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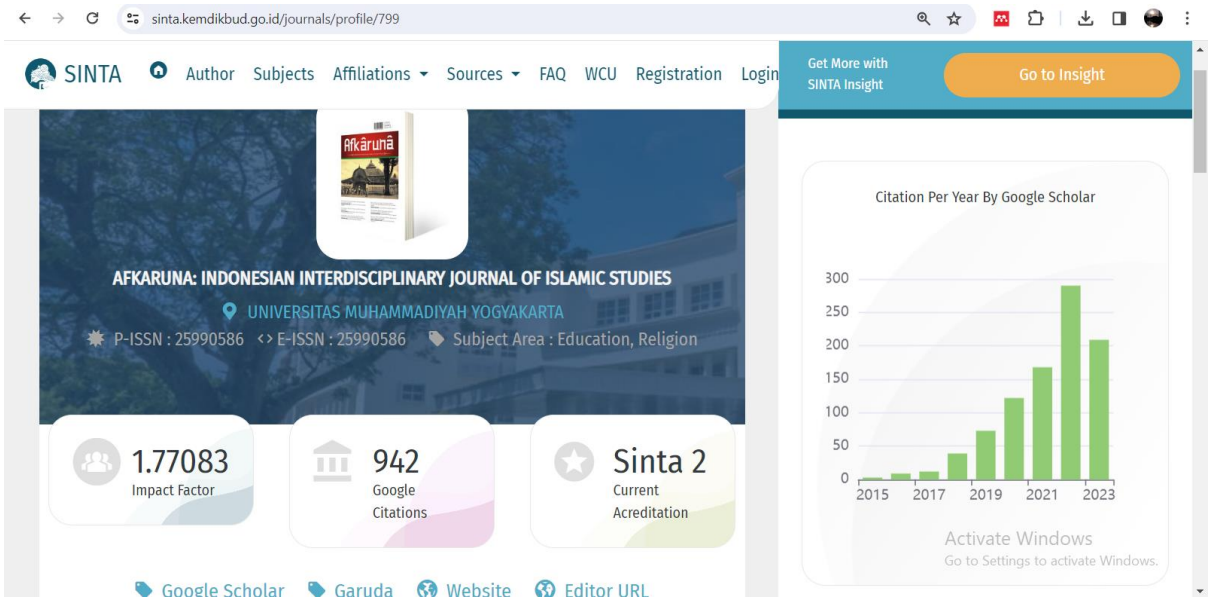

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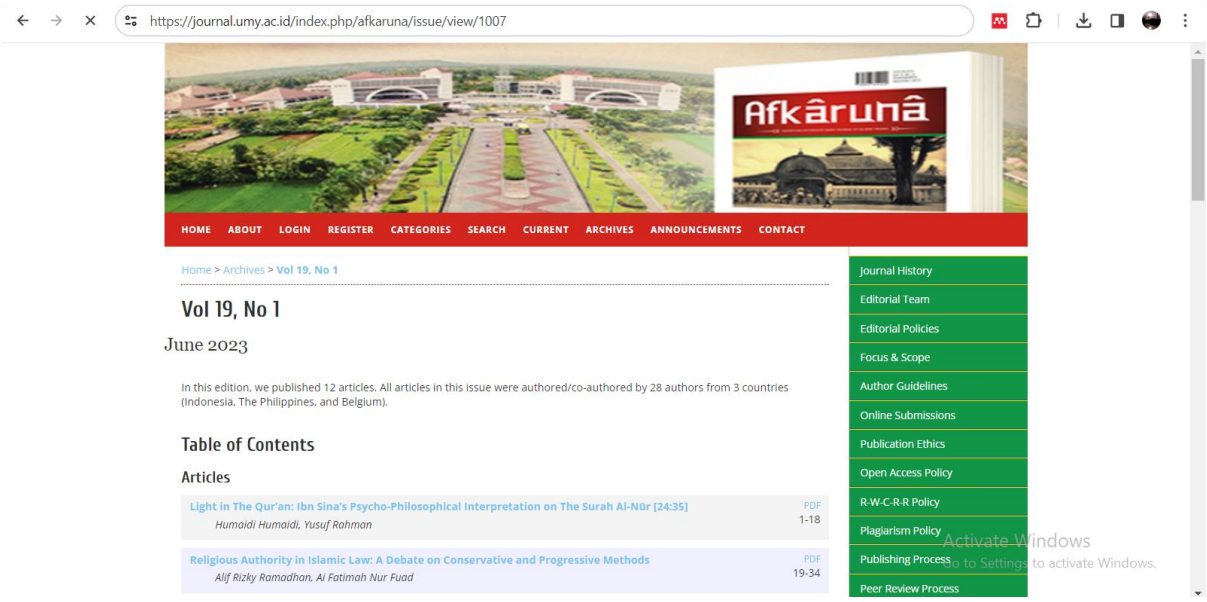

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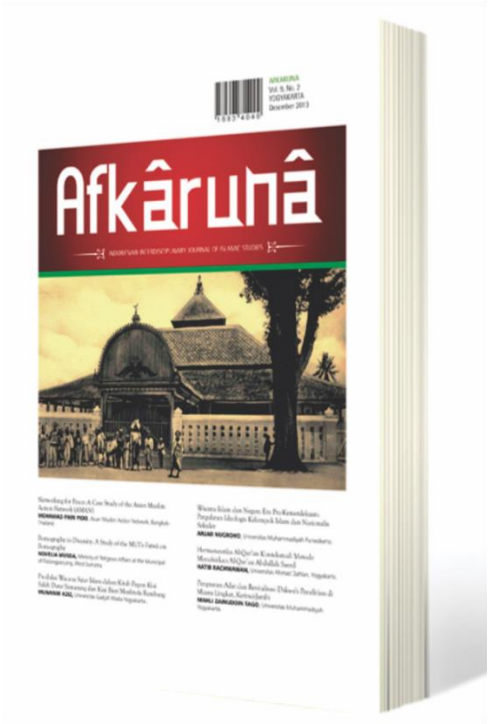

