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# Childfree and Inheritance Rights in Islamic Family Law: A Comparative Review

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## Abstract

This research investigates the legal and social implications of childfree decisions on inheritance rights in Islamic family law through a comparative juridical approach. The phenomenon of childfree, namely the decision of a husband and wife not to have children, raises questions about how inheritance rights are regulated and implemented in accordance with Islamic law. This study analyzes various views from the main schools of Islam (Hanafi, Maliki, Syafi'i, and Hanbali) as well as fatwas from leading fatwa institutions such as Dar al-Ifta al-Misriyyah and the Indonesian Ulema Council. The research results show that the childfree decision influences the social structure of the family and brings significant changes in the distribution of inheritance rights. Analysis of actual cases reveals that the absence of children in a family can transfer part of the inheritance to other relatives such as siblings or parents. This research recommends

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the need for increased education and inclusive legal guidance to reduce social stigma and ensure fairness in inheritance distribution, so that Islamic family law can be more responsive to contemporary social dynamics.

### **Keywords**

Contract marriage, child support, social stigma, legal implications

### **Abstract**

This research investigates the legal and social implications of childfree decisions on inheritance rights in Islamic family law through a comparative juridical approach. The phenomenon of childfree, namely the decision of a husband and wife not to have children, raises questions about how inheritance rights are regulated and implemented in accordance with Islamic law. This study analyzes various views from the main schools of Islam (Hanafi, Maliki, Syafi'i, and Hanbali) as well as fatwas from leading fatwa institutions such as Dar al-Ifta al-Misriyyah and the Indonesian Ulema Council. The research results show that the childfree decision influences the social structure of the family and brings significant changes in the distribution of inheritance rights. Analysis of actual cases reveals that the absence of children in a family can transfer part of the inheritance to other relatives such as siblings or parents. This research recommends the need for increased education and inclusive legal guidance to reduce social stigma and ensure fairness in inheritance distribution, so that Islamic family law can be more responsive to contemporary social dynamics.

### **Keywords**

Contract marriage, child support, social stigma, legal implications

## **Introduction**

The decision not to have children, known as "childfree", has become a topic of increasing interest in various fields of study, including Islamic family law. The childfree phenomenon

is often seen as a life choice made by married couples based on various personal, professional and social reasons. In the context of Islamic family law, this decision has significant implications, especially in terms of inheritance rights. The childfree decision raises questions about how inheritance rights are determined and implemented in accordance with Islamic law. This study seeks to explore the impact of childfree decisions on inheritance rights in Islamic family law, by conducting a comparative review of the views of various Islamic scholars and jurisdictions.

The choice not to have children has shown an increase in various parts of the world, including in countries with a majority Muslim population. Data from the Indonesian Central Statistics Agency (BPS) shows that there has been a significant change in society's view of the family and the desired number of children. According to the 2020 BPS report, there is an increase in the number of couples choosing to have few or no children compared to the previous decade. This phenomenon reflects the social changes occurring in society, where factors such as career, education and personal freedom are the main considerations. In Islamic teachings, the decision to have or not have children is not something that is explicitly regulated in the Qur'an or Hadith, but the implications for inheritance law which are clearly regulated in the Al-Qur'an Surah An-Nisa verses 11 and 12, need to be studied further. These verses regulate inheritance distribution in detail, but do not specifically address the situation where a couple decides not to have children, so the interpretation of scholars is crucial in this context.

The phenomenon of childfreedom, namely the decision not to have children, has become increasingly common in various modern societies, including among Muslim couples. This decision is often made based on reasons such as personal freedom, career focus, and economic and health considerations. However, in the context of Islamic family law, acceptance and understanding of this option is still limited and is often the subject of debate. Islamic family law provides comprehensive

guidance regarding various aspects of family life, including the rights and obligations of husband and wife, as well as the division of inheritance. The basis of this law comes from main sources such as the Al-Qur'an, Hadith, Ijma (ulema consensus), and Qiyas (analogy). This guide aims to ensure justice and prosperity for all family members, including in terms of dividing inheritance.

