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The Indonesian Journal of Interdisciplinary Islamic Studies, published biannually by the Doctoral Program in Islamic Law, Islamic University of Indonesia, serves as a platform for intellectual exchanges and interdisciplinary studies on various aspects of Islam including, but not limited to, theology, law, education, economy and politics and how they are historically and contingently embedded, expressed and articulated in a variety of historical contexts. The journal welcomes contributions from scholars and researchers of various disciplinary backgrounds in the form of original (theoretical or empirical) research articles on various issues related to Islam in both its normative and historical dimensions.

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## EDITORIAL

We are very pleased to present The Indonesian Journal of Interdisciplinary Studies (IJIIS) Volume 2, No. 2, 2019. This issue mainly consists of a good mix of selected papers discussing several interesting topics covering Islamic law, Islamic economy, religious freedom, Islamic education, and inheritance law.

The first article by Muhammad Iqbal Juliansyahzen discusses the authoritative hermeneutics offered by Khaled Abou el-Fadl as an attempt to challenge authoritarianism in Islamic law. The second article by Imam Khoiri then examines the current debate on the epistemological basis of Islamic economy by referring to the ideas proposed by Abbas Mirakhor. Following this, Eva Fadilah turns to the issue of Islam and freedom and religion by specifically examining the progressive and contextualist thinking of Australia-based Muslim scholar Abdullah Saeed. The next article by Khairun Nissa then discusses the humanistic educational thought of Soedjatmoko, one of Indonesian prominent intellectuals and social thinkers. The last article by Azmi Siradjudin then examines practice of the inheritance law among different ethnic groups in Metro city, Lampung. This issue is then concluded by a review of Muhammad Yasir Alimi's book titled "*Mediation of Religion, Post-Truth, and National Resilience: The Sociology of Religion in the Digital Age*".

It is hoped that this publication will encourage further research and discussion on various issues concerning Islam and Muslim societies from various disciplinary backgrounds.

Editor in-Chief

# **KHALED M. ABOU EL-FADL'S AUTHORITATIVE HERMENEUTICS: Against Authoritarianism in Islamic Law**

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## **Abstract**

*Authoritarianism stems from an imbalance between text, author, and reader. The relationship between those three elements must occur dialectically-dynamically. Khaled M. Abou El Fadl scrutinized religious fatwas of fatwa institutions in Saudi Arabia that tend to discriminate against women to prove the existence of authoritarianism in Islamic legal thought. Abou El Fadl stressed the importance of referring to authoritative sources as an embodiment of authoritative law. For him, the Qur'an is the main authoritative source that is no doubt. In contrast, the traditions (Hadith) need further proof, considering the codification of the hadith took place two centuries after the death of the Prophet. Abou El Fadl built his concept of authority based on Friedman's thinking which distinguishes coercive authority from persuasive authority. He also distinguished between holding authority and assuming authority. The difference between the two will lead to different legal consequences. Based on this, Abou El Fadl offered authoritative hermeneutics as a methodological framework.*

**Keywords:** authoritarianism, authoritative, text, author, reader

## **2** *Muhammad Iqbal Juliansyahzen*

### **A. Introduction**

The problem of religious authority has been a serious problem among Muslims for a long time. Each party, individual, group or organization claims that he alone has the authority in understanding and interpreting religious texts, especially the most authoritative sources, the Qur'an and Hadith. Understanding these two authoritative sources certainly requires mature scientific tools so that the results of the interpretation become a representative and authoritative reference. However, the two authoritative sources are inseparable from the issue of authenticity. In the context of the Qur'an, for example, there is a process of revelation, memorization by Prophet's Companions, memorization until collection after the death of the Prophet. It was surely different from Hadith which was compiled two centuries-long after Prophet's death through a long process.

Hadith becomes very vulnerable to problems of authenticity. The considerable interval between the appearance of hadith and its collection or codification allows the fabrication of hadith. Another problem is the memory of the Prophet's Companions and creative selection. Companions who interacted and talked with the Prophet did not all put nor see the Prophet in an objective framework, but they saw with their subjective framework so that their effectiveness affected what they saw and heard, how they saw and heard and how they conveyed the results of that understanding.<sup>1</sup> These problems resulted in the assumption that hadiths are contrary to common sense and logic, even in the assumption that some of the hadiths are misogynistic.

This problem was the background of Khaled M. Abou El in seeing the problem of interpretation in Islamic law in particular and Islam in general. Abou El Fadl offers a new perspective in reading religious texts so as not to get caught up in authoritarianism, namely authoritative hermeneutics. Abou El Fadl tries to explain the relationship between

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<sup>1</sup> Khaled M. Abou El Fadl, *Atas Nama Tuhan: Dari Fikih Otoriter ke Fikih Otoritatif*, Cet. 1 (Serambi, 2004), 130.

*the nash* or text, the author, and the reader. As a foothold in seeing the relational relations between the three elements, Abou El Fadl sees the results of religious fatwas produced by the CRLO (Council for Scientific Research and Legal Opinion) or *al-Lajnah al-Dā'imah li al-Buhūts al-'Ilmiyyah wa al-Iftā'*. CRLO is an official institution in Saudi Arabia which has the authority to issue fatwas. The results of the fatwa were then disseminated to parts of the world that have a majority Muslim population and also to Muslim minority communities in the West. According to the results of Abou El Fadl's study, the fatwas and the results of studies conducted by CRLO were more gender biased.<sup>2</sup>

Abou El Fadl was disappointed with CRLO's fatwas in particular and religious fatwas in general which tended to portray Islam as an exclusive, rigid, radical, patriarchal and intolerant, or, citing the statement of Ulil Abshar Abdala, that authoritarian interpretation would make the image of Islam an ugly Islam.<sup>3</sup> This interpretation occurs because it does not provide space for other interpretations. Furthermore, some state that the results of their interpretation of the results of their *ijtihad* are the most authoritative according to God's will so that they must be followed. Abou El Fadl offers authoritative hermeneutic tools as a form of resistance to authoritarian attitudes in understanding a religious text. Therefore, Abou El Fadl wanted to put a balanced position between text, author and reader.

