

Reconstruction of Women's *Fiqh*: An Analysis of Muhammad Shahrūr's Contemporary Reading in a Hermeneutic Perspective

Rekonstruksi Fikih Perempuan: Analisis Pembacaan Kontemporer Muhammad Shahrūr Perspektif Hermeneutik

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Abstract: The discourse of women's *fiqh* (Islamic jurisprudence) on gender issues is still confined to authoritarianism and classical *fiqh* hegemony, which ignores the existence and changes in contemporary reality. Several contemporary Muslim scholars have responded and attempted to reconstruct the women's *fiqh*, including Muhammad Shahrūr. This article aims to analyze the methodological thinking of Shahrūr's women's *fiqh* in the agency of criticism of *fiqh* exclusivism and the reconstruction of women's *fiqh* into a more comprehensive formulation of *fiqh* that is under social reality. This article is a literature study using the method of philosophical-hermeneutic analysis and made two of his works, *Al-Kitāb wa al-Qur'an: Qirā'ah Mu'āshirah* and *Nahwa Ushūl Jadīdah li Fiqh al-Islāmī: Fiqh al-Mar'ah*, as primary data. The writers found that Shahrūr carried a contemporary reading (*qirā'ah al-mu'āshirah*) by making objective reality (*al-wāqī'*) the basis for reconstruction in his first work. In his second work, Shahrūr criticizes the mainstream view of Islamic exclusivism in laws relating to women. Based on his two works, the authors argue that the interpretation of contemporary women's *fiqh* must be based on reality (rather than texts), scientific and technological advancements, a reconstructive attitude that gives a larger portion of reason and reality, and a new category of the logic of discovery.

Keywords: Muhammad Shahrūr, Women's *Fiqh*, Reconstruction, Contemporary Reading.

Abstrak: Diskursus fikih perempuan dalam isu gender masih terkungkung pada otoritarianisme dan hegemoni fikih klasik yang mengabaikan keberadaan dan perubahan realitas kontemporer. Beberapa sarjana muslim kontemporer telah meresponnya dan berupaya untuk merekonstruksi fikih perempuan tersebut, termasuk Muhammad Shahrūr. Artikel ini bertujuan untuk menganalisis pemikiran metodologis fikih perempuan Shahrūr dalam agensi kritik atas eksklusivisme fikih dan rekonstruksi fikih perempuan ke dalam formulasi fikih yang lebih komprehensif yang sesuai dengan realitas sosial. Artikel ini merupakan penelitian literatur dengan menggunakan metode analisis filosofis-hermeneutik dan menjadikan dua karyanya, *Al-Kitāb wa al-Qur'an: Qirā'ah Mu'āshirah* dan *Nahwa Ushūl Jadīdah li Fiqh al-Islāmī: Fiqh al-Mar'ah*, sebagai data primer. Para penulis menemukan bahwa Shahrūr mengusung pembacaan kontemporer (*qirā'ah al-mu'āshirah*) dengan menjadikan realitas objektif (*al-wāqī'*) sebagai dasar rekonstruksi pada karya pertamanya. Pada karyanya yang kedua, Shahrūr mengkritik pandangan mainstream eksklusivisme Islam dalam hukum yang berkaitan dengan perempuan. Berdasarkan atas dua karyanya, para penulis berargumentasi bahwa pembacaan terhadap fikih perempuan kontemporer harus didasarkan pada realitas (bukan pada *nash*), kemajuan sains dan teknologi, sikap rekonstruktif yang memberikan porsi akal dan realitas yang lebih besar, dan memiliki kategori penemuan baru (*the logic of discovery*).

Kata Kunci: Muhammad Shahrūr, Fikih Perempuan, Rekonstruksi, Pembacaan Kontemporer.

