

Understanding The Rise of Childfree Marriage: Avoiding Toxic Family, Being Happy and Well Without Children Despite Contradiction With *Maqashid al-Sharia*

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DOI: 10.29240/jhi.v10i1.9984

Received: 17-04-2024

Revised: 31-12-2024

Accepted: 12-04-2025

Cite this article:

Ikhwanuddin Harahap, Fatahuddin Aziz Siregar, Erie Hariyanto (2025). Understanding the Rise of Childfree Marriage: Avoiding Toxic Family, Being Happy and Well Without Children Despite Contradiction With *Maqashid al-Sharia* Approach Al-Istinbath : Jurnal Hukum Islam, 10 (1), 302-329. Doi : 10.29240/jhi.v10i1.9984

Abstract

This research aims to understand the phenomenon of increasing childfree marriage as a contemporary social construction and analyze it from the perspective of maqashid al-sharia, especially related to the principle of progeny preservation in Islam. This study uses a descriptive qualitative approach with a field research method. Primary data was obtained through in-depth interviews with two married couples (four informants), each of whom committed to a child-free marriage. The data were analyzed thematically with an eminic and ethical approach, as well as interpretive-descriptive. Research has found that couples' decisions to marry without having children are based on a desire to achieve happiness and well-being throughout their life with their partner, as well as avoiding the creation of a toxic family. These internal factors are reinforced by external factors such as education, economy, and career. Research has also found that wives play a key role in these decisions regarding reproductive rights. From the perspective of Islamic law, although there is no explicit text prohibiting childfree marriage, maqashid al-sharia still emphasizes the importance of the sustainability of offspring. The childfree decision is a conscious choice of a married couple to pursue happiness and well-being without the presence of

children, on the grounds of avoiding the potential for toxic families. In the Islamic view, childfree marriage falls within the territory of *ijtihad* which requires a legal approach based on *maqashid al-sharia* and *'illat* analysis. Although this phenomenon is socially acceptable, normatively Islam still prioritizes the importance of offspring as part of the purpose of *sharia*.

Keywords: Childfree Marriage, Happy, Toxic Family, *Maqasid al-Syariah*

Introduction

Committing to a childfree marriage within the bond of matrimony has become a trend for married couples, particularly in Europe.¹ According to Frejka and Sardon (2004) the rising rate of childfree marriages as a social trend has occurred in the last 45 years.² Childfree phenomenon has existed for a long time; ever since the 1970s, there have been childfree studies in the research literature.³ Approximately 20% of women who are currently reaching the end of their reproductive period still remain childless, this figure continues to rise in the last few years.⁴ According to Merz and Liefbroer (2012), a marital agreement that includes the commitment of voluntary childlessness is regarded as most positive by society.⁵

Hara (2008) argues that the rise in childfree marriages can be afforded to women having control over their sexual and reproductive rights. Increased understanding, awareness, and actualization of gender roles in various social relations have become one of the considerations to getting married without any commitment to having a child.⁶ In this perspective, according to Kahlert (2007), the increase in voluntary childless marriage can be understood as a rational adaptation of the structural imbalance in gender role, caused by the lack of

¹ Donald T. Rowland, "Historical Trends in Childlessness," *Journal of Family Issues* 28, no. 10 (October 2007): 1311–37, <https://doi.org/10.1177/0192513X07303823>.

² Tomas Frejka and Jean-Paul Sardon, *Childbearing Trends and Prospects in Low-Fertility Countries: A Cohort Analysis*, vol. 13, European Studies of Population (Dordrecht: Springer Netherlands, 2004), <https://doi.org/10.1007/1-4020-2458-4>.

³ Imam Syafii, Childfree in Islamic Law Perspective of Nahdlatul Ulama, *Al-Ahkam: Jurnal Pemikiran Hukum Islam*, Vol 33 No 1 (2023): 1-22 DOI: <http://doi.org/10.21580/ahkam.2023.33.1.14576>

⁴ Michaela Kreyenfeld and Dirk Konietzka, eds., *Childlessness in Europe: Contexts, Causes, and Consequences* (Springer Nature, 2017), <https://doi.org/10.1007/978-3-319-44667-7>.

⁵ Eva-Maria Merz and Aart C. Liefbroer, "The Attitude Toward Voluntary Childlessness in Europe: Cultural and Institutional Explanations," *Journal of Marriage and Family* 74, no. 3 (2012): 587–600, <https://doi.org/10.1111/j.1741-3737.2012.00972.x>.

⁶ Hara. "Increasing Childlessness in Germany and Japan: Toward a Childless Society? 2008 International Journal of Japanese Sociology - Wiley Online Library," accessed July 3, 2023, <https://onlinelibrary.wiley.com/doi/full/10.1111/j.1475-6781.2008.00110.x>.

institutional support for childcare in the society.⁷ Jafar (2023) research shows the reason for childfree are economic, health, association, and trauma factors.⁸ The childfree trend in Indonesia is increasing. Data from the Indonesian Statistics Agency (BPS) shows that 8% of married Indonesian women decide to be childfree.⁹ The same thing is shown by several research results that show this trend. Rismarini (2024)¹⁰ and Prasmono (2024)¹¹ emphasized that childfree in Indonesia is currently tending to increase. Rizka (2021) research find that among the reasons of childfree are that most parents lose control over themselves and their future, lack of finance, additional responsibilities, impact on marital harmony, fulfillment through alternative goals, and finally moral and social responsibilities.¹²

The lack of support given by the state or other institutions to provide room for childcare (particularly for children under five years old/toddlers) has subsequently become a new issue. This issue is brought about by the implication that marital commitment to having a child has. It should also be noted that women bear greater burden than men in terms of childcare,¹³ and also keeping in mind that for working married couples, the women carry a greater burden than men when it comes to childcare, even more so during the period of the COVID-19 pandemic.¹⁴

In this light, women's rights as a human being who holds full authority over her reproductive body seem to be the ultimate factor that determines

⁷ Heike Kahlert, "Die Kinderfrage und der halbierte Wandel in den Geschlechterverhältnissen," in *Ein Leben ohne Kinder*, ed. Dirk Konietzka and Michaela Kreyenfeld (Wiesbaden: VS Verlag für Sozialwissenschaften, 2007), 337–63, https://doi.org/10.1007/978-3-531-90323-1_12.

