
PARTICIPANTS' PAPERS

CHILDREN AS VICTIMS AND WITNESSES UNDER THE EGYPTIAN LEGAL SYSTEM: PROSPECTS AND CHALLENGES

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I. INTRODUCTION

Egypt was one of the leading countries that signed and ratified the Convention on the Rights of the Child. Meeting its international obligations, Egypt adopted Child law no. 12 of 1996 and its amendment by law no. 126 of 2008. The said law constituted a grand leap in the protection of children, as it firstly specified the cases where a child is considered exposed to risk. Procedurally, the law in question introduced both General and Subsidiary committees, as well as General department for the Child Helpline.

Pursuant to article 3,9 of the convention, and following the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime issued in 22 July 2005, the Egyptian legislature stipulated in article 116-bis (d) of law 126 of 2008 that "Child victims and witnesses of crime, at all stages of arrest, investigation, trial, and implementation, shall have the right to be heard, and to be treated with dignity and sympathy with full respect for their physical, psychological, and moral safety,¹ and shall have the right to protection, to health, social and legal assistance, to rehabilitation, and integration in the society, in accordance with the United Nations Guidelines on Justice for Child Victims and Witnesses of Crime." Thus, law no. 126 of 2008 was the first law that recognizes children as victims and witnesses through drawing a general procedural rule to deal with them.

It is clear that the Egyptian legislature did not enact detailed procedures of investigation and trial for child victims and witnesses of crime, but rather referred to the United Nations Guidelines on Justice for Child Victims and Witnesses of Crime. Thus, through this legislative reference, such guidelines have been incorporated in the Egyptian legislation and became a part of its domestic legal system. On the other hand, the legislature was keen on stipulating upon detailed procedures regarding cases where a child is an offender.

Certainly, it would have been preferable if the legislature had adopted the Model Law on Justice in Matters involving Child Victims and Witnesses of Crime, which was drafted to provide a practical tool for countries to incorporate in their local legislations. There is a legitimate concern that mere reference to the guidelines will not be sufficient to fully accomplish the aim of its drafting. Because those guidelines are generic and lack the sufficient details to be considered self-executing. To wit, they introduce general concepts that states should consider when drafting a statute. Thus, the legislature shall adopt a new law for protecting child victims and witnesses, based on the model law that was issued by the United Nations Office on Drugs and Crime.

Nonetheless, in the absence of provisions regulating the inquiry of children as victims and witnesses, we must refer to the general rules stipulated upon in the Criminal Procedures Law and other laws such as the Child Law 126 of 2008 and the Anti-Human-Trafficking Law no. 64 of 2010. Both the Child Law and Criminal Procedures Law contain many articles that can be applied in the context of these guidelines, for instance, article 273 of the Criminal Procedures Law states that the court shall protect the witness from explicit or allusive statements that might cause confusion or intimidation. Such provision can be used by the court in the context of article 116-bis (d) from law 126 of 2008 in order to hold the session in the offenders' absence if there are reasonable grounds that the child witness will be exposed to such statements.

Similarly, some modern Egyptian legislation assured the rights of victims of crime including children,

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¹Dr. Hesham Abd el Hamid Farag – Child Abuse – 1st edition 2010 – p. 7.

for instance: Anti-Human-Trafficking Law no. 64 of 2010 stipulated in its 22nd article upon the victim's right for physical and psychological safety in all preliminary inquiries and investigation procedures, also the right to know the administrative and judicial procedures, besides the right to have proper legal consultation and to be protected, and therefore non-disclosure of identity if required.

This study will attempt to shed light on the cases in which law no. 126 of 2008 considered a child at risk, then explain the procedures that shall be taken to protect the child who is found to be at risk. Afterwards, it will list and describe the role of agencies responsible for receiving reports of violence against children. In addition, it will explain the special procedures for investigating, prosecuting and adjudicating cases of children as witness and victims.

II. CASES WHERE A CHILD IS EXPOSED TO DANGER UNDER THE EGYPTIAN LAW

Generally, a child under the Child Law is anyone who "ha[s] not reached the age of eighteen (18) complete calendar years". The old Child Law no. 12 of 1996 stipulated the cases where a child is exposed to deviation under article no. 96, whereas the new child law no. 126 of 2008 modified that article to be the cases where a child is exposed to "risk" rather than "deviance", and introduced new cases where a child is considered exposed to risk.

