Sunday, 5 April 2026

(Assignment topic)"Guardianship under Islamic law and its function" (Roll No F23-1080 6th (B)

1. Introduction

Guardianship in Islamic law is known as **"Wilayah"**, which means the legal authority given to a person to take care of another who is unable to manage their own affairs, such as a minor or an incapacitated person. It plays a vital role in protecting the rights, property, and well-being of children.

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2. Meaning of Guardianship (Wilayah)

Guardianship refers to the legal right and duty of a person (guardian) to supervise, protect, and manage the personal and property interests of a minor.

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3. Types of Guardianship in Islamic Law

(a) Guardian of Person

This guardian is responsible for the **care, upbringing, and protection** of the child.

- Includes education, health, and moral training
- Usually the father is the natural guardian

(b) Guardian of Property

This guardian manages the **property and financial affairs** of the minor.

- Protects assets

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- Ensures proper use of wealth

(c) Testamentary Guardian

A guardian appointed by the father through a will before his death.

(d) Court-appointed Guardian

If no natural or testamentary guardian exists, the court appoints a guardian.

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4. Order of Preference of Guardians

Under Islamic law, the order is generally:

1. Father
2. Paternal grandfather
3. Executor appointed by father
4. Other relatives (if necessary)
5. Court-appointed guardian

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5. Functions of Guardianship

(1) Care and Upbringing

The guardian ensures proper upbringing of the child, including:

- Food, clothing, and shelter
- Moral and religious training
- Education

(2) Protection of Life and Health

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The guardian is responsible for safeguarding the child's physical and mental well-being.

(3) Management of Property

- Protects and manages minor's property
- Cannot misuse or waste the property
- Must act in the best interest of the minor

(4) Marriage Arrangements

The guardian (especially father) has authority in arranging the marriage of a minor under certain conditions.

(5) Legal Representation

The guardian represents the minor in legal matters and contracts.

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6. Rights and Duties of Guardian

- Must act honestly and responsibly
- Cannot exploit the minor's property
- Must ensure welfare and best interests of the child
- Can be removed by court for misconduct

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7. Importance of Guardianship

- Protects minors from exploitation
- Ensures proper upbringing and education
- Safeguards property rights
- Maintains social and family structure

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8. Conclusion

Guardianship under Islamic law is a system designed to ensure the **protection, care, and proper development of minors**. It places a legal and moral duty on the guardian to act in the best interest of the child, covering both personal and financial aspects of life.

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