

## Hariri's death, ten years and 70 victims later at the Lebanon tribunal

**On Saturday, Ehsan Fayed will be doing what she often does on 14 February: go to the home of her mother-in-law, gather with the wider family and, along with her two teenage daughters, visit the mosque where her husband is buried. His grave is not far from the shrine of former Lebanese prime minister Rafiq Hariri, the man Talal Nasser spent 23 years working as a bodyguard for and the man he spent his final minutes with when, on 14 February 2005, a bomb in downtown Beirut killed them and 20 others.**

"Every year we relive the moment," Fayed tells IJT, "and it's very hard to live that." This coming anniversary is harder, she admits, because it demands awareness of how "life changes so much in ten years". Fayed is a participating victim at the Special Tribunal for Lebanon (STL), where, since the Ayyash et al. trial opened 13 months ago, the prosecution has been presenting a case against five men charged with orchestrating the Hariri assassination.

To observers, the STL, its courtroom overwhelmed by black robes, sometimes feels only theoretical. The case's luminary casualty is dead. All accused are being tried in absentia, their whereabouts unknown. However, the participating victims – a current total of 70, from a list of over 200 court-recognized injured victims – incarnate the very human horrors that prompted Lebanon to request the UN's establishment of the international tribunal.

Like Fayed, some are the bereaved relatives of Hariri employees. Others lost loved ones, or were themselves innocent bystanders that day, working, driving or jogging near the attack site.

Some are public victims. The more security-wary are kept confidential. A number have already served as prosecution witnesses. And others will be called to share their stories when, on conclusion of the

prosecution's case, the legal representative of victims (LRV) presents its own case showing how the assassination harmed its clients specifically. Those hearings are expected to start next year.

### "Model" victims' participation?

The LRV's lead counsel, Peter Haynes, is candid about the individuals he represents. He calls them "highly articulate, highly intelligent, highly 21st-century people" who are frequently in touch. Sometimes it is just for a hello, but more commonly it is with the question "What the hell is going on in court today?" He says that "there are no keener watchers of the trial than the victims themselves", and extols a password-protected victims' blog that is updated every two days with the latest trial happenings, translated into Arabic, and "regularly monitored by all of them".

The lawyer believes the STL "is getting closer to the best model" for victims in criminal proceedings because, as he puts it, "participation is meaningful but not intrusive" so it does "not swamp the main trial". He singles out the tribunal's precedent-setting decision to allow the LRV to appeal rulings during the course of proceedings, provided there is a direct bearing on the victims. "Prior to our attempts, no participating victims of any court anywhere in the world had the right of interlocutory appeal," says Haynes.

But not all case monitors see the tribunal as an exemplar. George Ghali, a programme officer for the Lebanese human rights NGO ALEF, worries that victims' participation is overly restricted by the STL's thresholds. Rules require that a pretrial judge authorize their participation, that the victims' participation unit assign their counsel and that they be represented as a single group. "Victims as such," finds Ghali, "will be considered as a marginal actor in the trial and not a direct party."

### Damage claims – in Syria?

One thing participating victims can be sure of is that the STL will award them no reparations, regardless of any conviction. The tribunal is not meant to grant compensation. So what can it offer?

"The right of action elsewhere" is what the LRV envisions. Discussing a recent move by the prosecution to present political background [[IJT-171](#)] as part of its case, Haynes explains: "The tenor of that evidence has been at least the suggestion that the murder of Rafiq Hariri and the bomb which injured lots of other people was ultimately sanctioned by Syria." If such facts were confirmed in a judgement, a recognized victim could "take that judgement to any jurisdiction where there might be realizable assets of those who are behind the bombing". Filing a civil claim would be the next logical step.

Asked what she wants from the trial, Fayed responds that her husband's death "is something that nothing can compensate for" and "there's nothing – there's no one – to take his place". Still, she maintains: "We waited ten years, and we are ready to wait another ten years if this guarantees that justice will be served and the truth will be known."

Fayed's resolution echoes a forecast by Harmen van der Wilt, an international criminal law professor at the University of Amsterdam who wrote about the court's legacy in the book 'The Special Tribunal for Lebanon: Law and practice'. At best, the trial will provide victims "material truth about what actually happened, who is to blame for this, how did the system work", he tells IJT.

To aid in that process, Van der Wilt urges the STL to call in regional historians as witnesses, allowing them to "give the historical background its share". Doing so would acknowledge that today's 70 participating victims are just a fraction of the people affected [[IJT-162](#)] by Lebanon's longer, larger violence.