

Without *Naskh*: Interpreting the Qur'an with *Maqāṣid*

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ABSTRACT:

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For centuries, *naskh* (abrogation) has played a critical role in Islamic legal philosophy as a unifying rubric through which Muslim scholars accepted the logic of divine law and their relationship to it. However, this paradigm has been challenged by new competing theories of abrogation. This paper has examined five of them: Non-abrogation theory (Muhammad al-Jabri), dialectic theory (Nasr Hamid Abu Zaid), didactic theory (Abdullah Saeed), punitive theory (Muhammad Mahmoud Taha), and *maqāṣidic* theory (Jasser Auda). It has been argued that although these theories have contributed to the overthrow of the classical paradigm, only the *maqāṣidic* theory has the persuasive power to replace it completely. The other theories fell into three basic pitfalls: 1) contradiction (non-abrogation theory); 2) anarchy (didactic and dialectic theory); 3) idealism (punitive theory). *Maqāṣidic* theorists, however, spurned linguistic arguments and focused instead on legal objectives, debating what God intended, not what He said. This allowed them to appeal to “reason” and “rationality” while maintaining a faithful connection to certain modes of classical legal theory. This enabled them to challenge *naskh* without appearing to undermine the epistemic foundations of the traditional exegetical worldview, of which *naskh* is merely one element.

KEYWORDS: The Qur'an, *naskh*, abrogation, *maqāṣid*, Jasser Auda, *al-Sharī'ah*.

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Introduction

The concept of *naskh* has been an essential part of Islamic legal philosophy for centuries. Externally, it provided a framework for conceptualizing the relationship of the Holy Qur'an to earlier revelations as a final act of divine abrogation. Internally, it offered a spectacularly successful theory (Burton 1990, 18) to resolve [perceived] contradictions in Qur'anic verses, *ḥadīth* literature, *tafsīr* (Qur'anic exegesis), and *uṣūl al-fiqh* (roots of law) (Esposito 2003, 230). In this latter sense, jurists adopted abrogation as a discursive device to harmonize legal indications, assuming that later revelations superseded earlier ones. This was the central unifying rubric through which legal theorists, jurists, Qur'anic exegetes, and ordinary Muslims accepted the logic of divine law and their relationship to it. However, against this established paradigm rose several competing counter theories, of which five are prominent. Some of these theories fault the traditional understanding of abrogation; others reject the idea of abrogation itself. I shall call these counter theories non-abrogation theory (Muhammad al-Jabri), dialectic theory (Nasr Hamid Abu Zaid), didactic theory (Abdullah Saeed), punitive theory (Muhammad Mahmoud Taha) and *maqāṣidic* theory (Jasser Auda). While these scholars advance modern articulations, the fundamental claims of three of these theories are not unique to their authors, for one can clearly find their traces in the literature. The exception is the Punitive and Dialectic Theories. I chose these five authors, however, because they have fully expressed the range of circulating notions of *naskh* in elaborate theoretical frames.

I argue that while these theories have contributed to upsetting the traditional paradigm, only the *maqāṣidic* approach possess the persuasive power to replace it. Other theories face significant hurdles. Beyond their irreverent attitudes, these other theories fell into three fundamental pitfalls: 1) contradiction (non-abrogation theory); 2) anarchy (didactic theory & dialectic theory); 3) idealism (punitive theory). These pitfalls are, in some sense, the result of these theorists' attempt to beat tradition at its own game: linguistic analysis of revelations. Yet, by resorting to linguistic analysis, these theories simply ventured into established linguistic debates as the most recent of many other marginal (*shādh*) readings.

The *maqāṣidic* approach, however, moves the debate from the strict sphere of linguistic arguments to the sphere of legal philosophy. It debates not on what God said but what He intended. This allows

maqāṣidic theorists to draw both on old and modern legal motives. The *maqāṣidic* argument responds, on the one hand, to the modern drive for systematization. It also claims a credible link to a thoroughgoing legal logic, which their traditional interlocutors cannot entirely dismiss. Straddling both worlds, *maqāṣidic* theorists are better mediators of tradition than other modernists. They could question the value of *naskh* without seeming to undermine the epistemic foundations of the traditional exegetical worldview, of which *naskh* is but one element. *Naskh* claims are not approached as signs of a systemic failure of classical exegetical frames, but rather as isolated instances of overlooking the overarching logic of the text—a logic, which is ubiquitous and readily accepted within the tradition.

Moreover, *maqāṣidic* theorists find both support and vindication in the work of other opponents of *naskh*. Although not central to their criticism of *naskh*, Saeed, Abu Zaid, and al-Jabri have all invoked *maqāṣid* as an advantageous hermeneutical approach. *Maqāṣidic* theorists can, therefore, tie their project with the modern appeal for ‘reason’ and ‘rationality’ as well as to certain modes of classical legal theory, especially to the works of respected medieval scholars, such as Qarāfi (d. 1285), al-‘Izz al-Dīn ibn ‘Abd al-Salām (d. 1262) and Shāṭibī (d. 1388). However, before discussing these theories and their respective merits, it behoves us to define abrogation and explain why the debate on abrogation remains quite relevant today.

1.1. Why Abrogation?

Beyond the widely debated verse of *al-sayf* (sword) (Q.9:5), which some classical exegetes argued has abrogated many verses encouraging kindness to non-believers (al-Ṭabarī 2001), there are other critical aspects of Muslim law, which the concept of *naskh* has rendered difficult to practice in the modern context. Consider, for example, the question of succession law. Laws of succession have, as other aspects of Islamic law, evolved over the period of revelation. Early revelations only mandated a general will to parents and family (Q.2:180). Later revelations brought a more detailed mandate, with fixed shares to a defined list of successors. If *naskh* is accepted as salient hermeneutic framework, the cluster of verses (starting with Q. 4:11) would deprive individual Muslims from the flexibility, enshrined in the early verses, to adapt succession to changes in socio-economic conditions. This becomes even more restrictive if

one permits the abrogation of the Qur'an by *ḥadīth*, as some jurists do (al-Zarkashī 1992). For instance, the *ḥadīth* prohibiting any will for designated heirs would make it impossible to assign extra resources to specified heirs, even if changes in socio-economic conditions and family dynamics seem to warrant so. Without *naskh*, both Q. 2:180 and Q. 4:11 can, in theory, be harmonized and complementarily applied. This is true of other verses subject to claims of abrogation either by the Qur'an or by Sunnah.

Although the theorists I discuss below are not part of the traditional class of '*ulamā'*, the fracturing of religious authority, which began in the 19th century and continued in earnest thereafter (Eickelman and Piscatori 1996), has allowed non-jurists to participate in and affect religious debates. As *fuqahā'* lost their default monopoly over religious sciences (Warren 2021), many intellectuals with no traditional jurisprudential training emerged as influential authorities. Outside professional circles of jurists, intellectuals such as Nasr Abu Zaid, al-Jabri, and Shahrur are as frequently cited on Qur'anic topics as many of their cotemporary jurists. The latter are often forced to respond to these intellectuals' arguments on their own merits without being able to dismiss them as irrelevant. Discussing their views and their impacts is therefore justified.

1.2. Lexical Review

Linguistically, the word *naskh* (abrogation) is a verbal noun derived from the root *N,S,Kh*. The verb *nasakha* could refer to prevention, effacement, annulment, replacement, metamorphosis, as well as changing, and copying (al-Fīrūzābādī 2005, 261). As an Islamic exegetical and legal term, abrogation defines the lifespan of legal effectiveness, whereby an act of abrogation may declare 1) the institution of a new law, 2) the discontinuation of an old one, or 3) the two events at once. A *naskh* event entails the existence of two legal texts: *nāsikh* (abrogating) and *mansūkh* (abrogated). For instance, Ibn al-'Arabī (1992) defines *naskh* as the textual stipulation that a ruling established by a preceding revelation is henceforth discontinued, in manner illustrating that the original ruling would have otherwise been upheld.

