

Childfree in the View of *Fiqh al-Aulawiyyat* and Human Rights

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Abstract

In recent times, the phenomenon of Childfree has spread in Indonesian society, since one of the creators of youtube Indonesia Gita Savitri Devi brought the childfree phenomena in the middle of the community. Where Gita is a German free university graduate who decides not to have a child on grounds of fear that she will not be able to take responsibility for her child and hurt her child. It raises pro-contra. There are those who support the principle by relying on human rights, but not a few who oppose it because it does not conform to the moral and religious norms adhered to by the Indonesian nation. Including not in line with the culture that exists in many regions. This study is a library study using intergrative-interconnective research methods, i.e. by describing in depth about childfree from various literature then examined using the approach of *fiqh al-aulawiyyat* and Human Law. The human rights perspective is how the rules concerning human rights in this regard, the Universal Declaration on Human Rights and the Human Rights Act No. 39 of 1999, regard the decision or life choice of a spouse to have no child, whether it be a son, a daughter, or an adopted child, as one of the fundamental rights of every human being and cannot be challenged by anyone, anywhere and at any time. So the comparison of Islamic law and human rights to childfree is that there are similarities on some sides, and differences on the other.

Keywords: Childfree, *Fiqh al-Aulawiyyat*, Human Rights

A. Introduction

In Islam, marriage is a bond between a man and a woman with the aim of getting *sakinah mawaddah warrahmah*. In other words, a family built with love and affection to get peace and tranquility of life will form household resilience. However, a *sakinah mawaddah warrahmah* family requires the cooperation of husband and wife to make it happen. Having children is one way to create a *sakinah* family.

However, in the modern era, some families choose not to have children or live without children, which is often referred to as "Childfree". Since Gita Savitri, an Indonesian YouTube creator, the term childfree began to be recognized in Indonesia. Gita is a convert to Islam who graduated from a German free university who decided not to have children because she was worried that she would not be able to be responsible for her children and make them hurt. From Gita's content about childfree, it gives people an understanding of childfree, whose followers are millennials of single age (around the age of 17-30). So that it raises its own pros

and cons in society. Moreover, Gita, who is a convert to hijab, becomes a separate question in the community how the law of childfree is actually in Islam.

The term "childfree" refers to adults who have made a conscious decision not to have children, whether biological, adopted, or otherwise. This choice is distinct from being "childless," which often implies involuntary circumstances such as infertility or other biological limitations (<https://www.dictionary.com/browse/childfree>).

In research conducted by Alfa syahriar and friends found that "the basic law of childfree is mubah (permissible), it's just that it doesn't meet the ideal values for a family. Socially, the consequence of childfree is the shallowing of family functions, which has an impact on social functions in society. In the dimensions of the legality of family integrity and social psychology, it can be seen that childfree can affect family resilience ".(Fauzan, 2023) In another study, by Euis Zakkiyah and Hisan mursalin showed the results, "the childfree decision has become a right for every couple, with several strong reasons for not having children, but the arguments in the Koran and hadith prophet oppose the childfree decision. Therefore, one of the goals of marriage is to have offspring and continue the next generation of ummah, if this childfree decision is not related to shar'i reasons then the law is not permissible." (Zakiyyah & Mursalin, 2023)

From the explanation above, this phenomenon is interesting to study because there is no definite legal umbrella in Islamic law regarding Childfree, on the other hand childfree is often associated with the right to freedom of an individual or in positive law known as human rights (Human Rights). So in this paper, focusing on the phenomenon of childfree in Islam using Fiqh al-Aulawiyat by Sheikh Dr. Yusuf al-Qaradhawi with positive law (Human Rights), by bringing up the common factors behind married couples choosing Childfree in married life.

B. Methods

This study is a library study using integrative-interconnective research methods, by describing and explaining the data and then analyzing it using a method appropriate to the data ((Sudaryanto, 1993, p. 62). The descriptive method uses data in the form of word which are then observed and explained as they are (Zaim, M., 2014, p. 19). The data were then analyzed using a comparative descriptive and qualitative approach. The research results will be presented in a systematic descriptive form, so that the problem that have been formulated will be answered clearly. Sources in this research are books, articles, and other documents related to childfree from various literature then examined using the approach of fiqh al-aulawiyat and human law.

