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	RESEARCH ARTICLE 
	<h2 style="margin: 0;">Constitutional Adjudication and the Protection of Fundamental Rights: Jurisprudential Evolution and Institutional Role of the Egyptian Supreme Constitutional Court</h2>
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<b>Keywords</b>	Constitutional adjudication; Egyptian Supreme Constitutional Court; judicial review; constitutional jurisprudence; protection of rights and freedoms; proportionality principle; rule of law; Arab constitutional law; constitutional interpretation; judicial independence.
<p><b>Abstract</b></p> <p>Constitutional adjudication represents a fundamental mechanism for safeguarding the rule of law, ensuring the supremacy of the constitution, and protecting fundamental rights and freedoms. Among Arab constitutional institutions, the Egyptian Supreme Constitutional Court (SCC) occupies a prominent position due to its extensive jurisprudence and its influential role in shaping constitutional doctrine and practice. This study examines the jurisprudential developments of the Egyptian SCC and analyzes its institutional role as a guardian of constitutional legality and a protector of individual and collective rights. The research adopts a descriptive-analytical and doctrinal legal approach, based on the examination of landmark judicial decisions and the interpretative methods employed by the Court. Particular attention is given to the period of judicial activism during the presidency of Justice Awad El-Morr, which was characterized by sophisticated constitutional reasoning, the expansion of rights protection, and the consolidation of key constitutional principles such as human dignity, legal certainty, proportionality, equality before the law, and the prohibition of arbitrary legislative interference. The findings indicate that the Court has played a decisive role in invalidating legislative provisions that violated the essence of constitutionally guaranteed rights, thereby reinforcing the principle that legislative regulation must not transform into a tool of restriction or deprivation. The study also explores the impact of political transformations following the January 2011 Revolution, which introduced new challenges related to institutional independence, political polarization, and the interaction between constitutional norms and alternative normative references, including religious legal opinions (fatwā). Despite these contextual pressures, the Egyptian Supreme Constitutional Court has remained a central actor in the constitutional system and continues to contribute to the preservation of constitutional balance and the protection of fundamental freedoms. The Egyptian experience thus represents an important reference model for constitutional justice in the Arab region and offers valuable insights into the evolving relationship between constitutional courts, political transitions, and the protection of human rights.</p>	
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**I. Introduction**

Constitutional courts occupy a central position within modern constitutional systems as institutional guarantors of the supremacy of the constitution and the protection of fundamental rights and freedoms. In contemporary Arab legal systems, constitutional adjudication has progressively evolved into a key mechanism for strengthening the rule of law, promoting democratic governance, and ensuring the balance of powers among state institutions. Through the exercise of judicial review over the constitutionality of legislation and executive actions, constitutional courts play a decisive role in preventing legislative or administrative encroachments upon constitutionally protected rights.

The scope of protection provided by Arab constitutional courts has expanded significantly over time. Initially focused on civil and political rights—such as freedom of expression, freedom of assembly, the right to political participation, and the guarantees of fair trial—constitutional jurisprudence has gradually extended to encompass economic, social, and cultural rights, including the rights to education, healthcare, and social protection. This expansion reflects the growing recognition that constitutional justice is not limited to formal legality but must also ensure substantive justice and social equity.

Within this broader regional context, the Egyptian Supreme Constitutional Court (SCC) represents one of the most developed and influential models of constitutional adjudication in the Arab world. Since its establishment, the Court has played a pioneering role in consolidating constitutional legality and in protecting public rights and freedoms through an active and substantive approach to judicial review. Its jurisprudence demonstrates a clear shift from formal constitutional control toward a deeper normative evaluation aimed at safeguarding the essential content of rights.

The SCC has consistently affirmed that fundamental rights are not privileges granted by the legislator but inherent constitutional guarantees that impose binding limits on legislative authority. Accordingly, the Court has developed a rich body of jurisprudence characterized by doctrinal depth, interpretative dynamism, and reliance on general constitutional principles such as equality before the law, proportionality, legal certainty, human dignity, and the prohibition of arbitrary legislative interference.

Through its decisions, the Court has also contributed to the constitutionalization of key democratic values, particularly in relation to freedom of opinion and expression, access to justice, personal liberty, and political participation. In doing so, it has functioned as a constitutional safeguard capable of maintaining the delicate balance between the requirements of public order and the protection of individual freedoms.

