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The Role of Psychiatric and Mental Health Expertise in Judicial Proceedings

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Abstract

Psychiatric and mental health expertise is a technical means employed by the judiciary to assess perception and will, as well as the impact of disorders on legal liability. Psychiatric expertise focuses on severe illnesses such as psychosis to determine the absence of criminal responsibility, while psychological expertise examines behaviour and motives in juvenile and family cases.

This expertise has a dual nature: it constitutes an investigative procedure that informs the judge, and it is also a means of evidence on which judicial rulings are based. It is characterised by its technical nature, professional confidentiality and advisory function, all of which remain subject to the judge's discretionary authority.

In criminal matters, it determines the extent of criminal responsibility (e.g. exemption from punishment in cases of lack of perception, mitigation of punishment when perception is diminished, or full conviction) throughout the stages of investigation, preliminary inquiry, and trial. In civil matters, it establishes the best interests of the child in custody cases, identifies the grounds for interdiction and the conditions affecting legal capacity, determines the date on which mental faculties deteriorated for the purpose of invalidating legal acts while taking into account periods of lucidity, and assesses compensation for non-pecuniary damage.

Keywords: Medical Expertise, Psychological Expertise, Psychiatric Expertise, Judicial Procedures.

Introduction

Modern judicial systems are witnessing a noticeable increase in cases in which mental or psychological disorders are integrated as an influencing factor in criminal behaviour, or in the parties' ability to understand the course of judicial proceedings and participate effectively in their own defence, or in their capacity to assume obligations and acquire rights. It has therefore become necessary to seek the assistance of psychiatric and mental health expertise, which is considered one of the most prominent types of specialised judicial expertise relied upon by judges to clarify the precise technical aspects of the mental and psychological conditions of the parties, which traditional legal means find difficult to adequately address.

A psychiatric assessment is a technical procedure carried out by a doctor who specialises in psychiatry or forensic psychiatry. They are appointed by a judicial authority to evaluate the mental state of a specific person. The aim of this assessment is to determine the extent to which an individual's perception and will are sound, and to evaluate their ability to appear in court.

Due to its close connection with individuals' freedom and psychological and physical well-being, this type of expertise is highly sensitive, as it may lead to significant consequences, such as placement in closed treatment institutions or reclassification of the offence and applicable penalty. While judges have discretionary authority to issue rulings based on personal conviction, the complexity of psychological and mental phenomena, and their intersection with medical and scientific standards, has led legislators in many legal systems to recognise the necessity of seeking psychiatric or psychological expertise whenever doubts arise about the mental soundness of the accused or victim.

Such expertise does not replace the judge's role in issuing a ruling, but rather provides scientific information to assist the judge in forming a sound conviction regarding the extent of responsibility, and in determining whether treatment and preventive measures would be more appropriate.

The research problem stems from the following question: To what extent does expertise in psychiatry and mental health contribute to strengthening criminal and civil justice, and what are the legal and practical limits of psychological experts' intervention in judicial cases?

The importance of this topic can be seen in two main areas. First, the findings of psychological and psychiatric experts directly impact individuals' freedom and reputation, necessitating strict safeguards to ensure such expertise is accurate and impartial. From an academic perspective, the topic's significance lies in the limited amount of specialised legal research in this field compared to other forms of evidence. This opens the way for a research study that establishes a link between the legal and psychological dimensions within the context of psychiatry and mental health.

To address this research issue, this article takes a descriptive-analytical approach, analysing relevant legal provisions concerning expertise and mental and psychological disorders. It draws on doctrinal and judicial interpretations and consults foreign references in the field of forensic psychiatry and psychological expertise in court, particularly those relating to the role of psychiatrists as experts and witnesses.

The study is divided into two sections. The first section examines the conceptual and legal framework of psychiatric and mental health expertise, while the second section addresses the role of such expertise and the safeguards in place at various stages of legal and judicial proceedings.

