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# The man who took on the system and won

by Chibli Mallat

The energy of Awad El-Morr, Chief Justice of Egypt, seems to increase as time passes. For four days at the beginning of December, he chaired sessions of an international conference in Cairo on the judiciary's role in the protection of human rights.

Dr El-Morr presented his own studies, commented on court decisions, answered questions, and gave the hundred or so distinguished guests his personal attention. "If we are to establish a civil society, the apex of our priorities is defending human rights and freedoms," he says.

This is part of a conscious strategy of educating the public at all levels — experts and lay persons alike — which is a priority of the President of the Supreme Constitutional Court (SCC) of Egypt.

The SCC was established under the 1971 Constitution but didn't begin to become effective until some ten years later. In 1991, after a successful career as state attorney, adviser to several Egyptian and Arab governments for such major international treaties as the Law of the Sea Convention, Dr El-Morr was elevated from vice-president to the presidency of the SCC.

Having been on the court hierarchy as commissioner since the early 80s, he came to the leadership of a well-established but relatively poorly-known institution with, as he once put it, the intention of being "an activist judge".

Today the SCC is probably the best known judicial institution in the Middle East. It is perceived by its president as "the way out of oppression and

tyranny which is notably exercised in our countries."

There is much to be done in Egypt and elsewhere, but "the substance in the work of the courts is to find out what would enhance human rights," he says.

What about the regional context? "Unfortunately, the only experience is our relationship with Lebanon and Algeria. For other countries, we have no information. Sometimes the Kuwaiti judges come and ask for our publications, but we have seen none of theirs." This may be about to change: "To avoid the obscurity in which we find ourselves we are planning a regional conference for April."

In terms of substance, the Court is famed in comparative legal circles for its courage on several occasions: it considered two parliamentary elections as void, because it deemed the law under which they were held as unconstitutional. The executive obliged, and carried out the elections again.

The SCC has issued landmark decisions for a range of cases, from giving an alien the same constitutional protection as the Egyptian litigant to barring confiscation of personal property by the state.

It is human rights which Dr El-Morr has most at heart, and the "international context" is paramount. "Human rights cannot be conceived from a local perspective," he says. "The right to trial of the accused cannot have a meaning which is substantially different from another country."

What is the role of Islamic law, which a constitutional amendment of 1980 established as "the principal source" of Egyptian legislation? The chief justice welcomes it, and the SCC has incorporated, probably for the first time in modern history, the

deep tradition of Islamic law within "the proper overall constitutional context" in Egypt.

What about the relationship between the Court and the other constitutional bodies? With the executive, the chief justice did not elaborate, but noted the support, "on a personal level, of the minister of justice, who was himself president of the SCC."

At the opening of the Cairo conference, the speaker was most emphatic in his support for the court. Says Dr El-Morr, with a smile: "Our relation with parliament is the following: they adopt statutes, and we strike (down) some of them."

One problem is the relation with other courts, some of which tend to be jealous of the increasing reputation of the SCC. There are endemic problems with the judiciary, as witnessed by the slowness of the judicial process.

Cases before the Conseil d'Etat (majlis al-dawla) take an average of ten years. In contrast, the SCC disposes of its cases in less than a year. Even more remarkably, the cases of the SCC are now collected by the Court for fast publication, and the Morr court has been diligently producing all its cases in well-indexed comprehensive volumes. There is a project for an even faster internet publication.

For human rights and the effective rule of constitutional, this is only the beginning of the road. There remain severe problems, notably with the state security court, which handles the more sensitive cases with no or little constitutional review by the SCC. The chief justice is undeterred, and is convinced that the example set by the SCC will spread to the rest of the judicial machinery.



El-Morr: energetic about human rights