Those conditions embrace the cases where the child's safety, morals, health, or life is at risk, or if the conditions surrounding the child's upbringing in the family, or at school, or in care institutions, or others, places him at risk, or if the child is exposed to neglect, abuse, violence, exploitation, or vagrancy, or if the child is exposed in the family, school, care institutions, or other to violence, or to acts contrary to public morals, or pornographic material, or to commercial exploitation of children, or to harassment or sexual exploitation, or to the illegal use of alcohol or narcotic substances affecting the mental state.

It is noticed that the modification of this article complies with the modern international conventions and declarations; because the former law considered the child who is exposed to "deviance" should be treated as a potential criminal, which was reflected on the procedures enacted to face "deviance". While the new law considered the child at victim rather than a potential criminal, and therefore introduced new rules to protect him/her. Further, it reveals the alteration of the legislature's philosophy in dealing with children at risk in a way that maximizes legal and social protection of children.²

III. MEASURES FOLLOWED IN CASES WHERE A CHILD IS AT RISK

It is noteworthy that – pursuant to article 96 of the child law – most of the crimes committed against children can fall within the scope of article 96. For instance, a child assaulted by one of the family members can be considered at risk, and therefore specific procedures are to be initiated to deter such risk. The importance of this rule is manifested in the powers given by the Child Law to child agencies when a child is at risk. Such powers allow them to take steps toward protecting the child, whereas most of the legislation does not give the agencies equivalent powers.

Critically speaking, limited interference ability of child agencies cannot be cured only by the efforts of judges and/or investigative agencies. If someone – who is not one of the child's family members – raped a child, it would be difficult to presume such a crime as exposure to risk, such presumption can be challenged on the grounds of that the said crime has a temporary nature so that it is not considered literally "exposed to risk", because such "exposition" should have a continuous nature. Also, this presumption cannot be applied where a child is a witness of a crime and not victim of it. Therefore, this procedural loophole shall be firmly confronted with an amendment to the legislation, aiming to permit the child agencies to interfere whenever a child is a victim of a crime or its witness.

A. Substantive Measures

Article 96 of law 126 of 2008 provides that "any person putting a child at risk shall be imprisoned for a period not less than six (6) months, and a fine of not less than two thousand (2,000) Egyptian pounds, and not exceeding five thousand (5,000) Egyptian pounds, or by one of the two penalties." It is notable that

²Chancellor Abdallah Mofteh, Children's Rights, 4th ed. 2015, p. 63.

such penalties are not absolute, and they may be superseded if the same act formed another crime for which the legislature provided a harsher penalty.

Moreover, Article 116-bis of the above-mentioned law stipulates that “The minimum penalty decreed for any crime shall be doubled if the crime is committed by an adult against a child, or if it is committed by one of the parents, or by one of the child’s guardians, or by people in charge of supervising or upbringing the child, or by those who have authority over the child, or by a servant to any of the above mentioned.”

B. Procedural Measures

Art. 99-bis of the law 126 of 2008 provides for temporary and preventive measures to be taken if a child is found at risk, and those measures are:

- 1- Keeping the child with his family and committing the parents to take the necessary measures to remove the dangerous environment within a specific deadline. The sub-committee shall carry out periodic supervision visits.
- 2- Keep the child with his family and regulate the social intervention methods of the agencies responsible for providing social, educational, and health services necessary for the child and for assisting his family.
- 3- Keep the child with his family while taking necessary precautions to prevent any contact between the child and the persons that could pose a threat to his health, physical, or moral well-being.
- 4- Recommend to the relevant court to place the child temporarily, until the risk is removed, in a family or association, or social or educational institution or, when necessary, at a health or therapeutic institution, in accordance with the legal procedures.
- 5- Recommend to the relevant court to take urgent and necessary measures to place the child in a reception center or rehabilitation center or health care institution or with a reliable family or association or an appropriate social or educational institution for a period of time until the risk is removed; this is in cases where children are at risk or are neglected by the parents or guardians.

