

The Phenomenon of ASI (Breast Milk) Banks in Indonesia from an Islamic Law Perspective and Its Implications for the Status of Mahram

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Abstract: ASI provision is a fundamental right for infants, ensuring optimal nutrition and health protection. In response to increasing demand for donor milk, Human Milk Banks have emerged as an alternative solution, including in Muslim-majority countries such as Indonesia. This study aims to examine the existence of Human Milk Banks in Indonesia through the lens of Islamic jurisprudence and national legal frameworks, while also exploring the implications for kinship status (mahram) arising from milk-sharing. Employing a qualitative research method with a literature study approach, the analysis encompasses statutory regulations, Islamic legal fatwas, and scholarly interpretations relevant to the practice. The findings reveal that while Indonesia lacks specific legislation explicitly regulating Human Milk Banks, their operation is accommodated within broader health law frameworks and guided by technical directives from the Ministry of Health. From the perspective of Islamic law, the practice is permissible provided that it adheres to sharia principles, including the permissibility and cleanliness of donor milk, and proper documentation of donor and recipient identities to prevent ambiguity in mahram relationships. The study concludes that a harmonized framework integrating health regulations, Islamic legal norms, and social values is essential for the ethical and lawful management of Human Milk Banks in Indonesia. Furthermore, the formulation of comprehensive and sharia-compliant policies is urgently required to ensure the legitimacy and societal acceptance of such practices.

Keywords: ASI, Bank, Mahram

Introduction

Basically, breastfeeding plays an important role in providing initial nutrition and protection to infants. The substances contained in ASI are the most nutritionally optimal, natural, and nutrient-rich for babies. This is because ASI is produced naturally in the mother's body, making it a clean and nutritious source. Before the baby is born, ASI is already available as a pre-prepared food. Thus, after the baby is born, it can immediately benefit from the ASI (Hasan, 1997). The development of human milk banks began in Europe, specifically in Vienna, Austria, in 1909. This initiative aims to provide ASI for babies who cannot be breastfed directly by their mothers, making it an important solution for supporting infant health and development. Over time, the concept of ASI banks spread to other countries like Germany and Boston, USA, as understanding of the benefits of ASI increased. Currently, over 300 ASI banks operate in 38 countries worldwide, serving as collection, processing, and distribution centers for donor ASI for babies in need, especially those born prematurely or with certain health conditions (Wulan, 2022). The development of Islamic banks has also extended to countries with a Muslim majority population. In these countries, its implementation faces unique challenges because it must consider legal aspects and religious values, particularly regarding the status of kinship due to breastfeeding. In Islamic law, breastfeeding can alter a person's kinship status, which has significant implications for social and family relationships. Therefore, although this practice brings clear health benefits, clear guidance and policies are needed from an Islamic legal perspective.

In Indonesia, the practice of breastfeeding donation is gaining attention as more and more individuals voluntarily donate ASI thru online platforms. This movement demonstrates the high level of public concern for infant health and the importance of breastfeeding in supporting child development. However, behind this good intention, there are a number of legal issues that need to be considered. Donated ASI is not only related to health and humanitarian issues, but also has complex legal dimensions. The potential for issues of consanguinity due to breastfeeding can affect the legal status of relationships between individuals in Muslim society. Therefore, it is important to ensure that the practice of breastfeeding donation is carried out with consideration for legal and ethical aspects, and with clear guidance from Islamic law. The study of ASI donor law

is very important to address the challenges of managing ASI banks, especially in Muslim-majority countries. Research that integrates Islamic law and national legality can help design policies that support public health while respecting religious values and local traditions. With the increasing need for ASI donors, regulations are needed that are aligned with health, humanitarian, and legal principles. The phenomenon of ASI banks is driven by the importance of ASI as a source of nutrition and immunity for babies, the challenges mothers face in breastfeeding, and social solidarity to help others. Human milk banks are also a solution for medical needs, such as premature babies who require a specific amount of ASI.

