

# 'Wali- The Guardian'

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ الْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ، وَ صَلَّى اللَّهُ عَلَى سَيِّدِنَا مُحَمَّدٍ وَ آلِهِ الطَّاهِرِينَ، وَسَلَّمَتْ تَسْلِيمًا.

In the Name of Allah<sup>-azwj</sup> the Beneficent, the Merciful. The Praise is for Allah<sup>-azwj</sup> Lord<sup>-azwj</sup> of the Worlds, and Blessing be upon our Chief Muhammad<sup>-saww</sup> and his<sup>-saww</sup> Purified Progeny<sup>-asws</sup>, and greetings with abundant greetings.

اللَّهُمَّ صَلِّ عَلَى مُحَمَّدٍ وَآلِ مُحَمَّدٍ وَعَجِّلْ فَرَجَهُمْ وَالْعَنِ أَعْدَاءَهُمْ أَجْمَعِينَ

## Wali - The Guardian

### Summary:

Allah<sup>-azwj</sup> is Wali – The Guardian, the Prophet<sup>-saww</sup> is Wali and those with Divine Authority (the Imam<sup>-asws</sup>). For dealing with the social responsibilities, head of the family (i.e., father) is also termed as wali. Prior to citing Ahadith on scope of the wali among people we will briefly touch upon the importance of submitting to the commands of the Wali for succeeding in both worlds.

Those who transgress and commit *Kufr* (disbelief), their wali is Iblis<sup>-la</sup>, who has misguided them and consequently they follow him<sup>-la</sup> in disobedience to Allah<sup>-azwj</sup>. For example, Allah<sup>-azwj</sup> Says (2:257):

اللَّهُ وَلِيُّ الَّذِينَ آمَنُوا يُخْرِجُهُم مِّنَ الظُّلُمَاتِ إِلَى النُّورِ وَالَّذِينَ كَفَرُوا أَوْلِيَاؤُهُمُ الطَّاغُوتُ يُخْرِجُوهُمْ مِّنَ النُّورِ إِلَى الظُّلُمَاتِ أُولَئِكَ أَصْحَابُ النَّارِ هُمْ فِيهَا خَالِدُونَ

***Allah is the Guardian of those who believe. He Extracts them from the (multitude of) darkness into the Light; and (as for) those who are committing Kufr, their guardian is the Al-Taghut (Iblis/tyrant) who extracts them from the Light into the (multitude of) darkness; these are the inmates of the Fire; they would be in it eternally [2:257]***

In a lengthy Hadith, holy Imam<sup>-asws</sup> says:

ثُمَّ قَالَ أَلَا تَسْمَعُ لِقَوْلِ اللَّهِ عَزَّ وَ جَلَّ اللَّهُ وَبِئْسَ الْوَلِيُّ الَّذِينَ آمَنُوا يُخْرِجُهُمْ مِنَ الظُّلُمَاتِ إِلَى النُّورِ يَعْنِي مِنَ ظُلُمَاتِ الذُّنُوبِ إِلَى نُورِ التَّوْبَةِ وَ الْمَغْفِرَةِ لَوْلَا تَيْبَهُمْ كُلِّ إِمَامٍ عَادِلٍ مِنَ اللَّهِ

Then he<sup>-asws</sup> said: ‘Have you not listened to the Words of Allah<sup>-azwj</sup> Mighty and Majestic ***Allah is the Guardian of those who believe. He Extracts them from the darkness’s into the Light [2:257]***? It Means, from the darkness of the sins to the light of the repentance and the Forgiveness, due to their Wilayah for every Just Imam<sup>-asws</sup> from Allah<sup>-azwj</sup>.

وَ قَالَ وَ الَّذِينَ كَفَرُوا أَوْلِيَاؤُهُمُ الطَّاغُوتُ يُخْرِجُوهُمْ مِنَ النُّورِ إِلَى الظُّلُمَاتِ إِيَّاهُ عَنَى بِهَذَا أَنَّهُمْ كَانُوا عَلَى نُورِ الْإِسْلَامِ فَلَمَّا أَنْ تَوَلَّوْا كُلَّ إِمَامٍ جَائِرٍ لَيْسَ مِنَ اللَّهِ عَزَّ وَ جَلَّ خَرَجُوا بِوَلَايَتِهِمْ إِيَّاهُ مِنْ نُورِ الْإِسْلَامِ إِلَى ظُلُمَاتِ الْكُفْرِ فَأَوْجَبَ اللَّهُ لَهُمُ النَّارَ مَعَ الْكُفَّارِ فَ أُولَئِكَ أَصْحَابُ النَّارِ هُمْ فِيهَا خَالِدُونَ .

And He<sup>-azwj</sup> Said **and (as for) those who are committing Kufr, their guardian is the tyrant who extracts them from the Light into the (multitude of) darkness [2:257]**. But rather it Means by this that they were upon the light of Al-Islam. So when they took as guardians every tyrannical imam (leader) who wasn't from Allah<sup>-azwj</sup> Mighty and Majestic, they exited from the light of Al-Islam due to their befriending them, to the darkness of the disbelief. Thus, Allah<sup>-azwj</sup> Obligated the Fire for them along with the disbelievers **these are the inmates of the Fire; they would be in it eternally [2:257]**.<sup>1</sup>(an extract).

Similarly, in another Hadith:

ابن شهر آشوب: عن الباقر (عليه السلام)، في قوله تعالى: وَالَّذِينَ كَفَرُوا بِوَلَايَةِ عَلِيِّ بْنِ أَبِي طَالِبٍ (عليه السلام) أُولِيَاءُ لَهُمُ الطَّاغُوتُ نَزَلَتْ فِي أَعْدَائِهِ وَ مِنْ تَبِعِهِمْ، أَخْرَجُوا النَّاسَ مِنَ النُّورِ - وَ النُّورُ: وَلايَةِ عَلِيِّ - فَصَارُوا إِلَى ظُلْمَةِ وَلايَةِ أَعْدَائِهِ.

Ibn Shehr Ashoub,

(It has been narrated) from Al-Baqir<sup>-asws</sup>, regarding the Words of the High **[2:257] and (as for) those who are committing Kufr** - in the Wilayah of Ali<sup>-asws</sup> Bin Abu Talib<sup>-asws</sup>, **their guardian is the tyrant who extracts them from the Light into the (multitude of) darkness [2:257]** – it was Revealed regarding his<sup>-asws</sup> enemies and the ones who followed them. They extracted the people from the Light – and the Light is the Wilayah of Ali<sup>-asws</sup> – so took them into the darkness – Wilayah of his<sup>-asws</sup> enemies'.<sup>2</sup>

## The Wilayah (Submission) of Allah<sup>-azwj</sup> and His Prophet<sup>-saww</sup> and the Divine Imam<sup>-asws</sup>:

In the Holy Quran, Allah<sup>-azwj</sup> Says:

يَا أَيُّهَا الَّذِينَ آمَنُوا أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ وَأُولِي الْأَمْرِ مِنْكُمْ... {4:59}

**O you who believe! Obey Allah and obey the Rasool and those with (Divine) Authority from you..... [4:59]**

**Also, Allah<sup>-azwj</sup> Says:**

إِنَّمَا وَلِيُّكُمُ اللَّهُ وَرَسُولُهُ وَالَّذِينَ آمَنُوا الَّذِينَ يُقِيمُونَ الصَّلَاةَ وَيُؤْتُونَ الزَّكَاةَ وَهُمْ رَاكِعُونَ {5:55}

**But rather, Allah is your Guardian, and His Rasool and those who are believing, those who are establishing the Salat and are giving the Zakat while they are performing Ruku [5:55]**

<sup>1</sup> Al-Kafi V 1 – The Book of Divine Authority CH 86 H 3

<sup>2</sup> المناقب 3: 81.

