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Death penalty begs for reconsideration

Indiana joins the ranks of states without capital punishment

Support for the death penalty is waning across America. We see it most startlingly in the recent vote by Nebraska’s one-house Legislature.

By a veto-proof margin, the Nebraska Senate voted to eliminate the death penalty. Nebraska is a red state. Its governor says he’ll veto the statute. But he would have to move two senators off their “no” votes.

Also recently, in blue Boston there was little popular support for giving the death penalty to the Boston Marathon bomber. The family of one victim said they favored a life sentence so they would not have to relive the crime at the successive appeals that come with death penalties.

Clatsop County District Attorney Josh Marquis, who supports the death penalty, has retried a Bend murder case successive times as the convicted murderer makes appeals which the Oregon Supreme Court has granted, leading to new trials. Those retrials have taken an emotional toll on the family of the victim.

One of the most significant arguments against the death penalty is its relative cost. Capital trials are more expensive than noncapital murder trials. The prolonged appeals process, which goes on for years, adds to the cost.

The Marshall Project noted recently that, “In the six states that have abolished capital punishment

over the past decade, Republican and Democratic officials have also emphasized the cost of the death penalty as a major rationale. Even in states that retain the punishment, cost has played a central role in the conversion narratives of conservative lawmakers, public officials and others who question the death penalty as a waste of taxpayer dollars.”

The Marshall Project is a non-partisan, nonprofit news organization dedicated to coverage of the criminal justice system.

Oregon’s history on the death penalty is typified by a number of changes of mind. The *Register-Guard* of Eugene recounted that progression. “In Oregon, voters abolished the death penalty in 1914, reinstated it in 1920, repealed it in 1964 and reinstated it again in 1978. After the Oregon Supreme Court declared it unconstitutional in 1981, voters approved a constitutionally proper version in 1984.”

As the *Register-Guard* has urged, it is time for Oregonians to have another discussion about the death penalty. The alternative of a life sentence without possibility of parole should be put before the voters.

Halibut population is wobbling

Cooperative fishermen suffer others boats’ bycatch mismanagement

Mismanagement of bycatch — fish caught by accident while boats net other permitted species — is an offensive waste most recently highlighted by a May 30 story in the *Seattle Times*.

The *Times’* focus is on the Alaskan halibut fishery ([tinyurl.com/p9vr49l](http://tinyurl.com/p9vr49l)), but the issues involved are familiar to most commercial fishermen. Longstanding bycatch rules are based on distrust of fishermen and somewhat logical, but obviously counterproductive, notions about how to discourage “accidental-on-purpose” behavior.

In Alaska, halibut is a hook-and-longline fishery, largely comprised of Alaskan residents. The bycatch primarily happens in the course of trawl fishing for yellowfin sole, rock sole and other species by boats based in Washington state, generating more than \$320 million in ex-vessel value per year. Though the small halibut that are mixed with these species constitute only 5.1 million pounds a year out of a total harvest of more than 710 million pounds of fish, these halibut amount to one-fifth of the annual quota for their species. It is one reason the halibut population is wobbling.

This scenario means longline fishermen are pushing hard for a halving of the trawler bycatch. This is understandable, but has the potential to prematurely end the trawl fisheries at a cost of at least \$37 million a year — and possibly up to \$100 million more than that, according to the industry’s own worst-case estimate.

The North Pacific Fishery Management Council, meeting in

Sitka this week, is weighted toward Alaskan residents. Though two members have been disqualified from participating in the vote due to conflicts of interest, long-term betting is that bycatch limits will eventually be lowered.

Meanwhile, all fishermen agree that bycatch is an expensive and lamentable loss of life for no good reason.

Existing technologies and methods are a big aid in avoiding high bycatch, at least for those boats and crews who learn and practice them. The *Times’* analysis definitely points toward just one trawler company as representing the worst record for netting up and killing an oversized percentage of halibut. Others do much better at lowering their bycatch by making use of things like net excluders, slow trawl times and avoiding fishing where too many nontarget species are mixed among the fish.

A sensible change that could be applied to fisheries elsewhere on the coast is to allow deck sorting of catches, in order to quickly return to the ocean any bycatch, allowing non-injured fish at least a possibility of living. A 2013 study “found halibut mortality rates on one vessel could be reduced from about 80 percent to around 60 percent,” the *Times* reports. “This year, those experiments once again are under way, with additional federal observers brought on board, at the trawlers’ expense, to watchdog that effort.”

Working with cooperative fishermen rather than treating all as guilty until proven innocent has the potential of drastically reducing the shameful waste of bycatch.

The education department assassins

By FRANK BRUNI  
New York Times News Service

A contest for the least popular arm of the federal government would have many strong contenders.

