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## **Female Genital Circumcision in Islam: A Study of Indonesian 'Ulamā Council's Fatwa on Female Genital Circumcision**

### **Abstract**

*Circumcision as a tradition has long been practiced since the very old era in African people. Later on, this tradition transformed into a religious faith such as in Islam. The notion of circumcision in Islam was taken from the Qur'anic verse (al-nahl:123) that obliged Muslim to do the circumcision like the Prophet Ibrahim did. There are no doubts concerning circumcision among male muslim, yet it is an intriguing discourse when people came up into a circumcision for female muslim.*

*Among the discourses, it is the Indonesian Ulama Council (MUI) who made a fatwa concerning the recommendation of female circumcision. this fatwa, indeed, followed by various opinions and remarks from different people in Indonesia. Therefore this paper will focus on the MUI fatwa issued in June 2008.*

**Keyword:** Fatwa, Circumcision, MUI

### **A. Introduction**

Noted as a blueprint of life and arranged of all social order for its followers,<sup>1</sup> Islam derived its religious notion and conception from *Qur'ān* and Prophet Tradition (*hadīth*). Thus, it becomes so obvious that every Muslim must be in line with Islamic way. However the perception of both *Qur'ān* and *hadīth* among Muslims is different due to the variety of their cultural background and religious school (Hambalī, Syafī'ī, Malikī, and Hanafī). Thereof, the different perception resulted in different perceptions of some legal status like Female Genital Circumcision (FGC) for instance, though male circumcision is well accepted among Muslims. Nevertheless, the issue may become debatable either regionally or internationally due to the reasons of either to ban or to allow it, the contending arguments is showed in this matter. Notably, as the biggest Muslim country in the world, indeed Indonesia<sup>2</sup> also faced the same problem dealing with the notion of circumcision in female genital. Many researches dealing with female genital operation in Indonesia have been conducted since the colonial period up to recent days as well as Nicolas Gervaise, G.A Wilken, B.J.O Shriecke,

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<sup>1</sup>Ernest Gellner, *Muslim Society*, Cambridge University Press, New York, 1981, pp.1

<sup>2</sup>The Largest Muslim Communities,  
[http://www.adherents.com/largecom/com\\_islam.html](http://www.adherents.com/largecom/com_islam.html)

Mesriani, Andree Feillard, Musyarofah and other Indonesians. The Indonesian context in this issue, however, reflects a different experience from what has been found in Africa that the custom is derived from the tradition and each tribe has a different method<sup>3</sup>, even though there are Muslim tribes in Indonesia believe it as a tradition.

In a term of terminology, FGC is a partial or total removal of external part of female genital, which includes the clitoris labia, mons pubis (the fatty tissue over the pubic bone) and the urethral and vaginal opening.<sup>4</sup> This female genital circumcision also called female circumcision has different types of cutting and according to WHO (World Health Organization) there are four types of FGC:<sup>5</sup>

1. Clitoridectomy, partial or total removal of clitoris. A tiny skin or prepuce that only be cut
2. Excision, this type of cutting either partially or totally removes clitoris and *labia minora* (the lips that surround the vagina)
3. Infibulations, this process conducted to narrow vaginal opening through the creation of a covering seal which formed by cutting or removing inner or outer labia
4. Other means such as pricking, piercing, incising, scraping, and cauterizing the genital area.

In addition, the term FGC is always referred to Islamic concept although the practice has been existed for more than 3000 years long before the coming of Islam and mainly occurred in Africa<sup>6</sup>. Nevertheless, in the context of modern era, FGC has different practices and different reasons of doing it, in most African countries the practice rather influenced by traditions even though influenced also by Islam after its coming. In another region out of Africa, such as Indonesia FGC practiced based on Islamic teaching while others believe the practice has been existed prior to Islam.

Thus, circumcision either male or female in Indonesia existed along with the spread of Islam in Indonesia around 9<sup>th</sup> and 10<sup>th</sup> century either by traders or Islamic kingdom established in Sumatra as Ricklefs points out,<sup>7</sup>

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<sup>3</sup>Kristin Whiting, *Reporter's Notebook: Female Circumcision in Africa*, [http://news.nationalgeographic.com/news/2002/02/0220\\_020219\\_TVcircumcision.html](http://news.nationalgeographic.com/news/2002/02/0220_020219_TVcircumcision.html)

<sup>4</sup>Christina Olvera, *The Four Type of Female Genital*, [http://www.associatedcontent.com/article/47735/the\\_four\\_types\\_of\\_female\\_genital\\_mutilation.html?cat=52](http://www.associatedcontent.com/article/47735/the_four_types_of_female_genital_mutilation.html?cat=52)

