

Penal Mediation in Algerian Law: A Comparative Study with French Legislation

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Received date: 22.01.2025; Accepted date: 11.03.2025; Publication date: 04.04.2025

doi: 10.56334/sei/8.2.59

Abstract:

This study presents an overview of the concept of penal mediation, where the adoption of this system came in response to the urgent need arising from the increasing number of crimes. This surge has led to a rise in cases presented before the judiciary, resulting in a crisis within the criminal justice system. Under the pressure of this crisis, modern criminal policy has turned to penal mediation as one of the restorative justice models, following traditional punishment failure to combat criminal phenomena. Consequently, penal mediation has become part of the evolution of criminal procedures toward the realisation of criminal justice. Therefore, modern legislation has moved towards adopting this system, as demonstrated by the Algerian legislature.

Keywords: Criminal justice crisis, Penal mediation, Restorative justice.

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Citation: Laskri A. (2025). Penal Mediation in Algerian Law: A Comparative Study with French Legislation. *Science, Education and Innovations in the Context of Modern Problems*, 8(2), 869-886. doi: 10.56352/sei/8.2.59. <https://imcra-az.org/archive/358-science-education-and-innovations-in-the-context-of-modern-problems-issue-2-volvi-2025.html>



Introduction

Crime is an ancient phenomenon that is as old as human societies themselves. It has grown and evolved, taking various forms in line with the development and complexity of life. Given its gravity, it has become imperative to consider effective methods to combat it or even mitigate its severity.

In this context, countries have adopted criminal policies on the basis of principles and foundations, starting with criminalisation and punishment and extending to define the scope of prevention, as well as determining the role of criminal courts, prisons, and correctional institutions on the basis of modern scientific theories.² One of the most significant outcomes of the legislator's adoption of this policy has been the emergence of an unlimited number of deviant behaviours that have become subject to criminalisation. This has led to numerous flaws, the most notable of which is the phenomenon known as penal inflation (l'inflation pénale). As a result, countries, regardless of their ideologies, have suffered from this phenomenon, which directly reflects the legislator's tendency to use punitive measures to address newly emerging forms of crime.³ This has, in turn, made the criminal justice system more criticised than ever before, bringing to the forefront what scholars have referred to as the "criminal justice crisis," which has arisen from various factors that have hindered the functioning of criminal justice.

In light of this critical situation, criminal policy must reconsider its strategy for combating crime. Indeed, since the middle of the 20th century, efforts have been made to find methods that achieve the highest possible effectiveness in reducing criminal phenomena. These efforts have moved in two directions: one is substantive, focused on policies to reduce criminalisation and punishment, and the other is procedural, aimed at facilitating the procedures of criminal proceedings or what is known as alternatives to criminal prosecution.⁴

From here, the concept of penal mediation began to emerge as one of the most important alternatives. As a method of resolving criminal disputes and one of the mechanisms capable of addressing the criminal justice crisis, it is seen as a way to terminate criminal proceedings without the need to go through their

²Sidi Mohamed Elhamlili, *Criminal Policy Between Traditional Considerations of Criminalisation and Scientific Research in Crime Studies*, PhD thesis, Faculty of Law and Political Science, University of Tlemcen, 2012, p. 23.

³ Mohamed Hakim Hussein Al-Hakim, *General Theory of Reconciliation and its Applications in Criminal Matters: A Comparative Study*, Dar Al-Kutub Al-Qanuniya, Egypt, 2005, p. 1.

⁴ Barak Ahmed Mohamed, *Voluntary Punishment in Islamic Law and Contemporary Criminal Systems: A Comparative Study*, PhD dissertation, Faculty of Law, Cairo University, 2009, p. 03.

procedural stages. This primarily results in the shortening of these formal procedures, hoping to speed up the resolution of cases.

On this basis, our research's problem revolves around the effectiveness of mediation in resolving criminal disputes and its contribution to overcoming the criminal justice crisis.

To answer this question, our study first addresses the nature of penal mediation (Chapter One) and then examines its provisions according to both Algerian and French legislation (Chapter Two).

Chapter One

The Nature of Penal Mediation

After a crime is committed, a gap develops between the offender and the victim, and the distance between them widens. Therefore, there is no way to mend this psychological rift except through the intervention of a third party to restore the relationship damaged by the crime. This is achieved through penal mediation.

In this chapter, we attempt to illuminate the concept of penal mediation. In the first section, we discuss its definition; in the second section, we examine its various forms.

