

Female Circumcision in Banjar Culture: Navigating Customary Law, Islamic Law, and Human Rights

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Abstract

This study examines the practice of female circumcision (*basunat*) among Banjar communities in South Kalimantan, Indonesia, where customary law and Islamic belief intersect with global human rights discourse. The research addresses the legal tension between the international prohibition of Female Genital Mutilation (FGM) and local acceptance grounded in '*urf*' and *maqāṣid al-sharī'a*. Using a normative legal approach supported by qualitative field data—interviews, local regulations, and *fiqh* analysis—the study reveals that *basunat* is a purely symbolic, non-cutting, and non-invasive ritual performed hygienically by trained midwives. Distinct from FGM, it functions as a rite of purification and moral responsibility, strengthening social cohesion and spiritual identity. The findings demonstrate a form of localized legal consciousness that reconciles cultural practice with Islamic legal reasoning. The study contributes to scholarship on legal pluralism, advocating for context-sensitive legal frameworks that differentiate between symbolic *basunat* and FGM, while safeguarding both human rights and cultural heritage in pluralistic societies.

Keywords:

Banjar culture; customary law; female circumcision; human rights; Islamic Sharia

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Introduction

The tradition of female circumcision, known as *basunat anak perempuan*, among the Banjar people of South Kalimantan remains a deeply rooted practice that functions as a form of living law. Rooted in a synthesis of cultural customs and Islamic beliefs, the ritual has been increasingly scrutinized by international human rights bodies that often conflate it with harmful forms of Female Genital Mutilation (FGM). However, this paper argues that such a broad classification fails to account for the unique characteristics of the Banjar practice, which is non-invasive and symbolic, and thus does not violate human rights norms. This tension creates a critical legal problem: how does a community's localized legal consciousness, which integrates custom and religion, interact with universal legal principles? This paper investigates the dialectical relationship between customary law, Islamic Sharia, and international human rights norms to demonstrate that the Banjar practice is legally justifiable within its cultural context.

Several studies have explored the practice of female circumcision from various angles. In Indonesia, local scholars have provided rich descriptive insights, often grounding their analysis in religious and cultural perspectives. For instance, Nurasiah¹ have examined the practice from a religious-legal perspective, with Nurasiah highlighting the lack of explicit *ḥadīth* on female circumcision and Syaltut framing it as a permissible act within Islamic jurisprudence (*fiqh*) that serves a greater welfare. Similarly, Lanny Octavia's work frames female circumcision as a culturally entrenched tradition linked to a woman's identity and honor.² M. Ikhsan Tanggok, in a comparative study, positions the practice within a broader global context of inherited tradition.³ Meanwhile, Hermanto examines the practice from a *ḥadīth* and *fiqh*

¹ Nurasiah, "Khitan dalam Literatur dan Hadis Hukum," *Ahkam: Jurnal Ilmu Syariah* 15, no. 1 (2015), hlm 81-94, <https://doi.org/10.15408/ajis.v15i1.2851>.

² Lanny Octavia, "Circumcision and Muslim Women's Identity in Indonesia," *Studia Islamika* 21, no. 3 (December 30, 2014): 419-57, <https://doi.org/10.15408/sdi.v21i3.1217>; Lanny Octavia, "Legal Perspective of Female Circumcision: Study of Women Rights to Access Information of Sexual Health in Indonesian Knowledge," *Research, Society, and Development* 9, no. 11 (2020), <https://doi.org/10.33448/rsd-v9i11.6698>.

³ M. Ikhsan Tanggok, "Circumcision Law in Christianity and Islam," *Ahkam: Jurnal Ilmu Syariah* 18, no. 2 (July 12, 2018), hlm 265-284, <https://doi.org/10.15408/ajis.v18i2.9562>.

perspective.⁴ Studies by Basri, Rosyid, and Hermanto focus on how female circumcision is integrated as a symbolic purification rite in communities across Indonesia.⁵ Critical legal analyses by Assalwa and Rahmawati highlight the legal conflicts between traditional practices and modern regulations, utilizing the *maqāṣid al-sharīʿa* framework.⁶

While these local studies offer valuable insights, they tend to be descriptive and primarily grounded in Indonesian or Islamic-centric scholarly conversations. They often lack engagement with broader international debates and up-to-date global human rights literature. In contrast, a growing body of international literature, particularly from human rights and socio-legal perspectives, frames female circumcision as a form of Female Genital Mutilation (FGM). The World Health Organization (WHO), for example, classifies all forms of female genital procedures under the umbrella of FGM, leading to international condemnation. This universalist approach has been challenged by recent scholarship that advocates for a more context-sensitive understanding of plural legal traditions, as seen in the work of Merry. Merry and other socio-legal scholars argue that local customs and norms must be considered alongside international human rights standards to avoid blanket condemnations that overlook the nuanced realities of lived law.⁷ This perspective is particularly relevant in the Indonesian context, where *adat* (customary) law and Islamic norms often intersect with state law. A critical research gap persists: there is a lack of scholarly engagement that explicitly bridges this divide by examining

⁴ Agus Hermanto, "Khitan Perempuan antara Tradisi dan Syari'ah," *Kalam* 10, no. 1 (February 23, 2017): hlm 257-294, <https://doi.org/10.24042/klm.v10i1.343>.

⁵ Rusdaya Basri et al., "Symbolic Representation and Masalah Assessment: Examining the Rituals of Female Circumcision in Bugis-Makassar Society of South Sulawesi," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 8, no. 3 (August 24, 2024): 1503, <https://doi.org/10.22373/sjhkv8i3.22381>; Moh Rosyid, "Pergeseran Tradisi Khitan Anak Perempuan di Kudus Jawa Tengah," *Ibda': Jurnal Kajian Islam dan Budaya* 18, no. 1 (May 29, 2020): 104–17, <https://doi.org/10.24090/ibda.v18i1.3748>; Agus Hermanto, "Anjuran Khitan bagi Perempuan antara Budaya Lokal dan Ajaran Agama," *Fikri: Jurnal Kajian Agama, Sosial dan Budaya* 1, no. 1 (2016), <https://doi.org/10.25217/jf.v1i1.9>.

⁶ Shafira Amalia Assalwa and Ilham Fikri Ma'arif, "Pelarangan Mutlak Khitan Perempuan Bertentangan dengan Syariat? (Tinjauan Atas Fatwa MUI Perspektif Maqāṣid al-Syarīʿah)," *Al-Syakhsyiyah: Journal of Law & Family Studies* 6, no. 2 (2024): 169–92, <https://doi.org/10.21154/Syakhsyiyah.V6i2.7082>; Erik Sabti Rahmawati and Lukluil Makmun, "Khitan Perempuan dalam Fatwa MUI No. 9A Tahun 2008 dan Permenkes No. 6 Tahun 2014 Perspektif Maqashid al-Syari'ah," *Egalita* 12, no. 2 (November 2, 2019), <https://doi.org/10.18860/egalita.v12i2.7939>.

