



Samarah: Jurnal Hukum Keluarga dan Hukum Islam
Volume 5 No. 2. July-December 2021
ISSN: 2549 – 3132; E-ISSN: 2549 – 3167
DOI: 10.22373/sjkh.v5i2.9108

Balinese Muslim Minority Rights in Education and Islamic Family Law

Ismail Muhammad

Universitas Islam Negeri Ar-Raniry, Banda Aceh

Safrina Ariani

Universitas Islam Negeri Ar-Raniry, Banda Aceh

Muhammad Yusuf

Universitas Islam Negeri Ar-Raniry, Banda Aceh

Email: ismara114@gmail.com

Abstract: Islam came in peace to Bali in the 14th century, initiated by communities from Java, and followed by those from Bugis, Makassar, Lombok, and even Malays and Arabs. Muslims in Bali are a minority group, which only accounts for 10.08% of the total population of Bali. This study aims to examine the rights of the Balinese Muslim minority in education and Islamic family law. This study is empirical legal research that examines the law in relation to problems in society realistically, or a socio-legal study, using a phenomenological approach. Data collection techniques included interview, observation and literature review. The respondents interviewed were selected purposively from the Regional Office of the Ministry of Religious Affairs, the Mosque Management, the Provincial Council of Ulema, and the local Muslim community. The findings reveal that the rights of Balinese Muslim minority in terms of education, both formal and informal, are displayed through strengthening the family resilience by building the spirit of Islam, carrying out children's education in an Islamic way by promoting tolerance, and sending children to Islamic educational institutions such as *Taman Pendidikan Al-Qur'an* (TPA), *Raudhatul Atfhal* (RA), pesantrens, and madrasas. Further, Islamic family law is implemented in matters of marriage, divorce, *waqf*, child guardianship, and joint property under the simple, fast, and low-cost principles carried out by the Office of Religious Affairs (KUA), Religious Counselors, and the Religious Courts in Denpasar. This historical capital is the basis so that Muslims and the Balinese people in general continue to live in harmony and peace to this day.

Keywords: Minority rights, Balinese Muslims, education, and Islamic family law.

|| Submitted: March 7, 2021 || Accepted: December 6, 2021 || Published: December 25, 2021

<http://jurnal.arraniry.ac.id/index.php/samarah>

Abstrak: Islam masuk secara damai ke Bali sejak abad ke 14 diawali oleh komunitas dari Jawa, kemudian disusul oleh Bugis, Makassar, Lombok, bahkan Melayu dan Arab. Muslim di Bali merupakan kelompok minoritas, yang hanya berjumlah 10,08 % dari keseluruhan warga Bali. Penelitian ini bertujuan untuk mengkaji tentang hak-hak minoritas Muslim Bali dalam bidang pendidikan dan hukum keluarga Islam. Kajian ini merupakan penelitian hukum empiris yang mengkaji hukum kaitannya dengan problematika dalam masyarakat secara realistik atau sosio-legal studies, dengan pendekatan fenomenologi. Teknik pengumpulan data yang digunakan adalah wawancara, observasi dan kajian literatur. Informan yang diwawancarai pada awalnya dipilih secara purposive, yaitu Kantor Wilayah Kementerian Agama, Pengurus Masjid dan Pengurus Majelis Ulama Provinsi dan masyarakat Muslim secara umum. Penelitian ini menyimpulkan bahwa hak-hak minoritas Muslim Bali dalam bidang pendidikan baik formal maupun informal dapat dijelaskan yaitu memperkuat ketahanan keluarga Islam dengan membangun spirit Islam, pendidikan anak dilakukan secara Islami dengan mengedepankan sikap toleransi, pendidik anak di lembaga pendidikan Taman Pendidikan Al-Qur'an (TPA), Raudhatul Atfhal (RA) demikian juga di Pesantren dan Madrasah. Sedangkan pelaksanaan hukum keluarga Islam yang terimplementasi pada masalah pernikahan, perceraian, wakaf, perwalian anak, harta bersama dengan prinsip sederhana, cepat dan biaya ringan dijalankan oleh Kantor Urusan Agama (KUA), Penyuluh Agama dan Pengadilan Agama di Denpasar. Modal historis ini yang menjadi dasar sehingga antara Muslim dan masyarakat Bali secara umum tetap hidup rukun dan damai sampai saat ini.

Kata Kunci: Hak-hak minoritas, Muslim Bali, pendidikan dan Hukum keluarga Islam.

Introduction

The Muslim community had existed in Bali from 1380-1460 AD, and from the colonial period until the period of Indonesian independence, the Muslims in Bali had experienced relatively different dynamics from other regions in Indonesia. This difference was due to the fact that Muslims in this region are a minority group in the midst of the Hindu majority. The life of Muslims in Bali was marked by the migration of Muslims from Java, Sulawesi and Lombok, as seen from historical evidence, e.g., communities residing in several areas of Denpasar, Badung, Buleleng, Jembrana, Gianyar, Tabanan, Bangli, Karangasem, and Klungkung.¹ In the 14th century, there was a migration of Muslims who were

¹Hauser-Schäublin and Brigitta, "Bali Aga and Islam: Ethnicity, Ritual practice, and "Old-Balinese" as an Anthropological Construct," *Indonesia* 77, (2004). Indriana Kartini, "Dinamika Kehidupan Minoritas Muslim di Bali," *Jurnal Masyarakat Indonesia* 37, No. 2 (2011), p. 116. Bustami Saladin, "Tradisi Merari Suku Sasak di Lombok dalam Perspektif Hukum Islam," *Ihkam: Jurnal Hukum dan Pranata Sosial* 8, No. 1 (2013), p. 22.

the Majapahit soldiers to guard Ketut Ngalesir, King of Gelgel. The king visited Majapahit and when he returned to Bali he was escorted by 40 people who were all Muslims and were later called Muslim brothers (*nyama slam*). Afterwards, the king granted them a place to live on the island of Bali wherein they became permanent residents in Bali. The process of Islamization became stronger in the 18th century as a result of the migration of the Bugis Makassar people who helped spread Islam to Bali.²

