

**SPECIAL COURT FOR SIERRA LEONE  
OUTREACH AND PUBLIC AFFAIRS OFFICE**



“Rainy Season”. Photographer: Stephanie Hussey

**PRESS CLIPPINGS**

**Enclosed are clippings of local and international press on the Special Court and related issues obtained by the Outreach and Public Affairs Office**

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Press clips are produced Monday through Friday.  
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**International News**

Taylor Trial Serves as Model for International Justice, Says Prosecutor / <i>DIB</i>	Page 3
UNMIL Public Information Office Complete Media Summaries / <i>UNMIL</i>	Pages 4-6
Karadzic Supporters Gather as Extradition Looms / <i>CNN</i>	Pages 7-8
Upholding the Rule of Law With the Hariri Court / <i>The Daily Star</i>	Pages 9-15

## Diamond Intelligence Briefs

Tuesday, 29 July 2008

<http://www.diamondintelligence.com/magazine/magazine.asp?id=6727>

### **Taylor Trial Serves as Model for International Justice, Says Prosecutor**

Stephen Rapp, the Chief Prosecutor of the United Nations-backed Special Court for Sierra Leone (SCSL), which is trying former Liberian President Charles Taylor for war crimes and crimes against humanity, says many commentators refer to the court as a model for international justice.

Taylor has pleaded not guilty to 11 counts of war crimes, crimes against humanity and other serious violations of international humanitarian law – including mass murder, mutilations, rape, sexual slavery and the use of child soldiers – for his role in the decade-long civil war that engulfed Sierra Leone, which borders Liberia.

Rapp says that 59 insiders, people who were at one time very close to the former Liberian President, are providing evidence as witnesses to support his case that Taylor “was behind the planning of this campaign of terror and atrocity, that he did various steps to order and instigate those crimes and, at a bare minimum at least, he aided and abetted these crimes by providing crucial arms and materiel in return for diamonds, at a time when all the world knew that these rebels were committing horrendous offenses against human beings.”

Currently the SCSL is hearing its 35th prosecution witness, says Rapp, adding that he expects the trial to wrap up within a year after the defense has also made its case.

“It shows that the trial of a former chief of State can be conducted openly and fairly and we’re very proud to date of the progress that’s been made,” says Rapp.

**United Nations**  **Nations Unies**

United Nations Mission in Liberia (UNMIL)

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**UNMIL Public Information Office Complete Media Summaries**  
**28 July 2008**

*[The media summaries and press clips do not necessarily represent the views of UNMIL.]*

**Newspaper Summary**

**Liberia's Independence Day Orator Says Change is Inevitable in Country**

(New Democrat, National Chronicle, The Analyst, Liberian Express, Public Agenda, The Monitor, The Informer, Daily Observer, The News)

- A visually impaired Liberian professor and lawyer, Dr. Sakui Malakpa, who is based at the University of Toledo in Ohio, USA, on Saturday gave a rousing speech appealing to Liberians and friends of Liberia to reflect on the country's 161 years of historical significance. In his speech, entitled "Hoping on the Inevitability of Change: Challenges, Chances, Choices," Dr. Malakpa said that although Liberia has experienced colossal change in the recent past, changes must be looked upon as opportunities to make history.
- He called for unity and reconciliation, an appreciation of the country's diversity, and a rewriting of Liberia's history. Dr. Malakpa, a graduate of Harvard University in Cambridge, Massachusetts, reminded Liberians that history must clarify, transform, and empower people to move beyond past wrongs.
- Present at the Independence Day official ceremony were representatives of the Africa Forum, a group of 35 former African Heads of State. The group visiting Liberia comprised His Excellency Joaquim Alberto Cissano, former President of the Republic of Mozambique and Chairperson of the Forum; His Excellency Nicephore Dieudonne Soglo, Former President of the Republic of Benin and Vice Chairman of the Africa Forum; His Excellency Samuel Daniel Shafiishuna Nujoma, former President of the Republic of Namibia; His Excellency Quett Ketumile Joni Masire, Former President of the Republic of Botswana; and His Excellency Jerry John Rawlings, former President of the Republic of Ghana.

