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Policy, Law, Notary and Regulatory Issues
https://ojs.transpublika.com/index.php/POLRI
Online ISSN 2809-896X

https://doi.org/10.55047/polri.v5i1.2051

Original Article

The Childfree Choice: Perspectives from Islamic Law and Indonesian Marriage Law (No. 1 of 1974)

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Received : 26 November - 2025
Accepted : 05 February - 2026
Published online : 24 February - 2026

Abstract

The childfree phenomenon refers to the conscious choice of individuals or couples not to have children, either biologically or through adoption. In Indonesia, this choice raises legal tensions between personal autonomy and the normative framework of the Marriage Law. Law Number 1 of 1974, as amended by Law Number 16 of 2019, positions marriage as oriented toward family continuity and procreation, yet it does not explicitly mandate childbearing. This study analyzes the childfree phenomenon through two lenses: the legal framework of the Marriage Law and socio-cultural and Islamic perspectives that shape public understanding of marriage and family. Using a qualitative approach with a normative legal method, the study finds that the childfree choice exposes a gap between statutory language and social expectation. While the law emphasizes family continuity, it lacks clear recognition of couples' decisions to remain childfree, creating potential bias in judicial practice and raising constitutional questions regarding equality, privacy, and self-determination—particularly for women who face social pressures. The interpretive space left by the Marriage Law allows some flexibility for childfree couples, but moral, communal, and religious values often overshadow this statutory neutrality. Ultimately, the childfree phenomenon in Indonesia is both a legal and socio-religious issue. It highlights the need for greater recognition of individual rights within the marital framework while addressing the societal and religious norms that influence perceptions of marriage, family, and reproductive choice.

Keywords: Childfree, Islam, Law, Marriage Perspective.

1. Introduction

The phenomenon of childfree refers to the conscious choice of an individual or couple not to have children, either biologically or through adoption. Unlike childlessness, which is usually caused by factors beyond their control, such as infertility, childfree is a deliberate and often carefully considered decision. The reasons behind this decision vary, ranging from career considerations and personal freedom, environmental and economic concerns, to specific philosophical or ethical perspectives. This phenomenon is gaining increasing attention as awareness of individual rights over their bodies and private lives grows. In some societies, the decision to be childfree is still considered taboo or goes against social norms that place parenthood as a key aspect of life's achievements. However, for some, being childfree is a form of responsibility and a reflection of their values. This phenomenon reflects a new dynamic in understanding family and happiness, as research by Khairunnisa (2023), Jurianto and Islam (2024), and Nurislamy (2025) demonstrates.

Childfree lifestyle remains taboo in many societies because it contradicts traditional norms that place marriage and childbearing as part of the ideal life cycle. In collectivist cultures, such as Indonesia, children are often associated with the continuation of the family

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line, social status, and family happiness. The decision not to have children is often viewed as a form of selfishness, disobedience to religious values, or a fear of facing responsibility. Furthermore, social pressure and expectations from extended family often lead childfree individuals to face stigma, personal questions, and even rejection (Purnama & Pujihartati, 2024). The lack of open dialogue and education about alternative life choices further reinforces negative perceptions. However, childfree decisions can be based on ethical, environmental, or mental health considerations (Sufi'y et al., 2024). Respecting this choice means opening up space for diverse lifestyles and meanings of happiness.

The decision to live a childfree lifestyle is often a profound sense of responsibility and a reflection on an individual's values. Those who choose this path often seriously consider the environmental impact, economic circumstances, and emotional capacity of raising children. Rather than automatically following social norms, they choose to live according to principles of sustainability, freedom, and self-awareness. In society, the childfree choice remains a source of controversy because it touches on fundamental values about family, gender roles, and life goals. Many view the decision not to have children as a rejection of nature or social responsibility. In a culture that values the continuity of the lineage and the mother's role as the center of the family, childfree is considered a deviation from ideal norms (Alqusni, 2025).

The legal problem underlying the childfree phenomenon in Indonesia lies in the tension between individual autonomy and the normative framework of the Marriage Law. Annisa and Ninin (2024) even highlighted that childfree in Indonesia has developed into an ideology. This ideology has three main points: individualism, feminism, and pessimism. The choice of childfree among unmarried adult women is the result of various factors, both internal and external, such as childhood trauma, parenting styles, economic conditions, and mental and physical health conditions that they do not want passed on to their future generations. In fact, the views of married husbands and wives to choose Childfree are contrary to the *maqashid sharia* of marriage (Syarif & Furqan, 2023). Although Childfree does not conflict with the provisions of the Marriage Law, the decision of a husband and wife to have children is part of their choice as human beings who have human rights, as reviewed by Pantow and Nahidloh (2024), and Rayhan and Afif (2024).