After the 18th century, the port of Bali began to be visited by immigrants not only from Indonesia, but also from China, Malacca and even from Arabia. In this period of time, the Kingdom of Jembrana officially gave freedom to Muslims to practice their religion. To this day, the relationship between the Muslim minority and the Hindu majority is relatively harmonious and peaceful, with almost no significant conflict. The adherents of these two religions have been coexisted for more than 600 years and have formed a progressive, tolerant, and egalitarian religious expression for both.³

Throughout the years, the Muslim population has increased through religious conversion, assimilation, and also migration of Muslims from outside Bali. However, Balinese Muslims are still a minority group compared to Hindus. The Central Statistics Agency of the Province of Bali reported the total population of Bali of 4,216,171 people. Of this, the population of Balinese Muslims is 425,063 people, or approximately 10.08% of the total population in Bali. This indicates the Balinese Muslims are minority compared to Balinese Hindus of 3,663,966 people, or 86.90% of the total population.⁴

As a minority, Muslims in Bali certainly have a different lifestyle from the majority Balinese people. Hence, it is inevitable for the Muslims to face the hegemony of the lifestyle and culture of the majority citizens, in which cultural acculturation is often dominated by the culture of the majority. Therefore, Balinese Muslims certainly they have their own challenges when trying to practice all aspects of Islamic life, especially in terms of teaching Islam in the family, so that their families remain faithful Muslims and are able to peacefully live side by side with other Balinese residents.

²Nina Diana, "Islam Masuk ke Bali dan Dampaknya terhadap Perkembangan Islam di Bali," *Jurnal Tamaddun* 4, No. 2 (2016), p. 49-68. Rizky Annisa, "Peninggalan Sejarah Islam di Buleleng Bali," *Istoria: Jurnal Pendidikan dan Sejarah* 16, No. 1 (2020), p. 1.

³Kunawi Basyir, "The "Acculturative Islam" As a Type of Home-Grown Islamic Tradition Religion and Local Culture in Bali," *Journal of Indonesian Islam* 13, No. 2 (2019), p. 326. I Nyoman Yoga Segara, Becoming Balinese Islam: Bale Banjar and Subak in Islamic Village of Segara Katon, Karangasem Bali, *Etnosia: Jurnal Etnografi Indonesia* 4, No. 4 (2019), p. 144. Nina Diana, *Islam Masuk ke Bali...*, p. 64.

⁴Biro Perencanaan Kemenag RI, *Statistik Perencanaan Kementerian Agama 2019*, Jakarta: Biro Perencanaan Sekretariat Jenderal Kementerian Agama, 2019, p. 4.

The term “minority” can be understood numerically as a population whose number is smaller than its counterpart which is the larger population as a whole.⁵ Putri states that minority groups are groups that are separated or distinguished from other groups in a society because of their physical and cultural characteristics, in which they experience different and unequal treatment and are subject to collective discrimination.⁶ Further, when the word “minority” is combined with the word “Muslim”, it forms one meaning: the minority group which is united in the same religious characteristics of Islam. In this case, the term “Muslim minority” refers to a group of Muslims who live under the rule of a non-Muslim government in the midst of the majority of people who are not Muslims.⁷ Thus, the term “minority” indicates a small group that is in the environment of a larger group in a community.

In Indonesia, Law Number 39 of 1999 concerning Human Rights describes that minority groups shall receive equal treatment and protection by the state before the law. In the International Covenant on Civil and Political Rights ratified through Law No. 12 of 2005, it mandates that all parties, including the State, have the obligation to eliminate discrimination, class establishment in society, and not to discriminate against someone’s rights solely on the ground of minority.

Differences between groups can occur due to two factors: differences in behavior and differences in principle. Differences in the group behavior can occur because of a habit that has been passed down from generation to generation by the community that they regard as a given. Such differences, however, can alter due to changes in lifestyle and needs of life, most of which are influenced by place and time. Yet, differences in human principles cannot be changed and affected by any situation since fundamental differences are differences in nature predetermined by God. These fundamental differences include the differences in ethnicity, religion, culture, politics, race/ancestry, and gender.

In this study, the focus is on the rights of Muslim minority in Bali, concerning the realities of life in the fields of education and family law. This study is significant to conduct to obtain a portrayal of the lives of Muslims in non-Muslim majority areas, as is the case with Muslims in North Sulawesi, Papua, West Papua, and East Nusa Tenggara.

⁵Choirul Anam, *Upaya Negara Menjamin Hak-Hak Kelompok Minoritas Di Indonesia: Sebuah Laporan Awal*, Jakarta: Komnas HAM, 2016, p. 4.

⁶Nella Sumika Putri “Perlindungan Hukum Terhadap Kelompok Agama Minoritas Dalam Hukum Pidana Indonesia” *Jurnal Vej* 4, No. 1 (2018), p. 165-166

⁷Taj as-Sirr Ahmad Harran, *Hadir al-'Alam al-Islami*, Riyadh: Maktabah al-Rusyd, 2007, p. 142.