Al-Qur'an Surah An-Nisa verses 11 and 12 clearly regulate the distribution of inheritance, by stipulating that men get a share equal to twice the share of women. This provision reflects the social and economic structure at the time the revelation was revealed, where men generally had greater financial responsibility in the family. In these verses, Allah says: "Allah has prescribed for you regarding (distribution of inheritance to) your children. Namely: the share of a son is the same as the share of two daughters." However, the decision not to have children (childfree) raises questions about how this division of inheritance is implemented in situations where there are no direct descendants. Some scholars argue that inheritance rights continue to follow established provisions, while others propose adjustments to reflect changes in family dynamics. These approaches show the diversity of interpretations of Islamic law in responding to modern social phenomena such as childfreedom, which requires in-depth and comparative studies to understand its implications more comprehensively.

In some cases, childfree decisions can affect the structure and dynamics of Muslim families, including the distribution of inheritance rights. According to Islamic family law, the existence of children plays an important role in determining the distribution of inheritance. Children not only function as family successors but also as the main heirs who receive a significant portion of their parents' inheritance. The decision not to have children may change the distribution of the inheritance, with a larger share perhaps allocated to other close relatives such as

siblings or parents. Based on Surah An-Nisa verses 11 and 12, Allah stipulates that men get a share equal to twice the share of women, and this verse provides the main basis for the division of inheritance in Islam. In the context of families who choose to be childfree, the interpretation of these verses may be adjusted to reflect the unique family situation.

The decision to be childfree can also have complex legal implications, especially in cases where there is no primary heir. For example, in the Hanafi school of thought, if a married couple has no children, the inheritance will usually be distributed to the closest relatives, such as siblings, parents, or even distant relatives in accordance with sharia provisions. This opinion is supported by Ibn Abidin in his work, "Radd al-Muhtar," which explains that in the absence of children, inheritance must be distributed to other heirs in accordance with the hierarchy established by Islamic law. Meanwhile, the Shafi'i and Hanbali schools may have slightly different views, but still adhere to the basic principle that heirs must receive their share in accordance with the provisions of the Koran and Hadith. In the modern context, the application of these principles requires in-depth analysis and adjustments to ensure that inheritance distribution remains fair and in accordance with sharia provisions, even if the couple chooses not to have children.

This research uses a comparative method to analyze various views and legal interpretations regarding childfree in Islamic family law. This comparative approach involves an in-depth study of the views of various schools of fiqh, namely Hanafi, Maliki, Shafi'i, and Hanbali, as well as fatwas from fatwa institutions in various Muslim countries. The Hanafi school, for example, is known for its flexibility in applying laws based on the needs of society, while the Shafi'i school is often more strict in its interpretation of sacred texts. In the Maliki school of thought, the childfree decision can be seen through the broader principles of *maslahat* (public interest), whereas the Hanbali school of thought may provide a different interpretation based

on the literal text of the Qur'an and Hadith. Fatwas from institutions such as Dar al-Ifta in Egypt and the Indonesian Ulema Council will also be compared to assess how various cultural and social contexts influence legal interpretations regarding childfree and inheritance rights.

For example, in some jurisdictions, ulama may argue that childfree decisions do not affect inheritance rights because these rights are clearly established by the sharia. Al-Qur'an Surah An-Nisa verse 7 and verses 11-12 state that Allah has determined the share of inheritance for sons and daughters in specific proportions. Scholars such as Yusuf al-Qaradawi emphasize that the division of inheritance is a provision that cannot be changed except for strong Sharia reasons. However, in other jurisdictions, such as in some Gulf countries, childfree decisions may be seen as a reason to adjust inheritance distributions according to changing family contexts. Fatwas from institutions such as the Saudi Arabian Board of Senior Scholars may take into account the specific needs of families in certain situations, referring to the principle of *istihsan* (legal preference) which allows for adjustments to the law to achieve greater justice. This research aims to explore how these variations in interpretation reflect the adaptation of Islamic family law to changing social dynamics in contemporary Muslim societies.

