

PolicyWatch #1647

Beirut Spring: The Hariri Tribunal Goes Hunting for Hizballah

By [David Schenker](#)

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Last week in Beirut, the United Nations Special Tribunal charged with investigating and prosecuting the killers of former Lebanese premier Rafiq Hariri brought six members of Hizballah in for questioning. The tribunal's decision to interview Hizballah in connection with the 2005 murder appears to confirm a 2009 report in *Der Spiegel* -- corroborated more recently by *Le Monde* -- implicating the Shiite militia in the conspiracy. A shift in the short-term focus of the investigation from Syria to Hizballah will have a profound impact on domestic politics in Lebanon, and potentially on U.S.-Lebanese relations.

Background

Since the February 2005 assassination of Hariri and the establishment of the UN-mandated inquiry into the killing, the primary public focus of the investigation has been on Damascus. Indeed, the first report of the International Independent Investigation Commission (IIIC) in October 2005 "conclud[ed] that ... many leads point directly towards the involvement of Syrian security officials with the assassination." Although no mention was made of Hizballah in the commission's quarterly reports through 2009, the organization -- allied historically with Damascus -- expressed strong opposition to the formation of the IIIC and bolted from the cabinet in protest of the government's decision to support its establishment.

Then, in May 2009 *Der Spiegel* published an article that reported in great detail on how Hizballah operatives participated in the murder, and how the IIIC had discovered the connection. Apparently, one of the militia's operatives "committed the unbelievable indiscretion" of calling his girlfriend from a mobile phone used in the operation, enabling the investigators to identify the man. The revelations contained in the *Der Spiegel* article sent shock waves through Beirut.

Questioning Hizballah

Because Lebanon was embroiled in a civil war from 1975 to 1990, the prospect that Shiites might have killed the leader of the state's Sunni Muslim community has prompted grave concern. Given the sensitivities, since last May Hizballah secretary-general Hassan Nasrallah has repeatedly denied the story. Most recently, in February 2010 he characterized the *Der Spiegel* and *Le Monde* pieces as an Israeli "accusation."

Notwithstanding Nasrallah's protests, Hizballah is struggling increasingly to dissociate itself from the Hariri plot. Last week's well-publicized questioning of members of the organization's security apparatus by the UN tribunal has once again refocused attention on an alleged Shiite role in the murder. According to the Lebanese satellite television station al-Jadid, among others, last week's tribunal interviewees included senior Hizballah officials al-Hajj Salim and Mustafa Badreddine. Salim reportedly heads one of the organization's special operations units, which was run by military commander Imad Mugnyiah until his assassination in February 2008; Badreddine, Mugnyiah's brother-in-law, heads the militia's counterintelligence unit.

The IIIC interviews generated some interesting responses from supporters of Hizballah (and Syria), most notably former Lebanese cabinet minister Wiam Wahab, who predicted that *fitna*, or civil conflict, would

ensue if the tribunal proceeded on course. During a meeting with the Spanish ambassador to Lebanon, Wahab also suggested that the UN Interim Force in Lebanon (UNIFIL) might be targeted if the tribunal was "politicized" -- in other words, if it continued to pursue Hizballah suspects. Wahab's mention of UNIFIL, which operates in Hizballah-controlled southern Lebanon, amounted to an unmistakable threat to the envoy: Spain's UNIFIL contingent has been attacked twice in recent years.

Unfortunate Timing

For the pro-West March 14 coalition in Lebanon, the allegations of Hizballah involvement in the murder should come as little surprise. Not only would the militia have had the capacity to carry out the operation, its close allies in Damascus had the motive. Members of the coalition had also been at odds with Hizballah for years, and particularly so since the Hariri assassination and the subsequent Syrian withdrawal from Lebanon. At the same time, a Hizballah connection to the crime would not in any sense absolve Syria -- which then occupied and controlled Lebanon -- of culpability.

