

ABROGATION IN THE QURAN: PERSPECTIVES OF JAMAL AL-BANNA AND JASSER AUDA

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ABSTRACT

This study aims to examine the opinions of Jamal al-Banna and Jasser Auda regarding abrogation in religious texts. Both figures are included in this study because they have different backgrounds of thought: Jamal al-Banna is known for his liberal thinking, while Jasser Auda is known as a progressive thinker who still follows the style of thought of mainstream scholars. This research is a qualitative-extractive study, with the main references being their two books related to abrogation: *Tafnid Da'wa al-Naskh fi al-Quran al-Karim* by Jamal al-Banna and *Naqd Nadzariyyah al-Naskh: Bahtsun fi Fiqh Maqashid al-Syariah* by Jasser Auda. Based on the research results, both argue that there is no abrogation in religious texts. One of the reasons they provide is that there is no strong evidence explaining the existence of abrogation in religious texts, especially given the disputes among scholars regarding the abrogating verse and the abrogated verse. According to both of them, abrogation has implications for changes in the shariah (Islamic law), so the evidence supporting its existence must be strong.

Keywords: Abrogation, Jamal al-Banna, Jasser Auda, Quran, Islamic Law

1. INTRODUCTION

The study of abrogation in religious texts is a study that has been carried out by many scholars. The great attention of the scholars to this study is evidenced by the emergence of their works either specifically in a work (book) or part of the discussion in the study of ulumul quran in general. The study of abrogation is closely related to legal or juridical flexibility within the framework of Islamic teachings.¹ The argument that comes later erases the argument that comes first, with the consequence that the law that arises from the argument that comes later erases the law that arises from the argument that comes first. Therefore, the study of abrogation is closely related to the study of Islamic law and ushul fiqh.² Abrogation does not occur in aspects of aqidah or theology and aspects of morals,³ because both are basic Islamic teachings and will not change.

The argument for the existence of abrogation in religious texts is based on the words of Allah: "Whichever verse We abrogate, or make people forget, We will bring back something better than it or comparable to it. Do you not know that indeed Allah is over all things?"⁴ Ibn Kathir quotes several opinions from the Prophet's companions and tabi'in regarding the meaning of the verse, including Ibn Abbas who said: "any verse that We replace", while Mujahid said "any verse that We abrogate", he (Mujahid) also added about the meaning of nasakh / abrogation with his words "any verse that We set the khat (writing), while the law has been replaced by Us". Ibn Kathir also quoted Ibn Jarir's words about the verse, Ibn Jarir said: "the ruling of any verse that We transferred to another and changed and replaced its ruling. For example, We change halal into haram, haram into halal, permissible into prohibited, and prohibited into permissible".⁵ The scholars divided abrogation in religious texts into three, namely:

First, abrogation of the law/sharia in the text without abrogating the text. An example is the Quranic surah al-Anfal: 65 "O Prophet! Motivate the believers to fight. If there are twenty steadfast among you, they will overcome two hundred. And if there are one hundred of you, they will overcome one thousand of the disbelievers, for they are a people who do not

¹ Willya, Evra & Mokodompit, Gusniarjo. (2021). Konsep Nasakh Mansukh dan Implikasinya Terhadap Istibath Hukum. *Itisham: Journal of Islamic Law and Economics* Vol. 1 No. 1, January -June. 25.

² Rahmalia, Anita & Putra, Ridho Pramadya. (2022). Nasikh wa Mansukh. *El-Mu'jam: Journal of Quran and Hadith Studies*. Raden Mas Said State Islamic University. Vol 2. No 1. Page 37.

³ Sabrifha, Eli & Novendri, Mochammad. (2022). Implikasi Konsep Nasikh Mansukh Terhadap Implikasi Hukum. *al-Qalam: Jurnal Ilmiah Keagamaan dan Kemasyarakatan*. Universitas Islam Negeri Sultan Syarif Kasim Riau. Vol 16. No 6. Page 2521.

⁴ al-Baqarah: 106

⁵ Ibnu Katsir. (1419). *Tafsir al-Quran al-'Adzim*. Beirut: Dar al-Kutub al-'Ilmiyyah. 1/259.

comprehend". This verse indicates the obligation of patience for 20 Muslims to fight against 200 disbelievers. And the patience of 100 Muslims fighting against 1000 disbelievers. The law/sharia contained in this verse is removed by the law/sharia in Surah al-Anfal 66: "Now Allah has lightened your burden, for He knows that there is weakness in you. So if there are a hundred steadfast among you, they will overcome two hundred. And if there be one thousand, they will overcome two thousand, by Allah's Will. And Allah is with the steadfast". Regarding the abrogation of the old law by the new law, Ibn Abbas said: "When it was revealed (the words of Allah): "If there were two quintillion patient men among you they would have defeated two hundred enemies" (Al-Anfal/8: 65), it was hard on the Muslims, when it was made obligatory upon them, then relief came, Allah said: "Now Allah has made it easy for you and He has known in you that there is weakness. So if there were among you a hundred patient men, they would have defeated two hundred." (Al-Anfal/8 66). When Allah has made it easy for them, patience decreases in proportion to what Allah has made easy for them."⁶

Second, abrogation occurs in religious texts but the existing law remains in effect. As an example is the verse on stoning (rajm), Umar bin Khatab said: "Verily, I fear that the days will be so long against the people that someone will say: "We do not find rajm in the book of Allah", so they will go astray by abandoning an obligation that Allah has revealed. Remember, indeed, rajm is right for the one who commits adultery and is married, if the evidence is established, or there is pregnancy, or there is confession." Sufyan said: "This is what I remember". "Remember, the Messenger of Allah (peace and blessings of Allaah be upon him) did rajm, and we did rajm after him".⁷ Some narrations say that the wording of the verse on stoning is: "Old man (meaning: married) and old woman (meaning: married) if they commit adultery, then stone them both seriously, as a punishment that contains a lesson from Allah, and Allah is Mighty, Most Wise".⁸ Regarding the existence of abrogation in this form, al-Amidi states that the scholars have agreed on the occurrence of naskh (abrogation) of the writing/lafazh, without naskh (abrogation) of the law, in contrast to the opinion of a solitary group from among the Mu'tazilah.⁹

Third, abrogation occurs in the text and the law/sharia contained therein. This is as narrated by Muslim: Formerly in what was revealed of the Qur'an was: "Ten known breastfeedings are forbidden", then it was abrogated by: "Five known feedings". Then the Messenger of Allah (peace and blessings of Allaah be upon him) passed away and it was recited from the Qur'an.¹⁰

In addition to the above divisions, scholars divide abrogation into several parts, namely:

⁶ Bukhari, Muhammad bin Isma'il. (1427 H). *Shahih Bukhari*. Cairo: Dar ar-Rayyan li at-Turats. No Hadis: 4653

⁷ *Ibid*, Hadis: 6829

⁸ Ibnu Hajar. (1998). *Fathul Bari*, Cairo: Dar al-Hadits. 12/169.

⁹ Al-Amidi, Al-Ihkaam 3/154, quoted from Sharh Al-Waraqat Fii Ushulil Fiqh, p: 170, by Shaykh Abdullah bin Shalih al-Fauzan.