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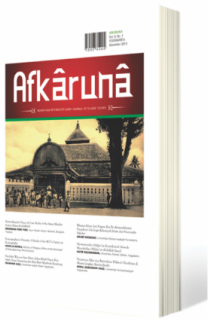

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Religious Authority in Islamic Law: A Debate on Conservative and Progressive Methods

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ABSTRACT

There are two major competing groups in Islamic jurisprudence. The first is the value-laden scholars' group which believes that religious authority comes from conservative and collective understanding, and the second is the value-free scholars' group which considers that religious authority comes from progressive and individual understanding. These two groups have contested the highest authority between collective ijtihad and individual ijtihad in producing Fiqh products. This article aims to discuss a discourse on the contestation between value-laden and value-free. This research was conducted through a qualitative method based on case studies. It also focused on the literature review of various primary and secondary sources. We identified and selected many relevant sources that linked very closely to both the substance of the topic as well as to the theories that we used to strengthen the research's arguments, data analysis, and findings. However, Kuntowijoyo's theory of 'Islam as Science' is used as the main tool to construct a new and neutral authority. As a result, this research offers the middle way of Fiqh that can bridge the two major groups and be used as an alternative discourse to construct a new, moderate, and neutral meaning.

Keywords: Religious authority, Qur'anic interpretation, Fiqh, Muslim scholars, Indonesia

INTRODUCTION

The legal tradition discourse has become one of the major and important studies in Muslim society. This discourse significantly determines how a Muslim acts in dealing with various kinds of cases in accordance with the Sharia (Islamic canon Law) that has been revealed by God to the prophet Muhammad.[1] This study has its roots in the companions scattered throughout the Arabian Peninsula, Africa, and Mesopotamia who were tasked with answering the needs of *Fiqh* (Islamic Jurisprudence) products that had to be fulfilled in the midst of Islamic society that had just converted and also in different areas in Mecca and Medina. In the process, schools of *Fiqh* emerge with different methodologies due to their different geographical locations and conditions.[2]

One of the issues that developed in the study of legal tradition is the discussion on who has the authority to interpret the Qur'an. The study of *Ushul Fiqh* (The principle of Islamic jurisprudence) is answered in the chapter Allah as Al-Hakim.[3] However, it needs to be understood that in achieving the

meaning that Allah has embedded into the Qur'anic verses, it is necessary to conduct interpretive studies to achieve the real meaning.[4] This discussion has led to a polemic between the various schools in Islamic studies. This case can be seen when the *Khawarij* used the slogan "*la hukma illa lillah*" that the highest authority in interpreting the intentions and commands of Allah to Muslims is Allah. Therefore, those who contradict the principles and ideology of Khawarij are infidels, and their blood is *halal* (lawful) to be shed.[5]

A similar issue emerged again when the legal tradition and its tools had been perfected. Many people at that time used the phrase "*Pintu Ijtihad Telah Tertutup*" (The gate of ijtihad is closed). The legal tradition was considered complete and answered important issues in Muslim society at that time.[6] Thus, the authority of meaning at that time only orbited on the study of the companions and the *imams* of the *madhhab* without any research, which would later lead to blind *taqlid* (imitating others without any knowledge) amongst the Islamic community.[7] This had an impact on the product of Fiqh, which at that time experienced stagnation and only revolved around some legal tradition thoughts without any studies nor criticism. Therefore, this period gave rise to various Muslim thinkers who tried to change the status quo that occurred in the intellectual study of the legal tradition of the scholars.[8]

These issues will lead to the rise of two poles of thought in Islamic society, firstly, those who understand religion in a traditional way that emphasizes value-laden understanding, and secondly, those who understand religion in a modern way that emphasizes value-free.[9] Value-free paradigm regards a well-established value as a key standard in understanding a text or a thought.[10] Thus, in its process, value-laden refers to an interpretation that adjusts to an assessed value according to the condition of a system to be applied and implemented as a whole. While value-free is contradictive to value-laden because it considers there is no key standard value to be implemented in a certain system.[11] Thus, this paradigm opens a wide interpretation until not bound to one established value only. Therefore, value-laden places more emphasis on understanding pre-existing interpretations without developing interpretations if they are not urgently needed. On the contrary, value-free emphasizes more understanding to open wider spaces for new scientific interpretations that are religiously and logically accepted.

These two poles have different paradigms in answering the authority that can determine the meaning of the content of the Qur'an. Thus, there are differences of opinion and perception of various problems that approach Muslims today. This issue led to the dynamic shifting power that determines and emphasizes who holds the highest authority in understanding the Qur'anic verses and Islamic messages.[12] This can be seen from how Muslims answer how far ijtihad in Fiqh products is independent of a *mazhab* (school of thought) authorities[13] and how the Western and Eastern worldviews affect an individual in making decisions in producing a *Fiqh.*[14]

The issue that arises above is itself a continuation of the polarization process between *Ahlul Hadith* and *Ahlul Ra'yi,* which debates who has the highest authority in determining a law to humans.[15] However, it should also be understood that in this modern setting, the development of the *ingkar-sunnah* movement raises the narrative of the sole use of the Qur'an.[16] Also, it causes issues that have developed in the past to experience a new evolutionary phase in the discussion and debate among Islamic scholars.

This paradigm, divided between traditional and modern understanding, eventually leads to instability in religious discourse and practices between fellow believers and other religions.[17] Therefore, we have to reformulate a methodology of thinking that builds the paradigm of Islam as a non-violent religion and also a religion of peace and tolerance towards others and not a bloodthirsty religion and forbids

everything considered contrary to its understanding.[18] Islam has a core role in building and organizing a tolerant society and reconciling the people of those who live within the plural society.[19] Therefore, it is necessary to conduct *da'wa* in a modern era that is moderate and tolerant toward the plurality within Islamic society while maintaining Islamic identity.[20]

Based on that reflection, research is needed to highlight and contribute to the issues that arise in the lives of Muslim communities. In its process, Muslims can unite without mutual suspicion between one *firqoh* (group) and another *firqoh*. In this era, there has been paranoia and a tendency where fellow Muslims are suspicious of each other instead of collaborating. Thus, this research tries to offer a middle-way *Fiqh*. This *Fiqh* is based on *wasathiyyah* (moderate or middle path) values in answering Fiqh products that are friendly to tradition but also modern and progressive in practice.