Yet the IIIC's targeting of Hizballah comes at an awkward time for the March 14 leadership. Although the coalition won national elections this past summer -- and with this victory, the opportunity to form a government -- the opposition compelled the majority, led by Rafiq Hariri's son Saad, to establish a national unity government to include members of the Shiite militia and provide the organization with preponderant influence. Strange bedfellows indeed.

Worse, in the months following the election, the March 14 coalition, which had remained fairly stable since its establishment in 2005, started to fray as its leading international backers in Washington and Riyadh sought rapprochement with Damascus. Consequently, in recent months both Saad Hariri and the March 14 coalition's influential Druze leader Walid Jumblat have looked to mend fences with Hizballah and Syria. In the case of Jumblat, the price for this accommodation has been to apologize publicly for his anti-Syrian disposition of recent years, request forgiveness from Syria's Bashar al-Asad regime, and embrace -- at least rhetorically -- Hizballah's "resistance" agenda.

Pursue or Jettison the Tribunal?

For Jumblat, who cut his teeth as a warlord during the Lebanese civil war, rapprochement with Syria was a simple choice between justice and chaos. Given the IIIC's change of focus to Hizballah, Jumblat sensed that implicating the militia in the crime could present a threat to the fragile state's stability. While the Druze leader has not repudiated the tribunal publicly, he appears to be hoping that indictments will not be forthcoming.

For Rafiq's son Saad, the calculations are different. As the current leader of Lebanon's Sunni community, Saad cannot afford politically to forgive and forget the reported transgressions of Hizballah. Indeed, Saad Hariri's motto since 2005 has been *al-haqiqa* -- "the truth" -- an allusion to the necessity above all else to find out who killed his father. While Saad demonstrated a sense of pragmatism by visiting Syria this past December, the prospect of forgiving his father's killers would be less palatable.

In addition to domestic considerations, Hariri and his government's support (or lack thereof) for the tribunal could have an impact on Lebanon's foreign relations. Because the tribunal was established by the UN, if the government fails to meet its obligations, then Beirut could encounter bilateral difficulties with Washington and Europe. Clearly, the government of Lebanon is not in a position -- and likely would not be expected -- to render subpoenaed Hizballah suspects to the IIIC. But how would the UN respond if Hizballah were able to engineer the defunding of Lebanon's \$23 million annual financial obligation to the tribunal from the state's Ministry of Justice?

Conclusion

With two years remaining in its current mandate, the IIIC will probably issue indictments by the end of this

year. The threshold for charges in the international criminal court is so high that convictions almost always result. Given the attendant risks, should the tribunal indict even low-level operatives, it is doubtful that Hizballah will allow the accused to live, much less stand trial.

At the end of the day, if hearings do occur, they will likely be held in absentia. Given the severity of the charges and the credibility of the technical evidence the IIC is slated to present for the indictment and leading up to the trial, for most observers, whether a judgment is ever rendered will matter little. In any event, even without a trial -- and regardless of the predictable claims of "politicization" -- indictments alone would cause further damage to Hizballah's carefully cultivated image in the region and stress the already tenuous sectarian *modus vivendi* in Lebanon.

It will be more difficult -- both from an evidentiary and a political standpoint -- for the IIC to establish connections between the Hariri murder, Damascus, and Tehran that would sustain further indictments. For Washington and the credibility of the tribunal institution, however, it is important that the investigation be given time to unfold. In this context, the International Criminal Tribunal for the Former Yugoslavia (ICTY) is instructive: even with an abundance of eyewitnesses, the ICTY took nearly a decade to complete.

No doubt, the regional consequences of indictments could be severe and wide-reaching. In a prediction that suggests either prescience or insider information, in April 2007 -- just two years into the investigation -- Syrian president Bashar al-Asad warned UN secretary-general Ban Ki-moon that the tribunal "could unleash a conflict which would degenerate into civil war and provoke divisions between Sunnis and Shiites from the Mediterranean to the Caspian Sea." Contrary to Asad's recommendation, the answer is not to bury the investigation in the name of "stability" but rather to pursue the killers doggedly and punish them, thereby attaching a price to the routine practice of political assassination in Lebanon.

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