Historically, one could trace the concept of *naskh* to the earliest extant sources, suggesting that early Qur'anic exegetes were as conscious of legal and theological implications as later Muslim scholars (Melchert 2002). However, some early authorities dismissed the concept all

together (Abdelnour 2023). What is remarkable about abrogation is the evolution of its meaning and its application. Although abrogation in the sense of replacement typified the understanding of some scholars, including those from the early generations of exegetes, exegetes and legal theorists have also used *naskh* (abrogation) to mean specification, circumscription, exception, and elaboration (al-Qasimi 1957). While the Prophet's Companions have used the term broadly and freely in line with its direct linguistic connotations, the term took on a more specialized meaning of replacement over time.

However, this notion of abrogation resulted in an inflation in abrogation claims as more cases of textual nuances, such as specifications and exceptions, were counted as *naskh*. This tendency to restrict the meaning to replacement meant that later generations did not enjoy the legal directness, flexibility and creativity that was typical of the early generation where different shades of linguistic meanings permitted different possibilities of text reconciliation (Auda 2013). As a result, the question of abrogation became a source of entrenched disagreements over occurrences of abrogation. These disagreements were further exacerbated by the difficulty of conclusively establishing the timeline of some revelations. Without a clear chronology, many claims of *naskh* were rendered untenable (Abdelnour 2023).

This prompted a sense of scepticism and a desire to bring down the number of claims to a manageable level. Weeding through hundreds of claims, the 15th century Egyptian scholar, Suyūṭī, found only 30 cases of real abrogation. In the 18th century, the Indian scholar, Shah Waliyullah, did the same, and arrived at a much reduced list of only 5 verses (Abdelnour 2023). Two centuries later, Mustapha Zayd (1987) arrived at similar conclusion. In the same vein, some modern thinkers considered abrogation to be an invention of Muslim jurists. In *Abrogating the Qur'an and Islamic Law*, Louay Fatoohi (2013, 7) considered abrogation to be a "myth," and argued that in others the term *naskh* never appears in the Qur'an in the meaning it acquired in Islamic law. Finally, as we discuss below Qur'anic abrogation debates include topics such as, "abrogating earlier revelations," "abrogating specific Qur'anic text," "abrogating Sunnah," and "being abrogated by Sunnah."

2. Critique of Five New Theories of Abrogation

2.1. Abdullah Saeed: The Didactic Theory

In *Interpreting the Qur'an*, Abdullah Saeed speaks of a profound mismatch between the lived reality of most Muslims and the traditional exegetes' understanding of many Qur'anic directives. The complexity of modern life made it difficult for ordinary Muslims to live by, much less defend, many prominent classical arguments. For Saeed, Muslims are not alone: Other faith-based communities face similar challenges (Saeed 2006).

Yet for Muslims, the problem is more urgent. The divergence between pre-modern law and the legal codes of most Muslim countries are so stark, even in places that claim to implement the *Shari'ah*. It is not just that these laws have been circumscribed to limited spheres by the governing elites, they are also being ignored by a growing share of ordinary citizens, who find them in conflict with, or irrelevant to, their worldly aspirations. Wherever pre-modern Islamic law is enforced, it is often done against the will of a clear majority (Saeed 2006, 2).

Saeed (2006) traces the problem to the old battle between the people of *ra'y* (rationalists) and people of *hadith* (traditionists), a struggle in which the latter triumphed. Their defeat ushered in an era where law ceased to be a process of reasoning to relate texts to events. Saeed blames Shāfi'ī (d. 820) for initiating this process by relegating *qiyās* to a marginal position in the hierarchy of legal indicants. This position was further consolidated first by his student, Aḥmad ibn Ḥanbal (d. 855) and much later by the polymath Ibn Taymiyyah (d. 1328) and the exegete Ibn Kathīr (d. 373). Where Ibn Taymiyyah privileged the views of the *Salaf*, Ibn Kathīr favoured the range of meanings supported by traditions. Their success led first to privileging preceding generations over their successors, and ultimately to the ossification of Islamic law. Ever since, the realities of Muslims and their legal processes have been effectively divorced.

Abdullah Saeed's book, *Interpreting the Qur'an*, was a project to resolve this conundrum. In this work, he makes the case for a rational interpretation of the Qur'an, considering the flexibility, complexity, and approximate nature of meaning. These critical characteristics stem from the defining role of context, without which words remain abstract. Interpreters, furthermore, must stress the hierarchy of values rather than the rhetorical power of words. Because of the centrality of context to meaning making, Saeed calls this approach the Contextual Approach.

The concept of abrogation plays a critical role as the central hermeneutic device validating the constitutive role of context, and the mutable and transient nature of meaning. This device derives its legitimacy from its embeddedness as a Qur'anic *modus operandi*.

Although he cites abrogation, as just one of several elements supporting contextual reading, Saeed's Contextual Approach is untenable without the validating power of abrogation. This becomes readily apparent when we examine the most ambitious aspect of Saeed's work: his attempts to devise Implementation Values to overturn ethico-legal commandments. Indeed, without furnishing well-reasoned, practical, and legally justified alternatives for the most controversial aspects of traditional ethico-legal commandments (corporal punishments), his contribution would be very modest. Take, for instance, the following passage where Saeed uses Qur'anic and prophetic statements to support his Implementation Values. Here he argues that specific measures can be authorized as substitutes to corporal punishments outlined in the Qur'an. The following passage deals with the punishment for fornication:

According to al-Rāzī (d. 923), repentance could waive punishment. This also seems to be the view of Shāfi'ī and of Aḥmad ibn Ḥanbal (d. 855). Ibn al-Qayyim (d. 1350) also offers a similar opinion in his book, *I'lām* (1991). As for the implementation of the punishment for *zinā* (unlawful sexual intercourse), in the case of the Companion Mā'iz, Ibn al-Qayyim is of the view that it was the latter insistence on punishment and repeated requests that led the Prophet to impose the punishment. The implication is that Mā'iz could easily have repented and avoided the punishment (Saeed 2006, 135).

Not only is Saeed forced to acknowledge that his exceptions (the annulment of corporal punishments based on repentance) have also been recognized by the very people whom he faults for the ossification of Islamic law, his use of these exceptions also undermines his central arguments about the stubborn literalism of these authorities. However, whereas these very authorities use clear Qur'anic and prophetic texts to justify their acceptance of these cases as exceptions, Saeed lacks a clear authoritative basis for their use to create a general legal approach, not a conditional one. Whereas the textual approach, supported by clear indicants, presents two defined alternatives (a crime + repentance = mitigated discipline, and a crime + no repentance = applying the *ḥad*), the contextualist approach of Saeed remains very fluid (a crime with or without repentance will be punished based on a changing variable = context).

Beyond the Qur'an and Sunnah, Saeed refers to the dynamism of the first generation of Muslims, who provide a precedent of liberal engagement with the text. Approaching the text freely, intuitively and with no governing methodology, this generation has created a proto-contextualism, which offers a legitimating precedent for his contextualism. This is yet another curious instance where Saeed tosses Salafi arguments out of the door only to admit them through the window. If this proto-contextualism derives its authority from its temporal status, then why should one readily dismiss privileging the views of *Salaf*. That argument is after all not based on a denial of the importance of context (extralinguistic elements such as time-place and interlocutors). In fact, the driving force behind Salafism is an argument, not about texts, but about the capacity of those who live within their context (of revelation) to define their meanings better than those who live without it (Saeed, 2006).