Law Number 1 of 1974, as amended by Law Number 16 of 2019, implicitly positions marriage as oriented toward procreation and family continuity (Aziz & Mukhsin, 2023). Thereby creating ambiguity for couples who consciously choose not to have children. This raises questions about whether the law adequately protects the rights of childfree individuals or instead reinforces social norms that stigmatize them. The problem is how to reconcile personal freedoms with legal, socio-cultural, and religious expectations embedded in Indonesian society.

The childfree phenomenon intersects with the normative framework of the Indonesian Marriage Law because the law implicitly frames marriage as an institution oriented toward procreation and family continuity. Law Number 1 of 1974, amended by Law Number 16 of 2019, emphasizes obligations of husband and wife to form a family and raise children, thereby embedding parenthood as a legal expectation. This creates tension for couples who consciously choose to be childfree, as their decision challenges the normative assumption that marriage must lead to offspring. Consequently, the childfree lifestyle raises legal questions about autonomy, rights, and conformity to statutory obligations.

Based on the above descriptions, the goal of this study is to analyze the childfree phenomenon in Indonesia by examining it from two main perspectives: the legal framework of Law Number 1 of 1974 on Marriage (as amended by Law Number 16 of 2019) and the socio-cultural and Islamic views that shape public understanding of marriage and family. This

research seeks to identify how legal norms, religious teachings, and cultural values interact with the choice to be childfree, and whether such choices can be accommodated within Indonesia's legal and religious context.

2. Literature Review

2.1. The Childfree Phenomenon in Indonesia

Childfree phenomenon is a conscious choice made by individuals or couples not to have children. According to a study by Fitriyani et al. (2023), in developed countries, this decision has become a widely accepted lifestyle. According to World Bank data, the birth trend in Indonesia shows a consistent decline. In 2019, the crude birth rate was recorded at 17.75 per 1,000 population. Data from the Indonesian Central Bureau of Statistics also supports this trend, with the birth rate at around 20.5 per 1,000 population in 2020, a significant decrease from 227.0 per 1,000 in 1990. This decline in the birth rate is influenced by various factors, including changes in social and economic structures, increased access to information and education about contraception, and a tendency for people to marry at a later age. Childfree refers to individuals who consciously choose not to have children, even though they are biologically and financially able. This decision is based on the principle of personal freedom, especially for women who want to decide for themselves whether to pursue motherhood. Choosing childfree include medical conditions that prevent them from having children, an environment that is considered less than ideal for raising children, career satisfaction, and ecological considerations that encourage them to not have children as a form of social responsibility (Sunarto & Imamah, 2023).

Because the Marriage Law (Law No. 1 of 1974, updated by Law No. 16 of 2019) subtly portrays marriage as an institution focused on family formation and procreation, the childfree phenomenon in Indonesia creates significant legal issues. The law's emphasis on a husband and wife's obligations to establish a home and raise children creates normative expectations that clash with the deliberate decision to forgo having children (Latief et al., 2024). This conflict raises the question of whether existing legal standards sufficiently protect the rights of couples who choose not to become parents by highlighting a discrepancy between human autonomy and legal requirements. Furthermore, the lack of clear legal recognition for childfree decisions may result in judicial practice that is biased in favor of reproductive expectations over individual liberties. Particularly for women who experience disproportionate social and legal pressures, this position raises more general constitutional problems about equality, privacy, and the freedom to self-determination. Therefore, the childfree phenomenon necessitates a reassessment of how marriage law strikes a balance between basic human rights and demographic needs (Syarafuddin & Fauzi, 2023).

2.2. The Purpose of Marriage in Islam

Many experts have explained the purpose of marriage. According to Munib (2022), marriage is a life bond between a man and a woman that is officially validated through legal provisions, both juridically and generally, also based on religious teachings. This bond is carried out in accordance with the purpose of marriage according to applicable laws and norms, and is intended to last a lifetime within the framework of the institution of marriage. In customary law societies that uphold the kinship system, the purpose of marriage is to maintain and continue the lineage, both through the father and mother, for the happiness of the family and relatives. Marriage is also seen as a means to inherit cultural values, create peace, and maintain inheritance rights. Meanwhile, from an Islamic legal perspective,

marriage is the implementation of God's command which aims to form a legitimate family in the eyes of society, with the hope of creating a harmonious and orderly household life. If referring to the Marriage Law Number 1 of 1974 Article 1 paragraph (1) marriage is defined as: "a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family, household based on the One Almighty God."

