

Lockerbie Trial:

At Last?

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May 2, 2000

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Brief Analysis

After eleven years of legal and political maneuverings, the Lockerbie trial is finally set to begin on May 3 in Camp Zeist, Netherlands. The two suspects, Abdel Basset al-Megrahi and Al Amin Khalifa Fahima, stand accused of perpetrating one of the worst acts of terrorism in history. The explosion of Pan Am 103 over Scotland cost the lives of 259 passengers and eleven people on the ground. As the trial begins, disturbing questions have surfaced regarding the vulnerability of the prosecution's case. Can the prosecution meet the high burden of proof that conviction under Scottish law requires? Even more significant are questions regarding how the trial will impact internal developments in Libya and U.S.-Libyan relations. It is clear that an acquittal could cause considerable damage to U.S. credibility as well as to the attempts to secure justice for the victims of the Lockerbie explosion. An acquittal, however, could confront Col. Muammar Qadhafi's regime with alarming internal challenges. Through clever pretrial negotiations, the colonel may have ensured that he and his senior officials will not be implicated by a guilty verdict, but he has not immunized his regime from internal repercussions of the end of the Lockerbie crisis.

Acquittal? In the recent months, much of the reporting on Lockerbie has stressed the likely acquittal of the two suspects. After interviewing 15,000 witnesses and examining 180,000 pieces of evidence, however, the prosecution has crafted an intricate case supported by a considerable mass of data. The key piece of evidence is the fragments of a Toshiba cassette player with traces of explosive that was recovered near Lockerbie. It appears that the device was placed inside a brown Samsonite suitcase that initially boarded the plane in Malta. The connection to Libya was soon established as the timer was traced to a Swiss electronic company known to have sold such equipment to the Libyan government. The next piece of the puzzle was a shirt that contained fragments of a time bomber in its fabric. The shirt was traced to a Maltese clothing shop whose owner offered a description of the buyer that closely resembled Abdel Basset Al-Magrahi. In the meantime, two additional pieces of evidence further buttressed the prosecution's case: the discovery of one of the suspect's notebooks describing how to route luggage from Malta to Frankfurt and the defection of a Libyan agent confirmed Tripoli's complicity.

The defense rebuttal will rest more on challenging the recollection of the witnesses than on the credibility of the evidence. The first claim of the defense is that it is impossible to trace the origins and the ownership of the Samsonite suitcase. But Frankfurt Airport does maintain computer records demonstrating that the suitcase originated in Malta. Taking a page out of the O.J. Simpson case, the defense is likely to argue that the police planted the shirt containing the fragments of explosion. The most important card that the defense lawyers will play is to

relentlessly challenge the recollection of the witnesses that are now more than a decade old. At any rate, the evidence--meticulously assembled by the prosecution--should not be easily dismissed and an innocent verdict proclaimed before the trial even commences.

Implications of the Trial for Libya. The trial of the two Libyan agents is bound to have important internal ramifications for Libya. Since the early 1990s, Qadhafi has abandoned structural economic reforms and has sought to rejuvenate the economy through international investments. For a long time, Qadhafi attributed the inefficacy of this strategy to United Nations sanctions and Lockerbie's discouragement of foreign investors. The end of the trial would complete Tripoli's ongoing political rehabilitation and open the way for further European and possibly American investments in Libya's gas and oil industries. But it is unlikely that the Qadhafi regime will succeed in transforming additional investments into measurable economic benefits. The constantly changing legal system and the absence of a viable administrative structure, consistent regulation, and reliable data, have long deprived Libya of an institutional framework necessary for translating oil wealth into sustained economic growth. In absence of resurrecting the economy through foreign investments or blaming the United States for Libya's financial difficulties, Qadhafi will have to confront an increasingly restive population demanding to know how he squandered Libya's considerable resources. After all, the colonel's great accomplishment has been to nearly bankrupt an oil-rich country with a small population. Ironically, his greatest international triumph could confront him with his most serious internal challenge.

Implications of the trial for U.S.-Libyan Relations. In recent years, the United States has demonstrated a propensity to incrementally improve relations with rogue states who are seemingly altering their international conduct. In March, a State Department delegation arrived in Libya to determine whether the U.S. travel ban should be rescinded. In the meantime, the U.S. oil firms are exerting much pressure for commencement of economic relations with Libya. The key point made by the proponents of normalization is that Libya has severed its ties to terrorist groups. The evidence proffered is not insignificant as Libya has distanced itself from radical Palestinian groups and expelled the Abu Nidal Organization from its territory. Michael Sheehan, the Clinton administration's point-man on terrorism, recently conceded that the end of the Lockerbie trial could mean that "we [the U.S.] will look for road maps" for improved relations.

The problem with such analyses is their assumption that a momentary change in behavior constitutes a fundamental reorientation. Col. Qadhafi has been in power for more than three decades and has established a relatively predictable pattern of conduct. Historically, when embroiled in a particularly acute international crisis, Qadhafi assumes a moderate posture and lessens his ties to controversial insurgency groups and terrorist organizations. Once the crisis passes, the colonel can be counted to resume his problematic alliances. Moreover, Libya remains a prime suspect in the case of 1986 bombing of the La Belle discotheque in Berlin that killed two American servicemen. Although overshadowed by the Lockerbie case, a trial about the Berlin bombing is underway in Germany. In addition, Qadhafi's new-found moderation has not led him to sever ties with the Popular Front for the Liberation of Palestine or Palestinian Islamic Jihad, both of which are still committed to violent opposition of the Middle East peace process. Col. Qadhafi's periodic tactical modifications should not be viewed as abandonment of a well-delineated pattern of behavior.

Conclusion. The Lockerbie trial scheduled to begin tomorrow is one of most peculiar developments in the annals of criminal justice. The purpose of the trial is to determine the guilt or innocence of the two suspects and not actually who ordered the bombing. What impact the verdict will have is not clear. It is unlikely that a guilty verdict will lead to a reimposition of sanctions. On the other hand, an acquittal will present the Qadhafi regime with daunting domestic quandaries, although it would reap impressive international gains.

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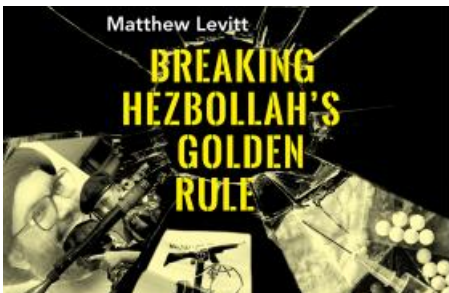
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