This much Saeed implicitly accepts. However, his proto-contextualism was favoured as an approach, not as a final reference to meaning. To accept it as a reference would limit the flexible reading of the text as approximation, preclude interpretation based on reason, overlook complexity of meaning and assume the presence of a transhistorical and immutable divine text. This is unthinkable for Saeed, for he sees the text primarily as a discourse, a product of a dialogic relationship between the language (the abstract) and the context (the concrete). While the former can have a status of permanence, being committed to books or to human memory, the latter is ever changing.

On this much, Saeed and the traditionalists he critiques agree. However, for these traditionalists, not all contexts are created equal. The constitutive context (of revelation) matters precisely because it anchors the text and grants its language a definite meaning, without which it remains either unrevealed or always in revelation. To accept the primacy of the early context does not negate others but rather assumes that revelation has been completed. To understand the relevance of revelation to any given context, one must return to its constitutive application in the original context. Saeed's call for a modern contextualism based on an early proto-contextualism is an acknowledgement, at once, that the text has been revealed, and that its revelation is ongoing. To prove a claim of this magnitude, Saeed needs to prove that the text in its earlier revelation warrants an ongoing revelation. This is where it becomes apparent that Saeed's entire project of contextual reading rests on the persuasive power of his section on abrogation.

Saeed's theory of abrogation is relatively simple, albeit quite unorthodox. The Holy Qur'an instituted abrogation as a mechanism to account for change in time and social conditions. Some Qur'anic commandments (including ethico-legal commandments) were either gradually instituted or were initially imposed, ultimately diminished or completely withdrawn. This fact must be taken seriously. Saeed argues that *naskh* provides a justification for reinterpreting some of the ethico-legal texts in line with the changing needs of Muslims. By changing ethico-legal rulings of the Qur'an to suit different situations of Muslims during the Prophet's time, which the theory of abrogation suggests, God appears [the emphasis is mine] to be providing the community with an important tool with which it can make the Qur'an relevant to people's needs and circumstances (Saeed, 2006, 6).

Unlike classical exegetes, Saeed (2006) considers these changes to mean something beyond the gradual imposition of certain restrictions, their progressive relaxation or eventual cancellation. One must not focus simply on the outcome. The process itself has a didactic meaning. Since the only observable variable is the position of the early community (shift in space: Mecca to Medina; shift in status: persecuted to semi-independent, to sovereign), abrogation must be understood as a suggestive process, extending beyond its own proper boundaries. In other words, abrogation must be understood as a perpetual revelation of a limited text through the intelligent enactment of its discursive techniques, not by the blind following of its words.

This position is only partly new. Taking cues from Qur'anic processes (as suggestive) is as old as Islamic law itself. For example, gradualism (*tadarruj*) is unanimously recognized by Muslim jurists as a divine law embedded in nature, as inescapable as, say, gravity. However, for traditional scholars, accepting gradualism cannot and would not lead to overturning a final ruling established by text and consensus. However, going this far would not have advanced Saeed's argument. Saeed needs a process in which overturning ethico-legal commandments follows from a faithful enactment of the Qur'anic abrogative scheme. To this end, Saeed correlates the time of revelation, the changes it warranted and the parallel changes in geography, social norms, and structures. Saeed (2006, 83) states that this notion is that change can and should play an important part in the discussion of *naskh*. The Qur'anic revelation occurred over 22 years (610–632), during which the Prophet put his mission in place. Within that period, even though the community remained largely within the confines of Hijaz (around Mecca and Medina), a number of

ethico-legal instructions given in the earlier period of the mission were changed once, twice or even thrice.

Saeed focuses on the brevity of time (22 years), the frequency of change (once, twice, or even thrice) and the limited geographic sphere (the confines of Hijaz) to conclude, or even just to insinuate that the context did not warrant all the changes, if change (=abrogation) was not a necessary and vital *modus operandi*. In other words, God must be suggesting that the community has an abrogative license vis-à-vis Qur'anic text:

From a contextualist point of view, with changes like these to ethico-legal rulings in response to different situations, *God appears* [the emphasis is mine] to be providing the community with an important tool with which to change rulings in line with changing needs and circumstances. If that is the case, there is a problem in holding the view that all Qur'anic rulings must be immutable or unchangeable, in the sense that another ruling cannot be devised or implemented to match with broader Qur'anic objectives (Saeed 2006, 84).

For Saeed, abrogation is not limited to cases where subsequent verses overturn earlier ones, modify, or specify them. Abrogation extends as well to changes in focus and tone. Consider this passage where Saeed comments on the shift in focus between the Meccan and Medinan Qur'an.

[In the Meccan period], the focus was largely on the spiritual and moral development of the individual. There were also rulings for the support of the poor and deprived. Beyond instructions like these, there was very little in the Qur'an in the Meccan period about governing the community and maintaining harmonious relationships among the various groups, clans and tribes, as such guidance was not relevant. The shift in emphasis occurred in Medina. The language as well as the tone of the Qur'an changed in line with the changes in the community. This change, to a certain extent, is embodied in the concept of naskh (Saeed, 2006, 85).

Saeed finds the underlying reasons for this change in focus to be the shift in socio-political circumstances. The Muslim Medinan community was engaged in creating and sustaining a polity. This new task of state-building required focused legal and political instructions different from the general calls to God-consciousness and entreaties to kindness typical of the Meccan period. These shifts to accommodate this project should constitute an ongoing warrant. Saeed blames traditional

exegetes for not seriously considering the 'logical implication' of these shifts in focus. Indeed, if they had done so, they would have inevitably empowered subsequent exegetes to assume functions beyond simple interpretation.

Saeed's idea, however, encounters the inevitable stumbling block. These shifts are too evident to miss, and most Qur'anic exegetes have recognized them. While some of these exegetes may have attributed them, much like Saeed, to changes in circumstances, most have not viewed them as signs of a grand scheme of *naskh*. Some have indeed debated whether specific commandments abrogated certain earlier ones. However, in their vigorous debates, an established case of abrogation has always meant a permanent settlement. It is not clear how could Saeed's abrogation competes with this view, which acknowledges change (as a divine law) and accounts for context (through various legal devices: *'urf*, necessity, *rukhaṣ* and so on), but at the same time assumes a finality in divine law. This is a view that not only cites as many (if not more) Qur'anic verses in its defence than Saeed's abrogation scheme. Nevertheless, it is furthermore supported by consensus and centuries of continued practice. Saeed's declaration that '*God appears* [the emphasis is mine] to be providing the community with an important tool' is clearly too weak and speculative to overturn it.

2.2. *Mahmoud Taha: The Punitive Theory*

The late Sudanese reformist, Mahmoud Taha, elaborated the most involved and controversial theory of abrogation. To understand his expansive abrogation theory, one needs to outline Taha's overall view of the divine revelation. For Taha, God's original and final plan always entailed an unqualified license for man to enjoy a freedom without restriction. However, one thing always stood in the way: man's own failure to use it properly. In response to man's frequent failings, God issued amendments (revelations) over time to help him overcome his weaknesses (selfishness, gluttony, carelessness, and proclivity to violence). All these revelations share two things, a central abstract core (*islām*) intended to remind man of his place in the universe, and a series of procedures (list of dos and don'ts) to tame his wild spirit (*īmān*). The first is always too general, and the second is often very specific.

