

**Testimony of Bahey eldin Hassan, Director, Cairo institute for Human Rights Studies.  
Hearing on “Counter-Terrorism and Human Rights: Striking the Right Balance.”  
Tom Lantos Human Rights Commission, October 26, 2021**

Co-Chair McGovern and Co-Chair Smith:

Thank you for inviting me to testify before the Commission today. Before going into more detail about the ways in which the government of President Abdel Fattah al-Sisi has misused and manipulated the need to counter terrorism in order to strengthen his grip on power, and to facilitate a sweeping crackdown on basic freedoms, I want to say a few words about the title of this hearing.

The idea that it is necessary for governments to find “a balance” between human rights and counterterrorism measures has proved to be corrosive of human rights, moreover, it does not help addressing some root causes of terrorism. The concept suggests that it is permissible, and even desirable, to give up some rights in order to better safeguard against the threat of terrorism. This is a dubious premise, and runs counter to human rights as inalienable that should be recognized as belonging to “all members of the human family.”

Just as the preamble to the Universal Declaration of Human Rights warns, “disregard and contempt for human rights have resulted in barbarous acts;” the global focus on the imperative to combat terrorism in the aftermath of the 9/11 attacks, twenty years ago, often to the detriment of human rights, has resulted in barbarous acts in many parts of the world, not least in Egypt, which will be the primary focus of this testimony, and in the surrounding region. Unfortunately, Egypt’s approach of using counterterrorism as a pretext for violating human rights has set a trend emulated by other Arab governments.

**Sisi’s Egypt, Building Legitimacy by Fighting Terrorism**

Egyptian leaders before President Sisi, like governments almost everywhere, took advantage of the post 9/11 focus on counterterrorism to use that imperative as a pretext to restrict basic rights and freedoms. However, Sisi has taken the abuse of counterterrorism measures to new levels, within Egypt and on the regional and international levels.

Sisi understood the broad scope of counterterrorism as a guiding principle of his rule. He used it as the principal rationale for seizing power in 2013, removing an elected civilian president in the process; has repeatedly returned to the theme to claim legitimacy in his statements to the Egyptian people and to international bodies, including the UN General Assembly.

In an illuminating speech before the Egyptian naval academy on 24 July, 2013, soon after seizing power, Sisi called on the Egyptian people to “give a mandate to the army to confront violence and terrorism.” He took that mandate as the core of the platform on which he ran for president in May 2014. He won by a wide margin, but many of his most popular political opponents were jailed, others boycotted the election.

Counter terrorism became the reason to sweep aside political opposition to the military coup and Sisi's rule. The Muslim Brotherhood, which had supported the dismissed government of President Morsi was declared a terrorist organization later in 2013 and in the months that followed the authorities detained thousands of supporters of the Muslim Brotherhood and other opposition political movements, including former members of parliament, ministers and other government officials. In later years hundreds of supporters and alleged supporters were tried and convicted in mass trials that fell far short of international fair trial standards.

In 2015 Sisi's government adopted a counterterrorism law, Law 8 of 2015, and a presidential decree, 94/2015 under which "any conduct committed in furtherance of a terrorist purpose," a very loosely defined term, could be subject to trial before a military court.<sup>1</sup> On April 9, 2017, Sisi re-imposed Egypt's State of Emergency in the name of strengthening the rule of law to more effectively counter terrorism.

Also in April 2017 President Sisi visited President Trump in the White House and told him: "you are standing very strong in the counterterrorism field. You will find Egypt and myself always behind you in this – in bringing about effective strategy to counter terrorism."

In 2019, Egypt held a constitutional referendum to lengthen Sisi's term in office and to strengthen the president's control over the judiciary. Again, counterterrorism was the reason that Sisi and his supporters put forward to justify expanding presidential powers.<sup>2</sup>

Egypt is a text book example of a country where a repressive government has deliberately, and over a sustained period of time, used the need to counter terrorism as a method for strengthening its grip on power, and as a pretext to undermine basic freedoms of opinion, expression, assembly and association.