⁸ Wahyu Abdul Jafar, Zulfikri Zulfikri, Amin Sadiqin, Usman Jayadi, Irma Suriyani, "The Childfree Phenomenon Based on Islamic Law and Its Respond on Muslim Society, Al-Istinbath: Jurnal Hukum Islam, Vol 8, No 2 November (2023) DOI : 10.29240/jhi.v8i2.7865

⁹ Badan Pusat Statistik 2023, "Menyusuri Jejak *Childfree* di Indonesia", p.16

¹⁰ Rismarini, N. A., & Adira, N. (2024). Between personal and social matters: identifying public perceptions of childfree decisions in Indonesia. *Culture, Health & Sexuality*, 1–14. <https://doi.org/10.1080/13691058.2024.2398619>

¹¹ A. S. P. Prasmono and M. D. Kartikasari, "The Childfree Phenomenon in Indonesia: An Analysis of Sentiments on YouTube Video Comments", *Jambura J. Math*, vol. 6, no. 1, pp. 29–38, 2024, <https://doi.org/10.37905/jjom.v6i1.23591>

¹² Sitti Muliya Rizka, Taat Kurnita Yeniningsih, Muthmainnah, and Yuhatriati "Childfree Phenomenon in Indonesia" Proceedings of The 11th Annual International Conference (AIC) on Social Sciences, Universitas Syiah Kuala, September 29-30, 2021, Banda Aceh, Indonesia, p.336-341

¹³ Alice Schoonbroodt, "Parental Child Care during and Outside of Typical Work Hours," *Review of Economics of the Household* 16, no. 2 (June 1, 2018): 453–76, <https://doi.org/10.1007/s11150-016-9336-y>.

¹⁴ Gema Zamarro and María J. Prados, "Gender Differences in Couples' Division of Childcare, Work and Mental Health during COVID-19," *Review of Economics of the Household* 19, no. 1 (March 1, 2021): 11–40, <https://doi.org/10.1007/s11150-020-09534-7>.

whether a married couple decides to have a child or otherwise. Nevertheless, the current study is aimed at finding more substantial, essential factors from the deepest perspectives that married couples who are committed to voluntary childlessness have. This is most important, in order to show that in addition to external factors, internal factors also need to be revealed to find new insights to complete existing knowledge on the matter.

Subsequently, these deepest perspectives, which married couples committed to voluntary childlessness have, are set against Islamic teachings and beliefs pertaining to childfree marriage as a current phenomenon of social reality. We consider this a vital aspect since according to al-Syâthibî (2003) one of the principles in *maqashid al-sharia* is to maintain one's heredity (procreate) as one of the purposes stipulated in Islamic law and commanded by Allah SWT in Al-Qur'an Surat Al-Furqan verse 74 and hadith instructing to take a wife who is loved and able to bear many children.¹⁵ Hence, in the perspective of Islamic law, having children is one of the primary aspects of human nature. Given the above background, the current study proposes the following problem statement, *how do we understand childfree marriage, which opposes maqashid al-sharia?* *Maqasid al-sharia* is used as an analytical tool for this research because it emphasizes that Islam exists to realize and maintain the *maslaha* (benefits) of humanity. This concept has been recognized by the *ulama* and has become a basic reference in Islam. One of the *maslaha* that must be maintained is offspring (*nasl*).

This study is a field research. Data were collected through interviews with married couples who were committed to not having children in France. One couple is non-Muslim circles, and the other couple came from a mixed couple, a Muslim wife and a non-Muslim husband. The informants were selected because of the feasibility and availability of access owned by the researcher (Stokes, 2019). In this study, access is very important because of the difficulty of finding the criteria for informants and related to the process of contacting important informants and negotiating with them to obtain the data and information needed to answer the research problem. Therefore, access is a dynamic process that depends on the researcher's ability to convince informants to provide the information needed and protect them (Riese, 2018). The collected data was then categorized thematically based on the information obtained from the informants. This is the process of identifying information to find important concepts. As a qualitative research, this process has even been carried out in the first stage and in the second stage when designing questions for interviews. Then both are put back together to find more meaningful conceptual categories in relation to the research context (Schutt, 2019). Data that has been conceptually categorized is then analyzed and presented interpretively and descriptively. Descriptive

¹⁵ Abu Ishaq Al-Syatibi, "Al-Muwafaqat Fi Ushul al-Syari'ah," *Vol. II (Beirut: Dar Al Kutub Al Ilmiyah, Ti)* 1 (2003): 290.

presentation is done using emic focus to represent the terms put forward by informants or their perspectives on the problem being studied. While interpretive presentation is done with an etic focus to represent terms that emerge from the researcher's perspective on the research subject.

Discussion

Childfree Marriage in Various Perspectives

Initially, childlessness was used to illustrate the state of women who are a wife without child. This term is used to describe women who delay having children, are unable to have children, or choose to not have children after getting married. However, this description is confounding as it contains three varying conditions to explain one state in a particular period that women without children are in. This means that it is difficult to differentiate which women are delaying to have children, unable to have children, or refusing to have children. Accordingly, the term childlessness is hence divided into two categories, namely childless and childfree. The difference between the two is defined by female or male fertility in marriage. This defining factor has subsequently resulted in the terms voluntary childless and involuntary childless to distinguish between women unable to bear children due to certain factors, which are mostly related to issues of physical health.¹⁶

Voluntary childless undoubtedly refers to women's conscious and deliberate choice not to have children. As such, the term voluntary childless implies and emphasizes the spirit of freedom to have no child. Such spirit and emphasis bring voluntary childless closer to the term childfree. Therefore, childfree can be used to describe people who consciously and freely choose not to have children or a life choice of not having descendants.¹⁷ By contrast, involuntary childless describes a state where women have no children not because of their conscious and deliberate choice of not having children, but because of other factors, which brings it closer to the term childless. This is why the term childless tends to mean the loss of something that is desired.¹⁸

Some experts state that childfree has developed into a status that is most fitting for contemporary society.¹⁹ In fact, someone who is unrestricted by marital

¹⁶ Carton, D. (2020). Childfree vs Childless: Why the Difference Matters," <https://Shedefined.Com.Au/Life/Child-Free-vs-Childless-Why-the-Difference-Matters/> accessed May 30, 2023,

¹⁷ [Christian Agrillo](https://www.tandfonline.com/doi/abs/10.1080/08873630802476292), "Childfree by Choice: A Review: Journal of Cultural Geography: Vol 25, No 3," accessed July 3, 2023, <https://www.tandfonline.com/doi/abs/10.1080/08873630802476292>.

¹⁸ Susan Stobert and Anna Kemeny, *Childfree by Choice* (Statistics Canada, 2003).

