

CHAPTER III

MUSDAH MULIA'S INTERPRETATION ON POLYGAMY VERSES

A. BACKGROUND OF SITI MUSDAH MULIA

Knowing well of figures background is very necessary to understand the thought, because the thought have a close relation with the life itself. So in this chapter I will describe the background of Siti Musdah Mulia.

Siti Musdah Mulia (here in after referred to as: Musdah Mulia) was born as the second child from six brother.¹ She was born at March, 3rd 1958 in Bone, South of Sulawesi. She is a daughter of Mustamin Abdul Fatah and Buaidah Achmad. She lives in a traditional and loyal of religion family and area. His family was hold tight the custom, tradition and religion teaching. The doctrine and teaching of religion in his family is very obedient and strict. The little of Musdah Mulia is wished be a doctor, but she said that it is absolutely impossible, because he must study religion in Islamic school.²

Like I said before that the thought of a figure is depend on the life background, either family life or the education. So do Musdah Mulia. As a woman, the little girl of Musdah Mulia was introduced with some religious doctrine which related to women. Such as doctrine that the genital part of woman is not only the body and the hair but also the voice of women, so she was wore the veil and closed dress since adolescent.³

There are many experiences which made her against some established tradition and teaching in Islam. When she was a little girl, her grandfather forbade her to follow the reciting of the holy Qurân competition, with the reason that the

¹ In the opening of her book *Muslimah Reformis....*, in her biography and some other sources mentioned that she is the first children.

²<http://www.ictwomen.com/profilpilihan/13/tahun/2009/bulan/10/tanggal/03/id/601/>

³ http://www.fatayat.or.id/page.php?lang=id&menu=news_view&news_id=85

voice of women is part of genital women. With a same reason she was also forbade to followed the reading poem competition when she was a student in School of Arabic Letters, *Adab* faculty of State Institute of Islamic studies Alaudin, Makassar. Her grandmother also forbade her to laugh loudly, with the reason that the voice of women is calling the Satan. Besides that since she was fourteen years old, she always commanded to use the waist sash every night in order to keep her waist slightly. Furthermore her grandmother also ask her to taken round the house every Thursday night seven times with holding the mortar with reading the *shalawat*, and her grandmother stay in the front of the house watching over her, this is did in order to make her body not so tall, because the woman is forbidden to have a tall body.

Beside the problem of genital part of women, some strict Islamic teaching and tradition also make her activity limited. When she is studying in School of Adab, she was forbid to stay in a dorm, with the reason apprehensive if she be unimpeded with the man. After she was graduated from School of Adab, she wants to join work in the National Planned Parenthood Department (BKKBN) but her grandfather also forbid her to follow it, with the reason that the institution is kind of secular institution.⁴ Nevertheless, her grandmother sent her mother to a boarding school in the town, whereas at that time there is no woman studying. So her mother is the first woman who go from the village away for studying, and her grandmother was didn't care with the society opinion.

Musdah Mulia is the wife of Ahmad Thib Raya, the professor in postgraduate of Syarif Hidayatullah State Islamic University Jakarta, the husband who always supports her thought and career. Ahmad Thib Raya is the Master Of exegesis. He comes from Bima, Nusa Tenggara Barat. And the father of Achmad Thib Raya is the teacher Master in Bima, and according to Musdah Mulia his saying is always

⁴<http://www.ictwomen.com/profilpilihan/13/tahun/2009/bulan/10/tanggal/03/id/601>

in rhythm with his deed.⁵ So Musdah Mulia get many experiences from her family around her which influenced in her thought, either her parents, grandfather and mother, her husband, her family in law, or her children. Musdah Mulia has some hobbies, such as planting, and listens to the Mozart and the piano instrumental by Richard Clayderman in her spare time. She always makes herself believe in a true, happiness and love because the never-ending support from some peoples around her.

1. Educational Background

Musdah Mulia's education was begun at the Elementary School in Surabaya, and graduated at 1969. And after that her family put her in As'adiyah Islamic boarding school at Sengkang,⁶ South Sulawesi for continuing in Islamic Junior High School, and graduated at 1972. And then she continues her study in Senior High School at Datumuseng Islamic institution in Makassar and graduated at 1975 and then continued in Indonesia Moslem University (UMI) Makassar in Dakwah Major Ushuluddin Faculty, and graduated as a Bachelor of Art at 1980. After that she continues the undergraduate program on Arabic Literature and Language in School of Adab, Alaudin State Institute of Islamic Studies (IAIN) Makassar, and graduated at 1982.

After that she goes to Jakarta and continues her master graduate in Syarif Hidayatullah State Islamic University at The History of Islamic Thought and finished at 1992. After that she continued her Doctoral Degree in the same institution with the major the Islamic Political thought and graduated at 1997. And from this time she began her career and intellectual adventure. She recorded as the first women who get the Doctoral Degree in this Major with the dissertation

⁵ *ibid*

⁶ Sengkang is the town in Wajo regency. And As'adiyah boarding school is one of famous Islamic boarding school in South Sulawesi since pre-independence of Indonesia. And the tradition in Islamic boarding school is that the women student must wear the veil. So Musdah Mulia has worn the veil since in Secondary School.

“Negara Islam: Pemikiran Politik Haikal”. The research of this dissertation is done in Egypt, which then published by Paramadina Press at 2001.

Besides those formal educations, she is also recently gets some informal educations and short courses in Indonesia and abroad. Such as short course of Islam and Civil Society in Melbourne, Australia (1998); short course of Basic Human Right (HAM) in Chulalongkorn University in Thailand (2000); short course of advocating the basic human right and democracy maintenance (International Visitors Program) in United States (2000); short course of education an leadership management in George Mason University, Virginia, United States (2001); basic human right trainer in Lund University, Sweden (2001); and women leadership management in Bangladesh Institute of Administration and Management (BIAM), Dhaka, Bangladesh (2002).

Culturally, the education of Musdah Mulia is over three kind of culture, first is in Islamic Boarding School education which hierarchically, closely and full with formally ethic. Second is the western culture, where she follows many short courses. From there she gets much new knowledge of liberally, forethought and rationally principle. And the third is from her experience in meeting with some thinkers and figures in many countries. It was sharpened her thought and analysis against Islamic teaching and interpretation. Especially in her meeting with some other feminist, she has shared with other feminist of their own struggle to maintaining gender equality for women in their own country. That’s all educations and experiences were given big influence in her characteristic thought. Those educations are like a root and basic combination in her dynamic thought. For example in As’adiyah Islamic Boarding School have influence in wearing veil and conservative characteristic. And in western education have influence in her thought of liberally, diversity and freedom. And until now those all educations were like dialogue inside her. This is the causes why she always seems dynamic, and hard to be understood the thought. Even her free and controversial thought and

the large of knowledge make her out of her conventioinal Islamic teaching in her original family.

2. Career and Job of Musdah Mulia

Musdah Mulia dedicated herself in education and social problem. She begins her intellectual career as a lecturer in his ex university; it is in Alaudin State Institute of Islamic Studies Makassar and Indonesian Moslem University Makassar from 1985 until 1989. Besides that at that time she also becomes a researcher in Research Institution of Religion Reading Matter (BPLA).