<sup>5</sup>WHO, *Female Genital Mutilation*, <http://www.who.int/mediacentre/factsheets/fs241/en/>

<sup>6</sup>Edien Bartels, "Female Circumcision Among Immigrant Muslim Communities: Public Debate In Netherlands", in *Journal of Muslim Minority Affairs*, Vol. 24 No. 2, Carfax Publishing, October 2004, pp.396

<sup>7</sup>M.C Ricklefs, *A History of Modern Indonesia Since C.1200*, Palgrave, Hampshire, 2001, pp. 1-4

indeed circumcision as one of Islamic notions has been brought to be adopted in Indonesia as taken role to eradicate a local custom of incision that is not identical with Islam. However, apart from Rickelfs It was Nico Kaptein who elucidated the influence of circumcision especially for male in Indonesia that existed before Islam, what is more the study indicates that fatwa at the end of 19<sup>th</sup> century from Egypt which warned traditional incision and promote Islamic path resulted in replacement of local custom as followed by three factors: the influence of reformist Islam, which is keen on eradicating local customs; medicalization; and centralization, as expressed in the emergence of mass circumcision ceremonies.<sup>8</sup>

Notably, female circumcision in Indonesia has been recorded as a form of traditional ritual that must be performed for baby girl, and this ritual not only kind of religious order but also confirmed as a social norm in almost Indonesian Muslim community, even if there are no evidence of negative effect from such, it does not mean that it has no peril. In reality, the evidence from South Lampung in Sumatra Island<sup>9</sup> is only one example of how female circumcision performed in a traditional way, not to mention the obligation must be performed for every young girl or even a baby girl and the consequences for ignoring it would be isolated from the social contacts though there are also who rejected and questioned the importance of FGC which later disputed. Other example of FGC practice in Indonesia also can be found in many regions with their own means and interpretation, in Banten or Sunda regions<sup>10</sup> (the western part of Java) and Lampung FGC has been long known prior to Islam, while after the coming of Islam FGC becomes more internalized in their life, unlike in Banten, FGC in Lampung is aimed to lessen women intention in sexual intercourse (*dorongan seksual*) yet in the term of purifying women status both Banten and Lampung are alike. Different perception can be found in Java community<sup>11</sup> (central and east) that the people do not recognize the practice except for those who are *santri*<sup>12</sup> or educated in *pesantren*.<sup>13</sup>

In the term of operation or technical means, each region in Indonesia has its own tradition and technical operation, while the type of

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<sup>8</sup>Nico Kaptein, "Circumcision In Indonesia: Muslim or not?" In Jan Platvoet and Karel van der Toorn (eds.), *Pluralism and Identity : Studies in Ritual and behaviour*, Brill, Leiden etc., 1995, pp.285-302

<sup>9</sup>Ristiani Musyarofah, Ruli Nurdina Sari, Dian Pemilawati, *Khitan Perempuan: Antara Tradisi dan Ajaran Agama*, Centre for Urban and Policies Study, Gajah Mada University, Yogyakarta, 2003, pp.3

<sup>10</sup>*Ibid.*, pp.27

<sup>11</sup>*Ibid.*, pp.50

<sup>12</sup>Terminology for students of Islamic boarding school (*pesantren*) in Indonesia

<sup>13</sup>*Pesantren* is the common name to point out Islamic educational institutions in Indonesia that adopted the boarding school system

cutting only for a tiny skin likewise the Clitoridectomy method, or even just to rub a knife into clitoris without cutting it as occur in Muhammadiyah clinic in Gresik which is known as a symbolic ritual,<sup>14</sup> and the frequent method in nowadays is only to cut the tiny skin of clitoris. In most regions in Java excluding West Java the operation is to cut off a very small part and it has to bleed to prove that the practice is done.<sup>15</sup> In west Java like in Banten for instance the operation is likely to be more extreme in the way of cutting with bamboo instead of knife, in Sukabumi the cutting does not have to bleed the clitoris, yet in neighboring region both Cianjur and Jakarta the operation is to tear off (*dikorek*) this process used a needle to be penetrated to the edge part of clitoris and then the needle pulled up, tearing a small part of the clitoris.<sup>16</sup>

In the recent era of Indonesian context those practices, even varied, have been recognized as an order of Islamic teaching, though the growth number of different argumentations become so clear. Thereof, having been debated for periods between *'ulamā* who condemn the ban of circumcision and others who see it as an unnecessary practice, this intricate issue becomes so eminent and many researches conducted to seek an accurate result to cope with the decision whether to ban or to allow. The contending evidences between *'ulamā* as the authorities holder in Islam and others who believe the unreasonable practice of FGC is reflected in the banning of female circumcision by The Indonesian Minister of Health on 20<sup>th</sup> April 2006 which points out that every medication aimed to conduct female circumcision must be stopped.

