

 10.35905/diktum.v24i1.14629

ARTICLE

Legal and Religious Controversies in Eliminating Female *Khitan* (Circumcision)

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Keywords:

Female Circumcision,
Religious Figures,
Government Regulations

Abstract

Background: The Indonesian Government Regulation No. 28/2024, particularly Article 102, has sparked national debate due to its prohibition of female circumcision—a practice that remains prevalent in several Muslim communities. While global health institutions classify it as female genital mutilation (FGM), many Islamic scholars continue to defend it as a religiously mandated act.

Purpose: This study aims to explore the responses of local religious leaders to this policy change, with a particular focus on how legal, theological, and cultural arguments shape their resistance or acceptance.

Methods: A qualitative method with a normative juridical approach was employed. Data were collected through semi-structured interviews with four prominent religious leaders in Pamatang Simalungun Village, complemented by document analysis of fatwas and official religious statements. Thematic analysis was used to identify key discourses and legal-religious justifications.

Results: The findings reveal a strong resistance among religious leaders, primarily based on classical Shafi'i jurisprudence that considers female circumcision mandatory. Participants argued that the policy undermines religious authority and fails to accommodate socio-cultural contexts. Health risks were downplayed in favor of scriptural interpretations.

Implication: The study demonstrates a significant epistemological gap between public health policy and religious reasoning.

Originality: A more dialogical policy model that incorporates religious leaders into the legislative process to bridge legal legitimacy and religious compliance.

INTRODUCTION

Female circumcision, also known as Female Genital Mutilation (FGM), continues to be a topic of global concern, particularly in relation to women's health and human rights. In Indonesia, the practice persists among some Muslim communities, often justified on religious or cultural grounds (Hermanto, 2017). Despite national and international advocacy for its elimination, the issue remains entangled in socio-religious norms that resist legal prohibitions. Government Regulation No. 28 of 2024, Article 102, formally prohibits female circumcision in all forms, marking a legal breakthrough in protecting the rights of girls. However, this regulation has sparked considerable debate, particularly among religious scholars and traditional leaders who view the practice as a religious obligation. The legal framework, while comprehensive, must contend with deeply rooted interpretations of Islamic teachings. This research explores how local religious leaders perceive and respond to this regulation, focusing specifically on the case of Pamatang Simalungun.

Previous studies have primarily examined female circumcision through the lens of Islamic jurisprudence and statutory law. For example, Sholeh (2012) argued that the MUI fatwa frames female circumcision as a commendable act (*makrumah*), provided it is done safely and in accordance with Islamic guidelines. Rahmawati & Maknun (2019) presented a contrasting view, based on the perspective of Faqihuddin Abdul Kodir, who considers the practice to be culturally constructed and even potentially harmful. Meanwhile, Oba (2008) emphasized the human rights dimension, identifying FGM as a violation of international legal standards. While these studies offer valuable insights, they tend to focus on either doctrinal interpretation or normative legal analysis. None of them sufficiently explore the reception of state policies among grassroots religious communities. Understanding how these actors respond is critical, as they hold significant influence over the continuation or discontinuation of such practices. This study addresses that gap by centering on the views of religious leaders in a specific locality.

The research adopts a qualitative methodology with a normative juridical approach to analyze both legal texts and community perspectives. Data were collected through interviews with religious leaders in Pamatang Simalungun, a region where female circumcision remains practiced despite the new regulation. The research focuses on how national legal directives intersect with religious interpretations and fatwas, particularly those issued by the Indonesian Ulema Council (MUI). Through this approach, the study aims to understand not only the legal landscape but also the social and theological contexts that shape community practices. The voices of religious leaders are critical in determining the effectiveness and reception of policy interventions. By integrating their views, the study offers recommendations for harmonizing national law with religious belief systems. This paper thus contributes to ongoing debates about religious freedom, state authority, and women's rights in contemporary Indonesia.

