

A legal manifesto for the Lebanese Cabinet: Justice for Rafik Hariri and Moussa Sadr

Government's statement needs to emphasize accountability

Chibli Mallat Originally published in the Daily Star July 9, 2009 http://www.dailystar.com.lb/law.asp?edition_id=10

Last week I pleaded for a legal manifesto for Iran's Green Revolution. I am arguing this week for a judicial manifesto for the Lebanese Cabinet. I have no illusions. The turgid governmental manifesto, like the Arab League's declarations, will read as a litany of bullet points where each of the plethora and inflated 30-some ministers will place a word, in return for allowing the other fellow minister to place his. The citizen will not recognize himself or herself in it, and I mention pointedly "her" because the country would be lucky if one or two women ministers sat in cabinet. Even then, they would be appointed only because they were the widow, sister or daughter of some male political figure wrenched away from us by age or violence. Despite its formidable female pool of talents, Lebanon continues to lag behind in that major index of democratic representation.

The Lebanese body politic gender structural dead-end aside, what if that cabinet wished to put forward a program of national unity that is not based on an insipid bullet list of points glorifying the resistance to Israel, the plea to keep Palestinian refugees in Lebanon to the miserable status quo, or the making an impasse on all matters Arab and Iranian that count in order to avoid the ire of the Saudi and Persian autocratic masters of the main Lebanese factions? How to reduce the lowest common denominator to a meaningful one inspiring idea that will guide this cabinet through the regional storms heading toward us as surely as the rise of the next full moon?

My answer, like for Iran, is legal. More specifically it is judicial. The rule of law as applied by the judiciary is key to the survival of the country, for the alternative is always unpunished and spiraling violence. Because of the regional over-determination that characterizes Lebanon's three-decade history of intermittent warfare, I will venture an even more specific proposal for the one guiding idea for the cabinet: judicial accountability for the murder in Beirut of former Premier Rafik Hariri and the disappearance in Tripoli-Libya of Moussa Sadr.

I am not in favor of restricting accountability either in terms of victims, or in terms of territory, or even in terms of means or the suspect's nationality. The person of the victim is irrelevant: the family of passer-by Charles Chikhani, 27, who was killed in the bomb destined for the MP Antoine Ghanem, has no less the right to see the assassin arrested, than the late Ghanem or our former premier. The type of territory is irrelevant. Legal action against suspected Israeli officials is no less legitimate than legal action against their Syrian or Libyan suspected or indicted counterparts. The victims of Sabra and Shatila have no less a right to see in jail Ariel Sharon and Amos Yaron, who were indicted in Brussels before the Belgian law was changed in 2003 just because they were Israelis. The means for the crime should not matter: the murder of one person and that perpetrated in a crime against humanity are different in law. The distinction comes from the continuous imperfection of international law. The nationality of either the victim or the perpetrator should not matter. The Lebanese themselves have much to account for in crimes perpetrated by themselves on their fellow citizens. The killers of Kamal Jumblatt, Bachir Gemayel or Elie Hobeika are still at large, and the list is long.

Despite these caveats, I have singled out Hariri and Sadr. This is because the Cabinet statement is by nature political. The gravest risk on Lebanon is the rift between its Sunni and Shiite communities, and the greatest failure of the Cedar Revolution, and the consequent Special Tribunal for Lebanon (STL), is its selectivity, a selectivity which was rightly criticized in a report published by Amnesty International last year.

The cabinet statement will include a reference to both historic figures, no doubt. This is not what is needed. It needs the case for judicial accountability, and its international effectiveness, to be the central platform of the Cabinet, and a determination to see justice through in both cases.

In the case of Moussa Sadr, the courageous indictment of Gadhafi last summer by investigative judge Samih al-Hage, joining Gadhafi's indictment by then Chief Prosecutor Adnan Addoum in 2004, must transform the Libyan dictator into the international outlaw status he shares with his recent guest and fellow criminal against humanity, Sudan's current ruler. In the case of Hariri and the other chain of horrendous murders since October 2004 which plunged the country back into civil war, the STL must be jolted out of its slumber since the gross failure of Belgian investigator Serge Brammertz and the continued ineffectiveness of the current prosecutor. On that basis, and solely on that basis, can the country be unified.

***Chibli Mallat** is a former candidate to the Lebanese presidency. His "March 2221. Lebanon's Cedar Revolution – An essay on justice and non-violence," was published in 2007.*