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Breast Milk Donor in Islamic Law Perspective: A Study at The Lactashare Foundation *Lowokwaru* Malang

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Abstract: Breast milk donation is an alternative solution to help mothers who have difficulty producing breast milk to support exclusive breastfeeding. Donor breast milk is given from mothers who have excess supply of breast milk to babies who need breast milk. Breast milk donation can provide many benefits, but it is undeniable that it will be risky for the baby if it is not handled wisely. The purpose of this study is to determine the donor of ASI (Mother's Milk) at the Lactashare Lowokwaru Foundation, Malang in the perspective of Islamic law. This study used a descriptive qualitative method. The location of this research is at Lactashare Foundation St. Bunga Desember, Green Sapphire No. 10 Jatimulyo Lowokwaru Malang. Data collection techniques used are observation, interviews, and documentation. The results of the study show that the procedure passes through several steps, namely, mothers who wish to donate their breast milk must register themselves through the Lactashare application which can be downloaded via the Google Play Store or contact the contact person directly. Then do a health check and mental examination. The procedure is allowed in the Islamic perspective in that some conditions such as an agreement between both parties (donor and recipient) and the donor are physical and mental health. The procedure applied at the Lactashare Lowokwaru Foundation in Malang is still within the path of Islam and maintains the requirements of Islamic law.

Keywords: *breast milk donation; perspective of islamic law*

A. INTRODUCTION

Breast milk is the only one substance most sterile food, no there is none milk artificial that has same quality with breast milk. In breast milk there are *colostrum* at the moment beginning to produce it, more often containing protein, minerals and anti disease substances. *Colostrum* is rich in benefit for clean intestines baby from contents intestines fetus (*moconeum*) use

prepare intestines baby for accept food that will come. So from that, a mother recommended for breastfeeding her son as early as possible (Chanifah, 2020, p.109). With there is a need for breast milk physique daily the baby could be fulfilled especially at 6 months first and month next until he is 2 years old.

This thing in accordance with the written word of God in Surah Al-Baqarah (2)



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verse 233 which mean and mothers want to breastfeed her children for two full years, for those who want breast-feed by perfectly.

Islam also provides solution if there is mother who doesn't can breast-feed the baby because breast milk is not enough adequate or baby and mother separated because something thing. state this happened to the prophet Muhammad SAW, he not only breastfeeding mom her biological but also breastfeed mother milk named Halimah As - Sa'diyah Bedouin Arab women. Connection Among breastfeeding mothers and children become a mahram, that is, a person who does not can married, and things this also applies to you milk ever suckle on the same mother, okay child biological mother the or not (Uman, 1994, p.267).

Islam gives Street go out if there is mother who because one thing and another no can breast-feed the baby. On some where mom no can breast-feed mother, breast milk donor is alternative for support breastfeeding as food best for baby. Breast milk donors could mean breast milk donated by a person's mother not for the baby alone but for someone else's baby, given by like willing. With condition so, of course the baby needs ready donor supply breast milk. This thing especially for current babies born have very heavy low (<1500 g), loss fluid acute, feces still in the form of meconium (usually colored green) on the 5th day after birth, born premature and heavy down between 7-10% start 3-5 days after birth (Chanifah, 2020, p.112).

Observing from conditions that exist in society, for mothers who have Abundant milk production, preferably donate breast milk to medium baby need. There are several reasons not yet convinced with the law on the status of breast milk donors and their consequences in law Islam.

A number of scholars have questioned the deed that is the same with *radha'ah*, that is breast-feed with destination to help

develop the soul child. In Islamic view, children who get milk sort of that called sibling milk, that is breastfeeding child from the same woman as donor for child that. Second, the son could not marry. If donor that no is known so big possibility violating association connection sexual fellow sibling already certain there is (Chanifah, 2020, p.109).

Breast milk donors can confuse connection between brotherhood or mahram because milk. Due to donor just entering information herself limited things common and name as somebody donating his blood. Not tracked who just babies ever consuming milk that, so that no clear hospitality between babies. Anticipating in the future, one man marries the girl who turned out once consuming breast milk from the same breast milk donor. If this Correct happens, then the couple has to do forbidden because married mahram alone consequence bond sibling breastfeeding. That danger is real from the presence of breast milk donors who do not know it clearly.

