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FEMALE CIRCUMCISION (BETWEEN SHARIAH LEGAL EVIDENCE AND GOVERNMENT REGULATIONS)

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Abstract: The law of female circumcision in Indonesia is still a controversy between scholars, medicine, and the state. This study aims to analyze the obligation of citizens to comply with Government Regulation No. 28 of 2024, which prohibits the practice of female circumcision, from the perspective of the Shafii School, where this madhhab actually encourages it. This study uses the library research method to examine primary and secondary sources related to hadith, fiqh, madhhab Syafii, contemporary fatwa, and medical and legal aspects in Indonesia. The analysis was carried out using the approach of hadith criticism, ushul fiqh, maqashid shariah, and fiqh madhhab Syafii. The results of the study show that there is a contradiction between the classical views of the Shafii School that tend to advocate female circumcision, including the MUI fatwa, and the results of the 32nd NU Congress in Makassar. However, the principle of obedience to the government is also emphasized in this school. This study found that the sharia basis for female circumcision is dzanni, with generally weak supporting hadith and medical aspects that aggravate female circumcision that can be carried out with the support of the ushul fiqh approach, maqashid sharia, and fiqh madhhab Syafii. In conclusion, despite differences of opinion, citizens' compliance with Government Regulation No. 28 of 2024 can be justified from the perspective of the Shafii School by considering that it does not contradict Islam. This study suggests the need to review Islamic law in fatwa institutions in Indonesia.

Keywords: *Female circumcision, madhhab shafii, government regulations, citizen compliance, maqashid sharia*

A. Introduction

The practice of female genital mutilation/cutting (FGM/C) involves aspects of religion, culture, health, and human rights (HAM). It is still a controversial issue in Indonesia. Although there have been efforts to reduce its prevalence, this practice is still ongoing in various regions. Data from the 2013 Basic Health Research (Riskesdas) shows that 51% of women aged 0-11 years in Indonesia have been circumcised, placing



Indonesia as the country with the third highest prevalence of FGM/C in the world after Egypt and Ethiopia (Alifah, Rafidha Nur. 2024). The complexity of this issue is reflected in the various reasons underlying the practice of female circumcision. A survey by the Center for Population and Policy Studies (PSKK) of Gajah Mada University (UGM) in 2017 revealed that 92.7% of respondents cited religious orders as the main reason, while 84.1% referred to tradition. This practice is generally carried out in female babies aged 1-5 months (72.4%); the rest are carried out by older people (UNFPA Indonesia, 2024).

From a medical perspective, the World Health Organization (WHO) classifies FGM/C into four main types with varying severity. In Indonesia, the practice of female circumcision generally falls into the milder category, often symbolic, and does not involve significant tissue removal. However, although procedures in Indonesia tend to be less invasive compared to practices in some other countries, all forms of FGM/C still have the potential to pose health risks and are considered human rights violations by international health organizations (R. Celorio, 2022). Indonesian laws about female circumcision have changed significantly in many ways. Since it was deemed to legitimize practices that could jeopardize women's health, the Ministry of Health's 2010 regulation governing female circumcision was revoked in 2014 (Regulation of the Minister of Health of the Republic of Indonesia Number 6 of 2014 concerning the Revocation of Minister of Health Regulation Number 1636/MENKES/PER/XI/2010 concerning Female Circumcision, 2014). The subsequent legal void presented additional difficulties for attempts to end this practice.

Government Regulation (PP) Number 28 of 2024, which was issued in 2024 and specifically and officially forbids the practice of female circumcision in Indonesia, marked a significant shift (Government Regulation Number 28 of 2024 concerning the Implementation of Law Number 17 of 2023 concerning Health, 2024). However, given that female circumcision has a long history in the customs of many Indonesian communities, putting this policy into effect still presents difficulties. In the context of religion, there are differences of opinion among scholars. The classical Shafii school, as stated by Nawawi (1392), argues that circumcision for both men and women is mandatory. According to the opinion of Saheeh in According to the opinion of the sahih in this madhhab, circumcision is permissible when you are a child (jawaz) and does not reach the mandatory level. In this madhhab, there is also an opinion of scholars who state that guardians must circumcise children before they reach puberty. There is also an opinion that it is haram to circumcise them before ten years. The sahih opinion in this school states that the implementation of female circumcision is carried out on the seventh day from the birth of the child.