¹⁹ Michaela Kreyenfeld and Dirk Konietzka, eds., *Childlessness in Europe: Contexts, Causes, and Consequences*, Demographic Research Monographs (Cham: Springer International Publishing, 2017), <https://doi.org/10.1007/978-3-319-44667-7>.

commitment to having children maintains a winning-criteria beneficial for their career competition and success in life.²⁰ Hence, according to Beck (1992), Europe's main society is the childfree society.²¹ Nonetheless, this mainstream understanding also faces oppositions, as indicated by the low number of survey respondents stating that not having children in their life is ideal.²² This suggests that not all Europeans can accept the trend of marriage without any spousal commitment to having children.

Many factors cause married couples in Europe to decide not to have children. Women's academic achievement, which was behind men until the 1980s, is one of the factors for women, as bearers of reproductive rights, to decide getting into marriage without committing to having children. It is more likely for women today to obtain a tertiary degree throughout all European countries.²³ Higher education background has shifted values relating to marriage and reproduction, as well as relevant changes in partnership behaviour known as the "second demographic transition".²⁴ Through education, women become aware that they have the most important bodily function necessary to produce children. Such awareness leads to a higher level of childlessness. A survey conducted by Merz and Liefbroer (2012) in Scandinavian countries like Norway and Denmark found that the agreement not to have children voluntarily closely correlates with the development of the second demographic transition and it is widely regarded as a positive matter.²⁵

Furthermore, women today have a relatively high level of labour participation, even in South European countries, where in the past the majority of women remained left out of the labour market.²⁶ Meanwhile, young women today almost universally expect to be employed throughout their entire life.²⁷

²⁰ Peter McDonald, "Sustaining Fertility through Public Policy: The Range of Options," *Population* 57, no. 3: 417–46, accessed July 3, 2023, <https://www.cairn-int.info/journal-population-2002-3-page-417.htm>.

²¹ Ulrich Beck, "Pioneer in Cosmopolitan Sociology and Risk Society" SpringerLink," accessed July 3, 2023, <https://link.springer.com/book/10.1007/978-3-319-04990-8>.

²² Anneli Miettinen, "Childlessness Intentions and Ideals in Europe" Finnish Yearbook of Population Research," accessed July 3, 2023, <https://journal.fi/fypr/article/view/48419>.

²³ "European Demographic Datasheet 2022," accessed July 3, 2023, <https://www.populationeurope.org/en/>.

²⁴ Ron Lesthaeghe, "The Unfolding Story of the Second Demographic Transition," *Population and Development Review* 36, no. 2 (2010): 211–51, <https://doi.org/10.1111/j.1728-4457.2010.00328.x>.

²⁵ Eva-Maria Merz, "The Attitude Toward Voluntary Childlessness in Europe: Cultural and Institutional Explanations 2012 - Journal of Marriage and Family - Wiley Online Library," accessed July 4, 2023, <https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1741-3737.2012.00972.x>.

²⁶ OECD and Development Secretary-General, *Doing Better for Families* (OECD, 2011).

²⁷ "The Quiet Revolution That Transformed Women's Employment, Education, and Family - American Economic Association," accessed July 4, 2023, <https://www.aeaweb.org/articles?id=10.1257/000282806777212350>.

Women's participation in the workplace continues to rise due to the increase in their education level, which is another key factor driving the decision married couples make not to commit to having children.²⁸

In the meantime, from a male perspective, husbands have yet to fully adjust themselves to be equally involved in childcare, cooking, and other household chores.²⁹ Such inequality in household chores is another subtle factor driving married couples to decide not having children. This phenomenon of inequality in childcare and arrangement of domestic work within the household between husband and wife is considered by Esping-Andersen (2009) as an incomplete gender revolution.³⁰ This condition has forced women to be in a difficult dilemma between having a professional career or becoming a mother caring for their child.³¹

Regarding gender inequality in husband-wife relations, Adams-Prassl et al., (2020) found that wives in America spend more time to care for their children than husbands do.³² Meanwhile, Heggeness (2020) explains that wives who initially worked were forced to choose not to work due to reasons pertaining to childcare.³³ At the very least, wives reduce their work hours more than husbands do.³⁴

A similar phenomenon is also occurring in Europe. Husbands do seem to be involved in childcare, but their participation in household chores and childcare is very little. The remaining burden, as well as other additional burdens in childcare and household chores, are given to wives.³⁵ In England, wives also

²⁸ OECD and Secretary-General, *Doing Better for Families*.

²⁹ Jennifer L. Hook, "Care in Context: Men's Unpaid Work in 20 Countries, 1965–2003", accessed July 4, 2023, <https://journals.sagepub.com/doi/10.1177/000312240607100406>

³⁰ Gosta Esping-Andersen, *Incomplete Revolution: Adapting Welfare States to Women's New Roles* (Polity, 2009).

³¹ Olivier Thévenon and Le Groupe Csf, "Increased Women's Labour Force Participation in Europe: Progress in the Work-Life Balance or Polarization of Behaviours?," *Population* 64, no. 2: 235–72, accessed July 4, 2023, <https://www.cairn-int.info/journal-population-2009-2-page-235.htm>.

³² Abi Adam, "Inequality in the Impact of the Coronavirus Shock: Evidence from Real Time Surveys - ScienceDirect," accessed July 4, 2023, <https://www.sciencedirect.com/science/article/pii/S0047272720301092>.

³³ Misty L. Heggeness, "Estimating the Immediate Impact of the COVID-19 Shock on Parental Attachment to the Labor Market and the Double Bind of Mothers," *Review of Economics of the Household* 18, no. 4 (December 1, 2020): 1053–78, <https://doi.org/10.1007/s11150-020-09514-x>.

³⁴ Liana Christin Landivar et al., "Early Signs Indicate That COVID-19 Is Exacerbating Gender Inequality in the Labor Force," *Socius* 6 (January 1, 2020): 2378023120947997, <https://doi.org/10.1177/2378023120947997>.

³⁵ Lidia Farre, Yarine Fawaz, Libertad Gonzalez, Jennifer Graves, "How the Covid-19 Lockdown Affected Gender Inequality in Paid and Unpaid Work in Spain:: SSRN," accessed July 4, 2023, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3643198.

shoulder a greater burden in childcare than husbands do, although the gender gap in childcare hours have seemed to close compared to before the COVID-19 pandemic.³⁶ In Italy, survey data shows that distribution of childcare hours depends on work arrangement, where men and women spend fewer time for childcare when they continue to work outside the home.³⁷

The dimension of gender equality in childcare and management of household chores among working married couples, on the one hand, and the presence of the state, on the other, become the most significant focal points that require due attention. The reason is that it seems to be the most important point of confluence that explains why couples get married without committing to having children. Sevilla and Smith (2020) explain that, on average, wives work ten hours more in a week than husbands do for their entire work load both outside and inside of the house.

