Lockerbie: Human rights lawyer states Megrahi was framed

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Leading British human rights lawyer Gareth Peirce has stated that, in her opinion Abdel Baset Ali al-Megrahi, the only man accused and convicted of the 1988 bombing of PanAm flight 103 over Lockerbie, Scotland, was framed.

Pierce has a long track record of defending those caught in the British legal system's most notorious miscarriages of justice. Her clients have included the Birmingham Six, the Guildford Four and Judith Ward, all of whom were Irish people accused and wrongly convicted of IRA bomb attacks in the 1970s. More recently Peirce has taken up a number of high profile cases of individuals accused in the so-called "war on terror", including the Tipton Three and Moazam Begg, held illegally by the US government in Guantánamo Bay. She has represented the family of Jean Charles de Menezes, an innocent man shot dead by British police in Stockwell underground station in 2005.

Writing in the September edition of the *London Review of Books*, Peirce, of the law firm headed by Benedict Birnberg, summarises some of the most concerning, and well known, aspects of the entire Lockerbie disaster in which 270 people died, and the subsequent investigation.

She points to the advance warnings of an attack on Pan Am flights from London, the role of the FBI and others who flooded the crash site, the lack of security on the site and tampered evidence, including moved bodies. She notes the initial trajectory of the investigation, which pointed to the Popular Front for the Liberation of Palestine-General Command (PFLP-GC) acting on behalf of Iran having used a barometric bomb to bring down the 747. She also notes that a barometric bomb, one triggered by changes in air pressure, would have exploded only after PA 103 reached a certain height—some 38 minutes into the flight from Heathrow—precisely when the plane disintegrated.

She reviews the subsequent change in focus from Syria and Iran to Libya, which was in line with US foreign policy objectives at the time. Firstly, then US President George Bush, senior, instructed then UK Prime Minister Margaret Thatcher to keep the Lockerbie investigation "low key" to assist hostage negotiations underway in Beirut. As a result, rather than a judicial inquiry and prosecution, a Fatal Accident Inquiry (FAI) with no powers of subpoena was held.

Then, following the Iraqi invasion of Kuwait in 1991, Iran and Syria both assisted the US invasion of Iraq. It was at this time that the focus of the Lockerbie investigation was shifted. Vincent Cannistraro, the architect of the Reagan administration's CIA campaign of destabilisation against the Libyan government of Colonel Muammar Gadhaffi, was brought out of retirement to head the new line of investigation.

Peirce writes, "It is not difficult to achieve a conviction of the innocent. Over many decades several common factors have been identified, and the majority of them are present, centre stage, in this case: achieving the cooperation of witnesses by means of a combination of inducements and fear of the alternative (the tried and tested method of obtaining evidence for the prosecution on which many US cases rely); the provision of factual information by scientists where there is no proper basis for it (a recurrent theme in UK convictions as well as in the US); reliance on 'identification' evidence which is no such thing. Add to that the political will to achieve a prosecution, and the rest is easy".

Abdel Baset Ali al-Megrahi and his co-accused, Llamen Khalifa Fhimah, were handed over by the Libyan government in 1999. The trial opened at a converted US airbase in the Netherlands in 2000. The indictment against Megrahi read that an MST 13 bomb timer was made in Switzerland, by MEBO AG, and sold exclusively to Libya. Identification of the timer rested on the efforts of Thomas Hayes and Alan Feraday of the Royal Armament and Development Establishment (RARDE), along with Thomas Thurman of the Federal Bureau of Investigation (FBI).

In 1997, following an investigation by the US inspector general, Michael Bromwich, Thurman was barred from being called as an expert witness. Bromwich described Thurman as "circumventing procedures and protocols, testifying to areas of expertise that he had no qualifications in...therefore fabricating evidence".

Thomas Hayes claimed that on May 12, 1989, he found a fragment of circuit board in the collar of a shirt later traced to a Maltese shop. The fragment itself had been found in January 1989 by British police investigating the crash site.

Peirce states, "Even if one knew nothing of the devastating findings of the public inquiry in the early 1990s into the false science that convicted the Maguire Seven or of the succession of thunderous judgments in the Court of Appeal in case after case in which RARDE scientists had provided the basis for wrongful convictions, Hayes's key evidence in this case on the key fragment should be viewed as

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disgraceful".

