
The Concept of Childfree Perspective of Law Number 1 Year 1974 on Marriage and Compilation of Islamic Laws

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ARTICLE INFORMATION

History of Article:

Received: April 11, 2025

Accepted: May 5, 2025

Available Online: 25 June, 2025

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ABSTRACT

Modernization in the current era has brought significant changes to various aspects of life, including the institution of Marriage. One emerging phenomenon is childfree, which refers to a couple's decision not to have children, either through natural birth or adoption. In Indonesian society, the presence of children is often seen as a blessing and a sign of trust in God. Still, the decision to live without children poses unique psychological and economic challenges for some individuals. This study aims to examine the principles of legal regulation related to the concept of childfree based on Law Number 1 of 1974 concerning Marriage and the Compilation of Islamic Law. The study uses a qualitative method with a normative-descriptive approach, namely normative legal research that relies on literature studies and juridical analysis of legislation and relevant scientific works. Content analysis was used to interpret the data obtained. The results of the study indicate that although legislation emphasizes the importance of offspring in Marriage, there are no explicit provisions prohibiting couples from choosing to live without children. Legally, the child-free practice does not conflict with the marriage regulations in force in Indonesia. However, this decision remains a controversial issue in a society that strongly upholds family values.

Keywords: Marriage Law; KHI; Childfree

A. INTRODUCTION

Modernization in the current era certainly has a major influence on various fields of life, such as social, religious, political, and cultural. Society becomes a dynamic object that continuously changes from time to time, and these changes can be in the form of progress or regression, broad or limited, fast or slow. Modernization means the process of social, economic, and political change that is generally identified with the adoption of technology, values, and lifestyles that are considered modern. It involves the transformation of old habits and patterns of life into more advanced patterns of life by the times.¹

In Marriage, the presence of children is something to look forward to and is a gift from God as a trust. Children can be the "jewels of the world," and their presence also brings beauty and color to the household.² Modern society sees building a family not only to raise offspring and continue fulfilling social needs but also as a realization of the commitments made at the time of Marriage. The essence of a family is when its members fulfill their obligations and are responsible for their respective roles. The existence of offspring or children is no longer considered an important thing that is required to exist in the family. Having children may create new mental and economic problems for some people. Therefore, a *child-free* trend is starting to emerge in building families.

Various reasons are put forward related to this life choice taken by young couples, among others because of family background, the surrounding environment occupied, family economic conditions, concerns about not being able to raise children, and various other reasons. Of course, these opinions have been deliberated by the couple to reach a mutual agreement in deciding *childfree*; of course, this needs to be discussed seriously in response.

Likewise, based on legislation in Indonesia, there are no provisions that specifically regulate this *child-free* concept. However, in Article 1 of Law No. 1 of 1974 concerning Marriage, it is stated that the purpose of Marriage is to form a happy and eternal family (household) based on God Almighty. Then, in the Compilation of Islamic Law (KHI), it is also stated that the purpose of Marriage is to create a household life that is *sakinah*, *mawaddah*, and *rahmah*.

Previous research has examined the reasons, existence, and distribution of individuals who apply *childfree* in certain areas and their influence on the harmony and welfare of family life. Therefore, researchers want to focus this research on the

¹ Azra Niswi et al., "The Effect of Modernisation on Social and Religious Dynamics," *Triwikrama: Multidisciplinary Journal of Social Sciences* 2, no. 11 (2024): 71-80.

² Verina Cornelia et al., "The Childfree Phenomenon in the Perspective of Utilitarianism and Verina's Existentialism," *Praxis: Journal of Applied Philosophy* 1, no. 1 (2022): 1-16, <https://doi.org/10.1111/moderasi.xxxxxxx>.

perspective of Indonesian legislation, especially the perspective of the Marriage Law and the Compilation of Islamic Law in addressing the *child-free* concept. To find out the principle of legal regulation regarding the idea of *childfree* according to Law No. 1 of 1974 concerning Marriage and the Compilation of Islamic Law. As well as knowing how the legal and social implications faced by couples who choose *childfree*.

