

DECONSTRUCTING SHARIA: A CRITICAL STUDY OF ABDULLAH AL-NAIM'S THOUGHT ON NASKH

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Abstract

This paper explains how Abdullah al-Naim's sharia formulation serves as a problem-solving solution for numerous issues facing the *ummah* in recent times. Abdullah al-Naim is a Muslim intellectual who is concerned with reforming Sharia to make it relevant to human rights. This reformation comes from the assumption that the sharia formulation in certain aspects is considered to be irrelevant to modern life. It is even considered to be contrary to universal human rights. So, a demand to build a Sharia model with modern public standards arises, especially in relation to human rights. Using a descriptive-analytic method, this paper concludes that the sharia deconstruction he proposes can be seen as a new approach that is extremely intolerant of the rigidity and uniformity of texts, necessitating the destruction of the text's real meaning. Thus, he introduced a method known as the evolution of Sharia (*nasakh*), which is seen as a modern *ijtihad* method. This method for the evolution of Sharia provides a model for creating modern Sharia. The concept of al-Naim's *naskh* cannot be taken as it is because rational and scientific validity are used as measures of determining truth, and human values are used as goals by putting aside divine values.

*Tulisan ini mencoba untuk membahas bagaimana formulasi syariah Abdullah al-Naim berfungsi sebagai solusi pemecahan masalah untuk berbagai masalah yang dihadapi umat akhir-akhir ini. Abdullah al-Naim adalah seorang intelektual Muslim yang memiliki kepedulian untuk mereformasi syariah agar relevan dengan hak asasi manusia. Reformasi ini berangkat dari asumsi bahwa rumusan syariah dalam aspek-aspek tertentu dianggap sudah tidak relevan lagi dengan kehidupan modern. Bahkan dianggap bertentangan dengan hak asasi manusia secara universal. Sehingga muncul tuntutan untuk membangun model syariah dengan standar publik modern, terutama yang terkait dengan hak asasi manusia. Dengan menggunakan metode deskriptif-analitik, tulisan ini sampai pada kesimpulan bahwa dekonstruksi syariah yang ia ajukan dapat dilihat sebagai sebuah pendekatan baru yang sangat tidak toleran terhadap kekakuan dan keseragaman teks, sehingga mengharuskan penghancuran makna teks yang sesungguhnya. Oleh karena itu, ia memperkenalkan sebuah metode yang dikenal sebagai evolusi syariah (*nasakh*), yang dipandang sebagai metode *ijtihad* modern. Metode evolusi syariah ini memberikan model untuk menciptakan syariah modern. Konsep *naskh* al-Naim tidak dapat diterima begitu saja karena validitas rasional dan ilmiah digunakan sebagai ukuran untuk menentukan kebenaran dan nilai-nilai kemanusiaan yang digunakan sebagai tujuan dengan mengesampingkan nilai-nilai ketuhanan.*



INTRODUCTION

Muslims nowadays are dealing with a wide range of complex issues, not only in matters of religious fiqh but also in *muamalah*—related issues, social fiqh, or even contemporary fiqh on Sharia. Islam defines Sharia as the laws of Allah found in the Quran and Sunnah. On the one hand, Sharia is God's absolute law that cannot be modified.¹ On the other hand, Islamic law can be static or dynamic. Islamic law has also been developed by humans (*ijtihad*) in response to the ever—changing dynamics of human existence, making it adaptable to change.² In this sense, there are two aspects to understanding Islamic law. First, Islamic law has a divine component because it is thought to be a teaching from God (*Ilahiyah*). Islamic teachings are viewed as teachings whose sanctity is upheld in this sense. Second, Islamic law has an *Insaniyah* dimension since it represents a sincere human attempt to comprehend sacred teachings. In another view, Islamic law is seen in this second dimension as a product of intellect, namely *ijtihad*.³ As a dual—natured law, reform in Islamic law is imperative. The essence of reform remains pertinent in contemporary times. Legal theorists and traditionalists constitute the two primary factions driving Islamic law reform movements. Legal theorists advocate that to address the antiquated nature of Islamic law and align it with practical situations, the doors of *ijtihad* must be opened extensively.⁴

While the traditionalists are Islamic scholars who base all of their life decisions primarily on the texts, this group is called "textual—theocentric" or "theistic subjectivism" due to their literal and textual way of thinking.⁵ Fazlur Rahman claimed that, in terms of historical trajectory, the history of modern Islam, particularly in the 19th century, is primarily the story of the West's influence on Muslim society.⁶ In a similar vein, Noel J. Coulsen claimed in his notes that the West had essentially dictated and controlled how Islamic law developed in the Islamic world.⁷ Islamic law, which had previously held a prominent place in their legal system, was quickly disregarded and demoted to a minor position. As the Islamic world started to gain political independence from imperialism and Western hegemony at the beginning of the 20th century, one of the issues that arose was how to position Sharia, or Islamic law, and translate it into an ideal and practical formulation to be able to accommodate all citizens with diverse ethnic and religious backgrounds. The question of how to formulate Sharia in a way that is always applicable to modern conditions that uphold universal human rights norms is a part of this and is very urgent.⁸

At the same time, Muslims face a dilemma between implementing Sharia as a religious obligation and complying with human rights as demanded by the international

¹ Ananda Ulul Albab, *Interpretasi Dialog Antar Agama Dalam Berbagai Prespektif*, *Al-Mada: Journal Agama, Sosial, Dan Budaya* 2, no. 1 (14 February 2019): 22—34.

