

Case 273

A Medal of Good Hope: Mandela, Qaddafi, and the Lockerbie Negotiations

Lyn Boyd Judson

University of Southern California

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PEW CASE STUDIES IN INTERNATIONAL AFFAIRS
Institute for the Study of Diplomacy
Edmund A. Walsh School of Foreign Service
Georgetown University
1316 36th Street, N.W.
Washington, D.C. 20007

Tel.: (877) 703-4660 / (202) 965-5735
Fax: (202) 965-5811
Website: <http://www.guisd.org>
E-mail: dolgasc@georgetown.edu

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“. . . This was an issue engaging the most powerful interests and bringing into play emotions and attitudes that have been divisively deployed in world affairs. ‘Lockerbie’ and ‘Libya’ had become landmarks in the media landscape of a world divided between good and evil, the reasonable and the irrational, saints and demons.”

—South African President Nelson Mandela
(speech at the award of the National Order to
Prince Bandar bin Sultan, Cape Town, May 11, 1999)

“What is needed now is for the First Worlders to enter into an exhaustive political engagement with their deeply aggrieved neighbors and to show some sensitivity to the economic, cultural and religious concerns that are turning them into such bitter foes. That is what South Africa learned just in time to avoid its own Armageddon.”

—Allister Sparks, “Beyond the Miracle:
Inside the New South Africa”
(South Africa: Jonathan Ball Publishers, 2003, xii)

“We brought a Libyan dictator to his knees.”

—Cathleen Flynn, whose son was killed in the
Lockerbie bombing (statement to the press
immediately following Lockerbie verdict)

On October 29, 1997, South African President Nelson Mandela arrived in Libya to award Colonel Muammar Qaddafi the Good Hope Medal. The medal, also referred to as the Order of Good Hope, is the highest honor that South Africa can bestow upon a citizen of another country—it would be given a year later to U.S. President Bill Clinton.¹ South Africa’s dignified leader was welcomed to Libya by a band playing bagpipes and a crowd chanting in English, “Long live Mandela!”

“Those who say I should not be here are without morals,” Mandela said. “This man helped us at a time when we were all alone, when those who say we should not come here were helping the enemy.”² A Libyan source later claimed that Mandela added, “Those who are bitter at our friendship can go down themselves.”³

The political and personal complexities caught in this snapshot off the coast of Libya were bizarre. President Mandela, a universally beloved political figure known for his maturity and grace in the face of suffering, stood warmly alongside Colonel Qaddafi, who by most accounts is described as a mercurial, melodramatic, deeply religious revolutionary leader known to hate the West and to support terrorist organizations with both training and funding.

At the time, Colonel Qaddafi was also considered a pariah in the international community. Libya had been under UN sanctions since 1992 for its refusal to hand over the two indicted suspects in the bombing of Pan Am Flight 103 over Lockerbie, Scotland, that killed two hundred seventy people.

When Qaddafi's turn at the microphone came, he warned, "What we are facing is an attempt of domination from one power. All international proposals serve this evil purpose. The [United Nations] General Assembly should be overriding the Security Council."⁴

Two critical things began to take place as a direct result of Mandela's public statements in Tripoli (Libya's capital). The United Kingdom and the United States were thrown on the defensive to explain the fairness of their demands on Libya, and Mandela's Chief of Staff Jakes Gerwel would team up with Saudi Arabia's Ambassador Prince Bandar bin Sultan to begin a clandestine shuttle diplomacy between Tripoli, London, Washington, and Johannesburg (South Africa's capital) to negotiate the lifting of the UN sanctions against Libya.

Why did Nelson Mandela use his country's moral and diplomatic capital to intervene on behalf of this Arab rogue leader—this dictator presumably responsible for terrorist attacks against the "civilized" world? What was the importance of diplomacy versus power in these negotiations? What issues of the North versus South debate were important to the resolution of the negotiations? Finally, why were the United States and the United Kingdom so unyielding in their relations with Libya? The answer to these puzzles are embedded in two decades of international power relationships that have shaped drastically different perceptions of social justice, legal retribution, and moral justifications.

A DISCO AND A BEDOUIN TENT

Biographers of Qaddafi say he is far from easy to appraise. A "devout Muslim and a fierce nationalist, he has fused the two elements together in his policies. A man of both charm and charisma, hard working and austere, even his worst enemies do not accuse him of corruption. He uses unpredictability as a weapon and employs the tactic of periodic withdrawals from public life for meditation and renewal."⁵

Qaddafi's quixotic tendencies have been described as stemming from his bitter struggle against colonialism. The three decades of Italian rule that preceded World War II were disastrous for Libya. John Wright, author of *Libya: A Modern History*, writes that by the end of the war the Libyan people were "politically retarded"; "undereducated" (illiteracy was established at 94 percent); "untrained and impoverished" (annual income per capita was barely fifteen pounds [about \$27 at that time]); in-

fant mortality was a "horrifying" 40 percent; and there was little trade and much unemployment.⁶

Qaddafi came of age in the 1960s and was reportedly influenced by the civil rights movement in America, alongside other national struggles closer to home. Born in the harsh desert to illiterate Bedouin parents, Qaddafi graduated from the University of Libya in 1963 and the Military Academy in the United Kingdom in 1965. He disliked Britain, was angered by the racial discrimination he encountered, and soon determined to overthrow the Libyan monarchy of King Idris, which he saw as neocolonialist and pro-Western.⁷ A successful coup brought a twenty-seven year-old Qaddafi to power in 1969.

Convinced of the inherent inequity of the international order, he concluded that Tripoli should be "unfettered by international conventions or rules. Rather, as a vanguard revolutionary state, Libya should help liberate the rest of the Third World and reshape its political institutions."⁸ He immediately removed the British and U.S. military bases from Libya.

The most controversial aspect of Qaddafi's foreign policy has been his covert and sometimes indiscriminate support for both legitimate and illegitimate political movements worldwide, including the Pan African Congress (PAC) in South Africa, the Red Brigade in Italy, the Black Power movement in the United States, and the Irish Republican Army (IRA) in the United Kingdom.⁹ He was widely believed to encourage hit squads like the one that killed policewoman Yvonne Fletcher outside the Libyan embassy in London in 1984.

On December 27, 1985, terrorist bombings at airports in Vienna and Rome killed twenty people, including five Americans. Intelligence agencies knew of links to groups in Iran and Syria as well as Libya and Palestine. The Israelis publicly blamed the bombings on a Palestinian terrorist faction led by Abu Nidal. A U.S. State Department special report was unable to cite any direct connection between Libya and the airport incidents, but responsibility is notoriously hard to place in such incidents, making it easier for political motivations to drive a response.

With Iran, Syria, and Palestine as the other choices for culprit, the United States for strategic reasons turned its sights toward Libya. For one, at the time of these bombings, U.S. intelligence agencies were deeply involved in the Reagan administration's secret arms dealings with Iran. Also, Libya was a more attractive target than other suspects because Qaddafi was relentlessly anti-Israel, believed to support extreme factions in hot spots all over the world, and opposed to the more moderate

Middle Eastern regimes of Jordan's King Hussein and Egypt's Anwar el-Sadat.

In March 1986, a U.S. Navy task force attacked four Libyan ships, destroying two of them, and conducted raids against a radar site on the Libyan coast. "There were no American casualties and no Libyan counterattack,"¹⁰ according to a *New York Times* report. This sort of small-scale attack on Libya happened off and on throughout the decade, presumably to prod Libya to counterattack. For example, in August 1981, the White House had initiated a series of U.S. naval war games inside the one hundred twenty-mile limit claimed by Libya in the Gulf of Sidra. U.S. Navy jets shot down two Libyan Air Force planes about sixty miles off the Libyan coast. An enraged Qaddafi accused the United States of "international terrorism."