B. RESEARCH METHODS

This type of research uses a qualitative method with a normative-descriptive approach. This research method is normative legal research or literature writing using a *statute approach*. The type of descriptive approach is used to make a description (picture) systematically factual and accurate between the phenomena observed using scientific logic.

There are two kinds of data sources in this research, namely, primary data sources and secondary data. Primary data sources in this study come from relevant laws and regulations, such as Law Number 1 of 1974 concerning Marriage, and other official government documents, such as official reports conducted by the Central Statistics Agency (BPS). Meanwhile, secondary data comes from data sources obtained from books and academic literature such as journals and previous studies, as well as other data sources that have to do with the discussion of this article. By utilizing primary and secondary data sources, researchers can build a comprehensive and in-depth understanding of the concept of *childfree* in the legal and social context in Indonesia.

Data collection techniques in this study are using observation and documentation methods. Observation is by analyzing the object of research to obtain appropriate data. At the same time, documents are a complement to observation. That is a method of collecting data using notes, transcripts, books, newspapers, magazines, and so on.³ Therefore, in the data collection technique in this study, the author will only identify discourse from regulations, books, journals, other documents related to the research, the internet (web), or other information associated with the title of the writing to look for things or variables in the form of notes or related to the study of the concept of *childfree* reviewed based on legal provisions in Indonesia, especially the marriage law and the Compilation of Islamic Law.

Furthermore, the techniques used in analyzing data in this study are data reduction, presenting data, and drawing conclusions. In the process of reducing or summarising this data, recording is carried out and then summarised by taking important things that can reveal the theme of the problem. Then, the intention is to

³ Suharsimi Arikunto, "Research Procedures A Practical Approach" (Jakarta: Rhineka Cipta, 2006), 206.

categorize in units of analysis based on the focus and aspects of the problem under study, or data that is piled up, thick reports, by itself it will be difficult to see the overall picture to draw the right conclusions. The last step is to conclude the data that allows the validity of the research results to be obtained.

C. RESULT AND DISCUSSION

1. Overview of *Childfree*

The term *childfree* first appeared on the Merriam-Webster campus in 1901, which was skeptically described as a social phenomenon that occurred at that time. According to Dr Rachel Crastil, an author of the book "*How To Be Childless*," states that the practice of *childfree* has been widely practiced by English, French, and Dutch women who have postponed Marriage since the 1500s. Meanwhile, in other literature, *childfree* is found in English terms at the end of the 20th century. This understanding emerged in Western countries such as the United States, France, England, Germany, and so on.⁴

Childfree comes from the American-English language, which consists of two words: *child*, which means "child," and *free*, which means "free," so when these two words are combined, it means "free of children" or "childless."

The word *childfree* was known for the first time, namely in the Merriam-Webster English dictionary before 1901; besides that, the *childfree* phenomenon had been known long before, precisely in 1500, in several countries, including England, the Netherlands, and France. *Childfree* is an agreement taken by both partners not to have children by considering several reasons that underlie the couple not to have children.⁵

In general, *childless* couples or *children* are categorized into two parts: *Firstly*, the situation where a couple is childless due to an urgent reason, such as infertility, HIV, or other health issues. While they have the desire to do so. *Secondly*, couples who voluntarily decide not to have children despite the fact that they are very capable and have the potential to have children.⁶

Corrine Maier, in her book "*No Kids: 40 Reasons for Not Having Children*," mentions several reasons for not having children, namely:⁷

⁴ Febriansyah, "Childfree Controversy in the Perspective of Islamic Law and Human Rights," *El-Izdiwaj: Indonesian Journal of Civil and Islamic Family Law* 4, no. 1 (2023): 1-19.

⁵ Yanuriansyah Ar-Rasyid, Djamaludin, and Fahrudin Aziz, "Marriage and the Obligation to Record It," *Syaksia: Journal of Islamic Family Law* 23, no. 2 (2022): 148-63.

⁶ Kembang Wagsit Ramadhani and Devina Tsabitah, "The Childfree Phenomenon and the Principle of Indonesian Family Idealism in the Perspective of College Students," *LoroNG: Media for Socio-Cultural Studies* 11, no. 1 (2022): 17-29, <https://doi.org/10.18860/lorong.v11i1.2107>.

