

## **An-Na'im's Nasakh and the Flexibility of Islamic Law**

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### **Abstract**

*This study analyzes the thoughts of Abdullahi Ahmed an Na'im in the reform of Islamic law, Abdullahi Ahmed an-Na'im is one of Sudan's intellectual figures. The purpose of this study is to uncover conceptual textual thinking, an object of study that is placed as part of the study of Islamic law studies in reform. This critical study emphasizes the need for a review of the naskh principle, for an-Na'im, which lies in the necessity to treat the texts of Al-Quran in a relevant manner in order to realize an adequate reform of Islamic law in a modern context. By understanding the texts of the verses in the Al-Quran as a form of delaying their implementation until the right time, he uses the logic or reverse paradigm of the conventional textual principles, namely by re-effective the principles of Islamic teachings contained in the verses of the Mecca phase, which in conventional text theory is stated to have been by later Madaniyyah verses. For him, reversing the naskh process is an evolutionary principle of interpretation. The method used is descriptive, hermeneutic, and phenomenological methods. Practically speaking, his textual thought, which is aimed at making the interpretation of Islamic teachings relevant in the context of the modern world, can be useful in its application for the good and benefit of the ummah in the renewal of Islamic law in the reform of Islamic law.*

**Keywords:** *Renewal; Islamic Law; Abdullahi Ahmed An-Na'im.*

### **Abstrak**

Kajian ini menelaah pemikiran dalam pembaharuan hukum Islam, Abdullahi Ahmed an-Na'im merupakan seorang tokoh intelektual dari Sudan. Arah tujuan dari kajian ini diarahkan untuk mengungkap pemikiran naskh secara konseptual, sebuah objek kajian yang diletakkan bagian dari kajian pembaharuan hukum Islam. Dalam pembahasan ini menjelaskan bahwa perlunya adanya kajian ulang terhadap prinsip-prinsip naskh an-Na'im, bagi yang harus segera diluruskan adalah harus memperlakukan teks-teks al-Quran secara relevan demi mewujudkan sebagai pembaruan hukum dalam Islam yang sesuai dengan perkembangan zama modern. Dengan menafsirkan teks-teks ayat-ayat Al-Qur'an sebagai bentuk penundaan eksekusi sampai waktu yang tepat, ia menggunakan logika atau pola terbalik dibandingkan dengan prinsip tekstual biasa, yaitu dengan menegaskan kembali prinsip-prinsip doktrin Islam yang ditemukan dalam ayat-ayat periode Mekah, yang menurut teori naskah umum dikatakan terkandung dalam ayat-ayat Madaniyyah yang kemudian



beredar. Bagin Abdullahi Ahmed an-Na'im, membalikkan proses naskh adalah prinsip interpretasi evolusioner Metode yang digunakan metode deskriptif, hermeneutika, dan fenomenologi. Secara praktis, bahwa pemikiran naskhnya yang ditujukan untuk merelevansikan penafsiran ajaran Islam dalam konteks dunia modem, dapat berguna penerapannya bagi kebaikan dan kemaslahatan umat dalam pembaharuan hukum Islam dalam reformasi hukum Islam.

**Kata Kunci:** *Pembaharuan; Hukum Islam; Abdullahi Ahmed An-Na'im.*

## INTRODUCTION

As the progress ultramodern developments in the religion of Islam, principles have been adapting to appeals that are not absolute a cornerstone problem both in matters of thought, rules (laws), politics, and so on (Rahman, 2020). The reality today's era of globalization in the thought of handing back to Muslims in determining the policy of legal matters against Muslims among the policies in Islamic law, especially, honesty, and trustworthiness. The first major problem that has been faced by Muslims during the last two centuries is to confront them with better adjustments and changing the perspective of Muslim thinking with attractive policies according to religion and according to Islamic law (Asnawi, 2014). In these matters, from modernism, freedom of expression, human rights, economic progress and others, the main thing is to discuss the desire for law enforcement and rational thought reasons that describe the cultural problems of Muslim. Islamic law can be understood as the rule of God (Allah SWT) as the creator of life in the world. The rules consist of all aspects of life associated to fellow human beings, either with the realm and to Allah SWT (Hamid, 2021).

Developments in Islamic law have progressed rapidly and significantly for example in human rights. Freedom of opinion is something that every individual must have simply because that individual is one of God's creation. Rights as individuals are nothing more than obligations, general, fair, and transferable (Zaini, 2020). As the internationally known humanitarian activist, as an Islamic thinker, namely Abdullahi Ahmed An-Na'im. His thoughts in reforming Islamic law is a reality that is socially improved in society.