## **B. Khaled M. Abou El Fadl at Glance**

It is no exaggeration to say that Abou El Fadl is one of the important figures in the development of contemporary Islamic law. Ahmad Syafi'i Ma'arif referred to him as the foremost spokesman of Islam on earth with his various monumental works.<sup>4</sup> Also, he is referred to as an

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2 El Fadl, *Atas Nama Tuhan*.

3 El Fadl.

4 Ihab Habuddin, "Konstruksi Gagasan Feminisme Islam Khaled M. Abou El-Fadl: Relevansinya Dengan Posisi Perempuan Dalam Keluarga," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 5, no. 2 (26 September 2016): 2.

#### 4 **Muhammad Iqbal Juliansyahzen**

enlightened paragon of liberal Islam,<sup>5</sup> which focuses not only on the issue of Islamic law in particular but on humanitarian issues in general both nationally and internationally.

Abou El Fadl was born in Kuwait in 1963 to Egyptian parents Medhat Abou El Fadl and Afaf El Nimr. He grew up in Egypt then moved to America and became a permanent American citizen. Abou El Fadl was known as an intelligent person since his childhood. He even managed to memorize the Qur'an at the age of 12 years. He was once part of a Wahabi group that thrived around him. The strength of Wahhabism in Kuwait made people thought that it was the most correct understanding of Islam and finally made it as Kuwait's formal ideology in solving every problem.<sup>6</sup>

The ideology of Wahabi which he had professed changed since his move to Egypt and studied moderate Islam, *wasathiyyah*. He was actively involved in al-Quran and shari'ah classes in the al-Azhar mosque, especially the class of Syech Muhammad al-Ghazali (d. 1995), a moderate-progressive figure. His father worked as a lawyer so his father said that Abou El Fadl could follow in his footsteps or become an expert in the field of Islamic law.<sup>7</sup> Abou El Fadl then read and studied a lot with the Scholars in Egypt so that he concluded that the Wahabi puritan thought experienced paradigmatic flaws in the construction of its ideology. Another teacher who was very influential in constructing his religious insights was Professor Hossein Modarressi, an authoritative teacher, yet, not authoritarian. At this stage, Abou El Fadl experienced the second stage of his life, which was progressive-inclusive-moderate-minded, having previously been in the puritan-textual-conservative

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5 El Fadl, *Atas Nama Tuhan*.

6 Moh Muhtador, "Pergulatan Otoritas Dan Otoritarianisme Dalam Penafsiran (Pembacaan Hermenuetis Khaled Abou El Fadl)," *QOF* 2, no. 1 (22 Januari 2018): 67, <https://doi.org/10.30762/qof.v2i1.500>.

7 Akrimi Matswah, "Hermeneutika Negosiatif Khaled M. Abou El Fadl Terhadap Hadis Nabi," *ADDIN* 7, no. 2 (14 November 2015): 253, <https://doi.org/10.21043/addin.v7i2.578>.

group.<sup>8</sup> He doubted his previous understanding and began to be open to the universal values of Islam. He was aware of the extraordinary richness of Islam and believed that difference is common in classical Islamic traditions. Surely, this outstanding thought was very different from the ideologies he professed before.

Abou El Fadl then moved to America in 1982 to continue his bachelor studies at Yale University with a focus on law and completed in four years. He then took Master of Law at the University of Pennsylvania. Abou El Fadl was so accomplished that he was appointed as a lawyer in commercial and immigration law at the Arizona District Court. Starting from here, he later gained American citizenship while teaching at the University of Texas at Austin. Abou El Fadl then continued his doctoral studies in Islamic law at the University of Princeton and graduated in 1999. Since then he has also been appointed Professor of Islamic law at the School of Law, University of California Los Angeles (UCLA).<sup>9</sup>

Abou El Fadl is a prolific writer. Among his very monumental works are *Speaking in God's Name: Authority and Women; Rebellion and Violence in Islamic Law; And God Knows the Soldiers: The Authoritative and Authoritarian in Islamic Discourse; The Authoritative and Authoritarian in Islamic Discourse: A Contemporary Case Study; Islam and Change of Democracy; The Place of Tolerance in Islam; Conference of Book: The Search for Beauty in Islam*. Also, there are still many of his writings that are spread outside both in the form of journal articles and ordinary writing.

### **C. The Problem of Authoritarianism in Islamic Law**

The problem of 'truth claim' has occurred since the death of the Prophet Muhammad. While still alive, the Prophet was the most

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8 Muhtador, "Pergulatan Otoritas Dan Otoritarianisme Dalam Penafsiran (Pembacaan Hermenuetis Khaled Abou El Fadl)," 67.

9 Matswah, "Hermeneutika Negosiatif Khaled M. Abou El Fadl Terhadap Hadis Nabi," 253.

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authoritative interpreter of the Qur'an. In the following generations, there was a flurry of interpretation among Muslims internally. Each party claimed that their interpretation is following God's will, in the name of the sacred text for its understanding. This attitude continued to develop in subsequent eras. Religious sacred texts are carried in the realm of the interests of the interpreter and as if the results of the interpretation are the most correct or at least closest to the truth. If that happens then the interpreter of the essence has been trapped in authoritarianism or absolutism, in other words, the interpreter seems to be the "spokesman" of God.

