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LEGAL STUDIES OF THE THEORY OF *NASKH* IN THE QUR'ÂN AND *SUNNAH*

Kazeem Adekunle Adegoke, Ph.D.

Abstract

This paper explores the theory of *Naskh* as one of the fundamental styles in the studies of the Qur'ân. It is introduced with the examination of the Qur'ân as a source of all branches of Islamic discipline. It provides definitions to some concepts for the clarification of related terms. The historical development of the theory of *Naskh* is highlighted. The paper then moves into the examination of textual application of the theory of *Naskh* in the Qur'ân and *Sunnah* as a means to the understanding the study of *Tafsîr, Sharî'ah* and *U'ûl al-Fiqh* under Islamic Studies.

Introduction

Both the Qur'ân and *Sunnah* are the primary sources of all Islamic disciplines. Qur'ân is the Book of Allah revealed to Prophet Muhammad (S.A.W) through the arch-Angel Jubril in piece-meal for the period of twenty-three years in both cities of Makkah and Madinah while *Sunnah* is sayings, deeds and practices of Prophet Muhammad (S.A.W) and that of his companions that received tacit or salient approval. Both the Qur'ân and *Sunnah* are religious manuals of Muslims since the early period of Islam in the seventh century of the Christian era. Therefore, for the past fourteenth centuries, both manuals have occupied a unique place in the life of Muslims. Their appeal and unparalleled influence on Muslims is significant and incomparable. It is not possible to appreciate the wealth of ideas and the beauty of style in both sources of guidance in Islam without understanding the theory of *Naskh* and its relevance to application of the sources of guidance in all Islamic disciplines. Both the Qur'ân and *Sunnah* enforce some legal injunctions relevant to a particular time. At a later time, both cancel some of these legal injunctions and replace them with new ones which are relevant at all times. It is on this line that this study aims at examining the theory of *Naskh* in the Qur'ân and *Sunnah*.

Definitions of the Related Concepts

The word “Qur’ân” literally means something to be read or recited. It is derived from the trilateral Arabic verb “*Qara’a*” which means “he read, he recited, he collected. Later, the meaning of the verb “*Qara’a*” was pegged down to mean “he read, he recited” because the words and letters used to be collected together while reading or reciting them. (Usmani, 2006:28) The verbal noun (*Masdar*) of the verb “*Qara’a*” is *Qirâ’ah* and Qur’ân (*Qara’a - Yaqra’u - Qira’âtan* and *Qur’ânan*). The verbal noun *Qur’ânan* in this etymology (*arf*) is passive participle. In the Arabic language, verbal noun usually emerges as an active participle, but sometimes, it may emerge as passive participle as it occurs in this usage. Therefore, the term “*Qur’ân*” is so named in this sense to mean “The Book that is often read or recited”. (Usmani, 2006:28). *Sunnah* literally means “a way, method, technique of doing a thing”. Technically, *Sunnah* could be defined as word (*Qawliyyah*), deed or practice (*Fi’liyyah*) and approval (*Taqririyyah*) of Prophet Muhammad (S.A.W). The term, *Naskh*, according to Cowan (1976:961) is derived from the verb “*Nasakha*” which means to replace, to withdraw, to abolish, to erase, to substitute, to abrogate among others. By this, the term “*Naskh*” means abolition, abrogation, replacement, substitution and so on. Technically, it means the theory or principle of withdrawal or abrogation of rules and regulations of certain parts of the Qur’ân and *Sunnah* with or without the legal ruling. According to the ‘*Usuliyyun* and *Fuqâha*’, the term “*Naskh*” simply means issuance of an order according to the needs of the time or changed circumstances. The text that abrogates another text is referred to as “*Nâsikh*” while the abrogated text is called “*Mansukh*”. Thus, the term “*Nâsikh*” serves as an active participle while “*Mansukh*” serves as passive participle. (Adegoke, 2003:52)

The Historical Development of the Theory of *Naskh*

The theory of *Naskh* came into being during the Madinan period of Islam after the *Hijrah*. Islam was strange to the people when it was newly-introduced to them. Due to the strangeness of Islam to the earlier Muslims, some aspects of the legal system in their way of life were simplified so as not scare them away from the newly introduced

religion of Islam. This is the reason why the Prophet (S.A.W) himself was reported to have said: "Islam started as a strange affair."

