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"Abrogation of Rulings" Methodology: A Critique

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Abstract: Surveying the subject of abrogation (*naskh*) in the Qur'ān, *ḥādīth* and Islamic literature, it is clear that most abrogation cases were introduced after the Prophetic era in order to interpret certain Qur'ānic verses and Prophetic narrations (*aḥādīth*) that some scholars perceived as "conflicting." Two striking examples are "The Verse of the Sword" (*āyat al-saif*) and "The Verse of the Barrier" (*āyat al-ḥijāb*). The Qur'ānic verses and *aḥādīth*, which were misperceived as "conflicting," should be contextually situated and applied according to the purposes (*maqāṣid*) behind them. This would validate all Qur'ānic verses and (authentic) Prophetic instructions regardless of their perceived contradictions. This allows jurisprudence to retain its flexibility within changing circumstances.

Abrogation (*naskh*) as a concept has been used liberally by jurists, which has at times resulted in the issuance of decrees that do not seem to tally with the spirit of the Qur'ān and the *sunnah*.[1] This paper briefly defines the concept of abrogation which is followed by a critique and an alternative explanation that would validate all Qur'ānic verses and *aḥādīth* regardless of their perceived or misperceived contradictions.

Abrogation Defined

Abrogation, meaning cancellation or annulment (*izālah*), is typically defined in jurisprudence as "the (heavenly) replacement of one juridical ruling with a later ruling." Mainstream jurists support this definition and the variations of the definition they suggest

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demonstrate little functional difference. For example, one variation addresses the issue of whether the first ruling was "meant" to be replaced by the second or was it meant to last for a specific period regardless of the second one.[2] Another variation addresses the issue of whether abrogation is a form of "clarification" rather than "substitution."[3] Ibn Taymiyah supported the "clarification" phrase to dispel the idea that God has a time dimension.[4] A third variation queries whether a scriptural expression that implies generality or continuity could be abrogated.[5]

Nonetheless, abrogation is one of the fundamental concepts in Islamic jurisprudence and has been used by scholars in understanding and clarifying the verses of the Qur'ān. The liberal application of the methodology of abrogation has resulted in issuance of some questionable decrees.

One key example is verse 9:5 of the Qur'ān, which has been named as "The Verse of the Sword" (*āyat al-saif*). The verse reads: "But when the forbidden months are past, then fight and slay the Pagans wherever you find them, and seize them." Although the verse 9:5 was revealed in the context of battle, the scholars take this verse to be the final ruling (*ḥukm al-nasikh*) "abrogating" earlier revelations dealing with non-Muslims in general. Therefore, this single verse was claimed to have abrogated more than two hundred verses of the Qur'ān, all preaching dialogue, freedom of belief, forgiveness, peace and even patience! Thus, the most popular exegesis books by al-Ṭabarī, al-Baiḍawī, al-Zamakhsharī, Ibn Kathīr, and al-Qurṭubī narrate various claims suggesting that verse 9:5 abrogated verses like:

"No compulsion in the religion" (2:256)

"therefore leave them and that which they forge" (6:112)

"Repel evil with that which is best" (23:96)

"So patiently persevere: for verily the promise of Allah is true" (30:60)

"And take not from among them a friend or a helper. Except those who reach a people between whom and you there is an alliance" (40:89-90)

"And if they incline to peace, then incline to it" (8:61)

"You have your religion and I have my religion." (109:6).

The flawed methodology followed in abrogating the above *muḥkam* verses is evident in al-Qurṭubī's comments on verse 95:8 ("Is not Allah the wisest of judges?") which to him "implies a kind of admiration for those disbelievers who acknowledged the Eternal Creator." He then narrated two opinions: one stating that the verse was abrogated by *āyat al-saif* "because *āyat al-saif* abrogated all admiration to the disbelievers" and the other stating that it was not abrogated because Alī ibn Abī Ṭālib, the fourth caliph, commented on this verse by saying: "Yes. He is the wisest of judges and I am a witness." Evidently, both the opinions are unfounded and that abrogation was a methodology that was used to resolve rather imagined contradictions. Yet, the opinions on *āyat al-saif* are maintained by some extremist groups overlooking its practical *fiqhī* implications detrimental to the interest of the Muslim *ummah*.