Abu Ja’far<sup>-asws</sup> has said: ‘Amir-ul-Momineen<sup>-asws</sup> gave a sermon to the people at Siffeen, so he<sup>-asws</sup> Praised Allah<sup>-azwj</sup> and Extolled Him<sup>-azwj</sup>, and sent greetings upon the Prophet<sup>-saww</sup>, then said:

فَأَجَابَهُ أَمِيرُ الْمُؤْمِنِينَ (عَلَيْهِ السَّلَام) فَقَالَ وَ أَنَا أَسْتَشْهِدُكُمْ عِنْدَ اللَّهِ عَلَى نَفْسِي لِعِلْمِكُمْ فِيمَا وُلِّيتُ بِهِ مِنْ أُمُورِكُمْ وَ عَمَّا قَلِيلٍ يَجْمَعُنِي وَ إِيَّاكُمْ الْمَوْقِفُ بَيْنَ يَدَيْهِ وَ السُّؤَالِ عَمَّا كُنَّا فِيهِ ثُمَّ يَشْهَدُ بَعْضُنَا عَلَى بَعْضٍ فَلَا تَشْهَدُوا الْيَوْمَ بِخِلَافِ مَا أَنْتُمْ شَاهِدُونَ عَدَاً فَإِنَّ اللَّهَ عَزَّ وَ جَلَّ لَا يُحْفَى عَلَيْهِ خَافِيَةً وَ لَا يَجُوزُ عِنْدَهُ إِلَّا مُنَاصِحَةُ الصُّدُورِ فِي جَمِيعِ الْأُمُورِ

Amir-ul-Momineen<sup>-asws</sup> answered him, so he<sup>-asws</sup> said: ‘And I<sup>-asws</sup> am binding you in the Presence of Allah<sup>-azwj</sup> to myself<sup>-asws</sup> for your knowing that I<sup>-asws</sup> am the guardian for your matters, for very shortly you will be gathered with me<sup>-asws</sup>. And I<sup>-asws</sup> warn you of the Pausing in front of Him<sup>-azwj</sup>, and the Questioning about what we were in, then some of us will testify against the others, so do not testify today against what you will be testifying tomorrow, for there is nothing hidden from Allah<sup>-azwj</sup> Mighty and Majestic, nor is it permitted in His<sup>-azwj</sup> Presence except for the good advice of the chests in all of the matters’ (An extract).<sup>3</sup>

ابْنُ مُحَمَّدٍ عَنْ أَبِي وَوَلَادٍ وَ غَيْرِهِ مِنْ أَصْحَابِنَا عَنْ أَبِي عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) فِي قَوْلِ اللَّهِ عَزَّ وَ جَلَّ وَ مَنْ يُرِدْ فِيهِ بِالْحَادِ بِظُلْمٍ فَقَالَ مَنْ عَبَدَ فِيهِ غَيْرَ اللَّهِ عَزَّ وَ جَلَّ أَوْ تَوَلَّى فِيهِ غَيْرَ أَوْلِيَاءِ اللَّهِ فَهُوَ مُلْحَدٌ بِظُلْمٍ وَ عَلَى اللَّهِ تَبَارَكَ وَ تَعَالَى أَنْ يُذِيقَهُ مِنْ عَذَابِ أَلِيمٍ.

Ibn Mahboub, from Abu Walladin, and someone else from our companions, who have reported the following:

Abu Abdullah<sup>-asws</sup> regarding the Statement of Allah<sup>-azwj</sup> Mighty and Majestic: “[22:25] and **whoever shall incline therein to wrong unjustly, We will make him taste of a painful chastisement**”, so he<sup>-asws</sup> said: ‘The one who worships other than Allah<sup>-azwj</sup> Mighty and Majestic, or befriends other than the Guardians<sup>-asws</sup> from Allah<sup>-azwj</sup>, so he has inclined to injustice and it is upon Allah<sup>-azwj</sup> Blessed and High to **make him taste of a painful chastisement**’.<sup>4</sup>

## Iblis<sup>-la</sup> is the wali of the unjust:

فَقَالَ أَبُو عَبْدِ اللَّهِ (عَلَيْهِ السَّلَام) ( إِنَّ مَنْ أَضَلَّهُ اللَّهُ وَ أَعْمَى قَلْبَهُ اسْتَوْحَمَ الْحَقُّ وَ لَمْ يَسْتَعِدْ بِهِ وَ صَارَ الشَّيْطَانُ وُليَّهُ وَ رَبَّهُ وَ قَرِينَهُ يُورِدُهُ مَنَاجِلَ الْهَلَكَةِ ثُمَّ لَا يُصْدِرُهُ وَ هَذَا بَيِّنٌ اسْتَعْبَدَ اللَّهُ بِهِ خَلْقَهُ لِيُخْتَبَرَ طَاعَتَهُمْ فِي إِيْتَابِهِ فَحَتُّهُمْ عَلَى تَعْظِيمِهِ وَ زِيَارَتِهِ وَ جَعَلَهُ حَلَّ أَنْبِيَائِهِ وَ قِبْلَةً لِلْمُصَلِّينَ إِلَيْهِ

So Abu Abdullah<sup>-asws</sup> said; ‘The one whom Allah<sup>-azwj</sup> Lets to stray and Blinds his heart is obscured from the Truth and does not seek refuge with it, and the Satan<sup>-la</sup> becomes his guardian, and his lord, and his pair, preparing his return to the destruction, then he cannot come out of it (an extract).<sup>5</sup>

Additional Ahadith on submission to the Divine Wali are cited in the Appendix.

<sup>3</sup> Al-Kafi, Vol. 8, H. 14997

<sup>4</sup> Al-Kafi, Vol. 8, H. 14980

<sup>5</sup> Al-Kafi – V 4 – The Book of Hajj Ch 6 H 1

## The Wali from the social perspective:

Allah<sup>-azwj</sup> has also Nominated a ‘wali’ (guardian) among the people as the head of or responsible person(s) to facilitate the decision-making process, that could be a father to decide the marriage of his daughter or a son to take care of burial rituals of his deceased father or elder son to offer lapsed (salat/Fast) for his deceased parents. In addition, there could be more than two wali (guardians) and in some cases there could be conflict in their decisions, i.e., father/grandfather. Some Ahadith are presented in the rest of the article related to the wali among people. For example:

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ قَالَ أَخْبَرَنِي ابْنُ بُكَيْرٍ عَنْ زُرَّارَةَ قَالَ سَمِعْتُ أَبَا عَبْدِ اللَّهِ (عَلَيْهِ السَّلَامُ) يَقُولُ وَ لِكُلِّ جَعَلْنَا مَوَالِي مِمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ قَالَ إِنَّمَا عَنَى بِذَلِكَ أَوْلَى الْأَرْحَامِ فِي الْمَوَارِيثِ وَ لَمْ يَعْزِ أَوْلِيَاءَ النَّعْمَةِ فَأَوْلَاهُمْ بِالْمَيِّتِ أَقْرَبُهُمْ إِلَيْهِ مِنَ الرَّحِمِ الَّتِي تَجُزُّهُ إِلَيْهَا .