For the convenience of the earlier Muslims, Allah started introducing important changes little by little so as to allow the newly converted Muslims to adjust their way of life to the newly introduced Islam. On the theory of *Naskh*, Qur'ân says:

Whichever revelation We abrogate or cause to be forgotten, We bring one better than it or similar to it. Know you not that Allah has power over everything? (Q. 2:106)

And when We put a revelation in place of another revelation and Allah knows best what He revealed, they say: "You are forger" Nay, but most of them know not (Q.16:101)

This is what brought about the theory of *Naskh* in Islamic history. One of the incidents that buttressed this fact in Islamic history is the gradual prohibition of intoxicant as it demonstrated in the following Qur'anic verses:

Oh, you who believe, approach not the prayer when you are intoxicated until you know what you are saying... (Q.4:43)

Another Qur'anic verse came up after the above verse as an abrogator (*Nâsikh*) to the verse, it goes as follows:

They ask you concerning intoxicant and gambling, Say: In them is a great sin and some benefits for man, but the sin of them is greater than their benefit(Q.2:219)

This Qur'anic verse was also abrogated by the following verse which goes thus:

Oh, you who believe, intoxicant and gambling and idols and divining arrow are an abomination of Shaybân handwork. So, avoid it, in order that you may be successful. (Q.5:93)

These three Qur'anic verses mentioned above are samples of how Allah used to repeal a legal injunction in one verse and replace it with another verse through the effective use of the theory of *Naskh*.

Nature of Naskh al-Mansukh in the Qur'ân and Sunnah

Naskh may either be explicit (*Sarih*) or implicit (*Dimni*). Explicit *Naskh* is a situation where a certain legal text in the Qur'ân and *Sunnah* renders one legal ruling invalid and substitutes it with another in its place in single text of Qur'ân or *Sunnah*. This is what is generally known as a main feature of the theory of *Naskh*. The best sample of this is the *Sunnah* of the Prophet (S.A.W.), which later permitted the visitation of grave after it had been previously forbidden. Implicit *Naskh* is a situation where a certain legal text in the Qur'ân and *Sunnah* introduces a new legal ruling which is in conflict with the previous legal ruling on the same subject and the two legal rulings cannot be reconciled as the relevant facts are not clarified. As a result of this, it remains somewhat doubtful whether the two legal rulings present a genuine case for abrogation (Kamali, 1991: 154). Implicit *Naskh* has also been sub-divided into two types namely: *Naskh Kulli* (Total *Naskh*) and (*Naskh Juz'i* (Partial *Naskh*). *Naskh Kulli* is a situation where the whole of a particular legal text in the Qur'ân or *Sunnah* has been rendered invalid and a new is enacted to replace it. The best sample is the *Iddah* period of a widow which was slated to be one year in Qur'ân 2:240 but later changed to four months and ten days in Qur'ân 2:234. *Naskh Juz'i* is also a situation where a legal text is partially abrogated by another legal text, while the remaining part of legal force continues to be operative (Kamali, 1991: 155). The sample of this is the Qur'ân texts of *Qadhf* (Slandorous Accusation) in Qur'ân 24:4 and *Li'ân* (imprecation) in Qur'ân 24:6. Qur'ân 24:4 lays down the general rule that anyone, be it a spouse or otherwise, who accuses a chaste woman of illegal sexual intercourse (*zina*) must produce four witnesses for proof. Qur'ân 24:6 provides that if the accuser happens to be a spouse who cannot provide four witnesses and yet insists on pursuing the charge of illegal sexual intercourse (*zina*), he may take four solemn oaths in place of four witnesses. This is to be followed, in the Qur'ân 24:7 - 9, by a statement in which the husband and wife invoke the

curse of Allah on themselves if they tell a lie. The legal ruling of Qur'ân 24:4 has been repealed by Qur'ân 24:6-9 when the accusation concerns a married couple (Khallaf, 1398: 227).