The Indonesian Ulema Council (MUI), in its fatwa in 2008, stated that female circumcision is makrumah, and its implementation is a form of worship that is recommended (Indonesian Ulema Council, 2008). Meanwhile, Nahdlatul Ulama (NU) views female circumcision as Islamic law with a law that can be sunnah or mandatory (NU Congress, 2010). On the other hand, Muhammadiyah tends to argue that there is no valid nash specifically ordering female circumcision (Muhammadiyah.or.id, 2023). Research on female circumcision shows a variety of perspectives that include health, law, culture, hadith criticism, and fiqh proposals. In terms of health, studies such as those conducted by Kurniati et al. (2024) highlight serious medical risks resulting from this practice, such as infections and complications during childbirth. Another study by Ahlian, A. & Muawanah, 2019, examined the practice of female circumcision on the southern coast of

Java, showing that although it is still practiced, there is an increase in awareness of its negative impacts.

From a legal and cultural perspective, the research (Amin, 2022) discusses the position of female circumcision in Islamic law and legislation in Indonesia. (Ghazali, 2021) examines how this tradition is maintained for social and religious reasons even though it is contrary to international conventions that prohibit female genital mutilation. The novelty of this study lies in an interdisciplinary approach that combines analysis from various perspectives to provide a comprehensive picture of female circumcision practices in Indonesia. This study highlights the contradiction between the classical views of the Shafii School and the principle of obedience to the government as stipulated in Government Regulation No. 28 of 2024. Using the library research method, this study shows that the sharia basis for female circumcision is dzanni with supporting hadiths that are generally weak and full of contradictions in ushul fiqh theories.

This research states that the public is obliged to follow government regulations. It aims to provide legal certainty from the Islamic religious point of view regarding the practice of female circumcision in Indonesia. Using the maqashid sharia approach, ushul fiqh, and fiqh, this study aims to show that it does not follow sharia principles. If it does not follow Sharia principles, plus the government prohibits it through government regulation, then the community has a demand to comply with it. This study hypothesizes that despite differences of opinion among scholars, citizens' compliance with Government Regulation No. 28 of 2024, which prohibits the practice of female circumcision, can be justified from the perspective of the Shafii School. It is based on the consideration that the ban does not contradict the basic principles of Islam and is in line with the maqashid of sharia in protecting women's health and welfare.

The research method used is library research. This research is qualitative descriptive, where the data collected will be analyzed in depth to understand the context, meaning, and implications of the practice of female circumcision in society. The material object of this study is the practice of female circumcision in Indonesia, with a focus on understanding this practice in the context of Islamic law, health, and culture. The analysis of data on the source of sharia for female circumcision will use the approach of criticism of sanad hadith to examine the quality of the hadith used as a source of legal law for female circumcision, ushul fiqh to examine the position of female circumcision if faced with medical risks, maqashid sharia, and fiqh madhhab Shafii by looking for the obligation of community compliance to the government. With this comprehensive approach, the research is expected to make a significant contribution to the academic discourse on female circumcision in Indonesia, as well as provide a theoretical foundation for policymakers and religious leaders to address this sensitive issue. The results of this study can strengthen the argument to support the prohibition of the practice of female circumcision so that people get legal certainty both in terms of sharia and as Indonesian citizens.

B. Method

This study uses the library research method to analyze the practice of female circumcision in Indonesia from the perspective of Islamic law. A descriptive qualitative approach is used to understand this practice's context, meaning, and implications in depth (Creswell, J. W., & Creswell, 2017). The material object of the research is the practice of

female circumcision in Indonesia, with a focus on understanding it in the context of Islamic law, health, and culture. The data used consists of two types: primary and secondary data. Primary data was obtained from classical fiqh books, the results of the NU Congress, MUI fatwas on female circumcision and related government regulations. Secondary data are drawn from existing literature, including journal articles, books, and relevant previous research reports. The selection of literature sources is carried out carefully to ensure the accuracy and representativeness of the information.

