

For Immediate Release



AUB panel: Is Special Tribunal for Lebanon a quest for justice or a political intervention?

Beirut, Lebanon- 30/11/2011 – Is the Special Tribunal for Lebanon (STL) a case of international justice or international invention?

This was the question addressed by a panel discussion held at the American University of Beirut on November 30, 2011 and organized by the Issam Fares Institute for Public Policy and International Affairs' United Nations in the Arab World program and the Human Rights Project. The panel was moderated by international politics professor Karim Makdisi who is also IFI's associate director.

Speaking to a packed West Hall audience, AUB lecturer in international law and organizations Nidal Jurdi and Omar Nashabe, a criminal justice expert, columnist and founder of the Research Unit at Al-Akhbar newspaper, debated the topic, with Jurdi considering the STL a step towards bringing international justice and ending impunity and Nashabe considering the special tribunal as an unwanted form of international intervention that relied on selective justice and posed a threat to Lebanese sovereignty.

Despite some shortcomings, "the STL remains a model for fair trial and procedural guarantees," said Jurdi, "and will contribute in the long run to end impunity and create a culture of rule of law in Lebanon and a legacy for establishing truth and accountability." When Makdisi asked him if he thought this long-term gain was worth the strain on the Lebanese political system and people, Jurdi answered affirmatively.

"Will it contribute to re-establishing the rule of law in Lebanon?" countered Nashabe. "Will it be the beginning of granting everyone access to justice in Lebanon? Or is it just a one-time case, a heavily politicized selective matter to serve the interests of international powers?"

The Special Tribunal for Lebanon was created following a request by the Lebanese government in December 2005 from the United Nations Security Council to create a tribunal "of international character" after former Prime Minister Rafic Hariri was assassinated on February 14, 2005. The STL was then created in January 2007 based on a treaty that was signed between the UN and Lebanon but which was never ratified by Lebanese Parliament due to political divisions, prompting then-PM Fouad Siniora to send a letter to UN Secretary General Ban Ki-Moon that included a petition with the signatures of 70 Lebanese MPs, asking the UN to establish the STL. The tribunal was then created after the UN Security Council adopted Resolution 1757 under Chapter VII of the UN Charter, which governs UN actions with respect to threats to peace, breaches of peace, and acts of aggression. The STL has a renewable three-year mandate which is up for renewal in February 2012.

Some of the key points of the discussion:

- For Jurdi: The STL was created because Lebanon was pervaded with a culture of impunity and lacked the mechanisms for truth seeking and reconciliation, in addition to the incapacity and unwillingness of the Lebanese judiciary - the natural authority in this scenario - to prosecute this case. For Jurdi, the legal nature of the STL began as a treaty-based "hybrid" following Lebanon's request to the UN, but it eventually became "international" and based on Chapter VII of the UN Charter.
- For Nashabe: The STL is an example of selective justice, given Lebanon's history of political assassinations, starting with Riad Solh in 1951 and continuing throughout the civil war, Israeli invasions and even beyond ex-PM Hariri's assassination in 2005. Yet, none of these other assassinations - even those that were carried out post-2005-- had prompted an international tribunal. Ironically, a number of the amnestied Lebanese militia leaders some of whom had "savagely killed entire families," were the first to support the STL, noted Nashabe.
- For Jurdi: Although the crime only killed 22 people, its gravity was such that it could still be considered a threat to international security and peace, hence justifying UN action. Moreover, the tribunal was created at the request of Lebanon.
- For Nashabe: Resorting to Chapter VII of the UN Charter is only justified in such cases when severe human rights violations take place - not the case in this political assassination. He alluded to the case of former Pakistani leader Benazir Bhutto who was assassinated after Hariri, but where no UN tribunal was formed. Moreover, the STL was created by the UN Security Council whose motives and voting process are heavily influenced by politics, not international justice. This compromises Lebanese sovereignty since, he said, it bypasses the Lebanese Constitution.
- For both Jurdi and Nashabe: The tribunal adheres to international criminal law to prosecute a domestic crime which poses a complexity.
- Both Jurdi and Nashabe acknowledged that the tribunal and its precursor, the UN International Independent Investigation Commission (UNIIC) whose mandate was limited to finding facts and assisting the Lebanese government in investigations from April 2005 to February 2009, both suffered from practical and logistical problems. Jurdi noted that practical problems for UNIIC members included being confined to their headquarters in Monte Verde due to national insecurity, which led to high turnover in its staff, thus delaying the investigation process and increasing the possibility of information leaks. Nashabe questioned the professional and ethical standards of both UNIIC and the STL, noting for example that former UNIIC commissioner Detlev Mehlis had leaked the names of 25 witnesses--including Gibran Tuani who was assassinated six months after the disclosure. Mehlis was never held accountable, Nashabe said. For Jurdi, since the tribunal was UN-mandated, staff members who breached confidentiality clauses could only be reprimanded administratively, such as having their contracts terminated, but are not subject to legal or criminal penalty.
- Jurdi noted that the STL and UNIIC suffered from legal complexities. For instance, he said, it was unclear who had the authority to prosecute witnesses who give false testimonies as neither the STL nor Lebanese law has a mandate in this matter. Nashabe agreed, noting also that the four Lebanese officers who were arbitrarily detained for four years in connection with the crime were denied access to justice and to information that would help their defense.

- Jurdi considered that both UNIIIC and STL failed in their outreach to the Lebanese population to raise awareness about their activities, noting that perception of justice was vital to such cases.
- Nashabe proposed several actions that would “contribute to local ownership of the international judicial mechanism,” including the formation of a high commission of Lebanese and international judges that would monitor the STL. He also proposed that a truth and reconciliation commission could be established to account for the many thousands of ordinary Lebanese killed, injured or that remain missing from the civil war period, arguing that access to justice is the fundamental right of all citizens, not just the political elite.

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Note to Editors

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