

The Correlation Between Breast Milk and Sperm as a Causal Factor of *Mahramiyah* of Breastfeeding

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Abstract

This paper aims to answer the question of why breast milk can cause *mahramiyah* of breastfeeding in the same way as sperm can cause *mahramiyah* of nasab. Breast milk is food for babies that serves to grow flesh and strengthen bones. On the other hand, breast milk is a liquid that comes out of the human body, similar to blood. However, breastfeeding a baby who has not reached the age of two years can cause *mahramiyah*, which is the same as *mahramiyah* caused by sperm. This is different from blood transfusions, which do not have any legal consequences. The research method used is a descriptive qualitative research method. The data collection technique is documentation review sourced from classical literature and scientific journals. After the data is collected, it is analyzed using content analysis techniques. The results show that breast milk has a correlation with sperm so that it can cause a *mahramiyah* relationship to be established. This is because breast milk contains genes as found in sperm, so that the genes owned by the mother will be inherited to the child when she is breastfed. The similarity of the inherited genes is what causes a negative impact on offspring in the

event of marriage, so Islam states that there is a *mabramiyah* relationship from breastfeeding.

Keywords: Breast milk; Sperm; *Mabramiyah*

Introduction

Breastfeeding a child is an inherent fitrah in a mother so it is certain that every mother has a strong desire to breastfeed her baby.¹ Fitrah is an unchangeable natural tendency that exists from birth in all humans. Breast milk is the safest and most suitable food for the baby's developmental needs, as it contains all the nutrients needed by the baby.² Allah created breast milk for the human child in order to fulfill the nutritional needs of the baby. Breast milk contains complete nutrients, carbohydrates, proteins, mineral salts, and as vitamins. The various contents contained in breast milk are the elements of resources needed by infants.³ Islam strongly emphasizes the importance of breastfeeding for children, making it a mother's duty and a child's right to receive breast milk from his or her mother. The importance of breastfeeding was stated in the Quran more than fourteen centuries before the theme of World Breastfeeding Day 2007, which reads: "By breastfeeding a baby in the first hour of life until four months of age, more than one million babies will be saved."⁴

In classical books, breast milk is called laban. In language, laban is milk. The activity of breastfeeding is called *radha'ah*.⁵ *Radha'ah* is a crucial issue because it implies the *mabramiyah* law of breastfeeding for those involved in *radha'ah*. The provision of breast milk by a woman who is not the child's biological mother to the child is generally categorized as *radha'ah* as written in the classical books. The case of *radha'ah* has generated a long debate among fiqh scholars in terms of the method of breastfeeding, the purity of breast milk, the age of the breastfed child and the amount of breastfeeding. This debate will continue to exist and is an illustration of the liveliness of Islamic legal thinkers from the past until now in interpreting a text (*lafadh*) from a verse or hadith.

¹ Tria Astika Endah Permatasari et al., "Exclusive Breastfeeding Intention among Pregnant Women," *Kesmas* 12, no. 3 (2018): 134–41, <https://doi.org/10.21109/kesmas.v12i3.1446>.

² Abdul Halim, "Donor Asi Dalam Perspektif Hukum Islam," *Miyah: Jurnal Studi Islam* 12, no. 2 (2016): 1–16, <https://doi.org/http://dx.doi.org/10.33754/miyah.v12i2.101.g70>.

³ Sabri Fataruba, "Donor Air Susu Ibu (ASI) Dan Permasalahan Hukumnya Serta Upaya Pencegahan Terjadinya Hubungan Kemahraman," *Jurnal Ilmiah SASI* 25, no. 137–48 (2019), <https://doi.org/https://doi.org/10.47268/sasi.v25i1.148>.

⁴ Kementerian Agama RI, *Tafsir Tematik Alquran: Kesehatan Dalam Perspektif Alquran*, Cet. 2 (Jakarta: Lajnah Pentashihan Mushaf Alquran, 2012), h. 85.

⁵ Mahmud Yunus, *Kamus Arab-Indonesia* (Jakarta: Haida Karya Agung, 1990), h. 390.

Breast milk is a liquid that comes out of the human body just like blood. However, when breast milk is drunk by a baby, it can cause a *mahramiyah* relationship of breastfeeding, while a blood transfusion to a baby does not cause any legal consequences between the blood donor and the baby, so it is necessary to study why breast milk can cause a *mahramiyah* relationship of breastfeeding while blood transfusion does not cause *mahramiyah*, even though both breast milk and blood are liquids that come out of the body.

The study of breast milk as a causative factor of *mahramiyah* is necessary because it will reveal the underlying causes that make breast milk similar to sperm in terms of *mahramiyah*. Previous scholars have given a fatwa that breast milk can cause *mahramiyah*, although with different criteria and requirements. However, it has not yet been clarified in science or science why this can happen. In addition, very few researchers have studied the correlation between breast milk and sperm, and it can even be said that it has never been done. This argument is based on a review of several articles as a literature review that have relevance to the study of breastfeeding (*ridha*). Such as the article on donor breast milk⁶. This study only discusses the law of breast milk donation and the legal consequences arising from breast milk donation.⁷ In addition, there is also an article written by Masrul Isoni Nurwahyudi with the title *The Concept of Raḍā'ah in the Quran (Thematic Interpretation Study of Verses About Breastfeeding Babies in the Perspective of Mufassir and Science)*, which this article at first glance also discusses science, but the focus of study in this article is on the wisdom of breastfeeding when viewed from science and technology, not discussing what elements are contained in breast milk so that it is called *mahramiyah*.⁸

There are also studies that are almost similar to this study, namely the study of Thoat Setiawan with the title 'The Study of Breastfeeding (Ar-Radhaa') in Establishing Marital Partnership (Tafsir Maudu'i, Study of the Quran Surah An-Nisa Verse 23). This study examines how breastfeeding can cause mahramiyah, but it does not examine what elements are contained in breast milk so that breast milk has a correlation with sperm in terms of haram nikah.⁹ In addition, because breast milk is one of the needs of children that must be provided by their parents so that it is also part of the needs (nafkah) of children. So this study also has little relevance to the study of child maintenance as

⁶ Khotifatul Defi Nofitasari, "The Urgency and Implication of Breast Milk Donor in Indonesia in Mashlahah Perspective," *JURNAL ILMIAH MIZANI: Wacana Hukum, Ekonomi, Dan Keagamaan* 8, no. 2 (2021): 205, <https://doi.org/10.29300/mzn.v8i2.5431>.

