

# The Childfree Phenomenon in the Perspective of Human Rights and Maqashid Al-Shari'ah

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## ABSTRACT

This research aims to find out the human rights and maqashid al-shari'ah perspectives on the growing childfree phenomenon in Indonesia. The research employed empirical or field methods, with primary data obtained by distributing online questionnaires to 62 respondents obtained through random sampling. The criteria for respondents are Indonesian citizens, Muslims, and aged 18-30 years. The results of this research indicate that the millennial generation in Indonesia considers childfree as a phenomenon of married couples who do not want to have children. The millennial generation who support this childfree phenomenon account for 60% of the total number of respondents because the choice to practice childfree is a human right of each individual. A total of 56% of respondents believe that a person's decision to be childfree does not contradict Islamic teachings. From the human rights perspective, the childfree concept is highly protected, because it is related to individual rights, particularly the rights related to the possession of children. This differs from the Maqashid Al-Shariah concept, which incidentally is the goal of Islamic law, which has one goal, namely maintaining descendants, which is a direct command from Allah to humans. The results of this research can provide considerations to the government and authorized institutions in developing preventive measures so that phenomena that are contrary to Islamic teachings can be properly controlled and their negative effects can be reduced.

**Keywords:** *Childfree, Human Rights, Maqashid Al-Shari'ah*

## 1. INTRODUCTION

Marriage is an agreement between a man and a woman that is governed by legal provisions and religious teachings [1]. Marriage is performed because the two individuals share a common goal. One of the goals of marriage in Islam is to have children. Even in the Qur'an, Allah SWT encourages married Muslims to have offspring which is explicitly postulated in the surah Al-Baqarah verse 187 which reads:

...أَلْكُمْ اللَّهُ كَتَبَ مَا وَابْتِغُوا

“...and seek what Allah has prescribed for you”

In this sentence, Imam Ibn Kathir, based on Abu Hurairah, Ibn Abbas, Anas, and other scholars' references, interprets what is meant by "what Allah has prescribed for you" as a child [2].

In contrast to Islamic teachings, from the perspective of human rights, having or not having children is a personal choice that is guaranteed and respected by the legal system. Human rights are fundamental rights that every human being possesses in his or her capacity as an individual. As long as this does not interfere with other

people, then these human rights must not be disturbed and must be guaranteed by the state. Consequently, the Indonesian government cannot interfere, prohibit, and discriminate against its citizens who choose to continue or discontinue their descent. Indonesia is experiencing a paradigm shift. The premise of "many children have a lot of sustenance" is considered irrelevant to current conditions, and people are shifting to the concept of a childfree.

Childfree is made up of two words in English: child and free. Childfree, according to Agrillo and Nelini, is a term used for people who consciously choose not to have children, also known as voluntary childless [3]. Since the 1915s, childfree actors have been discovered in the United States. One manual cites childfree as a cause of divorce, as well as excessive alcohol consumption and a lack of children to care for the deceased owner's property. In fact, in a journal article entitled "Eugenics Review" published in 1939, it was stated that one of the causes of the population decline was economic factors that prompted married couples to choose not to have children because they were unable to meet household needs [4].

Initially, the word used to describe this phenomenon is childlessness. However, this term is used to describe women who postpone having children, are unable to have children, or choose not to have children [5]. This makes it difficult to determine which women are delaying having children, are unable to have children, or refuse to have children. Childlessness is then subdivided into two categories, namely childless and childfree, or in other words, involuntary childless and voluntary childless. This classification is based on women's or men's fertility categories.

The distinction between the concepts of childfree and childless is that if an individual is declared childless/involuntary childless, he or she is unable to have children due to certain factors, most of which are related to physical health problems [6]. This is in contrast to childfree or voluntary childless people who are aware of their personal choice. They do not want to have children, even though society considers them capable of having and raising a child and their fertility conditions allow them to have children.

Kantiana Taslim argued this shift in perspective influenced the thinking of Indonesians who previously believed that having a child in life, particularly in married life, was an unwritten requirement that prevailed in society [7]. Then there was a shift in thinking that individuals' mental, financial, and psychological preparedness should also be considered because children are a large responsibility. It is feared that if the individual only relies on society's judgment while ignoring personal readiness, the child will be regarded as a burden.

