

Childfree is a form of desecration of the purpose of Marriage

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ABSTRAK

"Childfree" mengacu pada keputusan seseorang untuk tidak memiliki anak dan memilih untuk hidup tanpa tanggung jawab orang tua. Konsep ini menjadi semakin umum saat ini, terutama di negara maju di mana perempuan semakin banyak bekerja dan memiliki kesempatan untuk mengejar karir dan kepentingan pribadi mereka. Namun, keputusan untuk hidup "tenang tanpa anak" seringkali dianggap kontroversial dan dapat menodai tujuan pernikahan. Hasil penelitian ini menunjukkan bahwa fenomena childfree adalah pilihan pasangan yang memutuskan untuk tidak memiliki anak, baik karena alasan pribadi maupun karena pertimbangan lingkungan, keuangan, kesehatan, dan tujuan hidupnya, hal ini bertentangan dengan UU No.1 Tahun 1974 tentang Perkawinan merupakan landasan hukum untuk mengatur tata cara perkawinan di Indonesia. Undang-undang tersebut menegaskan bahwa tujuan utama perkawinan adalah untuk membentuk keluarga dan menciptakan keturunan.

ABSTRACT

"Childfree" refers to a person's decision not to have children and to live without parental responsibilities. This concept is becoming increasingly common today, especially in developed countries where women are increasingly working and have opportunities to pursue their careers and personal interests. However, the decision to live "calmly childfree" is often considered controversial and can tarnish the purpose of Marriage. This study used a qualitative and desk study approach using secondary data from books, literature proceedings & journals, which were analyzed through a descriptive system. The results of this study show that the childfree phenomenon is the choice of a couple who decides not to have children, either for personal reasons or for environmental considerations. Couples who choose to live child-free usually have carefully considered their decision regarding finances, health, and their life goals. This contradicts Law no. 1 of 1974 concerning Marriage as the legal basis for regulating marriage procedures in Indonesia. The law emphasizes that the primary purpose of Marriage is to form a family and create offspring.

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1. INTRODUCTION

In today's increasingly modern era, human thought is proliferating. Both are in technology, industry, environment, religion, and society. From the field of humanities, recently viral in the world of social media is a thought and movement that says that Marriage does not have to have children, whether or not to have children is the right of the couple, which is called "childfree." This reaped pros and cons among Indonesian people because it is contrary to the culture, norms, and religion that prevail in Indonesian society.¹

Childfree can be defined as a person's or partner's conscious choice to live life without wanting to have children, whether biological children, adopted children, or adopted children. Childfree is not a situation where a person is forced to choose something; instead, a person makes this choice voluntarily and without coercion. The childfree phenomenon in Indonesia went viral through a statement by an influencer named Gita Savitri, who stated in Question Story when asked about the personality of his future child. Gita replied that it is better not to have children, the world is getting chaotic, and life is getting more complex. This is like setting up a child for failure. Apart from Gita, other artists such as Cinta Laura said that she would instead adopt children than have biological children because the world is currently overpopulated, said Cinta on Anang Hermasnyah's YouTube channel.²

Even though the phenomenon of "childfree " is still considered taboo by some people in Indonesia, more and more couples are feeling happier and more satisfied with their decision. They can focus on their careers and personal freedom and have the time and money to enjoy life with their partner. However, it is essential to remember that choosing not to have children is a personal decision that must be respected. However, the couple's decision to remain childfree in Indonesia contradicts the purpose of Marriage as stated in the Elucidation of the Law of the Republic of Indonesia Number I of 1974 Concerning Marriage, which says, "This law adheres to the principle that the prospective husband and wife must be physically and mentally mature to be able to get married so that they can realize the goals of marriage well without ending in divorce and get good and healthy offspring."

In addition, Article 1 of the Law of the Republic of Indonesia Number I of 1974 about Marriage states, "Marriage is a physical and spiritual bond between a man and a woman as husband and wife to form a happy and eternal family (household) based on Belief in the One God." Based on the above understanding, Marriage contains aspects of legal consequences, namely mutual rights and obligations, and aims to establish an association based on mutual help. Because Marriage is

¹ Muhammad Taufiki, "PAHAM CHILDFREE MENURUT HUKUM ISLAM" (Fakultas Syariah dan Hukum Universitas Islam Negeri Syarif Hidayatullah Jakarta, n.d.).