⁷ Halim, "Donor Asi Dalam Perspektif Hukum Islam."

⁸ Ihsan Nul Hakim, "Pemikiran Ushul Fiqih Ibnu Qudamah: Kajian Atas Beberapa Masalah Fiqih Dalam Kitab Al-Kafi Fi Fiqh Al-Imam Ahmad Bin Hanbal," *Istinbath: Jurnal Hukum Islam* 1, no. 2 (2016): 81–102, <https://doi.org/DOI: 10.29240/jhi.v1i1.76>.

⁹ Thoat Setiawan, "Persusuan (Ar-Radhaa') Menjadikan Kemahraman Dalam Perkawinan (Kajian Tafsir Maudu'i Alquran Surat An-Nisa Ayat 23)," *JURIS: Jurnal Ilmiah Syari'ah* 16, no. 1 (2017), <https://doi.org/http://dx.doi.org/10.31958/juris.v16i1.957>.

Karimuddin's study with the title *Child Sustenance After Divorce According To Fiqh Syafi'iyah*.¹⁰ On the other hand, because this study also relies on references from classical books, there is also relevance to other studies that use references to classical books such as Helmi Imran's study with the title of his study *Development of the Shafi'iyah Fiqh Thought Pattern and the Role of Al-Nawawi as a Unifier*.¹¹ However, this study only has relevance in terms of both classical book studies. Based on the description and literature review above, a study is needed to find out the correlation between breast milk and sperm as a cause of haram nikah to perfect the previous studies.

In relation to the research method used in examining the correlation between breast milk and sperm is the library research method. The nature of this research is descriptive because it aims to describe how the relationship between breast milk and sperm as a cause of mahramiyah. Data collection uses documentation techniques by reviewing journal articles, fiqh books and contemporary tafsir that link fiqh studies with medical science. All data in this study is in the form of text so that in analyzing it using content analysis techniques. Using this research method is expected to produce a truly original study so that it can add a study that has novelty value to answer problems that occur in society.

Discussion

Breast Milk as a Shaper of Baby's Body Structure

One proof that Islam has organized the legal space thoroughly is the formation of a legal formulation up to the level of child breastfeeding. The process of breastfeeding is a divine nature, meaning that a mother does not need to learn and does not need to lead her feelings to be able to breastfeed her baby. One of the things women have that cannot be replaced is milk. Milk in Arabic is called laban. Milk/labani is a food that has undergone a natural neutralization process and milk/labani is also the most suitable food for babies' needs.

The suitability of milk (laban) as baby food has been revealed by previous scholars, but the previous scholars in conducting research and studies on breast milk in relation to baby food did not clearly reveal what elements are contained in breast milk, so that breast milk is the food that best suits the needs of babies.¹² The scholars simply state that breast milk is the main food and the

¹⁰ A. Karimuddin, K., & Abdullah, "Child Sustenance After Divorce According To Fiqh Syafi'iyah," *In Proceeding International Seminar of Islamic Studies* 2, no. 1 (2021): 101–7.

¹¹ K. A. Imran, H., & Lawang, "Development of the Shafi'iyah Fiqh Thought Pattern and the Role of Al-Nawawi as a Unifier," *Al-Istinbath: Jurnal Hukum Islam* 7, no. 1 (2022): 141-160., <https://doi.org/10.29240/jhi.v7i1.4233>.

¹² Masrul Isoni Nurwahyudi, "Konsep Radha'ah Dalam Al-Quran (Kajian Tafsir Tematik Ayat-Ayat Tentang Menyusui Bayi Dalam Perspektif Mufassir Dan Sains)," *QOF Journal* 1, no. 2 (2017): 103–16, <https://doi.org/https://doi.org/10.30762/qof.v1i2.922>.

most suitable food for infants. The author of tafsir *al-Manar* and the author of tafsir *al-Hawi* also explained that breast milk is the main food of infants.¹³ From the available information, it can be concluded that the scholars of tafsir and fiqh agree that breast milk is the main food of infants.

One of the foundations of the early scholars who stated that breast milk is the main food and the most suitable food for infants is the Prophet's statement in the hadith narrated by Darul Qutni:

لَا يَحْرُمُ مِنَ الرِّضَاعِ إِلَّا مَا أَنْبَتَ اللَّحْمَ، وَأَنْشَرَ الْعَظْمَ. (رواه دار القطني^{١٤})

It is not forbidden because of breastfeeding except that which grows the flesh and strengthens the bones. (H.R. Dar al-Quthni).

In this Hadīth, the Prophet explains that breast milk grows flesh and develops bones. This Hadith indicates that breast milk contains several elements that babies need during their growth period. Regarding the main function of breast milk, Imam Shirazi explains as follows:

فإن ثار للبكر لبن أو لثيب لا زوج لها فأرضعت به طفلاً ثبت بينهما حرمة الرضاع لأن لبن النساء غذاء للأطفال.^{١٥}

If a young child is suckled by a woman who is a virgin or a widow who does not have a husband, there is a mahrami relationship between them, because the woman's milk is the food of the baby.

