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Home > A Short Treatise on The Guardianship of the Jurist > Frequently Asked Questions and their

Answers > 5) if there are Multiple Islamic Countries, should there be one guardian jurist for all, or is it
permissible for each country to have its own guardian jurist?

## Frequently Asked Questions and their Answers

### 1) What is meant by the Qualified Jurist?

The jurist who has general guardianship must meet all of the eight following conditions:

a) Islam (being a Muslim) and Imaan (Faith)

Allah, the Exalted, has said:

"and Allah will by no means give the unbelievers a way (to triumph) against the believers" 1.

#### b) Intelligence and wisdom

Allah, the Exalted, has said:

"And do not give away your property which Allah has made for you a (means of) support to the weak of understanding"2,

and it is narrated in Nahjul Balagha: "however, I fear that the affairs of this nation will be taken up by the foolish and sinful from among it. They would establish a monopoly over the wealth of Allah and will degrade the slaves of Allah. They will fight the righteous and take the sinful as allies". Therefore, the guardian jurist must be wise– the antonym of foolish– as well as intelligent.

#### c) Justice

Allah, the Exalted, has said:

"And when his Lord tried Ibrahim with certain words, he fulfilled them. He said: Surely I will make you an Imam of men. Ibrahim said: And of my offspring? My covenant does not include the unjust, said He." 4

He, the Exalted, also says:

"and do not obey the bidding of the extravagant, Who make mischief in the land and do not act aright"5.

Al-Kulayni narrated with his chain from Hanan from his father from Abu Ja'far (Imam al-Baqir as): "the Messenger of Allah (pbuh) said: 'leadership only befits a man who has the following three qualities: strong piety (wara') which hinders him from disobedience of Allah, forbearance which control his anger, and good treatment of those who he has authority over so that he may be like a merciful father to them'", and in another narration: "so that he may be for the flock like a merciful father" 6

d) Knowledge and Expertise in the laws of Islam to the Level of Ijtihad (the ability to deduce Islamic laws from the legislative evidence)

Allah, the Exalted, has said:

"Is He then Who guides to the truth more worthy to be followed, or he who himself does not go aright unless he is guided? What then is the matter with you; how do you judge?" 7

He, the Exalted, also says:

"He said: Surely Allah has chosen him in preference to you, and He has increased him abundantly in knowledge and physique..."8.

It is also narrated in Nahjul Balagha: "...and not the ignorant who would misguide them by his ignorance" 9

#### e) Strength and Good Leadership

What is meant by this is the political sense and knowledge of the art of politics and awareness of the conditions of the time, as well as bravery, strength of will, absence of disability, and the ability to rule. In general, any quality which is needed for the proper management of the community is part of this condition. The intellect indicates this, as does the following Qur'anic ayah speaking in the tongue of Prophet Yusuf (as):

"He said: Place me (in authority) over the treasures of the land, surely I am a good keeper, knowing well"10.

Al-Kulayni has also narrated from Imam al-Ridha (as): "and the Imam is a scholar who is not ignorant, and a shepherd who does not shrink from his task or become cowardly...mature in his knowledge, complete in his forbearance, strong in his leadership, knowledgeable of governance, one whom it is obligatory to obey, appointed by the command of Allah, an advisor to the slaves of Allah, a protector of the religion of Allah"11.

It is also narrated from Mufaddhal ibn Umar from Abu Abdullah (Imam al-Sadiq as): "O Mufadhdhal...and knowledge of his era, not overwhelmed by doubts." 12

It is also narrated in Amali of al–Tusi, through his chain of narration from Abu Tharr that the Prophet (pbuh) said: "O Abu Tharr, I love for you what I love for myself, I see you are weak so you should not be made a leader over two nor should you be given authority over the wealth of an orphan" 13. This indicates that weakness in management does not mean any slander of his other virtues.

#### f) Turning away from the Love of this World

The Commander of the Faithful (as) said: "You certainly know that he who is in charge of honour, life, war booty, (enforcement of) legal commandments and the leadership of the Muslims should not be a miser as his greed would aim at their wealth...nor should he accept a bribe while taking decisions, as he would forfeit (others') rights..."14.

