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Wet-nursing Practice in the Malay Society According to Islamic Perspective: A Cross- Sectional Study

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Abstract

The practice of wet nursing or breastfeeding of another woman's child(ren) in Malaysia, especially among Muslim mothers is on the rise. This is due to the emergence of public awareness of the benefits of breast milk to the children. However, it is claimed that some mothers do not have clear understanding on the Islamic rulings concerning wet nursing especially relating to *mahram* (prohibition to marry), *nasab* (lineage) and inheritance. Hence, the purpose of this article is to examine the level of understanding among Muslim mothers who have practiced breastfeeding on the legal implications of wet nursing and the factors

influencing the practice. This was a cross-sectional descriptive study that was carried out between January and December 2019. This study was conducted on 100 Muslim mothers who had breastfed other's child(ren) in Selangor. Data were obtained using a validated questionnaire (Cronbach alpha=0.8) and processed using the SPSS software. Results shows that majority of the respondents understand the basic Islamic rulings on wet nursing especially on the prohibited person to marry, conditions and method of feeding. However, the respondents need to understand further on the rulings relating to *nasab* (lineage), guardianship and inheritance involving the milk child. It is also demonstrated various factors that have influenced the wet-nursing practice in society. This study has significant implications on the need to have more activities to create awareness and enhance understanding relating to wet-nursing among Muslim women in the society. Furthermore, it is recommended that formal documentation should be systematically implemented by the authorities. As such, more research studies related to wet nursing and the impact of the practice should be conducted to offer better solutions to the society.

Keywords: Wet Nursing Practice, Breasfeeding of Another Woman's Children, Islamic Ruling, Formal Documentation, Methode.

Introduction

Many studies have proven that mother's milk is highly nutritious for baby's growth. It is considered the best food for a newborn until six-month old baby as it contains complete nutrients for its requirements (Majani et al., 2021)Based on this, many mothers make efforts to give mother's milk to their babies from birth as their main food.

From the religious perspective, Islam recommends this practice and outlines some rules which grew from this practice, including matters of *mahram*, *aurat* rules between foster parents and foster children, and so on. This matter was noted when the Prophet (pbuh) remarked on the daughter of his foster brother, Sayidina Hamzah, son to the Prophet's (pbuh) first foster mother named Suwaibah. The Prophet (pbuh) said," She is not halal for me. What is forbidden in consanguinity is also forbidden by reason of milk feeding. She is my foster niece." (Al-Bukhari, No 2645)

In reference to the Malay society in Malaysia, breastfeeding is frequently practised, by mothers who nurse their biological babies as well as by wet nurses for other women's babies. The question regarding wet nurses is whether they take note of the the legal effects of doing so. A past study showed that there are two different situations. In the first situation, wet nurses keep a written record of the names of children they nursed for future reference on *mahram* and so on. The other situation showed that not a few wet nurses fail to keep any kind of records, relying only on memory of having nursed the child of so and so (Safir et al., 2015)

Concerning wet-nursing or breastfeeding others' babies, various legal rules need to be given attention. Hence, wet nurses should know the legal effects applicable from their action, including non-marriageability, the *mahram* status during journeys, *nafkah* rule, inheritance beneficiaries and guardianship affairs, and so on. Thus, understanding the legal effects needs to be given serious attention by all levels of society so that issues do not arise in the future.

Research Objectives

This article aims:

- to analyse the practice of wet-nursing in the Malay society
- to determine whether it complies with the *nas* (legal injunction) of Quranic and Sunnah and
- to determine the wet nurses' level of understanding of the legal effects of wet-nursing.

Research Methodology

This research is an inferential study using quantitative and qualitative data obtained through questionnaire and interview. These methods are considered most relevant to achieve the set objectives. Data obtained from purposive sampling was analysed and presented in the form descriptive statistics and test significance. Characteristics of the population tested were then inferred from results of statistical tests.

For the purpose of data collection, this research used document analysis approach, i.e., studying and gathering the results of past writings related to breastfeeding, law on breastfeeding and the practice of wet-nursing through breastfeeding or sale of frozen breast milk. This included books, including *fiqh* and *tafsir* books, journals, working papers, magazine articles and newspapers that discuss this matter as well as laws or rules relating to breastfeeding.

The research instrument used is the questionnaire. It was applied to 100 respondent Muslim-Malay wet nurses as this was a practical sampling method to obtain the sample needed to achieve the outlined objective. The online questionnaire, consisting of three main parts, namely demography, understanding and wet nursing practised, was distributed to the email addresses of the 100 wet nurses in the State of Selangor.