**Amnesty International wants repeal of death penalty law**

(The News, Liberian Express, The Monitor)

- Amnesty International on Friday appealed to Liberia to repeal a law calling for the death penalty for anyone convicted of armed robbery, terrorism or hijacking offences if these crimes result in death. The human rights watchdog said that the law directly violated Liberia's obligations under the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), which Liberia joined in September 2005 and which abolishes the death penalty. Liberian law already included the possibility of the death penalty, but in 2005, the country should have incorporated into law the Second Optional Protocol, thereby abolishing the death penalty for all crimes.
- Under customary international law, as reflected in Article 27 of the Vienna Convention on the Law of Treaties, which Liberia ratified in August 1985, a state "may not invoke the provisions of its internal law as a justification for its failure to perform a treaty", Amnesty said.
- Meanwhile, a release issued by the Executive Mansion said President Ellen Johnson Sirleaf is fully cognizant that Liberia as a State Party is a signatory to the UN's Second Optional Protocol aiming at the abolition of the Death Penalty commonly known as the 'Second Optional Protocol'.
- However, she shares the view and responded to the appeal of the majority of the people for a robust response to the increasing level of crime involving robberies that include physical assault rape and murder by robbers who attack innocent citizens, thereby creating panic and a confidence crisis in the society.

- Accordingly, the President is committed to revisiting the Act for possible amendment as soon as the situation is brought fully under control and sustainable peace is assured.

### **SRSG says concerted efforts needed to strengthen Liberia's law enforcement**

(The Informer, Daily Observer)

- Though a lot of progress has been made in post-war Liberia, there are emerging problems that require the coordinated efforts of every member of society to overcome, according to the UN Envoy in Liberia, Ms. Ellen Margrethe Løj.
- Speaking during a medal award ceremony for the current Ghanaian contingent serving in the United Nations in Liberia (UNMIL), the Special Representative of the Secretary-General, SRSG, specifically identified armed robbery and rape as some of the law and order problems requiring effective solutions. "Many of these problems require an innovative and multi-dimensional approach for solutions," Ms. Løj said.
- She called for "the support of community leaders and elders to help win back their streets and communities from criminals," adding "UNMIL, the Government and the community working together can make a difference".

### **Senate Pro-Tempore Faces Removal**

(Daily Observer, The Analyst)

- Senate Pro-tempore Isaac Nyenabo has again come under fire from some of his colleagues who are affixing their signatures to a purported resolution to seek change of leadership in the Upper House, informed legislative insiders confided in reporters.

### **Students Elections Turn Violent at Private University**

(The Inquirer, Daily Observer, The Analyst)

- Electoral activities at the African Methodist Episcopal University (AMEU) on Camp Johnson Road in Monrovia turned violent on Friday when the Minister of Education, Dr. Joseph Korto, and the Chairman of the National Elections Commission (NEC), James Fromayan, were reportedly held hostage allegedly by students who became 'disgruntled.'

## **Radio Summary**

### **Star Radio** *(News culled today from website at 11:00 am)*

#### **Opposition CDC Commends Action against NIC Chairman**

- The Opposition Congress of Democratic Change (CDC) has commended the House of Representatives for its recent action to cast a "Vote of no Confidence" in the Chairman of the National Investment Commission, Dr. Richard Tolbert.
- In a statement issued in Monrovia, the CDC said the action by Dr. Tolbert is a gross violation of the investment incentive law of Liberia and that the granting of 100 percent tax waiver to the Buchanan Renewable Energy (BRE) is tantamount to economic sabotage of the revenue sector of the country.
- The party called for similar action to be taken against all those linked to the signing of the agreement that granted the company the tax waiver.

