

5 Strengthening Child-friendly Justice Services in Egypt

This chapter provides a cross-cutting analysis of the Egyptian child justice system and services from the standpoint of the OECD Criteria for People-centred Design and Delivery of Justice Services, focusing on the criteria that hold the most relevance in the Egyptian context. It provides recommendations and good practice examples to help Egyptian services fully achieve these guiding principles, including accessibility, inclusion, empowerment and appropriateness. It also provides evidence-based guidance to strengthen the capacity and resources in the child justice system.

This chapter explores the application of OECD Criteria for People-centred Design and Delivery of Justice Services (reproduced in Annex A) to child justice services in Egypt. In particular, it examines the progress made, the remaining challenges and areas for improvement, with a view to ensuring fair and equitable access to justice for all children in Egypt. It aims to guide the design, establishment and maintenance of legal and justice service delivery to facilitate child-friendly access to justice in Egypt. People-centred justice approach – through such criteria as equality and inclusion, empowerment and participation, appropriateness and responsiveness, capacities and resources, prevention, proactivity and timeliness - can be particularly relevant when applied to child justice services, as it emphasises the importance of placing the needs and rights of children at the forefront of the justice system. The analysis focuses on the criteria that hold the most relevance in the Egyptian context and provides recommendations and good practice examples to bring Egyptian services closer to fully achieving these guiding principles.

5.1. Equality and inclusion

Some of the practical barriers to access to justice for the population as a whole may disproportionately affect children, and even more so for groups of children who are disadvantaged or facing discrimination, necessitating additional provisions and targeted services to ensure their inclusion.

Equality and inclusion: *People-centred legal and justice services are inclusive and targeted at those most in need, responsive to specific access needs of particular groups likely to suffer from social and economic disadvantage or are otherwise marginalized or vulnerable and those with complex needs. They are designed to contribute to equality, poverty reduction, and social inclusion.*

Article 53 of Egypt's Constitution establishes that all citizens are equal before the law, possess equal rights and public duties, and may not be discriminated against based on religion, belief, sex, origin, race, colour, language, disability, social class, political or geographical affiliation, or for any other reason. It further states that discrimination and incitement to hate are crimes punishable by law. The State shall take all necessary measures to eliminate all forms of discrimination and regulate the establishment of an independent commission for this purpose. ¹

It is noted that the scope of this project did not cover the detailed assessment of the justice system's accommodation of specific groups such as migrants and refugees. It is however useful to flag the position of the UNHCR in matters related to migrants and refugees.

Box 5.1. UN High Commissioner for Refugees (UNHCR) 2017 Global Paper on the Detention of Refugee, Migrant, and Asylum-seeking Children

In January 2017, the UNHCR clarified its position regarding the detention of children, unaccompanied, separated or in families for immigration related purposes. The UNHCR's position is that children should not be detained for immigration related purposes, irrespective of their legal/migratory status or that of their parents, and detention is never in their best interests. Appropriate care arrangements and community-based programmes need to be in place to ensure adequate reception of children and their families.

The UNHCR, therefore, acknowledged and welcomed the varied State practice in providing care arrangements and alternatives to detention for children and families and has compiled a number of examples in its Options Paper 1: Options for governments on care arrangements and alternatives to detention for children and families (UNHCR, 2017^[1]). In particular, placement options within the community, with proper case management support, can further strengthen compliance with asylum and migration processes and foster integration prospects, where relevant.

The UNHCR indicated that appropriate care arrangements and community-based programmes are particularly critical as recent studies have pointed out that detention of children can undermine their

psychological and physical well-being and compromise their cognitive development. There is strong evidence that detention has a profound and negative impact on children's health and development, regardless of the conditions in which children are held, and even when detained for short periods of time or with their families. Furthermore, there is no evidence that detention of children serves the aim of deterring refugee or asylum-seeker movements or irregular migration.

Note: For more information on the negatives effects of detention on children, see: <http://endchilddetention.org/impact/> and also <http://www.fmreview.org/detention/farmer.html>.

Source: (UNHCR, 2017^[1]), UN High Commissioner for Refugees, UNHCR's position regarding the detention of refugee and migrant children in the migration context, <https://www.refworld.org/docid/5885c2434.html>.

In addition, and as mentioned, while conducting a detailed mapping has not been possible in the context of this project, stakeholder interviews have suggested that services are mainly concentrated in large urban centres such as Cairo and Alexandria.

As is explored in more detail in other sections of this report, inadequacies in the legal framework pertinent to a child's right to equality and inclusion, as well as the limited availability of free services, especially in some regions, can combine to become barriers, particularly for vulnerable children. For example, children may face difficulties in accessing legal aid. As in many other countries, children who find themselves living on the streets and children from disadvantaged families often lack basic access to education, shelter and health services and are at high risk of sexual and economic exploitation, violence, drug abuse and arrest.

The following sections explore two groups of children that may face discrimination and were studied by this report: girls and children with disabilities. Improvements to the systematic collection and analysis of data on the implementation of children's rights, disaggregated by age, sex, geographical location and socio-economic background, would enable better monitoring of discrimination and inequalities faced by specific groups of children.

5.1.1. Equality for girls and young women

Stakeholders interviewed have reported that while boys and girls are equal before the law, girls continue to face gender-based discrimination in different settings due to cultural norms and stigmas, including within their families, schools and potentially when in contact with public institutions and the justice system in particular. With regard to girls' specific legal needs, the Committee on the Elimination of Discrimination against Women (2021) concluded that they experience higher levels of sexual harassment, abuse, and violence and may be subject to child marriage and female genital mutilation (FGM). The NCCM Child Helpline lawyers confirmed that they had received calls from girls requesting protection from these crimes, especially from rural governorates. The CRC also concluded that girls who submit complaints about violations of their rights may be subject to stigmatisation or may be re-traumatised during legal proceedings due to a lack of gender-sensitive investigation methods.²

There are ongoing efforts to address these issues. With regard to access to justice, the PPO has, in September 2020, launched its electronic petition service. This service could be improved to realise its full potential and facilitate access to justice for girls.

Further, the National Strategy for the Empowerment of Egyptian Women 2030 seeks to raise girls' awareness of the legal services available to them and to activate the role of the Woman's Ombudsman Office of the National Council for Women. The National Council for Women (as mentioned in Chapter 3 under section 3.1.6) seeks, amongst its functions, to enhance the realisation of women's rights concerning access to justice. The efforts of the Council include organising workshops and discussions and raising awareness, but also proposing and participating in discussions about legal reform. Since 2016, the Council has been active in reforming the Code of Personal Status to facilitate access to justice for women in family matters (Osama, 2019^[2]).

The National Strategy for the Empowerment of Egyptian Women 2030 envisages an increased presence of female officials in different roles throughout girls' justice pathways. This strategy includes promoting female leadership in judicial bodies as one of its main objectives. Following the important decision of the Supreme Council of Judicial Bodies in Egypt in June 2021 (The Guardian, 2022^[3]) to allow women to work in the State Council and the PPO, the Ministry of Justice Department for Human Rights, Women and Children has expressed its commitment to promote women in the justice sector and the judiciary, raising societal awareness around female judges and enhancing the attractiveness of the profession for young women. The Department is tasked with promoting the culture of women's rights in both legislation and practice and will play a relevant role in conducting specialised training for new female judges. In addition, police stations are to have female social workers as the first point of contact for child victims. However, this may not always be possible in practice due to limited resources. As previously mentioned, one option for girls wishing to pursue a complaint is to take it to the Women's Ombudsman Office, which offers free legal advice and representation in court.³ In this context, training aimed specifically at increasing gender sensitivity and eliminating any potential gender bias could be considered.

The Ministry of Justice also announced several important steps to eliminate violence against women implemented with the support of UN Women, which may include the creation of special courts for survivors of violence and the establishment of a committee of doctors from the Forensic Department and specialised agencies, to give an opinion on whether FGM results in permanent disability, which would permit harsher punitive measures of perpetrators (UN Women Egypt, n.d.^[4]). Looking ahead, the effective implementation and resourcing of these plans will be key to their sustained impact to improve access to justice for girls.

5.1.2. Inclusion of children with disabilities

The Child Law has dedicated Part Six to the Care and Rehabilitation of the Disabled Child. Egypt has also issued Law No. 10 of 2018 on the Rights of Persons with Disabilities. Articles 32, 35 and 36 of this legislation contain many provisions which oblige the judicial authorities to provide all services for people with disabilities, including children with disabilities, in an accessible manner, in accordance with the Code of Criminal Procedure and Civil Procedures and other laws. In implementing the above, the Minister of Justice issued decision No. 4637 of 2018 Concerning the Accommodations and Services for Persons with Disabilities when in contact with the judicial authorities (Ministry of Justice Egypt, n.d.^[5]).