On April 5, 1986, a bomb exploded in the La Belle disco in West Berlin, Germany, killing 3 people, including 2 off-duty U.S. servicemen, and wounding 229 civilians, including 79 Americans. The U.S. ambassador to West Germany, Richard Burt, claimed on the *Today* show three days later, "There is very, very clear evidence that there is Libyan involvement."¹¹ Two days after his claim, an official with the German domestic intelligence unit said, "It is a fact that we do not have any hard evidence, let alone proof, to show the blame might unequivocally be placed on Libya. True, I cannot rule out that Libya, in some way, is responsible for the attack. But I must say that such hasty blame, regarding the two dreadful attacks at the end of the year on Vienna and Rome airports, for which Libya had immediately been made responsible, did not prove to be correct."

On April 14, 1986, eighteen American warplanes began a fourteen-hour round-trip flight to Tripoli from a Lakenheath Air Base in England. An in-depth article for the *New York Times* would later claim that the mission was to be the culmination of a five-year clandestine effort by the Reagan administration to kill Qaddafi, whom President Reagan described as the "mad dog of the Middle East."¹²

Despite the official bombing orders of military sites, the mission actually targeted Qaddafi's home and the camouflaged Bedouin tent where he worked.¹³ While the Libyan leader survived the bombing, all eight of Qaddafi's children as well as his wife were hospitalized; his fifteen-month old daughter, Hana, died several hours later.¹⁴ The bombing also killed more than one hundred people in a nearby residential area. There was criticism from abroad, but the attack was strongly supported by the U.S. public and Congress.¹⁵ An aide claimed that the colonel's home was targeted because Cen-

tral Intelligence Agency (CIA) officers believed that in Bedouin culture Qaddafi would be diminished as a leader if he could not protect his home. "If you really get at Qaddafi's house—and by extension, his family—you've destroyed an important connection for the people in terms of loyalty."¹⁶

PAN AM FLIGHT 103 EXPLODES

Two years later on December 21, 1988, at a few minutes past seven o'clock in the evening, a bomb exploded in the forward hull of Pan Am flight 103 over the quiet Scottish town of Lockerbie. The explosion murdered two hundred seventy people from twenty countries.¹⁷ Fairly early on, the investigation focused on evidence tying two Libyan intelligence agents to the bombing. At the time, there were conflicting claims concerning for whom the agents were working. (In intelligence circles, Libyan agents were known to carry out operations for Iranian, Syrian, and Palestinian terrorist organizations.)

A further complication in identifying the motive stemmed from the fact that in July 1988 a U.S. naval battle cruiser mistakenly blew up an Iranian airbus, killing two hundred ninety passengers four days before the Muslim holiday Id al Adah. Michael Scharf, the attorney advisor for UN affairs at the time, later said, "When Pan Am 103 blows up four days before Christmas, and we knew in the US government that Iran was on the warpath against the United States, that the Ayatollah and the government officials had vowed to get revenge and specifically mentioned that they would target a US civil aircraft, who would have been the first suspect?"¹⁸

Scharf noted that it had not helped matters for Vice President Bush to claim it was the Iranian Airbus's fault for being in the wrong place at the wrong time, a statement that was later found to be based on misinformation. Libya had an equal motive, but it was a little bit staler than the Iranian motive. After a lengthy investigation, Scotland charged two Libyan intelligence agents, Abdelbasset Ali Mohamed al-Megrahi and al-Amin Khalifa Fhimah, with conspiracy, murder, and contravention of the 1982 Aviation Security Act.¹⁹ Questions and disagreements over the reasons for these indictments would remain for years.

Immediately following the Scottish indictment in November 1991, the U.K. and U.S. governments claimed there was no evidence for the involvement of any other country and demanded that Libya surrender the pair for trial in Scotland. (The United Kingdom was the scene of the crime, and the Pan

Am airliner was American.) Libya, in compliance with the 1971 Montreal Convention to Suppress Acts of Violence against Civil Aviation, arrested both suspects, appointed an investigating magistrate, and requested to see evidence against the two to decide whether they should be tried in Libya or extradited. The Montreal Convention of 1971, of which Libya, the United Kingdom, and the United States had been signatories, stated that under these circumstances the accused could be tried under the law of their own country, which in this case was Libya.

International lawyers pointed out that there was no basis in international law for the demand that Libya turn over to another country citizens suspected of crimes. “The authority of such a demand must rest on an extradition treaty, and Libya has none with the United States or Britain,”²⁰ according to a *New York Times* report. In addition, Libya offered to allow the two suspects to be interviewed by the United States and Britain and proposed independent arbitration to decide the legalities of how to handle the situation.

Besides turning over the two suspects, the U.S./U.K. joint statement also called on the Libyan government to disclose everything it knew of the crime, and to pay appropriate compensation. According to Norman McFayden, head of the Crown Office responsible for the investigation of international crimes, one of the most important aspects of the joint statement was that it formed the basis for later UN Security Council resolutions. Scharf, the attorney advisor to the United Nations at the time, said the two countries were setting the stage for UN sanctions: “What they did though was not use the rule of law with the idea that we would get a conviction and have truth come out and have justice come out, that wasn’t the idea. The idea was . . . to set the stage for the money bomb: UN sanctions.”

UN Security Council (UNSC) Resolution 731 (January 21, 1992) called on Libya to provide a full and effective response to British, U.S., and French requests to surrender those suspected of both the Lockerbie bombing and the 1989 bombing of a French airliner over the Sahara.

In response, Libya scheduled a deposition of the two men. So in February 1992, journalists from around the globe trotted to Tripoli to witness what they understood was to be a legal examination of the two Libyan men accused of the Lockerbie bombing, Abdel al-Megrahi and al-Amin Khalifa Fhimah. Instead, the two men made what the *Economist* called a “bewildered two-minute court appearance before being ushered away.”²¹

The judge then read a prepared statement. According to the same correspondent for the *Economist*, the Libyan judge argued that despite repeated requests, western authorities were refusing to hand over vital forensic and other evidence, including the airliner’s black box, and so there was insufficient evidence to try a case. The judge then suggested alternative ways of giving the men a fair trial—the International Court of Justice (ICJ), the United Nations, and the Arab League—and recommended that any trial should be held in a neutral country under international supervision. Western sources in Tripoli claimed that the Libyans were given sufficient evidence to establish the guilt of the two men—a summary of the facts—and that they should be handed over to the United States or Britain.²²

A month later, in March 1992, UNSC Resolution 748 imposed mandatory sanctions on Libya following its failure to respond to Resolution 731. This new resolution imposed arms and air embargoes and a reduction of Libyan diplomatic personnel serving abroad. (By November, another UN resolution would strengthen these sanctions to freeze overseas assets and ban provision of oil equipment to Libya).

As the air embargo took effect on April 16, Libyan passenger jets were turned back in flight from both Arab and non-Arab countries. Italy scrambled jet fighters to intercept a Libyan passenger jet approaching Italian airspace on its way to Zurich. Egypt turned back two Libyan aircraft trying to reach Cairo and cancelled all flights to and from Libya.²³

Over the course of the year, Libya made several offers at compromise that involved conversations with the Vatican and Jesse Jackson and appeals to the International Court of Justice and the Arab League for support.²⁴ In August, Qaddafi held three days of fruitless talks with Egyptian President Mubarak and sought to speak directly to U.S. President Clinton.²⁵

Qaddafi turned to the Saudi Arabians for help early in the dispute. Rihab Massoud, political minister at the Saudi Arabian embassy in Washington at the time, later explained that the concerns of both the United Kingdom and the United States were primarily driven by domestic concerns across administrations. The George H.W. Bush administration thought the issue a “hot potato,” one not prudent to handle with an election on the horizon. John Major [former prime minister of England] told the Saudis that if he tackled the issue, the Thatcher wing of his party would devour him, and the left would use it to clobber him in upcoming elections.²⁶

As for Saudi Arabia's interests in helping Libya, Massoud said, "Anytime we can help an Arab country is to our advantage. Domestically, this is during the time when our Prince took over from the King who had been ill"—King Fahd was incapacitated by a series of strokes in 1995—"This was a new introduction to world issues. Also, things were going really badly in the Middle East peace process. We needed something to work."²⁷ But once Saudi Arabia saw the political reality in both Washington and London, it backed away.

Colonel Qaddafi's first champion in his effort to find an alternative legal solution would come from an unlikely source—the father of one of the Lockerbie victims.

