

## CHAPTER II

### POLYGAMY IN QUR'AN

#### A. DEFINITION OF POLYGAMY

Islam is *rahmatan lil 'âlamîn*, and one of the *rahmat* is marriage. Marriage is one important aspect in Islamic teaching. In Qurân there are around eighty verses talks about marriage, either in using word *nikâh* (gathering) or *zawwaja* (companion). Or around 103 words talk about marriage, which using word *nikâh* (gathering) in twenty three times, and *zawj* (companion) in eighty times<sup>1</sup> Those all verses give us a role and the true teaching in marriage in order to get a peace, resplendently, and happy family (*sakînah*). So that Islam have some role in choosing the couple, determining the bride price, *ijâb qabûl*, the role and right of husband and wife in family and relationship between husband and wife.

One of marriage mode which always became a controversial among society is polygamy. So that over all, I will describe shortly about definition of polygamy. In socio anthropology polygamy came from Greek language, polygamy came from word poly or polus (means many), and gamen or gamos (means marriage), so it means many marriages. Terminologically it means a form of marriage when people marry with some other people in a time.<sup>2</sup> This is the opposite of monogamy system. Generally there are three kinds of polygamy: they are polygyny<sup>3</sup>, polyandry<sup>4</sup> and groups marriage.<sup>5</sup>

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<sup>1</sup> Siti Musdah Mulia, *Amandemen Pembaruan Hukum Perkawinan Melalui Counter Legal Draft Terhadap Kompilasi Hukum Islam*, an Article.

<sup>2</sup> <http://id.wikipedia.org/wiki/Poligami>.

<sup>3</sup> Polygyny means one male have some wives.

<sup>4</sup> Polyandry means one female have some husbands.

<sup>5</sup> Group marriage or group family is the composite of polygyny and polyandry, it means in one home there are five male and five female, and then they are make an intercourse commutatively.

In other definition polygamy also means marriage with some other opposite sex in a same time. So that polygamy has same meaning with polygyny. While according to Drs. Sidi Ghazalba polygamy is a marriage between a male with more than one woman. Polygamy is the opponent of polyandry, it is a marriage between one female with more than one male.<sup>6</sup>

## **B. THE HISTORY OF POLYGAMY BEFORE AND AFTER THE COMING OF ISLAM**

### **1. Polygamy Before Islam**

Polygamy is undeniable tradition, some wars done, the decreasing of the number of man and the power of some leaders are some factors which caused polygamy run as a continuously tradition. Besides that the main factors is the patriarchal dominance at that time which has a big impact on the status and role of women.

As we know that polygamy is not a new tradition in Islam, it has been done since long time pre-Islam. Some centuries before Islam, there are many people doing polygamy, like some communities in Greek, Persian, ancient Egypt and even some tribes in Arab pre-Islam. Polygamy was not only done by some primitive peoples, but also some official government. Even we can see from some history that most of prophet were had more than one wife.

For example the prophet Ibrahim PBUH has two wives, they are Sarah and Hajar. Even Ibrahim was famous as “patriarchal father”. Because from his marriage was born some prophets.<sup>7</sup> The next is the prophet Ya’qub PBUH also have two wives and two slave, they are Rachel, Lea, Zilfa and Bilha. Besides some

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<sup>6</sup> <http://www.cybermq.com/pustaka/detail//284/islam-menyoal-poligami>. See also in Siti Musdah Mulia, *Islam Menggugat Poligami*, Jakarta: Gramedia Pustaka Utama, 2004. p. 43

<sup>7</sup> Nasaruddin Umar, *Argumen.....*, p. 94

prophets, some Hindu kings also do polygamy.<sup>8</sup> The history told us that some religion before Islam also have their own rule of polygamy, like Jews, Hindu and Christian. Even in Christian, some of highest presbyters were allowed polygamy.<sup>9</sup>

In the Old-Testament (*Taurât*) mentioned that the prophet Daud PBUH has 300 wives,<sup>10</sup> and from the Kings Book chapter also mentioned that prophet Sulaiman PBUH has 700 highborn women and 300 slaves.<sup>11</sup> Besides that, in *Taurât* also mention that “a woman might not be cooperative wife with the sister, for gathering becomes a wife of one man in his life”. So in *Taurât* is not forbid polygamy, but some Jewish priest make some rules in polygamy, such as make limitation till four wives,<sup>12</sup> strong reason in doing polygamy, and be able to be justice between wives.

While in the New-Testament, Abdul Nasir Taufiq said that there is no clear explanation about the forbidding polygamy. But some of presbyter said that there is some verse which show the forbidding polygamy, like in *Injil* Marcus, Chapter 10, verse 10-12 and *Injil* Lucas, Chapter 16, verse 18 mentioned that Isa PBUH said “who was divorced his wife and then marry with the other women so he is in outer sexual (*Zina*) with that women, this is same if a women was divorced her husband and then she marry with other man, so she is in outer sexual too”. Beside that verse, there are many other verses which explain about the forbidding polygamy. And from those verses the presbyters forbid polygamy for Christian. But there are many different opinions about it. Some source said that this rule only

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<sup>8</sup> <http://www.ehoza.com/v4/forum/info-sejarah/51124-sejarah-poligami.html>

<sup>9</sup> One source mention until eleven century, see more in <http://www.ehoza.com/v4/forum/info-sejarah/51124-sejarah-poligami.html>. The other source mention until seventeen century, see more in <http://www.cybermq.com/pustaka/detail//284/islam-menyoyal-poligami>.