A. Introduction

The discourse on women's *fiqh* (Islamic jurisprudence) is a response from contemporary Islamic thinkers regarding the existence and role of women, which has been orthodoxy to classical thought. Therefore, the discourse is closely related to gender issues in Islam.¹ In the early 19th century, Muslim scholars, such as Rifa'ah al-Tahtawi, Qasim Amin, and Muhammad 'Abduh in Egypt, had discussed the issue of the role, empowerment, and involvement of women in the social sphere of life.² Riffat Hassan preached Qur'anic Islam, the liberation of human women from slavery to traditionalism, authoritarianism (religion and politics), racism, sexism, slavery, and women actualizing the Qur'anic vision.³ Fatima Mernissi advocates women's

¹ Abdul Mustaqim, *Paradigma Tafsir Feminis; Membaca Al-Qur'an dengan Optik Perempuan Studi Pemikiran Riffat Hasan tentang Isu Gender dalam Islam* (Yogyakarta: Logung Pustaka, 2008), 112-23.

² Baidhowi, "Hermeneutika Feminis dalam Penafsiran Al-Qur'an," *Jurnal Studi Ilmu-Ilmu al-Qur'an dan Hadis* 9, no. 1 (2008): 95.

³ Fatima Mernissi, *Pemberontakan Wanita (Peran Intelektual Kaum Wanita dalam Sejarah Muslim)*, trans. Rahmani Astuti (Bandung: Mizan, 1999), 82-96.

liberation, namely liberation from the cultural hegemony of patriarchal Islamic reasoning. Nasr Hamid Abu Zayd discusses reform tourism towards the theology of gender equality in Islam.⁴ Among these Muslim thinkers, Muhammad Shahrūr came up with reconstructing women's *fiqh*. Shahrūr reshuffled the traditional *fiqh* while proposing humanist *fiqh* in his work.⁵

Shahrūr's thoughts are interesting to study for two reasons. First, Shahrūr's thought was born from strong anxiety about reality, not born as an ideological response, in the form of thought or movement, as of many Contemporary Islamic thinkers. Shahrūr's writings are always in a rhythm to respond to contemporary problems. Shahrūr conducted a new methodological experiment on the study of the Qur'an, which was basic and relatively different from other Muslim thinkers.⁶ Second, Shahrūr projected Islamic studies directed at Islam's re-establishment (reform) from awareness of the development of life and changes in the reality of existence. This point that emphasizes Shahrūr differs from Arkoun and Hassan Hanafi, who emphasize the revolution of Islamic thought.

Some research on Shahrūr only emphasizes the study of one theory or the application of the theory. Some of these studies use boundary theory to interpret polygamous verses,⁷ Shahrūr's thoughts on the hijab (veil),⁸ and gender in Islam⁹ and compare them with feminist thinkers.¹⁰ Other scholars have also reviewed his work, *Al-Kitāb wa al-Qur'an*,¹¹ and mapped out criticisms of Shahrūr's controversial

⁴ Nashr Hāmid Abū Zayd, *Dawāir al-Khauf: Qirā'ah fī Khithāb al-Mar'ah* (Beirut: Al-Markaz al-Tsaqafī al-Islāmī, 1999), 179–80.

⁵ Muhammad Shahrūr, *Nahwa Ushūl Jadīdah li Fiqh al-Islāmī: Fiqh al-Mar'ah* (Damaskus: Al-Ahali, 2000).

⁶ Abdul Mustaqim, "Konsep Poligami Menurut Muhammad Shahrūr," *Jurnal Studi Ilmu-Ilmu Al-Qur'an dan Hadis* 8, no. 1 (2007): 95.

⁷ Jendri Jendri, "Aplikasi Teori Batas terhadap Poligami (Studi Hermeneutika Muhammad Shahrūr)," *Nun: Jurnal Studi Alquran dan Tafsir di Nusantara* 6, no. 2 (December 30, 2020): 145–62.

⁸ Reimia Ramadana, "Hadis Hijab Pandangan Kontemporer: Studi terhadap Pemahaman Fatima Mernissi, Quraish Shihab, dan Muhammad Shahrūr," *Jurnal Penelitian Ilmu Ushuluddin* 2, no. 1 (January 22, 2022): 86–112.

⁹ Ulfatmi Ulfatmi, "Gender dalam Perspektif Pemikiran Pembaharuan M. Shahrūr," *Kafa'ah: Journal of Gender Studies* 3, no. 1 (January 12, 2013): 45–57.