The emergence of the Bank ASI phenomenon is the result of the interaction between the factors mentioned above, which points out the importance of alternatives in providing ASI for babies in need. However, in addressing this phenomenon, it is also necessary to consider legal, religious, and ethical aspects, particularly regarding the implications for mahram status and existing social norms within society. As Government Regulation Number 33 of 2012 concerning the provision of exclusive breastfeeding has been officially ratified and came into effect on March 1, 2012. This regulation serves as an instruction or guideline for implementing the provisions of Article 129, paragraph 2, of Chapter VII of Law Number 36 of 2009 concerning Health. Article 129 emphasises the government's significant responsibility to ensure that the right of infants to receive exclusive breastfeeding is guaranteed. Therefore, as an effort to realise this, further regulations need to be developed to ensure that infants' rights to receive exclusive breastfeeding are met (Peraturan Pemerintah (PP) Nomor 33 Tahun 2012 Tentang Pemberian Air Susu Ibu Eksklusif, 2012).

The practice of breastfeeding in relation to Islamic law can raise various considerations, especially regarding the status of kinship between the mother who donates ASI and the mother who receives ASI. In Islam, breastfeeding a baby is encouraged and considered the mother's duty. The obligation to exclusively breastfeed a baby for the first six months of the baby's life is highly emphasised. However, Islamic law also recognises that not all mothers may have the ability to provide exclusive breastfeeding. The views of scholars on ASI banks can vary. Some scholars may view ASI banks as an effort to meet the needs of children in need, while others may have doubts regarding the status of kinship and religious values. Therefore, when formulating a view on the law of ASI banks, it is important to consider the framework of Islamic values, ethics, public benefit, and justice. Clear and transparent regulations need to be developed to ensure that ASI practices are in accordance with religious principles, protect children's rights, and consider the implications for the status of mahram. The views of scholars, scientific research, and active participation in community discussions can help in formulating an appropriate approach that aligns with Islamic principles.

This research aims to examine the phenomenon of Human Milk Banks in Indonesia from the perspectives of Islamic law and national legality, as well as its implications for the status of kinship. This study makes a novel contribution by combining these two approaches, unlike previous research which generally only highlighted one aspect. As for comparison, the author found several previous studies, including Dwi Chondro Wulan's (2022) research, which only focused on the Islamic law perspective without touching on the aspect of legality. Then, the research by Adelya Jenita Prismada Putri and Roidatuk Fikriyah (2022) more emphasized masalah mursalah in meeting the nutritional needs of female working mothers, but did not sufficiently explore the implications of mahram. Meanwhile, research by Tyas Pratama Puja Kusuma and Dania Gusmi Rahayu (2021) developed a technology-based information system for managing a ASI bank, but it did not delve deeply into Islamic legal aspects or its social implications. Then, the research by Adjane Annisawati and Tamadara Hilman (2019) formulated a business model for Bank ASI in Bandung, but it did not include an analysis of bankruptcy. Meanwhile, Umma Farida's (2013) research only discussed the problems of ASI banks without examining their legality in Indonesia. By integrating Islamic legal perspectives, national legality, and aspects of mahram relationships, this research is expected to serve as a guide for developing inclusive policies that support public health and respect religious and social norms in Indonesia.

The novelty of this research lies in its presentation of a new approach to the study of breastfeeding in Indonesia by integrating Islamic law and national regulations, providing a

comprehensive analysis to align religious principles and public health needs. Focusing on the implications of fosterage status due to breastfeeding enriches understanding of its impact on social and family structures in Muslim societies. A multidisciplinary approach involving law, sociology, and health allows for a holistic analysis, encompassing the social, psychological, and health aspects of breastfeeding practices. This research also contributes to the development of inclusive policies that integrate local values, offers strategic guidance for sustainable and Sharia-based milk bank governance, and is relevant for both national and global contexts.

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Methods

The method used in this study is qualitative, serving as an investigative process to comprehensively understand social and human problems through holistic interpretation and detailed descriptive analysis (Creswell & Creswell, 2018). This research employs a descriptive-analytical qualitative approach combined with a normative juridical method, which focuses on analyzing legal norms, principles, and doctrines relevant to the research problem (Novianti, 2024). Data were obtained through library research by systematically examining authoritative and relevant sources, including statutory regulations, fatwas, academic books, peer-reviewed journal articles, previous research findings, and legal documents in both printed and digital formats (Novianti, 2023).

