



USA: 'A MORAL CRISIS FOR PEOPLE OF GOOD WILL'

PENNSYLVANIA GOVERNOR ANNOUNCES MORATORIUM ON EXECUTIONS

Numerous recent studies have called into question the accuracy, and fundamental fairness of Pennsylvania's capital sentencing system

Governor Tom Wolf, Pennsylvania, 13 February 2015

A year after the Governor of Washington State announced a moratorium on executions in his state, the new Governor of Pennsylvania has done the same thing. Governor Tom Wolf, who took office on 20 January 2015, has declared that he will grant a reprieve in each case in which an execution is scheduled until any recommendations of the forthcoming report of the Pennsylvania Task Force and Advisory Committee on Capital Punishment has been "satisfactorily addressed". This Task Force was set up under a 2011 resolution of the state Senate and in 2012 had called on Governor Wolf's predecessor to suspend executions until the study was concluded.

Governor Wolf's first reprieve came in his 13 February announcement, in the case of Terrance Williams who was facing execution on 4 March 2015 for a crime committed when he was three months past his 18th birthday.¹ Terrance Williams has been on death row for nearly 30 years. Governor Wolf explained that the reprieve came not out of any sense of sympathy or compassion for "the guilty on death row", among whom he counted Williams, but "because the capital punishment system has significant and widely recognized deficits".

The Governor noted that Pennsylvania has the fifth largest death row population in the USA, but had executed only three prisoners since the US Supreme Court approved new capital laws in 1976, and that all three men had waived their appeals.² The last execution in Pennsylvania was in July 1999, nearly 16 years ago. The "only certainty in the current system", Governor Wolf suggest, is that "the process will be drawn out, expensive, and painful for all involved". He was not, however, suggesting cutting the appeals process – the "fail-safes of appellate review are essential in avoiding a catastrophic miscarriage of justice".

Governor Wolf noted that Pennsylvania accounts for six of the 150 cases of people "exonerated from death row" in the USA after being found innocent of the crime for which they were sentenced to death. He gave the example of one of the six who had been on death row for 21 years before being exonerated by newly available DNA evidence.

He did not only focus on innocence, however. He noted that yet other condemned prisoners had been resentenced to life imprisonment after appeal courts had found mitigating circumstances in their cases or flaws in the sentencing phases of their original trials. The system, he said, is "riddled with flaws, making it error prone, expensive, and anything but infallible".

The Governor also addressed discrimination, pointing to research strongly suggesting that in Pennsylvania "a person is more likely to be charged with a capital offence and sentenced to death if he is poor or of a minority racial group and particularly where the victim of the crime was Caucasian". In particular, he noted that researchers

¹ See 'Opposition to Pennsylvania execution grows', Amnesty International Urgent Action, 11 September 2012, <http://www.amnesty.org/en/library/info/AMR51/076/2012/en>. His execution scheduled for October 2012 was stopped by the courts, <http://www.amnesty.org/en/library/info/AMR51/085/2012/en>

² Keither Zettlemoyer and Leon Moser were executed in 1995, and Gary Heidnik in 1999.

with the state Supreme Court's Committee on Racial and Gender Bias in the Justice System had found in 2003 that one in three of the African American prisoners on death row who had been convicted in Philadelphia would not have been sentenced to death had they not been African American. Such statistics, Governor Wolf said, "create a moral crisis for people of good will on all sides of this issue". He concluded:

"If we are to continue to administer the death penalty, we must take further steps to ensure that defendants have appropriate counsel at every stage of their prosecution, that the sentence is applied fairly and proportionally, and that we eliminate the risk of executing an innocent. Anything less fails to live up to the requirements of our Constitution, and the goal of equal justice for all towards which we must continually strive."

Amnesty International, which opposes the death penalty unconditionally, welcomes Governor Wolf's announcement and urges him and all other officials in the USA – at local, state, and federal level – to work for abolition of the death penalty across the country, as well as for a nationwide moratorium pending removal of the death penalty from the statute books.

A year ago, on 11 February 2014, Governor Jay Inslee of Washington State had pointed to the high costs associated with the death penalty, coupled with "no credible evidence" that it deters murder. At the same time, like Governor Wolf, he said that the death penalty was inconsistently applied and relatives of murder victims were being forced to "constantly revisit their grief at the additional court proceedings" necessary in capital cases. Two years earlier, in November 2011, Oregon Governor John Kitzhaber had announced that he would allow no further executions while he was governor, saying that he believed the death penalty to be "morally wrong", and the capital justice system "broken".

And in May 2013, the Governor of Colorado granted an indefinite reprieve to a state prisoner who was scheduled for execution. Indicating that he too is in favour of a moratorium, Governor John Hickenlooper pointed to arbitrariness in the death penalty system, as well as referring to the national and international trends towards abolition: "Internationally", he pointed out, "the United States is one of only a handful of developed countries that still uses the death penalty as a form of punishment. Approximately two-thirds of countries worldwide have abolished the death penalty in law or in practice, largely due to concerns regarding human rights violations."

In addition, since 2007, five states have legislated to abolish the death penalty – New Jersey (2007), New Mexico (2009), Illinois (2011), Connecticut (2012) and Maryland (2013). Also, in 2007 the last death sentence in New York State was commuted, following a 2004 court ruling that its capital law violated the state's constitution.

While Governor Wolf did not mention the USA's growing isolation on the death penalty – 140 countries are abolitionist in law or practice today, and only 22 countries carried out executions in 2013 – that matter was expressly recognized in the newly abolitionist US states. "From an international human rights perspective", said New Mexico's Governor Bill Richardson in 2009 when signing the abolitionist bill in his state, "there is no reason the United States should be behind the rest of the world on this issue". Two years later, Governor Pat Quinn of Illinois asserted that "we are taking an important step forward in our history as Illinois joins the 15 other states and many nations of the world that have abolished the death penalty". In 2012 Connecticut Governor Dannel P. Malloy promised to sign his state's abolitionist bill into law, saying that his state would be thereby joining the "16 other states and almost every other industrialized nation in moving toward what I believe is better public policy".

When he announced in January 2013 that he was sending his state's legislature an abolitionist bill, Maryland's Governor Martin O'Malley also pointed to the global picture, emphasising that abolitionist countries were "a much more expansive community than the number who still use the death penalty". He asked: "So who do we choose to be? In whose company do we choose to walk forward?" adding that "the way forward is always found through greater respect for the human dignity of all." The legislature voted for abolition and Maryland is now the 18th abolitionist state in the USA. In January 2015, outgoing Governor O'Malley commuted the death sentences of the last four men on Maryland's death row.

Governor Wolf's decision to suspend executions is entirely in keeping with repeated resolutions at the UN General Assembly calling for a global moratorium on executions with a view to abolition of the death penalty. Other governors should follow the example set by their counterparts in Oregon, Colorado, Washington State, and Pennsylvania. And legislators should set about passing abolitionist bills as soon as possible.