



## **Female Circumcision on a Medical Perspective and Islamic Law**

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**Abstract:** *The practice of female circumcision existed long before Islam came in the 16th century BC in South Africa, Southwest Asia, Judaism, Arabia and Egypt. Islamic teachings legalize obligatory circumcision for men and honor for women. However, in a medical review, female circumcision is prohibited on the grounds that it violates human rights and harms women. The emergence of this difference is motivated by a generalized definition and practice of circumcision. This research is a library research using descriptive method and drawing conclusions using deductive thinking. The research found that circumcision or Female Genital Mutilation (FGM) in the medical formulation as recommended by WHO is a practice that violates Human Rights (HAM) and harms women's rights practiced in more than 30 countries with five types: eliminating, cutting, stabbing, sewing and damage the female organs. The practice of female circumcision (khifad) in Islam only scratches the upper female genital skin in the form of a cock's comb, the status of female circumcision according to Islam refering to most scholars is "sunnah" which is a glory. Nobility is meant from two sides, compliance with the Shari'a and respect in social life carried by a circumcised woman according to the qaidah al-'adat al-muhkam.*

**Keywords:** *Female Circumcision, Khifad, Medical, Islamic Law.*

## A. Introduction

Circumcision was done pre-Islamic proven through historical facts<sup>1</sup> which refer to the results of ethnological research show that circumcision had been carried out by herding communities in South Africa and Southwest Asia, the Semitic (Jews and Arabs) and Hamites. Those who are circumcised are not only boys, but also women, especially among Negroes in South Africa and East Africa.<sup>2</sup> Anthropologists provide evidence of the tradition of female circumcision in Ancient Egypt in the 16th century BC by the discovery of female mummies with signs of *clitoridectomy* (cutting that damage the genitals). So that in the 2nd century BC in the wedding procession.<sup>3</sup>

The Islamic teachings revealed by Allah SWT to the Prophet Muhammad SAW are a complement to the Divine doctrine of the previous prophetic treatises. One of the teachings continued by the Prophet Muhammad is circumcision for men which was ordered by Allah SWT to the Prophet Ibrahim AS narrated in the Koran Surah An-Nahl verse 123. In this story Ibrahim performed circumcision at the age of 80,<sup>4</sup> as narrated in Sahih Bukhari, the sanad is from Abu Hurairah.<sup>5</sup>

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<sup>1</sup> Sada Mire, *Divine Fertility: The Continuity in Transformation of an Ideology of Sacred Kinship in Northeast Africa* (New York: Routledge, 2020), h.4; See also Rogaia Mustafa Abusharaf, *Female Circumcision: Multicultural Perspectives* (University of Pennsylvania Press, 2013), 2.

<sup>2</sup> Luthviah Romziana, "Khitlan Perempuan dalam Sunan Abu Daud," *Al-Bayan: Jurnal Ilmu al-Qur'an dan Hadist* 3, no. 1 (January 7, 2020): 1-21, <https://doi.org/10.35132/albayan.v3i1.81>.

<sup>3</sup> Arif Kurnia Rakhman, "Sunat Perempuan di Indonesia: Sebuah Aplikasi Konsep Hermeneutika Fazlur Rahman," *Al-Ahwal: Jurnal Hukum Keluarga Islam* 2, no. 1 (September 26, 2016): 20, <https://ejournal.uin-suka.ac.id/syariah/Ahwal/article/view/1134>.

<sup>4</sup> Dihartawan *et.al.*, "Bakti Sosial Khitanan Massal," *AS-SYIFA : Jurnal Pengabdian dan Pemberdayaan Kesehatan Masyarakat* 1, no. 2 (October 1, 2021): h. 56, <https://doi.org/10.24853/assyifa.1.2.55-60>; See also Otong Surasman, *Bercermin pada Nabi Ibrahim* (Jakarta: Perspektif, 2020), 191.

<sup>5</sup> Al-Imam Abi 'Abdillah Muhammad bin Isma'il bin Ibrahim bin al-Mugirah al-Bukhary al-Ja'fyal-Bukhary al-Ja'fy, *Shahih Bukhari*, Juz II (Beirut: Dar al-Fikr, 1983), 39.

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Male circumcision is legitimized by the Shari'a and does not cause differences of opinion among the cleric,<sup>6</sup> In contrast, circumcision of women is still the object of *khilafiyah* to this day.<sup>7</sup> The background of the discourse of the opinions of a number of scholars in this regard is the absence of valid arguments to support its existence. So if we refer to some classical fiqh literature, we will find various opinions about the legal position of female circumcision in question. Some scholars conclude that the legal position is the same as circumcision for men, and some others consider that the practice of circumcision for women is only for "respect".<sup>8</sup>

Meanwhile, from a medical point of view, there is a ban on female circumcision based on Minister of Health Regulation Number 6 of 2014 concerning Revocation of Minister of Health Regulation 1636/2010 concerning Female Circumcision on the grounds that female circumcision is not a medical procedure because the implementation is not based on medical indications and has not been proven beneficial to health.<sup>9</sup> Supported by Dr. Suheimi's opinion, female circumcision is an attempt to kill a woman's organs. It will have a severe psychological effect on women which can cause depression, tension and anxiety and reduce sex drive. Moreover, if it is carried out in areas with poor sanitation and hygiene and with

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<sup>6</sup> Lukman Hakim, "Khitan Perempuan Dalam Perspektif Hukum Islam," *Jurnal Ilmiah Ar-Risalah: Media Ke-Islaman, Pendidikan Dan Hukum Islam* 15, no. 1 (October 9, 2017): 138-140; See also Hikmalisa, "Dominasi Habitus Dalam Praktik Khitan Perempuan Di Desa Kuntu Darussalam Kabupaten Kampar Riau (Aplikasi Praktik Sosial Pierre Boudieu Dalam Living Hadis)," *Jurnal Living Hadis* 1, no. 2 (October 26, 2016): 324-373, <https://doi.org/10.14421/livinghadis.2016.1124>.