² Yusuf al—Qaradhawi, *al-Madkhal li Dirasah al-Syari'ah*, (Kairo: Maktabah Wahbah, 2001), 22.

³ Praja s, Juhaya, *Dinamika Pemikiran Hukum Islam, dalam Jalan Mubarak, Sejarah dan Perkembangan Hukum Islam* (Bandung: Ramaja Rosda Karya, 2000), 4.

⁴ Satria Efendi M, "*Ijtihad Sepanjang Sejarah Hukum Islam: Memposisikan KH Ali Yafie*" dalam Jamal D. Rahman, *Wacana Baru Fiqh Sosial; 70 Tahun KH Ali Yafie*, (Bandung: Mizan, 1997), 154.

⁵ Muhammad Hashim Kamali, *Principles of Islamic Jurisprudence*, (Cambridge: The Islamic Society, 1991), 343—344.

⁶ Fazlur Rahman, *Islam*, (Chicago, University of Chicago, 1979), 212.

⁷ Noel Coulson, *A History of Islamic Law*, (Edinburgh: Edinburg University Press, 1978), 149.

⁸ Ahmad Hasan, *The Early Development of Islamic Jurisprudence*, (Pakistan: Islamic Research Institute, 1988), 1—10.

community. They must balance upholding Islamic values rooted in their traditions with the necessity of embracing modern ideas. Clinging to the past may lead to subordination and backwardness, while completely forsaking it could erode Islamic identity and the emotional and intellectual foundations that have been passed down and adhered to so far.⁹

METHODS

Modern Muslim scholars strive to explore the compatibility of Islamic law with contemporary circumstances by considering it a provision that is relevant to all times and places. This perspective is based on various factors, such as the application of Islamic law in the individual's residing area and the principles of international law that strongly advocate for human rights. What makes the studies conducted by modern scholars intriguing is their critique of Islamic law as outlined in the Quran and Sunnah when it does not align with international human rights standards. Abdullah al – Na'im, a Sudanese citizen, is a key figure in the reformation of Islamic law among Muslim scholars. He began his reform efforts by rejecting both the theory and implementation of traditional Islamic law. Al – Na'im argues that the current Sharia is outdated and inadequate for the needs of modern society, emphasizing the necessity of developing a Sharia model that upholds human rights. Al – Na'im presents a compelling theory on modern Sharia models that could address numerous Sharia issues in light of modernity. Therefore, delving into and evaluating Al – Na'im's ideas on Sharia reform is crucial. He is among the modern Muslim scholars who are working to reassess the connection between Islam and contemporary human rights concepts. This paper delves into Abdullah al – Na'im's formulation of Sharia, his reasoning, and a series of methodologies aimed at gaining a comprehensive understanding of his Sharia formulation through literature review.

RESULT AND DISCUSSION

Biography of Abdullah Ahmed An-Na'im

Abdullah al – Na'im was born in Sudan on 19 November 1964. He is the eldest of 11 siblings. He has six brothers and four sisters. His parents live in the al – Maqawier village, which is located about 200 km from the northern part of Khartoum city.¹⁰ His father's name is Ahmed al – Na'im, while his mother's name is Aisha al – Awad Osman. Since he was a young child, Abdullah al – Na'im has been educated in Islam by his family, including reading the Quran. During his formative years, he also received education in Sharia. He received a formal education from universities both domestically and overseas. He attended Attabara for his primary and secondary studies from 1952 to 1966.¹¹ He completed his basic and undergraduate studies in his native country at the Khartoum University Faculty of Law, earning an LLB degree with Cum Laude honors in 1970. He also obtained his

⁹ Ahmed Istiaq, "*Abdullah An-Na'im an Constitutional an Human Right Issu*", dalam *Islamic Law Reform and Human Right: Challenger and Rejoides*, ed. Tore Lindholm and Karl Vogt, Oslo Human Right Publication, 1993, 70.

¹⁰ Moh. Dahlan, *Abdullah Ahmad Al-Na'im: Epistemologi Hukum Islam*, (Yogyakarta: Pustaka Pelajar, 2009), 49.

¹¹ Zulkifli, *Pemikiran Abdullah al-Na'im Tentang Relasi Islam dan Negara*, (Tangerang Selatan: Pustaka Pedia, 2020), 83.

