

# **ACCESS TO JUSTICE FOR CHILDREN:** **ARAB REPUBLIC OF EGYPT**

*This report was produced in April 2014. Child Rights International Network (CRIN) takes full responsibility for any errors or inaccuracies in the report.*

## **I. What is the legal status of the Convention on the Rights of the Child (CRC)?**

### **A. What is the status of the CRC and other relevant ratified international instruments in the national legal system?**

The CRC was ratified and approved by Presidential Decree No. 260 of 1990 on the approval of the Convention on the Rights of the Child, approved by the General Assembly of the United Nations on 20/11/1989.

The Constitution<sup>1</sup> provides that the State shall be bound by the agreements, covenants, and conventions ratified by Egypt, and they shall have the force of law after publication in accordance with prescribed conditions.<sup>2</sup> Accordingly, the CRC has the force of law, and Egyptian courts are obliged to implement the provisions of the CRC as domestic legislation.

Moreover, Law No. 126 of 2008, which amended Children's Law No. 12 of 1996 (Children's Law), explicitly refers to the application of the CRC by stating that "the State shall guarantee, as a minimum requirement, the rights provided for in the Convention on the Rights of the Child and other relevant conventions applicable in Egypt".<sup>3</sup> The text of the Law makes specific reference to a number of international instruments related to the rights of the child, such as the International Labour Organisation Convention No. 182 (1999) concerning the Prohibition and Immediate Elimination of the Worst Forms of Child Labour,<sup>4</sup> and the UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime.<sup>5</sup>

### **B. Does the CRC take precedence over national law?**

It is not explicit from the Constitution whether or not the CRC and other international instruments take precedence over national law. The Constitution contains no provisions which address this point.

### **C. Has the CRC been incorporated into national law?**

The CRC was incorporated into national law upon ratification and publication.<sup>6</sup>

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<sup>1</sup> The Egyptian Constitution of 2014 was adopted by a popular referendum in January 2014, and entered into force on 18 January 2014. Available at: [https://www.constituteproject.org/constitution/Egypt\\_2014?lang=en](https://www.constituteproject.org/constitution/Egypt_2014?lang=en).

<sup>2</sup> Ibid., Articles 93 and 151.

<sup>3</sup> Article 1 of Law No. 12 of 1996 promulgating the Child Law amended by Law No. 126 of 2008. Available at: [http://www.nccm-egypt.org/e7/e2498/e2691/infoboxContent2692/ChildLawno126english\\_eng.pdf](http://www.nccm-egypt.org/e7/e2498/e2691/infoboxContent2692/ChildLawno126english_eng.pdf).

<sup>4</sup> Ibid., Article 65.

<sup>5</sup> Ibid., Article 116-bis.

<sup>6</sup> Article 93 and 151 of the Constitution.

D. Can the CRC be directly enforced in the courts?

In theory, in accordance with the Constitution, the CRC should in its entirety be directly enforceable in national courts.<sup>7</sup> However, the use of the Convention has been limited depending on the awareness of the judge and the parties to a particular case of its provisions. To address this issue, the amended Children's Law explicitly refers to the application of the CRC by stating that "the State shall guarantee, as a minimum requirement, the rights provided for in the Convention on the Rights of the Child and other relevant conventions applicable in Egypt".<sup>8</sup>

E. Are there examples of domestic courts using or applying the CRC or other relevant international instruments?

No cases from Egyptian courts citing the CRC could be found.<sup>9</sup> However, according to Egypt's report to the Committee on the Rights of the Child, since the amendment to the Children's Law, several cases have been brought before the courts as a result.<sup>10</sup>

## II. What is the legal status of the child?

A. Can children and/or their representatives bring cases in domestic courts to challenge violations of children's rights?

Children or their representatives may bring civil, criminal, administrative or constitutional cases to challenge violations of children's rights.

Article 50 of the Civil Code provides that "any person who sees any of their personal rights violated has the right to ask for this violation to stop and to seek compensation for harm suffered".

Article 10 of Law No. 47 of 1972 related to the Council of State<sup>11</sup> provides that a claim can be brought, either by individuals or legal entities, before the administrative courts<sup>12</sup> to seek (amongst other challenges) (i) the annulment of final administrative decisions or (ii) compensation for the harm/damage caused by an administrative decision.<sup>13</sup>

A claim before the Supreme Constitutional Court (SCC) can be brought by two means:

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<sup>7</sup> Ibid.

