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Delaying Pregnancy in Muslim Families: Normative Negotiation between Islamic Law, State Law, and Social Reality

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Abstract: Delaying childbearing is increasingly common in contemporary Muslim families as a result of social, economic, and cultural change, particularly due to considerations of financial readiness, education, reproductive health, and shifting gender roles. This article aims to analyze this practice from the perspectives of Islamic law and the sociology of law, highlighting the negotiation between religious norms, state law, and social reality. This study is qualitative library research employing a normative-sociological approach. Primary sources include the Qur'an, hadith, classical and contemporary fiqh literature, fatwas, Article 28B of the 1945 Constitution, Law No. 1 of 1974 on Marriage, and Law No. 52 of 2009 on Population and Family Development, while secondary sources include scholarly literature and demographic reports. Data were collected through documentary and library research and analyzed descriptively and analytically through content analysis and socio-legal interpretation. The results indicate that delaying childbearing falls within conditional permissibility under Islamic law, provided it is temporary, consistent with Sharia principles, and based on mutual agreement between husband and wife. State law supports this practice by recognizing the right to form a family and by framing family planning as regulating the timing and spacing of birth rather than preventing procreation. Sociologically, this practice reflects the negotiation of Islamic family law norms in response to modern social demands, so that the law is practiced contextually as a "living law." This study contributes to Islamic family law studies and offers a reference for policymakers and the public in understanding the delay of childbearing.

Keywords: Postponing Childbearing, Islamic Law, Sociology of Law, Muslim Families, Family Planning.

Abstrak: Fenomena penundaan memiliki keturunan semakin banyak dijumpai dalam keluarga Muslim kontemporer akibat perubahan sosial, ekonomi, dan budaya, terutama karena pertimbangan kesiapan finansial, pendidikan, kesehatan reproduksi, dan transformasi peran gender. Artikel ini bertujuan menganalisis praktik tersebut

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dari perspektif hukum Islam dan sosiologi hukum, dengan menyoroti negosiasi antara norma agama, hukum negara, dan realitas sosial. Penelitian ini merupakan penelitian kepustakaan kualitatif dengan pendekatan normatif-sosiologis. Sumber primer meliputi Al-Qur'an, hadis, literatur fikih klasik dan kontemporer, fatwa, serta Pasal 28B UUD 1945, Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan, dan Undang-Undang Nomor 52 Tahun 2009 tentang Perkembangan Kependudukan dan Pembangunan Keluarga, sedangkan sumber sekunder meliputi artikel ilmiah, buku, dan laporan demografi. Data dikumpulkan melalui studi dokumen dan kepustakaan, kemudian dianalisis secara deskriptif-analitis melalui analisis isi dan interpretasi sosio-legal. Hasil penelitian menunjukkan bahwa penundaan memiliki keturunan berada dalam wilayah kebolehan bersyarat dalam hukum Islam, selama bersifat sementara, tidak bertentangan dengan prinsip syariat, dan didasarkan pada kesepakatan suami istri. Hukum negara mendukung praktik ini dengan mengakui hak membentuk keluarga dan memaknai keluarga berencana sebagai pengaturan waktu dan jarak kelahiran, bukan pencegahan keturunan. Dari perspektif sosiologi hukum Islam, praktik ini mencerminkan negosiasi norma hukum keluarga Islam terhadap tuntutan sosial modern, sehingga hukum dipraktikkan secara kontekstual sebagai living law. Penelitian ini berkontribusi pada pengembangan kajian hukum keluarga Islam serta menjadi rujukan bagi pembuat kebijakan dan masyarakat dalam memahami penundaan memiliki keturunan secara komprehensif.
Kata Kunci: Menunda Keturunan, Hukum Islam, Sosiologi Hukum, Keluarga Muslim, Perencanaan Keluarga.

A. Introduction

Marriage in Islam is understood not only as a legal and spiritual bond between a man and a woman but also as an institution aimed at forming a family and continuing the lineage.[1] In contemporary society, however, Muslim family life has undergone significant shifts that change how couples view the objectives of marriage and the timing of reproduction. One visible outcome is the practice of delaying pregnancy. Rather than treating immediate procreation as an absolute obligation, many couples now approach it as a deliberate choice shaped by economic pressure, rising educational attainment, reproductive health considerations, changing gender roles, and psychological readiness to raise children.[2] In Indonesia, fear of economic

[1] Nabil Hukama Zulhaiba Arjani et al., "Pernikahan Dalam Islam Membina Keluarga Yang Sakinah Mawaddah Dan Rahmah," *Ikhlas : Jurnal Ilmiah Pendidikan Islam* 2, no. 1 (2025): 140–50, https://doi.org/10.61132/ikhlas.v2i1.292.