⁷ Sally Engle Merry, *Human Rights and Gender Violence: Translating International Law into Local Justice* (Chicago: University of Chicago Press, 2006), 19-20.

how a specific, non-invasive practice, such as Banjar *basunat*, navigates the tension between a localized legal consciousness and a global framework of human rights. This study aims to fill that gap by providing a critical analysis grounded in both local knowledge and contemporary international scholarship on legal pluralism.⁸

While existing studies have explored female circumcision from various perspectives—including Islamic jurisprudence, gender identity, and comparative religion—a significant gap remains in research that explicitly investigates the legal status of the practice within the Banjar community's unique legal tradition. This article addresses this gap by providing a nuanced analysis of the socio-legal meaning of female circumcision in Banjar society, evaluating its alignment or tension with human rights principles. By examining the interplay between *adat*, non-invasive Islamic practices, and contemporary human rights discourse, this research makes a valuable contribution to the ongoing academic debate on legal pluralism in Indonesia. Our findings also inform the global discourse on Female Genital Mutilation (FGM) by highlighting the need for context-sensitive legal and policy responses.⁹ A contextual approach is essential for understanding the normative position of the practice and for advocating solutions grounded in constructive dialogue rather than prohibition. This study contributes to the debate by moving beyond descriptive accounts to offer a dialectical socio-legal analysis that situates Banjar female circumcision within the framework of legal pluralism.¹⁰

This study employs a normative-juridical approach complemented by qualitative empirical data. The normative analysis focuses on the dialectical interaction among state law (e.g., Law No. 35/2014, Law No. 39/1999), Islamic legal norms (*fatwās*), and international human rights frameworks (e.g., WHO, CEDAW, CRC) concerning female circumcision. Qualitative data were collected

⁸ Hasse Jubba et al., "Compromise of Islam and Customary Practices in the Religious Practices of the Muslim Community in Papua: A Study of Maqāṣid Syarī'ah," *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan* 24, no. 2 (December 28, 2024): 305–30, <https://doi.org/10.18326/ijtihad.v24i2.305-330>.

⁹ Supardi Mursalin et al., "Pecoah Kohon: The Restriction on Inter-Cousins Marriage in Indigenous the Rejang Society," *JURIS (Jurnal Ilmiah Syariah)* 22, no. 1 (June 13, 2023): 69, <https://doi.org/10.31958/juris.v22i1.9025>.

¹⁰ Surya Sukti, Munib Munib, and Imam S Arifin, "Pernikahan Adat Dayak Ngaju Perspektif Hukum Islam (Studi di Kabupaten Gunung Mas Kalimantan Tengah)," *El-Mashlahah* 10, no. 2 (December 30, 2020): 65–75, <https://doi.org/10.23971/maslahah.v10i2.2284>.

through in-depth semi-structured interviews and field observations with key community members, including midwives and religious leaders. This dual-method approach allows for a comprehensive socio-legal analysis to evaluate how the living law—the unwritten rules governing Banjar society's practice of *basunat*—intersects with and, at times, diverges from formal and international legal norms. The study utilizes legal interpretation and comparative analysis to understand this complex interplay and to propose context-sensitive legal responses.¹¹

***Basunat* as a Living Law: The Role of *Adat* and Community Norms**

To understand the nuanced legal standing of *Banjar basunat*—the traditional practice of female circumcision among the Banjar people—it is essential to recognize that this custom is shaped by a complex interplay of social, cultural, economic, and political factors. The practice, particularly prevalent within the Banjar community, reflects deeply rooted beliefs and communal values that have been passed down across generations.¹² This historical and geographical context is crucial for understanding the deep-seated cultural practices that persist within the community.¹³ Based on this origin, the Banjar community can be broadly classified into two ethnic categories: (1) the Malay people, who predominantly reside in the Banjar region of South Kalimantan and adhere to Islam; and (2) the Dayak people, generally associated with the mountainous and inland areas.¹⁴ Despite these internal divisions, a shared Islamic identity and cultural practices, including *basunat*, bind the community.¹⁵

The tradition of female circumcision in Banjar society is a long-standing practice transmitted from generation to generation. It has evolved from a

¹¹ Valentina Shanty, Adwani Adwani, and Azhari Yahya, "Indigenous Sanction of Expulsion in Central Aceh District (Human Rights Perspective)," *Al-Ihkam: Jurnal Hukum & Pranata Sosial* 13, no. 2 (December 31, 2018): 254–72, <https://doi.org/10.19105/al-lhkam.v13i2.1828>.

¹² Pratiwi Puji Lestari et al., "The Tradition of 'Basunat' (Genital Circumcision) in Female Children and Its Implication on Reproductive Health," *Journal of Health Promotion and Behavior* 10, no. 3 (July 16, 2025): 295–304, <https://doi.org/10.26911/thejhp.2025.10.03.04>.

¹³ Gusti Muzainah, *Asas Kemanfaatan tentang Kedudukan Perempuan dalam Hukum Waris Adat Masyarakat Banjar* (Yogyakarta: PT LKiS Printing Cemerlang, 2016), 163.

¹⁴ Alfani Daud Madrah, *Islam dan Masyarakat Banjar: Deskripsi dan Analisa Kebudayaan Banjar* (Jakarta: PT RajaGrafindo Persada, 1977), 54.

¹⁵ Fajri M. Kasim and Abidin Nurdin, "Study of Sociological Law on Conflict Resolution Through Adat in Aceh Community According to Islamic Law," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 4, no. 2 (December 28, 2020): 375–97, <https://doi.org/10.22373/sjhkv4i2.8231>.

cultural norm into a recognized component of *adat*, or customary law.¹⁶ Within this framework, parents often feel a sense of incompleteness or unfulfilled duty if they have not arranged for their daughters to undergo circumcision. The procedure is typically performed before the child turns one year old.¹⁷

One key informant in this study, a midwife referred to as Bidan Apr, who practices at the Sungai Andai Public Health Center in Banjarmasin, reports having performed female circumcision over one hundred times. The ritual begins with bathing the infant girl, followed by a *tapung tawar* ceremony—a blessing ritual conducted by the most senior family member. A *piduduk* is also prepared: a basin filled with symbolic offerings such as rice, palm sugar, a whole coconut, various spices, sewing needles, and thread. In Banjar tradition, the *piduduk* is treated as a symbolic dowry, a form of payment, or a bartering item. While money may now be used in modern practice, the preparation of a *piduduk* remains culturally significant. Upon completion of the circumcision, the *piduduk* is presented to the midwife as customary compensation.¹⁸

Crucially, female circumcision in Banjar society does not involve cutting the clitoris or any other genital tissue. Instead, it is a purely symbolic cleansing performed using sterile gauze. During the process, the midwife ensures that the child has a vaginal opening, as there have been rare cases where this was absent. However, this is distinct from any cutting procedure. After the *basunat*, a *doa selamat* (prayer for well-being) is recited, and the used gauze is then ritually buried by the child's family, marking the closure of the ceremony.¹⁹ It aligns with findings from other studies across Indonesia, which often highlight the symbolic nature of female circumcision practices, such as those discussed by Octavia,²⁰ who frames female circumcision as a deeply entrenched tradition and a marker

¹⁶ Mustafid Mustafid et al., "Alternative Legal Strategies and Ninik Mamak Authority: Dual Administration of Malay Marriage in Koto Kampar Hulu, Riau," *Journal of Islamic Law* 5, no. 1 (January 29, 2024): 1–18, <https://doi.org/10.24260/jil.v5i1.1972>.

¹⁷ Muhammad Mutawali, "The Dialectics of Customary Law and Islamic Law: An Experience from Dou Donggo Customs of Bima, Indonesia," *Ahkam: Jurnal Ilmu Syariah* 21, no. 1 (June 30, 2021), <https://doi.org/10.15408/ajis.v21i1.19825>.

¹⁸ Salma Salma, "Tradisi Sunat Perempuan di Lampasi Tigo Nagari," *Al-Manahij: Jurnal Kajian Hukum Islam* 10, no. 1 (February 22, 2017): 155–67, <https://doi.org/10.24090/mnh.v10i1.923>.

¹⁹ Faisal Husen Ismail et al., "Customary and Islamic Practices in Inheritance Distribution: Insights from The Gampong Customary Court in Pidie," *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 24, no. 2 (December 30, 2024): 1–16, <https://doi.org/10.30631/alrisalah.v24i2.1544>.