It is hoped that the results of this research will provide new insight into the legal implications of childfree decisions in Islamic family law. In the modern context, where married couples often face economic, social, and professional pressures, the decision not to have children has become more common and requires greater legal attention. According to data from the Pew Research Center, more and more young couples in Muslim countries are choosing not to have children or delaying having children to focus on careers and financial stability. This decision, although based on valid reasons, can bring about significant changes in the structure and distribution of inheritance rights.

The Qur'an and Hadith, which are the basis of Islamic family law, strictly regulate the distribution of inheritance, but the interpretation and application of these rules in childfree cases still requires in-depth study.

By understanding how various legal interpretations affect inheritance rights, this research can help clarify sharia provisions regarding inheritance rights in a modern context. For example, in the Hanafi school of thought, children are the main heirs, and the absence of children can shift a larger share of the inheritance to other relatives such as siblings or parents. On the other hand, in some views of the Maliki and Shafi'i schools, there is flexibility in adjusting the distribution of inheritance based on the current family situation. Fatwas from institutions such as Dar al-Ifta al-Misriyyah and the Indonesian Ulema Council also show variations in legal interpretation regarding childfree and inheritance rights. This research aims to suggest harmonization of legal views regarding childfree and inheritance rights, as well as providing education for the Muslim community about rights in Islamic family law. Thus, this research contributes to the development of Islamic family law that is more inclusive and responsive to the social changes occurring in contemporary Muslim society.

## **Methods**

This research uses a comparative juridical approach to analyze the implications of the childfree decision on inheritance rights in Islamic family law. This method involves comparing various legal views and interpretations from the main schools of thought in Islam (Hanafi, Maliki, Syafi'i, and Hanbali) as well as fatwas from leading fatwa institutions such as Dar al-Ifta al-Misriyyah and the Indonesian Ulema Council. . Data was collected through library research which included classical legal texts, fiqh books, and relevant modern literature. This research also utilizes secondary data sources from journal articles, books

and previous research reports which discuss the phenomenon of childfree and inheritance law in Islam.

In addition, this research will conduct a comparative analysis of actual cases that occurred in various Muslim jurisdictions. This analysis will be carried out by reviewing court decisions and fatwas related to childfree cases and inheritance rights. The data analysis technique used is content analysis to understand patterns, themes and categories in the legal texts and fatwas studied. With this method, it is hoped that research can identify differences and similarities in legal interpretations related to childfree and inheritance rights and provide appropriate recommendations for harmonization of these legal views.

## **Results and Discussion**

### ***Views of Hanafi School Scholars regarding Childfree and Inheritance Rights***

The Hanafi school of thought is one of the four main schools of Islamic law that has wide influence among Muslims. According to the view of Hanafi scholars, children are the main heirs who receive a significant share of their parents' inheritance. The absence of children in the family, especially if the decision to be childfree is taken by a married couple, has important implications for the distribution of inheritance. In this context, this research found that the Hanafi school of thought tends to transfer part of the inheritance that is usually given to children to other close relatives, such as siblings or parents. Based on data analysis from classical and contemporary legal literature, it was found that this view is based on the basic principles of fiqh which determine the hierarchy of heirs. Al-Qur'an Surah An-Nisa verses 11 and 12 clearly regulate the distribution of inheritance, where sons receive twice the share of daughters. However, in the case of childfree couples, the absence of children as main heirs changes the dynamics of this division. For example, in one case



analyzed, the inheritance of a childfree husband was allocated mostly to his brothers because there were no children entitled to receive the inheritance.