LITERATURE REVIEW

The discourse on female circumcision in Indonesia involves an intersection of religion, tradition, health, and law. Numerous studies have attempted to contextualize the practice within Islamic jurisprudence, particularly the Shafi'i school, which regards female circumcision as an obligation (*wajib*) or at least a commendable act (*makrumah*) (Abdel-Azim, 2013; Abu Daia, 2000; Ithnin et al., 2023; Rabiepour & Ahmadi, 2023). Fatwas from religious bodies like the Indonesian Ulema Council (MUI), including Fatwa No. 9A of 2008, have further legitimized this perspective by emphasizing its permissibility under Islamic teachings (Rahmawati & Maknun, 2019). These fatwas often cite hadiths and classical fiqh opinions, though many scholars contest their interpretation and authenticity. At the same time, there is a growing critique within the Muslim community that reexamines the religious basis of the practice. Some progressive scholars argue that the practice is more cultural than theological, and thus should be reassessed in light of current knowledge and ethical standards (Alemu & Haile, 2022; Ida & Saud, 2020; Morris, 1996). This internal diversity highlights the need for empirical research on how fatwas are understood and implemented at the grassroots level.

In contrast to the religious defense, various legal and health-oriented studies have framed female circumcision as a harmful practice that violates human rights and endangers the well-being of girls (Gordon, 2018; Mustafa & Aini, 2020). National and international organizations, such as WHO and UNICEF, classify FGM as a form of violence against women and girls, regardless of the degree of harm or consent involved. The Indonesian government's stance has evolved over time, culminating in Government Regulation No. 28

of 2024 Article 102, which prohibits any form of female circumcision. This legal prohibition is grounded in public health concerns, child protection laws, and commitments to international human rights agreements (Karaman, 2021). However, there is a lack of empirical data on how these regulations are perceived or contested by religious leaders and their communities. Studies that only highlight medical or legal dimensions often neglect the cultural and theological frameworks within which such practices persist. This reveals a disconnect between top-down legal frameworks and bottom-up religious realities.

Another strand of literature has emphasized the role of religious leaders in mediating between state policy and community practice (Mundzir & Muthmainnah, 2022). As trusted figures, they shape moral reasoning and guide communal responses to controversial policies, including those concerning female circumcision. Religious leaders are not monolithic; their responses vary depending on their theological orientation, institutional affiliation, and local traditions. Yet, their perspectives are often underrepresented in academic discourse, especially in studies that focus solely on juridical or doctrinal aspects. This gap in the literature is particularly evident in regions where religious influence remains strong and state policy faces resistance. Consequently, research that foregrounds the voices of local religious actors is essential in designing effective policy interventions. This study contributes to this underexplored area by examining how religious leaders in Pamatang Simalungun respond to the legal prohibition of female circumcision

RESEARCH METHODOLOGY

This study employs a qualitative research method using a normative juridical approach to examine the legal, religious, and social perspectives surrounding the ban on female circumcision. The normative juridical approach refers to research based on laws, regulations, and authoritative fatwas relevant to the issue at hand, particularly PP No. 28 of 2024 Article 102 and MUI Fatwa No. 9A of 2008. Qualitative methods allow for an in-depth understanding of the beliefs and experiences of individuals or groups concerning the contested policy. This approach is especially useful for capturing complex social phenomena rooted in religious norms, cultural practices, and legal transformations. The main objective is to investigate how religious leaders in Pamatang Simalungun interpret and respond to the legal prohibition of female circumcision. This method also enables researchers to explore the intersection between state regulation and religious authority in a specific local context. By combining legal-text analysis with field-based inquiry, the study seeks a more holistic view of the ongoing debate.

The data collection involved semi-structured interviews with selected religious leaders from Pamatang Simalungun Village who have influence over community perceptions and religious practices. The selection of informants was based on their recognition as respected religious figures and their active role in interpreting religious norms for the community. Interviews were conducted to capture their opinions, theological reasoning, and responses to the legal ban on female circumcision. Data from interviews were compared with normative Islamic texts and fatwas to understand the congruence or divergence between official doctrines and local interpretations. The collected data were analyzed using descriptive and thematic analysis techniques, identifying recurring themes, arguments, and justifications. In addition to interviews, relevant legal documents, fatwas, and academic literature were reviewed to construct a comprehensive framework. This triangulation strengthens the validity of the findings and offers deeper insight into the religious-legal tensions that shape community responses.

