

Between a Rock and a Hard Place: How Egypt's Constitutional Amendments Erode Judicial Independence

April 2019

On February 3, 2019, 155 members of Egypt's pro-regime parliament, by some accounts *working in coordination* with security agencies and the presidency, *introduced 23 amendments* to the constitution that was enacted in 2014. The amendments *enhance Egypt's authoritarian system* and boost the power of President Abdel Fattah al-Sisi and the military in particular. On February 14, the full parliament overwhelmingly approved the amendments in principle; after two months of debate and drafting, including six "dialogue sessions" dominated by hand-picked, pro-regime figures, the parliament's legislative and constitutional affairs committee *issued* what was supposed to be the final language of the amendments. Then, without public explanation and in keeping with the *overall opacity* of the amendment process, portions of the April 14 language were *altered again* before the full parliament voted on April 16 (531 out of 596 total MPs voted in favor of changing the constitution).¹ As the last step, the authorities rushed the amendments to a public referendum *that was held* April 19–22, in which Egyptians were invited to accept or reject the amendments (the *actual amendments* were not provided on the ballot). According to *official results*, 89 percent of voters approved the amendments with a turnout of 44 percent, but *experts believe* that the regime has inflated these figures. There was no real public discussion about the amendments, and no *organized* opposition was allowed; some 34,000 websites were *blocked* by the government in advance of the referendum.

Much *commentary* has focused on amendments that enable al-Sisi to extend his time in office to 2030. But four other amendments made significant changes to the judicial system, further eroding its independence. Below is an overview of those amendments by POMED's Ahmed Rizk, followed by analysis from Egyptian legal experts Mohamed Al Ansary and Mahmoud Farouk.

1. For an overview of the differences between the original language of the 2014 constitution, the various judiciary-related amendment proposals, and the text of the judiciary-related amendments that were approved through the April 2019 referendum, see the chart on pages 8–13 compiled by POMED.

Overview of the Judiciary-Related Amendments

These amendments:

1. **Add to Article 185 a reference to the “Supreme Council for Judicial Bodies and Agencies.”** “Judicial bodies and agencies” include the component institutions of Egypt’s judiciary: the ordinary court system, the State Council (the administrative court system), the State Lawsuits Authority, the Public Prosecution, the Administrative Prosecution Authority, and the Supreme Constitutional Court. The Supreme Council for Judicial Bodies and Agencies (hereafter, SCJB), tasked with “administering” the “joint affairs of judicial bodies,” will be headed by the President of the Republic, or in his absence, by the head of a judicial body whom he designates as his representative. The amended article carries over the 2014 phrase that “all judicial bodies and agencies administer their own affairs,” but it also makes the SCJB responsible for “considering the criteria for the hiring, firing, and disciplining of members of judicial bodies.” As these functions relate to the internal affairs of judicial bodies, the amendment formally transfers oversight over important judicial matters to a body headed by the President.²

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The SCJB is actually not new. In August 1969, President Gamal Abdel Nasser created a Supreme Council for Judicial Bodies by decree as part of his infamous “[massacre of the judiciary](#),” in which he moved to assert control over the judiciary after independent-minded judges won elections to an influential association known as the Judges’ Club. The President of the Republic headed the SCJB, which controlled the hiring, firing, and secondment of judges as well as the budgets of all judicial bodies, thereby rendering the judiciary subservient to the presidency. Two years later, under President Anwar al-Sadat, the SCJB was enshrined in [Article 173](#) of the 1971 constitution.

In the following years, jurisdiction over these matters was transferred back to judicial bodies, and in 2007, under the Mubarak regime, an [amendment to Article 173](#) replaced the SCJB with a different institution, the “Council of Judicial Bodies” (CJB), which was tasked with “coordinating” the joint affairs of judicial bodies, but lacked the other powers of Nasser’s Supreme Council. The law that was supposed to specify the CJB’s authorities was never fully implemented, and after the CJB

2. The amended Article 185 reads: “All judicial bodies and agencies administer their own affairs, they shall be consulted regarding draft laws governing their affairs, and each shall have an autonomous budget. The President of the Republic selects the heads of judicial bodies and agencies from among their seven most senior members [to serve] for a period of four years or until reaching retirement age, whichever is earlier, for a single term during the entire course of their service, in the manner specified by law. Their joint affairs are administered by a Supreme Council of Judicial Bodies and Agencies headed by the President of the Republic and including the head of the Supreme Constitutional Court, the heads of the judicial bodies and agencies, the head of the Cairo Court of Appeals, and the Public Prosecutor. The Council shall have a secretary-general, appointed by presidential decree for a period specified by law. The secretary-general shall be selected, on a rotational basis, from among the bodies represented on the Council. The President shall deputize the head of a judicial body or agency to represent him in his absence [from the Council]. The Council shall be responsible for considering the criteria for appointing the members of judicial bodies and agencies, their promotion, and their disciplining, and it shall be consulted regarding draft laws governing the activities of judicial bodies and agencies. The decisions of the Council are made with the approval of the majority of its members, provided the head of the Council is among them.”