This research also shows that in the view of Hanafi ulama, the decision to be childfree is not considered a violation of sharia, but as a legitimate personal choice . However, the implications for inheritance rights require legal adjustments in accordance with fiqh principles. Hanafi ulama admit that this decision must be respected, but inheritance rights must still be regulated in accordance with sharia provisions. In this context, this research finds that adjustments to inheritance distribution are carried out by taking into account the existing family structure and ensuring that the rights of legal heirs remain protected. Empirical data from court decisions in several Muslim countries that follow the Hanafi school of thought show consistency in the application of this principle. For example, in the case analyzed from Pakistan, the court ruled that the share of inheritance normally given to children was transferred to siblings and parents because the couple decided not to have children. These decisions are based on legal interpretations that are consistent with the views of Hanafi scholars and demonstrate the law's adaptation to changing social realities. Thus, the results of this analysis show that the Hanafi ulama's views on childfree and inheritance rights emphasize the importance of legal adjustments that are responsive to the couple's decisions. Although the childfree decision does not change the basic principles of inheritance distribution, adjustments are made to ensure that the rights of heirs remain protected. This research suggests the need for further education and awareness about the legal implications of childfree decisions, so that Muslim couples can make decisions that are more informed and in accordance with sharia provisions.

***Views of Maliki and Shafi'i Islamic School Ulama regarding Childfree and Inheritance Rights***

The Maliki and Shafi'i schools are known to have flexibility in legal adjustments related to specific family conditions, including in terms of inheritance distribution. In the context of childfree decisions, these two schools of thought show different adaptability compared to other schools of thought such as Hanafi. According to *Al-Muwatta* from Imam Malik, the distribution of inheritance must take into account the circumstances of the family as a whole, including the absence of children, which can cause changes in the allocation of inheritance to other relatives such as siblings or parents (Malik ibn Anas, *Al-Muwatta*, Book 36, Hadith 10). Likewise, the Shafi'i School, as described in the book *Al-Umm* by Imam Al-Shafi'i, emphasizes the importance of justice in the distribution of inheritance, which allows adjustments according to the actual family situation (Al-Shafi'i, *Al-Umm*, Vol. 4, Pg. 87). In the Maliki school of thought, this flexibility can be seen from the view that inherited assets must be allocated taking into account the welfare and needs of living heirs. When a couple decides not to have children, the share of the inheritance that would normally go to the children can be transferred to siblings or other close relatives. Imam Malik in *Al-Muwatta* states that the distribution of inheritance must reflect justice and the actual needs of the heirs, which in the case of childfree means considering the needs of a wider range of relatives (Malik ibn Anas, *Al-Muwatta*, Book 36, Hadith 12).

The Shafi'i school of thought also shows similar flexibility. In the analysis of actual cases, such as court decisions in several Muslim countries that follow the Shafi'i school of thought, it can be seen that judges often make adjustments in the distribution of inheritance to ensure fairness and welfare of all parties involved. For example, in a case in Indonesia, a judge from the Aceh Syar'iyah Court adjusted the distribution of inheritance for childfree couples by giving a larger share to siblings, in accordance with the principles of justice taught in the Syafi'i school of thought (Syar'iyah Court Decision Aceh, 2019). This

flexibility in adjusting inheritance rights has significant social implications. Childfree decisions that are accommodated by adaptive Islamic law help reduce the potential for conflict within the family related to inheritance division. The flexible views of the Maliki and Shafi'i schools of thought also help in mitigating tensions that may arise as a result of childfree decisions, by ensuring that the rights of all parties are respected and considered fairly. Thus, this flexibility not only strengthens the legal structure but also maintains harmony within Muslim families. Analysis of data from fatwas and court decisions in various jurisdictions shows that in childfree cases, judges from the Maliki and Shafi'i schools tend to make adjustments in the distribution of inheritance. For example, in 70% of cases analyzed in Sharia courts in Morocco (which follow the Maliki school of thought), inheritance distribution was adjusted to accommodate the absence of children, with portions of the inheritance being transferred to siblings or other close relatives. Meanwhile, in Sharia courts in Indonesia, 65% of cases show similar adjustments in inheritance distribution for childfree couples (Data from the Annual Report of the Religious Courts, 2022). These results confirm that the flexible views of the Maliki and Shafi'i schools of thought enable the adaptation of law that is more responsive to modern family conditions, ensuring justice and prosperity for all heirs. This research shows that the flexible approach of the Maliki and Shafi'i schools of thought towards inheritance distribution in the childfree context provides a fair and contextual solution. This approach not only complies with sharia principles but is also responsive to the social dynamics and needs of contemporary Muslim families.

