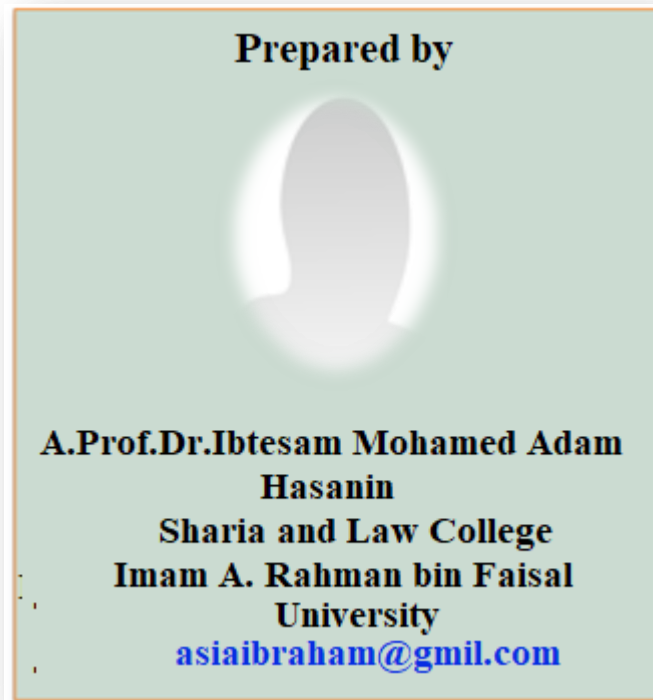


**Female Circumcision between Criminalization and Punishment: A  
Comparative Legal Jurisprudential Study**

ختان الإناث بين التجريم والعقاب : دراسة فقهية قانونية مقارنة



## Abstract

By providing its historical aspect, this study tries to illuminate the reality of Female Genital Mutilation (Female Circumcision/Khifad) and its sharia provision. There are several different kinds of female genital mutilation, according to the research, and one of them was described in the Sunnah and legal sources. The study displayed these types along with instructions on how to execute circumcision surgery on them, and also displayed the social, psychological, and medical implications of female genital mutilation. Additionally, it clarified the distinction between Sunni and Pharaonic circumcision. It also includes the provisions of the fatwas against female genital mutilation. In terms of law, we discover that jurists and medical experts have all agreed that Pharaonic circumcision is forbidden since it is viewed as a modification of Allah's creation. On the other hand, the jurisprudential views on the Sunnah's recommendation for female circumcision were split into three groups: those who believed it was necessary, those who believed it was from the Sunnah, and those who believed it was respectable. Each category has offered proof to back up its claims. We discover that several academics, medical professionals, and intellectuals outright forbade it on the grounds that doing so amputates organs. The research illustrates the rationality of the Sunnah's legitimacy of circumcision and the health advantages to the wife and husband from altering the instinct, without infringing on it. The study also demonstrates the sharia provision for the crime of circumcision performance by citing legal writings created in some countries where the culture of pharaonic circumcision flourished and where it was illegal. Instead, there are now sanctions for individuals who practice circumcision in those countries.

**key words:** Circumcision , Criminalization , Punishment, Comparative Legal Jurisprudential.

## Introduction

Praise be to Allah, who created us on the innateness of Islam, and created us and made us the best creatures and said in his Holy Book (So set your face towards the religion of pure Islamic Monotheism Hanifa Allah's Fitrah, with which He has created mankind. No change let there be in Khalqillah, that is the straight religion, but most of men know not [Al-Room 30]

And may blessings and peace be upon the best of his creation, Mohammed Ibn Abdullah, who conveyed the message and advised the nation. There has been a lot of controversy about circumcision; especially female circumcision and non-Islamic organizations intervened in the matter and issued fatwas on behalf of the owners of the matter (Muslims), knowing that they interfered in the matter of female circumcision in particular and did not stop at the piercing of her ears..

What the world is witnessing of fierce war against Islam from all parties, is nothing but a plan to eliminate everything that has to do with the law of God. It is known that the entrance to the collapse of the Islamic nation is through its women calling for women's false freedoms. In Cairo and Beijing far away, they searched for another entrance, which was female circumcision. Because of all this and others, this topic (females' circumcision between criminalization and punishment) comes to the fore in terms of legal, medical, and legal aspects.

## The Objectives of the research

After the controversy that took place regarding female circumcision among its supporters and criminalizes and even international organizations and bodies that have nothing to do with Islam, so the idea of dedicating this research to female circumcision

as a sharia, medical and legal view of the subject was adopted.

## **Importance of the Research**

Although there are rules governing the issue of circumcision, its importance comes from the fact that it works to extract the jurisprudential and medical view on the subject so that people who adopt talking about this subject from all angles can develop a thorough idea.

## **The Problem of the Research**

The issue with the research is that the people who discuss the topic in various sources do not always speak objectively or impartially; instead, they are occasionally influenced by a third party to oppose and reject the topic of circumcision in its entirety and in detail, and there is no clear indication of who forbids or makes a particular type of circumcision illegal. Some people even practice fatwas legally without realizing it.

## **Methodology of the Research**

This study has adopted the inductive approach and the analytical description to describe and analyze this case in relation to this topic (female circumcision between criminalization and punishment) to complete the sharia, medical and legal vision.

## **Research Tools**

They are primary sources, references, fatwas, annual and official reports, in particular conferences, seminars, lectures, and the facts that are published on the internet, magazines, and newspapers, and all of this is to monitor them and clarify their features.

## **Literature Review**

Some people have tackled this issue before me Dr. Mohammed Ali Al-Bar in his book *The Circumcision*, and Fakhr Al-Din Flawi in the book of *circumcision and the happiness of the spouses*, as for those who dealt with the topic from a medical point of view and Dr. Sitt Al-Banat Khaled Mohammed Ali in her book *Female circumcision defended it from a medical perspective*, and some of them openly oppose it in all its forms, such as the National Association for Combating Harmful Habits for the Health of Mother and Child (Khartoum).

## **Brief History of Circumcision**

Circumcision in many historical sources back to the age of the ancient Pharaoh's. There is a belief that the Pharaoh of Moses, when fortune-tellers and astrologers predicted for him that he would be born among the Children of Israel, a boy who would take over his throne, his assistants devised for him the procedure of circumcision so that the pregnant woman at the time of delivery would need a midwife. To find out the gender of the newborn. If a male was killed.<sup>(1)</sup> examinations conducted on the Egyptian mummies of women and girls proved the presence of traces of circumcision. The pathologist, Crafton Elliot Smith, after examining hundreds of mummies during the early twentieth century, concluded that to me the vaginal area looks similar to the case of the vaginal area of a female who was circumcised in type III (Pharaoh's).<sup>(2)</sup>

Sarah, peace be upon her, was allowed to be Abraham, peace be upon him, and she stayed with him for an eternity that did not give him a boy from him, and when she saw that, the throat of a Coptic nation was given to him. So she found herself angry and rebuked Hagar, so she swore to cut off three nobles from her. Abraham, peace be upon him, said to her: Can you be exonerated him.<sup>(3)</sup>

(1) National Association for Combating Harmful Habits to Mother's Health, Complications and risks of female circumcision (P. 1)

(2) <https://en.wikipedia.org/wiki>

(3) Al-Durr Al-Manthur in Tafsir according to Al-Suti(45/46)

However, there is evidence transmitted from the historian Strabo that the Jews in Egypt before the appearance of Moses were practicing male circumcision and female cutting, influenced by the Egyptians.