The same law also stipulates in Article 35 that "a person with a disability shall have the right to special treatment proportionate with his condition and needs, whether he is an accused, a victim, or a witness at all stages of seizure, or investigation, trial, or enforcement".

The Article also affirms the obligation to provide protection from any kind of discrimination of children on account of their place of birth, parents, gender, religion, race, disability, or any other status and to ensure effective equality between all children in the enjoyment of their rights. Furthermore, the last paragraph of Article 35 of the Law No. 10 of 2018 insists on the right of persons with disabilities to specialised technical assistance, when necessary, and that they shall have a lawyer to defend them during the investigation and trial stages and that they shall be guaranteed all appropriate means to enable them to express their defence in the manner regulated by this law. These adaptations and a requirement for special treatment as outlined in the statute are considered good practices that consider the needs of disabled children.

Further data collection and analysis of the practical implementation of these measures towards children with disabilities would enable the formulation of evidence-based recommendations for enhanced support. In this regard, it is notable that the National Council for Persons with Disabilities (also referred to in Chapter 3 under section 3.1.6.) has not, to date, been active in gathering information, raising awareness or suggesting policy amendments in the area of access to justice for persons with disabilities. There is a lack of information on, for instance, the practical implementation of Article 35 above, for example, whether children with disabilities receive special treatment at police stations or when meeting with the police social worker, whether they wait at special waiting areas during their referral to the PPO and courts and whether

the prosecutor (and later the child affairs judge) requests the assistance of a professional during questioning.

Box 5.2. Good practices on access to justice for children with disabilities

Clear information about how to challenge violations of the right to education for people with disabilities:

- Legal requirements that all decisions on the right to education should be communicated in written form and provide sufficient information about appeals (both the process and the practicalities).
- Reasonable timeframes for appeal (e.g. 60 days).

A justice system which understands how to accommodate people with disabilities:

- Allowing appeals to be sent online and providing templates for this purpose (generally lowering the threshold for appeals).
- Providing for emergency or expedited proceedings and interim measures which can reduce the waiting time from years to months for access to education or reasonable accommodation appeals.
- Allowing specialists in disability law or anti-discrimination law to sit on judicial tribunals and decision-making bodies or establishing specialist independent complaints mechanisms to resolve such disputes rather than relying on the general court system.
- Systematically collecting data on user experiences of the justice system from people with disabilities.
- Using dialogue and mediation-based approaches (sometimes facilitated by NGOs) as the default mechanism to resolve disputes between parents or legal guardians and schools or public administrations. It seems that mediation can also be much swifter than judicial and administrative proceedings, in addition to being less adversarial.
- Encouraging children to introduce themselves during proceedings and requiring statements setting out the child's wishes.

Independent, effective, accessible, transparent, safe and enforceable *complaints mechanisms and legal remedies*:

- The establishment of specific institutions mandated to mediate questions of reasonable accommodation for disabled children and to pursue the best interests of the child by liaising with local, regional and national administrations.
- Imposing financial sanctions on schools and public administrations that fail to deliver remedies awarded by administrative and judicial tribunals.

Source: (Khadar, 2017^[6]), Access to Justice and the Right to Education for Children with Disabilities, <https://www.ohchr.org/sites/default/files/Documents/Issues/Disability/RightAccessJusticeArticle13/CSO/DLA1.pdf>.

5.1.3. Recommendations to strengthen equality and inclusion

- Continue to work on strengthening the presence of women in different child justice institutions, including in the judiciary and police stations.
- As part of efforts to reinforce a child-rights culture in Egypt and to raise awareness about children's rights and remedies, prioritise eradicating discrimination against women and girls.
- Monitor the practical implementation of the legal provisions requiring special treatment

proportionate to a disabled child's condition and needs. Ensure these needs are met with adequate resourcing, sufficient appropriately skilled staff and facilities adapted for disabled accessibility.

5.2. Empowerment and participation

To enjoy meaningful access to justice, children need to be empowered to exercise their rights, participate in proceedings that affect their lives and have a voice in the design and delivery of justice services.

Empowerment and participation. *People-centred legal and justice services are empowering, they enable people's meaningful participation in the justice system and build people's legal capabilities.*

Children need to be informed about their rights and where they can seek support and assistance to protect themselves from rights violations, manage their legal problems and support their peers (Kenrick and Palmer, 2016^[71]) (discussed further in Chapter 4, under sections 4.3.1-4.3.3). This section focuses on two other aspects of the right to participation: children's active involvement in legal proceedings across criminal, civil and administrative spheres in accordance with international standards (see Box 5.3) and their participation in justice policy making.

Box 5.3. International standards on the right of participation

UN Convention on the Rights of the Child (CRC)

Article 12 of the CRC provides that children who are capable of forming their own views have the right to express those views freely in all matters affecting them, with their views being given due weight in accordance with their age and maturity. Further, they have the right to be provided with the opportunity to be heard in any judicial and administrative proceedings affecting them or when they are victims, either directly or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law (OHCHR, 1989^[81]).

African Charter on the Rights and Welfare of the Child (ACRWC)

Article 4 of the ACRWC expresses that in all judicial or administrative proceedings affecting a child who is capable of communicating their own views, an opportunity shall be provided for the views of the child to be heard either directly or through an impartial representative, and those views shall be taken into consideration by the relevant authority.

Council of Europe Guidelines on Child-friendly Justice

Judges should respect the right of children to be heard in all matters that affect them or at least to be heard when they are deemed to have a sufficient understanding of the matters in question. Means used for this purpose should be adapted to the child's level of understanding and ability to communicate and take into account the circumstances of the case. Similarly, judgments and court rulings affecting children, and options for further action, should be explained to them in language adapted to their level of understanding (*Part IV.D.3.49 and Part IV.E.75*) (Council of Europe, 2010^[91]). Children should be consulted on how they wish to be heard. A child should not be precluded from being heard solely on the basis of age (*Part IV.D.3.44-48*), (Council of Europe, 2010^[91]).

Note: Article 12, Convention on the Rights of the Child; Article 4, African Charter on the Rights and Welfare of the Child.

Sources: (OHCHR, 1989^[81]), Convention of the Rights of the Child, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>, (Council of Europe, 2010^[91]), Council of Europe Guidelines, <https://rm.coe.int/16804b2cf3>.

Internationally, there is a trend away from a paternalistic approach to the implementation of children’s rights to participation, in which professionals may speak on behalf of children, towards a more autonomous approach in which children are heard directly or with the support in hearings of a guardian *ad litem* or other trusted support person. Box 5.4. reflects the outcomes of the World Congress on Justice with Children held in 2021, which called for increased agency and direct participation of children in legal processes that affect them and in justice policy making.

Box 5.4. Outcomes of the 2021 World Congress on Justice With Children

The 2021 World Congress on Justice with Children called on all relevant stakeholders, including states and civil society, to (emphasis added):

- “Work hand-in-hand, as children and adults, to achieve equal, non-discriminatory, and inclusive access to justice for all children around the world, in a manner that **partners with children as experts and central players in the pursuit of positive change**, including in the normative framing of child justice and access to justice, the building and reform of legal and regulatory frameworks, the operation of systems and implementation of procedures, the capacity-building of relevant actors, and the enforced accountability of duty-bearers, communities, and the wider society;
- Improve the enabling environment for **children as rights-holders to act as agents of change, and amplify the voices of today and of the future, by providing child-friendly, gender-sensitive, and disability-inclusive guidance and information about the law and legal procedures**, improving the public understanding of children’s rights for children and adults alike, pursuing child-targeted communication in a manner that is most effective for reaching children, and ensuring inclusive and accessible approaches to participation for children of all backgrounds and situations, including all children in contact with the law;
- **Mandate child participation in the law and enforce this law to ensure that children are seated at the table**, rather than merely encouraging child participation and engaging with children passively and solely as subjects of consultations, especially for the groups of children in contact with the law who are often excluded from the discussions due to discrimination, marginalisation, vulnerability, or the precarious situations they are in”.

Source: (Justice with Children, 2021^[10]), *Global Declaration On Justice With Children* www.justicewithchildren.org.

