious. Prosecutors have “huge powers” to inquire about the intentions of most anyone accused of a crime. Did a person kill in self-defense? Should a charge be manslaughter or murder? Thus, while the government-intrusion factor is certainly an argument against enacting excessive laws, it’s never an argument against a just one. Such intrusion is simply what some might call a “necessary evil” — necessary, at times, to thwart evil. (Note: This is consistent with my criticism of hate-crime laws. Obviously, determining whether a person committed an act on purpose is far different from determining whether he did it on purpose for politically incorrect reasons.)

As for the case of the Utah woman, we can always find instances of just laws yielding injustice. For example, we frequently hear about men who have languished in prison due to false rape allegations. Does this mean it’s wrong to criminalize rape? Should we complain about prosecutors’ “huge powers” to inquire into the cases of men thus accused?

Yet Bill 12 has its opponents even among pro-lifers. While these critics agree with its basic goal, they worry that the legislation would codify in Utah law the legitimacy of abortion in certain situations. As to this, Jim Sedlak of the American Life League says that the bill essentially states the following: “Well, it’s all right to kill a human being in this case, but not in this case.”

Sedlak raises what is a larger issue. All across the nation, we have seen a kind of moral dissonance manifest itself in the area of abortion. If a woman wants to terminate her pregnancy, what lies within her womb is considered an “unviable tissue mass.” Yet, if a man kills the same pregnant woman and then is charged with a double homicide, the “tissue mass” is suddenly to be considered a human being. In fact, in 38 states with fetal homicide laws, it’s conceivable that a man could be charged with murder after assaulting, and causing miscarriage in, a woman on her way to an abortion clinic. And we call ours the “age of reason.”

Of course, some of this contradiction can be explained in terms of normal political wrangling. As Otto Von Bismarck might have pointed out, politics is the art of the possible even among the principled. Pro-life state politicians cannot enact law unilaterally; they must compromise with the pro-abortion side. Moreover, even states that might otherwise outlaw abortion must contend with the federal government’s unconstitutional *Roe v. Wade* decision. The result of this political tug-of-war can be the kind morally dissonant policy I outlined above.

Yet there is something deeper here as well: There are those who have the compromise and contradiction within their own minds. They will adamantly defend a woman’s “right” to abortion; they also will support fetal homicide prosecutions. It never seems to occur to them that if an unborn baby really is a person, a woman can have no “right” to murder him; and if an assailant has simply caused the loss of an “unviable tissue mass,” the most he can be charged with is vandalism.



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How can people descend into such contradiction? I believe the answer lies in the relativism of our age. When we believe in Moral Truth, we use it as our yardstick when making moral decisions. But what happens when we're blind to Truth? Well, then we only have one thing left to use as that measure: emotion. Then, when *feeling* (misguided) compassion for pregnant women or a desire for convenience, we feel the baby is just a few pounds of flesh. But when *feeling* enraged at an attacker who has caused miscarriage, we want a pound of flesh.

This is why relativism leads to the death of reason. If there is no Truth, there are no answers to be found and then nothing to "reason out." There then is only what feels right. Unfortunately, what feels right and what is right are often two very different things.



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