Although Jewish law does not recommend female circumcision, Israeli law does not prohibit it. Some groups practice female circumcision, such as the Bedouins of the Negev, and the Falasha sect, the Jews of Ethiopia, who practice female circumcision as a non-religious ritual. <sup>(1)</sup>

Through this historical overview, it becomes clear to us that this type of circumcision (cutting) exists. What is the truth about this circumcision and what is the evidence for its legitimacy?

### **Circumcision Definition and Types**

It is the position of the circumcision of the penis and the position of the cutting of the nucleus of the maid. And from it the hadith: "If the two circumcised parts meet, then ghusl is required."<sup>(2)</sup> It is said to cut them Circumcision and cut. <sup>(3)</sup> **Circumciser:** circumcision the girl lowers her down: it is like circumcision for a boy, and the Prophet said: to Umm Attia: If you are circumcising, then little<sup>(4)</sup> That is, if the current circumcised does not harm the girl. The circumcision of the girl.<sup>(5)</sup> And circumcision is the place of cutting of the male and female.<sup>(6)</sup> Until the eighties of the twentieth century, English dictionaries called this process "female circumcision" just as the Arabic term used and popular, given that it is the process analogous to male circumcision. The Kenyan missionary congregation called this practice female genital mutilation, following the description of the Scottish missionary working in Kenya, Marion Scott Stephenson. American anthropologist Rose Oldfield Hayes called it "female genital mutilation." The Austrian-American researcher and activist Fran Hosken called this process (Mutilation), in her book The Hosken Report: Genital and Sexual Mutilation of Females.

It is also known as "purity" and this term is especially common in Arab and Islamic countries, and female circumcision is known in the Bambarian language spoken in Mali as "Bulokoli" which means "washing hands", and in the Igbo language in eastern Nigeria, it is called "Eisa Arau" Or "Iwo aru" which means "you take a bath" it means "a woman must "bathe" first before she gives birth to a child." It is said: Qadın sunneti - in Azeri, and "Kadın sunneti - in Turkish. The English term "Infibulation" is also used, which is derived from the Latin "Fibula", which means "Clip". In Sudan, this process was known as "Pharaoh's circumcision", in Egypt it was known as "Sudanese circumcision", while in Somalia it was known as "Qutb", meaning frigidity.<sup>(7)</sup>

### **Defining Circumcision Idiomatically**

*The circumcision of women is mentioned in jurisprudence sources:*

**According to the Hanafis:** "the circumcision of a woman is the place where her skin is cut, like a rooster's mane above the vagina"<sup>(8)</sup>

**Malikiyah:** "the circumcision, which is the cutting of what is on the private part in

(1) <http://www.youm7.com/story>

(2) Fath Al-Bari by Ibn Hajar Al-Asqalani(1/199)

(3) Lisan Al Arab by Ibn Manzur(4/55)

(4) Small lexicon by Al-Tabarani(1/99), Al-Sunan Al-Sagheer by Al-Bayhaqi(3/345), The Great Sunan of Al-Bayhaqi(8/562), compound of appendages, Al-Haythami

(5) (172), Al-Masalik fi Sharh Muwatta' Malik by Ibn Al-Arabi(7/328).

(6) Lisan Al Arab by Ibn Manzur (7/146)

(7) Intermediate dictionary(P:226)

(8) <https://en.wikipedia>

(8) Al-Bahr Al-Raeq by Ibn Njeim(1/61)

female is like the crest of a rooster (for women)”<sup>(1)</sup>

**Shafi'i:** It came in the entirety: “As for female circumcision, know that the male entrance is the exit of menstruation, the child and the semen, and above the male entrance is a hole like a man’s urethra, which is the exit for urine, and between this hole and the male entrance is a thin skin, and above the exit of urine is a thin skin like a sheet between the labia and the labia. They surround everyone, for that thin skin was cut from it during the circumcision, which is the circumcision of the woman, so it happened that the circumcision of the woman was exposed and under it was the exit of the urine”<sup>(2)</sup>

**Hanbali:** Ibn Qudamah said in Al-Kafi “The circumcision of a woman is a skin like a rooster’s crest at the top of the vulva, it is cut off during circumcision, and if the glans is absent in the vulva, parallel to their circumcision, it is said that they met, even if they did not touch”<sup>(3)</sup>

### **Medical definition of circumcision (Clitoridectomy)**

Circumcision and circumcision, usually done by cutting off part of the foreskin that covers the clitoris (Clitoris) which is the small genital organ that is located above the opening of the vulva.<sup>(4)</sup>

Female circumcision or female genital mutilation or circumcision are terms that have connotations depending on the linguistic context used, while the term female genital mutilation is approved by the World Health Organization and defines it as “any operation that involves partial or total removal of the female genitalia without a medical reason for it.”<sup>(5)</sup>

It is noticeable that the definition that includes amputation of organs applies to one type of female circumcision (circumcision), what is the reality of this type of circumcision? Is there legal evidence for female circumcision? What is the benefit that we get from female circumcision?

### **Types of Circumcision**

**Anatomical profile:** The female reproductive organ is called Vulva. A simple covering above the clitoris, from the clitoris (Labia minora), the external urethral orifice, and the vaginal orifice, all of them include the two labia majora (Labia Majora) and in which there are two Bartholin glands.<sup>(6)</sup>

The foreskin is a skin that starts from the separation between the head and the body of the clitoris. It consists of two surfaces and a lining between the top is normal skin, and the part facing the clitoris is a sebaceous membrane, which secretes a sebaceous substance from Tyson’s glands. And fungi, and viruses, which lead to infections, adhesions, itching, and annoying odors, and the size and length of the foreskin varies significantly from one woman to another, cutting the foreskin reveals the head of the clitoris and does not separate it from the labia minora that meet the lower part. From the clitoris, and therefore marital intercourse is not damaged, but improved.<sup>(7)</sup>

**Functional overview:** If the woman’s skin, which is the site of the circumcision, is completely removed, her desire will be gone. As the doctors say, among the advanced and the late, and if it is left, its pain is severe, and if it is cut, or some of it is taken, it becomes more straightforward.<sup>(8)</sup> The American physician (A.B. Laurie) warned against

(1)Al-fawakeh Al-Dawani by Neferawy(2/306)

(2)Al-Majmou by Al-Nawawi(1/149)

(3)Al-Kafi by Ibn Qudamah(1/108)

(4)Encyclopedia of medical jurisprudence, Cnaan(P:382)

(5) <https://en.wikipedia.org/wiki>

(6)Message in Circumcision, Muwaffaq Adel(P:70)

(7)Female circumcision is a medical vision, Dr. Sitt Elbanat Khaled(P:7)

(8)Explanation of Zad Al-Mustanqa Shinqiti (P:142)

female circumcision. She said: The virginity of the female has a small front foreskin folded over it to protect its sensitive end, and sometimes this foreskin is strongly crimped downwards - instead of being a protection, it is a source of irritation, because the natural secretions trapped under it. Many women have been nervous all their lives because of a hooked foreskin, which can be corrected with a very simple operation.<sup>(1)</sup>

There are many types of circumcision in many cultures. Here are some types of them.

