

## RECONSTRUCTING THE CONCEPT OF FIVE BREASTFEEDING IN ISLAMIC FAMILY LAW: NORMATIVE AND SOCIOLOGICAL CHALLENGES IN THE MODERN ERA

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### *Abstract*

The formation of a *mahram* relationship through breastfeeding is a fundamental aspect of Islamic family law, carrying significant legal consequences, especially in relation to marital restrictions. This study aims to explore the notion of five instances of breastfeeding as a condition for establishing a *mahram* bond from a *fiqh*-based perspective and to assess its applicability in contemporary society. A combination of normative and sociological legal approaches is employed, utilizing a literature-based method that examines classical *fiqh* sources, Indonesian legal frameworks, and scholarly publications. The findings indicate that although the concept of five breastfeeding instances is broadly accepted among Islamic *Mazhab*, its practical application in modern settings remains complex, particularly regarding documentation and legal verification. Thus, a comprehensive legal framework that harmonizes *Shariah* principles with national legal systems is essential to ensure the legal clarity of breastfeeding-based *mahram* relationships, while also safeguarding lineage, marital regulations, and core family values.

**Keywords:** *Mahram; Radā'ah; Breastfeeding; Islamic Family Law.*

### *Abstrak*

Penetapan hubungan mahram melalui persusuan merupakan bagian dari hukum keluarga Islam yang memiliki dampak hukum signifikan, terutama dalam hal larangan perkawinan. Kajian ini bertujuan untuk menganalisis konsep lima kali susuan sebagai syarat timbulnya hubungan mahram dalam perspektif fikih serta meninjau relevansinya di era modern. Penelitian ini menggunakan pendekatan yuridis normatif dan sosiologis, dengan metode kepustakaan melalui telaah kitab fikih klasik, regulasi hukum Indonesia, serta jurnal ilmiah. Hasil kajian menunjukkan bahwa meskipun dasar lima kali susuan telah disepakati oleh mayoritas ulama, implementasinya dalam masyarakat modern menghadapi tantangan, terutama dalam hal pencatatan hukum dan pembuktian. Oleh karena itu, diperlukan formulasi hukum yang integratif antara syariat dan sistem hukum positif agar kepastian hukum hubungan mahram akibat susuan dapat terjamin demi melindungi nasab, batas-batas pernikahan, serta nilai-nilai etika keluarga.

**Kata Kunci:** Mahram, *Radā'ah*, Sesusuan, Hukum keluarga Islam

## INTRODUCTION

The *mahram* relationship plays an important role in Islamic teachings because it establishes boundaries for how men and women interact with each other, both socially and in matters of marriage. *Mahram* status can be derived not only from blood relationship (*nasab*) but also through marriage (*muṣāharah*) or breastfeeding (*radā'ah*). These three types of relationships carry certain legal implications, including the permanent prohibition of marriage between parties in a *mahram* relationship. (Hamjah et al., 2022) Of these three types, the *mahram* relationship formed through breastfeeding is unique because, although not biological, it has legal consequences equivalent to those of blood relations.

In Surah Al-Nisā, verse 23, Allah swt clearly states the prohibition of marrying close relatives, including "those who breastfed you, your mothers, your sisters, and your brothers." This verse suggests that breastfeeding can establish a *mahram* relationship, which results in the prohibition of marriage between those involved. (RI, 2019) The Prophet Muhammad supported this assertion, stating, "Indeed, breastfeeding can cause a *mahram* relationship like descent." *Mazhab* primarily base the principle of breastfeeding in Islamic *fiqh* on this hadith. (Amir Syarifuddin, 2006)

A frequently debated issue in Islamic marriage law concerns the minimum number of breastfeeding sessions required to establish a *mahram* relationship. A ṣaḥīḥ narration from Aisha reports that the Qur'an initially prescribed ten breastfeeding sessions, later abrogated to five known feedings (*khamṣ raḍa'āt ma'lūmāt*), as recorded in Sahih Muslim. Although the hadith is considered authentic, its juridical implications are subject to *ikhtilāf* among the *Mazhab*. The Shafi'i *Mazhab* and Hanbali *Mazhab* uphold the requirement of five feedings through *tarjīḥ*, treating the hadith as a *muqayyid* of the general prohibition in QS. al-Nisā' (4): 23. In contrast, the Hanafi *Mazhab* does not stipulate a specific number, considering any breastfeeding that affects the child's growth sufficient to establish *mahram* status, while the Maliki *Mazhab* emphasizes qualitative impact rather than numerical count. Thus, it is methodologically inaccurate to claim that most *Mazhab* simply agree, as the five-feedings requirement reflects a dominant view within certain *Mazhab* based on specific *usul al-fiqh* principles, while juristic disagreement remains inherent in the discourse on *radā'ah*. (Al-Zuhaylī, 2011)

However, the practice of breastfeeding no longer occurs as frequently as it did in the past due to modern life. Technological developments in health and infant nutrition, such as donor breast milk and formula, present new challenges in implementing laws related to breastfeeding. This raises the issue of how to determine the five times of breastfeeding required for *mahram* and how to record *mahram* relationships in the state

administrative system. This issue is important because, until now, there has been no official recording mechanism related to breastfeeding in modern society.