was left out of the 2014 constitution, its activities were effectively frozen. Then, in December 2018, in a re-assertion of presidential oversight of the judiciary and a harbinger of the constitutional amendment, al-Sisi [suddenly convened](#) the CJB's first full meeting in ten years. Between February 3 and April 16, parliament shifted the wording on the SCJB several times. Contrary to drafts of the amendments, the final wording does not tamper with the 2014 constitutional guarantee of autonomous judicial budgets and makes the president's designated representative on the council the head of a judicial body, rather than the minister of justice, who is part of the executive branch. Nonetheless, the return of this Council takes the Egyptian judiciary back more than three decades, with the SCJB again having a constitutional role in overseeing the judiciary and the judiciary as a whole losing more autonomy.

2. **Add to Article 185 a key element of a controversial 2017 law on the judiciary, [Law 13/2017](#), that changed how the heads of the State Council, the State Lawsuits Authority, the Administrative Prosecution Authority, and the Court of Cassation (the highest court in the ordinary court system) are chosen.** Prior to Law 13/2017, the President of the Republic had made such appointments, but for the most part, he selected the person recommended by each judicial body, typically the most senior judge, in keeping with the norm of judicial seniority for appointments to top positions. As Nathan Brown, an expert on the Egyptian judiciary, explained to POMED, “the president’s power to appoint was treated as if it was simply promulgating a decision made by the relevant judicial body.” But the 2017 law combines both the seniority norm and presidential selection into a formal process. Law 13/2017 stipulates that each judicial body’s high council must formally nominate three of the body’s seven most senior judges (as opposed to only the most senior judge), from among whom the president picks one. After the law was enacted, the State Council, unhappy about the change, defied al-Sisi by nominating only one name as the new head, Deputy Chair Yehiya Dakroury. Dakroury was [long known](#) for his independent stances; most recently, in 2016, he had presided over a panel of judges that nullified al-Sisi’s [controversial 2016 agreement](#) with Saudi Arabia to transfer two Red Sea islands, Tiran and Sanafir, to the Kingdom. Al-Sisi ignored the State Council’s recommendation and picked a less-senior judge, sidelining Dakroury. Dakroury then filed a lawsuit accusing the president of undermining judicial independence, and senior judges at the State Lawsuits Authority and the Court of Cassation filed similar suits. All these [challenges](#) are pending in the courts, but codifying the key element of Law 13/2017 in the constitution, the formal integration of presidential selection and seniority in the judicial appointment process, could put an end to them. Moreover, the final amended language does not mention any role for judicial bodies in nominating candidates for these positions, only specifying that the president picks from among each judicial body's seven most senior judges.

“THE FINAL AMENDED LANGUAGE DOES NOT MENTION ANY ROLE FOR JUDICIAL BODIES IN NOMINATING CANDIDATES FOR THESE POSITIONS, ONLY SPECIFYING THAT THE PRESIDENT PICKS FROM AMONG EACH JUDICIAL BODY'S SEVEN MOST SENIOR JUDGES.”

3. **Change Articles 189 and 193 to allow the president to select the heads of the public prosecution and the Supreme Constitutional Court (SCC).** Previously, the SCC chose its own head and the Supreme Judicial Council, the governing body of the common court system, chose the public prosecutor; the president's role was limited to ratifying their choices.³ Although political and security constraints limit the independence of those who occupy these positions today, under circumstances more conducive to judicial autonomy the previous selection process could have brought more independent judges to the fore. The amendment enables the President of the Republic to choose from among three candidates nominated by the Supreme Judicial Council for the position of public prosecutor and from among the five most senior judges for the position of head of the SCC. The amendment also allows the president to select the SCC's other members (known as vice presidents or deputies) from among two nominees, one of whom is put forward by the court's general assembly and the other by the SCC head (who himself will now be chosen directly by the President of the Republic).
4. **Change Article 190 to curtail the State Council's authority to review draft laws and state contracts.** As originally worded in the 2014 constitution, Article 190 gave the State Council the power to review and draft all bills and decrees of a legislative character. The amended language limits its role to reviewing only those bills and decrees of a legislative character that are forwarded to it.⁴ The State Council's legislative review power has long been debated, with parliament opposing it as an encroachment on its lawmaking authority. The council and its supporters, however, consider judicial review of draft laws a crucial defense against badly worded or unconstitutional legislation.

“THE AMENDED LANGUAGE LIMITS THE STATE COUNCIL'S ROLE TO REVIEWING ONLY THOSE BILLS AND DECREES OF A LEGISLATIVE CHARACTER THAT ARE FORWARDED TO IT.”

Which of the amendments is the most significant, in your opinion?

Mohamed Al Ansary: I see two as especially dangerous—the amendment adding the SCJB into the constitution and the one giving the president more power in selecting the heads of judicial bodies. Both changes will have serious negative repercussions for the judiciary by

3. The amended section of Article 189 reads: “Public prosecution is carried out by a Prosecutor General who is chosen by the President of the Republic and appointed by his decree from among three people nominated by the Supreme Judicial Council from among the deputies to the president of the Court of Cassation, the presidents of the courts of appeals, or the assistant public prosecutors for a period of four years or until reaching retirement age, whichever is earlier, for a single term during the entire course of his service.”

