

CHAPTER I

INTRODUCTION

A. BACKGROUND

Islam is one of religion in this world. While the main purpose of whole religion is for teaching the human in order to be a good man in all aspects. Religions give a set of guidance for us to do a good thing and avoiding the bad thing. Including Islam has given us a set of rules in the Qurân and Hadîth. There are many problems which clearly explained in Qurân, including some women discourses and family law. Islam comes to free and protect women from a life of torture, especially in a family, in their relationship with the husband, either directly or indirectly.

A direct liberation we can see from the changing of women status, where Islam explicitly forbid the practice of killing daughter, because Islam see that women and man are equal in front of Allâh. No one has right to kill them, even their parents with whatever reason.

When news is brought to one of them, of (the birth of) a female (child), His face darkens, and He is filled with inward grief!

With Shame does He hide Himself from His people, because of the bad news He has had! Shall He retain it on (sufferance and) contempt, or bury it In the dust? Ah! What an evil (choice) they decide on?”¹

And then Allâh changes this custom, like in *sūrah al-An’âm* [6]: (151), and *al-Isrâ’* [17]: (31):

¹Q.S. *an-Nahl* [16]:58

*“say: “Come, I will rehearse what Allâh hath (really) prohibited you from”: join not anything As equal with him; be good to your parents; kill not your Children on a plea of want;- we provide sustenance for you and for them;- come not nigh to shameful deeds. Whether open or secret; take not life, which Allâh hath made sacred, except by way of justice and law: Thus doth He command you, that ye may learn wisdom”.*²

*“Kill not your Children for fear of want: we shall provide sustenance for them As well As for you. Verily the killing of them is a great sin”.*³

While the step liberation or indirect liberation we can see in many cases in Qurân, such as in slavery and inheritance for women. Where in the past women is only “thing” that can be bequeath or pawned and as a pleasure that can be competed between men. Moreover women claimed as a source of misery and suffering.⁴ But after the coming of Islam women claimed as a subject of inheritance it means the receiver of inheritance itself. But because of the social structure at that time that the responsibility of family necessity is man, so that Islam divide it into two parts for man and one for women, but it is not meant that the value of women is a half of man.⁵

In fact Qurân wants to make a justice life in society, so do in household case. But the history was not stood up for Islam. Al- Qurân was effort to rise up the women, but the social construction, norm, and convention was opposed it. Other example is in marriage system, from polygamy to monogamy system. It is one of great change in history, where the custom at that time is that there is no limitation for man to have wife, and Islam explicitly said that man only allowed getting marriage maximally with four women, and the best is monogamy system, it means with one wife because that is the nearest system with the justice.

² *Al-An’âm*: 151

³ *Al-Isrâ’*: 31

⁴ This condition is based on story which quoted by ibn Jarîr ath-Thabari that Allâh create the women on a stupid and over difficulties in birth process because of the mistakes of Eve (*Hawa*) in persuasion to Adam in heaven.

⁵ Siti Musdah Mulia, *Muslimah Reformis: Perempuan Pembaru Keagamaan*, (Bandung: Mizan, 2005). p. 16

Except those examples, there are many other women discourse discussed in Qurân. Especially in surâh *an-Nisâ'*, so that Muhammad Syaltût named this chapter by *an-Nisâ' al-kubrâ* in order to differ with the other chapter which also talk about part of women discourse, that is *surâh ath-Thalâq*, and then this chapter named by *an-Nisâ' al-Shuġhrâ*.⁶

One of important women discourse in surâh *an-Nisâ'* is polygamy verse. Polygamy is not a new tradition in Islam, but it has been run since the past before Islam. Like I said before that Islam have changed the system of polygamy from the marriage with unlimited wife to the limitation four wives maximally. And the most important is the requirement in doing polygamy, it is the ability of husband to be justice in treating their wives. If the husband can't fill this requirement, they are not allowed to get marriage more than one, or to do polygamy.⁷

But some of classic interpreter were not have same idea with this. Some of them recognize that this verse is talk about the important of being justice in polygamy, but they said that it is impossible for husband to be justice to their wives in love and sex, but it is only possible in giving earn for life's necessity. So that male is allowed to doing polygamy, because they are not strived for being justice to their wives, and for this group being justice is only an advice not a requirement. Like Allâh said: "*ye are never able to be fair and just as between women, Even if it is your ardent desire*".⁸

⁶ Nurjannah Ismail, *Perempuan dalam Pasungan: Bias Laki-Laki dalam Penafsiran*, (Yogyakarta: LKiS, 2003), p. 1.

