



Intelligence and Terrorism Information Center
at the Center for Special Studies (C.S.S)

A severely critical UN report regarding the investigation of Rafik Hariri's assassination accuses Syria of creating the tense atmosphere in Lebanon which made it possible. The report reveals Syrian threats on Hariri's life and implies it is the prime suspect. It increases pressure on Syria and calls for the formation of an international committee to investigate the assassination.



- The report prepared by Peter Fitzgerald , who headed the UN fact-finding mission which investigated the assassination of Rafik Hariri, was adopted by the UN's Secretary-General, Kofi Annan, on March 24 and presented to the Security Council. The report is severely critical of Syrian intervention in Lebanon . It holds Syria responsible for the polarization and political tension in Lebanon which provided the backdrop for Hariri's assassination (The full text of the report appears in the Appendix.)
 - The report does not unequivocally accuse Syria of having carried out the assassination , but quotes testimony according to which Syrian president Bashar Assad and security officials threatened Hariri with “physical harm.” At the same time, the Syrian security forces are accused of not providing a context of law and order and security for Lebanese citizens. It notes that the Lebanese security services “demonstrated serious and systematic negligence in carrying out the duties usually performed by a professional national security apparatus,” especially when it was a question of protecting the lives of prominent politicians such as Hariri.
 - The report calls the Lebanese investigation flawed and incapable of reaching reliable conclusions. Therefore, it advises that an international investigation committee be formed to reveal the truth. The United States and France have already prepared a proposal to the Security Council regarding the formation of an independent, international investigating committee , and they intend to bring it to a vote.
- The implication of the UN's report is that the Syrian régime is involved in political terrorism. It is an important part of the international pressure being put on Damascus and reinforces the positioning of Syria on the “axis of evil.” The report is expected to aid the Lebanese opposition significantly in paving the way for democratic elections in Lebanon and to provide more pressure on Damascus to carry out UN Security Council Resolution 1559, which calls for the withdrawal of Syrian forces and the disarmament of Lebanese and non-Lebanese militias .

The main points of the Fitzgerald report

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| <p>Responsibility and causes of the assassination</p> | <ul style="list-style-type: none"> • The report does not name names, but rather notes that specific causes for the assassination will only be found when those who perpetrated it are brought to justice. • “However, it is clear that the assassination took place in a political and security context marked by an acute polarization around the Syrian influence in Lebanon and a failure of the Lebanese State to provide adequate protection for its citizens.” • “The Government of Syria bears primary responsibility for the political tension that preceded the assassination,” and it “exerted influence that goes beyond the reasonable exercise of cooperative or neighborly relations.” Syria “interfered with the details of governance in Lebanon in a heavy-handed and inflexible manner that was the primary reason for the political polarization that ensued,” and “it is obvious that this atmosphere provided the backdrop for the assassination of Mr. Hariri. • According to oral testimony repeated by several witnesses, at their last meeting, president Assad told Hariri that “Mr. Lahoud “should be viewed as his personal representative in Lebanon and that “opposing him is tantamount to opposing Assad himself.” He added that he “would rather break Lebanon over the heads of [Mr.] Hariri and [Druze leader Walid] Jonblatt than see his word in Lebanon broken. According to the testimonies , Mr. Assad then threatened both Mr. Hariri and Mr. Jonblatt [sic] with physical harm if they opposed the extension for Mr. Lahoud...further threats [were] made to Mr. Hariri by security officials in case he abstained from voting in favor of the extension or “even thought of leaving the country.” |
| <p>The actions of the Syrian and Lebanese security forces in protecting Hariri and in investigating the assassination</p> | <ul style="list-style-type: none"> • “Lebanese security services and the Syrian Military Intelligence bear the primary responsibility for the lack of security, protection, law and order in Lebanon . The Lebanese security services have demonstrated serious and systematic negligence in carrying out the duties usually performed by a professional national security apparatus. In doing so, they have severely failed to provide the citizens of Lebanon with an acceptable level of security and, therefore, have contributed to the propagation of a culture of intimidation and impunity.” • “It became clear to the Mission that the Lebanese investigation process suffers from serious flaws. Whether caused by lack of capabilities or commitment, this process is unlikely to reach a satisfactory conclusion .” |

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| <p>Appointing an international investigation committee</p> | <ul style="list-style-type: none"> • “An international independent investigation would be necessary to find the truth ...a self-sufficient team .. with an executive authority to carry out interrogations, searches and other relevant tasks.” • It is “ more than doubtful that such an investigation team could carry out its tasks satisfactorily - and receives the necessary active cooperation from local authorities - while the current leadership of the Lebanese security services remains in office .” |

Appendix B

Original Document ¹

¹The emphases in the Fitzgerald Report do not appear in the original document

Report of the Fact-Finding Mission to Lebanon inquiring into the causes, circumstances and consequences of the assassination of former Prime Minister Rafik Hariri

25 February – 24 March 2005

I. Introduction

1. On 14 February 2005 , an explosion in downtown Beirut killed twenty persons, among them the former Prime Minister, Rafik Bahaa-Edine Hariri. Also killed in the explosion were Yahya Mustafa Al-Arab, Mohammad Ben Saad-Eddine Darwish, Talal Nabeeh Nasser, Ziad Mohammad Tarraf, Omar Ahmad Al-Masri, Mohammad Riad Hussein Ghalayeeni, Mazen Adnan Al-Dahabi, Yamama Kamel Dhamen, Haitham Khaled Osman, Alaa Hasan Osfur, Zahi Haleem Abu Rujayli, Joseph Emile Aoun, Rima Mohammad Ra'ef Bezi, Ruad Hussein Haidar, Sobhi Mohammad Al-Khedhr, Abdu Tawfik Bu Farah, Abdel-Hameed Mohammad Ghalayeeni, Mahmud Saleh Al-Khalaf, Mohammad Saleh Al-Hamad Al-Mohammad. In addition to the killed, Farhan Ahmad Al-Isa is still missing and believed to be among the victims. Another 220 persons were injured.