Data analysis uses several approaches, including maqashid sharia to understand the purpose of sharia in the context of female circumcision, ushul fiqh to assess the use of sharia evidence, and fiqh to analyze the opinions of classical and contemporary scholars. A comparative approach is also used to compare the views of Islamic law with government regulations related to female circumcision. With this comprehensive approach, the study aims to provide an in-depth analysis of the legal status of female circumcision in Islam, its relevance to sharia principles, and its implications for community compliance with government regulations that prohibit the practice. The research results are expected to significantly contribute to academic discourse and provide a theoretical foundation for policymakers and religious leaders in dealing with this sensitive issue.

C. Result and Discussion

1. Result

a. Results of LBM PBNU Decision

In the decision of the Bahtsul Masail Institute of the Executive Board of Nahdlatul Ulama (PBNU), the 32nd NU congress in Makassar in 2010 resulted in a decision that the sunnah law for women still has differences of opinion among Fiqh scholars. Some scholars believe the sunnah law for women is sunnah; some say mubah (Results of LBM PBNU, 2010). According to Imam Shafi'I, the sunnat law for women is mandatory, just like the sunnat law for men. It is as expressed by Imam Nawawi in his book Syarh al-Nawawi 'ala Saheeh Muslim, which reads:

(فالختان) واجب عند الشافعي وكثير من العلماء, وسنة عند مالك وأكثر العلماء, وهو عن الشافعي واجب على الرجال والنساء جميعا

Meaning: Circumcision is mandatory according to Imam Shafi'I and most scholars, and sunnah, according to Imam Malik and most scholars, namely compulsory circumcision for men and women (Imam Nawawi, 1392).

Some opinions that say that circumcision for women is forbidden are opinions that have no evidence according to sharia and only see that circumcision for women only hurts her.

Scholars who argue that circumcision for women is sunnah are based on a hadith narrated by Imam Ahmad, which reads:

عن أبي المليلح بن أسامة عن أبيه أن النبي صلى الله عليه وسلم قال: (الْخِتَانُ سُنَّةٌ لِلرِّجَالِ مَكْرَمَةٌ لِلنِّسَاءِ) (رواه أحمد)

Meaning: From Abi Malih ibn Usamah, from his father, the Prophet (peace and blessings of Allaah be upon him) said: Circumcision is sunnah for men and noble for women. (HR Ahmad)

In this context, "sunnah" does not refer to the opposite of "obligatory". When the term "sunnah" is used in a hadith, it is usually not intended as opposed to "mandatory" but instead emphasizes the difference in law between men and women. Therefore, the meaning of "sunnah" and "makrumah" in the hadith is that men are more encouraged to circumcise than women. It means that it can be interpreted that men are encouraged (sunnah) to circumcise, while women are allowed (mubah). Alternatively, it can also be understood that circumcision is mandatory for men and sunnah for women. In addition, men are encouraged to announce their circumcision, for example, through a circumcision walimatul or invitation. At the same time, women should keep it secret without the need to publish or disseminate it.

Female circumcision is performed by removing a small portion of the thin skin that covers the clitoris rather than eradicating it. The Prophet reminded us not to overdo it when doing so, as stated in a hadith narrated by Umi Athiyah Al-Anshariyyah. The best time to perform circumcision in women is on the seventh day after birth. However, scholars differ on how to calculate the seventh day. Some argue that birthdays are counted as the first day, which is a strong opinion. On the other hand, some argue that birthdays do not count.

The benefits of circumcision for women can be taken from a hadith narrated by Imam Abi Daud from the hadith of Umi Athiyah al Anshariyyah which reads:

عَنْ أُمِّ عَطِيَّةَ الْأَنْصَارِيَّةِ أَنَّ امْرَأَةً كَانَتْ تَخْتُنُ بِالْمَدِينَةِ فَقَالَ لَهَا النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: (لَا تُنْهَكِي فَإِنَّ ذَلِكَ أَحْطَى لِلْمَرْأَةِ وَأَحَبُّ إِلَى الْبُعْلِ)

"From Ummi 'Athiyyah al-Anshariyyah, that a woman performed circumcision in Medina, the Prophet (peace be upon him) commented, "Do not go overboard in circumcision [of women], because circumcision is good for women and prefers to their husbands." (HR Abu Dawud).

