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GUARDIANSHIP UNDER ISLAMIC LAW AND ITS FUNCTION IN THE CARE AND UPBRINGING OF A CHILD

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1. Introduction

In Islamic Personal Law, guardianship is called **"Wilayat"**. It means the **legal and moral responsibility of a person to take care of a child and protect his/her interests**.

Islam gives **high importance to children** because they are considered a trust (**Amanah**) from Allah. They need proper care, guidance, and protection for physical, emotional, moral, and spiritual development.

A guardian is responsible for making sure the child grows in a **safe environment, gets education, learns Islamic values, and is protected from harm or exploitation**.

In simple words, guardianship means:
Taking full responsibility for a child's life and future.

2. Meaning of Guardianship in Islamic Law

Guardianship means the **authority and duty to care for a minor or a person who cannot manage his own affairs**.

It is not only a legal power but also a **religious duty**. A guardian must act with honesty, justice, and kindness.

Simple meaning:
A guardian is someone who **protects, raises, educates, and guides a child in the right way according to Islam**.

3. Sources of Guardianship in Islamic Law

The concept of guardianship is taken from:

(i) Holy Quran

The Quran emphasizes protection of orphans and fair treatment of children.

(ii) Hadith

The Prophet Muhammad ﷺ said:

“Each of you is a shepherd and each of you is responsible for his flock.”

This shows responsibility towards children.

(iii) Islamic Jurisprudence (Fiqh)

Islamic scholars developed rules for guardianship based on Quran and Sunnah.

4. Types of Guardianship in Islamic Law

1. Guardianship of Person (Wilayat al-Nafs)

This relates to the **care of the child’s life and upbringing**.

It includes:

- Food, clothing, and shelter
- Education and Islamic teachings
- Moral training and discipline
- Health and safety
- Marriage decisions (in some cases)

Meaning:
Looking after the child's daily life and development.

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2. Guardianship of Property (Wilayat al-Mal)

This means managing the **financial and property matters of a minor**.

It includes:

- Protecting child's property
- Investing wealth safely
- Preventing misuse or fraud
- Using money only for the child's benefit

Meaning:
Protecting and growing the child's wealth until they become adult.

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3. Legal Guardianship

This gives authority to represent the child in **legal matters** such as:

- Court cases
- Contracts
- Legal documents

Meaning:
Acting legally on behalf of the child.

5. Types of Guardians in Islamic Law

(i) Natural Guardian

Usually the **father** is the natural guardian. After him, the responsibility may go to the paternal grandfather.

He has the **highest legal authority over the child**.

(ii) Testamentary Guardian

A guardian appointed by the father through a **will (Wasiyat)** before his death.

This ensures the child is protected even after the father's death.

(iii) Court-Appointed Guardian

If no guardian is available, the **court appoints a suitable person** to protect the child's interests.

(iv) De Facto Guardian

A person who actually takes care of the child in practice, but **without legal appointment**.

They may not have full legal rights but still perform duties.

6. Rights and Duties of a Guardian

Duties (Responsibilities):

A guardian must:

- Provide food, shelter, clothing, and education
- Protect child from physical and emotional harm
- Give Islamic moral education
- Manage property honestly
- Always act in the child's best interest

Rights (Authority):

A guardian has the right to:

- Make decisions for the child
- Control education and discipline
- Manage financial matters (if appointed)
- Represent the child legally

Important Rule:

A guardian must always follow **"Maslaha" (best interest of the child)**.

He cannot misuse power or harm the child in any way.

7. Importance of Guardianship in Child Upbringing

Guardianship plays a very important role in Islam:

- Ensures **proper Islamic education**
- Protects children from neglect and abuse
- Develops good character and morals

- Provides emotional support and care
- Secures financial future of the child

Islam teaches that children are a **trust from Allah**, so they must be raised carefully.

8. Custody (Hizanat) vs Guardianship (Wilayat)

Custody (Hizanat)	Guardianship (Wilayat)
Physical care of child	Legal authority over child
Usually mother for young children	Usually father or male guardian
Daily upbringing and care	Legal and financial decisions

Example:
A mother may take care of the child daily, but the father still controls legal and financial matters.

9. Conditions for Becoming a Guardian

A person must meet these conditions:

- Must be Muslim (generally required)
- Must be adult and mentally stable
- Must be honest and trustworthy
- Must be capable of protecting child
- Must not be involved in immoral acts

Simple:
Only a responsible and trustworthy person can become a guardian.

10. Removal of a Guardian

A guardian can be removed if:

- He misuses the child's property
- He neglects the child's care
- He behaves dishonestly
- He is mentally or physically unfit
- He acts against the child's welfare

The court always ensures **child protection comes first**.

11. Role of Guardianship in Modern Islamic Law

Today, guardianship is still very important:

- Protects orphan and abandoned children
- Ensures education and proper upbringing
- Prevents financial exploitation
- Maintains family responsibility system
- Works with modern legal systems in Muslim countries

12. Conclusion

Guardianship under Islamic law is a complete system of **care, protection, and responsibility**. It ensures that children grow in a safe, moral, and Islamic environment.

It is not only a legal duty but also a **religious trust (Amanah)**. A guardian must act honestly, fairly, and always in the best interest of the child.

Final simple idea:
Guardianship in Islam means protecting, guiding, and raising a child in the best possible way for their future and success in this world and the hereafter.