In cases of imminent danger, the General Department for the Child Helpline at The National Council for Childhood and Motherhood (NCCM) or the Committee for Childhood Protection, whoever is closer, shall take all necessary measures and urgent procedures to remove the child from the place where he is at risk and place him in a safe place, with the assistance of concerned officials, if necessary.

IV. SPECIALIZED AGENCIES IN CHILD PROTECTION

Although the legislature stipulated — in article 98-bis of law 126 of 2008 — “Any person who finds that a child is at risk should provide urgent help that is adequate to shield or remove this child from danger”, the legislature did not lay down a penalty for those who do not provide help to children, or for those who did not report that the child was endangered. At least, the right of reporting is reserved for any one who discovers that a child is at risk, especially if one of the child overseers *inter alia* “Teacher, doctor...etc.”

As a general rule, the police are the primary competent authority to receive complaints and reports on crimes, Article 24 of the Egyptian criminal procedures law states that “Judicial officers shall accept reports and complaints made thereto on crimes and shall promptly send such to the Public Prosecution. Judicial officers and the heads thereof shall obtain all necessary information and carry out relevant inspections with a view to facilitating the verification of facts received thereby or known thereto by any means”.

Yet, regarding the very distinctive nature of cases involving child as victims, they require a great deal of expertise and qualifications. The legislature introduced few agencies that are competent to receive complaints and reports of children who are exposed to risk.

Actually, the legislature introduced through article 97 two types of committees. The first is called “The General Committee for Childhood Protection”, and the second is called “The Sub-committees for Childhood Protection”. Both types of committees enjoy a wide range of competences and powers over protecting children at risk. Such committees embrace social, psychological, medical, educational and security members within their composition. Moreover, the legislature also regulated the General Department for Child Helpline as a subsidiary entity to the NCCM. This department informally existed under the old law 12 of 1996. The new law only regulated its formulation and specified its jurisdiction and powers.

A. The General Committee for Childhood Protection

1. Formation

According to law 126 of 2008, a general committee for childhood protection shall be formed in every governorate; it shall be formed by a decision issued by the competent governor. The by-law 2075 of 2010 specified the formation of the committee. It shall be headed by the competent governor, and composed of the chief officer of the governorate, the head of the local social solidarity authority, the head of the local educational authority, the head of the local health authority, a representative of the concerned civil society organizations and whoever the governor finds suitable to be a member in the committee.

The legislature was keen on including different specialties in the formation of the committee to enjoy the maximum expertise and capabilities in dealing with situations where a child is at risk. However, I argue that it could have been more effective if the formation of the general committees was altered, especially regarding its head and the chief officer of the governorate. Through substituting them with full-time personnel, who could devote more energy and certainly more availability. A good alternative to the governor could be one of the personnel of the National Council for Childhood and Motherhood, who would enjoy sufficient experience to direct and draw the policies of the committee.

2. Function

The General Committee for Childhood Protection shall — pursuant to article 97 from the law 126 of 2008 — formulate the general policy for childhood protection in the Governorate, and shall follow up the implementation of this policy. Besides, if any sub-committee fails to remove the cause of a complaint submitted to it, it shall raise a report concerning the incident and the exact measures undertaken to the General Committee for Childhood Protection to take necessary legal measures. Finally, every general committee shall establish a sub-committee in every police district within the governorate.

B. The Sub-committees for Childhood Protection

1. Formation

Contrary to the general committees, the law did not require certain personnel to be included in the formation of the sub-committees. Nonetheless, the law 126 of 2008 requires it in article 97/3 to include security, social, psychological, medical, and educational representatives. The number of its members shall be at least five (5) and not exceeding seven (7), including the chairman of the committee. The sub-committee may include among its members one or more representatives from the organizations of the civil society concerned with childhood affairs.

2. Function

The sub-committees have an executive nature; they are the competent authorities for taking any of the aforementioned measures stipulated in article 99-bis of law 126 of 2008. Art. 99 of the same law laid down the duty of those committees to receive complaints about cases of children at risk, and their duties to investigate such complaints to determine the gravity of the risk, if it appears to be so, they can summon the child, or his parents, his guardian, or any person in charge of the child so as to listen to what they know regarding the facts of the complaint. The sub-committee shall examine the complaint and endeavour to remove all its causes.

