

CHILDFREE IN THE CONTEXT OF ISLAMIC LAW AND INTERNATIONAL LAW: A COMPARISON AND IMPLICATIONS FOR THE GLOBAL COMMUNITY IN SUSTAINABLE DEVELOPMENT

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Abstrack: The idea of childfree is examined in this study from the viewpoints of international and Islamic law, as well as its consequences for sustainable development on a global scale. With reference to an examination of primary and secondary legal sources, a normative approach is the research methodology employed. According to Islamic law, not having children is against the principle of maqashid sharia, particularly when it comes to preserving the continuity of offspring (hifz al-nasl), which is governed by the Qur'an (QS. An-Nisa: 1) and the Prophet Muhammad's Hadith, which encourage Muslims to have as many children as possible. In contrast, the principle of human rights, particularly Article 16 of the Universal Declaration of Human Rights (UDHR) and Article 23 of the International Covenant on Civil and Political Rights (ICCPR), which ensures individual freedom in establishing and structuring families, protects the freedom to choose not to have children under international law. The findings demonstrate the basic disparities between the two legal systems, with international law placing a higher priority on individual freedom and Islamic law on the collective duties of the ummah. However, the topic of childlessness has a big influence on sustainable development, particularly when it comes to social and demographic factors. Therefore, in order to maintain a balance between individual rights and group duty to the community, policies that may align local values with global principles are required.

Keyword: *Islamic Law, Childlessness, and Sustainable Development*

INTRODUCTION

Living childless has become a worldwide phenomenon that is receiving increasing attention, particularly in light of the shifting attitudes of contemporary culture. Numerous factors, including career, environmental, personal freedom, and economic considerations, frequently influence this choice. Human conduct is undoubtedly greatly impacted by the advancements in science and technology nowadays (Ulfah, 2024). Additionally, this issue has started to affect societal dynamics in a number of nations, including those with traditional cultures or robust legal systems rooted in religion. The idea of childfree in Islamic law presents serious concerns about how well it aligns with sharia values. According to QS. An-Nisa: 1, which emphasizes the value of establishing a family as the fundamental institution of humanity, one of the primary goals of maqashid sharia is to preserve the continuity of generations (hifz al-nasl). Furthermore, the Prophet Muhammad's Hadiths expressly exhort Muslims to have more children in the belief that this will strengthen and sustain the Muslim community worldwide. According to this viewpoint, choosing not to have children is frequently seen as

going against these values, with the exception of some circumstances that are permitted by sharia, such as medical ones.

Individual freedom, on the other hand, is one of the internationally acknowledged human rights under the framework of international law. Every person's right to establish a family according to their own preferences is expressly guaranteed by Article 16 of the Universal Declaration of Human Rights (UDHR) and Article 23 of the International Covenant on Civil and Political Rights (ICCPR). This includes the freedom to decide how many children to have or even not to have any children at all (Sagala, 2015). Respect for individual autonomy, which is regarded as the cornerstone of justice in a diverse global society, is emphasized by this method. In this instance, choosing to forgo having children is viewed as a right that the government and society must uphold rather than as a transgression of the law or social standards. In contemporary society, especially in nations where Muslims predominate, the conflict between the ideals of Islamic law and the tenets of international law gives rise to moral and legal quandaries. While there is pressure to uphold deeply held religious beliefs and customs, modernization and globalization also create opportunities for new perspectives and behaviors, such as choosing not to have children. Government policies are also impacted by this, as they frequently need to balance upholding international human rights norms with local values.

The childfree movement has important ramifications for sustainable development in addition to its effects on the social and cultural fabric. Demographically speaking, choosing not to have children can lead to a drop in the birth rate, which can then have an impact on the population structure of a nation. A population crisis marked by a rise in the elderly and a fall in the productive workforce has resulted from dropping birth rates in some affluent nations, including Germany and Japan (Nur et al, 2023). Similar patterns could also impact the distribution of human resources and the pace of economic growth in developing nations. The Republic of Indonesia's 1945 Constitution serves as a moral and legal foundation for all citizens' conduct, including the exercise of their freedom to start a family in order to produce children, as embodied in the laws and regulations (Sihombing, 2019). Thus, it is necessary to comprehend how the decision to forgo children may align or diverge with the sustainable development agenda, which aims to maintain equilibrium between the demands of present and future generations.