Imam al-Nawawi in *al-Majmu'* also explains that breast milk can grow flesh and strengthen bones.¹⁶ Al-Nawawi's explanation of breast milk growing flesh and strengthening bones is similar to what is found in the hadith. This means that Imam Nawawi merely reveals the function of breast milk for the baby, without explaining in detail the relationship between breast milk and the growth of the baby. In this regard, Sulaiman al-Bujairimi reveals the reason for the prohibition of marriage between breastfeeding mothers and breastfed children as follows:

وَسَبَبُ تَحْرِيمِهِ أَنَّ اللَّبَنَ جُزْءُ الْمُرْضِعَةِ، وَقَدْ صَارَ مِنْ أَجْزَاءِ الرِّضِيعِ فَأَشْبَهَ مِنْهَا فِي النَّسَبِ.^{١٧}

The reason for the prohibition of marriage between a breastfeeding mother and her breastfed child is that milk is a fluid that comes out of the breastfeeding mother's body. When

¹³ Muhammad Rasyid bin Ali Ridha, *Tafsir Al-Manar*, Jilid IV (Ttp: Maktabah Syamilah, n.d.), h. 383. Lihat juga Abdurrahman Bin Muhammad, *al-Hawi fi Tafsir Alquran*, Maktabah Syamilah, h. 247.

¹⁴ Darul Qutni, *Sunan Darul Qutni*, Jilid VII (Ttp: Maktabah Syamilah, n.d.), h. 304.

¹⁵ Imam Syaairazi, *Al-Muhadhdhab Fi Fiqh Al-Imam Al-Syafi'i*, Jilid III (Ttp: Maktabah Syamilah, n.d.), h. 144.

¹⁶ Al-Nawawi, *Al-Majmu' Syarb Muhadhdhab*, Jilid XX (Kairo: Maktabah Taufiqiyah, n.d.), h. 91.

¹⁷ Sulaiman Al-Bujairimi, *Hasyiah Al-Bujairimi*, Jilid IV (Bairut: Dar al-Fikr, 2007), h. 97.

the milk is drunk by the child, it becomes part of the child's body, so the milk resembles semen in the case of nasab.

Sulaiman al-Bujairimi's explanation shows that there are similarities between breast milk and sperm. That is, the elements found in sperm are also found in breast milk. Here Sulaiman al-Bajairimi is only limited to giving a hint that there are similarities between sperm and breast milk. Sulaiman al-Bujairimi does not explain the extent to which the similarity between breast milk and sperm is related to the legal consequences caused. Further information related to the similarity of breast milk with sperm and the legal consequences arising from breast milk and sperm is explained by Ibn Hajar al-Haitami as follows:

وَسَبَبُ تَحْرِيمِهِ أَنَّ اللَّبَنَ جِزْءُ الْمُرْضِعَةِ وَقَدْ صَارَ مِنْ أَجْزَاءِ الرَّضِيعِ فَأَشْبَهَ مِثْمَا فِي النَّسَبِ وَلِقُصُورِهِ عَنْهُ لَمْ يَتَبَثْ لَهُ مِنْ أَحْكَامِهِ سِوَى الْمُحْرَمِيَّةِ دُونَ نَحْوِ إِزْثٍ وَعَتَقٍ وَسُقُوطِ قَوْدٍ وَرَدِّ شَهَادَةٍ.¹⁸

The reason for the prohibition of marriage between a breastfeeding mother and her breastfed child is that milk is a bodily fluid of the breastfeeding mother. When the milk is drunk by the child, the milk becomes part of the child's body, so the milk resembles semen in nasab. However, not all the rulings that result from the relationship of nasab apply to the case of breastfeeding/radha'ab. Radha'ab only gives rise to the law of mahramiyah (prohibition of marriage), radha'ab does not give rise to the law of mutual inheritance, rejection of testimony, and avoidance of qishbash.

Ibn Hajar al-Haitami's explanation shows that there is a similarity between breast milk and sperm, so the law of lineage that arises from sperm also applies to breast milk. This is what causes the prohibition of marriage if there is a *nasab* relationship between the prospective husband and the prospective wife. The *nasab* relationship is formed due to the presence of sperm/mani. Sperm/mani is the bodily fluid of a person. If this fluid turns into a human being, then between the owner of the sperm and the human being (sperm/mani that has taken the form of a human being) is a relationship called *nasab* relationship. This type of relationship can also be formed by breast milk because there are similarities between breast milk and sperm. Breast milk drunk by a baby will establish a bond between the owner of breast milk and a baby. This bond is called the mahramiyah of breastfeeding. This happens because there is a similarity between breast milk and sperm in the case of *nasab*. However, not all laws arising from sperm/mani apply to the laws arising from breast milk because sperm/mani is the origin of the baby's birth while breast milk serves to grow the flesh and strengthen and develop the baby's bones.

Imam al-Khazin in his tafsir regarding the similarity between breast milk and sperm explains as follows:

¹⁸ Ibnu Hajar Al-Haitami, *Tahfab Al-Muhtaj*, Jilid VIII (Bairut: Dar al-Fikr, 1997), h. 327.

قوله تعالى: وَأُمَّهَاتُكُمُ اللَّاتِي أَرْضَعْنَكُمْ وَأَخَوَاتُكُم مِّن الرِّضَاعَةِ كُلٌّ مِّثْلُ آبَائِكُمْ فِي الْوَالِدَاتِ وَالْوَالِدَاتِ مِثْلُ أُمَّهَاتِكُمْ فِي الرَّضَاعِ وَإِنَّمَا نَصَّ اللَّهُ عَلَى ذِكْرِ الْأُمِّ وَالْأَخْتِ لِيُبدَلَ بِذَلِكَ عَلَى جَمِيعِ الْأَصُولِ وَالْفُرُوعِ فَنَبِهَ بِذَلِكَ أَنَّهُ تَعَالَى أَجْرَى الرِّضَاعِ مَجْرَى النِّسْبِ وَيُبدَلُ عَلَى ذَلِكَ مَا رُوِيَ عَنِ عَائِشَةَ رَضِيَ اللَّهُ تَعَالَى عَنْهَا أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: يَحْرَمُ مِنَ الرِّضَاعِ مَا يَحْرَمُ مِنَ الْوَالِدَةِ. (أَخْرَجَاهُ فِي الصَّحِيحَيْنِ)¹⁹

Allah's Word: And your mothers who have suckled you and your nursing sisters. Every woman who suckled you is your mother and every daughter of hers (whether a breastfed child or a biological child) is your sister. Allah SWT clearly mentions breastfeeding mothers and breastfeeding sisters in order to indicate all mothers and children. This shows that Allah SWT establishes the law of mahramiyah of breastfeeding the same as the law of mahramiyah of nasab. The similarity of the law of mahramiyah breastfeeding with mahramiyah nasab is based on the badith of the Apostle SAW narrated by Aisha, that the Apostle said: Haram because of radha'ah what is forbidden because of wiladah. (Imam Bukhari and Imam Muslim narrated this hadith in their respective sahih books).

