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A public funeral, international tribunal, and justice denied for Lebanon

The tribunal, established to find the assassins of Rafik Hariri, is struggling to prove it can deliver justice. Last week it declared that it would proceed with the trial of a suspect publicly acknowledged as dead.

By **Nicholas Blanford**, Correspondent | JUNE 8, 2016

Beirut, Lebanon

The death last month of a top Hezbollah commander in Syria prompted proud eulogies from the party's leadership, satisfaction from his enemies – and, in a quiet suburb of The Hague, a legal quandary.

For Mustafa Badreddine was not only a veteran Hezbollah commander who oversaw the party's military intervention in Syria. He is also being tried in absentia by an international tribunal for helping to organize the 2005 assassination of Rafik Hariri, a former billionaire prime minister who was killed, along with 22 other people, in a massive truck bombing in central Beirut.

Although Badreddine was given a full public funeral and his body lies buried in Hezbollah's "martyrs" cemetery in southern Beirut, the Special Tribunal for Lebanon (STL) has concluded that his trial would continue.

"The Judges do not believe that sufficient evidence has yet been presented to convince them that the death of Mr. Badreddine has been proved," the STL said in a statement last week.

The STL's decision has hardened the perception among many in Lebanon that the tribunal, which is tasked with uncovering and prosecuting Mr. Hariri's killers, has failed in its core mission. After 11 years and hundreds of millions of dollars, those that ordered Hariri's murder and the motive behind the assassination are still unknown and the subject of intense and conflicting speculation. The only men currently on trial are Badreddine and four other Hezbollah men, who are alleged to have been foot soldiers rather than architects of the assassination plot.

"[The STL] has been beneath all expectations ... it's a case of justice delayed, justice denied ... and this idiotic rejection of the death of Badreddine is another expression of their surreal impotence," says Chibli Mallat, presidential professor at the University of Utah and author of "Philosophy of Nonviolence: Revolution, Constitutionalism, and Justice beyond the



Hezbollah leader Sayyed Hassan Nasrallah (c.) speaks via a video link during a May 20 ceremony in Beirut marking the death of Hezbollah commander Mustafa Badreddine, who was killed in an explosion in Damascus the previous week. (Hussein Malla/AP)

Middle East."

Furthermore, with more than a quarter of a million people killed in five years of civil war in Syria and massacres and atrocities committed across the region on a near daily basis, the murder of one Arab politician more than a decade ago fades into insignificance in the minds of many.

"[The STL] was set up as the Cadillac version of justice for one person in a country where there is no justice for so many victims and in a region where justice has made no inroads," says Nadim Houry, deputy director of the Middle East and North Africa division of Human Rights Watch.

Tribunal initially seen as a potent force

The STL, which is funded equally by Lebanon and the international community, is unique compared to other international tribunals. It is the first time that an international tribunal has recognized an act of terrorism as an international criminal case, and the first to be established on the basis of the murder of one man.

But though there is no move to bring the proceedings to a premature end, the STL's critics doubt that it will serve as a model for tribunals in the future.

"The STL has killed any possible future STLs because it has been so hopelessly incompetent," says Mr. Mallat. "Tons and tons of money are involved in a process that is deadlocked and disheartening and nobody takes them seriously any longer."

It was not always this way. The United Nations-mandated international investigation into Hariri's murder and the subsequent creation of the STL was initially seen as a potent force that could disrupt the balance of power in Lebanon – and possibly Syria – to the benefit of a Western- and Saudi-backed camp against their Hezbollah-led opponents, who were supported by Iran and Syria. The Syrian regime was widely suspected of ordering Hariri's assassination.

The tribunal's supporters argued that Hariri's killers had to be brought to justice and that the era of impunity for assassinations in Lebanon must end. Hezbollah and its allies maintained that the international investigation was heavily politicized and intended to be used as a tool to pressure Syria.

Indeed, if Syria had not been the main suspect, the tribunal may never have emerged. But in 2005, Syrian President Bashar al-Assad had earned the ire of Washington and Paris for his domination of Lebanon and for funneling foreign jihadist fighters into Iraq to fight US-led coalition forces. Both the US and France were enthusiastic supporters of an international investigation in which many believed the Syrian leader would eventually be implicated.

Slow progress

The first progress report of the international investigation released in October 2005 clearly pointed a finger of guilt toward the Syrian regime and its Lebanese allies. But subsequent progress was slow.

Then in 2009, four years into the investigation, the German news magazine Der Spiegel revealed that new evidence suggested Hezbollah members may have played a role in the assassination. The notion that the Shiite Hezbollah may have been responsible for killing an iconic Sunni leader electrified Lebanon and sparked concerns that it could cause civil strife. Hezbollah denied all responsibility and embarked on a campaign to discredit the tribunal in the eyes of its supporters.

In August 2011, the STL issued indictments against four Hezbollah men, including Badreddine. A fifth Hezbollah member was subsequently indicted. The trials began in absentia in January 2014.

The basis of the indictment lies in a complicated analysis of cellphone usage that allegedly linked the five conspirators together. Much of the trial in The Netherlands has comprised of lengthy technical debate over the cellphone analysis.

“Based on what I saw [of the evidence], I was amazed at the time that they [the prosecution] felt they could indict them,” says a former investigator with the tribunal who spoke on condition of anonymity.

Justice for Lebanon

Still, regardless of whether the five Hezbollah men are found guilty at the end of the lengthy judicial process, the bigger questions of who ordered Hariri’s assassination and why will likely remain unanswered – and possibly never known. Although the tribunal was supposed to end the era of unsolved political killings, more than a dozen politicians, journalists, and security personnel working on the Hariri case were subsequently targeted for assassination.

The implications of the STL experience on future international tribunals is unclear. Other tribunals currently in operation have proven successful. On June 1, an African Union-backed tribunal in Senegal handed down a life sentence to Hissène Habré, the former ruler of Chad, after he was found guilty of crimes against humanity during his dictatorship in the 1980s.

But in the Middle East, the broader message of the STL experience for justice is bleak.

“It’s another failed attempt [at international justice] which will reinforce the cynics that [believe] there is no space for accountability in this region,” says Mr. Houry of Human Rights Watch. “It didn’t push the conversation forward but sank in the morass of regional politics.”

Justice for Lebanon remains elusive, not only for the victims of the Hariri assassination and the politically motivated killings that followed, but also for the more than 100,000 people who perished during Lebanon’s 1975-90 civil war and the 17,000 people who disappeared without trace during the conflict. Lebanon adopted a policy of collective amnesia in an effort to move on after the war.

“Maybe a serious truth and justice commission is needed for Lebanon ... but that requires a leadership in the country which is not there,” says Mallat. “What we were hoping for is that the tribunal would provide a way out of this and it failed ... because the UN moved too slowly and without determination.”

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