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Human Rights In Egypt Between Law And Reality (3)

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Human Rights In Egypt Between Law And Reality (3)

Dr. Noura El Hafiane

The [first](#) and [second](#) part of this study addressed the key rights and freedoms that are widely violated by the Egyptian authorities despite the international and regional treaties, agreements and covenants as well as the Egyptian Constitution itself and the human rights situation in Egypt, in light of the positions and reports of international and regional institutions, including human rights organizations . This third and final part of the study will addresses figures and statistics on human rights violations in Egypt since 2013, as well as the mechanisms for prosecuting perpetrators of human rights crimes, as follows:

First: Figures and Statistics

There have been numerous types of crimes committed by the Sisi regime since the 3 July coup d'etat (2013). Since then, Egypt has been subjected to the worst escalation in its modern history in terms of widespread human rights violations. Such violations included arbitrary detention, enforced disappearance, torture, repression, extrajudicial execution in absence of the spirit of justice and law. In this context, many human rights institutions and organizations disseminated statistics on the human rights violations that occurred from August 2013 until the early months of 2021, as follows:

1) Arbitrary arrest

Arbitrary, or rather political, detention in Egypt affected political activists, journalists and other societal groups, where the Egyptian security services practiced all forms of torture in order to punish and retaliate against these groups for their positions against the regime's repressive policies. The suffering of these detainees starts from police stations and the national security sector headquarters amid brutal practices carried out by personnel of the police and security forces of different ranks, up to prisons, where all forms of cruel and inhuman treatment are committed, including torture, exposing detainees to slow death through their deprivation of health care, failure to provide the most basic human conditions, as well as depriving prisoners of the rights guaranteed by the Egyptian Constitution and laws, as well as international laws, most notably the ban of family visits, denial of the right to phone calls, and even deprivation of attending court sessions on renewal of their detention, and accordingly absence of the conditions for a fair trial.

According to the estimates of human rights organizations, most notably the Arab Network for Human Rights Information, the number political prisoners and detainees has reached 65,000, distributed as follows¹:

- The total number of prisoners and detainees, according to approximate inaccurate statistics, reached about 65 thousand, including 54 thousand pending criminal cases, and 1,000 cases with unknown reasons for arrest.
- The number of convicted prisoners has reached approximately 39,000.
- The number of detainees in pretrial detention reached 26,000.

As for the number of deaths in Egyptian prisons and detention centers, as of October 2020, it amounted to about 1,058 deaths, according to the Committee for Justice rights organization, where causes can be distributed as follows²:

Cause of death	Number of deaths
Denial of health care	761 deaths
Cases of torture	144 deaths
Cases of suicide	67 deaths
Poor conditions of prisons and detention centers	57 deaths
Other reasons	29 deaths

2) Establishment of prisons for the targeted groups

The Sisi regime has established prisons for targeted groups to practice its repressive/torturous policies against its opponents. Until the early months of 2021, the total number of prisons in Egypt reached 86, as nearly 43 prisons were built within 8 years, that is, since the coup (2013) until now³, including 13 prisons where death sentences can be carried out⁴. There are also 4 women's prisons or those

¹ Waiting for you; 78 prisons, including 35 built after the January Revolution "On the difficult conditions of prisoners and prisons in Egypt", The Arabic Network for Human Rights Information (ANHRI), 11 April 2021, [link](#)

² The Giulio Regenis Of Egypt: Deaths In Custody In Egypt Since 2013. Committee for Justice, 10 December 2020, [link](#)

³ Egyptian Ministry of Interior is building 8 new prisons in 4 governorates to reach 43 during the Sisi era, Alamat Online, June 24, 2021, [link](#)

⁴ Waiting for you; 78 prisons, including 35 built after the January Revolution, Op. Cit.

that contain women's sections. Among the most prominent prisons that were built during the Sisi era from 2013 to 2021 are⁵:

Governorates	Prisons	Date of Establishment
Cairo	-Nahda Prison -May 15 Prison	-May 24, 2015
Giza	- Central Prison at Security Forces Adm. -General Rehabilitation Prison -Awsim Prison	-June 23, 2015 -September 6, 2017 -October 8, 2018
Alexandria	-Karmouz Prison	-November 27, 2016
Suez	-Ataka Prison	-November 3, 2016
Daqahlia	-Leman Gamasa and General Gamasa Prison -Mahalla Dimna Prison -Stamoni Central Prison	-August 21, 2013 -March 14, 2019 -March 18, 2021
El Minya	-El Minya Leman Prison -El Minya Max. Security Prison	-March 16, 2014
Fayoum	-Sanhour Central Prison -Yusuf Al-Siddiq Prison	-February 18, 2021
Qalubia	-El Khosous Prison -El Khanka Prison -El Obour Prison	-May 2, 2015 -May 4, 2016 -June 12, 2016
Beni Suef	-South Beni Suef Central Prison	-July 2, 2016
Beheira	-Baghdad Village Prison	-July 9, 2016
Tanta	-Tanta 3rd. Police Dept. Prison	-April 1, 2017
Matrouh	-Matrouh General Prison	-December 13, 2018
Assiut	-Central Prison in New Assiut -Qusiyah Central Prison -Assiut Central Prison	-July 24, 2017 -November 5, 2017 -February 3, 2019

⁵ There is Room for Everyone... Egypt's Prisons Before & After January 25 Revolution, the Arabic Network for Human Rights Information (ANHRI), September 2016, [link](#) Waiting for you; 78 prisons, including 35 built after the January Revolution, Op. Cit.

3) Control over the judicial system

The Sisi regime has completely imposed its control over the judicial system, where death sentences issued against opponents, activists and ordinary citizens reached record numbers, in complete absence of justice and objective conditions for a fair trial. Among the most famous cases in which death sentences were issued in 2021, is the case known in the media as the Rabaa dispersal case, in which death sentences were upheld against 12 Muslim Brotherhood leaders and symbols, most notably Dr. Mohamed El-Beltagy, Dr. Safwat Hegazy, former Youth Minister Osama Yassin, Dr. Abdel Rahman Al-Bar, where Egypt came third over the world in terms of implementation of death sentences, The most prominent death sentences that have recently been implemented was those implemented during the holy month of Ramadan, April 2021, against 16 detainees in connection with the case known in the media as Kerdasa Police Station case.

It is noteworthy that⁶:

- About 1,565 death sentences were issued, including sentences with political dimensions, from June 2013 to June 2021.
- A total of 97 executions have been carried out until June 2021.
- The rest of death sentences against 1487 victims have not been decided upon definitively, and some of them are not final verdicts.

According to many statistics issued by international and regional organizations, the number of death sentences in cases related to what the regime calls political or criminal violence has hiked, and their implementation significantly escalated in the period following the coup from 2013 to 2021⁷:

⁶ Mohamed Meghawer: Shocking statistics and figures on death sentences in Egypt since the coup, Arabi 21, June 20, 2021, [link](#)

⁷ In numbers, monitoring the death sentences in Egypt from 2011 to 2019, the Egyptian Initiative for Personal Rights (EIPR), October 16, 2019, [link](#) -Summary of the death penalty state in nine months of 2020, the Egyptian Front for Human Rights, October 21, 2020, [link](#) -Ongoing and Escalating: Monitoring Report on the Death Penalty in Egypt in 2018, The Egyptian Front for Human Rights, December 31, 2018, [link](#)