Master's degree in criminology from the University of Cambridge in 1971.¹² He received his Doctor of Law degree in 1976 from the University of Edinburgh in Scotland.¹³

After completing his education, Abdullah al – Na'im returned to Sudan. He began his career and served his alma mater as a lecturer for nine years at Khartoum University from November 1976 to June 1985. From 1979 to 1985, he was the head of the public law department and taught various subjects, including public law, criminal law, and international law. Later, he moved to the West to work as a guest lecturer at multiple universities in Europe and the United States. Between 1985 and 1987, he held a visiting professor position at the Faculty of Law at the University of California, Los Angeles (UCLA) in the United States. Two years later, he served as a visiting human rights professor for three years (1988 – 1991) at the Faculty of Law, University of Saskatchewan, Canada. In 1991 – 1992, he was an Olof Palme visiting professor at the Faculty of Law, University of Uppsala, Sweden. From 1992 to 1993, he moved to Egypt in cooperation with the Ford Foundation for the Middle East and Africa. From 1993 to 1995, he served as the Executive Director of the African Human Rights Watch in Washington. In 1995, he also began his tenure as a law professor at Emory University in Atlanta, Georgia, United States of America. His academic engagements expanded after joining Emory, as he delivered public lectures both within the USA and internationally. Additionally, he continues to serve as a visiting professor alongside his full – time teaching position at Emory.

Abdullah al – Na'im not only excels in the field of education but also actively engages in politics. His political journey commenced with his admiration for Muhammad Thoha, a contemporary Sudanese fundamentalist reformist. Following years of interaction and engaging in discussions with Muhammad Thoha, Abdullah al – Na'im became actively involved and joined a political party under Muhammad Thoha's leadership.¹⁴ Since early 1968, he has been active and has joined the organization of the Republican Brotherhood Party.¹⁵ He was also active as a lawyer from 1976 to 1985. In this position, he theoretically improved his legal knowledge and gained more practical legal experience. He also actively serves as a legal consultant and advocate. In addition to practicing law, he also works as a human rights activist. He participated in human rights research, for instance, at the Centre for the Study of Human Rights in New York. He has also served as the executive director of Human Rights Africa.¹⁶ Al – Na'im can be regarded as a successful academic who has produced writing and research throughout his career. This is evident from the number of books he has published, such as *and the Secular State: Negotiating the Future of Sharia*, *an Islamic Reformation: Civil Liberties, Human Rights, and International Law*, and *Criminal Law: General Principles of Criminal Responsibility* (in Arabic).¹⁷ From this description, it is possible to infer several significant facts about al –

¹² Harir Muzaki, *Reinterpretasi Hukum Pidana Islam, Perspektif Abdullah Ahamed al-Na'im*, Jurnal Cendikia Kependidikan dan Kemasyarakatan. Vol.3, No.2 STAIN Ponorogo, 2005, 93

¹³ Tholhatur Coir, *Islam dalam Berbagai Pembacaan Kontemporer*, (Yogyakarta: Pustaka Pelajar, 2009), 330.

¹⁴ Satria Efendi M, "Ijtihad Sepanjang Sejarah Hukum Islam: Memosisikan KH Ali Yafie" dalam Jamal D. Rahman, *Wacana Baru Fiqh Sosial; 70 Tahun KH Ali Yafie*, (Bandung: Mizan, 1997), 154.

¹⁵ Abdullah Al – Na'im, Mahmoud Muhammed Thaha And Crisis in Islamic Law Reform: Implications for Interrelegius Relation dalam Jurnal of Ecumenical Studies Vol. 25, No. 1 Temple University, 1988, 1 – 21.

¹⁶ Zulkifli, *Pemikiran Abdullah al-Na'im Tentang Relasi Islam dan Negara*, 96.

¹⁷ See, <http://slr.law.emory.edu/people/person/name/ahmed-an-naim/> accessed on Oktober 17 2023.

Na'im's intellectual growth, including the fact that his educational background ranges from a bachelor's to a Ph.D. and that his expertise is in the area of criminal or public law, particularly international law. This study is al – Na'im's area of competence and strength as a Muslim scholar on a global scale.

Socio-Political Law in Sudan

Sudan gained independence in 1956, making it the largest country on the African continent. Sudan is a multiethnic, multicultural, and multireligious nation. 73% of the population is Muslim, and the bulk of people in Sudan live in the north. However, many people in South Sudan adhere to traditional African and Christianity.¹⁸ Such situations have inspired some Muslims to start the Islamisation movement. The movement first encountered difficulties since the Sudanese government was dominated by a military regime, secular nationalists, and a wave of non – Muslim opposition.¹⁹ When Ja'far Numeiri's military regime came to power in 1969 – 1985, the situation underwent a significant transformation. Numeiri issued a decree in 1983 declaring that all of Sudan would now be governed by Islamic law alone. The application of criminal law, particularly the elements of hudud punishment (flogging, cutting off hands, and stoning), and the death penalty for apostates (murtad), demonstrates this.

