

A Series of Answers by Eminent Scholar Ata bin Khalil Abu Al- Rashtah, the Amir of
Hizb ut Tahrir to the Followers of his Facebook Page (Fiqhi)

Answer to Question

The Abrogator and Abrogated

To: আল মাওয়ারিদি

Question:

We have discussed the method to re-establish the Khilafah with a brother. He said that the political non-violent actions and seeking the Nusrah in Makkah before Hijrah were abrogated by the Quranic ayah: **﴿أَلَمْ تَرَ إِلَى الَّذِينَ قِيلَ لَهُمْ كُفُّوا أَيْدِيَكُمْ وَأَقِيمُوا الصَّلَاةَ وَآتُوا الزَّكَاةَ فَلَمَّا كُتِبَ عَلَيْهِمُ الْقِتَالُ إِذَا فَرِيقٌ مِنْهُمْ يَخْشَوْنَ النَّاسَ كَخَشْيَةِ اللَّهِ أَوْ أَشَدَّ خَشْيَةً وَقَالُوا رَبَّنَا لِمَ كَتَبْتَ عَلَيْنَا الْقِتَالَ لَوْلَا أَخَّرْتَنَا إِلَىٰ أَجَلٍ قَرِيبٍ قُلْ مَتَاعُ الدُّنْيَا قَلِيلٌ وَالْآخِرَةُ خَيْرٌ لِّمَنِ اتَّقَىٰ وَلَا يُظْلَمُونَ فَتِيلًا﴾** **"Hast thou not turned Thy vision to those who were told to hold back their hands (from fight) but establish regular prayers and spend in regular charity? When (at length) the order for fighting was issued to them, behold! a section of them feared men as - or even more than - they should have feared Allah: They said: "Our Lord! Why hast Thou ordered us to fight? Wouldst Thou not Grant us respite to our (natural) term, near (enough)?" Say: "Short is the enjoyment of this world: the Hereafter is the best for those who do right: Never will ye be dealt with unjustly in the very least!" [An-Nisa': 77]**

In this ayah Allah ordered the carrying out of Jihad, which abrogated the previous rule (Hukm) (holding back their hands). So how shall I answer this brother? Jazak Allah Khair my brother.

From Your Brother,
Asif Sulaiman

Answer:

Wa Alaikum Assalam Wa Rahmatullah Wa Barakatuh

First: it seems that the person who asked you this question has confusion in the subject of abrogation. This is why he thought that the obligation of Jihad in Madina is abrogated, because the Prophet (saw) did not order jihad in Makkah. But the truth of the matter is that there is no abrogation, because the abrogation takes place when there is a general speech/text by the legislator that commissions us (takleef) with an action, but then a general speech/text by the Legislator follows that and discontinues the previous general speech/text of the Legislator. There will exist a contradiction in every aspect between the two rules, and they cannot be reconciled, and the circumstances of the previous or the situation that it addressed are not different from the circumstances and situation of the later text; otherwise, each speech(text/rule) will be specific to its circumstance and situation. To explain this I will mention some examples for you:

1- Example of Abrogation:

a- The abrogation of the obligation of taking Al-Quds as qibla was changed to taking the Ka'ba as the qibla instead. **﴿قَدْ نَرَىٰ تَقَلُّبَ وَجْهِكَ فِي السَّمَاءِ فَلَنُوَلِّيَنَّكَ قِبْلَةً تَرْضَاهَا فَوَلِّ وَجْهَكَ شَطْرَ الْمَسْجِدِ الْحَرَامِ﴾** **"We have certainly seen the turning of your face, [O Muhammad], toward the heaven, and We will surely turn you to a qiblah with which you will be pleased. So turn your face toward al-Masjid al-Haram. And wherever you [believers] are, turn your faces toward it [in prayer]. Indeed, those who have been given the Scripture well know that it is the truth from their Lord. And Allah is not unaware of what they do" [Al-Baqarah: 144].**

So the circumstances and situation of the first qibla and the second qibla are the same for the worshipper who wants to pray.

b- The abrogation of visiting the graveyards and permitting it: «كُنْتُ نَهَيْتُكُمْ عَنْ زِيَارَةِ الْقُبُورِ إِلَّا «I forbade you from visiting the graveyards, but now you can visit them» فَرُورُهَا»

Similarly the circumstances and situation of visiting and not visiting the graveyards are the same.

These are all examples that show abrogation because they are a general speech addressed to the Muslims, and the circumstances of the previous and later address are one, and the contradiction between them are from all aspects, i.e. they cannot be reconciled. Hence the later speech/ text abrogates the previous text.