This empirical legal research, or a socio legal study, examines the law in relation to problems in society realistically⁸ using a phenomenological approach.⁹ Data collection techniques included interview, observation, and literature review. The participants interviewed were selected purposively, by looking for people who have knowledge of socio-religious life in Bali such as officials at the Regional Office of the Ministry of Religious Affairs of Bali, Mosque Management, and Provincial Ulema Council Management, as well as the Muslim community in general. In addition, the participants were also selected by utilizing snowballing and incidental sampling.¹⁰

Majority and Minority Rights According to Islamic Law

Diversity is a nature according to Islam. In the Qur'an, it reads: "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 honoured of you in the sight of Allah is (he who is) the most righteous of you. And Allah has full knowledge and is well acquainted (with all things)" (Al-Hujurat: 13). This verse clearly recognizes that humans were created in various groups. The quality of a person and a group cannot be measured in a worldly manner, but is judged based on the values of *taqwa* (piety) carried out. In this case Islam does not view a truth based on the majority and minority, instead Islam will reward humans based on their work in life. More practically, the Prophet PBUH also explains in a hadith that: "*Allah does not look at your looks and your possessions, but Allah looks at your hearts and deeds*"¹¹. In another hadith, the Messenger of Allah saw says, "O mankind! Your God is one, and your father (Prophet Adam) is one. Keep in mind. There is no advantage for Arabs over Ajam people (non-Arabs) and for Ajam people over Arabs. There is no advantage for red people over black people, for black people over red people, except by piety. Have I conveyed? They replied: Yes, our Prophet (PBUH) has delivered"¹².

The sources of Islamic teachings above show that, legally, socially, and psychologically, Islam does not give privileges to humans based on skin color, suggesting that Islam neither differentiates humans based on race, ethnicity,

⁸Dyah Ochtorina Susanti dan A'an Efendi, *Penelitian Hukum (Legal Research)*, Jakarta: Sinar Grafika, 2014 p. 17.

⁹Noeng Muhajir, *Metode Penelitian Kualitatif*, Yogyakarta: Reka Sarasin, 1996, p. 21-143.

¹⁰Lexy J. Moleong, *Metodologi Penelitian Kualitatif*, Bandung: Remaja Rosdakarya, 2002, p. 4-8.

¹¹Muslim bin Hajjaj, *Shahih Muslim*, Beirut: Dar Ihya al-Turats, t.th, 4: 1986, hadits No. 2564.

¹²According to Syu'ib al-Arnaud the sanad of this hadith is *shahih*. See Ahmad bin Hanbal, *Musnad al-Imam Ahmad bin Hanbal*, Cairo: Muassasah Qurtubiyyah, n.d., 5: 41, hadith No. 23536.

nationality, and gender, nor differentiates groups based on the number of people (majority or minority). Thus, even though Muhammad (PBUH) was a Quraysh Arab, from the very beginning he prevented the Arabs from privileging themselves over non-Arabs through the statement “there is no superiority for Arabs over foreigners”. Hence, everyone and every group are on equal footing in life.

The basis of human privilege according to the Islamic concept is not on the physical aspect of humans, but rather on the level of piety they have. The recognition of the principle of diversity in Islam had been stated in the Constitution of Medina, a written agreement for the people of Medina which was promulgated during the leadership of the Prophet Muhammad PBUH in Medina in the first year of Hijri/622 AD, long before the world community even recognized a written constitution.¹³ The principle of diversity is mentioned in several articles of the Constitution of Medina concerning the Jewish community as a minority, who were recognized as citizens with the same rights as Muslims as the majority group. In the Constitution, every citizen has rights and obligations that must be followed. Choirul Anwar describes that the Constitution of Medina explicitly states that all religious and ethnic groups in Medina have the same rights, treatment, and obligations, without having to impose one’s wills on another, both religiously and socially.¹⁴

In this regard, the early conception of Islam had no room for racism and discrimination between human groups. Islamic teachings are also obliged to provide protection to minority groups as the Messenger of Allah saw had protected the Jews by giving them the freedom to embrace their religion. Article 25 of the Constitution of Medina states that Jews are free to embrace their religion and Muslims are free to embrace theirs, and all groups are treated equally. Article 40 of the Constitution of Medina also clearly mentions that all neighbors who live side by side shall be treated like themselves, not be disturbed by their peace, and not be ill-treated.¹⁵

In Indonesia, the problems between majority and minority groups are often motivated by differences in religious beliefs. Therefore, the 1945 Constitution article 29 reads, “The State shall be based upon the belief in the One and Only God (paragraph 1)”, and “The State guarantees all persons the freedom of worship, each according to his/her own religion or belief (paragraph 2)”. Addressing the issues of the majorities and minorities on the basis of religious differences, Thahir Azhari explains that the characteristics of the Pancasila legal state can be seen from the close relationship between religion and the state, in

¹³ Elkhairati, “Piagam Madinah dan Spiritnya dalam Undang-Undang Dasar (UUD) 1945,” *Al-Istinbath: Jurnal Hukum Islam* 4, No. 1 (2019), p. 52.

¹⁴ Choirul Anwar, “Islam dan Kebhinekaan di Indonesia: Peran Agama dalam Merawat Perbedaan,” *Zawiyah: Jurnal Pemikiran Islam* 4, No. 2 (2018), p. 4.

¹⁵ Elkhairati, *Piagam Madinah dan Spiritnya...*, p. 60.

which the state relies on the One God, allows for religious freedom in a positive sense, prohibits atheism and communism, and promotes the values of family and harmony.¹⁶

The principles of “family and harmony” in this regard are a strong indication that within the Republic of Indonesia one shall carry out religious life in a family manner and maintain harmony between religious communities. Exercising religious life in a family manner means that no interference and no mixing of teaching with one another. On the other hand, discrimination in any form is prohibited. In doing so, the government shall continue to consider the principle of justice in providing all the facilities needed to carry out the teachings of their respective religions recognized in Indonesian society.