The Correlation between Breast Milk and Sperm

From the books of the previous scholars in formulating the rulings arising from *radha'ah*, It has not found any medical reason as to what elements are contained in breast milk so that a *mahramiyah* relationship of breastfeeding is established between the people involved in *radha'ah*. The most dominant reason cited by the scholars when explaining the process of *radha'ah* is that breast milk is *الأطفال غذاء* /baby food.²⁰

Furthermore, Imam al-Nawawi explained that breast milk, which is a human body fluid, has three advantages over other liquids. First, breast milk is the most suitable food for infants who have undergone a natural neutralization process in the human body, second, breast milk can grow meat, and third, breast milk can develop and strengthen bones.²¹ This is the advantage of breast milk that is not found in other fluids such as blood even though they are both from the human body. Thus it can be understood that breast milk can cause mahramiyah of breastfeeding because it contains these elements.

To find a more adequate legal logic related to breast milk causing mahramiyah breastfeeding relationship scientifically can be explored in other branches of science. The branch of science that reveals what elements are found in breast milk is medical science. In the medical world, it is explained that when breastfeeding, hereditary and immune factors are carried and transferred from the breastfeeding mother to the breastfed child. In a baby's body, these factors combine with a baby's genes. This causes gene similarities between babies breastfed by one mother. If there is a marriage between the two, it will cause

¹⁹ Imam Al-Khazini, *Tafsir Al-Khazini*, Juz. 1 (Ttp: Maktabah Syamilah, n.d.), h. 358.

²⁰ Al-Nawawi, *Al-Majmu' Syarh Muhadhdhab*, h. 95.

²¹ Al-Nawawi, h. 94.

bad things to happen to the offspring. Breast milk is made up of stem cells that carry the common genetic traits of the mother. Cells are the essence of human life. Furthermore, these traits are transferred to the suckling child. This reinforces the wisdom of the prohibition of marriage between breastfeeding siblings. This prohibition is to avoid the potential for imbalances in the child's immune system and other serious genetic diseases.²² This is corroborated by a study of women's immune systems that proves breast milk is made up of cells that carry mixed genetic traits from the father and mother, so these traits will automatically pass from the mother to her breastfed child.²³

Breast milk drunk by a baby will inherit the special traits of the owner of the milk to the baby. In a sense, a baby will have similarities or resemblances to his or her breastfeeding brother or sister in terms of the traits inherited from the mother of the milk. Likewise, there are similarities and similarities in traits with the mother who owns the milk. Thus, breast milk can create the value of kinship and brotherhood because of the transfer of genes contained in the breast milk of the breastfeeding person to the breastfed baby. The genes of the breastfeeding mother will merge with the innate genes of a baby. Genetic factors are the basic capital in achieving the final result of the child's growth and development process.²⁴

Through the genetic instructions contained in the fertilized egg, the quality and quantity of growth can be determined. Characterized by the intensity and speed of division, the degree of tissue sensitivity to stimuli, the age of puberty and the cessation of bone growth. Genetic factors include various normal congenital factors such as physical characteristics, intelligence and talent, as well as pathological congenital factors such as physical disorders and defects and gender.²⁵ Quality genetic potential should be able to interact with the environment in a positive way so as to obtain optimal final results. Growth disorders in developed countries are more often caused by these genetic factors. Whereas in developing countries, growth disorders are not only caused by genetic factors, but also environmental factors that are inadequate for optimal child development, and these two factors can even cause the death of children before they reach toddler age²⁶.

The Prophetic Hadith narrated by Darul Qutni explains in general the function of breast milk to form the baby's body structure by growing flesh and

²² Nabzzyan, "Larangan Menikah Sodara Sepersusuan," <http://nabzzyan.blogspot.com/>, 2013.

²³ Abdul Syukur Al-Azizi, *Islam Itu Ilmiah* (Yogyakarta: Laksana, 2018), h. 217.

²⁴ Soetjiningsih, *Tumbuh Kembang Anak* (Jakarta: EGC, 2013), h. 2.

²⁵ Soetjiningsih, h. 8.

²⁶ Anggorowati Anggorowati et al., "Effects of Acupoint Stimulation with Digital Massager of Oxytocin on the Breast Milk Production of Working Mothers," *Nurse Media Journal of Nursing* 6, no. 2 (2017): 91, <https://doi.org/10.14710/nmjn.v6i2.11726>.

strengthening and developing bones. The explanation of this hadith is very much in line with what is stated in medical science. The sophistication of the medical team's research tools has discovered the elements contained in breast milk. The elements contained in breast milk have been revealed by the prophet through his hadith narrated by Darul Qutni:

لَا يَحْرُمُ مِنَ الرِّضَاعِ إِلَّا مَا أَنْبَتَ اللَّحْمَ. (رواه دار القطني)

It is not forbidden because of breastfeeding except that which grows flesh. (H.R Darul Qutni)

The understanding of the fiqh scholars regarding the case of *radha'ab* does not only rely on this hadith narrated by Darul Qutni. That is, the fiqh scholars in formulating the law of *radha'ab* have combined various verses of the Qur'an and Prophetic traditions related to *radha'ab*. The result of this combination, they poured in a concept called *radha'ab*.

Breastfeeding Rate Shapes The Baby's Genetics

In the classical books, the provision of breast milk to a baby is referred to as *radha'ab*. The formation of *radha'ab muharrimah* is inseparable from several provisions. In the case of *radha'ab*, there are three main conditions that must be attached to the *radha'ab* process. These provisions are also termed the criteria of breastfeeding that lead to *mahramiyah* of breastfeeding. These criteria include the rate of breastfeeding, the method of breastfeeding and the age of the breastfed child. According to Khatib Sharbaini, these three criteria are absolute requirements in the case of *radha'ab muharrimah*.²⁷ *Radha'ab Muharrimah* is breastfeeding that makes marriage forbidden for the people involved.