JIM SWIRE'S MISSION

Dr. Jim Swire's daughter, Flora, was a last-minute passenger on Pan Am flight 103, traveling to spend Christmas with her U.S. boyfriend. Dr. Swire, formerly a medical doctor in the United Kingdom, became director of U.K. Families Flight 103 Victims, a high-profile association that sought justice for the Pan AM flight 103 bombing.

Described by many as a tireless advocate, Swire held little power in the international political arena. But he felt he had to see Colonel Qaddafi to try and persuade him to allow the two Libyan citizens to be tried under Scottish law. He enlisted the help of an Egyptian journalist, Nabil Nagemeldin, to arrange the logistics, left sealed letters with a solicitor in case he "could not return," and eventually found himself walking down the concrete path to the colonel's tent in Tripoli. Swire remembers being surprised at how tall and gaunt Qaddafi appeared in a flowing green robe in the light of a row of lamps hanging from the peak of his tent.²⁸

This meeting in December 1991, immediately following the indictment of the two Libyan suspects, would be the first of three meetings between Swire and "the Colonel," as Swire referred to Qaddafi. Qaddafi steadfastly maintained to Swire throughout the decade that he believed his citizens were innocent and that he did not know how the disaster had been caused. "His position at the time was, and still remains, that Libya had nothing to do with it."²⁹ Both Swire and Qaddafi were aware of the perceived strangeness of their collaboration, but Swire later noted that "common ground with the Colonel included the macabre situation that we had both had daughters killed by bombs."³⁰

On his first visit to Tripoli, Qaddafi took Swire to see his daughter's former bedroom. "His adopted daughter had been killed in the 1986 bombing of Tripoli by the US, and he agreed that in the preserved ruined bedroom, where she had been mortally wounded, a photograph of her and of Flora [Swire's daughter] should be put up side by side, with the message beneath in Arabic and English: 'The consequence of the use of violence is the death of innocent people.' As far as I know it is still there."³¹

Massoud later explained that when the different legal options were considered, "we noticed that every time an IRA incident took place, the perpetrator ran to Scotland. We discovered that Scottish law allows all sorts of things that are not allowed under the Crown's English law."³² Alongside verdicts of guilty or not guilty, Scots law allows a verdict of not proven. Also, the Criminal Procedure (Scotland) Act 1995, section 273, makes provision for evidence to be given by witnesses who are outside the United Kingdom through the medium of a live television link.³³

Robert Black, a professor of law at Edinburgh University, accompanied Swire in his later trips to Libya to argue the legal possibilities for an international trial. Since 1994, Black had proposed a trial under Scottish criminal law, but in a neutral country, i.e., not in Scotland (part of the United Kingdom) or in the United States.

Because under Scottish law jurors are not allowed to possess already formed opinions as to guilt or innocence, Black also proposed that such a court have a panel of international judges instead of a jury.³⁴

The meetings ended with Qaddafi compromising that he would allow the two accused men to stand trial in the Netherlands under Scottish law. By this point, Qaddafi had argued for four years that the appropriate place for a trial was The Hague (headquarters for the ICJ).³⁵ In February 1998, the International Court of Justice formally agreed that it was the appropriate forum for a trial of the Libyans.

The larger international community began to show frustration at what was perceived as arrogance or stubbornness by the two western powers. UN representatives from Algeria, Egypt, Libya, Mauritania, Morocco, Syria, and Tunisia wrote a formal proclamation to the President of the UN Security Council in July arguing that there was no legal basis for the sanctions against Libya.³⁶ The Organization of African Unity threatened to break the Security Council sanctions imposed on Libya unless the West found a solution to the Lockerbie deadlock.

Colonel Qaddafi and the Libyan People's Congress renewed their strong support for what had become known as the "neutral country trial solution." The United States and the United Kingdom refused to entertain the idea of a "neutral country" trial.

In May 1977, Labour Party leader Tony Blair would become Prime Minister of the United Kingdom. Democrat Bill Clinton had replaced George H.W. Bush in 1992. It was at this point that Saudi Arabia saw a new chance to approach the domestic obstacles that had stymied earlier attempts for negotiation with Washington and London. Massoud would later explain that Saudi Arabia realized it would need an ally to neutralize protestations from the left wings of the Labour and Democratic parties. "We needed someone. What better symbol than Mandela. He is the epitome of morality. He had so many symbolic roles as well as practical goals. His position in the left of center of the whole international community gave legitimacy to such an agenda." Massoud continued, "Looking at this from a political analysts's point of view, the US and UK needed to cover their left side flank. That's where Mandela's strength is. Right of center is ours. So we thought between the two of us, we can then claim the political support that will allow the president of the US as well as the prime minister in England to tackle this issue."³⁷

Moreover, Saudi Arabia had warm ties to the United States at the time, and held the Arab-Islamic card. Since Mandela had very good relations with the British (and not particularly with the United States), the combination had a good chance of working.³⁸

"REASONABLE FEARS": NELSON MANDELA'S MORAL CAPITAL

Since its first postapartheid democratic elections in 1994, South Africa had moved from deep diplomatic isolation to "moral exemplar" in international politics.³⁹ South African President Nelson Mandela made a highly publicized visit to Tripoli by helicopter to see Qaddafi on October 22–23, 1997.⁴⁰ At a banquet on the 22nd, Mandela declared, "The people of Libya shared the trenches with us in our struggle for freedom. You were in the front ranks of those whose selfless and practical support helped assure a victory that was as much yours as it is ours. We are therefore deeply moved to be amongst freedom fighters for whom the freedom of others was as precious as their own."⁴¹

The stop in Libya was made en route to the commonwealth summit in Scotland. (The commonwealth is an organization of fifty-four sovereign states that gradually evolved out of the UK's imperial past, usually through decolonization. The organization is especially sensitive to issues of colonization and racial oppression as well as self-determination and the distribution of global wealth.)

It was on Mandela's return from the commonwealth summit the following week that he would make another stop in Libya to award Qaddafi the Medal of Good Hope on October 29. At the commonwealth summit, Mandela publicly warned Britain that it could not act simultaneously as "complainant, prosecutor, and judge" in the Lockerbie case. While others had made similar statements for years, Mandela's stature in the international community served as a megaphone to any proclamations he deemed to make about justice and fairness.

As a young man, Nelson Mandela was the leader of the African National Congress (ANC), a political opposition group that fought against the fierce oppression of blacks by the apartheid system set up by the white South African government. (Apartheid means "apartness" in Afrikaans.) From the 1940s to 1990, South African blacks were slaves in their own country.⁴² The apartheid system legally separated blacks from the cities and forced them to live instead in black townships set up outside of the city limits of Johannesburg, Cape Town, Durban, and other cities. ("Soweto," shorthand for southwest township of Johannesburg, remains the most infamous.)

Black South Africans were required to carry passbooks to show upon request to prove they were allowed to be in the city as workers. Many city workers were required to stay day and night at the beck and call of their employers, visiting their families in the townships only on the weekends. Organized political resistance to apartheid was met with arrests, beatings, torture, and often death. White South Africans tended to believe the police stories of "accidents" in prison and the state claim that resistance was Communist and organized from outside South Africa.

Mandela, a lawyer by profession, went underground as a freedom fighter in the late 1950s. By 1961, Mandela and others in the ANC planned sabotage attacks against the South African government to scare away foreign capital and weaken the economy in an attempt to bring the government to the bargaining table. The ANC was adamant that no human lives were to be taken, but "if sabotage did

not produce the results we wanted,” Mandela wrote, “we were prepared to move on to the next stage: guerrilla warfare and terrorism.”⁴³

In fact, the ANC did stage several terrorist attacks in the 1960s, but “their heart was never in it,” explained Tom Lodge, head of the department of international politics at Witswatersrand University in Johannesburg.⁴⁴ “They were intellectuals.” It was this disagreement over the use of guerrilla and terrorist tactics that separated the ANC from the more militant Pan-African Congress (PAC). The leaders of both groups were ultimately imprisoned together for decades on Robben Island off the coast of Cape Town.

