



# YOUR LAWYER \* LEGAL ADVICE AND MORE\*

A portal for providing legal knowledge and offering solutions managed by a team of specialized lawyers and supervised by Ms. Nehad Abulkomsan, senior lawyer

## Legal articles ... Issue Article

### WHEN THE FATHER BECOMES A KIDNAPPER WITH THE BLESSING OF THE LAW!



The kidnapping of children by fathers in cases of divorce is one of the cruel and destructive crimes against them, which has become widespread in society recently. Children are used as a tool to force mothers to give up their marital rights, or to punish mothers for daring to ask for separation or refuse violence, which greatly affects the lives of children and mothers.

In some cases of divorce or family problems, some fathers or their family members kidnap their children and flee with them outside the country or hide them inside Egypt as a revenge against their wives, without considering the impact of this on harming the children or their educational future or their psychological stability. They disregard the rights of the children and the mothers.

Kidnapping is considered a major crime under Egyptian law (a felony), according to Article 290 of the Penal Code, which states: "Anyone who kidnaps a person through deceit or coercion shall be punished with a minimum of ten years of imprisonment." However, if the kidnapper is the father or a family member, the law assumes good intentions and the absence of harm to the children. Therefore, the familial relationship serves as a reason to mitigate the punishment.

However, The State Authorities facilitate the use of mitigating measures regardless of the extent of harm to the children. Kidnapping crimes have become unpunished due to the Public Prosecution's extensive use of Article 292 of the Penal Code in referring kidnapping cases.

Article 292 of the Penal Code states: "Any parent or grandparent who fails to hand over their minor child to the rightful custodian person, based on a judicial decision regarding custody or guardianship, shall be punished with imprisonment for a period not exceeding one year or a fine not exceeding five hundred pounds. The same applies to any parent or grandparent who themselves or through others, have the right to custody or guardianship based on a judicial decision, kidnap the child, even without deceit or coercion, shall be subject to the same penalty." As a result, the crime is changed from a felony to a misdemeanor

## YOUR LAWYER'S LEGAL SERVICES IN THE FIELD OF FREE CONSULTATIONS:

**YOUR LAWYER PLATFORM IS A PORTAL FOR LEGAL KNOWLEDGE AND PROVIDING SOLUTIONS. THIS IS MANAGED BY A TEAM OF SPECIALIZED LAWYERS UNDER THE SUPERVISION OF MS. NEHAD ABUELKOMSAN, SENIOR LAWYER.**

## Ask Your Lawyer



**A question:**  
What is the difference between a custody order and a handover order for a minor?



## The Answer

**"HANDOVER ORDER FOR A MINOR:**

1. THE MINOR IS PLACED IN THE CUSTODY OF THE MOTHER THROUGH THE PROSECUTION OFFICE WITH AN OFFICIAL REPORT STATING THAT THE CUSTODY HAS BEEN TAKEN AWAY FROM THE MOTHER AND THAT THE CHILDREN ARE OF CUSTODIAL AGE.
2. THE PROSECUTION OFFICE REQUESTS INVESTIGATIONS INTO THE VERACITY OF THE MOTHER'S STATEMENTS.
3. THE MOTHER AND FATHER ARE QUESTIONED ABOUT THE REASON FOR TAKING AWAY THE CUSTODY FROM THE MOTHER.
4. A DECISION IS ISSUED TO HAND OVER THE MINOR TO THE MOTHER THROUGH THE PROSECUTION OFFICE. CUSTODY ORDER:  
OA CUSTODY CASE IS A LAWSUIT FILED BEFORE THE FAMILY COURTS BY THE WIFE AGAINST HER HUSBAND OR THE HUSBAND AGAINST HIS WIFE IN ORDER TO OBTAIN A COURT ORDER TO HAVE THE MINOR PLACED IN THEIR CUSTODY.