Taha's book, *Second Message of Islam (al-Risāla al-Thāniyyah min al-Islām)* explores this idea in the Qur'an. In it, Taha (1969) speaks of

two Islams. The first is the Islam practicing Muslims recognize. This Islam started with the Prophet's migration to Medina, and it eventually developed into a communal way of life, with its governance values, its legal norms (*Sharī'ah*) and collective rituals. This Islam places greater emphasis on the external aspects of worship and on social organization. In addition to its faith tenets, this Islam sets a list of obligations, outlines certain measures of reward as well as strategies for discipline. This *islām* is in fact not Islam but *īmān*, and its adherents should, accordingly, be called *mu'minūn*, not *muslimūn*.

In contrast, the second Islam has been revealed but has not been practiced. Its evolution in time was truncated by the inability of humankind to rise to its liberating potentials. Unlike *īmān*, this Islam is individualist and, as such, does not require the establishment of specific rituals, the legislation of certain laws or the institution of particular governing techniques. For this Islam, people need to look forward in time to discovering it, not backward to reviving it. Its eventual and inevitable arrival would mark the climax of human evolution and, in the truest sense, the real conclusion of divine revelation. In the words of Taha (1969, 168), its conclusion is the great pilgrimage or "*yawm al-Hajj al-akbar*." At that moment, the human being can make proper use of his unrestrained freedom and seek unity with God, although he could never fully reach it.

Linguistically, Taha did not veer away from the traditional conception of the *naskh* as specification, annulment, or replacement. Like most classical scholars, Taha (1969, 132) argued that the verse of *al-sayf* (sword) (Q.9:5) and its 'sisters' clearly abrogated all entreaties to kindness in the Qur'an. It is true that for Taha this abrogation is a temporary punishment exacted on people during the Prophetic age for their failure to rise up to the true essence of Islam. Unlike classical *fuqahā'*, Taha did not see the chronology as an important factor in abrogation except in one respect: the proceeding element provides a temporary but necessary state of exception to the preceding general paradigmatic vision. Abrogation in Taha's understanding is a transitory exception not a settlement (Taha 1969).

One area where Taha's understanding differs greatly from classical scholars is the question of Meccan vs. Medinan Qur'an. Meccan Qur'an contains the most general and central aspects of Islamic doctrine. This includes, for instance, the emphasis on the Oneness of God and the vivid descriptions of the Hereafter. The Meccan Qur'an, however, does not involve many of the details of inheritance laws, *zakāt*, and public policy.

These important sociological aspects of Islam became key features of the Medinan Qur'an. This difference held consequences for Qur'anic exegetes and legal theorists. While classical *maqāṣidīc* theorists (such as al-Ghazālī, 'Izz al-Dīn ibn 'Abd al-Salām, al-Qarāfī and most notably Shāṭibī) saw the divergence as one between the universals (*al-kullīyyāt*) and particulars (*juḥūḍiyyāt*) of Islam, where the former precedes the latter in importance, the default legal and hermeneutic approach of the majority of Muslim legal scholars tended to privilege subsequent revelations over earlier ones. This is particularly true where both preceding and succeeding verses addressed the same subject matter.

Despite this divergence, classical scholars did not think that Meccan Qur'an could replace the Medinan or vice versa. That idea of wholesale abrogation was Taha's innovation. Not unlike the *maqāṣidīc* theorists, Taha privileges the principles established in the Meccan Qur'an. Yet, Taha's distinction is based on the notion that Medinan Qur'an temporarily abrogated the 'true' message of Islam, which was outlined in Meccan revelations. The Medinan revelation of legal details, of socio-economic and military regulations, which were embodied in the Prophetic praxis, were harsh punitive measures to create a community of believers (*mu'minūn*), not of submitters (*muslimūm*). Because of the temporary abrogation, the real Islam has not been practiced, nor has it won any convert. The sole convert is the Prophet himself, a man who journeyed from an advanced state in the future of human evolution where Islam is possible (Taha 1969).

There are several evident problems in this abrogative scheme, which explains why it never held a great appeal outside the circles of Taha's Republicans. This abrogative act means that *Shari'ah* (including what Abdullah Saeed calls the ethico-legal commandments) was not at all essential to Islam. Taha (1969, 148) explicates:

“We come, based on our previous discussion, to the determination that most facets of Islamic law, which we have today, were not intended [as a finality] by Islam itself. They were rather revealed to meet the demand of the time and human energy.”

This recognition is hardly liberating. A close reading of Taha indicates that any attempt to make Islam relevant by embarking on a gradual revision or reinterpretation of these facets of legislation is misguided. Taha's Islam has no past and hence has no sociological or juridico-political precedents to build upon. This Islam is too idealist because no one can clearly know when humanity would be ready to

accept it. Taha has little appreciation for the political, economic, and ideological systems of his time. He finds little guidance in practiced Islam; considers Communism as a major misguidance; and calls Capitalism 'exploitative.' In short, Islam's distance in future does not seem to have been abridged.

Furthermore, Taha's abrogation theory is textually untenable. His linguistic analysis of the few verses he uses to support his distinction between *īmān* and *islām* is contradictory at times, and very unconvincing at others. It is not clear why should one abandon the established classical positions and embrace his. Finally, this idea that God has sent messengers, all of whom failed to fulfil His will of emancipating humanity, seems ungodlike. This notion of prophets without portfolios, or with unsuccessful ones, stands not just against the foundational principles of Islamic philosophy, but it also fails to pass Ibn Rushd's famous definition of a messenger as the person who brings a working/able legislation.

2.3. *Al-Jabri: Non-Abrogation Theory*

The renowned Moroccan intellectual, Muhammad Abed al-Jabri, is another prominent modern Muslim scholar who responds to *naskh*, in two of his monographs on the Qur'an, *Madkhal ilā'l-Qur'ān al-Karīm*, and *Fahm al-Qur'ān al-Ḥakīm*. Al-Jabri employs two strategies in his refutation of classical *naskh* claims. In the first strategy, al-Jabri endeavours to show that the classifications of abrogation are practically useless and quite burdensome. In his second and most central strategy, al-Jabri demonstrates that all claims of abrogation are based on a misunderstanding of the word *āyah* (verse). He argues that the Qur'an never uses the word *āyah* in the sense of a Qur'anic unit of meaning (verse). Instead, the Qur'an uses the word *āyah* to mean a sign, miracle, or lesson.

Al-Jabri's mission to undermine *naskh* starts with his condemnation of classical categories of abrogation. He insists that these classifications contradict the essential presumptions held by Muslims about the Qur'an and its central mission. To demonstrate this, al-Jabri (2006) invokes his own procedural distinction between the Qur'an and the history of the Qur'an. He limits the first category to the *Muṣḥaf*, which was collected during the reign of 'Uthmān ibn 'Affān (d. 656). The second category comprises all accounts pertinent to when, where, and how the revelations

were received, collected, and preserved. While data derived from the latter allow us to appreciate how the text took its final shape, and even how its various components relate to one another, they cannot be used to justify adding or subtracting from the existing text in the *Muṣḥaf*.

2.3.1. *Categories of Naskh*

Al-Jabri proceeds to apply this distinction to the three most central classifications of *naskh* in the literature. These include:

1. The category where both the words and the ruling were abrogated. For al-Jabri, this claim is not just impractical; it also insinuates that the existing Qur'an is not complete. "There is no point of speaking of this except to prove that something is missing from the *Muṣḥaf*, in word or in substance" (al-Jabri, 2006, 97).
2. The category where the ruling is abrogated, but its recitation remained. For al-Jabri this category constitutes the bulk of abrogation claims. However, he insists that it creates irresolvable contradiction without adding anything of practical value. How can there be a Qur'an for recitation only, and yet it has an unambiguous and clear meaning. As far as we are concerned, the only thing in the Qur'an that is only to be recited is the broken/fragmented letters. Everything else, i.e., the entirety of the Qur'an, is preserved because it has meaning, real or figurative. The question of whether it should be fully applied or whether it has been qualified/restricted at a later time, or has been postponed, or stopped, for one reason or another, is a completely different matter. It is, anyway, a matter of *ijtihād* (al-Jabri 2006, 97).
3. The category where the recitation is abrogated, but the rule remained in effect. Al-Jabri opines that this category always involves claims made by or attributed to individual Companions. This, for instance, includes the famous stoning verse of 'Umar (d. 644) and 'Ayishah's (d. 678) controversial adult breast-feeding verses. Once again, al-Jabri invokes the *Muṣḥaf* argument. "These [cases] should not be considered a part of the Qur'an. When we speak of the Qur'an, we speak of what is in the *Muṣḥaf*, of what is collected during the reign of 'Uthmān" (al-Jabri 2006, 97). All other details, which pertain to the process of its collection, belong to the history of the Qur'an, not to its texts and their meanings.