A number of our companions, from Ahmad Bin Muhammad, from Ibn Mahboub, from Ibn Bakeyr, from Zurara who said,

‘I heard Abu Abdullah<sup>-asws</sup> saying: **[4:33] And to everyone We have Appointed heirs of what parents and near relatives leave**. He<sup>-asws</sup> said: ‘But rather, it (Holy Verse) Means by that is the (priority of) entitlement of the womb relationships regarding the inheritances, and it does not mean the guardians of the bounties. Thus, the closest one with the deceased is the nearest one to him from the womb relations which flows towards him (as a wali)’.<sup>6</sup>

أَحْمَدُ بْنُ مُحَمَّدٍ عَنِ ابْنِ مَحْبُوبٍ عَنْ عَلِيِّ بْنِ رَبَائِبٍ عَنْ زُرَّارَةَ بْنِ أَعْيَنَ قَالَ سَمِعْتُ أَبَا جَعْفَرٍ (عَلَيْهِ السَّلَامُ) يَقُولُ لَا يَنْقُضُ النِّكَاحَ إِلَّا الْأَبُ .

Ahmad Bin Muhammad, from Ibn Mahboub, form Ali Bin Raib, from Zurara Bin Ayn who said,

‘I heard Abu Ja’far<sup>-asws</sup> saying: ‘None can revoke the marriage except for the father’.<sup>7</sup>

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلٍ عَنْ بَعْضِ أَصْحَابِنَا عَنْ أَحَدِهِمَا (عَلَيْهِمَا السَّلَامُ) قَالَ إِذَا مَاتَ وَوَلِيُّ الْمَقْتُولِ قَامَ وَوَلَدُهُ مِنْ بَعْدِهِ مَقَامَهُ بِالْدَّمِ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Jameel, from one of our companions, from;

One of the two (5<sup>th</sup> or 6<sup>th</sup> Imam<sup>-asws</sup>) having said: ‘When a wali (guardian) of the killed-one dies, his son stands from after him in his place, with the blood (wergild)’.<sup>8</sup>

<sup>6</sup> Al-Kafi – V 7 - The Book of Inheritances Ch 1b H 2

<sup>7</sup> Al-Kafi – V 5 – The Book of Marriage Ch 55 H 8

<sup>8</sup> Al-Kafi – V 7 – The Book of Wergilds Ch 54 H 6

## Introduction:

Some Ahadith are presented here to clarify the role of a ‘wali’ (*guardian*) and who is going to be one’s wali to deal with the interrelation responsibilities.

## Permission of (marriage of) the virgin:

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنْ عَلَاءِ بْنِ رَزِينَ عَنْ ابْنِ أَبِي يَعْفُورٍ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ لَا تَزْوُجُ ذَوَاتِ الْأَبَاءِ مِنَ الْأَبْكَارِ إِلَّا بِإِذْنِ آبَائِهِنَّ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Ala’a Bin Razeyn, from Ibn Abu Yafour, from;

Abu Abdullah<sup>-asws</sup> said: ‘The virgins who are with a father cannot get married except by the permission of their fathers’.<sup>9</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ الْحَكَمِ عَنِ الْعَلَاءِ بْنِ رَزِينَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَحَدِهِمَا (عليهما السلام) قَالَ لَا تُسْتَأْمَرُ الْجَارِيَةُ إِذَا كَانَتْ بَيْنَ أَبَوَيْهَا لَيْسَ لَهَا مَعَ الْأَبِ أَمْرٌ وَقَالَ يَسْتَأْمَرُ كُلُّ أَحَدٍ مَا عَدَا الْأَبَ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Al Hakam, from Al A’ala Bin Razeyn, from Muhammad Bin Muslim, from;

One of the two (5<sup>th</sup> or 6<sup>th</sup> Imam<sup>-asws</sup>) having said: ‘A girl cannot appoint (to get her married) when she was between the two parents (two parents are alive), there would be no command for her’. And he<sup>-asws</sup> said: ‘She can appoint (a guardian from people) in the absence of the father’.<sup>10</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ أَبِي نَصْرِ عَنْ دَاوُدَ بْنِ سِرْحَانَ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) فِي رَجُلٍ يُرِيدُ أَنْ يُزَوِّجَ أُخْتَهُ قَالَ يُؤَامِرُهَا فَإِنْ سَكَتَتْ فَهِيَ إِفْرَائُهَا وَإِنْ أَبَتْ لَمْ يُزَوِّجْهَا وَإِنْ قَالَتْ زَوِّجْنِي فَلَانَا فَلْيُزَوِّجْهَا مِمَّنْ تَرْضَى وَ النَّبِيَّ فِي حَجْرِ الرَّجُلِ لَا يُزَوِّجُهَا إِلَّا بِرِضَاهَا

A number of our companions, from Sahl Bin Ziyad, from Ahmad Bin Muhammad Bin Abu Nasr, from Dawood Bin Sirham, from;

(It has been narrated) from Abu Abdullah<sup>-asws</sup> regarding a man who wants to get his sister married off. He<sup>-asws</sup> said: ‘He can permit it, so if she remains silent, so it is her agreement, but if she refuses, he cannot get her married; and if she says, ‘Get me married to so and so’, so let him get married to the one she is pleased with; and (as for) the orphan who is in the care of the man, he cannot get her married off except by her consent’.<sup>11</sup>

<sup>9</sup> Al-Kafi – V 5 – The Book of Marriage Ch 56 H 1

<sup>10</sup> Al-Kafi – V 5 – The Book of Marriage Ch 56 H 2

<sup>11</sup> Al-Kafi – V 5 – The Book of Marriage Ch 56 H 3

## Wali has the final say for the marriage:

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادِ بْنِ عُمَانَ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) فِي الْجَارِيَةِ يُرْوَجُّهَا أَبُوهَا بِغَيْرِ رِضَا مِنْهَا قَالَ لَيْسَ لَهَا مَعَ أَبِيهَا أَمْرٌ إِذَا أَنْكَحَهَا جَارَ نِكَاحُهُ وَإِنْ كَانَتْ كَارِهَةً

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Hammad Bin Usman, from Al Halby,

(It has been narrated) from Abu Abdullah<sup>-asws</sup> regarding the girl getting married off by her father without her consent. He<sup>-asws</sup> said: ‘There is no command with her with her father. If he was to get her married off, the marriage would be allowed, even if she dislikes it’.

قَالَ وَ سُعِلَ عَنْ رَجُلٍ يُرِيدُ أَنْ يُرْوَجَّ أُخْتَهُ قَالَ يُؤَامِرُهَا فَإِنْ سَكَتَتْ فَهِيَ إِفْرَازُهَا وَإِنْ أَبَتْ لَمْ يُرْوَجَّهَا .

He (the narrator) said, ‘And he<sup>-asws</sup> was asked about a man who wanted to get his sister married off. He<sup>-asws</sup> said: ‘He can permit her, and if she remains silent, so it is her agreement, but if she refuses, he cannot get her married’.<sup>12</sup>

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحَسَنِ بْنِ مُحَمَّدِ بْنِ سَمَاعَةَ عَنْ جَعْفَرِ بْنِ سَمَاعَةَ عَنْ أَبَانَ بْنِ فَضْلٍ بْنِ عَبْدِ الْمَلِكِ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ لَا تُسْتَأْمَرُ الْجَارِيَةُ الَّتِي بَيْنَ أَبَوَيْهَا إِذَا أَرَادَ أَبُوهَا أَنْ يُرْوَجَّهَا هُوَ أَنْظَرُ لَهَا وَ أَمَّا النَّسَبُ فَإِنَّهَا تُسْتَأْذَنُ وَإِنْ كَانَتْ بَيْنَ أَبَوَيْهَا إِذَا أَرَادَا أَنْ يُرْوَجَّاهَا .