The qualitative data collected were analyzed inductively to generate findings that are systematic, factual, and in-depth, in accordance with the objectives of the study (Novianti, 2020). In the context of the digital era, this legal research method integrates descriptive-analytical qualitative approaches with digital-based literature studies, emphasizing source validity, document authenticity, and ethical considerations. Digital literacy thus becomes a crucial competence for researchers to ensure the reliability and credibility of legal sources (Novianti, 2024).

Specifically, this study applies qualitative documentary analysis combined with thematic content analysis, where documents serve as the primary data source. This approach involves identifying, coding, and organizing key themes to uncover meanings, patterns, and discursive tendencies within legal and religious texts. Such a method is particularly relevant for legal and socio-humanities research that emphasizes normative interpretation and contextual analysis.

Through this approach, the study examines the phenomenon of Human Milk Banks (ASI Banks) in Indonesia from an Islamic legal perspective, particularly focusing on their implications for mahram status. The research process began with the identification and examination of legal documents, including government regulations and fatwas issued by the Indonesian Ulema Council (MUI) concerning ASI banks and milk donation practices. The analysis aimed to assess the conformity of ASI bank practices with Sharia principles, identify potential inconsistencies, and evaluate their legal and ethical implications for mahram relationships. Furthermore, this study explores Islamic legal perspectives on breastfeeding based on the Qur'an, Hadith, and *usūl al-fiqh* principles, including the development of digital 'urf in contemporary legal contexts (Zulbaidah et al., 2025). The findings of this qualitative analysis are expected to provide normative and regulatory recommendations to improve the governance of ASI Banks in Indonesia, ensuring compliance with Islamic principles, ethical standards, and the protection of the rights of infants and breastfeeding mothers.

Results and Discussion

Legality of ASI Bank in Indonesia

Advances in science and technology have brought various conveniences to human life. One such facility is the establishment of institutions or foundations focused on collecting ASI from breastfeeding mothers who have a surplus beyond their babies' needs. The collected milk is then sterilized and stored in appropriate containers so it can be given to babies in need, such as those who lack ASI or premature infants. In this highly vulnerable phase of life, providing ASI is crucial to ensure the health and safety of the baby. Institutions or foundations that focus on this activity are known as Human Milk Banks. Essentially, Human Milk Banks (HMBs) in Indonesia operate within a legal framework designed to ensure the safety and quality of the services provided. The operational legality of ASI banks is governed by a number of regulations issued by the government and relevant institutions. One of the main regulations is the Minister of Health Regulation (Permenkes) No. 33 of 2012 concerning the Operation of Human Milk Banks. This regulation sets operational standards covering the process of collecting, storing, and distributing human milk, with the aim of ensuring the safety and health of infants receiving human milk. Human milk banks must comply with provisions regarding sanitation, milk quality, and strict administrative and technical procedures. In addition to specific regulations regarding human milk banks, Law No. 36 of 2009 concerning Health and Government Regulation No. 61 of 2014 concerning Maternal and Child Health also provide a broader legal framework. This law regulates the basic principles of health services, including the protection and maintenance of maternal and child health, which are relevant to the operation of human milk banks. These regulations cover aspects such as the rights of mothers and children, as well as the obligation of healthcare providers to provide quality services (Muklisin et al., 2021).

As for management and supervision, the principles used in Minister of Health Regulation No. 42 of 2013 concerning Blood Bank Service Standards can serve as an important reference for human milk banks. Although human milk banks and blood banks have differences, both handle biological materials and require high standards of cleanliness and safety. The principles of blood bank regulations, such as sanitation procedures, sterilization techniques, and strict quality control, can be adapted and applied to the management of human milk banks. Adapting these best practices from blood banks will not only ensure that stored and distributed ASI meets high health standards but will also help maintain the safety and well-being of infants and mothers receiving services. Implementing similar standards can improve the operational effectiveness of ASI banks, minimize the risk of contamination, and provide additional assurance about the quality of the ASI provided.

