

# Peace vs. Justice in Lebanon: The Domestic and Regional Implications of the UN Special Tribunal

**Benedetta Berti**

In December 2005, when the government of Lebanon requested assistance from the United Nations in the investigation and trial of those responsible for the assassination of former prime minister Rafiq Hariri, the public response, both domestically and abroad, was highly positive. The creation of the United Nations Special Tribunal for Lebanon (STL) was seen as an important, transparent step towards securing justice for the Hariri murder while fostering a process of national reconciliation. However, five years later, as both external relations and internal stability appear shaken by the likely upcoming release of the Tribunal's first set of indictments, Lebanon is left wondering whether it will be able to strike a balance between its need for justice and its need for peace, or whether it will be forced to choose between the two.

Specifically, leaks regarding the STL's alleged implication of Hizbollah members in the Hariri murder have dramatically heightened the tension between the organization and its supporters – from the outset opposed to the Tribunal – and the Saad Hariri-led March 14 government. This charged atmosphere has been especially noticeable in the past six months, as the indictments were originally expected to be issued between September and December 2010.<sup>1</sup> As of late 2010, internal sources began to suggest that the release of these preliminary findings may now be delayed until the spring of 2011,<sup>2</sup> but this has not helped to ease the tensions surrounding the STL investigation.

The article looks at how the expected indictments have been at the center of both Lebanese domestic and foreign policy over the past few

Benedetta Berti, research associate at INSS

months, and it analyzes the potential regional implications of the current state of affairs within Lebanon.

### **The STL and Internal Stability: The Role of Foreign Players**

In the past few months domestic tensions surrounding the STL investigation has drawn a great deal of international attention. Consequently, there has been increased outside involvement in Lebanon's internal affairs, both in an attempt to contain further escalations of the sectarian tensions, and as direct intervention on behalf of one of the parties (specifically, Hizbollah), which in turn fuels the ongoing conflict.

Syria and Saudi Arabia have dominated the first type of intervention. Since August 2010, the two countries have been involved in a series of bilateral and trilateral meetings aimed at preventing the escalation of violence within Lebanon and at agreeing on a common approach regarding the STL and how to deal with the indictments once they are finally issued.<sup>3</sup> However, beyond contributing as "mediators," through these meetings Syria and Saudi Arabia have had the opportunity to stress their power and influence on Lebanese domestic policy and their direct impact upon the decisions taken by Prime Minister Saad Hairy. For example, in November 2010 a local newspaper reported that the ongoing internal discussions on how to deal with the STL were temporarily postponed until the end of the month in anticipation of a Saudi-Syrian agreement on the Tribunal, which would in turn be implemented domestically, possibly offering a way out of the current crisis.<sup>4</sup>

At the same time, while Syria has been directly involved in the meetings with Saudi Arabia and the Lebanese government to prevent escalations of violence within Lebanon, the ongoing STL investigation and the possible indictment of Hizbollah members have begun to take a toll on its relations with the Lebanese government. Recent months saw increased contacts between members of the March 14 forces and the Syrian regime, a trend that culminated in Saad Hariri's official apology to Syrian president Bashar al-Asad for having accused Syria of involvement in the murder of his father.<sup>5</sup> However, despite this dramatic step by Prime Minister Hariri towards the Syrian regime, no real progress in the diplomatic relations of the two countries seems possible as long as the Tribunal's findings threaten to attack Syria's ally Hizbollah.

In fact, in September 2010 Syria's foreign minister Walid al-Muallem began to speak to this issue when, echoing the position of Hizbollah

and the opposition forces, he requested that the STL be replaced by an exclusively Lebanese investigative team.<sup>6</sup> More interestingly, only a week after these statements were released, a Syrian judge issued arrest warrants for 33 Syrian and Lebanese citizens, accusing them of tampering with evidence and giving false testimony regarding the Hariri murder.<sup>7</sup> Although Syria's ambassador to Lebanon Ali Abdul Karim was adamant in explaining that the indictments were a purely judicial act, with no political implications, it is easy to interpret them as part of Syria's campaign to discredit both the Tribunal and the Lebanese government's efforts to uphold its legitimacy. This theory gains particular weight since the Syrian indictments play directly into Hizbollah's campaign to undermine the STL and the prosecution's alleged reliance on false witnesses. Furthermore, Syria's distress over the progress of the STL investigation and the Lebanese government's renewed support for its work has been expressed even more directly. In October 2010, Syrian prime minister Muhammad Naji al-Itri gave his country's view of the elected Lebanese government, saying, "We do not take into consideration 14, 15, or 16 since those are a house of cards."<sup>8</sup> In other words, the Syrian government wanted to downplay the importance of the March 14 coalition and depict it like an unstable political force on the brink of collapse.