[2] Melinda Mills et al., "Why Do People Postpone Parenthood? Reasons and Social Policy Incentives," *Human Reproduction Update* 17, no. 6 (2011): 848–60, https://doi.org/10.1093/humupd/dmr026.

insecurity has become a particularly strong driver of decisions to delay marriage among young Muslims, a pattern that extends to the timing of parenthood.[3]

Preserving lineage (*ḥifẓ al-nasl*) has long been recognized as a primary objective of marriage (*maqāṣid al-nikāḥ*) in Islamic law. Yet the legal discourse on childbearing has never been entirely rigid. The precedent of *'azl* (coitus interruptus), practiced by the Companions and reported in several hadiths, shows that classical fiqh did not regard procreation as an unconditional duty at every moment of marriage.[4] This question has gained new urgency as fertility declines worldwide, linking reproductive choices within families to broader demographic change.[5] Religious authorities in various Muslim societies have accordingly distinguished between spacing or delaying births, which they generally accept, and permanently preventing them, which they reject.[6] This normative flexibility is grounded in *maqāṣid al-sharī'ah*, so that delaying childbearing is evaluated not as a deviation from the purposes of marriage but as a contextual measure that may protect maternal well-being, family stability, and the quality of upbringing.[7]

While religious discourse provides the normative framework, state law and public policy also shape how Muslim families make reproductive decisions. In Indonesia, the right to form a family is constitutionally recognized, and national family planning programs frame birth regulation not as an obstacle to procreation but as a means of protecting reproductive health and family welfare.[8] Empirical realities, however, reveal an ongoing dialogue between these frameworks and local religious practice. In Air Genting Village, Asahan, for example, local religious leaders accepted delays based on health but questioned delays motivated purely by economic

[3] Mega Puspita et al., "Marriage Delay and Economic Rationality: A Socio-Theological Study on Poverty Fear among Young Indonesian Muslims," *Hayula: Indonesian Journal of Multidisciplinary Islamic Studies* 10, no. 1 (2026): 21–52, https://doi.org/10.21009/hayula.010.01.02.

[4] Saddam Putra Erlinda and Irsyad Hasan Isa Ansori, "Hadis Tazawwaju Al-Walud al-Wadud as a Normative Foundation in the Childfree Debate: An Analysis of Religious Perspectives," *Al-Afkar, Journal For Islamic Studies* 9, no. 4 (2026): 2473–88, https://doi.org/10.31943/afkarjournal.v9i4.3880.

[5] Natalia V. Bhattacharjee et al., "Global Fertility in 204 Countries and Territories, 1950–2021, with Forecasts to 2100: A Comprehensive Demographic Analysis for the Global Burden of Disease Study 2021," *The Lancet* 403, no. 10440 (2024): 2057–99, https://doi.org/10.1016/S0140-6736(24)00550-6.

[6] Abdi-Aziz Egeh et al., "The Views of Somali Religious Leaders on Birth Spacing – A Qualitative Study," *Sexual & Reproductive Healthcare* 20 (June 2019): 27–31, https://doi.org/10.1016/j.srhc.2019.02.003.

[7] Eva Astarina et al., "A Sharia-Based Solution to Family Planning: The Use of Temporary and Permanent Contraceptives in Light of the Legal Maxim al-Ḍararu Yuzāl," *Parewa Saraq: Journal of Islamic Law and Fatwa Review* 3, no. 1 (2024): 25–34, https://doi.org/10.64016/parewasaraq.v3i1.26.

[8] Muhammad Luthfi Mubarok et al., "Family Planning from the Perspective of Official State Interpretation," *Indonesian Journal of Islamic Studies* 13, no. 4 (2025): 10.21070/ijis.v13i4.1816-10.21070/ijis.v13i4.1816, https://doi.org/10.21070/ijis.v13i4.1816.

considerations.[9] The practice of delaying pregnancy therefore lies at an intersection where religious norms, state law, and social reality do not always align, and where couples must reconcile overlapping expectations in their everyday lives. Through these everyday decisions, the formal provisions of fiqh and state regulation are translated into a "living law" that reflects how Muslim families understand marital duties, reproductive rights, and family well-being.

Existing literature on this issue falls into three broad categories. The first is normative-fiqh scholarship, which focuses on whether delaying pregnancy or choosing to remain childless is permissible or prohibited, often treating Islamic law as a set of doctrinal rulings. The second consists of demographic and family planning studies, which examine fertility trends and the socioeconomic drivers of postponed parenthood without analyzing how religious doctrine shapes couples' behavior.[10] The third comprises socio-legal studies, which explore how Islamic, customary, and state norms interact in family life or how religious organizations respond to new reproductive choices, but rarely examine the everyday strategies couples use to navigate these normative systems.[11] There remains a lack of research that frames the delay of pregnancy as a living law shaped by the active negotiation of three overlapping normative systems: Islamic law, state law, and social reality.