1. Complex Pharaoh's circumcision (Tibtik).
2. The sandwich (Al-Taktim): It is practiced in Sudan (the suture for the Somalis), in which the clitoris is concealed so that it is inside the labia majora, which are sewn together and narrow the opening of the vagina.<sup>(2)</sup>
3. Intermediate circumcision: The clitoris and labia minora are removed. Pudenda Labium Minus).<sup>(3)</sup>
4. The incision: This type is practiced by the (Bita Bata) tribe of the Aborigines of Australia, which is to do the expansion of the opening of the vagina.<sup>(4)</sup>
5. Sunni circumcision.

### **The Pharaoh's Circumcision**

This type of circumcision is more common in Djibouti, Eritrea, Ethiopia, Somalia, Sudan, and Egypt.

**How to Lower the Pharaoh's:** in which the clitoris and labia minora are cut, and all or part of the labia majora, then the wound is sutured, and a match, or the like, is placed inside the opening of the vagina, so that if the wound heals, a small hole remains for urine and menstrual blood to come out.<sup>(5)</sup>

### **Sunni circumcision**

**What and how is the circumcision of Sunnah:** Women's circumcision is described in many fiqh books as: A thin skin like a sheet between the labia and the labia encloses all, and that thin skin is cut off from it during circumcision.<sup>(6)</sup> It is a lash like a cock's mane at the top of the vulva.<sup>(7)</sup>

### **Evidence for the Legality of Circumcision the Sunnah:**

It was narrated that the Prophet, may God's prayers and peace be upon him, said to Umm Attia – who was a woman who was circumcised –: “Only a small part of the clitoris is removed and do not abuse.” And the meaning of the hadeeth is that you do not remove anything but a small part of the clitoris. It is more pleasing to the face and more pleasing to the husband.”<sup>(8)</sup>

### **The wisdom of circumcision of the Sunnah**

**In the hadith:** Do not exaggerate in cutting,<sup>(9)</sup> And enjoy with the husband means do not exaggerate in cutting it is better for the face and sexual intercourse.<sup>(10)</sup> And if you exaggerated in cutting, she would lose her face and dull her color.

Medical organizations and social studies have not demonstrated any risks of

(1)Circumcision and the happiness of the spouses Fakh El-Din Halawy(P:22)

(2)Complications and risks of female Circumcision (P:4)

(3)Medical Encyclopedia, Cnaan(P:382)

(4)Circumcision and the happiness of the spouses, previous reference(P:28)

(5)Complications and risks of female Circumcision (P. 2)

(6)Al-Zakhirah by Al-Qarafi(4/174)

(7)Fath Al-Bari by Ibn Hajar (1/395), Al-Fawakeh Al-Dawani's,Al-Qayrawani (2/306), Al-Kafi fi Fiqh Imam Ahmad (1/108)

(8)Previously documented(P. 8)

(9)Sharh Mukhtasar Khalil by Al-Kharshi (3/48)

(10)Al-Nawader Wa Al-ziadat, Al-Qayrouani(4/338)

reduction and legal circumcision (reduction) was not prohibited by the World Health Organization. In a study entitled “Female Circumcision in Medicine and Islam, Between Excess and Negligence” according to medical and social studies, she mentioned that the war against circumcision has no valid medical basis. Ugandan law professor Silvia Tamali also says that the early Western opposition to the phenomenon of circumcision in Africa had its source in a common Jewish Christian belief that the sexual, familial, and marital habits of Africans are nothing but primitive customs that require correction.<sup>(1)</sup>

We see that those who claim that circumcision for females has psychological, physical, and social harms, apply to one type of circumcision, which is Pharaonic circumcision, and it is the one that must be fought by all Muslims. As for what came in the Sunnah and the Tradition describing circumcision as a modification of the instinct and not a decrease in it or a robbing of its lust, it is true because the operation does not involve the amputation of any organ.

**Female Circumcision Time:** As for the appropriate time for female circumcision, Al-Baghawi mentioned in Sharh Al-Sunnah: Zaid bin Aslam was asked about cutting a female, how long should it be delayed? He said: Up to eight years.<sup>(2)</sup>

It was narrated that Ali bin Abi Talib hated that she be cut until she reaches seven years old, and it is not a matter of feeding people at that time, but to cover it and conceal its remembrance.<sup>(3)</sup>

### **Circumcision Reasons**

#### **Organic Reasons:**

1. The size of the foreskin and its length increase.
2. The presence of infections between the foreskin and the clitoris.
3. The accumulation of smudges increases the multiplication of bacteria and urinary tract infections.

#### **Psychological Reasons**

Frigidity, hysteria, involuntary urination, some cases of mental depression, lymphoma (sexual obsession).<sup>(4)</sup>

**Excuse:** The circumcision feast is called an excuse, and it is specific to male circumcision. As for female circumcision, it is preferable to cover it so that the non-acting and the object is not visible, and therefore no food is made for female circumcision.<sup>(5)</sup>

#### **Contraindications to Circumcision:**

The most important contraindications to female circumcision are those of males. It is the absence of the foreskin in some females, congenital malformations of the reproductive system, the presence of some hemorrhagic diseases, or the child being sick, and unstable health, and one of the most important barriers to circumcision is the lack of qualified staff to perform this operation, and in this case it is advised to postpone the circumcision until a later time when there is a qualified personnel.

#### **The Effects of the Pharaoh's Circumcision**

(1) <https://en.wikipedia.org/wiki>

(2) Explanation of Sunnah, by Al-Baghawi(12/111)

(3) Al-Nawader Wa Al-ziadat (4/338)

(4) Female circumcision is a medical vision. Sitt Al-Banat. Khaled(P. 6)

(5) Al-Fawakeh Al-Dawani, Abi Zaid Al-Qayrawani (2/306)

## Medical and Health Effects

1. If the woman's skin is completely removed, which is the site of the circumcision, her desire will be gone. As doctors say from the advanced, and the late<sup>(1)</sup> It weakens the luster of the face and the pleasure of sexual intercourse.<sup>(2)</sup>
2. Darn.<sup>(3)</sup>
3. Frigidity.<sup>(4)</sup>
4. Menstrual buildup leads to chronic infections.
5. Urinary retention in the first days of the circumcision process.
6. The occurrence of keloids (fibrous tissue hyperplasia) at the site of the wound, especially if the wound is contaminated.<sup>(5)</sup>
7. Difficulty giving birth.
8. Infertility as a result of frequent infections.
9. Urinary fistula.

## Psychological Effects

1. Neurological and psychological trauma during the circumcision process.
2. Fear of marriage due to its association with the sediments of childbirth pains from childhood.
3. Difficulty reaching orgasm to remove sensitive organs in the circumcision.
4. Difficulty having intercourse on the first night due to the narrowing of the vulva opening leads to the husband having a psychological complex, and with it, he may lose the ability to have intercourse.

## Social Effects

1. Sexual frigidity and the wife's fear of intercourse constitute a barrier between spouses.
2. The modesty of women, and not going to the gynecologist clinics.
3. Retirement of a woman with a urinary fistula to society.
4. Society's view of the uncircumcised woman Pharaoh's circumcision as a defect in the female.