In Indonesia, the Compilation of Islamic Law (KHI) functions as one of the primary legal instruments in resolving Islamic family law disputes. Nevertheless, the KHI does not explicitly regulate or provide a detailed formulation regarding the requirement of five breastfeeding sessions (*raḍā'ah*) as a determinant of mahram relationships. This normative limitation creates a legal grey area, particularly in cases related to lineage status, marriage prohibition, and evidentiary standards in religious courts. The absence of clear positive legal provisions potentially results in diverse interpretations among judges and inconsistent legal applications in practice.

Several previous studies have discussed breastfeeding within the framework of Islamic law; however, most remain concentrated on theological discourse and classical fiqh debates. For example, analyzes the implementation of *raḍā'ah* law for working women from an Islamic legal perspective but does not critically examine the doctrinal basis of the five-times breastfeeding requirement nor its position within Indonesia's positive legal system. Likewise, (Ghozali, 2018) highlights the ambiguity surrounding the legal status of breastfeeding duration in Islamic jurisprudence, yet the study does not elaborate on how the concept of breastfeeding that establishes mahram relations is operationalized in contemporary Indonesian social and legal contexts.

Accordingly, there remains a conceptual and normative gap between classical fiqh formulations of the five-times breastfeeding requirement and its practical implementation within Indonesia's Islamic family law system. Existing scholarship has not sufficiently integrated doctrinal analysis with contemporary legal challenges, including issues of legal certainty, child protection, and the prevention of prohibited marriages. This study seeks to address that gap by offering a comprehensive examination of the fiqh foundation of the five-times breastfeeding provision and evaluating its urgency and relevance within the current Indonesian legal framework.

This study integrates the perspectives of the five classical *Mazhabs* of *fiqh* with a broader approach to social roles within the contemporary context. Additionally, the study emphasizes the importance of regulating the recording and certification system in dairy farming to provide legal certainty. Using a normative and sociological approach, the study aims to strengthen Islamic family law, making it responsive to global dynamics while remaining grounded in the fundamental values of Islamic teachings. (Yusdani, 2010)

## **RESEARCH METHODS**

This research employs a qualitative library research method within a normative and sociological legal framework. The normative approach examines the concept of five-

times breastfeeding as the basis for determining *mahram* relationships by referencing Islamic legal sources, such as the Al-Qur'an, Hadith, and classical *fiqh* works. It also considers applicable laws and regulations in Indonesia, including Law Number 1 of 1974 Concerning Marriage and the Compilation of Islamic Law.(Mamudji, 2013)

A sociological approach is simultaneously used to examine present-day social conditions surrounding breastfeeding, including the use of breast milk pumps, breastfeeding practices, and the absence of an official system for documenting *mahram* relationships due to breastfeeding.(Asikin, 2015)

This literature study uses document based data collection methods, including reference books, scientific articles, and relevant laws and regulations. The data are analyzed descriptively and qualitatively by comparing the principles of Islamic jurisprudence with current social realities. To ensure the validity of the data, source triangulation and a review of previous research results were conducted. This step emphasizes the novel contribution of this research, the integration of classical Islamic legal theory with the urgent need to reform Islamic family law in modern society.(Moleong, 2019)

This study seeks to address several central issues concerning the determination of mahram relationships due to breastfeeding (*raḍā'ah*) in Islamic law. It examines how the concept of mahram relationship through breastfeeding is constructed within classical Islamic jurisprudence and explores the doctrinal foundations underlying the requirement of five breastfeeding sessions as a determinant of mahram status. It further analyzes the differences of opinion among Islamic jurists and their implications for legal reasoning. In addition, this study evaluates how the determination of breastfeeding-based mahram relationships is positioned and regulated within the Indonesian Islamic legal framework, particularly in relation to the Compilation of Islamic Law, as well as the legal consequences arising from normative ambiguity in contemporary practice.

In analyzing the Hadith texts related to breastfeeding, this research applies a normative-textual analysis that includes examination of sanad and matn validity, contextual interpretation (*asbāb al-wurūd*), and the resolution of apparent contradictions (*ta'āruḍ al-adillah*) among relevant narrations. The validity analysis considers the classification of Hadith in terms of authenticity and the reliability of transmitters, while contextual analysis explores the socio-historical background in which the Hadith emerged in order to understand its normative scope. Where differences or tensions appear among narrations regarding the number of breastfeeding sessions, the study applies principles of reconciliation (*al-jam' wa al-tawfiq*), preference (*tarjih*), and legal reasoning developed in classical *usul al-fiqh* to determine their juridical implications.