⁷ We can see this verse in *sûrah an-Nisâ'* [4]: (3). Where in this verse Allah has explained that male only allowed getting marriage one- monogamy-. But because polygamy is a living tradition in that time, and it is impossible to make the whole aspect, so that Qurân give limitation four wives maximally with the requirements justice in treating their wives, and if they can't doing justice they are only allowed to get marriage one, or they have to marriage with their slave. And the conclusion of this verse is that Islam wants a monogamy system.

⁸ An-Nisâ: 129

And this idea is automatically different from some modern and contemporary interpretations, which the different social structure and culture around the interpreter are very influence. Especially for the feminist interpreter, this idea is totally different. Because the feminist see that this verse is explicitly forbid the polygamy with the reason that justice is the absolutely requirements, while as an ordinary human, being justice is something impossible.⁹

The different opinion about the law of polygamy is also run in Indonesia. One of most controversial opinion is the decision of Working Group of Mainstreaming of the Department of Religious Affairs of the Republic of Indonesia (*Kelompok Kerja Pengarusutamaan Gender*) RI 2004.¹⁰ Team in so many symposium and discussion they which conducted in order to renewal socializing draft to Compilation of Islamic Law (KHI). Team which lead by Siti Musdah Mulia decides that the law of polygamy is “*haram lighairihi*”.¹¹ This team said that polygamy is *haram* because the excess or the impact of polygamy, because they think that polygamy has potency in making domestic violence and injustice for women. This team wants to rearrange a renewal draft of Compilation of Islamic Law.

In the late of 2004 our society were surprised by emerging the CLD-KHI which consist of three drafts. They are marriage law, Islamic law in inheritance and law in *waqf* (property donated to religious use) draft.¹² This draft consists of 178 articles and proposes 23 points of ideas of renewal of Islamic Law. Siti

⁹ For example the interpretation of Amina Wadud Muhsin and Asghar Ali Engineer.

¹⁰ Team of Pokja PUG (*kelompok kerja Pengarus Utamaan Gender Departemen Agama*) try to compose a counter legal draft of Compilation of Islamic Law (CLD-KHI) as a renewal of Muslim Family Law (KHI). PUG itself formed based on president instruction no.9, 2001 which stated that all of activity and program of government has to taking part of PUG team, in order to guarantee that public policies are in gender perspective.

¹¹ In their term, *haram lighairihi* means that polygamy is *haram* because there are many negative effects from polygamy, either for the husband or wife. So *haram lighairihi* means *haram* because the effect or the impact.

¹² See the Appendix for the completely of CLD-KHI.

Musdah Mulia herself in that team is a head and coordinator together with other ten experts.¹³ This team tries to make reinterpretation and clarification against interpretation in the old KHI. Some conservative scholars assume that there are many mistakes and controversial interpretation of team's decision.¹⁴ They think that the project draft of this team is neither on the context of *tajdîd* (purification) nor *ishlâh* (repair), but it is a concept of *bid'ah* (deviation) and *taghyîr* (reformation) from original Islamic law.

There are some reasons of pokja PUG team in composing this draft. They are, *first*, that in the old KHI there are many injustice, patriarchal, and exclusives law. *Second*, the old KHI is not appropriate more with some national and international law. *Third*, the old KHI is not appropriate with basic human rights. *Fourth*, not appropriate with the spirit of Islamic teaching itself.¹⁵ According to them, an Islamic law has to set out the spirit of tolerance and togetherness.

Because most of Moslem scholars assume that the draft of PUG team is a deviation of Islamic law, so that the government which presented by The Council of Indonesian Ulama (MUI) make an effort to religion affairs to stop and coagulating the activity and socialization of pokja PUG team which lead by Siti Musdah Mulia.¹⁶

¹³ This team consists of Siti Musdah Mulia, Marzuki Wahid, Abd Moqsith Ghazali, Anik Farida, Saleh Partaonan, Ahmad Suaedy, Marzani Anwar, Abdurrahman Abdullah, Ahmad Mubarak, and Amirsyah Tambunan.

