

Pan Am 103 / Lockerbie verdict politically motivated

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The guilty verdict issued on January 31 by three Scottish judges at the conclusion of the Pan Am 103/Lockerbie trial is unsound by all normal legal criteria.

The trial of the two Libyans accused of blowing up Pan Am flight 103 over Lockerbie, Scotland in December 1988 began on May 3 last year. It was held under Scottish law at a specially constructed court in the Netherlands. With the agreement of the defence and prosecution, the case was heard without a jury before a bench of three Scottish judges. On January 31, after 84 days of evidence and controversy, and many weeks of adjournments, Abdelbaset Ali Muhammad Al-Megrahi was found guilty of planting a Semtex-packed cassette player on board the Boeing 747, which destroyed the plane, killing its 259 passengers and crew, as well as 11 Lockerbie residents. However, his sole alleged accomplice, Al Amin Khalifa Fhimah, was acquitted on all charges.

The Pan Am 103/Lockerbie bombing was an indiscriminate terrorist attack upon innocent air travellers, many of whom were US students returning home for the Christmas holiday. But the horrific nature of the crime must not be allowed to obscure the fact that the prosecution case against the two Libyans was an extremely weak one, which under normal circumstances would have been thrown out of court. Robert Black, the Scottish law professor who devised the format of the Netherlands-based trial, has said he was "absolutely astounded" that Al Megrahi had been found guilty. Black said he believed the prosecution had "a very, very weak circumstantial case" and he was reluctant to believe that Scottish judges would "convict anyone, even a Libyan" on such evidence. This view is supported by some of the families of UK victims of the bombing, who are calling for a public inquiry to find "the truth of who was responsible and what the motive was".

In their 82-page verdict, the Scottish judges—Lords Sutherland, Coulsfield and Maclean—expose the weakness of the prosecution case and how they ignored, or simply dismissed, a mass of contradictory forensic and circumstantial evidence in order to bring a guilty verdict against Al Megrahi.

Significantly they rejected in its entirety the defence argument that other individuals and groups—namely the Popular Front for the Liberation of Palestine-General Command (PFLP-GC)—were responsible for the bomb, on the grounds that the

evidence against them was circumstantial and inconclusive.

This raises the question, why was there such a discrepancy between the standards applied to the defence's arguments seeking to implicate others for the bombing and those employed by the prosecution against Al Megrahi? The case against the two Libyans was no less circumstantial and flimsy, a fact acknowledged in part by the acquittal of Al Amin Khalifa Fhimah. Under Scottish law, moreover, it was possible to return a verdict of "not proven" that would free but not completely exonerate Al Megrahi on the basis that the court could not accept his guilt "beyond reasonable doubt".

An explanation as to why a guilty verdict was delivered must be sought in the political rather than the judicial arena. The demonisation of the "rogue state" Libya has long played an important part of US policy in the Middle East. Libyan leader Colonel Gadhaffi's anti-imperialist rhetoric, his regime's support for the Palestinians and opposition to Israel all drew the ire of the US, which designated Libya a "terrorist" nation in 1979. In 1986 the US bombed Tripoli and Benghazi, in an action launched from British bases that killed Gadhaffi's daughter. The US imposed unilateral economic sanctions the same year, and led the calls for UN-approved sanctions to be imposed in 1992.

It is against this political background that the Lockerbie investigation and eventual trial must be evaluated. Initial police investigations focused on the claim that it was a reprisal attack for the unprovoked US shooting down of an Iranian Airbus six months before the Pan Am bombing, in which all 290 people on board were killed. This possible reprisal was alleged to have been financed by the Iranian regime, which had hired the Syrian backed PFLP-GC to carry out the Pan Am bombing. In 1990, however, the Republican administration in the US, led by President George Bush, placed maximum pressure on the Conservative Government of Margaret Thatcher in Britain to drop this line of inquiry. According to relatives of those killed in the disaster, Thatcher refused a public inquiry at this time, on the grounds that it was against the "national interest".