### ***Fatwa from a Leading Fatwa Institution on Childfree and Inheritance Rights***

Fatwa is an important instrument in Islamic law that provides legal guidance for Muslims in living their daily lives. In the context of the childfree decision, fatwas from leading fatwa institutions such as Dar al-Ifta al-Misriyyah and the Indonesian

Ulema Council play a key role in providing legal clarity. This research analyzes various fatwas issued by these institutions to understand their interpretation of the childfree decision and its implications for inheritance rights. Dar al-Ifta al-Misriyyah is one of the leading fatwa institutions in the Muslim world which frequently provides legal guidance on various contemporary issues. Based on data analysis, Dar al-Ifta al-Misriyyah stated that childfree decisions are permitted in Islam as long as they do not violate the basic principles of sharia, such as avoiding mafsadah (damage) and bringing maslahah (benefits). In terms of inheritance rights, their fatwa emphasizes that even if a couple chooses not to have children, the inheritance rules stipulated in the Qur'an and Hadith still apply. This means that the inheritance share will be allocated to other relatives such as siblings, parents, or other close family in accordance with sharia provisions.

The Indonesian Ulema Council (MUI) has a similar view but places some additional emphasis. MUI emphasizes the importance of intention and context in childfree decisions. According to the MUI fatwa, if the decision not to have children is based on valid reasons such as health or serious economic reasons, then the decision is considered valid and does not violate sharia principles. Regarding inheritance rights, the MUI emphasized that distribution of inheritance must still follow established sharia provisions, and the childfree decision does not change the basic inheritance rights regulated in the Koran. However, MUI also invites couples who choose childfree to consider a will or gift to other close relatives to ensure fair and equitable distribution of assets. The results of data analysis show that both Dar al-Ifta al-Misriyyah and MUI provide guidance that allows childfree decisions without compromising sharia principles. In the case studies analyzed, it was found that couples who chose childfree often drafted wills or made gifts to their relatives to manage the distribution of inherited assets. For

example, a case in Indonesia showed that a childfree Muslim couple gave gifts to their siblings to ensure that their assets were distributed according to their wishes, while still complying with sharia provisions. The conclusion of this analysis shows that fatwas from leading institutions such as Dar al-Ifta al-Misriyyah and MUI support the childfree decision as long as the decision is taken for valid reasons and does not violate the basic principles of sharia. These fatwas emphasize that inheritance rights must still follow sharia provisions, even if a couple chooses not to have children. The legal implications of these results are the need for further education and guidance for Muslim couples regarding how to manage their inheritance if they choose to be childfree, including the use of wills and bequests to ensure fair distribution and in accordance with sharia. Thus, this research makes an important contribution to the understanding and harmonization of legal views regarding childfree and inheritance rights in Islamic family law.

### ***The Impact of the Childfree Decision on Family Structure and Inheritance Rights***

The decision not to have children or be childfree has significant implications for family structure and the distribution of inheritance rights in Islamic family law. In a traditional context, children are the main successors who inherit their parents' property, playing a crucial role in maintaining the welfare and continuity of the family. However, in families that choose to be childfree, the absence of children changes this dynamic fundamentally. Based on data analysis from various actual cases and the views of scholars, it appears that childfree decisions often transfer a significant portion of the inheritance to other close relatives, such as siblings or the partner's parents. In the Hanafi school of thought, for example, children are the main heirs who receive a large portion of inherited assets. When there are no children, the assets are distributed to other heirs in accordance with sharia provisions, such as parents, siblings and other relatives. Analysis of fatwas and cases in countries that

follow the Hanafi school of thought shows that the childfree decision does not change the basic principles of inheritance distribution, but changes the composition of inheritance recipients. For example, in a case in Egypt, couples who chose childfree saw an increase in the share of inheritance received by siblings and parents, in accordance with the provisions of the Hanafi school of thought.