C. Results

Childfree

Childfree is a term that came into existence around 1972. The meaning of childfree indicates someone who is reluctant to have children. The reluctance to

have children is present even though the person concerned has biological and economic capabilities. Childfree is related to the understanding of gender in certain ethnicities. The choice not to have children or childfree is an autonomous, rational and responsible attitude of each individual as an existing identity. Apart from the term childfree, there is also the term childless. At first glance, these two terms may have similarities, but basically these have very different differences.(Fauzan, 2023)

There is a traditional view that childfree is a negative thing. Whereas in developed and developing countries, the presence of children is a good thing, especially in old age. This negative view comes from people around you, namely peers and family. Meanwhile, in Indonesia, this view will also be given by the general public.(Patnani et al., 2020).

Discussions about childfree have begun to be felt lately in Indonesia. This is due to the openness of information that is so easily accessible. This has been increasingly felt since the viral youtuber Gita Savitri Devi who declared herself childfree.(<https://youtube.com/@GitaSavitriDevi>).

From the video, other youtube accounts have emerged that discuss childfree in Indonesia. This is certainly proof of the existence of childfree in Indonesia. In addition there are several other artists such as Cinta Laura and Rina Nose. Why is this so? Indonesia is a multicultural country with a variety of ethnicities, cultures, languages and customs that vary in each region. So the rise of the childfree phenomenon easily becomes public consumption which in turn creates pros and cons. There are those who support this principle based on human rights, but not a few who oppose it because it is not in accordance with the moral and religious norms adopted by the Indonesian nation. It is also not in line with the culture that exists in many regions.(Indarta et al., n.d.)

In Indonesia itself, childfree has become a widespread phenomenon recently. This happened due to a shift in the culture and sociology of Indonesian society today, in the past people considered "many children many sustenance" to be a culture. Until now, it has shifted, where the current understanding of Indonesian families considers that children are a burden on life, because of the needs that must be spent excessively for children, be it living expenses, education and others.

Further examined, this shift originated from a shift in the meaning of marriage for Indonesian families. The existence of the childfree phenomenon is basically inseparable from changes in people's perspectives on marriage, which was originally institutional in nature into individual marriages. This paradigm shift then affects people's views on the importance of having children or not. When marrying institutionally, having children is considered important because of social expectations and demands. Whereas in individual marriages, the presence of children is not the main goal because couples are more focused on fulfilling affective needs and self-development.

This phenomenon is contradictory to the noble culture of Indonesian society, which believes that having children brings sustenance, as illustrated in the saying "Many children are many fortunes." Not only does this contradict the noble values of the nation's culture, it becomes a little confusing when it occurs in the

body of Muslims, considering that since childhood Muslims have been instilled with the understanding that marriage is one of the ways to perfect religion and one of the missions of marriage is to have pious offspring.(Nuroh & Sulhan, 2022).

Since then the childfree trend in Indonesia has increased, especially among the millennial generation in Indonesia. Based on research conducted by Ari Handayani, the proportion of married women aged 15-49 who decide to be childfree has fluctuated recently. In 2007 it was 59% then in 2012 it fell to 56% and in 2017 it rose back to 58%. Meanwhile, the proportion of men who decided to be childfree increased from 52% in the 2007 IDHS to 53% in the 2012 IDHS and there has been no change in the 2017 IDHS (Umam & Akbar, 2021). In line with the data above, data from the results of the population census released by the Central Statistics Agency (BPS), showed a decrease in the population growth rate of 0.24% from 1.49% in 2000-2010 to 1.25% in 2010-2020.(Nuroh & Sulhan, 2022).

There are several aspects that lead a married couple to agree to choose childfree, including; Economic Aspects, today's families, which are mostly loved by the millennial generation, assess the cost of living which is not cheap or expensive, so that some of them are worried that they cannot properly finance their children in terms of housing, living expenses or children's education.

Second, the mental aspect. Choosing to become a parent is certainly not an easy thing, a lot must be prepared or planned. Not yet in the management of children who are fairly tiring and draining so that this mentality or psychology is included in it. According to psychology experts, especially parenting, it is stated that mentally healthy parents make mentally healthy children as well and make a happy life support in the family. Not a few couples who choose childfree are motivated by childhood trauma caused by unhealthy (toxic) parenting and family lifestyles (Handayani et al., 2021).

