

School Mediation in Algerian Educational Legislation: Between Implicit Legal Foundation and the Challenges of Practical Implementation

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Abstract:

Since its inception, educational institutions have known many educational problems, which have stood in the way of achieving their pedagogical goals, especially with the development of societies and the complexity of life. The latter has known negative phenomena in all its institutions, especially education institutions, where the urgent need to search for mechanisms to confront various Educational dilemmas inside and outside the walls of educational institutions.

Recent years have witnessed a new trend in the Algerian school, which is the inclusion of a new subject under the name “school mediation”, in order to provide all the conditions and capabilities that help the student direct his mental, physical and spiritual development, and which work to improve the educational process. The latter is in need of follow-up and evaluation. Continuous for the sake of development and improvement and thus the ability to keep pace with successive developments in the fields of life, especially education.

key words: Mediation, school mediation, educational institution.

Introduction:

The school is considered the official institution that oversees, within the framework of educational laws and legislation, the process of educating and shaping successive generations. It represents the actual field where the efforts of all its personnel converge, through the provision of a suitable educational environment for them and favorable conditions for physical, intellectual, emotional, and social growth. It also ensures the preservation of religious and national values, as well as cultural and civilizational heritage. Furthermore, it is responsible for healthy psychological development, sound social upbringing, and the promotion of mental well-being among students. It also works to provide psychological care for students, enabling them to build self-confidence, become self-reliant, and make free and independent personal decisions.

School mediation is considered one of the modern methods used by ministries of education worldwide. It is implemented when a problem, dispute, or disagreement arises among students and is one of the most important strategies applied to resolve conflicts and reach solutions and agreements between disputing parties.

School mediation also occurs between teachers, administrators, and parents. It is utilized when written agreements fail, working to resolve disputes, end conflicts and disagreements, and reach agreements.

Problematic:

The educational system plays a significant role in protecting youth from deviance and poor morals. The school is one of the most important institutions responsible for safeguarding students by listening to them and providing them with appropriate guidance and directions for their psychological and social situations to help them overcome the difficulties they face.

After specialists and researchers in the field of education became certain of the ineffectiveness of hitting and violence in correcting students' behavior and working to reform them, a group of them turned to the necessity of trying school mediation instead of resorting to violence, especially after its effectiveness was proven in the political and legal fields.

Therefore, mediation in educational institutions is considered one of the mechanisms resorted to by various actors and those interested in education issues to reduce the problems and difficulties that educational institutions experience.

School mediation is considered one of the modern concepts in the pedagogical field. The Ministry of Education, in line with the social, cultural, and economic changes that have a significant impact on the Algerian school system, where the spread and diversity of behavioral problems have increased, has proposed a new subject within the training program for new teachers called "School Mediation." This latter focuses on teaching and training teachers on the techniques and procedures for managing the classroom and its associated disputes, which have reached the point of using white weapons by the aggressor and suicide by the victim, who may be a classmate or schoolmate, or even extend to violating the sanctity of education in the person of a teacher or administrator within the same educational institution.

School mediation in educational institutions, as one of the mechanisms resorted to by various actors and those interested in education issues, emerged as a result of the problems the school faces, primarily psycho-educational problems related to curricula and adopted pedagogical methods on the one hand, and the prevailing social relations within the school climate on the other. A group of psychologists and educators have concluded the importance of mediation in educational institutions as a form of school mediation. If the school is of this degree of importance, then the way it is managed and the working methods used within it represent the backbone of the school's success in fully fulfilling its mission.

Based on all the above, we pose the following questions: What do we mean by mediation? What are its characteristics? What are the criteria used during its practice? What are its types? What is school

mediation? How has it developed in the world? What is its role? What is its reality in Algerian educational institutions?

.1Mediation

.1.1Definition of Mediation

.1.1.1Linguistically:

The word "mediation" in Arabic originates from the root (وسط, يسطر, وسطا), meaning to be in the middle of a place or a group (وسط). the people (وَسَطَ الْقَوْمَ) in the (باب وعد) conjugation and (وَسْطَة) al so with a kasra, meaning - (تَوَسَّطُوهُمْ) to be in their midst. The (middle finger) (الأصبع الوسطى) is known as the one between the ring finger and the index finger. Intermediation between people (التوسط بين الناس) comes from mediation (الوساطة), and the mediator (الوسيط) is the intermediary between disputing parties. In Latin, the origin of this word goes back to the word Médiateur-Médiator, meaning to intercede, which refers to someone who has no direct relationship or connection to something or someone except through an intermediary. The word "mediator" in Latin comes from the word "mediator," meaning the person who intercedes or who is chosen for the purpose of reaching an agreement. (Baweh Azad Haidar, 2016, p. 17)

