

# Muddying the law

What should be made of the Supreme Judiciary Council's threat of punitive action against anyone criticising court rulings, wonders [Mona El-Nahhas](#)

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The Supreme Judiciary Council (SJC), whose members are appointed by the state, issued a statement on 23 September warning that journalists who criticise court rulings will face "punitive action".

Commenting on court rulings, said the SJC, is the prerogative of legal experts, and even then they must limit themselves to discussing the principles on which judgements are based rather than question the motives, or neutrality, of members of court panels. The following day a second statement, repeating the demands contained in the first, was issued by the Council of Appeals Court chairmen, three of whom also sit on the SJC.

"Members of these councils have no right to speak on behalf of the 3,000 judges working for appeal courts. They represent only themselves," former judge Tareq El-Beshri wrote in the independent *Al-Dostour* on Friday.

The statements, which also warned that commenting on court rulings in the press or on TV satellite channels harmed the dignity of the judiciary, came less than a week after three separate first-degree courts handed down sentences ranging between one to two years to seven journalists working for independent and opposition newspapers. Four journalists were found guilty of insulting leading figures in the ruling National Democratic Party (NDP) -- including President Hosni Mubarak -- while three were judged to have falsely attributed statements to Justice Minister Mamdouh Marei.

Under Article 258 of the criminal measures law a suit can only be filed by someone who has been harmed directly by the actions of the defendant. In the case of the journalists the law suits were filed by disinterested parties, yet still the three first-degree courts condemned the defendants.

The court rulings have been criticised by legal experts as well as reformist judges. Such verdicts, says judge Ahmed Mekki, serve only to underline the importance of continuing the battle to secure a judiciary independent of the executive. Under the current judiciary law, chairmen of first-degree courts are appointed by the justice minister, who represents the executive authority.

"A judge lacking independence becomes a destructive tool which kills freedoms," argues Mekki.

While passing sentence on the three journalists accused of misquoting the justice minister the presiding judge praised the government and the unprecedented levels of freedom of expression Egypt enjoys. He concluded that a "fair judiciary will always exist under the leadership of President Mubarak".

"The judge's speech seemed to replicate the kind of statements issued by the NDP's secretariat general," noted Gamal Badawi in the opposition *Al-Wafd* newspaper. Under the judiciary law courts are banned from expressing any political views while passing judgements.

Worse, says Mekki, the court felt no need to elucidate the legal principles upon which the judgement was based, opting instead for political justifications.

Mekki is currently the subject of a complaint filed with the prosecutor-general. The petitioner, a professor of law, has accused Mekki of insulting the judiciary by commenting in print on court rulings. Such comments, he argued in his petition, could have an effect on future court rulings. Mekki remains adamant that everyone has the right to criticise court rulings, though such criticism must be within established limits.

He does not think the recent rulings against journalists, or the statements by the SJC and Council of Appeals Court chairmen herald a confrontation between the judiciary and the press. "You have to differentiate between independent judges who are in a majority and those whose allegiance to the governing system is known to everyone," he says.