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.

LEGAL INFORMATION

IN JANUARY 2020, COUNSELOR HAMADA ALSAWY, 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.
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.

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.

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