¹⁰ Muslim. (2007). *Shahih Muslim*. Turki: Dar al-Thiba'ah al-'Amirah. 4/167

- a) The text or law in the Quran abrogates the text or law of the Quran. An example is Surah al-Anfal 65 which is abrogated by al-Anfal 66 as above.
- b) The text or law in the Qur'an abrogates the text or law in the sunnah. An example is the Prophet's prayer facing Bait al-Maqdis which was abrogated by the words of Allah: indeed, We see you O Prophet turning your face towards heaven. Now We will make you turn towards a direction of prayer that will please you. So turn your face towards the Sacred Mosque in Mecca wherever you are, turn your faces towards it. Those who were given the Scripture certainly know this to be the truth from their Lord. And Allah is never unaware of what they do.¹¹
- c) The text or law in the sunnah abrogates the text or law in the Quran. There are pros and cons about this, but Muhammad al-Amin ash-Syanqithi explains that it is possible to abrogate a verse of the Qur'an by a hadith or sunnah of the Prophet.¹² For example, Allah says: Say, O Prophet, "I do not find in what has been revealed to me anything forbidden to eat except carrion, running blood, swine—which is impure—or a sinful offering in the name of any other than Allah. But if someone is compelled by necessity—neither driven by desire nor exceeding immediate need—then surely your Lord is All-Forgiving, Most Merciful."¹³ This verse explains that there are only four animals that are forbidden to eat. At first, tame donkeys were halal or allowed to be eaten, then the verse was abrogated by the hadith of the Prophet from Anas bin Malik, that the Prophet sallallaahu 'alaihi wa sallam was visited by someone who came, then said: "The donkeys have been eaten". Then another person came to him and said: "The donkeys have been eaten." Then another person came to him and said: "The donkeys have been eaten." Then he ordered a caller, then he called among the crowd: "Indeed, Allah and His Messenger forbade you from tame donkey meat, in fact it is dirty / unclean". So the pots were turned upside down, while the pots were boiling (with) meat (tame donkey).¹⁴
- d) The text or ruling in the sunnah abrogates the text or ruling in the sunnah. An example is the Prophetic Hadith: Previously I prohibited you from visiting the graves, so now you should visit (the graves).¹⁵

The interpretation of abrogation in religious texts as described above is followed by the majority of scholars, this is evidenced by the emergence of several works related to the abrogation of religious texts, at least there are more than 30 works starting from the second century hijriyah to the twentieth century hijriyah. However, the study of abrogation of religious texts in its development raises different interpretations, some scholars reject the existence of abrogation in religious texts as interpreted by the majority of scholars. They assume that the belief in the existence of abrogation in religious texts negates the perfection of Allah's

¹¹ al-Baqarah 144

¹² Syanqithi, Muhammad al-Amin. (1426). *Mudzakiroh Ushul Fiqih 'ala Raudhah al-Nadzir*. Jeddah: Majma' al-Fiqh al-Islamy. 150

¹³ al-An'am: 145

¹⁴ Bukhari, Muhammad bin Ismail. (1993). *al-Jami' al-Shahih*. Damaskus: Dar Ibnu Katsir. 5/103.

¹⁵ Muslim. (2007). *Shahih Muslim*. Turki: Dar al-Thiba'ah al-'amirah. 6/82

revelation or the message of Islam. The existence of abrogation indicates that there are flaws in religious texts, which is impossible. Among the scholars who reject the existence of abrogation in religious texts are Jamal al-Banna in his book entitled *Tafnid Da'wa al-Naskh fi al-Quran al-Karim* and Jasser Auda in his book entitled *Naqd Nadzariyyatu al-Naskh Bahtsun fi fiqh Maqashid al-Shari'a*.

It is interesting to note that the two scholars come from two different schools of thought. Jamal al-Banna is very famous for his liberal thinking, while Jasser Auda is a progressive thinker who is active in discussing maqashid sharia discourse who has Islamic thoughts or views such as mainstream scholars.¹⁶

This research is a qualitative-descriptive study where researchers will explain the thoughts of Jamal al-Banna and Jasser Auda related to abrogation in religious texts, then conclude whether the two have the same argumentation foundation or there are differences considering both have different Islamic thoughts.

2. JAMAL AL-BANNA

Jamal al-Banna is an Islamic thinker born in Egypt on December 15, 1920.¹⁷ He is known for his active role in Islamic and social movements in the Arab world. He is also the younger brother of Hasan al-Banna, an Islamic movement figure in Egypt. Hasan and Jamal chose different paths. Hasan founded "Ikhwanul Muslimin", an Islamic organization that focused on regeneration programs centered in Egypt and spread to several Arab worlds, while Jamal became a thinker who focused on the world of literacy and tended to be liberal-minded.

2.1 Jamal al-Banna's Islamic Thought

His great attention to the world of literacy led him to become a prolific Islamic thinker. There are no less than 100 (one hundred) works that he has made related to various themes. Some of Jamal al-Banna's points of thought are:

Social Justice: He is very vocal in his support for social justice and a more equitable distribution of wealth in society. He supports the idea that Islam promotes social justice and criticizes the economic inequalities that exist in society.¹⁸

The Importance of Education: Jamal al-Banna strongly emphasized the importance of education in transforming society. He believed that Muslim society should be educated about the principles of Islam and the need to adapt to the modern world.

Democracy: He argues that democracy can synergize with Islamic values. He supports Muslims' political participation in democratic systems to achieve their goals.

¹⁶ Jasser Auda's monumental work is entitled *Maqasid Sharia ka Falsafah li al-Tashri' al-Islamy*.

¹⁷ Faza, Amrar Mahfuzh. (2012). *Karakter Fiqih Jadid Jamal al-Banna*. *Postgraduate thesis*, North Sumatra State Islamic Institute. 15.

¹⁸ Cahyono. (2015). *Studi Pemikiran Jamal al-Banna Tentang Konsep Murtad dalam Pidana Islam*. Walisongo State Islamic University Semarang: *Bachelor Thesis*. 71.

Islamization of Society: Jamal al-Banna believed that society should be "Islamized" in all aspects of their lives, including political, economic, and social. He promoted a deeper understanding of Islam and the implementation of Islamic values in everyday life.

Opposition to Imperialism and Zionism: He was active in resistance to Western imperialism and supported the Palestinian struggle against Israeli occupation.

Critique of the Tradition of Interpretation: Jamal al-Banna also expressed his criticism of the existing tradition of Quranic interpretation, and he supported a more contextual and relevant approach in understanding the sacred texts of Islam. In this case he did not hesitate to disagree with the mainstream opinion of the fuqaha, especially in various matters relating to women, such as the issue of headscarves (jilbab), gender equality, the permissibility of women to become prayer imams for men, and so on. One of Jamal al-Banna's controversial opinions is his view that the headscarf or jilbab is not obligatory for women. The mention of jilbab in the Qur'an according to him is not interpreted as a command that must be followed, but an explanation that it is a tradition that existed before Islam which then remains valid until now.¹⁹ Likewise, his opinion that the fuqaha's reason for not allowing women to be imams for men is unreasonable. According to him, how can a man not be allowed to be ma'mum for a woman while Ibn Umar was once a makmum for al-Hajjaj, a violent and authoritarian ruler, and Ibn Mas'ud was once a makmum for al-Walid bin 'Uqbah bin Abi Mu'aith, who was drunk and was flogged by Uthman bin Affan. If the requirements for being an imam are the best recitation of the Quran and the best piety, is the recitation and piety of al-Hajjaj and al-Walid bin 'Uqbah bin Abi Mu'aith better than the recitation and piety of 'Aisha the wife of the Messenger of Allah? Of course 'Aishah's reading is better than theirs. Seeing this, the fuqaha's reasoning for prohibiting women from becoming imams for men is only a gender issue that shows a discriminatory view.²⁰

Jamal al-Banna's thought reflects various trends in modern Islamic movements that try to combine Islamic values with the demands of modern times. He has had a major influence especially in the Islamic movement in Egypt and the Arab region, although his views have also faced criticism and debate within the Muslim world.