Choirul Anam describes that in 1992 the UN General Assembly issued Resolution No. 47/135 concerning the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.¹⁷ The source of these human rights is the declaration of human rights in 1948 after World War II by the United Nations, known as the Universal Declaration of Human Rights. Jan Materson of the UN Human Rights Commission states that human rights are rights inherent in humans, without which it is impossible for humans to live as humans. There are two most basic rights, namely equal rights and freedoms.¹⁸

The declaration marks a hope that the state will protect the existence and identity of all groups, both majority and minority. It is an important issue to emphasize because in many cases, sometimes, the rights of some minority communities are neglected. More specifically, this declaration mentions that the state shall guarantee the rights of people belonging to minority groups, including: (a) The right to enjoy their culture, to profess and practice their own religion, and to use their own language freely, both in private and in public; (b) The right to participate effectively in cultural, religious, social, economic and public life; (c) The right to participate effectively in decision-making that affects them at national and regional levels; (d) The right to form and manage their own associations; (e) The right to establish and maintain peaceful contacts with members of one’s group or with persons from other minority groups, both in their own country and across national borders; and (f) Freedom to exercise their rights, individually or in community with members of their group, without discrimination.¹⁹

¹⁶ Muhammad Tahir Azhari, *Negara Hukum Suatu Studi tentang Prinsip-Prinsipnya, dilihat dari Segi Hukum Islam, Implementasinya pada Periode Negara Madinah dan Masa Kini*, Jakarta: Kencana, 2003, p. 97-98.

¹⁷ Choirul Anam, *Upaya Negara Menjamin Hak-Hak Kelompok Minoritas Di Indonesia: Sebuah Laporan Awal*, Jakarta: Komisi Nasional Hak Asasi Manusia, 2016, p. 13.

¹⁸ Baharuddin Lopa, *Al-Qur'an dan Hak-Hak Azasi Manusia*, Yogyakarta: Dana Bakti Prima Yasa, 1999, p. 175-203.

¹⁹ Choirul Anam, *Upaya Negara Menjamin . . .*, p. 13.

Likewise, the Islamic world also declared a statement and recognition of human rights, known as the Cairo Declaration on Human Rights in Islam in 1990, containing 25 articles. It is interesting to note that this declaration still refers to the basis of the sharia as it states that all humans are creatures of Allah and they are very dear to Him, are very useful for His other servants and no one is judged more superior than others, except on the basis of piety and charity (article I paragraph 2). Islamic sharia is the only source of reference for the explanation or description of the various articles in this declaration (article 25).²⁰

Islamic law places human rights as a consequence of carrying out obligations towards Allah. Human rights in Islam are moral provisions regulated by law or sharia. The expression of human freedom must be placed within the framework of justice, compassion, and equality before God.²¹ The conclusion is that human rights in Islam are very theocentric by not denying their anthropocentric dimensions which aim and originate from God.

When compared, there are some differences between the Declaration of Human Rights by the United Nations in 1948 comprising 30 articles and the Declaration of Human Rights in Islam proclaimed in Cairo in 1990 with 25 articles. In addition to the difference in the number of articles, the fundamental difference lies in the conception and the epistemological basis of the law. The human rights declared by the United Nations are based on human-made legal foundations that are purely humanism, whereas human rights in Islam are based on God's law as the highest law.

Despite these differences, the two legal systems above clearly agree that the rights of minorities shall be protected, and the majority shall not act arbitrarily. Thus, to fulfill human rights is the obligation of the state to protect its people.

Implementation of Rights in Education in Bali

The responsibility for education in the family is a shared responsibility between husband and wife, whether in formal, non-formal or informal forms, although the leader of the family generally has greater responsibilities than other family members. In terms of informal forms, education in the family can be divided into two, internal education within the family and external education obtained from the surrounding environment. Internal education includes advice, examples, behavior, and training provided by the leader of the family. If the family leader does not have sufficient time or is unable to provide knowledge to the children due to limited knowledge in certain aspects, then he/she can ask for help from other parties to come to the family to provide education to family members, for example, inviting private tutors in certain disciplines. Thus, the task of the family leader is well-performed.

²⁰Baharuddin Lopa, *Al-Qur'an dan Hak-Hak Azasi...*, p. 204-211.

²¹Baharuddin Lopa, *Al-Qur'an dan Hak-Hak Azasi...*, p. 204-211.

Education provided by parents through informal education has an important function for children to help them improve learning outcomes in both formal and non-formal education, control and motivate them to study harder, develop physical and mental growth, shape personality, provide motivation to develop their potential or talents, educate their independence, and train them to solve the problems they face.²² Here, parents play an important role in informal education, not limited to a certain time or a certain material.

In Islam, in particular, education that becomes *fardhu ain* (obligatory acts) for parents to instill in children includes the knowledge of *aqeeda* (creed), *sharia*, and *akhlaq al-karimah* (noble characters). However, these three forms of knowledge cannot be solely learned cognitively, but they should be carried out affectively and psychomotorically with proper Islamic religious attitudes. If children do not acquire such knowledge and attitudes through formal education at school, parents are obliged to fulfill them through informal education. For example, if a Muslim child studies in a public elementary school in Bali, the Islamic religious education mentioned above is provided very little or nothing at all. To meet the need of Islamic teachings, parents can educate their children themselves or invite a tutor for private lessons.

The following describes the implementation of the freedom of rights of the Balinese Muslim community in the field of education. The education referred to is either formal or informal:

1. Strengthening the Resilience of Islamic Families by Building the Islamic Spirit

In general, the Balinese Muslim community realizes that although they are a minority group, their awareness of religious developments, especially education, is quite strong. Adriman, Imam of Pekutatan Taqwa Mosque in Jembrana, expressed that religious education carried out in the family is an important basis and it can be done by emphasizing religious teachings from an early age, starting with the Islamic examples from parents.²³ Imam Taufiq, a congregation member of An-Nur Mosque in Denpasar, said that the Balinese Muslim community is very aware that they are a minority in Bali. Therefore, Balinese Muslims have tried to instill Islamic education in the family, one of which is by strengthening the family resilience in terms of Islamic teachings.²⁴ Mulyono, a Muslim restaurant owner in Denpasar, also stated that family resilience in religion is an absolute necessity, and children need to be constantly

²²M. Prawiro, "Pengertian Informal: Pengertian, Fungsi, Ciri-ciri dan Contohnya, 2018", <https://www.maxmanroe.com/vid/umum/pendidikan-informal.html>, accessed on February 8, 2021.

