

# **Gender Equality and Occupational Choices in Egypt Cultural and Societal Constraints on Women's Appointment to Judicial Posts**

**Karim ElGamal\***

After two uprisings in less than three years, fueled with chants of women demanding for their rights to freedom, dignity, justice, and equality. Women are still struggling to make inroads into an occupation that has historically been male dominated. The Egyptian judiciary has demonstrated an entrenched belief in gender roles by opposing the recruitment of women on several occasions on the grounds of societal, cultural, and religious reasoning. The paper presents results based on interviewing a sample of professionals pinpointing the cultural and societal factors that leads to gender discrimination in the recruitment process. This study ascertains that gender stereotypes formulated by the cultural and societal norms are used to protect the male domination over the profession.

## **Introduction**

More than nineteen years have passed since the first woman Tehani al-Gebali was appointed to the Supreme Constitutional Court by a presidential decree. However, women until now constitute less than 1% of the country's judiciary, with a population exceeding 104 million and women representing almost 49% of this population<sup>(1)</sup>. Moreover, these women judges were not appointed as their male counterparts but instead selected from among the already-appointed members in the Administrative Prosecution Authority and State Lawsuits Authority. Additionally, this tiny percentage was even accused of being appointed as cover to appease international standards and demands<sup>(2)</sup>.

Women were banned from the standard application process to judicial posts within State Council and the Public Prosecution, since their establishment in 1946 and 1881. These two judicial posts are according to the applicable system, the usual paths to become a judge in the Ordinary Courts and the Administrative Courts<sup>(3)</sup>.

Under President Abdel Fattah El-Sisi directions that Egyptian women should work at the State Council and the Public Prosecution, and for the first time in the country's history, the Public Prosecution announced the acceptance of applications for the appointment to the post of Assistant Public Prosecutor for both women and men, from graduates of the Faculties of Law, Sharia, and Police academy, batch 2022, as of February 25 until March 2, 2023<sup>(4)</sup>. The State Council also announced the acceptance of applications for appointment to

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\* Judge, Court President at the Egyptian Ministry of Justice.

the post of assistant delegate, as of January 9, 2023, until January 25, 2023, for both men and women who graduated from the Faculties of Law, Sharia, and Police academy, batch 2022<sup>(5)</sup>.

The case of women appointment to judicial posts is interesting since the opposition to the inclusion of women in the judiciary was and still is vital, first and foremost within the judiciary its elfas there is no legal reason for the exclusion of women and no restriction from the religious authority. That is why this study is interested in the cultural and societal constraints on the women's right to equal recruitment in judicial work, especially from the judges' and lawyers' perspectives, since the judiciary has demonstrated entrenched belief in gender roles by opposing the admission of women as judges on several occasions on the grounds of societal, cultural, and religious reasoning<sup>(6)</sup>.

The paper begins with a description of the Egyptian judicial system, the recruitment process, and women's position in the profession to develop a background and draw connections for an informed discussion. The second part demonstrates the method used in the study, and the results of the fieldwork followed by a discussion around the findings.

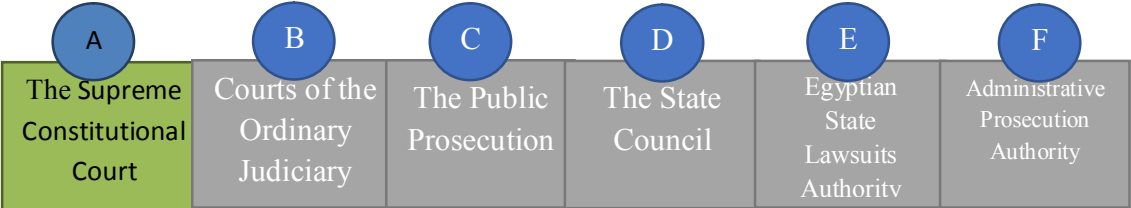
The field study focused on listening to people who are related to the field of the judiciary while at the same time having a gender, age, and judicial bodies diversity, in pursuit of different viewpoints to examine and understand the cultural and societal reasons behind the limited and restricted entrance of women to the field.

The purpose of this study is to identify the constraints that might affect the achievement of a sustainable gender equality in the judiciary. The study also contributes to research on gender equality and occupational choices as it shows how cultural and societal stereotypes can be used to limit women's recruitment and preserve men's socio-economic status and power.

**Background:**

**The judicial structure.**

The Egyptian judicial system mirrors the European civil law model, it also represents the third independent source of State authority besides the executive and legislative branches. It is Formed of independent judicial institutions and bodies, each of which is to handle its affairs as follows:



#### **A- The Supreme Constitutional Court**

It is an independent judicial body and its court's general assembly is responsible for its affairs. The Supreme Constitutional Court exclusively undertakes judicial oversight over the constitutionality of laws and regulations and the interpretation of legislative texts and other functions and enjoys complete independence.

#### **B- Courts of the Ordinary Judiciary**

It consists of the Court of Cassation, the Courts of Appeal, the Primary Courts, and the Public Prosecution. These courts oversee criminal, civil, and family law cases and are headed by the Supreme Judicial Council.

#### **C- The Public Prosecution**

It is an indivisible part of the ordinary judiciary, its members have a judicial capacity, and one of its most important characteristics is independence. once its members reach the age of thirty, they are eligible to become judges in the Ordinary Courts.

