

10. Abrogation in the Qur'an

Synopsis: The lexical and technical meaning of *al-naskh* (abrogation); the possibility of abrogation; its occurrence in the Torah; its occurrence in the Islamic Shari'a; the three kinds of abrogation; the verses that are said to be abrogated, and the proof that they belong to the clear (*muhkama*) type of verses; the verse about temporary marriage (*mut'a*) and its proof, demonstrating the lawfulness of the *mut'a* type of marriage; stoning because of *mut'a* marriage; the legal opinion of Abu Hanifa regarding the inapplicability of the punishment for adultery on *mut'a* marriage; his ruling regarding the inapplicability of the punishment for adultery if a man hires a woman and commits adultery with her; the attribution of this ruling to 'Umar; allegations regarding the *mut'a*; the open prejudice involved in the Companions' refraining to act upon the *al-najwa* verse; al-Razi's opinion and its rebuttal.

In the works of Qur'anic exegesis and in other related literature, many verses are said to have been abrogated. In fact, Abo Bakr al-Nahhas has compiled these verses in his book *al-Nasikh wa al-Mansukh*, and they amount to 137 verses.

We have undertaken this discussion to examine these verses that are claimed to have been abrogated, and to demonstrate that, in reality, not even one of them has been abrogated, let alone all of them.

We have limited ourselves to thirty-six of these verses, and these are the ones that call for discussion and explanation to clarify the truth concerning them. As for the rest of the verses, the status regarding them is sufficiently clear as to not require further elucidation to determine that they are not abrogated.

[Al-Naskh \(Abrogation\) in the Lexicons](#)

In its lexical meaning, the word *al-naskh* signifies "to have a copy made" (*istiktab*), in the sense of transcribing (*istinsakh*) or copying (*intisakh*). It also signifies "transfer" (*naql*), and "transformation" (*tahwil*). Moreover, it is used in conveying "succession" and "substitution" (*tanasukh*) of the inheritances and the epochs. In addition, it signifies "elimination" and "removal" (*izala*), and it conveys the sense of "cancellation" and "repeal" as its usage in the sentence "The sun canceled the shadow" indicates. This latter sense of the term was much in vogue in the language of the early Companions and their

successors. Hence, they used to apply the term *al-nasikh* (the abrogator) to all the general injunctions on which a particularization or restriction was imposed, because the particularization and the restriction caused the earlier general application to be "repealed."¹

Al-Naskh in Its Technical Usage

Technically, the term *naskh* signifies the abolition of an ordained matter in the Shari'a because of the passage of its period [of applicability], regardless of whether this abolished matter is related to the divinely ordained injunctions or to noncanonical laws; or whether it is related to the divinely ordained positions or other matters that revert to God, because of His being the Lawgiver. The latter signification of the term is the way it is seen in the case of an abrogation of only the recitation of a verse.

Nevertheless, we have restricted the abolition to matters ordained in the Shari'a so as to exclude situations in which the injunctions are terminated because their external conditions have ended. Thus, for instance, the obligation to fast ends with the end of the month of Ramadan; the obligation of performing the daily worship elapses with the passing of the appointed time of that worship; ownership of one's goods ends with one's death. This type of termination of an ordinance may not be called *naskh* because only the condition of an injunction has elapsed, and not the injunction itself. Moreover, according to Muslim scholars, there is no objection to its possibility or to its actual occurrence.

For further clarification of this issue, it is important to state that in the divine Shari'a the law is applicable in two different ways.

First, the law is applicable in the realm of legislation and promulgation. The law at this stage is created in the form of a positive legal case. In its applicability, there is no difference whether the subject matter exists externally or whether it does not exist. The basis of the legal decision is the hypothetical existence of the subject. Hence, when the Lawgiver says, "Partaking of wine is forbidden," for instance, it does not mean that the wine exists externally and that such a wine is ruled as forbidden. Rather, the meaning is that when the existence of wine is hypothetically conceived in the external sense, then it is ruled as forbidden in the Shari'a regardless of whether the wine actually exists in the external sense or not. Accordingly, the annulment of the ruling at this stage cannot take place except through abrogation (*naskh*) of the ruling.

Second, the law is applicable externally, in the sense that the law becomes effective because of the actual externality of the subject matter. For example, if wine actually exists externally, the unlawfulness of wine in the Shari'a becomes applicable to this wine in actuality. This applicability continues as long as its subject continues to exist. However, if the wine changes to vinegar, the prohibition that applied effectively to the wine would now cease to apply to the vinegar. But the termination of this ruling is not abrogation at all, nor has anyone raised a question as to whether it is or is not. The question arises only in the first stage, that is, in the realm of legislation and promulgation.

Possibility of Abrogation

The prevailing position among rational Muslims and others is the permissibility of abrogation in the sense that is open to dispute, namely, abolition of the legal ruling regarding its subject matter in the realm of legislation and promulgation. The Jews and Christians disagreed with this and claimed that abrogation is impossible, supporting their argument on [the basis of] an error which is weaker than a spider's web.

The summary of [the statement of] this error is as follows:

Abrogation supposes the lack of wisdom on the part of the abrogator, or his ignorance of some aspects of wisdom. Both suppositions are impossible [in the light] of God, the Exalted. This is so because the legislation of a ruling by the Wise and Absolute God is necessarily in accordance with the exigency that requires it. Moreover, an unplanned ruling is contrary to the wisdom that enacted it. Hence, rescinding a law which had been instituted for [the importance of] its subject matter can mean one of two things: either that the exigency of the law remains with the knowledge of the abrogator (and this would contradict the wisdom of the legislator, despite the fact that He is the Absolute, Wise); or that this is because of the alteration of divine preordination (*bada'*), and the discovery of the contrariety about that, as with man-made rulings and laws (and this necessitates ignorance on the part of God). Accordingly, the occurrence of abrogation in the Shari'a is impossible, because it presupposes that which is impossible.

The response [to this is as follows]. An established ruling by the Wise One may be intended as an instigation or a prohibition in the real sense. A case in point would be the commands which are intended as a test. It is possible to establish these kinds of ordinances and then abolish them, and there is no objection to that, because both the establishment and the abolition arose from the exigency and wisdom of the moment. This kind of abrogation does not postulate a lack of wisdom in the Lawgiver's judgment. Moreover, from the occurrence of alteration does not spring that which is impossible in the case of God's actions. On the other hand, the instituted ordinance may be a real one; nevertheless, it gets abrogated after a while. This does not mean that the ruling, after being instituted, is rescinded with regard to the same conditions and the same matter (which is what would make it impossible of the All-Wise, who knows what comes to pass). Rather, it means that the instituted ordinance is limited to a specific time known to God but unknown to people, and that its termination is after the end of that time, because the term to which it is limited is over, and the end to which it is linked has been reached.

[Clearly], abrogation in this sense is definitely possible. That a time specification is one of the things on which laws are conditioned is something no rational person can doubt. Thus, Saturday in the Mosaic law, for example, has a special significance that makes it necessary to consecrate it, of all other days, a day of rest for those who follow that law. Such is the case with Friday in Islam, as well as with the times for the prayers, the fast, and the annual pilgrimage, *al-hajj*. If it is conceivable that such a thing could occur in the sacred laws, then it is conceivable that time has a special significance that determines

whether a ruling is to continue or not, for certain actions may be of benefit during a specific period of time but cease to be so after the period has lapsed, and vice versa.

In short, if it is possible for a specific hour, day, week, or month to have an effect on whether an act is beneficial or harmful, then the same could be true of a year. Hence, the act could be good during a certain number of years but not good after those years had ended. In addition, just as rulings that are restricted by some factor other than time may be so qualified by means of a separate indication, so is it possible to place a time restriction on a general ruling by means of a separate indicator. The reason is that exigencies may require that a ruling be set forth in general or absolute terms, although the actual intent is specific or restricted. The specificity or restriction would be explained in a separate indicator. Abrogation is in fact a time restriction on the absolute ruling, and this does not make it incompatible with wisdom, nor with alteration (*bada'*), in a way that is inadmissible of God, the Exalted. All this is based on the understanding that enactment of a law and its legislation are caused by the benefits or harm of the act itself. As for those who maintain that rulings are determined by benefits that are inherent in them, the matter is even more clear, because an actual ruling, according to this opinion, is of the same nature as the rulings that are sent to test us.

Abrogation in the Torah

The discussion above nullifies the view of Jews and Christians regarding the impossibility of abrogation in the sacred law. It is a view they persist in holding in order to prove the continuity of the ordinances that were instituted by the Mosaic law. What is truly strange is that they insist on the impossibility of abrogation in the divinely ordained law in spite of the fact that abrogation did occur in many instances in the two Testaments.

1. It is related, [for example], in chapter 4 of the Book of Numbers (verses 2 and 3): "Take a census of the sons of Kohath, from among the sons of Levi, by . . . their fathers' houses, [and find those who are] from thirty years old up to fifty years old, all who can enter service, to do the work in the tent of meeting."

This decree was abrogated and the beginning age for the service was [changed to] twenty-five years, as related in chapter 8 of the Book [of Numbers] (verses 23 and 24): "And the Lord said to Moses, 'This is what pertains to the Levites: from twenty five years old and upward they shall go in to perform the work in the service of the tent of meeting.'"

The decree was later abrogated a second time. The beginning age for service was [changed to] twenty years, as reported in chapter 23 of 1 Chronicles (verses 24, 32): "These were the sons of Levi by their fathers' houses, by the heads of [their] fathers' houses, as they were registered according to the number of the names of the individuals from twenty years old and upward, who were to do the work for the service of the house of the Lord. . . . Thus, they shall keep charge of the tent of meeting and the sanctuary."

2. It is related in chapter 28 in the Book of Numbers (verses 3–7): "The Lord said to Moses, ' . . . and you shall say to them, This is the offering, by fire, which you shall offer to the Lord: two male lambs a year old, without blemish, day by day, as a continual offering. The one lamb you shall offer in the morning, and the other lamb you shall offer in the evening; also a tenth of an ephah of fine flour [as] a cereal offering, mixed with a fourth of a hin of beaten oil. . . . Its drink offering shall be a fourth of a hin for each lamb.'"

This decree was abrogated in chapter 46 of Ezekiel (verses 13–15): "He shall provide a lamb without blemish for a burned offering to the Lord daily; morning by morning he shall provide it. And he shall provide a cereal offering with it morning by morning, one–sixth of an ephah, and one–third of a hin of oil to moisten the flour, as a cereal offering to the Lord; this is the ordinance for the continual burnt offering."

3. It is also related in chapter 28 of the Book of Numbers (verses 9–10): "On the Sabbath day, two male lambs a year old, without blemish, and two–tenths of an ephah of fine flour [as] a cereal offering, mixed with oil, and its drink offering: this is the burned offering of every Sabbath, besides the continual burned offering and its drink offering." This decree, too, was abrogated in chapter 46 of Ezekiel (verses 4–5): "The burned offering that the prince offers to the Lord on the sabbath day shall be six lambs without blemish and a ram without blemish; and the cereal offering with the ram shall be an ephah, and the cereal offering with the lambs shall be as much as he is able [to offer], together with a hin of oil for each ephah."

4. It is related in chapter 30 in the Book of Numbers (verse 2): "When a man vows a vow to the Lord, or swears an oath to bind himself by a pledge, he shall not break his word; he shall do according to all that proceeds out of his mouth."

The permission to swear a firm oath in accordance with the ruling of the Torah was abrogated by what has been related in chapter 5 of Matthew's Gospel (verses 33–34): "Again you have heard that it was said to the men of old, 'You shall not swear falsely, but shall perform to the Lord what you have sworn.' But I say to you, 'Do not swear at all.'"

5. It is related in chapter 21 of the Book of Exodus (verses 23–25): "If any harm follows, then you shall give life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for bum, wound for wound, stripe for stripe."

This decree was abrogated with the prohibition from seeking retribution in the law of Jesus, as related in chapter 5 of Matthew's Gospel (verse 38): "You have heard that it was said, 'An eye for an eye and a tooth for tooth.' But I say to you, 'Do not resist one who is evil. But if anyone strikes you on the right cheek, turn to him the other also.'"

6. It has been related in chapter 17 of the Book of Genesis (verse 10), in what God said to Abraham: "As for you, you shall keep my covenant, you and your descendants after you throughout their generations."

This has been endorsed by the law of Moses. Hence, in chapter 12 of the Book of Exodus (verses 48–49), it is related thus: ". . . And when a stranger shall sojourn with you and would keep the Passover to the Lord, let all his males be circumcised; then he may come near and keep it; he shall be as a native of the land. But no uncircumcised person shall eat of it. There shall be one law for the native and for the stranger who sojourns among you."

In chapter 12 of Leviticus (verses 2–3), it is related that God commanded Moses: "Say to the people of Israel, If a woman conceives, and bears a male child, then she shall be unclean seven days; as at the time of her menstruation, she shall be unclean. And on the eighth day the flesh of his foreskin shall be circumcised."

This ordinance was abrogated, and the burden of the circumcision was removed from the community by chapter 15 of the Acts of the Apostles (verses 24–30), and by a number of St. Paul's epistles.

7. It is related in chapter 24 of Deuteronomy (verses 1–3): "When a man takes a wife and marries her, if then she finds no favor in his eyes because he has found some indecency in her, and he writes her a bill of divorce and puts it in her hand and sends her out of his house, and if she departs out of his house, and if she goes and becomes another man's wife, and the latter husband dislikes her and writes her a bill of divorce and puts it in her hand and sends her out of his house, or if the latter husband dies, who took her to be his wife, then her former husband, who sent her away, may not take her again to be his wife, after she has been defiled."

This was abrogated by the Gospel and divorce was declared prohibited, as reported in chapter 5 of Matthew (31–32): "It was also said, 'Whoever divorces his wife, let him give her a certificate of divorce.' But I say to you that everyone who divorces his wife, except on the ground of unchastity, makes her an adulteress; and whoever marries a divorced woman commits adultery." A similar decree is reported in chapter 10 of Mark (verses 11–12) and in chapter 16 of Luke (verse 18).

What has been mentioned [here] suffices to demonstrate that abrogation was present in the two Testaments.[2](#)

Abrogation in the Islamic Shari'a

There is no difference of opinion among Muslim scholars regarding the occurrence of abrogation. Evidently, numerous injunctions of the earlier laws were abrogated by the Islamic Shari'a. In addition, a number of injunctions of the Islamic Shari'a were abrogated by other ordinances in this legal system itself. The Qur'an has explicitly abrogated the original direction of prayer [Jerusalem]. Regarding this abrogation, there is no doubt whatsoever.

However, there is a controversy on the issue of whether any Qur'anic ordinances were abrogated by other Qur'anic verses, or by an authentic *sunna* (prophetic tradition), or by the consensus [of Muslim

scholars], or by reasoning. Before discussing this matter, it is appropriate for us to elaborate on the modes of abrogation in the Qur'an. These are three in number.

Abrogation of the Recitation (*tilawa*) without the Ruling (*hukm*)

[First], the verse about stoning is cited as an example of this mode of abrogation. Those who maintain this say that this verse was a part of the Qur'an whose recitation was subsequently abrogated, whereas the ruling remained effective. We mentioned earlier that maintaining that a recitation is abrogated is actually the same as maintaining the opinion about alteration. In addition, we explained that the documentation for this part has been derived from traditions with single narrations and, as such, cannot be admitted in obtaining an authoritative ruling.

Muslim scholars are in agreement that abrogation cannot be established through the documentation provided by a single narration, just as a Qur'anic text cannot be proven on that basis. The reason for this, besides the consensus of Muslim scholars, is that important matters that customarily become well known among people, and the spread of information about them (assuming they actually occurred), cannot be proven through a single narration. Indeed, its being reported by exclusively the one source, and not the others, is in itself the proof of falsehood or error on the part of the narrator. Accordingly, how can it be proven, on the basis of a single narration, that the stoning verse was part of the Qur'an and that its recitation was abrogated while its ruling remained effective? It was mentioned previously that 'Umar brought forth the verse and claimed that it was part of the Qur'an. But the Muslims did not accept his word because he was the only one to transmit this verse. Therefore, they did not include it in the codices. Thus, subsequent scholars were compelled to accept the idea that the recitation of this verse was abrogated while the ruling remained in force.

Abrogation of Both the Recitation and the Ruling

[Second], those who maintain the view that there are verses whose recitation and ruling were abrogated cite the tradition narrated on the authority of 'A'isha (tradition 10), as discussed in [chapter 7]. The same points raised in that discussion apply here.

Abrogation of the Ruling without the Recitation

This [third] mode of abrogation is the one generally accepted by jurists and exegetes. Some scholars have written monographs on this topic, and have mentioned in them the abrogating verses and the abrogated ones. Among them are the famous scholar Abo Ja'far al-Nahhas and the traditionist al-Muzaffar al-Farisi. Some other scholars have opposed their views, and have rejected the existence of abrogated verses in the Qur'an. However, all are in agreement that abrogation is possible, and that there are verses in the Qur'an that abrogate the rulings that were well established in the previous sacred laws, and the ordinances that were introduced in the early days of Islam.

To clarify what is authentic in this category of abrogation, we must point out that the abrogation of a fixed ruling in the Qur'an could be of three kinds:

1. A ruling established by the Qur'an may be abrogated by a successively and uninterruptedly transmitted tradition, or by a definitive consensus that demonstrates that the abrogation was based on the opinion that came from the infallible Prophet or the Imam. Rationally and textually, there is no problem with this kind of abrogation, and, if it is proven for a given situation, then it should be followed; otherwise, one is not bound by the abrogation. Unquestionably, it is well established that the abrogation cannot be proven by means of a single narration.
2. A ruling established by the Qur'an may be abrogated by another verse that deals with the abrogated ruling and provides the basis for its termination. This type of abrogation is also without any problem. Scholars have cited the "secret conversation" verse as an example of this type of abrogation. We shall discuss it in detail [later in this chapter].
3. A ruling established by the Qur'an may be abrogated by another verse that neither deals with the previous ruling nor provides the basis for its termination. Abrogation is called for in this case simply because the two ordinances are contradictory. Hence, the later verse is regarded as the abrogator of the earlier one.

It is a fact that this type of abrogation has not occurred in the Qur'an. How could that be when God says, ***"Will they not then ponder on the Qur'an? If it had been from other than God, they would have found therein much incongruity" (Qur'an 4:82).***

However, many commentators and other scholars have not paid the necessary attention to the meaning of the verses of the Qur'an. As a result, they have assumed that a number of verses are inconsistent with each other, and have, as a result, maintained that the later verse abrogates the ruling of the earlier one. Some of them have gone as far as to maintain that an inconsistency exists in cases where one of the two verses is actually a customary context for the explanation of the purport of the other verse (such as the particularization in relation to the general ruling and the restriction in relation to the absolute ruling), and have consequently abided by abrogation in these and similar cases. This attitude is rooted either in poor judgment or in a loose application of the word naskh in accordance with its lexical sense. Although naskh in this sense used to be widely accepted before its technical meaning came into usage, one would still be taking excessive liberty if one were to apply it in its generic sense after the technical sense had become established.

Discussion of the Verses that Are Claimed to Have Been Abrogated

At any rate, it is still necessary to examine the verses that are said to have been abrogated. We shall treat those cases of them where there is some ambiguity over whether they are abrogated or not. As for

those instances in which the absence of abrogation is evident in accordance with what has been said so far, we shall not treat them here, but shall deal with them when we comment on the verses later in this book.

We shall treat the verses [said to have been abrogated] in accordance with their order in the Qur'an.

(1) Many of the people of the Book long to make you disbelievers after your belief, through envy on their own account, after the truth has become manifest to them. ***Forgive and be indulgent [toward them] until God give[s] His command. Lo, God is able to do all things. (Qur'an 2: 109)***

According to Ibn 'Abbas, Qatada, and al-Suddi, this verse was abrogated by the sword verse. This opinion has been adopted by Ja'far al-Nahhas.³ The sword verse is the one in which God, the Exalted, says, ***"Fight those who believe not in God and the Last Day [of Judgment], and do not forbid what God and His Messenger have forbidden—such men as practice not the religion of truth, being of those who have been given the Book until they pay the tribute (jizya) out of hand and have been humbled" (Qur'an 9:29).***

Abrogation is maintained here because of two erroneous principles.

[The first] one is that the elimination of a temporary injunction, when its time is up, amounts to abrogation. This is an obvious error, for abrogation supervenes only in cases where the injunction is not explicitly stated as temporary or as everlasting. This is because when the injunction is temporary, even if its time limit is mentioned in general terms, the evidence which clarifies its term and indicates its termination would customarily be one of the indicators that clarify the aim of the injunction. Accordingly, this [termination] does not constitute an abrogation in any sense. This is because abrogation is the elimination of a ruling that is established and explicitly [stated] as absolutely continuous and unrelated to a particular time. Fakhr al-Din al Razi believes that abrogation is, at times, indicated when the time span of a temporary ruling is intimated by a separate clue. However, such an opinion is evidently incorrect. As for the injunction which includes an explicit statement of permanence, then the absence of abrogation regarding it is self-evident.

The second [one is] that the people of the Book are those whom the Prophet (peace be upon him and his progeny) was commanded to fight. This is groundless, because the Qur'anic verses that command warfare apply to *jihad* against the disbelievers (*mushrikun*) and invite them to believe in God, the Exalted, and the Hereafter. As for the People of the Book, it is not permissible for Muslims to fight them except when there are other reasons for that. In this connection, God, the Exalted, says: ***"Fight in the way of God against those who fight against you, but begin not hostilities. Lo, God loves not aggressors" (Qur'an 2: 190)***; or if they cause sedition among the Muslims, as God says, ***"And slay them wherever you come upon them, and expel them from where they expelled you; for persecution (fitna) is worse than slaughter" (Qur'an 2: 191)***; or if they refuse to pay the tribute (*jizya*), as stated in the previously cited verse (Qur'an 9:29). Hence, in the absence of any other reason, it is not

permissible to fight them merely because of their disbelief (*kufr*), as the verse explicitly states.

To summarize, the command in the verse is to pardon and forgive the People of the Book, for their desire to turn the Muslims back to disbelief is only the natural outcome of their own disbelief and does not contradict the command to fight them when there are other reasons requiring that. But those who suspect abrogation in regard to this verse have taken the word "command," in God's saying, **"Until God shall give His command" (Qur'an 2: 109)**, in its imperative sense.⁴ This caused them to imagine that God had commanded forgiveness of the disbelievers (*kufr*), until such time when He shall command the Muslims to fight them. Accordingly, they took this to imply abrogation.

It is important to point out that even if this explanation is hypothetically true, it still does not necessitate abrogation. However, such a presumption is incorrect. The reason is that the word "command" here refers to a primordial command and God's preordained decree concerning His creation. This meaning is supported by the fact that the command is predicated on God's causing it to pass, as well as on what God says after that, **"Lo! God is able to do all things" (Qur'an 2: 109)**.

The meaning of the verse involves the command to pardon and to forgive the People of the Book for their wish to "make the Muslims disbelievers," until God does what He desires regarding bolstering and strengthening Islam among His creatures. Furthermore, He would cause many among the disbelievers to convert to Islam, destroying others besides them, and punishing them in the Hereafter, and executing what He has preordained.

(2) Unto God belong the East and the West, and whithersoever you turn, there is God's countenance. Lo! God is All-Embracing, All-Knowing. (Qur'an 2:115)

The opinion that this verse has been abrogated has been attributed to a group that includes Ibn 'Abbas, Abu al-'Aliya, al-Hasan, 'Ata', 'Ikrima, Qatada, al-Suddi, and Zayd b. Aslam.⁵ However, they differed about the abrogating verse. Ibn 'Abbas mentioned that the abrogating verse was **"And wheresoever you may be [O Muslims, when you pray,] turn your faces toward it [the Inviolable Place of Worship]" (Qur'an 2: 150)**, while Qatada maintains that it was **"Turn your face toward the Inviolable Place of Worship" (Qur'an 2: 150)**, and so does al-Qurtubi.⁶ The reason for the abrogation, according to these scholars, is that the Prophet and all the Muslims were free to pray in any direction they wished, although the Prophet used to prefer the direction of Jerusalem. Hence, this was abrogated with the order to turn specifically toward the sacred mosque of Mekka.

Nevertheless, the weakness and the error of their view are obvious in the light of God's saying, "And We appointed the direction (*the qibla*) which you formerly observed, only that **We might know him who follows the Messenger, from him who turns on his heels" (Qur'an 2: 143)**. This latter verse clearly states that turning toward Jerusalem was [determined] on the basis of God's command for some good that necessitated it, and the Prophet's choice had no role in it at all.

