



**FULFILLMENT OF THE RIGHTS TO RELIGIOUS
EDUCATION OF MUSLIM WIVES BY HUSBAND
NON-MOSLIM PERSPECTIVE OF INDONESIAN
LEGAL PERSPECTIVE
(Case Study in Panggeldlangu Village, Butuh
District, Purworejo Regency)**

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Abstract

Marriage must be carried out by two people who believe in the same beliefs. The Islamic religion views that if in a marriage there is a husband or wife who changes religion, then the marriage becomes *fasakh* and is illegitimate to be maintained. But legally, marriages can only be broken up due to death, divorce and court decisions. A married couple who converted but did not apply for divorce in court is still considered a legal marriage. Therefore, the obligations and rights of husband and wife, one of whom has changed religions, must still be carried out considering that their marriage is still legally valid. One of the obligations described in the Compilation of Islamic Law Article 80 Paragraph 3 is that the husband is obliged to provide religious education to his wife. Therefore. This study aims to examine how the implementation of fulfilling the right of a Muslim wife to be given religious education by her non-Muslim husband from a positive law perspective. The type of research used is field research with a qualitative descriptive method and uses a juridical-empirical approach. As for data collection technique by way of interviews. Furthermore, emphasizing the results of observations and then drawing conclusions based on the results of observations in the form of data that has been collected in the form of words from interviews. The results of this study concluded that *First*, the implementation of

fulfilling the rights of Muslim wives to receive Islamic religious education from non-Muslim husbands was not carried out This is because the fulfillment of the right to religious education by teaching prayers and teaching the knowledge of the Qur'an is not done by non-Muslim husbands. The representation of the fulfillment of the right to Islamic religious education granted by a non-Muslim husband is carried out only by giving permission to his wife to participate in the study of religious assemblies. *Second*, the analysis of the fulfillment of religious education regulated in the Compilation of Islamic Law Article 80 Paragraph 3 as the right of a wife from her husband is not appropriate, this is because the science of monotheism and the science of *fiqh* which should be taught is not taught by the husband because the husband is non-Muslim. Fulfillment of the right to religious education in accordance with Article 80 Paragraph 3 Compilation of Islamic Law is carried out by non-Muslim husbands, namely by giving permission to the wife to learn religious science from religious assemblies.

Keywords: *Right to Religious Education, Muslim, Non-Muslim, Positive Law*

Abstrak

Perkawinan harus dilakukan oleh dua orang yang mengimani kepercayaan yang sama. Agama islam memandang apabila didalam suatu pernikahan terdapat suami atau istri yang berpindah agama, maka pernikahan itu menjadi *fasakh* dan haram hukumnya untuk dipertahankan. Namun secara hukum, perkawinan hanya dapat putus karena kematian, perceraian dan putusan pengadilan. Pasangan suami istri yang salah satunya berpindah agama tetapi tidak mengajukan permohonan perceraian di Pengadilan masih dianggap sebagai perkawinan yang sah. Oleh karena itu, kewajiban dan hak suami istri yang salah satunya telah berpindah agama harus tetap dilakukan mengingat pernikahan mereka masih sah secara hukum. Salah satu kewajiban yang dijelaskan di dalam Kompilasi Hukum Islam Pasal 80 Ayat 3 adalah suami wajib memberikan pendidikan agama kepada istrinya. Untuk itu. penelitian ini bertujuan untuk mengkaji bagaimana implementasi pemenuhan hak seorang istri muslim untuk diberikan pendidikan agama oleh suaminya yang non muslim perspektif hukum positif. Jenis penelitian yang digunakan adalah penelitian lapangan (*field research*) dengan metode deskriptif kualitatif dan menggunakan pendekatan yuridis- empiris. Adapun teknik pengumpulan data dengan dengan cara wawancara.