Years	Number of death sentences	Number of executions
2013	109	-----
2014	509	15
2015	530	22 (including 6 people in the case known in the media as Arab Sharkas)
2016	237	44
2017	402	35 (including 15 people in the Safia ambush case)
2018	717 (including upholding a verdict against 20 people in the case known in the media as the Kerdasa massacre, and 9 verdicts against defendants in the case of the murder of Egyptian Public Prosecutor Hisham Barakat)	43 (including 9 people in the case known in the media at Kafr El-Sheikh Stadium - Military Judiciary)
2019	435	46 (including 9 people in the case of former Egyptian MP Hisham Barakat)
2020	238	38 (including 8 people in the case known in the media for the bombing of churches, as well as 4 women were executed)
Years	92	18 (including 16 people in the case known in the media as the Kerdasa events)

Second: Mechanisms for prosecuting perpetrators of human rights crimes

Despite the severe difficulties and obstacles related to political considerations and mutual interests between states, yet it is still possible to prosecute leaders and individuals, whether civilian and military, who participated in the human rights crimes committed in Egypt since the 3 July coup until now through international law mechanisms, including international human rights law and international criminal law/international criminal justice, as follows:

1- Prosecution through special international courts:

In this regard, the United Nations may establish an international criminal court through a resolution by the Security Council, such as the International Criminal Tribunal for Yugoslavia, but the control of

major powers in the Security Council will not allow issuance of such a fair decision due to political considerations and the developed relationship of the Egyptian regime, especially with the Security Council's five permanent member states that condone egregious violations of human rights in Egypt, despite international reports that confirm involvement of Abdel Fattah al-Sisi's regime in committing serious crimes described as crimes against humanity and genocide against a particular faction. Despite this, the government of Abdel Fattah al-Sisi can be held accountable for the crimes it has committed since Sisi's coup against President Mohamed Morsi, via two paths:

First, through Article 22 of the Charter of the United Nations, which states that "The General Assembly may establish such subsidiary organs as it deems necessary for the performance of its functions." In accordance with this article, the General Assembly has the right to establish organs that may enable it to perform its role; therefore, an international criminal court can be established, as an auxiliary body⁸.

Second, in the event that one of the parties uses the right to veto to prevent a Security Council resolution from establishing a criminal court to prosecute officials, whether civilians, military, or individuals implicated in the commission of serious human rights violations in Egypt since the July coup (2013) - which is most likely in the case Egypt, as a result of the presence of countries that have a strong relationship and great interests with the Sisi regime, led by France, whose relationship with the Egyptian side has grown recently, as well as Russia, which has strategic relations with the current regime in Egypt, in addition to the US administration, which is not likely to support such step due to geostrategic considerations related to the Middle East. The General Assembly may consider the matter and issue binding recommendations in this regard, and issue a resolution to establish a special international criminal court to prosecute all perpetrators of crimes that amount to genocides and crimes against humanity in Egypt, particularly those committed during dispersal of the Rab'a and Nahda sit-ins.

⁸ Article 22 of the Charter of the United Nations

2- Prosecution by the International Criminal Court:

Although the International Criminal Court has the mandate to investigate, indict and prosecute persons for committing serious crimes such as crimes against humanity, genocides and other grave international crimes⁹; yet, it does not exercise its jurisdiction in such crimes except in cases stated in Articles 12, 13, and 14 of the Rome Statute of the International Criminal Court, including:

- One or more of the following States are Parties to this Statute, or have accepted the jurisdiction of the Court...
- The State on the territory of which the conduct in question occurred...
- The State of which the person accused of the crime is a national.
- Acceptance of a State which is not a Party to this Statute by declaration lodged with the Registrar...
- The crimes committed are referred to the Prosecutor by a State Party¹⁰.

However, there are many obstacles in the way of this path, as Egypt is not a Party to the Rome Statute of the International Criminal Court; therefore, in the absence of the Egyptian authorities' ratification of the Rome Statute, or its acceptance of the jurisdiction of the International Criminal

⁹ According to Article 5 of the Rome Statute of the International Criminal Court, regarding the "Crimes within the jurisdiction of the Court:

1. The jurisdiction of the Court shall be limited to the most serious crimes of concern to the international community as a whole. The Court has jurisdiction in accordance with this Statute with respect to the following crimes:

- (a) The crime of genocide;
- (b) Crimes against humanity;
- (c) War crimes;
- (d) The crime of aggression.