Section One: The Conceptual and Legal Framework of Psychiatric and Mental Health Expertise

Psychiatric and mental health expertise is an essential component in supporting judicial decisions and rulings, as it requires a precise conceptual and legal framework to ensure credibility and clarity. This framework is based on scientific and ethical principles to ensure objective and fair assessments of individuals' psychological and mental conditions while respecting their rights and professional obligations. Adherence to the principles of scientific research and systematic evidence analysis is therefore essential. Reliable and commonly agreed standards must also be employed so that the findings can be replicated and verified, thereby enhancing their legal value.

Given the importance of psychiatric and mental health expertise, this section begins by examining its concept in the first subsection, distinguishing it from other documents issued by physicians. The second subsection then addresses the legal framework governing psychiatric and mental health expertise.

Subsection One: The Conceptual Framework of Psychiatric and Mental Health Expertise

Here, two specific types of expertise are considered: psychiatric medical expertise and psychological medical expertise. Although closely related, they differ in terms of subject matter, tools and objectives.

Subsection One: Definition of Psychiatric Medical Expertise

Psychiatric expertise is based on the medical diagnosis and analysis of what is known as 'mental illness', which contemporary psychiatry defines as follows: 'Severe mental disorders affecting the personality, whereby the patient's connection with reality becomes weak, impaired, disrupted or abnormal[1].'

As the practical application of forensic psychiatry, psychiatric expertise has been defined as the scientific branch concerned with legal matters. It aims to assist the administration of justice by diagnosing mental illnesses that affect individuals, deprive them of their sanity and render them irresponsible for their actions. It also assesses their degree of perception and discernment in order to determine responsibility for antisocial behaviour[2].

We view it as a technical procedure requested by the judge, whereby a physician specialising in forensic psychiatry examines a specific individual to determine their mental state at the time of the offence or at the time of the trial, and to establish the soundness of their mental faculties and their capacity for perception and discernment.

The primary objective is to ascertain whether a mental illness or disability (e.g. psychosis, insanity or profound intellectual disability) is present, which may result in an absence or reduction of criminal responsibility and lead to the application of therapeutic measures instead of punishment. Therefore, it is more closely associated with the legal concept of 'mental health', namely the ability to understand the nature and unlawfulness of an act, and the ability to control one's behaviour[3].

Second: definition of psychological medical expertise

Psychological medical expertise is a professional assessment conducted by a psychologist or psychiatrist. It focuses on a person's psychological, emotional and personality-related aspects, with the aim of diagnosing psychological disorders and identifying their impact on behaviour and responsibility[4].

This assessment is not limited to cases involving "insanity"; it also covers anxiety disorders, depression, personality disorders, psychological trauma, addiction and other conditions that may influence criminal motivation or an individual's ability to participate in legal proceedings[5].

Psychological medical expertise is frequently used in juvenile cases, domestic violence cases, custody disputes, and the assessment of civil capacity, as well as in criminal cases where the disorder is primarily psychological rather than mental.

Example: Appointing a psychologist to examine a juvenile delinquent in order to assess their emotional maturity, upbringing, and prospects for rehabilitation.

Third: the main differences between psychiatric expertise and psychological expertise

Psychological expert assessment	Psychiatric (mental) expert assessment	Element
Psychological, emotional and personality conditions (psychological, behavioural and emotional disorders).	Mental health in the legal sense (e.g. insanity, profound mental disabilities, psychosis).	Subject of Examination
- Interpretation of behaviour - Assessment of the impact of psychological disorders on willpower and motivations - Evaluation of legal capacity	Determination of the extent to which criminal responsibility is excluded or diminished due to loss or impairment of mental faculties.	Primary Objective

A clinical psychologist or psychiatrist focusing on psychological structure and non-psychotic disorders.	A psychiatrist or forensic psychiatrist focusing on severe mental illnesses.	Appointed Expert
More closely related to clinical psychology, personality and motivation analysis and social reintegration potential.	More closely related to the medico-legal classification of mental disorders and their relationship to the exclusion of criminal responsibility.	Perspective of Assessment
- Juvenile cases, family matters, assessment of legal capacity, interpretation of criminal behaviour and evaluation of criminal risk.	Cases involving insanity, lack of awareness and therapeutic measures as an alternative to punishment.[6]	Predominant Application

Both psychiatric and psychological examinations may be ordered by the judge and combined within a single case file. The psychiatrist identifies the existence of a mental illness and determines whether criminal responsibility is excluded or diminished, while the psychologist examines the psychological, personality-related and social factors that influence an individual's behaviour, in order to inform the appropriate judicial and preventive approach[7].

