

# US-British conflict over release of Libyan convicted of Lockerbie bombing

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The release of Libyan Abdelbaset Ali Mohmed Al Megrahi, convicted for the 1988 bombing of PanAm 103 over Lockerbie, Scotland, is expected today.

It is a move that has triggered a diplomatic dispute between the British and US governments.

Megrahi was found to be suffering from terminal cancer in October last year, and is said to be only likely to live a few more months. After he dropped his appeal against conviction, the way was opened for his release to Libya—either on compassionate grounds or as part of a prisoner transfer deal.

The Obama administration intervened directly to oppose his release and made clear that it would prefer Megrahi to die in Greenock jail, in Scotland, where he has been incarcerated since 2001. US Secretary of State Hilary Clinton “fairly strongly” told Scottish Justice Secretary Kenny MacAskill that “our view is that Megrahi should serve out his entire sentence in Scotland.”

The phone call was followed up by a public statement from Clinton that it would be “absolutely wrong” to release Megrahi. The BBC described this as “uncharacteristically undiplomatic language.”

Speaking for US President Barack Obama, White House spokesman Robert Gibb added that “It’s the policy of this administration that this individual should serve out his term where he’s serving it right now.” Clinton’s statement was backed by leading Democrats, including John Kerry and Edward Kennedy.

Macaskill is expected to announce Megrahi’s release in Edinburgh at 1 p.m. Thursday. He has served eight years of a 27-year minimum sentence. His possible release comes after intense discussions within the Brown government and direct talks with Libya.

At stake is, firstly, the possibility of resolving the political fallout should Megrahi’s conviction be proved to be invalid and, secondly, and more important still, lucrative trade relations with Libya.

Megrahi was the only person found guilty of the Lockerbie bombing at a juryless trial held in Camp Zeist in the Netherlands in 2001. His decision to end his appeal against conviction, made under tremendous pressure, puts an end to the

series of trials, appeals and hearings that started when the Libyan government handed over two of its security operatives, Megrahi and Al Amin Khalifa Fhimah, for trial in 1999.

The trial process was organised as part of a drive to re-open Libyan oil fields to US and UK oil companies, while avoiding further investigation into the unanswered questions surrounding the Lockerbie bombing itself. Megrahi’s conviction was followed by the Libyan government accepting responsibility for the attack and the payment of billions of dollars in compensation to the families of the 270 victims. In the intervening years Libya has been the focus of an oil bonanza for corporations once excluded by the former pariah regime of Colonel Muammar Gadhaffi. The ruling clique in Tripoli has been feted by US, European and Russian administrations seeking oil deals, geo-political favours, arms sales and military bases.

The claim that Megrahi was solely responsible for the Lockerbie bombing is absurd on its face. His co-accused, Fhimah, was acquitted in 2001 on the basis of there being no evidence against him. Megrahi has consistently maintained his innocence, but could do little more given his inability to directly criticise the Libyan government.

In 2007 the Scottish Criminal Cases Review Commission (SCCRC), the organisation tasked with investigation into miscarriages of justice, announced that in their opinion there was “no reasonable basis” to place Megrahi in Malta where he had been identified as allegedly purchasing clothing later found to have been wrapped around the bomb. The review agreed that a miscarriage of justice may have taken place and authorised a further appeal. The 800-page SCCRC report has never been published.

Key items, in addition to the disputed identification of Megrahi by Maltese shop keeper Tony Gauci, that might be explored in open court at an appeal include the break-in at Heathrow airport adjacent to where PanAm 103 was parked on the evening prior to the attack. In addition, in 2007, in an affidavit to a Swiss court by Ulrich Lumpert, manufacturer, along with Edmund Bollier of MEBO AG, of the MST13 circuit board alleged to have triggered the bomb, admitted that the MST13 fragment produced in court in 2001 was from a non-operational circuit board handed to Lockerbie investigators in

1989.