In exploring this discourse, the researchers borrow the theory of gradual Qur'an developed by Sukidi Mulyadi as a way to understand the Qur'anic texts.[21] Although this theory developed in the realm of Qur'anic exegesis, studying the authority of meaning is crucial, especially in understanding *Fiqh* products that are strongly influenced by the interpretation of a *mufassir.*[22] Another theory the researchers borrowed is *qabdh wa basth,* or the theory of contraction and expansion developed by Abdolkarim Soroush in the realm of Qur'anic exegesis.[23] This theory will affect the understanding of the authority of meaning that is liberal and also open to the interpretation of individual laws.[24] Finally, the researchers borrowed the theory from the sociology of religion, namely the theory of *"Islam sebagai Ilmu"* developed by Kuntowijoyo.[25] The understanding of the authority and meaning must be read in transcendental structuralism so that legal discourses in Islam must be understood and dialogued carefully and neutrally towards both parties.[26]

RESEARCH METHOD

This research employed a qualitative method focused on reviewing primary and secondary data sources, which were processed to become cohesive data.[27] The research processes collected, identified, and selected relevant sources from These sources are linked very closely to both the substance of the chosen topic as well as to the theories that we used to strengthen the research's arguments. The diverse literature was then carefully reviewed through content analysis and made some notes on different issues and other relevant sub-topics.

We noted that a wide range of references could build a concrete and tangible framework for thinking about the issues being raised. This is then juxtaposed with several cases that happen in today's society. Accordingly, it can be seen from the current issue of child-free that speak up by Gita Savitri that emerged in a discussion on the legal discourse of Islam.[28] This example issue and other contemporary issues need a careful examination and reformulation of the methodology and law that place God and human beings as an inseparable legal unity. Finally, we found necessary and relevant data to respond to the case studies and concluded key analysis and findings to write down logically and chronologically throughout this paper.

DISCUSSION

Value-laden for Maintaining Traditionalism

The Islamic legal tradition, as previously described, has undergone significant development from its inception to the present. This has led to many attempts at refinement in legal tradition discourses, which makes Islamic *Fiqh* perfect in answering the core problems among Muslims at that time.[29] Therefore, some Muslims argue that with the completion of this study, there is no longer a need for a

new ijtihad. This attitude gives rise to a paradigm of traditionalism within Islam that seeks to protect the traditions passed down by previous scholars to be maintained and preserved.[30]

This issue corresponds with the ideas developed by Sukidi Mulyadi regarding the gradual theory of the Qur'an. In his thought, Sukidi considers that the process of returning to the Qur'an and Sunnah should be through the thoughts of the *salaf mufassirs* (classical Qur'anic interpreters) and cannot be done directly without any intermediaries. This is conducted to protect classical Islamic thought from the dangers of new ideas that do not conform to the traditions of the classical *ulama*. Thus, according to Mulyadi, Islamic discourses must be built on the paradigm of classical *ulama* or *mufassirs* that are packaged in a modern context.[31]

The idea of the concept of gradual Qur'an in Sukidi Mulyadi's thought comes from the thought of Muttaqil bin Sulayman. A *mufassir* during the time of the Companions introduced the concept of gradual Qur'an as a method of interpreting verses in the Qur'an.[32] Thus, Sukidi explained that the gradual Qur'an was built as a paradigm to understand that the Qur'an cannot be understood by itself. Thus, it takes the interpretation of a *salaf mufassir* to explain the true meaning of the Qur'an.[33]

Because of the process of the Qur'an being interpreted by the early mufassirs, Sukidi concluded that the authority of meaning in the Qur'an is held by a *mufassir*, which the process of returning to the Qur'an and sunnah can only be done if it passes through the classical mufassirs and must be in accordance with these *mufassirs*. Meanwhile, the process of reading the Qur'an and sunnah independently without taking the opinions of classical mufassirs is considered to damage the interpretation of the Qur'an because of the distance between humans today and the time of the prophet Muhammad in the past.[34]

The idea developed by Sukidi Mulyadi can be considered an example of a value-laden paradigm in reading Islamic legal tradition. The product of *Fiqh* is built on the premises developed by classical scholars and linked to the new issues at hand, while the process of reading the Qur'an adapts to what has been issued by classical scholars. This is certainly chosen as a careful decision not to violate the rules of Allah. Thus, in building this value-laden mode of thinking, traditionalists fortify themselves with previous *fatwas* as their basis for doing a *furuiyah* action.

Value-free and Modernism Paradigm

The concept of "the door of ijtihad is closed" that has been discussed earlier has sparked great controversy among Islamic thinkers in the 4th century of *hijriyah.* This issue was strongly voiced by Ibn Taymiyyah and his student Ibn Qoyyim as a form of blind *taklid* to consensus and scholarly opinions without any constructive criticism. In the paradigm of these two scholars, *Fiqh* products experience saturation by only orbiting on old opinions without formulating the answers to current problems. Therefore, Ibn Taymiyyah and Ibn Qoyyim vocally started the movement to return to the Qur'an and sunnah as an answer to the problems that existed in Muslim society at that time.

This paradigm of returning to the Qur'an and sunnah has experienced its ups and downs, but it is agreed that this thought became a major topic in the period of Islamic renewal in the 19th century. At that time, the emergence of scholars, such as Muhammad Abduh, tried to break the saturation of religion by developing religious science that was value-free from conservative views. This action became the pattern of the revivalist and modernist Islamic movement in the 20th century, marked by various national and world organizations that tried to work on rationalistic struggles in building value-free *Fiqh* products from an existing *firqoh* (group).

