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'History Has Its Claims'

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Twenty years ago today on Friday, June 19, 1953, a little after 8 P.M., Ethel Rosenberg and Julius Rosenberg were electrocuted at Sing Sing Prison in Ossining, N. Y., by order of the United States Government.

At the Justice Department in Washington that evening, high officials gathered in J. Edgar Hoover's office and waited beside an open telephone line connected to the prison death house for word that the Rosenbergs had "broken." At the White House, President Eisenhower was on hand ready to halt the proceedings if the Rosenbergs agreed to confess.

The Rosenbergs, who were in their mid-30's and had two sons, 6 and 10 years old, refused the offer. Afterward, François Mauriac in a bitter commentary in *Figaro* titled, "Torture by Hope," referred to the "simple telephone line which the day before the Sabbath linked the White House and Sing Sing and which will link them forever."

The Government justified the killing of the couple by asserting the unprecedented significance of their alleged acts. Federal Judge Irving R. Kaufman stated in his sentencing speech: "I believe your conduct in putting into the hands of the Russians the A-bomb years before our best scientists predicted Russia would perfect the bomb has already caused, in my opinion, the Communist aggression in Korea, with the resultant casualties exceeding 50,000, and who knows but that millions more of innocent people may pay the price of your treason. Indeed, by your betrayal you undoubtedly have altered the course of history to the disadvantage of our country."

And President Eisenhower, in denying clemency to the pair, said that "by immeasurably increasing the chances of atomic war, the Rosenbergs may have condemned to death tens of millions of innocent people all over the world."

As for the Rosenbergs, they saw themselves as political prisoners. Their politics was the popular-front Communism of the thirties; their radicalism was one of the sources from which they drew strength. Julius Rosenberg wrote to his lawyer that as he walked about the death house exercise yard alone, he sang some of his favorite songs: "Peat Bog Soldiers," "Joe Hill" and "Freiheit."

"While I sing," he added, "it brings back memories, inspires me and makes me think of all the other innocent political prisoners."

That the Rosenberg affair has made an ineradicable imprint on the American psyche is revealed by the fact that now, two decades after the executions, the case still is the subject of lengthy studies. Most recent of these is a book, "The Implosion Conspiracy," by a lawyer whose view is that the trial was fair and the evidence ample for conviction. Moreover, the Rosenbergs are being re-created in a growing

literature of poems, plays and novels.

But the real Rosenberg case cannot yet be relinquished by the historians to the artists. For the Rosenbergs themselves—by their insistence on their innocence—irreversibly set the terms for all future consideration of their case. The question that must be faced is simple but fraught with awful implications: Were they guilty?

From their arrest in the Korean war summer of 1950, on a charge of conspiracy to commit espionage, to their final passion, they unequivocally maintained their innocence. Three days before their deaths they wrote to President Eisenhower: "Do not dishonor America, Mr. President, by considering as a condition of our right to survive, the delivery of a confession of guilt of a crime we did not commit. . . ." On June 19, within hours of their deaths, the Rosenbergs penned a final letter to their sons which concluded: "Always remember that we were innocent and could not wrong our conscience."

In the years since the executions several private investigators, lawyers and lay persons, ourselves included, have dug away at the evidential foundation of the prosecution's case. Sketches entered in evidence at the trial and said to contain top secret information relating to development of the atomic bomb have become publicly available only in the last few years; scientists who worked on the Manhattan project have derided them as "confused," "garbled" and "highly incomplete." Evidence of perjury by the principal Government witnesses and of forgery of a key prosecution exhibit—a hotel registration card—were detailed in our book "Invitation to an Inquest."

In response to these findings, many have called for a reopening of this unresolved episode of cold war America. In the *Yale Law Journal*, attorney Leonard Boudin advised that "a review is required—either to clear the name of the Government or to vindicate its victims." And the late legal scholar Herbert L. Packer similarly suggested some official body that might "get to the bottom of this murky affair."

In mid-June, 1953, when the Supreme Court was in summer recess, Justice William O. Douglas granted the Rosenbergs a stay of execution on the basis of a new legal point. Attorney General Herbert Brownell then requested and obtained an extraordinary special session of the Court, the stay was vacated by a 6-to-3 vote, and the Rosenbergs immediately executed. Several days later, one of the dissenting justices, Felix Frankfurter, offered a comment which still seems appropriate: "To be writing an opinion in a case affecting two lives after the curtain has been rung down upon them has the appearance of pathetic futility. But history also has its claims."

Walter Schneir and Miriam Schneir are the co-authors of "Invitation to an Inquest" which has recently been re-issued.