Mandela still acted as de facto leader of the ANC for the twenty-seven years he was on Robben Island. He grew to know his guards, and many grew to respect him for his dignity. While many of the more militant PAC prisoners refused to look at or speak to a guard, Mandela sought to understand them. Through the hardships of these years he learned that treating his guards with respect meant he might get an extra blanket when it was cold. He also began to understand that Afrikaners were mainly driven by fear of the much larger black population. They did not believe blacks would ever truly share power with them, that the ANC’s call for equal rights for everyone would quickly turn into a bloody revolution where Afrikaner families were hurt, and their property taken.⁴⁵ “These fears were reasonable,” Professor Lodge would later say, “and Mandela saw them as such.” After his release from prison in 1990, Mandela would spend a great deal of time allaying white fears through power-sharing and conciliatory gestures. “Mandela had a strong loyalty to his people, and he could understand that an Afrikaner might do immoral things out of this same sort of loyalty to his family or clan.”⁴⁶

Many South African as well as international scholars believe that Mandela’s almost overpowering sense of loyalty was the driving motivation behind his defense of Qaddafi or Fidel Castro and other outcasts who supported “the struggle” against apartheid. Although Mandela often referred to Qaddafi’s financial and military support of the guerrilla resistance to South Africa’s apartheid regime, it is inaccurate to explain Mandela’s support of Qaddafi as only given out of a sense of loyalty. One alternative motivation, suggested by two prominent scholars in South Africa, was that Mandela’s ANC party merely needed an infusion of money for its upcoming 1999 elections.⁴⁷

Albert van Rensberg, diplomatic assistant to South African Foreign Minister Alfred Nzo at the

time, suggested that Mandela’s involvement came from a different source, a deep sense of justice and fair play: “Often there is a need felt by Mr. Mandela to act as a counterweight. As an observer, I don’t think he was condoning everything Libya was doing, but that he felt there needed to be a counterweight to the US driving its mandate too strongly; that there needs to be a debate going on instead of a one way pushing effort.”⁴⁸

Tom Lodge says simply, “I think he liked the guy. Qaddafi’s quite a character with his goats following him up on stage and the like.”

Some South African diplomats explain that no special significance should be read into President Mandela’s decision to give Qaddafi the Order of Good Hope. “The way South Africa has positioned itself internationally coming out of sanctions is one of inclusive diplomatic relations, meaning we prefer to have diplomatic relations with everybody and not have diplomatic sanctions. We don’t believe in them. Diplomacy is there for a reason. Even if you don’t agree with your enemy, you still have to keep that channel open.”

Jakes Gerwel, President Mandela’s chief of staff at the time, was more calculating in his appraisal of Mandela’s reasons for awarding Qaddafi this medal. “It was part of Mandela’s strategy,” Gerwel later explained. “The mistake that many people make about Qaddafi, our government included, is that you’d rather keep him at your side than treat him as this crazy lunatic who doesn’t know politics. Mandela knew that perfectly. Qaddafi has a naïve side to him. His whole politics are based on this Don Quixote character. So his being decorated by Mandela meant a hell of a lot to him. He trusted us. Doing this was to let him know we respect you, but then you must keep your word with us, and you must act honorably.”⁴⁹ Qaddafi would later name the state-room where he was presented the medal the *Nelson Mandela Hall*.

According to Gerwel, cementing Qaddafi’s trust was only half of Mandela’s strategy. Mandela also spoke harshly to Qaddafi about his need to use language that was respectful of the United Nations even if he disagreed with it. “His people said he has never been spoken to like that before. He was taken aback, but it did make a difference. That’s really where we started the negotiations . . . particularly with the Secretary General of the United Nations.”

The various explanations for Mandela’s defense of Qaddafi were indicative of a larger debate going on in South Africa at the time about foreign policy objectives and diplomacy. According to James Hamill and Donna Lee in their article “South African

Diplomacy in the Post-apartheid Era,” the two strongest criticisms were that post-1994 foreign policy had descended into an inexcusable “ad hocery” of case-by-case decisionmaking without any discernible framework and that South Africa’s foreign policy “was too driven by the whims” of President Mandela, specifically, that Mandela had a tendency to make policy “on the hoof.”⁵⁰ Both of these critiques were grounded in the belief that too often South Africa’s foreign policy had little to do with its national interests.

CALLING BLUFFS

When Mandela awarded Qaddafi the Medal of Good Hope and called him a moral leader, two tracks of diplomacy were set into motion to resolve the Lockerbie stalemate. Mandela’s representative, Jakes Gerwel, would team up with Saudi Arabia’s ambassador to the United States, Prince Bandar bin Sultan, and together make tag-team (and sometimes individual) visits to Libya, the United States, the United Kingdom, and the United Nations. The meetings took place with no fanfare, and information was privately and indirectly shuttled between Qaddafi and the two western powers via Mandela and Prince Saud’s chosen diplomats, Gerwel and Bandar.

The second track of diplomacy set into motion was between the United States and the United Kingdom and the international community. The two powers were thrown on the defensive by Mandela’s dramatic entry into the fray. Robin Cook [the UK’s secretary of state for foreign and commonwealth affairs] hastily invited UN experts to inspect the fairness and independence of the Scottish legal system and the conditions in Glasgow’s Barlinnie prison, where a special wing had been prepared for the “remote possibility” that the suspects would ever be convicted.⁵¹

The U.K. newspaper the *Guardian* also reported that Cook used a meeting after Christmas with U.S. Secretary of State Madeleine Albright to raise suddenly a “revolutionary proposal”: calling Qaddafi’s bluff by giving him what he and his supporters wanted—a trial on neutral ground.

Mandela’s people explained later that there were actually several bluffs being called. When the United States and the United Kingdom were suddenly pushed to explain why they were making unreasonable legal claims, they claimed they refused to negotiate with Qaddafi because U.S. policy is never to negotiate with terrorists, and they were certain that Qaddafi’s offers were only ploys to draw them into

direct negotiations that would grant him a form of legitimacy in the process. The United States and the United Kingdom were completely convinced that Qaddafi would never give the two men up for trial, no matter what was discussed.

So when Gerwel and Prince Bandar convinced Robin Cook to call Qaddafi’s bluff, they were calling the U.K.-U.S. bluff as well. In other words, if the United States and the United Kingdom truly believed that Qaddafi would not turn over the two suspects under any circumstances, then there was no reason not to grant Qaddafi what he requested. “You have nothing to lose,” Gerwel told them. If Qaddafi was lying, Mandela and Prince Saud were the ones who would end up looking foolish and naive.⁵²

Gerwel and Prince Bandar would run into several such tricky situations as their diplomatic mission stretched across seven trips to Libya over the course of roughly a year. Gerwel’s deft handling of apparent stalemates was one of the reasons Mandela had asked his chief of staff to handle the negotiations instead of his minister of Foreign Affairs, Alfred Nzo, a kind and principled man who was appointed for his efforts in “the struggle” but who had little experience in major league diplomacy.

When asked why South African Foreign Affairs Minister Nzo was not involved in the negotiations with Qaddafi, Gerwel paused. “There are certain . . . the problems were such that to let that matter go to Foreign Affairs couldn’t have solved them. Just because of the bureaucracy in departments. We, the Mandela government, ran a very small presidential department. I was head of that department. I could make decisions, something to do with my relationship to Mandela, too. I knew what my task was. I could make decisions and I didn’t have to go back to him, to and fro. I reported to Nzo and consulted him, but we had learned our lesson before about going to Foreign Affairs,” Gerwel said.

Gerwel’s meetings in the infamous tent in Tripoli convinced Gerwel that Qaddafi was trying to find an honorable resolution. “I wouldn’t want to live in his country, he has some strange ideas about how the world works,” he said, but Gerwel believed Qaddafi had a strong sense of dignity and pride. “Late into the night, he would call and ask if we could talk again. He was really anguishing with the matter.”⁵³

The ICJ⁵⁴ ruled on February 27, 1998, that it had jurisdiction over the ongoing dispute between Libya, the United Kingdom, and the United States. *Keesing’s* news archives for that month claimed the ICJ decision received widespread Arab and international support. A U.S. official described the ICJ ruling as

merely a “technical decision,”⁵⁵ implying that it held no normative weight.