2. On 15 February, the President of the Security Council issued a statement on behalf of the Council requesting the Secretary-General to “*follow closely the situation in Lebanon and to report urgently on the circumstances, causes and consequences of this terrorist act*” . The Secretary-General announced on 18 February that he was sending a Fact-Finding Mission to Beirut to gather such information as necessary for him to report to the Council in a timely manner. After an exchange of letters between the Secretary-General and the President of Lebanon, a mission headed by Peter FitzGerald, a Deputy Commissioner of the Irish Police, Garda Sioch?na, and comprised of two police investigators, a legal advisor and a political advisor, was sent to Lebanon to gather facts about the causes, circumstances and consequences of the assassination. Additional experts in explosives, ballistics, DNA and crime scene examination were brought in on 6 March, in agreement with the Lebanese authorities, to examine the crime scene and the samples collected from it.

3. Since its arrival in Beirut on 25 February, the members of the Fact-Finding Mission (hereafter referred to as ‘the Mission’) met with a large number of Lebanese officials and representatives of different political groups, performed a thorough review of the Lebanese investigation and legal proceedings, examined the crime scene and the evidence collected by the local police, collected and analyzed samples from the crime scene, and interviewed some witnesses in relation to the crime. Since some of the persons interviewed by the Mission requested anonymity, this report does not include a full list of the interviewees. The Mission concluded its inquiry in Lebanon on 16 March 2005 . The present report includes its findings and recommendations.

II. Findings

4. The findings of the Mission fall within three categories as defined by the Security Council: the causes, circumstances, and consequences.

A. Causes

5. The specific 'causes' for the assassination of Mr. Hariri cannot be reliably asserted until after the perpetrators of this crime are brought to justice . However, it is clear that the assassination took place in a political and security context marked by an acute polarization around the Syrian influence in Lebanon and a failure of the Lebanese State to provide adequate protection for its citizens.

The political context

6. Lebanon has repeatedly served as a battleground for the parties to the Arab-Israeli conflict, with devastating impact on its national unity and independence, as demonstrated by its tragic civil war (1975-1990) and by various military campaigns on its soil. Syria had maintained a military presence in Lebanon since May 1976 with the consent of the Lebanese government. It also exerted political influence in Lebanese affairs, an influence that has significantly increased since 1990 and was sanctioned in 1991 by a treaty of "Brotherhood, Cooperation, and Coordination".

7. The Syrian presence in Lebanon remained generally unchallenged until Israel withdrew its forces from South Lebanon in 2000. Political figures started to voice their opposition to the continued Syrian influence and called for the implementation of the remaining provisions of the Taif Agreement (of 1989), which, if implemented, would have substantially reduced the Syrian presence in Lebanon to a possible complete pullout. Although Mr. Hariri carefully avoided this debate, his relations with President Emil Lahoud, who is generally described as Syria 's favorite, were strained. As a prominent security official close to Syria put it to the Mission ; the two men had repeated conflicts during Mr. Hariri's term (2000-2004) to a point that required "external intervention and mediation on a daily basis". The conflict between Mr. Lahoud and Mr. Hariri affected the latter's ability to run the government and to carry out his policies, sometimes to a point of paralysis. Mr. Hariri's difficulties with Mr. Lahoud were widely interpreted as a sign of Syria 's mistrust in the former.

8. Mr. Lahoud's term in office should have ended in 2004, with no possibility of renewal according to the Constitution. Mr. Hariri was clearly hoping that the end of Mr. Lahoud's term would enable him to regain control over his government. However, during 2004, certain voices in Lebanon suggested amending the constitution in order to extend the term of Mr. Lahoud. This possibility became part of the debate over the Syrian presence in Lebanon and fueled it further. Given the distribution of seats in the parliament, a constitutional amendment required the support of Mr. Hariri's bloc, a support he was unprepared to lend. Moreover, were informed by reliable sources that Mr. Hariri had managed to obtain a commitment from the Syrian leadership not to extend Mr. Lahoud's term.

9. However, the Syrian leadership later decided to support an extension of the presidential term, albeit for three instead of six years. The pressure for the extension was considerable, divisive and with far reaching consequences. As a Lebanese official close to the Syrian leadership told the Mission, the Syrian decision sent a clear message to Mr. Hariri that he had to go : "there was no way the two of them could work together ". Mr. Hariri met with President Assad in Damascus in a last attempt to convince him not to support the extension. The Mission has received accounts of this meeting from various sources inside and outside Lebanon , all of which claim to have heard the account of the meeting from Mr. Hariri himself shortly after the meeting took place. The Mission has no account of the meeting from Mr. Assad's side: the Syrian authorities declined the Mission 's request to meet with him. The received testimonies corroborated each other almost verbatim.

10. According to these testimonies, Mr. Hariri reminded Mr. Assad of his pledge not to seek an extension for Mr. Lahoud's term, and Mr. Assad replied that there was a policy shift and that the decision was already taken. He added that Mr. Lahoud should be viewed as his personal representative in Lebanon and that "opposing him is tantamount to opposing Assad

himself". He then added that he (Mr. Assad) "would rather break Lebanon over the heads of [Mr.] Hariri and [Druze leader Walid] Jonblatt than see his word in Lebanon broken". According to the testimonies, Mr. Assad then threatened both Mr. Hariri and Mr. Jonblatt with physical harm if they opposed the extension for Mr. Lahoud. The meeting reportedly lasted for ten minutes, and was the last time Mr. Hariri met with Mr. Assad. After that meeting, Mr. Hariri told his supporters that they had no other option but to support the extension for Mr. Lahoud. The Mission has also received accounts of further threats made to Mr. Hariri by security officials in case he abstained from voting in favor of the extension or "even thought of leaving the country".

11. On 2 September 2004, the Security Council adopted its resolution 1559, which, among other provisions, called upon " *all remaining foreign forces to withdraw from Lebanon* , and *declared its support for a free and fair electoral process in Lebanon's upcoming presidential elections conducted according to Lebanese constitutional rules devised without foreign interference or influence*". It is widely believed, inside and outside Lebanon , that Mr. Hariri lent active support to this resolution . Numerous sources in Lebanon informed the Mission that the Syrian leadership held Mr. Hariri personally responsible for the adoption of the resolution , and that this resolution marked the end of whatever trust existed between the two sides. On 3 September, the vote on the extension was brought to the Parliament. Mr. Hariri and his parliamentary bloc voted in its favor. Three ministers voted against it, among them Marwan Hemadeh, a close associate of both Mr. Hariri and Mr. Jonblatt . The amendment was passed, and Mr. Lahoud's term was extended for three years. On 9 September, Mr. Hariri announced his resignation.

