

# Mechanisms for activating specialized juvenile prosecutions 'Analytical study'

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**Abstract:** The study's main question is whether the Gaza Strip has the necessary resources to set up a specialized prosecution for juvenile cases. To address this question, the study looks at the mechanisms that can be used to activate a specialized juvenile prosecution. The significance of studying this subject is to ensure that juvenile offenders have legal protection both during the preliminary investigation processes with him and during his trial. To accomplish the study's goals, it was divided into: a preliminary section in which we discussed how to define a juvenile and a Palestinian child, and a first section in which we discussed how to prosecute juveniles during the preliminary investigation and how to end it. We discussed the establishment of the Public Prosecution, its mandate, and the potential for assigning the juvenile prosecution in the second section. In the end, the researcher came to several conclusions, the most significant of which was that the Public Prosecution must, when carrying out its duties, take into account the special legal procedures that must be provided to juveniles during their investigation in accordance with the laws in effect in the Gaza Strip.

**Keywords:** Procedural Law, Guarantees of the accused, public prosecution, Criminal Law, Criminal Law

## Introduction:

Juveniles and children in legal trouble are an important topic that we research and address because they are regarded as a significant group in society that needs comprehensive care as well as legal and judicial protection, especially at this risky age. When the juvenile may be exposed to numerous crimes for a variety of reasons, such as those relating to his behavior and makeup, as well as those relating to the circumstances surrounding him from an environment that may be the cause of his delinquency and the motivation for committing numerous crimes, whether misdemeanors or felonies.

It was imperative that we work to correct the errors that emanate from him rather than treating him as a criminal who must face the harshest penalties, which could turn him into an expert criminal and a perverted criminal as a result of the punishment he received. We also needed to make sure that he understood that the goal of his punishment is to correct, treat, and prevent crime rather than allowing these criminal traits to fester and turn him into a future professional criminal in crime.

## The significance of research:

Studying this topic is crucial to securing legal protection for young offenders both during the preliminary investigative process against him and throughout the trial. In order to avoid contributing to the problem's worsening and to avoid creating a professional criminal who is a danger to himself, his environment, and his country, we focus more on prevention and treatment than punishment and retribution. However, legislation and laws must help defend and protect this professional criminal until he becomes an upright, moral, and productive member of society.

## Research problem:

The lack of separation during their investigation by a specialized prosecution, as well as through a specialized judicial body as stated in the Juvenile Offenders Law, and the practical reality we witnessed during the preliminary investigation procedures with juvenile delinquents are what motivated us to study this subject. Therefore, the study's main problem is to determine whether the necessary opportunities exist to establish a spec It raises the following related questions:

1. What processes should be followed when questioning minors who have broken the law?
2. How committed is the Public Prosecution to enforcing the provisions of the Juvenile Offenders Law and the Palestinian Child Law during the interrogation of the child (juvenile)?

3. How far does the Public Prosecution go to protect the child at the preliminary inquiry stage?
4. What are the challenges that the Public Prosecution has in allocating a prosecutor who specializes in juvenile cases?

### Research Methodology:

The study is based on an analytic approach to the texts contained in Palestinian laws and legislations dealing with juveniles and how to deal with them, particularly because there is a separate legislation for them, the Juvenile Offenders Law No. (2) of 1937. In addition to the updated Palestinian Child Law No. (7) of 2004, which added numerous provisions for the protection of Palestinian children, we'll also make reference to the texts and clauses in the law by executive order issued by the president of the Palestinian Authority in 2016, and we'll base our research on the procedural considerations that must be taken into account in the Palestinian Code of Criminal Procedure No. (3) of 2001.