<sup>7</sup> Siti Masitoh and Muhaemin, "Tradisi Khifadh Perempuan Suku Sasak Perspektif Hukum Islam," *Journal of Islamic Civilization* 3, no. 2 (December 18, 2021): 107-121, <https://doi.org/10.33086/jic.v3i2.2392>; See also Hikmalisa and Dona Kahfi Ma Iballa, "Perspektif Kesetaraan dan Keadilan Gender Husein Muhammad dalam Silang Pendapat Khitan Perempuan," *Wahana Islamika: Jurnal Studi Keislaman* 8, no. 1 (May 21, 2022): 86-109, <https://doi.org/10.5281/wahanaislamika.v8i1.205>.

<sup>8</sup> Saad al-Mashafi, *Khitan, Penj. Amir Zam Zakaria, Buku Asli Ahadis al-Khitan Hujjiyatuhu Wa Fiqhuhu* (Jakarta: Gema Insani Press, 2001), 14.

<sup>9</sup> Menteri Kesehatan Republik Indonesia, "Peraturan Menteri Kesehatan Republik Indonesia Nomor 6 Tahun 2014 Tentang Pencabutan Peraturan Menteri Kesehatan Nomor 1636/Menkes/PER/XII/2010 Tentang Sunat Perempuan," 2014, 1, <https://peraturan.bpk.go.id/Home/Details/116748/permenkes-no-6-tahun-2014>.

unsterilized tools, it will result in acute infection and inflammatory effects that can block the fallopian tubes.<sup>10</sup>

There are differences in perceptions according to medical theory and Islamic law in understanding the Shari'a and traditions of female circumcision. This is a goal that the author wants to examine more specifically through the arguments of health experts and the arguments of *naqli* Islamic law regarding female circumcision. So that the problems of the process of female circumcision and what are the positive and negative impacts according to medical, as well as the legal status of female circumcision according to Islamic law will be found through this study.

This study is a follow-up study that compares two opinions from a medical perspective and Islamic law objectively to gain an element of novelty in the same discussion. Several previous studies, the results of research by Marlinda Oktavia Erwanti concluded that *Female Genital Mutilation* in any way is a form of violation of many international and national regulations regarding human rights with this practice.<sup>11</sup> Muhammad Mustaqim revealed that circumcision (female circumcision) has been carried out in parts of the world including Indonesia for psychosexual, sociological, health and religious reasons. In Muslim societies there is an argument underlying the implementation of female circumcision, while gender activists and feminists consider it violence and gender bias that must be eliminated in the traditions of society.<sup>12</sup> Roudhatul Jannah conducted a study of Musdah Mulia's thoughts, the results of his research showed that female circumcision is *makrumah*, while the word "*makrumah*" (glory) is not the language of law, so female

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<sup>10</sup> H.K Suheimi, *Khitan Wanita: Perspektif Hukum Islam, Medis dan Sosiologis*, (Seminar Sehari Tentang Khitan Wanita, Padang: Pangerang Beach Hotel, 2001), 3.

<sup>11</sup> Rahayu Marlinda Oktavia Erwanti, "Kajian Yuridis Female Genital Mutilation (FGM) Dalam Perspektif Hak Asasi Manusia (Studi Terhadap Praktik Female Genital Mutilation Di Indonesia)," *Diponegoro Law Journal* 1, no. 4 (2012): 10, <https://ejournal3.undip.ac.id/index.php/dlr/article/view/472>.

<sup>12</sup> Muhammad Mustaqim, "Konstruksi dan Reproduksi Budaya Khitan Perempuan: Pergulatan Antara Tradisi, Keberagamaan dan Kekerasan Seksual di Jawa," *PALASTREN: Jurnal Studi Gender* 6, no. 1 (March 31, 2016): 104, <https://doi.org/10.21043/palastren.v6i1.979>.

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circumcision has no law and is dangerous so it must be abandoned.<sup>13</sup> It is different from Lukman Hakim's study that female circumcision actually has great benefits for both parties if it is guided by the guidance taught by the Prophet Muhammad: slashing not cutting. Circumcision is useful for maintaining women's health to prevent the enlargement of the *clitoris* beyond 3 cm, especially in tropical areas. Controlling the high desire of a woman's libido makes chaos in society.<sup>14</sup>

This article uses *a descriptive qualitative approach*. The type of research used is *library research*, that is, in collecting the data it is literary, both data and scientific papers related to the object of research through critical and in-depth analysis of the relevant literature.<sup>15</sup> Data analysis by analyzing the content (content analysis) is digging deeper information on the content or information written and printed.<sup>16</sup> Regarding normative doctrinal laws by tracking, comparing and analyzing how female circumcision is carried out according to medical practice and how circumcision is practiced and its legal status in Islam.

### B. Female Circumcision and Its Medical Practice

Female circumcision in medical language is often referred to as *circumcision*, the cutting of female genital organs which is popularly known as *Female Genital Mutilation* (FGM).<sup>17</sup> Althus as quoted by Suparjo that female circumcision is an act against a woman which is

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<sup>13</sup> Roudhotul Jannah and Sulhani Hermawan, "Hukum Sunat Perempuan Dalam Pemikiran Musdah Mulia," *Jurnal Al-Hakim: Jurnal Ilmiah Mahasiswa, Studi Syariah, Hukum Dan Filantropi* 4, no. 1 (May 20, 2022): 1-20, <https://doi.org/10.22515/alhakim.v4i1.5008>.

<sup>14</sup> Hakim, "Khitan Perempuan Dalam Perspektif Hukum Islam," 138-140.

<sup>15</sup> M. Nazir, *Metode Penelitian* (Jakarta: Ghalia Indonesia, tt.), 24.

<sup>16</sup> Krippendorff Klaus, *Analisis Isi: Pengantar Teori Dan Metodologi*, Terj. Farid Wajidi (Jakarta: Rajawali Pers, 1993), 15.