To address this gap, this study asks two questions. First, how do Muslim couples negotiate the overlapping demands of Islamic law, state law, and social reality when deciding to delay pregnancy? Second, how does this negotiation produce a living law that reinterprets *maqāṣid al-nikāḥ* and *ḥifẓ al-nasl*? The study aims to analyze the practice of delaying pregnancy through the combined frameworks of contemporary Islamic jurisprudence and the sociology of law. Theoretically, it contributes to the sociology of Islamic family law by showing how *maqāṣid al-sharīʻah* operates not only as an abstract legal concept but also as a negotiated logic in everyday legal practice. Practically, it offers policymakers, religious institutions, and premarital guidance programs a clearer picture of how social realities reshape the application of Islamic and state family law.

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[9] Fatia Aisyah Putri and Irwan, "Postponing Pregnancy for Economic Reasons: An Islamic Juridical-Empirical Study in Air Genting Village, Asahan," *Al-Risalah Jurnal Ilmu Syariah Dan Hukum* 25, no. 1 (2025): 84–100, https://doi.org/10.24252/al-risalah.vi.55381.

[10] Arbanur Rasyid et al., "Dynamics of Childless Marriage Through the Lens of Maqasid Al-Shari'a," *Jurnal Ilmiah Peuradeun* 12, no. 2 (2024): 763–86, https://doi.org/10.26811/peuradeun.v12i2.1182.

[11] Erfaniah Zuhriah et al., "Childfree, the Digital Era, and Islamic Law: Views of Nahdlatul Ulama, Muhammadiyah, and Gender Activists in Malang, Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 3 (2023): 1606–26, https://doi.org/10.22373/sjhk.v7i3.17753; Roni Tabroni et al., "Hybridity, Intersection, and Challenge: Navigating the History of Customary and Islamic Family Law in Moluccan Marriages," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 18, no. 1 (2025): 1–28, https://doi.org/10.14421/ahwal.2015.18101.

B. Research Methods

This study is qualitative library research that examines the delay of pregnancy as a socio-legal phenomenon, employing a normative-sociological approach. The normative approach is used to examine Islamic legal doctrines, including fiqh, fatwas, and *maqāṣid al-sharīʿah*, together with Indonesian state law on marriage, population, and family planning. The sociological approach is used to examine how economic, educational, psychological, health, and gender factors shape reproductive decisions, so that law is analyzed not only as written rules but also as a living law that couples negotiate and practice in everyday life.

The primary sources consist of the Qur'an, hadith compilations, classical and contemporary fiqh literature and fatwas, as well as Article 28B of the 1945 Constitution, Law No. 1 of 1974 on Marriage, Law No. 52 of 2009 on Population and Family Development, and national family planning policies. The secondary sources consist of national and international journal articles, books, and demographic reports on fertility trends. Data were collected through documentary and library research by identifying, selecting, and classifying materials into three arenas: Islamic law, state law, and social reality. The data were then analyzed descriptively and analytically using content analysis and socio-legal interpretation, by mapping the norms of each arena, examining their points of convergence, tension, and negotiation, and drawing inductive conclusions on how this negotiation produces a living law that reinterprets *maqāṣid al-nikāḥ* and *ḥifẓ al-nasl*.

C. Discussion and Research Results

Delaying Childbearing as a Social Adaptation in Contemporary Muslim Families

Delaying childbearing in contemporary Muslim families is not merely an individual preference but a form of social adaptation to structural change. Viewed through Max Weber's theory of social action, a couple's decision to postpone having children is an instance of instrumentally rational action (*zweckrational*), in which means, ends, and consequences are deliberately weighed.[12] Within the sociology of Islamic law, this decision reflects a process in which Muslim families adapt marital obligations to socioeconomic conditions without abandoning religious principles. Five dimensions shape these decisions.

Economic stability. A primary driver is the pursuit of material readiness to meet the family's needs for education, health care, and housing.[13] In urban settings especially, children are increasingly regarded as a long-term economic and moral

[12] Max Weber, *Economy and Society: An Outline of Interpretive Sociology* (University of California Press, 1978).

[13] Puspita et al., "Marriage Delay and Economic Rationality."

responsibility, and parents feel obliged to invest heavily in each child's development.[14] In Islamic family law, this consideration intersects with the husband's obligation of maintenance (*nafaqah*). Couples thus interpret *ḥifẓ al-nasl* not only in quantitative terms but also in terms of the quality of care they can provide, so that the financial foundation of the household supports the objectives of marriage.

Psychological readiness. Delay also serves as a way for couples to achieve emotional stability before taking on the demands of parenting. Studies of motives for postponing parenthood show that concerns about personal readiness, relationship stability, and the burden of child-rearing are among the most consistent reasons for delay.[15] Couples preparing for marriage likewise report a need for information and guidance on preparing for conception, which indicates that readiness is increasingly understood as something to be planned rather than assumed.[16] In Islamic family law, this concern resonates with the marital objectives of *sakīnah* (tranquility) and *mawaddah* (affection). Couples negotiate the timing of reproduction to prevent domestic distress, treating the mental well-being of both spouses as a prerequisite for a stable household.