It is more appropriate to maintain that the verse in question establishes the absence of any specific

direction toward God because He cannot be contained in any place. Accordingly, in whatsoever direction man turns in his worship, his supplication, and all his services, he is turning toward God, the Exalted. It was on this ground that the *ahl al-bayt* (the Imams) justified permission for the traveler to face any direction in the performance of the recommended prayers, as well as justifying the validity of the obligatory prayers performed mistakenly between East and West, and the validity of the prayer in which the worshiper is confused and does not know the direction of the *qibla*. They have also regarded the prostration performed in a direction other than the *qibla* during the recitation of the Qur'an as valid. Sa'id b. Jubayr (God's mercy be on him) followed this practice when al-Hajjaj ordered his slaughter on the ground.⁷ Thus, this verse is general, and it was particularized in the obligatory prayer by making it obligatory, at one time, to turn toward Jerusalem and, subsequently, toward the Ka'ba in Mekka. Moreover, according to an opinion, this is also the case with the prayers recommended when one is not in the state of moving. As for those reports in which it is related that the general verse was revealed only for the performance of the recommended prayers, there is no ground to believe in such specification. As previously pointed out, the verses are not limited to the circumstances of their revelation.

To recapitulate, the claim that this verse has been abrogated can be valid if two points are true.

First, that it was revealed specifically in relation to the obligatory form of worship. The invalidity of such a thing is well known. It has been reported, in some of the traditions narrated by the Sunnis, that this verse was revealed concerning supplication, the recommended forms of worship for a traveler, the prayer of a confused person, and the prayer toward a direction other than the *qibla* by mistake.⁸ Moreover, we have already noted that the Imams cited this verse in more than one context. Second, [for the claim to be valid], the revelation of the verse should have occurred prior to the verse that commanded the turning toward the Ka'ba. This also is unsubstantiated. It is for this reason that the claim to its abrogation is definitely unfounded. In some of the narrations related on the authority of *ahl al-bayt*, it is clearly stated that the verse has not been abrogated. However, it may be true that abrogation here is intended in the very general sense that includes the fact that the verse in question is qualified by subsequent verses. If this is what is intended here, then there is no objection to it, and it is not improbable that perhaps this was the intention of Ibn 'Abbas when he spoke about the abrogation in this connection, and we alluded to this signification of the word *naskh* earlier.

(3) *O you who believe! Retaliation is prescribed for you in the matter of the murdered; the freeman for the freeman, and the slave for the slave, and the female for the female. (Qur'an 2:178)*

It has been claimed that this verse was abrogated by God's saying, "***And We prescribed for them therein: the life for the life, and the eye for the eye, and the nose for the nose, and the ear for the ear, and the tooth for the tooth***" (Qur'an 5:45).

For this reason, the majority of Sunni scholars maintain that if a man is killed in retaliation for the killing of a woman, nothing reverts to his heirs in the form of compensation.⁹ However, al-Hasan and 'Ata' have opposed this opinion and have maintained that a man may not be killed for killing a woman. According to

al-Layth, if a man kills his wife, he may not be killed only for killing her.¹⁰ The Imami Shi'ites have maintained that the avenger of a woman's blood has an option between asking for blood money or punishment of the killer, provided that [if he chooses the latter], he would pay [the killer's heirs] a man's indemnity. The widespread opinion among Sunni scholars is that a freeman cannot be killed for killing a slave, and the Imami scholars have reported a consensus on this issue. However, Abu Hanifa, al-Thawri, Ibn Abi Ya'la, and Dawud [al-Zahiri] have expressed their opposition to them in this matter and have maintained that a freeman can be killed for killing a slave who does not belong to him.¹¹ A group of isolated scholars among them have upheld the view that a freeman can be killed by a slave, even if he happens to be his own.¹²

In actuality, the first verse is precise and, as such, an abrogating verse cannot repeal it. There is a guiding principle in it: The second verse is unqualified regarding a slave and a freeman, and a male and female. Accordingly, it does not have a clear ruling concerning slaves and women. Above all, the verse does not aim at clarifying the characteristics of the killer and the killed; rather, it aims at clarifying that the retaliation should be equal to the offense, as is implied in what God, the Exalted, says, "***And one who attacks you, attack him in like manner as he attacked you***" (*Qur'an 2: 194*).

The [second] verse is devoid of any point and in general has no clear meaning; hence, it cannot serve as an abrogating verse for the first verse. If, however, its intent were to establish a point in this regard; and if it were clearly general in application; and if, further, it clearly established a ruling for the Muslim community and did not merely state that such a ruling existed in the Torah—in such a case the first verse would qualify [the second verse's] generality, and serve as a clue to its purport. The general injunction does not qualify as an abrogator of a restricted injunction, even if it happens to be chronologically subsequent to it. On the contrary, restricted injunctions are clues for regulating the apparent meanings of the general injunctions, as is the case with restricted injunctions of a later period. It is for this reason that there is no ground to maintain that it is permissible to kill a freeman for killing a slave.

As for the tradition related on the authority of the Imam 'Ali, from the Prophet, in which he said, "The blood of each Muslim is on a par [with that of other Muslims]," this tradition, assuming that it is sound, is qualified by the verse. This is because the intent of the report is the permission for a freeman to be killed for killing a slave, and hence it is general in application.

It is indisputable that the evidentiary worth of a general ruling is dependent upon the absence of any restriction being applied to it, whether preceding it or subsequent to it. However, as for the report narrated on the authority of the Prophet, through al-Hasan, who had received it from Samra, its chain of transmission is weak and, hence, cannot be regarded as trustworthy. According to Abu Bakr b. al-'Arabi, "Undoubtedly, ignorance has affected those who say that a freeman can be killed for killing his own slave, and who support their opinion by citing a tradition on the authority of al-Hasan, who related it on the authority of Samra. He said that the Prophet said: 'He who kills his slave, we shall kill him.' This report is weak."¹³

In addition to that, this tradition contradicts another tradition, related by 'Amr b. Shu'ayb on the authority of his father and his grandfather, regarding a man who intentionally killed his slave: The Prophet ordered him whipped and banished him for a year and struck out his share from the Muslim booty of war, but did not slay him in retaliation. [14](#) It [the report transmitted from Samra] is also contradicted by what has been reported by Ibn 'Abbas on the authority of the Prophet, and by Jabir from 'Amir, who reported on the authority of 'Ali, "A freeman cannot be killed for killing a slave";[15](#) and by what 'Amr b. Shu'ayb related from his father on the authority of his grandfather: that Abu Bakr and 'Umar did not kill a freeman for having killed a slave.[16](#) It has already been stated above that the traditions related on the authority of *ahl al-bayt* are in agreement that a freeman can be killed for killing a slave. Indisputably, the *ahl al-bayt* are the authorities in matters of religion after their great forebear, the Prophet (peace be upon him and his family). Considering their view on the matter of killing, there remains no room for claiming the abrogation of the verse regarding the killing of a freeman for killing a slave.

Furthermore, in relation to the killing of a man for killing a woman, the verse, according to the doctrine of the Imami Shi'ites, as well as of al-Hasan and 'Ata', has not been abrogated, either. But according to the opinion of Sunni scholars, it is.

The explanation of the Imams' view is that the literal sense of God's saying that **"retaliation is prescribed for you" (Qur'an 2: 178)** is that retaliation is an obligation and a duty. It is, moreover, evident that it becomes an obligation when retaliation is sought by the avenger of the blood. This matter is known apart from the verse and is proven by what God, the Exalted, says, **"And, for him who is forgiven somewhat by his [injured] brother, let the prosecution be fair and let the payment be with kindness" (Qur'an 2: 178).**

Accordingly, the purport of the verse is that it is incumbent upon the killer to submit to the ruling of retaliation if the avenger of blood seeks that from him. Moreover, it is evident that this ruling applies when a man kills another man, or when a woman kills a man or a woman. But if a man kills a woman, it is not incumbent upon him to submit to punishment simply because retaliation is demanded. He has the right of refusal until he collects half the amount of compensation [for his own killing]. The legal authority has no right to apply retaliation to him before that.

In other words, the terms of the verse establish that the substitute for a woman is a woman and, hence, a man cannot substitute for her. Accordingly, there is nothing in the verse that could cause its abrogation. Yet it is true that outside evidence establishes that it is obligatory for a man who kills a woman to surrender for retaliation when the avenger of the blood of the woman has paid half of the compensation [due for killing a man as a substitute for a woman]. Thus the man [who killed the woman] would constitute the total [indemnity] of the [murdered] woman; [but because] he substituted for her [in retaliation], he [additionally] receives half [of his own indemnity]. This is a different case and does not affect the first ruling derived from the verse. Hence, there is nothing in this ruling to support its abrogation.

To conclude, the occurrence of abrogation in the [first] verse is dependent upon the establishment of the killer's obligation to surrender as soon as the avenger of the woman seeks retaliation, as maintained by Sunni scholars. But how are they to establish it? To do that, they have to adhere to the general sense provided by the second verse, as it is inferred from their statements, and to the prophetic tradition, which says, "The blood of each Muslim is on a par [with that of other Muslims]." We have already shown the weakness of the opinion based on this documentary evidence. Alternatively, they [Sunni scholars] will have to adhere to the report, narrated by Qatada on the authority of Sa'id b. al-Musayyib, in which it is related that 'Umar killed a person from among the people of Sana'a in retaliation for the killing of a woman and held them all responsible for her killing.

Al-Layth reports from al-Hakam, who reported on the authority of 'Ali and 'Abd Allah. They said, "If a man kills a woman intentionally, then he is liable to be slain in retaliation for killing her." Al-Zuhri reports from Abu Bakr b. 'Amr b. Hazm, who reported, from his father and his grandfather, that the Prophet said, "A man is to be killed in retaliation for killing a woman." [17](#)

This opinion is invalid for the following reasons:

1. These traditions, even if they are assumed to be authentic, are in contradiction of the Qur'an. Accordingly, they cannot be admitted as evidence. We already explained above that there is a consensus among Muslim scholars that abrogation cannot be established on the basis of a single tradition.
2. These traditions are contradictory to the ones reported on the authority of the Imams and to those reported by 'Ala', al-Sha'bi, and al-Hasan al-Basri on the authority of 'Ali (peace be upon him), who said, regarding a man who kills a woman, "The relatives of the woman, if they wish, may kill the man [in retaliation, provided they] pay half the blood money [of the man]; and if they wish, they may take half the blood money of a man." [18](#)
3. The first tradition among these is based on a chain of transmission that does not go back to the source of the narrative (*mursal*). The fact is that Ibn al-Musayyib was born two years after the [end of the] caliphate of 'Umar; [19](#) hence, his report is too far removed from 'Umar to be acceptable without an intermediary. However, even if we were to concede its reliability, it still consists of a narrative about 'Umar's act, which, in itself has no evidentiary nature. As for the second report, it is weak, and with a chain of transmission that does not go back to the source of the narrative. The third tradition, assuming that it is reliable, is generally applicable, and capable of being restricted to the payment of half the amount of the blood money.

To conclude, the verse under consideration is not proved to have been abrogated by any means. The claim to its having been abrogated is based on the legal opinion of a group of jurists. How can it be possible to desist from what God says by taking into consideration what X or Z says about the matter? What is astonishing is that a group of jurists should issue its ruling against the Qur'an, in spite of its

consensus that the Qur'an cannot be abrogated by a single tradition. Indeed, it has become clear from this discussion that God's saying that "**who so is slain wrongfully, We have given power to his heir**" (*Qur'an 17:33*), [and His saying that] "**and there is life for you in retaliation, O men of understanding**" (*Qur'an 2: 179*) do not qualify as abrogators of the verse under discussion, which differentiates between a man and a woman, and between a freeman and a slave. We will present a complete discussion on this matter when we offer our exegesis of the verse under consideration.

(4) It is prescribed for you, when one of you approaches death, if he leaves wealth, that he bequeath to parents and near relatives in kindness. [This is] a duty for all those who ward off [evil]. (Qur'an 2: 180)

A group has claimed that this verse has been abrogated by the inheritance (*mawarith*) verse. Others have claimed that it was abrogated by a tradition in which the Prophet says, "A bequest in favor of an heir at law is inadmissible." [20](#)

The fact is that the verse has not been abrogated. As for the opinion that it has been abrogated by the inheritance verse, this is refuted by the fact that the verses indicate that the inheritance is regulated [according to the inheritance verse] only when there are neither a last will and testament nor outstanding debts. Accordingly, how can one argue that it abrogates the injunction regarding the last will? In explaining the reason for its abrogation, it is maintained that in the early days of Islam, inheritance was not fixed the way it was done in the Islamic law later on. All of the estate used to pass on to the children of the deceased, and what was given to the parents was left through a will. Consequently, this verse was abrogated by the verse about inheritance.

This opinion is refuted by the following points:

1. It was not proved – although it was included in the compilation of al-Bukhari– because it was established, through a consensus among Muslim scholars, that abrogation cannot be effected by a single narration.
2. This opinion can be sustained only if the inheritance verse was subsequent to the abrogated verse, and how can those who maintain this abrogation prove such a chronology? As for the claim that this chronology is a definite one, as maintained by some Hanafi scholars, it is upon them to prove it.
3. It is evident that this verse cannot be applied in the case of the relatives, because they do not inherit when there is a child. How can it, then, be reasonable that the inheritance verse abrogates the injunction about the last will in regard to the relatives? In any case, since the inheritance verse takes effect in the absence of the last will, it accentuates the ordinance regarding the last will and its effectiveness [in legislating for other heirs]. Consequently, there is no sense in its being the abrogator of the verse on the last will and testament.

As for the view that the verse was abrogated by the prophetic tradition quoted above, it, too, is invalid,

because of the following reasons:

1. The authenticity of the tradition is not established, and even al-Bukhari and Muslim do not accept it. The author of the Qur'anic exegesis *al-Manar* has discussed the problem of the chain of transmission that these two scholars cite for it.[21](#)

2. This tradition is in contradiction to the elaborate traditions narrated on the authority of the *ahl al-bayt*, indicating that it is permissible to make a last will and testament in favor of an heir at law. In a sound tradition replied by Muhammad b. Muslim on the authority of the fifth Imam, Muhammad al-Baqir (peace be upon him), he says:

I asked him regarding the last will for an heir at law. He said, "It is permissible." And then he proceeded to read the verse "***If he leaves wealth, that he is to bequeath in favor of parents and near relatives in kindness***" (*Qur'an 2: 180*).

This point is made by a number of other traditions of the Imams.[22](#)

3. The tradition under consideration, even if sound, and immune from any contrariety, cannot be admitted as evidence of the abrogation of the verse, because its terms are not incompatible with the substance of the verse. At the most, the terms are restrictive of the generality of the verse. Hence, it is specific about a last will in regard to the parents if they are prevented, for any reason, from inheriting. So, too, is the case with the relatives who cannot otherwise inherit. By contrast, if it is hypothesized that there exists incompatibility between the terms of the tradition and the verse, we have already mentioned that a single narration, according to the consensus of the scholars, cannot be admitted as the abrogator of the Qur'an. Therefore, the verse is precise and not abrogated.

In addition, it is important to explain the Qur'anic subtlety when it uses the word *kitabā*. This signifies a "requirement to carry out something." This is the purport of what God, the Exalted, says, "***He has prescribed (kataba) for Himself mercy***" (*Qur'an 6: 12*). Reason dictates the obligation of carrying out the judgment of the Master in all cases where there is no explicit permission from Him to the contrary. In other words, a last will in favor of the parents and relatives is obligatory, as required by the verse. However, the established practice among the Muslims, the well-attested traditions from the Imams among the *ahl al-bayt*, and the consensus of the jurists of every generation have provided us with the required permission [regarding the last will]. Hence, what is established on the basis of the verse, in conjunction with this permission, is the recommendation regarding the last will and testament. It emphasizes its recommendation for all of humanity. The purport of the "prescription" in this context is that the decree is intended in the sense of legislation, and not in the sense of compulsion.

(5) ***O you who believe! Fasting is prescribed for you, even as it was prescribed for those before you, that you may ward off [evil].*** (*Qur'an 2: 183*)

It is claimed that this passage was abrogated by what God, the Exalted, says, "***It is made lawful for you***

to go unto your wives on the night of the fast" (Qur'an 2: 187).

In support of this abrogation, they mention the following reason: In the beginning the obligatory fast for the community was similar to the obligatory fast for the preceding community. One of its rulings was that if a person went to sleep before the evening meal in the month of Ramadan, it was not permissible for him to eat after waking up during that night. And if someone among them went to sleep in the late afternoon, food, drink, and women were forbidden to him. Thus, this was abrogated by God's saying, ***"And eat and drink until the white thread becomes distinct to you" (Qur'an 2: 187)***, as well as by His saying, ***"It is made lawful for you to go unto your wives on the night of the fast" (Qur'an 2: 187).***

At one point, Sunni scholars were in agreement that the verse making [sexual intercourse] lawful [during the nights of the month of Ramaḡan] is an abrogating verse.²³ Later, however, they disagreed. Some maintained that it abrogated the preceding verse. They did this by inferring from the verse that the obligatory fasting mentioned in the Islamic Shari'a was similar to the obligatory fasting among the earlier communities. This opinion is held by Abu al-'Aliya and 'Ata', and it is attributed by al-Nahhas to al-Suddi also.²⁴ Others, however, say that the verse granting permission actually abrogated what they used to do [rather than permitting it].

Clearly, the first verse can be abrogated only if it is possible to establish that it was revealed before the second verse, and this is not possible for the one who maintains such an opinion to prove it. Moreover, the purport of the comparison in the verse between the fast of this community and the fast of earlier ones must be one of showing resemblance. This is contrary to how the verse has traditionally been understood; indeed, it is contrary to the stated sense of the verse. The intention of the verse is to compare the two fasts from the point of view that both were divinely prescribed. There is nothing in the verse to suggest that the two kinds of fasting are similar and therefore substantiate the claim of abrogation. If it were to be established that [the comparison of the two types of fasting] is dependent upon some external factors, then the abrogation would effect a ruling that is not in the Qur'an, in which case the mat ter would be beyond the scope of this work.

(6) And for those who can afford it, there is a ransom (yutiḡun): the feeding of a man in need. But whoso does good of his own accord, it is better for him. (Qur'an 2: 184)

It is asserted that this passage has been abrogated by the following verse, in which God, the Exalted, says, ***"And whoever of you is present, let him fast for the month" (Qur'an 2: 185).***

The claim about abrogation in this verse [is based on 'ransom' (*tawḡ*)] . Abrogation would have been self-evident if the meaning of *tawḡ* were "ease" and "ability." If such had been the case, the verse would mean that whoever can fast has the choice not to fast, and can give a ransom, in its place, such as feeding the poor. Consequently, the verse would certainly have been abrogated.

[The other key derivation of the term *tawḡ* is *taḡa*.] It is clear that the meaning of *taḡa* is "the capacity to

deal with immense hardship." Accordingly, the import of the verse is that God, the Exalted, after making the fast individually incumbent on people in the preceding verse, and dropping the obligation for the sick and for travelers, and requiring them to make it up at another time, intended to clarify, for the rest of the people, that for those who find an immense hardship in fasting and need to put much effort into fulfilling the duty, they are relieved of performing the fast obligation and of making up for it at a subsequent date. The people thus exempted included distressed old men, persons suffering from *'utash*,²⁵ and sick persons whose illness continues in the month of Ramadan of the following year. Instead, they would be required to pay the ransom [for the missed obligation]. Consequently, the verse, while conveying the individual obligation of fasting for the believers during the appointed days, and the necessity of making up the missed fast at some other time for those who are ill or are traveling, states explicitly that the obligatory ransom is indicated for a category of people other than these two categories for which the fasting is made incumbent. This being the case, how can one claim that the import of the verse lies in the optional choice, for the one who possesses the ability to fast, between two obligations—fasting or paying the ransom? The traditions narrated on the authority of the *ahl al-bayt* in this regard are exhaustive, and we mentioned them while commenting on the verse.²⁶

Although the term *taqa* is used in the sense of ease and ability, its lexical meaning is "ability [in dealing] with immense hardship, and exerting the utmost effort." Thus, in *Lisan al- 'Arab* [of Ibn Manzur], one reads, "*Al-tawq* means ability, that is to say, the utmost that one can endure for the extent of what is possible to perform with hardship." It has been related that both Ibn al-Athir and al-Raghib have stated this as well. If we admit that the meaning of *taqa* is "ease," it follows that the word *itaqa* signifies "bearing something with ease." If a task is made easy by something in the doer, then it must itself be difficult and incapable of being accomplished without the utmost exertion. Rashid Rida, in his commentary *al-Manar*, cites his mentor, Muhammad 'Abduh, as saying, "The Arabs do not say, 'He is capable of doing something,' except when his ability to do it is extremely weak, in such a way as to incur immense hardship because of it."²⁷

The verse under consideration is precise (*muhkama*) and therefore may not be abrogated. It conveys a ruling which is different from the ruling applicable to those for whom the fast is obligatory at its appropriate time or at some other time. All that we have discussed [here] is based on its well-established reading. As for the reading of Ibn 'Abbas, 'Aisha, 'Ikrima, and Ibn al-Musayyib, who read the verb (*yutiqun*) in its passive sense—"they are enabled"—rather than as "they are able" or "they can afford,"²⁸ their stance is clear. However, on the basis of what has been opined by Rabi'a and Malik, regarding the old and the disabled, for whom there is no penalty if they break their fast,²⁹ the verse is abrogated. However, there is a problem of reliability with this opinion. Moreover, the substance of the verse is the proof against those who maintain it.

(7) *And fight not with them at the Sacred House of Worship until they first attack you there, but if they attack you [there], then slay them. Such is the reward of disbelievers. (Qur'an 2: 191)*

According to Abu Ja'far al-Nahhas, most of the scholars are of the opinion that this passage has been abrogated, and that the disbelievers attacked in the Sacred House and in other spots. He attributes the opinion about the abrogation to Qatada also.³⁰ The fact is that the verse is precise, and is therefore not abrogated. Thus, if it is maintained that the abrogator of the passage is what God, the Exalted, has said **"slay the idolaters wherever you find them" (Qur'an 9:5)**—then such an opinion is obviously invalid. The reason is that the earlier passage is specific, and a specific passage is a clue for understanding the purport of a general ordinance, even if it were known to be an earlier revelation. Hence, this is even more true when the order of the revelations is unknown. Accordingly, fighting the disbelievers is restricted to places other than the Sacred House of Worship, except that if they were to start hostilities in it themselves, then it would be permissible to fight them there.

On the other hand, if those who maintain abrogation base their view on the tradition that says that the Prophet ordered the slaying of Ibn Khatal, even though the man had taken refuge in the Ka'ba, this, too is wrong—first, because it is a single narration, and therefore does not qualify as an abrogator; and second, because there is no evidence of abrogation. This is because Muslim and al-Bukhari, in their *Sahih*s, relate that the Prophet said, "It [this action] was never made lawful for anyone before. And it was made lawful for me only for that particular moment."³¹ The explicit meaning of this tradition is that such an action is the exclusive privilege of the Prophet. Therefore, there is no justification for taking it as indication of abrogation, except as a concession to the legal opinion of some jurists, but this is an argument against them.

[Another verse connected with fighting is the following one.]

They question you [O Muhammad] with regard to warfare in the sacred months.³² Say, **"Warfare therein is a great [transgression]."** (Qur'an 2:217)

According to Abu Ja'far al-Nahhas, the scholars are agreed that this verse is abrogated, and that fighting the disbelievers in the sacred month is permissible. Only 'Ata' differed, maintaining that the verse was decisive and that, as such, fighting was not permissible in the sacred months. ³³

However, there is complete agreement among the Imami Shi'ites, both in their writings and their legal decisions, that the prohibition remains in effect. This opinion is stated by al-Tusi in his al-Tibyan and by Muhammad Hasan al-Najafi in his *Jawahir al-Kalam*. This is a sound opinion, because if the verse that is cited as abrogating the ordinance about the [sacred months] is the one in which God says, **"Slay the idolaters wherever you find them" (Qur'an 9:5)**, as mentioned by al-Nahhas, then it is indeed far-fetched. This is because the [latter] verse makes the injunction about killing the disbelievers conditional upon the passing of the sacred months. Indeed, God, the Exalted, says, **"Then, when the sacred months have passed, slay the idolaters wherever you find them" (Qur'an 9:5)**. Thus, how can the verse abrogate the injunction regarding the prohibition of fighting in the sacred months?

If, on the other hand, they base their argument on the unrestricted command in the sword verse—**"And**

wage war on all the idolaters as they are waging war on all of you" (Qur'an 9:36)—then it is obvious that a general ordinance cannot serve as the abrogator of a specific one, even if the former happens to follow the latter chronologically.