<sup>8</sup> *Third and fourth periodic report of Egypt to the UN Committee on the Rights of the Child*, CRC/C/EGY/3-4, 3 September 2010, para. 15. Available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fEGY%2f3-4&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fEGY%2f3-4&Lang=en).

<sup>9</sup> All levels of the Egyptian judicial system have websites that allow searches for judgments according to case number or party name. It is not possible to conduct a search according to subject matter. First Instance Tribunals:

<http://www.egypt.gov.eg/services/LoadxtrServices.aspx?PgURL=67453&section=citizens>; Appellate Courts:

<http://www.egypt.gov.eg/services/LoadxtrServices.aspx?PgURL=60553&section=serviceproviders>; and Court of Cassation:

<http://www.egypt.gov.eg/services/LoadxtrServices.aspx?PgURL=62353&section=serviceproviders>.

<sup>10</sup> *Third and fourth periodic report of Egypt to the UN Committee on the Rights of the Child*, para. 36.

<sup>11</sup> The Council of State is the Administrative Supreme Court of Egypt. It has been structured according to the same model of the French Conseil d'Etat.

<sup>12</sup> Article 13 of Law No. 47 of 1972 related to the Council of State.

<sup>13</sup> Ibid., Article 10.

(1) If the civil, criminal or administrative judge has a doubt regarding the constitutionality of a legal provision or of an administrative decision, it can refer the matter to the SCC to rule on that particular question; or (2) If a party to the proceedings before a civil, criminal or administrative judge claims that a legal provision or an administrative decision is unconstitutional, it can be granted leave (by the judge) to refer this particular point to the SCC within a period of three months.

Children or their representatives can make complaints about violations of children's rights via a 24-hour free emergency telephone helpline, known as the *children's emergency line 16000*, which was launched in 2005 and covers the whole territory of Egypt. Article 144 of the Children's Law establishes the service as a monitoring instrument responsible for receiving, handling, referral and requesting the investigation of complaints. The service also follows up the outcome of the investigation process and the protection provided. In the period from June 2005 to December 2008, the service received 1,025,218 calls for legal advice, education, health and safety services.<sup>14</sup>

Furthermore, according to Egypt's report to the Committee on the Rights of the Child, the *disability children helpline 08008886666*, established in 2003, can receive complaints from disabled children or their families. It also provides free legal and medical advice, and information about services provided by the State, civil society organisations helping children with disabilities, and schools and universities capable of accommodating disabled persons.<sup>15</sup>

However, according to the Committee on the Rights of the Child, reports indicate that few children utilise the children's emergency line and that most calls received are from adults rather than children themselves. It was also reported that out of 72 cases of violence and abuse in schools reported to the helpline, only two abusers were reprimanded. The Committee recommended, amongst other things, that "the State party further develop available helplines for children, including helpline 16000, and ensure that they are accessible to all children, free of charge for both the helpline and the caller and available 24 hours", and that the State "ensure effective referral mechanisms to appropriate authorities for necessary follow-up action, including investigation."<sup>16</sup>

Complaints about alleged violations of human rights can also be submitted to the National Council for Human Rights (Council), which was established by Presidential Decree No. 94 of 2003 as Egypt's national human rights institution. The Council's terms of reference include receiving and investigating complaints, referring complaints to the relevant authorities, and submitting proposals and observations to the competent authorities. The Council does not have a child-specific department.<sup>17</sup>

Child protection committees are mandated to receive and consider complaints on violations of child rights, and can report cases of children in danger to the family courts.

<sup>18</sup> However, the Committee on the Rights of the Child has noted that these committees

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<sup>14</sup> *Third and fourth periodic report of Egypt to the UN Committee on the Rights of the Child*, para. 51.

<sup>15</sup> *Ibid.*, para. 52.

<sup>16</sup> UN Committee on the Rights of the Child, *Concluding observations on the third and fourth periodic reports of Egypt*, CRC/C/EGY/CO/3-4, 15 July 2011, paras 84-85. Available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fEGY%2fCO%2f3-4&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fEGY%2fCO%2f3-4&Lang=en).

<sup>17</sup> *Third and fourth periodic report of Egypt to the UN Committee on the Rights of the Child*, para. 50.

<sup>18</sup> Article 99 of the Children's Law.

are not independent from the Government.<sup>19</sup> It is also unclear whether children can submit complaints directly to such committees.