### Research Structure:

1. A conceptual overview of Palestinian children and young people
2. Specific procedures used during juvenile investigations in accordance with Palestinian law
3. Competences of the Public Prosecution and the possibility of allocating a juvenile prosecution

#### 1. A conceptual overview of Palestinian children and young people:

There have been a number of terminology and nomenclature used in relation to Palestinian child, and each of them bears distinctive qualities, whether in terms of ideas and meanings or in terms of criminal responsibility and legitimate status. the several ages that they pass through before reaching adulthood, puberty, and the point at which they are fully able to prove their criminal culpability for their deeds and behavior.

#### 1.1. The juvenile:

##### 1.1.1. The concept of the juvenile according to international conventions:

Article 1 of the Convention on the Rights of the Child stated<sup>1</sup>: " Every person who is younger than the age of eighteen is considered a juvenile, unless the age of majority is reached earlier in accordance with the law that governs children". The second rule of the United Nations Standard Minimum Rules for Juvenile Justice Administration is also stipulated<sup>2</sup>, However, 'a juvenile is a child or a young person who may be held accountable for an offence under the relevant legal systems in a manner different from that of an adult'.

##### 1.1.2. The juvenile legal concept:

The juvenile legal idea relies around the axis of criminal responsibility, because it is non-existent before to discrimination and incomplete until reaching the age of majority.

Professor Dr. Kamel Al-Saeed claims that although legal scholars have not agreed on a single definition of what constitutes criminal responsibility, the term is generally understood to mean (commitment to bear the consequences and legal consequences resulting from the existence of crime pillars and its subject of punishment or precautionary measures that the law descends with the person responsible for the crime<sup>3</sup>.

Another definition of a juvenile according to the Juvenile Offenders Act<sup>4</sup> is "any person (other than a child) who has attained the age of fourteen years and over or who wavs to the court that he has attained the age of fourteen years and over, but who has not attained the age of sixteen<sup>5</sup>."

#### 1.2. The Child:

##### 1.2.1. The concept of the child according to international conventions:

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<sup>1</sup> See Convention on the Rights of the Child in Compendium of United Nations Standards and Norms for Crime Prevention and Criminal Justice, United Nations Publication, New York 1993.

<sup>2</sup> See the Model Rules for the Administration of Juvenile Justice in a Compilation of International Instruments, United Nations Publications, New York, 1988, recommended for adoption by the Seventh Congress on the Prevention of Crime and the Treatment of Offenders in Milan on 6/9/1985.

<sup>3</sup>Dr. Thaeer Saud Al-Adwan, Criminal Justice for Juveniles 'A Comparative Study', Dar Al-Thaqafa for Publishing and Distribution, 2012, p. 26.

<sup>4</sup> Palestinian Juvenile Offenders Law No. (2) of 1937 applicable in the Gaza Strip.

<sup>5</sup> See: Article (2) of the Juvenile Offenders Law No. (2) of 1937 applicable in the Gaza Strip.

According to the Convention on the Rights of the Child, "a child" is defined as "any human being under the age of eighteen, unless the age of majority is attained earlier under the applicable law<sup>6</sup>."

Article (1) of the Islamic Covenant on the Rights of the Child states, "For the purposes of this Covenant, a child means a human being who has not reached the age of majority according to the law applicable to him."

### **1.2.2. The legal concept of the child:**

Except for the age criterion, there is nothing in the law that indicates who is approved by the description of the child and who is not<sup>7</sup>.

The term "juvenile" was used in older laws for a young age until the Palestinian Child Law No. 7 of 2004 AD, when it was changed to "the child" due to its sophistication and preservation of young people's social and psychological development. This name has since replaced "juvenile" in all contemporary Palestinian laws and in all fields of young people's interest.

Juveniles are defined as children or young people in the provisions of international conventions that deal with children, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Cases, which states<sup>8</sup> that a juvenile is "a child or a young person who may be held accountable for an offence in a manner different from that of an adult."

A juvenile is defined as "everyone under the age of eighteen" according to the UN Rules for the Protection of Juveniles Deprived of Their Liberties<sup>9</sup>, and "the law shall specify the age below which a boy or girl child shall not be allowed to be deprived of her liberty."

