

# The Lockerbie Trial, Round One

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### Brief Analysis

The much-anticipated trial of two Libyans accused of downing Pan Am Flight 103 over Lockerbie, Scotland, has now been in session for two weeks. In this brief period, important developments have already taken place both inside and outside the courtroom. Although prior to the trial, there was much speculation on the deficiency of the prosecution's evidence, the first two weeks of the trial should cast doubt on the reliability of the defense team's rational. In the meantime, Tripoli has launched a well-concerted public relations campaign distancing itself from the proceedings and the defendants.

**Prosecution's Opening Moves.** In a well-calculated move, the prosecution began its case by graphically depicting the scene of the crime. In this sense, the prosecution focused attention on the fact that this was a horrible act of terror that extinguished many promising lives. In riveting testimony, air-traffic controllers and local residents recaptured the moment when Pan Am Flight 103 disappeared from the radar screen and began its descent toward its demise. "There was fire raining down right beside me. I was dodging as it landed," recalled Lockerbie resident Jasmine Bell. Another resident testified that the exploding firebomb was "like an atomic bomb . . . like mushrooms flaring up, you could feel the heat." The Lockerbie case is often portrayed in antiseptic terms with discussion of high politics and diplomacy. The prosecution's preliminary moves compelled all the observers to return to the human tragedy, which is the real Lockerbie case.

**Defense's Case.** The defense team's opening statement ended all the speculation about its strategy. It appears that the defense rebuttal will be based on two mutually reinforcing propositions: The responsibility for the bombing lies with various militant Palestinian groups and the forensic evidence was either mishandled or deliberately planted. The strategy of the defense lawyers is to create sufficient doubt in the minds of the judges to secure a "not proven" verdict. The advantage the defense possesses is the high threshold for conviction required under Scottish law. In a "not proven" verdict, the three-panel judge could ostensibly declare that the evidence presented could not legally affirm the guilt of the suspects. As such, the burden of proof that the prosecution has to meet is considerably higher than required by the American legal system.

The defense team set the tone early when, in its opening statement, it alleged that two Syrian-based groups, the Popular Front for the Liberation of Palestine–General Command and the Palestinian Popular Struggle Front, were behind the Lockerbie bombing. The defense lawyers implicated Mohammad Abu Talb, a Palestinian serving a life sentence in Sweden for previous bombings in Denmark and Netherlands, as one of the leading conspirators. The defense case was apparently bolstered when, under cross-examination, Gordon Ferrie, the lead detective,

acknowledged that initial suspicion fell on the Palestinian groups as the explosion resembled the 1972 bombing of an El Al passenger plane that was attributed to Palestinian terrorist organizations.

The crucial question remains, On whose behalf did the Palestinians undertake such an action? Both Libyan Col. Mu'ammur Qadhafi and the defense lawyers are suggesting that the Lockerbie bombing was retribution by Iran for the U.S. downing of an Iranian airliner in 1988. Yet, this rational leads Tripoli into a sensitive area, as it enjoys cordial economic and political relations with Tehran. As such, Qadhafi has stressed that "this does not mean that Iran as a state or the Iranian government is convicted or condemned. The Lockerbie issue is an individual one." In remarkably tortuous logic, Qadhafi insists that either rogue Libyan agents unrelated to Tripoli or unruly Iranian intelligence officials similarly unconnected with Tehran contracted a Palestinian group ordinarily under Syrian command to destroy an American airliner.

Along similar lines, defense lawyers are also challenging the reliability of evidence and the possibility of manipulation of data. In an investigation that surveyed 800 square miles and catalogued 40,000 pieces of evidence, there is bound to be a degree of misplacement. The defense is exploiting the possibility of human error to suggest a deeper conspiracy. Under intensive cross-examination, defense counsels compelled Scottish police officer Duncan McInnes to acknowledge that the sheer volume of wreckage led to certain pieces of evidence being labeled retroactively. Given the presence of CIA and FBI officials on the scene, the defense seems to be implying that American functionaries with animus toward Libya may have readjusted the position and nature of evidence. In the coming weeks this line of reasoning is likely to be further elaborated by a defense team determined to provoke uncertainty in the minds of the three-panel judge.

Qadhafi's Retort. As the trial of the two suspects began in Netherlands, Tripoli quickly launched a well-coordinated public relations campaign designed to negate the lingering allegations implicating his regime. In a series of interviews, Qadhafi emphasized that "the court is sitting to judge them [the individual defendants], not whether they are Libyan agents. The court is sitting to decide if they are guilty or not." The colonel foreclosed the possibility of further expansion of the trial by saying the trial "is concerned about these two suspects only. Because if you go further than it becomes an endless chain."

In the meantime, Tripoli greeted the opening of the trial by expediting various commercial agreements. Libya's National Oil Company quickly announced a framework for gas exploration terms that had been stalemated in bureaucratic channels for months, which would allow nearly fifty international oil companies--including Royal Dutch/Shell, Japan's National Oil Company, Malaysia's Petronas, and Russia's Yukos--the opportunity to license up to eighty new off-shore and on-shore oil and gas fields. The Libyan officials similarly informed industry sources that not only more gas fields would be opened for exploitation but that they would be available to as many nations as possible. As the media focused on the developments in Netherlands, Tripoli effectively denoted to the international community the increasing importance of its market in the post-sanctions period. Libya's strategy seems to be to marginalize the trial through the lure of its subterranean wealth and persistent denials.

What Next? The coming month is likely to see some of the most explosive developments in the trial. Among the evidence and witnesses slated for examination are the remnants of the radio-cassette player allegedly detonating the bomb and clothing found in the debris that is attributed to one of the suspects. The crucial witness who will take the stand shortly will be the proprietor of the Swiss firm, MEBO, that sold twenty bomb timers to the Libyan regime. The Lockerbie trial is about to enter some of its most vexing stages as all the contenders are finally going to move beyond setting the stage, turning to address the actual evidence.

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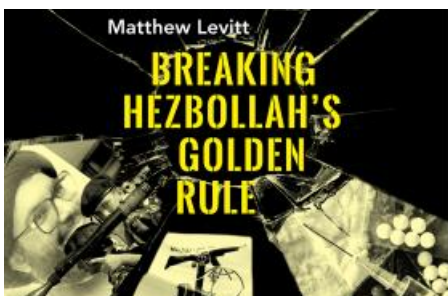
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