

Retaliatory freezing of human rights lawyer's assets

 Ahli United Bank

 Egypt

 Financial services

 IFC

On November 11, 2016, Azza Soliman, a prominent Egyptian human rights lawyer and head of Lawyers for Justice and Peace, attempted to cash a check at Ahli United Bank (AUB), only to discover that both her personal and business accounts had been frozen.¹

A few months earlier, Azza was accused of illegally receiving foreign funding for her activism.² The charge, and the resultant freezing of assets, has become a prevalent strategy of the Egyptian government to deter human rights advocacy and restrict the activities of civil society organizations.³ Azza's case is part of Case No. 173, also known as "the foreign funding case," which has been open since 2011 against several human rights defenders and organizations who face asset freezes, travel bans and other restrictions.⁴ When Azza attempted to travel later that month, airport personnel informed her that she could not, due to the pending case.

Azza is a vocal advocate for women's rights.



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Under the Egyptian constitution, assets can only be frozen after a court order and after the defendant has been informed of the charges and has had an opportunity to respond.⁵ Because Azza's accounts with other commercial banks in Egypt, including a state-owned bank, were still active, she assumed that perhaps a court order was issued without her knowledge and had not yet reached the other banks.⁶

However, a few days later, Azza learned that the court date to consider the charges against her and whether to freeze her assets was not scheduled until December 14.⁷ On December 4th, Azza filed a police report accusing AUB of violating Egyptian law by freezing her assets without a court order.⁸ In response, AUB management submitted to the police a letter dated November 20, 2016, from the investigating judge asking AUB to freeze Azza's accounts.⁹ Azza challenged the legality of the letter and of AUB's actions, arguing that, absent a court order, the Bank acted arbitrarily in "cooperation with security and judicial authorities against its clients' interests, and that it is complicit in facilitating unconstitutional and unlawful action."¹⁰

On December 7, Azza was arrested at her home and taken to the office of the investigative judge who had written the letter to AUB, and later released on bail after hours of interrogation.¹¹ Since she was the only one among several accused activists to be detained for interrogation, Azza believes that this was retaliation for challenging the judge's letter to AUB.¹²

On her court date, December 14, the North Cairo Primary Court issued a verdict to freeze Azza's personal and business assets.¹³ As per Egyptian law, the other commercial banks where Azza had accounts then gave Azza one month's notice before the freeze would take effect.¹⁴

The International Finance Corporation -- the private sector arm of the World Bank Group -- first invested in AUB in 2006 with a US\$200 million loan.¹⁵ IFC later



purchased a US\$35 million equity share in AUB's Oman branch, and another US\$40 million in its Egypt branch.¹⁶ In April 2011, the IFC invested another US\$125 million in equity and US\$165 million in subordinating debt in AUB "as it expands operations in Egypt, Iraq and other countries [in the region]."¹⁷ In December 2014, IFC converted US\$100 million of the subordinated debt to equity to bring its total ownership to 5.16 percent.¹⁸

The events in Egypt between 2011 and 2014, before the IFC decided to increase its equity in AUB, should have raised a red flag. Crackdowns on activists and civil society organizations had been on the rise, characterized by coercive measures against activists.¹⁹ Six months before the IFC converted its debt to equity in AUB, the Egyptian agency which regulates NGOs had announced new policies to seize assets of activists, in a move understood to be part of a series of efforts to criminalize activists, even as it ran afoul of Egyptian law.²⁰ This repressive practice was also playing out in other authoritarian countries, including several cases in Azerbaijan.²¹

AUB characterized Azza's allegation that it colluded with security agencies in violation of national laws as a "totally false allegation with no evidence" adding

that "*the allegation mentioned from Mrs. Azza above may constitutes [sic] a crime*" and "*we hope no further allegations from her in the future.*"²²

The IFC has repeatedly insisted that the assets were frozen in accordance with a judicial order and that "IFC is not in a position to compel the bank to contravene local law and court orders."²³ However, IFC remained silent regarding the fact that the freeze took place more than three weeks before the requisite court order.²⁴

In July 2017, Azza submitted a complaint to the Compliance Advisor Ombudsman (CAO) of the IFC, claiming AUB had colluded with the Egyptian regime and violated the Egyptian constitution and national laws.²⁵ The CAO found the complaint ineligible, stating that "*the decision to suspend access to an individual's bank account in the circumstances described is not considered to be a social impact of the IFC investment.*"²⁶

Today Azza, like many other Egyptian human rights activists, is barred from leaving the country, and her accounts are still frozen. The foreign funding case remains open, while the list of accused activists continues to grow.

