THE JUDGES CLUB OF EGYPT: A SPACE FOR DEFENDING DEMOCRACY AND THE INDEPENDENCE OF THE JUDICIARY

A thesis submitted to
the Department of Sociology, Anthropology, Psychology & Egyptology
in partial fulfillment of the requirement for
the degree of Master of Arts

by

Atef Shahat Said

L.L.B., Ain Chams University

Under the Supervision of Dr. Kevin Dwyer

July 2004
THE JUDGES CLUB OF EGYPT: A SPACE FOR DEFENDING DEMOCRACY AND THE INDEPENDENCE OF THE JUDICIARY

A thesis submitted by

Atef Shahat Said

to the Department of Sociology, Anthropology, Psychology & Egyptology

July 2004

in partial fulfillment of the requirements for the Degree of Masters of Arts
in Sociology-Anthropology

has been approved by

Dr. Kevin Dwyer
Thesis Committee Advisor

Dr. Donald Cole
Thesis Committee Reader

Dr. Helen Rizzo
Thesis Committee Reader

Department Chair Date Dean Date
ACKNOWLEDGEMENTS

I would like to express my gratefulness to Dr. Kevin Dwyer, my supervisor, for his comments, suggestions, and patience. I also would like to express my limitless appreciation for both Dr. Donald Cole and Dr. Helen Rizzo for their comments and suggestions. There is no doubt that I benefited from their criticism and that this helped me to improve this thesis.

I also thank all the judges who accepted to offer their time during the fieldwork of this thesis. In particular, I am obliged to Counselors Yehia El-Refai’e, Tareq El- Beshry, Mohamed Hamed Al-Gammal, ‘Assem Abdel Jabar, Zakaryia Abdel Azziz, Mohamed Nagey Derbala, and Hishaam Al- Bastweesy.
This thesis examines the Judges Club of Egypt [JCE] between January 1985 and March 2004. My research demonstrates that Egyptian judges rely on the JCE as a space for defending democratic reform and the independence of the Judiciary in Egypt. I will argue that while several laws and internal regulations within the Egyptian judicial structure forbid judges from being involved in any political activity, Egyptian judges craft strategic discursive mechanisms for expanding the role of the JCE beyond its seemingly confined function within the court. This thesis suggests that the JCE is a “meta-space” [neither NGO nor officially part of the “state”] in which judges debate controversial issues that often produce discursive shifts. By discursive shifts, I mean that their work motivates new ways of thinking and acting within the hegemonic judicial and legal contexts of Egypt. One example of the debates taking place within the JCE involves a debate over the separation of powers in Egypt. Examples of the mechanisms through which the JCE operates include written statements, general meetings, seminars, conferences, and proposals for new laws.

By combining Marxist/ Gramscian and Foucauldian approaches to the meaning of law, with a focus on the concepts of power, knowledge, and hegemonic consciousness, this thesis suggests that while these judges are active participants in shifting discourses on law in Egypt, they are simultaneously constrained by a series of contradictory features related to the nature of JCE and the social status of judges in Egypt. While judges argue for democracy and equality, the nature of the JCE uses a hierarchical system that positions judges and prosecutors in posts of superiority and inferiority. Moreover, the judges themselves are socially positioned among the elite, which means that many of their own socio-economic positions and privileges often produce conflicting interests between themselves and the majority of Egyptian people who they align themselves with in the struggle for democracy and freedom.
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abbreviations:</td>
<td>-1</td>
</tr>
<tr>
<td>Chapter 1: Studying the Judges Club of Egypt: Theories and Methodology</td>
<td>- 2</td>
</tr>
<tr>
<td>Key Socio-Political Dimensions</td>
<td></td>
</tr>
<tr>
<td>Chapter 3: Defending Democracy</td>
<td>-53</td>
</tr>
<tr>
<td>Chapter 4: Defending the Independence of the Judiciary</td>
<td>-68</td>
</tr>
<tr>
<td>Chapter 5: The Contradictions of the JCE: A Constraining and Empowering</td>
<td>-97</td>
</tr>
<tr>
<td>Space</td>
<td></td>
</tr>
<tr>
<td>Chapter Six: Conclusion</td>
<td>-157</td>
</tr>
<tr>
<td>Bibliography</td>
<td>- 163</td>
</tr>
</tbody>
</table>

V