Libya maintained that, since the ICJ had decided that it had jurisdiction, the sanctions should be lifted and the ICJ’s final decision should be recognized as the means of settling the dispute. Libyan Foreign Secretary Omar Mustafa al-Muntasser told the UN Security Council that the sanctions inflicted on Libya “a suffering of severe magnitude, material and moral” and denounced the sanctions as a “collective punishment against the entire Libyan people as a result of nothing more than a suspicion regarding two of its citizens.”⁵⁶ A Libyan report to the United Nations estimated losses in the billions of dollars, with several thousand civilian deaths because of the shortage of usable medicines and serums due to the air embargo. The U.S. and U.K. permanent representatives to the United Nations accused Libya of misrepresenting the facts on the ICJ’s decision to hear the case and called for the continuation of sanctions. Further, they argued that the two Security Council resolutions imposed upon Libya were superior to the Montreal Convention.

A month later, in March of 1998, U.S. President Clinton visited President Mandela in Johannesburg. South African government sources say that after discussing a variety of issues, Mandela asked for Clinton’s aides to leave so that he could speak with the U.S. President privately. After the doors closed behind the U.S. aides, Prince Bandar unexpectedly dropped in for five minutes to participate in a talk about the Libyan sanctions. “We were surprised to find how little Clinton knew about this matter,” Gerwel noted. “Sandy Berger [President Clinton’s national security advisor] almost had a heart attack over having the president talk on something he hadn’t been briefed on before. It was clear he actually knew very little about the matter.”

Massoud, who was also at this meeting, later added that Sandy Berger was not conveying many of the facts about the negotiations to the President. For example, by this point, Libya had committed in writing to a trial under Scottish law, Massoud said, and to the two accused being imprisoned in Scotland if convicted. “The president was not even aware we had these commitments in writing.”⁵⁷

Jakes Gerwel continued: “One thing that I learned in those negotiations was the complexity of American political structures. Where in the UK if you spoke with Blair you could pretty well know that this is going to be the government’s position; that you’d find the same in the UK foreign office. Whereas we spoke a lot to Clinton on this, Clinton gave a lot of stuff, but you learned afterward that just because

the president agrees doesn’t mean the foreign office is going to agree, or the justice department. I suppose it’s the strength of [the U.S.] governmental system, but it makes it much more difficult to get agreement.”⁵⁸

In this private meeting, Mandela also urged President Clinton to bury the hatchet with Cuba and Iran, as well as Libya. Moreover, earlier in the month, despite objections from the United States and human rights groups, South Africa established formal diplomatic links with Iraq and North Korea. Commentators suggested at the time that the decision would further undermine U.S.-South African relations following previous disagreements over the government’s ties to two other U.S.-designated “pariah states,” Libya and Cuba.⁵⁹

“CLARIFICATIONS”

By this point, the shuttle diplomacy between Gerwel, Prince Bandar, and Qaddafi was well under way. The men carried personal letters between Qaddafi and Mandela and separately between Mandela and Blair and Clinton. These communications were, for the most part, direct and informal. Clinton would begin his letters with Mandela’s tribal family name “Madiba”; Blair wrote to “Nelson.” Qaddafi’s letters to Mandela invariably began “Historic Leader and Hero”; Mandela’s, in return, used the salutation “Brother President.”⁶⁰ On at least one occasion, Qaddafi’s son hand-delivered a letter to Mandela when he was visiting South Africa to attend a state function.

On August 24, 1998, the U.K. and U.S. governments announced that the trial could take place on neutral territory in the Netherlands. Under the proposal, the two were to be tried by three Scottish judges at The Hague, the Dutch capital and the seat of the International Court of Justice, in the presence of international observers. The Dutch court was to administer Scottish law, under Scottish procedures and Scottish rules of evidence.

Foreign Secretary Robin Cook described the plans as an “historic innovation in international legal practice.” Madeleine Albright said the offer was a “take-it-or-leave-it proposition” and warned that it was “not subject to negotiation or change, nor should it be the subject of any additional foot-dragging or delay.”⁶¹

Years later, Gerwel would still show frustration when he spoke of this stage of the negotiations. “When the US made the announcement, Madeline Albright said take it or leave it. We’re not negotiating

further. Yet there were many unanswered issues because they had not negotiated with the Libyans. It took us months again, Bandar and myself, and now we can not say that we're 'negotiating.' So we had to invent another term—'clarification.' For months we had to go around *clarifying* things. For example, if the people were found guilty, where would they be kept? So the US is saying we won't negotiate further, but Qaddafi is not going to hand over these people until we clarify these things."⁶²

On the same day as the announcement (August 24), the United States and the United Kingdom presented a twenty-eight-page document to the UN Security Council outlining their plan, which included imprisoning the two men, if convicted, in the United Kingdom, and demanding that any witnesses called from Libya be included in the proceedings.

The UN Security Council Resolution 1192 and its attachments set off alarms for several of the actors in the negotiations, in particular, paragraph 4, because of its demand that Libya "ensure that any evidence or witnesses in Libya [would be] promptly made available at the court in the Netherlands for the purpose of trial," and paragraph 7, which, when coupled with the lengthy attachment, was vague about where the suspects would be imprisoned before, during, and after the trial."⁶³

In response, Qaddafi faxed a frustrated letter to the London embassy that immediately rejected any plan of imprisonment in the United Kingdom. The whole point of holding out against the sanctions for the past seven years, he said in exasperation, is that the accused not be imprisoned in the United Kingdom. He also believed the call for Libyan witnesses was a trick to try and arrest and interrogate other suspected Libyan intelligence agents.⁶⁴

On August 27, the UN Security Council unanimously adopted Resolution 1192, which welcomed the "US and UK initiative," and decided that UN sanctions against Libya would be suspended immediately if the UN Secretary General, Kofi Annan, reported to the Council that the two accused had arrived in the Netherlands for trial.

In an interview with CNN that same day, Colonel Qaddafi said that he accepted the U.S.-U.K. proposal, provided that there were no "hidden tricks." He called for more information about what might happen to the suspects if they were found guilty and whether they would be permitted to appeal.⁶⁵

Qaddafi had been concerned from the beginning that the United States and Great Britain were using a trumped-up trial to gain information about his intelligence operations through "questioning" the suspects where they could not be observed. As for the

calling of new witnesses from Libya, Qaddafi believed this was merely code language for pulling other intelligence agents out of Libya to be inappropriately interrogated. The ability of the United Kingdom and the United States to twist paragraph 4 to infiltrate his intelligence services was a new problem.⁶⁶

Ironically, on September 23, 1998, a trial in absentia opened in the Tripoli Criminal Court of a number of U.S. officials involved in the April 1986 U.S. bombings of Libya. The defendants included former National Security Advisor John Poindexter, former member of the National Security Agency (NSA) Oliver North, and former CIA Director William Casey.⁶⁷

"TAKE IT OR LEAVE IT"

Several months of U.K. exchanges between Qaddafi and Annan, and a visit by Annan to Tripoli, were unable to budge the new imprisonment issue. Qaddafi sent a long personal letter to Mandela while Blair was visiting South Africa. The letter laid out point by point his concerns for Mandela to pass onto Blair. Qaddafi explained that he believed article 94 of the UN Charter suggested that if either of the two men were convicted, they could be imprisoned in Libya under UN supervision.⁶⁸ As for the sanctions, if they were merely suspended and not lifted, "the sanctions [would be] a permanent threat to be used at will," he argued. Americans were "immoral" and "cowboys," who thrived on the interference of the CIA and Zionists. He explained once again his frustration with the demand for compensation for massacre and material losses when Libya "had not been given these for the 1986 US massacre and material losses."⁶⁹

A flurry of phone calls between Mandela and Blair preceded Jakes Gerwel's next visit to Tripoli. Mandela raised two points that concerned Qaddafi: the interrogation of Libyan agents and the distinction between "lift" and "suspension" when negotiating the sanctions. Blair assured Mandela that the United Kingdom would not be uncooperative on these matters; the United Kingdom had no "hidden agendas" or "undisclosed demands."⁷⁰ A special section of a Scottish prison would be designated with special international status and monitored by the United Nations.

