

## An Examination of the Hadith of Hind: The question of Provision for Family in Islamic Jurisprudence

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### Abstract

This study focuses on the stylistic peculiarities, lexical meanings and structures of the language used in the Quran as the source of law. It analyzes words and sentences of the revelation in order to extract the most significant insights contained within the prophetic text. More specifically, this study explores the jurisprudential provision which can be induced from the Hadith of Hind bint `Utba. Findings confirm that the Prophet (PBUH) was endowed with the most eloquent and pithy expressions. Additionally, the analysis highlights the abundance of practical jurisprudential applications within the legal texts. The study summarizes previous, similar studies and establishes the significance and objectives of the current study in the light of these earlier findings. It carries out detailed analysis of the original Hind bint `Utba's Hadith text from which the provisions were derived, and presents its different interpretations and explanations. In addition to this, the study provides an overall explanation of the hadith and its associated benefits. Finally, it devotes a section to the benefits derived from the Hind's Hadith which is also the core of the research here and the legal provisions deduced by jurists therefrom. Lastly, the conclusions summarize the researcher's findings for the benefit of future theological and legal studies and research.

**Keywords:** Hind bint `Utba, provision, scarce winning the right.

### Introduction

All praise and gratitude are due to Allah, the Lord of all that exists, and may the most perfect blessings and peace be upon the leader of all messengers, Prophet Muhammad, and upon his family and companions.

The incident of Hind bint `Utba comes in the chapter on Supporting the Family. It is part of the Sunnah Qawliyyah commonly known as Hadith, the saying of Prophet Muhammad (PBUH) and has immense jurisprudential value. In a limited sense, **Jurisprudence** means elucidation of the general principles that are the basis of law. The word derives from Latin 'Jurisprudentia' which broadly means 'knowledge of law' (*Juris* = law, *prudencia*= skills or knowledge). There are three purposes of jurisprudential study:

1. Exposition of law: This means that law should be 'exposed' or presented and then it should be studied systematically.
2. Legal history: Understanding or tracing legal history is also a purpose of jurisprudential studies.
3. Science of law: This purpose of jurisprudential study refers to analysis of law.

Law in the Islamic conception is closely linked with morality and is considered an instrument to regulate human conduct in society. The Hadiths provide the most extensive source for Islamic law though they are second and complimentary to the Quran. The hadith of Hind bint `Utba is a primary source in the chapters of transactions, as well as expenses. Jurists still rely on it in many rulings related to expenses and rights, in general, and in cases of extracting rights upon obtaining them, in particular. Their deductions have expanded to include precise rulings and contemporary applications, making it a frequent reference in the books of jurisprudence, both old and new. Therefore, I have deemed it necessary to single it out for analytical and applied jurisprudential study, seeking the help of the Lord and hoping for acceptance. The importance and relevance of this study is described in detail below.

### Research importance and objectives

The hadith narrated by Hind bint `Utba has garnered significant attention from scholars due to its relevance in providing rulings, principles, etiquette, and practical deductions in matters of family support. Its importance lies in its direct applicability to jurisprudence, which strengthens the authority of the jurist, and its cognitive aspect in acquiring knowledge and understanding various issues and rulings. In summary, this hadith holds great significance in enhancing both the practical and intellectual aspects of Islamic jurisprudence. These important aspects can be summarized as follows:

- 1- The prophetic tradition is the mother of all sources of evidence. It is the second most important and strongest guiding light after the Qur'anic verses. Therefore, prophetic tradition necessitates the need to pay attention to its formation mechanism and how to look at it, including educating the jurists on the necessary skills and the development of deductive ability by recognizing how scholars arrived at rulings from evidence and why they differed in their views.
- 2- The proficiency in applying issues of language, principles, and other sciences related to Islamic legal theory, as well as its skills in interpreting legal texts, while knowing the paths of conflict and preference between the statements of jurists.
- 3- Strengthening such research highlights the aspect of justifying the differences among jurists, by explaining their conflicting views and clarifying the applicable deductions, and deducing the reasons thereof.
- 4- Accessing the precise and deep standards that governed the minds of mujtahids and shaped their books and opinions.
- 5- This research contributes to the production of a jurist who can employ the legal text with his tools, which will enable him to confront any emerging issue on the matters that the Hadith concerns.

#### **Previous studies**

Although this hadith is widely acknowledged for its significance and is extensively referenced in jurisprudential literature, I have not encountered any standalone research that specifically delves into the financial aspect of inclusion emphasized in this hadith. Rather, it is often mentioned briefly as supporting evidence within the framework of jurisprudence or as an ancillary commentary on other hadiths. Furthermore, I hope that this study will add to the available corpus by linking this hadith to the issue of financial inclusion, the issue of asserting one's rights, and some contemporary developments and applications based on it.