*(Also reported on Truth F.M. and ELBC)*

#### **House to Begin Public Hearings Draft Media Laws Today**

- The Information and Broadcasting Committee of the House of Representatives will today begin public hearings on three draft media law pending before the Legislature.
- The acts were submitted to the Legislature early this year by the Liberia Media Law and Policy Reform Working Group and are aimed at improving the media situation in the country.
- Today's hearing would consider an Act to establish an Independent Broadcast Regulatory body in the country.
- The hearings would continue Friday on the draft Freedom of Information act and the Act to transform the Liberia Broadcasting System into a public service broadcaster.

*(Also reported on Truth F.M. and ELBC)*

**Printers Union Wants Government Support**

- The Printers Union of Liberia says it needs the support of government to empower local printers and make the industry viable.
- The union observed that most of government contracts including flag receipts, ballot papers and billboards were awarded foreign firms.
- The group said the awarding of contract to local printers could significantly assist them contribute to the economic growth of the country.

**Truth F.M.** *(News monitored today from at 10:00 am)***Former Mozambican President Wants Government Decentralize Reconstruction Programs**

- The Chairman of the African Forum, Joachim Chissano has called on government to consider rural dwellers in its reconstruction programme.
- Speaking during the 161<sup>st</sup> Independence Day celebration, the Former Mozambican President called on government to also take into consideration the issue of food security for its people in the wake of the global food crisis. Mr. Chissano then promised to exert efforts to ensure that Liberia has assistance from the international community.

CNN

Tuesday, 29 July 2008

### **Karadzic supporters gather as extradition looms**

BELGRADE, Serbia (CNN) -- Supporters of former Bosnian Serb President Radovan Karadzic plan to rally in Belgrade on Tuesday as authorities prepare to send Karadzic to The Hague to answer war crimes charges.

Thousands of radicals and ultra-nationalists who plan to rally Tuesday evening view Karadzic as a hero even though an international tribunal has charged him with genocide, crimes against humanity and violations of the law of war. The charges relate to his actions during the 1992-1995 civil war that followed Bosnia-Herzegovina's secession from Yugoslavia.

Investigators arrested Karadzic -- one of Europe's most-wanted men -- last week, ending his dozen or so years as a fugitive. A judge has ruled that conditions have been met for his extradition to the International Criminal Tribunal for the Former Yugoslavia at The Hague, but Karadzic's lawyer, Svetozar Vujacic, has the right to appeal.

The lawyer declined to say Monday whether he had filed an appeal. Court officials said Monday that they had not received one.

If in fact no appeal has been lodged, Serb authorities could transfer Karadzic to The Hague at any time. An appeal is the last legal hurdle preventing Karadzic from being extradited, and the lack of an appeal would put the matter in the hands of the Serbian government, which will make the ultimate decision on when to transfer him. Watch more on the delay attempts »

Vujacic told a small gathering of Serb nationalists on Sunday that the ex-president's transfer to The Hague was inevitable.

"My only goal, as well as that of Radovan Karadzic, is for that not to happen," he said, "but we are aware that it will eventually happen, and unfortunately we cannot change that."

Serbian authorities have deployed dozens of extra riot police throughout Belgrade to guard against possible trouble from demonstrators.

Yet analysts said the political parties sympathetic to the nationalist cause have faced setbacks at the polls. In May, for example, the coalition of pro-Western President Boris Tadic received 38 percent of the vote in parliamentary elections, compared with 29 percent for the ultra-nationalists.

"They [the ultranationalists] are unsuccessful, so since they have lost their chance, they have lost hope for their political future," said Stevan Niksic, a Serb journalist. "They are now marginalized."

A one-time psychiatrist and self-styled poet, Karadzic declared himself president of a Bosnian Serb republic when Bosnia-Herzegovina seceded from Yugoslavia in 1992. See how the former Yugoslavia broke into separate countries »

The Serbs, backed by Yugoslav troops and paramilitary forces, quickly seized control of most of the country and laid siege to Sarajevo.

