

Lockerbie, 1988

Megrahi – You Are My Jury: The Lockerbie Evidence

John Ashton

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Within days of the death of Abdelbaset Ali Mohamed al-Megrahi in May, Scottish First Secretary Alec Salmond had refused international appeals for an independent inquiry into the 1988 Lockerbie bombing for which the Libyan had been convicted 11 years earlier.

The plea – made by Kate Adie, Desmond Tutu, Terry Waite, Tam Dalyell and the father of one of the Lockerbie victims, Jim Swire, among others – claimed the ‘perverse judgment’ had left the Scottish criminal justice system a ‘mangled wreck’. Speaking at Holyrood in support of it, Scottish Lib Dem leader Willie Rennie said: ‘This is not a normal case. It’s Scotland’s biggest terrorist atrocity. These are serious questions raised by serious people, and the world is watching.’

But Mr Salmond, following the precedents of Margaret Thatcher, John Major, Tony Blair, Gordon Brown and David Cameron, was adamant in his refusal: ‘They’re looking for an inquiry for the responsibility, ultimately, for Lockerbie. That touches on matters of huge international importance which would be beyond the ability of the Scottish inquiry to summon witnesses, compel evidence, etcetera.’

According to John Ashton’s book, both men are right. The Scottish legal system, and many of its senior members, emerge from Lockerbie with little credit. But, as the canny First Minister also says, the fate of Pan Am Flight 103 on that December evening is caught up in matters of high political import. The feelings of al-Megrahi’s family and friends come very low on the agendas of the powerful.

Nothing can be done now for the man who died of cancer aged 60. But we can at least read his own words between the detailed researches of Ashton, a member of al-

Megrahi's defence team, and try to pierce the mystery that has always surrounded Lockerbie.

Some, like me, may be familiar with Ashton's work on Lockerbie without knowing it. He worked with Paul Foot on the *Private Eye* special, *Lockerbie: The Flight from Justice* and Allan Francovich in his 1994 film *The Maltese Double Cross*.¹ This new book not only gives us al-Megrahi's story, but enormous detail about Lockerbie drawn from Ashton's encyclopaedic knowledge of the subject. It is not the author's intention to prove who was responsible for the fate of Flight 103, though he is clear that Iran, Syria and the Popular Front for the Liberation of Palestine General Command were involved. But he leaves us in no doubt that the culprit is not the one still portrayed by many in a position to know differently as 'the Lockerbie bomber'.

Ten days after the Maid of the Seas disintegrated early in its flight from London to New York, the *Daily Express's* front page identified 'The Bomb Carrier' from an FBI source. No mention of al-Megrahi and Libya at that stage. Less than three months later, Conservative Transport Secretary Paul Channon briefed journalists about imminent arrests after brilliant police work by the Dumfries and Galloway force. No mention of al-Megrahi and Libya then either. In those early days there were repeated stories about warnings to passengers – some very specific – being given ahead of Flight 103. No mention then that al-Megrahi and Libya were part of the plot.

In fact it was almost three years before the indictment of al-Megrahi and his fellow Libyan, Lamin Khlaifah Fhimah. Their trial opened before a Scottish Court at Camp Zeist in the Netherlands nine years later in 2000, with Fhimah being found not guilty and al-Megrahi left to carry sole responsibility for the bombing.

Dip into every category of material assembled to prove that al-Megrahi placed a bomb in a suitcase on a plane in Malta that, via Frankfurt, eventually found its way to Heathrow and on to Flight 103, and the holes become immediately clear.

¹ Available online at <<http://video.google.com/videoplay?docid=7160854996287567609>>.

Unauthorised removal of debris from the crash site, improper identification methods, tainted witness evidence, incompatible timings, deficient forensic expertise (one of the UK's two 'expert' scientists went off to retrain as a chiroprapist part way through the investigation) and the regular denial of information relevant to the defence all reveal a shoddy approach to justice. The investigation took place under heavy direction from the US and its 'findings' were waved through the judicial process with little regard to the rights of the defendant.

Even at the time of al-Megrahi's trial and subsequent appeal, heavy criticism of that process was made by Professor Hans Köchler, the man appointed by UN Secretary-General Kofi Annan to observe the case.² But none of this made any difference until the deal made between Blair and Muammar Gaddafi in 2007 permitted prisoner transfer. This, in turn, allowed the Scottish Justice Secretary two years later to permit the fatally ill al-Megrahi to die with his family.

Al-Megrahi, who by then had been waiting four years for the statement of the Scottish Criminal Cases Review Board (SCCRB), tells us that he faced the almost impossible dilemma of whether to continue the second appeal afforded him by the SCCRB report. It cited six grounds on which al-Megrahi may have suffered a miscarriage of justice and that appeal would almost certainly have led to his release.³

Ashton records him as saying:

'In order to obtain a transfer I had to abandon my appeal. It left me with an appalling choice: to die in prison in the hope of being cleared posthumously, or to die at home still bearing the weight of my conviction.'

