



Deliberative Hermeneutics as a Critique of Khaled Abou al-Fadl's Hermeneutics; Case Studies on Gender Issues

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Abstract: *This article seeks to criticize Khaled Abou el Fadl's negotiating hermeneutics. Abou el Fadl's hermeneutics implicitly follows the Gadamerian, which sees texts subjectively, because of which all resulting interpretations are not final but relative. Thus, Khaled Abou el Fadl's hermeneutics cannot be categorized as an emancipatory critical science. When compared and analyzed using Jurgen Habermas's discourse theory, Abou El-Fadl's hermeneutics has remained within the theoretical discourse model. The legal investigation process is performed by legal experts in monologue and not open dialogue with other interpretation communities. With this, legal decisions are made by a single subject and not Communicated with mutual understanding with the subjects other. Likewise, Abou El-Fadl states that the highest morality in determining law is discourse morality, not merely truth or precision. Using deliberative hermeneutics, the conclusion drawn from this article is that Abou el Fadl's ideas on gender issues with their negotiating hermeneutics have not been able to create an inclusive, egalitarian, and domination-free discourse in realizing a legal decision. This research is a type of qualitative research library (library research). The method used in this research is descriptive-analytical-critical. Descriptive is used to describe Khaled's understanding. Analytics is used to analyze the understanding of Khaled. Moreover, it is critical to criticize what has been described previously.*

Keywords: deliberative hermeneutics; jurgen habermas; negotiating hermeneutics; Khaled M. Abou el-Fadl

INTRODUCTION

Discussions about gender in Islam are always associated with the Qur'an. This is understandable considering that apart from the fact that the Qur'an is the first and foremost reference in Islam, the Qur'an also often discusses the topic of women (Mujahid, 2021). For example, and which includes the most frequently discussed from time to time is the issue of the position, rights, and responsibilities of women, especially in domestic relations. To date, domestic violence in the Islamic community stems from their understanding of the letter

an- Nisa' verse 34. They use this verse as a justification (legitimacy) for the husband to commit violence against his wife. Such an understanding or interpretation of Surat an- Nisa needs to be reviewed and reinterpreted (reinterpretation).

Married life should be the responsibility of both parties, husband, and wife. From here, there should be no more domination between husband and wife. However, now, few husbands feel they are above their wives and have the right to take any action, even domestic violence. The polemic of understanding that culminated in practice departed

from a less comprehensive and philosophical (profound) interpretation of the word *Qiwamah* in the Qur'an Surah an - Nisa 'verse 34, Allah SWT. said.

الرجال قوامون على النساء بما فضل الله بعضهم على
بعض وبما أنفقوا من أموالهم

Men are leaders for women because Allah has favored some of them (men) over others (women) and because they have spent part of their wealth. (An- Nisaa': 34)

Khaled M. Abou el-Fadl came to respond to that and tried to bring a new meaning with his negotiable hermeneutics. For Khaled, the word *Qawwamun* in verse indicates that the relationship between husband and wife depends on human actions. In this case, it is by the nominal property spent and depended on God's actions, namely the advantages God bestows on one person over another. Therefore, according to Khaled, why is the leading authority in Surah an - Nisa 'verse' 34 given to the man or husband? The answer is not because the husband is male but because at that time, when this verse was revealed (*asbab an - nuzul*), the conditions and situations of men who provide a living for women. Thus, when women also accept the same responsibilities as men, the controlling authority over the family must be relatively shared (Ihab Habudin, 2012.). That is a brief description of the basic construction of Khaled M. Abou al - Fadl's thoughts; the full details will be explained later.

Abou El-Fadl's hermeneutics has remained within the theoretical discourse model when compared and analyzed using Habermas's discourse theory. The legal investigation process is

performed by legal experts in monologue and not open dialogue with other interpretation communities. With this, legal decisions are made by a single subject and not Communicated with mutual understanding with the subjects other. Abou El Fadl has put forward several requirements in determining the law, such as the existence of five ethical bases and four basic assumptions of interpretation, which a lawyer must meet. Nevertheless, all of that is solely meant for the expert's law can produce legal decisions that are considered correct (truth) that is positivistic. Likewise, Abou El-Fadl states that the highest morality in determining law is discourse morality, not merely truth or precision.

This article seeks to criticize Khaled Abou el Fadl's negotiating hermeneutics. Abou el Fadl's hermeneutics implicitly follows the Gadamerian school, which sees texts subjectively, because of which all resulting interpretations are not final but relative. Thus, Khaled Abou el Fadl's hermeneutics cannot be categorized as an emancipatory critical science. Using deliberative hermeneutics, the conclusion drawn from this article is that Abou el Fadl's ideas on gender issues with their negotiating hermeneutics have not been able to create an inclusive, egalitarian, and domination-free discourse in realizing a legal decision. This research is a type of qualitative research library (library research). The method used in this research is descriptive-analytical-critical. Descriptive is used to describe Khaled's understanding. Analytics is used to analyze the understanding of Khaled. Moreover, it is critical to

criticize what has been described previously.