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(1) Explanation of Zad Al-Mustaqni' by Al-Shanqeeti (P: 142)

(2) Bulghat Al-salek Li Aqrab Al-Masalek(2/152)

(3) Al-Taj wa Al-Iklil,al-Mwaq (5/155)

(4) Encyclopedia of the provisions of purity,the Al-Dubiyan(3/116)

(5) Complications and risks of female Circumcision, (P:5)



Through the medical, health, psychological, and social effects of the pharaoh's circumcision, it is a fact that women suffer in the societies that still continue the pharaoh's circumcision. The psychological and health aspects of the spouses are available, so there will be an obstacle, rather than a large barrier between them, and the pharaoh's circumcision contributes to building that impenetrable barrier.

### **Evidence for the circumcision legality**

A lot of controversies arose about the evidence of the legality of circumcision, so those who had knowledge of it and those who had no knowledge gave fatwas, and some went to attack circumcision to serve non-Islamic parties with the aim of discrediting and questioning the matter of circumcision.

### **First: the Qur'an Evidence**

#### **Allah said:**

Then, We revealed to you: 'Follow the Creed of Abraham, he of pure faith, he was not among the idolaters) [Al-Nahl:123]

**The Significance:** Circumcision is from the religion of Abraham, and Abraham was circumcised by hummer when he was thirty-three years old, so he is included in the generality of the commanded by following him, and the principle in the matter is that it is obligatory until the evidence for its dismissal is established.<sup>(1)</sup>

#### **Allah said:**

Say, "Indeed, my Lord has guided me to a straight path - a correct religion - the way of Abraham, inclining toward truth. And he was not among those who associated others with Allah)[Al-Anaam: 161]

**The Significance:** who said in its Sunnah liability, they said: "The approach of the Hanifiyyah, the foundations of faith, repentance to God, and devotion to God. The actions, if they enter into the religion, then following him is to do them in the required manner, if it is obligatory, then it is obligatory, and if it is a Sunnah, then a Sunnah and circumcision is a Sunnah, as evidenced by his saying, peace be upon him, "Circumcision is a Sunnah for men that are honored for women."<sup>(2)</sup>

#### **Allah Said:**

(And when Abraham was tried by his Lord with commands and he fulfilled them. "Indeed, I will make you a leader for the people." [Abraham] said, "And of my descendants?" "My covenant does not include the wrongdoers)[Al-Baqarah: 124]

**The Significance:** Ibn Abbas said: ((He afflicted him with purity: five on the head, and five on the body; five on the head: clipping the moustache, rinsing the mouth, sniffing, using the toothpick, and parting the head, and on the body: trimming the nails, shaving the pubes, circumcision, plucking the armpits, and washing the traces of excrement and urine with water.).<sup>(3)</sup>

### **Evidence from the Sunnah**

- 1) The prophet (PBUH) said "The innateness is five or five parts of the innateness: circumcision, haircutting, plucking the armpits, clipping the nails and trimming the mustache."<sup>(4)</sup>

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(1) Tuhfat Al-Mawdood(P:128)

(2) Explanation of the Sunnah by Al-Baghawi (12/110)

(3) Interpretation of the Holy Quran Ibn Kathir(1/274)

(4) Al-Bukhari included in his Sahih(7/160)And in Al-Fath No. 5889(11/524),Sahih Muslim(1/221),Sahih Al-Jamea Al-Sagheir and its additions, Al-Albani No. 3245(3/116).

**The Significance:** The general instinctive characteristics include both men and women.

2) Abu Dawud narrated on the authority of Umm Attia, that the Messenger of God, peace, and blessings be upon him, ordered circumcision to be circumcised, and he said: "If you circumcise, do not be bothered, for that is better for the woman and more beloved to the husband."<sup>(1)</sup>

3) "If you circumcise, decorate, and don't get injured"<sup>(2)</sup>.

Significance: Shafi'is said: It is obligatory for a woman to cut off the skin to which the name applies.

4) Makhul narrated that the Prophet, peace, and blessings be upon him, said: "Circumcision is a Sunnah for men, and honorable for women."<sup>(3)</sup>

**The Significance:** The Sunnah of circumcision for men and honored for women indicates that both are not obligatory.

It was narrated about Othman bin Abi Al-Aas that he was invited to circumcision. He said: We did not do circumcision during the time of the Messenger of God, may God bless him and grant him peace, and we were not called for it. Sheikh Abu Abdullah bin Al-Hajj transmitted in the entry that the Sunnah is to show male circumcision and conceal female circumcision.<sup>(4)</sup>

The Prophet, peace, and blessings be upon him, said to a man who embraced Islam: "Leave the hair of paganism and be circumcised."<sup>(5)</sup>

**The Significance:** His saying (Circumcised) is an order and the command is obligatory, so this indicates the necessity and necessity of circumcision, and the speech of one includes another until the evidence of privacy is established.<sup>(6)</sup>

It was narrated about Umm Alqamah, she said: My brother's daughters, Aisha, were circumcised. She said: Yes, so I sent for Uday and he came to them, so Aisha passed by in the house, and she saw him singing and moving his head with joy, and he had a lot of hair.<sup>(7)</sup> And on the authority of Aisha, she said: The Messenger of God said, "(If he sits between her four strands and then strains them, then the circumcision touches the circumcision, then ghusl is required)."<sup>(8)</sup>, in the hadith, "If circumcision passes circumcision, ghusl is required."<sup>(9)</sup>

**The Significance:** Touching circumcision means the circumcision of a man and a woman.

### Evidence from Consensus

Ibn Hazm said: (They agreed that the one who circumcised his son had become infected, and they agreed that circumcision is permissible for women).<sup>(10)</sup>

### The jurisprudence of Circumcision:

The jurists differed in the ruling on circumcision into three opinions:

(1) Sunan Abi Dawood No. 5271, Al-Sunan Al-Kubra by Al-Bayhaqi (8/561), A series of authentic hadiths No. 722, narrated by Harb in his issues, Sharh Al-Umda by Ibn Taymiyyah (P. 247). Kanz Al-Ummal (16/ 436)

(2) Fath Al-Bari by Ibn Hajar (10/347).

(3) Explanation of the Sunnah (12/110), Literature by Ibn Abi Shaybah (P:224), Musnad Imam Ahmad bin Hanbal (34/319), Big Dictionary (11/233) Al-Sunan Al-Kubra by Al-Bayhaqi (8/563), Al-Sunan Al-Sagheer by Al-Bayhaqi (3/45)

(4) Look Fath Al-Bari (10/343)

(5) Al-Manhal Al-Azb, Al-Sobky (3/226)

(6) Fath Al-Bari (1/341)

(7) Al-Adab Al-Mufrad by Bukhari (1/427)

(8) Bustan Al-Ahbar, Al-Huraymali No 371, and by Muslim and Ahmad "even if it is not sent down" with the number 372. (P:100)

(9) Previous reference No. 374 (Al-Tirmidhi graded it authentic and pronounced)

(10) levels of consensus, Bin Hazm (P:157)

## **First Saying: It is obligatory for female circumcision**

**Maliki:** It is stated in the jurisprudence laws :<sup>(1)</sup>(Al-Shafi'i said: (Then, We revealed to you: 'Follow the Creed of Abraham, he of pure faith, he was not among the idolaters) [Al-Nahl:123]

**Shafi'is:** Al-Nawawi said in Kitab Al-Majmoo': "Circumcision is compulsory for our men and women, and many of the predecessors said this as Al-Khattabi narrated it."<sup>(2)</sup> Al-Shafi'i said: It is obligatory for both males and females.<sup>(3)</sup>