Concurrently, the rapid industrialization of contraceptives that can prevent married couples from having children has also made it easier to access them. According to van de Kaa (1997), easy access to modern contraceptives—including emergency post-delivery contraceptives, which had initially been made available at the end of the 1990s—have expanded the possibility for couples to decide whether they want to and when they want to become parents, and it can be said that this makes it even more possible to choose to remain married without children.³⁸

Nonetheless, some other literary sources also explain that the decision to engage in marriage with the commitment not to have children is not something that has been planned consistently since a young age. The decision to not have children is often driven by a mixture of adverse circumstances and adjustment to unexpected incidents, such as infertility, poor health, unsuitable partner, and breakup or divorce in marriage.³⁹ These various circumstances have driven married couples of productive ages to adopt a delay strategy for having children.⁴⁰

³⁶ “Baby Steps: The Gender Division of Childcare during the COVID-19 Pandemic, Oxford Review of Economic Policy, Oxford Academic,” accessed July 4, 2023, https://academic.oup.com/oxrep/article/36/Supplement_1/S169/5899014.

³⁷ Daniela Del Boca et al., “Women’s and Men’s Work, Housework and Childcare, before and during COVID-19,” *Review of Economics of the Household* 18, no. 4 (December 1, 2020): 1001–17, <https://doi.org/10.1007/s11150-020-09502-1>.

³⁸ Dirk J. van de Kaa, “Options and Sequences: Europe’s Demographic Patterns,” *Journal of the Australian Population Association* 14, no. 1 (May 1, 1997): 1–29, <https://doi.org/10.1007/BF03029484>.

³⁹ Thimas Frejka, “Childbearing Trends and Prospects in Low-Fertility Countries: A Cohort Analysis | SpringerLink,” accessed June 27, 2023, <https://link.springer.com/book/10.1007/1-4020-2458-4>.

⁴⁰ Ann Berrington, “Perpetual Postponers? Women’s, Men’s and Couple’s Fertility Intentions and Subsequent Fertility Behaviour,” *Population Trends* 117 (2004): 9–19, <https://eprints.soton.ac.uk/34148/>.

Such adaptation strategy is initially only to delay having children instead of committing to not having children. However, this strategy would often lead fertile married couples to gradually adapt with a childfree lifestyle, and they would ultimately lose interest in having children.⁴¹ Generally speaking, married couples of fertile ages that have no children tend to say that they delay their plan to have children rather than claiming that they have chosen and decided not to have children.⁴²

Avoiding Toxic Family, Experiencing Romance, Being Happy and Well without Children

The emergence of childfree married life in Europe can be considered one of the peak phenomena of demographic behaviour. This phenomenon has become a broad debate among both the public and academic scholars with various studies. Several comments have emerged with the consideration that not having children is a phenomenon among European society that is individualist and egocentric.⁴³ Childfree is long issue in the context of family law in the Western world and in the Islamic world.⁴⁴ Meanwhile, others consider this phenomenon to be the women's (wives) fault, which has an impact on the low rate of population growth.⁴⁵ Other comments on this phenomenon consider that marriage without children is a lifestyle that is recommended as a condition that goes beyond married couples as parents for their children.⁴⁶ In the meantime, feminist activists consider the decision to not have children an expression of independent life, differing from previous life, which positions women as objects being both wife and mother in the family.⁴⁷

On the other hand, this phenomenon also gains the attention of academic scholars and their various studies. Some studies place it as an ideologically charged debate. This means that as a social phenomenon, marriage without children is a population problem referring to the conditions of a population in a region in its

⁴¹ Ronald R. Rindfuss, S. Philip Morgan, C Gray Swicegood, "First Births in America: Changes in the Timing of Parenthood - - Google Buku," accessed July 4, 2023, <https://books.google.co.id/books?>

⁴² "Uncertainty in Fertility Intentions in Britain, 1979-2007 on JSTOR," accessed July 4, 2023, <https://www.jstor.org/stable/41342807>.

⁴³ Siegel, H., "Why the Choice to Be Childless Is Bad for America". Newsweek (2/19/13) accessed May 30, 2023, <https://www.google.com/search?q=Siegel%2C+H.+%282013%29.+>

⁴⁴ Erfaniah Zuhriah, Childfree, the Digital Era, and Islamic Law: Views of Nahdlatul Ulama, Muhammadiyah and Gender Activists in Malang, Indonesia *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* Volume 7 No. 3. November 2023 ISSN: 2549 – 3132; E-ISSN: 2549 – 3167 DOI: 10.22373/sjhk.v7i3.17753

⁴⁵ "Focus. (2013). Kinderlose Sozialschmarotzer Oder Betreuungsgeld Kassierende Muttis - Penelusuran Google," accessed May 30, 2023,

⁴⁶ Henriette Mantel, *No Kidding: Women Writers on Bypassing Parenthood* (Seal Press, 2013).

⁴⁷ Lena Correll, *Anrufungen Zur Mutterschaft: Eine Wissenssoziologische Untersuchung von Kinderlosigkeit* (Westfälisches Dampfboot, 2010).

entirety. The population refers to the high and low (statistical) rates of fertility, the high and low rate of mortality, and population mobility.⁴⁸ Hence, through the demographic perspective, marriage without children is more of a quantitative study pertaining to figures, structures, compositions, measures, and various other calculation techniques.

Nonetheless, specifically from the perspectives of married couples without children, the present study has confirmed that the decision to marry without having children is driven by their desire to achieve long-life happiness with their partner. According to Informant 1, as a married couple, the decision to marry with the commitment to not have children was driven by the essence of life, which is to find happiness.

Happiness in the household or marriage is not measured by having children. We got married because we love each other. We are happy by loving one another. We want to be happy and keep being romantic until we are old without being troubled by the presence of children.

Several researches do indeed explain that family is one of the sources of happiness.⁴⁹ A study by Wu (2014) suggests that family is the most influential factor in creating a person's happiness.⁵⁰ This argument is reinforced by Napa et al. (2020) in a study explaining that happiness is the true purpose of human beings that they can find in family.⁵¹ However, the concept of family meant here is by having all the family components as a whole, i.e., consisting of father, mother, and child.⁵² So, if a household merely comprises of a husband and a wife without any child, it would be more appropriate if they are called a couple instead of a family.

Although happiness is the true purpose of human beings that we can find in the family, other studies indicate that happiness in the family is found in families without financial issues.⁵³ This explains that the decision to get married without having children for the pursuit of happiness should also be coupled by

⁴⁸ Stein Emil Vollset et al., "Fertility, Mortality, Migration, and Population Scenarios for 195 Countries and Territories from 2017 to 2100: A Forecasting Analysis for the Global Burden of Disease Study," *The Lancet* 396, no. 10258 (2020): 1285–1306.