According to CBOS research, individuals who choose childfree are typically influenced by two factors: external factors and internal factors. External factors include poor financial conditions, difficulties in finding decent work, a lack of adequate housing facilities, state policies toward families, increasing individualism and non-religious nature of society, and changes in the value of a child in the family as a result of the influence of western mindsets. Internal factors include the partner's attitude toward his partner's choice, decision-making maturity, and family experience [8].

The childfree phenomenon in Indonesia became a public concern when a YouTuber and book author, Gita Savitri Dewi, posted on her social media page that she and her husband were a Muslim couple who were committed to choosing a childfree home life in February 2021 [9]. This statement elicited a wide range of responses from Indonesians, including those who agreed and disagreed with the concept of childfree.

Furthermore, as much as 87.71% of Indonesia's population is Muslim, so there are agreement and disagreement to this phenomenon, which is considered contrary to religious teachings.

Although the majority of Indonesia's population is Muslim, this phenomenon has the potential to develop in the country. The first evidence is the decline in Indonesia's birth rate between 2010 and 2020. The Statistic Indonesia reported that the rate of population growth in Indonesia over the last ten years was only 1.25%. This is in contrast to the previous ten years, from 2000 to 2010, when the rate was 1.49% [10]. If this seemingly insignificant difference is not addressed, the country will experience depopulation and lose its productive age population in the future. Whereas the Indonesian state needs the next generation of productive working-age to have a positive impact on Indonesian economic growth [11].

Second, there is a private group Facebook page that was created in 2016 and has around 300 members who are committed to childfree options, both those who already have a partner and those who do not [12]. On Instagram, we can easily find pro-childfree accounts that share information about the childfree lifestyle. Members include both adults who are committed to childfree living and those who are curious about the concept. The existence of a community with the same goal demonstrates that this phenomenon has been present in Indonesia for several years, but because it is rarely covered by the media and is not as widespread as it is today, it is regarded as insignificant. If adequate education is not provided, this trend will become increasingly popular among Muslims in Indonesia, particularly among the younger generation, aided by easy access to digital information.

Since the 1970s, this trend has been increasing in the Western Hemisphere. According to studies, 1 in every 10 women in the United States in the 1970s ended their childbearing years without ever becoming pregnant. In fact, the figure continues to rise year after year. In 2008, the figure had more than doubled [13]. The latest research conducted by Jennifer Watling Neal and Zachary P. Neal in 2021 in Michigan, United States also produced data indicating that nearly  $\frac{1}{4}$  (27%) of the adults sampled chose to live a child-free life [14].

This phenomenon, which is gaining popularity in Indonesia, must be studied from the perspective of maqashid al-shari'ah. Maqashid Al-Shari'ah is made up of two words: maqashid and sharia. Maqashid means purpose, intentionally, or straight, while shari'ah means a law made by Allah SWT to obtain benefits in

this world and the hereafter [15]. It is critical to use maqashid al-shari'ah to study new phenomena that have no law in Islamic law. Islamic law is a law that Allah SWT has given to mankind and was revealed to His people approximately 1400 years ago. In every era, the existence of the law is always confronted with social changes [16].

Al-Shatibi, the founder of Maqashid science, emphasizes that the main objectives of Maqashid al-Shari'ah include maintaining religion (*hifdz al-din*), guarding the soul (*hifdz al-nafs*), guarding the mind (*hifdz al-aql*), guarding property (*hifdz al-mal*), and maintaining descendant (*hifdz al-nasl*) [17]. This maqashid al-shari'ah study is included in *maslahah* terminology because the main discussion is about the benefit of a particular law [18].

*Maslahah* is divided into three levels. First, *dharuriyat* (primary), whose existence must be ensured because it is a feature of human completeness, and failure to fulfill it will jeopardize the safety of human life, both in this world and in the hereafter.