Legal aspects supporting the operation of ASI banks include intellectual property rights protection, ethical approval, and compliance with health regulations. Intellectual property protection, such as patents and trademarks, is crucial for safeguarding technological innovation and the identity of ASI banks from imitation or misuse, while also promoting sustainable development in this field. Additionally, ethical approval is a crucial element that encompasses professional standards, protection of donor privacy, and the implementation of procedures that respect rights and social norms. This aims to build public trust and ensure safe, ethical, and dignified services.

The operational legality of ASI banks in Indonesia also requires compliance with health regulations, such as sanitation, quality control, and safety standards set by the Ministry of Health. These regulations ensure that the distributed ASI is safe and of high quality. The combination of legal protection, ethics, and health regulations provides a strong foundation for human milk banks to operate effectively, safely, and innovatively, supporting the needs of infants and families with reliable and high-quality services. In 2022-2023, WHO plans to develop guidelines on donor human milk banking. These guidelines will follow the procedures outlined in the WHO handbook for guideline development, which include forming multidisciplinary guideline development groups, identifying key questions, conducting systematic literature reviews, and examining values, preferences, resources, and feasibility. This process will also include peer review. The expertise required in developing these guidelines will involve human milk banking, maternal healthcare, nutrition services, and child development. It is expected that in 2023, the WHO will publish these guidelines, providing global guidance on the quality and safety of ASI banking. These guidelines will cover donor selection and screening, transportation, storage, milk handling, and processing and pasteurization procedures. The purpose of these guidelines is to increase public interest and confidence in ASI banks by ensuring that these practices comply with WHO standards (Organization, 2022).

MUI Fatwa on the Practice of ASI Banks in Indonesia

The Indonesian Council of Ulema (MUI) fatwa on the practice of ASI banks in Indonesia is an important step that provides a legal and ethical framework for managing these institutions, especially within the context of Islamic law. This fatwa serves as a guide to ensure that the operations of the ASI bank comply with the underlying Islamic principles of the Islamic legal system in Indonesia. With the MUI fatwa in place, it is hoped that all activities related to ASI banks can be carried out in a manner that complies with religious provisions, ensuring the halalness and purity of every aspect involved. First, the MUI fatwa aims to protect the interests of the community by establishing clear guidelines regarding ASI banking practices. This includes regulations on the selection and screening of ASI donors, the processing and distribution of milk, to ensure that all stages are carried out in a manner consistent with Islamic values. This fatwa also regulates how to handle potential health and ethical risks that may arise from ASI donors and recipients, in order to ensure the safety and well-being of infants and donor mothers.

Additionally, the MUI fatwa helps maintain halal practices in ASI banks by regulating the use of donor ASI in accordance with Islamic law. This includes understanding the legal and social status of the relationship between the breastfed infant and the donor mother, as well as ensuring that no aspect could lead to confusion regarding mahram or family relationships. With these guidelines, the MUI fatwa plays a role in ensuring that milk banks not only meet medical standards but also comply with religious principles. This fatwa also has a significant impact on the social aspect, helping to build public trust in the practice of milk banks. With clear and official guidelines from the MUI, the public will feel more confident that milk banks operate in accordance with Sharia principles, thus increasing acceptance and participation in the ASI donation program. This is important to ensure that milk banks can function effectively and provide maximum benefit to babies in need. Overall, the MUI fatwa plays a crucial role in shaping the operational foundation for ASI banks in Indonesia, ensuring that these institutions not only meet medical and ethical standards but also operate within the framework of Islamic law. Thus, this fatwa not only guarantees the quality and safety of donor ASI but also ensures that all ASI bank practices align with religious teachings and community needs.

Based on the Indonesian Council of Ulama's Fatwa Number 28 of 2013 concerning ASI Donation (Istirdla'), a mother is permitted to give ASI to a child who is not her biological child. Conversely, a child is also permitted to receive ASI from a mother who is not their biological mother, provided it is in accordance with Islamic law. These provisions require that the breastfeeding mother be physically and mentally healthy and not currently pregnant. This breastfeeding results in the creation of mahram (prohibited marriages) due to the relationship of breastfeeding (radla')(Tengah, 2018).

