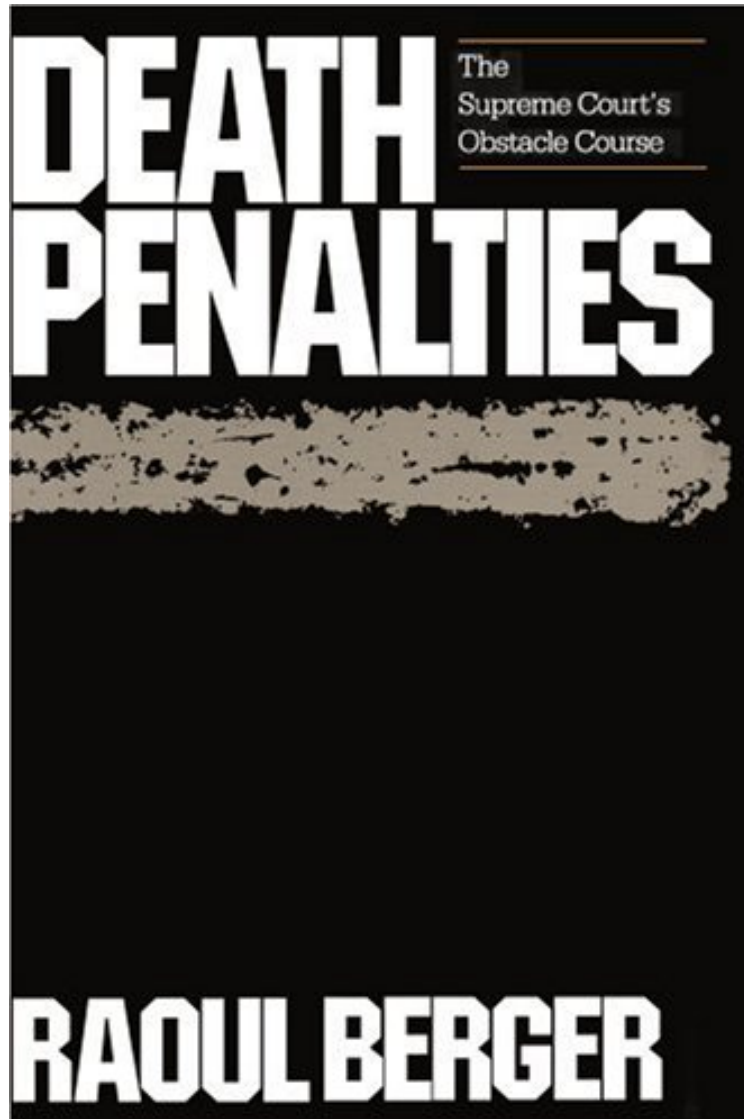


## Death Penalties: The Supreme Court's Obstacle Course

*Raoul Berger*

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**Raoul Berger : Death Penalties: The Supreme Court's Obstacle Course** before purchasing it in order to gage whether or not it would be worth my time, and all praised Death Penalties: The Supreme Court's Obstacle Course:

1 of 1 people found the following review helpful. Cruel and Unusual PunishmentsBy BrianRaoul Berger, one of the greatest constitutional scholars of all time, addresses the Supreme Court's treatment of the death penalty. Here, he explores the history and original meaning of the Eighth Amendment's "cruel and unusual punishments" clause. What does the Constitution say about capital punishment?With history and logic on his side, Berger demonstrates that the Eighth Amendment's "cruel and unusual punishments" clause does not prohibit the death penalty. It does not even

require that a punishment be proportional to the crime. Rooted in English law, the clause only referred to certain kinds of punishments. Here, Berger is not obligated to give an exhaustive, inclusive definition. It is sufficient to simply show what the clause did not mean to the people who wrote and ratified it. In keeping with his previous work on the incorporation doctrine and the Fourteenth Amendment, Berger demonstrates that the Eighth Amendment is only applicable against the federal government, not the states. In short, the Supreme Court's interference in state policies on capital punishment is totally unwarranted by the Constitution and is totally opposite to anything the sovereign people have ratified. This book is highly recommended! When the philosopher kings on the court substitute their own "evolving standards of decency" for the Constitution's original understanding, we get the arbitrary rule of judges, as Berger details in this outstanding scholarly book. 4 of 4 people found the following review helpful. Not for the timid. By Susan Shelley. Powerful, comprehensive, unanswerable scholarship. Read this book at your own risk if you would like to believe the U.S. Supreme Court has the authority to strike down the death penalty.

Does the Supreme Court have the authority to deprive the people of the right to govern themselves? Marshaling a convincing array of historical sources, Raoul Berger demonstrates in *Death Penalties* that the Framers of the Constitution withheld such power from the Court and that its death penalty decisions unconstitutionally impose the Justices' morals upon an unwilling people.

About the Author Raoul Berger was Charles Warren Senior Fellow in American Legal History at the Harvard Law School. Among his books is *Executive Privilege: A Constitutional Myth*.