#### **D- The State Council**

It is an independent judicial body that includes the Supreme Administrative Court, Administrative Courts, and Disciplinary Courts. It is exclusively competent in adjudicating administrative disputes to which the state is a party and other powers stipulated in the constitution.

#### **Egyptian State Lawsuits Authority**

It is an independent judicial body representing the state in the lawsuits brought before or against it and other powers stipulated in the constitution.

#### **E- Administrative Prosecution Authority**

It is an independent judicial body that conducts investigations with civil employees regarding administrative, financial, and other violations. Among other functions stipulated in the constitution<sup>(7)</sup>.

Not ably, there are no religious courts, although sharia-based legislation plays an important role, mainly in family law. From 1971 until the present day, Egypt's different constitutions have declared that the principles of Islamic sharia are the primary source of legislation (1980, 2012, 2014)<sup>(8)</sup>.

### **The recruitment processes**

Judicial selection in Egypt, significantly impacted by French rules and procedures, was based on educational and professional merits. During the fifties and until the seventies, the universities in Egypt used to notify the judicial bodies of the first graduates in the same year, and they were distributed among the judicial authorities and bodies, with coordination between the judicial authorities so that the competencies were diversified, and that no graduate gets appointed in more than one judicial institution. The nominations were made based on the educational degrees alone. But later on, it became apparent to the presidency of the judicial authorities that graduation degrees do not alone reveal capabilities, nor do they express skills and creativity, as the head of the Court of Cassation, had informed the ministry of higher education at the time of these observations<sup>(9)</sup>.

In practice now every judicial institution makes its announcement of the acceptance of candidates' papers from specific graduation years. The graduates who have met the conditions purchase a file, and the queues line up in thousands, even after modifying the admission requirements by putting a condition of obtaining at least a grade of "good" to be accepted<sup>(10)</sup>.

Candidates who seek an appointment to the judiciary must also have Egyptian nationality. Some conditions also might reflect the importance of the economic status and background of the candidates and their parents, an example is submitting a copy of the title deed or agricultural possession card when applying for the positions of the public prosecutor assistant. A certificate approved by the father's employer stating his current job, monthly salary, and academic qualifications is also required. Another condition to fulfill the status requirements is that none of a candidate's immediate relatives should have been accused of anti-regime sentiments and activities or has a criminal record<sup>(11)</sup>.

A committee in each institution with a different selection process is then responsible for selecting those most suitable for the position based upon applicant character, intellect, or any other criteria. Once finalized, the country President issues a decree appointing the new group of successful candidates<sup>(12)</sup>.

As the Egyptian judiciary enjoys high prestige, the appointment process is highly competitive. The Egyptian society accords judges considerable respect, and they used to receive comparatively high government salaries. However, development happened regarding wages in other jobs making them more rewarding compared to the salaries of members of the judiciary, especially at the beginning of the appointment, yet, the judicial positions are still enjoying a great race among graduates for the respect and high moral value they enjoy in the society<sup>(13)</sup>.

Although the appointment process is formally merit-based, members of the Egyptian judiciary are usually from the Society's upper-middle or upper stratum<sup>(14)</sup>. Furthermore, the positions in the judiciary are offered frequently to relatives of sitting or former judges and governmental officials<sup>(15)</sup>.

The judiciary as previously mentioned is multi-jurisdictional and includes different institutions. However, it is important to clarify that the judicial bodies wherein their employees are considered as acting judges are the constitutional judiciary represented in the Supreme Constitutional Court, the administrative judiciary named the State Council and headed by the Supreme Administrative Court, and the general or also called ordinary judiciary led by the Supreme Judicial Council. According to the Egyptian applicable system, the Public Prosecution and the State Council are the usual paths to becoming a judge in the Ordinary Courts and the Administrative Courts. At the same time, the Supreme Constitutional Court elects its members and implicitly even decides how many judges will serve on the court. The Republic's President has only the authority to make the official appointment as an essentially ministerial formality<sup>(16)</sup>.

### **Women's position in the Judiciary**

Women struggled to enter the judiciary in almost every country, some developing Muslim majority countries such as Indonesia, Morocco, and Tunisia had appointed women judges after colonial independence in the 1950s and 1960s, even earlier than the governments of developed non-Muslim majority countries of origin as in Australia, Italy, New Zealand, and Switzerland, where women could not become judges until 1965, 1963, 1975, and 1974, respectively<sup>(17)</sup>.

The case of Egypt is quite different as the Egyptian independence in 1922 did not mean that the doors for female employment were wide open. On the contrary, during this period the country's economy and society characteristics were high illiteracy, overpopulation, agricultural predominance, and endemic poverty. Conditions that affected women's employment opportunities<sup>(18)</sup>.

Since 1923, the Egyptian constitutions have stipulated the equality of all citizens before the law and the right to equal opportunities. The conditions listed in the law governing the judiciary also provided equal access for male and female candidates<sup>(19)</sup>. However, it took until January 2003 for the first female judge to be appointed, which may be considered a classic top-down measure where a female judge got directly assigned to a top position in the judiciary without having first worked as a public prosecutor<sup>(20)</sup>.