## LEGAL INFORMATION

IN JANUARY 2020, COUNSELOR HAMADA AL-SAWY, THE FORMER PUBLIC PROSECUTOR, ISSUED A DECISION TO ESTABLISH THE CHILD PROTECTION OFFICE IN THE JUDICIAL INSPECTION DEPARTMENT OF THE PUBLIC PROSECUTOR'S OFFICE. ITS MOST IMPORTANT COMPETENCIES ARE: 1) SUPERVISING THE CHILD PROSECUTION OFFICES AND FOLLOWING UP ON THEIR WORK; 2) MONITORING THE PRACTICAL PROBLEMS FACING THE CHILD PROSECUTION OFFICES, IN ORDER TO DEVELOP PROPOSALS FOR THEIR SOLUTION; 3) REVIEWING CASES AND JUDICIAL RULINGS RELATED TO CHILDREN; 4) TAKING THE NECESSARY MEASURES TO PROTECT THE CHILD IN CASES WHERE HE/SHE IS EXPOSED TO VIOLENCE, NEGLECT OR EXPLOITATION; 5) FOLLOWING UP ON CASES OF MISSING CHILDREN OR FINDING THEM, AND PREPARING A REGISTER FOR THEIR REGISTRATION.



## THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD:

Article 9 (3) of the United Nations Convention on the Rights of the Child states that " States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

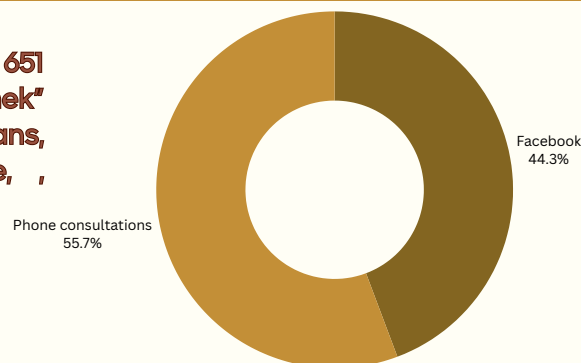
Article 290 of the Penal Code has been amended so that the punishment for kidnapping is death if the kidnapped person is subjected to sexual assault. In cases of kidnapping through deceit or coercion, the punishment is imprisonment for a minimum of 10 years. However, if a ransom is demanded after committing the kidnapping, the punishment is imprisonment for a minimum of 15 years, and the maximum sentence can reach up to 20 years.

## OUR CLIENTS



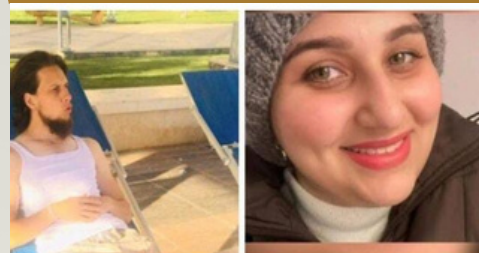
- Phone
- Facebook

This month, September , a total of 651 consultations were received by "Mohamek" across its 2 different communications means, including Facebook pages, and telephone, , as follows:



- **Phone:** :361 consultations were received on mobile and landlines, making up 55.4% of the complaints
- **Facebook:** 290 consultations were received on Facebook, making up 44.5%

## Your Legal Advisor in Family Matters... Mother Killed While Searching for Daughters!



A picture of the victim and her Egyptian husband

Maryam had married a young Egyptian man with Swiss nationality, and she had two daughters from him: Fatima (8 years old) and Khadija (6 years old). Due to disputes between the couple, they decided to separate and try to agree that the two girls would remain in their mother's custody. The mother's brother indicated that the disputes arose between her and her ex-husband due to the custody of the two girls. The mother resorted to filing a lawsuit until she obtained a judgment granting her custody of the two girls, and the court ordered visitation rights for their father.

Maryam continued to try for two months to obtain permission to see her daughters, until she coordinated with a humanitarian organization to be able to see her children three times a week. Suddenly, after 12 days of her arrival, Maryam disappeared, and her phone remained switched off until her body was found in the river on Friday. A suspect was arrested, according to a Swiss newspaper reported that the suspect is someone who colluded with her husband. It was reported that the husband was strict and prevented her from interacting and communicating through any social media platforms, according to her family.

### .Your Legal Advisor in Family Matters answers as follows:

The investigation into the case of the Egyptian woman, Maryam Magdy, is still ongoing after the Swiss police announced the discovery of her body, following her trip to retrieve her two daughters from her Swiss-Egyptian husband. As for her daughters, they are in the care of the Swiss government until the legal proceedings are concluded. Swiss law states that if the father is a suspect, his young children cannot be hosted by the family.

The two girls are currently residing in a children's care home and are waiting in the adoption queue, after an announcement was made stating that the girls are without a family and waiting for someone to come forward to adopt them. According to Swiss law, one of the mother's relatives will be asked if they are willing to host the children. If they agree, they will be allowed to take the children and return to Egypt.



**For a free consultation Please fill out an online form, send us an email, or call us via phone for 30 minutes**



working days

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