As stated by Al-Shatibi, the category of *dharuriyyat* includes the five main objectives of Islamic law [19]. The second level is *hajiyyat* (secondary), which is a need that, if met, eliminates difficulties for humans, but if not met, it does not cause harm. An example of *hajiyyat* that can be fulfilled by humans is using the services of sharia insurance or *takaful* insurance to guarantee the needs of human life in various difficult situations [20]. The last is *tahsiniyat* (tertiary), which exists to improve life but does not cause damage or difficulty if it is not fulfilled [21].

This research aims to find out the acceptance and understanding of the millennial generation in Indonesia regarding the childfree phenomenon, as seen through the perspective of human rights and maqashid al-shari'ah to resolve contemporary issues that are still being debated.

## 2. RESEARCH METHODOLOGY

This research used the juridical empirical research method because the researcher aims to see the suitability of phenomena that occur in people's lives with the implementation of the law that should be understood [22]. The approach used was descriptive qualitative. The researchers chose this method because they wanted to understand the description of the phenomenon using words and language [23]. The data were gathered using online questionnaires and random sampling in the city of Surakarta because the topic chosen by the researchers

was still novel and there were still many unseen supporters and actors in this phenomenon. The eligibility criteria for respondents were limited to only those who are Muslim and aged approximately 18-30 years. The questionnaire that was distributed contained 10 main questions designed to assess the level of understanding and support for the childfree phenomenon among Indonesia's younger generation.

The research included 62 respondents. Furthermore, the collected data were reduced (data reduction), displayed (data display), and verified (conclusions drawing/verification). Following the conclusion, the researchers validated the data by using reference materials to demonstrate that the conclusions reached were the result of the researcher's authentic document data processing [24].

## 3. RESULTS AND DISCUSSION

### 3.1. Childfree Phenomenon from the Perspective of Millennial Generations

These respondents are Indonesian citizens, Muslim, between the ages of 18 and 30, with a sex ratio of 73% female and 27% male. The selection of respondents at a productive working age and an established marriage age aims to determine whether Indonesia's younger generation, who are also Muslims, are aware of the childfree phenomenon that is developing in the country. In interpreting the concept of childfree, respondents are divided into several groups as depicted in Figure 1.

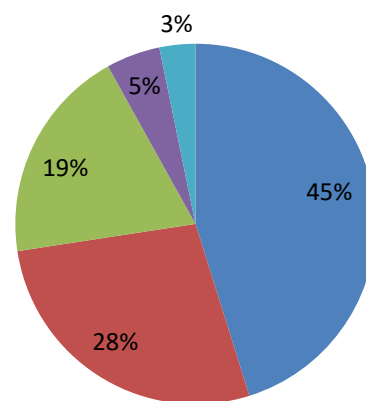


Figure 1. Participants' Understanding of Childfree

Translation of Pie Chart :

*Blue* : *The married couple who do not want to have children*

*Red* : *Individuals who do not want to have children*

*Green* : *Couple who do not want to have children*

The result shows that the majority of the respondents, which is about 45% of the total respondents, interpret childfree as a married couple who does not want to have children. This definition is different from the concept of childfree in European countries and the United States. In that country, childfree is defined as an individual who does not want to have children, as described by Agrillo and Nelini that childfree is an individual who consciously does not want to have children. This difference occurs because there are different characteristics between Indonesia and European countries and the United States.

From a regulatory standpoint, the State of Indonesia, as a country with a majority Muslim population and based on the rule of law, requires individuals to be bound in a legally and religiously legal marriage for children born to be recognized and guaranteed their rights by the state [25]. These rules differ from those in the United States, which is one of the few countries that does not require marriage in order for a person to have children. It is common for a child to be born outside of a marriage bond. They can have children outside of marriage with their partners, as well as through the IVF program for unmarried women or surrogate mothers for unmarried men. Some states in the United States that allow using surrogacy are California, Ohio, and others [26].

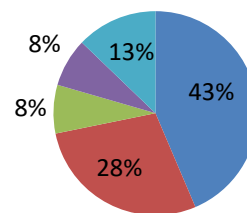
This does not mean that children born outside marriage are not protected by the state; however, society still regards these children as a negative stigma. There are still many discriminatory and exclusionary attitudes toward children and their families [27]. Pregnancy outside of marriage is considered an immoral act in Indonesian culture, as it violates religion, norms, and ethics [28]. Because of the influence of these factors, the millennial generation is still inclined toward marriage if they want to have children.

