

ABSTRACT

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Legal dynamics arise in the Muslim world is marked by the construction of classical *fiqh* into modern laws. Polygamy is an old issue that always invites controversy. One of radical product on family law reform in Tunisia is about the prohibition of polygamy law. The Islamic country with Maliki scholar as majority of the adherent perceive that the reform contradict to Islamic law. However, when it is perceived by gender perspective, this reform brings the progression of family law that can protect the rights of Tunisian women. In this research, there are two formulations of the problem, they are: 1) What is the dynamics of polygamy law in Tunisia? 2) How can gender perspective perceive the dynamics of Tunisian polygamy law in gender perspective?

The method used in this study is the type of normative research, with descriptive-qualitative method for gaining of the data. The approach that is used in this research is a collaboration of historical, statute and conceptual approaches. The data used in this study is secondary data obtained from the information that have been written in the form of documents.

The results of research are 1) the dynamics of polygamy law is a revolution in Tunisia. There are several factors that influence the dynamics: understanding of religion; secular ideology; socio-cultural; economic; legal-political; and education. This dynamics can be seen from the third period of legal development, namely: a) the period of pre-independence, polygamy is allowed by condition, a fairness and maximum limit of 4 wives. b) The period after independence, polygamy is prohibited by Article 18 of the Personal Status Code of 1957. Trespassing this provision will punished by one year imprisonment sentence and / or fine about 240,000 *malim*. The Basic prohibition which used by Tunisian government is the thought that polygamy is as bad as slavery, because the ideal of *Kalam Qur'an* about marriage is monogamous, and as well as the modern thought of Mohammad Abduh about the verse of polygamy that become Tunisian government reference. c) Whereas, in the period of the revolution (nowadays) there are some issue about the discourse of law legalizing on banning polygamy law in Tunisia. 2) In a gender perspective, the dynamics of polygamy law that occurred in the period after independence indicates a progression of the effort from Tunisian State to protect the rights of women by undertaking the re-interpretation on social context of some verse of polygamy by arguing that the polygamy law is prohibited in Tunisia.