According to Abou El Fadl's in-depth study, the problem of authoritarianism that flourishes in Islamic thought in general, and Islamic law in particular, is a methodological error related to the relationship between text, author and reader. A reader should not restrict the possibility of interpretation of the text. The risk that arises from the closure of interpretation of the text is that the text becomes irrelevant and limited to a particular context. Determination and limitation of meaning of the text as something final will seal the meaning of the text forever. Closing the text according to Abou El Fadl is a form of intellectual arrogance. Readers claim to have knowledge that is in line with God's expectations. He seems to juxtapose his knowledge in line with the author's knowledge, in the context of the sacred text, parallel to God. Even though the Qur'an clearly states that God's knowledge is absolute and its knowledge cannot be compared with anyone. Therefore, a reader or interpreter cannot claim the truth of his interpretation of a text.<sup>10</sup>

From the mentioned problem above, it can be captured that the central point of the problem of authoritarianism lies actually at the point of the reader. In the process of interpretation, there is a tendency that leads to authoritarianism with the emergence of the determination and limitation of the meaning of a text. When there is an interaction

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10 El Fadl, *Atas Nama Tuhan*, 213.

between the reader and the text and a conclusion is drawn, the risk that may occur is the integration of the reader with the text itself, or the determination of the reader will be the exclusive embodiment of the text. As a result, the text and the reader construction will unite so that in the next stage the text will be subject to the reader and in turn the reader will replace the text. If this happens, the reader goes beyond the authority of the text then the danger that might occur is that the reader will become ineffective, untouchable and authoritarian.<sup>11</sup>

The phenomenon of the authoritarian reader is exemplified by Abou El Fadl in the Wahabi puritanism movement in Saudi Arabia. This movement has strong support from the government as a political authority. This movement tends to the orthodox movement which closes the dynamic space of a text. The fundamentalism movement which is the basis of its ideology is often anti-tolerance and anti-pluralism and often makes value judgments on groups that are different as heretical, infidel, *dlalalat* and so on. This kind of *takfiri* ideology<sup>12</sup> also can be seen in many fatwas produced by CRLO.

There are at least two fundamental reasons for a selection of Wahabi's fatwas. *First*, the product of *ijtihad* that they issue symbolizes interpretative authoritarianism. Secondly, the school that they profess is fundamentalism, which is quite dominant in the Muslim world in various parts of the world. The tendency of being a textualist motivates Wahhabi scholars to draw legal conclusions through a shortcut with adagium *ar ruju'ila al-Quran wa as-Sunnah*. The invitation to return to the Qur'an and the Sunnah according to Abou El Fadl is a very difficult thing ignoring the interpretations of the scholars. The attitude to refer directly to the Qur'an and the Sunnah is seen as a legal conclusion desired by God.<sup>13</sup>

The slogan of returning to the Qur'an and the Sunnah is so serious

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11 El Fadl, 206.

12 *Takfiri* means tend to give a label to different group and ideology as infidel/*kafir*.

13 Nasrullah, "Kritik Khaled M. Abou El Fadl terhadap Otoritarianisme Pemikiran Hukum Islam" 2 (2013): 79–80.

for the Wahabi group (starting with the movement of Muhammad bin Abdul Wahab) to develop a literal *salafiyah* view so that it is not limited to discourse but manifested in real action. The consequence is the emergence of a spirit of “cleansing” of all different understandings, especially if the movement is supported by the authorities or even is in power. This movement’s turmoil has large followers to spread the understanding which is then labeled with ‘fundamentalists.’<sup>14</sup>

Starting from this point, the authoritarian interpretation in Islamic law is difficult to avoid. Abou El Fadl’s anxiety over this tendency prompted him to offer authoritative hermeneutics as opposed to the authoritarian attitude of some religious people, groups or organizations in monopolizing interpretation.<sup>15</sup> Besides Abou El Fadl, the hermeneutic approach was also used by other figures such as Nasr Hamid Abu Zayd. Abu Zayd often combined two methods of hermeneutics and semiotics with historical analysis. Abu Zayd reasoned that during this time there was a spirit of hegemony towards texts that they unconsciously acted on as guardians of Islamic intellectual traditions, in which the “text” actually only had epistemological powers and had no hegemonic power and even tucked into ideological intentions that did not originate from the “text” itself, but from human reason. Here, “text” dominates as a civilization (*hadlarah nash*),<sup>16</sup> or what Jabiri calls as *bayani*.<sup>17</sup> Hermeneutics is also intended to free the readers from the power of “text”. Abu Zayd’s approach is in line with Fazlur Rahman’s.<sup>18</sup> The two figures have similarities with Abou El Fadl in the use of hermeneutics tools in studying texts. It is just that the

14 Fahrudin Faiz, *Hermeneutika Al-Qur’an: Tema-tema Kontroversial* (Kalimedia, 2015), 53–54.

15 Nasrullah, “Kritik Khaled M. Abou El Fadl terhadap Otoritarianisme Pemikiran Hukum Islam,” 79–80.

16 Nasr Hamid Abu Zaid, *Tekstualitas Al-Qur’an ; Kritik terhadap Ulumul Qur’an* (LKIS, 2002), 1.

17 Muhammad Abed al Jabiri, *Bunyah al-‘Aql al-‘Arabī: Dirāsah Tahliliyah Naqdiyyah li Nuzhum al-Ma’rifah fī Tsaqāfah al-‘Arabiyyah* (Beirut: Markaz Dirāsāt al-Wahidah al-‘Arabiyyah, 2009), 564.

18 Usman, “Al-Sunnah Dalam Sorotan Kritik Nasr Hamid Abu Zayd Terhadap Al-Syafi’i,” *Jurnal Hermeneia* \Vol-2-No-1-2003, 1 Januari 2003, 121–22, <http://digilib.uin-suka.ac.id/8388/>.

emphasis of the problem is different from Abou El Fadl which focuses more on the reader who has the opportunity to bring the text to the political and authoritarian space.

