

# Contributions of ZaidBnThabit in the Development of Islamic Law of Inheritance

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**Abstract:** - ZaidbnThabit (RA) was one of the renowned Sahabah of the Prophet (SAW). He was one of the prominent scribes of the noble Prophet (SAW). He was one of the four prominent companions who specialized in Islamic law of succession. Namely: AliyubnAbiTalib, Ibn Abbas and IbnMas'ud (RA). He was commended by the Prophet (SAW), among the Sahabah and other prominent scholars for his deep understanding of Islamic law of inheritance. ZaidbnThabit (RA) held a number of opinions regarding some aspects of *mirath*. He exercised various juristic analogies (*Ijtihadat*) on Islamic law of inheritance. Most of his views form the majority line. It is in view of this development that this paper seeks to analyze some of his major opinions on Islamic law of inheritance and the significance of the views to the development of the science.

**Keywords:** Zaid Bin Thabit, Development of Islamic Law and Inheritance.

## I. INTRODUCTION

The significance of Islamic law of inheritance to the socio-political, economic and religious development of the lives of the Muslims cannot be underestimated. This is one of the reasons that the Prophet (SAW) commanded Muslims to learn the knowledge of inheritance and transmit it to others for it is half of knowledge which is easily forgotten and the first to be lifted from his (*Ummah*) community. Allah (SWT) has blessed this *Ummah* with different personalities who are well grounded in the knowledge of Islamic law of inheritance right from the first generation of the Muslims down to the contemporary era. One of these important figures among the companions of the Prophet (SAW) was ZaidbnThabit (RA). He gave many verdicts based on juristic reasoning on many aspects and issues relating to Islamic law of succession most of which were unanimously agreed upon by the majority of the scholars. It is in the light of the above facts that this paper intends to examine the contributions of ZaidbnThabit (RA) in the development of Islamic law of inheritance. After the introduction, the paper highlights on the biography of ZaidbnThabit in the first section of the paper. The second section discusses the historical origin and development of the science. The third section analyses the significance of the law of inheritance in Islam to the lives of the Muslims. Finally, the paper addressed the subject matter by examining some major opinions of ZaidbnThabit (RA) on Islamic law of inheritance such as his opinion on *Umariyyatain* case, Doctrine of *Awl* (increase), mutual imprecation, inheritance right of son's son or son's son's son together with daughter of son, among others. The researcher adopts analytical method in addressing

the problem. Each view presented in this paper is fully analyzed to show its significance in the development of Islamic law of inheritance.

## II. BIOGRAPHY OF ZAIDBNTHABIT (RA)

ZaidbnThabit was born at Madinah in 608CE and died in 653CE. He was one of the prominent companions and scribes of the noble Prophet (SAW). He was from the Ansar (Helpers) of bani al-Najar. He joined the ranks of the Muslim army at the age of 19. After the death of the Prophet (SAW), he contributed immensely to the compilation of the Glorious Qur'an. He was a noted expert on the Qur'an. He was assigned the role of authenticating and collecting the oral and textual Qur'anic revelation into a single bounded copy. ZaidbnThabit possessed many virtues and is well known for his good merits. After the burial of ZaidbnThabit, Ibn Abbas (RA) was reported to have said:

O you people, whoever wishes to know how knowledge leaves us should know that it is like this that knowledge leaves. I swear by Allah that a great deal of knowledge has just left us today (IbnHajarn.d).

Umar bn al-Khattab (RA) said:

O people, whoever wants to know about the knowledge of inheritance, let him go to ZaidbnThabit (IbnHajarn.d).

According to al-Shafi'iyi (Rahimahullah):

"ZaidbnThabit (RA) specialized in two fields of knowledge: Qur'an and Islamic law of succession (IbnHajarn.d)."

IbnThabit (RA) had contributed greatly in the preservation and compilation of the Glorious Qur'an. The above attestation by some Sahabah and scholars of later generations confirmed his prominence in the field of Islamic law of inheritance and Qur'anic sciences.

## III. ORIGIN AND DEVELOPMENT OF ISLAMIC LAW OF INHERITANCE

The origin of Islamic law of succession goes directly to Allah (Almighty) who explains the shares allotted to the heirs in the three fundamental verses of the Qur'an in Surah

al-Nisa' (chapter four) verse 11,12 and 176. The history of Islamic law of succession can be linked to the pre-Islamic Arabian customary system of succession. It was in the record of history that the pre-Islamic system was partial in nature as it confined the right of inheritance to the agnates of the deceased only. Consequently, women and uterine relations were completely excluded from such rights (Hussaini, 2005). However, the *Shari'ah* has retained the old customary system of the rules of priority among the male agnates.

