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The Meaning of Wilayat and Its Corollaries

In Arabic the word Wilayat means authority, dominion, guardianship and supervision.

Wilayat is of two kinds: Takwiniyyah (natural), and Tashri'iyyah (legal).

The first kind of Wilayat is usually discussed in Kalam (theology), philosophy and occasionally in 'ilm 'usul al-Fiqh (the principles of Islamic jurisprudence) with reference to the authority of God and, sometimes, that of the holy Prophet (s.w.a) and the infallible Imams (a.s). A discussion of this concept is relevant to clarify the subject at hand. However, the following points should be considered first.

Divinely appointed prophets were given various titles and names each of which signified a different meaning and content to emphasize a certain aspect of their mission. Some of these titles were Rasul (messenger), Nabi (prophet), Imam (leader), Hakim (ruler) and Wali, (guardian). They were given the title of "Rusul" (plural for Rasul) because they were the messengers of the Creator to His creatures and the word Rasul, means "one who carries a message." They are called "Anbiya'" (plural for Nabi) because they were informed about Divine decrees and religious programs and informed others about them. The word Nabi means one who communicates and informs. And they are called 'a'immah (plural for Imam) because their primary duty was to provide ideological and intellectual leadership and guidance to the community in word and deeds and to be a model for the faithful to follow in their spiritual life and moral conduct. This is the sense in which we find it used most often in the Holy Quran. For example, regarding Abraham (a.s) and his sons it says:

This is the second and concluding part of the article on Wilayat al-Faqih. The main topics discussed are: Wilayat and its corollaries; the Wilayat of prophets and the Imams; Wilayat al-faqih, its scope and limits according to the constitution of the Islamic Republic of Iran and in the light of Imam Ali's epistle to Malik al-Ashtar.

"And We made them leaders ('a'immah) who guide by Our command and We inspired them the doing of good deeds, establishment of prayers and the giving of alms and they were Our worshippers." (21:73)

Concerning Moses and the Children of Israel it says:

“And when they became steadfast believing firmly in Our revelations, We appointed from among them leaders who guided by Our command. (32:24). I have appointed thee a leader (Imam) for mankind.” (2: 124)

It is about the Wilayat of Abraham. Some times after he had been appointed as a prophet, God established him as Imam and leader of the people. Before God bestowed this position on him, his duty, both when he was in Mesopotamia and later, when he had moved to Syria, was confined to inviting the people to monotheism and fighting polytheism, kufr, and idolatry.

In Mesopotamia, the environment was not suitable for any role of leadership. All he could do was to put up a one-man resistance against idolatry, which was also not very fruitful. Having survived Nebuchadnezzar's fire, he was forced to take the Syrian journey, and from there moved on to the deserts around Mecca.

Imam Ali (a.s), speaking about the role of leadership, says:

“Be aware that the followers of every school of thought and sect, throughout all human societies have had a leader and Imam whom they followed and from the light of whose knowledge they enlightened their minds.

The ideological and intellectual leadership is inseparable from prophethood, messengership, judgeship and dispensation of justice. It is necessary for sovereignty, leadership and legal guardianship. It is, moreover, one of the pillars of the Wilayat of the Faqih.

So much for ‘legal Wilayat and guardianship’.

As for ‘natural guardianship’ (al-Walayāt al-Takwiniyyah), it refers to the sovereign will and power of One Supreme Being over the world of creation. In other words, it means sovereignty over the natural order. To elaborate, firstly, the universe extending from all that is on earth to the farthest corners of the universe and the whole world of existence was created by the sovereign all pervasive Will and design of the Almighty God. Secondly, the continuity of its existence is also dependent on the sacred Will of God:

“His throne encompasses the heavens and the earth and the task of preserving them all is not a burden on Him. He is the Sublime, the Great.” (2:255)

Thirdly, all the affairs of the universe are managed according to His Will. All events, movements, pauses, and changes, from the movements of galaxies and planets to the invisible growth of seeds underground, the crawling of insects and the revolving of the electrons around the protons all take place according to His Will and design. He is the absolute and ultimate cause of all things, effecting some of the things through His angels and invisible agents and other things through direct exercise of His own Will. Clear and unambiguous verses of the Holy Quran dealing with this subject are many, some of which are the

following:

“Your Lord is Allah Who created the heavens and the earth in six days, then established His Throne. He directs the affairs. There is no intercessor (with Him) except by His permission” (10:3)

Then He established His Throne. You do not have, besides Him, any protecting friend or mediator. He directs the ordinance from the heaven unto the earth; then it ascends unto Him in a day long as a thousand years that you enumerate (32:4-5)

. . . And those who distribute blessings by His command. (51:4)

. . . And those who govern the affair.” (79:5)

These verses indicate the following points:

1. The universe was created by His Power.
2. He is the Maintainer and Guardian of the whole world.
3. He is responsible for governing His dominion and managing the affairs of the universe.
4. The angels have the duty of carrying out the Will of God and serving as His agents in the creation.
5. The activities of His angels and agents are also in accordance with His Will and take place because He so wills.
6. He determines the division of tasks amongst the different angels and their power of discretion in the process of carrying out their duties.

Accordingly, all phenomena taking place in the world do so either through the agency of the angels working under the direction of God and in accordance with His Will, or are direct manifestations of God's Will without the mediation of anyone else. The only exception to this general order is the voluntary activities of the human beings and other creatures possessing an independent will. They act and carry out certain tasks in relation to their vital needs and their environment.

We may compare the control God exercises over the entirety of existence with that exercised by the human soul over the body and its members. Just as the parts of the body are normally subservient to the will of man that obey him and move to accomplish defined purposes, so is the universe subservient to the Will of God. The will in relation to the body motivates the muscles, there being a necessary connection between the will and the movement of the muscles. In regard to the relation between God's Will and the world of being, the Holy Quran says:

“Indeed His command, when He intends [to create] a thing, is that He says to it, “Be”, and it comes into existence.” (36:82)

If God were to bestow this kind of power and authority on someone, which empowers him to bring about changes of a miraculous and extraordinary nature in the world, such changes are either brought about by the angels, or are caused directly by the Divine Will. This would be what is called “al-Wilayat al-takwiniyyah“, a sovereignty of a miraculous nature which is different from the sovereignty by legislative decree or “al-Wilayat al-Tashri’iyyah.” This power existed, in various degrees. In most of the prophets, its extent and scope depending on the rank of each prophet or Ma’sum who is in contact with the supernatural world.

Al-Wilayat al-Takwiniyyah

Examples of this kind of Wilayat

The following are some examples of this kind of Wilayat.

1. When Abraham (a.s) asked God to show him how He brings people to life, God said to him.... “Take four of the birds and cut them into pieces, then place a part of them on every hill, then call them, they (the dismembered birds) will come to thee in haste.” ... (2:260)

Here God has given Abraham (a.s) the same power that He has bestowed on the life-giving angels. By this means, Abraham (a.s) commands the dismembered body of a bird to come to life and to fly towards him. This incident illustrates the meaning of al-Wilayat al-Takwiniyyah over the creatures.

2. God gave Moses (a.s) the power to turn a staff into a serpent, seawater into solid walls and a dry rock into a fountain and water source.

3. God gave Jesus (a.s) the power to give sight to the blind, life to a corpse or a figure made of clay.

4. And finally, He gave the Prophet of Islam (s.w.a) the power to ascend to heavens, and thus defy the Earth’s power of gravitation.

There are also numerous other examples of such powers both the Prophet (s.w.a) and the Imams (a.s) demonstrated to which Mutawatir (unanimously narrated) reports testify. The four examples mentioned above are examples of al-Wilayat al-takwiniyyah. The presentation of a fuller picture of this form of Wilayat would require an entire book to explain and discuss the Imamatus of the prophets (a.s) and the Imams (a.s).

Al-Wilayat al-Tashri’iyyah

Examples of this kind of Wilayat:

The following are examples of this kind of Wilayat (also called al-Wilayat al-‘insha’iyyah)

To understand it one must first consider the following points.