Section One

Concept of Penal Mediation

Penal mediation is the foundation of the system of alternative measures. It is the driving force and means of finding a conciliatory solution between the disputing parties, where the parties themselves make the decision.

Subsection One

Definition of Penal Mediation

The definitions of penal mediation are varied. One perspective, represented by French legal scholar Jean Pradel, defines it as "the principle by which both criminal judges and the private parties—the offender and the victim—agree to exclude the legal rules that would normally apply." ⁵

On the other hand, another viewpoint considers it a method for building and managing social life through the intervention of a neutral and independent third party, without any authority other than that granted to them by the parties who select them. ⁶

For the legislative definition, in our search for a definition of penal mediation, we found that most of the legislation that adopted this innovative method addressed the provisions and procedures of mediation without providing a specific definition. This is also the case with the French legislature, who did not define penal mediation. Article 411, paragraph 5 of the French Code of Criminal Procedure, is devoid of a clear definition, which led some scholars in France to consider this as an acknowledgement of a specific deficiency.

The Algerian legislature followed the same approach, as it did not define this system. This can be observed when examining Articles 37 bis to 37 bis 9 of Ordinance No. 15--02, which amends the Code of Criminal Procedure. ⁷ Similarly, the Tunisian legislature did not define the penal mediation system, which was adopted under Law No. 93, issued on October 29, 2002, amending the Code of Criminal Procedure, in Chapter Nine, from Article 335 bis to Article 335 septies. ⁸

Subsection Two

Parties to Penal Mediation

The process of penal mediation involves three parties:

First - The Offender:

⁵ Quoted from Mohamed Sami Al-Shawa, *Mediation and Criminal Justice: Modern Trends in Criminal Proceedings*, Dar Al-Nahda Al-Arabia, Cairo, p. 7.

⁶ Christian-Nils Robert, *Mediation*, Proceedings of the Conference on October 10, 1996, CETEL (Center for the Study of Legislative Techniques and Evaluation), No. 49, Faculty of Law, University of Geneva, September 1997, p. 2.

⁷ Ordinance No. 02-15 of July 23, 2015, amending and supplementing Ordinance No. 66-155 of June 8, 1966, containing the Code of Criminal Procedure, as amended and supplemented, *Official Journal*, No. 40, issued on July 23, 2015.

⁸ Third Report of Tunisia on the Implementation of the Convention Against Torture, presented to the Committee Against Torture, November 16, 2009, pp. 26-25, published on the website: <http://www.gihr-ar.org>, accessed September 14, 2018.

The offender is the person who commits a crime, whether as the primary perpetrator or as an accomplice. In criminal law, there are two legal terms for the offender: "the accused" and "the suspect."⁹

Second - The Victim:

In most comparative legislation, there is no specific definition for the victim.¹⁰ Therefore, some scholars define the victim as "the natural or legal person against whom a crime has been committed, even if they have not suffered any harm as a result."¹¹ In penal mediation, the victim is considered the person who has been directly affected by the crime or whose legally protected interest has been harmed. The victim may be a natural or legal person or the community.¹²

Third - The Mediator:

The mediator is defined as the person who brings the interests of the offender and the victim closer together.¹³ Referring to the legislation, we observe that the task of conducting the mediation process is entrusted to a person independent of the public prosecution system, although they remain under its supervision. Two types of mediators are relied upon in this process:

First type: A mediator representing the role of justice and law, typically a government body entrusted with conducting the mediation process under the direct supervision of a member of the public prosecution.

Second type: A mediator independent of the public prosecution, to whom the entire case file is sent on the basis of a delegation from the judicial authorities and under their supervision.¹⁴

However, the Algerian legislature deviated from this general rule when organising the mediation process in criminal matters, as evidenced by the public prosecution (represented by the public prosecutor)

⁹ Rami Metwally Al-Qadi, *Mediation in Comparative Criminal Procedural Law*, unpublished, Egypt, 2010, p. 214.

¹⁰ Hamdi Rajab Atiya, *The Role of the Victim in Ending Criminal Proceedings*, PhD dissertation, Faculty of Law, Cairo University, 1979, p. 19.

¹¹ Mohamed Sobhi Mohamed Najm, *The Victim's Consent and its Impact on Criminal Responsibility*, Diwan of University Publications, Algiers, 1983, p. 71.

¹² Fayed Aiedh Al-Dhefiri, *Reflections on Penal Mediation as a Means of Ending Criminal Prosecution*, Legal Study, *Journal of Law*, Scientific Publishing Council, University of Kuwait, Issue 2, Volume 33, 2009, p. 159.