#### **D. Abou El Fadl's Methodological Offer: Authoritative Hermeneutics**

Stemming from Abou El Fadl's academic anxiety about the authoritarian attitude of the jurists who issued authoritarian fatwas, he offered a hermeneutical reading of a religious text. Hermeneutics for some people is still a taboo in the context of Islamic studies. Instead of using it as a methodological lense, the term is a very avoidable thing, "allergic". Several negative connotations are attached to the term "hermeneutics", among which the most popular is the predicate of relativism, another term which is equivalent to the silting of the faith. Others relate it to the influence of Biblical studies in Christian circles that try to be applied within the scope of Islamic studies.<sup>19</sup>

Fahruddin Faiz said that hermeneutics can also be referred to as a new branch of science in the field of interpretation that not only carries out the process of 'understanding' and also interpreting, but goes further than that by working on the basic assumptions and conditions and the position of humans and their surrounding factors. The basic assumption of hermeneutics is 'plurality of interpretation'. That is, that interpretation or understanding can vary. The plurality of interpretation is a compulsion thing because human life itself is full of diversity.<sup>20</sup> Ibn Khaldun, an Islamic sociologist, through his theory states that *ar-rajul ibn bi'atih* means someone is a child of the age of the environment in which he lives, socially and culturally.<sup>21</sup> Therefore, each human's experience is different, depends on psychological experience, education, culture, social relations and so forth.

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19 El Fadl, *Atas Nama Tuhan*.

20 Faiz, *Hermeneutika Al-Qur'an*, 60.

21 Abid Rohmanu, "Pluralisme, Demokrasi dan Keadilan Sosial dalam Konsepsi Fiqih Humanistik Abou el Fadl," *ISLAMICA: Jurnal Studi Keislaman* 4 (22 Januari 2014): 30, <https://doi.org/10.15642/islamica.2009.4.1.17-34>.

The ‘simple’ reading of going back to the Qur’an and the Sunnah has two fundamental weaknesses, namely, *first*, the claim and apology that truth belongs only to the group when the others are wrong, misguided and infidel. It cannot be denied, such claims also occur both ‘intra-religion’ and ‘inter-religions’. *Secondly*, they are unrealistic when declaring the only way is to return to the Qur’an and the Sunnah as they are. At the time of understanding until applying it, the interpreter will be affected by time and space. On the other hand, the Wahabi group claims that their interpretation is the most correct, while different interpretations are considered wrong even though those who are considered wrong have returned also to the Qur’an and the Sunnah. At this level, Wahabi is not realistic with their theory of going back to the Qur’an and Sunnah.<sup>22</sup>

Responding to this problem, Abou El Fadl tried to formulate the concept of authority that can be used in the tradition of Islamic law. Abou El Fadl explained in advance, -as elaborated above- more about the responsibility of authority in Islamic legal tradition. Abou El Fadl builds on the concept of authority based on Friedman who differentiates the coercive authority from persuasive authority. Coercive authority is an aid to direct others to persuade, invite or take advantage, refute or punish people with a sound mind continuously for their practical purposes that do not give choices except to obey them. On the other hand, persuasive authority requires more normative authority. This last authority tends to motivate faith and behavior based on trust.<sup>23</sup>

Based on the concept of authority above, Abou El Fadl, quoting R.B Friedman, divides authority into two. The first is “being in authority”. A person, group, or organization who is being in authority means occupying a certain or structural position that gives him authority to issue directives, orders or prohibitions. In some cases, the person or group being governed may have different ideas and positions from the

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22 Faiz, *Hermeneutika Al-Qur’an*, 60–61.

23 El Fadl, *Atas Nama Tuhan*, 37.

authorities, but there is no choice other than to obey. In other words, they may disagree with the orders of the authorities but must obey them based on the recognition of the authority inherent in the authorities. The second is “being an authority”. Unlike the first, submissiveness and obedience towards authorities that are “being an authority” are based on a different spirit. Someone will leave their opinions or knowledge then submit to the authority who is considered to have more knowledge, wisdom, and experience. The difference between the two is that submission to the first is based on authority inherent in it, while submission to the latter is based on knowledge, expertise, experience, and wisdom. Abou El Fadl exemplifies the differences between the two like submission to a police officer and submission to a plumber.<sup>24</sup>

Authority is different from persuasion and *taqlid*. Authority is the power that makes other people submit without persuasion, obey authority without a process of inquiry or understanding of the purpose of the order. This is unlike persuasion which requires a process of understanding, investigation and deepening of the purpose of order. Whereas *taqlid* is obedience to a compelling order so that those who obey it cannot sue the ruling party even if the person who is obeyed fails to fulfill their wishes.<sup>25</sup> However, Wael B. Hallaq asserted that *taqlid* functions to transform authority in Islamic schools of thought (*madhahib*). According to him, *taqlid* is understood as a commitment to understanding religious doctrine through schools, developing and also defending his belief in schools adhered to. Also, it is *taqlid* that guarantees the connectedness of the four fiqh schools that we know today. Thus, *taqlid* is an agent in charge of connecting authority from generation to the next generation.<sup>26</sup>

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24 El Fadl, 38.

25 Kadi, “Menjadi Wakil Tuhan (Memahami Pemikiran Khalid M. Abou El Fadl Tentang Konsep Otoritas Penafsir Pesan Tuhan),” *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial* 7, no. 1 (31 Agustus 2013): 7–8, <https://doi.org/10.19105/al-ihkam.v7i1.316>.

26 Muhammad Rofiq, “Otoritas, Keberlanjutan Dan Perubahan Fikih Dalam Pandangan Wael B. Hallaq,” *Jurnal Hukum Novelty* 7, no. 3 (1 Februari 2016): 66, <https://doi.org/10.26555/novelty.v7i3.a3934>.