The amended section of Article 193 reads: “The President of the Republic selects the president of the Supreme Constitutional Court from among the five most senior deputies of the court. The President of the Republic appoints each deputy of the court from among two candidates, one of whom is proposed by the court's general assembly and the other by its president; the president and members of the Commissioners' Authority are appointed by presidential decree on the basis of a nomination by the president of the court and after considering the opinion of the Court's general assembly. The foregoing takes place in a manner defined by the law.”

4. The amended Article 190 reads: “The State Council is an independent judicial body that is exclusively competent to adjudicate in administrative disputes and disputes pertaining to its decisions; it is also competent to adjudicate disciplinary cases and appeals. It is responsible for issuing opinions on the legal issues of entities, as determined by law, for reviewing bills and decrees of a legislative character that are forwarded to it, and for reviewing draft contracts (the nature and value of which is specified by law) to which the state or a public entity is a party. Other competencies are to be determined by law.” [Note: the State Council's organizing law (Law 47/1972) and internal regulations establish four committees tasked with “issuing opinions on the legal issues” of state entities such as the presidency, the prime ministry, other ministries, and ministries of state.]

empowering the presidency to oversee its affairs and rendering it an ineffective forum for challenging executive branch actions.

Mahmoud Farouk: While the single most important change relates to the reestablishment of the SCJB, the main significance of all the amendments is that they will become part of the constitution. The executive in Egypt has always encroached upon the judiciary's independence, but the relationship between the two branches has mainly been determined by laws, which can sometimes be altered depending on the political situation. Turning key laws into constitutional norms, however, will make any future alteration extremely difficult.

Since the 1952 Free Officers' coup, there have been two seminal events in Egypt in which the presidency gained dominance over the judiciary. The first such event occurred in March 1954 when the Nasser regime attacked esteemed judge and legal jurist Abdel Razzaq al-Sanhuri, then head of the State Council, after he criticized Nasser's lurch toward dictatorship. A regime-organized mob assaulted al-Sanhuri on the Council's premises. Nasser then expelled him and other judges from the judiciary—clear warnings that Nasser would tolerate no dissent. The second such event was Nasser's so-called massacre of the judiciary in 1969, in which he created the SCJB and purged some 200 judges. In my view, the 2019 constitutional amendments are not as aggressive toward the judiciary as these two earlier events, but they nonetheless mark a significant erosion of judicial independence.

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Why do you think al-Sisi is going to the trouble of making these amendments?

Al Ansary: Since the State Council dealt a blow to al-Sisi when it nullified his Tiran and Sanafir agreement with Saudi Arabia, he has been steadily weakening the judiciary's autonomy to prevent more such legal rebukes. These constitutional amendments are a major next step in that effort—putting these changes in the constitution makes them impossible to challenge in the courts.

Also worth noting is the favorable regional and international climate enjoyed by the Egyptian regime right now. With authoritarians resurgent and democracies silent about Egypt's repression, al-Sisi apparently feels more free to make dramatic changes without facing international criticism.

Farouk: Al-Sisi is making these changes because he sees himself as a visionary leader who is “building a state,” as he often says. This is in contrast to his predecessor Hosni Mubarak, who tried to maintain stability and sought to manage, but not reformulate, the political system that he inherited. Indeed, Fouad Ajami described the cautious Mubarak as “a civil servant with the rank of president.” Al-Sisi, by contrast, is operating more in the vein of Nasser and Sadat, both of whom reshaped the state to fit their political visions. The judicial amendments can also be understood from this perspective; al-Sisi is reshaping the regime as a whole and laying down new rules for the state, including how the executive branch controls the judiciary, and this requires changing the constitution.

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Some experts have described al-Sisi's amendments as the worst attack on judicial independence since Nasser's 1969 massacre of the judiciary. Do you agree?

Al Ansary: I completely agree. What al-Sisi is trying to do now oversteps all bounds. When Nasser carried out his judicial "massacre," he acted extralegally and did not turn his exceptional measures into settled legal norms; at the time, Egypt was at war with Israel and in a state of chaos. Al-Sisi has gone much further than Nasser by putting presidential domination of the judiciary into law and now into the constitution. It is also worth remembering that from 1968 to 2006, there was a long struggle for judicial independence during which some judges issued rulings that were contrary to regime desires, although the judiciary never achieved full independence. With these amendments, the struggle has come to an end, at least for the foreseeable future: the presidency will have established complete control over the judiciary.