What so obvious from that policy is the adoption of WHO's (World Health Organization) declaration on female genital circumcision as something unnecessary and includes procedures that intentionally alter or injure female genital organs for non-medical reasons.<sup>17</sup> For sure, this policy issued by the government caused a serious and intruding situation in Indonesian public especially for Muslim because this policy in one hand issued by the government and in another hand this policy against the Islamic principle. From that matter as it is concerning the Islamic issue, the role was taken by Indonesian *'ulamā* Council or MUI to deal with the minefield circumstance by taking a discussion and debate as also demanded by Ministry for Women Empowerment Affairs to look out the *'ulamā*

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<sup>14</sup> Andree Feillard, Lies Marcoes, "Female Circumcision in Indonesia", in *Archipel* 55-56, EHESS, Paris, 1998, pp.359

<sup>15</sup> *Ibid*

<sup>16</sup> *Ibid*

<sup>17</sup> Female Genital Mutilation,  
<http://www.who.int/mediacentre/factsheets/fs241/en/index.html>

position on this.<sup>18</sup> Having been trusted as an *umma* (public, especially Muslim) representative MUI has a role to take part in whole aspects of Muslim in Indonesia, indeed the prominent of issuing fatwa<sup>19</sup> is one of its authorities to guide Muslim into a right path because *'ulamā* is an asset and successor of prophet in guiding Muslim.<sup>20</sup>

Ultimately, by using its authority MUI decided to issue fatwa in order to emphasize its stand position as a representative of Muslim, the statement formed in fatwa is pointed out the government policy and created legal status of female circumcision as *makrumah* (venerated).<sup>21</sup> However, in some extent the decision becomes more intriguing since its standing point is against government policy, indeed the background of fatwa much more reflected, perhaps, the situation and factors that are innately exist.

## B. Objectives

Having been stated above about the issue which deals with MUI fatwa of legal status of female genital circumcision, the study will focus on the background of MUI fatwa on certain issue and its position which against the government policy, as the essence element, public statement will also be consulted due to the fatwa. Thereof the question will focus on:

1. The fatwa issued by MUI on female circumcision has become in opposition with government's policy, in some extent what are the excuses to issue the fatwa?
2. How public responses are coping with the fatwa especially for Muslim and the essence of fatwa in a daily public life?

## C. Analysis

### 1. Female Circumcision in Islam

Female circumcision, not to mention for male, in Islam is not explicitly mentioned in Qur'an as an obligation yet implied from the verses (al-Nahl-133) within the verse stated that Prophet Ibrahim (or Abraham) has

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<sup>18</sup>As written in the first pages that Ministry of Women Affairs requested an Ulama's opinion and explanation about female circumcion due to the government policy.

<sup>19</sup>The term fatwa denotes an opinion on a point of law with regard to all civil or religious matters. For further reading : E.Tyan, "Fatwa", *The encyclopedia of Islam* Vol.2 pp.866

<sup>20</sup>Profil MUI,  
[http://www.mui.or.id/index.php?option=com\\_content&view=article&id=49&Itemid=53](http://www.mui.or.id/index.php?option=com_content&view=article&id=49&Itemid=53)

<sup>21</sup>The term *makrumah* is different from *sunnah*, *makrumah* means meritorious action and noble deed which also means that something is preferable. See Sami A. Aldieb Abu Sahlieh, "Male and Female Circumcision: The Myth of The Difference", in *Female Circumcision: Multicultural Perspective*, University of Pennsylvania Press, Philadelphia, 2006, pp.56

a custom and Muslims are required to follow; indeed Ibrahim did circumcision. In addition, there is a *Hadīth* which tell Muslim that Prophet Ibrahim did a circumcision in his 80 year age as stated: "*Ibrahim beloved prophet of God did circumcision after his 80 year age in Qudum*"<sup>22</sup>.

Circumcision in Islamic terminology as assumed by Wahbah Zuhaily is cutting the whole foreskin that cover the head of male genital, and for female circumcision means throwing an exceeded foreskin in a clitoris, as for male called an *a'dhār* and *khafa'an* in female.<sup>23</sup> The above definition from Zuhaily taken from hadith narrated by al-Jamā'ah though the quality of hadith considered as *□a'īf* or weak. However this process of genital incision in male or female seems to be practiced along with the objection of many scholars and '*ulamā* concerning the female circumcision.

