Childfree in Islamic Law Perspective of Nahdlatul Ulama

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Abstract

Childfree is a social phenomenon that is becoming an interesting discussion today. It deserves the attention of Islamic law. Nahdlatul Ulama (NU), through the NU Bahtsul Masail Institute (LBM-NU), has issued four fatwas synonymous with the childfree phenomenon. This article aims to analyze the childfree phenomenon from the perspective of the istinbāṭ al-aḥkām method used by NU and its relevance to the four fatwas. This article is qualitative research using a normative Islamic law approach, which examines NU’s legal decisions regarding the denial of childbirth. These decisions are then analyzed to determine the meaning and method of istinbāṭ used. This article finds two things. First, the istinbāṭ al-aḥkām method used by LBM-NU is the qawlī intiqādī method. Second, from the aspect of its application, childfree can be equated in law with decisions that have been determined by LBMNU regarding child refusal, as long as the method adopted is legal. However, from the aspect of substance, where childfree is used as a principle and lifestyle, it requires a new fatwā decision, especially with the manhajī approach.

Keywords: childfree; istinbāṭ al-aḥkām; Nahdlatul Ulama; qawlī; manhajī


Kata Kunc: childfree; istinbāṭ al-aḥkām; Nahdlatul Ulama; qawlī; manhajī
Introduction

According to the Cambridge Dictionary, childfree is a choice not to have children or a condition without children.\(^1\) He is currently being discussed in various media in Indonesia. Many openly expressed their desire to be childfree,\(^2\) including Indonesian Youtuber Gita Savitri and a public figure, Cinta Laura. Meanwhile, in many developed countries, childfree is nothing new. It is a common practice among its citizens. In the United States, in the National Survey of Family Growth report, the number of citizens who choose not to choose offspring is around 15% for women and 24% for men.\(^3\)

Amy Blackstone, a sociologist from the University of Maine, reveals various reasons why a person or partner prefers to practice childfree. One of the reasons is the result of their views after observing other people who experience life changes after the birth of children. Another reason, couples who practice childfree want the two of them to be able to continue to be close to each other. They believe this condition will change and become limited when there are children.\(^4\)

Islamic law, with its jargon as a law that is always responsive (ṣāliḥ li kulli zamān wa makān), is required to answer this phenomenon. Childfree is a husband and wife’s desire or agreement regarding not being born or having children. This study can be applied in at least four ways in Islamic law. First, never get married. Second, after marriage, prevent each partner from not having contact. Third, get married and have intercourse, but not until orgasm or semen comes out (inzāl). Fourth, get married and have intercourse, but do not put sperm into the womb (‘azl). Some of these ways are relevant and synonymous with the concept of childfree, namely, refusing to have children.\(^5\)

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Islamic law is contained in many forms; laws (qānūn), court decisions (qāḍā'), and fatwas. One of the religious organizations concerned with responding to social phenomena is Nahdlatul Ulama (NU). Through the Bahtsul Masail Institute (LBMNU), in several decisions, both the Muktamar, National Conference, and Konbes, NU has formulated issues regarding refusing to have children. Until the child-free phenomenon emerged, NU had made four fatwā decisions related to child refusal. First, decision No. 283 concerning Family Planning. Second, decision No. 381 regarding Vasectomy and Tubectomy. Third, decision No. 382 on Using a Spiral or IUD. Fourth, decision no. 399 concerning contraception using vaccines made from male sperm (see Table 1).6

Based on the explanation above, it becomes relevant when these decisions are reviewed and contextualized on childfree issues. However, this theme has been extensively studied by several previous researchers. Presenting relevant previous studies is important to do.

Table 1
LBM-NU Decisions on Denial of Child Birth

<table>
<thead>
<tr>
<th>No</th>
<th>Decision</th>
<th>Issues</th>
<th>Place and Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>No. 283</td>
<td>Family Planning</td>
<td>Jakarta, 18-22 April 1986 AD / 21-25 Shawwal 1379 AH</td>
</tr>
<tr>
<td>3</td>
<td>No. 382</td>
<td>Use of spiral birth control (IUD)</td>
<td>Cipasung-Tasikmalaya, 4 December 1994 M / 1 Rajab 1415 H</td>
</tr>
<tr>
<td>4</td>
<td>No. 399</td>
<td>Contraception uses a vaccine made from male sperm</td>
<td>Cipasung-Tasikmalaya, 4 December 1994 M / 1 Rajab 1415 H</td>
</tr>
</tbody>
</table>