He (as) also said: "No one can establish the rule of Allah, the Glorified, except he who does not relent, who does not behave like wrong-doers and who does not chase after objects of greed"15.

The real guardian is he who does not relent to anyone by taking bribes or because of friendship or because that person is strong or for other reasons, nor does he become a captive or false imitations nor feels greed for what people possess.

In the exegesis related to Imam al–Askari (as): "whoever from among the jurists protects himself, maintains his religion, goes against his desires and obeys the command of his Master, then the general public must obey him. These are only some of the Shi'a jurists not all of them." 16 If the one who follows desires and who chases after this world cannot be followed when it comes to his rulings, then by precedence he cannot have authority over the lives and wealth of people.

#### g) Masculinity

Based on the fact that judgment is one of the roles included within guardianship as was discussed, then saying that masculinity is a condition for judgment makes it a condition for guardianship by precedence.

#### h) Legitimate birth

It is unanimously agreed upon among our scholars that this is a condition for the judge and the issuer of edicts. The following authentic narration of Ibn Muslim from Abu Abdullah (as) indicates that it is a condition for the judge, the issuer of edicts and the guardian jurist: "the testimony of an illegitimately born person is invalid" 17, as well as the narrations that indicate that this is a condition for the leader of the congregational prayer, such as the authentic narration of Abu Baseer from Abu Abdullah (as): "Five types of people should not lead the prayer in any situation and among them he counted the insane and the illegitimately born person" 18

## 2) Is the Jurist Chosen for the position of guardianship by Appointment or by Election?

It is obvious that the supportive textual evidence mentioned in the previous chapter regarding the guardianship of the jurist indicates only that the jurist is appointed by the infallible Imam (as), and this goes back to his being appointed by Allah, the Exalted. The Qur'anic ayah regarding the story of Talut:

#### "surely Allah has chosen him and given him an increase in knowledge and physique" 19

and the Imam's words in the narration: "I have made him a ruler over you" and the Imam's words in the second narration: "I have made him a judge", as well as the expression of the Commander of the Faithful at the end of the fifth narration: "the implementation of the laws and affairs by the knowledgeable about Allah, the trustees over his halal and haraam" all indicate that this position is affirmed for the jurist without the need for election by the people or their allegiance or similar things.

The position of the guardian jurist is similar to the position of issuing edicts or the position of judgment. Just as these positions are not affirmed through election, neither is the position of guardianship. The jurist is an issuer of edicts, a judge and a guardian whether the people elect him or not. Since the jurists are general representatives of the Awaited Imam (atfs), he is the only one who can appoint them, as was the case with his specific representatives. Guardianship, then, is from Allah and for those whom He made it for.

One can say: there is no dispute between our scholars about the fact that the guardianship of the jurist on limited *Hisbi* issues— about which they are unanimous— is by appointment only, and there is not even a hint of election in that. Otherwise, it would be a right of attorney (wekala) and not guardianship (wilaya).

The case then is similar when it comes to the general guardianship for those who believe in it. In fact, if a jurist fulfils his substitutive obligation by taking up the role of guardianship, it becomes obligatory upon the Muslims to accept his guardianship, to support him and to be loyal to him, just as it is obligatory for the layman to refer to the expert in jurisprudence when it comes to the rules of the legislation, because of the words of the Awaited Imam (atfs) in his holy letter: "then refer regarding those matters to..", and the words of Imam al–Sadiq (as): "they should be pleased with him as a judge".

There is no difference in this between the layman and other jurists: all must follow him and help him just as is the case in *Hisbi* issues. Yes, the obligation of the jurist to take up this role depends on whether the Muslims would support or forsake him. It becomes obligatory for him to take up this role if the community would help him. If you wish to call this election then there is no problem with the terminology.

The Commander of the Faithful (as) said in explanation of the reason why he accepted the Caliphate:

"...if people had not come to me and supporters had not exhausted the argument...I would have unleashed the rope of Caliphate."20.

