

Victims want STL ‘witness list’ publishers held in contempt

By Niamh Fleming-Farrell

BEIRUT: Irrespective of the accuracy of supposed STL witness lists, those behind their publication should be held in contempt of court, the tribunal’s Legal Representative of the Victims has said.

The group argues the publications constitute a willful effort to intimidate participants in the trial and impede the course of justice.

In what Special Tribunal for Lebanon spokesman Marten Youssef described as a “significant filing,” the LRV leveled that two media reports published this year and purporting to name witnesses “constitute prima facie evidence of contempt under Rule 60bis(A)(v).”

“The media reports are clearly meant to intimidate any individual who might consider giving evidence before this Tribunal,” the LRV wrote in its Monday filing to pretrial Judge Daniel Fransén.

A public redacted version of the filing was published on the STL’s website Wednesday.

Rule 60bis(A)(v) states that the court may hold in contempt any person who “threatens, intimidates, causes any injury or offers a bribe to, or otherwise interferes with, a witness who is giving, has given or is about to give evidence in proceedings before the pretrial judge or a chamber, or a potential witness.”

The LRV was referring to both a Jan. 15 report published by Al-Akhbar newspaper and last week’s report published by hackers on Al-Mustaqbal newspaper’s website. The hackers’ report linked to a website called “Journalists for the Truth.”

The reports claim to list the names of witnesses in the international court's case against four Hezbollah members indicted in the 2005 assassination of former Prime Minister Rafik Hariri.

The LRV filing stated "it is immaterial whether any of the names published by the media reports have any connection with the proceedings of the tribunal."

"The mere fact of publishing personal data of individuals ... while alleging that these persons would testify for the prosecution of this tribunal, shows a knowing and willful act of either 'intimidating' or 'otherwise interfering' with any potential witness," it said. Charging that the reports create an "overall atmosphere of fear and intimidation," the LRV warned that they were "capable of and likely to deter potential witnesses from giving full and truthful testimony." The LRV also called for the initiation of proceedings to determine whether the reports' disclosure of information was in breach of court orders.

The prosecution's witness list, which contains some 570 names, is currently confidential by court order. The prosecution has indicated it intends to call 20 percent of those listed to testify at trial, Youssef said Wednesday.

The LRV also pointed out that the publication of witness lists may deter victims from participation in the court's proceedings.

Last year Fransen authorized 68 applicants to take part in trial proceedings as victims and assigned the LRV as their common legal representation.

In its Monday filing the LRV noted that one day after the Al-Mustaqbal hacking, the STL Appeals Chamber turned down its request for victims to participate in trial proceedings anonymously. The LRV expressed concern that "the alternative of confidential participation would only prove a realistic option if the VPPs [victims] were convinced that their identity could be fully protected."

Both the reports at the center of the witness-list fiasco claim to be disclosing confidential information; however, despite the media outlets referring to the publication of the purported witness names as a "leak," it remains unknown how the lists were obtained.

Speaking to The Daily Star, Youssef acknowledged this issue.

"I have a very hard time calling this a leak because we don't know where the information came from," he said.

Last week, the STL said the most recently published list was “not an accurate reflection of official court records.”

Meanwhile, following a meeting with STL president David Baragwanath Tuesday, state prosecutor Hatem Madi stressed that his office his office is “not behind the leaking of such information.”

“I don’t know [if the lists are fabricated or leaked]. I do not have the original list to compare it with this [published] one,” Madi told The Daily Star Wednesday.

Also Wednesday, Baragwanath met with caretaker Justice Minister Shakib Qortbawi. During the meeting, “Baragwanath vowed to conduct a serious and effective investigation until it is clear who is behind these leaks, and punish them,” a ministerial source, who spoke on condition of anonymity, told The Daily Star.

According to the source, Baragwanath also said that publishing the names of witnesses was aimed at “affecting the course of justice” and “also puts their lives at risk.”

The STL did not comment on the meeting, but Youssef noted again that Baragwanath’s visit was not connected with the recent publication of so-called secret witness lists. The spokesperson did however say the trip gave the president a good opportunity to address the issue.

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