It should be noted that 'psychiatric' expertise is associated with cognitive abilities and generally implies an impairment of the individual's will. This is relevant in criminal matters, such as criminal responsibility, as well as in cases involving the loss of legal capacity, which invalidates civil transactions. In such cases, the judge generally does not depart from the findings of the psychiatric assessment. Conversely, 'psychological' expertise concerns personality and motivation, and may result in a reduced penalty and enable the individual to benefit from mitigating circumstances. It may also render civil transactions voidable without eliminating the individual's capacity for perception in civil transactions.

Subsection Two: The Legal Framework and Characteristics of Psychiatric and Psychological Medical Expertise

Having clarified the concept of psychiatric and psychological medical expertise, as well as its position within the procedural and judicial systems, the scientific approach requires an examination of its legal nature, and of the features that distinguish it from other forms of expertise. This is because determining its legal nature has a direct impact on its evidentiary value in court and on the limits of the judge's authority when dealing with its findings.

Furthermore, this expertise has a number of distinctive characteristics, particularly with regard to the specificity of its subject matter relating to an individual's psychological and mental condition, its technical nature based on specialised medical knowledge, and its advisory nature ensuring that the final decision always remains subject to the judge's discretionary authority.

This subsection will therefore address the legal nature of psychiatric medical expertise, followed by an explanation of its main characteristics through the following two subdivisions.

Subsection One: The Legal Nature of Psychological and Psychiatric Expertise

The legal characterisation of psychological and psychiatric expertise is a topic of doctrinal and legal debate due to its dual role in judicial disputes. Therefore, its legal nature must be examined in light of legislation and legal reasoning.

First: Psychological and psychiatric expertise as an investigative procedure

Judicial expertise is considered one of the investigative procedures adopted for evidentiary purposes. Judges or courts resort to criminal expertise as a necessary procedure to understand certain scientific and technical details relating to the facts of the criminal act. Studies indicate that psychological expertise is a judicial procedure adopted by judges to assist in clarifying the mental and psychological conditions of individuals who commit criminal acts[8]. Furthermore, psychiatric medical examinations are of the utmost importance in criminal proceedings, particularly when it comes to determining the responsibility of offenders[9]. In our view, this is the prevailing approach in procedural legislation such as the Algerian Codes of Criminal and Civil/Administrative Procedure.

1. Function: In this context, the role of the expert is to "enlighten" the court. The judge appoints the psychological expert to clarify the defendant's psychological state and their capacity for perception at the time of the crime, not to render a judgment.

2. Outcome: Based on this legal characterisation, the expert's findings are not binding on the judge, who remains free to exercise their discretion.

Second: psychological and psychiatric expertise as a means of evidence.

Some legal scholars consider expertise to be essentially a form of evidence, particularly in cases where it is the only means of proving something.

In cases where insanity or lack of criminal responsibility is used as a defence, psychiatric expertise is the only evidence capable of confirming or refuting this condition. Without it, judges have no other means of establishing complex biological or psychological conditions beyond a reasonable doubt.

Practical reality: Although judges are considered the 'experts of experts', they rarely depart from clear, scientifically established psychiatric expertise, which brings it close to constituting decisive material evidence in the case.

Comparison and legal position

Psychological and psychiatric expertise has a dual legal nature: it is an investigative procedure in terms of its origin and procedure (since it is conducted under judicial supervision and by judicial appointment), and a means of evidence in terms of its outcome and effect (since the final report contains conclusions on which the presumption of innocence or guilt, or the

determination of civil and criminal liability, is based).

Under Algerian law, it is regulated in the Code of Criminal Procedure under the heading ‘Expertise’ (Articles 143 to 156), which confirms its status as a technical investigative procedure.