⁴⁹ Moordiningsih, "Family as a Source of Happiness and Achievement: Indigenous Psychology," 2011, <https://eprints.ums.ac.id/33028/>.

⁵⁰ Zhenzhu Wu, "Family Is the Most Influential Factor on Happiness in High School Students," *Health* 2014 (February 21, 2014), <https://doi.org/10.4236/health.2014.65049>.

⁵¹ Napa, Wilai. "Family Happiness among People in a Southeast Asian City: Grounded Theory Study - Napa - 2020 - Nursing & Health Sciences - Wiley Online Library," accessed July 10, 2023, <https://onlinelibrary.wiley.com/doi/full/10.1111/nhs.12688>.

⁵² Gabriela Misca, Jo Smith, "Mothers, Fathers, Families and Child Development - Contemporary Issues in Family Studies - Wiley Online Library," accessed July 10, 2023, <https://onlinelibrary.wiley.com/doi/abs/10.1002/9781118320990.ch11>.

⁵³ Rebecca J. North et al., "Family Support, Family Income, and Happiness: A 10-Year Perspective," *Journal of Family Psychology* 22, no. 3 (2008): 475–83, <https://doi.org/10.1037/0893-3200.22.3.475>.

no financial issues. Accordingly, the decision to get married without having children also correlates with considerations of financial stability and social stratification.⁵⁴ The consideration of a stable financial capacity for deciding not to have children is meant to assure the wellbeing of married couples in their old age.⁵⁵

According to informant 2, as a married couple who are committed to be married without having children, the consideration of happiness and wellbeing when they are old emerged due to the support given and acceptance shown by their closest social environment.

Our parents and close friends support our decision to get married without having children. Because by making this decision, we feel and our close friends see us live happily. We are also never worried about our old age. There are many elderly people around us who continue to live happy and well despite being left by their (deceased-researchers) partner.

This perspective indicates that the concern of having to live alone when they are old is not considered a threat to married couples who are committed not to have children. This is because their financial stability throughout their life along with their partner as well as social support and availability of parents left by their partner serve as factual references and social support for them to decide to get married without having children. This finding shows that the voluntary decision to get married without having children is a new developing trend in family demographic behaviour. The 'voluntary' decision made by married couples to not have children differs from 'involuntary' decision. This difference reinforces the trend of this emerging phenomenon.

A married couple's 'voluntary' decision not to have children is a conscious decision made without any physical impediments. This means that the decision was made when the husband and wife are of fertile age and are neither infertile nor have any other physical impairments. Meanwhile, an 'involuntary' decision is a decision made not to have children due to physical and biological impediments. This implies that the couple would like to have children but are unable to because they are impeded by physical and biological challenges like infertility.

These two categories (voluntary and involuntary childlessness) differ from 'delaying pregnancy' for not having children. The category of 'delaying pregnancy' refers to a married couple's decision not to have children on a temporary basis. This decision is made due to external considerations such as work demand or

⁵⁴ Eva Beaujouan, "Full Article: The Limited Effect of Increasing Educational Attainment on Childlessness Trends in Twentieth-Century Europe, Women Born 1916–65," accessed July 10, 2023, <https://www.tandfonline.com/doi/full/10.1080/00324728.2016.1206210>.

⁵⁵ Pearl A. Dykstra, Michael Wagner, "Pathways to Childlessness and Late-Life Outcomes", 2007, accessed July 10, 2023, <https://journals.sagepub.com/doi/abs/10.1177/0192513X07303879>.

economic pressure. According to the informants, they both decided not to have children due to different reasons. Informant 1 explained that they decided not to have children not because they are infertile, but for the sake of their career and work, or existing economic pressure. But, one of the reasons is to avoid creating a toxic family.

We decided not to have children before we got married. So, it is not because we are infertile or because of career and economic reasons. This was initially her (the wife's) desire to avoid creating a toxic family. We do not want to cause harm to our children because their presence disrupts our romantic life.

According to Michalski (2017) and Dunham, et al. (2011), a toxic family can be defined as a condition where family members hurt each other and cause physical, mental, and psychological damages among one another, particularly between parents and child. Toxic families can develop due to a number of reasons of which among them include a huge problem in the family like a child with physical or mental disabilities, or significant influence from family environment.⁵⁶ The impact may lead to emotional and mental disorders on all family members, be it the husband, wife, or child.⁵⁷

Meanwhile, informant 2 explained that initially they decided to temporarily delay not having children as the wife was not ready. But the decision changed with the passing of time because they found happiness when living a life without children instead.

The burden of pregnancy is on the wife, not the husband. So, the decision to have or not have children is decided by the wife. While, I, as a husband, initially, I was simply worried that if I were to have a child, I was afraid that I would fail to become a good parent. But after we tried not having children for several years, our relationship has been very happy so we decided to permanently not have children.

This is a new finding as several literature usually distinguish the decision not to have children into two categories, i.e., 'voluntary' and 'involuntary'.⁵⁸ This distinction is often used to distinguish between a physical/biological reason for not having children and otherwise. This means that the decision not to have children is driven by a physical factor and solely relies on the couple's reproductive capacity. However, this study found that there is a mental factor

⁵⁶ Joseph Michalski, "The Cumulative Disadvantages of Socially Toxic Family Environments: A Comparison of Early Life Experiences of Incarcerated Men and University Students," accessed July 10, 2023, <https://www.lectitopublishing.nl/Article/Detail/the-cumulative-disadvantages-of-socially-toxic-family-environments-a-comparison-of-early-life>.

⁵⁷ Shea M. Dunham, *Poisonous Parenting: Toxic Relationships Between Parents and Their Adult Children* (Routledge, 2012).

⁵⁸ François Höpflinger, "Neue Kinderlosigkeit — Demographische Trends und gesellschaftliche Spekulationen," in *Acta Demographica 1991*, ed. Günter Buttler, Hans-Joachim Hoffmann-Nowotny, and Gerhard Schmitt-Rink, *Acta Demographica* (Heidelberg: Physica-Verlag HD, 1991), 81–100, https://doi.org/10.1007/978-3-642-48807-8_5.

observed in husband and wife feeling anxious and afraid of having children as their presence may lead to a toxic family. This finding also refutes the claim of prior studies expounding that not having children can be understood as a series of unintended delayed fertility or that it is a clear and conscious life style choice.⁵⁹

Childfree Marriage as a Product of Social Construct

Marriage is the right way to have children.⁶⁰ Even humans adopt to have children.⁶¹ The decision made by married couples not to have children by reason of avoiding a toxic family as well as achieving happiness and wellbeing until they are old, as elaborated in the above passages, can be considered a social construct. This is because, according to Ammar (1996) various perspectives and arguments for not having children are very much influenced by values and interpretations of the contemporary patriarchal society.⁶² This asserts the absence of mothers, because the status of mothers and wives differs in the social construct. Wife is a social status for husbands while mother is a social status for children. Hence, in terms of social status, they are situated in a diametrical opposition. This social construct emerged because Islam is often considered as a patriarchal religion that demeans women.

