

1-4-1995

Islamic Law and the Issue of Male and Female Circumcision

Sami A. Aldeeb Abu-Sahlieh

Follow this and additional works at: <http://scholar.valpo.edu/twls>

Recommended Citation

Aldeeb Abu-Sahlieh, Sami A. (1995) "Islamic Law and the Issue of Male and Female Circumcision," *Third World Legal Studies*: Vol. 13, Article 4.

Available at: <http://scholar.valpo.edu/twls/vol13/iss1/4>

This Article is brought to you for free and open access by the Valparaíso University Law School at ValpoScholar. It has been accepted for inclusion in Third World Legal Studies by an authorized administrator of ValpoScholar. For more information, please contact a ValpoScholar staff member at scholar@valpo.edu.

ISLAMIC LAW AND THE ISSUE OF MALE AND FEMALE CIRCUMCISION

Sami A. Aldeeb Abu-Sahlieh*

Chapter I. Definitions and Erroneous Distinctions

I. Male and Female Circumcision

Female circumcision has triggered a passionate public debate in the West, with many national, non-governmental, and international organizations showing their concern. This debate has found somewhat of an echo in the Arab world. Feminist circles demand its abolition, while simultaneously the Muslim religious circles continue to justify female circumcision, only in the form called *sunnah*, which means *the one conforming to the tradition (sunnah) of Muhammad* (see chapter II, paragraph I). Unlike female circumcision, male circumcision does not really interest anyone. The debate on the topic is still taboo.

During the UN Seminar in Ouagadougou (Burkina Faso), the majority of participants agreed that the justifications for female circumcision "must be assimilated to superstition and denounced as such" since "neither the Bible, nor the Koran recommend that women be circumcised."¹ They recommended that male circumcision and female circumcision be dissociated; the former is a procedure for hygienic purposes, the latter, a serious form of assault on women's physical integrity.²

This reasoning is groundless and extremely dangerous. If one has to apply all that is said in the Bible and the Koran, we might end up legitimizing the application of many inappropriate norms such as the law of retaliation. And suppose that female circumcision was in the Bible or the Koran, would it be allowed no matter what?

*Staff Legal Advisor on Arab and Islamic Law, Swiss Institute of Comparative Law, Lausanne.

¹Report of the United Nations Seminar related to Traditional Practices affecting the Health of Women and Children, Ouagadougou, Burkina Faso, April 29-May 3, 1991, E/CN.4/Sub.2/1991/48, Jun.12, 1991, p. 9.

²*Ibid.*

Juridical logic cannot acknowledge the distinction between male and female circumcision whatever the underlying religious motivations; both concern the mutilation of healthy organs and the consequent damage of the physical integrity of the child.

II. Practice of Male and Female Circumcision

A. *Male Circumcision*

Male circumcision is practiced by all Muslims and Jews and also by some Christians (100% in Egypt, 60% in the USA).³ It is also practiced by animist tribes in Africa.

According to classical Muslim jurists, male circumcision involves the cutting of the foreskin, preferably the whole foreskin. If the man has two penises, some say that both should be circumcised, others say that only the one passing urine should be circumcised. If the child was born circumcised, some are of the opinion he should be left as such, while for others, the knife should be passed over the emplacement of the foreskin to fulfil the Commandment. If the circumcision is incomplete, it should be completed.⁴

B. *Female Circumcision*

There are many different kinds of female circumcision:

- The female circumcision called *sunnah* (according to the tradition of Muhammad): According to Al-Mawardi, "it is limited to cutting off the skin in the shape of a kernel located above the genitalia. One must cut the protruding epidermis without performing a complete ablation."⁵

³Concerning the United States, see Awakenings, A preliminary poll of circumcised men, NOHARM, San Francisco 1994, 3.

⁴Sukkari, ÔAbd-al-Salam ÔAbd-al-Rahim Al-: *Khitan al-dhakar wa-khifad al-untha min manzur islami*, Dar al-manar, Heliopolis, 1988, pp. 65-67. Some jurists believe that Mohammed was born circumcised. Others insist that he was circumcised on the seventh day.

⁵El-Masry, Youssef: *Le drame sexuel de la femme dans l'Orient arabe*, Laffont, Paris, 1962, pp. 46-47.

According to Doctor Hamid Al-Ghawabi, it is the ablation of the clitoris as well as labia minora.⁶

- Clitoridectomy or excision: This procedure consists of the ablation of the clitoris as well as labia minora. It is the operation of choice in Egypt.

- Infibulation or pharaonic circumcision. This is practiced in Sudan and Somalia and involves the complete ablation of clitoris, labia minora and part of labia majora. The two sides of the vulva are then sewn together with silk or catgut stitches (Sudan) or with thorns (Somalia) in order to close the vulva, except a very small opening for the passage of urine and menstrual flow. On the wedding night, the groom will have to open his bride, more often than not with a double-edged dagger. In some tribes, the woman is sewn back each time her husband goes travelling and is opened again each time he comes back. In case of divorce, the woman is sewn up to forbid any possibility of intercourse.

Female circumcision is neither practiced by all Muslims, nor by all Arabs. In fact, it seems arguable that most North African countries as well as Turkey and Iran ignore this custom. On the other hand, female circumcision is practiced among the Egyptian Christians and the Ethiopian Jews (Falachas)⁷ who have probably maintained the practice in Israel today, as do Africans living in France. It is estimated that Sudan (98%), Somalia (98%) and Egypt (75%) are among the largest Arabic countries practicing female circumcision. In Egypt, 97.5% of uneducated families impose circumcision upon their daughters compared to 66.2% of educated families.⁸ Other Arabic countries practice it too: Yemen, the United Emirates, Bahrain, Qatar, Oman, some areas of Saudi Arabia, and Mauritania. Female circumcision also occurs in some Muslim countries of Asia such as Indonesia, Malaysia, Pakistan and India, under the name of *sunnah* circumcision, and with a reference to religion. But precise data on the subject are not available. Of the 28 countries in Africa that appear to practice

⁶Ghawabi, Hamid Al-: *Khitan al-banat bayn al-tib wal-islam*, in Abd-al-Raziq, Abu-Bakr: *Al-Khitan, ra'y al-din wal-Ôilm fi khitan al-awlad wal-banat*, Dar al-iÔtissam, Cairo, 1989, p. 55.

⁷Leslau, Wolf: *Coutumes et croyances des Falachas (Juifs d'Abyssinie)*, Institut d'Ethnographie, Paris, 1957, p. 93.

⁸El-Saadawi, Nawal: *The hidden face of Eve, Women in the Arab World*, translated and edited by Sherif Hetata, Zed Press, London, 1980, p. 34.

circumcision, many of their participant communities are animist tribes. The practice seems to affect about 75 million women.⁹

Female circumcision must be carried out by one male or female surgeon of Muslim faith and devout appearance, knowledgeable of the teaching of Muhammad. The best medical means must be used to reduce pain. Female circumcision must be done by day to allow the physician to perform in full daylight, but also in full secrecy; only her mother or her tutor must be present, or the one who feels the most compassion for the girl.¹⁰ For Gad-al-Haq, female circumcision consists of "cutting the skin which is located above the urinary orifice without exaggeration and without rooting it out."¹¹

Whether what is described above as in compliance with *sunnah* remains theoretical. In fact, in practice it is clitoridectomy (performed in Egypt) or infibulation (performed in Sudan and Somalia).