Humejd Bin Ziyad, from Al Hassan Bin Muhammad Bin Sama’at, from Ja’far Bin Sama’at, from Aban, from Fazl Bin Abdul Malik,

(It has been narrated) from Abu Abdullah<sup>-asws</sup> having said: ‘The girl has no permission when she is between her two parents, and when her father intends to get her married, he would be considerate for her. And as for the divorced and a widow, when they (her parents) intend to get her married so her consent has to be taken, even if she was between her two parents’.<sup>13</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ مَهْرَبَانَ عَنْ مُحَمَّدِ بْنِ الْحَسَنِ الْأَشْعَرِيِّ قَالَ كَتَبَ بَعْضُ بَنِي عَمِي إِلَى أَبِي جَعْفَرِ الثَّانِي (عليه السلام) مَا تَقُولُ فِي صَبِيَّةٍ رَوَّجَهَا عَمُّهَا فَلَمَّا كَبُرَتْ أَبَتْ التَّرْوِيجَ فَكَتَبَ بِحِطِّهِ لَا تُكْرَهُ عَلَى ذَلِكَ وَ الْأَمْرُ أَمْرُهَا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Mahziyar, from Muhammad Bin Al Hassan Al Ashary who said,

‘One of the Clan of Umayya wrote to Abu Ja’far<sup>-asws</sup> the 2<sup>nd</sup>, ‘What are you<sup>-asws</sup> saying regarding the young girl being married off by her uncle, so when she grows old, she refuses the marriage?’ So he<sup>-asws</sup> wrote by his<sup>-asws</sup> own handwriting: ‘She would not be compelled upon that, and the command is her command’.<sup>14</sup>

<sup>12</sup> Al-Kafi – V 5 – The Book of Marriage Ch 56 H 4

<sup>13</sup> Al-Kafi – V 5 – The Book of Marriage Ch 56 H 5

<sup>14</sup> Al-Kafi – V 5 – The Book of Marriage Ch 56 H 7



## Wali’s Consent for Marriage (for other ladies):

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ عُمَرَ بْنِ أَدِينَةَ عَنِ الْمُضَيْلِ بْنِ يَسَارٍ وَ مُحَمَّدِ بْنِ مُسْلِمٍ وَ زُرَّارَةَ بْنِ أَعْيَنَ وَ بُرَيْدِ بْنِ مُعَاوِيَةَ عَنْ أَبِي جَعْفَرٍ ( عليه السلام ) قَالَ الْمَرْأَةُ الَّتِي قَدْ مَلَكَتْ نَفْسَهَا غَيْرَ السَّفِيهِةِ وَ لَا الْمُؤَلَّى عَلَيْهَا إِنْ تَزَوَّجَهَا بَعْدَ وَلِيِّ جَائِزٍ .

Ali Bin Ibrahim, from his father, from Ibn Abu Umeyr, from Umar Bin Azina, from Al Fuzayl Bin Yasaar and Muhammad Bin Muslim and Zurara Bin Ayn and Bureyd in Muawiya, from:

Abu Ja’far<sup>-asws</sup> (5<sup>th</sup> Imam<sup>-asws</sup>) said: ‘The woman who is in control of herself, being without foolishness, and there is no master upon her, if she were to get married without a guardian (consent of a wali), it is allowed’.<sup>15</sup>

الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ عَنْ أَبَانَ بْنِ عُثْمَانَ عَنْ أَبِي مَرْيَمَ عَنْ أَبِي عَبْدِ اللَّهِ ( عليه السلام ) قَالَ الْجَارِيَةُ الْبِكْرُ الَّتِي لَهَا أَبٌ لَا تَتَزَوَّجُ إِلَّا بِإِذْنِ أَبِيهَا وَ قَالَ إِذَا كَانَتْ مَالِكَةً لِأَمْرِهَا تَتَزَوَّجَتْ مَتَى شَاءَتْ .

Al-Husayn Bin Muhammad, from Moalla Bin Muhammad, form Al Hassan Bin Ali, from Aban Bin Usman, from Abu Maryam,

(It has been narrated) from Abu Abdullah<sup>-asws</sup> having said: ‘The old girl who has a father for her, cannot get married without the permission of her father’. And he<sup>-asws</sup> said: ‘If she was in control of her affairs, she can get married whenever she so desires to’.<sup>16</sup>

أَبَانُ عَنْ عَبْدِ الرَّحْمَنِ بْنِ أَبِي عَبْدِ اللَّهِ عَنْ أَبِي عَبْدِ اللَّهِ ( عليه السلام ) قَالَ تَزَوَّجُ الْمَرْأَةَ مَنْ شَاءَتْ إِذَا كَانَتْ مَالِكَةً لِأَمْرِهَا فَإِنْ شَاءَتْ جَعَلَتْ وَلِيًّا .

Aban, from Abdul Rahman Bin Abu Abdullah, from;

Abu Abdullah<sup>-asws</sup> (6<sup>th</sup> Imam<sup>-asws</sup>) said: ‘The woman can get married to whoever she so desires to when she was in control of her affairs. So, if she so desires to, she can appoint a wali (guardian)’.<sup>17</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنْ فَضَالَةَ بْنِ أَيُّوبَ عَنْ عُمَرَ بْنِ أَبَانَ الْكَلْبِيِّ عَنْ مَيْسَرَةَ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ( عليه السلام ) ( أَلَمْ يَأْتِ الْمَرْأَةَ بِالْقَلَاةِ الَّتِي لَيْسَ فِيهَا أَحَدٌ فَأَقُولُ لَهَا لِكِ زَوْجٍ فَتَقُولُ لَا فَأَتَزَوَّجُهَا قَالَ نَعَمْ هِيَ الْمُصَدِّقَةُ عَلَى نَفْسِهَا .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al-Husayn Bin Saeed, from Fazalat Bin Ayoub, from Umar Bin Aban Al Kalby, from Maysarat who said,

‘I said to Abu Abdullah<sup>-asws</sup>, ‘I meet a woman in the wilderness wherein there is no one, so I am saying to her, ‘Is there a husband for you?’ So she is saying, ‘No’. Can I marry her?’ He<sup>-asws</sup> said: ‘Yes, she is the ratified one upon herself’.<sup>18</sup>

<sup>15</sup> Al-Kafi – V 5 – The Book of Marriage Ch 55 H 1

<sup>16</sup> Al-Kafi – V 5 – The Book of Marriage Ch 55 H 2

<sup>17</sup> Al-Kafi – V 5 – The Book of Marriage Ch 55 H 3

<sup>18</sup> Al-Kafi – V 5 – The Book of Marriage Ch 55 H 4

## Importance of Kuff (Match):

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ جَمِيعاً عَنْ ابْنِ أَبِي عُمَيْرٍ عَنْ حَمَّادِ بْنِ عُمَانَ عَنِ الْحَلْبِيِّ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) أَنَّهُ قَالَ فِي الْمَرْأَةِ النَّسَبِ تَخْطُبُ إِلَى نَفْسِهَا قَالَ هِيَ أَمْلَكُ بِنَفْسِهَا تُؤَلِّي أَمْرَهَا مَنْ شَاءَتْ إِذَا كَانَ كُفُؤاً بَعْدَ أَنْ تَكُونَ قَدْ نَكَحَتْ رَجُلًا قَبْلَهُ .

Ali Bin Ibrahim, from his father, and Muhammad Bin Yahya, from Ahmad Bin Muhammad, altogether, from Ibn Abu Umeyr, from Hammad Bin Usman, from Al Halby,

(It has been narrated) from Abu Abdullah<sup>-asws</sup> having said regarding the divorced or widowed woman whether she can propose herself. He<sup>-asws</sup> said: ‘She is in control of herself to turn her affair to whoever she so desires to, when he was a ‘كُفُؤاً’ (Kuff) match, after it had been such that she had married a man before him’.<sup>19</sup>

## When Father and Grandfather differ regarding marriage:

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ ابْنِ فَضَّالٍ عَنِ ابْنِ بُكَيرٍ عَنْ عُبيدِ بْنِ زُرَّارَةَ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ (عليه السلام) الْجَارِيَةُ يُرِيدُ أَبُوهَا أَنْ يُزَوِّجَهَا مِنْ رَجُلٍ وَ يُرِيدُ جَدُّهَا أَنْ يُزَوِّجَهَا مِنْ رَجُلٍ آخَرَ فَقَالَ الْجَدُّ أَوْلَى بِذَلِكَ مَا لَمْ يَكُنْ مُضَارًّا إِنْ لَمْ يَكُنِ الْأَبُ زَوَّجَهَا قَبْلَهُ وَ يُجُوزُ عَلَيْهَا تَزْوِيجُ الْأَبِ وَ الْجَدِّ.