From a juridical perspective, the purpose of marriage in Islam is not only theological but also normative, as it establishes binding rights and obligations between husband and wife that are recognized by both religious and state law. Islamic law views marriage as a contract *(akad nikah)* that legitimizes the relationship between man and woman, ensuring legal protection for lineage *(nasab)*, inheritance, and social order (Uddın, 2023). The Qur'an and Hadith emphasize marriage as a means to achieve tranquility *(sakinah)*, affection *(mawaddah)*, and compassion *(rahmah)*, values that are codified into legal duties such as mutual respect, financial support, and fidelity (Bustan *et al*, 2025). In Indonesia, these principles are integrated into the Marriage Law, which requires marriages to be conducted according to religious teachings, thereby aligning statutory norms with Islamic jurisprudence (Setiawan et al., 2024). Thus, marriage in Islam is not merely a spiritual bond but a legal institution designed to safeguard family integrity, uphold moral values, and ensure social justice.

3. Methods

In order to investigate the childfree phenomenon from the standpoint of Islam and Law Number 1 of 1974 on Marriage, this study uses a qualitative method, with the normative legal method. The provisions of Law No. 1 of 1974, as amended by Law No. 16 of 2019, are first examined using the statutory approach. In particular, articles that govern the purpose of marriage, the rights and obligations of husband and wife, and their consequences for couples who deliberately decide not to have children are examined. The research method applied in this study is normative legal research. Normative legal research seeks to analyze and interpret the law as expressed in legal documents by exploring legal theories, principles, and scholarly opinions. Through this method, researchers can investigate judicial interpretations and assess how such decisions influence the development of law and the broader political system in Indonesia. The data analyzed in this study are derived from secondary sources, specifically relevant legal materials, as well as described by Waisapi (2024).

4. Results and Discussion

4.1. Childfree in the Perspective of Law Number 1 of 1974 concerning Marriage which has been by Law 16 of 2019

In the national legal system, marriage is regulated by Law Number 1 of 1974 concerning Marriage, which was updated through Law Number 16 of 2019. This regulation emphasizes that the primary purpose of marriage is to form a happy and eternal family based on the principle of the One Almighty God. Several articles in the law also state that one of the purposes of marriage is to produce legitimate offspring. Therefore, normatively, the presence of children in a household is considered an essential part of the institution of marriage. However, the application of the Marriage Law in the context of childfree marriages presents challenges in terms of interpretation. There are no provisions explicitly prohibiting couples from choosing not to have children. This means that the decision to live a childfree life does not directly conflict with positive law, as long as the marriage is conducted according to procedure and does not violate applicable legal principles. In this case, the right to personal

freedom and bodily autonomy is an important foundation guaranteed by the principle of human rights. The choice not to have children can be seen as a form of individual freedom to determine the direction of one's life, including in the domestic sphere.

A discussion of Law No. 1 of 1974 on Marriage, as amended by Law No. 16 of 2019, requires examining its normative content article by article to understand how marriage is legally framed in Indonesia. Article 1 defines marriage as a physical and spiritual bond aimed at forming a happy and eternal family based on the One Almighty God, thereby embedding religious values into the legal definition. Article 2 emphasizes that marriage is valid if conducted according to the laws of each religion, reinforcing the inseparability of law and faith. Article 3 regulates monogamy as the principle, with exceptions under strict conditions, while Article 4 and 5 provide requirements for polygamy, reflecting the law's concern with family stability. Article 30 and 31 outline the rights and obligations of husband and wife, including mutual respect and cooperation in building a household, which implicitly assumes procreation as part of family life. Meanwhile, the 2019 amendment strengthened protections for women and children, particularly in raising the minimum marriage age to 19 for both genders (Article 7), aligning with human rights and equality principles. This article-by-article analysis shows that while the law normatively emphasizes family continuity and legitimate offspring, it does not explicitly prohibit childfree choices, leaving interpretive space for autonomy within the framework of marriage.