²⁰ Octavia, "Circumcision and Muslim Women's Identity in Indonesia," 419–57

of Islamic identity for Muslim women in Indonesia, deserving of respect and adherence despite external criticisms.²¹

The non-invasive nature of Banjar *basunat* stands in stark contrast to the classifications outlined by the World Health Organization (WHO), which defines six forms of female genital cutting, including partial or total removal of the clitoris or labia, and narrowing of the vaginal opening.²² None of these actions is present in the Banjar practice, which involves no cutting or surgical alteration—only symbolic cleansing. This critical distinction is central to arguing that the Banjar female circumcision does not constitute Female Genital Mutilation (FGM). The continued use of the term *khitān* for both male and female practices in Indonesia may, however, contribute to misperceptions regarding the female practice, despite its fundamentally different nature. As noted by Lingga and Najib in their analysis of Indonesian regulations on female circumcision, the national regulatory framework often falls short in providing comprehensive protection for women, partly due to the nuanced interpretations of the practice that are not always captured by blanket prohibitions.²³

In Banjar society, as in many Indonesian Muslim communities, tradition is often interpreted in tandem with Islamic law, reflecting a dynamic process of acculturation between Islam and local culture.²⁴ Before performing *basunat*, families typically consult *‘ulamā* (religious scholars), who consistently affirm the permissibility of the practice.²⁵ It suggests a strong local perception that Banjar

²¹ Ali Hamzah, Yasni Efyanti, and Mhd. Rasidin, "Pelaksanaan Adat Margondang pada Pesta Pernikahan: Pergumulan antara Nilai Luhur Budaya dan Tuntutan Praktis/The Implementation of Margondang Customs at Weddings: The Struggle between Cultural Noble Values and Practical Demands," *De Jure: Jurnal Hukum dan Syar'iah* 12, no. 2 (December 31, 2020): 191–200, <https://doi.org/10.18860/j-fsh.v12i2.9864>.

²² World Health Organization, *Female Genital Mutilation: Understanding the Issues* (Geneva: WHO, 2014), 14.

²³ Geofani Lingga and Shihaf Ismi Salman Najib, "The Female Genital Mutilation Regulations in Indonesia: The International Law, Human Rights, and Islamic Law Perspectives," *Uti Possidetis: Journal of International Law* 6, no. 1 (March 2, 2025): 123–66, <https://doi.org/10.22437/up.v6i1.40503>.

²⁴ Maimanah Angkat and Katimin Katimin, "Acculturation Between Islam with Local Culture in Muslim Minority: The Experience from Pakpak-Dairi, North Sumatra," *Ibda': Jurnal Kajian Islam dan Budaya* 19, no. 1 (February 19, 2021): 120–40, <https://doi.org/10.24090/ibda.v19i1.4119>; Mohamad Toha Umar, "Islam dalam Budaya Jawa Perspektif al-Qur'an," *Ibda': Jurnal Kajian Islam dan Budaya* 18, no. 1 (April 29, 2020): 68–86, <https://doi.org/10.24090/ibda.v18i1.3473>.

²⁵ Salma Salma and Syahril Syahril, "Marlojong Sebelum Perkawinan: Kiat Adat Menghadapi Wali 'Adal di Ranah Batahan, Pasaman Barat," *Al-Ahkam* 29, no. 1 (May 8, 2019): 45–66, <https://doi.org/10.21580/ahkam.2019.29.1.3256>.

basunat does not conflict with Islamic teachings when interpreted in light of local customs and traditions.²⁶

This view is strongly reinforced by the 2008 fatwā issued by the Indonesian Ulema Council (MUI) regarding female circumcision.²⁷ The fatwā emphasizes that circumcision is an integral part of *fiṭra* (natural disposition) and a religious practice for both men and women. It classifies female circumcision as *makrūma* (honor and dignity), a commendable and recommended act within Islamic teachings. Furthermore, the fatwā explicitly rejects a total prohibition on the practice, arguing that such a ban contradicts Islamic law since circumcision functions as a religious symbol for both genders.²⁸ At the same time, it provides clear ethical and procedural limits: the practice must not involve any form of mutilation or harm. Instead, it should be confined to the minimal and symbolic removal of the thin membrane (*jalda*, clitoris, or *praeputium*) that covers the clitoris. This nuanced position underscores the MUI's attempt to preserve religious symbolism while preventing physical injury or abuse.²⁹

Accordingly, the manner in which female circumcision is performed in Banjar society aligns perfectly with the guidelines outlined in the MUI fatwā, particularly its emphasis on non-invasive, symbolic action. It is understood as an act of purification that bestows *makrūma* upon the circumcised girl. This practice is consistently carried out by trained midwives using hygienic methods. It is fundamentally distinct from male circumcision, even though the term *khitān* is shared.³⁰ The local interpretation and acceptance of this practice resonate with the findings of Hartono and Febriani, who examine how Islamic law in Indonesia, through fatwā analysis and ulama opinions, often accommodates

²⁶ Nor Ipansyah et al., "Determination of Sekufu in the Kitabun Nikah al-Banjari," *Syariah: Jurnal Hukum dan Pemikiran* 21, no. 1 (2021), <https://doi.org/10.18592/sjhp.v21i1.6835>.

²⁷ MUI Fatwa No. 9 of 2008 concerning the Law Prohibiting Female Circumcision, 4.

²⁸ Ismail Ismail and Nofiardi Nofiardi, "Shifting Inheritance Patterns in the Minangkabau Tribe in Negeri Sembilan, Malaysia," *El-Usrah: Jurnal Hukum Keluarga* 7, no. 1 (June 30, 2024): 294–309, <https://doi.org/10.22373/ujhk.v7i1.23998>.

²⁹ Abd. Manaf et al., "The Tarjih Method of Imām Nawāwi in Resolving Differences of Opinion in the Shāfi'i School of Thought," *Al-Adalah* 21, no. 2 (December 26, 2024): 299, <https://doi.org/10.24042/adalah.v21i2.23333>.

³⁰ Abdul Khair et al., "The Role of Traditional Mantir in Resolving Muslim Dayak Household Disputes in the East Kotawaringin Regency," *Nurani: Jurnal Kajian Syari'ah dan Masyarakat* 25, no. 1 (June 30, 2025): 294–306, <https://doi.org/10.19109/nurani.v25i1.26126>.

female circumcision as long as it adheres to specific non-harmful criteria.³¹ Moreover, similar to the discussion by Manan and their colleague on Aceh, the Banjar community's perspectives highlight how religious views often prioritize the symbolic and purification aspects over any perceived harm, fostering a nuanced interplay between religious beliefs, health considerations, and human rights discourse at the local level.³² While some studies, such as on Madurese, explore the construction of female sexuality through circumcision, the Banjar case, due to its non-invasive nature, shifts the focus from physical alteration and sexuality to symbolic purification and religious identity.³³ The continuity of this tradition, much like the *Manāqib Shaykh 'Abd al-Qādir al-Jaylānī* discussed by Yahya, demonstrates the enduring integration of religious traditions within local cultural frameworks.³⁴

A Religious Perspective: Reconciling *Basunat* with Islamic Sharia

The concepts of tradition (*ʿādat*) and customary practice (*ʿurf*) are central to understanding the legal and social legitimacy of female circumcision in Banjar society. While both terms reflect communal practices, they differ subtly in their jurisprudential origins and interpretations. Scholars of *uṣūl al-fiqh* have examined and distinguished between the concepts of *ʿādat* and *ʿurf*, particularly regarding their roles as foundational sources in the formulation of Sharia rulings. The term *ʿādat* is generally understood as a pattern of behavior that occurs repeatedly without any rational or causal necessity; in other words, it focuses solely on the repetition of an act rather than its moral or ethical value. In

³¹ Rudi Hartono and Wulan Febriani, "Interpretation of Islamic Law Regarding Female Circumcision in Indonesia: Fatwa Analysis and Ulama Opinions," *Indonesian Journal of Islamic Law* 3, no. 2 (December 26, 2020): 74–90, <https://doi.org/10.35719/ijil.v3i2.2037>.