Theory of *Naskh* in the Qur'ân

In the Qur'ân, there are several samples of the theory of *Naskh* informing of abrogator and abrogated verses. One of these samples is the Qur'anic verses on the gradual prohibition of the intoxicant that were earlier cited in this study. The Islamic scholars mentioned a large number of abrogated and non-abrogated verses in the Qur'ân. According to Imam Jalaluddin As-Suyyuti, there are only nineteen abrogated verses in the Qur'ân out of which Imam Shah Waliyyullah ascertain five of them. 'Uthman (1975:46) classifies Qur'anic verses in this category into four:

- a. *Forty-three Suwar without either Nâsikh and Mansûkh*
- b. *Six Suwar with Mansûkh but without Nâsikh.*
- c. *Forty Suwar with Mansûkh but without Nâsikh.*
- d. *Twenty five with both Nâsikh and Mansûkh.*

In the application of the theory of *Naskh* in the Qur'ân, "Uthman (1975:65) among others is of the opinion that there are three ways of identifying the *Nâsikh* and *Mansûkh* which are as follows;

- i. **Abrogation of the Qur'anic Verses Together with Legal Ruling (*Ma Nasakha Hukmahu Wa Lafzahu*)** : This is a situation where both Qur'anic text and its legal injunction are abrogated and cannot function again. For instance, 'Â'ishah was reported to have said that it had been previously stated in the Qur'ân that suckling or breastfeeding for ten times makes the marriage of a foster relation unlawful. Later, it was textually and legally abrogated in the Qur'ân before the death of Prophet (S.A.W). Presently, a single suckling or breastfeeding with one's foster relation renders the marriage with him or her invalid.

- ii. **Abrogation of the Legal Ruling without the Qur'anic Verses** (*Ma Nasakha Hukmahu Wa Baqâ Lafzahu*) : This is a situation where legal rulings of Qur'anic verses have been abrogated but the verses are still retained in the Qur'ân for recitation. The best examples of this are the legal rulings of adultery (*Zinâ*) and inheritance in the Qur'ân 4:15 and Qur'ân 2:180 which read thus respectively:

And those of your women who commit illegal sexual intercourse, take the evidence of four witnesses from amongst you against them, and if they testify, confine them to houses until death comes to them or Allah ordains for them some other way.

It is prescribed for you, when death approaches any of you, if he leaves wealth, that he makes a bequest to parents and next of kin, according to reasonable manners. This is a duty upon the pious.

The above mentioned Qur'anic verses have been respectively abrogated by Qur'ân 24:2 and Qur'ân 4:11-12 respectively:

The man and the woman guilty of illegal sexual intercourse, Flog each of them with a hundred stripes... (Q.24:2)

Allah commands you as regards your children's inheritance, To the male, a portion equal to that of two female... (Q.11-12)

- iii. **Abrogation of the Qur'anic Verses without its Legal Ruling** (*Ma Nasakha Lafzahu Wa Baqâ Hukmahu*): This is a situation where the Qur'anic verse is abrogated but the legal ruling of the verse is still in usage. The best example of this is the Qur'anic verse of *Rajm* (Stoning to Death) as a legal punishment for the *Zinâ* committed by the married man and married woman as quoted by Ibn Kathir (1975:288-289) in the hadith related by 'Abdullah Ibn 'Abbas:

Verily, Allah sent Muhammad (S.A.W) with truth and He Sent down the Book upon him and the verse of stoning (*Rajm*) was included in what was sent down to him. We recited it, retained it in our memory and understood it. Allah's Messenger (S.A.W) awarded the punishment of stoning to death after him, we also awarded the punishment of stoning. I am afraid that with the lapse of the time, the people may say: "We do not find the punishment of stoning in the Book of Allah" And thus go astray by abandoning this duty prescribed by Allah. Stoning to death is a duty laid down in Allah's Book for adulterer and adulteress.

The above mentioned legal ruling on the punishment of *Zinâ* on the adulterer and adulteress is no more found in the Qur'ân but its injunction is still in application.

Theory of *Naskh* in the *Sunnah*

The theory of *Naskh* in the *Sunnah* generates a lot of controversy among the scholars of Islam. They are of the view that the *Sunnah* of the Prophet (S.A.W) cannot abrogate the Qur'ân and vice-versa as both of them serve as complimentary to one another. They argue that admitting that the *Sunnah* could abrogate the legal ruling of the Qur'ân implies that Allah does not have stable mind and He is prone to committing mistakes or errors; hence, changes His mind through the assistance of the Prophet (S.A.W). These scholars further argue that it would mean that Allah once regarded one legal ruling as proper but later the Prophet (S.A.W) realized His mistake, withdrew it and replaced with another one in his *Sunnah*. This is an absurdity on the part of Allah and it is in contradiction to the spirit of monotheism in Islam (*Tawhîd*). Some Mu'tazilite scholars also argue that no verse of the Qur'ân has been abrogated by either the Qur'ân or *Sunnah* as all the Qur'ânic verses are equal in status and sacredness. (Usmani, 2006:171-172). This view was contended by some scholars such as Imam Ibn Kathir who postulated that the *Sunnah* could abrogate the legal injunction in the Qur'ân based on the Qur'anic verse that says:

He does not speak of his own desire. It is only a revealed Revelation (Q.53: 3-4).