Often, female circumcision is performed without anaesthesia in a barbaric manner, by persons without any medical training, such as barbers or midwives, using rudimentary instruments which cause complications sometimes leading to death. In Sudan, a study has brought to light that 64% of female circumcisions are done by the traditional matrons, 35% by midwives and 0.7% by physicians.¹²

C. Circumcision of the Hermaphrodite

Classical authors' opinions have differed regarding hermaphrodites, persons with both male and female genitalia. Some authors state that both must be circumcised, while others hold that only the organ passing urine should be cut because it implies rights of inheritance.¹³ Another group suggests that circumcision must be delayed until it is possible to tell which one of the two organs is predominant.

⁹Rapport sur les pratiques traditionnelles, Addis Abeba, 1990, p. 56; UNO, Economic and Social Council, E/CN.4/1986/42, Feb.4, 1986, p. 19.

¹⁰Sukkari: Khitan, op. cit., p. 86.

¹¹Gad-al-Haq, Gad-al-Haq ÔAli: Khitan al-banat, in Al-fatawi al-islamiyyah min dar al-ifta' al-masriyyah, Wazarat al-awqaf, Cairo, Vol. 9, 1983, p. 3121.

¹²Report on Traditional Practices, Addis Abeba, 1990, p. 64.

¹³According to Muslim law, a girl's share of an inheritance is half the size of her brother's. If a person is hermaphrodite, this person will inherit according to which sex can pass urine.

Cautiously, Al-Sukkari, a modern author, chooses the first opinion, meaning circumcision of both sexes, to minimize the chances of mistake.¹⁴

D. Age for male and Female Circumcision

Jurists are not unanimous regarding the age at which circumcision should be carried out. Different opinions are presented: at any time; at puberty; before 10 years of age; at about 7 years for the boy; on the seventh day (some take the day of birth into consideration, others not); especially not on the seventh day or before (to demarcate the Muslim custom from its Jewish counterpart). Al-Sukkari suggests the age of 7 to 10 years for the girls, to help them cope with the procedure.¹⁵

Jurists have asked themselves if males who died without circumcision should be circumcised. The majority reject such an idea because it affects the deceased's physical integrity (*hurmah*) and exhibits his private part (*Ôawrah*). Moreover, it is of no use to the deceased, because the goal of circumcision is to fulfil an act of worship and to be clean for prayer. Other jurists are of the opinion that circumcision of the deceased is necessary; his foreskin is placed in the shroud. They call on a narration by Muhammad, according to which one must do to the dead what is done to those getting married.¹⁶ The same controversy exists concerning uncircumcised Jews who die in Israel.

Chapter II. Religious Arguments

I. Religious Arguments in Favour of Circumcision

The Koran, the first source of Islamic law, mentions neither male nor female circumcision. An extensive interpretation of verse 2:124 shows some barely traceable indication of it:

¹⁴Sukkari: *Khitan*, op. cit., pp. 87-89.

¹⁵Ibid., pp. 86 and 90-95.

¹⁶Ibid., pp. 78-81.

When Abraham was put to the test by his Lord, through certain commandments, he carried them out. God then said: "I am appointing you a guide for the people."

As mentioned in some of the sayings of Muhammad, one of the commands given to Abraham, as a test, was circumcision. As Abraham is a model for the Muslim (Koran 16:123), Muslims must do what he did.¹⁷ Muslim authors quote also the Bible:

God told Abraham: "...Here is our alliance which shall be observed between me and you, *that is*, thy race after thee, may all your males be circumcised. You shall have the flesh of your foreskin cut off and it shall be a sign of alliance between me and you...When they reach their 8th day all your males shall be circumcised from generation to generation... The uncircumcised, the male whose foreskin has not been cut off, this very life shall be cut off. He violated my alliance"(Genesis 17:9-14).

It is relevant to note the rule of the Muslim law according to which norms that were revealed to the prophets prior to Muhammad are valid until unmistakably nullified. Thus the Bible, by a process of referral, becomes a source of law for the Muslims.

Contrary to the Koran, there are many sayings in the *sunnah* of Muhammad, the second source of Islamic law, relating to Male and Female circumcision. I will try here to glean them from the works of contemporary Arab authors.

- The most frequently cited narration reports a debate between Muhammad and Um Habibah (or Um ÔAtiyyah). This woman, known as a circumciser of female slaves, was one of a group of women who had immigrated with Muhammad. Having seen her, Muhammad asked her if she kept practicing her profession. She answered affirmatively adding: "unless it is forbidden and you order me to stop doing it." Muhammad replied: "Yes, it is allowed. Come closer so I can teach you: if you cut, do not overdo it (*la tanhaki*), because it brings more radiance to the face (*ashraq*) and it is more pleasant (*ahza*) for the

¹⁷Ibid., pp. 13-17 and 21-22.

husband."¹⁸ I shall hereinafter refer to this narration as *the circumciser's narration*.

- Muhammad said: "Circumcision is a *sunnah* for the men and *makrumah* for the women."¹⁹ The term *sunnah* here means that it is to conform to the tradition of Muhammad himself, or simply a custom at the time of Muhammad. The term *makrumah* is far from clear but it can be translated into a *meritorious action*., it is better to do it although it is not obligatory from a religious point of view.

- Muhammad said: "Let him who becomes a Muslim be circumcised, even if he is old."²⁰

- One asked Muhammad if an uncircumcised man could go to pilgrimage. He answered: "Not as long as he is not circumcised."²¹

- Muhammad said: "Five norms define *fitrah*: shaving of the pubis, circumcision, moustache trimming, armpit depilation and nail clipping."²² The norms of *fitrah* are believed to be those taught by God to His creation. The man in pursuit of perfection must conform to those norms. They are not compulsory, but simply advisable.²³

- Muhammad has stipulated: "If both circumcised parts (*khitanan*) meet or if they touch each other, it is necessary to wash before prayer."²⁴ From this, it may be deduced that men and women were circumcised in Muhammad's time.

The Shi'ites add a narration by Imam Al-Sadiq stating: "Female circumcision is a *makrumah*, and is there anything better than a *makrumah*?" They cite Al-Sadiq as the reporter of the *circumciser's narration*.²⁵

The supporters of circumcision (male or female) acknowledge that those narrations attributed to Muhammad offer little credibility.²⁶ Mahmud Shaltut states that they are neither clear nor authentic.²⁷

¹⁸Quoted by Gad-al-Haq: *Khitan al-banat*, op. cit., p. 3121 and by Sukkari, op. cit., pp. 83-84.

¹⁹Quoted by Sukkari: *Khitan*, op. cit., p. 59.

²⁰Quoted by Sukkari: *Khitan*, op. cit., p. 50.

²¹Quoted by Abd-al-Raziq, Abu-Bakr: *Al-Khitan*, op. cit., p. 71.