¹⁰ Abdurrahman Muqsith, Sudirman, and Fadil Sj, "Hukum Poligami: Analisis Komparatif terhadap Pemikiran Musdah Mulia dan Muhammad Shahrūr," *Al-Manhaj: Journal of Indonesian Islamic Family Law* 4, no. 1 (April 27, 2022): 52–65.

¹¹ Andreas Christmann, "'The Form Is Permanent, but the Content Moves': The Qur'anic Text and Its Interpretation(s) in Mohamad Shahrour's 'Al-Kitāb Wa'i Qur'an,'" *Die Welt Des Islams* 43, no. 2 (January 1, 2003): 143–72.

thoughts.¹² This article differs from the previous studies by examining two of Shahrūr's works related to women, which are viewed from a hermeneutic-philosophical perspective.

This article analyzes the basis and model of Shahrūr's philosophical-critical thinking in his two works. The first work is *Al-Kitāb wa al-Qur'an: Qirā'ah Mu'āshirah* and the second work is *Nahwa Ushūl Jadīdah li Fiqh al-Islamī: Fiqh al-Mar'ah*. The analysis in this book ends with an attempt to theorize contemporary *fiqh*, especially concerning women's *fiqh*. This article uses a philosophical approach and hermeneutical analysis theory¹³ with two main objectives. First, to systematically map out the basics of Shahrūr's philosophical-hermeneutical thinking to formulate and direct the reconstruction of the Qur'anic interpretation of women. Second, describe the idea or model of reading Shahrūr in his first work and see the methodological consistency of Shahrūr in his second work. The basic thinking, the methodological framework of reading, and the results of Shahrūr's analysis and conclusions can be understood as an effort to provide understanding and principles of contemporary Islamic law (*fiqh al-muāshir*), especially women's *fiqh* (*fiqh al-mar'ah*).

B. Academic Anxiety Muhammad Shahrūr and His Works

Muhammad Shahrūr is a Professor of Civil Engineering at the University of Damascus. He was born in Damascus on April 11, 1938, and died on December 21, 2019. He received a scholarship from the government to study civil engineering at Moscow State University, Soviet Union, and graduated in 1964. Subsequently, he pursued master's and doctoral studies in Soil Engineering and Engineering at University College, Dublin, in 1968 and 1972. From his educational history, Shahrūr was not educated as a religious scholar.¹⁴ However, some of his works discuss the interpretation and Islamic law.

¹² Andreas Christmann, "73 Proofs of Dilettantism': The Construction of Norm and Deviancy in the Responses to Mohamad Shahrour's Book al-Kitāb Wa'l-Qur'an: Qirā'a Mu' Āshira," *Die Welt Des Islams* 45, no. 1 (2005): 20–73.

¹³ Sumaryono, *Hermeneutik: Sebuah Metode Filsafat* (Yogyakarta: Kanisius, 1999), 105.

¹⁴ Bahman Baktiari and Augustus Richard Norton, "Voices within Islam: Four Perspectives on Tolerance and Diversity," *Current History* 104, no. 678 (January 1, 2005): 38.

There are five works by Shahrūr as books, namely *Al-Kitāb wa al-Qur'an: Qirā'ah Mu'āshirah* (1990), *Dirāsah Islāmiyah fī al-Dawla wa al-Mujtama'* (1994), *Al-Islām wa al-Imān Manzhumah al-Qiyām* (1996), and *Nahwa Ushl Jaddah li Fiqh al-Islamī: Fiqh al-Mar'ah al-Washiyah al-Irts al-Qiwāmah al-Ta'addudiyah al-Libas* (2000). The first work was a best seller in the Arab world and was banned in several countries.¹⁵ Besides books, Shahrūr also writes articles that he presents in seminars, and some have been published in scientific journals. In this article, the author focuses on his first and last two works to examine his thoughts on women.