Education and career. The pursuit of higher education and professional development is another significant factor, as couples seek stability before assuming the responsibilities of parenthood.[17] The growing participation of Muslim women in higher education and the workforce has also reshaped gender roles within the family. Research on the changing gender division of labor shows that fertility decisions increasingly depend on how domestic and paid work are shared between spouses.[18] Historical studies likewise show that the management of fertility within marriage has long been shaped by negotiations over gender roles and state policy.[19] In this context, reproductive decisions become a joint choice in which couples reconcile classical notions of marital duty with contemporary expectations of partnership.

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[14] Anne H. Gauthier and Petra W. de Jong, "Costly Children: The Motivations for Parental Investment in Children in a Low Fertility Context," *Genus* 77, no. 1 (2021): 6, https://doi.org/10.1186/s41118-020-00111-5.

[15] Małgorzata Szcześniak et al., "English Validation of the Multidimensional Scale of Motives for Postponing Parenthood (MSMPP-18-EN): Factorial Structure, Psychometric Properties, and Correlates," *PLOS One* 20, no. 8 (2025): e0329404, https://doi.org/10.1371/journal.pone.0329404.

[16] Richard Nsengiyumva et al., "Correction to: Perceived Need of Information and Education about Conception Preparedness (CP) among Engaged and Soon to Be Married Couples: A Qualitative Survey," *Reproductive Health* 23, no. 1 (2026): 101, https://doi.org/10.1186/s12978-026-02352-7.

[17] Mills et al., "Why Do People Postpone Parenthood?"

[18] Muzhi Zhou and Man-Yee Kan, "A New Family Equilibrium? Changing Dynamics between the Gender Division of Labor and Fertility in Great Britain, 1991–2017," *Demographic Research* 40 (June 2019): 1455–500, https://doi.org/10.4054/DemRes.2019.40.50.

[19] Natalia Jarska and Agata Ignaciuk, "Marriage, Gender and Demographic Change: Managing Fertility in State-Socialist Poland," *Slavic Review* 81, no. 1 (2022): 142–62, https://doi.org/10.1017/slr.2022.85.

Reproductive health. Health considerations and maternal well-being play a critical role in reproductive timing. Awareness of maternal risk, physical readiness, and optimal birth spacing encourages couples to use contraception as a preventive measure, although knowledge and practice of contraception still vary considerably among women in Muslim societies.[20] In Islamic jurisprudence, this rationale rests on the legal maxim *lā ḍarar wa lā ḍirār* (there shall be no harm and no reciprocal harm) and on the objective of *ḥifẓ al-nafs*. Couples who delay pregnancy for health reasons therefore view their decision as an act of harm prevention that is consistent with Islamic legal ethics.[21]

Social and environmental conditions. Broader conditions, such as political instability, social crises, or economic uncertainty, also influence family planning. Evidence from Ukraine on the eve of the full-scale Russian invasion shows that perceived insecurity led many couples to postpone childbearing.[22] Sociological studies of fertility transition similarly show that modernization changes the meaning attached to childbearing and encourages families to renegotiate their reproductive plans.[23] These external realities enter the private sphere of Muslim families and shape the timing of reproduction.

In sum, delaying childbearing among Muslim families cannot be reduced to a secular deviation from religious ideals. It is a social adaptation in which rational calculation, changing gender roles, and environmental conditions interact with Islamic normative frameworks, producing a continuous reinterpretation of *maqāṣid al-nikāḥ*.

Islamic Legal Constructs regarding the Delay of Pregnancy

In classical Islamic legal literature, the encouragement to procreate is closely linked to the objectives of marriage and is rooted in prophetic traditions that encourage Muslims to marry and to have many children. Juristic analysis, however, shows that this encouragement is a recommended objective (*mandūb*) rather than an unconditional duty, and that it must be balanced against individual capacity and public interest (*maṣlaḥah*). Within *maqāṣid al-sharī'ah*, *ḥifẓ al-nasl* encompasses not only the quantitative continuation of the community but also the quality of the next generation, which requires that children be raised in conditions that protect their health, education, and well-being.

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[20] Raghad O. Aldabbagh and Harith Kh Al-Qazaz, "Knowledge and Practice of Contraception Use Among Females of Child-Bearing Age in Mosul, Iraq," *International Journal of Women's Health* 12 (2020): 107–13, https://doi.org/10.2147/IJWH.S231529.

[21] Astarina et al., "A Sharia-Based Solution to Family Planning."

[22] Brienna Perelli-Harris et al., "Uncertainty and Fertility in Ukraine on the Eve of Russia's Full-Scale Invasion: The Impact of Armed Conflict and Economic Crisis," *European Journal of Population* 40, no. 1 (2024): 28, https://doi.org/10.1007/s10680-024-09713-7.

