



The Evolution of Egyptian Legal Elites and their Effect on the Justice System and Society

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Abstract

The modern-day legal profession in Egypt had its seeds planted in the mid-1800s. Many legal reforms gave the modern Egyptian legal system its form with the creation of both the mixed and national courts and the role that lawyers of such an era advocated and eventually realized the institutionalization of the legal profession and the introduction of professionalism to the legal profession.

Keywords: 20th century; Economy; Legal Community; Elites; Business oriented

Introduction

Additionally, the legal reform introduced in that era helped in finding what could be defined as the “legal elites”, who, in the 1800s and until half of the 1900s, were focused on a very political role of “taking charge of the nationalist movement, to outmanoeuvre competition from Islamic law scholars and foreign lawyers alike, to set the political and cultural tone of Egypt until the mid-20th century, and, in the interim, to rule as a coterie of ministers and government officials, as well as writers, journalists, artists, and above all intellectuals of varying liberal stripe”.

The Modern Egyptian Legal System

I heard it all before: Egyptian tales of law and development. Note that Salakany states: “The term ‘elite’ is as notoriously slippery as the alternative term ‘class’ which it originally appeared to augment and/or replace. I will not go into the different definitions of the term ‘elite’. Instead, I take it as a given that Egyptian lawyers have played such a major role in political, intellectual and cultural issues, that their elite status will become obvious to the reader without the need to enter into the hopelessly contested meaning of the term. For an excellent summary of the different strands of elite scholarship, cutting from the classical elite theory of the Italian school to recent developments” [1]. Nevertheless, the legal system was redefined when Egypt started abolishing the socialized economy. This development of an open market economy, followed by the ‘rule of law’ era of economic reforms in the 1990s, has caused the legal profession to boom, with the supply and demand for the legal profession virtually on the rise. Within this modern legal landscape, the legal elites developed even further, giving rise to new legal elites who, with a focus on the implementation of the notion of the rule of law, whose elitism is tied to combining “methodologically innovative projects of legal reform” and strategy with an equally creative project of nationalist identity formation. These new legal elite lawyers are not limited to being business lawyers, litigants, or corporate counsels as the definition of legal elitism, has changed from being a background to becoming a definition of how lawyers run their practices. In the past ten years, as of the Arab Spring, the legal landscape and the legal elites, respectively, have become immersed in the latest event in the evolution of the legal industry; the digitization of the legal system. A matter that still baffles the legal community and wider society as to whether it will benefit the administration of justice in Egypt or not. This evolution sheds light on the history of the legal elite in Egypt and how they evolved and emerged as technically and culturally fit lawyers as opposed to their prior role as influential and rather political figures [2]. This constant evolution raises the question of what the post Arab Spring legal elites look like and what their effect is on society.

Discussion

Leading the Egyptian legal system are the legal elites. The Egyptian legal elite’s rise-fall-return narrative involves three stages. First, the legal changes of 1876 enabled a new class of attorneys to emerge and come to power at the end of the 20th century. Within a few decades, these lawyers were able to coerce and force their way into command of the nationalist movement, out speed competition from Islamic law scholars and foreign lawyers alike, set the political and cultural tone of Egypt until the mid-twentieth century, and govern as a small circle of ministers and public officials, as well as writers, journalists, artists, and, above all, intellectuals of various liberal stripes. By doing so, the legal elite combined a nationalist project of independence from British rule with a concept of political and economic control based on “liberal legality” [3]. They actively engaged in the development of a new contemporary Egyptian identity: the country was recast as neither Ottoman Islamic nor Pan-Arab but rather as truly Egyptian, bearing complex foundations in both legacies.

Second, the fall of the elite in the mid-twentieth century coincides with the collapse of the “law and identity” project. Following the 1952 military coup, a confluence of political and economic reasons converged to replace the attorneys with a new elite of military commanders and technocrats. Egypt’s identity was rebuilt once more, this time in the form of a secular Pan-Arab nationalist agenda paired with a Third World import-substitution ideology of economic growth. Due to these alterations in nationalist identity and development plans, the attorneys were unable to contribute intellectually or politically to the ensuing new combination of socialist legislation and Arab nationalism that came to define Egypt during the 1950s and 1960s. And the legal profession’s prestige has suffered immensely. Once termed the “college of ministers” due to a large number of its graduates ascending to political prominence, Cairo University Law School has since been labelled the “university garage,” a cesspool for the least competent high school graduates who cannot guarantee acceptance elsewhere [4].

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Finally, the legal elites re-emerged in the post-1990s period, with the inventive rule of law-driven alternatives becoming their distinguishing feature. Their odds of ascending to prominence are heavily reliant on their ability to combine methodologically novel legal reform projects with a similarly innovative project of nationalist identity development. In contrast to the usual intellectual history, this examines progressions of great thinkers or chains of ideas with little regard for socioeconomic, political, or wider cultural contexts. There does not appear to be any refutation to the claim that legal elites emerge in reaction to socioeconomic conditions since Shalakany, AbouEleid, and Cheta all argue that socioeconomic variables do allow for the formation of legal professionals in general and the legal elite in particular [5]. As a result, it is possible to assume that the emergence of Egyptian legal elites began in the 1800s.

In this article, we will look at the history of the modern Egyptian legal system, the evolution of legal elitism, and the effect of legal elites on the justice system and wider society. The article will trace the rise to power of the legal elites following the introduction of legal reforms in the late 19th century, their fall in the 1950s, and the possibility of a renewed elite status based on "rule of law" reforms introduced in the 1990s. The article will also stand how socio-economic aspects impact and are impacted by lawyers, and how such mutual impacts affect the justice system and the wider society.