Also, in the letter of Imam Husain (as) to the noblemen of Kufa before his departure to that city he said: "I am sending to you my brother and my cousin, the one in whom I trust from among my household, Muslim ibn Aqeel. If he writes to me that the intelligent and honoured among you agree on the same thing that your messengers have brought, and which I have read in your letters, then I will come to you immediately" 21

If there is more than one jurist, or there is doubt about the qualifications of a claimant to the guardianship, then one must refer to the eight conditions and the factors that would prefer one over the other, as is the case in other jurisprudential issues. The ones who should look into this matter are the experts and not all people through an election. This in reality is a case of specifying the example existing in the external world, as is the case with finding the most learned jurist (when it comes to issuing edicts).

## 3) is the System of General or Unconditional Guardianship of the Jurist Compatible with Autocracy or Democracy?

One of the claims against the guardianship of the jurist is that in reality it is nothing but an autocratic government which submits to the ruling of one person who has absolute power, and whose goal is to annihilate democracy. They call this 'religious dictatorship'. In reply, we say that the system of the guardianship of the jurist is essentially different to the system of autocracy despite the fact that is also different in some ways to democracy.

1–The validity of the guardianship of the jurist is conditional upon his adherence to Islamic laws. This is the meaning of the Qur'anic expression: "the rule belongs solely to Allah". Therefore, the real ruler in the system of the guardianship of the jurist is Allah, the Glorious, the Wise. As for the qualified jurist, he is the one who implements the laws of Allah and submit to them. In contrast to this, the ruler in an autocratic system rules unconditionally without being limited by any law or constitution. Rather, he sees himself as above the law.

2-One of the conditions of the guardianship of the jurist is justice, as was discussed earlier, whereas the ruler in an autocracy rules according to what he wishes and desires.

3-In the system of the guardianship of the jurist, the rights of the ruler over the subjects and the rights of the subjects over the ruler are considered to be complementary. The Commander of the Faithful (as) said: "...Allah, the Glorified, has placed for me a right over you, and that is to take charge of your affairs. You have rights over me similar to those I have over you...and the greatest of the rights that He, the

Glorified, made obligatory was the right of the ruler over the citizens, and the rights of the citizens over the ruler. This is an obligation which Allah, the Glorified, made obligatory upon each over each "22.

This is why the Commander of the Faithful uses the word 'rai'ya' (those to be cared about) when refers to his citizens, because this word implies that the ruler must observe and take care of the rights of the society and its benefits. In contrast to this, the ruler in an autocratic system sees people as a personal possession, and does to them as he wishes.

4–In the system of the guardianship of the jurist all people, including the ruler, are equal before the Divine Law. In contrast to this, the ruler in an autocratic system sees himself as above the law and the maker of the law.

5-The guardianship of the jurist is based on the benefits of Muslims and not the personal or nepotistic benefits of the ruler.

6-In the system of the guardianship of the jurist, all Muslims, especially the scholars and jurists, are able to supervise the system, whereas in an autocracy there is no supervision over the ruler. The ruler in an autocracy is not questioned about what he does, while others are questioned.

In contrast to this, in the system of the guardianship of the jurist, in the words of Imam al-Askari (as): "If the general members of our community see the following characteristics in a jurist and still follow him, then they are like the Jews whom Allah has criticized for following the sinful amongst their jurists:

- sinning openly
- -showing severe prejudice
- -chasing after the world and its forbidden things
- -being oppressive against those they are prejudiced against
- being good and kind to those they are prejudiced towards, even if they in fact deserve to be degraded and demeaned." 23

Yes, the system of the guardianship of the jurist is different in its identity from some of the aspects of democracy. Here, we mention some of the most important differences:

1-the law in the system of the guardianship of the jurist is the rule of Allah, whereas in the system of democracy it is the view of the majority (50+ 1). Therefore, legitimacy in the system of democracy stems from the opinion of the majority, whereas in the system of the guardianship of the jurist it is the rule of Allah which is the basis for legitimacy. For example, in the system of democracy homosexuality is allowed if the majority think that it is allowed, whereas this is not the case in the system of the guardianship of the jurist.

2-The ruler in the democratic system is chosen by an election from the majority, whereas in the system of the guardianship the ruler is appointed by Allah (according to the view that this is done by

appointment not election).

