

Commentary

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A criminal against humanity who missed his redemption

[Chibli Mallat](#) | The Daily Star

Justice, this is what everyone says is missing in the comeuppance of a man who chose, in the title of his memoirs, to be remembered as the Warrior. Even Kenneth Roth, the indefatigable leader of Human Rights Watch, underlined that missing story in a comment Saturday.

It is unfortunate that, unlike Amnesty International, Roth did not actively support the case against Ariel Sharon when the judicial battle was raging in Belgium. This might have tipped the balance of U.S. opinion in favor of the lawsuit as a different way to deal with mass crime in the Middle East.

The victims of Sabra and Shatila won nonetheless, after a titanic battle. They had their day in court, Sharon was on trial for two years, and he was particularly upset by the Belgian prosecution siding with the victims. The historic decision of the Belgian Court of Cassation, the highest court in the country, was handed down on Feb. 12, 2003, and immediately led to the Israeli government withdrawing its ambassador to Brussels. The victims won, and the investigation proceeded toward the foregone conclusion of Sharon's "personal responsibility" (conclusions of the Kahan Commission in 1983).

It took the full might of the U.S. government to reverse the practical effects of the decision, and it is little known that Saddam Hussein deliberately saved Sharon when he used the precedent we won in Belgium to launch a series of desperate cases against top U.S. officials, all dismissed promptly. Sharon and Hussein were true comrades in mass crime. The result was immense pressure by both the U.S. Secretary of State and the Secretary of Defense on the Belgian government to change the law under which Sharon was tried. The pressure stopped the proceedings in Belgium.

But the initial victory in the supreme court of Belgium cannot be taken away from the victims of Sabra and Shatila. They had their day in court, and they won.

With the news of Sharon's death after his long coma, two thoughts strike me about his legacy. This was a proud self-described warrior, he did not mind being a bulldozer. The greatest disappointment I

recall from the trial is that Jewish Israelis, especially in the legal profession, did not openly support the victims, despite the fact that the largest demonstration in the history of Israel happened after Sabra and Shatila, and a young Jewish man, Emil Grunzweig, was killed in another demonstration against the then-defense minister. When the case was won in Belgium, a group of brave Israeli women expressed their open support to the Palestinian and Lebanese women whose husbands and sons had perished in the massacre ordered by Sharon. There were also a number of courageous Israeli lawyers and academics who helped at various stages; I remember in particular Leah Tsemel and Dan Rabinowitz. Tsemel provided documentation from Israel early in the process to support our case, and Rabinowitz told me and my colleague Luc Walleyne at a conference in Princeton a few days after the 2003 victory in court that he had evidence of the Israeli government engineering the killing of Elias Hobeika and his aides in a car bomb in Beirut to prevent them from testifying in Belgium.

On the whole, however, the Israeli legal establishment, and the public, did not support the case. This is what I fear is the most troubling legacy of the Sharon case. Was he only the Israeli bulldozer, or are the Israeli public and legal elite who did nothing to stop his relentless violence against the Palestinians the same? Is it just Sharon the bulldozer, or Israel the bulldozer state?

I want to end with a second, more positive thought on his legacy. Sharon withdrew from Gaza in 2005 and dismantled the massive Jewish settlements established there over decades. This is an extraordinary feat, but his hatred for the Palestinians was such that the unilateral withdrawal was required with nothing. True, the withdrawal came with an intensification of settlements in the West Bank, but Sharon did not need to withdraw from Gaza. It was against his character. He had bulldozed Palestinian villages and orchards all his life; here he was abandoning Jewish settlements. It was a signal for something different, and I believe that it was owed mainly to the Sabra and Shatila case in Belgium, which humbled him and showed that violence is a dead-end policy. Sharon had studied law in his youth, and he was afraid of the law. When the victims of Sabra and Shatila brought the case against him, something collapsed in part of his bulldozing nature. But he missed the occasion to be a De Klerk, and it is true that there was no Nelson Mandela on the other side to change the course of history away from bulldozers and warriors.

Chibli Mallat, a lawyer and professor of law, won for the victims of the 1982 Sabra and Shatila massacres a historic decision against Sharon in Belgium on Feb. 12, 2003. His latest book, "Philosophy of Nonviolence," will appear at Oxford University Press in 2014.

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