The August 16 *Sunday Times* reported that Megrahi's defence team were intending to produce cables in court from the US Defence Intelligence Agency accusing Iran of the attack in reprisal for the USS Vincennes destruction of an Iranian airbus in 1987. Writing in the *Scottish Mail on Sunday*, also August 16, 2009, former Labour MP and father of the House of Commons Tam Dalyell alleged that the US government knew an attack was planned by Iran and that a warning was posted to key US personnel and their diplomatic allies to avoid PanAm 103, while the suddenly available cheap seats in the pre-Christmas flight were taken up by students.

Another article in the *Scottish Mail on Sunday* claimed that much of the defence case was intended to rest on a report by Jessica de Grazia, a former senior New York prosecutor, and Philip Corbett, a former deputy head of Scotland Yard's Anti-Terrorist Branch. They point to Abu Talb, an associate of the Popular Front for the Liberation of Palestine-General Command, (PFLP-GC) to whom the Lockerbie attack is alleged to have been contracted, and suggest he was in London with an un-primed bomb. It notes that in return for Libya being blamed for the Lockerbie attack, US planes were allowed to use Iranian airspace during the US 1991 attack on Iraq. The report concludes, "We have never seen a criminal investigation in which there has been such a persistent disregard of an alternative and far more persuasive theory of the case."

Megrahi's illness has provided an opportunity to bury the issue once and for all. A Scottish National Party member of the Scottish parliament, Christine Graham, warned in the press that she had seen a leaked mail from the Scottish justice department warning that "senior Scottish officials were exerting undue pressure to have Megrahi drop his appeal."

Release to Libya would only end such difficulties if Megrahi's continued silence could be counted upon. A number of exchanges have been reported between leading British figures and the Libyan government to smooth Megrahi's release. A spokesman for Lord Peter Mandelson, the UK business secretary, hinted that "fleeting conversation about the prisoner" had been held between Mandelson and Gadhaffi's son and likely successor. In addition, Prince Andrew, the Duke of York, has travelled on at least three occasions to Libya as a trade representative, while Gadhaffi junior has stayed at Buckingham Palace. Palace courtiers conceded that the prince and Seif al-Islam had "quite possibly" discussed Megrahi.

At stake are extremely valuable British interests. A \$25 billion deal between British Petroleum and the Libyan National Oil Corporation has already been signed for the exploration of the Sirte basin, an offshore area the size of Belgium. However, according to Dr Bassam Fattouh at the Oxford Institute for Energy Studies, Libya has proved to be a "difficult business environment" for BP. The expectation is that bureaucratic and planning obstacles would melt away in the aftermath of Megrahi's return.

For their part, the Libyan regime would welcome the re-appearance of someone who has been portrayed as a martyr and hostage. Offering Megrahi a hero's welcome would serve to prop up the increasingly unpopular regime.

Clinton's unprecedented intervention into the legal workings of a major ally comes despite the US's own desire for deeper relations with Tripoli. The Obama administration faces political pressure from the families of US Lockerbie victims, most of who support Megrahi's conviction as opposed to a large number of UK relatives who do not, and could not be seen to condone the release. The US will also have calculated that Megrahi's silence should not be entrusted to Libya.

The Prisoner Transfer Agreement, signed by Britain and Libya last November and ratified on April 29, also met with controversy in Britain. Parliament's joint human rights committee have complained they were denied a chance to scrutinise the treaty due to government concerns to safeguard British business interests. Justice Secretary Jack Straw wrote to the committee on 12 March stating that "Both the foreign secretary and I believe, in the interests of our judicial and wider bilateral relations with Libya, it is important to ratify...a delay beyond April is likely to lead to serious questions on the part of Libya in regards to our willingness to conclude these agreements."

The Labour chairman of the committee, Andrew Dismore, has complained specifically that the treaty was rushed through precisely to pave the way for Megrahi's release.

Prior to the release, a Scottish government spokesman was forced to insist that "people can be assured that the justice secretary's decisions have been reached on the basis of clear evidence and on no other factors."



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