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ibn Fazzal, from Ibn Bukeyr, from Ubeyd Bin Zurara who said,

‘I said to Abu Abdullah<sup>-asws</sup>, ‘The girl, her father wants her to get married to a man, but her grandfather wants to get her married to another man’. So, he<sup>-asws</sup> said: ‘The grandfather is higher with that for as long as there is no harm, if it has not happened that the father has got her married before him; and the marriage of the father and the grand-father is allowed upon her’.<sup>20</sup>

عِدَّةٌ مِنْ أَصْحَابِنَا عَنْ سَهْلِ بْنِ زِيَادٍ عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ أَبِي نَصْرِ عَنْ أَبِي الْمَعْرَاءِ عَنْ عُبيدِ بْنِ زُرَّارَةَ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ إِنِّي لَدَاتُ يَوْمَ عِنْدَ زِيَادِ بْنِ عُبيدِ اللَّهِ الْحَارِثِيِّ إِذْ جَاءَ رَجُلٌ يَسْتَعْدِي عَلَيَّ أَبِيهِ فَقَالَ أَسْلَحَ اللَّهُ الْأَمِيرَ إِنَّ أَبِي زَوَّجَ ابْنَتِي بَعِيرٍ إِذْنِي فَقَالَ زِيَادٌ لِحَسْبَائِهِ الَّذِينَ عِنْدَهُ مَا تَقُولُونَ فِيمَا يَقُولُ هَذَا الرَّجُلُ قَالُوا نَكَحَهُ بَاطِلًا

A number of our companions, from Sahl Bin Ziyad, from Ahmad Bin Muhammad Bin Abu Nasr, from Abu Al Magra’a, from Ubeyd Bin Zurara,

(It has been narrated) from Abu Abdullah<sup>-asws</sup> having said: ‘One day I<sup>-asws</sup> was in the presence of Ziyad Bin Ubeydullah Al-Harisy, when a man came over claiming upon his father, saying, ‘May Allah<sup>-azwj</sup> Keep the commander well. My father got my daughter married off without my permission. So Ziyad said to his gathered ones who were with him, ‘What are you all saying regarding what this man is saying?’ They said, ‘His giving in marriage is invalid’.

<sup>19</sup> Al-Kafi – V 5 – The Book of Marriage Ch 55 H 5

<sup>20</sup> Al-Kafi – V 5 – The Book of Marriage Ch 57 H 1

قَالَ ثُمَّ أَقْبَلَ عَلَيَّ فَقَالَ مَا تَقُولُ يَا أَبَا عَبْدِ اللَّهِ فَلَمَّا سَأَلَنِي أَقْبَلْتُ عَلَى الَّذِينَ أَجَابُوهُ فَقُلْتُ لَهُمْ أَلَيْسَ فِيمَا تَرَوُونَ أَنْتُمْ عَنْ رَسُولِ اللَّهِ (صلى الله عليه وآله) أَنَّ رَجُلًا جَاءَ يَسْتَعْدِيهِ عَلَى أَبِيهِ فِي مِثْلِ هَذَا فَقَالَ لَهُ رَسُولُ اللَّهِ (صلى الله عليه وآله) أَنْتَ وَمَالُكَ لِأَبِيكَ قَالُوا بَلَى فَقُلْتُ لَهُمْ فَكَيْفَ يَكُونُ هَذَا وَهُوَ وَمَالُهُ لِأَبِيهِ وَ لَا يَجُوزُ نِكَاحُهُ [عَلَيْهِ]

He<sup>-asws</sup> said: ‘Then he turned towards me<sup>-asws</sup>, so he said, ‘What are you<sup>-asws</sup> saying, O Abu Abdullah<sup>-asws</sup>?’ So when he asked me<sup>-asws</sup>, I<sup>-asws</sup> turned towards the ones who had answered him, so I<sup>-asws</sup> said to them: ‘Is it not among what you are reporting from Rasool-Allah<sup>-saww</sup>, that a man came over to him<sup>-saww</sup> claiming upon his father, in a situation similar to this, so Rasool-Allah<sup>-saww</sup> said to him: ‘You and your wealth are for your father?’ They said, ‘Yes’. So I<sup>-asws</sup> said to them: ‘So how can this be and he as well as his wealth is for his father, and his (grand-father’s) marriage is not allowed upon him?’

قَالَ فَأَخَذَ بِقَوْلِهِمْ وَ تَرَكَ قَوْلِي .

He<sup>-asws</sup> said: ‘But, he took to their words, and neglected my<sup>-asws</sup> words’.<sup>21</sup>

عَلَيْ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شَاذَانَ [جَمِيعًا] عَنِ ابْنِ أَبِي عُمَيْرٍ عَنْ هِشَامِ بْنِ سَالِمٍ وَ مُحَمَّدِ بْنِ حَكِيمٍ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ إِذَا زَوَّجَ الْأَبُ وَ الْجَدُّ كَانَ التَّزْوِيجُ لِلْأَبِ فَإِنْ كَانَ جَمِيعًا فِي حَالٍ وَاحِدَةٍ فَالْجَدُّ أَوْلَى .

Ali Bin Ibrahim, from his father, and Muhammad Bin Ismail, from Al Fazl Bin Shazaan, altogether from Ibn Abu Umeyr, form Hisham Bin Salim, and Muhammad Bin Hakeym,

(It has been narrated) from Abu Abdullah<sup>-asws</sup> having said: ‘When the father and the grand-father gives in marriage, the (valid) marriage would be of the first one. So if it was together, in one situation, so the grand-father is higher’.<sup>22</sup>

حُمَيْدُ بْنُ زِيَادٍ عَنِ الْحُسَيْنِ بْنِ مُحَمَّدِ بْنِ سَمَاعَةَ عَنْ جَعْفَرِ بْنِ سَمَاعَةَ عَنْ أَبِيَانَ عَنِ الْفَضْلِ بْنِ عَبْدِ الْمَلِكِ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ إِنَّ الْجَدَّ إِذَا زَوَّجَ ابْنَةَ ابْنِهِ وَ كَانَ أَبُوهَا حَيًّا وَ كَانَ الْجَدُّ مَرْضِيًّا جَازَ فَلْنَا فَإِنْ هَوِيَ أَبُو الْجَارِيَةِ هَوَى وَ هَوِيَ الْجَدُّ هَوَى وَ هُمَا سَوَاءٌ فِي الْعَدْلِ وَ الرِّضَا قَالَ أَحَبُّ إِلَيَّ أَنْ تَرْضَى بِقَوْلِ الْجَدِّ .

