

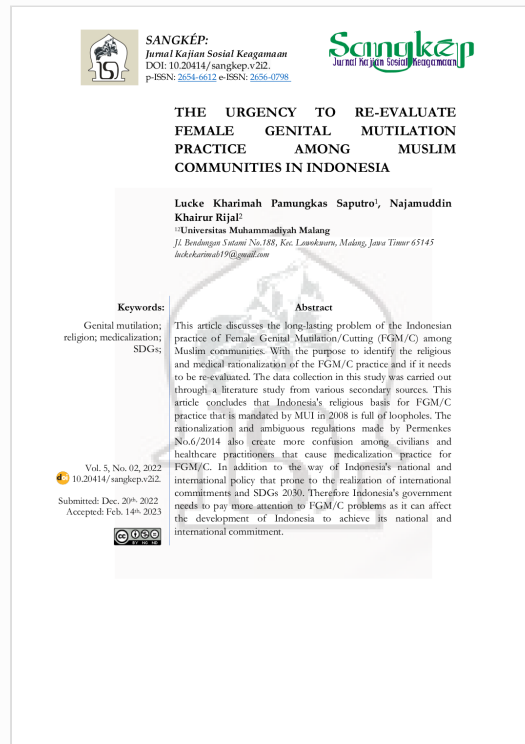


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Page count: 11  
Word count: 4,910  
Character count: 25,072  
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# NAJAMUDDIN KHAIRUR RIJAL - The Urgency to Re-evaluate Female Genital Mutilation Practice among Muslim Communities in Indonesia

*by Turnitin Instructor*

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**Submission date:** 01-Mar-2024 04:06PM (UTC+0700)

**Submission ID:** 2308743088

**File name:** al\_Mutilation\_Practice\_among\_Muslim\_Communities\_in\_Indonesia.pdf (375.23K)

**Word count:** 4910

**Character count:** 25072



## THE URGENCY TO RE-EVALUATE FEMALE GENITAL MUTILATION PRACTICE AMONG MUSLIM COMMUNITIES IN INDONESIA

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### Keywords:


Genital mutilation;  
religion; medicalization;  
SDGs;

### **1** Abstract

This article discusses the long-lasting problem of the Indonesian practice of Female Genital Mutilation/Cutting (FGM/C) among Muslim communities. With the purpose to identify the religious and medical rationalization of the FGM/C practice and if it needs to be re-evaluated. The data collection in this study was carried out through a literature study from various secondary sources. This article concludes that Indonesia's religious basis for FGM/C practice that is mandated by MUI in 2008 is full of loopholes. The rationalization and ambiguous regulations made by Permenkes No.6/2014 also create more confusion among civilians and healthcare practitioners that cause medicalization practice for FGM/C. In addition to the way of Indonesia's national and international policy that prone to the realization of international commitments and SDGs 2030. Therefore Indonesia's government needs to pay more attention to FGM/C problems as it can affect the development of Indonesia to achieve its national and international commitment.

**5**

Vol. 5, No. 02, 2022

 10.20414/sangkep.v2i2.

Submitted: Dec. 20<sup>th</sup>, 2022

Accepted: Feb. 14<sup>th</sup>, 2023



## A. INTRODUCTION

Indonesia is a country that acknowledges five main religions and various beliefs that are rooted in the tradition of each region. Coincidentally, Indonesia is also known as one of the countries in the world where the majority of its people's religion is Islam. According to the data provided by the Ministry of Religion, the population of that part of Islam is 231,069, 972 people (Portal Data Kementrian Agama, 2022). Although the majority of the people's religion is Islam, Indonesia is a republic country with the Pancasila as the main ideology and the 1945 Constitution as the base of the law. At the end of the day, it is supposed to be a democratic country that protects people with various backgrounds such as religions, ethnic, cultures, and tribes. That's why before we go deep into the research, we must realize that the influence of tradition and religion is still deep in many regions and provinces in Indonesia. One of them is the tradition of female genital mutilation or cutting (FGM/C). FGM/C is a practice where the female genital is cut partially or full, and it can also in form of another injury to the external part of the female genital organs for no medical reasons (WHO, 2022). WHO recognizes four types of FGM/C, which are type 1 (clitoridectomy) and type 4 (all other harmful procedures that are not defined in type 1-3) (WHO, 2022). In 2013, a survey done by Basic Health Research of Indonesia (Risdeknas) shows that 51% of women have undergone this practice from the age range of 0-11 years old (UNICEF, 2019).