Subsection Two: Characteristics of Psychiatric and Psychological Medical Expertise (Specificity, Technical Nature and Advisory Role in Relation to the Judge).

First: Specificity (the special or personal nature)

Psychiatric and psychological medical expertise is distinguished from other types of judicial expertise by its special and complex nature[10]. This stems from the fact that it concerns some of the most obscure and sensitive aspects of human beings: the ‘inner self’ (consciousness, perception and will). This specialised nature is reflected in three fundamental characteristics: specificity, technicality, and the advisory role in relation to the judge.

Psychiatric and psychological expertise is shrouded in strict confidentiality and a high degree of privacy for several key reasons, including the following:

1. The legal basis for privacy

Most modern legal systems protect the right to privacy. Article 17 of the International Covenant on Civil and Political Rights stipulates that ‘no one shall be subjected to arbitrary or unlawful interference with his or her privacy’[11]. This right is also enshrined in Article 39 of the Algerian Constitution[12] and is primarily protected under criminal law, beginning with Article 303 bis of the Penal Code and subsequent provisions[13].

Similarly, Article 31 of the Egyptian Constitution states that ‘private life is inviolable... and no eavesdropping, interception or examination of correspondence or other means of communication shall be permitted except pursuant to a reasoned judicial authorisation’.

2. Privacy and professional confidentiality

As with any other physician, the psychiatric medical expert is bound by professional confidentiality. Information relating to the psychological and mental condition of the person being examined must not be disclosed, except within the limits required by law[14]. The Egyptian Court of Cassation has affirmed that ‘the physician is bound by professional confidentiality and may not disclose the secrets of their patients except in circumstances permitted by law’.

However, this right to privacy is more restricted when confronted with the authority of a court-appointed expert, since the judge has the power to instruct the expert to disclose the psychological state of the defendant or opposing party in the interests of justice[15].

3. Limits of Privacy

Privacy in psychological and psychiatric expertise is essential to ensuring its quality, since, without an atmosphere of trust, the person being examined would not disclose their actual personal details[16]. However, this privacy is not absolute; rather, it is subject to certain restrictions, including:

The expert is required to submit their report to the court, including their findings concerning the psychological and mental state of the person examined.

B. The court has the authority to request the disclosure of specific information if it is necessary for the resolution of the case.

C. Privacy must not be used as a pretext for concealing information that is essential to the administration of justice.

Secondly, the technical nature of the matter:

Psychiatric and psychological medical expertise is a practical scientific activity based on rigorous scientific methodology and using standardised tools, psychological tests, clinical interviews and behavioural observations[17]. Jean Bédelvivié states that ‘medical expertise, in general, constitutes the application of medical and biological sciences to legal matters’[18].

Section Two: The Legal and Practical Implications of Psychological and Psychiatric Expertise

Psychological and psychiatric expertise is considered an essential judicial procedure under Algerian law for determining the criminal responsibility of the accused, particularly in cases where questions arise concerning their mental state at the time of the offence. This matter has been regulated by the Algerian legislator through the Code of Criminal Procedure (Law No. 25-14), Articles 143–156; the Penal Code, Articles 47–49; the Family Code; and the provisions governing judicial expertise. This ensures that psychological and medical sciences are used to establish the truth while safeguarding the rights of the accused and the guarantees of a fair trial.

This study examines the legal and practical criminal implications of psychological expertise, and its role during the investigation and trial stages (Subsection One), as well as the legal safeguards surrounding it (Subsection Two), with reference to Algerian legal provisions and judicial precedents.

Subsection One: The Criminal, Legal and Practical Impact of Psychiatric and Psychological Expertise

Psychiatric and psychological expertise has a direct impact on the outcome of criminal proceedings, shifting the focus from a mere technical procedure to a key factor in determining the fate of the accused with regard to punishment or preventive measures.

Subsection Two: The Legal and Practical Impact on Criminal Responsibility (Exemption from or Mitigation of Punishment).