The Committee has recommended that Egypt “establish an independent monitoring mechanism devoted to the protection and promotion of the rights of the child, vested with the competence to receive and follow-up on complaints of child rights violations”, ensure that any such mechanism is readily accessible to children, and consider establishing a specific unit on children’s rights within the Council.<sup>20</sup>

**B. If so, are children of any age permitted to bring these cases by themselves in their own names/on their own behalf, or must the case be brought by or with the assistance of a representative?**

The Civil Code suggests that children cannot bring legal challenges before civil courts by themselves, and that their guardians must do so on their behalf. Article 44 fixes the age of majority at 21 years, and provides that "all persons attaining majority in possession of their mental faculties and not under legal disability, have full legal capacity to exercise their civil rights". Article 47 provides that "persons deprived of full or partial legal capacity are governed, as the case may be, by the rules of natural or legal guardianship or curatorship subject to the conditions and in accordance with the rules laid down by law".

The Criminal Procedure Law provides that if the child victim is aged under 15 or suffers from a mental disability, the claim must be brought by their guardian.<sup>21</sup> This indicates that children aged over 15 can file complaints with the Office of the Prosecutor by themselves.

**C. In the case of infants and young children, how would cases typically be brought?**

As stated in part II.B, infants and young children would be represented by their guardian if a court action is contemplated. The same would apply if a complaint is to be reported to the children’s emergency line or to the disabled children helpline (i.e., their parents would call these helplines on their behalf).

**D. Would children or their representatives be eligible to receive free or subsidised legal assistance in bringing these kinds of cases?**

Article 54(6) of the Egyptian Constitution provides that “in all cases, the accused may be brought to criminal trial for crimes that he may be detained for only in the presence of an authorised or appointed lawyer. In addition, the Constitution requires that “legal aid shall be provided to children”.<sup>22</sup>

Article 125 of the Children's Law grants children in conflict with the law the right to legal assistance in Child Courts. It provides that a child “shall be represented in criminal and misdemeanor cases whose penalty is placing him in custody by a lawyer to defend him in both the investigation and trial phases”, and that, “if no lawyer has been selected by the child, the public prosecution or the Court shall appoint one, in accordance with

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<sup>19</sup> UN Committee on the Rights of the Child, para. 17.

<sup>20</sup> Ibid., paras 17-18.

<sup>21</sup> Article 5 of the Criminal Procedure Law No. 95 of 2003.

<sup>22</sup> Article 80(5) of the Constitution.

the rules and regulation of the Criminal Procedure Code”. Article 140 provides that “children shall not pay any fees or expenses before all courts in connection with cases related to this Part”.<sup>23</sup>

Article 116-bis of the Children's Law provides that child victims and witnesses of crime, “at all stages of arrest, investigation, trial, and implementation”, shall have the right to legal assistance in accordance with the UN Guidelines on Justice for Child Victims and Witnesses of Crime.<sup>24</sup>

Finally, Egypt's report to the Committee on the Rights of the Child states that the children’s emergency line and the disabled children helpline provide free legal advice.<sup>25</sup>

Information on how state-funded legal aid is administered could not be found in the public domain, or in the civil, administrative or criminal procedure codes.

E. Are there any other conditions or limits on children or chosen legal representatives bringing cases (e.g., would a child's parents or guardian have to agree to a case being brought)?

There are no other conditions or limits on children or chosen legal representatives bringing cases.

### **III. How can children’s rights violations be challenged before national courts?**

A. If there is a potential violation of the Constitution or other principles established in domestic law, or with the CRC or other relevant ratified international/regional instruments, how can a legal challenge be brought?

Civil claims on behalf of child victims of any age would be brought by the child’s guardian (see part II.B above). Civil claims should be filed at the office of the Court of First Instance's registrar. The claim should mention the name, address and job of the claimant.<sup>26</sup>

Administrative claims should be filed by a lawyer at the office of the Administrative Court's registrar. The claim should mention the name, address and job of the claimant.<sup>27</sup>

Criminal complaints can be filed with the Office of the Prosecutor. Complaints involving child victims aged under 15 must be brought by the victim’s guardian.<sup>28</sup>

If a party to the proceedings before a civil, criminal or administrative judge claims that a legal provision or an administrative decision is unconstitutional, it can be granted leave (by the judge) to refer this particular point to the SCC.<sup>29</sup>

*African Commission on Human and Peoples’ Rights*

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<sup>23</sup> Articles 125 and 140 of the Children's Law.