Moreover, if they base their argument on what they related about the subject from Ibn 'Abbas and Qatada—namely, that the verse under consideration was abrogated by the sword verse—then the following must be said to them in refutation:

First, abrogation cannot be established by means of a single narration. Second, this report is not transmitted on the authority of the infallible Imams. In all likelihood, it is the personal opinion of Ibn 'Abbas and Qatada. Third, the report is contradicted by the one related by Ibrahim b. Sharik. He reported from Ahmad—that is, Ibn 'Abd Allah b. Yilnus—who reported from al-Layth b. Abi al-Azhar, on the authority of Jabir, who had heard the Prophet say, "Do not attack in the sacred month except when you are attacked or they fight. When this happens, be prepared until [one of the sacred months] has passed."³⁴ Also, this report is contradicted by what has been reported on the authority of the *ahl al-bayt* regarding the prohibition to wage war in the sacred months.

Moreover, if they hold to abrogation on the basis of what they narrate about the battle of the Prophet against the Hawazin at Hunayn, and against the Tha'qif at al-Ta'if, in the months of Shawwal, Dhil al-Qa'da, and Dhil al-Hijja of the sacred months, then they are refuted by the following:

First, abrogation cannot be established through a single tradition. Second, the Prophet's action, if the narrative is sound, could have resulted from a number of factors. It could have happened because circumstances necessitated it. Hence, how could it serve as abrogator of the verse?

(9) ***Wed not idolatresses (mushrikat) till they believe. (Qur'an 2:221)***

It is alleged that this verse was abrogated by God's saying, "***And so are the virtuous women, of those who received the Book before you, [lawful for you] when you give them their marriage portions***" (Qur'an 5:5).

Ibn 'Abbas, Malik b. Anas, Sufyan b. Sa'id, 'Abd al-Rahman b. 'Umar, and al Awza'i held this opinion, whereas 'Abd Allah b. 'Umar maintained that the latter verse was abrogated by the former and that, hence, [a man] was prohibited from marrying a woman from the people of the Book. ³⁵

The fact is that nothing was abrogated in either verse. This is because if by "idolatresses," for whom marriage was prohibited by the first [verse], is meant the worshipers of idols and images, as the apparent sense of the verse suggests, then the prohibition to marry them does not contradict the permission to marry the women belonging to the people of the Book, who are referred to in the second verse. Consequently, neither verse abrogates the other. However, if the meaning of "idolatresses" is more general than the "women of the people of the Book," as those who believe in the abrogation assume, the second verse would restrict the first one; and the two verses, taken together, would mean

that marrying a woman from the people of the Book is permitted, but marrying an idolatress is not. It is true that it is generally accepted that marriage to a woman from the people of the Book is not permissible except in the form of temporary marriage (*mut 'a*). This is either because of the restriction applied to the verse about the general permission by the traditions purporting the prohibition of permanent marriage, or because of the view that the verse [regarding marriage to a scripture woman] indicates that a permanent marriage is unlawful. On the other hand, it has been reported from al-Husayn and the two Saduqs that a permanent marriage [to a scripture woman] is permitted. We shall treat the subject later in its appropriate place, God willing.

(10) ***There is no compulsion in religion. The right direction is henceforth distinct from error. (Qur'an 2:256)***

A group of scholars maintains that the above passage has been abrogated by God's saying, "**O Prophet! Strive against the disbelievers and the hypocrites**" (Qur'an 9:73).

Some of them maintain that the verse refers, in particular, to the People of the Book [Jews and Christians] since they could not be attacked because of their disbelief. This we noted earlier. The fact is that the verse is precise and has not been abrogated, nor is it restrictive. This is so because the word *ikrah* (compulsion), appears in the dictionary with two meanings: first, "that which stands exactly opposite to assent." ***This is the sense in which the following revelation from God uses the word: "But it may happen that you hate (tukrihu) a thing which is good for you" (Qur'an 2:216).*** Second, [it means] "that which stands exactly opposite to choice." This is the sense conveyed by God's saying, "***His mother bears him with pain (kurhan), and brings him forth with pain" (Qur'an 46: 15).*** The reason is that bearing a child and giving birth to it are tasks done willingly, but, at the same time, are beyond our willpower. The opinion that the verse has been abrogated, or that it is restricted, is contingent on the word *ikrah* being used in the first sense. However, this opinion [that it is used in the first sense] is incorrect because of the following reasons.

First, there is no evidence to support such a meaning. A word that carries two meanings may not be interpreted in terms of one of them, rather than the other, without the proper contextual evidence.

Second, the word "religion" (*din*) is broader in meaning than the term "fundamental beliefs" (*usu'l*) and its derivatives (*furu'*). The mention of "disbelief" and "belief" following [the word "religion"] does not restrict the word "religion" to the fundamentals only. Common usage points to the application of the major proposition to its minor one, in that understanding the fundamentals leads one to carry out the derivatives of religion. There is no doubt that justifiable *ikrah* (compulsion, coercion) was well established in the Shari'a from the very beginning in accordance with the practice of rational beings. Numerous examples of this kind of compulsion can be provided. It includes compelling a man in debt to honor his debts, compelling a wife to obey her husband, compelling a thief to give up theft, and so on. How can one say, then, that there was no compulsion in the Islamic Shari'a at any time?

Third, the second meaning of *ikrah*—namely, "that which stands exactly opposite to choice"—would not accord with God's saying that **"the right direction is henceforth distinct from error" (Qur'an 2:256)**, except if the purport were to convey the reason for the injunction, and the fact that compulsion is not practiced because it is unnecessary, considering the clarity of the right direction and its distinctness from error. If this is the purport of the verse, then it cannot have been abrogated, because the proof of Islam has been self-evident from the time it emerged. Its ascendancy, however, came about gradually. This means that compulsion was less likely to occur toward the end of the Prophet's mission because Islam at that point was even more manifest, and its proof more evident. Since this condition was common among the groups of the believers, it is impossible to restrict the injunction to some groups while excluding of others. The corollary of that would have been to prohibit warfare against all the disbelievers. Such a consequence is necessarily false.

The truth is that the purport of *ikrah* in the verse is the opposite to choice, and the sentence is a declarative sentence (*khabariyya*), and not a creative one (*insha'iyya*). The purpose of the verse is to explain what is repeatedly mentioned in the Qur'an namely, that the divine Shari'a is not based on compulsion, neither in its fundamentals nor in its derivatives. Rather, there is a divine wisdom in sending the prophets, revealing the books, and clarifying the ordinances—which is that those who are to be doomed shall be doomed possessing knowledge, and those who are to live shall live possessing knowledge, **"in order that mankind might have no argument against God" [Qur'an 4: 165]**. This is as God, the Exalted, says, **"Lo! We have shown him the way whether he be grateful or disbelieving" (Qur'an 76:3)**.

Briefly stated, then, the purport of the verse is that God, the Exalted, does not coerce anyone to have faith or be obedient. But He clarifies the truth, making it distinct from error, and He has indeed done that. Therefore, anyone who believes in the truth believes of his own free will, and anyone who follows an error does so of his own volition. God—sanctified be He, although able to guide all humankind if He so desires— in His wisdom decided that they are not to be compelled in their actions after the truth has been made clear for them and has been made distinct from falsehood. Thus God, the Almighty, says:

Had God willed He could have made you one community. But . . . **that He may try you by that which He has given you. So vie one with another in good works. To God you shall all return, and He shall then inform you of that wherein you differ (Qur'an 5:48)**. Say: **For God is the final argument; had He willed He could indeed have guided all of you (Qur'an 6: 149)**. And the idolaters say: **"Had God willed, we had not worshiped anything besides Him, we and our fathers, nor had we forbidden anything without [command from] Him. Even so did those before them. Are the messengers charged with nothing save plain conveyance [of the message]?" (Qur'an 16:35)**.

(11) As for those of your women who are guilty of lewdness, call to witness four of you against them. **And if they testify [to the truth of the allegation], then confine them to the houses until death [shall] take them or [until] God [shall] appoint for them a way [through new legislation]. (Qur'an 4:**

15)

And as for the two of you who are guilty thereof, punish them both. And if they repent and improve, then let them be. Lo! God is Relenting, Merciful. (Qur'an 4: 16)

Some scholars, including 'Ikrima and 'Ubada b. al-Samit, maintain, as reported by al-Hasan on the authority of al-Raqashi, that the first of these verses was abrogated by the second; and the second one, by the ruling that if the person committing adultery were a virgin, he or she would be given a hundred lashes and banished for one year, and, if deflowered but unmarried (*thayb*),³⁶ a hundred lashes and stoning till death.³⁷ Some, like Qatada and Muhammad b. Jabir, have maintained that the first verse applies exclusively to the *thayb*, whereas the second applies to virgins; and that both have been abrogated by the flogging-and-stoning ruling. Others, like Ibn 'Abbas, Mujahid, and those who follow them, like Abu Ja'far al-Nahhas, maintain that the first verse deals exclusively with adultery committed by women, whether *thayb* or virgins, whereas the second verse deals with adultery committed by men, both *thayb* and virgins; and that both of the verses have been abrogated by the flogging-and-stoning ruling.³⁸ Whatever the case, as mentioned by Abu Bakr al-Jasas, the community has not disagreed that both rulings about the male or female adulterer have been abrogated. ³⁹

The truth is that neither of the two verses has been abrogated. The following is the explanation.

The word *al-fahisha* (lewdness) means an act that is excessively evil and abominable. This applies to the act when it occurs between two women, which is tribadomy; and between two men, which is sodomy; and between a man and a woman, which is adultery. There is no specific meaning for *al-fahisha*, neither lexically nor idiomatically, to suggest it is synonymous with fornication. Moreover, holding that the first verse [Qur'an 4: 15] was abrogated is contingent on the following: first, that the "confining to the house" is the maximum punishment (*hadd*) for committing the act of lewdness, and, second, that "appointing the way" means that the stoning-and-flogging rule is applied to the woman.

Neither point can be proved. The apparent sense of the verse suggests that the confinement of the woman to the house is designed to make it impossible for her to commit the abominable act again, and that this is therefore a way of forestalling an evil act. This kind of anticipatory action is established in all important matters, such as those pertaining to the protection of a person's honor, life, and crucial interests. In fact, some scholars are of the opinion that these preventive measures should be applied to all reprehensible acts. On the other hand, the apparent sense of appointing a way for the woman who has committed an abominable act is that it appoints for her a way by means of which she can relieve herself of the punishment [in the hereafter]. Accordingly, how can it be stoning and flogging? Would a sensible woman, confined to the house, living comfortably, be willing to be stoned or flogged? Moreover, how can flogging or stoning be a way for her? And if that is a way for her, then what would be the way against her? According to the preceding, it may be true that the word *fahisha* in the first verse refers, in particular, to tribadomy; and in the second (Qur'an 4: 16), to sodomy. (We shall explain this later.) But it may also refer to something more general than tribadomy and adultery. On the basis of these two probable

meanings, the ruling is the obligatory confinement to the house of the woman who has committed an abominable act, until God sets her free, whereupon she would be allowed to go out. This would be either because of her sincere repentance, which should safeguard her from committing the abominable act again; or because she is no longer capable of lewdness due to old age and the like; or because of her inclination to get married and be wedded to a man who would take care of her; or because of any such steps that would safeguard her from committing lewdness. This ruling remains in force. As for flogging or stoning, it is another ruling legislated in order to punish both men and women who have committed an abominable act, and this latter ruling is alien to the first ruling. Therefore, there is no reason for it to be an abrogator of it.

In other words, the first injunction was legislated to prevent the recurrence of the abominable act; and the second injunction was legislated as a chastisement for the first crime and to prevent other women from committing a similar act. As such, there is no incompatibility between the two that would indicate that the first should be abrogated by the second. However, if a woman dies from flogging or stoning, the necessity of confining her to the house would of course be eliminated because the purpose [of such confinement] would have been obtained. Aside from that, the injunction [regarding confinement] remains in force for the women for whom God has not appointed a way.

In short, whoever reflects on the verse will find no reason to suspect abrogation regardless of whether it was revealed before or after the flogging verse [Qur'an 24:2]. As for the opinion regarding the abrogation of the second verse, that, too, is dependent on two points: first, that the pronoun in *ya'tiyaniha* (the two of you who are guilty thereof) refers to adultery; and, second, that the punishment (*al-Idha'*, or "doing harm") means punishment through vilification, cursing, rebuke, and so on. Although there is no reason to support both these points, they are incompatible with the apparent sense of the verse, for the following reasons.

The dual form of the third person pronoun is used thrice in the second verse, and undoubtedly its purport the third time is the same as it is the first two. It is evident that [all three times it] refers, in particular, to men. Consequently, the reference is to the coming together of two men, and not men and women in general. This is because the dual form of the pronoun would not be sound if it did not refer to two men. A better way would have been to use the plural form, as in the preceding verse. There is therefore a strong reason to maintain that the lewdness indicated in the second verse refers specifically to sodomy, and not to adultery or something more general than adultery and sodomy. If this is the case, then the subject of the verse is extraneous to the subject of the verse on flogging.

In contrast, even if we admit that the ruling in the verse includes the adulterer, there is still no reason to suggest that a specific punishment is required by the verse, except what has been reported from Ibn 'Abbas, namely, vilification and beating with shoes. However, this is not the proof that establishes abrogation. Thus, the obvious course is to take the verse in its literal sense and then qualify it by means of the flogging verse or the ruling about stoning, which is established through definitive practice.

In sum, there is no reason to maintain that either verse was abrogated except [if we] follow the opinion of others, or trust the single transmissions that have no theoretical or practical use.

(12) ***Lawful unto you are all beyond those mentioned, so that . . . (Qur'an 4:24)***[40](#)

It is said that the above verse has been abrogated by the traditions that prohibit marriage for women other than those mentioned in the verses. The validity of this claim depends on the abrogator being a particular and subsequent verse abrogating, rather than qualifying, an earlier and a general verse.

The fact is that the particular verse functions as a restricter of the general, whether preceding it or succeeding it, and not as its abrogator. It is for this reason that a single tradition, which meets the condition for its admission as evidence, is sufficient to particularize a general ruling, as we shall discuss in our treatment of the permissibility of particularizing the Qur'anic injunction by means of a single tradition. But that would not be the case if the subsequent particularizer were an abrogator, for abrogation cannot be proven by means of a single tradition. Furthermore, the verse does not bear verbal generality. It is established by its general application and other contextual factors. Accordingly, if other evidence is produced that can support its particularization, then it would mean that the generality in the verse is not meant in reality.

And those [women] from whom you seek contentment, give them their portions as a duty. (Qur'an 4:24)

The general view among Sunni scholars is that the permission to contract *al-mut'a* (temporary marriage of pleasure) was abrogated, and that its prohibition is established until the day of Judgment. The Twelver Shi'ite scholars, however, are in agreement that the permission remains in effect and that the verse has not been abrogated. A group of the Companions of the Prophet and the second generation of the Companions agree with them in this matter. According to Ibn Hazm: "Ibn Mas'ud, Mu'awiya, Abu Sa'id, Ibn 'Abbas, Salma and Ma'bad, the sons of Umayya b. Khalaf, Jabir, and 'Amr b. Hurayth continued, after the death of the Prophet, to consider it [*mut'a*] lawful. Moreover, Jabir reported, regarding all the Companions, that they continued to uphold its lawfulness during the time of the Prophet and of Abu Bakr and almost till the end of 'Omar's caliphate." Then he [Ibn Hazm] adds, "Among the Successors of the Companions, Tawus, Sa'id b. Jubayr, 'Ata', and the rest of the [Mekkan] jurists believed in its permissibility." [41](#)

Shaykh al-Islam al-Marghiyani has attributed the opinion regarding the permissibility of the *mut'a* to Malik, deducing it from his statement that "the reason is that the *mut'a* marriage was permissible; and it remains thus until its abrogator can be proven." [42](#)

Ibn Kathir attributes to Ahmad b. Hanbal the view that the *mut'a* is permissible when necessary, in accordance with a certain tradition.[43](#) Ibn Jurayh., a leading personality and jurist of Mekka in his time, contracted *mut'a* marriages with seventy women.[44](#) We will discuss this subject, God willing, when we come to this verse in our exegesis. However, here we shall present a brief discussion in order to prove

that the substance of this verse was not abrogated.

To make this clear, the abrogation of the injunction in question depends on two things: first, that the purport of *al-istimta'* (enjoyment) in the verse is enjoyment of women by the *mut'a* type of marriage; and second, that the *mut'a* marriage was subsequently prohibited.

As for the first condition—namely, seeking the enjoyment of women by *al-mut'a* there is no doubt of its being established. The traditions reported both by the Sunnis and the Shi'ites regarding that are numerous. Al-Qurtubi says: 'The majority maintain that the meaning of *mut'a* marriage was [the one that was practiced] in the early days of Islam. Ibn 'Abbas, Ubayy, and Ibn Jubayr read the verse [as follows]: 'And those from whom you seek contentment for a specified time, give to them their portions.'⁴⁵ With this in mind, one should not take into account al-Hasan al-Basri's view that this verse refers to a permanent marriage, and that God in His Book did not make *al-mut'a* permissible. Al-Hasan goes on to attribute this opinion to Mujahid, and Ibn 'Abbas also, whereas the traditions related on their authority, stating that the verse was revealed concerning *mut'a* marriage, gives the lie to such an attribution. At any rate, the abundance of traditions proving this kind of marriage and its legality relieves us from the obligation of proving it and unnecessarily prolonging this discussion.

As for the second condition—the proof that the *mut'a* type of marriage was prohibited after it had been permitted—this is out of the question. This is because whatever may possibly be suggested as abrogator must be one of the following verses, none of which qualifies as abrogator.

[First, we have] the verse in which God, the Exalted, says, "**O Prophet! When you [men] put away women, put them away for their [legal] period**" (*Qur'an 65: 1*).⁴⁶ This opinion has been attributed to Ibn 'Abbas.⁴⁷ But the attribution is incorrect, because, as we shall mention, Ibn 'Abbas remained firm throughout his life in maintaining the lawfulness of *mut'a*.

The response [to the view that Qur'an 65:1 is the abrogator] is obvious. If abrogation is assumed because of the shorter legal period of waiting for the woman who has contracted a than for one who has contracted a [permanent] marriage, then there is no evidence to this effect, either in this verse or in any other verse. Moreover, a waiting period of the same length is required of all women. On the other hand, if abrogation is assumed because there is no divorce in the *mut'a* contract, the verse in question here does not deal with the conditions and circumstances of divorce as to when it may, and when it may not, be given.

[Rashid Rida, in] *al-Manar*, relates, on the authority of some commentators, that the Shi'ites maintain that there is no waiting period after the *mut'a* marriage.⁴⁸ This is nothing but monstrous slander. There is not a single book of Shi'ite jurisprudence, from the earliest to the most recent, whose author can be charged with such a view even as a deviation, let alone there being a consensus about it. The Shi'ites shall certainly have a day with those who have falsely attributed opinions to them and have ascribed to them erroneous views—the day when adversaries shall be brought together and those who follow

falsehood shall be lost.[49](#)

[Second, we have] the verse in which God, the Exalted, says, **"And to you belongs half of that which your wives leave"** (*Qur'an 4: 12*).[50](#) This verse abrogates the verse about the *mut'a* because the woman who contracts this kind of marriage neither inherits nor is inherited. Hence, she is not a wife. This opinion has been attributed to Sa'id al-Musayyib, Salim b. 'Abd Allah, and al-Qasim b. Abu Bakr.[51](#)

Our response to this assertion is that the verses which prohibit mutual inheritance in the *mut'a* type of marriage are a particularization of the general verse that deals with inheritance. There is, moreover, no indication that marriage as such necessitates mutual inheritance. Indeed, it is well established that a nonbeliever cannot inherit a Muslim; and likewise, a murderer cannot inherit his victim. The most this verse demonstrates is that inheritance is limited to the permanent marriage. How can this be an abrogation of the *mut'a* verse?

[Third], The following traditions are regarded as abrogators of the verse:

a. It is related that 'Ali b. Abi Talib told Ibn 'Abbas, "You are certainly a person gone astray. Certainly, the Prophet has forbidden *mut'a* and the meat of domestic ass since [the battle of] Khaybar."

b. Al-Rabi' b. Sabra relates on the authority of his father, who said: "I saw the Prophet (peace be upon him) standing between the Rukn and the Bab [in the mosque of the Ka'ba], saying: 'O people! I had permitted you to seek contentment [through *mut'a*] from women. However, God has forbidden that until the Day of Resurrection. Hence, those among you who have any of them should let them go, and do not take back from them anything that you have given them.'"

c. Salma relates on the authority of his father, who said, "The Prophet of God (peace be upon him and his progeny) permitted *al-mut'a* for three days in the year during which the battle of Awtas occurred, and then he prohibited it."

The response to this contention is [as follows].

First, abrogation cannot be established by means of a single narration, as we have mentioned above repeatedly. Second, these traditions are in contradiction to the ones reported by uninterrupted transmission on the authority of the *ahl al-bayt*, which prove that the *mut'a* was permitted, and that the Prophet never forbade it. Third, the proof that the *mut'a* was prohibited at some time in the life of the Prophet is not sufficient reason to judge that the verse was abrogated, for it is possible that this period preceded the permission that was revealed in the Qur'an. Furthermore, there are numerous traditions, reported by Sunni chains of transmission, regarding the permission to contract *mut'a* during the last years of the Prophet's life until the caliphate of 'Umar. If there is any tradition that disputes this latter fact, then certainly it is a falsehood and there is no doubt that it should be rejected. In order to provide more information, we will mention some of these traditions.

1. A tradition is narrated by Abu al-Zubayr. He said:

I heard Jabir b. 'Abd Allah say, "We used to seek contentment [through *mut'a*] in exchange for a handful of dates or flour during the time of the Prophet and Abu Bakr, until 'Umar prohibited it—that is, the *mut'a* marriage—in the case of 'Amr b. Hurayth."[52](#)

2. A tradition is related by Abu Nadra. He said:

I was with Jabir b. 'Abd Allah when someone came to him and said, "Ibn 'Abbas and Ibn al-Zubayr differed on the two types of *mut'a*: the *mut'a* of the pilgrimage[53](#) and the *mut'a* of women." To this, Jabir, said: "We used to practice both of them with the Messenger of God, and then 'Umar prohibited us from practicing them. Thus we have not returned to them."[54](#)

3. Abu Nadra also related from Jabir b. 'Abd Allah:

He said, "Two types of *mut'a* were practiced during the time of the Prophet. However, 'Umar forbade us from practicing them, and, consequently, we denied them to ourselves."[55](#)

4. [In another variant tradition], Abu Nadra related from Jabir:

He said, "We used to practice two types of *mut'a* during the time of the Prophet, the pilgrimage and the women. Then 'Umar prohibited us from practicing them, and, consequently, we denied them to ourselves."[56](#)

5. Reporting also from Jabir, Abu Nadra said:

I said, "Ibn al-Zubayr forbids the *mut'a*, whereas Ibn 'Abbas commands it." To this, Jabir said: "I was the one who reported the prophetic tradition: We used to seek contentment [through *mut'a*] during the Prophet's and Abu Bakr's time. However, when 'Umar assumed power, he delivered an oration to the people. He said: 'Surely, the Messenger of God (peace be upon him and his progeny), this very Prophet, and the Qur'an, this very Qur'an, they both permitted two types of *mut'a* during the Prophet's time, and I prohibit both of them and I shall punish anyone practicing them. One of them is the *mut'a* of women. I shall not enable any person to marry a woman for a fixed period but that I shall cover him with stones.'[57](#)

6. A tradition is narrated by 'Ata'. He said:

Jabir b. 'Abd Allah returned from Mekka, having performed the lesser pilgrimage. We came to his house to see him and the people asked him about certain things. Then they mentioned al-*mut'a*. He said, "Yes, we sought contentment during the time of the Prophet and Abu Bakr and 'Umar."[58](#)

This same tradition is reported by Ahimad b. Hanbal in his *Musnad*, and he added, ". . . until toward the end of the caliphate of 'Umar."[59](#)

7. A tradition is related by 'Imran b. Husayn. He said:

The verse regarding the *mut'a* was revealed in the Book of God, the Blessed, the Exalted. And we followed it with the Prophet, and no verse was revealed to abrogate it, nor did the Prophet prohibit it, until he died.[60](#)

This tradition has also been reported by al-Razi in his commentary on this verse in which he adds, "At that time, a man did what he desired [concerning this matter], in accordance with his personal opinion."[61](#)

8. A tradition was reported on the authority of 'Abd Allah b. Mas'ud:

He said, "We were on an expedition with the Messenger of God, and there were no women with us. So we told the Prophet, 'Should we emasculate ourselves?' He forbade us that. Then he permitted us to marry a woman for a fixed period in exchange for a garment." Then 'Abd Allah recited, "***O you who believe! Forbid not the good things which God has made lawful for you, and transgress not. Lo! God loves not transgressors***" (*Qur'an 5:87*).[62](#)

It must be pointed out that the reciting of the verse by 'Abd Allah clearly establishes that the prohibition of *mut'a* was neither from God nor from the Prophet. It was, rather, something which occurred after the Prophet's time.