³² Abdul Manan et al., "Religion, Health, and Human Rights Views on Female Circumcision: To Extensively Forbid or Incontestably Acquiesce?," *Mankind Quarterly* 64, no. 3 (2024): 533–49, <https://doi.org/10.46469/mq.2024.64.3.10>.

³³ Rachmah Ida and Muhammad Saud, "Female Circumcision and the Construction of Female Sexuality: A Study on Madurese in Indonesia," *Sexuality & Culture* 24, no. 6 (December 27, 2020): 1987–2006, <https://doi.org/10.1007/s12119-020-09732-6>.

³⁴ Slamet Yahya, "Tradisi Manaqib Syekh Abdul Qodir al-Jailani di Mushalla Raudlatut Thalibin Kembaran Kebumen," *Ibda': Jurnal Kajian Islam dan Budaya* 18, no. 1 (April 28, 2020): 15–30, <https://doi.org/10.24090/ibd.v18i1.3505>.

contrast, *urf* refers to the prevailing customs and practices of the majority within a community, encompassing both verbal expressions and actions.³⁵

From the perspective of classical Islamic jurists (*fuqahā*), *urf* refers to a set of customs widely practiced by a community, shaped by its creativity and cultural values. The moral quality of such customs—whether deemed good or bad—is considered secondary, as long as they are collectively accepted and do not contradict primary Islamic sources, thereby qualifying them as *urf*. *Urf* refers to a recurring phenomenon within society that is not founded upon rational necessity. According to al-Zuhaylī,³⁶ *urf* denotes a customary practice shared among a group of people, whether in the form of actions (*ʿamālī*) or expressions (*qawlī*), which carry specific social meanings. Similarly, Khallāf defines *urf* as what is known and commonly practiced among members of a community, encompassing speech, actions, or even habitual omissions.³⁷ From these various definitions, *urf* can be understood as comprising several elements: (a) it constitutes a habitual practice, (b) it is recognized and observed by the community, (c) it manifests through actions or utterances, and (d) it is not derived from rational necessity but rather from social habituation (*ʿādat*). Although some scholars differentiate between *urf* and *ʿādat*, the majority of Islamic jurists view them as substantively synonymous. This jurisprudential flexibility is particularly relevant in navigating contemporary debates surrounding traditional practices.³⁸

In Islamic legal theory, *urf* (custom) is generally divided into two main categories that determine its validity within the framework of Sharia. The first is *urf fāsīd*, or invalid custom, which refers to a customary practice that contradicts the scriptural evidence and the fundamental principles of Islamic law.³⁹ An example can be observed in commercial practices that permit *ribā* (usury), such as monetary loans among traders in which the borrower is required to repay an

³⁵ Ismail Ismail et al., “The Contribution of *Urf* to the Reform of Islamic Inheritance Law in Indonesia,” *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 22, no. 2 (December 28, 2022): 165–78, <https://doi.org/10.30631/alrisalah.v22i2.1243>.

³⁶ Wahbah Al-Zuhaylī, *Uṣūl al-Fiqh al-Islāmī* (Beirut: Dār al-Fikr, 1986), 828.

³⁷ ʿAbd al-Wahhāb Khallāf, *ʿIlm Uṣūl al-Fiqh* (Kairo: Maktabah al-Daʿwah al-Islāmiyah Shabab al-Azhar, 1978), 89.

³⁸ Al-Zuhaylī, *Uṣūl al-Fiqh al-Islāmī*, 828.

³⁹ Fitri Al Kadumi, Nadiyah Seff, and Abdul Hakim, “The Reconstruction of Islamic Family Law in Indonesia: A Normative-Comparative Analysis of Gender Justice and Legal Modernity,” *ASEAN Journal of Islamic Studies and Civilization (AJISC)* 1, no. 1 (2024): 1–19, <https://doi.org/10.62976/ajisc.v1i1.1404>.

additional 10 percent beyond the principal amount borrowed. The second category is *'urf ṣaḥīḥ*, which refers to a customary practice prevailing within a community that neither contradicts the texts, nullifies public benefit (*maṣlaḥa*), nor causes harm (*mafsada*). A typical example is the engagement tradition, where a man offers gifts to a woman, and such gifts are not considered as *ṣadāq* (bridal dower).⁴⁰ Within Islamic jurisprudence, this type of *'urf* can even serve as a supplementary legal source, reflecting the dynamic interaction between divine law and evolving social realities.

The practice of female circumcision among the Banjar community may be unequivocally categorized as *'urf ṣaḥīḥ*—a valid customary norm. This classification is primarily because the ritual performed on girls in this community does not involve any cutting or mutilation of the clitoris or other genital tissue. Instead, it consists of a purely symbolic purification using sterile gauze, fundamentally distinguishing it from male circumcision in both method and implication. It aligns with broader discussions on female circumcision in Indonesia, where many practices are characterized by their symbolic rather than invasive nature, as observed by Feillard and Marcoes, who highlight how female circumcision in Indonesia often serves to "Islamize" individuals through ceremonial rather than physically altering acts.⁴¹

Views among classical Islamic scholars regarding female circumcision vary. Al-Shāfi'ī and the majority of his followers are among the *'ulamā'* who are more selective in using *ḥadīth* to establish the *ḥukm* regarding female circumcision.⁴² They believe that circumcision for women carries a *wājib* legal status, equal to that of male circumcision. Al-Nawawī emphasized that this is a *ṣaḥīḥ* and well-known opinion established by al-Shāfi'ī. This view is based on the *ḥadīth* of al-Ḥajjāj and on legal reasoning that allows exposing the *'awra* only for circumcision and forbids cutting any part of the body except for an obligatory purpose. In contrast, the *'ulamā'* from the Ḥanafī, Ḥanbalī, and Mālikī schools are more lenient in applying *ḥadīth* to determine the law on female circumcision. Abū Ḥanīfa holds that female circumcision is merely considered a virtuous act

⁴⁰ Sulfan Wandī Sulfan Wandī, "Eksistensi 'Urf dan Adat Kebiasaan sebagai Dalil Fiqh," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 2, no. 1 (May 5, 2018): 181, <https://doi.org/10.22373/sjhk.v2i1.3111>.

⁴¹ Andrée Feillard and Lies Marcoes, "Female Circumcision in Indonesia : To 'Islamize' in Ceremony or Secrecy," *Archipel* 56, no. 1 (1998): 337–67, <https://doi.org/10.3406/arch.1998.3495>.

⁴² Nadiyah Seff et al., "Islamic Family Law and Women's Rights in Indonesia: Between Normativity, Reform, and Social Realities," *ASEAN Journal of Islamic Studies and Civilization (AJISC)* 2, no. 2 (2025): 237–256, <https://doi.org/10.62976/ajisc.v2i2.1430>.

(*makrūma*). Based on this perspective, followers of the Ḥanafī school have issued *fatwā* stating that a woman cannot be forced to undergo circumcision. Some scholars even prohibit the practice altogether, viewing its harmful effects as greater than its benefits.⁴³ These varying jurisprudential positions underscore the absence of a singular, universally agreed-upon Islamic ruling that mandates harmful forms of female circumcision.