²³Interview with Adriman, Imam of the Taqwa Mosque in Pekutatan, Jembrana on February 22, 2020.

²⁴Interview with Imam Taufiq, Religious Leader in Denpasar on February 18, 2020.

reminded of the teachings of Islam to strengthen their identity and awareness of Islam.²⁵

Education in the family will result in the resilience of Islamic society when the family is able to maintain Islamic values in each family unit. These values are always practiced and found in the life of the Muslim community in Bali. However, Eko Pribadi, an administrator of the Bali Province Ulema Council, described that in social life, qualitatively, there are still Muslim families in Bali who pay less attention to religion and are less aware that they are in a minority environment. Living on the island of Bali has made these Muslims feel comfortable and so they think that Muslims in Bali do not have to worry about their children being tempted by Balinese Hindus as Balinese Hinduism is not a missionary religion or that Hindus do not invite non-Hindus to convert to their religion.²⁶

He further added that another reason why Muslim families in Bali pay less attention to religious resilience is that many Muslims in Bali are liberal, and thus, they do not regard much attention to religion in life. In general, those who behave this way are “new comers” on the island of Bali, whose attitude has been deeply-rooted from beforehand. Nevertheless, the native Muslims of Bali have properly received Islamic values because they think that Islam is an identity that distinguishes them from the Hindus. In this case, the awareness that they are a minority fosters a spirit to better preserve the teachings of the Islamic religion among them, which can be done in various ways and in all aspects of life.

2. Educating Children Islamically and Being Tolerant

In terms of education, the Muslim community in Bali puts Islamic education as the main priority while still promoting the values of tolerance. Eko Task Pribadi mentioned that Balinese Muslims in general always remind their children to live according to Islamic teachings, especially in maintaining food and clothing so that their children consume food that is in accordance with the sharia and also wear proper Islamic clothes. However, it is also important for Muslim children to be able to make friends with their non-Muslim friends in a harmonious and tolerant manner while at the same time maintaining themselves not to be tempted by the Balinese free life style and maintaining harmony in society.²⁷ Abu Adam, a trader in Denpasar, said that Balinese Muslims continue to keep their children consistent with Islamic teachings, through a number of ways, such as the parents behave Islamically and constantly remind their children about Islamic behavior and children have created a habit of performing Islamic behavior as

²⁵ Interview with Mulyono, Religious Leader in Denpasar on February 26, 2020.

²⁶ Interview with Eko Tugas Pribadi, Member of MUI of Bali Province on February 18, 2020.

²⁷ Interview with Eko Tugas Pribadi, Member of MUI of Bali Province on February 18, 2020.

reflected in memory.²⁸ Similarly, Nashar, the Imam of the Kota Negara Mosque in Jembrana District, also expressed that the Muslim community strongly try to let their children recognize themselves as Muslims, especially in terms of dressing (for women) and food consumption. Such an effort in family consistency has shown that Balinese Muslim women do not hesitate to wear Muslim clothing and consume halal food. Continuous Islamic education from home has resulted in a generation of Balinese Muslims who still holds firmly to Islamic values even though they are in a non-Islamic environment.²⁹

The various views mentioned above can also be observed realistically in social life, in various places, and in various parts of Bali. It is easy to spot Muslim women who wear Muslim clothing, and there has never been any social problem that arises in society because of the Muslim women's clothing they wear.³⁰

3. Educating Children in TPA, RA and *Pesantrens*

The basic level Islamic educational institutions are Qur'an education centers for children, such as *Taman Pendidikan al-Quran* (TPA) and *Raudhatul Athfal* (RA). TPA is an educational institution that needs to be implemented in an Islamic environment whose functions includes being a place for recitation of the Qur'an and learning the basics of Islam for children. TPA is available in almost every mosque in the Muslim community.³¹ It has been observed that many TPAs are spread throughout Bali where Muslims reside, such as Denpasar, Negara, and Buleleng. Munasim, a mosque caretaker in Pekutatan, believed that education at the TPA is very important to help children learn Islam, and it sometimes provides free of charge services.³² Also, Jasmin, a woman who converted to Islam in the city of Singaraja, added that since it is difficult for her to teach Islam to her children independently, the TPA eases her troubles and sometimes she also learns Islamic teachings from her children.³³ The importance of TPA is also pointed out by Sutrisno, Imam of Pamaron Mosque in Singaraja, who stated that TPA is a great solution for Balinese Muslims to obtain basic Islamic education.³⁴

²⁸Interview with Abu Adam, Trader at Gelgel Klungkung, Denpasar on February 19, 2020.

²⁹Interview with Nashar, Imam of the Mosque in Kota Negara, Jembrana District on February 21, 2020.

³⁰Observation results on site in Bali, on February 18-26, 2021.

³¹Interview with Eko Tugas Pribadi, Member of MUI of Bali Province on February 18, 2020.

³²Interview with Munasim, Caretaker of Mesjid At-Taqwa of Pekutatan Village, Jembrana on February 21, 2020.

³³Interview with Jasmin, a local of Pamaron Village, Singaraja City, Buleleng on February 22, 2020.

³⁴Interview with Sutrisno, Imam of the Nurul Huda Mosque in Pamaron, Singaraja City, Buleleng on February 22, 2020.