Abdullahi Ahmed An-Na'im insisted on maintaining Islamic rule over the proposed legal reforms. Abdullahi Ahmed An-Na'im's ideas were of course not come from a vacuum. Abdullahi Ahmed an Na'im is a successor of a contemporary scholar who is educated as an Islamic activist who has shaped his education in his involvement in social matters (An-Na'im & Suaedy, 2016). Contributions in the Islamic legal thought of Abdullahi Ahmed an-Na'im cover conditions that are not limited to a very wide range, including marriage law, the issue of Islamic apostasy in Africa, the constitution, straf law (criminal), law between nations, human rights to state secularism. From many ideologies itself, the most prominent issues of human rights and state secularism have received many voices from other scientists. Then Human Rights in Abdullahi Ahmed an-Na'im's attention can be tightened to matters of

great concern such as slavery, gender, and freedom of diversity (Opik, 2021). In this study what is used as study material is the work by Abdullahi Ahmed An-Na'im entitled *Deconstruction of Syari'ah* (the ways, rules, and laws created by god are to be enforced by human), *Islam and the Secular State* and other supporting works in the writing.

## DISCUSSION

### **Biography of Abdullahi Ahmed An-Na'im**

Abdullahi Ahmed An-Na'im was born in Sudan on September 9, 1946. Members of the Abdullahi Ahmed An-Na'im family are included in the middle class family environment in terms of social population differentiation (stratification). Seen in the family has a very good educational vision. From that, it is no stranger if Abdullahi Ahmed An-Na'im can continue his education up to S3 (doctoral). Abdullahi Ahmed An-Na'im lived his childhood life and his youth did not depend on his parents for the luxuries of the world, as happens to children in developed and developing countries.

Abdullahi Ahmed An-Na'im when he was a teenager and after returning from England was when Sudan became independent. After his victory, the Sudanese state faced enormous problems in fighting for a just nationalist leadership. A very catastrophic event occurred in the movement of groups that adhered to the concept of Islamic teachings from the Arab nation in connection with the name of the State of Sudan and top officials in the military who were consistent with the principles of secularism of the Sudanese people. This made it difficult for an independent Sudan to stabilize the political regime. This is a problem of conflict between Arab Muslims and non-Muslims in the south. About forty percent of Sudan's population is Arab, however, the Nilotic and Nilo-Cushitic, as well as the Dinka, Nuer, and Shilu residents make up about half of the local population. The northerners despised the southerners from pre-independence political activities and from cooperating with the Egyptian and British states (Mahmudah, 2022).

Abdullahi Ahmed An-Na'im is one of the successors of today's thinkers (contemporary) he is educated and also an Islamic human rights fighter who is carrying out his undergraduate duties by participating in matters of social activity in the community. Abdullahi Ahmed An-Na'im's experience as a campus activist and advocate who took part in social problems in his home country, Sudan, led to the development of his ideology. His great belief is his participation in the Republican Fraternity group which is chaired by his teacher, Mahmoud Muhammad Taha (An-Na'im & Suaedy, 2016). As well as with other followers of Mahmoud Muhammad Taha, the group created an organization related to socio-politics known as "Tahatism".

Abdullahi Ahmed An-Na'im completed his undergraduate studies at the Khartoum University campus, State of Sudan and earned an LL.B title with a very satisfactory predicate. After 3 years in 1973, he earned the title of LL.B and MA at the

same time from the University of Cambridge, England. In 1976 he received a doctorate (Ph.D) in law from the Scottish State University of Edinbrug (A. Taufiq, 2018). Even though he comes from an underdeveloped and worrying country, Abdullahi Ahmed An-Na'im can appear as a successful academic at world-wide level, his development of thought as a highly educated person stems from teaching staff in legal expertise at the Khartoum university campus, State of Sudan (An-Na'im & Suaedy, 2016).

### **Method of Abdullahi Ahmed An-Na'im's Intellection**

Islam is the perfect religion brought by Rasulullah SAW. In the years 610 AD to 632 AD Rasulullah SWA disseminated the contents of Al - Quran and taught the terms and their application correctly so that through discussion it was clarified again which were called hadiths. From that, these two references, namely Al - Quran and hadith, are the foundation of the understanding of legal terms In Islam and the principles of objective origin forms that are used, among Muslims (Murniati, 2017).

From the explanation above, this step can serve as a basis for better progress of Islamic Shari'ah and adjustments at this time and in the future. Shari'at is the goal of life for Muslims, Islamic law can make the laws of Allah SAW and the provisions of Rasulullah SAW, both in the form of prohibition orders and in the form of appeals, covering all social aspects and the continuity of human life (M. Taufiq, 2021). In the current study of Islamic science, the word Islamic law is commonly seen in the law of Allah SWT such as understanding permissible, sunnah, obligatory, haram and makruh as well as regarding religious issues, family law, social approaches, economic practices, criminal cases and politics (Januri, 2013).

Islamic law is a norm or rule that must be carried out by Muslims. This is where Muslim scholars, especially experts in the field of Islamic law and preachers, must be able to generalize the public's view that Islamic teachings, including Islamic law, are of the nature of rahmatan li al-'alamîn, "the theological philosophy is clear", " its rules in managing the relationship between individuals and society are balanced", "prioritizes obligations rather than rights", and "does not rigidly separate criminal and civil sanctions" (Umar et al., 2021).