The permissibility of Banjar *basunat* within Islamic jurisprudence is further strengthened when viewed through the lens of *maqāṣid al-sharīʿa*, or the higher objectives of Islamic law. These objectives—which include the preservation of religion (*ḥifẓ al-dīn*), life (*ḥifẓ al-naḥs*), intellect (*ḥifẓ al-ʿaql*), lineage (*ḥifẓ al-nasl*), and property (*ḥifẓ al-māl*)—serve as overarching principles guiding all Islamic legal rulings. Practices that contradict these fundamental objectives, especially the preservation of life and dignity, are inherently considered *ḥarm* (forbidden). Since Banjar *basunat* is a non-invasive, symbolic ritual that demonstrably causes no physical harm or psychological trauma, it fully aligns with the *maqāṣid* by upholding religious identity and communal well-being without infringing upon bodily integrity. It contrasts sharply with practices globally condemned as FGM, which clearly violate the objective of preserving life and health.

Indeed, contemporary Islamic legal thought in Indonesia often emphasizes a flexible and contextual approach to *fiqh*, moving away from rigid interpretations of the law. As evidenced by the nuanced *fatwā* of the Indonesian Ulema Council (MUI) on female circumcision and analyses by scholars like Hartono and Febriani, as well as Mundzir and Muthmainnah on Muhammadiyah's position, there is a clear trend towards accommodating traditional practices only when they are free from harm.⁴⁴ The Banjar practice, therefore, represents a localized interpretation of Islamic teaching that prioritizes symbolic adherence and cultural continuity within the boundaries of *maqāṣid al-sharīʿa* and *ʿurf ṣaḥīḥ*. This perspective is also supported by studies such as Sariyah et al. and Rambe & Iwan, which implicitly or explicitly argue for interpretations that ensure the welfare and dignity of women, making Banjar

⁴³ Ibnu Amin and Lendrawati Lendrawati, "Female Circumcision on a Medical Perspective and Islamic Law," *Analysis: Jurnal Studi Keislaman* 22, no. 2 (December 28, 2022): 153–78, <https://doi.org/10.24042/ajskv22i2.13643>.

⁴⁴ Hartono and Febriani, "Interpretation of Islamic Law Regarding Female Circumcision in Indonesia: Fatwa Analysis and Ulama Opinions"; Ilham Mundzir and Yulianti Muthmainnah, "The Progressiveness of Quranic Interpretation in the Fatwa of Muhammadiyah on Female Circumcision," *Indonesian Journal of Islam and Muslim Societies* 12, no. 2 (December 17, 2022): 285–311, <https://doi.org/10.18326/ijims.v12i2.285-311>.

basunat a prime example of a culturally embedded, religiously permissible ritual that coexists harmoniously with the ethical demands of Islamic law.⁴⁵

Moreover, studies on female circumcision from a *fiqh* perspective in Indonesia consistently underscore the permissibility of the practice when it is performed without harm or excessive cutting, mirroring the Banjar tradition.⁴⁶ These scholarly interpretations often distinguish between ritualistic, symbolic acts and harmful mutilation, arguing that the former is congruent with Islamic teachings focused on purity and piety. This nuanced understanding highlights a prevailing consensus among Indonesian *'ulamā'* and legal scholars that female circumcision, as long as it adheres to non-invasive methods and upholds the dignity of the individual, remains a permissible and even commendable act within the broader framework of Islamic law and local custom.⁴⁷ Thus, the Banjar practice of *basunat* stands as a compelling case where cultural heritage, religious adherence, and individual well-being converge harmoniously under a contextual reading of Islamic Sharia.

Global Context: The Spectrum of Female Circumcision in Other Muslim Societies

The tradition of female circumcision, while deeply embedded in Banjar culture, has undeniably come under significant scrutiny in the modern era, particularly with the global ascendancy of human rights discourse. It heightens awareness, compelling a critical examination of such practices from the perspective of girls' rights and well-being. From a human rights perspective, the issue of consent is a primary ethical concern. Since female circumcision is almost invariably performed on very young girls who are incapable of providing informed consent for a procedure, even one involving a symbolic touch on the

⁴⁵ Nurun Sariyah et al., "Female Genital Mutilation/Cutting (FGM/C) for The Harmony of Sexual Relationship by Islamic Law Perspective," *Tribakti: Jurnal Pemikiran Keislaman* 34, no. 1 (January 31, 2023): 33–46, <https://doi.org/10.33367/tribakti.v34i1.3208>; Sahri Rambe and Iwan, "Balancing Tradition and Public Health: The Al-Shafi'i Perspective on Female Circumcision in Light of PP No. 28/2024 and MUI Fatwa No. 9a/2008," *Al-Risalah Jurnal Ilmu Syariah dan Hukum* 24, no. 1 (November 24, 2024): 209–23, <https://doi.org/10.24252/al-risalah.vi.52545>.

⁴⁶ Afifi Fauzi Abbas and Mona Eliza, "Sunat Perempuan dalam Perspektif Fikih," *Fuaduna: Jurnal Kajian Keagamaan dan Kemasyarakatan* 2, no. 1 (August 22, 2019): 10, <https://doi.org/10.30983/fuaduna.v2i1.2022>; Mira Susilawati, Azhar Pagala, and Nur Syamsi, "Pandangan Ulama Kota Samarinda terhadap Khitan bagi Perempuan dalam Perspektif Hukum Islam," *Mitsaq: Islamic Family Law Journal* 1, no. 1 (2023): 71–80, <https://doi.org/10.21093/jm.v1i1.5871>.

⁴⁷ Rinna Nuranisa and Sholahuddin, "Female Circumcision According to Hadith," in *Gunung Djati Conference Series* 4, 2021, 678–91.

clitoral prepuce, it raises serious questions regarding the violation of a child's fundamental right to bodily autonomy and integrity.⁴⁸ This fundamental right, crucial for individual self-determination, is often considered non-derogable, particularly for vulnerable populations such as children.

Furthermore, internationally recognized forms of female genital mutilation (FGM) or cutting (FGC) are associated with significant health risks. These practices, which involve partial or total removal of the clitoris or labia, or narrowing of the vaginal opening, are often performed outside sterile and controlled medical environments.⁴⁹ It substantially increases the potential for immediate complications such as intense pain, severe bleeding, wound infection, septicemia, urinary retention, and shock, potentially even leading to death. Long-term issues can include chronic pelvic pain, obstetric complications (e.g., prolonged labor, higher rates of cesarean delivery, episiotomies, perineal tears), urinary tract infections (UTIs), dyspareunia, sexual dysfunction, and higher risks of maternal and neonatal morbidity.⁵⁰ Systematic reviews, including those highlighted by Lavazzo et al., and Zambon, have consistently linked FGC, particularly Type III, to elevated risks of urological and genitourinary infections, including HIV. These extensive medical and epidemiological findings form the basis for global condemnation of FGM/C, which is widely recognized as a harmful practice and a violation of human rights.⁵¹

In efforts to achieve equality and well-being for all members of society, an open and reflective dialogue is necessary—one that genuinely engages both deeply held cultural values and universal human rights principles. Open dialogue fosters an environment that enables everyone to express themselves

⁴⁸ United Nations Children's Fund (UNICEF), *Female Genital Mutilation/Cutting: A Global Concern* (New York: UNICEF, 2016), 22.

⁴⁹ United Nations Children's Fund (UNICEF); Rigmor C. Berg and Eva Denison, "A Tradition in Transition: Factors Perpetuating and Hindering the Continuance of Female Genital Mutilation/Cutting (FGM/C) Summarized in a Systematic Review," *Health Care for Women International* 34, no. 10 (October 2013): 837–59, <https://doi.org/10.1080/07399332.2012.721417>.

⁵⁰ World Health Organization, *Eliminating Female Genital Mutilation: An Interagency Statement* (Geneva: WHO, 2008); World Health Organization, *Female Genital Mutilation: Understanding the Issues*, 30.