12. Political tension reached a new height with that resignation. Additional number of political figures joined what later became labeled the 'opposition', which mainly called for a review of the Syrian-Lebanese relations. Some of the opposition leaders preferred to review these relations in line with SCR 1559, while others preferred to review them under the banner of the Taif Agreement. The upcoming legislative elections were widely seen as a turning point and it became apparent to all that the parties were preparing for a final showdown. Until the extension for Mr. Lahoud, the opposition was mainly composed of Christian politicians and groups. The decision by Mr. Jonblatt's bloc to join forces with them was a major development in so far as it expanded the opposition coalition beyond the sectarian dividing lines, especially in light of Mr. Jonblatt's traditional alliance with Syria . Mr. Hariri's resignation added more strength to the opposition by bringing in the large and influential Sunni community.

13. On 2 October, former minister Marwan Hemadeh narrowly escaped death when a bomb exploded next to his car . His guard was killed in the explosion. The attempt on Mr. Hemadeh's life sent shock waves throughout Lebanon and added to the ongoing polarization . The perpetrators of the assassination attempt were not identified, and a general feeling prevailed that they would not be . A loaded atmosphere dominated the Lebanese scene in which "everyone was under threat", as many security officials told the Mission . A wide range of people, inside and outside Lebanon , told the Mission that Mr. Hariri and Mr. Jonblatt feared for their lives and saw the attempt on Mr. Hemadeh's life as a part of the ongoing power struggle with the Syrian leadership.

14. Amidst the heightened tension, the consolidation of the opposition coalition continued, as well as the preparations for the upcoming legislative elections. Contacts and negotiations took place between Mr. Jonblatt and Mr. Hariri and with the exiled Maronite leader Mr. Michel Aoun. By the end of January 2005, there was a formidable power bloc emerging in Lebanon bringing together, for the first time, representatives of almost all political and religious communities, with the noted exception of the Shiite groups Amal and Hezbollah. This power bloc was independent from, if not hostile to, the Syrian influence and seemed confident of winning a clear majority in the upcoming elections. It also enjoyed the support of key players in the international community and seemed confident of its ability to force Syria to implement its outstanding commitment under the Taif Agreement and/or the SCR 1559. At the center of this power bloc one man stood as the perceived architect: the former Prime Minister Rafik Hariri. On 14 February, he was assassinated.

15. Clearly, Mr. Hariri's assassination took place on the backdrop of his power struggle with Syria , regardless of who carried out the assassination and with what aim. It is nonetheless important to keep in mind that only a proper investigation – not political analysis – could lead to the identification of those who ordered, planned and carried out this heinous crime. It would

be a violation of the basic principles of justice to jump to conclusions about the perpetrators of the assassination without proper investigation, convincing evidence and a proper trial.

The security background

16. Mr. Hariri was unanimously described to the Mission as the “most important figure in Lebanese public life”. His assassination, therefore, begs the question about the level of protection provided to him by the Lebanese security apparatus. The Lebanese security system is composed of multiple agencies. The Military Intelligence occupies a primary position in this setup; it covers areas of national security, counter-espionage, counter-terrorism and a strike force. It also includes a department for communications interception. “General Security” covers areas related to foreigners, passports and borders, in addition to politically-based security issues. An ‘Internal Security Force’ includes both a police force and an information-gathering department. “State Security” is nominally responsible for politically-based security issues. The Republican Guard is mandated with protecting the President, under the overall authority of the commander of the Army. The Syrian Military Intelligence maintains a branch in Syria, with offices in various places including Beirut. Contrary to the affirmations made to the Mission by its chief, evidence and concurrent testimonies lead us to believe beyond reasonable doubt that this branch played a key role in Lebanese political life and had an active involvement with, if not direct supervision of, the management of security affairs in Lebanon.

17. According to rules and regulations in place, these different agencies coordinate with each other and are all members of a Central Security Council that meets once a month under the Chairpersonship of the Minister of Interior. However, numerous sources, including security officials, ministers and former presidents told the Mission that the practice follows a different pattern. First, coordination among agencies is almost nonexistent: the said Council is more a formality than a coordinating mechanism. Second, reporting lines follow personal and political loyalties rather than constitutional arrangements. Heads of security agencies report the substantive information to “those who appointed them, to whom they have loyalty”, keeping only formalities and trivial issues to the Central Security Council. In addition, there is a severe lack of oversight and/or judicial review of the work of security agencies. For instance, the ‘communication interception’ department in Military Intelligence has ‘standing authorization’ to intercept whatever communication is deemed relevant by the department, with the sole endorsement of the head of the agency without any kind of external oversight or review. Similarly, it is apparent that there is very little, if any, accountability other than that of informal and extra-constitutional loyalties.

18. This setup partly explains the lack of trust the Lebanese people seem to have in their security agencies. Almost without exception, all those who spoke to the Mission, including some security officials, expressed doubts about the capacity and/or the will of the security agencies to provide security to political figures under threats. While some accused the security apparatus of outright involvement in threatening politicians, others said that the dominant culture is that politicians should protect themselves by their own means or, at best, that the security agencies did not have enough clout to protect the threatened. Many pointed to the fact that Lebanon had witnessed a great number of political assassinations over the last thirty years and that most of them remained unsolved to date.

19. After discussions with many security officials, including the heads of Military Intelligence, the ‘Special Forces and Counter-Terrorism’ department of the Military Intelligence, the ‘communication interception’ department of the Military Intelligence, the General Security, the Internal Security Forces, and the Republican Guard, the Mission came to the conclusion that there was a serious failure on the part of the Lebanese security apparatus to predict and prevent the assassination of Mr. Hariri. Despite widespread rumors of threats of physical harm against Mr. Hariri and/or Mr. Jonblatt, including the possibility of attempts on their lives and/or the life of members of their families, and despite the attempt on the life of former Minister Marwan Hemadeh, none of the security services had taken additional measure to protect any of them.

