



Implementing SDGs for children in Egypt: Towards a child-friendly justice system

*Advisory Seminar
Enhancing child participation in legal proceedings:
criminal, civil and administrative pathways*

 28 September 2022
Cairo, Egypt

Summary



The project "Towards Child Friendly Justice in Egypt" aims at enhancing the judicial capacity, institutional coordination and effectiveness of the Egyptian Child-justice system. Aligned with Egypt's Vision 2030, the National Child Strategy and the UN SDGs, the project is implemented by the OECD with the financial support of the Swiss Agency for Development and Cooperation. The project also builds on the work of the MENA-OECD Governance Programme and rule of law support to Egypt. It facilitates high-level engagement in support of effective implementation of the objectives of the Strategic Framework and National Plan for Childhood and Motherhood in Egypt 2018-2030.



Objectives of the Peer-to-Peer Advisory Seminar

The Seminar enabled a technical discussion focusing on the possibilities to enhance child participation across all procedural branches in criminal, administrative and civil justice. Participants discussed the options provided by the Egyptian legal framework, available tools used internationally to ensure child-friendly participation and the possible reforms to be taken in Egypt. The Egyptian project stakeholders engaged proactively with peers and practitioners on best practices from OECD countries.

The seminar was opened by Professor Dr. Tarek Tawfik, Deputy Minister of Health and Population and Supervisor of the NCCM, Counsellor Hesham Gafaar, Chief Attorney General, Public Prosecution Office, Counsellor Alaa-Al Sheimi, Vice-head of the human rights department at the Ministry of Justice

and Mr. Amr Soliman, project manager and policy analyst at the OECD.

The advisory seminar brought together around 35 participants with representatives from key national institutions: the Ministry of Justice (MoJ), judges from different branches, the Public Prosecution Office and representatives from the National Council for Childhood and Motherhood (NCCM), along with an OECD peer from Canada and the OECD Secretariat.



Summary of discussions

The seminar highlighted the commitment of the Egyptian institutions to enhance coordination between the stakeholders to ensure that the best interest of the child is adopted in criminal, administrative and civil proceedings with regard to child participation.

Legal framework and child-friendly tools

Child participation is referred to when children are allowed to provide their views, opinions or inputs, when a decision is being made that could affect them. This includes giving evidence in judicial proceedings that affect them, when they are victims, perpetrators or having their views heard in family law or child protection matters.

Good practices on how to involve children in legal drafting and in decisions affecting their well-being were discussed during the seminar. **Slovenia**

involved young delegates in the development process of the Barnahus Law in Slovenia in 2021. **Ireland** envisages in its Youth Justice Strategy (2021-2027) specific trainings for professionals involved in the criminal justice system to provide effective services. **France** adopted a new child protection law in 2022 complementing the National Strategy of Child Protection. The new law help enhancing the right of the child to be heard in judicial proceedings.

Egypt is party to several international instruments which emphasize child participation and the best interest of the child, for instance the UN Convention on the Rights of the Child (1989) which stipulates that state parties should provide the child with “the opportunity to be heard in any judicial and administrative proceedings affecting them”. The African Charter on the Rights and Welfare of the Child considers the best interest of the child to be heard in all proceedings (Article 4).

Therefore, the effective implementation of the rights of children should be guaranteed to ensure the children’s voices are well heard and applied, in conformity with the principle of the best interest of the child.

The different national strategies were presented as they all emphasize the right of the child to be heard and to express his/her opinion: the **Sustainable Development Strategy** (Egypt’s Vision 2030) sets a particular focus on the right to protection and the right to participation in Pillar 5;

The **Strategic Framework of Childhood and Motherhood (2018-2030)** in Egypt highlights that importance of improving governance and protection mechanisms to children through Pillar 6

The **National Human Rights Strategy of Egypt** sets out targeted results with regard to child justice:

- The level of **awareness of child rights** is raised, and rights-related **initiatives and activities** are encouraged.

- The **child’s best interest** principle is mainstreamed and institutionalised within all child-related entities
- Children’s rights to **express their views** are ensured.

Nevertheless, coordinated efforts between the involved stakeholders remain crucial to reinforce the linkage between the strategies and their implementation on the ground.

