



Dimensions
for Strategic Studies

Situation Assessment



A year after Beirut Harbor Bombing
Impact investigative trajectory and
projected scenarios

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Dimensions for Strategic Studies

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Preamble

The explosion in the Lebanese capital, Beirut, on the evening of August 4, 2020, was a major event both domestically and internationally, due to its enormous volume resulting from hundreds of tons of ammonium nitrate, which was stored in one of the port's wards. The explosion, described as one of the largest non-nuclear explosions in history, left more than 200 people dead and thousands injured, tens of thousands displaced, causing widespread destruction in several parts of the city, and prompting thousands of Lebanese to decide to migrate ⁽¹⁾.

In the aftermath of this explosion, and in the days that followed, it seemed that the aftermath would not be the same as before. The destruction and tragedy were too heavy for a people already burdened by crises. All indications were that major developments would occur, possibly going beyond the investigation of the explosion, to changes and reforms in the interest of the Lebanese people. This was evident in international statements and official visits to Beirut, foremost among which was the visit of the French President, Emmanuel Macron, on 6 August, two days after the explosion, where he roamed the destroyed residential streets near the port, and then repeated the visit on 31 August, where he was pressuring to form a government to rescue and implement radical reforms in the Lebanese State ⁽²⁾.

(1) The amount of ammonium nitrate that exploded on 4 August has not been officially declared. While the amount that was stored was 2,754 tons, investigations are continuing to calculate the amount that exploded, and the amount that originally existed, amid information on significant bulk being smuggled out of the port. On July 30, Reuters quoted a report from the U.S. Federal Bureau of Investigation (F.B.I.) B A), released on 7 October 2020, stated that only about 552 tons of ammonium nitrate had exploded on that day, significantly less than the original shipment (2,754 tons), which had arrived on a vessel chartered from Russia in 2013. Last December, the head of the caretaker Government, Hassan Diab, announced that the FBI report had estimated the amount of the explosion at 500 tons, so the Lebanese Government, as well as the Lebanese judiciary, had been aware for months that large quantities had been lost.

(2) Macron launched what was known as the "French Initiative" to form a new government and start implementing reforms that save Lebanon, which was already suffering before the explosion, from a major deterioration in the economic and financial levels, and from an increase in the challenges of living, especially with the deterioration of the currency, as well as the major challenges faced by the country due to the outbreak of the Corona pandemic. On 9 August, Paris hosted an international videoconference to secure urgent humanitarian assistance to Lebanon.

Locally, in the early hours following the explosion, it appeared that the judiciary and the accounting agencies would launch rapid and decisive investigations to uncover the causes of the tragedy that afflicted the Lebanese, and to identify those involved in silence about the presence of a large amount of ammonium nitrate in the port, especially since it had been stored since 2014. After the explosion, the Minister of the Interior, Mohamed Fahmy, stated that within five days, the cause would be uncovered and those involved would be brought to justice ⁽³⁾.

Today, on the first anniversary of the massive explosion, despite the transfer of the case to the Judicial ⁽⁴⁾ Council, investigations have stalled, with the arrest of a number of junior officers and some officials, without any clear account of the reasons and circumstances of the presence of such a large amount of ammonium nitrate at a port crossing and how it exploded. The forensic investigator, Fadi Sawan, was removed and ⁽⁵⁾ a forensic investigator, Tariq Al-Bitar, was appointed in his place.

⁽³⁾ The boiling of the Lebanese street, together with the unresolved accumulation of problems and the increase in political problems, prompted Diab to announce his Government's resignation on 10 August 2020, six days after the explosion. From what Diab said in the resignation statement: "Because the corruption system is bigger than the state, he announced the resignation of the government." The Diab government replaced the government of Saad Hariri on 11 February 2020, which resigned on 29 October 2019, following widespread popular protests that erupted on 19 February.

⁽⁴⁾ The Lebanese legislator decided to establish the Justice Council with the aim of expediting the trial of those accused of crimes referred to it by the Council of Ministers, specifically major crimes, including crimes against the security of the State and crimes of assault or attempted assault aimed at fomenting civil war or sectarian fighting.