9. A tradition is reported by Shu'ba on the authority of al-Hakam b. 'Uyayna. He said:

I asked him [al-Hakam] about this verse, that is, the *mut'a* verse, whether it was abrogated. He said, "No." Al-Hakam said, 'All said that had it not been for 'Umar's prohibition of the *mut'a*, no one would have committed adultery except a scoundrel."[63](#)

Al-Ququbi reports the same tradition on the authority of 'Ata', who related it from Ibn 'Abbas.[64](#)

It is possible that the word *al-shaqi* (scoundrel) is used in this tradition to convey the sense in which it has been explained in the tradition related by Abu Hurayra. He said:

The Prophet said, "No one except a scoundrel will enter the Fire." He was asked, "What is a scoundrel?" He replied, "He is the one who does not act in accordance with what is required in obedience [to God], and does not abandon acts of disobedience to God."[65](#)

10. A tradition is reported by 'Ata'. He said:

I heard Ibn 'Abbas say, "May God have mercy on 'Umar. *Al-mut'a* was nothing but a mercy from God, the Exalted, with which He had shown compassion to the community of Muhammad (peace be upon him and his progeny). Had he not prohibited it, no one would have been in need of fornicating except a few."[66](#)

The traditions that have been used to support the view of those who maintain the abrogation of the verse

on *al-mut'a* are of various kinds. Some among them are traced back to al-Rabi' b. Sabra on the authority of his father—these are numerous. In some of them it is asserted explicitly that the Prophet stood between the Rukn and the Maqam, or the Bab of the Maqam [in the mosque of Ka'ba], and announced the prohibition of the *mut'a* until the Day of Resurrection. Others among them are traced back to the Imam 'Ali, and they relate that he reported from the Messenger of God that it was unlawful. Still others are transmitted from Salma b. al-Akwa'.

As for those which are traced back to Sabra, in spite of the fact that they are reported from many sources, they are all related on the authority of one person, namely, Sabra. Consequently, as established earlier in this work, a single narrative cannot be used as evidence of abrogation [of a Qur'anic injunction]. In addition, the substance of some of these traditions proves their falsity. How can it be rationally accepted that the Prophet stood, delivering a sermon, between the Rukn and the Maqam, or between the Bab and the Maqam, announcing the prohibition of a thing, until the Day of Resurrection, to the assembled crowd of Muslims, and yet no one except Sabra heard it? Or, that no one among the thousands assembled, except him, reported it? Where were those Emigrants (*Muhajirun*) and Helpers (*Ansar*) who used to gather everything that the Prophet said or did? Where were those narrators, who took great care to register every movement of the Prophet's hands and the glances of the Prophet's eyes, to participate along with Sabra in relating the prohibition of the *mut'a* until the Day of Resurrection? More important, where was 'Umar himself, when this declaration was made, to spare himself from attributing the prohibition of the *mut'a* to himself? Additionally, Sabra's traditions are riddled with contradictions, and belie one another. In some of them the prohibition is placed in the year when Mekka was conquered;⁶⁷ in others it took place during the Farewell Pilgrimage [the Prophet's last pilgrimage].⁶⁸ In conclusion, Sabra's traditions regarding the prohibition are unreliable for more than one reason.

As for what has been related on the authority of 'Ali b. Abi Talib, regarding the prohibition of the *mut'a* marriage, it is undoubtedly fabricated. The reason is that there is a consensus among Muslims that the *mut'a* was still lawful in the year of the conquest of Mekka. How then can it be possible that 'Ali would use a report from Ibn 'Abbas to show that the *mut'a* was made unlawful during the Battle of Khaybar? It is for this reason that some have suggested the possibility that the phrase "from the time of Khaybar" is connected not with the *mut'a*, but with the preceding narrative, which deals with the prohibition of the meat of the domestic ass. This possibility has been related on the authority of Ibn 'Uyayna, as reported in *al-Muntaqa* and in *Sunan al-Bayhaqi* in the section on *al-mut'a*.

However, such a probability is unfounded [for several reasons].

First, it is contrary to the rules of the Arabic language. The negation in the report occurs [only] once, at the beginning of the sentence [the Prophet has forbidden . . .]

Consequently, it has to be related to its circumstance. The sentence "I was hospitable to Zayd and 'Amr on Friday" necessarily conveys that the person honored them both on Friday. However, if the intention is

to convey that he specifically honored 'Amr on Friday, then it would be necessary for him to say, "I was hospitable to Zayd, and I was hospitable to 'Amr on Friday."

Second, this possibility contradicts the explicit statement in the traditions, related by al-Bukhari, Muslim, and Ahmad b. Hanbal, that indicate that 'Ali b. Abi Talib said, "The Prophet (peace be upon him and his progeny) banned the *mut'a* of women on the day of the Battle of Khaybar, and the meat of the domestic ass."⁶⁹ Moreover, al-Bayhaqi narrates, in his section on the *mut'a*, a tradition on the authority of 'Abd Allah b. 'Umar, also in connection with the prohibition of the *mut'a* on the day of Khaybar. ⁷⁰

As for what has been related on the authority of Salma b. al-Akwa', from his father, who said, "The Prophet of God (peace be upon him and his progeny) permitted *al-mut'a* for three days in the year during which the Battle of Awtas occurred, and then he prohibited it," this tradition is a single narration that cannot be admitted as evidence of abrogation. Moreover, had this been a sound tradition, it could not have been unknown to Ibn 'Abbas, Ibn Mas'ud, Jabir, and 'Amr b. Hurayth, or to any other Companions and Successors. How could it have been known to them when Abu Bakr did not prohibit the *mut'a* during his caliphate, [and when] 'Umar did not forbid it during the major part of his caliphate, but only toward its end?

Third, we have cited Ibn Hazm's report that a number of Companions and Successors stood firm by the view that the *mut'a* should be permitted. Ibn Hazm's assertion that a number of Companions announced a legal decision permitting *al-mut'a* is substantiated by the following report narrated by Ibn Jabir in *Tahdhib al-Athar* on the authority of Sulayman b. Yasar, who received it from Umm 'Abd Allah, the daughter of Khuthayma:

A man from Syria who lodged in her house said, "Celibacy has indeed become unbearable for me. I seek contentment with a woman." So she directed him to a woman. They agreed on the conditions and had them witnessed by responsible persons (*'udul*). He stayed with her as long as God desired, then he left. 'Umar b. al-Khattab came to know about the matter. He sent for me and asked me about the truth of what had been reported to him. I told him it was true. He told me to notify him when [the Syrian] came. When he came, I informed him and he sent for him, and said, "What made you do what you did?" He replied: "I did what I had done when I was with the Prophet, and he did not forbid us from doing it until God took him. Then I [continued to do it] when Abu Bakr was [the caliph]. He too did not forbid it until God took him away. Then came your time. You did not report its prohibition to us." At that, 'Umar said, "I swear by the One in whose hand is my life, if I had already declared its prohibition, then I would have [certainly] stoned you." [Thus he ordered], "Make this [prohibition] known so that marriage (*nikah*) will be distinguished from fornication (*sifah*)."

Another tradition supporting Ibn Hazm's assertion is the following, reported by Ibn Jarir [al-Tabar], Abu Ya'la in his Musnad, and Abu Dawud in his Nasikh, on the authority of 'Ali b. Abi Talib, who said, "If it were not for 'Umar's precedent, I would have decided that the *mut'a* is lawful, and consequently no one would have fornicated except a scoundrel."⁷¹

These two traditions contain more than one source of proof that it was 'Umar who prohibited the *mut'a*:

1. The testimony of a Companion and of 'Ali b. Abi Talib prove that the prohibition of the *mut'a* was not in force during the lifetime of the Prophet, nor following his death, until 'Umar declared it unlawful in accordance with his personal opinion.
2. The witnessing of the *mut'a* contract in the first tradition by the responsible persons and their failure to admonish against it suggest that they regarded it as permissible.
3. The silence of 'Umar occurred in the face of the Syrian's claim that the Prophet had not forbidden it.
4. 'Umar's statement to the Syrian, "If I had already declared its prohibition, then I would have [certainly] stoned you," is a clear statement that 'Umar had not already declared its prohibition before this story. In other words, 'Umar admitted that the *mut'a* was not forbidden before that time.
5. 'Umar's statement, "Make this [prohibition] known so that marriage (*nikah*) will be distinguished from fornication (*sifah*)," confirms that the *mut'a* was widespread among Muslims. Thus, 'Umar wanted his prohibition of it to be made known to them so that they would thereafter be dissuaded from it. Perhaps the [Syrian's] incident in this tradition had directly or indirectly played a role in 'Umar's prohibition of the *mut'a*. For his disapproval of the Syrian's action, in spite of the testimony of the tradition that the *mut'a* was widespread among Muslims, added to the fact that the news about it had reached him, although news about such things did not usually reach those who were in power—all these things suggest that there was a factor in the incident that the reporters ignored or neglected, with the consequence that the report did not reach us. Additionally, the report by Salma b. al-Akwa' does not explicitly state that the prohibition was made by the Prophet. It is possible to read the word *nahi* (prohibition) in the tradition in the passive voice,⁷² and [to determine] that, as such, it is intended to show that the prohibition came from 'Umar after the death of the Prophet.

Therefore, the traditions do not provide acceptable evidence that establishes that the Prophet prohibited the *mut'a*. That which establishes that the Prophet had not banned the *mut'a* is the fact that 'Umar attributed the prohibition to himself when he said, "[The Prophet and the Qur'an] permitted two types of *mut'a* during the Prophet's time, and I prohibit both of them and I shall punish anyone practicing them."⁷³ Had the prohibition come from the Prophet, then he would have said, "The Prophet forbade both of them."

Fourth, the permissibility of the *mut'a*, which is established in the Qur'an and the Sunna, was abrogated by a consensus making it unlawful.

The response to this line of argument is that a consensus has no evidentiary value if it does not reveal the opinion of the infallible Prophet or the Imams. It is well known that the prohibition of the *mut'a* did not occur during the time of the Prophet, nor did it occur after him until well into the caliphate of 'Umar. Is it rationally permissible to reject [a ruling of] the Book of God and the Sunna of His Prophet by means of a

fatwa (legal opinion) of a group of persons who were not divinely protected from error? If this were to be admissible, it would then be possible to abrogate all the rulings stated in the Qur'an or established in the absolutely reliable Sunna. In other words, this entails the permissibility of abrogating the obligatoriness of the daily worship or the fasting or the annual pilgrimage, in accordance with the opinions of the scholars (*mujtahidun*). Such a thing cannot be accepted by any Muslim.

Moreover, there has not been a full consensus on the question of the unlawfulness of the *mut'a*. How could anyone claim a consensus on this matter when a large group of Muslims, including Companions of the Prophet, disagreed with this view before and after his death? This is not to mention that the opinion of those who believe in the permissibility of the *mut'a* is in agreement with the opinion of the Family of the Prophet, from whom God removed all the filth, thereby purifying them completely. Thus, there remains nothing except the prohibition introduced by 'Umar.

To be sure, the Qur'an and the Prophet's Sunna are more worthy than anything else of being followed, and it is for this reason that 'Abd Allah b. 'Umar gave the *fatwa* allowing *tamattu'* (indulgence) during the *hajj*. People asked him, "How can you disagree with your father, who had forbidden it?" In response, he said: "Woe unto you! Are you not afraid of God. . . . Is the Prophet's Sunna worthier of being followed or is it 'Umar's?"⁷⁴

To sum up the preceding: None of the things to which the proponents of abrogation hold fast is appropriate as abrogator of this Qur'anic injunction, whose legality is absolutely proven in Islam.

Stoning as a Penalty for Contracting a Mut'a

It is established in a number of traditions, of which some have been already cited, that 'Umar ordered the stoning as a penalty for the *mut'a*. Among these traditions is one reported by Jabir. He said:

We used to practice *mut'a* along with the Messenger of God. When 'Umar assumed authority he said: "Indeed, God made lawful for His Messenger whatever He willed by whatever means He desired. The Qur'an was revealed for this set purpose. Hence, fulfill the pilgrimage and the lesser pilgrimage as He has commanded you, and resolve your marriage to these women. Any man brought to me who has married a woman for a fixed period, I would have him stoned."⁷⁵

Another tradition has been related by al-Shafi'i on the authority of Malik, who received it, through Ibn Shihab, from 'Urwa: that Khawla bint Hukaym came to 'Umar al-Khattab and said, "Rabr'a b. Umayya has contracted a *mut'a* marriage with a woman, and she has become pregnant from him." 'Umar came out angrily while his cloak dragged, saying, "This *mut'a*! If I had already declared its prohibition, I would have certainly stoned him."⁷⁶

In a tradition reported by Nafi' from 'Abd Allah b. 'Umar, the latter was asked about the *mut'a* with women. He said, "It is forbidden. However, if 'Umar b. al-Khattab caught anyone having practiced it, he

would stone him."[77](#)

Ibn al-Zubayr followed this view. When he denied the permissibility of the *mut'a*, Ibn 'Abbas said to him, "You are rude and uncivil. I solemnly declare that during the time of the leader of the pious"—that is, the Messenger of God—"mut'a was practiced." Ibn al-Zubayr told him, "Go ahead and try it yourself. By God, if you did, I shall stone you with your own stones."[78](#)

This is indeed strange! How can a Muslim deserve stoning for having differed with 'Umar on a legal point, while supporting his view on the injunction of the Prophet and the text of the Qur'an? Even if we accept that this person had committed an error of judgment, would not legal punishments be extenuated in cases of mistakes? In addition, this is merely a hypothetical situation. We have already noted that there is no proof to support the claim of abrogation.

How far is this opinion from the doctrine of Abu Hanifa, who is of the opinion that the legal punishment should be suspended in the case of a man marrying a woman by means of an invalid contract, or marrying a woman who is not lawful for him [because of the degree of consanguinity], and engaging with her in sexual intercourse, though aware of the prohibition and the invalidity of the contract?[79](#) Moreover, the same doctrine holds that if he hires a woman and then fornicates with her, the penalty is suspended, for God has called the bride's dowry a wage (*ajr*). Traditions to this effect have been related on the authority of 'Umar b. al-Khattab also.[80](#)

Assertions Regarding the Mut'a

The author of *al-Manar*, [Rashid Rida], asserted that *mut'a* contradicts chastity. Rather, [he said], its primary goal is to fornicate, and it is not chaste for a woman to hire herself every time to a different man, for then she would be like the ball in the following line of a poem:

She is like a ball that is hit with a polo mallet,
Being grabbed from foot to foot.

Moreover, he maintains that it contradicts what God, the Exalted, says in the following passage:

And [those] who guard their modesty—save from their wives or the [slaves] that their right hands possess—they are not blameworthy. But whosoever craves beyond that, such are transgressors (Qur'an 23:5-7).

Then he goes on to state that 'Umar's prohibition did not come from himself. Even if it is true that he attributed it to himself, this would mean only that he elucidated its prohibition or that he carried it out. Having said that, the author expresses his regret that he wrote in *al-Manar* that 'Umar forbade *mut'a* on the basis of his *ijtihad* [personal judgment] and that the other Companions agreed.[81](#)

In response to these assertions, we say:

His contention that the *mut'a* is incompatible with chastity is based on his claim that the woman would not be a real wife. We already explained the error of this view, and this exposes the further error that *mut'a* is incompatible with guarding one's modesty except against a spouse.

As for his interpretation of the *mut'a* as being equivalent to a woman's hiring herself out, and his comparison of a woman with a ball that is grabbed by different hands, if this is true, it disputes the legality of this kind of marriage, which was prevalent during the lifetime of the Prophet. The reason is that such a comparison and disapprobation do not apply to one period to the exclusion of another. In addition, no Muslim doubts that *mut'a* was permissible during the time of the Prophet, and, as established earlier, it is known that the permission continued until well into the time of 'Umar.

It is strange that the author [of *al-Manar*] at this point states that he does not wish to express anything except the truth and that he is not influenced by sectarian prejudice. Yet his prejudice leads him to denounce what has been established in the Islamic law through a specific text in the Qur'an, as well as in the Sunna and by the consensus of Muslims, which holds true even if they disagree over its abrogation or continuation. Moreover, if the transfer of a woman from man to man is abominable, it should then deter divorce in a permanent marriage, since that would transfer the woman to the protection of another man, as well as transfer a woman through ownership. No Muslim has voiced objection to this, but the author of *al-Manar* is free to make this objection because he is of the opinion that slavery should be prohibited and that, in its permissibility, there are many causes of corruption. He asserts that prominent jurists had neglected to mention that. Moreover, he maintains that a permanent marriage was invalid if the husband, from the beginning, intended divorce following the marriage. In that, he has diverged from the legal opinion of other Muslim jurists.

Equally strange is the way he explains 'Umar's admission that the prohibition of *mut'a* was his own decision, for it does not support what he, the author of *al-Manar*, asserts. Certainly, 'Umar's proclamation of the prohibition must have been either a personal judgment of his own contradiction of the Prophet's opinion, or a personal judgment ascribing the prohibition to the Prophet, or a report on his authority related from the Prophet regarding the prohibition.

As for the possibility that 'Umar's view was a tradition reported from the Prophet about the prohibition, this is not supported by the numerous traditions in which 'Umar ascribes the prohibition solely to himself. In addition, if it were indeed a prophetic tradition, then it would contradict all the traditions, reported earlier, that prove that the *mut'a* remained permissible during a considerable period of 'Umar's caliphate. And where was 'Umar during the caliphate of his predecessor, Abu Bakr? Did he reveal, to Abu Bakr and other Muslims, his report regarding the Prophet's prohibition of *mut'a*? Moreover, 'Umar's report is a single narrative that does not establish the abrogation.

As for the possibility that 'Umar's view was his own personal judgment that the Prophet had prohibited the *mut'a*, this also has no meaning after the testimony of a group of the Companions regarding its permissibility during the time of the Prophet until his death. However, his personal judgment is not

binding on those, other than himself, who have not been required to follow his judicial decision and his opinion. More pertinently, these two possibilities run contrary to 'Umar's statement in his speech: "As for the two forms of *mut'a* that were [permissible] during the Prophet's time, I am forbidding them both and I shall punish those who practice them."

Consequently, the matter is reduced to the conclusion that the prohibition was 'Umar's personal judgment against the Prophet's declaration regarding its permissibility. It was for this reason that the community did not follow him in his prohibition of *mut'a* [indulgence] during the hajj and in establishing the maximum legal penalty for the *mut'a*. It is incumbent on the community to follow the Prophet's statement and reject all personal judgments that go against it, as God says: **"And it is not a believing man or a believing woman, when God and His Messenger have decided an affair [for them], that they should [after that] claim any say in their affair"** (*Qur'an 33:36*). In this connection, the Messenger of God said, "I do not make anything unlawful except if God had made it unlawful."⁸² In another place he said, "I solemnly declare, in the name of the One in Whose hand is my life, that nothing but the truth comes out of it [i.e., his mouth]."⁸³

In spite of all this, al-Qushji, in his apology for 'Umar' s prohibition of the *mut'a*, in disagreement with the Prophet, says, "This [action of 'Umar] does not call for condemnation, for it is not an innovation if a *mujtahid* disagrees with other *mujtahids* on a question that is open to interpretation."⁸⁴

According to al-Amidi:

Scholars have disagreed regarding the question of whether the Prophet used to follow his own personal judgment in those matters in which there was no explicit text [in the Qur'an]. Ahmad b. Hanbal and al-Qadi Abu Yusuf maintain that the Prophet used to follow his personal judgment. . . . Al-Shafi' , in his *Risala*, regards it as permissible, but without giving an absolute ruling in this matter. Some associates of al-Shafi' , as well as al-Qadi 'Abd al-Jabbar and Abu al-Husayn al-Basri, have maintained a similar opinion."

Al-Amidi then adds, "My own preference is to maintain the permissibility of that, both on the basis of reason and on the basis of its having occurred in the reports [related about that]."⁸⁵

Al-Amidi also says: "Those who maintain the permissibility of *ijtihad* for the Prophet have disagreed on the possibility of error for him in his *ijtihad*. According to some of our associates, [error] is impossible, whereas the majority of them, as well as the Hanbalites and the scholars of tradition, and al-Jubba'i and a group of the Mu'tazilites, have maintained that it is possible, but with the provision that he does not remain on that error; and this [in our opinion] is the preferred view."⁸⁶

To conclude, the verse about the *mut'a* does not have an abrogator, and 'Umar' s prohibition, and the agreement of a group of the Companions with his opinion, whether made willingly or unwillingly, were based on his personal opinion against the text of the Qur'an. This was indeed conceded by some, and there is no proof of the prohibition of *mut'a* except 'Umar's proscription. Those [who complied with his

prohibition] had deemed it appropriate to follow the practice of the caliphs, as they had followed that of the Prophet.⁸⁷ At any rate, the best statement is that of 'Abd Allah b. 'Umar: "Is the Prophet's Sunna worthier of being followed or is it 'Umar's [proscription]?" And how apt is the statement of Muhiammad 'Abduh in his commentary on the verse **"Divorce [is allowed] twice"?** [*Qur'an 2:229*].⁸⁸

(14) ***And to each We have appointed heirs of that which parents and near kindred leave; and as for those with whom your right hands have made a covenant, give them their due. Lo! God is ever witness over all things. (Qur'an 4:33)***

Opinions have varied on the meaning of this verse. According to some of them, the phrase "and as for those with whom your right hands have made a covenant" is independent of the rest; thus, they have regarded it as a fresh phrase. They have variously interpreted the word *nasib* (here meaning "due") to mean "help," "advice," "support," "aid," "reason," "counsel," and so on. This notwithstanding, the verse is precise and unabrogated. This opinion is ascribed to Ibn 'Abbas, to Mujahid, and to Sa'id b. Jubayr.⁸⁹

Others maintain that the independent phrase is an explicative adjunct of the verse, and they interpret the word *na'ib* as that which is due to an heir from the estate. But beyond this point they disagree. Some of them maintain that the purport, in the verse, of "a covenant" made by the "right hands" is the pledge of brotherhood and similar pacts, which, before Islam, entitled the persons concerned to inherit from each other. Islam confirmed this practice until the revelation of the inheritance verse, which states, **"And those who are akin are nearer to one another in the ordinance of God" (Qur'an 8:75)**. Accordingly, [some maintain], the verse under discussion is abrogated [by this latter verse].⁹⁰

Another group is of the opinion that "a covenant" made by the "right hands" refers specifically to the pact of security (*jarira*).⁹¹ Hence, if we follow the opinion of the majority of the Sunni scholars, according to whom inheritance is not established on the basis of the pact of security, then the verse becomes abrogated by the inheritance verse.⁹² But if we follow the opinion of Abu Hanifa and his associates, who establish the right to inherit on the basis of this pact, then the verse is precise and unabrogated.

This latter group has argued that the inheritance verse does not deny inheritance to those who are not near of kin, but only gives preference to those who are. Hence, there is no contradiction between the two verses, and the inheritance verse [therefore cannot] be the abrogator of this verse.⁹³

The fact is that the purport of the verse is exactly what is conveyed by its apparent sense—namely, that inheritance is admissible through a mutual contract or agreement. Nevertheless, abrogation of the verse is not established. To elaborate, the context of the passage makes it necessary that the *nasib* (due share) mentioned in it is the inheritance. To explain the term *nasib* as "aid," or as some other such notion, is to go against the apparent sense of the verse, which is so clear as to be almost explicit.

Moreover, the enumeration of the three categories [parents, near of kin, and those who are contractually related to the deceased] in the verse does not mean they are partners or equals in the same category. To be sure, a son inherits his parents, and none of the relatives among the near of kin of the deceased

inherit with him [as long as the son is present]. That which actually emerges from the verse is only that the heirs are the ones who belong to these three categories. As for the order of their inheritance and the precedence of one category over the other, nothing can be deduced from this verse. Rather, they have been deduced from other evidence in the Qur'an and from the *sunna*.

From what has been mentioned here thus far, the verse briefly mentions all the categories of heirs: Hence, children inherit from what has been left by the parents; the relatives among the near of kin inherit from each other; and the one who has an agreement with the deceased inherits with the rest, either in partnership or in order of precedence [in accordance with the terms of the agreement].