According to Muhammad Asad in his book that Islamic law is Pure which is called syari'ah (the ways, rules, and laws created by god are to be enforced by human) it has been translated into Indonesian as follows examples "The great jurists of the past arrived at their legal discoveries based on their studies of the Qur'an and Sunnah, and there is no doubt that in the instances of the most important exponents of jurisprudence these studies were profound and conscientious. However, in the course of time, these rulings acquired in the popular mind a kind of sacred validity of their own and came to be considered by many Muslims as an integral part of the shari'ah, qanoon law (laws made by muslim rulers) itself" (Asad, 2005).

According to Abdullahi Ahmed An-Na'im, the sources of Islamic law are Qur'an (holy book of muslim), Sunnah (the main source of islamic law after qur'an), ijma' (the consensus

of the scholars in establishing a law) and qiyas (looking some law that's unclear by equating it with another law that appropriate. In addition, Abdullahi Ahmed An-Na'im also developed the principle of the thinking method of the naskh (law that would abolish the original or existing law) of Mahmoud Mohamed Toha (his teacher), who through his mystical interpretation revived the verses that were erased by the principle of conventional naskh for ijihad (earnest effort) and also Abdullahi Ahmed An-Na'im's critique model. Im to go beyond the offer of the fundamentalist state as well as the offer of a modern Islamic state of modernity. For Abdullahi Ahmed An Na'im, Islamic law in this case is not all Muslims themselves, as it is only a theoretical view of the basic texts that can only be understood in a certain historical context (Affandi et al., 2018). Naskh is the foundation of problems that have great and high complexity in Islamic thought and jurisprudence.

Abdullahi Ahmed An-Na'im presents the foundation of an understanding for an interpretation that can act and is equitable to the essence and meaning of an Islamic law. He developed the *naskh* theory of his teacher and integrated them into universal ideas about the actual analysis of conclusions in Islamic law. The first thing is about justice for the rights of Muslims and non-Muslims, as well as men and women in determining their own destiny. This is the "price of humanity" that is immersed in the group of knowledge theory according to tradition. However, unlike the secular group, Abdullahi Ahmed An-Na'im still adheres to Islamic law for the proposed changes. He believes that in the long term, secular ideology will have little appeal for some Muslims (Arkoun, 2012).

For that purpose, Abdullahi Ahmed An-Na'im justifies the state of shari'at, because shari'at is actually a belief in Islam, according to him, is "the product of process of interpretation of analogical derivation from the text of the Qur'an and Sunna. And other traditions" (Wafiq, 2017). Abdullahi Ahmed an Na'im explained that Shari'at is the same as other regulatory systems, following the journey in the progress of human civilization. He said "The techniques through which Shari'a was derived from the divine sources and the ways in which the fundamental concepts and principles were formulated are clearly the product of the intellectual, social, and political processes of Muslim history" (An-Na'im, 2017)

After Islamic law was no longer recognized as sacred, for further action, Abdullahi Ahmed An-Na'im delivered an update on Islamic law. But Abdullahi Ahmed An-Na'im accepted these reforms were carried out within an existing Islamic legal framework. It was explained that within this framework, his opinion, "ijihad" was rejected by Islamic law which had been discussed in Al-Quran with certainty. Other Islamic regulations that must be renewed are regulations that were nominated, such as hudud and qisas laws, the status of women and non-Islam, faraidh laws and other laws (Zulhamdi, 2019)

Abdullahi Ahmed An-Na'im in expressing his opinion tends to reveal the idea of choice in shari'ah renewal to link conflicts such as shari'ah with the rules of life. The ideas or ideas of Abdullahi Ahmed An-Na'im regarding his way of thinking are as follows:

- a. Islamic Law as a Historical Product

*Naskh* al-Quran dan as-Sunnah sejalan pada kejadian sejarah pada abad ke 7 sampai ke abad 9. Dari perjalanan sejarah itulah para pakar dalam hukum Islam yang telah dicapai menyebutkan al-Quran dan rujukan-rujukan ilmiah lainnya dalam keilmuan untuk memperluas sistem hukum Islam yang mempunyai wawasan luas sebagai pedoman menjalankan bagi umat Islam waktu itu. According to Abdullahi Ahmed an-Na'im's opinion, Islamic law is not scientific in nature, a definition showing that everything related is addressed and detailed rules were directly revealed by Allah to the Prophet Muhammad SAW. Islamic law is a historical journey, namely producing the renewal of the texts of Al-Quran and as-Sunnah in line with historical events in the 7<sup>th</sup> to 9<sup>th</sup> centuries. It is from this historical journey that experts in Islamic law who have attained mention Al-Quran and references other scholars in science to expand the Islamic legal system which has broad insight as a guideline for running for Muslims at that time.

As a result of the historical journey, the series of Islamic laws can be renewed when it is felt that it is no longer possible for the continuation of today's life. That is why Abdullahi Ahmed an-Naim's reason for using the term formulation of history, to establish a statement that is valid to be used as a renewal of certain Islamic law methods so that there are always updates according to the passage of time, is what Abdullahi Ahmed an-Na'im hopes for in the development of Islamic law.