2.2 Jamal al-Banna and the Abrogation of Religious Texts

Al-Banna's views on the nasakh of religious texts (al-Quran) are described in his book entitled *Tafnid Da'wa al-Nash fi al-Quran al-Karim*. Al-Banna's description begins with the fuqaha's claim regarding the existence of nasakh and its definition then rebuts their claims. as an example is Ibn al-Qayyim who said: "What Hudhayfah and indeed what most of the salaf mean when they talk about naasikh and mansookh – "abrogating" and "abrogated",

¹⁹ al-Banna, Jamal. (1998). *al-Mar'ah al-Muslimah bayna Tahrir al-Quran wa Taqyid al-Fuqaha*. Cairo: Dar al-Fikr al-Islami, 28.

²⁰ al-Banna, Jamal. (2005). *Jawaz Imamah al-Mar'ah al-Rijal*. Cairo: Dar al-Syuruq. 81-82

respectively – is sometimes that the entire ruling has been lifted – and this is how the later scholars use these terms -, or sometimes the salaf used it to mean that the general nature and applicability of an ayah or its most immediately apparent meaning or some other quality has been lifted. This could take place due to some type of specification, delimitation, interpreting a general text according to what another more detailed text indicates, an interpretation of it or due to its ruling having been clarified elsewhere. In fact, they would even refer to exceptions, conditions, or further descriptions of a ruling [revealed after the initial ruling] as naskh due to the fact that these things entail some lifting of the most immediately apparent meaning of the original text and a clarification of its meaning. So in the understanding of the salaf, and in fact in their language as well, the term naskh referred to a clarification of the intended meaning of something that was not present in the initial text but instead came in a later separate command”. Similarly, al-Syathibi said: "What is clear from the words of the earlier scholars is that nasakh or abrogation is more general than what the ushuliyyun described. Sometimes they said that abrogation is the restriction of a general text by another text, sometimes they said that abrogation is the specialization of a general text by a more specific text, and sometimes they said that a global explanation is also called abrogation. In addition, the abrogation of a ruling by another ruling that comes after it is also known as abrogation”.²¹

After quoting the opinions of several scholars regarding the definition of abrogation, al-Banna noted that these scholars (Ibn al-Qayyim and al-Syathibi) when defining abrogation relied on the opinions of other scholars, as if they did not want to be responsible for the definition. al-Banna also explained the differences between scholars regarding the number of abrogated verses in the Qur'an, namely:

Ibnu al-Jauzy	247
Abu Abdillah Ibnu Hazm	210
Abu al-Qasim Hibatullah bin Salamah	212
Abu Ja'far al-Nahhas	134
Abdu al-Qadir al-Baghdadi	66 ²²

al-Banna then quoted the opinion of other scholars that abrogation in religious texts is a very possible thing, he quoted al-Amidy saying: "And the scholars have agreed on the permissibility of abrogation by reason and by law, and no one denies it except Abu Muslim Al asfahani where he prohibits abrogation by law but allows it by reason". al-Bana also quoted al-Suyuthi saying: "abrogation is something that Allah has made easy for this Ummah, and the Muslims are unanimous in its permissibility", and al-Bana quoted Ibn Kathir as saying: "Muslims are unanimous in the permissibility of abrogation in the rulings of Allah, because there is great wisdom in it, and they are unanimous in its permissibility, and Abu Muslim al-

²¹ al-Banna, Jamal. (2004). *Tafnid Da'wa al-Naskh fi al-Quran al-Karim*. Cairo: Dar al-Syuruq. 14

²² *Ibid.* 16

Afahani, a mufassir, who says that there is no abrogation in the Qur'an, is a weak and rejected opinion."²³

Al-Banna said that the argument used by those who believe that there is abrogation in the Qur'an is: "Whichever verse We abrogate, or We make people forget, We bring back something better than it or comparable to it. Do you not know that indeed Allah is over all things?"²⁴ This verse, according to them, axiomatically indicates the existence of abrogation in religious texts (Quran).²⁵

al-Bana argues that the claims of some scholars regarding the existence of abrogation in the Qur'an are astonishing. The important thing to note when discussing the Qur'an is to be careful not to make mistakes or slip into error. According to him, abrogation is a new matter and not a principle. However, since it is related to the Qur'an, the arguments related to it must be built on three things, namely the **verses of the Qur'an itself, the saheeh hadiths of the Prophet, and the existence of a definite contradiction between a verse of the Qur'an and another where it is impossible to interpret both of them other than by abrogation.**²⁶

The question that must be asked now is, what verse is the basis of abrogation in the Qur'an? There are more than six thousand verses in the Qur'an, but only two verses are used as the basis by those who believe that abrogation exists, and they regard these two verses as *qath'i* verses. These two verses are:

مَا نَنْسَخُ مِنْ آيَةٍ أَوْ نُنسِئُهَا نَأْتِ بِخَيْرٍ مِنْهَا أَوْ مِثْلَهَا أَلَمْ تَعْلَمْ أَنَّ اللَّهَ عَلَىٰ كُلِّ شَيْءٍ قَدِيرٌ

"If We ever abrogate a verse or cause it to be forgotten, We replace it with a better or similar one. Do you not know that Allah is Most Capable of everything?"²⁷

وَإِذَا بَدَّلْنَا آيَةً مَكَانَ آيَةٍ وَاللَّهُ أَعْلَمُ بِمَا يُنزِّلُ قَالُوا إِنَّمَا أَنْتَ مُفْتِرٌ بَلْ أَكْثَرُهُمْ لَا يَعْلَمُونَ

"And when We substitute one verse for another, and Allah knows better what He has revealed, they say, "You are only making things up." Actually, most of them do not know"²⁸

al-Banna revealed that according to the proponents of abrogation, the word "آية" in these two verses is the texts of the Qur'an, so that the verse that was revealed earlier is abrogated by the verse that was revealed later. al-Banna refuted this argument, arguing that the Quran never uses the word "آية" to mean "نص" or "text", according to him, the meaning of the word "آية" in the verse is "حجة" or "argument", "معجزة" or "miracle", and "علامة" or "sign" which proves the truth of the Prophet Muhammad, However, when the Quran wants to express the word "nash" or "text" in other words, it uses the word "آيات" which is the plural of the word

²³ Ibid. 44-45

²⁴ al-Baqarah. 106

²⁵ al-Banna, Jamal. (2004). *Tafnid Da'wa al-Naskh fi al-Quran al-Karim*. Cairo: Dar al-Syuruq. 53.