⁷ Corinne Maier, "*No Kids: 40 Good Reasons Not to Have Children*" (Toronto: Emblem Editions, 2009), 39.

- a. Health problems, including genetic problems
- b. Economic issues
- c. Lack of access to support networks and resources
- d. Fear of reduced sexual activity
- e. Physical changes due to pregnancy, childbirth, and recovery
- f. Education and career orientation
- g. The worsening condition of the earth (hunger, overpopulation, air pollution, effects of global warming, scarcity of natural resources) so as not to want to bring children into the perceived suffering
- h. Awareness of inability to parent

Also, the causes of *childfree*, according to Gillespie, are the desire to achieve freedom and maintain the stability of relationships between partners or others; the presence of children can lead to unwanted motherhood, causing loss of self-identity. In addition, Struat Basten, in his research, also cites the results of Summer's research, which found that although choosing *childfree* is labeled negatively by society, people who choose to do so have a higher level of satisfaction between couples. The reasons for couples to select *childfree* include not being ready to become parents, economic factors, the environment, and even physical factors for themselves and their partners.⁸

Discussions related to *childfree* also surfaced precisely in 1970 when it was encouraged by the widespread use of contraceptives, in addition to being promoted by the feminism movement and the strong desire of women to continue their education to get a brilliant career so that *childfree* was taken as a profitable life choice according to their views. In the 20th century, the *childfree* trend has increased in America; as many as 1 in 5 women who have lived in medieval times have no children or are *childfree* throughout the end of their lives.⁹

Another reason is to curb the population explosion and prevent the increase of abandoned children. The existence of the *politics of body* also emphasizes that women's bodies belong to themselves so that no one has the right to force them to conceive and bear children. This phenomenon is also supported by the existence of feminism, which is a movement to fight for women's rights so that they are not looked down upon and have an equal position with men. With the thought of

⁸ Atiya Umala, Fika Natasya & Mumtaza, "Contextual Interpretation of QS. Al-Anfal [8]: 28 and Its Relation to the Childfree Phenomenon (Application of Abdullah Saeed's Approach)," *Mafatih Journal: Journal of Qur'anic Sciences and Tafsir* 2, no. 1 (2022): 33-46.

⁹ Ar-Rasyid, Djamaludin, and Aziz, "Marriage and the Obligation to Record It."

human rights and common interests and the added issue of gender equality, *being child-free* has become one of the choices of modern society in the 21st century.¹⁰

Therefore, this phenomenon is widespread in several countries and is used as a life choice by some people, including in Europe and America. Asian countries, in this case, also have an impact on this phenomenon, including Japan, where the *child-free* trend has been used for the last 20 years. Couples who decide to go *child-free* do not try to conceive naturally or plan to adopt a *child*; many are still surprised by the emergence of this notion. This is a very controversial phenomenon. It is even now spreading to Indonesia, although there may also be pros and cons to it. Because in the cultural construction of Indonesian society, children are seen as a gift as well as one of the goals of Marriage.¹¹

2. The *Childfree* Phenomenon in Indonesia

The term *childfree* may still sound unfamiliar to Indonesians, but in large countries such as the United States, the term is widely known by the public. Based on a report from the *National Survey of Family Growth* quoted from www.gooddoctor.com, no less than 15% of women and 24% of men decide not to have children. Meanwhile, in Canada based on a survey from the *General Social Survey* (GSS) in 2001 revealed that 7% of people in Canada aged 20-34 years, representing 434,000 people, stated their intention not to have children. Meanwhile, 4% of people in Canada noted that Marriage was important but also had no interest or desire to have children. Some of the reasons behind being *child-free* in Canada include medical conditions that do not allow it. These situations are not conducive to raising children, satisfying careers, and environmental reasons for their decision not to have children.¹²

Generally, in Indonesia, every married couple wants to have children (especially biological children). Moreover, Indonesia itself is a pro-natalist environment, which is an environment that supports the birth of children. The presence of biological children is considered to provide social and economic benefits, provide a sense of security when parents are elderly, and provide psychological, cultural, and religious benefits.¹³

¹⁰ Cornellia et al., "The Childfree Phenomenon in the Perspective of Utilitarianism and Verina Existentialism."

