

WOMEN'S HERMENEUTIC STUDY AUTHORITATIVE

**(Fiqh Perspective An Overview of the Thoughts of Khaled Abou El Fadl, and
Amina Wadud)**

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Abstract

Islam is a religion that upholds the dignity and dignity of every person without distinguishing gender, both men and women. Inequality of social roles based on gender (gender inequality) is considered as divine creation, everything comes from God. In contrast to the perceptions of feminists who consider inequality solely as a social construction. The imbalance of social roles based on gender is still maintained under the pretext of religious doctrine. Religion is involved in preserving conditions where women do not consider themselves to be equal to men. It is not impossible that behind this theological 'awareness' there is anthropological manipulation aimed at establishing a patriarchal structure, which generally harms women and only benefits certain classes in society. As a result of understanding the texts of the Word of God and the prophets' hadiths that are not precise and are classical in nature, they are unable to answer the dynamics of the times and tend to bring about social inequality. Based on the shift in the paradigm, Khaleed Abou El Fadl and Amina Wadud tried to change the understanding that had strayed far from the Al-Qur'an award for women.

Keyword : Hermeneutic, Women, Fiqh, Khaleed Abou El Fadl, Amina Wadud

Introduction

“As the axis and core of religion, Islamic law is currently facing the trauma of modernity and colonialism. The worst impact is the attitude of arbitrariness in treating special texts. The form is when in every reading process, the reader melts into one with the author. The integrity of the text and the author is ignored. The text does not become relevant, and the reader then claims to be the ruler of the truth. This makes the ethos, epistemology and moral spirit upheld by Islamic law are on the verge of collapse, changing visions of legal positivism and neglecting the sensitivity of primordial human values. (Khaleed M Abou El Fadl, 2004)”.¹

Islam is a religion that is very concerned about the dignity and worth of everyone regardless of gender status, both men and women. However, with the development of the times, the understanding of religious texts becomes multiple interpretations of the glorification of certain genders but will place other considerations. Inequality in the assumption of certain roles in social institutions based on gender status (gender inequality) is considered a form of divine creation, something that comes from God's revelation. In contrast to the feminist point of view, they consider it solely as a form of construction on society (social construction). Inequality and distinctions in social roles based on gender status will still be maintained instead of religious doctrine. Religion is involved in strengthening where women are considered to be not equal to the strata of men. It is not possible if behind the theological "realm of consciousness" as is the case with the form of anthropology which has the aim of placing a patriarchal structure, which benefits men to the detriment of women.

Fiqh continues to be related to the situational and different conditions of society between the present and the past. Not surprisingly, people are starting to be critical of the existence of fiqh which is increasingly irrelevant to the current conditions which are increasingly numerous and complex on the problems faced by

¹ Khaled M. Abou El Fadl, *Atas Nama Tuhan : Dari Fikih Otoriter ke Fikih Otoritatif*, PT. Serambi Ilmu Semesta, Jakarta, 2004

society, therefore a form of understanding and interpretation of fiqh is needed that is able to adapt to the situational times based on cultural settings. social community. In other words, fiqh must continue to be able to evolve and metamorphose into fiqh with a contemporary context by covering every problem faced by society and the dynamics that occur in it.

Fiqh is currently starting to metamorphose. Especially in today's modern era, with the rapid changes in science and technology. Discourses about gender justice, freedom, equal rights, and so on continue to be prevalent worldwide. This matter is closely related to the development of Islamic fiqh. This means that a humanist concept of fiqh is needed and does not tend to be discriminatory. Fiqh which is considered to be unfair is about equal rights between women and men. The Qur'an as the primary source of fiqh seems to place the position and existence of men above women. About the testimony of leadership, as well as inheritance and others. Under these conditions, the existence of women is positioned as subordinate to men. The discourse about women actually talks about what fiqh will be like in the future.

Discussion

Abou El Fadl said in the book *Speaking in God's Name* he responded to the “gender interpretation of a number of religious fatwas to Islam set by legal experts at CRLO” (Khaled M. Abou El Fadl, 2004:312). These fatwas are disturbing many Muslim academics in any area. Experts on CRLO law state that a wife must obey an order from her husband to obey it, it can be applied by a wife to obey her husband.