Al-Jabri (2006, 96) concludes that those who presume the presence of abrogation go too far in their application of the concept. They create classifications, which are nothing but hallow logical frames, which they then fill with whatever elements they find. This leads them to extreme fragmentary readings and to wild hypotheses that have no value except creating and imagining polemical scenarios, which burden Islamic jurisprudence. Al-Jabri (2006, 98) quotes Ibn al-Jawzī (d. 1201) who, after examining all cases of *naskh*, concludes that it is clear from a close inspection of the *nāsikh and mansūkh* that all cases of *naskh* are figments of imaginations (*takhrīf*, hallucinations). Although Ibn al-Jawzī (d. 1201) was still willing to accept a few cases of real abrogation, he considered most claims to be qualifications and restrictions.

Furthermore, al-Jabri marshals the support of the Andalusian *maqāṣidic* theorist, Abū Ishāq Shāṭibī (d. 1388), who asserts that most cases of *naskh* could be reconciled if understood as particular cases specifying or qualifying a universal injunction. In this way, both original verdicts on these cases remain relevant. Many other cases, Shāṭibī argues, have to do with prohibitions that trump the original presumption of permissibility. Under these falls almost all pre-Islamic customs and practices which were subsequently prohibited by Islam. Shāṭibī cites alcohol, usury (*ribā*), and gambling and thus concludes that one rarely finds any cases, which fall under the category of abrogation. Finally, al-Jabri alludes to Shāṭibī's use of *maqāṣid* to limit the scope of *naskh*. Al-Jabri notes that for Shāṭibī all legal universals, whether pertinent to necessities (*darūrāt*), needs (*hājīyyāt*), or ameliorations (*taḥsīniyyāt*), are never subject to abrogation. Abrogation only touches on the particulars (al-Jabri 2006).

Al-Jabri, however, is not satisfied with overruling most of abrogation claims. He is conscious that even those scholars who narrow the number of cases implicitly accept the possibility of *naskh*. Their evaluations centre on re-interpretations of verses that others considered abrogated. This does not resolve the problem. One interpretation disputing a claim of *naskh* does not preclude other interpretation affirming it. "The only final resolution to the problem of abrogation must come from Qur'an itself. If we can prove that there is no evidence in the Qur'anic text for abrogation, we could resolve the problem from its base" (al-Jabri, 2006, 99).

Now, al-Jabri turns his attention to the definition of the word *āyah*. He notes that the term is linguistically restricted to three essential meanings, viz., sign, lesson, and miracle. This lexical definition is different from

the term *āyah* used by the Qur'anic exegetes to designate a discrete unit of Qur'anic text. He is emphatic that all occurrences of the word *āyah* or its derivatives, in the Qur'an, refer to one meaning, a miracle. Unlike the word *sūrah*, which is a Qur'anic term, designating a chapter of the Qur'an itself, there is no equivalent Qur'anic use of the word *āyah* to mean a section of the Qur'an. The word *sūrah* has been mentioned in singular and plural in clear references to Qur'anic chapters. The verses, Q. 10:38, Q. 11:3, and Q. 2:23 are three prominent examples. As a term, *āyah* is used more frequently and in several derivative forms, but never to mean a discrete Qur'anic unit in any of its many forms. Al-Jabri cites Q. 54:2, Q. 7:106, Q. 10:20, and Q. 17:12 to prove his contention. This holds true even where *āyah* is referred to as being heard or recited (Q.45:6-8, for instance). Indeed, recitation in this context does not mean producing Qur'anic utterances but the adumbration of these miracles. Outside the Qur'an itself, al-Jabri considers all references in Ḥadīth to *āyah* as a Qur'anic unit to be clear forgeries (al-Jabri 2006).

Al-Jabri applies this understanding to the five most widely cited abrogation verses:

1. When We substitute one revelation for another, and Allah knows best what He reveals (in stages), they say, "Thou art but a forger": but most of them know not (Q.16:101).

The circumstantial evidence presented by traditional exegetes is untenable. The idea that it responded to the Meccans' mockery of how the Prophet frequently changed his commands is also cited in reference to other verses. The story refers either to this verse or to the others. It cannot be about both at the same time. Al-Jabri points to how a veteran exegete like al-Qurtubī ignored this report and chose instead to understand the *āyah* to mean a previous legislation. The linguistic context supports this understanding. The following verse says:

Say, the Holy Spirit has brought the revelation from thy Lord in Truth, in order to strengthen those who believe, and as a Guide and Glad Tidings to Muslims (Q.16:102).

This suggests that *āyah* refers to the Qur'an as a whole (al-Jabri 2009). The meaning would then be as we had made the stick turn into a snake for Moses, for instance, we had also substituted this miracle with another one for Jesus to support his message. This miracle is the gift of speaking in the cradle. Al-Jabri (2009, 103) commented that this choice of interpretation elucidates and strengthens the meaning of the verse.

2. But those who strive against Our Signs, to frustrate them, they will be Companions of the Fire (Q.22:51).

Al-Jabri (2009) dismisses again any inkling that *āyāt* in this context could mean verses. Instead, he maintains his positions that the word means signs of God's power.

3. Never did We send a messenger or a prophet before thee, but, when he framed a desire, Satan threw some (vanity) into his desire: but Allah will cancel anything (vain) that Satan throws in, and Allah will confirm (and establish) His Signs: for Allah is full of Knowledge and Wisdom (Q.22:52).

Here, too, al-Jabri maintains that the word *yansakhu* (abrogates) does not mean to abrogate but to 'wipe out.' The act of *naskh* here is an act of wiping out, not something the Prophet had recited (actual Qur'anic statements), but ideas he had entertained.

4. We did send messengers before thee, and appointed for them wives and children: and it was never the part of a messenger to bring a Sign except as Allah permitted (or commanded). For each period is an appointment. Allah doth blot out or confirm what He pleaseth: with Him is the Mother of the Book. "Allah effaces whatever He wills and retains whatever He wills. With Him is the Mother of the Book" (Q.13: 38-39).

For al-Jabri (2009), this is a response to an earlier request (Q.13:7) by the Meccans for the Prophet to show a miracle, as such receiving a treasure from heaven. He argues that the meaning of the word 'efface' pertains to the miracle. The general meaning of the sequence of verses is to tell them that I (God) have sent earlier messengers. These have all been regular humans, who were not capable of performing miracles, except by God's permission. Some of these miracles have been inscribed by God in His books, such as the Qur'an and others were left out. The term 'efface' has nothing to do with any abrogation within the text of the Qur'an.