Ibn Kathir asserts that this Qur'anic passage denotes that the *Sunnah* of the Prophet (S.A.W) is an instigation from Allah from Whom Qur'ân derived its existence. Therefore, the *Sunnah* of the Prophet (S.A.W) is not a self desire and lustful wishes of the Prophet (S.A.W) but a divine guidance from Allah. By this, a legal ruling in the *Sunnah* is eligible to abrogate a legal ruling in the Qur'ân. This is exactly what occurs in the sunnatic legal ruling of *Rajm* (Stoning to Death) on the *Zinâ* committed by the married people which read thus:

Take from me! Take from me!! Take from me!!! Allah has ordained for them other ways, for boys and girls (unmarried) hundred stripes of a cane and exile for a year, for man and woman (married), hundred stripes of a cane and stoning to death. (Ibn Kathir, 1997: 289)

However, there is no controversy among the scholars on the *Sunnah* serving as an abrogator to another *Sunnah* of the Prophet (S.A.W). This is guarded by the following three conditions:

- i. Both *Sunnah* (Abrogator and Abrogated) must be of the same status.
- ii. Abrogator *Sunnah* must be more sound and healthier than the Abrogated *Sunnah*.
- iii. Abrogator *Sunnah* must be transmitted by the majority of the companions whom their reliability could not be doubted against the Abrogated *Sunnah* of the lesser transmission.

Both Imam Ar-Razi and Imam Ash-Shawkani as quoted by Imam (2008:178) submitted that one *Sunnah* could only be abrogated by another *Sunnah* of its own status. This is the opinion of Imam Shafi^c, the founder of Shafi^c School of thought. There are so many samples of the *Sunnah* abrogating *Sunnah* in the hadith text. Temporary marriage (*Mut'ah*) was permitted during the war period in the earlier period of Islam as stated by Doi (1990:155) in the following hadith related by 'Abdullah Ibn Mas'ud that goes thus:

We used to go on *Ghasâwa* (Battles) with the Messenger of Allah, and we did not take our women with us. We asked the Messenger of Allah if we could get ourselves castrated. Messenger of Allah refused us to do so but allowed us to marry women by given them clothes for a certain period (*Mut'ah*).

The above mentioned *hadith* was later abrogated by another *hadith* related by 'Ali Ibn Abi Talib which reads thus:

I told 'Abdullah Ibn 'Abbas during the battle of Khaybar that the Messenger of Allah (S.A.W) forbade the temporary marriage (*Mut'ah*) and the eating of the flesh of donkey.

In another *hadith*, the Messenger of Allah was reported to have said that Allah has declared the temporary marriage (*Mut'ah*) unlawful till the day of Judgement. The Prophet (S.A.W) also forbade visitation to the graveyard. This *Sunnah* was later abrogated by another *hadith* which goes thus:

I used to forbid you from visiting the graveyards, but now you could visit them, as surely, they are reminders of the next life

Conclusion

The writer investigated into the study of *Naskh wal Mansukh* in the Qur'ân and *Sunnah*. The study was introduced with the discussion on the uniqueness of Qur'ân as a divinely revealed scripture. It then examined the historical development of the theory of *Naskh wal Mansukh* after looking at conceptual definitions. It then went directly to the textual evidence of the theory of *Naskh* in the Qur'ân and *Sunnah* of the Prophet (S.A.W) with samples from the two texts. It could be stated at this juncture that the theory of *Naskh wal Mansukh* in the Qur'ânic science (*Ulûmu'l-Qur'ân*) serves as a pre-requisite knowledge to the study of some Islamic disciplines such as *Tafsîr*, *Fiqh* and *Sharî'ah*. However, our attention should be drawn to the fact that the theory of the *Naskh* in the Qur'ân and *Sunnah* does not mean "a change in the divine view" as some scholars alleged but an avenue for making an injunction to be relevant to the need and necessity of the time.

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