



CHAPTER IV

CONCLUSIONS AND SUGGESTIONS

A. Conclusion

Based on what has been described thoroughly and detail related to this research above further researcher will provide conclusions as the final result:

1. The dynamics of polygamy law shows revolutionary developments in Tunisia. There are several factors that influence namely understanding of religion, secular ideologies, socio-cultural, economic, political, and education. This dynamic can be seen as the third period of the development of law, namely: a) In the beginning of the pre-independence period and polygamy laws is permissible for a husband. This period are characterized by two strong scholars influence, Imam Malik and Imam Hanafi, the existence of the Ottoman imperialism and France

colonization. b) post-independence period, there is legal prohibition of polygamy through the Code of Personal Status of 1957 article 18. Violation of this provision gets one year prison sentence and/fine of 240,000 *malim*. The basic prohibition is used by Tunisian government namely polygamy as well as slavery, ideal Qur'an about marriage is monogamous and Mohammad Abduh thought as the reference about interpretation of polygamy verse. This period was marked by the reign of President Habib Bourguiba as the first president in Tunisia, the existence of secular ideas and radical reform of family law with gender concept. c) While in the recent developments, there is the issue of law suit toward ban on polygamy to re-legalized. This is shown by the influence of the Arab revolutions (the Arab Spring) that hit Tunisia as a result of dictatorship and disillusionment with secular laws of the traditionalist (conservative) in Tunisia.

2. In gender perspective, the dynamics of polygamy in Tunisia is also visible from the 3 periods, namely a) the pre-independence era there is provision about marriage law that contain gender bias. Where in this case there are legal permissibility of polygamy provisions with fair terms and a maximum limit of 4 wives. After independence of Tunisia era, gender equality in the laws began to appear with imposed of ban on polygamy absolutely in the Personal Status Code of 1957 article 18.as an effort to prevent negative impact of polygamy. Polygamy law that is occurred in the period after independence shows forward step in the Tunisian State as

an effort to protect the rights of women to carry out re-interpretation of the social context of the verses polygamy with stating that polygamy is prohibited in Tunisia, but in the next period until the writer has completed her research, there is the issue about lawsuit of banning polygamy to re-legalized in Tunisia. Until now this issue became a legal discourse in Tunisia.

B. Suggestion

1. Actually, polygamy which is not recommended or forbidden in Islam. Legal prohibition of polygamy in Tunisia is a strategic selected by Tunisian government to protect the rights of women from discrimination and injustice. Although the holy Qur'an does not mention about prohibit polygamy rules explicitly. So that banning on polygamy law in Tunisia then does not used as disunity tool for Muslims to interpreting the text of the verses in the *Qur'ran*. Remember that the problem of polygamy is an *ijtihad* problem that seen disparities legal products in it. So, the differences in Islam can be seen as a mercy that comes from God for human being.
2. The scope of this research is focused on polygamous marriages legal provisions just only contained in the legislation of the Personal Status Code. How far the Code became effective in the society and how is the implementation in the community, the finding is still not clearly known. The writer has wishes for the next time there is research that discusses

the dynamics of polygamous marriage law in Tunisia with different focus problems. So it can expand the Islamic horizon in future, especially in Islamic family law development areas in some Islamic or muslim countries in the world.

