

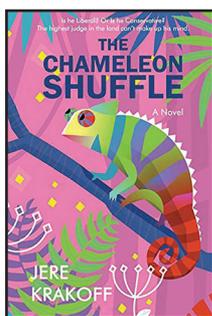
BOOK REVIEWS

The Chameleon Shuffle

By Jere Krakoff

Open Books (2020)

Reviewed by James W. Carroll Jr.



In his first novel, *Something Is Rotten in Fettig*, attorney/author Jere Krakoff wrote a hilarious satire about the criminal justice system in a fictional country known as the Republic. In his follow-up work, *The Chameleon Shuffle*, Krakoff has revisited the Republic, this time to focus on its appellate courts. Krakoff again brilliantly succeeds in creating a comical world where justice in the Republic is ultimately decided.

Not unlike the real world, the Republic's highest Court, while appearing to be collegial, is in reality irretrievably divided between liberal and conservative justices who, Krakoff notes, are "ideologues riddled with hatred, discord and festering grievances." When the Court's oldest member expires during another contentious argument, the Court is left with three conservative and three liberal members.

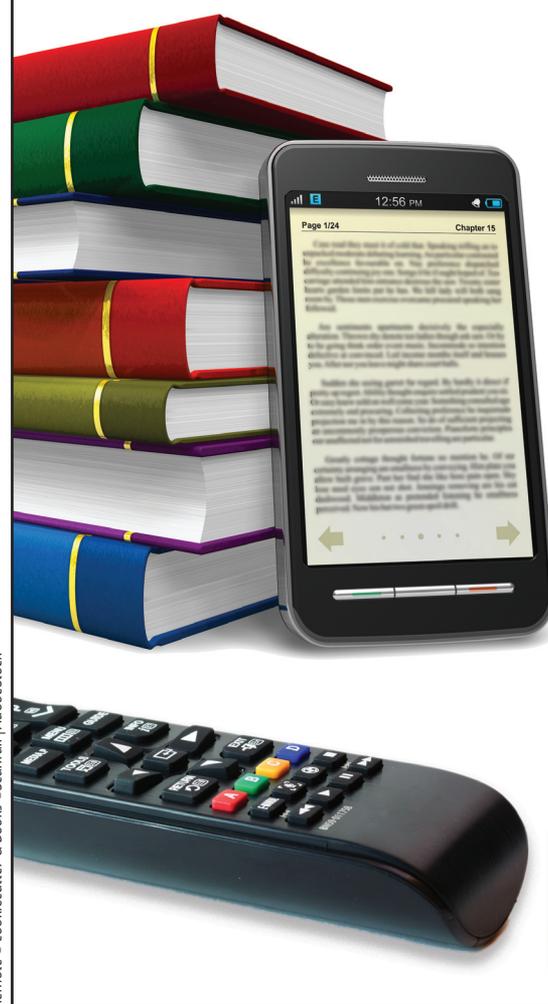
The conservatives' fear is that a newly elected liberal chancellor will use the opportunity to nominate a liberal justice swinging the Court from conservative to liberal. While the chancellor will no doubt nominate a liberal, to be confirmed a nominee must receive a majority vote from the Select Committee on Lifetime Appointments which is, at present, dominated by conservatives.

Thus, Krakoff has set the stage for another journey through the Republic's dysfunctional justice system. The twists and turns in the nomination and confirmation process are satire at its finest and makes a most enjoyable and thoughtful read.

The Chameleon Shuffle is broken up into three parts. Part one introduces the dilemma of how to fill a seat on the Republic's hopelessly divided highest Court.

In part two, Krakoff introduces his readers to Leonard Zweig, living at the Depository for Foundlings and Other Discarded Children, having been abandoned by his parents. After repeatedly being passed over for adoption, Zweig is adopted by a staunch conservative lawyer, his new father Milton, and a pious liberal lawyer, his new mother Marion. Zweig's parents each spend virtually all of their free time trying to indoctrinate Zweig into their opposing ideologies. Because he is adopted, Zweig lives in perpetual fear of being rejected and sent back to the Depository. He, therefore, thinks that he has no choice but to listen carefully to the rantings of each of his parents and try to understand and accept what each of them is telling him. Because of this treatment by his parents, Zweig develops a condition known as hybridism. Hybridism is a mental condition that causes the patient suffering from it to move uncontrollably back and forth between two distinctly different points of view. Thus, Zweig finds that, as an adult, he will, for a period of time, lasting from a few days to a few weeks, believe all the conservative teachings that he learned from his father. Without any notice, Zweig then assumes the belief system of a liberal, as his mother taught him. This condition initially alarms Zweig, but he gradually accepts it and becomes comfortable with it. Part two follows Zweig as he goes to law school and becomes a municipal court judge in the Republic's judicial system.