A. Overview of the Modern Legal Profession in Literature.

The most prominent findings reached when researching this article was the inception of the modern Egyptian legal profession, which took place in the 1800s with the adoption of the "rule of law". The evolution of the Egyptian legal elite reflects their transition from a political stance to a socio-economic one and now to an entrepreneurial and technological stance with a primary focus on the introduction of business-oriented mindsets [6]. The nature of the legal profession in Egypt has certainly changed over the course of the rise, fall, and return of the legal elite. Due to that fact, the Egyptian justice system and wider society have been affected.

B. Origins of Egypt's Modern Legal Profession and Legal Elitism

The available literature celebrates the Mixed Courts and its attorneys, who were virtually mostly Europeans at first, with a handful of Levantine Arabs, as the first modern lawyers ever. They formed the country's first bar association early on, carefully defended their territory, and got significantly greater fees than their Khedival Law School counterparts practicing before the Native Courts. As a result, graduating from Khedival Law School did not appear to be a sure path to achieving elite status at first [7,8]. Graduates who served as judges in the Native Courts were entering a completely new judicial body with uncertain future possibilities, while those who chose to become attorneys had to battle the poor reputation of the previous professions, with which many confused them.

Graduates of the new Khedival Law School had to compete with graduates of two other law schools in their ultimate rise to elite status, each demanding a portion of the country's multi-jurisdictional pie [9]. On the one hand, Al-Azhar University continued to graduate judges skilled in Islamic law who then went on to work in Shari'a courts—though the latter's jurisdiction was severely limited following the formation of the Native Courts and was thereafter restricted to hearing cases that involved family law and Islamic endowments only.

Furthermore, Khedival Law School graduates faced intense competition from better equipped western lawyers working before the Mixed Courts, as well as the older elite of Azharite trained judges,

who were undoubtedly hostile after the Native Courts severely limited the jurisdiction of their own Islamic Shari'a Courts. With their dissatisfaction initially restricted to hushed opposition, the Azharite elite at best became tough negotiating partners in the various legal reform projects advocated by Khedival Law School graduates, and at worst set out to call the Native Courts and the new civil, commercial, and criminal codes into question [10,11]. This was a significant allegation, accusing the new legal system of being a non-Islamic aberration with suspicious colonial roots, and so calling into question the Islamic affiliations of the attorneys and judges who served in its ranks. Nationalism came to the rescue in all of the aforementioned situations [12].

C. The 1950s and the Legal Elitism Hiatus: Where the Modern Legal Profession lost its Voice

By examining the effects and socio-economic impacts of the "Free Officers" movement in 1952 and onwards, the literature suggests that the modern legal profession went into hiatus. Shalakany address this aspect by stating explaining that from 1952 to 1954, the Free Officers claimed to be committed to liberal ideas of governance in order to appease the attorneys, who used the coup to settle old political disputes that had divided them internally before it [13]. Therefore, the Bar Association issued public statements in support of the "blessed movement," and Sanhuri released his provocative court decision granting constitutional legitimacy to the military regime, primarily to spite political opponents from the dominant Wafd Party—an act he regretted only two years later. He further elaborates that unlike the previous "liberal age," when attorneys dominated the political elite, the military authority now counted on commanders, engineers, physicians, and a number of technocrats to fill ministerial positions [14]. At best, attorneys were dismissed as technically unprepared to confront the communist goal of modernization in the country.

D. The evolution of Legal Elitism in Egypt and the Dominant Socio-economic Impacts of the 1990s to 2010s Era

Following President Nasser's death, the country's new leadership realized that the state's current economic strategy was not favorable to achieving its objectives. Past mistakes were recognised and were not to be overlooked. According to Dr. Hegazi, former Prime Minister, "These errors will always serve as a great repository of experience." As a result of the excessive foreign loans, Egypt was afflicted with unemployment, inadequate salaries, excess capacity, inflation, a population explosion, and an overstretched balance of payments [15].

Conclusion

Concluding from the literature, it is apparent that the initial emergence of the modern legal profession in Egypt was in the 1800s, along with the rise of the legal elite. Evidently, the research shows that the rise-fall-return of the legal elite is connected with their transition from a political perspective into more of a socio-economic and business perspective.

At this point as well, the current research and literature give only hints of the characteristics of the modern Egyptian legal elite, especially post-Arab Spring. It touches points on the socio-economic, entrepreneurial, and technological mindsets that are adopted in the modern day, but with minimal support on how the legal elites will affect the society based on such predications and analyses.

Moreover, the current literature hardly utilises any primary sources due to the novelty of the subject matter of the characteristics of the legal profession in the post Arab Spring Egyptian legal profession. Current

review suggests that the primary issue is not the lack of thought and observations but rather the misdirection of current contributors as they did not accommodate for technology playing the critical role of the socio-economic impacts in the evolution of the profession and its elites. It is believed that practical interviews and field research are key to map a clear picture of a rather complicated landscape.

I must note that a case study of the Egyptian ecosystem is due given that, as noted on the above literature, the legal and academic literature have very limited knowledge of the latest entrepreneurial and technological trends that are related to the legal profession, it makes it difficult to completely picture the modern legal profession post-Arab Spring.

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Conflict of Interest

None

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