The same problem in a different context, problems such as inheritance were not found that contained many things related to inheritance (Surah 4:8). Tabari (w.923) recorded three asbabul nuzul, namely from the statement Qatadah had added "their habit is not to give inheritance to women". Then the verse in the Qur'an came down "And for women, there is a right of inheritance over the mother and

father and relatives". This statement was attributed to the companions of ibn Zaid (w.798) "During the jahiliyyah the women were not at all based on the events mentioned above, so Surah 4:8 was revealed.

a thing that is contradictory to the problems as above (inheritance) with an equal position with the degree between men and women, is explained in the letter at-Taubah verse 71, an-Nisa verse 123, Surah Ali Imron verse 195 and an-Nahl 97 "That in essence Islam places women in a balanced position" (Surah al-Baqarah: 182) "hunna libassullakum wa anta libasun lahunna". In the legal system, Islam equates men and women without having to look at the differences that already exist, both physically (Surah An-Nazm: 45), (Surah Ad-Dariyyat: 49), as well as differences in abilities. reason (mind) (Qs. Al-Hujurat: 13) and (Surat al-Isro: 70).

Reinterpretation of the Qur'an which has been considered a patriarchal bias that tends not to benefit women. Meanwhile, automatic reinterpretation of gender-sensitive methods of detention must also be reconstructed. Because when the methodology is gender-biased, the results will also be gender-biased. According to Nasarin Umar, the methodology which means gender bias is the methodology of tahlili or tajzi'i interpretation, which in its freedom tends to be piecemeal or partial. For example, when the commentator understands the verses of the polygamy decision. a method like this (tahlili) seems to make it easier to get a man to practice polygamy on the condition that it must be fair.

One method that is (somewhat) appropriate is the maudlui or thematic (holistic) method, which tries to try verses about polygamy, so the conclusion is that it is very unlikely that someone can do justice in such conditions.

Hermeneutic Understanding of Text

Bleicher (1998) "In essence, hermeneutics is a science that discusses the use of "(interpretation theory)" and its meaning of "interpret and understand"², in

² Josef Bleicher, *Contemporary Hermeneutics*, (London: Routledge and Paul Keangan, 1980), hlm. 1-5. Lihat juga Mudjia Raharjo, *Dasar-dasar Hermeneutika Antara Intensionalisme & Gadamerian*, (Yogyakarta: Ar-Ruzz Media, 1998), hlm. 29

understanding the text. Sumaryono (1999) “Hermeneutics is a science or theory of explanation to explain texts and their characteristics, both objectively (the grammatical meaning of words and their historical variations) and subjectively (the author's intent). Authoritative writings (authoritative texts) or biblical texts are study materials in hermeneutics”³. Hermeneutics as a terminology, hermeneutics is also considered as a way of life for the initiators, more than that other than as an interpretation theory or analytical tool to examine each text.

Sumaryono (1999) “Interpretation activities have an interconnected triangle between the text (text), the interpreter (reader), and the author (author). This activity is similar to the hermeneutical circle. A reader who interprets must know the message or tendency of the text, besides having to absorb the contents of the text so that what was originally "the other" has now become the "I" of the interpreter itself.”⁴

Abu Zaid (1996) “Starting from the assumptions above, it can be said that hermeneutics is a system of rules of interpretation or a theory of interpretation of texts (nazhariyyah ta“wîl an-nushûsh)”⁵. Bleicher (1980) “Hermeneutics can be seen from three different points of view, namely theoretical hermeneutics, philosophical hermeneutics, and critical hermeneutics”.⁶ Saenong (2002) “These three points of view are contemporary paradigms in addressing what is formulated as a "hermeneutical problem", including the problem of interpreting religious texts.”⁷

³ E. Sumaryono, *Hermeneutik: Sebuah Metoda Filsafat*, (Yogyakarta: Kanisius, 1999), hlm. 2324; Richard E. Palmer, *Hermeneutika: Teori Baru Mengenai Interpretasi*, terj. Musnur Hery dan Damanhuri Muhammed, (Yogyakarta: Pustaka Pelajar, Cet. II 2005), hlm. 14; Fakhruddin Faiz, *Hermeneutika Qur’ani: Antara Teks, Konteks dan Kontekstualisasi*, (Yogyakarta: Qalam, cet. II 2002), hlm. 20. Bandingkan juga Fawaizul Umam, “Tafsir Pribumi: Mengelus Etnohermeneutik, Mengarifi Islam Lokal”, dalam *Jurnal Gerbang*, No. 14, Vol. 5, 2003, hlm. 199.

⁴ E. Sumaryono, *Hermeneutik...*, hlm, 31.