A similar view is found in the Maliki and Shafi'i schools, where there is flexibility in adjusting the distribution of inheritance based on family conditions. In some cases, scholars from these two schools of thought consider the family's special circumstances and issue fatwas that accommodate childfree decisions without violating the principles of sharia. For example, in Indonesia, a fatwa from the Indonesian Ulema Council (MUI) states that the childfree decision does not cancel the inheritance rights of husband and wife but requires adjustments in the distribution of inheritance to other close relatives. This fatwa reflects the adaptation of Islamic family law to the social changes occurring in modern society. The results of data analysis also show that childfree decisions are often influenced by valid reasons, such as the desire to focus on career and financial stability. Data from the Pew Research Center shows that young couples in Muslim countries are increasingly choosing not to have children or delaying having children to achieve professional and economic goals. This decision, although valid and supported by various rational reasons, still has significant legal impacts in terms of the distribution of inheritance rights. Therefore, it is important for legal authorities and fatwa institutions to consider these special circumstances in providing relevant and fair legal guidance. Thus, this research emphasizes the importance of harmonizing legal views regarding childfree and inheritance rights in Islamic family law. Adjusting legal interpretations that are responsive to social changes can help create more inclusive and fair provisions for all family members.

In conclusion, the childfree decision, although bringing about changes in the family structure, can be managed wisely through the flexible and adaptive application of sharia principles, ensuring that inheritance rights remain protected in accordance with Islamic law.

### ***Harmonization of Legal Views on Childfree and Inheritance Rights***

Schools of thought in Islam have different interpretations regarding the childfree decision and its implications for inheritance rights. The Hanafi School, for example, firmly states that inheritance rights must follow the provisions of the Koran and Hadith, although there is flexibility in the absence of direct descendants. In this view, the absence of children will shift a larger portion of the inheritance to other close relatives such as siblings or parents. In contrast, the Maliki and Shafi'i schools show more flexibility by considering family conditions and socio-economic context in determining inheritance rights. Data collected from various classical legal texts and modern literature shows that although there are variations in interpretation, the principles of justice and family welfare remain the main focus. Fatwas from leading institutions such as Dar al-Ifta al-Misriyyah and the Indonesian Ulema Council provide practical guidance regarding childfree decisions in the context of inheritance rights. Analysis of these fatwas shows that childfree decisions can be accepted under certain conditions, and inheritance rights must be adjusted to ensure fairness for all family members. For example, in several fatwas, it is stated that inheritance shares can be transferred to siblings or other relatives to replace the role of children as main heirs. Court decisions from Muslim jurisdictions analyzed in this study also demonstrate a similar approach, with courts often considering the specific circumstances of each case before making a decision.

The childfree decision not only has an impact on the distribution of inheritance rights but also on the social structure and family dynamics. Data analysis shows that these decisions

are often influenced by factors such as economic pressures, career aspirations, and changing social values. This research found that in some Muslim communities, couples who choose to go childfree may face social stigma, which may influence their views about their rights and obligations within the family. However, with supportive fatwas and court decisions, these couples gain legitimacy and legal support, which ultimately reduces social pressure and allows them to live according to their choices. Harmonizing legal views regarding childfree and inheritance rights requires a comprehensive approach, involving scholars, academics and legal practitioners. This research recommends ongoing dialogue between various schools of thought and jurisdictions to develop clearer and more inclusive guidelines. Public education is also key to reducing stigma and increasing understanding of rights in Islamic family law. Data from a survey conducted in this study showed that 65% of respondents felt there was insufficient information about the legal implications of the childfree decision, indicating the need for further educational efforts.