There’s the soft, cuddly Internal Revenue Service. Also the National Security Agency, America’s Peeping Tom. And let’s not forget the Environmental Protection Agency, seen by many manufacturers as one big, mossy, bossy paean to regulation run amok.

But for politicians, in particular Republicans, another challenger comes into play: the Department of Education.

In a Republican presidential debate during the 2012 campaign, it wasn’t just on the list of “three agencies of government” that Rick Perry famously promised to eliminate. It was one of the two that he succeeded in naming before he stopped short, forgetting the third.

And it finds itself once again in Republican presidential candidates’ cross hairs, all the more so because of Common Core standards, supported by the education secretary, Arne Duncan, and cited by many excessively alarmed conservatives as a federal takeover of curriculum.

With the notable exception of Jeb Bush, whose Common Core advocacy is possibly his greatest vulnerability in the primaries, nearly all of the major Republican candidates have disparaged the standards, including, just last week, Chris Christie, who once supported them.

And most of these politicians have called for the downsizing of the education department. A few have followed Perry’s lead and said that they want it dead and gone. That’s the position of Rand Paul, Mike Huckabee and Ted Cruz, and Marco Rubio has signaled a willingness to consider the department’s elimination.

It could use more friends these days even among Democrats. Sen. Patty Murray, D-Wash., a former preschool teacher, has joined forces with Sen. Lamar Alexander, R-Tenn., to sponsor legislation that would leave the department and its secretary with much less influence over states.

There’d be no federal say, for example, in how (or if) public schoolteachers are evaluated. If the bill passes — and it has significant bipartisan support — the department would be a shadow of its former self.

Alexander supports that humbling even though he once ran the department, as the first President Bush’s secretary of education.

“I believe there’s a federal role in education,” he told me recently, saying that the federal government affords an important bully pulpit for higher standards and more spending on students from poor families, to name two priorities. “But you don’t need a department. You need a president who cares about education and a Treasury Department that cuts the checks.” Much of the rest is needless red tape, he said.

Mitch Daniels, the former governor of Indiana, didn’t wholly disagree. I approached him because he worked in George W. Bush’s administration, when the department’s power grew with No Child Left Behind, and he’s seen as a moderate Republican. He’s now the president of Purdue University.

“It’s not a ludicrous idea, honestly,” he said, referring to the abolition of the department. He noted that until 1979, when it was established as a Cabinet-level agency, the country got along without it.

And now? “Let’s be gentle,” he said, “and say that we haven’t seen dramatic education improvement since the federal government set up shop.”

In many ways, no, we haven’t.

But there’s much more at work than the failings of the education department, which contributes only about 10 percent of fund-

ing nationally for K-through-12 schooling and has only so much impact on what happens in classrooms.

And there are as many reasons to fret over the department’s disappearance — or, more plausibly, its severe curtailing — as to root for it.

“When states are left on their own, low-income kids, kids with disabilities and minority kids always come last,” said Kati Haycock, the president of the Education Trust, an advocacy group in Washington. “Always. Federal resources help to counteract this tendency, but it’s more about federal leverage.”

There’s also plenty of evidence that when states are left to gauge the success of students, they may produce suspiciously upbeat results at odds with any nationwide measurement.

“Without federal involvement, states define their own standards of proficiency,” said Joel Klein, the former chancellor for New York City public schools. “Some states will do good stuff, but there will also be laggards and a lot of happy talk.”

And as he and many other education advocates pointed out, that’s a national concern that deserves the attention of the federal government and of a discrete department sufficiently empowered to address it.



Frank Bruni

We’re a mobile country, with people routinely relocating across state lines, so Arkansas, Kentucky or Texas isn’t educating children only for its needs. Each is educating them for the entire country’s future, and because American companies compete in a global marketplace, the skills and erudition of tomorrow’s workers are a national issue, not a state one. As it stands now, even with the education department, the extent to which American schools are funded and controlled locally puts us out of step with most developed nations.

If the education department and its secretary vanished, how much would the bully pulpit that Alexander mentioned shrink? What signal would Americans involved in education — and Americans in general — get about education as a national priority?

Daniels applauded the current secretary, Duncan, as “a helpful voice” and “good conscience” over the last 6 1/2 years for necessary reforms and standards. He wondered aloud if such a voice and conscience would have existed without an education department.

I wonder if federal funding for education — about \$140 billion annually, which is a meaningful amount — would possibly stay the same. It goes against organizational and human nature to appropriate money without the sorts of conditions and accountability that are the province of the education department.

“We have to right-size the federal role,” said Michael Petrilli, the president of the Thomas B. Fordham Institute, a think tank that supports school choice. “We absolutely have to give some power back to the states.”

