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#FEMALEFORWARD

**Micheline
Braidy**

*Judge at the Special
Tribunal for Lebanon*

The **WOMEN of LEBANON**

HOW?
WHY?
WHO?
WHAT?
WHEN?

WOMEN

Empowering women and closing gender gaps in the world are key for economies and communities to thrive. Therefore, the aim of our series "Women of Lebanon" is to give women from very different backgrounds in the country a voice, as we believe that it is important to portray strong women and use their impact to inspire future generations. Thus, this series will cover a whole range of different topics and sectors, from human rights, the arts to business and politics and all the women in the series have one thing in common: they are outstanding personalities who believe in change and the importance of individual responsibility to work for a better society. I am particularly grateful to Nicole Hamouche, the author of this series, who has identified and interviewed the ten women in our series and has worked so hard to make this project happen.

Enjoy reading and we hope that you will get inspired too!

Best regards,



Kristof Kleemann

*Project Director
FNF Lebanon and Syria*





Judge Braidy started her career as a lawyer, from 1981 to 1984. She is one of two Lebanese judges assigned at the Special Tribunal for Lebanon, who has accompanied the jolts of the highly symbolic trial of Rafik Hariri's assassination.

From 1990 to 1993, she served as a judge in the Service des Législations et des Consultations at the Lebanese Ministry of Justice. From 1993 to 1997, she sat as a judge in commercial, civil and personal status matters.

From 1995 to 2005, she served as a judge in the Criminal Chamber of the Court of Appeal of Mount Lebanon.

Since 2005, she has been a judge at the Lebanese Court of Cassation.

Judge Braidy is a graduate of the Faculty of Law and Political Sciences at the Saint Joseph University in Beirut; she holds a degree from the Institut d'études judiciaires, as well as a Master's Degree in diplomacy and strategic negotiations from the Université Paris- Sud XI and a Research Master's Degree in diplomacy from the Faculty of political sciences and international relations at the Université la Sagesse, Beirut.

Micheline Braidy

<https://www.stl-tsl.org/en/about-the-stl/biographies/judge-micheline-braidy>

IN HER OWN WORDS



MICHELINE BRAIDY

About the difficult exercise of discernment amidst international and human complexities

by

NICOLE HAMOUCHE

Micheline Braidy is one of two Lebanese women at the Special Tribunal for Lebanon, who has accompanied the jolts of the highly symbolic trial of Rafik Hariri's assassination. Though her status carries a certain aura and her words are weighed, the judge is humble and friendly. The necessary solitude for the exercise of the profession hasn't spoiled her sense of hospitality. After a twenty five year career as a judge, of which she spent ten years at the Criminal Chamber of Mount Lebanon and a couple of years at the Chamber of Cassation, Micheline Braidy, mother of two, found herself propelled in the complexities of international justice, investigating a highly politicized crime: the assassination of Rafik Hariri, prime Minister of Lebanon under Syrian occupation. The tribunal took her to The Hague, which hosts one of the most important courts in the world, the International Court of Justice. When we met her, Mrs. Braidy said it was the first time in ten years that she was in her home country for such a long time, two consecutive months. Because of COVID-19, the sentencing took place online. Micheline Braidy has no resistance to the processes, whatever the detours and obstacles on the way. Even when she had serious health issues, she would go alone to the hospital in The Hague to get the treatment, and then get on a 45 min tram journey directly to her office. Determination, commitment, silence, faith and listening to one's self are her anchors.

The judge, who as a teenager enjoyed "the furious beats of the court house as she attended trials" when she visited her father at work - he was the President of the Cassation Court - has enjoyed delving into thousands of pages of the Hariri case, the intricacies of the international justice apparatus and the high standards of scrutiny. The responsibility she felt she was endowed with,

"proving to the Lebanese people the credibility of the Tribunal" was what fueled her tenacity and kept her going during those long years in The Hague, afar from her family and homeland. Now that the sentence is out, the judge who was obliged to refrain from commenting on the case, is officially allowed to speak. The only regret that she voices is that "justice took too long and when justice takes too long, it is no more justice, it has no effect". She was appointed in 2008, the hearings only started in 2014. Her concern now, is related to the current atmosphere in the country where "all values are dismissed, where everything and everybody is being discredited: justice, judges, bankers, politicians, institutions, etc. The main weakness of our society currently, is that it has lost the power of discernment - it is easily indoctrinated". However, the judge who says that one sees all facets of humanity in the court rooms, "the tragedies, the cruelty, the frozen emotions", still believes in humans and in justice. She makes hers the words of Abbe Pierre: "I continue to believe, to have faith even if everybody loses hope", to which she adds her own: "I continue to believe in Lebanese justice even if we have the feeling that we are living in an unfair world".