Going childless also sparks more general conversations on the place of the individual in society in today's globalized world. Does this choice have a collective influence that should be taken into account in terms of social responsibility, or is it purely a personal one? The decision to forgo having children may be interpreted as a disdain for the common obligation that each individual has to their community under Islamic law (Insany & Robandi, 2022). International law, on the other hand, frequently emphasizes individual rights as a crucial element of social justice. These contrasting viewpoints highlight the necessity of communication and intercultural strategies to resolve possible value conflicts in the age of globalization.

By determining the legal justification for the practice's rejection, especially with regard to the concepts of maqashid sharia and hifz al-nasl, this study seeks to examine how Islamic law regards childfree decisions. Additionally, this study intends to investigate how an individual's freedom to choose not to have children is protected by international law through human rights instruments like the International Covenant on Civil and Political Rights (ICCPR) and the Universal Declaration of Human Rights (UDHR). In order to achieve a balance between individual rights and collective responsibilities, this research also attempts to identify the social, demographic, and economic ramifications of the childfree decision in sustainable development. Additionally, policy recommendations will be made that can harmonize local

values with global principles.

LITERATUR REVIEW

The Social Perspective on the Idea of Childfree

In recent decades, being childless has become an increasingly popular trend worldwide. Socially speaking, being childfree refers to a person or couple's voluntarily choosing not to have children for lifestyle, financial, mental health, or personal reasons. Childlessness is frequently linked to modernization and heightened knowledge of gender equality, where women believe they have greater control over their life choices, according to a study by Musahwi et al. (2022). Going childless is sometimes seen unfavorably in traditional civilizations because it deviates from social and cultural standards that view having children as a moral obligation. The fact that this condition may eventually have an impact on social dynamics and family structure makes it concerning as well.

From the standpoint of Islamic law, childfree

According to Islamic law, the decision to forgo having children must be considered using the maqashid sharia principle, which highlights the five primary goals of sharia, one of which is to preserve the continuation of progeny (hifz al-nasl). The goal of marriage, as mandated by Allah, is to create a *sakinah*, *mawaddah*, and *rahmah* home that is peaceful and orderly in order to produce lawful offspring in society (Sihombing & Hadita, 2021). Since QS. An-Nisa: 1 exhorts humanity to protect offspring, the childfree decision is regarded as being against Islamic teachings. The Prophet Muhammad's hadiths also exhort Muslims to get married and have more children in order to fortify the ummah. There are, however, some exceptions, such as when the mother's safety is at risk due to medical issues. Additionally, some academics contend that this choice must be made with certain goals in mind rather than out of selfishness. A thorough commitment to striking a balance between individual rights and group obligations is seen in Islamic law's position on childfree.

Freedom of Choice and Human Rights in International Law

According to international law, the human rights principle protects a person's right to make their own decisions, including not having children. Everyone has the freedom to create the family of their choice, according to Article 16 of the Universal Declaration of Human Rights (UDHR) (Muamar, 2013). The freedom to choose one's family is a human right that the state cannot restrict without good cause, according to Article 23 of the International Covenant on Civil and Political Rights (ICCPR). Therefore, as long as choosing to forgo children does not infringe upon the rights of others or the sustainable development principles, it is protected under the international legal system. This viewpoint gives everyone the freedom to choose their own course in life without undue interference from the government or other organizations.

The Effect of Childfree on Sustainable Development

The choice to forgo having children has a big influence on the social, economic, and demographic facets of sustainable development. In terms of demographics, the growing trend of childlessness may result in fewer births, which could have an impact on the composition of the world's population. Maintaining the balance between the aging population and the productive work force is extremely difficult in low-birth-rate nations like South Korea and Japan (Abadi et al, 2024). Economically speaking, this choice might lessen personal financial strain, but it might have long-term effects on macroeconomic stability and consumption levels. Going childless sparks discussions about conventional family values, which are frequently regarded as the cornerstones of society. Therefore, strategies that promote sustainable development must take these implications into account.

