

Nicolas Sarkozy: Crime and Punishment?

Former French President Nicolas Sarkozy is under investigation for allegedly receiving millions of euros in illegal election campaign funding from Libya's Muammar Gaddafi. This must be placed in the broader context of war crimes by Western heads of state, Gilbert Doctorow explains.

By Gilbert Doctorow

The relationship between Sarkozy and Gaddafi fits the pattern of the old mafia joke: "You're my friend. I kill you for nothing."

Two news items jostled for attention on the front pages of mainstream newspapers and news bulletins of the main television channels on the Old Continent last week. One was the Sergei Skripal "nerve agent attack" and Theresa May's attempts to find support among EU leaders for a common stand against Russia as perpetrator. The other was the arrest and questioning of former French President Nicolas Sarkozy over allegations that he took 50 million euros in cash from Libyan leader Muammar Gaddafi in 2007 for the election campaign that won him the presidency.

The Skripal story of "the Russians did it" had its day in court in Brussels on Thursday and Friday during the summit of EU leaders at the European Council, the EU's chief executive body. The deliberations ended in verbal support for May: the EU said it was recalling its ambassador to Moscow for four weeks of consultations. As EU Commission President Jean-Claude Juncker explained at a press conference, however, the EU faces important challenges which require active coordination with Russia, so channels of communication must remain open.

But then on Monday, Germany, Poland and France expelled four Russian diplomats; the Czech Republic and Lithuania expelled three; Denmark, Italy, and The Netherlands two apiece; and one each from Latvia, Estonia, Romania, Finland, Sweden and Ireland. (The U.S. topped them all with 60 Russian diplomats expelled and the closing of Russia's Seattle consulate, further undermining the Democratic Party narrative that President Donald Trump is a Russia "puppet.") On Tuesday, NATO kicked out 13 Russians, further weakening the safety net protecting against East-West conflict.

These demarches were presented as an act of solidarity with the UK over the Skripal case. But these flea bites could be better described as the EU response to Vladimir Putin's overwhelming victory in the presidential elections of March 18, which concerns all EU states far more directly than a so-far totally unproven and highly questionable allegation against Russia by the Brexiting

United Kingdom. Following the predictable Russian symmetrical measures in the coming days, the Skripal case is likely to disappear from the headlines, until the results of the forensic investigation into the poisoning of the ex-double agent are completed and made public.

By contrast, the story about Sarkozy's arrest and 23-hour interrogation by judicial police over the course of two days was just gaining traction, with French media in particular split down the middle over whether an indictment and trial is warranted.

The Sarkozy case has unusually split the governing elites of France and Europe. As a result, a great deal of information has been released into the public domain, including in *The Guardian*, *The Daily Mail*, *Le Figaro* and *Le Monde*. Even the American *Time* magazine devoted several pages of factual, as opposed to editorializing, coverage in a March 21 piece.

The facts of the case have dribbled out over a long time, especially from 2012 when Sarkozy decided to run again for the presidency. That brought attention to the story of Libyan financing of his 2007 election. Incriminating documents were disseminated by investigative French media and ultimately Sarkozy lost at the polls to Francois Hollande by several percentage points. Sarkozy later directly blamed the stories of Libyan financing for his defeat.

The Sarkozy affair must be placed in the broader context of investigating alleged war crimes by Western heads of state. So long as we choose only to look forward as Barack Obama insisted on immediately after taking office, when he closed the book on investigations into the George W. Bush administration, and not look into the recent past, we are condemned to an endless succession of "road accidents" yielding only chaos and death in the Middle East, and possibly in the wider world.

The Sarkozy Story

The wheels of justice turn slowly and may or may not grind finely. The current charges against Sarkozy go back to the days when he still occupied the office of Minister of the Interior in the government of Jacques Chirac and campaigned to succeed Chirac in the presidency as candidate of the center-right Union for a Popular Movement party (UMP). Sarkozy is said to have concluded a written agreement with Gaddafi's intelligence chief Abdullah Senussi to provide 50 million euros to his campaign in exchange for unspecified French assistance to rehabilitate Libya's international standing. The choice of Sarkozy to perform this mission was not arbitrary: he had over a long time spoken favorably of Islam and attempted when in power to integrate France's Islamic minority, including its religious hierarchy, into the national landscape.

A number of intermediaries on both sides were appointed to facilitate the secret transfer of funds including in cash, according to the French outlet Mediapart. Following his election, Sarkozy very warmly welcomed Muammar Gaddafi in Paris on December 10, 2007 for a state visit during which the Libyan leader was permitted to set up his tents in gardens close to the Elysée Palace. At the time, this hosting of someone seen as a dictator in France created controversy in the French media, all the more so as the visit coincided with the anniversary of the convention on human rights.