[23] Zohreh Behjati-Ardakani et al., "Sociological Study on the Transformation of Fertility and Childbearing Concept in Iran," *Journal of Reproduction & Infertility* 18, no. 1 (2017): 153–61.

The Qur'an itself points to the value of spacing between births. It describes a full period of breastfeeding as two years (Q. 2:233) and states that the bearing and weaning of a child together last thirty months (Q. 46:15). These verses are commonly read as indicating that a mother's recovery and a child's nurture require time, so that an interval between pregnancies serves the welfare of both. The legal precedent for managing procreation is the practice of *'azl*. During the Prophet's lifetime, the Companions practiced *'azl*, and the absence of an explicit prohibition was understood as an indication of its permissibility. The majority of jurists in the Ḥanafī, Mālikī, Shāfi'ī, and Ḥanbalī schools held that *'azl* is permissible provided that the wife consents. This requirement reflects an important principle of Islamic family law: reproduction and sexual fulfillment are shared marital rights, so a unilateral decision that restricts potential offspring is objectionable unless both spouses agree.[24] A recent thematic study of the *'azl* hadiths, however, cautions that these hadiths were tied to particular circumstances and cannot be used to justify a principled rejection of children.[25]

In contemporary jurisprudence, modern contraceptive methods are evaluated as functional extensions of *'azl*, and scholars distinguish three reproductive choices with different legal statuses. The first is birth spacing (*tanẓīm al-nasl*), namely temporarily delaying or spacing pregnancies to protect maternal health, ensure readiness, or allow adequate care for existing children; this is widely regarded as permissible (*mubāḥ*) on the basis of *maṣlaḥah*.[26] The second is a temporary delay of the first pregnancy for a defined period, based on mutual consent, in order to achieve educational, financial, or psychological stability; this falls under conditional permissibility (*al-ibāḥah al-muqayyadah*). The third is permanent limitation or the ideological rejection of children (*taḥdīd al-nasl*), such as the childfree choice without medical necessity; most scholars regard this as prohibited because it contradicts the essential purpose of marriage and the mandate of *ḥifẓ al-nasl*.[27] This distinction is also reflected in Indonesian religious organizations, whose representatives generally

[24] Ahmed Abdel Fattah et al., "Negotiating Women's Reproductive Rights Within the Framework of Islamic Law," *Insani: Jurnal Pranata Sosial Hukum Islam* 1, no. 2 (2025): 178–93, https://doi.org/10.65586/insani.v1i2.57.

[25] Hedhri Nadhiran et al., "Childfree in The Perspective of Hadiths Ahkam: Thematic Study of Hadith on 'Azal with a Maqāṣid al-Sharī'ah Approach," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 10, no. 1 (2026): 267–95, https://doi.org/10.22373/sjhk.v10.i1.33611.

[26] Misno Misno et al., "Eco-Maqāṣid and Cross-Border Governance: A Policy Analysis of the Indonesia–Singapore Sustainable Industrial Zone," *Al-Jadwa: Jurnal Studi Islam* 6, no. 1 (2026): 134–59, https://doi.org/10.38073/aljadwa.5021.

[27] Rasyid et al., "Dynamics of Childless Marriage Through the Lens of Maqasid Al-Shari'a."

regard a voluntary childfree choice as impermissible but accept it when medical, physical, or psychological conditions prevent childbearing.[28]

Contemporary juristic studies therefore emphasize that the permissibility of birth regulation is conditional: it must be temporary, must not destroy fertility, and must not stem from an ideological rejection of parenthood.[29] From the perspective of *maqāṣid al-sharīʿah*, delaying childbearing is thus evaluated beyond a simple binary of *ḥalāl* and *ḥarām*. It operates within a spectrum of conditional permissibility in which the ruling depends on the underlying intention, the temporary nature of the method, and its alignment with family welfare and *maṣlaḥah*.[30]

Delaying Pregnancy from the Perspective of State Law

Indonesian state law does not oblige married couples to have children immediately after marriage. Article 28B paragraph (1) of the 1945 Constitution guarantees the right of every person to form a family and to continue descendants through a lawful marriage. This provision frames procreation as a right rather than a duty, which means that the timing of exercising that right is left to the couple. Law No. 1 of 1974 on Marriage likewise defines the purpose of marriage as forming a happy and lasting family based on belief in God, without stipulating when a couple must have children. In this respect, state law and classical fiqh share the same position: procreation is an objective of marriage, but not an immediate and unconditional legal obligation.

The more direct legal basis is found in Law No. 52 of 2009 on Population and Family Development, which defines family planning as an effort to regulate the birth of children, the ideal spacing and age of childbirth, and pregnancy, through promotion, protection, and assistance in accordance with reproductive rights, in order to realize quality families. Through national family planning programs, reproductive health regulation, and population development policy, the state thus establishes a formal framework that recognizes birth spacing and temporary contraception as legitimate practices.[31] This definition places the regulation of pregnancy, including its postponement, within the framework of reproductive rights and family quality, a logic that parallels the juristic distinction between *tanẓīm al-nasl* and *taḥdīd al-nasl* discussed above.