⁵ Nashr Hamid Abu Zaid, “Al-hermunitiqa wa mu“dilatu tafsir an-nashsh” dalam bukunya, *Isykaliyyat Isykâliyyât al-Qirâ“ât wa „Âliyât at-Ta“wîl*, (Beirut: al-Markaz ats-Tsaqafi al-„Arabi, 1996), hlm. 07 .

⁶ Josef Bleicher, *Contemporary Hermeneutics*, (London: Routledge and Paul Keangan, 1980), hlm. 1-5.

⁷ Hermeneutika teoretis (*theoretical hermeneutics*) adalah hermeneutika yang mempersoalkan metode apa yang sesuai untuk menafsirkan teks sehingga pembaca (*reader*) terhindar dari kesalahpahaman dalam menyingkap sebuah teks. Hermeneutika filosofis (*philosophical*

The ambiguity of the attitude of the ulama in dealing with God's law is evident in the fatwas they produce in every problem-solving. After the death of the Prophet, Muslims began to debate about who was the most deserving of authority. These debates often involve theological justifications and struggle between groups who feel equally entitled to the title of heir to the Prophet. Each group tries to gain legitimacy from the Muslims as those who are "capable" of facing God's will.

There is a connection between text and action. An action, like action in learning, is meaningful. Understanding it is similar to understanding a text. In each case, we want to find what the author is looking to accomplish. To do so, we take charge, assume and dive into his thinking.

El-Fadl (2014) "*Texts are not passive receptacles of meaning but actively engage, shape and revise their communities of meaning*".⁸

Texts are not passive containers of meaning, but actively involve, shape, and revise their communities of meaning.

In his book, *Hermeneutics and The Human Sciences* (1981: 43) Ricoeur defines hermeneutics as follows, "hermeneutics is a theory about the operation of understanding in relation to the interpretation of texts". Based on this understanding Ricoeur then said, "So, the key idea is the realization of discourse as text; and the elaboration of text categories will be the concern of further studies"⁹. Ricoeur sees the discourse itself as something that is born from individual speech. In this case,

hermeneutics) adalah hermeneutika yang dipopulerkan oleh Hans-Georg Gadamer, yang menyatakan bahwa penafsiran adalah proses sirkulasi, yaitu bahwa kita memahami teks (pengalaman sejarah) dengan sudut pandang dan situasi kekinian (*our historical present*). Menurut Gadamer, pembaca dan teks senantiasa terikat oleh konteks tradisinya. Sudut pandang yang terakhir adalah hermeneutika kritis (*critical hermeneutics*). Hermeneutika ini tidak berbicara langsung tentang wilayah dan kegiatan penafsiran, tetapi merupakan kritik atas hermeneutika teoretis dan filosofis yang mengabaikan persoalan di luar bahasa yang justru sangat mendeterminasi hasil interpretasi. Hermeneutika ini cukup memberikan kontribusi besar bagi diskursus hermeneutika kontemporer. Di sini terletak apa yang disebut "problem hermeneutis". Baca Ilham B. Saenong, *Hermeneutika Pembebasan: Metodologi Tafsir Al-Qur'an menurut Hassan Hanafi*, (Jakarta: Teraju, 2002), hlm. 34-37, 45.

⁸ Khaled M. Abou El-Fadl, *Speaking in God'S Name, Islamic Law, Authority and Women*, Oneworld Publications, London, 2014, h. 255

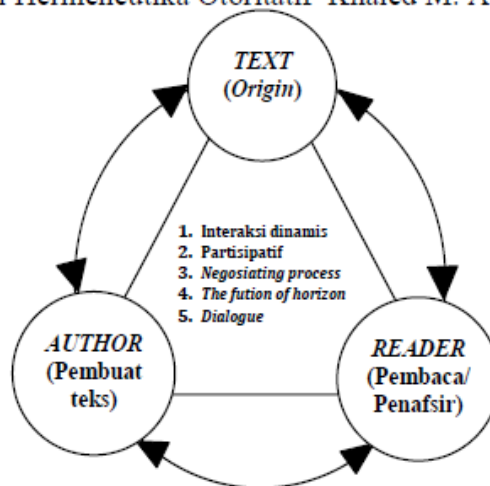
⁹ Ricoeur, *Hermeneutics and The Human Sciences*, 1981, h. 43

Ricoeur's linguistic theory of Ferdinand de Saussure is compared with Hjelmslev's concept.

The approach used by Abou El Fadl in understanding a text is using the "Normative, Hermeneutic, Inter and Multidisciplinary Rational Analytical" approach.