²⁶ Ibid. 59

²⁷ al-Baqarah. 106

²⁸ al-Nahl: 101

"آية". It is true that the word "آيات" is the plural of the word "آية" but there is a difference in its usage in the Quran.²⁹

The word "آية" in the singular means miracles or signs or arguments attached to a messenger, it is a distinction between a messenger with another messenger or a messenger with ordinary people, while "آيات" in the plural means "نصوص" or texts revealed by Allah in large numbers. So if the meaning of the two verses is the abrogation of "نصوص" then the two verses would use the word "آيات" instead of the word "آية", because the use of a singular word is not appropriate if it is meant for a large number of abrogated texts.³⁰ This is reinforced by the existence of several "آية" words after al-Baqarah 106 that mean miracles.³¹

Al-Banna strengthens his argument by quoting Fakhruddin al-Razi when commenting on al-Baqarah 106: "Know that arguing for abrogation with this verse is weak, because the letter "ما" in the verse functions as a "sharth" or condition and "jaza" or implication, like the words "من جاءك فأكرمه", who comes to you then respect him, this does not explain the arrival of someone to you, but explains when he comes then respect him. Similarly, al-Baqarah 106 does not explain that abrogation has happened, but explains if abrogation has happened."³²

As for al-Nahl 101, it contains the word "بدلنا" or "we have replaced". Al-Banna revealed that there are five words "آية" in the Quran where four of them end with the words "إن في ذلك" or "لقوم يتفكرون، يسمعون، يذكرون، يتفكرون" or in such things there is a sign for those who think, remember, hear, and remember", this indicates that the word "آية" in these verses means miracle or guidance, so the word "آية" in al-Nahl 101 means the Qur'an which is a miracle given to the Prophet Muhammad.³³

As for the evidence from the sunnah that explains the abrogation in the Qur'an, al-Banna argues that there is no explicit evidence that is shahih from the hadith of the Prophet which explains the existence of a verse of the Qur'an that abrogates the hadith or hadith that abrogates the Qur'an. Hadiths or sunnah used by some scholars as a basis for the existence of abrogation is weak or dhaif, even some of the arguments contradict each other with other arguments.³⁴

Quoting Zarqani's words in Manahil al-'Irfan, al-Banna divides the scholars into three groups in addressing abrogation in the Qur'an, namely muqashirun or who view that there is no abrogation at all in the Qur'an, as an example is Abu Muslim al-Asfahani,³⁵ muqtashidun or those who think that there is abrogation in the Qur'an with logical limitations, then ghaluw that is excessive so as to include in abrogation things that have nothing to do with it, the most

²⁹ al-Banna, Jamal. (2004). *Tafnid Da'wa al-Naskh fi al-Quran al-Karim*. Cairo: Dar al-Syuruq. 60.

³⁰ *Ibid.* 66

³¹ *Ibid.* 67

³² *Ibid.* 68

³³ *Ibid.* 70

³⁴ *Ibid.* 84

³⁵ A Mu'tazilah mufassir, born in 254H and died in 322H.

popular of them are Abu Ja'far al-Nahhas, Hibatullah bin Salamah, Muhamman Ibn Hazm and others.³⁶

al-Banna argues that there are some mistakes in those who are excessive in abrogation due to several things, namely:

- a) They think that if a verse or sharia is revealed in a certain context and then that context is lost, then the verse or law is abrogated or *mansukh*. An example is the verses relating to the command to be patient with the violence coming from the disbelievers when the Muslims were few and weak. According to them, the verse/sharia is abrogated by verses that command to fight the disbelievers. In fact, the verse or Shari'ah is not abrogated, but the ruling is changed due to differences in context. Allah commands Muslims to be patient when they are weak and few, but when they are many and strong, Allah commands them to fight against the disbelievers who fight them.
- b) They say that part of abrogation are things that existed before Islam and were abrogated when Islam came, such as the restriction on marriage to four women, which was permissible in the pre-Islamic period. In fact, this is not abrogation, because abrogation, according to the majority of scholars, is the abrogation of a Shari'ah ruling that exists in Islam, whereas the example above is the abrogation of a ruling that does not fall under the category of Shari'ah.
- c) The mistake of identifying takhsish or specialization of the law into abrogation, such as verses that are specialized with the sign "istitsna" or exception, as in Surah al-Shu'ara 224-227: "And the poets are followed by those who go astray. Do you not see that they wander in every valley, and that they love to say what they themselves do not do, except for those (poets) who believe and do righteous deeds and mention Allah a lot, and gain victory after suffering injustice. And the wrongdoers will know to what place they will return". In verse 227 there is the word "except" which they take as a sign that the following sentence is an abrogation of the ruling contained in the previous verse.
- d) The mistake of identifying the mubayyin or explanatory verse for the general verse, which they regard as abrogation. An example is Surah al-Nisa 6, "Whoever (of the guardians) is able, let him refrain (from consuming the orphan's property) and whoever is poor, let him eat of it in an appropriate manner", which they regard as abrogating Surah al-Nisa 10, "Verily, those who eat orphan's property unjustly, they are swallowing fire in their bellies and they will enter into a blazing fire (hell)".
- e) The misconception that there are two contradictory texts so that one of them must be abrogated by the other, when in fact the two texts are not. For example, "And spend some of what We have given you"³⁷ and "And of what We have bestowed on them they spend it", they assume that these two verses are contradictory which is then abrogated by the verses about zakat.³⁸

³⁶ al-Banna, Jamal. 2004. *Tafnid Da'wa al-Naskh fi al-Quran al-Karim*. Kairo: Dar al-Syuruq. 87

³⁷ al-Munafiqun. 10

³⁸ al-Baqarah. 3

To strengthen the argument that there is no abrogation in the Qur'an, al-Banna gave an example of a verse in the Qur'an which is claimed by some scholars as an example of abrogation in the Qur'an, namely Surah al-Baqarah 180, "It is obligatory upon you, when death is about to take someone among you, if he leaves property, bequests to parents and relatives in a good way, (as) an obligation for the pious". Scholars differed on the verse that abrogates it, some argued that the verse is abrogated by the verses of inheritance. al-Banna argued that the verses on inheritance do not abrogate the verse above, because the laws contained in the two verses are not contradictory, so it does not require the cancellation of the law of one of the verses. Others argue that the verse is abrogated by the hadith of the Prophet: "There is no will for the heirs".³⁹ al-Banna and some people argue that *dzanni* evidence can not abrogate *qath'i* evidence. According to al-Banna, the difference of opinion among scholars about the evidence that abrogates the verse of the will that is al-Baqarah 180 shows that the theory of abrogation in the Qur'an does not have a strong argument. If it is true that there is abrogation in the Qur'an, then there should be no difference of opinion about the verses that abrogate and which are abrogated, because it is related to the law or sharia.⁴⁰

3. JASSER AUDA

Jasser Auda is a renowned multi-disciplinary scholar and one of the leading experts in the field of maqasid sharia who is an associate professor at the Qatar Faculty of Islamic Studies (QFIS), specifically in the public policy studies of Islamic studies program. In Dublin he founded the International Union of Muslim Scholars, in London England he is a member of the academic council of the International Institute of Islamic Thought as well as a member of the trustees of the Global Center for Civilization Studies (GCSC) and a member of the executive board of the Association of Muslim Social Scientists (AMSS), in Canada he is a member of the International Institute of Advanced Systems Research (IIAS). In 2008 he obtained his Ph.D from the University of Wales, UK, in Philosophy of Islamic Law. In 2006 he received a second Ph.D. from the University of Waterloo, Canada, in Systems Analysis. In 2004 from the Islamic American University he obtained a master's degree in Jurisprudence, focusing on the study of the Objectives of Islamic Law (Maqāshid al-Syari'ah). His B.Sc degree was obtained from Engineering Cairo University, and his B.A degree was obtained from Islamic Studies at the Islamic American University, USA in 2001. He studied the Qur'an and Islamic sciences at alAzhar Mosque, Cairo. In London, UK he is the director and founder of the Maqāshid Research Center in the field of Philosophy of Islamic Law, and a guest lecturer for the Faculty of Law at the University of Alexandria, Egypt, the Islamic Institute of Toronto, Canada and the Academy of Islamic Jurisprudence, India. He lectures on Islamic law, philosophy, and materials related to Muslim minority issues and policies in several countries around the world.