¹³ Rami Metwally Al-Qadi, *Op. Cit.*, p. 170.

¹⁴ Adel Ali Al-Mani, *Mediation in Resolving Criminal Disputes*, *Journal of Law*, University of Kuwait, Issue 4, Volume 30, December 2006, p. 48.

monopolising the role of the mediator. In addition to being the supervisory and oversight body for the mediation process, the public prosecutor also performs the role of the mediator by managing the negotiation procedures between the parties in the dispute. This is reflected in Article 37 bis of the Code of Criminal Procedure.¹⁵

Section Two

Forms of Penal Mediation

The forms of penal mediation are diverse, and it is quite challenging to encompass all its types and shapes. This diversity is due to the novelty of criminal mediation's approach to resolving disputes.

Scholars generally classify penal mediation forms into two categories: delegated mediation, which constitutes the vast majority of penal mediation forms, and retained mediation.

Subsection One

Delegated Mediation

Delegated mediation (la médiationdéléguée) refers to mediation carried out by bodies such as victim assistance associations or judicial oversight bodies after the case file is transferred to them by the public prosecution within the discretionary authority granted to the latter. Mediation is entrusted to a natural or legal person to resolve the dispute between the parties in an amicable manner.¹⁶

In this form of mediation, the mediator must be affiliated with one of the victim assistance associations or judicial oversight bodies that have an agreement with the public prosecution to carry out this task. This agreement is not required to take a specific form; it can be explicit and written in a document between the public prosecution and the association or oral. It may also be implicit, indicated by the public prosecution's lack of objection to the mediation carried out by such associations, provided that these associations respect the fundamental rights of the parties involved, especially regarding their voluntary nature.¹⁷

Subsection Two

¹⁵ Article 37 bis of Law 15-02, op. Cit.

¹⁶ BONAFE-SCHMITT, Jean-Pierre. *La Médiation Pénale en France et aux États-Unis*. L.G.D.J., 1998, p. 38.

¹⁷ Osama Hassanin Obeid, *Op. cit.*, p. 525.

Retained Mediation

Retained mediation is defined as mediation carried out by government bodies that play the role of mediators and are directly supervised and controlled by public prosecution. Prosecutors at justice centres directly manage it.¹⁸

The French legislature legislated this form through the law of December 18, 1997, concerning the proximity of justice and the amicable settlement of disputes. This law established bodies that are directly integrated into the judicial framework, represented by justice channels (les antennes de justice) and legal justice centers (les maisons de justice et du droit).¹⁹

This newly introduced form of penal mediation aims to encourage citizens to resolve their problems humanely while also bringing them closer to the institutions responsible for justice. This has led some scholars to coin the term "proximity justice" for penal mediation.²⁰

This is the approach adopted by the Algerian legislature, and this is supported by the fact that Law 15-02 grants the public prosecutor the authority to follow up and supervise the mediation process. In all cases, the case remains under the judiciary's jurisdiction without leaving its scope. The case files remain with public prosecution, which aligns with retained mediation, where it is a requirement that the cases do not exit the scope of judicial authority.

Chapter Two

Provisions of Penal Mediation

After addressing the general system of penal mediation in the first chapter, we attempt to shed light on its provisions as a system that has imposed itself in many criminal legislations as a clear example of summary

¹⁸ AXEL, Piers. *La Médiation Pénale: Son Émergence, Ses Caractéristiques, et Son Introduction en Droit Belge*, in *La Médiation: Actes du Colloque du 10 Octobre 1996*, published by Christian-Nils Robert et al., (collective work), p. 46.

¹⁹ Rami Metwally Al-Qadi, *Op. cit.*, p. 81.

²⁰ Ibrahim Khalil Owsaj, *Op. cit.*, p. 70.

criminal procedures. This will be done by outlining its conditions (Section One), followed by its procedures and the consequences arising from it (Section Two).

Section One

Conditions for the Application of Penal Mediation

Since penal mediation aims to resolve disputes between parties in an unconventional manner, certain conditions must be met to ensure its success. These conditions are divided into formal (Subsection One) and substantive (Subsection Two) conditions.