2- Example of the absence of Abrogation:

Fasting is an obligation on those who have the ability: «يَا أَيُّهَا الَّذِينَ آمَنُوا كُتِبَ عَلَيْكُمُ الصِّيَامُ كَمَا كُتِبَ «O you who have believed, decreed upon you is fasting as it was decreed upon those before you that you may become righteous * [Fasting for] a limited number of days” [Al-Baqara: 183-184]

- And the ill person or those on a journey can break the fast: «فَمَنْ كَانَ مِنْكُمْ مَرِيضًا أَوْ عَلَى سَفَرٍ «So whoever among you is ill or on a journey [during them] - then an equal number of days [are to be made up]. And upon those who are able [to fast, but with hardship] - a ransom [as substitute] of feeding a poor person [each day].” [Al-Baqara:184]

Therefore it is not said that the second verse cancelled or abrogated the first verse, but it is correct to say that every rule is applied according to its specific circumstances and situation. So fasting is an obligation on the fit person who is not travelling, but breaking the fast is permissible for the ill or the one on a journey. It can also be said that the text of the first verse is general for the Muslims and the text of the second verse is specific to the ill and the traveler.

Second: regarding the noble verse that is the subject of the question, it does not include abrogation. The circumstances of the people in Makka were that of vulnerability; they were persecuted and lived under the Kufur control. It is for a certain Hikma (wisdom), that only Allah knows, that Jihad wasn't made an obligation on them. This is why the Prophet (saw) did not give permission to some of the Muslims to fight in Makkah. Al-Hakim narrated in Al-Mustadrak and said that this Hadith is Sahih (authentic) on the condition of Bukhari: from 'Ikrimah, from Ibn Abbas (ra) that Abdulrahman Bin Awf and his companions came to the Prophet (saw) and said: "O Prophet of Allah, we were honoured when we were polytheist but when we believed we became humiliated, the Prophet responded: «إِنِّي أُمِرْتُ بِالْعَفْوِ فَلَا تُقَاتِلُوا الْقَوْمَ» "I was ordered to give pardon so do not fight the people".

When Allah (swt) moved him to Madina, he was ordered to fight. So they restrained themselves (in Makka). Allah (swt) sent down the verse: «أَلَمْ تَرَ إِلَى الَّذِينَ قِيلَ لَهُمْ كُفُّوا أَيْدِيَكُمْ وَأَقِيمُوا «Have you not seen those who were told, "Restrain your hands [from fighting] and establish prayer and give zakah"? But then when fighting was ordained for them, at once a party of them feared men...” [An-Nisa': 77]

The meaning of the verse is that we must not do what they do (the disbelievers) i.e. not to hasten to get an order and when it becomes an obligation we delay its implementation and become blameworthy.

Thus due to different circumstances, there is no abrogation, but the rule of Makka is a specific case in which Allah (swt) did not order the fighting of the Kuffar, for a certain Hikma only known to Allah, All-Wise and All-Knowledgeable. But in Madina Allah (swt) ordered Jihad and since that date, Jihad will continue to the day of Judgement, and here are the evidences:

In Sahih Bukhari, there is a chapter entitled: The Chapter of Jihad will continue with the righteous or the wrongdoer (fajir) ruler, for the saying of the Prophet (saw); «الْحَيْلُ مَعْفُودٌ فِي نَوَاصِيهَا الْخَيْرُ إِلَى يَوْمِ الْقِيَامَةِ» **“Good will remain (as a permanent quality) in the foreheads of horses (for Jihad) till the Day of Resurrection”.**

- Bukhari authenticated in his Sahih that Abu Nu’aim told us that Zakariya from Amir told us that ‘Urwa Al-Bariqi said the Prophet (saw) said, «الْحَيْلُ مَعْفُودٌ فِي نَوَاصِيهَا الْخَيْرُ إِلَى يَوْمِ الْقِيَامَةِ الْأَجْرُ وَالْمَغْنَمُ» **“Good will remain (as a permanent quality) in the foreheads of horses (for Jihad) till the Day of Resurrection, for they bring about either a reward (in the Hereafter) or (war) booty (in this world).”** This is also authenticated by Muslim.

The term “in the foreheads of horses” is a metaphor of Jihad.

- Bayhaqi authenticated in As-Sunnan Al-kubra from Anas Bin Malik (ra) that he said: The Prophet (saw) said: «ثَلَاثٌ مِنْ أَصْلِ الْإِيمَانِ، الْكَفُّ عَمَّنْ قَالَ لَا إِلَهَ إِلَّا اللَّهُ، لَا يُكْفَرُهُ بِذَنْبٍ، وَلَا يُخْرِجُهُ مِنَ الْإِسْلَامِ وَلَا يَبْطُلُهُ جَوْرُ جَانِبٍ وَلَا عَدْلُ عَادِلٍ، وَالْإِيمَانُ بِالْأَقْدَارِ» **“Three things are the roots of faith: to refrain from (killing) a person who utters, "There is no god but Allah" and not to declare him unbeliever whatever sin he commits, and not to excommunicate him from Islam for his any action; and jihad will be performed continuously since the day Allah sent me as a prophet until the day the last member of my community will fight with the Dajjal (Antichrist). The tyranny of any tyrant and the justice of any just (ruler) will not invalidate it. One must have faith in Divine decree.”**

Therefore Jihad continues to the Day Of Judgement and is not abrogated or stopped. Any Muslim ruler, whether the Khalifah or or nor, declares Jihad against the Kufar, he should be fought with against the Kuffar, and those who fight will be rewarded by Allah according to their intention.