³⁹ Tirmidzi, Muhammad bin Isa. (1975). *Sunan al-Tirmidzi*. Egypt: Musthafa al-Halabi. 4/133

⁴⁰ Lihat: al-Banna, Jamal. (2004). *Tafnid Da'wa al-Naskh fi al-Quran al-Karim*. Cairo: Dar al-Syuruq. 90-100.

He also follows policy reports relating to Muslim minorities and Islamic education to the UK Ministry of Communities and Higher Education Funding Council. He has written several books, the latest of which is in English, entitled *Maqāshid al-Syariah as Philosophy of Islamic Law: A Systems Approach* (London: IIIT, 2008). He has published eight books and hundreds of journal articles around the world, media articles, DVDs and public lectures. In addition, he has also received many awards.⁴¹

3.1 Corak Pemikiran Jasser Auda

Maqāshid sharia (the objectives of Islamic law) is the focus of Jasser Auda's study object. Jasser Auda's thoughts on *maqasid sharia* have become the center of attention in the world of contemporary Islamic science. Auda views that understanding *maqasid* is the key to facing the challenges and changes of a complex era. He argues that *maqasid sharia* is the basis of Islamic law that must be interpreted contextually. According to him, the main purpose of Islamic law is to safeguard and improve human welfare and promote social justice.

Auda also argues that in applying *maqasid sharia*, it is important to prioritize universal values such as justice, freedom and human welfare. He argues that Islamic law should focus on goals that are constructive and avoid actions that harm individuals or society. This includes human rights, protection against oppression, and justice in various aspects of life.

Auda's thinking on *maqasid sharia* also includes a broader and more inclusive concept of *ijtihad* (legal interpretation). He argues that the interpretation of Islamic law should be open to dissent and allow for diverse views within a framework of positive values. This, according to Auda, will allow Islam to adapt to changing social and economic realities.

In addition, Auda underlines the importance of education and awareness in the understanding of *maqasid sharia*. He believes that education is the key to understanding and applying the objectives of Islamic law correctly, so that Muslim communities can become agents of positive change in their societies.

Finally, Jasser Auda emphasizes that *maqasid sharia* should be the foundation for building a just and sustainable society, and this should be done through interfaith cooperation and dialogue. His thinking provides a more inclusive and progressive view of Islam that promotes human well-being and justice in the contemporary era.⁴²

⁴¹ Irawan, Soni. (2022). *Maqāshid al-Sharīah Jasser Auda Sebagai Kajian Alternatif Terhadap Permasalahan Kontemporean*. *The Indonesian Journal of Islamic Law and Civil Law*. Vol. 3, No. 1, ISSN. 2809 – 3402. Page 44.

⁴² Haqan, Arina. (2018). *Rekonstruksi Maqashid al-Syariah Jasser Auda*. *Jurnal Instika*. Vol 1. No 1. Pages 136-140.

3.2 Jasser Auda and the Abrogation of Religious Texts

Jasser Auda's thoughts on abrogation are collected in his work entitled "Naqd Nadzariyyah al-Naskh Bahtsun fi Fiqh Maqashid al-Syariah", first printed in 2013. Jasser argues that the fuqaha have been trapped in tsuna-iyah hatmiyyah or unavoidable dualism.⁴³ This phenomenon has led to long debates that have forgotten the substance of the Shari'ah. An example of dualism is the theory of *mafhum mukhalafah* or opposite meaning in ushul fiqh. The three madhhabs of fiqh - apart from Hanafi - are unanimous in dividing the *dalalah of mafhum lafdzi* into *mafhum mukhalafah* (establishing a ruling for what is not mentioned by the text as opposed to what is mentioned by the text) and *mafhum muwafaqah* (the instruction of the text or the establishment of a ruling for the mentioned matter where there is compatibility between the two because of the similarity of *illat*).

An example of the dualism explained by Auda is the fuqaha's understanding of the obligation to pay zakat on grazing animals based on the Prophet's hadith: "On herd animals there is zakaah".⁴⁴ Based on the theory of *mafhum mukhalafah*, there is no zakaah on animals that are not herded, this is the view of the Maliki, Shafi'I and Hanbali madhhabs, except for the Hanafi madhhab because it rejects the theory of *mafhum mukhalafah*, meaning that the Hanafi madhhab believes that there is zakaah on animals that are not herded. According to him, the disagreement is very theoretical and out of the substance of the sharia purpose of zakat, whereas if we look at the maqashid sharia⁴⁵ of zakat, then we can escape the dualism that cannot be separated. The *maqashid sharia* of zakat is to take some of the wealth from people whose assets have reached the *nishab* and have *haul* or reached one year since the assets are owned, then the assets are distributed to the *mustahiq* zakat. Thinking that focuses on maqashid sharia will be free from the trap of formal theories that are not substantive, so that in the issue of animal zakat, it will not be trapped in whether the animal is a herd animal or not.⁴⁶ Auda argues that unavoidable dualism also occurs in the concept of abrogation in religious texts, one of which is the Qur'an, because in abrogation there is a view that there is a contradiction in two verses so that one of them must be negated, either the verse or the law or both.⁴⁷

Abrogation in his view is a method used by scholars when facing two religious texts that are contradictory in appearance, in addition to *al-jam'u* (collecting), *al-tarjih* (choosing one of the two stronger propositions), *al-takhyir* (choosing from two propositions according to the conditions of need), *al-tawaquf* (silence by not choosing the two contradictory propositions

⁴³ Auda, Jasser. (2013). *Naqd Nadzariyyah al-Naskh Bahtsun fi Fiqh Maqashid al-Syariah*. Bairut: al-Syabakah al-'Arabiyyah li al-Abhats wa al-Nasyr. 7.

⁴⁴ Ahmad bin Hanbal. (2021). *Musnad al-Imam Ahmad bin Hanbal*. Muassasah al-Risalah. 33/238

⁴⁵ Ridwan. (2010). *Maqashid Syariah dan Relevansinya dalam Konteks Kekinian*. Jurnal Ilmiah: *al-Syir'ah*. Vol 8. No 1. Page 4.

⁴⁶ Auda, Jasser. (2013). *Naqd Nadzariyyah al-Naskh Bahtsun fi Fiqh Maqashid al-Syariah*. Bairut: al-Syabakah al-'Arabiyyah li al-Abhats wa al-Nasyr. 16.

⁴⁷ *Ibid.* 17.

or abandoning them), and *al-isqath* (abandoning the law of two contradictory propositions because practicing one of them is not better than the other).⁴⁸ These conflicting religious texts are then called *al-muta'aridh al-dzahirah*, which is also called *ta'arudhan tajawuzan* or arguments that are outwardly contradictory but not in essence.⁴⁹

Of the six methods used by scholars in dealing with two contradictory propositions, Auda considers that *barogation* is the method most widely practiced by scholars.⁵⁰

Auda views that *abrogation* as understood by the majority of scholars is a term used to express various forms of redaction in a religious text, such as *istitsna* or exception, *takhshish* or specialization, interpretation of texts that descended first with texts that descended later with the implication of erasing the law contained in the first text by the second text. However, if we look at the implementation of *istitsna'*, *takhshish*, and *interpretation* carried out by the companions of the Prophet, it does not automatically imply the erasure of the law contained in the text that was revealed first by the text that was revealed later. For example, Surah al-Shu'ara 244:

وَالشُّعْرَاءُ يَتَّبِعُهُمُ الْغَاوُونَ

"And the poets are followed by those who go astray".