Wet nurses' participation was based on the procedure of purposive sampling, whereby they were selected by certain fixed criteria as respondents. According to the categories set, wet nurses who did not satisfy all the criteria were not chosen to participate. The criteria were as follows:

- Resident in Selangor
- Aged between 18 years to 50 years
- Able to speak and write English language or Bahasa Malaysia
- Mothers who have been/were involved in wet nursing at the time of this research.
- Agree to be interviewed

Disqualifying Criteria

- Have never nursed others' babies before this.
- Aged more than 50 years

In support of primary data, semi-structured interviews were conducted with expert researchers in the field of breastfeeding. They were Prof Madya Dr Normadiah Daud, Dr Siti Fatimah Salleh and Dr Zilal Saari. Other experts interviewed were Datuk Dr Anhar Opir, the Deputy Mufti of Selangor, Ustazah Mariam Md Zin from Legal Section of JAIS (BUU JAIS-

MyRadhaah), Puan Siti Mariam Ali, Food Science Officer from National Lactation Centre. The questionnaires were processed using software, Statistical Package for Social Sciences (SPSS) version 22, to determine some important results involving the research objectives. Data from interview with experts were recorded and transcribed verbatim.

Findings and Discussion

Respondents' Background

Research respondents comprised of those aged between 20- 50 years. Among them, the biggest group who wet-nursed were aged between 31- 40 years (64%). The second biggest group of respondents were aged between 21-30 tahun (30%) and the smallest group of respondents were aged between 41-50 years (6%). The conclusion reached is that most younger women do not participate in wet-nursing. Perhaps this is due to factors such as too young in age or lack of experience or less interest to do so. Research also shows that respondents aged 50 and above also do not wet-nurse, most probably due to the advanced age factor.

Understanding of Legal Rules on Wet-Nursing

This research finds that the item with the highest mean value is 'A foster child is forbidden to marry its foster parent' (mean=3.67). This finding shows that 99% of respondents in this research agreed and strongly agreed that foster children cannot marry their foster parents. Only 1% of respondents strongly disagreed with this item. The item with the second highest mean value is 'A foster child cannot marry the offspring of its foster mother' (mean=3.65). 67% respondents in this research strongly agreed with this item while 32% agreed with it. Only 1 % strongly disagreed with it.

This finding shows that most respondents understand the basic legal rules relating to the prohibition of marriage between foster children and their foster parents similar to the prohibition between biological children and parents. This is stated by Allah SWT in al-Quran, surah al-Nisa' verse 23;

وَأُمَّهَاتِكُمُ اللَّاتِي أَرْضَعْنَكُمْ وَأَخَوَاتِكُم مِّن الرِّضَاعَةِ

Meaning: Prohibited to you (for marriage) are: ... foster mothers who nursed you, and foster sisters through nursing...

The above Quranic verse shows that by virtue of breastfeeding or nursing, a mother becomes the foster mother of the child and her daughters become its foster sisters.

Additionally, there is a hadith which explains that the effect of wet-nursing is to place the foster mother in the same rank as a biological mother. Hence, a wet nurse is included in the list of foster mother and female foster relatives who are forbidden to the foster child for marriage just as the list of his biological mother and his own female relatives are forbidden to him. Saidatina Aisyah (RA) narrated that:

إِنَّ الرِّضَاعَةَ تُحَرِّمُ مَا يَحْرُمُ مِنَ الْوِلَادَةِ

Meaning: "Wet-nursing causes the milk child (foster child) to be unmarriageable, as if the child was born (by her)." (al-Bukhari (2553) and Muslim (4144)).

Likewise, another hadith from Ibn Abbas (R.A):

الرِّضَاعَةُ لَا تَجِلُّ لِي، يَحْرُمُ مِنَ الرِّضَاعِ مَا يَحْرُمُ مِنَ النَّسَبِ، هِيَ بِنْتُ أُخِي مِّن

Meaning: (The Prophet (pbuh) said of the daughter of Hamzah (RA)). She is not halal for me. What is forbidden in consanguinity is also forbidden by nursing. She is my foster niece." (al-Bukhari (2502) and Muslim (1447)).

Further, research shows that the item with lowest mean value between 1.54 – 1.67 is for item 'Islam only allows wet-nursing through breastfeeding' (mean=1.54). This is followed by item 'a baby given pumped breast milk using a feeding bottle does not legally become a foster child' (mean=1.57). This finding explains that 97% of respondents strongly disagreed and disagreed that Islam allows wet nursing only through breastfeeding. This shows that respondents have a high understanding that Islam allows other methods such as using a bottle, syringe, spoon, cup and tube for feeding other than direct breastfeeding. However, there are differing views on this point such as: Ibn Hazm explained that verse 23 in surah al-Nisa' gives the impression that babies must be fed by women directly from the breast, not using an in-between article. If it is indirect using an in-between article or mixed with other food, it does make the baby *mahram* to the wet nurse (Nurmadiyah et al., 2012).