20. All of the security services deny having received information of a threat or a possible threat to Mr. Hariri, Mr. Jonblatt, or any of their families. However, everyone else outside the security services who talked to the Mission seemed aware of these threats. In addition, despite the acknowledged heightened tension, none of the security agencies had prepared an ‘assessment profile’ regarding the security of Mr. Hariri, “the most important political figure in Lebanon”. None of the security

agencies suggested, advised, or attempted to raise the level of protection provided to Mr. Hariri. Quiet the contrary, the close protection team provided to Mr. Hariri by the Internal Security Forces was reduced from approximately forty to eight persons shortly after he left office. Although this reduction was in line with the regulations, yet it constituted a stark negligence of the special circumstances at hand. **At the moment of his assassination, Mr. Hariri's protection was ensured almost entirely by his private security team.**

21. When the Mission discussed this aspect with Lebanese security officials, many of them argued that 'prevention' was an alien concept to the security management in Lebanon . This argument is inadmissible: prevention is an integral and important part of any functioning security system. In addition, this argument is also untrue: the Republican Guard informed us that they maintained periodic 'assessment profile' regarding the security of the President, including evaluating the level of threat and risk he is subject to based on their reading of the political situation, rumors, and the overall security situation. A functioning, credible, and professional security apparatus should have prepared, maintained, and updated a similar assessment profile in regards to the security of the 'most important political figure in Lebanon'.

22. **Based on the above, it is the view of the Mission that the Lebanese security apparatus failed to provide proper protection for Mr. Hariri and therefore provided a convenient context for his assassination.**

B. Circumstances

23. In gathering the facts related to the circumstances, the Mission identified the last movements of Mr. Hariri immediately before the assassination took place, determined the origin of the explosion and the type and weight of explosive used and reviewed the main avenues of the investigation undertaken by the Lebanese authorities based on accepted international standards. The review of the investigation includes the critical areas of; the management of the crime scene; the preservation of evidence; the investigation of the televisions network Al-Jazeera broadcast claiming responsibility of the attack; the investigation of the suspect bomber; the investigation of the suspect vehicle, and; general remarks on the investigation integrity.

The last movements of Mr. Hariri

24. On Monday the 14 th of February 2005 at approximately 1230hrs, Mr. Hariri left the Parliament building in central Beirut and walked approximately seventy metres to a caf? (Place de l'?toile) in Nejme Square where he met with a number of people. At approximately 1250hrs he left the caf? accompanied by former Minister and member of Parliament Bassil Fuleihan. His security convoy consisted of six vehicles; 1 st , a jeep with four local policemen (the lead vehicle); 2 nd , black Mercedes with three private security guards; 3 rd , black armour plated Mercedes being driven by Hariri accompanied by Mr. Fuleihan; 4 th , black Mercedes with three private security guards; 5 th, black Mercedes with three private security guards, and; 6 th, black Jeep (an ambulance) bringing up the rear with three private security guards. Three of the Mercedes were equipped with high powered, signal jamming devices (4 GHz), which were operating at the time of the final journey. All of the vehicles were equipped with firearms and all of the security detail were trained.

25. The chosen route was communicated to the lead car only as Mr. Hariri was leaving the caf?. The convoy Left Nejme Square and drove along Ahdab Street and on to Fosh Street . At the junction of Fosh Street and Seaport Street the convoy turned left and took the coast road towards Ain M'reisa and the St Georges Hotel.

26. At exactly 12:56:26 pm , Mr. Hariri's convoy was passing directly outside the St. Georges Hotel , a route that it had taken only six times in the preceding three months. A large explosion occurred and resulted in the death of Mr. Hariri, seven of his security detail and twelve other civilians in the immediate vicinity. Mr. Hariri was brought to the American University Hospital where his body was identified by his personal physician and by the legal physician appointed by the Government. Identification was made possible by body marks, X-ray and dental records. The cause of death was immediate brain injury resulting in cardiac arrest.

The explosion

27. The Mission has examined, analysed and carried out tests at the scene of the explosion over a seven-day period. Its view on the nature and type of the explosion is based on its experts' interpretation of four main elements: a) the dispersion, size and shape of fragments resulting from the explosion; b) the size and shape of the crater created by the explosion; c) ballistics interpretations, and; d) interpretations of the damage to the buildings in and around the area of the explosion.

28. The analysis of the fragments caused by the explosion and of the shape and form of the crater gives indicators equally supporting hypotheses of a surface and of a subterranean explosion. However, the analysis of the damage caused to the buildings in and around the crime scene suggests a surface explosion. The evidence of heat wash on several metal fragments is a clear indicator of a high explosive charge; the fact that the Mission 's experts found evidence of heat wash on fragments of vehicles and on fragments of metal shield holders placed in front of the St. George hotel supports the hypothesis of a surface explosion. Metal fragments found sticking in the side of cars indicate an explosion of a heavy vehicle and the dispersion of such fragments in this direction.

29. Many of the indicators pointing to a subterranean explosion, such as the fragments of the road asphalt, manhole and others found in upper floors of the St. George hotel, the impact on the vehicle roofs, and the damage to upper floors in the adjacent buildings, are not inconsistent with a surface large explosion.

30. After having conducted all the analysis and discussions of the samples collected, the Mission 's experts came to the conclusion that it was most likely an explosion above the ground, that the explosive used was Trinitrotoluene (TNT) and of an approximate weight of 1000kg.

The Crime scene

31. The crime scene is located at Ain M'reisa, City of Beirut , outside the Hotel St. Georges. The immediate aftermath of the explosion was a scene of chaos, with multi-agency emergency services, media personnel and hundreds of passers-by and residents of Beirut arriving at the scene to help and observe. Removal of the deceased and injured began almost immediately. Much of the initial service was provided informally by persons who arrived at the scene prior to the arrival of the emergency services.

32. In the immediate aftermath of the explosion, on the 14 th of February, the investigation of the crime fell within the jurisdiction of the Military Court and Judge Rasheed Mezhar of that Court undertook overall responsibility for the management and investigation of the crime, including crime scene management and preservation and collection of evidence by those competent local authorities. As an act involving the security of the state, the case was referred to the Judicial Council in implementation of the relevant national legislation and on the 21 st February Judge Michel Abu Araj, Chief Judge of the Criminal Court, was appointed as the investigating Judge replacing Judge Rasheed Meshar.

