



CHILD PARTICIPATION AS VICTIMS OR WITNESSES IN CRIMINAL CASES IN LEBANON

National Report for AIMJF's Comparative and Collaborative Research.

La participación de niños como víctimas o testigos en causas penales en Libano

Informe nacional para la investigación comparativa y colaborativa de la AIMJF

La participation des enfants en tant que victimes ou témoins dans des affaires pénales au Liban

Rapport national pour la recherche comparative et collaborative de l'AIMJF

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Abstract: The paper is part of a collaborative research organized by the International Association of Youth and Family Judges and Magistrates (AIMJF/IAYFJM) on child participation as victims or witnesses in criminal cases. The article explains the legal, institutional and procedural aspects of child participation in the Justice System in Lebanon

Resumen: El documento es parte de una investigación colaborativa organizada por la Asociación Internacional de Juventud y Familia (AIMJF) sobre la participación de niños, niñas y adolescentes como víctimas o testigos en causas penales. El artículo explica los aspectos legales, institucionales y procesales de la participación infantil en el sistema de justicia en Libano

Résumé : Le document fait partie d'une recherche collaborative organisée par l'Association Internationale des Magistrats de la Jeunesse et de la Famille (AIMJF) sur la participation des enfants en tant que victimes ou témoins dans des affaires pénales. L'article explique des aspects légaux, institutionnels et procéduraux de la participation des enfants dans le système de justice au Liban

Introduction

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The International Association of Youth and Family Judges and Magistrates (IAYFJM or AIMJF, in the French and Spanish acronym) represents worldwide efforts to establish links between judges from different countries, promoting transnational judicial dialogue, in order to provide better conditions for a qualified attention to children based in a human rights approach.

To do so, AIMJF organizes research on international problems facing the operation of the courts and various laws relating to youth and family and training programs.

The aims of this research are to identify similarities and discrepancies among countries and to develop a cartography of how child participation as victims and witnesses in criminal cases is organized worldwide.

This national report is based on a questionnaire prepared by AIMJF.

Questionnaire

1. **Right to be heard**

1.1. Are children presumed to be capable witnesses (or presumed invalid/untrustworthy by reason of their age alone, or similar)? **In civil procedures, a child 15 years old or more may be a witness (Art. 259 Code of Civil Procedure). Under that age, a judge may listen to the child for information only. In criminal procedures, a child under the age of 18 can be listened to by the judge only for information purposes.**



1.2. Are there any restrictions to the right to be heard (minimum age, or other criteria)?

See comment above.

1.3. Are children allowed to refuse to make a statement? **Yes, the child can choose to remain silent.** If so, in which cases? **In all cases except civil procedures involving children above 15 years.**

2. Broad perspective of the legal framework and procedure

2.1. Is there a specific legal framework that defines how to treat child victims/witnesses of crime (e.g. special norms in the criminal procedural code, special child code, special victims code, etc)? **For child witnesses, there are related articles in both codes of civil and criminal procedures. There are no provisions for child victims in these codes. Some references to victims are made in other laws such as the law on trafficking.**

2.2. Is there any coordination between different role players (such as the police, education, social services, health system) to initiate legal proceedings and coordinate response (evidence collection and intervention), including avoiding multiple interviews of the child? **Yes, there is a minimum of coordination among the relevant actors.** Is there any flowchart in your country to coordinate these interventions? **There are some tools such as SOPs for case management, MoUs between some actors, but there is not a comprehensive holistic tool adopted by all entities of relevance.** If so, could you please share it? **(SOPs shared with this completed questionnaire).**

2.3. Can you briefly explain what are the major steps of the legal procedure in criminal cases (felonies) with child victims or witnesses involved? **There is no special procedure for children. It is the 'regular' criminal procedures, with the presence of a social worker to support the child throughout the process. Special procedures are only for children as alleged offenders, not as victims/witnesses.**

2.4. In which moment(s) can a child be heard in this procedure? **At the early phases of justice procedures, the public prosecutor may decide that there is a need for such.**

2.5. Does the child have the power to initiate, suspend or terminate the criminal procedure (such as giving consent for the complaint or the possibility to refuse consent

or revoke consent)? If so in which cases? Through the legal guardian of the child, and only for cases that require a complaint or ادعاء شخصي

3. Preparation for the child participation

3.1. Is there in your country specific child-friendly information material for children as victims or witnesses (e.g. brochure, video etc)? Yes, the Ministry of Justice in partnership with UNICEF developed a court preparation programme that includes booklets and videos. If so can you please share them? (Tools shared with this completed questionnaire)

3.2. How do children have access to these materials? (e.g. brochure available at police station/court; brochure sent to the child together with summon; witness preparation conducted in court with support of a video, or with support of a special professional; investigator/judge orally explaining in child-friendly language before interview/hearing, or any other?) How long before the interview/hearing does this happen? These tools are shared with the children in the palaces of justice through a trained social worker.