Another finding is that as many 28% of total respondents understand childfree as in Western countries. This could be because the respondents received information from sources outside of Indonesia.

Some of the information being circulated in news articles is still primarily limited to the term “desire not to have children” [29]. There has not been a thorough

discussion of who should be involved in the decision to go childfree.

Furthermore, the millennial generation in Indonesia is becoming more pro-childfree. The number of respondents who support this childfree phenomenon is 60% of the total. Some childfree supporters admit to being childfree actors for a variety of reasons. The most common reason, cited by 43%, is that the decision to have or not have children is a personal choice. This is shown in Figure 2 below.



**Figure 2.** Reasons for Supporting Childfree

Translation of Pie Chart:

*Blue* : *Individual rights*

*Red* : *Difference of economic, social, and mental conditions*

*Green* : *Overpopulation*

*Purple* : *Responsibility*

*Other blue* : *Other reasons*

The reasons given are not in conflict with Indonesian human rights laws. The Human Rights Law regulates citizens' freedom to form families and continue their descendants through legal marriage in Article 10 paragraph 1, which states: "Everyone has the right to form a family and continue their descent through legal marriage".

This article implicitly allows people not to have children in addition to the possibility of having children. It is in accordance with the second principle of *Pancasila* which reads: "A just and civilized humanity". One of the things that need to be upheld by the Indonesian nation and state is to provide tolerance for differences of opinion held by each individual. Furthermore, there is no law in Indonesia that requires married couples to have children; rather, there is only a recommendation to have children. No law imposes criminal, civil, or administrative penalties on a married couple who chooses not to have children. So the

decision not to have children is still within the realm of opinions, which must be respected and valued. Thus, as a legal state, Indonesia is obligated to respect, protect, and fulfill the rights of every citizen [30].

Having children entails a significant amount of responsibility for parents. There is Law of the Republic of Indonesia No. 35 of 2014 amendments to Law No. 23 of 2002, which contains the human rights of children that must be fulfilled as part of the obligations of parents, families, the state, and society. Since children are a mandate and gift from God Almighty, and as the successor to the ideals of the nation's struggle, their existence must be ensured for their growth and development to take place for the nation's continued existence in the future.

One of the provisions of this law governs the obligations of parents who have children to fulfill the guaranteed and protected rights of their children for the child to live, grow, and develop to the maximum. Although the government plays a role in the implementation of children's rights, parental involvement in raising children to adulthood takes time, money, and a strong mentality. The parents must be able to meet the child's needs in order for the child to not be oppressed and fall into the category of a neglected child. Parents who neglect their children are criminally responsible for the consequences [31].

Children are an option in Islam that can put one's faith to the test. If properly raised under religious guidance, the child becomes an investment in the afterlife for his parents. Meanwhile, he or she becomes a disaster when a parent makes a parenting mistake, such as choosing the wrong mother/father, abandoning the child, or burdening the child with tasks that are beyond their abilities [32]. So, if individuals believe they are unable to meet the needs of their prospective child, couples in Indonesia may choose to postpone it first, or, at the most extreme, adopt the childfree concept because there are no rules that prohibit it and it does not violate universal human rights and children's rights. This is preferable to forcing themselves to have children while being unable to adequately care for their physical, spiritual, and mental needs, which will later fall under the category of violations of children's human rights.

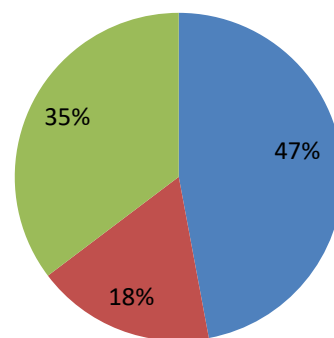
The different economic, social, and mental conditions of each prospective parent are the second most important reasons for supporting the childfree phenomenon. If a person feels unable to care for his children, he should not force himself to have them. The millennial generation can now find information more easily due to advancements in communication

technology. Because of the ease with which this information is available, the millennial generation is more critical in responding to changes in their surroundings. When making decisions, they take into account a variety of factors, including not only immediately acting on religious advice but also considering whether they are able to live it.