According to this, if the majority choose a sinful person who is ignorant of the laws of Allah, and who is a puppet in the hands of the disbelievers— as is the case in some Islamic countries today – this person would be considered a valid ruler. In contrast to this, in the guardianship of the jurist, the ruler must attain the eight conditions mentioned earlier even according to the view of election. For, leading the community in the system of the guardianship of the jurist is only legitimate under conditions set by Islam.

3-The position of governance for the ruler in the system of democracy is limited by a certain number of years, based on agreement, whereas in the system of the guardianship the governance of the ruler continues as long as he is alive and he meets the conditions.

# 4) if the ruling of a Mujtahid goes against the ruling of the jurist guardian, which one must be followed?

The ruling of the guardian jurist is the one that should be followed in issues that relate to the management of the Muslim nation and the general affairs of the Muslims. As for issues which are purely individual, it is possible for every person to follow their own Marja'.

To be more precise, it is obligatory upon all, whether they be a lay person or a Mujtahid, to follow the rules of governance that emanate from the jurist guardian. An example of this from the narrations is the ruling of the Imam or the ruler about the visibility of the crescent moon.

In the authentic narration of Muhammad ibn Qays from Abu Ja'far (Imam al-Baqir a.s): "if two people witness in the presence of the Imam that they saw the crescent thirty days ago then the Imam should order people to break their fast" (Wasailul Shi'a) Note, that the term 'Imam' in these narrations means 'ruler' (whether an infallible one or not), as discussed in the second chapter.

# 5) if there are Multiple Islamic Countries, should there be one guardian jurist for all, or is it permissible for each country to have its own guardian jurist?

The textual and intellectual principles indicate by necessity that the entire Muslim community must have one leader who unites them and links them together and rules over them in issues which require general rulings. It should be such that these countries should be considered one powerful government, with one

country able to help another. The presence of multiple rulers who are independent in their opinion and will in all affairs, without having one leader to unite them and judge with certainty in their disputes is a sure way to disunity and failure.

Sheikh al-Saduq has narrated from Imam al-Ridha (as): "If he says: 'why is it not possible for there to be more than one Imam on earth simultaneously?' It would be said: 'for a number of reasons, among which are the following. The actions and plans of one person cannot conflict, whereas the actions and plans of two people never agree.

We never find any two people except that they have different intentions and wishes. If they were two and their intentions, wishes and plans were different, and it was obligatory to obey both, then neither would be more worthy of being obeyed than the other. This would lead to disagreement, conflict and transgression among people. No one would be in obedience of one leader without being disobedient to the other, and thus all the inhabitants of the land would be sinners..." 24

This is with the assumption that this is possible. If however we assume that it is impossible to establish one Muslim nation which encompasses all Muslims, then there is no problem with establishing small countries based on the laws of Islam. This is better than ignoring the affairs of governance until the foreigners and tyrants become rulers over the Muslims and overpower them. This (i.e. the establishment of different Islamic countries) would become valid because of the principle 'that which is possible should not be ignored because of that which is impossible'.

- 1. Refer to ayah 4:141
- 2. Refer to ayah 4:5
- 3. Nahjul Balagah, Letter 62
- 4. Refer to ayah 2:124
- 5. Refer to ayah 26:151-152
- 6. al-Kafi, 1:407
- 7. Refer to ayah 10:35
- 8. Refer to ayah 2:247
- 9. Nahjul Balagah ,Sermon 131
- 10. Refer to ayah 12:55
- 11. al-Kafi, 1:202
- 12. al-Kafi, 1:202
- 13. Behârul-Anwâr 22:406
- 14. Nahjul Balagha, sermon 131
- 15. Nahjul Balagha, wisdom no. 110.
- 16. al-Ihtijaj, 2:511.
- 17. Wasailul Shia.
- 18. Wasailul Shia.
- 19. Refer to ayah 2:247.
- 20. Nahjul Balagha, Sermon 3
- 21. al-Mofid in al-Irshad: 185
- 22. Nahjul Balagha, sermon 216

- 23. al-Ihtijaj, 2:511
- 24. Ilalul Shara'l 1:254 and Uyun Akhbaril Redha, 2:101

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