The Scott Peterson case: a new American tragedy

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On Monday, the jury in the Scott Peterson murder trial in Redwood City, California handed down a recommendation that Peterson be put to death. The 32-year-old fertilizer salesman was convicted four weeks ago of murdering his wife and unborn son. In the penalty phase of the highly publicized trial, the jury had the option of sentencing the condemned to life imprisonment or imposing the death penalty. The San Francisco Examiner *newspaper hailed the decision with a front-page photograph of Peterson and his deceased wife, Laci, and the banner headline "Death."*

In light of the jury's ruling, we are reposting the article by David Walsh on the Peterson case originally posted December 11.

One must allow oneself sometimes to be genuinely horrified by contemporary American reality. This does not mean plunging into despair or throwing up one's hands. Russian socialists in another epoch regularly referred to the barbarity, poverty and "extreme backwardness" of their country, without relenting thereby in their effort to overcome that terrible reality through the means of social revolution. America today has its own barbarity, its own poverty, physical and spiritual, and its own extreme, one might say malignant, social backwardness.

The Scott Peterson murder trial in Redwood City, California, has provided more than ample evidence of this. Peterson was found guilty four weeks ago of murdering his 27-year-old pregnant wife Laci at their home in December 2002 and dumping her body in San Francisco Bay. The latest phase of the trial, during which the jury determines whether Peterson will face the death penalty or life in prison (pending the judge's final decision), is particularly gruesome and macabre. Hundreds of journalists are poised to report the decision. If the jury settles on the execution of Peterson, the media will announce via the most modern means of instant communication (in many cases, exultantly) a decision worthy of the Dark Ages.

In his closing argument in the penalty phase of the trial, prosecutor David Harris called Peterson "the worst kind of monster," "the worst of the worst." Mr. Harris ought to be careful. Someone might place this assertion under the microscope. "The worst of the worst?" This seems a remarkably sweeping claim to make about a 32-year-old fertilizer and irrigation system salesman, particularly since it comes in a nation whose military has caused the deaths of 100,000 Iraqi civilians over the past 18 months for no other crime than living on land rich in natural resources. Peterson stands convicted of committing a horrible crime, but he is not in the same league as a Rumsfeld, a Bush or a Cheney, responsible for mass slaughter.

Harris went on: "It's a hard choice [capital punishment], but it's the right choice. Someone who shows no mercy, so heartless, so cruel to his own family deserves death."

The prosecutor protests too much. One distinctly senses that the thought of putting another human being to death comes quite naturally to him, as well as to countless other law enforcement officials, prosecutors and politicians throughout the United States, including the former governor of Texas, now the chief resident of the White House.

Scott Peterson may have cold-bloodedly slain his wife, but his actions pale in comparison to the relentless, official assistance that Death and Destruction receive in this country. "No mercy, so heartless, so cruel." Harris is too primitive and too ignorant to understand that these words sum up his own and the state's behavior.

Defense attorney Mark Geragos, in his plea for Peterson's life, struck a different and humane note. "All this death, all this killing," he commented to the jury. "The state is asking you to be basically like some kind of hit man, or asking you to be the one who sanctifies killing and doing more death. There's no point to doing more death."

Did Geragos and the other defense attorneys properly handle the argumentation during the penalty phase? This writer does not claim to be an expert in the law, but, assuming Scott Peterson is guilty of this heinous crime, certain issues raised by his case and others like it come to mind.

The authorities argued during the trial that Peterson felt his pregnant wife Laci to be an albatross around his neck, that he longed for "freedom" and the ability to pursue many women (he was having an affair at the time of his wife's disappearance), that he was financially insecure and anxious to get his hands on the $250,000 life insurance policy he had taken out on his wife. Prosecutors made much of the fact that Peterson traded in his wife's Land Rover after her supposed disappearance and used the money to buy himself a new truck, and that he had discussed with a real estate agent selling the couple's house. They suggested he was a master manipulator who led a double life.

All this may be true, but it begs the question: how can such callous indifference to human life emerge and express itself in the individual human being? Of course, the religious fanatic satisfies him- or herself, if not the quest for objective truth, by attributing all such deeds to the wickedness of Fallen Man.

Why should a young man, from a relatively comfortable background, who suffered no apparent physical or psychological abuse as a child, and who had exhibited no violent or sadistic tendencies at any point in his life—an avid golfer and fisherman, perhaps something of a middle-class suburban American cliché—suddenly decide upon the murder of his wife and unborn son?