To elaborate, inheritance through other than kinship must be established through a proper contract and a commitment on the part of the person agreeing to it through an oath or his power. Such an agreement could result from marriage, in which case both spouses inherit from each other on the strength of the marriage contract that has come into effect between them. At other times, it could result from a contract of allegiance and dependency and is known as "allegiance and loyalty to the leadership." There is no disagreement that this kind of inheritance became an established right of the Messenger of God. Numerous traditions reported by Sunnis relate that he said, "I am the heir of those who have no heirs."⁹⁴

There is also no question that this kind of inheritance became a legitimate right of the Prophet's legatees [the Imams], for it has been established, by means of absolute proof, that they occupy the same position as he did. The Imamite doctrine and the traditions reported from the *ahl al-bayt* are unanimous on this point.

Contractual inheritance is effected sometimes through manumission. The manumitter inherits from his freed slave on the basis of the fealty of freedom. Among the Imamite scholars, there is no dispute over this kind of contract, and others also have upheld it. At other times, contractual inheritance is effected through a pact of security. This kind of agreement is called "fealty of security under guilt." The Imamite scholars recognize inheritance on the basis of this fealty, as do Abu Hanifa and his associates [among the Hanafite jurists].

To recapitulate, any claim that the verse has been abrogated depends on the establishment of two factors:

1. That God's saying "***And as for those with whom your right hands have made a covenant, give them their due***" (*Qur'an 4:33*) is connected with what preceded it, and is not a fresh phrase that signifies that the word *nafb* conveys a sense of counsel, advice, and other related senses.
2. That a "covenant" made by "right hands" in the verse refers to the "fealty of security under guilt," but with the requirement that it entails no inheritance, or to the "fealty of brotherhood" and such other allegiances that, in accordance with the agreement among Muslims, do not entail inheritance.

As for the first factor, there is no doubt about it, for it is what the context of the verse establishes. As for

the second factor, it is prohibited, because "fealty of security under guilt" is one of the criteria of the "covenant" made by "right hands." Nevertheless, its ruling has not been abrogated. The assertion that the "covenant" made by "right hands" refers to contracts which do not make inheritance binding, such as the fealty of brotherhood and similar agreements, is not supported by evidence.

(15) ***O, you who believe! Draw not near to prayer when you are drunken, till you know that which you utter. (Qur'an 4:43)***

Most scholars maintain that this verse has been abrogated,⁹⁵ but they disagree over its abrogator. Hence, it is reported, on the authority of Qatada and Mujahid, that this verse has been abrogated by the prohibition of wine [in Qur'an 5:92]. This opinion has been related from al-Hasan also.⁹⁶ According to Ibn 'Abbas, the passage was abrogated by the following verse: ***"When you rise up for prayer, wash your faces, and your hands up to the elbows" (Qur'an 5:6).***

Both views are clearly wrong. As for the first view, there is no indication whatsoever in the verse about the permissibility of wine-drinking. Moreover, even if it is presumed that wine was not yet prohibited when this verse was revealed, the terms in the verse do not deal with the ordinance regarding wine-drinking, whether to permit it or prohibit it. Furthermore, a mere presumption does not establish a fact. For, in a tradition related on the authority of 'Abd Allah b. 'Umar, he is reported to have said:

Three verses were revealed in connection with wine. The first thing that came down was, ***"They question you about strong drink (khamr) and games of chance. Say [that] in both is great sin, and [some] utility for men; but the sin of them is greater than their usefulness" (Qur'an 2:219).***

Thus it was said, "Wine is prohibited." People approached the Prophet, saying, "O Messenger of God, allow us to benefit from it as God, the Exalted, said." The Prophet did not answer them. Then the verse under consideration was revealed: ***"Draw not near to prayer when you are drunken."***⁹⁷

A similar account has been related on the authority of Abu Hurayra.⁹⁸ Abu Maysara has, likewise, related on the authority of 'Umar b. al-Khattab:

When the ordinance regarding the prohibition of wine was revealed, he ['Umar] said, "O, God, elucidate for us in unequivocal terms the matter of wine." ***Hence, the verse which is in the "Surat al-Baqara" was revealed: "They question you about strong drink (khamr) and games of chance. Say that in both is great sin" (Qur'an 2:219).***

'Umar was summoned and the verse was read to him. [He was not satisfied, and he prayed,] saying, "O, God, elucidate for us in unequivocal terms the matter of wine." Hence, the verse which is part of the "Surat al-Nisa" was revealed: ***"Draw not near to prayer when you are drunken" (Qur'an 4:43).***

Henceforth, the Prophet's crier, when calling people for the prayer, used to announce, "Do not draw near to prayer drunken." [Once again,] 'Umar was summoned and the verse was read to him. [Again he was not satisfied, and he prayed,] saying, "O God, elucidate for us in unequivocal terms the matter of wine."

Hence, the verse which is part of "Surat al-Ma'ida" was revealed. Once more 'Umar was summoned and the verse was read to him: [***"Satan seeks only to cast among you enmity and hatred by means of strong drink" (Qur'an 5:91)***]. When the phrase "Will you then have done with?" was reached, 'Umar said, "We have done with! We have done with!"⁹⁹

Al-Nasa'i has also reported this tradition, with little variation in its wording.¹⁰⁰

As for the second view, [which considers that the verse was abrogated by the verse about the ablution], the obligation to perform the ablution before the prayer has no relation to the subject of the verse under discussion as its abrogator.

It is possible that those who hold the view that this verse has been abrogated are under the delusion that the prohibition to draw close to prayer in a state of intoxication necessitates that the state of intoxication in question should be one which falls short of the stage where a person becomes neglectful of the obligations and their performance and therefore fails to pay attention to them. Accordingly, if the intoxication reaches that stage, it would be inappropriate to require him to perform his obligations. Moreover, since we assume that a person drinking wine gets to the point of becoming intoxicated to this extent, and is still held responsible by the consensus among the scholars for carrying out the obligation of the prayer, this necessarily requires the abrogation of the purport of the verse.

However, this opinion is certainly an erroneous assumption, because the meaning of intoxication, as the phrase ***"till you know that which you utter" (Qur'an 4:43)*** suggests, is [that it reaches a] stage when the intoxication causes a loss of consciousness, and this prohibition may be taken to mean obligatory unlawfulness. As such, it is not negated by the loss of consciousness. The reason is that even if the performance of the prayer in this state is impossible, the loss of the consciousness is still of the person's own free will. Accordingly, the validity of punishment cannot reasonably be nullified in the case of a person who has willingly refrained from carrying out his obligation. Hence, the linkage of prohibition with it is sound before he willingly gets drunk. There are many such examples in the Shari'a.

On the other hand, the prohibition may be a way of pointing out that the prayer, [uttered] in such a state of intoxication, would not be valid. This is what appears from the phrasing of the verse. The validity of this suggestion is quite evident. At any rate, there is no reason that makes it necessary to adopt the view that the verse was abrogated.

[Choose not any of them as friend or helper] except those who seek refuge with a people between whom and you there is a covenant, or [those who] come to you because their hearts forbid them to make war on their own folk. Had God willed He could have given them power over you so that assuredly they would have fought you. So, if they hold aloof from you and wage not war against you and offer you peace, God allows you no way against them. (Qur'an 4:90)

It has been maintained that this verse has been abrogated by the command to repudiate the treaty with the nonbelievers and the order to fight them regardless of whether they isolate themselves from the

Muslims or not—hence, there are two factors in the verse for its abrogation.

The response [to this is as follows]. This passage was revealed in connection with the hypocrites who had turned their backs and rejected faith after having outwardly become Muslims. This is indicated by the context of the verse, for [in the previous two verses] God, the Exalted, says:

What ails you that you are become two parties regarding the hypocrites, when God cast them back [to disbelief] because of what they earned? Seek you to guide him whom God has sent astray? He whom God sends astray, for him you [O Muhiammad] cannot find a road (Qur'an 4:88). They long that you should disbelieve, that you may be upon a level [with them]. So choose not friends from them till they forsake their homes in the way of God: If they turn back [to enmity], then take them and kill them wherever you find them, and choose no friend nor helper from among them (Qur'an 4:89). Except those who seek refuge. . . . (Qur'an 4:90).

Hence, the ordinance in the passage applies to the apostates (*al-murtaddun*) who were nonbelievers, [who] then converted to Islam, and then, again, reverted to disbelief. The ruling about them, as stipulated in the passage, is: kill them except in two cases:

1. If they were to seek refuge with a people who [have a covenant with] the Muslims, and to whom they appeal for protection. In such a case, the same ruling applies to them as it applies to the group from whom they have sought protection, in accordance with the terms of the covenant. However, this ruling is conditional on the validity of the covenant. Thus, if the covenant between them and the Muslims is revoked, the ruling would lose its object. We explained, at the beginning of this discussion, that a ruling which is revoked because of the termination of its object has no relation to abrogation whatsoever. The covenant between the Muslims and the disbelievers was revoked in "Surat al-Tawba" (sura 9). They were given four months to choose between converting to Islam or leaving the Muslim domain. Accordingly, there remained no ground for seeking the kind of protection the verse mentions.

2. If they come to the Muslims with their hearts deterred from fighting, and if they withdraw from the conflict and offer peace to the Muslims after their rebellion. Submitting, here, means accepting Islam outwardly and bearing testimony to the two fold formula for faith. This explanation is substantiated by God's saying, "And say not, to one who offers you peace, '***You are not a believer, 'seeking the chance of profits of this life [so that you may despoil him]***'" (*Qur'an 4:94*). The verse indicates the acceptance of, and adherence to, Islam, and that [an apostate] should not be killed after his repentance. The position ultimately taken by the Imamite school is that there is no verse in the Qur'an that indicates an unqualified obligation to kill an apostate [i.e., whether he repents or not], and that would serve as abrogator of the verse under discussion.

However, if those who maintain its abrogation intend to cling, in proving their view, to those verses which call for fighting the polytheists and unbelievers, then, evidently, that is conditional upon the continuance of the object of the ruling [which is the continuation of disbelief], as is the case with the principle followed

in all concrete cases in [regard to] the Shari'a-related and other ordinances. It is true that an unqualified injunction to kill an apostate has been reported in some traditions related by Sunni sources. Thus, al-Bukhari, Ahmad b. Hanbal, al-Tirmidhi, al-Nasa'i, Abu Dawud al-Sijistani, and Ibn Maja report, on the authority of Ibn 'Abbas, that the Prophet said, "Anyone who changes his religion, kill him." [101](#)

Nevertheless, there is no disagreement among Muslims that this ruling is conditional on the refusal to repent, although there is a disagreement among them over the period during which [the apostate] should be asked to repent, and whether it should be obligatory to ask him to repent or only be recommended. The prevailing view among the Imamites is that it is obligatory and not limited to a specific period; rather, he should be called upon to repent as long as it is possible for him to reconvert to Islam. It has been said, however, that he should be given only three days to repent. This opinion is attributed to some Imamite scholars and has been adopted by many Sunni scholars. Abu Hanifa and Abu Yusuf are of the opinion that a grace period of three days should be recommended. Nevertheless, 'Ali b. Abi Bakr al-Marghinani maintained that it was obligatory to kill an apostate without delay. Ibn al-Humam attributes to al-Shafi'i and Ibn al-Mundhir that they both said, regarding the apostate, "He should repent immediately, or be killed." [102](#)

In any case, there is no question that the ruling to kill is nullified by repentance, as is stated in traditions reported by both Shi'ites and Sunnis. Hence, the verse [which safeguards the apostate from being put to death] is not to be regarded as having been abrogated.

(17) *If then they have recourse to you [Muhammad], judge between them or disclaim jurisdiction. If you disclaim jurisdiction, then they cannot harm you at all. But if you judge, judge between them with equity. (Qur'an 5:42)*

Opinions vary on this particular verse. According to some, it is one of the precise (*muhkama*) verses and has therefore not been abrogated. The Twelver Shi'ites are agreed upon this opinion. Thus, the juridical authority has the discretion, when petitioned by peoples of the Book, whether to judge in accordance with the ruling of the Islamic law, or to disclaim jurisdiction and leave them to follow what their religion requires them to do. Shaykh al-Tusi relates a sound tradition of the Imam Abi Ja'far [al-Baqir], who said, "When a judge is approached by people of the Torah and the Gospel to judge among them, the matter is for his discretion: He can either agree to judge among them if he so desires, or he can disclaim jurisdiction if he so desires." [103](#) Among Sunni scholars who have accepted this opinion are al-Sha'bi, Ibrahim al-Nakha'i, 'Ata', and Malik. [104](#)

A number of those scholars maintain that the above verse was abrogated by the subsequent revelation: ***"So judge between them by that which God has revealed, and follow not their desires" (Qur'an 5:48).***

It has been related that Mujahid was of the opinion that the passage [in Qur'an 5:42] that gives the judge a choice abrogated the second passage [in Qur'an 5:48].

The fact is that the verse was not abrogated, for the command to judge among the people of the Book in the revelation "So judge between them by that which God has revealed, and follow not their desires" is subject to the judge's willingness to judge among them. The context for this condition is provided by the former verse. Moreover, besides the context of the verse, the last part of the former verse points to this condition: "But if you judge, judge between them with equity. Lo! God loves the equitable." Thus, it establishes the necessity of judging among them with equity, depending on the intention of the judge to judge among them. It is the judge's right to disclaim jurisdiction, in which case the necessity to judge would be nullified by the fact that its precondition [the willingness of the judge] had not been realized. Among the things that support the view that the verse under consideration was not abrogated are the traditions that establish that "Surat al-Ma'ida" [sura 5] was revealed to the Prophet all at one time, and that that was during his journey.

'Isa b. 'Abd Allah has related, from his father and his grandfather, that 'Ali b. Abi Talib said, "Certainly, the "Surat al-Ma'ida" was among the last [suras] to be revealed to the Prophet, and it was revealed while he was riding his camel al-Shahba', who, because of the heaviness of the revelation, had to sit down." [105](#)

Asma', daughter of Yazid, reported, "I was holding the reins of the Ghadba', the Prophet's camel, when 'al-Ma'ida' was revealed unto him. And due to the weight of the revelation, the camel was about to fall on its knees." [106](#)

According to another chain of transmission, Asma' said, "'Al-Ma'ida' was revealed to the Prophet in one piece in such a way that it almost broke the camel's back." [107](#)

Jubayr b. Nufayr related:

I had performed the pilgrimage and thus I went to see 'A'isha. She asked me if I had read "al-Ma'ida." I said, "Yes." She said, "This was the last sura that was revealed. Whatever is made lawful in it, follow it, and whatever is made unlawful in it, regard it as such." [108](#)

Abu 'Ubayd reports that Parma b. Habib and 'Aliyya b. Qays related, "The Prophet said, "'Al-Ma'ida" is the last part of the Qur'an to be revealed. Therefore, follow what it makes lawful and refrain from what it makes unlawful." [109](#)

These and other such traditions establish that "al-Ma'ida" was revealed all at once and that it was the last [sura] of the Qur'an to be revealed. Considering these exhaustive traditions, how can anyone claim that one of its verses abrogated another? Moreover, is not this the kind of abrogation that occurs before the time of its application? In that case, the ruling in the abrogated verse is ineffectual, without any benefit in its legislation. Nevertheless, some aforementioned traditions point to the fact that this was the last chapter of the Qur'an to be revealed, and that nothing in its verses could be abrogated.

(18) O you who believe! Let there be witnesses between you when death draws nigh to one of you, at the time of bequest—two witnesses, just men from among you, or two others from among

others than you. (Qur'an 5: 106)

The Imami Shi'ites maintain that the verse is precise [in its instruction] and that, hence, it sanctions testimony by the people of the Book on behalf of Muslims on a journey, if that witnessing is in the matter of a testament. This opinion was adopted by a group of Companions and the second generation, among whom are 'Abd Allah b. Qays, Ibn 'Abbas, Shurayh, Sa'id b. al-Musayyib, Sa'id b. Jubayr, 'Ubayda, Muhammad b. Sirin, al-Sha'bi, Yahya b. Ya'mar, and al-Suddi. Among the jurists who upheld this view are Sufyan al-Thawri and Abu 'Ubayd. The latter was inclined to al-Thawri's opinion because of the large number of those who maintained this view. However, Zayd b. Aslam, Malik b. Anas, al-Shafi'i, and Abu Hanifa maintained that the verse was abrogated, and that it was not permissible under any condition for a nonbeliever to serve as a witness. [110](#)

The fact is that the view that the verse was abrogated is false. There are several factors that support such a conclusion:

1. Numerous traditions related by both the Sunnis and the Shi'ites prove the efficaciousness of a testimony by people of the Book in the matter of a testament, when witnessing by a Muslim is impossible. Among these traditions are the following:

a. Al-Kulayni reported from Hisham b. al-Hakam, who received it from the Imam al Sadiq when the latter explained the meaning of the phrase "or two others from among others than you." The Imam said, "If a man was in a foreign land where no [other] Muslim is at hand, the witnessing of a non-Muslim of a testament is permissible." [111](#)

b. Al-Sha'bi related:

A Muslim was about to die in Daquqa and could find no Muslim who would bear witness to his testament. So he called upon two men from the people of the Book to witness it. [After he died], these two men came to Kufa and went to Abu Musa al-Ash'ari [the governor of Kufa], and informed him about the will and turned over the deceased person's bequest and his testament. Al-Ash'ari said, "This is something that has not occurred since the time of the Prophet." Following the afternoon prayers, he made them take an oath that they had not cheated, lied, [or] substituted, concealed, or changed [the bequest], and that it was definitely the testament and the bequest left by [that] person. Hence, he endorsed their witnessing. [112](#)

2. All the abovementioned traditions that state that "Surat al-Ma'ida" was revealed all at once, and that it was the last of the revelations, and that it does not contain anything that was abrogated.

3. That abrogation cannot be established without a reason that indicates it. All the reasons provided by those who maintain that the verse was abrogated do not establish that. Among these reasons are the following:

a. God, the Almighty, has required of a witness that he be just and acceptable, as He says, "**Such as you approve as witnesses**" (*Qur'an 2:282*); "**and call to witness two just men among you**" (*Qur'an 65:2*). A nonbeliever, however, is neither just nor acceptable. As such, [they say], the injunction regarding the permission of accepting the testimony of a nonbeliever must be regarded as [having been] abrogated.

The response [to this is as follows]. The first verse [Qur'an 2:282] is revealed in the context of a debt, and the second [Qur'an 65:2] is revealed in the context of a divorce. Accordingly, there is no argument to support their applicability in the case of a last will and testament. Furthermore, even if it were to be admitted that these two verses are general in application, it remains that the previous verse was meant to set a restriction on them; and the general [application] does not abrogate the restriction on it-- more particularly, when the restriction is chronologically subsequent to it, as is the case here.

b. There is a consensus that the testimony of a sinful person (*fasiq*) cannot be admitted. A nonbeliever is a transgressor; hence, his testimony cannot be admitted.

The response [to this is as follows]. There is no meaning in reverting to the consensus when the majority of scholars are of the opinion that the testimony of a nonbeliever is permissible. This was established in the foregoing, and there is no rational congruity between the rejection of the testimony of a sinful Muslim and the rejection of the testimony of a nonbeliever who is morally sound in his religion.

c. The testimony of a nonbeliever is not admissible for Muslims except in matters related to a testament, and there is a disagreement on whether it is admissible even in cases of a testament. Consequently, the matter over which there is a dispute must be referred [for a decision] to the matter over which there is a consensus.

The response [to this is as follows]. This argument is extremely strange in the light of the evidence that the testimony in the matter of the will is admitted without any objection. The person who holds this view should have reversed his statement to say that the testimony of a nonbeliever in the will was acceptable during the Prophet's time, as established by a consensus, and the dispute occurred only after that period. Hence the dispute in this matter should be referred to that on which there is a consensus.

Consequently, there is nothing to support the claim that the verse was abrogated except the acceptance by a group of later jurists of the opinion to that effect. How can one relinquish an injunction that is stated in the Qur'an on the strength of a legal decision made by one of the people contrary to it? More confounding is the opinion, maintained by al-Hasan [al-Bari] and al-Zuhri, that the purport of God's saying, "Or two others from among others than you" (5: 106) is "two others from another tribe." Hence, they conclude, there is no evidence in the verse that the testimony of nonbelievers is admissible. [113](#)

That which refutes such an opinion, in addition to the traditions related in connection with the interpretation of the verse, is the very fact that it is contrary to the apparent text of the Qur'an. This is because the verse is certainly addressed to the believers, and, accordingly, when God says, "Others

than you" it necessarily means other than the believers—that is, the nonbelievers.

To be sure, the general sense of the verse indicates the acceptance of the testimony of nonbelievers in the matter of the last will, even if they were not from the people of the Book, and regardless of whether Muslim witnesses were available or not. However, the numerous traditions on the subject limit this to the testimony of a person belonging to the people of the Book, and only to cases when Muslims are not available for witnessing. This is one of the contexts in which a general injunction in the Book is restricted by the prophetic tradition.

(19) *He it is who produces gardens trellised and untrellised, and the date-palm, and crops of diverse flavors, and the olive and the pomegranate, like and unlike. Eat you of the fruit thereof when it fruits, and pay the due thereof upon the harvest day, and be not prodigal! Lo! God loves not the prodigals. (Qur'an 6: 141)*

The majority of Sunni scholars are of the opinion that the above passage has been abrogated. They mention several reasons for its abrogation.

1. That it was revealed concerning the *zakat* (obligatory alms), and that its obligatory aspect, according to the generally accepted opinion, was abrogated for items other than wheat, barley, and raisins. Moreover, there is no one among the Companions of the Prophet, both in the first and second generations, who maintains that the *zakat* is obligatory for any of the earth's produce. However, Abu Hanifa and Zafar have adopted the opinion that it is obligatory for items other than firewood, herbs, and reeds. [114](#)

2. The verse's ordinance was abrogated by the Sunna, which mentions the tithe (*'ushr*) and the half-tithe [that were collected from Muslim farmers, just as the *kharaj* was collected from non-Muslim farmers]. This opinion was maintained by al-Suddi and Anas b. Malik, and has been ascribed to Ibn 'Abbas and Muhammad b. al Hanafiyya. [115](#)

3. The context of the passage is not the *zakat*; moreover, the obligation to give something from one's goods was abrogated by the obligation of the *zakat*. This opinion was held by 'Ikrima and al-Dahhak, and was ascribed also to Sa'id b. Jubayr. [116](#)

The truth is that the view that the purport of the verse was abrogated is not valid.

There are several reasons for that.

First, numerous traditions, reported on the authority of the Imams, indicate that the payable "due" mentioned in the verse is not the *zakat*, and that the ruling is still applicable and has not been abrogated. Among these traditions is one mentioned by al-Kulayni, whose chain of transmission is traced back to Mu'awiya b. al-Hajjaj, who said:

I heard the Imam al-Sadiq (peace be upon him) say, "Concerning untrellised produce, two kinds of

payments are due: One is taken from you and one you pay yourself." I asked the Imam, "What kind is taken from me and what kind is the one that I pay?" The Imam replied, "That which is taken from you is the *'ushr* (tithe) and the half- *'ushr*. As for what you pay, it is what God intended when He said, 'And pay the due thereof upon the harvest day.'" [117](#)

Ibn Mardawayh relates, on the authority of Abu Sa'id al-Khudari, that the Prophet said, about the same passage, "[Pay the due on] that which has fallen from the spike [of the grain at the harvest time]." [118](#)

Second, the "Surat al-An'am" [sura 6] was revealed in Mekka all at once. Many traditions speak of this—among them is one reported by al-Kulayni, tracing his transmission back to al-Hasan b. 'Ali b. Abu Hamza. He said:

The Imam al-Sadiq said that "Surat al-An'am" was revealed all at once, having been escorted by seventy thousand angels until it was brought down to Muhammad (peace be upon him and his progeny). Therefore, exalt it and honor it, for God's name is mentioned in seventy places in it. If people were to know the virtues of reciting it, they would not leave it ever. [119](#)

Another tradition is reported on the authority of Ibn 'Abbas. He said, "The 'Surat al-An'am' was revealed in Mekka all at once during the night, having been surrounded by seventy thousand angels, fervently praying around it with the praises [of God]." [120](#) What is certain is that the obligation to pay the *zakat* was revealed in Medina.

Accordingly, how can one say that the verse in question was revealed in connection with the *zakat*? Al-Zajaj relates that it is said that the passage was revealed in Medina. [121](#) This opinion is contrary to the numerous earlier traditions, and it is, moreover, an uninformed opinion.