In the midst of the Arab Spring of 2011, Libya was one of the last dictatorships in North Africa to come under attack from self-proclaimed democratic rebels. France was among the loudest calling for Gaddafi to step down and be replaced by a transition government.

When the Colonel's armed forces appeared to have taken the upper hand, and victory over rebel forces in Benghazi and the east of the country was imminent, NATO, led by France, entered the conflict, initially under UN authorization to impose a no-fly zone for the stated purpose of protecting civilians from an anticipated massacre, one that was later questioned by a British parliamentary committee. This intervention in fact went well beyond its authorization and facilitated the overthrow of the Libyan regime, resulting in the brutal murder of its leader, who died amidst gang violence with a shot to the head. Chaos and disintegration of the state have continued to this day, with two power centers still vying for control of land and international recognition.

The fall of the Libyan dictator has special piquancy today because in his final months Gaddafi had reminded France and Europe of the important service he was performing for them: holding back the hordes of would-be asylum seekers from North and sub-Saharan Africa as well as containing a jihadist threat. As it turned out, that warning was not exaggerated. With the chaos that followed Gaddafi's murder, Libya became one of the main jumping off points for millions of immigrants on their way to Europe, compounding the problem that otherwise has been created by the civil war in Syria and strife throughout the Middle East extending as far as Afghanistan. It has also become a center for jihadist operations.

In March 2011, prior to the final assault on the regime, Gaddafi's son gave an interview to Euronews in which he issued veiled warnings to the French to desist from their encouragement of the rebels, whose spokesmen Sarkozy had received in Paris. "We can reveal a lot of things. Secrets. ... So the French should behave, or there is going to be a big fiasco in France," he said. Others in Gaddafi's entourage were less discrete and spoke of a large financial contribution to Sarkozy's election in 2007.

In 2012, when Sarkozy prepared his next presidential bid, the investigative French news website Mediapart published the 2007 master agreement and several other documents relating to Libyan funds being passed to Sarkozy's chief of staff, Claude Guéant. One of the pieces of evidence was a film of Ziad Takieddine, a Lebanese businessman who introduced Sarkozy to Gaddafi. Takieddine explains in the film how he handed cases of cash to Sarkozy and Guéant.

Also in 2012 rumors emerged that Muammar Gaddafi was killed not by the rebels who surrounded and mutilated him but by a French secret service agent who infiltrated the mob and shot him in the head, acting on express orders of Sarkozy.

In 2013, when Sarkozy no longer enjoyed immunity from prosecution, a judicial inquiry was opened in France with a view to possible charges for "active and passive corruption, misuse of power, forgery, abuse of public money, money laundering, and complicity in and concealment of these offences." The inquiry did not at the time lead to any proceedings against Sarkozy, though it was not closed either.

In the meantime, Guéant had claimed that the documents obtained by Mediapart were false. However, a French court concluded that some were authentic and could be used in the investigation.

In the past week, Sarkozy was arrested and held for questioning in a unit of the judicial police in the Paris suburb of Nanterre. He was subjected to 23 hours of interrogation over the course of two days, allowed to go home to sleep under bail conditions. He was barred from contacting Guéant and others from his former associates who were being interrogated separately. These include a former minister and close ally of Sarkozy, Brice Hortefeux.

In a separate but related line of investigation against Sarkozy, in January British police arrested a French businessman who is suspected of having funneled money from Gaddafi to Sarkozy's 2007 campaign. Alexandre Djouhri appeared in a London court and was released on bail. He was subsequently returned to pre-trial detention in February under a second warrant for his arrest issued by France. Djouhri is to appear in a hearing scheduled for later this month.

On the same day Sarkozy was released from custody, the former president took to the air waves on state channel TF1 to give his side of the story. One-sixth of the French electorate, approximately 7.3 million people, viewed his broadcast. On the next day, his remarks were debated at length in the country's leading newspapers, *Le Figaro* on the right, long-time supporter of the UMP (later renamed the Republican Party), and *Le Monde*, on the left, long-time supporter of the Socialists.

A Background of Impunity

The Sarkozy affair falls into a succession of attempts to bring to justice the leading perpetrators of war crimes since the start of the new millennium: George W. Bush and Tony Blair. So far, the record is not promising on justice being done.