Comparing International and Islamic Law on Childfree

The concept of childlessness is approached differently by Islamic law and international

law. The family is regarded by Islamic law as an institution that needs to be upheld. In Islam, having children is both a personal choice and a group obligation that pertains to the ummah's sustainability (Imron & Huda, 2023). International law, on the other hand, places a strong emphasis on people's autonomy to make their own decisions as long as they respect the rights of others. This discrepancy indicates a viewpoint based on opposing ideals, including freedom under international law and spirituality under Islamic law. Nonetheless, both share the same objectives, which are to build a sustainable and balanced society. The problem of harmonizing these two legal systems must be resolved, particularly in light of our increasingly interconnected global society.

METHOD

Using a normative research approach, this study examines legal studies based on relevant laws and regulations as well as library resources. By interpreting key legal texts like the Qur'an, Hadith, Universal Declaration of Human Rights (UDHR), and International Covenant on Civil and Political Rights (ICCPR), the normative approach seeks to examine the childfree issue from the standpoint of Islamic and international law. This approach was selected due to its applicability in comprehending how legal standards govern the choice to forgo having children and how these legal precepts can be implemented within the framework of a contemporary society that is still evolving.

This study employs a qualitative approach to data analysis, describing, analyzing, and establishing links between legal theory and practical application of the data gathered from diverse legal sources. In addressing the childfree phenomena, this qualitative research seeks to offer a thorough grasp of the distinctions and parallels between Islamic law and international law. The data used in this study are conceptual and normative interpretations drawn from reliable legal sources rather than numerical or statistical data.

A literature study, which gathers data from a variety of primary and secondary legal texts, is the data collection method employed in this study. Islamic religious books like the Qur'an and Hadith, as well as international agreements like the UDHR and ICCPR that serve as the foundation for international law, are examples of primary legal documents. In the meantime, books, scholarly articles, and scientific publications that are pertinent to the subject of this study are examples of secondary legal materials. The goal of this literature review is to gather a thorough understanding of the legal opinions regarding childfree rulings from the standpoints of international and Islamic law.

RESULT AND DISCUSSION

The Perspective of Islamic Law on Childfree Decisions and the Legal Foundation for Them

The choice to abstain from having children, or being childfree, has significant ramifications under Islamic law since it goes against the fundamental tenets of sharia. Preserving the continuity of offspring (hifz al-nasl) is one of the primary goals of maqashid sharia. Islam views the continuation of children as an integral aspect of human life, encompassing both personal and communal obligations to the ummah. The significance of bearing children in human life is clearly supported by the Qur'an. According to QS. An-Nisa:1, "O mankind, fear your Lord, who created you from a single person and from him created his wife; and Allah multiplied male and female from the two of them." This passage demonstrates that Allah's will, which has been since the creation of the first human being, is for the human race to continue. Furthermore, the wife is compared to a field that needs to be cultivated in order to bear children in QS. Al-Baqarah: 223 (Murni, 2019). The significance of the reproductive function in Muslim family life is emphasized in these verses.

The Prophet Muhammad's hadiths also specifically exhort Muslims to get married and start a family. According to one of his customs, the Prophet declared, "Marry, for on the Day of Judgment I will be proud of the large number of my people." (Abu Dawud, HR). According to this Hadith, having children is both a personal choice and a way to support the Muslim society at large. Going childless is perceived as disregarding one of marriage's goals, which is to continue having children. Scholarly opinions and the idea of *ijtihad* provide another legal foundation that supports the value of children. The scholars concur that not having children for non-shar'i reasons is not advised in Islam; in fact, in certain circumstances, it may even be considered haram. For instance, health issues that endanger the mother's life or the possibility of severe genetic abnormalities in the child are examples of the shar'i causes mentioned. The sharia principle of emergency, which permits prohibition when there is a substantial threat to life, can be used in these circumstances to support the decision to forgo having children.