Regarding mental health conditions, it appears that a woman is usually hesitant to have children because they are prone to several mental health problems such as the baby blues after pregnancy and childbirth. [33]. If not treated properly, the baby blues will worsen and, due to the mother's unstable mental state, will usually lead to criminal acts of murder and abuse against her child by the mother.

In terms of economics, the wage system in Indonesia, on average, employs a minimum income system that is based solely on a basic salary and fixed allowances to meet a worker's basic living needs [34], [35]. In reality, costs allocated for one person are being used to meet the needs of one family. This inequality causes some families unable to meet their basic needs if it is added to the cost of raising children.

In fact, 40% of respondents who support the childfree concept are also childfree actors, and their decisions to realize this childfree are manifested in some strategies, as presented in Figure 3.



**Figure 3.** Strategies of Implementing Childfree

Translation of Pie Chart

- Blue* : *Not married*
- Red* : *Using contraception during sexual intercourse*
- Green* : *Others*

47% of respondents who are childfree actors realize their decision by avoiding marriage. This option is regarded as the simplest because, by not marrying, a

person avoids the need to seek approval or make agreements with others in determining life goals. Childfree actors who are still willing to get married or are currently married choose to use contraception to prevent pregnancy in their partner. When looking for a partner, they tend to look for someone who shares the same understanding. This is possible in this day and age of globalization because technological advances allow them to easily find matchmaking communities that share the same ideology, namely childfree.

### ***3.2. Childfree Phenomen from the Perspectives of Human Rights and Maqashid Al-Shari'ah***

Around 56% of the respondents involved in this research consider that childfree is not against Islam. In solving this problem, the researcher used the maqashid al-shari'ah perspective as a method in solving contemporary issues because Islam is a teaching that is always relevant in its time. Islam has the ability to implement itself in various scopes and provide solutions to any new problems that arise in the time and conditions in which its adherents embrace the religion [36].

In this research, the researchers used the maqashid al-shari'ah perspective in Yusuf Qaradawi's view. This choice was made because he is a contemporary scholar whose views are based on the renewal of conventional thought. This is due to the perception that Islamic thought must adhere to a modern viewpoint that focuses on objects and goals in Islam and employs maqashid al-shari'ah to solve problems of Islamic law and develop contemporary Islamic discourse to be accepted by a society whose civilization is still developing [37]. These are usually new cases that are not explicitly regulated by the Qur'an and Hadith, so it is necessary to determine whether existing laws can be applied or whether reforms are required due to changes in the social structure of the law [38].

According to him, the purpose of maqashid al-shari'ah is more than just the five main goals that are commonly held. If described in detail, it will include maintaining religion and carrying out orders, maintaining honor and human rights, maintaining morals and soul, forming a good Muslim family, treating women fairly, forming a strong Islamic state, and cooperating with the world for a better life (Jasser Auda, 2008). According to the above description, the law also accommodates human rights values and categorizes them into three classifications: affirming

human dignity, asserting human rights, and fighting for human rights [39].

Human rights, however, have limitations, as stated in Surah Al-Baqarah verse 256, which states:

"Let there be no compulsion in religion, for the truth stands out clearly from falsehood. So whoever renounces false gods and believes in Allah has certainly grasped the firmest, unfailing hand-hold. And Allah is All-Hearing, All-Knowing".

This surah contains Sharia law, which includes commands and prohibitions, but whether or not to follow them is each individual's decision. From the standpoint of Islamic teachings, the decision to be childfree is contrary to the objectives of Islamic law, particularly in the context of maintaining descendants, while the suggestion to continue one's own descendants is stated in the Qur'an and hadith.