The decision rested with the Scottish Justice Secretary, Kenny MacAskill. Al-Megrahi says:

'MacAskill was in a very difficult position. If he were to refuse the application [for transfer] and leave me to die

² His reports are at <http://i-p-o.org/lockerbie_observer_mission.htm>

³ SCCRБ statement is now available at <www.scribd.com/doc/86636115/SCCRC-Statement-of-Reasons-Red>.

in prison, he would not only appear monstrously callous, but would also run the risk of the appeal bringing the Scottish criminal justice system into massive disrepute. However, granting it would breach the assurances given to the US government and the UN prior to the trial. It would be a tacit endorsement of an arrangement that had been foisted upon Scotland by Westminster.'

A third option was release on compassionate grounds. While success there would not legally require al-Megrahi to drop his appeal, he recounts being told by a Libyan minister who met MacAskill privately that the Justice Secretary said he would find it

'easier to grant compassionate release if I dropped my appeal. He said he [MacAskill] was not demanding that I do so, but the message seemed to me to be clear. I was legally entitled to continue the appeal, but I could not risk doing so. It meant abandoning my quest for justice.'

The next day al-Megrahi decided to drop his appeal.

Ashton records: 'By a horrible irony Abdelbaset's decision coincided with the destruction of the last major plank of the Crown case.' That was critical evidence about the fragment of circuit board which the prosecution claimed through forensic examination to be part of a timer batch supplied to Libya, and whose discovery allegedly linked al-Megrahi to the downing of Flight 103. The author discloses that the defence team were from the outset denied information on this fragment that would have undermined this Crown position. This was far from an uncommon occurrence in the al-Megrahi case, one further eroded by other material protected by 'public interest immunity', a ruling which continues even after al-Megrahi's death.

The book makes clear that al-Megrahi was a vulnerable figure. He, along with many other Libyans, was a US sanctions buster, had intelligence connections, two passports and did not tell his wife about his regular trips abroad, including those to Malta. But Ashton also puts that into political context by reminding us that in the 1980s, when Iran enjoyed US support

during its war with Iraq, Libya was clearly targeted by the Reagan Administration. The shooting of WPC Yvonne Fletcher in 1984 encouraged Thatcher to become the only European leader to allow her country to be used two years later for a US attempt to murder Gaddafi by bombing after the Berlin La Belle night club attack in which American soldiers died.

Ashton does not devote much of his book to the London murder or the German explosion, but he points to sources who question the accepted version of Libyan responsibility for both. He also tells us that the man charged by Reagan in 1985 with drawing up concrete plans against Libya – code-named ‘Flower/Rose’ – was Robert Gates. He went on to become CIA director under George Bush Sr and stayed on as Defence Secretary when Barack Obama succeeded George Bush Jnr. With Libya having this powerful opponent in the upper reaches of the US defence and intelligence community for over 25 years, we should perhaps be not too surprised that the basics of independent police investigation and impartial judicial process were not followed.

Many were complicit in what amounted to a show trial and their careers continue to flourish.⁴ But there were also those who swam against the tide of managed conformity. Al-Megrahi speaks well of his treatment by many individuals in the Scottish police and prison services, of families who wanted to know what really happened to their murdered relatives,⁵ of lawyers who battled the legal, political and intelligence establishments of the US and UK.⁶

The Scottish legal journal *The Firm* has kept constant vigil on Lockerbie. Its two-part archive is invaluable to those wishing to know more.⁷ Al-Jazeera has produced some good material, too, and the links to that are available through

4 A recent example is reported at www.firmmagazine.com/news/2930/Boyd_makes_the_Bench_despite_Pan_Am_103_stain.html.

5 www.lockerbie-truth.com/

6 <http://lockerbiecase.blogspot.co.uk/>

7 www.firmmagazine.com/features/1131/The_Pan_Am_103_Archive%3A_Part_1.html and www.firmmagazine.com/features/1132/The_Pan_Am_103_Archive_-_Part_2.html

Ashton's website.⁸ And there a few journalists and politicians who emerge with credit for taking an independent approach to Lockerbie when career considerations might well have taken them into less controversial areas.

Yet overall the al-Megrahi story is a disgraceful one: the compounding of the grief of the Lockerbie bereaved by a corrupting, state-organised deception that identifies the wrong person as the cause of their anguish. It is a story told well here by a determined researcher and the man jailed for something he did not do.

The last words for now are those of Abdelbaset Ali Mohmed al-Megrahi:

'It is ironic that three of Scotland's best legal minds believed me to be guilty, yet the ordinary Scots who got to know me believed I was innocent. To them, and to all the others who have shown me kindness over the past decade, I offer my heartfelt thanks.

Almost certainly I will die with the weight of my conviction still on my shoulders. My conscience, however, will be clear, and until my last breath I shall pray that the real stories of Lockerbie will one day be known to all.'

Tom Easton

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a regular contributor to Lobster.*

⁸ <www.megrahiyouaremyjury.net/>