The amount of breastfeeding is one of the criteria for breastfeeding. The rate of breastfeeding is also one of the determinants of the establishment of *mahramiyah* breastfeeding. Imam al-Shirazi and Khatib Sharbaini regarding the rate/number of breastfeeding that causes a mahramiyah breastfeeding relationship between the breastfeeding mother and the breastfed child explain that there are three opinions that explain this criterion. The first opinion states that one time of breastfeeding can cause mahramiyah of breastfeeding. The second opinion states that three times of breastfeeding can lead to mahramiyah of breastfeeding. The third opinion states five times of breastfeeding.²⁸

The scholars among the Imams of the *madhhab* that are of the opinion that one breastfeeding can lead to *radha'ab* of the *muharrimah* are Abu Hanifah, Imam Malik, Auza'i, Abu Sur and al-Abu Laits. At the level of the Companions,

²⁷ Khathib Syarbayni, *Mughni Al-Muhtaj* (Bairut: Dar al-Fikr, n.d.), h. 530.

²⁸ Syarbayni, h. 531.

Ali ibn Abi Talib, Ibn Umar and Ibn Abbas were of this opinion.²⁹ These scholars (both at the level of the Companions and the level of the madhhab scholars) do not require that the mahramiyah relationship between the breastfeeding mother and the breastfed child must be established three times or five times. This opinion is in accordance with the understanding of the Quranic verse al-Nisa': 23

حُرِّمَتْ عَلَيْكُمْ أُمَّهَاتُكُمْ.

It is forbidden for you to marry your mothers.

Imam al-Khazin in interpreting this verse explains as follows:

وذهب جمهور العلماء إلى أن قليل الإرضاع وكثيره يحرم وهو قول ابن عباس وابن عمر وبه قال سعيد بن المسيب وإليه ذهب الثوري والأوزاعي ومالك وابن المبارك وأبو حنيفة وأحمد في إحدى الروايتين عنه والرواية الأخرى كمذهب الشافعي واحتج مذهب الجمهور بمطلق الآية لأنه عمل بعموم القرآن وظاهره ولم يذكر عددا.³⁰

The majority of scholars are of the view that one breastfeeding or several breastfeedings is the same, which is baraam (because of the mahramiyah relationship of breastfeeding). This is the view of Ibn Abbas, Ibn Umar, Said ibn Musaiyab, Sauri, Auza'i, Imam Malik, Ibn Mubarrak, Abu Hanifah and Imam Ahmad in one narration. This view of the majority is based on the general meaning of the verse, because the verse does not mention the number of breastfeedings.

This explanation of al-Khazin shows that the Qur'an does not make a limit on the number of breastfeedings that cause mahramiyah of breastfeeding, so according to al-Jumhur, one breastfeeding can be the cause of mahramiyah of breastfeeding. Scholars who are in line with this opinion explain that the traditions that indicate three times of breastfeeding or five times of breastfeeding that can cause mahramiyah of breastfeeding are *mansukh hadiths*.³¹ This means that the hadiths indicating three times of breastfeeding or five times of breastfeeding belong to the category of hadiths that have been nullified.

When examined closely, the above verse only mentions mothers and sisters as one of the women who are forbidden to marry. This does not then limit it to these two, but also includes, nieces and nephews, aunts, grandmothers, and so on, whether on the father's side or on the mother's side, as they are all forbidden by blood relationship.³²

²⁹ Yahya bin Abi Khair Abu Husain, *Al-Bayan Fi Madhhab Al-Imam Al-Syafi'i*, Jilid XI (Ttp: Maktabah Syamilah, n.d.), h. 144.

³⁰ Al-Khazin, *Tafsir Al-Khazin*, h. 359.

³¹ Ibn Abi Zaid, *Al-Fawaqih Al-Dawani*, Juz. II (Ttp: Maktabah Syamilah, n.d.), h. 55.

³² Izul Muttaqin dan Ulya Fikriyati, "KAJIAN TAFSIR TEMATIK TENTANG AYAT RADĀ'AH," *JPIK Jurnal Pemikiran Dan Ilmu Keislaman* 1, no. 2 (2018): 326–52, <https://jurnal.instika.ac.id/index.php/jpik/article/view/90>.

Al-Qarafi in his book entitled *al-Dhakharah* related to the hadith of Siti Aisha which states that at first Allah revealed the verse of the Qur'an which explains ten times of breastfeeding can cause *mabramiyah*.

The hadith of Siti Aisha is found in Sahih

عن عائشة، أمها قالت: كان فيما أنزل من القرآن: عشر رضعات معلومات يحرمن، ثم نسخن بخمس معلومات، فتوفي رسول الله ﷺ، وهن فيما يقرأ من القرآن رواه مسلم

'Aisha reported that she said: Radha'ab, which is forbidden according to the Qur'an, is ten breastfeedings. Then it was abrogated to five feedings. After this verse was revealed, the Prophet died. People still recite this verse (the verse indicating ten times of breastfeeding) as part of the Qur'an. (H.R. Muslim)

Then Allah annulled this verse with a verse explaining that five times of breastfeeding can cause *mabramiyah* explaining that if this hadith was true then the verse is still recited today because Allah SWT has said in the Qur'an Surah al-Hijr verse: 9

إِنَّا نَحْنُ نَزَّلْنَا الذِّكْرَ وَإِنَّا لَهُ لَحَافِظُونَ.

Indeed, it is Us who revealed the Qur'an and We are the guardians of it.