This right of active engagement and participation still poses a challenge in many countries where a culture of listening to children is not widespread or even acceptable (Council of Europe, 2010^[9]). It goes beyond participation in judicial contexts and involves an ongoing process of acknowledging children’s expression and active involvement in decision making at different levels in matters that concern them. It requires information sharing and dialogue between children and adults based on mutual respect and requires full consideration of their views, taking into account the child’s age and maturity.⁴ This would enable children and young people to be meaningfully involved in the design, development and delivery of policies and services that affect their access to justice.

5.2.1. Participation of children in legal proceedings in Egypt

The Child Law in Egypt reaffirms children’s rights to form their own opinions, access information which empowers them to form and express such opinions, and be heard in all matters related to them, including judicial and administrative procedures.⁵

A key pillar of the NCCM's Strategic Framework of Childhood and Motherhood 2018-2030 (Pillar 6) is focused on strengthening children's right to participate, to activate children's right to express their opinions and enable them to participate in making decisions about matters that affect them. It reflects the following policies that provide meaningful room for child participation in legal proceedings and policy making:

Pillar 6: Child's right to participation – proposed policies:

- Programmes to promote the practising of this right by every child in his daily life within the family, surrounding society, care and education institutions and in the concerned judicial and administrative proceedings.
- Enlisting the right of the child to participate in national legislation, and taking him or her into account. The obligation by the concerned parties in children's affairs to provide adequate information to the child to enable him to express his opinion on the matters affecting him.
- Encouraging children to participate in the activities of the local administration and making mechanisms to encourage children to express their opinion in local programmes and follow-up services related to childhood.
- Amending some judicial procedures to facilitate the child's participation, such as listening to their opinions in the room or expressing thoughts through a video recording, and providing legal assistance and information to children.
- Guaranteeing the active and equal participation of all children without discrimination.
- Providing a child-friendly local environment to enable his participation.

Similarly, the National Human Rights Strategy aims to ensure that children's rights to express their views are realised. Egypt's Vision 2030 also aligns with this objective, enshrining child participation as a goal under its Pillar 5. Children's rights to be informed and to be heard are thus supported by both law and policy in Egypt.

Nonetheless, OECD analysis reflects room to further make this right a reality in practice. The sound overarching principles contained in the Child Law are undermined by other legislation and customs that limit children's participation. Related to this is the limited understanding amongst some justice stakeholders of the concept of children as rights-bearers. Consequently, children's rights to commence legal action independently of their parents or guardian or to participate in proceedings without parental consent are severely restricted.

Child representatives

In Egypt, in most cases, the courts rely on a child's parents to represent the child's views. While this is a usual occurrence given that parents are often children's legal guardians, in cases with conflicting interests between parents, guardians and children, this can become a challenge undermining the child's rights. The UN Committee on the Rights of the Child has clarified good practice regarding the role of representatives and the child's capacity.⁶ Representatives should ensure that the child's views are transmitted accurately to the decision maker. They should exclusively represent the child's interests and should not put across their own views as to what is in the best interests of the child.⁷ The role of a guardian *ad litem* or another form of trusted support person has been introduced in many countries to ensure the child's genuine opinion is presented in front of courts and other competent authorities. For this purpose, the Egyptian Child Law enables an independent representative to be appointed. It has not been possible to ascertain how often the provision to appoint an independent representative is used. As mentioned above, there is also room to elicit further the direct views of the child when feasible.

Participation rights for child victims of crime

According to Article 116 *bis* of the Child Law, child victims and witnesses of crime, at all stages of arrest, investigation, trial, and implementation/execution of judgments, 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. Further, they shall have the right to protection, health, social and legal assistance, rehabilitation and reintegration into society in accordance with the UN Guidelines on Justice for Child Victims and Witnesses of Crime.

However, in criminal proceedings, Articles 5 and 6 of the Code of Criminal Procedure establish that complaints by victims under the age of 15 or with a mental disability may only be heard when presented by the guardian or the trustee of the child. Egypt may consider reducing some of the above requirements on a case-by-case basis to ensure that children who are capable of expressing their opinions can be heard in testimony. For example, in **Canada**, there is no legal age limit to testify in court, and children's testimony is presumed valid; children as young as 5 years old have testified in criminal courts in Canada⁸. In addition, their effective participation is supported by testimonial aids (see Box 5.5) (Department of Justice Canada, n.d.^[11]).

Box 5.5. Support for child witnesses and victims in Canada

Since 1988, the Canadian Criminal Code has provided **testimonial aids** for children when they have to testify in court. The provisions have been expanded over the years. The Canadian Victims Bill of Rights outlines rights for victims of crime, including child victims:

- allowing a support person to be present while victims and witnesses testify to make them more comfortable (section 486.1)
- allowing victims and witnesses to testify outside the courtroom by closed circuit television or inside the courtroom but behind a screen which would prevent them from seeing the accused (section 486.2)
- appointing counsel to cross-examine a victim or witness when the accused is self-represented (section 486.3).

When a victim or witness is under the age of 18, the prosecutor may introduce a video recording of the child's interview with the police or other interviewer. For this video to be admitted as evidence:

- the video must have been made a reasonable time after the alleged offence
- Children must come to court to adopt the contents of their interview video recording and be subject to cross-examination (section 715.1)

However, there is an exception even where the above two points are satisfied, if the court believes that the admission of the video would interfere with the administration of justice, the video can be exceptionally blocked from the trial.

Source: (Government of Canada, n.d.^[12]), Victims' Rights in Canada, www.justice.gc.ca/eng/cj-jp/victims-victimes/factsheets-fiches/aids-aides.html.

In the case of family violence in Egypt, no legal measures can be enforced for the protection of the child without an official complaint submitted by a parent or relative of the child who has been abused. In case of a conflict of interests between the child and its representatives, the PPO shall represent the children.

In criminal proceedings where the child is a defendant, several principles assert the right of the child to be heard (e.g., Articles 3 and 116 *bis*[d] of the Child Law). However, strict interpretation of Articles 131 of the Child Law and 5-6 of the Code of Criminal Procedure can restrict or make ineffective in practice the right of the child to be heard. Where the court deems it necessary, it may order the child to leave the session after questioning him or her. Article 131 of the Child Law establishes that all proceedings and judgments of which the child must be informed, shall be provided to a parent, guardian or other person responsible

for the child, each of whom may initiate the legally prescribed remedies of appeal in the best interest of the child, and each of them has the right to proceed with the methods of appeal prescribed by law. According to the Code of Criminal Procedure, a complaint shall be lodged by the guardian of the victim if he or she is under 15 years of age.

In this context, there is room to establish specific measures to guarantee child-friendly access to justice in proceedings, including that their voices are heard and that they are provided with comprehensive information adapted to their level of maturity.

Participation in family proceedings

In family proceedings that directly or indirectly affect the child, consideration by judges of the “best interests of the child” requires hearing the child’s views before a decision is made by the court or during the mediation process. However, stakeholders advised that, in practice, children are not often present or heard in court, meaning their opinion is not usually taken into consideration – unless the judge deems it necessary. In instances when children are heard, it is often through a parent or guardian acting as their representative. There are provisions for the court to appoint a legal guardian to represent the child in such cases. This may occur on the court’s own initiative or following a request by the prosecution or a third party.

In custody cases, including international custody cases in which one of the parties is a foreigner, while the best interest of the child is sought, Egyptian custody laws gives mothers an edge in custody proceedings and children’s voice may not be heard before the age of 15 unless the judge deems it necessary.

The interpretation and application of the principle of the "best interest of the child" with regard to issues related to custody may be helpful in choosing who is entitled to custody of children. Therefore, it may be necessary for Courts to take into account children's views, based on their level of maturity.

5.2.2. Child participation in policy design and delivery

Several national plans and strategies aim to enable children and young people’s participation in policy making and service development. For example:

- the Strategic Framework of Childhood and Motherhood prioritises activating the child’s right to express his opinions and enabling him to participate in decision making
- the NCCM plan to implement the strategic framework and the National Plan for Childhood includes a general objective to institutionalise the work of the NCCM in confirming and implementing the child’s right to participate in determining services and activities relating to children’s rights to health, education and protection
- the National Human Rights Strategy aims to ensure children’s rights to express their views are upheld
- ENCRO’s objectives include a focus on the importance of children’s participation in policy making relating to children’s services.