¹¹ Nurhaliza et al., "The Phenomenon of Childfree in Marriage in the Perspective of Islamic Law," *Yustisi: Journal of Law & Islamic Law* 10, no. 1 (2023): 154-59.

¹² Arni Amanda Saragih and Syofiati Lubis, "Gen Z and Childfree Generation in Indonesia Based on Law Number 39 Year 1999 on Human Rights: A Study of Fiqh Siyasah Perspective," *Journal of EDUCATION (Indonesian Journal of Education)* 9, no. 2 (2023): 870-76.

¹³ Miwa Patnani, Bagus Takwin, and Winarini Wilman Mansoer, "Happy without children? The importance of children for involuntary childless," *Scientific Journal of Applied Psychology* 9, no. 1 (15 January 2021): 117, <https://doi.org/10.22219/jipt.v9i1.14260>.

However, based on data published by the World Bank, the birth rate in Indonesia continues to decline; even in 2019, the birth rate of around 1,000 population published by the Central Bureau of Statistics (BPS) shows that population growth is slowing down. Population growth in Indonesia from 2010 to 2020 showed a decrease of 1.25 percent compared to the previous period from 2000 to 2010, which showed 1.49 percent. BPS also assesses that between 2025 and 2030, population growth will only be 0.80 percent. And will also fall next year. If you look at it more closely, Indonesia is experiencing a declining birth rate in some provinces. In the BPS data, the growth continues to slow down. For example, the population growth rate of Aceh Province also continues to decline.¹⁴ Based on these data, it can be concluded that the number of births in Indonesia is decreasing.

In 2022, about eight people are known to choose to live *childfree* among 100 women of reproductive age who have been married but have never had children and are not currently using family planning. This is equivalent to 0.1% of women aged 15-49 years. This means that out of 1000 adult women in Indonesia, one has decided to be *child-free*.¹⁵

The pattern of increase in the number of *child-free* women in the last four years suggests that this number is likely to rise in the following year. If this trend continues, Indonesia risks losing a certain generational segment of the population pyramid. In this study, women who choose to go *child-free* are indicated to have higher education or experience economic hardship. However, it should be noted that the homosexual trend may also be a hidden reason why someone does not want to have children.¹⁶

3. Explanation of Law Number 1 Year 1974 Concerning Marriage

The enactment of Marriage Law Number 1 of 1974 is a government effort that must be obeyed to guarantee basic human rights in achieving marital happiness. Marriage is not only a personal or private matter but has a social dimension that requires government involvement.¹⁷

The Marriage Law aims to unify national law in the field of Marriage. Responses from various parties aim to remove all articles that contradict Islamic teachings.¹⁸

¹⁴ Wilda Siti Hawani, Azuhria, and Muhammad Ilham, "An Examination of Maqashid Al-Syari' Ah Childfree Phenomenon," *Indonesian Journal of Shariah and Justice* 3, no. 2 (2023): 197-220.

¹⁵ Statistics Indonesia, "What is Childfree?," *DATAin*, 2023.

¹⁶ Statistics.

¹⁷ Wazni Anwar et al., "The Background of the Indonesian Marriage Law Number 1 Year 1974 (UUP)," *Islamic Law* 21, no. 1 (2021): 133-51.

¹⁸ Anwar et al.

The emergence of Law No. 1/1974 was motivated by four objectives, namely:

- a. Restrict and even eliminate child marriage
- b. Restricting polygamy
- c. Limiting the unilateral right of divorce (arbitrary divorce)
- d. Establish equal rights for husbands and wives.