Abdullahi Ahmed an-Na'im's opinion regarding Syari'ah, jurisprudence and regulations in Islam is felt to be difficult to distinguish between laws, because there are similarities between these laws, for example both are the result of historical studies of the origins of Islamic thought, al-Quran and as-Sunnah. In addition, because it refers to terminology that is not universally used by most scholars today (Akbar et al., 2020).

For Abdullahi Ahmed An-Na'im, Islamic law does not include all of Islamic teachings, but is only an explanation of the original text which is known in that historical context, of course. From that, he did not accept the traditional formulations of Islamic law which were spread in the Middle Ages.

b. History of the development of islam law in Medina

Abdullahi Ahmed An-Na'im's argument that the existing study of Islamic law is no longer possible for today's needs, so the study must be updated in accordance with Islamic law in the current context. In fact, seen as complete or perfect, in the study of Islamic law, it was in the position of the Medina era. At the present time Islamic law is getting a more thorough study in science, and at this time there is an explanation in letter al-Maidah [5]: 3 which says that perfection in Islamic teachings, which means: "It is forbidden for you (to eat) carrion, blood , pork, (animal's meat) that is slaughtered in the name of other than Allah, that is choked, that is beaten, that falls, that is gored, and is eaten by wild animals, except those that you have time to slaughter, and (unlawful for you) those that are slaughtered to idols. And (it is also forbidden) to draw fate with

arrows, (to draw fate with arrows) is wickedness. On this day the disbelievers have given up hope of defeating your religion, so do not be afraid of them and fear Me. On this day I have perfected your religion for you, and I have completed My favor on you, and I have pleased Islam to be your religion. So whoever is forced through hunger without knowingly commits a sin, verily Allah is Forgiving, Most Merciful.”

The explanation of the verse above explains that all the texts of the Qur'an, which Muslims believe to be literal and final as the words of Allah SWT, were put together very early in the history of Islam. The verses of the Qur'an are considered very clear and do not need to be debated anymore by all Muslims (Busyra, 2021). What needs to be reviewed, in my opinion, is the application of Al-Quran as the basis for (positive) national law.

According to Abdullahi Ahmed an-Naim, Islamic law which is clear and very careful suggests that it is highly related. This is a clear sign of the closeness of the second dialogue, namely syari'ah and the real reality it faces. The Al-Quran and as-Sunnah as the main foundation of Islamic law form a response from Islam to very clear statements from ancient times, because from that it is also an origin for the study of contemporary Islamic law as an Islamic response to the clear reality of today's modern times.

Efforts to make obligatory references to Al-Quran and as-sunnah become the main reference for the study of Islamic law are currently required so that they can always be skilled in conveying which verses of Al-Quran and as-sunnah are appropriate in the life of Muslims. This is where Abdullahi Ahmed an-Na'im views that Madaniyah Islamic law which originates from the verses revealed in Medina is inappropriate and does not show an answer to the current problems of Muslims. This is because it can be formulated that Islamic law in the Madaniyah era still differentiates between men and women, Muslims and non-Muslims. Because people in today's world tend to understand and appreciate the values of equal rights between status and religion. The Medina context as understood by Abdullahi Ahmed an-Na'im is a social reality in society experienced by the Muhajirîn who interact with the Ansar, where among the Ansar there are people who are believers and who are not believers. The pattern of interaction recommended by the Qur'an at that time was seen as conditional. Abdullahi Ahmed An-Na'im compares this with patterns of interaction between contemporary religious communities which are increasingly plural.

Possible consequences arising from applying historical Islamic law in general include constitutionalism, criminal law, foreign relations, and human rights, as well as other matters regulated by civil law. Abdullahi Ahmed An-Na'im believes that from a legal point of view in general, history will present extraordinary difficulties in circumstances. In addition, residents in Muslim countries will also lose the most meaningful benefits of secularism (Dian & Andriyani, 2017). However, in the Islamic religion, consistency requires conveying the concept of regulations that can anticipate modern Islamic law.

## c. Historical Development of Islamic Law in Makkah

After reviewing the history of Islamic law in Medina it was found to be inadequate, Abdullahi Ahmed An-Na'im invited him to review the Islamic law. Then Abdullahi Ahmed An-Na'im offered the concept of Makkah Islamic law which he considered appropriate to the current needs of the ummah. It is this concept of Islamic law that Abdullahi Ahmed An-Na'im referred to later as the ultimate Islamic law. Abdullahi Ahmed An-Na'im views that the message of the Madaniyah verses is a message from Islam that is eternal and fundamental, which emphasizes the inherent dignity of all human beings, regardless of gender, religious belief, race, etc (Junaedi, 2019). For example, Abdullahi Ahmed An-Na'im argued that Al-Quran during the Madaniyah period always protected all human beings by using the words "o son of Adam", or "o human being". Apart from that, the Makkiyah verse also addresses all mankind with very honorable and authoritative words regardless of race, ethnicity, skin color, religion and gender.