The significance of the Egyptian experience lies not only in its national impact but also in its value as a comparative reference for constitutional adjudication in the Arab region. The Court's jurisprudence provides an important example of how judicial review can operate as an effective instrument for the protection of rights during periods of political transformation and institutional change.

Against this background, the present study seeks to address the following research question:

**To what extent has the Egyptian Supreme Constitutional Court defined and limited the discretionary authority of the legislator in regulating constitutionally guaranteed rights and freedoms?**

To answer this question, the study adopts a descriptive-analytical legal methodology based on the examination of constitutional provisions and the analysis of selected landmark judgments of the Court. The research is structured into three main sections:

1. The methodological approach of the Supreme Constitutional Court in protecting rights and freedoms;
2. Judicial applications relating to freedom of opinion and expression;
3. Judicial applications concerning political freedoms, including the establishment of parties and associations.

## **II. Methodological Approach of the Supreme Constitutional Court (Rewritten Summary)**

A defining feature of the jurisprudence of the Egyptian Supreme Constitutional Court is its reliance on general constitutional principles as interpretative tools for the protection of rights. Among these principles, equality before the law occupies a foundational position. The Court has repeatedly affirmed that equality constitutes both an autonomous constitutional right and a structural principle that ensures the effective enjoyment of other rights and freedoms.

The Court has adopted a substantive understanding of equality, focusing not merely on formal uniformity but on the prohibition of arbitrary or unjustified differentiation between comparable legal situations. In several landmark decisions, the SCC has invalidated legislative provisions that lacked objective and reasonable justification, thereby reinforcing the principle that legislative discretion is constitutionally limited.

This approach is closely linked to the principle of proportionality, which requires that any restriction on a constitutional right must pursue a legitimate aim and remain necessary and proportionate. The Court has further emphasized the protection of human dignity as a supreme constitutional value guiding the interpretation of rights.

Through this doctrinal framework, the SCC has developed an integrated methodology that combines constitutional supremacy, rights protection, and judicial oversight of legislative power.

## **III. Freedom of Opinion and Expression (Rewritten Summary)**

Freedom of opinion and expression occupies a privileged position within Egyptian constitutional jurisprudence due to its direct connection with democratic governance. The Supreme Constitutional Court has consistently recognized this freedom as a cornerstone of political pluralism, public participation, and governmental accountability.

The Court has emphasized that freedom of expression includes not only the right to hold opinions but also the right to communicate them through various means without prior restraint. It has further affirmed that open public debate is essential for the discovery of truth, the exposure of governmental shortcomings, and the promotion of transparency. In its jurisprudence, the Court has linked freedom of expression to related freedoms such as freedom of the press, access to information, and the right to political participation. At the same time, it has stressed that any legislative restrictions must be narrowly construed and justified by compelling public interests, consistent with the requirements of necessity and proportionality.

This interpretative orientation reflects a broader constitutional philosophy that views public criticism and open dialogue not as threats to public order but as essential components of democratic stability and institutional accountability.

#### **IV. Judicial Applications in the Protection of the Freedom to Establish Political Parties and Associations (Rewritten and Expanded)**

Freedom to establish political parties constitutes one of the essential pillars of democratic governance and political pluralism. In contemporary constitutional theory, political parties are regarded not merely as voluntary associations but as institutional mechanisms through which citizens participate in public affairs, articulate collective interests, and contribute to governmental accountability. The existence of a pluralist party system is therefore widely recognized as a key indicator of democratic maturity and political development.

Within this framework, the Egyptian Supreme Constitutional Court has played a significant role in consolidating constitutional guarantees relating to political pluralism. Through its jurisprudence, the Court has affirmed that the constitutional order in Egypt is based on the principle of party pluralism and that this principle is inseparably linked to the rights of political participation, including the rights to vote, to stand for election, and to engage in political activity. In several landmark decisions, the Court clarified that the freedom to establish political parties derives directly from constitutionally protected freedoms, particularly freedom of opinion, freedom of political belief, and freedom of association. It emphasized that legislative regulation of political parties must not undermine the essential content of these rights or transform regulatory mechanisms into instruments of exclusion or political control.