During the conflict that followed, Serb forces launched what they called the "ethnic cleansing" of the territories under their control -- the forced displacement and killings of Muslims and Croats in territories under their control.

Though Karadzic portrayed Serbs as victims, he is accused of overseeing the massacre at Srebrenica, a U.N. "safe area" Serb troops overran in July 1995. Nearly 8,000 Bosnian Muslim men and boys were killed at Srebrenica, the worst European massacre since World War II.

Karadzic was removed from power in 1995, when the Dayton Accords that ended the Bosnian war barred anyone accused of war crimes from holding office.

## The Daily Star (Lebanon)

Tuesday, 29 July 2008

### Upholding the rule of law with the Hariri court

By Muhamad Mugarby

First person by MUHAMAD MUGRABY

*Editor's note: The following is the second half of an article on the Lebanese legal system and the drive to try suspects in the murder of former Prime Minister Rafik Hariri. The article was first published by the Center for Democracy and the Rule of Law in Beirut and is republished with permission. The first part of the article appeared in Monday's issue of The Daily Star.*

#### The Rise and Assassination of Rafik Hariri

Rafik Hariri was a tycoon who made his fortune in Saudi Arabia where he also lived most of his adult life. His main business vehicle was Saudi Oger, which he acquired from French owners. He had arrived in Saudi Arabia from his native Lebanon in the early 1970s penniless and with little education. His meteoric rise in wealth and power within a span of less than a decade is baffling and is reminiscent of the rise of the British media magnate Robert Maxwell. Rumors placed him as one of the principal front-men of Saudi royalty. Early in his career he came to Lebanon wearing Saudi headgear and bearing the title of the "Saudi mediator."

In 1983 he brought heavy equipment from Saudi Arabia and commenced the demolition of partially damaged, but mostly repairable, buildings in Beirut, or "the City," with the consent and support of President Amin Gemayel. In the early 1990s many of the buildings that could not be levelled by Oger bulldozers were demolished by Hariri-controlled crews using explosives. Officially, the demolition of the City was blamed on wartime militiamen, but many Lebanese believe that all this was part of the preparation for the takeover of the City by Solidere.

In 1989 Hariri played a central, though discreet, role in finalizing the Taif Accords. Enemies of Hariri and supporters of General Michel Aoun claim that Saudi money was poured generously into the pockets of the Lebanese MPs present at Taif to facilitate the results. On October 13, 1990, Lebanon fell under total Syrian hegemony. Hariri promptly returned to Lebanon and waited patiently as two successive cabinets expired before he was installed, under Syrian sponsorship, as prime minister in 1992. Great hopes were pinned on his ability to lead the country into an era of peace and prosperity.

Despite having absolutely no political experience from his time in Saudi Arabia, Hariri became the Syrian choice, partly due to his Saudi credentials and wealth. Furthermore, Hariri had succeeded in weaving bonds of close friendships and association with powerful Syrian figures such as Vice President Abdel Halim Khaddam, Army Chief of Staff Hikmat Shehabi and Syria's resident viceroy in Lebanon, General Ghazi Kenaan. Finally, he had become a supporter and confidant of Jacques Chirac, who was soon to serve as president of France (1995-2007).

Khaddam, Shehabi and Kenaan enjoyed the confidence of President Hafez Assad and, between them, exercised control over Lebanon. They gave Hariri such firm support that he eclipsed the Syrian-chosen president whose office had already been stripped of most of its constitutional powers under the Taif-mandated constitutional amendments. Hariri, Chirac, Khaddam, Shehabi and Kenaan acted as senior partners in a consortium of sorts combining powerful political and economic interests.

Hariri's consortium appears to have survived him. The Lebanese government under Hariri ran huge budget deficits, borrowed heavily, and issued Lebanese treasury bonds to support borrowings, repayment and accumulated interest. As a result, the nation's public debt is currently estimated to have exceeded \$50 billion with no plan in sight to amortize the debt.