Fact in the field shows there are mothers who have excess and lack of breast milk, but they do not connect with each other though they need each other. Besides is need clarity Among donors and recipients so that there is no wrong mahram or wedding with sibling breastfeeding as well as appropriate donor breast milk with sharia Islam. In East Java there is one breast milk donor foundation foundation *lactashare* something institution self-subsistent community (NGO) use for bridge to meet breast milk donors and recipients. This Foundation Address at St. Bunga December, Green Sapphire No. 10 Jatimulyo Lowokwaru, Malang. *Lactashare* facilitate online consultation that can be accessible to mothers anywhere they are. Besides that *Lactashare* one Selected startups as TOP 20 in *Next Dev Competition* 2017 because rated have digital app with ability for give solutions and improvements quality life

society, in particular in the field health, agriculture, transportation and education. Leave from problem that, researcher want to do study more deep About Breastfeeding Donor at *Lactashare Foundation* Lowokwaru Malang in Perspective Islamic law.

B. MATERIALS AND METHOD

The method of this research is descriptive qualitative data that produces descriptive data in the form of written words or oral of people and observed behavior. The descriptive qualitative study is meant to find out about breast milk donation carried out at the *Lactashare foundation* in Lowokwaru Malang and to find out breast milk donors at the foundation *Lactashare Lowokwaru Malang* in perspective of Islamic law.

C. RESULT AND DISCUSSION

1. Definition of *Radha'ah*

Al - Radha'ah originated from the word رضاء - رضاعا - رضعا - يرضع - رضع which means suck breast and drink the milk. A breastfeeding woman her son called *murdhi'* or *murdhi'ah*, while the child she breastfed called *murdhi'*. By term, definition *radha'ah* is incident milk that arrives a woman to stomach child small that causes consequence law certain with condition certain (Jafarari, 2019, p.6).

Radha'ah in definition lughawi limited to sucking milk *alsadyu*, then *radha'ah* has a different meaning by term that is not limited to sucking milk course. Instead of rejecting measure it is milk that arrives to in the esophagus breastfeeding child, passing *alsadyu* or not. From the statement of the not found existence limitation about age breastfeeding child. The fuqaha have agreed that age of breastfeeding child

could become a marriage barrier of two year. So from that Shafi'i, Imam Malik and Abu Hanafiyah, as opinion, Ibn Umar, Ibn Abbas, Abu Hurairah, Ibn Mas'ud and all wife of the Prophet Muhammad SAW other than Aisyah RA says that breastfeeding adult children (big) do not cause marriage courtesy.

Amount Companions, jumhur fuqaha and the wife of the Prophet said: that adult breastfeeding not only cause *mahram* marriage, but also the jurists Zahiri, Daud and Aisyah RA are of the opinion on the contrary that breastfeeding adult child could cause wedding favors, like a case breastfeeding in children small (Yanggo & Anshary, 2002, p.38).

A baby sucking nipple a woman on time certain thing of this is opinion from Hanafiyah. Malikiyah say *radha'ah* is entering milk to in precious body as nutrition. As -Shafi'iyah say that *radha'ah* is arrived milk a woman in stomach baby. While Al- Hanabilah say *radha'ah* is babies under the age of two dung that sucks someone's nipple the girl who appeared consequence pregnancy or drink milk.

Conclusion *radha'ah* is arrived or entry of a milk woman besides biological mother to the stomach of a child who hasn't aged two years and if exceeds two years so no named *rada'ah* and no forbidden wedding.

2. Maslahah Mursalah

In other words, *al mashlahah* is one the form of the word *al - mashalih (mufrad)*. Writer Dictionary Lisan Al-Arab explains two meaning, namely *al-mashlahah* (meaning alshalah) and *al-mashlahah* (meaning everything). Because form single *mashalih* means existence benefits at the start and through the process, such as produce

enjoyment and benefit, or prevention and protection, such as stay away wounds and illnesses, all that can be said *mashlahah*.

Called benefits maker law syara' (Allah) is for maintaining the essence of religion, soul, mind, blood, and property, with a destination for realizing correct order among creator and creation. The advantage is enjoyment or something that will bring pleasure. In other words, it is *tahshil al-ibqa*. Meaning technical is accumulation enjoyment direct, and meaningful *ibqa* is maintaining enjoyment this will protect her from difficulties and root the cause.

Al-mashlahah al-mursalah is allowances that do not have base but no there is argument. If there is incident that doesn't set in Sharia law, and not there is incident for Muslims, "this determine clarity law incident, then you will find out appropriate things with Islamic law", which is based on maintaining change make a loss or state benefit According to rules, events that called *al-Maslahah al-Mursalah*. The main destination of *al-Mashlahah al-Mursalah* is profit, that is guard loss and protecting its importance. *Al-mursalah* says this because syara "same very no there is rule syara" which becomes his strength or canceled.

