

Excerpt from Epilogue Two of *Waiting For It*, written in October, 2000, pp 188-189:

Nearly a quarter of a century after the events described in this book, capital punishment as a way of protecting the people is just beginning to be seen for what it is. It will take years for those states that countenance the penalty, and especially those--Texas, Louisiana, Florida--that use it recklessly, which is to say politically, to move the heavy legislative gears required to make abolition a fact. Men and women--the guilty, the unrepresented, the innocent--will die needlessly in the meantime. But in the light of what appears to be a gradual renewal of popular conscience as seen in the current concern about killing the innocent, it looks as if it must eventually happen.

My personal belief has not changed. No one has or may be given in good conscience a license to kill. It is an individual's choice and responsibility. We are the only non-totalitarian, non-terrorist country in the world still to use this ultimate, irreversible penalty against its citizens. It has proven to be of no use in preventing crime, has been shown in fact to excite it, since its example encourages brutality and corrupts the young. It is racist to the point of genocide. It singles out all minorities, especially blacks, but also the poor and, almost exclusively, those who kill whites, so that it is

demonstrably arbitrary and discriminatory in its imposition. It is costly. It is cruel and causes pain both in the event and in its anticipation. It may and frequently does kill the innocent, juveniles, the mentally retarded and the mentally ill.

On the other hand, it is not difficult to get away with murder in this country. If you are rich or a member of organized crime, if you turn state's evidence or kill a black man or woman or an Asian or an Hispanic and are yourself white, your chances of escaping death row are good.

In 1993 Supreme Court Justice Antonin Scalia, joined by Justice Clarence Thomas, offered mocking advice to the three dissenters--Blackmun, Stevens and Souter--who had been shocked, they said, in their consciences by the majority decision to limit appeals of death row convicts on evidence of innocence. Perhaps, Scalia suggested, "they should doubt the calibration of their consciences or, better still, the usefulness of 'conscience-shocking' as a legal test."

It seems to me that to doubt the usefulness of conscience-shocking as a legal test is to give up the expectation of our continuing to evolve as human beings.