

The *Daily Star* consecrates its [Spotlight page](#) today to the Lebanese Imam Musa Sadr, who was kidnapped in Libya in 1978 with two companions, journalist Abbas Badreddin and Sheikh Muhammad Yaqub. For space reasons, the article was reduced. Here is the original text.

Forty years of Qaddafi impunity and the Megrahi paradox

How the case of Musa Sadr is vindicating the abandoned Lockerbie victims

By Chibli Mallat



The West's commotion over the release of Abdelbaset al-Megrahi is a paradox. Considering the deals struck over Lockerbie at the expense of justice in the past ten years, the recent hullabaloo is surprising. The strong remonstrations by US Secretary of State Hillary Clinton, then US president Barack Obama, over the release of dying convict Megrahi, jars with a steady and ever warmer policy of U.S.-Qaddafi rapprochement since 2004. The US government under George W. Bush made an open exception of Libya in its advocacy for democracy in the Middle East, on account of Qaddafi's expressed readiness in 2003 to abandon his Weapons of Mass Destruction programs. This was a grave error because of the reward exacted: to turn a blind eye on all the victims of his dictatorship then and since.

The Megrahi commotion is the price of throwing the human rights book out the window at every turn. Lockerbie is one such instance. After several Security Council resolutions, severe sanctions against the country, and an unprecedented international trial, the result is meager. Justice continues to be poorly served for the victims of the Libyan dictator.

Let us assume that the Scottish Court sitting in the Netherlands was right in incriminating Mr. Megrahi on the evidence produced. Maybe it wasn't. But if he was guilty beyond 'any reasonable doubt' according to paragraph 89 of the Scottish decision of 31 January 2001, the judgment and its aftermath undermine fundamental moral and legal principles on at least two major counts.

First, the replacement of justice by blood-money: the incrimination of Megrahi in 2001 was followed by a financial deal, negotiated by Qaddafi and son Saif al-Islam. The families of the victims, through their lawyers and with the support of the US government, agreed to settle with the Libyan government for 2.7 billion dollars. The Libyan government delivered a letter to the Security Council dated 15 August 2003, stating that it 'has facilitated the bringing to justice of the two suspects charged with the bombing of Pan Am 103; and accepts responsibility for the actions of its officials.' This letter was incorporated in UN Security Council Resolution 1506 (12 September 2003), 'particularly concerning acceptance of responsibility for the actions of Libyan officials'. Since the Libyan government accepted responsibility in connection with the Lockerbie murder, why did the families keep silent towards Qaddafi's criminal responsibility and accept to let him off the hook against monetary compensation? And why is the US government now protesting the release of Megrahi, whilst the families have agreed to receive 10 million dollars each against settling with Qaddafi?

The second most tragic flaw of the decision of the Scottish judiciary is the Court's surreal parsing of responsibility. Megrahi, the judgment argued, was not a simple tourist acting on his own when he planted the bomb in the plane heading from Malta to Frankfurt. He was a member of the Libyan government's intelligence agency, the Court said, 'occupying posts of fairly high rank'. Why did the chain of command stop there, and why were those who ordered him to plant the bomb, provided him with the explosives, the money needed for travel and planning, and the alleged false passports left undisturbed, as if they did not exist?

So the judges erred in condemning a criminal whom they knew acted for a known principal, and the families lost all moral entitlement when they settled for money by said principal, neither caring that they were leaving Qaddafi and his aides unpunished, save a mediocre operative. Justice has long been sold down the drain by the Scottish judicial system and the victims' families, while the main culprit parades scot-free amongst Western world leaders. Why then such a commotion over a minor issue?

The paradox in the outburst needs a different answer. A crass explanation is readily available. The US leaders' sudden outcry was uttered to revive the pressure and exact more oil deals. But this explanation does not make sense. Mr. Qaddafi is eager to deal with the West, welcomes foreign investment, fervently receives foreign dignitaries who visit Libya to get oil and other financial contracts, rewards them lavishly, and delights in answering invitations to their capitals in great pomp. There is no need for the U.S. outburst to pressure Qaddafi on a course he is eager to follow.