When General Emile Lahoud was elected president in 1998, under the usual Syrian sponsorship, he wanted Syrian General Kenaan transferred away from Lebanon, but his wish was not granted by Syrian President Assad. In June 2000 Assad passed away and in the following month his son Bashar was installed in his place. In the early days of his presidency, Bashar Assad was influenced on Lebanese affairs by the more experienced Hariri associates Khaddam and Kenaan. Khaddam, helped by Kenaan, was instrumental in choosing Lebanese cabinet members and members of parliament.

Kenaan is widely credited with authoring Lebanon's general elections law of January 6, 2000, which was designed to further the political fortunes of Hariri and his close allies. Hariri won the elections of October 2000, and on October 26, 2000, was, on Bashar Assad's orders, appointed prime minister. Part of the price of Hariri's appointment was Bashar's eventual accession to Lahoud's request to transfer Kenaan out of Lebanon. Assad eventually transferred Kenaan to another assignment in Syria.

Kenaan did not leave until a lavish ceremony, hosted by Hariri, was held at the prime minister's office at the Grand Serail on October 9, 2003. The president of the Beirut municipality, a Hariri loyalist, gave a farewell speech and presented the outgoing Syrian general with the key to Beirut, which was followed by an acceptance and thank-you speech by Kenaan and, finally, by a speech by Hariri who lavished praise on Kenaan for his "accomplishments" in Lebanon.

President Bashar Assad had resolved, as one of the early goals of his presidency, to retire the old guard who had served his father. First General Shehabi was retired as the army's chief of staff, and he soon travelled to the United States via Beirut to settle there. Then Khaddam lost his powers bit by bit until his eventual retirement became inevitable. Kenaan had become the minister of interior of Syria, a position which yielded no military power.

Suddenly Hariri realized that he was losing valued Syrian pillars of his consortium, and with them his assured Syrian support. Nevertheless, Hariri supported the constitutional amendment to extend Lahoud's term. He attended parliament on September 4, 2004, and voted for the amendment. Upon the beginning of Lahoud's extended term, Hariri submitted his resignation in accordance with the constitution.

Several months after the assassination of Hariri, General Ghazi Kenaan reportedly committed suicide in his office at the Interior Ministry, Damascus. Soon thereafter Abdel Halim Khaddam was stripped of his office as vice president, defected to France and is currently being prosecuted in Syria for high treason. It is not impossible that some form of a conspiracy, never disclosed to the public, involved Khaddam, Kenaan and others with the aim of overthrowing President Assad, as suggested by author Nicholas Blanford in his book, *Killing Mr. Lebanon*. According to this version, Kenaan, when confronted with the evidence, chose to commit suicide rather than face disgrace. It is highly doubtful that Hariri had any personal knowledge or involvement in the conspiracy.

Political assassinations are not new to Lebanon. The first prime minister in the independence era, Riad al-Solh, was assassinated in 1951. The list of those assassinated before Hariri is long. Prominent journalists, members of parliament and Muslim religious leaders were assassinated as well, before, during and after the war on Lebanon. Starting from 1957 the list includes editors of daily or weekly papers: Nasib Metni, Riad Taha, Kamel Mroueh and Salim Lozi. Assassinated members of parliament include Mohammad Abboud, Naim Mghabghab, Marouf Saad, Kamal Jumblatt, and Nazem al-Qadri. Former MP, minister

and militia leader Elie Hobeika and party leader and former militia leader Dany Shamoun were assassinated, the latter with his wife and two small children. MP Toni Franjeh was assassinated with his wife and little girl as part of the Ehden massacre that took over 30 other lives.