The tradition itself in Indonesia is more widely known to be done by the practitioners of Muslims. They consider doing the act as sunnah and believed by doing so, they can suppress the sexual desire of women and ensure the "purity" of women before their marriage. It is considered an act of honor to women who have done FGM/C before marriage. However, the source of this sunnah has been different from the male circumcision which has a strong source not only from the Holy Qur'an but also from the medical point of view. While the source of female circumcision in Indonesia is not taken from the Holy Qur'an, but mostly from the basis of sunnah that took in the form of fatwa MUI. It is also believed to be originated from an old tradition of some tribes in Indonesia, but this is still speculation where there is still no evidence found on this basis.

The wide difference between female and male circumcision is obvious yet the UNFPA estimated that by 2030, the number of women undergoing FGM/C will reach 15 million people. Showing no signs of reduction. Because it is one of the fatwa that was released by the Indonesian Ulema Council (Majelis Ulama Indonesia/MUI) in 2008 that urges the people to do FGM/C. The fatwa, also supported by the ambiguous Ministry of Health regulations, Permenkes No.6/2014 adds to the level of "legality" it.

In this paper, the authors want to address the urging issue of the practice, especially among the Muslim communities. And Indonesia, as part of many

international organizations such as the UN and WHO who deeply condemned the act of FGM/C should have respected the commitment to them. This also includes other Indonesia commitment who have signed and ratified many women and child protection act, such as the Conference on Women and Child Protection of Beijing in 1995, international human rights law, Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and Sustainable Development goals should have addressed this matter as soon as possible.

The research happens because that's the long reality that happens in Indonesia until now. With the rise of awareness about women's rights and women's safety proven by the recently approved UU PKS, it should show that the Indonesian people and government have realized the importance of law. And by re-evaluating the beliefs that have no strong pillars to support <sup>3</sup> releasing the appropriate law, Indonesia can contribute to reducing the victims <sup>3</sup> of FGM/C and protecting <sup>3</sup> the health of women, physically and psychologically.

Several literature reviews are used as a reference for this paper. Journals, articles, and reports, are the sources of data and explanations from the previous research. Literature review that the writer used here as stated before also used the main keywords such as "female genital mutilation", "medical view of FGM/C", and "religion views on FGM/C". The side keywords used to support the research on other aspects also includes "laws on FGM/C", "SDG's Goal", and other relevant data on reports that support the keywords.

<sup>4</sup> Lethome Asmani, Ibrahim and Maryam Sheikh Abdi (2008) "Delinking Female Genital Mutilation/Cutting from Islam" <sup>4</sup> The practice of FGM/C in Africa, especially in Kenya, and <sup>4</sup> the point of view of the Muslim population there about FGM/C. The focus of the subject is on different countries. But this journal is a good support of data from past research on how the Islamic teachings and view on FGM/C.

Els Leye, Nina Van Eekert, Simukai Shamu, Tammary Esho, Hazel Barrett, and ANSER (2019) "Debating Medicalization of Female Genital Mutilation/Cutting (FGM/C): Learning from (policy) Experiences Across Countries". This paper used four <sup>3</sup> countries as their case studies which are Egypt, Indonesia, Kenya, and the UK. <sup>3</sup> The purpose of this paper is to discuss the argument for <sup>3</sup> the validation of the medicalization of FGM/C and how it <sup>3</sup> could undermine the achievement of Sustainable Development Goal 5.3. <sup>3</sup> the current paper focuses more on what happens only in Indonesia among Muslim communities. But it gives additional data as medicalization is what is happening in Indonesia right now for FGM/C practice and it can serve as past research on why it should be de-medicalization.

<sup>2</sup> Angela Dawson, Abdul Rashid, Rashidah Shuib, Kolitha Wickramage, Meiwita Budiharsana, Irwan Marua Hidayana, Gabriele Marranci (). "Addressing

Female Genital Mutilation in the Asia Pacific: The Neglected Sustainable Development Target". The journal talks about the practice that includes the old tradition and religion that impact the existence of FGM/C in the Asia Pacific. It also focuses on the SDG's goal number 5.3. It is focused on a bigger scope, not only in Indonesia not only in Muslim Communities. The similarity lies in the data and explanation that can support the rationality and basis of the current research.

<sup>2</sup> Erik Sabti Rahmawati, Lukluil Maknun. "Khitlan Perempuan dalam Fatwa MUI No.9 Tahun 2008 dan PERMENKES No. 6 Tahun 2014 Perspektif Maqashid Al-Syari'ah". Tried to explain the rationalization of MUI instructions and PERMENKES seen through the perspective of masha'Allah. It focused more on the concept of masha'Allah where they keep the spreading of Islam with hafidz-al-diin and hafidz al-nafs.

