

Question 1471) - Who is the Wali [guardian]?

A: Guardianship of marriage arises from four sources: Qarabah [relationship]; wala [setting a slave free]; Imamah [government]; and Milk [ownership].

As from the aspect of relationship, paternal relatives ['asabat] are the guardians in the same order as in inheritance. The closest then the closest has preference. The closest guardian to a woman is then son; then her son's son and proceeding down. Then the father ; then the father's father and proceeding up. Then a full brother ; then a half- brother with a common father. Then a son of a full-brother ; then a son of a half-brother with a common father and then proceeding down. Then a paternal uncle who is a full brother of her father. Then a paternal uncle who is a half-brother sharing a father with her father. Then a son of a paternal uncle who is a full brother of her father. Then a son of a paternal uncle who is a half-brother sharing a father with her father. Then proceeding down wards. Then a paternal uncle of her father who is a full brother of her father's father. Then a paternal uncle of her father who is a half-brother sharing a father with her father's father. Then their descendants in this order. Then from the aspect of Wala which refers to the rights the master retains when freeing a slave ; if a woman does not have a guardian from paternal relatives then the owner who freed her from slavery is he guardian. He is counted as the last of paternal relatives. If there are no paternal relatives then her maternal relatives will be her guardians, whether she is a child or adult.

If there are no such relatives at all then the guardianship falls on the Imamah or government, referring to the ruler or judge.

Guardianship of milk refers to the right of the slave's owner (whether the slave is male or female) to get then married, even if they are displeased. If the male or female slave marries without the owner's permission then the marriage is suspended pending the owner's ratifying it or rejecting it.

~ al-Quduri ~