Humeyd Bin Ziyad, form Al Hassan Bin Muhammad Bin Sama’at, from Ja’far Bin Sama’at, from Aban, from Al Fazl Bin Abdul Malik,

(It has been narrated) from Abu Abdullah<sup>-asws</sup> having said: ‘The grand-father, when he gets the daughter of his son married, and her father was alive, and the grand-father was sick, it is allowed’. We said, ‘Supposing the father of the girl desires (one man) and the grand-father desires (another man), and they are both equal in the justice, and the consent?’ He<sup>-asws</sup> said: ‘It would be more beloved to me<sup>-asws</sup> if she was pleased with the word of the grand-father’.<sup>23</sup>

<sup>21</sup> Al-Kafi – V 5 – The Book of Marriage Ch 57 H 3

<sup>22</sup> Al-Kafi – V 5 – The Book of Marriage Ch 57 H 4

<sup>23</sup> Al-Kafi – V 5 – The Book of Marriage Ch 57 H 5

## When there are two *Walis* (guardians):

أَبُو عَلِيٍّ الْأَشْعَرِيُّ عَنْ مُحَمَّدِ بْنِ عَبْدِ الْجَبَّارِ وَ مُحَمَّدُ بْنُ إِسْمَاعِيلَ عَنِ الْفَضْلِ بْنِ شاذَانَ جَمِيعاً عَنْ صَفْوَانَ عَنِ ابْنِ مُسْكَانَ عَنْ وَليدِ بَيْعِ الْأَسْفَاطِ قَالَ سَأَلَ أَبُو عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) وَ أَنَا عِنْدَهُ عَنْ جَارِيَةٍ كَانَتْ لَهَا أَخْوَانٌ زَوَّجَهَا الْأَكْبَرَ بِالْكُوفَةِ وَ زَوَّجَهَا الْأَصْغَرَ بِأَرْضِ أُخْرَى قَالَ الْأَوَّلُ بِهَا أَوْلَى إِلَّا أَنْ يَكُونَ الْأَخْرُ قَدْ دَخَلَ بِهَا فَإِنْ دَخَلَ بِهَا فَهِيَ امْرَأَتُهُ وَ نِكَاحُهُ جَائِزٌ .

Abu Ali Al Ashary, from Muhammad Bin Abdul Jabbar, and Muhammad Bin Ismail, from Al Fazl Bin Shazaan altogether, from Safwan, from Ibn Muskan, from Waleed Baya Al Asfaat who said,

‘Abu Abdullah<sup>-asws</sup> was asked and I was in his<sup>-asws</sup> presence, about a girl who had brothers, and the elder one got her married in Al-Kufa, and the younger one got her married in another land. He<sup>-asws</sup> said: ‘The first is one who is higher with her, except if it so happened that the later one had consummated (slept) with her. So, if he had slept with her, so she is his wife, and his marriage is allowed’.<sup>24</sup>

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنْ عَلِيِّ بْنِ حَلِيدٍ وَ ابْنِ أَبِي عُمَيْرٍ عَنْ جَمِيلِ بْنِ دَرَّاجٍ عَنْ بَعْضِ أَصْحَابِهِ رَفَعَهُ إِلَى أَمِيرِ الْمُؤْمِنِينَ ( عَلَيْهِ السَّلَامُ ) فِي رَجُلٍ قُتِلَ وَ لَهُ وَليَانٍ فَعَمَّا أَخَذَهُمَا وَ أَبِي الْأَخْرُ أَنْ يَغْتَنُو قَالَ إِنْ أَرَادَ الَّذِي لَمْ يَغْتَنُ أَنْ يَقْتُلَ قَتَلَ وَ رَدَّ نِصْفَ الدِّيَةِ عَلَى أَوْلِيَاءِ الْمَقْتُولِ الْمُقَادِ مِنْهُ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Ali Bin Hadeed and Ibn Abu Umeyr, from Jameel Bin Darraj, from one of his companions, from;

It was asked from Amir Al Momineen<sup>-asws</sup> regarding a man who was killed and for him were two *walis* (guardians). So, one of them forgave and the other one refused to forgive. He<sup>-asws</sup> said: ‘If the one who did not forgive want him to be killed, he kills and returns half the wergild to the guardians of the killed one for the retaliation from it’.<sup>25</sup>

## Wali’s role for the feeble-minded, and the insane

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ عَنِ الْحُسَيْنِ بْنِ سَعِيدٍ عَنِ النَّضْرِ بْنِ سُوَيْدٍ عَنْ مُحَمَّدِ بْنِ أَبِي حَمَزَةَ عَنْ أَبِي خَالِدِ الْقَمَّاطِ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَامُ ) الرَّجُلُ الْأَحْمَقُ الدَّاهِبُ الْعَقْلُ يَجُوزُ طَلَاقُ وَليِّهِ عَلَيْهِ قَالَ وَ لَمْ لَا يُطَلِّقُ هُوَ قُلْتُ لَا يُؤْمَنُ إِنْ طَلَّقَ هُوَ أَنْ يَقُولَ عَدَاً لَمْ أُطَلِّقْ أَوْ لَا يُجِيسُ أَنْ يُطَلِّقَ قَالَ مَا أَرَى وَليِّهِ إِلَّا بِمَنْزِلَةِ السُّلْطَانِ .

Muhammad Bin Yahya, from Ahmad Bin Muhammad, from Al-Husayn Bin Saeed, from Al Nazar Bin Suweyd, from Muhammad Bin Abu Hamza, from Abu Khalid Al Qammat who said,

‘I said to Abu Abdullah<sup>-asws</sup>, ‘The man, the confused, the one with the intellect gone, is the divorce of his guardian allowed over him?’ He<sup>-asws</sup> said: ‘Why does he himself not divorce?’ I said, ‘It is not trusted if he were to divorce, and tomorrow he would be saying, ‘I did not

<sup>24</sup> Al-Kafi – V 5 – The Book of Marriage Ch 58 H 2

<sup>25</sup> Al-Kafi – V 7 – The Book of Wergilds Ch 45 H 1

divorce’, or he is not proficient in the divorce’. He<sup>-asws</sup> said: ‘I<sup>-asws</sup> do not see his guardian except being at the status of the Sultan (ruling authority)’.<sup>26</sup>

## The Apparent is Accepted regarding wali:

عَلِيُّ بْنُ إِبْرَاهِيمَ عَنْ مُحَمَّدِ بْنِ عَيْسَى عَنْ يُونُسَ عَنْ بَعْضِ رِجَالِهِ عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ سَأَلْتُهُ عَنِ الْبَيْتَةِ إِذَا أُقِيمَتْ عَلَى الْحَقِّ أَمْ يَحِلُّ لِلْقَاضِي أَنْ يَقْضِيَ بِقَوْلِ الْبَيْتَةِ إِذَا لَمْ يَعْرِفْهُمْ مِنْ غَيْرِ مَسْأَلَةٍ قَالَ فَقَالَ حَمْسَةُ أَشْيَاءَ يَجِبُ عَلَى النَّاسِ أَنْ يَأْخُذُوا بِهَا ظَاهِرَ الْحُكْمِ الْوَلَايَاتُ وَ التَّنَاكُحُ وَ الْمَوَارِيثُ وَ الدَّبَائِحُ وَ الشَّهَادَاتُ فَإِذَا كَانَ ظَاهِرُهُ ظَاهِرًا مَأْمُونًا جَازَتْ شَهَادَتُهُ وَ لَا يُسْأَلُ عَنْ بَاطِنِهِ .