Four Muslim Sunni religious leaders were assassinated, namely, Grand Mufti Sheikh Hassan Khalid, Sheikh Sobhi Saleh, Sheikh Ahmad Assaf and Sheikh Nizar Halabi. A Shiite religious leader, Imam Mousa Sadr, disappeared without trace with two companions, journalist Abbas Badred-dine and Sheikh Mohammad Yakoub, while they were in Libya as guests of the Libyan government, and are presumed to have been assassinated. Many prominent writers, including Kamal el Haj, Husain Mroueh and Hasan Hamdan, were gunned down. Political party leaders such as Khalil Naous, Isam Arab, Ramzi Irani, Adnan Sinno and Wisam Zenid-dine were assassinated. Many foreign diplomats were murdered, including an American ambassador and two of his companions (the kidnappers were arrested and brought to trial but were freed pursuant to one of the amnesties), French, Iraqis and Jordanians.

Four Iranian diplomats were kidnapped and presumably assassinated. Two embassies, the American and the Iraqi, were blown up with heavy casualties.

Malcolm Kerr, president of AUB, was assassinated. A prominent Iraqi exile, Sheikh Taleb Tamimi, was murdered and his accused killers, diplomats with the Iraqi Embassy, were allowed to leave the country due to their diplomatic immunity. One sitting president, Rene Muawad, and one president-elect, Bashir Gemayel, were assassinated. A sitting prime minister, Rashid Karamah, was assassinated in 1987.

An attempt was made on the life of another sitting prime minister, Salim Hoss, from which he escaped miraculously, but others died.

Most of those crimes either went unresolved or unpunished or were whitewashed by general amnesty.

This long list of crimes does not make the assassination of Hariri a lesser crime or less deserving of prosecution and punishment. But there is no logical or moral basis for fully investigating, and eventually prosecuting, the Hariri case to the exclusion of all the previous cases.

Nor is there at this point sufficient evidence to justify the instant and persistent stigmatization of Syria in the assassination and every subsequent and preceding political crime.

The Hariri Tribunal is openly viewed by Syria's Lebanese adversaries, formerly its allies, as the vehicle to indict and bring down the entire Syrian regime. This approach may also be favored by the United States and France, which aim at obtaining major regional political concessions from the Syrian leadership. If true, it turns the proposed court into a potent political and strategic instrument.

Ideally, an investigation into the possible role of foreign governments should not start out by excluding any country. Western as well as Middle Eastern governments have in the past carried out political assassinations. The Israeli government, for one, cannot be excluded, as it has a proven history of such state-ordered crimes, particularly in Lebanon, which many Israeli leaders unabashedly brag about. This is not meant as an indictment of Israel in the Hariri murder. The point being raised is that the zeal to incriminate Syria has unjustifiably and prematurely eliminated all other options before any evidence has been presented.

The Judge Selection Process and the "Free Gasoline" Episode

The proposal for the Hariri Tribunal calls for the appointment by the UN secretary general of its judges from among Lebanese and non-Lebanese candidates.

Regardless of the legality issues affecting the Hariri court proposal, the process of judge selection ought to be open, transparent and subject to contribution by qualified jurists led by judges of the International Court of Justice.

The sad experience of the Solidere commissions should not be repeated. An open process could enhance the credibility of the Hariri court, especially since its purported *raison d'être* is the perceived inability of the domestic Lebanese justice system to cope with the Hariri assassination case. The authority to appoint judges should be vested exclusively in the Lebanese government in accordance with due Lebanese constitutional and legal process. Judges should be accountable from all aspects in accordance with Lebanese law.

The "free gasoline" episode, described below, makes it very questionable that such a procedure can be followed.

On July 12, 2007, an application was brought before a chamber of the Lebanese Court of Cassation headed by Judge Ralph Riashi, to transfer, for legitimate suspicion, the Hariri murder investigation case, currently seized by Lebanese justice authorities, from Justice Investigating Judge Elias Eid who had been entrusted with it since March 24, 2005, to another judge.