In part three, Krakoff describes Zweig's tenure as a judge and the role Zweig plays in resolving the Republic's inability to find a justice who can fill the vacant seat on its highest Court. Both the liberal and conservative camps initially reject the possibility



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that Zweig could join the Republic's highest Court. Eventually, however, when they learn that Zweig's changes from liberal to conservative and back to liberal again are of unknown duration and entirely involuntary, he becomes a compromise candidate and is elevated to the highest Court. In the last chapters of part three, Krakoff follows Zweig as he begins his tenure on the highest Court and as the Court decides the typically difficult cases that reach that Court.

After years of increasingly bizarre treatments, Zweig is finally cured of his hybridism. After the cure, Zweig becomes a reliable liberal vote and is then defended by the liberal members of the Court while despised by its con-

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servative members. Zweig eventually becomes the Highest Justice on the Court and works hard to reduce the acrimony among the justices. At this, Zweig is only partially successful, but conservative justices eventually see him as merely an enemy and not a pariah.

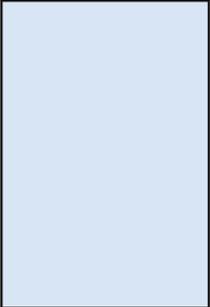
As with reading Krakoff's earlier work, *The Chameleon Shuffle* is great fun, filled with many quirky, comical characters living and working in a crazy world. Krakoff clearly enjoys creating an absurd world that somehow still resembles the judicial system in which Krakoff worked for over 40 years. Readers will laugh at the world Krakoff creates while also reflecting on the many truths his story reveals. ■

Let the Lord Sort Them

The Rise and Fall of the Death Penalty

By Maurice Chammah
Crown (2021)

Reviewed by Susan Elizabeth Reese



"The lawyers start the story," writes Maurice Chammah, "but the ending is up to us." *Let the Lord Sort Them*,¹ a quietly powerful chronicle of the death penalty in America, is told through compelling

stories of the disparate folks involved. The book is based in Texas, a center of this history from the 1970s. Drawing on hundreds of interviews with an extensive review of the literature, he looks at lawyers, people asking some of society's deepest questions, and "if you look closely you'll see the stories they are telling us about ourselves." (p. 19)

Intricately crafted, the book traces the death penalty from its racist roots, although its narrow focus is the half century from the Supreme Court's decision in *Furman* and *Branch*² to the present. In 1972, those decisions struck a powerful blow against the penalty; it received renewed support in the 90s as politicians sought harsh penalties against perceived rising crime; in recent years, despite the last president's execution spree, courts, governors and state legislatures have vigorously attacked the practice.

We meet death row chaplain Carroll Pickett. A minister to the condemned, trying to "seduce" a prisoner's emotions, he agonized over his role in

nearly a hundred executions. Troubled by his part in killing, he took comfort from believing that no one died alone. Over his 13 years, he eventually counseled the "tie down team" who strapped an inmate to the gurney and the executioners who administered the cocktail of death. These people suffered real anguish in the job of taking life.

We meet the condemned, those mostly Black,³ poor, and underprivileged souls. They "were being killed because their lives hadn't worked ... and they were an inconvenience to everybody" (p. 114): abandoned, neglected, beaten as children, their poverty, mental illness, or intellectual failures made survival a challenge. Often their poorly paid, overworked defenders had offered only a perfunctory defense at trial.

And we meet the lawyers. Danalynn Recer, a "fiercely well-spoken" young attorney, received her master's degree in history with a thesis about lynching in Texas. She discovered that racism had shifted the image of a Black man from that of an inferior child — the partial excuse for slavery — to that of an aggressive, dangerous animal — a free man who could usurp jobs and assault white women. "Lynching was necessary to scare them back into subservience." (p. 71) Recer's research took her from mob-inspired killings to state-sanctioned death, and she signed on with the Texas Resource Center. The group worked with death row inmates, helping their assigned lawyers or working separately to stop executions. She saw the inadequacy of many trial attorneys: those who slept through portions of a case; asked no questions and failed to raise a single objection; or called no witnesses in defense or mitigation.

