

# The Unbreakable Relationship

Are Muslims aware of the Islamic bioethical perspectives on human breast milk banking?

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**R**ESearch has demonstrated the many positive health benefits that breast-feeding confers upon infants, from lower incidence of various infectious diseases to benefits in mother-child bonding.

Studies about premature infants have linked breast-milk feeding with enhanced short- and long-term health outcomes for premature infants when compared to infants fed with formula (Feldman and Eidelman, 2003; Furman *et al* 2003; Hylander *et al*, 2003; McGuire and Anthony, 2001; Schanler *et al*, 2005). When a mother suffers from lactation failure, the inability to nurse her newborn, she has the ability, if she so chooses, to procure breast-milk from other sources. In the West, this alternative source is often a milk bank offering pasteurized donor (or purchased) human milk (PDHM). In the U.S., a system of 10 human milk banks function to collect and store PDHM from lactating mothers who have extra milk after feeding their own infant. After medical history screening and laboratory blood testing for viral and bacterial diseases, including HIV and syphilis, the milk is collected and cold-stored until it is ready for processing. Before distribution, it is subjected to defrosting, pooling, pasteurization, and cultures to rule out bacterial growth (Human Milk Banking Association of North America, 2009).

Pasteurized donor human milk also has demonstrated health benefits for newborns (neonates), compared to babies fed formula. PDHM seems to reduce the rate of several neonatal infections (Narayanan *et al*, 1980;

Narayanan *et al*, 1981), including clearly reducing the risk for necrotizing enterocolitis, a destructive intestinal bacterial disease (Lucas and Cole, 1990).

Milk banking is also common in other developed and developing countries. For example at the International Congress of

father's sisters, your mother's sisters, your brother's daughters, your sister's daughters, your [milk] mothers who nursed you, your sisters through nursing... (4:23 — Sahih International)."

Further, a hadith cites a case where a man was advised to divorce his wife after being

informed they shared a milk mother: "Narrated 'Abdullah bin Abi Mulaika: 'Uqba bin Al-Harith said that he had married the daughter of Abi Ihab bin 'Aziz. Later on a woman came to him and said, "I have suckled (nursed) 'Uqba and the woman whom he married (his wife) at my breast." 'Uqba said to her, "Neither I knew that you have suckled (nursed) me nor did you tell me." Then he rode over to see God's Apostle at Medina, and asked him about it, who replied, "How can you keep her as a wife when it has been said (that she is your foster-sister)?" Then 'Uqba divorced her, and she married another man (al-Bukhari volume 1, book 3, hadith 88).

These and other scriptural sources ground the notion of milk kinship in

Islamic law. The general rule, as mentioned in another prophetic narration, is: "...what becomes mahram (forbidden for marriage) through breastfeeding is that which is mahram through blood ties" (al-Bukhari volume 3, book 48, hadith 813).

Thus, a boy nursed by a woman other than his own mother will be prohibited from marrying the woman who breastfed him, her mother, daughters and sisters, and whoever else she nursed (Shah, 1994). The breast-mother's sisters become his maternal aunts, and her husband's brothers become



Human Milk Banks in 2001, France was reported to have 18 milk banks while Brazil had 154 (Ghaly, 2012). In the Muslim world, milk banks are rare and highly controversial. This is because kinship might result from individuals sharing the same milk nurse.

According to Islamic law, consumption of breast milk from the same milk mother leads to a special type of kinship that bars marriage between individuals who shared the same milk. As the Qur'an states: "Prohibited to you [for marriage] are your mothers, your daughters, your sisters, your

## ACCORDING TO ISLAMIC LAW, CONSUMPTION OF BREAST MILK FROM THE SAME MILK MOTHER LEADS TO A SPECIAL TYPE OF KINSHIP THAT BARS MARRIAGE BETWEEN INDIVIDUALS WHO SHARED THE MILK.

his paternal uncles (Islam Q & A). A similar situation applies for a baby girl and male relatives and “breast-relatives” of her wet nurse. The issue with using human milk banks for Muslims is that they run the risk of entering into illicit marriages: a person who consumes donated milk may eventually unknowingly marry one of his milk-relatives (Clarke, 2007).

In the West, the concept of milk-kinship justifiably raises eyebrows. No medical or scientific curriculum discusses the idea of establishing such a relationship. Yet in the Muslim world, most especially in the Arab world, milk kinship is a social reality and a scholastic hot topic. In pre-modern times, women living in the same household or locale would breastfeed each other's infants as need or convenience required. Moreover, professional wet nurses were available for urban and upper class women (Clarke, 2007). Today, the practice persists and questions abound regarding its legality.

Islamic discussions on human milk banking center around three components of establishing milk kinship: the wet nurse, the milk, and the nursling (i.e. the baby). The result is a stark contrast in ethico-legal regulations: in the Muslim world, milk banks appear to be categorically prohibited; yet in the West, prominent Islamic authorities permit Muslims to donate to and receive PDHM from milk banks (Ghaly, 2012).

