

Reproductive Rights and Childfree in Islamic Law: A Juridical and Social Analysis

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Abstract: This research aims to identify and define the concept of reproductive rights in Islamic law, analyze Islamic legal views on childfree decisions and examine the social implications of childfree decisions. Reproductive rights are an important part of human rights that include the right to make free and responsible decisions regarding the number, spacing and timing of children. However, in the context of Islamic law, the decision not to have children can give rise to a variety of complex legal and social interpretations. The trend of going childfree is increasing in many countries, including Muslim-majority countries. This decision is often influenced by various factors such as economics, health, and personal preference. However, in Muslim societies, this decision can conflict with traditional norms that encourage marriage and childbearing. This research uses a qualitative approach with literature review data literature review. The results of this research show that reproductive rights are recognized in Islamic law, although there are variations in interpretation regarding their limits and application. The decision to go childfree is acceptable within the framework of Islamic law if it is based on valid reasons and does not contradict the principles of sharia. However, the social perception and stigmatization of this decision remains a challenge in many Muslim communities. This research can make an important contribution to the understanding of reproductive rights and childfree decisions in the context of Islamic law. The results of this research are expected to help reduce social stigma towards individuals who choose not to have children and encourage the development of more inclusive and evidence-based policies in Muslim-majority countries, especially Indonesia.

Keywords: reproductive rights, childfree, Islamic law, juridical, social.

Introduction

The childfree narrative in Indonesia became a hot topic of discussion and controversy after an influencer decided to go childfree in her household (Febriansyah, 2023). The trend of childfree is increasing globally, and data shows a similar trend in Indonesia, although still in limited numbers. A person's decision to choose childfree has several underlying reasons for this decision, including physical problems caused by illness so that someone decides not to have children, from a mental or traumatic perspective faced by someone who does not like children, so they are worried that they will have a negative impact if they decide to have children. In addition, other reasons are from an economic point of view, not ready to divide time between career or children, not

wanting to have children, even because of concerns about global warming and overpopulation (Muhammad Syarif and Furqan 2023).

The meaning of the ideal family concept for individuals is relative, but in general, the ideal family consists of a married couple and children (offspring). Without offspring, the identity as an ideal family for a married couple is considered unsuccessful in building a complete family (Aulia, 2020). The emergence of this childfree concept makes the purpose of marriage different and even contradicts religion. Although in Indonesia not many people adhere to and understand it, this term has become widespread in large countries (Persada et al., 2023). The feminist movement aims to realise gender equality in the political, economic, personal and social spheres, they consider women

not objects to produce many children and give women the freedom to choose whether they want to have children or not in their marriage, so that their excessive independence makes them think that getting married and having children will only add to their life burden (Rahayu, 2022). This is contrary to Islamic law, unless there are compelling reasons to go childfree by means of 'azl in Islamic terms (Persada et al., 2023).

Talking about childfree cannot be separated from the role of husband and wife. The role of husband and wife in the decision to go childfree is important. This is because it concerns their reproductive rights. Reproductive rights in the husband and wife relationship have been regulated in Islam (Khasanah & Ridho, 2021). Indonesian society considers children to provide social benefits as a source of peace and social status, economic benefits as a source of income and old age security, cultural benefits as heirs, religious benefits as a mandate from God, and psychological benefits as a source of family satisfaction (Patnani et al., 2021).

Based on the findings and facts above, researchers are interested in conducting deeper research on reproductive rights in Islam and its implications for childfree decisions in juridical and social reviews. The results of searches that have been carried out so far have not found research that discusses reproductive rights in Islam and its implications for childfree decisions in juridical and social reviews. There are several scientific studies found with the proximity of the problems studied in this research, among others:

First, research conducted by Evra Willya in 2012 with the title 'Hak-Hak Reproduksi Dalam Pandangan Islam', the approach used in the research is a qualitative approach. The results show that Islam views all humans at the same level without differentiating between men and women. Even if there is a difference, it is determined by the quality of piety. Social boundaries such as ethnicity, language, male or female cannot be used as a measure to determine whether someone is better than others (Willya, 2012).

Second, research with the title 'Childfree Perspektif Hak Reproduksi Perempuan dalam Islam' in 2021 conducted by Helmi Yusuf, the approach used in the research is a qualitative

approach. The results of this research indicate that deciding to be childfree must be accompanied by careful and conscious thinking. The decision to choose childfree is one of the applications of reproductive rights, namely the right to refuse pregnancy. To realise this right, the concept of partner relations between husband and wife must be applied in a household. The decision to choose to be childfree must be accompanied by a discussion between husband and wife (Khasanah & Ridho, 2021).

