EDWARD S. HERMAN

THE HARIRI SPECIAL COURT vs THE IMMINENT U.S. ATTACK ON IRAN

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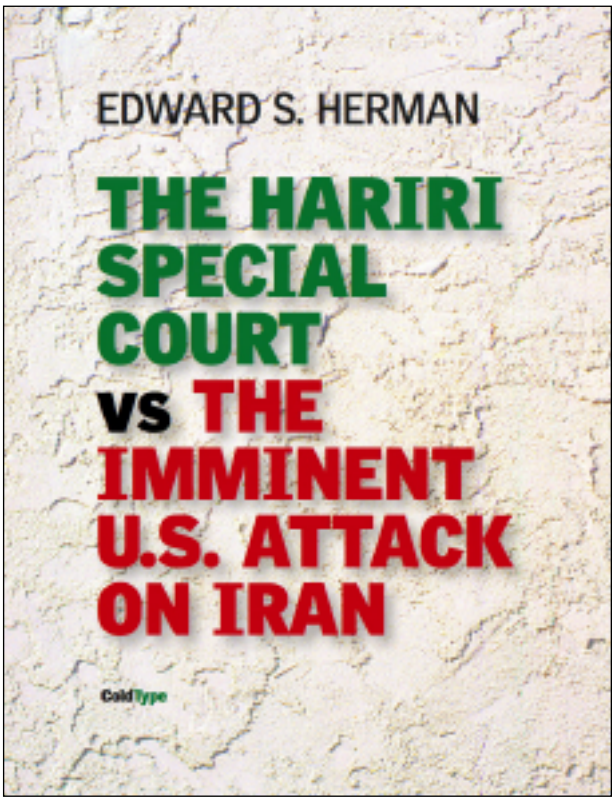

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Ambassador Zalmay Khalilzad, responding to the UN Security Council vote to set up a special court to prosecute the killing of former Lebanese prime minister Rafik Hariri two years ago, stated before the Council that, "By adopting this resolution, the council has demonstrated its commitment to the principle that there shall be no impunity for political assassinations in Lebanon or elsewhere" (see "UN to prosecute killing of former Lebanese leader," *Globe and Mail*, May 31, 2007). This is, of course, unmitigated nonsense, as one of the most obvious facts of contemporary politics and (in)justice is that impunity is a function of power and that there is a very close correlation between the loss of impunity and hostility and targeting by the United States. Syria, a U.S. target, is not a potent force in international affairs, hence it can be subject to a special court. The United States is the hegemon, hence it decides on special courts and is free of any threat that one might be applied to it.

As regards assassinations, while pushing for the Hariri "special court," the United States openly pays large sums for hired assassinations of its targets, which, as the United States is doing this, are "Rewards for Justice" – language actually printed on the briefcases in which the assassins are paid off ("U.S. hands a $10 million bounty in briefcase for the killing of Muslim leaders," *Daily Mail*, June 7, 2007). It bombed Milosevic's home in Belgrade in an attempt to assassinate him on April 22, 1999. It admittedly tried to assassinate Saddam Hussein in its initial "shock and awe" bombing of Iraq and U.S. assassinations in Iraq and Afghanistan have been numerous. (Recall the case in Afghanistan, where a tall man with a beard hunting for scrap metal with two other farmers was gunned

down on February 4, 2002, because he looked somewhat like Osama bin Laden, a tiny microcosm of the freedom to assassinate by U.S. armed forces, now used globally (see Michael Mandel, *How America Gets Away With Murder*). But there is no call by the "international community" to bring these assassins and their bosses to book with a special court or otherwise.

Of course, along with the right to assassinate is impunity for gigantic crimes like aggression – and here also the United States is able to engage in major violations of the UN Charter, as in the invasion and occupation of Iraq, not only without the slightest threat of any "special court," but with the eventual kindly cooperation by the UN in consolidating the conquest (see UN Security Council Resolution 1546 of June 8, 2004, which gives the aggressor in Iraq occupation rights and a UN Security Council blessing).