The hadith provides two main understandings: first, the recommendation of circumcision for women. This hadith is a type of taqriri hadith because the Prophet PBUH did not prohibit the tradition of female circumcision carried out by the people of Medina. Instead, he gave instructions on how to perform circumcision correctly. It suggests that female circumcision is recommended. Second, the legitimacy of the Prophet towards female circumcision. The Prophet PBUH acknowledged the existence of female circumcision despite concerns about the possibility of malpractice that could cause negative impacts, such as frigidity. These concerns are reflected in the hadith, but this acknowledgment shows that the wisdom and benefits of circumcision outweigh the feared risks. Although this wisdom is not explicitly explained in the hadith, some scholars argue that circumcision can be a way to control women's lust and orgasm.

According to Dr. Al-Bar in a paper presented at the meeting of al-Majma' al-Fiqhi in Rabithah al-'Alam al-Islami, the wisdom of female circumcision includes the following: a. Obey the sharia of Allah SWT and follow the sunnah of the Prophet PBUH; b. Maintain taharah or purity; c. Maintain hygiene, which plays a role in preventing urinary tract infections; d. Balance the impulse of orgasm, e. Replace traditions that do not follow sharia and have the potential to bring losses with more appropriate practices; f. Make circumcision a symbol of noble worship, not just a tradition; g. Protect the social and psychological aspects that can arise as a result of abandoning the practice of circumcision.

The following are some of the foundations of circumcision for women, namely:

Hadith narrated by Imam Ahmad from his hadith Usamah RA.:

أن النبي صلى الله عليه وسلم قال : الختان سنة للرجال مكرمة للنساء) أخرجه أحمد عن أسامة، والطبراني في الكبير عن شداد بن أوس وعن ابن عباس رضي الله عنهما.

The hadith has a hasan quality, as stated by al-Suyuthi in al-Jami's as-Shoghri. At the same time, al-Baihaqi, al-Dzahabi, ibn Hajar, and al-'Iraqi believe it is dlo'if. The hadith narrated by several hadith experts, including Imam al-Bukhori and Imam Muslimn from his hadith Abi Hurairoh RA. from the Prophet PBUH, said:

الفطرة خمس – أو خمس من الفطرة – الختان والاستحداذ ونتف الإبط وتقليم الأظفار وقص الشارب) أخرجه الشيخان وأبو داود والدارمي ومالك وأحمد.

Every hadith narrated by al-Bukhori and Muslim or one of them is guaranteed authentic without being studied. The hadith narrated by Abi Daud from his hadith Umi Athiyah Al-Anshoriyah, which conveys:

عن أم عطية الأنصارية ؛ أَنَّ امْرَأَةً كَانَتْ تَخْتَنُ بِالْمَدِينَةِ، فَقَالَ لَهَا النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: (لا تنهكي فَإِنَّ ذَلِكَ أَحْظَى لِلْمَرْأَةِ وَأَحَبُّ إِلَى الْبُعْلِ) رواه أبو داود قال الخطابي: «وقد جاء في رواية أخرى أشمى ولا تنهكي»، قيل: شبه القطع اليسير بإشمام الرائحة، وشبه النهك بالمبالغة فيه، أي اقطعي بعض النواة ولا تستأصليه. قوله (لا تنهكي) معناه: لا تبالي في الخفض ، والنهك : المبالغة في الضرب والقطع والشتم والإشمام أخذ اليسير في ختان المرأة. اهـ

The hadith is dloif, as Abu Dawud said. Still, it has two martyrs, namely the hadith of Anas and the hadith of Ummi Ayman, narrated by Abu As-Shaykh in the book Aqiqoh, and the hadith of Ad-Dlohak ibn Qoys, narrated by al-Baihaqi—as said by Al-Adzim Abady, the author of Aunul Ma'bud. Hadith narrated by Ath-Thabarani and Al-Hakim from Adl-Dlahhak ibn Qois RA:

(أخفضي، ولا تُنهكي، فَإِنَّهُ أَنْصَرُ لِلْوَجْهِ، وَأَحْظَى عِنْدَ الزَّوْجِ) أخرجه الطبراني والحاكم.