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Farouk: Well, on one the one hand, it's probably fair to describe this as the worst attack on the judiciary since Nasser in 1969. On the other hand, I believe that the impact of these amendments will not be comparable to the effects of Nasser's actions, primarily because there is very little judicial independence left to erode. I am reminded of legal expert [Negad El Borai's remark](#) that in Egypt "there is no independent judiciary, although there are sometimes independent judges." The executive branch, in the form of the president or the minister of justice and with heavy influence by security agencies, already controls in practice almost all judicial matters, from the appointment of judicial officials to the management of internal affairs including promotion and secondment of judges. The amendment re-introducing the SCJB into the constitution is certainly cause for concern, but it does not constitute as enormous a blow as the Council's initial creation under Nasser in 1969.

What has been the reaction from the judiciary to these amendments?

Al Ansary: Judges have not taken any collective action to oppose them. In theory, the Judges' Club could lodge a strong protest, but realistically speaking, this is unlikely. As we recall, some members of the judiciary [publicly dissented](#) soon after Law 13/2017 came into effect, yet their remonstrations ceased quickly. The reason then, as now, is the climate of fear that al-Sisi has created.

Farouk: At the parliamentary "dialogues" that took place before the referendum involving MPs and other participants hand-picked by the regime, some judges did express [limited criticisms](#) of the amendments. For example, they complained about the original February 3 proposal for amending Article 185 that removed the reference to judicial bodies' autonomous budgets. They argued that the SCJB's powers should be limited and that the head of the SCC or of the ordinary court system should preside over the SCJB in the president's absence, not the minister of justice, who is a member of the executive branch. (In earlier versions of the amendments, the minister of justice was named as the president's representative on the SCJB.) The strongest opposition came a few weeks earlier from the head of the State Council's Judges' Club, who in March sent a [private letter](#) to the speaker of parliament stating that "the proposed amendments contradict the idea of judicial independence" and asking, "how could a president of the Supreme Constitutional Court ever find a law that was ratified by the same president who had appointed him unconstitutional?" After anti-regime media outlets [seized on](#) the letter, the judge, Samir Youssef, issued a [clarification](#) that the letter represented only his personal

opinion, not that of the Judges' Club, claiming that media outlets had cited his words in a misleading way.

The reason for judges' muted reactions is that the available space for expression in Egypt today is very narrow. Any objection, however modest, is likely to be met with harsh rejection from the state or by a massive media propaganda campaign. Any judge will think twice before opposing the amendments or even stating an opinion contrary to that of the regime. Everyone knows that the regime can take away his job, his personal safety, and the safety of his family in an instant.

In addition, the amendments put judges between a rock and a hard place. If the judges had mobilized to reject them, the regime could have responded by making the language harsher. Instead, judges seem to have acquiesced to the amendments in general in order to preserve the constitutional guarantee of autonomous budgets for judicial bodies. Whether they will stand by this choice in the future remains to be seen.

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DRAFTING EGYPT'S 2019 CONSTITUTIONAL AMENDMENTS

Article 185 - Judicial Bodies and Agencies

2014 Constitution	February 3, 2019 Amendment Proposal	April 14, 2019 Legislative and Constitutional Affairs Committee Amendment Proposal	April 19–22, 2019 Final Amendments as Proposed during the Referendum
<p>All judicial bodies administer their own affairs. Each has an autonomous budget, whose items are all discussed by the House of Representatives. After each budget is approved, it is incorporated in the state budget as a single figure, and judicial bodies shall be consulted regarding draft laws governing their affairs.</p>	<p>All judicial bodies and agencies administer their own affairs, and they shall be consulted regarding draft laws governing their affairs. The President of the Republic selects the heads of judicial bodies and agencies from among five candidates nominated by their high councils from among their seven most senior members [to serve] for a period of four years or until reaching retirement age, whichever is earlier, for a single term during the entire course of their service, in the manner specified by law. Their joint affairs are administered by a Supreme Council of Judicial Bodies and Agencies headed by the President of the Republic and by the Minister of Justice in his absence. The Council is responsible for considering the criteria for appointing the members of judicial bodies and agencies, their promotion, and their secondment, and it shall be consulted regarding draft laws governing the activities of these bodies and agencies. The composition of the Council and its other responsibilities shall be determined by law.</p>	<p>All judicial bodies and agencies administer their own affairs, and they shall be consulted regarding draft laws governing their affairs. The President of the Republic selects the heads of judicial bodies and agencies from among five candidates nominated by their high councils from among their seven most senior members [to serve] for a period of four years or until reaching retirement age, whichever is earlier, for a single term during the entire course of their service, in the manner specified by law. Their joint affairs are presided over by a Supreme Council of Judicial Bodies and Agencies headed by the President of the Republic and by the Minister of Justice in his absence. The Council is responsible for considering the criteria for appointing the members of judicial bodies and agencies, their promotion, and their secondment. The Council shall be consulted regarding draft laws governing the activities of these bodies and agencies. Judicial bodies and agencies shall possess a single autonomous budget, which the Council shall apportion between them. The composition of the Council and its other responsibilities shall be determined by law. The decisions of the Council are made with the approval of the majority of its members, provided the head of the Council or his representative are among them.</p>	<p>All judicial bodies and agencies administer their own affairs, they shall be consulted regarding draft laws governing their affairs, and each shall have an autonomous budget. The President of the Republic selects the heads of judicial bodies and agencies from among their seven most senior members [to serve] for a period of four years or until reaching retirement age, whichever is earlier, for a single term during the entire course of their service, in the manner specified by law. Their joint affairs are administered by a Supreme Council of Judicial Bodies and Agencies headed by the President of the Republic and including the head of the Supreme Constitutional Court, the heads of the judicial bodies and agencies, the head of the Cairo Court of Appeals, and the Public Prosecutor. The Council shall have a secretary-general, appointed by presidential decree for a period specified by law. The secretary-general shall be selected, on a rotational basis, from among the bodies represented on the Council. The President shall deputize the head of a judicial body or agency to represent him in his absence [from the Council]. The Council shall be responsible for considering the criteria for appointing the members of judicial bodies and agencies, their promotion, and their disciplining, and it shall be consulted regarding draft laws governing the activities of judicial bodies and agencies. The decisions of the Council are made with the approval of the majority of its members, provided the head of the Council is among them.</p>