Roma Wijaya, in his article, examines the issue of childfree in terms of the propositional aspects contained in the Qur’an and analyzes it using the *maqāṣid* theory. It was explained that there are verses that directly address the issue of childfree ness; only in the Qur’an are there *maqāṣid al-shari'ah* values, namely the command to protect religion (*hifẓ al-dīn*), the command to preserve

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offspring (hifẓ al-nasl) whose relevance will be the occurrence of gaps in the future, and the order to protect the state (hifẓ al-dawlah) whose aim is to maintain the quality of society and the conditions of people’s welfare.7

Nurjanah and Iffatin highlight the childfree phenomenon from the aspect of reality that occurs in society with the maqāṣid al-sharī‘ah approach. In conclusion, the childfree phenomenon indirectly contradicts the main objective of Islamic law (maqāṣid al-sharī‘ah) and the reality of society. It also strengthens studies in Islamic law that the issue of childfree is one of the contemporary problems that needs to be discussed and analyzed using the al-maslaḥah approach.8

Dania and Syaifuddin examine the childfree phenomenon developing in Indonesia from the perspective of human rights and maqāṣid al-sharī‘ah. In his presentation, it was stated that the millennial generation in Indonesia considers child freedom as a phenomenon of married couples who do not want to have children. The millennial generation who support the childfree phenomenon reaches 60% of the total number of respondents because the choice to practice childfree is the human right of every individual. As many as 56% of respondents think that a person’s decision not to have children does not conflict with Islamic teachings. However, in terms of maqāṣid al-sharī‘ah, one of the main goals in Islam is to maintain offspring, which is a direct command from Allah to humans. The results of this study can provide consideration to the government and legal institutions in developing preventive measures so that phenomena that conflict with Islamic teachings can be appropriately controlled and negative impacts can be reduced.9

In the research of Irawan and Nasrullah, it was stated, family planning is regulating and carrying out sparing in giving birth to children or an effort to prevent pregnancy, either temporarily or permanently, due to certain reasons. The family planning program is expected to produce a quality generation

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7 Wijaya, “Respon al-Qur’an atas Trend Childfree (Analisis Tafsir Maqāṣidi).”
because children are born to couples ready to care for children. According to Shaltut, the only family planning allowed is *tanẓīm al-nasl* (temporary birth control).  

Imam Syafi'i conducted the research that examines explicitly the *Istinbāṭ* Nahdlatul Ulama system, which, in formulating a law, uses the qawūlī and manhaji methods). The manhaji model, namely a way of giving the law to contemporary problems based on the way of thinking and principles formulated by school scholars, is deemed necessary to be developed. This method is a way to refer directly to primary sources, namely the Qur'an, hadīth, and using *al-qawā'īd al-usāliyyah* and *al-qawā'īd al-fiqhīyyah* in answering the problems that occur. The development of this method is carried out - one of them - with *ijtihād jama'ī* (collective *ijtihād*).  

In contrast to the articles above, this article examines Nahdlatul Ulama’s views regarding the denial of childbirth with *istinbāṭ* analysis of its decisions and their contextualization with the issue of child freeness. The big picture is whether it is necessary to issue a new fatwa or decision or are the results of an existing decision deemed sufficient to provide a solution and address childfree issues with another approach, such as *usūl al-fiqh* (the principles of Islamic Jurisprudence) or *al-maṣlaḥah*.  

This research is qualitative in the form of normative Islamic law research, namely making Islamic law norms as research objects. More specifically, the study focuses on the doctrine in the form of fatwas from Nahdlatul Ulama regarding the denial of childbirth. The NU decision is then analyzed so that the

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meaning, istinbāṭ method, and its application are known. After the data is analyzed, it is then presented descriptively so that it can be fully understood.\textsuperscript{15}

**Childfree Concept in the West and Indonesia**

The term childfree does not have a specific meaning in the English dictionary.\textsuperscript{16} The term comprises two words, child and free, which means free from children or without children.\textsuperscript{17} This term came into use in the West in the 1970s. According to Agrillo and Nelini, a childfree consciously chooses not to have children,\textsuperscript{18} it can be interpreted as a married couple committed to not wanting to have offspring or children.\textsuperscript{19}