Also, the committees for childhood protection — whether general committees or sub-committees — shall periodically monitor the procedures and results of implementing the measures undertaken concerning the child. The Committees for Childhood Protection shall recommend to the authorities, when necessary, to review those measures and replace or suspend them to keep the child with his family as much as possible, except as a measure of last resort and for the shortest appropriate period of time; in such a case, the child shall be returned to his family as soon as possible.

C. The General Department for Child Helpline

1. Formation

The Department was founded on June 29, 2005 as a subsidiary to the National Council for Childhood and Motherhood; it was called the child helpline administration. It is considered one of the most successful forms of cooperation between the council and the civil society institutions interested in childhood protection. Offices of this department were provided at numerous civil society associations all over Egypt, and the personnel were paid by the council. Furthermore, a free hotline 16000 was assigned to this department and a wide campaign of advertisement commenced to raise the awareness about that line.

The department carried out the task of receiving reports and intervening in cases of imminent risk. This department achieved significant success in the course of providing rapid intervention in rescuing children who are exposed to imminent risk, besides providing legal consultation to those who ask for it, either adults or children. Namely, the reports aided in preparing a map illustrating the pools of homeless children in four governorates: Cairo, Giza, Qalubya, Alexandria. Moreover, it helped in preparing a database comprising the types of risks children may be exposed to.³

The legislature intervened to regulate the General Department for Child Helpline in article 97/5 from the law 126 of 2008. The articles stated that the department should include among its members representatives for the Ministries of Justice, Interior, Social Solidarity and Local Development selected by the concerned ministers, in addition to representatives from civil society organizations selected by the NCCM Secretary General, as well as any other party as deemed necessary by the Secretary General.

2. Function

The General Department for Child Helpline executes numerous tasks: firstly, it is mandated to receive children's and adults' complaints, and handle them efficiently to protect children from all forms of violence, risks, or neglect. Moreover, it is empowered to inspect any complaint received, follow up the investigation results, and forward reports concerning the findings to the relevant authorities.

Many jurists suggest that the department personnel should hold the powers of a judicial officer,⁴ by which they can inspect crimes committed against children as well as their perpetrators, because without those powers, the department would be a mere agency that receives reports and gathers information without real ability to protect children at risk. It would be then more practical to directly call the police in cases of imminent risk.⁵

Also, some crimes against children are not expected to be reported, such as female circumcision. Due to some misunderstood religious and deeply ingrained social beliefs, in some parts of the Egyptian countryside the crime of female circumcision usually starts and ends without anyone ever knowing. No reporting for this crime is expected — except in very few cases — because it is regarded to be a right of the parents in raising their female child. Such crime is regarded to be one of the most common crimes against children in Egypt, which needs to be confronted with firm legal procedures.

V. RIGHTS OF CHILDREN AS VICTIMS AND WITNESSES IN THE INVESTIGATION PHASE

Under the Egyptian Criminal Procedures Law, prior to investigation there are many procedures referred to as "preliminary inquiries" which mainly aim at discovering violations of the criminal laws, gathering evidence of such violations and identifying their perpetrators, unless and until a judicial investigation has been initiated⁶, followed by the preliminary judicial investigation which is initiated by the public prosecution or the investigative Judge, then the final judicial investigation which is conducted by the court. Under this topic we will deal with the first two stages of inquiries and the preliminary judicial investiga-

³Ibid. at p. 70.

⁴Prof. Akmal Youssef El Sae'ed - The Criminal Protection for Children Against Sexual Exploitation - Dar el Gam'a el Gedida - 2014 - p. 483.

⁵Moftah, ibid. at p. 71.

⁶Mohamed Mansour - The Egyptian Procedural Law after the revolution - research paper presented to "joint program on countering terrorism - held at justice academy of Turkey - 2013 - p. 10.

tion, leaving the final stage to the next topic addressing adjudication involving children as victims and witnesses.

A. The Rights of the Child in the Preliminary Inquiry Phase

Article 5 of the criminal procedural law provides that if the victim of a crime is younger than fifteen years of age, the complaint shall be made by the guardian thereof. If the criminal offence is deemed a crime against assets, a complaint shall be accepted from the guardian or the caretaker.