RESULTS

The research revealed that most religious leaders in Pematang Simalungun hold a firm position that female circumcision is a commendable religious tradition (*makrumah*) and not a form of violence or mutilation. They refer to the MUI Fatwa No. 9A/2008, which states that female circumcision is allowed as long as it is done properly and does not harm the individual. This fatwa is viewed as a religious safeguard against excessive or harmful practices while maintaining a symbolic level of religious observance. When asked about PP No. 28 of 2024 Article 102, most respondents expressed concern that the regulation interferes with religious autonomy. They argued that the law does not take into account local religious interpretations and community traditions. Some religious leaders admitted that they had not received adequate socialization regarding the regulation. Nevertheless, all informants emphasized the importance of ensuring children's health and safety, even while defending the tradition.

The interviews also showed that religious leaders distinguish between harmful practices (FGM Type I-IV) and the minor symbolic circumcision they claim to perform. They insisted that local practices do not involve cutting or removal of tissue, but rather a light touch or incision without medical risk. This self-definition reflects an effort to distance their practice from the internationally condemned forms of Female Genital Mutilation (FGM). Informants acknowledged, however, that the term "khitan perempuan" has become controversial and often misunderstood. They claimed the media and international discourse had distorted the meaning of the practice in the Indonesian context. Despite disagreement with the policy, some leaders were open to dialogue and education, provided their religious values were respected. Overall, the results indicate a gap between national regulatory frameworks and local religious-cultural understandings.

DISCUSSION

1. Female Circumcision: Between Religious Interpretation, Cultural Tradition, And Legal Reform

The findings of this study underscore a complex tension between religious interpretation, cultural tradition, and legal reform concerning female circumcision practices. While the MUI fatwa considers female circumcision a *makrumah* (noble act) if done correctly, this religious framing often overrides medical and legal concerns. The perspectives of local religious leaders in Pematang Simalungun affirm a general alignment with the fatwa, illustrating how religious norms can shape resistance to state policy. However, the implementation of Government Regulation No. 28 of 2024, Article 102, clearly prohibits female circumcision practices under public health and human rights considerations. This contradiction exposes a critical gap between state law and community religious beliefs. Although many leaders claimed to support child protection, their responses also revealed a deep-seated reluctance to disassociate religion from harmful cultural practices. This calls for an urgent need to bridge legal frameworks with culturally embedded religious discourse.

The study contributes to the growing body of scholarship examining female genital mutilation/cutting (FGM/C) from a multi-normative perspective—especially within Muslim-majority contexts (Anis et al., 2022; Gomaa, 2013; Mpofu et al., 2017). It confirms earlier findings, such as those by Nur Azizah and Al-Azmi Nur Fadhillah, that Islamic justifications for FGM/C are not uniformly agreed upon. The divergence between progressive Islamic interpretations—such as that of Faqihuddin Abdul Kodir—and conservative fatwas reflects broader epistemological struggles within Islamic legal thought.

Importantly, this study highlights that rural religious actors remain less exposed to reformist or alternative interpretations. Consequently, efforts to eliminate female circumcision must address not only legal enforcement but also norm transmission within religious education. Moreover, this research reinforces the urgency of contextual Islamic hermeneutics, where *maqāṣid al-sharī'ah* (higher objectives of the law) should prioritize child welfare and bodily integrity. Without engaging religious authorities in a structured dialogic process, state bans risk ineffectiveness and public resistance.

One major contribution of this study lies in its localized investigation of how state regulations are perceived and potentially contested at the grassroots level. The case of Pamatang Simalungun reflects a broader pattern in Indonesia, where national policies often encounter friction at the level of religious interpretation and local governance. Unlike prior studies focused on legal doctrine or human rights frameworks, this study integrates the lived perceptions of religious authorities as epistemic agents. In doing so, it extends the literature on legal pluralism and religious authority in Southeast Asia. Nevertheless, this study is limited in geographical scope, and further research is needed in urban and multi-religious communities to test the generalizability of its insights. It also lacks a gender-balanced respondent group, as the majority of religious informants were male, potentially overlooking women's voices within the religious structure. Addressing these gaps in future studies could enhance both the theoretical and practical relevance of research on FGM/C elimination strategies in Islamic contexts.