Third, research conducted by Rafida Ramelan and Rama Amanda Amelia in 2022 with the title 'Childfree Reviewed from Women's Reproductive Rights and Islamic Marriage Law', the approach used in the research is a qualitative approach. The results showed that childfree in terms of women's reproductive rights is the freedom of every woman to determine not to have offspring, while childfree in terms of Islamic marriage law is a form of denial of human nature, violating the purpose of marriage, and denying the virtue of having children. (Ramelan & Amelia, 2022).

The difference between this research and the previous studies mentioned above is that this research examines reproductive rights in Islam and its implications for childfree decisions in juridical and social reviews. The purpose of this research is to analyse and find (1) the concept of reproductive rights in the view of Islam and (2) analyse and find the implications of reproductive rights on childfree decisions in juridical and social reviews. This research is also expected to contribute to the development of marriage law in Indonesia, both in theoretical and practical terms, as well as strengthening the legal framework that protects individual rights in marriage.

This research seeks to identify and define the concept of reproductive rights in Islamic law and how this concept can be adapted in the context of childfree decisions taken by Muslim couples in Indonesia. Specifically, this research will analyse the extent to which Islamic law provides space for childfree decisions and how such decisions are accepted in society. This is important to explore the limits that Islamic law may set on reproductive rights and whether the decision to go childfree can be considered as a form of actualisation of these

rights or if it contradicts the Islamic principles that underpin family formation.

This research will also examine the social implications of the childfree decision within the context of Muslim society in Indonesia. By analyzing the social reactions and developing stigma, this research aims to explain the impact of the childfree choice on the social position of couples within society. It is hoped that this research will contribute to a better understanding of reproductive rights and the childfree decision from an inclusive and equitable Islamic legal perspective. Additionally, this research is expected to provide broader insights for policymakers in formulating regulations and policies that safeguard couples' reproductive rights without creating social injustice or harmful stigma. This contribution becomes increasingly significant given the importance of building a tolerant and inclusive society that respects each individual's personal choices.

Materials and Methods

This research uses a qualitative method, which is a method with a research process based on the perception of a phenomenon with a data approach that produces descriptive analysis in the form of oral sentences from the object of research (Sahir, 2021). Qualitative research aims to gain a deep understanding of human and social problems, not just explain the surface aspects of reality (Fadli, 2021). Qualitative research is expected to find hypotheses and then these hypotheses will be tested in research using a quantitative approach (Sugiyono, 2011). Qualitative data focuses on events or phenomena that occur in their original environment. Qualitative data represents what actually happened and does not experience the impact of data reduction into numbers, as does data from quantitative research (Sarosa, 2021). The data used in this research are primary data and secondary data.

The data is used in this research is secondary data, it is data that does not directly provide data to data collection, for example through other people or through documents (Widodo, 2018). The

data collection technique used for secondary data is a literature review which is a review of theories, references and scientific literature related to culture, values and norms that develop in the social situation under research (Sugiyono, 2022). Literature reviews aim to solve problems through data collection and scientific papers sourced from related literature. This concept involves critical analysis of relevant library materials (Sanusi, 2016). Secondary data used in this research comes from reference books, scientific articles, official websites, which have information relevant to research topics such as artificial intelligence and learning fiqh.

Results and Discussion

The Concept of Reproductive Rights

Most people consider reproductive rights to be limited to family planning, whereas it is much more than that. The family planning programme is part of the protection of women's reproductive rights enacted by the Indonesian government in controlling the rate of population growth. The family planning program is implemented in an effort to realise the enforcement of reproductive rights as a basic right that must be fulfilled to create an orderly and non-discriminatory society. Law No. 7 of 1984 states that the elimination of discrimination in the field of maintenance and guarantee of health services including family planning services (Syaifudin, 2020). In general, reproductive rights are divided into four, namely the right to enjoy sexual relations, the right to refuse sexual relations, the right to refuse pregnancy, and the right to terminate the pregnancy (Muhammad, 2019). These reproductive rights are not only owned by one partner, but by both (Willya, 2012). This has been regulated in Islam, where in household relationships, men and women have equal roles. Although men and women have different natures, they have the same role. Both (men and women) are created from the same essence, therefore both are also encouraged to play an active role in household life.