<sup>17</sup> Kusumaningtyas et.al., *Seksualitas Dan Agama* (Jakarta: PT. Elex Media Komputindo, 2015); See also Rachmah Ida, *Praktik Sunat Perempuan & Konstruksi Budaya Seksualitas Perempuan di Madura* (Surabaya: Airlangga University Press, 2020), 1; See also Aisyatul Azizah, "Status Hukum Khitan Perempuan (Perdebatan Pandangan Ulama dan Permenkes RI No.1636/MENKES/PER/XI/2010)," *Musawa Jurnal Studi Gender Dan Islam* 19, no. 2 (2020): 173-186, <https://doi.org/10.14421/musawa.2020.192.173-186>.

carried out by removing part or all of her genitals or carrying out certain actions against women with the aim of reducing or eliminating sensitivity to said genitals.<sup>18</sup> Lisnawati emphasized the definition of *Female Genital Mutilation* (FGM), the act of cutting part or all of the female genital organs, which is carried out on babies or girls before they reach *aqil baligh*.<sup>19</sup>

*The World Health Organization (WHO) uses several terms used for female circumcision: FGM (Female Genital Mutilation), FGC (Female Genital Cutting), Circumcision, and FGM/C (Female Genital Mutilation/ Cutting).*<sup>20</sup> The term is defined as "all procedures involving partial or total removal of the external female genitalia or other injury to the female genital organs whether for cultural, religious or other no-therapeutic reasons".<sup>21</sup>

In practice, circumcision referred to by WHO, as stated by Jauharatul Farida, based on WHO data in 2004, there are several types and types of female circumcision. These types include; *first*, remove part of the surface without being followed by partial or complete removal. *Second*, lifting the clitoris is followed by lifting part or all of the *labia minora*. *Third*, removal of part or all of the

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<sup>18</sup> Suparjo, Siti Marfu'ah, and Kamelia Nopika, "Faktor-Faktor Yang Berhubungan dengan Dilakukannya Ritual Khitan Perempuan di Kecamatan Gabus Kabupaten Pati Tahun 2016," *Jurnal Ilmu Kebidanan Dan Kesehatan (Journal of Midwifery Science and Health)* 8, no. 2 (July 31, 2017): 150-158, <https://doi.org/10.52299/jks.v8i2.42>.

<sup>19</sup> Evie Sulahyuningsih, Yasinta Aloysia Daro, and Alfia Safitri, "Analisis Praktik Tradisional Berbahaya: Sunat Perempuan sebagai Indikator Kesetaraan Gender dalam Perspektif Agama, Transkultural, dan Kesehatan Reproduksi di Kabupaten Sumbawa," *Jurnal Ilmu Keperawatan Dan Kebidanan* 12, no. 1 (January 2, 2021): 134-148, <https://doi.org/10.26751/jikk.v12i1.916>; See also Kerong Fransiska Lisnawati, *Female Genital Mutilation Ditinjau Dari Aspek Hukum Perlindungan Perempuan Dan Hak Asasi Manusia* (Jakarta: Fakultas Hukum UNIKA Atmajaya, 2008).

<sup>20</sup> World Health Organization, UNICEF, and United Nations Population Fund, *Female Genital Mutilation: A Joint WHO/UNICEF/UNFPA Statement* (World Health Organization, 1997), 12; See also Mustaqim, "Konstruksi dan Reproduksi Budaya Khitan Perempuan," 92;.

<sup>21</sup> World Health Organization, *WHO Guidelines on the Management of Health Complications from Female Genital Mutilation* (Geneva: World Health Organization, 2016), 2, <https://apps.who.int/iris/handle/10665/206437>; See also Ian Greaves, Keith Porter, and Jeff Garner, *Trauma Care Manual*, Second Edition (London: CRC Press, 2008), h. 98; See also Susan de-Gaia, *Encyclopedia of Women in World Religions: Faith and Culture across History [2 Volumes]* (Santa Barbara, California: ABC-CLIO, 2018), 14.

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external genetic organs followed by sewing or narrowing the vaginal opening (*infibulation*). *Fourth*, piercing and perforating or stretching the *labia clitoris*. *Fifth*, damaging the tissue around the vaginal opening (*angurya cuts*) or cutting the vagina (*gishiri cuts*) inserting plants or materials that are destructive with the aim of causing bleeding or narrowing of the vagina.<sup>22</sup>

The practice of female circumcision is also in the world's spotlight. So that the *International Conference on Population and Development* (ICPD), WHO in Cairo, Egypt in 1994 banned female circumcision.<sup>23</sup> The reason, circumcision damages and endangers the female reproductive organs. WHO considers the FGM procedure has no benefit to women. They argue that the FGM procedure can cause bleeding and urinary disorders, and in the long term can cause cysts, infections, infertility, and complications in childbirth which can increase the risk of death for newborns.<sup>24</sup>

Despite being internationally recognized as a violation of human rights and laws prohibiting the procedure in many countries, the practice of FGM is still practiced in 30 countries in Africa and in several Asian and Middle Eastern countries. This includes certain ethnic groups in parts of Central and South America. Furthermore, due to international migration there has also been an increase in the number of girls who have carried out or may undergo the practice of FGM in Europe and North America. So it is estimated that more than 200 million girls and women worldwide are living with FGM,<sup>25</sup> then the act of female circumcision is a threat to reproductive health as

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<sup>22</sup> Jauharotul Farida *et.al.*, "Sunat pada Anak Perempuan (Khifadz) dan Perlindungan Anak Perempuan di Indonesia: Studi Kasus di Kabupaten Demak," *Sawwa: Jurnal Studi Gender* 12, no. 3 (October 31, 2017): 371, <https://doi.org/10.21580/sa.v12i3.2086>.

<sup>23</sup> Eka Handayani, "Faktor-Faktor Yang Berhubungan Dengan Perilaku Sunat Perempuan Di Kelurahan Landasan Ulin Tengah Kota Banjarbaru," *JIDAN: Jurnal Ilmiah Kebidanan* 2, no. 1 (August 23, 2022): 68-76, <https://doi.org/10.51771/jdn.v2i1.241>; See also Ikha Prastiwi and Rizky Fitri Andini, "Faktor-Faktor Yang Berhubungan Dengan Pelaksanaan Sunat Pada Perempuan Di RB Beta Medika Tahun 2018," *Jurnal Kesehatan Bhakti Husada* 7, no. 1 (November 19, 2021): 5, <https://doi.org/10.37848/jurnal.v7i1.96>.

