



Egypt Experts Survey Report: Judiciary Data (Draft)

This summary is compiled for the exclusive use of authors working on the state of the judiciary in Egypt and ACRLI advisors. The findings reported below are extracted from the survey of expert users (Judges and Lawyers) carried out by Information International for the benefit of ACRLI. The survey included a sample of 80 judges and 120 lawyers from Alexandria and Cairo.

The total population of registered lawyers in Cairo is 55,615 while those residing in Alexandria amounted to 17,330. A total of 92 lawyers were surveyed in Cairo, and 28 were surveyed in Alexandria. On the other hand, the total population of judges to be surveyed in Cairo amounted to 1186, while those residing in Alexandria amounted to 189. A sample of 80 judges were selected for this survey, 69 of which reside in Cairo and 11 in Alexandria.

The method of sample selection relied on systematic random sampling, based on an exhaustive list of judges and lawyers registered in these two cities (see Information International report for details; Appendix C). Refusal rates (both direct and indirect) reached 30.3%, a figure that implies the need to interpret the main findings with caution. The ability to generalise to the entire population is limited.

The findings from the survey are presented in two parts. The first part presents an overview of the major findings from the survey, while the second part presents detailed findings from the individual items in the survey. Appendix A presents the detailed findings for each item from the survey and will be referred to during the discussion of the main findings from the survey below.

I. OVERVIEW OF KEY FINDINGS FROM SURVEY

Main Findings: Item Analysis

An important finding is that lawyers and judges have different evaluation perspectives of the state of the judiciary in Egypt. Overall, lawyers had a significantly higher number of grievances about the state of the judiciary than judges did. Of the 65 core questions asked, 12 were rated negatively by judges, while 36 items were rated negatively by lawyers. Interestingly though, 10 items were sources of common complaint from both judges and lawyers in Egypt; these ten items are ranked from highest to lowest complaint in the table below (*Note*: Scores represent the average (mean) for each item on a scale from 1 to 5. Scores below 3 reflect a positive evaluation of the item, while scores above 3 reflect a negative evaluation. The higher the score, the more negative the assessment):

- 1- The judiciary receives funding from sources other than the government allocated budget (i.e. besides bribery money) (item 6; $x = 4.34$) [caution, missing data]
- 2- Women have exactly the same chance of being selected as men (item 53, $x = 3.81$)
- 3- Judges are free to express their political opinions (item 17, $x = 3.65$)
- 4- Citizens have easy access to legal information and judgments (item 41, $x = 3.66$)
- 5- There are no external pressures that interfere with the efficient enforcement of judicial decisions (item 86, $x = 3.55$)
- 6- Judgments are enforced in a consistent manner (item 84, $x = 3.53$)
- 7- Laws to fight corruption in society are rigorously enforced (item 26, $x = 3.40$)



- 8- Judges are free to join any professional association (item 18, x = 3.38)
- 9- Selection is based on the results of competitive public examinations (item 50, x = 3.04)
- 10- Special courts have a clear and limited jurisdiction (item 1, x = 3.08)

Four of the 10 items above are within the “independence of the judiciary” (items 1, 6, 17, & 18) , while the remaining six are distributed equally in the three remaining principles (integrity (items 26 & 41), competence (items 50 & 53) and efficiency (items 84 & 86), with two items each).

The two items to which judges responded negatively (but not lawyers) are: a) judges have adequate salaries, and b) judges have adequate resources for judicial training programs. For an exhaustive list of items to which lawyers provided negative feedback, please refer to appendix B.

Main Findings: Dimension Analysis

When items are combined to measure a dimension of a specific principles (e.g. items 1,2,3,4 as measures of “guarantees of judicial independence”, a dimension of the general “independence” principle), only two dimensions proved to be problematic for judges, while seven flagged as significant for lawyers.

The two most important grievances for judges resided in their “freedom of expression and association” and the “effective enforcement of court judgments” dimensions. All other subsections did not cross the overall midpoint of 3, indicating an overall (general) satisfaction with all other aspects of the judiciary.