Stakeholders also reported an NCCM programme focusing on the participation of young people aged 10-18, involving interactive workshops to identify children’s needs and priorities. However, children can face hindrances with regard to their right to free opinion and expression, leading to their voices being less audible by actors in the justice system and including those involved in policy design and delivery.

In accordance with stakeholder analysis, the effectiveness of civic participation mechanisms remains a key challenge for Egypt (World Justice Project, n.d.^[13]). This could present scope for action as civic participation is vitally important for children to be heard with regard to their legal and justice needs, including in the context of new legal reform that might affect them.

5.2.3. Recommendations to strengthen empowerment and participation

- Consider reviewing the legal framework determining the age at which children are deemed to have a sufficient understanding of the matters in question to bring coherence to conflicting laws and rules regarding the age of legal capacity and ensure these are in line with international standards.
- Develop clear protocols for when and how children’s views should be sought in proceedings, ensuring these are in line with international standards.
- Consider establishing an effective system of trusted “support persons” or guardians ad litem to facilitate children’s participation in proceedings.
- Provide additional training to stakeholders in the justice system aimed at developing increased awareness and a shared understanding of children’s participation in proceedings, children’s legal capacity and the role of children’s representatives.
- Building on the NCCM’s current participation programme, expand its resources and capacities to ensure it employs robust participation methodology and secure the sustainability of this work.

5.3. Appropriateness and responsiveness

When children come into contact with justice systems, they are often in great distress, experiencing trauma or in need of protection. However, they sometimes encounter professionals they find hard to trust, settings they find intimidating and procedures they find confusing.

To obtain just outcomes for children, justice systems must treat children with dignity, respect, care and fairness. Accordingly, justice systems must be age-sensitive and tailored to children’s needs.

Appropriateness and responsiveness. *People-centred legal and justice services are appropriate and responsive to the individual, the issues they face, and their situation. They are tailored, proportionate, efficient and flexible to accommodate local circumstances.*

In other words, people-centred systems require that at all stages of cases involving children, it is important that the justice system provides a child-friendly environment and child-friendly arrangements guided by the best interests of the child.⁹ This includes how professionals interact and communicate with children, the methods used for gathering evidence and hearing testimony from children, and the type of support provided to children before, during and after proceedings. The following sections explore key areas related to child-friendly justice, including specialised training for relevant professionals, child-friendly facilities and procedural arrangements, and services for children deprived of their liberty. The availability of child-specific courts and prosecution services are analysed in Chapter 4.

5.3.1. Training for relevant professionals working with children

A professional and competent workforce of child justice and child protection actors is fundamental to creating a child-friendly justice system. This can be made possible through specialised training programmes for officials and by partnering with academic institutions to update the relevant curriculums and develop a mechanism for accrediting specialists.

There have been significant efforts by national stakeholders, led by the Ministry of Justice, CSOs and international organisations, to support training for Egyptian judges on enhancing the child-friendly justice system. However, room to further build capacity for child-friendly justice for judges exists. The establishment of training for child affairs judges at the beginning of their tenure . Strengthening an institutionalised approach towards training and limitations on the regular rotation of staff, by developing appropriate mobility rules for judges overseeing cases involving children, would further enhance

specialisation. In practice, judges change specialisation every three-year term or less, despite the justice system having invested in their training.

Such issues with training, rotation and specialisation present challenges in recruiting a skilled and motivated workforce in the field of child-friendly justice. In addition, stakeholders have reported that appointment and retention of senior judge in child courts are difficult as they are considered as “Courts of first instance” – courts of original or primary jurisdiction, which are primarily appropriate for Judges who have less professional experience. For example, once judges have been hearing cases of a child for several years and have acquired the required judicial experience to be promoted to the appeal level, their career progression forces them to leave the child court. Reforms and measures to enhance the attractiveness of this specialisation with different incentives could support the development of a well-trained workforce.

In the prosecution service, child justice training is included in the general training received by deputy prosecutors at the start of their appointment. Stakeholders highlighted that deputy prosecutors at specialised Child Prosecution Offices (CPOs) receive regular training in handling cases in which children are involved and in understanding the specificity of the legal system as applicable to children, whether as offenders, victims or children at risk. Additional specialised training at the start of the appointment as a child affairs prosecutor could be introduced. The specialisation of deputy prosecutors of the CPO is often hindered, similarly to that of the judiciary, by their short tenures. Newcomers take time to understand the legal specificity of the treatment of children coming into contact with the authorities and to attend training in this regard.

Within the MoSS, stakeholders have identified room to strengthen the capacity of social workers, in particular for those providing reports to child affairs judges and prosecutors, that will impact a child’s case outcome. Evidence from OECD interviews indicates that people in these roles would also benefit from strengthened capabilities and security guarantees when visiting the child’s environment as they often face hindrances when working in unknown or difficult environments. There is a growing need across Egypt for psychological help in child cases, with staff needing to be trained to handle different types of child situations, trauma, and victimhood.

Some countries have also considered developing multi-stakeholder training that brings together different actors from the child justice system. For instance, in Ireland, the Youth Justice Strategy 2021-2027 recently developed plans to offer specific training for professionals involved in the criminal justice system to improve the efficacy of services, including developing multi-disciplinary training modules (Strategic Objective 1.9).

Finally, as mentioned previously, lawyers working in the NCCM Child Helpline and in partner CSOs have highlighted the potential benefits of training on certain types of crimes committed against children, including cyber-extortion, child labour, child marriage and FGM. The need has also been identified for training in the area of child-friendly communication for children of different ages.

5.3.2. Child-friendly facilities and arrangements during proceedings

To be child-friendly, premises where children are heard should provide non-intimidating, adapted settings. This may include establishing separate entrances for children in the context of court proceedings, adapting procedural rules, safe child-friendly waiting rooms and dedicated child-friendly premises for multi-disciplinary work with child victims of abuse and violence.

Egyptian stakeholders increasingly place importance on the existence of child-friendly facilities. The NCCM Child Helpline has developed several child-friendly, entirely adapted rooms to interview children and their families when they request face-to-face support from the Child Helpline. These rooms have toys for children of different ages, child-sized bright-coloured tables and chairs, and a rather informal setting to help avoid intimidation.

The PPO is working with the UNICEF to build 30 child-friendly rooms in their offices. Despite these efforts, especially in relation to court procedures, minimal child-friendly facilities currently exist. In this regard, and given Egypt's commitment towards the SDGs, there may be scope to request specific budget allocations in co-operation with the Ministry of Planning and Economic Development and the Ministry of Finance to ensure the achievement of SDG 16. Stakeholders have also reported a lack of appropriate rooms in police stations, CPCs and sub-committee offices.

With regard to the child-friendliness of judicial proceedings and premises, the further adaption of the Child Courts already active in Egypt could be considered. Child friendliness of the courts' layout could be enhanced by reducing its formality, such as by placing the judge and the child at the same level instead of above on a platform. Egyptian stakeholders reported that the pilot court considered a model Child Court is the one located in Giza, which has many child-friendly adaptations. It was not possible in the context of this project to visit these facilities. Another option, as implemented in Switzerland, is to hold some minor offence hearings in the judge's office and not in a courtroom, which makes the environment less intimidating for the child.¹⁰

Article 126 of the Child Law stipulates that nobody is allowed to attend the trial of the child before the Child Court except his or her relatives, witnesses, lawyers, social observers and any other person having the permission of the court to attend with a special permit. If deemed necessary, the court may order the child to leave the session after questioning him or her or send away any of those people mentioned in the previous paragraph. The same Article states that the court may not pass a judgment convicting the child except after explaining to him the procedures that have taken place in his absence. These are considered child-friendly legal measures. Box 5.6 outlines some child-friendly measures adopted in the Crown Court of the United Kingdom.

Box 5.6. United Kingdom practice direction for the Trial of Children and Young Persons in the Crown Court

In the United Kingdom, following several cases where the national court settings were ruled to be intimidating for a child, a Practice Direction for the Trial of Children and Young Persons in the Crown Court was put in place. The aim was to avoid intimidation, humiliation or distress for the child on trial. Some elements of this Practice Direction are:

- the possibility for the child to visit the courtroom before the trial starts, when the court is quiet outside of working hours, to become familiarised with it
- police support to avoid intimidation or abuse by the press
- the possibility for children to freely sit with members of their family or others in a like relationship and in a place which permits easy communication with them
- no wigs or gowns to be worn (as is customary in normal Crown Court proceedings), and the trial should, if practicable, be held in a courtroom in which all the participants are on the same, or almost the same level
- the requirement for an explanation of the procedure in terms the child can understand
- restricted attendance of court hearings for the public.