## **2. Specific procedures used during juvenile investigations in accordance with Palestinian law:**

The practices provided by the Palestinian legislator to confront any person who has performed an act contrary to the law did not define the identification of the person in the face of these people. However, it specified the stages of prosecution beginning with inference and ending with the fair trial stage, and what interests us in this regard is the procedures followed by the Public Prosecution in the stage of preliminary investigation and the availability of privacy that must be taken into account during the investigation of juvenile delinquents and the extent of their difference in the face of adult delinquents.

### **2.1. Prosecution procedures for juveniles during the preliminary investigation:**

The next level of inference is the investigation procedure, which comes to consolidate the evidence. It is the procedure that follows the incidence of the crime and its repercussions, as well as the steps taken against the accused to prevent him from influencing the course of the inquiry and deleting the traces learned from the evidence. These are known as preventative steps taken before the accused<sup>10</sup>. A preliminary investigation is a series of procedures begun by the investigating authorities in accordance with the law in order to evaluate evidence and uncover the truth prior to the trial stage<sup>11</sup>. In Palestine, the legislation in force did not address or did not address the subject of the preliminary investigation, whether in the body that has the authority to investigate the juvenile or in the procedures to be followed in this regard<sup>12</sup>. In Palestine, the legislation in force did not address or did not address the subject of the preliminary investigation, whether in the body that has the authority to investigate the juvenile or in the procedures to be followed in this regard. All of the above are legal guarantees and privileges granted to juvenile delinquents during questioning, including arrest, arrest or pre-trial custody, the authority authorized to detain them, the time limits set by law, and the locations of juvenile incarceration.

#### **2.1.1. Procedures for making a juvenile arrest while conducting an initial investigation:**

The Palestinian Criminal Procedures Law No. (3) of 2001 AD's Chapter Three of Part Two of Book One, which is concerned with the criminal case, organizes the procedures related to the arrest of a minor during

<sup>6</sup> Article (1) of the Convention on the Rights of the Child of 1989 AD.

<sup>7</sup> Article (1) of the Palestinian Child Law No. (7) of 2004.

<sup>8</sup> Article 2 of the United Nations Standard Minimum Rules for the Administration of Juvenile Cases, Beijing Rules, 1985.

<sup>9</sup> Article (11/a) of the United Nations Rules on the Protection of Juveniles Deprived of their Liberty, recommended for adoption by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders held in Havana in 1990.

<sup>10</sup> Maamoun Salameh, Criminal Procedures in Libyan Legislation. C1.2. Al-Zawiya: University Library Publications, 2000, p. 601.

<sup>11</sup> Ibid, p.613.

<sup>12</sup> Muhammad Ziad Abdul Rahman, Legal Protection of Juvenile Delinquents in Palestinian Legislation, Master's Thesis, 2007, p. 66.

questioning by the Public Prosecution. investigating and accumulating conclusions. According to Article 29<sup>13</sup>, "No one may be arrested or imprisoned except by order of the legally competent authority, and he must be treated in a manner that preserves his dignity, and he may not be physically or morally harmed."

It is evident to us that the text was launched with no special provisions relating to juvenile arrest mechanisms, and the law equated juvenile arrest mechanisms with adult arrest mechanisms.

In the same context, the President of the Authority's decree-law issued in 2016 AD specifically mandates the arrest of a child, as Article (18) of the Law states<sup>14</sup>: '1. If a minor is arrested in flagrante delicto, he must be immediately turned over to the juvenile police. 2. Upon arrest or receipt in line with the preceding paragraph, the Juvenile Police shall promptly notify the person in charge of his or her custody and the Child Protection Counsellor. 3. The arrested juvenile shall be presented before the Juvenile Prosecution within twenty-four hours of his arrest. This text is consistent with the text of Article (34) of the Palestinian Code of Criminal Procedure<sup>15</sup>, which stressed the need to present the arrested person to the competent prosecutor within (24) hours, indicating that the arrest procedures did not discriminate between juvenile and adult criminals in terms of legal protection.