⁽⁵⁾ Last February, the Lebanese Criminal Court of Cassation suspended the judicial investigator, Judge Fadi Sawan, from the investigation of the port explosion case, against the background of a request by two former ministers, who had been accused by Sawan, to transfer the case to another judge. In December, Swann made allegations against the head of the caretaker Government, Hassan Diab, and three former ministers, former Finance Minister Ali Hassan Khalil and two former Ministers of Works, Ghazi Zaiter and Yusuf Venianos, but none of them appeared before him at hearings that he had identified for questioning as defendants. Zaiter and Khalil filed a memorandum before the Cassation Public Prosecution requesting the transfer of the case to another judge, after they accused Sawan of violating the constitution by claiming that he had two deputies in Parliament "who enjoy constitutional immunity and are supposed to be prosecuted in the House of Representatives."



To illustrate the picture of the current scene with its various dimensions, it is necessary to briefly address the latest developments of investigations, and the complexities and obstacles they face at the legal and political levels, which are developments that will allow the establishment of several scenarios about the future of the entire issue.

However, in preparation for addressing the development of the investigation into the explosion and the obstacles facing it, it is useful to draw a general picture of the impact of the explosion and its repercussions on the most prominent political actors on the Lebanese scene, as trying to understand the extent to which each of the actors was affected would help in comprehending the general scene, and in understanding the obstacles facing the investigation and the prospects of the case, especially politically.

First: Impact on political actors

The extent to which political actors on the Lebanese scene are affected by the consequences of the Beirut port explosion, and thus the extent to which the country's political landscape, is being widely questioned by some external forces and by the Arab and foreign press. This question is due to a fundamental belief that the explosion was a crucial juncture in Lebanon, extending into the overall political landscape. This belief is evident from the almost permanent presence of the explosion in foreign political statements about Lebanon, as in international news about it, where it has become a key element in the background of most of that news.

Apart from the external approach, politically and media-wise, and with the passage of a year since the port explosion, what are the effects of the port explosion on the general political scene in Lebanon, and in particular on the main actors on the ground?

In fact, despite the great tragedy, the thousands of victims who died or injured, the widespread destruction, as well as the enormous psychological effects on the Lebanese people in general, and the decision of thousands of Lebanese to emigrate after the explosion on August 4, 2020; the political and social momentum caused by this explosion, which appeared tremendous in the early days, due to the scale of the crime that afflicted Beirut, gradually receded over the days, for a number of reasons, including those related to the nature of the Lebanese regime and the details of the social contract in the country, and some related to the events witnessed by the Lebanese. Among the most prominent of these are:



- The multiplicity of crises in Lebanon, their sequence, and their intertwining; so that it became common for a crisis to come to ease the focus on another, no matter how large, and even if the scale of the crime matched that of the port explosion. Thus, the deepening of the unprecedented economic, financial and livelihood crisis, as well as the crisis of government formation and political conflict, have reduced the focus on the aftermath of the explosion ⁽⁶⁾.
- The visit of the French president to Lebanon after the explosion, and his repeated visit less than a month later, with the initiative to support the country, and push for reform, so that the talk about this reform and the readiness for changes in the Lebanese reality received a large part of the focus.
- The French initiative launched after the port explosion, to which the Lebanese political forces declared their commitment, was gradually aborted by the same forces. Repeated European threats, which escalated after the explosion over the imposition of sanctions on Lebanese officials, have not, for a year, been implemented. On 31 July, days before the first anniversary of the blast, the EU adopted a framework for imposing sanctions on specific individuals and entities in Lebanon, with a particular focus on corruption and the disruption of democracy and the rule of law.
- Urgent international assistance that arrived in Lebanon after the explosion mitigated its effects on those whose homes and workplaces were damaged. International and local associations have also made great efforts to mitigate the effects, while the country has witnessed a popular uprising to help people and affected areas.

(6) A fundamental aspect of the crisis, exacerbated by the inability to form a new government due to quota conflicts between the various parties, is the steep decline in living conditions, which is gradually increasing, while a catastrophic collapse in all sectors looms. There has been a significant rise in the prices of consumer goods, and many commodities are no longer there, due to the collapse of the Lebanese pound, which by July 2021 had lost more than 90% of its value against the US dollar, knowing that the country depends heavily on imported goods. The Authority had failed to face monopoly and price manipulation, even with regard to the prices of agricultural products and locally manufactured goods, owing to the overlap of traders with centers of power, and the Government's inability to do so.

