

# Alyssa Milano and Prosecutorial Discretion

PolitiFact from time to time opts to publish “explainer” or “In Context” articles instead of fact checks that offer a “Truth-O-Meter” judgment.

[A May 24, 2019 article reserved judgment on Alyssa Milano](#) (the article says others also made claims similar to Milano’s). The title and text of the article suggest that PolitiFact did not have enough information to render a judgment on Milano’s claim.

Headline:

## Critics say Georgia’s abortion law could land women in prison. Here's what we know

*By Amy Sherman on Friday, May 24th, 2019 at 2:18 p.m.*

Text (bold emphasis added, apart from the heading):

### **Our conclusion**

Milano and others are claiming that a new abortion law in Georgia states that women will be subject to prosecution. It actually doesn’t say that, but that doesn’t mean the opposite — that women can’t be prosecuted for an abortion — is true, either. **We’ll have to wait and see how prosecutors and courts interpret the laws before we know which claim is accurate.**

PolitiFact’s statement of principles states that PolitiFact places the burden of proof on persons making claims. Those persons supposedly warrant a harsh rating if they cannot support their claims (and PolitiFact likewise finds no support). If PolitiFact followed that principle consistently, then it should rate claims of indeterminate truth value harshly based on that principle, whether it’s the claim women will be prosecuted or the claim women will not be prosecuted.

I pointed out the burden of proof problem to PolitiFact, but subsequently realized that the problem is even more fundamental. PolitiFact’s research found Milano’s statement was incorrect and said so in the article. Yet PolitiFact declined to give Milano any rating at all, much less a harsh rating.

(Bold emphasis added)

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Of course fact checkers cannot check every claim, and the necessity of choosing which claims to fact check makes up a form of prosecutorial discretion. But this case causes greater concern because PolitiFact chose to examine the claim and after that failed to apply its principles consistently. PolitiFact's principles called for a harsh rating of Milano and any others who said the text of the bill called for prosecuting Georgia women seeking abortion. PolitiFact turned a blind eye to its principles.

Making matters worse, PolitiFact failed to provide any response to my message pointing out its failure to follow its principles (my error in failing to note that PolitiFact said Milano was wrong should not have prevented PolitiFact from examining the issue and correcting its misapplication of principle).

If PolitiFact could not find evidence supporting Milano, then its burden of proof criterion calls for a harsh rating.

If PolitiFact found Milano was wrong, that calls for a harsh rating.

PolitiFact delivered no "Truth-O-Meter" rating at all, promoting the impression that it could not say whether Milano was right.

Thanks for reading.

Sincerely,

Bryan W. White  
Editor, Zebra Fact Check