Although Ulama have different view about *mashlahah al-mursalah*, in essence every benefit has similarity to destination syara, however there isn't evidence that assertive accept or reject it. For Abu Nur Zuhair, *al-Maslahah al-Mursalah* is feature law, but not yet of course recognized by Syara'. Abu Zahrah uses *good luck* to define Creator (Allah) is appropriate with destination law, but there is no base special for prove or deny evidence.

Al-Ghazali stated that every name disguise that returns meaning syara" known from the Al-Quran, As-Sunnah and Ijma", however not seen from third base that, especially through *Qiyas* method. *Al-mashlahah al-mursalah* is used. If *qiyas* is used, it should be the original argument (*maqis alaih*). The method knowing suitable *maslahah* for destination this originated from various argument not until such as the Al-Quran, sunnah, *qarinah-qarinah* and symbols. Because of that, the method of the excavation is called *al-maslahah al-mursalah*. It also means in addition to certain parameters, included a description of general about some syara' parameters.

Al-Ghazali's statement concludes: that he believes that *almaslahah almursalah (istishlah)* is method *istidlal nash syara* (looking for argument), "this no other argument against text syara", but no that the problem. From text syara. According to him proof *qath'iyat*, as long as permanent guard meaning syara' though in implementation hanni.

As argument from a number of the above explanations, then realm *almaslahah al mursalah* not only based on law syara, but also custom customs and relationships Among one person with another must be noticed. This area is choice mainly to get benefits, because that is not included in aspect worship.

Worship aspect is all of something there isn't the reason to look for benefit worship from every existing law in worship. Among other things, Islamic law regulates the size of the *kifarat* limit, inheritance, and amount of month in *iddah* for women whoses by husband die or divorced. Everything measured and announced based on the benefit of syara alone.

By concise, said that *al-mashlahah al-mursalah* is focused on a field that isn't there is in text; good in the Qur'an and As-Sunnah which explains existing laws the booster through something I'm arriving. Also focused on things that are not obtained there is a related *ijma'* or *qiyas* with incident that.

3. Breastmilk Donation Procedure (Breast Milk Mother) at Lactashare Foundation Lowokwaru Malang

The results of research that have researcher do in *Lactashare* foundation Lowokwaru Malang is donors and recipients originated from Malang and Jakarta areas. Donor donate the milk with like willing and abundant breast milk. Inside that every process of donating breast milk at the foundation *Lactashare* there is a number of conditions that must filled by donors or receiver before he donate or accept. Following exposure results Interview with dr. Meralda Nindyasti as Founder and CEO *Lactashare* .

Lactashare since 2017, by routine introduce self to Public about existence breast milk donation service in 2 ways ie offline or online. Offline with method counseling to health center, cadre health, PKK cadres before pandemic, letter with figure community, government regional and state ministries, and MSME actors.

Ways to go online include: make application *Lactashare*, *website*, social media (instagram/facebook/Whatsapp), radio broadcast, covered by mass media local/national/international, online counseling to health center, cadre health, PKK cadres and Public general During pandemic this namely the *Lactashare Charity Class program* in the

form of studying Whatsapp, as well as service consultation via video calls.

Party *lactashare* convey about the importance of breastfeeding and breastfeeding, and educate regarding safe breast milk donation, as solution compatible alternative with WHO recommendations and initiate idea Establishment of Syar'i ASI Bank first in Indonesia.

This thing in accordance with exposure from dr. Meralda that As stated on the informed consent form that *Lactashare* bodily Foundation law, non -profit or non-profit. So that operational *Lactashare* completely depend from donation society. TSB community consist from prospective breast milk donors and candidates breast milk recipient, as receiver direct benefit from *Lactashare* breast milk donor services, and also donations from public. That's why we hope for donors and recipients for contribute to 9 donation programs, as much as possible. For example in the blood screening program prospective breast milk donor. Between parties donor and recipient can joint venture cost, as much as possible in accordance deal second split party. However when one or both of them originated from *among the poor*, *Lactashare* will accommodate cost tb from collected donations from Public general .

4. Breastmilk Donation Procedure (Milk Milk Mother) at Lactashare Foundation Lowokwaru Malang in Perspective Islamic Law

Breast milk donation procedure carried out at the foundation *lactashare* refers to the Fatwa of the Indonesian Ulema Council. The occurrence of mahram (haram occur marriage) result radla' (milk) if :

Age child receiving breastfeeding maximum two years of *qamariyah*.