From the existing explanation, it can be understood that the *malikiyyah* and *hanafiyyah* scholars in determining the level / amount of breastfeeding are understanding the contents of the Qur'an Surah al-Nisa'- verse: 23. In this verse, Allah only mentions the prohibition of marriage with breastfeeding women and breastfeeding sisters, without mentioning the amount/level of breastfeeding so that one breastfeeding can cause *mabramiyah* of breastfeeding between the people involved in *radha'ab*.³³

Some scholars are of the view that the number of breastfeedings that cause *mabramiyah* is three. This opinion is different from the above opinion. According to al-Nawawi in his book *al-Majmu'*, the scholars who expressed this opinion were Zaid ibn Sabit, Daud al-Zahiri, and Ibn al-Mundhir.³⁴

This opinion is in accordance with the hadith narrated by Imam Muslim below:

عن عبد الله بن الحارث، أن أم الفضل، حدثت، أن نبي الله ﷺ قال: لا تحرم الرضعة أو الرضعتان، أو المصبة أو المصتان. (رواه مسلم)

From Abdullah bin Haris: Umm al-Fadhl narrated that the Prophet (SAW) said: one suckling or two sucklings or one suction or two suction is not forbidden. (H.R. Muslim).

³³ Thoat Setiawan, "Persusuan (Ar-Radhaa') Menjadikan Kemahraman Dalam Perkawinan (Kajian Tafsir Maudu'i Alquran Surat An-Nisa Ayat 23)," *JURIS: Jurnal Ilmiah Syari'ah* 16, no. 1 (2017), <https://doi.org/http://dx.doi.org/10.31958/juris.v16i1.957>.

³⁴ Al-Nawawi, *Al-Majmu' Syarb Muahadhab*, b. 82.

Explicitly, this Hadith states that one and two times of breastfeeding do not lead to mahramiyah of breastfeeding. Implicitly, it states that three or more times of breastfeeding can lead to *mabramiyah* of breastfeeding. In the branch of usul fiqh, the way in which this Hadith is used as evidence for this opinion is through the *dilalah mafhum*.³⁵

Based on the *dilalah al-mafhum*, the above-mentioned hadith indicates that three times of breastfeeding is the minimum limit that causes mahramiyah of breastfeeding, so they are of the opinion that the amount of breastfeeding that makes marriage forbidden is three or more times of breastfeeding. The Shafi'i scholars are of the opinion that five times of breastfeeding is the benchmark for establishing the *mabramiyah* of breastfeeding between the breastfed child and the breastfeeding mother.³⁶ Khatib Sharbaini, in this case, explained that the Prophet ordered Salim to be breastfed five times so that the *mabramiyah* relationship was established.³⁷ If the number of breastfeedings is less than five, then it does not lead to *mabramiyah* of breastfeeding.³⁸ Imam Nawawi further explained that the five feedings must be separate.³⁹

Imam Shafi'i in the book *al-Umm* explains as follows:

ولا يحرم من الرضاع إلا خمس رضعات متفرقات، وذلك أن يرضع المولود ثم يقطع الرضاع ثم يرضع، ثم يقطع الرضاع فإذا رضع في واحدة منهن ما يعلم أنه قد وصل إلى جوفه ما قل منه وأكثر فهي رضعة، وإذا قطع الرضاع ثم عاد لمثلها أو أكثر فهي رضعة.⁴⁰

Breastfeeding that does not reach five separate times does not make it unlawful, because the way a child breastfeeds is to breastfeed at a certain time and stop at another time. If it is known for certain that the woman's milk enters the child's throat, whether it is a little or a lot, then the breastfeeding is counted once. If the child stops breastfeeding and then breastfeeds again, that breastfeeding is counted once.

Imam Shafi'i's statement indicates that the five times of breastfeeding that can cause *mabramiyah* of breastfeeding are five times of definite and separate breastfeeding. This means that the five times of breastfeeding must be known with certainty, not just conjecture. The wisdom behind the five times of breastfeeding that cause mahramiyah breastfeeding is because the five human senses that function to know something are five. Five times of breastfeeding

³⁵ Abdul Aziz bin Muhammad, *Kasyf Al-Asrar*, ed. Juz II (Ttp: Maktabah Syamilah, n.d.), h. 253.

³⁶ Nurliana, "Bank ASI Perspektif Hukum Islam," *Jurnal Al-Himayah* 4, no. 1 (2020), <https://journal.iaingorontalo.ac.id/index.php/ah/article/view/1366>.

³⁷ Syarbayni, *Mughni Al-Muhtaj*, h. 530.

³⁸ Abu Husain, *Al-Bayan Fi Madhhab Al-Imam Al-Syafi'i*, h. 144.

³⁹ Al-Nawawi, *Al-Majmu' Syarh Muahhdhab*.

⁴⁰ Imam Al-Syafi'i, *Al-Umm* (Bairut: Dar al-Ma'rifah, n.d.), h. 29.

serves to maintain the integrity of the five senses.⁴¹ Imam Shafi'i in corroborating his opinion put forward several traditions as follows:

عن عروة بن الزبير أن رسول الله ﷺ أمر سهلة ابنة سهيل أن ترضع سالما خمس رضعات فيحرم بهن.⁴²

'Urwah ibn Zubair reported that the Prophet (SAW) ordered Sahlah (Subail's daughter) to breastfeed Salim five times in order to establish a mahram relationship.

This Hadith from 'Urwah ibn Zubair is categorized as a strong Hadith because in the madhhab of Imam Shafi'i, one of the Hadith provisions used as a guide in determining the law is the *Sahih* or *Hasan* Hadith. Furthermore, Imam Shafi'i found another tradition related to the number of breastfeeding as narrated by Imam Muslim in *Sahih Muslim*:

عن عائشة أمها: قالت كان فيما أنزل الله في القرآن عشر رضعات معلومات يحرم ثم نسخن بخمس معلومات فتوفي رسول الله - ﷺ وهن مما يقرأ من القرآن.

'A'ishah (r.a) reported that the number of times of breastfeeding that makes marriage between a breastfed child and a breastfeeding mother prohibited, as stated in the Qur'an, is ten times. Then this number (ten times of breastfeeding) was naskh-ed with five times of breastfeeding. After the naskh of the amount of breastfeeding in the case of radha'ah, the Prophet died and this verse (the verse describing ten times of breastfeeding) was included in the verses recited in the Quran.