Findings concerning this matter may be considered as in line with the findings of expert Zilal Saari, (lecturer at UTM, Skudai) who had done a study of it in the year 2015. She, as one of the experts interviewed in this research, stated that many know the basics, but lack understanding as a whole relating to other legal rules arising from the practice of wet-nursing:

...based on a study done in the year 2015 entitled "Garis Panduan Penyusuan Anak Angkat Dari Perspektif Fiqh dan Sains (Guidelines for Breastfeeding a Foster Child from the Perspective of Fiqh and Science)", it is found that the level of understanding is moderate and only covers the basics of breastfeeding such as not-nullifying wuduk (ablution), permissibility to touch, embrace, hug and kiss. But they do not know other legal rules involved. It depends on their own initiative to ask the ustaz. In terms of reading and further exposure, it is lacking and difficult to get accurate information..

This shows that respondents understand the rules on wet-nursing from the point of *mahram* and the methods of feeding breast milk according to the Islamic perspective. However knowledge on wet-nursing needs to be enhanced because various aspects must be given attention by wet nurses so that the practice of wet-nursing complies with rules and methods of Shariah.

Factors for Wet-Nursing

Past studies found that the practice of wet-nursing increased in the society due to mothers' awareness of its benefits, especially the high immunity developed in baby's health from breastfeeding compared to feeding with infant formula (Al-Abdali, 2008). This matter is quite in line with mean analysis which indicates that the highest mean value (mean=3.36) is related to this point in item 'I wet-nurse to help mothers who do not have sufficient breast milk' achieved 92% agreed and 8% disagreed. Followed by item, 'I wet-nurse because I have surplus milk' (mean=3.18) which scored 84% agreed and 16% disagreed. Further, item 'I wet-nurse because some mothers have health problems which prevent them from breastfeeding' (mean=3.01) showed 73% agreed and 27% disagreed with the statement.

On average, the item with the least agreement is item, 'I wet-nurse as a source of income' (mean=1.41) obtained 1% agreed and the rest, 99%, disagreed. Research findings show that respondents' high concern encouraged them to wet-nurse to help mothers who

have insufficient milk rather than wet-nursing purely for extra money and so on. In reality, all respondents have their own reasons for wet-nursing.

Additionally, results of interview with experts show that one of the factors for wet-nursing is to make another's child as *mahram* to the foster parents. This was also the factor most stated by mothers who attended National Lactation Centre. Puan Maryam Ali, counselor at National Lactation Centre stated that:

Based on our records, the majority of mothers breastfeed another's child because they wish to make another's child as mahram to themselves, their husbands and their offspring. For example, they adopt a child. They wish to adopt the child as mahram so the (would –be) adopted mother or father come to the National Lactation Centre to seek advice to carry out their wish.

In comparison to Quranic verses and the Prophet's (pbuh) hadith on the subject of wet-nursing, the above finding indicates quite a strong connection. It shows that a mother who breastfeeds another's child focuses not only on the nutrition of breast-milk but also takes into account the issue of *mahram* between the nursed child and the foster mother's family.

Breastfeeding makes a child a member of the foster family and non-marriageable or forbidden to marry, if the condition is satisfied, namely, the child must be aged before two years old. If its age is two years or more, the breastfeeding does not make it *mahram* and thus the child does not become a foster child of the woman who nursed it.

This matter is based on Allah's SWT command in al-Quran, surah al-Baqarah 2:233:

وَالْوَالِدَاتُ يُرْضِعْنَ أَوْلَادَهُنَّ حَوْلَيْنِ كَامِلَيْنِ

Meaning: *And mothers should suckle their children for two whole years, that is, for those (parents) who desire to complete the term for suckling*

Allah SWT commands again:

وَفِصَالُهُ فِي عَامَيْنِ

Meaning: *...and their weaning takes two years...*

(Surah Luqman, 31:14)

Similarly, a hadith narrated by al-Daraqutni:

لَا رَضَاعَ إِلَّا مَا كَانَ فِي الْحَوْلَيْنِ

Meaning: *"Breastfeeding is within the age of two years."*

Riwayat Al-Daraqutni (4/174)

In another hadith from Ummu Salamah R.A:

لَا يُحْرَمُ مِنَ الرِّضَاعَةِ إِلَّا مَا فَتَقَ الْأَمْعَاءَ فِي الثُّدِيِّ وَكَانَ قَبْلَ الْفِطَامِ

Meaning: *"A wet-nursed child does not become mahram except if the milk enters its stomach in breastfeeding before the child is weaned off the breast."*

Riwayat Al-Tirmidhi (1152)

This means that the child is weaned off the breast before it reaches the age of two years, as mentioned in surah Luqman above.

