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Egypt: Judges Win Public Support but not Government Concessions

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After a few months of quiet, Egypt's judicial independence movement in recent weeks has surged forward into a major confrontation with the Supreme Judicial Council, which pro-reform judges view as too closely aligned with the executive branch. Responding to the Council's impeachment proceedings against prominent reformist judges Hisham Al Bastawisy and Mahmoud Mekki for allegedly accusing other judges of committing election fraud, judges staged a mass sit-in at the Cairo Judges Club. Hundreds of protestors took to the streets in solidarity. Thousands of security forces were dispatched to break up the protests, leading to hundreds of arrests and reported beatings. The case became further complicated after Al Bastawisy suffered a heart attack on May 17. Although the two judges have become popular heroes and may even prevail in the present conflict, the movement's core goal of a new law to protect judicial independence is likely to remain elusive.

The judges launched their drive for change at a raucous assembly in May 2005 when they threatened to boycott their supervision of the fall 2005 elections unless the government met their demands for a new law and other reforms. So far, their main achievement has been to build a constituency by—quite atypically for judges—playing high-profile national politics. First, the movement's leaders astutely added to their rather insular agenda—ending Ministry of Justice control over the judiciary's budget, having the judiciary elect court presidents, and establishing the Judges Club, not the Supreme Judicial Council, as the official representative of jurists' interests—the more widely-shared goals of clean elections, ending the state of emergency, and protecting civil liberties. They used the mass media to disseminate their messages, issued scathing reports on the government's conduct of 2005 elections, threatened mass strikes, and forged ties with sympathetic legislators (mostly from the opposition). The Club also re-elected its pro-reform leadership in December 2005. These actions, along with the historic prestige of the judiciary and the nationalist colorations of key reformist judges, have made the movement Egypt's most respected reform force. The Muslim Brotherhood, political parties, the Bar Association, and other civil society groups, as well as many prominent journalists, champion their cause. The Judges Club's activism also has inspired

ripples of defiance within other professional associations seeking to break free of state control.

The judges have not, however, yet won any concessions from the government, due partly to weaknesses in their movement. There is no action on a new law (a draft has been pending since 1991); the Club has not been able to compel the Supreme Judicial Council (which must review the draft law before it is sent to Parliament) to agree to Club's demands or even to issue its opinion on the legislation. The Judges Club ultimately backed down on its threat to refuse to oversee voting, depriving the movement of a key bargaining chip. Before the September presidential election, the Presidential Election Commission, under pressure from the Ministry of Justice, disqualified some 1,000 judges (reportedly those deemed too supportive of reform) as polling station chairmen. By the parliamentary elections a month later, rank-and-file judges, fearful of being on a ministry black list, signaled their readiness to fulfill their election duties. Threats of national court strikes have not materialized either, due to many jurists' creed that to maintain public trust they must stay far away from politics.

Fissures within the judiciary—most of Egypt's 8,000 judges endorse the reform agenda, but are essentially loyal state employees, leaving only a few hundred genuine activists—hinder the mobilization necessary to make the government truly feel the heat. The government reinforces such divisions with its official position that the dispute is simply an internal conflict between the Judges Club and the Supreme Judicial Council. Outside groups may not be dependable enough allies to press hard for reforms, especially those most important to ordinary judges. For example, despite prominent Bar Association members' loud backing of reformist judges, the Association has ignored the pervasive problem of lawyers assaulting judges in the courtroom. In fact, it was anger over an attack on an Alexandria judge last April that spurred so many judges to rally for reform.

The media's enthusiasm for the judges' cause may also be shallow. Many newspapers continue to publish articles whipping up public sentiment in favor of guilt or innocence in pending cases and disclosing confidential court information; the journalists' association refuses to punish these ethical and legal violations, which severely complicate judges' daily work. Such harassment of the judiciary triggers concerns that the judges' seemingly supportive coalition actually may be a collection of groups aligned against the regime and seeking to ride the judges' coattails, rather than a genuine movement for judicial independence and dignity and the rule of law. If such concerns prove true, then the brave activist judges will have to battle the state alone, reinforcing the executive's power as the ultimate arbiter in a divided and weak political society.

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