Selanjutnya menekankan pada hasil pengamatan kemudian ditarik hasil kesimpulan berdasarkan hasil pengamatan yang berupa data yang telah dikumpulkan berupa kata-kata hasil wawancara. Hasil penelitian ini menyimpulkan bahwa *Pertama*, implementasi pemenuhan hak istri muslim untuk mendapatkan pendidikan agama Islam dari suami non muslim tidak terlaksana. Hal ini dikarenakan pemenuhan hak pendidikan agama dengan cara mengajarkan sholat dan mengajarkan ilmu Al- Qur'an tidak dilakukan oleh suami non muslim. Representasi pemenuhan hak pendidikan agama islam yang diberikan oleh suami non muslim terlaksana hanya dengan cara memberikan izin kepada istrinya untuk mengikuti kajian majelis keagamaan. *Kedua*, analisis pemenuhan pendidikan agama yang diatur dalam Kompilasi Hukum Islam Pasal 80 Ayat 3 sebagaimana menjadi hak seorang istri dari suaminya tidak sesuai, hal ini karena ilmu *tauhid* dan ilmu *fiqih* yang seharusnya diajarkan tidak diajarkan oleh suami dikarenakan suami non muslim. Pemenuhan hak pendidikan agama yang sesuai dengan Pasal 80 Ayat 3 Kompilasi Hukum Islam yang dilakukan oleh suami non muslim yaitu dengan cara memberi izin kepada istri untuk belajar ilmu agama dari majelis keagamaan.

Kata Kunci: *Hak Pendidikan Agama, Muslim, Non Muslim, Hukum Positif*

INTRODUCTION

Marriage is etymologically a mixture or bond that occurs between man and woman with the willingness to coexist. According to Islamic law, marriage is a very strong contract or *mitsaqan ghalidzan* to obey the command of Allah and is a complement to worship (Matihub, 2005: 2). One of the purpose doing a marriage is to get a place to tell stories when they are having problems, to get encouragement in work because family is the biggest motivation.

The family life that is expected by all human beings is certainly a family that is harmonious, peaceful and takes care of one another. According to the Islamic concept, the family is a unified relationship between man and woman through a marriage contract. With the existence of a marriage contract, the husband and wife can have religiously legitimate offspring from their marriage relationship. Family harmony can be established depending on how the coaching between husband and wife in their family.

The purpose of marriage will be realized if there is harmony between the obligations and rights of husband and wife. If you want to fulfill the obligations and rights, it requires cohesion and cooperation between husband and wife is needed. Provisions regarding the obligations and rights of husband and wife have actually been regulated in the Civil Code book one chapter 5 Article 103 to Article 118. An explanation of the obligations and rights of husband and wife is also regulated in the Al-Qur'an in a fragment of Surah Al-Baqarah Verse 228 as follows:

...وَلَهُنَّ مِثْلُ الَّذِي عَلَيْهِنَّ بِالْمَعْرُوفِ ۗ وَلِلرِّجَالِ عَلَيْهِنَّ دَرَجَةٌ ۗ وَاللَّهُ عَزِيزٌ حَكِيمٌ ﴿٢٢٨﴾

Meaning: "...And they(women) have rights similar to those (of men) over them in kindness, and men are a degree above them. Allah is Mighty, Wise" (Q.S. Al- Baqarah: 228)

Marriage is carried out not only to reproduce offspring but also as a step of devotion to God so that marriage is considered a sacred and noble bond from people who are considered capable both physically and spiritually to get married. The Compilation of Islamic Law also regulates several points regarding the rights and obligations of husband and wife contained in Articles 80 to 84.

The rights and obligations of husband and wife are not always about living, providing housing and managing the household. Article 80 Paragraph 3 of the Compilation of Islamic Law specifically obliges a husband to provide religious education to his wife and to provide opportunities to learn useful knowledge for religion, homeland and nation. As for the sound of Article 80 Paragraph 3 in the formulation of the Compilation of Islamic Law as follows:

"Husbands are obliged to provide religious education to their wives and provide opportunities to learn knowledge that is useful and beneficial to religion, homeland and nation."

The right of a wife is to receive religious education guidance from her husband, such as being reminded to pray, inviting the wife to pray in congregation, inviting her to read the Qur'an together and much more religious knowledge that her husband must provide. In the Qur'an Surah At-Tahrim Verse 6 also contains the obligation of a husband to provide religious education to his wife, it reads as follows:

يَا أَيُّهَا الَّذِينَ آمَنُوا أَتُؤْفَوْنَ أَنْفُسَكُمْ وَأَهْلِيكُمْ نَارًا وَقَوْدُهَا النَّاسُ وَالْحِجَارَةُ عَلَيْهَا مَلَائِكَةٌ غِلَاظٌ شِدَادٌ لَا يَعْصُونَ اللَّهَ مَا أَمَرَهُمْ وَيَفْعَلُونَ مَا يُؤْمَرُونَ

Meaning: *“O ye who believe! Ward off from yourselves and your families a Fire whereof the fuel is men and strong, severe, who resist not Allah in that which He commandeth them, but do that which they are commanded”*. (Q.S. Surat At- Tahrim: 6)

In Panggeldlangu Village, Butuh District, Purworejo Regency, there is married couple where the husband is no longer Muslim but the wife is still Muslim. According to the formulation of the Compilation of Islamic Law in Article 75 Letter a marriage relationship in which a husband or wife changes religions, the marriage becomes *fasakh*. The Islamic religion considers that a marriage in which a husband or wife changes religions must immediately file a divorce application at the Religious Court because this marriage is illegitimate to maintained. Changing religion from one of the husband or wives makes their marriage relationship null and unlawful religiously.