This value-free ideal of modernism reached one of its highest points when Abdolkarim Soroush issued a theory that he named *Qabdh wa Basth* (contraction and expansion). Through this theory, Soroush wants to explain the emergence of a difference between religion and religious understanding.[35] Therefore, in the process, the understanding of religion experiences an expansion of meaning and, at the same time, also undergoes a contraction of meaning. In this theory, Soroush tries to emphasize that the dynamic relationship between humans and the meaning of the text causes the reading of the Quran to be understood dynamically as well, without being bound by previous interpretations that have been established and accepted by people.[36] In Soroush's thought, contraction is an attempt to reduce things no longer relevant to the times, such as slavery, while expansion brings up different themes, such as democracy.[37] Soroush wants to position the reading of the text and meaning of the Qur'an dynamically following the times without being strictly bound like the value-laden group.

In this paradigm developed by Soroush, he believes that in understanding the Qur'an, we must abandon the thoughts that came from classical scholars.[38] This is because they are merely debatable human *ijtihad,* while Islam is something absolute and concrete.[39] Soroush believes that in trying to understand the Qur'an, humans must make an independent *ijtihad* to contemplate and understand the content of what is contained in the Qur'an. This is done because the needs of humans are different from one another.[40] Thus, Soroush considers the need to construct a value-free reading of the Qur'an without coercion of a party in order to read the meaning of the Qur'an following to the mainstream.[41] Through this value-free paradigm, the authority of the meaning of the Qur'an cannot be contested because, according to Soroush, it belongs to the individuals themselves and not to a party.[42]

The *Qabdh wa Basth* (contraction and expansion) paradigm developed by Abdolkarim Soroush is one form of representation of how value-free understanding in the study of Islamic legal tradition. Thus, in its *Fiqh* products, modernism believes that returning to the Qur'an and sunnah becomes the main process in taking the legal basis of the *Fiqh* product to be issued or made.

Neutral Authority of Meaning as a New Method to Produce a Fiqh

It is undeniable that in the study of legal tradition, authority is the core issue that causes a law to be implemented, even though some people do not agree with the perspective taken from the law.[43] This has led to the emergence of various kinds of *fatwas* (rulings) that contradict each other and are enforced to be implemented by certain *firqoh* (groups) in Muslim society. In the Indonesian context, we recognize the NU's *Bahtsul Masail* (NU Jurisprudence Council), the Muhammadiyah's *Tarjih* and *Tajdid* (Muhammadiyah jurisprudence council), the Persis's *Misbah* council, and so on and so forth. *Fatwa* institutions are formed to construct a paradigm of thinking in accordance with the official direction of the organization.[44] Thus, many *fatwas* in the same issue are, to a certain extent, different between one organization and another.[45] This issue is indeed limited to the study of *furuiyah* (a smaller branch of jurisprudence issue), but in fact, this does not stop many parties from debating and pitting the *fiqh* products created by these fatwa institutions. Thus, claims of authority over the meaning contained in the Qur'an frequently appear as justification for their *firqoh* or group's claim.[46]

In response to this issue, Kuntowijoyo's book "*Islam sebagai ilmu*" (Islam as Science) highlights the importance of the Islamic proactive and relevant paradigm toward the current dynamics of Muslims. An understanding of transcendental structuralism is needed, which has the tools of integralization and objectification to read and understand the structure of the Qur'an as a whole and transcendent to the top.[47] Reading the Qur'an is done through the process from text to context. While also Islamic scholars examine a natural phenomenon through what is contained in the verses of the Qur'an.[48] This is inversely

proportional to the thinking developed in the modernism paradigm, which emphasizes the movement from context to text and only looks for verses that can be connected to a natural phenomenon.[49] The traditionalism paradigm only performs an act of de-codification and repeats the same issues described by previous scholars through *syarh* (commentary) or *ikhtisar* (summary).[50] Thus, in this new paradigm initiated by Kuntowijoyo, we take a middle path or position between value-free and value-laden, aiming to reconcile the two different positions.

The methodology of transcendental structuralism stems from the paradigm of structuralism that has developed in Western society, which believes everything in nature has a structure.[51] In Kuntowijoyo's perspective, this is not accompanied by a transcendent essence in formulating how to organize the rules of the structure of an object, which causes Western structuralism to tend to be subjective and secular.[52] Thus, Kuntowijoyo believes that transcendental structuralism is built on understanding the message of universality in the Qur'an.[53] It differs from the secular reading that tries to build a paradigm from what already exists and is owned and projected into the Qur'anic text.

Reading with the transcendental structuralism paradigm forces an interpreter to understand the structure of the essential values of the Qur'anic verse originally and then contextualize them.[54] Thus, in the paradigm of transcendental structuralism, *Tawhid* (belief in God) is indeed the foundation of everything that will have an inner structure that has different tasks in answering the given issue to be applied according to the inner structural space occupied by the issue. It should also be understood that Islam has built a solid structure of various issues, and it will not change except for issues related to *muamalah* (civil or human interaction). Thus, transcendental structuralism tries to answer the human problems in their daily lives.[55] Of course, to build this transcendental structuralism paradigm, the tools of objectification and integralization play an important role in formulating a *Fiqh* product whose authority of meaning is neutral from various *firqoh* or groups.[56]

Having the above explanation, we realized that transcendental structuralism needs a tool to be practiced. Thus, Kuntowijoyo introduced the principle of objectification as a method to reconcile several disputes of meaning in making a *fatwa* decision.[57] Kuntowijoyo realizes that every root problem of *khilafiyah* (alternative jurisprudence reasoning) can basically be resolved without the need for divisions that occur as it is today.[58] According to him, objectification is built to find the root of the problem and reconcile all parties from the conflict. Of course, in the context of Islamic legal tradition, it is very complicated to reconcile all parties with many different methodologies between one *firqoh* and another. However, Kuntowijoyo believes that essentially in the context of transcendental structuralism, all disputed issues have a common denominator that can be used as a foothold to objectify the problem.[59] Therefore, although each *firqoh* still believes in their opinion, there is a common understanding and common word between the *firqoh* in questioning and debating the *furuiyah* issues.