33. Failure to carry out the most fundamental tasks associated with this responsibility became evident from the very outset when the following was revealed:

- a. The body of a person recovered on the 15 th of February was deemed to have survived for approximately twelve hours after the blast,
- b. A body was located by accident and recovered on the 22 nd of February 2005,
- c. A body was located by family members and recovered on the 1st of March 2005,
- d. One person has been reported missing and believed to be still at the scene of the explosion.

Preservation of evidence

34. Preservation of evidence, while vital to the success of any investigation, is secondary to the preservation of life and to the recovery of bodies. In this case as in any major emergency, the preservation of the scene was not the primary focus of those emergency service personnel who arrived to render assistance. However, after the initial chaos and the removal of the dead and injured, the security services under the direction and control of the investigating Judge, Rasheed Mezhar, should have cleared the area of people and prevented any other unauthorised access to the site. Having completed a detailed search of the area to ensure that all the dead and injured had been recovered, the site should have been sufficiently secured to preserve all available evidence. The authorities in charge failed to do this.

35. The Mission also identified the following shortcomings:

- a. On the 14 th of February shortly before midnight, the six vehicles forming Mr. Hariri's convoy and one BMW (not connected with the convoy) were removed from the scene of the explosion and were taken to the Helou Police Barracks in the city of Beirut . Although the vehicles were covered after they had been removed, they were still now absent from their respective resting places on the site of the explosion, thereby preventing any ballistic analysis, explosive analysis and evidence gathering at the scene.
- b. Lebanese military, police and intelligence personnel, including explosives experts interfered with and removed items of possible evidential value without properly documenting, reporting or collating their activities.
- c. Apart from the initial media access to the site in the immediate aftermath of the explosion, the media were given official access to the site on the 15 th of February by Judge Mezhar after the scene had been secured by the security services.
- d. The seat of the explosion (the resulting crater) was flooded with water in the days following the explosion after the local authorities/Police failed to prevent water from being turned on and released into the crater through the fractured pipes at the scene, thereby damaging or even eliminating vital evidence.
- e. Parts of a pickup truck were brought to the scene by members of the security services, some time after the incident, and were placed in the crater and were subsequently photographed and labelled as evidence.
- f. Up until the 6 th of March 2005 the Mission observed large numbers of uniformed personnel and persons in civilian attire wandering around the scene, there was no record of persons entering or leaving the scene and no control over removal of or placing of items/samples at the scene.
- g. At a meeting with the local investigation' senior management team on the 8 th of March 2005 members of the Mission requested a chronological report relating to the crime scene, i.e. access by personnel, evidence gathered, exhibits taken, tests carried out and general crime scene management. On the 15 th of March 2005, the Mission was informed that such a report did not exist and could not be provided.
- h. There is strong evidence to suggest that the investigating judges were not in control of the investigation.
- i. Intelligence/Government agencies intruded on the site seemingly without judicial authority and subsequently failed to coordinate findings.

36 It is therefore the Mission 's view that the crime scene was not properly managed or preserved and as a result important evidence was either removed or destroyed without record. Those responsible for the mismanagement should be held accountable.

Television network Al-Jazeera broadcast

37. At approximately 13:30hrs on the 14th of February 2005 the director and senior presenter at Al-Jazeera TV, Beirut, received a telephone call from a man whom he describes as having, poor Arabic, or just pretending to have poor Arabic. The caller stated that *"The Nasra & Jihad Group in Greater Syria claims responsibility for the execution of the agent Rafik Hariri, in the name of the oppressed, the Nasra and the Jihad"*. Al-Jazeera broadcast this statement at approximately 14:00hrs. At 14:19:25 another male person called Al-Jazeera TV and speaking in "very good Arabic" said that a tape could be found in a tree near the United Nations, headquarters building, in Beirut. A member of Al-Jazeera staff was instructed to go to the location but failed to retrieve the videotape. A second Al-Jazeera staff member was sent to retrieve the videotape at which point a videotape was retrieved and subsequently handed to the director. At 15:27:37 a third call was made to Al-Jazeera TV at which time another male voice asked why the tape had not been broadcast. The director informed the caller that the tape could not be broadcast until a decision had been made at Al-Jazeera headquarters in Qatar. The caller who was by this time shouting loudly threatened the director that he would regret not showing the tape. At 17:04:35 a final call was made to Al-Jazeera TV at which time the same male voice, very angry, asked the director if the tape would be broadcast or not. The director put the caller on hold and subsequently determined that the decision had been made to broadcast the tape, the caller was then told that he should watch the Television. The tape recording, which was broadcast by the Al-Jazeera network, showed a young bearded man claiming responsibility for the killing of Mr. Hariri on behalf of the group 'Nasra and Jihad Group of Greater Syria'. The person who appears on the recording has been identified as Ahmad Abu Adas, a resident of Beirut, aged 22 years.

38. On the same date, 14th February 2005 at 14:11:25 a consultant with Reuters news agency received a call from a male caller whom she describes as not having a Lebanese accent but "using a false Palestinian accent". She states that the caller who was shouting in an authoritative voice told her to *"Write down, write down and don't talk"*, *"we are the Nasra & Jihad group in greater Syria, on this day have given due punishment to the infidel Rafik Hariri so that may be an example to others of his sort"*. On the instruction of an employee (Reuters) the contents of this call were not released because the call could not be authenticated.

39. Of the five calls made to Al-Jazeera and Reuters, the location/origin has been established for four of those calls. All locations identified by police were public telephones in the city of Beirut. The placing of the video tape by a person or persons associated with the killing of Mr. Hariri provided the security forces with an important avenue of investigation. However, the investigation authorities did little to investigate this aspect. CCTV in two critical locations established by members of the Mission was never investigated, witnesses working in the area, identified by the Mission were not interviewed and the most basic investigations were not carried out. Those responsible for this element of the investigation displayed gross negligence.