5. None of Our revelations do We abrogate or cause to be forgotten, but We substitute something better or similar: Knowest thou not that Allah Hath power over all things? (Q.2:106)

This verse constitutes the most important claim of abrogation. Once again, al-Jabri (2009) sees no *naskh* or any indication thereof in the Qur'anic text. The fact that the verse ends with "Are you not aware that Allah is All-Powerful?" indicates that the reference is not to verbal *āyah*

(verse) but to an *āyah* (sign) of acts and events. Thus, he concludes that it is crystal clear from the context in which this verse of abrogation occurs that what is being abrogated by the verse is not the words of a Qur'anic verse (*āyāt*), but rather the preceding (pre-Islamic) prophethoods and messages. In this sense, Prophet Muḥammad is the 'seal of the Prophets.' With that conclusion of prophetic missions, God has abrogated all those *āyāt* (miracles) which God has given to earlier Prophets. Those miracles (breaks in physical laws) have been abrogated thus reinstating the norm. The only general miracle, which all people must consider, is what is being mentioned in the second part of the (Qur'anic verse) and in the following verse:

Allah is All-Powerful. Are you not aware that the dominion of the heavens and the earth belongs to Allah, and that none apart from Allah is your protector or helper? (Q.2:107)

Despite all his rhetorical skills, al-Jabri's central argument is based on the meaning of the word *āyah* in the Qur'an. If other scholars can prove that the word *āyah* means, in one of its many occurrences in the Qur'an, a Qur'anic verse, then al-Jabri's entire argument becomes untenable. One does not need to go back to classical *mufasssīrūn* to find such an argument. Al-Jabri's contemporary and liberal scholar, Nasr Hamid Abu Zaid (2014, 118), does exactly that. Referring to Q. 16:101, he states that there is no doubt that the meaning of *āyah* in this context refers to the text and its essential elements. The context is the recitation of the Qur'an and initiation of [the act] by seeking refuge from the Satan. It, furthermore, refutes the charge of fabrication and stresses that the Qur'an is from Allah, transmitted by the Trusted Spirit (*rūḥ al-amīn*). The context also includes refutations of the Meccans' allegations that someone dictates the Qur'an to Muḥammad. The meaning of replacing (*ibdāl*) an *āyah* with another one would then be the changing of a ruling stipulated in one text by another text, while maintaining both texts.

As Muhammad Imara (2011) notes in his response, *Radd Iftirā'āt al-Jabrī 'alā'l-Qur'ān al-Karīm*, that al-Jabri's monographs on the Qur'an contain curious inconsistencies. The section on abrogation is no exception. Ironically, al-Jabri closes his section on abrogation by citing Q. 11:1, to argue that the concept goes against the integrity and finality of the Qur'anic text. The verse reads thus:

Alif, Lām, Rā. [This is] a Book whose verses are perfected and then presented in detail from [one who is] Wise and Aware (Q. 11:1).

Al-Jabri (2009, 110) adorns the verse with his interpretations. These are highlighted in brackets.

1. *A Book whose verses are perfected* [in a comprehensive system]
2. *Then presented in detail* [with elements revealed according to circumstances].

Al-Jabri does not comment on whether the word *āyātuhu* (sing. *āyah*) means units of Qur'anic text, miracles, or signs, as he insists all along. This is quite enigmatic, for if it meant the latter, it would not have helped his case to exclude abrogation of Qur'anic verses. If, on the other hand, he consciously uses the word to mean units of Qur'anic text to exclude the possibility of abrogation, he would have fallen into a blatant contradiction and undermined the most critical element in his Non-abrogation Theory.

2.4. Abu Zaid: Dialectic Theory of Abrogation

Abu Zaid addresses abrogation in his book, *Maḥūm al-Naṣṣ*, that criticizes traditional discourses of Qur'anic exegetes. For Abu Zaid, the starting point of any sober study of the Qur'an is the recognition that it is a message. As such, it has three essential elements: the sender, the message, and the receiver. The message clearly addresses the human and his environment. The primary fault of traditional exegetes is their failure to grasp the centrality of the dialectic relationship between humans and their environment. This methodological error led to an ever-expanding quest to find a comprehensive portrait of God in the text. With time, humans and their dialectic experience with reality ceased to exist in exegetical works. This descending dialectic meant that the text became sanctified and closed to real textual analysis: its message is confused, and its receiver becomes preoccupied with obtaining individual redemption before the sender (Abu Zaid 2014).

To resolve this conundrum, Abu Zaid suggests a contrasting approach, where the role of the dialectic relationship with reality is restored. This approach, which Abu Zaid calls transcending dialectic, takes *a priori* the belief that the sender cannot be studied for evident practical reasons. The only accessible part is what the text says to and about the first receiver (or all other receivers) and his cultural environment. Understanding how the text and receiver shape and are shaped by the environment becomes therefore the most preeminent hermeneutical objective. It is

only through this approach that one can clearly place legal indicants in their proper temporal context within the global evolution of the text. This approach sharpens our understanding of the evolution of law, the text's objectives and its *modus operandi* (Abu Zaid 2014).

Abu Zaid argues that had classical scholars focused on the nature of the dialectic relationship between revelation and reality, they would have placed more emphasis on investigating historical reports and given less reverence to speculative views of early authorities. This would have helped them eschew the casuistry, which entangled them for many centuries. They would have had less incentive to invent many of the discursive devices they found necessary to accommodate the conflicting views of all the *salaf* as valid understandings of the text. Yet, Abu Zaid recognizes that not all of these devices are useless, although classical scholars have abused them (Abu Zaid 2014).

Naskh is, for instance, one of three interrelated analytical devices proving the dynamic interaction between revelation and reality. The other two are *asbāb al-nuzūl* (reasons of revelation) and the question of the Meccan and Medinan Qur'an. What makes these three elements essential is the centrality of time and space. Yet, classical exegetes did not tap into these potentials in their search for a harmonious reading of the text. Take, for instance, the question of the Meccan vs. Medinan. Rigorous research into where a Qur'anic verse or cluster verses were revealed is of great utility. It assists in the other avenue of research about *asbāb al-nuzūl*, the correlation between events and texts. It is also of great analytical value in tracing the evolution of legal concepts. It furthermore opens a window into the general framework of divine legal philosophy (Abu Zaid 2014).

While the existing reports cannot resolve all the queries about when and where each verse was revealed, other discursive features of the text could be used to exclude most, if not all, improbable claims. Abu Zaid (2014) cites the variance between the two essential functions of the prophetic message as a distinguishing factor. One of these functions is warning, while the other is discoursing (*risālah*). The former requires brevity and emphasis, and hence rhymes and simplified structures. The latter necessitates details and hence extended discourse. Because the Meccan period is the formative period of Islam, one can safely attribute all short and rhymed verses to this period. Longer and detailed verses clearly reflect a more advanced level of discourse and are hence Medinan. Yet, for Abu Zaid the important fact is not the location; it is the reality.

Therefore, all discursive verses, that is, those with mature ideological components, are Medinan, even if they were revealed in Mecca.

Abu Zaid (2014), however, laments that these potentials were hollowed by the reluctance of exegetes to dismiss any reports attributed to the Companions. This resulted in the acceptance of a wild array of conflicting claims, not just about when a given verse was revealed, but also about whether it could have been revealed more than once and for multiple reasons. This had ramifications for *naskh* as well, for such claims complicate the essential concept of *naskh*, a proceeding text abrogating a preceding one. The acceptance of multiple revelations and the confusion about what is Meccan and Medinan meant that one verse could feature in one claim as abrogating and yet in another as abrogated. This does not only violate the integrity of the text, but it also contradicts the widely held view of the permanence of the original scripture in the Preserved Tablet.