#### 2.1.2. Detention Or Pretrial Detention:

However, the legislation allows for the arrest of the accused in pretrial detention if the inquiry demands it. Many provisions of the Juvenile Offenders Law relevant in the Gaza Strip to the release of minors jailed on bond have affirmed this privilege<sup>16</sup>. Given the decision of the law made by the President of the Authority in 2016, we discover that it explicitly stipulated special procedures related to the arrest of events that he will be detained by the prosecution for a period of no longer than (48) hours unless the court orders its provision in accordance with the arrest rules specified in the law of the criminal procedures in force. Additionally, it permitted the child to be given to one of his parents or his guardian to keep him safe and present him upon demand rather than being arrested. any involvement in an investigation or trial<sup>17</sup>.

#### 2.2. Disposition of preliminary investigation:

The manner and mechanism of disposition, which the law specified in one of the following two ways, are the same as if the investigation had been conducted with a juvenile or adult suspect. The public prosecutor's disposition of the criminal case following the conclusion of the preliminary investigation that he conducted in accordance with the Palestinian Criminal Procedures Law:

##### 2.2.1. Referral of the accused to the competent court:

The prosecuting attorney must refer the case file to the appropriate conciliation court so that the accused can be tried if, following the conclusion of the inquiry, it seems that the act constitutes a violation<sup>18</sup>. If, at the conclusion of the investigation, he determines that the act is a misdemeanor, he decides to prosecute the accused and refer the case file to the relevant Magistrate's Court for trial<sup>19</sup>.

If he determines that the act is a felony, he decides to charge the accused and sends the case file to the Attorney General or one of his assistants, and if the Attorney General or one of his assistants determines that additional investigations are required, he returns the case file to the prosecutor to complete those investigations. However, if the Attorney General or one of his assistants determines that the act does not constitute a felony but rather a violation or a misdemeanor, he orders to change the charge's description and return the case file to the prosecutor for submission to the appropriate magistrate's court. If the Attorney

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<sup>13</sup> The mechanisms for arresting the accused during the preliminary investigation, the competent authority in issuing arrest warrants and arrests without a warrant, and the mechanism for dealing with the arrested person by the judicial officer are specified in Articles (29) and following of the Palestinian Code of Criminal Procedure No. (3) of 2001.

<sup>14</sup> Article (18) of the Law by Decree issued by the President of the Palestinian Authority in 2016.

<sup>15</sup> Article 34 of the Palestinian Code of Criminal Procedure No. 3 of 2001 stipulates that: "The judicial officer must immediately hear the statements of the arrested person, and if he does not provide a justification for his release, he shall send it within twenty-four hours to the competent prosecutor."

<sup>16</sup> See Article (4) of the Juvenile Offenders Law No. (2) of 1937.

<sup>17</sup> Article (20/1-3) of the Decree Law issued in 2016 AD and applied in the West Bank.

<sup>18</sup> See Article 150 of the Palestinian Code of Criminal Procedure No. 3 of 2001.

<sup>19</sup> See Article 151 of the Palestinian Code of Criminal Procedure No. 3 of 2001.

General or one of his assistants determines that the indictment is accurate, he orders the referral of the accused to the Court of First Instance in its capacity as a magistrate<sup>20</sup>.

Based on the above, the procedures for referring juvenile defendants' cases to trial are the same as those for adult defendants, as there is no provision related to the mechanism for disposing of the criminal case in any of the laws related to juvenile offenders and the Palestinian Child Law, as well as the order by law issued by the President of the Authority in 2016 that did not specify the procedures to be followed.