The suspect

40. Ahmad Abu Adas, a male of Palestinian origin was born in Jeddah (Saudi Arabia) on the 29th of August 1982 and came to Lebanon with his family in 1991. He is the son of Taysir Abu Adas and Nehad Moussa Nafeh. He has two sisters, both living in Beirut, and one brother, who is presently residing in Germany. He was unemployed. Investigations show that at approximately 0700hrs on the 16th of January 2005 Ahmad Abu Adas left his home at Iskandarani Building 6, first floor, Arab University District in the city of Beirut and was officially reported missing on the 19th of January 2005.

41. Enquiries carried out by the Mission established that approximately three years ago Ahmad Abu Adas changed from being a carefree teenager to becoming a religious fundamentalist. Approximately one month prior to going missing Ahmad Abu Adas informed his family that he had met a new friend at the Al-Huri mosque, where he sometimes led the prayers. Information from Abu Adas' mother suggests that at approximately 2100hrs on the 15th of January 2005 the 'new friend' made a telephone call to the Abu Adas home and told him that he would be calling for him at 0700hrs on the 16th of January saying that he had a surprise for Ahmad. The mother claims that at approximately 0700hrs on the 16th of January someone called for Ahmad alerting him by blowing on a car horn outside the apartment, she further states that Ahmad who had already

been up for prayer called to ask her for some money and that he took only 2000 Lebanese Lires (approximately one dollar and 33 cents) and said that he would only be a few hours. She also states that Ahmad asked her to apologise to another friend that he had made an appointment with on that date.

42. On the 14 th of February 2005 The Abu Adas family were watching TV when Al-Jazeera broadcast the video tape showing Ahmad claiming responsibility for the killing of Mr. Hariri on behalf of the group "Nasra and Jihad in Greater Syria". At approximately 2030hrs on the 14 th of February, the father, mother and younger sister surrendered themselves to the police at which time all three were arrested. The parents were detained for approximately seven days but the sister was released after the second day. The investigation into Ahmad Abu Adas included the arrest and interviewing of the family, interviewing of friends, examination of telephone records and a search of the home of his parents where Ahmad also lived. Information from the investigation shows that Ahmad Abu Adas had a computer at his home which was seized as part of the investigation. The seized items included 11 video tapes, 55 CDs, 1 floppy disc and a computer hard drive. Other than subversive information/data allegedly found on the hard drive there is very little indication that Ahmad Abu Adas had subversive or violent tendencies.

43. The investigation into this aspect of the crime showed the following flaws:

- a. The officers leading the investigation assured the Mission that Ahmad Abu Adas had internet access from his home and that the information contained on the hard drive of the computer had been downloaded directly onto the computer at the home of Ahmad Abu Adas. Enquiries carried out by the Mission have established that Ahmad Abu Adas did not have internet access from his home and could not have accessed the suggested sites from his personal computer. Enquiries carried out by the Mission indicate that the investigating security forces did not canvass or carryout enquiries at local cyber cafes with a view to determining the origin of the alleged data located on the computer of Ahmad Abu Adas.
- b. There is little evidence to support the theory that Ahmad Abu Adas had militant/extremist tendencies.
- c. There is no evidence that Ahmad Abu Adas had planned his departure or that he would not be returning at the time that he left home on the 16 th of January 2005.
- d. There is no intelligence available on the existence of the group "Nasra and Jihad in Greater Syria" before or after the explosion.
- e. This assassination would have required access to considerable finance, military precision in its execution, substantial logistical support and would have been beyond the capacity of any single individual or small terrorist group. There is no evidence suggesting that Ahmad Abu could have the capacity to plan and execute this assassination on his own, nor did he have the financial capability.

The suspect vehicle

44. A branch of HSBC bank is located close to the scene of the explosion. The bank operates its own CCTV security system which recorded the movements of the Hariri convoy immediately prior to the explosion but did not record the scene of the explosion itself. Copies of the recordings of this CCTV system were taken by a number of Lebanese security agencies some time after the investigation was initiated. On close scrutiny the recorded footage shows a white pickup truck entering the area of the explosion shortly before Mr. Hariri's convoy. The recording clearly shows that this white pickup truck is moving approximately six times slower than all other vehicles traversing the same stretch of roadway. A time series analysis shows that, for the 50 to 60 meters of road covered by the camera, a normal car takes 3 to 4 seconds to cover the distance while a large truck takes 5 to 6 seconds to travel the distance. The suspect white pickup truck takes approximately 22 seconds to travel the distance and enters the area of the explosion 1 minute and 49 seconds before the Hariri convoy. It is estimated that if the pickup truck continued at the same speed it would be exactly at the centre of the explosion approximately 1 minute and

9 seconds before the Hariri convoy. It is estimated that if the pickup truck had continued its journey at the same speed without stopping it would still have been affected by the force of the blast and would most probably have remained at the scene after the explosion. In order to have avoided the explosion this pickup truck would have had to speed up considerably, immediately after going out of view of the HSBC CCTV camera. There is no evidence to support this.

45. The Lebanese investigating officers have identified the existence of this pickup truck and its suspicious behaviour as an issue that gives rise to a major/critical avenue of investigation. They have identified the make and model of the suspect vehicle as a Mitsubishi Canter pickup truck (possibly 1995-1996 model). The investigations carried out by the Lebanese security forces have focused predominantly on determining the actual ownership of the truck by attempting to trace its ownership history through vehicle licensing records, border controls and manufacturing or dealership records. During searches for evidence at the site of the explosion the security forces have allegedly discovered parts of a pickup truck which match the suspect vehicle and which bear evidence of having been involved in an explosion. The police have allegedly discovered in excess of 21 parts of this suspect vehicle in and around the area of the explosion. The main thrust of the security force investigation is focused on this one avenue of investigation. The Mission has determined that this truck, as viewed on the CCTV of the HSBC bank, actually existed and was at the scene as stated, immediately before the explosion, which claimed the life of Mr. Hariri. The Mission also accepts that the theory of this truck having been involved in of the assassination is a credible theory, requiring full and extensive investigation. The Lebanese security forces have recovered small parts of a Mitsubishi truck from the crater, and from the surrounding area of the explosion. They have recovered parts of a Mitsubishi truck from the sea adjacent to the explosion. The Mission recovered a piece of metal from the crater consistent with metal used in truck parts and bearing evidence which supports the theory of a surface/over-ground explosion.