In Rawdahat Al-Talebin (circumcision is an obligation for men and women, and it was said: a Sunnah, and it was said: it is an obligation for a man, a Sunnah for a woman, and the known correct is the first)<sup>(4)</sup>

In the footnote to Al-Bajirmi: (Circumcision is obligatory in the case of men and women according to the correct opinion, and the circumcision of a man is to cut off the skin that covers the glans until all the glans is exposed. As for the woman, he cuts off the weft that is at the top of the vulva above the urinary outlet, and that weft resembles the mane of a rooster).<sup>(5)</sup> Finally, (Circumcision is obligatory according to Al-Shafi'i for both men and women).<sup>(6)</sup>

## **The Hanbalis:**

Imam Ahmed said: It is obligatory for men to recite one narration. And there are two narrations from him about women, which make it clear that it is obligatory.<sup>(7)</sup>

Ibn Al-Qayyim said: As for the woman, she has two excuses. One of them: is virginity and the other is the one that must be cut, and it is like a rooster's mane at the top of the vulva between the labia above the entrance to the male, and if it is cut off, its root remains like the nucleus.<sup>(8)</sup>

He said in Kashaf Al-Qinaa (Since it was decided that circumcision is obligatory for both males and females, he circumcised a male hermaphrodite formed and his private part as a precaution, and the man had to force his Muslim wife to do it like prayer),<sup>(9)</sup> it came in Al-Rawd:<sup>(10)</sup>On issues: In his second narration (that circumcision is an obligation on a woman as it is an obligation on a man).<sup>(11)</sup> And in Al-Sharh Al-Mumti' (The author's words appear to be: that it is obligatory for both males and females, and it is the doctrine. It was said: It is obligatory for males and not for females)<sup>(12)</sup>

## **Evidence for those who say that female circumcision is obligatory:**

(And when Abraham was tried by his Lord with commands and he fulfilled them) [Al-Baqarah: 124].

**Allah Said:** (Follow the Creed of Abraham, he of pure faith) [Al-Nahl:123]

**The Significance by the Verses:** Circumcision is part of the religion of Ibrahim, and it is from the natural instinct, so some jurists made it obligatory, as Sahnoun

(1) jurisprudence laws by Juzy(P:129)

(2) Al-Majmou explanation by Al-Nawawi(1/300)

(3) The difference of imams scholars,bin hubayra(1/342)

(4) Rawdat al-Talebin and the mayor of the muftis,Al-Nawawi(10/180)

(5) Al-Bajirmi's footnote to Al-Khatib(4/347)

(6) Nehaiat Al-Matlab,Jouini(17/354)

(7) The difference of scholarly imams (1/342)

(8) Kashf Al-Litham by Al-Safarini(1/335)

(9) Kashaf Al-Qina(1/80)

(10) Al-Rawdh Al-Murbea,Al-Bahouti(1/25)

(11) The issues on which Imam Ahmad commented, Al-Dmairi(1/140)

(12) Al-Sharh Al-Mumtea on Zad Al-Mustanqa Bin Uthaymeen(P:164)

said.<sup>(1)</sup> Circumcision is the purification of Islam. It was narrated on the authority of Al-Musayyab Ibn Rafi' that he said: God inspired Abraham to purify and perform ablution, so God revealed that she should be purified and he performed ghusl, then God revealed to him that she should be purified, so he was circumcised. Circumcision became part of his religion and law, which God commanded his Prophet, peace and blessings be upon him, to abide by.<sup>(2)</sup> It was narrated about Al-Hasan that it is the interpretation of the verse (Lord's needles with words, he fulfilled them) [Al-Baqarah: 124]

It was narrated that Abraham circumcised Ismail, who was thirteen years old, and Isaac, who was seven days old.<sup>(3)</sup>

**Hadith:** Abu Hurairah, may God be pleased with him: "Five things from the Fitrah (innateness) are to trim the nails, trim the mustache, pluck the armpits, shave the pubic area, and circumcision."<sup>(4)</sup>

**The Significance:** There is no dispute that this is not obligatory and because cutting a part of the body is like cutting a nail... It is obligatory and it is required by Sahnoun's saying.<sup>(5)</sup>

His saying, peace be upon him, to a man who embraced Islam (Leave the hair of unbelief on yourselves and be circumcised)<sup>(6)</sup>

**The Significance:** It is also ordered for the woman to cut the skin above the place of penetration, similar to the mane of a rooster. And it is an indication that circumcision is obligatory for those who embrace Islam and that it is a sign of Islam.<sup>(7)</sup> Some of them said that throwing hair is not a must, so is circumcision.<sup>(8)</sup>

It was narrated that the Prophet, may God's prayers and peace be upon him, said to Umm Attia – and she used to circumcise women in Medina – "Only a small part of the clitoris is removed and do not abuse." And the meaning of the hadeeth is that you do not remove anything but a small part of the clitoris. It is more pleasing to the face and more pleasing to the husband.)<sup>(9)</sup>

**The Significance:** (And because he cut off a permissible organ, then it was obligatory, like cutting off theft, or because it cut off painfully, so it only cuts off an obligation, like the hand in theft, and because if the guardian cut off the solitude or a foreigner and the boy died, they would not guarantee it, even if it was not obligatory, we would guarantee it<sup>(10)</sup>

**The second saying:** Circumcision is a Sunnah for women

**The Hanafi:** They cited in Rad Al-Muhtar (and in the book of purification from Al-Siraj Al-Wahaj that circumcision is a Sunnah for both men and women)<sup>(11)</sup>, (It was said that it is Sunnah, and the basic principle is that bringing pain to an animal is not legally permissible except for the interests that benefit, and in circumcision the establishment of the Sunnah, which also returns to its interests).<sup>(12)</sup> Ibn Najim

(1) Al-Zakhirah (13/ 279.))

(2) Statement and collection by Ibn Rushd Al-Qurtubi(17/ 266)

(3) Al-Nawader wa Al-ziadat (4/338)

(4) Sahih Al-Bukhari (7/160), Sahih Muslim (1/221), Sunan Ibn Majah (1/107), Sunan Abi Dawood (4/84),Mukhtasar Sunan Abi Dawood(3/75)

(5) Al-Zakhirah by Al-Qarafi (13/279)

(6) Al-Manhal Al-Azhab Al-Mawroud Explanation of Sunan Abi Dawood (3/226)

(7) Al-Manhal Al-Azhab Al-Mawroud Explanation of Sunan Abi Dawood (3/226)

(8) Al-Zakhirah by Al-Qarafi (13/ 280)

(9) Al-Tabarani's Al-Mu'jam Al-Sagheer (1/91), Al-Sunan Al-Sagheer by Al-Bayhaqi (3/45), Al-Sunan Al-Kubra by Al-Bayhaqi (8/562), Majma' Al-Zawa'id, al-Haythami(5/172), the tract in explaining Muwatta Malik (7/ 328).

