ORIGINAL ARTICLE

Providing legal advice and objectives of Islamic law

Ayat Z.M. Raddad and Dr. Abdel Wadoud Moustafa Moursi El-Seoudi

1Department of Syariah, Faculty of Islamic Studies, Universiti Kebangsaan Malaysia, 43600 Bangi, Selangor, Malaysia.
2Abdel Wadoud Moustafa Moursi El-Seoudi, Senior Lecturer at Department of Syariah, Faculty of Islamic Studies, Universiti Kebangsaan Malaysia, 43600 Bangi, Selangor, Malaysia.

ABSTRACT

The writing on the subject of consultation legitimacy and objectives of Islamic law increases the need day after day in the light of the complexities of life and the problems facing the individual in society and the lack of jurisprudence of the average Muslim. The aim of the research is to achieve several objectives, including: access to the importance of consulting the legitimacy and primacy of Islam in addressing the issue of counseling and their ability to solve many problems and complexities faced by the Muslim individual, family and society as a whole, and seek to raise awareness between the individual and the Muslim community to the importance of their application for a consultation in their lives daily at home and school and everywhere, as research aims to the statement of the provisions on consultation, by addressing the legitimacy of evidence and the views of scholars around as research aims to the statement of staff consultation and controls.

Kay words: Providing, Legal advice, objectives, Islamic law.

Introduction

The has adopted a researcher at the writing discussed inductive approach, through extrapolation of the scholars’ with an indication of their evidence and a citizen of agreement and disagreement among themselves, and then followed by the approach analytical, and that through the collection of texts, issues and analysis and then weighted as shown to the researcher that he is right and closest to the stakeholders and the issues jurisprudence, and then try to link the reality of contemporary jurisprudence and its applicability in the modern era. The researcher at the end of the discussion to several conclusions, including: that the consultation is to seek advice in matters concerning the individual, or the order is responsible for its implementation, required by the owner of the need to ask others who trust them in their faith and their knowledge and piety to God, from those of experience and knowledge. Consulting has three pillars, namely: consultant and advisor and the subject of consultation, and each of these have its each control which varies from one corner to another. There are also things you should abide by the consultant to reach the fruit that wants, to consult, and honesty, and lack of decision-making in advance, and should not be consulted for the people chosen to tell him what he loves, and chooses for each command, relevant persons, and to beware of the frequency after a consultation, and the Secretariat not to disclose what was said by the chancellor, and to be discreet unless authorized to do so. There are goals for the consultation, are: to draw closer to God, and to get the reward from the Almighty, and the search for truth and righteousness within the curriculum legitimate, and the elimination of individual and improvisational, and coordination of efforts and assembled, and take advantage of the capabilities and not squandered, and training and preparation, and discover the talents and energies, and access to many solutions to the problems facing the individual, family and society.

Definition of counseling idiomatically:

Consultation and advice: Extraction some opinion to review the other, A person aims a task who thinks it is the right of opinion and a measure that indicates what he sees in it for the benefit of his work.

Shura is not unique to human opinion alone in the things that need to share the mind another, or more, and consultation in the matter open its locks, and lets be viewed from different angles, under different interests of individuals, and differences in their knowledge and culture, and thus be judged on It is based on the perception.
of a comprehensive and absorbing study, man Shura adds to his mind the minds of others and to his knowledge of other sciences, has called for Islam to the Shura in the life of the individual, and in family life, and in the life of the community and the state.

Hassan said on the consultation: "Some Muslims went to reverse some of the theme qualified to benefit from the sharp opinion in the matter is insignificant or some of the Muslim community." This definition includes the Consultative Assembly and the Shura for both. ( Atar, 1422 H = 2007)

Tawfiq Al-Shawi said: "Consultation and advice: the advice of others and discuss ideas freely, and take advantage of the views of people with experience, wisdom and listen to their advice, whether in their own affairs or in the exercise of functions and responsibilities that are laid. ( Al-Shawi, 1413 H = 1992).

The bottom line here is: There are three basic synonyms consultation and counseling and advice, and the origin is the Shura Council and falls below counseling and advice, and researcher defined it as the following:

Shura is to address and turn the consensus among a group of people with experience, knowledge and science in a particular subject to gain the approve of it will be the opinion of or possession of the majority and shall be binding for all. They cooperate in the interchange of opinion and deliberation in the order of things on the basis of the rules and meet all of the right and wrong or what is closer to her, all that obedience to God and his slavery.

**Consultation:**

It is to seek advice and be in the matters concerning the individual or the order is responsible for its implementation, and requested by the owner of the need to ask others who trust them in their faith and their knowledge and piety to God with the experience and knowledge, which is not binding may file a need to review and balance the views and decide

**Advice:** It means advice which is volunteered by individuals without question or request

**The pillars of consultation:**

There are three pillars of the Shura, and every corner of these elements has its controls and conditions. The pillars of the Shura are:

The first consultant.

The second counselor.

