

Legal Viewpoint in the Fadak Affair

It should be remembered that this event of Fadak, like that of the 'incident of paper', is an issue of major difference between Shias and Sunnis. The men of intelligence may opine in their own manner, but I could not yet understand as to what kind of Prophet's word were, "There is no inheritance among us prophets. Whatever we leave behind is charity," which goes against both Torah and Quran. The Holy Quran clearly talks about Prophet Sulaiman's being an heir of Prophet Dawood (a.s.). The subject in Taurat is also similar.

For obvious reasons, these words cannot be the words of the Prophet. It could have been another thing had the Prophet said so in his own case. His so saying regarding all other messengers appears totally out of place. Imamiyah scholars say that these words "we do not leave inheritance" are both against Arab literary usage as well as tradition. So this cannot be a phrase uttered by the Prophet, because he was one of the best speakers of Arabic language.

Qadi Shazan seems to be silent in the face of this objection. What else could he have ever done when he had no reply at all? It was a fake phrase, because from Sahih Bukhari¹ it appears that the Prophet had left 'his white mule on which he used to ride, his weapons, and the estate of Fadak' as his inheritance. Likewise, his leaving behind of some other things is also known from books like, Isafur Raghebeen etc.², and all this does not fall in the jurisdiction of the said phrase, making them non-inheritable because the Prophet's other things like headwear etc. were with Imam Husayn (at the time of Karbala') by way of inheritance, not as charity (Sadaqah).

Anyway, because of this Fadak event, a jurisprudential difference arose between Sunnis and Shias and it is that in the matter of testimony, the witness of a husband in favor of his wife and/or a father's testimony in favor of his son/daughter is not acceptable.³ Contrary to this, Shias have accepted such testimony as admissible in law.

Apparently, in this matter, the legal progress of time seems to be in favor of Shias. Wisdom also says that it is not necessary that a husband or a father will always lie because of the relationship and a non-related fellow too, just like a related one, can give false evidence. How can such persons be declared as unreliable in law merely because of their relations? The judge should look at the person's character. To

declare a witness inadmissible merely because of relationship is to kill justice.

In case of Fadak, the court ought to have seen what kind of a witness Ali (a.s.) was. Could Ali (a.s.) give a false testimony? Or was it impossible? To declare him unfit for testimony merely because of relationship is a matter, which shows only a lack of legal courage. The court should have admitted the testimony of His Eminence, Ali (a.s.) because the whole world of that time was aware of his personality. Everyone knew about the superiority of knowledge and wisdom of Ali (a.s.) and also knew that Ali would not lie even if two thousand Fadaks were at stake.

The fact is that both Abu Bakr and Umar were aware of the truthfulness of His Eminence, Ali (a.s.) but Umar did not want that Fadak should be restored to Lady Fatima. It is natural that one does not have friendship with one's enemy or opponent. Umar had an old enmity with Lady Fatima. In such circumstances, it was not unexpected of Umar to say that Ali's testimony did not carry weight. The description of this enmity will be given in the event of the marriage of Umme Kulthum. Therefore it is not mentioned here.

[1.](#) Vol. 5, Pg. 159.

[2.](#) Pg. 10

[3.](#) Ref. Sharhe Mawaqif, Naval Kishor Press, Maqsad Raabe az marsad Raabe, Pg. 735

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