Several studies related to childfree distinguish it into involuntary childfree (not having children because they are forced) and voluntary (not having children because they want or voluntarily). However, in other literature, the term childfree is still used, both voluntary and forced childfree aspects.\textsuperscript{20} This division is based on the aspect of female or male fertility. A person is declared childless or unable to have children due to certain factors related to physical health problems, unlike those without children voluntarily and consciously of their personal choices.\textsuperscript{21}

\textsuperscript{15} Nawawi Thabrani, *Metode Penelitian Fiqh dan Ekonomi Syari'ah* (Malang: Madani Media, 2019), 117.

\textsuperscript{16} Indah and Zuhdi, “The Childfree Phenomenon in the Perspective of Human Rights and Maqashid al-Shari‘ah.”


Many millennials in Indonesia have begun to follow this child-free trend, especially after marriage. They understand childfree as a lifestyle, even though the reproductive system is healthy and fertile. Some of them think that family harmony can be established by holding this principle, namely without the presence of children.

This shift in view influenced the thinking of the Indonesian people, who previously thought that having children in household life was a gift and even a necessity. However, there are at least two factors a person or couple chooses child-free, namely external factors and internal factors. External factors include the economy, overpopulation, the individualism and non-religious nature of society, and changes in values due to the influence of Western mindsets. At the same time, internal factors include mentality, the partner's attitude towards the choice of partner, decision-making maturity, and family experience.

Nahdlatul Ulama’s Law Exploration and Discovery Methods (Istinbāṭ al-Aḥkām)

Based on the results of the National Alim Ulama Conference (Munas) and the NU Grand Conference (Konbes) held in Bandar Lampung in 1992, it was found that the decision-making system by the Bahtsul Masail Nahdlatul Ulama Institute (LMBNU) used the qawlī method. The procedure for answering the problem is made within the framework of adhering to one of the four agreed schools of jurisprudence and prioritizing the qawlī school rather than the

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24 Wijaya, “Respon al-Qur’an atas Trend Childfree (Analisis Tafsir Maqāṣidij).”


26 Indah and Zuhdi, “The Childfree Phenomenon in the Perspective of Human Rights and Maqashid Al-Shari’ah.”

manhajī school of jurisprudence. Because basically, there are two methods that can be used in an effort to provide law answers to fiqhiyyah problems, namely the qawlī intiqādī school method (التدْمِّدُ الْفِقَهِيِّ الإِنْتِقَادِيُّ) and the manhajī school jurisprudence (التدْمِّدُ الْمَنْحَجِيُّ). More concisely, the NU school of methods flow is shown in Table 2.

Table 2
Flow of the Nahdlatul Ulama Method

<table>
<thead>
<tr>
<th>Found only one opinion</th>
<th>→</th>
<th>Mujma’ ‘alayh (Agreed)</th>
<th>→</th>
<th>Fatwā issued.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>→</td>
<td>Ghayr mujma’ ‘alayh (Disagree)</td>
<td>→</td>
<td>Have a strong legal basis.</td>
</tr>
<tr>
<td></td>
<td>→</td>
<td>Have a weak legal basis.</td>
<td>Abandoned until found something else that strengthens it (ijtihād manhajī)</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Found two or more opinions</th>
<th>→</th>
<th>Choose the stronger opinion (tarjīḥ)</th>
<th>→</th>
<th>Fatwā issued.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>→</td>
<td>The basis for the argument is weak.</td>
<td>→</td>
<td>Abandoned until found something else that strengthens it (ijtihād manhajī)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>No scholarly opinions were found.</th>
<th>→</th>
<th>There is a qawā'id al-fiqhiyyah who oversees it.</th>
<th>→</th>
<th>Fatwā issued.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>→</td>
<td>Substantially it can be included in one of the existing fiqh chapters.</td>
<td>→</td>
<td>Fatwā issued.</td>
</tr>
<tr>
<td></td>
<td>→</td>
<td>Not found a single opinion, either formally or substantially.</td>
<td>→</td>
<td>Abandoned until found something else that strengthens it (ijtihād manhajī)</td>
</tr>
</tbody>
</table>