This occurrence represents the formalist (textualist – traditionalist) Islamic movement in Sudan. The Numeiri regime was highly controversial and met with a tidal wave of opposition due to political interests in the interpretation of Islamic law. The law was enacted solely through a presidential decree, bypassing the legislature. Not only that, all officials are required to declare an oath of allegiance and recognise President Numeiri as a Muslim ruler, and he even uses the title of Imam, a religious and political leader in Islamic society.²⁰ They encounter extreme hostility from many groups as a result of the anti – critical, totalitarian, ideological, apologist, and discriminatory activities of law enforcement. A strong rejection from reformers was chaired by Muhammad Thaha. Thaha urged Muslims to prioritize the Mecca verses, which served as the foundation for revising Islamic law in Sudan, rather than the Medina period verses. According to Thaha, the Sharia of Medina comprises all – inclusive guidelines and regulations for the Islamic rule of law in the early historical setting of Islam. However, in a modern context, it is not accurate. This notion ultimately landed Thaha in prison, where he was compelled to give up his beliefs that were critical of the Numeiri regime. Thaha persisted and was eventually sentenced to death for apostasy.²¹

In this context, Thaha created a novel method for understanding Islamic law. Because the Quran and the Prophetic traditions can only be understood in a particular historical context, and because this context varies greatly among Muslims, he claims that this new

¹⁸ Kafarawi Ridwan, *Ensiklopedi Islam IV*, (Jakarta: PT Ichtiar Baru Van Hoeve, 1994), 282.

¹⁹ M. Amin Abdullah, "Arkoun dan Kritik Nalar Islam" dan Komaruddin Hidayat, "Arkoun dan Tradisi Hermeneutika" dalam John Hendrik Meuleman (peny.), *Tradisi, Kemodernan dan Metamodernisme: Memperbincangkan Pemikiran Mohammed Arkoun*, (Yogyakarta: LKiS, 1990), 1 – 21.

²⁰ John O. Voll, *Makers of Contemporary Islam*, (Oxford: Oxford University Press, 2001), 101.

²¹ Junaidi Abdillah, *Pembaharuan Hukum Publik Syariah: Perspective Abdullah al-Na'im*, *Journal al – 'adalah*, Vol.XII, No. 2 (2014), 5.

conception is extremely urgent. As a result, several Islamic concepts must be reformed to remain applicable and relevant.²² The development of Islamic law in Sudan is inextricably related to conversations about and disagreements over problems of reason and revelation, tradition and modernization, and text and context. At the time, the Sudanese government followed conservative Islamic law. This traditionalist law teaching is considered to be very threatening to the existence of human life, both in the life of society, nation, and state.²³ Al-Na'im, as one of the Sudanese reformers of Islamic law, was prompted to make internal and external criticisms due to this reality. Abdullah al-Na'im carried on Thaha's beliefs and ideas after his passing. He published and developed the ideas by translating Thaha's work *al-Risalah al-Tsaniyah min Islam* from Arabic into English (The Second Message of Islam) in 1967. From this point on, al-Na'im started to reform Islamic law. Thaha, has significantly impacted al-Na'im's intellectual growth and religious thought.²⁴

Looking at the social, political, and legal context in Sudan provides a clear understanding of Abdullah al-Naim's viewpoint. The narrative of Sharia and the Islamic state is not solely the result of his thoughts but rather reflects many concepts that already exist in and continue to evolve within Sudan's realities and the dynamics of the Islamic world. These concepts are relevant not only to the problems of the social and political reality of Sudan but also reflect and represent the problems experienced and developed in Sudanese society. His ideas encompass discourses to which Muslims from various nations undergoing post-colonial modernization in Europe can relate. Al-Naim's ideas and Sudan's social reality are directly related. This relation is based on the fact that he was born and raised in Sudan. Through education, Al-Na'im's intellectual growth has evolved with Sudan's sociopolitical changes. Al-Na'im's involvement as a political actor in the socio-political dynamics of Sudan, especially the political and legal aspects relevant to his struggle, is another proof of the connection between the development of al-Na'im's thought and the reality of Sudan. It can be said that Sudanese social, political, and legal issues are objective realities of socio-historical, Islamic, and state discourses. Moreover, the political dynamics of Sudan can be seen as a background context for al-Na'im's ideas about the future project of Sharia.