Two factors gave rise to Shahrūr's academic anxiety to reconstruct Islamic studies, namely the gap in the reality of contemporary society and understanding related to the *at-turāts* (tradition) in Islam. In understanding *at-turāts*, Shahrūr sees that Islamic society is polarized into two unfinished streams. First is the scripturalist-literalist flow. This first group strongly adheres to the literal meaning and tradition, believing that the inheritance has absolute truth.¹⁶ This group, for Shahrūr, kills the function of the critical reason given by God to humans. The second is the modernist-revolutionist school. The latter group tends to call for secularism and modernity while rejecting all Islamic heritage. Most of this latter group came from Arab nationalists and communists¹⁷ reading repetitive, not productive. Religious texts determine their trapping in attitudes that tend to be reluctant to interact with the contemporary world and experience alienation from their world. It causes religion to be unrealistic with the times.¹⁸ Meanwhile, in the hands of the second group, Islam gave birth to readings that were not Islamic, ideological readings that would separate religion from the lives of its people.

According to Shahrūr, contemporary Islamic thought has five main problems. First, the absence of objective scientific research methods, especially related to the study texts revealed to the Prophet Muhammad. Second, existing Islamic studies often depart from old perspectives and are trapped in the confines of subjectivity.

¹⁵ Michaëlle L. Browsers, "Shahrur's Reformation: Toward a Democratic, Pluralist and Islamic Public Sphere," *Historical Reflections/Réflexions Historiques* 30, no. 3 (2004): 446–47.

¹⁶ Muhammad Shahrūr, "The Divine Text and Pluralism in Moslem Societies," in *Hermeneutika Alquran Madzhab Yogya*, ed. Sahiron Syamsuddin (Yogyakarta: Islamika, 2003), 255–67.

¹⁷ Shahrūr, 255–67.

¹⁸ Kurdi, *Hermenetika Alquran dan Hadis* (Yogyakarta: Elsaq Press, 2010), 290.

For Shahrūr, the study produced nothing new but only further strengthened the assumptions he held. Third, the lack of use of the humanities philosophy as a study tool because of anti-Western scientific sentiments. Fourth, there is no valid Islamic epistemology. It impacts fanaticism and indoctrination of schools, which are the accumulation of thoughts of the past century, so Islamic thought becomes narrow and does not develop. The existing *fiqh* (*al-fuqahā` al-khamsah*) are no longer relevant to the demands of modernity. Therefore, a new *fiqh* formulation is needed. This kind of anxiety has arisen from the critics of Shahrūr's thinking, but they only criticize without providing a solution.¹⁹

Based on these five issues, Shahrūr needed to write his first work, which carried a new reading known as *qirā'ah al-mu'āshirah terminology*. The spirit of reading Shahrūr always makes objective reality (*al-wāqī'*) the basis for all reconstructions of Islamic studies. *Al-wāqī'* became the basis for the formation of *al-mu'āshir* in interpreting the women he carried. The reconstruction of Shahrūr's Islamic studies seeks an understanding that can provide comfort and modernity for Muslims. Because according to Shahrūr, the two groups above have failed to provide modernity for their people.

Syahrur's anxieties towards the two groups of contemporary Islamic thought were responded to by giving birth to ideas and ideas that bridged the two. Shahrūr wrote these ideas and ideas in the first work. In addition, he emphasized the importance of courage to think in interpreting the Qur'an. For Shahrūr, the Qur'an is the subject of interpretation so that, in carrying out exegetical activities, Muslims do not have to be confined by the interpretations of past interpreters. Muslims should have independent thinking in interpreting it. The trick is to build an interpretation in the spirit of changing existing realities and using a contemporary paradigm that is characterized by logical-scientific.²⁰

Contemporary reading (*qirā'ah al-mu'āshirah*) of the Qur'an is a reading that uses a historical-scientific approach, a language approach (linguistic structuralism),

¹⁹ Shahrūr, *Al-Kitāb wa al-Qur'an: Qirā'ah Mu'āshirah*, 30–32.

²⁰ Shahrūr, *Al-Kitāb wa al-Qur'an: Qirā'ah Mu'āshirah*, 44. Abdul Mustaqim and Sahiron Samsudin, eds., *Studi Alquran Kontemporer: Wacana Baru bagi berbagai Metologi Tafsir* (Yogyakarta: Tiara Wacana Yogya, 2002), 137.

