

The High Islamic Council as a consultative constitutional institution in Algeria

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Abstract:

The Supreme Islamic Council is a consultative constitutional institution, stipulated in successive Algerian constitutions, the latest of which is the constitutional amendment of 2020 in Article 206. It is governed by Presidential Decree No 141-17 of April 18, 2017 determines the organization the High Islamic Council and its functioning. It undertakes the tasks of urging and promoting ijthad, and expressing the Sharia ruling in He is presented with issues of concern to Algerian society.

key words:

High Islamic Council, Constitution, Consultative Institution, Sharia ruling, Ijtihad, Islam.

Introduction

It is not surprising that the first constitution of the independent Algerian state (the 1963 Constitution) included in its second article, immediately after defining the state system, what would define its Islamic identity: “Islam is the religion of the state.” The Algerian constitution has been amended several times since independence until today (1976, 1989, 1991, 1996, 2002, 2008,” but the aforementioned second article remained unchanged and did not change.

If previous constitutions were concerned with taking care of religious affairs, such as beliefs, practices, rituals, and achievements..., then among the bodies entrusted with the task of taking care of religious affairs, especially in the field of fatwas in Sharia jurisprudence, was the high Islamic Council affiliated with the sector of the Ministry of Religious Affairs, supervised by eminent scientists and religious figures.

The 1989 Constitution came, which affected the essence of the political system. He moved it from a unilateral system to a pluralistic system, and elevated the high Islamic Council from a body affiliated with the Ministry of Religious Affairs to a constitutional institution, and allocated to it in the second chapter “consultative institutions,” where Article 161 stipulates that: A High Islamic Council is established under the President of the Republic”, which is the content of Article 171 of the 1996 Constitution; The Council undertakes the task of:

- Encouraging diligence and promoting it.
- Expressing the Sharia ruling on what is presented to him,
- Submitting a periodic report on its activities to the President of the Republic.

The high Islamic Council consists of fifteen (15) members, including the president, and members are appointed by the President of the Republic from among the highest national competencies in various sciences.¹

The first observation to be made about this council is that its competencies were limited, which affects the advisory function of this council, which was explicitly stipulated in the constitution and considered to be one of the consultative institutions, and its role in daily life is almost very limited. Moreover, it lacks the principle of independence from the executive authority, which is normal as it is a consultative institution, and the President of the Republic is the one who undertakes the task of appointing the President of the high Islamic Council and its members by presidential decree.

In addition, the religion of the state is Islam, according to Article 2 of the Constitution, and the fact that the role of the high Islamic Council is advisory raises a kind of contradiction between the constitutional texts. The role of the Council here is supposed to be an active decision-maker and not an advisory one, as consultation reflects an opinion and the latter does not bind the President of the Republic. In any case, despite the religious weight of the Council and the composition upon which it is based, which is composed of scientists and prominent figures in religion, how is it possible that its role is advisory, and therefore what is the reason for the existence of this Council?

Section One: Objectives of the high Islamic Council

These goals stipulated in Presidential Decree No 17-141 of 2017 determines the organization the High Islamic Council and its functioning, revolve around three main axes, which we summarize as follows:

First: Training and education

This is explicitly stated in the Article 5 of the presidential decree, which stipulates the participation and contribution of the high Islamic Council in the preparation and evaluation of religious education programs and their harmonious integration into the educational system, as well as the training of imams and teachers and the renewal of their information.²

Second: Spreading the correct Islamic culture and contributing to the development of Islamic thought and ijihad

This goal is achieved through:

- Using all means of research and advanced scientific studies and opening the dialogue and scientific discussion, to create and provide opportunities to meet religious scientists and specialists through organizing periodic forums, seminars, study days, and round tables and exploiting their results.
- Using written means: such as preparing guides and booklets that guide the correct practice of religious rituals.
 - Issuing a “local” magazine on Islamic thought and ijihad and distributing it, printing and issuing Conferences, interventions and the results of the work of research units and specialized scientific studies, and working to publish and distribute them.
 - Using audio-visual means to spread Islamic culture, especially what is known as heavy media equipment, such as preparing and implementing periodic and continuous television and radio programs that address Islam in general and issues of the Islamic community in particular.
 - Creating a website on the World Communications Network “the Internet” as the latest means of communication that will be a true mirror that reflects the Council’s activities and its

role in spreading Islamic culture, and a means of dialogue that is constantly open to the Arab Islamic world in particular and even the entire world.

Third: International participation

The high Islamic Council has roles at the international level through its contribution to the exchange of information related to the Islamic religion and interfaith dialogue with all foreign institutions and countries, using all modern means of communication.³

Section Two: The organs of the Supreme Islamic Council and its administrative structures

The high Islamic Council is based on organs, which are: The President, the Council Office, and the Council Committees. It is also based on an administrative organizational structure related to a group of directorates.

First: the president

The president of the Council assumes the following duties:

- Presiding over the elected council office.
- Managing the Council's deliberations, coordinating its work and ensuring its smooth functioning.
- Representing the Council in demonstrations and official national and international celebrations.
- Establishing relations with similar Islamic councils, and with international bodies and organizations related to the council's field of jurisdiction.
- Preparing the Council's work program with the assistance of the office, presenting it to the President of the Republic after informing the Council members, and approving it in a public session.
- Preparing the Council's annual report, with the assistance of the office, and submitting it to the President of the Republic after approval.