Regarding the sociological dimension, the study relies on secondary sociological data derived from academic publications, demographic reports, health studies, and institutional regulations concerning breastfeeding practices in Indonesia. These data are used to illustrate contemporary realities such as expressed breast milk usage, mobility of working mothers, and the absence of formal documentation mechanisms for breastfeeding-based mahram relationships. Through this integration, social data function not as empirical field findings but as contextual evidence to assess the relevance, applicability, and urgency of reformulating legal norms within Indonesia's Islamic family law framework. (Moleong, 2019)

## RESULTS AND DISCUSSION

### Determination of *Mahram* Relationship due to Breastfeeding in Islamic Law

In the context of Islamic law or *fiqh*, discussing issues related to breastfeeding is known as *raḍā'ah*. *Raḍā'ah* is an Arabic term derived from the verb root *raḍi'a-yarḍa'u-raḍā'an/raḍā'atan*. Etymologically, *raḍā'ah* means "breastfeeding". (Munawir, 1997) In this context, it is the act of breastfeeding an infant or young child that can lead to a *mahram* relationship between the infant and the woman who breastfed them. Another opinion states that *raḍā'ah* is sucking the breast (suckling) by a child to a woman, either directly or indirectly, before the age of two, so that it reaches the child's stomach, causing a *mahram* relationship similar to that of *nasab*. (Algholib, 2018)

The concept of *mahram* is crucial to the regulation of relationships between men and women in Islam. A *mahram* is an individual who is legally prohibited from marrying someone due to blood relationship, marriage, or breastfeeding. The rules regarding *mahrims* not only prohibit marriage but also regulate social interaction, aurat provisions, and travel etiquette. The main purpose of this concept is to preserve honor and limit inappropriate interaction between the sexes, thereby protecting moral values in society. (Sri Mulyani et al., 2024)

Some of the arguments related to the ruling of *raḍā'ah* and the limit of 5 times of breastfeeding, which is the cause of *mahram* relationship, include:

حُرِّمَتْ عَلَيْكُمْ أُمَّهَاتُكُمْ وَبَنَاتُكُمْ وَأَخَوَاتُكُمْ وَعَمَّاتُكُمْ وَخَالَاتُكُمْ وَبَنَاتُ الْأَخِ وَبَنَاتُ الْأُخْتِ وَأُمَّهَاتُكُمْ  
الَّتِي أَرْضَعْنَكُمْ وَأَخَوَاتُكُمْ مِنَ الرَّضَاعَةِ وَأُمَّهَاتُ نِسَائِكُمْ وَرَبَابِكُمْ الَّتِي فِي حُجُورِكُمْ مِّنْ  
نِّسَائِكُمُ الَّتِي دَخَلْتُمْ بِهِنَّ فَإِن لَّمْ تَكُونُوا دَخَلْتُمْ بِهِنَّ فَلَا جُنَاحَ عَلَيْكُمْ<sup>ط</sup> وَحَلَائِلُ أَبْنَائِكُمُ الَّذِينَ  
مِنْ أَصْلَابِكُمْ وَأَن تَجْمَعُوا بَيْنَ الْأُخْتَيْنِ إِلَّا مَا قَدْ سَلَفَ<sup>ق</sup> إِنَّ اللَّهَ كَانَ غَفُورًا رَّحِيمًا - ٢٣

Translation:

Prohibited to you (for marriage) are your mothers, your daughters, your sisters, your 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, your wives' mothers, and your step-daughters under your guardianship (born) of your wives unto whom you have gone in. But if you have not gone in unto them, there is no sin upon you. And (also prohibited are) the wives of your sons who are from your (own) loins, and that you take (in marriage) two sisters simultaneously, except for what has already occurred. Indeed, Allah is ever Forgiving and Merciful. QS. Al-Nisā/4: 23.(RI, 2019)

QS. Al-Nisā' (4): 23 establishes that a milk mother and milk siblings are included among those permanently prohibited for marriage, thereby normatively equating *raḍā'ah* (breastfeeding) with blood lineage in the context of marital prohibition.(Katsir, 1998) However, the verse does not specify technical parameters such as the number of breastfeeding sessions, the age of the child, or evidentiary mechanisms, leaving these details to be elaborated in the Prophetic traditions. In a critical Hadith analysis, the narration concerning five known breastfeeding sessions (*khamṣ raḍa'āt ma'lūmāt*) is examined through the evaluation of sanad authenticity and matn coherence, as well as its contextual background (*asbāb al-wurūd*), particularly in light of other narrations that do not explicitly limit the number of feedings.