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The discussion regarding authority for Abou El Fadl is a very important matter, especially in the practice of religion. There are at least three main issues in the discussion of authority and authoritarianism in Islam. *First*, the issue of competence and authenticity. The problem is how to know a command according to God's will. In Islam, the highest authority in charge of all determinations is God.<sup>27</sup> To grasp a religious command according to God's will, it must refer to a text that has competence so that it is considered authoritative (The Qur'an). The use of non-authoritative texts will fall into authoritarianism. To assess an authoritative text in the context of the Qur'an even though some people study its authenticity, Abou El Fadl states that the competence of the Qur'an as an authoritative source is an absolute thing with its basic foundation is faith.<sup>28</sup> The authenticity and purity of the Qur'an will always be maintained until the end of time.

The issue of competence and authenticity for Abou El Fadl lies not in the Qur'an, but the Hadith (prophetic tradition). As mentioned above, the problem is that there were about two centuries of the time from the narrative of the hadith and transmission to the collection and codification. On that basis, the competence of the Hadith is again questioned as an authoritative source after The Qur'an. Abou El Fadl tested its validity through the methodology of classical hadith criticism (*musthalahul hadith*), criticism of transmission (*naqd as-sanad*) and criticism of narrators (*ilm rijal wa ilm jarh wa ta'dil*). Abou El Fadl also distinguishes the role of Muhammad as a human being and Muhammad as a messenger of God. Both have different consequences. As an ordinary human figure, something that comes out of him does not have authoritative legality as a law. This differs from the role of the prophet as a messenger of God, where something that comes out of him can be used as an authoritative source. Abou El Fadl also considers the quality of the *mutawatir* and *ahad* which affects the authoritative

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27 El Fadl, *Atas Nama Tuhan*, 127.

28 Nasrullah, "Kritik Khaled M. Abou El Fadl terhadap Otoritarianisme Pemikiran Hukum Islam," 80.

quality of law.<sup>29</sup> A variety of hadith variations can be found in the major hadith books such as Bukhari, Muslim, Nasa'i, Tirmidhi, Ibn Majah and Abu Dawud. Secondary hadith books can also be found such as Musnad Ahmad, Ibn Hayyan and Ibn Khuzayma. There is also a book of hadith which according to the Shiite group as an authoritative book namely al-Kafi and al-Wasail. The number of hadith books indicates that it might be according to certain groups that certain books are authoritative sources but not necessarily according to others, and so on. All in all, it appears that the process of gathering Hadith goes through a long process fulfilled with fights of the authenticity of the hadith and the subjectivity of the hadith compilers.<sup>30</sup>

Second, regarding the determination of meaning, interpreters claim each other that their interpretation of a text is the interpretation following the meaning desired by God. Ideally, it should be understood that a text has its existence and is autonomous. It should be interpreted as lively and open to a diversity of reading. These open space opportunities for the meaning must be kept to adjust to the reality of the interpreter and the circumstance where it is interpreted. Many texts are “dead” in the hands of interpreters because of the monopoly on the meaning of a text. The relationship between text, author and reader (interpreter) must be balanced. The tendency and domination between one of them result in an authoritarian reading. Therefore, Abou El Fadl emphasizes the existence of a balance between the three entities. In other terms, the three important elements (text, the author, and the reader) must continue to negotiate dialectically, dynamically and interactively to realize authoritative interpretation. Determination of the right meaning will embrace concerning their respective roles, autonomy, and integrity of the text.<sup>31</sup>

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29 Nasrullah, 80–81.

30 Matswah, “Hermeneutika Negosiatif Khaled M. Abou El Fadl Terhadap Hadis Nabi,” 256.

31 Nasrullah, “Kritik Khaled M. Abou El Fadl terhadap Otoritarianisme Pemikiran Hukum Islam,” 81–82; Hujair A. H. Sanaky, “Gagasan Khaled Abou El Fadl Tentang Problem Otoritarianisme Tafsir Agama Pendekatan Hermeneutik Dalam Studi Fatwa-Fatwa Keagamaan,” *Al-Mawarid: Jurnal Hukum Islam* 14, no. 0 (15 Januari 2013): 235, <https://journal.uui>.

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Thus, the meaning is the result of a negotiation and interaction between text, author and reader. The three must not dominate each other in the process of determining the meaning. The interaction of the three elements must be active and dynamic so that the determination of meaning will continue to be open forever. Two extreme points face each other in this negotiation process. The first extreme point states that there is no text with competence and authenticity or there is no meaning obtained from studying the text and there is no provision from God. The consequence is that one will adhere to religion in a subjective, individual and relative way. Even though religion is not the case. The second extreme point, on the contrary, is that every problem and meaning can be solved by the competence of the text. The consequence of this second point is that religion then becomes very rigid and inflexible.<sup>32</sup>

Based on these basic assumptions, Abou El Fadl asserted that the text is open and has the opportunity for new interpretations. The Qur'an and Hadith are two authoritative texts in Islam that provide opportunities to be interpreted according to standards and must accommodate the realities of time and space. Text may be static, but its contents are alive and dynamic, moving according to context. Another issue that is no less important than the determination of meaning is the issue of verification in the process of law decision. This verification is contextual because it relates to "basic assumptions" in diverse interpretive communities. There are at least four basic assumptions that underlie legal decision; (i). Value-based assumptions. This assumption is substantive yet normative. (ii). Methodological-based assumptions that emphasize scientific procedures in determining a law. (iii). Assumptions based on faith, that are more theological following God's character and His purpose. (iv). Reason-based assumptions, that emphasize rationalistic reasoning.<sup>33</sup>

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ac.id/JHI/article/view/2818.

