

# Evidence for a Walee (Guardian) in Islaam

Taken from the dars of  
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## بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

It has been obligated upon the Muslims that no *Nikaah* (wedding ceremony) should take place except by leave of the guardian who is called the walee in Islaam. Allaah says:

﴿ فَلَا تَعْضُلُوهُنَّ أَنْ يَنْكَحْنَ أَزْوَاجَهُنَّ إِذَا تَرَاضَوْا بَيْنَهُمْ بِالْمَعْرُوفِ ﴾

**“So do not prevent them (Muslim women) from remarrying their husbands if they mutually agree in kindness.”**

[Soorah al-Baqarah (2):232]

The ‘Allaamah Shaykh ‘Abdur Rahmaan ibn Naafi as-Sa’dee رَحِمَهُ اللهُ said in his tafseer of the Qur’aan concerning the meaning of this ayah: “This address is to the guardian of the divorced woman who has not been divorced the third (and final) time. If she has ended her iddah (waiting period) and her husband wishes to remarry her and she agrees, then it is not permissible for her walee, her father or other than him, to refuse her. It is not for him (walee) to prevent her from remarrying him (her ex-husband) because he (walee) is mad or angry or disgusted with him.”

We have benefited from the speech of As-Sa’dee رَحِمَهُ اللهُ with points of fiqh concerning this ayah but we will highlight only one of them: the *Nikaah* is in the hands of the walee, because this ayah is addressing the walee of the woman. It is not for him to prevent her from reconciliation and remarrying her husband if he (walee) is annoyed.

Another proof is the speech of Allaah ﷻ from Sooratul Baqarah: 221

﴿ وَلَا تَنْكِحُوا الْمُشْرِكَاتِ حَتَّى يُؤْمِنَنَّ ﴾

**“And do not (O you men) marry the *Al-Mushrikaat* (women who worship other than Allaah along with Allaah) until they believe.”**

﴿ وَلَا تُنْكِحُوا الْمُشْرِكِينَ ﴾

**“And do not marry the mushrikoon.”**

[Soorah al-Baqarah (2):221]

The command here is addressed to the men and it is obvious that the meaning is *not* that the men should not marry the mushrik men; rather what is meant is: O walee of the believing women, do not marry your women to mushrik men until they believe. So this is

a proof that the marriage of the woman does not take place except by the agreement of the walee.

From the Sunnah of the Prophet ﷺ is the hadeeth of Aa'ishah ؓ; she said the Prophet ﷺ said:

أَيُّمَا امْرَأَةٍ نَكَحْتُ بِغَيْرِ إِذْنِ وَلِيِّهَا فَنِكَاحُهَا بَاطِلٌ

“Indeed any woman who marries without the permission of her walee, her marriage is invalid.”<sup>1</sup>

Also the hadeeth of Aboo Moosaa ؓ who said the Prophet ﷺ said

لَا نِكَاحَ إِلَّا بِوَلِيِّ

“There can be no marriage without a guardian (Walee).”<sup>2</sup>

Shaykh Muqbil ؓ has mentioned this hadeeth in his collection of hadeeth called *al Jaami' as-Saheeh mimmaa laysa fee as-Saheehayn*.<sup>3</sup> He comments on this hadeeth by refuting those who claim that it is a dha'eef hadeeth. He says: “This hadeeth is saheeh and is not weak because of it being a mursal hadeeth.” Thereafter, the Shaykh brings his proof.<sup>4</sup>



<sup>1</sup> ‘The four’, except for An-Nasaa’ee as mentioned in *Buloogh al-Maraam*, reported this prophetic narration. **Editors Note:** What is meant with “the four” here is Aboo Daawood, At-Tirmidhee, Ibn Maajah, and An-Nasaa’ee.

<sup>2</sup> Ahmad reported this narration and ‘the four’, while Ibn al-Madeenee and At-Tirmidhee authenticated it as mentioned in *Buloogh al-Maraam*.

<sup>3</sup> *The Authentic collection (of hadeeth) which are not found in the two saheehs (Bukhaaree & Muslim)*

<sup>4</sup> Refer to Volume 3, pg 64.