

Can We Trust the Qatari Courts to Try Al Jazeera?

by [Muhamed Sabry \(/experts/muhamed-sabry\)](#)

Oct 19, 2017

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ABOUT THE AUTHORS

[Muhamed Sabry \(/experts/muhamed-sabry\)](#)

Muhamed Sabry is an Egyptian journalist based in the Sinai Peninsula.



Brief Analysis

“The Qatari courts cannot be trusted,” testified Dr. Najeeb al Nauimi, the former justice minister of Qatar, in a written affidavit to benefit Mohamed Fahmy. Fahmy, a former Al Jazeera English reporter, filed a multimillion-dollar lawsuit against his former employer in a Canadian court in May 2015. Lawyers representing Al Jazeera, which is funded by the ruling family, are contesting jurisdiction in an attempt to move the trial to Qatar. Will Mohamed Fahmy, who spent 438 days in an Egyptian prison while working for Al Jazeera English in Cairo in 2013 for conspiring with the Muslim Brotherhood, receive a fair trial in Qatar?

The three legal experts testifying in Fahmy’s case—including al Nauimi—do not believe that the award-winning Egyptian-Canadian journalist will be guaranteed a fair trial if he takes on the network in Qatari courts. In the claim and 500 pages of case documents, Fahmy accuses Al Jazeera of misrepresentation, breach of contract, and negligence that contributed to his unjust incarceration. He claims the network conspired with members of the Muslim Brotherhood and students affiliated with the group, and provided them with production resources across Egypt in an illegal and unethical manner, while keeping him and his colleagues, Peter Grete and Baher Mohamed, in the dark.

The meticulous file includes affidavits from former Al Jazeera senior staff and a transcript of a recorded conversation between members of the Brotherhood and some of the students charged with conspiring with a terrorist group and fabricating news that appeared on Al Jazeera. Fahmy and his colleagues denied any relation to the students charged and also denied any knowledge of the network’s illegal and systematic collusion with non-journalists, activists, and Brotherhood agents. Fahmy refers to the evidence against the students in addition to testimonies from former Al Jazeera staff to support his claims and bolster accusations that the network colluded with the Muslim Brotherhood, which is designated as a terrorist organization in Egypt, Russia, Syria, Saudi Arabia, and the United Arab Emirates.

The file also includes a transcript of a leaked phone call between Hamad al Attiyah, a special advisor to the Emir of Qatar, and a Bahraini fugitive designated as a terrorist. Al Attiyah responds to the man’s complaints and promises to “immediately” broadcast the government crackdown on Shia protesters in 2011 on Al Jazeera.

“I will have an Al Jazeera journalist use an alias to contact you and get all the information needed,” al Attiyah responds before the Bahraini man shares a phone number of the source to be contacted.

In a recent phone interview, Fahmy told me, “Many networks are biased. What Al Jazeera does is sponsor groups designated as terrorists, such as al Nusra Front, the Muslim Brotherhood, and even al Qaeda.”

This is not the first time the network has been accused of crossing the line, endangering the lives of its journalists, and smearing the meaning of citizen journalism by allowing non-journalists with political affiliations to help them report the story—a trend the network applied in many countries. In 2012, Ali Hashem, a former Al Jazeera Arabic reporter based in Beirut during the peak of the Syrian uprising, told Russia Today that the network had smuggled \$50,000 worth of satellite phones to “rebels” in order to get the picture from inside the troubled war-torn nation.

I have reservations toward the editorial and newsgathering process of the network as well, after conducting freelance reporting for Al Jazeera English on the ongoing conflict between Islamist militants and Egyptian security in my hometown of El Arish, in the North Sinai governorate in Egypt. The network not only reported a one-sided angle in favor of the Islamic State and its affiliate in Sinai; it also provided production resources and commissioned non-journalist Islamists in my neighborhood to film the attacks on the soldiers and send the footage to Al Jazeera headquarters in Doha in exchange for payment.

Fahmy believes suing Al Jazeera far away from the politicized courts and polarized political environment of the Middle East will allow both sides to present their cases fairly. The first hearing addressing the jurisdiction challenge is scheduled for summer of 2018 in Vancouver, at which legal experts from both sides—and Fahmy himself—will be questioned behind closed doors.

“As a former journalist, my focus for close to two decades was to critique the wrongdoing of governments and to tell stories that make a difference,” Fahmy said. “My quest for truth today is not about a byline. As a private citizen, it is about making sure this network is accountable for the atrocities it continues to commit under the guise of press freedom.”

In his testimony for Fahmy, Nauimi, the former justice minister, refers to the issues he experienced while defending the celebrated Qatari poet, Mohamed al Ajami, who was sentenced to life in prison in 2012 in a secret trial for reciting a poem described as “critical” of the previous Qatari ruler. The poet, who was not present in court for the announcement of the verdict, was tried by the same judge who investigated his case for six months before his referral to court. This was a major breach to the right for a fair trial, according to Nauimi’s assessment of his country’s judicial system. Ajami was pardoned in 2016 after an international outcry from rights groups and the UN.

Nauimi endorsed the findings released in the 2015 UN report of the Special Rapporteur regarding the independence of judges and lawyers in Qatar, which say, “The Special Rapporteur is concerned that the challenges and shortcomings identified are serious and negatively affect the independence and impartiality of the justice system as well and the realization of people’s human rights.”

Al Nauimi himself was banned from leaving Qatar earlier this year in a clear violation of his human rights—a breach Amnesty International called an “unexplained and arbitrary” travel ban.

Al Nauimi, a wealthy man once close to the ruling Qatari inner circle, was among the team who defended the late Iraqi president Saddam Hussein. He has recently been outspoken against Qatar’s foreign policies and is critical of its support of groups like the Muslim Brotherhood. According to the Amnesty report, his Tweets may have been the cause of his ban.

The lifting of the seal on Fahmy’s case documents comes four months after Saudi Arabia, the UAE, Bahrain, and Egypt imposed on Qatar an unprecedented air, sea, and land blockade. Leaders of the determined quartet have presented a list of demands to the Qataris before any negotiations can take place. Included on the list are the closure of Al Jazeera and a shift of Doha’s foreign policy away from allegedly financing and supporting groups designated as terrorists, such as Hamas, the Muslim Brotherhood, and the Nusra Front. ❖

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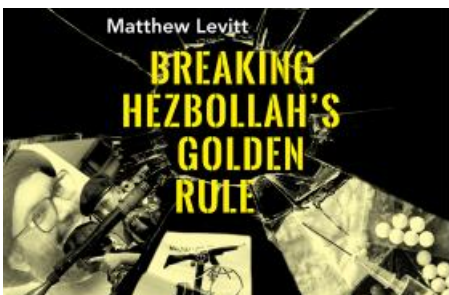
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