In Islam, sharing ASI is considered a good deed. Breastfeeding is highly recommended, and there are many verses in the Quran that emphasize this, such as in Surah Al-Baqarah, Verse 233 (*Surat Al-Baqarah Ayat 233*, 2025):

وَالْوَالِدَتُ يُرْضَعْنَ حَوْلَيْنِ كَامِلَيْنِ^٢ لِمَنْ أَرَادَ أَنْ يُنَمِّ الرِّضَاعَةَ^٣ وَعَلَى الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ^٤ لَا تُكَلَّفُ نَفْسٌ إِلَّا وُسْعَهَا^٥ لَا تُضَارَّ وَالِدَةٌ بِوَلَدِهَا وَلَا مَوْلُودٌ لَهُ بِوَلَدِهِ^٦ وَعَلَى الْوَارِثِ مِثْلُ ذَلِكَ^٧
فَإِنْ أَرَادَا فِصَالًا عَنْ تَرَاضٍ مِّنْهُمَا وَتَشَاوُرٍ فَلَا جُنَاحَ عَلَيْهِمَا^٨ وَإِنْ أَرَدْتُمْ أَنْ تَسْرِعُوا^٩ فَا^{١٠} جُنَاحَ عَلَيْكُمْ إِذَا سَلَّمْتُمْ مَا^{١١} بِالْمَعْرُوفِ^{١٢} وَاتَّقُوا اللَّهَ^{١٣} وَاعْلَمُوا أَنَّ اللَّهَ^{١٤} بِمَا تَعْمَلُونَ بَصِيرٌ

Meaning: "Mothers should breastfeed their children for two full years, for those who wish to complete the breastfeeding period." And it is the father's obligation to provide food and clothing for the mothers in a reasonable manner. A person is not burdened beyond their capacity. Let no mother suffer hardship for her child, nor a father for his child, and the heir is likewise obligated. If both parents wish to wean the child (before the age of two) by mutual consent and consultation, there is no sin upon them. And if you want your child to be breastfed by someone else, there is no sin for you if you give payment according to what is reasonable. Fear Allah and know that Allah sees what you do.

Then, in Surah Al-Ahqaf, verse 15, it also states (*Surat Al-Ahqaf Ayat 15*, 2025):

وَوَصَّيْنَا الْإِنْسَانَ بِوَالِدَيْهِ إِحْسَانًا^١ حَمَلَتْهُ أُمُّهُ كُرْهًا^٢ وَوَضَعَتْهُ كُرْهًا^٣ وَحَمْلُهُ^٤ وَفِصْلُهُ^٥ ثَلَاثُونَ شَهْرًا^٦ حَتَّىٰ إِذَا بَلَغَ^٧ أَشُدَّهُ^٨ وَبَلَغَ^٩ أَرْبَعِينَ^{١٠} سَنَةً^{١١} قَالَ رَبِّ^{١٢} أَوْزِعْنِي^{١٣} أَنْ أَشْكُرَ^{١٤} نِعْمَتَكَ^{١٥} الَّتِي^{١٦} أَنْعَمْتَ^{١٧} عَلَيَّ^{١٨} وَعَلَى^{١٩} وَالِدَيَّ^{٢٠} وَأَنْ أَعْمَلَ^{٢١} صَالِحًا^{٢٢} تَرْضَاهُ^{٢٣} وَأَصْلِحْ^{٢٤} لِي^{٢٥} فِي^{٢٦} ذُرِّيَّتِي^{٢٧} إِنَّي^{٢٨} تُبْتُ^{٢٩} إِلَيْكَ^{٣٠} وَإِنِّي^{٣١} مِنَ الْمُسْلِمِينَ

Meaning: We have commanded man to be good to his parents. His mother carried him with difficulty and gave birth to him with difficulty. The period of carrying him until weaning is thirty months, so that when he reaches adulthood and his age is forty years, he says, "My Lord, enable me to be grateful for Your favor which You have bestowed upon me and upon my parents, and to do righteous deeds that You approve. Grant me goodness with my offspring. Indeed, I have repented to You, and indeed, I am among those who submit."