The phenomenon of authoritarianism towards Islamic law is part of a methodological procedural error with the linkage of three elements, namely the Author - Authority Holder (writer), text (text), and reader (reader). The chart shows that an autonomous text is not a problem as long as the reader does not practice authoritarianism. Abou El-Fadl believes that the Al-Quran is a text (great concept) that is open and can be opened by readers constructively. Historically, the presence of a text is inseparable from the existence of its author

Model Hermeneutika Otoritatif Khaled M. Abou El-Fadl.



In addition to carrying out the negotiation process in dismantling legal authoritarian discourse, Abou El-Fadl offers three main points that are the key to opening authoritative discourse in the development of Islamic law. (1) competence (authenticity), (2) determination of meaning, and (3) representation.

The importance of achieving something authoritative, namely with competence (authenticity) in other words considering a text that claims to truly

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represent the voice of God and the Prophet. In the context of the competence of the Qur'an, Abou El-Fadl uses assumptions that are based on a belief, so that it can be understood that the Qur'an is the word of God which is always preserved for its purity and eternal so that human intervention is no longer possible. With regard to the competence of as-Sunnah, he is very concerned about the validity of the hadith. When the validity of a hadith is questioned for its veracity (not valid) then it is expressly that the hadith is not authentic.

Determination of meaning is an act of determining the meaning of a text. there needs to be an interaction between the author - the text authority holder, and the reader in addition to the need for proper negotiation. balance between the three so that there is no authoritarian interpretation in deciding a law.

Representative, human caliphate as a form of God's representation, for the delegation of God's authority to humans often opens space for the emergence of authoritarianism, so there are 5 requirements for an inner reader who feels himself as a representative of God so that he deserves to be the holder of authority.

Meanwhile, the requirements to be categorized as an authority holder include:

First, honesty (honesty). This prerequisite requires two things; there is not always an attitude of pretending to understand what one does not know, and on the other hand there must be a related attitude of understanding in understanding God's commands.

The second, is sincerity (persistence). That is maximizing rational efforts in assessing, reviewing, and analyzing existing orders, especially those that are relevant to certain problems.

Third, comprehensive (comprehensiveness). Considers all relevant orders, strives to continuously find relevant orders, and is not responsible, and finds solutions for certain proofs.

Fourth, is rationality (fairness). Realities and meanings are defined in and by various communities. Therefore, the selection of formulas must be based on an introduction to the community of interpretation and meaning so that certain formulas can be understood by certain communities. Thus, the analysis of God's commandments must be carried out rationally. Closing the scope of the meaning of the text or opening the text without restrictions is a form of arbitrary action and a prerequisite for rationality.

Fifth is self-control. A representative of God must recognize the necessary boundaries and need to make the necessary statements to remind and others of his own foundation. They should refrain from drawing conclusions on a matter if the evidence is insufficient.

Meanwhile, according to the author himself, the phenomenon that occurs in observing the position of an author (authority holder) and the reader itself also greatly determines the results of a text product and understanding of the text itself, in other languages if an author has the paradigm to produce the text by using the same method. From a classical point of view (classical minded paradigm), it is possible that the product text will not be able to answer the dynamics and social developments that are happening in this millennial era and in the future, it is different when the paradigms owned by the authors are always sensitive to social problems and always in their interpretations. If it is open / not old-fashioned (open minded paradigm), it is possible that each text product will be teleological (aimed for the benefit of mankind) in the form of Islamic Sharia Teleological Ethics (Islamic Sharia aims for the benefit of ethical human beings).

Hermeneutic Gender

According to Amina Wadud, the classical interpretation of atomistic identification produces products that limit the roles and rights of women and even more than justify violence. The background of the classical interpretation that produces the product is due to the fact that the main classical commentator is male, thus affecting the interpretation product which focuses on the experience of men

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and safeguards the interests of men, while the experiences and interests of women are ignored. In millennial Islamic studies, although there are many offers of various kinds of hermeneutics that are identical in favor of social justice, there is no hermeneutic method that is identical with justice and gender. So it seems the important of finding a feminist-based Qur'an, which is guided by the ideas of justice and gender and rejects the patriarchal system. Therefore, the method in Qur'anic research is guided by the idea of justice and the provision of feminist gender names.

Amina Wadud admits that there is no definitive limitation on the Qur'an, therefore, the Qur'an must continue to expand.³¹ Interpretation of the Qur'an must continue because of the guidance of the Qur'an. not only lies in the assessment but establishes the only method to achieve a living Islam (the living state of Islam). Past interpretations may seek to obtain such clues. However, when men are considered an exclusive means (by men) to understand God's will, it becomes a blind spot.

