

ABSTRACT OF
THE ROLE OF LAWYERS IN EGYPT

FARHAT J. ZIADEH
University of Washington

THE RISE TO PROMINENCE of lawyers during the 20th century in Egypt has been closely related to the liberalization and Westernization that began with the Napoleonic invasion. Islamic law had had no effective legal check on the powers of the prince or the executive, and in fact left the judiciary totally dependent on the delegative power of the executive. Before 1876, efforts at modernization were able only to lay the groundwork for later developments.

The creation of the Mixed Courts in 1876, however, marked a true turning point because it meant, for the first time, a unified jurisdiction with a relatively predictable set of practices. It helped establish the idea of a rule of law applicable to everybody, raised the prestige of judges through high salaries and the complete independence to enforce their own professional standards, eliminated the special immunities enjoyed formerly by the privileged, and increased the certainty of legal provisions through codification.

To this new stimulus, the legal profession was forced to respond with sweeping improvements in educational standards and courtroom procedures. The establishment of the National Courts in 1883 expanded the scope of this process. Pressing their case for constitutionality and the rule of law, the lawyers became one corner of a three-cornered power relationship involving the upper-middle class (and landowners) on the side of the lawyers, the king's power, and British influence. This balance permitted the practice of parliamentary rule. Lawyer-politicians took up the nationalist cause and pressed it successfully through their bar association. Prior to independence they successfully fought off

assaults on constitutionality and made their own professional integrity synonymous with the rule of law. Progressive causes such as modern rights for women and limitations on perpetual family endowments were championed by lawyers.

The Army Revolution in 1952 and the struggle between Naguib and Nasser two years later brought mixed reactions from lawyers. The progressive secularism was applauded, but the political repression involved was deplored, and finally both publicly and strongly condemned. But their condemnation of army participation in politics brought reprisal when Nasser finally took power. The bar's independence was terminated by a set of laws making the board of the bar subject to appointment by the Minister of Justice. When elections to the board were finally allowed again in 1958, only members of the National Union (the only political party) were allowed as candidates. Law school graduates were suspect, and therefore found themselves struggling for employment. And socialization meant the end of the most lucrative retainers, so that many lawyers found themselves forced to take jobs as salaried employees in governmental organizations.

Despite these developments, lawyers can still take credit for the rule of law which now prevails (except with respect to political freedom) in the Egyptian legal system.