Then another tool used by Kuntowijoyo in building the transcendental structuralism methodology is integralization. This is intended to build a common understanding and common word that has been discussed previously. In his study, Kuntowijoyo discusses this issue in the context of the West and Islam. However, his theory of integralization can also be practiced within Islam.[60] We can see how the conflict and intention of *firqoh* still haunt Muslims with the emergence of various new groups. Integralization is therefore needed to rectify the suspicions of each group towards the other. Integralization itself emerges after the objectification process in which there is information on disputes and claims developed by each group.[61] Of course, most groups have arguments that are equally strong. Therefore, integralization helps to integrate various existing arguments and bring them together with the common denominator of the issue. Thus, each argument can be compared and structurally ordered until it

becomes a cohesive unit and is able to formulate the new meaning contained in the *Fiqh* product.[62]

These two tools work gradually, resulting in an alternative way of reading the issue. From there, the alternative reading is directed and made into a universal structural understanding that many people can accept. Thus, this long process is called transcendental structuralism.

Ijtihad Independency in *Fiqh* Product

The debate over who has the right to conduct *ijtihad* is the key issue of this study. In the value-laden paradigm, the effort is only made by the madhhab because collective authority such as the *madhhab* is more reliable and verifiable. While in the value-free paradigm, *ijtihad* must be done by everyone who has the competence to do so. This happens because humans are endowed with the ability to think and distinguish what is right and wrong in *naqli* (theological reasoning) through the intermediary of the Qur'an and sunnah and *aqli* (logical reasoning) through rational human logic. Thus, this polemic appears to be a long debate space between the two paradigms.[63]

In fortifying from various kinds of errors in understanding legal-formal, value-laden thought believes that the use of *ijtihad mazhabi* is a concrete form in formulating a *Fiqh* product. This is done by considering that the authority developed from the school of Fiqh has been long and firmly established for almost thousands of years. Then, it also needs to be understood that the school of *Fiqh* has produced a lot of *fuqoha* who are always there in each generation so that the teacher-disciple sanad remains connected in the development of the times that occur. Then, because of the many fuqoha born from the school of *Fiqh*, the sources of records and information owned by the school of Fiqh are numerous and rooted in many interconnected sources. The traditionalists believe that through using this *mazhabi ijtihad*, *Fiqh* products will be guaranteed quality from various kinds of *shubhat* (vague within the jurisprudence discourse).[64]

The thought developed by these traditionalists in the modernist paradigm is considered a form of structured and massive ignorance where the authority of the school of thought that is too powerful in a region will become auto-critical and make its school the only one in power.[65] Therefore, in the value-free paradigm, personal ijtihad is a good choice for answering and adapting to contemporary issues in the Islamic legal tradition. In practice, this *ijtihad* integrates related sciences such as nature and humanities without only talking in a narrow religious context.[66] This personal *ijtihad* is favored by contemporary academics and scholars who believe that understanding the Qur'an should not only stop at understanding divinity but also relate to other studies. Then, in the value-free paradigm, many books are tailored to the area of their readers in the hope that the message and thoughts of *ijtihad* carried out can be captured properly by these people.[67]

One of the concrete issues is how the influence of *ijtihad* independency can be seen during the holy month of Ramadhan. The thought of *mazhabi ijtihad,* in this case, represented by Nahdlatul Ulama, considers the determination of the beginning of the month of Ramadan must be done through the process of *Rukyatul Hilal* (moon observation methodology).[68] While at the same time, personal *ijtihad* represented by astronomers, *Falak* (Islamic astronomy), and the Muhamadiyah in general, considers that with the development of established technology, the use of *Rukyatul Hisab* (astronomical mathematic methodology) is more appropriate. Then, a big question arises, how should this law run if the roots of its views seem to be contradictory and incompatible?[69] The above issue is a long-standing issue that continues to play out. An alternative way is urgently needed. Thus, we will apply the transcendental structuralism developed by Kuntowijoyo to draw a concrete conclusion on this issue.

In this objectification process, we will see and examine the basis of the views of both groups. In NU's view, the month of Ramadan can only be noticed when we see the change of the old moon to the new moon as *Hadith* of the prophet Muhammad[70] so that the process in accordance with the *sunnah* of the prophet is to do *Rukyatul Hilal* at various points to ensure its validity. While in the view of *Falak,* astronomy experts, and Muhammadiyah, the meaning of the word month of *Ramadan* must be understood contextually. Where humans cannot see the month of Ramadan like people cannot see the month of August, therefore, to reach the right understanding of the month, it is necessary to mobilize thinking power to find the time when the month of *Ramadhan* enters. Of course, the prophet suggested using *Rukyatul Hilal* because the Arabs were an *ummi* (illiterate) community, so they argued that with the development of accurate technology regarding the determination of the month of Ramadan, the process was replaced by *Rukyatul Hisab.*

From the above arguments, if we align, a common denominator is the key to this problem. Regardless of how to achieve and determine the entry of *Ramadan*, both parties basically only question how many elongations and degrees are needed to be considered the entry of *Ramadan* time. NU takes 3 degrees, while Muhammadiyah considers the existence of a new moon even if it only rises for 0.1 degrees and is declared the entry of *Ramadan.* Therefore, we can see that the essence of the problem is not the method but the decision of how many degrees is considered as the entry of the new moon.

In the process, the integralization paradigm can be seen that regardless of the methods used by NU and Muhamadiyah in achieving these results, in the end, it is the decree that causes the conflict and the method. However, some will later argue that the decree is a package with the method. But the fact that the degree decree can be changed proves that determining the Ramadhan includes a leniency process in that matter.

From the process of objectification and integralization, we conclude that transcendental structuralism and the growing issue of determining the month of *Ramadan* must be re-read in a *maslahat* (benefits) and constructive manner. This issue has led to a split between the determination of how many degrees a new month will come. Thus, in the process, this moderate Fiqh product must establish a standardized and agreed-upon degree determination by Islamic groups determining when the month of *Ramadan* comes.