The most significant legal impact of this expertise is determining the extent to which the accused perceived and willed the act at the time, with the following consequences:

First: Exemption from punishment (acquittal)

The findings of psychiatric expertise have a decisive legal effect in determining the criminal responsibility of the accused[19]. In this regard, the role of the expert is limited to establishing a state of 'insanity' that prevents the mental element of the crime from being established. If the expert opinion concludes that the accused suffers from a severe mental disorder that deprived them of the ability to discern or direct their will, this may result in the exclusion of criminal responsibility or exemption from punishment depending on the applicable legal system. This is because the essence of the matter lies in determining whether intent existed or was absent at the time of the act. The literature confirms that forensic assessment revolves around two decisive questions: Is there a significant psychological or mental disorder? If so, what effect does it have on the legal mental capacity being examined?[20]

Second: Mitigation of Punishment

However, if expertise establishes the existence of a psychological or mental disorder that does not completely eliminate perception and will, this may lead to diminished responsibility being recognised or the penalty being mitigated. This is because the assessment is not confined to the binary distinction between 'sane' and 'insane', but extends to degrees of mental capacity and their legal functions. Some recent studies have indicated that expert testimony may influence the outcome, ranging from full responsibility to an absence of responsibility, depending on the nature of the legal standards and how they are presented to the court[21]. Thus, where the expertise establishes the existence of a 'mental disorder' or 'impaired perception', the accused's responsibility is diminished but not entirely excluded[22].

Third: Full Conviction

This occurs if the expert concludes that the accused was in full possession of their mental faculties at the time of the incident.

Subsection Two: The Role of Expertise in Different Legal Proceedings

1. The preliminary investigation stage (judicial police):

Judicial police officers may seek expert advice in cases of flagrante delicto or upon judicial delegation, in order to assess the accused's ability to withstand detention or their capacity to provide statements[23].

Second: the judicial investigation stage (investigating judge)

Expertise is of paramount importance at this stage, as the investigating judge has the authority to order it either of their own accord or at the request of the parties involved. The focus of the expertise at this stage is on examining the 'contemporaneous insanity' that existed at the time of the crime, in order to decide whether to discontinue the proceedings or refer the case to trial[24].

Third: the trial stage

The report is submitted as evidence and the court may summon the expert for an oral examination. The report determines the form of the final judgement at this stage, whether by imposing a penalty or replacing it with a therapeutic measure[25].

Subsection Two: The Civil, Legal and Practical Impact of Psychiatric and Psychological Expertise

Under Algerian law, the importance of psychiatric and psychological expertise extends beyond the criminal sphere. It plays a pivotal role in civil trial proceedings, particularly in determining civil liability and assessing non-pecuniary damages in family cases.

Subsection One: The Role of Psychiatric and Psychological Expertise in the Family Code (Trial Stage)

Expertise in family cases is a vital resource for judges, helping them to ensure the 'best interests of the child' and protect the rights of both spouses.

First: Custody cases (Article 64 of the Family Code)

The judge may use psychological expertise to evaluate the educational and psychological capabilities of the custodial parent (whether the father or mother), and to verify the absence of any psychological disorders that could endanger the child. This also involves assessing the 'type of attachment' between the child and each parent, in order to determine who

is more suitable to have custody[26].

Secondly, establishing the grounds for legal incapacity (Article 103 of the Family Code)

The legislator requires legal incapacity to be established by a judicial ruling, expressly authorising the judge to seek expert assistance to determine the grounds, such as insanity, dementia or prodigality. This is a decisive procedure at the trial stage for determining a person's capacity to manage their affairs.

Thirdly, divorce on grounds of harm (Article 53 of the Family Code)

Expertise is used to establish psychological harm resulting from mistreatment, such as diagnosing post-traumatic stress disorder (PTSD) or severe depression, thereby supporting the wife's claim for divorce[27].

Subsection Two: The Role of Psychiatric and Psychological Expertise in Civil Law

In Algerian civil law, psychiatric and psychological expertise plays a pivotal role, whether at the stage of contract formation, where it verifies the capacity of the contracting parties and the soundness of their consent, or at the stage of judicial disputes, where it assists the judge in clarifying technical issues relating to mental or psychological conditions. This role is based on the provisions of the Civil Code and the Code of Civil and Administrative Procedure, with the judiciary relying on reports prepared by physicians who specialise in mental and psychological disorders.