and *ta'wil 'ilmi* combined with the analogy of exact sciences (*scientific analysis*).²¹ This methodological explanation is written in detail in his first work. It becomes the entry point in understanding Shahrūr's ideas and ideas in his other works. In analyzing legal verses in the formation of Islamic law, Shahrūr also discusses them in this work. Limit theory, mathematical limit (*nadzāriyāt al-hudūd*), differential (*lā tarāduf*), *integral* (synchronic-diachronic), and other methods, are Shahrūr's analytical methods in reconstructing Islamic jurisprudence or responding to issues of Islamic law.²²

In the context of contemporary Islamic thought discourse, the birth of Shahrūr's second work cannot be separated from his broad umbrella of ideas in building an open and objective women's *fiqh*, as well as releasing women's *fiqh* from the shadow of past truths which were centralized in classical Islamic discourse. There are three criteria for classical Islamic discourse on women's issues. First is the textualism of doctrinal interpretation. Second is the acknowledgment of the experience and the absolute truth of the thoughts of the early generations, especially Sunnis. Third is theological identification as legitimacy in limiting the role of women produced in classical *fiqh*.²³ He opposes these three criteria in his works.

C. Muhammad Shahrūr's Methodology and His Contemporary Reading of Women's *Fiqh*

The birth of Shahrūr's second work confirms his position of thought to develop women's *fiqh* from the reinterpretation of legal verses. Shahrūr rigidly criticizes the *mainstream* of Islamic exclusivism, especially in *fiqh* relating to women. It means that the birth of this second work cannot be separated from Shahrūr's strong desire to formulate a new *fiqh* methodology. It is based on the awareness that the message of the Prophet Muhammad can be used for Muslims at any time and place, not only for the people of the 7th century H. Therefore, formulating a new

²¹ Shahrūr, *Al-Kitāb wa al-Qur'an: Qirā'ah Mu'āshirah*, 47.

²² Ahmad Zaki Mubarak, *Pendekatan Strukturalisme Linguistik dalam Tafsir Alquran Kontemporer 'ala Shahrūr* (Yogyakarta: eLSAQ Press, 2007), 139.

²³ Nurun Najwah, *Wacana Spritualitas Perempuan Perspektif Hadits* (Yogyakarta: Cahaya Pustaka, 2008), 7–8.

methodology requires correct knowledge, knowledge resulting from synchronization between revelation, reason, and senses.²⁴

Shahrūr's current reading project of *fiqh* is formulated in three stages in philosophical theory, namely *kaynūnah* (condition of being, *dasein, being*), *sayrūrah* (condition of processing, *der Prozess, the process*), and *shayrūrah* (condition of being, *das Warden, becoming*). These three stages become the framework for Shahrūr's theory and scientific arguments to produce actual readings that follow the times and are used to eliminate static readings in the deriving law (*istinbāth al-ahkām*).²⁵ Shahrūr wrote:²⁶

“Those three terms have always been the center of discussion in philosophy and the core basis for all theological (God), naturalistic (nature), and anthropological (human) discussions. By considering that *kaynūnah* is the beginning of something that exists, *sayrūrah* is the movement of passing time, and *shayrūrah* is something that becomes the goal for the first existence after going through a process phase.”

In addition, there are five *fiqh* methodologies used by Shahrūr in reconstructing women's *fiqh*. First is the theory of anonymity, namely the belief that there is no synonymy in every word (*lafadz*) in the Qur'anic verse.²⁷ Second, the Qur'an must be approached with the theory of *qirā'ah mu'āshirah*. *Qirā'ah* is a progressive view and contributes to the life of reading. The opposite of the word is *tilāwah*, which is monotonous reading. Third, every interpreter must have a worldview. Thus, a reader must try to explore a worldview that in every verse contains *al-nubuwwah* and *al-risālah* immediately.²⁸ Fourth, reading the verse regarding women must pay attention to the *tartīl analysis paradigmatic-syntagmatic*.²⁹ This method will oppose the *mainstream* of classical *fiqh* regarding polygamy, inheritance, and others.³⁰ Fifth, *hudūd* and historical context. According to Shahrūr, all verses about women have limitations in their implementation, and all of them are closely related to the reality when the verse was revealed. If today's

²⁴ Shahrūr, *Nahwa Ushūl Jadīdah li Fiqh al-Islamī: Fiqh al-Mar'ah*, 57–58.