⁵¹ Christos Iavazzo, Thalia A. Sardi, and Ioannis D. Gkegkes, "Female Genital Mutilation and Infections: A Systematic Review of the Clinical Evidence," *Archives of Gynecology and Obstetrics* 287, no. 6 (June 12, 2013): 1137–49, <https://doi.org/10.1007/s00404-012-2708-5>; Joao Paulo Zambon et al., "Urological Complications in Women with Genital Mutilation," *Clinical and Medical Reports* 1, no. 3 (2018), <https://doi.org/10.15761/CMR.1000116>.

freely, promotes mutual respect and equality, supports individual autonomy, and encourages awareness and action in addressing power imbalances.⁵²

In Indonesia, the advancement of human rights is recognized as a national development priority, as affirmed by the 1999–2004 National Guidelines for Development. These guidelines explicitly state that a key mission is to advance both human rights and the rule of law. Consequently, the legal system is mandated to be structured in a way that upholds justice, truth, and human rights principles. According to Article 8 of Law No. 39/1999 on Human Rights, the obligation to protect, promote, enforce, and realize human rights is shared by both the government and society. While Indonesia has ratified pivotal international conventions such as the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination Against Women, the full and effective implementation of these commitments remains hampered by limited collective understanding and commitment. It creates a complex policy landscape, as observed by Gustina and Nareswari, who highlight the intersectional impacts and shortcomings of anti-FGM/C policies in Indonesia.⁵³

In light of these dynamics, efficient legal mechanisms are essential to protect vulnerable groups, especially children. Although not explicitly defined by specific legislation regarding female circumcision, Article 5(3) of Law No. 39/1999 mandates special protections for vulnerable populations—including children, the elderly, pregnant women, the poor, and persons with disabilities—affirming children's universally recognized entitlement to their rights. Children's rights are indispensable and encompass the right to balanced growth and comprehensive protection from harm. Protecting children, therefore, requires creating conditions in which their rights and obligations can be respected, reflecting social justice within families and the broader society. Legal frameworks aim not only to regulate social life but also to nurture compassion and care in future generations. Advancing the rights of the child must be guided by principles of non-discrimination, the best interests of the child, survival and development, and respect for the child's views—all essential for forming a robust national character and ensuring intergenerational well-being.

⁵² Sebastian von Peter et al., "Open Dialogue as a Human Rights-Aligned Approach," *Frontiers in Psychiatry* 10 (May 31, 2019), Hlm 1-6 <https://doi.org/10.3389/fpsy.2019.00387>.

⁵³ Nadiah A. Gustina and Laras A. Nareswari, "Intersectionality Analysis of the Impact of Anti-Female Genital Mutilation/Cutting Policies in Indonesia and Egypt," *Jurnal Politik* 9, no. 2 (August 25, 2023), Hlm 39-67, <https://doi.org/10.7454/jp.v9i2.1136>.

Policy Implications and Community Perceptions: Towards a Context-Sensitive Approach

Today, debates among jurists, medical professionals, and children's advocates reflect sharply diverging views: some argue that circumcision, in any form, violates children's human rights, while others assert it fulfills certain rights or cultural or religious obligations. This controversy primarily stems from diverse interpretations and actual practices of circumcision across regions.⁵⁴ The broad classifications of FGM/C by the WHO, while aiming to capture the spectrum of harmful practices, can inadvertently conflate purely symbolic rituals with severe mutilation, leading to mischaracterizations of practices like the Banjar *basunat*.

Crucially, in South Kalimantan's Banjar community, the local health center midwife "Bidan Apr," who has performed over 100 procedures on girls typically aged 10–12 months, consistently describes a non-violent, purely symbolic ritual. The ceremony begins with bathing and a *tapung tawar* blessing by elders, followed by the *basunat* using sterile gauze to cleanse gently—not cut or incise—the clitoral prepuce. A ritual *piduduk* offering concludes the process. It serves as a means of self-purification for the child upon entering adulthood, aiming to prevent various disturbances, including those caused by spirits and different illnesses. Historical accounts by Wilma Prafirtri et al. on Banjar culture also support this notion.⁵⁵ This Banjar ritual thus differs significantly from internationally recognized practices of female genital cutting that involve physical alteration. Here, *basunat* carries philosophical values centered on purity and cultural identity. Parents feel incomplete without it, viewing it as essential to protect their daughter's chastity and place within society, consistent

⁵⁴ Berg and Denison, "A Tradition in Transition: Factors Perpetuating and Hindering the Continuance of Female Genital Mutilation/Cutting (FGM/C) Summarized in a Systematic Review"; Rigmor C. Berg et al., "Effects of Female Genital Cutting on Physical Health Outcomes: A Systematic Review and Meta-Analysis," *BMJ Open* 4, no. 11 (November 21, 2014): e006316, <https://doi.org/10.1136/bmjopen-2014-006316>.

⁵⁵ Andre Prasetyo, Yusuf Hidayat, and Cucu Widaty, "Tradisi Bamandi Basunat pada Masyarakat Melayu Kutaringin di Kelurahan Raja Kecamatan Arut Selatan Kabupaten Kotawaringin Barat," *Jurnal Tugas Akhir Mahasiswa Pendidikan Sosiologi* 3, no. 2 (October 28, 2023): 257–58, <https://doi.org/10.20527/jtamps.v3i2.10672>; Wilma Prafirtri, Aris Setyoko, and Zamrud Whidas Pratama, "Navigating Indigenous Tradition and Modernity through Piduduk," *Digital Press Social Sciences and Humanities* 12 (August 6, 2025): 00011, <https://doi.org/10.29037/digitalpress.412477>.

with ethnographic findings by Newland on similar symbolic practices in West Java, and the symbolic significance of rituals like *piduduk*.⁵⁶

Piduduk, also known in the Banjar language as *pinduduk*, is a traditional dish made from raw ingredients such as rice, brown sugar, coconut, eggs, thread, and needles. It is typically placed beneath the stage during wedding receptions as a symbolic act to ensure the smooth running of the event. The *piduduk* tradition is an unwritten cultural practice transmitted orally from generation to generation among the Banjar people. As a hereditary legacy, this tradition continues to be observed by their descendants as a means of preserving the life values embodied in the purpose of marriage. Moreover, the *piduduk* tradition serves as an expression of respect toward their ancestors.

The critical distinction between the Banjar practice and internationally condemned FGM/C lies not only in the absence of physical cutting but also in the underlying intent and social function. FGM/C is widely understood as a form of gender-based violence that inflicts severe physical and psychological harm.⁵⁷ Banjar *basunat* primarily serves as a rite of passage, emphasizing purification, spiritual cleanliness, and the formal inclusion of the child into the Banjar-Islamic community. It is a cultural act of continuity, reinforcing community bonds and religious identity rather than subjugating women or controlling their sexuality. Ida and Saud, in their study on Madurese female circumcision, highlight how such practices can be linked to the social construction of female sexuality; however, the non-invasive nature of Banjar *basunat* suggests its primary function diverges significantly from controlling sexuality and leans towards affirming communal and religious belonging. This nuanced understanding of intent is vital for human rights analyses that aim to be contextually sensitive rather than imposing universal frameworks without differentiation.⁵⁸

World Health Organization (WHO) and other international health institutions strongly oppose the practice of female genital mutilation (FGM) due to its harmful consequences, including infections, childbirth complications, and

⁵⁶ Lynda Newland, "Female Circumcision: Muslim Identities and Zero Tolerance Policies in Rural West Java," *Women's Studies International Forum* 29, no. 4 (July 2006): 394–404, <https://doi.org/10.1016/j.wsif.2006.05.005>.

⁵⁷ Elliott P. Skinner, "Female Circumcision in Africa: The Dialectics of Equality," in *Dialectics and Gender* (Routledge, 2019), 195–210; Crista E. Johnson-Agbakwu et al., "Health Outcomes and Female Genital Mutilation/Cutting: How Much Is Due to the Cutting Itself?," *International Journal of Impotence Research* 35, no. 3 (May 4, 2023): 218–27, <https://doi.org/10.1038/s41443-022-00661-6>.