However, legally a marriage cannot be broken due to change of religion from one of the husband or wife. Although in the Compilation of Islamic Law, changing religions makes the marriage relationship unlawful, it does not mean that legally the marriage relationship is broken. Article 113 of the Compilation of Islamic Law explains that a marriage can only be broken up for 3 reasons, namely:

1. Death
2. Divorce, and
3. Or Court Decision.

Meanwhile, according to Article 115 of the Compilation of Islamic Law, a valid divorce can only be carried out in front of the Religious Court after mediation is unsuccessful. This becomes ambiguous when we look at cases of marriage relationship which one of husband or wife changes religions where this marriage should have broken because it was forbidden by Islam but legally this marriage is still legal. If this marriage is considered legally valid, it means that the legal consequences arising from the marriage should still be attached. Therefore, both husband and wife still have the authority to claim their rights.

In Panggeldlangu Village, there are 3 families whose wives are Muslims but their husbands are non-Muslims. This became interesting because they are still continuing their marriage to this day. This husband and wife who have different religions do not apply for

divorce at the Religious Court, which means that their marriage relationship is legally valid even though religiously illegitimate because their marriage is *fasakh*. For this reason, their marriage relationship is still attached to the legal consequences that arise because of marriage. They still have to carry out their obligations as husband and wife and are entitled to their respective rights. According to the Compilation of Islamic Law Article 80 Paragraph 3 the husband is obliged to provide religious education to his wife.

On the basis of these problems, researchers are interested in conducting a deeper study of this phenomenon about how a husband who has change of religion can fulfill his obligation to his wife to provide religious education in accordance with the provisions of the Compilation of Islamic Law Article 80 Paragraph 3. Does the husband then provide a study religious studies according to the teachings of the religion he believes in or according to the religion his wife believes in.

Research Methods

The type of research used is field research, which is a field research conducted with the aim of studying environmental interactions, as well as field conditions of a research unit (Suyitno, 2018: 90). This research approach uses juridical-empirical, namely sociological legal research conducted by means of field research. The data collection technique used was direct interviews with research subjects, field notes at the time of carrying out research and literature study to find written materials. Data analysis was carried out using a qualitative descriptive method, namely a research method that utilizes qualitative data which are then described descriptively to draw conclusions.

DISCUSSION

The Right to Religious Education

Education can be interpreted by giving teachings about morals and intelligence of the mind. The Big Indonesian Dictionary defines education as a process of changing a person's behavior and attitude through learning and training efforts (Syah, 2006: 10). Religious education plays an important role for humans because religious

knowledge influences human personality. As a Muslim, Islamic religious knowledge must always be instilled in the heart so that it is in line with the commands of Allah SWT. Because education is considered very important in a family, laws and regulations have been appeared which oblige a husband to provide religious education. This provision is contained in the formulation of the Compilation of Islamic Law Article 80 Paragraph 3 which reads:

"Husbands are obliged to provide religious education to their wives, and provide opportunities to learn knowledge that is useful and beneficial to religion, homeland and nation."

One of the reasons why a wife must be equipped with religious knowledge is because the wife as a housewife will interact with the children more often. As a responsible leader, the husband also has an obligation to provide for his family. When the husband goes to work, he will have less time for his children. The husband's obligation to provide religious education to his wife is needed in marriage. The role of religious education in a family can help the realization of a happy, harmonious and harmonious family in the world and in the hereafter. If a wife equips her children with the teachings of religion, it can form a child into a pious person who can be a helper for her parents when they die.