This living crisis came to coincide with the severe repercussions of the coronavirus pandemic on various sectors, which were already suffering before the spread of the epidemic, due to widespread corruption and the absence of development plans and projects.



Widespread public protests had begun in October 2019, a year before the explosion, while the latter had not triggered similar protests despite considerable public outrage. Frequent general closure due to the outbreak of the coronavirus pandemic may have contributed to mitigating the protests.

While the anger of the Lebanese people at the situation in the country had increased after the port explosion, that anger had gradually returned to focus on the unprecedented economic and living crisis.

In any case, popular protests in Lebanon remain constrained by the extensive party patronizing system, which prevents or at least complicates the possibility of major protests, changing the political landscape or generally influencing parties. This partisan welfare system, which has taken root and has been complex for decades, stands in the place of the State, and even exploits and exhausts the State's capabilities, to provide services based on existing party loyalty or with the aim of expanding such loyalty. All of this, for example, contributed to preventing the formation of a broad protest movement against corruption.

All those reasons have contributed to alleviating the political and social momentum created by the port explosion, which has mitigated the impact of the explosion on the main political actors on the Lebanese scene, especially since they already have the ability to adapt to the circumstances, maneuver and instigating, in order to ensure that they maintain their positions within Lebanese society.

In a look at the reality of the actors on the political scene, after a year of the massive explosion, especially those who represent the parliamentary majority and control the government, the following can be concluded:



For Hezbollah, nothing suggests that the port explosion has had an impact on it or its popularity. The most prominent challenge that has escalated is the socioeconomic challenge, which has affected various Lebanese, including the partisans and supporters. However, it must be noted that most of those working for "Hezbollah" continued to receive their salaries or the bulk of them in US dollars, and thus their conditions are much better than others, with the value of the Lebanese currency deteriorating to more than 90% against the dollar.

Politically, Hezbollah remained a key player on the Lebanese scene, most likely the most prominent player, in terms of key decisions. As a matter of course, the party has supporters who were directly affected by the explosion in Beirut, and it contributed to helping them, knowing that, based on previous major events, it is likely that it did not lose their support, especially since it is a religious party of faith.

In contrast, from the moment of the explosion, the party faced political and media accusations of causing this explosion, between those who say it was an Israeli attack, and those who say the party knew the presence of nitrates in the port, or even that it was the party that brought them.



"The Free Patriotic Movement," which is the current of the President of the Republic, Michel Aoun, headed by his son-in-law, Gibran Basil, was closer to the repercussions of the explosion than "Hezbollah", for the main reason, which is that the most affected area was an area inhabited mostly by Lebanese Christians. That trend escalated in the previous parliamentary elections in 2018 as the largest representative of Christians in Lebanon, and he repeatedly declares that he seeks to preserve the rights of these Christians.

The conflict over Christian representation, especially between the Free Patriotic Movement and the Lebanese Forces, appeared in the race between the two parties to help those affected by the explosion, and in the attempt by several parties to hold the President of the Republic and his political team responsible.

Targeting the Patriotic Current (Attayar Alwatani ⁽⁷⁾) and the President of the Republic is mainly due to the fact that they were an

(7) The Lebanese Presidency announced that President Michel Aoun had learned of the presence of a large quantity of ammonium nitrate in the port of Beirut on 20 July, two weeks before the explosion, noting that he had informed the Supreme Defense Council immediately.

essential part of the power during the period of storage of nitrate quantities, between 2014 and 2020, and that President Aoun had learned of the existence of these quantities two weeks before the explosion, as acknowledged by the Republican Palace.

Naturally, the explosion is not the main reason for this targeting, as it is inseparable from the political conflict in the country, including the conflict on the Christian scene between the "Free Patriotic Movement" and the "Lebanese Forces".

Thus, there is no clear impact of the explosion on the "Free Patriotic Movement", in contrast to the effects of the economic crisis and the crisis of government formation, as the adversaries of the latter are held responsible for this.



With regard to the "Amal Movement", the second party along with "Hezbollah" in what is called the "Shiite duo," the judicial investigator intends to prosecute two of its members, former Minister of Finance Ali Hassan Khalil and former Minister of Works Ghazi Zuaiter, who are two deputies, but the investigator is waiting for the immunity to be lifted from them (we will talk about this later). Thus, the explosion affected the movement in this respect, while the biggest impact remains the socio-economic crisis, the Lebanese public is living.