Islam provides balanced reproductive rights between men and women. This is in contrast to the jahiliyyah tradition in the Middle East, which

seems to consider reproduction as the domain of men. In the jahiliyah society, women were conceptualised as the second creation that must be treated as the second sex. The pre-Islamic mythology of women in this region perceived women as unworthy of aligning themselves with men. Reproductive rights are the preogative rights of men and it is the sacred duty of women to serve the rights of men (Umar, 2002).

When Islam came, women gained true independence. Reproductive matters gradually became shared between men and women. Men could no longer arbitrarily choose partners and determine mates because they were limited by compatibility and harmony. Men also could not marry unlimited women, but had to be limited to four and that too after fulfilling very strict criteria. Sexual rights are no longer the primary rights of men (Willya, 2012). The matters related to women's reproductive rights are as follows:

1. The right to life, which is a guarantee for women to obtain safety from the risk of death due to pregnancy.
2. The right to freedom and security, which is the recognition of individual decisions to enjoy and regulate their reproductive lives so that no one can be forced to become pregnant or undergo sterilisation and abortion.
3. The right to equality and freedom from all forms of discrimination.
4. The right to privacy, which is the protection of personal rights to obtain information related to sexuality and personal privacy.
5. The right to freedom of thought, which is the protection for everyone in accessing education and information related to reproductive health and sexuality, free from the influence of religion and belief (Anshor, 2006).

Meanwhile, Husein Muhammad, reproductive rights are more specific so that they are divided into four, namely the right to enjoy sexual relations, the right to refuse sexual relations, the right to refuse pregnancy, and the right to terminate the pregnancy (abortion) (Muhammad, 2019).

1. The right to enjoy sexual relations, the consequence of a marriage is when sexual

relations are carried out between husband and wife. The enjoyment of this sexual relationship must be felt by both parties as the right to sexual satisfaction in marriage. And to realise this, sexual intercourse must be carried out without coercion from either party. Sexual pleasure is not only for men with the assumption that women or wives are only to serve the sexual desires of men/husbands. Sex for women is not just an obligation, but is the right to obtain pleasure or refuse when he is not ready for the relationship so that he does not have to have forced sex (Umar, 2002).

2. The right to refuse sexual intercourse. This right is given to husbands or wives to prevent sexual violence. One form of sexual violence is in the form of sexual coercion or degradation, for example, engaging in sexual activity when one partner is sick, unconscious or afraid to refuse, and carrying out sexual activities that are unnatural or even beyond human behaviour (Sukmawati, 2014).
3. The right to refuse pregnancy, which in this case is a reproductive right. This right can be realised with the principle of equal partnership between husband and wife in marriage. The principle of partnership between husband and wife is needed so that there is no inequality in domestic relations, so that women will get their rights including their reproductive rights. When these reproductive rights are fulfilled, health and safety guarantees will be maintained. Because basically the right to refuse pregnancy is a way for women to carry out decisions on their reproductive rights safely and effectively. Thus, the goal of forming a household that is peaceful, full of love and affection can be realised (Ma'ruf, 2015).
4. The right to abortion. Abortion can be defined as the act of terminating a pregnancy. Some scholars allow abortion under certain conditions or before the baby is born. However, some other scholars forbid abortion because it is considered as murder, except in emergency conditions or hajat (Susilawati et al., 2020).

Childfree Decision in the Perspective of Reproductive Rights and Islamic Law

The decision to choose childfree in a household is a right for married couples. The right referred to here is reproductive rights. This reproductive right has been regulated in Islam, especially reproductive rights for women. The decision to choose childfree is one form of application of the right to refuse pregnancy.

Reproductive rights, which in this case is the right to refuse pregnancy, can be realised with the principle of equal partnership between husband and wife. Partner relations between husband and wife are needed so that there is no inequality in a family, so that women will get their rights including their reproductive rights. When these reproductive rights are fulfilled, health and safety will be guaranteed. Because basically women's reproductive rights are a way for women to decide and implement decisions on their reproductive rights safely and effectively, one of which is the right to refuse pregnancy. Thus, the goal of a household full of peace, affection and love is not impossible to be realised (Ma'ruf, 2015).

In terms of partnering, there are at least two things that must be considered, namely the rights of husbands and wives (sexual equality) and good relations between the two (mu'asharah bi al-ma'ruf). By looking at the two concepts above, when deciding childfree in a household, of course, it must go through a very mature decision. This is because there will be consequences that do not play between the two partners and even to the families of both parties. Massive discussion between husband and wife is one way to build effective communication between husband and wife in making childfree decisions. In the discussion, both parties must be open, especially the woman, about the reasons for the childfree decision. In giving these reasons, it must also be accompanied by strong basic reasons so that it does not harm both parties (Khasanah & Ridho, 2021).

