

Breastfeeding from Milk Banks According to Islamic Law

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Abstract

Islamic law is based on the principle of achieving benefits and avoiding harm. The establishment of milk banks serves the interests of children whose mothers cannot breastfeed them for health reasons or who have lost their mothers. It also helps to avoid the harm caused by the use of artificial milk. The research question is whether non-breastfeeding can be considered breastfeeding. This is because breastfeeding is prohibited in Islam if it leads to a prohibited marriage between the child and the wet nurse's child. However, the Quran and Sunnah do not explicitly define what constitutes breastfeeding. The research found that milk can be mixed with many solid and liquid substances. This raises the question of whether the mixing of milk with water, medicine, or other milk would also be considered breastfeeding. The research concluded that the prohibition of breastfeeding is based on two factors: nutrition and suckling. Nutrition is the most important factor, but suckling is also necessary. Therefore, the mixing of milk with water or other substances would not be considered breastfeeding, unless the child actually suckled from the wet nurse's breast.

Keywords: *breastfeeding, milk bank, ruling, legislation.*

Introduction

In today's world, Muslims need regulations to govern their behavior and actions in order to preserve their values. One such regulation is to prevent them from establishing milk banks and relying on breastfeeding, so that they do not fall into the legal prohibition.

Islamic law is based on the principle of achieving benefits and avoiding harm. The establishment of milk banks serves the interests of children whose mothers cannot breastfeed them for health reasons or who have lost their mothers. It also helps to avoid the harm caused by the use of artificial milk. The research problem lies in the inclusion of non-breastfeeding with breastfeeding. This is because breastfeeding is prohibited in Islam if it leads to a prohibited marriage between the child and the wet nurse's child. However, the Quran and Sunnah do not explicitly define what constitutes breastfeeding. The research found that milk can be mixed with many solid and liquid substances. This raises the question of whether the mixing of milk with water, medicine, or other milk would also be considered breastfeeding. The research methodology required dividing it into an introduction, three main points, and a conclusion. In the introduction, we discussed the reason behind choosing the title of the research. The first main point was devoted to the characteristics of prohibited breastfeeding and the inclusion of non-breastfeeding with breastfeeding. The second main point was devoted to doubt in breastfeeding. The third main point discussed the ruling on mixed milk. The conclusion summarized the most important findings of the research and what we reached in this enjoyable and blessed

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journey. Finally, we acknowledged that this is the effort of the modest, and if we are successful, then it is purely a blessing from God, and if otherwise, then it is from us and Satan, and God Almighty and His Messenger, peace be upon him and his family.

The first main point: The characteristics of prohibited breastfeeding and the inclusion of non-breastfeeding with breastfeeding:

It is agreed upon by scholars that breastfeeding a child from a woman's breast is forbidden under certain conditions(1), and they differed on the inclusion of non-breastfeeding with breastfeeding, such as wujour(2) (drinking from the nose) and sa`out(3) (inhalation), into two opinions:

Opinion 1: Inclusion of non-breastfeeding with breastfeeding

This is the view of the Hanafis(4), Malikis(5), Shafi`i(6), and Hanbalis(7), although they differed in some details.

Opinion 2: Non-breastfeeding is not included with breastfeeding

This is the view of the Shiites(8), the Zahirites(9), and a narration from Ahmad ibn Hanbal(10).

Evidence for Opinion 1: "Inclusion of non-breastfeeding with breastfeeding"

This is a group of Prophetic hadiths, including:

1. His saying (peace and blessings be upon him): "The only breastfeeding is from hunger.(11)"
2. His saying (peace and blessings be upon him): "Nothing is forbidden from breastfeeding except what has opened the intestines in the breast(12), and it was before weaning(13)."
3. His saying (peace and blessings be upon him): "There is no breastfeeding except what has strengthened the bone(14) and grown the flesh(15)."
4. His saying (peace and blessings be upon him): "There is no breastfeeding except what has opened the intestines(16)."

The meaning of these hadiths is that they indicate that breastfeeding is forbidden because it is nutritious, and everything that is nutritious is included in it, even if there is no sucking from the breast.

5. His saying (peace and blessings be upon him): "And be thorough in inhalation, unless you are fasting(17)."

The meaning of the hadith is that it indicates that the nose is a way to break the fast of a fasting person, so it is a way to prohibition like breastfeeding with the mouth(18).