President Abdel Fattah al-Sisi came to power in a military coup that pushed aside a democratically elected, civilian government in July 2013. At that time, CIHRS and other independent Egyptian human rights NGOs condemned the coup and Sisi's demand for a political mandate to escalate repression under the pretext of countering terrorism.<sup>3</sup>

It is important to remember that it was also a coup based on the use of brutal force. On August 14, 2013 Egyptian security forces under the command of then General Sisi carried out the worst incident of political violence in Egypt's modern history. On that day, over 800 civilian protesters against the coup were killed. In what Human Rights Watch has described as a crime against humanity, at Raba'a Al-Aadawiya Square in central Cairo. Over 3,000 unarmed civilians were killed by the security forces in the months after Sisi seized power, many shot down in the street

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<sup>1</sup> CIHRS, Latest counterterrorism law encourages extrajudicial killing and cements impunity, August 26, 2015, here: <https://bit.ly/3mwgmBP>

<sup>2</sup> CIHRS, Proposed amendments threaten stability and sanction lifelong presidency, February 12, 2019, here: <https://bit.ly/3w32fy1>

<sup>3</sup> CIHRS, "Combating Terrorism" Does Not Justify an Extralegal Mandate, July 25, 2013, here: <https://bit.ly/3w4lizV>

while not presenting a threat to anyone. This was violence on an unprecedented level for Egypt, comparable to horrific massacres like Tiananmen Square in China.<sup>4</sup>

The centrality of counterterrorism to the foundational logic of the Sisi regime was clear in his campaign for the presidency in 2014, and in steps he has taken since then, notably amending the constitution to centralize power in his hands, and in passing counter terrorism laws and establishing special terrorism court circuits that have become instruments to silence dissent. Journalists, medical doctors, independent civil society activists and organizations, opposition political parties and peaceful secular, Islamist and Christian figures have been prominent targets of the crackdown on public freedoms that these mechanisms have facilitated.

I speak from personal experience. Last year I was sentenced in absentia to fifteen years imprisonment by a terrorism circuit court for “spreading false news,” and “insulting the judiciary.” This was the longest sentence handed down to date against a civil society human rights defender in Egypt.<sup>5</sup>

What were my activities on which these charges were based? Speaking out publicly against human rights violations that are taking place every day in Sisi’s Egypt, where tens of thousands of political prisoners are held in harsh conditions after grossly unfair trials, or without any trial through the abuse of pre-trial detention procedures. My repeated advocacy at the UN Human Rights Council in Geneva highlighting the harsh truths about Sisi’s republic of fear and repression have made me the target of reprisals by the Egyptian authorities, something recognized several times by the UN Secretary General in his annual reports<sup>6</sup> on reprisals against those who cooperate with UN human rights bodies.

Charging non-violent dissidents using counterterrorism legislation and special courts has now become a widespread practice. This serves multiple purposes for the Sisi government: it increases the penalties so those in Egypt who choose to follow their conscience and criticize the government risk very severe consequences of long years of imprisonment. This has a chilling effect. Second, it dampens domestic criticism of the government’s actions. If the people are told that these harsh actions are what is needed to deal with the threat of terrorism then they can be accepted. Third, it is a way to deflect international criticism. No fair-minded person who spends a few minutes reviewing the situation in Egypt today can deny that the Sisi government is responsible for widespread, systematic, serious violations of human rights: disappearances, extra-judicial killing, torture, unfair trials, restrictions on press freedom and independent civil society and so on. These violations have been extensively documented by the

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<sup>4</sup> HRW, All According to Plan, Rab’a Killings Likely Crimes against Humanity, August 12, 2014, here:

<https://www.hrw.org/report/2014/08/12/all-according-plan/raba-massacre-and-mass-killings-protesters-egypt>

<sup>5</sup> CIHRS, UN High Commissioner for Human Rights condemns verdict against Bahey eldin Hassan and the repression of peaceful critics, September 9, 2020, here: <https://bit.ly/3jW8HLt>

<sup>6</sup> <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27567&LangID=E>

UN<sup>7</sup>, Egyptian and international human rights NGOs<sup>8</sup> and the US State Department.<sup>9</sup>

Nonetheless, the Sisi government invariably receives praise from Western governments, including the United States, regardless of which party is in power, as an ally in the fight against terrorism. That unconditional praise makes them indirectly partners as well in committing those violations, in particular those committed using western exported weapons and equipment.