²⁵ Fanani, “Pemikiran Muhammad Shahrūr dalam Ilmu Usul Fikih: Teori Hudud sebagai Alternatif Pengembangan Ilmu Usul Fikih” (Doctoral, UIN Sunan Kalijaga Yogyakarta, 2005), 94.

²⁶ Shahrūr, *Nahwa Ushūl Jadīdah li Fiqh al-Islamī: Fiqh al-Mar'ah*, 27.

²⁷ Shahrūr, 221–23.

²⁸ Shahrūr, 55 and 191.

²⁹ Shahrūr, 301.

³⁰ Shahrūr, 597–99.

reality changes, the principles of its teachings must be developed.³¹ It can be seen from some of Shahrūr's contemporary readings of women's leadership, clothing, and aurat.

1. Muhammad Shahrūr's View on Women's Leadership (Sūrat An-Nisā': 34)

Shahrūr realized that the position of women in several Islamic countries was in the transitional phase of independence and the search for a state ideology that often-sacrificed women. Instead of women becoming leaders, they do not even get open public access. The theological proof of women's leadership is QS. An-Nisā': 34. According to Shahrūr, the expression "*qawwām*" in verse, which refers to men as leaders, had a general context at that time because men were the breadwinners of the family. This expression, he added, is not a symbol of women's weakness as many Sunnis interpret it.³² For Shahrūr, this view became the basis for building the interpretation of this verse from the beginning of its editorial.

Shahrūr gave a linguistic meaning to the expression "*faddala ba'duhum 'ala ba'd*" by asserting that this expression does not mean to explain that men have advantages over women but implies that each of them has advantages over the other because the word "*hum*" is not exclusive to men but also women. In a broader context, Shahrūr also emphasized that this verse does not specifically regulate the family system but further regulates social systems such as work, production, administration, teaching education, medicine, pharmacy, sports, law, and others.³³

With this linguistic analysis, Shahrūr argues that the word "*qawwāmah*" implies devotion, namely the devotion of men to women. However, the continuation of this verse, "*bi mā faddala ba'duhum 'alā ba'd*," denies the understanding is only for men. Thus, the word "*qawwāmah*" becomes a keyword that applies to both men and women.³⁴ His interpretation concludes that Shahrūr emphasized that the verse refers more to social functions than to the advantages of a particular gender. The verse describes a contextual statement, not a normative-textual statement.

³¹ Shahrūr, 303.

³² Shahrūr, 320.

³³ Shahrūr, 320.

³⁴ Shahrūr, 321.

2. Muhammad Shahrūr's View on Clothing and Aurat (Sūrat Al-Ahzāb: 59 and QS. an-Nur: 30)

In the transitional phase of independence and the search for ideology, the state often regulates women in their social interactions, including in dressing and covering their genitals. Some countries even oblige women to cover all their bodies, veiled, arguing on the teachings of *qath'ī* (definitely). The religious text that is often used to legitimize the rule is QS. Al-Ahzāb: 59.

In a cultural context, the Qur'an (Sūrat Al-Ahzāb: 59) calls as part of efforts to maintain the honor of Muslim women at that time, not as a final legacy. This verse instructs the Prophet Muhammad to instruct his wives and believe women to wear the hijab when leaving the house. It is intended to indicate their identity as good women to avoid being disturbed. The purpose and purpose of wearing the hijab in interpreting Sūrat Al-Ahzāb verse 59 is so that the public knows Muslim women because of their truthfulness, determination, authority, and piety. They are protected from the disturbance of men who are immoral and responsible.³⁵

For Shahrūr, Sūrat Al-Ahzāb verse 59 has a diachronic relationship with Sūrat An-Nūr verse 30, which explains the context of the genitals with the commandment to keep the view that is called for more generally to all believers than men. The Qur'an calls for women to cover their *aurat* (nakedness and young woman's body) and men to guard their views, as emphasized in Sūrat An-Nūr verse 30. Shahrūr interprets this verse with two emphases. First, Allah commands men and women who believe to withhold part of their gaze (*min absārihim*). "*Min*" is a *jar* that means "a part of something." Allah commands men and women to withhold part of their gaze, not the whole view.³⁶ Shahrūr gave an example as when someone sees something that is not good. He should not have to look at it. Therefore, Allah's prohibition on seeing some of these views is conditional.