In 1990 she moves to Jakarta and becomes a researcher in some famous department. From 1990-1999 she was trusted as a researcher in Research and Development Institution in Religion Affairs center, Jakarta. And after that she trusted as a leader in Research Institution of Religion and society in Religion affair center Jakarta. And from this expert she was also trusted as an Expert Staff of State Minister in Basic Human Right Affair on the Discrimination and Protection of Minority prevention (2000-2001), the member of Indonesian Manpower Affair Expert Team (2000-2001) and also the Expert Staff of Religion Affair on International Religion Organization Relationship (2001-2007), and the leader of inspection division in The Council of Indonesian Ulama (MUI) (2000-2005). Even because her competence as a researcher, she was also recorded as the first women which get affirmation from Indonesian Institute of Science (LIPI) as Professor of research in Religion Reading Matter of Religion Affair in 1999, which in that affirmation she delivers the speech on the title “Potret Perempuan dalam Lektur Agama (Rekonstruksi Pemikiran Islam Menuju Masyarakat Egaliter dan Demokratis).

And as we know that Musdah Mulia was educated in Nahdhatul Ulama family. And as a member of Nahdhatul Ulama she also has a big role in this organization. When she was a student she was active in some Nahdhatul Ulama

youth organization (IPPNU), the leader of al-Alami lil Alimat al-Muslimat Indonesian Institution (2001-2003), the vice General-Secretary of PP Muslimat Nahdhatul Ulama (2000-2005), and the general secretary of Fatayat Nahdhatul Ulama.

Whereas her activities in some social organization are the expert council of Indonesian woman coalition (2001-2004), the leader of Panah Gender PKBI (2002-2005), the director of Institute for Religion and Gender Study (LKAJ) (1998-now), the leader of Indonesian Islam Religion Community, the member of interfaith and religion communication, an expert leader of the Corps women of Islamic Dakwah Institution (KPMDI), the leader of Gender Council Association and Indonesian Young Family Association (2000-now). Besides as researcher and lecturer, Musdah Mulia also becomes an active trainer in some training, especially the training which related to democracy, basic human right, women discourses and civil society.

Those all activities are the influence of her some organization experiences in Makassar. Since she was a student in IAIN Alaudin Makassar, she is known as an active student in some organizations, either in some youth organization or mass organization. For example she was became a member of KNPI management in South Sulawesi regional (1985-1990), the regional leader of South Sulawesi Nahdhatul Ulama Female Association (1982-1985), the regional leader of South Sulawesi Fatayat Nahdhatul Ulama (1986-1990), the vice of WPI (1996-2001).

In Jakarta her career is get a significance development, beside trusted as researcher in some institutions, Musdah Mulia also teach in some universities, such as in Qurânic sciences institute (IIQ), Jakarta from 1997-1999 and as visiting professor in EHESS Paris, French at 2006, in post graduate of Syarif Hidayatullah State Islamic University (UIN), Jakarta from 1997 until now. Furthermore she also becomes a director in the center of al-Wathaniyah School, and since 1998 she has been the Chairperson of the Indonesian Conference on Religion for Peace (ICRP), an institution which actively promotes interfaith dialogues, pluralism and

democracy for peace. Besides those all his activities, Musdah Mulia also become a speaker in some national and international seminars.

Generally the career and activities of Musdah Mulia are below:

1. As a researcher

No	Position	Year
1	Researcher in Research and Development Institution in Religion Affairs center	1990-1999
2	Expert Staff of State Minister in Basic Human Right Affair on the Discrimination and Protection of Minority prevention	2000-2001
3	member of Indonesian Manpower Affair Expert Team	2000-2001
4	Expert Staff of Religion Affair on International Religion Organization Relationship	2001-2007
5	leader of inspection division in The Council of Indonesian Ulama (MUI)	2000-2005

2. As lecturer

No	Position	Year
1	Qurânic sciences institute (IIQ)	1997-1999
2	Visiting professor in EHESS Paris, French	2006
3	post graduate of Syarif Hidayatullah State Islamic University (UIN)	1997 until now

3. As leader and member in some social organizations.

No	Position	Year
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1	member of KNPI management in South Sulawesi regional	1985-1990
2	The leader of young girl Nahdhatul Ulama Association for South Sulawesi	1978-1982
3	the regional leader of South Sulawesi Nahdhatul Ulama Female Association	1982-1985
4	the vice of WPI	1996-2001
5	regional leader of South Sulawesi Fatayat Nahdhatul Ulama	1986-1990
6	leader of al-Alami lil Alimat al-Muslimat Indonesian Institution	2001-2003
7	vice General-Secretary of PP Muslimat Nahdhatul Ulama	2000-2005
8	expert council of Indonesian woman coalition	2001-2004
9	leader of Panah Gender PKBI	2002-2005
10	director of Institute for Religion and Gender Study (LKAJ)	1998-now
11	leader of Gender Council Association and Indonesian Young Family Association	2000-now
12	General Secretary of Indonesian Conference on Religion for Peace (ICRP)	1998-now

3. Musdah Mulia's Work

Some social problems and experience around her, make she have a different thought and opinion with other figure in Indonesia. And for socialize and spreading her thought she uses her time as a lecturer in Syarif Hidayatullah State Islamic University Jakarta, and the opportunity in some seminars. Beside those

ways, she also documenting her thought in some wrote, book, journals and articles in internet or in mass media.

As long my research the collection of her written are:

1) Book

- a) Mufradat Arab Populer, 1980.
- b) Pangkal Penguasaan Bahasa Arab, 1989.
- c) Sejarah dan Pengantar Ilmu Hadits, 1995.
- d) Sejarah dan Pengantar Ilmu Tafsir, 1995.
- e) Negara Islam: Pemikiran Politik Haikal, Paramadina, 1997.
- f) Lektur Agama dalam Media Massa, Departemen Agama, 1999.
- g) Anotasi Buku Islam Kontemporer, Departemen Agama, 2000.
- h) Poligami dalam Pandangan Islam, LKAJ, 2000.
- i) Kesetaraan dan Keadilan Gender (Perspektif Islam), LKAJ, 2001.
- j) Pedoman Dakwah Muballighat, KP-MDI, 2000.
- k) Analisis Kebijakan Publik, Muslimat NU, 2002.
- l) Meretas Jalan Awal Hidup Manusia: Modul Pelatihan Konselor Hak-Hak Reproduksi, LKAJ, 2002.
- m) Seluk-Beluk Ibadah dalam Islam, As-Sakinah, 2002.
- n) Islam Menggugat Poligami, Gramedia, 2004.
- o) Perempuan dan Politik, Gramedia, 2005.
- p) Muslimah Reformis: Perempuan Pembaru Keagamaan, Mizan, 2005.

- q) Islam and Violence Against Women, LKAJ, 2006.
- r) Islam dan Inspirasi Kesetaraan Gender, Kibar, 2007.
- s) Poligami: Budaya Bisu yang Merendahkan Martabat Perempuan, Kibar, 2007.

2) Articles

She writes many articles, especially on women issues and gender equality. Because she assumed that writing is one of way to spreading her thought. She writes many articles both of printed and electronic articles. Some of them are *Memahami jilbâb dalam Islam, Islam as a Tool for Women's Empowerment and Peace Building* (article in Seminar at Melbourne), *Amandemen Pembaruan Hukum Perkawinan Melalui Counter Legal Draft Terhadap Kompilasi Hukum Islam, Menuju Islam yang Akomodatif Terhadap Nilai-Nilai Kemanusiaan* and many other articles and essays in some mass media. Such as in Rahima, Jurnal Perempuan, The Jakarta Post etc.