Experience and Challenges of Breastfeeding

Absence of Records or Documentation

Women who nurse babies go through various experiences and challenges. Research results find that item 'I have experienced forgetting which child I have nursed' obtained 95% (95 persons) of respondents who chose strongly disagreed and disagreed while 5% (5 persons) chose to answer strongly agreed and agreed with the item. This shows that only a handful in

society are not concerned with keeping information on their foster children so they do not remember their names or background.

This contravenes the Prophet's (pbuh) hadith that recommends every foster mother to know about her foster children. As narrated by Aishah (RA), the Prophet (pbuh) said:

The moment the Prophet (pbuh) entered, at the time there was a man next to me. So he asked: O Aishah, who is this person? I replied: He is my foster brother. He replied: O Aishah, remember who your foster brothers are. Because wet-nursing happens due to hunger.

Muslim (1455)

This hadith indicates how important it is for a foster mother, including her husband and family members, and the foster child to know the foster relatives who are *mahram* for them in order to avoid undesirable consequences in the future such as prohibited marriage between foster relatives.

This indicates the need for a method of documentation relating to wet-nursing in order to help wet nurses and their foster children know and recognise one another. Moreover, with the passage of time and changing places of residence, documentation can help to save from harm due to forgetting who are involved in the wet-nursing.

Research also finds that a handful of respondents had even been involved in marriage between their foster child and their family member with the foster father as the marriage guardian of the foster daughter. This was admitted for item 'I have experienced annulment of marriage between a foster child and a member of the foster family', which obtained 5% (5 persons) of respondents agreed and 95% (95 persons) disagreed. The item 'I have experienced a foster father become marriage guardian for a foster child' showed 3% (3 persons) agreed and 97% (97 persons) disagreed.

Will (*Wasiat*) and Gift (*Hibah*)

When respondents were asked relating to will (*wasiat*) and gift (*hibah*) for a foster child, research finds the item, 'I have granted ownership of property (*hibah*) to a foster child' obtained 13% (13 persons) agreed and 87% (87 persons) disagreed, and item 'I have bequeathed property by will (*wasiat*) to a foster child' obtained 93% (93 persons) of respondents chose strongly disagreed and 7% (7 persons) strongly agreed and agreed with the item.

The above findings generally show that there are still respondents who do not understand the effects of wet-nursing. According to Zuhaili (2007) Islam has established that the effects of wet-nursing to *nasab* (lineage) only involves two legal rules. The first relates to prohibition of marriage of foster mother or father and their lineage to the foster child. Second is that It is permissible for a foster child to mix with (look at what is forbidden to non-mahram) the foster mother and her lineage and to live with them. This explanation excludes *nasab* laws on a foster child's inheritance rights, maintenance, guardianship, custody and so (Zuhaili, 2007)

Hence, research results on the experience and challenges to wet-nursing indicate that respondents' understanding in the process of wet-nursing according to Islam is still at moderate level. Even though the negative issues arising from wet-nursing constitute a small percentage, this cannot be underestimated. This is because wet-nursing is connected to various Islamic laws such as prohibition of marriage, permissibility of proximity (*khalwat*), *mahram* status for journeys, no responsibility for maintenance and inheritance rights, and guardianship for marriage (Alu Bassam, 2019). Therefore, a method of keeping documentation on information about foster mothers and their foster children would be a step toward solving the problem to prevent forbidden relationships between a foster child and foster mother or father and their relatives in the future.

Receive Payment for Wet-Nursing

Research findings prove that the majority of respondents (94% or 94 persons) have never received any payment for wet-nursing done. Only a handful of them (4% or 4 persons) have received a payment of RM100, while 2 persons received RM1 and RM50 respectively (2% or 2 persons).

According to the Islamic view, wet nurses are entitled to receive payment and kind treatment from the guardian of the foster child as stated by Allah SWT in al-Quran, surah Baqarah verse 23:

... And if you wish to give your children out to a (milk feeding) nurse, it is no sin for you, provided, you pay to them what is agreed, with kindness (al-Baqarah 233)

Based on Sayyid Qutb's interpretation (1997), the act of paying compensation to a wet nurse is a guarantee that the child will get a foster mother who acts as a good adviser, caregiver and babysitter for the child. This shows that wet nurses are entitled to compensation for the efforts to nurse and take care of other people's children.