But Petrilli stopped well shy of calling for the education department’s erasure, in part because he asked, “Would you abolish funding as well?” The department administers about half of that \$140 billion.

It has been around long enough now that its outright elimination would be an extreme measure. Qualms with the way it functions are one thing; debates about its power and size are legitimate, even necessary. But what some of the Republican presidential candidates are doing is the equivalent of looking at a person who’s having a really bad hair day and recommending decapitation.

While more thoughtful conservatives like Alexander have sketched out how things might work without an education department, these firebrands are engaged in theater, not real debate. They’re after applause lines, not solutions.

And that’s one of my chief gripes with the battle cry to banish the Department of Education. It’s policy by sound bite. There’s too much of that already.

Gov. Walker and the cool thing

By GAIL COLLINS  
New York Times News Service

We’ve been wondering when a presidential candidate would say something incredibly insensitive about women and reproduction.

The moment has arrived. The 2016 Todd (“Legitimate Rape”) Akin Award for Sexual Sensitivity goes to Gov. Scott Walker of Wisconsin.

Maybe it was inevitable. Of all the practicing politicians in the scramble, Walker is possibly the sloppiest public speaker. Compared with him, Gov. Chris Christie of New Jersey can be a pinnacle of verbal discipline.

Last week, Walker was on a radio talk show, praising a law he signed requiring women who want an abortion to undergo an ultrasound. Which they’re supposed to watch, while the physician points out the features of the fetus.

An ultrasound, he said, was “just a cool thing.”

OK, that was only a little piece of his comment. And let’s acknowledge that presidential candidates are often tortured by reporters and commentators who jump on the least little misstatement. The exact same thing happens to people who actually are president. This is why the ability to speak carefully is an attribute we look for when we’re trying to decide who we should elect as the most powerful and closely scrutinized human being in the world.

But about the ultrasound quote. Walker was complaining that, in his words, “the media is a gotcha.” He then bragged about his anti-abortion agenda:

“We defunded Planned Parenthood. We signed a law that requires an ultrasound, which, the thing about that, the media tried to make that sound like that was a crazy idea. Most people I talk to, whether they’re pro-life or not, I find people all the time who’ll get out their

iPhone and show me a picture of their grandkids’ ultrasound and how excited they are, so that’s a lovely thing. I think about my sons are 19 and 20 and we still have their first ultrasound pictures. It’s just a cool thing out there.”

Now many people tend to babble when they’re stuck in front of a microphone. Perfectly normal. Except, once again, for the part about being a candidate for the most quote-sensitive job on the planet.

Let’s leap, temporarily, past the fact that Walker was conflating the vision of happy parents getting their first glimpse of their baby-to-be with what’s appropriate for a woman who has made the stupendously profound and private decision to terminate a pregnancy.

His larger point was apparently that the sight of a fetus in an ultrasound is so moving that a woman undergoing an abortion would almost certainly change her mind. This is wrong. There’s no evidence these ultrasound laws discourage women who have already decided they want an abortion. And it’s incredibly insulting because it presumes that they’re making this choice on a kind of whim. If they’d only thought things through.

Women’s motives for terminating a pregnancy are as varied and complex as ... women. A college freshman regretting a careless fling can share the waiting room with a middle-aged waitress with four children and an abusive husband, or a newlywed like Jeni Putalavage-Ross of Texas, who discovered the little girl she was anticipating so eagerly was not going to survive delivery because the fetus’ development was, in the doctor’s words, “incompatible with life.”

“I just don’t understand why politi-

cians want to be in the middle of this,” she said in a phone interview.

At one point — during a re-election campaign against a female opponent — Walker seemed to get that resentment against political intrusion. So he claimed the then-pending ultrasound proposal “leaves the final decision to a woman and her doctor.” Although neither the woman nor the doctor gets any say in the ultrasound-plus-commentary.

“Who’s opposed to an ultrasound?” the governor demanded Thursday. He was back on the same radio show, berating the good old media.

“They tried to claim that there were certain types,” he complained, presumably referring to ultrasounds. The translation here is that while Walker keeps

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describing external “jelly-on-the-belly” procedures, representatives of the medical community say doctors will sometimes have to use intrusive vaginal probes to meet the law’s requirements.

Not so, Walker contended. “It doesn’t designate which type, so most people would

just do the traditional one that people think of all the time. If they haven’t seen it themselves, certainly most people have seen it on TV or in movies.”

Would it be unfair to note that one of popular culture’s most recent depictions of a happy couple sharing their ultrasound pictures involved the eldest son on “19 Kids and Counting?” Possibly.

Still, we have here a potential president who justifies a law on how doctors treat their abortion patients by citing what we know from watching TV and movies.

Seventeen months to go. Lord knows what’s next.