And the third is the matter of consulting

The controls these elements are different from one pillar to another, and they are elaborated as what follows:

The first pillar: consultant: there are matters that must be adhered to by the consultant up to the fruit of that he wants, consulted, and in particular the advice of worship, hopes its goodness in this world, and its reward in the Day of Judgment and the most important things are the following: ( Omar, 2006)

1-To be honest in his consultations, detached from fancy, looking for the right and the opinion of good, and says right is useful wherever it is, Qotada said: "If people consulted each other, and they wanted to do this seeking the face of God's intention He guided them to the best ".( Al-Tabari, 1374 H = 1954)

2-He should not have made up his mind - as well as where to start - and then consult the others, and even to say: I consulted do and so Allah says 'Consult them in the matter and if you are determine depend on Allah.(Quran,3: 159)

3-He shouldn't consult the people he had chosen to tell him what he likes, not what should be.

4-To choose for each order what suits him, so that each command is different from the others, was the Prophet - peace be upon him - consult with Abu Bakr and Umar - may Allah be pleased with them - and has dedicated individuals bearing the same thing, and consulted AlSadieen in the fruits of Almadina. So he chooses -peace be upon him- for each matter suits it .

Finally, there are two things after the consultation must be taken into account of the consultant, namely:

The first is to be warned of the hesitancy after a consultation, and therefore he must be determined. He says: (If you intend then trust in Allah). (Quran,3: 159)

The second: The honesty, however, that does not disclose what was said by advisers; and be discreet, unless he is authorized to do so.

**The second pillar: Advisor:**

Is the basis of these elements, so that the legality of the Shura revolve around him, either to take what he has to say in the matter consulted, or to be taken into account and to perfume himself for the benefit of and impetus for evil, to other matters related to him. (Omar,2006)
First: the qualities of Advisor: because of the impact of the adviser in the matter consulted in, and as significant in his opinion the issue at hand, and since a lot of people do not realize the qualities and conditions that must be fulfilled by those who consult, I would like to summarize them in the following: (Omar, 2006)

1-Piety and devotion: Consultation is honesty, the advisor is trusted, and there is no honesty of the punk cunning deceiver, if the advisor is not pious, watching God - the Almighty - as he says and hears, it may give you an opinion comes other than what you wanted, and could have goals which are contrary to your goals, then he harms you instead of benefiting you.

2-The suitable knowledge: The Imams after the Prophet - peace be upon him - consult the Trustees of the scholars. And advice questions, and God - the Almighty - says: (Ask the followers of the Reminder if you do not know) (Quran, 16: 43), and said Saad bin Abi Waqas - may Allah be pleased with him - I never saw anyone bring understanding, nor mind,

3-Experience: The experience over the individual and the wisdom of experience, and through his experience he can make things right, and weigh things in the right scale.

4-The honesty and keeping the secret: Al-Sunan owners report that the Messenger of Allah - peace be upon him – consulted Al Sadien in the case of the fruits of the city. And consulted Omar - May Allah be pleased with him – and Hafsa - God bless them - in the amount of patience woman from her husband, and took by saying, specialization, although a section on science, but more particularly it does not need to be a measure of specialization is to obtain a certificate of specialized, but it was empty something has to allocate it, Construction was a specialist in construction, and farms specializing in agriculture... and so on.

5-The mind, gravity and the strict opinion: The advisor must be sane and wise.

6-Specialization: It is worth taking care of him to be a specialist adviser in the matter the advisor if this is something that requires specialization, and God - the Almighty - says: (Ask the followers of the Reminder if you do not know) (Quran, 16: 43). The prophet -the Messenger of Allah - peace be upon him – consulted Al Sadien in the case of the fruits of the city. And consulted Omar - May Allah be pleased with him – and Hafsa - God bless them - in the amount of patience woman from her husband, and took by saying, specialization, although a section on science, but more particularly it does not need to be a measure of specialization is to obtain a certificate of specialized, but it was empty something has to allocate it, Construction was a specialist in construction, and farms specializing in agriculture... and so on.

7-Cohabitation of the issue at hand and interact with them: This is part of the perception of the issue and understand its dimensions, one of the supplies for its opinion, the fact that living in a valley advisor and consultant living in the valley last cup in the referendum, and the weakness in the opinion.

8-The seriousness and packages: seriousness and firmness in the opinion section on the seriousness of the human being, if he was serious in all the affairs and conditions, it would be serious in his opinion and advice.

The most important qualities that must be available in the counselor, although some things do not need to have all these qualities.

Therefore, there are things that must mean the advice of consulted before, during and after, namely: (Omar, 2006)

1-honesty in the opinion and advice and pure abstraction: the advisor must be sincere in his advice, detached from desires.

2-deliberate, and not to rush: he must not rush in his opinion, upon reflection, the length of thinking, and turn all things to their faces, until it is clear the right and show the right thing.

3-Depecting the matter as what it is: This requires discussion consultant and finding out, and not merely what he says, unless you that he did not hide anything.

4-the honesty and the secret: Just as it should be on the consultant to conceal his opinion of the consulted unless authorized, so too must the Chancellor to conceal it except if authorized consultant.