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29 Mahsun, Mazhab NU Mazhab Kritis (Depok: Nadi Pustaka, 2015), 63.
Al-tamadhab al-qawlī intiqādī is taking opinions from the products of fiqh experts (results of ijtihād in classical fiqh books) after a review and critical study of these opinions. Another definition states that al-tamadhab al-qawlī intiqādī is an opinion or fatwā of a muftī in establishing fiqhiyyah law from the thoughts of school scholars. It can also be interpreted as a result of legal istinbāṭ by a mujtahid used as a guide and confirmed by his students or followers, like the opinion of al-Shāfi‘ī, who argues about the necessity of intending when doing ablution. According to him, intention is one of the pillars of ablution. His followers then used his opinion as a guide, later referred to as the al-Shāfi‘īyah school.

As for being a mazhab in a manhaji manner, it means carrying out istinbāṭ al-aḥkām (digging into the law) based on the methodology (manhaj) formulated by the priests of the madhhab. In another explanation, the manhaji school is a method applied by mujtahids when studying, understanding, and establishing a fiqhiyyah law. For example, the methodology that has been formulated and used by Abū Ḥanifah, Mālik ibn Anas, al-Shāfi‘ī, and Aḥmad ibn Ḥanbal. In terms of its application, such as the acknowledgment and blasphemy of the theory of istiḥsān, which was acknowledged by Abū Ḥanifah but was rejected by al-Shāfi‘ī.

Nahdlatul Ulama Decree Regarding Family Planning

The fatwa answers questions regarding the law of limiting offspring or planning within the family. LBMNU studied it with several approaches. First, studying it through the concept of 'azl (withdrawing the penis before orgasm or releasing semen outside the uterus. Second, discussing it through the study of using tools and taking drugs that can prevent pregnancy or fertilization. Both of these -'azl and the use of tools that can prevent the entry of sperm into the uterus, such as a condom - is considered makrūh. The same law also applies to taking drugs to prevent pregnancy. However, the use of such devices or drugs does not reach the limit of totally terminating a pregnancy. Because if it

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32 Syafi‘ī.
terminates the pregnancy, then it is punished, *ḥarm*. According to the medical team, this prohibition does not apply to someone who could be dangerous if pregnant and other things that require them to do so.\(^{33}\)

Among the arguments used are:

> "Azl, namely expelling semen outside the womb because avoiding having children is *makrūh* even if the wife allows it, both from the free wife and from her slaves. That’s because ‘*azl* is a way to cut off offspring.”\(^{34}\)

> “And so for a wife to use something that delays pregnancy is *makrūh*, while the use of something that can terminate the pregnancy (forever), then the law is unlawful.”\(^{35}\)

> “And in times of emergency, according to fīqhiyyah rules; if there are two mafsadat (dangers), pay attention to the one with the greater danger (avoided) by doing the one with the least mafsadat”.\(^{36}\)

Based on these arguments, family planning, whether using ‘*azl*, condoms, or drugs, is *makrūh* in law. With a note, using the three is not up to the limit of terminating the pregnancy forever. That is because the act of terminating a pregnancy is unlawful.

**Nahdlatul Ulama Decree on Vasectomy and Tubectomy**

\(^{33}\) Tim LTN PBNU, *Ahkām al-Fuqahā fi Muqarrarāt Mu’tamarāt Nahdlatil Ulama; Solusi Problematika Aktual Hukum Islam, Keputusan Muktaamas, Munas, dan Konbes Nahdlatul Ulama*, 302.


\(^{36}\) Tim LTN PBNU, *Ahkām al-Fuqahā fi Muqarrarāt Mu’tamarāt Nahdlatil Ulama; Solusi Problematika Aktual Hukum Islam, Keputusan Muktaamas, Munas, dan Konbes Nahdlatul Ulama*, 303.
The fatwa answers questions regarding the law of vasectomy and tubectomy. Preventing and sparing childbirths that kill the reproductive function is not permissible in any way. However, it is still permissible if the sterilization is temporary and its function can be returned (to normal and functioning again).