Starting from his assumption that traditional interpretation is full of male perspectives, Wadud initiated an interpretation with a female perspective. Various books about Al-Qur'an boils down to her desire to find the identity of Muslim women which she has judged as male bias. This, according to him, can only be done if the perception of this is explained in a supportive sense between men and women.

The most important contribution of Wadud in its relation to the Qur'anic discourse and interpretation is the attempt to link the theoretical and methodological relationship between the Qur'an and its originator (who and how).

Some of the focuses that make his concentration are "what the Qur'an says, how the Qur'an says, what is said about the Qur'an, and who says it". These questions lead to a critique of the traditional data of texts about women in the Qur'an.

Based on this critique, Wadud attempted to convey his thoughts, methodology, framework, and control over the Qur'an. All of this was done by Wadud, as he admits, to theorize gender relations in the light of the egalitarian teachings and ethos of the Qur'an.

For example, in the problem of understanding the concept of Qowwamuna in Surah An-Nisa' verse 34, there are several things that are very necessary for us to understand further, even the concept of "Ar-Rijalu" in the verse in the present condition is very conditional according to the current conditions, This means that Ar-Rijalu's understanding in the current state of millennial dynamics can also be attached to a woman (wife) if indeed in the household the wife is positioned as qawwamuna.

"Men are leaders (qawwam) for women because Allah has favored some of the others, and because they have spent part of their wealth" (An-Nisa: 34). Qawwamun can mean protector, caretaker, or even servant. There is even the same word used in the Qur'an in a different context, namely when Muslims are ordered to be qawwamun (justice). CRLO states that this verse is proof that the husband has the right to rule and discipline his wife.

The view of El Fadl that the verse is a beating verse, the verse does not determine the final outcome of this matter. For one, the word qawwamun lacks clarity, and more importantly, the verse raises the status of caretaker, guard, or protector based on one's abilities as well as the ability to provide a living. Al-Qur'an does not use the word ta'ah (obedient) can be described as a form of relationship in the household. In fact, the relationship is likened to a form of mutual love and affection (mawaddah wa rahmah), not like the relationship between superiors and subordinates.

Zaitunah Subhan explained that what is meant by the word qawwamun in this verse "can be interpreted as a male and can also be interpreted for a female. Because sociologically anyone who is able (both men and women) to try to provide for the family, then he is qawwamun, he is al-rijal "(Zaitunah Subhan, 2002:74) ¹⁰

¹⁰ Kata qawwamun harus dipahami dengan kontekstual-substantif yaitu kepemimpinan rumah tangga disesuaikan dengan konteks sosial tertentu dan bersifat relatif. Zaitunah Subhan, Rekonstruksi Pemahaman Gender Dalam Islam: Agenda Sosio Kultural dan Politik Peran Perempuan, Jakarta: El-Kahfi, 2002. 74.

“The interpretation of the qawwamun verse can be interpreted in various lines of life, including in the family sphere. Families are established because of a very close relationship between husband and wife which is established because of mutual love, affection, and affection, helping each other in kindness and piety. Syahrur understands the leadership verse in QS. An-Nisa '(4): 34 "as a free leadership in the hands of people who have advantages, whether male or female" (Shahrur, 2015:254).¹¹

The Qur'anic discourse does not appear to be major in determining the obedience of one of the partners. However, this role is raised through the hadiths that have been attributed to the prophet.

Quraish Shihab stated that "the leader in the family is much more important than the leadership in the company".

“Family members are always together to feel belonging to each other so that similarities and views can appear and disappear instantly” (Quraish Shihab, 2000: 408).¹²

“The term qawaamah can be reached as a responsibility by capable people from two parties, both men and women or cooperation between the two. In this case, it can also be understood that the Qur'an makes prayer a reason for qawamah and advantages to providing a living. However, strictly speaking, the Qur'an does not define who is superior over whom. It represents a form of qawaamah exchange or cooperation between the two. Thus, qawaamah and the superiority of men over women are not tasyri' because qawaamah is only a description of reality: the time when the Qur'an was revealed.”¹³

¹¹ Muhammad Syahrur, *Metodologi Fiqih Islam Kontemporer*, Terj. Sahiron Syamsuddin & Burhanuddin, Yogyakarta:Kalimedia,2015. hlm. 454.

¹² M. Quraish Shihab, *Tafsir Al-Misbah: Pesan & Keserasian*, Jilid II, Jakarta:Lentera Hati, 2000. hlm. 408.

