

# Contents

<b>Preface</b> . . . . .	v
<b>Acknowledgements</b> . . . . .	vii
<b>1 Essential Background</b> . . . . .	1
1.1 Introduction . . . . .	1
1.2 Objectives and Scope . . . . .	3
1.3 Arbitration and the Egyptian Legal System . . . . .	5
1.3.1 The Sources of Law in Egypt . . . . .	5
1.3.2 Arbitration in Egypt—Background . . . . .	6
1.3.3 Arbitration Is an Exception . . . . .	10
1.3.4 National and International Arbitration . . . . .	12
1.4 Confidentiality and Privacy in Arbitration . . . . .	14
1.4.1 Concepts and Definitions . . . . .	14
1.5 Comparative Overview . . . . .	19
1.5.1 Jurisdictions Declining to Recognize a Duty of Confidentiality . . . . .	19
1.5.2 Jurisdictions Recognizing a Duty of Confidentiality . . . . .	24
1.5.3 In Investment Arbitration . . . . .	30
1.5.4 Confidentiality in Arbitration—the Arab Countries . . . . .	35
1.6 Methodology and Outline . . . . .	38
<b>2 Privacy and Confidentiality in Egyptian Arbitration—Law and Practice</b> . . . . .	43
2.1 Introduction . . . . .	43
2.2 Confidentiality v. Privacy . . . . .	44
2.3 Privacy of Arbitration Procedure . . . . .	47
2.3.1 Privacy in the Egyptian Law of Arbitration . . . . .	48
2.3.2 The Syrian Position as to Privacy . . . . .	53
2.3.3 The Saudi Exception . . . . .	55
2.3.4 Tribal Arbitration in Yemen . . . . .	56
2.4 Consequences of Breach . . . . .	57

2.5	Confidentiality in the Egyptian Legal System . . . . .	58
2.6	The Arbitration Law . . . . .	59
2.6.1	Confidentiality of Arbitral Awards—Article (44/2) . . . . .	59
2.6.2	The Reason Why the Law Specifies Arbitral Awards . . . . .	63
2.6.3	Article (44/2) Is a Supplementary Provision . . . . .	63
2.6.4	Dissenting Opinions . . . . .	66
2.6.5	The Effect of Recourse to State Courts . . . . .	67
2.6.6	Scholarly Interpretation of Article (44/2) . . . . .	68
2.6.7	Deliberations—Article (40). . . . .	69
2.7	Confidentiality in Practice. . . . .	79
2.8	Conclusion . . . . .	95
<b>3</b>	<b>Privacy and Confidentiality in the Judicial System . . . . .</b>	<b>97</b>
3.1	Introduction . . . . .	97
3.2	Arbitration and the Judicial System . . . . .	100
3.3	Arbitrators v. Judges—Similarities and Differences . . . . .	102
3.4	The Right to Public Trial . . . . .	106
3.4.1	Public Trial as a Constitutional Principle . . . . .	106
3.4.2	Public Trial as a Law Provision . . . . .	110
3.5	Conclusion . . . . .	146
<b>4</b>	<b>Confidentiality and Privacy in the Egyptian Legal System . . . . .</b>	<b>149</b>
4.1	Introduction . . . . .	149
4.2	The Right to Privacy . . . . .	152
4.3	The Law on the Right to Privacy in Egypt . . . . .	154
4.3.1	Sanctity of Private Life as a Constitutional Principle . . . . .	154
4.3.2	Private Life in the Civil Code. . . . .	159
4.3.3	Criminal Protection for Privacy and Private Life . . . . .	162
4.3.4	A Right to Privacy for Legal Persons . . . . .	174
4.4	Exceptions to the Right to Privacy. . . . .	182
4.4.1	Freedom of Expression . . . . .	185
4.4.2	The Constitutional Principles . . . . .	186
4.4.3	The Law Regulating Press (Law No 96 of the Year 1996) . . . . .	187
4.5	Conclusion . . . . .	192
	<b>Conclusion . . . . .</b>	<b>195</b>
	<b>Appendix . . . . .</b>	<b>201</b>
	<b>List of Cases . . . . .</b>	<b>203</b>
	<b>List of Statutes and Conventions . . . . .</b>	<b>209</b>
	<b>Bibliography . . . . .</b>	<b>213</b>