<sup>10</sup> <http://www.ehoza.com/v4/forum/info-sejarah/51124-sejarah-poligami.html>

<sup>11</sup> Abdul Nasir Taufiq al-Atthar, *Polygamy Ditinjau dari Segi Agama, Sosial dan Perundang-Undangan*, (Jakarta: Bulan Bintang, without year), p. 76.

<sup>12</sup> This limitation is based on the story of Prophet Ya'qub who only has four wives. See more in *Polygamy Ditinjau....* p. 80.

run for the presbyter, but the other said that this rule is for all of Christian followers.<sup>13</sup>

In 1650 M, the French life peer out the announcement of allowing a man to collect more than one wife, the cause of that announcement is the decreasing of the number of man at that time because of war during 30 years. Australia, America, China, Germany and Cecilia were famous as a countries which doing polygamy in pre-Christian era. And the polygamy was without justice requirement toward wives. From those proves, we can see that polygamy is the tradition and custom since pre-Islam era. And from this fact, we know that that tradition was humiliate the value and status of women, so that Islam came to repair the bad tradition by Prophet Muhammad PBUH to increasing the status of women. In polygamy case, Islam came with a new rule, it is make a limitation and requirement in polygamy. This is in order to change the tradition and the value f women in a society.

Besides that bad tradition, the low value of women in society before Islam also proved in some mode of marriage which was run before Islam. There are some contemptible marriages. They are *first* is *Istibdâhâ'* marriage, it means that a marriage between male and female, and after they married the husband command the wife to do an sexual intercourse with other male who have a higher quality than the husband in order to get a high quality of children. *Second* is *al-Maqthû'* marriage, it means a marriage between a son with his stepmother after his father died. *Third* is *al-Râthun* marriage, it means a marriage between female and some males. And after the women get pregnant she calls all of husbands and will choose one of them as a father of the baby. And the chosen person can't refuse it. *Fourth* is *Khadân* marriage. It means a relation between male and female without a legal marriage settlement (*zina*). *Fifth* is *Badal* marriage. It means a when two husband or more are agree to make an exchange their wives to fill the sexual satisfaction.

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<sup>13</sup> See completely in *Poligami Ditinjau dari...*p. 80-102.

And the last is *al-Syighâr* marriage. It means a father take in marriage his daughter or sister with other man without bride price, but only with a requirement that father also will get the man's daughter or sister (an exchange of daughter or sister). From those histories we can see that the tradition of Islam in treating women is very contemptible, and then Islam comes, change and give a high honor to women.

## 2. Polyagmy After Islam

When Islam came, polygamy was not directly disappeared. But after polygamy verse revealed, the Prophet make a radical change with giving two strict requirements. They are limit the number of wife till four and the polygamist has to be justice upon their wives. Even after that verse revealed the Prophet Muhammad PBUH advice some successors who have many wives to choose four of them and then divorce the other.<sup>14</sup>

The big problem from this case is that although Muhammad PBUH advice all his successors to choose four of their wives and divorce the other, but Muhammad PBUH his self was married with twelve women. And sometimes some people want to follow it and claimed as kind of Prophet Tradition. But if we analyze polygamy of Muhammad we will understand how Muhammad was doing an ideal precedent in his private life, because in every marriage he done always there is a strong factor to prove his greatness to teach a new knowledge in marriage to his *ummah*.

Rasulullah did monogamy marriage during 25 years until his age more than 50 years old. He only has one wife Khadijah, whereas polygamy is a common tradition at that time, and many Quraisy leader were ask him to marry with their daughter. But he only has one wife until Khadijah passed away. After that Rasulallah just did polygamy marriage with eleven wives after Khadijah in 56

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<sup>14</sup> For example the story from Harits ibn Qais who have eight wives when entered Islam, Abdullah ibn Umar with his ten wives, and Naufal ibn Mu'awiyah with five wives.

until 63 years old age of Rasulullah. But most of his wives are an old widow and slave with many orphan children except Aisha. Generally the list of Muhammad wives after Khadijah is:<sup>15</sup>

| No | Name  | Status                                  |
|----|---|---|
| 1  | Saudah Bint Zum'ah <sup>16</sup>                      | A widow, 70 years old with 12 children. |
| 2  | Aisha Bint Abu Bakar                                  | A girl, 6 years old <sup>17</sup>       |
| 3  | Hafsah bint Umar Ibn Khattab <sup>18</sup>            | A widow, 35 years old                   |
| 4  | Zainab Bint Khuzaimah <sup>19</sup>                   | A widow, 50 years old                   |
| 5  | Ummu Salamah Bint Abu Umayyah <sup>20</sup>           | A widow, 62 years old                   |
| 6  | Zainab binti Jahasy <sup>21</sup>                     | A widow, 45 years old                   |
| 7  | Juwairiyah Bint Al-Harits al-Khuzaiyyah <sup>22</sup> | A widow, 65 years old with 17 children  |
| 8  | Ummu Habibah Ramlah Bint Abu Sufyan <sup>23</sup>     | A widow, 47 years old                   |