46. However, the investigation into this aspect of the case has not been full or extensive, and in the opinion of the Mission , has been critically and fundamentally damaged due to the actions and inactions of the security forces on the ground, as follows:

- a. Up to approximately one month after the assassination, little or no attempt had been made by the security forces to determine the movements of this suspect truck immediately prior to, or immediately after the explosion. This aspect of the investigation could have uncovered vital evidence including; the possible identity of the perpetrator or perpetrators, where the truck was parked immediately before the explosion and of critical importance, whether the truck continued on its journey and had no involvement in the assassination at all.
- b. The Mission determined that little or no effort was made to determine whether the suspect pickup truck continued its journey and that there was little or no effort made to locate CCTV footage or witnesses on the route after the explosion.
- c. The Mission can say with certainty that parts of a truck were brought to the scene of the explosion by a member of the security forces some time after the assassination and were placed in the crater and subsequently photographed in the crater by members of the security forces, thus creating serious suspicion and doubt about the actual involvement of this truck in the assassination and seriously damaging the credibility of the main line of investigation. This line of enquiry is now fundamentally damaged, with credibility issues and scope for legal challenge.

47. In sum, the manner in which this element of the investigation was carried out displays, at least gross negligence, possibly accompanied by criminal actions for which those responsible should be made accountable.

General assessment of investigation:

48. Apart from the deficiencies already indicated above, the Mission has noted the following flaws in the Lebanese investigation process:

- a. There was a serious disconnect between the senior members of the local security force investigation team.

- b. There was a lack of coordination between the security force investigation team and the investigating Judges.
- c. There was a lack of focus and control by the senior management responsible for the overall investigation of the crime.
- d. There was a lack of professionalism in the overall crime investigation techniques employed.
- e. There was a total absence of intelligence information and there was little or no exchange of information between the various agencies engaged in the investigation.
- f. There was an absence of both technical capability and equipment necessary for such an investigation.

49. Based on all the above, it is the Mission's conclusion that there was a distinct lack of commitment to investigate the crime effectively, and that this investigation was not carried out in accordance with acceptable international standards. The Mission is also of the view that the local investigation has neither the capacity, nor the commitment to succeed. It also lacks the confidence of the population necessary for its results to be accepted.

C. Consequences

50. The assassination of Mr. Hariri had an earthquake-like impact on Lebanon. Shock, disbelief, and anxiety were the most common reactions among the people with whom we spoke. Shock that what many thought to be practices of the past seem to be coming back. Disbelief at the murder of a man who people regarded as a 'larger than life' figure. And anxiety that Lebanon may be sliding back to chaos and civil strife as a result of that "earthquake". These feelings quickly melted together in a strong and unified outcry for 'the truth'. All those who talked to the Mission indicated that finding the truth about the assassination of Mr. Hariri comes as their utmost priority and that peace and tranquility in Lebanon cannot be restored without bringing this crime to an acceptable closure. Many reminded the Mission of previous political assassinations that were either not investigated properly or did not lead to convincing results. All of our interlocutors emphasized that this assassination was one too many, that what they described as "the culture of intimidation and brutal use of force" has to come to an end, and that the Lebanese people and their political leaders deserve to live free from fear, intimidation and the risk of physical harm.

51. The families of the victims were understandably still in shock when the Mission met with them. Mr. Hariri's family still cannot believe that a man who devoted his life to the service of his country could be simply eliminated while the truth about his murder hangs on an investigation the credibility of which is very much in doubt. The families of the other victims - the guards, the workers at the scene, the passers-by, and all those who lost their lives accidentally – are unable to comprehend yet what has happened or why. For all these people the talk about the capabilities of the security services, the coordination among them, or the political speculations of the populace only increase their pain. All they yearn for now is the truth, a way to bring this to closure and allow them to mourn their loved ones.

52. The families of the victims as well as political leaders from different political and communal backgrounds, including officials and members of the government, have all indicated that the formation of an international and independent investigation commission is the only way to find the truth about the assassination of Mr. Hariri. Some of our interlocutors accused the Lebanese and Syrian security services of involvement in the assassination, of willfully derailing the Lebanese investigation in order to cover up for the crime. Others, from the government side, indicated that an international investigation would be needed specifically to prove the innocence of the Lebanese security services, which cannot happen without external help given the diminished credibility of the Lebanese security services and investigators.

53. During our stay in Lebanon, ordinary people stopped us in the streets of Beirut and thanked us for our efforts to find 'the truth', urged us not to leave this matter unresolved, and reminded us of the importance of bringing the culprits to justice "for the sake of Lebanon". Posters in the streets of Beirut carry one word, in two languages: *the truth, al-haqiqa*. Politicians, officials in the government at all levels, and even some security officials, told us that finding the truth "this time" is crucial for restoring civil peace in the country, reducing the tension and allowing Lebanon to move toward normality.

54. In addition, the assassination of Mr. Hariri seems to have unlocked the gates of political upheavals that were simmering throughout the last year. Accusations and counter-accusations are rife and fuel a strongly polarized political debate. Some accuse the Syrian security services and leadership of assassinating Mr. Hariri because he became an insurmountable obstacle to their influence in Lebanon . They argue that his removal became necessary for Syria to retain control over the Lebanese political polity, especially if Syria was forced to withdraw its forces. The adherents of this theory affirm that the Syrian leadership would not mind being the 'obvious suspect' and that it has used similar tactics in the past with little or no concern about leaving traces. According to these sources, this attitude is part of Syria 's pattern of coercive management of Lebanese affairs. Others claim that the Syrian leadership did not anticipate such strong reactions from the Lebanese people and the international community. In their view the decision to eliminate Mr. Hariri was "a strategic miscalculation", not dissimilar to other miscalculations made by the Syrian government.

55. Syrian supporters counter by claiming that Mr. Hariri was assassinated by "the enemies of Syria"; those who wanted to create international pressure on the Syrian leadership in order to accelerate the demise of Syrian influence in Lebanon and/or start a chain of reactions that would eventually force a 'regime change' inside Syria itself. According to the adherents of this theory, the assassination of Mr. Hariri would be too gross a mistake for the Syrian leadership to make. Not only would Syria be the 'obvious suspect', but it would also be the obvious loser. Those who maintain this theory reminded the Mission that political assassinations are carried out not in revenge, but in order to lead to certain consequences. The consequences of Mr. Hariri's assassination are, in their view, obviously unfavorable to Syria .