## B. METHODS

The method that is used in this research is qualitative. <sup>1</sup> Data collection in this study was carried out through literature studies from various secondary sources. The source is taken not only from the main literature review but also data taken from various organizations such as World Health Organization (WHO), United Nations International Children's Emergency Fund (UNICEF), NGOs that have reported and focused on FGM/C, and media (newspaper, news, etc). While the data might not be taken directly by the writer, to ensure the quality control of data, but not limited only for explanation, the researcher use data compilation that fits with the criteria of the topic to ensure the most relevant data and understanding with the current issue.

## C. RESULTS AND DISCUSSION

There are a lot of reasons that come with the practice <sup>7</sup> of FGM/C itself, especially in Indonesia. According to a survey conducted by the Center of Population and Policy Studies (PSKK) from the University of Gadjahmada, one of the main reasons is because of religion then it is about society and family tradition, social sanctions, medical reasons, and sexual pleasure of the husband and/or wife (Dewi H.S et al, 2017). And in Indonesia, the practice of FGM/C is most likely done by Muslims (Kakal et al, 2021). Thus, in this section, we are going to see the rationality of the religious point of view and why the people of Indonesia are so keen on keeping the tradition alive.

First of all, we need to understand that in general, in Islam itself, the basis of the religious act of conduct comes from three main sources. (i) Holy Qur'an; (ii) Sunnah (act, deeds, and words of Prophet Muhammad), (iii) Consensus taken from the opinions of Islamic scholars (Ijma'); (iv) Deduction (Qiyas). If one cannot find it in the Qur'an, then they refer to sunnah. If it still does not exist in



the sunnah, then the Islamic scholars either tell their opinion about the matters or they do a group discussion to have the final saying. And if all of that is still not enough, then the final way is to deduct the matter.

In the case of FGM/C, especially from those who support FGM/C, they have various kind of sunnah and ijma' that is used as a basis why take from those two? Because in the Holy Qur'an, there is not a single verse that mentions the existence of FGM/C. The verse that indirectly talked about circumcision that exists in Holy Qur'an is from surah An-Nahl verse 123. It clearly stated:

*“ Then we revealed to you, O' Prophet (Mubammad), saying: Follow the Faith of Ibrahim, who upright, and not part of the polytheist”*

*This linked to a hadith from Abu Huraira and compiled by Bukhari and Muslim, which stated that Prophet Mubammad said:*

*“Ibrahim, the friend of Allah, was circumcised at the age of 80 years old. And he was circumcised at Al-Qaddum”*

It is very clear from the first two main resources of Islam, that the existence of circumcision only exists for men and it was done by Prophet Ibrahim and later also by Prophet Muhammad and his follower.

MUI for the guide of procedure of FGM/C used six (6) main hadith to support their claim on the legality of FGM/C from an Islamic Law perspective. The six hadith are (i) Hadith Ahmad and Al-Baihaqqy stated Prophet Muhammad said: khitan is wajib for men and makrummah (honorable) for women, (ii) hadith from Abdullah Ibn Umar, Prophet Muhammad said to the women of Anshar (Madinah) to color their nails using henna and do khifad but don't overdo it, (iii) Aisyah<sup>4</sup> RA, the wives of Prophet Muhammad stated that: if two circumcisions met, then it is obligatory to take a ritual bath, (iv) two hadith that explained about the words of Prophet Muhammad to Ummu Attiya about the procedure to do FM/C which not to overdo it because it will make the wives happy and well-liked by the husband, (v) From Abu Huraira about the five natural disposition that needs to be observed by Muslims: khitan, cut the pubic area, shave the armpit, cut nails, and cut mustache (MUI, 2008).

In the same year when this guide was published by MUI, another research debunked all the hadith claimed as the legalization of FGM/C in Indonesia. The ahadith that were debunked are: (i) hadith by Ahmad and Al-Baihaqqy, considered as weak, have a double meaning, also one of the narrator, Al Hajjaj Ibnu Arta, whom as one of the conveyer, considered as dishonest, (ii) hadith of Abdullah Ibn Umar considered as weak because two of the narrator, Mindai Ibnu Ali, and Ibnu Addy are weak narrators, (iii) hadith of Aisyah RA, the wife of Prophet Muhammad.