From such discourse, we reflect and rethink how *Fiqh* products are made and useful not only for certain communities such as Muhammadiyah or Nahdlatul Ulama. Rather, a Fiqh product must be in line and give benefits to all groups and communities. Therefore, we can prioritize dialogue with all groups or Islamic communities to achieve a *wasathiyah*-based *Fiqh or middle way of Fiqh*, a product of *Fiqh* that can be used by everyone and give benefits to all civilizations in the global Muslim world.

Western and Islamic Worldview Paradigm in *Fiqh* Product

In this study, the debate is on the issue of how *Fiqh* products are built on the paradigm of Western and Islamic worldviews. In the value-laden paradigm, the traditions of classical scholars have formed a superior paradigm and are in line with Islamic personality.[71] Thus, Muslims no longer need to follow what non-Muslims do. This is because it is tantamount to imitating a people. Meanwhile, in value-free thinking, no barrier distinguishes between what is Islamic and what is not. So, Muslims must weigh the two and take the one that is most suitable to practice in Islamic society.[72] This paradigm issue has developed into a contentious issue.

Value-laden thought, which believes that Islamic tradition has accommodated everything in this world, believes that what is developed in the Western paradigm has more harm than good. Therefore, according to traditionalists, applying Western thinking to the Islamic paradigm will cause many problems in the future. Thus, this thought is better prevented.[73]

In the thought of Syed Muhammad Naquib Al-Attas, he believes that an Islamization of the Western worldview is needed to build arguments in accordance with *shari'a*. Al-Attas promotes a value-laden paradigm because, according to him, the Western worldview emphasizes secular and liberal understanding, which is not in accordance with the more well-established Islamic worldview. Al-Attas believes that Islam has developed many established values
since the time of the prophet Muhammad.[74] Islam has formed its value-laden that cannot be replaced by a value-free understanding derived from the understanding of Western freedom.[75]
Therefore, everything must be Islamized to preserve the purity of Islam from the shady ideas of the West.[76]

In contrast to the views expressed by value-laden who are afraid of mixing Western and Islamic paradigms, the value-free group does not consider it as a problem and even examines the progress of the Western worldview as an obligation to improve the weak points in Muslims' thoughts. Therefore, instead of hiding, Muslims are involved in building a paradigm that all plural groups of society can accept. Thus, going to school and studying in the West to explore and learn its thinking methodology is not a problem whatsoever.[77]

In Hassan Hanafi's thought, he believes that Islam must learn more from the West while criticizing things considered incompatible with the individual in Islam. This is done to keep Muslims from blindly following the Western worldview while scrutinizing and mastering Western knowledge and methodology. Then, Hassan Hanafi also understands there is no need to link Western science with Qur'anic verses because the Western worldview will reject the supernatural understanding contained in the Qur'an and Sunnah.[78]

The latest phenomenon of this topic is the growing issue of being child-free which has been echoed by some people, for instance, Gita Savitri in recent months.[79] Where this issue divides Muslims into two poles, and one group is absent. In the value-laden paradigm, Allah and the prophet Muhammad have given the virtue of having many children. This is interpreted by some *fuqoha* (Islamic Jurists) as a process for Muslims to become a great force and help each other. But at the same time, in the value-free paradigm, this issue is seen as an effort to reduce the human population that has reached a far difference from the available space. Reflecting on this issue, how do we answer the dilemma of the two arguments above?

The above new issue rapidly gains popularity in recent years. An alternative way is needed. Thus, we can apply the transcendental structuralism developed by Kuntowijoyo to draw a concrete conclusion on this issue.

In the objectification process, we see that the child-free rejection group builds its argument on *naqli* (theological) arguments that have a strong basis and can be accounted for. Because in fact, the prophet Muhammad competed with other prophets about who could bring the most followers in the field of *mahsyar* (the land of destination for all humans). But at the same time, the argument developed by the child-free support group is also not wrong. Where currently, there is a mis-proportion between people and places to live. As a result, there are many displaced and marginalized people with the current system. They are forced to live in the streets and under bridges. Meanwhile, Islam, as the religion that cares and respects the *mustad'afin* (weak people), prohibits Muslims from humiliating their neighbors.

If we align the two arguments above, we will find a common denominator in which both groups look at the issue from the right perspective, but the application is in the wrong place. The issue developed by the value-laden group speaks to the context of a small Islamic society as it happened in Mecca and Medina in the early pioneering days. But at the same time, the value-free argument is also correct in that an uncontrolled population explosion also causes harm. Thus, when conditions do not allow having many children, it is desirable to have just enough children, to maintain the *maqashid shari'a* (Islamic legal objectives) that each child has.

From the explanation above, we can integrate the two views by taking the alternative route of accepting the value-laden theory as the initial condition in which Muslims are essentially depopulated. This is like what is happening now in Japan, which is experiencing severe depopulation. Thus, this law applies to every citizen in the Islamic context. However, this does not apply and may even be prohibited if the region is like India, where the population is overpopulated but still wants to have many children. Therefore, we must apply the value-free theory to answer the issue.

From this process of objectification and integralization, we conclude on transcendental structuralism that when speaking in *Fiqh* products that question the worldviews of Islam and the West, we must place both in equal positions while making the right decision without offending the other. This can be seen in how we are demanded to have many children in Sharia. However, the current conditions make it impossible for the law to be annulled to protect many people from oppression and marginalization.

This reflection shows that dialoguing opposing thoughts can give us an important lesson in which the issue can be read from different perspectives. Therefore, with this Middle Way *Fiqh,* we can construct or issue *Fiqh* products that listen to and consider both sides while formulating policies that are moderate and accepted by all parties.

CONCLUSION

The polemics in the legal discourse on the study of Islamic jurisprudence have been reflected in the debate over religious authority. There are two poles of thought in Islamic society, firstly, those who understand religion in a traditional way and emphasize value-laden understanding, and secondly, those who understand religion in a modern way and emphasize value-free. The two poles have different paradigms in answering the authority that can determine the meaning of the content of the Qur'an.