3.3. Is there any assessment of the child conducted before a child is interviewed/heard? If so, what is assessed / for what purpose (e.g. background and circumstances of child; whether the child would be able to speak freely; capacity of child to express him/herself; capacity to participate, if uncertain; capacity to handle interview and possible effects; potential vulnerabilities and special needs, etc)? The social inquiry report that is prepared by the social worker includes related information to a limited extent. If so, what is the legal background of their professional conducting this assessment? A background in social work with ad-hoc child protection trainings. To which institution does this professional belong? NGOs that are contracted by the Ministry of Justice to provide support to children who are in contact with the law. Is there any kind of report produced? In the updated social inquiry report that the judge refers to in order to issue a decision.

3.4. Is there any kind of contact or evaluation with the parents or legal guardians? If the judge considers that the child victim is at risk, the former can choose to interrogate the parents.

3.5. Is the child allowed/invited to visit the facilities where he or she will be heard prior to the interview/hearing? **A child can take the initiative to visit, but is not specifically invited to do so.**

3.6. Does the child receive any kind of support prior to the interview/hearing (psychological, social, medical, legal)? **Social support (which may include psychological and legal support) from the early phases of contact with the justice system, through a trained social worker.**

4. Protection and Support

4.1. Is there any risk assessment conducted for the child victim/witness after a crime has been reported? **The judge can request from the social worker to conduct an assessment if needed in cases where child is victim.** If so, who conducts it? **Social worker by request from the judge.** Is there any specific tool? **No, and there is no specific solid witness protection programme in Lebanon.** If so, can you share it please?

4.2. In case of identification of risks, what kind of protective measures are available in your country? **Measures can include time in a rehabilitation center, supervised freedom, protection.**

4.3. What kind of support measures are available for child victims / witnesses of crime (psychosocial, medical, legal) before, during, after the judicial process). **All these support measures may be available through the NGOs contracted by the Ministry of Justice (depending on the availability of resources). In the case of medical support, the contracted NGO may refer to another service provider.**

4.4. In case of intrafamilial violence, which measures can be / are usually adopted to grant the child's security? **Law 293 on domestic violence provides for several measures, including restraining order against perpetrator, relocation of children.** Is there any/which kind of support offered to the remaining members of the family? **The special fund for victims provided for under Law 293 has not yet been established so there is no systematic support to victims (aside from services provided by NGOs depending on the availability of resources).** Are there any specific measures in case of child abduction or child kidnapping? **No.**

5. Environment

5.1. In which institution/what kind of environment is the child interviewed/heard in pre-trial/trial phase? **The child may be heard in a police station, on in a palace of justice. In some palaces, there are child-friendly rooms where this may occur.**

5.2 Is there any specificity in this environment to adapt it for children? (e.g. separate ‘building’ specifically for children; non child- specific building, but separate entrance for children; separate interview/hearing room for children). **Where child-friendly rooms exist, such conditions are present. In other spaces such as police stations and courts, they try to ensure some confidentiality for the child.**

5.3. Are there guidelines for the environment where the child is interviewed/heard? (architecture, setting)? **At present, the Ministry of Justice is preparing SOPs for the use of the child-friendly rooms in palaces of justice. If so can you please share it? SOPs are still in draft form and may not be shared. Can you share a photo of this space? (Photos on one space included).**

5.4. Is there a specific waiting area for the child? **Please see above.**

5.5. Are there protection measures to avoid direct contact (including visual) between the child and the alleged offender? if so what kind? (e.g. separate entrance, separate waiting area, separate interview/hearing rooms, use of video link, voice or image distortion etc) **Yes, the judge decide for each case. He/she may decide to separate interviews, use recording for interviews.**

5.6. In case identification of the offender is needed, how is this conducted, and where? **The judge needs to hold a joint meeting between them.**