<sup>24</sup> Prastiwi and Andini, "Faktor-Faktor Yang Berhubungan Dengan Pelaksanaan Sunat Pada Perempuan Di RB Beta Medika Tahun 2018," 5.

<sup>25</sup> World Health Organization, *WHO Guidelines on the Management of Health Complications from Female Genital Mutilation*, 2.

well as a form of violence against women and a violation of human rights.<sup>26</sup>

According to doctor Abdullah Wali Nasution, andriologist and sexologist at Andalas University, female circumcision according to medical theory based on some of the definitions above is a way of physically manipulating one of the female erectile organs (*clitoris*), while the clitoral organ in women is a vital organ to get sexual stimulation. in the *pre-coitus warning up phase*. This organ in *embryological* development of the *clitoris* originates with the penis in males. If in men it grows bigger and longer, while in women it actually occurs physical shrinkage.<sup>27</sup>

According to Moeloek, the clitoral organ in women is said to be an erectile organ because it is easy to get stimulated. This is an excess of the many sensory nerves (taste) found in the clitoris. Farther, Moeloek describes other organs around the *clitoris* that must be maintained comprehensively. According to him, these organs are divided into *external genital organs* and *internal genitalia organs*. The *external genital organs* consist of the *mons veneris* (descent), *labia majora* (big lips), *labia minora* (small lips), *clitoris*, *vulva*, *interoitus vaginale* and *perineum*. The *internal genital organs* consist of the *vagina* (pubic cavity), *uterus* (womb), *fallopian tubes* (oviducts) and *ovaries* (ovaries). If the above organs do not survive as a single unit, according to Moeloek it will result in disruption of the reproductive phase or the threat of the mother's life during the delivery phase.<sup>28</sup>

A similar conclusion was expressed by doctor Suheimi when quoting Bakar's opinion that indiscriminately practicing female circumcision would be bad for the urinary system and could cause *fistulas* and have implications for *urinary retention*. He also stated the

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<sup>26</sup> Suparjo, Marfu'ah, and Nopika, "Faktor-Faktor yang Berhubungan dengan Dilakukannya Ritual Khitan Perempuan di Kecamatan Gabus Kabupaten Pati Tahun 2016," 150-158.

<sup>27</sup> Abdullah Wali Nasution, *Khitan Wanita : Perspektif Hukum Islam, Medis dan Sosiologis*, (Seminar Sehari Tentang Khitan Wanita, Padang: Pangerang Beach Hotel, 2001), 3.

<sup>28</sup> Moeloek, *et.al.*, *Proses Reproduksi, Kesuburan dan Seks Pria dalam Perkawinan* (Jakarta: UI Press, 1985), 3.



possibility of complications with other organs, such as *uterine cervix* or *endometrial inflammation (interna uterus)*.<sup>29</sup>

### **C. Female Circumcision and Its Practice under Islamic Law**

In terms of language, the word circumcision comes from the Arabic *isytiqaq* (a word fragment) from *khatana–yakhtanu–khitnan–wa khutunan*, which means cutting.<sup>30</sup> If someone says *khata'a al-syai'a* it means he cuts something. While circumcision here, *khata'a qulfatuhu*, cuts the *khuluf* of the penis.<sup>31</sup> *Khatan* can be interpreted as the part that is cut from the genitals of men and women.<sup>32</sup> More specifically, the word *khatan* is said to be used for boys, while *al-khifad* is for girls.<sup>33</sup>

According to Al-Mawardi as quoted by Hermanto that male circumcision cuts the skin to cover the *hasyafah*,<sup>34</sup> while female circumcision according to Makhluf is to slice the topmost skin on the genitals which is shaped like a grain or like a rooster's comb.<sup>35</sup> The recommendation in practice is to simply slice the top without removing the piece.

According to Hasan, circumcision for girls is done in at least four ways: cutting a bit of the skin above the *vulva (farji)*, cutting the *badhr (praeputium clitoridis)* covering the *clitoris*, cutting the *labia minora* (small lips), cutting the *clitoris* that looks out.<sup>36</sup> While

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<sup>29</sup> Suheimi, "Khitan Wanita : Perspektif Hukum Islam, Medis dan Sosiologis," 3.

<sup>30</sup> Louis Ma'luf, *Al Munjid Fi Al-Lughah Wa A'lam* (Beirut: Dar al-Masyriq, 2007), 169.

<sup>31</sup> Hakim, "Khitan Perempuan Dalam Perspektif Hukum Islam," 140.

<sup>32</sup> Anzar Ahlian and Siti Muawanah, "Tradisi, Praktik Khitan Anak Perempuan Dan Tinjauan Aspek Medis di Pesisir Pantai Selatan Jawa Tengah," *Jurnal Ilmu Kebidanan Dan Kesehatan (Journal of Midwifery Science and Health)* 10, no. 2 (July 30, 2019): 106, <https://doi.org/10.52299/jks.v10i2.52>.

<sup>33</sup> Ibnu Qayyim al-Jauziyah, *Tuhfatul Maudud Bi Ahkamil Maulud* (Sudan: Maktabah Qayyimah, 1350), 88.

<sup>34</sup> Agus Hermanto, "Anjuran Khitan Bagi Perempuan, Antara Budaya Lokal Dan Ajaran Agama," *Fikri : Jurnal Kajian Agama, Sosial Dan Budaya* 1, no. 1 (2016): 42, <https://doi.org/10.25217/jf.v1i1.9>.

<sup>35</sup> Husain Muhammad Makhluf, *Fatawa Syar'iyah Wa Buhulh Al-Islamiyyah*, Juz 1 (Kairo: Al-Madani, 1971), 145.

<sup>36</sup> M. Ali Hasan, *Masail Al-Fiqhiyah al-Haditsah Pada Masalah-Masalah Kontemporer Hukum Islam* (Jakarta: Raja Grafindo Persada, 1998), 68.