The word "mediation" also comes from the root "وسط" (wasata), and "وسط" means that which is in the middle of something, whether large or small, much or little. It also means that by which something is reached. (Abdel-Aal Hussein Abdel-Halim Reda, 1993, p. 45)

.2.1Terminologically:

Moore (2003) defines mediation as: "A process of intervention by a third party, called a mediator, who is acceptable to the disputing parties, and who assists them in voluntarily reaching a mutually acceptable agreement on the settlement of disputed issues. The mediator here is neutral and has limited authority in decision-making, and may need to go back and forth between the adversaries. Mediation can establish and strengthen relationships of trust and respect between the parties and can end these relationships with the least material costs and the least psychological damage.

It is also defined as a non-binding optional means of resolving disputes whereby the parties resort to a neutral third party who acts as a mediator in an attempt to resolve the conflict. (Muhammad Abu Al-Aynein, Egypt, 2001, p. 02)

From all the above, we conclude that mediation is a mechanism resorted to by various actors to resolve disputes with economic, financial, and human relations dimensions, foremost among which are family disputes.

.1.1Characteristics of Mediation

The characteristics of mediation are as follows:

- A friendly means for settling and resolving disputes.
- A voluntary means.
- Requires the presence of a disputing party and a third party represented by the mediator.
- The mediator must possess qualifications that enable them to carry out mediation.
- Mediation can resolve the entire dispute or only part of it.
- It is a sensitive and complex process.

•It can be applied in all legal, political, commercial, economic, social, family, educational, and other fields. (Maliki Hanan, 2019/2020, p. 27)

.2.1 Principles and Standards for Practicing Mediation

To successfully carry out the task of mediation, everyone assigned to this task must observe a set of well-known standards and an international methodology. This necessitates the presence of professionally and specialized trained mediators in specific mediation skills who possess information on conflict management and negotiation. They should also have information about the subject of the dispute, the parties involved, and all the specificities that could be sufficient reasons for preparing a good mediation program. Specialists summarize these standards that those undertaking the mediation process must be familiar with in the following key points:

- They must have information about alternative dispute resolution methods.
- They must have information about the mediation process, including (mediation objectives, the role of the mediator, mediation stages, and rules of conduct).
- They must have information about the dynamics of different personalities in negotiations.
- They must have specific training in communication skills.
- They must have the ability to maintain neutrality.
- They must have the ability to manage and facilitate negotiations and draft good and appropriate agreements.

.1.1 Types of Mediation

There are many types of mediation. It has been employed in all civil disputes, starting with legal disputes and reaching disputes in social institutions, including educational institutions. However, there is more than one type that can be found in educational institutions. Besides school mediation, there is educational mediation.

.1.1.1 Educational Mediation

Educational mediation, as practiced in some countries such as France and Spain, can help achieve school and social integration for students who suffer from school adjustment problems (maladjustment to school), improve the quality of academic achievement within classrooms, and reduce some educational problems.

Educational mediation is defined as: the totality of assistance, support, and guidance that a qualified person can provide to another person with the aim of enabling them to access knowledge: knowledge, skills, work procedures, solutions, etc. The mediation system is not limited to the educational field only, but has found applications in the system of training and apprenticeship within companies through the "mentoring" system or in the craft field, as was practiced in the past in guilds and professional crafts.

A group of psychologists and educators have concluded the importance of educational mediation, whether carried out by the teacher or any other person who has experiences and knowledge that can benefit the learner in the field of building learning and achieving social and cognitive interaction among students.

The work of "Vygotsky" revealed the role played by the adult for the student in the learning process by comparing what they learn alone with the amount they learn while accompanied by an adult during the acquisition of knowledge and competencies. The cognitive experiences that the student forms in the presence of an adult exceed those they build and acquire alone.[1] (Muhammad Taha, 2006, p. 20).