#### **1. The text of the hadith, its benefits, its narration, and its explanation.**

##### **The Hadith**

Hind, daughter of `Utba, came to the Prophet (PBUH) and said, "O' Messenger of God, Abu Sufyan is a niggardly man who does not give me and my son enough; except what I take from him without his knowledge." He replied, "Take what is enough for you and your son to the extent recognised by the law."

##### **Place(s) of Narration**

This narration can be found in Al-Bukhari's "Sahih" in several chapters, including the Book of Sales where Al-Hijamah is mentioned (number 2102), the chapter on conducting transactions based on common practices in sales and leasing (number 2210), the Book of Leasing which includes the tax of male and female slaves (number 2277) and how their dependents can reduce their taxes (number 2281), and the Book of Medicine which discusses Al-Hijamah for treating diseases (number 5696). It is also narrated by Muslim in his "Sahih" in the Book of Sales, where the permissibility of charging a fee for performing Al-Hijamah is discussed (number 1577).

Furthermore, this Hadith was also narrated in other collections of Hadiths other than the two Sahihs. For instance, Imam Malik narrated it in his "Al-Muwatta'" in the Book of Seeking Permission, in what is mentioned about Al-Hijamah and leasing it, number (796) and number (3573). Imam Ahmad also narrated it in his "Musnad" in the Musnad of Anas bin Malik, number (12147) and number (12227). Further, Abu Dawud narrated it in his "Sunan" in the Book of Leasing, in the chapter on earning from performing Al-Hijamah, number (3424). Also Al-Nasa'i narrated it in his "Al-Kubra'" in the Book of Medicine, in the chapter on treating with sea incense, number (7537),

number (7538), and number (7550), as well as in the chapter on Al-Hijamah, number (7551). Al-Tirmidhi narrated it in his "Jami'" in the chapters on sales from the Prophet (PBUH), in the chapter on what is mentioned about permission to earn from performing Al-Hijamah, number (1278). Ibn Majah also narrated it in his "Sunan" in the chapters on business transactions, in the chapter on earning from performing Al-Hijamah, number (2164).

## **2. A comprehensive explanation of the Hadith and its associated benefits**

Hind bint Utbah bin Rabi'ah is the mother of Muawiyah and the wife of Abu Sufyan bin Harb. The Hadith of her coming to the Prophet (PBUH) and her pledge of allegiance to him is well-known (Abdul Karim, 2007). She informed him that Abu Sufyan was a stingy man (Al-Tibi, 1997), and he did not provide her and her children with enough money to live on. She asked whether it would be permissible for her to take some of his money without his knowledge (Al-Khulani & Al-San'ani, 1182 AH). The Prophet (PBUH) permitted her to do so, with the condition that she take only what is sufficient for her and her children's needs, which is known as "ma'ruf" in Arabic. This permission is absolute in wording but restricted in meaning, as if he said: "If what you have mentioned is true, then it is permissible to take what is sufficient." (Al-Shawkani, 1993).

### **Analysis and Discussion**

#### **Benefits derived from the Hind's Hadith and the legal provisions deduced by jurists therefrom:**

1. It is permissible to disclose the complaint of the oppressed person from backbiting (Al-Dhahabi, 1413 AH).
2. It is also permissible to disclose the questioner's inquiry from backbiting as required for his fatwa (Al-Khulani & Al-San'ani, 1182 AH).
3. The eloquence of Hind bint Utbah - may Allah be pleased with her - and the superiority of her intellect are visible in her speaking out the words of allegiance, such as her saying, "Does the free woman commit adultery?" (Al-Farihri, 1422 AH).
4. Taking from the money of a stingy husband who does not spend on the necessities of his family is not considered theft, and does not carry the same ruling or punishment as theft, because it is authorized (Al-Qurtubi, 1384 AH).
5. Customary practices are a legitimate source for approximating matters that are not specifically defined, especially for matters that vary in their quantity and description depending on the circumstances of people (Ibn Taymiyyah, 1425 AH).
6. According to the scholars' opinion regarding the issue of "Al-Zafar", whoever is denied his right or his property without his knowledge, he has the right to take it back from anyone who took it, without any restrictions (Al-Qurtubi, 1384 AH).
7. In terms of "Al-Zafar", there is no difference in the ruling between taking back property of the same kind or a different kind, according to those who permit it. This is because the Prophet, (PBUH), did not specify any conditions in this regard. Moreover, it is known that a miserly person may not provide all the necessary expenses and adequately provide for his family and children (Al-Tibi, 1997; Al-Qazwini, 2007).
8. Taking the right and winning it from the money owner does not depend on the provision of the ruler, and it is a facet of the Shafi'is, because Hind is seeking fatwa, and she could have referred to the Messenger of God (PBUH) and taken the right with his judgment (Ibn Daqiq al-'Eid, 2005).
9. Providing for one's wife and children is obligatory (Al-Qurtubi, 1384 AH).
10. There is no specific limit for providing for the children according to Sharia law. It is estimated based on the customary and current situation through individual effort and due diligence (Ibn Al-Arabi, 2003).
11. This Hadith is a reply to those who claim that a wife's provision should be estimated based on her needs, not based on customary expenses like children. The Prophet (PBUH), ordered that she should take what is sufficient according to customary expenses, without specifying any kind or amount (Ibn Taymiyyah, 1425 AH).