This brings me to what I most want to talk with you about today. In order to understand the misuse of counterterrorism in Sisi's Egypt it is necessary to recognize that Sisi, like the Syrian slaughterer Bashar Al-Assad, benefits from, and even depends on, the existence of a terrorist threat that has become a basic principle of his mode of governance. Because Sisi needs the terrorist threat to survive, it is in his interest to maintain it. As long as Sisi continues to rule in this manner there will always be a terrorist threat in Egypt. If that is destabilizing and a security concern for Western governments, as it should be, Sisi doesn't care. Sisi knows he can frighten western leaders with terrorism, and blackmail them into silence on his human rights violations with the implied threat of what would happen if he wasn't there.

I put it to you as members of the United States Congress that this is a shameful state of affairs. The United States government, and this Commission that stands for human rights around the world, should speak the truth about the massive human rights violations taking place in a country that has been considered as an important strategic partner for decades.

Speaking as an Egyptian human rights defender, we are glad that the Congress over recent years has increasingly attached human rights conditions to the \$1.3 billion in military assistance given to Egypt every year. I encourage Congress to maintain and strengthen this conditionality. Its effectiveness has been demonstrated once again in recent months. Egypt has invested millions of dollars in lobbying contracts, and sent representatives to Washington to present its human rights record in the best possible light, and issued a new National Human Rights Strategy, and even released a few high-profile prisoners, who should never have been in prison in the first place. It is not a coincidence that these things happen while the administration is deciding whether to release funds that Congress has placed human rights conditions on.

However, what we have not seen are any systemic steps by the Sisi government to unwind the repressive measures it has implemented, many in the name of counterterrorism. If the Sisi government was serious about essential reforms it would have to: release tens of thousands of prisoners; restore the independence of the judiciary; enable opposition political parties to organize freely and hold free elections at the national and local levels; repeal draconian

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<sup>7</sup> UN, Report of the Committee against Torture, A/72/44, available here: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=A/72/44&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=A/72/44&Lang=en)

<sup>8</sup> CIHRS, Newly released rights report details direly declining human rights situation since 2014, October 14, 2019, here: <https://bit.ly/3jUbxRp>

<sup>9</sup> US Department, 2020 Country Reports on Human Rights Practices: Egypt, here: <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/egypt/>

counterterrorism laws; lift restrictions on the media, and end the crackdown on independent civil society organizations, lifting travel bans on human rights defenders; ending prosecutions, enabling the increasing number of human rights defenders now in exile to return home, and releasing defenders from prison, among many other steps.

I encourage Congress to:

1. Increase the proportion of military assistance subject to specific human rights conditions, focused on the issues mentioned above;
2. Ensure that a proportion of the conditioned funds will not be subject to a waiver so that if Egypt fails to implement serious human rights reforms it will not receive the funds.
3. Consider reducing the overall amount of military assistance given to Egypt. The budget of the Egyptian military is not subject to any kind of parliamentary or public oversight, and the Egyptian military has been involved in documented serious violations of human rights in Sinai, military prisons and elsewhere.
4. Continue to support programs in Egypt that meet the needs of the Egyptian people for health care and provide educational opportunities.
5. Make sure that the weapons and equipment made in the US are not used in committing human rights crimes in Sinai and the rest of Egypt.

### **Egypt's Counterterrorism Approach as a Regional Model**

Other states in the region have emulated Sisi's practices of legitimizing denial of political freedoms to his non-violent critics and political opponents by labeling them as terrorists.<sup>10</sup> For example:

#### **Algeria**

Since the resumption of Hirak prodemocracy protests in February 2021, Algerian authorities have increasingly used demonizing rhetoric against the movement by labelling some its supporters as "terrorists" and increasingly resorting to charges of terrorism to prosecute activists, journalists and human rights defenders. The first emblematic terrorism cases were launched as the repression [intensified](#) in April-May 2021, leading to the shutting down of peaceful protests.<sup>11</sup> These prosecutions have largely been motivated by the arbitrary and politically-motivated designation on 18 May, by the High Security Council (HCS), a consultative body chaired by the President, of political opposition movements Rachad and the Movement for the Self-determination of the Kabylie (MAK) as "terrorists", without any judicial process. Amazigh activists have been particularly targeted.