Endnotes

- 1 Telephone Interview of Azza Soliman (Head of Lawyers for Justice and Peace) by Amy Ekdawi (consultant) on April 12, 2018; “Arrest of Azza Soliman,” Frontline Defenders, December 15, 2016, <https://www.frontlinedefenders.org/en/case/arrest-azza-soliman>.
- 2 “NGO foreign funding case defendants submit lawsuit to challenge extension of investigating judge’s appointment,” Mada Masr, August 28, 2017, <https://www.madamasr.com/en/2017/08/28/news/u/ngo-foreign-funding-case-defendants-submit-lawsuit-to-challenge-extension-of-investigating-judges-appointment/>.
- 3 “Egypt: The responsibility of banks for asset freeze orders against human rights defenders,” Business & Human Rights Resource Centre, May 24, 2017, <https://www.business-humanrights.org/en/egypt-the-role-of-banks-in-freezing-the-assets-of-human-rights-defenders>.
- 4 “Review of Azza Soliman’s, other workers’ asset freezes, adjourned to December 14,” Mada Masr, December 12, 2016, <https://www.madamasr.com/en/2016/12/12/news/u/review-of-azza-solimans-other-rights-workers-asset-freezes-adjourned-to-december-14/>; “Arrest of Azza Soliman,” Frontline Defenders, December 15, 2016, <https://www.frontlinedefenders.org/en/case/arrest-azza-soliman>.
- 5 Egypt’s Constitution of 2014, Private Property, Article 35, p. 18, Constitute Project, January 2014, https://www.constituteproject.org/constitution/Egypt_2014.pdf.
- 6 Telephone Interview of Azza Soliman (Head of Lawyers for Justice and Peace) by Amy Ekdawi (consultant) on April 12, 2018; Bank withdrawal receipt dated November 20, 2016, on file with Arab Watch Regional Coalition for Just Development.
- 7 Telephone Interview of Azza Soliman (Head of Lawyers for Justice and Peace) by Amy Ekdawi (consultant) on April 12, 2018.
- 8 Police report filed by Azza Soliman on December 4, 2016, on file with Arab Watch Regional Coalition for Just Development.
- 9 Letter from Hisham Abdel Mageed, Investigative Judge and Head of the Appeal Court, to Chairman of the Board of Ahli United Bank, November 20, 2016, on file with Arab Watch Regional Coalition for Just Development.
- 10 Letter from Azza Soliman, Head of Lawyers for Justice and Peace, to Ahli United Bank, “Response by Azza Soliman to allegations made by Ahli United Bank,” May 9, 2017, available at <https://www.business-humanrights.org/sites/default/files/documents/Azza%20Soliman%20-%20Rejoinder%20to%20Ahli%20United%20Bank%20-%20May%202017%20%28Eng%29.pdf>.
- 11 “Egyptian human rights activist Azza Soliman detained,” Reuters, December 7, 2016, <https://www.reuters.com/article/us-egypt-rights-arrest-idUSKBN13W1SF>; “Egyptian rights activist Azza Soliman released on bail,” Ahrām Online, December 8, 2016, <http://english.ahram.org.eg/NewsContent/1/64/251565/Egypt/Politics-/UPDATED-Egyptian-rights-activist-Azza-Soliman-rele.aspx>.
- 12 Telephone Interview of Azza Soliman (Head of Lawyers for Justice and Peace) by Amy Ekdawi (consultant) on April 12, 2018.
- 13 “Verdict Issuance of Asset Freeze on Lawyer Azza Soliman and her Law Firm, and Postponement of Verdict Issuance of Asset Freeze of Feminist and WHRD Mozn Hassan and Nazra for Feminist Studies,” Nazra for Feminist Studies, December 14, 2016, <http://nazra.org/en/2016/12/asset-freeze-azza-soliman-and-her-law-firm-and-postponement-mozn-hassan-and-nazra-feminist>.
- 14 Letter from Bank Misr, Egyptian state owned commercial bank, to Azza Soliman, Head of Lawyers for Justice and Peace, informing her that her accounts with the bank are frozen, January 19, 2017, on file with ArabWatch Regional Coalition for Just Development.
- 15 “IFC Capitalization Fund Invests in Ahli United Bank to Support Emerging Markets in the Region,” IFC, April 5, 2011, https://www.ifc.org/wps/wcm/connect/news_ext_content/ifc_external_corporate_site/news+and+events/news/ifc+capitalization+fund+invests+in+ahli+united+bank+to+support+emerging+markets+in+the+region.
- 16 Ibid.
- 17 Ibid.
- 18 “IFC completes AUB’s \$100m debt conversion,” TradeArabia Business News Information, December 2, 2014, http://www.tradearabia.com/news/BANK_270704.html.
- 19 Ann M. Lesch, “Egypt’s Crackdown on the Human Rights Community,” Foreign Policy Research Institute, August 23, 2016, <https://www.fpri.org/article/2016/08/egypts-crackdown-human-rights-community>; 2013 Annual Report, Violations of the right of NGOs to funding: from harassment to criminalisation, p. 48, World Organization Against Torture and International Federation for Human Rights (2013), http://www.omct.org/files/2013/02/22162/obs_annual_report_2013_uk_web.pdf; “Egypt: Government Broadens Crackdown on Dissenters,” Human Rights Watch, December 20, 2013, <https://www.hrw.org/news/2013/12/20/egypt-government-broadens-crackdown-dissenters>.
- 20 Merrit Kennedy, “Egypt Freezes Assets of 5 Prominent Human Rights Defenders,” NPR, September 17, 2016, <https://www.npr.org/sections/thetwo-way/2016/09/17/494385392/egypt-freeze>.