For the "Future Current", which considers itself representative of Beirut, it had to be affected by everything that happened. However, the intertwining of events in the Current, headed by Saad Hariri (who remained the president in charge of forming the government from 22 October 2020 until 15 July 2021, where he apologized), made it difficult to draw the consequences of the explosion on that current and separate it from other repercussions.

It has become known that Baha 'a Hariri, the brother of Saad and the eldest son of the late Prime Minister Rafik Hariri, entered the political and media line in Lebanon, which, of course, is gnawing at the share of the "Future Current" on the Sunni arena, noting that the current also faces an escalation in competitors in a number of Lebanese regions.



The conclusion of addressing the repercussions of the explosion on the main actors in the Lebanese arena is that these repercussions were limited. And even if there were, it just got lighter by the passing of time. Perhaps the biggest proof of this is that the parliamentary majority, along with the Future Current and its president, who remained in charge of forming the government, Saad Hariri, for about nine months, did not resort to forming that government, and remained struggling for shares, in an unprecedented scene of procrastination and postponement in Lebanese history; although the circumstances in the country are also unprecedented, and that there is an urgent need to form a government.

As talk escalated after the port explosion, of a government of specialists according to the French initiative, rather than a government representing political parties as usual, political forces returned openly to divide the shares among themselves, and the government of specialists independent of the parties seemed difficult to see the light on the ground. In any case, if the potential effects of the explosion are unclear, they are unlikely to appear even in the ballot box, during the elections scheduled for next spring, due to the many crises and issues that may affect those elections, apart from the repercussions of that explosion, while the people of the affected areas can focus especially on those repercussions.



Second: Developments in the course of the investigation

In early July 2021, the case returned in its legal aspect, to the forefront strongly, with the forensic investigator Tariq Al-Bitar launching the prosecution, after completing the witness hearing phase. Al-Bitar requested that the head of the caretaker government, Hassan Diab, be questioned as a defendant, that the immunities of three deputies, former ministers, be lifted in preparation for prosecution, and that the Director-General of Public Security and the Director-General of State Security be authorized to be prosecuted.

Al-Bitar followed the legal paths in preparation for the prosecution and interrogation of these people, along with others. However, most of those avenues have encountered obstacles based on law jurisprudences with political protection for persons sought by the judge, which has created many obstacles to the progress of investigations.

1. Head of Government

On the subject of the questioning of the head of the caretaker government, Hassan Diab, there is still no indication that the latter is ready to appear before the judge. In fact, it does not seem that easy, as the former forensic investigator, Fadi Sawan, who was removed from the case, asked last December to interrogate Diab, but a lot of jurisprudence has emerged on how to hear the Prime Minister: through his appearance before the judge, or through the judge's visit to the Prime Minister's residence and registering his testimony? The issue, however, has evolved into one that strikes at the position of the third power, the prime minister, and thus the country's first Sunni position. Former Prime Minister Saad Hariri, a political opponent of Diab, even visited the latter, to support him in this regard ⁽⁸⁾.

(8) Hariri said in a tweet on Twitter, at the time: "The infringement of the constitution and the claim on the presidency is unacceptable."

2. Members of the House of Representatives

In a letter addressed to the House of Representatives, the forensic investigator requested the lifting of the immunity of three deputies, in preparation for the prosecution against them, and the initiation of their interrogation for the felony of probable intent for the crime of murder and the misdemeanor of carelessness and negligence. These deputies are former Finance Minister "Ali Hassan Khalil" and former Minister of labor "Ghazi Zaiter" (belonging to the "Amal Movement" and the "Development and Liberation" bloc headed by the Speaker of the House of Representatives "Nabih Berri"⁽⁹⁾), and former Interior Minister "Nihad Al-Mashnooq" (belonging to the "Future" bloc, headed by former Prime Minister "Future Current" Saad Hariri, but he has become independent, as his relationship with the "Future" and Hariri has been marred by some problems in the recent period ⁽¹⁰⁾).

