

A Critique of Abrogation of Rulings

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Abstract

This article critiques the concept of abrogation of rulings (*Naskh al-Ahkaam*) as applied in the literature of Islamic jurisprudence and exegesis. As such, it surveys the subject of abrogation (*Naskh*) in the Quran, *Hadith* and Islamic literature. The article illustrates that the concept of abrogation of rulings was introduced after the Prophetic era in order to explain certain verses of the Quran and what has come to be termed as “conflicting Prophetic narrations” (*Mukhtalaf al-Hadith*). It suggests that the “abrogated rulings” were merely pre-Islamic cultural practices that contradicted with Islamic principles. Furthermore, the article argues that the Quranic verses and Prophetic narrations, which were misperceived as “conflicting,” should be contextually situated and applied according to the wisdom behind them. The practical implication of this article is the validation of all Quranic verses and (authentic) Prophetic instructions regardless of their perceived contradictions. This allows Jurisprudence to retain its flexibility within changing circumstances.

Abrogation?

Abrogation (*Naskh*) literally means cancellation or annulment (*Ezalah*).¹ A typical definition of abrogation found in the Jurisprudence literature is: ‘The (heavenly) replacement of one juridical ruling with a later ruling.’ Mainstream jurists support this definition² and the variations of the definition they suggest demonstrate little functional difference.³

Nonetheless, abrogation is one of the fundamental concepts in Islamic jurisprudence that resulted in some “questionable” decrees. One key example is verse 9:5 of the Quran,

¹ Al-Razi, *Mukhtar Al-Sihah*, under “*Na Sa Kha*”, Maktabat Libnan, 1989.

² Al-Shafi’i, *Al-Resalah*, p.108, Dar Al-Fikr, Beirut, without date; Al-Shirazi, *Al-Luma’ fi Usul Al-Fiqh*, vol.1, p.58, Dar Al-Kutub Al-‘Ilmiyah, Beirut, 1985; Al-Mujaddadi Al-Barakati, *Qawa’ed Al-Fiqh*, vol.1, p.212, Al-Sadaf, Karachi, 1986; Ibn Hazm, *Al-Nubthah Al-Kafeyah*, vol.1, p.43, Dar Al-Kutub Al-‘Ilmiyah, Beirut, 1405 (*Hijri*); Al-Juwaini, *Al-Burhan fi Usul Al-Fiqh*, vol.2, p.842, Dar Al-Wafa’, Mansoura, 1418 (*Hijri*); Al-Shawkani, *Irshad Al-Fuhood*, vol.1, p.244, Dar Al-Fikr, Beirut, 1992; Ibn Taymiyah, *Al-Musawwadah fi Usul Al-Fiqh*, Vol.1, p.176, Al-Madani, Cairo, without date; Al-Amedi, *Al-Ihkaam fi Usul Al-Ahkam*, vol.3, p.126, Dar Al-Kitab Al-Arabi, Beirut, 1404 (*Hijri*); Ibn Hazm, *Al-Ihkaam fi Usul Al-Ahkam*, vol.7, p.379, Dar Al-Hadith, Cairo, 1404 (*Hijri*); Al-Ghazali, *Al-Mustasfa fi Usul Al-Fiqh*, vol.1, p.86, Dar Al-Kutub Al-‘Ilmiyah, Beirut, 1413 (*Hijri*).

³ For example, one variation addresses the issue of whether the first ruling was “meant” to be replaced by the second one or was otherwise meant to last for a specific period of time regardless of the second one (*Al-Burhan*, vol.2, p.842). Another variation addresses the issue of whether abrogation is a form of “clarification” rather than “substitution” or not (*Al-Musawwadah*, vol.1, p.176), and Ibn Taymiyah supported the “clarification” phrase to dispel the idea that God has a time dimension. A third variation queries whether a Scriptural expression that implies generality or continuity could be abrogated or not (*Al-Musawwadah*, vol.1, p.176).

which has come to be named “The Verse of the Sword” (*Ayat-us-Sayf*). It states: “But when the forbidden months are past, then fight and slay the Pagans wherever you find them, and seize them.” Although the context of the verse in Chapter 9 is a specific battle with the Pagans of Mecca, the verse was claimed to be the “abrogating” final and absolute ruling in dealing with non-Muslims in general. Therefore, this single verse was claimed to have “abrogated” more than two hundred verses of the Quran, all preaching dialogue, freedom of belief, forgiveness, peace and even patience!⁴

