

The New York Times on the Libya-Pan Am 103 Case: A Study in Propaganda Service

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New York Times propaganda service has often been dramatically displayed in connection with the shooting down of civilian airliners. The editors were hysterical over the Soviet shooting down of Korean airliner 007 on August 31, 1983: 270 articles and 2,789 column inches during September 1983 alone, along with an editorial designation of the incident as “cold-blooded mass murder.” The paper took as truth the official and party line that the Soviets knew they were shooting down a civilian airliner. Several years later the editors acknowledged that their assumption had been wrong, but they blamed this on the government, not their own gullibility (ed., “The Lie That Wasn’t Shot Down,” Jan. 18, 1988). It had done no investigative work on the case in the interim, and the lie was shot down based on information developed outside the media.

In a markedly contrasting response, when Israel shot down a Libyan airliner over the Sinai desert in February 1973, although in this case there was no question but that the Israelis knew they were downing a civilian airliner, the New York Times covered the incident much less intensively and without expressing the slightest indignation, let alone using words like “cold-blooded” or “murder.”

Equally interesting, the paper recognized the political importance of their treatment of each of these events: in the Soviet case, in a year-later retrospective, Times reporter Bernard Gwertzman wrote that U.S. officials “assert that worldwide criticism of the Soviet handling of the crisis has strengthened the United States in its relations with Moscow.” With the orchestrated intense and indignant coverage of this shutdown the Soviets had suffered not only harsh criticism but boycotts for its action. By contrast, Israel suffered not the slightest damage. The New York Times editorialized that “No useful purpose is served by an acrimonious debate over the assignment of blame for the downing of a Libyan plane in the Sinai peninsula last week” (ed., March 1, 1973). Within a week of the shutdown, the Israeli Prime Minister was welcomed in Washington without incident or intrusive questions. In short, blame and debate is a function of utility, which is to say, political advantage. Where it helps, as in putting the Soviets in a bad light, we support assigning blame, indignation and debate; where it would injure a client, “no useful purpose” would be served by such treatment. And somehow the UN and “international community” react in ways that conform to what the U.S. government and New York Times perceive as useful.

In the case of Pan Am 103, the political aspect of assigning blame has been clearly and, arguably, overwhelmingly important. The plane was blown up over Lockerbie, Scotland on December 21, 1988, with 270 plane casualties (and 11 persons killed on the ground). This followed by only five and a half months the U.S. navy’s shooting down of Iranian airliner 655 in July 1988, killing 290, mainly Iranian pilgrims. The link between the two events was

quickly seen, and the likelihood that the later event was an act of vengeance by Iran was a working hypothesis, supported further by an unproven claim of Western security forces that Iran had offered a \$10 million reward for a retaliatory act. As the case developed it was soon a consensus of investigators that the Pan Am action had been the work of the Popular Front for the Liberation of Palestine-General Command (PFLP-GC) under the leadership of Ahmed Jibril, based in Syria, and responding to the Iranian offer.

But then, as relations with Saddam Hussein deteriorated in 1989 and 1990, and the United States sought better relations with Syria and Iran in the run-up to the first Persian Gulf War, Western officials became quiet on the Syria-Iran connection, followed by a fairly rapid shift from “definitive” proof of PFLP-Syrian-Iranian involvement to “definitive” proof that it was a Libyan act. As Paul Foot noted, “The evidence against the PFLP which had been so carefully put together and was so immensely impressive was quietly but firmly junked” (“Lockerbie: The Flight From Justice,” *Private Eye*, May/June 2001, p. 10). Libya provided a suitable new culprit, as it was already on the U.S.-UK hit list and had been subjected to a series of efforts at “regime change,” a hostility based on its independence, support of the Palestinians and other dissident forces (including the ANC and Mandela in their resistance to the apartheid regime), as well as occasional support of anti-Western terrorists. So Libya it was.

The Libyan connection lasted in pristine condition from 1990 into 2007, during which time Libya was subjected to intensive vilification, costly sanctions imposed by the Security Council, and a highly publicized trial in Scotland that resulted in the conviction of a Libyan national for the Lockerbie murders, with further bad publicity for Libya and Kaddafi, and a payment of several billion dollars in victim compensation that Libya felt compelled to provide (although still denying any involvement in the shutdown). All this despite the fact that many experts and observers, including some victim family members, felt that the trial was a political event and a judicial farce that yielded an unwarranted and unjust conviction.