Third, the payment ordained in the verse is to be made on "the harvest day." Therefore, it has to be something other than the *zakat*, because the latter is paid after cleaning and measuring. Another point that proves that this payment due is not the *zakat* is [provided by] the traditions reported, on the authority of the Imams, regarding the prohibition to harvest during the night, [which was done], according to some of these traditions, [so that] the poor and the unfortunate [would not be] deprived of their share. [122](#) [In fact], Ja'far b. Muhammad b. Ibrahim relates on the authority of Ja'far Muhammad [al-Sadiq], who heard from his father—and the latter, from his grandfather—that the Prophet prohibited harvesting dates and other produce at night. Explaining the reason, Ja'far said, "He did that for the sake of the poor." [123](#)

As for what is said in explaining the meaning of this part of the verse—namely, that it is possible that "harvest day" refers to the time when the payable dues are calculated, not the time when they are paid—this is certainly erroneous. The reason is [twofold]:

1. This is surely contrary to the apparent sense of the verse as understood by common usage of the language, and, in fact, is almost contrary to its explicit sense. The reason is that ["harvest day"] is

attached to the meaning of the verb, and not to its form. Thus, when, [for example], it is said, "Pay respect to Zayd on Friday," it means that Friday is the day on which the respect is to be paid, and not the time at which it becomes obligatory.

2. The *zakat* does not become obligatory on harvest day; rather, the [payment] due becomes attached to the goods when the seeds begin to form and the name of wheat or barley becomes applicable to them. Consequently, the mention of "harvest day" in the verse is a definitive proof that this [payment] due is not the *zakat*. Another thing which confirms that the [payment] due is not the *zakat* is that God, the Exalted, has forbidden extravagance in this verse. Such an injunction is not in harmony with the *zakat*, which was already fixed at a tenth and half a tenth [of untrellised produce]. Once it is clear that the [item] due, which the verse ordains for payment, is other than the obligatory *zakat*, then the *zakat* cannot be regarded as abrogating it.

In short, the claim to the abrogation of the passage depends on proving that there is another payment due on the crops so that it would be abrogated by the *zakat* obligation. However, those who maintain the abrogation cannot establish that because the ostensible sense of an imperative is obligation, and the ostensible meaning of obligation is continuity and perpetuity. It is not possible to uphold both these aspects together in the verse. To be sure, there is no other payment due after the *zakat*. Therefore, one is necessarily faced with disposing of one of the two ostensible senses: first, denying the obligatory aspect of the ordinance but accept the ruling as continuous and everlasting, which entails that a recommended payment [rather than an obligatory one] is instituted forever; and second, denying the continuous and everlasting aspect of the injunction but accepting its obligatory aspects. This entails that the ruling will eventually be abrogated. There is nothing to make the second position preponderate over the first one; rather, the preponderance is for the first position. Two points provide evidence for this preponderance:

1. The numerous traditions reported on the authority of the infallible Imams reveal the continuation of this [payment] due as a recommended action. We discussed these traditions previously.

2. Had this due been obligatory, knowledge of it would have spread among the Companions and the subsequent generations of the Muslims, and would not have been restricted to 'Ikrima, al-Dahhak, or to one or two others.

To conclude, the opinion that is to be accepted is that there existed another recommended [payment] due regarding fruits and crops. This is the opinion of the Imamite Shi'ites, and hence, there is no reason to maintain the abrogation of this particular passage.

(20) Say: I do not find, in what is revealed to me, aught forbidden to him who eats thereof except [if] it be carrion, or blood outpoured, or the flesh of swine—that is an abomination, or an ungodly thing that has been hallowed to other than God; yet [to] whoso is constrained, not desiring, nor transgressing, surely your Lord is All-forgiving, All compassionate. (6: 145).

According to a group of scholars, this passage was abrogated by the Prophet's subsequent prohibition of certain things that are not mentioned in this verse.

The truth is that no abrogation occurred concerning this verse. This is because the purport of the verse is to declare that the only forbidden food is that mentioned in it, and it includes only such foods that were forbidden at the time of its revelation. Moreover, there is no ground for claiming that it was abrogated, for abrogation does not occur with declarative sentences. Consequently, this leads to one of two conclusions: first, that the restriction in the verse is incidental. Indeed, the nonbelievers had forbidden themselves certain items, and these were not forbidden in the divine law. This is indicated by the narrative of the previous verses. The second possible conclusion is that it should be required that the restriction in the verse be essential, and that the forbidden items at the time of the revelation of this passage were limited to those mentioned in it. This verse belongs to the Mekka period of revelation, and after its revelation several other things were prohibited, for the rulings used to be revealed gradually.

It is clear that prohibition of one thing after another does not mean abrogation of a thing. Moreover, the restriction being essential makes it the weightier of the two possibilities mentioned above, and the closer one to the customary understanding. Nevertheless, there was no abrogation in the meaning of the passage, even if the restriction was incidental, as clarified.

(21) *O you who believe! When you meet those who disbelieve in battle, turn not your backs to them. Who so on that day turned his back to them, unless maneuvering for battle or intent to join a company, he truly has incurred wrath from God, and his habitation will be hell, a hapless journey's end. (Qur'an 8: 15-16)*

According to some scholars, this passage was abrogated by the following one, in which God, the Exalted, says:

Now has God lightened your burden, for He knows that there is weakness in you. So if there be of you a steadfast hundred, they shall overcome two hundred, and if there be of you a thousand [steadfast], they shall overcome two thousand by permission of God. God is with the steadfast (Qur'an 8:66).

Thus, if Muslims were less than half the number of the disbelievers, they would be permitted to leave the battle and flee from the army. Among those who upheld this view is 'Ata' b. Abi Rayyah. [124](#)

The response [to this is as follows]. The restriction of the general sense of this passage with the verse about "lightening your burden" ensures the continuation of its ruling. In other words, running away from the army is forbidden in the Islamic law if the number of the Muslims is not less than the number of the disbelievers. But if the number of the Muslims is less than that, then it is not forbidden for them to run away. This does not constitute abrogation at all.

It is reported from 'Amr b. 'Umar, Abu Hurayra, Abu Sa'id, Abu Nadra, Nafi' (the client of Ibn 'Umar), al-

Hasan al-Basri, 'Ikrima, Qatada, Zayd b. Abi Habib, and al-Dahhak that the ordinance was meant especially for the people who participated in the battle of Badr, and that it is not forbidden for anyone else to flee from the army. This is also the opinion of Abu Hanifa. [125](#)

This is an erroneous opinion, for had the context been Badr, this would not necessitate that the ruling should be intended exclusively for Badr, especially since the terms are general and the declaration addresses all Muslims—more particularly, at the time when the passage was revealed, after the fighting on the Day of Badr had ended. [126](#)

Ibn 'Abbas, [127](#) all the Imamite Shi'ites, and many Sunni scholars maintain that the verse is precise, and that its injunction remains enforced until the Day of Judgment.

This is certainly the correct opinion, as the evidence is provided by numerous traditions related by both Sunni and Shi'ite sources.

Al-Kulayni relates a tradition he traces back to Muhammad, who reported, about the Imam al-Sadiq: "I heard him say, 'The seven grave sins are: killing a believer intentionally; false accusation of an unblemished woman; fleeing from a battle; adoption of Arab customs after the emigration; squandering the wealth of an orphan; consuming usury after the clear proof [regarding its illicitness]; and performing all that for which God has promised the Fire.'" [128](#)

Abu Hurayra reports:

I heard the Prophet say, "Avoid seven grave offenses." They asked him, "What are they, O Messenger of God?" He said, "Associating someone with God; magic; killing a person whose killing God has forbidden except for a just cause; consuming usury; squandering the possessions of an orphan; fleeing from fighting; and falsely accusing unblemished women." [129](#)

(22) And if they incline to peace, incline you also to it. (Qur'an 8:61)

This verse, according to Ibn 'Abbas, Mujahid, Zayd b. Aslam, 'Na', 'Ikrima, al-Hasan [al-Barl], and Qatada, was abrogated by the sword (al-sayf) verse [9:5]. [130](#)

The fact is that the verse under question here is precise, and hence, was not abrogated. The following are some reasons that establish that.

First, the sword verse was intended specifically for the mushrikun (nonbelievers), and not others, as we already mentioned. It was for this reason that the Prophet made peace with the Christians of Najran in the tenth year of the Hijra, [131](#) in spite of the fact that the "Surat al-Bara'a" was revealed in the previous year (9 A.H./630 C.E.). Thus, the sword verse should be regarded as a particularizer of the general terms in the abovementioned verse, and not its abrogator.

Second, the obligation to fight the nonbelievers, and not to conciliate [differences] with them, is limited to

the situation in which the Muslims have the power and the ability to fight. But when they do not have the power to enable them to gain the upper hand over their enemy, then there is no objection to conciliation, as the Prophet did with the Quraysh at the time of Hudaibiyya [outside Mekka in the year 6/628]. This limitation is indicated in God's saying, **"So do not falter and cry out for peace when you [will be] the uppermost, and God is with you, and He will not grudge [the reward of] your actions"** (Qur'an 47:35).

(23) O, Prophet! Exhort the believers to fight. If there be of you twenty steadfast, they shall overcome two hundred, and if there be of you a hundred steadfast, they shall overcome a thousand of those who disbelieve, because they [the disbelievers] are a folk without intelligence. (Qur'an 8:65)

Now has God lightened your burden, for He knows there is weakness in you. So if there be of you a steadfast hundred, they shall overcome two hundred, and if there be of you a thousand [steadfast], they shall overcome two thousand by permission of God. God is with the steadfast. (Qur'an 8:66)

It has been mentioned that the injunction in verse 65 was abrogated by verse 66, because in the beginning it was obligatory that the Muslims fight the disbelievers even if they were ten times more than them. Afterward, God lightened the burden for the Muslims and made the battle obligatory on the condition that the number of the disbelievers should not be more than twice the number of Muslims.

The fact is that there was no abrogation in the ordinance. The assertion of abrogation depends upon proving that the two verses were revealed separately. Moreover, it should be established that the subsequent verse was revealed after the earlier verse had gone into effect; otherwise, the abrogation would have occurred before the time when the earlier verse was needed and would have in effect turned the first verse into a mistake. No one who maintains that the verse in question was abrogated can prove either of the above points except by means of single-narration traditions, which, as we have frequently pointed out, cannot, according to the consensus among Muslim scholars, establish abrogation. [132](#) In addition, the narrative of the two verses is the best evidence that they were revealed at the same time.

Consequently, the ordinance that twenty persons should fight two hundred is a recommended ruling. As such, how can one claim that it was abrogated? Moreover, the obvious corollary of the belief in the abrogation of verse 65 is that the fighters in early Islam were steadier and more unflinching than those who fought after Islam had come to prevail and had gained in strength and supporters. How could it possibly be said that weakness appeared among the believers after they had become powerful?

The apparent sense of the two verses is that they exhort the believers to fight, and that God promised them victory even if their enemies were ten times their number. Nevertheless, God, the Exalted, being knowledgeable about the weakness in the hearts of most believers, and about their inability to withstand extreme resistance, did not require them to fight back, but permitted them to stop resisting if the number

of the enemy was double theirs. In this he reduced their burden and showed them compassion, and, at the same time, promised them victory if they were steadfast in upholding the message of Islam.

Indeed, God made the obligation of fighting conditional on whether the number of the enemy is not more than twice the number of the Muslims. This is because the disbelievers, because of their ignorance of true religion and their lack of trust in God when they fight, cannot put up with hardships; in contrast, the faith of a believing person prompts him to stand firm in the face of danger, and calls on him to rise in order to consolidate Islam, for he believes in his success under any circumstances, and that he will profit from this deal regardless of whether he is victorious or defeated. God, the Exalted, says:

Relent not in pursuit of the enemy. If you are suffering, lo! they suffer even as you suffer and you hope from God that for which they cannot hope. God is ever [the] Knower, Wise. (Qur'an 4:104)

(24) If ***you go not forth He will afflict you with a painful doom. (Qur'an 9:39)***

According to Ibn 'Abbas, al-Hasan, and 'Ikrima, this verse is abrogated¹³³ by God's saying, ***"And the believers should not all go out to fight" (Qur'an 9: 122).***

This view is based on the conviction that fighting was initially obligatory for all Muslims, although the apparent meaning of the verse is that the obligation was only for those called up for j ihad. Thus God, the Exalted, says:

O you who believe! What ails you that when it is said to you, "Go forth in the way of God," you are bowed down to the ground with heaviness. Take you pleasure in the life of the world rather than in the Hereafter? ***The comfort of the life of the world is but little than in [comparison with] the Hereafter (Qur'an 9:38). If you go not forth, He will afflict you with a painful doom, and will choose, instead of you, a folk other than you. You cannot harm Him at all. God is able to do all things (Qur'an 9:39).***

The gist of these two verses is that those who were ordered to go forth for the jihad, but did not go, deserved punishment in the hereafter for having abandoned an incumbent duty. This in no way means that jihad was an obligation for all the Muslims.

This explanation further refutes the claim that abrogation is involved in God's saying, ***"Go forth, light-armed and heavy-armed, and strive with your wealth and your lives in the way of God! That is best for you if you but knew" (Qur'an 9:41).***

We have frequently pointed out that the particularization of a general ordinance for a specific group of people does not amount to abrogation; rather, God, the Exalted, by saying, ***"And the believers should not all go out to fight" (Qur'an 9: 122)***, Himself provides proof that no abrogation is involved. This is because the verse shows that fighting, from the beginning, was not obligatory for all the Muslims. How, then, could it be the abrogator of the verse under discussion?

(25) ***God pardon you! Why did you give them leave, till it was clear to you which of them spoke the truth, and you knew the liars? (Qur'an 9:43)***

Those who believe in God and the Last Day ask not leave of you, that they may struggle with their possessions and their selves; and God knows those who keep their duty [to Him]. (Qur'an 9:44)

According to Ibn 'Abbas, al-Hasan, 'Ikrima, and Qatada, these verses were abrogated by God's saying, ***"So, when they ask you for leave for some affair of their own, give leave to whom you will of them" (Qur'an 24:62).***

The truth is that no abrogation is involved in these three verses. This is because they are explicit that the ban on the permission to stay behind, and the reproof of the Prophet for having allowed it, are specifically in the context in which the truthful are not distinct from the false. Furthermore, God clarifies that it was [those] other than the believers who used to seek the Prophet's permission to stay behind, in order to avoid fighting for him. Consequently, He ordered the Prophet not to grant leave for those whose intentions were not clear to him. However, if the intention were clear, then God permitted the believers to seek leave from the Prophet to attend to some of their affairs, and the Prophet was permitted to grant leave to anyone he wished among them. Accordingly, between the two verses there is no contradiction for one of them to be abrogated by the other.

It is not for the people of the City, and for the Bedouins who dwell around them, to stay behind God's Messenger, and to prefer their lives to his. (Qur'an 9:120)

Ibn Zayd maintains that this verse was abrogated by God's saying, ***"And the believers should not all go out to fight" (Qur'an 9: 122).***

Here, too, the fact is that there was no abrogation, for [the theme of] verse 122 is a continuation of verse 120. The purport of the verses is that the obligation to participate in the jihad falls on Muslims only to the extent of the requirements of representational duty [*kifaya*, in which its performance by a sufficient number relieves others from undertaking it]. Hence, the second verse does not abrogate the first. It is true that participation in the *jihad* is obligatory for all Muslims if the circumstances so require, or if the lawfully invested authority demands it, or if there are other urgent factors that may require it. This obligation, however, is not the same as the representational obligation of the *jihad* that is established for Muslims on the basis of a legal principle itself. Both obligations remain effective, and have not been abrogated.

(27) ***And follow you what is revealed to you; and be you patient until God shall judge; and He is the best of judges. (Qur'an 10:109)***

According to Ibn Zayd, this verse was abrogated by the one in which the believers are commanded to undertake *jihad* and be ruthless against disbelievers. [134](#) The invalidity of this opinion is obvious in the

light of what we said in refuting the abrogation of Verse 120, discussed above under this subject. In addition, there is no evidence to corroborate the argument that *al-sabr* (patience) in this verse means patience with the disbelievers. It is, however, true that patience includes them by virtue of the general applicability of the verse, and as such, there is no need to claim that it was abrogated.

(28) ***Surely the Hour is coming; so pardon you, with a gracious pardoning. (Qur'an 15:85)***

Ibn 'Abbas, Sa'id, and Qatada maintain that this verse has been abrogated by the sword verse [that ordained *jihad*]. [135](#) It is evident, however, that the pardoning commanded by the revelation is the pardoning of the ill-treatment directed at the Prophet by nonbelievers when he was engaged in conveying the law of his Lord. This has nothing to do with fighting. This is attested by God's saying, a few verses later, ***"So proclaim that you are commanded and turn you away from the idolaters. We suffice you against the mockers"*** (Qur'an 15:94-95).

Stated briefly, God in this verse exhorts the Prophet to be forbearing and steadfast in conveying His injunctions and spreading His laws, and to disregard the insult and mockery of the nonbelievers. This has no connection with the ordinance to fight, which became obligatory after Islam's might increased, and its proof had asserted itself. It is true that the Prophet was not commanded to take up *jihad* at the beginning of his mission. This was because he could not have done that in the prevailing circumstances except through miracles transcending the laws of nature. When he had gained the necessary power and the Muslims had increased in number and might, thereby becoming sufficient in number and equipment, he was commanded to wage war against the nonbelievers. We pointed out earlier that the Islamic law was revealed gradually. This does not mean abrogation of an ordinance that was established through the revelation.

(29) ***And of the fruits of the palms and the vines, you take therefrom an intoxicant (sakar) and a provision fair. (Qur'an 16:67)***

Qatada, Sa'id b. Jubayr, al-Sha'bi, Mujahid, Ibrahim, and Abu Razzin regard this verse as having been abrogated by the prohibition of wine. [136](#)

The truth is that the verse is one of the precise verses, and the view that it has been abrogated depends on two factors:

1. That the term *sakaran* (intoxicant) means *khamr* (wine) and an intoxicant drink. Those who hold the view that the verse has been abrogated cannot prove this connection between *sakar* and *khamr*. One of the lexical meanings of *sakar* is "vinegar" (*khall*). It is in this sense that 'Ali b. Ibrahim has done an exegesis of it. [137](#) On the basis of this, the expression "provision fair" would mean good sustenance and delicious foods made from molasses of grapes, and so on.

2. That the verse makes the intoxicant permissible. This also cannot be proven by those who maintain its abrogation, for the verse is engaged in informing about an external thing and says nothing that

endorses what people did with it. The verse occurs in the context of proving the existence of the Wise Creator by pointing to His celestial signs. Thus God, the Almighty, says:

And it is God who sends down out of heaven water, and therewith revives the earth after it is dead. Surely in that is a sign for a people who have ears. And surely in the cattle there is a lesson for you: We give you to drink of what is in their bellies, between filth and blood, pure milk, sweet to drinkers. And of the fruits of the palms and vines, you take therefrom an intoxicant and a provision fair. And the Lord revealed to the bees, saying, "Take to yourselves, of the mountains, houses, and of the trees, and of what they are building. Then eat of all manner of fruit, and follow the ways of your Lord [that are] easy to go upon." ***Then comes there forth out of their bellies a drink of diverse hues wherein is healing for men. Surely in that is a sign for a people who reflect (Qur'an 16:65-69).***

Thus God, Exalted and Glorified be His name, mentions that among his signs is that He causes the rain to descend from the heavens, and brings the earth back to life after death. Then He mentions His plan in creating animals and causing pure milk to come out from between filth and blood. He goes on to point out the quality he placed in palms and vines that makes it possible to extract an intoxicant from them as well as fair provisions. Indeed, the palm and vine are distinguished from other fruits because of their capacity. Then He goes on to mention the activities of the bee, whose work perplexes the mind of those who know about the requirements and procedure of making honey. This is through the revelation of God and His inspiration to the bee. Therefore, there is no evidence in the verse at all about the lawfulness of drinking an intoxicant. Moreover, if we were to admit that *sakar* here means muskir (an intoxicant), [we would say] the verse contains an indication that wine-drinking is not permitted, for it places *sakar* opposite fair provisions. In other words, the intoxicant is not among the fair provisions, and, therefore, it is not permitted. What supports this interpretation are the traditions, which have reached us from the Imams, indicating that wine was always among the forbidden things.

Al-Shaykh al-Saduq relates a tradition which he traces back to Muhiammad b. Muslim, who said:

The sixth Imam al-Sadiq was asked about wine. He said, "The Prophet of God said, 'The first thing that my Lord forbade me was idol worship and wine-drinking'"

Al-Rayyan reports on the authority of the eighth Imam, al-Rida, who said, "God did not send a prophet but that He ordered him to forbid wine."¹³⁸ Earlier, in chapter 1, on the inimitability of the Qur'an, we mentioned the prohibition of wine in the Torah.¹³⁹ However, what is beyond doubt is that Islamic law, for a time, did not publicize the prohibition of wine. Then it did so. This is the situation with all the ordinances in Islamic law. It is evident that this does not mean that wine was permitted at one time in the Shari'a and that then it was prohibited through abrogation.

(30) The fornicator shall marry none but a fornicatress or an idolatress; and the fornicatress - none shall marry her but a fornicator or an idolater; that is forbidden to the believers. (Qur'an 24:3)

According to Sa'id b. al-Musayyib and the majority of scholars, this verse was abrogated by the following one, in which God, the Exalted, says, "**And marry (ankibu) such of you as are solitary and the pious of your slaves and maidservants**" (*Qur'an 24:32*). He thus included the fornicatress among the "solitary" of the Muslims. [140](#)

The fact is that the verse was not abrogated, for the abrogation in it [would be] dependent on [whether] the word *al-nikah* signifies *al-tazwij* (marriage), and there is no evidence to support that. Furthermore, if *nikah* here means marriage, that would entail the view that a Muslim fornicator may marry an idolatress; and an idolater, a Muslim fornicatress. This would certainly be contrary to the apparent sense of the revelation and the established practice of the Muslims. Consequently, according to the apparent meaning of the term, *al-nikah* here signifies sexual intercourse (*wat'*). This is a declarative sentence intended to address the question of adultery. The meaning of the verse, then, is: "The fornicator shall not commit fornication except with a fornicatoress, or with the one who is more contemptible than her, that is, the idolatress. And the fornicatress shall not fornicate except with a fornicator, or with the one who is more contemptible than him, that is, an idolater." As for the believer, he is forbidden that, because fornication is prohibited, and he cannot do that which is prohibited for him.

(31) **Tell those who believe to forgive those who hope not for the days of God. (Qur'an 45: 14)**

A group of scholars maintains that this verse has been abrogated by the sword verse (regarding *jihad* revealed in Medina) [9:5]. They argue that the verse [45:14] is a Mekkan verse and was revealed in connection with 'Umar b. al-Khattab when one of the nonbelievers used offensive language against him in Mekka before the Hijra. 'Umar had decided to strike the man. Thus God, the Exalted, revealed this verse, but it was subsequently abrogated by God's saying, "**Slay the idolaters wherever you find them**" (*Qur'an 9:5*). They [the scholars] support their contention with what was related by 'Ali b. Ahmad, whose chain of transmission goes back to Ibn 'Abbas through Muhammad b. Hisham, 'Asim b. Sulayman, Juwaybir, and al-Dahhak. [141](#) However, this tradition is very weak, and it is more than enough that its transmitters include 'Aim b. Sulayman, who was a liar and fabricator. [142](#) Moreover, its substance is also weak. It is well known that the Muslims, before the Hijra, were weak, and that 'Umar was not a stalwart in battle; nor is he counted among the daring and awe-inspiring persons. How then could he hope to strike the idolater? Moreover, the word "forgive" in the verse under discussion suggests the ability to avenge. It is certain that such a thing was not possible for 'Umar before the Hijra—had he intended to strike the idolater, the idolater would certainly have hit him back.

The fact is that the verse is one of the precise revelations and, hence, was not abrogated. In it God commands Muslims to forgive and forbear the harm and insult dealt them in their personal lives by those who did not hope for the days of God. This is corroborated by the second part of the verse, in which God, the Exalted, says: "**in order that He may requite folk what they used to earn. Whoso does right, it is for his soul, and whoso does wrong, it is against it. And afterward to you Lord you shall be brought back**" (*Qur'an 45:14-15*).

Hence, the apparent sense of the verse is that for the wrongdoer who does not hope for the days of God and is not afraid of the day of return—regardless of whether he is an idolater or a scripture person, or even a Muslim who does not heed his religion—his requital is invested in God, Who does not forget the injustice of a wrongdoer and the negligence of a squanderer. Thus, a Muslim who believes in God must not anticipate the revenge, for God is more powerful than [he is] in vengeance and in taking him to task. This, then, is a commandment of moral virtue and is not in anyway contradictory of the commandment to fight for the Islamic mission or any other cause. This is regardless of whether the verse was revealed before or after the sword verse.

(32) *When you meet the unbelievers, smite their necks; then, when you have made wide slaughter among them, tie fast the bonds; then set them free, either by grace or ransom. (Qur'an 47:4)*

A group of scholars maintains that this verse was abrogated by the sword verse, while others believe that the sword verse was abrogated by [this verse]. [143](#) The fact is that it was neither abrogated nor an abrogator, and this conclusion needs to be explained in some detail.