.1.1.1.1Actors and Areas of Educational Mediation

The teacher is considered one of the most important elements of the educational mediation system because they accompany the learner throughout a school year, enabling them to gain considerable knowledge of the child's personality, their problems, and the obstacles they face within the school (learning difficulties), the family (family problems), and their environment (relational and communicative problems with other community institutions). On this basis, mediation must address three basic aspects:

a)Building Knowledge and Competencies: This requires the teacher to be a true mediator between knowledge and the student through various knowledge-building processes, ensuring the transfer of knowledge from its purely scientific framework to a teachable framework. This aspect is particularly directed towards developing the student's abilities and cognitive plans. The expected outcomes of mediation in this area include achieving the learning of basic knowledge in science and languages for the student.

b)Overcoming the Student's Social and Psychological Problems: This is done by bridging communication between the school and the student's family environment, and also helping them integrate into the spaces of the educational institution, such as various school clubs. This type of mediation is expected to achieve a range of positive outcomes, such as finding a common solution between the family and the school for the student's problems, providing possible assistance to them, and the student's involvement in school life, including environmental and human rights clubs, educational and sports activities, etc.

c)Creating a Positive Interactive Atmosphere Among Learners: This involves launching a positive competitive dynamic based on mutual learning among students. The tasks assigned to the facilitators of educational mediation are: organizing educational and artistic activities, encouraging collaborative work, and fostering a sense of belonging to the school.

It is expected that these efforts will address many of the school's problems, such as: mutual violence among students, violence directed at the institution's buildings and property, and achieving a social upbringing that meets the needs of society in the areas of citizenship and respect for rights and duties. (Maliki Hanan, 2019/2020, p. 21)

.2School Mediation

.2.1Definition of School Mediation

The concept of school mediation does not differ from the general concept and philosophy of mediation. It is considered a pedagogical approach that allows for the adoption of dialogue, communication, and cooperation as fundamental mechanisms for finding solutions within a specific conflict situation, while taking into account the particularity of the school as a socio-educational institution, including its programs and pedagogical curricula.

School mediation is not merely a means to resolve school disputes; rather, it is first and foremost a response to pedagogical aspirations that seek to instill new patterns of human relationships based on dialogue, away from authority or any forms of violence. It is an educational tool that students learn as a civilized way of communicating and coexisting within their life course in general. Thus, mediation is more complex than all other forms of mediation due to a set of considerations related to the function of the school as an institution for education and upbringing.

Boukhmis Boufoula (2013) defines school mediation as: "The process by which a neutral mediator, through organizing exchanges, attempts to bridge opposing viewpoints to prevent the deterioration of conflict between them. It is the sum of assistance and support that a person can provide to another person in order to enable them to access knowledge for the purpose of preventing or resolving

conflicts, contributing to calming and managing relationships between young people or between adults in the normal course of learning and teaching processes." (Boukhmis Boufoula, 2023, p 32)

School mediation is a mechanism used to solve problems and conflicts within schools by reducing the number of behavioral problems, developing positive behaviors, improving the school climate, and saving time in resolving conflicts. This is achieved through a neutral facilitator. (Crawford, D & Boudine, R, 1996. P 32)

School mediation also refers to the effort made by a third party, independent of the main disputing parties and characterized by neutrality, to help the parties settle the dispute. All power, influence, and responsibility for decisions remain with the two conflicting parties, and the mediators' task is limited to facilitating the communication and negotiation process between the parties and creating a suitable atmosphere for dialogue. (Dwaik Jawad, 2016, p18)

From the definitions provided, we conclude that school mediation is the pursuit of managing a solution or ending a dispute or conflict within the educational institution. This solution is achieved by reducing behavioral problems in the school environment (bullying, aggression, etc.) and replacing them with positive behaviors. Intervention takes various forms, including adopting mediation as an approach that allows for the adoption of dialogue, communication, and cooperation in the school environment.

.2.2The Evolution of School Mediation Worldwide

Mediation has a long and diverse history across all civilizations. Islamic, Christian, Jewish, Hindu, Buddhist, Confucian, and other indigenous cultures possess extensive and effective traditions in practicing mediation to resolve disputes. (Serji Fouad, 2007, p. 44)

The adoption of school or educational mediation dates back to the USA due to the difficult conditions its educational institutions were experiencing. These conditions highlighted the continuous need for a specialized body to manage conflicts within educational institutions before they escalated. This need arose from the fact that the accumulation of disputes can lead to hatred and resentment, often driving the desire for revenge and the adoption of violent behaviors, which in some cases reached the level of murder. This led researchers to coin the terms "school crisis" and "school violence. (Kholoud Sbaa'I, 2013, p 25)

In ancient school systems, authority represented a fundamental means for managing and eliminating conflicts, within a social model based on linking education with punishment. This system is no longer acceptable today due to its contradiction with the essence of school relationships, which are supposed to be based on the pedagogy of education, not on punitive systems. This underscores the extent to which contemporary educational institutions need new techniques and mechanisms for managing disputes, which materialized in school mediation.