¹⁴ For example the opinion of HM Taher Azhari from UI and Hasanuddin from MUI. They considered that this draft doesn't refer to al-Qur'ân and as-sunnah. Hasanuddin argues that this draft is based on the sentiment of the team, while Azahari said that this team was ignored the revelation, although Azahari is not reject all of the draft, he was agree with some of them. See the completely in the articles written by Marzuki Wahid (one of CLD-KHI team's member) on the title CLD-KHI from the Perspective of Politics of Laws in Indonesia.

¹⁵ See CLD-KHI, <http://islamlib.com/id/index.php?page=article&id=733>

¹⁶ Said Agil Hussein Munawar, The religion minister at that time give a warning to pokja PUG team with his letter NO. MA/271/2004 at October, 12th 2004 in order to not to do the same thing in the name of religion affairs team, and the draft of CLD-KHI has to given to the religion minister. Even the new religion minister, Maftuh Basyuni, at February, 14th 2005 abrogating the draft of CLD-KHI, and Musdah Mulia as a leader was extremely forbid to spreading her opinion.

Besides that there are many other controversial opinion and interpretation of Siti Musdah Mulia.¹⁷ What she has done is an effort to create a justice and equal life in society. We can say that she is one of feminist in Indonesia, she has written her thought in some books, articles and journals. So do there are many written about her, either agree or contradictive with her thought. Even because of her thought, there are many other scholars fulminate her, although there are many parts that support and agree with her opinion.

Based on that problem, the writer want to make a research how does the characteristic of Siti Musdah Mulia in interpreting Quran verses, especially in polygamy verses until to her decision that polygamy is *harâm lighairihi*. According to her, the absolutely forbidding of polygamy in Indonesia is because of sociological reason. Because there are many social problems emerge in practical polygamy, such as the legitimating of illegal marriage, the high number of underage marriage, and the domestic violence. Besides that she also uses a *Qawâ'id Fiqh* that is avoiding the badness and damage thing, it means she takes a conclusion that polygamy is more risk and create many badness (*madharat*) than the public benefit (*mashlaha*).¹⁸ It means that her interpretation is different with other interpreter before. So that in this research the writer also want to describe generally of the interpretation on polygamy verses of some interpreter before her as a comparison toward Siti Musdah Mulia's interpretation.

B. RESEARCH QUESTION

Actually the content of this draft is not the main causes of rejection this draft. Besides the content, the rejection of public is because this team is gains financial support from the Asia Foundation. This made an issue that this draft is colored by political issues, particularly issues on western's political interest to disseminate ideas on secularism and liberalism among Indonesian Moslem.

¹⁷ For example her opinion that homosexual is allowed in Islam, and wearing veil is not a must for Moslem women.

¹⁸ Siti Musdah Mulia, *Muslimah... Op. Cit.*, p. 369.

Based on background description above hence focus of research is to know the answers of following questions:

1. What is the method of Siti Musdah Mulia in understanding polygamy verses in the Qurân?
2. How did she come to conclusion that polygamy is *Haram Lighairihi*?
3. What is the relevance of Siti Musdah Mulia's thought toward contemporary marital problems?

C. AIM AND SIGNIFICANCE OF RESEARCH

The aims of this research are:

1. To know the method of Siti Musdah mulia in interpreting polygamy verses.
2. To know the basic thought and argument of Musdah Mulia to comes the conclusion that polygamy is *haram lighairihi*.
3. To know the relevance of her thought in solving some contemporary marital problems.

The significance of this research is that this research will give contribution theoretically and practically. *Theoretically*, this research will product the theory of Musdah Mulia's thought in interpreting polygamy verses. While *practically*, this research hope will give the new information and the new discourse in polygamy problems. And automatically this research can enrich the *tafsir* science about interpretation of polygamy verses. The other significance is that this research hope will give contribution in arranging and changing of law in Indonesia which based on gender equality.