The Egyptian judiciary has demonstrated a degree of political liberalism by fighting for the independence of the judiciary, at the same time it has displayed entrenched belief in gender roles by opposing the admission of women<sup>(21)</sup>. The State Council had based its rejection of women recruitment on the reasons of customs which consider women as inferior to men, and a common understanding that the stipulations of Islamic law do not allow women to assume positions of public guardianship and that the state should support the accommodation between woman's duties to the family and her work<sup>(22)</sup>.

Until 2006, women were not allowed to become judges in the Ordinary Courts, however, under pressure from Egyptian NGOs representing feminist groups with the support of the EU and the political will of former first lady Suzanne Mubarak and former

president Hosni Mubarak. Female administrative prosecutors and their counterparts at the State Lawsuits Authority got notified of a competition for the transfer to the position of judges in the Ordinary Courts with the condition of passing oral and written tests. In December 2006, the Supreme Judicial Council selected 31 female members of the State Lawsuits Authority and the Administrative Prosecution Authority to serve in the Ordinary Courts. In 2007, a presidential decree appointed them at civil, criminal, and family courts<sup>(23)</sup>.

In May 2008, another group of 12 women got appointed to the rank of a judge in the Ordinary Courts. Another example of a reform dictated from above provoked heated public debate, showing that the Egyptians were divided on the issue. In 2015, the third group of 26 women got appointed as judges in the Ordinary Courts by a Presidential decree, also selected from the State Lawsuits Authority and the Administrative Prosecution Authority. Lately, another group of 73 women got appointed, also selected from the State Lawsuits Authority and the Administrative Prosecution Authority<sup>(24)</sup>. However, the Supreme Judicial Council and the Court of Cassation remain a male-only domain<sup>(25)</sup>.

Despite the recruitment of women in the ordinary judiciary through their transfer from other judicial institutions, and their transfer later to the Public Prosecution. As in 2021, 11 women judges were transferred from the Ordinary Courts to the Public Prosecution<sup>(26)</sup>. Yet, The Public Prosecution continued to refuse the appointment of female judges with their male counterparts in the standard recruitment process<sup>(27)</sup>. Until 2023, when the Public Prosecution announced the acceptance of applications for appointment to the post of Assistant Public Prosecutor for females and males, from graduates of the Faculties of Law, Sharia and Police academy<sup>(28)</sup>.

Marking the Women's international day in 2021, Egypt's President Abdel-Fattah El-Sisi directed Minister of Justice Omar Marwan to coordinate with the Supreme Judicial Council and the State Council for hiring women at the two legal institutions. The [https://www.ecs.eg/State Council](https://www.ecs.eg/State_Council) in response announced on the 14<sup>th</sup> of March its decision to allow the appointment of women as members of the State Council for the first time. According to the decision, female members who are already assuming positions in the Administrative Prosecution Authority or the State Lawsuits Authority will be eligible to request a transfer to the State Council<sup>(29)</sup>. In the same year, the first group of 98 women were appointed as judges at the State Council by being transferred from the State Lawsuits Authority and the Administrative Prosecution Authority. Additional 38 women were appointed in 2022 also by being transferred from the State Lawsuits Authority and the Administrative Prosecution Authority<sup>(30)</sup>.

Women's representation in the Administrative Prosecution Authority and the State Lawsuits Authority is more significant, as their number in the Administrative Prosecution Authority reach 43% of the total number of members, and they represent 20% of the total number of members in the State Lawsuits Authority<sup>(31)</sup>.

## **Second Part**

### **Method, Sample, and Recruitment Criteria**

The choice of conducting in-depth interviews was to achieve a better interpretation of the way individuals in the judicial field formulate their social world and to reach a closer analysis of the constraints in front of women's recruitment. My target group were respondents involved with the judiciary, either as lawyers, judges, or other personals working in the field of judiciary.

My sampling of respondents depended on the snowball technique. It involved gathering a small group of people relevant to the theme, and these people proposed other participants who are relevant to the topic and with the diversity needed and so on. I have chosen to conduct seventeen in-depth semi-structured interviews, which was the most appropriate to cover the diversity needed. Each interview took between 1 to 3 hours, as I tried to get as detailed answers as possible and at the same time give the respondents flexibility to initiate spontaneously new areas of discussion.

All the judicial bodies and lawyers were represented by a respondent or two, except the Supreme Constitutional Court as it was so difficult to reach anyone there. The respondents' age ranged between twenty-five and sixty. Four respondents were women, and the rest were men. I used fictional names instead of their real names to keep the respondents' confidentiality.

The interviews were conducted in Arabic to give the respondents the option to express themselves without a language barrier. Only two respondents accepted that I use a voice recorder, while the rest refused due to the respondents' judicial positions. The setting of the interviews had privacy and got conducted in the time and place where the respondents felt comfortable. I gave time to get to know the respondents more before the interview, and I explained the research and its purpose in detail to foster a comfort zone and end any suspicions to nurture honest responses to my questions.

### **Interview data analysis.**

The field noting got transcribed in-text, and the analysis of the findings took three steps, step one was by identifying the parts of the transcripts that help address my study purpose, step two included grouping together descriptive codes which share a common meaning and creating an interpretive code that captures it, and step three defined the overarching themes that characterize the key concepts of the analysis.