### **2.2.2. File the case:**

When the investigation is completed and the summary prosecutor believes that the act is not punishable by law, or that the lawsuit has expired due to statute of limitations, death, or general amnesty, or that the accused has already been tried for the same crime, or that he is not criminally responsible due to his young age, or due to a mental disability, or that the circumstances and circumstances of the case require its preservation, he shall dismiss the case for lack of importance<sup>21</sup>. If the Public Prosecutor or one of his assistants believes that the Public Prosecutor's opinion is correct, he must issue a reasoned decision to close the case and order the release of the accused if he is detained. If the decision to dismiss is based on the accused's lack of responsibility as a result of a mental handicap, the Attorney General may request that he be treated by the appropriate authorities<sup>22</sup>.

According to the above presentation, the Code of Criminal Procedure expressly provides for cases of preservation exclusively, including the preservation of the case for the accused's young age, which is the subject of our subject that the accused is young in the criminal case against him, and what is meant by young age here according to the Palestinian Child Law, who may not be held criminally accountable is the one who has not completed nine years of age<sup>23</sup>.

### **3. Competences of the Public Prosecution and the possibility of allocating a juvenile prosecution:**

The establishment of the Public Prosecution is mentioned in numerous Palestinian laws in order to emphasize its function as a public prosecutor and demonstrate the truth. In addition, in order to emphasize its inherent right to do so without challenge from any other party. Additionally, it oversees and regulates the activities of judicial officials to guarantee that they are carried out and validly followed in compliance with the current Palestinian Code of Criminal Procedure. However, certain issues, most notably those pertaining to events, occur during the practical application in certain of the unique situations that need for expert prosecution. We will discuss the establishment and capabilities of the Public Prosecution as a first requirement, and the potential creation and activation of a juvenile-specific prosecution as a second requirement.

#### **3.1. Formation of the Public Prosecution and its competencies:**

##### **3.1.1. Public Prosecution Formation:**

There is no definition of the Public Prosecution in any Palestinian legislation, except that it came explaining its composition and competencies, and the Public Prosecution is considered a division of the judiciary and is the representative of the community, charged with representing public interests and seeking to fulfill legal obligations<sup>24</sup>. In actions brought by or against one of the State's institutions, it represents the State and its institutions.

The Judicial Authority Law of 2002 specifies the formation of the Public Prosecution in Chapter One of Chapter Five and clarifies the conditions that a member of the Public Prosecution must meet, the method of appointing the Attorney General, and the subordination of members of the Public Prosecution according to the order of their grades<sup>25</sup>.

##### **3.1.2. Public Prosecutor's Competencies:**

Unless otherwise provided by law, the Public Prosecution shall use the powers conferred in it by law and shall have the exclusive ability to file and initiate criminal proceedings (public right lawsuit)<sup>26</sup>.

<sup>20</sup> See Article 152 of the Palestinian Code of Criminal Procedure No. 3 of 2001.

<sup>21</sup> See Article 149/1 of the Palestinian Code of Criminal Procedure No. 3 of 2001.

<sup>22</sup> See Article (149/3) of the Palestinian Code of Criminal Procedure No. (3) of 2001.

<sup>23</sup> See Article 67 of the Palestinian Child Law No. 7 of 2004.

<sup>24</sup> Article (1) of the Judicial Instructions of the Attorney General No. (1) of 2006.

<sup>25</sup> See Articles (61-66) of the Judicial Authority Law of 2002.

<sup>26</sup> Article (67) of the Judicial Authority Law of 2002.