The aforementioned Hadiths indicate that the breastfeeding that causes *mabramiyyah* is five times. As for the opinion that Aisha explained that initially the Qur'an determined the number of times of breastfeeding that causes *mabramiyyah* to be ten times, then this verse was canceled with a verse stating that five times of breastfeeding can cause mahramiyyah. Imam Nawawi in his book *al-Majmu'* related to this hadith explains that the case of naskh and mansukh regarding the number of breastfeedings is an issue that Aisha could not have known unless the Prophet conveyed it to Aisyah.⁴³ This means that Aisha's knowledge regarding the issue of naskh, nasikh, and mansukh on the number of breastfeedings that can cause mahramiyyah breastfeeding is the result of direct communication between Aisha and the Prophet.

Based on the various explanations that have been made regarding the amount of breastfeeding that can cause *mabramiyyah* breastfeeding, it can be understood that the madhhab scholars have different views in determining the amount of breastfeeding that can cause *mabramiyyah* breastfeeding. This difference is impossible to unify because the *ijtihāt* pattern used by the scholars is different, resulting in different conclusions.

⁴¹ Al-Haitami, *Tuhfab Al-Mubtaj*, h. 332.

⁴² Al-Syafi'i, *Al-Umm*, h. 236.

⁴³ Al-Nawawi, *Al-Majmu' Syarb Mubadhdhab*, h. 83.

Breastfeeding Method as a Causal Factor of *Mahramiyah*

There is disagreement among scholars regarding the process of breastfeeding, such as breastfeeding directly or by pouring it into a baby's mouth or nose. Yusuf al-Qaradhawi as a contemporary scholar also took part in contributing his thoughts on breast milk banks.⁴⁴

In his work which has been translated into Indonesian, *Fatwa-Fatwa Kontemporer*, he argues that the breastfeeding that can cause *mahramiyah* breastfeeding is breastfeeding that occurs directly by sucking the breasts and always being close to the baby so as to give birth to maternal affection and dependence on a baby, so that with it will cause the brotherhood of breastfeeding.⁴⁵ Yusuf al-Qaradhawi in the case of *radha'ah* looks more at the emotional relationship, namely the value of intimacy that exists between the breastfeeding mother and the breastfed child due to direct breastfeeding.

The scholars stated that in general, there are two methods for breast milk to enter the esophagus or brain of a baby indirectly.⁴⁶ First, the *wujur* or *ijar* method. Ibn Hajar al-Haitami defined *wujur* or *ijar* as reaching the baby's esophagus by pouring breast milk into the baby's mouth. It is required in this method that the breast milk should reach the baby's stomach.⁴⁷ The second method is *su'ud* or *is'ad*. Sulaiman al-Bujairimi explained that *su'ud* or *is'ad* is pouring breast milk into the nose of a baby so that it reaches the brain.⁴⁸ It is likely that these two methods are classic methods, with little knowledge of other patterns that cause breast milk to reach the stomach or brain of a baby. There are now other ways that breast milk can enter a baby's stomach, one of which is by injecting directly into the stomach.

Khatib Sharbaini, regarding the equation of the ruling on *su'ud* with the ruling on *irtidha'* (direct breastfeeding), explained that breast milk that enters the brain of a baby through the process of *su'ud* still functions as food because the brain is a container for food just like the stomach.⁴⁹ This opinion uses *qiyas* in determining the *mahramiyah* ruling on breastfeeding through *wujur* and *su'ud*. The *'illah* is that the breast milk that enters through *wujur* can grow the flesh and develop and strengthen the bones just like breast milk that enters through direct breastfeeding.⁵⁰

⁴⁴ Abd Rouf, "Breast Milk Bank Laws In The Perspective of The Kaidah Fikih Dar' Al-Mafāsīd Muqadam A'Lā Jalb Al-Mashālih," *Media Syari'ah: Wabana Kajian Hukum Islam Dan Pranata Sosial* 24, no. 1 (2022): 112, <https://doi.org/10.22373/jms.v24i1.11326>.

⁴⁵ Yusuf Qaradhawi, *Fatwa-Fatwa Kontemporer*, Jilid II, (Jakarta: Gema Insani, 1995), h. 787.

⁴⁶ Al-Nawawi, *Al-Majmu' Syarb Mubadhdhab*, h. 88.

⁴⁷ Al-Haitami, *Tubfah Al-Mubtaj*, h. 330.

⁴⁸ Al-Bujairimi, *Hasyiah Al-Bujairimih*, h. 100.

⁴⁹ Syarbayni, *Mughni Al-Mubtaj*, h. 530.

⁵⁰ Al-Nawawi, *Al-Majmu' Syarb Mubadhdhab*, h. 90.

According to Ibn Hazm, the breastfeeding that can lead to a mahramiyah relationship is direct breastfeeding on a mother's breast through her mouth.⁵¹ This opinion is in accordance with the Quranic verse al-Nisa': 23, in which the word radha'ah is used. The word *radha'ah* in the verse means direct breastfeeding. This opinion is also in accordance with one of Imam Ahmad's opinions. However, Imam Ahmad's strong opinion is that breastfeeding through the process of wujur and Su'ud can cause mahramiyah of breastfeeding as explained by al-Nawawi in al-Majmu'.⁵²

From the previous explanations, it can be concluded that the entry of breast milk into the stomach of an infant through the process of *irtidha'* (direct breastfeeding) is unanimously agreed upon by the scholars as causing *mabramiyah* of breastfeeding. As for the entry of breast milk into the stomach of a baby through the process of *wujur* and *Su'ud*, there is a difference of opinion. The correct view in the Shafi'i madhhab is that wujur and su'ud can cause *mabramiyah*, just like *irtidha'*. *Radha'ah* through *ludud* is the same ruling as wujur, because *ludud* is the category of inserting breastmilk into the baby's mouth. *Radha'ah* that occurs by injecting breast milk into the baby's stomach is included in the *radha'ah* that can cause *mabramiyah* of breastfeeding because breast milk still functions as food that can grow flesh and strengthen bones.