The Rules Pertaining to the Disbelievers Who Are at War

The prevailing view among Imamite Shi'ites is that it is incumbent to kill the disbeliever (*kafir*) at war as long as he does not submit. This obligation is not replaced by imprisonment except when the believers weaken the disbelievers, and the latter become incapable of fighting because of the large [number of] casualties among them. However, if the disbeliever submits, the reason for killing him would end. As for imprisonment after being weakened, here, too, the duty to kill is stayed. The reason is that [Qur'an 47:4] regards the weakening of the enemy as the object of the injunction to slay them.

It is evident that the injunction is stayed when the purpose is achieved. At that point the Muslim authority has a choice between enslaving the prisoner or exchanging him for a Muslim prisoner. In either case there is no difference between an idolater and other groups of disbelievers. The scholars have claimed a consensus on what we have delineated so far. The opposition to these rules is rare indeed, and it hardly affects their soundness. We will further demonstrate it later.

This explanation is regarded as being in conformity with the apparent sense of the verse from every point of view, assuming, however, that "tie fast the bonds" means to enslave in the sense of "cutting a person off from independence" until he is exchanged or set free by grace. However, if "tie fast the bonds" does not mean enslavement, then it is necessary to consider enslavement as being implied along with setting one free by grace and ransom, for we know this to be permitted from other evidence. Hence, this functions as a restriction to the general meaning of the verse.

These rules have been discussed in the tradition related by al-Kulayni and Shaykh al-Tusi, both of whom trace it back to Talha b. Zayd and, through him, to the Imam al-Sadiq Talha said:

I heard the Imam say: "My father [the Imam al-Baqir] used to say that war has two governing principles: If the war is still raging and has not come to an end, and if the enemy has not been weakened, any prisoner taken in that condition is entirely at the Imam's discretion: He can have him beheaded, or [can] alternately cut off his hands and feet without severing them from his body, and leave him stranded in his blood until he dies. This is in accordance with what God, the Exalted, said:

***'This is the recompense of those who fight against God and His Messenger, and hasten about the earth, to do corruption there: They shall be slaughtered, or crucified, or their hands and feet shall alternately be struck off, or they shall be banished from the land. That is a degradation for them in this world; and in the world to come awaits them a mighty chastisement.'* (Qur'an 5:33)**

"Have you not seen that the discretion which God gave to the Imam is only in connection with disbelief, and not in other things?"

At that point I asked the Imam al-Sadiq about God's saying, ***"Or they shall be banished from the land"*** [Qur'an 5:33]. The Imam said: "This has to do with pursuit—that is, chasing the enemy until it flees. If they are taken, then they are to be treated in accordance with the rules enacted for such cases.

"As for the other governing principle, if the war ends and the enemy is weakened, each prisoner taken under those circumstances is under the discretionary control of the Imam: If he so desired, he would treat them with grace and send them away, or if he so decided, he would ask them to ransom themselves, and if he so wished, he might enslave them and they would become his slaves."[144](#)

Al-Dahhak and 'Ata', among the Sunni scholars, agree with us that killing a prisoner becomes inadmissible after the defeat of the enemy. Al-Hasan stated this explicitly, adding that the Imam has the right to either set him free through grace or ransom, or to enslave him.[145](#)

According to the above, [Q 47:4] was not abrogated. The most that one can say is that killing is reserved for particular situations, and not killing is for others, regardless of whether the sword verse preceded or succeeded this verse in revelation.

It is strange that Shaykh al-Tusi attributed to Shi'ite scholars the fact that they are of the opinion, in this connection, that when the enemy is weakened, the Imam should be given the discretion of either killing the prisoner or applying one of the three alternatives mentioned above. He says:

What is related by our associates is that the captive, if taken before the war and fighting have ended—that is, while the war is still going on and the fighting is raging—then the Imam has the choice of either killing them or alternately cutting off their hands and feet without severing them, and leaving them to bleed to death. He does not have the right to exercise grace or ransom. However, if the captive is taken after the war has come to an end and hostilities have terminated, the Imam has the right either to set him free through grace, or to ransom him for money or in exchange for [a Muslim prisoner], or to enslave him, or to kill him.

Al-Tabarsi, in his commentary on the Qur'an, follows al-Tusi, [146](#) although no tradition is reported to support such a view.

In his book al-Mabsut, al-Tusi again states:

In the case of every captive taken after the war comes to an end, the Imam has the freedom to either set him free through grace, or enslave him, or hold him for ransom. He does not have the right to kill him, as our associates have related. [147](#)

Indeed, he has claimed a consensus in this regard and has produced traditions to this effect in the section dealing with al-fay', and in the section, in his book al-Khilaf, dealing with the distribution of the spoils of war.

Among [others] who have claimed a consensus in this matter is the scholar al-Hilli in his two works, *al-Muntaha* and *al-Tadhkira*, and in the section dealing with the captives of war in *Kitab al-jihad*. In the opinion of this author [al-Khu'i], the phrase *darb al-riqab* (cutting off the neck—that is, killing) in al-Tibyan appears to be a slip of the pen. Al-Tabarsi followed this without checking on its accuracy.

This is the view adopted by the Imamite Shi'ite scholars, as well as by al-Dahhak, 'Ata', and al-Hasan al-Basri

[Other Views about This Verse \[Q 47:4\]](#)

As for the remaining Sunni scholars, they have adopted several views.

1. According to some of them, the verse was revealed regarding the idolaters. Then it was abrogated by the sword verse. This view is attributed to Qatada, al-Dahhak, al-Suddi, Ibn Jurayl., Ibn 'Abbas, and to a large number of scholars from Kufa. They say, "The idolater captive should be killed. It is not permissible to accept ransom for him, nor to show grace to him at all." [148](#)

The response [to this is as follows]. There is no reason for supporting the claim for abrogation on this ground. The relation of this verse to the sword verse is the relation between a general and a restricted ordinance, regardless of whether the [sword] verse preceded or succeeded the verse under discussion. We explained above that the subsequent general ordinance cannot abrogate the earlier particular rule. This is even more true in the case of the general ordinance preceding the restricted ordinance. [149](#)

2. According to others, the verse was revealed regarding all the disbelievers, and, hence, its specific application to the idolater was abrogated. This opinion has been ascribed to Qatada, Mujahid, and al-Hakam, and this last person is famous among the followers of Abu Hanifa's legal school. [150](#)

The response [to this is as follows]. This opinion is as evidently invalid as the previous one. It depends on the sword verse being subsequent in its revelation to the verse under discussion. This cannot be

proven by those who maintain abrogation; nor is there any documentation to support it except for single traditions. We already explained that such traditions, according to the consensus among Muslim scholars, cannot be admitted as proof of abrogation. Moreover, even if we were to accept this hypothetically, there would be no reason to regard the sword verse as the abrogator of this verse [in an effort] to authenticate this opinion. The fact is that this verse particularizes the sword verses. The proof is the consensus of the community that this verse either includes the idolaters or is specifically revealed regarding them. Accordingly, in the light of our argument above—that the general ruling cannot abrogate the restricted injunction—this verse functions as another circumstantial element restricting the sword (*jihad*) verse. If, on the other hand, we overlooked this factor, the present verse would, to a certain extent, contradict the general sense of the sword verse. What it would share with it is that the idolater should be taken as a captive at the end of the war. Now, the sword verse orders the killing, whereas this verse does not regard killing as proper. Such being the case, there is no possibility of even thinking of the abrogation of the latter verse.

3. According to still others, this verse abrogates the sword verse. This opinion has been attributed to al-Dahhak and others. [151](#)

The response [to this is as follows]. This opinion is contingent upon proving that the present verse was revealed [at a point] subsequent to the sword verse. This is impossible to establish. Moreover, as we explained, there is no need to maintain abrogation, regardless of whether the sword verse followed or preceded this verse.

4. According to some, the Imam has the right, in all circumstances, to kill the captive, enslave him, ask for ransom, or set him free on grace. This opinion has been related by Abu Talha on the authority of Ibn 'Abbas and has been adopted by a number of scholars, among whom are Ibn 'Umar, al-Hasan, 'Ata' (who is a follower of the Maliki rite), al-Shafi'i, al-Thawri, Abu 'Ubayd, and others. This opinion does not regard the verse as having been abrogated. [152](#) Al-Nahhas, after citing this opinion, says: "This is so because both these verses are precise and were acted upon. This is a correct opinion because abrogating takes place with something absolute. But if it is possible to act upon the two verses, then the view about their abrogation is meaningless. This opinion has been related on the authority of the scholars of Medina, as well as al-Shafi'i and Abu 'Ubayd." [153](#)

The response [to this is as follows]. This opinion, although it does not necessitate abrogation of the verse, is also baseless. The reason is that the verse is precise in stating that the grace and the ransom occur after the enemy is weakened. Thus, any opinion that states these two actions are admissible before that condition is met is an opinion contrary to the Qur'an. Likewise, the injunction to kill in the verse is limited to the period before the enemy is weakened. Thus, any opinion that admits the killing after it would be contrary to the Qur'an also. As mentioned earlier, the sword verse has been restricted by this verse.

As for the argument that this opinion is derived from the practice of the Prophet, who [was said to have]

killed some captives, ransomed others, and set others free out of grace, this narrative, if admitted as sound, does not provide evidence of a choice between killing and the other alternatives, for it is possible that the one group of captives was killed before exhausting the enemy and that the others were ransomed and set free on grace after it. As for what has been related about the practice of Abu Bakr and 'Umar, assuming it is true, it has no evidentiary value, because it is clearly in contradiction to the stated instructions of the Qur'an.

(33) ***The beggar and the outcast had a share in their [the godfearing people] wealth. (Qur'an 51: 19).***

(34) ***Those [the righteous persons] in whose wealth is a right known (haqqun ma'lum) [for the beggar and the outcast.] (Qur'an 70:24)***

A difference of opinion has occurred over whether these two verses have been abrogated or whether they are precise (*muhkam*). The point of the dispute is that "a right known," which has been ordered in both verses, could refer to the ordained *zakat* (alms), or could be a financial obligation other than the *zakat*, which is recommended rather than obligatory. Thus, if the "right" or the "share" is another obligation besides the *zakat*, then the two verses have definitely been abrogated. This is so because *zakat* abrogated all other forms of obligatory benevolent charity (*sadaqa*) noted in the Qur'an. This view has been adopted by a group of scholars. In other words, they maintain that whether the "right known" is the *zakat* itself or is a "right" recommended, without being obligatory, the two verses are undoubtedly precise.

Critical examination dictates the adoption of the latter view—namely, that the "right known" [refers to an obligation] other than the *zakat*, and that it is something that the Shari'a has recommended. Indeed, there are numerous traditions, related by both Sunnis and Shi'ites, that show that the obligatory charity is confined to the *zakat*. The reported views of the Imams explain the purport of the "right known."

Al-Kulayni reports from a chain of transmitters that goes back to Abu Basir:

We were with the Imam al-Sadiq and with us were some wealthy persons. They mentioned the *zakat*. The Imam said: "The *zakat* does not earn for its donor praise. For it is an external thing by means of which a person preserves his blood and is called a Muslim, and if he does not give it, his prayer is not accepted. However, you have an obligation to donate something else besides the *zakat* from your wealth." So I said, "May God keep you well! What else do we have to pay besides the *zakat*?" He replied, "Glory be to God! Have you not heard God saying in His Book, 'Those in whose wealth . . . ?'" I said, "Then, what is the 'right known' in regard to us?" The Imam said, "By God, this is the thing a person knows of his wealth and the person gives it every day, week, or month, more or less regularly."

Al-Kulayni reports another tradition through a chain of transmission that goes back to Isma'il b. Jabir and to the Imam al-Sadiq, regarding whether the verses refer to the *zakat* or to something else. The Imam said, "This concerns a person to whom God has given wealth and [who] disburses a thousand, two

thousand, three thousand, more or less. Thus he takes care of his kinsmen and relieves the weariness of his people." These are two of the traditions related on the authority of the Imams al-Baqir and al-Sadiq¹⁵⁴

Al-Bayhaqi relates, in his *Shu'ab al-Iman*, a tradition which he refers back to Ghazwan b. Abi Hatim. He [Ghazwan] said:

Abu Dharr was outside the gate of the Caliph 'Uthman, having no permission to enter, when a man from the Quraysh passed by him and said, "O Abu Dharr, what makes you sit here?" Abu Dharr said, "They have refused me permission to enter." The man entered and asked ['Uthman]: "O Commander of the Faithful! Why is Abu Dharr at the door without permission to enter?" ['Uthman] ordered, and permission was given to him to enter. He came in and sat where the people were seated. At this point, 'Uthman said to Ka'b, "O Abu Ishaq, are you of the opinion, when the zakat on income is paid, whether the donor has any additional responsibility?" He said, "No." Abu Dharr stood up and he had a stick in his hand. He beat Ka'b on the head and said, "O son of a Jewess, you assert that there is no other [payment] due in his wealth when he has paid the zakat, whereas God, the Exalted, says, **'But prefer [the fugitives] above themselves, though poverty shall become their lot' (Qur'an 59:9);** and God says, **'And feed with food the needy wretch, the orphan, and the prisoner, for love of Him' (Qur'an 76:8);** and God says, **'Those in whose wealth is a right known for the beggar and the outcast''' (Qur'an 70:24-25).** And Abu Dharr continued to cite other such verses of the Qur'an.¹⁵⁵

Ibn Jarir al-Tabari relates, on the authority of Ibn 'Abbas, the following tradition: "The 'right known' refers to something other than benevolent charity (*Sadaqa*), [something] by means of which kindness to the relatives is shown, or hospitality to the guests, or help to anyone, or assistance to the outcast."¹⁵⁶

Ibn 'Abbas has been followed in this by a large number of commentators on the Qur'an. According to this view, the verse was not abrogated.

(35) ***O you who believe! When you hold a confidential talk with the Messenger, offer a freewill offering before your colloquy. That is better and purer for you. Yet if you find not means then, lo! God is All-forgiving and All-compassionate. (Qur'an 58: 12)***

The majority of scholars are of the opinion that this verse has been abrogated by God's saying: ***"Fear you to advance freewill offerings before your confidential talk? Then, when you do it not and God has forgiven you, establish worship and pay the poor their due (zakat) and obey God and His Messenger. And God is aware of what you do" (Qur'an 58: 13).***

There are numerous traditions from both the Sunni and Shi'ite sources, that indicate that when this verse was revealed, no one acted upon it except 'Ali b. Abi Talib. He had a dinar in his possession and he exchanged it for ten dirhams. Thus, whenever he colloquized with the Prophet, he offered a dirham in charity, until he had met the Prophet ten times.

Traditions that Relate the Practice based on the Colloquy Verse

[58: 12]

Ibn Babawayh relates a tradition that he refers back to Makhul, who said:

The Commander of the Faithful, 'Ali b. Abi Talib, said, "The trusted among the Companions of the Prophet knew that there was not a person among them who had any merit, but that I shared it with him and exceeded him in it, whereas I possess seventy merits which none of them share with me." I said, "O Commander of the Faithful, tell me about them." The Imam said, "The first of them is . . . ," and he enumerated the seventy merits. Among them he mentioned [the following]: "As for the twenty-fourth merit, God, the Almighty, the Glorified, revealed to His Prophet: 'When you hold a confidential talk . . . ' I had a dinar which I sold for ten dirhams. I used to offer a dirham in charity each time before I had an intimate talk with the Prophet. By God, no one else among his Companions besides me did that before me or after me. Then God, the Almighty, the Glorified, revealed, **'Fear you to advance . . .'**" [157](#) [Qur'an 58: 13]

Ibn Jarir al-Tabari relates the following tradition, which he refers back to Mujahid, who said:

'Ali, may God be pleased with him, said: "There is a verse in the Book of God, on which no one has acted before me nor shall any one after me. I had a dinar which I exchanged for ten dirhams. Whenever I came to the Prophet I gave one dirham in charity. Then it was abrogated, and no one had acted upon it before me: "When you hold confidential talk." [158](#)

Al-Shawkani relates that 'Abd al-Raziq, 'Abd b. Humayd, Ibn al-Mundhir, Ibn Abi Hatim, and Ibn Mardawayh reported that 'Ali said, in reference to the colloquy verse, "No one acted upon it, except me, until it was abrogated, and that was shortly after [it had been revealed]."

Sa'id b. Mansur, Ibn Rahawayh, Ibn Abi Shayba, 'Abd b. Humayd, Ibn Mundhir, Ibn Abi Hatim, al-Hakim (who actually declared the tradition sound), and Ibn Mardawayh, related from 'Ali. He ['Ali] said:

In the Book of God is a verse on which no one before me has acted, nor shall anyone after me. This is the colloquy verse: "When you hold a confidential talk . . ." I had a dinar which I sold for ten dirhams. Whenever I had a confidential talk with the Prophet, I used to offer a dirham in charity. Then the verse was abrogated, and hence, no one has acted upon it. The verse [that replaced it] was revealed: "Fear you to offer . . ." [159](#)

The verse [Qur'an 58: 12] indicates that offering charity before an intimate talk with the Prophet was a good deed, something that purified the inner self, and an injunction which was required for the good of human beings. Moreover, it determines that the injunction applied to those who had the means to give in charity; otherwise, God is Forgiving, Merciful.

There is no doubt that this is an action whose advantages can be independently perceived by reason and approved by the conscience. The reason is that in this particular ordinance there is a benefit for the poor because they are the recipients of the charity. Moreover, it lightens the burden of the Prophet because fewer people wanted to have confidential conversations with him. Following this verse, people did not just rush to have colloquies with him, except for those who had more love for colloquizing with the Prophet than for their wealth.

Furthermore, there is no doubt that the goodness of this act was not limited to one period to the exclusion of the other. The second verse [Qur'an 58:13] makes it clear that the generality of the Muslims, with the exception of 'Ali b. Abi Talib, avoided intimate conferences with the Prophet, wary of having to offer charity and charity of their wealth.

[The Reason for the Abrogation of the "Colloquy" Charity](#)

To be sure, in their evasion of the colloquy they missed out on many benefits and public good. In order to protect these benefits, God removed the obligation of the charity before the conference, giving precedence to the public interest over private ones, especially the benefit accruing to the poor. He required them, instead, to be steadfast in worship, in giving the zakat, and obeying God and His Prophet.

Accordingly, there is no avoiding the view that the verse was abrogated—specifically, that the injunction in the first verse was abrogated and terminated in the subsequent verse. This belongs to the first kind of abrogation of a Qur'anic injunction [explained at the beginning of this chapter]—that is, the kind in which the [presence of] abrogating verse is contingent on the lapse of the time frame of the given injunction in the abrogated verse. However, the abrogation of the given injunction in the first verse did not occur because of any benefit that had required it at one time and not the other. The injunction applied generally for the lifetime of the Prophet. But the community's chariness of its wealth, and its aversion to offering charity before the conference, were hindrances to the continuance and perpetuity of the injunction. Consequently, the obligatory aspect of the ruling was abrogated and the injunction was changed to an ordinance of indulgence (*tarkhis*).

Someone may query how it is possible for God to ordain an injunction that would make it obligatory to make a charitable gift before the conference when He knew since eternity that there would be an objection to it.

The response [to this is as follows]. In ordaining this injunction and then abrogating it, as God, Glorified be His name, did, it was actually a notification to the [people of the] community, by which God completed His argument against them. As a result of it, it became apparent for the community and for others that all the Companions preferred wealth over a confidential conversation with the Prophet, and that no one except the Commander of the Faithful, 'Ali b. Abi Talib, acted upon this injunction. Abandoning the colloquy was not an act of disobedience against God, for the colloquy was not in itself obligatory. The obligatory aspect of the charitable gift was conditional upon the conference. Accordingly, if there were no

colloquy, there would be no obligation to make the charitable offering. However, abandoning the colloquy indicates that those who did that gave more importance to wealth than to the conference.

The Wisdom of Legislating the Charitable Offering of the Colloquy

With the abrogation of the injunction after its enactment, the wisdom of its legislation becomes obvious, and the favor of God for His creatures is unveiled. The indifference of Muslims to conversing with the Prophet became clear, and the status attained by the Commander of the Faithful [‘Ali] among them became known. This much is implied by the apparent sense of the revelation, which is further corroborated by the traditions related to this effect. However, if the matter of voluntary offerings made before the conference were a mere formality to test the loyalty of the Muslims, as was the case in the command to Abraham to sacrifice his son, then the subsequent verse would not abrogate the earlier one in the conventional sense of the term, but would simply stay the testing injunction—in other words, abrogation in the lexical sense.

In this connection, al-Razi reports that Abu Muslim was positive that the matter was intended as a trial to distinguish between those who truly believed and those who remained hypocrites. Therefore, no abrogation in the technical sense is involved. Al-Razi in agreement with this explanation, says, "This explanation is good; there is no objection to it." [160](#)

Al-Shaykh Sharaf al-Din relates:

Muhammad b. al-‘Abbas, in his commentary on the Qur’an, reports seventy traditions from Sunni and Shi’ite sources, which confirm that the only person who, out of all people, colloquized with the Prophet was the Commander of the Faithful, ‘Ali . . . I have copied from the book of our preceptor, Abu Ja’far al-Tusi, the following tradition, which, he says, is also mentioned in the compendium of al-Tirmidi, and the commentary of al-Tha’alibi, who, in turn, has traced it back to ‘Alqama al-Anmawi [and back] to ‘Ali b. Abi Talib. [Imam ‘Ali says]: "Through me, God lightened the burden of this Umma because God tested the Companions [of the Prophet]. They stayed away from conversing with the Prophet. The Prophet secluded himself in his home, conversing with no one except those who were willing to offer alms. I had in my possession a dinar, and hence, I made the offering with it. In this way, I became the cause for God’s relenting toward the Muslims, since I acted as the revelation had required. Had no one acted upon the verse, punishment would have descended from God for the failure of everyone to act upon it. [161](#)

This tradition is not included in the present published Jami’, by al-Tirmidhi, nor have we succeeded in tracing this in any old manuscript of this compilation. Neither were we able to locate the commentary of al-Tha’alibi, who has been cited in all other works dealing with this subject; nor could we find it in any other place. Whatever the case, the injunction under consideration lasted only a short while and then it was abolished. No one put it into practice except the Commander of the Faithful, ‘Ali, whose merit was

manifested through that, regardless of whether the ordainment was actual or was meant to test the believers.

Open Prejudice in Muslim Traditions

Al-Razi found a reason to exonerate the leading Companions of the Prophet who had failed to carry out the injunction of the verse [concerning intimate conversations with the Prophet], even if they had had the time and still refrained from doing so. Thus he writes:

To carry out this requirement [of making voluntary offerings before conversing privately with the Prophet] was something that caused anguish among the poor, who were not able to make the offerings and hence felt disheartened. It also caused distress in the hearts of the wealthy, because if one did not carry out the injunction and someone else did, that action was bound to become a cause for taunting the one who did not make the offerings. Consequently, refraining from this act, which became a cause for an anguish for the poor and distress for the wealthy, was not a great harm because anything that is the cause of harmony is preferable than the thing that causes estrangement. Moreover, the colloquy was neither an obligatory act nor a recommended duty. Rather, as we have pointed out, people were required to make the offerings so that they would refrain from seeking these privileged meetings. Since it was better to avert these meetings, abstaining from them could not be cause for criticism. [162](#)

Remarks on al-Razi's Views

This apology from al-Razi does not explain the apparent sense of the passages of the Qur'an. Even if we were to disregard all the traditions [related] in this connection, anyone who is familiar with Arabic syntax would realize that God's query "Are you afraid . . . ?" is a reprimand for those who stayed away from conversing with the Prophet, whether that was done in fear of poverty or concern for wealth. Yet God forgives them for being remiss in the performance of their duty toward God and His Prophet. Stranger still is al-Razi's earlier admission that among the benefits of this requirement is that it distinguishes those who love the Hereafter from those who are attached to this world, for wealth is the source of God's trial and testing.

As for his claim that the requirement to offer alms was a cause of anguish for the poor and of distress for the rich, and that abstaining from such a practice was preferable in that it would restore harmony: If such an argument were sound, then it would have been preferable to abandon all financial obligations, and God's commands would have become subject to a human decision of whether it is not preferable to abstain from them. It is not far-fetched for al-Razi to suggest something like this, or even worse, to do it in order to deny one of the excellences of 'Ali b. Abi Talib.