3) Encyclopedias

Besides those books, she is also writes some entries at encyclopedia in her spare time, such as *Ensiklopedi Islam* (1993), *Ensiklopedi Hukum Islam* (1997), and *Ensiklopedi Al-Qur'an* (2000).

4. The Awards for Musdah Mulia

Musdah Mulia is known as one of famous Moslem feminist in Asia. She always makes a research of some Islamic literatures critically to abolishing Gender inequality in society. She also has known as reconciliation figure which make a

bridge between faith, religion and culture consistently. Even she also supports the new illegal religious sect. Because according to her, the arising of new religious sect is the right of people.⁷ And because of her effort and persistence in maintaining the justice, democracy and equality, she gets some awards. They are:

1. “International Women of Courage” Award from American Ministry of Foreign Affairs, Condoleezza Rice in Washington at World Women Day, March 7th 2007. She reputed as a “brave” Asian Women. She is also called as shown courage women and leadership in promoting women’s rights and advancement.⁸
2. “Women of the Year 2009” award from Il Premio Internazionale La Donna Dell ‘Anno (International Prize for the Women of the Year) 2009. That agenda go on Grand Billia Hotel, Saint Vincent Aosta, Italia at November 27th 2009. Musdah Mulia was eliminated two other finalist, they are Aiche Ech Channa from Morocco and Mary Akrami from Afghanistan. These three finalists are selected from 36 candidates of 27 countries. This award is dedicated for women who have a big role and real prove in effort of women emancipation and empowerment.
3. From Tempo magazine as a “leading figure” in 2004⁹
4. Yap Thiam Hien award in Jakarta on Human Rights Day, December 10th 2008. She noted as a Muslim interfaith activist, unfortunately, she cannot attend that ceremony because she was on the hajj with her husband.¹⁰

⁷ For example: the case of Ahmadiyah. When Ahmadiyah groups are arise, most of conservative Moslem are make an aggression because some teaching in Ahmadiyah are out from Islamic teaching. But Musdah Mulia has a different opinion against this group. Even she doesn’t agree with that aggression, because it is kind of breaking the other right.

⁸<http://www.america.gov/st/washfile-english/2007/March/20070308143741ajesrom0.7947809.html>. Taken on May, 24th 2010.

⁹ Marzuki Wahid, “Counter Legal Draft Kompilasi Hukum Islam (CLD-KHI) From the Perspective of Politics of Laws in Indonesia”, an article.

¹⁰<http://religionsforpeace.org/file/news/newsletters/e-4q08-e-bulletin-final.doc>. Taken on May, 24th 2010

B. DYNAMIC THOUGHT OF MUSDAH MULIA

The background of family and education are very influence in a figure's thought and character. Not only in this case, some experiences in her life also had a big influence in her intellectual journey. Her new conception of Islam is got when she begin her study in Master Degree of UIN Syarif Hidayatullah Jakarta, exactly when she begin knowing the thought of Harun Nasution.

The first knowledge of Islam was got when she was in As'adiyah Islamic Boarding School. This institution was made an ethic, formal and structural religion character. For example the influence in wearing veil. She has been wearing the veil since she was in Islamic Boarding School, and for Musdah Mulia wearing the veil is part of herself characteristic, so she never leave wearing the veil although she have an opinion that wearing the veil is not a must for Moslem. Whereas her education in some universities and short course in some countries make her understand of some religion, belief and ethnic diversities. From those educations and experiences she knows some different religion thoughts, ranging from the conservatives, fundamentalism, radicalism and liberalism.

As we know that Musdah Mulia is a controversial figure, even she was claimed as a not good Moslem, especially in Indonesia. This is caused of her thoughts and opinion in some social problems. Some of her opinions seem like out of Islam teaching in Qurân and *Hadîth*. Although she was claimed as not a good Moslem in Indonesia, she has gets a high honor and considered as a competitive person in other countries. She always get some invitations to join in many short course and seminars. Some of the opinions are:

1. Homosexuality

About homosexual and homosexuality, Musdah Mulia is not forbid or condemns homosexual and homosexuality. We can see her opinion of this case as mentioned in The Jakarta Post daily newspaper, Friday March 28th 2008. In that

article mentioned that Musdah Mulia said that Islam recognize homosexuality. And homosexual and homosexuality are natural and created by God, thus permissible within Islam. Furthermore Musdah Mulia also said that moderate Moslem scholars said there were no reason to reject homosexuals under Islam, and that the condemnation of homosexual and homosexuality by mainstream ulama and many other Muslims was based on narrow-minded interpretations of Islamic teachings.¹¹

She leaned her opinion on the verse of al-Hujurât [49]: 3: *“O mankind! We created you from a single (pair) of a male and a female, and made you into nations and Tribes, that ye may know Each other (Not that ye may despise (each other). Verily the Most honored of you in the sight of Allâh is (He who is) the Most righteous of you.”* And from this verse Musdah Mulia understand that there is no difference between lesbians and non lesbians. And in the sight of Allâh people are honored based on their piety.

According to Musdah Mulia, the main core of Islamic teaching is humanizing the human being and honoring their right. And there is no problem within homosexual so long as they not doing the contemptible deed, not lying, and not disturbing the right of other people. Because it is only about sexual orientation, and it is given by God.

In this case, Musdah Mulia said that we should understand and differ between the natural homosexual and the intentional homosexual. The natural homosexual is the person who can't leave and change the homosexuality. Because it's natural and given by God. While the intentional homosexual is who doing homosexual although actually they can change it, or they do intentionally. Basically in this case we should differ where the sexual orientation (given by God) and sexual behavior is.

¹¹ <http://waty66.multiply.com/journal/item/20>, an article by Adian Husaini.

2. Interfaith Marriage

According to Musdah Mulia, an interfaith marriage is an old problem, and has been be a discussion between some scholars. Generally there three opinion of legalizing interfaith marriage; first is absolutely forbidden, either with *musyrîk* or *ahl kitâb*, and this rule is behaving for all Moslem, including man and women. The second is permitted is the *ahl kitâb* is the woman, not the man, not the contrary. And the third is absolutely permitted; either the non Moslem is man or woman.

And in this case, Musdah Mulia is following on the third opinion. And the argument of this opinion is based on the verse *al-Baqarah* [2]: 221, where in that verse mentioned that not permitted a marriage between a Moslem and *musyrîk*. And in her book *Muslimah Reformis*, Musdah Mulia cite the argument of Muhammad Abduh and Rasyid Ridho who said that the meaning of *musyrîk* women in that verse is only limited for women in prophet era. The indication is that in that verse Allâh also advice to marry with the slave, whereas slavery was disappeared. So the context of that verse is on the prophet era, because there are no more slaves in this era.

Besides that, she also mention the second argument, it is the verse *al-mâidah* [5]: 5. In that verse mentioned the permission for Moslem man marries with women of *ahl kitâb*. And the understanding of Musdah Mulia on this verse is that this permission also behaving for the contrary. In Arabic grammar known *al-iktifâ'*, it means in a sentence only enough to mention the part, and it will be understood the other part. So if in that verse mention the permission of marriage between men of Moslem with women of *ahl kitâb*, so do the contrary that the women of Moslem also permitted to marry with the man of *ahl kitâb*.