² Fitri Nursaniyah, ""Bukan Karena Ingin Punya Anak, Ternyata Ini Alasan Gita Savitri Dan Paul Andre Menikah <https://www.kompas.com/hype/read/2021/08/16/175912066/bukan-karena-ingin-punya-anak-ternyata-ini-alasan-gita-savitri-dan-paul>, Diakses Pada 02 Mei 2022."

included in the implementation of religious law, it contains the purpose and intent of Marriage.³ From this explanation, this research is aimed at whether the *childfree phenomenon* can tarnish the meaning of Marriage, which has been regulated in law.

2. LITERATURE REVIEW

2.1 Definition of Marriage

Some authors mention Marriage with the word marriage. In Indonesian, "marriage" comes from the word "kawin," which, according to the language, means forming a family with the opposite sex, sexual intercourse, and intercourse"; the term "mating" is used in general, for plants, animals, and humans, and denotes a natural generative process. In contrast, Marriage is only used in humans because it contains legality in national law, customs, and especially according to religion. Marriage means contract or bond because, in a marriage process, there is an agreement (a statement of surrender from the woman) and Kabul (a message of acceptance from the man). In addition, Marriage can also be interpreted as intercourse.⁴

Abdurrahman Al-Jaziri said that Marriage is a sacred agreement between a man and a woman to form a happy family. This definition clarifies the notion that Marriage is a contract. As an agreement, it implies the existence of free will between two parties who promise each other, based on the principle of like and like. So, it is far from anything that can be interpreted as containing a compulsion. Therefore, both the man and the woman who make a promise in Marriage have complete freedom to state whether they are willing or not. The agreement is stated in the form of consent and acceptance, which must be said in one assembly, either directly by those concerned, namely the prospective husband and prospective wife, if both are fully entitled to themselves according to law or by those who are authorized to do so. If this is not the case, for example, in a state of insanity or underage, their legal guardians can act for them.⁵

Etymologically, Marriage is mixing, coordination, or bonding. If it is said that something is married to something else, the two are linked. Allah SWT said (QS. Ad-Dhukhan: 54). Which means: (That's how we married them to angels).

The word "marry" is also often used to express the meaning of Marriage. Al Quranul Karim uses the word more than the word *zawaj*. Allah SWT said (QS. Al-Baqarah: 235). This means: (And do not make up your mind to enter into Marriage before the end of Eid. And know that God sees what is in your heart; therefore, fear him and know that God is Compassionate and Forgiving). *Nikah* is an etymological expression of the meanings of union, contract, and embrace. In the words of the Prophet, peace and blessings be upon him: "I was born from marriage, not prostitution;" that is, from lawful intercourse, not unlawful intercourse, is an example of its use in sexual relations.⁶

Article 1 of Law No. 1 of 1974 on Marriage defines Marriage as an inner and outer relationship between a man and a woman as husband and wife, to build a joyful and eternal family

³ Tengku M Hasbi Ash Shiddiqy, *Al Islam* (Jakarta: CV Bulan Bintang, 1966).

⁴ Moh Zahid, *Dua Puluh Lima Tahun Pelaksanaan Undang-Undang Perkawinan* (Departemen Agama RI, Badan Litbang Agama dan Diklat Keagamaan, 2001).

⁵ Beni Ahmad Saebani, *Fiqh Munakahat 1* (Bandung: Pustaka Setia, 2009).

⁶ Abdul Majid Mahmud Mathlub et al., *Panduan Hukum Keluarga Sakinah: Khitbah, Syarat Rukun Nikah, Poligami, Mahar, Talak, Perwalian Dan Perwakilan Nikah, Hak Dan Kewajiban Suami Istri, Khulu', Li'an, Ila'dan Zhihar, Nasab, Penyusuan Anak, Nafkah Anak, Perwalian Anak, Dan Hukum Keluarga Lainnya* (Era Intermedia, 2005).

(home) based on belief in the One Supreme God. So, Marriage is a contract whose general terms are embodied in the word *nikah* or *tazwj*, which is also a sacred ceremonial utterance.⁷

2.2 Marriage Purpose

Marriage is the backbone of family formation, and family is the first component in community development. Thus, the purpose of Marriage is not as a means of giving vent to lust but instead has a noble goal. Marriage is a relationship of love, affection, and pleasure, a tool for creating a harmony of heart, as well as a shield for husband and wife from the dangers of cruelty. Thus, there will be an attitude of mutual assistance between men and women in the interests and demands of life. The husband is in charge of earning a living to meet the family's needs, and the wife is in order of taking care of the household and educating the children. From a juridical perspective, the purpose of Marriage, as required by Law Number 1 of 1974, is ideal. This provision not only looks at it from the point of view of the contractual bond but also as an inner bond between husband and wife who are happy and eternal by expecting the pleasure of Allah SWT as the Creator of all the worlds. In this scenario, to actualize the purpose of Marriage, which is to establish a *sakinah mawaddah, wa rahmah* family.