This situation gives rise to potential *ta'arūḍ al-adillah* (conflict of evidences), which classical jurists resolve through methods such as reconciliation (*al-jam' wa al-tawfiq*) or preference (*tarjih*), resulting in differing madhhab positions regarding whether prohibition is determined by a specific number of feedings or by the substantive effect of milk intake on the child's growth.(Al-Zuḥaylī, 2011) Thus, the legal construction of *raḍā'ah* is shaped not solely by normative texts but also by methodologies of legal reasoning and the historical development of doctrine, situating it within the domain of *ijtihād* and rendering it open to re-examination in contemporary legal contexts.

مسند الشافعي ١٤٦٣: أَخْبَرَنَا مَالِكٌ، عَنِ ابْنِ شِهَابٍ، عَنْ عُرْوَةَ بِنِ الزُّبَيْرِ رَضِيَ اللَّهُ عَنْهُ، أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَمَرَ امْرَأَةً أَبِي حُدَيْفَةَ أَنْ تُرْضِعَ سَالِمًا خَمْسَ رَضَعَاتٍ يَحْرُمُ بِلَبْنِهَا فَفَعَلَتْ، فَكَانَتْ تَرَاهُ ابْنًا

Translation:

“Malik reported to us from Ibn Shihab, from Urwah bin Zubair RA: That the Prophet (SAW) ordered Abu Hudzaifah's wife to breastfeed Salim five times so that he would become a *mahram* by virtue of her milk. So, Abu Hudzaifah's wife did so, and (after that) she regarded him as her own son. HR. Musnad Syafi'i No. 1463.

(Al-Shāfi'ī, n.d.)

صحيح مسلم ٢٦٣٢: و حَدَّثَنَا ابْنُ أَبِي عُمَرَ حَدَّثَنَا بِشْرُ بْنُ السَّرِيِّ حَدَّثَنَا حَمَّادُ بْنُ سَلَمَةَ  
عَنْ قَتَادَةَ عَنْ أَبِي الْخَلِيلِ عَنْ عَبْدِ اللَّهِ بْنِ الْحَارِثِ بْنِ نَوْفَلٍ عَنْ أُمِّ الْفَضْلِ عَنِ النَّبِيِّ صَلَّى  
اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ لَا تُحْرِمُ الْإِمْلَاجَةَ وَالْإِمْلَاجَتَانَ

Translation:

“Ibn Abu Umar narrated to us Bisyr ibn As Sari narrated to us Hammad ibn Salamah from Qatadah from Abu Al Khalil from Abdullah ibn Al Harith ibn Naufal from Umm Al Fadll from the Prophet (peace and blessings of Allaah be upon him) who said: "It does not make a person a *mahram* if there is only one suck or two sucks." HR. Shahih Muslim No. 2632 (Al-Naysābūrī, 2018)

The doctrine of *naskh* (abrogation) in relation to breastfeeding (*raḍā'ah*) is commonly discussed based on a narration from Aisha, which states that the Qur'an initially prescribed ten breastfeeding sessions, later abrogated to five known feedings (*khamṣ raḍa'āt ma'lūmāt*), as recorded in Sahih Muslim. Methodologically, this indicates a gradual legislative process in which the ruling of ten feedings is considered *mansūkh* (abrogated), while the provision of five feedings functions as the *nāsikh* (abrogating and final ruling). (Al-Zuḥaylī, 2011)

However, a reflective critical analysis shows that the issue of *naskh* here is not merely a numerical substitution. Some scholars argue that what was abrogated includes not only the legal ruling but also its recitation, since the narration suggests that the earlier provision was once part of the Qur'anic reading. This raises epistemological discussions regarding the status of the report and its relation to the codification of the muṣḥaf. Furthermore, the fact that classical *Mazhab* differ in determining the legal consequences of the five-feedings narration demonstrates that the claim of finality is mediated by methodological principles of *uṣūl al-fiqh*, particularly concerning the criteria and scope of abrogation. (Al-Shatibi, n.d.)

Thus, the *nasikh-mansukh* analysis of this hadith reflects the dynamic and gradual nature of Islamic legal formation. The transition from ten to five breastfeeding sessions illustrates a staged normative refinement aimed at legal clarity. Nevertheless, its juridical application remains within the domain of *ijtihād*, as it depends on interpretive methodology and the reconciliation of textual evidence concerning the establishment of mahram relationships through breastfeeding. (Al-A'zami, 1978)

Based on the previous explanation, it can be concluded that a *mahram* relationship is formed through breastfeeding when a baby breastfeeds five to ten times from either the biological mother or another woman until the milk enters the baby's stomach and has a

growth-promoting effect. The baby is nourished by this milk, and a legally valid bond is formed between the baby and the woman who breastfed him.

