

Death of Punishment: Searching for Justice among the Worst of the Worst (2013): Book reviewed by Attorney-at-Law Richard Barbuto
The Death of Punishment: Searching for Justice among the Worst of the Worst

Professor Robert Blecker (Author)
Published by Palgrave Macmillan (2013)
ISBN-13: 978-1137278562 (Hardcover)
ISBN-10: 1137278560 (Kindle)
Hardcover Price 16.35 pounds
Kindle Price 15.53 pounds

Book Review written by Richard Barbuto¹

Crusader of the death penalty

If you want to read a book about the pros and cons of the death penalty, this is not it. *The Death of Punishment: Searching for Justice Among the Worst of the Worst* appears to fail to do much more give is the pros and cons of the U.S. death penalty laws. Perhaps, though, it may have furthered Professor Robert Blecker's career as a crusader for the death penalty. For the sake of full disclosure, the reviewer is not a death penalty advocate, finding the imposition of the death penalty barbaric and believing that it should be abolished, an opposing moral stance to Robert Blecker's. However he does not claim that every murder requires the death penalty.

Indeed, he proclaims that only 'the worst of the worst' should be executed and in support of his argument, Professor Blecker relies on conversations with death penalty prisoners over the past 10-plus years. Examples of the cases this author discusses include multiple murders of children; cases involving torture followed by death; rape-murder cases; and other heinous crimes.

¹ Richard Barbuto is an attorney-at-law in the United States of America, practicing in criminal law. He is a past President of the New York State Association of Criminal Defense Lawyers ('NYSACDL').

Murder cases male Robert Blecker 'emotional'

There is no question that the cases he writes about will make your blood boil. Throughout the book, Blecker talks about how emotional this subject makes him, and how much he wants the 'monsters' perpetrating such acts to be killed. This, of course, is part of the problem. The criminal justice system must be administered by professionals in a fair and impartial manner, not by over- emotional law professors.

Proportionality in sentencing in murder cases

Blecker does spend time discussing the notion of proportionality in sentencing. His proposal is that the death penalty should be reserved for only the 'worst of the worst' cases. This is not exactly a novel position, as penal law recognizes that different crimes require different sentencing times. For example, in New York State, where Robert Blecker teaches criminal law at university, there is no death penalty.

Murder in the first degree

However, murder in the first-degree can carry a penalty of imprisonment for life without parole whereas a conviction of murder in the second degree carries a maximum penalty of 25 years to life in prison. Murder in the second-degree at least carries the possibility of parole. There are, of course, many different homicide categories in New York State, including manslaughter, vehicular homicides, negligent homicides, etc. Each of these crimes has a specific sentencing penalty attached to it, based on the New York State Legislature's determination of the seriousness of the crime. This business of

proportionality depends on the nature of the crime and the intent of the actor when committing the crime.

Written from academic standpoint

The fact is that the book *The Death of Punishment: Searching for Justice among the Worst of the Worst* is written from an academic point of view and as a result, it suffers some shortcomings. The author's research is mainly based on his interviews of prisoners on Death Row² and on a few people working in the actual prisons. There were not, that I saw, any interviews or conversations with trial lawyers, although Blecker did have some conversations with appellate attorneys.

Ivory Tower Professors

As is often the case, 'Ivory Towers'³ are sometimes claustrophobic. If Robert Blecker were serious about tackling problems in Sentencing in murder cases he might wish to walk the floors with a prison guard or try one case or two with seven in the trenches. In this way, he might have reached a more balanced view of the workings of the U.S. Criminal Justice System.

² See table below of United States Death Row Prisons. In 2013, there was over 3,000 persons in Death Row Prisons.

³ According to the Cambridge Dictionary, to live or be in an ivory tower is not to know about or to want to avoid the ordinary and unpleasant things that happen in people's lives: Academics sitting in ivory towers have no understanding of what is important for ordinary people.