These verses emphasize the importance of a mother's role in breastfeeding her child, and consider the act of breastfeeding as one of the most noble and loving deeds. In Islam, breastfeeding is not only a biological obligation but also a moral and spiritual duty that benefits both mother and child. Islam emphasizes the importance of the emotional connection and bond formed thru the breastfeeding process, which can strengthen the relationship between mother and child. Additionally, Islam explicitly forbids the indiscriminate disposal of ASI because ASI is considered a gift from God that must be used wisely. ASI cannot be traded or sold because it is considered to diminish the virtuous value of sharing ASI. Giving ASI to another child without selling it is also considered a form of solidarity and charity encouraged in Islam. Thus, sharing ASI reflects the human values and compassion emphasized in Islamic teachings. Based on the provisions of the Quran and the WHO, children are encouraged to receive ASI from their mothers until they are 2 years old. Breastfeeding is considered important to ensure optimal health and development for children. ASI provides essential nutrients and antibodies that help protect children from illness.

The WHO and the Quran emphasize the importance of breastfeeding as the initial step in providing the best nutrition for children during their first two years of life. However, in practice, not all mothers are able to breastfeed their children until they are 2 years old. Some mothers face challenges such as difficulty producing ASI, work demands that don't allow time for breastfeeding, or certain health issues that prevent them from breastfeeding. This condition causes mothers to seek alternatives to ensure their children still benefit from ASI, which can include using ASI donors. As times change, if a mother cannot breastfeed her child, she has the option of finding a ASI donor from another mother. These verses emphasize the importance of a mother's role in breastfeeding her child, and consider the act of breastfeeding as one of the most noble and loving deeds. In Islam, breastfeeding is not only a biological obligation but also a moral and spiritual duty that benefits both mother and child. Islam emphasizes the importance of the emotional connection and bond formed thru the breastfeeding process, which can strengthen the relationship between mother and child. Additionally, Islam explicitly forbids the indiscriminate disposal of ASI because ASI is considered a gift from God that must be used wisely. ASI cannot be traded or sold because it is considered to diminish the virtuous value of sharing ASI. Giving ASI to another child without selling it is also considered a form of solidarity and charity encouraged in Islam. Thus, sharing ASI reflects the human values and compassion emphasized in Islamic teachings. Based on the provisions of the Quran and the WHO, children are encouraged to receive ASI from their mothers until they are 2 years old. Breastfeeding is considered important to ensure optimal health and development for children. ASI provides essential nutrients and antibodies that help protect children from illness. The WHO and the Quran emphasize the importance of breastfeeding as the initial step in providing the best nutrition for children during their first two years of life. However, in practice, not all mothers are able to breastfeed their children until they are 2 years old. Some mothers face challenges such as difficulty producing ASI, work demands that don't allow time for breastfeeding, or certain health issues that prevent them from breastfeeding. This condition causes mothers to seek alternatives to ensure their children still benefit from ASI, which can include using ASI donors. As times change, if a mother cannot breastfeed her child, she has the option of finding a ASI donor from another mother. This is an increasingly common solution, given the growing awareness of the benefits of breastfeeding and solidarity among mothers. However, a problem arises regarding a provision in Islam, where a child who receives ASI from a donor mother more than five times is considered to have a sibling relationship with the donor mother's children, even tho there is no blood relation.

According to Islamic teachings, children who are breastfed by the same mother are considered milk siblings. This belief has important consequences, namely that these children cannot marry each other. In the context of ASI donation, both families involved must understand and be aware of these implications to prevent forbidden marriages in Islam. This adds a layer of complexity to the process of breastfeeding sharing, especially in the context of establishing formal ASI donation programs thru milk banks. Although donating ASI is highly encouraged and considered an act of charity in Islam, establishing milk banks in Islamic countries presents complex challenges. Beliefs about sibling relationships due to breastfeeding must be carefully considered when designing policies and procedures at human milk banks. Nevertheless, with wise management and a proper understanding of Sharia implications, human milk donation programs can thrive as a beneficial solution for mothers and children in need, while still adhering to existing religious values. Scholars have differing opinions on defining ar-radha. According to the Hanafi school, ar- radha is when an infant sucks the ASI of a woman at a specific time. Malikiyah defines ar-radha as the entry of human ASI into the baby's body, which serves as nourishment. Syafi'iyah holds that ar-radha occurs when a woman's ASI enters the baby's stomach. The Hanabilah stated that ar-radha is when a baby under two years old sucks ASI from a woman that appears due to pregnancy, or when the baby drinks that milk or something similar. Scholars have differing opinions on determining the age limit for a breastfed child that can lead to a relationship of kinship (Zuhaili, 2011)