After Gerwel's and Bandar's visit, Qaddafi wrote to Mandela on February 9, 1998, saying that only one thing was left—to draft a binding legal document. Qaddafi did not trust the U.S.'s verbal assurances.⁷¹

On February 17, Qaddafi gave Gerwel a long list of pending problems and five demands each of the United States and the United Kingdom. Around this time, the United States began to call for Annan to discourage the South African and Saudi Arabian envoys, because Qaddafi might be getting “mixed messages.”

Ten days later, Britain and America gave Libya an ultimatum of a one-month deadline to surrender the two suspects for trial. Swire, spokesman for the families of British victims, criticized the deadline for not contributing to diplomatic efforts. “It’s counterproductive,” he said, adding that Libya could not hand over the suspects now without appearing to be caving in to U.S. bullying.⁷² In Cairo, the Arab League called the deadline “a provocation.”⁷³ Although the UN Security Council did not formally support the deadline, UN Secretary General Annan countered that thirty days was “a reasonable period” for Libya to make a decision on the further clarifications that Libya requested about guarantees with regard to the suspects’ treatment in prison if convicted.⁷⁴

Libya said it could not surrender the two men before reaching an agreement for a fair trial and assurances that the prisoners’ human rights would not be violated. (Presumably, Qaddafi’s underlying concern was that the former intelligence agents would be tortured for information about Libya’s intelligence services and/or forced to give false testimony.)

Two days after the one-month deadline was given, Qaddafi wrote a six-page letter to Mandela pouring out his frustrations without reservation. The tone of the letter was of a man aggrieved and misunderstood. He trusted only Mandela and Saudi Arabia and was especially wary of the potential manipulation of the U.S. court system, using the recent example of the Rodney King verdict as an example. “There are lots of mines along the way,” he warned Mandela. “The Americans are immoral,” he said.

John Bolton, then senior vice president of the neoconservative American Enterprise Institute and former assistant secretary of state for George HW Bush, summed up the hard-liner Republican view of these compromises in an article in the *Weekly Standard*: “Although many felt that the compromise offer gave away too much, dissent from Clinton’s ploy was muted because of the administration’s public and private assurances that there would be no further bargaining with Libya. Nonetheless . . . the Clinton administration gave in.”⁷⁵

Bolton went on, “First in a clear effort to insulate Qaddafi from criminal liability for the Pan Am

bombing, which many believe he personally ordered, the administration conceded that the prosecution of the alleged murderers would in no way ‘undermine’ the Libyan regime. Second, the United States and United Kingdom conceded that if convicted and imprisoned, the defendants would be ‘monitored’ by the United Nations. This implicit admission that Scottish jails are not up to say, Libyan, standards is breathtaking, both for its deference to the ‘proper’ treatment of international terrorists, and as a precedent for intrusive U.N. involvement in our criminal justice system.”⁷⁶

Diplomacy between Gerwel, Mandela, Bandar, and Qaddafi continued. Despite Qaddafi’s reservations, on March 19, 1999, Mandela informed the world from Tripoli that Libya was prepared to give the United Nations a firm date for the handing over of the two suspects. The day the announcement was made Qaddafi had flown in Mandela especially for the occasion. “He trusted us,” Gerwel said. “On that occasion, he said that he’s handing over his two Libyan ‘sons’ because Mandela is telling him to, so he will do so. And he said if they don’t keep their word—they being the US and UK—they will be sinning against Mandela. He then rather chillingly said that it would be on the shoulders of Bandar and Jakes because we were the two who negotiated it.”⁷⁷

Mandela said in his address to the Libyan Congress, “At the outset, we must make a point which one would have assumed in this modern day needed no making. We are speaking of two people suspected of a crime, not of people proven guilty. Too often the impression is given that Libya is harbouring convicted criminals.” Mandela went on to say, “Our frequent visits reflect our affection for the esteemed Brother Leader and the people of this great country. We shall never forget Libya’s material and moral support of our own struggle against racist apartheid rule.”⁷⁸

On Friday, April 31, 1999, the United States reaffirmed its designation of Libya as a state sponsoring terrorism. According to a Reuters report, “Officials said these states had not directly sponsored extremist acts for some years, raising fresh questions about the political nature of the terrorism list designations.” The next day, Libya asked the UN Security Council to force the United States to hand over nine Americans it accused of murder in the 1986 bombing of Tripoli and the port Benghazi. The request came three weeks after Libya complied with the Security Council demand that it hand over the two Libyans accused of planting the bomb on Pan Am flight 103.⁷⁹

In January 2001, Abdel al-Megrahi was sentenced to life in prison after being found guilty of the mass murder of two hundred seventy people in the bombing of Pan Am flight 103. His co-accused, al-Amin Khalifa Fhimah, was acquitted and returned home to a hero's welcome in Tripoli. An Austrian Innsbruck University professor who acted as one of five UN observers at the trial said the judgment made no sense unless it was a political compromise, explaining, "The present judgment is logically inconsistent. You cannot come out with a verdict of guilty for one and innocent for the other when they were both being tried with the same evidence. In my opinion, there seemed to be considerable political influence on the judges and the verdict. My guess is that it came from the United States and the United Kingdom. This was my impression."⁸⁰ The Innsbruck University professor said he had submitted his report on the trial to UN General Secretary Kofi Annan, who had forwarded it to the Scottish authorities. Jim Swire fainted from exhaustion after the verdict was read.

By February 2001, instead of lifting the UN sanctions, the United States and Great Britain made new demands: Qaddafi must take responsibility for the Lockerbie bombing and pay billions in compensation. An angry Mandela said the West had reneged on its pledge by not lifting the sanctions. It has "moved the goalposts," he said.⁸¹ "The condition that Qaddafi must accept responsibility for Lockerbie is totally unacceptable," he insisted.⁸²

Massoud would remember this differently. "I think the whole concept of taking responsibility was addressed from the beginning. I don't think the US or the UK insisted that Qaddafi take personal responsibility, but that Libya take responsibility. Libya's Prime Minister wrote to the [UN] Secretary General early on that if the two were found guilty, then Libya will take responsibility and pay compensation."⁸³

Libyan Foreign Secretary al-Muntasser reminded Kofi Annan in a letter that Libya had originally been the one to propose a trial in a third country. The U.S. and U.K. intransigence on the option was what had resulted in seven years of sanctions, he said. Moreover, he believed the additional measures were contrived to justify keeping the sanctions against Libya. "The Libyan people will blame Qaddafi," he explained. As for the scenario proposed for financial compensation, al-Muntasser pointed out to Annan that Saudi Arabia had not been asked to pay compensation for 9/11 for which its citizens were responsible, and Libya had not received compensation for the bombing of its citizens in 1986.

Mandela then wrote formally to both Blair and current U.S. President Bush, saying he was "personally saddened" by their decisions to demand additional criteria of Qaddafi after the fact of the verdict and despite previous assurances. He emphasized that Qaddafi had not been found guilty of a crime (he attached the ICJ legal opinion), which made their actions a dangerous precedent to set for heads of state. In frustration, he reminded the leaders that the United Kingdom and the United States had previously committed in writing to lifting the sanctions permanently upon the fulfillment of very specific goals that had been met. Mandela copied the letters to Colonel Qaddafi and Prince Saud.

AND THE BEAT GOES ON . . .

On May 3, 2001, the United States, a founding member of the UN Commission on Human Rights, was voted off of the fifty-three-member panel. The U.S. Congress responded by withholding \$244 million in UN dues. (After a bit of necessary arm twisting, the United States would be voted back on the panel ten months later.)

"The secret ballot is one of the most effective weapons in the UN arsenal," a Southeast Asian diplomat said, "because it provides a true sense of the inner political feelings of most sovereign nations. We obviously sent a clear message about how we feel about the United States."⁸⁴ The Economic and Social Council (ECOSOC), which is the umbrella body for the Human Rights Commission, is dominated by developing nations.