Another external player that recently increased its involvement in the STL issue, openly questioning the Tribunal and defending Hizbollah, is the organization's main regional ally, Iran. During an important visit to Lebanon in October 2010, Iranian president Mahmoud Ahmadinejad expressed his support for the Lebanese-Shia organization while questioning the work and independence of the STL.<sup>9</sup> From the opposite pole, the United States, in response to the rising political strength of the anti-STL camp and to the increased involvement of Iran, has also stepped up its diplomatic efforts regarding the UN Tribunal.<sup>10</sup> In this context, Assistant Secretary of State for Near Eastern Affairs Jeffrey Feltman recently visited Beirut, urging the government to continue to support and cooperate with the STL, as well as to commit to accept its findings.<sup>11</sup>

Thus the STL and its ongoing investigations have risen quickly to occupy a central role in Lebanon's current external relations. On the one hand, the expected indictments have put a strain on the development of diplomatic relations with Syria and have led to increased Iranian involvement on behalf of Hizbollah. On the other hand, the Lebanese

government is also under pressure from its Western allies, the United States in particular, to renew its support for the Tribunal, in sharp contrast with the Syrian and Iranian position.

### **Lebanese Domestic Politics: The Escalation of the anti-STL Campaign**

Over the past few months, Hizbollah has mounted a twofold campaign to both discredit and attack the STL and its work, and to create an alternative domestic forum to investigate the Hariri assassination. The tones used by the organization in pursuing this campaign have grown increasingly aggressive, leading to a general rise in the political and sectarian tensions.

First, Hizbollah's posture on the UN tribunal, which it has always opposed, has become progressively more confrontational. As early as July 2010, the arrest of two employees of Alfa, one of the two local mobile phone companies, in connection with a larger investigation that targeted Lebanese citizens accused of spying for Israel, led Hizbollah to substantially raise its criticism of the Tribunal.<sup>12</sup> In fact, the alleged reliance of the STL on phone records acquired through Alfa made Hizbollah question the reliability of the evidence gathered by the Tribunal.<sup>13</sup> Following the Alfa arrests, the Lebanese-Shia organization began to openly dismiss the UN Tribunal as an "Israeli project,"<sup>14</sup> while the organization's deputy leader Walid Suktaryieh declared: "The credibility of the international tribunal is seriously in doubt, as it has proven over time that it was politicized."<sup>15</sup>

A second strategy employed by Hizbollah to question the reliability of the STL, in addition to challenging its records and evidence, has been to claim to have acquired information that directly implicates Israel in the Hariri murders, an allegation first advanced in August 2010.<sup>16</sup> However, when pressed by both Lebanese general prosecutor Judge Saed Mirza<sup>17</sup> and by STL prosecutor Daniel Bellemare to turn in the evidence, Hizbollah first hesitated, and then provided information deemed as "incomplete."<sup>18</sup>

In addition to discrediting the STL, Hizbollah has begun to prepare for possible indictments against its members, indicating that it will consider such documents a "declaration of war" and that it will refuse to hand over its members to the Tribunal.<sup>19</sup> These hostile declarations were followed on October 28, 2010 by a speech by Secretary General Hassan Nasrallah, with the confrontational tones again targeting the STL, following a clash

between the Tribunal's investigators and a group of women in response to the UN team's request to access gynecological records held by a clinic in the southern suburbs of Beirut.<sup>20</sup> Nasrallah affirmed: "Copies of whatever the international investigators collect are transferred to Israel ...what is taking place is a violation. The investigation is over. The indictment they say will be issued has been written since 2006. The issue is over." Furthermore, the secretary general urged that it was incumbent on "every official in Lebanon and on every citizen in Lebanon to boycott these investigations and not to cooperate with them,"<sup>21</sup> marking the peak of the anti-STL campaign.