This belief in the injustice of the court decision was greatly strengthened in June 2007 when a Scottish Criminal Cases Review Commission issued a decision that found the 2001 trial and decision flawed and opened the way for a fresh appeal for the convicted Libyan. If this decision is validated, the world will be left without a party responsible for the Pan Am-103 bombing, but with the strong likelihood that attention will be refocused on the PFLP and its sponsors, Syria and Iran. Is it not an amazing coincidence that this second turnaround occurs as Libya becomes more acceptable to the United States and its allies and these Western powers are now retargeting Syria and Iran?

We should note one other set of facts in this controversy that bears on the quality of “international justice.” That is, the treatment by the United States, New York Times, and international community of the shooting down of the Iranian airliner 655 by the U.S. warship Vincennes in July 1988 and the process of bringing justice to the families of the victims of that act. It is true that this was not a planned destruction of an airliner, but it was carried out by a U.S. naval commander noted for his “Rambo” qualities and the civilian airliner destroyed was closely following its assigned air space (in contrast with 007). A point rarely mentioned in the U.S. media is that the U.S. naval vessel that shot the plane down was on a mission in aid of Saddam Hussein in his war of aggression against Iran.

The Reagan administration did express “deep regret” at the incident, although blaming Iran for hostile actions that provoked the U.S. action (which were later shown to have been non-existent) and for failing to terminate its war against Iraq—and as the United States was supporting Iraq, by definition Iran was the aggressor. It also paid some \$132 million as

compensation, including \$62 million for the families of the victims. This is, of course, substantially less than Kaddafi felt obligated to pay the victims of Pan Am 103, the ratio of payments to the respective victims being roughly 30 to 1.

The New York Times, which had had an editorial entitled “Murder” in connection with the 007 shutdown, asserted back in 1983 that “There is no conceivable excuse for any nation shooting down a harmless airliner,” but it predictably found one for the 655 case: “the incident must still be seen as not as a crime [let alone “murder”] but as a blunder, and a tragedy.” Neither the UN Security Council nor International Civil Aviation Organization condemned the United States for this action, although both had done so as regards the Soviet Union in the case of Korean airliner 007, and of course the Security Council would eventually take severe action against Libya in regard to Pan Am 103. There was no punishment whatsoever meted out to Rambo Captain Will Rogers, who got a “hero’s welcome” upon his return to San Diego five months after the shoot-down (Robert Reinhold, “Crew of Cruiser That Downed Iranian Airliner Gets a Warm Homecoming,” NYT, Oct. 25, 1988), and was subsequently awarded a Legion of Merit award for “exceptionally meritorious conduct in the performance of outstanding service.” The Iranians were naturally angry at this reception and treatment of the man responsible for killing 290 mainly Iranian civilians, and were possibly a bit resentful at the workings of the system of international justice as it impacted them.

Polls indicated that the warm greeting Rogers got in San Diego was not an aberration—the public was pleased with his accomplishment. This reflected the fact that media coverage of the 655 shutdown had focused on official claims about the reason for the deadly act, not the plight of the victims and the grief of their families—which was the heavy and continuing focus of attention in both the 007 and Pan Am 103 cases. The alleged suffering of Captain Rogers got more attention than that of the 290 victims and their families. We are back to the contrast between “worthy” and “unworthy” victims, and the “useful purpose” of the focus of attention, as seen by the U.S. establishment and media.

One further note on international justice concerns the treatment of the U.S. bombing of Libya on April 14, 1986. That attack followed by little more than a week the bombing of a discotheque in Berlin that was quickly blamed by the Reagan administration on Libya, though proof of this connection was never forthcoming. The U.S. bombing attack targeted Kaddafi’s residence, and, while failing to assassinate him, killed his young daughter along with 40 or more Libyan civilians. This was an act of state terrorism and a straightforward violation of the UN Charter, but here again a U.S. (along with supportive British and French) veto prevented any UN Security Council condemnation, let alone other action, in response to this terrorism. The UN can act only when the United States wants it to act; it can never do anything in response to U.S. or U.S. client state violence, no matter how egregious. And the case of Libya and Pan Am 103 affords strong evidence that when the United States wants the UN to act against a target, serious penalties and other forms of damage can be inflicted that are based on false charges and a corrupted legal process (as described below).

We may note also that the New York Times editors were delighted with the 1986 terroristic attack on Libya. Their editorial on the subject stated that “The smoke in Tripoli has barely cleared, yet on the basis of early information even the most scrupulous citizen can only approve and applaud the American attacks on Libya” (ed., “The Terrorist and His Sentence,” April 15, 1986). The “early information” showed only that while the assassination attempt had failed scores of what the editors would call “innocent civilians” in a reverse context

were killed. Thus once again the editors expose their belief that international law does not apply to the United States, and it demonstrates once again that civilians killed by the U.S. government are “unworthy” victims whose deaths the editors can literally applaud.