Mujtahid divided female circumcision into three types: simple (light) circumcision, moderate circumcision, and difficult circumcision. Simple (light) circumcision with partial or complete removal of the clitoris; moderate circumcision with removal of the clitoris, both labia minora and a small portion of the labia majora; difficult circumcision is to remove the clitoris, both labia minora, and most of the labia minora.<sup>37</sup>

The urgency of female circumcision according to Nahid<sup>38</sup> has essential reasons: *First*, reasons for cleanliness. Women's genitals are considered unclean, because they must be cleaned, it can be said that female genitalia are strange and will grow wildly, so they must be cut into a positive image for women. *Second*, reasons for protection or acceptance. Female circumcision is an initiation to be accepted as a complete woman and part of the customs. *Third*, health reasons. Clitoral circumcision will increase fertility and prevent pregnancy. *Fourth*, religious reasons. Female circumcision is considered part of God's commandment. *Fifth*, moral reasons. A circumcised woman will save her virginity because her lust is not as wild as a woman who is not circumcised.

Regarding the issue of circumcision, there are no verses in the Qur'an (both in *ibarat al-nash* and *isyarat al-nash*) that discuss it. Especially if meant is a verse that provides legalization and legal information regarding the practice of female circumcision. The verses that some scholars use as the basis for the practice of circumcision are the Qur'an surah an-Nisa' verse 125 and Ali Imran verse 95. These two verses have provided an explanation that Allah SWT commanded mankind to follow the religion brought by Prophet Abraham, including circumcision (female circumcision).<sup>39</sup>

In particular, in the books of hadith, there are a number of narrations which provide legal information about the practice of circumcision, however, these narrations are generally doubtful and

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<sup>37</sup> Umar Mujtahid, *Tanya Jawab Psikologi Muslimah, 133 Persoalan Pribadi Wanita Dari Anak-Anak Hingga Usia Lanjut* (Solo: Aqwam, 2009), 9.

<sup>38</sup> Toubia Nahid, "Famele Genital Mutilation" *Dalam Peters, Julie Dan Wolper, Andrea, Women's Right Human Right* (Routledge: Great Britain, 1995), 4.

<sup>39</sup> Imam Al-Hafiz Ibn Umar Ibn Kathir al-Dimashqi, *Tafsir Al-Quran al-Azhim*, 2nd ed. (Beirut: Dar al-Kutub, 1998), 257.

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become objects of polemic among the ulema. The implication is that the opinion of the scholars based on this history deserves and is worthy to be criticized. Especially when connected with medical practice at this time.

According to Sakka's research,<sup>40</sup> there are ten hadiths regarding female circumcision as an honor. This hadith is not appropriate to also be used as *hujjah* of the law on female circumcision for reasons of *makrumah* (honor). Among the quite popular hadiths related to the practice of circumcision, especially female circumcision, are: (*Hadith narrated*) from Abu Hurairah, he said: I heard Rasulullah SAW said: "There are five *fitrah*: circumcision, shaving the hair on around the genitals, cutting the mustache, cutting the nails, and plucking the armpit hair". (H.R al-Bukhari).<sup>41</sup>

The hadith above was narrated by Imam Bukhari, Imam Muslim, Abu Daud, al-Nasa'i, Ibn Majah and Ahmad Ibn Hanbal in their respective books of hadith.<sup>42</sup> According to the assessment of the scholars, the hadith above is shohih quality and can be used as *hujjah* in establishing law. Meanwhile, Ibn Atsir explained that "*al-fitrah*" in the hadith in the sense of *al-Sunnah* is the daily practice of the previous prophets which was passed on to us to follow it.<sup>43</sup> In fact, *al-Sunnah* is not limited to the five types of practices indicated by the Prophet above. Al-Asqalani said that the five kinds of practices in the hadith of Abu Hurairah are only a small part of the practices that have been passed down to us. In various accumulated history the number of sunnahs has reached thirty kinds.<sup>44</sup>

According to the hadith of Abu Hurairah, the position of circumcision is parallel to the positions of other sunnahs that we are required to carry out. It's just that there are no scholars who

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<sup>40</sup> Abdul Rahman Sakka, "Kritik Sanad Hadis Khitan Terhadap Perempuan Sebagai Kehormatan.," *Nukhbatul 'Ulum: Jurnal Bidang Kajian Islam* 7, no. 1 (June 11, 2021): 115, <https://doi.org/10.36701/nukhbah.v7i1.324>.

<sup>41</sup> Abu Abdillah Muhammad Ibn Ismail al-Bukhari, *Al-Jami' al-Shahih*, Jilid IV (Singapore: Haramayu, tt.), 39.

<sup>42</sup> al-Bukhari, 40.

<sup>43</sup> Ibn al-Atsir, *Al-Nihayah Fi Gharib al-Hadis*, Jilid III (Beirut: Dar al-Fikr, 1979), 457.

<sup>44</sup> Ibn Hajar al-Asqalani, *Fath Al-Bary Syarah Shahih al-Bukhari*, Jilid XI (Beirut: Dar al-Fikr, 1991), 527.

understand these demands to the level of obligatory. This was realized due to that the hadith only provides descriptive information that is global in nature. Therefore, in order to establish the law on circumcision, especially female circumcision, scholars have turned to other hadiths that partially touch on the meant practice. The hadith which partially conveys information about female circumcision is the hadith which reads: “(Hadith narrated) from al-Hajjaj Ibn Arthah al-Malih Ibn Usamah, from his father, from Rasulullah SAW. he said "circumcision is sunnah for men and a glory for women” (H.R.Ahmad dan Baihaqy).<sup>45</sup>

The above hadith was narrated by Imam Ahmad Ibn Hambal and Baihaqi. It's just that this hadith is considered *dha'if* by scholars because al-Hajjaj is discussed by hadith experts and is considered a flawed figure as a hadith *rawi* and his narration is *muththarib* (hadith narrated from a narrator or more with several different editors (*matan*) and in the same quality so that neither can be overpowered nor compromised).<sup>46</sup> However, this hadith is supported by another path (*syahid*), the path of Ibn Abbas, however, the assessment of its validity is still being debated by scholars.<sup>47</sup> Scholars who accept and consider this hadith *shahih* then make the legal basis for obligatory circumcision for men and not obligatory for women.<sup>48</sup>

Another hadith that is used as a guide in the issue of female circumcision is a hadith narrated from Umm 'Athiyah, which reads:

عَنْ أُمِّ عَطِيَّةَ الْأَنْصَارِيَّةِ أَنَّ امْرَأَةً كَانَتْ تَخْتِنُ بِالْمَدِينَةِ فَقَالَ لَهَا النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَا تُنْهَكِي فَإِنَّ ذَلِكَ أَحْظَى لِلْمَرْأَةِ وَأَحَبُّ إِلَى الْبُعْلِ . (رواه ابو داود).