And the last argument of her opinion is the verse *al-mumtahanah* [60]: 10. In that verse explicitly mentioned the prohibition of marriage between Moslem and

kâfir. And if we analyze contextually, we will understand that this prohibition is caused by *kâfir* is the enemy of Moslem at that time on some wars. So this marriage is prohibited in order to know who are the friend and the enemy. And as we know that no more wars in this era, so the object in that verse also disappeared.¹²

Furthermore Musdah Mulia said that the next problem of this case is the different definition of *musyrik*, *ahl kitâb* and *kâfir*. Some scholars have a different definition on this term. And this is automatically made different interpretation on the law.

And from her analysis she conclude that the aim of interfaith marriage prohibition is for create a happy, harmony and everlasting family. With the assumption that this kind family is only can be created with the sameness between husband and wife, especially the sameness in religion and faith. But if an interfaith marriage was can create and reach that aim, so there is no problem in interfaith marriage. And the next aim is to avoiding the religion conversion. So the general opinion is allowing interfaith marriage if the man is Moslem, not the women. And from this opinion, Musdah Mulia concludes that this is a bias gender opinion. Because in this case women is positioned as a low faith human, because she was felt concerned to convert in her husband religion. Whereas from the fact of interfaith marriage this conclusion is not absolutely true.

And the last conclusion in this case, Musdah Mulia said that she is agree if interfaith marriage is forbidden with an objective and conditional reason on a certain society. For example if interfaith marriage is proven become a factor of divorce and the high number of domestic violence. Or that interfaith marriage is causes the women and children trafficking. With that reason so that interfaith marriage prohibition is true for avoiding the damage and prevention.

¹² Mulia, Siti Musdah, *Muslimah Reformis...*, *Op. Cit.*, p. 62-63

And for the contrary, if interfaith marriage is permitted, it is need socialization against society about the positive and negative impact of this case. So that the people who want to do interfaith marriage will consider the positive and negative impact before they do that marriage.¹³

3. Wearing The Veil¹⁴

The other controversial opinion is about the veil or “*jilbâb*”. She has a different interpretation of wearing veil for Moslem women. The word *jilbâb* comes from Arabic word “*jalaba*”, it means covering something with other thing until not visible. The explicitly verse about *jilbâb* is verse of Al-Ahzâb (59). And according to Musdah Mulia this verse is related to the response of being happy of Arabian women tradition that always letting their face opened like a slave, although they are Moslem women. And then they were disturbed by some men at that time, because they are assumed as a slave. And then they were informing to the prophet about this case, so then this verse was revealed.

According to Said al-Asymawiy, the aim (*illat*) of this verse is for knowing and differing Moslem and non-Moslem women or slave and for strengthening the women value. And the evidence of his opinion is when Umar ibn Khattab sees the women slave wearing the veil, he flogging her in order to differ between Moslem and non-Moslem or slave women. And from this opinion, Musdah Mulia concludes that contextually, this aim is no more applicable in this time, because the aim is only for knowing and differing. Whereas in this time there is no more slave and the safety is well. While if the aim is for strengthening the women value, so that Islam strive for women to be able to strengthening their morality in value even they are wearing the veil or not.

Furthermore Musdah Mulia concludes that the conclusion of hadîth and verses of *jilbâb* analisis is the essence of wearing *jilbâb* is for self restrain and for

¹³ *Ibid*, p. 70

¹⁴ *Memahami jilbâb dalam Islam*, an article by Musdah Mulia.

avoiding the bad attitude. So *jilbâb* is related to the piety in heart. And wearing polite clothes, simple and not make a sexual temptation for other is a must for all human, man and woman. So *jilbâb* is only a tradition and custom at that time, not an Islamic teaching. So wearing *jilbâb* is not a must for Moslem women, because the command of wearing *jilbâb* in Qurân is only for prophet wives and children, and the Moslem women at that time for knowing and differing from the slave and for avoiding the man temptation.¹⁵ Wearing *jilbâb* is only for carefulness, so Islam is not explain the limitation of genital body which have to covered, but that's all depend on the everyone and the condition, situation and necessity.¹⁶

Although she has a different opinion about wearing the veil, but as a conservative Moslem woman, she never leaving her veil. She always wearing veil in her activity. This is because the veil is one of her characteristic since she was in Islamic boarding school. Even many people claimed that it is one her inconsistency of her thought. About this case, Musdah Mulia said that she chooses to wear like that because she feel comfortable, not because she feel that she is religiously forced to wear that and certainly not because of the sharia-inspired bylaws.¹⁷

The most controversial of her thoughts is the counter legal draft of Islam punish complies (CLD-KHI) in 2004.¹⁸ Even she has got the pushed from her

¹⁵ This opinion is not only got from her analysis of *jilbâb* hadîth and verse, but also based on her experience when she goes to Egypt from Medina to do research for her doctoral dissertation in 1994. When in the plane, all of Moslem women are wearing veil, but when they are arrived in Egypt they are put away their veil and were dressed up in complete Western attire. And when Musdah Mulia asked them about it, one of them said: "Oh, that's only our traditional dress. Here (in Egypt) wearing a veil is not a tradition". See "Siti Musdah Mulia Stands Up For Her Convictions", *The Jakarta Post*, March, 23rd 2007. See also <http://alphaamirrachman.blogspot.com/2007/03/siti-musdah-mulia-stands-up-for-her.html>.

¹⁶ This opinion is based on the conclusion of Islam Research Forum of Syarif Hidayatullah State Islamic University in 1998.

¹⁷ <http://alphaamirrachman.blogspot.com/2007/03/siti-musdah-mulia-stands-up-for-her.html>

¹⁸ The reason of this team in composing this draft is that some Indonesian marriage law is no more appropriate with some national and international law. Such as Universal Declaration of Basic Human Right (1948), Convention of the Elimination of all form of Discrimination Against

position in Minister Religion Affair because some points in that draft assumed out from Islamic teaching. And Musdah Mulia herself in that team is as a leader, so she claimed as people who should responsible of the content of that draft. The example of some controversial points is:

1. The responsible man for bridge is not part of marriage essential principle.
2. The bridge price is not only given from man to women, but also the women to man.
3. The husband and wife are having a same right to divorcing and make reconciliation.
4. *Iddah* is not only for the ex wife, but also for the husband.
5. A contract marriage is permitted.
6. Interfaith marriage is permitted.
7. The inheritance distribution is same between son and daughter.

Those points are make a different response from society, either pro or contra response. And then the Council of Indonesian Ulama (MUI) asks to Religion Minister Affair to take that draft out from society and to not spread their thoughts. Because this great impact and response from society, most all of the member of pokja PUG team was leaved and out of the responsibility. Even the religion minister at that time also might not be responsible. About this case Musdah Mulia said that she is the only one who facing this problem, because most of her member was leaved their responsibility. Musdah Mulia also doesn't fear with many

Women (CEDAW) (1979), UU No. 7 1984, UU No. 39 1999. Furthermore Musdah Mulia also said that some MUI instructions is not considering the own empirics and experience of culture and religion in Indonesia. Those instructions are only taken for granted the law from explanations in classic interpretation which was no more appropriate with contemporary problems. See more in *Muslimah Reformis* p. 142-143

criticisms from society, she tries to be responsible with her thought, because in this life she is only fear with God.