There are many disturbing aspects to this case, aside from the harsh facts of the slaying itself. The transcripts of the telephone conversations between Peterson and his lover, Amber Frey (who was by this time cooperating with the police), in early January 2003—only days after the disappearance of his wife—make especially troubling reading. There is something quite appalling about the phone calls. If one did not know the extraordinary conditions under which the conversations took place, only their very ordinariness and banality would stand out. If, indeed, Peterson was guilty of murdering his wife two weeks earlier, there is a psychotic element in his ability to chatter on about nothing.

Intriguingly, one comment suggests that Peterson viewed his life differently than others did. Friends and family members generally describe a man who grew up under relatively privileged circumstances,

enjoyed an easy-going lifestyle, and formed with his wife, in the words of a prosecutor, "the perfect couple, living the American dream, madly in love." Peterson, on the other hand, tells Frey that he finds one of Jack Kerouac's books "mentally interesting to me simply because I never had a prolonged period of freedom like that from responsibility." Perhaps this simply demonstrates Peterson's selfishness and immaturity, but one has the sense that he perceived himself to be under enormous, perhaps unbearable pressure.

In any event, it is terribly difficult, indeed impossible, to make sense of such a crime without inquiring into the broader forces that help shape human psychology and action.

No one in official circles or the media has an interest in such an investigation. It would inevitably expose too much that is bleak and wretched about American life. In the general population too, disturbingly few seem capable of probing beneath the surface. Many Americans appear satisfied with one-sentence explanations: "He pulled the trigger;" "She took the drugs;" "They robbed the liquor store." But that is to make far too great a concession to the view advanced by former Republican Senator Bob Dole, attempting to ingratiate himself with the neo-fascist base of his own party, that "the root cause of crime" is "criminals."

After each new atrocity in America, whose number grows weekly (e.g., the dreadful shooting deaths at a rock performance in Columbus, Ohio on December 8), the authorities haul some wretch off to prison, if he or she remains alive, and pontificate about "individual responsibility." Every incident is an aberration from which no generalizations may be drawn. This shallow and brutal approach appeals to the worst side of American individualism.

Too many, including Laci Peterson's family members, are calling for the convicted man's death. Their rage is understandable, but it does not make the shouting for blood any less ignoble. They are unlikely to find solace in vengeance. Everyone involved in this case is a victim of the corruption and barbarity of American life.

A lawyer pleading for his client's life might take any number of approaches, bearing in mind the great pressures on the jury in such a highly-publicized case and the generally polluted ideological atmosphere that prevails. How might a jury be sensitized to the fact that this murder speaks to wider issues? That Peterson's indifference to human life, his apparent obsession with social status and sexual conquest, his willingness to resort to murder to get around immediate obstacles reflect something more than an individual failing.

To shed light on these painful and complex questions, a defense attorney might fruitfully refer to two famous murder cases, one of them fictional (although inspired by an actual event). It is not possible here to do these cases justice, but we raise them as part of the effort to reintroduce them into American and world public consciousness.

The first involved 19-year-old Nathan Leopold Jr. and 18-year-old Richard Loeb, who in 1924 in Chicago murdered a younger boy for "thrills," simply to carry out a perfect crime. There was no doubt in this case about the guilt of the defendants. Under police interrogation, the boys confessed to the killing. The press demanded their speedy execution, echoed by the more backward layers of the population.

The renowned attorney Clarence Darrow agreed to defend Leopold and Loeb. Seeing as his clients had admitted responsibility, and that, given their intellectual abilities and privileged backgrounds (although they were obviously mentally unbalanced), a plea of not guilty by reason of insanity had no chance of succeeding, Darrow pled them guilty. He staked everything on his ability to convince a judge to sentence the pair to life imprisonment and save them from the gallows.

Darrow, a passionate opponent of the death penalty, delivered a 12-hour closing argument, which extended over three days. (Click here for important excerpts of Darrow's statement).

Darrow argued that "nothing happens in this world without a cause," and insisted on the boys' social maladjustment and mental illness. The crime, he declared, "was the senseless act of immature and diseased children." Further: "Because somewhere in the infinite processes that go to the making up of the boy or the man something slipped, and those unfortunate lads sit here hated, despised, outcasts, with the community shouting for their blood."

He lambasted the prosecution for its cruelty. "Anything is good enough to dump into a pot where the public are clamoring, and where the stage is set and where loud-voiced young attorneys are talking about the sanctity of the law, which means killing people; anything is enough to justify a demand for hanging."

Decrying the death penalty, Darrow said: "Your Honor, I am almost ashamed to talk about it. I can hardly imagine that we are in the 20th century. And yet there are men who seriously say that for what Nature has done, for what life has done, for what training has done, you should hang these boys."

