



Women's Issues

Egypt's Judges Dispense Injustice [updated version¹]

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It was a discriminatory decision of such preposterous magnitude that it was impossible to ignore. A woman's right to equal treatment in Egypt was dismissed out of hand by those whose primary job is to dispense justice to Egypt's citizens – the Judiciary. Of the 380 judges in the general assembly of the Egyptian State Council (*Maglis al-Dawlah*), which is the administrative court system, an overwhelming majority (334 or 88%) voted on February 15th in favor of a resolution forbidding the appointment of women as judges in administrative courts. That decision was affirmed by a 4-3 vote of the Special Council, which oversees the State Council. PI Online examines the social and religious problems, too often ignored, which led to this travesty.

Events following the decision highlight how the precepts of fundamentalist Islam



permeate the state, providing fertile ground for the suppression of women and stifling dissent. A few days after the decision, the Egyptian National Council for Women, which is headed by first lady *Suzanne Mubarak*, openly condemned the judges' decision. The first lady's involvement, even though indirect, reverberated throughout the press and the talk shows. Consequently, the following Monday *Mohammed Al-Husseini*, the head of the Special Council, unilaterally overturned the resolution, stating that it was not supported by constitutional or Islamic law. The fact that he would take such an action against the majority of his colleagues in the Special Council suggests that he was under enormous political pressure to do so. The State Council was not intimidated, however. Rebuffing both the first lady and the Council president, the State Council voted again this week [318 to 1] to postpone the appointment of any women judges until a 10-member committee selected by the Council further studies the matter.



The government finally officially entered the fray on March 4th when Prime Minister *Ahmad Nazif* asked the Supreme Constitutional Court to decide the matter with reference to two provisions of law²

¹ This version of the article was updated on March 15, 2010 to reflect the decision of the Constitutional Court on the matter.

governing the appointment of judges to the Council of State³. There appears to be little, if anything, in those particular laws that could aid in deciding the question on the merits. Rather than ask the court to decide the matter with reference to the fundamental rights and principles embodied in Egypt's constitution, the government apparently would have them decide the matter based on the semantics of the Arabic language, specifically whether use of the masculine gender in these laws may encompass both men and women. The Prime Minister has also asked the Constitutional Court to decide if the general assembly of the State Council has the authority to decide this issue, or if the matter rests solely within the jurisdiction of the Special Council.

As expected, the Constitutional court cleared the way for the appointment of women to the State Council by ruling on March 15th that article 73 did not need further clarification and implying that both men and women can be appointed judges. The court also specified that the Special Council rather than the General Assembly possessed the authority to make the individual appointments. It is certainly a step in the right direction and vindicates the First Lady. It remains to be seen, however, if the majority of the members of the State Council who were against the appointment of women will abide by the decision without resorting to obstructionist procedural barriers that would poison the cultural atmosphere for women judges within the court system.

Looking at these recent events, many observers conclude that little has changed since 2007 when the government forced the appointment of 31 female judges by presidential decree. Those appointments were mostly to family courts and prior to those appointments there was only one female judge in all of Egypt.

It is too early to assess whether these recent events represent an escalation of the issue or a face-saving initiative negotiated and orchestrated by both sides. What is certain however is that discrimination against women is the result of deep underlying problems in Egypt all too frequently ignored regardless of these victories for women, which are all too often imposed by the government.

The Religious Undercurrent: Religious fanaticism in Egypt is not confined to particular economic classes or particular professions. Religious conservatism, as preached by the Muslim Brotherhood, is as widespread among the educated classes as the underprivileged. Islamists are also found among university professors, unions of physicians, engineers, journalists and judges and many members of the police and the army. As disheartening as it is to see a majority of judiciary vote to bar women from joining their ranks, the religious and cultural justifications for their vote are even more troubling.

Those who oppose the appointment of women to the judiciary rely on a well-worn line of religious argument to justify their position. Most cite a *Quranic* verse attributed to Muhammad

² The provisions are articles 73 and 83 of law no. 47 enacted in 1972. Article 73, which set out the requirements for appointing judges, uses the male gender throughout. Article 83 addresses the division of responsibilities between the general assembly of the State Council and the Special Council.

³ <http://gadaya.net/node/67>

stating that a woman's testimony is worth half that of a man⁴ and argue that it shows that women are inferior intellectually and not fit to render judgments. Another oft repeated argument is based on the belief expressed by a founder of the Muslim Brotherhood, Sayyid Qutb,⁵ that women more than men are controlled by their emotions are therefore less fair and objective.

Women's Apathy & Submission: Equally detrimental is the fact that, aside from a few very contained demonstrations and condemnation by Mrs. Mubarak's Council for Women, there has been little response from the women of Egypt to the State Council's decision. A well-known TV commentator expressed his amazement at the lack of action by the Egyptian women in the face of such a violation of their rights.⁶ The apathy of Egyptian women is likely a function of two factors.

First, a general apathy permeates society. Egyptians are disinterested in anything that does not directly affect their life. The judicial bar only directly affects a handful of women who want to be judges – most Egyptians simply do not care. That apathy toward larger issues and principles has reached epidemic proportions, cutting across gender and age. In fact, the absence of any youthful enthusiasm for taking up worthy causes, both great and small, has contributed significantly to the deterioration of Egyptian society.

Second, women in Egypt – like all Egyptians – have become accustomed to power being highly centralized in the president, with the result that change is viewed as possible only through government pressure rather than popular action. In the past, for example, quotas for women in government and the courts have been established by presidential decree rather than by popular vote. The government however appears to be losing the battle against a conservative tide supported by a majority of poorly educated population. Discrimination and sexual harassment are on the rise and women are expected to be submissive. In a recent survey of Egyptian youth, 72% of male respondents considered it natural for husbands or male relatives to beat their wives or sisters.

Women's issues continue to present some of the most difficult challenges in Islamic law and culture. Although the world has changed dramatically, the *Shari'a* governing women remains static, trapping women in the past. Women cannot attain equality in Egyptian society by government fiat. Experts in Islamic law must address these issues and find within Islam justice and equality for women. For now, however, both the judiciary and the clerics have chosen to ignore, if not condone, the lack of equality for women. Without a genuine women's movement, it appears likely that the religious conservatives will continue to have the upper hand.

⁴ "...if the two be not men, then one man and two women, such witnesses as you approve of, that if one of the two women errs the other will remind her..." (Surat al-Baqara 2:282).

⁵ Sayyid Qutb, *Fi Zilal al-Qur'an*, 8th ed., (Beirut, 1979), 1:334.

⁶ http://www.youtube.com/watch?v=GhGO-Vu_0I0

PS. March 15th, 2010 – As expected, the Constitutional Court ruled in favor of the right of women to sit as judge at the State Council.

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