The U.S. right to assassinate and commit aggression goes back a long way. A 1975 U.S. congressional report on "Alleged Assassination Plots Involving Foreign Leaders" disclosed a string of U.S. assassination attempts against Fidel Castro (among others) and a former head of the Cuban secret services has calculated that "there may have been a total of 638 attempts on Castro's life" (Duncan Campbell, "638 ways to kill Castro," *Guardian*, August 3, 2006). It was an open secret that the Reagan-era bombing attack on Tripoli on April 14, 1986 was designed to assassinate Kadaffi. It failed in this, but succeeded in killing his daughter, along with over 40 other civilians. This assassination attempt was actually in violation of U.S., as well as international, law – but the higher law of impunity was in force.

Impunity is also a gift of U.S. client state status and, importantly, Israel is free to assassinate, commit aggression, and violate international law across the board with complete impunity. Along with the United States, Israel has the world's finest remote-control assassination technology ever devised (which some have found of possible relevance to the sophisticated Hariri murder). Like the United States, Israel can even maintain an open policy of assassination – "targeted killings" – as a complement to its steady and ruthless process of ethnic cleansing. No penalties occur and the "civilized" world in Europe and North America continues to enlarge its economic ties with Israel, even as the latter continues to build its apartheid wall in the face of an adverse International Court ruling, assassinates Palestinians on a daily basis, and displays increasing signs of moving toward more

openly genocidal violence (see Matthew Wagner, "Eliyahu advocates carpet bombing of Gaza," *Jerusalem Post,* May 30, 2007; Ali Abunimah, "Top Israeli rabbis advocate genocide," *Electronic Intifada*, May 31, 2007). But no "special court" for Israel, no enforceable action by the UN or governments anywhere.

The contrast with U.S. targets is dramatic. The new Hariri "special court" is designed to focus attention on Syria's misbehavior in Lebanon and help justify ongoing U.S.-Israeli destabilization efforts and a possible U.S. attack on Syria. Of course, there was no proposal for a "special court" to try the leaders responsible for Israel's open aggression against Lebanon in 2006, which killed 1,000 civilians, put to flight a million people, and left behind a wrecked and cluster bomb-littered landscape. This was a U.S.-UK supported aggression by a U.S. client, hence subject to the impunity rule.

The Hariri special court is a throwback to the Yugoslav Tribunal, established in 1993, quite clearly to complement U.S.-NATO policy with a faux-judicial and public relations arm that would assist its founders/principals in going after the Serb target. The Rwanda Tribunal, modeled after the Yugoslav Tribunal, has been an equally corrupt political instrument of the U.S. and its allies, protecting Rwanda dictator Paul Kagame, the initiator of the Rwanda killings, whose mass murders in Rwanda and the Congo will match any on the globe in recent decades, but who was trained in the United States and is in service to the Western powers even as he steals and kills in his own and local allies' interests.

When the Yugoslav Tribunal was formed in 1993, one noteworthy feature was its failure to list as a relevant crime what the Nuremberg Tribunal had declared the "supreme international crime," namely aggression. This was in accord with U.S. interests and flowed from U.S. power, as the United States wanted no encumbrance to its regular and increasing engagement in the supreme crime. Thus, when it did so in attacking Yugoslavia on March 24, 1999, it had prepared the ground with this exemption built-in to the Tribunal Statute.