Some of the arguments used include:

A man or a woman if they use drugs with the aim of preventing pregnancy, according to 'Izz al-Dīn the law is not permissible, even forbidding it. This is in line with the fatwa of al-'Imād ibn Yūnus. So, what if it is done by an independent married couple and both are willing not to get pregnant, is it permissible to take medicine to prevent pregnancy after menstruation is clean? 'Izz al-Dīn said that this was legally not permissible. However, what is meant by this impermissibility is not to exceed 'azl, which only closes the existence of ẓann (prejudice) offspring. Whereas ẓann is different from reality. The use of drugs to prevent pregnancy in total with the use of drugs to prevent temporary nature, both have different laws. Therefore, this opinion is stronger. Al-Bālisī in Sharḥ al-Tanbīh also explains the existence of this consideration.

In the Ghāyah al-Talkhīṣ fī Fatāwā Ibn Ziyād it is also explained:

"And in the book Fatāwā al-Qimāṭ it is concluded that the use of drugs to prevent menstruation is permissible."

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37 Tim LTN PBNU.
This decision is not much different from the previous one, which stated that pregnancy prevention is permissible as long as it does not kill the reproductive function through drugs or other means. In this case, sterilization using a vasectomy or tubectomy is permissible if nature can still be restored to become pregnant or give birth.

**Nahdlatul Ulama Decision on the Use of Spiral Contraception (IUD)**

This discussion concerns the Spiral Contraception (IUD) law, where installation must be done by looking at the private parts (vagina). LBMNU decided that using a device such as an IUD was permissible. The legal status is equated with ‘azl. This law also applies to the use of other contraceptives. However, the law can become unlawful because installing the device requires the installer to see the nakedness. Therefore, in pairing the device, efforts must be made to do it in a way justified by Islamic law, such as the husband who installs it.

The arguments used are:

> وَمِنْ مَعَاصِيِّ الْعَيْنِ النَّظُرُ إِلَى الْبَسَاءِ الأَجْنَابِيَّاتِ وَكَذَّا نَظَرَ مِنْ أَيْمَانَهُمْ وَنَظَرُ العُوْزَاتُ
> فِيْخَرْجُ نَظَرُ الرَّجُلِ إِلَى شَيْءٍ مِنْ بَدنِ الْمَرْأَةِ الأَجْنَابِيَّةَ غَيْرِ الْحَلِيلَةِ وَبِخَرْجٍ عَلَيْهِ وَقُلْتُ مَا بَيْنَ السُّرْحَةِ وَالْرُكْبَةِ بَخَضْرَةٍ مُّطَلَّعَ عَلَى الْعُوْزَاتِ وَلَوْ مَعَ جَنْسٍ وَمُخَرَّمٍ غَيْرِ حَلِيلَةٍ

“And among the evils of the eye, that is, looking at a man at another woman who is not his mahram, the same goes for a woman looking at another man who is not a mahram, and also looking at her private parts. Therefore, it is forbidden for a man to look at the body parts of a woman who is not a mahram except for his wife. And it is also forbidden for women to reveal their body parts in front of people who are forbidden to look at them. Men and women are forbidden to reveal (open) between the navel and the knees in front of people who can see it, even if they are of the same sex and have a mahram relationship, except for their wives.”

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40 Tim LTN PBNU, Ahkām al-Fuqahā’ fī Muqarrarāt Mu’tamarāt Nahdlatil Ulama; Solusi Problematika Aktual Hukum Islam, Keputusan Muktamar, Munas, dan Konbes Nahdlatul Ulama, 450.

Nahdlatul Ulama Decision on Contraception with Vaccines from Male Sperm

The issue being questioned in this fatwā is regarding vaccines based on male sperm. The vaccine immunizes women so they do not get pregnant. In its formulation, contraception through immunization using the vaccine is permissible because disgust or dirtiness (istiqẓār) no longer exists. In addition, it is required that sperm be released in a way that is not prohibited (muḥtaram).

The arguments used include:

“If there is a drink that is not intoxicating and holy, but if consuming it can cause harm, such as poison, or is generally disgusting, such as snot, then consuming it is unlawful. The reason is because there is an element of danger and disgust. If it does not exist, then it becomes lawful. There are four elements that make haram, namely intoxication, disgusting, harmful, and unclean.”