Some information from the Makiyyah verses is as follows (Muslimah, 2021):

- 1) Differences in beliefs and guiding norms, not yet containing legal guidelines and their implications. This is not the same as Madaniyah Islamic law which traces discrimination and intolerance, Makkiyah Islamic law is more equal and tolerant.
- 2) Affirming the characteristics of justice and unity based on self-esteem that is fixed on all human beings.
- 3) Very concerned about the weak. According to Johan Effendi's study, in the letters of Al-Quran delivered in Mecca, or at the beginning of Muhammad's prophet hood (610-615 AD), there was sharp criticism of greed and indifference to society. Islamic law in Makkiyah with such characteristics is what Abdullahi Ahmed An-Na'im is serious about as an option to replace Islamic law from current history.

Abdullahi Ahmed An-Na'im said that: "In order to reach that level of reform, we must be able to set aside clear and definite texts from the Al-Qur'an and Sunnah of Medina as having served their transitional purpose and implement the texts from that stage Mecca that was previously inappropriate for practical application but is now the only way to proceed" (Usman, 2022). This method was later called changes in Islamic law, namely "Modern and evolutionary interpretations of the Qur'an".

In summary, according to Abdullahi Ahmed An-Na'im, changes to Islamic law can be explained as follows (Karmawan, 2021):

- 1) It is an open examination of the contents of Al-Quran and as-Sunnah which gave birth to two levels or stages of Islamic treatise, namely the early Mecca period and the following Medina.
- 2) The message from Makkah is timeless, fundamental and global; was ordering Medina otherwise.



- 3) Shari'at history makes Medinan verses the basis of Islamic law legislation by *naskh* (delaying the implementation) of Meccan verses that cannot yet be applied.
- 4) The current Medina verses can no longer be applied because they are contrary to modern values.
- 5) The verses that were revealed in Mecca must be re-functioned as a basis for new Islamic law legislation by texting the verses of Medina.
- 6) On the basis of the new legislation, a version of Islamic public law is built that is in accordance with modern values, which is nothing but the achievement of today's Western society.

In the opinion of Abdullahi Ahmed An-Na'im this method needs to be carried out because the basic injunctions from Islam are contained in Makkiah verses, not from Madaniyah. As for the practice of enforcing laws and politics stipulated in the Al-Quran and as-Sunnah in the Medina period, said Abdullahi Ahmed An-Na'im, they do not necessarily reflect the injunctions of verses from the Makkiah. And to establish the method of changing the Syari'ah, Abdullahi Ahmed An-Na'im used the Makkiah, Madaniyah and textual designs. Abdullahi Ahmed An-Na'im's approach also still creates problems. Because Abdullahi Ahmed An-Na'im's opinion seems to conceptualize the lack of stability and stability and no continuation of verses in Al-Quran. He said "Certain political and legal norms of Al-Quran and the Sunnah of Medina do not always reflect the exact meaning and implications of the messages revealed in Mecca" (Kustiawan, 2021). This understanding can refute Abdullahi Ahmed An-Na'im's statement that the earlier generation of jurists compiled the script method by eliminating the verses in Makkiah so that the verses in Madaniyah could be applied. The way of the *naskh* is the final clue when the verses can no longer be reconciled with other instructions (Nasution, 2021). So it is no longer possible to recklessly recite verses from Makkiah with Madaniyah verses. Moreover, the design pattern of Abdullahi Ahmed An-Na'im's manuscripts rotates the direction of the series of *naskh*, the verses that were revealed first, the Makkiah verses, the verses that were revealed later, are called Madaniyah verses.

### **Abdullahi Ahmed An-Na'im's Thought Products**

Through from the product of Abdullahi Ahmed An-Na'im's thinking is about the study of family law including:

- a. On the issue of polygamy, Surah An-Nisa' verse 3 states that it requires justice between the wives as a condition of polygamy. Surah An-Nisa' verse 129 emphasizes that the required justice is impossible to achieve (Nasrulloh & Witro, 2021). Therefore, it is explained that the intention of the Qur'an is to abolish polygamy. Thus, all of these texts are considered by modern Islamic intellectuals to support the restriction of polygamy and instead advocate polygamy for an exception.

- b. A Muslim man may marry a Christian or a Jewish woman. Likewise, a man who is a Christian or a Jew may marry a woman who is a Muslim.
- c. Men and women of various Muslims may marry infidels, namely individuals who do not believe in the revealed Bible. There is an assumption that if women are allowed to marry non-Muslims, then these women will be easily influenced to leave Islam, compared to the wife dragging her husband into Islam. The reason is one of the more general social facts, namely the weakness of each individual's trust in the integrity of women and her better policies.
- d. Disputes in religion are not an obstacle for heirs of property and heirs, so that a person who is Muslim can receive inheritance and pass it on to those who are not Muslim.
- e. Men and women are free to choose their own religion and faith. The principle is *ishāmah*, it is not hindered in making decisions without any acts or acts of violence and coercion (Nainggolan, 2021). Claiming and using individual and collective rights to determine one's own destiny, must also recognize and guarantee the same rights for others.
- f. The abolition of slavery as an example of the acceptance of international human rights as a limitation on domestic jurisdiction. The anti-slavery movement is a procedure for recognizing principles that violate universal human rights by the state which is a concern of other countries (Setiyaningsih, 2022).