Breastfeeding Age is a Contributing Factor to *Mahramiyah*

The Shafi'iyah scholars agree that the age of the breastfed child that can cause mahramiyah is not yet two years old. This opinion is in accordance with the words of Allah in the Quran in Surah al-Baqarah, verse 233:

وَالْوَالِدَاتُ يُرْضِعْنَ أَوْلَادَهُنَّ حَوْلَيْنِ كَامِلَيْنِ.

And mothers should breastfeed their children for two complete years.

In this verse, Allah explains that mothers should breastfeed their children until the age of two. Allah's instruction to mothers to breastfeed their children for two years is because the most suitable food for children at this age is breast milk. Breast milk consumed by children under the age of two can grow the flesh and develop and strengthen the bones as explained by the Prophet in the hadith narrated by Imam Thabrani.

إِنَّمَا يَخْرُجُ مِنَ الرُّضَاعِ مَا أَنْبَتَ اللَّحْمَ وَشَدَّ الْعَظْمَ، وَلَا رِضَاعَ بَعْدَ فِطَامٍ.⁵³

The breastfeeding that makes it haram is the breastfeeding that grows the flesh and strengthens and develops the bones. After weaning, the ruling of radha' does not apply.

⁵¹ Sa'id Ibn Hazm, *Al-Muballa Bi Al-'Athar* (Bairut: Dar al-Fikr, n.d.), h. 185.

⁵² Al-Nawawi, *Al-Majmu' Syarh Mubadhdhab*, h. 90.

⁵³ Imam Thabrani, *Al-Mu'jam Al-Kabir*, Jilid IX (Ttp: Maktabah Syamilah, n.d.), h. 91.

The Shafi'i scholars, in corroborating their opinion, also cite a hadith narrated by Darul-Qutni, namely:

قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: لَا رَضَاعَ إِلَّا مَا كَانَ فِي الْحَوْلَيْنِ.⁵⁴

The Messenger of Allah (SAW) said: there is no radha' after the child is two years old.

Abu Hanifah, who is the founder of the Hanafiyah madhhab, is of the opinion that the age of a breastfed child that can cause mahramiyah is a child under the age of thirty months (two years and six months).⁵⁵ Daud Zahiri, the *dzabiriyah* scholars and 'Aa'ishah (r.a) were of the view that the breastfeeding of an adult child is as *mahramiyah* as the breastfeeding of a young child, so it is forbidden to marry between those involved in *radha'ah*.⁵⁶ The scholars who are of the opinion that adult breastfeeding can lead to mahramiyah of breastfeeding rely on the hadith narrated about Salim by Imam Muslim and his Sahih:

عن عائشة، قالت: جاءت سهيلة بنت سهيل إلى النبي ﷺ، فقالت: يا رسول الله، إني أرى في وجه أبي حذيفة من دخول سالم وهو حليفه، فقال النبي ﷺ: أرضعيه، قالت: وكيف أرضعه؟ وهو رجل كبير، فتبسم رسول الله ﷺ وقال: قد علمت أنه رجل كبير. وراه مسلم

From 'Aisha ra, she said: Sablah bint Subail came to see the Prophet (SAW) and she said, O Messenger of Allah (SAW), I saw that Abi Huzai'fab was displeased with Salim when he entered my house, so the Prophet (SAW) said: Milk Salim. Sablah asked, how do I breastfeed him, while he (Salim) has grown up. Rusulullah smiled and said: Indeed I know that he has grown up.

This last view is interesting, but it cannot be taken as evidence because it is evidence that has been abrogated, or it is evidence that is specific to Salim. This means that it does not apply in general. The author of al-Mughni explains this hadith as follows:

فهو رخصة خاصة بسالم كما قاله الشافعي رضي الله تعالى عنه، وقال ابن المنذر: ليس يخلو أن يكون منسوخا أو خاصا بسالم كما قالت أم سلمة وسائر أزواج النبي ﷺ.⁵⁷

The adult breastfeeding that causes the mahramiyah of breastfeeding is a special case of rukhsah for Salim, as explained by Imam al-Shaafa'i (may Allah have mercy on him). Ibn Munzir said that the case with Salim has two possibilities. Firstly, it has been annulled. Secondly, it is a special case for Salim, as stated by Umm Salamah and the other wives of the Prophet.

⁵⁴ Al-Dar Quthni, *Sunan Al-Dar Quthni*, Juz V (Ttp: Maktabah Syamilah, n.d.), h. 307.

⁵⁵ Al-Nawawi, *Al-Majmu' Syarb Mubadhdhab*, h. 79.

⁵⁶ Muhammad Ibn Rusy, *Bidayah Al-Mujtabid Wa Nihayah Al-Muqtasid* (Al-Qahirah: Dar al-Hadis, n.d.), h. 27.

⁵⁷ Syarbayni, *Mughni Al-Muhtaj*, h. 530.

Logically it is impossible for the Prophet to deny the existence of *radha'ah* because the occurrence of breastfeeding must exist even though the child is over two years old, so the Prophet's intention in issuing the statement "*la radha' illa ma kana fi al-haulain*" is that breastfeeding of children over the age of two does not affect anything to *mabramiyah*. That is, breastfeeding does not cause *mabramiyah* of breastfeeding. The above disagreement applies to children aged two years and above, whereas children aged two years and below are not a problem. This means that all scholars agree that breastfeeding a child who is two years old or younger can lead to *mabramiyah* of breastfeeding.

Conclusion

There is a correlation between breast milk and sperm in terms of being able to inherit genetics, because in breast milk there are genes, in sperm there are also genes, so that a child who breastfeeds a mother will form the child's genes like the genes of the mother he breastfed even though not in their entirety and that can cause a *mabramiyah* relationship (gene similarity). The *mabramiyah* relationship caused by breastfeeding is called the mahramiyah of breastfeeding. This *mabramiyah* relationship is only limited to the prohibition of marriage between the people involved in *radha'ah* because of the similarity of genes which results in negative things happening to the offspring. While the *mabramiyah* relationship caused by sperm is called mahramiyah nasab (descent), this *mabramiyah* relationship is not limited to the prohibition of marriage, but can have legal implications for mutual inheritance of property when dying and can also have implications for rejecting shahadah (testimony) in court.

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