Going childfree is deemed to be against Islamic teachings if it is motivated by non-shari'i factors, such as the need to pursue a career, preserve personal independence, or avoid responsibilities. Islam holds that bearing and raising children, as well as taking care of the family, is a kind of worship. Muslims are instructed in QS. At-Tahrim: 6 to defend themselves and their families from hellfire, highlighting the significance of family responsibilities, particularly those for future generations (Rahmadania et al, 2023). Furthermore, Islamic law's *istihsan* principle highlights the need for judgments to benefit both individuals and society as a whole. A decision to forgo children that is not supported by good cause may be viewed as disregarding the good of the community at large, particularly in preserving the Muslim generation. The scholars cautioned that the social fabric of Muslim society, which is largely dependent on the presence of families and children as its primary pillars, may be impacted by such a decision.

The social order may suffer as a result of the decision to forgo having children. According to Islam, children are a trust that will uphold moral and religious principles. According to QS. Al-Kahf: 46, children and riches are the world's adornment and will leave a legacy for the people's sustainability (Arviana et al, 2024). As a result, choosing not to have children is seen as a disregard for the enormous responsibility that God has placed on humanity. Islam acknowledges, nevertheless, that some couples are unable to conceive for biological or other unavoidable reasons. Islam offers a remedy in this case by adopting orphans or fostering children, which is regarded as one of the most strongly advised moral actions. As a kind of social duty comparable to having one's own children, QS. Al-Baqarah: 215 highlights the need of caring for orphans.

According to Islamic law, choosing to forgo having children is incompatible with the *maqashid sharia* concept, which emphasizes the value of preserving the continuity of generations (*hifz al-nasl*). In QS. An-Nisa: 1, the Qur'an highlights that Muslims have a responsibility to multiply their children. Prophet Muhammad's hadiths also support the idea that one of marriage's objectives is to have children, which will help Muslims remain strong and sustainable. Therefore, it is seen against Islamic teachings and may disregard social obligation towards the Muslim society to choose not to have children for any other reason than health. The choice to forgo having children can have an impact on social, economic, and demographic factors in the context of sustainable development. This trend's drop in birth rates may have an impact on social stability, economic productivity, and population balance. Maintaining a balance between the aging population and the productive labor force is difficult in nations with low birth rates.

The author contends that international law upholds this option as an individual right, even though Islamic law disapproves of the choice to forgo having children since it goes against the *maqashid tenet* of sharia. Therefore, measures that may reconcile local religious beliefs

with universal ideals that uphold individual liberty are necessary to achieve the Sustainable Development Goals (SDGs). By ensuring a balance between individual rights and group responsibilities, these inclusive policies will eventually aid in the attainment of general society well-being.

Human Rights and International Law Principles in Supporting Childfree Decisions

One of the topics that has been brought to light in international law, particularly in the protection of human rights (HAM), is the choice to remain childfree. Individual freedom, including the ability to choose whether to have children, is acknowledged in the international legal framework as one of the fundamental rights protected by several international agreements (Afifah, 2018). Individual autonomy in making decisions pertaining to personal and family life is recognized by international law and is governed by several documents. The 1948 Universal Declaration of Human Rights (UDHR) is one of the key texts. Everyone has the right to get married and start a family, according to Article 16(1) of the UDHR, however having children is not a requirement (Harlen, 2022). Every person's right to choose their family life, including whether or not to have children, is upheld in this article.

Additionally, individual freedom is protected under the International Covenant on Civil and Political Rights (ICCPR). Any kind of arbitrary interference in a person's private life, including reproductive decisions, is forbidden by Article 17 of the ICCPR (Lebret, 2023). The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which declares in Article 16 that women have the same rights as men to choose the number and spacing of their children, further supports this protection. Although gender equality is the main goal of CEDAW, this concept can also be understood to support women's choices to forgo having children. All persons have the right to freedom of choice without worrying about discrimination on the basis of socioeconomic rank, gender, or personal preference, according to the 1993 Vienna Declaration on Human Rights (Dasyah, 2023). Therefore, choosing not to have children shouldn't be a reason to deny someone their other rights, such as social recognition, work, or healthcare.

