

The Pro-Life History of U.S. Treaties

By David W. New, Esq.

Many people might be surprised to learn that the subject of abortion is covered in U.S. treaties. Prior to 1973, the United States signed many treaties with other governments which supported a pro-life policy. These treaties are undisputed evidence that the policy of the United States Government was solidly pro-life prior to the *Roe v. Wade* decision. Today, the abortionist is considered to be a modern day "liberator" by groups like Planned Parenthood. But according to U.S. law, he was nothing more than a criminal. Indeed, according to U.S. treaties, he was an international criminal. The subject of abortion comes up in extradition treaties. An extradition treaty is an agreement between two countries to surrender a foreign national or one of its own citizens for certain crimes. Extradition becomes necessary when someone who has committed a serious crime in one country has escaped to another country.

Governments take extradition treaties very seriously. A government is in some sense surrendering some of its sovereignty when it agrees to extradite someone. Also, agreeing to an extradition can be politically unpopular with the people. John Adams lost his bid for reelection as President in part because of an extradition. The case involved a seaman named Thomas Nash. He was accused of committing murder on the high seas on a British frigate. Pursuant to the terms of the Jay Treaty of 1795, the Adams Administration handed Nash over to the British authorities. He was later tried and hung for murder by the British. This was the first extradition by the United States Federal Government. The public outcry against the Thomas Nash extradition was huge. Thomas Jefferson's race for the White House benefitted from the controversy. The Nash extradition was so unpopular that the United States would not sign another extradition treaty for 40 years! It was not until 1842 before the United States would agree to an extradition clause in a treaty.

Most important, the legal status of U.S. treaties are very high. Article VI to the U.S. Constitution says that they are a part of the "supreme Law of the Land." Article VI says, "This Constitution . . . and all Treaties made . . . shall be the supreme Law of the Land." Thus, the pro-life policies as reflected in U.S. treaties were the supreme law of the land in the United States. Additionally, extradition treaties are powerful moral statements. The moral values they seek to protect transcend all national boundaries and languages. Generally, only the worst crimes are included in an extradition treaty. These are crimes that violate common universal standards of decency for civilized nations. Accordingly, the crime of murder is on the top of the list in extradition treaties. Without exception, the crime of murder is No.1 on a list of 15 to 25 crimes generally found in extradition treaties. The following language in the Extradition Treaty with Romania (1924) is typical for many extradition treaties to describe the crime of murder:

"1. Murder, comprehending the crimes designated by the terms parricide, assassination, manslaughter when voluntary, poisoning or infanticide."

Here infanticide is clearly linked with the crime of murder. The more modern term for infanticide is "partial birth abortion," a ghoulish procedure if there ever was one.

In second place, a variety of different crimes can be found in extradition treaties. The list may include one or more of the following crimes: "attempted murder," "rape," "malicious mayhem or

serious injury to the body," "willful assault resulting in grievous bodily harm" and "*abortion*." The above Extradition Treaty with Romania (1924) puts attempted murder in the No.2 spot. It says:

"2. The attempt to commit murder."

However, of the 60 extradition treaties that I could find which covered the subject of abortion, 14 treaties put abortion in the No.2 spot. The latest was with Uruguay which was signed in April 1973, just months after the *Roe v. Wade* decision. Over the years, the United States has signed 60 different treaties which included the subject of abortion with 49 nations. Sometimes, the U.S. signed multiple extradition treaties with the same country. As discussed above, extradition treaties or a treaty that included an extradition clause date back to 1795. However, due to the Thomas Nash Affair, extradition treaties were not a popular topic in the 19th Century. Thus, the first treaty that I found which covered the subject of abortion was with Belgium in 1882. The 1882 Belgium treaty put abortion in third place. It said:

"3. Rape, or attempt to commit rape. Bigamy. Abortion."

Abortion is ranked very high on the list of crimes in extradition treaties. It occupied second place 14 times and third place 26 times. In one treaty, abortion was put in first place after murder and manslaughter. Thus, of the 60 treaties which covered the subject of abortion, abortion was ranked either in the No.1, No.2 or No.3 spot for a total of 41 times or 68% of the time. The lowest rank I found for abortion was in the No.18 spot. This was in a treaty with Cuba (1926).

By far the most popular language used to describe the crime of abortion was as follows:

"3. Rape, abortion, carnal knowledge of children under the age of twelve years."

This was the language used in the Extradition Treaty with Romania (1924) discussed above. This language or substantially similar language appears in approximately 24 other U.S. extradition treaties from 1904 (Spain) to 1964 (Brazil). Rather than being described as "a defender of a woman's right to choose," here the abortionist is linked with rapist and child sex offenders. In 1930, in a treaty with Pre-Nazi Germany, the crime of abortion was described this way:

"3. Rape, immoral assault, incest, abortion, carnal knowledge of children under the age of twelve years."

No doubt Planned Parenthood and NOW would be outraged if the United States entered into any extradition treaty with this kind of language. In any case, the style of extradition treaties changed in the 1980's. Rather than list specific crimes, modern extradition treaties simply say a country will extradite a person for any offense which carries a prison sentence greater than one or two years. Thus, the number of extraditable crimes has increased substantially. With the rise of international terrorism and other international crimes, extradition treaties have taken center stage in U.S. foreign policy.

The Effect of *Roe v. Wade* on U.S. Extradition Treaties

The effect of *Roe* on U.S. extradition treaties was profound. The abortionist was no longer linked with rapist and child sex offenders. Instead, a new term was used. The new term was "Illegal

abortion."

Thus, the treaties the United States entered into with Finland, Germany, Japan and Norway in 1980 all used the term "Illegal abortion." The effect of *Roe* is obvious. Admittedly, I did find two treaties that were signed prior to *Roe*, which used the new term. A treaty with Denmark was signed on June 22, 1972, which used the term "unlawful abortion." Another treaty with Italy was signed on January 18, 1973, which used the term "Illegal abortion." This was just four days before the *Roe v. Wade* decision was issued on January 22, 1973. Most likely it was coincidence, but the new term for abortion in the treaty with Denmark and Italy was not used until after the *Roe v. Wade* case had been argued before the U.S. Supreme Court in December 1971.

Interestingly, neither treaty was in legal force until the *Roe v. Wade* decision had made mass abortions legal in the United States. In my opinion, there can be no question that the prevailing use of the term, "Illegal abortion" in contemporary U.S. treaties was due to the new policy imposed by the U.S. Supreme Court in *Roe v. Wade*.

Without question, the United States was solidly pro-life prior to *Roe v. Wade*. Let us work together to restore America's pro-life heritage and protect human life.

Sources for this article:

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