Another example is verse 33:53, which has come to be named “The Verse of the Barrier” (*Ayat-ul-Hijab*). It states: “And when you ask of them (the wives of the Prophet) anything, ask it of them from behind a curtain/barrier. That is purer for your hearts and for their hearts.” The context of the verse in the chapter refers to specific rulings that the companions should follow when they visit the Prophet’s home. And the verse was revealed after Omar, the companion, had cautioned the Prophet that some of his visitors do not deal respectfully with his wives.⁵ Yet again, the verse was claimed to have “abrogated” numerous narrations that allow Muslim women to lead normal lives. Based on this “abrogating verse,” Muslim women were banned from leaving their homes,⁶ talking with men⁷ (even to narrate the *Hadith*⁸), visiting or being visited by men,⁹ or even showing their faces in public!¹⁰

The roots of the concept

A broad survey I carried out on the Quran and the main collections of *Hadith* (the famous “nine books”, namely, *Bukhari*, *Muslim*, *Tirmithi*, *Nasa’i*, *Abu Dawud*, *Ibn Majah*, *Ahmad*, *Malik*, and *Darami*)¹¹ reveal a rather interesting fact: The term “abrogation of rulings” (*Naskh al-Ahkaam*) is mentioned nowhere in the Quran or the words of the Prophet. The actual word “abrogation,” however, is mentioned in the following senses.

⁴ Refer to the popular books of Exegesis (*Tafseer*) regarding this verse (9:5); for example, *Al-Tabari*, *Al-Baidawi*, *Al-Zamakhshari*, *Ibn Kathir*, *Al-Jalaleen*, etc., and how the verse was claimed to abrogate verses like, “No compulsion in the religion,” “Forgive them,” “And if they incline to peace, then incline to it,” “You have your religion and I have my religion,” “Allah does not love those who transgress,” etc.

⁵ Al-Shawkani, *Fath Al-Qadir*, vol.4, p.299, Dar Al-Fikr, Beirut, without date.

⁶ Ibn Hajar, *Fathul-Bari Sharh Sahih Al-Bukhari*, vol.1, p.249, Dar Al-Ma’rifah, Beirut, without date.

⁷ Imam Al-Nawawi (quoting Al-Qadi ‘Eyadh), *Sharh Al-Nawawi ‘ala Sahih Muslim*, vol.8, p.184, Dar Ihya Al-Turath Al-Arabi, Beirut, 1954.

⁸ Abul-‘Ila Al-Mubarkafuri, *Tuhfat Al-Ahwathi*, vol.4, p.179, Dar Al-Kutub ‘Ilmiyah, Beirut, without date.

⁹ Al-Azim Abadi, *Awn Al-Ma’bud*, vol.5, p.263, Dar Al-Kutub Al-‘Ilmiyah, Beirut, 1415 (*Hijri*).

¹⁰ Ibn Taymiyah, *Kutub wa Rasa’el Ibn Taymiyah fi Al-Fiqh*, Maktabat Ibn Taymiyah, without date.

¹¹ This collection includes virtually all narrations of *Hadith* cited in the literature of the major Schools of Thought: Imam Al-Bukhari, *Bukhari’s Authentic Collection*, Dar Al-Qalam, Beirut, 1987; Imam Muslim, *Muslim’s Authentic Collection*, Dar Ihya Al-Turath Al-Arabi, Beirut, 1954; Imam Al-Tirmithi, *Sunan Al-Tirmithi*, Dar Al-Kutub Al-‘Ilmiyah, without date; Imam Al-Nasa’i, *Sunan Al-Nasa’i*, Dar Al-Basha’ir Al-Islamiyah, 1986; Imam Abu Dawud, *Sunan Abi Dawud*, Al-Maktabah Al-‘Asriyah, Beirut, without date; Imam Ibn Majah Al-Qazwini, *Sunan Ibn Majah*, Dar Ihya Al-Turath Al-Arabi, without date; Imam Ahmed Ibn Hanbal, *Musnad Al-Imam Ahmad*, Dar Al-Ma’arif, Cairo, 1949; Imam Malik Ibn Anas, *Al-Muwatta’*, Dar Ihya Al-‘Ulum, 1988; and Imam Al-Darami, *Sunan Al-Darami*, Dar Al-Kitab Al-Arabi, 1987. (Enumeration of all *Ahadith* cited from the above books and used throughout this paper is according to Sakhr Software’s enumeration in their *Encyclopedia of Hadith*, www.sakhr.com)