Allah SWT says in the Qur'an Surah Al-Furqan verse 74 that as Muslims, one of the prayers they pray to Him includes the following:

And they say: "Our Lord! Bestow upon us spouses and our offspring the delight of our eyes, and make us Imams (religious leaders) to the owners of piety"

The characteristics of the pious servants of Allah SWT are those who constantly ask Him to bless them with pious and good wives and offspring as both are factors that can please the heart and soothe the feelings. Furthermore, it will increase the number of servants of Allah SWT on Earth [40].

There is a saheeh hadith that contains the Prophet Muhammad's command to men to choose a wife who is loved and capable of bearing many children. At the time, Rasulullah SAW was content if the number of his followers grew and he was able to spread Islam throughout the world. The Prophet said:

"Marry the women you love and (the women) have the potential to have many children. Verily I (will feel happy) because there are many of my Ummah compared to other Ummah"

This hadith was narrated by Imam Abu Dawud, Imam an-Nasa'i, Imam Baihaqi, Imam at-Tabarani, and a number of other hadith narrators who are known to be fair and dhabit. It is the Qur'an and the hadith that form the basis in the sharia law that having children is one of the main natures as human beings [41].

The universal importance of a child is as a potential heir who will prosper the nation and state, a candidate for protecting the homeland from enemy attacks, and a

prospective scientist who will educate the nation in various fields of life. Hadiths also mention that a child is a mandate from Allah SWT which is the adornment of the world, the conditioning and calming of the heart, good news in marriage, and a source of goodness and benefit for his parents when he is alive or dead [42].

Because continuing the lineage is something that is mentioned in the Qur'an and is supported by authentic hadith, this act is covered by sharia law, which is maqashid al-sharia at the dharurriyat level. As a result, any deviation endangers human safety both in this world and in the afterlife. The impact of childfree can jeopardize human safety in the world. One of them is that, as birth rates decline, there will be a depopulation of productive age people and an increase in the elderly population. Both of these phenomena are negative consequences of childfree that, if not addressed immediately, will become a socioeconomic and environmental issue. For example, depopulated areas typically have political stability, but their economic sustainability is in question [43].

The negative impact that threatens safety in this world has a significant impact on safety in the afterlife. The decline in the number of Muslims in Indonesia will inhibit da'wah activities, which is one method of developing an Islamic society [44]. This impediment is caused by the fact that there is a smaller generation of Muslim youth in Indonesia, both factually and intellectually. It is factual because support for childfree can be a form of encouragement to the actors to continue doing so, and it is intellectual because this phenomenon indicates the younger generation's ignorance of Islamic teachings. In fact, in order to live in the midst of today's changing times, a Muslim should not abandon moral standards that are guided by religious law to welcome a new era [45].

#### 4. CONCLUSIONS

1. Due to differences in culture, religion, and regulations, understanding the concept of childfree in Indonesia differs from what exists outside of Indonesia, particularly in parts of Europe and the United States.

The Indonesian state requires its people to be in a legal marriage if they want to have children. The stigma of the young generation in Indonesia considers that if you want to have children, then the individual must be in a legal and religious marriage. So the childfree decision is also considered a

decision that can only be taken if the couple is in a legal marriage.

2. The younger generation's acceptance of the concept of childfree in Indonesia is caused by the fact that childfree does not violate the Human Rights Law, which protects the absolute rights of every individual, as well as the concept of tolerance in the second principle of *Pancasila*. However, this practice contradicts the concept of maqashid al-shari'ah. The concept of maqashid al-shari'ah used in this research was the view of Yusuf Al-Qardawi, a scholar who adheres to the contemporary maqashid al-shari'ah concept. This is because, while human rights are recognized in Islamic teachings, they are limited by Sharia law. Having children is a human nature that is regulated in the Qur'an and Hadith, particularly because the presence of a child has an important meaning in the life of a Muslim family and is included in the primary level that must be fulfilled when a couple decides to get married.

#### AUTHORS' CONTRIBUTIONS

Syaifuddin Zuhdi and Dania Nalisa have made substantial contributions to the conception, acquisition of data, and analysis of data. Syaifuddin Zuhdi made the final touch for publishing this article

#### ACKNOWLEDGMENTS

Many Thanks to Muhammadiyah University of Surakarta, and Faculty of Law for facilitating and supporting the completion of this research.

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