I believe the answer to the paradox is more complex, and that it is rooted in basic human decency: the public's distaste for impunity. It comes from the simmering disgust, the world over, towards Western policy on Qaddafi since the second Bush administration. The US administration must be reacting to a worldwide hunger for some decency. The Scottish bungling and the families' blood-money deals that followed the decision constitute the tip of this iceberg. The hidden mass of the iceberg consists of forty years of victims.

The main victims over four decades have been the people of Libya: only few of the names are known. A month ago, Fathi Jahmi, a human rights advocate and prisoner of conscience, was released from Libya's prisons to die abroad, so as to further avoid the

ire of human rights organizations. Mansur Kekhia, a household name in Libya, was kidnapped in Cairo in 1993, and has been missing since. The Egyptian and Libyan authorities colluded to prevent any judicial investigation from going forward. In 2002, Amnesty International released a report on the freeing from Libyan prisons of 'tens of prisoners, including prisoners of conscience and possible prisoners of conscience. Among the prisoners of conscience were Muhammad 'Ali al-Akrami, al-'Ajili Muhammad 'Abd al-Rahman al-Azhari, Muhammad 'Ali al-Qajiji, Salih 'Omar al-Qasbi and Muhammad al-Sadiq al-Tarhuni, who have been imprisoned for almost three decades, following their arrest in 1973.' In 1973! How many other thousands of Libyans have been disappeared, killed, or continue to rot in prison whose names we do not know ?

With Omar Bongo, president for life in Gabon from 1967 to his death two months ago, and Fidel Castro leaving the reins of Cuba to his brother last year, the Libyan ruler can now boast the longest authoritarian single-man rule in the world. A Libyan citizen must have been born around 1960 to be able to recognize any type of politics where power vested in anyone else than Mr. Qaddafi. Two generations of Libyans have therefore woken up every single day to his brutal antics since the first of September 1969. It has been a daily nightmare for the ordinary Libyan ever since, who bears the brunt of a relentless repression and pervasive arbitrariness.

So the commotion is in the order of things, but not for the reasons that saw the American government, including the President and the Secretary of State, suddenly shocked by the release of a lower intelligence hireling from his prison in Scotland. The 270 victims of Lockerbie, whose families bartered for blood-money, should be spared a thought. One should also spare a thought for the ordinary Libyan citizen. And the Libyan citizen is not alone. Who remembers the 170 people in the UTA DC10 plane over the Niger desert in 1989, for which Mr Qaddafi was at first prosecuted in Paris, then given immunity? Who recalls the victims of his wars in Chad over twenty years ? Who recalls how the spokesperson for 'Isratine' left dozens of Palestinians weeks on end stranded in the scorching heat of the Libyan desert? Who mentions his open support to the Sudan president over his indictment by the International Criminal Court in Darfur, and his spearheading fellow Arab dictators to shield him from arrest ? His participation in countless blood diamond adventures in sub-Saharan Africa, for which the prosecutor of the Special Tribunal for Sierra Leone didn't develop enough courage to indict him? Yvonne Fletcher's cold-blooded, still unpunished murder from the Libyan embassy building in the heart of London ? The ordeal of the Bulgarian nurses ? The repeated humiliation of Swiss law and the ongoing blackmailing of Swiss businessmen and diplomats over domestic violence exerted by his other son Hannibal?

The Qaddafi black book is heavy, and the list of victims long, first and foremost unknown, brave Libyans. All cases untried and unpunished.

It does not need to be so. At least one of the families of Mr. Qaddafi's victims is standing up for justice. Imam Musa al-Sadr, Journalist Abbas Badreddin, Sheikh Muhammad Yacoub were on an official visit to Libya thirty one years ago. They were last seen leaving the hotel for a meeting with Mu'ammar al-Qaddafi on August 31, 1978.

The kidnapping of Imam Musa al-Sadr, and the repeated attempts by Libyan officials to block truth and justice, have found their comeuppance in Lebanese courts.