D. PRIOR RESEARCH

Women issues are not a new problem, so that there are many works either from book, article or journal which discuss about it. So do in polygamy issues. One of them is a book written by Mazhar ul-Haq Khân with the title *Social Pathology of the Muslim Society*. In that book she discuss about the term and the problem of *purdah* and polygamy which became an unfinished problem on Muslim community.¹⁹

Besides that a book written by Abdul Nâsher Taufiq al-Atthâr which translated by Chadijah Nasution also discuss about this topic, with the title *poligami Ditinjau dari Segi Agama, Sosial dan Perundang-undangan*.²⁰ In this book Abdul Nâsher talk about polygamy discourse from many sides, such as from some religions, and laws of polygamy in some country.²¹

In a book *Perempuan Dalam Pasungan: Bias Laki-Laki dalam Penafsiran*, Nurjannah Ismail discuss deeply about the interpretation of women discourse in *Surâh an-Nisâ'*, such as about the creation of women, the leadership of women, inheritance and about some interpretation of polygamy verses in little part of this book. In this book Nurjannah use some comparative interpretation ranging from classic and modern interpreter in discussing some certain topics. Which from classic she uses *tafsîr* of at-Thabariy and Fakhruddîn ar-Râzi, while from modern she uses *tafsîr* of Rasyid Ridha and his student Muhammad Abduh in *tafsir al-Manâr*.²²

¹⁹ Mazhar ul-Haq Khân, *Social Pathology of the Muslim Community*, Delhi: Amar Prakashan, 1978.

²⁰ The original title of this book is “*Ta’adudu az-Zaujât min an-Nawâhiy ad-Dîniyah wa al-Ijtimâ’iyah wa al-Qânûniyah*”

²¹ Abdul Nâsher Taufiq al-Atthâr, *Poligami Ditinjau dari Segi Agama, Sosial dan Perundang-undangan*, translated by Chadijah Nasution, Jakarta: Bulan Bintang, 1976

²² Nurjannah Ismail, *Perempuan dalam Pasungan: Bias Laki-laki dalam Penafsiran*, Yogyakarta: LKiS, 2003

Based on those literatures, I didn't find yet a book or journal or article which discuss about interpretation of polygamy verses based on Siti Musdah Mulia's thought. So in this research I want to focus on this problem.

E. THEORETICAL FRAMEWORK

To answer the problem in this research, automatically it needs a framework. So in this research I want to focus into two problems. First is about the interpretation of Siti Musdah Mulia on polygamy verses, so that I think it also will be important to know about the socio historical of Siti Musdah Mulia in order to get the external aspect which influenced her interpretation.

And the second is the focus on gender theory toward polygamy problem. Everyone was not born as a woman, but be women. And be a man or women are a fate. Generally, gender used to identify the difference between man and women from socio cultural side. While sex used to identify the difference between man and women from biological anatomy.²³ Socio-cultural construction of the difference between man and women make some feminism thought rise up. There are some feminism theory which explained about some causes of the differences between man and women.

Karl Marx and Friedrich Engels said that the difference and gender imbalance between man and women is not caused by biological difference, but it is part of oppression from power classes in a family. The relation between husband and wife is same as the relation between proletarian and bourgeois, exploiter and who is exploited. In other word imbalance gender in our society is not caused by

²³ Umar, Nasaruddin, *Argumen Kesetaraan Gender Perspektif Al-Quran*, Jakarta: PARAMADINA, 2001, p. 35.

biological factor or divine creation but it is a social construction furthermore this idea known as conflict theory.²⁴

Besides that, Pierre Van den Berghe, Lionel Tiger and Robin Fox said that the socio-biological factor is the causes of man superiority toward women. Reproductive function of women claimed as an inhibitor factor to get equality between man and women. This theory tries to combine between social and biological aspect, so that this idea known as socio-biological theory.²⁵

As we know that the inequality between man and women in our society is not caused of biological anatomy or reproductive function of women, but it is caused by social construction in our society since in the past. So there is no reason to make an injustice relation between man and women, husband and wife, or the exploiter and exploited like in polygamy. Because the victim in polygamy is always the women, either physic, psychology or economic. This practice always run well because our society still think that women is only a complement of man, man is their leader in every life aspect, and that women has no right upon their own self. And the understanding of this thought is the impact of patriarchal system and masculine interpretation of religion texts.

Actually Qurân is not support the opinion of gender inequality based on sex. Although textually Qurân recognize the sexual difference, but it not means that there is a significant difference in role and right between them. Even Qurân built a gender equality principle, and so do in household relationship Qurân stated the equality and balance between man and women. But some interpretation of Qur'an verses which influenced of male-domination was made a big impact in this inequality. So that it is important to study and rethink about the interpretation of verses in Qurân and produce the gender equality principle. And this is what has

²⁴ *Ibid.*, p. 61-64.