The hadith is saheeh according to Imam Suyuthi in al-Jami' ash-shogir. Abi Hurairah RA's Hadith:

قال رسول الله صلى الله عليه وسلم: (اختتن إبراهيم عليه السلام وهو ابن ثمانين سنة بالقدوم) أخرجه الشيخان وأحمد، مع قوله تعالى: قُلْ صَدَقَ اللَّهُ فَاتَّبِعُوا مِلَّةَ إِبْرَاهِيمَ حَنِيفًا وَمَا كَانَ مِنَ الْمُشْرِكِينَ ﴿ سورة آل عمران: ٩٥

Imam al-Bukhori and Imam Muslim narrated the above hadith, which is confirmed to be saheeh.

b. Fatwa Majelis Ulama Indonesia (MUI)

Whether circumcision is required, sunnah, haram, or subject to other laws, it is not explicitly addressed in the MUI when it comes to women. According to the Indonesian Ulema Council's May 7, 2008, Fatwa on the Law on the Prohibition of Circumcision Against Women, which is available on the council's website, circumcision encompasses Islamic teachings and fitrah (laws) for both males and women. Although it is considered makrumah, circumcision of women is one of the suggested acts of worship. Since circumcision, for both men and women, involves fitrah (rules) and Islamic teachings, the ban on women's circumcision is against sharia law. However, the following considerations must be made while implementing female circumcision: Simply removing the membrane (jaldah, colum, or praeputium) covering the clitoris is how female circumcision is

performed. Excessive female circumcision practices, such as severing or damaging the clitoris (incision and excision) can cause dlarar (Fatwa MUI, 2008).

c. Muhammadiyah's Views

The practice of female circumcision has become a controversy, with diverse views among scholars. Through the Tarjih and Tajdid Council, Muhammadiyah has a perspective on this issue. The Tarjih Council firmly stated that female circumcision is not part of religious guidance but rather a tradition that is not based on clear religious postulates. This view arises from the belief that the legal basis for female circumcision cannot be found in authentic Islamic teachings. The Tarjih Council highlighted the difference with male circumcision, which is recognized as having a clear legal basis in religious postulates.

In contrast to male circumcision, which is referred to by explicit evidence, no evidence mentions explicitly female circumcision. With the consideration that there is no evidence, the Tarjih Council issued a fatwa stating that female circumcision should not be performed. This decision is based on carefully assessing the benefits and madharat (disadvantages) that may arise from this practice. Muhammadiyah is committed to maintaining the integrity of Islamic teachings and protecting women from practices considered unsupported by nash (religious texts) (Muhammadiyah.or.id, 2023).

Muhammadiyah also argued that a reproductive health expert and cadre of 'Aisyiyah West Java, Dian Indahwati, explained the significant difference between male and female circumcision. According to him, male circumcision, also known as circumcision, is a permanent act that involves the removal of the entire part of the preputum that covers the penile glands. Male circumcision is not only recommended as part of religious traditions and teachings, but it also has a strong medical basis. This action is considered effective in maintaining the cleanliness of the male genital organs. The removal of the prepuce is not only done for religious reasons but also for medical reasons, such as correcting a condition of a disorder such as phimosis, in which the prepuce cannot be pulled back.

Dian Indahwati emphasized that male circumcision can also be done electively to improve hygiene and prevent sexually transmitted diseases, including HIV. In this context, removing preputium is a preventive measure that can reduce certain risks. However, women have different anatomy, and the clitoris in women does not function to urinate, so it is kept clean. In this essay, Dian Indahwati stated emphatically that cutting or injuring the clitoris in women is equivalent to injuring or cutting the penis in men. It highlights the importance of understanding the sensitivity of the female reproductive organs. Dian also added that, unlike male circumcision, female circumcision is not recommended by health experts. Dian Indahwati stated that this action can cause problems in women's reproductive health. As such, this essay provides a strong perspective on the importance of understanding the anatomical differences and health impacts of the practice of circumcision in men and women.

d. Government Regulation No. 8 of 2024

Through Government Regulation of the Republic of Indonesia Number 28 of 2024 concerning Implementation Regulations of Law Number 17 of 2023 concerning Health, the government has prohibited circumcision for women. It is reflected in articles 101 and 102, which read:

Article 101

Reproductive system health efforts according to the life cycle as referred to in Article 100 letter a include:

Health of the reproductive system of infants, toddlers, and preschoolers;

- a) The health of the reproductive system of school-age and adolescents;
- b) Adult reproductive system health;
- c) The reproductive system health of the bride-to-be and
- d) The health of the reproductive system of older people.