As such, foster care has important legal consequences. One consequence is the prohibition of marriage resulting from the fostering relationship. This prohibition stems from a hadith of the Prophet Muhammad, which equates the prohibition arising from foster care with that arising from biological relations. According to Islamic teachings, a number of women are not allowed to marry because of their status as caregivers of adopted children.(Abdul Hakim & Ani Nur Afidah, 2024)

The Al-Qur'an states that the number of times a child is breastfed affects the legal status of marriage between the child and the woman who breastfed him. Initially, ten breastfeedings could cause a *mahram* relationship to arise, resulting in a prohibition on marriage. However, this provision was later abrogated and replaced with the rule of five breastfeedings. This change occurred before the death of the Prophet Muhammad. Some people initially thought the five times of breastfeeding were part of the Al-Qur'an. However, after understanding the concept of *nasikh* and *mansukh*, they realized the provision was no longer included in the Al-Qur'an. *Mazhab* agreed the rule of five times of breastfeeding remained valid based on a valid hadith.(Abdul Hakim & Ani Nur Afidah, 2024)

A breastfed infant must receive five feedings at different times according to the community's customs. This is because there is no clear provision in either the language or *shariah* law regarding the technical definition of breastfeeding. Thus, breastfeeding practices considered ideal often adapt to local traditions, though this approach is considered less than ideal in terms of legal certainty. For instance, if a baby stops breastfeeding due to movement or negligence and then resumes breastfeeding or switches to another type of breast milk, it is still considered one valid breastfeeding session. However, if the baby stops breastfeeding due to refusal and then breastfeeds again, the event is considered a separate instance of breastfeeding according to prevailing custom.(HAMZAH, 2019)

If a baby suckles from a breastfeeding mother, then the milk is small, then it stops, and then he comes back to suckle, that counts as one breastfeeding. This does not mean that the breastfeeding is separated other than by a real separation. If the child suckles the nipple of the breast of the breastfeeding mother, then the child moves to the nipple of the other breast, this is one breastfeeding. This is because the breastfeeding sometimes lasts one breath. If the milk reaches the baby's cavity, then that is one breastfeeding, and so long as there have not been five breastfeedings that are sufficient to satisfy the baby, then it is not *haram* to breastfeed him with that breastfeeding.

As explained in the hadith narrated by Aisha RA, breastfeeding that can lead to a *mahram* relationship is limited to five times. To establish a *mahram* relationship through breastfeeding, several conditions must be met: breastfeeding must occur five times, within the first two years of the child's life, and it must influence the child's physical growth. The hadith confirms that only breast milk given before the age of two establishes a *mahram* relationship because, at that age, breast milk is the primary source of nutrients necessary for bone and muscle growth. Conversely, if breast milk is given to an adult, a *mahram* relationship is not established because, at that stage, breast milk is no longer a staple food. (Ridha & Ramadhona, 2024)

The disagreement concerning the minimum number of breastfeeding sessions that establish a *mahram* relationship fundamentally reflects divergent methodologies of *uṣūl al-fiqh* among the classical *Mazhab*. The *Mazhab* of Al-Shafi'i and Ahmad ibn Hanbal methodologically treat the hadith of five known breastfeedings as a *muqayyid* (restrictive qualifier) of the general wording in QS. al-Nisā' (4): 23, thereby interpreting the Qur'anic prohibition of milk kinship as conditioned by a specific numerical threshold established through a *ṣaḥīḥ* report. (Al-Qushayrī, n.d.)

In their legal theory, an authentic solitary report (*khabar āḥād*) may specify or qualify a general Qur'anic text so long as it does not contradict a definitive (*qaṭ'ī*) principle. (Al-Shafi'i, n.d.) In contrast, the *Mazhab* of Abu Hanifa resists imposing a numerical limitation, arguing that the general Qur'anic expression is legally sufficient and that restricting it through a solitary report in matters affecting lineage and marital prohibition raises methodological concerns. (Al-Jassas, 1994)

The *Mazhab* of Malik ibn Anas, meanwhile, emphasizes the substantive biological effect of breastfeeding on the child's growth rather than a fixed number of feedings, reflecting a qualitative rather than quantitative legal reasoning. Finally, the *Mazhab* of Dawud al-Zahiri adopts a strict literalist approach, adhering closely to the apparent wording of specific narrations without extending their implications through analogy (*qiyās*) or broader rational considerations. (Astuti, 2025) Thus, the *ikhtilāf* over the number of breastfeedings is not merely a numerical dispute but a manifestation of deeper theoretical differences regarding textual qualification, the authority of solitary reports, and the reconciliation of general and specific evidences within each *Mazhab*'s legal epistemology.