As a social construct, this understanding can be identified as a discursive arena that involves several perspectives, including women's perspective as a neutral actor. As a neutral actor in this construct, women may be identified as a wife for her husband or a mother for her child. This is a critical perspective since women have the reproductive function of bearing children. The women's perspective is of greater significance on account of two aspects:

First, despite women having the reproductive function of bearing children, in the Islamic tradition the child's name is in fact attached to the father instead of the mother.

Second, textual wise, Islam does not provide any guidance in the case where a woman decides not to have children in her marriage.

⁵⁹ Ronald R. Rindfuss, S. Philip Morgan, C Gray Swicegood, "First Births in America: Changes in the Timing of Parenthood - R - Google Book," accessed July 10, 2023, <https://books.google.co.id/books?>

⁶⁰ Arbanur Rasyid, J Dynamics of Childless Marriage Through the Lens of Maqasid Al-Shari'aturnal Ilmiah Peuradeun, *The Indonesian Journal of the Social Sciences*, Vol. 12, No. 2, May 2024 Pages: 763-786 p-ISSN: 2338-8617/ e-ISSN: 2443-2067 DOI : <https://doi.org/10.26811/peuradeun.v12i2.1182>

⁶¹ Jumariam, The Practice of Adoption in the Sasak Community and Its Implications for Marriage Law in IndonesiaSamarah: Jurnal Hukum Keluarga dan Hukum Islam Volume 8. No. 1. March 2024ISSN: 2549 – 3132; E-ISSN: 2549 – 3167 DOI: 10.22373/sjhk.v8i1.18581

⁶² Nawal H. Ammar, "The Status of Childless Women in Islam: Issues of Social and Legal Construction," accessed July 10, 2023, <https://journals.sagepub.com/doi/abs/10.1177/016059769602000307?journalCode=hasa>.

Therefore, various studies on childfree marriage are based on various interpretations and social constructs or the progressive needs of contemporary society. This is why various studies on childfree marriage in the Islamic perspective can be understood as a constructive dialogical process between the patriarchal interpretation and the various codes contained within Islamic law because the Qur'an and Hadith provide no clear and absolute guidance regarding childfree marriage. Several texts in the verses of Al-Qur'an and Hadith even indicate that Islam is a pronatalist religion. As stated in Surah 18 verse 46: *"Wealth and children are the adornment of this worldly life"* or Surah 16 verse 72 *"And Allah has made for you spouses of your own kind, and given you through your spouses children and grandchildren"* and a hadith *"An unattractive fertile wife is better than an attractive but infertile one"*.

The texts above suggest that Islam is, without a doubt, a pronatalist religion.⁶³ Even verses stated in Surah 4 verses 11 and 23 explain that giving birth does not lessen a woman's role, because women in the Qur'an is also described as an economic being. Nonetheless, Islam's history also displays several cases where married couples have no children. The wife of the Prophet Muhammad PBUH (peace be upon Him), Aisyah never had children throughout her life as the wife of the Prophet.⁶⁴ Similarly, the wife of Ummayyad Khalifah Walid I in the early 8th century or Sitt al-Mulk the daughter of Khalifah Fatimiyah V also had no children.⁶⁵

This shows that as a matter of fact, childless marriages had been around since the time of the Prophet Muhammad PBUH. Accordingly, childless marriage emerged as a social construct due to its various underlying factors. This research, specifically, found that childfree marriage came about because married couples intend to avoid having a toxic family and to achieve lifelong happiness and wellbeing with their spouse, as explained in the previous section above. We would like to place this finding as one of the arguments used to explain that childfree marriage is a social construct.

This means that as a given social fact, childless marriages have been around since the time of the Prophet Muhammad PBUH. However, this fact is not a source that can be considered a legal shariah basis, i.e., a guide or precept

⁶³ Nawal h. Ammar, "The Status of Childless Women in Islam: Issues of Social and Legal Construction - Nawal H. Ammar

⁶⁴ Naila Minai, *Women in Islam: Tradition and Transition in the Middle East* (Seaview Books, 1981).

⁶⁵ Fatima Mernissi, "The Forgotten Queens of Islam (Polity Press and Blackwell Publishers, 1993; Reprint, Minneapolis: University of Minnesota Press, 1997). Pp. 238., International Journal of Middle East Studies, Cambridge Core," accessed July 10, 2023, <https://www.cambridge.org/core/journals/international-journal-of-middle-east-studies/article/abs/mernissifatima-the-forgotten-queens-of-islam-polity-press-and-blackwell-publishers-1993-reprint-minneapolis-university-of-minnesota-press-1997-pp-238/34BAC572841B427B193ED742627428E2>.

for practicing childless marriage in Islam, despite the Prophet Muhammad PBUH having had direct experience with childless marriage. The reason for this is that in Islam, a woman would not have a child if she is indeed unable to bear a child due to physical reasons such as infertility. This explains that in the perspective of Islamic law, a child is the biological product of a legally married couple.

In the case that a legally married couple does not have a child due to biological reason, Islam arranges a legal mechanism by way of polygamy. As such, polygamy is a solution with the essence of Islamic pronatalism. This explains that polygamy is a practice of procreation instead of pro-recreation.⁶⁶ This is also emphasized by the unavailability of shariah argumentation that can be used for not having a child deliberately through various agreements or commitments between husband and wife to be married without children. This lack of argumentation reinforces the fact that as a reality, childfree marriage is a social construct instead of a textual construct. A social construct is, substantively, a reality that is generated through individual construction in a collective manner within a particular social order of the community, which becomes a construct of social reality. Hence, a social reality construct can be defined as a social process through actions and interactions wherein individuals (or groups of individuals) continuously create a reality that they subjectively own and experience together.⁶⁷

This study has proven that the social process through various actions and interactions, childfree marriage actors decide to get married without children as a conscious choice, and not because of biological factors hindering them from having children. Informant 1 as a childfree marriage actor explained:

"We decided to get married with the commitment of not having children not because myself or my wife are infertile. If it we had decided not to have children by reason of infertility, we could adopt a child".