Evidence for Opinion 2: Non-breastfeeding is not included with breastfeeding

1. Allah Almighty said: {And your mothers are those who have given birth to you, and your sisters are those who have been nursed by the same woman as you.}(19).
2. His saying (peace and blessings be upon him): "What is forbidden from breastfeeding is what is forbidden from kinship.(20).
3. His saying (peace and blessings be upon him): "What is forbidden from breastfeeding is what is forbidden from birth(21)."

The meaning of the verse and hadiths is that God Almighty and His Messenger (peace and blessings be upon him) did not prohibit marriage in this sense except by breastfeeding only. Breastfeeding is not called anything except what the woman puts from her breast in the mouth of the baby, and is not called anything except the breastfeeding or the baby taking the breast in his mouth and sucking it.

As for other than that of what we mentioned, none of it is called breastfeeding, Milking, food, watering, drinking, eating, swallowing, syringing, snuffing and dripping, and God Almighty did not prohibit anything with this(22).

Reply to this reasoning:

We recognize that something other than breast-feeding does not come under the name of breast-feeding, rather it is included in its meaning (23).

The researcher believes that the most correct issue in this matter (and God Almighty knows best) is what the second opinion went to, that only breastfeeding is attached to breastfeeding, and that is:

a- The strength of the evidence they mentioned.

b - The issue of depositing milk and then delivering it to the stomach without the method of breastfeeding from a woman who does not know or from an unknown source, this does not create a connection between them, while latching on to the breast has an impact on the prohibition process (24).

C- The evidence that the first opinion inferred is that feeding is a reason for the prohibition. With the recognition that this is a reason for the prohibition, but it is not the whole reason, but with it is breastfeeding, as is clear in the same hadiths that they relied on. And if the original has two appropriate descriptions, each of which is valid for reasoning, then it is not permissible for the ruling to be assigned to one of them without the other (25).

The second requirement: doubt about breastfeeding

The researcher indicated previously in paragraph "b" of the first evidence from those who say that it is permissible to breastfeed from milk banks, and that doubt about breast-feeding occurs from several sides. Or doubts about his occurrence at the specified time, or doubts that he suckled the milk of a woman or others, and other cases of doubt. Here, in this matter, we explain the difference of jurists in the matter of breastfeeding, if there is doubt about it, does the prohibition spread with the existence of that doubt, or not?

The jurists have two opinions on this issue:

The first opinion: If there is doubt about any aspect of breastfeeding, it does not establish prohibition.

This is the opinion of the Hanafis, who have pointed out the doubt about the arrival of milk(26), and they have stated the doubt about the wet nurse(27).

- The Shafi'is have stated the case of the arrival of milk to the boy(28), and they have stated the case of doubt about the wet nurse(29), the number of breastfeedings(30), the time of breastfeeding(31), whether it is the milk of a woman or another(32), and whether it was milked during her lifetime or after her death(33).

- The Hanbalis have pointed out the case of doubt whether he breastfed him or not(34), the number of breastfeedings(35), and the time of breastfeeding(36).

The second opinion: If there is doubt about any aspect of breastfeeding, it is prohibited.

This is the opinion of the Malikis, who have stated the case of doubt about the arrival of milk to the boy(37), and they have stated the case of doubt whether it is the milk of a woman or another(38).

Arguments for the first opinion:

1. The hadith of Aisha, may God be pleased her, that she said: "Among the things that were revealed in the Qur'an were ten breastfeedings that were forbidden, then they were replaced by five breastfeedings(39)."

The meaning of the evidence: The hadith indicates that the ruling of breastfeeding is not established except after the establishment of knowledge, and doubt is not sufficient(40). The prohibition is breastfeedings that are known, and doubt has arisen here.

2. According to the rule that certainty does not disappear with doubt(41).

The meaning of the evidence: The certainty in the matter of breastfeeding from milk banks is the absence of breastfeeding and the absence of prohibition by it, and the doubt in its occurrence, that is, in the occurrence of prohibition, this certainty is not removed by this doubt(42).

3. Because the original is the absence of breastfeeding due to the occurrence of doubt, there is no prohibition at all because the original permissibility is not opposed and the solution remains(43).