In his book Sukron Kamil "Thematic Islamic Political Thought" as a modern Islamic thinker we can compare it with Abdullahi Ahmed An-Na'im's opinion on family law and human rights, in articles 24 and 25 of the law that all elements of human rights must be subject to Syari'ah. The position of the state of Saudi Arabia in its memorandum on Human Rights in Islam in 1970 which based its perspective on syari'ah strengthened this basis of thinking because it was considered correct. Because for him the only reference to family law and human rights in Islam is Syari'ah.

According to Sukron Kamil, there are three issues concerning family law and human rights (2013). As follows:

- a. Prohibition of carrying out marriages between Muslim women and non-Muslim men and prohibition of carrying out marriages between Muslim men and women politics (contrary to Article 16 of the UDHR [the Universal Declaration of Human Rights [DUHAM] 1945).
- b. Prohibition of a Muslim individual from changing religions (Contrary to Article 18 of the UDHR).
- c. Prohibition of the establishment of Labor Unions (Contrary to Article 8 of the International Covenant on Economic, Social, and Cultural Rights).

After discussing these two thoughts, it can be concluded that Abdullahi Ahmed An-Na'im's thoughts are very contrary to today's modern concepts which prioritize Islamic law. Islamic law in the concept of Abdullahi Ahmed An-Na'im prioritizes human rights over Islamic law.

With regard to the problem of the relationship between the religion of Islam and a state, Abdullahi Ahmed An-Na'im strictly prevented plans for apostasy (leaving Islam) and plans for dzimmi, because according to Abdullahi Ahmed An-Na'im religion is a way of faith. Plurality is a necessity and a difference is not necessarily an act of injustice being committed (Suliantoro & Runggandini, 2018). Apart from that, regarding criminal or hudud, it is the principle that criminal acts can draw conclusions on monetary compensation as well as the imposition of penalties on the perpetrators. Instead, it is important to determine the nature of the acts in light of the significant differences in the rules of evidence and procedures that can be applied to each type of action. According to Abdullahi Ahmed An-Na'im, it is very important to apply these differences and their application in daily legal practice at the pretrial, judicial and post-trial stages of the act (Assulthoni, 2018).

In criticizing the contradictions that are found in various parts of the country related to their efforts to "Islamize the state", especially in terms of the rights imposed on non-Muslims by the Islamic state they want. Abdullahi Ahmed An-Na'im explained that the various contradictions that existed reflected the existence of fundamental problems faced by Islamic thinkers, the main points of customary teachings and thinkers who were only guided by the literal achievement of the entire shari'ah (Assulthoni, 2017), he said that:

a. *Islam and the Secular State: Negotiating the Future of Syari'ah,*

Abdullahi Ahmed An-Na'im stated that a secularist state that recognizes freedom of religion is compatible and even urgent for Islam. They denounced the idea of removing religion from the public sphere. Finally, what Abdullahi Ahmed An-Na'im fought for was the separation of an organization between Islam and the state, but still strengthening the ties between Islam and politics, through what is called public reason. This method can legitimately convey Islamic principles in general policies, but still comply with the constitutional method that is enforced, and guarantee equal rights for every citizen regardless of religion, race, ethnicity, gender, and political thought.

b. *Proselytization and Communal Self-Determination in Africa,*

Abdullahi Ahmed An-Na'im is the designer, who conveys theoretical considerations for political, regulatory and religious foundations in the phenomenon of changing religions in African countries as a clear manifestation that the closeness between religion and human rights is actually a problem and cannot be avoided in all directions. Parts of the world.

c. *African Constitutionalism and the Contingent Role of Islam,*

Abdullahi Ahmed An-Na'im explained that the constitutional process of a state has not gotten that answer easily. Because Abdullahi Ahmed An-Na'im firmly believes that the difficulties in solving the above problems only occur in the process of habituation and indigenous peoples to the nation state method, which are fundamentally still isolated, along with their journey in the political map and large social

organizations. Abdullahi Ahmed An-Na'im calls on Islamic thinkers to take the constitution into their values and apply it to their society.

### **Abdullah Ahmed An-Na'im's Views on Islamic Legal Thought**

Abdullahi Ahmed An-Na'im stated that Islamic law is Syari'ah for Muslims (An-Nai'im, 2002). So, every Muslim is bound by Islamic law, cannot be imposed by the state. When the state takes over the right to apply Islamic law, which means imposing the views of the number of people who run the country. Since becoming law, Islamic law can go against the will of the majority of Muslims. Therefore, Islamic law must survive in a society that forms a civil society to study and apply Syari'ah. For example, they can form an Islamic bank. But all this must be outside the framework of the state. It is dangerous to let the state claim to be the authority of Islam. In my opinion, Syari'ah is very important in building society.