Based on this, the findings will provide a descriptive summary of the content collected from the interviews giving the reader a narrative of how the findings are connected to the study topic. Quotes were added to the findings from the participants' answers to contribute to the trustworthiness of the study.

## **FINDINGS**

### **Reasons for the occupational choice as a judge**

Most of the respondents working in the judiciary expressed that the main reason for seeking that career was the family's desire. This desire can be either to keep the family legacy as Judge Amira was sharing her experience in terms of the family effect as,

“At first I did not want it, I didn't want to enter the judiciary field, but it was the family's desire and the main reason behind it was that my father is a judge.”

Another reason for that desire is the social status this career provides, as one of the respondents Judge Ahmed explained, “After university, we law students apply in all the judicial bodies, and then we are waiting to see which one will accept us due to the difficulty of admission as the places are limited and the number of applicants is huge, and this is because of the respect and social status this career provides.”

The interviewees also expressed other reasons, like the passion for legal research, the aspiration to defend the people's rights and freedoms and to achieve justice. However, it is noticeable that all-male judges did not mention the financial compensation for the profession as one of the reasons for pursuing that career, on the contrary, two female judges mentioned the importance of the stable income as one of the reasons that made them enter the profession.

### **Gendered characteristics of the judge.**

In 2015 Egypt's Minister of Justice Mahfouz Saber answered a question regarding the employment criteria stating that judges were "lofty and had the status" and had to come from "a respectable milieu"<sup>(32)</sup>. The respectable milieu got also mentioned during the interviews as one of the essential characteristics of the judge, as Judge Adel replied to a question regarding the main characteristics of a judge, “A judge must grow in a respectable and suitable social-environmental medium, for instance, he should not be concerned with money.”

But mainly, the respondents mentioned personal characteristics like rationality, patience, integrity, wisdom, and neutrality. According to lawyer Marwan, the attributes of neutrality, impartiality, and objectivity are the reasons why women should not work as a judge, “I dealt with female judges in the family court before, and they lack impartiality as they reject any criticism said towards women, and they have a prior orientation in sympathy with women. In the five times I dealt with them I did not feel the neutrality of the judge, they always had a way of speaking that made me refuse to deal with them and direct my defense statement to their male colleagues”.

### **Gender role in society, family, and professional life.**

The division of roles between men and women was the most common opinion for male judges. Women are responsible for the house and kids, and men are the source of income, the reason in most of the responses was that women are more capable of giving passion,



attention, and care, while men tend to show more firmness, better guiding and decision-making abilities.

All male judges did not oppose the idea of woman's work if it does not hinder the woman's role in the household. Their reasons for that acceptance varied between improving her ability to raise children through her contact with the society as it will expand her perceptions and experiences, or in order not to suppress her capabilities if she was efficient and that's for the benefit of the society. Also, all-male respondents refrained from mentioning the financial dimension of women's work and its service to the family, the explanation is that spending is the man duty, due to the societal and religious culture, so the man in the society is responsible for spending and guardianship, and if a woman wants to participate in the spending, then that should stem from a personal desire she has but not as an obligation, therefore women should not work because of the need for money.

This societal and religious culture is also changing as most of the respondents implied, there is more tendency now towards preferring a working wife as Judge Omar illustrate about his personal experience, "I always wanted a wife who did not want to work so she can focus all her energy on our children, and that may be due to my upbringing in Upper Egypt, but now that I got married and resided in Cairo, my mind changed a lot, so in my opinion now it's better to have a working wife as working expands the women's perceptions and experiences."

On the other hand, women judges believed that there should be nothing called gender roles in the family, society, or professional life and that gender relations are based on cooperation, and the roles should not depend on gender but personal capabilities, but also Judge Samira opinion is that, "In our society, the idea of full equality can't exist, as the capabilities of men differ from women, for example, women are more capable of handling the responsibility of the home and the children, men may participate but with a smaller role. It is due to the upbringing of the Egyptian men, as our mothers didn't teach our brothers this kind of responsibility, and if I marry a guy coming from a family like mines where boys never do the households and ask him to share this responsibility then it will end up with a fight or even a divorce."

Regarding the societal and religious culture that men are responsible for spending and guardianship, Judge Amira thinks that, "There is no longer a family in which the woman does not spend, so if the man does not ask her to do so then she spends on her personal needs, and then the proportion of the man's spending becomes less, as he spends only on common matters."

A follow-up question about her preference for more rights concerning work versus diminishing her rights regarding family affairs, she quickly expressed her refusal and said, "I prefer to keep my rights as a woman in the family law as they are, my rights as a mother are more important to me."

### **Suitable jobs for women and men**

All-female respondents agreed that all jobs could be suitable for men and women if they can do it and this capability should not be related to gender, while only one male respondent which is Judge Ahmed shared the same view, "Women are fit to work in all places, and this belief was formed after working with them, as I found their suitability and efficiency for work in my workplace and all the other institutions that I dealt with them in."

The rest of the males expressed their belief that women are not suitable for work in all places, furthermore, the nature of the work for which women are not qualified to and the reasons for this belief varied. The jobs that are not suitable for women from the viewpoint of the respondents were jobs that need high physical strength, jobs that require dialogue and negotiation, jobs that require leadership ability, jobs that are far from the urban community, and jobs that are dangerous or requires contact with a criminal. Their reasons are related to their belief that women's affection will make their judgments stems from their heart, not their mind, their lack of life experiences, that men are more tactful and have more eloquence in conversation, and finally because of the women physical formation.