First: The Role of Psychiatric and Psychological Expertise in Contract Formation (Capacity and Consent)

1. Psychiatric expertise as an effective tool for establishing defects in legal capacity

Legal capacity forms the basis of legal obligation and the validity of financial transactions. Psychiatric medical expertise is important because it can distinguish between different degrees of mental impairment and their effects on contracts, particularly before a judicial ruling establishes legal incapacity.

A. The expert's role in classifying insanity and dementia, and determining their retroactive effects

The Algerian legislator has stipulated that transactions concluded by a person deemed insane or demented are absolutely null and void[28]. However, a practical legal issue arises with regard to contracts concluded before the judicial ruling establishing legal incapacity is registered.

B. Determining the Date of Onset of Mental Illness: The judge not only establishes the existence of the illness, but also instructs the psychiatric expert to determine the approximate or precise date on which the contracting party's mental abilities began to deteriorate, for example with the onset of Alzheimer's disease symptoms. This technical determination enables the exception stipulated by law to be applied, whereby transactions concluded prior to the establishment of legal incapacity are deemed invalid if the condition of insanity or dementia was "common knowledge at the time of contracting or was known to the other party"[29].

C. Temporary Recovery (Lucid Intervals): In cases of periodic psychosis, the expert intervenes to establish whether the contract was concluded during a period of complete 'mental lucidity', which may render the transaction valid in exceptional cases. This requires a precise medical report on the person's neurological condition at the time the contract was concluded[30].

2. Psychological expertise in assessing deficiencies in legal capacity (prodigality and imprudence).

Unlike insanity, prodigality and imprudence do not affect a person's overall capacity for perception; rather, they impact their ability to manage their financial affairs prudently.

A. Establishing behavioural disorders: In this regard, the psychologist plays a more prominent role than the psychiatrist. The psychological expert examines the contracting party's spending behaviours and the extent to which they are subject to irrational impulses, such as squandering money contrary to reason or Islamic law.

B. The effect of the expert report: Based on the psychological report, the judge can issue a ruling that establishes legal incapacity, thereby protecting the contracting party's estate and appointing a "guardian" to oversee it. Any subsequent transactions are then subject to annulment in their favour.

3. Expertise and the Problem of Performance in the 'Medical Contract'

A. Informed consent (disclosure): In medical contracts, the patient's consent must be both free and informed prior to any therapeutic procedure being performed. The expert determines whether the patient is in a psychological state that enables them to understand the 'medical risks' explained by the physician.

B. Moral and psychological harm: In cases where the contract has not been performed (for example, if the patient is disfigured as a result of cosmetic surgery), the psychological expert will assess the extent of the 'moral or psychological harm' (pretium doloris) in order to determine the amount of civil compensation required to remedy the harm. This is one of the most complex tasks in the field of medical contractual liability[31].

Conclusion:

This research has resulted in a thorough examination of the role of psychiatric and psychological medical expertise within the judicial system, considering both its conceptual and legal framework and its practical impact in criminal and civil cases. This analysis has revealed that psychiatric and psychological expertise is now a fundamental pillar for achieving qualitative justice, rather than merely a secondary technical procedure. This is because it enables judges to uncover the truth in areas beyond their own knowledge and expertise relating to the deepest aspects of human beings: perception, will and psychological state. The research and analytical process has produced a set of interconnected findings that emphasise the importance of this procedure in ensuring a fair trial.

The Qualitative Transformation in the Procedural Nature of Expertise: Psychiatric and psychological medical expertise is no longer merely a secondary technical investigative procedure. Rather, it has become a fundamental pillar in the pursuit of 'qualitative justice', assisting judges in ascertaining judicial truth in areas beyond their intellectual capabilities and addressing the subtlest aspects of human perception, will and psychological balance.