- a. Mother known breast milk donor identity by clear.
- b. Amount of breast milk consumed at least five feedings.
- c. How to breastfeed conducted good by direct to nipple milk mother (*imtishash*) and through milk.
- d. Breast milk consumed child the filling.

And we do neat note taking with publish certificate breastfeeding, book milk and card breastfeeding.

Conclusion from a number of description informant good from party doctors, donors and recipients of breast milk donors are as following:

- a. Reason donating breast milk is because have excess breast milk and a sense of caring to the importance of breastfeeding for baby.

Everyone who didn't has breast milk is ready donate breast milk for shared to other people. So that there are many considerations, one is Fright will blood mix. People who want donate breast milk of course more humane, and generous people who realize importance give the milk to new babies born and maybe mother her biological no could breastfeed because various inhibiting factor.

- b. Reason breast milk donor recipients are because urgent need to breast milk, while mother's milk biological not enough good from side quality nor the quantity.

This thing related with *good luck mursala* that is benefits

demanded by the environment and some Thing after no there is revelation and syara' no set in Constitution or legal and not there is argument syara' about considered or whether or not benefit it. benefit no limited to parts and not limited to individuals but progress civilization and development environment. In endorsement or determination something law could bring manaat, sometimes can Becomes danger. At the point certain law could give benefits in one environment and can cause loss for environment another.

The case at the *Lactashare* Foundation Lowokwaru Malang is available a number of among them showing that the recipients of breast milk donors are quality and quantity mothers the milk not enough good, mothers who have disease, and working mothers so that no can provide exclusive breastfeeding. breast milk is food tree new baby born, as system immunity baby and as shaper her body. Breast milk has many functions and not can replaced by formula milk. because of that, solution the presence of breast milk donors is very needed.

Procedure to be traversed by the donor and the recipient is with fill in the form in which there is description about profile and background behind second split party.

Second split party will understand background behind each Among receiver and giver, so that occur consensus and sincerity in transact. Women who was willing deliver the milk is in the breast milk

bank, then milk that same just like donated blood for benefit people. As blood that can received from who only and can give to who only those who need it, then milk too thereby the law. The difference is blood is unclean. While milk no unclean. Because that, blood new could using in state emergency or forced. Destination holding a milk bank mother (ASI) is noble cause, supported by Islam, to give help to all the weak, as for because its weakness. What's more when concerned is prematurely born babies who do not have power and strength. The woman who donated some of the milk for food group children weak this will get reward from Allah and praiseworthy by the side human.

- c. Existence test health and have confirmed there is whether or not infection that can transmitted mother contributor through her milk to baby.

Donated breast milk Becomes food main babies who consume it, because that need very for confirmed that the breast milk safe and free from disease.

- d. Existence meeting from second split party for You're welcome discuss about terms given and received the breast milk, and the Foundation as witness Among both. For avoid confusion in set a child truly breastfed by a woman besides his mother, fiqh scholar set that need tool proof for set Thing the as following:

- 1) Pledge.

Pledge that is confession milk from party men and women by together or one of

them. If pledge that conducted before get married, then both of them no can married and when they marry so contract cancel.

According to sect Hanafiyyah, pledge in milk is confession milk from party men and women by together or one from them. If pledge that conducted before get married, then both of them no can married and when they marry so contract cancel. If pledge that conducted after marriage, then they must split up. When they choose reluctant for separated, then the judge has the right compel they for split up.

According to Malikiyyah, radha'ah could occur with existence pledge second couple husband wife by together, or notification one from parents they both, or only with notification from chubby husband though conducted after contract, or notification a wife who has baligh and done before contract. sect Shafi'I set that pledge must done by two men _ because considered more superior in pledge.

- 2) Testimony

That is testimony given by people who know by certain that men and women that breastfeeding. As for amount witnesses agreed upon by the fiqh scholars that is, at least two witness man or one man with two women. However, fiqh scholar different opinion about testimony a man or a woman or four women.

According to the Hanafi school of testimony, the no could receive because Umar bin Khattab said. "Witness accepted in problem breastfeeding just testimony two men". Other friends do n't argue determination this be the consent of friends could made legal backup.

Maliki school of thought says: that testimony a woman before contract is no legitimate except mother man that alone. As for testimony a man with a woman or testimony two women, according to they could receiving if could disclosed before contract. According to sect Shafi'I and Hambali, testimony four women in problem breastfeeding could receive because problem breastfeeding is problem special people woman. However, if not enough from four women, testimony no accepted, because two women value same with one man in testimony. According to Ibn Rusud, the scholars are of the opinion that testimony in hadith the is sunnah.

