

Indiana prosecuting Chinese woman for suicide attempt that killed her foetus

Bei Bei Shuai took rat poison when her boyfriend left her, leading to the death of their unborn child. Now she's facing life in prison

Ed Pilkington in Indianapolis

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When her baby Angel died in her arms at 1.30am on 3 January 2011, Bei Bei Shuai was so distraught she was instantly transferred to the mental health wing of the Methodist hospital in Indianapolis. Grief stricken and under heavy sedation, she was unaware that within half an hour of her baby's death a detective from the city's homicide branch had arrived at the maternity ward and had begun asking questions.

While Shuai was embarking on a journey into bereavement that continues to this day, the Indianapolis authorities were also setting out, albeit along a very different path. On 14 March last year Shuai was arrested and taken into custody in the high-security Marion County prison, where she was held for the next 435 days, charged with murdering her foetus and attempted feticide. If convicted of the murder count she faces a sentence of 45 years to life.

Bei Bei Shuai is at the sharp end of the creeping criminalisation of pregnancy across America. Women who lose their unborn babies - whether in cases of maternal drug addiction or in Shuai's case a failed suicide attempt - are increasingly finding themselves accused of murder.

Speaking publicly for the first time, Shuai told the Guardian she is determined to defend herself as she prepares for a murder trial scheduled for December. "I have a strong desire to stay in America," she said, three days after she had been released from jail on \$50,000 bail. "I want to stay and fight this case. I have the best legal team, and I'm not afraid anymore to face the charges."

On 23 December 2010 Shuai became so depressed after she had been abandoned by her boyfriend - a married Chinese man who broke his promise to set up a family with her - that she decided to end her life. She consumed rat poison, and after confessing to friends was rushed to the Methodist hospital.

Doctors took steps to save her, but on 31 December there were signs that the baby, then at 33 weeks gestation, was in distress and a Caesarian was performed. On the second day of Angel's life the baby was found to have a massive brain haemorrhage and on 2 January was

taken off life support.

Shuai held Angel for five hours as the baby gradually faded and died. "Why do they want to take my baby away?" she kept asking, in between bouts of fainting. Shuai begged for her own life to be taken so that her child's might be spared.

'No one wins from the criminalisation of pregnant women'

"There is no doubt that Shuai was suffering from a severe mental illness," her defence lawyer Linda Pence said. She first met the defendant when she was in the mental wing, a few days after Angel died. "I personally observed a very depressed woman, a grief-stricken individual."

That is not how the prosecutor saw it. For the first time in Indiana's 196-year history, the state has applied felony charges against a woman that hold Shuai criminally liable for the outcome of her pregnancy. Earlier this month the Indiana supreme court declined to hear the case, rendering a 3 December murder trial almost inevitable.

Lawyers and women's advocates in Indiana were astonished by the prosecution's hard line. To attempt to take one's own life is not a crime in Indiana, so the decision to charge a pregnant woman appeared to be creating a double standard.

The feticide law, introduced in Indiana in 1979, was designed with violent third parties in mind: abusive boyfriends or husbands who attacked their pregnant partners, causing them to lose their unborn babies. It was enhanced to carry a maximum sentence of 20 years in 2007 after a bank robbery in which a pregnant woman was shot in the stomach, killing her fetus but leaving her alive.

"From a legal standpoint, this case is absolutely frightening," said Pence, who has set up a website and fighting fund to support Shuai's defence.

Pence fears that Shuai's prosecution could set a precedent that will catch others in its trap. In the future, could women who smoke or drink during pregnancy and suffer a miscarriage be prosecuted for murder, or women with HIV who pass it on to their child in the womb?

"No one wins from the criminalisation of pregnant women - all this will do is persuade women to flee the state, avoid treatment or have an abortion," Pence said.

'I knew America as the best country in the world'

Shuai sees the threat now facing her from a different perspective - as the obliteration of her American dream. She was raised as a single child in Shanghai by parents she described as loving and caring. She graduated from Shanghai university as an accountant, worked for a year in a Chinese government department and then came to the US about 10 years ago as a legal immigrant with her then-husband, who was offered a job in Indianapolis as a mechanical engineer.

Shuai said she was delighted to come to the US. "I knew America as the best country in the world, with the best education system. People get more freedom. I really wanted to see what it was like."

She found the initial arrival in her Indiana town - a tiny one compared to Shanghai - a bit of a culture shock, but over time she said she came to appreciate it more and more: "Seeing all the natural trees and flowers, the fresh air."

She was full of dreams - the dream of continuing her studies, the dream of forming her own family, of owning a house and car. "Everybody tells me that they have their American dream, trying to make their life better. People tell me that all the time, and I am the same, I am one of them," she said.

The dreams didn't work out so easily. She couldn't afford to go back to college, so instead studied under her own steam using the local library. Her marriage collapsed, and then when she did finally become pregnant it was with a married man.

When he abandoned her, he left Shuai on her hands and knees in a parking lot as he drove away.

Shuai is not allowed to discuss the events that led up to her suicide attempt, as that might prejudice her trial. But she can talk about the deep sense of shame she felt when she was arrested for killing her foetus.

"I remember the day I had to turn myself in. I felt hopeless and ashamed, for myself and my parents. I had never worn handcuffs before - when they put the cuffs on me it chilled me to my bones."

Now released, her hands are free. But she is forced to wear a GPS ankle bracelet that is causing her feet to swell.

Shuai's lawyers wonder whether it is coincidental that such an aggressive application of a law originally designed to protect pregnant women against violent men should first be applied against a woman who is Chinese. The question is all the more pertinent given the current spat between the US and Chinese governments over the treatment of the blind dissident Chen Guangcheng.

Lynn Paltrow, head of National Advocates for Pregnant Women that is co-counsel in Shuai's defence, said: "It's an irony that the US has paid such close attention to violations of human rights in China while at the same time Indiana has absolutely deprived a woman who is a legal immigrant from China of her constitutional human rights."

Prosecution is determined to push on

The only hope for Shuai to avoid a murder trial is if the prosecutor, Terry Curry, decides to drop the charges. There is little chance of that, given his firm belief that he is following the correct path.

"It's my job to enforce the criminal code as enacted by our legislature and that's what our legislature has determined," he said. Curry pointed to a suicide note that Shuai left the former boyfriend in which she wrote that she was "taking this baby with me".

"What we allege is that her actions were directed specifically at the unborn child. It's not that she was trying to take her own life, it was that she was trying to take the life of her foetus," Curry said.

Curry's determination to press ahead to trial is matched by Shuai's determination to fight on. During her year in prison, she has improved her English language skills and now speaks fluently without a translator. Though there were dark times inside, including anxiety attacks and moments of despair, she said she has emerged stronger for it.

"It was a really bad experience. I thought nobody would care about me anymore, that I was a worthless person with no future," she said. "But I learned a great deal. I learned that my life wasn't the worst as I thought it was. Everything that has happened has made me think that I am so blessed. I have a second family here, and that gives me hope."

Shuai kept the truth about her suicide attempt and prosecution for murder from her mother back in Shanghai for almost a year. But a couple of months ago, with the help of her lawyer, she finally confessed.

"My mother was so wonderful and supportive. She told me you don't need to care about other people's judgment, as she knew that was what hurt me most. There's a Chinese saying: 'A people's mouth can be sharper than a knife.'"

Despite her ordeal, Shuai insists she remains dogged in her intention to make a life for herself in America, a country that she still regards as the greatest on Earth. But in the last analysis her decision to stay and protest her innocence is made on behalf of only one person.

"I want to prove to my daughter that her mother is not a murderer, and that she has been loved."

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