The decisive impact on the legal classification of criminal responsibility and punishment: In the criminal field, the study has demonstrated that expertise is the decisive scientific mechanism for defining the boundaries of criminal responsibility. Establishing the absence of discernment at the time of committing the act leads to exemption from punishment and the imposition of appropriate security measures, while establishing diminished mental faculties leads to mitigation of the criminal penalty. This strikes a precise legal balance between society's right to deterrence and the humanitarian treatment of offenders.

The central role of psychological assessment in private and family law: Research has demonstrated the pivotal role of psychological expertise in safeguarding civil capacity, providing the basis for judicial decisions to establish legal incapacity and protect a person's financial estate, and in assessing moral and psychological damage that warrants compensation. Furthermore, psychological assessment is the decisive criterion for ensuring the 'best interests of the child in custody' and protecting family relationships against disorders and disintegration.

The relative evidentiary value of expert reports and their subjection to judicial review: The findings confirmed that the considerable importance of medical reports does not justify unconditional reliance on them. The evidentiary value of psychological expertise remains relative and is subject to the judge's discretionary authority as the 'ultimate expert' in the case, in order to prevent the judicial system from shifting from the rule of law to the 'rule of experts'.

Deficiencies in institutional regulation and unified technical standards: The study revealed a regulatory gap, reflected in the absence of unified national standards for forensic psychological assessment, and a shortage of specialised expertise among accredited judicial experts. This results in variations in the quality of reports and differences in examination methods between practitioners.

The complexity of ethical obligations in the practice of expertise: The close interaction between the medical and legal dimensions can give rise to ethical issues that require a careful balance to be struck between the expert's obligation to maintain professional confidentiality and respect the privacy of the person being examined, and their duty to enlighten the court.

Based on these findings, advancing the legal and judicial system requires anticipating structural reforms that strengthen the dual, specialised training of judges in psychological and psychiatric fields. This should be accompanied by the development of a unified national guide that establishes forensic medical protocols for psychological expertise. This guide should draw inspiration from contemporary comparative experiences, while taking into account the specific characteristics of the Algerian legal system. A specialised national register of psychological and psychiatric experts must also be established, and their performance must be periodically monitored to ensure the quality and reliability of the technical information submitted to the courts.

In conclusion, when practised within a sound legal framework and in accordance with proper ethical standards, psychiatric and psychological medical expertise truly serves as a bridge between science and justice. It contributes to judicial convictions based on scientific evidence rather than conjecture, and reinforces the values of fairness and protection in a society that believes justice should consider human circumstances as well as punishment.

This thesis culminates in an in-depth study and legal and practical examination of the role of psychiatric and psychological medical expertise within the judicial system. This reveals the features of its conceptual and legal framework, as well as its direct practical impact in criminal and civil matters. The research and analytical process has produced a set of interconnected fundamental findings that emphasise the importance of this procedure in ensuring a fair trial.

First: Findings

The Qualitative Transformation in the Procedural Nature of Expertise: Psychiatric and psychological medical expertise is no longer merely a secondary technical investigative procedure. Rather, it has become a fundamental pillar in the pursuit of 'qualitative justice', assisting judges in ascertaining judicial truth in areas beyond their intellectual capabilities and addressing subtle human aspects such as perception, will and psychological balance.

The decisive impact on the legal classification of criminal responsibility and punishment: In the criminal field, the study has demonstrated that expertise is the decisive scientific mechanism for defining the boundaries of criminal responsibility. Establishing the absence of discernment at the time of committing the act leads to exemption from punishment and the imposition of appropriate security measures, while establishing diminished mental faculties leads to mitigation of the criminal

penalty. This strikes a precise legal balance between society's right to deterrence and the humanitarian dimension of offender treatment.

The central role of psychological assessment in private and family law: The research has demonstrated the pivotal role of psychological expertise in safeguarding civil capacity, providing the basis for judicial decisions to establish legal incapacity and protect the person's financial estate. It also plays a key role in assessing moral and psychological damages that warrant compensatory measures. Furthermore, psychological assessment is the decisive criterion for ensuring the 'best interests of the child in custody' and protecting family relationships against disorders and disintegration.