- Preparing the work of courses, forums and seminars, with the assistance of the office.
- Distributing tasks to office members and evaluating their activity.

Second: Office of the high Islamic Council

It consists of the president, two assistants charged with studies and summaries, and four members elected by their counterparts.⁴ He does the following:

- Organizing the Council's work.
- Setting the agenda of the sessions.
- Assisting the President in preparing courses, forums and seminars.
- View the Council's budget.
- Supervising the work of committees.

Third: Committees of the high Islamic Council

The Council consists of four committees:

1. Fatwa, Guidance and Counselling Committee

It specializes in the following:

- Preparing draft fatwas and Sharia rulings.
- Study contemporary problems and issues, to provide solutions to them in accordance with Islamic Sharia.
- Giving the Islamic perspective to various issues that concern the nation's spiritual and material life.
- Correcting distorted concepts and deficient fatwas.
- Responding to suspicions and slander spread by the enemies of Islam.
- Clarifying the values on which Islam is based, and introducing its principles and directives.

2. The Education, Culture and Heritage Revival Committee

which is specialized in the following:

- Contributing to the guidance of Islamic religious education and training.
- Contributing to the rationalization of Islamic work, preserving the religious and cultural unity of the nation, and protecting society from the dangers of sectarian fragmentation and the evils of sectarian strife.
- Working to promote the correct Islamic culture, based on scientific accuracy and characterized by openness to global cultures, away from all factors of alienation.
- Working to revive the Algerian Islamic heritage throughout the ages through research, investigation and publication.

3. The Relations and Cooperation Committee

is responsible for the following:

- Establishing cooperation and integration relations with national bodies and organizations related to the Council's competencies and objectives
- Establishing cooperation and exchange relations with similar Islamic bodies, and with international institutions and organizations whose work is consistent with the Council's mission and objectives.

4. The Media and Communication Committee

is responsible for the following:

- Embodying the Council's activity in the national media: visual, audio, and written.
- Collecting books and magazines that have been and are being published about Islam and Muslims, in various languages and in various countries, in order to benefit from them and adopt good ones.
- Organizing conferences, seminars, forums and round tables, with the aim of raising awareness and spreading the true Islamic religion.
- Issuing Islamic publications (brochures) to highlight Islamic values and antiquities.

- Using the Internet and modern technology to enable the Council to review, research and investigate.

Fourth: The administrative organizational structure of the high Islamic Council

In accordance with Article 13 of Presidential Decree 33-98 dated 26 Ramadan 1418 corresponding to January 24, 1998, the high Islamic Council shall be provided with a general secretariat charged with managing the administrative departments to support the tasks of the high Islamic Council. This secretariat shall be managed by a Secretary-General under the authority of the President of the high Islamic Council and with his assistance the following directorates:

- Directorate of Studies and Cooperation, which includes: The Sub-Directorate of Studies and Foresight, the Sub-Directorate of Cooperation and Coordination.
- Directorate of Documentation and Information, which includes: The Sub-Directorate of Documentation and Follow-up, the Sub-Directorate of Information and Publishing.
- Directorate of Human Resources and Means includes: The Sub-Directorate of Training and Personnel, the Sub-Directorate of Public Means and Accounting.

As for the work system of the high Islamic Council, it meets in a regular session every three months, and it can meet in an extraordinary session at the request of its President or two-thirds of its members.⁵ The President of the Republic may take the initiative to notify the high Islamic Council to issue a fatwa in the field of Sharia jurisprudence, the Council expresses its opinion in writing, taking into account religious teachings.⁶

The high Islamic Council submits an annual report related to its work to the President of the Republic, in

accordance with Article 7 of the presidential decree relating to the high Islamic Council. Which leads us to say that the high Islamic Council is not independent, as the report submitted to the President of the Republic indicates the existence of control by the executive authority over the Council's work.

Conclusion

Finally, what can be said about all consultative institutions in Algeria is that they lack the principle of independence in their organic composition, as the President of the Republic undertakes the task of appointing their members and presidents according to presidential decrees. On the other hand, these institutions have only an advisory role; This means that the President of the Republic who receives that consultation can not act on it, as the consultation is issued with a non-binding opinion. Considering that Algeria is an Islamic state by virtue of Article 2 of the Constitution, and that Islam is the basis of public order in Algeria, we hope that the high Islamic Council will become an effective constitutional institution in the field of fatwas and ijthad, and in the field of embodying a true religious reference for Algerian society.

Bibliography:

1. Presidential Decree No. 20-442 of December 30, 2020 issuing the constitutional amendment, Official journal No. 82 of December 30, 2020.
2. Presidential Decree No 141-17 of April 18, 2017 determines the organization the High Islamic Council and its functioning. Official journal No 25 April 2017.

¹. Presidential Decree No. 20-442 of December 30, 2020 issuing the constitutional amendment, Official journal No. 82 of December 30, 2020.

². See Article 5 of Presidential Decree No 141-17 of April 18, 2017 determines the organization the High Islamic Council and its functioning. Official journal No 25 April 2017.

³. See Article 4/4 of Presidential Decree No. 141-17.

⁴. See Articles 12 and 13 of Presidential Decree No. 141-17.

⁵. See Article 16 of Presidential Decree No. 141-17.

⁶. See Article 6 of Presidential Decree No. 141-17.