The judge who is a member of the International Association of Women Judges and who has also studied diplomacy and strategic negotiations in Paris and Beirut, wonders in what state she will find the Court House in Lebanon after ten years of absence and is interested in exploring diplomatic endeavors after the completion of her mission with the Special Tribunal for Lebanon.



The Special Tribunal for Lebanon (STL) in session, 2020

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Why did you choose a judicial career?

I grew up in this atmosphere, around law and the judiciary. My father was the President of the Cassation Court, a great man with high standards of scruple and ethics. I would visit him at the Court House and often attend trials at the Criminal Court and at the Cassation Court, sitting at the end of the court room. Some trials were boring while others would offer fascinating pleadings. I wished I were at the center of the hearings. The human experience that one acquires in such hearings is huge: crimes of passion, legitimate defense, psychiatric responsibility, the value of a testimony, the value of a confession, the death penalty. Court rooms are places of tragedy, of drama, of harshness, of egoism and of freezing emotions. The evolution of a society scrolls in front of our eyes. It was at the beginnings of the eighties, during the war, there was still trust in justice and in the judicial system at that time. I also realized then, the importance of judgment: our ruling is in the name of the Lebanese people and to the Lebanese people.



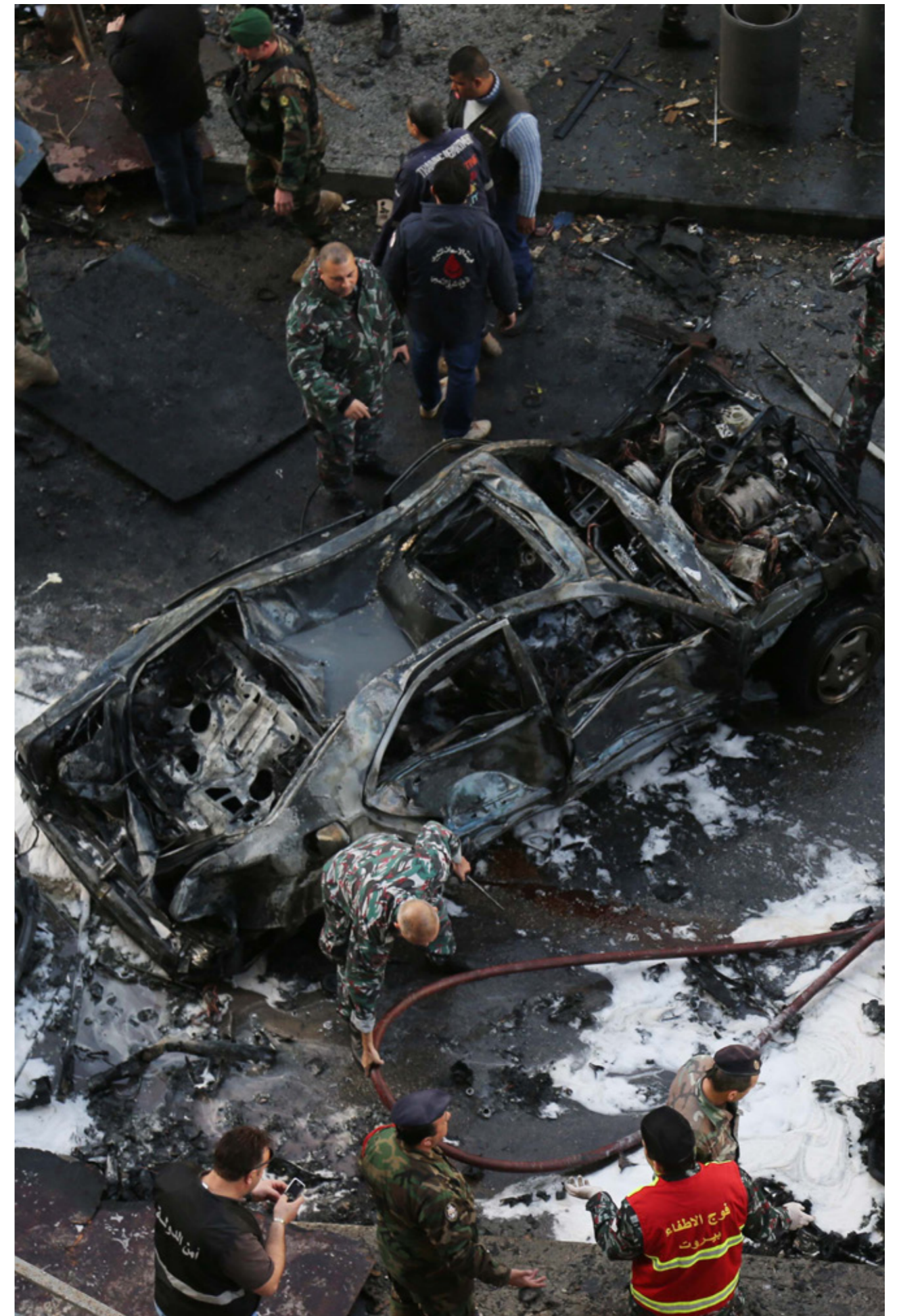
What was the selection process like for the Special Tribunal for Lebanon? And did Lebanon not have the capacities to do this trial on its own?