Accusations of Libyan responsibility for the Pan Am 103 bombing first emerged during US preparations for the assault on Iraq in the 1991 Gulf War. In their efforts to assemble support for military aggression against Iraq by NATO, US

officials shuttled frantically around the various Arab regimes in the Middle East. Secretary of State James Baker visited Syria on numerous occasions in 1990 and Bush himself pronounced that Syria had taken a "bum rap" over the bombing (i.e. that it was not responsible).

Libya, which stood out in opposition to the US attack on Iraq, became the focus of political and media blame for the Lockerbie bombing. In 1992 a UN resolution imposed economic sanctions against Libya after it refused to hand over Al Megrahi and Fhimah for trial in Britain or America, and demanded compensation payment be made, should the Libyans be found guilty.

Washington and London never expected Libya to hand over its own citizens, including at least one of its intelligence officers, Al Megrahi. But this became possible through the efforts of Gadhaffi's regime to initiate a rapprochement with the West, and the major European powers in particular. From 1994 onwards, Tripoli repeatedly offered its citizens up for trial, provided only this was on "neutral" territory.

Over the next few years, Gadhaffi sought to cultivate the support of the European powers. He acted as mediator in conflicts such as the Eritrean-Ethiopian war, the war in the Democratic Republic of the Congo, the Sudanese civil war and the war in Sierra Leone—while signing numerous oil and other commercial deals with Italian and French companies.

Resolving the outstanding issue of Lockerbie became essential for the US and Britain if they were not to be left out of the rich pickings now being made available in Libya, a country whose oil reserves are equivalent to those of the US. Negotiations commenced in earnest in 1999, culminating in the suspension of UN sanctions against Libya on April 5, after the US, Britain and Libya agreed on the hand-over and conditions for the trial of the two men in the Netherlands.

The US continued to take a harder stance against Libya than Europe. It did not agree to the lifting of UN sanctions, and opposed the efforts of Britain and others to restore diplomatic relations—demanding that Libya "end and renounce all forms of terrorism" and "acknowledge responsibility for the actions of Libyan officials" with regards to the Pan Am bombing. But it nevertheless did offer the prospect of a normalisation of relations in future. In a 1999 speech to the *Middle East Institute*, a US foreign policy think-tank, for example, Ronald Neumann proclaimed that "Libya's surrender of the Pan Am 103 suspects for trial and the ensuing suspension of international sanctions have changed the political landscape of the last ten years... Libya is not Iraq. We do not seek to maintain sanctions until there is a change of regime in Tripoli. We have seen definite changes in Libya's behavior, specifically declining support for terrorism and increasing support for peace processes in the Middle East and Africa."

A rapprochement with Libya had to take place on US terms, however. This meant accepting the validity of US assertions of Libya's guilt for the bombing, even seeking to solicit a public

acknowledgement of this from Gadhaffi. In order to justify more than a decade of US-led hostilities against Libya, therefore, it was essential that at least one of the defendants was found guilty, despite the threadbare character of the case against them.

It is impossible, on the basis of the evidence presented in the Netherlands, to ascertain who was truly responsible for the Pan Am 103/Lockerbie bombing. Al Megrahi's guilt was not proven beyond reasonable doubt, but nor was his innocence. Nothing presented definitively ruled out Libyan involvement in the bombing, but nor did the trial exclude the possible involvement of Syria, Iran or several Palestinian groups. Of all the possible scenarios, the one, which received least scrutiny, was the possibility raised by some interested parties that the bombing was the inadvertent product of a CIA operation that badly backfired. But the purpose of the trial was never the search to expose the truth about this terrible attack. Instead the verdict provides the US with the necessary propaganda vehicle through which it can continue to exert maximum pressure on Libya to accede to its demands, and thereby strengthen America's grip on the entire Middle East region.

Gadhaffi has so far refused to accept American calls to acknowledge Libya's guilt regarding Pan Am 103 and has even promised to release new information proving Al Megrahi's innocence. But he has not done so yet, however. Given that it was Gadhaffi who agreed to hand over the two accused in 1999, his outrage seems largely designed for domestic consumption. It is also directed against what he no doubt sees as the failure of the US and Britain to honour their tacit agreement to limit the matter to a criminal trial of the two individuals accused, and not to use it to continue attacking his government. Given the bellicose stance of the newly installed Bush administration regarding Middle East policy, such fears appear well founded.



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