A joint committee composed of the Bureau of the House of Representatives and the Parliamentary Administration and Justice Committee rejected the request to lift the immunity, as it requested the judicial investigator to provide the Council with a "summary of the evidence contained in the investigation and all documents and papers that would confirm suspicions, and related to each accused in support of Article 98 (of the rules of procedure of the House of Representatives) to ascertain the grounds for the prosecution to build on the thing it requires in terms of taking the constitutional and legal procedures that guarantee the disclosure of the truth." However, in order to preserve the confidentiality of the investigation, "Al-Bitar" rejected the request of the Joint Parliamentary Committee.

In principle, after the judicial investigator responded to the request of the parliamentary committee, the council was expected to meet to vote on the lifting of immunities, but an unexpected jurisprudence emerged that changed the course of events.

(9) Judge Bitar wrote to the Beirut Bar Association to authorize the prosecution of Khalil and Zaiter as lawyers. The Association decided to give permission to prosecute them, after it considered that "the subject, for which permission is requested, does not arise from the practice of the legal profession, nor in its context, as they were ministers and their registration was suspended in the Bar Association, and they were not practicing law, nor did they have the status of lawyers to study the issue of agreeing to waive or withholding immunity from them."

(10) At a press conference he held on 23 July, to talk about the case of the Beirut port bombing, and the allegations leveled against him by the forensic investigator concerning the responsibility of the Ministry of Interior for the ship and its cargo in 2014, Al-Mashnooq said "The only document I received talks about the passing of a transit ship carrying several tons of ammonium nitrate from Georgia to Mozambique, and about the conditions of Ukrainian sailors and the Russian sailor, and he did not talk about unloading its cargo in the port at all." He explained: "One document I received about the Rousseau and the nitrates since 2014, until the moment I left the ministry, and I did not know what the nitrates were."

A number of deputies have organized a parliamentary petition entitled "Request for indictment" ⁽¹¹⁾, in order to put the issue into another track, namely the Council of Chiefs and Ministers ⁽¹²⁾, which is constituted by Parliament and has the right to investigate and indict. The petition requested an expansion of the investigations before the High Council for the Trial of Presidents and Ministers, against those who had been charged by the judicial investigator. After the petition is signed by one fifth of the members of the House of Representatives, i.e. 26 deputies, it is then submitted to the Speaker of the House of Representatives for delivering to the deputies, and a vote is then held on the establishment of a commission of inquiry or dismissal of the accusation.

This petition, signed by MPs belonging to the "Development and Liberation" bloc (headed by Barre), the "Al-Wafaa Al-Resistance" bloc (the "Hezbollah" bloc), and the "Future" bloc (headed by Hariri), as well as other MPs, caused a wide debate on the Lebanese scene, as its signatories were accused of blowing up the investigation and preventing accountability in the port explosion. Some activists have also called the list of signatories to the petition "the list of shame" and "the deputies of nitrates" Consequently, some of the signatories proceeded to ask for their names to be removed, thus depriving the petition of its required legal number.

⁽¹¹⁾ The indictment against Speaker Nabih Berri reads as follows:

"Since the explosion of the port on 4 August 2020 is one of the greatest disasters that has afflicted Lebanon since its establishment, and since this explosion is one of the reasons for the deterioration of the situation in Lebanon, it is imperative to expand investigations in this regard by all means, in order to find out the truth of this explosion and to name those involved and those who are at fault in it and hold them accountable. Extensive investigations are therefore required in order to obtain full details, establish responsibilities and hold those involved accountable.

Whereas the House of Representatives is empowered to accuse the Prime Minister and ministers of high treason or breach of their duties as stipulated in Articles 70 and 71 of the Constitution.

As the Parliament, after being informed of the referral of the former judicial investigator Fadi Sawan, who saw serious suspicions against presidents and ministers,

and since the forensic investigator Tariq al-Bitar saw the possibility of such suspicion around the prime minister and some ministers, and proceeding from the constitutional power of the House of Representatives to charge and its responsibility to monitor and hold to account in accordance with the constitutional and legal principles,

and for all the above reasons, we submit an indictment and therefore permission to prosecute before the Supreme Council for the Trial of Presidents and Ministers against His Excellency the resigning Prime Minister Hassan Diab, Minister Youssef Venianos, and former ministers Nihad Al-Mashnouk, Ghazi Za 'ter, and Ali Hassan Khalil, based on what was mentioned in the statements sent by the investigating judges, Sawan and Al-Bitar, which list what may be suspicion and responsibilities of those whose names and on whoever the investigation shows as actors, partners, instigators or interlopers."