One of the tenets of Law No. 1 of 1974 is that the objective of Marriage is to create a happy and enduring family. Husband and wife must assist and complement each other to develop their identity and achieve spiritual and material well-being. In other words, the objective of Marriage is to create a family that is perpetually happy and prosperous, so the law conforms to the principle of making divorce difficult by requiring specific grounds and court approval.⁸ In connection with the opinion above, the main objectives of Marriage include the following:

1. To uphold and uphold religious law, normal humans, both men and women who adhere to a particular religion, must devoutly try to keep the teachings of their faith to maintain the sanctity of their religion. In Islamic teachings, Marriage includes acts regulated by Islamic law with certain conditions and pillars. So, married people mean upholding their faith, while people who commit adultery, carry out immoral acts, prostitute, commit rape, and so on mean despising their religious law.
2. To justify the biological relationship between men and women who are not mahram. It is well known that husband and wife come from other people, have no close family relationship, or are not mahram, so to have sexual relations between them is unlawful, but through Marriage, their sexual relationship or biological relationship between the two of them is lawful, not sinful and even rewarding
3. To give birth to legal offspring. A child born to a mother without it being clear who the father is, or there are many fathers because the mother is in contact with many men without being bound by marital ties, or she is born from an extramarital relationship between her mother and a man, according to Law number 1 the Year 1974 the child only has a civil relationship with his mother. He is only entitled to give or receive an inheritance from his mother. If she is a daughter, no male has the right to be her guardian when she becomes a bride, so her guardian is a judge's guardian. Therefore, Marriage in Islam aims to give birth to legal offspring. Hence, children born to husband and wife

⁷ Fikih Munakahat M.A. Tihami dan Sohari Sahrani, *Kajian Fikih Nikah Lengkap*. (Jakarta: PT. RajaGrafindo Persada, 2014).

⁸ M. Yahya Harahap, *Hukum Perkawinan Nasional* (Medan: CV. Zahir Trading Co, 1975).

who are already bound by Marriage are their children who have a legal relationship with both parents and have the right to inherit and receive inheritance between parents and their children. If the child is a girl, the father has the right to be a guardian when he becomes a bride. The status of the children is clear whose children they are, who the father is, and who the mother is.⁹

4. To maintain human nature as a creature of Allah gifted with creativity, taste, intention, and religious instructions. This means that this Marriage is a fair distribution of human sexual instincts and has sexual instincts that cannot be observed or sold on. So, Marriage is an institution to humanize humans by channeling their sexual instincts or maintaining human values and human nature. According to their nature, humans are the noblest creatures, so channeling their instincts must also be noble through Marriage.
5. To keep the peace of life. Marriage is an institution to maintain the order of a person's life; married people generally have a more peaceful life, especially regarding sex and sexual crimes, and can lead an everyday sexual life. Although he is initially easily swayed by the eyes, the beauty of the face, the shape of a woman's body, and so on. Still, generally after Marriage, humans can control it and break all the stimuli that come to them; if he is attracted to a woman other than his wife, he has that kind of woman as well, his wife. Getting married also brings peace to a person, as well as his father's family or parents, after they form their own family means family peace, and Marriage also brings community peace.
6. To strengthen fraternal relations. Marriage is also a means to enhance brotherhood or *ukhuwah* relations for Muslims, of course, *ukhuwah Islamiyah*, both narrow and broad scope. In a limited or small area, namely the size of the family, then with Marriage, it is hoped that the two families or the two relatives can establish a kinship (brotherhood) that is even closer. Therefore, marriages between close relatives are avoided, especially in Islamic law, is stipulated that one cannot marry the *mahram* himself. Marriage with close relatives is not good because it cannot expand the brotherhood network / between distant families. Hence, the brotherhood only revolves from here to there in a small circle, and the offspring they give birth to are weak. Also, a family breakdown will occur if there is conflict or divorce because the in-laws were already in the same family. 52 With a divorce between their children, the family tends to defend their children, so the close family ties between the in-laws become tenuous and even cracked. Marriage between distant families or other people is indeed good because it can add siblings and create new brotherhoods between extended families whose origins are other people.