In the United States, during Bush's presidency, Congressmen Dennis Kucinich and Robert Wexler introduced 35 articles of impeachment against Bush in the House of Representatives on June 10, 2008. Fifteen of the articles related directly to the invasion of Iraq, starting with the false evidence used to obtain authority for military action. The House voted 251 to 166 to refer the impeachment resolution to the Judiciary Committee where it died. For his efforts, Kucinich was gerrymandered out of his Ohio electoral district and is only now trying to make a political comeback in local politics in his state of Ohio.

In the UK, an investigation into the decision by Blair's government to join the U.S. in the 2003 invasion of Iraq went much further, though it took a very long time to reach a decision. It took still longer, nearly four years, to publish it while the authors of the report wrestled with the government over what documents could be made public given the possibility they would severely damage relations with the United States.

The so-called Chilcot Inquiry was launched in 2009 by then Prime Minister Gordon Brown. The remit took in not only the start of the war but how it was prosecuted all the way to 2009.

The Inquiry held open sessions from November 2009 to February 2011. It had the authority to request any British document and summon any British subject to give evidence. Its prime witness was Blair himself, who was called upon twice to undergo questioning. Other witnesses included former cabinet ministers and other politicians, senior civil servants, diplomats and high ranking military officers.

The Chilcot Inquiry's final report was published on July 6, 2016, nearly seven years after the probe began. It consisted of 12 volumes plus an executive summary. The report was highly critical of the case for war made by the British government and military. It found that the legal basis for war was not satisfactory. It concluded that the Blair government had overestimated the UK's ability to influence US decisions on Iraq. It faulted the war preparation and planning, and concluded that the UK's objectives in the war were not achieved.

British media described the Chilcot Report as "damning," and a "crushing verdict" on the Blair government.

On the day of the report's release, the leader of the opposition Labour Party, Jeremy Corbyn, who had spoken out against the war in Parliament from the beginning but was ignored by Blair, said in a speech to Westminster: "I now apologize sincerely on behalf of my party for the disastrous decision to go to war in Iraq in March 2003." Corbyn denounced the war as "an act of military aggression launched on a false pretext."

Blair, the major villain in the report, acknowledged some of the criticisms with respect to preparation, planning and the relationship with Washington, but insisted he had acted out of good faith in the best interests of the nation.

For Blair, the report was a bloody nose, and nothing more. He was not contrite about the heavy price for the wanton destruction and loss of life that the invasion caused.

However, the Chilcot Report did honorably achieve what it set out to do: it established responsibility for disastrous decisions, it found that the invasion was not justified by any urgent threat to British interests, and that the UK had undermined the authority of the UN Security Council. It was a rebuke, better than anything achieved in the U.S., where there has never been a reckoning over the disaster of Iraq. Indeed, Bush has been rehabilitated by of all quarters, the Democratic Party, enlisting him in its fight against Donald Trump. Neoconservatives in think tanks and the media who pushed for the war have suffered no consequences. They've kept their jobs or been promoted.

This Time, with Sarkozy, it May be Different

On Sunday, *The Mail* reported that: "Sarkozy, 63, is facing a criminal trial and could be jailed over the donations." But why would the French establishment impose such shame on a former president, bringing disrepute to the country?

It must be said that Sarkozy, unlike Blair or Bush, lacked warmth and charisma. On the contrary, this little Napoleon, as many viewed him, had an undisguised taste for ostentatious luxury, which exceeded by far his personal pocketbook until he fell in with his third wife, former super model and popular singer Carla Bruni. He had also left a trail of controversial public statements that were indelibly burned into the popular memory.

Perhaps Sarkozy's ugliest known altercation with the common man took place on February 23, 2008 at an International Agriculture Show, when he responded sharply to someone who refused to shake his hand with the vulgar dismissal "Casse-toi, pauv' con" (get lost, you poor schmuck). At a minimum, his comment was regarded as un-presidential.

To be sure, Sarkozy had a long and successful political career during which he

held many contradictory positions which suited various segments of the electorate and which changed over time. He extolled Islam on a visit to Riyadh and was long an advocate of Muslim integration in France. He backed the notion of state appropriations for the construction of mosques, to ensure they were not financed and run from abroad. And yet, he was always tough on immigration and used inflammatory language when addressing the issue of violence by Arab and black minorities in the French suburbs.

However, questions of his domestic policies and presence or absence of charisma do not bear on Sarkozy's present predicament. The unique challenge he has faced from the beginning is that his accusers have not all been murdered like Gaddafi. In particular, the Libyan dictator's highly educated second son and political heir, Saif al-Islam, is very much alive to avenge the family's loss. Bush and Blair never had to contend with a challenge to their narrative of the Iraqi adventure from the circle of Saddam Hussein.