Arguments for the second opinion:

1. The hadith of Uqbah ibn al-Harith. He married the daughter of Abu Ihab ibn Aziz, and a woman came to him and said: "I have nursed Uqbah and the woman he married." Uqbah said to her: "I do not know that you nursed me, and you did not tell me." He sent to the family of Abu Ihab to ask them, and they said: "We do not know that she nursed our daughter." He rode to the Prophet (peace be upon him) in Medina and asked him, and the Messenger of God (peace be upon him) said: "How is that when it has been said?" Uqbah divorced her and she married another husband(44).

- In a narration: I married a woman, and a black woman came to us and said: "I nursed you." I went to the Prophet (peace be upon him) and said: "I married so-and-so, the daughter of so-and-so, and a black woman came to us. She told me: 'I nursed you,' and she is a liar." He turned away from me, and I came to him from in front of his face and said: "She is a liar." He said: "How is she when she claims that she has nursed you? Leave her(45)."

The significance of the two hadiths: Each of the two hadiths indicates that the Prophet (may God's prayers and peace be upon him and his family) ruled prohibition even though there was doubt about breastfeeding(46).

The response to this inference: The Prophet's order (may God's prayers and peace be upon him and his family) to separate her was not due to her being forbidden to him, but rather just to be on the safe side (47).

1- The statement of prohibition in it was taken with caution (48).

The most correct opinion on this issue (and God Almighty knows best) is what those who hold the first opinion held that if there is doubt about breastfeeding matters, then it is not forbidden, and that is:

1- The strength of their evidence.

2- The hadith of Uqba ibn al-Harith clearly implied that he was cautious and cautious, but it was not a matter of judgment because he said: "It is false," so his testimony is not considered in judgment, but rather as a matter of caution. This is related to the next point.

3- It is what they mentioned, that saying it is forbidden while doubting it is taken with caution. Precaution is based on piety, not judgment. This means that while it is likely that doubt is not forbidden, the door to caution and piety is open. There is nothing in that, and God Almighty knows best.

The third topic: the ruling on mixed milk (49)

Milk can be mixed with many solid and liquid things, and what concerns us primarily is the ruling on mixing milk with water, medicine (preservatives or sterilizers), and other milk. The meaning of mixing milk with milk is clear, which is that the milk preserved in milk banks is mixed together and preserved in refrigerators (50).

First: The ruling on mixing milk with water or medicine (preservatives or sterilizers). In this case, milk may be predominant, or sometimes the water or the medicine may be:

A-If milk is predominant: Here the scholars differed into two opinions:

The first statement: spreads prohibition. It is the doctrine of the Hanafi (51), Maliki (52), Shafi'i (53) and Hanbali (54).

The second statement: does not spread the prohibition: This saying is a narration by Ahmad ibn Hanbal(55).

Evidence for the first statement:

1- Because it does not affect the quality of the milk in becoming food(56), what is considered according to them is the arrival of the milk into the stomach for the purpose of nutrition(57).

2-Because milk alone is forbidden, and preferable to be taken with medicine (58).

3- The ruling applies to the majority, and the minority is like the nonexistent(59).

Evidence for the second statement: The one who does not spread prohibition because it is unjust is not forbidden (60).

A-If water or medicine (the preservative or sterilizing substance) is also the predominant one, the scholars differed into two opinions:-

- The first statement: not spread the prohibition

It is the Hanafi doctrine (61), the Maliki doctrine (62), the Hanbali doctrine (63) and a view of the Shafi'is (64).

The second statement: spreads the prohibition

It is the doctrine of the Shafi'is (65) and a view according to the Hanbalis (66).

Evidence for the first statement:

1- The basis on which the proponents of this opinion relied is that the one who is defeated has no ruling, like impurity consumed in abundant water, it has no effect, like wine consumed in other things, no punishment is attached to it, and like a person in ihram eating food in which perfume has been consumed, he does not have to pay a ransom (67).

- Response to this inference:

What is taken into account in the matter is that the source of milk reaches the stomach, which is why it is preferable to have too much or too little milk. It is not like impurity, as it is avoided due to filthiness, and it is driven by abundance. It is not like wine, for the punishment is linked to the severity that removes the mind, nor like the forbidden person, as he is forbidden from applying perfume, and this is not perfume (68).