<sup>15</sup> See more in *Poligami Ditinjau dari...* p. 133-141. Or in *Sirah Nabawiya; Sejarah Lengkap Nabi Muhammad S.a.w*, Abu al-Hasan Ali al-Hasani al-Hadwi, Yogyakarta: Mardhiyah Press, 2007, p. 501-507. Or in <http://pakdeiwan.blogspot.com/2009/07/urutan-istri-nabi-saw.html>

<sup>16</sup> Saudah is a widow who has marriage twice before. Muhammad marries her at 52 years old in Syawal month, just some days after Khadijah passed away.

<sup>17</sup> The other source mentioned Aisha marriage at 9 or 19 years old. And Muhammad marries her in Syawal month, or a year after marry with Saudah.

<sup>18</sup> She is the daughter of Umar ibn Khattab, her first husband was died in Uhud war. And Muhammad marries her at 55 years old or third years of Hijriyah.

<sup>19</sup> Zainab called as Umm al-Masakin because she life with and treat many orphan and poor children. Muhammad marries her at 56 years old, or fourth years of Hijriyah. But she was passed away three months after marriage with Muhammad.

<sup>20</sup> Ummu Salamah is a smart woman who has great skill in speech. And Muhammad marries her in order to help Muhammad in spreading Islam. Muhammad marries her in the same years with Zainab umm al-Masakin.

<sup>21</sup> Muhammad marries her at 57 years old, or in Dzulqa'ida month in fifth years of Hijriyah.

<sup>22</sup> Juwairiyah is a slave from Bani Musthaliq war. she is a daughter of Tsabit Ibn Qais Ibn Syimas. Muhammad marries her at 57 years old, or in Sya'ban month in sixth years of Hijriyah. According to Aisha, Juwairiyah is the most influenced women in freedom the slave. Because after Muhammad marries Juwairiyah there are many slave were freed.

<sup>23</sup> Muhammad marries with Ummu Habibah at 57 years old, or at seventh years of Hijriyah. Before marry with Muhamma, Ummu habibah was married with Ubaidillah Ibn Jahsy, but

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|----|---|--|
| 9  | Shafiyyah Bint Hayyi Akhtab <sup>24</sup> | A widow, 53 years old with 10 children |
| 10 | Maimunah Bint Al-Harits <sup>25</sup>     | A widow, 63 years old                  |
| 11 | Mariyah al-Kibtiyyah <sup>26</sup>        | A slave, 25 years old                  |

The practice of Muhammad polygamy is can't be followed by another Moslem, because it is a special right given by Allâh only for Prophet Muhammad PBUH.<sup>27</sup> And Muhammad's polygamy is always has a strong and good reason, like for helping and protecting the old widow. So the claimed of some orientalist that Muhammad married with many women is only for filling his biological passion is wrong. Because those married is for helping and protecting the old, low and poor widow and orphan children.

There are many secret wisdom behind polygamy of Muhammad with twelve wives, they are:

- For Islamic teaching and education. So that the function of those wives for knowing the Islamic teaching and the prophet life in everyday.
- For uniting some tribes in Arab and for make them interest to entering Islam. For example the marriage of Muhammad with Juwairiyyah from Bani Musthaliq tribes.

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Ubaidillah was convert into Christian, so that Muhammad marries her in order to keep her Aqidah. Even the father of Ummu Habibah, Abu Sufyan also entering Islam.

<sup>24</sup> Muhammad marries her at 58 years old, or in seventh years of Hijriyah. She is a slave from Khaibar war, but Muhammad was freed and married her.

<sup>25</sup> Muhammad marries her at 58 years old, in Dzul Qaida month in seventh years of Hijriyah. She came from Bani Nadhir, and this marriage is in order to make a strong relationship between Muhammad and Bani Nadhir.

<sup>26</sup> This is the last marriage of Muhammad. Muhammad marries her at 59 years old. In eight years of Hijriyah.

<sup>27</sup> As Allâh said in *Sūrah al-Ahzâb* [33]: (50-51)

- For social and humanity interest. It means that the marriage done by Muhammad is always an old widow, and Muhammad marries them to help and treat their life.