Most scholars believe the limit is when the child is under two years old. At this age, the child is still very dependent on ASI as their primary source of nutrition, so a breastfed child is considered part of the wet nurse's family. This makes the child a mahram to the wet nurse and her children. This view is based on the understanding that during the first two years, ASI plays a crucial role in a child's physical and emotional growth and development. During this period, the child develops a strong bond with the breastfeeding mother, which many scholars recognize as being equivalent to a blood relationship in terms of kinship (Sabiq, 1995). This concept reflects

the importance of the wet nurse's role in a child's life, not only as a provider of nutrition but also as a mother figure in many aspects. Thus, the relationship of kinship is not only biological but also encompasses emotional and social aspects, which are recognized by various schools of thought in Islam. Although the majority of scholars set the age of two as the limit, there are varying views regarding the flexibility of this restriction, especially when considering factors such as the child's health condition or special needs. However, the general consensus is that the primary goal is to ensure the optimal well-being and development of the child, while also maintaining harmonious social and family relationships. Therefore, differences of opinion among scholars demonstrate the diversity in the interpretation of Islamic law, which allows for flexibility and adaptation in different contexts, while still upholding the fundamental principles that prioritize the well-being of children and families.

As for the Shafi'i and Hanbali schools of thought, they state that the prohibition of marriage due to breastfeeding occurs after the child has been breastfed five separate times. This prohibition applies to children who still receive their primary nutrition from milk and are under two years old. Meanwhile, according to the Hanafi and Maliki schools of thought, there is no limit to the number of times a child needs to be breastfed to create a marriage prohibition, as long as the child is breastfed until full. Imam Shafi'i stipulated that a minimum of five instances of breastfeeding must occur for this prohibition to take effect. On the other hand, Tsur Abu Ubaid, Daud Ibn Ali al-Zahiry, and Ibn Muzakir believed that at least three full feedings were sufficient to establish a prohibition on marriage (Ghozali, 2008). One of the reasons given by scholars who permit the use of ASI banks is that kinship thru breastfeeding only occurs when the baby nurses directly from the breast of the mother producing the milk, similar to how they would nurse from their biological mother. In the context of ASI banks, the baby consumes milk that has already been packaged in bottles, so it is not considered an action that creates a kinship relationship. Additionally, ASI received by infants from milk banks usually comes from several different donors, not just one mother. Therefore, the infant does not receive enough feedings from a single mother to qualify as a foster mother according to the Islamic view, which considers several feedings from the same mother a requirement for establishing kinship (Sayska, 2022). Bank ASI offers an important solution for mothers who are unable to breastfeed due to health reasons or limited milk production. As a safe and controlled source of ASI, milk banks ensure that babies receive essential nutrients for their growth and development. Transparency in distribution and understanding of ASI donors are key for parents to make informed decisions that align with their religious and cultural values. Awareness and education regarding ASI banks need to be increased to support infant health within an ethical and religious framework.

Yusuf Qardawi, a scholar from Al-Azhar University in Egypt, expressed the view that using a ASI bank does not affect the mahram status. He emphasized that the process at the ASI bank only involves providing ASI in packaged form, not thru direct breastfeeding. According to him, ASI given thru a bottle does not meet the criteria for creating a mahram relationship because there is no traditional breastfeeding process. This view supports ASI banks as a beneficial solution for babies in need, allowing for nutritional needs to be met without changing the legal status of mahram in Islam (Qardhawi, 2002). The Indonesian Council of Ulema (MUI) fatwa provides important guidelines regarding the practice of ASI banks to ensure that the collection, storage, and distribution of ASI comply with Islamic principles. This fatwa emphasizes the permissibility of breastfeeding, from the mandatory medical examination of donors to strict adherence to sanitation standards during handling. Additionally, transparency and informed consent from both the donor and the recipient's family are key aspects of this fatwa. Social and ethical aspects are also emphasized, with a focus on protecting the privacy and confidentiality of data for both donors and recipients. Compliance with the MUI fatwa provides assurance of sharia compliance, which strengthens the legitimacy of ASI banks and builds public trust in the service. The MUI fatwa serves as a guide to ensure that ASI banks operate safely, ethically, and in accordance with Islamic teachings.