The Quranic verse 2:106 states: “Not an *ayah* (verse or miracle) do We ‘abrogate’ or *nunsiha* (cause to be forgotten or delayed), but We substitute something better or similar.”¹² The Arabic word *ayah* could mean a Quranic verse and could also mean a miracle, proof, or sign. The word *nunsiha* (which means ‘cause to be forgotten’) could also be read as “*nunsi’ha*” (which means ‘cause to be delayed’).¹³ Therefore, interpreting *ayah* as “miracle” and *nunsiha* as “cause to be delayed” implies that Prophet Mohammad was not given certain miracles that were granted other prophets before him and that God determines the timing of the miracle itself – an interpretation supported by several scholars.¹⁴ However, interpreting *ayah* as “verse” and *nunsiha* as “cause to be forgotten,” which is the opinion of most scholars, implies the abrogation (i.e., omission) of some Quranic verses. This interpretation suggests that certain verses were recited as part of the Quran for a specific period of time and later omitted from the written Script at the request of the Prophet. 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 at the degree of authenticity as Quranic verses.¹⁵ Moreover, several of these narrations reveal that the narrator (companion) was not sure whether the statement under consideration was a verse of the Quran or a saying of the Prophet himself.¹⁶

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-Hukm*) implied by, both, the Quran and the *Hadith*.¹⁷ Yet, there is no Quranic evidence for the “abrogation of rulings” (not the “abrogation of Script”).

Nevertheless, the term “abrogation of rulings” is mentioned within the collections of *Hadith* under consideration in about forty contexts (excluding the repeated narrations).¹⁸ These are the key examples upon which the whole concept of “abrogation of rulings” was established in the different Schools of Thought.

The survey confirms that “abrogation of rulings” is not mentioned in the body (*Matn*) of any *Hadith*, i.e., within the words of the Prophet himself, 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

¹² There is one other verse in the Quran that has a similar meaning; Quran 16:101: “We substitute one *ayah* for another,” and the word “*ayah*” can hold the same two meanings.

¹³ Refer to the books of *Tafseer* regarding this verse (2:106) by Al-Qurtubi, Al-Nasafi and Ibn Kathir.

¹⁴ Like Muhammad Al-Ghazali and Muhammad Abdu. Refer to Muhammad Al-Ghazali, *Nazaraat fi Al-Qur’an*, p. 203,204, Nahdat Masr, Cairo, 2002.

¹⁵ Not most-popular (*Mutawatir*). For example, *Bukhari* No. 2591, 2603, and 3786.

¹⁶ Ibid.

¹⁷ For example, *Bukhari* in his collection on authentic *Hadith* (No. 4121, which is quoted by most jurists), *Nasa’i* (*Hadith* No. 3442) and *Ahmad* (*Hadith* No. 20172).

¹⁸ In the following locations: *Bukhari* (*Hadith* No. 1813, 2128, 2542, 2553, 4121, 4145, 4147, 4224 and 4725), *Muslim* (*Hadith* No. 35, 179, 436, 518, 524, 526, 1597, 1875, 1931, 2938, 3643, 3724, 4117 and 5226), *Tirmithi* (*Hadith* No. 357, 1364, 1493 and 2883), *Nasa’i* (*Hadith* No. 3442, 3487 and 2498), *Abu Dawud* (*Hadith* No. 1109, 2068, 2144, 2434, 2485, 3187, 3296 and 3584), *Ibn Majah* (*Hadith* No. 2356), *Ahmad* (*Hadith* No. 8976 and 19006), *Malik* (*Hadith* No. 1118 and 1205), and *Darimi* (*Hadith* No. 3129, 3130 and 3131).

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 are some examples that support this conclusion.

Abu Dawud narrates in *Hadith* No. 2485 that Ibn ‘Abbas, 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”¹⁹ and then went on to say that the ruling of inheritance²⁰ abrogated the ruling of bequests. Ibn ‘Abbas 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 be both 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.²¹

Another companion, Abu Said Al-Khudrey, thought that the verses, “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 in disagreement. Therefore, Ibn Majah narrates, that Abu Said declared that the second verse abrogated the first.²² Here again, it is obvious that the two rulings cannot logically be at odds but rather 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 Hadith* number 1875. Ibn ‘Abbas narrated that the Prophet broke his fasting while traveling during Ramadan. Based on this narration, Al-Zuhari, a chief follower of the companions (*Taba’i*), concluded that a traveler in Ramadan 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.²³ On the other hand, Al-Zuhari explained his methodology by saying: “The latest tradition, in chronological order, narrated after the Prophet is the definite and abrogating tradition.” Al-Shafe’i proposed the same methodology in his notable piece on the Islamic fundamentals of Jurisprudence and applied it to numerous examples.²⁴ This is how abrogation of rulings developed into a fundamental concept in the literature of Jurisprudence.

Abrogation in the Jurisprudence Literature

¹⁹ Quran 2:180.

²⁰ Quran 4:11,12.