Subsection One

Formal Conditions for Penal Mediation

- First: Valid Consent

Penal mediation is based on the principle of free will,²¹ as it is a system primarily grounded in voluntariness. The public prosecution does not impose the consent of both the offender and the victim to mediation. However, it stems from the parties' desire to resolve the dispute outside the complexities of judicial procedures. There must be free and explicit consent from any factors that could impair its validity, such as coercion, error, or fraud. Public prosecution should not pressure the victim to accept this system simply to avoid the burdens of investigation and its responsibilities. Compared with the traditional criminal prosecution route, the system is intended to provide the victim with appropriate and swift compensation in a relatively short period.²²

- Second: Procedural capacity

²¹ Rami Metwally Al-Qadi, *Op. cit.*, p. 153.

²² Fayed Aiedh Al-Dhefiri, *Op. cit.*, p. 171.

Procedural capacity refers to the legal attribute granted to an individual who allows them to engage in a type of procedure to defend their rights and interests in a manner that renders the procedure valid and produces its legal effects owing to the individual's legal personality.²³

When resorting to the mediation procedure, it is essential that the defendant be of legal age. Otherwise, the person is considered legally incapable of being subject to criminal proceedings if they do not meet the requirement of full procedural capacity. However, this is not absolute, as in such cases, we are dealing with juvenile mediation rather than mediation between adults.²⁴

- Third: Written Agreement

The Algerian legislature has stipulated the necessity of completing the penal mediation process through a written agreement between the victim and the offender. Article 37 bis of Ordinance 15-02, in its second paragraph, states: "The mediation is carried out through a written agreement between the victim and the perpetrator of the criminal acts."

Subsection Two

Substantive conditions for Penal mediation

The substantive conditions for penal mediation consist of several points that public prosecution must consider to ensure the success of this procedure, with its essential considerations in the justice and legal system.

First: The Existence of a Criminal Case Pending Before Public Prosecution

²³ Drici Djmel, *The Admissibility of Confession in Forming the Criminal Judge's Conviction*, *Annals of the University of Algiers*, Issue 21, Faculty of Law, University of Algiers, p. 441.

²⁴ Rami Metwally Al-Qadi, *Op. cit.*, p. 152.

For penal mediation to apply and be in line with substantive conditions, a criminal case must be pending before public prosecution, according to the requirements for initiating criminal proceedings, which include the following:

- The commission of a crime.
- The attribution of the crime to a specific person.
- The existence of a victim who has suffered harm.²⁵

Additionally, the mediation process must take place before criminal prosecution begins. If the public prosecution has already initiated criminal proceedings, it is prohibited from referring the case to mediation.²⁶

The Algerian legislature also adopted this when it stipulated in Article 37 bis of Ordinance 15--02, which amends and supplements the Code of Criminal Procedure: "The public prosecutor may, before any criminal prosecution, decide, on his own initiative or at the request of the victim or the accused, to conduct mediation when it is likely to resolve the harm caused by the crime or to repair the damage resulting from it."

Similarly, the French legislature has also stipulated this condition under Article 41-1, paragraph five of the French Code of Criminal Procedure, which refers to the direct possibility for the public prosecutor or a judicial police officer, commissioner, or mediator to conduct mediation between the offender and the victim, with their consent, before deciding the criminal case.

Second: The Discretion of the Public Prosecution to Initiate Mediation

This principle grants the public prosecution discretion to determine whether to initiate criminal proceedings, even if the elements of the crime are present and there is sufficient evidence linking the defendant or suspect to the offense.

Returning to the system of penal mediation, we find that the Algerian legislature has granted the public prosecution discretionary power regarding the usefulness of resorting to mediation in criminal cases to terminate public prosecution via the aforementioned principle. This is reflected in the opening of Article 37

²⁵ Rami Metwally Al-Qadi, *Op. cit.*, p. 135.

²⁶ Fayed Aiedh Al-Dhefiri, *Op. cit.*, p. 131.

bis of Ordinance 15--02, which amends and supplements the Code of Criminal Procedure, which states "The public prosecutor may...".

Third: Achieving the Objectives of Penal Mediation

The French legislature has established several criteria that public prosecution can rely on when deciding to resort to criminal mediation. These criteria include rehabilitating the offender and repairing the damage caused by the crime.²⁷ Similarly, the Algerian legislature also relied on two criteria, which the public prosecutor can use when deciding to initiate mediation. According to the text of Article 37 bis of Ordinance 15--02 mentioned earlier, these criteria are the reduction of harm caused by the crime and the compensation for the damage resulting from the crime.