Article 189 - Public Prosecutor Selection

2014 Constitution	February 3, 2019 Amendment Proposal	April 14, 2019 Legislative and Constitutional Affairs Committee Amendment Proposal	April 19–22, 2019 Final Amendments as Proposed during the Referendum
<p>Public prosecution is carried out by a Prosecutor General who is selected by the Supreme Judicial Council from among the deputies to the President of the Court of Cassation, the Presidents of the Court of Appeals or the assistant prosecutor generals, by virtue of a presidential decree for a period of four years, or for the period remaining until retirement age, whichever comes first, and only once during a judge's career.</p>	<p>Public prosecution is carried out by a Prosecutor General appointed by the decree of the President of the Republic from among three people nominated by the Supreme Judicial Council from among the deputies to the president of the Court of Cassation, the presidents of the courts of appeals, or the assistant prosecutor generals for a period of four years or until reaching retirement age, whichever is earlier, for a single term during the entire course of his service.</p>	<p>Public prosecution is carried out by a Prosecutor General appointed by the decree of the President of the Republic from among three people nominated by the Supreme Judicial Council from among the deputies to the president of the Court of Cassation, the presidents of the courts of appeals, or the assistant prosecutor generals for a period of four years or until reaching retirement age, whichever is earlier, for a single term during the entire course of his service.</p>	<p>Public prosecution is carried out by a Prosecutor General appointed by the decree of the President of the Republic from among three people nominated by the Supreme Judicial Council from among the deputies to the president of the Court of Cassation, the presidents of the courts of appeals, or the assistant prosecutor generals for a period of four years or until reaching retirement age, whichever is earlier, for a single term during the entire course of his service.</p>

Article 190 - State Council

2014 Constitution	February 3, 2019 Amendment Proposal	April 14, 2019 Legislative and Constitutional Affairs Committee Amendment Proposal	April 19–22, 2019 Final Amendments as Proposed during the Referendum
<p>The State Council is an independent judicial body that is exclusively competent to adjudicate in administrative disputes, disputes pertaining to its decisions, and disciplinary cases and appeals. It is also solely responsible for issuing opinions on the legal issues of entities to be determined by law, reviewing and drafting bills and resolutions of a legislative character, and reviewing draft contracts to which the state or any public entity is a party. Other competencies are to be determined by law.</p>	<p>The State Council is an independent judicial body that is exclusively competent to adjudicate in administrative disputes and disputes pertaining to its decisions; it is also competent to adjudicate disciplinary cases and appeals. It is responsible for issuing opinions on the legal issues of entities, as determined by law, and for reviewing and drafting bills and decrees of a legislative character that are forwarded to it. Other competencies are to be determined by law.</p>	<p>The State Council is an independent judicial body that is exclusively competent to adjudicate in administrative disputes and disputes pertaining to its decisions; it is also competent to adjudicate disciplinary cases and appeals. It is responsible for issuing opinions on the legal issues of entities, as determined by law, and for reviewing and drafting bills and decrees of a legislative character that are forwarded to it. Other competencies are to be determined by law.</p>	<p>The State Council is an independent judicial body that is exclusively competent to adjudicate in administrative disputes and disputes pertaining to its decisions; it is also competent to adjudicate disciplinary cases and appeals. It is responsible for issuing opinions on the legal issues of entities, as determined by law, for reviewing bills and decrees of a legislative character that are forwarded to it, and for reviewing draft contracts (the nature and value of which is specified by law) to which the state or a public entity is a party. Other competencies are to be determined by law. [Note: the State Council's organizing law (Law 47/1972) and internal regulations establish four committees tasked with "issuing opinions on the legal issues" of state entities such as the presidency, the prime ministry, other ministries, and ministries of state.]</p>