After seven years of a harsh battle in court, the first degree in the trial has come to an end, despite several investigative judges resigning for fear of reprisal. One did not. Investigative Judge Samih al-Hage carried on his duty to the end, including visits to Rome to investigate renewed attempts to railroad the Italian justice system by the accused. On 21 August 2008, his sentence was rendered, 'indicting the accused Mu'ammarr al-Qaddafi... for conspiracy in kidnapping and sequestering' the Imam and his two companions. He is supported in his conclusion by the two successive highest members of the Lebanese Prosecution office, Adnan Addoum and Sa'id Mirza. Arrest warrants have been issued against Qaddafi and seventeen others involved in the disappearing of the Imam and his two companions.

The trial is now before the highest court of the land, the Judicial Council. While the arrest warrants proceed apace, with the expected international complications, the families will have their day in open court: for them, for the Lockerbie victims, for Yvonne Fletcher, for Mansur Kekhnia, for the thousands of known and unknown victims of forty years of impunity.

The Megrahi paradox may yet be solved.

Chibli Mallat is attorney in the Sadr case. He is Presidential Professor of Law at the University of Utah, and EU Jean Monnet Professor of Law at Saint Joseph's University in Lebanon.

Qaddafi indicted in Imam Musa Sadr Case

Investigative Judge, Lebanese Judicial Council, 21 August 2008

[Conclusions of the Investigative Judge with the Judicial Council, Samih al-Hajj, indicting Qaddafi and six other Libyans for abducting Imam Musa Sadr and his two companions Muhammad Ya'qub and 'Abbas Badreddin.]

We decide... as follows:

1- To indict the defendant Mu'ammarr al-Qaddafi in accordance with Art. 569/218 of the Lebanese Criminal Code for conspiracy to abduct, and withhold the liberty of, each of Imam Sayyed Musa al-Sadr and Shaykh Muhammad Ya'qub and journalist 'Abbas Badreddin, for the crime perpetrated on 31/8/1978.

2- To indict each of the defendants: Al-Marghini Mas'ud al-Tumi, Ahmad Muhammad al-Hattab, al-Hadi Ibrahim Mustafa al-Saawi, 'Abd al-Rahman Muhammad Ghawila, Muhammad Khalifa ibn Sahnun, and 'Isa Mas'ud Abdallah al-Mansuri, whose identities have been fully detailed above, in accordance with Article 569/213 of the Lebanese Criminal Code, for participating in the abduction of Imam Sadr and his two companions.

3- To indict the defendants: Mu'ammarr al-Qaddafi , Al-Marghini Mas'ud al-Tumi, Ahmad Muhammad al-Hattab, al-Hadi Ibrahim Mustafa al-Saawi, 'Abd al-Rahman Muhammad Ghaqila, Muhammad Khalifa ibn Sahnun, and 'Isa Mas'ud Àbdallah al-Mansuri, in accordance with Article 2 of Law 11/1/1958.

4- To charge the defendants mentioned in paragraph 3 for the felonies committed under Articles 317, 463, 463/454/213 and 392/213 of the Criminal Code.

5- To issue an arrest warrant against all the above mentioned defendants and bring them handcuffed to the jail attached to the Judicial Council in Beirut.

6- To join the felonies with the crimes for their complementarity.

7- To issue a continued investigation warrant for the full identification of the defendants: 'Abd al-Salam Jallud, Mahmud Muhammad ibn Kura, Ahmad al-Atrash, 'Isa al-Ba'ba', 'Ashur al-Firtas, 'Ali 'Abdal-Salam al-Turaiki, Ahmad Shehata, Ahmad Mas'ud Saleh Tarhun, Ibrahim Khalifa 'Umar, Muhammad ibn 'Ali al-Ruhaibi, and Muhammad Uld Dada.

8- To make inditees and charged bear all costs and fees.

9- To return the file to the Attorney General with the Judicial Council for deposition with the relevant authority.