While criticizing the Tribunal and calling for its boycott and ultimate dissolution, Hizbollah also condemns the STL's refusal to try a number of alleged false witnesses accused of having derailed the investigation on the Hariri assassination in its early stages. Accordingly, these individuals are responsible for fabricating and tampering with evidence against Syria; their testimony allegedly contributed to the arrest of four generals from the pro-Syrian camp, who were later detained without charge for four years, before being released for lack of concrete evidence.<sup>22</sup>

In July 2010 Hizbollah began to actively campaign to intervene in the "false witnesses case," and it urged the government to create an ad hoc committee to investigate the issue.<sup>23</sup> The government initially refused the organization's request, which was seen both as interfering with the STL as well as overstepping the constitutional limits on the power of the legislative branch, as such an investigation is the purview of the judiciary system. However, in the wake of Hizbollah pressure, in August 2010 the Council of Ministers agreed to review the so-called "false witnesses file," a document largely influenced by the testimony of Brigadier General Jamil al-Sayyed, one of the four pro-Syrian generals originally detained in connection with the Hariri assassination.<sup>24</sup>

In this context, the Syrian indictment of 33 alleged "false witnesses" in September 2010 directly played into Hizbollah's campaign, leading the organization to step up its efforts to create a de facto parallel investigation. With this objective the organization began to campaign to discuss the false witnesses file in the Cabinet, claiming that it was the single most important issue that should be discussed by the government, and that its examination could not be postponed.<sup>25</sup>

In the past few months Hizbollah and the opposition forces have maintained this same posture, demanding that the Cabinet vote to transfer the “witnesses file” to the Judicial Council. This has led to repeated clashes with the March 14 forces, which maintain their opposition to the proposal.<sup>26</sup> Eventually these tensions escalated to the point where the opposition ministers organized a de facto boycott of the Cabinet and held alternative meetings to discuss the witnesses file.<sup>27</sup> As of November 2010, the two camps agreed to temporarily postpone the confrontation on this issue and thereby avoid an open clash within the Cabinet, which could lead to a severe crisis of the Hariri government or even the paralysis of the political system, in the event of a prolonged boycott by the opposition forces.<sup>28</sup>

### **The Potential for Renewed Internal Conflict**

Although no open clashes between the Hizbollah-led opposition forces and the March 14 camp have taken place so far, the tones of the political confrontation have become increasingly aggressive. Indeed, Hizbollah has been escalating the atmosphere by flaunting its military strength, perhaps as a warning to the government in the event of a future indictment of organization members. The best example of this tactic was Hizbollah’s display of approximately fifteen vehicles with fighters and weapons at the Beirut International Airport in mid-September as part of a welcoming parade for Brigadier General Jamil al-Sayyed.<sup>29</sup> In expressing its support for the pro-Syrian general first implicated in the Hariri murder and then released for lack of evidence, Hizbollah declared: “The party will cut the hand of whoever tries to touch General al-Sayyed. Jamil al-Sayyed and Hizbollah are under the law and respect the state institutions. We are attached to the state but we also know for a fact that some judges are politicized and corrupt and this is what we are opposed to.”<sup>30</sup> This public display of force was followed only a few weeks later by a Hizbollah exercise in Beirut, allegedly to show the group’s ability to assume control of the capital in the event of an armed confrontation.<sup>31</sup>

In response to this dynamic, the March 14 forces have increased their criticism of Hizbollah, while maintaining their support for the work of the UN Tribunal. Specifically, March 14 forces have interpreted Hizbollah’s refusal to respect the STL and its campaign to create an alternative file as part of a subversive project to ultimately take over Lebanon through a

coup and transform it into an Iranian proxy.<sup>32</sup> For instance, on November 3, 2010, an official March 14 statement defined Hizbollah's anti-STL stance as part of an "anti-Lebanese intimidation campaign," adding that "disastrous scenarios are also pumped on a daily basis with the aim of taking possession of the country for good. Hizbollah, a totalitarian party which is leading the campaign, is mistaken if it believes its conditions and its campaign will force the Lebanese to go back on their constant principles. No one has the ability to turn the clock back or cancel the national achievements made by the independence uprising."<sup>33</sup> In addition, March 14 Christian leaders have also stressed their perspective on the potential Hizbollah takeover, adding that Lebanon is at present in "grave danger."<sup>34</sup> Thus the potential for violence between the parties is high, as confirmed by an *Al-sharq al-Awsat* report detailing how, following the political clashes on the false witnesses file, the Lebanese arms market registered a substantial increase in its local demand.<sup>35</sup>

At the moment, however, some factors are preventing this escalation: the delay in issuing the indictments, the ongoing Syrian-Saudi reconciliation efforts, and the internal efforts to prevent a governmental crisis. While the timing of the indictments cannot be controlled internally, the single most important step that Lebanon can take to avoid the escalation of violence is to keep the prime minister in power. The possible resignation of Saad Hariri could lead to a power vacuum and the collapse of the elected government, raising the potential for the parties to take the confrontation from the parliament to the streets.