RESEARCH METHODS

This research is a type of qualitative research library (library research). The method used in this research is descriptive-analytical-critical. Descriptive is used to describe Khaled's understanding. Analytics is used to analyze the understanding of Khaled. Moreover, it is critical to criticize what has been described previously. The primary data the author presents and analyzes in this study are misogynistic hadiths discussed by Khaled in his book *Speaking in God's Name, Islamic law, authority, and women*. This research will begin by explaining the concept of Abou el Fadl's hermeneutics. After that, it will be seen how Abou el Fadl's opinion regarding gender issues through his hermeneutical theory. As the focus of research, this article will only discuss Abou el Fadl's opinion regarding the understanding of the meaning of *Qiwamah* in *an-Nisa* verse 34. Then as a refutation and criticism of Abou el Fadl's hermeneutics, this research will use Jurgen Habermas's *Deliberative Hermeneutics*. In addition, related articles related to this research topic will also be used.

RESEARCH RESULTS and DISCUSSION

Khaled Medhat Abou el-Fadl (from now on referred to as Khaled) is one of the contemporary Islamic thinkers who offers a model of reading religious texts which he considers authoritative. Researchers widely refer to the reading model as traditional hermeneutics, a form of negotiating hermeneutics where meaning results from complex

interactions between the author, the text, and the reader where meaning is debated, dialogued, and continues to change. This device has hermeneutic characteristics that are different from the double movement hermeneutics, moral ideals, and legal specifics belonging to Fazlur Rahman; or Nasr Hamid Abu Zaid with his productive hermeneutical reading (*al-Qirā'ah al-Muntijah*), which is distinguished from repetitive reading (*Qirā'ah Mukarrirah*); or Muhammad Sahrur with his contemporary hermeneutical reading (*Qira'ah Mu'ashirah*) which is based on the dialectic of *kaynūnah* (being), *sairurah* (process) and *shairurah* (becoming) or Abdullah Saeed on the ethical-legal text which is based on fundamental assumptions that the language of the Qur'an is ethical - theological and introduces a progressive *Ijtihadi* approach (Abdullah Saeed, 2006).

Khaled's hermeneutic model is more lenient in reading religious texts. In some views, he highly appreciates the *fiqh* tradition in Islam which upholds differences (*ikhtilāf*), and on the other hand, he uses Western theories, which are internalized quite critically. Furthermore, Khaled's reading model effectively responds to fatwas from Islamic legal institutions, especially from the Wahhabi group, which is considered authoritarian. Therefore, Khaled offers an operational tool for interpreting the text or interpreting it, especially in producing a law.

Khaled M. Abou el-Fadl was born in Kuwait in 1963. He completed his primary and secondary education in the country of his birth, Kuwait. He then continued his education in Egypt. As is the tradition of the Arabs who adhere to

the rote tradition, little Abou El Fadl has memorized the Qur'an since 12. His father, who works as a lawyer, wanted Abou El Fadl to become a master of Islamic law. His father often tested him with questions about legal matters. Every summer vacation, Abou El Fadl also takes the time to attend classes on the Qur'an and Islamic sciences at the Al-Azhar Mosque in Cairo, especially the class led by Shaykh Muhammad al-Ghazâlî (d. 1995), a prominent thinker. Moderate Islam from the ranks of the revivalists he admires (Nasrullah, 2008).

In 1982, Abou El Fadl left Egypt for America and continued his studies at Yale University by studying law for four years. He was declared to have passed his bachelor studies with cum laude predicate. In 1989, he completed his Master of Law studies at the University of Pennsylvania. For his achievements, he was accepted to serve in the Supreme Court (Supreme Court Justice) of the Arizona area as a lawyer in commercial law and immigration law. It was from here that Abou El Fadl got American citizenship and became trusted as a teaching staff at the University of Texas at Austin. Abou El-Fadl then continued his doctoral studies at the University of Princeton. In 1999, Abou El Fadl received his Ph. D in Islamic law. Since then, until now, he has been trusted to serve as a professor of Islamic law at the School of Law, University of California Los Angeles (UCLA) (Nasrullah, 2008).