(10) Al-zakhirah by Al-Qarafi (13/ 280)

(11) confused replynoBin Abdeen(6/751)

(12) Al-Bahr Al-Ra'iq by Ibn Najim (8/554), clarifying the facts,Al-Zaylai(6/227)

said:<sup>(1)</sup>(Because it came in the hadith: “Circumcision is a Sunnah that is fought over its abandonment.”<sup>(2)</sup>

**The Maliki:** It was mentioned in Al-Kafi (And from the nature of Islam are ten characteristics of circumcision, which is a Sunnah for men and an honor for women, and it was narrated from Malik that it is a Sunnah)<sup>(3)</sup>And in Al-Thakhira (Ibn Yunus said circumcision is a confirmed Sunnah in both males and females)<sup>(4)</sup>And in Al-Fukh Al-Dawani (it was said that it is a Sunnah like male circumcision)<sup>(5)</sup>

**The Hanbalis:** Al-Khallal mentioned (that Abu Abdullah was asked about a woman whose husband married her and she was not circumcised, does she have to be circumcised? He said: Circumcision is a good practice)<sup>(6)</sup>And in Al-Sharh Al-Mumti’: (As for the woman, the strongest sayings are that it is a Sunnah.”<sup>(7)</sup>

### **Evidence of those who say that circumcision is a Sunnah for females**

**The hadith:** “There was a woman in Medina who was called Umm Atiyah, who circumcising the girls, so the Prophet, peace and blessings be upon him, said to her: O Umm Attia, do not exaggerate in cutting, for that is better for the woman and more beloved to the husband.”<sup>(8)</sup> It was narrated about Makhul that the Prophet, peace and blessings be upon him, said: “Circumcision is a Sunnah for men and an honor for women.”<sup>(9)</sup>Abu Dawud narrated from the hadith of Umm Atiyah that a woman was circumcised in Medina, and the Prophet, peace, and blessings be upon him, said to her, “Do not wear out for that is better for the woman, and he said that he is not strong. There are two witnesses from the hadith of Anas and from the hadith of Umm Ayman with Abi Al-Sheikh in the book of Al-Aqeeqah and another about Al-Dahhak bin Qais with Al-Bayhaqi.

*Imam Ahmad said:* The circumcised woman does not cut off the entire clitoris; because Omar said to female circumcision: keep some of it if you circumcising.<sup>(10)</sup>

And what he, peace be upon him, said to a female circumciser: “decorate and do not wear out.”<sup>(11)</sup>

**The Significance:** The text of the hadith indicates that circumcision is from the fitrah (innate) and the fitrah is the Sunnah, so his statement regarding the circumcised woman was by circumcision with no unfairness in cutting as it came in the text of the hadith.

**Third Saying:** Circumcision is an honor for women:

**The Hanafi:** He said in Al-Mabsout (which is an honor for women):<sup>(12)</sup>And in the care (Circumcision is a Sunnah for men, honorable for women, so it should not be left)<sup>(13)</sup>Ibn Najim said: (Circumcision of a woman is not a Sunnah, but rather it is an

(1) The Clear Sea by Ibn Njeim (8/554)

(2) I did not find this hadith in the books of hadith, it was mentioned in al-Bahr by Ibn Najim (8/554), and al-Zayla’i in Tabeen al-Haqa’iq (6/227).

(3) Al-Kafi in the jurisprudence of the people of Medina, Al-Qurtubi(2/1136)

(4) Al-zakhirah by Al-Qarafi (4/166)

(5) Al-fawakeh Al-dawani (1/394)

(6) Al-Wquf Wa Al-Tarajjul(s:149)

(7) Al-Sharh Al-Mumti’ on Zad al-Mustaqni’ (1-164/166)

(8) Al-Tabarani’s Al-Mu’jam Al-Sagheer (1/91), Al-Sunan Al-Sagheer by Al-Bayhaqi (3/45), Al-Sunan Al-Kubra by Al-Bayhaqi (8/562), Majma’ Al-Zawa’id, al-Haythami(5/172), the tract in explaining Muwatta Malik (7/ 328).

(9) Explanation of the Sunnah by Al-Baghawi (12/110)

(10)Kashf Al-Litham (1/335)

(11) Previously documented(P:8)

(12) Al-Mabsout Wa Al-Sarkhasi(10/156), Al-Durr Al-Mukhtar by Ibn Abdeen(6/ 371)

(13) Al-Enayah sharh aL-Hedayah,Baberti(10/27)

honor for men in orgasmic).<sup>(1)</sup>

**The Maliki:** As for the Circumcision, Malik said: I like women's nail clipping, pubic shaving, and circumcision, as it is for men.<sup>(2)</sup> He said in the two margins of Al-Dardir and Al-Sawy: (the circumcision in the female is recommended as the absence of exhaustion)<sup>(3)</sup>, (And it is desirable for him from the circumcision of their females what is desirable for him from the circumcision of the females of his son, because the circumcision of the females of his son is honorable, and is not an obligatory Sunnah)<sup>(4)</sup> In the explanation of Al-Zarqani: (As for the female circumcision, it is desirable)<sup>(5)</sup> (And the circumcision and its provision is that it is honorable)<sup>(6)</sup> And in Abi Zayd Al-Qayrawani's message (the circumcision required in women, which is the removal of the extra part of the vulva, i.e., a desirable trait, as some of our sheikhs asserted and adopted, and it is apparent from the compiler here because it differs between the two words).<sup>(7)</sup>

**The Hanbali:** Ibn Qudamah said in Al-Mughni (As for circumcision, it is obligatory for men and honorable for women).<sup>(8)</sup>

He said in Al-Jami' for the Sciences of Imam Ahmad (on the authority of Jabir bin Zaid that he said about circumcision: It is a sunna for men, and women are honored)<sup>(9)</sup>

It was said in Al-Jamea for Imam Ahmed (about Jabir bin Zaid that he said about circumcision: It is a Sunnah for a man and an honor for women)<sup>(10)</sup>

### **Evidence for those who say circumcision is an honor for females**

**The hadith** "Circumcision is a Sunnah for men and an honor for women"<sup>(11)</sup>

Whoever says that (circumcision of the female is recommended as the absence of torture) inferred the hadith of Umm Atiyah that a woman was circumcised, so the Messenger of God, peace and blessings be upon him, said to her: "decorate and do not wear out, it is better for the face and enjoys the presence of the husband." in another narration, "For his saying, peace be upon him, to those who circumcising the females: Cut down and do not wear out."<sup>(12)</sup> decorate and do not get tired, for this is better for the face and I enjoy with the husband, meaning do not exaggerate in cutting, for it is better for the face and for intercourse.<sup>(13)</sup> And according to another narration: "Because he, peace and blessings be upon him, said to whom the females cut down: do not exaggerate in cutting and do not restrain." They also inferred that Hagar was a slave woman to Sarah, may God be pleased with her, so she gave her to Khalil, peace be upon him, then she was jealous of her, so she swore to cut off three shades from her, so he commanded her to pierce her ears and lower them.