A reporter for *Third World Network*, a nonprofit nongovernmental group, claimed, "The US record on human rights treaties has been dismal. It is only one of two countries—the other being Iraq—that has still not ratified the 1989 landmark UN Convention on the Rights of the Child. The United States has also held back ratifications on the treaty to ban landmines and the treaty to establish an International Criminal Court."⁸⁵

U.S. Representative Henry Hyde, chairman of the House International Relations Committee at the time, declared: "This appears to be a deliberate attempt to punish the United States for its insistence that the commission tell the truth about human rights abuses wherever they occur. The machinations of international bureaucrats are irrelevant to the plight of the world's oppressed people who yearn for the universal values of freedom and democracy to which the United States is deeply committed."⁸⁶

Stephen Zunes, chair of the peace and justice studies program at the University of San Francisco, likened the UN panel's move to the chickens coming home to roost. "For over fifty years, the United States has used the Human Rights Commission to advance its ideological agenda, attacking the human rights records of countries America did not like, while defending and covering for regimes with as bad or even worse records that happened to be seen as strategic or economic allies."⁸⁷

On June 11, 2002, a small story ran in the U.K.-based *Financial Times*. Nelson Mandela, the former South African President, had emerged from an hour-long meeting with the convicted Lockerbie bomber and called for the Libyan to be transferred to a Muslim country. The prisoner had complained of being harassed by fellow prisoners at Barlinnie prison in Glasgow, Scotland.⁸⁸

Mandela, who endured twenty-seven years in prison for his opposition to apartheid, told journalists that Abdel al-Megrahi "has nobody he can talk to. It is a psychological persecution that a man must stay for the length of his long sentence all alone."⁸⁹ Mandela said that he would seek talks with Tony Blair and George W. Bush to transfer the prisoner to a Muslim country, trusted by London and Washington, where his family could visit him more easily.

In January 2003, Libya was elected to chair the UN Commission on Human Rights in a secret ballot backed by thirty-three members, with three countries voting against and seventeen members abstaining.⁹⁰ U.S. State Department spokesman Richard

Boucher said, "We find it unconscionable that people could find it possible to vote for a serious human rights offender like Libya to chair the Human Rights Commission."⁹¹ The U.S.-based Human Rights Watch was appalled and released a press statement that Libya had prohibited the formation of political parties, muzzled its press, and had in the past "been responsible for torture, 'disappearances' and the assassination of political opponents abroad."⁹²

Colonel Qaddafi's son, Seif Qaddafi, said that the Libyan government had released all political prisoners except for two categories, the Libyan Fighting Group that he described as "fanatical, violent, and headquartered in Afghanistan" and the Muslim Brotherhood, whose case was at the time before the Court of Appeal. "Sure, we are not Switzerland or Denmark; we are part of the Third World and part of the Middle East. But we are better than our neighbors."⁹³

Fifteen years after the bomb exploded over Lockerbie, and in order to have the UN sanctions lifted, Qaddafi agreed to the two new criteria tacked on by the United States and the United Kingdom after the verdict: He accepted responsibility for the bombing and agreed to pay up to \$2.7 billion in compensation to the families. On September 12, 2003, the Security Council formally lifted sanctions against Libya. The resolution was adopted by thirteen votes in favor and none against. The United States and France abstained. U.S. unilateral sanctions against Libya remained.⁹⁴

NOTES

The author thanks Beauregard Tromp for offering his contacts in South Africa, and the Center for International Studies at the University of Southern California for dissertation funding and a travel grant to South Africa.

1. The Medal (or Order) of Good Hope is named after the Cape of Good Hope, at the southern tip of South Africa where Cape Town is located.

2. "Mandela Dismisses US Opposition to His Libyan Visit," *Business Day* (South Africa), October 23, 1997.

3. Ali Dellali, *Panafrican News Agency*, December 30, 1999.

4. Emad McKay, "Mandela urges Libyan leader to heed UN," *Times* (London), October 30, 1997.

5. Guy Arnold, *The Maverick State: Qaddafi and the New World Order* (London: Cassell, 1996).

6. John L. Wright, *Libya: A Modern History* (Baltimore: The Johns Hopkins University Press, 1982), 48.

7. Arnold, *The Maverick State*, 2.

8. Ray Takeyh, "The Rogue Who Came in From the

Cold," in *Foreign Affairs Essays* (Washington, D.C.: Council on Foreign Relations, May 2001).

9. Mansour O. El-Kikhia, *Libya's Qaddafi: The Politics of Contradiction* (University Press of Florida: 1997), 148. El-Kikhia says Qaddafi supported the African National Congress (ANC) in South Africa; however, three officials interviewed in South Africa for this case study emphasized that Qaddafi supported the more militant PAC guerrilla movement against the apartheid regime.

10. Seymour Hersh, "Target Qaddafi," *New York Times Magazine*, February 22, 1987, 8.

11. *Ibid.*, 9.

12. Hersh, "Target Qaddafi," 1.

13. *Ibid.*, 3. Hersh's interviews with Colonel Oliver North revealed that the official bombing orders supplied by the White House to the Pentagon did not cite as targets the tent where Qaddafi worked or his family home. The stated targets, according to North, were a command-and-control center administrative barracks buildings in

Tripoli, a military side of the Tripoli airport, and a commando-training site, none of which were struck by bombs.

14. Hersh, "Target Qaddafi," 4.

15. *Ibid.*

16. An unnamed National Security Agency (NSA) aide relayed these comments to Hersh.

17. Including passengers, crew, and townspeople on the ground.

18. A member of the Popular Front for the Liberation of Palestine who was imprisoned in Germany after Lockerbie, Hafez Dalkamoni, said the group was paid to do the bombing by Iran, to avenge the shooting-down of an Iranian airliner over the Gulf by the U.S. navy in July 1988. Michael P. Scharf, "The Broader Meaning of the Lockerbie Trial and the Future of International Counter-Terrorism," *Syracuse Journal of International Law and Commerce* 20 (Fall 2001, symposium on International Terrorism, Victims' Rights, and the Lockerbie Criminal Trial).

19. Scharf, "The Broader Meaning," 10. Scharf, counsel to the U.S. Counter-terrorism Bureau, attorney advisor to the United Nations, was in charge of writing the Security Council resolutions that imposed sanctions on Libya and cowrote the U.S. briefs before the International Court of Justice in the case of the *United States v. Libya*. Scharf went on to explain, "Finally, one of the things that was going on behind the scenes was that Iran and Syria were becoming very inconvenient targets politically, whereas Libya was a very convenient target. This is because, at the same moment in time that the prosecutor's case is starting to veer toward Libya a little, something happened in the Persian Gulf, and that was that Saddam Hussein invaded Kuwait. The United States desperately needed to build a coalition and it had to start with Iran."

20. Anthony Lewis, "At Home Abroad; Alarm in Cairo," *New York Times*, February 9, 1992.

21. *Economist*, "Alive and fairly well," February 22, 1992.

22. *Ibid.*

23. Paul Lewis, "Isolation of Libya Grows as its Links to World are Cut," *New York Times*, April 16, 1992.

24. The Arab League opposed the sanctions in 1991, citing the double standard of Israel.

25. In an interview with Lyn Boyd Judson, Jakes Gerwel claimed that Mubarak was actually the one who told Americans that Qaddafi would never keep his word. "When we were close to success, Mubarak tried to muscle in there, but there's a public speech in Cairo where Qaddafi publicly repudiated Mubarak's role in the matter. [UN Secretary General] Annan understood better than most that to get Qaddafi onside was almost totally dependent on Mandela—on the issue of trust."

26. Rihab Massoud, interview by Lyn Boyd Judson, March 10, 2004, Washington, D.C.

27. *Ibid.*

28. Jim Swire, *My hopes*, BBC News online, April 17, 2000. <http://news.bbc.co.uk/> (accessed October 2003).

29. Jim Swire, interview by Lyn Boyd Judson, October 29, 2003.

30. *Ibid.*

31. Swire, BBC News online.

32. Rihab Massoud, interview by Lyn Boyd Judson, March 10, 2004, Washington, D.C.

33. According to Robert Black's memo, "The Lockerbie Disaster," www.geocities.com/capitolhill/5260/roblack0199.doc.

34. Swire notes that the international judges were eventually changed to a panel of Scottish judges, a change that did indeed reveal Mandela's concern about the same country being complainant, prosecutor, and judge. (Jim Swire, interview with Lyn Boyd Judson, October 29, 2003.)