In order to understand how *fatawa* have been issued both for and against milk banking, an overview of the legalities surrounding the three components of milk kinship is warranted. When considering



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## Position Statement on Milk Banking

Breast milk can save lives. However, milk banking as practiced in the North American mainstream can introduce issues that may be problematic for Muslims. In some Muslim-majority nations such concerns have prompted the creation of alternatives to milk banking such as “milk sharing,” in which there is clarity regarding milk-based kinship, in addition to long-standing practices such as the use of wet nurses. While various fuqahā (Islamic jurists) dealing with this issue have stated the permissibility of using existing milk banks, the permissibility of a practice should not be confused with it necessarily being a normative one.

### **For Muslim Patients**

Muslims faced with the need to utilize milk banking should know that there has been an ongoing scholarly conversation about the issue, and that resources like the article published in this issue of Islamic Horizons magazine by Bawany, Milhan, and Padela can help them navigate the nuances of that conversation. Patients should feel comfortable asking their health care providers, religious leaders, and chaplains about all potential benefits and harms of milk banking. As a part of that process, Muslims should feel comfortable raising all concerns they may have with milk banking, including those related to kinship, and inquiring about available alternatives.

### **For health care providers and organizations that offer milk banking**

Health care providers and organizations that offer milk banking should be aware of the concerns their Muslim patients may have associated with this practice. Having this familiarity will better enable health care providers to consider their Muslim patients' preferences and values in a shared decision making process. Health care providers may explore which milk banking alternatives, if any, are available in their local area.

### **For the Muslim Community**

Leading Muslim scholars and organizations in North America should continue working to develop their capacity to explore such issues in a skillful manner. Supporting high-quality scholarly research, education, and development of appropriate alternatives will require an interdisciplinary approach involving health care providers, medical ethicists, Islamic jurists, patients, and community leaders. Imams, chaplains, physicians, and community leaders should be given the tools to feel comfortable responding to inquiries about health care issues, including milk banking, and developing options that suit their community's needs.

### **IMANA Medical Ethics Committee**

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the first component of milk kinship — the wet nurse — the concepts of *jahalah* (ignorance) and *shakk* (doubt) are brought into play. When milk from different donors is mixed and pooled together, as is the case in already established milk banks in the West, the identity of wet nurses cannot be

and the mother or wet-nurse supplying the milk. Since donated milk from milk banks is typically given via methods other than breast suckling, al-Qaradāwī concluded that kinship cannot be established. Finally, he considered the component of the nursling with a broader, public health mindset. He

### IN THE WEST, THE CONCEPT OF MILK-KINSHIP JUSTIFIABLY RAISES EYEBROWS. NOWHERE IN THE MEDICAL OR SCIENTIFIC CURRICULUM IS THE IDEA OF ESTABLISHING SUCH RELATIONSHIP EVER BROUGHT UP.

established. There is no kinship established in such situations because the other party with whom kinship would be instituted is unknown or doubted (Al- Khalil *et al*, 2016; Uthman, n.d.).

When considering the second component of milk kinship — the milk itself — the term *rada'* (suckling) is discussed. The majority of jurists do not differentiate between the milk being imbibed through suckling from the breast, drinking from a cup or bottle, or through a nasogastric tube (a tube inserted into the stomach through the nose) (Ghaly, 2012). In contrast, a tradition within the Shia school and a minority among Sunni jurists deem that only suckling from the breast directly creates milk kinship (Muhaqqiqal-Hilli, 1987).

When considering the third component, the nursling, Sunni and Shia jurists agree that milk kinship applies for nurslings under two years old (Ghaly, 2012).

In 1983, Yūsuf al-Qaradāwī, an Egyptian scholar, explored the three aforementioned components and concluded there was no religious problem in establishing or using milk banks and issued a *fatwa* detailing his argument. Regarding the component of the wet nurse, he concluded that since there is *jahala* (ignorance) regarding the milk bank's milk origins, in that it may be pooled from numerous unidentified women and in various amounts, then any milk-based kinship cannot be established. When considering the component of the milk itself, al-Qaradāwī noted that the term *rada'*, as used in Qur'anic verse above, is exclusive in the sense that it requires physical contact, mouth to breast, between the nursling

deemed establishing, using, and donating to breast milk banks permissible, because a contrary opinion, prohibiting them, would cause unnecessary hardships and health consequences for a sizable portion of the population (Ghaly, 2012). His reasoning is not unfounded, as, in the U.S. alone, 1 in every 10 babies are born prematurely (National Prematurity Awareness Month, 2015).