²²Quoted by Sukkari: *Khitan*, op. cit., p. 55.

²³Sukkari: *Khitan*, op. cit., pp. 55-56.

²⁴Quoted by Sukkari: *Khitan*, op. cit., p. 51.

²⁵Gamri, 'Abd-al-Amir Mansur Al-: *Al-mar'ah fi zil al-islam*, Dar al-hilal, Beirut, 4th edition, 1986, pp. 170-171.

²⁶Sukkari: *Khitan*, op. cit., pp. 103-107.

²⁷Shaltut, Mahmud: *Al-fatawi*, Dar al-shuruq, Cairo & Beirut, 10th edition, 1980, p. 331.

Sheikh Abbas, Rector of the Muslim Institute at the Mosque of Paris, is even more adamant:

If circumcision for the man (though not compulsory) has an aesthetic and hygienic purpose, there is no existing religious Islamic text of value to be considered in favour of female circumcision, as proven by the fact that this practice is totally non-existent in most of the Islamic countries. And if unfortunately some people keep practicing circumcision, to the great prejudice of women, it is probably due to customs practised prior to the conversion of these people to Islam.²⁸

II. Religious Arguments Against Circumcision

These arguments can be summed up as follows: Can one imagine a God who demands that his believers be mutilated and branded on their genitals the same as cattle? Doctor Nawal El-Saadawi, an Egyptian woman, herself circumcised, writes:

If religion comes from God, how can it order man to cut off an organ created by Him as long as that organ is not deceased or deformed? God does not create the organs of the body haphazardly without a plan. It is not possible that He should have created the clitoris in a woman's body only in order that it be cut off at an early stage in life. This is a contradiction into which neither true religion nor the Creator could possibly fall....²⁹

It is not difficult to find support for the above argument in the Koran itself. Indeed, verse 4:119 does not allow man to change God's creature:

[The devil said]: "I will mislead them, and I will create in them false desires; I will order them to slit the ears of cattles, and to deface the fair nature created by God."

²⁸Excerpt from a text read during an undated broadcast of Resistance and forwarded by the Muslim Institute of the Mosque of Paris to Mr. Edmond Kaiser, founder of Terre des Hommes.

²⁹El-Saadawi: *The hidden*, op. cit., p. 42.

This verse appears to condemn any change in God's creation. It is referred to by Islamists to oppose permanent birth control, be it by measures affecting the man or the woman.³⁰ Oddly, male and female circumcision supporters forget this verse completely. They also forget the following one: "He perfected everything He created" (32:7). Aziza Kamel, adversary of female circumcision, refers to this verse and adds: "Circumcision is a distortion of what God created because God is satisfied with His creation."³¹

The following narration can be added to these arguments. Muhammad had told some farmers not to pollinate their date trees. That very year, the trees did not bear any dates. Having returned to Muhammad for explanations, they were told: "You know your worldly business better [than I do]."³²

The last passage of the narration is quoted by Sheikh Hassan Ahmed Abu-Sabib from Sudan. Strengthened by this narration, he comes to the conclusion that female circumcision must be banned because medical science has proved it to be harmful. Then, he says, the Koran forbids man to harm himself by virtue of verse 2:195: "Do not throw yourselves with your own hands into disaster." Elsewhere, Muhammad said: "Who harms a believer, harms me and who harms me, harms God." The Sheikh states that Muhammad's narrations on female circumcision are not reliable, calling on the authority of his counterpart, Imam Shaltut. He concludes that the issue of male and female circumcision must be judged according to its disadvantages and advantages.³³

All of the aforementioned religious arguments are written solely and exclusively against female circumcision. Although they could very well be used against male circumcision, their authors never do so and not without purpose. Indeed, the only Muslim author to have cast doubts on male circumcision has had a legal action brought against him and might be sentenced to death for apostasy. I am speaking of (retired) Judge Mustafa Kamal Al-Mahdawi, a personal friend of mine,

³⁰Buti, Muhammad Sa'îd Ramadan Al-: *Mas'alat tahdid al-nasl wiqayatan wa-Ôilagan*, Matba'at Al-Farabi, 2nd edition, Damascus, [1982?], pp. 33-34.

³¹Rapport sur les pratiques traditionnelles, Addis Abeba, 1987, p. 83.

³²See the next footnote.

³³Unabridged arab text on the issue in Report on Traditional Practices, Dakar, 1984, pp. 247-250; basic french translation, pp. 72-73.

who is today under a ferocious attack, lead by Libyan religious circles, in the mosques as well in the press.

This Libyan judge insists that male circumcision is a Jewish custom; the Jews believe that God would only see them if they had distinctive marks such as circumcision or blood stained doors. He refers here to God's command given to the Jews that the blood from sacrificed cattle be put on jambs and lintel of houses at the time of Passover because He intended to kill all firstborn in Egypt (*Exodus* 12:7-13). The Libyan judge adds that the Koran does not mention this "peculiar logic." For him, God does not devote Himself to such banter any more than He created the foreskin as a superfluous object destined only to be cut off.³⁴ He quotes verse 3:191 which states: "Our Lord, You did not create all this in vain."³⁵

III. Qualification of Circumcision in Muslim Law

The adversaries of circumcision regard it as forbidden when it concerns girls. On the other hand, they do not oppose male circumcision and even consider it mandatory. As for the supporters of male and female circumcision, they are divided on the qualification that should be attached to it. The modern authors say that circumcision is compulsory for the boys and *makrumah* (meritorious but not obligatory action) for the girls.

Al-Sukkari states that male circumcision is mandatory because of the smell and the repugnant, greasy substances secreted and kept under the foreskin. This uncleanness renders prayer invalid. But as purity is necessary for prayer, circumcision becomes compulsory according to the legal rule which states: what is necessary to fulfil an obligation becomes in turn mandatory. On the other hand, the female having no foreskin and therefore no source of impurity "down there," female circumcision is only advisable. Two reasons underlie the recommendation of female circumcision:

- to fulfil *makrumah* granted by Muhammad.

³⁴He refers here to verse 86:14: "It is not vain talk."

³⁵Mahdawi Mustafa Kamal Al-: *Al-Bayan bil-Qur'an*, 2 Volumes, Al-dar al-gamahiriyyah, Misratah and Dar al-afaq al-gadidah, Casablanca, 1990, Vol. 1, pp. 348-350.