With the emergence of Islam, the glorious Qur'an introduced a new set of heirs, which comprises nine (9) relatives, 6 female and 3 male relatives. It was clear that under the pre-Islamic system, some male relatives were excluded like husband and uterine brother.

Thus, Islam has clearly outlines the shares of female relatives as against their status under the pre-Islamic system. It was opined by the Muslim jurists that Islam does not completely reject the pre-Islamic system but to modify and improve the position of the female relatives. Therefore, Islamic law of succession was a combination of the Qur'anic injunctions and the modified pre-Islamic system which thus provided a comprehensive system of succession in Islam.

The Prophet (S.A.W) has further explained the shares of the remaining male agnate relatives. He was reported to have said:

Give the shares of the inheritance that are prescribed in the Qur'an (*Fara'id*) to those who are entitled to receive it. Then whatever remains should be given to the nearest male relative of the deceased (Al-Bukhari, 2009).

Concerning the inheritance of uterine relations, he said; "Uncle inherits who has no legal heirs (Al-Tirmithy, 1999)."

For emancipation, the Prophet (S.A.W) said: "Indeed, loyalty is for the one who emancipate (Al-Bukhari, 2009)."

In the light of the verses and traditions of the Prophet (S.A.W) on inheritance, the Muslim jurists have further provided through their juristic reasoning, detail explanation on issues of inheritance in Islam. This knowledge from these sources continued to flourish and develop from generation to generation of the Muslim *Ummah*.

#### *Importance of Islam Law of Inheritance*

The knowledge of Islamic law of inheritance has a number of significance. The major ones include:

1. Most of the rules of the law of inheritance were explained by Allah (S.W.T) in the glorious Qur'an. Hence, the distribution of the shares of the inheritance by Allah (S.W.T) Himself shows the high position and importance occupied by the knowledge of inheritance in Islam. Generally, about 35 verses

relateto succession in the Qur'an out of which three of them gave specific details of the shares of inheritance. These are Qur'an 4:11, 12 and 176.

2. Secondly, the explanation of the Prophet (S.A.W) about the rules of inheritance which have not been explained in the Qur'an is another significance of the Islamic law of succession. Furthermore, the Prophet (S.A.W) has emphasized on the importance of seeking the knowledge of inheritance and transmitting it to others. For instant, the Prophet (S.A.W) was reported to have said:

Learn the knowledge of inheritance (*Alfara'idh*) and teach it (to people). Indeed, I will be taken away (the knowledge of the Qur'an and inheritance) will be raised up. And very soon, there will be an argument between two people in inheritance and (other) cases, and they will find no one to settle them (Al-Tirmithy, 1999).

In another tradition the Prophet (S.A.W) said:

There are only three necessary branches of knowledge which must be learnt, while the other sciences are voluntary. *AyatMuhkamaat* (verses having a bearing on the practical life), to learn the Sunnah and to learn the laws of inheritance which are just and fair (AbiDawud, 2003).

Thirdly, the effort of the companions and their encouragements toward the study of the law of inheritance, and teaching it to others shows its significance.

For instance, Amir al-Mu'minin Umar bn al-Khattab(R.A) said:"Learn the knowledge of inheritance for indeed it is part of your religion (AbuDawud, 2003)."

After the companions (R.A), there emerge Muslim jurists who devoted their time learning and teaching of the knowledge of inheritance. They also wrote on it and make it one of the chapters or sections in their books of jurisprudence and *Ahadith*. Some of them wrote books on *Mirath* either as poems or long essays. In this contemporary era, Muslims have also devoted time to teaching the knowledge in their centers of learning in mosques and in some public secondary schools and tertiary institutions.

Fourthly, the knowledge of the rules of *Mirath* is a means of bringing to an end, any disputes among the relatives and prevent consuming of wealth unjustly. The Islamic law of inheritance helps in breaking up the concentration of wealth amongst a few hands, thereby ensuring the socio-economic welfare of the society at large.

Furthermore, the following explain the importance of Islamic law of inheritance:

1. It brings sanity to rules of succession been practised before Islam and what is obtainable in other legal system.
2. Dependants are provided with something to live on after the death of their relatives.
3. It is one of the means through which wealth circulates in the society.
4. It is one of the means through which poverty is eradicated and also narrows the gap between the haves and have not.
5. It increases the degree of fraternity by fostering compassion, unity and co-operation.
6. It destroys the sources which instigate hatred, separatism, animosity and prejudice among people (Hussaini, 2005).