"(Hadith narrated) from Umm 'Athiyah al-Anshariyah, that there was a female circumcision worker in Medina, then Rasulullah Saw warned her, "do not damage (excessive circumcision) as circumcision

<sup>45</sup> Muhammad al-Syaukany, *Nail Al-Authar*, Jilid I (Beirut: Dar al-Fikr, 1982), 138.

<sup>46</sup> Nuruddin 'Itr, *Nuruddin 'Itr, Ulum al-Hadis II*, Penj. Mujiyo, Buku Asli : *Manhaj al-Naqd Fi Ulum al-Hadist* (Bandung: Remaja Rosdakarya, 1994), 234-235.

<sup>47</sup> Jalaluddin Abu Bakar al-Shuyuty, *Al-Jami' al-Shaghir*, Jilid III (Beirut: Dar al-Fikr, tt.), 12.

<sup>48</sup> al-Syaukany, *Nail Al-Authar*, 139.

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*contains things that are fun for women and fun for men too*". (H.R Abu Dawud).<sup>49</sup>

Abu Dawud considers this hadith to be a *dha'if* hadith which cannot be used as *hujjah*, since the series of *rawi* contains the name Muhammad Ibn Hassan who is considered *majhul* by hadith scholars.<sup>50</sup> However, this hadith brings important information regarding the practice of female circumcision. Implicitly this hadith informs that in Medina there were already female circumcisionists who were warned by Rasulullah Saw to be careful and not to overdo it in carrying out circumcision so it is not to harm the woman and her husband (in the future). In the editorial and other versions, through this advice actually Rasulullah Saw corrected the practice of circumcision that was taking place in Medina at that time.

The above hadith from Umm 'Athiyah is a manifestation of the Prophet's cooperative attitude towards the Arab nation's long-standing amaliah practice and considers circumcised women to be more honorable. Even more this hadith is compromised with the hadith from al-Hajjaj which was mentioned earlier. So the legal context that can be drawn from this *mahfum* of hadith is that the practice of circumcision which is not carried out according to mature medical calculations and does not refer to the principle of benefit for the woman and her husband (in the future) must be opposed.

Referring to the various information on the hadiths above both explicit and implicit it has implications for the various opinions of scholars regarding the issue of female circumcision, especially in establishing its legal status. Imam al-Shafi'i and the majority of his followers are among the scholars who are more selective in using hadith in establishing the law for female circumcision. According to them, circumcision for women is included in the obligatory syara' level. Its existence is the same as circumcision for men.<sup>51</sup> Imam

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<sup>49</sup> Abu Daud al-Sajastany, *Abu Daud Al-Sajastany, Sunan Abi Daud*, Jilid IV (Beirut: Dar al-Fikr, tt.), 368.

<sup>50</sup> al-Sajastany, 368.

<sup>51</sup> Al-Nawawi, *Syarh Shahih Muslim* (Beirut: Dar al-Fikr, tt.), 234; See also Abdirrahman Abdullah bin, *Keajaiban Khitan*, Cet Ke-1 (Al-Qowan: Cemani Baru, 2008), 25; See also Abi Ishak Ibrahim Ali Abu Yusuf al-Fairuzabadi, *Al-Mazhab Fi Fiqh al-Imam Asy-Syafi'i*, Jilid I (Beirut: Dar al-Kutub al-Islamiyyah, tt.), 34.

Nawawi emphasized that this is a valid and well-known opinion established by Imam al-Shafi'i.<sup>52</sup> They base their opinion on the hadith of al-Hajjaj, and the logic of comparative law by permissible to open genitals for circumcision and not to cut off limbs except for something that is obligatory.

In comparing the logic of the law on female circumcision and opening their genitals, they cite a hadith of the Prophet Saw: "*Hadith narrated) from Bahaz Ibn Hakim, from his father and from his brother, I (Bahaz Ibn Hakim) asked: O Messenger of Allah, what are the obligations and prohibitions on our genitals? He replied, 'take care of your genitals except for your wife and your slaves' I asked again, 'O Messenger of Allah, what if a people have gathered? He replied, if you are able, don't ever show your private parts. Then I asked again, O Messenger of Allah, what if you are alone, He replied: "We are more deserving shame on God than man". (H.R Abu Daud).*"<sup>53</sup>

According to them, this hadith is the basis for the obligation to cover the genitals and it is forbidden to see other people's genitals. The practice of circumcision in its realization, including what was observed by Rasulullah Saw in Medina, showed that the implementation was carried out by an expert (circumcisionist/ doctor) who directly saw the private parts of the patient. According to their logic, if the circumcision issue was not a mandatory issue, the Prophet would not allow this practice to continue, because it is clear that there has been a "buying and selling" of genitalia. However, as the issue of circumcision is an issue that is included in the mandatory level, seeing genitalia when the practice is taking place is considered *dharurat*.<sup>54</sup>

In contrast to Imam al-Shafi'i and the majority of his followers, Imam Hanafi, Hanbali and Maliki are more lenient in using hadith in determining the law on female circumcision. According to Imam

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<sup>52</sup> Ahmad Ma'ruf Asrari, et.al., *Khitan Dan Aqiqah: Upaya Pembentukan Generasi Qur'ani*, Cet Ke-II (Surabaya: al-Mifta, 1998), 17.

<sup>53</sup> Al-Nawawi, *Syarh Shahih Muslim*, 235.

<sup>54</sup> al-Asqalany, *Fath Al-Bary Syarah Shahih al-Bukhari*, 108.