So the coming of Islam is not to disappearing polygamy, but to giving limitation and requirements for who want to do polygamy. And according to Nashr Hamid the development of polygamy in history is depend on the view of society in status and value of women. If a community see the status of women is contemptible, polygamy will be prosperous. And the contrary if a community sees the status of women is honorable, polygamy will be decreased. So the development of polygamy was wax and wane depends on the public opinion of women status.<sup>28</sup>

## **C. THE PROBLEMS AROUND POLYGAMY**

### **1. The Causes of Polygamy**

There are some causes for husband to do polygamy, either from the reason of husband or wife. And most of those causes are:

- a. The weakness of wife. There are some polygamy done, and it was claimed because of the weakness of wife. For example the wife is sterile, or has a

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<sup>28</sup> Siti Musdah Mulia, *Islam....*, p. 46



chronic illness, and make she can't treat her husband well, and the husband can't hold on his life with her. So that the husband doing polygamy.<sup>29</sup>

- b. The high number of women than man. This reason always claimed as a cause of polygamy. Either the number of the girl, the widow from divorce or the widow of his husband was died. There are many causes of this high number, such as because of war, the young men are late in married and the birth of girl baby more than boy baby. But this reason can't be an absolute reason. Because the number of citizen in a country is not a same. And from the statistic institution of Indonesia written that the meaning of the over number of girl than boy is the girl under 12 years old, and the widow over 60 years old.<sup>30</sup>
- c. The request of wife. Actually not all of polygamy is the will of husband. But sometime the wife also requests her husband to do polygamy. And the aim of this request is to help out her from the suffering of her husband. Usually the suffering is because her husband gives a big domestic duty or her husband has a big sexual desire. And some wives usually choose command her husband to polygamy because there is no other way to help out her duty.
- d. Claimed of prophet tradition. Some polygamist always claimed his polygamy is a form of following the prophet tradition. Because as we know that Muhammad marries with more than one wife. Actually the true essence of prophet tradition is the strong commitment of Muhammad to rise up the justice and peacefulness in society. But in the fact of practicing polygamy, some polygamist always forgets with this essence of prophet tradition and the morality message.

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<sup>29</sup> Abdul Nasir Taufiq al-Atthar, *Polygamy Ditinjau dari...* p. 25

<sup>30</sup> Siti Musdah Mulia, *Islam Menggugat...* p. 53. This reason also mentioned in Compilation of Moslem Family Law (KHI) which usually used as a reference in Marriage law in Indonesia.

According to al-Maraghi, there are some reasons for man in allowing to polygamy. They are: (1) the wife is sterile, and the husband is very want a baby. (2) If the husband has a high sexual desire and the wife is not service as need. (3) If the husband has a lot of money to fill the wife and children necessity. (4) If the number of women are more than man, either because of some wars or other causes.

## **2. The Impact of Polygamy**

In practicing polygamy marriage, it will be raising some problems in a household. There are some impacts from polygamy, either psychologically or physically, they are:

- a. Psychological impact. Polygamy can make an inferior sense of wife, because when the husband choose to married again, the wife usually have an inferior sense because she feel that it is her mistakes. She feels that it arising because she can't treat her husband well. So polygamy will make the first wife feel inferior and lower than the next wife. Besides that inferior sense of wife, the other psychological impact is the rise of some conflicts, either between wives or children. There is non-well rivalry and competition between them. This conflict usually arises because the husband gives more attention and love than the others. The other psychological impact of polygamy is for the psychological development of children.
- b. Economical impact. It means that if the husband can't be able to be justice between wives, there are will be some wives who not get a same attention and treatment get a change in their economy, because they are not get a same

treatment.<sup>31</sup> Even LBH APIK<sup>32</sup> was recorded that in polygamy marriage, the wife (either old or new wife) usually not gets same money from their husband. From 107 impact violence cases of polygamy marriage, 60 of them is economical violence.<sup>33</sup>

- c. The main impact from polygamy is violence. Including sexual, physical, psychological and economical violence. Most of polygamy marriage arise some violence, whereas in monogamy marriage also seldom there is violence.<sup>34</sup>
- d. The other impact is that polygamy often cause an illegally marriage. It means a marriage which didn't write in religion affair institution. Because some of polygamist didn't want to knew as a polygamist. So he hides his marriage with the new wives. And there are some impacts of this illegal marriage, such as the psychological wife. It means when women were married illegally, they will not have the country law prove and the society will claimed them as illegally couple. She will not get the official document of his childbirth, and she will not get the heritance if the husband is dying.
- e. The last impact is the falsification of self identity. There are some cases where women invited to married with man who confesses that he is a single, but in fact he has a wife. But he was made a false identity to deceive the women.

### 3. The requirements of Polygamy

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<sup>31</sup> See the true story of the victim of polygamy, the story of Listiana and Darmawan in *Poligami; Budaya "bisu" yang Merendahkan Martabat Perempuan* (Musdah Mulia and Anik Farida, 2007)

<sup>32</sup> LBH APIK is a Law Helping Institution in Jakarta for maintaining the infraction law of women's rights.

<sup>33</sup> This is the research of LBH APIK in 2001 until 2003. See in Siti Musdah Mulia, *Poligami; Budaya "Bisu" yang Merendahkan Martabat Perempuan*, Yogyakarta: Kibar Press, 2007. p. 21

<sup>34</sup> See more true stories of violence in polygamy marriage from the victim of polygamy in *Poligami; Budaya Bisu...*

There are some strict requirements that should be filled by the husband who wants to do polygamy. According to marriage law in Indonesia, there are three requirements that should be filled. In chapter V of marriage law mentioned that the requirements in doing polygamy are:

- I. There must permission or agreement from the old wives.
- II. There is a certainty that the husband can fill all of wives and children life necessity (materially).
- III. And there is a guarantee that the husband is expert to doing justice between the wives and children immaterially.

