Placement under Guardianship and Signs of Maturity

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Q1870. A man died and left behind a daughter and a son who is a ward due to incompetence. Is it permissible for his sister to have the right of disposal over his property by virtue of being his guardian?

A: One person does not have guardianship over one's incompetent brother. However, should he have no paternal grandfather and if the dead father did not leave a will appointing someone to be the guardian of the brother, the guardianship over him and his property rests with the authorized religious authority.

Q1871. What is the criterion for determining the age of maturity for boys and girls, is it the solar year or the lunar one?

A: The yardstick is the lunar year.

Q1872. In order to know whether a person has matured according to shar', how can one determine the specific date of birth in accordance with the lunar year, i.e. the day, the month, and the year?

A: It can be reached at by calculating the difference between the lunar year and the solar one if the date of birth according to the solar year is known.

Q1873. Is it right to consider a boy below the age of 15 years, who had a nocturnal emission, as mature by shar'?

A: Yes, he can be considered as mature by shar' due to nocturnal emission, because it is one of the signs of maturity.

Q1874. If there was a ten percent chance that the other two signs of adulthood, i.e. other than the age of shar'ī puberty, appeared before the specified age of shar'ī puberty how can one go about it?

A: The probability that they appeared first is not sufficient to conclude that maturity has set in.

Q1875. Does sexual intercourse count as a sign of shar'ī puberty which, in turn, leads to the upholding of obligatory religious duties? If the person in question was not aware of the law, until three years later, should they perform ghusl? Would those acts of worship they performed during this period, whose acceptability is dependent on their being ritually pure, be considered void and one should perform their qaḍā'?

A: Having a sexual intercourse per se, i.e. without ejaculation, should not count among the signs of shar'ī puberty. However, it is a good reason for having ghusl, which should be performed once the person is mature. Moreover, should there not be at least one sign of shar'ī puberty, they cannot be declared mature by shar'. Therefore, they are not duty-bound to embark on any religious obligations. If the person, who was not yet mature, became junub by way of a sexual intercourse and performed prayer and fasting without performing ghusl after becoming mature, it is obligatory on them only to repeat the prayers — not fasting — provided that they were not aware of janābah.

Q1876. A number of students, boys and girls, of our institute became mature in terms of their age. However, having noticed that they were not mentally capable, I arranged for them to take an IQ test. As a result, their mental age was less than normal by at least one year. Yet, some of them cannot be declared as being insane outright, because many of them are aware of social and religious matters. Should such diagnosis be considered on a par with a conventional medical examination?

A: The criterion for religious duties becoming obligatory upon any person is their sharʿī puberty, in addition to being recognized, as a sane person. The varying levels of intelligence and comprehension are not a criterion and have no bearing whatsoever on this matter.

Q1877. In some religious texts, a discriminating child has been defined thus, "The child who can differentiate between good and bad". What is meant by "good and bad", and what is the age of discrimination?

A: The yardstick for determining what is good and what is bad is the common view. However, the child's circumstances and the local customs, tradition, and ethical code should be taken into consideration. As for the age of discrimination, it varies from one person to another, especially, in terms of talent, discernment, and intelligence.

Q1878. Is the experience of having a period by a girl who has not yet completed her ninth year, a sign of her sharʿī puberty, especially if the blood has all the properties of menstrual blood?

A: This is not a sign of her sharʿī puberty, nor is the blood treated as that of menstruation, even if it has the properties of menstrual blood.

Q1879. Before his death, a person gave a sum of money to his nephew as a gesture of appreciation for the services he performed. However, the property of the deceased person had been frozen by a court injunction. The nephew spent the money his uncle had given him on the expenses of the funeral and other matters concerning the deceased. Is the court justified in demanding that the nephew return the sum of money he got from his uncle?

A: Should the money that was given by the uncle be among his frozen property, or it was the property of others, the uncle should not have given it to his nephew. By the same token the recipient should have no right of ownership over the money. Accordingly, the court has the right to demand the return of the money. Otherwise, no one has the right to retrieve the money.