

Viewpoints
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The Hague Tribunal and the Hariri Assassination

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On January 16 in The Hague, the Special Tribunal for Lebanon (STL) will open the trial of the suspects in the assassination of former Prime Minister of Lebanon Rafiq Hariri and 21 others who died with him. This trial can be important for Lebanon, for the region, and for the United Nations' tribunals because it carries the hope of ending a culture of impunity in Lebanon and in introducing a new culture that chooses the courts and the rule of law over revenge, retribution, and violence in the Middle East. The outcome of the trial has stark implications for the future of Lebanon and for international justice.

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Nine years after the assassination of former Prime Minister Rafiq Hariri, the Special Tribunal for Lebanon (STL) starts in the Hague this week with the trial of five Hizbullah members and supporters accused of perpetrating the slaying.

It is a historic day for Lebanon, for the United Nations, and for international justice. The international community established the Tribunal to end assassinations as a political tool and to put an end to the culture of impunity that had developed in Lebanon. The killing of Prime Minister Rafiq Hariri was supposed to become the “Last Assassination.”

For over 30 years, Lebanon witnessed countless political assassinations that went unpunished. Twenty prominent political figures were assassinated in Lebanon between 1975 and Hariri’s assassination in 2005, but twenty more assassinations and bombings have taken place in the country since then. The most recent assassination, on December 28, 2013, claimed the life of Ambassador Mohammad Chatah, former ambassador to the United States and former Prime Minister Saad Hariri’s foreign policy advisor.

The start of the Tribunal is also a historic day for the United Nations, which started the process and fulfilled its commitment to the Lebanese people because it is the first court to try those accused in a terrorist crime. After nine years of a very difficult process of obstruction of justice, more assassinations, toppling governments, leaks, and threats to the credibility of international justice, many doubted this day would come.

The Tribunal is also unprecedented in the region because it is perhaps the first time an Arab party or group is seeking international justice and not revenge against its adversaries. The majority of the Lebanese called for the truth, and the March 14 coalition led by the Hariri family chose the rule of law over resigning itself to silence or violence. No retributions took place despite the magnitude of the assassination.

Prime Minister Hariri was not an ordinary prime minister, and killing him was significant in its scale, importance, political fallout, and overall implications for Lebanon and the region. He had a web of Arab and international relations that made some say he is larger than Lebanon, while others simply called him “Mr. Lebanon.” Within a few hours after he was killed, hundreds of thousands of Lebanese had poured into the streets demanding the truth and calling for justice. The United Nations responded immediately, led by France and the United States. The Security Council issued a statement “unequivocally” and unanimously condemning the “terrorist bombing” in Beirut.

The Security Council sent a fact finding mission to Lebanon to investigate the assassination. It found a less than satisfactory crime scene in Beirut which alarmed the Security Council. It concluded that the “Lebanese investigation process suffers from serious flaws and has neither the capacity nor the commitment to reach a satisfactory and credible conclusion.”¹ It recommended an independent international commission to investigate.

¹ <http://www.un.org/News/Press/docs/2005/sc8353.doc.htm>

With a request from the Lebanese government, the Security Council started the process that led to the Tribunal. The international resolve was met and aided by a Lebanese public demand for justice. The majority of the Lebanese people demonstrated their unity in rallies of millions of participants in downtown Beirut to the international community.

The international support translated into voting for UN Security Council Resolution 1595 (2005) to establish an “international independent investigation Commission” to “assist the Lebanese authorities in their investigation of all the aspects of this terrorist act.”

The Commission found Lebanese and Syrian complicity in the crime. Its report concluded that there is “converging evidence pointing at the involvement of both Lebanese and Syrian officials in this terrorist act” and accused Syrian officials of trying to mislead the investigation. It found it “difficult to envisage a scenario whereby such a complex assassination could have been carried out without their knowledge.” Four top level Lebanese generals were arrested upon the recommendation of the Commission and accused of having a hand in the assassination.

The Security Council endorsed the work of the Commission by adopting Resolution 1636 (2005) under chapter VII calling this “terrorist act a threat to international peace and security.” It imposed sanctions on all of those suspected of involvement in the assassination in addition to calling on Syria to detain “those Syrian officials and individuals” suspected by the Commission in the assassination and demanding that Syria “must cooperate with the Commission fully and unconditionally.”