2. The Court shall exercise jurisdiction over the crime of aggression once a provision is adopted in accordance with articles 121 and 123 defining the crime and setting out the conditions under which the Court shall exercise jurisdiction with respect to this crime. Such a provision shall be consistent with the relevant provisions of the Charter of the United Nations."

¹⁰ Articles 12, 13, and 14 of the Rome Statute of the International Criminal Court

Court by notification, the International Criminal Court cannot obtain jurisdiction in the crimes committed by the Sisi government, despite the periodic reports of the Human Rights Committee and the Committee against Torture, as organs of the United Nations, that have condemned the killings and extrajudicial executions in Egypt - as happened during dispersal of the Rab'a and Nahda sit-ins - in addition to the arbitrary arrests, enforced disappearances, and displacement of the people of Sinai and the extermination of entire villages since 2013 until now. Accordingly, the International Criminal Court can only consider these crimes with prior authority or a referral from the Security Council to the court, or upon a request from the government of the State concerned, which is impossible to happen in the presence of the same regime accused of all these crimes.

3- Prosecution via universal jurisdiction:

Many Western governments, especially in Europe, have incorporated the principle of universal jurisdiction into their domestic laws. This legal principle that 'allows or requires a state to bring criminal proceedings in respect of certain crimes irrespective of the location of the crime and the nationality of the perpetrator or the victim'¹¹, granted some Western governments the authority to investigate certain international crimes that occurred outside their borders, and to prosecute perpetrators via their national courts, whether they are nationals or foreigners. Among those countries that enjoy this right are: France, Germany, Spain, the United States of America, the United Kingdom, Finland, New Zealand, and others.

This principle aims to combat the phenomenon of impunity enjoyed by major criminals - the case of Egypt- where perpetrators are actually members of the ruling authority in the State, making it difficult to prosecute them within the national courts of the State of the offender or the victim.

Since the 3 July coup d'etat, many cases have been filed in several European countries against officials of the Egyptian regime after the coup, and under the principle of universal jurisdiction despite the legal obstacles related to immunity and political obstacles related to the policy of mutual interests between countries.

¹¹ Said Talal Al-Dahshan: How do we sue Israel? Al-Zaytouna Center for Studies and Consultations, Beirut, 1st. edition 2017, p. 127.

For example, the UK Supreme Court in November 2014 stated that all members of the Egyptian government do not have immunity from prosecution in Britain; accordingly, the British authorities may stop any Egyptian official accused of torture, committing crimes or crimes against humanity, such as crimes committed during the dispersal of the Rab'a and Nahda sit-ins and other events¹².

In January 2020, the International Chambers of Justice, Guernica 37 International Justice Chambers¹³, requested¹⁴ that London's Metropolitan Police Service Counter Terrorism Command (SO15) commence the probe into what it called "credible allegations of torture made against the Egyptian Government and its State organs", particularly investigation into the circumstances of the death of President Morsi, who died in the courtroom under mysterious circumstances, as well as all forms of cruel and inhuman treatment he had suffered during his enforced disappearance during the coup against him until he was put to account in compelling and inhuman circumstances¹⁵.

Guernica37 had submitted a report on the circumstances of Mohamed Morsi's death to the UN Special Rapporteur Agnes Callamard, including details of the late president's arrest, trial and later death in the courtroom, calling on the United Nations to open an independent investigation into President Morsi's death, especially that the report of the UN rapporteur Callard herself included clear indications that Morsi's death came as a result of direct interventions by the Egyptian authorities¹⁶.

In 2014, two French attorneys filed a lawsuit against Abdel Fattah al-Sisi and some Egyptian officials during an official visit by Sisi to Paris in November 2014, accusing him of responsibility for the horrific and brutal crimes and torture against two Egyptian youths during the period following the 3 July coup in 2013¹⁷.