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[28] Zuhriah et al., "Childfree, the Digital Era, and Islamic Law."

[29] Astarina et al., "A Sharia-Based Solution to Family Planning."

[30] Wahyu Abdul Jafar et al., "The Childfree Phenomenon Based on Islamic Law and Its Respond on Muslim Society," *Al-Istinbath: Jurnal Hukum Islam* 8, no. 2 November (2023): 389–406, https://doi.org/10.29240/jhi.v8i2.7865.

[31] Mubarok et al., "Family Planning from the Perspective of Official State Interpretation."

State law, however, operates as a facilitating rather than a coercive framework. It provides legitimacy and services but does not determine the reasons for which a couple delays pregnancy. This restraint is significant when compared with other Muslim jurisdictions. Jordan, for example, intervenes directly in the choice of a spouse by restricting marriages with an age gap of more than twenty years unless a judge is satisfied that the bride consents, a rule grounded in *istiḥsān*, *maṣlaḥah*, and *sadd al-dharī'ah* but one that also exposes the tension between legal protection and state control over women's autonomy.[32] Indonesian family planning law avoids this tension by protecting reproductive rights without prescribing how couples should exercise them. Those reasons are evaluated within the religious sphere, where local interpretations may accept health-related delays while questioning purely economic motives, as the case of Air Genting Village shows.[33] This gap between state legitimacy and religious evaluation is what requires couples to negotiate, as discussed in the next section.

Normative Negotiations in the Practice of Delaying Pregnancy

From a socio-legal perspective, delaying pregnancy is not a simple choice between religious compliance and secular influence. It is an arena of normative negotiation at the intersection of Islamic law, state law, and social reality. Islamic jurisprudence is rarely applied in a purely textual vacuum; it is interpreted contextually as couples deal with the complexities of everyday life. Rather than viewing state policy and religious rulings as contradictory, Muslim families use state health services and family planning programs while anchoring their choices within the permissible boundaries of fiqh, particularly the category of *tanẓīm al-nasl*. This interaction gives rise to hybrid family law practices, in which formal fatwas, state regulations, and domestic strategies jointly govern reproductive choices.[34]

This negotiation takes place at three levels. Between spouses, it takes the form of mutual consent, so that the decision to delay pregnancy does not violate the rights of either party.[35] Between the couple and the state, it takes the form of selective use of family planning services that are considered consistent with religious norms.[36] Between the couple and their social environment, it takes the form of justifying the delay with reasons that are religiously acceptable in the community, such as health, rather than purely economic considerations.[37] Each level involves a different

[32] Adi Harmanto Harahap et al., "Kafaah Dalam Perkawinan: Menelaah Pembatasan Perpautan Usia Di Yordania Dalam Bingkai Hukum Islam, Keadilan Gender, Dan Relevansinya Di Indonesia," *ABHATS: Jurnal Islam Ulil Albab* 6, no. 1 (2025): 13–26, https://doi.org/10.20885/abhats.vol6.iss1.art2.

[33] Putri and Irwan, "Postponing Pregnancy for Economic Reasons."

[34] Tabroni et al., "Hybridity, Intersection, and Challenge."

[35] Fattah et al., "Negotiating Women's Reproductive Rights Within the Framework of Islamic Law."

[36] Mubarok et al., "Family Planning from the Perspective of Official State Interpretation."

[37] Putri and Irwan, "Postponing Pregnancy for Economic Reasons."

normative authority, and couples move between them by selecting the justification that is most acceptable in each arena.

The most contested ground in this negotiation is the economic motive. Studies of young Indonesian Muslims show that fear of poverty has become a dominant reason for delaying marriage, and that this economic rationality is gradually redefining religious concepts such as *nafaqah*, effort (*ikhtiyār*), and family resilience in material terms.[38] Religious authorities, however, are more cautious. Survey-based research on the childfree phenomenon found that economic reasons were the most frequently cited, yet concluded that refusing children for economic or social reasons is not permissible, while refusal based on health or psychological trauma may be.[39] Local religious leaders in Asahan took a similar position toward delay, accepting health-related reasons while questioning purely economic ones.[40] Couples respond to this tension by reframing their economic considerations in religiously acceptable terms, such as the readiness to fulfill the obligation of maintenance, the protection of the mother's health, or the quality of the child's upbringing. This reframing is itself a form of negotiation: it does not abandon the economic motive, but translates it into the vocabulary of *maṣlaḥah* and *ḥifẓ al-nasl* so that it can be accepted within the religious community.