Ali Bin Ibrahim, from Muhammad Bin Isa, from Yunus, from one of his men,

(It has been narrated) from Abu Abdullah<sup>-asws</sup>, said, ‘I asked him<sup>-asws</sup> about the proof when it is established upon the truth, is it permissible for the judges to issue judgements by the proofs when they are not recognising without questioning it?’ So, he<sup>-asws</sup> said: ‘There are five things which are obligated upon the people that these can be taken by the apparent for the decision – the guardianship, and the marriage, and the inheritors, and the slaughtered animals, and the testimonies. So, when its apparent appears to be reliable, his testimony is allowed, and its esoteric (Batin) would not be questioned’.<sup>27</sup>

## The rights of walis/inheritors on government:

مُحَمَّدُ بْنُ يَحْيَى عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ وَ عَلِيِّ بْنِ إِبْرَاهِيمَ عَنْ أَبِيهِ جَمِيعًا عَنْ ابْنِ مَحْبُوبٍ عَنْ عَبْدِ اللَّهِ بْنِ سِنَانَ وَ عَبْدِ اللَّهِ بْنِ بُكَيْرٍ جَمِيعًا عَنْ أَبِي عَبْدِ اللَّهِ (عليه السلام) قَالَ قَضَى أَمِيرُ الْمُؤْمِنِينَ (عليه السلام) فِي رَجُلٍ وَجَدَ مَقْتُولًا لَا يُدْرَى مَنْ قَتَلَهُ قَالَ إِنْ كَانَ عُرِفَ وَ كَانَ لَهُ أَوْلِيَاءُ يَطْلُبُونَ دِيْنَتَهُ أُعْطُوا دِيْنَتَهُ مِنْ بَيْتِ مَالِ الْمُسْلِمِينَ وَ لَا يَبْطُلُ دَمُ امْرِئٍ مُسْلِمٍ لِأَنَّ مِيرَاثَهُ لِلْإِمَامِ (عليه السلام) فَكَذَلِكَ تَكُونُ دِيْنَتُهُ عَلَى الْإِمَامِ وَ يُصَلُّونَ عَلَيْهِ وَ يَدْفِنُونَهُ

Muhammad Bin Yahya, from Ahmad Bin Muhammad and Ali Bin Ibrahim, from his father, both together from Ibn Mahboub, from Abdullah Bin Sinan, and Abdullah Bin Bukeyr, both together,

(It has been narrated) from Abu Abdullah<sup>-asws</sup> having said: ‘Amir Al-Momineen<sup>-asws</sup> judged regarding a man who found a killed person and it was not known who killed him. He<sup>-asws</sup> said: ‘If it was known and there were guardians who were seeking his wergild, they would be given his wergild from the public treasury of the Muslims, and the blood of a Muslim person would not be invalidated, because his inheritance is for the Imam<sup>-asws</sup>. Thus, like that, his wergild would happen to be upon the Imam<sup>-asws</sup>, and he<sup>-asws</sup> would Pray over him, and bury him’.

قَالَ وَ قَضَى فِي رَجُلٍ زَحَمَهُ النَّاسُ يَوْمَ الْجُمُعَةِ فِي زِحَامِ النَّاسِ فَمَاتَ أَنَّ دِيْنَتَهُ مِنْ بَيْتِ مَالِ الْمُسْلِمِينَ .

<sup>26</sup> Al-Kafi – V 6 – The Book of Divorce Ch 51 H 1

<sup>27</sup> Al-Kafi - V 7 - The Book of Judgements and the Rulings Ch 17 H 15

He<sup>-asws</sup> said: ‘And he<sup>-asws</sup> judged regarding a man who was crushed by the crowd in the throng of the people, so he said, ‘His wergild is from the public treasury of the Muslims’.<sup>28</sup>

## Elder Son is the wali among other guardians:

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ كَثْبَثٍ إِلَى الْأَخِيرِ ( عليه السلام ) رَجُلٌ مَاتَ وَ عَلَيْهِ قَضَاءٌ مِنْ شَهْرِ رَمَضَانَ عَشْرَةَ أَيَّامٍ وَ لَهُ وَلِيَّانِ هَلْ يَجُوزُ لَهُمَا أَنْ يُقْضِيَا عَنْهُ جَمِيعاً  
خَمْسَةَ أَيَّامٍ أَحَدُ الْوَلِيِّينِ وَ خَمْسَةَ أَيَّامٍ الْآخَرَ فَوْقَ ( عليه السلام ) يُقْضِي عَنْهُ أَكْثَرُ وَلِيَّيِهِ عَشْرَةَ أَيَّامٍ وَلَا إِنْ شَاءَ اللَّهُ .

Muhammad Bin Yahya, from Muhammad who said,

‘I wrote to Al-Akheir<sup>-asws</sup> (11<sup>th</sup> Imam<sup>-asws</sup>), ‘A man died and upon him were Fasts to make up for from a Month of Ramazan of ten days, and for him are two guardians. Is it allowed for both of them that they both make up for it together, five days by one guardian and five days by the other?’ So he<sup>-asws</sup> signed: ‘The elder of his guardians should make up for it on his behalf, ten days, as a guardian, Allah<sup>-azwj</sup> Willing’.<sup>29</sup>

## Inheritance -when a wali is not found?

مُحَمَّدُ بْنُ يَحْيَى عَنْ مُحَمَّدِ بْنِ أَحْمَدَ عَنْ أَيُّوبَ بْنِ نُوحٍ عَنِ الْعَبَّاسِ بْنِ عَامِرٍ قَالَ سَأَلْتُهُ عَنْ رَجُلٍ أُوصِيَ لَهُ بِوَصِيَّةٍ فَمَاتَ قَبْلَ أَنْ يُقْبَضَهَا وَ لَمْ يَتْرِكْ عَقِيباً قَالَ  
اطْلُبْ لَهُ وَارثاً أَوْ مَوْلَى فَادْفَعْهَا إِلَيْهِ فُلْتُ فَإِنْ لَمْ أَعْلَمْ لَهُ وَلِيّاً قَالَ اجْهَدْ عَلَى أَنْ تَقْدِرَ لَهُ عَلَى وَلِيٍّ فَإِنْ لَمْ تَجِدْهُ وَ عَلِمَ اللَّهُ عَزَّ وَ جَلَّ مِنْكَ الْجِدَّ فَتَصَدَّقْ  
بِهَا .

Muhammad Bin Yahya, from Muhammad Bin Ahmad, from Ayoub Bin Nuh, from Al Abbas Bin Aamir who said,

‘I asked the Imam<sup>-asws</sup> about a man who had been bequeathed to, so he (the beneficiary) died before taking possession, and did not leave any offspring. He<sup>-asws</sup> said: ‘Seek out his inheritors, or a guardian, so hand it over to him’. I said, ‘So if I do not know who is guardian it?’ He<sup>-asws</sup> said: ‘Strive over it in accordance to your ability, for his guardian, so if you still cannot find him, and Allah<sup>-azwj</sup> Mighty and Majestic Knows the striving from you, so give it in charity’.<sup>30</sup>

<sup>28</sup> Al-Kafi – V 7 – The Book of Wergilds Ch 42 H 1

<sup>29</sup> Al-Kafi – V 4 – The Book of Fasts Ch 44 H 5

<sup>30</sup> Al-Kafi – V 7 – The Book of Bequests Ch 10 H 3

## APPENDIX

### The deliverance is submitting to the Wali Appointed by Allah<sup>-azwj</sup>:

وَعَنْهُ عَنْ هِشَامِ بْنِ سَالِمٍ عَنْ حَبِيبِ السَّجِسْتَانِيِّ عَنْ أَبِي جَعْفَرٍ ( عَلَيْهِ السَّلَام ) قَالَ قَالَ اللَّهُ تَبَارَكَ وَ تَعَالَى لَأُعَذِّبَنَّ كُلَّ رَعِيَّةٍ فِي الْإِسْلَامِ دَانَتْ بِوِلَايَةِ كُلِّ إِمَامٍ جَائِرٍ لَيْسَ مِنَ اللَّهِ وَ إِنْ كَانَتْ الرَّعِيَّةُ فِي أَعْمَالِهَا بَرَّةً نَفِيَّةً وَ لَأَعْفُوَنَّ عَنْ كُلِّ رَعِيَّةٍ فِي الْإِسْلَامِ دَانَتْ بِوِلَايَةِ كُلِّ إِمَامٍ عَادِلٍ مِنَ اللَّهِ وَ إِنْ كَانَتْ الرَّعِيَّةُ فِي أَنْفُسِهَا ظَالِمَةً مُسِيئَةً .