In addition to TPA, basic Islamic education for Balinese Muslims is also carried out in RA. Imam Taufiq explained many urban Muslims in Bali entrust early Islamic education of their children to RA, making RA become more advanced. Imam Taufiq showed that RA An-Nur, situated in front of the An-Nur Mosque, is an example of an advanced and exclusive RA.³⁵ In line with that, Mulyono said that all of his children's basic Islamic education has been carried out in RA. He believed that learning the basics of Islam at Ra is sufficient and at the same time RA can be an alternative for working Muslim mothers to let their children stay. RA is considered to have better quality than TPA as most TPAs are generally located in low-budget public locations while RAs are located mostly in exclusive urban areas. In terms of financing, TPA costs are low while RA can reach tens of millions of rupiah, and according to Mulyono, many public kindergartens quote even lower costs than most RAs. Even so, RA is still a favorite place of education, especially for Muslim city residents in Bali. If parents enroll their children to public kindergartens, they will be burdened with teaching Islam after school; however, if the children are sent to RAs, the parents will not worry about teaching Islam at home because in RAs, the children have been taught Islamic teachings.³⁶ These RAs are spread throughout Bali reaching 102 units, with a total of 5,359 students, according to the data from Bali Regional Office of the Ministry of Religious Affairs.³⁷

In addition to these educational institutions, *pesantrens* (Islamic traditional boarding schools) in Bali are also favorite schools among Balinese Muslims. According to Noer Yasin, Head of the Diniyah and Pondok Pesantren Education Section, as quoted in the website of Bali Regional Office of the Ministry of Religious Affairs, described that Bali currently has 55 *pondok pesantrens* spread across the province of Bali. In addition, according to *Pesantren* statistics, Bali has 90 *pondok pesantrens*, with the number of students reaching over 7,000 people.³⁸

4. Educating Children in *Madrasa* Educational Institutions

As Balinese Muslims choose RA as a place of early childhood education, they also prefer an Islamic school as a place for children's secondary education. Muna Muhammad, an Acehnese expatriate in Bali, said that Islamic schools and *madrasas* are the favorite schools in Bali. Choosing an Islamic school for Muslim families tends to calm the soul even though sometimes the school is far and

³⁵Interview with Imam Taufiq, Religious Leader in Denpasar on February 18, 2020.

³⁶Interview with Mulyono, Community Figure in Denpasar on February 26, 2020.

³⁷Biro Perencanaan Kemenag RI, *Statistik Perencanaan Kementerian Agama 2019*, 50-52.

³⁸According to ditpdpontren website of Ministry of Religious Affairs, Bali has 80 *pondok pesantrens* throughout Bali (<https://bali.kemenag.go.id/provinsi/berita/14375/seluruh-santripada-55-pondok-pesantren-di-bali-sehat-wal-afiat>). See also: <https://ditpdpontren.kemenag.go.id/pdpp/statistik>, accessed on February 8, 2021.

expensive.³⁹ Corresponding to Muna Muhammad's opinion, it is observed that almost all Islamic schools in Bali are advanced schools, for example Muhammadiyah schools, schools under Islamic Foundations, *pesantrens* and *madrasas* (MI/MTS/MA). On the other hand, in private Islamic schools, the advancement of a school sometimes goes in line with school fees, for example, some private Islamic schools in Bali charge an entrance fee of twenty million rupiah and above. Undeniably, this is a complaint among some Balinese Muslims. Imam Taufiq agreed that the cost of Islamic school education is a problem for Balinese Muslims.⁴⁰ However, it is interesting that for some people the high cost is not an issue compared to the expected results, for example, Mulyono admitted to sending all his children to their favorite schools because he believed in the combination of the general curriculum and the Islamic religious curriculum the schools use.⁴¹ Here, Mulyono's opinion is in line with that of Muna Muhammad described above.

This is beyond the expectations of the researchers, who previously assumed that *madrasas* and *pesantrens* in Bali were less attractive, that *pesantrens* and all MIs/MTs/MAs⁴² are favorite schools among Muslims in Bali. In addition to *pesantrens*, the education of Muslim children in Bali is carried out in *madrasas*. The implementation of education in *madrasas* is supported by the low costs of *madrasa* education. Munasim in Pekutatan stated that *madrasas* are important institutions for Balinese Muslims. He chose to send his children to public *madrasas* because despite being free of charge, the quality of the education provided is unquestionable.⁴³ The important role of *madrasas* in Bali also conveyed by Raihan, a resident who lives nearby the Nurul Huda Mosque in Gelgel, in which she described *madrasas* as institutions that Balinese Muslims need and she was grateful that in Gelgel there are public *madrasas* from MIN to MAN.⁴⁴

However, Muslims face several obstacles such as the location of the *madrasas* is far from their residence. In this situation, parents are forced to choose public schools for their children, and they have the responsibility to teach their children religion after school independently. Abu Adam had to send his children to public schools and he was burdened with teaching his children with Islamic

³⁹Interview with Muna Muhammad, a local at Denpasar on February 26, 2020.

⁴⁰Interview with Imam Taufiq, Religious Figure in Denpasar on February 18, 2020.

⁴¹Interview with Mulyono, Community Figure in Denpasar on February 26, 2020.

⁴²Bali has 82 *Madrasah Ibtidaiyah* with a total of 38,230 students; 44 *Madrasah Tsanawiyah* with a total of 15,106 students, and 28 *Madrasah Aliyah* with a total of 8,672 students. See Biro Perencanaan Kemenag RI, *Statistik Perencanaan Kementerian Agama 2019*, p. 58-115.

⁴³Interview with Munasim, Caretaker of Mesjid At-Taqwa of Pekutatan Village, Jembrana on February 21, 2020.

⁴⁴Interview with Raihan, a local at Gelgel Village, Klungkung, Denpasar on February 20, 2020.

teachings independently at home.⁴⁵ If cities in Bali have Islamic schools and public *madrasas*, certain remote areas also establish private *madrasas* for Balinese Muslims e.g., MIS Ainul Yakin in Sumber Klampok village, Gerokgak sub-district. However, this *madrasa* only has simple facilities and it faces difficulties to develop due to cost issues, such as the *madrasa* can only pay five non-permanent teachers for Rp. 150.000 per month. The *madrasa* does not charge tuition fees from parents because it is located in a Muslim area with low income.⁴⁶ Despite its poor condition, this *madrasa* has up to 15 students per class and is considered an important institution for the education of generations of Muslims around the school premises.