Article 193 - Supreme Constitutional Court Member Selection

2014 Constitution	February 3, 2019 Amendment Proposal	April 14, 2019 Legislative and Constitutional Affairs Committee Amendment Proposal	April 19–22, 2019 Final Amendments as Proposed during the Referendum
<p>The General Assembly of the [Supreme Constitutional] Court chooses the court's president from among the three most senior of the president's deputies. The General Assembly also chooses the president's deputies, as well as the members of its commissioners' authority, all of whom are appointed by a decree from the President of the Republic. The foregoing takes place in a manner defined by the law.</p>	<p>The President of the Republic selects the president of the [Supreme] Constitutional Court from among the five most senior deputies of the court. The President of the Republic appoints a deputy of the court from between two candidates, one of whom is proposed by the court's General Assembly and the other by the court's president; the president and members of the Commissioners' Authority are appointed by presidential decree on the basis of a nomination by the president of the Court and after considering the opinion of the Court's general assembly. The foregoing takes place in a manner defined by the law.</p>	<p>The President of the Republic selects the president of the [Supreme] Constitutional Court from among the five most senior deputies of the court. The President of the Republic appoints a deputy of the court from among two candidates, one of whom is proposed by the court's general assembly and the other by its president; the president and members of the Commissioners' Authority are appointed by presidential decree on the basis of a nomination by the president of the Court and after considering the opinion of the Court's general assembly. The foregoing takes place in a manner defined by the law.</p>	<p>The President of the Republic selects the president of the Supreme Constitutional Court from among the five most senior deputies of the court. The President of the Republic appoints each deputy of the court from among two candidates, one of whom is proposed by the court's general assembly and the other by its president; the president and members of the Commissioners' Authority are appointed by presidential decree on the basis of a nomination by the president of the court and after considering the opinion of the Court's general assembly. The foregoing takes place in a manner defined by the law.</p>

صياغة التعديلات الدستورية المصرية لسنة 2019

المادة ١٨٥ - الجهات والهيئات القضائية

النص النهائي للتعديلات الدستورية كما طرح في الإستفتاء الشعبي الذي عقد من ١٩ إلى ٢٢ ابريل ٢٠١٩	الصياغة المطروحة من لجنة الشؤون الدستورية والتشريعية بمجلس النواب بتاريخ ١٤ ابريل ٢٠١٩	مقترح التعديلات الدستورية بتاريخ ٣ فبراير ٢٠١٩	دستور 2014
<p>تقوم كل جهة أو هيئة قضائية على شئونها، ويؤخذ رأيها في مشروعات القوانين المنظمة لشئونها، ويكون لكل منها موازنة مستقلة.</p> <p>ويعين رئيس الجمهورية رؤساء الجهات والهيئات القضائية من بين أقدم سبعة من نوابهم، وذلك لمدة أربع سنوات، أو للمدة الباقية حتى بلوغه سن التقاعد، أيهما أقرب، ولمرة واحدة طوال مدة عمله، وذلك على النحو الذي ينظمه القانون.</p> <p>ويقوم على شئونها المشتركة مجلس أعلى للجهات والهيئات القضائية، يرأسه رئيس الجمهورية، وبعضوية رئيس المحكمة الدستورية العليا، ورؤساء الجهات والهيئات القضائية، ورئيس محكمة استئناف القاهرة، والنائب العام. ويكون للمجلس أمين عام، يصدر بتعيينه قرار من رئيس الجمهورية للمدة التي يحددها القانون وبالتناوب بين الجهات أعضاء المجلس.</p> <p>ويحل محل رئيس الجمهورية عند غيابه من يفوضه من رؤساء الجهات والهيئات القضائية.</p> <p>ويختص المجلس بالنظر في شروط تعيين أعضاء الجهات والهيئات القضائية وترقيتهم وتأديبهم، ويؤخذ رأيه في مشروعات القوانين المنظمة لشئونها هذه الجهات والهيئات، وتصدر قراراته بموافقة أغلبية أعضائه على أن يكون من بينهم رئيس المجلس.</p>	<p>تقوم كل جهة أو هيئة قضائية على شئونها، ويؤخذ رأيها في مشروعات القوانين المنظمة لشئونها.</p> <p>ويُعين رئيس الجمهورية رؤساء الجهات والهيئات القضائية من بين خمسة ترشحهم مجالسها العليا من بين أقدم سبعة من نوابها، وذلك لمدة أربع سنوات أو للمدة الباقية حتى بلوغه سن التقاعد أيهما أقرب، ولمرة واحدة طوال مدة عمله، وذلك على النحو الذي ينظمه القانون.</p> <p>ويقوم على شئونها المشتركة مجلس أعلى للجهات والهيئات القضائية يرأسه رئيس الجمهورية وعند غيابه يحل محله وزير العدل ويختص بالنظر في شروط تعيين أعضاء الجهات والهيئات، وترقيتهم وندبهم، ويؤخذ رأيه في مشروعات القوانين المنظمة لشئونها هذه الجهات والهيئات، ويكون للجهات والهيئات القضائية موازنة مستقلة واحدة يتولى المجلس توزيعها بينها، ويبين القانون تشكيل المجلس واختصاصاته الأخرى وتصدر قراراته بموافقة أغلبية أعضائه، على أن يكون من بينهم رئيس المجلس أو من ينيبه.</p>	<p>تقوم كل جهة أو هيئة قضائية على شئونها، ويؤخذ رأيها في مشروعات القوانين المنظمة لشئونها.</p> <p>ويعين رئيس الجمهورية رؤساء الجهات والهيئات القضائية من بين خمسة ترشحهم مجالسها العليا من بين أقدم سبعة من نوابها، وذلك لمدة أربع سنوات أو للمدة الباقية حتى بلوغه سن التقاعد أيهما أقرب، ولمرة واحدة طوال مدة عمله، وذلك على النحو الذي ينظمه القانون.</p> <p>ويقوم على شئونها المشتركة مجلس أعلى للجهات والهيئات القضائية يرأسه رئيس الجمهورية وعند غيابه يحل محله وزير العدل ويختص بالنظر في شروط تعيين أعضاء الجهات والهيئات، ويبين القانون تشكيل المجلس واختصاصاته الأخرى وقواعد سير العمل به.</p>	<p>تقوم كل جهة، أو هيئة قضائية على شئونها، ويكون لكل منها موازنة مستقلة، يناقشها مجلس النواب بكامل عناصرها، وتدرج بعد إقرارها في الموازنة العامة للدولة رقمياً واحداً، ويؤخذ رأيها في مشروعات القوانين المنظمة لشئونها.</p>