The child has the right to be protected by the police by stopping the assault or ensuring that it will not be repeated. Additionally, police must protect the child if he is a witness of a crime. This could be of paramount importance when the only evidence is the testimony of a child, as there may be a risk that the offender would intimidate or threaten the child or his family to refrain from or alter his testimony.

Also, the police should give children appropriate treatment, according to their mental and psychological status at the time of the incident, and they should address the suitable questions that do not hurt the feelings of the children, and they should not be questioned for too long.⁷

These precautions are not limited to police only, but also apply to any agency involved in the preliminary inquiry phase. As mentioned before, the sub-committees and the General Department for Child Helpline may have significant roles in this phase. Especially in cases where the child is in imminent risk, they have the availability to cooperate with the police in removing the child from the risky place. Finally, the police may recourse to these agents' aid when questioning a child, as article 97/4 of law 126 of 2008 provides that the sub-committees for childhood protection shall take the necessary preventive and therapeutic interventions for all cases where a child is found at risk and shall follow up on measures taken.

B. The Rights of the Child in the Preliminary Investigation Phase

The Criminal Procedures Law sets a rule of paramount importance regarding the victimized children in article no. 365, that is, "Where necessary in any felony or misdemeanor committed against a minor that has not attained the age of fifteen years, an order may be issued to deliver him to a trustworthy person who undertakes to observe and care for him, or to a charitable institution accredited by the Ministry of Social Affairs, until the case is decided. Such order shall be issued by the investigating judge either on his own motion or upon a request from the Public Prosecution, or shall be issued by the magistrate judge upon a request from the Public Prosecution, or the court hearing the case".

Article 365 was enacted in 1952 and modified in 1962. Although it was considered a good step towards protecting victimized children at that time, it is now not completely in compliance with modern conventions and declarations on the rights of children. That's because the protective measures stipulated don't cover those who range between 15 and 18 years old. Further, the law did not extend the protection to the stage after the case is decided.

Again, the Egyptian legislature did not assign special rules for questioning children as witnesses in the process of the preliminary investigation. The only rule laid by the legislature in this regard is mentioned in article 283/2 which stated that "witnesses under the age of fourteen may testify without taking an oath, as a matter of inference". Therefore, the testimony of a child is considered inferior to that of an adult pursuant to this article, but that does not refrain the investigation authority and the court from considering it as an evidence.

However, the child prosecution which is specialized mainly in investigating and prosecuting juvenile crimes, has also some jurisdiction in cases where a child is found exposed to risk. As it shall — upon sub-committee request — warn in writing, the child's guardian to remove the causes placing the child at risk, if the child is still found in one of the situations of being at risk, the child prosecution shall take one of the measures of delivery to parents, guardians, or custodians, placement in one of the social care institutions, or placement in one of the specialized hospitals.

In addition, the periodical instructions⁸ of the Egyptian General Public attorney no. 19 of 2008 related

⁷El Sae'ed – Ibid – p. 494.

to the application of law 126 of 2008, laid down several guidelines for prosecutors to regard while investigating cases involving children at risk. That includes coordination and cooperation with Child Committees and the General Department for Child Helpline, and extensively studying and rapidly filing cases against offenders proved responsible for placing children at risk as well as swiftly issuing decisions that facilitate the execution of the urgent procedures decided by the committees and the General Department for Child Helpline. Finally, children who are presented to testify should be treated with sympathy, pursuant to article 116-bis (d) of the law 126 of 2008.

VI. RIGHTS OF CHILDREN AS VICTIMS AND WITNESSES IN THE TRIAL PHASE

A. The Role of the Prosecution at Trial

The public prosecution has a substantive role through trial procedures; it shall prepare pleadings that include detailed information on the facts and evidence of the crime committed against children, and that shed light upon how heinous it is, requiring therefore to inflict the maximum penalty upon the offender.

Additionally, the public prosecution — pursuant to article 252 of the criminal procedures law — has the right to ask the court to appoint a *guardian ad litem* for the victimized child, to present the civil rights claim to the court on behalf of such person without being charged with additional judicial costs.