32 Muhtador, "Pergulatan Otoritas Dan Otoritarianisme Dalam Penafsiran (Pembacaan Hermenuetis Khaled Abou El Fadl)," 235.

33 Nasrullah, "Kritik Khaled M. Abou El Fadl terhadap Otoritarianisme Pemikiran

*Third*, related to the concept of human leadership on earth (Islam: human as representation on earth). Sovereignty in Islam is indeed the power of God, but on the other hand, Islam also affirms human leadership as God's messenger on earth. Even so, giving God's mandate to humans provides opportunities for humans to be authoritarian, if not accompanied by certain prerequisites. There are special standards and qualifications for those who are occupied by "God's special representative". Every human being is a caliph (representative) on the face of the earth. However, in the context of determining and taking law, those who want to be caliph in this matter must possess and qualify the requirements needed.<sup>34</sup>

Next, the prerequisites as the basis for interpreting the text and determining the meaning of the text in particular and determining the face of Islam, in general, will be discussed. Authorities should pay attention to the following principles, namely (i) being honest in understanding God's commands. Authorities must be honest by not limiting, hiding and manipulating text messages to lie. (ii) diligence. The authority holder must seriously exert all his abilities in exploring the purpose of the text. (iii) comprehensiveness. The interpreter or authority holder should try to make a comprehensive interpretation effort to understand the purpose of the text and consider all relevant and related text messages. (iv) rationality. The interpreter must try to present interpretation seriously and rationally with the reasoning that is recognized as valid. (v). Self-restraint, based on modesty, and is not driven by passion and emotion and is not tendentious. The interpreter is not arrogant by saying that his interpretation is correct. Humility and soul submission are important points. Authoritarian attitudes are often caused if the interpreters ignore one of the five prerequisites. Authoritarianism occurs when the interpreter or *mujtahid* violates one or several of those five prerequisites. Authoritarianism manifests itself in the act of representing others, an authoritarian act always

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Hukum Islam," 82-83.

34 Nasrullah, 83.

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involves active actions in forming the wrong image of idea and truth or unwillingness to acknowledge the failure to comply with the prerequisites above.<sup>35</sup>

Departing from this authoritative hermeneutic methodology, Abou El Fadl examines and criticizes the legal decision-making process carried out by CRLO in Saudi Arabia affiliated to Wahabis as the official school of the state. Law products with demeaning impression towards female (gender bias) are very disturbing. Moreover, the results of the fatwa are widespread in various parts of the world because of the advancement and easiness of information and technology. Dissemination of the results of the fatwa can construct Muslim legal discourse toward puritan ideology. This is very feared and avoided. As a further matter, the results of the fatwa can be a cause for concern in the context of Muslim communities living as minorities in the West.<sup>36</sup>

### **E. Application of Authoritative Hermeneutics**

The basic problem that concerns Abou El Fadl is the emergence of authoritarianism in the process of a legal decision in law or interpretation of religious texts. The authoritarian attitude of some scholars is very visible from several fatwas and interpretations which seem to monopolize the meaning or purpose of a text. In this case, Abou El Fadl criticized the CRLO methodology that often uses misogynistic prophetic traditions as the basis for establishing a law.

The misogynistic hadith itself means “words, deeds and recognition of the Prophet which contain an understanding of hatred towards women”. The important thing to highlight is that misogynistic traditions are not in the sense that the words, deeds and recognition of the Prophet which “show hatred” towards women. This understanding contains the connotation that the Prophet hates women. Of course, this is contrary to the mission of the prophecy carried by Muhammad. It is

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35 El Fadl, *Atas Nama Tuhan*, 206–7.

36 Nasrullah, “Kritik Khaled M. Abou El Fadl terhadap Otoritarianisme Pemikiran Hukum Islam,” 83.

certainly impossible to happen to the Prophet, and none of the hadiths have an element of hatred towards women except for false traditions (*maudlu'*).<sup>37</sup>

Historically, the emergence of misogynistic understanding was motivated by the concept and understanding which state that women's creation is different from men's creation. This is because the view of the inferiority of women as being "subordinate, inferior, and unfavorable" compared to superior men is rooted in the concept of creation.<sup>38</sup>

According to Nasaruddin Umar, cultures in various places such as a certain relationship between men and women are constructed by mythology. Those myths tend to place women at the second level. The influence of these myths settles in the subconscious of women for a long time, so that women accept the fact that they are subordinated to men and do not deserve to be aligned.<sup>39</sup> Among several prophetic traditions that are used as a basis for CRLO in the context of the position of women and relations with their husbands are traditions about women bowing to her husband.<sup>40</sup>

Anas Ibn Malik narrated that Prophet Muhammad had said:

"no human being is allowed to bow and worship other men. However, if a human being is allowed to bow to his fellow man, I will ask a wife to prostrate to her husband. It was because a husband's right to his wife is greater than any wife can imagine. By Allah, if a wife lick boils all over her husband's body, from toe to tip of hair, it is still not considered as sufficient of fulfilling her obligations to her husband".

Other phrases and words with the identical substance were narrated by Abu Dawud, al-Tirmidzi, Ibn Majah, Ahmad bin Hanbal, al-Nasa'i also Ibn Hibban :

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37 Fudhaili, *Perempuan di lembaran Suci Kritik Atas Hadis-Hadis Sahih / Ahmad Fudhaili*, 119.

38 Fudhaili, 121.

39 Fudhaili, 120.

40 El Fadl, *Atas Nama Tuhan*, 303-7.

“one is not allowed to worship anyone. But if I had to ask someone to bow down to someone else, I would ask a wife to bow down to her husband because of how much husband’s rights to his wife.”