⁽¹²⁾ According to article 80 of the Lebanese Constitution, the Higher Council – whose task is to try presidents and ministers – is to be made up of seven deputies elected by the Council of Representatives and eight of the highest-ranking Lebanese judges in the hierarchy of judicial hierarchy or seniority if they are of equal rank. They meet under the chairmanship of the highest-ranking of these judges. Decisions on criminalization are issued by the Supreme Council by a majority of 10 votes.



In addition, Judge "Bitar" addressed a letter to the Tripoli Bar Association, to give permission to prosecute the former Minister of Works, lawyer "Youssef Fenianos", to initiate his interrogation on the felony of probable intent for the crime of murder and the misdemeanor of careless and negligence. The union decided to authorize the prosecution of "Fenianos", considering that the act attributed to him did not arise from the practice of the legal profession or from its exhibition, especially since the registration of "Fenianos" lawyer on the date of the act attributed to him was suspended due to his assumption of a ministerial position.

Fenianus belongs to the "Mardah" bloc, led by "Suleiman Franjia". While he announced that "Fenianus" would appear before the judiciary, "Franjia" attacked the trial, saying in a statement after visiting the Maronite Patriarch "Bishara al-Ra'i" a few days ago, "We are against sacrificing ministers and demanding a fair court, they have the right to defend themselves, and the human being is innocent until proven guilty, and" Fenianus "will be brought before the judiciary." He added: "I challenge " Al-Bitar "to say who came with nitrates and who used them, and he does not have any information; and I know that." He continued: "I am with the trial before Judge" Bitar "because none of the ministers is guilty, the court is political, the answer is political and the minister's job is not to know if nitrates explode."

It should be noted that the name "Fenianos" was mentioned in the parliamentary petition, requesting that he be tried by the Supreme Council for the Trial of Presidents and Ministers, and not by the judicial investigator.

3. Director General of Public Security

Through the Ministry of Justice, Judge Al-Bitar asked the Minister of the Interior in the caretaker government, "Muhammad Fahmy", for permission to prosecute the Director General of Public Security, Major General "Abbas Ibrahim" ⁽¹³⁾, as a defendant, because Ibrahim knew according to correspondence that ammonium nitrate materials were present in the port of Beirut between 2014 and 2020.

The Minister of Interior, immediately after announcing his full readiness to give this permission, retracted his consent, as he announced that he had referred the matter to the Cases Authority in the Ministry of Interior, which in turn refused to grant permission, because the judiciary seized the case during the period of the presence of explosive materials in the port, and therefore there is no longer a role for public security.

After the Ministry of the Interior refused to authorize the prosecution of the Director-General of Public Security, Judge Al-Bitar referred the file to the Office of the Public Prosecutor, which had the right to decide on the case. Judge Bitar received the discriminatory public persecution review, in which he requested a hearing from General Ibrahim with evidences, suspicions being there to for leveling accusation.



Memorial to the Hammer (Justice) in front of the damaged granaries in Port of Beirut

⁽¹³⁾ Ibrahim is part of the Shiite quota in the state, and thus holds a political cover by the so-called "Shiite duo", in reference to the "Amal Movement" and "Hezbollah". In recent years, he has been well known in a number of regional roles, such as mediation in the case of abducted nuns in Syria, as well as high-level local mediation roles.



In December, the Discriminatory Public Prosecutor, Judge Ghassan Awaidat, reportedly stepped down from pursuing the port explosion as a judicial prosecutor, as he was related to the former Minister of Works, Deputy Ghazi Zaiter (who was prosecuted in the case), as the latter was married to his sister. Thus, the applications of the judicial investigator, a judge of the Office of the Public Prosecutor, are currently being considered in a discriminatory manner.

4. Director General of State Security

The forensic investigator asked the Presidency of the Government to authorize the interrogation of the Commander of the State Security Service, General Tony Saliba, as a defendant. In Lebanon, the post of Director General of State Security is administratively subordinate to the Presidency of the Government, but the command of the Directorate is subordinate to the Supreme Defense Council, so President Michel Aoun asked the head of the caretaker government, Hassan Diab, to transfer the request for permission file to him. Subsequently, the forensic investigator applied to the Supreme Defense Council for authorization to prosecute ⁽¹⁴⁾ Saliba.