¹² British judiciary strips Egyptian officials of immunity, Al Jazeera Net, 27 November 2014, [link](#)

¹³ Guernica 37 is an innovative International Justice Chambers specializing in transnational litigation enforcing human rights and international criminal norms in national courts. Our international structure provides a diverse team of lawyers from Europe, United Kingdom and United States of America with proven professional experience building legal accountability strategies around the globe drawn upon direct experience in multiple national jurisdictions and international bodies... [link](#)

¹⁴ at the request of the Egyptian Revolutionary Council, an Egyptian opposition group

¹⁵ British lawyers seek arrest warrant for Egypt's president over Morsi death, Middle East Eye, January 19, 2020, [link](#)

¹⁶ The 'International Chambers of Justice' calls on the United Nations to open an independent investigation into Morsi's death (report), Anadolu Agency, November 29, 2019, [link](#)

¹⁷ A lawsuit against Sisi in France, Al Jazeera Net, November 26, 2014, [link](#)

Also in France, in 2016, the French supreme court (Cour de Cassation) accepted in Paris a judicial complaint against Abdel Fattah al-Sisi and current and former officials, filed by the International Human Rights organizations "AFD" and "Free Voice" on charges related to the murder and systematic torture of political opponents, opinion and human rights activists - based on the legal principle of universal jurisdiction enjoyed by the French judiciary with regard to crimes of torture and inhumane, brutal treatment that violate human dignity¹⁸.

In December 2017, AFD called on the family of Italian researcher Giulio Regeni and his lawyer to join this lawsuit, by including Regeni's complaint and submitting it to the French investigative judge, within the framework of full jurisdiction¹⁹. This is in light of the manipulation of the Egyptian authorities to obscure the truth of the killing of the Italian researcher and putting pressure on the Italian government to altogether overlook the case and silence the victim's family.

In June 2020, Mohamed Soltan, an American/Egyptian human rights activist, filed a lawsuit before American courts against Hazem Al-Beblawy, the former Egyptian Prime Minister that was appointed immediately after the coup from July 2013 to February 2014, as the first defendant alongside Abdel Fattah Al-Sisi in his capacity as the defense minister at the time, in addition to his former office director, Abbas Kamel, currently the director of the General Intelligence Service, and three former Ministry of Interior officials, upon charges of attempting to kill him (Soltan) outside the framework of law and overseeing his torture to death throughout his detention from August 2013 to May 2015²⁰.

Conclusion

Over the past eight years (2013-2019), Egypt lived between the hammer of human rights violation and the anvil of the suppression of freedoms. This reality has clearly exposed the series of crimes committed by the Sisi regime against the Egyptian citizens of various components and categories, which have accumulated intensity since the dispersal of the Rab'a and Nahda sit-ins up to implementation of a series of arbitrary executions throughout the first half of 2021, amid the

¹⁸ The French Supreme Court accepts a complaint against Sisi, Al-Araby Al-Jadeed, January 31, 2016, [link](#)

Hopes and fears about the prosecution of Sisi in France, Al Jazeera Net, on February 4, 2016, [link](#)

¹⁹ AFD invites Regeni's family to join Paris' lawsuit against Sisi, Al Jazeera Mubasher, December 12, 2017, [link](#)

²⁰ Egypt: A Victim of Arbitrary Detention and Torture Sues Former Interim Prime Minister: Mohamed Soltan, Report by Amnesty International, 30 June 2020 , [link](#).

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international community's inaction and even almost involvement in these violations, in light of the rule: There is no room for human rights under the policy of mutual interests, in addition to the limited role of human rights organizations, lack of deterrent procedures against human rights violators, and the poor effectiveness of mechanisms for following up Sisi and his regime before international justice to hold him accountable for these crimes, classified as international crimes, due to the duality of dealing with human rights issues and the bias of the countries controlling the international decision towards authoritarian regimes to achieve their interests.

