

GUARDIANS PREVENTING THEIR
DAUGHTERS
FROM
MARRIAGE

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Guardians Preventing Their Daughters from Marriage

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ



Question: My father refuses to be my Walī because he doesn't want to approve someone I see as a suitable potential husband. Is this allowed and can I request someone else to assume his position as my Walī?

'Adl Al-Walī is a Fiqhi term for when the father or guardian unjustly deprive the daughter or someone they're entrusted with from marriage. It's called Adl Al-Walī. Ma'qil Ibn Yasār رضي الله عنه had a sister who was a divorcee. After her 'Iddah was over, her ex-husband wanted to remarry her. That angered Ma'qil Ibn Yasār رضي الله عنه, as it would most guardians. But then Allāh تعالى سبحانه revealed a verse on this matter.

وَإِذَا طَلَقْتُمُ النِّسَاءَ فَبَلَّغْنَ أَجَلَهُنَّ فَلَا تَعْضُلُوهُنَّ أَنْ يَنْكِحْنَ أَزْوَاجَهُنَّ إِذَا تَرْضَوْنَ بَيْنَهُم بِالْمَعْرُوفِ

And when you divorce women and they have fulfilled their term, do not prevent them from remarrying their [former] husbands if they [i.e., all parties] agree among themselves on an acceptable basis.¹

Basically, the order is directed to the guardian. If the women fully divorce, don't prevent them from remarrying their ex-husbands. Don't prevent them from marriage. The Messenger ﷺ called Ma'qil Ibn Yasār, he recited the verse to him, and as expected from a great Sahābi like Ma'qil, he put his pride aside رضي الله عنه, and he submitted to the command of Allāh تعالى سبحانه.

A guardian cannot unjustly deprive his daughter of marrying someone suitable, especially if it's going to cause her harm or if it's going to cause her to commit a Harām. He also can't force her to marry someone she doesn't want. We explained that in a previous Fatwā.² But at the same time, she shouldn't hasten to

¹ [2:232]

² Available [here](#).

attempt to bypass his authority. Marriage is a major decision in life, and many times, there are disagreements that occur within the family pertaining to potential spouses. It's not wise for the sister to try to hasten bypassing her father's authority in this matter when there's a conflict. Of course, we're talking about a Muslim father, a Muslim father who unjustly oppressed or delayed or refused to marry off his daughter. The father is usually someone who deeply cares about his daughter. He considers her his flesh and blood. She's his heart and soul. He's a man who took food out of his mouth to feed her all throughout her life. He deprived himself of luxuries to see her happy. He's the one who would give his life to defend hers. That must be kept in mind. There are exceptions to that, but that's generally how fathers are. Sisters shouldn't forget who their fathers are when disagreements over Nikāh occur. Some are eager to get married and they're so emotionally charged up with the marriage proposal, that the first instinct they have is how to dismiss the father's guardianship if there's any conflict. There's no doubt that it's her right not to be oppressed or harmed in this matter, nor can she be forced, and the choice is hers within the limits of the Sharī'ah, but it's also a mighty matter to dismiss the father's guardianship. I'm not saying it shouldn't happen at times, but that should be the last option. Back in the day, the Arabs had a proverb that says,

آخر الطب الكي أو آخر الدواء الكي

Cauterizing is the last remedy.

When one would get sick, they would try different remedies to treat them. If nothing works, the very last remedy would be cauterizing them, which is branding them with fire. It would be the very last option because it's extremely painful, and likewise, when the father is Muslim, the very last remedy should be to dismiss the father's guardianship over the marriage proposal.

When there are disagreements on potential Khuttāb, it can be talked out, you can bring the mother to intervene, and bring other families to convince each other. Maybe the daughter's wrong, she's not understanding the father's reasons — maybe they're legitimate reasons. Bring people of knowledge, people close to the father, people the father respects, and they can intervene in the matter. Some get so eager and charged up with emotions, they unjustly try to find a way to declare their fathers as Kuffār to bypass his guardianship, because a Kāfir can't be the guardian over a Muslimah, by Ijmā'. Ibn Qudāmah and Ibn Al-Mundhir said a Kāfir can't be a Walī for a Muslimah. It may be that the father has the wisdom and outlook that the daughter didn't see. Maybe *he's* the one that's right and that he has good reasons for what he chose.

Just as we say the daughter must be careful in overriding the father's guardianship, the father needs to be careful not to oppress his daughter and not to delay her marriage, or not to force her, and not to harm her in any way. Allāh سبحانه وتعالى entrusted the father with that daughter, his daughter is an Amānah, and he shouldn't deceive nor oppress that Amānah, because it's something he will be questioned about.