¹³ Nasr Hamid Abu Zaid, *Dawair al-Khawf Qiraat fi Khitab al-Mar'ah* (Beirut: al- Markaz al-Tsaqafy al-'Araby, cet. II, 2000). hal. 212-213.

In understanding the term qawaamah, it is necessary to pay attention to whether the verse implies qawaamah or describes the reality of the pre-Islamic era? Scholars generally understand that qowwamah is based on God's absolute decision to favor men over women. Therefore, the word qawaamah becomes an indisputable law of God. However, in context, the Qur'an reveals that the word is a description of the prevailing socio-economic differences, which are caused by the laws of social movement that emerged in accordance with the historical context of the revelation of the Qur'an.

More than that, Amina's thoughts are in finding the root of the truth that men and women are equal in Islam. These terms are:

Zaitunah Subhan explained that what is meant by the word qawwamun in this verse "can be interpreted for men and can also be interpreted for women. Because sociologically anyone who is able (both men and women) tries to provide for the family, then he is qawwamun, he is al-rijal "(Zaitunah Subhan, 2002:74)

1. The Principle of Tawhid

According to Amina Wadud in relation to the oneness of God, humans are a single global community without any distinction based on race, class, gender, religious tradition, national origin, and other aspects of differences. In monotheism, the only aspect that sets them apart is taqwa.

2. Asa Caliph

“According to Amina, humans were created by God to inhabit this earth as caliphs (who are God's moral agents on this earth) who fix God into human functions since before they were created. With this function, they are given a trust that will involve two things, namely voluntary obedience to God's

Will and participation in that obedience while they are on earth.” (Amina Wadud : 2006)¹⁴

3. Ethical Principles

“The Qur'an is a source and contains a variety of ethics, and the way of interpreting the theory is sometimes different from one person to another, so Islam will be implemented in different ways. It is because of this relative factor that the meaning of the Qur'an does not only have one face”. (Amina Wadud : 2006)¹⁵

4. The Principle of Taqwa

“Amina called the agency to discuss the development of a person's spirit formed when that person was born into the world. Thus, the word taqwa existed before the revelation of the Qur'an and the meaning of taqwa is more positive than all morals”. (Amina Wadud : 2006)¹⁶

5. The Principle of Justice

“According to Amina, justice is a value that must be made universal and the manifestation of justice is of course relatively in accordance with the place and time and of course something that still needs to be discussed continuously”. (Amina Wadud : 2006)¹⁷

6. Principles of Shari'ah and Fiqh

“In giving the meaning of shari'ah and fiqh. Amina Wadud defines shari'ah as valid laws from the Qur'an and Hadith, while fiqh is a valid understanding of shari'ah from Muslims with different formats according to the theoretical

¹⁴ Amina Wadud, *Inside The Gender Jihad: Women Reform's In Islam*, (England: Oneword Publications, 2006), h, 32

¹⁵ Ibid, h, 38

¹⁶ Ibid, h, 40

¹⁷ Ibid, h, 46

perspective, and methodology that has developed.” (Amina Wadud : 2006)

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“However, these two differences are often overlooked by many Muslims. The use of the term consistently and without distinguishing it as a human science built in a particular context also enhances the relationship and differences between the two”. (Amina Wadud : 2006) ¹⁹

7. The Principle of Power or Power

“Amina said about the term derived from "power" namely "power over" which is a term that appears when there is a moral bankruptcy and greed of a man or a woman and considers them as consumers who are excessive, in this case needing "power over". Whereas "power to" is when a woman wants to work comfortably, good public services, political authority, and better leadership spirit, it is not enough to just have "power to" knowledge, but there must be a reciprocal relationship between the power of women's knowledge and increasing socio-cultural roles. They must contribute to it to become a bona fide human group.” (Amina Wadud : 2006) ²⁰

Proportionality, and Faith-Based Denial.

Abou El Fadl offers the concept of proportionality and faith-based application. Proportionality is that our belief in the above has to do with the legal, social, moral, and theological repercussions it will have. While faith-based is disapproval of certain things that are authentic but have very serious theological, social, legal, and moral implications. Abou El Fadl has an argument against it except in the belief that the Prophet could not have done or said anything that was against Islamic morality. He also said that we should follow the Prophet's decisions

¹⁸ Ibid, h, 49

¹⁹ Ibid, h, 50

²⁰ Ibid, h, 53

as long as they provide information about God's will. That is, not everything started and done by the Prophet contains information about God's will, because something that comes from the Prophet is in the form of af'âl jilbiyah and there is also af'âl tasyri'iyyah. The first is an act that the Prophet did in his human capacity, such an act does not represent God's Will and has no legal consequences. The second category is actions that are God's Will so that they have legal consequences.

