Q: You are a Judge in the Federal Shariat Court and a well versed person in Islamic Law and concepts. Considering this background of yours I thought you could answer or help me out in following points:

1. Is the present profession of advocacy repugnant to the Islamic Judicial System, because in that you need not pay fee or hire a lawyer to conduct your case.

2. The same question with regard to legal consultancy/advisor.

3. Is it the govt. in an Islamic state who should provide full legal assistance in respect of any matter.

4. Can the doctrine of necessity be extended in the above case considering that legal system has gone complex or developed too much.

5. In view of above points is the profession of Advocacy etc. 'Halal' or 'Haram' under Islamic Law.

Sir, these are the points which are agitating in my mind. I hope sir, sparing some time you would throw some light on these points. I shall really be thankful to you for this kind gesture.
(Muhammad Subhan Butt).

A: 1 & 5. The profession of advocacy, in itself, is not prohibited. This is a service rendered to the client for which an advocate can charge a fee. However, this permissibility is subject to three conditions. Firstly, a Muslim advocate is not allowed to plead the case of a person whom he believes to be unjust. Therefore, if he knows that his client has committed an offence he is not allowed to plead for his innocence. The Holy Qur'an is very clear on this point where it says:

"And do not be an advocate for those who have committed breach of trust."

Nevertheless it is not impermissible for an advocate to plead for any concession given to the culprit under the law, for example, in the above case it is not allowed to plead for the innocence of an offender, however, it is permissible to plead for reduction of his sentence on the grounds of genuine mitigating circumstances. Secondly, it is not allowed for a Muslim advocate to help his client in claiming a right which is disapproved by the Shari'ah, for example, if a person wants to sue his opponent for recovering usury or interest, a Muslim advocate cannot plead his case to that extent. Thirdly, a Muslim advocate is not allowed to use prohibited means to advance the case of his client like false statement, forged documents etc. Subject to these three conditions the profession of advocacy cannot be termed as repugnant to the injunction of Holy Qur'an and Sunnah. [1]

2. Whatever has been stated above with regard to the advocacy is equally applicable to the profession of legal consultancy.

3 & 4. There is no doubt that one of the basic responsibilities of Islamic state is that it provides justice to its citizens without undue cost. It is also advisable for it to provide full legal assistance to the people when they need it to acquire justice. However, if the resources of an Islamic state are not sufficient to provide this facility free of charge private legal consultants and practitioners may render their services by charging a fee from their clients but of course all these are subject to the three conditions already explained in answer of Question No.1.

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[1] On the contrary, a Muslim Lawyer who represents a client, whose complaint is just, will be rewarded if he seeks to achieve justice for his client and recover his or her legitimate entitlement. (EDITOR)