

Preface

An eminent arbitrator, when once asked about the consequences of breaching the confidentiality of an arbitration, “so what?” was his answer. It astonished me that something many law books and practitioners, at the time, assumed to be unquestionable provoked such a brief, and almost dismissive, response. Little did I know, then, that I will spend four years of my life examining the validity of this proposition.

In this monograph, I attempt to answer the question of “*as a matter of law, is arbitration private and confidential in Egypt?*” This is a practical, as well as scholarly, matter of concern for litigators, attorneys, and arbitrators who handle arbitration cases in Egypt and, to a lesser extent, in other countries with similar legal systems.

This book comprises four chapters. The first lays out the essential set of information the reader needs to know before getting into the details of this study, including an introduction to the Egyptian legal system, particularly arbitration, and a comparative overview of confidentiality in various legal systems. Chapter 2 examines the extent to which arbitration is confidential, or deemed to be so, in the Egyptian arbitration law, the perception of the legal community (attorneys, judges, law professors, and arbitration institutes personnel), and the relevant modern practices. Chapter 3 examines the relation between arbitration and the judicial system and the extent to which the former should borrow its rules from the latter (particularly publicity and the rule of public trial). The fourth, and final chapter, addresses the issue of privacy and confidentiality in the broader context of the Egyptian legal system. Its main focus is the right to privacy, as a constitutional right, and how is it interpreted in the various laws of Egypt.

Confidentiality is fascinating especially when considered in the context of a culturally and legally hybrid domain as that of arbitration. While it might appear to be a simple and straightforward notion, it is far from that. The complexity of the endeavour to examine confidentiality, as a legal notion, is not made any easier by the involvement of different categories of persons in any given arbitration and the legal instruments that would, in view of that, come into play. Another difficulty that

rendered this research more interesting was the little attention given to confidentiality in Arabic literature. To fill in this gap, I conducted 29 interviews with judges; key personnel in arbitration institutes; law professors; and practitioners who often act as arbitrators or counsel for parties in arbitral disputes. The discussion covered, but was not limited to, the relevant practices, on both domestic and international levels, and the views they held on the topic, based on their many years of arbitration practice. Those interviews were a source of invaluable insights into the issues addressed in this book. I hope they will be of the same value to the reader.

The information included in this book is true to the best of my knowledge, at the time it was written. Any errors or mistakes are mine alone. I would be immensely grateful to the reader who finds any such inaccuracy or change in the law, as stated in this book, and pinpoints it out to me.

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The Case of Egypt

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