The situation of Islamic education in public schools can be observed from the results of research conducted by Abdul Wahib on the struggle of Islamic religious education in Muslim minority areas. Abdul Wahib found that in several public schools in Bali, the teachers of Islamic religious education in Bali encountered various problems including lack of appreciation for Islamic religious education teachers, no significant structural positions, and no adequate teaching space to study in extra time (outside study hours).⁴⁷ The conditions described by Abdul Wahid have to be improved in the future so that they are in accordance with the prevailing laws and regulations in Indonesia.

Further, since Islamic schools are led by Muslims, Islamic learning is not constrained and thus, can perform optimally. A more conducive Islamic learning situation will certainly have an influence on better Islamic learning outcomes, as expected by students' parents.

In general, the implementation and fulfillment of Muslim rights in Bali have been well conducted as evidenced from the application of Islamic education institutions e.g., family education, TPA, RA, *pesantrens*, and *madrasas*. Muslims in Bali are free to Islamically carry out the learning process and educate their children.

Implementation of Islamic Family Law among Balinese Muslims

Among the important aspects of Islamic law is the discussion of family law, which refers to the law that regulates family ties occurring due to blood ties or marriage bonds. This law relates closely with the relationship between parents and children, inheritance law, guardianship, and custodianship.⁴⁸ In Arabic,

⁴⁵Interview with Abu Adam, Trader at Gelgel Village, Kulngkung, Denpasar on February 19, 2020.

⁴⁶Interview with Siti Aisyah, Teacher at Madrasah Ibtidaiyah Ainul Yaqin Sumber Klampok, Gerokgak, Buleleng on February 22, 2020.

⁴⁷Abdul Wahib, "Pergulatan Pendidikan Agama Islam Di Kawasan Minoritas Muslim", *Jurnal Walisongo* 19, No. 2, (2011), p. 478.

⁴⁸Eko Setiawan, "Dinamika Pembaharuan Hukum Keluarga Islam Di Indonesia" *De Jure: Jurnal Syariah dan Hukum* 6, No. 2 (2014). p. 140. Sri Astuti A. Samad, *Kajian Hukum*

family law is known as “*al-ahwal as-syakhsiyah*”, which Abdul Wahhab Khallaf defines as the law that regulates family life, starting from the beginning of the formation of the family with the aim to regulate the relationship of husband, wife, and family members.⁴⁹ Hilal Malarangan describes a clearer meaning of Islamic family law as Islamic law that regulates the internal relations of members of a Muslim family with regard to *munakahat* (marriage), sustenance, *hadânah* (child care), and inheritance cases, including wills and grants.⁵⁰

There are many rules regarding the implementation of Islamic family law in Indonesia, such as Law Number 1 of 1974 concerning Marriage, Government Regulations Number 9 of 1975 concerning Implementation of Regulations of Law Number 1 of 1974 concerning Marriage, and Government Regulations Number 10 of 1983 in conjunction with PP Number 45 of 1990 concerning Marriage and Divorce Permits for Civil Servants. However, nowadays the basis for implementing family law in Indonesia often refers to Presidential Instruction No. 1 of 1991 concerning the Compilation of Islamic Law in Indonesia. This compilation of Islamic law, however, only applies to people who are Muslims.

The expectation of an implementation of the law is the community legal compliance.⁵¹ The better the degree of community compliance with the law is, the more effective the law in solving problems in society will be, leading the law to eventually become a living law in society. It is thus interesting to investigate about the Islamic family law implemented in Bali: whether it is a living law, especially for the Muslim community in Bali or whether there are obstacles for Muslims in Bali in exercising their rights to follow the law that is appropriate and comes from their religion, Islam. To answer such a question, some information obtained from the research in Bali is presented here.

The adherents of Islam in Bali generally have no obstacles in applying the rules of Islamic family law among them, especially in matters of *nikah* (marriage), *talaq* (divorce), *ruju'* (reconciliation), family development, and inheritance. According to Mahmudi, Head of the Islamic Information Section of the Islamic Guidance Division at the Regional Office of the Ministry of Religion of Bali

Keluarga Islam dalam Perspektif Sosiologis di Indonesia, *El-Usrah: Jurnal Hukum Keluarga* 4, No. 1 (2021), p. 138-152.

⁴⁹Abd al-Wahhab Khallaf, *Ilm-Usul al-Fiqh*, n.p.: Maktabah al-da'wah al-Islamiyah, n.d., p. 32.

⁵⁰Hilal Malarangan, “Pembaruan Hukum Islam dalam Hukum Keluarga di Indonesia” *Jurnal Hunafa* 5, No. 1 (2018), p. 40. Andi Darna, Perkembangan Hukum Islam di Indonesia: Konsep Fiqih Sosial dan Implementasinya dalam Hukum Keluarga, *El-Usrah: Jurnal Hukum Keluarga* 4, No. 1 (2021), p. 90-107.

⁵¹According to H.C Kelman, legal obedience is divided into three levels: Compliance, obeying the law for fear of sanctions; Identification, obeying the law to maintain good relations with other parties; and Internalization, obeying the law because the law is in accordance with the values it adheres to. See Achmad Ali, *Menguak Teori Hukum dan Teori Peradilan*, Jakarta: Kencana, 2013, p. 347-348.