Judge Peter gave another explanation for his opinion, "The judiciary, police, army, and the presidency are jobs for men, and that is not because they (women) do not have the capability, but because I don't have the capability to see them in those positions."

Most male respondents believed that men could practice any job, with a few exceptions who stated that some jobs like being a nurse, teaching in a kindergarten, or becoming a dancer are more suitable for women. Their reasons were that the first two jobs need characteristics as affection, tenderness, being emotional, kind, and helpful, while the third job reasoning was due to the women's physical features.

### **The explanations for the gender inequality in the judiciary.**

Most of the respondents attributed that to the masculinity culture which generally prevails in the society, preferring men in the leadership and decision-making positions. A second explanation for some of the respondents was that sometimes the nature of the judicial work is not suitable for women, especially in the Public Prosecution which is the main starting point to become a Judge in the regular courts. Two of the respondents mentioned the religious dimension as Judge Fawzi stated in his explanation that, "The reason for that may be the societal view based on the religious hadith which stated that people will not succeed if they left their affairs to be managed by a woman."

Another respondent who is Judge Fatma, also based her explanation on that religious dimension, "During the fifties and the sixties, there was a tendency towards women's participation in most aspects of public life in Egypt, which led to women's appointment in both the Egyptian State Lawsuits Authority and the Administrative Prosecution Authority. However, starting from the seventies especially after introducing provisions of Islamic law as a source of legislation in the 1971 constitution, with the spread of Wahhabism derived from other Islamic countries. Led to a decline in the general trend towards the inclusion of

women in all areas of public life including the judiciary, taking advantage of some religious writings that are subject to different interpretation”.

Judge Amira made an alternative explanation worth noting,

“The judiciary in Egypt is a family system, men work in the regular judiciary, Public Prosecution Office and the Council of State, and their wives and daughters who have finished studying law, are appointed at the Administrative Prosecution Authority and the State Lawsuits Authority, that’s why they allow women in them.”

Another opinion was that the current problem facing the appointment of women in the judiciary is a cultural problem and relatively economical. According to these respondents, the state does not have the financial means to achieve economic equality among judges, and they questioned how the state would turn a blind eye to that and appoint more women and pay their salaries from the judiciary budget, while the justification for not applying wage equality between the judicial institutions has always been the financial deficit of the judiciary budget. In addition, respondents with that view also questioned the state's ability to bear the economic cost of qualifying the courts and accommodation places to become suitable for women.

#### **The suitability of the judicial work for women and the cases they should handle.**

From the female respondents' perspective, women are suitable to work in any judicial work and with all cases. Meanwhile, only one male respondent expressed the same belief that all areas of judicial work are appropriate for women. The rest of the male respondents disclosed their belief that there are two branches in the judiciary that are not suitable for women namely the Public Prosecution and the Criminal Courts.

They expressed a variety of reasons to justify this belief, as for working in the Public Prosecution the grounds were: the late working hours, the difficulty of dealing with criminals and that criminals will not look up to women with respect, members of the Public Prosecution often moved between workplaces in different districts which impedes family stability, the work of members of the Public Prosecution in remote and cut off areas and that it will be difficult for girls to examine the corpse and attend the autopsy. As for the criminal courts, the reasons were: the pressure of work, the lack of experience derived from work in the Public Prosecution, lack of life experience, and that there are many things in the criminal justice system that may be shameful for a woman to hear and attend, plus that woman’s affection will affect her rulings and deliberation with the male judges will be very difficult and embarrassing for them.

However, all respondents agreed that there is no justification for the refusal of appointing women to the State Council as the type of work and the cases they handle are very “suitable” for women. Judge Samira expressed her disappointment regarding women appointment in the State Council by stating,

“How can the General Assembly of the State Council which is the body responsible for safeguarding the people's rights and freedoms, and the application of the constitution, meet

to agree on that discrimination against women by refusing their appointment in the State Council in a violation of the constitution. The problem is that there is no one to hold them accountable, and who will hold them accountable if the Constitutional Court and the Supreme Judicial Council practice the same discrimination against women”.

Moreover, some respondents added other reasons that are not related to the suitability of the work for women for their refusal of women's recruitment in the judiciary, but reasons that are related to other circumstances that might affect the men working conditions, for example, the difficulty of appointing women far from the governorate of their families which will make men always leave their homes as there will always be someone who has to work far from their residence, in addition, male judges will be responsible for more work and women will get assigned with more accessible work and cases, another reason is that women will get long leaves due to pregnancy and childbirth which adds their work to their male colleagues.

Additionally, some respondents declared their preference to assign the position to men as they are responsible for establishing a family and bearing its expenses, thus, they are more appropriate for employment. However, two of the female judges also mentioned that they think men are afraid to open the appointment for both genders in some of the judicial entities as it might affect the chances of their male children getting hired as girls achieve higher grades at law universities, therefore, if the main appointment criteria are the applicant's academic grades females will take most of the positions.