Third, the aspect of personal self. Not a few people think that the presence of children is a burden and an obstacle to career success, this is usually felt by married couples who are both workers and pursue career achievements. So the presence of children for those who are already busy with the world of work is an added burden to life who have to spend some time for their children. In addition, there are also those who claim not to like children, they also think that children will only complicate their lives. There are even those who choose childfree because they have traumatic childhood experiences, they are reluctant to have children because they are afraid they cannot be good parents or even become neglectful parents. There are also those who are childfree because of illness limitations on one of the married couples who cannot have children.

Fourth, the aspect of population. An Indonesian actress Cinta Laura who declared herself childfree for reasons of overpopulation. According to her, the earth is full of humans so that to stabilize the number, the adoption population can be an option because it does not increase the burden on the earth that comes from the consequences of procreation.(Fadhilah, 2022)

Fiqh al-Aulawiyat

Priority Fiqh is a translation of the Arabic term Fiqh al-Awlawiyyât. Etymologically, this term is a combination of two syllables, namely; al-fiqh and al-Awlawiyyât. The word al-fiqh etymologically means understanding or knowledge. While conventional Islamic law terminology is more translated as: "the science of knowledge about the laws of sharî'ah related to the actions of mukallaf". According to al-Qardâwî, Fiqh Priority is a knowledge of the principles of balance that are important to apply in life from a religious point of view. (Qaradhawi, 2014)

In every process of life we are often faced with a condition to choose or prioritize one thing among other matters. Prioritizing something over another means determining the weight of value that is different from one another. So it is important for a Muslim to know in advance the weight of the value of each thing that will be prioritized. Islam has provided rules when a Muslim is faced with the situation of choosing between two or more things, which may seem contradictory. He must determine the priority scale between these things. To borrow a term used by Sheikh Dr. Yusuf al-Qardhawi, the knowledge of how to determine priorities is called Fiqh al-Awlawiyah (Jurisprudence of Priorities).

He explained that what should come first should come first, and what should be delayed should be delayed. Something small should not be exaggerated, and something important should not be neglected. Every matter must be put in its place in a balanced and straight manner, not more or less.

Fiqh Priority is a concept of thought that is used as a reference in implementing Islamic shariah, so it should have a set of rules that regulate the steps of these implementation methods. Al-Qardâwî explains that the rules built in Fiqh Priority are a new look of Fiqh Consideration (fiqh al-muwâzanât) contextualized with the reality of life (fiqh al-wâqi') today.

The most important role that this fiqh of consideration can play is: Giving consideration between various benefits and benefits of various good things that are legislated. Giving consideration between various forms of damage, madharat, and evil prohibited by religion. Giving consideration between maslahat and damage, between good and evil when these two contradictory things meet each other.

According to al-Qardâwî, Fiqh of Consideration which in turn will become Fiqh of Priority requires us to: first, prioritize darûriyyât over hâjjiyyât, especially against tahsînât; and second, prioritize hâjjiyyât over tahsînât and kamâliyyât. On the other hand, darûriyyât itself is divided into several parts. The scholars mentioned that there are five kinds of darûriyyât: religion, soul, offspring, mind and property. Some scholars such as Shihâb al-Dîn al-Qarâfî added a sixth darûriyyât, namely honor. (Al-Qurthubi, 2021)

One of the purposes of marriage in Islam is to get offspring. The offspring referred to here are biological children or children resulting from the relationship between husband and wife. This is as stated in Surah an-Nisa verse 1 which reads:

يَا أَيُّهَا النَّاسُ اتَّقُوا رَبَّكُمُ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ وَخَلَقَ مِنْهَا زَوْجَهَا وَبَثَّ مِنْهُمَا رِجَالًا كَثِيرًا وَنِسَاءً ۗ وَاتَّقُوا اللَّهَ الَّذِي تَسَاءَلُونَ بِهِ وَالْأَرْحَامَ ۗ إِنَّ اللَّهَ كَانَ عَلَيْكُمْ رَقِيبًا

Artinya : “Wahai manusia, bertakwalah kepada Tuhanmu yang telah menciptakanmu dari diri yang satu (Adam) dan Dia menciptakan darinya

pasangannya (Hawa). Dari keduanya Allah memperkembangbiakkan laki-laki dan perempuan yang banyak. Bertakwalah kepada Allah yang dengan nama-Nya kamu saling meminta dan (peliharalah) hubungan kekeluargaan. Sesungguhnya Allah selalu menjaga dan mengawasimu.” (Terjemahan Quran Kemenag, 2019)

This verse confirms that the Prophet Adam a.s. and Eve were not created through the process of biological evolution like other living beings, but were created specifically alone, and then a partner was created from them. The mechanism cannot be explained scientifically. Furthermore, their children were born from the biological process in pairs according to His will. In the verse we can understand that one of the purposes of marriage is to have offspring, with the existence of offspring as a means of maintaining the continuity of human life.