²¹ Which is the opinion of the four Schools of Thought, although 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. Refer to Muhammad Nada, *Al-Naskh fi Al-Qur’an bayn Al-Mu’iydin wal-Mu’aridheen*, p.86-89, Al-Dar Al-Arabiyyah Lil-Kitab, Cairo, 1996.

²² Ibn Majah, *Hadith* No. 2356.

²³ *Al-Naskh fi Al-Qur’an bayn Al-Mu’iydin wal-Mu’aridheen*, p. 94.

²⁴ *Al-Resalah*, p.92-117.

After the first Islamic century, jurists began claiming many new cases of “abrogation of rulings” merely to invalidate opinions or narrations that disagree with their Schools of Thought. As one contemporary scholar put it: “The fundamental ruling is that every verse that is different from the opinion of the scholars of our School is abrogated.”²⁵ Therefore, it is not unusual in the jurisprudence literature to find a certain ruling to be “abrogating” according to one School and “abrogated” according to another.²⁶ This arbitrary use of “abrogation of rulings” contributed to a sense of inflexibility in the Islamic Jurisprudence – as defined by the traditional Schools of Thought – in the following ways.

First, difference of opinions among jurists is an expected phenomenon 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” difference in opinion decreases and healthy diversity becomes unhealthy dispute.

Second, the abrogated, i.e., cancelled or omitted, verse or *Hadith* might very well be a valid ruling for certain people or in a specific context, as illustrated in some of the examples above. Therefore, labeling 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.

Conclusion: Re-categorizing the “abrogation of rulings” narrations

In conclusion, this article suggests the following three alternative explanations for the abrogating/abrogated narrations under consideration.

- 1. Rulings introduced for the first time.** The Islamic Jurisprudence was introduced in stages over twenty-three years. Islam approved the existing traditional practices as long as they did not contradict its belief and moral system. Otherwise, it “abrogated” those practices and replaced them with better rulings. These practices were termed “abrogated” in the *Hadith* literature although they were not Islamic juridical rulings to start with. For example, Ibn ‘Abbas narrated that the 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.²⁷ This article suggests changing the label of these “abrogated rulings” to “invalid traditional practices.”
- 2. Rulings introduced in gradual stages.** In certain cases, the new ruling was introduced gradually through a number of steps. Jurists declared that the later steps “abrogated,” i.e., permanently canceled, the earlier steps. However, the surveyed collections of *Hadith* show that the Prophet used the same gradual

²⁵ *Qawa'id Al-Fiqh*, Vol.1, p.18.

²⁶ For examples, refer to Al-Hazimi, *Al-I'tibar fi Al-Nasikh wal-Mansukh fi Al-Hadith*, Dar Ibn Hazm, Mecca, 2001.

²⁷ *Hadith* No. 1075 in *Malik*, referring to the Quranic verses 2:226-231.

process on individuals and groups who converted to Islam and needed some time to adopt its way of life. For example, the obligatory prayers started with a few occasional prayers, then two prayers on a daily basis, and were finally raised to five daily prayers. However, after the ruling of the five prayers was established, the Prophet allowed individual and group converts to Islam to pray twice a day until they get used to the regular five prayers.²⁸ The gradual introduction of the rulings of annual charity (*Zakah*) and the prohibition of liquor are other famous examples for the system of gradual implementation of rulings. Therefore, this article suggests that, although the final ruling remains to be the default, all the stages of rulings that the Prophet used are valid but the application depends on how ready the individual (or the community) is to accept the more advanced stages.

3. **Rulings that changed depending on circumstances.** The *Hanafi* School of Thought includes in the mainstream definition a form of abrogation in which the first ruling was issued for a specific reason (*'illah*) but was permanently cancelled when the reason was no longer valid.²⁹ This article is extending this amendment by proposing that, as long as we know the reason behind the old ruling, 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 the Jurisprudence literature. For example, “the verse of the sword” applies in the circumstance of war against tyrants and oppressors but is not a general ruling. Likewise, all the political-, economical-, 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.

Therefore, validating all Quranic verses and (authentic) Prophetic instructions regardless of their perceived contradictions, as suggested by this article, will allow Islamic Jurisprudence more flexibility within changing circumstances.

²⁸ Abdul-Jalil Issa, *Ijtihad Al-Rasul*, p.120, Dar Al-Bayan, Kuwait, 1948.

²⁹ Al-Sheerazi, *Al-Ma'unah Fi Al-Jadal*, vol.1, p.65, Jam'iat Ihya' Al-Turath Al-Islami, Kuwait, 1407 (Hijri); *Al-Musawwadah fi Usul Al-Fiqh*, vol.1, p.205.