In the longer term, however – if the STL indictments implicating Hizbollah are indeed issued – Hariri will have to face an extremely complex political dilemma, having to choose between continuing cooperation with the STL and refusing to follow up on the Tribunal's findings. While the former option risks the collapse of the government, the alienation of Hizbollah, and even the resumption of sectarian violence, the latter course of action is also highly problematic. In fact, by "dodging the bullet" and rejecting the need to take Hizbollah to task, Hariri would not only be going against the country's international commitments with respect to the STL, but also – more importantly – he would lose the political credibility he needs to continue to govern the country.

**Conclusion: Implications of the UN Special Tribunal for Lebanon**

In the past few months, reports signaling an imminent issuing of indictments of Hizbollah members in connection with the 2005 political assassination of former prime minister Rafiq Hariri have led to significant regional and domestic consequences.

Regionally, the political crisis created by the STL investigation has increased the direct influence of Syria and Saudi Arabia on Lebanon through their ongoing mediation efforts. At the same time, however, the possible indictment of Hizbollah members has led to a freeze in the detente between Syria and the Lebanese government, as the Assad regime has advocated increasingly against the Tribunal. In this sense, Lebanon finds itself the object of intense international pressure both from the pro-STL camp (especially the United States), as well as from the local supporters of Hizbollah (Syria and Iran).

Domestically, the STL and its expected indictments have created a political crisis between the March 14 forces, which support the Tribunal and are committed to uphold its findings, and the March 8 opposition forces. In the past few months, the tones of the anti-STL campaign have progressively escalated, culminating in Hizbollah's call to dismantle the "Israeli-controlled Tribunal" and urging all citizens to boycott it. In parallel, the Lebanese-Shia organization has also conducted an internal campaign to create an alternative investigation of a number of alleged false witnesses who it claims tampered with evidence. The March 14's refusal to pursue this track have led to a paralysis of the Lebanese Cabinet, a situation that could potentially escalate into a full-fledged crisis of the elected government or even ignite renewed sectarian violence.

In this context, both the ongoing Syrian-Saudi reconciliation efforts as well as the influence of the prime minister have prevented escalation of the conflict. In the long term, Prime Minister Hariri, as the son of the assassinated leader, is probably the only Lebanese politician with the moral authority to diffuse the conflict by refusing to follow up on an eventual STL indictment of Hizbollah members. This choice, however, would most likely cost him his credibility and power, and thus the prime minister is seemingly facing a lose-lose scenario. Hizbollah is equally troubled by the prospective indictments, which would surely be detrimental to the group's local legitimacy. In this sense, cooperating with the Tribunal or accepting its findings are not feasible options. Similarly,

declaring that the implicated Hizbollah members are “rogue elements” would reflect badly on the organization’s image of unity and internal control. Fighting the Tribunal and the Lebanese government, however, also has troubling consequences, led by the potential escalation of the internal strife into a more prolonged and bloody internal conflict.

From an Israeli perspective, the current dilemma faced by the Lebanese government could have direct security repercussions. On the one hand, the indictment of Hizbollah could cause severe damage to the credibility and popularity of the organization, which could certainly be seen as a positive development for Israel. On the other hand, a potential Lebanese refusal to cooperate with the Tribunal would have negative consequences for Israel, as it would strengthen Hizbollah and dismantle its political opposition. Moreover, the potential for internal strife exploding in conjunction with the indictments could ultimately lead to a situation where through its military strength Hizbollah manages to reassert its standing and influence on Lebanon, thus growing in power. Similarly, prolonged internal instability could lead to a renewed and increased Syrian presence within Lebanon, which could also be detrimental to Israeli security.

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The article above analyzes the political crisis that arose in Lebanon surrounding the STL, focusing on both the domestic and regional ramifications of the investigation. The period covered by this review extends through December 2010, and thus the political developments in Lebanon underway in January 2011 as this issue goes to press – which, significantly, the article anticipated as possible developments – are themselves not covered.

The internal crisis described in the article escalated in January 2011. Following the official resignation from the Cabinet of the ten ministers from the Hizbollah-led March 8 coalition and an “independent” minister appointed by President Sleiman, the national unity government led by Saad Hariri collapsed. This situation requires new parliamentary consultations in order to elect a new prime minister and form a national unity government. However, in the absence of an agreement between the parties on the configuration of the new government and on the issue of the STL, Lebanon could once again be heading towards the paralysis

of the political system, raising the potential for domestic instability and internal strife.

### Notes

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