Province, all family law issues in Islam in Bali are also carried out by the Office of Religious Affairs (KUA) as in other regions in Indonesia and the implementation of activities at KUA has never reported any problems.⁵²

In Bali, there are 31 KUA units spread across the island of Bali.⁵³ Balinese non-Muslims are never bothered by the existence of KUA as it only concerns with the Muslim community.⁵⁴ Mulyono explained that in general the issues of Islamic family law in Bali are no different from those of Islamic family law in other parts of Indonesia. However, because KUA is not located in all sub-districts in Bali, those living in sub-districts without KUA must register at the nearest KUA.⁵⁵

Marriages between Hindu men and non-Hindu women and vice versa often occur in Bali. The same happens to marriages between Muslim men and women converted from Hinduism. Typically, in such a marriage, there is an *urf* (custom) within Balinese society called *mepamit*, a marriage tradition between a couple of a Balinese Hindu and a non-Hindu.⁵⁶ *Mepamit* is a ritual ceremony led by a Hindu religious leader. The important issue of *mepamit* is to break the *niskala*, or supernatural path believed in Hinduism, and after undergoing the ceremony, the couple will be led to recite the *shahadah* (basic profession of faith in Islam). This tradition is carried out if a Hindu family is willing to give up their child to marry a non-Hindu. The event of *mepamit* also occurs if there is a marriage between a Balinese Hindu (male/female) and a Muslim. According to Zainuddin, in Buleleng this kind of marriage occurred in more than ten couples in 2019.⁵⁷

Nevertheless, there have been some very unfortunate cases of such marriages. For example, the marriages have been going well at first and their family life is run normally, but sometimes there are husbands who later abandon their children and wives who had converted to Islam irresponsibly, causing their

⁵² Interview with Mahmudi, a local at Denpasar on February 25, 2020

⁵³ Data from Regional Office of Religious Affairs of Bali Province.

⁵⁴ The main functions of the Office of Religious Affairs (KUA) are (a) Implementation of services, supervision, recording and reporting of marriage and reconciliation, (b) Statistical management of Islamic community services and guidance, (c) Management of the documentation and management information system of the sub-district KUA, (d) Mosque guidance services, (e) Guidance for *hisab rukyat* and sharia coaching, (f) Islamic religious guidance and information services, (g) Zakat and Waqf Guidance Services, (h) Implementation of administration and housekeeping of the Sub-district KUA, and (i) Hajj Manasik Guidance Services for regular Hajj Pilgrims (<https://bali.kemenag.go.id/denpasar/berita/18296/tugas-dan-fungsi-kua-berdasarkan-pma-34-tahun-2016>).

⁵⁵ Interview with Mulyono, Community Figure in Denpasar on February 26, 2020.

⁵⁶ Nurida Rusadi, *Analisis Hukum Islam Terhadap Tradisi Mepamit Di Kota Denpasar Barat*, Surabaya: Universitas Islam Negeri Sunan Ampel Fakultas Syariah dan Hukum Jurusan Hukum Perdata Islam Prodi Hukum Keluarga, 2018, p. 42.

⁵⁷ Interview with Zainuddin, KUA Buleleng on February 22, 2020.

family to become adrift.⁵⁸ As the head of KUA, Zainuddin did not deny the existence of such cases and he had received a report of a wife who converted to Islam and was abandoned by her husband. The wife had generally been well nurtured in Islam in which she usually observed *tahajjud* prayers and fast on Mondays and Thursdays, but when her husband abandoned her unfortunately she returned to her family and reverted to her home family.⁵⁹ In this case, the actual obstacle to implementing family law does not occur due to external factors, but rather due to the Muslim husbands.

Furthermore, Zainuddin said that the guidance for converts had been carried out by KUA through coaching activities with Islamic religious instructors. However, when abandonment occurs, the converts choose to return to their parents. In this regard, the KUA and extension workers cannot do much because every family has a responsibility for the safety of its members. The KUA and extension workers are also unable to accommodate the troubled converts due to limited financial capacity.⁶⁰

Cases of neglected wives can also affect other related cases such as child custody as a result of divorce cases in which one of the parties returns to their original religion (e.g., Hinduism). However, when cases of neglect occur, Zainuddin, the husbands (who neglect) have never concerned the children they have abandoned, and therefore, the children follow their mothers' families. As such, when the children follow their mothers' families, they will become adherents of the religion of the mothers' families. In addition, the issue of inheritance arises because of the neglect cases in which the settlement is carried out through the general courts. However, such cases have mostly reported to occur among Muslim men who do not have an inheritance that needs to be resolved, whereas among the rich, such cases have never been revealed.⁶¹

The application of family law among the minority Muslim community in Bali has run without any significant problem. The legal issues mostly carried out, such as marriage, divorce, inheritance, guardianship, and *waqf* (endowment), are managed and facilitated by the Office of Religious Affairs and religious counselors. On the other hand, family law cases are heard at the Denpasar Religious Court following its duties and functions, which are examining, adjudicating, and finalizing the laws of marriage, divorce, *waqf*, child guardianship, and joint property with the principles of simple, fast, and low cost.⁶² The Balinese Muslim community is free to exercise the family law either through

⁵⁸Interview with Jasmin, a local of Pemaron Village, Singaraja City, Buleleng on February 22, 2020.

⁵⁹Interview with Zainuddin, KUA Buleleng on February 22, 2020.

⁶⁰Interview with Zainuddin, KUA Buleleng on February 22, 2020.

⁶¹Interview with Zainuddin, KUA Buleleng on February 22, 2020.

⁶²Editorial Team, *Program Kerja Pengadilan Agama Denpasar 2020*, Religious Court of Denpasar, 2020, p.1.

the court or outside the court (non-litigation) without any pressure and interference from any party. Despite the challenges they face, in reality, such circumstances also happen in all regions in Indonesia.

Conclusion

The rights of the Balinese Muslim minority in terms of formal and informal education are well implemented as seen from the way they strengthen family resilience by building the Islamic spirit. The children's education is also carried out Islamically by promoting tolerance at Islamic educational institutions such as *Taman Pendidikan Al-Qur'an* (TPA), *Raudhatul Atfhal* (RA), pesantrens and madrasas. Further, the Islamic family law is implemented in matters related to marriage, divorce, *waqf*, child guardianship, and joint property under the simple, fast, and low-cost principles carried out by the Office of Religious Affairs, Religious Counselors, and the Religious Courts in Denpasar. Thus, the fulfillment and protection of the rights of the Balinese Muslim minority are performed properly. This situation may occur due to the historical background of Islam entering Bali peacefully so that the Muslim community and the Balinese people continue to live in harmony and uphold the values of peace.

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