35. According to Kelly-Kate S. Pease in *International Organizations: Perspectives on Governance in the Twenty-First Century, Nuts and Bolts* (New Jersey: Prentice Hall, 2000) 22, the International Court of Justice also known as the World Court, was created to be the principal judicial organ of the United Nations. Chapter XIV of the UN Charter authorizes the ICJ to adjudicate disputes arising under the United Nations and international law. It is also responsible for providing advisory opinions on legal questions to the Security Council or the General Assembly, upon their request. The ICJ statute mandates that the court consist of fifteen justices, no two of whom may be nationals from the same state.

36. Letter from the permanent representatives of Algeria, Egypt, the Libyan Arab Jamahiriya, Mauritania, Morocco, the Syrian Arab Republic, and Tunisia to the United Nations addressed to the President of the Security Council, July 1, 1998.

37. Rihab Massoud, interview with Lyn Boyd Judson, March 10, 2004, Washington, D.C.

38. According to Jakes Gerwel.

39. James Hamill and Donna Lee, "A Middle Power Paradox? South African Diplomacy in the Post-apartheid era," *International Relations*, vol. 15 (4)(2001): 37.

40. According to Jakes Gerwel, several African representatives to the nonaligned movement and the Organization of African Unity (OAU) asked Mandela to get involved in the matter almost immediately after he was released from prison.

41. "Speech by President Nelson Mandela at a Banquet Hosted by Colonel Qadhafi," Tripoli, October, 22, 1997. www.anc.org.za/ancdocs/history/mandela (accessed July 2003).

42. Contemporary black South Africans use the words *slave* and *slavery* when speaking of this period.

43. Nelson Mandela, *Long Walk to Freedom: The Autobiography of Nelson Mandela*. (Austin, TX: Holt, Rinehart and Winston, 1998), 104.

44. Tom Lodge, interview by Lyn Boyd Judson, June 2003, Johannesburg.

45. Mandela, *Long Walk to Freedom*.

46. Tom Lodge, interview with Lyn Boyd Judson, June 2003, Johannesburg.

47. Greg Mills and Tom Lodge were the two scholars. When asked about these comments, Jakes Gerwel, President Mandela's chief of staff at the time, replied that these

claims were “utter nonsense. There’s this whole myth that Qaddafi supported the ANC, and intelligent people like that should know that Qaddafi did not support the ANC, if he supported anyone it was the PAC.”

48. Albert van Rensberg, interview by Lyn Boyd Judson, May 2003, Los Angeles, CA.

49. Jakes Gerwel, interview by Lyn Boyd Judson, June 2003, Cape Town.

50. Hamill and Lee, “A Middle Power Paradox?,” 38. Hamill and Lee ultimately argue that these criticisms are short-sighted and too harsh and that South African diplomacy was much more mature and linked to the national interest than its critics admit.

51. “How the deal was done,” *Guardian* (England), April 6, 1999.

52. Jakes Gerwel, interview by Lyn Boyd Judson, June 2003, Cape Town.

53. *Ibid.*

54. Kelly-Kate S. Pease, *International Organizations*.

55. *Keesing’s Record of World Events* (Cambridge, UK: February 1998).

56. *Keesing’s*, March 1998.

57. Ribah Massoud, interview with Lyn Boy Judson, March 10, 2004, Washington, D.C.

58. Jakes Gerwel, interview by Lyn Boyd Judson, June 2003, Cape Town.

59. *Keesing’s*, August 1998.

60. Gerwel’s papers, Cape Town.

61. *Keesing’s*, August 1998. The Libyan government was also expected to satisfy the French judicial authorities with regard to the 1989 bombing of UTA flight 771.

62. Jakes Gerwel, interview by Lyn Boyd Judson, June 2003, Cape Town.

63. UN Security Council Resolution 1192, adopted August 27, 1998.

64. Gerwel’s papers, Cape Town.

65. *Keesing’s*, August, 1998.

66. Jakes Gerwel, interview by Lyn Boyd Judson, June 2003, Cape Town.

67. *Keesing’s*, September 1998, 42,528. The case was immediately adjourned until March 22, 1999.

68. Text of article 94: 1. Each member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party. 2. If any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment.

69. Gerwel’s papers, Cape Town.

70. Gerwel’s papers, Cape Town. Blair says Gerwel had been taken through these same points in London.

71. Gerwel’s papers, Cape Town.

72. “Lockerbie ultimatum under fire,” BBC News online, <http://news.bbc.co.uk>. February 27, 1999.

73. “US-British deadline to Libya criticized by victims’ families, Libya and Arab League,” *ArabicNews.com*, March 1, 1999.

74. “UN Security Council gives Libya 30 days to make Lockerbie decision.” *Arabic News.com*, February 27, 1999.

75. John R. Bolton, “Clinton’s Bluster,” *Weekly Standard* (March 8, 1999).

76. *Ibid.*

77. Jakes Gerwel, interview by Lyn Boyd Judson, June 2003, Cape Town.

78. *Address to the Congress of the People-Libya*, Tripoli, March 19, 1999. www.Anc.Org.za/ancdocs/history/Mandela/a999/nm0319.html.

79. Reuters, *Libya: News and Views*, May 1999, online. www.libyanet.com.

80. “Lockerbie verdict ‘politically influenced,’” BBC News online, January 21, 2002. <http://news.bbc.co.uk>.

81. Anthony Sampson, “Mandela: Britain Reneged on Libya,” the *Independent* (London) February 9, 2001.

82. *Ibid.*

83. Ribah Massoud, interview by Lyn Boyd Judson, March 10, 2004, Washington, D.C.

84. Thalif Deen, “US ouster from UN rights body reflects Third World anger,” New York, May 4, 2001, (IPS) cited on *Third World Network* Web site, www.twinside.org.sq/title/ouster.htm.

85. *Ibid.* *Third World Network* is an independent non-profit network of non-governmental organizations involved in issues of development, the Third World, and North-South issues.

86. UPI, “UN Human Rights Commission Boots US,” United Nations, May 4, 2001.

87. Stephen Zunes, “U.S. arrogance on display in UN Human Rights Commission flap,” *The Progressive Response*, Vol. 15., No. 16, 15 May 2001. Excerpted from an FPIF Global Affairs Commentary. As evidence, Zures cites US support for Suharto of Indonesia, Mobutu of Zaire, the Shah of Iran, Park of South Korea, Marcos of the Philippines, Pinochet of Chile, and “literally dozens of others. . . . As recently as two months ago, the US cast the sole dissenting vote against a UN Security Council resolution to send unarmed human rights monitors to the Israeli-occupied Palestinian territories.”

88. Mark Nicholson, “Mandela seeks Lockerbie bomber hearing.” *Financial Times*, June 11, 2002. The British Foreign Service position was that “Libya had agreed to hand over the suspects to a third country and that if convicted by the Scottish court they would be imprisoned in Scotland.”

89. *Ibid.*

90. Africa was due to chair the next rotation of the UN Commission, and the regional group nominated Libya.

91. U.S. Mission to the European Union, Web site: www.useu.be [press briefing by Richard Boucher, January 22, 2003].

92. “Libya Should Not Chair UN Commission,” Human Rights Watch Press Releases on Libya, New York, August 9, 2002.

93. BBC World News, “Libya takes human rights role,” January 20, 2003.

94. According to Ribah Massoud, Saudi Arabia began secret direct negotiations between the United States and

Libya in May 1999 to lift bilateral sanctions. Meetings alternated between Prince Bandar's houses in Geneva and London. "The Libyans were ready to join the chemical treaty from the third or fourth meeting." Rihab Massoud, interview by Lyn Boyd Judson, March 10, 2004, Washington, D.C.