Ideally, if those requirements were filled by the husband, so he can propose his intend to do polygamy to the court. But often not all of those requirements were filled by the husband. Even there is no permission from the old wife, polygamy was run. So polygamy often caused illegally marriage.

The different rule was mentioned in KHI. In this law mentioned that the husband only can do polygamy with the permission of the court. And the court will grant this intend if he fill three requirements, they are 1) if the wife cannot doing their duty as wife, 2) the wife has a physical defect or illness which cannot be made well, and 3) the wife cannot have a baby.<sup>35</sup> From this rules, we can see that most of requirements was still considered on the husband point of view. There is no rule which considered on the women interest.

While according to Islamic law, most of scholars agree that there are two important requirements in polygamy. They are:

- a) The wives are no more than four. As we know that the original tradition of polygamy is unlimited polygamy in having wives. But after Islam, there is

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<sup>35</sup> Musdah Mulia, *Amandemen...*, an Article.

limitation until four maximally. Like mentioned in *Surâh an-Nisâ'* [4]: 3 **فَا** **نَكَحُوا مَا طَابَ لَكُمْ مِنَ النِّسَاءِ مَثْنَى وَثُلَاثَ وَرُبَاعَ** (women of your choice, two or three or four). There are many different interpretation of this word. Some groups understand it as allowing in having eighteen wives, and the other understand allowing in having nine wives.

- b) The husband has to be justice between wives and children materially and immaterially. And the second is that the wife in polygamy is no more than four. Those requirements are based on the verse polygamy in *surâh an-Nisâ'* [4]: 3. In that verse mentioned **فَإِنْ خِفْتُمْ أَلَّا تَعْدِلُوا فَوَاحِدَةً** (and if you fear that ye shall not be able to Deal justly (with them), then only one). So if a husband plans to do polygamy, and he was fear to not be able to be justice he should make enough with one wife, or enough with some wives if he was married with two or three wives.

Be enough with one wife is a must for a husband, if he was fear will there a mistreatment and oppression<sup>36</sup> in doing polygamy, although the fear is only an assessment, and not certain to come true. So Allâh use the word “*in*”, it means that the fear is an uncertainty requirement. Furthermore Muhammad Abduh said “polygamy is forbidden for someone who fears to not be able to justice. But this is not means that the marriage settlement is fall. Because the law of forbidden is out from that marriage settlement. Because, sometimes a people is fear to not be able to justice and doing oppression, but in fact he is not do that, so his marriage is allowed.<sup>37</sup>”

The problem in justice itself is that what is the standardization of doing justice? According to Abdul Nasir Taufiq al-Atthar, there are two standard of

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<sup>36</sup> Some form of mistreatment and oppression in polygamy are if he bedeviling some wives, if he bedeviling some orphan children on his treatment, if he use the orphan children properties for his necessity and if he can't fill all the necessity of his wives.

<sup>37</sup> Abdul Nasir Taufiq al-Atthar, *Polygamy Ditinjau dari...* p. 147

justice in polygamy, they are *First*, depend on the aim (*niat*). It means that justice in polygamy is must have a good aim and deed. And the next treatment is not mainly important except have a good aim and deed. And the *Second* is being justice in truly meaning. As we know that justice means equality between more than one in a same time. So, justice in polygamy means an equality treatment on wives either in food necessity, clothes, residence, sexual intercourse, or love. And we know that those all of kind of justice is an impossible to do by ordinary human. As Allâh said in *surâh an-Nisâ'* [4]: (129) “you are never able to be fair and just as between women, Even if it is your ardent desire”.

Although Abdul Nasir said that justice is the main requirements in polygamy and nobody can do that, but he don't claimed that it not means that polygamy is forbidden (*harâm*). Because in his understanding of that verse is because Allâh was recognized that nobody can do justice, so people was allowed to do polygamy but must always have an effort to do justice between wives and always try to have fear to God and have aim to do a good deed.

#### **D. POLYAGMY VERSES AND THE CAUSES REVELATION**

Islam has regulated all of human problems, including in the problems of house-hold. Islam also has a regulation in doing polygamy which became a heredity custom since before Islam until now. The evidence of attention this problem in Islam is that Allâh has mentioned in Qurân, in *Surâh an-Nisâ'* [4]: (3):

*if ye fear that ye shall not be able to Deal justly with the orphans, marry women of your choice, two or three or four; but if ye fear that ye shall not be able to Deal justly (with them), then only one, or (A captive) that your right hands possess, that will be more suitable, to prevent you from doing injustice.*

This verse is the main argumentation of legalizing polygamy. But also from this verse some polygamy repellent understands that Qurân was make enjoinder in polygamy. Before we understand the truth meaning of this verse, we should understand the cause revelation of this verse. To understand the historical context of this verse, it needs an understanding of socio-cultural condition of Arabian at that time. Because some verses in Qurân can be misunderstood if we don't understand the Arabian socio-cultural background.