5. Former officials

The prosecutions launched by Judge Bitar against some former officials, which do not require special permits or the lifting of immunities, have not yet found their way into effect. These former officials are the former Army Commander General "Jan Kahwaji", former Army Director of Intelligence Brigadier General "Kamil Daher", former Army Brigadier General "Ghassan Gharzeddin", and former Brigadier General "Jawdat Aouidat". Judge Bitar has also written to the prosecutor 's office, which is competent and discriminatory, requesting that the legal requirement be applied to judges, and the matter has not yet been examined.

It should be noted that, as the first anniversary of the port explosion approached, Hariri proposed on 27 July, during a meeting of his parliamentary bloc, to lift the immunities of the President of the Republic, the Prime Minister, ministers and deputies. Hariri said: "The exceptional decision to be taken is the proposal to suspend all constitutional and

⁽¹⁴⁾ The Presidency of the Republic requested the opinion of the Legislation and Advisory Board of the Ministry of Justice, which replied that the power to give permission is vested in the Supreme Defense Council.



legal articles that give immunity or trial assets to the President of the Republic, the Prime Minister, ministers, deputies, judges, employees and even lawyers .⁽¹⁵⁾"

In the wake of the Hariri proposal, Speaker Nabih Berri, for his part, announced that the Council was prepared to waive the immunity of its members to allow for the conduct of port explosion-related interrogations.

However, it was not known how the waiver of immunities would actually be dealt with, and whether a subject of that magnitude could, in a country such as Lebanon, find its legal way into implementation.

In a related context, the President of the Republic, during his reception of the Public Prosecutor of Cassation "Ghassan Awaidat" on 30 July, expressed his absolute readiness to make a statement in the event that the judicial investigator decides, saying: "No one is above justice, no matter what, and justice is achieved by the competent judiciary, under which the guarantees of judges and litigants are available together."

(15) Hariri had earlier declared his preference for international investigation, and had defended the House petition, pointing out that just as judges are tried by the judiciary, and the military by the Military Court; deputies have to be tried by the House of Representatives.

Third: Anticipated Scenarios

From the above, it appears that the prosecution paths taken by the forensic investigator "Tariq al-Bitar" have entered into a legal and political labyrinth. It is unclear where they will end, and what additional obstacles will emerge in turn.

All these requests went on different tracks from what the forensic investigator had requested, in a scene considered by many as an attempt to procrastinate and delay the investigation. The relevant authorities, however, described the lifting of immunities and the granting of permits as acting in accordance with constitutional requirements and legal principles.

In reality, the refusal to obey the decisions of the judicial investigator and to appear before him is due to the unwillingness of the prosecutors and the political parties to which they belong to register points against them in politics, through the judiciary, noting that most political parties in Lebanon consider themselves -and through actual practice- bigger than the judiciary, and therefore refuse to appear before a judge; when they themselves intervene in the judiciary, appoint and dismiss judges.

On the other hand, in closed political sessions, suspected politicians or their colleagues and allies say that they fear the existence of political malice that may lead to pressure on the judicial investigator to take decisions to arrest the defendants after interrogating them. Herein, the country might enter into a major crisis, because the responsibility for the port explosion will be attributed to certain political parties rather than others.

In conclusion, a few days away from the first anniversary of the August 4 explosion, investigations are fuzzy and ambiguous, while several scenarios can be presented about the horizon of this case, including what concerns the deputies that the forensic investigator asked to pursue, and with regard to other officials:



- In the event of the formation of a new Government, the extraordinary session of the Chamber of Deputies, which came about because of the existence of ⁽¹⁶⁾ a caretaker Government, shall end and the Chamber of Deputies ⁽¹⁷⁾ shall be out of session. There shall be no immunity for deputies out of session⁽¹⁸⁾. Thus, the forensic investigator can prosecute deputies without requesting a waiver of immunity. This, however, may be met with considerable diligence, including on the merits of the petition, which was submitted for the trial of former ministers before the High Council for the Trial of Presidents and Ministers.
- The second scenario for the three prosecuting deputies is that the House of Representatives will form a Supreme Council to try the presidents and ministers, a course that will collide with the quorum, at all stages of the trial, and is likely to be very long and difficult to reach any conclusion ⁽¹⁹⁾.
- With regard to the Director General of Public Security, Major General "Abbas Ibrahim", who received a great deal of focus in the media and by the families of the victims of the port explosion, it is unlikely that he will be politically allowed to appear before the judicial investigator, even if the discriminatory Public Prosecution gave the green light for that, except with guarantees to appear as a witness only. The same is not true of the Director-General of State Security, General Tony Saliba.