According to the Attorney General's Judicial Instructions No. 1 of 2006 published in the framework of article VIII thereof, the Public Prosecution is an integrated unit whose specialization, division, and composition are not provided for by law. "The Attorney General shall assume all judicial and administrative powers over all members of the Public Prosecution, and he may exercise them himself -- and he may entrust any of the Public Prosecution members legally entrusted with assisting or directly assisting or directly on his behalf, in addition to those entrusted to him individually." The laws governing juvenile justice did not provide for the formation and jurisdiction of an independent and individual prosecution for that matter, so it should be noted that no special jurisdiction was specified in light of the specific type of cases that require a specialized prosecution that is unique in working in it alone, such as juvenile cases. Instead, it came in the context of clarifying the procedures that the Public Prosecution must follow during the investigation. We note that no special jurisdiction was specified in light of the specific type of cases that require a specialized prosecution that is unique in working in it alone, such as juvenile cases, so that the laws governing juvenile justice did not provide for the formation and jurisdiction of an independent and individual prosecution for that matter, but it came in the context of clarifying the procedures that the Public Prosecutor must follow during the investigation. 'Under the requirements of this legislation, a prosecution shall be assigned to juveniles and children at risk of delinquency, and shall bring all cases pertaining to juveniles and children at risk of delinquency before the court. Unless they conflict with the provisions of this Law, the Juvenile Prosecution shall undertake the investigation in accordance with the processes specified by the current Code of Criminal Procedure<sup>27</sup>...'. Article (16) of the Law by Decree issued in 2016 and applied in the West Bank.

### **3.2.The possibility of allocating a prosecution for juveniles:**

We discovered that the Public Prosecution can play an important role in juvenile cases during the investigation phase and during its representation of the public right at the trial stage, which is supposed to differ from the traditional role of the Public Prosecution, after reviewing the texts that clarify the formation of the Public Prosecution and its competence.

Its role, according to juvenile correctional policy, is to focus on what is in the best interests of the juvenile as a victim, not a criminal, and thus pay attention to evidence of innocence as much as incriminating evidence and the search for mitigating circumstances and motives behind the illegal behavior<sup>28</sup>.

Despite the variety of names given to the laws and legislation issued on juveniles, the role played by the probation officer or child protection counsellor does not differ with regard to his duty toward juvenile offenders. His presence is constrained by the text of the law and must be observed by the member of the public prosecution during the investigation of juveniles, and he must inform him of the necessity to attend and not to omit any information provided to him by the probation officer. We'll briefly go over the steps the Public Prosecution must take when looking into juvenile cases, as well as the number of cases that it receives each year involving juvenile defendants as one of the parties or all of the parties. We'll also discuss the challenges the Public Prosecution faces when allocating and launching a specialized prosecution to look into and consider juvenile cases.

#### **3.2.1. Procedures used during the juvenile's interrogation:**

- Obligation to open an official report when investigating the juvenile: When the judicial officer presents the evidentiary papers to the prosecutor, who limits the evidentiary papers presented to him in a separate record before beginning the investigation with the juvenile accused, it is necessary to open an official record.
- Many prosecutors have not been dedicated to putting this procedure into practice on time. He must also mark the papers provided to him by consideration and attachment, prove them in the record, and open the minutes before taking any other action.
- Perform a virtual medical examination on the juvenile before questioning him. The prosecutor is required to order a virtual medical examination of the juvenile before questioning him in order to confirm any signs or effects of the use of force and violence with him and to establish this at the outset of the investigation report.

<sup>27</sup> Article (16) of the Law by Decree issued in 2016 and applied in the West Bank.

<sup>28</sup> Dr. Thaer Saud Al-Adwan, Criminal Justice for Juveniles 'A Comparative Study', Dar Al-Thaqafa for Publishing and Distribution, 2012, p. 143.