- to avoid falling into a taboo.³⁶

According to Professor Zakariyya Al-Birri, it is better to carry out female circumcision. Anyone who does not do it does not sin if he is convinced in the light of religious texts and doctor's advice that he is under no obligation to conform (to it).³⁷ Al-Qaradawi leaves the choice to parents according to their beliefs, in spite of the fact that he favours female circumcision, because it protects girls' morality "especially nowadays."³⁸

A *fatwa* (religious decision) of 1949 from the *Egyptian Fatwa Committee* has declared that abandoning female circumcision does not constitute a sin.³⁹ Another *fatwa* of 1951 from the same body is contradictory and more rigid. Not only does this *fatwa* not recognise the abandonment of female circumcision as an option, but is further of the opinion that it is advisable to carry it out because it curbs "nature."⁴⁰ A third much more detailed *fatwa* of 1981 from the same institution is adamantly opposed to giving up female circumcision. The author of this *fatwa* is the present Great Sheikh of Al-Azhar, of the most famous University of the Islamic World in Cairo. He insists that it is impossible to abandon the lessons of Muhammad in favour of the teaching of others, be they doctors, because medical science evolves and does not remain constant. The responsibility of female circumcision lies with the parents and with those in charge of the girl's welfare. Those who do not abide by it do not do their duty.⁴¹

Jurists have asked themselves if public authority can force a Muslim to submit to circumcision, especially if he is getting on years. The Zaydites and the Shafi'ites answer affirmatively.⁴² According to

³⁶Sukkari: *Khitan*, op. cit., pp. 46, 62-63.

³⁷Birri, Zakariyya Al-: *Ma hukm khitan al-bint wa-hal huwa daruri*, in *ÔAbd-al-Raziq: Al-khitan*, op. cit., pp. 95-96.

³⁸Qaradawi, Youssef Al-: *Huda al-islam, fatawi mu'assirah*, Dar al-qalam, Kuwait, 3rd edition, 1987, p. 443.

³⁹Makhluḥ, Hassanayn Muhammad: *Hukm al-khitan*, in *Al-fatawi al-islamiyyah min dar al-ifta' al-masriyyah*, Wazarat al-awqaf, Cairo, Vol. 2, 1981, p. 449.

⁴⁰Nassar, ÔAllam: *Khitan al-banat*, in *Al-fatawi al-islamiyyah min dar al-ifta' al-masriyyah*, Wazarat al-awqaf, Cairo, Vol. 6, 1982, p. 1986.

⁴¹Gad-al-Haq: *Khitan al-banat*, op. cit., pp. 3119-3125.

⁴²Sukkari: *Khitan*, op. cit., pp. 75-77.

the Hanafite School, if a group rejects male circumcision, the Head of State must declare war (against this group).⁴³

The Hanbalites say that male and female circumcision is an Islamic ritual; the man can force his wife to be circumcised as well as to force her to pray. The Ibadites consider as invalid the marriage of a non-circumcised Muslim even if it was consummated. The woman may ask for legal separation. If the husband is circumcised after its consummation, the marriage remains invalid; he must go through another ceremony in order to get his wife back. For the Hanbalites, the non-circumcision of the husband is a breach of contract giving the woman the choice of asking for divorce or continuing the marriage. For some, the non-circumcised man has no right of guardianship of a Muslim and no right to give his consent to the marriage of a Muslim relative. In this case, the marriage is dissolved, except if it was consummated.⁴⁴

Al-Sukkari, a modern author, grants the woman the right to dissolve the marriage if the husband is not circumcised, because his foreskin can be a vector of diseases. It can also be a source of repulsion, thus preventing the realization of the objectives of marriage, *id est* love and understanding between partners. The woman has a right to be married to someone handsome and clean, Islam being the religion of cleanness and purity.⁴⁵

Ahmad Amin emphasizes the importance of circumcision in the Egyptian's mind by telling this anecdote: a Sudanese tribe wanted to join Islam. The chief wrote to a scholar of the Al-Azhar to ask him what was to be done. The scholar sent him a list of demands, putting circumcision in first place. The tribe then refused to become Muslim.⁴⁶

According to the Saudi religious authorities, a man who converts to Islam must be circumcised, but in case he refuses to join Islam for

⁴³Gad-al-Haq: *Khitan al-banat*, op. cit., p. 3120.

⁴⁴Sukkari: *Khitan*, op. cit., pp. 73-75.

⁴⁵Sukkari: *Khitan*, op. cit., pp. 75-77.

⁴⁶Amin: *Qamus*, op. cit., 1992, p. 187.

fear of the procedure, this demand may be postponed until the faith is stronger in his heart.⁴⁷

The non-circumcision of a female has serious consequences. In some countries, the non-circumcised girls do not get married and are regarded by people as if they were guilty of misbehaviour, possessed by the devil. In the Egyptian countryside, the matron practicing female circumcision delivers a certificate which is used for the marriage.⁴⁸ El-Masry reports the statement of an Egyptian midwife who had circumcised more than 1000 girls. To her, "one should lynch the fathers who were opposed to circumcision of their daughters, because these fathers were in fact willing to see their girls become whores."⁴⁹

CHAPTER III. Reason Supporting Religion

The Koran says: "No one questions Him about anything He does, but men are questioned" (21:23). God does not have to justify his norms even if Muslim jurists are of the opinion that divine norms are intended to bring good to Man. The criteria of goodness elude Man most of the time.

However, there is a tendency among the Muslims as well as the Jews today, to try to justify religious norms *a posteriori*, conferring beneficial results upon them, real or fictitious. It is a recourse to reason to justify religion. It proves that the idea of God hurting human beings, simply in order to brand them like cattle, is not accepted anymore.

I. Male Circumcision

A. Advantages of Male Circumcision

Muslim authors skim over male circumcision. They only see advantages. Significantly, the subject does not trigger any debate in the West. According to Al-Hadidi, male non-circumcision can cause

⁴⁷See the two Saudi fatwas in Magallat al-buhuth al-islamiyyah, Riyadh, No. 20, 1987, p. 161, and No. 25, 1989, p. 62.

⁴⁸Zenie Ziegler, Wedad: La face voilée des femmes d'Egypte, Mercure de France, Paris, 1985, pp. 66-67.

⁴⁹El-Masry: Le drame sexuel, op. cit., p. 3.

penile infections arising from urine droplets. It can develop into cancer, requiring the penis to be amputated entirely.⁵⁰ Doctor Al-Fangari is of the opinion that circumcision prevents cancer in the circumcised man's partner. He also believes that it helps to extend the length of copulation, thanks to the liberation of the glans.⁵¹ Jewish authors make the same type of arguments.⁵²

Imam Shaltut does not find any basis for male and female circumcision, be it in the Koran or in the *Sunnah* from Muhammad. Therefore the practice must be judged according to the general Islamic consensus which forbids hurting anyone, unless the advantages outweigh the disadvantages. For boys, he states that circumcision is beneficial because it cuts off the foreskin which harbours filth and promotes cancer and other diseases. As such, it is a protective and preventive measure; thus its mandatory quality in Muslim law.⁵³

Let me point out here that circumcision has its supporters among Christians who believe the Bible to be a scientific book. This is especially the case in the U.S.A. where the number of new-born who are circumcised is estimated at 60%.⁵⁴ However in 1975, the American Academy of Pediatrics stated: "There is no absolute medical indication for routine circumcision of the new-born... A program of Education leading to continuing good personal hygiene would offer all the advantages of routine circumcision without the amendant surgical risk. Therefore, circumcision of the male cannot be considered an essential component of adequate total health care." Since then, circumcision has been reduced considerably.⁵⁵ The pro-circumcision people then launched a campaign to persuade the commission to

⁵⁰Hadidi, Muhammad Sa'ïd Al-: *Khitan al-awlad bayn al-tib wal-islam*, in ÔAbd-al-Raziq: *Al-khitan*, op. cit., pp. 65-66.