The prosecution also has the right to demand holding in camera court sessions, in order to protect dignity and feelings of the victimized child, this right is derived from article 286 of the criminal procedures law which stipulates upon “The court may, in consideration of public order and observation of morals, order the case to be heard in a secret hearing, wholly or partially, or to prevent specific groups from attending the hearing”. Also, the public prosecution member may object to any question directed from the offenders and/or their advocates if it is likely to hurt the feelings of the child, or includes implied threatening.

The prosecution also reviews and challenges the court ruling if necessary. The public prosecution also shall respond to the international judicial cooperation requests, especially those pertaining to crimes that have transnational nature, such as human trafficking cases.

B. The Role of the Courts

1. Procedural Role

The legislature stipulated in a very limited manner special measures taken by the court while adjudicating cases where children are victims or witnesses, which includes not requiring an oath of witnesses under the age of fourteen; however, the court has wide range of powers pursuant to Article 116-bis (d) of the law 126 of 2008.

For instance, as said in subtitle (A), the court may by its discretionary power or upon the request of the parties of the trial – including the prosecution – order holding in camera court sessions, wholly or partially. This rule can be applied by the court if it finds that holding public hearings may hurt the feelings of the child.

Yet it is deeply debatable whether this power includes the right of the court to order to remove the accused person from the courtroom as a preventative measure, if the accused's presence will reasonably affect the child witness, but the prevailing opinion is that right of the court to remove the accused from the courtroom is limited to when he/she causes actual disturbances necessitating his removal, pursuant to article 270 of the criminal procedures law which states that “The accused person ... may *not* be removed from the courtroom while the case is being heard, unless he causes disturbances necessitating his removal”.

In the course of calling the child for testimony, the court – pursuant to article 273/3 of the criminal procedures law – may refrain from hearing the child if it finds that the incident is sufficiently evidenced.

⁸Some sort of periodical publications issued by the General Public Prosecutor, they constitute a set of rules to be followed by the prosecutors usually regarding implementing new or modified law. Disobedience of these instructions may expose the infringer to disciplinary penalty.

Otherwise, it can rely on its authority to order any competent child agency to appoint a social expert to attend the testimony of the child; this power is derived from article 292 of the criminal procedures law which states that "The Court may, either on its own motion or upon a request from the litigants, appoint one or more expert to the case." Yet without the court's order, the competent sub-committee for Childhood Protection, may appoint one of its members to attend the court session by virtue of article 974 which states that "The sub-committees for childhood protection shall monitor all cases of children at risk and take the necessary preventive and therapeutic interventions for all these cases and shall follow up measures taken". However, this member can never interfere in the trial procedures without the order of the court. Also, any civil action brought by these committees will be rejected, because — under Egyptian legal system — civil action is only accepted from the directly injured party from the crime.

All in all, the third conference of the Egyptian committee of criminal law issued recommendations to protect victimized children, for instance, prohibiting contact of the child with the offender except in necessary cases, non-disclosure of the data of the child witness, restricting media coverage and preserving the secrecy of the hearings⁹. The Egyptian legislature took some of these recommendations into consideration when drafting the Anti-Human-Trafficking Law.

2. Objective Role

Contrary to the procedural rules, the Egyptian legislature specified numerous offences where the penalty is harsher on those who commit crimes against children as follows:

