



The Special Tribunal for Lebanon: Truth, Justice or Accountability?

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INTRODUCTION

Sixteen years ago, on Valentine's Day 2005, a massive car bomb exploded outside Beirut's St. Georges Hotel, killing Lebanon's former prime minister Rafik Hariri and 21 other people. Another 269 people suffered life-altering physical and psychological injuries, and the entire country was traumatized.¹ Before the Beirut port blast of Aug. 4, 2020,² this was the biggest explosion to hit a country that had experienced 15 years of civil war.

In the aftermath of the assassination, the Cedar Revolution brought over a million people onto the streets, leading ultimately to the withdrawal of Syrian troops from Lebanon after nearly 30 years. Whether intended or not, Hariri's assassination brought an end to Pax Syria.³

However, Hariri's murder was not the only assassination to have been committed in that year — over a dozen other critics or opponents of Syrian domination had been attacked or killed in 2004 and 2005.

The international community reacted, as it often does, by issuing a number of UN Security Council resolutions and setting

up an investigative commission to assist the Lebanese authorities in investigating these crimes.⁴ By the end of the year, the Lebanese demanded more assistance from the international community in obtaining justice and accountability, and requested the establishment of an internationalized tribunal.

Despite vocal opposition from the-then minority pro-Syrian "March 8 Alliance," the Special Tribunal for Lebanon (STL), based in Leidschendam in the Netherlands, began work four years after the assassination.⁵ Thus began the STL's battle for legitimacy and recognition.

In the years since the issuance of UN Security Council Resolution 1757 which established the STL, those opposed to the tribunal have gone to great lengths to prevent it fulfilling its mandate,⁶ including attacking its investigators and attempting to intimidate witnesses.⁷

In January 2008, a car bomb killed Wissam Eid, the Lebanese investigator who is widely credited with major breakthroughs in the technical aspects of the investigation into the 2004-2005 terrorist attacks, and in October 2012 another car bomb killed Wissam Al-Hassan, head of Lebanon's internal



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intelligence agency, who had led the initial investigation into the assassination of Hariri.⁸

Ultimately, its opponents failed in undermining the work of the STL but succeeded in damaging its reputation among the Lebanese. Through sustained media campaigns the tribunal was portrayed as “an American-Zionist” plot against the “Resistance” on the one hand and, on the other, as ineffective because it neither prosecuted nor convicted Hezbollah or Syria.⁹

So, when the tribunal issued its judgment on Aug. 18, 2020, convicting Hezbollah member Salim Jamil Ayyash but acquitting his three co-defendants, some celebrated the “exoneration,” while most decided the process had failed because it “convicted only one person.” Many, however, had little idea as to the tribunal’s actual findings and chose to ignore them.

THE STL DID AND STILL CAN REINFORCE INTERNATIONAL JUSTICE

The Special Tribunal for Lebanon was the first of its kind. It represents a successful multilateral effort to reinforce a rules-based international order. It is also the first

Former PM Rafik Hariri was a very well protected man with both private security and that provided by the state of Lebanon.
(FILE/Getty Images)

international tribunal with jurisdiction over terrorism and the first to conduct trials in the absence of the accused (but with the participation of counsel appointed to conduct their defense.) For the first time in the region, the tribunal introduced the principle of accountability for political crimes, which today is needed more than ever.

Despite tough initial negotiations at the UN Security Council, a number of states cooperated with the Independent International Investigation Commission which preceded the STL, and 29 countries voluntarily contributed to the tribunal’s funding.

At the local level in Lebanon, the STL did deliver a significant part of “the truth” that people had sought after the assassination of Hariri. However, due primarily to unrealistic expectations and the lack of consensus on the objectives of truth, justice and accountability, STL’s critics in Lebanon claim that the tribunal delivered too little too late and at huge cost, with several periods of instability and paralysis.

THE TRIBUNAL LAID OUT FACTS THAT CANNOT BE IGNORED

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Rather than focusing on what the STL could not and did not do, its stakeholders in Lebanon and internationally would benefit from an earnest examination of the judgment and the process that led to the tribunal's creation and governed its conduct. Such an examination would have to include a clear understanding of the system of international criminal justice and its limits, as well as the specific restrictions placed on the STL. These are essential prerequisites for properly evaluating the importance of the judgment issued on Aug. 18, 2020 and identifying possible avenues by which the judgment and the facts it established can be used to take Lebanon down the path of justice and accountability.

Disappointment with the judgment is based on a combination of unrealistic expectations, a lack of understanding of the tribunal's rigorous procedures, and legitimate concerns about the narrowness of its mandate and the length of time it took to reach its judgment — nine years from the indictment and 15 years after the crime, at an estimated cost of around \$700 million.

In view of the scale of suffering during the Lebanese civil war, for which no one has ever been held accountable, and the dozens of political assassinations throughout Lebanon's history, it was indeed difficult to argue that the assassination of one man warranted such an expensive and complex legal instrument.

This added to the unrealistic expectations that the tribunal would address much broader issues of states and groups which regularly interfere with and undermine the authority of the Lebanese nation. This is also evidenced by the little-known fact that the tribunal's victims' liaison officer received many calls from victims of the civil war and other conflicts in Lebanon requesting assistance in achieving some measure of justice — justice that the tribunal could never provide.

In 2005, after the Hariri assassination, Lebanese protesters demanded “the truth.” In simpler and less controversial terms, they wanted to know who did it.