⁵¹Fangari, Ahmad Shawqi Al-: *Al-tib al-wiqa'i fil-islam*, *Al-hay'ah al-masriyyah al-Ôammah lil-kitab*, Cairo, 1980, p. 143.

⁵²See these arguments in Bigelow, Jim: *The joy of uncircumcising*, Hourglass, Aptos, 1992, pp. 29-45.

⁵³Shaltut: *Al-fatawi*, op. cit., pp. 333-334.

⁵⁴Bigelow: *The joy of uncircumcising*, op. cit., pp. 83-88.

⁵⁵Zwang, G_rard: *Pr_puce et _rotisme*, in *Union*, revue internationale des rapports humains, No 44, Nouvelle s_rie, May 1992, p. 41. Quotation from Ritter, Thomas J.: *Say no to circumcision*, Hourglass, Aptos (without date), p. 36-1.

reverse its decision, claiming that circumcision prevents infantile urinary tract infections and even AIDS transmission.⁵⁶

B. Disadvantages of Male Circumcision

As noted above, male circumcision is generally of no interest. Doctor G_rard Zwang stands out as one of the very few opponents of male circumcision in France. He writes:

One must be extremely suspicious when magicians and shamans try to irrefutably legitimate ritual sexual mutilations (unless one belongs to the clan of those incurably naive ethnographers). As heirs of the only extra-European culture touched by some sort of scientific thinking and often contributing to its development, it is the Judaizers who provide the so-called "logical" arguments in favour of circumcision.⁵⁷

He concludes that "there is no [medical] reason to systematically deprive all new-born, little boys or men of an integral part of the normal human anatomy."⁵⁸ Even for foreskins with problems, he advises against circumcision and prefers those simple, surgical procedures which retain the foreskin.⁵⁹

It might be necessary to add to the doctors' advice, the psychologists' answer to these questions: what is the influence of circumcision on the victims of paranoia? on the conscious or unconscious male rage and violence in the American culture? on the

⁵⁶Zwang, G_rard: *Le pr_puce: une erreur de la nature?*, (bibliographical note), in *Contraception-fertilit_sexualit_*, 1989, Vol. 17, No. 12, p. 1162. Against this "myth" of the prevention of AIDS transmission, see Bigelow: *The joy of uncircumcising*, op. cit., pp. 36-37. In favor of it, see Joan K. Kreiss and Sharon G. Hopkins: *The association between circumcision status and Human immunodeficiency virus infection among homosexual men*, in *The Journal of Infectious Diseases*, 1993, December, pp. 1404-1408.

⁵⁷Zwang, G_rard: *La fonction _rotique*, Editions Robert Laffont, Paris, 3rd edition, Vol.3, Supplement, 1978, p. 271.

⁵⁸*Ibid.*, p. 277.

⁵⁹*Ibid.*, pp. 277-279. As for surgeons requested to perform circumcision, he asks them to refuse to comply. If it is an adult who makes the request, the surgeon has the right to raise the matter of conscience, as some do, based on liberalism, for example, to avoid carrying out abortions. If it is a normal child brought in by his parents, "the surgeon is entitled to call upon the impossibility of committing an assault and battery on a minor and advise them to wait until their offspring reaches his majority." *Ibid.*, 279.

conflicts between Muslims themselves or between Jews and Muslims? It would be also useful to know what is the relation between circumcision and situational homosexuality (by opposition to constitutional homosexuality).

II. Female Circumcision

A. Advantages of Female Circumcision in Compliance With the Sunnah

Certain Muslim religious scholars are opposed to female circumcision only when it is not in compliance with the *sunnah*. They outline the advantages of female circumcision as follows:

- It maintains cleanliness
- It prevents diseases

It is believed that promiscuity is less among circumcised women. This prevents disease and death to the husband.⁶⁰ Female circumcision prevents vaginal cancer,⁶¹ it also prevents swelling of the clitoris, which could drive the woman to masturbation or homosexual relations.⁶²

- It brings calm and gives radiance to the face

Female circumcision shields the girl from nervousness at an early age and prevents her from acquiring a yellow face. This statement is based on a narration by Muhammad: "Circumcision is *makrumah* for women" and "give them a glowing face."⁶³

- It keeps the couple together and prevents drug use

Doctor Hamid Al-Ghawabi admits that female circumcision does reduce the sexual instinct in women, but he sees this as a positive effect. With age, the male sexual instinct lessens. His circumcised wife will then be at the same level as him. If she was not, her husband

⁶⁰Ghawabi: *Khitan*, op. cit., p. 57.

⁶¹Salih, Muhammad Ibn-Ahmad Al-: *Al-tifil fil-shari'ah al-islamiyyah*, Matba'at nahdat Masr, Cairo, 1980, p. 85.

⁶²Ghawabi: *Khitan*, op. cit., p. 62.

⁶³*Ibid.*, p. 51.

would be unable to satisfy her, which then would lead him to drug-use in order to succeed.⁶⁴

- It prevents her falling into what is forbidden

Gad-al-Haq, Great Sheikh of Al-Azhar, says that our times call for female circumcision "because of mixing of the sexes at public gatherings. If the girl is not circumcised, she subjects herself to multiple causes of excitation leading her to vice and perdition in a depraved society."⁶⁵

B. Disastrous Consequences of Any Kind of Female Circumcision

Opponents of female circumcision reject it because of the seriousness of the complications which depend on the method adopted.

- Physical and mental damage

Many complications may occur after female circumcision. Doctor Mahran classifies them as follows:⁶⁶

- Immediate complications: post-operative shock, pain, hemorrhages, infections, urinary complications and accidental injuries to surrounding organs.

- Later physical complications: painful scars, keloid formation, labial adhesences, clitoridal cysts, vulva mutilation, kidney stones, sterility.

- Psychosexual and social complications: in the woman: a sense of loss of her femininity, lack of libido, less frequent coitus, absence of orgasm, depression and psychosis, high rate of divorce; in the man: premature ejaculation, polygamy (lacking pleasure with his circumcised wife, he takes another woman).⁶⁷

The Muslim supporters of female circumcision do not deny those complications, but state that they arise out of the manner in which the surgery is performed, mostly because of lack of attention to the conditions laid down by Muslim law. However, Al-Sukkari writes: if one goes to a barber for an appendectomy, must we conclude that this

⁶⁴Ibid., p. 57.

⁶⁵Gad-al-Haq: *Khitan al-banat*, op. cit., p. 3124.

⁶⁶Mahran, Maher: *les risques médicaux de l'excision (circoncision m_dicale)*, reprint of a paper published in *Bulletin Médical de l'IPPF*, vol. 15, no 2, April 1981, pp. 1-2.