“The concept of proportionality for Abou El Fadl is related to the role of the Prophet in the process of composing hadith and the legal impact of a narration. The more convinced we are of the Prophet's role in the process of writing a history, the more knowledge we will have to rely on history when we make legal decisions. Stories that have far-reaching moral, legal, and social implications must be placed in the highest order of an authority. This should be taken into account when considering the application of history in a normative model. The larger, the more rigorous the investigation, the greater the burden that must be fulfilled by a history”. (Abou El Fadl : 2004)²¹

Examples of hadiths about the obedience of a wife to her husband. Abu Huraira has narrated that the Prophet once said: "if I have to order someone to prostrate to someone else, I will order a wife to do it to her husband." Several of the Prophet's companions including Aisha, the wife of the Prophet, shared in narrating a similar hadith. But in some other lines, there are additional expressions, for example in the line about Muadz who had just returned from Yemen and asked the Prophet whether the Muslims prostrated to him. The Prophet answered it as it should be in the above hadith, but there is an addition "a woman is not considered to have fulfilled her obligations to God unless she fulfills her obligations to her

²¹ Abou El Fadl berpendapat bahwa ketika lingkungan social berubah dan berkembang, peran berbagai riwayat tersebut juga berubah dan berkembang. Sebuah riwayat yang mungkin memiliki dampak yang kecil pada suatu zaman akan memiliki dampak yang sangat besar pada zaman lain. Sebuah riwayat yang dipandang dapat dipercaya pada suatu zaman kemungkinan menjadi tidak dapat dipercaya pada zaman lain. Lihat Abou El Fadl, Atas Nama Tuhan h. 463

husband. If he (wife) is asked to serve him while the wife is sitting on the horse, then the wife must obey him."

A hadith with a similar meaning was also narrated by Abu Hurairah, 'if the husband invites his wife to a place, then she refuses, the angels will curse her (wife) until dawn."

These hadiths explain a basic principle that can have an impact on the pattern of marital relations and gender relations. Although the practice of prostration physically against the husband is not permitted, the moral substance of the attitude of prostration is actually enforced on the basis of such hadiths. As a result, a wife has a very large obligation to the man who becomes her husband, solely because of the man's position as her husband. A husband is entitled to services and services from his wife. a wife lives the life of a faithful servant to her husband. These traditions are responsible for the moral status of women in general.

Because these hadiths have normative consequences on a very large scale, so according to Abou El Fadl, he needs a pause of accuracy (thinking about the decisions that need to be taken). If according to the standards of the times and places, or the standards of change and moral development of humanity, the traditions produce wakhdz al-dhamir (disturbing or disturbing consciousness), then the most possible and can be done is in the form of a pause of accuracy. When we understand that the human impulse is limited by situations, social conditions and history, then it will experience change and always develop. As a result, something that might be able to disturb awareness in certain contexts, is not necessarily the case in other contexts.

Biography of Khaleed Abou El Fadl

"Abou El Fadl is an Islamic legal thinker born in Kuwait in 1963. Since childhood, he was educated in Islamic sciences such as the Qur'an, hadith, Arabic, interpretation, and Sufism since elementary school. Since the age of six, he has

studied at the Al-Azhar Madrasa in Egypt, which at that time was undergoing a transition period from moderate to Wahhabi ideology. Until he was a teenager, Abou El Fadl was very keen to spread and defend this notion he was born in Saudi Arabia, but later he changed his assessment of this assessment because it was considered to have curbed freedom of thought and act arbitrarily". (Yusriandi : 2010) ²²

"He earned his B.A. from Yale University in 1985. He then moved to the University of Pennsylvania and earned his J.D. in 1989. He earned a PhD at Princeton University in Islamic studies and simultaneously studied law at the University of California Los Angeles (UCLA) and it was there that he built and developed his academic career until he was awarded a professorship in Islamic law at UCLA by counting the number of courses, such as Islamic law, immigration, human rights, and national and international security law" (Yusriandi : 2010). ²³

"Apart from teaching at several universities and serving invitations and requests as a resource at several seminars and discussion forums, Abou El Fadl also advocates in the field of human rights defense, and immigrant rights, and heads a human rights institution in America. In fact, in 2003-2005 he was appointed by the President of the United States, George W. Bush, as a member of the International Commission on Religious Freedom" (Yusriandi : 2010) ²⁴.