Conclusion

As a reviewer I think it appropriate to ask why this book was written. As far as the pros and cons of the death penalty go, it does not appear to contribute much in this area of law. In terms of sentencing defendants to the death penalty, Professor Blecker does not really come up with any particular construct. In my personal opinion, advocating for the administering of the death penalty to the worst of the worst raises too many obvious, unanswered questions because, to accept that proportionality is the key to fair sentencing, legislatures throughout the United States have already reached that conclusion. Professor Blecker is a very smart man, make no mistake about that. But this book, *The Death of Punishment: Searching for Justice among the Worst of the Worst*, in this Counsel's humble opinion, fails to do much more than perhaps further Blecker's career as a crusader for the death penalty.

Table 1: Death Row locations in the United States of America

Type of Prison	Men's Death Row	Women's Death Row
Civilian Federal	US Penitentiary, Terre Haute, Indiana.	Federal Medical Centre, Carswell, Forth Worth, Texas.
Military	US Disciplinary Barracks, Fort Leavenworth, Kansas.	Naval Consolidated Brig. Miramar, San Diego, California.
Alabama State	Holman Correctional Facility, Atmore & William E Donaldson Correctional Facility, Bessemer.	Julia Tutwiler Prison for Women
Arizona State	Arizona State Prison Complex - Eyman	Arizona State Prison Complex - Perryville
Arkansas State	Varner Unit	McPherson Unit
California State	San Quentin State Prison	
Colorado State	Sterling Correctional Facility	Central California Women's Facility Colorado Women's Correctional Facility
Connecticut	Northern Correctional Institute	York Correctional Institute
Florida	Union Correctional Institution; Florida State Prison	Lowell Correctional Institution Annex.
Georgia	Georgia Diagnostic and Classification Prison	Arrendale State Prison
Idaho	Idaho Maximum Security Prison	Pocatello Women's Correctional Centre
Indiana	Indiana State Prison, Michigan City.	Indiana Women's Prison, Indianapolis.
Kansas	El Dorado Correctional Facility	Topeka Correctional Facility.
Kentucky	Kentucky State Penitentiary, Eddyville.	Kentucky Correctional Institute for Women, Peewee Valley.
Louisiana	Louisiana State Penitentiary	Louisiana Correctional Institute for Women, St Gabriel.
Maryland	North Branch Correctional Institution	Maryland Correctional Institution-Women, Jessup.
Mississippi	Mississippi State Penitentiary, Sunflower County.	Central Mississippi Correctional Facility.
Missouri	Potosi Correctional Centre	Women's Eastern Reception, Diagnostic and Correctional Centre.
Montana	Montana State Prison, Deer Lodge.	Montana Women's Prison, Billings.
Nebraska	Tecumseh State Correctional Institution.	Nebraska Correctional Centre for Women, York.
Nevada	Ely State Prison, Ely.	Florence McClure Women's Correctional Centre, North Las Vegas.
New Hampshire	New Hampshire State Prison for Men, Concord.	New Hampshire State Prison for Women, Goffstown.
New Mexico	Penitentiary of New Mexico, Santa Fe County.	New Mexico Women's Correctional Facility, Grants.
North Carolina	Central Prison, Raleigh.	North Carolina Correctional Institution for Women, Raleigh.
Ohio	Chillicothe Correctional Institution, Chillicothe. Ohio State Penitentiary, Youngstown.	Ohio Reformatory for Women, Marysville.
Oklahoma	Oklahoma State Penitentiary, McAlester.	Mabel Bassett Correctional Centre, Oklahoma City.
Oregon	Oregon State Penitentiary	Coffee Creek Correctional
Pennsylvania	SCI-Greene, Franklin.	SCI-Muncy, Clinton.
South Carolina	Lieber Correctional Institution, Ridgeville.	Camille Griffin Graham Correctional Institution, Columbia.
South Dakota	South Dakota State Penitentiary, Sioux Falls.	South Dakota Women's Prison, Pierre.

Tennessee	Riverbend Maximum Security Institution	Tennessee Prison for Women.
Texas	Polunsky Unit, West Livingston.	Mountain View Unit, Gatesville.
Utah	Utah State Prison, Draper.	Central Utah Correctional Facility, Gunnison.
Virginia	Sussex I State Prison, Sussex County.	Fluvanna Correctional Centre for Women.
Washington	Washington State Penitentiary, Walla Walla.	Washington Corrections Centre for Women.
Wyoming	Wyoming State Penitentiary, Rawlins.	Wyoming Women's Centre, Lusk.