⁶⁷For more about those complications, see *Rapport sur les pratiques traditionnelles*, Addis Abeba, 1990, pp. 56-57.

form of surgery has never been provided for in an Islamic book and thus should be banned because the way it is performed is wrong?⁶⁸

- Drug use

It was noted earlier that the enthusiasts of female circumcision called *sunnah* favour it because it prevents the use of drugs. The opponents use the reverse argument.⁶⁹ The link between female circumcision and the hashish plague in Egypt has been widely exposed by El-Masry. He states that female circumcision distorts sexual relations: "Very few healthy males can fully succeed in bringing a circumcised woman to orgasm. She has lost her capacity for pleasure. The man will soon have to admit that he alone cannot do it. There is only one solution: hashish." Doctor Hanna states: "The man will resort to narcotics to satisfy his wife sexually. Circumcision is responsible for her lack of arousal and the husband has to take drugs to be able to hold his erection as long as necessary." The women are the ones to request that their husbands use drugs before sex: "They know from experience that it is their only chance of reaching orgasm, for hashish is the only cure for their mutilated clitoris."⁷⁰ The same link is observed between female circumcision and narcotics in Yemen where the plague of *qat* is widespread.⁷¹

- Ineffectiveness in preventing diseases

For Doctor Al-Hadidi, there is no medical value in female circumcision, contrary to male circumcision, since the woman does not have a foreskin retaining germs.⁷² Doctor Nawal El-Saadawi denies also that female circumcision will reduce the incidence of genital cancer.⁷³

⁶⁸Sukkari: *Khitan*, op. cit., p. 106.

⁶⁹For the link between drugs and female circumcision, see Amin, Ahmad: *Qamus al-'adat wal-taqalid wal-ta'abir al-masriyyah*, Maktabat al-nahdah al-masriyyah, Cairo, 1992, p. 188; Hadidi: *Khitan al-awlad*, op. cit., pp. 67-70.

⁷⁰El-Masry: *Le drame sexuel*, op. cit., pp. 56-69.

⁷¹*Ibid.*, pp. 61-62.

⁷²Hadidi: *Khitan al-awlad*, op. cit., pp. 67-70.

⁷³El-Saadawi: *The hidden*, op. cit., p. 38.

III. Religious Circles Confronted With Reason

The arguments about costs and benefits of male and female circumcision might be of some value if one accepts an absolute parameter at the outset: respect for physical integrity. Any infringement upon this parameter must be forbidden or permitted only on the basis of the costs and benefits of circumcision. At present, this seems to be the case neither among Muslims, nor among others, especially where male circumcision is concerned.

As for female circumcision, as stated earlier, Muslim religious circles are opposed to it, if it does not conform to *sunnah*, mostly because of the *circumciser's narration*. As far as *sunnah* itself is concerned, those circles refuse to condemn it on principle and the criteria mentioned above, even if differences of opinion can be noticed among them. The opinions range from unquestioning acceptance to proscription of the practice.

A. To Apply the Norm for the Norm's Sake

Hamrush, Chairman of the *fatwa* Committee at Al-Azhar, rejects the idea that female circumcision prevents diseases or keeps girls healthy since, contrary to boys, they do not have a foreskin to harbour filth. He also rejects the idea that it is a protection of the woman's honour and morality. If that were the case, then one would assume that circumcision is an obligation, and not just a *makrumah*. However, the Sheikh holds the opinion that female circumcision should be performed to fulfil the teaching of Muhammad.⁷⁴

B. The Norm has Benefits Unknown to Reason

In the Egyptian *fatwa* of 1951, it is said:

Medical theories relative to diseases and to their cure are not constant; they are subjected to changes with time and research. Therefore, it is impossible to use them as grounds to criticize female circumcision. The Lawmaker, wise, expert and

⁷⁴Hamrush, Ibrahim: Khitan al-banat, in ÔAbd-al-Raziq: Al-khitan, op. cit., p. 75.

knowledgeable, uses his wisdom to rectify the human creation. Experience has taught us that, given time, the true meaning of the Lawmaker's wisdom, which was hidden, is unveiled to us.⁷⁵

C. Neither Misdeed nor Interdiction

Al-Sukkari states that Muhammad never indicated any reservations regarding the harmfulness of female circumcision. How, in these conditions, could any ordinary man forbid it under this pretence? Can we imagine the Prophet keeping silent about something hurtful to the girl? Man has no power to allow or to forbid, only God does, and his wishes are set out in the Koran or by His Prophet.⁷⁶

D. To Maintain the Custom in the Absence of Misdeeds

Imam Shaltut does not see any reason for male or female circumcision, either in the Koran or in the *Sunnah* of Muhammad. To him, female circumcision has no medical value, the girl having no foreskin to hold filth. He packs into one sack those for and those against female circumcision: both groups go too far. He comes to the conclusion that female circumcision could be a *makrumah* for men who are not used to feeling the clitoris *protruding*; for the girl, it comes to the same as taking care of her beauty, dabbing perfume or removing axillary hair.⁷⁷ Elsewhere, Imam Shaltut is in favour of keeping the tradition of female circumcision until proven harmful.⁷⁸

E. Permitted but Soon to be Forbidden Because of Adverse Consequences

Doctor Abd-al-Wahid presents a strange reasoning, to say the least. After stating that female circumcision is forbidden the same way as it is forbidden to chop off one's finger, he admits that the Lawmaker

⁷⁵Nassar: *Khitan al-banat*, op. cit., p. 1986.

⁷⁶Sukkari: *Khitan*, op. cit., pp. 33-37, 39-40.

⁷⁷Shaltut: *Al-fatawi*, op. cit., pp. 333-334.

⁷⁸Shaltut: *Khitan al-banat*, op. cit., pp. 89-90.

(God) gave permission for the *sunnah*, any excess being forbidden. However, he adds that this form of circumcision is allowed, but not mandatory and suggests that it be forbidden due to its medical and psychological consequences, which he recounts in detail.⁷⁹

F. It Must be Forbidden

The most daring and most coherent opinion coming from a religious leader against female circumcision is that of Sheikh Abu-Sabib, a Sudanese, whom I mentioned earlier. He spoke at the Seminar on Traditional Practices (Dakar, 1984). The narrations of Muhammad about female circumcision are not reliable. They and the Koran do not require anyone to suffer, when science proves the harm done by this mutilation.⁸⁰

Chapter IV. Legal Prohibition of Female Circumcision

Female circumcision generates many questions:

- Do we have the right to judge the customs of other societies?
- Can we remain indifferent, in the name of "difference," to mutilations inflicted upon young children?
- Must we make a distinction between the different kinds of circumcision?

I. To Judge Others' Customs

The Muslim circles in favour of female circumcision see an imperialistic action in the Western campaign against it. Al-Sukkari writes that, if some are trying to forbid it, "it is because the West has succeeded in imposing secular materialistic views on our sciences, our tradition, our artistic culture."⁸¹

⁷⁹ÔAbd-al-Wahid, Nigm ÔAbd-Allah: *Nazrat al-islam hawl tabiÔat al-gins wal-tanassul*, MatabiÔ al-manar, Kuwait, 1986, pp. 109-116.

⁸⁰For further details, refer back to chapter II, paragraph II.

⁸¹Sukkari: *Khitan*, op. cit., p. 41.