According to Abdullahi Ahmed An-Na'im, Islamic history proves that Muslims have applied Islamic law. That's nothing new. For 1,500 years, Muslims have applied Islamic law. What's new is that now we have a country. Human rights may not be imposed by the state if society does not respect and implement a human rights issue. Human reality is Islam, not Western thought. This means that human rights must be at the root of the state, respecting diversity, accepting diversity, accepting relationships, respecting gender relations. If you don't live in society, then those values can't be in the country. The necessary conditions are that the state must be consistent with the Constitution, basic rights, equality between men and women, equality between Muslims and non-Muslims. This is what is called civilization. It will not emerge in the state until it is established in society. Therefore, I have the right concept in the house. This means that if we don't teach our children about respect for human rights, human rights values will not live out in the open. Regulate interpersonal relationships where all of these relationships must be based on the value of equality and respect for others. If that happens in society, it will be reflected in the life of the state. So, what can be done by the state as done by society?

Abdullahi Ahmed An-Na'im, explained, as Muslims we must apply Islamic law. But there is a difference between running and deploying. Running is voluntary, while applying means that there is no compulsion which is against the spirit of Islamic law. Because Islamic law respects people's freedom of choice and belief, not coercion. Muslims will not agree with imposing an Islamic legal state. For example, Indonesia is not suitable for implementing Islamic law, because of various backgrounds. Most of these countries have distinctive cultural and economic conditions and have a distinctive history. Different each other. This condition is very relevant for the community in implementing human rights in accordance with the implementation of Syari'ah. Through freedom of choice and not by force.

It can be understood that Abdullahi Ahmed An-Na'im's view is that Islamic law is for Muslims. In upholding human rights justice, the reality is Islamic teachings, not Western thoughts. Different from each other, Because Syari'ah respects freedom of choice and people's beliefs, not on the basis of coercion.

### **Analysis of Abdullahi Ahmed An-Na'im's thoughts on Islamic law**

Cultural diversity in the State of Sudan has a relationship to the diversity of thoughts and the free freedom of thought of Abdullahi Ahmed An-Na'im. In addition, the place where Abdullahi Ahmed An-Na'im studied also had an impact on Abdullahi Ahmed An-Na'im's writing maturity, so that he produced many of his written works and won a number of awards, as well as filling in several presentations in various countries. Abdullahi Ahmed An-Na'im is a contemporary Islamic philosopher who has provided a new discourse on the relationship between Islam and the state. His ideas emerged in the design for liberation and humanity for all peoples in the developing world. Abdullahi Ahmed An-Na'im made changes to Islamic law by criticizing the study of traditional Islamic law which has a dogmatic nature. Abdullahi Ahmed An-Na'im proposed a formulation of Islamic law with open law in today's modern world. Changes in Islamic law are based on general characteristics that begin to operate from text rules which are more assertive than Meccan verses which are more dogmatic and do not discriminate.

Thing Abdullahi Ahmed An-Na'im has done in his modern *naskh* style is an attempt to establish a foundation related to Islamic culture on human rights in general. So that because of all of this, Human Rights in general get a valid statement in Islam and break down matters that have never existed so that they can be welcomed and implemented as a branch of the process of Islamic religious understanding. There are many pros and cons to Abdullahi Ahmed An-Na'im's views. However, at least his contribution to the discourse that always appears in the Islamic world is a difference that is reflected in the intellectual dynamics that are characteristic of contemporary Muslim life.

Apart from all that, what Abdullahi Ahmed An-Na'im did, provided very useful assistance, namely making general Islamic religious understanding an inspiration to respond to the challenges of the current time in the life of Muslims. Many claim that Abdullahi Ahmed An-Na'im was influenced by Western thought patterns, especially in the fields of linguistics (grammatology), anthropology, and psychology. So that the mechanism is considered inappropriate, because it does not refer totally to similar things. In addition, Abdullahi Ahmed An-Na'im is considered not to have mastered the material of various scientific disciplines and is related to the method of updating this statement, the formulation of texts that already exist in the studies of previous scholars.

### **Crisis Note or Idea of Abdullahi Ahmed An-Na'im**

Without reducing the appreciation and appreciation that should be given to Islamic thinkers, namely Abdullahi Ahmed An-Na'im for his efforts that are truly serious in fighting for the enforcement of human rights and seeking syari'ah support in that direction, as well as in offering a model of reform to eliminate or minimize the occurrence of the contradiction between the two, and in building a new syari'ah formulation that is needed by modern society, there are several notes that have not been resolved and need to be discussed

from this study. From a certain perspective, as stated earlier, the idea of Abdullahi Ahmed An-Na'im's reform can provide an ideological and cultural basis for the necessity of upholding human rights, it can also contribute to building a discourse on the awareness of the people about the need to carry out syari'ah reforms to respond to these problems. Contemporary problems, especially in resolving the conflict between syari'ah and human rights (Salikin, 2005).