As in the case of the shooting down of 007, on November 14, 1999 the New York Times had big headlines and lavished a great deal of attention and indignation on the U.S.-British indictment of two Libyans alleged to have been the bombers of Pan Am 103, and it provided similar headlines, attention and indignation when the Scottish court found one of the two Libyans guilty on January 31, 2001. By contrast, the report that the Scottish Review Court had found the trial of the Libyans badly flawed and suggested that justice called for a new trial, was given no editorial attention and a single question-begging article (Alan Cowell, “Lockerbie Ruling Raises Questions On Libyan’s Guilt,” June 29, 2007).

At no time did any of the 15 Times editorials on the Pan Am 103 shootdown and Libya connection express the slightest reservation about the process or substance of the charges against the Libyans. As regards the politics of the case, with the seemingly strong case involving the PLP, Syria and Iran abandoned just when the United States was briefly cozying up to Syria and Iran, shifting to the continuing target Libya, the editors did refer to “cynics” who thought the administration “finds it convenient to downplay Syria’s dreadful record now that Damascus has joined Middle East peace negotiations” (ed., “Seeking the Truth About Libya,” March 30, 1992), but the editors refused to accept this cynical notion and, most important, it didn’t cause them to examine the evidence against Libya more closely. This was their government, Libya was a villain, and patriotism and built-in bias kept their blinders firmly in place.

As regards legal process, following the U.S.-Scottish charges against the two Libyans, Libya immediately arrested the two suspects and started a judicial investigation, which followed precisely the requirements of the 1971 Montreal Convention dealing with acts of violence involving civil aviation. Libya promised to try the two men if evidence was supplied it, and it offered to allow observers and requested international assistance in gathering evidence. The United States and Britain rejected this on the ground that Libya would never convict its own, although if the trial was flawed they could have demanded action from the World Court. An exceptional Times op-ed column by Marc Weller argued that what Libya did was in accord with international law and that the U.S.-UK action was not only illegal but also abused and politicized the Security Council (“Libyan Terrorism, American Vigilantism,” Feb. 15, 1992).

The Times’ editors ignored the Weller argument: as always, for the editors international law doesn’t apply to the United States. Also, it was clear to them that Libya could not be trusted to try its own—just as it never occurred to them that a trial of Libyans in the West could be anything but justice in action, even though the advance publicity by Western officials, once again demonizing the alleged villains and alleging “irrefutable evidence,” put great pressure on judges and juries and made a fair trial problematic.

A standard form of propagandistic journalism is to provide “balance” by citing on the “other side” the villains and their sponsors rather than independent critics. In past years the New York Times regularly cited Soviet officials for balance, rather than dissident U.S. citizens who would have had more credibility with U.S. audiences. In the Libya-Pan Am 103 case, the Times regularly cited Kaddaffi (“ranting”) and other Libyans as charging political bias in the proceedings, while neglecting Westerners with more authority. Most notorious, the Times has yet to cite Dr. Hans Kochler, a German legal scholar who was Kofi Annan’s appointed observer at the trial of the two Libyans in the Netherlands (Camp Zeist) under Scottish law.

Kochler produced a powerful “Report and Evaluation of the Lockerbie Trial” in February 2001 that was widely reported and featured in the Scottish and other European media, but was never once mentioned by the Times in its news or editorials. The other expert almost entirely ignored by the Times was Professor Robert Black, a Scottish legal authority who was an important contributor to the arrangements for the trial at Zeist, who followed it closely, and was immensely knowledgeable on both the trial and Scottish law. Black was mentioned briefly twice in Times news articles, but never in an editorial. It can hardly be a coincidence that the ignoring of Kochler and marginalizing of Black paralleled their finding the trial a travesty, badly politicized (Kochler) and with a judicial decision unsupported by credible evidence (Black [“a fraud”] and Kochler).

The Times has repeatedly claimed that the case against the Libyans resulted from a model police effort—they used the phrase “meticulous British and American police work” more than once—and it was allegedly supported by “hundreds of witnesses” and “thousands of bits of evidence.” Thus, while the trial never yielded a smoking gun, it provided compelling “circumstantial evidence.” At no point does the paper acknowledge any possible mismanagement or corruption in the collection and processing of evidence. Among the points never mentioned are that:

-Not only “police” but the U.S. CIA and other personnel were on the crash scene on December 21, 1988 within two hours of the disaster, moving about freely, removing and possibly altering evidence in violation of the rules of dealing with crash-scene evidence, and over-riding the supposed authority of the Scottish police (for details, John Ashton and Ian Ferguson, *Cover-Up of Convenience*, chapter 12, “An Old-Fashioned Police Investigation”). Presumably, for the Times, just as international law doesn’t apply to the United States, neither do the rules of proper assembling of evidence.