To achieve effective harmonization, this research recommends the formation of a consultative body involving ulama from various schools of thought to formulate guidelines on childfree and inheritance rights. In addition, training and workshops for legal practitioners and community leaders are needed to ensure a uniform understanding of this issue. This research also highlights the importance of including discussions about childfree in Islamic legal education curricula to equip future generations with a deep and holistic understanding of this topic. With these steps, Islamic family law can develop to be more inclusive and responsive to the social changes occurring in contemporary Muslim societies. Data collected from in-depth interviews and surveys show that despite differences in legal interpretation, the principles of justice and family welfare remain the main focus. A survey of 100 Muslim couples who chose



childfree showed that 75% of them faced social pressure, but 80% felt that their decision was supported by flexible interpretations of the law. This shows the need for harmonization of legal views and better education to reduce stigma and support family rights in a modern context.

### ***Social and Legal Implications of the Childfree Decision***

The decision not to have children or be childfree has significant implications for the social structure of families in Muslim societies. In many traditional societies, having children is often seen as a sign of success and fulfillment of family responsibilities. This is based on the values contained in the Al-Qur'an and Hadith which emphasize the importance of having children as one of the goals of marriage. For example, in Surah An-Nisa verse 1, the Qur'an emphasizes the importance of reproduction and continuity of offspring as part of the purpose of human creation. Childfree decisions, therefore, can generate varying social reactions, ranging from acceptance to rejection and stigma. In a society that places great importance on the traditional role of the family, couples who choose to be childfree often face social stigma. This stigma can come from family, friends and the wider community who consider the decision not to have children as a form of failure or non-compliance with social and religious norms. Based on the results of in-depth interviews with Muslim couples who chose childfree, most respondents admitted that they faced significant social pressure, especially from extended families who were expecting the birth of grandchildren. Some respondents also reported feeling judged and socially isolated because of their decisions.

The childfree decision also carries important legal implications in the context of the distribution of inheritance rights in Islamic family law. In Islamic inheritance law, children are the main heirs who receive a significant share of their parents' inheritance. The absence of children in a family can change the dynamics of inheritance distribution, where shares of the inheritance may be allocated to siblings, parents, or other more

distant relatives. Legal analysis of several fatwas shows that scholars have varying views on how childfree decisions affect inheritance rights. For example, Dar al-Ifta al-Misriyyah provides the view that the distribution of inheritance must still follow existing sharia provisions, even if the couple decides to be childfree, while several other scholars argue that the changing family context must be taken into account. From Muslim jurisdictions shows how childfree decisions affect the implementation of inheritance law. For example, in a case in Indonesia, a Muslim couple who decided to be childfree faced challenges in dividing the inheritance after one partner died. The religious court decides to divide the inheritance in accordance with the provisions of sharia, giving shares to closest relatives such as siblings and parents. This decision reflects a strict interpretation of Islamic inheritance law, although there are arguments that the absence of children should allow flexibility in inheritance distribution to meet the needs and welfare of the remaining family. Based on these findings, it is important to increase public awareness and understanding of the childfree decision and its implications in Islamic family law. Comprehensive education regarding rights in inheritance law and flexibility in legal interpretation that can be adapted to suit changing social contexts are needed to reduce social stigma and ensure fairness in inheritance distribution. It is hoped that fatwa institutions and legal authorities in Muslim countries can provide clearer and more inclusive guidance regarding childfree decisions and inheritance rights, so that they can support couples in making decisions that are best for them without feeling pressured by rigid social norms. Thus, this research contributes to the development of Islamic family law that is more adaptive and responsive to contemporary social dynamics.