Meanwhile, as divided into four schools, (Hambalī, Malikī, Syafi'ī and Hanafī) Islam has ranged in reason to label a legal status on female circumcision since each has a variety in assuming incision in female. As Hanafī and Malikī considered it as *sunnah* (recommended) for male and venerated for female, in another side Hambalī perceived it as an obligation for male and venerated for female and Syafi'ī presumed it as an obligation either for male or female.<sup>24</sup> In some extent, perhaps, it is obvious to classify the distinguish argumentation especially in Middle East between these schools which mean the opponent groups FGC more likely embraced a school other than Shafi'ī though it can not be guaranteed as well since many people nowadays either locally or internationally condemn the practice of female genital incision. As averred by Grand Shaikh al-Azhar University DR Muhammad Sayyid □an□awi who agreed to the fatwa from Egypt that banned female circumcision as *harām* (forbidden)<sup>25</sup> and whose statement on genital incision in female relied on the essence of the incision itself points out that "the concept of female circumcision is can not be assumed by Islamic justification, he added "female circumcision never mentioned either in Qur'ān or hadith, particularly Islam only arranged male circumcision and concerning female then it must be relied on medical concept".<sup>26</sup>

Apart from the Middle East context and international debates on certain case, Indonesia presents its particular phenomenon on female

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<sup>22</sup>Hadith narrated by Abu Hurayrah and agreed by most '*Ulamā* of Hadith (muttafaq 'alayh)

<sup>23</sup>Wahbah Zuhaily, *al-Fiqh al-Islamī wa Adillatuhu*, Daar al-Fikr, Damascus, 1989, pp.306

<sup>24</sup>*Ibid*

<sup>25</sup>After a young girl died of FGC in Elmira Egypt, then fatwa issued by an Egyptian *mufti* 'Alī Jum'ah in 2007 who asserts that female genital circumcision is forbidden

<sup>26</sup>Swara Rahima Magazine, Yayasan Rahima, South Jakarta, No.27/IX/April 2009. pp.37

circumcision since the majority of Muslim adopted Shafi'i school that obliged it. However noted as a largest Shafi'i school adherence, Muslim in Indonesia has varied perception ranged from different part of community, religious organizations and so forth. The divergence understanding also happened in two religious organizations as Muhammadiyah and Nahdatul Ulama (NU). Despite that the fact of different orientation between modern and traditional, those organizations internally share a different experience and reason on female circumcision as many of Muhammadiyah and even NU families do not perform the circumcision. However, the official argumentation is rather attached to the original mainstream of their organizational notion. As recorded in NU's fatwa in October 1928 about the performing of circumcision, but not explained whether boys or girls. As moving to Muhammadiyah, this group has no fixed statement to the issue due to the variety of its member's argumentation and these conflicting statements are also the norm in Muhammadiyah circle.<sup>27</sup>

Within that situation it is obviously viewed that in spite of being an adherence of Shafi'i, Muslims in Indonesia are still facing the diversity of argumentation through the issue, discourses are even more enormous by the growing number of modern intellectual who begin to decry the essence of female circumcision. The voice of decry mostly derived from women activists who assumed the tradition as an Arab custom brought to Indonesia along with Islam, thus female circumcision is somehow a tradition like was said by a leader of legal aid organization LBH Apik, Nursyabani Katjasungkana, "which authority would take the decision to wound a child? This is criminal", she also points out that many practices is not only symbolic but also actual.<sup>28</sup>

As said, it also debated not only locally, female circumcision had gained international public attention based on what they found in Africa and perhaps Indonesia, many researches have been done to occupy the core problem and ultimately denied the practice and regarded as a violation to children. As a matter of fact, WHO clarified female circumcision should not be performed under any circumstances due to the basic principles of human body health that it is not necessarily to cut any part from it.

Shortly after the declaration issued globally, Indonesia by means of Ministry of Health confirmed it as a basic idea to issue a policy on banning medical practice on female circumcision through a decree (*surat edaran*) on 20 April 2006, in another word it is prohibited, if possible, to every doctor and nurse to perform circumcisions. This kind of government intervention shortly caused debates even in government bodies as Ministry for Women Empowerment has asked MUI as representative of Muslim in Indonesia to issue the fatwa to see it in a religious viewpoint.