'The relative evidentiary value of expert reports and their subjection to judicial review': The findings confirmed that the considerable importance of medical reports does not justify unconditional reliance on them. The evidentiary value of psychological expertise remains relative and is subject to the judge's discretionary authority. This ensures that the judicial system does not shift from the rule of law to the 'rule of experts', and guarantees that judicial decisions are not dependent on scientific findings that may be affected by the limitations of the methods employed or the expert's impartiality.

Deficiencies in Institutional Regulation and Unified Technical Standards: The study revealed a regulatory gap, reflected by the absence of unified national standards for forensic psychological assessment, and a shortage of specialised expertise among accredited judicial experts. This results in variations in the quality of reports and differences in examination methods between practitioners.

The complexity of ethical obligations in the practice of expertise: The close interaction between the medical and legal dimensions of expertise gives rise to delicate ethical issues. These issues require a careful balance to be struck between the expert's obligation to maintain professional confidentiality and respect the privacy of the person being examined, and their procedural duty to enlighten the court regarding the facts of the dispute.

Second: Legislative and judicial prospects and aspirations

Building on these findings, advancing the legal and judicial system requires anticipating structural reforms that strengthen the dual, specialised training of judges in psychological and psychiatric fields. This should be accompanied by the development of a unified national guide that establishes forensic medical protocols for psychological expertise. This guide should draw inspiration from contemporary comparative experiences, while taking into account the specific characteristics of the Algerian legal system. A specialised national register of psychological and psychiatric experts must also be established, and their performance must be periodically monitored to ensure the quality and reliability of the technical information submitted to the courts.

In conclusion, when governed by strict legislative provisions and sound professional ethics, psychiatric and psychological medical expertise can be a solid bridge between scientific knowledge and the requirements of justice. It contributes to judicial convictions that are supported by reasoned and conclusive scientific evidence rather than conjecture. It also reinforces the principles of fairness and protection in a society that believes the essence of justice lies in understanding the human condition and taking individual circumstances into consideration rather than merely imposing punishment.

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3. Legal Texts

1. Legislative and Regulatory Texts

1.1 Legislative texts

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- The International Covenant on Civil and Political Rights, ratified by Algeria pursuant to Presidential Decree No. 89-67 of 16 May 1989.
- The Constitution of the Arab Republic of Egypt, promulgated on 18 January 2014 and amended in 2019 (Egyptian Official Gazette).

1.2 Regulatory texts:

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- Law No. 84-11 of 9 June 1984 containing the Family Code, as amended and supplemented. (1984). Official Gazette of the People’s Democratic Republic of Algeria, no. 24.
- Ordinance No. 75-58 of 26 September 1975 containing the Civil Code, as amended and supplemented (1975). (1975). Official Gazette of the People’s Democratic Republic of Algeria, No. 7.

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[21] - Moulin & Delacrausaz, 2024, p. 21.

[22] - Article 48 of the Penal Code, previously cited reference.

[23] - Article 143 of Law No. 25-14 of 9 Safar 1447 AH (corresponding to 3 August 2025) containing the Code of Criminal Procedure (Official Gazette of the People's Democratic Republic of Algeria, No. 54, issued on 13 August 2025).

[24] - Article 168 of the Code of Criminal Procedure (Law No. 25-14, previously cited reference).

[25] - Article 247 of the Code of Criminal Procedure (Law No. 25-14), previously cited reference.

[26] - Article 64 of the Family Code (previously cited).

[27] - Post-traumatic stress disorder (PTSD) and major depression constitute a significant public health burden, affecting millions of people who have experienced psychological trauma or severe life events. The symptoms of these two disorders frequently overlap. Studies indicate that major depression can be considered a complex dynamic system in which interacting factors... For further information, see ...

[28] - Article 42 of Ordinance No. 75-58, which contains the Algerian Civil Code and has been amended and supplemented, stipulates that: 'A person who lacks discernment due to young age, imbecility or insanity shall not be legally competent to exercise civil rights.'

[29] - Supreme Court Decision, Civil Chamber, Case No. 345672, dated 12/04/2006, Supreme Court Journal, No. 2, 2007.

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