Another example is verse 33:53 named, "The Verse of the Barrier" (*āyat al-ḥijāb*). It reads: "And when you ask of them (the wives of the Prophet, SAS) anything, ask it of them from behind a curtain/ barrier. That is purer for your hearts and for their hearts." This verse was revealed after 'Umar, the companion, had cautioned the Prophet (SAS) that some of his visitors do not show respect to his wives.[6] Looking at the context, the verse refers to a specific ruling that the companions should follow when they visit the Prophet's home. Yet again, the scholars claim that the verse has "abrogated" numerous narrations that allow Muslim women to lead normal lives. Based on this "abrogating verse," Muslim women were banned from leaving their homes,[7] showing their faces in public,[8] visiting or being visited by men,[9] talking to men,[10] and even to narrate *ḥadīth*.[11] Therefore, hundreds of related verses and *aḥādīth* preceded by "*kāna hādhā qabla āyat al-ḥijāb*" (this was before the verse of the barrier) were thus abrogated. Once again, as with *āyat al-saif*, the opinions, suggesting abrogation, on *āyat al-ḥijāb* are maintained by some scholars with implications prejudicial to the interest of the Muslim *ummah*.

The Roots of the Concept

A broad survey carried out on the Qur'ān and the nine main collections of *ḥadīth* (i.e., *Bukhārī*, *Muslim*, *Tirmizī*, *Nasā'ī*, *Abū Dāwud*, *Ibn Mājaḥ*, *Aḥmad*, *Mālik*, and *Darāmī*) revealed that the term "abrogation of rulings" (*naskh al-aḥkām*) is mentioned neither

in the Qur'ān nor in the *ḥadīth* of the Prophet (SAS). The actual word, "abrogation," however, occurs in the Qur'ān and is used in the following senses.

The Qur'ānic verse 2:106 states: "Not an *āyah* (verse or miracle) do We "abrogate" or *nunsihā* (caused to be forgotten or delayed), but We substitute something better or similar."[12] The Arabic word *āyah* could mean a Qur'ānic verse as well as a miracle, proof, or sign. The word *nunsihā* (caused to be forgotten) could also be read as *nunsihā* (caused to be delayed). Therefore, interpreting *āyah* as "miracle" and *nunsihā* as "caused to be delayed" implies that Prophet Muhammad (SAS) was not given certain miracles that were granted to other prophets before him and that God determines the timing of the miracle itself – an interpretation supported by many scholars.[13]

However, interpreting *āyah* as "verse" and *nunsihā* as "cause to be forgotten," which is the opinion of most scholars, implies the abrogation (i.e., omission) of some Qur'ānic verses. This interpretation suggests that certain verses were recited as part of the Qur'ān for a specific period of time and later omitted from the written script at the request of the Prophet (SAS). This kind of abrogation is termed "omitting the written script" (*naskh al-rasm*). Although the majority of scholars support this type of abrogation, the narrations they cite are not highly authentic. Moreover, several of these narrations reveal that the narrator (companion) was not sure whether the statement under consideration was a verse of the Qur'ān or a saying of the Prophet (SAS) himself.[14]

Whatever the case may be regarding the omission of verses from the script (*naskh al-rasm*), mainstream jurisprudence and exegesis literature uses the verse cited above as a proof for a different kind of abrogation, the abrogation of rulings (*naskh al-ḥukm*) implied by, both, the Qur'ān and the *ḥadīth*.[15] Yet, there is no Qur'ānic evidence for the "abrogation of rulings" (*naskh al-ḥukm*).

Nevertheless, the term "abrogation of rulings" is mentioned within the collections of *ḥadīth* under consideration in about forty contexts (excluding the repeated narrations). These are the key examples upon which the whole concept of "abrogation of rulings" was established in the different schools of jurisprudence.