The Supreme Council of Magistracy proposes the names which are transferred under seal covers to the UN. When I received the notification for the interview in Geneva in 2007, I was in bed at hospital as I just had surgery. I wondered if I should go and then I thought it was an opportunity that I needed to seize in the moment - otherwise, it would be lost. A year passed between the time I had the interview and the time I was designated by the Secretary General of the UN. I wished my father was alive, I would have liked to share this designation with him.

As for the Special Tribunal, yes, Lebanon did have the capacity but it was still under close Syrian influence, so it had to take place outside of Lebanon because of the political system at that time. Also, this assassination was considered an attack to international peace, hence, it justified an international tribunal. The Lebanese justice has contributed a lot as it has provided the Special Tribunal with numerous elements for proof.



Prime Minister Saad Hariri son of slain Prime Minister Rafic Hariri

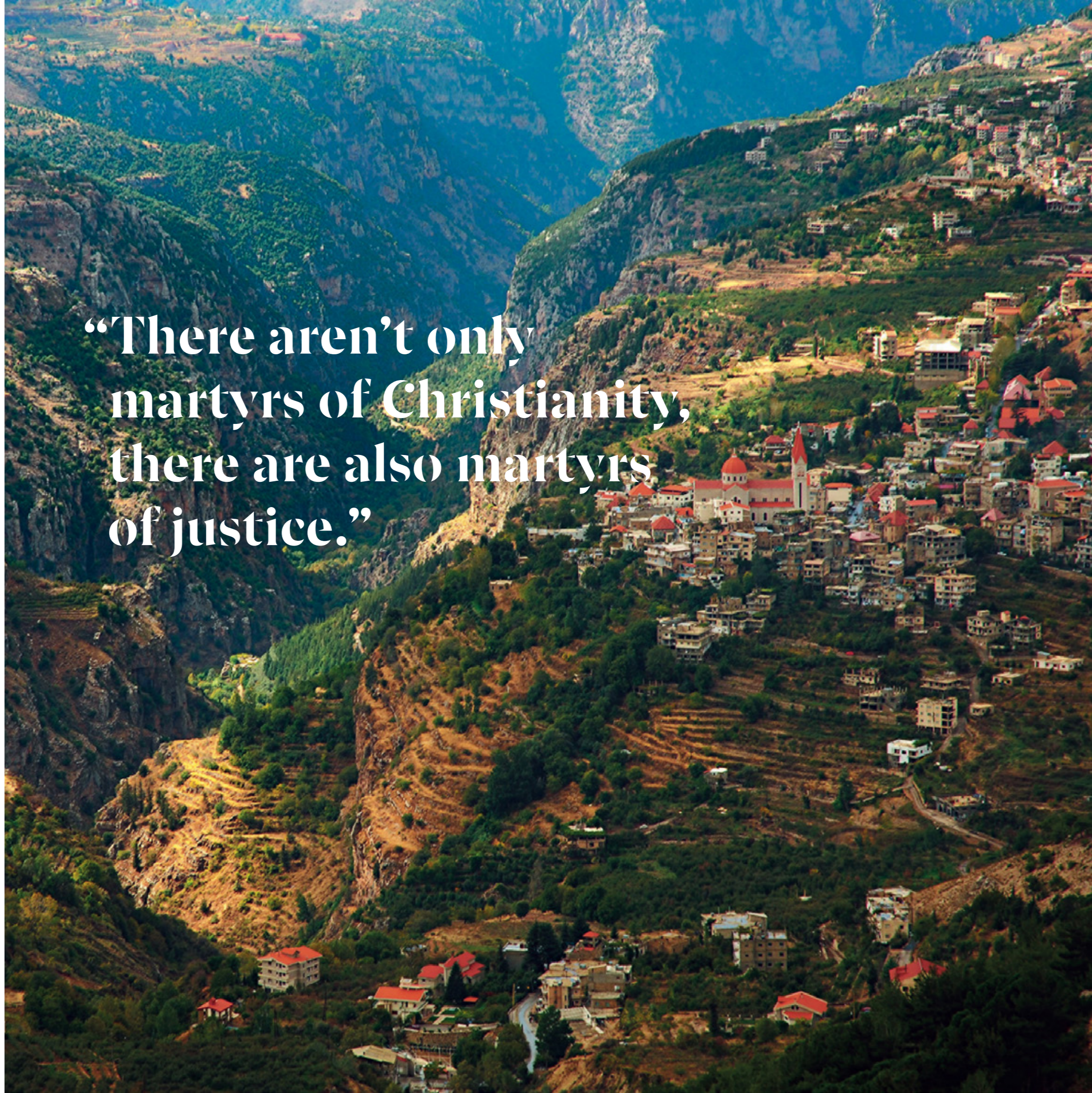


Assassination of Lebanese Prime Minister Rafic Hariri, February 14, 2005

Were you not afraid for your safety in accepting such a mission in such a politicized environment at a time of multiple assassinations?