Abou El Fadl is a prolific writer. Among his works that have been published in book form are:

1. Speaking in God's Name: Islamic Law, Authority and Woman
2. Rebellion and Violence in Islamic Law

3. And God Knows the Soldiers: The Authoritative and Authoritarian in Islamic Discourses
4. The Authoritative and Authoritarian in Islamic Discourses: A Contemporary Case study
5. Islam and the Challenge of Democracy
6. The Place of Tolerance in Islam
7. Conference of Books: The Search for Beauty in Islam

In addition to writing books, Abou El -Fadl also writes many scientific works, both in the form of articles and journals. During his busy schedule as a professor, Abou El Fadl is frequently invited to attend seminars, symposia, workshops, and talk shows on television and radio, such as CNN, NBC, PBS, NPR, and VOA. Recently he has commented a lot on authority, terrorism, tolerance, and Islamic law. He has also served as director of Human Rights Watch and a member of the Commission on Religious Freedom, United States (Nuhaa, 2015).

According to Khaled's analysis, the hermeneutic device is a solution to facing the phenomenon of authoritarianism in Islamic thought in the research on the discourse of Islamic law. Moreover, this is a methodological procedure related to relations between third elements, author, text, and reader. In reading Amin Abdullah's approach, Khaled used to position how the actual connection between text (*text*) or nash, writer or author (*author*), and reader (*reader*) (Amin Abdullah, 2006), for that Khaled made a new conception related to the text (Qur'an and Sunnah), author, and reader.

According to Khaled, though different in the hierarchy, the Qur'an and Sunnah must be treated the same. In

Thing, this, for him borrow Umberto Eco's terms both are continuous work change. In meaning open for various interpretations. Such an assumption will make the text speak with sound updated by each generation of readers (readers) because the meaning is not permanent and growing by being active. So, a text will be permanently relevant and occupy a central position because of its openness. Readers will always return referring to the text because the text could produce new understandings and interpretations (Khaled M. Abou El-Fadl, 2004).

According to Khaled, the Qur'an and Sunnah are character free, open, and autonomous. Almost the same idea ever delivered by Farid Esack, understanding the Koran as a "revelation" progressive" (Farid Essack, 2000) So, from that, to avoid an authoritarian attitude is permanently aware that the text (al-Quran) is "a work that continues to "change" or "progressive revelation." So that all forms of interpretation and understanding will remain active, dynamic, and progressive.

In Khaled's analysis, this is allowed morally. According to him, if the texts of the Qur'an and Sunnah are interpreted to have a stable meaning, fixed and unchanged, then the text becomes closed and seals the meaning with the reader's interpretation. Morally Thing this is not allowed because it is from arrogance. Because a reader claims to have something identical knowledge with knowing God. Thereby, as if he speaks an interpretation identical to the text's actual meaning. For this, Khaled will cause to lose the autonomy of the text, and this theological problem because of the opposite of the absolute

knowledge of God. Al-Qur'an, in an assertive state, absolute God and His knowledge which does not can be aligned with the knowledge of anybody (Khaled M. Abou El-Fadl, 2004).

Although Khaled considers the Qur'an a free, open, and autonomous text, however, that is how Khaled feels the need to limit authoritarian readers with five conditions. The precondition is that this must be fulfilled or implemented. Because if more is needed, the reader, especially the special representatives or mujtahids, must take outside action against the authority of its laws (*ultra vires*). The fifth precondition who became the base handover authority is as follows (Khaled M. Abou El-Fadl, 2004):

1. Second, where an expert lawyer must maximize their ability, he needs to claim the honesty that he must do all things that can be conducted to find and understand existing instructions and readily take responsibility for his actions in front of God on the day end later. Here Khaled confirms that in the system of Islamic theology, the obligation to meaning it finds and understand Becomes bigger when a law touches other people's rights. Somebody is responsible for answering a misleading decision or violating other people's rights. Because of that, sensible people, the more touch with the rights of others, the more significantly necessary they are a careful and hard effort in doing their obligations towards other people. The massive violation they are towards others, the more considerable responsibility answer they are on the side of God.

2. Third, when an expert law has tried to investigate the Lord's order comprehensively and has considered all the relevant commands, keeps going continuously to find all relevant commands,

and does not let go, not enough answers to investigate or find specific plot proof.

3. Fourth is rationality, where an expert law must try to interpret by analyzing the Lord's orders on rationale. Of course, just this rationality is seen as an abstract concept. However, for Khaled, he means something deep condition specific seen Correctly by the general.

4. Fifth is controlling, where an expert law shows humility, heart, and control-worthy self in explaining God's will. This precondition has been explained well in Islamic expression: "And God "knows best. The expression plays a role in claiming epistemology and morality. More than just expression, the main idea of expression is that a law expert must have vigilance to ensure that deviation or the possibility of deviation from the role of His God is avoided.