And from him, from Hisham Bin Salim, from Habeeb Al Sijistany,

(It has been narrated) from Abu Ja’far<sup>-asws</sup> having said: ‘Allah<sup>-azwj</sup> Blessed and High Said: “I<sup>-azwj</sup> shall Punish every citizen in Al-Islam who makes it a Religion with the guardianship of every tyrannous imam (leader) who isn’t from Allah<sup>-azwj</sup> and even if the citizen was righteous in his deeds, pious; and I<sup>-azwj</sup> shall Forgive every citizen in Al-Islam who makes it a Religion by the Wilayah of every Just Imam<sup>-asws</sup> from Allah<sup>-azwj</sup>, and even if the citizen was unjust within himself, a sinner’.<sup>31</sup>

عَدَّةٌ مِنْ أَصْحَابِنَا عَنْ أَحْمَدَ بْنِ مُحَمَّدٍ بْنِ عِيْسَى عَنْ ابْنِ مَجْبُوبٍ عَنْ عَبْدِ الْعَزِيزِ الْعُبَيْدِيِّ عَنْ عَبْدِ اللَّهِ بْنِ أَبِي يَعْمُورٍ قَالَ قُلْتُ لِأَبِي عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) إِيَّيْ أَخَالِطُ النَّاسَ فَيَكْثُرُ عَجْجِي مِنْ أَقْوَامٍ لَا يَتَوَلَّوْنَكُمْ وَ يَتَوَلَّوْنَ فُلَانًا وَ فُلَانًا هُمْ أَمَانَةٌ وَ صِدْقٌ وَ وَفَاءٌ وَ أَقْوَامٌ يَتَوَلَّوْنَكُمْ لَيْسَ لَهُمْ تِلْكَ الْأَمَانَةُ وَ لَا الْوَفَاءُ وَ الصِّدْقُ

A number of our companions, from Ahmad Bin Muhammad Bin Isa, from Ibn Mahboub, from Abdul Aziz Al Abady, from Abdullah Bin Abu Yafour who said,

‘I said to Abu Abdullah<sup>-asws</sup>, ‘I tend to mingle with the people, and I am frequently astounded from the people who are not in the guardianship (Wilayah) of you<sup>-asws</sup> all (Imams<sup>-asws</sup>) and are in the guardianship of so and so, and so and so. For them is trustworthiness, and truthfulness, and loyalty. And there are a people who are in your<sup>-asws</sup> guardianship (Wilayah), there isn’t that trustworthiness for them, nor the loyalty and the truthfulness’.

قَالَ فَاسْتَوَى أَبُو عَبْدِ اللَّهِ ( عَلَيْهِ السَّلَام ) جَالِسًا فَأَقْبَلَ عَلَيَّ كَالْعُضْبَانِ ثُمَّ قَالَ لَا دِينَ لِمَنْ دَانَ اللَّهُ بِوِلَايَةِ إِمَامٍ جَائِرٍ لَيْسَ مِنَ اللَّهِ وَ لَا عَتَبَ عَلَيَّ مَنْ دَانَ بِوِلَايَةِ إِمَامٍ عَادِلٍ مِنَ اللَّهِ

He (the narrator) said, ‘Abu Abdullah<sup>-asws</sup> sat upright and turned towards me as if angered, then said: ‘There is no Religion for the one who makes it a Religion by the guardianship of a tyrannous imam (leader) who isn’t from Allah<sup>-azwj</sup>, nor is there any blame upon the one who makes it a Religion by the Wilayah of a Just Imam<sup>-asws</sup> from Allah<sup>-azwj</sup>’.

قُلْتُ لَا دِينَ لِأَوْلِيكَ وَ لَا عَتَبَ عَلَيَّ هَؤُلَاءِ قَالَ نَعَمْ لَا دِينَ لِأَوْلِيكَ وَ لَا عَتَبَ عَلَيَّ هَؤُلَاءِ

<sup>31</sup> Al-Kafi V 1 – The Book Of Divine Authority CH 86 H 4

I said, ‘There is no Religion for those ones and there is no blame upon these ones?’ He<sup>-asws</sup> said: ‘Yes! There is no Religion for those ones and there is no blame upon these ones’.

ثُمَّ قَالَ أَلَا تَسْمَعُ لِقَوْلِ اللَّهِ عَزَّ وَجَلَّ اللَّهُ وَلِيُّ الَّذِينَ آمَنُوا يُخْرِجُهُمْ مِنَ الظُّلُمَاتِ إِلَى النُّورِ يَعْنِي مِنَ الظُّلُمَاتِ الذُّنُوبِ إِلَى نُورِ التَّوْبَةِ وَ الْمَغْفِرَةِ لَوْلَا يَتَّبِعُهُمْ كُلَّ  
إِمَامٍ عَادِلٍ مِنَ اللَّهِ وَ قَالَ وَ الَّذِينَ كَفَرُوا أُولَئِكَ هُمُ الطَّاغُوتُ يُخْرِجُوهُمْ مِنَ النُّورِ إِلَى الظُّلُمَاتِ إِنَّمَا عَنَى بِهَذَا أَنَّهُمْ كَانُوا عَلَى نُورِ الْإِسْلَامِ فَلَمَّا أَنْ تَوَلَّوْا كُلَّ  
إِمَامٍ جَائِرٍ لَيْسَ مِنَ اللَّهِ عَزَّ وَجَلَّ خَرَجُوا بِوَلَايَتِهِمْ إِيَّاهُ مِنَ نُورِ الْإِسْلَامِ إِلَى ظُلُمَاتِ الْكُفْرِ فَأَوْجَبَ اللَّهُ لَهُمُ النَّارَ مَعَ الْكُفَّارِ فَ أُولَئِكَ أَصْحَابُ النَّارِ هُمْ  
فِيهَا خَالِدُونَ .

Then he<sup>-asws</sup> said: ‘Have you not listened to the Words of Allah<sup>-azwj</sup> Mighty and Majestic **[2:257]** **Allah is the Guardian of those who believe. He Extracts them from the darkness into the Light?** It Means, from the darkness of the sins to the light of the repentance and the Forgiveness, due to their Wilayah for every just Imam<sup>-asws</sup> from Allah<sup>-azwj</sup>.

And He<sup>-azwj</sup> Said **[2:257]** and (as to) those who disbelieve, their guardians are tyrants who extract them from the Light into the darkness. But rather it Means by this that they were upon the light of Al-Islam. So when they took as guardians every tyrannical imam (leader) who wasn’t from Allah<sup>-azwj</sup> Mighty and Majestic, they exited from the light of Al-Islam due to their befriending them, to the darkness of the disbelief. Thus, Allah<sup>-azwj</sup> Obligated the Fire for them along with the disbelievers **[2:257]** **these are the inmates of the Fire, in it they shall be abiding’**.<sup>32</sup>

#### **Abbreviations:**

**saww:** - Sal lal la ho Allay hay Wa Aal lay he Wasallam

**azwj:** - Az Za Wa Jalla

**asws:** - Allay hay Salawat Wass Salam

**AJFJ:** Aja Allah hey wa Fara Jaak

**ra:** - Razi Allah<sup>-azwj</sup>

**La:** - Laan Allah<sup>-azwj</sup>

<sup>32</sup> Al-Kafi V 1 – The Book Of Divine Authority CH 86 H 3