According to Huzaimah,¹⁹ the main approach which used in composing that draft are Gender, Pluralism, Basic human right and Democracy approach, and not using the *maqâshid shari'a* methodology. It means that in composing that legal draft, the team are not consider the five basic Islamic principle, they are keeping religion, keeping soul, keeping mind, keeping descent and properties. So according to Huzaimah, that draft is not appropriate with Islamic law and was destroyed Islam itself.²⁰

If Huzaimah claimed that in composing draft is not using *maqâshid shari'a*, but Musdah Mulia said in her book *Muslimah Reformis* that in composing that draft she has considering these principle: *First*, useful principle (*al-maslaha*). According to her that there is no other purpose in Islamic law except for *maslaha* in human life and avoiding the *mafsadah (jalb al-mashâlih wa dar' al-mafâsid)*. Second is nationalism principle (*al-muwâthanah*). Because Indonesia was build not on the one religion and faith, but in a pluralism faith, religion and culture. Third is confession the human right (*huqûq al-ibâd*) and democracy which based on freedom, equality and sovereignty. Fourth is gender equality principle (*al-musâwah al-jinsiyah*). And fifth is pluralism principle (*al-ta'adudiyah*).²¹

Besides those opinions, Musdah Mulia also claimed as pornography planned law rejecter, because Musdah Mulia was not agreed with the pornography planned law at 2008. As we know that the planned law of pornography was become a big issues since 1997, but it was proposed on 2006 and then get the legalization on October 2008. There are many different responses against this law, either the pro or contra groups. Musdah Mulia is one of pornography law rejecter. From her

¹⁹ Her complete name is Huzaimah Tahido Yanggo, she is an *A'wan* of Syuriah PBNU. She is also an Islamic law lecturer in Syarif Hidayatullah State Islamic University, Jakarta.

²⁰ Saridjo, Marwan, *Cak Nur: di Antara Sarung dan Dasi & Musdah Mulia Tetap Berjilbab: Catatan Pinggir Seputar Pemikiran Islam di Indonesia*, Jakarta: Penamadani, 2005. p. 101

²¹ Musdah Mulia, *Muslimah Reformis.....*, p. 142

decision in rejecting pornography law, some groups which pro with this law said that Musdah Mulia is likes and supporting pornography because she was not agree with that law. But when I ask Musdah Mulia about this case, she said that that is only a narrow conclusion. Some people usually conclude that who is not agrees with pornography law is a supporter and pro pornography. Although actually Musdah Mulia also doesn't agrees and very hate with pornography and porn action. Furthermore Musdah Mulia said that she has done some pornography aggression since she was in Fatayat NU. But his rejecter against this law is about the content of that draft.²²

In chapter 1 verse 1 of that draft mentioned that “pornography is material sexuality which created by human being in the form of picture, vignette, illustration, photo, written, sound, animation, cartoon, poem, conversation in communication message in some communication media or in a public place which can cause a sexuality awaken”. From this definition Musdah Mulia conclude that the content of this draft is only making a limitation on the human creativity and rights. Furthermore based on her analyzing of that draft, Musdah Mulia also concludes that that draft is only a regulation of women's body. Because in this draft indicated that the decreasing of morality is caused by the women. This opinion indicated that women are a mistake human. According to Musdah Musdah Mulia the solution in polygamy cases is with make a rule of spreading and circulation of some pornography things. In the last of our conversation Musdah Mulia said that why that draft only discuss about the part of women's body such as their breast. Actually that draft also should discuss about the part of man's body. Because if part of women's body raising a problem, so do the part of man's body.

So from her opinion above, we can see that actually Musdah Mulia is not reject the pornography law or supporting pornography. But she is only doesn't

²² In interviewing with Musdah Mulia in The Wahid Institute at March 22nd 2010

agree with the content of that draft which only consist of regulation and limitation of women's body and human creativity.

As a will and brave to give opinion Moslem, Musdah Mulia tries to make Islam as a shade, dialogues and inclusive religion. As a Moslem thinker she always thinks rationally and critically in every problem. She is also preserve to promote the interfaith dialogue, pluralism, fighting for gender equality and justice, and assist the low and minority groups. But most of society always see and claim that her opinion is a wild thought and out of Islamic teaching. Even the consequence of her thoughts, she often getting told of some official Religion Affairs, getting criticize of some friends in Syarif Hidayatullah State Islamic University, and some other Moslem public figure.

Although there are many people disagree with her thought, there are many other people who very honor and admire with her thought. She gets many chances to spread and socialize her thought in some seminars and debates national and internationally.

Although have a wild thought, but she was not lose her conservative religion, because she was educated in Islamic boarding school since in Junior High School. And she also always put appreciate to other conservative people. She understand that the conservative thought is a properly matter, because according to Musdah Mulia they never get a lot of modern knowledge and experience.

C. THE CHARACTERISTIC OF MUSDAH MULI'AS INTERPRETATION

We can see her general opinion and characteristic in her books and articles, because they are the representation of her thought. Especially in her book on the title "Muslimah Reformis", she explains many cases of women issues. Such as interfaith marriage, women leadership, some critique of public will and the solution.

In that book Musdah Mulia tries to come as a Reformist Moslem Women. In her reformation effort on that book Musdah Mulia seems to make a deconstruction of some established custom and law in Indonesia which cause a gender inequality. And the solution offered to settle the problem is by reinterpretation of religious teachings or *ijtihad*. Islamic reinterpretation or *ijtihad* should be based on at least three principles, they are:

1. The Principle of Tauhid

According to her, the inspiration and idea of her reformation deconstruction is her understanding of *Tauhid's* Definition. In her opinion *Tauhid* is not only confessing on God, knowing His Name and Attribute but also a conviction that Allâh is only the one Who have power and authority, and a conviction that there is no one have same position with God. And the antithesis of this statement is that there is no difference between human as a God's creature, only God the owner of power, authority and greatness. It means 'to truly know that something is one'.²³

Furthermore Musdah Mulia said that *Tauhid* is not only an Islamic doctrine, but also an active energy which makes people knows who is God and who is human being. Even the impact of *Tauhid* is not only can create an individual happiness but also can make a morality, humanity, free of discrimination and injustice society.²⁴ The evidence of those impacts is some freedom in Islamic history. She claimed some freedom in the past is the impact of *Tauhid*. Such as the movement position of women in getting inheritance, the change of women status in marriage, the justice for orphan and women (*mustadh'afin*). Besides some freedom above, she also said that *Tauhid* also

²³Islam as a Tool for Women's Empowerment and Peace Building, An article by Musdah Mulia

²⁴ Musdah Mulia, *Muslimah Reformis...* p. 8

make an equal life between man and women. her argument is the verse *an-Nahl* [16]: 97: “Whoever works righteousness, man or woman, and has Faith, to Him will we give a new life, a life that is good and pure and we will bestow on their reward according to the best of their actions.” Musdah Mulia understands that verse that whoever has declare of *Tauhid*, they have a same position, job and reward from God. So *Tauhid* was made an equal life.

From her understanding above, she concludes that Islam is a justice religion. Islam came without any differences between ummah. And the differences which appear in the late are only the social construction.