According to the life cycle, reproductive system health efforts include preventing and protecting organs and reproductive functions, as referred to in paragraph (1). Hence, they are free from disorders, diseases, or disabilities.

Efforts to maintain the health of the reproductive system according to the life cycle as referred to in paragraph (1) are carried out by paying attention to the specifics and stages of development in each female and male reproductive system."

Article 102

Efforts to improve the reproductive system of infants, toddlers, and preschoolers, as referred to in Article 101 paragraph (1) letter a, are at least in the form of:

Abolishing the practice of female circumcision; Educating toddlers and preschoolers to know their reproductive organs;

Educating about the differences in male and female reproductive organs;

Educating them to refuse touch to reproductive organs and body parts that are forbidden to be touched;

Practicing clean and healthy living behaviors in the reproductive organs;

Furthermore, Providing medical clinical services in certain conditions.

2. Discussion

The Regulation of the Minister of Health Number 6 of 2014 concerning the Revocation of the Regulation of the Minister of Health Number 1636/MENKES/PER/XII/2010 concerning Female Circumcision ("Permenkes 6, 2014") formerly controlled the law of circumcision for women. Every action in the medical area must be founded on medical reasons and demonstrated to be naturally beneficial, according to Consultative Letter No. 6 of 2014. Because female circumcision is not founded on medical indications and is not health-promoting, it is currently not considered a medical procedure. The existence of Permenkes 6/2014 is regarded as ambiguous in the issue of Female Genital Cutting/Wounding ("P2GP") in Indonesia, according to a quote from the Intersection between Tradition & Modernity Results of the Qualitative Study of Female Genital Cutting/Wounding (P2GP) in 10 Provinces and 17 Regencies/Cities on the National Commission Against Violence Against Women page that we found during our search. According to the study in which the study was held, it is debatable whether the government intends to stop P2GP or allow P2GP to take place as long as it conforms with applicable religious rules. According to field research, P2GP is still discovered and practiced by shamans or midwives in a variety of methods today (Komnas Perempuan, 2018).

Of course, this is not surprising because there has never been a follow-up to Article 2 of Permenkes 6/2014, namely the Health and Sharia Advisory Council, which is given the authority to make guidelines regarding implementing female circumcision. However, until now, no results have been found from the mandate. Therefore, the practice of P2GP, or female circumcision, both by midwives and shamans, does not have a clear source basis and has the potential to harm women and girls.

On July 26, 2024, the government issued Government Regulation Number 28 of FY 2024 concerning Implementation Regulations of Law Number 17 of 2023 concerning Health. Article 102 states that to improve reproductive health for infants, toddlers, and preschoolers, the government has abolished the practice of female circumcision. Through this government regulation, the practice of circumcision on women is abolished and prohibited because it can be dangerous for health. With this regulation, the government seeks to implement health by eliminating the practice of female circumcision (PP Number 28 of 2024).

In line with the abolition of the practice of circumcision for women, Muhammadiyah, through its Tarjih council, revealed that circumcision for women is not recommended. The Tarjih Council firmly stated that female circumcision is not part of religious guidance but rather a tradition that is not based on clear religious postulates. This view arises from the belief that the legal basis for female circumcision cannot be found in authentic Islamic teachings. The Tarjih Council highlighted the difference with male circumcision, which is recognized as having a clear legal basis in religious postulates. In contrast to male circumcision, which is referred to by explicit evidence, no evidence mentions explicitly female circumcision. With the consideration that there is no evidence, the Tarjih Council issued a fatwa stating that female circumcision should not be performed. This decision is based on carefully assessing the benefits and madharat (disadvantages) that may arise from this practice. Muhammadiyah is committed to maintaining the integrity of Islamic teachings and protecting women from practices considered unsupported by nash (religious texts) (Muhammadiyah.or.id, 2023).