From this goal, the principles of Marriage in the Marriage Law are then found, including:

- a. The purpose of Marriage is to form a happy and lasting family
- b. The validity of a marriage depends on the legal provisions of each religion and belief
- c. The principle of monogamy
- d. The prospective husband and wife must be mature in mind and body
- e. Make divorce more difficult
- f. The rights and position of husband and wife are equal

Law Number 1 Year 1974 consists of 14 chapters and 67 articles that accommodate the needs and problems found in the family.¹⁹

The long and tortuous process of the birth of Marriage Law Number 1 Year 1974 can be seen in more detail in the writings of Islamic historians and family law experts in Indonesia. The serious involvement of the government through the Ministry of Religious Affairs and the Religious Courts was visible during the process of the birth of the Marriage Law.

The Marriage Law is derived from 13 books that court judges previously used as a basis for deciding a case. The thirteen books are:

- a. *Al-Bajuri*
- b. *Fathul Mu'in*
- c. *Sharqowi alat tahrir*
- d. *Qolyubi/Mahalli*
- e. *Fathul Wahhab with its syarah*
- f. *Tukhfah*
- g. *Taghribul Musytaq*
- h. *Qowanin Shar'iyah lis Sayyid bin Yahya*
- i. *Qowanin Shar'iyah lis Sayyid Sadaqah Dahlan*
- j. *Shamsuri fil faraidh*
- k. *Bughyah Musytarsyidin*
- l. *Al-Fikih 'ala Madzahib al-arba'ah*

¹⁹ Anwar et al.

m. *Mughnil Muhtaj* ²⁰

There are six basic principles in this Marriage Law, namely:

- a. The purpose of Marriage is to form a happy and lasting family. For this reason, husband and wife need to help and complement each other so that each can develop their personalities to help and achieve spiritual and material welfare.
- b. This law states that a marriage is valid if it is conducted according to the laws of each religion and belief, and in addition, each Marriage must be recorded according to the applicable laws and regulations.
- c. This law adheres to the principle of monogamy only if it is desired by the person concerned because the law and religion of the person concerned allow a husband to have more than one wife.
- d. This marriage law adheres to the principle that the prospective husband and wife must be mentally and physically mature to enter into Marriage so that they can realize the purpose of Marriage properly without thinking about divorce and have good and healthy offspring.
- e. Since the purpose of Marriage is to form a happy and lasting family and a prosperous position, this law adheres to the principle of making divorce difficult.
- f. The rights and position of the wife are equal to the rights and position of the husband, both in domestic life and in society, so that everything in the family can be discussed and decided together by husband and wife.²¹

The enactment of Marriage Law No. 1/1974 has drastically reduced the divorce rate, which is around 70% after five years of enactment. In addition, in general, the objectives of this law have been achieved, namely, raising the age of Marriage and reducing young marriages, reducing arbitrary polygamous marriages, and trying to balance the position of husband and wife.²²

Then, in 2019, there was a change or revision to one of the articles in the law, namely Article 7, concerning the age limit for Marriage. Initially, the Marriage Law stated that the prospective groom was at least 19 years old and the woman was 16 years old; however, after being revised with Law Number 16 of 2019, which is an amendment to Law Number 1 of 1974 concerning Marriage, the marriage age limit for men and women can only be done when they reach the age of 19.

4. Elaboration of the Compilation of Islamic Law

The Compilation of Islamic Law is a provision of Islamic law that is written and arranged systematically, resembling legislation to be applied as far as possible

²⁰ Anwar et al.

²¹ Ahmad Rofiq, "Islamic Law in Indonesia" (Jakarta: PT. Raja Grafindo, 2000), 56-57.

²² Anwar et al., "Background of the Indonesian Marriage Law Number 1 Year 1974 (UUP)."

by all agencies of the Ministry of Religion in solving problems in the fields that the Compilation of Islamic Law has regulated. By the judges of the religious courts, the Compilation of Islamic Law is used as a guideline/consideration material in examining, adjudicating, and deciding cases submitted to them.²³

The juridical basis for the birth of KHI returns to the formulation of the need for judges to pay attention to the legal awareness of the community as required by Article 27, paragraph 1 of Law No. 14 of 1970. In addition, the functional basis of KHI is Indonesian fiqh, which is compiled by taking into account the conditions of the legal needs of Indonesian Muslims. It is not a new school, but it leads to the unifying (unification) of the various opinions of the school in Islamic law and the perception of judges about Islamic law towards legal certainty for Muslims.²⁴