5-Consultation: It should be noted, that the chancellor if consulted in order of importance, was not clear to him the command in it, and he knew of men who has the ability to express an opinion on this important matter, and may not be able consultant to reach them.

The third pillar: The matter consulted in: and this is important, and it can be determined by the following controls:

1-It is not allowed to consult a matter hat has a text from the Book and Sunan: (No man or woman, when Allah and His Messenger are to have any option ordered).

The Imams after the Prophet - peace is upon him - consult Trustees of the scholars in permissible things, to take the easiest and if the Quran and Sunna were present they didn’t overtake them.

2- Shura is in permissible matters, which the two parties are equated, it is due or delegate, nor is it haram or hated. Sheikh al-Islam Ibn Taymiyah said: "It has been said that God - the Almighty ordered his prophet - peace be upon him to follow it." (Ibn Taymiyah, 1992)
Objectives of the consultation in Islamic law:

If you think about fluctuations of time and the course of events conflicting, and the complexity of the problems of life to realize that we are in dire need of something permissible for us this complexity and help us overcome the crisis and guide us to the way more sense and advise us and help us to overcome the obstacles, so our talk about the consulting and its objectives, counseling has many goals which are unrevealed to people and these goals are : (Omar, 2006)

1- The availability of counseling if the dedication and follow-up is the worship of God, in which a person requests the reward of God.

2- Finding the right and what is correct and legitimate within the curriculum, and access to the nearest appropriate means for the command consulting.

3- The elimination of individual and improvisation: The counseling is a treatment in the face of critical situations improvised and individual decisions. There is a difference between a decision to take the man alone, or make a decision based on consultation with the people of opinion and experience.

4- Coordination of efforts and assembling them, and taking advantage of the capabilities and not squandered: counseling is a way to invest energies, and one of the doors of cooperation in righteousness and piety, ordered by God.

5- Training and preparation, and discovering the talents and energies: al-Bayhaqi narrated that 'Umar - may Allah be pleased with him - When he got a problematic matter, he called upon boys to check their minds.

6- Shura's benefits are for you and its losses are others. Ibn AQI Jawzi said: "The benefits that the consultant if you do not succeed in his order, he learned that failure to succeed as much as not familiar with himself," including that it may resolve the matter, between him right in the other, he knows deficit itself briefing for arts interests.

7- One of the main objectives of the consultation is to give solutions: they are appropriate for many of the problems and difficulties and complexities faced by the individual, family and society as a whole, by the opinion and experience and knowledge.

has added some of the benefits of the consultation. (Atar, 2007)

1- It Hassan Err - counseling strengthens the of brotherhood friendship stronger as well as the cooperation between Muslims with pride and appreciation makes.

2- Consultation is the blessing on all, the wonders of its blessings is that the dialogue between the consultant and the advisor on opinions.

3- Consultation is a human virtue, which is the right way to find out the most desirable views.

4- It cuts off the devils of mankind and the jinn to spoil what is between him and the Muslims.

5- Muslims are used to being calm and to receive the opposite opinion which was issued with a capacity of good understanding.

Conclusion:

consultation is to seek advice in matters concerning the individual, or the order responsible for its implementation, required by the owner that need asking others who trust them in their faith and their knowledge and piety to God, with experience and knowledge. the three pillars of advice are: consultant and advisor and it the consulted matter it, and each of these pillars regulations vary from each another. there are the things that must be committed to the consultant to reach the fruit that wants, than consulted, namely: honesty, lack of decision-making in advance, and should not be consulted for the people chosen to tell them what he loves, and chooses for each command, relevant persons, and to beware of the hesitant after consulting, and the failfulness not to disclose what was said by the chancellor, and to be discreet unless authorized to do so. there are qualities of the advisor, namely, piety, and the appropriate knowledge, and the experience, expertise, honesty, and confidential, and reason, and sobriety, and the payment of view, specialization, and the cohabitation of the case at hand, and interact with, and seriousness and firmness. With regard to what the consultant must do is honesty in the opinion, advice and pure detachment from prejudice, and not to rush, and the perception of things as they are faithfulness, honesty and discretion. the researcher concluded that the consultation be permissible in matters, it is not permissible in order to consult the text of the Quran or the Sunnah. The objectives of the consultation are: to draw closer to God, and to get the reward of Him, and in addition to searching for truth and righteousness within the legitimate curriculum, and the elimination of individuality and rush, and the coordination of efforts taking advantage of the capabilities and not squandered them, and training and preparation, and discovering the talents and energies, and access solutions to many of the problems faced by the individual, family and society.
References

Al-Shawi. Tawfik Mohamed, 1413 H = 1992, the jurisprudence of the Shura and consulting, I. 2, Mansoura: Dar Al-Wafa Printing Press
Al-Tabari. Muhammad ibn Jarir al-Tabari 0.1374 e = 1954, inclusive statement about the interpretation of the Koran, Beirut: Dar thought for printing and publishing.
Atar. Hassan Mohammed Ziauddin, 1422 H = 2007, the Shura in the light of Quran and Sunnah, i .1, Egypt: Al-Rayyan.
Holy Quran.
Sunnah of the Prophet.