<sup>24</sup> Ibid., Article 116-bis.

<sup>25</sup> *Third and fourth periodic report of Egypt to the UN Committee on the Rights of the Child*, paras 51-52.

<sup>26</sup> Article 63 of the Civil and Commercial Procedure Law.

<sup>27</sup> Article 25 of Law No. 47 of 1972 related to the Council of State.

<sup>28</sup> Article 5 of the Criminal Procedure Law number 95 of 2003.

<sup>29</sup> Article 29 paragraph 2 of Law No. 48 of 1979.

Individuals, groups or NGOs may submit complaints (known as “communications”) to the African Commission on Human and Peoples’ Rights (“African Commission”) about violations of the African Charter on Human and Peoples’ Rights (“African Charter”).<sup>30</sup> All available domestic remedies must have been exhausted before bringing a case to the African Commission.<sup>31</sup> The complaint must include, amongst other things: the name of the person filing it or, in the case of an NGO, the name of the legal representative; whether or not the complainant wishes to remain anonymous and the reasons for this; and the name of the victim, in a case where he/she is not the complainant.<sup>32</sup> The African Commission will investigate the complaint and decide on the merits of the case, and make recommendations to the State, which may include compensation to the victim(s) and measures to prevent recurrence of the violation.<sup>33</sup> If the case relates to serious or massive human rights violations or if the Commission considers that the State is unwilling to comply with its recommendations in the case, the Commission may refer the complaint to the African Court on Human and Peoples’ Rights.<sup>34</sup>

**B. What powers would courts have to review these violations, and what remedies could they offer?**

A range of judicial remedies are available to courts following review of these violations, including imprisonment and fines. For example, Article 96 of the Children's Law provides that, with the exception of certain cases, “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”.<sup>35</sup>

More generally, in civil proceedings, the court may either award damages or issue an injunction ordering a party to cease the violation of the child's rights.<sup>36</sup>

In administrative proceedings, the court can annul the final administrative decision or award compensation for the harm/damage caused by an administrative decision.<sup>37</sup>

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<sup>30</sup> African Charter on Human and Peoples’ Rights (“African Charter”), Article 55, available at: <http://www.achpr.org/instruments/achpr>.

<sup>31</sup> Ibid., Article 56(5).

<sup>32</sup> Rules of Procedure of the African Commission on Human and Peoples’ Rights of 2010, Rule 93, available at: <http://www.achpr.org/instruments/rules-of-procedure-2010/>.

<sup>33</sup> War Resisters' International, Quaker United Nations Office Geneva, Conscience and Peace Tax International and the CCPR Centre, ‘African Commission on Human and Peoples' Rights: communication procedure’, 2012, available at: <http://co-guide.org/mechanism/african-commission-human-and-peoples-rights-communication-procedure>.

<sup>34</sup> Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights, Article 5, available at: <http://www.achpr.org/instruments/court-establishment>; Rules of Procedure of the African Commission on Human and Peoples’ Rights of 2010, Rules 84(2) and 118, available at: <http://www.achpr.org/instruments/rules-of-procedure-2010>.

<sup>35</sup> Article 96 of the Children's Law.

<sup>36</sup> Article 50 of the Civil Code: "Any person who sees any of their personal rights violated has the right to ask for this violation to stop and to seek compensation for harm suffered"; Article 164 of the Civil Code: "Every person in possession of discretion is responsible for his unlawful acts. When an injury is caused by a person not in possession of discretion, the judge may, if no one is responsible for him, or if the victim of the injury cannot obtain reparation from the person responsible, condemn the person causing the injury to pay equitable damages, taking into account the position of the parties."

<sup>37</sup> Article 10 of Law No. 47 of 1972 related to the Council of State.

In constitutional cases, the SCC is competent to invalidate any provision of law or regulation that is unconstitutional.<sup>38</sup>

C. Would such a challenge have to directly involve one or more individual child victims, or is it possible to challenge a law or action without naming a specific victim?

The Civil and Commercial Procedure Law requires the identification of the person filing the claim by providing their name, address and job description.<sup>39</sup>

Similarly,<sup>40</sup> administrative claims should mention the name, address and job of the claimant.

The Criminal Procedure Law is silent about whether it is possible to bring a claim without naming a specific victim. Article 3 of the Criminal Procedure Law provides that the claim must be filed either orally or in writing by the victim or their lawyer.