2.3 *Childfree*

Childfree is an English phrase coined in the late twentieth century. As a follower of Manicism (a religious sect characterized by genetics. The founder of this sect was Manichaeus), St. Augustine believed that pregnancy was a debased form of behavior, therefore (according to his belief system) trapping souls in temporary bodies. To avoid this, they use the dating system together with contraception.

Rachel Chrastil, professor of history at Xavier University, explains that women or couples have not had children since time immemorial. Millions of women worldwide will reach 45 without

⁹ Bibit Suprpto, *Liku – Liku Poligami* (Yogyakarta: Al Kautsar, 1990).

having children in the 21st century for health reasons such as infertility, philosophical values, or life choices.¹⁰ Long before the term childfree existed, in the pre-French revolution, 15 to 22 percent of adults decided to be single and perhaps not have children. The peak of child-free history occurred in the 1900s. According to US census bureau data, the percentage of childless couples tripled between 1961 and 1971, rising from 1.3 % to 3.9%.

Childfree was initially used in 1972 by the National Organization for Non-Parents, founded by Ellen Peck and Shirley Radl in Paolo Alto, California, or what is now the National Alliance of Optional Parenthood (National Alliance of Optional Parenthood). The organization was first published in a Time article on July 3, 1972, with missions as a support group for people who choose not to have children and as an advocacy group fighting pronatalism.¹¹ And in 1992, an author of the book "Why You Don't Have a Kids? Living A Full Life Without Parenthood", Leslie Lafayette, formed a child-free organization, the Childfree Network. And finally, the term childfree existed among the public until now.

In language. Childfree is "having no children; childless, especially by choice," which means childfree is not having children, which is based on choice. According to Cambridge Dictionary, childfree refers to persons who choose not to have children or a location or scenario without children. Childfree refers to those who choose not to have children or have childless conditions.³ According to Agrillo and Nelini, childfree refers to adults who actively choose not to have children or are more commonly known as voluntarily childless. In his study, Houseknecht defined a child-free individual as one who does not have children and does not intend to have any in the future.¹² According to Suryanto, the term childfree derives from the fact that women's position and existence are only determined by the number of offspring they generate, so that, following the times, women have the personal choice to choose not to have children.

There is a distinction between childfree and childless if childless/involuntary childlessness is defined as someone who cannot have children due to underlying health problems such as infertility. Childfree/voluntary childlessness is the decision of individuals who consciously or voluntarily choose not to have children even if they are considered capable due to their fertility conditions.

3. METHODOLOGY

The research methodology used in this paper is a qualitative method with a desk study approach¹³ using secondary data derived from books, literature proceedings & journals, which are analyzed through a descriptive analysis approach. Furthermore, the legal research carried out in a normative juridical manner is normative juridical. The law is conceptualized as what is written in laws and regulations (law in books) or as rules or norms benchmarks for human behavior that is

¹⁰ Rachel Chrastil, *How to Be Childless: A History and Philosophy of Life without Children* (Oxford University Press, 2019).

¹¹ Christian Agrillo and Cristian Nelini, "Childfree by Choice: A Review," *Journal of cultural geography* 25, no. 3 (2008): 347–363.

¹² Sharon K Houseknecht, "Voluntary Childlessness in the 1980s: A Significant Increase?," *Marriage & Family Review* 5, no. 2 (1982): 51–69.

¹³ John W Creswell and J David Creswell, *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches* (Sage publications, 2017).

considered appropriate. This normative legal research is based on primary and secondary legal materials, namely research that refers to the norms contained in statutory regulations.¹⁴

4. DISCUSSION

Marriage is a social institution with many meanings and purposes in various countries, including Indonesia. However, Marriage is often associated with forming a family and expanding offspring in Indonesia. As a result, childless couples are often seen as not fulfilling the true purpose of Marriage. Yet, some couples in Indonesia prefer to live child-free or not have children, which is frequently viewed as controversial. The notion of childfree describes a couple who chooses not to have children for personal or environmental reasons. Typically, childless couples have carefully evaluated their decisions regarding their economics, health, and life objectives.

In Indonesia, the concept of childfree is often seen as tarnishing the purpose of Marriage, mainly because of the notion that having children is the primary goal of Marriage. In addition, in Indonesia, there is an opinion that getting married and having children is a social obligation every married couple must fulfill. It is not uncommon for couples who choose to live child-free in Indonesia under pressure from their surroundings. They are considered a couple who do not meet the primary purpose of Marriage and are considered selfish because they do not bring offspring into the world. In Indonesia, the extended family and society exert a great deal of social pressure on couples who do not have children, especially after being married for a long time.