In contrast to the government and Muhammadiyah, MUI stressed that female circumcision is a fitrah and is covered by sharia law in its Fatwa and PBNU in the proceedings of the 32nd Congress in Makassar in 2010. According to MUI, Islamic teachings and fitrah (rules) are a part of circumcision, or circumcision, for both men and women. Although it is considered makrumah, circumcision of women is one of the suggested acts of worship. Since circumcision, for both men and women, involves fitrah (rules) and Islamic teachings, the ban on women's circumcision is against sharia law. However, the following considerations must be made while implementing female circumcision: Simply removing the membrane (jaldah, colum, or praeputium) covering the clitoris is how female circumcision is performed. Extreme female circumcision practices such as chopping or damaging the clitoris (excision and incision), might cause dlarar (Fatwa MUI, 2008).

PBNU argues that some opinions that say that circumcision for women is prohibited are opinions that have no evidence in sharia. According to him, the law of female circumcision is sunnah or recommended. Scholars who argue that circumcision for women is sunnah are based on a hadith narrated by Imam Ahmad, which reads:

عن أبي المليلح بن أسامة عن أبيه أن النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: (الْخِتَانُ سُنَّةٌ لِلرِّجَالِ مَكْرَمَةٌ لِلنِّسَاءِ) (رواه أحمد)

Meaning: From Abi Malih ibn Usamah, from his father, the Prophet (peace and blessings of Allaah be upon him) said: Circumcision is sunnah for men and noble for women. (HR Ahmad)

In this context, "sunnah" does not refer to the opposite of "obligatory". When the term "sunnah" is used in a hadith, it is usually not intended as opposed to "mandatory" but instead emphasizes the difference in law between men and women. Therefore, the meaning of "sunnah" and "makrumah" in the hadith is that men are more encouraged to circumcise than women. It means that it can be interpreted that men are encouraged (sunnah) to circumcise, while women are allowed (mubah). Alternatively, it can also be understood that circumcision is mandatory for men and sunnah for women. In addition, men are encouraged to announce their circumcision, for example, through a circumcision walimatul or invitation. At the same time, women should keep it secret without the need to publish or disseminate it.

Female circumcision is performed by removing a small portion of the thin skin that covers the clitoris rather than eradicating it. The Prophet reminded us not to overdo it when doing so, as stated in a hadith narrated by Umi Athiyah Al-Anshariyah. The best time to perform circumcision in women is on the seventh day after birth. However, scholars differ on how to calculate the seventh day. Some argue that birthdays are counted as the first day, which is a strong opinion. On the other hand, some argue that birthdays do not count.

According to Indonesian cultural norms and beliefs, female circumcision is still in demand today; nevertheless, its execution must prioritize the health and safety of circumcised women as well as the avoidance of female genital mutilation.

According to the Director of Productive Age and Elderly Health of the Ministry of Health, Kartini Rustandi emphasized that the practice of female circumcision has no medical benefits. The action, which is often referred to as the practice of Female Genital Cutting/Injury (P2GP), is even considered a form of human rights violation.

Kartini said that this practice can even have negative consequences for health. In the short term, circumcised women have the potential to cause complications, fever, wounds, bleeding, swelling of the genital tissues, infections, urinary problems, and injuries to the tissues around the genital organs. Meanwhile, in the long term, female circumcision can also have an impact on tissue damage that requires further surgery, an increased risk of childbirth complications, and even newborn death.

According to the rules of Fiqh and the progress of the times, Islamic jurists in *ijtihad* adopt various methods to enforce the law. The *istinbat* method is used because the Islamic law studied is often still abstract, so the *mujtahid* must explain the unclear law. This process is known as *ijtihad*. In implementing *ijtihad*, *mujtahid* generally adheres to four primary methods that must be used to enforce the law. However, if the four methods do not provide a straightforward solution to a problem, the jurists can use other methods in *istinbat*. Every command must be carried out, and every prohibition must be avoided. In applying both, an intermediary who directs humans to act according to orders or prohibitions is needed. This method is known as *saddu adz-dzari'ah* (John Kawakib et al., 2021).

In the case of female circumcision, according to saddu adz-dzari'ah, it is included in the category of cases that can bring danger to health. In the sense of ushul fiqh science, Sadd adz-dzari'ah is "One problem seems to be mubah, but there is (possibility) that it can convey to things that are forbidden (haram)".