Article 12 of the Universal Declaration of Human Rights (UDHR) and Article 17 of the ICCPR both expressly safeguard the right to privacy, which includes the freedom to choose one's reproductive life. People have the ability to make decisions about their bodies and lives without outside influence because to this right. The choice to forgo having children is a component of reproductive rights, which encompass a person's complete autonomy over their body. The United Nations (UN) and other international organizations have acknowledged reproductive rights as a component of human rights. Reproductive rights include the ability to choose the number, spacing, and timing of children, according to the 1994 International Conference on Population and Development (ICPD) Program of Action (Ngema, 2023). As long as the decision is made free from violence, discrimination, or compulsion, this freedom also includes the choice to forgo having children. Though international law upholds individual choice, it should be highlighted that choosing to forgo children is frequently controversial, particularly in nations with particular cultural and religious beliefs. The problem for international law is to strike a balance between the social norms that are prevalent in various nations and individual freedoms.

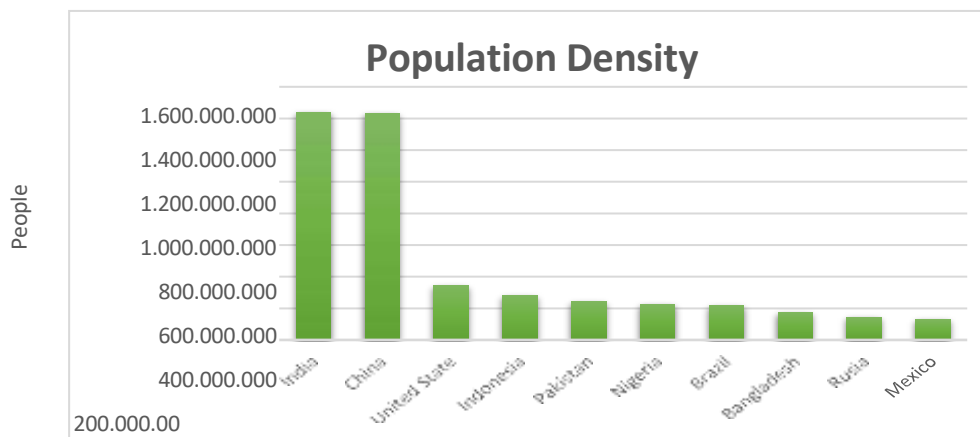


Figure 1 Countries with the Most People in the World

Source: (<https://databoks.katadata.co.id/demografi/statistik/3e6b918954ef191/ini-10-negara-dengan-jumlah-penduduk-terbanyak-di-dunia-awal-2024>)

On January 25, 2024, the world's population reached 8.08 billion, according to data from the Worldometers website. India, with a population of about 1.44 billion, surpassed China, which is currently ranked second with a population of 1.43 billion. The high death rate from COVID-19 and the birth rate, which fell to a record low of 6.39 births per 1,000 people in 2023 from 6.77 births per 1,000 people in 2022, have both contributed to China's population reduction during the last two years. Furthermore, the nation's population growth is slowing because of rising youth unemployment and falling office worker pay, which deter many couples from starting a family (Annur, 2024).

Trends resulting from social, cultural, and economic forces are responsible for the childless phenomena in nations like China and India. Many couples in China are choosing not to have children, which is in line with their values and choices for a childfree lifestyle, due to high rates of youth unemployment, falling worker pay, and growing living expenses. As more people place a higher value on their jobs, personal freedom, and financial security, the dramatic drop in birth rates also illustrates how society is evolving its perception of the conventional family. Even though India's birth rates are still higher than China's, modernization and urbanization may be persuading some people to think about living childless lives, particularly in big cities that deal with similar issues including shifting cultural norms and economic strains. This demonstrates that the childfree phenomenon is impacted by national circumstances and socioeconomic dynamics in addition to being an individual choice.

