

CRIMINALIZATION FOR SELF-INDUCED ABORTION WHEN SEEKING EMERGENCY MEDICAL CARE

PURVI PATEL Case Study

In 2015 Purvi Patel, an Indian-American woman living in Indiana, was convicted of feticide and felony child neglect based on the theory that she tried to self-induce an abortion and was sentenced to 20 years in prison.¹

Ms. Patel lived at home with her strict Hindu family that did not allow sex before marriage.² In 2013, she became pregnant and did not want to disclose her pregnancy to her family. In addition, Indiana is a state that leans heavily pro-life, where access to an abortion clinic was and has been made increasingly difficult and where clinics are likely to be surrounded by pro-life protestors.³ Indiana's culture fuses abortion and shame. Furthermore, in Indiana, being a woman of color can be particularly isolating.⁴

After allegedly taking pills that prompted a miscarriage, Patel experienced severe bleeding.⁵ Afraid for her life and health, Patel drove, alone, to the hospital where she underwent an emergency surgery.⁶

¹ Emily Bazelon, *Purvi Patel Could Be Just the Beginning*, NEW YORK TIMES, April 1, 2015, available at <https://www.nytimes.com/2015/04/01/magazine/purvi-patel-could-be-just-the-beginning.html> (last visited Sept. 25, 2018), see also Leon Neyfakh, *False Certainty*, SLATE, February 5, 2018, available at http://www.slate.com/articles/news_and_politics/crime/2015/02/purvi_patel_feticide_why_did_the_pathologist_use_the_discredited_lung_float.html (last visited Sept. 25, 2018).

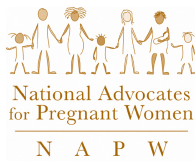
²Nicky Wolf, *Purvi Patel found guilty of feticide and child neglect over unborn baby's death*, The Guardian, Feb. 4, 2015 ("The court heard how Patel kept her pregnancy secret from her parents, who are strict Hindus. Her father testified that he taught the principle of no sex before marriage."), available at <https://www.theguardian.com/us-news/2015/feb/04/purvi-patel-found-guilty-feticide-unborn-childs-death> (last visited Sept. 25, 2018)

³ See Pew Research Center of Religious & Public Life, Views about Abortion By State. <http://www.pewforum.org/religious-landscape-study/compare/views-about-abortion/by/state/> (last visited on Sept. 25, 2018); see also Guttmacher Institute, State Facts About Abortion: Indiana. Where Women Obtain Abortions, May 2018 ("In 2014, some 95% of Indiana counties had no clinics that provided abortions, and 66% of Indiana women lived in those counties."), available at <https://www.guttmacher.org/fact-sheet/state-facts-about-abortion-indiana> (last visited Sept. 27, 2018). In order to have an abortion in a medical facility in Indiana, a woman must make two trips to the facility because the state requires that she receive in person state mandated counseling and then wait 18 hours, and she must undergo an ultrasound. Health Insurance only covers abortions in cases of life endangerment, rape, incest or severe health risk unless an optional insurance rider is purchased at additional cost. *Id.*

⁴ See United States Census Bureau, Indiana: Race and Hispanic Origin, July 1, 2017, <https://www.census.gov/quickfacts/in> (last visited Sept. 25, 2018).

⁵ For the physical health information on the process and trauma of miscarriage see, Obos Pregnancy & Birth Contributors. *Miscarriage in the First Trimester*. April 9, 2014. Our Bodies Ourselves.Org. <https://www.ourbodiesourselves.org/book-excerpts/health-article/miscarriage-in-the-first-trimester/>, para. 12.

⁶ Eesha Pandit, *Abortion Rights at Stake: Purvi Patel and the fate of pregnant women in Indiana*, May 25, 2016, Salon, para. 3. https://www.salon.com/2016/05/25/abortion_rights_at_stake_purvi_patel_and_the_fate_of_pregnant_women_in_indiana/ Salon. (last visited Sept. 27, 2018)



Patel was reported to the authorities by the medical providers who treated her. The doctor who suspected she had an abortion called the police. When Patel awoke from sedation, the police were at her bedside and interrogated her. Patel was taken into police custody from the hospital.⁷

At trial, Indiana's state prosecutors argued that Patel prompted a miscarriage using pills she obtained on the internet and charged her under Indiana's, then, feticide statute. In 2015, Patel was convicted of and sentenced to 20 years in prison for two contradictory felonies: feticide and felony child neglect.⁸

Indiana's feticide statute was passed in 1979 to criminally charge a person who kills a 'viable fetus' during a crime following a case in which a pregnant bank teller was shot in the abdomen during a robbery and subsequently lost her twin pregnancy.⁹ Despite the intent of the legislature, the prosecutor argued that the statute could be applied to a pregnant woman for ending her own pregnancy.

The Indiana Court of Appeals eventually held that the feticide statute does not apply to a self-induced abortion, but not before Patel had been incarcerated for three years.¹⁰ What should have been a private and personal experience ended up shaming, dehumanizing, and ostracizing a woman for simply seeking help.

Despite the Court of Appeals decision, in February 2018, Indiana prosecutors charged another woman with feticide for her actions concerning her own pregnancy. The case is still pending.¹¹ Recently, on March 25, 2018, Indiana passed a revised feticide law that prohibits charges against pregnant women who self-induce a miscarriage.¹²

⁷ *Supra*, note 6.

⁸ *Supra*, note 1; see *False Certainty*, para. 3. ("... according to Indiana law, a person can be guilty of feticide even if the fetus in question survives, as long as a deliberate attempt was made to "terminate" the pregnancy "with an intention other than to produce a live birth or to remove a dead fetus." (The statute includes an exemption for legal abortions.) The prosecution contended that Patel intended to kill the fetus by taking the pills (feticide) and when she failed, allowed the living fetus to die (felony child neglect).")

⁹ SIA Legal Team and Human Rights & Gender Justice Clinic, *Submission to WGDAW - Criminalization of Women Who Self-Induce Abortions in the United States*, June 2017, p. 13.

¹⁰ *Supra*, note 9.

¹¹ The IndyChannel.com, *Woman charged with baby's death after police say she admitted to drug use during pregnancy*, February 15, 2018. Available at <https://www.theindychannel.com/news/local-news/madison-county/woman-charged-with-babys-death-after-police-say-she-admitted-to-drug-use-during-pregnancy> (last visited Sept. 27, 2018).

¹² Indiana recently signed SB 203 into law on March 25, 2018, making feticide a crime at any stage of development. However, it creates exceptions for a pregnant person who terminates or causes the termination of their own pregnancy. See Indiana Fetal Homicide Bill (SB 203), available at <https://rewire.news/legislative-tracker/law/indiana-fetal-homicide-bill-sb-203/> (last visited Sept. 25, 2018).