Despite this, Abu Zaid recognizes that *naskh* supports his central thesis of a dialectic interaction between the revelation (*waḥyi*) and reality (*waqi'iyah*). He is, however, not sure what to make of *naskh* nor what type of *naskh* he should accept. While willing to entertain the traditional views of *naskh* as replacement and annulment, he dismisses two categories of the *naskh*. He considers irrational that the recitation could be abrogated while the rulings are maintained. He equally finds it curious to think of verses where both the ruling and recitation are abrogated. The thought brings more problems than it solves for rulings and texts must not be divorced. Therefore, Abu Zaid adopts a modest definition; abrogation is a replacement of rulings not texts. “Understanding abrogation as the complete erasure of texts contradicts the wisdom of *taysīr* and *tadarruj*, facilitation and gradualism” (Abu Zaid, 2014, 123).

Although old, the concepts of *taysīr* and *tadarruj* fit in Abu Zaid's dialectic thesis. For instance, Abu Zaid cites the gradual prohibition of alcohol as a clear instance of the Qur'an's deference to reality. He notes that the Qur'an mentions, during the initial stance, the harm caused by alcohol without commenting on its legality. The Qur'an then treats the community's addiction by proscribing its consumption before daily prayers. This limits its consumption to evening, helping gradually wean society from dependence on alcohol. Once conditions were ripe, alcohol was banned.

What is true of alcohol is true of other legal matters as well. The main point is, however, that abrogating and abrogated texts must always lead a contemporaneous existence. People's conditions change, and their

change warrants the co-existence of antithetical rulings, each applicable in its proper context. It is only in this sense that Abu Zaid struggles to accept the third category of abrogation: verses whose rulings have been abrogated but whose recitation was retained. Of course, Abu Zaid finds no meaning in allowing Ḥadīth to abrogate Qur'anic verses. He takes Shāfi'ī's view that an abrogating text must be of the same level of the abrogated text (Abu Zaid, 2014).

In summary, abrogation does not annul texts or their legal relevance. For Abu Zaid, abrogation is a facet of the dialectic interaction between the Qur'an and the socio-cultural realities of its early recipients. It is limited to the temporary preference of certain legal injunctions over other equally valid and textually maintained alternatives. There is, however, no notion of superiority or of permanence. In principles, real conditions, not conscious legal aims, dictate the choice between a binary of legal preferences. This view is somewhat liberating because it allows for a continuous revelation, but it is restrictive because of its binary nature. It, more importantly, provides no clear justifications for why these maintained alternatives are the sole possible ones. The logical premises of Abu Zaid's work leave ample room for textual evolution.

2.5. Jasser Auda: *The Maqāṣidic Theory*

To speak about the *maqāṣidic* approach, one needs first to define *maqāṣid*. Linguistically, the word *maqāṣid* is the plural form of *maqṣid*, which is in turn a derivative of the verbal noun, *al-qaṣd*. The latter means the aim, the intent, or the direction. The word also signifies moderation or a 'straight path.' In legal theory, the term *maqāṣid* refers to the overarching legal and ethical aims of Islamic law. The root word *qaṣd* is often contrasted with the word *laghw* that means a vacuous speech, or a purposeless act. In this sense, *maqāṣid* refers to the meaning and purpose of acts. An act that has no *maqṣid* is one that has no purpose. A speech without *maqṣid* (or *maqāṣid*) is a meaningless speech. Ibn 'Āshūr (2001), one of the early Arab intellectuals to write about *maqāṣid* in the modern era, defines *maqāṣid* as, the discernible meanings and wisdoms in all or most instances of *tashrī'*. To Allal al-Fasi (1993) *maqāṣid* are the goals and the underlying notions placed by the Lawgiver with every rule. Yusif Hamid al-Alim (1991) sees *Maqāṣid* as these worldly and otherworldly interests of people. Al-Qaradawi (2008) considers *maqāṣid* to be the aims, which the texts intend from the orders and prohibitions. Raysuni

defines *maqāṣid* as the aims, which the *Sharī'ah* has been established to concretize in order to serve the interests of people.

Maqāṣidic theorists share with many secularists their displeasure with the concept of *naskh*. However, unlike these secularists, *maqāṣidic* theorists' dismay is not driven by a question of historicity. It is rather engendered by their interest in a systematized reading of Islam. *Naskh* and its classical debates are key challenges to this systematized reading. To do away with *naskh*, modern *maqāṣidic* theorists employ two tactical approaches and one central strategy. Not unlike secularists, *maqāṣidic* theorists' first tactic involves deploying the works of classical and modern authorities who have sought to limit actual cases of abrogation. These authorities include al-Suyūṭī (d. 1505) and Shāṭibi (d. 1388) who have both claimed that cases of actual abrogation are minimal. *Maqāṣidic* theorists further use the extensive work of Mustafa Zayd (1987) who limits abrogation to six cases. In their second tactics, the *maqāṣidic* theorists argue that law is not a law unless it is finally established. This means that not all initial stages of a given law are abrogable because they are not complete.

Maqāṣidic theorists' main strategy is to focus on the overarching legislative themes in the Qur'an to demonstrate a preponderance of concordance. They consider all cases of conflicts as pseudo-conflicts generated by the limitations of literalism, which dominated classical exegetical works. *Naskh* is only one of several consequences of these limitations. A proper resolution to the question of *naskh*, and many other shortcomings in classical exegeses, must stem from re-evaluating this approach. Questioning literalism should not be equated with overlooking the letters of the text, nor assuming that meaning is fluid. It simply means reading the text with a close attention to the global effects and outcomes it seeks to engender.

A reading of this magnitude differentiates between injunctions, which serve as means, and aims presented as injunctions. The means may be plural, but the intended outcome is always singular. While the means are often neither arbitrary nor dispensable, to view them as finalities or even temporary breaks with their antecedents is a clear deviation. It is, instead, the elucidation and classifications of the legal aims that are essential to a roadmap where all injunctions coalesce to form a comprehensive system of precepts. The primary feature of this system is its dual logic of endorsing a stable reading of texts pertinent to rituals and of employing a purposive, flexible, and goal-oriented reading of all non-ritual texts. A consequence of this choice is the *maqāṣidic*

determination that verses with two distinct commandments always fall within the non-ritual sphere. These legislative verses must, therefore, remain relevant but not in any antithetical relationship. In other words, the text is an ongoing process, while the aim is settlement.

In *Naqd Nazariyyah al-Naskh*, Jasser Auda (2013) outlines a *maqāṣidic* critique of the concept of abrogation. His point of departure is the idea that Islam has both global and special legal aims. The global aims are the themes and values observable in all states of Islamic law. These include promoting *taysīr* (facility), *samāḥah* (kindness), *ʿadl* (justice), *ḥuriyyah* (freedom), and *fiṭrah* (the innate state of goodness). Special legal aims are those interests and values typical within a specific area of law. These would comprise, for instance, in the area of family law, preserving the wellbeing of children. This difference allows exegetes to determine the scale of priorities, and hence the proper interpretive scheme applicable when encountering an apparent contradiction. This classification allows scholars to apply all injunctions, while turning a comfortable blind eye to classical claims of contradictions. The scale of priorities considers not just the context (cultural and spatio-temporal), the area of legal interests, but more importantly, the general *ratio legis*.¹ Auda argues that this is consistent with the doctrine that the Qur'an, in its entirety, is complete and always relevant. This is a position, which classical legal scholars have documented in their maxims as an ideal, albeit one they were not able to reach; applying texts is more meritorious than overlooking them.

If the application of all texts is more meritorious, and if reconciliation takes precedence over preponderance (*al-jam' awlā min al-tarjīḥ*), as the other legal maximum goes, then one must assume consonance, not conflict. This is possible to conceive, considering that presumed conflicts are produced by a lag in time, which explains the exegetical positions of the Companions. For every two seemingly discordant revelations, the Companions have taken three logical positions. One group heard revelation I, but not revelation II. One group knew of both revelations but preferred the most recent. The third group heard and applied both but depending on circumstances (Auda 2013).