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<sup>27</sup>Ibid, pp.363

<sup>28</sup>Ibid, pp.366

Eventually, after being asked and conducted researches, MUI declared a statement or fatwa to give a legal status of female circumcision whether it is allowed (*halāl*) or prohibited (*harām*). Additionally, the fatwa Number 9A 2008 emphasized the legal status of female circumcision as *makrumah* (venerated) and will be discussed in the following subchapter

## 2. The Background of MUI's Fatwa on FGC

Before examining the derivation of particular fatwa, it is essential to recognize the *'ulamā* and their role as a religious authority and also their authority to issue fatwa as a religious pronouncement. Perceiving religious authority in an exact understanding must be dealt with the complex system of Islam as a set of beliefs and the proportion of giving the pronouncement in religious matter based on *Qur'ān* and *hadīth*, but soon after the demise of prophet Muhammad the role of *'ulamā* or *shaikh* become so eminent in continuing the role of Prophet as well as the saying of Prophet Muhammad through *hadīth* narrated by Abu Dardā "that *'ulamā* are the heirs of Prophets".<sup>29</sup>

However in the recent era together with the growth of human civilization there are some novel issues that must be in line with Islam, thus the role *'ulamā* is to deal with the issue and also to pronounce legal verdict through their *ijtihād*<sup>30</sup> and is called fatwa, thereof fatwa must be pronounced by someone or organization that has a broad knowledge about Islam.<sup>31</sup> In that case, fatwa in any extent has become a legal form in Islam by means of a process of *iftā* or delivering fatwa to cope with many issues, afterwards there are terms related to fatwa such as *istiftā* or questions addressed to *'ulamā* in order to get the opinion, while *mustafī* is the person who raises the issue and is person who issued the fatwa or answer the issue raised by *mustafī*.<sup>32</sup>

As well as in Indonesia, religious authority has been a vital element in producing fatwa whether individually or collectively while collective fatwa organized by MUI as far as the essence of *'ulamā* role, even in every matter, not to mention political and social problems, moreover *'ulamā* has also taken role and even this organization founded by

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<sup>29</sup> Abu 'Umar wa Uthman al-Shahzarawy, *Adābul Fatwā*, Maktab al-Khonajy, Cairo, 1992, pp.27

<sup>30</sup> Ijtihad in general term is derived from Arabic word "*juhud*" means employment of effort or endeavour in performing a certain activity, further definition see Muhammad Ibrahim Jannatī, "Ijtihad Its Meaning, Sources, Beginnings and Practice of *Ra'y*", in *al-Tawhid Islamic Journal*, Vol. 5 No. 2 &3, Qum, The Islamic Republic of Iran, <http://www.al-islam.org/al-tawhid/ijtihad/>

<sup>31</sup> Abu 'Umar wa Uthman al-Shahzarawy, *Adābul Fatwā....., Op., Cit* pp.4

<sup>32</sup> Nico J.G. Kaptein, *The Voice of The Ulama: Fatwas and Religious Authority In Indonesia*, ISEAS Working Paper, Institute of Southeast Asian Studies, 2004, pp. 1

state. As also asserted by Nico Kaptein in his "Voice of 'ulamā" that in the colonial era and even after the Indonesian independence the administrators still aware of the potential political of 'ulamā and use them to legitimate the policy.<sup>33</sup> MUI founded in 1975 by the Indonesian Government as a maneuver to lure Muslim into its political map under Soeharto, in the first place the organization was dedicated to cope with the Muslim problem and bridging the government and to use as a means of mobilizing Muslim support for its development policies,<sup>34</sup> although in recent era it has been changed gradually. In another hand, taking its position as *mustafī* who raises the issue Ministry For Women Empowerment is a government institution which handles the women affairs and maintains the essence of women role in society and to force the notion of gender mainstreaming in Indonesia,<sup>35</sup> indeed as long as the issue is regarding female circumcision the Ministry is felt to be responsible to the problem and later proposed an opinion from MUI.

Returning to the Fatwa of MUI on female genital circumcision, the fact that it was not issued until the matter was confirmed by The Ministry For Women Empowerment in a manner of asking the opinion to MUI as religious body representatives of Muslim. As having been said previously that Ministry of Health through its public health division (*Dirjen Binkesmas*) on 20 April 2006 issued a decree that banned the medical process of female circumcision due to the dangerous process and not to mention as it was inspired by the WHO declaration which stated that FGC must not be institutionalized, nor should any form of genital circumcision be performed by any health professionals in any setting or health establishment.<sup>36</sup> Also the decree in which the Ministry of health issued is based on assumption that it will harm female's genital function. While the issue becomes more convoluted, Ministry For Women Empowerment has an initiation to ask the MUI and in this case the Ministry becomes *mustafī* who raises the issue that need to be clarified. Still, it also mentioned in the consideration part of the fatwa that Ministry of Health asked MUI as *mufī* to respond the issue.