Another fact that can be seen is that *Mazhab* also differ in determining the amount of breastfeeding that has the effect of *mahram* despite the hadith information. The following will be presented through a table:

Table 1. Differences of Opinion of *Mazhab* on the Number of Breastfeeding that Leads to Mahram Relationship

<i>Mazhab</i>	Minimum number of feedings	Information	Implications for Religious Court Decisions	Implications for Cross-Family Breast Milk Donation
<b>Syafi'i &amp; Ahmad</b>	Five times perfect breastfeeding	Breastfeeding is considered a <i>mahram</i> relationship if it occurs five times at different times, and breastfeeds until it is full.	Religious courts adopting this position require proof of at least five separate breastfeeding sessions to establish milk kinship and invalidate a proposed marriage. Claims involving fewer than five feedings may be rejected.	Cross-family milk donation may establish a mahram relationship if it reaches five separate feedings. Proper documentation is therefore essential to prevent future prohibited marriages.
<b>Abu Hanifah &amp; Malik</b>	One full feeding	One complete and satisfying breastfeeding is sufficient to establish <i>mahram</i> relationship, not five.	Courts influenced by this approach may establish milk kinship even if only one effective breastfeeding is proven, making the evidentiary threshold broader and requiring greater caution in marriage cases.	Cross-family milk donation carries wider legal consequences, since even a single effective feeding may create a mahram relationship, increasing the risk of future marital prohibitions without strict record-keeping.
<b>Daud az-Zahiri, Abu Tsa'ur, &amp; Ibn al-Mundzir</b>	Three times breastfeeding	It states that the <i>mahram</i> relationship only occurs after a minimum of three breastfeedings, not one or two.	In judicial practice, proof of at least three separate feedings is required to establish marriage prohibition. This position stands between the five-feeding requirement	In cross-family milk donation, the legal risk arises after three feedings, requiring documentation and caution, though the threshold is less strict than the view that

and the no-fixed- number approach.	imposes no numerical limit.
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The issue of whether limiting the number of breastfeeding sessions could lead to a *mahram* relationship arises due to the unique nature of this topic. One or two feedings are not considered sufficient to prevent marriage because they do not significantly impact the child's physical development. According to Mahmud Syaltūt, Islamic law does not have fixed standards regarding breastfeeding, except for restrictions on affection, emotional closeness, and maternal feelings in the context of breastfeeding. He argues that five feedings is the minimum threshold to establish maternal status in a breastfeeding relationship and that two years is the maximum age at which receiving breast milk affects *mahram* status.(Mun, 2016)

One or two breastfeeding sessions are insufficient to prevent marriage because they do not significantly impact the child's physical development. Examining the process of compiling the Compilation of Islamic Law (KHI), which refers to *fiqh* literature, particularly from the Shafi'i *mazhab* of thought, reveals that Article 39, paragraph (3), emphasizes the importance of five breastfeeding sessions for establishing *mahram* relations.

Therefore, the KHI should provide a more detailed explanation of this provision's scope. Without clarity, confusion arises among the public, which makes it difficult for judges to adjudicate cases, including sensitive ones such as same-sex marriage or marriage between siblings through breastfeeding. In the context of mixed marriages, it is also crucial to provide a clear explanation of the prohibition against marrying siblings, as stipulated in the KHI and Marriage Law No. 1 of 1974, to prevent misunderstandings among the public regarding the concept of breastfeeding.(Mun, 2016)

### **Social Challenges and Realities in the Modern Era**

Breast milk is the primary source of nutrition for infants up to two years of age. During the first six months of life, exclusive breastfeeding is recommended, without any complementary foods or formula. However, not all mothers are able to breastfeed their babies. Various internal and external factors often hinder the breastfeeding process. While some of these challenges may seem minor, psychological conditions such as postpartum depression emotional disturbances that occur after childbirth can prevent mothers from exclusively breastfeeding and, in some cases, from producing breast milk until the child is two years old. Additionally, working mothers often cite work demands as a reason for not fulfilling their breastfeeding responsibilities.(Edy Susanto, 2019)

Regulations regarding breast milk donations began to receive formal attention after Government Regulation No. 32 of 2012, which concerns exclusive breastfeeding,

was issued. Article 11 of this regulation outlines specific requirements for donors and recipients of breast milk. These include the following; the biological mother or the child's family must register, the donor's identity, religion, and address must be known to the recipient's mother or family, the donor's consent can only be given after the recipient's identity is known, the donor must be in good health and free from contagious diseases, and breast milk must not be sold.(Wulan, 2022)

