

Some Judges in Egypt Lend Voice to Chorus for Reform
By Megan K. Stack
Times Staff Writer

May 2, 2005

ALEXANDRIA, Egypt — The rebellion erupted last month in the sober, stolid quarters of the Alexandria Judges' Club: 1,200 magistrates publicly demanded judicial independence from an all-powerful president, and threatened to refuse to certify fall elections if they didn't get it.

The rare ultimatum has dealt an embarrassing blow to Egyptian President Hosni Mubarak, amounting to an institutional revolt even as he is under intense pressure to democratize.

At a time when security forces are battling to quash anti-Mubarak demonstrations across the country, an uprising in one of the cornerstones of the Egyptian regime presents a prospect more chilling than any street demonstration. The judges' demand is a symptom of a new, unpredictable energy that has seized Egyptian politics after decades of stagnation — and of the popular discontent snowballing in the region.

"We guess that this is our chance," said Assam Abdel Gabbar, an Alexandria judge who sits on Egypt's court of appeals, "and we don't believe it will come again anytime soon."

The judges, who are beholden to the executive branch for everything, from their job assignments to the size of their salaries, are demanding that judicial law be reformed to place courts out of reach of the president's authority. They say that in the past they have certified election results but now they want complete oversight over voting this fall.

For the first time in decades, Egyptians have been promised a field of candidates to choose from, in place of past referendums in which Mubarak was the only choice.

The judges acknowledge they are taking advantage of pressure already bearing down on Mubarak's 24-year-old regime. The elections are approaching fast, and U.S. leaders have been unusually critical of Arab dictatorships — including Egypt, a longtime American ally.

"Our main aim from the start was to choose a time when those abroad would hear us," said Hisham Bastawisi, a Cairo judge on the court of appeals. "The West didn't used to listen to us; now they're listening. They used to listen only to governments and to back up dictatorships, but recently they're listening to the people."

President Bush's emphasis on democratization in the Middle East, coupled with elections in Iraq and the popular uprising in Lebanon, have contributed to a sense of unease among the region's dictatorships. The president rapped Egypt in his State of the Union address for failing to reform, and Secretary of State Condoleezza Rice reinforced that criticism by canceling a trip in February.

Soon after, amid enraged demonstrations in the streets of Cairo, Mubarak made an unexpected

announcement: He promised a constitutional amendment to allow multi-candidate elections for the first time in his reign.

If he was hoping to captivate his public, he fell short. Among Egyptians, there is deep skepticism that anybody other than Mubarak will be allowed to win. Many scorn the elections as a cosmetic flourish designed to ease pressure without puncturing a fundamentally dictatorial leadership.

But the president's promise had an effect, albeit unintended: His critics were emboldened, anti-Mubarak demonstrations grew noisier, and the reform movement that calls itself Kifaya, or "Enough," redoubled its rhetoric.

"I'm pretty ... sure change will come," said Hani Anani, a businessman and member of the Enough movement.

"You cannot ask for a big bundle of reforms and they give you only one thing. How can you vote for a president when you don't even know when he'll leave office?"

Egyptian judges have been appealing to the government with the same set of demands since 1991, when the Cairo Judges' Club proposed amendments to the law governing the judiciary.

At the time, the judges recall, the president inaugurated the meeting and spoke of his great respect for the Egyptian judiciary. But he ignored their request, continuing to rule Egypt with martial law.

The basic obstacle to an independent judiciary in Egypt is simple: The justice minister, who represents the executive branch under Mubarak, oversees the selection of judges, decides their salaries, promotions and transfers and which allegations of judicial misconduct merit inquiries.

On the books, the maximum monthly salary for an Egyptian judge hovers between \$43 and \$86. As one former judge said despondently, it's not even enough to pay the maid. And so the judges depend upon bonuses doled out by the justice minister. Some judges collect as many as 20 checks a month, with the bonus pay and fringe benefits such as transportation costs.

"What's really scary is that the rewards make some judges issue sentences against defendants so as to flirt with the government, so that they'll be remembered," said Nasser Amin, a lawyer and head of the Arab Center for the Independence of the Judiciary and the Legal Profession. "They know what the state wants to see happen in so many of the cases."

Critics say the judicial system is tainted by political motivations, such as in the recent imprisonment of Ayman Nour, a presidential hopeful and longtime lawmaker who has called for constitutional reform, including presidential term limits. The government accused him of forging signatures to register his popular Tomorrow Party; Nour and other critics insist the charges were invented to silence him.

A prominent former judge and outspoken critic of Mubarak, Yehia Rifai, has spent years tracking

trends in the judiciary. He says that in recent years the number of judges who are put on trial before an internal inspection board has ballooned from one or two every year to as many as 50. Rifai interprets the rise as a sign of the regime's tightening grasp on the judges.

At 75, he looks as if he's grown old waiting for change. Coughs shake his frame and his fingers tremble. After he retired in 2002, he published a letter in a local newspaper decrying Mubarak's treatment of judges.

"Nobody wants to be an enemy to Mubarak," Rifai said. "It's not easy because Mubarak is ruling Egypt with martial law, and he can put anybody into jail in minutes. I don't say hours. Minutes."

Most of Egypt's 8,000 judges still haven't taken a stand. There are 1,200 here in Alexandria, the nation's second-largest city, an ancient seat of learning on the shores of the Mediterranean. When the Alexandria Judges' Club met last month, about 1,000 of the judges who backed the declaration were from the city — the rest were eager colleagues from other parts who flocked to the coast to show their support for the movement.

The ranks of the dissident judges are expected to swell in mid-May, when 3,500 judges of the Cairo Judges' Club are to meet to decide whether to join the demands of their colleagues in Alexandria.

The judges' declaration called for "the nonnegotiable demand of the full independence of the judicial authority and the absolute necessity for the executive authority not to interfere in the judges' affairs."

They also called for independent oversight of the elections, from the voter lists to the streets outside the polling stations. In past elections, the votes were certified even though names of dead people cropped up on electoral rolls and ballot boxes were switched en route to main polling stations.

"It reduces the credibility of the judges," said Gabbar, the Alexandria judge. "When we're asked about the results and everybody knows they're not correct, it shakes confidence in the judges, and we feel we haven't done our duty."

The regime, clearly worried, has moved quickly to quiet the judges. When word of the judges' plan first began to filter out, the Supreme Judicial Council issued a statement dismissing them as a renegade minority. But once the Alexandria declaration was endorsed by 1,200 judges, the government switched to a more conciliatory tone.

The Justice Ministry called a committee to weigh the judges' demands. At the same time, the ministry quietly sent letters to judges across the country asking them to sign an agreement pledging to monitor the September polls, said judges and lawyers interviewed in recent days.

The Justice Ministry referred a reporter's telephone calls from one functionary to the next, and despite speaking with six different people and leaving multiple messages at the ministry over the

course of a week, the Los Angeles Times was unable to secure an interview with the ministry.

The judges believe the next few months will test the Egyptian regime. Mubarak's response to their demands, they say, will measure his willingness to institute change.

"The ball is in Hosni Mubarak's court. We've said our demands, and they're for the public interest of the whole population," said Bastawisi, the Cairo judge. "It's the people who will benefit from having free elections and an independent judiciary."

With promises of open voting and multiple candidates, the president has staked his reputation abroad on the elections. He badly needs the international community to applaud the vote as free and fair.

But Egypt's judges oversee the voting and certify the results. That means they can polish or shred Mubarak's image as a burgeoning democrat — and they are very aware of their power.

"The government always resorts to judges to save its face from accusations of forgery, so we feel right now the government needs the judges," Amin said. "And they've got some demands."