Scholars have agreed that this sunnah is not for circumcision, but more for the act of cleansing after sexual intercourse, there is also mistranslation of the hadith itself about the plural word of khitaanani, (iv) hadith of Ummu Attiya is considered as weak and have a double meaning. This hadith was used by MUI in their official statement for the conduct of FGM/C (MUI, 2008). But as it has been explained by Lethome, this hadith cannot be used as part of the resources as it is not qualified enough, (v) hadith from Abu Huraira about five natural disposition that needs to be observed by Muslims. It's also believed that this hadith is not a strong basis for FGM/C as it is believed to be linked to the act of circumcision done by Prophet Ibrahim from the previous mention in the Holy Qur'an and the hadith about Prophet Ibrahim, which concludes that it is about the circumcision of men and not women (Lethome et al, 2008).

In another definition of sunnah, which is supposed the deeds that were done by Prophet Muhammad, there are no records that the women in his household did circumcision (P2GP,2019). The people from the Prophet Muhammad's household that was recorded to do circumcision were his two grandsons, Husayn bin Ali and Hasan bin Ali. There was no record of the wives, daughters, or granddaughters of Prophet Muhammad that did circumcision. Nor did the close friends of Prophet Muhammad do the act to their spouses and female children. That is why, in the term of sunnah itself, from both the action and word of Prophet Muhammad there is not a single one about FGM/C that is reflected and done by him.

As for Ijma', other than the scholar's opinion that is mentioned in the official document<sup>7</sup> of MUI, we will see it from the four main Islamic school opinions on this. In Indonesia, the majority of people used the Islamic school of Shafi'i (Rohmah et al, 2020). According to Shafi'i, FGM/C is something that needs to be done (wajib) for both men and women. Other Islamic schools such as Hanbali, Hanafi, and Maliki, in response to the matter, also allowed the act of FGM/C. Although other scholars disagree with the main four Islamic school opinions. But MUI, in this sense, actually used other Islamic School opinions other than Shafi'i which is Hanbali (wajib for men, honorable for women).

This is a rather interesting turn of events as if in the case of Ijma', MUI used the Islamic school that is fitted their agenda, rather than what is widely used by the population of Muslims in Indonesia. If they truly acted on behalf for the good of the Indonesian believers who the majority used Shafi'i and not Hanbali, why not outright state that it is a must thing to do? Rather than using other scholars' justifications when the main Islamic School of Shafi'i already stated that it is a must thing to do for both gender. The problem with the fatwa that was released by MUI, it is greatly impacting the population's view on FGM/C. Because 70,1 % of wives, 78,2 % of husbands, and 84,9% of medical health professionals get access to Islamic teachings through sermons of kyai (respected



Muslim figure) who most of the time recommend the act of FGM/C from the basis of the fatwa of MUI (Dewi H.S et al, 2017).

In the medical sense of the practice itself, FGM/C is already widely condemned by medical practitioners around the world. Although MUI and Permenkes No.6/2014 already stated that the act of FGM/C must be done by health practitioners that have health licenses (PERMENKES, no 6. 2014). The existence of the regulations under Permenkes no.6/2014 was also very ambiguous in response to the practice of FGM/C. As it is, according to Permenkes No.6/2014 article 2 indirectly gives a “green light” to the practice with several “suggestions” that medical professionals need to know. But it is most concerning when the act of FGM/C is even done with the health practitioners who have licenses, it is still not following the Standard of Procedural (SOP) of healthcare (KEMENPPA,2020). Permenkes No.6/2014 is also not in line with the mission of WHO to eradicate the practice of FGM/C. Where in an international conference in 1979, WHO clearly stated “it is unacceptable to suggest that performing less invasive forms of FGM/C within medical facilities will reduce complications” (WHO,2016). In the first place, there is no SOP for FGM/C as it is not something that is taught in medical schools. It is must be brought to light too, that in the case of the medicalization of FGM/C, the debate in Indonesia never about the moral of consent or awareness of the child's body autonomy. For some reason, it is always about reducing the harm from doing the medicalized FGM/C (Dawson et al, 2019).

Even if other researchers were in their research had repeatedly said that there is not yet medical benefit found by doing FGM/C, this long issue has many medical experts researched the matter (Rahmawati et al, 2017). They have found zero medical benefits to FGM/C and more harmful effects on the body and mental state of the victims. In the short term it can cause, (i) indications where practices of FGM/C are done without using anesthetic which caused pain during the procedure, (ii) the organs of women that are cut, have many nerves and blood vessels where in the worst-case scenario can cause excessive bleeding upon the procedure, (iii) if not treated, it will cause infection and swelling. In the long term, it will cause a reduction in sexual response which lead to the less sexual pleasure experienced by women (P2GP,2019). In the worst case, it can create discomfort for the victims during sexual intercourse. And for the psychological aspect, 72,4% of the victims did FGM/C at the age of 1-5 months (KEMENPPA,2020), which means this procedure was done without their consent. Which can lead in the future to traumatic experiences (P2GP, 2019).