The Compilation of Islamic Law (KHI) is a codification and unification of Islamic law in Indonesia that refers to 13 fiqh books used by Religious Court judges in deciding a case. From the use of these books, we can already see the pattern of legal thinking that influences the enforcement of Islamic Law in Indonesia. Generally, the books are ancient in the Syafi'i school of thought, with one book that is comparative or Comparative Mazhab.²⁵

Efforts to make the KHI more concrete began with the issuance of a Joint Decree (SKB) of the Supreme Court Judges and the Minister of Religious Affairs on 25 March 1985 until the issuance of an Inpres on 10 June 1991 (InPres R.I. No. 1 Th 1991, 1996/97: iii-iv, 1-3). The Compilation of Islamic Law has 229 articles, consisting of three groups of legal materials, namely Marriage Law (170 articles; from article 1 to article 170), Inheritance Law (43 articles; from article 171 to article 214), and Perwakafan Law (13 articles; from article 215 to article 228), and one article on Closing Provisions in Article 229, which applies to all three groups of laws. In total, the Compilation of Islamic Law accumulates to 229 articles.

5. Analysis of the Concept of *Childfree* from the Perspective of Law Number 1 Year 1974 on Marriage and the Compilation of Islamic Law

Marriage is cultural and part of the human life cycle. Marriage is also a physical and mental union between a man and a woman as husband and wife, intending to form a happy and eternal family or household based on God Almighty, as stated in Article 1 of the Marriage Law. Marriage is the ultimate goal of life for most people. Especially if you can be with the person you love, get married, build a happy family, live together, and have children. Meanwhile, according to the

²³ Nurhadi, "Maqasidh Shari'ah of Marriage Law in the Compilation of Islamic Law (KHI)," *AL-Fikra: Islamic Scientific Journal* 16, no. 2 (2017): 203-32.

²⁴ Nurhadi.

²⁵ Nurhadi.

Compilation of Islamic Law (hereinafter referred to as KHI), the purpose of Marriage is to create a household life that is *sakinah, mawaddah, and warahmah*.

Mawaddah and rahmah are forms of grace that Allah will give to humans for married couples. In addition, the purpose of Marriage is to channel human bathiniyah needs to minimize the act of adultery, which is hated by religion. Another thing through Marriage is to obtain pious children and get recognition based on the provisions stated in Sharia law.

From the explanation in the Marriage Law and the Compilation of Islamic Law, the main purpose of Marriage is to form a family. The family is the main living cell that forms the organs of society. A good family is a condition for the formation of a good country. Therefore, the government issued Marriage Law Number 1 of 1974 and also the Compilation of Islamic Law as guidelines for carrying out family life in Indonesia.

6. Legal and Social Implications for Couples Who Choose *Childfree*

Indonesia is a country that is under the influence of the legal environment in which to get married if you want to have children. The decision to *go child-free* for married couples is still being debated in Indonesia because having children means having great responsibility for their children.

Although it is not explicitly explained about the necessity of having children, the Marriage Law and KHI have provided indicators that the presence of children is an important element in the family. This is evidenced by the regulation of children in several articles concerning the position of children, the rights and obligations between parents and children, representation, and proving the origin of children.²⁶

The Indonesian state has so far not regulated rules related to *childfree* or unwillingness to have children. However, looking at some existing history, Indonesia used to regulate family planning (KB), which was initiated by the second President of the Republic of Indonesia, namely President Soeharto. The purpose of family planning is to reduce the birth rate that occurs in Indonesia. Sees the reality at that time was that there was an assumption that those who had many children would be in harmony with the sustenance obtained, so many couples were competing to have as many children as possible. Of course, this action had an impact on the increasing population in Indonesia that year. In addition, the number of women who died after giving birth to their children became an action taken to save the population of Indonesia.²⁷

²⁶ Febriansyah, "Childfree Controversy in the Perspective of Islamic Law and Human Rights."

²⁷ Ar-Rasyid, Djamaludin, and Aziz, "Marriage and the Obligation to Record It."