- (i) Article 242 bis of the Penal Law determined a penalty of imprisonment for a minimum period of three months and a maximum period of two years, or fine no less than one thousand and no more than five thousand Egyptian pounds, for whoever causes wounds through committing female circumcision.
- (ii) Article 268 of the Penal Law, increases the penalty for assaulting a person sexually by force or threat, or attempts such assault if the victim of the said crime has not attained sixteen years of age, or the perpetrator of the crime is one of the victim's relatives, or those in charge of rearing, observing, or having power over him/her, or is a paid servant to him/her or to the aforementioned persons, the period of the penalty may be extended to the ceiling determined for temporary imprisonment, "15 years". If these two conditions combine together, the ruling shall be a sentence to permanent imprisonment, "25 years".
- (iii) Article 269 of the Penal Law stipulates that the penalty of indecently assaulting a lad or a lass not yet attaining eighteen complete years of age, without force or threat shall be punished with detention. If he or she has not attained seven complete years of age, or the person committing the crime is one of the victim's relatives, or those in charge of rearing, observing, or having power over him/her, or is a paid servant to him/her or to the aforementioned persons, the penalty shall be temporary rigorous imprisonment.
- (iv) The crimes of kidnapping, hiding a newborn child, or replacing him/her with another, or ascribes him/her falsely to other than his/her mother or exposing them to danger by leaving them in unoccupied places that are mentioned in articles 283-289 of the aforementioned law, kidnapping a female and raping her is punished by death.
- (v) Article 292 of the Egyptian Penal Law stipulates punishment of rigorous imprisonment for a term of not less than five years and a fine of not less than fifty thousand pounds and not more than two hundred thousand pounds for one involved in the purchase or sale of children or offer for sale, as well as of delivery or transfer as slaves, or sexual or commercial exploitation, or use in forced labour, or in other illicit purposes, even if the crime took place abroad.

Finally, the custodian of the child can amicably settle cases pertinent to some misdemeanours pursuant to article 18 bis of the criminal procedures law, such settlement is available in any stage of litigation, even after the final sentence.

⁹El Sae'ed – Ibid – p. 646.

VII. CONCLUSION

This paper touched upon the key issues that lack legislative regulation. Although the Child Law contains many articles that regulate – in some of its aspects – the agencies responsible for taking action towards a child at risk, the said law lacks several rules and procedures that should be stipulated especially in comparison with the model law. Those rules encompass the duty of maintaining the confidentiality of all information on child victims and witnesses that relevant agencies may have acquired in the performance of their duty, stipulating a certain level of training required for personnel and investigators who deal with children, and also the appointment of a supporting person who accompanies the child through all the stages of investigation and trial. A mere pointing to the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime in one article of the Child Law will not achieve most of the goals intended by the child protection policy.

It is highly advisable that the legislature interferes by drafting a law that regulates these procedures, especially for the very distinctive manner of the witness and victim thereof, which requires maximum legal protection possible without prejudice to the right of the offender. That protection cannot be left to the efforts of concerned agencies to construe the general rules in light of powers conferred by the Child Law. Whatever extent these efforts can reach, it cannot cover all the situations that invoke protection for the child. Also procedures that involve child protection should not be left to the discretionary power of the courts whether to apply protection or not. For instance, the Egyptian criminal legal system does not recognize Alternatives to Live In-Court Testimony, such as Videotaped deposition¹⁰. This way of testimony is contrary to the mandatory rules of the criminal procedures law and can deem the whole testimony null.

Finally, it is highly crucial to confer upon the personnel of the sub-committees and hotline department the judicial officer capacities. In order to have real authorities in tracking and spotting crimes without waiting for the reports, namely, the crimes which include social and familial character like female circumcision.

REFERENCES

18 U.S. Code § 3509 - Child victims' and child witnesses' rights.

Egyptian By-law 2075 of 2010

Chancellor Abdallah Moftah – Children Rights – 4th edition 2015.

Prof. Akmal Youssef El Sae'ed – The Criminal Protection for Children against Sexual Exploitation – Dar el Gam'a el Gedida – 2014.

Egyptian Anti-Human Trafficking law

Egyptian Child Law

Egyptian Criminal Procedures Law

Egyptian Penal Law

Dr. Hesham Abd el Hamid Farag – Child Abuse – 1st edition 2010.

Mohamed Mansour - The Egyptian Procedural Law after the revolution – research paper presented to “joint program on countering terrorism – held at justice academy of Turkey– 2013.

National Council for Childhood and Motherhood NCCM website
<<http://www.giza.gov.eg/Boards/Council%20for%20Motherhood/default.aspx>>.

¹⁰ Which are stipulated upon in comparative laws, see U.S. Code 18 USC § 3509- Child victims' and child witnesses' rights.

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Periodical instructions of the Egyptian General Public attorney no. 19 of 2008 related to the application of law 126 of 2008.

United Nations Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime.

United Nations Justice in Matters involving Child Victims and Witnesses of Crime - Model Law and Related Commentary.