2. *Religious and Cultural Perspectives on Circumcision in Islam*

Circumcision, particularly for males, holds deep religious significance in Islam, often associated with spiritual purification (*ṭahārah*) and prophetic tradition. The Shafi'i school regards it as *wājib* (obligatory), while other Sunni schools consider it *makrūmah* (commendable), reinforcing its value (Masykur & Mubakkirah, 2023). Anthropologically, the ritual also serves as a rites-of-passage, strengthening communal identity within Muslim communities (Fitri Kurniati et al., 2022). From a medical standpoint, studies have shown that male circumcision contributes to better hygiene and reduces certain genitourinary infections, particularly urinary tract infections and sexually transmitted infections (Sander & Sunantri, 2020). These public health benefits may provide context for its longstanding religious endorsement. However, it is crucial to distinguish these hygiene-related benefits of male circumcision from justifications for female circumcision, which are often unsupported by medical evidence. This nuanced understanding is vital in building dialogues that respect tradition while prioritizing safety and well-being.

In Islamic ethics, any ritual must align with the principle *lā ḍarar wa lā ḍirār* (no harm shall be inflicted or reciprocated), safeguarding communities from harmful traditions (Farida et al., 2018; Mustafa & Aini, 2020). This principle permits beneficial procedures but prohibits any practice that entails damage. Therefore, many contemporary Muslim scholars emphasize that female circumcision must not cause physical or psychological harm, even when culturally embedded (Hermanto, 2017). Islamic legal theory, particularly the concept of *maqāṣid al-sharī'ah* (the higher objectives of Islamic law), places the preservation of bodily integrity and public welfare at its core (Alemu et al., 2021). This framework allows for a reinterpretation of traditional practices, encouraging community leaders to adapt rituals in line with modern ethical and medical standards. Such dynamic jurisprudence demonstrates Islam's capacity for contextualization and protection of human dignity in changing times.

Integrating these theological, cultural, and medical perspectives enriches our understanding of circumcision within Islamic contexts. Acknowledging the commendable

aspects of male circumcision – ritual purity, identity, and potential health benefits – creates a culturally sensitive basis for dialogue with religious communities. Simultaneously, drawing a clear ethical line between benign tradition and harmful practice helps reframe female circumcision as inconsistent with Islamic values and contemporary health ethics. This balanced narrative can help policymakers and health educators collaborate with religious authorities to promote informed, respectful engagement. By grounding policy recommendations in both Islamic ethical principles and scientific evidence, reforms are more likely to gain legitimacy and acceptance. Ultimately, such an integrative approach supports respectful and effective strategies toward eliminating harmful practices while honoring religious and cultural identity.

CONCLUSION

This study has examined the perspectives of religious leaders in Pamatang Simalungun Village regarding the prohibition of female circumcision as stated in Government Regulation No. 28 of 2024 Article 102. The findings demonstrate a persistent tension between religious interpretations – particularly those aligned with the Shafi'i school of thought – and the state's attempt to regulate practices through public health and human rights frameworks. Religious leaders generally uphold female circumcision as a normative religious practice, often resistant to reinterpretation or prohibition by state authority. Despite variations in the degree of acceptance, the majority perceive the regulation as an infringement on religious freedom and cultural autonomy. This tension highlights a broader issue of legal pluralism and normative contestation within Indonesia's democratic and multi-religious society. The fatwa issued by MUI in 2008 continues to influence local religious reasoning, even though national and international medical communities classify female circumcision as harmful. This underscores the need for multi-level, culturally embedded policy dialogues.

The research contributes to Islamic legal discourse by highlighting how localized religious authority negotiates with state-driven legal norms. It also suggests that any attempt to eliminate harmful traditional practices must be accompanied by religious reinterpretation grounded in *maqāṣid al-sharī'ah* principles, particularly child protection and bodily integrity. The study recommends sustained engagement between religious scholars, state institutions, health professionals, and civil society actors to construct a shared understanding of lawful and ethical practice. Moreover, capacity-building efforts in Islamic legal interpretation and gender justice should be strengthened at the community level. Future research should expand to include urban and diverse religious communities, and consider the perspectives of women scholars and practitioners often excluded from mainstream fatwa discourse. A more inclusive and dialogic approach is necessary to harmonize religious values, public health, and human rights without creating social polarization. Ultimately, female circumcision must be understood not just as a legal or religious issue, but as a deeply embedded social practice requiring holistic and transformative strategies.

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