Negotiation between Text, Author, and Reader

Khaled's conception of Qur'anic text, sunnah and prerequisites reader on is a conception for realizing a negotiation between the reader and the text that will be interpreted. In the negotiation process, Khaled emphasized the importance of the social history of the Koran. He states that revelation is always mediated by conditions prevailing in history. So, it is essential to analyze the situation negotiating historical norms and certain ethics of the Koran (Khaled M. Abou El-Fadl, 2004). According to Khaled, many institutions referred to in the Koran could only be understood if the reader realized the history surrounding the revelation text. However, without separating the suitable Koran from history or context morals, the interpreters, according to him, only lead to changing the text be a long list of order laws that are not

morally clear (Khaled M. Abou El-Fadl, 2004).

The principle above negotiations, at once, implies that from a hermeneutic perspective, proper knowledge is not final (*the fallibility of knowledge*). That is why hermeneutics does deny the existence of an authority, fine that authority text, author, and reader (*reader/audience*), will oppose all forms of domination and monopoly in determining the meaning of the text. Hermeneutics in Thing is in the public area, which dialogues various assumptions of the truth from the reader's text. Text as a moral guide, of course, has an authoritative character, but when readers reproduce it, it can become authoritarian. This is called text reader intervention (human intervention) in determining the text's meaning based on the reader's interest or interest.

In Khaled's view, negotiation is a form of authoritative interpretation based on a ratio of no interpretation, unscrupulous authoritarian, and blind, borrowed from Joseph Vining's definition. We will create a traditional motion interpretation and realize a proportional relationship and negotiation process between text, author, and reader. Islamic law is produced no authoritarian and no arbitrary.

From here, it could be concluded that the conception of the reader of the Qur'an and Sunnah as open, accessible, and autonomous text is an effort to create dynamic motion interpretation so that there is no meaning that is *final* or considered *final*. Moreover, the fifth precondition, namely: honesty, sincerity, thoroughness, rationality, and self-control, must be owned by the

reader, meaning the text reader, in producing meaning, must have authority. The existence of an autonomous text and the authoritative reader will produce a proportional relationship and negotiation process so that there is no, again, arbitrary, and tendentious oppressive reading. Possibly, this is what Khaled meant by Hermeneutics authoritative.

The meaning of Qiwamah in the view of Khaled Abou El - Fadl on Surah An - Nisaa'. In general, men are leaders for women; this belief is based on the Qur'an and the interpretation of Islamic interpreters and jurists on surah An-Nisaa': 34. *Meaning: the men are the leaders of the women because God has favored some of them (men) over others (women) and because they (men) have spent part of their wealth. That is why a pious woman obeys God and takes care of herself when her husband is not around because God has taken care of (them). The women whose nusyuz fear then admonish them, separate them in their beds, and beat them. Then if they obey,*

So do not look for ways to trouble him. Verily Allah is Most High, Most Great. Functionally, the Qur'an in the form of a text is then presented by the reader to explore the meaning. The reading is done all the time, along with human needs, in answering myriad problems so that a product of interpretation is formed. At the same time, the interpreter speaks on behalf of the text of the Qur'an and claims to have been mandated by the text as a source of authority for his understanding. The connection with this is that Khaled reminds us of the potential of authoritarianism in interpretation and decision-making. According to Khaled, the interpretation of products with

tendencies and biases are reckless and irresponsible reading models. There is a tendency of authoritarian tendencies, such as those of the interpreters in some commentaries and some jurisprudence relating to women, which are often associated with weak and negative traits. As done by Islamic jurists, one of them is CRLO (Council for Scientific Research and Legal Opinions). Khaled chose CRLO as a critical reference in representing this authoritarian tendency in this case. CRLO, in several of its fatwas, stipulates that a wife must obey her husband, even though his husband is wrong and unjust. This behavior follows the Qur'an's message: "Men are leaders for women...". Furthermore, the institution recommends that wives mistreated by their husbands remain patient and obedient because this is considered a religious teaching and commandment that must be obeyed, as has been legitimized by Surah An-Nisaa': 34.

Socio-historically, these jurists have been holders of legitimate authority throughout Islamic history. CRLO, as a religious law institution, in Khaled's view, has had the opportunity to be referred to as a 'special representative' in providing an interpretation of the meaning of Qawwamun. However, as "special representatives," these jurists have carried out an authoritarian interpretation model in determining what to mean, in other words, called in the name of God (author) to justify the arbitrary actions of the reader (reader) in understanding and interpreting a text (Qawwamun). In this case, it is as if the meaning in question is a rough and unfair treatment carried out by a husband, which is considered a

religious teaching that the wife must accept. In the Qur'an, many verses narrate about Sakineh, mawaddah, and rahmah family relationships. Besides that, the hermeneutics offered by Khaled is in the form of a negotiating process to determine what to mean. This is because the interpretation of Islamic texts is seen as an intellectual endeavor that will continue to be open to anyone. Islamic legal methodologies and schools of law with different doctrines and approaches, such as the Hanbali, Maliki, Shafi'i, and Hanafi schools, are evidence of this openness. In the following, the researcher gives a little picture of the hermeneutic circle scheme regarding the relationship between the text (text), author (author), and reader (reader).