Although the attention of the whole world was on Lebanon, it did not stop the assassinations. More politicians and journalists from the anti-Syrian coalition continued to be gunned down in the streets of Beirut. Meanwhile, the political schism inside Lebanon grew larger with the approaching date of establishing the Tribunal. Nabih Berri, Lebanon’s Speaker of Parliament and Hizbullah and Syria’s ally, refused to hold a parliamentary session to approve the Tribunal agreement.

Based on a letter from Prime Minister Fouad Siniora informing the Security Council that the majority in the parliament supported establishing the Tribunal, the Council stepped in and adopted Resolution 1757 (2007) establishing the Special Tribunal for Lebanon (STL). The Tribunal was based on Lebanese law, but it had an international character. Its budget was set to be 51 percent from voluntary contributions from member states and 49 percent from the Lebanese government, thus granting domestic Lebanese politics veto power over the STL.

The process of establishing the investigation Commission and later the Tribunal was met with strong resistance by Hizbullah and Syria. From the start, Hizbullah was suspicious of the investigation, accusing it of being politicized and an “Israeli tool,” thus incriminating itself. Syria, on the other hand, “cooperated in form but not in substance,” as Resolution 1636 noted. False witnesses were introduced into the investigation, other witnesses or potential witnesses were killed or “committed suicide,” and the Commission’s investigators were attacked in Beirut’s southern suburbs and their computers confiscated, compromising valuable information for the investigation.

Hizbullah's rejection of the Tribunal translated into political gridlock in the country. In 2006, six ministers belonging to Hizbullah and its allies pulled out of the Siniora government over the establishment of the Tribunal. They organized a sit-in in downtown Beirut to force the resignation of the government. The prime minister and his ministers were under siege in the Grand Serail for months. But despite the siege and the sit-in, the prime minister and his coalition succeeded with the UN in establishing the Tribunal.

Again in 2011, Hizbullah and their allies pulled out of the government over the Tribunal causing the collapse of Prime Minister Saad Hariri's government. But the Tribunal continued, and, in the summer of 2011, the prosecutor handed down indictments of four Hizbullah members for their alleged role in the assassination of Prime Minister Hariri: Mustafa Badreddine, a Hizbullah leader; Hussein Oneissi; Salim Ayyash; Assad Sabra; and last summer a fifth person, Hassan Merhi, were named as the perpetrators. The prosecutor asked the Lebanese authorities to arrest them, and the STL made it clear that it was indicting individuals and not a party or a group in Lebanon. Hizbullah's Secretary General Hassan Nassrallah rejected the indictments, vowing that no power can find or arrest in 300 years "those honorable brothers" with a history of "resisting the Israeli occupation." The Lebanese government failed to arrest any of the accused, which led the Tribunal to decide to try them in absentia.

When the prosecutor takes the stand in the courtroom in The Hague this week, he will face empty defendant chairs, but the symbolism behind the beginning of the trial will be anything but empty. It is an "extremely important step toward achieving justice in Lebanon,"² UN Secretary General Ban Ki-moon said. It is unprecedented, and it will carry important lessons for the Lebanese and their international supporters.

The first lesson is for the international community about the power of its resolve and unity on behalf of justice. This resolve over the last nine years made this day possible in The Hague.

The second lesson is about the importance of not being intimidated. A majority of the Lebanese refused to be intimidated into surrendering their right to live in peace and dignity. No matter what verdict the court reaches in the future, many Lebanese feel they have already won.

The third lesson is about the emergence of a new culture in the Arab world that chooses the court room over the car bomb, justice over revenge, and the rule of law over the law of the jungle. The families of the victims who are heading to The Hague this week are a new breed of Arabs who choose to live in a future, one ruled by laws and reason.

The fourth lesson is found in Martin Luther King Jr.'s quote, "the arc of the moral universe is long, but it bends towards justice," which Ambassador Chatah repeated to those complaining about the lengthy Tribunal process. Ambassador Chatah did not live a month longer to see the trial start, but it will teach those who doubt Lebanon's resolve that it is giving the region another model to emulate.



The opinions expressed herein are those of the author and do not reflect those of the Wilson Center.

² <http://mtv.com.lb/en/News/293252>

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