According to the scholars of Hadith, the degree of authenticity of the first hadith is quite diverse, ranging from scholars who regard it as weak traditions (*da'eef*) until scholars who judge it as a good tradition (*Hasan gharib*). All agreed that the hadith was *ahad* (narrated by only one narrator), which had not yet reached the degree of *tawatur* (narrated in many ways by many narrators). It is important to be noted that such traditions carry significant influence over those that provide specific legal guidance. The *hadith* explains the basic principles that might have a relational impact on the construct of relationship patterns between gender relations, especially wife and husband. Abou El Fadl stressed the importance of studying the context and structure in the hadith. According to him, hadith like that should be watched out and suspected. It is very unlikely that the Prophet discussed the problem of Islamic theology in a way that was not systematic and contradicts the moral spirit of Islam itself.<sup>41</sup>

The study of the hadith also needs to look at the structure of patriarchal society which was the background of the birth of Islam. Several critical questions can be raised as a basis for seeing the above hadith such as how far the Prophet forbade his companions to bow to the Prophet, then the authorship process of adding a prostrate part to the husband? Even hill-term boils, and camel’s backs also appear. The reviewers of Islamic studies, especially in analyzing the hadith, must also investigate the chain of transmission and the conditions of the community at the time of transmission. After investigating, it turns out that most of the traditions about prostration to the husband were narrated by Abu Hurairah.<sup>42</sup> Abu Hurairah was seen as someone controversial in the early history of Islam and his credibility was widely

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41 El Fadl, 309–10.

42 El Fadl, 312.

criticized. The sharpest criticism is that he converted to Islam just three years before the Prophet died, but narrated the hadith more than his friends who converted to Islam far earlier than him.<sup>43</sup>

Abou El Fadl's criticism of Abu Hurairah was not intended to bring him down. The criticism was intended to see how far the impact of the traditions narrated theologically, morally and socially. There must be further research and proportional relationships on theological and social impacts with the weight of proof that must be met. Therefore, the approach offered in analyzing religious texts especially hadiths is related to their substance (*matn*), chain of transmission (*isnād*), historical conditions (*Sharf al-riwāyah*) and their moral and social consequences.<sup>44</sup> Thus, if a text in the way of transmission and even the substance is appropriate, but the impact is not good theologically or sociologically then it is worth considering.

### ***Husband's and God's pleasure is the key to heaven***

CRLO in some laws cites the traditions with a methodology that according to Abou El Fadl is problematic. CRLO and the legal experts in it often cite various traditions that come out of the context of obedience and submission to husbands. For example, hadiths narrated by Abu Dawud, al-Tirmidhi, Ibn Majah, Ibn Hibban and al-Hakim claim that Umm Salamah, the Prophet's wife, stated that the Prophet had said: "a dead wife and her husband were happy with her and she would go to heaven." Other traditions that serve as the basis for submission to the husband are the following traditions "Shalat and good deeds of a wife will not be accepted as long as her husband is still angry with her". Another hadith from the history of Abd Allah Ibn Umar claimed that the Prophet had said: "God will not care for a woman who is not grateful to her husband". Another narration claims that the Prophet said "if a wife makes her husband angry, her husband's heavenly wife

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43 Matswah, "Hermeneutika Negosiatif Khaled M. Abou El Fadl Terhadap Hadis Nabi," 267.

44 El Fadl, *Atas Nama Tuhan*, 315-16.

(*hur al'ayn*) will say may God curse you! don't make him (husband) angry! He is just a guest who visits you and will soon leave you and live with us".<sup>45</sup>

The traditions above seem to contradict the description of the Prophet's nature and is opposed to the spirit of the Qur'an about love, affection, and friendship. Legal experts both classical and modern stated that if there is a conflict between several religious sources, then we must reconcile rather than prioritize one source from another source. Also, Abou El Fadl questioned the use of *ahad* traditions (hadith with one-way narration only) which have various versions, which do not have the highest authenticity and tend to contradict the Al-Qur'an. Al-Baizdawi and al-Sarakhi as quoted by M. Shofiyyuddin said that the validity of the hadith *ahad* is no guarantee. It has two tendencies that can be right or wrong, honest or lies so that it requires serious study.<sup>46</sup> Among Sunni schools, there are differences of opinions regarding the use of *ahad* traditions. Some of those use only hadith *mutawatir* while the others also utilize hadith *ahad* as long as it is an explanation (*bayan*) of *mujmal* al-Quran or an explanation of a cryptic al-Quran. Most scholars who hold hadith *ahad* state that it is *zhanni*, not *qath'i*. Most Shafi'iyah scholars do not use it in the realm of worship.<sup>47</sup> In terms of practice, both Imam Sarakhsi and Imam Ghazali tend to agree towards the utilization of hadith *ahad*. The difference is that Imam Sarakhsi requires a reliable narrator, while Imam Ghazali does not because according to him, it is complicated and unrealistic.<sup>48</sup>

CRLO follows opinions that approve the use of hadith *ahad* in matters of law, creed and faith. To a certain extent, this opinion becomes

45 El Fadl, 318–20.

46 Shofiyyuddin, "Epistemologi Hadis: Kajian Tingkat Validitas Hadis Dalam Tradisi Ulama Hanafi," 1, 2 (2016): 8, <https://doi.org/10.21043/riwayah.v2i1.2035>.

47 M. Nasri Hamang, "Kehujahan Hadis Ahad Menurut Mazhab Suni dan Syi'ah" 14, no. 3 (28 Maret 2017): 413; Saifuddin Zuhri, "Predikat Hadis Dari Segi Jumlah Riwayat Dan Sikap Para Ulama Terhadap Hadis Ahad," Mei 2008, <http://publikasiilmiah.ums.ac.id/handle/11617/917>.