When viewed from the perspective of reproductive rights, the argument is obtained that having children or not is a free choice for women, where each choice has its own consequences. This freedom is actually what these childfree voters are fighting for. However, this freedom must be

discussed with a partner so that the concept of partnering in the family can be carried out properly and neither party feels disadvantaged in the future. Furthermore, childfree is actually a personal choice that does not need to be boasted and there is no need to provoke others to follow the chosen choice. Therefore, young women should choose according to their choices, but these choices must also be based on wise and acceptable reasons (Khasanah & Ridho, 2021).

In Islamic law, childfree is equated with rejecting the existence of children and rejecting the existence of children itself is divided into several types, namely: first, by not inzal or not spilling sperm in the uterus; second, by not carrying out conjugal relations (jimak); third, by 'azl, namely by removing sperm /mani outside the vagina; fourth, by eliminating the total reproductive system; fifth, by using contraceptives (Muhammad Syarif and Furqan 2023).

On the other hand, there is no rule in the Qur'an or hadith that obliges men and women to have children after marriage. Although there is no qat'i evidence regarding the obligation to have children, the Qur'an and hadith recommend preserving offspring in a marriage (Ningsih et al., 2023). This is explained in Q.S An-Nahl (73), Al-Kahf (46) and a hadith narrated by Imam An-Nasa'i. The verse and hadith imply that the will of Shara' is to have offspring, so not having children in the context of childfree is generally not supported by the nash.

Based on the data obtained, the existence and absence of a law depends on the existence and absence of the illat of the law. In the case of childfree this is detailed as follows:

1. Delaying having children for a certain period of time, for a reason that does not violate Islamic law. Delaying having children for a certain period of time in order to provide space between children when they are born and not intending to cut off children completely, so the scholars still allow this method.
2. If one decides not to have children at all (Tahdidun Nasl), then the ruling is haraam. The prohibition is due to the following reasons: firstly, Islam recommends multiplying and preserving offspring; secondly, it is contrary to

human nature; and thirdly, it is not in accordance with Maqasid al- sharia.

Based on this, it is found that if the choice of childfree is done temporarily or can be called delaying pregnancy, the law is permissible, however, if childfree is done absolutely then this is prohibited because it is not in accordance with human nature and also Islamic law (Muntaha, 2021). Wives or husbands have the right to choose not to have children, however, it must be in accordance with the agreement and based on benefits. Based on the provisions of the Law, there are no special regulations for childfree actors, because basically Indonesian positive law guarantees the freedom of its citizens to choose and believe in beliefs, express thoughts, and attitudes according to their conscience (Ningsih et al., 2023).

Juridical and Social Implications of the Childfree Decision

The decision not to have children, or to go childfree, in Indonesia raises interesting discussions from a juridical and social perspective. Juridically, childfree is not explicitly regulated or prohibited in Indonesian law, mainly because Indonesian marriage law does not specifically regulate the obligation for couples to have children. Law No. 1 Year 1974 on Marriage, which was updated by Law No. 16 Year 2019, places offspring as one of the purposes of marriage but does not require couples to have them. Article 1 states that marriage aims to form a 'happy and lasting family based on God Almighty,' without any legal obligation to have children. In the Islamic legal system that contributes significantly to family regulation in Indonesia, childfree is also more of a moral and ethical choice than a legal offence, as long as it is not accompanied by intentions that contradict religious values.

However, childfree decision-making can have juridical implications in terms of property division, inheritance, and protection in old age. In Islamic inheritance law, children are the main heirs who inherit the parents' property. If a childfree couple has no offspring, then the inheritance can fall on wider family members. In addition, under national law, childless couples may need to consider other

legal mechanisms, such as adoption, bequests or wills, to ensure the future management of their assets.

A person's decision to go childfree has several reasons underlying it. Among others, there are physical problems caused by illness so that a person decides not to have children, from a mental or traumatic perspective faced by a person who does not like children, so they are worried that they will have a negative impact if they decide to have children. In addition, other reasons are from an economic point of view, not ready to divide time between career or children, not wanting to have children, even because of concerns about global warming and overpopulation (Muhammad Syarif and Furqan 2023).