2. The Principle of Islamic Legislation (*Maqashid Shari’a*)

As we know that the source of Islamic law is Qurân and Hadith. But according to Musdah Mulia, to understand the objective law, we shall not only be based on literally meaning of those sources, but it will be more contextually and objectively if we based on Islamic legislation. And the objective of shari’a is clearly implemented in the value of justice (*al-adl*), virtue (*al-maslaha*), wisdom (*al-hikmah*), equality (*al-musâwah*), compassion (*al-rahmah*), pluralism (*al-ta’aduddiyah*), and human rights principle (*al-huqûq al-insâniyah*).

Her new opinion of Islamic legislation is based on the conclusion of some Islamic scholar’s opinion. For example al-Ghazali, when he formulated Islamic legislation into five basic principle of human rights (*al-huqûq al-khomsah*).²⁵ And the main purpose of those principles is the importance of treating human beings as the target and subject of Islamic legislation. Besides al-Ghazali, Ibn al-Qayyim al-Jauziyyah also inspired Musdah Mulia’s opinion. Ibn al-Qayyim said that Islamic legislation is actually established for the interest and benefit of

²⁵ They are rights to live (*hifdz an-nafs*), rights to have religion (*hifdz ad-din*), rights to have properties (*hifdz al-mal*), rights to voice opinion freely (*hifdz al-aql*), and rights to reproduce offspring (*hifdz an-nasl*).

humankind and so for humanity universal objectives such as justice, compassion, wisdom, and so on. That principle should be a guideline in making an Islamic legislation. The other inspiration is from Ibn Rusyd, he said that the benefits for humankind constitute the root of various legislations stipulated by God. Even more, Izzuddin Ibn Abdissalam has arrived at the conclusion that all religious provisions are entirely directed for the benefit of humankind.²⁶

From those Islamic scholars's opinion, Musdah Mulia concludes that the important principle in Islamic legislation is for the interest, benefit, and treating the humankind's life. And then she formulated some new Islamic legislation above based on her own analysis.

3. The Principle of Fiqh Relativity

According to Musdah Mulia, the Islamic jurisprudence (fiqh) is relative, because it is the product of intellectual activity of Moslem scholar from interpreting Qurân and hadith. And in interpreting the Qurân and hadith they can't separate their self from their socio historical sphere, laws, tradition developing and the time of their self. And then Musdah Mulia recommended the people that they should make an interpretation contextually, based on the problem and condition in this time. It is by understanding the historical and political context on which Qurân and hadith were revealed. And it will produce an interpretation which appropriate with the message of universal Islamic morality, such as justice, peace, gender equality, human rights and freedom.

In this characteristic, Musdah Mulia emphasizes the importance of *ijtihad*. Because *ijtihad* is the differ thing between human being and animal. Human being has a ratio that should used to think. Besides the arising of some new problems, *ijtihad* also need after the death of Prophet Muhammad. Musdah Mulia

²⁶ Musdah Mulia, *Poligami: Budaya Bisu.....*, p. 71-72

also leaned her opinion of the importance of *ijtihad* on the hadith from Mu'adz ibn Jabal: ...”*if you find some problems in a place, you should solve it with refers to Qurân and Sunnah, but if you are not found there so use your logical reason*”. And also the hadith which stated that God will sends a reformer in a century to renewal the religion. From those hadith Musdah Mulia concludes that *ijtihad* is a must for solving some modern problems. And she also suggests the Moslem to understand that Qurân and hadith is absolute. But the interpretation of Qurân and hadith by some classic scholars is relatively and only a product of *ijtihad* at their time. So we should make a new law for new problem which more appropriate in this time.

The other characteristic of her interpretation is the importance history and causes revelation of Qurânic verses and hadith. Musdah Mulia always researches the History of some Arabic tradition, the culture at that time, and the cause's revelation on some verses and hadith. But she is only discussing generally and simply. She was not discussing the cause's revelation and the history.

D. MUSDAH MULIA'S INTERPPRETATION ON POLYGAMY VERSES

As we know that Qurân was emphasize the importance of being justice, either individually or collectively. According to Musdah Mulia Islam is very support and help against the lower group (*mustadh'afîn*), and as we now that women is one of them. There are many change tradition related to women discourse. And one of them is the change of polygamy rules.

There are some verse which discuss about polygamy, such as in *an-Nisâ'* [4]: (3) about the requirement and procedure in polygamy, and *an-Nisâ'* [4]: (129) about the impossibility in being justice of husband.

1. The Fact of Polygamy

As researcher, Musdah Mulia has researched some polygamy marriage in society. There are many facts show that polygamy have made an injustice relationship in a marriage and create oppression on women. Musdah Mulia makes a research on some institutions, such as on ICRP, Fatayat NU, LKAJ etc. from those research, Musdah Mulia found some ironic fact in polygamy marriage. There are some infractions in polygamy procedures. Such as some of polygamist do their polygamy without permission from their wives or lying new wives and claimed his self as a single although in fact he has a wife. From this fact, found some law infraction like an identity falsification. In his identity, he mentions that he is a single so that he can marry with any women. Musdah Mulia mentioned some true story of fact of polygamy from her research in her book *Poligami: Budaya Bisu yang Merendahkan Martabat Perempuan*.

Besides that Musdah Mulia also found some polygamy marriage begin from an illegal relationship between husband and other women. After the wife knows about that, the husband will marriage with that woman, and the first wife is has no power to reject it.²⁷ According to Musdah Mulia, the main purpose in marriage is never can be reached in polygamy marriage. The ideal marriage is monogamy. Furthermore Musdah Mulia said there are five main principles which should filled in a marriage. This is based on her conclusion of her interpretation against marriage verses in Qurân.

First is seriously relationship principle (*mitsâqan ghalidzâ*). It means that a marriage is a strong commitment both of two equal persons who have a same quality and status. Both of husband and wife must keep that relationship, be responsible and can't break in one hand. This is the main and the most important principle. As when I ask about the reason of polygamy enjoinderment, Musdah Mulia said that marriage is a seriously and strongly commitment between husband and wife (*mitsâqan ghalidzâ*), so in a marriage the husband can't marry

²⁷ See more some true story about the fact of polygamy marriage in *Poligami: Budaya Bisu yang Merendahkan Martabat Perempuan*.

with more than one wife if the wife not willing it, because both of them must keep their commitment. The second is love principle (*mawaddah warahmah*). It means that a marriage is should build based on loyalty, faithfulness and love between both of husband and wife. That love might not be broken in every condition. Both of husband and wife must take their couple as they are and understand each other in every condition they have. The third is equality principle. It means that in a marriage the position between husband and wife is equal. In this case, Musdah Mulia take an example of analogy in Qurân that husband and wife are as a clothes (al-Baqarah [2]: 187). From that analogy, Musdah Mulia concludes that husband and wife is should be equal, loving, protecting and completing each other in their relationship. Then the fourth is the principle of kindly and lovely relationship (*mu'âsyarah bil ma'rûf*). This relationship includes sexual, humanity and morality relationship. In a marriage the husband and wife should able to make a kindly, harmonically relationship without domination, discrimination, exploitation and violence from both of them. And the last principle is monogamy. According to Musdah Mulia, the most ideal marriage form is monogamy, because those four basic principles above can't reach and realize both of husband and wife except in monogamy marriage.