Auda (2013) considers the latter approach to be superior because it does not view injunctions as independent variables but as context-dependent technologies for self-refinement of the believers. While these technologies vary, the rulings do not, for instance, some alcohol consumption may be

1. *Ratio legis* is a Latin term that means the reason or purpose of the law. It is here used to translate the Islamic legal term *'illah*.

permitted in certain times, for certain reasons. This position is supported by both the Qur'anic gradual prohibition of the substance, but also by other ubiquitous legal maxims such as necessity trumps prohibitions. These exceptions, however, do not change the default ruling, which is a prohibition. The correlation between a partial prohibition and a final one is not one of negation but one of consolidation. The final verdict is what best engenders the broad aims of *Shari'ah*: the establishment of a physically healthy, mentally sober, and socially harmonious society.

With these theoretical frames in mind, Auda (2013) examines the key Qur'anic verses customarily cited in the debates about abrogation. Much like al-Jabri and Abu Zaid, Auda precludes that the recitation of any verse could be abrogated, for this contradicts the notion of revelation (read revealing) and casts doubt over the integrity of the Qur'an. The Qur'an, as the book itself states, is preserved. Much of what is left then is cases of specifications and exceptions (Q.26: 224-227; Q. 16: 106), explications and elaboration (Q.9:120-122), or the gradual institution of a final ruling (Q.2:219; Q.4:43; Q. 5: 91-92). The exceptions are two references to replacement in Q. 2:106 and Q. 16:101.

Much like al-Jabri, Auda (2013) precludes that Q.16:101 could refer to legislative abrogation, for the verse is clearly Meccan. Yet, unlike al-Jabri, Auda does not need to comment on whether the verse points to a Qur'anic textual unit in general. Auda's task is more precise. What is relevant is whether a verse refers to a legislative verse (ritual verses cannot be abrogated). Because it is Meccan, it is certainly not legislative. As for Q. 2:106, the preceding and succeeding cluster of verses address the relationship with the People of the Book. It is, therefore, safe to assume that it addresses the abrogation of prior religious texts. However, even if one assumes that it has to do with intra-Qur'anic dynamics, the verse itself speaks of the possibility, but contains no reference to an actual case. Abrogation is a consequential event that cannot be established by speculations or conjuncture.

Once Auda (2013) established that the Qur'an contains no definitive proof of *naskh*, he turned his attention to Ḥadīth. His conclusion is very categorical: "A reading of what we know today of Ḥadīth proves that the root N,S,Kh did not feature in the Prophet's discourse referring to abrogation, in any fashion whatsoever. It is not in the *ṣaḥīḥ* (sound) nor in *ḥasan* (good) *aḥādīth* reported in al-Bukhārī (d. 870), Muslim (d. 875), al-Tirmidhī (d. 892), al-Nasa'ī (d. 915), Abū Dāwūd (d. 889), Ibn Mājah (d. 886), *Musnad* of Aḥmad, *Muwatta'* of Mālik (d. 795), al-Dārimī (d. 869), Ibn Ḥibbān (d. 965), Ibn al-Jārūd (d. 920), Ibn Khuzaymah (d.

924), al-Bayhaqī (d. 1066), al-Dāraquṭnī (d. 995), or in the *Musnad* of Shāfi‘ī. Auda finds but one exception reported by al-Bayhaqī. Masrūq (d. 682) reported that ‘Alī (d. 661) stated that *zakāt* abrogated all charities, major purity shower (*ghusl*) annulled all other showers, Ramadan fasting abrogated all other forms of fasting, and Eid sacrifice overruled all other prescribed sacrifice. Auda dismisses this *ḥadīth* as weak (*ḍa‘īf*) because of clear defects in its content. The chain of narration is flawed as well. Maqdisī (d. 1245) and others noted that it was reported by Musayyib ibn Sharīk (d. /802), ‘Utba ibn Yaqqān, Sha‘bī (d. 724), Masrūq, and ‘Alī. The first link in this chain is Musayyib and the consensus is that he is a liar, and his *ḥadīth* must be rejected (Auda 2013, 96).

3. Conclusion

The above discussion of the works of Saeed, Taha, al-Jabri, Abu Zaid and Auda covers the modern range of positions on the topic of *naskh*:

1. The Medinan Qur’an abrogated the Meccan;
2. *Naskh* is an underlying process where the Qur’an endorsed and enacted legal change, a mandate that must remain open;
3. Actual cases of abrogation are the exception;
4. The concept of *naskh* does not exist within, nor apply to, Qur’anic laws;
5. The Qur’an is a cohesive and coherent divine text, and abrogation is a misnomer.

While the democratization of Qur’anic interpretations has lowered the entry bar into the sphere of *tafsīr*, not all these theories offered convincing interpretation of, or alternative to, the theory of abrogation. Saeed’s didactic theory uses *naskh* to claim a consistent underlying logic and an ongoing warrant for change. However, this warrant promises little beyond chaos, for one cannot validate an ongoing and unlimited license without invalidating the license-giver: the text itself. Saeed does not provide a convincing anchor. His idea of two continuing strands of revelation (praxis and God-inspired leaders) complicates rather than illuminates his view. It is not clear in what logic one should dismiss classical consensus only to follow an undefined “divine guidance which is continuously provided by God to those who are God-conscious.”

Taha's wholesale punitive *naskh* theory does not readily flow from the Qur'an, and his proposed alternative of reviving the abrogated Islam seems too idealistic. Moreover, al-Jabri's gaze into the contradictions of classical *naskh* claims is not without consequence. His venture to prove that the word *āyah* (verse) was never used in the Qur'an to refer to a unit of meaning culminates into its own contradiction. Much like Saeed, Abu Zaid's theory sought to focus more on what the text says about the recipient (the messenger/followers) and his environment, and much less about the Sender. Nevertheless, where *naskh* is rejected, dyadic alternatives are instituted. Abu Zaid is vague on whether these are fixed options as his close reading of the text suggests, or rather a general dialectic process where the notion of variance, not specific injunctions, is what ultimately matters. If it is the former, then his theory remains less liberating than what classical jurists admit through casuistry, notions of *'urf*, *ḍarūrah*, and *maṣlaḥah*. The latter option is as chaotic as Saeed's.

In contrast, the *maqāṣidic* theorists' interest in abrogation is not in conflict with the classical exegetical paradigm as a whole, nor with *naskh* specifically. Their solution, therefore, does not lie in appreciating or refuting the classical arguments of *naskh*. For *maqāṣidic* theorists, citing the inconsistencies of *naskh* claims is not part of a strategy to challenge the traditional exegetical worldview as a whole, nor is it an opportunity to test fragmentary explanations. Like other shortcomings of classical exegesis, the *naskh* claims merely provide an opportunity to prove the explanatory power of their comprehensive exegetical theory. Finally, the *maqāṣidic* theory shares all the essential foundations of classical exegesis. It views the Qur'an as a book in revelation (for 22 years), but coherent and purposeful since its completion.

Moreover, where proponents of *naskh* note textual discrepancies and see abrogation as a necessary exegetical tool to reconcile them, *maqāṣidic* theorists see no discrepancies and therefore no need for abrogation. The reason for this contrast is that proponents of *naskh* (unlike the *maqāṣidic* theorists) fail to recognize that a rule is not a rule until it is finally established. More fundamentally, they tend to equate injunctions, which serve as means, with aims expressed as injunctions. Instead, *maqāṣidic* theorists insist that the diversity of means must not make the reader lose sight of the intended outcome, which is always singular and consistent. Knowing the proper classification of indicants removes the confusion.

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