D. Is any form of collective action or group litigation possible, with or without naming individual victims?

The Civil and Commercial Procedure Law is silent about whether or not it is possible to bring a collective action, although it envisages, in different provisions, the possibility of having collective respondents<sup>41</sup> or appellants.<sup>42</sup>

Article 4 of the Criminal Procedure Law provides that "if there are multiple claimants, one claim is enough and if there are multiple respondents, a claim against only one of them is sufficient and will be deemed against all the others".

Law No. 47 of 1972 concerning the Council of State and Law No. 48 of 1979 are silent about whether or not it is possible to bring a collective action before an administrative Court or the SCC respectively.

E. Are non-governmental organisations permitted to file challenges to potential children's rights violations or to intervene in cases that have already been filed?

There is no provision under Egyptian civil, criminal, administrative or constitutional law which allows non-governmental organisations (NGOs) to file challenges to potential rights violations. The same applies to the Children's Law which only allows "social observers" (a broad interpretation of which could include NGOs) to attend the hearing under the condition of obtaining a special permit.<sup>43</sup>

**IV. Practical considerations.** Please detail some of the practical issues, risks and uncertainties that might be involved in bringing a case to challenge a violation of

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<sup>38</sup> Articles 27 and 29(2) of Law No. 48 of 1979, which is the law creating and governing the SCC.

<sup>39</sup> Article 63 of the Civil and Commercial Procedure Law.

<sup>40</sup> Article 25 of Law No. 47 of 1972 related to the Council of State.

<sup>41</sup> Articles 258, 254.

<sup>42</sup> Article 221.

<sup>43</sup> Article 126 of the Children's Law: "Nobody is allowed to attend the trial of the child before the Child Court except his relatives, witnesses, lawyers, social observers, and any other person having the permission of the Court to attend with a special permit".

children's rights, such as:

- A. Venue. In what courts could a case be filed (e.g., civil, criminal, administrative, etc.)? What would the initial filing process entail?

If a civil complaint is to be filed, a claim should be brought before a Court of the First Degree.<sup>44</sup>

A criminal claim would be brought before the Criminal Court. There is a Criminal Court within every Court of Appeal.<sup>45</sup>

Administrative claims should be filed by a lawyer at the office of the Administrative Court's registrar.

Constitutional claims have to be filed at the SCC's registrar's office by a lawyer authorised to appear before the SCC.<sup>46</sup>

Under the Children's Law, in cases of children in conflict with the law, the jurisdiction of the Child Court shall be determined by the place where the crime occurred, or where one of the cases of delinquency occurred, or where the child was caught, or where the child, or their guardian or custodian resides depending on the circumstances.<sup>47</sup>

- B. Legal aid / Court costs. Under what conditions would free or subsidised legal aid be available to child complainants or their representatives through the court system (i.e., would the case have to present an important legal question or demonstrate a likelihood of success)? Would child complainants or their representatives be expected to pay court costs or cover other expenses?

See part II.D above. There are no specific conditions for legal aid provided under the Children's Law.

- C. Pro bono / Financing. If legal aid is not available, would it be possible for child complainants or their representatives to obtain legal assistance from practicing lawyers on a pro bono basis, through a children's rights organisation, or under an agreement that does not require the payment of legal fees up front?

It is possible for children or their representatives to obtain legal assistance from practising lawyers or organisations on a pro bono basis. These include: the Refugee Centre for Human Rights<sup>48</sup> (provides legal assistance to refugees and asylum seekers, the handicapped and street children); Africa and Middle East Refugee Assistance (AMERA) Egypt;<sup>49</sup> Egyptian Foundation for Refugee and Migrant Rights;<sup>50</sup> Center for Egyptian Women's Legal Assistance;<sup>51</sup> the Egyptian Center for Economic and Social

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<sup>44</sup> Article 47 of the Civil and Commercial Procedure Law.

<sup>45</sup> Articles 380 and 366 of the Criminal Procedure Law.

<sup>46</sup> Article 34 of Law No. 48 of 1979.

<sup>47</sup> Article 123 of the Children's Law.

<sup>48</sup> International Refugee Rights Initiative, available at:

<http://www.refugee-rights.org/African%20NGO%20directory/North%20Africa/Egypt-RCHR.html>.

<sup>49</sup> <http://www.amera-egypt.org/>.

<sup>50</sup> <http://egyptianfoundation.wordpress.com/>.