2. The requirements in Polygamy

As we know that Islam comes with some new rules for the better life. One of them is about polygamy. As we know that polygamy pre-Islam is without any regulation and requirement. A husband can marry with anyone other their wife without limitation. They marry with many women for filling their sexual desire. They are having no different with animal, so that their era calls by *jâhiliyah* era. But after Islam comes, polygamy tradition is not directly abolished. Islam comes with some new limitation in polygamy, not for command or advice. In polygamy verse, there are two requirements that should be filled by someone who wants to

do polygamy. First is giving limitation to have four wives maximally. And the second is has to be justice between their wives, materially and immaterially.

And Musdah Mulia said that almost no one can fill the second requirement. It means that Islam giving a hard and strict requirement for polygamist in order to not to arbitrarily and being injustice against their wives. Furthermore Musdah Mulia said that the change of polygamy rules in Islam is indicated that actually Islam try to disappearing polygamy. But, because the principle of Islamic law is not to weight against the Moslem, so that abolishing polygamy is done step by step, like the change of slavery, and alcohol law.²⁸

In discussing polygamy, Musdah Mulia analyzing *surah an-Nisa* ranging from first verse until the third. From her understanding of those verses, she concludes that those verses actually talk about treating the orphan children. Starting with interpreting the first verse,²⁹ she said that *surah an-Nisa* was begun with statement that all human being, man and women are create from the same thing as God's creature. And then the second verse,³⁰ Musdah Mulia understands that this verse is specifically talking about being justice to orphan children. While at that time there are many husbands who have authority upon the orphan children are being injustice on the orphan children. And then continue with the third verse,³¹ which always claimed as a theological base of doing polygamy. In a glance, this verse is allowing polygamy, as textually mentioned "*marry women of your choice, two or three or four*". But Musdah Mulia said that if we read and understand carefully from the first verse, we will find that this verse is not talking about polygamy, but it's about treating the orphan children and a solution for some authoritarian of orphan children to being justice by marry with other women.

²⁸ Musdah Mulia, *Poligami: Budaya...*, p. 94-95

²⁹ يا ايها الناس اتقوا ربكم الذي خلقكم من نفس واحدة وخلق منها زوجها... (النساء: 1)

³⁰ وانوالينامي اموالهم ولا تتبدلوا الخبيث بالطيب ولا تأكلوا اموالهم الى اموالكم إنه كان حوبا كبيرا (النساء: 2)

³¹ وإن خفتم الا تقسطوا في اليتيم فانكحوا كما طاب لكم من النساء مثنى وثلاث ورباع... (النساء: 3)

Furthermore, Musdah Mulia said that marry with other women also have to be justice to the wife. The context is same with the orphan children. After that Musdah Mulia said that in understanding Quran verses, we can't make a conclusion only from one verse, and neglecting the other verse. Because a verse is should be understood completely. And the way to understand completely is with interpreting some related verses (thematic method).

About the justice, Musdah Mulia said that the husband have to be justice materially and immaterially. In this case, she agrees with the opinion of Abdullah Ibn Abbas in interpreting *surah an-Nisa* [4]: (129).³² Abdullah Ibn Abbas said that in that verse justice means being justly in love and sexual intercourse. And the polygamist will not be able to be justice immaterially to their wives, even they are very desire it. Furthermore Musdah Mulia also mentioned the *hadith* which states that the husband who has more than one wife and he was injustice to them, he will walk with sideways in hereafter. From those explanations, Musdah Mulia concludes that the third verse of *surah an-Nisa* is prefers to make an enjoinderment in polygamy than allowing it. And that verse only could be understood comprehensively with understanding from the beginning of *surah*. This is the importance of thematic method.³³

Musdah Mulia also criticizes the tradition of justice determining in polygamy. Justice is the pillar of marriage, either monogamy or polygamy. But justice must more explicitly in polygamy marriage, because the wife is more than one. In the fact, before some husbands want to polygamy, they are not discussing with their wife, because the husband can decide everything their selves. After that the husband also not making an agreement against their wives about the future life, including the economical allocation, sexual intercourse turn, the residence etc. and finally the wives are only can accept and taken for granted as

³² ولن تستطيعوا ان تعدلوا بين النساء ولو حرصتم فلا تميلوا كل الميل... (النساء: 129)

³³ Musdah Mulia, *Islam Menggugat...* p. 117

the husband want patiently, whereas nobody can be justly against their wives. The argument of Musdah Mulia in this case is the verse an-Nisâ [4]: (129).

According to Musdah Mulia, in polygamy marriage, the determiner of justice is always the husband. Whereas the wife is the one who understand well about the justice in polygamy marriage, because they are the object. So the solution is the determiner of justice in polygamy marriage should be the women, because they are understand does they were treated justly by their husband. In determining the justice in polygamy marriage, as the subject of determiner the women should make some justice standardization on women empowerment corridor. And for avoiding the arbitrarily and oppression against women in polygamy, we should change the tradition that the women is the subject of justice determiner.³⁴ This opinion is same with the interpretation of being justice in polygamy by Abdur Rahman Wahid. Gus Dur also said that in polygamy, the women should be subject in determining justice for their selves.³⁵

3. Reinterpretation and Deconstruction Against Polygamy Tradition

As I said before, that Musdah Mulia wants a make a new interpretation and deconstruction of some law and culture to solving some social problem in this time. And in making new interpretation she uses a contextual approach, not only textually. Understanding text contextually means that in understanding a text is not only on the textually meaning, but also considering the historical, cultural and political situation influence when the Qurân and hadith was revealed.

About contextually interpretation, according to Satria Effendi in the book *Poligami: Budaya Bisu yang Merendahkan Martabat Perempuan* by Musdah

³⁴ *Ibid*, p. 63-64.

³⁵ Thesis by Winarto (Ushuluddin Faculty IAIN Walisongo Semarang) on the title “*Pemikiran K.H Abdur Rahman Wahid (Gus Dur) Tentang Keadilan dalam Al-Quran*”. p. 93

Mulia³⁶ said that there are three kinds of contextually interpretation. They are, first are who said that all the text in Qurân and Hadith (including *ibâdat and mu'âmalat* verse) is a *ta'abbudiy*³⁷ verse, and so that they are should be understood textually as they are in that text, except there is explanations about that verse contextually. This group is followed by the majority of Syafi'I follower.

The second is who said that the *ibadat* verse is kind of *ta'abbudiy*, while the *mu'âmalat* verse is kind of *ta'aqulliy*,³⁸ except there is explanation that this verse is *ta'abbudiy*. This group is followed by the majority of Hanafiyah follower. And the last is who said that religious text about *mu'âmalah* is not must be understood textually. The important one is looking and understands at the morality value. For example the command of cutting hands in stealing case. The cutting hand is only a technique, while the essence purpose or moral value is forbidding the human to thieving. The important thing is maintaining the essence of moral value, about the technique can change based on the condition and culture in a certain time and place.

Based on the explanation above, we can say that Musdah Mulia is belongs to the third groups. Because in her book *Poligami: Budaya Bisu yang Merendahkan Martabat Perempuan* she said that in solving polygamy problems, should there is a cultural and law deconstruction which based on the culture in this time. According to Musdah Mulia the most appropriate and ideal law of polygamy is *harâm lighairhi*. It means that the law of polygamy become *harâm* because the causes and the impact. Based to her research, Musdah Mulia found some ironic cases of polygamy, either the causes or the impact. For the causes example is the identity falsification and falsehood to both of new and old wives. And for the

³⁶ *Ibid*, p. 100-101

³⁷ *Ta'abbudiy* means that this verse is not need logic and reason understanding in interpretation.