#### IV. CONTRIBUTIONS OF ZAIDBNTHABIT IN THE DEVELOPMENT OF ISLAMIC LAW OF INHERITANCE

ZaidbnThabit held many views relating to Islamic law of inheritance. He gave different juristic opinions which cannot be underestimated. This paper however, examines some of the major ones as follows:

*First view: Umariyyatain case (al-Gharrawiyyatain)*

This involves two different cases:

**Case I:** involving husband, mother and wife.

**Case II:** involves wife(s), mother and father

In the above cases, all scholars unanimously agreed on the share of husband who is entitled to  $\frac{1}{2}$  and that of the wife(s) who is or are entitled to  $\frac{1}{4}$ . They however differ concerning the share of mother inheriting along with spouses. In this regard, the scholars hold three (3) different views:

Firstly, the mother takes  $\frac{1}{3}$  of the remaining estate in two cases after the portion of the spouses which is  $\frac{1}{2}$  in the case of husband and  $\frac{1}{4}$  in the case of wife. This is the view of the majority of the Sahabah including ZaidbnThabit (R.A) and the leaders of four schools of law (Al-Sabuni, 1423 A.H).

Secondly, the mother is entitled to full share of  $\frac{1}{3}$  in two different cases. This is the view of Abdullahibn Abbas, Shuraih and Dawud (Fauzan, 2017).

Thirdly, the mother's share is  $\frac{1}{3}$  of the remaining estate in the case of husband and full share of  $\frac{1}{3}$  in the case of wife. This represents the view of Muhammad bnSirin (Badaruddin, 1421 A.H).

The view of Imam Zaid (RA) in this case is very vital as it was the majority view of the companions, the leaders of the four schools of law and the later generations of scholars like ShaykhUthmanbnIshaq and SalehbnFauzanbnAbdallah. The acceptance and confirmation of Umar bn al-Khattab on this view also indicates its significance.

*Second View: Doctrine of Awl (increase):* This doctrine is based on *Ijma'* and was established during the caliphate of Umar bn al-Khattab (RA). Others maintained that it was ZaidbnThabit (RA) who suggested the doctrine. The doctrine of Awl probably rests upon the view that a Qur'anic share does not present an absolute entitlement which is fixed in absolute terms, but rather one which is fixed in ratio to the other Qur'anic shares.

The doctrine of Awl involves increasing the common denominator of all the fundamental shares to the same value as the sum of all the numerators. Thus, the total sum of the fractional shares is now one and each share has been proportionately reduced (Hussaini, 2005).

ZaidbnThabit was the one who advised caliph Umar bn al-Khattab to apply this doctrine which he accepted and later was approved by other companions (RA) (Hallaq, 2008). This shows the significance of his opinion in this regard.

*Third View: Mutual Imprecation (Lian):* Lian (Mutual imprecation) is a situation where by a husband accuses that his wife had illegal affair with another man. In this case, the spouses would be separated through the process of mutual imprecation (Hallaq, 2008).

ZaidbnThabit and the people of Madinah are of the view that imprecated son inherits just like a legitimate son from his mother's side. His mother is entitled to  $\frac{1}{3}$  of his estate and the remaining go to public treasury (*baital-mal*) (IbnRushid, 1989).

The ruling of the imprecated son is like that of an illegitimate child. Both of them inherit only from their mother's side. He inherits his mother and her relatives. Similarly, the mother and her relatives inherit the imprecated son. There is however, no inheritance right from his father's side except if he confessed the legitimacy of the imprecated son (Abdul-Jawad 1419 A.H).

*Fourth view:* Son's son or son's son's son's will serve as an agnator by another together with daughter of son in a situation whereby daughters exhaust  $\frac{2}{3}$  and this is called *al-akh al-mubarak* (blessed brother). This is the view of ZaidbnThabit and AliyubnAbiTalib. This is contrary to the view of Abu Thawr and Dawud who said that only son's son will inherit the remaining (IbnRushid, 1989). The view of ZaidbnThabit (RA) in this case corresponds with that of the majority of scholars. Thus, this is the preponderance view according to the researcher because it is sympathetic and helpful. Example of this case is that which consists two daughters and above together with daughter of son and son's son or son's son's son. In this case, the daughters exhausted the shares of female which is  $\frac{2}{3}$ , the base (*Asl*) of this case is 3, daughters are entitled to 2 out of 3, the remaining share of  $\frac{1}{3}$  will be shared between son's son or son's son's son and the daughter of son. In this case, if there is another agnate with daughter of son like full brother or half brother or uncle or any other agnate

who is not son or son's son, she loses her portion of inheritance.