²⁵ *Ibid.*, p.68-70

Siti Musdah Mulia try to do. So from this research we will know how is the interpretation of Siti Musdah Mulia on polygamy verses can solve and be relevance in some women problems.

F. RESEARCH METHOD

Some verses in Qurân contain of some equality verses. Even Qurân was effort the rising of women rights and status, from the condition which don't have any kinds of right until in the level almost same with man in their right and role. Discussing polygamy means discussing about marriage, there are many verses in Qurân which talk about it. The method that I will use in this research is library research with focus on the topic above.

1. Source of Data

The main object of this research is the holy Qurân itself. Because this research is try to know the interpretation of Siti Musdah Mulia on Qurân verses, especially on polygamy verses. And the Qurân translation which used in this research is *The Holy Qurân* in Abdullah Yusuf Ali version.²⁶ And the other main source of data is some literatures such as the books or articles, either written by Siti Musdah Mulia herself, or the other scientist.

Generally, the source of data can be divided into two parts, they are:

- a. Primary source is some books which written by Musdah Mulia herself and through interview with her to get the update and valid information. Those books are *Islam Menggugat Poligami* and *Muslimah Reformis: Perempuan pembaru Keagamaan, Poligami: Budaya Bisu yang Merendahkan Martabat Perempuan* and the others.

²⁶ The translation that will use is including printing or software version.

- b. Secondary source is some books or articles which contain of some explanation and discussion about polygamy or Musdah Mulia's thought which written by the other. Such as a book by Marwan Saridjo on the title *Cak Nur: di Antara Sarung dan Dasi & Musdah Mulia Tetap Berjilbâb: Catatan Pinggir Seputar Pemikiran Islam di Indonesia*, and some articles either digitally or printed version. Besides that I also will use some interpretation books (*Kutub at-tafâsîr*) as a comparison, and to show that Musdah Mulia's interpretation is different from other interpreter.

2. Method of Collecting Data

The methods of collecting data which use in collecting the data in this research is interview and collect the data from some related books. Interview is the method of collecting data which make a conversation with the informant or source informant either directly or indirectly to get the relevance and the update information for this research. This interview is with Musdah Mulia as a primary source about her opinion of interpretation on polygamy verses and some related issues.

3. Analysis

In this research the writer will use Qurânic approach, especially by commentary science (*Ulŭm at-Tafsîr*). In commentary science there are some methods and characteristic interpretation which has its own characteristic.

The commentary science is related to some social science, so that the writer also will use a social method approach, it is historical analysis approach in order to understand the objective condition of Arabs at that time when some polygamy rights verses revealed, because text is always related to text itself (textual aspect), to the author (authorial aspect), to the context where the text created (contextual

aspect), and to the reader or receptionist (receptionist aspect).²⁷

After collecting and knowing the verses the writer will describe generally the interpretation of some interpreter about polygamy as a comparison which will shows the sameness and differences in polygamy verses interpretation. And after that the writer will analyze based on Siti Musdah Mulia's perspective with using qualitative descriptive method. Qualitative means that this research contains of some explanations, not a statistic number.²⁸ While descriptive means that in this research the writer will explain and describe objectively and systematically, so that the writer can get a general theory of the thought of Siti Musdah Mulia on polygamy verses.

G. WRITING SYSTEMATIC

The writer present this research in the following form: there are five chapters in this research, **the first** chapter contents of background, research question, significance research, prior research, theoretical framework, research method and writing systematic.

The second chapter deals with the history and general view of polygamy in Qurân, including the history of polygamy before and after the coming of Islam, and some problems which arising around polygamy. Besides that this chapter also will discuss some interpretations of polygamy verses from some different interpreters.

And **the part three** will discuss about the life background of Musdah Mulia which have influence his thought, including her educational background, and career. After that the writer will focus on Musdah mulia's interpretation on polygamy verses and then the analysis about some opinion of her interpretation including the impact of her interpretation.

²⁷ Nurjannah Ismail *Perempuan....., Op. Cit.*, p. 23

²⁸ P. Joko Subagyo, *Metode Penelitian Dalam Teori dan Praktek*, Jakarta: Rineka Cipta, 2004, p. 106.

While **the fourth** chapter will consist of analyzing of Musdah Mulia's interpretation and then the writer will take a conclusion of the power and the lack of her interpretation, and analyzing the possibility of realizing her interpretation.

And **the fifth** chapter will consist of conclusion, suggestion and closing of this research.