³⁸ *Ta'aqulliy* means that this verse can be understood and interpreted using logic and reason, or *ijtihad*.

impact example is the oppression against wife, and other infliction for both of husband and wives, the waif of children and wives and the illegal marriage. Considering those caused and impacts, Musdah Mulia concludes that the *mudharat* of polygamy is more than the benefit or *maslaha*. And in Fiqh principle, the thing which the *mudharat* is more than *maslaha* is should be abolished, so that polygamy can be stated “*haram lighairihi*”. Furthermore, she said that enjoinder in polygamy is based on the Fiqh principle “*Dar’u al-mafasid muqaddam ala jalbi al-mashalih*”

When I ask the method which used by her in interpreting Qurân, she said “I use thematic (*maudhū’i*) method. So I collect the marriage verses, especially polygamy verses. And then analyze the cause revelation and apply it on the problems in this time”. Furthermore she also said that from that analysis, she takes the conclusion or “red yarn” of those verses. It’s also important to understand the relation between verses, and the relation between verse and the main theme of *surah*.³⁹ After that her interpretation also based on the causes revelation of that verse, which most of interpreter agree that the causes revelation of that verse is related with being justice and treating orphan children. Where that verse were revealed in Medina after *Uhud* war, and there are many widow and orphan children at that time. But there are many authoritarian of orphan children were not treating them justly. So this verse is not talking about polygamy, but it’s talking about being justice and treating orphan children.

Her opinion about polygamy was influenced by some interpreter and scholars. One of them is Muhammad Abduh. Musdah Mulia said that the interpreter who has influenced in her thought is Muhammad Abduh. According to Musdah Mulia, the interpretation of Muhammad Abduh is the most appropriate interpretation in this time. Besides Muhammad Abduh, some figures also said that Musdah Mulia’s interpretation is only a plagiarism of Amina

³⁹ Musdah Mulia, *Islam Menggugat...* p. 92

Wadud's interpretation. As we know that the forbidding polygamy was done by some feminist in other country by some feminist, such as Amina Wadud.

In the case polygamy, to prevent polygamy Musdah Mulia agrees with Asy-Sya'rawi the scholar from Egypt who said that a wife should propose a requirements before marriage that the husband will not married again with other women, because basically a women has right to propose a requirement as she want.⁴⁰ And the problem is there is no women who propose requirement in her marriage. And according to Musdah Mulia, this solution only can be proposed by a woman who has a high quality and understand the women right and gender equality. And Musdah Mulia proposes some ways to create a high quality of women and maintaining gender equality.

First is women empowerment in formal and informal education. So the women will have a high skill, intellectual and knowledge to striking their rights. And the second is make a women have an economical independently. So the women will not dependent on their husband. And the third is increasing and maintaining the women morality and religiosity, so they will not trap in a hedonistic, materialistic and consumerist life. Furthermore Musdah Mulia said that an ideal Moslem woman is a woman who have a high education, experience and knowledge, active and dynamic, have a highly social sensitivity, responsible and have a high morality.⁴¹

Besides some way to make a high women quality, Musdah Mulia also suggest some deconstruction the relation of husband and wife in a family. First is changing the custom which claimed that husband is a "head of household" and wife is a "housewife". According to Musdah Mulia, this predicate is only makes a superiority of husband on his wife. And if a wife is only a housewife, she will lose her chance to get work. And the impact is a wife will dependent in economy

⁴⁰ About proposing requiremnet before marriage, there are different opinions of some scholars. Some of them were said that proposing requirement in marriage is *haram*. But the Hanafi'ites and Hanbali'ites were allowing.

⁴¹ Musdah Mulia, *Poligami: Budaya...* p. 102-103.

with her husband. And finally she doesn't have strength when the husband wants to divorce her or to marry again. The second is should there is an openly and transparency communication between them, because a problem will be solved with communication. The third is strengthening reproductive rights of women. And the fourth is the definition of piety women (*salehah*). The society understand that a piety women is only who always obey and loyal against their husband. Actually, as a social human the piety women are also should have a good deed and high social sensitivity against their social life, environment and the society.⁴²

Those are the renewal agenda of Musdah Mulia in polygamy cases. She hopes that the important in this time is discussing the abolishing of polygamy discourse in order to maintaining the women status and value.

E. THE POSSIBILITY OF REALIZATION OF MUSDAH MULIA'S INTERPRETATION IN INDONESIA

1. The Controversy on Musdah Mulia's interpretation: Public Responses

As we know that from Musdah Mulia's opinion about polygamy has arose some different reaction of the member of society. There are many defenders groups who were proponent with her opinion even supporting her, such as Gus Dur, some people in The Wahid Institute, and of course some Non Government Organization (NGO), which uphold Gender justice and equality, like Woman National Commission (Komnas Perempuan), Fahmina-*Institute*, Institute for Gender and Religion Study (LKAJ), Rahima, Jurnal Perempuan, LBH APIK, Solidaritas Perempuan and Women Study Center (PSW). The proponent also gave by some NGOs which concern on the enforcement of Human Rights and Pluralism, such as Indonesian Conference on Religion and Peace (ICRP), the

⁴² *Ibid*, p. 104-106.

Wahid Institute, Liberal Islam Network and Lakpesdam NU. They appreciate the ideas of Musdah Mulia as ideal ideas of Islamic interpretation.

The main support is comes from Forum Kajian Kitab Kuning (FK3) which lead by Gus Dur's wife, Sinta Nuriyah Abdur Rahman Wahid and from the Liberal Islam Network (JIL) which coordinated by Ulil Abshar Abdalla.⁴³

Besides that also there are many groups which don't agree with her opinion, even claim that her opinion was out of Islamic teaching and "too west". That group usually comes from the militant and textually teaching, for example the Front Pembela Islam (FPI), Majelis Mujahidin Indonesia (MMI) and some other conservative Islamic scholars. Even Musdah Mulia also criticized by some scholars from her own Islamic group, it's NU. Some NU's scholars also claim that her opinion is out of NU's teaching. Even a systematic comment on the rejection and criticize toward Musdah Mulia also has been written by Huzaimah Tahido Yanggo. She wrote a book on title *Revisi Kompilasi Hukum Islam* which consist of some critique for CLD-KHI team and also Musdah Mulia.

Although there are many groups against her opinion, she is brave and never fears about it. When the writer asked about this, she said that it's a common thing that in a new opinion will there are many pro and contra groups. And she is not fears because in her life there is no one should be feared except God.

2. The Impact of Her Interpretation

There are two kinds of impact, they are positive and negative impact. So do from Musdah Mulia's opinion there are positive and negative impact. Some of negative impact is some claim against her. She was claimed as homosexual, pornography lovers and supporter, even there are some person that claimed her was out of Islam and become the abettor of western. Although there are many

⁴³ Marwan Saridjo, *Cak Nur...*, p. 115

negative claimed for her, but she never fears and give up. She still consequence with her principle and purpose.

Besides that also there are many positive impacts, for example as we know that from her struggle and effort she gets the appreciation as “the woman of the year 2009” in Italia. From her opinion she also known by society and she get some opportunities to following some short course in some country and for attending some seminars. Besides that the arising of Musdah Mulia’s opinion about polygamy makes some women know and understand their right in a family. This is one of Musdah Mulia’s purpose is to make a women empowerment.