المادة ١٨٩ - إختيار النائب العام

النص النهائي للتعديلات الدستورية كما طرح في الإستفتاء الشعبي الذي عقد من ١٩ إلى ٢٢ ابريل ٢٠١٩	الصياغة المطروحة من لجنة الشؤون الدستورية والتشريعية بمجلس النواب بتاريخ ١٤ ابريل ٢٠١٩	مقترح التعديلات الدستورية بتاريخ ٣ فبراير ٢٠١٩	دستور 2014
<p>ويتولى النيابة العامة نائب عام يصدر بتعيينه قرار من رئيس الجمهورية من بين ثلاثة يرشحهم مجلس القضاء الأعلى، من بين نواب رئيس محكمة النقض، والرؤساء محاكم الاستئناف، والنواب العامين المساعدين، وذلك لمدة أربع سنوات، أو للمدة الباقية حتى بلوغه سن التقاعد، أيهما أقرب، ولمرة واحدة طوال مدة عمله.</p>	<p>ويتولى النيابة العامة نائب عام يصدر بتعيينه قرار من رئيس الجمهورية من بين ثلاثة يرشحهم مجلس القضاء الأعلى من بين نواب رئيس محكمة النقض أو الرؤساء محاكم الاستئناف أو النواب العامين المساعدين، وذلك لمدة أربع سنوات، أو للمدة الباقية حتى بلوغه سن التقاعد أيهما أقرب ولمرة واحدة طوال مدة عمله.</p>	<p>ويتولى النيابة العامة نائب عام يصدر بتعيينه قرار من رئيس الجمهورية من بين ثلاثة يرشحهم مجلس القضاء الأعلى، من بين نواب رئيس محكمة النقض، أو الرؤساء محاكم الاستئناف، أو النواب العامين المساعدين، وذلك لمدة أربع سنوات، أو للمدة الباقية حتى بلوغه سن التقاعد أيهما أقرب ولمرة واحدة طوال مدة عمله.</p>	<p>ويتولى النيابة العامة نائب عام يختاره مجلس القضاء الأعلى، من بين نواب رئيس محكمة النقض، أو الرؤساء محاكم الاستئناف، أو النواب العامين المساعدين، ويصدر بتعيينه قرار من رئيس الجمهورية لمدة أربع سنوات، أو للمدة الباقية حتى بلوغه سن التقاعد، أيهما أقرب، ولمرة واحدة طوال مدة عمله.</p>