Amin Wadud Biography

"Amina Wadud was born in the United States in 19524 and has the full name Amina Wadud Muhsin, she is an African-American (black)" (Kurzman : 2005) ²⁵

²² Yusriandi, *Hermeneutika Hadis Abou El Fadl* dalam *Hermeneutika Al- Qur'an dan Hadis*, ed. Sahiron Syamsuddin, (Cet.I; Yogyakarta: elSAQ Press, 2010), h. 413.

²³ Ibid

²⁴ Ibid

²⁵ Menurut Charles Kurzman sebagaimana dikutip Ahmad Baidhawi, Amina Wadud adalah keturunan Malaysia. Menurutnya tidak banyak diketahui mengenai latar belakang kehidupannya, latar belakang keluarga, sosial dan pendidikannya secara detail. Lih. Ahmad Baidhawi, *Tafsir*

“American citizen. Amina became a Muslim around the end of 1972” (Amina Wadud : 2006)²⁶. “Although he converted to Islam for only a quarter of a century, thanks to his perseverance in conducting Islamic studies, he is currently a professor of Islamic Studies in the Department of Philosophy and Religion at the University of Virginia Commonwealth. Where previously he completed his studies at the University of Michigan and received an MA (1982) and Ph.D (1988). Apart from English, Amina also speaks several other languages such as Arabic, Turkish, Spanish, French, and German”²⁷. So it is not surprising that she often gets the honor of being a guest lecturer in several countries.

“The study of gender in Islam has been since he graduated from lectures in the field of Islamic Studies which began with research on the theology of the Qur'an on gender” (Amina Wadud : 2006)²⁸.

Closing

The concept of proportionality is also very interesting. In this concept, Abou El Fadl is proportionally connected with the level of acceptance of history with the impact it will have. On the hadiths that he considered and judged to be odd, he was no longer interested in discussing them, but rather had a legal, social, political, and theological impact if accepted, and their legitimacy from a stronger source such as the Qur'an. If it is judged that it can have a big impact while the legitimacy of the Qur'an is not found, then with a belief-based object, he rejects the hadith even though it is authentic according to hadith scholars. One of them is a hadith regarding women's leadership above which is authentic but is rejected because it is considered disproportionate.

Feminis ; Kajian Perempuan dalam al-Qur'an dan Para Mufasir Kontemporer, (Bandung: Nuansa, 2005), hlm. 109.

²⁶ Amina Wadud, *Inside The Gender Jihad...* hlm. 58.

²⁷ www.livingislam.org, diakses pada tanggal 12 Maret 2019

²⁸ Amina Wadud, *Inside The Gender Jihad...*, hlm. 87

The concept of proportionality seems to be the main and first consideration in assessing a hadith. When the meaning of *matan* is considered odd or even contradicts social reasoning and the progress of the times, the qualifications of the *sanad* must be reviewed. The greater the impact, the stricter the qualifications of the *sanad* that must be met in the hadith. If it is disproportionate, the hadith Abou El Fadl argues that it is better, until the relevant space and time conditions are to be re-enacted. It's just that then the problem is, if considerations like this are used as the main benchmark then the traditions that always provide new information will never be carried out as long as they are still assessed or have not been recognized by science. In fact, recently, several hadiths of the Prophet which have been popular and practiced by Muslims are increasingly showing their relevance to modern science.

The Qur'an does not explicitly discuss the position of women in their daily lives, giving rise to multiple interpretations among classical and contemporary commentators. With the differences in the methodology used in this research, feminists think that women have been subordinated to men.

So that the classic accusation of feminism on religion is considered to have discriminated against women because of the way and concept of thought of the commentators. Meanwhile, contemporary feminist commentators tend to accept. However, it should be understood that the Qur'an does not view women as subordinate to men, the Qur'an elevates the status of women in proportion to the position and position of men.

Amina Wadud's position is as a participant as an observer, in which she is an insider, who tries and researches religion on her own about gender academically or as a person.

The concept of gender justice in the Qur'an, according to Amina Wadud, is an attempt to convey the purpose of the Qur'an regarding justice for all Muslims. Not only husbands who work, but wives also face the needs of the family.

The reinterpretation carried out by Amina Wadud is expected to be a way of creating gender-just fiqh. Its basis is that the goal of Islamic teachings is justice between the human species. If justice is not realized, it means that classical fiqh so far has only been ijihad which is full of certain interests in the name of religion.

Gender justice in order to achieve all human safety must be fought for, as Islam is rahmatan lil alamin.

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