Marital satisfaction cannot be measured by the presence of children, but is a perception of the overall evaluation of marital quality. Conversely, marital quality is an indicator of marital satisfaction (Hidayah, 2005). Similarly, the responses of the 105 women in the research were both closed and open about the reasons for their sterilisation. This research was intended to highlight the important implications of women's experiences of fertilisation practices and reproductive health, concluding that there was a wide range of responses, drawing a distinction between women who were voluntarily or involuntarily childless (Shreffler et al., 2020).

When analyzed based on Article 5 of Law Number 52 of 2009 on Population Development and Family Development, family development is the effort to establish quality families living in a healthy environment. A quality family is formed through a legitimate marriage and is characterized by welfare, health, progress, independence, an ideal number of children, foresight, responsibility, harmony, and devotion to God Almighty. Similarly, Article 3 of this law states that population development and family development must be based on principles of justice and gender equality (RI, 2009).

These provisions of the population law suggest that a prosperous family must have healthy and independent family members who adhere to principles of justice and gender welfare. This implies that health (both physical and mental) and

independence are primary concerns in establishing a prosperous family. Additionally, having an ideal number of children is highlighted. In other words, couples who choose a childfree lifestyle are not considered a prosperous family under this law. A prosperous family represents family resilience—a dynamic condition of a family that demonstrates resilience and strength, possessing physical-material and psychological-spiritual abilities to live independently and develop both themselves and their family in a harmonious life that enhances physical well-being and spiritual happiness by fulfilling family functions, including: a) religious functions; b) socio-cultural functions; c) loving functions; d) protective functions; e) reproductive functions; f) socialization and education functions; g) economic functions; and h) environmental nurturing functions (RI, 2009). Based on this, childfree couples are considered not to fully perform their reproductive function.

Law Number 39 of 1999 on Human Rights regulates the freedom of citizens to form families and have offspring through lawful marriage. This article implicitly allows individuals to choose whether or not to have children. The same is inferred from the meaning of marriage in Article 1 of Law Number 16 of 2019 amending Law Number 1 of 1974 on Marriage, which states that the purpose of marriage is to create a happy and eternal family, not merely to have children (Ramelan & Amelia, 2022).

From a social perspective, the decision to be childfree continues to spark debate within Indonesian society, which is deeply rooted in values emphasizing extended families and the continuity of lineage. Children are often seen as a source of pride and a form of devotion that preserves the family's honor and reputation. This view is rooted in Indonesia's collective culture, where family responsibilities often span generations. In religiously oriented communities, having children is also seen as a mandate from God and part of religious obligations. As a result, couples choosing a childfree lifestyle may face social pressure or stigma, especially among those who believe this decision does not align with religious teachings and traditions.

The stigma that society places on childfree individuals arises from a gap between the general societal expectation that each individual should have children or descendants and the current reality, where some individuals choose not to have children. This gap between societal expectations and this emerging reality leads to stigma directed at childfree individuals. Society's view emphasizes the importance of offspring for each person, particularly in Denpasar, where the presence of children in a family is seen as essential. This belief is supported by the majority and brings an expectation for each person to have children (Neysa et al., 2024).

These two aspects, juridical and social, illustrate the dynamic between individual rights and collective social values. Although the choice to be childfree is recognized as the right of each couple, the accompanying social and legal implications require individuals to consider more specific legal arrangements to ensure well-being and a secure future.

Conclusion

Reproductive rights go beyond family planning, covering sexual enjoyment, the refusal of sexual relations, pregnancy prevention, and, in certain cases, abortion. Indonesia's family planning aligns with Law No. 7 of 1984, which supports non-discriminatory health services. Islamic teachings also support balanced reproductive rights within marriage, where both partners' consent and autonomy in reproductive decisions are essential. Key rights include safety in pregnancy, privacy, equality, and access to reproductive education, fostering a harmonious household grounded in mutual respect and partnership.

Choosing to be childfree is a reproductive right for married couples, supported by Islamic principles of equal partnership and mutual decision-making. While Islam encourages procreation, it permits temporary spacing between children. Permanent childfree decisions, however, are generally discouraged. Indonesian law respects freedom of choice, allowing couples to decide on

having children as long as it's a mutual and beneficial choice.

The decision to go childfree in Indonesia is legally permissible, as neither marriage law nor human rights law mandates having children; marriage is defined by forming a harmonious family rather than necessarily having offspring. From an Islamic and social perspective, while procreation is encouraged, going childfree remains a personal moral choice. Socially, however, childfree couples may face stigma, especially within collectivist and religious communities that value lineage continuity and view children as a familial duty. Thus, while couples have the right to choose a childfree lifestyle, they must navigate the legal and social implications, including property inheritance and societal expectations.

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