Sharia Deconstruction according to Abdullah al-Na'im

Al-Naim claims that modern Muslims must renew Sharia immediately. If this is not done, discrimination and other violations are likely to spread. As long as the Sharia that is implemented is the Sharia of the past, this will continue to occur. As a result, he looks at Sharia from a broader perspective. He believes that Sharia encompasses more than just Islamic law. Because Sharia must encompass political and constitutional theory, ethical and social values, as well as the laws governing both public and private law, Al-Na'im therefore claims that Sharia is a historical constitution and an overall foundation for sorting out a reformable modern law.²⁵ Furthermore, in his understanding of Sharia, Sharia

²² Muhyar Fanani, "Abdullah Ahmed al-Na'im: Paradigma Baru Hukum Publik Islam", dalam A. Khudori Sholeh (ed.), *Pemikiran Islam Kontemporer*, (Yogyakarta: Jendela, 2002), 28.

²³ John. L. Esposito (ed.) *The Oxford Encyclopedia of The Modern Islamic World IV*, (New York: Oxford University Press, 1995), 101.

²⁴ Nasr Abu Zayd, *Reformation of Islamic Thought*, (Amsterdam: Amsterdam University Press, 2006), 86.

²⁵ Abdullah Ahmed al-Na'im, *Toward an Islamic Reformation: Civil Liberties, Human Rights and International Law*, (Syracuse: Syracuse University Press, 1990), 31 – 32.

is essentially the interpretation of Islam's fundamental text as interpreted in a certain historical context. For him, is not divine but rather a historical product, which is the result of the interpretation of the texts of the Quran and Sunnah in accordance with the historical context of the 7th to 9th centuries. It was during this period that Islamic jurists started to interpret the Quran and other sources to develop a comprehensive Sharia system as a practical guide for Muslims at that time. Because of this understanding of Sharia, Abdullah al-Na'im tries to reform the interpretation of Sharia while holding the assumption that the concept of Sharia is no longer relevant to the modern context.²⁶

A closer look reveals that al-Na'im appears to have a postmodernist mindset when it comes to his view of the Sharia. He opposes all forms of authority and emphasizes the Sharia's relativity. Thanks to his perception that Sharia is a product of the human mind derived from the Quran and sunnah. Therefore, the influence of location, time, context, history, social structure, and political interpretation cannot be separated from Sharia. Sharia consequently turns into a polluted, less permanent, and less universal law. Al-Na'im considers that individuals have free will and the capacity to access and understand the Quran and Sunnah. From this understanding of Sharia, Abdullah al-Na'im attempted to deconstruct Sharia using the previously established assumptions. Deconstruction is not the same as the common interpretation of the word "deconstruction," which is a straightforward process of dismantling.²⁷ Deconstruction refers to the dismantling of Islamic law, which is found in the divine texts and is the standard Sharia established by Allah SWT. The destruction is aimed at Islamic scholars' understanding, which he regards as an issue that changes with the times. This kind of Islamic formation places the texts (the Quran and Hadith) under constant human interpretation. The term "sharia deconstruction," proposed by Abdullah an-Naim, is a new method of resisting the rigidity of texts (such as the Quran and hadith). This deconstruction reveals the text's ambiguous nature, which is always hidden by the interests of the text's authors and users. It is designed to produce stability, which necessitates a strategy known as deconstruction.²⁸

Al-Na'im Reform Methodology

Abdullah al-Na'im developed a method that is regarded as a modern ijtihad method to provide a transformative discourse. He contends that this approach offers Muslims a route out of the stalemate they have reached in their understanding of Shari'ah by providing solutions to modern pressing issues. In particular, this approach is known as reverse *nasakh* theory or the evolution of Sharia (*nasakh*).²⁹ He adopted the evolution of the Sharia (*nasakh*) method, which was pioneered by Mahmoud Thaha, Abdullah Ahmad An-Naim's teacher. This method is a reconstruction of the well-established method used to learn ushul fiqh.³⁰ Before discussing further about the evolution of al-Naim's sharia, it is important to know the understanding of *nasakh* by al-Na'im, as shown in his interpretation of Surah al-Baqarah verse 106:

²⁶ Ibid, 34.

²⁷ Inyiah Ridwan Muzir. *Pengantar Penerjemah: Dekonstruksi: Sebuah Perkenalan Singkat "Membongkar Teori Dekonstruksi Jacques Derrida."* (Yogyakarta: Ar-Ruzz Media, 2006), 5–6.

²⁸ Ahmad Taufiq, *Pemikiran Abdullah al-Na'im tentang Dekonstruksi Syariah sebagai Sebuah Solusi*, International Jurnal Ihya' Ulum al-Din, Vol. 20, No.2, 2018, 5.

²⁹ Abdullah Ahmad An-Na'im, *Toward an Islamic Reformation: Civil Liberties, Human Right, and International Law*, 44.

³⁰ A. Luthfi Assyaukanie, "Tipologi dan Wacana Pemikiran Arab Kontemporer" dalam *Jurnal Pemikiran Islam Paramadina*, Vol. 1, No. 1, 1998, 12.