48 Jabbar Sabil dan Juliana Juliana, "Hadist Ahad Sebagai Sumber Hukum Islam (Pemikiran Imam al-Sarakhsi Dan Imam al-Ghazali, Pendekatan Epistemologi)," *Media Syari'ah* 19, no. 2 (24 Oktober 2017): 2017.

a justification for their groups, namely concerning women's issues. Based on discussions of classical Islamic jurists, Abou El Fadl wants to limit the use of hadith *ahad*. This conclusion rose because *ahad* traditions will not lead to a definite understanding of the words of the Prophet. These traditions are not referred to as *mutawatir* traditions. Hadith *ahad*, according to the majority of Islamic jurists, is only used in problems of a branch nature (*furu'*), not on fundamental issues (*ushul*). Hadith *mutawatir* gives greater certainty to the authorship of the Prophet and therefore can be used as a basis for determining the law.<sup>49</sup>

Through the discussion above, Abou El Fadl wants to invite Muslims to choose references that have been agreed on by their authority. Abou El Fadl avoids traditions that are judged *ahad* because of their potential, both positive and negative. Taking sources that are not authoritative will have an impact on the birth of authoritarian law. The emergence of authoritarianism - as has been described above - is based on the imbalance between the three elements (text, author, and the reader). When one of them is dominant, authoritarianism will arise.

### ***The narration of Women's Status***

Status of women in Islam is not distinguished from that of men. Allah asserted that the difference between men and women is only in piety (*taqwa*). It is also mentioned in a narration that God does not look at human life, not the possessions he has, but God looks at the heart and good deeds. The position between men and women with Allah is the same, both of which have the same opportunity to do good deeds. However, not so long as this spirit is well understood by Muslims. Some Muslims refer to sources that appear to contradict the spirit of Islam itself.

Furthermore, Abou El Fadl gave an example when CRLO jurists

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<sup>49</sup> El Fadl, *Atas Nama Tuhan*, 318-23.

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were asked for fatwa related to the legal consequence of a woman passing in front of a man who was praying without a separating barrier. The answer to that problem is that the prayer is invalid and must be repeated. To support the answer, CRLO quoted the narration from Abu Hurairah “the passing of a woman, donkey, and black dog in front of a man who is praying will cancel his prayer.” In another fatwa, Ibn Baz stressed that wives who are seen as unlucky bearers are allowed to be divorced. Ibn Baz quoted the basis of the hadith “if bad luck does exist, it can come from the house, woman or horse”.<sup>50</sup>

The above hadiths do not need to be commented on because they associate women with animals. In another version, the command on veil or mixing and intermingling between men women links women to the devil. Based on several narrations, CRLO used social construction or typology of ‘women that can cause damage’ to enable CRLO to make the stipulation that women must be excluded from public spaces and activities related to it such as driving a car. Even CRLO affirmed a narration that stated that most of the inhabitants of hell are women. According to CRLO, women cannot control their emotions as men guard them, they cannot work outside the home, become leaders and are not even allowed to go to the mosque unless it is closest to their residence.<sup>51</sup>

Some of the narrations quoted by CRLO were opposed in the early days of Islam. In particular, ‘Aisha herself disagreed and was offended by several hadiths narrated by Abu Hurairah. The classical jurists such as Taqī al-Din al-Subkī emphasized that the use of the above traditions in putting women’s positions is inappropriate and improper. Ibn ‘Arabi interpreted those hadiths with social reality that occurred during Arab Jahiliyyah. The purpose of the hadiths is that the Prophet wanted to say that the Arabs used to connect disasters with houses, women, and animals. They believed that women, houses and animals are a curse.

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50 El Fadl, 377.

51 El Fadl, 329.

According to Ibn 'Arabi, the purpose of the above hadiths is that the Prophet advised the Muslims not to behave in that way.<sup>52</sup>

The attitude, underlying the decision with wrong hadiths, will cause the problem of authoritarianism. Abou El Fadl has repeatedly affirmed the competence of a hadith as an authoritative reference. The authority of hadiths must be studied thoroughly starting from tracking and reviewing their validity in real-time, the way of transmission (*naqd sanad*) whether *mutawatir* or *ahad*, the authenticity of the hadith, and analyzing the substantive content in *matan* of hadith. Also, it is important as a jurist to see the responsibilities and roles played by the Prophet in his authorship process. This can be done by looking at the historical context surrounding the emergence of a hadith. Another important aspect in the process of stemming authoritarianism like CRLO decision above is to look at the impact from the competence of a hadith whether sociologically, theologically, or legally.<sup>53</sup>

## **F. Conclusion**

Authoritarianism in Islamic law is a common phenomenon. Abou El Fadl examined CRLO religious fatwas in Saudi Arabia as a foothold on the reality of authoritarianism that develops in Islamic legal thought. CRLO was taken as an example for expressing authoritarianism due to several things, namely that the product of their *ijtihad* symbolized a form of interpretative authoritarianism. Also, the school they embrace, Wahabism (one of the fundamentalist schools), is a school that is quite dominant in the Muslim world in various parts of the world. The results of their fatwas that tend to be biased and discriminatory against women are real and difficult to avoid.

Thus, Abou El Fadl offered a methodological framework, namely authoritative hermeneutics. This method seeks to negotiate between

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52 El Fadl, 329.

53 Matswah, "Hermeneutika Negosiatif Khaled M. Abou El Fadl Terhadap Hadis Nabi," 260-61.

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text, author and reader. The three must not dominate each other in the process of determining authoritative meaning. The interaction of the three elements must be active and dynamic so that the interpretation of meaning will continue to be open forever. An imbalance in one of them will result in an authoritarian legal conclusion rather than an authoritative one. The text must be open and provide opportunities for new interpretations, as well as a reader. On the other hand, the reader must be honest and objective in viewing a text because it is the reader who ultimately determines the meaning of a text. If the three elements are negotiated dynamically and objectively then the meaning produced will not be trapped in authoritarianism.

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