The Ministry of Justice underlined that the best interest of the child is a priority and that specialised child courts have been established in Egypt.

The child court has a special chamber linked to the court room but is separated by a glass wall in order for the offender to follow-up on the proceedings of the case without being there in person thus avoiding psychological trauma of the child. There is also currently a plan to establish further specialised courts in the New Administrative Capital and in other cities.

Judges also receive a specialised training by the Ministry of Justice prior to their appointment and are introduced to children proceedings.



Exchange of good practices:

Aspects of the Canadian child justice systems were presented by OECD peer Ms. Claire Faird, focusing on the criminal justice system and children as victims, witnesses and offenders.

In Canada, there is no minimum age for children to testify in court; children are presumed to have the capacity to testify and simply promise to tell the truth. The child must be able to understand and respond to questions in court;

There are several ways for children to provide testimony and minimize trauma. For example, a support person may be present during testimony, testimony conducted outside courtroom by closed-circuit television, inside courtroom but behind a screen or by appointing counsel to conduct cross-examination when the accused is self-represented.

Canada's Youth Criminal Justice Act (YCJA) applies to youth aged 12-17 and addresses participation in numerous ways including:

- Limits on questioning by police
- Legal representation
- Extra-judicial measures (diversion)
- Participation in conferences
- Reintegration plans

Legal representation of young offenders

The YCJA also underlines that youth have rights to counsel, under section 25:

- When questioned by the police
- At pre-trial bail hearings
- At trial
- At sentencing
- At review hearings

Youth are to be informed of their rights at each stage of the process and if they wish to have a lawyer, but they are unable to obtain legal representation, the court must order that legal representative be provided.

There are a number of other ways that young children can participate in the decision-making process under the YCJA:

1) Extrajudicial measures (measures other than judicial proceedings used to deal with a young person alleged to have committed an offence); **2) Conference** - a group of people brought together to give advice to a police officer, judge, justice of the peace, prosecutor, provincial director or youth worker who is required to make a decision under the YCJA. Conferences can include parents, victim, community representatives, parents and importantly youth or **3) Reintegration Plan** - When a young person goes into custody, the YCJA requires that a youth worker work with the youth to plan for his or her reintegration into the community.

Strengthening the right to be heard and using child-friendly tools

The National Council for Childhood and Motherhood launched a Child Parliament in coordination with the child helpline that aims at training children on the steps needed to get engaged in civil and administrative pathways.

A group of children aged 14-16 will be trained to become permanent members in the protection committee as there is a need to educate children on their rights and duties and enable them to participate in decisions that affect them.

In Canada, children's participation in family law proceedings and parenting decisions (custody and access) are made based on the best interests of the child, meaning any preferences and views of the child should be taken into account, but are not determinative.

"Hearing the voice of the child" is a principle used in Canada, namely through assessments, judicial interviews and mediation.



Next steps

- Building on the seminar, the project stakeholders committed to pursue the discussions and exchange of good practices to ensure the child-participation in legal proceedings taking into consideration the best interest of the child.
- Consultation workshops with the involved institutions will be held in December to discuss the final version of the Strategic Assessment and its recommendations.
- Development of tailored Good Practices Guidelines and Roadmap building on the recommendations of the Strategic Review by mid-2023.
- Capacity-building, training sessions and policy dialogues focusing on specific aspects of the child-justice system in the last quarter of 2022 and in 2023.

For more Information

- [Governance - Organisation for Economic Co-operation and Development \(oecd.org\)](https://www.oecd.org/governance/)
- [Library - Organisation for Economic Co-operation and Development \(oecd.org\)](https://www.oecd.org/library/)
- [OECD/Open Society Foundations \(2019\), Legal Needs Surveys and Access to Justice, OECD Publishing, Paris.](https://www.oecd.org/publications/legal-needs-surveys-and-access-to-justice/)
- [Egyptian Law no. 12 of 1996 promulgating the Child Law amended by Law no. 126 of 2008](https://www.oecd.org/law/egyptian-law-no-12-of-1996-promulgating-the-child-law-amended-by-law-no-126-of-2008/)