On the other hand, lawyers voiced grievances on the following seven subsections: a) freedom of expression and association [independence], b) security of tenure [independence], c) institutional impartiality [integrity], d) objective criteria of selection [competence], e) objective system of promotion [competence], f) reasonable time to receive final and binding judgement [efficiency], and g) effective enforcement of court judgements [efficiency]. The remaining dimensions did not cross the midpoint threshold.

Items Rated Most Positively

On the more positive end of the analysis, the five items most favourably evaluated by judges and lawyers are presented below:

	J	L
39. Litigants can appeal any rulings allowed by the law	X	X
74. Judges can call upon relevant experts	X	X
33. Judges do not look into any case in which they may have interest or relation	X	
35. Judges are generally perceived as having a high degree of personal integrity	X	
31. Court decisions are made in total impartiality	X	
54. Men have better opportunities than women		X
15. Judges have adequate salaries		X
40. Judges have easy access to legal information and judgments		X

Judges ranked items 33, 35, 74, 31 and 39 as the most favourable in the state of the judiciary in Egypt; four of these items refer to the integrity principle, while the fifth relates to effectiveness.



Lawyers ranked items 39, 54, 74, 15, and 10 as the most favourable in the state of the judiciary in Egypt. Items are relatively scattered across dimensions, with one item in each of integrity, effectiveness, and competence, and two items within the independence section.

Opinions on Most Needed Reform in Judiciary

The questionnaire administered to the sample of lawyers and judges included a series of “reform” questions. Participants were asked to rate the importance of reform in each of the subsections of the state of the judiciary questionnaire.

Judges indicated the following six domains as those that require the highest need for reform (presented from highest to lowest):

- 1- Reforms to improve the judicial training systems are needed to improve the competence of the courts (item 70; competence)
- 2- Reforms targeting the improvement of the enforcement system are needed (item 87, effectiveness)
- 3- Reforms are needed to strengthen the qualifications and skills of judges (item 47; competence)
- 4- Reforms are needed to improve the judges’ selection process (item 55, competence)
- 5- Reforms in the promotion and transfer criteria are needed to improve the competence of the courts (item 61, competence)
- 6- Reforms to strengthen freedom of expression and association are needed (item 19, independence)

Four of the six domains highlighted above refer to competence issues. Such clustering is highly indicative of the concerns of judges in Egypt.

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- 1- Reforms targeting the improvement of the enforcement system are needed (item 87, effectiveness)
- 2- Reforms to improve the judicial training systems are needed to improve the competence of the courts (item 70; competence)
- 3- Reforms are needed to improve the judges’ selection process (item 55, competence)
- 4- Reforms to promote judicial officials’ personal integrity are needed (item 36; integrity)
- 5- Reforms are needed to strengthen the qualifications and skills of judges (item 47; competence)
- 6- Reforms in the promotion and transfer criteria are needed to improve the competence of the courts (item 61, competence)

Again, four of the six domains identified by lawyers as those requiring reform relate to competence issues. These four domains are exactly the same as those identified by judges.

It is thus important to highlight that both judges and lawyers perceive that four of the domains that need reform are related to competence and are identified as such by both groups.



II. DETAILED FINDINGS FROM SURVEY

Independence of Judiciary

The personal independence and institutional independence of the judiciary supports the overall independence of the judiciary. Respondents are concerned with the judiciary's independence under the constitution and their job security. The lack of free expression and association for judges undermines the independence of the judiciary.

Personal Independence

- Respondents agree that judges are not pressured by threats of physical harm (77%), economic sanctions (68%), and sources outside (51%) and inside (48%) the judiciary.
- A majority report that judges do have adequate salaries (62%), with a plurality who think that judges enjoy limited judicial immunity against civil and criminal suits (48%).

Institutional Independence

- Despite the 60% who think that the budget is influenced by sources outside the judiciary, 56% agree that the judiciary has adequate resources at its disposal. Sixty-six percent indicate that judges control the administration of the judiciary.

Judicial Independence

- A majority of respondents agree that judges are selected by the judiciary (56%), but only a plurality think that laws regulating the judiciary are in compliance with the constitution (47%).
- Respondents remain mixed on whether special courts have clear and limited jurisdiction (48% disagree, 43% agree), and whether constitutional guarantees for the independence of the judiciary are effectively implemented (44% agree, 40% disagree, 15% neutral).

