

Will the Kermit Gosnell verdict change the abortion debate?

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(RNS) Even before rogue abortionist Kermit Gosnell was convicted in Philadelphia on Monday (May 13) of delivering and then killing late-term infants, abortion opponents were convinced they had a case that could reshape an abortion debate that has remained static over the years.

After the verdict, they were even more confident.

“Dr. Gosnell is only the front man; and the real trial has only just begun. The defendant is the abortion license in America,” Robert P. George, a Princeton law professor and leading conservative activist, wrote after a jury convicted Gosnell of three counts of first-degree murder for snipping the spines of babies after botched abortions.

Gosnell, who could face the death penalty, was also found guilty of involuntary manslaughter in the death of a 41-year-old patient who sought an abortion at the squalid West Philadelphia clinic that prosecutors labeled a “house of horrors.”

Yet the fervent prayers for a game-changing impact from the Gosnell conviction may go unanswered for a variety of reasons.

A 'monster' used by both sides

One is that Gosnell is an equal-opportunity icon: Abortion rights supporters also believe they can make a powerful argument out of the Gosnell case for greater and more affordable access to safe abortion services.

“Anti-choice politicians, and their unrelenting efforts to deny women access to safe and legal abortion care, will only drive more women to back-alley butchers like Kermit Gosnell,” Ilyse Hogue, president of NARAL Pro-Choice America, wrote in an email that was part of a post-verdict media barrage that was almost as intense as the one orchestrated by abortion opponents.

In fact, at least nine of the jurors who convicted Gosnell told the court that they are “pro-choice.” As New York Magazine’s Dan Amira put it: “Pretty much everyone believed that Gosnell is a monster who did horrible things. Where the two sides part ways is on what the tragedy says about abortion more broadly.”

Public opinion stalemate

A second factor working against prospects for a major shift is that most Americans, like the courts, are so settled in their views on abortion that it’s hard for anything — even the gruesome Gosnell story — to change their minds.

A Gallup Poll taken weeks into the Gosnell trial and a few days before the verdict found public opinion virtually unchanged: 26 percent of Americans said abortion should be legal under any circumstances, 20 percent said it should be illegal in all circumstances, and more than half — 52 percent — opted for something in between, as has been the case since 1975.

The Gallup survey also showed that few people were even paying attention to the case; conservative activists accused the media of downplaying the trial due to a liberal bias, but it turns out that conservative media also did not cover the case very much in part because the details were so horrific that the audience would likely tune those stories out.

Overtaken by events

A third reason that the Gosnell case is probably not “the trial of the century,” as one abortion foe claimed, is simply bad timing: Benghazi, the IRS investigations of Tea Party groups, and reports that the Justice Department had snooped on journalists’ phone records all overshadowed the Gosnell story.

Those other controversies not only gave the public something less gruesome to focus on, but they gave conservatives too many targets all at once.

‘Safe, legal and rare’ but still legal

Finally, it may well be that the Gosnell case seemed like such a slam-dunk for abortion opponents that they overreached in arguing that Gosnell showed why every abortion is always and everywhere wrong.

“The unsafe conditions of the clinic do not cause our gut-wrenching response,” Collin Garbarino wrote a month ago in *First Things*, predicting that the trial, just starting, would strengthen the anti-abortion movement. “No. Our horror stems from the very act of abortion itself, the most brutal and distasteful act tolerated in America today.”

Or as George put it, after the Gosnell trial “it will no longer be possible to pretend that abortion and infanticide are radically different acts or practices.”

Yet by a wide margin, most Americans are not willing to make such sweeping judgments on legalized abortion, whatever their views on Gosnell. What many might support, however, are measures to provide greater oversight of abortion clinics and perhaps some limits on relatively rare late-term abortions.

Such proposals are gaining steam around the country — often at the initiative of conservative lawmakers — and in the wake of the Gosnell case are even attracting support from more liberal commentators, such as Michael Wear, who led the Obama campaign’s outreach to faith groups in 2012, and *The Washington Post*’s Melinda Henneberger.

“Though I do not support a ‘personhood’ amendment, neither am I okay with the Orwellian dodge that it’s not a baby unless and until we say it’s a baby,” Henneberger wrote.

The risk for abortion opponents is that endorsing such limited policies could be seen as settling for a Clintonesque standard for abortion as “safe, legal and rare” — but nonetheless still legal.

Still, the more pragmatic activists in the movement seem to recognize that the momentum from the Gosnell moment is likely to fade as quickly as it does for gun control advocates after a deadly shooting massacre. So if they don’t seize this moment for what they can get, they may wind up leaving loyalists in both camps

energized, but the center as ambivalent as ever.