Source: (Judiciary Northern Ireland, n.d.^[14]), Trial of Children and Young Persons in the Crown Court, www.judiciaryni.uk/sites/judiciary/files/decisions/Practice%20Direction%20No%20%20of%202011.pdf.

As underscored in Chapter 3 when describing different child pathways, there is scope to strengthen procedures to try to avoid negative impacts on children during legal proceedings, such as developing the information technology to allow audio and video statements and avoid repeated interviews, plus staff training to make these interviews as concise and consistent as possible. Ideally, interviews should be conducted by the same person to build trust and familiarity, using adapted language given the child's age and in child-friendly facilities. Enabling children to be accompanied by someone they can trust and scheduling regular breaks are also good practices to enable them to feel at ease during proceedings. Box 5.7 provides an example of a child victim justice pathway in Canada that involves the use of video statements, showing how this can avoid multiple interviews and reduce the negative impacts of the process on the child.

Box 5.7. A sample child victim pathway in Canada

Carole's pathway

Carole, aged 10, tells her mother that her stepfather has been abusing her. Carole's mother contacts the police. The police refer Carole and her mother to the local Child Advocacy Centre (CAC). Within a week, Carole is interviewed by a CAC employee with forensic interview training; the interview is filmed. Carole also meets with a victim support worker who provides Carole with information about the criminal process and also connects her to a counsellor. The video is shared with both the police and a child protection worker so that Carole does not have to tell her story multiple times.

The police provide the video statement to the prosecutor. At the pre-trial conference with the judge and defence counsel, the prosecutor requests that the video be admitted as Carole's evidence at trial. They also request that when Carole is cross-examined on her video statement, she be permitted to testify behind a screen so that she cannot see her stepfather and that she has a victim support worker with her during her testimony. Although the defence objects, the court finds no administration of justice concerns, and the prosecution's requests are granted.

Source: OECD Workshop in Egypt, 28 September 2022.

5.3.3. Considerations for children's deprivation of liberty

International standards emphasise that any form of deprivation of liberty of children should be a measure of last resort and be for the shortest appropriate period. They also underscore that special efforts must be undertaken to avoid pre-trial detention. When deprivation of liberty is imposed, children should be held separately from adults. In all circumstances, children should be detained in premises suited to their needs.

In Egypt, the legal framework prescribes that child offenders are held in custody in observation centres within care institutions during the investigation and trial of their case. As previously mentioned, the law limits the number of days children can be held in custody and the control of extensions through follow-up reports. Stakeholders have reported that this may lead to long periods of custody in cases that are complex to investigate. Egypt may consider legislative reform as a way of reducing custody in pre-trial phases where it is unnecessary and only using detention as a last resort in line with international standards¹¹ and continue to ensure limited periods of custody in practice. The long average periods of custody in care institutions, ranging from three years for open or semi-closed establishments to five years in closed institutions¹², were identified by the CRC as being in contravention of international juvenile justice standards¹³ and remain an area for progress.

The care institutions where children are placed in custody due to conflict with the law and for their protection are described in Chapter 4 (sections 4.3.5 and 4.3.7). To ensure high quality and adequate treatment in

these facilities, Egypt has achieved significant progress in activating the inspection of places of detention and care and observation centres. In particular, the judiciary and the PPO have made significant efforts in this area. Article 134 of the Child Law requires the President of the Child Court, or its delegate, to visit social care and correctional institutions and places of detention of children at least once every three months to ensure that the detention authorities are carrying out their obligations, especially towards rehabilitating the children and assisting them to reintegrate into society. Enforcing this article has been the subject of discussions during several training sessions that the Ministry of Justice has organised for child affairs judges in recent years.

Since 2017, the PPO has been actively seeking to enforce prosecutorial inspection of observation and care institutions. Against this backdrop, the PPO has found violations and initiated investigations and criminal proceedings. Further concentration and co-ordination of efforts may lead to better results in ensuring compliance with the law in these institutions.

The PPO has made important strides to ensure that children are not detained with adults in police stations and care facilities, including reportedly nationwide monitoring and enforcement of this aspect from the Child Protection team in the PPO. Further, the prosecutorial Circular No. 19 of 2008 instructed deputy prosecutors to pay due consideration to any communication containing allegations of children detained with adults and to inspect places of detention to “[...] make sure children are not detained with adults in the same place, and that execution of detention orders respects standards of classification of detainees according to age, gender, and type of crime”. The Judicial Protection Unit within the PPO is actively monitoring compliance with this circular, receiving reports from all over the country, which highlights the positive effects of having a dedicated team in the central prosecution that can co-ordinate and support nationwide enforcement.

5.3.4. Recommendations to strengthen appropriateness and responsiveness

Invest in training for relevant professionals:

- Work towards the development of trainings for child affairs judges and child affairs prosecutors at the beginning of their tenure and child justice training for all judges overseeing child days in regular courts.
- Enhance the attractiveness of the child justice specialisation within the judiciary and prosecution service with different incentives to support the development of a well-trained workforce.
- Build capacities of lawyers and civil society either through training or additional resources to hire specialised lawyers on certain types of crimes committed against children, including cyber-extortion, child labour, child marriage and FGM.
- Strengthen the institutionalised approach towards training and consider limiting the regular rotation of child affairs judges and prosecutors to enhance specialisation.
- Strengthen specialised training and support of social workers across the system to enhance the quality of reports received by prosecutors and judges in child cases.

Increase child-friendly facilities and procedural arrangements:

- Accelerate the establishment of child-friendly procedures, interview and waiting rooms in courts, prosecution offices, police stations and CPCs. Consider requesting specific budget allocations for this purpose in co-operation with the Ministry of Planning and Economic Development and the Ministry of Finance towards the achievement of SDG 16.
- Strengthen procedural means to avoid negative impacts on children during legal proceedings, such as allowing audio and video statements to avoid repeated interviews, staff interview training and scheduling regular breaks.

- Enable children to be accompanied by a support person they can trust during their contact with justice services and courts.

Appropriate services for children deprived of their liberty:

- Consider legislative reform to reduce unnecessary custody in pre-trial phases only using detention as a last resort in line with international standards and continue to ensure limited periods of custody in practice.
- Continue to strengthen co-ordination and institutionalisation of care institution inspection to improve efficiency and ensure a broader coverage of places of detention and care or observation institutions at the national level.

5.4. Ensuring sufficient capacities and resources for the child justice system

Child justice systems can only deliver the services necessary to address children’s legal needs if they are supported with sufficient resources. This includes securing sufficient staffing, expertise, skills, tools, equipment, buildings and other infrastructure.

The latest CRC report submitted by Egypt mentions that to “...ensure children’s right to education and health - the government is committed to proactive measures in favour of the most vulnerable groups. As a result, the state’s general budget in the fiscal year 2017/18 has allocated more than 81.2 billion [Egyptian] pounds entirely directed to childhood” (UNHCR, 2023^[15]). This figure would benefit from a breakdown of categories or further information to enable a fruitful resource allocation analysis and identify possible inefficiencies. There is space to create updated, relevant financial data on what is allocated for child justice, as well as the need for more transparent governance of the justice system.

More information is available about children’s social protection budgets, especially regarding social assistance programmes, than regarding children’s legal protection. Further, UNICEF and the Egyptian Ministry of Finance recently launched a joint analytic report on Egypt’s national budget, which amounts to 158 billion US dollars for 2021-22, (Reuters, 2021^[16]) as a part of their *Child Budget Transparency Series* (UNICEF, 2020^[17]). The document surveys the size and the composition of Egypt’s annual public budget, focusing on government social spending and child-specific allocations on education, health and social protection (UNICEF, 2021^[18]). The report’s first edition alludes to children’s legal needs but does not examine Egypt’s spending on child-friendly justice (UNICEF, 2021^[18]). Overall, it is difficult to acquire public financial data concerning state entities mandated to ensure respect for children’s rights and improve their lives in Egypt.

Supporting children’s access to justice necessarily involves significant and carefully targeted investment, balancing resources across the formal justice system, auxiliary services and preventative community-based services that tackle the root causes of children’s legal and social problems. Child-specific budgets that are clearly identified in government strategies and financial plans can help make this a reality by allocating resources more effectively.