While having offspring in marriage is a human nature, where it is the will of Allah if there is a person who is given pleasure (in the form of illness) by Allah cannot have children. As in Surah Ar-Ra'd verse 38 which reads:

وَلَقَدْ أَرْسَلْنَا رُسُلًا مِّن قَبْلِكَ وَجَعَلْنَا لَهُمْ أَزْوَاجًا وَذُرِّيَّةً وَمَا كَانَ لِرَسُولٍ أَنْ يَأْتِيَ بِآيَةٍ إِلَّا بِإِذْنِ اللَّهِ تَكْرِيلًا أَجَلٍ كِتَابٍ

Artinya : “Sungguh Kami benar-benar telah mengutus para rasul sebelum engkau (Nabi Muhammad) dan Kami berikan kepada mereka istri-istri dan keturunan. Tidak mungkin bagi seorang rasul mendatangkan sesuatu bukti (mukjizat) melainkan dengan izin Allah. Untuk setiap masa ada ketentuannya.” (Terjemahan Quran Kemenag, 2019)

At every time there is a law imposed by Allah SWT on His servants according to His policy. In the interpretation of Al-Qurthubi, it is explained that Allah SWT has made the apostles like ordinary humans who do what Allah has justified for them along with the pleasures of the world such as getting married and having offspring, it's just that what distinguishes them from other humans is the revelation they receive.(Al-Qurthubi, 2021)

Apart from being fitrah, the presence of children in a household or family is a means of worship to gain rewards.

is a means of worship to get rewards and gain happiness for their parents in this world and the hereafter. This is confirmed by Allah SWT in the Qur'an letter Ali Imran verse 14 which reads:

رُزِقَ لِلنَّاسِ حُبُّ الشَّهَوَاتِ مِنَ النِّسَاءِ وَالْبَنِينَ وَالْقَنَاطِيرِ الْمُقَنْطَرَةِ مِنَ الذَّهَبِ وَالْفِضَّةِ وَالْخَيْلِ الْمُسَوَّمَةِ وَالْأَنْعَامِ وَالْحَرْثِ ۗ ذَلِكَ مَتَاعُ الدُّنْيَا ۗ وَاللَّهُ عِنْدَهُ حُسْنُ الْمَاٰبِ

Artinya: “Dijadikan indah bagi manusia kecintaan pada aneka kesenangan yang berupa perempuan, anak-anak, harta benda yang bertimbun tak terhingga berupa emas, perak, kuda pilihan, binatang ternak, dan sawah ladang. Itulah kesenangan hidup di dunia dan di sisi Allahlah tempat kembali yang baik.” (Terjemahan Kemenag, 2019)

If we refer to all the words above, then the presence of children in a household or family is part of human nature for which we should be grateful. Therefore, if there are those who complain or worry about the presence of a child in the household then we need to examine what is the basis for someone to prefer childfree and its position in the perspective of fiqh al aulawiyat. Fiqh al-

aulawiyat in looking at the factors that motivate someone to choose childfree has the following considerations:

Economic factors are the most dominant factor that underlies a person to choose childfree, this concern actually has good intentions, if it is not economically ready it is feared that it will not be able to provide a decent life to the child and we become dzolim to the rights of the child. In fiqh priorities there is a rule in measuring maslahat and mafsadat, namely "The benefit that is certain should not be abandoned because there is damage that is just suspected." If we refer to the above rule, then trying to optimally enable family finances in order to preserve offspring (mashlahat) must be prioritized over feeling worried about the inability to provide a decent life to children who are still suspected (mafsadat). The mashlahat arising from financially enabling the family in order to protect offspring is a certainty (Qs. An-Nur: 32) while the fear of inability is a mafsadat that is still being suspected. In addition, preventing mafsadat cannot be done with an equivalent or greater mafsadat. This is in line with the rule "A mafsadat should not be eliminated with an equivalent or greater mafsadat". Choosing childfree to prevent mafsadat arising in offspring should not be done. Because the impact of childfree also has a greater mafsadat.