2- The disintegration (69) of the milk in the mixture because the predominant water or medicine is the predominant one, so the disintegration will then have disintegrated (70).

3- Such a mixture in which water or medicine is predominant is neither breastfeeding nor has the meaning of breastfeeding, and does not provide nutrition (71).

4- One of the conditions for propagating the prohibition is the reason for feeding, and because if the milk becomes consumed, it becomes consumed, so feeding does not occur with it, so the prohibition is not established by it (72).

5- By analogy, if he swears an oath not to drink milk, he does not break his oath by drinking water that contains milk (73).

Evidence for the second statement: “ spreads the forbidden.”

The basis for this statement or their evidence is that the milk reaches the boy’s stomach in sufficient quantity, even if the milk is weak, because the source of the milk remains common in parts of the water, so it is forbidden by it, as if the milk were abundant (74).

Second: The ruling on mixing milk with another. In this case, “mixing milk with milk,” either the two milks are equal or one overpowers the other (75).

- If the two milks are equal, then the prohibition applies to each of them by agreement (76).

- If one of them prevails over the other, the scholars differed on this issue into two opinions:

The first statement: The prohibition relates to the larger quantity.

- it is a Hanafi opinion (77) and a Shafi’i opinion (78).

The second statement: The prohibition applies to both.

It is the Maliki doctrine (79), the Shafi’i doctrine (80), the Hanbali doctrine (81) and a Hanafi view (82).

Evidence for the first statement:

1-There is no lesson for the defeated in Sharia (83).

2- Mixing milk with milk is measured by mixing milk with water, and the ruling is in the majority (84).

- The response to this inference: If water is mixed with milk, the water takes away the strength of the milk or disturbs it, so nutrition does not occur or the feeding process is disturbed. This contradicts the reason for mixing milk with milk, as one does not take away the strength of the other (85).

Evidence for the second statement:

1- The two milks are of the same sex, and the sex does not prevail over the sex, so the little does not become consumed by the much, and each of them nourishes the child (86).

2- The prohibition applies to both as precaution (87).

3-The prohibition also applies to both because something increases in number according to its type and does not become consumable (88).

What is most likely in these issues related to mixed milk is that the prohibition is not to be spread, because of what was previously given preference that immorality, snuff, etc., other than breastfeeding, does not apply to breastfeeding, and this applies to issues of mixed milk because they do not apply to breastfeeding at all, and God Almighty knows best.

Results

After this enjoyable journey through books and intellectual and philosophical studies, we mention the most important objectives achieved by the research and the results it reached, so we say:

1- What is agreed upon among scholars is that breastfeeding a child from a woman’s breast is forbidden under certain conditions, and they differed as to whether other than breastfeeding is included in breastfeeding.

2- Nothing other than breastfeeding is attached to breastfeeding, because sucking from the breast is a condition for the prohibition of breastfeeding.

3- Since neither God Almighty nor His Messenger (may God bless him and his family and grant them peace) forbade in this sense marriage except through breastfeeding, breastfeeding, and breastfeeding only, and it is not called breastfeeding except what the breastfeeding woman places from her breast into the infant's mouth, and it is not called breastfeeding or breastfeeding unless the breastfeeding woman or the infant takes it. With the breast in it and sucking it.

4- Nutrition is a reason for the prohibition. While we acknowledge that this is a reason for the prohibition, it is not the entire reason. Rather, breastfeeding is with it, as is clear in the same hadiths on which they relied. If the original has two appropriate descriptions, each of which is suitable for explanation, it is not permissible for the ruling to be assigned to one of them rather than the other.

5- The prevailing opinion in these issues related to mixed milk is that it is not prohibited, due to what was previously stated in favor of the fact that immorality, snuff, and other things other than breastfeeding do not apply to breastfeeding. This applies to the issues of mixed milk because they do not apply to breastfeeding at all.

6- The mixing of milk with milk is measured by the mixing of milk with water, and the ruling is in the majority. The response to this inference is that if water is mixed with milk, then the water takes away the strength of the milk or disturbs it, so nutrition does not occur or the feeding process is disturbed. This is contrary to the reason for mixing milk with milk, as one does not take away the strength of the other.

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