Second, both men and women are commanded by Allah to guard their private parts from the eyes of others. That is, the genitals of a Muslim or Muslim woman must be covered. Shahrūr made a minimum limit for men's clothing, covering the genitals and buttocks. As for women, the minimum limit is to cover the *juyūb* (the

³⁵ Nasaruddin Umar, "Antropologi Jilbab," *Jurnal Ulumul Qur'an* 5, no. 6 (1996): 41.

³⁶ Shahrūr, *Nahwa Ushūl Jadīdah li Fiqh al-Islāmī: Fiqh al-Mar'ah*, 373.

part of a woman's body that has holes or gaps) located on the chest, under the armpits, genitals, buttocks, and back. According to Shahrūr, the Qur'an does not determine the clothing model. However, the most important thing is to cover the nakedness with anything if it does not exceed Allah's decree.³⁷

Thus, Shahrūr concludes that the revelation of the verses about the hijab has a function as a preventive medium in special conditions, namely when free women enter the social environment in the city. Contextually, there is a relationship between the use of the hijab and the social and ethical order in Medina at that time. The regulation of women's clothing is an effort to reconstruct the social ethics system that concerns the existence of women, not to make religious texts a tool to curb the existence of women.³⁸ Therefore, the hijab is not a religious rite but a culture adopted in a particular social context. So, the provisions regarding the hijab can change according to social changes.³⁹

D. Muhammad Shahrūr's Contribution to the Reconstruction of Contemporary Women's *Fiqh*

Muslim scholars emphasize the need for reconstruction efforts of women's *fiqh*. Reconstruction is an effort to perfect the various *spaces* that have not been touched by the scholars of the school of thought. The need to reconstruct *ushūl fiqh* is not only since *fiqh* is a product of the past but also urgent demands in the context of the realities of life.⁴⁰

Shahrūr continued this constructive spirit by producing several works that were tired and consistently critical. His reconstructive idea started with questions from Shahrūr's anxiety written in his first work. What if the Qur'an played its role not only in spiritual life (*al-hayat al-rūhiyyah*), but also in material life (*al-hayat al-mādiyyah*)? What if the verses of the Qur'an are not only used to build the spirit of the afterlife but also to build a good civilization of life in the world? For Shahrūr, the

³⁷ Shahrūr, 373.

³⁸ Shahrūr, 373.

³⁹ Bayan Itani, "Veiling at the American University of Beirut: Religious Values, Social Norms and Integration of Veiled Students," *Contemporary Arab Affairs*, October 27, 2016, 19.

⁴⁰ Hasan at-Turabi, *Fiqh Demokratis: Dari Tradisionalisme Kolektif Menuju Modernisme Populis*, trans. Abd. Haris and Zaimul Am (Bandung: Arasy, 2003), 50.

solution to answer the two big questions is to let reason play its role in understanding the text assisted by modern science, and science is no exception.⁴¹

What Shahrūr did in the two works above puts his thoughts on the plains of discourse and method simultaneously. The accentuation of discourse and its method is based on Al-Jabiri's analysis which divides thinking into two, thought as content (discourse) and thought as a tool (method). Thought as discourse is a collection of opinions and thoughts born by thinking as a tool. Thought as a tool functions to produce thoughts, both thoughts that are produced within the internal framework of ideology and the internal framework of knowledge.⁴² Shahrūr wanted a reinterpretation of the verses of the Qur'an according to the development and interaction between generations, as well as breaking the confusion and meaning of the Qur'an.⁴³ Stupidity is a common enemy of Islamic thinkers. Shahrūr seeks to find new formulations of Islamic thought with advanced scientific tools.⁴⁴

The authors position Shahrūr's contemporary *fiqh* thinking as a thinker who has theoretical concepts. In the philosophical-hermeneutical analysis, the essence of the basis and method of Shahrūr's thought can be formulated into four points. First, contemporary *fiqh* must be based on reality, not on texts. Because texts remain, the reality of life develops and changes significantly with the reality of Islam in the past. Second, contemporary *fiqh* must be based on advances in science and technology. For example, advances in science and technology have produced a variety of tools that can help women in menstruation. Therefore, the *fiqh* treatment of menstruating women must be reinterpreted and adapted to the spirit of the development of science and technology. Third, contemporary *fiqh* must have a reconstructive attitude that provides a greater portion of reason and reality because both can give birth to objective truth. Fourth, contemporary *fiqh* must have a new category of discovery (*the logic of discovery*) and have use values for today's life. Thus,

⁴¹ Shahrūr, *Al-Kitāb wa al-Qur'an: Qirā'ah Mu'āshirah*, 375–85.