From the standpoint of legal principles, the interpretation of the Marriage Law must be harmonized with constitutional guarantees of human rights, particularly the right to privacy, equality, and freedom of choice. Statutory interpretation in this context requires balancing the normative expectation of procreation with the broader principle of individual autonomy. Judges and legal scholars often apply a teleological interpretation, focusing on the purpose of marriage as forming a harmonious household rather than strictly mandating offspring. Relevant court decisions in Indonesia have generally emphasized procedural validity of marriage—such as compliance with religious rites and registration, rather than compelling couples to have children. This indicates that while the law symbolically upholds lineage continuity, judicial practice tends to respect personal freedoms, leaving space for childfree couples to assert their rights within the legal framework.

In the Indonesian context, the analysis of positive law regarding marriage and the childfree phenomenon is often overshadowed by Islamic and socio-cultural perspectives that dominate public discourse. Since the Marriage Law requires marriages to be conducted according to religious teachings, Islamic jurisprudence becomes a primary reference point, framing marriage as a divine command oriented toward family formation and procreation. At the same time, socio-cultural norms rooted in kinship systems and communal expectations reinforce the idea that children are essential for lineage continuity, social status, and family happiness. These overlapping influences frequently outweigh statutory interpretation, leading to a situation where legal provisions are read through the lens of religious doctrine and cultural values rather than autonomous rights. Consequently, the childfree choice is judged more by moral and social standards than by the neutrality of positive law, creating tension between individual freedoms and collective expectations. Even though the choice to be Childfree does not violate the provisions of Law Number 1 of 1974, it does not mean that married couples who choose Childfree can be free from the stigma in the social life of society who consider Childfree to be a less good choice.

4.2. Islamic Socio-Cultural and Religious Views on the Childfree Phenomenon

The term *childfree* emerged alongside political movements highlighting women's bodily rights, emphasizing that women have full control over their bodies, including the freedom to choose not to undergo a pregnancy under duress. This phenomenon, particularly among millennials, is inextricably linked to shifts in society's perspective on the institution of marriage. Previously, marriage was viewed as a social institution that required compliance with collective norms, including having children as part of social expectations. Now, marriage is viewed more personally, with couples emphasizing fulfilling emotional needs and self-development over procreation. This paradigm shift also influences how society views the importance of having children. If marriage is viewed as a social institution, children become a symbol of success and the fulfilment of hopes. Conversely, if marriage is understood as an individual relationship, having children is no longer the primary goal. This *childfree phenomenon* contradicts traditional Indonesian values, which believe that children bring blessings, as embodied in the adage "many children, many fortunes." Furthermore, in Islamic teachings, marriage is viewed as a path to perfecting religion, with the goal of forming a family that produces pious children. This aligns with the views of Pangestu and Jenuri (2023).

From an Islamic socio-cultural perspective, the childfree phenomenon is often seen as conflicting with the normative purpose of marriage, which emphasizes procreation and the continuation of lineage. Classical Islamic jurisprudence highlights the importance of children as heirs of faith and as a means of ensuring the continuity of religious and social values. The Qur'an and Hadith frequently associate children with blessings, responsibility, and legacy, reinforcing the idea that parenthood is integral to fulfilling marital duties. In Indonesian society, these religious teachings are intertwined with cultural traditions that value kinship and collective identity, making the absence of children appear as a deviation from communal expectations. However, contemporary Islamic scholars have begun to discuss the issue within the framework of *maqasid al-sharia* (objectives of Islamic law), which prioritize welfare, justice, and individual rights. This opens interpretive space to consider childfree decisions not as outright violations, but as choices that must be weighed against broader principles of responsibility, sustainability, and personal capacity. This aligns with the views of Carroll (2018), Mubarak et al. (2022), Alrefaie (2024).

4.3. The Views of Islam and Islamic Scholars on the Childfree Phenomenon

Islam is a complete religion, governing all aspects of human life, including marriage, which is prescribed as part of worship. In fact, the Qur'an itself has provided a response to this kind of view, as explained below. Allah says in *QS. Ar-Rum* verse 21:

وَمِنْ اٰيٰتِهٖٓ اَنْ خَلَقَ لَكُمْ مِّنْ اَنْفُسِكُمْ اَزْوَاجًا لِّتَسْكُنُوْٓا اِلَيْهَا وَجَعَلَ بَيْنَكُمْ
مَّوَدَّةً وَّرَحْمَةً ۗاِنَّ فِيْ ذٰلِكَ لَاٰيٰتٍ لِّقَوْمٍ يَّتَفَكَّرُوْنَ ٢١

Meaning:

"*Among His signs is that He created for you mates from yourselves, that you may find comfort in them, and He has placed love and compassion between you. Indeed, in this are signs for a people who give thought*".