This mental or psychological factor is also one of the reasons for someone to choose childfree, because many couples are not mentally or psychologically prepared for the consequences they will undergo when they become parents to make changes and adjustments to the presence of children in a household. This is due to the lack of knowledge possessed by the husband and wife in educating children and the knowledge of becoming parents, which results in the emergence of a sense of anxiety or worry that disturbs the psychic of the husband and wife. In addition, personal factors are also the reason for someone to choose childfree, this happens because of the traumatic parenting he experienced as a child so he is worried that he cannot educate his child, besides that personally there are those who consider children as a burden because husband and wife are required to make role adjustments to the presence of their children. So the main thing that couples must do is learn from experience by increasing parenting knowledge, especially knowledge in educating children and knowledge of being a parent rather than choosing to reject the presence of children (childfree) because their psyches are disturbed due to lack of knowledge. This is in line with the rule "A definite benefit should not be abandoned because of newly suspected damage."

Overpopulation is also a factor for someone to choose childfree. Because the earth's capacity is considered full. Actually, overpopulation is not a problem because it can be a demographic bonus for a civilization if people are educated effectively and productively. So educating and developing society to be more effective and productive should be prioritized over limiting the population with childfree. This is in accordance with the rule of "Prioritizing social interests over individual interests". Developing society to be more effective and productive is a social interest that should be prioritized over choosing childfree for individual interests.

Human Rights

On the other hand, human rights provide a contrasting view to Islamic law. The human rights perspective is how the rules regarding human rights, in this case the Universal Declaration on Human Rights (UDHR) and Law Number 39 of 1999 concerning Human Rights, view the decision or life choice of a married couple not to have children, be it biological children, stepchildren, or adopted children, as one of the basic rights possessed by every human being and cannot be contested by anyone, anywhere and anytime. Childfree in the view of human rights is a manifestation of the fulfillment of the most basic human rights, namely women's full control over their own bodies. Women have the right to their bodies, if they want to conceive then let them, if they don't want to, there is no need to criticize the woman's choice.

The phenomenon of Childfree on a global scale, in the European part of the world is not unusual. The characteristics of a population that is actively working, independent and does not want to be bothered with the presence of children are strong reasons for someone to decide to live without children or Childfree. In large countries such as the United States, the term Childfree is widely recognized by the public. Based on a report from the National Survey of Family Growth quoted from www.gooddoctor.com, no less than 15% of women and 24% of men decided not to have children. Advocates of the Childfree lifestyle cite a variety of reasons for their decision, some of which are: financial concerns, personal well-being, fear of physical deterioration, the belief that humans are considered to make their greatest contribution through their efforts rather than through making children, awareness of their inability to be patient and responsible parents, the view that the desire to make children is a form of narcissism, the belief that it is inappropriate to bring an unwanted child into the world, the belief that it is inappropriate to deliberately make children when there are many children who need to be adopted, concern about the negative impact on the environment that can threaten such as overpopulation, pollution, and scarcity of natural resources.

Economic expert David Foot from the University of Toronto states that a woman's level of education is the most important factor in determining the decision to have children or not, the higher a person's level of education, the less desire to have children or limit the number of children. Overall, researchers have observed that childfree couples are more educated, and perhaps because of this, they tend to want to be employed in management and professional fields on both sides or spouses to earn a high income. They also tend to be less religious, and do not follow conventional gender role rules. (<https://id.wikipedia.org/wiki/Childfree>) The decision to be Childfree can be made for a certain period of time or forever, so there are categories of temporary Childfree and forever Childfree.

In the legislation on human rights, children receive a special article for the implementation of children's rights and obligations for parents in an orderly manner. One of them is mentioned in Human Rights Law No. 39 of 1999 Article 57 paragraph :(1)

"Every child has the right to be raised, nurtured, cared for, educated, directed, and guided in life by his or her parents or guardians until adulthood in

accordance with the provisions of laws and regulations." The article details the obligations of parents towards their children, including raising, nurturing, caring for, educating, directing and guiding them. These duties and responsibilities are imposed on parents until the child matures. Based on these children's human rights, if parents ignore them, it is tantamount to violating the law and can be given criminal sanctions. So the rules of Islam and human rights both require parents to pay attention to the lives of children and will be sanctioned if ignored.