"Hayes", Peirce continues, "played his part in the most notorious of all, endorsing the finding of an explosive trace that was never there, and speculating that a piece of chalk mentioned to the police by Vincent Maguire, aged 16, and a candle by Patrick Maguire, aged 13, 'fitted the description better' of a stick of gelignite wrapped in white paper".

Hayes's information regarding this crucial piece of Lockerbie evidence was also flawed. Despite having carefully documented every other piece of evidence he found, Hayes had made no drawing of this particular item and had not assigned it a reference number on discovery. He had not carried out a test for explosives. Hayes said he had "no idea" when the pagination of his notes recording findings had been altered to include an additional page, and it was an "unfathomable mystery" as to why the alterations should have occurred.

Following an investigation into RARDE by Sir John May, Hayes resigned and is now reported to be working as a chiropodist.

Pierce then turns to the visual identification of Megrahi.

"Even if the science that convicted al-Megrahi had not offended against every minimum standard, then the second pillar of the prosecution case, his identification by Tony Gauci, the Maltese shopkeeper, would remain spectacular in its noncompliance with any safeguard".

Pierce notes the numerous failings in the evidence provided by Gauci, his initial identification of Abu Talb, of the PFLP-GC, and reiterates the suggestion that Gauci was "handsomely rewarded" for his services.

She describes the verdict delivered in 2001 by three experienced judges, upheld later by five appeal court judges as "profoundly shocking", and makes the following devastating assessment:

"Al-Megrahi's trial constituted a unique legal construct, engineered to achieve a political rapprochement, but its content was so manipulated that in reality there was only ever an illusion of a trial".

Peirce concludes that there is "pressing need to investigate in details how it has come about that there has been a form of death in this case—the death of justice—and who should be found responsible".

Subsequent to Peirce's comments, more revelations have emerged about the crucial piece of MST 13 circuit board. Following a Freedom of Information request raised by Scottish Nationalist Member of the Scottish Parliament Christine Graham, the Scottish Crown Office has confirmed that evidence item PT-35, the piece of circuit board found by Hayes, was taken for examination to both Germany and the US. Graham claimed that this was done with the knowledge of the then chief prosecutor, Lord Fraser of Carmylie, who recently told a Dutch television company that he was unaware of the fragment's movements.

Megrahi was released by Scottish Justice Secretary Kenny Macaskill in August, allegedly on humanitarian grounds. It occurred at a time when the Libyan government had made clear that, if the terminally ill Megrahi had been allowed to die in Greenock prison, British oil contracts would have been imperilled. In addition, Megrahi had agreed to drop a long delayed appeal against his conviction in order to secure his release.

The release triggered outrage from the US in particular and was attacked by President Barack Obama, US Secretary of State Hilary Clinton, the head of the FBI, and the US Joint Chief of Staff amongst many. Commentary went as far as suggesting that the so-called "special relationship" between British and US imperialism, and Scotland in particular, was imperiled.

All this has been forgotten. On September 21, US State Department spokesman Ian Kelly informed the world that the US had "deep abiding ties with Scotland". Kelly continued, "We are very close allies, and I don't think we're looking to punish anybody per se. There's no tit for tat here".

Three weeks later, speaking before a meeting with UK Prime Minister Gordon Brown, Clinton stated, "I have a special relationship with the prime minister. And of course, I think it can't be said often enough, we have a special relationship between our countries".

What was said between the two regarding Lockerbie is not clear, but the meeting came immediately prior to the British government's decision to send an additional 500 troops to Afghanistan. Brown has subsequently ruled out a public inquiry into the bombing, while the Scottish government have denied they had the power to hold an authoritative inquiry in the first place.

Clinton also called in the Libyan government, speaking for 15 minutes en route to Egypt with Libyan Foreign Minister and former intelligence chief Musa Kusa. According to US Assistant Secretary Philip Crowley, the two talked of "Sudan, Darfur, cooperation about terrorism and the possibility of advancing our relationship".

Crowley claimed that Megrahi was not discussed, lamely stating that "the Libyans understand our concerns about Megrahi very, very well".

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