⁽¹⁶⁾ Article 69 of the Lebanese Constitution stipulates that when the government resigns or is considered to have resigned, "the House of Representatives shall become the arbiter in an extraordinary session until a new government is formed and won confidence."

⁽¹⁷⁾ According to article 32 of the Constitution, the Council meets every year on two regular contracts, the first of which begins on the Tuesday following the fifteenth day of March and continues until the end of May; while the second of which begins on the Tuesday following the fifteenth day of October, and its sessions are devoted to examining and voting on the budget before any other work, and the duration of the contract lasts until the end of the year.

⁽¹⁸⁾ Article 40 of the Lebanese Constitution stipulates that, during the session, no member of the Council may be subjected to criminal proceedings or arrested, if he or she commits a criminal offence without the authorization of the Council, except in the case of flagrante delicto.

⁽¹⁹⁾ The indictment before the Supreme Council for the Trial of Presidents and Ministers requires a two-thirds majority in the House of Representatives, and therefore a political consensus is needed. Can a quorum be secured or will it be disabled? In Lebanon, the issue of preventing a quorum, or what is known as a quorum dispersing, is common, and it took place for more than two years in the sessions of the election of the President of the Republic after the end of the term of President Michel Sleiman; where he did not secure a quorum until after a political settlement that led to the election of Michel Aoun as President in 2016. The High Council for the Trial of Presidents and Ministers has reportedly exercised its powers only twice, but it did not lead to any trial.



- With regard to other former officials, it is likely that some of them will appear before the forensic investigator, but without the possibility of a decision to arrest the seniors among them. It is pointed out that in the corridors of Lebanese politics, most former officials -especially the security ones- have many secrets, and thus will be protected by those who do not want these secrets to be disclosed.
- Another scenario that may emerge is that of pressure being brought to bear on the forensic investigator in various ways, to force him or her to step down from the case, or even to disqualify him or her on the basis of jurisprudence that could suddenly emerge ⁽²⁰⁾. This gives time to those who do not wish the investigation to move forward to procrastinate and postpone the case till another forensic investigator is appointed by the competent authorities.
- All of these previous scenarios open the door to an undeniable scenario of international pressure that could lead to the establishment of an international tribunal on the Beirut port explosion. This is linked to the relationship between the international community and Lebanese political officials, as the better the relationship, the less likely it is for the option of an International Tribunal. But even if an international tribunal were to be established, it would take years.
- The scenario of the escalation of popular movements is strongly expected, as the families of the victims of the bombing, who are demanding justice, will resort to doubling their mobilization on the ground, knowing that in the past days these movements have turned into clashes with the security forces, as happened in front of the building in which the Minister of Interior in the caretaker government "Muhammad Fahmy" resides, on the grounds that he did not give permission to pursuing the Director General of Public Security, Major General "Abbas Ibrahim".
The first anniversary of the explosion, on 4 August, is expected to see extensive movement of the families of the victims of the bombing, with the participation of Lebanese citizens opposed to the authorities. However, this is unlikely to have an impact on the course of investigations, especially since the parties prosecuted by those investigations also have their supporters and may resort to extensive counter-movements.

(20) The media reported several meetings held by Judge Al-Bitar at the Republican Palace with the President's adviser, Salim Grisati, as well as his being accused of leaking the content of the investigations.



In conclusion

what has happened and is currently taking place in the investigations of the Beirut port explosion has proven that it is not easy for any explosion or any event, no matter how big it is, to shake the Lebanese political system; which is able to procrastinate and postpone through the political-security-judicial alliance; i. e. through the political control of both security and the judiciary.

As a result, it is almost impossible to bring the investigations of the Beirut port explosion to a clear and frank conclusion, as it is expected that the case will be lost in the political corridors and multiple crises on the Lebanese arena. At best, however, some young employees may be held accountable for crimes of carelessness and negligence, especially as the parliamentary elections which are scheduled for next spring are getting closer.



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