That the charges against Sarkozy have reached their present critical point cannot be separated from the recent release of Saif from captivity by one of the armed bands which held him for six years, nor can it be separated from his declared intention to run for president in elections to be held in Libya later this year. This development in Libya has mobilized the surviving regime members and those who were go-betweens with Sarkozy. The witnesses include Abdallah Sanoussi, former director of Libyan intelligence services, and Bashir Salah Bashir, the former CEO of Libya Investment, the country's sovereign wealth fund.

The second factor working against Sarkozy is the wave of popular repugnance in France with the old, corrupt political class that swept Emmanuel Macron to power last year and overwhelmed the candidate from Sarkozy's Republican Party, Francois Fillon. Fillon was caught out on the petty venality that has long typified French politics. In this sense, the Sarkozy case comes amidst a popular mood of house cleaning.

Why This is Worse Than Chirac

In considering Sarkozy's prospects, it bears mentioning that in 2011 ex-President Jacques Chirac, under whom Sarkozy served as minister at several points in his career, was found guilty of embezzlement and breach of trust when he was mayor of Paris in a prosecution delayed for years by the President's constitutional immunity. Chirac was accused of lavish entertainment at public expense, appointment to government jobs of party hacks, inflation in the number of such positions and similar measures to buy public support for his party and for himself.

The criminal prosecution of Chirac ended in the first conviction of a former

head of the French state for corruption. Chirac was given a two-year suspended prison sentence. Moreover, leniency towards Chirac seemed justified given his frail health and memory loss related to a neural disorder.

Of course, the charges against Chirac were child's play compared to those being leveled at Sarkozy today: illegal acceptance of foreign donations to his electoral campaign, accepting contributions which were double the allowable amount to campaign in the second round of voting.

Moreover, there were no foreign policy implications to the felonies committed by President Chirac as there are now with Sarkozy, who promoted an illegal aggression on a sovereign state, destroying it in the process, and opened the gates to mass illegal immigration and the spread of jihadism by deposing and possibly having Gaddafi murdered.

Even the U.S. has gotten into the anti-Sarkozy act. Hollywood actor George Clooney's wife Amal Clooney was quoted as saying recently: "Gaddafi is not guilty, it's Sarkozy who is guilty." The human rights lawyer of Lebanese-Libyan descent has also been a practitioner of criminal law in her high visibility professional career. She is known to be close to Ziad Takieddine, the French Lebanese who, as noted above, claims to have been an intermediary carrying funds from Gaddafi to Sarkozy.

When he left the interrogation and got into his car on his way home, Sarkozy is reported to have looked disheveled and haggard. During his televised defense on TF1, he looked nervous. And well he might, because to defend himself against the accusations Sarkozy had to muster a day-by-day recollection of his meetings with the various go-betweens who alleged bringing him cases of cash in 2007. He had, in particular, to discredit Takieddine, his main accuser.

The newspaper of the right, *Le Figaro*, issued a verbatim account of Sarkozy's defense the day after he was released. In its weekend print edition it published a full page on the Sarkozy affair. At the head of the page, was an article devoted to Sarkozy's dinner with friends and close family at his favorite Italian restaurant in the fashionable 16th arrondissement immediately after his television appearance.

The newspaper claimed that the former President had "electrified his supporters" and he was inundated by text messages not only from the Republican Party but from ministers, including several now serving in the Macron government. At the start of the gathering, we are told all present were busy reading incoming messages on their mobile devices. One message from Alain Juppé, long-time leader of the right, mayor of Bordeaux and Sarkozy's rival for presidency, bears mention: "I watched TF1, I found Nicolas Sarkozy extremely combative. I also

felt that he was deeply wounded, and I understand that. His argumentation seemed to me to be consistent.”

An article to the right of the page quotes one of Sarkozy’s close supporters and official spokesman for the Republican Party, Gilles Platret, who put the investigation into Sarkozy in a different light. He called it an attack on France and its presidency: “He [Sarkozy] was right to return the discussion to fundamentals. It is not so much the person who is being accused. It is the image of the presidential role. Can it be that a deceased dictator can still have an impact on the national sphere with accusations..?”

Platret regretted that the accusations “give a sad color to the French political life.” He was confident that Sarkozy will “reestablish the truth in this affair...He began to do just that this evening.” Platret reminded readers that Sarkozy achieved a great deal for France during his presidency: “History will recall this with a big letter H.” But the *Figaro* journalist added a word of caution: “Unless the courts decide otherwise.”