Judge Riashi had been a key Lebanese negotiator on behalf of the Lebanese Ministry of Justice and had conducted discussions with the office of the secretary general over the drafts for the proposed Hariri court instruments. Riashi's conduct of negotiations on behalf of the minister of justice was obviously in blatant violation of the constitutional rule of separation of powers and of the constitution that plainly gives the president of the republic exclusive power over the negotiation of international agreements.

On September 6, 2007, the Riashi court admitted the request and recused Eid on the basis of solid evidence that he had been regularly receiving from the Surete Generale, Lebanon's political police and intelligence service, 300 litres of premium gasoline per month for free, beginning from February 2003.

General Jamil Al-Sayed, until recently director general of Surete Generale, is under arrest in the investigation of the Hariri murder.

Even more troubling, Judge Eid was not alone in receiving Surete Generale favors. It turns out from documentary evidence on file in Riashi's court that many other prosecutors and judges are or were in the same boat as Eid. Prominent among them are Said Mirza, chief public prosecutor before the Court of Cassation and Adnan Addoum, his predecessor. Documentary evidence received by the Riashi court on July 27, 2007, from the minister of the interior in the said recusal proceedings also implicates the last three presidents of Higher Judiciary Council: Mounir Hunain, Nasri Lahoud and Tanios el Khouri, judicial inspector general and former first investigating judge for Mount Lebanon Fawzi Dagher, and the public prosecutor for Beirut Joseph Maamari.

The Surete Generale is not exactly the KGB but has, by law, many of its functions. Why it would it deliver free premium gasoline to prosecutors and judges, and what it expected from them in return remains an open question. What is clear is that the key Lebanese prosecutors and the investigating judge designated for the Hariri murder investigation, who all worked closely with the UNSC-appointed commission, benefited illicitly from the Surete Generale free gasoline scheme. It is less clear how many of the nominees to the Hariri court have benefited similarly.

All this leads to the inevitable conclusion that the integrity of the Hariri murder investigation, as well the future process of the Hariri court, could have been seriously compromised.

### The Power to Create Special International Courts

The Hariri court is based on an exception to the basic principle of national sovereignty in the United Nations Charter (Article 2, paragraph 1) namely the application of enforcement measures stipulated under Chapter VII (Article 2, paragraph 7 UNC). Enforcement measures presuppose the existence of an international dispute, likely to threaten international peace and security, arising between states that have failed to settle their conflicts under Chapter VI on the Pacific settlement of disputes. Article 33 of this chapter reads:

1. The parties to any dispute, the continuance of which is likely to endanger the international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their choice.

As a general rule, Article 36, paragraph 3 of the UNC requires that legal disputes be referred by the parties to the International Court of Justice. In fact, Article 7 UNC makes the International Court of Justice one of the principal organs of the United Nations on a par with the General Assembly and the Security Council, and Article 1 of the court's statutes recognizes it as the principal judicial department of the organization. It is therefore inconceivable that the Security Council derives from the UNC any power to create other courts of law.

Despite the fact that the UN Security Council lacks any such authority in the charter, it did act to create two international penal courts basing itself on Chapter VII UNC which provides it with no such power, namely the International Court for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia, of May 25, 1993, and the International Tribunal for Rwanda, of November 8, 1994. The crimes and violations covered by the mandate of these tribunals were committed in war situations where multinational military forces, in the case of the former Yugoslavia, and UN Forces, in the case of Rwanda, had operated. In addition, the UNSC approved the establishment of the Special Court for Sierra Leone, of August 14, 2000, in agreement with the government.

In stark contrast to the these three tribunals, the Extraordinary Chamber in the Courts of Cambodia (ECCC) was established in 2001 by legislation passed by the Cambodian National Assembly and welcomed by Resolution 57/228 of the UN General Assembly which was followed by an assistance agreement between the Cambodian government and the secretary general. ECCC has a majority of Cambodian judges and operates in Cambodia as a part of the Cambodian judicial system. The common denominator of all the above mentioned courts is their mandate to prosecute and try individuals for crimes against humanity such as genocide and violations of the Geneva Conventions and international humanitarian law.