12. The apparent meaning of the Hadith indicates that there is no difference in obligation of father for providing children, whether they are young or old, due to the lack of differentiation, which puts them in a general, shared category (Al-Shawkani, 1993).
13. Theft is a serious crime, and its consequences are dangerous. The Prophet (PBUH) made refraining theft as a main condition of the pledge of allegiance (Al-Khulani & Al-San'ani, 1182 AH).
14. A woman has the right to seek a fatwa from scholars herself (Abu Al-Fadl, 1998).
15. It is permissible for some scholars to issue a verdict *in-absentia* (Al-Khattabi, 1932).
16. It is permissible for a judge to rule based on his knowledge according to some scholars, if there is no fear of suspicion. Therefore, we find in Sahih Al-Bukhari: "Chapter on the judge who is seen fit to rule based on his knowledge in the matter of people if there is no fear of suspicion." Thereafter, he narrated the story of Hind.
17. It is permissible to act based on what appears to be the case, and consider it as such. Therefore, Abu 'Awanah stated in his Mukhtasar: "Clarifying the news that requires the judge to rule based on what appears to be the case, based on the claimant's argument. The evidence is that the judge's rulings may be contrary to what is right in the sight of Allah, and that the ruling in a matter may be different from what is required internally" (Abu 'Awanah, 1998).
18. A woman's speech and voice are not considered 'awrah' (Abu Al-Fadl, 1998).
19. Deception and alternatives are permissible in order to reach what is permissible (Al-Jassas, 1994).
20. It is permissible for a mufti to refer the questioner to his own judgment, and entrust him with his knowledge, as he knows himself better, and his Lord knows him better than anyone else, whether he is lying or telling the truth (Ibn Al-Arabi, 2003).
21. Some scholars inferred from this Hadith that a woman cannot give charity from her husband's money, belongings, or food without his permission, because charity from his house without his permission is beyond the known expenses (Ibn Abi Shaybah, 1409 AH).
22. Taking what is rightfully yours or what is permissible, even if it is from someone who trusts you, and doing so without their knowledge, is not considered a betrayal. Therefore, Imam At-Tahawi stated in his collection of Hadiths: "Give back what has been entrusted (to you) to him who has entrusted you, and do not violate the trust of him who violates your trust", and the Hadith of Hind: "whoever takes what the Messenger of Allah (PBUH) has permitted is not a betrayer". It is understood from this that what the Prophet (PBUH) intended in each of the two narrations we mentioned is different, and whoever takes what he was commanded to take has taken what is permissible for him to take. Whoever takes what is not permissible for him to take is a betrayer of the person whose money he took without his permission, and this includes taking money from someone who owes him ten dirhams and taking twenty dirhams instead. This is considered a betrayal, and it is something that the Prophet (PBUH) forbade (Al-Tahawi, 1994).
23. It is permissible to issue a fatwa and suspend it based on what the opponent says. Hind mentioned that her husband was preventing her from doing so, and Prophet (PBUH) said to her: "Take it." This is an absolute permission, and he did not say: "If this is proven," but this is what he **meant**. Therefore, many muftis do not say in their answers: "If this is proven," and they omit it for brevity (Abu Al-Fadl, 1998).
24. It is permissible for the mufti to imply what is known from the context or convention, and he is not required to disclose it in every case. The Prophet (PBUH) implied "If the matter is as you say" as we mentioned in the previous point, and he also implied "even if he does not know" because it is a well-known convention in the context (Abu Al-Fadl, 1998).
25. It is permissible to refer to a person with respect, such as using a title or nickname, but there is some debate about it. This is because Abu Sufyan was well-known by his nickname without his other name, so saying "Abu Sufyan" does not necessarily indicate an intention of respect (Ibn Hajar, 2013).
26. A mother has guardianship over the expenses of her child even if the father is alive (Al-Hasani, 2011).