Al-Wilayat al-Tashri'iyyah is a form of authority bestowed on individuals through spoken or written decree or some specific act. Some examples of such authority are military ranks, governmental positions and administrative posts, to which individuals are appointed through the orders of superior officers.

The reason for calling such authority Tashri'iyyah or insha'iyyah is that it is granted by issuing a simple decree or order and does not require acts bringing about changes in the natural world. For example, it is not acquired in the same way as a man attains the physical ability to become a wrestler. It is not possible to become a wrestler by being appointed as one. Nevertheless, the recipient of such an office must meet certain conditions.

2. The important factor in al-Walayat al-Tashri'iyyah is the scope or limits of its jurisdiction. Actually, there is a general limit for all forms of al-Walayat al-Tashri'iyyah in that such authority is applicable to either persons or assets, or both. Its applicability does not lie outside these three categories. Within this general limitation the limits must be exactly specified. For instance, in the armed forces or the police, the domain of authority of every officer is specified.

The same is true of other government officials: the jurisdiction of a minister, mayor, or governor of a city or province is clearly defined. In each of these cases, the scope and range of their jurisdiction define the meaning and scope of the Wilayat of each of such officials. The various forms of al-Walayat al-Tashri'iyyah, as recognized in Islamic system for some or all members of society can be understood by looking into the limits of each ones jurisdiction.

3. With this in mind one may look at some particular forms of al-Walayat al-Tashri'iyyah recognized in the Islamic system. Some forms of it, in different degrees and in various forms proper to their particular environment, beliefs and customs, have been recognized in all societies. The Islamic system has approved most of such widely accepted forms of Wilayat and has independently legislated other forms. We shall briefly discuss some of these forms here as follows.

(a) Wilayat of the Father

The father has Wilayat over his children under the age of maturity and the paternal grandfather has Wilayat over his grandchildren, individually or collectively (except in cases of disagreement). It is a kind of Wilayat al-Tashri'iyyah.

Since the explanation of this kind of Wilayat has a direct bearing on the discussion which is to follow, it must be understood properly. In the Islamic Law, a father has full authority over the person and property of his underage children. He may compel them to do certain things appropriate and good for them and restrain them from doing other things otherwise. He may ask them to attend school or to enter into apprenticeship, select spouses for them, conclude for them marriage contracts, ask them to change their jobs, call them to task for their behavior or discipline them.

As to their belongings, he may, sometimes, withhold them from his minor children, or dispose them

according to his own discretion. He may sell them off and purchase something else instead or exchange them in commercial or non-commercial transactions. He may accept gifts on their behalf; he may, when necessary, lend their property to himself or others and, finally, may use it to meet the expenses of his household. All these powers are part of the Wilayat of the father or the paternal grandfather over the property and persons of his minor children or grandchildren. It is an authority God has decreed, as if He has said: "I have made fathers and grandfathers the awliya' ('guardians) of their children).

Under discuss here is the meaning and limits of al-Walayāt al-Tashri'iyyah, not the conditions and provisions thereof, such as the condition that the handling of the children's assets under the father's Wilayat must be for the benefit of their underage owner or owners.

(b) The Master's Wilayat

The master enjoys Wilayat over his slave. In case of exigency, the Shari'ah sanctions slavery subject to limitations of place and time. In other words, when Muslims take enemy soldiers captive during war with infidels, the system under certain specific conditions, subjects them to the authority of Muslim soldier as slaves.

The Muslims who own the slaves are obliged to pay for all their expenses and endeavor to educate them. In this connection the Shari'ah has legislated certain rules which result in the ultimate freedom of the slaves under reasonable conditions. Such laws were set down in an environment in which the Muslims found no better way of dealing with the problem of prisoners of war.

The other alternatives—killing those prisoners, handing them back to the enemy, or setting them free to do as they please in the Islamic society were not only against the interests of Islam but it was also against reason. Neither was it within the means of the Islamic government of the time to confine them within a prison. Therefore, there was no other option than to distribute these captives and put them under the guardianship of individual Muslims, so that they could gradually become acquainted with Islamic system of ethics and customs and finally attain their liberty.