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<sup>33</sup> *Ibid.*, pp.13

<sup>34</sup> Martin Van Bruinessen, *Islamic State or State Islam: Fifty years of State-Islam relations in Indonesia*,  
<http://www.let.uu.nl/~martin.vanbruinessen/personal/publications/State-Islam.htm>

<sup>35</sup> Tentang Kami, *Kementrian PP dan PA*  
[http://www.menegpp.go.id/index.php?option=com\\_content&view=article&id=46&Itemid=53](http://www.menegpp.go.id/index.php?option=com_content&view=article&id=46&Itemid=53)

<sup>36</sup> WHO, *Female Genital Mutilation: Policy Guidelines for Nurses and Midwife*, Department of Gender, Women and Health, WHO, 2001, pp.5-7

After having been discussed in an *iftā* by MUI,<sup>37</sup> on 7 May 2008 MUI declared fatwa and stated that it is not appropriate to ban FGC because the argumentations (*dalīl*) are obvious in Islam through *Qur'ān*, *Hadīth* and logical practice of circumcision. On that reason, thereof the fatwa issued both to give a legal status and the appropriate operation of FGC so that medical error can be reduced. Besides, the fatwa was organized by a special committee called "*Komisi Fatwa*" led by Dr. KH. Anwar Ibrahim and Drs H. Hasanuddin, M. Ag, both of them are in charge of issuing fatwa.

From religious argumentation they cited many sources from verses such as *al-Nahl*:123 which ordered Muslim to follow the prophet Ibrahim tradition, and verse *Āli-Imrān*:31 stated that Muslim must adhere God commands. Also cited from '*ulamā* and *Hadīth* as from al-Mughnī wrote by Ibn Qudāmah who points out that circumcision is compulsory for male and venerated for women<sup>38</sup>, in the case of circumcision process, MUI cited Wahbah Zuhaili's *Fiqh al-Islamy*" which stated "circumcision in female is cutting a tiny skin (foreskin in male) that located above female clitoris and not to be exceeded that will lose an intercourse enjoyment".<sup>39</sup> By citing from the '*ulamā* perspective and scholars, MUI also cited *hadīth*, though they are still questioned for their authentication such as *hadīth* from Abu Hurayrah, *Abūbrānī*, *Abū Dāwud* and *Ummu 'A'īya*. However, these *hadīth* are cited as consideration for saying that female circumcision is recommended. If we look carefully those mentioned *hadīth* and scholars opinion clearly recognized that the majority of *muftī* in MUI are referring to Shafi'i School though it is not impossible to be an eclectic since the final fatwa is stated that female circumcision is only recommended (*mandub*) and not obligatory which is different in Shafi'i, besides it cannot be doubted that majority of Indonesia, perhaps Muhammadiyah, embraced Shafi'i School which is in this case agreed that female circumcision is compulsory, indeed this factor also can be recognized as one of factors of fatwa emergence.

Thus, after being discussed MUI decided the legal status of FGC under the title "The Legal Status of Banning Female Circumcision", the fatwa itself contains of considering section, remark section and finally the four decisions regarding FGC. In addition the first avowal voiced the legal status of female circumcision as written:

*"First: the legal status of female circumcision (khitān)*

1. *Genital circumcision either for male or female is fitrah (human nature) and is Islamic notion*

<sup>37</sup>MUI discussed the issue before issuing the fatwa on the period of 9 December 2006, 3 May 2008, and 7 May 2008

<sup>38</sup>Ibn Qudāmah, *Al-Mughnī*, Maktabah al-Qāhira, Cairo, without year, pp.64

<sup>39</sup>Wahbah Zuhaili, *Op., Cit.*, pp.356

2. *Female genital circumcision is makrumah (venerated) and performing that circumcision is considered as a recommended obedience ('ibādah) to Allah*

Banning attitude that showed by Ministry of Health has become a central to the MUI, since female circumcision is a concept of Islam then it is prohibited to declare something that has an opposite order, thereof MUI's emphasis is subjected to clarify the issue by stating:

*Second: the law of forbidding female circumcision*

*Prohibition of female circumcision is thoroughly against the Syarī'ah (Islamic Law) because circumcision either for male or female is fitrah (human nature)*

The above clause however was pointed to confute the Ministry of Health on banning and tagged FGC as prohibited (*harām*) because specifically will against Islamic concept, in a same position KH Anwar Ibrahim the chief of Fatwa Committee argued that female circumcision is a concept of *shi'ar* (obedience and greatness). Still, about the peril caused by the operation assumed by many, he referred to the appropriate operation by cutting only a tiny piece of skin called *preputium clitoridis*, it is a fold of skin that surrounds and protects the clitoral glans (external portion of clitoris).<sup>40</sup> The explanation also confuted the issue of hygienic and the genital infection problems caused by operation as stated by opponents of this kind of circumcision, indeed the contending of hygienic and hazardous of FGC becomes one of factors of the fatwa to be issued as written in the third decision of fatwa as said:

*Third: the imitation and guidance of female genital operation*

*In the process of operation, female circumcision should consider several procedures as follow:*

1. *It is sufficient to cut or to remove the tiny portion of preputium/colum/skin that covered clitoris*
2. *The operation must not exceed the part mentioned such as hurting or removing clitoris part other than preputium (incision or excision) that will cause harm*

Actually, the proportion of cutting that part of female genital is also becomes so debatable viewed from medical perspective as to some opponents will cause an infection and hazardous to baby girls. In Addition, Wardah Hafidz an Indonesian Sociologist has ever challenged MUI in proving the hygienic practice of female circumcision, yet prowess '*ulamā* KH Ali Yafie responded it by saying "circumcision should continue according to current directives".<sup>41</sup> What is more this statement occurred in

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<sup>40</sup>Khitan baik bagi laki-laki maupun perempuan termasuk fitrah (aturan ) dan Syiar Islam,

[http://republika.pressmart.com/RP/RP/2009/10/16/ArticleHtmls/16\\_10\\_2009\\_170001.shtml?Mode=1#](http://republika.pressmart.com/RP/RP/2009/10/16/ArticleHtmls/16_10_2009_170001.shtml?Mode=1#)

<sup>41</sup>Feillard, "Female Circumcision In Indonesia" ....., *Op., Cit*, pp.366

1995 long before the fatwa issued, it means that the cutting directive is another factor of the fatwa issued in order to answer such medical issue.

After clarifying the issue asked by Ministry For Women Empowerment, ultimately MUI urged The Ministry of Health to follow the exact directives and disseminate them to doctors, midwives and other FGC practitioners as written in the fourth declaration:

*Fourth: Recommendation*

1. *Asking the Ministry of Health to make this fatwa as guidance to enact decrees and other regulation in relation with female circumcision*
2. *Recommend the Ministry of Health to give medical practitioners a directive counseling of female circumcision as stated in this fatwa*

From the explanation above mentioned, the fatwa is issued as an answer to Ministry For Women Empowerment, moreover, this is not only the factors of the fatwa being issued. Reviewing from Feillard, and other scholars who present the contending debate on whether FGC banned or not then it is obvious that the issue has long been debated at least for several issues such as religion and tradition, and medical issue. For religion or tradition matter, it is stated clearly that Islam arranged FGC apart from tradition, especially when referred to Indonesian Muslim as they embraced Shafi'ī School which male and female circumcision is compulsory. Also from medical aspect, though criticized by many such as WHO and other organization, MUI and 'ulamā have guaranteed and proved that there will no be such perils and hazardous if it done in a proper directive. Many researches had been done and proofed that in Indonesian case there still not found the danger or perils in circumcision,<sup>42</sup> because the practice is unlike in Africa that tends to ruin almost all female genital parts, from the cutting of all clitoris, *labia minora*, to even stitching the vagina and only leaving a hole for sexual intercourse.

### **3. The Fatwa on Public Essence and its Relevance**

Since MUI is a representative organization for Muslim in Indonesia, then it has a role as a public center and obliged to give some sort of guidance to be accepted though not binding. Consequently it is intriguing to notice such public reaction to the fatwa on the issue as also the female circumcision has been debated among Muslims. Having been edified by the growth of information and science, Indonesian Muslim, perhaps a large number of them viewed the issue from many aspects that resulted in splitting group that each has a different opinion on the fatwa.

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<sup>42</sup>Melwita Budiharsana, Lila Amaliah, Budi Utomo dan Erwina, *Female Circumcision In Indonesia*, Research Report, Population Council and USAID, Jakarta, 2003, pp.1

However, the essence of fatwa even is not binding sometimes to some extent has drawn public attention because in particular fatwa such FGC is vital and has big influences in their life. Indeed, those influences perceived by the proponents of fatwa to validate the circumstance, as such showed by issuing similar fatwa but in a local scope as can be found in South Sumatra. The local MUI perceived the same argumentation and reason to follow the fatwa and disseminate it through their regions by means of the local fatwa. Remarkably, the fatwa which issued on 20 September 2008 has a straight similarity on the context, legal reasoning, and the substance to the central MUI's fatwa, however it has a different *mustaftī* also in the very last pages as the latter fatwa did not cited the process of cutting.