Critical notes on Abdullahi Ahmed An-Na'im's ideas are as follows:

- a. Abdullahi Ahmed An-Na'im's view that Islamic law is not a revelation from Allah, which distinguishes only historical interpretations of naskh (revelation) in the historical context of certain Muslims, contradicts the mainstream that Muslims believe so far. Muslims generally believe that Islamic law is the word of God (*khithab syari'*, text, *nasakh*), while the interpretation of naskh is called *fiqh*, which may also be referred to as historical interpretation. In this perspective, Abdullahi Ahmed An-Na'im's idea can be seen as not conducive to an effort to maintain and develop formulations of Islamic law towards the enactment of Islamic law.
- b. Regarding the relationship between Islamic law and human rights, Abdullahi Ahmed An-Na'im pointed out that there are a number of Islamic legal rules that are not conducive to human rights. Therefore, before instituting and reforming Islamic law, as stated by Abdullahi Ahmed An-Na'im, it is necessary to clarify. First, what is the concept of human rights and the concept of man himself? An-Na'im in this regard places human rights above all else, including Islamic law, so that when Islamic law is deemed to be at odds with human rights, it must be corrected and equated with human rights. Abdullahi Ahmed An-Na'im's view like this may be because Abdullahi Ahmed An-Na'im has already accepted Human Rights as a form of general rule which is without the slightest flaw.
- c. The method used by Abdullahi Ahmed An-Na'im in developing his ideas is the "Reverse Naskh" method, namely reciting verses recited in Medina with verses revealed in Mecca, not as practiced by *mutaqaddimun* (who understand hadith) scholars who adhere to the opposite pattern, that is *Naskh Makiyah* verses by *madaniyah* verses. In connection with the use of this method, let alone using texts in the sense of *mutaqaddimun* itself, which is understood by the wider community so far, there is still controversy among scholars. Insofar as in situations related to the Qur'an there are contradictions in one verse with another which are still being disputed (*mukhtalaf fih*). In contrast to the Sunnah, contradictions and naskh in the sunnah are agreed upon (*muttafaq'alaih*).
- d. The part that also needs to be criticized is about the categorization of *Makkiyah* and *Madaniyah*. In this matter, there is an inconsistency in the thoughts of Abdullahi Ahmed An-Na'im, as a result of the lack of agreement regarding this categorization. As acknowledged by Abdullahi Ahmed An-Na'im himself, there are differences in that category. As a result, there were *Makkiyah* verses that were revealed during the Mecca period whose substance contained the characteristics of messages that were commonly

sent down in Medina. Vice versa, there are verses that were revealed in the Medina period, but contain the same messages as the contents of the verses from the Makah period in general.

By paying attention to these notes, it can be said that the epistemological framework for the idea of reform in the deconstruction of Islamic law by Abdullahi Ahmed An-Na'im can still be questioned for its accuracy and validity, at least because the idea was built on designs and outlines of opinions that were unstable or unstable, both in terms of the opinions of the manuscripts are still controversial, as well as the descriptions of the Makkiyah and Madaniyah verses which overlap and also cause debate.

## CONCLUSION

Prescriptive in Abdullahi Ahmed An-Na'im's thought uses the text method which offers the concept of removing the validity of madaniyah verses by makkiyah verses. The product of Abdullahi Ahmed An-Na'im's thoughts includes an even sequence, starting from al-Ahwal al-Syakhsiyah (the whole law concerning family matters and Islamic courts), issues of changing religions (change of faith) in African countries, constitutions, criminal law, foreign law, human rights, to secularism country. Human Rights in the view of Abdullahi Ahmed An-Na'im can be directed to the issues at the fore are slaves, gender, and freedom of religion. Abdullahi Ahmed An-Na'im's views on Islamic law, jurisprudence and Islamic law still seem to be very difficult to relate to one another, because one can see that their conditions are one to another, that is, they are equal and form achievements from history with respect to those originating from the fundamental nature of Islam. , Al-Quran and as-Sunnah. Because of that it also refers to terminology that is not universally used by jurists in general.

According to Abdullahi Ahmed An-Na'im the process of thinking in Islamic law must be enforced because the fundamental mandate in Islam is stated in the Makkiyah verse, not Madaniyyah. According to Abdullahi Ahmed An-Na'im, the application of definite rules and politics in the Qur'an and as-Sunnah around the time of their descent in Medina, did not necessarily reflect the orders of the verses revealed in Mecca. And to establish his method of changing the Syari'ah, Abdullahi Ahmed An-Na'im uses Makkiyyah and Madaniyyah ideas and ideas from texts. Looking at the epistemological framework of the idea of reform in the deconstruction of shari'ah Abdullahi Ahmed An-Na'im, there are still problems with its accuracy and validity, at least because the idea is built on ideas and draft opinions that are not or are not yet stable, both in terms of the opinions of the texts which are still conservative, as well as drafts or descriptions of the verses that were revealed in Mecca and Medina which are still being questioned and are still causing debate.

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