مَا مِنْ عَبْدٍ يَسْتَرْعِيهِ اللَّهُ رَعِيَةً يَمُوتُ يَوْمَ يَمُوتُ وَهُوَ غَاشٌّ لِرَعِيَّتِهِ إِلَّا حَرَّمَ اللَّهُ عَلَيْهِ الْجَنَّةَ

*Any slave whom Allāh makes him in charge of subjects and he dies while he is not sincere to them, Allāh will make Jannah unlawful for him.*³

There's no one who's entrusted with the affairs of others, and then he dies being dishonest with those he's entrusted with, except that Jannah will be forbidden upon him. The Walī, a guardian — who's usually the father — cannot oppress whom Allāh سبحانه وتعالى entrusted him with by refusing to let her get married, if

³ Muslim: 142

the potential spouse is suitable and if he fulfills the Shar'ī criteria. He doesn't want to fall under the Du'ā of the Messenger ﷺ:

اللَّهُمَّ مَنْ وَلِيَ مِنْ أَمْرِ أُمَّتِي شَيْئًا فَشَقَّ عَلَيْهِمْ فَاشْتَقُ عَلَيْهِ وَمَنْ وَلِيَ مِنْ أَمْرِ أُمَّتِي شَيْئًا فَفَرَّقَ بِهِمْ فَارْفُقْ بِهِ

*O Allāh! Who (happens to) acquire some kind of control over the affairs of my people and is hard upon them, be hard upon him, and who (happens to) acquire some kind of control over the affairs of my people and is kind to them, be kind to him.*⁴

The Messenger made the Du'ā, “*Ya Allāh! Whoever has control over the affairs of my Ummah and he's hard upon them, then be hard upon him. And whoever is kind and gentle to them, be kind to him.*”

If the matter hits a dead end, for example, the prospective husband is suitable — he's good in his Dīn and his Akhlāq — but there are matters of discretion that the father and daughter disagree on, and they exhausted all remedies yet they can't find a solution. Or if the father, for example, wants to force the daughter into a marriage she doesn't want, or worse than that, if the father is someone who doesn't want his daughter to marry someone who follows the Sunnah or someone who follows the pure Manhaj of Tawhīd or he wants her to marry a Fāsiq, or he's seeking his own personal gain in the marriage — he's seeking his own interests, not her interests — or the sister got a proposal she accepts, and she feels it would be Dhulm on her that her father wants to delay it, she feels that she may fall into Harām — there are hundreds of other scenarios. Now you hit a dead end. You exhausted all alternatives to settle this. Now you can seek to bypass the guardianship of the father and it's a decision that must be made by someone knowledgeable. In an ideal society, it would be a judge appointed by the Khalīfah. Here in the West, you seek someone with great knowledge on the matter, great experience and wisdom in the matter, someone who fears Allāh *سبحانه وتعالى*, someone who's not seeking personal gain. He would

⁴ Muslim: 1828

need to analyze the matter and confirm the matter with all sides, and he needs to make sure the father's reasons are not acceptable. And the Ulamā' have two opinions on this. Some Ulamā' say there are relatives that take over if the father refuses to marry the daughter off. So after the father refuses to marry her off, it goes to the paternal grandfather, her sons (if she has sons), her full brothers, the paternal brothers, their children (who are her nephews), the paternal uncles, their children (who are her cousins). Some Ulamā' say you need to go in order until the end, and at the end, if there's no one available, it goes to the Sultān (the leader) and he takes over. The other opinion, the opinion of the majority of the Ulamā', they said when the reason for bypassing the father's guardianship is due to 'Adl, he's refusing to marry her off, then it directly goes to the Sultān, the leader, the judges appointed by the Khalīfah for example. Why? Because of the narration in Musnad Ahmad,

فَإِنْ اشْتَجَرُوا فَالْسلْطَانُ وِليُّ مَنْ لَا وِليَّ لَهُ

If there is a dispute, the Sultān is the guardian of one who has none.

If there's a dispute or there's a quarrel in the matter — the Sultān is the guardian of the one who doesn't have a guardian. The previous opinion, the first opinion, that said you have to go through the relatives, they said yeah you go to the Sultān, but you go to the Sultān *after* you exhaust the chain of relatives.

Some today take this matter very loosely. Some may be desperate, والله أعلم, I don't want to go as far as saying they don't fear Allāh سبحانه وتعالى, but they're so desperate, they go to any Jāhil or any Imām — and *they* may be on the correct 'Aqīdah, but they know that Imām is a deviant — but since he'll easily override the guardianship of the father, they'll go to him. We've seen many who override the father's guardianship without ever contacting the father. The position of the guardian is a mighty position. The father is there to supervise and protect whom Alah سبحانه وتعالى entrusted him with. His job is to seek the benefit of his daughter.