When we note the Islamic instructions concerning their treatment and the various ways legislated for their freedom, the issue of sanction of slavery in Islam and the baseless accusations made in this regard become clear. What is relevant here is that the Wilayat of the master over his slave is similar to that of a father over his underage children and we are not concerned here with the reason and justification for the legislation of such a Wilayat or with criticism raised in this regard

(c) The Wilayat of the Executor of a Will

The Wilayat of the executor of a will (wasi) or the non-parental guardian (qayyim), who is appointed, to supervise over the persons and property of the minors, by either the father or paternal grandfather, is a form of al-Walayāt al-Tashri'iyyah. It is derived from the Wilayat of the father and the paternal grandfather and is sanctioned subject to specific conditions and limitations.

(d) The Wilayat of ‘adil believers

The Wilayat of ‘adil, one who maintains justice in his dealings all the time, believers is a limited form of Wilayat. It pertains to the property and assets of those who due to immaturity, mental conditions or absence are incapable of managing their own property when the property is in danger of being ruined or wasted. In such cases, when the father or the paternal grandfather or the religious judge (Hakim al-Shar’) are absent or inaccessible, every believer has the authority to handle such property and to protect it through sale, transport, exchange, etc., until it can be placed at the disposal of its owner. This kind of Wilayat is subject to specific conditions and, as can be observed, its limits are very restricted.

(e) The Wilayat of Every Muslim

The Wilayat of every Muslim believer in regard to other Muslims in relation to his duty to the principle of al-*arm bil-ma’ruf wa al-Nahy ‘an al-Munkar* (enjoining good and forbidding evil) is yet another form of Wilayat. This means that God has given every Muslim the authority and made it his/her duty to stop his fellow Muslim brother or sister from committing a sin, be it negligence of an obligatory (*wajib*) act or committing an act forbidden by the Law. This is similar to the duty of a kind father to guide his children to perform their obligatory duties and stop them from committing forbidden acts. And just as a father has the right to resort to more forceful means if his kindly advice is not heeded, the Muslim believer also has the duty to resort to gradually more severe methods if his sincere and kind advice is not listened to. The means used, in the order of severity, are:

- Advice and guidance
- Order and command
- Reproof, threat, and ultimate manners of disciplining

The person advised or censured has no right to question the authority of his Muslim brother or consider his behavior as interference in his private affairs. This is true regardless of who the two parties may be, whether they are men or women, older or younger, black or white. The Holy Quran states:

“And the believers, men and women, areawliya’ (plural of Wali) of one another; they enjoin the right and forbid the wrong”. (9:71)

This form of Wilayat is both general and specific. It is general and universal in the sense that it includes all Muslims, men and women, who are duty bound to stop unlawful conducts. It is specific in that it applies only to the matters of al-*Amr bi al-ma’ruf wa al-nahy ‘an al-munkar*. ‘Aside from it, no one has any right to interfere in the affairs of other people and tell them what to do and what not to do. It is only with regard to the obligatory duties of a Muslim (*wajibat*) and acts considered unlawful by the Shari’ah (*Muharramat*) that such an authority has been licensed. This is evident from the above-mentioned Quranic verse.

(f) The Wilayat of the Trustees

The Wilayat of the trustees of public and personal endowments (awqaf) is also another form of Wilayat. Their authority is bestowed upon them by the donors, and in cases where the donor has not nominated any trustee it is the duty of the judge (Hakim al-Shar'i) to appoint a trustee if needed. In this kind of Wilayat, the authority applies to property alone and the legal custodian is called a "Mutawalli." He has the responsibility of seeing to it that the endowed property (waqf) is used in the way intended by the donor (waqif), and is empowered to take whatever measures are necessary to protect the property or to ensure that it is used for its intended purpose. This kind of Wilayat is confined to assets and is obviously quite limited in scope.

(g) The Wilayat of the Heirs

The heirs have Wilayat over a deceased person in regard to his funeral arrangements and burial ceremonies (such as Ghusl, Takfin, Sala and burial, etc.) This duty falls on the heirs according to the legal order of priority and no one has the right to interfere in this matter without their permission, unless the deceased has left no heir, or the heirs are absent. This is also one kind of Wilayat enacted in the Islamic Shari'ah.