The negotiation process between the author (author), text, and reader (reader) meaning is determined by (author). The point is that the reader must try to understand the author's intent in the text. An interpreter must try to capture the meaning intended by Allah as the author of a text. In his hermeneutic view, Khaled builds a moral principle for a reader. Khaled mentioned the conditions that must be met, including honesty, sincerity, rationality, and self-control. The principle is a reading control that does not conflict with ethics and morals in determining the mean. The text involved in this is Surah An- Nisaa': 34, like the meaning of Qawwamun ". Through this understanding, it can be understood that what is meant by the author is that when Allah formulates His intention in the form of a text, namely qawwamun, it is not as a legitimacy tool for someone to do authoritarian things against women as the fatwas issued by CRLO when

making the verse as legitimacy. in justifying his fatwas. It can be understood that CRLO is a reader/mufassir who has the authority to determine the meaning of what is called a special representative but instead is authoritarian because it does not have provisions that are a must (in Khaled's view). In this case, the five prerequisites, such as honesty, sincerity, wholeness, rational logic, and self-control in the effort of vigilance, are essential to be applied in reading the text to avoid deviations from the role of God.

Furthermore, when we look at other verses in the Qur'an that use the word Qawwam in a different context, namely Surah An- Nisaa': 135 and Al-Maidah: 8. Then it will be more evident that the word Qawwam is closely related to feelings. Justice is not oppression; there is a sense of interdependence and complement each other. Moreover, marriage is described as a relationship of love and affection (mawaddah wow rahmah), not a relationship between an employer and his servant.

The Quran talks about compassion, love, care, and women who are obedient to Allah. The relationship between husband and wife in the Qur'an is not based on servitude but on love and cooperation. In Khaled's view, forcing (in Khaled's language) to be authoritarian locks the text on one understanding. Likewise, the meaning of qawwam is full of meaning but is only used as a reinforcement of a wife's obedience to her husband; in this case, a wife is obliged to obey whatever is ordered by a husband, even justified to hit if he disobeys so that the verse about qawwamun in Surah An- Nisaa': 34 is often referred to as a verse about

'beating.' The negotiating process should be present in determining what to mean to provide an overview of a far-reaching understanding of discrimination and oppression based on religious arguments. Islam does not recognize and strongly opposes arbitrary domestic relations between husbands. For Khaled, the word *qawwamun* in Surah An-Nisaa 'verse 34 contains various translations according to how the word is understood and interpreted. The word can mean protector, caretaker, guard, or even servant. However, according to him, the word *qawwamun* contains an element of ambiguity. From this understanding, the word *qawwamun* is indeed attached to the meaning of protector, guardian, and guard, but it is all based on one's ability to objectivity. In terms of family leadership, Khaled understands that this is not textual but contextual. The reading model is trying to negotiate the values of justice between men and women so as not to appear authoritarian. However, the critical article is that the verse does not determine the relationship between men and women in absolute terms or interdependence. On the other hand, the verse explicitly states that whatever the status (male and female), it depends on their actions and efforts, namely according to what is spent for others and depends on God's decree with the advantages that are bestowed on someone else - the wife in the concept of *qawwamun* must bring a sense of security and justice.

Then said Fadhdhala in the continuation of the verse, still, with Khaled's view, this shows that the merits and gifts of excess are entitled to be obtained by anyone. In other words, not

only do men have advantages, but women also have the right to get it all. Thus, the leading authority in the family given to men is not solely because of the male gender but instead of the ability to provide a living. Suppose a woman or wife becomes the breadwinner and can carry out the duties of a guard. In that case, the authority and responsibility of leadership in this family can be shared between husband and wife and shared by both. This relationship pattern is like a dynamic and dialogical partner, each of whom has an equal position and collaborates with the other so that both can build a relationship of mutual respect.

From the explanation above, it can be concluded that Khaled's traditional hermeneutics is based on several criteria:

1. It assumes the Qur'an and Sunnah as open texts, in the sense that the meaning of the Qur'an must be dynamic with interpretation.
2. Traditional hermeneutics means interpretation based on reason and this, according to Khaled, is by the spirit of Islam as a rational religion.
3. Although it is open and rational, an interpreter must have prerequisites: thoroughness, sincerity, honesty, rationality, and self-control.

