



Along the Color Line

by Dr. Manning Marable

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The Death Penalty and Racism: Hang 'Em High

Nothing is more final than death. A person who is unjustly executed for a crime he or she didn't commit has no ability to overturn the case. There's no access to appeal and vindication after an innocent person has been strapped to an electric chair. For all of the nearly 1,900 death row inmates, and the thousands of additional prisoners soon facing capital punishment in the courts, the debate over whether the death penalty is allocated in a racist, discriminatory manner is quite literally that of life and death.

The Supreme Court had the opportunity to settle this debate, to move us beyond the level of legal barbarism. But the frontier, vigilante-inspired ethos of "hang 'em high" has now temporarily triumphed in two court decisions.

First, the high court has ruled that any person who participates in a felony which results in the death of another person may be convicted of first degree murder and sentenced to death—even if the convict had no intent to murder and had not fired any weapon. Anyone judged to be a "major participant" in a capital crime who "necessarily exhibits reckless indifference to the value of human life" may now be executed by the state. This controversial ruling, decided by a narrow 5-4 margin, will undoubtedly accelerate the number of executions across the U.S. Moreover, it essentially overturned the *Enmund v. Florida* decision of 1982, which had affirmed that death was an unconstitutionally excessive penalty for any accomplice in a murder case who didn't harm or intend to kill a victim.

The crucial case of Warren McCleskey is even more tragic. McCleskey, a Black man, murdered a white Georgia police officer, and subsequently received the death penalty. McCleskey's attorneys argued that the defendant's race had a decisive role to play in capital cases in Georgia, and that the death penalty was in any event "cruel and unusual punishment" which is prohibited by the Eighth Amendment. Social science research validated McCleskey's central argument. According to one statistical study by David C. Baldus and others based on over 2,000 murder cases in Georgia during the 1970s, people accused of killing whites were about 11 times more likely to be given the death penalty than those who murdered Blacks. Even factoring for 230 variables, the death sentence was still 4.3 times more likely to be rendered if the victim was white. Over half of the defendants in white-victim crimes would not have been ordered to be executed had their victims been Black women or men.

These disturbing statistics are reflected on death rows throughout the U.S. Less than one in seven per-

sons awaiting execution had Black victims. About one half of all inmates on death row are people of color—Blacks (41.5 percent), Indians (1.3 percent), Hispanics (6 percent) and Asians (1 percent). Of the 1,874 inmates on death row in the U.S., as of April 22, 1987, 974 of them (52 percent) are located in only nine Southern and border states: Florida (259 on death row), Texas (242), Georgia (109), Alabama (81), Oklahoma (68), North Carolina (65), Tennessee (56), Louisiana (49) and Mississippi (45). In Georgia alone, of the 376 defendants executed since 1930, 304 were Blacks. In Florida, between 1972-1977, Blacks who murdered whites were five times more likely to be sentenced to death than whites who had murdered whites. All the data indicates that a Black person's life is worth far less than that of any white person, at least in the traditionally racist confines of the South's criminal justice system.

Predictably, McCleskey's critics first rallied behind thinly veiled but well-tested racist arguments. One of the original prosecutors of McCleskey, Mary Beth Westmoreland, asserted that patterns in death sentencing could be attributed to the fact that Afro-Americans were usually killed in "family disputes, lover disputes," barroom brawls, etc. White folk are different, Westmoreland claimed, because they're often killed in robberies which provoke "the moral outrage of the community." By another 5-4 majority, the Supreme Court sided against McCleskey, but used more sophisticated racist reasoning. Justice Lewis F. Powell declared that McCleskey's arguments "basically challenge the validity of capital punishment in our multiracial society." To prove racism in death sentences, McCleskey has to prove "the decision makers in his case with discriminatory purpose"—in short, an impossible task.

Dissenting from the court's majority, Justice William Brennan warned: "The risk that race influenced McCleskey's sentence is intolerable by any imaginable standard. . . . We cannot pretend that in three decades we have completely escaped the grip of an historical legacy [of racism] spanning centuries." Many other observers recognize these central truths as well: There remains no hard, scientific data which proves that the death penalty deters crime. States which have reinstated capital punishment frequently experience increased crime rates. And most importantly, no racist social order can ever administer the death penalty in a non-racist manner. As Urban League leader John E. Jacob states, "the death penalty will always be affected by racial factors. That is enough to place it outside the bounds of constitutionality."

