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Murder Most Foul, or Just Plain Wrong?

Professor Calculates Which Killers Should Pay the Ultimate Price

By LYNDA RICHARDSON

Over years of probing the criminal mind, Robert Blecker, a professor at New York Law School, has become convinced that death penalty laws fail to cull the most vicious killers from the merely mundane murderers.

So Professor Blecker is creating a kind of catalog of ultimate evil, outlining murders that he believes deserve the forfeiture of life.

The professor, who is writing a book on capital punishment, has learned that convicted murderers have their own moral calculus for determining the worst among them. And he thinks the killers can offer valuable lessons.

In his book, the professor calls for a drastic reduction in the number of murderers who are eligible for the death penalty, but as a believer in retribution he urges the execution of a higher percentage of the murderers who remain on death row.

"Most of the people I have met in prison I would spare," said Professor Blecker, 52, who describes himself as a libertarian. "Some I would kill. My goal is to determine which is which."

The professor's argument for refinement of death penalty laws comes as the national debate over capital punishment intensifies. Last month, Gov. George Ryan of Illinois, a Republican who favors the death penalty, halted executions in his state after concluding that 13 innocent people had almost been executed, in some cases because of incompetent defense lawyers. In at least 12 states, legislation to suspend executions has been introduced.

Since 1986, Professor Blecker has been studying the behavior of more than 100 murderers and other felons at Lorton Central Prison in Virginia, which serves the District of Columbia. He said the inmates at Lorton, ranging in age from 20 to 78, taught him that the traditional categories used to determine which murderers should be condemned to death are too broad and fail to capture distinctions like the killer's feelings of remorse.

The Lorton inmates served as his "search engine," he said, helping him to winnow the sort of murders that warrant the death penalty.

is an aggravating circumstance that can elevate a murder to a capital crime, not all witnesses are equal.

A killer does not deserve to die, Professor Blecker said, for murdering a partner in crime after a bungled robbery if the accomplice implicates him, or plans to, in order to receive a lighter sentence. The professor said, however, that a killer should receive the death penalty for murdering an innocent passer-by who happens to see a robbery.

"If he selfishly eliminates an innocent witness by rationalizing that 'She's nothing but a snitch for telling on me,' he is the worst of the worst, because the street code is, 'Of course she will tell,'" he said. "She is doing

A theorist makes moral distinctions about the reasons for taking a life.

her duty. It's on him to engage in the robbery in such a way that he will not be seen, either to mask down or do it with sufficient stealth to protect his identity."

On the other hand, Professor Blecker concluded, if a murderer was on drugs at the time he committed the crime, a mitigating circumstance that might reduce a capital offense, laws should be more precise about the kind of drug and the killer's experience with it.

For example, Professor Blecker said, the inmates agreed that a murderer who was taking heroin at the time deserved to die, because he would feel detached but aware, making it easier to kill.

But a murderer might have diminished responsibility while on a drug popularly known as "boat," short for "love boat," which is marijuana soaked in the psychedelic drug PCP. On that drug, the killer could feel a potent combination of paranoia and omnipotence. "Everybody is out to get you and nobody can stop you," Professor Blecker said.

prisoners convicted of attempted murder or assault with intent to kill and 20 inmates imprisoned for drug crimes who said they had also killed but had never been caught. No inmate was on death row at Lorton, because the District of Columbia does not have the death penalty.

"They can isolate those who are not like them, who are the worst of the worst," Professor Blecker said of the inmates. "In large part, those are killers with attitudes. We kill them not just because of their act but because of the attitude with which they killed."

He said the death penalty was applied too broadly in the category of felony murder, a killing committed in the course of a felony like robbery, burglary or rape. Robbery itself, he said, should not automatically elevate the crime to a capital offense.

Professor Blecker said he saw a double standard in the law: robbery is disproportionately committed by the poor and members of minorities, and, if a murder occurs along with the robbery, a capital prosecution can ensue. But he said corporate killers, who knowingly maintain workplaces that cause deaths, are not singled out for capital cases.

Professor Blecker contends that the elimination of robbery from the felony murder category would diminish concerns about racial discrimination in death penalty cases because it would reduce the inherent bias in such cases.

He said the most heinous killers would receive the death penalty anyway, because other aggravating factors, like torture, would be present.

In addition, Professor Blecker said, distinctions as to whether murder victims resist should be made. He said a robber who intentionally kills a victim who does not fight back deserves to die, but a robber who kills his victim in a struggle after the victim reaches for a gun should be spared.

"The victim has raised the stakes from property to life," Professor Blecker said. "The robber deserves punishment, like life imprisonment, but he doesn't deserve to die."

Quotation of the Day,
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