Rochin v. California, 342 U.S. 165 (1952)

On July 1, 1949, California police officers broke into the home of Richard Rochin, who they suspected was a drug dealer. When Rochin saw the officers, he immediately swallowed some pills that were on his desk. The officers promptly took Rochin to a hospital where, with the aid of a stomach pump, they were able to obtain the pills, which contained morphine. Rochin's objection to the use of those pills at his trial was overruled. He was convicted of possession and sentenced to sixty days in prison. The District Court of Appeals in California upheld the conviction on the ground that illegally seized evidence was nevertheless admissible in court. Rochin appealed to the Supreme Court of the United States. The ACLU filed an amicus brief urging the justices to reverse Rochin's conviction. That brief asserted,

> *No method of obtaining evidence has heretofore been deemed due process that entailed the possibility of physical and psychological damage in any way comparable to that from forcible use of the stomach pump; the psychological effect would be particularly severe in the event the police mistakenly subject an innocent person to the pumping operation. And because of its menacing aspects, to countenance stomach pumping would be to legalize a means for coercing confessions; for apprehension of this operation, which could then be threatened whenever the police purport to believe that incriminating matter has been swallowed, would be intimidating and destructive of the free choice of many suspects.*

The Supreme Court unanimously declared that Rochin was unconstitutionally convicted. Justice Frankfurter's opinion claimed that the California police conduct "shocks the conscience." Frankfurter emphasized the "duty of exercising a judgment." Would the better one-word summary of his opinion be "Yeech"? If not, what is the difference between that one word opinion and the opinion Frankfurter wrote? Did a general consensus exist about conduct that "shocks the conscience" or, as Justices Douglas and Black suggested, does this phrase merely disguise idiosyncratic preference? The Supreme Court treated Rochin *as raising questions about involuntary confessions rather than, as the California courts had done, as raising questions about illegal searches. This reconceptualization of the constitutional issues was crucial.* Wolf v. People of the State of Colorado *(1949) had recently held that states were not constitutionally obligated to exclude evidence obtained in ways that violated the Fourth Amendment. The justices had, however, consistently held that evidence obtained from coerced confessions was inadmissible at trial. Unlike many coerced confession cases, the evidence taken from Rochin was reliable. Should that have affected the Supreme Court's decision?*

JUSTICE FRANKFURTER delivered the opinion of the Court.

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[I]n reviewing a State criminal conviction under a claim of right guaranteed by the Due Process Clause of the Fourteenth Amendment, from which is derived the most far reaching and most frequent federal basis of challenging State criminal justice, 'we must be deeply mindful of the responsibilities of the States for the enforcement of criminal laws, and exercise with due humility our merely negative function in subjecting convictions from state courts to the very narrow scrutiny which the Due Process Clause of the Fourteenth Amendment authorizes.' . . . Due process of law, 'itself a historical product,' . . .

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is not to be turned into a destructive dogma against the States in the administration of their systems of criminal justice.

However, this Court too has its responsibility. Regard for the requirements of the Due Process Clause 'inescapably imposes upon this Court an exercise of judgment upon the whole course of the proceedings (resulting in a conviction) in order to ascertain whether they offend those canons of decency and fairness which express the notions of justice of English-speaking peoples even toward those charged with the most heinous offenses.' . . . These standards of justice are not authoritatively formulated anywhere as though they were specifics. Due process of law is a summarized constitutional guarantee of respect for those personal immunities which, as Justice Cardozo twice wrote for the Court, are 'so rooted in the traditions and conscience of our people as to be ranked as fundamental', . . . or are 'implicit in the concept of ordered liberty'. . . .

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The vague contours of the Due Process Clause do not leave judges at large. We may not draw on our merely personal and private notions and disregard the limits that bind judges in their judicial function. Even though the concept of due process of law is not final and fixed, these limits are derived from considerations that are fused in the whole nature of or judicial process. . . . These are considerations deeply rooted in reason and in the compelling traditions of the legal profession. The Due Process Clause places upon this Court the duty of exercising a judgment, within the narrow confines of judicial power in reviewing State convictions, upon interests of society pushing in opposite directions.