⁴² Amin Abdullah, "Paradigma Alternatif Pengembangan Ushul Fiqh dan Dampaknya pada Fiqh Kontemporer," in *Mazhab Jogja: Menggagas Paradigma Ushul Fiqih Kontemporer* (Yogyakarta: Ar-Ruzz Media, 2002), 245.

⁴³ Bisri Effendy, "Tak Membela Tuhan yang Membela Tuhan," in *Tuhan Tidak Perlu Dibela*, by Abdurrahman Wahid, Cet. 1 (Yogyakarta: LKIS, 1999), xviii.

⁴⁴ Mohammed Arkoun, *Nalar Islami dan Nalar Modern: Berbagai Tantangan dan Jalan Baru*, trans. Rahayu S. Hidayat, Seri INIS, jil. 21 (Jakarta: INIS, 1994), 52.

contemporary *fiqh* should not be trapped in past realities that are still maintained today.

Regarding the third point, this is a fight against contemporary *fiqh* productions, which are still mostly confirmatory, confirming past opinions, and resistance against fatwas on contemporary Islamic law rarely involving scientific findings. The four points in reconstructing contemporary *fiqh* can be applied to all issues and themes, including women's *fiqh*. Thus, the reconstruction of Shahrūr's contemporary *fiqh* can contribute to the birth of women's *fiqh* that follows the context of life's realities in facing modern life's challenges.

Shahrūr's contribution cannot be separated from criticism. Christmann criticized Shahrūr's contemporary reading of the text as a religious deviation. The critics devised a form of 'orthodoxy' as a counterimage to his reading.⁴⁵ Māhir Al-Munajjid summarizes the four main errors of Shahrūr's linguistic approach: the use of Arabic grammar and orthography, the idea of structural semantics, the use of dictionaries, and understanding of etymology, and the theory of the relationship between words and their meanings. Other scholars such as Ja'far Dakk al-Bāb, Jawād Mūsa Muhammad 'Affāna, Muhammad Sa'īd Ramadān al-Būtī (d. 2013), and Yūsuf Al-Saidāwī, criticized Shahrūr's personality as an entry-level student, a person who jumps into the sea without knowing how to swim, a person who has shallow thinking, and others.⁴⁶

E. Conclusion

Both of Shahrūr's works in the article attempt to formulate the basis of critical-philosophical thinking in reading religious texts and formulating women's *fiqh*. His first work carries a new reading which Shahrūr calls *qirā'ah al-mu'āshirah*. *Qirā'ah al-mu'āshirah* is a reading that uses a historical-scientific approach, a language approach (structuralism-linguistics), and ta'wil 'ilmi combined with the analogy of exact sciences (*scientific analysis*). The spirit of reading Shahrūr always makes objective reality the basis for reconstructing Islamic studies. Meanwhile, her second work offers the idea of a women's *fiqh* methodology. Among them is the

⁴⁵ Christmann, "73 Proofs of Dilettantism" 72.

⁴⁶ Christmann, 66-67.

theory of anonymity, *qirā'ah al-mu'āshirah*, the synergism between the *worldview* commentators and the *worldview* of Qur'an, method *tartīl* (paradigmatic-syntagmatic), and the theory of hudud-historical context.

Shahrūr's thinking can be developed as an update or innovation in theorizing contemporary *fiqh* for women. The theoretical, methodological findings and relevant examples in Shahrūr's two works become important materials in studying and formulating Islamic jurisprudence today and in the future. Contemporary women's *fiqh* must be based on reality, not texts, on scientific and technological progress, have a reconstructive attitude that provides a larger portion of reason and reality, and have a new category of the logic of discovery.

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