



Jay Inslee's death penalty decision: The long game

The Washington governor's death penalty moratorium may be unpopular, but it could shape his legacy.

By Benjamin Anderstone

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Last Tuesday, citing “too many flaws in the system,” Governor Jay Inslee announced an executive order suspending capital punishment in Washington state. It was an unexpected turn of events. While death penalty abolitionists have been picking up state-level victories in recent years, Washington was not on their radar before Inslee's reprieve announcement.

Why now? It's a question on the minds of a lot of Washingtonians, including Rep. Jay Rodne (R-Fall City), the ranking member of the State House Judiciary Committee. Rodne protested Inslee's decision, saying it came “out of the blue.”

In a sense, he's right. While Inslee has been mulling the decision since his election, capital punishment has never been at the fore of Washington state politics. That leaves us without any political polling to understand the political context around Inslee's decision.

Death penalty opponents are hoping Inslee's decision is part of a national swing. Last year, Maryland became the 18th state to abolish capital punishment, continuing an ongoing trend: An average of one state per year has made the jump since 2008. In 2011, Oregon Governor John Kitzhaber announced a moratorium on executions pending review of the state's system, a decision that stands today. Last year, the Gallup Poll saw opposition to capital punishment rise to the highest level since 1972.

Certainly, death penalty opposition has not increased in a linear pattern, but for abolitionists the trend is heartening. Support for the death penalty has ebbed and flowed over the years, peaking at 80 percent in 1992. Since then, support has fallen by nearly a fourth, while opposition has more than doubled.

Death penalty opponents are hoping that recent advances reflect the trajectory of cultural questioning that has led to an upsurge in support for issues like same-sex marriage and marijuana legalization.

Washington state has been an early adopter on numerous social policy debates. Should we expect to follow a similar trajectory on capital punishment? That depends on your willingness to subscribe to a certain narrative about the so-called Culture Wars.

The Culture Wars have long been a confused political construct — at turns Murphy Brown, recreational weed, same-sex marriage, twerking and a myriad of other barely-related flashpoints. While they haven't brought any greater cogency, the 2010s have brought America a consistent narrative arc: Social reformers, bolstered by increased social tolerance and open-minded Millennials, are winning on virtually every viable battle front.

At surface, the death penalty seems like another possible victory. The realities, and the prescriptions for the debate in Washington, though, are far more complex. No state has recently abolished the death penalty based on a public vote. A 2012 attempt in California failed by four percentage points, even while voters re-elected Barack Obama by twenty-three. Nationally, proponents still outnumber opponents by twenty-five points.

Even that top-line breakdown is potentially misleading. Capital punishment supporters tend to be more adamant; only 22 percent of Americans think the death penalty is over-used, compared to 44 percent who think it should be used more. The age gap present on other cultural issues is also more muted here. In 2011, seniors supported the death penalty by an overwhelming thirty-six point margin and even those under the age of 30 still approved it by seven.

What implications does this have for Washington? Mostly, it suggests Inslee's decision is probably not a popular one. Washington is progressive, but not enough so to buck such a strong nationwide trend. We have low rates of religiosity and traditionalism, and lots of Democrats and left-leaning independents — all factors that correlate with death penalty opposition.

However, a substantial minority (over 40 percent) of liberals and Democrats support the death penalty. Favorable demographics alone aren't enough. Abolitionism will be a tough sell, even in the bright-blue Evergreen State.

That sell though is where Inslee has an opportunity to shape his legacy in Washington. Polls from Pew and Gallup indicate that increased opposition to the death penalty chiefly relates to concerns about its implementation. The number of people viewing the death penalty as intrinsically wrong has been fairly static since the 1990s, but concern about wrongful conviction has skyrocketed. Focusing on flaws of implementation also helped California's abolitionist Proposition 34. That measure, which would have struck down the state's death penalty, initially polled around 35 percent. On Election Day, 48 percent of Californians supported abolition.

It's tough to say how the debate will play out in Washington state. Unlike other "Culture Wars" issues, capital punishment has not followed a clean, historical arc of progress. Governor Inslee has opened up a conversation that could result in a first-ever electoral majority for capital punishment abolition. In the meantime, it has probably mostly resulted in anger. As visceral responses give way to the longer debate, we will see how politically charged the moratorium remains.

The other question to watch: Will the issue cement Inslee's legacy, tarnish his re-election chances — or both?

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