From these criteria, a negotiated reading model and proportional placement between the text, the author, and the reader will be realized so that authoritarianism does not occur.

Deliberative Hermeneutics as a Critique

The conception of Abou El Fadl about the text Quran, Sunnah and prerequisites reader is a conception for realizing negotiation means Among

reader and text. In the negotiation process, Khaled emphasized the importance background behind the social history of the Koran. He states that revelation is always mediated by conditions prevailing in history. So, very important to analyze the situation negotiating history norms ethical Al-Qur'an certain. According to Khaled, many institutions in Al-Qur'an could only be understood if the readers realize practice encompassing history revelation text. However, with separate Al-Qur'an good from history nor from context morally, the interpreters, according to him, only culminate in change text be a long list order law which is not morally unambiguous.

Principle negotiation above, all at once, implicates that in perspective hermeneutic, proper knowledge is not final (the fallibility of knowledge). That is why basic hermeneutics deny the existence of authority, fine that authority text, author, and reader (reader/audience) will oppose all form domination and monopoly in determination mean text. Hermeneutics in the matter is at in the desired public area dialogue various assumption the truth is coming from reader's text. Text as a moral guide, of course, is characteristic authoritative, will but when reproduced by the reader can Become authoritarian. This is what it is called with intervention reader text (human intervention) in determining to mean text based on interest or interest of the readers. Negotiating this because Abou El Fadl has formed interpretation authoritative based on ratio no interpretation unruly authoritarian blind, borrow Joseph Vining's definition. Where will an authoritative motion interpretation be created and

materialized proportional relations and the negotiation process Among text, author, and reader? Thus, Islamic law was produced, not authoritarian and not arbitrary. Conception readers to Quran and Sunnah as open, accessible, and autonomous text is an effort to create dynamic motion interpretation, so there is no final meaning. Moreover, the fifth precondition namely: honesty, sincerity, thoroughness, rationality, and control of self - must be owned by one reader, meaning the reader's text in produce mean must have authority.

There are autonomous texts, and authoritative readers will produce proportional relations and negotiation processes, so no, there is, again, arbitrary, and tendentious reading oppression. While the methodology used by Abou El - Fadl intended to identify a trend of authoritarianism, which has been castrated and displayed traditional Islamic thought no right, as well reduce it Becomes a process that attaches importance result. Trend authoritarian is seen in demeaning Islamic religious fatwas or even oppressing women, which is problematic again for the Muslim majority in various parts of the world and more for Muslim minorities living in the West. This could give an evaluation against Abou El - Fadl, which is payload interest in building theory hermeneutics, as stated above. Abou El - Fadl's interest principle is strengthening traditional anti-authoritarian law in forming Islamic law. Interest other is the defense against Muslim minorities in the West and other Muslim majorities in various moderate parts of the world-stricken crisis authority textual. This is what Jurgen Habermas did figure hermeneutics critical, so-called linkage

Among knowledge and interests human (human interest) (F. Budi Hardiman, 2009).

Knowledge no will once truly free value; however, all knowledge and formation theory are always accompanied by the so-called with interest cognitive, that is something orientation influencing basis type knowledge and objects knowledge specific. According to Habermas, three real interests are embedded firmly inside the basics of anthropology; later, humans have an influence significant on activity science. First, interest characteristics and, later, technical give birth to sciences nature. Second, interests characteristic practical, which then give birth to social sciences. Third, interests characteristic emancipatory, giving birth to knowledge critical or critics ideology. Habermas' concern was then directed at science critical. With the given position on interest (interest) as part inseparable in the scientific process of these, Habermas is known as an influential figure in hermeneutics maturity. In the hermeneutics of Abou El - Fadl, which stands out is an interest (interest) nature practical from Abou El -Fadl for different authoritative and authoritarian interpretations.

Despite Abou El -Fadl has dialogue between traditional Islamic law with the community's interpretation and the communities' relevant meaning, he did not yet establish dialogue and action' discourse' with other communities to become target his critics (puritan groups) deep framework produce knowledge shared what Habermas calls a 'consensus.' Abou El -Fadl should agree with the puritan group earlier about whom experts considered law authoritative and how

interpretation authoritative done in the framework finds law God. Instead, what happened is, on the contrary, that Abou El -Fadl Becomes parties dealing vis-a-vis with puritans as the other party in the moderate debate going on. Besides that, criticizing Abou El -Fadl to the puritan group contains a dilemma because rejecting measuring his criticism is the same as rejecting measuring medium object criticized him, i.e., ideology. In another way, criticizing Abou El -Fadl earlier has incarnated or is another manifestation of an ideology. Abou El -Fadl wanted to control the object being criticized in a monologue for imposing visions and beliefs. In other words, language as a hermeneutical method still needs to be more active in objectivism sciences natural or not yet capable of being free from ideology proper positivism criticized. Thus, Islamic hermeneutics law initiated by Abou El - Fadl, or hermeneutics negotiable, still stick to clusters knowledge empirical-analytical and science historical-hermeneutical. Hermeneutics of Abou El -Fadl not yet entered the realm of knowledge critical nature emancipatory, with building 'communication' and conducting 'discourse' practical' with the community; another interpretation in the framework produces Shared knowledge called "consensus." Therefore, hermeneutics negotiable must develop more continue so that more transparent and honest contributions to modern Muslim society.