I believe in God, I lend myself to my fate. When I knew I was selected, I went to the Qannoubine valley and visited Dario Escobar, the monk who is retired up there: his words stayed with me though he is not really connected to the Lebanese reality up there in his hermitage: *“There aren’t only martyrs of Christianity, there are also martyrs of justice”*. I took my decision without hesitation. And I have to say I received no threats, no pressures whatsoever in the exercise of my mission.

“There aren’t only martyrs of Christianity, there are also martyrs of justice.”



Are women easily accepted in those power environments and does womanhood bring anything to the table? Or is it that since you are practicing law, this kind of notions do not interfere?

At the time I took the judicial exams - it is a competition - they selected us based on our confession, however the year I presented in 1985, we were several women who were accepted. Prior to that time, they didn't take women. Now there are many.

At the UN, importance is given to women and to the gender question. Carla del Ponte, for instance, was a former Chief Prosecutor of two United Nations international criminal law tribunals: the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) and Fatou Bom Bensouda was the Chief Prosecutor at the International Criminal Court.

Abroad I didn't feel the male chauvinism that I can still see in Lebanon.

Women are studious and meticulous and bring moderation and mediation to men's impulsive tensions. They play a buffer role. Their calmness and wisdom makes them more convincing than men. The practice of law is never mathematical, and common law is less codified than civil law. The jurisprudence has its part, hence, it has an aspect that is more flexible than strict codification. The Special Tribunal for Lebanon is a mix of common and civil law, it applies in substance the Lebanese law and in the procedure, common law.

What did you acquire from this experience at the STL?

I discovered a world that is completely different than the judicial world I was living in and a strong attachment to principles. **I felt I was like a surgeon with her scalpel: I had to pay attention to every single detail, to dissect the proofs in a very meticulous fashion.** The approach is different, the bar is set very high prior to considering the accused guilty "beyond reasonable doubt".

I particularly appreciated the multicultural environment, it drives one to understand the other, who has different approaches, different ways of thinking. Our role as Lebanese judges was also to explain to the others, the complexities of the Lebanese context - we produced 200 pages of historical background.



What about the emotional aspect when you are in contact with such tragedies and dramas? How do you handle it between you and yourself? Are you aware of the power you have, do you love this power?

The human aspect of things is actually the reason why I was drawn to magistracy at first. With time, one is less vulnerable, like a doctor, you acquire a certain invulnerability. I still have the sensitivity, but I control it. I have a big feeling of responsibility but I don't have the feeling that I like power, no. And if I may reveal something to you: before every hearing, I pray to be inspired. In the Special Tribunal for Lebanon for instance, even if they are no parties in the trial, the victims were on our mind. We listened to the ones who chose to participate and the Tribunal issued recommendations for a Trust Fund established by the donors and for a national scheme as was the case for International Criminal Tribunal for the former Yugoslavia.

As for the power of the judge, I find that judges have lost their aura in Lebanon. Look at the current situation in relation to August 4th blast's investigation: those who claim they want an independent judicial system, interfere in it. Does justice only apply to the weak? Justice is for all. The weak are thirsty for justice, thirsty for results. We are at a time where everything is being discredited systematically. I have the impression

that this generalized dismissal, this loss of trust is not innocent but is instigated. The main weakness of our society nowadays is that it has lost its discernment capacity and that it doesn't want to think, hence, is easily indoctrinated. Propaganda is about making people believe whatever is being repeated. The judge needs to use discernment: popular claims lack discernment and can lead to judiciary errors like in the famous Dutroux case in France. People usually get passionate and emotional, especially in our part of the world. The judge has to listen without being influenced. I spend a lot of time on my own and listen to myself. It is a super human challenge as we are human beings and cannot be completely isolated from the context. Tenacity and long breath are required. Judges have to be determined to go to the end of the demand.

We, in Lebanon, initiate very well, we have a good process but we never see it through to the end. I am often disappointed that we do not see it through to the end of things in our justice. It takes courage to continue till the end, yet I like to think that "hope is the little voice whispering maybe when the whole world is shouting no" as I read it somewhere.





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