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Hanafi, female circumcision is only seen as good.<sup>55</sup> Based on this determination, the followers of Imam Hanafi have the courage to issue a fatwa by saying "It is not permissible to force a woman to leave circumcision".<sup>56</sup> There are even some others who prohibit the practice of female circumcision as they see the negative effects it bigger than the positive aspects.

Based on the arguments put forward above and the discourse on the opinions of scholars regarding the issue of circumcision, Nasrun Harun stated that the opinion stating that the law of the origin of female circumcision is *mubah* is the most *rajah* opinion. However, the original law will develop into haram, or obligatory, or sunnah, or makruh according to the size of the benefits and *mudharat* it creates. This is based on the principles of *ushul fiqh*.<sup>57</sup>

الْمُبَاحُ بِالْجُزْءِ حَرَامٌ بِالْكُلِّ أَوْ الْمُبَاحُ بِالْجُزْءِ وَاجِبٌ بِالْكُلِّ.

The law of female circumcision at the *mubah* level will turn out to be *haram*, when in practice it aims to remove the entire *clitoris* which is fatal to women. The consequences of removing the *clitoris* are not only felt directly by women with the threat of death during childbirth but also her husband will feel it (later). Removing the entire *clitoris* will kill a woman's sex life, which will eventually lead to dissatisfaction with her husband. Even though Allah SWT really appreciates the potential of human sexuality through the marriage law. If the husband no longer gets satisfaction from the *frigidity* of his wife, of course *syara'* will legalize the husband in another way through divorce. Even though the obligation to maintain marriage is included in the mandatory level.<sup>58</sup> So it is natural to shift a law that

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<sup>55</sup> Sapiudin Shidiq, *Fikih Kontemporer*, Cet. Ke-II (Jakarta: Kencana, 2017), 149.

<sup>56</sup> al-Asqalany, *Fath Al-Bary Syarah Shahih al-Bukhari*, 108.

<sup>57</sup> Abu Ishaq al-Syathiby, *Al-Mawafaqat Fi Ushul al-Syari'ah*, Jilid III (Beirut: Dar al-Ma'rifah, 1973), 364.

<sup>58</sup> A. Kumedi Ja'far, *et.al.*, "Reconstruction of Marriage Age Limit According To Law Number 16 Year 2019 about Marriage," *Journal of Legal, Ethical and Regulatory Issues* 24, no. 1S (September 30, 2021): 1-8; See also Salim Farrar and Ghena Krayem, *Accommodating Muslims under Common Law: A Comparative Analysis* (New York: Routledge, 2016), 74.

was originally *mubah* (female circumcision) to become *haram* when there is a strong suspicion that the act will end in an unlawful act (divorce). Likewise, the *mubah* law on circumcision will shift to become mandatory when it is believed that this is the only way to save women's sexuality, which in turn is to save the marriage bond.

#### **D. Comparison of Female Circumcision from a Medical Perspective and Islamic Law**

Minister of Health Regulation Number 6 of 2014 concerning Revocation of Minister of Health Regulation 1636/2010 concerning Female Circumcision in its consideration points states that female circumcision is not a medical procedure because its implementation is not based on medical indications and has not been proven beneficial to health.<sup>59</sup> According to Rahmawati, this regulation only looks at the medical side if the female circumcision is not carried out by medical personnel which will result in fatal consequences for the soul.<sup>60</sup>

Due to the magnitude of the effects and implications of circumcision for women, the Indonesian Doctors Association (IDI) has called for caution in its application practice. So that the implementation of female circumcision in Indonesia is only by scratching a little to open the *clitoral* cover (the tip that is too prominent, sticking out to the surface). Medically, this effort does not reduce a woman's sense of pleasure during *coitus* and has no further effect on the *external* and *internal genital* organs. Scratching to open the *clitoral* cover is intended more in the context of "beauty".<sup>61</sup> Even to answer doubts about the practice of circumcision, Boyke Dian Nugraha, an obstetrician and gynecologist at Dharmais Hospital, emphasized that female circumcision does not cut off the *clitoris* (*praeputium clitoris*) but only remove the medically disturbing skin

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<sup>59</sup> Menteri Kesehatan Republik Indonesia, "Peraturan Menteri Kesehatan Republik Indonesia Nomor 6 Tahun 2014 Tentang Pencabutan Peraturan Menteri Kesehatan Nomor 1636/Menkes/PER/XII/2010 Tentang Sunat Perempuan."

<sup>60</sup> Erik Sabti Rahmawati and Lukluil Maknun, "Khitan Perempuan dalam Fatwa MUI No. 9a Tahun 2008 dan Permenkes No. 6 Tahun 2014 Perspektif Maqashid al-Syari'ah," *EGALITA* 12, no. 2 (2017): 11–23, <https://doi.org/10.18860/egalita.v12i2.7939>.

<sup>61</sup> Ikatan Dokter Indonesia, "Seruan Kehati-Hatian IDI Pada Pelaksanaan Khitan Wanita," *Amanah*, 2002, 39.



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covering of the *clitoris* to achieve orgasm. By the opening of the skin covering the *clitoris* it will be able to accelerate orgasm in *coitus*.<sup>62</sup>

While the results of the author's interviews with several practicing midwives, like Midwife Dewi, Midwife Era and Midwife Yanti in Curup City, generally revealed that they only cut and/or remove very little of the tip of the clitoris, they could not provide medical recommendations regarding the practice of female circumcision, because according to them Circumcision for girls has more tradition and religious nuances than medical reasons.

Viewed in the Indonesian context, references to the equivalent understanding of female circumcision from a fiqh perspective are also not singular. The Directorate General of Community Health Development of the Ministry of Health translates female circumcision into FGM, and defines it as "medicalization of female circumcision". From the point of view of Indonesian language rules, the term *Female Genital Mutilation* which is translated as "medicalization of female circumcision" is not quite right. Medicalization is not known in Indonesian terms. What exists is medication, which means "therapy by administering medulla drugs".<sup>63</sup>

This definition of FGM is not in line with the definition of female circumcision in the perspective of Islamic jurisprudence. This understanding adds to the bias in the understanding of female circumcision. Translating *Female Genital Mutilation* (FGM) with the term "medicalization of female circumcision", which then refers to the practice of female circumcision in Muslim-majority Indonesia, which means referring to the meaning of female circumcision in the perspective of Islamic law, is an act that is not careful. *Female Genital Mutilation* if interpreted linguistically is female genital mutilation. Mutilation, an absorption word that has become Indonesian, as in the Big Language Dictionary.<sup>64</sup>

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<sup>62</sup> Ramlan Mardjanat, *Khitan Dan Khifadh* (Jakarta: Media Dakwah, 1998), 11.