On Aug. 18, 2020, the STL provided the answer — the terrorist attack that killed 22 people, injured 226 and devastated a significant part of Beirut was carried out by a well-organized and disciplined group of individuals. The judgment, which is publicly available on the tribunal's website, consists of



For the first time in the region, the tribunal introduced the principle of accountability for political crimes

2,641 pages of important and judicially tested facts about Lebanon's recent past.¹⁰

Former PM Hariri was a well-protected man, with both private security and that provided by the state of Lebanon. During 415 days in court, the judges heard from 297 witnesses, received 171,000 pages of exhibits, and concluded that the careful planning and preparation required to assassinate someone as closely protected as Hariri involved at least 10 and possibly many more individuals, who used four different interconnected, coordinated and covert mobile phone networks.

On the afternoon of that fateful Valentine's Day, the criminals also attempted to divert attention from themselves by creating a false claim of responsibility. They kidnapped, filmed and then disappeared a young man by the name of Abu Adass. In the video, he claimed responsibility for the assassination of Hariri on behalf of a nonexistent militant group.

The judgment provides details of this carefully planned crime — obtaining detailed knowledge of Hariri's movements, his convoy, its personnel and his usual position within it; establishing closed mobile networks for communications between those with a role in the plot; choosing a method of assassination; obtaining the vehicle used for the killing; picking a suitable site for an explosion; selecting a manner of detonation, including recruiting the suicide bomber; procuring the explosives; and setting up the claim of responsibility, including arranging Adass' role in it.

The judgment also describes the political situation in Lebanon leading up to Hariri's assassination and concludes that the attack was intended to resonate throughout the country and the region, and that its intended effects were not just confined to Hariri's supporters but were designed to destabilize Lebanon generally.

The judges also concluded that the attack did not occur in a political or historical vacuum, and that Syria and Hezbollah may have had motives to eliminate Hariri and his political allies.¹¹

In fact, the judges stated that the evidence presented was sufficient to establish that the-then chief of Syrian military intelligence in Lebanon Rustum Ghazaleh, who “had received regular monthly cash payments

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A general view shows the site of a massive explosion in Beirut where Lebanon's former prime minister Rafik Hariri was killed 14 February 2005. (FILE/AFP)



from Hariri through intermediaries from 1993 onwards,” had a reason to “demand a double payment on the day before Hariri’s death, meaning that he had grounds to believe that there would be no more payments from that date onwards.”

THE STL CODIFIED MEMORY FOR THE LEBANESE

Like the judgments at the International Criminal Tribunal for the former Yugoslavia (ICTY), the judgment of the special tribunal is highly important for Lebanon because it is a treasure trove of information about what happened, not only on Feb. 14, 2005, but also in the years of the period referred to as Pax Syriana.

The tribunal’s rigorous process also means that every fact mentioned in the judgment has been proven beyond a reasonable doubt.

As all observers familiar with the context of the former Yugoslavia will attest, the ICTY, despite the immense body of evidence it collected and the facts it established beyond

reasonable doubt, is viewed with skepticism by many.¹² Revisionism and denial are still rampant among politicians and other segments of society.¹³

However, thanks to the existence of the irrefutable evidence established by the ICTY, such denial can be costly. For example, recently the Montenegrin minister of justice, human and minority rights faced calls for his dismissal because he expressed doubt that the 1995 massacres of Bosniaks from Srebrenica constituted genocide, as had been established in multiple ICTY cases.¹⁴

More importantly, while politicians and their views will fade from memory, the archives and evidence collected by the ICTY will remain available for examination by researchers and journalists for decades to come.

The same is true of the STL’s judgment. Its 2,641 pages and the evidence laid out in them belong primarily to the people of Lebanon where, thus far, the culture of “moving on” and a deeply ingrained concept of leaving the past behind in the name of “stability”

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On Aug. 18 2020, the STL provided the answer – the terrorist attack that killed 22 people, injured 226 and devastated a significant part of Beirut was committed by a well-organized and disciplined group of individuals. (Supplied)

have always prevailed. Yet, the country does not appear to be particularly stable at the moment. Perhaps it is time to take a different approach and embrace the truth, no matter how hard it might be.

This is particularly important today when an increasing number of people from all corners of Lebanon are asking for international assistance in achieving justice and accountability for the economic collapse of the country and an international investigation into the August 2020 Beirut port blast that killed over 200 people, destroyed a significant portion of the city and left thousands injured and tens of thousands homeless.

It is difficult to imagine anything on the scale of the tribunal being created again, which is why its continuity is crucial for maintaining the principle of accountability and international protection.

The recent news of the tribunal's financial crisis and possible premature closure are worrying. This would be a detrimental

development. Failing to address the findings of the judges in the Hariri case and halting the case dealing with the attacks against Marwan Hamade, Georges Hawi and Elias El-Murr on the eve of trial would broadcast the message that impunity prevails in the Middle East. For Lebanon, this would mean no justice for other crimes, such as the port explosion, and resumed political assassinations, such as the murder in February 2021 of Luqman Slim, an outspoken critic of Hezbollah.¹⁵

The negative impact of prematurely closing the STL would reverberate far beyond Lebanon. In fact, arguments to expand the tribunal's jurisdiction are more convincing than those to shut it down. Militias and terrorist organizations have committed similar assassinations and other crimes in Syria, Iraq and Yemen.

What happens in Lebanon never stays in Lebanon, but has repercussions over an entire region suffering from assassinations, terrorist crimes and financial turmoil.

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