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21 One of those incidents involved Unibank, client of the European Bank for Reconstruction and Development. See letter from [name withheld] to EBRD Civil Society Team, "Partner of the European Bank of Reconstruction and Development violate the legislation in Azerbaijan," May 10, 2014, on file with authors; "Transparency International Under Pressure in Azerbaijan," Radio Free Europe: Radio Liberty, August 27, 2014, <https://www.rferl.org/a/azerbaijan-corruption-transparency-international-baku/26553162.html>; "Azerbaijan: Transparency Group Should Suspend Membership," Human Rights Watch, August 14, 2014, <https://www.hrw.org/news/2014/08/14/azerbaijan-transparency-group-should-suspend-membership>.

22 Letter from Mostafa Tamer, Legal Counsel for Ahli United Bank Egypt (AUBE) to Business and Human Rights Resource Center on AUB's second reply on the allegations mentioned in Mrs. Azza Soliman letter dated 9 May 2017, May 25, 2017, available at <https://www.business-humanrights.org/sites/default/files/documents/Ahli%20United%20Bank%20-%20Response%2027%20May%202017%20-%20Azza%20Soliman.pdf>.

23 International Finance Corporation's response to Business and Human Rights Resource Centre regarding its investment in AUB, August 7, 2017, available at <https://www.business-humanrights.org/en/egypt-the-role-of-banks-in-freezing-the-assets-of-human-rights-defenders>; Emails from John McNally, IFC Head of Communications, to Nezir Sinani, Manager at Bank Information Center Europe, August 17 & 21, 2017, on file with ArabWatch Coalition for Just Development (responding to Nezir Sinani and Amy Ekdawi, "World Bank Group Funding Used to Target and Suppress Human Rights Activists," Huffpost, August 17, 2017, https://www.huffingtonpost.com/entry/world-bank-group-funding-used-to-target-and-suppress_us_59955580e4b056a2b0ef0339).

24 Email from Nezir Sinani, Manager at Bank Information Center Europe, to John McNally, IFC Head of Communication, August 21, 2017, on file with ArabWatch Regional Coalition for Just Development.

25 Complaint filed by Azza Soliman with the CAO, July 28, 2017, on file with Arab Watch Regional Coalition for Just Development.

26 Letter from CAO to Azza Soliman, Head of Lawyers for Justice and Peace, September 5, 2017, on file with Arab Watch Regional Coalition for Just Development.