27. A mother has a right to guardianship over orphans, as she is permitted to take custody and provide for them during the life of their father, and this right is even greater after his death (Al-Shawkani, 1993).
28. Limiting sufficiency to "almaeruf" indicates the need to avoid excess and extravagance in claiming need and seeking sufficiency, as in the case of luxuries (Al-Hasani, 2011).
29. If someone finds in himself something embarrassing, it is better to pair it with something excusable (Ibn Hajar, 2013).
30. It is permissible for a guardian to speak on behalf of those under his/her ward, and it is valid for them to undertake tasks assigned to him or that he has taken upon himself (Abu Al-Fadl, 1998).
31. In the Arabic language, it is permissible to use pronouns instead of repeating the same word unnecessarily. For example, in the question of Hind, ".. what suffices me and my child" whereas the answer "sufficient for you and your child" is grammatically correct (Al-Tibi, 1997).
32. A man has the responsibility to support both his parents and his children, with an added emphasis on providing for his parents due to their esteemed position and the greater degree of obligation towards them (Al-Tibi, 1997).
33. It is permissible for a woman to leave her home for her needs (Abu Al-Fadl, 1998).
34. In some cases and situations, what is prohibited may become permissible (Al-Hasani, 2011).
35. When determining the provision, the wife's statement is given consideration because if only the husband's statement is taken into account, and he claims to be providing for everything, it would place the burden of proof on the wife to demonstrate that he is not providing enough (Ibn Hajar, 2013).
36. Some contemporary scholars have used this Hadith as evidence for the permissibility of expropriating property, such as real estate, from its owner for the public interest (Council of the International Islamic Fiqh Academy, 1988).
37. The estimation of a guardian who needs to make a financial estimate is accepted because he is a trustee and has guardianship over that matter (Al-Saadi, 2002).
38. The determination of who is responsible for providing for the wife depends on the wife herself, as indicated by the statement, "that suffices you and your child." For instance, if the wife is wealthy and the husband is poor, should the husband be provided for by the wealthy person or the other way around? If we consider the wife as the determining factor, then the husband should be provided for by the expenses of the wealthy person. Conversely, if we consider the husband as the determining factor, then he should be provided for by the expenses of the poor person (Al-Ayni, 2000; Ibn Qudamah, 1997).
39. On the obligation for a husband to provide for a woman's servant, According to Al-Khattabi, as reported by Ibn Hajar, because Abu Sufyan was the leader of his people and it is unlikely that he would prevent his wife and children from receiving their expenses, it seems that he was giving them enough to cover their needs and those of their child, but not enough to provide for their servant. Ibn Hajar added that it is possible that this is why he said in some versions of the Hadith, "I spend something from his property for our children." (Ibn Hajar, 2013).
40. It is permissible to address people in general terms, especially if it leads to clarity and understanding (Al-Zarkashi, 1994).
41. Similarly, it is permissible for a judge to address the claimant in general terms without specifying details, as the Prophet (PBUH) assigned some claims and directed the claimant to what she already knew, without further explanation (Al-Baghdadi, 1999).

## Results and conclusion

After this analytical review of the story of Hind bint 'Utbah in the Hadith of the Pledge of Allegiance, some general results can be pointed out, considering that specific results have been extracted in the previous section, including:

1. This Hadith is a source for many jurisprudential matters, including the obligation of providing for expenses, marital relations, usurpation, customary practices, reconciliation, judiciary, fatwa, the actions of the Imam, guardianship, and others. It is relied upon in many rulings and even etiquette.
2. There are contemporary jurisprudential issues that can be based on this Hadith, which are subject to debate and discussion among scholars, especially in the fields of fatwa and judiciary.
3. The study of the jurisprudential aspect does not necessarily require limiting it to obligations and prohibitions only. Attention should also be given to recommended etiquette and noble morals. Therefore, scholars have used this Hadith to derive many etiquettes and benefits related to ethics and noble character.
4. The Prophet tradition (PBUH) is rich in practical and applicable rulings if researchers strive to explore and discover them through serious studies that consider both the practical and verbal aspects.

May Allah bestow upon us His guidance and acceptance, and may Allah send His blessings upon our beloved Prophet Muhammad, his family, and his companions.

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