The 2030 Agenda for Sustainable Development's principles of sustainable development can also be connected to the choice to forgo having children. Respect for individual choice, including when making decisions pertaining to reproduction, is encouraged by Goals 5 (Gender Equality) and 10 (Reduced Inequalities) (Starrs et al, 2018). One strategy to lessen population pressure and promote more sustainable resource management is to choose not to have children. However, in reality, local interpretations of cultural and religious values frequently impede the application of international standards pertaining to childfree decisions. For instance, some nations may impose restrictions on personal liberties in order to maintain conventional family structures or to increase the number of births in their countries.

The choice to forgo having children is protected by international law as a component of human rights. Individual freedom to create a family as they see fit, including the right to forgo having children, is guaranteed by Article 16 of the Universal Declaration of Human Rights (UDHR) and Article 23 of the International Covenant on Civil and Political Rights

(ICCPR). This idea highlights how crucial it is for people to make their own decisions about their personal lives without interference from the government or other parties. The freedom of women to choose the number and spacing of children, including the choice to be childfree, is further supported by the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). In a diverse global society, this method emphasizes respect for individual freedom as the cornerstone of justice. Although international law allows for a great deal of individual freedom, the author contends that local values must be taken into consideration when applying these principles in the framework of sustainable development (SDGs). As long as the policies put in place are able to strike a balance between individual rights and group obligations, Islam, with its maqashid sharia, can support the SDGs in this situation. To fulfill the objectives of inclusive and sustainable development, this harmonization is necessary to guarantee the sustainability of society from both a social and demographic perspective.

Sustainable Development Consequences

The choice to forgo having children emphasizes how difficult sustainable development is, as it requires balancing the demands of society, the environment, and individuals. This choice has both beneficial and detrimental effects that must be appropriately managed in light of the SDGs. SDG 10 (Reduced Inequalities), for instance, advocates for the respect of individual rights, but it also needs to consider the effects on society at large, such as disparities in the population's age distribution. SDG 4 (Quality Education) is also impacted by the choice to forgo children. Resources for education can be more targeted and of higher quality when there are fewer births (Palayukan, 2019).