Childfree is not against the laws and is not illegal. Couples can choose to be *child-free* or not during their Marriage as long as they agree. The agreement between husband and wife is important to show that the decision does not burden or even harm either party. Married couples are encouraged to have children in religious teachings, but there is nothing that states that it should be mandatory. Based on this, it can be concluded that there is no problem if a husband and wife do not have children in their Marriage. Therefore, *childfree* is not something that needs to be debated whether or not to do it.²⁸

However, *childfree* is still considered difficult to implement in Indonesia due to several factors, including norms in Indonesia, which think that getting married and having children is an obligation for someone. In addition, in the realm of religion, Indonesian society is still regarded as conservative, with the majority of religions considering that children are a crucial thing that can be a helper for their parents after death, and the more children they have, the more followers of their religion will increase.²⁹

There is a lot of controversy surrounding some couples' decision not to have children:³⁰

- a. The first controversy concerns social pressure, where millennial couples choosing not to have children often feel pressured by neighborhoods that view having children as the norm. This social pressure arises because of society's expectation that every couple should have children to be seen as living a normal life. This often leads to negative questions being asked of millennial couples who decide to go *child-free*. Many people assume that couples who are *childfree* are seen as selfish, unwilling to take responsibility, and even have no purpose in life. Of course, this creates a sense of discomfort and a feeling of being less socially accepted.
- b. The second controversy is the discriminatory behavior of the surrounding community. Based on the opinion of some people, couples who do not have children are seen as unlucky because they are unable to fulfill their responsibilities as a couple. This can lead to discrimination and stigma against couples who voluntarily decide to be *child-free*. Childfree couples may face discrimination at their place of work because they are not seen as having the

²⁸ Cornellia et al., "The Childfree Phenomenon in the Perspective of Utilitarianism and Verina Existentialism."

²⁹ Umala, Fika Natasya & Mumtaza, "Contextual Interpretation of QS. Al-Anfal [8]: 28 and Its Relation to the Childfree Phenomenon (Application of Abdullah Saeed's Approach)."

³⁰ Fadlan Nugraha Nur Pangestu and Jenuri Jenuri, "The Phenomenon of Childfree in Millennial Families in Islamic View: Controversy or Solution?" *Tahdzib Al-Akhlaq: Journal of Islamic Education* 6, no. 2 (28 December 2023): 323–30, <https://doi.org/10.34005/tahdzib.v6i2.3412>.

same priorities as their co-workers who have children. In addition to this, discrimination can also come in the form of pressure and coercion from families who may view childless couples as irresponsible and have to think hard to explain in detail to families to understand. This discrimination and stigma can hurt psychological health and even quality of life. It is, therefore, important to respect the couple's life choices without any interference.

- c. The third controversy is the fear of losing the inheritance. As is known in some customs and socio-cultures, couples who do not have children may lose their inheritance and social status because they do not have heirs to their ancestral property. Therefore, the choice not to have children is avoided because having children is seen as important to maintaining the family legacy. There is also a negative stigma attached to women. Even if the decision not to have children is the result of an agreement between the couple, the fact is that women often face more discrimination and pressure than men because women are expected to be responsible for caring for children, so the decision to be *childfree* may be seen as unusual and not in line with the role of women.

D. CONCLUSION

Childfree refers to adult individuals or couples who choose not to have children, either biologically or through the adoption process. From the perspective of Law No. 1/1974 on Marriage, the main purpose of Marriage is to form a happy and lasting family based on God Almighty. Likewise, KHI emphasizes that the purpose of Marriage is to create a family that is *sakinah, mawaddah, and rahmah*. One important aspect in achieving these two goals is the presence of children as part of the family. However, the Marriage Law and KHI do provide for children. But it also does not prohibit couples from not having children, provided that the choice is an agreement that makes the couple happy always. Although the law implies the importance of offspring, no provision explicitly prohibits couples from deciding not to have children. Legally, childfree does not violate the marriage law, but childfree is still a controversial topic in societies that hold strong traditional values about the importance of offspring in a family. So the consideration of going childfree must be seriously considered between the couple, and especially with those closest to them.

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