The survey confirms that "abrogation of rulings" is not mentioned in the body (*matn*) of any *ḥadīth* in all of the above instances. It was

introduced clearly as an explanation given by the narrator (whether a companion or commentator) for verses and narrations that were thought to imply conflicting or contradicting rulings. Moreover, a difference of opinion about the applicability of abrogation to each specific occasion occurred in most of the instances. This is further proof that the "abrogation of rulings" was a hypothesized explanation rather than a juridical indisputable fact. The following examples support the above conclusion.

Abū Dāwud narrates in *ḥadīth* No. 2485 that ibn 'Abbās, the companion, recited the verse, "It is prescribed, when death approaches any of you, if he leaves any goods that he makes a bequest to parents and next of kin, according to reasonable usage" (Qur'ān 2:180) and then went on to say that the ruling of inheritance (Qur'ān 4:11-12) abrogated the ruling of bequests. Ibn 'Abbās assumed that there was a contradiction between the two rulings that could not be resolved except through the claim that one of them abrogated the other. However, numerous scholars have pointed out that the two rulings are not at odds and could both be applied simultaneously. This would happen if one makes a will for a "reasonable portion" of his/her wealth while applying the rulings of inheritance to the rest of the assets.[16]

Another companion, Abū Sa'īd al-Khudrī, thought that the verses 2:282 and 2:283 ("When you contract a debt for a fixed term, record it in writing" and "a pledge [shall suffice] and if one of you entrusts to another let him who is trusted deliver up that which is entrusted to him") are contrary to each other. Therefore, Ibn Mājaḥ narrates, Abū Sa'īd declared that the second verse abrogated the first.[17] It is obvious that the two rulings are not logically at odds with each other but address different contexts. The second ruling renders an oral pledge sufficient when there is mutual trust between the giver and the receiver of the debt.

Another example, which illustrates the methodology that jurists followed in applying the abrogation of ruling theory, is *Muslim*'s normal *ḥadīth* number 1875. Ibn 'Abbās narrated that the Prophet (SAS) broke his fasting while travelling during Ramaḍān. Based on this narration, al-Zuḥarī, a chief follower of the companions (*tābi'*), concluded that a traveller in Ramaḍān is obliged to break his/her fast and regarded the ruling that allows him/her to fast (through another narration) as abrogated. Both rulings are actually valid but

apply relative to the physical condition of the fasting person.[18] On the other hand, al-Zuḥarī explained his methodology by saying: "The latest tradition, in chronological order, narrated after the Prophet (SAS) is the definite and abrogating tradition." Al-Shāfi'ī proposed the same methodology and applied it to numerous examples.[19] Thus, abrogation of rulings developed into a fundamental concept in the literature of *Usūl al-Fiqh*.

Abrogation According to Schools of Jurisprudence

After the first century A.H., jurists began claiming many new cases of "abrogation of rulings" merely to invalidate opinions or narrations that disagree with their respective schools of thought. As one contemporary scholar puts it: "The fundamental ruling is that every verse that is different from the opinion of the scholars of our school is abrogated."[20] Therefore, it is not unusual in the jurisprudence literature to find a ruling "abrogating" something according to one school and "abrogated" according to another.[21] This arbitrary use of "abrogation of rulings" contributed to a sense of inflexibility in the Islamic Jurisprudence which is unnatural and unhealthy for the following reasons:

First, the difference of opinion among jurists is natural and expected due to natural human uncertainties about interpreting the script and the degree of literalism in the application of rulings. However, when one jurist claims that another jurist's evidence is abrogated, i.e., null and void, the tolerance to "the other's" opinion decreases and healthy diversity becomes unhealthy dispute. Second, the abrogated, i.e., cancelled or omitted, verse or *ḥadīth* might very well be a valid ruling for certain people or in a specific context, as illustrated in some of the examples cited above. Therefore, labelling these verses and narrations as "cancelled" jeopardizes the ability of Islamic jurisprudence to deal appropriately with various circumstances. The "verse of the sword" and "the verse of the barrier" are obvious examples.