Security of Tenure

- According to respondents, it is prohibited to remove judges without relevant justification (53%).
- Thirty-two percent think that appointments of judges are based on objective and transparent criteria, but 41% disagree with the statement. Thirty-nine percent agree that transfers are not used to pressure judges, with 31% who disagree.
- There are mixed views on whether judges are reassigned to posts outside the judiciary (39% agree, 39% disagree), and whether disciplinary measures against judges are clear and reasonable (34% agree, 34% disagree).

Freedom of Expression and Association

- Respondents are concerned with freedom of expression and association.
- Sixty-two percent think that judges do not enjoy complete freedom of expression of their political thoughts, and a strong 80% insist that judges are not free to join any professional association.

Reforms

- According to respondents, reforms are necessary to strengthen the judges' freedom of expression and association (88%). Respondents also support improving the independence of the judiciary through the implementation of institutional reforms (84%), reforms to increase



job security (83%) and reforms to strengthen the personal independence (83%) of judges and reforms of constitutional texts (79%).

Integrity/Impartiality

Respondents agree that the personal integrity of the judges strengthens the overall integrity of the judiciary. Except for respondents' concerns over citizens' access to legal information, most believe that the trial procedures possess integrity. Corruption is cited as a concern as respondents are mixed on the institutional integrity of the judicial system.

Personal Integrity

- Respondents agree that the judiciary possesses personal integrity.
- A majority think that the court decisions are impartial (58%), but only a plurality of respondents agrees that the principle of equality is strictly enforced (43%).
- Judges are perceived as having a high degree of personal integrity (71%), with 51% who agree that judges also regularly disclose their assets. A strong majority report that judges do not look into any case in which they may have interest or relation (72%).

Procedural Integrity

- Respondents indicate that basic judicial rights for citizens are upheld, including the right to appeal a judicial decision (88%), the right to defense (56%), and the right to have an impartial trial (53%).
- While a majority think that judges have easy access to legal information and judgments (69%), citizens do not have easy access to legal information (61%).

Institutional Integrity

- A majority of respondents do not think that the laws to fight corruption in society are rigorously enforced (64%), but many are mixed over whether the laws to fight corruption within the judiciary are enforced (40% agree, 38% disagree).
- Respondents agree that there is a clear code that regulates the behavior of judges (63%), and a plurality think that this code is clearly enforced (43%).

Reforms

- The respondents cite personal integrity as in need of reform (88%), 85% indicate that reforms are necessary to improve the integrity of trial procedures, and 84% support reforms to increase the institutional integrity.

Competence

The selection process and the promotion and transfer process of the judiciary received positive feedback, as many respondents agree that these processes highlight the overall competence of the judiciary. However, women are identified as having less of a chance for selection and promotion than men. Respondents cite the qualifications of judges and judicial personnel and the judicial training system as adequate, thereby strengthening the competence of the judiciary. The mixed response to the disciplinary process elicits concern from respondents.

Adequate Qualifications

- Candidates to the judiciary are seen as knowledgeable of the rules and qualifications needed (79%), but respondents are mixed as to whether the qualifications criteria are applied to all candidates (43% disagree, 40% agree).



- A majority think that judges have adequate professional training (55%), with only 41% who agree that judges have adequate technical skills.

Selection Process

- According to respondents, the criteria for evaluating the qualifications of judges are clear (50%), and 45% think that the criteria for selecting judges is clear and objective.
- A majority disagree that the selection process is based upon results of competitive public examinations (53%).
- Respondents agree that both moral integrity (59%) and a psychological assessment of candidates (49%) are important components of the selection process.
- A majority reveal that the selection process may suffer from gender discrimination as men are identified as having a greater chance than women (82%), and 77% think that women do not have exactly the same chance of being selected as men.