**Fifth view: The number of grandmothers who are entitled to the right of inheritance.** According to ZaidbnThabit, three grand mothers are entitled to the right of inheritance; they are mother of mother, mother of father and mother of father of father (Shanqity, 2005). This is contrary to the view of Abdullah bnMas'ud who was of the view that four grandmothers are entitle to the right of inheritance. They are mother of mother, mother of father, mother of father of father and mother of father of mother (IbnRushid, 1989).

The view of ZaidbnThabit (RA) is a strong view followed by Imam Ahmad and its authority is from the tradition narrated by Ibrahim al-Nakh'iy which says that the Prophet (S.A.W) have given three grandmothers the share of inheritance, two grandmothers from father's side and one grandmother from mother's side (Abu Dawud, 2003).

In this case, the opinion of ZaidbnThabit is moderate between the view of Abdullah bnMas'ud who allotted the share to four grandmothers and that of Malikiyyah which allotted the share to two grandmothers only (IbnRushid, 1989).

**Sixth view: Inheritance right of two heirs, both of whom are sons of uncle and one of them is uterine brother.** According to ZaidbnThabit, AliyubnAbiTalib and Ibn Abbas, the uterine brother is entitled to 1/6 of the estate and he is to share the remaining 5/6 together with his brother i.e son of uncle (IbnRushid, 1989).

Some scholars say, the whole estate should go to that brother who is son of uncle and at the same time a uterine brother. He is entitled to 1/6 due to the blood relationship and the remaining in his capacity as an agnate, while his partner got nothing. Among those who held this opinion from the Sahabah include, IbnMas'ud while from the jurists include Dawud, Abu Thawr, Tabari, Al-Hassan and Ata (IbnRushid, 1989).

In the opinion of this researcher, the first view of ZaidbnThabit, Aliyu and Ibn Abbas (RA) is the most preponderant, because the uterine brother cannot exclude son of uncle from inheritance even if he is to inherit in two capacities i.e as Qur'anic heir and as an agnate. This is because son of uncle cannot exclude son of uncle from inheritance, if they are from the same side and level. For example, son of full paternal uncle cannot exclude son of full paternal uncle but he can exclude son of half paternal uncle or son's son of full paternal uncle or son's son of half paternal uncle. Similarly, son's of paternal uncle cannot inherit in the presence of full or half paternal uncle or any agnate which is in class high than their class. In this case, there is none of the above (Aminu, 2015). Therefore, son of uncle cannot deprive his partner from inheritance totally but he can deprive him partially. This is because instead of dividing the estate between them, they are to share 5/6 after taking 1/6 by that brother who has two capacities.

**Seventh view: Inheritance of mother of father in the presence of father.** ZaidbnThabit is of the view that the mother of father cannot inherit in the presence of her son (father). This is the view of Uthman and Aliyu (RA). It is the opinion of Imam Malik, Al-Thawry, Auza'iyy, Abu Thaur and Ashab al-ra'y, whereas Umar, IbnMas'ud, Uthman, Aliyu, Abu Musa al-Ashary(RA) Shuraih, Jabir bnYazid, Ubaid Allah bn al-Hassan, Ishaq, Ahmad and IbnMunthir opine that the mother of father can inherit in the presence of her son (father) (Shanqity, 2005).

From the foregoing, the two different opinions are powerful and accepted because it represents the views of the majority of the companions some of the companions supported two views cited like Uthman and Aliyu (RA). Allah knows best.

## V. CONCLUSION

Islamic law of inheritance plays significant role in the development of the lives of the Muslims. Scholars right from the era of the companions to the present generation of the Muslims have contributed significantly in the area. ZaidbnThabit as the paper discussed has contributed greatly in giving his juristic reasoning on many aspects of Islamic law of inheritance. In some cases, he held dual opinion like donkey case. ZaidbnThabit has four special cases peculiar to him only. In fact, he held many views relating to Islamic law of inheritance. This paper discussed some major ones. However, there are others which have not been covered like his views on the cases of the inheritance of father of father together with collaterals. The four special cases attributed to Zaid only include: *Al-Ashariyya*, *Al-Ishiriniyyah*, *Mukhatasarah* and *Tis'iniyyatZaid*. These cases are called *Zaidiyyat al-Arba'*. The major views of ZaidbnThabit discussed in this paper are *Umariyyatain* cases, doctrine of *Awl*, mutual imprecation, case of the inheritance of son's son or son's son's son as an agnate with daughter of son. Other cases include the number of grandmothers who are entitled to inheritance, inheritance right of two heirs who are sons of uncle and the inheritance of mother of father in the presence of father. It is therefore significant to understand these major achievements of ZaidbnThabit in the area of *Mirath*. This is because most of his opinions are the most accepted by the majority of Sahabah.

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