On 8 June, authorities amended the Penal Code to [expand the already problematic definition of terrorism](#) to include "working or inciting, by any means whatsoever, to gain power or to change

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<sup>10</sup> CIHRS, States break silence to condemn Egypt's abuses at UN rights body, March 12, 2021, here: <https://bit.ly/3brV2as>

<sup>11</sup> CIHRS, Algeria: Criminalization of Fundamental Freedoms Requires Urgent Response, June 17, 2021, here: <https://bit.ly/2ZHPqWN>

the system of governance through non-constitutional means". This overly broad definition is facilitating the criminalization of peaceful advocacy for regime change, like the Hirak, and any other expression of dissent.<sup>12</sup>

Recent terrorism prosecutions include: Human rights defender [Mohad Gasmi](#)<sup>13</sup>, sentenced to 5 years in prison on 17 October; 15 Amazigh activists and journalist [Mohamed Mouloudj](#),<sup>14</sup> arrested between 2-14 September for their alleged affiliation to the MAK; journalist [Hassan Bouras](#),<sup>15</sup> arrested on 6 September for his link with Rachad; [Kamira Nait Sid](#),<sup>16</sup> minority rights defender and co-president of the Amazigh World Congress (CMA), arrested on 25 August.

## Libya

[Law n°3 of 2014 on Combatting Terrorism](#) contains vague provisions used to arrest any individual for exercising their rights to free speech, assembly and association, or for any ordinary criminal or minor offense<sup>17</sup>. It employs an overly broad definition of the terrorist act, which includes harming the environment and prohibiting or obstructing the operation of public authorities, and continues to put peaceful opposition at risk of prolonged imprisonment. In line with law n°4 of 2017 amending provisions of the military penal code, terrorism crimes are also tried under military court jurisdiction which [does not guarantee](#) defense rights and due process<sup>18</sup>, notably in a situation of war and state of emergency. At least [33 civilians](#) are reported to have been prosecuted in military courts since 2015<sup>19</sup>. Especially in Eastern Libya, terrorism prosecutions are only a way for the Libyan Arab Armed Forces (LAAF) and affiliated armed groups (notably extremists groups) to maintain a climate of fear and subjugation. In May 2020, a military court in Benghazi sentenced journalist [Ismail Bouzriba Al-Zoui](#) to 15 years of prison for supporting terrorism.<sup>20</sup> He was eventually [released](#) on 11 September 2021 after three years in prison.<sup>21</sup>

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<sup>12</sup> MENA Rights Group, Le président algérien durcit par ordonnance la législation antiterroriste, June 24, 2021, here: <https://menarights.org/en/articles/le-president-algerien-durcit-par-ordonnance-la-legislation-antiterroriste>

<sup>13</sup> Front Line Defenders, HUMAN RIGHTS DEFENDER SENTENCED TO 5 YEARS IN PRISON, here: <https://www.frontlinedefenders.org/en/case/human-rights-defender-sentenced-5-years-prison>

<sup>14</sup> Amnesty, Algeria: Stop using bogus terrorism charges to prosecute peaceful activists and journalists, September 28, 2021, here: <https://www.amnesty.org/en/latest/press-release/2021/09/algeria-stop-using-bogus-terrorism-charges-to-prosecute-peaceful-activists-and-journalists/>

<sup>15</sup> Ibid

<sup>16</sup> Front Line Defenders, KAMIRA NAIT SID, Here: <https://www.frontlinedefenders.org/en/profile/kamira-nait-sid>

<sup>17</sup> HRW, Libya: Amend Counterterrorism Law, May 13, 2015, here: <https://www.hrw.org/news/2015/05/13/libya-amend-counterterrorism-law>

<sup>18</sup> Amnesty, Libya: Military courts sentence hundreds of civilians in sham, torture-tainted trials, April 26, 2021, Here: <https://bit.ly/31m5hvh>

<sup>19</sup> بوابة الوسط، الإعلام المستقل» تطالب السلطات العسكرية في شرق ليبيا بإطلاق المصور الصحفي عبدالسلام التركي وإسقاط التهم الموجهة إليه، 13 ديسمبر، 2020، متاح على: <http://alwasat.ly/news/libya/304243>

<sup>20</sup> CIHRS, Photojournalist Ismail Al-Zoui sentenced to 15 years of prison after unfair Trial, August 3, 2020, Here: <https://bit.ly/2ZILTrz>

<sup>21</sup> MiddleEastEye, Haftar's forces release photojournalist after three years in jail, September 12, 2021, Here: <https://www.middleeasteye.net/news/libya-haftars-forces-release-photojournalist-after-3-years-jail>