For this reason, a husband is obliged to equip his wife with religious education. If the husband is unable to teach religious education to his wife, then the husband must give permission for his wife to get religious education by studying outside to attend recitation assemblies or by bringing teachers home. The Qur'an also commands people of faith to protect themselves and their families from actions that are not in accordance with religious teachings. This command is explained in Surah At-Tahrim Verse 6, Allah SWT says:

يَا أَيُّهَا الَّذِينَ آمَنُوا أَنْفُسَكُمْ وَأَهْلِيكُمْ نَارًا وَقَوِّدُهَا النَّاسُ وَالْحِجَارَةُ عَلَيْهَا مَلَائِكَةٌ غِلَاظٌ شِدَادٌ لَا يَعْصُونَ اللَّهَ مَا أَمَرَهُمْ وَيَفْعَلُونَ مَا يُؤْمَرُونَ

Meaning: "O ye who believe! Ward off from yourselves and your families a Fire whereof the fuel is men and strong, severe, who resist not Allah in that which He commandeth them, but do that which they are commanded". (Q.S. Surat At- Tahrim: 6)

The fulfillment of a wife's right to get religious education from her husband can be done in several ways, including (Nurhadi, 2018: 81):

1. Teaching the science of *fardhu 'ain* (individual obligation)
 - a. Teaching the science of *tauhid* (monotheism) by learning the knowledge of the Qur'an
 - b. Teaching the science of *fiqh* (jurisprudence), that by learning the obligations of prayer and fasting
 - c. Teaching of *tasawuf* (Sufism) is by learning good and bad morals
2. Give advice and reprimand if commit a mistake or disobedience
3. Bringing religious scholars to provide education in religious knowledge if the husband is not too knowledgeable in religious knowledge
4. Allowing his wife to study religion by participating in religious activities.

Fulfillment of Muslim Wives Right to Religious Education by Non-Muslim Husbans

To find out how the reality of fulfilling the right to religious education for Muslim wives from husbands who are not Muslim, the author will conduct research in Panggeldlangu Village, Butuh District, Purworejo Regency by interviewing 3 families of different religions. The explanation of the informant's data by including a pseudonym to protect the privacy of the informant in accordance with the journalistic code of ethics, can be seen in the table below:

Table 3.1 Explanation to Informan Data

No.	Informant's Name	Religion	Informant's Husband's Name	Religion
1.	Mut (Pseudonym)	Islamic	Wiwik (Pseudonym)	Christian
2.	Dwi (Pseudonym)	Islamic	Wawan (Pseudonym)	Christian
3.	Naila (Pseudonym)	Islamic	Renald (Pseudonym)	Christian

Source: Results of Author's Informants

Regarding how the implementation of fulfilling the right to religious education in a family where the husband is not Muslim but the wife is Muslim is produced by conducting interviews with informants to obtain the following data:

1. Mrs Mut's Family

Based on the results of an interview with Mrs. Mut (Muslim wife) on November 1, 2022, it was found that Mrs. Mut has a husband who is a Christian. However, Mrs. Mut's husband never forced Mrs. Mut to change religions to follow the religion believed by Mrs. Mut's husband. Fulfilling the right to Islamic religious education received by Mrs. Mut from her non-Muslim husband by way of Mrs. Mut's husband reminding Mrs. Mut to carry out her obligations as a Muslim. For example, occasionally reminding Mother Mut to pray. Apart from that, Mrs. Mut's husband also gave permission for Mrs. Mut to take part in the activities of religious assemblies in Panggeldlangu Village. According to Mrs. Mut's explanation, her husband was not disturbed if Mrs. Mut took part in religious studies.

2. Mrs. Dwi Family

Based on the results of an interview with Mrs. Dwi (Muslim wife) on November 3, 2022, it was found that the religion believed by Mrs. Dwi's husband is Christianity. Mrs. Dwi's husband often invites Mrs. Dwi to convert from Islam to Christianity. This later became the reason for quarrels in Mrs. Dwi's household because Mrs. Dwi always refused her husband's invitation to change religions. The fulfillment of the right to Islamic religious education was not obtained by Mrs. Dwi. This was because Mrs. Dwi's husband wanted Mrs. Dwi to change religions according to the religion her husband adhered to. According to Mrs. Dwi's statement, her husband did not even give her permission to take part in the activities of the religious assembly in Panggeldlangu Village. However, Mrs Dwi did not always follow her husband's orders because Mrs Dwi continued to attend religious activities without her husband's permission. This was done by Mrs. Dwi only to maintain her faith so that she would not be influenced to leave Islam.