⁵⁸ Ida and Saud, "Female Circumcision and the Construction of Female Sexuality: A Study on Madurese in Indonesia," 24.

lifelong psychological trauma. From a legal perspective, the Child Protection Law explicitly prohibits all forms of violence against children, including FGM, as it violates girls' fundamental rights to live free from torture and inhumane treatment. Nevertheless, the implementation of this law in Indonesia faces considerable challenges, particularly due to the widespread social acceptance of the practice. In many communities, FGM is still perceived as a deeply rooted social and religious obligation, and efforts to abolish it often conflict with long-standing cultural values.⁵⁹ The nuances of local practices are often overlooked in international condemnation. For the Banjar community, this creates a dilemma, as a culturally and religiously significant practice is inconsistently classified alongside more severe forms of mutilation. Therefore, a comprehensive approach to community education on the risks of female circumcision and the promotion of safer alternatives is essential. Such an approach should be harmonized with religious, moral, and public health values to ensure both cultural sensitivity and effective implementation.⁶⁰

It is imperative to reiterate that the Banjar *basunat* does not fall into any of the WHO's defined categories of FGM/C (Type I-IV) because it involves no cutting, pricking, piercing, burning, or any other form of physical alteration or removal of tissue. The procedure is purely symbolic, involving only a gentle touch or cleansing with sterile gauze, as confirmed by Bidan Apr's testimony. Therefore, applying the condemnatory framework of FGM/C, which is based on documented physical harm, directly to the Banjar practice is a mischaracterization that fails to account for its distinct non-invasive nature and profound cultural meaning. While some religious arguments frame female circumcision as beneficial and culturally mandated, emphasizing health and morality.⁶¹ This perspective must be understood in direct dialogue with the documented medical risks of actual FGM/C practices and the universal principles of child rights. However, the critical distinction lies in the absence of physical harm in the Banjar context, rendering many international human rights concerns, particularly those related to bodily integrity and health risks, inapplicable to *basunat*.

⁵⁹ Fatmawati Dama, "Fenomena Female Genital Mutilation/Cutting (FGM/C): Benturan Tradisi, Agama dan Hukum Positif di Indonesia," *J-CEKI: Jurnal Cendekia Ilmiah* 4, no. 1 (2024): 948–59, <https://doi.org/10.56799/jceki.v4i1.6508>.

⁶⁰ Ilyas Zakaria et al., "Sunat Perempuan dalam Perspektif Islam dan Kesehatan," *Jurnal Kesehatan Tambusai* 6, no. 2 (June 19, 2025): 4733–39, <https://doi.org/10.31004/jkt.v6i2.38631>.

⁶¹ Sariyah et al., "Female Genital Mutilation/Cutting (FGM/C) for The Harmony of Sexual Relationship by Islamic Law Perspective," 33–46

Legal Dialectic between Customary Law, Islamic Sharia, and Human Rights

The practice of female circumcision within the Banjar community, as analyzed in this article, offers a quintessential example of a complex legal dialectic among customary law, Sharia, and international human rights frameworks. This synthesis draws on insights from diverse scholarly articles to explore how this deeply entrenched tradition can be evaluated and situated within contemporary legal discourse, transcending simplistic condemnations or unqualified endorsements.

Customary law is undeniably central to understanding the legitimacy and pervasive social function of female circumcision in Banjar society. Similar to the findings in Bahtiar et al.'s study on the Minangkabau people,⁶² the Banjar community reflects a profound syncretic relationship between religious doctrine and cultural tradition. In both societies, Islam is not merely superimposed on pre-existing traditions but becomes intricately interwoven with them, creating a normative system where the distinction between Islamic and customary becomes fluid and often indistinguishable. The Minangkabau adage '*adat basandi syarak, syarak basandi Kitabullah*' (customs based on Sharia, Sharia based on the Qur'an) resonates profoundly in the Banjar context, where female circumcision is practiced not only as a religious ritual but also as an *adat* obligation.⁶³ The communal rituals like *tapung tawar* and the preparation of *piduduk* further evidence this enduring cultural embeddedness⁶⁴ which symbolize spiritual cleansing and communal validation rather than any invasive act.⁶⁵

From a comparative cultural perspective across Indonesia, Angkat and Katimin's research on the Pakpak-Dairi community in North Sumatra⁶⁶ reveals

⁶² Ahmad Bahtiar et al., "Relationship Between Customs and Religion in Minangkabau Society Shown in The Works of Hamka," *Ibda': Jurnal Kajian Islam dan Budaya* 22, no. 2 (October 1, 2024): 193–212, <https://doi.org/10.24090/ibda.v22i2.12143>.

⁶³ Lingga and Najib, "The Female Genital Mutilation Regulations in Indonesia: The International Law, Human Rights, and Islamic Law Perspectives," 123–66.

⁶⁴ Rahmawati Rahmawati, Hallymah Thussadyah Maura Putri, and Anwar Hafidzi, "Tradisi Bapalas Bidan pada Masyarakat Suku Dayak Menurut Mazhab Syafi'i," *Islamika: Jurnal Ilmu-Ilmu Keislaman* 23, no. 1 (July 28, 2023): 73–84, <https://doi.org/10.32939/islamika.v23i1.2184>.

⁶⁵ Feillard and Marcoes, "Female Circumcision in Indonesia: To 'Islamize' in Ceremony or Secrecy," 337–67.

⁶⁶ Angkat and Katimin, "Acculturation Between Islam with Local Culture in Muslim Minority: The Experience from Pakpak-Dairi, North Sumatra," 120–140.

a pattern where Muslim communities, particularly minorities, often internalize Islamic values through existing cultural frameworks rather than in conflict with them. The Banjar case vividly demonstrates a similar pattern: the *khitān* tradition is seamlessly integrated into community life, imbued with symbolic meaning that resonates with both spiritual and social purity. It stands in contrast to the dynamic shifts observed by Moh Rosyid⁶⁷ in Kudus, Central Java, where modernization and increased public health education have prompted visible changes in *khitān* practices due to awareness of potential harms. The Banjar experience, by comparison, shows a remarkable continuity of tradition, albeit often adapted to modern hygienic procedures through the involvement of professional midwives. This comparison highlights the decisive role of local agency in either resisting or strategically embracing reformative narratives while preserving core cultural practices.⁶⁸

The religious dimension provides critical legitimacy for the practice. Slamet's analysis of the *manāqib* tradition in Central Java demonstrates how local practices are legitimized through religious frameworks and veneration of figures.⁶⁹ Similarly, Banjar *khitān* rituals derive their religious weight from consistent endorsements by local cleric and their alignment with nuanced *fatwās*, such as the one issued by MUI in 2008. This *fatwā* explicitly permits female circumcision as a *makrūma* provided it avoids mutilation or harm.⁷⁰ It provides a crucial religious justification that, when understood in the context of the Banjar's non-invasive symbolic practice, does not directly contradict international human rights norms regarding physical integrity. The prevailing view among many Indonesian *‘ulamā*, particularly within the Shāfi‘ī school, which is dominant in Banjar, affirms the practice so long as it causes no harm.⁷¹ It shows a concerted effort to balance religious piety with welfare principles.

However, the intersection with human rights frameworks presents a complex challenge. While Indonesia has ratified international conventions like

⁶⁷ Rosyid, "Pergeseran Tradisi Khitan Anak Perempuan di Kudus Jawa Tengah," 104-117.

⁶⁸ Nadiah Atsil Gustina and Laras Ayu Nareswari, "Intersectionality Analysis of the Impact of Anti-Female Genital Mutilation/Cutting Policies in Indonesia and Egypt," *Jurnal Politik* 9, no. 2 (August 25, 2023): 59, <https://doi.org/10.7454/jp.v9i2.1136>.