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

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

He interprets Lafaz Nunsuha as postponing the application or implementation of the verse. While the phrase "*na'ti mitslihā aw bi khayr minhā*" is interpreted to indicate that Allah SWT will bring verses that are more easily understood by people and appropriate for their circumstances, the main goal of "comparable verses" is to bring back the same verses when revelation allows people to apply them. As a result, in Islamic law including *nasikh* and *mansukh* classification, seems to have its own compatibility and incompatibility to be implemented with the appropriate time, depending on the demands of the circumstances.³¹ According to al-Na'im's definition, all of the verses of the Quran are still legitimate and do not contradict one another; they are only awaiting the appropriate moment to be put into practice so that they do not appear to be vacuous and empty. In this Sharia evolution concept, he uses the Mecca verses that are considered relevant to the needs of contemporary society. Regarding the content of the Mecca and Medina verses, he believes the Mecca verses to be an Islamic, eternal, and fundamental message that emphasises the inherent dignity of all individuals. Without distinctions based on gender, ethnicity, and religion. In other words, the acceptance of gender equality and the freedom to choose one's religion are indications of the messages of the Mecca verses. The Medina verses, on the other hand, are seen as inclusive, discriminatory, and sectarian verses. Surah an-Nisa's verse 34, which says that men should have leadership, is one instance of a Medina verse that is thought to discriminate against women. According to al-Naim, men and women currently possess the same freedoms, rights, and legal capacity, ensuring that everyone has access to economic opportunity and security. The *makkiyah* verse, Surah al-An'am 164, which respects and upholds the idea of equality, shall be used in its place.³²

According to al-Na'im, as quoted by Syaukani, the verses that were born in the Mecca period have the characteristics needed by Muslims today. The *nasikh mansukh* approach is used for this actualization method. He asserted that Mecca-period passages were instantiated to suit the demands of conditions unrelated to the Medina period. As a result, verses from the Medina period were replaced (*mansukh*) with verses from the Mecca period (Syaukani 2006, 142 – 144). With this method, those aspects of the Mecca verses that were not ready to be applied in 7th-century practice and context were only postponed and replaced by principles that were more practical and applied during the Medina period. This postponed Mecca verse will always be a source of Islamic law. It is only suspended or postponed until it can be used in relevant conditions (al-Naim 1990, 52 – 56). Al-Naim says that to reach this stage of reform, we must be able to get rid of the clear and definitive texts of the Quran and the Sunnah of Medina because they have already performed their transitional function, and then we must implement the texts of the Meccan period, which were not suitable for practical application but are now the only ones to follow (Busyro 2014, 49). Furthermore, al-Na'im emphasizes that Islam does not come in a void of religious, social, economic, and political practices. Islam is the relay and culmination of the Prophet Abraham's tradition. It is not surprising that Sharia,

³¹ Abdullah Ahmed al-Na'im, *Toward an Islamic Reformation: Civil Liberties, Human Rights and International Law*, 58 – 60.

³² Abdullah Ahmed An Na'im, *Dekonstruksi Syari'ah*, 106.

particularly Islamic law, modifies many aspects of the customs and practices of pre – Islamic Arab society.

However, the early Islam that Muhammad taught had the mental attitude and psychological orientation to start society with a white sheet. In other words, the legal experts believed that the teachings of Muhammad's Meccan period had the principles and methods to carve things out with justice. It is this mental attitude and psychological orientation that is now seen as having disappeared and must be revived. For this reason, al – Na'im's method is, like that of his teacher Taha, based on the periodization structure of the known messages of the Mecca and Medina periods, which must be reviewed. From this assumption, al – Na'im believes that the Meccan message is, in fact, a timeless and fundamental Islamic message that emphasizes the inherent dignity of all human beings. Without any distinction of gender, ethnicity, race, religious beliefs, etc, Meccan messages are indicated by the emphasis on equality between men and women and full freedom to determine faith in religion. This is the reason why al – Naim makes the Makkiyah verses negate the Madaniyah verses. Abdullah al – Nai'm disagrees if the word "*nasakh*" is interpreted as "erasing," because the deleted texts are useless if the deletion is accepted permanently. In addition, viewing *nasakh* as abolition would allow Muslims to reject religious elements. He, therefore, sees "*nasakh*" as a means of delaying action until the appropriate moment to apply these verses. Al – Na'im said that the Quran is the last text revealed and that Muhammad is the final prophet, which laid the foundation for the delay. As a result, the Holy Prophet was required to preach everything that Allah intended to impart. The lessons must be put into the right method practically ,or they must be used in the right situation later. The next argument is that, for the sake of the dignity and freedom bestowed by Allah on all humankind, Allah intends people to learn through practical experience. Because it could not be applied in Mecca, it was later postponed and replaced with a more practical message from Medina.³³