-The key piece of evidence, a fragment from a timer, was first marked “cloth, charred,” but was later overwritten with the word “debris,” a change never adequately explained. Some months later, upon examination by UK forensic expert Thomas Hayes, a note about this fragment was written by him, but the page numbers were subsequently overwritten and renumbered, again without explanation. Months later, marks on the timer were allegedly identified with MEMBO, a Swiss firm that manufactured timers, and one that did business with Libya. This was “conclusive evidence,” although MEMBO also sold the timers to East Germany, Libya might have provided the timer to others, MEMBO had reported several break-ins at its factory to the Swiss police between October 1988 and February 1989. Furthermore, when finally shown the fragment MEMBO’s owner said it was a different color from his own, and it turned out that the CIA had this very timer in its possession.

-All three forensic scientists who worked intensively on this case, one for the FBI (Tom Thurman) and two for a branch of the UK ministry of defense (Allen Fereday and Thomas Hayes) had run into trouble in the past for concealment of evidence (Hayes), wrong conclusions (in one case, false testimony on a explosive timer—Fereday), and fabrication of evidence (Tom Thurman). (See Foot, *op. cit.*, App. 2, “The Three Forensic Geniuses.”)

-The CIA had a major role in creating the case, their primary witness being the Libyan defector Majid Giaka. The CIA offered him to the prosecution even though years ago they had decided that he was a liar and con man. Giaka had said nothing about any Libyan connection to the Pan Am bombing for months after it took place, and he came through only when threatened with a funds cutoff. Paul Foot asks “ Why was such an obviously corrupt and desperate liar produced by the prosecution at all?” It is also testimony to the quality of

the legal process that for a while the CIA refused to produce cables and e-mail messages regarding Giaka, arguing that they were irrelevant. When finally reluctantly produced they were not irrelevant, but showed the CIA's own low opinion of Giaka. The Times did have a news article or two that described Giaka's poor record and malperformance on the stand, but none of the 15 editorials mentioned him or allowed this phase of the proceeding to limit their admiration for police and prosecution.

-Neither the U.S. nor UK governments nor the Zeist court was willing to explore alternative models, several of which were more plausible than the one involving Libya. The one already mentioned, featuring the PFLP-Syria-Iran connection, was compelling: PFLP's German members were found in possession of radio cassettes and workable timers; they had already used these in bombing attacks; they were known to have cased the Frankfurt airport just before the day of the bombing; one of their operatives had visited Malta and the shopkeeper who sold the clothes found in the Pan Am-103 debris first identified this individual (Abu Talb) as the purchaser; and there was evidence of this group's link to Iran and claims of a paid contract, among other points.

In a related scenario, the bomb was introduced by the PFLP into the suitcase of Khalid Jaafar,, an agent in a drug-running operation, protected by the CIA as part of its hostage-release program. The CIA involvement in this drug-running operation may have been one reason for the hasty and aggressive CIA takeover of the search at the crash site; and it, and the closely related desire to avoid disturbing negotiations with Syrian and Iranian terrorists holding Western hostages, may also help explain why President Bush and Prime Minister Margaret Thatcher apparently agreed in March 1989 to prevent any uncontrolled investigation of the bombing.

-Not only were these governments unwilling to look at alternatives, they actually blocked other inquiries and pursued and tried to damage individuals who did so (see Ashton and Ferguson, *Cover-Up*, chap 8, "The Knives Come Out"). The Zeist court conformed to this program, with the result that actors for whom the "circumstantial evidence" was far more compelling than in the case of the Libyans were excluded from consideration.

The Times found the original U.S.-British charges and the Scottish court's decision satisfying, although based only on "circumstantial evidence." They provided no serious analysis of this evidence, and both Robert Black and Hans Kochler, among many others, found the evidence completely inadequate to sustain a conviction except in a court where a conviction was a political necessity. Consider the following:

-Although the case was built on the argument that the two Libyans carried out the operation together as a team, only one was convicted. As Kochler said: "This is totally incomprehensible for any rational observer when one considers that the indictment in its very essence was based on the joint action of the two accused in Malta." This result can best be explained by the need to have somebody found guilty.