⁶⁹ Yahya, "Tradisi Manaqib Syekh Abdul Qodir al-Jailani di Mushalla Raudlatut Thalibin Kembaran Kebumen," 15-30.

⁷⁰ Mundzir and Muthmainnah, "The Progressiveness of Quranic Interpretation in the Fatwa of Muhammadiyah on Female Circumcision," 288.

⁷¹ Hartono and Febriani, "Interpretation of Islamic Law Regarding Female Circumcision in Indonesia: Fatwa Analysis and Ulama Opinions," 74-90.

CEDAW and the CRC, which mandate protection against harmful traditional practices, the implementation on the ground remains ambiguous. As meticulously analyzed, Indonesian national law has often failed to provide a consistent framework for either prohibiting or comprehensively regulating female circumcision. The revocation of the Ministry of Health's earlier regulation (Permenkes No. 1636/MENKES/PER/XI/2010) created a discernible legal vacuum. In the Banjar context, this absence of explicit state prohibition has inadvertently allowed local norms and religious interpretations to fill the regulatory gap, thereby legitimizing the continued practice of female circumcision without being overtly challenged by formal legal strictures. This situation underscores the tension between universal human rights ideals and the complexities of legal pluralism within a diverse nation.⁷²

The very notion of circumcision for females, even when symbolic, raises the human rights concern of a child's capacity for informed consent and bodily autonomy. Octavia's work on female circumcision and Muslim women's identity in Indonesia reinforces the idea that *khitān* is often regarded as a significant marker of religious and ethnic identity.⁷³ For Banjar girls and their families, undergoing *khitān* is a form of spiritual and social affirmation. It signifies conformity to Islamic values and deeply held community expectations, reinforcing purity narratives and often implicitly gender roles. However, it is precisely this identity construction through a physical (albeit non-invasive) act on a child that can clash with rights-based frameworks that prioritize individual bodily integrity and the child's best interests above cultural or religious imperatives.⁷⁴ The challenge for human rights analysis here is to acknowledge the cultural significance without overlooking the inherent power imbalance in a child's inability to consent.

Furthermore, the global emphasis on FGM/C, while vital for combating harmful practices, creates a terminological and definitional dilemma for symbolic rituals like the Banjar *basunat*. The extensive medical and social consequences associated with internationally recognized FGM/C (Types I-IV) are well-documented. However, when a purely symbolic touch is conflated with these harmful forms, it risks alienating communities and fostering distrust

⁷² Lingga and Najib, "The Female Genital Mutilation Regulations in Indonesia: The International Law, Human Rights, and Islamic Law Perspectives," 123-66.

⁷³ Octavia, "Circumcision and Muslim Women's Identity in Indonesia," 419-57

⁷⁴ Ida and Saud, "Female Circumcision and the Construction of Female Sexuality: A Study on Madurese in Indonesia," 24.

towards human rights advocacy.⁷⁵ Abdul Manan et al.'s multi-perspective study in Aceh provides a proper triangulation, showing how religious leaders, medical professionals, and human rights advocates often diverge in their assessments of *khitān*.⁷⁶ Similarly, in the Banjar case, midwives like Bidan Apr act as crucial intermediaries, ensuring the practice conforms to both religious and local health standards. Yet, as with the Aceh study, this local harmonization does not eliminate the inherent tension between deeply rooted tradition and the evolving universal understanding of children's rights and bodily autonomy, especially when viewed from an external, blanket perspective.⁷⁷

In synthesizing these perspectives, the practice of female circumcision in Banjar society exists within a deeply contested legal and social space, shaped by the dynamism of *adat*, the interpretive flexibility of Islamic Sharia, and the evolving principles of human rights discourse. Drawing from comparative studies across Indonesia, it is evident that while female circumcision may be culturally embedded and religiously endorsed (especially when non-invasive), it still warrants careful ethical and legal scrutiny. It is particularly true in light of children's inherent rights and the imperative for gender equality norms to be fully realized.

Any effective legal resolution must therefore consider the lived realities of the communities involved, moving beyond a one-size-fits-all approach. Rather than imposing blanket prohibitions that may foster resistance and secrecy, a culturally sensitive and dialogic approach is necessary.⁷⁸ Such an approach respects legitimate local traditions and religious interpretations, while simultaneously promoting awareness, genuine consent (where applicable), and strict adherence to the principles of non-harm. It involves engaging proactively with local religious authorities, traditional leaders, health practitioners, and community members to collaboratively develop an inclusive legal framework that effectively balances tradition with the demands of universal human rights. The objective should be to foster self-regulation and community-led adaptation

⁷⁵ Sara Johnsdotter and Lotta Wendel, "Cultural Change Demands Proportionate Societal Response in the Handling of Suspected FGM/C Cases," *International Journal of Impotence Research*, 2022, 216-217.

⁷⁶ Manan et al., "Religion, Health, and Human Rights Views on Female Circumcision: To Extensively Forbid or Incontestably Acquiesce?" 533-549.

⁷⁷ Johnsdotter and Wendel, "Cultural Change Demands Proportionate Societal Response in the Handling of Suspected FGM/C Cases," 216-217

⁷⁸ Feillard and Marcoes, "Female Circumcision in Indonesia: To 'Islamize' in Ceremony or Secrecy," 337-67

that aligns with international standards, without compromising cultural integrity.

In conclusion, while female circumcision among the Banjar may be framed as a religiously permissible and culturally significant act, a comprehensive legal synthesis must delicately balance this local legitimacy with the imperatives of modern legal systems: rigorous protection of vulnerable groups, especially children; precise adherence to non-harmful international human rights norms; and respectful recognition of cultural pluralism within Islamic thought. This synthesis underscores the crucial importance of integrating anthropological, religious, and legal perspectives when addressing culturally sensitive practices, such as female circumcision. It calls for stronger, context-sensitive legal frameworks, sustained public education, and robust intra-community dialogue to mediate between tradition and transformative human rights principles.

Conclusion

This research shows that the practice of female circumcision in Banjar culture is a symbolic ritual that does not fall under the category of Female Genital Mutilation (FGM) as classified by the WHO. It is performed hygienically by trained midwives without cutting genital tissue, thus causing no medical or psychological impacts. This practice serves as a symbol of self-purification, moral responsibility, and strengthening social and spiritual identity within the community. These findings confirm the existence of a localized legal consciousness capable of reconciling custom, Islamic law, and global human rights norms—a clear demonstration of contextual legal pluralism that cannot be assessed with a universalistic approach.

Based on these findings, practical recommendations include strengthening medical and ethical guidelines to ensure the baseline of practice maintains the principle of non-harm and to include reproductive health education for the community. Collaboration between midwives, religious leaders, and traditional institutions needs to be strengthened to ensure the sustainability of safe practices that align with the *maqāṣid al-sharīʿa*. Academically, further research is required on regulatory models based on local cultural contexts and Islamic law that can serve as alternative references for global anti-FGM policies. This research also opens up space for the development of a pluralistic legal framework that positions Banjar *basunat* as a valid practice according to Sharia, legitimate according to custom, and remains in line with international human rights principles.[a]

Author Contribution Statement

Gusti Muzainah: Conceptualization; Data Curation; Formal Analysis; Investigation; Methodology; Project Administration; Resources; Validation; Visualization; Writing Original Draft; Writing Review & Editing.

Firqah Annajiyah Mansyuroh: Data Curation; Funding Acquisition; Resources; Validation; Writing Review & Editing.

Rusdiyah Rusdiyah: Conceptualization; Funding Acquisition; Project Administration; Validation; Writing Review & Editing.

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