In the framework, this "hermeneutics deliberative" is an idea for realizing inclusive, egalitarian, and free discourse domination in realizing the consensus. The word 'deliberative'

originates from the Latin word *deliberation*, or in language English, *deliberation*, meaning *consultation*, *deliberating*, *deliberation*, or *deciding* in a manner together. Because the core of the idea is *discourse practical* for reaching each other understanding of *intercommunity interpretation*, *hermeneutics deliberative* can also be called *'discursive hermeneutics'*. (F. Budi Hardiman, 2009) In theory *discourse*, Habermas distinguishes between the "discussions. " theoretical 'and' *discourse practical*. ' Discourse theoretical bother to claim *statement truth statement theoretical-empirical* and dominated by *paradigms philosophy subject*.

Philosophy subject presupposes *autonomy subject* in a manner alone could decide the action that should be done. Subject autonomously decides a manner *monologue*, no open a *dialog* with subjects other. The result of the obtained decision in a manner *monologue* this then claimed as accurate, as well what just the real thing is the total, so truth from knowledge acquired by a *monologue subject* this considered legitimate for all subject *rational other no dialogue*.

According to Habermas, *paradigm subjects* not appropriately again maintained in a *pluralistic modern society method of life or orientation* mark them. She then offers *paradigm new*, i.e., *paradigm theory communication*. *Paradigm new* this understand knowledge is as *consensus results with subjects another* and obtained through a *procedure or recognized process search intersubjective*, not by a person subject in a manner *monogram*. *Communicative action* is directing

action themselves on *consensus, agreement, or each other understand each other*. *Consensus* can only be achieved through *discourse*; practically nothing else is a *procedure*. *Communication* is a mutual process of *communication* in a manner *rationale* for reaching *knowledge together received in an intersubjective manner*. In *discourse practical*, *society question claims determination (rightness) of norms governing norms their actions*. (F. Budi Hardiman, 2009) The standard feature of *discourse practical* is *procedure communication*. In the participant's *discourse, practical* tries to solve *problematic norms cooperatively* to achieve that *consensus intersubjective by the will of all participants*. Aim *discourse practical* is a mutual understanding of *norms obeyed actions together*.

Only possible *consensus accepted by all participants* in a manner *intersubjective and without perceived coercion rational*. For Habermas, *p* this is *ideal prerequisites* are not could bargain again, however *prerequisite the no appears so just*. All people should obey a *legitimate consensus and need agreement from all*. Furthermore, Habermas states that *practical discourse* should be characteristic of *inclusive, egalitarian, and accessible domination*. *Inclusive* means *inside participation in discourse only if people use the same language and consistently obey the language's rules, logic, and semantics*. The *egalitarian similarity* in obtaining opportunity in *discourse only could materialize if every participant has meaning for reaching a consensus that does not take sides and looks at the participants other as individuals who are sincere autonomous, responsible*

answer, and parallel, as well as not considering they this only as means mere. Free domination means must there are obeyed rules in a manner that secures the process of discourse from pressure and discrimination. (F. Budi Hardiman, 2009)

As discourse aims are practical, legitimate consensus about problematic norms needs precondition specific is possible for all participants to consider their valid consensus generate. So, discourse practical here refers not only to the ideal communication process but also to the rules formalized excellent communication of that ideal communication process. Habermas argues that a statement or action characteristic is rational, so the reason could be explained or acknowledged as intersubjective. Explanation and giving reasons are the basis of the claims' inherent validity characteristics. Participant's communication not again could use just past statements accepted together as part of *Lebenswelt* (world-life) because communication now becomes reflective and demands rational reasons. Participants discourse as if going out from *Lebenswelt* each for a finish to rationalize the problems they have taken from their *Lebenswelt*. In conclusion, discourse practical is a form of reflection action communicative. It means that discourse practical is the continuation of action communicative with the use of other means, i.e., means argumentative. With this, practical discourse marks form modern communication where people do not so accept something with developing understandings tradition, but first test matter that consideration rational.