Meanwhile, informant 2 as another childfree marriage actor stated:

"Sexual wise, we are a normal couple, we have no difference in sexual orientation. As husband wife, we have a normal sexual relationship based on love. We can have children from our relationship. Is just that we did commit not to have children since before we were married. So, we engage in (sexual-researcher) relationship neither for having children (procreation-researcher) nor for enjoyment (pro recreation-researcher)".

The explanations given by the two informants as childfree marriage actors show how childfree marriage has shifted from a social fact (which existed since

⁶⁶ Azhari Akmal Tarigan, Nurhayati Nurhayati, and Watni Marpaung, "Taming Islam's Polygyny Law Revealing Male Sexual Desire In Indonesia's Polygyny Practices," *Journal Of Indonesian Islam* 15, no. 1 (2021).

⁶⁷ Thomas Döbler, "The social Construction of Reality: A treatise in the sociology of knowledge," in *Schlüsselwerke: Theorien (in) der Kommunikationswissenschaft*, ed. Ralf Spiller, Christian Rudeloff, and Thomas Döbler (Wiesbaden: Springer Fachmedien, 2022), 171–86, https://doi.org/10.1007/978-3-658-37354-2_11.

the time of the Prophet Muhammad PBUH) toward a construct of social reality. The statement given by informant 2, specifically, is a unique finding as it reveals a specific reason in which marriage is not fostered for pro recreation purposes, let alone procreation. While, essentially, intimate relationship between husband and wife is founded on sexual desire. Accordingly, significant sexual desire is carried out to achieve sexual satisfaction.⁶⁸ Meanwhile, procreation is based on the desire to have children and descendants. Therefore, sexual relationship between husbands and wives has a function of regenerating human beings throughout the ages.⁶⁹

Intersection between *'Illat* and *Maqasid al-Sharia* in Childfree Marriage

In the etymological perspective, *'illat* can be defined as a reason used to rationalize the advent of a particular law. Legal reasoning refers to efforts aimed at seeking, finding, and using legal bases to address new issues emerging among the society. According to Al-Sarakhasi the majority of Fiqh ulema argue that seeking, finding, and using *'illat* or legal reasoning in legal texts is legitimate and allowed.⁷⁰ This is because *'illat* of a law is sometimes clearly stated in the texts explicitly (*al-'illat al-manṣūṣah*).⁷¹ Nevertheless, Ibnu Hazm al-Andalusi (994-1064 M) rejected the use of *'illat* to find the ruling for a religious order, which should be done by using principles of devoutness and faith.

By placing childfree marriage as a novel social phenomenon pertaining to marriage as previously explained, we argue that *'illat* can be used to find the law for childfree marriage. This argument is also supported by the fact that there is no explicit text available (*al-'illat al-manṣūṣah*) that prohibits childfree marriage. However, there are some related texts that mention children, descendants, and marriage with all of their relevant derivations. The Qur'an uses the word children and its derivations at least 47 times, such as *walad*, *athfal* (QS. An-Nu'r 24: 59), *shabiy* (QS. Maryam: 19:19, 12 and 29), *Aqra* (QS. Al-Baqarah: 2 verses 180, 215, 237, QS. Ali Imra'n: 3 verse 167, QS. An-Nisa':4 verse 7, 11, 33, 135.), *asbath* (QS al-Baqarah 2:136, 140; QS. Ali- Imra'n 3:84; and QS. An-Nisa' 4:163), and

⁶⁸ Deborah L. Tolman et al., *APA Handbook of Sexuality and Psychology, Vol. 1: Person-Based Approaches*. (American Psychological Association, 2014).

⁶⁹ Jared M. Diamond, *Why Is Sex Fun?: The Evolution of Human Sexuality* (Basic Books, 1998).

⁷⁰ Hasballah, "Identifying 'Illat through Munasabah in Islamic Law: A Perspective of Imam Al-Ghazali, Samarah: Jurnal Hukum Keluarga Dan Hukum Islam," accessed July 10, 2023, <https://jurnal.ar-raniry.ac.id/index.php/samarah/article/view/10914>.

⁷¹ Muchlis Bahar, "Metode Penemuan Alasan Rasional Dalam Hukum Islam (Masalik Al-'Illat)," *Fitrah: Jurnal Kajian Ilmu-ilmu Keislaman* 1, no. 1 (May 31, 2016): 177–88, <https://doi.org/10.24952/fitrah.v1i1.334>.

ghulam.⁷² This explains that the filial relations, descendants, and marriage are essential themes in Islamic law.

These various texts suggest that the position of children is extremely crucial in Islam. As such, the legal concept on children can be used as a basis to understand the phenomenon of childfree marriage. This issue shall explain the conceptual boundaries for defining children that can be legally used. For instance, in the context of childfree marriage, can fetuses legally be defined as a child? Or at how many months (days) can a fetus be defined as a child? According to QS al-Sajadah 32:9

“the He fashioned them and had a spirit of His Own creation breathed into them. And He gave you hearing, sight, and intellect. Yet you hardly give any thanks” and a hadith narrated by Muslim *“Each one of you collected in the womb of his mother for forty days, and then turns into a clot for an equal period (of forty days) and turns into a piece of flesh for a similar period (of forty days) and then Allah sends an angel and orders him to write four things, i.e., his provision, his age, and whether he will be of the wretched or the blessed (in the Hereafter)”*.

We argue that a fetus carried in a woman’s womb can be defined as a child at the age of 4 months or 120 days when the *ruh* is breathed into it.

Accordingly, the concept of children and *‘illat* has a specific relationship in the context of childfree marriage. Under conditions that can be categorized as *dlaruriyyat*, for example, a pregnant wife whose pregnancy threatens her life, can be used as *‘illat*. Or if trouble occurs resulting in a lack of nutrition that is categorized as *dlaruriyyat*, then the married couple can terminate their child, which would categorize them under childless instead of childfree. The concept of *dlaruriyyat* serves as one of the limiting factors by which *‘illat* can be accepted or rejected. This is because, according to al-Syathibi, the substance of *Maqasid al-Shari’at* is human benefit. In this case, al-Syathibi divided *maslahat* into three levels, namely *dlaruriyyat* (primary interest/safety), *hajiyyat* (secondary interest/safety), and *tahsiniiyya* (tertiary interest/safety). Furthermore, al-Syathibi also separated *dlaruriyyat* into five main interests or safety aspects, they are: safety in religious belief, physical safety, freedom of thought and expression, safety of family and descendants, and safety of material wealth.⁷³

Once the conceptual understanding of children is understood, the understanding of *‘illat* can subsequently be used as an argument to find a legal ruling. This means that children need to be legally defined at first. The reason being that if a married couple is indeed unable to have children due to

⁷² Abdul Mustaqim, “Berbagai Penyebutan Anak Dalam Al-Qur’an: Implikasi Maknanya Dalam Konteks Qura’anic Parenting, Jurnal Lektur Keagamaan,” accessed July 10, 2023, <https://jlka.kemenag.go.id/index.php/lektur/article/view/226>.