It's his duty, the guardian's duty, to find out about the persons Dīn and Akhlāq. He's the one who goes and researches and finds out if this person is truthful, if he's truthful in his personal life if needed, or financial situation if needed. He explains to whom Allāh سبحانه وتعالى entrusted him with matters pertaining to the marriage, he gives her advice. For example, she's trying to marry someone in a different continent who has a travel ban, and she may not be able to travel. There are very slim chances of them being together in person. He needs to explain the consequences of such a union. He's in prison, she wants to marry him. She needs to fully understand the ramifications of that. He protects her from one preying on her emotions and weaknesses. If she gives up her right of Nafaqah, which is spending on her — which is her right — if she gives that right up, she needs to understand the consequences of that.

Most women are easily affected by emotions, and at times, their emotions overpower their reasoning. They can easily be deceived by outward appearances without considering the reality of matters, and so the Walī is there to protect her from that. If women are left to do the Nikāh without a proper Walī, a Walī who takes the task on wholeheartedly, many would hasten to marry without any delay, and it'll probably end up being someone incompetent who lacks Dīn and Akhlāq. The guardian protects whom Allāh سبحانه وتعالى entrusted him with from predators. The Walī protects whom Allāh سبحانه وتعالى entrusted him with from undermining her Hayā', so he engages in the negotiations on her behalf. He supervises the entire process. In some marriages that have issues, I've asked the sisters, *"Who is your Walī so we can talk to him?"* Many said, *"My husband bought him the night or day of the Nikāh, I don't know who he is, I don't know what his name is, I never spoke to him before."* Was that a Walī or was that a third witness he brought to the Nikāh? Loosely dismissing the father as the Walī without the proper procedure is dangerous and it causes great Fasād, and loosely choosing anyone as a Walī is just as bad. A Walī must be active in the process of seeking and pursuing the interests of the one Allāh سبحانه وتعالى entrusted him with. He's not some imposter who takes the information of the sisters so he can be the Walī, and if they suit his desires, they become *his* wives — they become the *Walī's* wives. If not, he'll pass them on to someone else. Without a proper

Walī supervising and investigating and doing his duties, don't be surprised if the man who filled you with emotions turns out to be an abuser or a Fāsiq or a Murji', or someone who's blasting music and smoking pot while issuing Fatwās on social media. Without a proper Walī, the Shaytān may make his move, and there may be Harām interactions, may Allāh *سبحانه وتعالى* save all our sisters from that. Then what happens after that? Now suddenly they seek a righteous Shaykh to get them out of their situation. When emotion and love settle a bit, and the reality of married life surfaces, when things go pear-shaped, now suddenly they find a righteous Shaykh to solve the situation. Now suddenly it's "*Shaykh, where's my Khul'?*" and the blame may be shifted on the Shaykh for not giving them the Khul' on the spot.

Brothers and sisters involved in these matters are equal in their guilt. This is an issue among Muslims in general, but our dear brothers and sisters upholding the pure Manhaj of Tawhīd are held on a higher standard. And I'm not talking about any particular situation, it's not tens, it's actually *hundreds* of cases. There are similar patterns in them. I asked many brothers about the way they married certain sisters, "*Would you allow your sister or your daughter to get married this way?*" And of course, the answer is no. I asked some brothers, "*Would you allow your sister to marry someone through an unknown Walī that that Khatīb bought on the night of the Nikāh?*" I asked some brothers, "*Would you let your sister or your daughter get married to someone who, she finds out after marriage, he can't spend on her, he can't spend more than a day every other month or so with her, and he barely calls her?*" This is not a game! Everything about marriage must be honored! Be truthful in matters about marriage because you will be questioned about them. Marriage is a mighty, great covenant that must be honored.

وَأَخَذْنَ مِنْكُمْ مِيثَاقًا غَلِيظًا

*And they have taken from you a firm and strong covenant?*⁵

⁵ [4:21]

They've taken from you a firm, mighty, strong covenant. The only other covenant referred to in such strong terms is the covenant between Ūlu Al-'Azm and Allāh سبحانه وتعالى.

وَإِذْ أَخَذْنَا مِنَ النَّبِيِّينَ مِيثَاقَهُمْ وَمِنْكَ وَمِنْ نُوحٍ وَإِبْرَاهِيمَ وَمُوسَىٰ وَعِيسَىٰ ابْنِ مَرْيَمَ ۗ وَأَخَذْنَا مِنْهُم مِّيثَاقًا غَلِيظًا

And [mention, O Muḥammad], when We took from the prophets their covenant and from you and from Nūh and Ibrāhīm and Mūsā and 'Isā, the son of Maryam; and We took from them a strong covenant.⁶

⁶ [33:7]