This verse is then abrogated and excluded by verse 227:

إِلَّا الَّذِينَ ءَامَنُوا وَعَمِلُوا الصَّالِحَاتِ وَذَكَرُوا اللَّهَ كَثِيرًا وَانْتَصَرُوا مِنْ بَعْدِ مَا ظَلَمُوا ۗ وَسَيَعْلَمُ الَّذِينَ ظَلَمُوا أَيَّ مُنْقَلَبٍ يَنْقَلِبُونَ

"Except those (poets) who believe and do righteous deeds and mention Allah much and gain victory after suffering injustice. And the wrongdoers will know to what place they will return".

The abrogation in the above case (as well as other similar examples) does not remove the ruling contained in the verse,⁵¹ meaning that it is an exception for those poets who believe, do righteous deeds, and remember Allah a lot, they are not among the poets who are followed by those who are misguided.

Auda argues that the definition of *abrogation* among the majority of scholars is: *رفع حكم شرعي* or *abrogating the law/shari'ah* by a text that comes later or after it. This definition, in his view, is based on two texts in the Qur'an, namely *al-Baqarah* 106 and *al-Nahl* 101.

a. *al-Nahl* 106:

وَإِذَا بَدَّلْنَا آيَةً مَكَانَ آيَةٍ ۖ وَاللَّهُ أَعْلَمُ بِمَا يُنزِّلُ قَالُوا إِنَّمَا أَنْتَ مُفْتَرٍ ۚ بَلْ أَكْثَرُهُمْ لَا يَعْلَمُونَ

"And when We put a verse in the place of another, but Allah knows better what He has revealed, they say: "Surely you are inventors". And most of them do not know."

⁴⁸ *Ibid.* 44.

⁴⁹ Zaid, Musthafa. (1987). *al-Naskh fi al-Quran al-Karim*. Dar al-Fawa' li al-Thiba'ah wa al-Nasyr wa al-Tauzi'. 2/192.

⁵⁰ Auda, Jasser. (2013). *Naqd Nadzariyyah al-Naskh Bahtsun fi Fiqh Maqashid al-Syariah*. Bairut: al-Syabakah al-'Arabiyyah li al-Abhats wa al-Nasyr. 47.

⁵¹ *Ibid.* 51

Auda notes that the majority of mufassirin define the word "put" in the verse as the abrogation of the law/sharia,⁵² for example al-Qurthubi who said: "We replaced the Shari'ah that came before with the Shari'ah that came after".⁵³ This is similar to Qatadah who said that al-Baqarah 106 is the same as al-Nahl 101. Al-Nasafi explains the reason for the revelation of the verse: "They said that Muhammad gave decisions to his companions, today he gave one decision, tomorrow he canceled it. The Prophet came with easier matters, and sometimes he changed the easy ruling for a difficult one, sometimes he changed the easy one for a difficult one". The argument of al-Nasafi was refuted by Muhammad al-Ghazali who said that Surah al-Nahl is part of the Makkiyyah surahs and there is no abrogation in the surahs that came before it, whether the process of abrogating a difficult ruling by an easy one or an easy ruling by a difficult one".⁵⁴

b. al-Baqarah 106:

مَا نَسَخَ مِنْ آيَةٍ أَوْ نُنسِخْهَا فَإِنَّهَا أَوْ مِثْلَهَا أَوْ أَلَمْ تَعْلَمِ أَنَّ اللَّهَ عَلَىٰ كُلِّ شَيْءٍ قَدِيرٌ

"Whichever verse We abrogate, or make people forget, We will bring something better than it or comparable to it. Do you not know that indeed Allah is over all things?"

The majority of *mufassirin* explain that this verse is talking about the abrogation of the law/sharia. This opinion is refuted by Auda. He argues that the meaning of abrogation in this verse is the abrogation of pre-Islamic laws or sharia by Islamic laws or sharia.⁵⁵ Auda's opinion is in line with Muhammad al-Ghazali, he argues that the verse relates to the arguments that strengthen the proof of the prophethood of the prophets, meaning that Allah will show the proof of the truth of the Prophet Muhammad as the bearer of the message of Islam which will erase the message of the previous Prophet. This is reinforced by al-Baqarah 108: "Or do you want to ask your Messenger (Muhammad) as Moses (once) asked (the Children of Israel)?"⁵⁶ While Thabari argues: "Allah wants to change the halal into haram, the haram into halal".⁵⁷ As for al-Razi, he quotes Abu Muslim al-Asfahani's opinion that the verses that are abrogated in this verse are the laws contained in the books before the Qur'an such as the Torah and the Gospel.⁵⁸

Based on the different interpretations of the scholars, Auda concluded several things:

- There is no consensus of opinion that the meaning of abrogation in these verses is the nullification or abrogation of the ruling of a verse.
- The interpretation of these verses by changing halal to haram or haram to halal is an interpretation without strong narration evidence.

⁵² *Ibid.* 56

⁵³ Al-Qurthubi, Muhammad bin Ahmad. (1964). *al-Jami' li Ahkam al-Quran*. Cairo: Dar al-Kutub al-Mishriyyah. 10/176

⁵⁴ Auda, Jasser. (2013). *Naqd Nadzariyyah al-Naskh Bahtsun fi Fiqh Maqashid al-Syariah*. Bairut: al-Syabakah al-'Arabiyyah li al-Abhats wa al-Nasyr.56.

⁵⁵ *Ibid.* 57.

⁵⁶ Al-Ghazali, Muhammad. (2002). *Nadzarat fi al-Quran*. Cairo: Nahdhah Mishr li al-Thiba'ah. 202-204.

⁵⁷ al-Thabari, Muhammad ibnu Jarir. (2005). *Jami' al-Bayan 'an Ta'wil Ayi al-Quran*. Makkah: Dar al-Tarbiyah wa al-Turats. 2/171

⁵⁸ al-Razi, Fakhruddin Muhammad bin Umar. (2000). *Mafatih al-Ghaib*. Beirut: Dar al-Kutub al-Ilmiyyah. 2/262.

- c) The most correct interpretation is that of Abu Muslim al-Asfahani, who relates the verse to the abolition of the Jewish laws (Torah). This interpretation establishes the principle of abrogation in general without contradicting the context of the verse, which is a refutation of Judaism.
- d) Even if it is true that the abrogation in this verse is the abrogation of the law or sharia contained in a verse, as is the opinion of the majority of scholars, this verse does not specifically indicate the abrogation that occurred in a verse, while the determination of a verse that abrogates or is abrogated cannot be based on human reason alone, it must be based on clear evidence.