Normatively, an integrated milk-kinship registration model may be proposed to bridge medical regulation and Islamic family law. This model could include the establishment of an official *raḍā'ah* registry at healthcare institutions or Offices of Religious Affairs, documentation of the identities of donor and recipient along with the number and period of breastfeeding sessions, issuance of an official milk-kinship certificate as preliminary administrative evidence in marriage cases, limited integration with civil registration systems under personal data protection principles, and mandatory reporting obligations for milk banks or cross-family donation services. Such a framework aims to ensure legal certainty and prevent prohibited marriages arising from undocumented milk kinship, in line with contemporary discussions on reforming Islamic family law administration.(Mudzhar, 1999)

Furthermore, a normative reconstruction of the provisions on milk kinship within the Kompilasi Hukum Islam (KHI) is necessary. The existing provisions regulate prohibited degrees of marriage due to breastfeeding but remain general and do not explicitly address modern organized milk donation practices. Reformulation could include clarification of the legally relevant age limit for *raḍā'ah*, explicit acknowledgment of the divergent *mazhab* positions on the minimum number of breastfeeding sessions, mandatory official registration of milk-kinship events, and formal recognition of milk-kinship documentation as admissible evidence before religious courts. Such reconstruction would align classical fiqh doctrine with contemporary administrative needs and reflect broader trends in the codification and contextualization of Islamic family law in Muslim-majority jurisdictions.(Lukito, 2018)

According to Indonesian Ulema Council Fatwa No. 28 of 2013 on breastfeeding (*istirdā'*), a mother may breastfeed a child who is not her biological offspring. Similarly, a child may receive breast milk from a woman other than their biological mother, provided the woman meets the requirements of Islamic law. These requirements include being in good physical and mental health and not being currently pregnant. In the context of *raḍā'ah*, breastfeeding serves as the legal basis for establishing *mahram* relationships, resulting in a prohibition on marriage between the parties involved.Fatwa Majelis Ulama Indonesia Nomor: 28 Tahun 2013 tentang Seputar Masalah Donor Air Susu (Istirdla').

In general, breastfeeding babies will stop on their own when they are full. In practice, a typical breastfeeding session lasts between 20 and 45 minutes and occurs every three hours. On the first day of birth, a baby needs only 5 to 7 milliliters of milk, equivalent to one tablespoon, due to the small size of their stomach. By the third day, fluid requirements increase to 22 to 27 milliliters (roughly one measuring cup) as the stomach begins to grow. By the time the baby is one week old, they will typically consume 45 to 60 milliliters per feeding. Their total daily requirement is 400 to 600 milliliters, or about one and a half to two cups. This increase reflects the rapid growth that occurs in the early weeks of life, during which time the baby's nutritional needs become increasingly higher. (Edy Susanto, 2019)

According to *Imam Shafi'i*, the minimum number of sexual encounters that prohibits marriage is five. This view is linked to the concept of feedings in the law of *radā'ah*, where one feeding is valid if the baby is fed until full. Once the baby is full, it naturally stops feeding and refuses to continue. Thus, separate feedings are considered separate sessions. Assuming the baby's physiological needs are met for example, a one day old baby consumes approximately one tablespoon of breast milk every three hours then when the baby receives five tablespoons within a certain time frame, this can be understood as five breastfeeding sessions forming a *mahram* relationship, according to *Imam Shafi'i's* view.

Breast milk banks offer a solution to two major problems: helping mothers who have difficulty producing breast milk and distributing excess breast milk from other mothers. Since the concept of breast milk banks is not explicitly mentioned in the Al-Qur'an, this issue falls under the realm of *ijtihad* in Islamic jurisprudence. While *Mazhab* generally agree on the permissibility of breast milk banks, there are differences in how they formulate their legal basis. (Wulan, 2022) There are three main opinions that can be summarized as follows:

The first opinion states that establishing breast milk banks is permissible according to Sharee'ah. The reasoning behind this opinion is that the baby who receives breast milk from the bank does not suckle directly from the donor woman; rather, the baby only consumes breast milk in packaged form. Therefore, no *mahram* relationship is established, unlike when a baby breastfeeds directly from the mother. Prominent Yusuf al-Qardawi also emphasized that there is no *shari'ah* reason to ban breast milk banks as long as they serve a pressing public interest and align with *shari'ah* principles. He believes that women who donate breast milk to save weak babies will be rewarded by Allah SWT and that the act is socially appreciated. In fact, women may sell their breast milk rather than donate it. This is based on the practice that took place during the time of

the Prophet Muhammad, when breastfeeding mothers received wages to support themselves. Therefore, legally, the sale and purchase of breast milk is valid.