مَنْعَ كُلِّ مَا يَتَوَصَّلُ بِهِ إِلَى الشَّيْءِ الْمَمْنُوعِ الْمُشْتَمِلِ عَلَى مُفْسَدَةٍ أَوْ مُضَرَّةٍ

"Preventing everything (words or deeds) that convey something that is prevented/prohibited that contains damage or danger."

According to Ash-Syatibi, Saddu adzari'ah is *إِلَى مَصْلَحَةٍ* "to carry out a work that originally contains benefits leading to a harm (kemafsadatan)." At the same time, according to Wahbah az-Zuhaili, the act can be prohibited or not depending on the concept that the act has the potential to be a means of committing an act that is forbidden" (Andewi Suhartini, 2012). It is concluded that saddu adzari'ah is a method in Islamic law to enforce the law by preventing or masking the purpose of an act that seems to be considered good but can give rise to a mafsadah or something forbidden. From the principle of Saddu adzari'ah, it can be concluded that the purpose of sharia is to bring good to humans and avoid evil. Considering this principle, every human action should be understandable and analyzed. Actions that bring benefits must be considered so that actions that have the potential to lead to harm can be avoided and prevented (Khusniati Rofiah, 2018).

Nasrun Harun defines Adzari'ah as a method or route to something that is prohibited. Adzari'ah, on the other hand, is defined by Ibn Taymiyah as an action that appears acceptable on the surface but may result in forbidden or prohibited actions (Intan Arafah, 2020). Saddu Adzari'ah, as used in Islamic legal methodology, is an attempt by the mujtahid to ascertain the law by considering the legal ramifications that may develop, such as blocking or preventing roads or ways that can cause damage. From the various views of experts on Adzari'ah, it can be concluded that, in particular, Adzari'ah is a means that leads to forbidden acts, which produce legal consequences that are considered haram even though they seem to be allowed on the outside.

There are several criteria for establishing a law that can function as a means or a way to the haram, which is the goal. Among them: First, purpose. If the goal is mandatory, the path must also be mandatory; if the goal is forbidden, then the path must also be forbidden. Second, Intention (Motion). If the intention is to achieve halal things, then the means used are also halal; on the other hand, if the intention is to achieve what is haram, then the means are also considered haram. Third, the consequences of actions. If the result of the deeds done produces good, then the means or ways can be done. However, if the act's consequences cause evil or damage, the means cannot be carried out (Syaifudin, 2016).

In female circumcision, health experts argue that removing part or all of the skin in the female genitals can pose a danger to women's reproductive health. It is determined by the law based on the third Saddu Adzari'ah, namely. If the result of the deeds done produces good, then the means or ways can be done. However, if the act's consequences cause harm or damage, then the means are not allowed to be implemented. From this, it can be concluded that the law of female circumcision is something that is prohibited based on the provisions of the Saddu Adzari'ah law because it can cause health hazards.

D. Conclusion

The law of female circumcision shows that this practice is experiencing significant debate in Indonesia. Regulation of the Minister of Health Number 6 of 2014 stipulates that female circumcision is not based on medical indications and is not proven to provide health benefits, so this practice is considered inconsistent with medical principles. In 2024, the government issued a government regulation that expressly prohibits the practice of female circumcision because it is considered harmful to health. On the other hand, Muhammadiyah emphasized that female circumcision is not part of religious teachings, while MUI and PBNU argue the opposite, that female circumcision is included in Islamic law. The MUI considers circumcision a recommended sunnah, with certain restrictions to avoid violations against health. Meanwhile, this practice is still ongoing in the community, although without a clear legal basis, and can potentially violate human rights. Therefore, it is important to consider health, legal, and ethical aspects in discussing the practice of female circumcision in Indonesia.

Female circumcision shows that this procedure can have negative consequences for health in both the short and long term, such as complications, infections, and a higher risk of childbirth. In Islamic law, the Saddu Adzari'ah method is used to assess this practice, which prevents actions that seem permissible but can lead to harm or prohibited acts. Based on this principle, if an action has the potential to cause harm, then the action must be avoided. Therefore, the practice of female circumcision is seen as something that is prohibited in Islamic law because it can endanger women's health. As such, it is important to consider health and safety aspects in the legal establishment of these practices.

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