Auda then highlighted the concept of *ta'arudh* or contradiction of two entities which is the principle in abrogation. *Ushuliyyun* argue that the meaning of *ta'arudh* is *ta'aurdh fi nafsi al-amri* or contradiction in the same thing (substance). They explain that the contradiction must occur between two entities that cannot meet or come together to produce one conclusion, so that the conclusion cannot be obtained except by the process of abrogation.⁵⁹ Muhammad ibn Idris al-Shafi'i said in this regard: "If there is no possibility in the two texts except for a difference or contradiction, such as the difference in the direction of Qibla between the House of Haram and the House of Maqdis, then one of them is nasikh (the verse that abrogates) and the other is mansukh (the verse that is abrogated). But if it is possible to put them together and come to a conclusion, then that should be done without negating either of them."⁶⁰ Then al-Ghazali explained how abrogation is implemented in two contradictory texts: "Know that if there is a contradiction in two texts, the text that abrogates is the text that was revealed later".⁶¹ al-Juwaini added that the purpose of abrogation is to release the holy book that Allah revealed from *tanaqudh* or contradiction.⁶² It is emphasized by al-Zarqani regarding abrogation that it is very important, especially when there is a real contradiction between the two texts as a prevention of disputes in the Shari'a of Allah."⁶³

Auda highlighted the theory of substantive contradiction as a condition for abrogation and its application by the scholars. He concluded that the practice of abrogation carried out by the scholars was not always due to the existence of substantive contradictions between two propositions. For example:

1) al-Baqarah 254 & al-Anfal 3

يَا أَيُّهَا الَّذِينَ آمَنُوا أَنْفِقُوا مِمَّا رَزَقْنَاكُمْ مِنْ قَبْلِ أَنْ يَأْتِيَنَّ يَوْمَ لَا بَيْعَ فِيهِ وَلَا حِلَّةَ وَلَا شَفَاعَةَ وَالْكُفْرُوتُونَ هُمُ الظَّالِمُونَ

"O you who believe, spend some of the sustenance We have bestowed upon you before the coming of the Day on which there will be no more buying and selling, no more brotherhood and no more intercession. And those who disbelieve are the wrongdoers."

الَّذِينَ يُؤْتِمُونَ الصَّلَاةَ وَمِمَّا رَزَقْنَاهُمْ يُنْفِقُونَ

⁵⁹ Auda, Jasser. (2013). *Naqd Nadzariyyah al-Naskh Bahtsun fi Fiqh Maqashid al-Syariah*. Bairut: al-Syabakah al-'Arabiyyah li al-Abhats wa al-Nasyr. 61-62.

⁶⁰ al-Syafi'I, Muhammad bin Idris. (1985). *Ikhtilaf al-Hadits*. Beirut: Muassasah al-Kutub. 1/487.

⁶¹ al-Ghazali, Abu Hamid Muhammad bin Muhammad. (1992). *al-Mustashfa*. Beirut: Dar al-Kutub al-'Ilmiyyah. 1/103.

⁶² al-Juwaini, Abu al-Ma'ali Abd al-Malik bin Abdullah. (1997). *al-Burhan fi Ushul al-Fiqh*. al-Manshurah: Dar al-Wafa'. 2/844.

⁶³ al-Zarqani, Abd al-'Adzim. *Manahil al-'Irfan*. Cairo: 'Isa al-Halabi. 2/178.

"Those who pray and spend some of the sustenance We bestow upon them".

Some commentators argue that the two verses are abrogated by the verse on zakat because they consider that there is a substantive contradiction between the two verses and the verses on zakat.⁶⁴ Auda argues that there is actually no substantive contradiction between these verses, which is emphasized by the words of al-Zarqani: "There is no contradiction or negation between these verses, because zakat, sunnah charity and providing for family and close relatives are included in the category of infaq in these two verses".⁶⁵

2) ali Imran 102

يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ حَقَّ تَقَاتِهِ ۖ وَلَا تَمُوتُوا إِلَّا وَأَنتُمْ مُسْلِمُونَ

"O you who believe, fear Allah with true piety and do not die except as Muslims".

Some scholars are of the opinion that this verse is abrogated by Surah al-Taghabun 16.

فَاتَّقُوا اللَّهَ مَا اسْتَطَعْتُمْ

"Fear Allah to the best of your ability".⁶⁶

This is as confirmed by al-Suyuthi that in Surah 'Ali Imran there is no true abrogation except the abrogation that occurs in this verse.⁶⁷ However, this opinion is refuted by al-Zarqani who states that the verse (Ali Imran 102) is not abrogated, because the piety commanded in the verse is interpreted as keeping the head and what it thinks and keeping the stomach and what enters it from things that are not good, and it is not impossible to do with Allah's permission. When there is no contradiction, the process of nasakh does not occur.⁶⁸

Auda also highlighted the concept of *al-ahdats fa al-ahdats* or the text that came down later is the text that applies and erases the text that came down earlier. According to Auda, this concept was practiced by the Companions when the Prophet was still alive.⁶⁹ This is confirmed by the words of al-Zuhri: "They (the Companions) followed the text that came most recently from the Prophet and made it a *nasikh* (verse that abrogates) with the status of *muhkam*".⁷⁰ After the Prophet died, there were differences of opinion among the companions of the Prophet regarding the new problems they faced, they then disagreed regarding the concept of *al-ahdats fa al-ahdats*,⁷¹ for example surah al nisa 8:

وَإِذَا حَضَرَ الْقِسْمَةَ أُولُو الْقُرْبَىٰ وَالْيَتَامَىٰ وَالْمَسَاكِينُ فَارْزُقُوهُمْ مِنْهُ وَقُولُوا لَهُمْ قَوْلًا مَعْرُوفًا

⁶⁴ Auda, Jasser. (2013). *Naqd Nadzariyyah al-Naskh Bahtsun fi Fiqh Maqashid al-Syariah*. Bairut: al-Syabakah al-'Arabiyyah li al-Abhats wa al-Nasyr. 63.

⁶⁵ al-Zarqani, Abd al-'Adzim. *Manahil al-'Irfan*. Cairo: 'Isa al-Halabi. 2/183.

⁶⁶ Auda, Jasser. (2013). *Naqd Nadzariyyah al-Naskh Bahtsun fi Fiqh Maqashid al-Syariah*. Bairut: al-Syabakah al-'Arabiyyah li al-Abhats wa al-Nasyr. 63.

⁶⁷ Al-Suyuthi, Jalaluddin Abdurrahman bin Abu Bakr. (1900). *al-Itqan fi 'Ulum al-Quran*. Cairo: al-Mathba'ah al-Azhariyyah al-Mishriyyah. 2/161.

⁶⁸ al-Zarqani, Abd al-'Adzim. *Manahil al-'Irfan*. Cairo: 'Isa al-Halabi. 2/188.

⁶⁹ Auda, Jasser. (2013). *Naqd Nadzariyyah al-Naskh Bahtsun fi Fiqh Maqashid al-Syariah*. Bairut: al-Syabakah al-'Arabiyyah li al-Abhats wa al-Nasyr. 69.

⁷⁰ Muslim. (2007). *Shahih Muslim*. Turki: Dar al-Thiba'ah al-'amirah. 3/141

⁷¹ Auda, Jasser. (2013). *Naqd Nadzariyyah al-Naskh Bahtsun fi Fiqh Maqashid al-Syariah*. Bairut: al-Syabakah al-'Arabiyyah li al-Abhats wa al-Nasyr. 70.

"When the relatives, orphans, and the poor (who have no right of inheritance) attend the distribution of property (inheritance or will), then provide for them from the property. Say to them good words."