Fourth: The Parties' Consent to Penal Mediation

Before resorting to mediation, the public prosecution must obtain the consent of the parties involved. This is an essential condition for proceeding with the process and holding mediation sessions, and it is considered one of the prerequisites for the success of penal mediation.²⁸ If any party expresses its refusal and chooses to resort to the judiciary to resolve the dispute, mediation cannot proceed and will not be able to continue.

Section Two

Procedures of Penal Mediation and its Effects on Public Prosecution

The system of penal mediation differs from traditional criminal procedures in that it allows for the avoidance of initiating criminal proceedings and helps the parties in the dispute reach a mutually agreed-upon resolution through specific procedures, which go through various stages (Subsection One). On the other hand, there is no doubt that the result of the negotiations arising from the mediation process affects the criminal case (Subsection Two).

Subsection One

²⁷ Rami Metwally Al-Qadi, *Op. cit.*, p. 144.

²⁸ Mbanzoulou, Paul. *La Médiation Pénale*. L'Harmattan, 2012, p. 15.

Procedures of Penal Mediation

The procedures of penal mediation are divided into three stages: the first is the preliminary stage of mediation or its initiation, followed by the mediation sessions and their execution, also referred to as the completion stage of mediation.

First: Preliminary Stage of Mediation (Initiating Mediation)

This stage involves some preliminary procedures for completing the mediation between the offender and the victim, and it requires a procedural condition that we have previously mentioned: the noninitiation of criminal proceedings.

The preliminary stage of penal mediation in Algerian legislation begins with referring the dispute to mediation. If the public prosecutor determines that the crime committed falls under one of the 18 misdemeanours listed explicitly in Article 37 bis 2 of Ordinance 15/02, which amends and supplements the Code of Criminal Procedure, or any other offence without distinction,²⁹Cit.

The law allows them to decide, either on their own initiative or at the parties' request, to proceed with mediation if they believe that an agreement can be reached between the offender and the victim regarding the repair or compensation for the damage resulting from the crime.

The situation is similar in comparative legislation. We can observe this in French legislation, where Article 40-1 of the French Code of Criminal Procedure provides the public prosecutor with the direct possibility of referring the dispute to mediation if it is possible to compensate the victim, repair the damage caused by the crime, and rehabilitate the offender.³⁰

Second: The Stage of Penal Mediation

Once the parties agree to resolve the dispute through mediation, the mediator will administratively summon both parties for an appointment that they set, thus beginning the negotiation stage.

The Algerian legislature does not require that the negotiations be direct or indirect. However, in legal theory, scholars distinguish between these two forms on the basis of the type of crime subject to mediation.

²⁹ See Article 37 bis 2 of Ordinance 15-02, *Op.*

³⁰ Rami Metwally Al-Qadi, *Op. cit.*, p. 225.

For example, Professor Osama Hassanin Obeid argues that indirect negotiation suits disputes with material or financial characteristics. In contrast, others argue that direct negotiation is necessary for crimes that cause moral or emotional harm.³¹

Third: The Stage of Executing the Mediation Agreement

Mediation must eventually end, and this conclusion can take one of two forms: either the parties, with the assistance of the mediator, fail to reach a satisfactory resolution, resulting in the failure of the mediation, or the mediator's efforts succeed in reaching a settlement, in which case the mediation enters its pivotal stage.³²

If an amicable solution is not reached, the public prosecutor drafts a report of nonagreement and formally declares the mediation unsuccessful. The necessary steps are then taken to initiate the criminal proceedings.

On the other hand, if the mediation is successful, the public prosecutor drafts a written record of the agreement, which is numbered and outlines each party's commitments and the results stemming from the agreement. The public prosecutor is responsible for overseeing the implementation of this agreement, as their role does not end until the terms of the agreement reached by the parties are fully executed.³³

Subsection Two

Effects of Mediation on Public Prosecution

The effects of penal mediation on public prosecution vary in two respects:³⁴ the first is the suspension of the statute of limitations for criminal proceedings due to referring the case to mediation, and the second is the effects resulting from the conclusion of criminal mediation.

First: Suspension of the Statute of Limitations for Criminal Proceedings

³¹ Osama Hassanin Obeid, *Op. cit.*, p. 552.

³² Adel Ali Al-Mani, *Op. cit.*, p. 66.

³³ Ashraf Ramadan Abdel Hamid, *Op. cit.*, p. 59.

³⁴ Rami Metwally Al-Qadi, *Ibid.*, p. 244.