Save Barker's Dairy

The Barker family works from 4:30 a.m. until about 8 p.m. each evening—what the old folks called "working from can't see in the morning till can't see at night." The Barkers own a dairy farm—Barker's Dairy—in Granville County, North Carolina. Their dairy produces 2,000 pounds of Grade A milk a day. Unfortunately, Barker's is one of only two Black dairy farms left in the state, and both farms are on the verge of going under.

When I visited the Barkers, one recent Saturday evening, Mr. Barker had just finished working on the cornfield and Mrs. Barker and their children were working in the milking barn. The Barkers began farming in 1974. Although they have been beset by all kinds of problems, they continue to farm.

Back in 1985 Mr. Barker was out cutting trees for the barn when a tree fell on him, breaking his neck. The doctors said he would never walk again. Yet, after just two months of intense physical therapy and a lot of determination, Mr. Barker was back on his tractor, working the farm's 300 acres.

Now the farm crisis that has destroyed so many farmers across the nation is also about to engulf the Barkers: they are about to lose their farm. When you ask Mr. Barker why he still wants to be a farmer, he simply replies, "When a nation turns its back on its farmers and the land, it turns its back on its own future. My family has made a long term commitment to this farm, and to this community. We intend to work even harder to ward off this crisis but, in all honesty, we desperately need help." And, he adds, "Black businesses just don't exist in this area—farming or otherwise. Most of the Black farmers here were forced under for lack of adequate capital. But we love the land too much to give it up. WE truly love farming."

Each morning the Barkers and their five children get

up and tend to the farm. Then the children go off to school, and, upon their return, they complete the rest of their chores. One son will be graduating this June and plans to attend an agricultural college in North Carolina so he can continue his parents' legacy.

That legacy—for the Barkers and for hundreds of other Black farmers—is fast becoming a nightmare. Black farmers are losing their land at 2½ times the rate of white farmers. In addition, there are only 181 Black farmers left in the United States under the age of 25. The Black farmer is, indeed, becoming extinct.

What will help? Increasing farm loans to Black farmers for one thing. In 1982, only 1% of farm ownership loans were given to African American farmers, according to the North Carolina-based Rural Advancement Fund. For another, a more equitable sharing of information about new agricultural techniques, marketing and research by the U.S. Agriculture Department is needed.

At a time when sociologists and pundits alike have taken aim at the African American family, and particularly at African American men, we are heartened by families like the Barkers. For Mr. and Mrs. Barker understand their responsibilities. In fact, they live them each day, passing this sense of responsibility on to their sons and to their daughters.

Barker's Dairy could become one of the best in North Carolina if it is just given a chance. Operation Spring Plant has been set up to assist the Dairy and other farmers caught in similar crises. Operation Spring Plant can be contacted at: Rt. 4, Box 492, Oxford, North Carolina 27565.

This nation cannot afford to abandon its farmers. The case of Barker's Dairy is but a testimony to both the heritage and the future of this country.

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Remember Vincent Chin

Let's play pretend. Let's imagine that a white man got into a fight with two Asian-Americans who then beat the white man to death with a baseball bat. Let's also pretend that the two Asian-Americans were brought to trial and given only a fine and probation because they were "responsible" citizens and the judge felt nothing would be served by jailing them. If you find this scenario too difficult even to imagine, it is understandable. For it is inconceivable that the defendants, as described, would get off under these conditions.

Now, let's return to reality . . . and switch to race of those involved. For, such a murder was committed. But the man beaten to death was 27-year-old Vincent Chin, an Asian-American. And his attackers were two white men, 43-year-old Ronald Ebens and his 23-year-old step-son, Michael Nitz. The two white men set upon Mr. Chin, following an argument, outside a Detroit restaurant in June of 1982. Mr. Chin, an engineering draftsman, has been celebrating with friends as he was to be married two days later.

Mr. Ebens and his son had earlier shouted "Chink" and "Nip" at Mr. Chin. They then cornered Mr. Chin in the parking lot of the restaurant and, according to one eyewitness, as off-duty police officer, Mr. Ebens repeatedly smashed Mr. Chin over the head with a baseball bat. Mr. Chin died 4 days later.

That's when the courtroom high jinks began. The two men were allowed to plead guilty to the lesser charge of manslaughter and both men were then placed on probation and fined \$3,000. They never served a day in jail.

Why, you might ask, were they not jailed? Why were they not charged with first degree murder? Because, explained Judge Charles Kaufman, the sentencing judge in the case, "We're talking here about a man (Mr. Ebens) who's held down a responsible job with the same company for 17-18 years and his son who is employed and is a part-time student." Then, added Judge Kaufman, as if his previous statement were not damning enough, "You don't make the punishment fit the crime; you make the punishment fit the criminal."