5.4.1. National funding for child-friendly justice

Evidence from OECD interviews with stakeholders suggests that there is scope to strengthen the existing infrastructure, budget, and workforce for the child justice system in Egypt. Several initiatives and efforts have been conducted as pilot projects; however, they are often funded by international co-operation, making it challenging to continue once the pilot is complete, even if it is successful. In addition, services provided to children through the main institutions, including legal aid, psychological counselling and shelter, are primarily reliant on the provision by NGOs.

Researchers from the University of Cairo and the Arab Academy for Science, Technology and Maritime Transport conducted a detailed budget analysis of government spending on institutions relevant to child protection in Egypt, using data from the State's General Budget issued by the Ministry of Finance covering the fiscal years 2014/15 to 2018/19. It was estimated that expenditure on the social protection sector as a whole decreased in the five-year period studied in absolute terms (by around 28%), as a relative share of total public expenditure (from 27.5% to 21.1%) and as a ratio of gross domestic product (GDP) (from 8.8% to 5.7%), whilst public debt transactions increased from 34% to 47% of total expenditure. Looking specifically at activities of relevance to child protection, the authors estimate an average annual expenditure of 5.2 billion Egyptian pounds, representing 0.5% of total public expenditure and 0.1% of GDP (El Husseiny, Gamal El-Din and Amin, 2020^[19]).

The study highlighted difficulties identifying the specific amount of budget funds allocated to child protection due to the "line-item approach" to budgeting adopted by the government, meaning a number of assumptions were required to calculate estimates. Nevertheless, the authors concluded that further public investment in child protection is necessary compared to the financial support allocated to other pertinent sectors in Egypt (El Husseiny, Gamal El-Din and Amin, 2020^[19]).

Box 5.8. Funding for child protection and other related services in OECD countries

Funding for child protection and related services in OECD countries typically come from different sources, like governmental budgets, private donations, and grant from charitable organisations.

OECD countries approaches to funding family support services vary depending on their governance structure, with public funding used to provide grants, subsidies, earmarked subsidies and conditional cash transfers.

Government funding:

- In the **United States**, the federal government provides funding to states through the Child Abuse Prevention and Treatment Act (CAPTA) and the Child Welfare Services (CWS) program (Child Welfare Services, n.d.^[20])
- CAPTA requires states to have provisions and procedures for reporting, investigating, and responding to child abuse and neglect cases, and it established minimum standards for the training of professionals who work with children.
- CAPTA also establishes the Office on Child abuse and Neglect within the Children's bureau of the US Department of Health and Human Services to coordinate federal efforts.
- The CWS provides child welfare services like foster care, adoption, established by each State. It is administrated by the Children's bureau within the US department of Health and Human Services.

Private donations:

In the **United Kingdom**, the National Society for the Prevention of Cruelty to Children (NSPCC) raises funds through donations and fundraising events to support child protection services including helplines, counselling, and advocacy to children and families. The NSPCC also raises awareness of child abuse, promotes public policy changes and provides child protection services. It works closely with local communities for the protection of children (NSPCC, n.d.^[21]).

Grants from charitable organisations:

The OAK Foundation, based in **Switzerland**, provides grants to support child protection programs in countries around the world, including in OECD countries (Oak Foundation, n.d.^[22]).

The Bernard Van Leer Foundation, based in the **Netherlands**, provides grants to support early childhood development and education programs, which help prevent child abuse and neglect. It also supports research and advocacy efforts aimed at improving policies and practices related to child protection (OECD, 2023^[23]).

Sources: (Child Welfare Services, n.d.^[20]; NSPCC, n.d.^[21]; Oak Foundation, n.d.^[22]; OECD, 2023^[23])

This conclusion is consistent with the findings from OECD interviews with stakeholders, who highlighted some specific funding challenges currently affecting the child justice system, including for the Child Helpline, PPO and other stakeholders.¹⁴

5.4.2. Local authority and civil society funding

As highlighted, resources for programmes and activities related to children remain low. As a result, local government services for children and for implementing child-friendly justice measures tend to lack the resources and capacity they would need to be effective. This can be demonstrated in the weaknesses of CPCs, for example, where a lack of dedicated staff and budget means they are often unavailable or respond too slowly when other institutions contact them.

Stakeholders generally agree that CSOs and NGOs are filling in the gaps left by CPCs and other government services in several areas. State institutions have reported that they often rely on the support these organisations provide to children, including legal, social, and psychological assistance. At the same time, funding for CSOs and NGOs is itself limited and uncertain, raising questions about the sustainability of services that are critical to the entire system.

5.4.3. Infrastructure capacity: staff and facilities

OECD analysis points to limited staffing, premises and other infrastructure necessary for supporting children at risk and child offenders and for the effective implementation of child-friendly justice measures in Egypt. Resource constraints are a fundamental challenge to developing child-friendly premises and facilities.

Multiple stakeholders have highlighted the problem of limited training for staff dedicated to working with children. Specific professions suffering from chronic staffing shortages include lawyers, social workers and psychologists. The rotation of personnel in certain professions, notably judges and prosecutors, exacerbates a wider problem with the continuity of staffing in key services. This can create barriers to building relationships, trust and co-operation between institutions, and means staff have insufficient knowledge of the work of other stakeholders and the possibilities and remedies that may be available for a child.

In addition, Egypt may consider making investments to facilitate the establishment of additional child courts in each governorate beyond those in Cairo and Giza, as well as investment in child-friendly court mechanisms, including audio and video technologies.

Child justice institutions may consider increasingly showing the link between access to justice for children and the cost-effective fiscal benefits and positive effects in wider areas of children's lives, as outlined in Chapter 2, to continue making the case for the child justice system to receive the necessary resources to achieve objectives under SDG 16 and the Egyptian Vision 2030.

5.4.4. Recommendations to ensure sufficient capacities of the child justice system

- Consider reinforcing the capacities of the child justice system by allocating additional and stable

resources, including specialised staff and infrastructure.

- Foster an enabling ecosystem for CSOs and NGOs that provide fundamental services for children, so they can continue to undertake this role.
- Explore ways to stabilise further support for pilot projects that are deemed to be successful to enable their sustainability and long-term impact.

5.5. Prevention, proactivity and timeliness

Prevention, proactivity and timeliness: *people-centred legal and justice services are proactive and contribute to the prevention and timely resolution of legal problems. Recurring legal problems are addressed on a systemic basis to address the underlying causes, thereby preventing reoccurrences.*

Root causes of children’s legal needs are most often linked to social, health and economic factors. Legal needs research has shown that people from disadvantaged socio-economic backgrounds tend to have more legal problems. In view of this, an integrated approach that adopts proactive initiatives towards early intervention and prevention may be much more effective than waiting until children come into contact with the justice system. During the focus group with the Egyptian Child Forum, children provided their recommendations to improve the justice system for children. However, several of them underscored the importance of wider concepts, including the need to “make laws that respect children and ensure the importance of their opinions” and provide “more attention to [the] quality of education, and developing [the] surrounding environment.”

The development of prevention strategies can be supported by international standards and comparative research on the root causes of children’s involvement in the child justice system. International and national studies confirmed that intensive family- and community-based treatment programmes that have been designed to make positive changes in aspects of the various social systems (home, school, community and peer relations) and contribute to the serious behavioural difficulties of children can reduce the risk of children coming into contact with child justice systems.

This can be relevant to the Egyptian context, where UNICEF and the MoSS estimated that 29.4% of children in Egypt were “multidimensionally poor” in 2017. This means that they were deprived in two or more aspects of child welfare, including access to water, sanitation and information (devices), housing conditions, health, nutrition, education and protection from violent disciplinary practices. Deprivation in protection was found to be the main contributor to multidimensional child poverty, and rates were highest in rural areas and among the under-fives (UNICEF, 2017^[24]).

5.5.1. Prevention measures

Both the Constitution and the Child Law reflect Egypt’s express adoption of the “best interests of the child” principle. As mentioned previously, the Constitution provides principles for: the fulfilment of rights to health and nutrition, education and housing; establishing restrictions on child labour; detailing protection from various forms of violence, abuse and exploitation; and setting the general framework for a child-friendly justice system. In the Egypt Vision 2030, the government of Egypt clearly states its firm commitment to addressing poverty and advancing human development. One key pillar in this vision is social justice, with ongoing reforms focusing on establishing an integrated social protection system that supports the poor with targeted financial assistance and services.

The emphasis of this reform is strategically placed on children and young people and the provision of child protection services (UNICEF, 2017^[24]). In addition, Pillar 3 of the Strategic Framework for Childhood and Motherhood is about protecting children from all forms of physical and psychological violence, ensuring their rights to housing and care, combating child labour and trafficking, and protecting marginalised

children. Meanwhile, the National Human Rights Strategy aims to protect children from abuse, exploitation, negligence and all forms of violence and provide support to CPCs.