3. Mrs. Naila Family

Based on the results of the interview with Mrs. Naila (Muslim wife) on November 3, 2022, it was found that Mrs. Naila's

husband adheres to Christian teachings. Mrs. Naila explained that her husband had never forced her to change religions because Mrs. Naila had no desire to leave Islam and her husband respected her choice. Implementation of the fulfillment of the right to religious education that Mrs. Naila obtained as her husband's obligation was only carried out by allowing Mrs. Naila to attend the recitation at the Al-Hidayah Mosque. Mrs. Naila's husband did not remind Mrs. Naila to carry out her obligations as a Muslim. Mrs. Naila's husband did not remind Mrs. Naila to pray, recite the Qur'an and fasting. This is because the religion that Mrs. Naila's husband believes in is different from the religion that Mrs. Naila believes in. However, Mrs. Naila realized that carrying out her obligations as a Muslim as instructed by Islam should not be neglected. For this reason, according to Mrs. Naila, even though her husband did not remind her that her obligation to worship would still be carried out by Mrs. Naila.

Implementation Analysis of the Fulfillment of the Right of Muslim Wives to Get Religious Education by Non-Muslim Husbands from The Perspective of Islamic Law

The obligations and rights contained in the Compilation of Islamic Law are not only about financial needs but regulate non-financial needs. One of them is the husband's obligation to provide religious education to his wife which is contained in Article 80 Paragraph 3 as follows:

"Husbands are obliged to provide religious education to their wives and provide opportunities to learn knowledge that is useful and beneficial to religion, homeland and nation"

The obligation to provide religious knowledge to his wife is a mandatory matter that must be carried out by the husband. The purpose of providing religious knowledge so that the wife avoids sinful acts. Indicators of methods that can be used to fulfill the right to religious education from husbands to wives can be done in several ways, including (Nurhadi, 2018: 81):

1. Teaching the science of fardhu 'ain (individual obligation)
 - a. Teaching the science of tauhid (monotheism) by learning the knowledge of the Qur'an

- b. Teaching the science of fiqih (jurisprudence), that by learning the obligations of prayer and fasting
 - c. Teaching of tasawuf (Sufism) is by learning good and bad morals
2. Give advice and reprimand if commit a mistake or disobedience
 3. Bringing religious scholars to provide education in religious knowledge if the husband is not too knowledgeable in religious knowledge
 4. Allowing his wife to study religion by participating in religious activities.

As explained above, the focus of the research in this study is about fulfilling the wife's right to get religious education that occurs in a marriage where the husband is not Muslim. Legally, a husband who changes religion cannot be the reason for the breakup of a marriage relationship if he does not file a divorce application in court. Therefore, the obligations and rights as husband and wife legally still have to be carried out. Based on the results of interviews with informants, it can be seen that fulfilling the right to provide Islamic religious education to a wife has not been implemented for fulfilling the right to religious education to teach prayer, reading the Qur'an and fasting. Based on the results of the study, the researchers underlined that fulfilling the right to religious education by teaching monotheism and jurisprudence sciences was not carried out. This is because the husband does not believe in the teachings of Islam. Fulfillment of the right to religious education that can be carried out by non-Muslim husbands in accordance with indicators of fulfilling the right to Islamic religious education in ways such as:

1. Reminding the wife to carry out her obligations as a Muslim
2. Giving wife permission to attend religious assemblies to increase knowledge of religion sciences.

CONCLUSION

There are several points in implemented the fulfillment of the right to religious education by non-Muslim husbands to their Muslim wives. The representation of fulfillment the right to religious education in accordance with Compilation of Islamic Law Article 80 Paragraph 3 by

a non-Muslim husband to his Muslim wife based on the results of the research above is to give permission to his wife to attend religious assemblies and occasionally reminding his wife of her obligations as a Muslim. The fulfillment of the right to religious education by teaching prayers and teaching the knowledge of the Qur'an was not carried out because the husband did not believe in the teachings of Islam.

Analysis according to the positive legal perspective on Compilation of Islamic Law Article 80 Paragraph 3 of the implementation of the fulfillment of rights carried out by non-Muslim husbands to Muslim wives is not carried out for the fulfillment of religious education by teaching monotheism and jurisprudence sciences. This is due to differences in religion that are believed by the wife and husband so that the husband does not master the understanding of Islamic religious knowledge. However, the fulfillment of the right to religious education in accordance with the Compilation of Islamic Law Article 80 paragraph 3 is carried out by giving permission to the wife to obtain religious knowledge from a religious assembly.

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Peraturan Perundang-undangan

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Kompilasi Hukum Islam
Kitab Undang- Undang Hukum Perdata

Wawancara

Ibu Dwi. Wawancara pada hari Kamis tanggal 3 November 2022.

Ibu Mut. Wawancara pada hari Selasa tanggal 1 November 2022.

Ibu Naila. Wawancara pada hari Kamis tanggal 3 November 2022.