The first example is a polemic in understanding the beginning and end of *Ramadan*. The value-laden group understands the meaning of reaching the month through direct observation of the new moon. In comparison, the value-free group achieves this month through mathematical calculations structured using technology. It raises a long polemic between the accuracy of direct vision and mathematical calculations. But in fact, through the methodology developed from Kuntowijoyo's paradigm, we find that the common denominator of this problem is not in the method to reach when the moon arrives but how high the degree and elongation that the moon needs to reach. Thus, the polemic can be answered by unifying and directing groups toward a common bond where everything is carefully considered.

Another example of polemic that arises is the case of child-free. The value-laden group understands this issue as a form of resistance to God's law, while the value-free group sees it as an effort to restrain the overpopulation rate that occurs in many countries with a large populations and certainly does not support their lives. Through a study using the methodology of the Kuntowijoyo paradigm, we can draw a common denominator that all the recommendations developed by both parties have different bargaining positions. Thus, it cannot be equated and generalized but becomes dynamic to keep up with the changing problems at different times.

The polemic that develops between value-laden and value-free is an issue that cannot be resolved without neutral dialogues. This is very difficult because everyone always has a bias toward an idea. However, it is expected that the concept of the neutral authority of meaning based on the paradigm developed by Kuntowijoyo can help us to formulate a moderate solution. Transcendental structuralism is used as its formulation tool. Thus, the discourses on *Fiqh* products, such as the problem of determining the beginning of Ramadan or child-free, can be approached through this paradigm. This research is part of the efforts to build the Middle way of *Fiqh (Fiqh jalan tengah)* that prioritize moderate opinions.

ENDNOTES

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2 Irwansyah Saputra, "Perkembangan Ushul Fiqh" in *Jurnal Syariah Hukum Islam* 1, no. 1 (2018): 38–49.

3 Muḥammad Abū Zahrah, *Ushul Fiqh* (Jakarta: Pustaka Firdaus Kerjasama dengan Perhimpunan Pengembangan Pesantren dan Masyarakat (P3M), 1994).

4 M. Quraish Shihab, *Kaidah Tafsir* (Tangerang: Lentera Hati, 2013).

5 Saleh, "Khawarij: Sejarah dan Perkembangannya" in *El-Afkar: Jurnal Pemikiran Keislaman dan Tafsir Hadis* 7, no. 2 (2018): 25–34. Khawarij is a sect that emerged in early Islam because of dissatisfaction to the decision of Caliph Ali bin Abi Thalib who accepted arbitrate *(tahkim)* and did not fight Muawiyah. They broke away from the Caliph Ali's group. See also. Yunan Yusuf, *Alam Pikiran Islam Pemikiran Kalam* (Prenada Media, 2016). 43-51.

6 Hamdi Yusliani, "Pintu Ijtihad Tertutupkah?" in *Jurnal Ilmiah Islam Futura* 6, no. 2 (2018): 37–50.

7 Muzakir, "Periodisasi Fiqh (Perbandingan Fiqh dari Masa Rasul SAW sampai Modern)" in *Jurnal Ilmiah Islam Futura* 7, no. 1 (2018): 25–41.

8 M. Nasri Hamang, "Sistem Ijtihad dalam Hukum Islam (Metodologi Pembaruan Ibnu Taimiyah)" in *DIKTUM: Jurnal Syariah Dan Hukum* 8, no. 1 (2010): 37–46. Ibn Taymiyyah was one of the most vocal voices on the idea of "Return to the Qur'an and Sunnah" during this period. This idea then caused his name to become famous in Muslim circles at that time as a person who went against the highest authority by trying to bring back *ijtihad* in the paradigm of Islamic legal tradition. His legal tradition thought later became the basis for some reformist groups to challenge the paradigm that had been intact in Muslim society.

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10 Zina B. Ward, "On Value-Laden Science," Studies in History and Philosophy of Science Part A 85 (2021): 54–62.

11 Robert N Proctor, Value-Free Science: Purity and Power in Modern Knowledge (Harvard University Press, 1991).

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13 Mohammad Hashim Kamali, "Moderation in Fatwa and Ijtihad: Juristic and Historical Perspectives" in *Islamic Civilisational Renewal* 7, no. 3 (2016).

14 Syed Muhammad Naquib Al-Attas, "Islamic Philosophy: An Introduction" in *Journal of Islamic Philosophy* 1, no. 1 (2005): 11–43.

15 Safrudin Halimy Kamaluddin et al., "The Characteristic of Popular Schools Madhab Change and Renewal in the Islamic World," *Al'Adalah: Jurnal Syariah dan Hukum Islam* 6, no. 2 (2021): 316–35.

16 Abdul Majid Khon, "Paham Ingkar Sunah Di Indonesia (Studi Tentang Pemikirannya)," *Jurnal Theologia* 23, no. 1 (2017): 57–74.

17 Khoirul Huda, "Fenomena Pergeseran Konflik Pemikiran Islam dari Tradisionalis vs Modernis ke Fundamentalis vs Liberalis" in *ISLAMICA: Jurnal Studi Keislaman* 3, no. 2 (2009): 20–42.

18 Maksimus Regus, "Islam and the Making of a Non-Violent and Peaceful Public Sphere in Indonesia" in *Afkaruna: Indonesian Interdisciplinary Journal of Islamic Studies* 18, no. 2 (2022).

19 Mohammad Takdir, "Contestation and the Roles of Islam in the Public Sphere: A Sociological Analysis of Religious Secularization in Indonesia and the West" in Afkaruna: Indonesian Interdisciplinary Journal of Islamic Studies 16, no. 2 (2020): 154–74.

20 Ai Fatimah Nur Fuad, "Modernity and The Islamists Notion of Active Da'wa" in *Afkaruna: Indonesian Interdisciplinary Journal of Islamic Studies* 15, no. 2 (2019): 187–202.