Box 5.9. Guiding principles: prevention, proactivity and timeliness

A preventative and proactive approach to justice for children

- The state's approach to justice for children should recognise that the root causes of children's legal needs are linked to social, health and economic factors and that a joined-up, cross-departmental approach with early intervention and prevention at its core is more effective than waiting until children have ended up in the justice system (OECD, 2021^[25]).¹
- Effective age-appropriate, multidisciplinary support should be provided to children and young people in the community to address a range of psychosocial issues, including family and relationship problems, emotional and mental health issues, substance abuse, housing problems, violence and offending behaviour.
- Effective crime prevention programmes should be implemented, emphasising children and young people's social development and well-being.
- Effective measures for preventing and detecting sexual offences against children should be implemented.

Alternatives to judicial proceedings

- The minimum age of criminal responsibility should not be set too low and should be clearly determined by law (Council of Europe, 2010^[9]).²
- Alternatives to judicial proceedings such as mediation, diversion away from judicial mechanisms and alternative dispute resolution are encouraged whenever these may serve the child's best interests. The preliminary use of such alternatives should not hinder the child's access to justice. Alternatives to court proceedings should guarantee an equivalent level of legal safeguards (Council of Europe, 2010^[9]).³

Timeliness of proceedings – avoiding undue delay

- In all proceedings involving children, the urgency principle should be applied to provide a speedy response and protect the best interests of the child while respecting the rule of law (Council of Europe, 2010^[9]).⁴ Children's cases should be prioritised and dealt with expeditiously.
- National authorities should take all necessary steps to facilitate the execution of judicial decisions and rulings involving and affecting children without delay (Council of Europe, 2010^[9]).⁵

Notes:

1. Based on the principles of a preventative approach to justice set out in OECD Framework and Good Practice Principles for People-Centred Justice

2. Council of Europe (2010) op.cit. Part IV B (Child-friendly justice before proceedings), para. 23.

3. Council of Europe (2010) op.cit. Part IV B (Child-friendly justice before proceedings), paras. 24-26

4. Council of Europe (2010) op.cit. Part IV B (Child-friendly justice before proceedings), Guideline 50

5. Council of Europe (2010) op.cit. Part IV B (Child-friendly justice before proceedings), Guideline 76

Sources: (OECD forthcoming, 2023^[26]; OECD, 2021^[25]; Council of Europe, 2010^[9])

Prevention and early intervention programmes should be focused on support for families, particularly those in vulnerable situations or where violence, disability, illness or poverty persists. Support should be provided to children at risk, for example, children who are not in school or drop out early from education. Peer group support and strong involvement of parents, schools and community services are recommended. Community-based services and programmes that respond to children's specific needs, problems, concerns and interests and that provide appropriate counselling and guidance to their families are essential for crime prevention.

Box 5.10. Australia's Family Support Programme

The Families and Communities Programme (FCP) provides early intervention and prevention support to families, children, young people, volunteers, refugees, migrants and other individuals with special circumstances. Priorities include activities to improve financial well-being and capability, strengthen communities, support migrants' transition to life in Australia, and ensure the lifetime well-being of families and children.

Source: (Australian Department of Social Services, n.d.^[27]), Australian Department of Social Services, www.dss.gov.au/our-responsibilities/families-and-children/programmes-services/parenting/families-and-children-activity.

Articles 18 and 27 of the CRC confirm parents' responsibility for their children's upbringing. Still, at the same time, the Convention requires State parties to assist parents (or other caregivers) as necessary to carry out their child-rearing responsibilities. Investment in early childhood care and education correlates with lower rates of children at risk. There are good examples that demonstrate the benefits of early intervention even when the child is very young, for example, with home visitation programmes to enhance parenting capacity. Measures of assistance could draw on existing evidence on community and family-based prevention programmes, such as programmes to improve parent-child interaction, partnerships with schools, positive peer association and cultural and leisure activities.

For example, early intervention for younger children requires child-friendly and multidisciplinary responses to the first signs of behaviour that would be considered a criminal offence. Evidence-based intervention programmes should be developed that reflect not only the multiple psychosocial causes of such behaviour but also the protective factors that may strengthen resilience. Interventions must be preceded by a comprehensive and interdisciplinary assessment of the child's needs. As an absolute priority, children should be supported within their families and communities. In exceptional cases requiring an out-of-home placement, such alternative care should preferably be in a family setting. However, placement in residential care may be appropriate in some instances to provide the necessary array of professional services. Such placements are only to be used as a measure of last resort and for the shortest appropriate period and should be subject to judicial review.

Prevention programs and approaches also include reducing a child's exposure to the criminal justice system, by decriminalising petty offenses such as truancy, running away, begging or trespassing, on the basis that such offenses are often a result of poverty, homelessness, or systemic family violence. Further, with regard to sex work-related cases, State parties to the CRC have undertaken to "protect the child from all forms of sexual exploitation and sexual abuse." Towards this end, they shall take "all appropriate national, bilateral and multilateral measures to prevent [...] [t]he exploitative use of children in prostitution or other unlawful sexual practices".¹⁵ A similar provision, with regards to the prevention of child exploitation in the drug business, establishes that "State parties shall undertake all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs [...] and to prevent the use of children in the illicit production and trafficking of such substances."¹⁶

Possible preventive measures in the case of child offenders include legislative reforms to raise the age of criminal responsibility, as well as alternatives to judicial proceedings such as mediation, diversion of judicial mechanisms and alternative dispute resolution. The preliminary use of such alternatives should not hinder the child's access to justice.

In Egypt, several Egyptian laws seek to protect children from sexual exploitation. However, there is scope to strengthen protection against the prosecution of children involved in sex work or to guarantee that their status in such cases is solely and exclusively as victims of sexual exploitation. Children who come into contact with the authorities on account of the said offences, as well as others such as petty theft, could benefit from special provisions of decriminalisation, rehabilitation and reintegration programmes.

5.5.2. Rehabilitation and reintegration

Stakeholders have generally referred to an institutional gap regarding the infrastructure necessary for enforcing the non-custodial sentences and measures available under Article 101 of the Child Law,¹⁷ some of which require a significant aspect of rehabilitation and reintegration. As discussed earlier (see, for example, Chapter 4 under section 4.3.8 on Diversion), the pilot to divert children away from the regular child justice pathways could have benefited from a stronger infrastructure. It appears that even though judges may lean in certain cases towards implementing non-custodial sentences, the lack of infrastructure necessary for enforcing these sentences can cause judges to refrain from utilising the non-custodial measures available under the Child Law.

Further findings about child offenders indicate there are gaps in specific rehabilitative or reintegrative measures in favour of the child. This could be particularly alarming concerning offences with a significant aspect of child exploitation, such as in sex work and drug trade cases referred to in the preceding paragraph. The Code of Criminal Procedure confers upon the competent criminal court the power to appoint a lawyer to initiate proceedings before the civil judiciary in favour of child victims who otherwise have no access to legal assistance.¹⁸ This is in line with international standards whereby children who have been victims of crime should have the right to compensation.¹⁹ An additional step proposed by the Guidelines of the Council of Europe is for the child's lawyer or guardian to have the mandate to take necessary steps to claim for damages during or after criminal proceedings in which the child was a victim. Further data collection would enable assessment of how often compensation is sought or obtained in this way on behalf of child victims.

Children and young people who have been victims of crime may need the assistance of services for many years to aid their recovery. Empirical evidence supports the view that interventions targeting the victims of violence are important in addressing victims' short- and long-term needs and helping victims restore their security and cope with their trauma, preventing further violence and reducing recidivism (OECD, 2019^[28]). The Committee on the Elimination of Discrimination against Women expressed concerns in its 2021 report about the lack of physical and psychosocial rehabilitation centres and support services available for victims of sexual abuse and exploitation in Egypt.²⁰

Young offenders should receive education and support both whilst in detention to prepare them for their return to their communities and on release to aid their reintegration into society (Vuckovic Sahovic and Eriamiatoe, 2020^[29]). Stakeholders reported that there have been programmes in social care institutions aimed at reintegrating children into society, and there is an ongoing project in collaboration with the United Nations Office on Drugs and Crime (UNODC) which works on the social reintegration of children in the Marg Punitive Institution. The Committee on the Elimination of Discrimination against Women expressed concerns in its 2021 report about the lack of physical and psychosocial rehabilitation centres and support services available for victims of sexual abuse and exploitation in Egypt.²¹ Box 5.11 provides an example of Crime Victims Support Offices that provide comprehensive services to victims, including child victims, in Spain.

