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Islamic Law and Medical Ethics of Female Circumcision Practices

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ABSTRACT: The practice of female circumcision continues to provoke complex debates, intersecting the domains of Islamic law, medical ethics, and cultural traditions. This article critically examines the practice by exploring the diverse interpretations of Islamic legal texts regarding female circumcision and medical perspective. Simultaneously, it evaluates the medical implications of the practice. By integrating these perspectives, the study aims to illuminate pathways for reconciling religious beliefs with contemporary ethical and medical principles. This approach seeks to contribute to informed discourse, promoting a balance between religious understanding and human rights advocacy in addressing female circumcision practices.

Keywords: Islamic Law, Medical Ethics, Female Circumcision

ABSTRAK: *Praktik khitan perempuan terus memicu perdebatan yang kompleks, melibatkan persimpangan antara hukum Islam, etika medis, dan tradisi budaya. Artikel ini secara kritis mengkaji praktik tersebut dengan mengeksplorasi beragam interpretasi teks hukum Islam terkait khitan perempuan serta perspektif medis. Secara bersamaan, artikel ini juga mengevaluasi implikasi medis dari praktik tersebut. Dengan mengintegrasikan kedua perspektif ini, penelitian ini bertujuan untuk menerangi jalur rekonsiliasi antara keyakinan agama dengan prinsip etika dan medis kontemporer. Pendekatan ini diharapkan dapat memberikan kontribusi pada diskursus yang lebih mendalam, mempromosikan keseimbangan antara pemahaman agama dan advokasi hak asasi manusia dalam menanggapi praktik khitan perempuan.*

Kata Kunci: Hukum Islam, Etika Medis, Khitan Perempuan.

INTRODUCTION

Circumcision was done pre-Islamic proven through historical facts (Mire 2020). It made reference to the findings of anthropological study reveal that the Semitic (Jews and Arabs) and Hamites, as well as herding cultures in South Africaand Southwest Asia, were the ones who performed circumcision. In particular among Black people in South and East Africa, circumcision is performed on both girls and boys (Romziana 2020).

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, as narrated in Sahih Bukhari, the sanad is from Abu Hurairah (Dihartawan 2021).

Male circumcision is legitimized by the Shari'a and does not cause differences of opinion among the cleric (Hakim 2017). In contrast, circumcision of women is still the object of khilafiyah to this day. 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" (Al-Mashafi 2001).

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. 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 unsterilized tools, it will result in acute infection and inflammatory effects that can block the fallopian tubes (H.K Suheimi 2001).

There are differences between medical theory and Islamic law in understanding sharia law and the tradition of female circumcision (Mahmudi et al., 2024). The author wants to explore this in more detail, especially by using the discussion of health experts and Naqli arguments of Islamic law regarding female circumcision. So that the problem of the process of female circumcision and what are the positive and negative impacts according to medical opinion, as well as the legal status of female circumcision according to medical opinion, and the legal status of female circumcision according to Islamic law will be found through this research.

METHOD

This study adopts a qualitative approach, utilizing a descriptive-analytical framework to delve into the complex intersection of Islamic law and medical ethics concerning female circumcision practices. A qualitative approach is particularly suitable for this topic, as it allows for an in-depth exploration of the nuanced perspectives and interpretations within Islamic jurisprudence, as well as the ethical considerations in medical contexts.

By employing a descriptive-analytical framework, the study aims to describe the various dimensions of female circumcision. The approach also facilitates a critical evaluation of the practice providing a comprehensive and balanced perspective on this sensitive issue.

FINDING AND DISCUSSION

1. 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) (Kusumaningtyas et.al. 2015). Althus was quoted by Suparjo that female circumcision is an act against a woman which is 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 (Suparjo, n.d.). 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 (Sulahyuningsih 2021).

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). 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" (World Health Organization. 2016)

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 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 (Farida 2017).

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 (Handayani). 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 (Shofiyah, 2017).

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, then the act of female circumcision is a threat to reproductive health as well as a form of violence against women and a violation of human rights (Suparjo).

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(Nasution 2001).

According to Moeloek (Moeloek 1985), 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, introitus 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.

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 possibility of complications with other organs, such as uterine cervix or endometrial inflammation (interna uterus).

2. 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. 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. Khatan can be interpreted as the part that is cut from the genitals of men and women. More specifically, the word khatan is said to be used for boys, while al-khifad is for girls (Al-Jauziayah 1350).

According to Al-Mawardi as quoted by Hermanto that male circumcision cuts the skin to cover the hasyafah, 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. The recommendation in practice is to simply slice the top without removing the piece.

According to Hasan (Hasan 1998), 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. While 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.

The urgency of female circumcision according to Nahid 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 (Nahid 1995).

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) (Al-Dimashqi 1998).

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 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 connected with medical practice at this time.

According to Sakka's research, 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 Abi 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) (Al-Bukhari).

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. 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. 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 (al-Atsir 1979).

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 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) (Al-Syaukany 1982).

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. Imam Nawawi emphasized that this is a valid and well-known opinion established by Imam al-Shafi'i (Al-Nawawi). 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) (Al-Nawawi).

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 (al-Asqalany 1991).

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. So, it is natural to shift a law that 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.

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. 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 (Sarwanih, 2024).

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