The greater part of the Sarkozy page in the weekend edition of *Le Figaro* was a point for point discussion of the charges against the ex-President. It called attention to the 2007 interview with Saif al-Islam on Euronews, which said he was carried off by the revolution and is now living in Egypt. It highlighted the key role of Takieddine as witness against Sarkozy. It also recalled the written agreement signed by the head of Libyan intelligence on financing Sarkozy, published by Mediapart in April 2012. *Figaro* said this document was found to be a forgery by investigators in another case, as Sarkozy argued in his televised defense.

The paper mentioned still another Libyan accuser, the former Oil Minister Choukri Ghanem, whose personal notebook was taken by French judges and is said to mention the financing of Sarkozy. Ghanem was never interrogated. He was found drowned in the Danube at Vienna in April 2012. The death was determined to be “accidental” by the Austrian police. *Figaro* points to the testimony given by Gaddafi himself when bombs were already falling on Tripoli, in which he mentioned financing the French but without any details.

The *Figaro* article tried to place the whole affair in a geopolitical context. It noted that around the year 2000, Gaddafi had sought respectability. He received President Chirac in Libya in 2004, and a year later Sarkozy, accompanied only by two translators. Gaddafi believed that Sarkozy would be the next president of France and was quoted by one of the interpreters as saying: “It is a good thing to have a brother, a friend at the head of France.” Tight relations were knit as well with the close advisers to Sarkozy, Claude Guéant and Brice Hortefeux. As soon as he took office, Sarkozy launched his Union for the Mediterranean, an

organization intended to promote North-South dialogue that was France's answer to the EU's Eastern Neighborhood Policy initiated by Germany.

Figaro then weighed the evidence against Sarkozy. It noted that no written proof of transfers of funds by Libya exists. It said that the sums transferred are described variously by different witnesses ranging from the 35,000 euros in cash dispensed in 2007 to some employees of the UMP party, all of which is a drop in the ocean, while accusers speak of between 20 million dollars and 50 million euros. As for the travel restrictions placed on Sarkozy by the judges, and the ban on association with his colleagues now undergoing separate interrogation, the paper remarked that the opportunity to coordinate their testimony existed ever since 2013 when the first accusations appeared. *Figaro* told the Sarkozy story with a distinct bias toward the ex-president, but without fully endorsing his innocence.

Le Monde's Alternative Take

Le Monde had a different and more dangerous take on Sarkozy. In a piece published on March 22 headlined, "Libyan financing: the blind spots of Nicolas Sarkozy's defense," the first paragraph says that the former president's argument "is sometimes specious, with dead ends on material elements to the case." It said Sarkozy focused his efforts on discrediting Takieddine, "But he skirts around numerous substantive elements gathered by the investigators since 2013."

In his televised defense, Sarkozy had rejected the notion that he had ever worked to advance the interests of the Libyan state. He reminded viewers that he had been responsible for getting UN approval to use military force against Gaddafi. *Le Monde* agreed but pointed out that Sarkozy's had a honeymoon with the Libyan leader at the start of his presidency.

Sarkozy's core defense is that there is no material proof to support any of the claims made that Takieddine transferred the funds. Sarkozy accused Takieddine of stealing from the Libyan state and said there is no evidence he ever met the man at any time between 2005 and 2011.

Takieddine is suspected of having been involved in other French electoral financing going back to the campaign of Edouard Balladur in 1995. But he is the one who helped form the relationship between France and Libya beginning in 2005 and was involved in other cases relating to France, in particular the liberation of Bulgarian nurses held in Libya on charges of AIDS contamination. Takieddine says he was then dropped by Sarkozy as an intermediary in favor of the French businessman Alexandre Djouhri, and so he first turned state witness in the Balladur case, then in 2012, came forward as a witness in the developing scandal

around Sarkozy.

Le Monde said that no mention of a meeting with Takieddine in the ex-president's personal agenda does not mean such a meeting never took place. The agenda was offered to judges by Sarkozy in another court case over alleged corruption during the 2007 electoral campaign. One can imagine that Sarkozy had no interest in noting in his agenda a meeting with Takieddine two months after the first revelations by Mediapart of alleged Libyan financing.

Le Monde is giving Sarkozy no slack. His every word and action is weighed against the possibility, if not likelihood that he is lying.

We will see shortly whether the French courts have the stomach to take the investigation of Sarkozy through to prosecution and conviction and possible jail time, unlike the American response to its own engineers of Middle East disaster.

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