Re-consideration of the "Abrogated" Rulings

The arguments advanced above necessitate a reconsideration of the concept of abrogation. The following arguments and alternative explanations are worthy of consideration.

First, it should be remembered that Islamic Jurisprudence was introduced over twenty-three years. Islam approved the existing Arabic traditional practices as long as they did not contradict its belief and moral system. Otherwise, these practices were replaced with better rulings. These practices were termed "abrogated" in the *ḥadīth* literature although they were not Islamic juridical rulings to start with. For example, Ibn 'Abbās narrated that the Arabic tradition was that a man had an exclusive right to divorce his wife any number of times and could return to her whenever he wished until the rulings of divorce were revealed.[22] Another example is the abrogation of the temporary marriage (*muṭ'ah*), which was practiced before Islam and for some time during the early days of the message. However, calling these traditional practices "abrogated rulings" is not accurate because they were never valid Islamic rulings, but rather pre-Islamic traditions that required some time to change.

Second, it is well known that there are cases in which the new rulings were introduced gradually through a number of steps. Jurists declared that the later steps "abrogated," i.e., permanently cancelled the earlier steps. However, the surveyed collections of *ḥadīth* show that the Prophet (SAS) used the same gradual process on individuals and groups who converted to Islam and needed some time to adopt the Islamic way of life.

By way of example, the obligatory prayers started with a few occasional prayers, then two prayers on a daily basis, and finally five daily prayers. However, after the ruling of the five prayers was established, the Prophet (SAS) allowed individual and group converts to Islam to pray twice a day until they got used to the regular five prayers.[23] The gradual introduction of the rulings of annual wealth-tax (*zakāh*), the prohibition of *ribā* (usury), and the prohibition of liquor are other famous examples for the system of gradual implementation of rulings. Therefore, although the final rulings remain to be the default, all the stages of rulings that the Prophet (SAS) used are valid. The application, however, depends on how ready the individual (or the community) is to accept the more advanced stages.

Finally, it is advisable to learn from the *Ḥanafī* school of jurisprudence. The *Ḥanafī* school includes in the mainstream definition a form of abrogation in which the first ruling was issued

for a specific reason (*ʿillah*) but was permanently cancelled when the reason was no longer valid.[24] Extending the same argument, it can be proposed that, as long as the reason behind the old ruling is known, the old ruling should very well remain valid if the reason ever recurs. This proposal re-validates a major part of what has been classified as "abrogated rulings" in Jurisprudence literature. For example, "the verse of the sword" applies in the circumstances of war against tyrants and oppressors but is not a general ruling. Likewise, all political, economic, social, and environmental-related rulings apply according to the reasons and wisdoms behind them, rather than turn the "later ruling" into an absolute ruling, as suggested by abrogation.

Conclusion

Abrogation of rulings based on perceived contradictions, without a clear confirming script, resulted in the annulment of many verses of the Qurʾān and *aḥādīth*. It is, therefore, essential to re-examine the concept and understand the verses and ruling by placing it within the context in which these were revealed. It should be noted that not all abrogations in the earlier period are actual abrogations since they were not Islamic practices *ab initio*. As to those Islamic practices which were abrogated, it is suggested that the earlier practices should not be jettisoned altogether. Finally, it is suggested that one should try to understand the reason behind a particular ruling and use them, if circumstances demand, judiciously. Validating all Qurʾānic verses and (authentic) Prophetic instructions regardless of their perceived contradictions will allow Islamic Jurisprudence more flexibility within changing circumstances.