Promotion and Transfer Process

- A majority report that the performance of judges is regularly evaluated (72%).
- Respondents agree that promotions are based on clear and objective criteria (57%), and that transfers are conducted in a clear and transparent way (47%).
- Much like the opinions regarding gender and the selection process, discrimination against women is an issue in the promotion process as respondents think that women do not have the same chances of promotion as men (51%).
- Positively, fifty-seven percent report that performance evaluations are the most important factor in promotions.

Disciplinary Process

- A slight plurality agree that the disciplinary process is independently managed (37% agree, 29% disagree), with 61% who strongly believe that the process is managed by judges.
- Respondents are mixed on whether the decisions made by the disciplinary committee are clear and fair (37% agree, 35% neutral, 27% disagree) and whether sufficient explanation is provided (41% agree, 36% neutral, 23% disagree).
- Forty-six percent agree that the court proceedings are regularly inspected.

Adequate Judicial Training

- Respondents are positive in regards to the availability of adequate judicial training. Fifty-nine percent indicate that judges do follow specialized training programs and 53% agree that judges have adequate resources for the judicial training programs.

Reforms

- Despite positive response regarding the judicial training system, 95% of respondents agree that it needs reform to improve the overall competence of the court. Reforms are also necessary to strengthen the qualifications and skills of judicial officials (94%), improve the judges' selection process (92%), promotion and transfer process (92%) as well as the disciplinary process (88%).

Efficiency

The management of trials and the judicial procedures strengthen the effectiveness of the judicial system. Respondents highlighted the timeframe for case processing as a concern, but report that



in general the timeframe for judgments is mostly effective. Issues with the enforcement system compromise the effectiveness of the judicial system.

Trial Management

- Fifty-five percent of respondents agree that case assignments are based on clear and objective rules, with 56% who think that the assignments are also based on the specialization of judges.
- According to respondents, 49% agree that cases are managed in a transparent manner.

Judicial Procedures

- Fifty-nine percent think that the courts maintain up-to-date records, but are mixed on whether the processing of court documents is made without noticeable delays (39% disagree, 35% neutral, 25% agree).
- A strong majority agree that the judges are able to call upon relevant experts (74%), but only a plurality believe that the courts have the adequate number of staff to assist judges. (44%).

Timeframe for Judgments

- Forty-eight percent think that there is not a reasonable timeframe for case processing, but 50% agree that any delays in the case processing are sanctioned.
- A plurality agrees that disciplinary measures are taken against those that delay the processing of cases (46%).

Enforcement System

- According to a plurality of respondents, there are sufficient numbers of enforcement personnel (42%).
- Fifty-seven percent of respondents do not think that judgments are enforced in a consistent manner, and 59% agree that there are external pressures that interfere with the efficient enforcement of judicial decisions.

Reforms

- Ninety-four percent agree that reforms targeting the improvement of the enforcement system are needed. Reforms of court procedures (90%), speediness in the delivery of judgments (89%) and trial management rules (86%) are necessary to improve the efficiency of the judicial system.

III. Missing Data Analysis:

An analysis of missing data yielded significant findings that warrant attention. The overall pattern of missing responses did not exceed 2%. This indicates that the questionnaire, on the whole, did not create unexpected complications for participants. However, closer attention to the pattern of missing data points to

- 1- **item 6** “the judiciary received funding from sources other than the government allocated budget (excluding bribery)” had the highest rate of missing data with 42% of participants reporting their inability to assess this item. Either participants felt the item to be too sensitive or they did not feel confident enough to provide an assessment on that question.
- 2- **Item 64** “Decisions made by the disciplinary committee against judges are provided with sufficient explanation” as well as **item 34** “judges regularly disclosed their assets” met with lower but still significant figures, with 19.5% and 16% of missing data respectively.



These three items seemed to be the most problematic for our samples. Other items with lower values of missing data may be of interest to authors, and are provided in appendix C, p. 9.

IV. LIMITATIONS

It is important to note that the study does not allow sweeping generalisations about the state of the judiciary; the survey used a random sample of judges and lawyers, but the sample size is too small to allow for confident generalisations. Furthermore, difficulties accessing these population (see refusal rates) limit the ability to generalise to the population since those that accepted to participate in this survey and those that refused may have different characteristics and perspectives.