5.7. If the child lives in a different city in relation to the city where the proceeding is tried, what are the specificities at stake? **The judge may request another police station or court to take on the case, and share back.**

5.8. Is it possible in your country that the interview is conducted virtually (the child and the interviewer are in different places)? **Some investigative judges are choosing to do so, but not all (depending on personal initiative and conviction). In which circumstances?**



The circumstances are related to the decision of each judge. Are any / which special security measures (are) adopted? **No.**

5.9. Must a child appear in court to be interviewed or are recorded investigative interviews admitted as evidence in court? If the child has to appear in court, which circumstances are determinant? **If the child needs to provides a formal testimony, he/she needs to appear in court.**

6. Specific legal guarantees for the child

6.1. Does the child have the right to legal assistance? for free? Is this assistance specialized? At what moment does this assistance come in (e.g. already advising whether or not to report a case / during the first interview / only in court / other)

6.1.1 What is the role of the legal assistant (representing views of child or best interests of child; advising the child; talking on behalf of the child; ...)?

6.2 Does the child have the right to be accompanied by a support person? If so, what is the role of this person? What is this person entitled to do in support of the child?

6.3. What is the role of parents/legal representative?

6.3.1 When are parents/legal representative excluded (e.g. perpetrator, exploitative, intimidating/influencing, non-supportive, conflict of interests...)?

6.3.2. If excluded, is there another legal representative appointed/ if so by whom?

6.4. What kind of measures are adopted to grant the right to privacy / confidentiality (public excluded / in all cases / in which cases? press statements so that child can not be identified?)

6.5. Is the child allowed to plea for cautionary measures?

6.6. Does the child have the right to appeal any decision?

7. Interviewing structure and procedure

7.1 Who hears the child victim/witness in the pre-trial phase / who in the trial phase? How often is a child usually heard in total (pre-trial and trial)? Does the law limit the total number of interviews/hearings conducted?



- 7.2. Is it mandatory that this professional has specific training for child interviews?
- 7.3. Is any kind of interview protocol adopted in your country (pre-trial and/or trial stage)?
If so, which one? If so, could you please share it?
- 7.4. Who is allowed to participate in the interview/hearing? Who is sitting in the same room as the child / who is sitting in another room, if any?
- 7.5. Who is addressing the child victim/witness: only the interviewer? cross examination allowed? if only the interviewer, how can other participants ask questions? How is the communication between those who follow the interview and the interviewer? What kind of communication tool is used?
- 7.6. Is the interviewer allowed not to ask the questions raised by others? Is the interviewer allowed to rephrase the questions raised by others?
- 7.7. Is the interviews audio and video recorded, if so for what purpose (accuracy of statement, use as evidence in court, use in other courts, other)?
- 7.7.1. In case the recording is admitted as evidence in court: what protection measures can be applied (e.g. image and voice distortion, child heard in a separate room etc)?
- 7.8. How is the quality of the recording? In case of failure in the recording, what are the measures adopted?
- 7.9. If no audio/video recording: is the child allowed to review his or her statements and to correct them? Is the child/legal representative allowed to get a copy of written statement / recording?
- 7.10. If there is a special procedure for hearing child victims and witnesses, is it mandatory for the child to participate in such a way or has he/she the right to choose to be heard as any other victim or witness? Are there still adaptations in this case?

8. Offender's right during or after the interview

- 8.1. Is the alleged offender allowed to participate in the interview of the child witness? Is his/her defence attorney allowed to participate? Is participation of either of the two mandatory?
- 8.2. If the offender is not present during the interview, how can he or she make additional questions to the child? How can he or she contradict the child's statements?



9. Parallel proceedings – coordination

9.1. In case of parallel proceedings (such as in family or child protection procedures) based on the same facts, is it clear who has the priority to conduct the interview?

9.2. Is there any coordination procedure between different courts/authorities? How is the coordination procedure?

9.3. If another court/authority has not participated in the interview and needs additional information, is this court/authority allowed to interview the child again? And/or can interviews be shared (who can share with whom)?

10. Training

10.1. Are judges and magistrates trained to deal with child victims?

10.2. Is the content of the training interdisciplinary? Do other professionals also participate in the same training?

11. Reforms in progress

11.1. Are there reforms in progress in your country regarding child's victim rights, the procedure among others? What is the aim and the main subject of it?