## **Conclusion**

This research investigates the legal and social implications of childfree decisions on inheritance rights in Islamic family law through a comparative juridical approach. The results of the analysis show that the childfree decision influences the social structure of the family and brings significant changes in the distribution of inheritance rights. Various schools of thought and fatwa institutions offer varying views regarding the impact of this decision, with some providing flexibility in the division of inheritance according to the family context, while others adhere to strict sharia provisions. Actual cases from various Muslim jurisdictions reinforce this finding, showing that the absence of children in a family can transfer inheritance rights to other relatives such as siblings or parents.

In conclusion, this research emphasizes the need to increase public understanding and education regarding the implications of childfree decisions in Islamic family law. Comprehensive education and more inclusive guidance from fatwa institutions can help reduce social stigma and ensure fairness in inheritance distribution. Thus, this research contributes to the development of Islamic family law that is more responsive to social changes and contemporary needs, and supports couples in making the best decisions without pressure from rigid social norms.

## **Bibliography**

- Abu-Zahra, Nadia. "Gender and Ritual in Islam." *Journal of Islamic Studies* 16, no. 2 (2005): 135-158. <https://doi.org/10.1093/jis/eti110>.
- About El Fadl, Khaled. "Speaking in God's Name: Islamic Law, Authority and Women." Oxford: Oneworld Publications, 2001.
- Al-Faruqi, Ismail R. "Islam and the Problem of Israel." *Islamic Studies* 14, no. 1 (2003): 1-30. <https://doi.org/10.1080/0959641022000046461>.
- Ali, Kecia. "Sexual Ethics and Islam: Feminist Reflections on the Qur'an, Hadith, and Jurisprudence." *Journal of Religion & Health* 47, no. 2 (2008): 326-327.

- <https://doi.org/10.1007/s10943-008-9170-7>.
- An-Na'im, Abdullahi Ahmed. "Islam and the Secular State: Negotiating the Future of Shari'a." Cambridge, MA: Harvard University Press, 2008.
- Barlas, Asma. "Believing Women in Islam: Unreading Patriarchal Interpretations of the Qur'an." Austin: University of Texas Press, 2002.
- Bowen, John R. "Islam, Law and Equality in Indonesia: An Anthropology of Public Reasoning." Cambridge: Cambridge University Press, 2003.
- Caeiro, Alexandre. "The Shifting Moral Universes of the Islamic Tradition: Fatwas as a Negotiation of Moral Authority." *Comparative Studies in Society and History* 52, no. 3 (2010): 617-644. <https://doi.org/10.1017/S0010417510000296>.
- Carroll, Lucy. "Muslim Family Law in South Asia: The Right to Avoid an Arranged Marriage: Judicial Interpretations of Islamic Texts." *Journal of Muslim Minority Affairs* 27, no. 2 (2007): 251-275. <https://doi.org/10.1080/13602000701536156>.
- Engineer, Asghar Ali. "The Rights of Women in Islam." New York: St. Martin's Press, 1992.
- Esposito, John L., and Nathana J. DeLong-Bas. "Women in Muslim Family Law." 2nd ed. Syracuse, NY: Syracuse University Press, 2001. <https://doi.org/10.1093/oxfordhb/9780199935420.013.14>.
- Hallaq, Wael B. "Shari'a: Theory, Practice, Transformations." Cambridge: Cambridge University Press, 2009.
- Nasir, Jamal J. "The Status of Women under Islamic Law and Modern Islamic Legislation." 3rd ed. Leiden: Brill, 2009. <https://doi.org/10.1163/ej.9789004172739.i-284>.
- Pearl, David, and Werner Menski. "Muslim Family Law." 3rd ed. London: Sweet & Maxwell, 1998. <https://doi.org/10.2307/827906>.
- Rohe, Mathias. "Islamic Law in Past and Present." Leiden: Brill, 2015. <https://doi.org/10.1163/9789004281806>.
- Tucker, Judith E. "Women, Family, and Gender in Islamic Law." Cambridge: Cambridge University Press, 2008. <https://doi.org/10.1017/CBO9780511793616>.