Third: it seems that the one who asked or discussed with you the verse wanted to say to you: why doesn't Hizb ut Tahrir use Jihad in its work to establish the Khilafah, knowing that not fighting in Makkah was abrogated in Madina? So it seems that he is confused between doing Jihad and working to establish the Khilafah, and he thought that they are the same issue, which is incorrect. And we previously answered a question on this subject on 22/9/2013. I will quote to you parts of the answer. **It has more details for the person who discussed the subject with you, maybe it will guide him to the best of matters by the permission of Allah:**

(Answer:

Within this question lie several matters that require explanation:

1. The relevant evidence, whether from the Book or from the Sunnah, must be followed comprehensively, and there is no difference between the evidence emerging in Mecca al-Mukarrameh and the evidence emerging in the Medina al-Munawwarah.

2. The required evidence is one that pertains to the issue, rather than evidence that does not pertain to the matter:

a- For example, if I wanted to know how to perform ablution, I would search for evidence pertaining to ablution, whether revealed in Mecca or in Medina. The ruling is then extracted from the evidence according to the established legal (Shar'ii) methodology. But I would not research evidence on fasting to extract from it the ruling of ablution and its modalities.

b- As another example, if I wanted to know the provisions of Hajj, I would start searching for evidence pertaining to Hajj, whether revealed in Mecca or in Medina, and from it the ruling is extracted according to the established legal (Shar'ii) methodology. I would not research the evidence of prayer to extract from it the provisions of Hajj and its modalities.

c- As a further example, if I wanted to know the provisions of Jihad- whether as an individual or as a collective obligation, whether defensive or offensive, what pertains to Jihad from the provisions of conquests and spreading Islam, whether the conquest takes

place by force or through conciliation. I would research the evidence on Jihad wherever it is to be found, whether revealed in Mecca or in Medina, and the ruling is extracted from it according to the established legal methodology. But I would not research the evidence on Zakat to take from it the ruling of Jihad and its details.

d- This is the modus operandi in every issue; the evidence is researched whether revealed in Mecca or in Medina, and from this evidence the Shar'i ruling of the issue is taken according to the established legal methodology.

3- Now we come to the issue of establishing an Islamic state, and we search for its evidence, whether revealed in Mecca or in Medina, and extract the Shar'i ruling according to the established legal methodology.

We do not find any evidence to establish an Islamic state, except that which was presented by the Messenger of Allah صلى الله عليه وسلم in his Seerah in the Holy City of Mecca. He called to Islam secretly, he formed a believing, steadfast block, he announced it among the people in Mecca and its surroundings, then he sought support from the people of power and strength. Eventually Allah showed mercy to him صلى الله عليه وسلم through the Ansar, so the Prophet صلى الله عليه وسلم emigrated to them and set up the state.

This is the evidence of the establishment of the State, and there is no other evidence. The Messenger (saw) showed it to us in his Seerah through clear-cut evidence, and we have to commit to it. The issue is not one of the Meccan period before the imposition of Jihad, or the Medinese period after the imposition of Jihad. Rather it is a research for evidence pertaining to the establishment of the State, which is only to be found in Mecca until the Messenger of Allah (saw) migrated to Medina and established the State.

It is one matter while Jihad is a different matter. As we said, the evidence on the establishment of the State is taken from its precedents, and the evidence on Jihad is taken from its precedence, and they are different and independent from each other. Therefore Jihad is not suspended in the absence of the Khilafah state.

And the work for the establishment of the Khilafah is not suspended because the rulers suspended Jihad.

Hence Jihad is ongoing, and the work for the Khilafah continues until it is established; none of them depends on the other, and they are two different issues. For each issue its Shar'i evidence is sought, and from it the ruling specific to the matter is extracted according to the established legal methodology." **End**

I pray that this will be enough to convince the person who discussed you so it guides him to the best of matters inshaAllah.

Your Brother,

Ata Bin Khalil Abu Al-Rashtah

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Link to the Ameer's Answer on his Facebook page:

<https://web.facebook.com/AmeerhtAtabinKhalil/photos/a.122855544578192/952826398247765/?type=3&theater>

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