School mediation also emerged in France a decade ago due to the crisis in the educational system's handling of conflicts. Educational institutions were managed without proper regulation of disputes, and today we observe that law and the judiciary are frequently called upon to intervene to resolve conflicts. Choosing to train "student mediators" is a foundational step for dialogue and conflict resolution, or in other words, it is about providing a space for words and dialogue within the institution's premises. (Serji Fouad, 2007, pp 47-48)

The practice of mediation has expanded rapidly in contemporary times across the globe, particularly over the last five decades. This growth is partly attributed to the increasing awareness of human rights and dignity, the broadening aspirations for democratic participation at all political and social levels, as well as the growing belief that individuals genuinely seek to participate in and control decisions that affect their lives. It is also linked to the emergence of ethics that support individual freedom and trends in some regions towards greater tolerance of pluralism and difference in all its aspects. Furthermore, there were factors driving change, including growing dissatisfaction and discontent with the dictatorship of decision-makers, their decision-making methods, and the compromises imposed on peers that did not address their real and essential needs. Additionally, the high

costs in terms of money, time, and human resources, and the destruction of solidarity between individuals and between communities through adversarial methods of conflict resolution that end with a winner and a loser, played a significant role.

Despite the growth in the use of mediation in many cultures and countries, it grew fastest in the United States in the area of labor relations management. In 1913, the US Department of Labor was established, and a body of "conciliation commissioners" was appointed to address disputes between workers and management. This body later evolved into the US Conciliation Service and was re-established in 1947 under the name "Federal Mediation and Conciliation Service".

.2.3 Factors Contributing to the Success of School Mediation Processes

To ensure the success of school mediation and its long-term establishment across time and environment, several factors must be present, most importantly:

- Establishing a clear theoretical framework that helps in understanding the meaning and conditions of school mediation.
- The necessity of distinguishing and not confusing listening cells with mediation.
- The need for specialists in mediation.
- Conducting a sufficient and long-term awareness campaign to ensure the success of mediation.
- Evaluation and follow-up to help mediators perform their tasks and respond to evolving needs.

.2.4 The Role of School Mediation within Educational Institutions

- Achieving basic learning outcomes.
- Building competencies.
- Facilitating socio-cognitive interaction and conflict between the learner and the knowledge presented by the person in charge of mediation.
- Understanding the student's needs and problems.
- Finding solutions to student problems.
- Mediation in school also encourages the transfer of skills to life outside of school.
- Developing skills in problem-solving, leadership, writing, and promoting meaningful discussion between disputants.
- School mediation programs, when students are generally trained to resolve conflicts involving other students, have proven to be an effective means of conflict resolution in school environments.
- School mediation plays an effective role in modifying some aspects of conflicts and preventing the escalation of fights. (Marbouh Habib, Mokadem Amal, 2022, p. 50)

.2.5 Mediation in Algerian School Legislation

The texts of educational legislation in Algeria have called for and favored the adoption of a culture of mediation within the educational community in its interactions in general. For example, Article 23 of Chapter Three concerning special provisions for students of Ministerial Decree No. 65 dated 28 Shawwal 1439 AH, corresponding to July 12, 2018, which specifies the modalities for organizing and operating the educational community, stipulates: Encouraging educational institutions

to engage in dialogue and consultation with students, among students themselves, and among all members of the educational community on all educational, pedagogical, and organizational matters, in accordance with procedures defined by the internal regulations of the educational institution. (Ministerial Decree No. 65 dated 12/07/2018, specifying the modalities for organizing and operating the educational community)

Decree No. 73 dated 28 Shawwal 1439 AH, corresponding to July 12, 2018, concerning the modalities for establishing disciplinary councils in middle and secondary schools, states in its Article 2: Contributing to the rectification of student behavior through referral to specialized committees established for this purpose, and proposing measures to protect the school environment. (Ministerial Decree No. 73 dated 12/07/2018, specifying the modalities for establishing disciplinary councils in middle and secondary schools)

The Ministry has also emphasized the necessity of adopting school mediation to resolve various conflicts in most decisions and legislative texts, as follows:

- Article 83: Of the second section, which includes the duties of employees, of the aforementioned Ministerial Decree No. 65: Employees and their union representatives, in their consultation with the administration of the educational institution, shall strive to prioritize dialogue and favor a mediation approach to prevent the conflicts concerned.
- Article 90: Stipulates that the educational institution organizes periodic meetings between parents and teachers within the framework of coordination and integration between the educational institution and the family.
- Article 92: The education administration shall take the necessary measures to facilitate the establishment of parents' associations as a regulated framework for linking the family and the educational institution and strengthening the relationship between them.