56. The assassination quickly widened the gap between the Lebanese political factions and further polarized the political scene to a threatening level. Immediately after the assassination, the political spectrum was divided between 'opposition' and 'loyalty' camps, crystallizing around the position towards the current Lebanese government/president and the existing Syrian/Lebanese relationship. Two weeks after the assassination, large numbers of Lebanese took to the streets to express a combination of grief, anger, anxiety and political opposition to the Syrian involvement in Lebanese affairs. The protesters and the opposition leaders accused the Lebanese and security services of involvement in the assassination and called for the government to resign and for the Syrian troops and security assets to leave Lebanon . Although PM Karami had a majority in the parliament and was confident of winning a confidence vote, he listened to the voice of the street and announced his government's resignation while the demonstrators were still gathered not far from the Parliament.

57. The protestors and opposition leaders continued their campaign, calling for the dismissal of all the heads of security agencies, a Syrian withdrawal of its army and security assets, the formation of a 'neutral' government that would focus on preparing the upcoming legislative elections, and the establishment of an independent international investigation. The 'loyalty' quickly responded by taking to the streets on 8 March when at least half-a-million people demonstrated in support of the government and of Syria . Immediately afterwards, the Syrian President declared his government's intention to withdraw its forces to the Beqa'a valley in implementation of the Taif Agreement of 1989, and as well as further withdrawals up to the Syrian border. However, this announcement did not bring the debate over the Syrian presence to an end. Opposition leaders continued to show skepticism regarding Syrian intentions and required a timetable for the full pullout, with some calling for it's completion before the legislative elections.

58. On 14 March, according to available estimates, more than a million people gathered in the main square of Beirut and chanted for the 'independence' of Lebanon, the creation of an independent, international investigation commission, the removal of the heads of security agencies, and the formation of a 'neutral' government to prepare for the upcoming elections. Fears of a constitutional void were voiced to the Mission , as well as fears of the inability to vote in an electoral law in time or to prepare adequately for the May legislative elections. Many suggested that international supervision of the elections would be necessary to ensure its fairness. They pointed out that a credible election would contribute to stabilizing the political situation. There are also fears of civil strife as the opposition and loyalty divide is worryingly loaded with inter-communal significance. These political upheavals carry threats to the peace and security of Lebanon , with obvious implications for stability in the region as a whole.

59. Moreover, Lebanese politicians from different backgrounds and allegiances expressed to the Mission their fears that Lebanon will become, once again, a battle ground for external forces. Many pointed to the long and tragic civil war as an example of external powers struggling for power through Lebanese actors. They underlined the fragility of the Lebanese polity and its limited ability to sustain pressure. Many political figures emphasized their worry that Lebanon will be caught in a possible showdown between Syria and the international community, with possibly devastating consequences for Lebanese peace and security. Lebanese political leaders across the board implored the Mission to call on the international community not to use Lebanon as a tool of pressure. As one interlocutor told the Mission ; “the tool is too fragile, and would easily break”.

III. Concluding remarks and recommendations

60. It is the Mission 's view that the Lebanese security services and the Syrian Military Intelligence bear the primary responsibility for the lack of security, protection, law and order in Lebanon . The Lebanese security services have demonstrated serious and systematic negligence in carrying out the duties usually performed by a professional national security apparatus. In doing so, they have severely failed to provide the citizens of Lebanon with an acceptable level of security and, therefore, have contributed to the propagation of a culture of intimidation and impunity. The Syrian Military Intelligence shares this responsibility to the extent of its involvement in running the security services in Lebanon .

61. Secondly, it is also the Mission 's view that the Government of Syria bears primary responsibility for the political tension that preceded the assassination of former Prime Minister Mr. Hariri. The Government of Syria clearly exerted influence that goes beyond the reasonable exercise of cooperative or neighborly relations. It interfered with the details of governance in Lebanon in a heavy-handed and inflexible manner that was the primary reason for the political polarization that ensued. Without prejudice to the results of the investigation, it is obvious that this atmosphere provided the backdrop for the assassination of Mr. Hariri.

62. Thirdly, it became clear to the Mission that the Lebanese investigation process suffers from serious flaws. Whether caused by lack of capabilities or commitment, this process is unlikely to reach a satisfactory conclusion . In addition, the credibility of the Lebanese authorities handling the investigation is questioned by a great number of Lebanese, in the opposition as well as in government. It is therefore the Mission 's view that an international independent investigation would be necessary to find the truth . To carry out such an investigation, there would be need for a self-sufficient team, comprising the different fields of expertise that are usually involved in carrying out similarly large investigations in national systems, with the necessary support staff and resources, and knowledge of the legal and other systems involved. Such a team would need an executive authority to carry out interrogations, searches, and other relevant tasks. The team could be assisted and advised by Lebanese legal resources without prejudice to its independence. It is, however, more than doubtful that such an investigation team could carry out its tasks satisfactorily - and receives the necessary active cooperation from local authorities - while the current leadership of the Lebanese security services remains in office.

63. Fourthly, it is the Mission 's conclusion that the restoration of the integrity and credibility of the Lebanese security apparatus is of vital importance to the security and stability of the country. A sustained effort to restructure, reform and retrain the Lebanese security services will be necessary to achieve this end, and will certainly require assistance and active engagement on the part of the international community. Based on the Mission's review of the current setup of the Lebanese security apparatus, six main areas have been identified as priorities for security reform; a) decoupling security from politics and establishing a professional service; b) nationalizing the security apparatus by disentangling it from external influence and by raising it above sectarianism; c) establishing a democratic police service, with special attention to the rule of law and human rights; d) establishing clear lines of reporting; e) capacity-building, and; f) introducing clear mechanisms for accountability and judicial oversight.

64. Finally, it is also the Mission 's view that international and regional political support will be necessary to safeguard Lebanon 's national unity and to shield its fragile polity from unwarranted pressure. Improving the prospects of peace and security in the region would offer a more solid ground for restoring normalcy in Lebanon .

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