<sup>63</sup> M. Asrorun Ni'am Sholeh, "Fatwa MUI Tentang Khitan Perempuan," *Ahkam: Jurnal Ilmu Syariah* 12, no. 2 (August 7, 2012): 35-46, <https://journal.uinjkt.ac.id/index.php/ahkam/article/view/964>.

<sup>64</sup> Sholeh, 35-46.

Related to this, Ali Akbar believes that women who are not circumcised can cause disease for their husbands (partners) when they have intercourse as their *clitoris* secretes smegma that smells bad and can be a stimulant for cancer of the male penis and cancer of the cervix of women since in it live pests and viruses that cause cancer.<sup>65</sup> Likewise, Abdullah Wali Nasution stated that the origin of the *clitoris* is the same as the male penis, therefore, both uncircumcised women and uncircumcised men can cause cancer for their husbands or partners.<sup>66</sup>

If female circumcision in practice opens the tip of the *clitoris* from a medical point of view for hygiene and avoids the occurrence of cancer for their partner, then psychologically by opening the tip of the *clitoris* causes the woman to become aroused more quickly so that she can reach a climax of intercourse by having an orgasm simultaneously with her husband. This is very clear, happiness for both of which the Prophet expressed by facts brightens the face of women and pleases the husband.

Referring to the various opinions above, it appears that circumcision for women is more appropriate by scratching to open the tip of the *clitoral* cover which is useful for speeding up the stimulation process, in order to achieve orgasm simultaneously with the husband so that the woman's face (wife) becomes radiant and this this makes her husband happy. All of this is part of household happiness (*sakinah*).

As for the practices carried out in Indonesia and the medical considerations that opening a small part of the *clitoral* covering actually has a positive effect on female sexual libido, in this condition the authors consider the legal level to have changed to sunnah. Besides medical considerations, the implementation is very much in sync with the message given by Rasulullah SAW to a circumciser in Medina who carried out the practice legalized by Rasulullah SA according to the instructions, of course it will be worth worship by Allah SWT.

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<sup>65</sup> Hasan, *Masail Al-Fiqhiyah al-Haditsah Pada Masalah-Masalah Kontemporer Hukum Islam*, 138.

<sup>66</sup> Nasution, "Khitlan Wanita : Perspektif Hukum Islam, Medis dan Sosiologis," 2.

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Based on the quotations of various medical experts' opinions regarding the practice of female circumcision above, the feminist accusations against the practice of female circumcision as an attempt to abuse women are completely unfounded as is the opinion of Musdah Mulia who understands the word "*makrumah*" (glory) and cannot be found in legal language in jurisprudence. Moreover, there are no Al-Quran and Hadith that clearly and unequivocally order circumcision, there are no legal consequences and it is not a religious order, let the practice harms women.<sup>67</sup> Fransiska categorizes FGM as a violation of women's human rights which is the same as the human rights of reproductive and sexual health.<sup>68</sup>

According to their presumption, the facts on the practice of circumcision are an attempt to cut off part or all of the *clitoris* and vaginal lips of a girl,<sup>69</sup> not found in practice in Indonesian Muslim women. Even if the practice of circumcision of women in some countries, such as Egypt and Sudan,<sup>70</sup> done traditionally, it is only a case that can be corrected and should not be generalized to represent the entire practice of circumcision.

The sentence "*wa makrumah fiinnisai*" (glory for women) in the hadith al-Hajjaj must be seen from two aspects, the religious aspect and the sociocultural aspect, as at that time among Arab society there was an understanding that women who were circumcised were better than women who were not. Circumcision is an honor if it is understood from a religious point of view. It is also a sunnah practice for women, since the Prophet did not distinguish between the use of terms for the two. Therefore, the author is more inclined to understand from the second aspect; when society looks good (respectable) circumcised women, then Islam allows it in accordance with the ushul rule that "*al 'adatu muhakkamah*".<sup>71</sup>

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<sup>67</sup> Jannah and Hermawan, "Hukum Sunat Perempuan Dalam Pemikiran Musdah Mulia," 1-20.

<sup>68</sup> Fransiska Lisnawati, *Female Genital Mutilation Ditinjau Dari Aspek Hukum Perlindungan Perempuan Dan Hak Asasi Manusia*, 4.

<sup>69</sup> Removing part or all of a girl's clitoris and labia in an effort to reduce female sexual desire and thereby preserve chastity. Ikatan Dokter Indonesia, "Seruan Kehati-Hatian IDI Pada Pelaksanaan Khitan Wanita," 3.

<sup>70</sup> Mardjanat, *Khitan Dan Khifadh*, h. 5-10.

<sup>71</sup> Jaih Mubarak, *Kaidah Fiqh Sejarah Dan Kaidah-Kaidah Asasi* (Jakarta: Raja Grafindo Persada, 2002), 153.

## E. Conclusion

Medical female circumcision is prohibited, both on an international and national scale. The international world through the *World Health Organization* (WHO) has banned the practice of female circumcision because it violates human rights and harms women. Nation through Regulation of the Minister of Health Number 6 of 2014 prohibits the practice of female circumcision as it is not a medical procedure which is not carried out based on medical indications. According to Islamic law, female circumcision is part of the Shari'a which must be obeyed within the framework of *ta'abbudi* (a form of obedience) to Allah SWT, apart from the issue of *khilafiyah* regarding the prophesy of the argument and regarding female circumcision itself. The word *makrumah* shows the glory of circumcised women both from the Shari'a as compliance, the medical side – health. According to the opinion of medical and sociocultural experts and based on the societal order, women being circumcised respectably becomes a custom, while custom is law according to fiqh rules.

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