Because of the heavy burden and responsibility that parents undergo when having children, married couples who are not ready to have children choose to avoid it by being childfree. With this reason, Islamic Shari'ah also does not give a burden that a person cannot do, after all, having children in a marriage is not mandatory. Such a reason is not contrary to Islamic rules and is permissible because Allah does not want parents to undergo burdens above their abilities and does not want children to be a misery for both parents as mentioned in Q.S. al-Baqarah/2: 233 which reads:

﴿ وَالْوَالِدَاتُ يُرْضِعْنَ أَوْلَادَهُنَّ حَوْلَيْنِ كَامِلَيْنِ لِمَنْ أَرَادَ أَنْ يُنِيَمَ الرِّضَاعَةَ ۗ وَعَلَى الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ لَا تُكَلَّفُ نَفْسٌ إِلَّا وُسْعَهَا ۗ لَا تُضَارَّ وَالِدَةٌ بِوَالِدِهَا وَلَا مَوْلُودٌ لَهُ بِوَالِدِهِ وَعَلَى الْوَارِثِ مِثْلُ ذَلِكَ ۗ فَإِنْ أَرَادَا فِصَالًا عَنْ تَرَاضٍ مِنْهُمَا وَتَشَاوُرٍ فَلَا جُنَاحَ عَلَيْهِمَا ۗ وَإِنْ أَرَدْتُمْ أَنْ تُسَنِّضُوا أَوْلَادَكُمْ فَلَا جُنَاحَ عَلَيْكُمْ إِذَا سَلَّمْتُمْ مَا اتَّيْتُمْ بِالْمَعْرُوفِ ۗ وَاتَّقُوا اللَّهَ وَاعْلَمُوا أَنَّ اللَّهَ بِمَا تَعْمَلُونَ بَصِيرٌ

Artinya : “ Ibu-ibu hendaklah menyusui anak-anaknya selama dua tahun penuh, bagi yang ingin menyempurnakan penyusuan. Kewajiban ayah menanggung makan dan pakaian mereka dengan cara yang patut. Seseorang tidak dibebani, kecuali sesuai dengan kemampuannya. Janganlah seorang ibu dibuat menderita karena anaknya dan jangan pula ayahnya dibuat menderita karena anaknya. Ahli waris pun seperti itu pula. Apabila keduanya ingin menyapih (sebelum dua tahun) berdasarkan persetujuan dan musyawarah antara keduanya, tidak ada dosa atas keduanya. Apabila kamu ingin menyusukan anakmu (kepada orang lain), tidak ada dosa bagimu jika kamu memberikan pembayaran dengan cara yang patut. Bertakwalah kepada Allah dan ketahuilah bahwa sesungguhnya Allah Maha Melihat apa yang kamu kerjakan.”(Terjemahan Kemenag, 2019)

The verse contains human rights and authority for husband and wife to manage their family life based on the abilities they both have. If a married couple who decides to be childfree is not ready to have children, it means that they feel they are not yet or are not able to raise, care for, educate and maintain children. If forced to have children in a state of physical and mental unpreparedness, it is feared that it will make both partners suffer, depressed by the situation to the point of depression or stress. Living in peace, happiness, peace is the right of every individual, their rights have been accommodated by Human Rights Law Number 39 of 1999 Article 9 paragraph (2) which states, "Everyone has the right to live in peace, security, peace, happiness, physical and mental prosperity."

So Human Rights views childfree as a right to the personal freedom of each couple in determining the personal fate of their family, as well as in choosing their way of life, which must be treated equally and equally by the state, so the decision not to have children is allowed. However, this freedom must not conflict with the

values that live in society, especially the values of Islam, which is the religion of the majority of Indonesia's population.

A comparison of Islamic law and human rights towards childfree is that there are similarities on several sides, and differences on the other side. The similarities are: First, both allow childfree, which in Islamic law allows childfree specifically for biological children and based on certain reasons, and in Human Rights childfree is allowed because it is the right of each partner to freedom to determine their personal lives. Second, both require an element of husband and wife agreement to do childfree. Third, the permissibility of childfree is only on an individual level, not for the public domain, within the scope of the community, and inviting each other. Fourth, it is not allowed to use prohibited methods in realizing childfree.

The differences are: First, in terms of the source of the concept of childfree, which in Islamic law comes from Allah SWT, while in Human Rights it comes from humans themselves. Second, on the motive for allowing childfree, which in Islamic law childfree is only allowed if it is based on certain reasons such as good physical health, while in Human Rights there is no specialization of motives in the permissibility of childfree. Third, the impact caused by childfree, which in Islamic law the decision not to have children has a negative impact, both for the life of the world and the life of the hereafter. Whereas in Human Rights childfree only has an impact on the life of the world, both negative and positive impacts.