In a child-free view, having children is not the only goal in life. Couples who choose to live childfree often believe that having children is not the only way to expand the meaning and purpose of Marriage. They think child-free teams can allocate more time and energy to live their lives, develop their careers and hobbies, and deepen their relationship as husband and wife. However, in Indonesia, this view is often considered controversial and inconsistent with the prevailing social values in society. People in Indonesia usually prefer to emphasize the importance of having children in a marriage rather than considering the reasons and goals of couples who choose to live child-free.

In addition, in Indonesia, there is an opinion that couples who choose to live childfree will not experience true happiness. People in Indonesia often think that true happiness can only be achieved through family and children. However, this view is incorrect because joy can be completed in various ways, not only through having children. In Islamic law, Marriage aims to form a family and expand offspring. Therefore, having children is considered the main goal in Marriage. The concept of childfree or not having children, in the view of Islam, can generate debate.

According to most Islamic scholars, having children is part of the responsibility of husband and wife in forming a family and extending offspring. In the Al-Quran, Allah SWT says: "And Allah has made for you wives of your kind and made children and grandchildren of you, and gave you good sustenance. So why do they believe in falsehood and disbelieve in the bounty of Allah?" (QS. An-Nahl: 72)

The verse above shows that Allah gives children and grandchildren as one of His gifts. Therefore, according to the views of some Islamic scholars, couples who choose to live childfree can be considered as not fulfilling the primary purpose of Marriage in Islam. However, this view is still being debated among Islamic scholars. Some scholars believe that couples who choose to live

¹⁴ Ujang Badru Jaman, Galuh Ratna Putri, and Tiara Azzahra Anzani, "Urgensi Perlindungan Hukum Terhadap Hak Cipta Karya Digital," *Jurnal Rechten: Riset Hukum dan Hak Asasi Manusia* 3, no. 1 (2021): 9–17.

childfree can still fulfill the purpose of Marriage in Islam as long as they still love each other, respect each other and help each other in building a family and society. This more moderate view aligns with the "family planning" concept in Islam, whereby couples are allowed to postpone or limit the number of children they have to benefit the family and society. However, delaying or limiting the number of children is not the same as choosing to live child-free permanently.

In Islam, Marriage is considered a sacred bond between two individuals who love each other and are committed to helping each other build a family and society. Therefore, the decision to live child-free must be made wisely, based on solid reasons, and discussed jointly with the husband and wife. Indonesian marriage procedures are governed by Law No. 1 of 1974 Governing Marriage. The legislation underlines that the primary goal of Marriage is the family formation and procreation. In Indonesian marriage law, the decision to live without children is not expressly prohibited. In Indonesia, however, there is still a strong belief that having children is an essential aspect of Marriage. This has to do with the culture and customs of the Indonesian people, who believe that producing children is the most critical responsibility of a married pair.

Article 2 of the Marriage Law stipulates that a marriage is legitimate if the prospective husband and wife enter it voluntarily. The right and authority to decide whether to have children rest with married couples. In this instance, the state cannot compel married spouses to procreate. However, remember that the decision to live childfree can also impact other legal aspects, such as inheritance rights and determining the fate of children. In Indonesia, the inheritance legal system is still based on a patrilineal system, where sons have greater inheritance rights than daughters. Couples who opt to live child-free must examine the potential legal ramifications surrounding inheritance rights and selecting the destiny of their offspring.

5. CONCLUSION

The childfree phenomenon refers to the decision of a couple not to have children, whether for personal or environmental reasons. Typically, childless couples have carefully evaluated their choices regarding their economics, health, and life objectives. This contradicts Marriage Law No. 1 of 1974, the legal basis for controlling marriage proceedings in Indonesia. The legislation underlines that the primary goal of Marriage is the family formation and procreation.

In a child-free view, having children is not the only goal in life. Couples who choose to live childfree often believe that having children is not the only way to expand the meaning and purpose of Marriage. They think child-free teams can allocate more time and energy to live their lives, develop their careers and hobbies, and deepen their relationship as husband and wife. However, in Indonesia, this view is often considered controversial and inconsistent with the prevailing social values in society. People in Indonesia usually prefer to emphasize the importance of having children in a marriage rather than considering the reasons and goals of couples who choose to live child-free.

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