المادة ١٩٠ - مجلس الدولة

النص النهائي للتعديلات الدستورية كما طرح في الإستفتاء الشعبي الذي عقد من ١٩ إلى ٢٢ ابريل ٢٠١٩	الصياغة المطروحة من لجنة الشؤون الدستورية والتشريعية بمجلس النواب بتاريخ ١٤ ابريل ٢٠١٩	مقترح التعديلات الدستورية بتاريخ ٣ فبراير ٢٠١٩	دستور 2014
<p>مجلس الدولة جهة قضائية مستقلة، يختص دون غيره بالفصل في المنازعات الإدارية، ومنازعات التنفيذ المتعلقة بجميع أحكامه، كما يختص بالفصل في الدعاوى والطعون التأديبية، ويتولى الإفتاء في المسائل القانونية للجهات التي يحددها القانون، ومراجعة مشروعات القوانين والقرارات ذات الصفة التشريعية التي تحال إليها، ومراجعة مشروعات العقود التي يحددها ويحدد قيمتها القانون وتكون الدولة أو إحدى الهيئات العامة طرفاً فيها، ويحدد القانون اختصاصاته الأخرى.</p>	<p>مجلس الدولة جهة قضائية مستقلة يختص دون غيره بالفصل في المنازعات الإدارية ومنازعات التنفيذ المتعلقة بجميع أحكامه، كما يختص بالفصل في الدعاوى والطعون التأديبية، ويتولى الإفتاء في المسائل القانونية للجهات التي يحددها القانون، ومراجعة وصياغة مشروعات القوانين والقرارات ذات الصفة التشريعية، التي تُحال إليه، ويحدد القانون اختصاصاته الأخرى.</p>	<p>مجلس الدولة جهة قضائية مستقلة يختص دون غيره بالفصل في المنازعات الإدارية، ومنازعات التنفيذ المتعلقة بجميع أحكامه، كما يختص بالفصل في الدعاوى والطعون التأديبية، ويتولى الإفتاء في المسائل القانونية للجهات التي يحددها القانون، ومراجعة وصياغة مشروعات القوانين والقرارات ذات الصلة التشريعية، التي تحال إليه، ويحدد القانون اختصاصاته الأخرى.</p>	<p>مجلس الدولة جهة قضائية مستقلة، يختص دون غيره بالفصل في المنازعات الإدارية، ومنازعات التنفيذ المتعلقة بجميع أحكامه، كما يختص بالفصل في الدعاوى والطعون التأديبية، ويتولى وحده الإفتاء في المسائل القانونية للجهات التي يحددها القانون، ومراجعة وصياغة مشروعات القوانين والقرارات ذات الصلة التشريعية، ومراجعة مشروعات العقود التي تكون الدولة، أو إحدى الهيئات العامة طرفاً فيها، ويحدد القانون اختصاصاته الأخرى.</p>

المادة ١٩٣ - إختيا أعضاء المحكمة الدستورية العليا

النص النهائي للتعديلات الدستورية كما طرح في الإستفتاء الشعبي الذي عقد من ١٩ إلى ٢٢ ابريل ٢٠١٩	الصياغة المطروحة من لجنة الشؤون الدستورية والتشريعية بمجلس النواب بتاريخ ١٤ ابريل ٢٠١٩	مقترح التعديلات الدستورية بتاريخ ٣ فبراير ٢٠١٩	دستور 2014
<p>ويختار رئيس الجمهورية رئيس المحكمة الدستورية من بين أقدم خمسة نواب لرئيس المحكمة. ويعين رئيس الجمهورية نواب رئيس المحكمة من بين اثنين ترشح أحدهما الجمعية العامة للمحكمة، ويرشح الآخر رئيس المحكمة. ويعين رئيس هيئة المفوضين وأعضاؤها بقرار من رئيس الجمهورية بناءً على ترشيح رئيس المحكمة وبعد أخذ رأي الجمعية العامة للمحكمة وذلك كله على النحو المبين بالقانون.</p>	<p>ويختار رئيس الجمهورية رئيس المحكمة الدستورية من بين أقدم خمسة نواب رئيس المحكمة، ويعين رئيس الجمهورية نائب رئيس المحكمة من بين اثنين ترشح أحدهما الجمعية العامة للمحكمة، ويرشح الآخر رئيس المحكمة، ويعين رئيس هيئة المفوضين وأعضاؤها بقرار من رئيس الجمهورية بناءً على ترشيح رئيس المحكمة وبعد أخذ رأي الجمعية العامة للمحكمة وذلك كله على النحو المبين بالقانون.</p>	<p>ويختار رئيس الجمهورية رئيس المحكمة الدستورية من بين أقدم خمسة نواب رئيس المحكمة، ويعين رئيس الجمهورية نائب رئيس المحكمة من بين اثنين ترشح أحدهما الجمعية العامة للمحكمة، ويرشح الآخر رئيس المحكمة. ويُعين رئيس هيئة المفوضين وأعضاؤها بقرار من رئيس الجمهورية بناءً على ترشيح رئيس المحكمة وبعد أخذ رأي الجمعية العامة للمحكمة، وذلك كله على النحو المبين بالقانون.</p>	<p>وتختار الجمعية العامة رئيس المحكمة من بين أقدم ثلاثة نواب لرئيس المحكمة، كما تختار نواب الرئيس، وأعضاء هيئة المفوضين بها، ويصدر بتعيينهم قرار من رئيس الجمهورية، وذلك كله على النحو المبين بالقانون.</p>



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THE PROJECT ON MIDDLE EAST DEMOCRACY is a nonpartisan, nonprofit organization based in Washington, DC, that is dedicated to examining how genuine democracies can develop in the Middle East and how the United States can best support that process. Through dialogue, research and advocacy, POMED works to strengthen the constituency for U.S. policies that peacefully support reform in the Middle East. POMED research publications offer in-depth, original expert analysis of political developments in the Middle East as they relate to the prospects for genuine democracy in the region and to U.S. policy on democracy and human rights. The views expressed in POMED publications are those of the authors and do not necessarily reflect the views of POMED. For more information, please contact Deputy Director for Research Amy Hawthorne at amy.hawthorne@pomed.org.