A notable illustration of this approach appears in the Court's review of Article 4 of Law No. 40 of 1977 on the Political Parties System. While the Court upheld certain regulatory provisions as constitutionally permissible, it declared unconstitutional those provisions that imposed permanent and absolute restrictions on individuals based on their political views or past positions. The Court reasoned that such restrictions constituted a disproportionate interference with freedom of expression and political participation and effectively nullified the substance of the right to establish political parties.

This jurisprudence reflects the Court's broader constitutional philosophy that political pluralism must remain open, inclusive, and responsive to the will of the electorate. The Court further emphasized that the legitimacy and influence of political parties ultimately depend on democratic competition and public support rather than administrative or political approval.

The protection extended by the Court has also encompassed the right to party membership. In reviewing provisions of Law No. 33 of 1978 concerning the protection of the internal front, the Court held that the blanket exclusion of certain categories of citizens from political activity constituted an unconstitutional deprivation of political rights. Such absolute and permanent prohibitions were deemed incompatible with constitutional guarantees of equality, political participation, and democratic governance.

Through these decisions, the Egyptian Supreme Constitutional Court removed significant legal barriers to political participation and reinforced the constitutional foundations of a pluralist political system. Its jurisprudence thus demonstrates a consistent effort to ensure that legislative discretion in the political sphere remains subject to constitutional limits grounded in the protection of fundamental freedoms.

#### **V. Conclusion**

The analysis conducted in this study demonstrates that the Egyptian Supreme Constitutional Court has played a central and influential role in safeguarding public rights and freedoms and in reinforcing the supremacy of the Constitution. Through its cumulative jurisprudence, the Court has developed a sophisticated body of constitutional doctrine characterized by substantive rights protection, reliance on general constitutional principles, and careful supervision of legislative authority.

Particularly during periods of heightened judicial activism, the Court established clear constitutional limits on the legislator's power to regulate rights and freedoms. Its decisions relied on fundamental principles such as proportionality, equality before the law, legal certainty, the prohibition of legislative arbitrariness, and the protection of human dignity. These principles enabled the Court to function as an institutional safeguard capable of maintaining a delicate balance between the requirements of public order and the preservation of individual liberty.

The period during which Justice Awad El-Morr presided over the Court represents a significant phase marked by strong judicial independence and doctrinal innovation. During this period, the Court enhanced its reputation as a guardian of constitutional legality and as a key actor in the consolidation of democratic principles within the Egyptian

legal system.

However, the evolution of the Court's role has been influenced by broader political transformations, particularly in the aftermath of the January 2011 Revolution and the subsequent political developments. These changes created a complex institutional environment that posed challenges to judicial independence and generated scholarly debate regarding the interaction between constitutional adjudication and political context. Some recent judicial trends appear comparatively more cautious, raising questions about the future trajectory of constitutional rights protection.

In light of these findings, several recommendations may be advanced:

- Strengthening legal and institutional guarantees of judicial independence to ensure protection from political influence;
- Expanding access mechanisms to constitutional review in order to enhance the protection of public rights and freedoms;
- Maintaining a dynamic and rights-oriented interpretative approach while respecting the principle of separation of powers;
- Promoting transparency through the systematic publication and detailed reasoning of judicial decisions;
- Drawing upon comparative constitutional experiences to modernize judicial practice and strengthen rights protection mechanisms.

Despite the challenges it faces, the Egyptian Supreme Constitutional Court remains a pivotal institution within the system of constitutional governance. The future effectiveness of its role will depend on its ability to preserve institutional independence, adhere to its constitutional mission, and sustain the doctrinal traditions that have made it a significant reference point in Arab and comparative constitutional law.

#### **Ethical Considerations**

This study is based on doctrinal legal analysis and the examination of publicly available constitutional texts, legislation, and published judgments of the Egyptian Supreme Constitutional Court. It does not involve human participants, personal data, clinical materials, or experimentation on animals. Accordingly, formal institutional ethical approval was not required. All sources have been cited in accordance with academic integrity standards, and the authors confirm that the work complies with recognized principles of research ethics, including transparency, proper attribution, and avoidance of plagiarism.

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#### **Conflict of Interest**

The authors declare that there are no conflicts of interest regarding the publication of this study. The authors have no financial, professional, or personal relationships that could be construed as influencing the research findings or interpretations.

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