Another response can be recognized positively in Serang, Banten. This new province showed an identical attitude as South Sumatra by issuing fatwa on the same matter in 2010.<sup>43</sup> While legal reasoning and decisions are fairly identical but the context to the fatwa is different, it can be marked from the process of delivering fatwa or *iftā* that cited many aspects regarding the female circumcision apart from religious aspect such as medical issue, sexual behavior of women, and human rights. Indeed the background of fatwa is not merely derived from decree issued by The Ministry of Health but directly referred to Egyptian fatwa that prohibit the circumcision. Mashuri, one of *'ulamā* from NU stands on the same line to urge the female circumcision, to him, when asked in the NU *muktamar*, the Ministry of Health does not have a valid reason to ban circumcision only based on medical excuses.<sup>44</sup>

Though many Muslims support the fatwa by giving argumentation, or even create a new fatwa, there are also many who stick to their position as opponents, such manner was showed by feminists and doctors whose views based on women rights and gender idea, not to mention the declaration of WHO and several research that convinced them to avoid such process. Muhammadiyah on the other side has issued fatwa on its Majelis Tarjih and decided that male circumcision is recommended (*mashru'*) and female circumcision is not recommended.<sup>45</sup> After reviewing what manners are showed from society, then finally rendered varied assumption, thus the proponents of the fatwa and female circumcision have a great deal of number since Indonesian Muslims are Shafi'ī school devotee and what is

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<sup>43</sup>Fatwa on female circumcision also issued on 2010 in a local level in Banten after being discussed in a regional forum held in August 2009

<sup>44</sup>NU Serukan Khitan Bagi Perempuan,  
[http://metrotvnews.com/index.php/metromain/news/sosbud/2010/03/26/13712/NU-Serukan-Khitan-bagi-Perempuan\\_15/6/2010](http://metrotvnews.com/index.php/metromain/news/sosbud/2010/03/26/13712/NU-Serukan-Khitan-bagi-Perempuan_15/6/2010),

<sup>45</sup>Munas Tarjih Muhammadiyah,  
<http://www.mediaindonesia.com/read/2010/04/04/133738/91/14/Munas-Tarjih-Muhammadiyah-Hasilkan-Fatwa-Bunga-aBank-Termasuk-Haram>

more intriguing is that the practice embodied in their life and resulted in people agreement on the fatwa, although many feminists and doctors seem to be more adversary.

#### **D. Conclusion**

FGC in any case or any approach method will always be intriguing and debatable since many have their own position to what they believed, even *'ulamā* internally have a different one, but for Indonesian context that noted as an exotic one, FGC has become tradition and religious order since the past periods before and after the coming of Islam. Fatwa on the legal status of female circumcision which issued by MUI is just another example of how Muslim react to the problem, besides the fatwa declared after having been asked by The Ministry For Women Empowerment and to strengthen the position of *'ulamā* as a religious authority to the issue that lasted for periods. Even though presumably as something not binding, fatwa in particular case might gain public attention indeed in a crucial one, thereof as the fatwa issued, the variety of responses can be seen, both proponents and opponents are possess their argumentations and responded with various attitude. In spite of this, the fatwa on FGC portrayed a circumstance of how Muslims perceive it as a revelation and religious order rather than tradition.

#### **Fatwa Translation**

##### **“Fatwa on Legal Status of Female Circumcision Banning”**

*“First: the legal status of female circumcision (khitān)*

*1.circumcision either for male or female is fitrah (human nature) and is Islamic notion*

*2.female circumcision is makrumah (venerated) and performing that circumcision is considered as a recommended obedience (‘ibādah) to Allah*

*Second: the law of forbidding female circumcision*

*Prohibition of female circumcision is thoroughly against the shari'a (Islamic Law) because circumcision either for male or female is fitrah (human nature)*

*Third: the limitation and guidance of female genital operation*

*In the process of operation, female circumcision should consider several procedures as follow:*

*3. It is sufficient to cut or to remove the tiny portion of preputium/colum/skin that covered clitoris*

*4. The operation must not exceed the part mentioned such as hurting or removing clitoris part other than preputium(incision or excision) that will cause harm*

*Fourth: Recommendation*

*3. Asking the Ministry of Health to make this Fatwa as guidance to enact decrees and other regulation in relation with female circumcision*

4. *Recommend the Ministry of Health to give medical practitioners a directive counseling of female genital circumcision as stated in this fatwa*

*Enacted in Jakarta  
Jumadil Awal 1<sup>st</sup> 1429 H  
June 7<sup>th</sup> 2008*

*Indonesian 'Ulamā Council  
Fatwa Committee*

*Chief Secretary*

*Signature*

*DR.H.M. Anwar Ibrahim, M.A*

*Signature*

*Drs. H. Hasanuddin, M.Ag*

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