This problem is now on the agenda of international organizations. On July 10, 1958, the *Economic and Social Committee of the United Nations* invited the WHO "to undertake a study on the persistence of customs involving ritual practices on girls and on the measures in effect or planned to put an end to those practices."⁸² The answer was clear: "[The World Health Assembly] believes that the ritual practices in question, resulting from social and cultural conceptions, are not within the WHO's jurisdiction."⁸³ And this, in spite of an overwhelming report prepared by the WHO's very own Eastern Mediterranean Regional Office.⁸⁴

In a communication on circumcision dated September 23, 1980, UNICEF explained that its approach to eradicating a 2000 year old cultural and traditional practice "is based on the belief that the best way to handle the problem is to trigger awareness through education of the public, members of the medical profession and practitioners of traditional health care with the help of local collectivities and their leaders."⁸⁵

In 1984, the Inter-African Committee stipulated that "for understandable psychological reasons, it is the black women who should have the say in the matter."⁸⁶ This committee asked for restraint, in order that the project might be successful, claiming that "the wave of uncontrollable and violent denunciations of those mutilations on the part of Western countries" was doing more harm than good.⁸⁷ On the subject of legal prohibition, this same committee, in 1984, warned against "untimely haste which would result in rash legal measures that would never be enforced."⁸⁸

⁸²United Nations, 26th Session of the Economic and Social Committee, 1029th Plenary Meeting, July 10, 1958.

⁸³WHO, 12th World Health Assembly, 11th Plenary Meeting, May 28, 1959.

⁸⁴Text of this Report in *Terre des Hommes: Les mutilations sexuelles féminines infligées aux enfants*, Press Conference of Terre des Hommes, Geneva, April 25, 1977, pp. 9-12.

⁸⁵UNICEF, Department of Information, Position of UNICEF on Female Excision, Sept. 23, 1980, p. 1.

⁸⁶Rapport sur les pratiques traditionnelles, Dakar, 1984, p. 67.

⁸⁷*Ibid.*

⁸⁸*Ibid.*, p. 71.

II. Right to Difference

This debate about the right to be different was settled in favour of the girl's right to physical integrity, but not the boy's.

Article 24, paragraph 3 of the Convention on the Rights of the Child states:

States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

No definition is given of the expression "traditional practices detrimental to the health of children." The *travaux préparatoires* are of no help either. The definition therefore is left up to the Member States. Those States will surely not hesitate to quote article 29 paragraph 1.c of this Convention:

The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own.

The WHO gave up its above mentioned reservations of 1959. It became involved in 1977 in the creation of the first Workshop on female circumcision. In February 1979, its Eastern Mediterranean Regional Office organized in Khartoum the first *International Seminar on Traditional Practices affecting Women's and Children's Health*. This Seminar recommended that specific national policies be adopted in order to abolish female circumcision.⁸⁹ In June 1982, the WHO made a formal declaration of its position on circumcision to the *Committee of Human Rights of the United Nations*. The WHO approved the recommendations made at the Seminar in Khartoum and added: "It has always been the WHO's opinion that female circumcision should never be performed by health professionals in any

⁸⁹Traditional Practices affecting the Health of Women and Children, Report of a Seminar, Khartoum, February 10-15, 1979, p. 4.

situation under any conditions, be it in hospitals or other specialized settings."⁹⁰ The most recent stand was taken in 1989: the Regional Committee of the WHO for Africa passed a resolution urging the participating governments:

- to adopt appropriate policies and strategies in order to eradicate female circumcision;

- to forbid medicalisation of female circumcision and to discourage health professionals from performing such surgery.⁹¹

A turnaround was also made by the Inter-African Committee. Whereas in 1984, it had warned against promulgating laws against female circumcision, it requested such laws in 1987, because "neither the efforts nor the research nor the campaigns ever had any real impact."⁹² Three years later, it reinforced its position, requesting promulgation of specific laws "forbidding the practice of female genital mutilations and other sexual abuses and making provision for sentencing anyone guilty of such practices." This law should provide "an especially severe punishment for health professionals."⁹³

Finally, let me point out the *London Declaration* born out of the *First Study Conference on Genital Mutilation of Girls in Europe/Western world* (London, July 6-8, 1992). This Declaration states: "Any form of genital mutilation or genital injury to the girl child is a violation of her basic human rights, and must be abolished." It asks national groups and individuals to "promote a framework for legal action, based on either specific anti-FGM [female genital mutilation] or on general laws against the injury to the body of the child." This Declaration "urges all governments and all health authorities to stand firm against any attempt to medicalise the genital mutilation of or genital injury to the girl child."⁹⁴

⁹⁰WHO's position relative to female circumcision submitted in June 1982 to the United Nations Sub-Committee for Prevention of Discrimination against and Protection of Minorities, Workshop on Slavery.

⁹¹WHO, Resolution of the Regional Committee for Africa, Thirty-ninth session, AFR/RC39/R9, Sep. 13, 1989.

⁹²Report on Traditional Practices, Addis Abeba, p. 77.

⁹³Ibid., pp. 8-9.

⁹⁴Document provided by Dr. Leila Mehra of the WHO.

III. Distinction Between Different Forms of Circumcision

One must reiterate here that a distinction is wrongfully made at the medical and intellectual level between male circumcision, which is generally accepted, and female circumcision. Neither the WHO nor the Inter-African Committee, nor UNICEF, nor the London Declaration, nor the Western laws forbidding female circumcision make any mention of male circumcision. It is not mentioned in the *travaux préparatoires* to article 24, paragraph 3 of the Convention for the Rights of the Child either. Female circumcision is sometimes mentioned, but never male circumcision.⁹⁵

One might have logically expected that those Western organizations and laws would draw a distinction between the different forms of female circumcision, in as much as minimal female circumcision can be compared to male circumcision. But as already noted, this is not the case. During the Conference of European Studies on Female Genital Mutilation, the Netherlands tried to have such a distinction made, to no avail; the WHO vetoed it. Doctor Mehra, representing the WHO, explained to me that this organization fears it would be impossible to control the practice if one permitted one particular form.⁹⁶

This firm attitude opposed to all forms of female circumcision is not shared by Muslim law. The latter makes a distinction between the permitted female circumcision called *sunnah*, while other forms, though widely practiced, are condemned by religious circles. This distinction seems also to apply in Muslim countries.

In Sudan, a law of 1946 classified infibulation as an infraction punishable by a fine and imprisonment. It was abrogated under public pressure and replaced by an authorization for professional midwives to practice *sunnah*.⁹⁷

On an undated flyer, written in Arabic, the *Sudanese Association of Struggle against Traditional Practices* states:

⁹⁵The U.N. Convention on the Rights of the Child, a guide to the "Travaux préparatoires," Martinus Nijhoff Publishers, Dordrecht, Boston, London, 1992, p. 351.

⁹⁶Meeting of January 12, 1982.

⁹⁷Rapport sur les pratiques traditionnelles, Addis Abeba, 1990, pp. 63-68.