Istinbāṭ al-Aḥkām NU’s Analysis of “Refusing the Presence” of Children

Based on the arguments in deciding issues related to refusing childbirth, it is known that the istinbāṭ method used is the qawlī intiqādī approach. In practice, this method begins by examining the books (turāth) and prioritizing the mu’tabarāh (authoritative) books from the four schools of fiqh. In this case, LBMNU refers to the books of al-Shāfi‘iyah. On the four issues studied, it is believed that there is only one qawl (opinion), which is mujma’ ‘alayh (agreed upon). So that if there is no dispute, then the opinion is directly used as the basis. The books used as references were taken from the books of the al-Shāfi‘iyah school of thought, including Asnā al-Maṭālib by Zakariyā al-Anṣārī (d. 926 H), Ḥāshiyah al-Bājurī by Ibrāhīm al-Bājurī (d. 1276 H), Nihāyah al-Muḥtāj ilā Sharḥ al-Minhāj by Muḥammad Ibn Shihāb al-Dīn al-Ramlī (d. 957 H), Ghāyah al-

42 Tim LTN PBNU, Ahkām al-Fuqahā fī Muqarrarāt Mu’tamarāt Nahdlatul Ulama; Solusi Problematika Aktual Hukum Islam, Keputusan Mukhtar, Munas, dan Konbes Nahdlatul Ulama, 488.

In detail, the method used by LBM-NU in establishing laws is as follows. 1) *ibārah al-kitāb*, namely tracing the opinions of the scholars recorded in various books. 2) *taqrīr jamāʿī* is taking one of the opinions in the Salaf books. 3) *ilḥāq al-masāʾil bi naẓāʾirihā*, namely equating problems that have no legal certainty in the books of the Salaf. 4) *istinbāṭ jamāʿī*, namely gathering experts in fields related to the issues discussed.\(^4\)\(^4\) Nahdlatul Ulama fatwā determination method can be seen on Figure 1.

![Figure 1](image)

**Figure 1**
Nahdlatul Ulama Fatwā Determination Method

The *qawlī intiqādī* or *ibārah al-kitāb* method can speed up answering questions and does not require effort to mobilize the mind (*ijtihād*). This method is carried out by dynamically applying the texts resulting from the *ijtihād* of jurists in the context of the problem sought by the law. It can also be seen that the LBM-NU decision does not take the law directly from the Qur’an and Sunnah. It is known as the basic attitude in the school of jurisprudence.

**Contextualization of the NU Decision with the Childfree Phenomenon**

Three keywords are used as the basis of reference in determining the permissibility of refusing births. First, ‘*azl*, which is removing sperm (revoking the penis) outside the female genitals when he is about to orgasm during

intercourse. The goal is that sperm does not enter the uterus. It aims to break the fertilization in the uterus and avoid having children. This term was already at the time of the Prophet. At that time, one of the companions asked the Prophet about the issue of 'azl. This concept is found in the decision of Nahdlatul Ulama regarding Family Planning.

Second, the use of contraceptive devices such as intrauterine devices (IUD), implants, injections, condoms, operative methods for women (tubectomy), and operative methods for men (vasectomy). These tools are used to prevent pregnancy or fertilization. This concept can be seen in the decisions of Nahdlatul Ulama on Family Planning, vasectomy and tubectomy, and using spiral contraception (IUD).

Third, drug use, namely by consuming pills or other substances that can delay or prevent pregnancy. This concept is stipulated in the LBM-NU decision regarding Family Planning and contraception with vaccines from male sperm. Based on these three keywords, it is important to note that preventing temporary pregnancy does not eliminate the potential to get pregnant forever. Also, the objects used must be pure, including sperm, because they are not disgusting.

Reading the four LBM-NU fatwas and the three categorizations above, preventing pregnancy and not having children can be divided into two types: first, temporary prevention (mu’aqqat). He still can have children—second, permanent prevention (muṭlaq). In this second way, pregnancy prevention is carried out by covering the potentials that can make a child have offspring, both from the male and female sides. There are differences regarding using the term taḥdīd al-nasl (restrictions on having offspring). The term taḥdīd al-nasl, in this case, is interpreted as a permanent restriction on heredity. At the same time, those that are not permanent (temporary) are termed tanẓīm al-nasl (regulations in having offspring).