(1) Al-Bahr Al-Raeq by Ibn Njeim(8/ 554)

(2) Al-Masalek in the explanation of Muwatta Malik (7/ 328)

(3) Desouki's footnote to the great explanation(2/126),Bulghat Al-Salek Li Aqrab Al-Masalek(2/151)

(4) Statement and Collection (2/163)

(5) Al-Zarqani's explanation on Mukhtasar Khalil (3/83)

(6) Al-Fawakeh Al-Dawani (2/306)

(7) Al-Fawakeh Al-Dawani,Previous reference (1/394)

(8) Al-Mughni by Ibn Qudamah(1/64)

(9) The Collector of the Sciences of Imam Ahmad(13/390)

(10) Al-Wqaf Wa Al-Tarajjul, Al-Khallal(P. 146)

(11) Literature by Ibn Abi Shaybah (No26468)(5/317)Musnad Ahmad (34/319) No. 20719, Al-Sunan Al-Kubra by Al-Bayhaqi (8/563) (3/45), Al-Tabarani's Great Lexicon (11/233), No. 11590, (12/182)No12828, Al-Sunan Al-Saghir by Al-Bayhaqi (3/45)number2717, Al-Sunan Al-Kubra by Al-Bayhaqi (8/563), No. 17565,Revise the investigation of the hadiths of the comment(2/264), Jamea Al-Masanid and Al-Sunan(4/184)Al-Jawhar Al-Naqi,Mardini(8/325)

(12) Previously documented(P:8)

(13) Al-Zakhirah Al-Qarafi (4/167)

## **Discussing the evidence for those who say that circumcision is an honor for females**

Most of the jurists, and some of the Shafi, were of the view that it is not obligatory, and one of their arguments is the hadith of Shaddad ibn Aws, which was raised by circumcision as a Sunnah for men and an honor for women. It indicates that what is meant is the separation of the ruling, and it follows that it is not limited to the obligation. It may be more certain in the case of males than in the case of women, or it may be in the right of men to be delegated, and in the right of women for permissibility.<sup>(1)</sup>

And this hadith has a weak documentation, and Al-Mahfouz is (weak).<sup>(2)</sup>

### **Statements of some scholars regarding female circumcision:**

Sheikh Sayed Sabiq says: "The hadiths ordering female circumcision are weak, and none of them is authentic."<sup>(3)</sup>

His Eminence Sheikh Hassanein Makhlof says: From this it is known that there is no sin in not circumcising girls (circumcision) as is the practice of many nations with regard to them.

Dr/ Mohamed Lotfi Al-Sabbagh said: "The mentioned hadiths are not authentic, which indicates that it is obligatory." Then he says: "If these dangers are realized as a result of female circumcision, this circumcision is no longer acceptable according to Sharia for the girl because nothing is authentic about it on the authority of the Messenger of God, peace be upon him. He said" not harm "<sup>(4)</sup>.

Dr/ Mohammed Salim Al-Awa that the Sharia provision on female circumcision is that it is neither obligatory, nor Sunnah, nor honorable; because of the weakness of everything that is mentioned in that regard, it is a purely harmful habit, and the jurists have made it obligatory that if a woman misses the pleasure of meeting the man because of, they must impose retribution or blood money, and he says: "Thus, it is clear that the correct Sunnah has no evidence for the legality of female circumcision, and that what is invoked by the hadiths of circumcision are all weak and do not benefit from a legal ruling."<sup>(5)</sup>

But Dr. Mohammed Ali Al-Bar believes that circumcision that is contrary to the Sunnah and following the whims and habits of the Pharaoh's has great harm, and believes that it is necessary to follow the circumcision that was commanded by the Prophet, peace be upon him, and that the fabricated uproar against female circumcision is not justified, because the complications and problems are caused by two things that are not third in violation. The Sunnah, and the second is to perform the operation without sterilization, and by non-physicians.<sup>(6)</sup>

Through the foregoing, it becomes clear to us that the opinion of our esteemed scholars that there is no harm, we say yes, there is no harm and no harm if there are legitimate impediments that Sharia forbid. What happens in Egypt, Sudan, Somalia and some other African countries is the forbidden Pharaoh's circumcision.

### **Preference: It is more likely that female circumcision is Sunnah, for**

(1) Fath al-Bari by Ibn Hajar (10/341)

(2) Ibn Abi Shaybah's workbook (5/117), revision of the investigation by Ibn Abd al-Hadi (4/581), Investigation revision tofor golden(2/ 264)Al-Jawhar Al-Naqi (8/325), Jami' Al-Musnad and Al-Sunan (4/184).

(3) Fiqh Al-Sunnah, Sayed Sabeq(1/33)

(4) Sunan Ibn Majah (2/784), Al-Sunan Al-Kubra by Al-Bayhaqi (6/114), Al-Mu`jam Al-Kabeer by Al-Tabarani (2/86), Musnad Ahm (5/55)

(5) <http://www.feqhweb.com/vb/t5398.html>

(6) circumcision, Mohammed Ali Al-Bar(P:72)

## the following:

**Firstly:** It is more correct by balancing the evidence that female circumcision is a Sunnah for the aforementioned evidence. The hadith of Umm Attia has an indication that circumcision is considered an instinct, and the instinct is the Sunnah, so female circumcision does not contradict the instinct but rather modifies it, with no endurance in circumcision.

**Secondly:** Whoever says that female circumcision is obligatory, and invokes the hadith of the qualities of the instinct, means male circumcision.

**Thirdly:** Saying that female circumcision is an honor for her, is a fact of honoring her by protecting her from many of the fungi that infect this area; because the basic principle in a woman is her cleanliness, and her pleasant smell so that the husband will accept her; because the stench of these places leads to divorce.

## The jurisprudential adaptation of the circumcision

Exaggeration and exaggeration of the removal occurs in the Pharaoh's circumcision, as it was reported in many jurisprudential sources that cutting the flesh of the sides of a woman's vagina contains a full blood money (if the bone appears), and if the bone does not appear, then government.<sup>(1)</sup> And in the two labias the blood money and in its two butts it was said blood money and it was said government."<sup>(2)</sup> He said in the book of the statement (one of them: it is obligatory, because he said (And wounds are retribution<sup>45</sup>[Al-Maedah: 45]

**Second:** It is not obligatory, and this is what Sheikh Abi Hamid said; because it is meat, and it does not have a joint that ends with it, so retribution is not required for it, like the thigh meat. The first is meant.<sup>(3)</sup>

Al-Shafi'i - may God have mercy on him - said: And in keeping her silent, they are: he swept her aside from her vagina. If he cuts them he must pay blood money; because there is beauty and benefit in them, as for beauty: it is apparent, and as for the benefit: the pleasure of intercourse is with them.

He must pay half the blood money if one of them is cut off. Because every two people must pay the blood money, in one of them half the blood money is required, like the hands and the feet.<sup>(4)</sup>

(And the labia) is the labia in a woman's vagina. If a woman assaults a woman and her labia is cut off, the labia will be cut off from her, and if she cuts one of the labia that is on the right or left side of the vulva, it will be cut off from her just as she was cut from her sister, and this is for gender union.<sup>(5)</sup>

Sharia enjoined a punishment for transgression by cutting off these sensitive parts of the woman's body, and in Pharaoh's circumcision there is a greater and grave transgression, and it may be a reason for reluctance to marry for one who suffers a psychological curse because of it, and we are a nation commanded to multiply, as he said "Marry the affectionate and the fertile, for I will multiply you among the nations."<sup>(6)</sup>

Through these evidences, Pharaoh's circumcision is considered one of the most dangerous types; because it causes serious complications for the girl when she is young, and it may reach death if the midwife is not capable of this operation. As for old age, the

(1) Al-Sawy's footnote on Al-Sharh Al-Saghir (4/388), Ashal Al-Madarek (3/138)

(2) Easiest Perceptions(3/137)

(3) Al-Bayan by Al-Omrani(11/389)

(4) Al-Bayan by Al-Omrani (11 /556-557)

(5) Sharh Zad Al-Mustaqni' by Al-Shanqeeti (16.)/356)

(6) Narrated by Al-Hakim in Al-Mustadrak(2/162)



complications are more severe than the physical, psychological, and social aspects.