Box 5.11. Crime Victims' Support Offices in Spain

Crime Victims' Support Offices are a free public service in Spain created by Law 35/1995 to provide aid and assistance to victims of violent and sexual crimes, subsequently regulated by Law 4/2015 of the Statute of the Crime Victim. There are 26 Offices throughout the national territory, and there is at least one in each Autonomous Community (i.e., the territorial equivalent of Egyptian Governorates).

The model pathway of the Offices is implemented through different stages: reception and guidance, information, intervention and follow-up. The stages involve a general orientation of the victims, specific legal information throughout the criminal proceedings, support in the necessary interventions and follow-up throughout the criminal proceedings, as well as psychological intervention programmes for all types of crime victims, such as victims of gender violence and domestic violence, among other vulnerable victims.

The follow-up part of the process involves monitoring victims for an appropriate period after the conclusion of the criminal proceedings. In the follow-up phase, the Offices analyse the victim's legal, medical, psychological and socio-economic situation for an extended period. Depending on the victim's situation, the appropriate duration of follow-up should be established.

Source: (Spanish Ministry of Justice, n.d.^[30]), Crime Victims' Support Offices.

Regarding the timeliness of the Egyptian system, the limited data available has made it difficult to assess common indicators for efficiency, such as clearance rates of incoming cases or the average trial length. Judicial staff and prosecutors reported that child cases are treated swiftly and often take only a few months. For reference, in Switzerland, cases reportedly last between two to six months.²² However, they highlighted challenges in shortening the pre-trial investigation phase in complex cases where children may stay in pre-trial custody longer than desired. Further data collection in this area would enable fruitful analysis and recommendations to increase the efficiency and timeliness of the child justice system.

5.5.3. Recommendations to improve prevention, proactivity and timeliness

- Integrate prevention mechanisms into the goal, purpose and vision of the child justice system to combat the root causes of children's involvement in criminal activities. This includes supporting and sustaining education, vocational training, raising awareness of the role of the family as family counselling, social protection interventions, and forbidding child marriages
- Develop better preventive mechanisms, such as complaints, mediation, and support to educators, family and related professionals.
- Consider further investing in early childhood care, education, community and family-based support programmes drawing from comparative experiences which correlate with lower rates of children at risk.
- Reinforce multi-faceted support services for child victims of crime to aid their recovery and for child offenders to receive education and support both whilst in detention, to prepare them for their return to their communities and on release, to aid their reintegration into society.
- Building on the existing legal provision that victims have the right to compensation, consider introducing the mandate for the child's lawyer or guardian to make a claim for damages during or after criminal proceedings in which the child was a victim, in line with international standards.

5.6. Key recommendations

5.6.1. Equality and inclusion

- Continue to work on strengthening and encouraging the presence of women in different child justice institutions.
- Ensure the practical implementation of the legal provisions requiring special treatment proportionate to a disabled child's condition and needs through adequate resourcing and appropriately skilled staff.
- Continue efforts to empower girls' participation and protect of girls' rights in order to enhance gender equality.

5.6.2. Empowerment and participation

- Consider reviewing the legal framework determining the age at which children are deemed to have a sufficient understanding of the matters in question to bring coherence to national laws and rules regarding the age of legal capacity and ensure these are in line with international standards.
- Develop clear protocols for when and how children's views should be sought in legal proceedings, ensuring these are in line with international standards and providing additional training to stakeholders to raise awareness and a shared understanding of children's participation in legal proceedings.
- Building on the NCCM's current child participation programme, expand its resources and capacities to ensure it employs robust participation methodology and secure the sustainability of this work.

5.6.3. Appropriateness and responsiveness

Invest in training for relevant professionals:

- Promote efforts to establish trainings for child affairs judges and child affairs prosecutors at the beginning of their tenure and child justice training for all judges working during child days in regular courts.
- Enhance the attractiveness of the child justice specialisation within the judiciary and prosecution service with different incentives to support the development of a well-trained workforce.
- Build capacities of lawyers and civil society either through training or additional resources to hire specialised lawyers on certain types of crimes committed against children, including cyber-extortion, child labour, child marriage and FGM.
- Strengthen the institutionalised approach towards training and consider developing rules for the regular rotation of child affairs judges and prosecutors to enhance specialisation.
- Strengthen specialised training and support of social workers across the system to enhance the quality of reports received by prosecutors and judges in child cases.

Increase child-friendly facilities and procedural arrangements:

- Accelerate the establishment of child-friendly procedures, interview and waiting rooms in courts, prosecution offices, police stations and CPCs.
- Strengthen procedural means to avoid negative impacts on children during legal proceedings, such as allowing audio and video statements to avoid repeated interviews, staff interview training and scheduling regular breaks.
- Enable children to be accompanied by a support person they can trust during their contact with

justice services and courts.

Appropriate services for children deprived of their liberty:

- Consider legislative reform to reduce unnecessary custody in pre-trial phases only using detention as a last resort in line with international standards and continue to ensure limited periods of custody in practice.
- Continue to strengthen co-ordination and institutionalisation of care institution inspection to improve efficiency and ensure a broader coverage of places of detention and care or observation institutions at the national level.

5.6.4. Ensuring sufficient capacities

- Consider reinforcing the capacities of the child justice system by allocating additional and stable resources, including specialised staff and infrastructure.
- Foster an enabling ecosystem for CSOs and NGOs that provide fundamental services for children, so they can continue to undertake this role.

5.6.5. Prevention, proactivity, and timeliness

- Integrate prevention mechanisms into the purpose and vision of the child justice system and consider developing early childhood family and community-based preventive programmes.
- Reinforce multi-faceted support services for child victims of crime to aid their recovery and for child offenders to receive education and support both whilst in detention, to prepare them for their return to their communities, and on release, to aid their reintegration into society.

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Notes

¹ Egyptian Constitution, Art. 53.

² Committee on the Elimination of Discrimination against Women (2021) Concluding observations on the combined eighth to tenth periodic reports of Egypt.

³ The Women’s Ombudsman Office offers women and girls free legal advice and representation in court.

⁴ CRC, General Comment No 12 on the right of the child to be heard, 20 July 2009, para 3.

⁵ Child Law, Article 3/c.

⁶ CRC, General Comment No 12.

⁷ Mol, C. (2019). Children’s Representation in Family Law Proceedings, *The International Journal of Children's Rights*, 27(1), 66-98.

⁸ Department of Justice of Canada, 2022.

⁹ International Standards with regards to tailored systems for children are contained in the CRC Articles 37, 40, 39; within the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography – treatment of victims; within the Council of Europe Guidelines: IV A General elements of child-friendly justice, and Chapters V and VI general measures to ensure child-friendly justice.

¹⁰ OECD workshop in Egypt, February 2022.

¹¹ United Nations Rules for the Protection of Juveniles Deprived of their Liberty adopted by General Assembly resolution 45/113 of 14 December 1990; United Nations Standard Minimum Rules for the Administration of Juvenile Justice adopted by General Assembly resolution 40/33 of 29 November 1985; UNICEF (2010), *Justice for Children Manual*, available here.

¹² CRC/C/EGY/3-4, para. 332.

¹³ See Concluding Observations in CRC/C/EGY/CO/3-4, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/EGY/CO/3-4&Lang=En.

¹⁴ Based on OECD interviews with NCCM Child helpline staff.

¹⁵ Art. 34, CRC.

¹⁶ Art. 33, CRC.

¹⁷ See section 2.2.1. of the Child Law “Child Offenders” (page 8) for further details.

¹⁸ Code of Criminal Procedure, Art. 252.

¹⁹ The Council of Europe guidelines state that where appropriate, the costs could be covered by the State and recovered from the perpetrator. The right to compensation for child victims of sexual abuse and exploitation is consistent with international treaties and guidelines, including: the CRC; the UN General Assembly (2005) “Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International

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²⁰ Committee on the Elimination of Discrimination against Women (2021) Concluding observations on the combined eighth to tenth periodic reports of Egypt.

²¹ Committee on the Elimination of Discrimination against Women (2021) Concluding observations on the combined eighth to tenth periodic reports of Egypt.

²² OECD Workshop in Egypt, February 2022.



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