- Officially notify the probation officer of the need to attend the juvenile defendant's interrogation: Under the Gaza Strip's version of the Juvenile Offenders Law, the Public Prosecutor is required to notify the probation officer of this requirement before beginning the investigation with the juvenile defendant.
- Presentation of evidence to the accused child by the prosecution Possibility of inviting a lawyer to the sessions of the investigation: Before beginning the investigation with the juvenile accused, the prosecutor must select him and ask him whether he wants to name a lawyer to attend the interrogation sessions with him or not. If the juvenile expresses a desire to name a lawyer, the prosecutor must postpone the investigation with him for a period of (24 hours). If the juvenile's lawyer does not appear or declines to name a lawyer on his behalf, the prosecutor may question the juvenile accused immediately<sup>29</sup>.
- In accordance with Article 42 of the Palestinian Child Law, "1. The child has the right to protection from forms of physical, moral, or sexual violence or abuse, neglect, negligence, homelessness, or other forms of abuse or exploitation." According to Article 68 of the same law, "No child shall be subjected to physical or mental torture or to any form of cruel, inhuman, or degrading punishment or treatment."
- Make sure the juvenile is apprehended in the location assigned for him in line with the law: "If a person is arrested and appears to be under the age of eighteen years of age and is not released in accordance with the foregoing, the police officer who brought him to him must take measures to arrest him in the detention facility designated for this purpose under this law until he can be brought before the court for trial," according to Article 5 of the Juvenile Offenders Law that is applicable in the Gaza Strip.
- The legislation forbids minor suspects from associating with adult detainees, with the exception of his relatives, both during questioning and while they are being arrested<sup>30</sup>.
- When a juvenile is brought in, he must be informed of the charges against him. According to Article 8/1 of the Juvenile Offenders Law, "1. If a boy, juvenile, or girl appears before any court to try him for any offence, the court shall immediately explain to him in simple language the summary of the offense attributed to him..."

### **3.2.2. Difficulties the Public Prosecution faces in launching a specialized juvenile prosecution:**

The establishment of a specialized prosecution for juvenile cases is not difficult, because it does not require the Legislative Council, which is the administrative prerogative of the Attorney General, to issue an administrative decision to form a specialized prosecution to consider juvenile cases in all areas of the governorates of the Gaza Strip, but the difficulty lies in the following matters:

- Because there are only 77 prosecutors total, including presidents, agents, and assistants, there is a lack of human resources because starting a new prosecution requires a number of people, including prosecutors, agents, and assistants in addition to administrative staff like registrars, administrators, secretaries, correspondents, and lawyers.
- The lack of spaces and offices, which results in a significant lack of offices for the Public Prosecution across all governorates, notwithstanding its current organizational structure.
- There are no options for allocating a police force with a juvenile division because all the governorates in the Gaza Strip require patrols, prison facilities, a section for deportations, and an investigation division.
- Difficulties in implementing the processes that may be the incident's location are crucial for completing an early detection, inspection, and sketch; nevertheless, these procedures may not be available owing to distance and a lack of options.
- Due to the lack of options for the Judicial Council to designate a special court or a specialized body to consider juvenile cases and full-time for that, and the reason is due to the small number of judges, and they need a number of other judges to activate the role of the juvenile court, cases are dispersed between the corridors of the courts, each according to its spatial jurisdiction.

<sup>29</sup> See Article 97/2 of the Palestinian Code of Criminal Procedure No. 3 of 2001.

<sup>30</sup> See Article (6) of the Juvenile Offenders Law No. (2) of 1937.

- In order to complete the criminal justice system, the activation of a specialized prosecution requires the establishment of a specialized judiciary and a specialized police force in juvenile cases. This issue requires coordinated efforts as well as the provision of capabilities and human cadres so that the justice system's pillars are allocated.

Its ideal outlook, which was eager to spread in order to preserve children and so as not to reflect on them their mistreatment and lead them to an increase in delinquency, is reflected in what is based on international conventions and international laws to allocate the judiciary, prosecution, and police for juveniles. However, the practical reality is exposed to many obstacles as we mentioned above, and until we reach the work of the ultimate ideal that we all support and desire, but the existing practical reality and its application differs of course from the desired theoretical reality.