The proposed special court for Lebanon is different. To begin with, it totally ignores all previous crimes against humanity or in violation of international humanitarian law. The proposal also ignores similar criminal acts committed by state parties in the context of regional military conflicts involving Lebanon, such as Israel, the United States and other state parties. Some may argue that such a court is politically unfeasible but no one can deny that it is morally imperative. In ignoring the regional dimensions of Lebanon's bloody past, the UNSC has departed from former practices in Yugoslavia, Rwanda, Sierra Leone and Cambodia.

Moreover, the legal basis for the court, UNSC Resolution 1757 of May 30, 2007, has an inherent contradiction when "reiterating its call for the strict respect" for the sovereignty and political independence of the Republic of Lebanon under "the sole and exclusive authority" of its government, but at the same time deciding that the provisions of the agreement said to have been entered into between the government of Lebanon and the secretary general "shall come into effect." Article 52 LC requires the prior approval of parliament for the ratification of such agreements.

Furthermore, the power to enter such agreements and to ratify the same, after the authority of parliament is obtained where required, is vested exclusively with the president. The prime minister, though entitled by the constitution to speak for the Council of Ministers and its policy domestically, is not authorized by the constitution to represent the state, the Republic of Lebanon, either domestically or internationally.

Decreeing into force a draft of an agreement that has not been duly executed or duly ratified by the Republic of Lebanon in accordance with its constitutional process is, unquestionably, outside the powers of the Security Council. By accepting to force the tribunal through, the Council has unwittingly engaged in the domestic game of one-time exceptions, on the assumption that justice cannot not be done within a strictly Lebanese judicial environment.

## Conclusion

The Security Council should not function in violation of UNC or the constitutions and internal legal systems of UN members with the impunity that is so characteristic of Middle Eastern politics. It is undeniable that something is grossly wrong with the judiciary in Lebanon, as this article has documented.

It is the duty of the Lebanese government to introduce such comprehensive reforms to the judicial system as may be reasonably necessary, possibly with the support of the United Nations. It is even understandable to provisionally borrow foreign judges, like the old "Mixed Courts" of pre-independence Lebanon did, in a possible imitation of the example of Cambodia, a country with a legal tradition largely similar to Lebanon's.

However, it is morally wrong to single out one murder case for a quasi international tribunal that would cost more than the entire Lebanese court system combined. While the author fully supports universal jurisdiction, he strongly believes that such jurisdiction should supplement, and not replace, domestic jurisdiction.

What is urgently needed to support the credibility of the United Nations, and more particularly the credibility of the Security Council and the office of the secretary general, is to also show prompt serious interest in swiftly achieving three much needed reforms:

First, a sweeping overhaul of Lebanon's justice system, with the utilization of available resources equal or superior to those used or to be used in the independent commission's investigation and the Hariri court itself, with the aim of ending the environment of impunity, immunity, none-accountability and establishing the rule of law.

Second, with strong UNSC support, establishing a potent international human rights court for the Middle East and North Africa with original jurisdiction over violations of human rights, humanitarian law, abuse of power, and denial of justice, which would have the power to hear original complaints, the power to hear appeals from decisions of domestic courts, and the power to order penalties, sanctions and reparations. Sovereign immunity should not be allowed to be pleaded as a defence in such a court.

Third, The UNSC should conduct itself strictly within the powers explicitly granted to it by the UN Charter and thereby set an example to the UN members of the fullest respect for the rule of law.

The Hariri court, with the proper and transparent selection of judges as herein proposed, can and should be set up in conformity with due Lebanese constitutional and legal process guided by the Cambodian example. Furthermore, the above mentioned vital reforms should concurrently, seriously and credibly be implemented, backed by adequate resources. All this could add to the rise of the rule of law, in Lebanon, the Middle East and North Africa and the world.