Based on that, naturally, the An – Na'im concept needs to be criticized. Among other things, the concept of *nasakh* for the classic ulama is the last resort when the verses appear to be contradictory (*ta'arudh*) and cannot be compromised by other means. Therefore, one cannot directly and simply compare the Makkiyyah verses with the Madaniyyah verses. Moreover, Na'im's *nasakh* concept model reverses the *nasakh* process; the verse revealed earlier (Makkiyyah) *nasakhs* the verse revealed later (Madaniyyah); this is certainly difficult to accept. The concept of *nasakh* developed by the ulama is better methodologically; it is more comprehensive and complete. For example, the ulama's interpretation of al – Baqarah verse 106, which explains that "*na'ti bi khairin minha*" is interpreted with the meaning of "we bring something better than that," So the meaning of *nasakh* here cannot be interpreted as a deferral but rather as a cancellation and erasure. The cancellation and erasure are then replaced, and something else is established in its place.³⁴ On the other hand, Na'im's concept of *nasakh* is considered crude, shallow, and premature. This conception can be seen, for example, in the dichotomy between akkiyyah and madaniyyah verses. Makkiyah verses are considered the main verses, while the Madaniyyah verses are additional. This dichotomy between *makkiyyah* and *madaniyyah*, of course, has no basis at all and shows haste or coercion in

³³ Abdullah Ahmed al – Na'im, *Toward an Islamic Reformation: Civil Liberties, Human Rights and International Law*, 58 – 603.

³⁴ Yusuf al – Qaradhawi, *al-Madkhal li Dirasah al-Syari'ah*, (Kairo: Maktabah Wahbah, 2001), 22.

concluding, or simply because of Na'im's shallowness about the science of the Quran. Since the foundations on which Na'im builds his Sharia evolution methodology still contain many scientific irregularities, his methodology is difficult to accept scientifically and would raise many questions if applied at the current time.

Islamic Intellectual Response to al-Na'im's Thought

Islamic scholars responded to Abdullah al-Naim's ideas in both positive and negative ways. Ulil Absar Abdallah, who spoke about Abdullah al-Naim on the YouTube channel "Islam and Democracy," is one of many people who praise him. He said that one of the intellectuals who came to be his favorite was Abdullah al-Naim. Additionally, he stated that Muslims must reinterpret Islam in light of modern ideas. Azzumardi Azra wrote on the cover of one of al-Na'im's books, *Islam and the Secular State: Negotiating the Future of Sharia*, that "that book is, without question, a significant contribution to the discussion and debate on the tug-of-war between Sharia, secularism, and the state." Additionally, Abdullah al-Naim came under fire from several prominent Muslim figures, notably Istiaq Ahmed, who refuted al-Naim's theories regarding *makkiyah* verses. He maintains that there is no evidence to support the claim that all of the verses revealed in Mecca support universalism, freedom of religion and belief, and equality, as was proposed by al-Na'im. Reality shows that, despite the Meccan period of the Quran's emphasis on universal principles like tolerance, which is generally a good principle, Islam cannot be used to defend the activities and beliefs of people who believe in a variety of gods and idolaters.³⁵

Moh. Dahlan also criticized the method presented by al-Na'im. In his book "Abdullah Ahmed al-Na'im dan Epistemologi Hukum Islam," he outlined the shortcomings of the al-Na'im method. Dahlan asserted that Abdullah al-Na'im's method was limited to linguistic texts; in the absence of explicit guidance from the Quran or Sunnah, he could not avoid or seek out Islamic solutions. Reading Islamic law solely from the text will result in an apologist mindset. As a result, this mentality will eventually develop into an ambivalent attitude towards whether to uphold Islamic beliefs or human rights.³⁶

He received an invitation to present "Islam and the Secular State: Negotiating the Future of Sharia" in 2007, specifically at UIN Syarif Hidayatullah Jakarta in Indonesia. He was charged with defamation for failing to act like a Muslim since he consumes beer. Prof. Dr. Amany Burhanuddin Lubis revealed this, he said, "My friend, the event organizer, was upset with al-Na'im's attitude during a banquet at the hotel where he was staying; reportedly, he liked to drink beer." Dr. Hamid Fahmi Zarkasyi, another person who criticized al-Naim, stated that "al-Naim mocks us concerning the state and Islamic law; al-Naim also does not accept the existence of the institution of sharia scholars in Islam. Al-Na'im is a true Kaffah liberal, which is the difficulty we face."³⁷ It is quite reasonable if many assume that the Abdullah Ahmad An-Na'im method is too irrelevant to be used as a contemporary *istinbath* method. It is because there were too many weaknesses in the renewal thought that Abdullah Ahmad An-Na'im carried out from the methodological aspect. One of the weaknesses is that in the textual process, the grouping of Makkiyah

³⁵ Ishtiaq Ahmed, "Konstitusionalisme, HAM, dan Reformasi Islam", dalam Tore Lindholm dan Kari Vogt, (ed.), *Dekonstruksi Syari'ah II: Kritik Konsep, Penjelasan lain, diterjemahkan oleh Farid Wajidi dari Islamic Law Reform and Human Rights Challenges and Rejoinders*, (Yogyakarta: LKiS, 1996), vol. 1, 77.