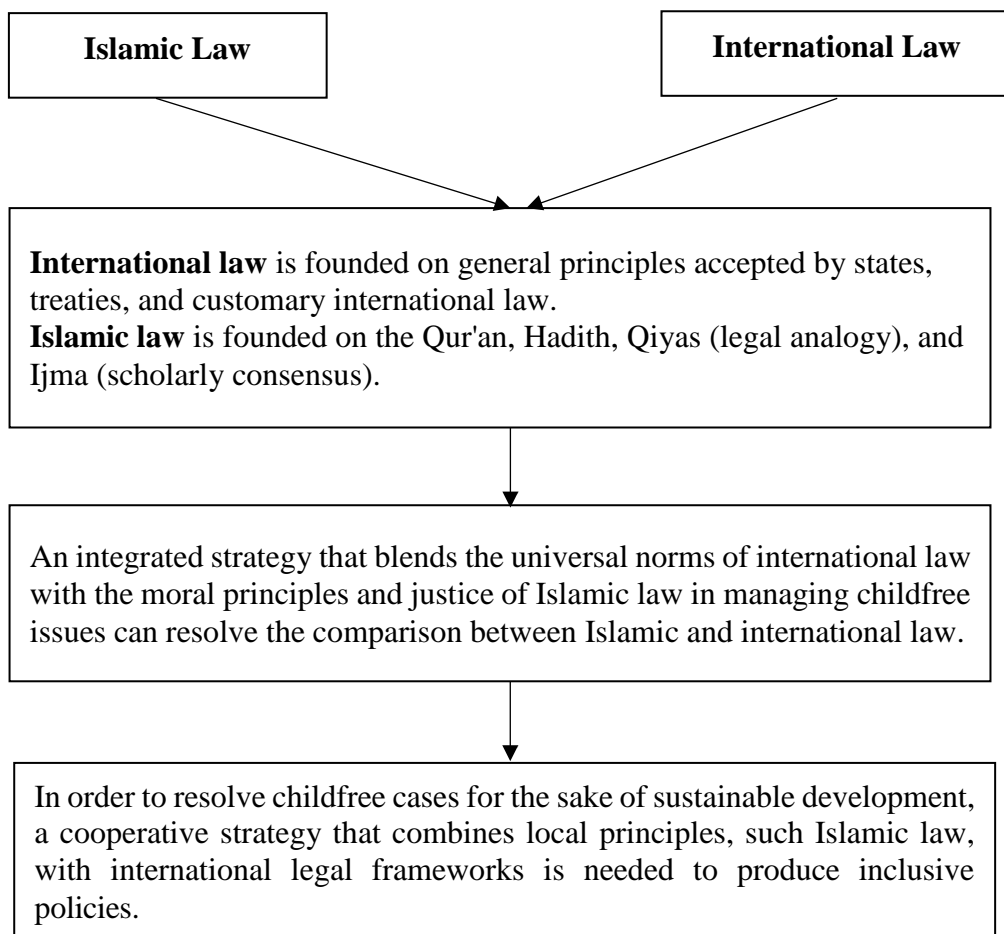


Figure 2 Conceptual Framework

According to the aforesaid conceptual framework, the use of universal principles from international law and moral values in Islamic law allows for a comparison of how international law and Islamic law are applied in addressing issues like childfree. Islamic law is based on divine revelation and religious traditions that place a higher priority on justice and morality than international law, which is concerned with agreements between governments and universally accepted standards. An method that incorporates both is necessary to address the childfree issue, which pertains to the decision to forgo having children, within the framework of sustainable development. Policies that are inclusive and equitable can be produced through a cooperative approach that blends local norms, like Islamic law, with international law. This implies that in order to ensure social, economic, and environmental sustainability that is equitable for all stakeholders, childfree policies should respect moral values in society, particularly those related to religion, in addition to taking into account the global interest in sustainable development.

The social, demographic, and economic facets of sustainable development can all be significantly impacted by the choice to forgo having children. This ruling is seen as an individual right that is safeguarded by human rights standards from an international legal standpoint. Individual freedom to decide whether or not to have children, independent of other parties, is supported by the Universal Declaration of Human Rights (Article 16) and the International Covenant on Civil and Political Rights (Article 23). This strategy is appropriate for handling population pressures, particularly in nations dealing with resource shortages or population growth. However, according to Islamic law, being childless is against maqashid sharia, especially the *hifz al-nasl* concept, which emphasizes the continuity of generations. It is believed that having children is a common obligation of the ummah that supports sharia fulfillment and the sustainability of society. While there may be some exceptions, such as for medical reasons, being childfree is typically regarded as a failure to uphold the ummah's continuity. Going childless works better in some circumstances, like managing resources or emphasizing personal quality of life. Childfree living may be a way to alleviate the financial strain and demographic pressure in nations like Japan and Germany that have steady or slowing population growth. Nonetheless, bearing children has long-term positive effects on productivity and social structure in developing nations that depend on a youthful labor force to propel their economies. Having children is considered a necessary contribution to society in Islam. According to Jannah (2015), children are trusts that are a part of the religious and moral legacy that will uphold society ideals.

CONCLUSION

In many laws, the choice to forgo having children is a topic that sparks discussions between society values and individual rights. According to Islamic law, choosing not to have children is inconsistent with the Shari'ah ideal, which is articulated in the Qur'an and Hadith and promotes reproduction in order to perpetuate the ummah's generation. Islam places a strong emphasis on the value of intending to have children as a means of worship and a way to support a sustainable community. Subject to the fatwa of pertinent experts, this decision might be justified in some circumstances, such as for health-related reasons. On the other hand, the choice to forgo having children is protected under international law as a component of human rights, namely the freedom of personal and reproductive life, as outlined in Article 16 of the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights. Although this strategy respects personal autonomy and choice, it also poses demographic challenges that must be addressed in the context of sustainable development. The choice to forgo having children has a variety of effects on sustainable development on a global scale, encompassing social, economic, and environmental factors. Both within the framework

of Islamic law and international law, inclusive and strategic policies are required to strike a balance between community requirements and individual rights.

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