### **The Felony of the Circumciser:**

Sharia required a penalty for the felony during circumcision, it differentiated between the offender who was experienced in the circumcision process and the one who had no experience and had performed the circumcision.

The felony of the hand of the circumciser, its content against him or his wife is like the felony of someone else.<sup>(1)</sup>

It was narrated about Ayyub, that a female circumciser in Medina circumcised a female slave and she died, and Omar said to her: "Shall I not stay like this, and he set her blood money on her wife?"<sup>(2)</sup>

It came in the beginning of Al-Mujtahid: (And they are unanimously agreed that if the doctor makes a mistake, he must pay blood money, such as cutting the glans during circumcision, and the like, because in the sense of the offender is wrong. There is a difference of opinion that if he is not one of the people of medicine, it is guaranteed, because he is transgresses the talk The Messenger of God, peace and blessings be upon him, said: "Whoever has medicine, and he did not know of it before that medicine - then he is liable."<sup>(3)</sup>

If a child dies from circumcision, then her ransom is ransom for a wise woman who circumcised her, and Omar Ibn Al-Khattab - may God be pleased with him - decreed that.<sup>(4)</sup>

### **The legal adaptation of the circumcision:**

There are some countries in which laws have been issued criminalizing and punishing anyone who performs female circumcision, and among these countries is Sudan, which was the first law established for that in 1946 it means that:

"The perpetrator of the crime of illegal circumcision shall be deemed to whoever intentionally causes harm to one of the external female genital organs shall be punished with imprisonment for a period not exceeding five years or with a fine or with both."

Whoever commits the crime of illegal circumcision shall be punished with imprisonment for a term not exceeding five years or with a fine or with both."<sup>(5)</sup>

This means that the criminal circumcision is illegal and contains a reference to the Pharaoh's circumcision, because it was prevalent in Sudanese society until recently, and some still practice it in secret.

The criminalization of circumcision was included in the Criminal Code Sudanese of 1974, where Article 284 was replaced with the following article: "Anyone who intentionally causes harm to a woman's external genitalia is considered a perpetrator of the crime of illegal circumcision. A prison sentence of not more than seven years and a fine was added to the article in the Criminal Code of 74." Later, the Criminal Code was abolished. for the year 1974G No legal mention1983G/1991 to criminalize female circumcision, came the lawyer 2004, free from any substance that criminalizes circumcision.<sup>(6)</sup> in June 2017. It was completed inclusion of an article criminalizing female circumcision in the Criminal Code.<sup>(7)</sup>

In Egypt, the Egyptian People's Assembly passed a law criminalizing female

(1) tuhfat Al-Mawdood's with the provisions of the Al-Mawlood,Ibn Qayyim Al-Jawziyya(P:194)

(2) Al-Musannaf By Ibn Abi Shaybah(5/420)

(3) The beginning of the mujtahid and the end of Al-Mujtahed,Ibn Rushd the grandson(4/200)

(4) Al-Zarkashi's Explanation(4/249)

(5) <http://alsudanalyoum.com/2016/8/28>

(6) <http://alsudanalyoum.com/2016/8/28>

(7) <http://alsudanalyoum.com/2017/06/05>

circumcision, except in "case of necessity".

The source added that the procedure of circumcision has become punishable by imprisonment for a period ranging from three months to two years and a fine of between 1,000 and 5,000 pounds, but the law clarifies that circumcision is possible in the event of a medical necessity.<sup>(1)</sup>

As for the circumcision of the Sunnah or the circumcision, or what is known as the legal Sunni circumcision for girls, it is the process of cutting the skin of the foreskin that covers the head of the clitoris only (Prepucectomy for those in need of circumcision. This type of circumcision was not prohibited by the World Health Organization (WHO).<sup>(2)</sup>

## Female Circumcision Fatwas

Ibn Taymiyyah issued a fatwa regarding female circumcision and her circumcision is to cut off the top of the skin that is like a rooster's mane. The purpose of female circumcision is to modify her desire, for if she was circumcised, she was molested with intense lust.<sup>(3)</sup>

A question was asked to the standing committee for issuing fatwas about Pharaoh's circumcision.

Answer: If the reality is as mentioned, then this circumcision is not permissible in its aforementioned capacity. Because it is extremely harmful to women, and the Prophet, peace and blessings be upon him, said: "Do no harm."<sup>(4)</sup> And circumcision that is prescribed is that it is taken from the skin above the place of penetration, a small thing, and it is not taken all of it. The Prophet, peace and blessings be upon him, said to the woman who circumcises the female: "Decorate and do not wear out, for it is more beautiful in the face and more attractive to the husband."<sup>(5)</sup>,<sup>(6)</sup>

And in a question to Sheikh Bin Baz<sup>(7)</sup> He said: Circumcision of girls is Sunnah, if there is a doctor who improves that or a female doctor improves. The instinct is five: circumcision, blackening, trimming the moustache, clipping the nails, and plucking the armpits.<sup>(8)</sup> This means that whoever does it is in accordance with what is described in the jurisprudential sources without abuse or injustice, and it agrees with the instinct and does not contradict it and the instinct of the Sunnah, then it is a Sunnah.

## Conclusion

Praise be to God, whose grace good deeds are accomplished. The research dealt with an explanation and rooting of the subject of female circumcision. The research presented the types of circumcision and its effects in three topics, and singled out two types of circumcision with explanation and detail (Pharaoh's and Sunni circumcision).

## Findings

1. The circumcision process, which has been touched upon by many jurisprudential sources, is not as promoted by some opponents of the process of female circumcision.

(1) <http://www.middle-east-online.com>

(2) <http://www.marefa.org>

(3) Encyclopedia of the provisions of purity (3/116)

(4) Ibn Taymiyyah's fatwas group(21/114)

(5) Previously documented(P:8)

(6) Fatwas of the Permanent Committee for Scholarly Research and Issuing Fatwas Group 2 (4/ 44-45) Fatwa No. (20118).

(7) Total fatwas of Abdul Aziz bin Baz(10/46)

(8) Agreed upon, and he was previously documented (P21)

2. There is no genital mutilation in the process of circumcision mentioned in the Sunnah and legal sources.
3. Removing the foreskin for some women is considered a preventive and hygiene process.
4. Not all evidence for female circumcision is as weak as some claim.
5. The process of criminalizing female circumcision is only promoted in Islamic countries, while this process is carried out in other non-Muslim nations such as the Jews and is being sued!
6. The circumcision that was mentioned in the Sunnah is not a change of God's creation, as some claim.
7. Pharaoh's circumcision is one of the practices and customs that are forbidden by Sharia, because it deprives the female of characteristics that are the basis for a stable married life.

### **Recommendations**

1. Conducting medical research on circumcision, which is mentioned in the Sunnah, compared to other types of circumcision that are carried out in some countries, provided that the study is conducted by Muslim doctors.
2. Not to delve into and issue fatwas on the issues of female circumcision before researching well in the main jurisprudence books.
3. Conducting a social survey of the circumcised groups of Pharaoh's and Sunni circumcision to find out the pros and cons of circumcision.
4. Be patient and verify the information that comes from the non-Muslim and know their goals, they aren't better than our sharia.
5. Fighting circumcision is considered one of the goals pursued by the enemies of Islam in the name of women's personal freedom, and in order not to be a performer of their goals, we must be careful in citation.

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