The second opinion states that establishing breast milk banks is *haram*. This is because a *mahram* relationship can be established through direct breastfeeding, and the same is true if the breast milk enters the baby's stomach. Thus, breast milk banks are feared to cause *nasab* confusion, potentially leading to marriages between individuals with a *mahram* relationship who are unaware of it. One contemporary scholar who rejects the legality of breast milk banks is Wahbah az-Zuhayli. In his work *Fatāwā Mu'āshirah*, he asserts that the concept of breast milk banks is unacceptable in the perspective of Islamic *shariah* because it risks causing complex legal consequences, especially regarding the limits of marriage and descent.

The third opinion states that establishing breast milk banks is permitted, but only under very strict conditions to ensure legal clarity and traceability. For example, each stored breast milk sample must be placed in a special room, labeled with the donor's clear identity, and separated from milk belonging to other donors. Additionally, every baby who receives breast milk from the bank must be administratively registered, and the donor's identity must be disclosed to the recipient's family. These measures aim to prevent lineage mixing and ensure that the *mahram* relationship resulting from breastfeeding is clearly understood. With such detailed, transparent record keeping, the risk of violating *shariah* limits that concern *Mazhab* can be minimized. (Nurliana, 2020)

Breastfeeding serves to meet infants' nutritional and physical health needs, and it also has significant social and legal implications, particularly in forming kinship bonds between individuals who are not connected by blood or marriage. Children breastfed by the same woman are considered siblings and are prohibited from marrying each other, as are other relatives connected through breastfeeding. This prohibition is part of the religious obligation to prevent marriages between *mahrims*. Therefore, in the context of donor human milk use, it is important to ensure that the provision of breast milk meets religious safety standards in addition to being medically safe. Thus, breast milk banks (BMBs) or human milk banks (HMBs) must implement systems that allow for the monitoring of potential *mahram* relationships while preventing marriage between individuals with breastfeeding ties. (Gribble et al., 2025)

The provisions governing the establishment of breastfeeding relationships in Islam may vary depending on the *fiqh* traditions and religious beliefs of each Muslim community. Therefore, when planning the establishment and management of a breast milk bank, it is important to consider how the operational system of the bank may affect the formation of *mahram* relationships through breastfeeding within the relevant community. Additionally, the management of the breast milk bank must be consistent

with religious principles. Key factors influencing the status of the breastfeeding relationship include the child's age at the time of receiving breast milk, the number of breastfeeding sessions, how the breast milk is administered to the infant, and if the donor is known to the recipient. (Maheshwari et al., 2022)

## CONCLUSION

The concept of five breastfeeding sessions as the basis for establishing a mahram relationship has strong foundations in the Qur'an and hadith and represents the dominant view, particularly within the Shafi'i mazhab. It stipulates that five separate breastfeeding sessions within the first two years of a child's life result in a permanent marriage prohibition equivalent to that of blood relations. However, in the modern context, practices such as cross-family milk donation, expressed breast milk, and the absence of formal documentation systems create significant difficulties in determining and proving mahram status. At the same time, the Kompilasi Hukum Islam does not explicitly regulate the five-breastfeeding requirement, potentially leading to divergent interpretations in legal practice and social life. This study specifically focuses on the legally qualifying five breastfeeding sessions in Islamic jurisprudence, aiming to deepen normative analysis while addressing contemporary challenges through more specific legal formulation and the development of accountable registration systems, thereby harmonizing classical fiqh principles with positive law to ensure legal certainty and the protection of children's rights.

The theoretical implication for contemporary fiqh lies in the need to recontextualize the concepts of *takhsis*, *taqyid*, and the authority of solitary hadith (*khobar āḥād*) in the formulation of family law, particularly when confronted with modern practices such as breast milk donation and institutionalized healthcare systems. Contemporary fiqh is therefore required to develop an integrative *ijtihad* that is not confined to classical textual interpretation but also takes into account administrative, medical, and child-protection considerations as part of the objectives of the Shari'ah (*maqāṣid al-sharī'ah*). In this respect, the discourse on *raḍā'ah* becomes a strategic arena for demonstrating how fiqh can remain rooted in the classical scholarly tradition (*turāth*) while simultaneously adapting to social change and the contemporary demand for legal certainty.

Practically, this study implies the need for normative reform within the Kompilasi Hukum Islam by clarifying the age limit for breastfeeding, establishing a minimum standard for the number of breastfeeding sessions, and mandating the official registration of milk-kinship relationships in order to prevent multiple interpretations in practice. For the Religious Courts (Pengadilan Agama), more structured evidentiary guidelines are

required in assessing claims of mahram status due to *radā'ah*, including the recognition of administrative documentation as admissible evidence and heightened judicial caution in marriage cases that may involve prohibited degrees of relationship. For society, this research underscores the importance of legal awareness in cross-family breast milk donation practices, the necessity of transparent record-keeping, and the understanding that milk kinship carries permanent legal consequences comparable to blood relations. Through these measures, legal certainty, child protection, and social order within the Islamic family law system can be more effectively safeguarded.

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