- e. Breast milk in the ASI Bank is free or not collected cost administration same once.

Milk Mother (ASI) is flowing part from member body human, and not doubtful again that is God's gift to man where with the presence of breast milk a baby could get nutrition. the breast milk is something urgent thing inside life baby. Previously, author will discuss the other side is about sell buy breast milk. Sell buying breast milk is swap exchange breast milk

with something else deep Thing this conducted with give something goods other and accepted on base like same like and also do with love – willing same willing to be accompanied with consent and qabul Among both. Sell buy human breast milk that alone inside Islamic jurisprudence is branch the law that the scholars differ opinion in it.

- f. Breast milk is stored in a hygienic place so that safe consumed by baby.

Breast milk that has been is in the Malang City area will be stored in the office *Lactashare* and for the Jakarta area will be stored in the partner's breast milk storage pool *Lactashare*. Whereas for areas other than above, recommended for keep more first the milk you want donated in storage each for then distributed to recipient when there is Request of donor breast milk. All donor mother screened with be careful. The donor mother must Fulfill conditions, namely non-smokers, no drink drugs and alcohol, in good health and fulfilling excess breast milk. Besides that, the donor mother must have test blood negative for hepatitis B and C, HIV 1 and 2, and HTLV 1 and 2, has immunity against rubella and syphilis negative. Also not have history active TB disease, herpes or condition health other chronics such as *multiple sclerosis* or history cancer or type disease other.

D. CONCLUSION

Focus study of this is a breast milk donor at the foundation *Lactashare* Unfortunate and according to perspective Islamic law. Research results this based on

data exposure and analysis that has been done to doctors, breast milk donors and mothers from child breast milk recipients who become informant in this study, found that the procedure Breastfeeding Bank donation at *Lactashare Foundation* Lowokwaru Malang is as following Prospective donors and calor family recipient register self through application *Lactashare* that can be downloaded through *Google Play Store* or contact by direct contact person. Prospective donors who have registered will through the data verification process through call by officer *Lactashare* for now the status of the breast milk you want done by donors. Verification process includes donor breast milk data, personal data donor, history health donor including free from HIV/AIDS, hepatitis B, hepatitis C, syphilis, *cito megalovirus* proven with results laboratory clinical in period 6 months' time last. Family the recipient who has receive breast milk from donor, report amount breastfeeding that has been drink to *Lactashare*. If terms in accordance sharia fulfilled. So *Lactashare* publish certificate breastfeeding along with mahram path that happened consequence milk. The procedure for donating the ASI Bank at the *Lactashare Foundation* Malang in the perspective of Islamic law is allowed because there is a provision for deliberation between the two parties who mutually agree, the mother who donates breast milk is physically and mentally healthy, and the donation procedure carried out at the *Lactashare Foundation* Malang is still within the corridor of Islam and able to maintain the provisions of Islamic law.

REFERENCES

Al-Qur'an al-Karim

Chanifah, Nur. 2020. *Islam and Problems Medical current*. Kediri: Association Script.

Djajasudarma, Fatimah. 2010. *Linguistic Method: Approach Method Research and Studies*. Bandun: PT. Refika Aditama.

Hermanto, Aug. 2016. *Prohibition Marriage from Fiqh, Islamic Law, to Application in Legislation Indonesian Marriage*. Yogyakarta: Latitude Action characters.

Jauhari, Wildan . 2019. *Law Breastfeeding in Islam*, Jakarta: Home Fiqh Publication.

Howl Lexy. J. 2019. *Research Methodology Qualitative*. Bandung: PT. Teenager Rosda works.

Muslim, Imam Abu Husein bin Hajjal al - Qusyairi an- Nisaburi. 1993. *Tarjamah Sahih Muslim*, Juz II Semarang: As- Syifa'.

Syafi'I, Rachmat. 1988. *Knowledge Usul Fiqh*. Bandung: Faithful Library.

Wahbah Az-Zuhaili, Nazhariyah al-Dhorurah al-syariyyah, translated by Said Agil Husain al-Munawar, et al. 1997. *Concept Dourat In Islamic Law: Comparative Study With Law Positive*. Jakarta: Media Pratama Style.

Yanggo, Chuzaimah T and Hafiz Anshary. 2002. *The Problems of Contemporary Islamic Law*. Jakarta: The Firdaus Library.