The four fatwās with the methodology used by LBM-NU can be contextualized on the childfree issue. It is because both of them concentrate on


the problem of rejecting children before they have the potential to exist. In fiqh studies, these issues can be reviewed through five methods; not getting married at all, refraining from having intercourse after marriage, through ‘azl, by not inzāl (not releasing sperm by inserting the penis into the vagina), and by using contraceptives or drugs that can prevent uterine fertilization. By looking at the equivalent cases above, from the aspect of its application, child-free cases can be equated in law with decisions that LBM-NU has stipulated.

Formulation of New Law on Childfree Cases; a Necessity

Determination of law on contemporary issues requires maximum effort. Apart from still referring to the arguments and opinions of scholars, social and cultural values are an integral part. Because the case to be solved is in Indonesia, Indonesian social and cultural values become an inevitable reference—at least two highlights of the child-free phenomenon. First, childfree is a lifestyle - it can even be considered an ideology - to refuse to give birth, adopt, or have children for married couples even though they can get pregnant - have healthy reproductive organs -. From the start, the husband and wife did not want children. That choice has the effect of becoming a principle. It differs from the LBMNU decision, whose main issue is spacing or regulating pregnancies. This problem indicates that there is still a desire to give birth or have children someday. In addition, the LBMNU decisions point to the method’s validity.

Second, the concept of childfree was born in the West due to the expansion of thought liberalism. Among these thoughts is the view of overpopulation and changes in the value of a child in the family due to the influence of Western mindsets. At some level, it can lead to depopulation and loss of the working-age population in the future. From an Islamic point of view, there is no term childfree or refusing to have children, especially for married couples. Even protecting offspring is an important part of Islamic law (ḥifẓ al-nasl).

Based on these arguments, a new law formulation is needed, especially for LBM-NU to study child freedom by looking at its substance. As a contemporary problem, it is possible not to find an opinion in the texts of books written by

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scholars. Therefore, the need to carry out istinbāṭ al-ahkām should use the manhaji approach by referring directly to the Qur’an and Sunnah, and still based on the methodology (manhaj) of the school’s imam.

There are at least three verses of the Qur’an that can be referred to answer the childfree problem. First, Surah al-Baqarah (2) Verse 223:

“Your women are a tilth for you (to cultivate) so go to your tilth as ye will, and send (good deeds) before you for your souls, and fear Allah, and know that ye will (one day) meet Him. Give glad tidings to believers, (O Muhammad).”

Second, Surah al-Naḥl (16) Verse 72:

“And Allah hath given you wives of your own kind, and hath given you, from your wives, sons, and grandsons, and hath made provision of good things for you. Is it then in vanity that they believe and in the grace of Allah that they disbelieve?”

Third, Surah al-Rūm (30): Verse 21:

“And of His signs is this: He created for you helpmeets from yourselves that ye might find rest in them, and He ordained between you love and mercy. Lo! herein indeed are portents for folk who reflect.”

The three verses above emphasize that when a man and a woman have married, the two are ordered to have good relations with each other (mu’āsharah bi al-ma’rūf). Included in the term is to have sexual intercourse properly. That is because it becomes part of the purpose of marriage, which is to maintain despicable lust. In addition, another purpose of marriage, and this goal is the main goal, namely, to continue and preserve offspring. The existence of children in a family will lead to the wisdom of marriage, namely the realization
of a peaceful and loving life (sakīnah, mawaddah, raḥmah). The Prophet also explained that marriage is intended to continue offspring.\(^4^8\)

**Conclusion**

The Nahdlatul Ulama Bahtsul Masail Institute (LBM-NU) has issued four fatwas related to refusing to have children. First, decision No. 283 concerning Family Planning. Second, decision No. 381 regarding Vasectomy and Tubectomy. Third, decision No. 382 regarding using spiral contraception (IUD). Fourth, decision no. 399 concerning contraception with male sperm-based vaccines. The *istinbāţ* method in deciding the four *fatwās* uses the *qawlī intiqādī* approach. When contextualized with the childfree case, the law can be equated with the decisions the LBM-NU has determined. This similarity is obtained through a review of the aspects of its application. While in substance, some differences and problems need to be studied in depth, especially through the *manhajī* and *maqāṣid al-sharī'ah* approaches. It is when childfree is used as a life principle as an ideology and published to the general public to be followed so that it impacts society. Because campaigning for childfree has implications for the principle of life, which ultimately affects the human population even in a justified way.[a]

**BIBLIOGRAPHY**


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