In pre-Islam era, the status of women is no more than a commodity. They are not only enslaved, but also can be queathed like some properties. But after the coming of Islam there are many tradition changed. Like inheritance of women,<sup>38</sup> polygamy,<sup>39</sup> burial the daughter,<sup>40</sup> and bride price for women in marriage<sup>41</sup> and inheriting the widow.<sup>42</sup>

We also knew that in pre-Islam period there is no limitation in having wife. The leader has many wives they want to maintain their dominance. Even ath-Thabariy said that a Quraisy tribesman usually have ten wives, and some of them marry with four, five and six women, and then they ask who can stop them to marry with more than the others.<sup>43</sup> After the coming of Islam there is a great revolution for women at that time, like mentioned in verse above. After that verse revealed the permission to married is only limited until four wives maximally.

There are many story version of cause revelation this verse. According to Mudjab Mahali in his book *Asbabun Nuzul* said that this verse revealed refers to a male at that time that have authority upon an orphan daughter and then he marries her. He makes cooperation in their properties, but in their marriage the male

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<sup>38</sup> *Sūrah an-Nisâ'*: [7-8]

<sup>39</sup> *Sūrah an-Nisâ'*: [3]

<sup>40</sup> *surah al-An'am*: [151], and *al-Isra'*: [31]

<sup>41</sup> *Sūrah an-Nisâ'*: [4]

<sup>42</sup> *Sūrah an-Nisâ'*: [19 and 23]

<sup>43</sup> Ath-Thabariy, *Jami' al-Bayân fi tafsîr al-Quran*, p. 534-35

doesn't give the bride price to that orphan daughter as her right. Even after their marriage, the orphan daughter doesn't have any right upon her properties.<sup>44</sup>

In *Jami' al-Bayan fi Tafsir al-Qurân*, ath-Thabary mentioned the story from Aisyah when answer the Question of Urwah about this verse. Aisyah said:

Oh my nephew, this verse is refers to an orphan daughter on her father guardian authority, and then her properties were cooperate with that father (*wali*). And then the father was interested to her beauty and properties, so the father wants to marry her without give the bride price of the orphan daughter as her right. Because of this wrong will, he was forbid to marry the orphan daughter, except he marries her with giving her right like other women. and Qurân said it will be better if the father marry with other women even with four women, than with that orphan daughter but with wrong will.<sup>45</sup>

In *tafsîr al-Kabîr* ar-Razi also mentioned some of cause revelation of polygamy verse. One of them is the same story with the story in ath-Thabariy's *tafsîr*. While the other is story from Ikrimah, he said: "There is a man with many wives, and also caring of orphan children. But his properties are not enough to fill his need for his wives, so he takes the orphan's properties to fill it. Furthermore in that story mentioned that actually Allâh like said:

**فإن خفتم من الأربع فثلاث ، فإن خفتم فإثنتان ، فإن خفتم فواحدة.**

So the conclusion from that story is if a men fear to not be able to be justice to their orphan, he should marry with four other women, and if he is still fear with four women, he should marry with only with three women, and so on.<sup>46</sup>

There are some other stories about the cause revelation of polygamy verse. But most of them are has a same, they are talking in one case, it's treating orphan children. Furthermore some interpreters also understand this verse on the cause

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<sup>44</sup> Nurjannah Ismail, *Perempuan...*, p. 36

<sup>45</sup> Ath-Thabariy, *Op. Cit.*, p. 574

<sup>46</sup> Fakhrrur Razi, *Tafsîr al-Kabîr*, (Beirut: Dar al-Fikr), Book IX p. 178.



revelation context when *Uhud* war was happen. So in *Uhud* war at that time there were 70 men killed, so it was decreasing the number of man at that time. Besides that there are many widow and orphan children from that war. So polygamy was allowed with strict requirements.

When that verse revealed, most of Moslem have more than four wives, but Muhammad advice them to choose four of those wives, and should divorce the other.

Besides that legalizing polygamy verse, there is other verse which often use by some polygamy rejecter to make an enjoinder in polygamy. That is verse of *surāh an-Nisâ'*: [4]: (129):

*ye are never able to be fair and just As between women, Even if it is your ardent desire: but turn not away (from a woman) altogether, so As to leave Her (as it were) hanging (in the air). if ye come to a friendly understanding, and practise self- restraint, Allāh is Oft-forgiving, Most Merciful.*

In that verse Allāh stated that we are as ordinary can't do the truly justice, although we are want to do it. And some interpreters also have a different understanding upon this verse. The polygamy rejecter said that this is the prove verse of forbidding polygamy in Islam. Their argument is that Allāh was recognized that nobody can do the truly justice, whereas justice is the main requirement in polygamy. And their conclusion is if nobody can be justice polygamy is forbidden, because the requirement is not filled.