The negotiation is also shaped by gender relations within the household. Because the physical and social costs of pregnancy and child-rearing fall disproportionately on women, the requirement of mutual consent gives wives a recognized voice in deciding when to conceive.[41] At the same time, changes in the division of paid and domestic work mean that the timing of childbirth increasingly depends on how spouses share responsibilities, rather than on the husband's preference alone.[42] The practice of delaying pregnancy therefore illustrates how the classical requirement of the wife's consent in *'azl* acquires new significance as a basis for more equal reproductive decision-making within Muslim marriages.

Delaying Pregnancy as "Living Law" within Muslim Families

The negotiation described above reflects Eugen Ehrlich's concept of living law, namely the law that governs social life even though it has not been laid down in formal legal propositions.[43] Ehrlich's insight has been used to explain how legal norms in

[38] Puspita et al., "Marriage Delay and Economic Rationality."

[39] Jafar et al., "The Childfree Phenomenon Based on Islamic Law and Its Respond on Muslim Society."

[40] Putri and Irwan, "Postponing Pregnancy for Economic Reasons."

[41] Fattah et al., "Negotiating Women's Reproductive Rights Within the Framework of Islamic Law."

[42] Zhou and Kan, "A New Family Equilibrium?"

[43] Eugen Ehrlich, *Fundamental Principles of the Sociology of Law*, ed. Walter Lewis Moll (Harvard University Press, 1936).

Muslim societies emerge from social practice and acquire authority alongside, and sometimes ahead of, formal legislation.[44] In this context, Muslim couples construct a living law by synthesizing religious principles with state population policy and socioeconomic necessity. They do not merely execute state programs or passively apply text-based fatwas; instead, they contextualize religious doctrine alongside state regulation and the practical pressures of daily life.

The living law of delaying pregnancy can be identified through three features. First, it has its own normative content. Couples develop shared criteria about when delay is acceptable, such as reaching a minimum level of financial stability, completing education, or ensuring the mother's physical readiness, and these criteria function as rules even though they are not written in any statute or fatwa. Second, it is maintained through social mechanisms rather than formal sanctions. Expectations from parents, relatives, and the surrounding community, including the frequent question of when a couple will have children, operate as informal pressure that limits how long a delay is considered reasonable. Third, it remains dynamic, because the criteria shift as economic conditions, educational opportunities, and gender relations change. Through these features, the living law of delaying pregnancy reinterprets *maqāṣid al-nikāḥ* and *ḥifẓ al-nasl*: the purpose of marriage is no longer measured only by the immediate birth of children, but by the capacity of the family to raise them in conditions that protect their life, health, and future.

Analyzing the delay of pregnancy through the sociology of Islamic law thus shows that the sharia operates as an adaptable value system capable of accommodating structural change without losing its ethical core. Its flexibility provides the normative foundation that allows Muslim families to reconcile religious obligations with financial pressure, career trajectories, and reproductive rights. Delaying procreation is therefore an active dialectic between textual doctrine, state regulation, and lived social practice.

This living law also has internal limits, and these limits remain anchored in fiqh. The same communities that accept a temporary delay generally reject a permanent and voluntary refusal to have children. Representatives of Nahdlatul Ulama, Muhammadiyah, and gender activists in Malang, for example, regarded a voluntary childfree choice as impermissible while accepting it where medical, physical, or psychological conditions prevent childbearing.[45] Hadith scholarship likewise cautions that the reports permitting *'azl* cannot be extended to justify

[44] Adhya Febri Lutfiana, "Keistimewaan Qanun Di Aceh Dalam Perspektif Sociological Yurisprudence Menurut Eugen Ehrlich," *Jurnal Hukum Dan Pembangunan Ekonomi* 8, no. 2 (2020): 199–212, https://doi.org/10.20961/hpe.v8i2.49770.

[45] Zuhriah et al., "Childfree, the Digital Era, and Islamic Law."

childlessness as a principled marital choice.[46] The boundary between delay and refusal thus marks the point at which the living law yields to the normative core of Islamic law. Couples enjoy considerable room to negotiate the timing of reproduction, but not to abandon the objective of procreation altogether. This boundary shows that the living law of delaying pregnancy is not a departure from the sharia but an interpretation of it that operates within limits the community continues to recognize.

Implications for Contemporary Islamic Family Law

The decision to delay pregnancy has legal, ethical, and social implications that extend from the marital relationship to broader demographic structures. From the perspective of Islamic law, it requires continuous adherence to three principles: mutual consent (*tarāḍī*), the prevention of harm (*dar' al-mafāsid*), and orientation toward the public interest (*maṣlaḥah*).[47] Mutual consent ensures that reproductive timing is negotiated fairly between the spouses. The maxim *lā ḍarar wa lā ḍirār* sets an ethical boundary that allows temporary delay to prevent maternal health risks or serious economic hardship while excluding irreversible choices that would permanently end the continuation of lineage. Within these boundaries, delaying pregnancy functions as a contextual mechanism for family welfare rather than a rejection of the purposes of marriage.