⁷³ Fakhr al-Dīn al-Rāzī, “Al-Mahshūl Fī Ilmi Ushūl al-Fiqh,” *Dār Al-Kutub, Juz II, Bayrut*, 1999.

biological/physical reasons, the *'illat* would surely differ for married couples who have no biological/physical issues for having children. This will also have an impact on the legal status of children, e.g., adopted children for married couples who are physically unable to have children. Accordingly, we argue that different positions of *'illat* in childfree marriage result in different legal products.⁷⁴

This is unlike the perspective of *'illat* that seems to prioritize the process as a legal procedure. In this perspective, the law is considered the end product of various relational considerations of several relevant concepts. However, the perspective of *Maqashid al-Sharia* emphasizes on the substance of the objective of law. This implies that although textual wise there is, without a doubt, no verse whatsoever that discusses the prohibition of childfree marriage, the substance of law exists and is contained in the texts. Substantially speaking, QS. An-Nisa' 4:1, QS. Ar-Ra'd 13:38, and QS. An-Nahl 16:72 encourages people to have children and descendants.

We argue that the two differing perspectives between *'illat* and *Maqashid al-Sharia* in finding the law for childfree marriage can be initiated by understanding the concept of how a child exists and the production process. This means that a child, as previously explained, can be defined as a fetus that had *ruh* breathed into it. In Islam, it is believed that Allah creates the human body in three stages, i.e., starting with the *nuthfat* (semen), then it becomes *'alaqat* (clot of blood), from *'alaqat* it turns into *mudgat* (a lump of flesh), from *mudgat* into bones, then the bones are clothed with flesh, and it is subsequently brought into being as a new creation (Q.S. Al-Mu'minun/23 : 12, 13, 14). Once the human body has been perfected in the womb (prenatal), Allah breathed *ruh* into them (Q.S. Al-Hijr/15: 29).

Meanwhile, the production process is done through a sexual relationship between husband and wife, which is legitimate according to Islam's marital law. Under abnormal biological conditions or *dlaruriyyat* considerations where husbands and wives are unable to have children, then they are categorized as being childless not childfree. In this case, the term childfree is assigned to normal circumstances in which a married couple is biologically able to have children or no *dlaruriyyat* considerations apply not to have children, but they intend to deliberately not have children by removing the womb (uterus) of the wife, which holds the key reproductive function of having children and descendants.

At this point, the discussion begins to talk about the most essential aspect of the law on childfree marriage as it relates to the core of the three critical relationships between the existence of a child, the womb as an absolute organ for

⁷⁴ Suheri Sahputra Rangkuti, "Dekonstruksi Epistemologi Muhammad Shahrur," *Al-Istinbath: Jurnal Hukum Islam* 3, no. 2 December (December 29, 2018): 133–46, <https://doi.org/10.29240/jhi.v3i2.545>.

child reproduction, and the process of sexual intercourse for producing children. In terms of the production process, children can be produced when sperm meets the egg in the womb through a process of sexual intercourse done by husbands and wives. This implies that having children can be avoided by way of preventing the meeting of the sperm and the egg in the womb. In light of this perspective, the law on childfree marriage can be comparable to *al-'azl*, which is defined as a technique to ejaculate sperm outside of the vagina. Medically speaking, *al-'azl* is known as coitus interruptus, i.e., ejaculating outside the vagina so the sperm does not meet the egg.⁷⁵ This process can also be done by using contraceptives worn by either the husband or the wife to prevent successful insemination (pregnancy). Both *al-'azl* technique and contraceptives do not dispose or remove the womb (uterus) as the organ used for the conception of fetus.

The use of *qiyas* (analogy) to find the law on childfree marriage relates to the core of the three critical relationships between the existence of a child, the womb as an absolute organ for child reproduction, and the process of sexual intercourse for producing children. This means that *al-'azl* is substantially similar with the choice of childfree marriage since the essence is the same in that they both reject the existence of the child before any potential physical manifestation occurs. Meanwhile, sexual intercourse between husband and wife serves as the strongest cause in the process of child reproduction. According to Imam al-Ghazali, the law on *al-'azl* is that it is allowed, it is not disliked (*makruh*) let alone haram. Because *al-'azl* is an act that is categorized as *tarkul afdal* or abandoning an excellent act/deed but it is not considered as haram.⁷⁶ Nonetheless, the law on childfree marriage by using *al-'azl* technique can be considered haram if it is deliberately intended by removing the wife's womb, which functions as a key child reproduction system. According to Sayed Abi Bakr, using tools that can remove pregnancy at its source is haram.

Conclusion

The most essential, deepest, fundamental, and concealed internal aspect found among married couples who are committed to engage in a childfree marriage is their aim at achieving lifelong happiness and wellbeing with their partner and avoiding a toxic family brought about by having children. This internal factor is subsequently supported by various external factors such as education, economy, career, and others. Hence, in turn, the relations ensuing between these external and internal factors have become a product of

⁷⁵ Eva Fadhillah, "Childfree Dalam Perspektif Islam," *Al-Mawarid Jurnal Syariah Dan Hukum (JSYH)* 3, no. 2 (2021): 71–80, <https://doi.org/10.20885/mawarid.vol3.iss2.art1>.

⁷⁶ Muntoha, A. Hukum Asal Childfree Dalam Kajian Fiqih Islam. Retrieved from <https://Islam.Nu.or.Id/Nikah-Keluarga/Hukum-Asal-Childfree-Dalam-Kajian-Fiqih-Islam-CuWgp> - Penelusuran Google," accessed May 30, 2023,

contemporary social reality construction. According to the perspective of Islam, the law on childfree marriage as a novel social phenomenon can be understood by using the relationship between *'illat* and *Maqashid al-Sharia*. This is on account of the fact that no explicit text (*al-'illat al-manṣūṣah*) prohibits childfree marriage. However, method of Islamic law is produced for *Maqasid al-Sharia* (for the benefit of mankind). The intersection between *'illat* and *Maqashid al-Sharia* in childfree marriage serves as a basis to find flexibility in Islamic law. The concept on the existence of the child functions as a boundary in the intersection between *'illat* and *Maqashid al-Sharia* in childfree marriage. In addition, the uterus as an absolute organ for child reproduction and the process of sexual intercourse between husband and wife are also key interrelating concepts used to find the law on childfree marriage.

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