- Female circumcision (*khafd*) is an attack on the physical integrity and an alteration of the human being created by God in the very best way and in the very best form.
- Female circumcision is a savage butchery that divine religions do not allow.
- Female circumcision is neither a duty nor a *sunnah*, but a practice of the pre-Islamic era (*al-gahiliyyah*: the era of ignorance) against which the Prophet warned us in his narration: "Cut lightly and do not overdo it as it is more pleasant for the woman and better for the husband."
- Female circumcision does not protect chastity which is better guarded by education promoting good morality and healthy teaching of Islam.
- Female circumcision preceded religions and is practiced by many peoples of different religions and beliefs of which only the Sudan, Egypt and Somalia are Muslim.
- Therefore, stop circumcising girls.

This organization, while rejecting female circumcision in general, seems, in the 3rd paragraph, to propose the *sunnah*, instead of the pharaonic circumcision now prevalent in Sudan.

A similar attitude is adopted in Egypt. This country has promoted a governmental decree (No. 74-1959) regarding female circumcision. The text is far from clear. It states:

1. It is forbidden for physicians to perform the surgical procedure of female circumcision. If one wishes it, then only partial circumcision may be carried out, but not total circumcision.
2. Female circumcisions are forbidden in the clinics of the Ministry of Health.
3. Certified midwives have no right to perform any surgical procedure whatsoever including female circumcision.

This text is taken from a recent collective report on the woman's life and her health. The authors state that this text is lacking as it does

not forbid female circumcision. A law should be promulgated to abolish any kind of female circumcision.⁹⁸

Egyptian juridical works and anthologies of law pertaining to public health fail to mention this decree. There are no judgements on it. However, the Egyptian courts have convicted a barber for circumcising a boy who consequently died. Contrary to the physician, the judgement states, the barber is not protected by law if the result of his action is death or disability. The judge refused to consider laudable or charitable intentions or the absence of criminal intent. In this case, the Court applied article 200 of the Penal Code which makes provision for 3 to 7 years of forced labour or imprisonment in cases of voluntary injury without intention to kill, but in fact causing death.⁹⁹ In another judgement, the Court of Cassation stated that a midwife has no right to practice circumcision, the right to perform surgery being reserved to physicians only, in pursuance of the first article of law 415/1954. The Court added that any attack on physical integrity, except in cases of necessity authorized by law, is punishable, unless the acts are performed by a physician. The midwife had circumcised a boy and mistakenly amputated his glans, causing permanent disability that the Court estimated at 25%. The midwife was sentenced to 6 months forced labour, suspended on condition of good behaviour during 3 years.¹⁰⁰

On September 7, 1994, during the International Conference on Population and Development held in Cairo, CNN broadcast footage of a screaming, 10-year-old girl having her genitals cut by a Cairo barber. As a reaction, the Egyptian authorities arrested the girl's father, the free-lance producer and the two men who performed the procedure. The father told the police that, as a Muslim, he believes he acted properly.¹⁰¹ After this scandal, on 29 October 1994, the Egyptian Minister of Health issued a decree which seeks to medicalize female

⁹⁸Farah, Nadyah Ramsis (dir.): *Hayat al-mar'ah wa-sihhatuha*, Sina lil-nashr, Cairo, and Al-Saqr al-Ôarabi lil-ibdaÔ, Limassol, 1991, p. 39.

⁹⁹MagmuÔat al-qawaÔid al-qanuniyyah 1931-1955, Penal Division, March 28, 1938 Session, vol. 2, p. 824.

¹⁰⁰Qararat Mahkamat al-naqd, Penal Division, March 11, 1974 Session, Judicial Year 25, p. 263.

¹⁰¹Time magazine, September 26, 1994, p. 65; Middle East Times, September 18-24, 1994, pp. 1 and 16.

genital mutilation by designating a number of selected hospitals to perform the operation for a fee of LE 10 (approximately US \$3).¹⁰²

In a letter addressed to Mr. Tim Hammond, founder of NOHARMM (in San Francisco), dated April 23, 1995, the Minister explains:

"Generally speaking, facing in our country, a subtly sensitive subject matter, such as this ingrained habit (partial clitorrectomy), in fact predominantly widespread amongst rural illiterate families living in the far removed slums and squatter areas, is seldom handled substantially by reprimanding it with banning rules and prohibitory decrees, in order to be pragmatically executed."

He adds that he adopted the following strategy:

- "To focus light on this obscure traditional "bete noire" through national and subnational awareness programs.

- To orient parents seeking its performance, by guiding them to the appropriate medical milieu (Primary Health Care units and/or Regional Hospitals).

- Advocate them with advices, strengthening their awareness by means of the recipient medical personnel, and most important, warn them of its everlasting sequels whether physical or psycho-traumatic.

- Finally, if they still insist, we found that its application under medically controlled "aseptic" conditions by approved professionals, would certainly save those victimized girls from being "slaughtered" by unprofessionals."

The Minister gives examples from the USA:

"...you must agree with me Mr. Hammond, that anywhere in this world deeply rooted customs specifically of harmful pattern on human beings, didn't and perhaps couldn't be easily and promptly eradicated as we might figure it out. Even in the United States, let me respectfully remind you, still exists traditions of the different

¹⁰²Equality Now, Women's Action 8.1, March 1995; Akhbar al-Yom, October 29, 1994, p. 13.

sects like Mormons, the Amish, and specifically those refusing the life-saving act of blood transfusion, and we hardly heard them in such crucial humanitarian conditions obeying up to this moment to banning decrees, if ever present."

The great Sheikh of Al-Azhar, Gad-al-Haq, issued a fatwa in October 1994 for the maintaining of the female circumcision, position he adopted already in the previous fatwa of January 29, 1981 (quoted in the footnotes 11, 18, 41, 43 and 65) that he issued when he was the Great Mufti of the Republic.¹⁰³ But this view had been strongly disputed by the present Great Mufti, Sheikh Muhammad Al-Tantawi, who issued another fatwa which states that the Quran contains nothing on female circumcision and that the sayings of the Prophet Muhammad are weak on this subject. He adds that one should defer to the opinion of doctors.¹⁰⁴

Conclusion

There is no valid justification for the distinction made between male and female circumcision. I condemn the attitude of international and non-governmental organizations which dissociate one type of circumcision from the other, giving legitimacy to male circumcision in the process. I condemn also the discriminatory attitude of those Western countries which have passed laws against Female circumcision, but not against Male circumcision because they are afraid that they will be considered anti-semitic.

In our opinion, a God who demands that his believers be mutilated and branded on their genitals the same as cattle, is a God of questionable ethics. It could be legitimate to perform either male or female circumcision, as any other surgery, for specific, extremely rare, medical reasons on specific individuals. But to arbitrarily mutilate children, boys or girls, under the pretext that it is for their own good, shows an influence of cynicism and fanaticism.

¹⁰³ Akhbar al-Yom, October 27, 1994; Al-Shaab, October 14, 1994.

¹⁰⁴ Al-Ahram, October 9, 1994, p. 8; Akhbar-al-Yom, October 28, 1994, p. 7; on the opposition between Gad-al-Haq and Al-Tantawi, see Rose el-Yussuf, October 17, 1994.