In other hand, some pro polygamy groups understand that verse with conclusion that polygamy is allowed. Their argument is that because Allāh recognizes that nobody can do justice, so polygamy is allowed, because, their understanding of word justice in that verse is limited on materially. The word "*adl*" in that verse is only justice in economy, residence and other material things. And about immaterial necessity like love and sexual intercourse turn is not on that

justice. So the husband is only strives for doing justice materially. This group also uses *hadith* to strengthen their argument:

**اللهم انّ هذا قسمي فيما املك فلا تلمني فيما تملك ولا املك**

*“o God this is my capability in everything I have, o God don’t punish me if I am not justice in divide everything in Your whip hand, whether I don’t have it.*

That is the pray of Muhammad when he divide something to his wives. Most of classic interpreter understand that *hadith* that the responsibility of justice in polygamy is only in materially, such as money, clothes and residence. And the husband is not strived for the thing that he can’t be justice, such as in love and sexual intercourse.

## **E. INTERPRETATION OF POLYGAMY VERSES**

There are many different opinions about the interpretation of polygamy verses by some interpreter. But from those all interpretations we can divide into three groups. They are who allowing polygamy as mentioned in the Qurân textually, who are allowing polygamy with a strict requirements and who are absolutely forbidding polygamy. As we know that the social condition, background of life and the culture have a big influence in their interpretation.

For example the interpretation of classic and contemporary interpreter, there is a clear difference between them. The classic interpreter is such as Ath-Thabariy,<sup>47</sup> he said that if a man is fear to not be able to justice between the children and wives, so that the man is forbid to polygamy if they are can’t to being justice,

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<sup>47</sup> His complete name is Abu Ja’far bin Jarir bin Yazid bin Katsir bin Ghalib ath-Thabariy. He was born on 224 H or 838 M in Amul, Tabaristan, and pashed away in Baghdad on 310 H or 922 M. Some interpreter after him was taken his interpretation as references, because his interpretation book claimed as a great interpretation at that time. Some excess of this interpretation is that he is not only uses *hadith* as an explanation, but he is also uses some narrative or story from a Moslem who they were a Christian and Jewish before (*isrâ’iliyyat*).

although only with one wife, it's forbidden.<sup>48</sup> Besides ath-Thabariy, Fakhruddin ar-Razi<sup>49</sup> also one of classic interpreter, but his opinion is different with ath-Thabariy. Ar-Razi said that a man may marry with four wives maximally, but if he is fear can't be able to justice between wives, he only allowed marries with one woman, and also allowed having wives between four and one.<sup>50</sup>

Besides those interpreters, the next classic interpreter is Sayyid Quthb. In his *Tafsir Dzilali al-Qurân*, he said that this verse is not meant a legalizing verse of polygamy. According to Sayyid Quthb, because polygamy is a tradition and culture at that time, polygamy verse comes is not for legalizing polygamy or forbidding polygamy, but it's only for giving limitation. As we know that before Islam there are some companion which have any wives more than four, and then the Prophet command them to choose four of them and divorce the other. Furthermore, Sayyid Quthb said that Islam is not command to do polygamy, but it's only for solving social problems in society and for naturally necessity.<sup>51</sup> The sameness of interpretation of Sayyid Quthb and ath-Thabariy and Ibn Katsir is on the justice requirement. All of them are agree that the meaning of being justice in polygamy verse is only in financial, residence, and sexual relationship. They are doesn't care about being justice in feeling and love, because this is out of human ability. We are not wonder of this opinion, because this interpretation of course influenced by society, culture and social construction at their time, which patriarchal is the dominated system in society.

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<sup>48</sup> Ibn Jarir ath-Thabariy, *Jâmi' al-Bayân fi Tafsîr al-Qurân* Book III, Beirut: Dar el-Kitab al-Ilmiyyah, 1992. P. 577-578

<sup>49</sup> His complete name is Abu Abdillah Muhammad Ibn Umar Ibn al-Husain Ibn Hasan Ibn ali al-Quraisiyi at-Taimi al-Bakri at-Tabaristani ar-Razi. He was born in Ray at 20<sup>th</sup> of Ramadhan 544 H (1149 M). and passed away at 1<sup>st</sup> of Syawal 606 H (1209 M).

<sup>50</sup> Nurjannah Ismail, *Op. Cit.*, p. 329

<sup>51</sup> Sayyid Quthb, *Tafsir fi dzilal al-Quran*, Jakarta: Gema Insani Press, (The translation), 2001.p. 122

But this is automatically different with the interpretation of some contemporary interpreter, for example interpretation of M. Shahrour.<sup>52</sup> In his *Limit* theory, he said that in polygamy should there is maximal limitation (*hadd al-a'lâ*) and minimal limitation (*hadd al-adnâ*).<sup>53</sup> Furthermore Shahrour named it by quantitative limitation, and should be Quantitative limitation after it. According to Shahrour, Quantitative limitation in polygamy means that the wives in polygamy are must widows who have orphan children. Besides Shahrour, some feminist also have a different opinions. Such as Amina Wadud and Asghar Ali Engineer. They said that polygamy verse is not meant allowing polygamy, but it should be understood based on the context of cases revelation. Which based on the story of Aisha this verse is telling about the orphan children. So that according to them this verse is not in polygamy context, but it is on the context of caring orphan children. Furthermore Amina Wadud said that actually monogamy is the ideal form of marriage, because it's more near in justice.<sup>54</sup>