³⁶ Dahlan, *Abdullah Ahmad An-Na'im Epistemologi Hukum Islam*, 295

³⁷ Muhammad Mahmud Adha, Pola Baru dalam Corak Tafsir Fikih (Telaah atas Pemikiran Tafsir Abdullah Ahmad al-Na'im), *Jurnal Syhadah*, Vol, 2, No.1, April 2014, 66.

and Madaniyah verses does not refer to a specific time and location but rather to their relevance to the demands of modern humans. Al-Naim's idea doesn't consider whether the texts of the Quran and Sunnah in question are *qath'i* or *zhanni*. He only considers the relevance of sharia with contemporary human needs. On the other side, al-Naim does not consider Sharia's contradictory to the *qath'i* argument or not. Furthermore, al-Naim also did not map out which legal verses had been scripted and which had not; he seemed not to have thoroughly studied and examined the concept of *nasakh* itself. This idea is not a new thought but the continuation and adaptation from what his teacher initiated. He just elaborated on his teacher's views, which he then used to build a framework that is considered a modern Ijtihad methodology.

Na'im's opinion is very different from what has been built by classical Islamic Ulama. Al-Naim uses the *naskh* technique only to select the necessary verses of the Quran and limit certain verses and the Sunnah. With this method, al-Naim determines the law according to other verses and the Sunnah. The necessary Quranic verses that Na'im refers to here are those based on the current nation-state conditions, where constitutionalism, human rights, and citizenship are the basis. Meanwhile, the formulation of *naskh*, which was born by Islamic scholars, requires that *naskh* can only be done when it meets the rules or conditions that have been determined. Imam Muhammad Abu Zahrah said that the changed law is not followed by an expression indicating that the law contained in it is permanent. For example, the testimony of a person who is sanctioned for accusing another person of adultery will not be accepted before he repents. This is because the *naskh* that establishes this law is followed by an expression that indicates that the law is valid forever, as Allah has said in Surah al-Nur verse 4. Al-Zarqani also emphasised that *naskh* can only be done if two verses of law contradict each other and cannot be compromised. He then added that *naskh* can only be done when the sequence of the revelation of the verses is known conclusively so that the earlier one is determined as *mansukh* and the later one as *nasikh*.³⁸ Likewise, Abd al-Rahman Ibn Ali Ibn Muhammad Ibn Jauziy also emphasised that the law that is removed must be the law of Shara', not the law of reason or man-made.³⁹ From this, it can be seen that the Islamic Ulama is very careful when doing the *naskh*. In terms of the content of the verse, they say that there are laws contained in the Quran and Sunnah that cannot be removed because they concern basic issues in Islam, such as texts that contain issues of the obligation to believe in Allah, His messenger, His scriptures, and the Last Day, as well as other basics of faith and worship. All verses that contain such laws are completely unchangeable despite changes in human conditions. This unchangeability is something that al-Naim does not pay attention to at all. Instead, he refers to socio-historical conditions as the basis for the change (*naskh*). In this argument, he has sacrificed the principle of human rights.⁴⁰

³⁸ Abdul 'Azim al-Zarqani, *Manahil A-'Irfan fi 'Ulum al-Qur'an*, Vol.2, Mesir: Al-Halabiy, 1908, 209.

³⁹ Ibn Jauziy, *Nawasikh al-Qur'an*, (Bairut: Dar Kutub al-Ilmi, 1405), 24 .

⁴⁰ Gafnel Gafnel, Ismail Ismail, and Yaswirman Yaswirman, "Human Rights and Customary Law Analysis: Uncovering the Exploitation of Children and Women in Developing Countries," *Hakamain: Journal of Sharia and Law Studies* 2, no. 2 (July 5, 2024): 174–85, <https://doi.org/10.57255/hakamain.v2i2.325>.

CONCLUSION

According to the preceding description, Abdullah al – Na'im's sharia deconstruction is an effort to dismantle and rebuild Islamic law in conformity with modern living. The deconstruction starts with the premise that Sharia is out of date and irrelevant to modern advancements. He believes that the is unable to provide solutions to contemporary issues. Therefore, Islamic law, which is based on reality, is the relevant Sharia for the modern setting. Al – Na'im departs from the socio – political reality of law in Sudan, which has influenced al – Na'im in his ideas about the necessity of changing Sharia. He uses the *nasakh* method of Islamic law reform, which was created to offer solutions to the issues brought about by modernity. Al – Na'im dismantled the old legal theory by initiating the reverse text theory to revive verses that were erased by traditional texts. If there is a Quranic verse contrary to human rights, the verse is not then applied, and therefore other applicable verses are explored. Islamic law will adapt to the requirements and advancements of the times in this way.

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