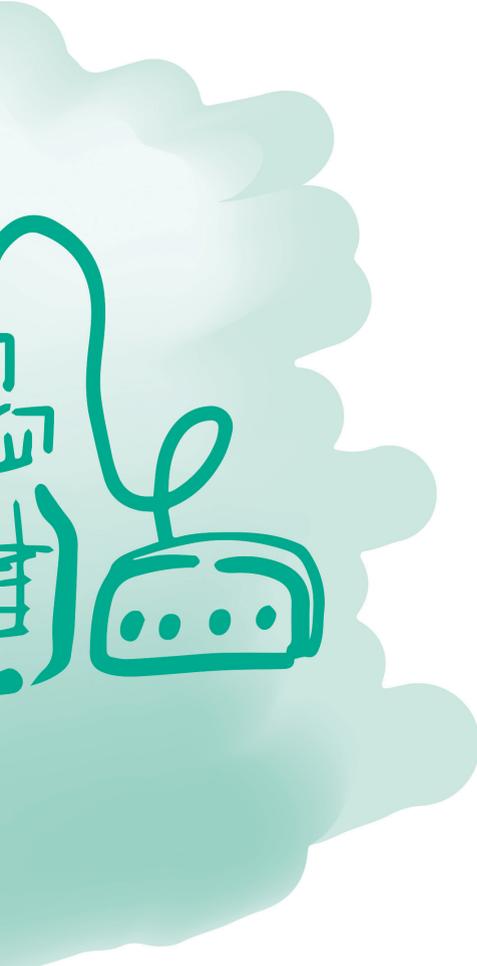
The International Islamic Fiqh Academy (IIFA) discussed al-Qaradāwī's fatwa in 1985, surprising many with a contrary ruling: "the establishment of milk banks should be prohibited in the Muslim world... it is prohibited to feed a Muslim child from these banks" (al-Khodja, 2000). These scholars, along with other critics of milk banking, argue that as no milk banks have yet been established in the Muslim world, allowing them would essentially indulge *jahala* (ignorance) and *shakk* (doubt), since donors would be unidentifiable and the milk mixed. Scholars ask "why should we establish them in order to create doubtfulness by ourselves, and then argue that in a case of doubtfulness, there is no milk kinship?" (Ghaly, 2012). Further, milk banking opponents also take the majority position on the interpretation of *rada'* (suckling) — breast milk transmitted in any mode leads to kinship. These scholars also held that milk banks are a "western" phenomenon unneeded in the Muslim world where wet nurses and neighboring lactating mothers (family and friends) are readily available (Ghaly, 2012).

In 2004, amid continued questioning around utilizing *already established* milk banks for Muslims living in the West, the European Council for Fatwa and Research (ECFR) revisited the issue and judged that

making use of established milk banks was Islamically permitted stating that such usage does not implicate milk-kinship (SRECFR, 2004). Among the key points in their ruling was the fact that the 1980's AIDS outbreak resulted in a rapid shrinkage in the number of functioning milk banks, and the health experts and scholars that spearheaded the IIFA ruling against establishing milk banks were aware of the public health issues that promoting milk banking in the Muslim world could potentially cause because screening technology was not as advanced as in the West,

By the 21<sup>st</sup> century, a substantial decline in new AIDS cases and a concurrent spike in the number of milk banks around the world essentially made them "common-place" in Western healthcare systems. Thus for Muslims living in the West, the question of "establishing milk banks" was inapplicable, whereas the question of utilizing *already established* milk banks took center stage (Ghaly, 2012). With this in mind,





the ECFR noted that the concepts of *shakk* (doubt) and *jahala* (ignorance) once again come into play. Milk banks combine the milk of several donors and then pasteurize it before packaging it for distribution. For this reason, each provider is unidentifiable and is individually probably not providing a full feeding to the baby. Thus, usage of milk from already established banks will not lead to kinship. Further, the ECFR recognized that the absence of wet nurses in the West is unlike the case in the East, and thus milk banks often provide the only alternative source to acquire human breast milk for a baby whose mother cannot produce it on her own (Ghaly, 2012).

In spite of this ECFR *fatwa*, some Muslims in the West still hesitate to use established milk banks, worried that it may lead to unwanted, milk-based kinship. Thorley (2016) suggests that families offered banked milk first determine if a family member, friend, or someone known to the mother, can be arranged as a donor instead.

In Muslim countries, the authors have proposed an alternate to milk banking that has been dubbed “milk sharing.” These programs utilize only a limited number of milk donors, ensure there is no mixing of their milk, institute that donated human milk is marked with the donor’s ID, and confirm that all donors and the parents of the recipient infant know each other. These programs are currently set up in Kuwait and Malaysia (Hsu *et al*, 2012; al-Naqeeb, 2000).

The debate over milk banking, with its seemingly contrasting opinions, gives us a clear picture of pluralism in Islamic jurisprudence. Before issuing a ruling, multifaceted issues like milk banking, should be

approached from angles that include different analyses of source texts, such as the Qur’an and the *hadith*, considerations of public benefit and harm, and, health experts’, scholars’, and other key players’, viewpoints. This piece gives our readers an insight into the intricacies of the milk banking debate, and also highlights the fact that, like those surrounding milk banking, *fatawa* are context driven: what may be deemed prohibited in one part of the world may be deemed permissible in another. ■

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