According to the Official Gazette of Education, in its issue No. 572 for October 2014, Publication No. 219 dated August 20, 2014, concerning listening and psychological and educational support units in secondary schools, which are considered complementary to disciplinary and other councils and do not replace them, there was an implicit reference to the necessity of adopting a school mediation program. These committees were established with the aim of eliminating the phenomenon of violence in the school environment, in addition to resolving disputes and defusing potential conflicts in the school environment through mediation, opening a space for dialogue to enable students to express their school concerns, modifying harmful behaviors through listening and persuasion by adopting mechanisms of educational, psychological, and social support for students through mechanisms that rely more on renewing methods of organizing school life by activating listening as a guidance practice in institutions to address these issues by establishing a listening and follow-up unit in each secondary school. The listening process takes place individually or collectively, and the unit relies on the method of free expression about the event in its periodic sessions. (Ministry of National Education. (2014). Official Gazette of National Education)

.2.6The Reality of School Mediation in Algerian Educational Institutions

Based on the requirements that represent a fundamental condition for the school mediation project, we inquire about the circumstances of school mediation in our institutions. This is done by examining some concrete examples of what is perceived as the practice of mediation, especially in light of the conflicts prevalent in most educational institutions. Some dedicated educational actors, concerned with the upbringing and education of the younger generation, have made personal efforts to alleviate some of the negative phenomena that are increasingly worsening, including:

- Truancy, absenteeism, and academic attrition.
- School violence.
- Students demanding new forms of rights.

- The prevalence of interpersonal conflicts at horizontal and vertical levels.

Perhaps what distinguishes these initiatives undertaken by these educational actors to rectify situations, manage disputes, or seek to mitigate their severity is their possession of what we might call "good intentions" or a desire to improve the situation. However, these practices often remain as :

- Interventions based on personal initiatives.
- Interventions lacking professionalism.
- Interventions that often tend to minimize the size of the problem and simplify the degree and extent of the dispute.
- Interventions that often adopt reconciliation techniques based on a certain hierarchy, for example (based on roles and statuses, where the student must apologize to the teacher, and so on).

In order to implement reconciliation initiatives between disputants undertaken by educational actors to rectify situations or mitigate their severity, the Algerian school system has sought ways to reduce these conflicts, disputes, and tensions within the school by introducing a new subject taught to newly recruited teachers called "School Mediation." Listening and support units have also been established within schools to provide social, pedagogical, and psychological support to students, in order to facilitate their academic adjustment and promote the teaching-learning process.

Conclusion:

School mediation, as a strategy within the school environment, is considered a way to resolve disputes. It can be viewed as an educational, guiding, therapeutic, and preventive tool, as it provides all parties within the school environment with the opportunity to learn a civilized way of communicating and coexisting within their life course in general. Activating the role of school mediation requires sound and comprehensive planning for the implementation of the program phases through well-thought-out steps outlined within the educational institution's project. It also requires continuous supervision and follow-up from the institution's administrators or those responsible for achieving the project's objectives. In addition to all this, there is a need to provide genuine support for the mediation program from the administration of educational institutions and the local community, and to encourage families to urge their student children to practice the principles, process, and steps of mediation at home and at school.

A group of psychologists and educators have concluded the importance of educational mediation, whether carried out by the teacher or any other person with knowledge that can benefit the student or learner in the field of building learning and achieving social and cognitive interaction among students. On the other hand, it involves identifying their needs and helping them address their problems within the family, the educational institution, and the school environment.

Recommendations and Suggestions:

- The necessity of developing structured programs for training courses on the application of school mediation in educational institutions.
- The necessity of proposing a new subject within the training program for newly recruited teachers under the title "School Mediation," where this subject focuses on training teachers in the techniques and procedures for managing the classroom and its associated disputes and conflicts.
- Activating the role of the listening and psychological support unit to reduce or alleviate students' behavioral and emotional problems.

- The necessity of intensifying research and studies on various psychological, behavioral, and emotional disorders in the school environment, relying on specialists in the fields of psychology and educational sciences to conduct field research and studies within educational institutions.
- The necessity of addressing issues and problems directly related to students' schooling process and making them part of the educational functions that fall within the services of educational actors.

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