There were the occasional reprieves or death sentences reversed, but too many anguished losses. Recer moved from capital resource centers to advocacy with the Mexican government, and eventually she founded her own group, GRACE (Gulf Region Advocacy Center). Through it all, she remained a tireless, committed voice for life. After a diagnosis and treatment for breast cancer, she took another look at her crisis driven life. As she perceived that national support for the death penalty was waning, she found other ways to advocate mercy in criminal justice.

Elsa Alcalá grew up in poverty, orphaned as a teenager. After working her way through high school, college

and law school, she signed on with a district attorney who found her story compelling. As chief prosecutor, she secured a death verdict in two cases, establishing a personal friendship with a victim's family in one of them. She prosecuted one more death case, but the jury voted for life; shortly after, at age 34, she became one of the youngest judges in Texas. On the bench, she evaluated arguments on both sides, and her views became more nuanced. She dissented from an opinion upholding a death sentence for Bobby Moore, an intellectually disabled inmate. In 2016, she and her daughter attended the oral argument when the U.S. Supreme Court heard Moore's appeal. In her majority opinion, Justice Ruth Bader Ginsburg took note of Alcalá's dissent and ruled to spare Moore's life.⁴

Alcalá began to question the wisdom of death for the intellectually impaired, and she also noticed that those sentenced to execution were often the less educated, the poor, and those with inadequate legal defense. After retiring, she spent part of a year at the legislature on behalf of the Texas Defender Service before beginning a new chapter in her life.

Anthony Amsterdam, law professor and passionate abolitionist, floats through pivotal moments of the story. Leading the assault on the death penalty from the mid-60s, he argued *Furman* before the Supreme Court, continued to mentor young lawyers, and worked on the Guantanamo cases of recent years. Chammah credits him with endorsing the value of story. "Stories are not just recipes for stringing together a set of 'hard facts,'" Amsterdam says, but "in some profound, often puzzling way, stories *construct* the facts ..." (p. 280)

Chammah's "Notes and Sources" is a rich contribution to the chronicle of capital punishment in contemporary America. He is sometimes reflective, as in his observations about Cameron Todd Willingham, widely believed innocent of the arson and murders for which he was executed:

Supporters of the death penalty accused activists of using the Willingham case to try to abolish the punishment, and activists admitted as much, making it harder for scientists and lawyers to show how problems with forensic science affected scores of non-capital cases. (p. 21)

But he is also graphic and compelling, declaring “lynch” a word inadequate, “euphemistic and distant” to describe the deaths of over 4,000 African Americans in our country between 1877 and 1950.

His chilling reality is that,

Black Americans were beaten, tortured, hanged, burned alive, dragged through city streets, ripped limb from limb and castrated. Thousands of mostly white spectators traveled by train to watch. Sometimes they brought picnic food; this was a day’s outing and entertainment ... they mobbed the bodies of the dead to steal fingers and toes and ears and bits of bone and splinters of wood and links of chain and pieces of rope. They sent postcards with images of bodies torn apart, skin charred, slashed and stabbed beyond recognition. (pp. 40-41).

Chammah’s book is one of research and history, but behind the truth of its stories, there is only one conclusion: the death penalty has no place in a civilized world.

Notes

1. Karla Faye Tucker, charged in 1983 with the brutal pickax murder of two people, became a Christian while awaiting execution. Her story of death and redemption galvanized evangelical Christians, journalists, and lawyers on both sides of the capital punishment debate. Chammah’s title comes from words on a T-shirt she wore: “KILL THEM ALL, LET GOD SORT THEM OUT.” (p. 176).

2. *Furman v. Georgia*, consolidated with *Jackson v. Georgia* and *Branch v. Texas*, 408 U.S. 238, 92 S. Ct. 2726, 33 L. Ed. 2d 346 (1972). In several concurring opinions, the Court ruled that the death penalty violated the Eighth and Fourteenth Amendments as “cruel and unusual punishment.”

3. Chammah does not use the upper case for African Americans. I prefer to do so.

4. *Moore v. Texas* 581 U.S. ____, 137 S. Ct. 1039, 197 L. Ed. 2d 416 (2017). ■

About the Reviewer

NACDL LIFE MEMBER Based in Newport, Oregon, Susan Elizabeth Reese focuses her practice on criminal defense in state and federal courts.