This situation is also in line with a legal provision in the Selangor family law to give priority to divorced women to nurse their children in the interest and welfare of the children. The legal provision is Section 82 (1) of Islamic Family Law (State of Selangor) Enactment, 2003 (Enakmen Undang-undang Keluarga Islam, Selangor 2003):

Subject to Section 82, the mother shall be of all persons the best entitled to the custody of her infant children during the connubial relationship as well as after its dissolution.

This means that if a couple is divorced when a child is an infant (below 2 years old), the court shall decide the custody of the child to the mother, and the father must pay child maintenance and compensation for nursing the child to the former wife.

Hence, any couple, whose child is still being nursed, cannot use the child for the purpose of taking revenge. For example, a man who is furious or hateful toward his former wife does not give maintenance after the *iddah* period of divorce; Or a man who is fuming over his wife's filing for divorce in court, reacted by running off with his child and feeding it with infant formula, during the period when it is still being nursed by its mother. His intention is to deny her custody of their child but the effect is to deny the child of its right to be nursed.

Divorced wives too should not harass the ex-husband because of her hurt feelings by demanding a high price beyond his means for nursing their child. She also cannot deny him joint custody of their child or the child's right to the father's love and affection. All these indicate that Islam puts the child's interest above the interest of its parents.

Frequency of Breastfeeding

The majority of respondents (82%) have only one foster child (five or more feedings) while 21% have six foster children (five or more feedings). However some respondents stated that they have nursed with less than five feeding times. This shows that the percentage of respondents who feed five times or more is high. Al-Imam al-Syafi'e and al-Imam Ahmad viewed that the rate of feedings (to qualify as a foster child) is five or more feedings that satiate the child. This is based on a hadith narrated by Saidatina Aisyah R.A:

كَانَ فِيهَا أَنْزَلَ اللَّهُ عَزَّ وَجَلَّ مِنَ الْقُرْآنِ عَشْرَ رَضَعَاتٍ يُحَرِّمَنَّ ثُمَّ نُسِخْنَ بِخَمْسِ مَعْلُومَاتٍ يُحَرِّمَنَّ فَتَوَفَّى النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَهُنَّ مِمَّا يُقْرَأُ مِنَ الْقُرْآنِ

Meaning: " It was revealed by Allah SWT in al-Quran ten sucklings (make marriage unlawful), then it was abrogated and (substituted by) five sucklings. Then the Prophet (pbuh) died, it was in the Holy Quran and recited at that time.

Sahih Muslim, No. 1452

One feeding is when the baby is fed and then it lets go the milk on its own without any interference because it is satiated.

Conclusion

In Islam, wet-nursing or breastfeeding another woman's child is not disputed. This matter is stated in al-Qur'an and as-Sunnah. However, from the above discussion shows that among the Malays, there are still those who do not understand the legal effect of wet-nursing, such as marriage prohibition, no responsibility for maintenance and to bequeath inheritance, and no guardianship for marriage. The findings suggest that the practice of wet-nursing in the society still lacks full compliance with Islamic law because the level of understanding concerning the effects of breastfeeding others' children based on Islamic law is still moderate. This was proven by the indifference of some of the respondents to information on wet-nursing leading to marriage between a foster child and a family member of the foster mother's, as well as a foster mother's husband assuming guardianship of the foster child. Therefore, this study suggests that the authorities take drastic measures to aggressively implement knowledge empowerment programmes, even to the extent of promoting legislative amendments, so that the correct practice of wet-nursing is emphasised in society. Furthermore, it is recommended that formal documentation should be systematically implemented by the authorities.

Wet-nursing in the Malay society is being increasingly accepted due to various encouraging factors such as concern of mothers who are unable to nurse their own child, mothers who have surplus milk and as a measure to create *nasab* between a foster child and the foster mother and her family required by Islamic law. Most women who wet-nurse understand the law relating to foster children. However, the level of understanding of wet nurses is still at moderate level because they know only the basic law. In fact, laws relating to wet-nursing cover various aspects that need attention, such as prohibition of marriage, permissibility of proximity (*khalwat*), *mahram* status during journeys, no responsibility for maintenance, inheritance and marriage guardianship. Thus, efforts need to emphasize on

increasing awareness of the legal effects of wet-nursing in the Malay society, so that the practice of wet-nursing complies with *nas* (legal injunctions) in Shariah established by Islam.

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