Summary

The above-mentioned examples were presented here to clarifying the meaning of al-Walayāt al-Tashri'iyyah. These allow us to draw the four following conclusions:

- (1) Al-Walayāt al-Tashri'iyyah must be authorized by a legitimate authority and bestowed on an individual to fulfil certain conditions.
- (2) This form of Wilayat sometimes applies to the person or individual subject to the authority of the Wali such as the Wilayat over minors, people with mental conditions or slaves, when they possess no property. At other times it may apply to property alone— such as the Wilayat of the trustees of endowments and executors of wills. And finally, it may apply to both such cases as the Wilayat of parents over their underage or mentally disabled children when they possess property as well.
- (3) All the above-mentioned forms of Wilayat are inherently limited, although the nature of the limits varies from one to another.
- (4) Since the Wilayat of the Faqih is derived from the Wilayat of the Ma'sumin (i.e. the Prophet (s.a.w) and the Imams (a.s) and is directly based upon it, it is necessary to explain, albeit briefly, al-Walayāt al-Tashri'iyyah of the Ma'sumin (a.s).

Al-Walayāt al-Tashrī'īyah of the Prophets and the Imams (a.s)

Even a superficial study of the basic teachings of Islam will reveal that its teachings are not limited to the system of beliefs and acts of worship. It has a complete moral, government, and political, social, judicial and economical system. In other words, it provides comprehensive instructions for all the affairs of man's worldly existence as well as about the matters relating to the Hereafter. The Islamic system has requires the establishment of a State and provided the fundamental principles necessary for its establishment, for the protection and security of all of its followers and to organize and manage a society in harmony with man's nature. Such a vast system, vital for the needs of man both spiritual and material, was in fact established by the Prophet (s.a.w) and worked for years under the leadership of his successors.

The Wilayat of the Ma'sumim, refers to his authority in such a system as mentioned above. God, the Absolute Sovereign through His Providence has granted this Wilayat to the prophets and the Imams, so that they may govern the human society according to the needs and requirements of the times. This form of government, the 'Islamic government,' consists of three elements:

- The Wali and the characteristics of his Wilayat, authority.
- The form of his government and its organs
- The resources at its disposal.

This form of government is unique in all the three aspects mentioned above; it differs from other forms of governments, past or present, in each of these aspects. However, our discussion here is confined to the first aspect, that is, the role of the al-Walayāt al-Tashrī'īyah of the Wali in the context of the Islamic government. We leave the discussion of the other two aspects to some future occasion.

In the original Islamic Law, the guardianship of society during the lifetime of a Ma'sum, whether a prophet or an Imam, belongs to him. The following Quranic verse and Hadith indicate this fact:

"The Prophet has a greater right over the believers than themselves and his wives are their mothers. And some of the relatives have priority over the others in the Book of Allah than (other) believers and the Emigrants".... (33:6)

Three issues are stated in this verse:

- The authority of the Prophet (s.a) over all others
- The fact that marrying any of his wives is Haram, unlawful, for other Muslims

That compared to others, the relatives of an individual have priority rights to his inheritance. The third point is related to the first Point, as illustrated in the following example. if you say, "Ahmad is a better calligrapher than Hassan," you are stating three things

- Ahmad is a calligrapher
- Hassan also is a calligraphist
- Ahmad is a better calligrapher than Hassan is.

Now consider this statement of the Prophet (s.a.w): “Whoever is under my Wilayat and authority is also under the Wilayat and authority of Ali Ibn abi-Talib.”

The evidence in this Hadith about the Wilayat of the Prophet (s.a.w) and of Ali Ibn abi-Talib (a.s) and for that matter the Wilayat of all the other Imams has abundant supporting evidence exceeding the requirements of Tawatur (unanimously reported). The discussion of details is beyond the limits of this discourse. The three main points in the aforementioned Quranic verse were:

- the believer’s Wilayat over his own self
- The Wilayat of the Ma’sum (infallible) over the believers
- Supremacy of the second form of Wilayat over the first.