Interestingly, in the formation of the International Criminal Court (ICC), which came into existence in July 2002, here too the "supreme international crime" was left out of the ICC's orbit of jurisdiction. This was done almost surely under U.S pressure and under the impetus of the organizers' eagerness to induce the United States to join the organization. But in spite of this and other concessions to this country, including the right to enter into bilateral agreements with countries will-

ing to exempt U.S. citizens from the application of ICC claims – Article 98 agreements, also called by critics U.S. Impunity Agreements – the United States has not only refused to join, it even passed an act that threatens to use force against any country that takes a U.S. serviceperson into custody for criminal actions (American Servicemembers' Protection Act, also known in some circles as the Hague Invasion Act). The problem with the ICC is that it left open the small possibility "that the court free of the discipline of the Security Council (with an American veto), might actually prosecute Americans" (Mandel). Obviously, this would never do. What is equally interesting is how the mainstream media do not discuss and implicitly normalize this consistent refusal of U.S. officials to allow this country to be treated as others, as if it is above the battle and the ruler of the world.

In theory, the Yugoslav Tribunal could have indicted U.S. officials, as its founding Statute made any war crimes in the Yugoslav struggles subject to its jurisdiction. Human Rights Watch head Kenneth Roth pointed to this, plus the fact that no actions had actually been brought against the United States, to show that the ICC would not be a threat. But Roth misses the point: the Yugoslav Tribunal was organized by and under the control of the Security Council where the U.S. had a veto and its political leverage was great, where all prosecutors and most other high officers were vetted by U.S. officials, and where the U.S. and its allies wielded other forms of control (financial, informational), which made the Tribunal a U.S./NATO-controlled instrument. The ICC would have been less perfectly controlled, and that imperfection was enough to keep the United States out.

Despite the limits of the ICC's reach, Kofi Annan still found that with the ICC, "We shall have a permanent court to judge the most serious crimes of concern to the international community as a whole," and that it holds forth the prospect of "universal justice" and ensuring that "no ruler, no state, no junta and no army anywhere can abuse human rights with impunity." This is complete nonsense, as the "supreme international crime" and the supreme international criminal have been and remain beyond the reach of ICC justice. Kofi Annan adapted well to the demands of the supreme criminal – which explains his long tenure as secretary-general of the UN – and he seems to have internalized his master's view of reality and the master's rights, which include impunity. But for most of the world, the supreme crimes carried out in the former Yugoslavia, Afghanistan, and Iraq are

"serious crimes of concern to the international community as a whole" carried out by rulers and states clearly abusing human rights with impunity.

It is also dramatically evident that in general impunity is a function of power and relationship with the supreme criminal. The perpetrators of the million deaths from the "sanction of mass destruction" in Iraq (Clinton, Albright, Holbrooke) and those with primary responsibility for the half a million or more deaths in Iraq since March 24, 2003 (Bush, Cheney, Blair, et al.), have complete impunity. So do all the mass death-dealing clients of the supreme criminal, who are either free or who have died at home, none subjected to a special court: Sharon, Pinochet, Suharto, Kagame, Rio Montt, among others. In the case of Yugoslavia, Milosevic had his special court, but not Tudjman, Izetbegovic, let alone Clinton or Blair.

So the special court to deal with the Hariri murder follows a familiar pattern. While the Hariri special court is being organized, at the same time the United States has mobilized a huge fleet of warships in the Mediterranean off the coast of Iran, it is reportedly engaging in a range of minor actions including direct military incursions and sponsoring terrorist operations within Iran and across Iran's borders. It has issued a string of charges about Iranian intervention in Iraq and aid to Hezbollah, and is clearly threatening aggression in what Alain Gresh calls "Countdown to War on Iran," (*Le Monde Diplomatique*, June 2007).

In the face of this acute threat by a country that hasn't digested its last round of aggression in violation of the UN Charter, has the international community erected any barriers against this imminent attack? Has it done anything to reduce the impunity of the supreme criminal that might cause the criminal to hesitate before embarking on another round of aggression? The answer is a resounding no. It not only fails to issue a peep of protest or threat, it continues to help the criminal clear the ground for his next attack by featuring the prospective victim's foot-dragging in terminating nuclear activities to which it is entitled under the Non Proliferation Treaty, but demanded by the UN Security Council under pressure from the supreme criminal. This is impunity-plus.

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