Islam, as a complete religion, not only emphasizes the aspect of faith but also establishes a set of rules that must be obeyed by its adherents through the sharia system. The formulation of Islamic law is derived from various foundations, such as *maqashid al-shari'ah* (the objectives of law), the principles *of ushul fiqh (Islamic* jurisprudence), and relevant contextual considerations. Thus, Islamic law has an adaptive character and is able to provide solutions to various life problems. *Maqashid al-shari'ah* serves as the foundation and direction in the formation of Islamic law, which encompasses five main principles: protection of religion, life, intellect, descendants, and property. In the discussion of *childfree*, *maqashid al-shari'ah* can be used as an analytical framework to determine its legal status. One important principle, namely *hifz al-nasb* (protecting descendants), emphasizes the importance of generational continuity. Descendants can be interpreted narrowly as children from marriage, and more broadly as the lineage of humanity since the Prophet Adam.

Before assuming her role as a parent, a pregnant mother is obligated to safeguard her own safety (*hifz al-nafs*), both during pregnancy and after childbirth. The legal determination of childfree in Islam must be based on the identification of the underlying *illat* (legal reasons). Differences in *illat* will result in different legal provisions. If the *illat* falls under the category of emergency (*dharuriyat*), then the decision not to have children is permissible. For example, if pregnancy poses a high risk to the mother's safety, or if the country is experiencing a severe crisis in terms of basic needs and security, then childfree can be accepted as a form of emergency benefit (*maslahah dharuriyyat*). Conversely, if the decision to be childfree is based on concerns about physical changes or career ambitions that consider children to be a hindrance to activities, then these reasons cannot be justified according to sharia. This view is in line with the opinion of Fauzan (2022).

The childfree phenomenon is often seen as conflicting with the normative purpose of marriage, which emphasizes procreation and the continuation of lineage. Classical Islamic jurisprudence highlights the importance of children as heirs of faith and as a means of ensuring the continuity of religious and social values. The Qur'an and Hadith frequently associate children with blessings, responsibility, and legacy, reinforcing the idea that parenthood is integral to fulfilling marital duties. In Indonesian society, these religious teachings are intertwined with cultural traditions that value kinship and collective identity, making the absence of children appear as a deviation from communal expectations. However, contemporary Islamic scholars have begun to discuss the issue within the framework of *maqasid al-sharia* (objectives of Islamic law), which prioritize welfare, justice, and individual rights. This opens interpretive space to consider childfree decisions not as outright violations, but as choices that must be weighed against broader principles of responsibility, sustainability, and personal capacity.

While Law No. 1 of 1974, as amended by Law No. 16 of 2019, frames marriage primarily as a legal institution aimed at forming a happy and eternal family, it does not explicitly mandate procreation, leaving interpretive space for couples who choose to be childfree. The statutory framework emphasizes procedural validity, equality, and household harmony, with recent amendments focusing on raising the marriage age and protecting women and children. In contrast, Islamic jurisprudence and socio-cultural norms in Indonesia place stronger emphasis on procreation as a religious duty and social expectation, viewing children as blessings and heirs of faith. This creates a divergence: positive law allows autonomy within marriage, while religious and cultural interpretations often judge childfree choices as deviations from ideal norms. The tension between these frameworks illustrates how statutory neutrality is overshadowed by moral and communal values, making the childfree phenomenon both a legal and socio-religious issue. Therefore, from a *fiqh* perspective, the childfree choice

is not universally prohibited but exists on a spectrum of permissibility, heavily dependent on the underlying reason *(illat)*, which must be weighed against the higher objectives *(maqasid)* of the law.

5. Conclusion

The analysis reveals a tension between personal autonomy and the Marriage Law's procreation-oriented norms. While the law emphasizes family continuity, it lacks clear recognition of childfree choices, creating risks of bias in judicial practice and raising constitutional concerns about equality, privacy, and self-determination, especially for women facing social pressures. While Law No. 1 of 1974, as amended by Law No. 16 of 2019, frames marriage primarily as a legal institution aimed at forming a happy and eternal family, it does not explicitly mandate procreation, leaving interpretive space for couples who choose to be childfree. The tension between these frameworks illustrates how statutory neutrality is overshadowed by moral and communal values, making the childfree phenomenon both a legal and socio-religious issue.

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