While the resemble opinion also said by an interpreter long time ago before the contemporary interpreter, its *Tafsîr al-Manâr*.<sup>55</sup> This *tafsîr* can categorized as

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<sup>52</sup> He was born in Syria on April, 11<sup>th</sup> 1938 M. see more in See in M. Shahrour, *al-Kitab wa al-Quran: Qira'ah Mu'ashirah* (translated by Sahiron Syamsuddin on the title *Prinsip dan Dasar Hermeneutika Hukum Islam Kontemporer* Yogyakarta: eLSAQ Press, p. 313), Ahmad Zaki Mubarak, *Pendekatan Strukturalisme Linguistik: dalam Tafsir a-Quran Kontemporer ala Shahrour*, Yogyakarta: eLSAQ Press, p. 137, and Sahiron Syamsuddin and Abdul Mustaqim in "Metode Intratekstalitas M. Shahrour dalam Penafsiran al-Quran" in *Studi al-Quran Kontemporer: Wacana Baru Brebagai Metodologi Tafsir*, Yogyakarta: Tiara Wacana Yogya, footnote no. 3 p. 131.

<sup>53</sup> Maximally limitation means that in polygamy the maximal limitation in having wives is only four as mentioned in Quran, and minimally limitation means one wife.

<sup>54</sup> Nurjannah Isma'il, *Op. Cit.*, p. 329

<sup>55</sup> This tafsir written by Muhammad Abduh and Rasyid Ridho (the student). Actually this tafsir is the thoughts of three person, they are Jamaluddin al-Afghani, Muhammad Abduh and Rasyid Ridha. Jamaluddin extend his thought to his student Muhammad Abduh, and then Muhammad Abduh extend this thought and reformation through Quranic interpretation to his student Rasyid Ridha. Muhammad Abduh extend his interpretation from *Al-Fâtihah* until verse 125 of *Sûrah an-Nisâ'*, and then Rasyid Ridha continued until verse 52 of *sûrah Yusuf*. In the first time, this tafsir is a resume and summary of Rasyid Ridha from Muhammad Abduh teaching, which printed in a magazine named *al-manâr*, and then published as a tafsîr named *Tafsîr al-Qurân al-Hakîm*.

modern interpretation. There are some new thought and interpretation in this *tafsîr* which different with the classic interpretation. The writer tries to make a reformation, purification and modernization in Islam. About polygamy, in this *tafsîr*, Muhammad Abduh<sup>56</sup> said that polygamy in this verse is on the context of caring and treating the orphan children and forbidding in using the orphan children properties, although by married them. And if a man is fear is not able to justice with the orphan children, he should marry with other women one, two, three or four. Although Qurân explicitly state this, but if a man is fear cannot be justly between wives and children, he should marry with one woman.<sup>57</sup>

In the continuation, Muhammad Abduh said that from his analysis of *surâh an-Nisâ'* [4]: (2-3), he concludes that the allowing of polygamy is a limited and emergency condition, which only can be done by who has fill the requirements, that is be justice and free from oppression.<sup>58</sup>

Muhammad Abduh is very rejecting polygamy, although he recognizes the allowing of polygamy, but he prefers to make an enjoinder in polygamy. In his opinion, being justice between wives and children is an impossible thing for an ordinary human. Even Muhammad Abduh also said that based on the Fiqh principle “*dar’u al-mafâsid muqoddamu ‘ala jalb al-mashâlih*” so that he said “*inna ta’adduda az-zaujâti muharromun qoth’an ‘inda al-khoufi min ‘adami al-‘adli*”. It means that polygamy will be absolutely forbidden if being justice between wives is impossible. A same opinion also stated by the student, Rasyid Ridho.<sup>59</sup> He said that the ideal marriage is monogamy. Although polygamy is allowed in

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<sup>56</sup> His Complete name is Muhammad Ibn Abduh Ibn Hasan Khairullah. He was born in Mahallat Nashr, Bukhaira, Egypt in 1849 M. and was death in his 56 years old on July, 11<sup>th</sup> 1905.

<sup>57</sup> Rasyid Ridha and Muhammad Abduh, *Tafsîr al-Manâr*, Book IV, p. 348

<sup>58</sup> *Ibid.*, p. 349

<sup>59</sup> Sayyid Muhammad Rasyid Ridho was born in Qalamun, near from Tripoli at 1865. And was death in a car accident in Egypt at August, 22<sup>nd</sup> 1935.

emergency condition, but it must there a guarantee that will there is no injustice and oppression.<sup>60</sup>

From some kind interpretation above, we can see that the most resemble opinion with Musdah Mulia's interpretation is the opinion of Muhammad Abduh. We can see some same opinions and the characteristic in interpretation. According to Musdah Mulia herself, Muhammad Abduh is the most influence interpreter in the most of her thought.<sup>61</sup>

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<sup>60</sup> Nurjannah Isma'il, *Op. Cit.*, p. 223

<sup>61</sup> Based on his statement in interview with Musdah Mulia on March 22<sup>nd</sup> 2010, The Wahid Institute, Jakarta