Notes

1. Al-Rāzī, *Mukhtār al-Ṣiḥaḥ*, under "*Na Sa Kha*" (Lebanon: Maktabat Libnān, 1989).

2. Al-Juwainī, *Al-Burhān fī Usūl al-Fiqḥ*, vol.2 (Mansūrah: Dār al-Wafāʾ, 1418 A.H.), 842.

3. Ibn Taymiyah, *Al-Musawwadah fī ʾUsūl al-Fiqḥ fī ʾUsūl al-Fiqḥ*, Vol.1 (Cairo: al-Madanī, n.d.), 176.

4. Ibid.

5. Ibid.

6. Al-Shawkānī, *Fatḥ al-Qadīr,* vol.4 (Beirūt: Dār al-Fikr, n.d.), 299.

7. Ibn Ḥajar, *Fath al-Bārī Sharḥ Ṣaḥiḥ al-Bukhārī*, vol.1 (Beirūt: Dār al-Ma'rifah, n.d.), 249.

8. Ibn Taymiyah, *Kutub wa Rasā'l ibn Taymiyah fī al-Fiqḥ* (Beireut: Maktabat ibn Taymiyah, n.d.).

9. Al-Azīm Abādī, *Awn al-Ma'būd*, vol.5 (Beirūt: Dār al-Kutub al-'Ilmiyah, 1415 A.H.), 263.

10. Imām al-Nawawī (quoting al-Qādī 'Iyādh), *Sharḥ al-Nawawī 'alā Ṣaḥīḥ Muslim,* vol.8 (Beirūt: Dār Iḥyā' al-Turāth al-'Arabī, 1954), 184.

11. Abd AIlāḥ al-Mubarkafūrī, *Tuḥfat al-Ahwadī*, vol.4 (Beirūt: Dār al-Kutub Ilmiyah, n.d.), 179.

12. There is another verse in the Qur'ān that has a similar meaning i.e., verse 16:101: "We substitute one *āyah* for another." The word *āyah* in this verse can have the same two meanings.

13. See, for example, Muḥammad Ghazālī, *Naẓarāt fī al-Qur'ān* (Cairo: Nahḍat Maṣr, 2002), 203-204.

14. Imām al-Bukhārī, *Bukhārī's Authentic Collection* (Beirūt Dār al-Qalam, 1987).

15. For example, Ibid., *Ḥadīth* No. 4121; Imām al-Nasā'ī, *Sunan al-Nasā'ī* (Cairo: Dār al-Bashā'ir al-Islāmiyyah, 1986), *Ḥadīth* No. 3442; Imām Ahmed Ibn Hanbal, *Musnad al-Imām Aḥmad* (Cairo: Dār al-Ma'ārif, 1949), *Ḥadīth* No. 20172.

16. There is a difference of opinion regarding the legality of making a bequest to one of the inheritors in addition to his/her prescribed portion. See Muḥammad Nadā, *Al-Naskh fī al-Qur'ān bayna al-Mu'īydīn wa al-mu'āriḍīn* (Cairo: al-Dār al-'Arabīyyah li al-Kitāb, 1996), 86-89.

17. Imām Ibn Mājaḥ al-Qazwīnī, *Sunan Ibn Majaḥ* (Beirūt: Dār Ihyā' al-Turāth al-'arabī, n.d.).

18. Muḥammad Nadā, *Al-Naskh fī al-Qur'ān bayna al-Mu'īydīn wa al-mu'āriḍīn*, 94.

19. Al-Shāfī'ī, *al-Riṣālah* (Beirūt: Dār al-Fikr, n.d.), 92-117.

20. Al-Mujaddadī al-Barakātī, *Qawā'id al-Fiqḥ*, vol.1 (Karachī: Al-Ṣadaf, 1986), 18.

21. For examples see al-Ḥazimī, *Al-I'tibār fī al-Nasikh wa al-Mansūkh fī al-Ḥadīth* (Mecca: Dār Ibn Ḥazm, 2001).

22. Imām Mālik ibn Anas, *Al-Muwaṭṭa'* (Beirūt:Dār Ihyā' al-'Ulūm, 1988), *Ḥadīth* No. 1075 referring to the Qur'ānic verses 2:226-231.

23. Abdul-Jalīl 'Isā, *Ijtihād al-Rasūl* (Kuwait: Dār al-Bayān, 1948), 120.

24. Al-Shīrazī, *Al-Mā'ūnah fī al-Jadal*, vol.1 (Kuwait: Jam'iyyat Ihyā' al-Turāth al-Islamī, 1407 A.H).