Sociologically, the implications operate at both micro and macro levels. At the micro level, couples who achieve financial stability, educational attainment, and emotional readiness before parenthood are better positioned to invest in their children's development.[48] At the macro level, however, a widespread shift toward later parenthood contributes to declining fertility and may lead to demographic imbalances such as population aging if it is not accompanied by supportive family policies.[49] Addressing these dual implications requires a balanced educational approach in which state institutions and religious organizations integrate Islamic jurisprudence, reproductive health literacy, and family welfare planning, rather than relying on either rigid prohibition or unguided encouragement.

For contemporary Islamic family law, these findings carry three implications. First, *ḥifẓ al-nasl* needs to be understood in both its quantitative and qualitative dimensions, so that the protection of lineage includes the readiness of parents to raise children properly. Second, the ruling on delaying pregnancy should be formulated as

[46] Nadhiran et al., "Childfree in The Perspective of Hadiths Ahkam."

[47] Norheni Aulia Hasanah, "Analisis Tinjauan Hukum Islam Terhadap Childfree Dalam Perkawinan: Antara Hak Reproduksi Dan Tujuan Pernikahan (Maqasid Al-Syari'ah)," *AL-MIKRAJ Jurnal Studi Islam Dan Humaniora (E-ISSN 2745-4584)* 6, no. 1 (2025): 2824–46, https://doi.org/10.37680/almikraj.v6i1.9817.

[48] Gauthier and de Jong, "Costly Children."

[49] Gauthier and de Jong, "Costly Children."

conditional permissibility with clear criteria, namely mutual consent, temporariness, absence of harm, and the absence of an ideological rejection of children, rather than as a binary of *ḥalāl* and *ḥarām*.[50] Fatwas and religious guidance on this issue should also make their reasoning explicit. A study of the family law fatwas of the Indonesian Ulema Council found that they often cite the Qur'an and Sunnah directly without showing the steps of legal reasoning or engaging with social context, and proposed an *istinbāṭ* model that integrates text, reasoning, *maqāṣid*, and context.[51] Applying such a model to reproductive questions would allow religious authorities to distinguish legitimate delay from the rejection of parenthood on transparent grounds. Third, premarital guidance and family planning services should integrate fiqh, reproductive health, and family economic planning, so that couples can make reproductive decisions that are both religiously grounded and socially responsible.

The third implication deserves emphasis because it concerns the institutions through which Islamic family law reaches couples most directly. In Indonesia, premarital guidance at the Office of Religious Affairs (KUA) and family planning counseling are the main channels through which couples encounter both religious teaching and state policy on reproduction. Research on couples preparing for marriage in Rwanda shows that they want reliable information on preparing for conception and often hold misconceptions that place the burden of readiness on women alone.[52] Premarital guidance that explains the conditional permissibility of delay, the requirement of mutual consent, and the boundary between temporary delay and permanent refusal would allow couples to make decisions that are informed rather than driven by social pressure or misinformation. Such guidance would also align the living law that couples construct with the normative standards of Islamic family law, reducing the gap between what religious authorities teach and what couples actually practice.

D. Conclusion

This study concludes that delaying pregnancy in contemporary Muslim families is a rational social adaptation to economic, educational, psychological, health, and gender transformations, aimed at the qualitative welfare of offspring rather than a deviation from the objectives of marriage. In Islamic law, it falls within conditional permissibility (*al-ibāḥah al-muqayyadah*), grounded in the precedent of *'azl* and the principles of mutual consent, harm prevention, and *maṣlaḥah*, provided that it is temporary, does not destroy fertility, and does not stem from an ideological rejection

[50] Nadhiran et al., "Childfree in The Perspective of Hadiths Ahkam."

[51] Adi Harmanto et al., "Reconstructing the Epistemology of MUI Family Law Fatwas: Integrating Ushul Fiqh, Maqāṣid, and Social Context," *Jurnal Mahkamah : Kajian Ilmu Hukum Dan Hukum Islam*, December 8, 2025, 379–90, https://doi.org/10.25217/jm.v10i2.6802.

[52] Nsengiyumva et al., "Correction To."

of parenthood. State law reinforces this position by recognizing procreation as a right and by defining family planning as the regulation of the timing and spacing of birth. Between these normative systems, couples negotiate their decisions in everyday life, and through this negotiation the formal provisions of fiqh and state law are transformed into a living law that reinterprets *maqāṣid al-nikāḥ* and *ḥifẓ al-nasl*. The implication for contemporary Islamic family law is the need to understand *ḥifẓ al-nasl* in its qualitative dimension and to integrate fiqh, reproductive health, and family economics in premarital guidance and family planning policy. Since this study relies on library research, further empirical research is needed to examine how couples from different social backgrounds carry out this negotiation in practice.

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