In other words, it's okay to batter a man to death as long as you have a good employment record, and, of course, as long as the attacker is white and the victim is Asian-American . . . or African American, or Hispanic American, or Native American.

After Judge Kaufman freed both men, the national Asian-American community became incensed, as did many others committed to justice. As a result of the mobilization around the case, a federal civil rights indictment was obtained. The verdict in the ensuing federal trial was recently handed down: Ronald Ebens was acquitted, yes, acquitted of the murder. Keep it in mind now, both Ebens and his son admitted from the beginning that they had killed Mr. Chin. Yet, they are now free and walking around, just across town from the home of the Chin family. Mr. Chin's mother has been described as "utterly devastated by the decision" and now fears for her life.

What happened to Vincent Chin should never be forgotten. As the recent Howard Beach incident did for African Americans, the Chin murder will, hopefully, bring Asian Americans and others to resolutely take a stand against the escalating violence now stalking the Asian American community on a national level.

The general permissiveness toward racism shown by the Reagan Administration has thus touched not only African, Hispanic and Native Americans, but Asian Americans as well. And across the board, this rising tide of racial violence has forced our communities to organize themselves and to unite across racial and ethnic lines. As Atty. James Shimoura of American Citizens for Justice in Detroit noted, "We know that unless we organize to combat this violence, there will be more and more Vincent Chins. And," he added, "we know that many others are with us."

It is up to all of us who are committed to justice to join with progressive members of the Asian American community. We must challenge this racist violence which threatens not only racial and ethnic communities, but the nation as a whole. United in struggle we all win; divided we all lose.

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Minority Plan Hard Work

by William E. Davis
Chancellor of the Oregon
State System of Higher Education

On one thing we can all agree: Hard work and high achievement should be rewarded.

That is the basis for a recently approved plan to award tuition and fee waivers to 146 of the best-qualified minority Oregonians who enroll in our public colleges and universities as first-time freshmen.

Even if you are not one of these minorities, the plan will benefit you. If you are a Black, Hispanic or Native American, I encourage you to get the details.

In a nutshell, the plan will:

- Award waivers of tuition and fees (about \$1,500 annually) to selected minorities who meet all regular admissions requirements at one of Oregon's public, four-year colleges and universities starting next fall. For new high school graduates, requirements include taking college-prep courses and earning a qualifying grade-point average, the same standards required of all entering students.
- Permit renewal of the awards for up to five years to students who earn a 2.0 college GPA, earn 36 credit hours annually and make satisfactory progress toward a degree.
- Work toward a goal of doubling minority freshman enrollment on our campuses by Fall 1989.

The plan is a response to Governor Neil Goldschmidt's request that we do more to help minorities. It also has won the support of Portland Schools Supt. Matthew Prophet, minority leaders, legislators, campus leaders and others.

Anyone who has ever set a goal will understand why we expect the program to work.

Today, too many minority students do not finish high school; or they graduate without the grades, the required classes or the money to go on to college.

The 11-member Oregon State Board of Higher Education believes the plan will encourage minority students to begin preparing themselves for college early. We expect more minority students will not only finish high school, but also earn better grades, enroll in college prep classes and seek college admission.

As a result, they will be more likely to succeed in

college.

Success in college will help them to land better jobs to send their own children to college, and to make greater contributions to Oregon.

All students on our campuses will benefit from the greater diversity of having more Black, Hispanic and Native American students in college.

And Oregon will be strengthened by not having a segment of its citizens working below their potential. Currently, students from these three minority groups enroll in our four-year colleges and universities at only half the rate of white students.

The obvious question is, "What will this cost?" At first, this may sound like smoke and mirrors. But the truth is, it will cost almost nothing.

When the first 146 minority students enroll next fall we will waive an estimated \$219,000 in tuition and fees.

But we can afford to waive those fees because having these students on our campuses will not raise costs appreciably.

That is because these students will be added to a pool of more than 61,000 students, and their impact will be so small that instructional costs will not increase. Their presence will not require us to hire more professors, add more classrooms, or build more labs.

Everyone wins. Minority students in our high schools will have an additional incentive to do the hard work of preparing for college.

Students who prepare themselves will improve their lives and contribute more to the economic and cultural development of the state.

Oregon taxpayers won't be asked to pay anything to support the program.

And our state will be strengthened by the added diversity that will result not only on our campuses, but also in the workplace.

Minority students interested in an application to apply for one of the awards may contact their high school counselors or write to me at P.O. Box 3175, Eugene, Oregon 97403.

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