[21] Sukidi Mulyadi, "The Gradual Qur'ān: Views of Early Muslim Commentators" (Harvard University, 2019). 73-86
[22] Mulyadi. 78-79
[23] Abdolkarim Soroush, Reason, Freedom, and Democracy in Islam: Essential Writings of Abdolkarim Soroush (Oxford University Press, 2002). 30-38.
[24] Charles D Fletcher, "The Methodology of Abdolkarim Soroush: A Preliminary Study," *Islamic Studies* 44, no. 4 (2005): 527–552.
[25] Kuntowijoyo, *Islam sebagai Ilmu : Epistemologi, Metodologi, dan Etika,* 2nd ed. (Tiara Wacana, 2006). 1-25.
[26] Kuntowijoyo, "Muslim Tanpa Masjid: Esai-Esai Agama," *Budaya dan Politik dalam Bingkai Strukturalisme Transendental (Bandung: Mizan, 2001),* 2001. 9-29.
[27] Imam Gunawan, *Metode Penelitian Kualitatif: Teori dan Praktik.* (Jakarta: Bumi Aksara, 2022).
[28] Uswatul Khasanah and Muhammad Rosyid Ridho, "Childfree Perspektif Hak Reproduksi Perempuan Dalam Islam," *Al-Syakhsiyyah: Journal of Law & Family Studies* 3, no. 2 (2021): 104–28.
[29] Frank Vogel, "Closing of the Door of Ijtihad and the Application of the Law" in *American Journal of Islamic Social Sciences* 10 (2017).
[30] William A Graham, "Traditionalism in Islam: An Essay in Interpretation" in *The Journal of Interdisciplinary History* 23, no. 3 (1993): 495–522.
[31] Sukidi Mulyadi, The Gradual Qur'ān, 43-50.
[32] Mulyadi. 39-41.
[33] Mulyadi. 1.
[34] Mulyadi. 159-162. Prof. Dr. M. Yunan Yusuf, an Indonesian *mufassir*, criticized Sukidi's view because he considered that the view developed by Sukidi made the interpretation of the Qur'an blind to classical *mufassirs.* Whereas the Qur'an, which is rich in vocabulary and meaning, can cause the interpretations developed by classical mufassirs to become obsolete. This can be seen in various issues such as zarroh, whose meaning is always different in every era. Yunan Yusuf argues that Sukidi's idea of returning to the Qur'an and Sunnah through the interpretation of classical *mufassirs* needs to be reviewed for validity.
[35] Abdolkarim Soroush, *Reason, Freedom, and Democracy in Islam.*
[36] Aulia Rahmat, "Abdulkarim Soroush dan Evolusi Pemahaman Agama: Sebuah Asumsi Dasar dalam Ijtihad," IJTIHAD 37, no. 2 (2021): 91–100.
[37] Ali Akbar, "Abdolkarim Soroush's Approach to 'Experience'as a Basis for His Reform Project," *Islam and Christian–Muslim Relations.* 28, no. 3 (2017): 313–31.
[38] Abdolkarim Soroush, *Reason, Freedom, and Democracy in Islam.*
[39] Charles D Fletcher, The Methodology of Abdolkarim Soroush, 527–52.
[40] Aulia Rahmat and Amin Abdullah, "Abdulkarim Soroush: Hermeneutika Epistemologis dalam Evolusi Pemahaman Keagamaan," in *Paper Filsafat Ilmu* (Yogyakarta: Universitas Islam Indonesia, 2020.
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[42] Al Mas'udah Al Mas'udah, "Agama dan Pemikiran Keagamaan (Membedah Teori Abdulkarim Soroush tentang Qabdh Wa Bast)" in *Jurnal Al Himayah* 2, no. 1 (2018): 1–16.
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[45] Ajub Ishak, "Daya Serap Lembaga-Lembaga Fatwa di Indonesia Terhadap Masalah Hukum Kontemporer" in *Al-Mizan (e-Journal)* 11, no. 1 (2015): 102–18.
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[47] Kuntowijoyo, *Islam Sebagai Ilmu*, 27-80.
[48] Kuntowijoyo. 9-11.
[49] Achmad Baiquni, *Alquran, Ilmu Pengetahuan dan Teknologi* (Yogyakarta: PT. Dana Bhakti Prima Yasa, 1996), 161. In Prof. Dr. Achmad Baiquni's paradigm, although science can be connected to verses in the Qur'an, he strongly opposes understanding science enveloped in Qur'anic verses. This is because science is not something that is certain and will always experience developments in every era. As for the Qur'an, this does not apply because Allah has protected it from various kinds of attempts to corrupt and destroy it. Modern paradigm has a few weaknesses that can cause danger if not paid attention continuously.

50 Kuntowijoyo, *Islam Sebagai Ilmu*, 6-7.
51 Kuntowijoyo. 27-34.
52 Kuntowijoyo, *Identitas Politik Umat Islam* (Bandung: Mizan, 1997).
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54 Kuntowijoyo, *Muslim Tanpa Masjid.*
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56 Kuntowijoyo. 49-80.
57 Kuntowijoyo, *Identitas Politik Umat Islam* (Bandung: Mizan, 1997), 84-86.
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59 Kuntowijoyo, Islam Sebagai Ilmu, 29.
60 Kuntowijoyo. 49-56.
61 Kuntowijoyo, Identitas Politik Umat Islam (Bandung: Mizan, 1997), 86-88.
62 Kuntowijoyo, Islam Sebagai Ilmu, 38-47
63 Muhammad Zuhdi Karimuddin, "Kedudukan Mazhab, Taklid dan Ijtihad dalam Islam" in *Al-Qadha: Jurnal Hukum Islam dan Perundang-Undangan* 6, no. 1 (2019): 55–65.
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72 Abdelaziz Berghout, "Toward an Islamic Framework for Worldview Studies: Preliminary Theorization" in The American *Journal of Islamic Social Sciences* 24, no. 2 (2009): 22–43.
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