#### **The advantages and disadvantages of working with a woman.**

Most male respondents answered that they do not see any advantage in working with a woman, as men can do the job, the rest stated that the only advantage a woman would make if she was more efficient in work than a man, yet they believe it is scarce as men are more efficient than women in most of the jobs. Only two male respondents thought that there might be an advantage in working with a woman, their reasoning was contradictory as the first stated that it might encourage more competition to prove oneself which will result in everyone trying to do their best, while the second respondent believes it will bring more harmony and less competition.

One of the female respondents decided that she does not want to mention any positive characteristics for women. She believes that this is a repeat of the stereotype that there is a difference between men and women and insisted that the criterion should not be based on gender but based on competence. The rest of the female respondents emphasized that women constitute half of the society, they can introduce a different objective view to the cases, and that women judges are more able to feel the pain of a woman like them. In addition to that, they believe that women's work in the judiciary helps improve the societal view of women in general. Furthermore, they mentioned another economic impact that benefits the entire society by exploiting the other half of the population.

Unlike the limited advantages that men find in working with women, the negatives have multiplied and varied. We can divide the disadvantages into two main categories, the first category is related to the nature of women such as being emotional and incapable of separating between objectivity and her instincts, also that women mix between their private relations and the work relations, while the judicial work environment requires impartiality which is something they think that women lack. Furthermore, they believe that the woman is compassionate and is not suitable for making judgments during her menstrual cycle and that the eastern woman is not like the western woman as she cannot abandon her feminine nature as the western one did. Secondly, disadvantages related to the effects of her work on men such as the discrimination which will occur against men at work as there will be no fairness in the distribution of work and men will bear the most of it and women will get paid leave for pregnancy and childbirth which will affect the regularity of work. In addition, it is difficult for women to be available twenty-four hours like men, and it will end up that the men in the Public Prosecution who will work the nightshifts, also women won't be able to do some of the job duties like attending the examination of a corpse which will require that a man do such work instead of her.

Women judges also found some disadvantages but had a different interpretation for them, such as the harassment at work that might appear as some men are not used to work with women and they don't know how to separate between professionalism and personal desires. Another disadvantage is the workload and the constant movement between governorates which are obstacles that from their perspective should not prevent women's work but can be resolved by appointing more judges and trying to enable them to work in their residential districts, adding that the female respondents believe that many women won't object on working in these circumstances. They added that there may be some difficulties in fulfilling the work responsibilities like the late working hours due to the family responsibilities which women bear most of, nevertheless, the solution from their point of view is through the state's intervention to enable the woman to fulfill her role both in work and in the family.

#### **Cultural restrictions towards gender equality in the field of judicial work.**

The responses varied widely about the structural constraints that constitute an obstacle to achieving gender equality in the judiciary. The respondents main cultural and social constraints were:

- The discriminatory culture of men in society.
- The religious-based societal norms that women are not compatible with the expectation of the judiciary position.
- The difference in the physical nature of men and women makes it hard for society to accept women in some professions.

Some respondents stated that there is no such thing called equality, as they believe that women are different from men, and accordingly they cannot be given the same rights

and duties. Moreover, one of the respondents also has argued that the real constrain is the nature of the prestigious job, which makes it a subject of competition, and this competition is the reason for the prejudice against women.

Finally, some respondents stated that the real obstacle is not in the society's culture but that the actual problem is the injustice of the judicial system, and that the absolute will of the state to achieve gender equality in the field of the judiciary, claiming that if the desire of the state is available, the society will accept it without a problem. However, Judge Samira expressed another reservation on the idea of equality, "Yes, there is discrimination in the judiciary, but there must be a strategy of justice and equality on the state level, why do you only demand equality and justice in the judiciary when there is no justice in the appointments in all the state facilities, where would my children work if they did not get appointed in the judiciary?".

#### **The society's view of women's work in the judiciary according to the regional context.**

Most of the respondents stated that there is a severe difference in the society's view of women's work in the judiciary from one region to another. The majority asserted that Cairo differs from Upper Egypt, as urban areas will accept women's work more often than the rural areas. Only two of the respondents stated that they believe that agrarian societies strongly respect the position of a judge, therefore they will respect whoever is in the post, whether a man or a woman, but one of these respondents added that the real problem would be finding qualified female cadres in rural areas for this position, otherwise women from Cairo will be appointed there, and in this case, another problem will arise which is the difficulty for women to work far from their governorate of residence.

It is worth noting that all the respondents coming from a rural background emphasized that it is still difficult for women to work in the judiciary as the people in rural areas are not ready yet to accept women in that position.

#### **ANALYSES AND DISCUSSION**

The Egyptian societal culture according to the interviewees' perspectives regarding gender relations revealed some cornerstones, the first is the traditional gender roles of men being the breadwinners and women being responsible for the childcare and house duties, supported by the patriarchal structure and religious beliefs, where women get trapped within this culture<sup>(33)</sup>. The second is the importance of the social status in the society in determining your power and influence, which men mainly control as they have the upper hand in the public sphere by excluding women from production<sup>(34)</sup>. The third is that the hegemonic masculinity in the society is affected by the gender stereotypes of masculine behavior, which intersect with dominant religious conceptions of women's inferiority and is influenced by Militarism that frames the hierarchies of the ideal masculinity features in the society and promotes men's preference in the leadership and decision-making positions, providing social legalization for discrimination<sup>(35)</sup>.