#### **The conclusion:**

The study came to the conclusion that there was a lot of positivity in the procedures used, which aimed and were keen to protect the juvenile defendants from abuse of power during their investigation, and also developed guarantees to ensure that protection for them in terms of being able to designate a lawyer with him to attend investigations and trial sessions, and accompany the probation monitor with him throughout the questioning, accusation, and trial sessions, in addition to pro. Numerous of the following findings and suggestions were revealed by the study:-

#### **Results:**

- Because the juvenile is the first building block of society and needs special care and protection from the law, society, and families to prevent them from slipping into the depths of delinquency and delinquency towards crime and eventually becoming professionals in crime, juvenile issues are considered serious issues that affect society.
- Based on the label borne by the law that is deemed cruel to juvenile children, the Juvenile Offenders Act No. 2 of 1937 designated a juvenile as a criminal.
- There are numerous laws that address current events in Palestine, demonstrating the Palestinian legislators' desire to use these laws to provide the required safety for minors.
- According to international rules and treaties, juvenile offenders suffer from a pathological state and must be treated, corrected, and reintegrated into society as morally upright and useful members of society.
- While working, the Public Prosecution paid close attention to the specific legal safeguards that must be provided to minors during their questioning in accordance with the rules that are in effect in the Gaza Strip.
- The Public Prosecution was eager to give juveniles legal protections, safe places to be detained, and to monitor any abuses that might take place while they were being held with adult offenders.
- Juvenile charges are handled independently in each governorate's partial prosecutions because there is no specialist prosecution for minors.
- Before the regular court hears the cases of adult defendants, juvenile defendants must be apprehended.
- Juvenile and adult defendants must be kept together during the entirety of the investigation and trial process, with the exception of detention facilities, where separation is allowed.
- The law signed by the President of the Authority in 2016 and currently in effect in the West Bank aims to protect children and views adolescence as a pathological condition that requires treatment and behavior modification rather than as a crime deserving of punishment. It also mandated the establishment of a juvenile court body with judges who are trained specifically to hear cases involving minors and a specialized prosecution for juveniles.

#### **Recommendations:**

- Create a prosecution that is specifically focused on handling juvenile cases, with a single headquarters and a technical and administrative body that is independent of the other partial



prosecutions. This prosecution will look into all juvenile cases from the point of investigation through his fair trial before the judiciary and issue a final and definitive judgment.

- The enactment of unified Palestinian juvenile justice law that reflects the numerous developments occurring in Palestinian society and complies with the rights and regulations recognized by international juvenile justice standards.
- Repeal the Juvenile Offenders Law No. (2) of 1937 because it is out of date and its provisions do not reflect current reality. In its place, amend the Palestinian Child Law No. (7) of 2004 to include provisions and procedures pertaining to juvenile offenders.
- The designation of the juvenile offender is inconsistent with the main goals of the contemporary penal policy related to the treatment of juvenile delinquents, so it is necessary to exclude any legal designation or term for juvenile offenders and to place the appropriate legal designation (children in conflict with the law).
- Establishing alternatives to custodial penalties in order to effectively address these cases, which are primarily pathological cases that require treatment and prevention rather than punishment and retribution and may turn the offender into a professional criminal and experienced in crime.
- Build more juvenile prison facilities so Al-Rabie Institution and Aman Center can no longer accommodate juvenile offenders.
- Create programs for juveniles who are in detention for rehabilitation and correction, as well as social and psychological care.
- Providing children with sports, leisure, and education-related activities and programs targeted at averting mistakes and delinquency in order to protect them in accordance with the rights outlined for them in the Palestinian Child Law.
- Beginning as soon as the juvenile makes a mistake and acting in the probation officer's (child protection advisor) capacity.
- Each body of the judiciary, the Public Prosecution, and the police must include a female component with attributes that men may not have, such as leniency and compassion.
- The requirement for professionals in dealing with juveniles in educational and psychological settings, as well as intensive courses in educational sciences, psychology, and sociology.
- Activating the role of judicial control over juvenile welfare institutions to protect them from abuse in detention and to ensure that they are segregated according to their age and the crime they committed.

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