Some of the Companions thought that this verse was abrogated by the verse on inheritance, because the verse on inheritance came after this verse. However, Ibn 'Abbas rejected this opinion: "Some people think that this verse is abrogated. By Allah, this verse is not abrogated, but many people underestimate this verse. This verse explains that there are two guardians: the guardians of the heirs, who are those who receive a share of the inheritance (according to the rules of inheritance), and the guardians of the non-heirs, who receive a favor from the heirs (not according to the rules of inheritance)."⁷²

abrogation in religious texts according to Auda can not be based on the argument of reason an sich, although the argument is from the companions of the Prophet or authoritative scholars, because their words are not *nash shari'* or *dalil* which is the basis of sharia, Auda strengthens his argument by quoting the words of al-Shafi'i: "It is not permissible to argue for the existence of *nasikh* and *mansukh* except on the basis of the hadith of the Prophet".⁷³ The words of al-Shafi'i are in line with the words of al-Shukani: "abrogation cannot be based on possibility, and abrogation did not occur except at the time of the Prophet, because abrogation must be based on the *nash* or text, so there is no abrogation after the death of the Prophet".⁷⁴ Auda emphasized that if the scholars reject abrogation based on the words of companions, then abrogation based on the words of fuqaha or scholars should be rejected. Auda also gave an example of the practice of abrogation without *nash* or text or evidence but has a major impact on the law, namely the abrogation of the verse about saif or "sword" and hijab (barrier for women):

a) The *saif* verse, al-Taubah 5

فَإِذَا انْسَلَخَ الْأَشْهُرُ الْحُرْمُ فَاقْتُلُوا الْمُشْرِكِينَ حَيْثُ وَجَدْتُمُوهُمْ

"When the unlawful months have passed, kill (in battle) the polytheists (who have been persecuting you) wherever you find them!"

The substance of this verse is an order to fight the polytheists, therefore, this verse is considered to abrogate several verses that are substantially different from the verse of the saif in addressing the polytheists, including:

لَا إِكْرَاهَ فِي الدِّينِ

"There is no compulsion in (embracing) religion (Islam)"⁷⁵

فَدَرْهُمْ وَمَا يَفْتَرُونَ

⁷² al-'Asqalani, Ibnu Hajar. *Fath al-Bari*. Egypt: al-Maktabah al-Salafiyyah. 8/132

⁷³ Auda, Jasser. (2013). *Naqd Nadzariyyah al-Naskh Bahtsun fi Fiqh Maqashid al-Syariah*. Bairut: al-Syabakah al-'Arabiyyah li al-Abhats wa al-Nasyr. 76.

⁷⁴ Al-Syaukani, Muhammad bin Ali bin Muhammad. (1414H). *Fath al-Qadir*. Beirut: Dar al-Fikr. 1/305

⁷⁵ al-Baqarah: 256

“Maka, tinggalkan mereka bersama apa yang mereka ada-adakan (kebohongan)”⁷⁶

أَذْفَعُ بِأَلَّتِي هِيَ أَحْسَنُ السَّبِيَّةِ ۚ

“Tolaklah perbuatan buruk mereka dengan yang lebih baik”⁷⁷

إِنَّ الَّذِينَ قَفَرُوا دِينُهُمْ وَكَانُوا شِعَاعًا لَّسْتِ مِنْهُمْ فِي شَيْءٍ ۚ إِنَّمَا أَمْرُهُمْ إِلَى اللَّهِ ثُمَّ يُنَبِّئُهُمْ بِمَا كَانُوا يَفْعَلُونَ

“Verily, those who divide their religion and they become (divided) into groups, you (Prophet Muhammad) are not responsible for them in the least. Indeed, their affairs are (up to) Allah alone. Then He will tell them what they have done”⁷⁸

b) *Hijab* verse, al-Ahzab 53

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَدْخُلُوا بُيُوتَ النَّبِيِّ إِلَّا أَنْ يُؤْذَنَ لَكُمْ إِلَى طَعَامٍ غَيْرٍ نَظِيرِهَا إِذْهُ وَلَكِنْ إِذَا دُعِيتُمْ فَادْخُلُوا فَإِذَا طَعِمْتُمْ فَانْتَشِرُوا وَلَا مُسْتَأْنَسِينَ لِحَدِيثٍ ۚ إِنَّ ذَلِكُمْ كَانَ يُؤْذَى النَّبِيَّ فَيَسْتَحْيِي ۚ مِنْكُمْ وَاللَّهُ لَا يَسْتَحْيِي ۚ مِنَ الْحَقِّ ۚ وَإِذَا سَأَلْتُمُوهُنَّ مَتَاعًا فَاسْأَلُوهُنَّ مِنْ وَرَاءِ حِجَابٍ ذَلِكُمْ أَطْهَرُ لِقُلُوبِكُمْ وَقُلُوبِهِنَّ ۚ وَمَا كَانَ لَكُمْ أَنْ تُنكِحُوا أَرْوَاجَهُنَّ ۚ مِنْ بَعْدِهِ ۚ أَبَدًا ۚ إِنَّ ذَلِكُمْ كَانَ عِنْدَ اللَّهِ عَظِيمًا

"O you who have believed, do not enter the Prophet's houses unless you are permitted to eat without waiting for the cooking time, but if you are invited, enter and when you have finished eating, go out without prolonging the conversation. Indeed, such is the annoyance of the Prophet that he is ashamed of you (to send you out). Allah is not ashamed of the truth. When you ask them (the Prophet's wives) for anything, ask from behind the veil. (That is purer for your hearts and theirs. You shall not harm the Messenger of Allah nor shall you marry his wives forever after his death. Verily, such is a great sin in the sight of Allah".

This verse has an *asbab nuzul* where Umar bin Khatab said to the Prophet: "O Messenger of Allah, good men and bad men have entered your house, so have you not ordered your wives to veil themselves or restrict themselves from the sight of men?", so the verse of hijab was revealed. This verse is claimed by some scholars to abrogate some rulings, including Ibn Hajar: "(this verse abrogates) the permissibility of the Prophet's wives going out of the house", Ibn Taymiyyah: "(this verse abrogates) the permissibility for the Prophet's wives to uncover their faces in front of people who are not their mahrams", al-Nawawi: "(this verse abrogates) the permissibility of the Prophet's wives to speak to men in general". Auda argues that all the abrogation claims made by the scholars above are not based on evidence, but they clearly have an impact on changing the law.⁷⁹

Auda then highlights *al-tashrih bi al-naskh* or explicit sentences that indicate abrogation. He argues that there is no narration that explains this except for the sentence changing the law from prohibition to permission, for example the Prophet's hadith:

كَنتُ هَيْئَكُمْ عَنْ زِيَارَةِ الْقُبُورِ فَزُورُوهَا

"I used to forbid you to make pilgrimages to the grave. But now you should go on pilgrimage"⁸⁰

The change in the legal status of grave pilgrimage from prohibition to command according to some scholars is an explicit form of abrogation, but this is refuted by Auda, he argues that the

⁷⁶ al-An'am: 112

⁷⁷ al-Mu'minun: 96

⁷⁸ al-An'am: 159.

⁷⁹ Auda, Jasser. (2013). *Naqd Nadzariyyah al-Naskh Bahtsun fi Fiqh Maqashid al-Syariah*. Bairut: al-Syabakah al-'Arabiyyah li al-Abhats wa al-Nasyr. 78-81.

⁸⁰ Muslim. (2007). *Shahih Muslim*. Turki: Dar al-Thiba'ah al-'amirah. 6/82.

change does not indicate abrogation, but a change in the *illat* which is the basis for the existence of the law, because the existence of the law depends on the existence of the *illat*, so if the *illat* of a law is lost or changed, the law also becomes lost or changed.⁸¹

4. CONCLUSION

Jamal al-Banna and Jasser Auda have the same opinion that there is no abrogation in religious texts, although both are in two different schools of thought, Jamal al-Banna is known as a liberal thinker, while Jasser Auda is the opposite. Both conclude that the abrogation that has been developed by the scholars does not have a clear argument. If the arguments about abrogation are clear, then there will be no dispute among the scholars regarding the verses that are abrogated and the verses that abrogate. According to both of them, the issue of abrogation is closely related to changes in law or sharia, and changes in law cannot be made without a strong basis or evidence.

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