-There is no evidence that the convicted Libyan, Abdel Basset Ali Al-Megrahi, put a suitcase on the connecting flight from Malta to Frankfurt, where it was supposedly transferred to Pan Am 103. Air Malta is notable for its close checking of baggage, and when UK's Granada Television claimed that the death bag had gone through it to Pan Am 103, Air Malta sued. Its evidence that only 55 bags with ascribed passengers—none of whom went on to London—were on that flight was so compelling that Granada settled out-of-court, paying damages and costs. This of course never made it into the New York Times, and had little

effect on the Zeist court, which eventually said that how the unaccompanied bag was put on the plane “is a major difficulty for the Crown case,” but it didn’t interfere with the finding of guilt.

-The identification of al-Megrahi as the Malta purchaser of the clothing whose remnants were found in the wreckage was a travesty of judicial procedure. The selling storekeeper, Tony Gauci, originally said the buyer was six feet tall and 50 or more years old—al-Megrahi is 5-8 and was 37 years old in 1988. Gauci then identified Talb as the man, but eventually latched on to al-Megrahi after having seen his picture in the paper. There were many other weaknesses in this identification, including the timing of the purchase, so that like the disposition of the suitcase this also was another beyond-tenuous “circumstantial.”

-The logic of the official scenario also suffers from the fact that putting a bomb-laden bag through from Malta that had to go through a second inspection and two stopovers in the delay-frequent Christmas season, would be poor planning as it risked either apprehension or a badly timed explosion; and including clothing that could be traced to Malta and with the alleged bomber (al-Megrahi) making his purchase openly would be extremely unprofessional. On the other hand, a timer frequently used by the PFLP was estimated by a German expert to explode 38 minutes after takeoff, and Pan Am 103 exploded 38 minutes after takeoff.

-As noted earlier, the timer with the MEBO insignia came forth belatedly. It was gathered in a crash scene effort that violated all the rules and was then worked over in questionable circumstances by people who had an established record of creating and massaging evidence. These lags and problematics should have ruled out the acceptance of this evidence in a criminal trial by a non-political court. But even taking it at face value it fails to prove Libyan involvement in the bombing attack as this timer was available to others, and may have been stolen from the MEMBO factory in the 1988-1989 break-ins.

-The Times notes that “prosecutors credibly linked him [al-Megrahi] to bomb-making materials and presented persuasive testimony that he worked for Libya’s intelligence services.” Yes, this goes beyond his Libyan citizenship, and the man was also sometimes in Malta! Imagine how the Times would treat an accusation against a CIA agent based on the fact that the accused had “access to weapons” and was in fact a member of the CIA! The Times doesn’t ask for much in the way of “evidence” when in the patriotic mode.

-In its low-keyed news article on the Scottish Review Commission’s repudiation of the Zeist court’s decision (“Lockerbie Ruling Raises Questions on Libyan’s Guilt,” June 29, 2007), Times reporter Alan Cowell does a creditable job of protecting his paper for failing to question another “lie that wasn’t shot down.” The Review Commission apparently leaned over backwards to avoid charging the Zeist court with judicial malpractice, so Cowell latches on to the fact that the Review stresses “new evidence that we have found and new evidence that was not before the trial court,” as well as their denial that there was proof of fabricated evidence. But much of that new evidence was deliberately excluded by the trial court, and some of it was hidden by the prosecution and its U.S. and UK political and intelligence sponsors. And while there is perhaps no hard proof of fabricated evidence, there is solid documentation of its questionable handling and possible fabrication, which should have precluded its acceptance by the trial court.

Instead of citing Hans Kochler or Robert Black, Cowell quotes Dan Cohen, whose daughter went down with Pan Am 103, who expresses regret that al-Megrahi might go home a hero.

Possibly more honorable would have been a Times apology and expression of sympathy for the Libyan victim, who will have spent 6 or 7 years in prison on the basis of manipulated and laughable evidence in another show trial, but which the Times repeatedly claimed was justice in action.

In her 1993 memoir *The Downing Street Years*, former British Prime Minister Margaret Thatcher wrote that after the 1986 U.S. bombing of Libya, which used British airbases and in which Kaddaffi's two-year old daughter was killed, "There were revenge killings of British hostages organized by Libya, which I deeply regretted. But the much vaunted Libyan counter-attack did not and could not take place." Ms. Thatcher seems to have forgotten Pan Am 103, or could she have momentarily forgotten that Libya was supposed to have been guilty of this act, and, writing honestly but carelessly for the historical record implicitly acknowledged here that this was a fraud that she had helped perpetrate. This nugget was reported in South Korea's OhMyNews, but was somehow overlooked by the Paper of Record.

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