One effect of applying the mediation system in criminal matters is the suspension of the statute of limitations for criminal proceedings. This is reflected in Article 37 bis 7, which states, "The statute of limitations for criminal proceedings is suspended during the time specified for implementing the mediation agreement." This implies that the period specified for executing what was agreed upon in the mediation report halted the statute of limitations for the criminal case.

The same effect is present in comparative legislation. For example, the French legislator, through Law No. 99--515, issued on June 23, 1999, amended Article 41--1 of the French Code of Criminal Procedure by adding a final paragraph that states "... the procedures outlined in this article suspend the statute of limitations for criminal proceedings."

The rationale behind this effect is to prevent the offender from exploiting the mediation process and delaying its implementation to benefit from the statute of limitations for criminal proceedings.³⁵

Second: Effects resulting from the conclusion of Penal Mediation

The effects of the conclusion of penal mediation vary depending on the results achieved, which fall into two categories: the mediation may either be successful or fail. Two points illustrate this.

1.The success of Penal Mediation:

2.Mediation concludes successfully when the offender executes what was agreed upon in the mediation report within the specified time frame. The Algerian legislature has established legal consequences for this success, which include the following:

- The Extinction of the Criminal Case: This is the effect provided in paragraph three of the amended Article 06 of the Algerian Code of Criminal Procedure, which states: "The criminal case is extinguished upon the execution of the mediation agreement."
- Administrative Closure of the Case: As previously mentioned, penal mediation is conducted at the discretion of the public prosecution to determine whether to initiate criminal proceedings. If the mediation process is successful, the public prosecution issues an order to close the case files.

³⁵Lahdhi Al-Manaai, *Les Effets Juridiques de la Réconciliation par Médiation dans la Matière Pénale*, working paper presented at the Conference on Reconciliation through Mediation in Penal Matters, held at the Higher Institute of Judiciary in Tunisia on March 13, 2003, p. 4, published on the website: http://www.ism-justice.nat.tn/ar/for_continue/solh.pdf, accessed September 15, 2024.

2.Failure of Penal Mediation:

3.Penal mediation may fail for several reasons, including the parties' initial refusal to engage in mediation, their inability to reach an agreement, or the failure of the complainant to fulfil their obligations as outlined in the mediation agreement within the specified time frame. In this case, the public prosecution regains its authority to continue handling the criminal case, as provided in Article 37 bis 8, which states: "If the agreement is not executed within the specified time frame, the public prosecutor will take whatever action is deemed appropriate regarding the prosecution procedures."

However, the French legislature amended Article 41-1 of the French Code of Criminal Procedure through Article 70 of Law No. 204 of 2004, issued on March 9, 2004. This law allows public prosecution to either apply the procedure for criminal settlement or initiate criminal proceedings if the mediation agreement is not executed because of the offender's actions.³⁶

Conclusion:

From the above, it is clear that penal mediation is a vast and complex legal matter still under research and in-depth study. Further refinement from a legislative perspective is needed to address these gaps. The conclusions drawn from this study are as follows:

- Penal mediation aims to ensure the prompt resolution of minor criminal cases and simplify their procedures to ease the burden on courts, allowing them to focus on more significant cases.
- Penal mediation is an innovative means introduced by modern criminal policy to address the overwhelming and continuous increase in the number of cases presented before criminal courts.
- The penal mediation procedure relies on a set of principles. The public prosecution considers it a third option when deciding whether to initiate criminal proceedings under regular procedures, dismiss the case, or propose mediation to the parties if it appears that it could achieve the purposes outlined by the legislature.
- The implementation of penal mediation has several advantages that cannot be achieved through traditional procedures. These include helping to compensate the victim, whether with a monetary sum or through in-kind compensation for the damage itself, ultimately helping to resolve the disruption caused by the crime.

³⁶ Rami Metwally Al-Qadi, *Op. cit.*, p. 249.

- By incorporating penal mediation, the legislature acknowledges that criminal punishment is not always the best solution for achieving justice and fairness for the parties involved, aligning with the latest schools of thought in criminal law within comparative law.

In light of the shortcomings that have negatively impacted the subject of penal mediation from both a legal and practical perspective, it is essential to present a set of proposals that may help address these gaps:

- We suggest that the Algerian legislature broaden the scope of penal mediation to include other misdemeanours beyond those specifically listed in Article 37 bis 2 of Ordinance 15-02, amending and supplementing the Code of Criminal Procedure.

- Conducting continuous evaluations of penal mediation is crucial to making necessary amendments and ensuring its alignment with society's specific conditions.

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