Because there is a lack of a strong border on whether or not the practice is legal or illegal it creates some issues among the healthcare professionals (Dawson et al, 2019). This put the healthcare professionals in an awkward place as there are differences in opinion and ambiguous national health regulations. From the perspective of professionalism in the medical world too, there is a negative

perception of health <sup>3</sup>professionals who perform FGM/C on their patients. It's believed to be financially motivated and the lack of ability to separate between traditional matters and professional matters (Leye et al, 2019). This is seen from the experiences of how some mothers, after giving birth, will be given package choices either to have their baby girl do ear-piercing or be circumcised (KEMENPPA, 2020). And cases of midwives giving FGM/C to the child in consideration for the parents have come from afar (Kakal et al, 2021).

Seeing that two internal bases of FGM/C in Indonesia are not rational enough to legalize the practice, the role of the government to re-evaluate this decision is very important. Not only that, but Indonesia has signed the Beijing Declaration 1995 which acknowledge that "... female genital mutilation and other <sup>6</sup>traditional practices harmful to women..." is part of violence against women (Beijing Declaration and Platform of Action, 1995). This is also in line with the International law of Human Rights art. 1, art. 2, and art <sup>6</sup>3 which emphasized the importance of freedoms, equal rights, liber<sup>6</sup>, rights to life, and security of a person (UN, 1948). Other conventions such as The Committee on the Elimination of Discrimination against Women (CEDAW) were even already ratified as part of national law through the Art 7, 1984 which stated Indonesia will uphold the Human Rights equally and no difference between men's and women rights in terms of economy, social, civil, and politics (UU no. 7, 1984). And the most recent and should be prioritized is the recent commitment <sup>3</sup>of the world to SDG's goals. In the case of FGM/C, it is part of the 5.3 goals <sup>3</sup>to eliminate all harmful practices including FGM/C.

Although it is already widely known that international law cannot bound a country legally due to the concept of sovereignty. But the international and national policy of Indonesia in recent years has already focused to achieve SDG's Goal that is set in 2030. The commitment to Sustainable Development Goals (SDGs) number 5 is already reflected in the recent law of gender-based violence and protection called National Law on Protection Against Sexual Violence or UU PKS. But, UU PKS is still not enough in concluding all the goals in SDGs number 5 as it is still not included the problem of FGM/C.

That is why the act to re-evaluate the practice of FGM/C among Muslim communities needs to be done sooner. The world and Indonesia already lost almost two years' worth of time after the pandemic of COVID-19. The pandemic has caused a shift of focus from both national and international levels to address health and economic problems. Which in a way, neglected other aspects of SDGs and in the worst case even increase the number of violence due to a lack of supervision from the government. Now in 2022, as the number of COVID-19 cases has gone down and countries have stabilized themselves, it is the moment to once again focus on other emerging problems of SDG's Goal such as the elimination of FGM/C. If Indonesia truly wishes to achieve all the goals of SDGs and show its determination to all past commitments, then it will be the right time

to bring back this urging issue. Because it has been proven clearly from the side of religion, tradition, and medic that the practice of FGM/C is not favorable. Therefore, Indonesia needs a definite law to either banned it altogether or allow the practice and abandon the SDG's Goal and protection of women's rights

## E. CONCLUSION

Based on the findings above, it is clear that there is no definite Islamic that can support the practice of FGM/C among Muslim communities in Indonesia. Because all the claimed sunnah, hadith, and Ijma' has proven to be full of loopholes. Which of course is something unacceptable especially concerning the modification of the human body. The other basis from Permenkes No.6/2014 which is ambiguous also put not only the patients to have a double understanding but also medical practitioners. It is supposed to be a concerning matter as the FGM/C matters is a problem that floating on the nose of human rights activists and the government. Since there has been no recent meaningful action taken to prevent this practice.

As it is the responsibility of Indonesia's government to uphold its own national and international commitment. The practice of FGM/C not just violates those commitments, but is also not in line with current Indonesia's flow of policy. If Indonesia is determined to achieve the ideal of SDGs, then the government needs to brace itself to take drastic measures whether they are going to fulfill the commitments or stuck to the old tradition that harms women's bodies. Because without a firm decision, Indonesia will always be stuck by what is wrong and right regarding the problem of FGM/C.

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