Wilayat Of Man Over His Own Self

According to the above verse and other Islamic texts, every man is by nature created free, with authority over his own person, just as, according to a Mutawatir Hadith the holy Prophet (s.a.w) says, “The people have authority over their property “), he has Wilayat and authority over his own property. The Wilayat and sovereignty of the individual over his own self means that he has the right to choose his way of life, his occupation or any of the other particular activities in any aspects of his life. He can also use his wealth and property as he chooses in his pursuit of worldly or spiritual aims.

However, it is obvious that in Islam no general principle or law (with only few exceptions) has absolute and universal applicability. Therefore, man’s Wilayat over his own self and property is valid only to the extent that it does not violate the basic laws of the Shari’ah or the dictates of reason. No one, therefore, has the right to commit suicide, mutilate his body, paralyze his mental or physical faculties, or take up illegal occupations. No individual is free to use his property for illegitimate ends, to waste or squander it, or to earn, produce, consume or bequeath it in ways contradictory to the established Islamic criteria.

To sum up, although the principle of the individual’s Wilayat over his own person and property is a valid one, it is subject to ethical, legal, and rational restrictions. Such limits are not confined to Islamic laws alone. In no religion or school of thought man is absolutely free to do as he pleases with himself and his property. However, the nature of the limits on freedom differs from one school to another in accordance with each ones doctrines and viewpoints.

Without enumerating all the limits incumbent upon man’s Wilayat over his own person and property, it is

limited and conditional and that it should not violate the Divinely ordained limits of individual or social welfare or transgress against what reason considers as beneficial and appropriate. A careful study of Islamic laws and practical experiences of day-to-day life can reveal how the above mentioned principle works in individual cases. We may recall that when enumerating the various forms of Wilayat it was pointed out that none of the different kinds mentioned is absolute, unlimited and unconditional.

An explanatory Note

The Wilayat of the Prophet (s.a) and the Imams (a.s) in their times was a comprehensive one. They had the authority to establish and administer a fully organized government with all its necessary branches and departments. The Ma'sum (infallible leader) is the basis of the system of the Islamic government. He is the ruler par excellence, has absolute sovereignty over every member of the society and has the right to interfere in all affairs of the people; as abundant textual evidence prove it, he possesses all the qualities required for a leader and guide of a nation.

His knowledge, especially in social and political issues, is comprehensive and complete. His genius for administering justice is such that he never intentionally violates the Divine laws and never neglects his duties. And his infallibility is such that he does not make any mistake in any aspect of any of his duties.

Basically, the Wilayat and sovereignty of such leaders as described above is implicit in the very essence of Islamic government. However, in the history of Islam, this form of government has never been realized except during the latter years of the Prophet's life in the region of al-Madinah and Hijaz, and during the brief caliphate of Imam Ali (a.s) within limited geographical boundaries.

Islamic government is, in essence, the rule of God over human society; or, in other words, it is the rule of Divine Law. And according to the testimony of the Holy Quran and historical evidence, this was the kind of government established whenever any of the prophets of God succeeded in establishing a government.

The accounts of lives of such figures as Joseph (a.s), Moses (a.s), Joshua (a.s), David (a.s), Solomon (a.s) and, preeminently, that of the Prophet of Islam (a.s) and his rightful successors confirm it very clearly whenever they succeeded in setting up a government. Although historical accounts show that the governments of those infallible leaders lacked the complexities of modern governments' elaborate divisions and departments, the general principles they practiced could be applied and extended to cover all aspects of modern States.

However, the general principles of the primary and secondary nature in the Islamic laws would quite adequately show how to establish a government in the modern world, no matter how complex, elaborate and vast its organization may be. When the Prophet (a.s) formed his government, he established most of the organizational machinery to meet his society's needs. The Sunnah clearly outlines the financial aspects and issues of the budget and personnel of the Islamic government, which are of vital

significance for all governments. Two examples of the financial resources are Anfal that include the under and above ground of the earth and such taxes as Khums and Zakat

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