The fourth is the emerging importance of the economic over the social status with the state adoption of a capitalist economy, adding a new aspect of hierarchies in the society which affect mainly women from lower-class and produce more discrimination against them<sup>(36)</sup>.

The Egyptian judiciary can be described as a well-unit group within the society, having its own 'culture' and reproducing it as a relatively 'closed' status group. A 'culture' that contains norms, beliefs, and behaviors, at the same time discrimination for them is the way to ensure their survival. They transmit this 'culture' to the next generation to keep the privileges, which is expressed in the male respondents' attitudes that did not change with their age<sup>(37)</sup>. The judiciary culture includes reasons for discrimination used mainly to control their independence and autonomy in at least one aspect which is who gets the privilege of being admitted to the group. Their working 'culture' got developed by only men in a traditional and patriarchal milieu<sup>(38)</sup>.

From the respondents' answers, we can identify the society's collective culture, which is also demonstrated in the judiciary group culture, putting the family desire and aspiration before the individual one in determining the career choice. The family represented in the already appointed member in the judiciary body has the same collective obligation to support the appointment of the relative applicant.

Accordingly, this collective culture tries to control the appointment procedures, which eventually constructs discrimination against other applicants who are outsiders to the judicial family, intersectional with gender, affecting both the woman's collective and individual chance in the recruitment. The prestigious job that involves individual-level indicators that gives its members high status and respect in the society might be negatively affected by women's presence, especially with the societal culture and norms that consider women as inferior, making the group lose the principal privilege of the profession<sup>(39)</sup>.

The judiciary concerns and reasons for discrimination are mainly surrounding two structural factors, the status of the position and the class of its members. These two factors overlap reproducing the power dimensions of the occupation and its members within the public sphere and the private sphere as it affects their relations with society and within their families<sup>(40)</sup>.

The importance of the social class is clear from the interviewees' responses. The male respondents showed a preference of the social status over the occupation economic rewards, as their reasoning for the career choice in the context of this question refused to discredit their economic situation in the society by avoiding mentioning the financial compensation for the profession, which is as previously mentioned not a criterion for the position excellence anymore, especially after the development that happened in the country regarding the salaries of other jobs<sup>(41)</sup>.

Women's recruitment in the judiciary can affect the male judges' status among other males in other professions and within society, and by that, losing their hegemonic masculinity hierarchy. This fear was expressed by the male respondents' suspicion about

women working in the Criminal Courts and the Public Prosecution, as women will mainly deal with dangerous male criminals and influential male police officers, and since the hegemonic masculinity in the society makes men respect more masculine and powerful men, therefore, masculinity as an attribute of the judge position will be lost with the inferior woman presence in the profession<sup>(42)</sup>.

The economic situation also affects the judges' status and it is quite important as expressed during the interviews on several occasions for four main reasons, the first is that capitalism raised the importance of the economic class over the social level, which affects deeply the judiciary members who are receiving comparably lower wages than their counterparts in other professions, consequently, it is harder for them to keep their social status especially if the recruited members failed to represent the group as expected from the (incapable and weaker) women, while at the same time failing to join in the capitalist economic status and by that losing every societal prestige<sup>(43)</sup>.

The second reason is the male members' power relation within their private sphere since they must work and provide adequate income for the household to cover all the food, clothing, and educational expenses for the children as the breadwinners, to keep the traditional social division of labor that is gendered which stipulates the power relation in the private sphere that most males will not prefer to lose<sup>(44)</sup>.

The third reason was displayed in the women judges' responses, in contrast to men the economic compensation for a career in the judiciary seems important and satisfying, which is understandable in line with the culture and the religious personal status law that puts the financial burden on men producing indirect economic gender discrimination in favor of women. It is also reflected in the judiciary collective attitude towards the recruitment of women, by preferring the employment of their male relatives who are the family class protectors and more economical in need<sup>(45)</sup>. The economic responsibility emphasizes the men's preference to assign the position to other men as they are responsible for establishing a family and bearing its expenses. Thus, they are more appropriate for employment, especially if this might affect the chances of their male children getting hired with the high percentage of unemployment in the country, particularly for law graduates, and recruitment discrimination they might face in other professions<sup>(46)</sup>.

The last economic reason for discrimination is caused by the differential cultural treatment between genders in the public sphere. As men expressed their fear of being the ones who will always leave their homes to work in deserted regions and far from their governorate of residence, besides that they will be responsible for more work as the female judges will get assigned with the more accessible work and cases, alongside women extended maternity leaves due to pregnancy, childbirth and childcare, at the same time, both women and men will receive the same wages at the end. These cultural norms constitute reasons for discrimination between both women and men, as well as providing grounds for legitimizing this discrimination.



Male respondents from both rural and urban regions demonstrated the same general attitude towards women's appointment in the judiciary, may be the reason is that men from both areas consider themselves facing the same discrimination since the private sphere is controlled in rural and urban areas by the same personal status law, hence the men's perception of its bias is quite similar. However, men in urban areas are more committed to discrimination, as their women ask more for their universal rights besides their religious ones in comparison with women in the rural areas who are more committed to the culture, which eases the pressure laid on their men<sup>(47)</sup>.