<sup>51</sup> [www.cewla.org](http://www.cewla.org).



Rights;<sup>52</sup> and Shalakany Law Firm<sup>53</sup> and Hisham Mubarak Law Center (human rights law firms).<sup>54</sup>

There are also several university legal clinics that provide legal assistance, including: Alexandria University Faculty of Law Legal Clinic (provides legal assistance to victims of domestic violence and human trafficking);<sup>55</sup> Legal Clinic of Women's and Children's Rights, Assiut University College of Law; Tanta University Legal Clinic; International Justice Center, Tanta; Legal Clinic, Menoufia University Faculty of Law; Legal Clinic, Zagazig University Faculty of Law; and Environmental Law Clinic and Consumer Law Clinic, Helwan University.<sup>56</sup>

The Advocates Law requires that each regional branch of the Egyptian Bar Association form a legal assistance committee and that lawyers provide pro bono legal assistance and representation to those who are unable to afford it. However, in practice, legal services are rarely given for free by private practitioners.<sup>57</sup>

- D. Timing. How soon after a violation would a case have to be brought? Are there any special provisions that allow young adults to bring cases about violations of their rights that occurred when they were children?

In civil proceedings, a claim must be brought within a year of the occurrence of the violation.<sup>58</sup>

In criminal proceedings, a claim must be brought within 20 years of the occurrence of the violation.<sup>59</sup>

An administrative claim should be filed within 60 days as of the date of notification (to a person) of the administrative decision or as of the date of publication of the decision in the Official Gazette.<sup>60</sup>

If a party to proceedings before a civil, criminal or administrative judge claims that a legal provision or an administrative decision is unconstitutional, it can be granted leave (by the judge) to refer this particular point to the SCC within a period of three months.<sup>61</sup>

The Children's Law is silent on the timeframe within which a claim should be brought.

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<sup>52</sup> <http://ecesr.com/en/>.

<sup>53</sup> <http://www.shalakany.com/index.php?s=sub&id=63>.

<sup>54</sup> <http://hmlc-egy.org>.

<sup>55</sup> The Protection Project, 'The clinical legal education network', available at: <http://www.protectionproject.org/activities/international-human-rights-clinic/the-clinical-legal-education-network/>.

<sup>56</sup> The Protection Project, 'International human rights clinic', available at: <http://www.protectionproject.org/activities/international-human-rights-clinic/>.

<sup>57</sup> Latham & Watkins, 'A survey of pro bono practices and opportunities in 71 jurisdictions', August 2012, available at:

<http://www.probonoinst.org/wpps/wp-content/uploads/a-survey-of-pro-bono-practices-and-opportunities-in-71-jurisdiction-2012.pdf>.

<sup>58</sup> Article 134 of the Civil and Commercial Procedure Law.

<sup>59</sup> Article 14 of the Criminal Procedure Law.

<sup>60</sup> Article 24 of Law No. 47 of 1972 related to the Council of State.

<sup>61</sup> Article 29 paragraph 2 of Law No. 48 of 1979.

E. Evidence. What sort of evidence is admissible/required to prove a violation? Are there particular rules, procedures or practices for dealing with evidence that is produced or presented by children?

Witnesses of any age can appear before the Criminal Court. Witnesses aged 14 or over must take an oath before the judges; child witnesses under 14 do not take an oath.<sup>62</sup> In addition, the Criminal Court can order that any evidence it sees relevant be produced before the Court.<sup>63</sup> The Criminal Court can also ask for expert evidence.<sup>64</sup>

In Child Court proceedings, witnesses can appear and expert evidence can be requested by the Court.<sup>65</sup> Under Article 126 of the Children's Law, nobody is allowed to attend the trial of a child before the Child Court except relatives, witnesses, lawyers, social observers, and any other person having the permission of the Court to attend with a special permit. The Court may order the removal of the child from the hearing after making a statement, or the removal of any of the persons abovementioned, if it sees fit. The Court may not order the removal of the child's lawyer or the social worker having ordered the child's removal. The Court may also not pronounce judgment prior to explaining to the child the procedures followed in his or her absence. The court may excuse the child from attending the hearings in person if it sees fit, and allow a parent or a guardian to be present to hear the pronouncement of the judgment instead.<sup>66</sup>

F. Resolution. How long might it take to get a decision from the court as to whether there has been a violation?

Usually a case takes between one to two years to receive a judgment at first instance. However, the resolution of a case can vary depending on the impact of the case in the media. For example, the Criminal Court of Port-Said rendered a judgment three months after a girl was raped and murdered by three men.<sup>67</sup>

G. Appeal. What are the possibilities for appealing a decision to a higher court?

Decisions by the Child Court can be appealed before the Court of First Instance.<sup>68</sup> Decisions by the Court of First Instance or the Criminal Court can be appealed before the Court of Appeal.<sup>69</sup> Appeals against decisions rendered by the Court of Appeal can be made before the Court of Cassation.<sup>70</sup> The Court of Cassation is the Egyptian Supreme

<sup>62</sup> Article 283 of the Criminal Procedure Law.