It is appropriate here to cite from Ni'zam al-Din al-Naysaburi, who has critically evaluated al-Razi's thesis. He writes:

The Qadi says: This—that is, 'Ali's voluntary offerings before the meeting—does not prove his excellence over the leading Companions of the Prophet, because the time period [between the revelation of the verse and its abrogation] may not have been long enough for them to carry out this obligation. Fakhr al-Din al-Razi says: "Let us concede that there was enough time, but carrying out the obligation would have caused anguish for the poor who had nothing to offer, and repulsion for the rich. There was no harm in abstaining from this act, for that which causes harmony is preferable to that which causes estrangement. Additionally, offering alms before the colloquy was obligatory, but the colloquy itself was neither obligatory nor recommended; rather, avoiding it was preferable, when, as we have explained, it was a source of weariness for the Prophet."

To this, we say that this statement is not free of some prejudice. Why should it be incumbent upon us to establish 'Ali's excellence over others in every trait? Why is it not possible for him to have a virtue that others from the Prophet's prominent Companions did not have?

Indeed, it has been related, on the authority of 'Abd Allah b., 'Umar that:

'Ali, may God be pleased with him, possessed three excellences of which if I had only one, I would have been pleased to possess it rather than the red-haired camels: his marriage to Fatima, may God be pleased with her; his being given the standard on the Day of Khaybar; and the colloquy verse. Can a fair-minded person say that the confidential conversations with the Prophet were shortcomings? More important, it is mentioned in the verse that the conversation with the Prophet was forbidden. What was required was to make a voluntary offering before the conversations. Anyone who carried out the requirements of the verse attained two kinds of excellences: satisfying the need of a poor person, and getting close to the Prophet by loving to converse with him, solving difficult problems [by asking him for solutions in person], and demonstrating that conversation with him was dearer than worldly possessions. [163](#)

(36) *Whatever spoils of war God has given to His Messenger from the People of the cities belong to God, and His Messenger, and the near kinsman, orphans, the needy, and the traveler. (Qur'an 59:8)*

It has been related from Qatada that *al-fay'* and *al-ghanima* are one, and at the beginning of Islam, *al-ghanima*—that is, the spoils of war—were distributed among these categories [mentioned in the verse]. Someone who participated in the war would get no share of the spoils except if he were one of those mentioned in the verse. Then, God abrogated that in "Surat al-Anfal," and assigned them a one-fifth (*khums*) [share of the spoils] and apportioned four-fifths to those who had fought. [164](#) God, the Exalted says, "**Know that, whatever booty you take, the fifth of it is God's, and the Messenger's, and the near kinsman's, and for the orphans, and for the needy and the traveler**" (*Qur'an 8:41*).

The scholars have rejected this view and maintained, instead, that the booty taken by the Muslims as spoils of war is not the same as the *fay'* that God made possible for His Messenger without fighting.

There is no contradiction in the two verses and therefore the one did not abrogate the other.

According to this author, what the scholars have said is clear and should not be disputed. It is sustained by the fact that it has not been recorded, in any biographical information on the Prophet, that he held the spoils of war for himself and his kinsmen, excluding the fighters. Moreover, that which proves the claim to its abrogation as invalid is the opinion held by those who say that "Surat al-Anfal," containing the khums verse [the one-fifth verse, Qur'an 8:41] was revealed, without the slightest doubt, before "Surat al-Hashr," containing the *fay'* verse. ¹⁶⁵ However, what is important to bear in mind is that the abrogator has to be revealed subsequent to the abrogated passage. [Hence, the *khums* verse could not have been abrogated by the *fay'* verse, which is known to have been revealed after it.]

1. The term al-naskh was applied to the particularization (takhsis) in the Qur'anic exegesis attributed to Ibn 'Abbas.
2. For further details, see this author's book, Izhar al-Haqq, and Balaghi, Huda
3. Ahmad b. Muhammad al-Nahas, Al-Nasikh wa al-Mansukh, ed. Muhammad 'Abd alSalam Muhammad (Kuwait: Maktab al-Falah, n.d.) p. 106.
4. In the phrase "until God shall give His command," the word ya'ti (here meaning "give") could equally be read as "to cause"; hence, the phrase would mean "until God causes His command to pass."-Trans
5. Isma'il b. 'Umar ibn Kathir, Tafsir al-Qur'an al-'Azim, 2d ed., 6 vols. (Beirut: Dar al-Fikr, 1970), vol. 1, p. 276.
6. Qurtubi, Jami', vol. 2, p. 74
7. Ibid., p. 75.
8. Tabari, Tafsir, vol. 2, pp. 530-32
9. Ququbi, Jami', vol. 2, p. 229
10. Ibn Kathir, Tafsir, vol. 1, p. 369
11. Ibid. Ibn Kathir adds that al-Bukhari, 'Ali b. al-Madini, Ibrahim al-Nakha'i, and al Thawri reported a tradition in which it is related that a master may be killed for killing his slave
12. Ahmad b. 'Ali al-Jassas. Kitab Ahkam al-Qur'an, 3 vols. (Beirut: Dar al-Kitab al 'Arabi, n.d.; offset copy of the Istanbul edition, published in Dar al-Khilafa al-'Aliyya, by Matba'at al-Awqaf al-Islamiyya, 1916), vol. I, p. 137
13. Ibn al-'Arabi, Ahkam al-Qur'an, vol. 1, p. 27
14. Ahmad b. al-Husayn al-Bayhaqi, Al-Sunan al-Kubra printed in the margins of Al Jawhar al-Nafis, by 'Ali b. 'Uthman al-Mardini Ibn al-Turkumani, 10 vols. (Hyderabad: Matba'at Dar al-Ma'arif al-Islamiyya, 1925-1936), vol. 8, p. 36.
15. . Ibid., pp. 34-35
16. Ibid., p. 34
17. Jassas, Ahkam al-Qur'an, vol. 1, p. 139
18. Ibid., p. 140
19. Ibn Hajar, Tahdhib al-Tahdhib, vol. 4, p. 86
20. Nahhas, Al-Nasikh, pp. 88-89
21. Muhammad Rashid Riqa, Tafsir al-Qur'an al-Hakim [Tafsir al-Manar], 12 vols. (Cairo: Maktabat al-Qahira, n.d.), vol. 2, p. 138
22. Kashi, Al-Wafi, vol. 13, p. 17
23. Nahhas , Al-Nasikh, p. 92.
24. Ibid., p. 90
25. 'Utash (lit. severe thirst) is an illness that causes insatiable thirst for those afflicted.-Trans.
26. Kashi, Al-Wafi, vol. 7, pp. 43-44
27. Rida, Tafsir al-Manar, vol. 2, p. 156
28. . Jassas, Ahkam al-Qur'an, p. 177
29. Nahhas, Al-Nasikh, p. 97
30. Ibid., p. 111

- [31.](#) Muhammad b. 'Ali al-Sahwkani, *Fath al-Qadir al-Jami' bayna Fannay al-Riwaya wa Diraya min 'Ilm al-Tafsir*, 2d ed., 5 vols. (Cairo: Maktabat wa Matba'at Mutafa al-Babi al-Halabi, 1964), vol. 1, p. 191.
- [32.](#) These are the four sacred months during which fighting is forbidden: Dhu al-Qa'da, Dhu al-Hijja, and Muharram, and Rajab (respectively, the last two months of the year and the first and seventh of the next.)—Trans.
- [33.](#) Nahhas, *Al-Nasikh*, p. 121
- [34.](#) This is the version preserved in the original text
- [35.](#) Nahhas, *Al-Nasikh*, pp. 194–96
- [36.](#) The category thayb includes widows and widowers.—Trans
- [37.](#) This ruling is only partly based on the Qur'an, and the legal schools do not entirely agree on the details. Of the verses which deal with adultery, only 24:2 prescribes the lash; but neither this nor any other verse prescribes banishment or stoning to death or the criterion of virginity. The so-called stoning verse, which is said to have been acknowledged by 'Umar as an original part of the Qur'an, was rejected by the community and kept out of the Qur'an. The punishment described by the author here, which must have entered Islam at an early date, must have been adopted from Judaism; cf. Deut. 22:22–28
- [38.](#) Nahhas, *Al-Nasikh*, p. 310
- [39.](#) Jassas, *Ahkam al-Qur'an*, vol. 2, p. 107
- [40.](#) This phrase occurs in the context of the Qur'anic verses that list the women whom a man may not marry—e.g., his mother, sisters, daughters, aunts, stepmother. Cf. Qur'an 4:22–24. Trans.
- [41.](#) 'Abd al-Salam b. Taymiyya al-Harrani, *al-Muntaqa min Akhbar al-Mustafa*, ed. Muhammad Hamid al-Faqqi, 2 vols. (Cairo: al-Maktabat al-Tijariyya, 1931), vol. 2, p. 520.
- [42.](#) Burhan al-Din 'Ali b. Abi Bakr al-Marghiyani, *Al-Hidaya bi-Sharh Bidayat al Muftada*, cited in Muhammad b. 'Abd al-Wahad, *Sharh Fatah al-Qadir 'ala Sharh al-Hidaya*, 8 vols. (Cairo: Bulaq, 1897–1900) vol. 2, p. 385. This attribution is confirmed by al-Shaykh Muhiammad al-Babarti in his commentary on *al-Hidaya*. However, Ibn al-Humam al-Hanafi has denied it in *Fath al-Qadir*. 'Abd al-Baqi al-Maliki al-Zurqani, in his commentary on *Abu diya'*, *al-Mukhtasar*, vol. 3, p. 190, says: "The truth about mut'a, which is absolutely revoked, is that the contract specifies the time limit established by the man or the woman or her guardian, along with his informing her of his intention. However, if this was not included in the contract, but was intended by the man, and the woman understood that from him, then it was permissible. Malik held this opinion, and that it was beneficial for a person who was away [from his home]."
- [43.](#) Ibn Kathir, *Tafsir*, vol. 2, pp. 243–44, which give his commentary on Qur'an 4:24.
- [44.](#) Zurqani, *Sharh 'ala al-Mukhtasar Ahl al-Diya'*, vol 8, p. 76.
- [45.](#) Qurtubi, *Jami'*, vol. 5, p. 130. Ibn Kathir, *Tafsir*, vol. 2, pp. 244–45, maintains that Ibn 'Abbas, Sa'id b. Jubayr, and al-Suddi used to read the verse as "And those from whom you seek contentment for a specified time, give to them their portions as a duty."
- [46.](#) The legal period ('idda) is the period after a divorce during which the woman may not remarry, so that paternity could be determined in case of pregnancy. See Qur'an 2:228–232.—Trans
- [47.](#) Nahhas, *Al-Nasikh*, pp. 325–26
- [48.](#) Rida, *Tafsir al-Manar*, vol. 5, pp. 13–14
- [49.](#) We shall touch on these false opinions attributed to Shi'ites in our exegesis of Q 1:5, "You alone we worship; You alone we ask for help."
- [50.](#) This verse deals with the disposition of a wife's estate.—Trans
- [51.](#) Nahhas, *Al-Nasikh*, p. 326.
- [52.](#) Muslim, *Sahih*, vol. 4, p. 131.
- [53.](#) Mut 'a (indulgence) during the pilgrimage is the practice of temporarily interrupting the state of consecration after the end of the lesser pilgrimage, whereby the pilgrims may indulge in normal everyday activities until they reassume the state of consecration for the greater pilgrimage. The Prophet enforced this practice during his last pilgrimage, but a dispute arose after his death over whether this constituted a prophetic precedence, or whether it was dictated by expediency.— Trans.
- [54.](#) *Ibid.*, p. 131
- [55.](#) Ibn Hanbal, *Musnad*, vol. 3, p. 325

- [56.](#) Ibid., pp. 356, 363
- [57.](#) Bayhaqi, Sunan, vol. 7, p. 206, where he adds that Muslim, in his Sahih, narrated the same tradition from a different chain of transmission, on the authority of Humam
- [58.](#) Muslim, Sahih, vol. 4, p. 131.
- [59.](#) Ibn Hanbal, Musnad, vol. 3, p. 380.
- [60.](#) Ibid., vol. 4, p. 436
- [61.](#) This tradition, including what Ibn Hanbal added, is reported in Muslim, Sahih, vol. 4, p. 48.
- [62.](#) Ibid., p. 130; see app. 7 for its alteration in the compendium of al-Bukhari
- [63.](#) Tabari, Tafsir; he comments on the verse in question, in vol. 5, p. 9.
- [64.](#) Qurtubi, Tafsir, vol. 5, p. 130
- [65.](#) Ibn Hanbal, Musnad, vol. 2, p. 349
- [66.](#) Jassas, Ahkam al-Qur'an, vol. 2, p. 147
- [67.](#) Muslim, Sahih, pp. 132–33, where he reports several traditions
- [68.](#) Muhammad b. Yazid ibn Maja, Sunan Ibn Maja, (Cairo: 'Isa al-Babi al-Halabi, 1952), vol. 1, p. 631; Abu Dawud Sulayman b. al-Ash'ath al-Sijistani, Sunan Abi Dawud, ed. 'Izzat 'Ubayd al-Da'as and 'Adil al-Sayyid, 5 vols. (Homs, Syria: Muhammad 'Ali al-Sayyid, 1969–74), vol. 2, p. 559
- [69.](#) Al-Muntaqa, vol. 2, p. 519
- [70.](#) Bayhaqi, Sunan, vol. 7, p. 202
- [71.](#) Ibn 'Abd al-Muttaqi, Kanz al-'Ummal, vol. 8, p. 294.
- [72.](#) The word nahi, as it occurs in the tradition in question, could be read with a simple past-tense declension (naha) or a passive declension (nuhiya). In the former case it would translate as rendered here: "The Prophet permitted the mut'a during the battle of Aw'as for three days, then banned (naha) it." In the latter case, the sentence would translate as "The Prophet permitted the mut'a . . . then it was banned."—Trans
- [73.](#) We quoted this earlier in [citing] the fifth tradition reported by Jabir. It was also reported by Abu Salih katib al-Layth in his copy of the compilation and by al-Tahhawi. Ibn Jarir [al-Tabari] relates it in his Tahdhib al-Athar, and so does Ibn 'Asakir, but both report that 'Umar said he would "flog" anyone practicing them. See Ibn 'Abd al-Muttaqi, Kanz al-'Ummal, vol. 15, pp. 519–20.
- [74.](#) Ibn Hanbal, Musnad, vol. 2, p. 95
- [75.](#) Muslim, Sahih, vol. 4, p. 36. See also, Abu Dawud al-Tayalisi, Musnad Abi Dawud al-Tayalisi, 11 vols (Hyderabad: Matba'at Da'irat al-Ma'arif al-Niamiyya), vol. 8, pp. 247–48, where he reports approximately the same tradition on the authority of Jabir
- [76.](#) Bayhaqi, Sunan, vol. 7, p. 206.
- [77.](#) Ibid
- [78.](#) Muslim, Sahih, vol. 4, p. 133.
- [79.](#) Marghiyani, Al-Hidaya (printed with Fath al-Qadir, by 'Abd al-Wahid) vol. 1, p. 446
- [80.](#) Jassas, Ahkam al-Qur'an, vol. 2, p. 146
- [81.](#) Rida, Tafsir al-Manar, vol. 5, p. 13–16
- [82.](#) This and the following tradition are cited by Ibn Sa'd, Tabaqat (Cairo ed.) vol. 4, p. 72
- [83.](#) This tradition has been reported by Abu Dawud, as cited in al-Taj, vol. 1, p. 66.
- [84.](#) 'Allama al-Hilli, Sharh al-Tajrid, in the section dealing with the doctrine of the Imamate
- [85.](#) Amidi, Al-Ihkam fi Usul al-Ahkam, vol. 3, p. 206
- [86.](#) . Ibid., p. 241
- [87.](#) See al-Muntaqa, vol. 2, p. 519
- [88.](#) For Muhammad 'Abduh's opinion on the three repudiations, see Tafsir al-Manur, vol. 5, pp. 13–14
- [89.](#) Nahhas, Al-Nasikh, p. 331
- [90.](#) Ibid., pp. 333–34
- [91.](#) The two persons entering such a pact pledge to stand firm by each other in the face of danger, and that the one who survives the other will inherit from him.—Trans

- [92.](#) Ibn Kathir, Tafsir, vol. 2, pp. 272, 275
- [93.](#) Jassas, Ahkam al-Qur'an, vol. 2, p. 185
- [94.](#) This tradition has been reported by Ibn Hanbal, Abu Dawud, Ibn Maja. See al-Muntaqa, vol. 2, p. 462.
- [95.](#) Nahhas, al-Nasikh, p. 336
- [96.](#) Jassas, Ahkam al-Qur'an, vol. 2, p. 201
- [97.](#) Tayalisi, Musnad, vol. 8, p. 264.
- [98.](#) Ibn Hanbal, Musnad, vol. 2, p. 351
- [99.](#) Ibid., vol. 1, p. 53
- [100.](#) Ahmad b. Shu'ayb al-Nasa'i, Kitab al-Sunan al-Kubra, 3 vols. (Bombay: Al-Dar al-Qawmiyya, 1985-88), vol. 3, p. 421
- [101.](#) Al-Muntaqa, vol. 2, p. 745
- [102.](#) Ibn al-Humam, Fath al-Qadir, vol. 4, p. 386
- [103.](#) Hurr al-'Amili, Wasa'il, vol. 18, sec. 28 of Kitab al-Qada', p. 218
- [104.](#) Nahhas, al-Nasikh, p. 396; Jassas, Ahkam al-Qur'an, vol. 2, p. 434. The latter source attributes this opinion to al-Hasan al-Bari, also
- [105.](#) Bahrani, Tafsir al-Burhan, vol. 1, p. 430
- [106.](#) Ibn Kathir, Tafsir, vol. 2, p. 469
- [107.](#) Ibn Hanbal, Musnad, vol. 6, p. 458; Shawkani, Tafsir, vol. 2, p. 2. The latter source states that 'Abd b. Humayd, Ibn Janr, Muhiammad b. Nar (in his Kitab al-Salat), al-Tabarani, Abu Nu'aym (in his al-Dala'il), and al-Bayhaqi (in his Shu'abal-Iman) have reported a variant of this tradition on the authority of Asma' bint Yazid
- [108.](#) This tradition has been reported by Ahmad b. Hanbal; al-Nasa'i; Ibn Mundhir; al-Hakim, who authenticated it; Ibn Mardawayh; and al-Bayhaqi, in his Sunan. See Shawkani, Tafsir, vol. 2, p. 2
- [109.](#) Ibid., p. 3.
- [110.](#) Nahhas, al-Nasikh, pp. 405-6
- [111.](#) Q 1:364
- [112.](#) This was related by Abu Dawud, and a variant was related by al-Daraqutni. See al-Muntaqa, vol. 2, p. 942.
- [113.](#) Nahhas, al-Nasikh, p. 406
- [114.](#) Jassas Ahkam al-Qur'an, vol. 3, p. 9
- [115.](#) Nahhas, al-Nasikh, pp. 420-21
- [116.](#) Ibid., p. 419
- [117.](#) Bahrani, Tafsir al-Burhan, vol. 1, p. 555
- [118.](#) Ibn Kathir, Tafsir, vol. 3, p. 110
- [119.](#) Bahrani, Tafsir al-Burhan, vol. 1, pp. 514-15
- [120.](#) This tradition has been reported by Abu 'Ubayd, Ibn al-Mundhir, al-Tabarani, and Ibn Mardawayh. See al-Shawkani, Fath al-Qadir, vol. 2, p. 96
- [121.](#) Qurtubi, Jami, Vol 7, p99.
- [122.](#) Bahrani, Tafsir al-Burhan, vol. 1, p. 556
- [123.](#) Bayhaqi, Sunan, vol. 4, p. 133
- [124.](#) Nahhas, al-Nasikh, p. 459-60; Tabari, Tafsir, vol. 14, p. 52
- [125.](#) Shawkani, Fath al-Qadir, vol. 2, p. 294
- [126.](#) Ibid., p. 294
- [127.](#) Nahhas, al-Nasikh, p. 461; Tabari, Tafsir, vol. 14, p. 52.
- [128.](#) Kashi, al-Wafi vol. 3, p. 174
- [129.](#) Bukhari, Sahih, vol. 4, p. 23, the section dealing with the verse of the Qur'an regarding "those who consume the goods of the orphans"; Muslim, Sahih, vol. 1, p. 64; Abu Dawud, Sunan, vol. 3, p. 295; and Nasa'i, Sunan, vol. 2, p. 131, with a slight variation in which he mentions "avarice" instead of "magic."
- [130.](#) Ibn Kathir, Tafsir, vol. 3, pp. 341-42
- [131.](#) Taqiy al-Din Ahmad b. 'Ali al-Maqrizi, Imta' al-Asma' bima lil-Nabi min al-Anba' wa al-Amwal wa al-Hafada wa al-

Mita', ed. Muhammad 'Abd al-Hamid al-Namisi (Cairo: Dar al-Anar, 1981) pp. 361-62

[132.](#) See above

[133.](#) Nahhas, al-Nasikh, pp. 503-4. Qurtubi, Jami', vol. 8, p. 142, ascribes this view to al-Dahhak, also

[134.](#) Nahhas, al-Nasikh, p. 529

[135.](#) Ibid., p. 539

[136.](#) Ibid., pp. 542-43

[137.](#) . Bahrani, Tafsir al-Burhan, vol. 1, p. 577

[138.](#) Majlisi, Bihar, vol. 79, pp. 134-35; Kashi, al-Wafi, vol. 11, p. 79

[139.](#) See chapter 1, p. 53

[140.](#) . Nahhas, al-Nasikh, p. 582-83

[141.](#) Ibid., pp. 662-63.

[142.](#) Ibn 'Adi said, "He is counted among those who fabricated traditions." He also said, "Most of his traditions are rejected both for their content and their chains of transmission, and the weakness of his traditions is manifest." Al-Pallas said, "He used to fabricate traditions. I have never known anyone like him." Abu Hatim and al-Nasa'i said, "His transmission is rejected." Al-Daraqutni said, "He is a liar." He also said, in his 'Ilal, "He was weak in transmitting the traditions, well known for that." Ibn Habban said, "It is improper to record his traditions except to express astonishment." Abu Dawud al-Tayalisi said, "He was a liar." Al-Saji said, "He is to be rejected. He fabricates the traditions." Al-Azdi said, "He is weak and unrecognized." See Ibn Hajar, Lisan al-Mizan, vol. 3, pp. 218-19.

[143.](#) Nahhas, al-Nasikh, p. 668

[144.](#) Kashi, al-Wafi, vol. 9, p. 23

[145.](#) Qurtubi, Jami', vol. 16, pp. 227-28. Nahhas, al-Nasikh, p. 671-72, quotes this opinion on the authority of 'Ata'

[146.](#) Muhammad b. Ahmad al-Tusi, al-Tibyan fi Tafsir al-Qur'an, ed. Ahmad Shawqi alAmin and Ahmad Habib Qair, 10 vols (Najaf: al-Matba'at al-'Ilmiyya, 1957-63), vol. 9, p. 291

[147.](#) Abu Ja'far Muhammad b. al-Husayn al-Tusi, al-Mabsut fi Fiqh al-Imamiyya, ed. Muhammad Taqi al-Kashfi, 8 vols. (Tehran: Al-Maktabat al-Murtadawiyya li-Ihya' al-Athar al-Ja'fariyya, 1967), vol. 2, Kitab al-Jihad, p. 13

[148.](#) We discussed this at length in our book Ajwad al-Taqrirat

[149.](#) Qurtubi, Jami', vol. 16, p. 227.

[150.](#) Qurtubi, Jami', vol. 16, p. 227.

[151.](#) Ibid.

[152.](#) Ibid., p. 228

[153.](#) Nahhas, al-Nasikh, p. 673

[154.](#) Kashi, al-Wafi, p. 52, vol. 6

[155.](#) Ibn 'Abd al-Muttaqi, Kanz al-'Ummal, vol. 3, 310.

[156.](#) Ququbi, Jami', vol. 29, p. 50

[157.](#) Bahrani, Tafsir al-Burhan, vol. 4, p. 309

[158.](#) Tabari, Tafsir, vol. 28, p. 15

[159.](#) 'Abd al-Wahid, Fath al-Qadir, vol. 5, p. 191. There are many more traditions on this subject. See the major commentaries on the Qur'an and the books of tradition. Also, Majlisi, Bihar al-Anwar, vol. 9, p. 170, records these traditions.

[160.](#) Razi, Tafsir, vol. 8, p. 167

[161.](#) Majlisi, Bihar, vol. 41, pp. 26-27; Bahrani, Tafsir al-Burhan, vol. 2, p. 1100.

[162.](#) Razi, Tafsir, vol. 8, p. 167

[163.](#) Naysaburi, Tafsir, published in the margins of Tafsir of Tabari, vol. 28, p. 24

[164.](#) Nahhas, al-Nasikh, p. 703

[165.](#) Qurtubi, Jami', vol. 18, p. 14

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