Moreover, society is not the main problem in front of women recruitment in the judiciary as the women respondents explained, which can be understandable since the discrimination against women does not directly affect the society in general, or even the male law graduates in particular, as the ones without a relative with high status and influence get excluded from the judiciary closed group by the appointment regulations based on his family background, therefore women's recruitment might form another layer of discrimination, remarkably when only the women from the judicial family are appointed, yet their chances were already low from before<sup>(48)</sup>.

Gender stereotypes are present in the male respondents' attitudes. Women are perceived as subjective, unneutral, emotional, incapable of high physical effort, unfit for decision-making along with other unsuitability and incapability stereotypes. The male respondents almost used all the gender stereotypes to support the cultural idea that women must get subjugated due to their 'natural' inferiority to men. It is also expressed in the male respondents' negative view of women's recruitment, seeing almost no advantages of their presence and finding it full of disadvantages. Some respondents even stated that there is no such thing as equality, as they believe that men are different from women, and accordingly they should not receive equal rights. These gender stereotypes are not only among men but also among women themselves and in their convictions about their abilities and gender role.

Men in the judiciary are trying to defend their group privileges desperately, after a heritage of male dominance over the profession, some male respondents refuse even the assumption that women will get more power in the public domain, stirring them to practice more oppression, discrimination, and stereotypes against women as their way of protecting their remaining gender advantage. Simultaneously, the religious-based societal view that the society will not succeed if they left their affairs to be managed by a woman and consequently they are not fit for the position of a judge, which is used also as a supporting argument for these stereotypes<sup>(49)</sup>.

Additionally, the cultural idea of honor and shame and its effect on family status indirectly affect women's recruitment. The honor idea leads men to prefer keeping women in the private sphere or forcing on them harsh regulations if they want to leave to the public sphere by making it limited to the close by areas and upon permission, which is present in the respondents' attitudes towards women's work away from their residence. Male judges consider that there will be discrimination in that regard as men would always work far

away from their homes. This discriminatory cultural aspect of controlling women inside the private sphere under the excuse that being distant from home will shame the family and destroy the woman's reputation is transferring to become a reason for discrimination against men in the judiciary, at the same time it reinforces their refusal for women recruitment<sup>(50)</sup>.

Accordingly, discrimination against women in the judiciary as a result of this societal culture takes two forms, the first is collective women discrimination based on gender or social class. An example of this form of discrimination is the Public Prosecution and the State Council regular appointment procedure that were open only for male candidates, and also by putting conditions to ensure the socio-economic status of the applicant, forming a structural delimitation by having closed recruitment that is not open and competitive<sup>(51)</sup>.

The other form is recognized when a woman faces discrimination on an individual basis, through the intersection of two layers of discrimination that will target only some women in the society. An example is the previous appointments of women in the Ordinary Courts and the State Council by allowing the appointment of women under the condition of holding positions in either the Administrative Prosecution Authority or the State Lawsuits Authority, excluding other women in the society like women lawyers. The intersection of gender and class will also produce subjective woman's discrimination in the appointments in the judiciary, creating a cycle of continued societal discrimination and reinforcing endogamy<sup>(52)</sup>.

In conclusion, women struggle not just to get recruited to the profession of a judge, but to confront cultural norms, hegemonic masculinity, religion, and power relations that emphasize the privileged over the disadvantaged. The societal culture from the interviewees' perspective contains deeply rooted gender roles division with an inherited legacy of gender stereotypes, reinforced by firm sacred beliefs, suggesting gender complementarity as part of the message of the religion, which might form constraints in front of women sustainability in the profession. Nevertheless, gender is not the predominant reason for discrimination but merely a tool for its justification. Recruitment in the judiciary contains social and economic restrictions related to the individual and the collective class and status in the society, which intersect with gender forming unequal access to the judiciary among women themselves.

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## النوع الاجتماعي والمساواة فى الخيارات المهنية فى مصر: العوائق الثقافية والمجتمعية أمام تعيين النساء فى المناصب القضائية

بعد انتفاضتين شعبيتين فى أقل من ثلاث سنوات، وحيث كانت المرأة عنصرًا فاعلاً فيها حيث ارتفعت خلالها هتافات النساء تطالب بحقوقهن فى الحرية، الكرامة، العدالة، والمساواة. إلا أنه لا تزال المرأة تكافح من أجل شق طريقها فى مهنة كان يهيمن عليها الذكور تاريخياً. فالقضاء المصرى ظل طويلاً يظهر إيماناً راسخاً بالأدوار النمطية للمرأة والرجل من خلال معارضته لتعيين النساء على أسس مجتمعية، ثقافية ودينية.

إلا أن ذلك الاتجاه قد لاقى مؤخراً الكثير من رياح التغيير والتي يتعين أن يواكبها تغيير فى الثقافة المجتمعية، وحيث تعرض هذه الورقة نتائج دراسة بنيت على مقابلات متعمقة تمثل عينة عمدية من المشتغلين بمجال العمل القضائى بغرض التعرف على العوامل الثقافية والمجتمعية التى تؤدى إلى التمييز بين الجنسين فى عملية التوظيف فى هذا المجال. وحيث تسعى هذه الدراسة لتبيان الصور النمطية المبنية على النوع الاجتماعى التى صاغتها المعايير الثقافية والمجتمعية والتي لعبت دوراً محورياً فى أبعاد المرأة عن هذا المجال وتأكيد الهيمنة الذكورية على هذه المهنة على مدار عقود من الزمن.