<sup>63</sup> Ibid., Article 291.

<sup>64</sup> Ibid., Article 292.

<sup>65</sup> Articles 122 and 126 of the Children's Law.

<sup>66</sup> *Third and fourth periodic report of Egypt to the UN Committee on the Rights of the Child*, para. 324.

<sup>67</sup> Article reporting the judgment is available at the following link. The article also published excerpts of the judgment in which the judges deplored their inability to apply a death sentence due to Egypt's ratification of the CRC and the Children's Law:

<http://www.alwafd.org/%D8%AD%D9%88%D8%A7%D8%AF%D8%AB-%D9%88%D9%82%D8%B6%D8%A7%D9%8A%D8%A7/627225-%D9%86%D9%86%D8%B4%D8%B1-%D9%85%D9%86%D8%B7%D9%88%D9%82-%D8%A7%D9%84%D8%AD%D9%83%D9%85-%D9%81%D9%89-%D9%82%D8%B6%D9%8A%D8%A9-%D8%B2%D9%8A%D9%86%D8%A9-%D8%A8%D9%88%D8%B1%D8%B3%D8%B9%D9%8A%D8%AF>.

<sup>68</sup> Article 132 of the Children's Law.

<sup>69</sup> Article 48 of the Civil and Commercial Procedure Law; Section 2 of Chapter 2 of the Criminal Procedure Law.

<sup>70</sup> Article 30 of Law No. 57 of 1959 related to the appeals before the Court of Cassation as amended by

Court in relation to civil, commercial and criminal matters.

The decisions of the administrative court can be appealed before the Supreme Administrative Court, which is the highest court in relation to the administrative cases.<sup>71</sup>

- H. Impact. What are the potential short-term and long-term impacts of a negative decision? Is there a possibility for political backlash or repercussions from a positive decision?

Despite the non-existence of an established system of legally binding precedents, previous judicial decisions do have persuasive authority. Courts are morally and practically bound by the principles and precedents of the Court of Cassation for civil, commercial, and criminal matters, and the Supreme Administrative Court for administrative and other public law matters.<sup>72</sup>

Although there is a lack of common and public awareness of children's rights, public opinion in Egypt is very sensitive to cases which involve child molestation or murder. In relation to the case mentioned in part IV.F above, the public considered the 15 year prison sentence imposed on the offenders to be a "very light" judgment. In addition, judges publicly asked for the Children's Law to be amended to allow them to apply the death penalty to child murderers.

- I. Follow up. What other concerns or challenges might be anticipated in enforcing a positive decision?

It can be difficult to enforce a positive decision against the State, especially in the current political context which is marked by instability. In addition, enforcement procedures can be very lengthy.

- V. Additional factors.** Please list any other national laws, policies or practices you believe would be relevant to consider when contemplating legal action to challenge a violation of children's rights.

Article 2 of the Constitution declares that Islam is the religion of the State and the principles of Islamic Sharia are the principal source of legislation. Sharia law does not appear to impact on children's ability to bring complaints. Unlike other countries such as Algeria, Egypt has not made any reservations to the CRC in relation to the application of Sharia law. The Children's Law also does not mention the application of Sharia law.

*This report (produced in April 2014 and revised in May 2015) is provided for educational and informational purposes only and should not be construed as legal advice.*

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Law No. 74 of 2007; and Article 248 of the Pleadings Law.

<sup>71</sup> Article 23 of Law No. 47 of 1972 related to the Council of State.

<sup>72</sup> Wahab, M., 'Update: An overview of the Egyptian legal system and legal research', October 2012, available at: [http://www.nyulawglobal.org/Globalex/Egypt1.htm#\\_6.1.\\_Court\\_System](http://www.nyulawglobal.org/Globalex/Egypt1.htm#_6.1._Court_System)