D. Conclusion

The meaning of childfree refers to someone who is reluctant to have children. The reluctance to have children is present even though the person concerned has biological and economic capabilities. Discussions about childfree have begun to be felt lately in Indonesia. This is due to the openness of information that is so easily accessible. This has been increasingly felt since the viral public figures who declared themselves childfree. There are several aspects that lead a married couple to agree to choose childfree including; Economic aspects, personal self-aspects, mental aspects, and aspects of the increasing population (overpopulation).

In every process of life we are often faced with a condition to choose or prioritize one thing among other matters. Prioritizing something over another means determining the weight of value that is different from one another. In this case using Fiqh al-aulawiyat (Fiqh Priority) by Sheikh Dr. Yusuf al-Qardhawi. Childfree in fiqh priorities there is a rule in manakar maslahat and mafsadat namely "The benefit that is certain should not be abandoned because there is damage that is just suspected." If we refer to the rule above, then trying to enable the family's financial, mental self optimally in order to preserve offspring (maslahat) must be prioritized to do rather than feeling worried about the inability to provide a decent life to children who are still suspected (mafsadat). Meanwhile, overpopulation is not a problem because it can be a demographic bonus for a civilization if people are educated effectively and productively. So educating and developing society to be more effective and productive should take

precedence over limiting the population with childfree. This is in accordance with the rule of "Putting social interests ahead of individual interests".

On the other hand, human rights provide a contrasting view to Islamic law. The human rights perspective is how the rules regarding human rights, in this case the Universal Declaration on Human Rights (UDHR) and Law Number 39 of 1999 concerning Human Rights, view the decision or life choice of a married couple not to have children, be it biological children, stepchildren, or adopted children, as one of the basic rights possessed by every human being and cannot be contested by anyone, anywhere and anytime. So the comparison of Islamic law and human rights towards childfree is that there are similarities on several sides, and differences on the other side.

References

- Al-Qurthubi, S. I. (2021). Childfree Dalam Perspektif Fiqh al-Aulawiyat. *Maqasid: Jurnal Studi Hukum Islam*, 10(2), 1–9. <http://journal.um-surabaya.ac.id/index.php/Maqasid>
- Fadhilah, E. (2022). Childfree Dalam Pandangan Islam. *Al-Mawarid Jurnal Syariah Dan Hukum (JSYH)*, 3(2), 71–80. <https://doi.org/10.20885/mawarid.vol3.iss2.art1>
- Fauzan, A. (2023). Childfree Dalam Perspektif Islam Dan Sosial, Dan Implikasinya Terhadap Ketahanan Keluarga. *As-Salam*, 10(1), 47–62. <https://doi.org/10.34001/ijshi.v10i1.4937>
- Handayani, A., Utomo, H. B., Khan, R. I., Wandansari, Y., Rahmawati, A., Daulay, N., Simanjuntak, E., Anggara, O. F., Wahyuni, H., Setyaningsih, Rohmah, N., Herawati, N., Adhani, D. N., Mustika, I., Atika, M., Qorrin, R., & Bawono, Y. (2021). Psikologi Parenting. *CV. Bintang Semesta Media*, 3–14.
- Indarta, M., Fida, I. A., Tinggi, S., Islam, A., & Probolinggo, M. (n.d.). *CHILDFREE DALAM PERSPEKTIF ISLAM DAN SOSIOLOGI*.
- Nuroh, S., & Sulhan, M. (2022). Fenomena Childfree Pada Generasi Milenial Ditinjau Dari Perspektif Islam. *An-Nawa : Jurnal Studi Islam*, 4(2), 136–146. <https://doi.org/10.37758/annawa.v4i2.528>
- Patnani, M., Takwin, B., Wilman, W., & Mansoer, D. (2020). The Lived Experience of Involuntary Childless in Indonesia: Phenomenological Analysis. In *Health and Community Psychology* (Vol. 9, Issue 2).
- Zakiyyah, E., & Mursalin, H. (2023). Fenomena Childfree dalam Perspektif Islam. *Mauriduna: Journal of Islamic Studies*, 4(2), 192–203. <https://doi.org/10.37274/mauriduna.v4i2.840>