In this sense, practical discourse is a form of characteristic communication

that is critical and open. If compared and analyzed with the use theory of Habermas's discourse, then the hermeneutics of Abou El -Fadl still needs to leave the discourse model theoretical. Investigation process law is done by experts in a manner monologue or not open a dialog with communities' interpretation other. Thus, decision law is performed by the subject single, and no communication with each other understands the subject other. Several requirements, of course, has submitted by Abou El Fadl in the determination process law, like the existence of five ethical bases and four assumption base interpretations, which should be filled by expert's law. However, all that is solely intended for experts' law could produce a decision seen as law actual (truth), which is positivistic. Likewise, Abou El -Fadl state that the morality highest in the determination process law is morality discourse, not only truth or precision. However, discourse here means balanced interaction and negotiation process between the expert's law with the author's text and medium text interpreted (discourse theoretical), no discourse for reaching a legal consensus with community's law others (discourse practical).

With the assumptions above, Abou El -Fadl's hermeneutics need to be developed more and carried on with the following discourse models practical. This is because when somebody relates with *Lebenswelt* (lifeworld), he faces facing in a manner simultaneously three worlds: the objective world, the social world, and the subjective world. Because of that, understanding hermeneutics must use system references of these three worlds as framework work interpretive. Paradigm

theory communication used here, that knowledge must be the result of consensus with other subjects and obtained through a procedure or recognized process in a manner intersubjective, not by a person subject in a manner monologue. What is important in discourse practical is no plausibility of a claim from a subject in a manner monologue, but instead recognized procedure in a manner intersubjective. The past procedure that's a product of rational processes obtains its validity. This means that character rational no could be achieved solely by one subject single, however near with argument rational with subjects other.

Likewise, nature's rational from a claim only could achieve in a manner communicative through the procedure without forced and free power. This means a claim called no rational is issued below coercion. Thus, in Islamic law, hermeneutics deliberative creates public space (public sphere) to build discourse applicable to the intercommunity interpretation of plural law. Hermeneutics deliberative ensure all expert law and various community interpretation, free and without coercion involved fully in the determination process of law through ongoing discussions continuously. In the end, the processes that take place in a manner deliberative and discursive are a source of legitimacy for every decision law. More so, in a democracy, the needed participation of the public inside Muslims forms a positive law. Therefore, donation people in politicization law can be embodied only through communication and discourse intercommunity law. With an idea of this, Abou El -Fadl's hermeneutics

expected not only to contribute urgently to producing true law on his own (characteristic positivism) but will produce true law that could be accepted by all Muslims (characteristic consensus).

Closing Method Khaled's hermeneutics is softer in reading texts religious. In several views, he appreciates traditional jurisprudence in upholding Islam's tall difference, and on the other hand, he uses internalized Western theories with enough critical. The Hermeneutics of Abou El -Fadl could be called "hermeneutics. " negotiating '. According to him, meaning must be the result of interaction Among author, text, and reader; where appropriate, there is balance (balancing) and the negotiation process Among third parties, as well as one party no can dominate in the determination process meaning. With this, determination mean text always involves complex, interactive, dynamic, and dialectical processes. The author, text, and reader are the third element in environment hermeneutical. Hermeneutics of Abou El Fadl implicitly contains the reading of Gadamerian spirit text subjectively; the whole implication interpretation no is final, however relatively. Thus, Abou El Fadl's hermeneutics not yet enter the realm of knowledge critical nature emancipatory, with build communicate and performing discourse practical with the community, another interpretation in the framework produce the so-called Shared knowledge discourse. This hermeneutics deliberative is an idea for realizing inclusive, egalitarian, and free discourse domination in realizing a consensus.

CONCLUSION

Khaled's hermeneutic method is softer in reading religious texts. In some views, he is very appreciating the fiqh tradition in Islam that upholds its differences, and on the other hand, he uses Western theories that internalized quite critically. Hermeneutics of Abou El-Fadl can call 'negotiating hermeneutics.' According to him, meaning must be the result of interaction between the author, the text, and the reader, in where there must be a balance (balancing) and a negotiation process between the three parties, and one party may not dominate in the process of determining what to mean. Thus, the determination of the meaning of a text always involves complex, interactive, dynamic processes dialectical between the three elements in the hermeneutical environment, namely author, text, and reader. Hermeneutics of Abou El Fadl implicitly contains the Gadamerian spirit that reads the text subjectively, the implication is that all interpretations are impersonal and final but relative. Thus, the hermeneutics of Abou El Fadl has not entered the area of critical science that is emancipatory, by establishing communication and conducting practical discourse with other interpretation communities to produce shared knowledge is called discourse. Within this framework, Deliberative hermeneutics is an idea for the realization of discourse that is inclusive, egalitarian, and free from domination in building a consensus.

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