How brilliant, humane and nearly unthinkable today was Darrow's response to the bloodthirsty arguments of Assistant State's Attorney Joseph Savage! He told the judge: "When my friend Savage is my age, or even yours, he will read his address to this court with horror," Darrow predicted. And at another point in his summation: "I marveled when I heard Mr. Savage talk. I do not criticize him. He is young and enthusiastic. But has he ever read anything? Has he ever thought? Was there ever any man who had studied science, who has read anything of criminology or philosophy—was there ever any man who knew himself who could speak with the assurance with which he speaks?"

Would the execution of Leopold and Loeb, Darrow asked the court, in conclusion, "make men better or make men worse? I would like to put that to the intelligence of man, at least such intelligence as they have. I would like to appeal to the feelings of human beings so far as they have feelings—would it make the human heart softer or would it make hearts harder? How many men would be colder and crueler for it? How many men would enjoy the details, and you cannot enjoy human suffering without being affected for better or for worse; those who enjoyed it would be affected for the worse. ... Do I need to argue to your Honor that cruelty only breeds cruelty?—that hatred only causes hatred; that if there is any way to soften this human heart which is hard enough at its best, if there is any way to kill evil and hatred and all that goes with it, it is not through evil and hatred and cruelty; it is through charity, and love and understanding."

Leopold and Loeb were ultimately spared the death penalty, but even more significantly, the most advanced elements of an entire generation were educated in a generosity of spirit that had far-reaching consequences.

One year later, a novel appeared that treated these questions even more broadly and profoundly, as only art is capable of doing: Theodore Dreiser's *An American Tragedy*. One can do even less justice in the case of Dreiser's masterpiece to the complexity of the problems it explores. It is more a matter of appealing to the reader, if he or she has an interest in gaining great insight into the socio-psychology of American life, to turn to this extraordinary work.

Dreiser grounded his novel in the facts of an actual murder that occurred in 1906 in upstate New York. Chester Gillette killed his pregnant girl friend, Grace Brown, because he felt she blocked his path to social success. The novelist was struck by the details of the case, confirming as they did his view that a new social type had emerged in America: an individual for whom wealth and success meant everything.

The fictional Clyde Griffiths and Roberta Alden were born. Clyde is the poor relative of a collar factory owner. He obtains work in the plant as a lowly supervisor, and Roberta works under him. A relationship develops and she becomes pregnant.

Meanwhile, Clyde has caught a glimpse of a new, golden world of wealth and ease, at the center of which stands the lovely and aristocratic

Sondra Finchley. A relationship with Sondra, and all that implies, seems possible. Only Roberta and the unborn child stand in the way. Clyde contrives to lure Roberta to a deserted lake and drown her. In the event, she falls overboard accidentally, but he does nothing to save her.

The final part of the novel treats his inevitable moral and physical destruction at the hands of the merciless legal system.

Dreiser's book possesses terrifying insight. Why did he entitle the work *An American Tragedy*? The novelist explained: "I call it *An American Tragedy* because it could not happen in any other country in the world," and, furthermore, "I have had many letters from people who wrote: 'Clyde Griffiths might have been me.'"

Who is writing the Scott and Laci Peterson "tragedy?" As far as we know, no one. America has no Dreiser today, or anyone resembling him—not even a Truman Capote, who attempted to trace certain pathological tendencies in American society following a cold-blooded killing in Kansas in 1959.

Nowhere else in the world is there such obsession with wealth, with success, with celebrity as in the American republic, the land of opportunity, the land of individualism. Griffiths, like many others (perhaps Scott Peterson in real life), is a slave to the cult of the American Dream. He murders his lover because to do otherwise would condemn him to being a nothing in society's eyes, to remaining outside the bright, shining light of prosperity and the company of the "right" sort of people.

As this author wrote some years ago: "Griffiths' actions are absolutely logical according to the standards of society itself. How can he do anything but eliminate Roberta, who bars the way to his dream world, who hangs around his neck like a millstone, who threatens to drag him down into the drab, wretched existence he knew as a child?"

Eighty years after Dreiser's masterwork, where are we? Have these tendencies and these social types disappeared from the American scene? To ask the question is to answer it.

The tendencies are far more pronounced, the social types more prevalent, perhaps dangerously so. One might ask, how is it possible that America is even less humane, less civilized, less capable of understanding itself than it was eight decades ago? If this question provokes a national soul-searching, then perhaps the Peterson tragedy might not have been entirely in vain.