Due process of law thus conceived is not to be derided as resort to a revival of 'natural law.' To believe that this judicial exercise of judgment could be avoided by freezing 'due process of law' at some fixed stage of time or thought is to suggest that the most important aspect of constitutional adjudication is a function for inanimate machines and not for judges, for whom the independence safeguarded by Article III of the Constitution was designed and who are presumably guided by established standards of judicial behavior. Even cybernetics has not yet made that haughty claim. To practice the requisite detachment and to achieve sufficient objectivity no doubt demands of judges the habit of self-discipline and self-criticism, incertitude that one's own views are incontestable and alert tolerance toward views not shared. But these are precisely the presuppositions of our judicial process. They are precisely the qualities society has a right to expect from those entrusted with ultimate judicial power.

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Applying these general considerations to the circumstances of the present case, we are compelled to conclude that the proceedings by which this conviction was obtained do more than offend some fastidious squeamishness or private sentimentalism about combating crime too energetically. This is conduct that shocks the conscience. Illegally breaking into the privacy of the petitioner, the struggle to open his mouth and remove what was there, the forcible extraction of his stomach's contents—this course of proceeding by agents of government to obtain evidence is bound to offend even hardened sensibilities. They are methods too close to the rack and the screw to permit of constitutional differentiation.

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. . . Use of involuntary verbal confessions in State criminal trials is constitutionally obnoxious not only because of their unreliability. They are inadmissible under the Due Process Clause even though statements contained in them may be independently established as true. Coerced confessions offend the community's sense of fair play and decency. So here, to sanction the brutal conduct which naturally enough was condemned by the court whose judgment is before us, would be to afford brutality the cloak of law. Nothing would be more calculated to discredit law and thereby to brutalize the temper of a society.

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JUSTICE MINTON took no part in the consideration or decision of this case.

JUSTICE BLACK, concurring.

Adamson v. People of State of California (1947) . . . sets out reasons for my belief that state as well as federal courts and law enforcement officers must obey the Fifth Amendment's command that 'No person

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. . . shall be compelled in any criminal case to be a witness against himself'. I think a person is compelled to be a witness against himself not only when he is compelled to testify, but also when as here, incriminating evidence is forcibly taken from him by a contrivance of modern science. . . .

. . . I believe that faithful adherence to the specific guarantees in the Bill of Rights insures a more permanent protection of individual liberty than that which can be afforded by the nebulous standards stated by the majority.

What the majority hold is that the Due Process Clause empowers this Court to nullify any state law if its application 'shocks the conscience,' offends 'a sense of justice' or runs counter to the 'decencies of civilized conduct.' The majority emphasize that these statements do not refer to their own consciences or to their senses of justice and decency. For we are told that 'we may not draw on our merely personal and private notions'; our judgment must be grounded on 'considerations deeply rooted in reason and in the compelling traditions of the legal profession.' . . .

. . . There is, however, no express constitutional language granting judicial power to invalidate every state law of every kind deemed 'unreasonable' or contrary to the Court's notion of civilized decencies. . . . [T]he evanescent standards of the majority's philosophy have been used to nullify state legislative programs passed to suppress evil economic practices. What paralyzing role this same philosophy will play in the future economic affairs of this country is impossible to predict. Of even graver concern, however, is the use of the philosophy to nullify the Bill of Rights. I long ago concluded that the accordion-like qualities of this philosophy must inevitably imperil all the individual liberty safeguards specifically enumerated in the Bill of Rights. Reflection and recent decisions of this Court sanctioning abridgment of the freedom of speech and press have strengthened this conclusion.

JUSTICE DOUGLAS, concurring.

The evidence obtained from this accused's stomach would be admissible in the majority of states where the question has been raised. So far as the reported cases reveal, the only states which would probably exclude the evidence would be Arkansas, Iowa, Michigan, and Missouri. Yet the Court now says that the rule which the majority of the states have fashioned violates the 'decencies of civilized conduct.' To that I cannot agree. It is a rule formulated by responsible courts with judges as sensitive as we are to the proper standards for law administration.

As an original matter it might be debatable whether the provision in the Fifth Amendment that no person 'shall be compelled in any criminal case to be a witness against himself' serves the ends of justice. Not all civilized legal procedures recognize it. But the Choice was made by the Framers, a choice which sets a standard for legal trials in this country. The Framers made it a standard of due process for prosecutions by the Federal Government. If it is a requirement of due process for a trial in the federal courthouse, it is impossible for me to say it is not a requirement of due process for a trial in the state courthouse. . . . Of course an accused can be compelled to be present at the trial, to stand, to sit, to turn this way or that, and to try on a cap or a coat. . . . But I think that words taken from his lips, capsules taken from his stomach, blood taken from his veins are all inadmissible provided they are taken from him without his consent. They are inadmissible because of the command of the Fifth Amendment.

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