Can Justice Survive Modern Scepticism? **[1]**

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In this article I am going to muse on what I think is happening to concepts such as truth and justice in the world such as ours. I am particularly going to consider that rise of extreme scepticism, and (almost contradictory) the possibility that pop culture can determine truth. To illustrate my points, I am going to refer to two famous murder cases from the USA.

Disclaimers

It needs to be said that while I am going to be referring to alleged criminals, and perhaps even offering my opinion on their guilt, it is nothing more than that, and I do not intend to convince any one of the guilt or innocence of these people. I also do not wish to speak about the characters of these people, but only wish to refer to the cultural impact which they and the crimes have had.

It also needs to be said that, ever since I was a young boy, I have been fascinated by police, murder investigations, whodunits, catching the bad guy, etc. This fascination has followed me into adulthood, and is evidenced by my favourite TV series of all time [2]. I am by no means a detective, not even an amateur one, but I appreciate (perhaps in a biased way) the craft of the detective and the skills of a good detective. This may betray a biased attitude, and I would like you, the reader, to be aware of that.

The Nature of Evidence

In the first season of the podcast Serial [3], host Sarah Koenig investigated the murder of Hae Min Lee, for which her ex-boyfriend, Adnan Syed, was convicted and given a life sentence. The series was hugely popular, and many amateur sleuths poured over the evidence, which the show aimed to show to be inconsistent and untrustworthy. Eventually, due to renewed interest in the case, Syed was granted a new trial [4]. The case continues.

Yet while listening to the podcast, even though the host was desperate to discover Syed's innocence, I was never convinced of his innocence1. The difference is that I placed more value on the eyewitness testimony, and the firm conviction of the detectives who investigated the case, than the circumstantial and forensic evidence2. But what Koenig—and seemingly the majority of listeners—wanted, was concrete, irrefutable forensic proof. Sadly, this is not always possible to have. But time will tell what happens with the retrial of Syed3.

Several things about the reactions to this story interested me. I already mentioned the insistence on forensic evidence. We seem to live in a kind of post-witness society, where any eyewitness

testimony is regarded with the utmost scepticism. Indeed, the study of cognitive biases [5] will leave one doubting whether we as human beings can reliably report on anything4. Removing subjective elements from a detective's arsenal, such as eyewitness testimony5 and intuition (both of which can, of course, be grossly wrong), will cripple many investigations and lead to many crimes becoming, essentially, unsolvable.

The irony is that forensic evidence is also fallible. DNA evidence is presented with a confidence factor. Polygraph tests are only used as supporting evidence, not as main evidence. Other kinds of evidence can be tainted, or faked. While there are many checks in place to avoid this kind of thing in a formal police investigation, nothing is impossible. Being a programmer, I understand that, as an example, anything digital can be faked: one just needs to arrange the ones and zeroes in a certain order (possibly at several, difficult to reach locations, but it is still possible). Even long before the digital age, photographs could be manipulated, such as in one famous example [6] from the Soviet era [7]. So for me to be hyper sceptical about the credibility of digital evidence, I would need to discount all digital evidence as unreliable (which has major implications for us who are now living in a digital age).

At some point, we need to convince ourselves. We need to make inferences and make judgments on people's characters, credibility and actions. We cannot escape subjectivity completely.

A Desire for Justice

Another interesting element was the public's interest, and their thirst for justice. This is good, because people should desire justice. The problem, though, is that the general public does not possess the skills to critically evaluate all the evidence presented, let alone have the experience of doing a first-hand investigation. Often people form opinions on secondary sources (such as Serial), where there has already been an interpretation of the primary sources. The people who tell the stories of interpretations can wield incredible power in influencing other people; whether it is Koenig, or Bob Dylan.

In 1975, Bob Dylan made the single "Hurricane". It was a protest song intended to put the spotlight on the irregularities of the conviction of Rubin "Hurricane" Carter. The song inspired the public to advocate Carter's case. Eventually Carter was granted a retrial, although he was found again guilty6.

Interestingly, popular support for Carter waned after he allegedly became violent with Carolyn Kelley [8], who was supporting Carter to get a retrial. Dylan's song failed to mention his hot temper. The devil may well be in the details (or, at least, the public may have perceived this)...

What we have in both these stories, is the firm conviction of the authors (Koenig and Dylan, respectively) of the innocence of a guilty persons. These convictions could have been legitimate or misguided. Either way, they were driven to create culturally significant works, which inspired the public to seek "real" justice. The problem, though, is that the song "Hurricane" has been criticised for (minor) factual inaccuracies, or omitting certain details (as mentioned above). The point is that long after the trial evidence and news stories have been archived in deep storage, these cultural works will become the *de facto* versions of the truth. That is incredible power. And we as the consumers of these cultural works need to be aware of that.

Conclusion

Determining truth can be difficult. Indeed, in the post-modern world in which we live, some will say that it has become impossible. I do not believe that finding truth is impossible. But I do believe that we need to be discerning, humble about our own limitations, and critical *within reason*. We should stand up for what we believe. But we also need to be careful when learning things second hand (yet, at the same time, balance this caution with the fact that we may not be capable of accurately assessing the first hand information either).

In looking at stories such as those of Syed and Carter, we must not forget that these are also the

stories of Lee, and of James Oliver, Fred Nauyoks and Hazel Tanis[7]. Whether it is someone who was falsely convicted and incarcerated, or someone whose murder(s) cannot be identified and tried, we are dealing with examples of gross injustice. Indeed, a big motivation for Dylan to write "Hurricane" was to bring attention to the gross racisms which was rampant in that part of the USA at that time. This was a good endeavour, as everyone should be treated fairly. Whether guilty or innocent, Carter did suffer many injustices himself, simply for the colour of his skin.

No-one should have to suffer these evils; of having one's life taken away, of false convictions, of prejudice, and many others. Yet many people do, every day, all over the world.

The Christian hope—that is, assurance of what has not yet happened—is in a day of divine justice, when all secrets will be revealed, and justice will finally be served. God will judge all that was unseen on earth, and expose all injustices. What will be revealed, will be a set of victims and a set of offenders which are congruent. We have all suffered injustice, and all acted unjustly, to degrees. We'll all stand guilty. But by God's grace, and a life of repentance, we'll be spared incarceration, and live in the harmony which we so desperately desire.

- 1. I do need to reiterate that I am not an investigator and did not research the evidence presented in an in depth manner: I only listened casually to what was presented in the podcast. For what it is worth, my conviction is shared by a local advocate [9] whom I know personally and also listened to the podcast.
- 2. I do not always do this, but in this particular case I felt that the main witness was more significant than anything else presented.
- 3. And I sincerely hope, whether found guilty or not guilty, that justice will be served.
- 4. Although, over time, investigators have found ways of making use of eyewitness testimony, even when it appears to be contradictory. See J. Wallace, Warner. Cold-Case Christianity: A Homicide Detective Investigates the Claims of the Gospels *[10]*. Colorado Springs, Colorado: David C. Cook, 2013.
- 5. Which, I might add, is an art to be able to interpret, and at which detectives are well skilled. They do not blindly accept what everyone tells them, but evaluates the merit of the witness and reliability of the testimony.
- 6. Both trials were eventually dismissed as being unfair, and the prosecution decided to not have a third trial. Carter was released from prison, having served from 1967–1985.
- 7. These three people were the victims of the crime for which Carter was convicted.

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