Implications of Breastfeeding Practices on Mahram Status in Islamic Law

The implications of breastfeeding practices on the status of mahram in Islamic law are very important because they relate to legal and ethical principles in Islamic teachings. Mahram status is determined by blood relation or breastfeeding, which affects social interaction and marriage. In Islam, breastfeeding can make a child a mahram (a person who is forbidden to marry) to the woman who is breastfeeding and her family. Therefore, ASI banks must be careful in collecting, storing, and distributing ASI to prevent the formation of unwanted mahram relationships. Therefore, ASI banks need to have a transparent system for managing information about donors and recipients of ASI, as well as accurately documenting the process. If not done correctly, ASI from a single donor can cause the breastfed child to become a mahram (a person who is forbidden to marry) to the donor's family, which can lead to legal issues in marriage and social relationships. ASI banks must also provide education on the legal and social implications of breastfeeding, and coordinate with religious scholars and experts in Islamic jurisprudence to ensure their practices align with Sharia guidelines. Thus, milk banks can operate with integrity, respect Islamic teachings, and prevent social and legal conflicts related to mahram status.

This is because in Islamic law, the mahram relationship that arises from breastfeeding is a very important aspect that influences social interaction and marriage rules. Mahram due to breastfeeding or mahram of breastfeeding is formed when a baby breastfeeds from a woman who is not their mother. This concept is based on verses from the Quran and the hadiths of the Prophet Muhammad (peace be upon him), which state that a breastfed child becomes a mahram (unmarriageable relative) to the breastfeeding woman and her family. For example, Surah Al-Baqarah (2:233) mentions the importance of the breastfeeding period, while the hadiths of the Prophet Muhammad (peace be upon him) state that mahram relationships due to breastfeeding involve the prohibition of marriage between the breastfed child and the breastfeeding woman, as well as her family members. Therefore, to establish a mahram relationship thru breastfeeding, five full breastfeedings are generally required, and the recognized breastfeeding period is two years. A child who is breastfed by a woman will have the status of a mahram (a person with whom marriage is forbidden) toward that woman and her family members, meaning the child is not permitted to marry the breastfeeding woman or any of her family members who become mahram due to breastfeeding.

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Breastfeeding for a period of two years is encouraged in the Qur'an; however, it does not explicitly address circumstances in which a mother is unable to breastfeed, thereby giving rise to the concept of Human Milk Banks (ASI banks) as a practical solution for infants in need. As ASI banks are not directly mentioned in the Qur'an, their legal status has been debated among Islamic jurists, resulting in three principal perspectives: first, scholars such as Yusuf al-Qardhawi permit ASI banks provided they serve legitimate and urgent needs, recognise milk donation as meritorious, and allow the sale of breast milk, as practised during the time of the Prophet Muhammad (peace be upon him) (Nurliana, 2020); secondly, scholars including Wahbah az-Zuhayli prohibit ASI banks due to concerns over lineage mixing and the implications for mahram relationships; and thirdly, a conditional view permits ASI banks subject to strict requirements, particularly clear documentation of donors and recipients to prevent confusion of lineage.

These differing perspectives arise from varying interpretations of the impact of breastfeeding on mahram status, including age limits, methods, and frequency of feeding, underscoring the need for policymakers to carefully consider Sharia principles when regulating ASI banks. Although ASI banks play a vital role in addressing breast milk shortages for premature infants, especially in developing countries, their implementation is often constrained by cultural, infrastructural, and religious factors, including the potential shift from donation-based systems to commercial practices. Consequently, the regulation of ASI banks requires analysis within the framework of Islamic law through explicit textual guidance or qiyās, supported by ijtihād to ensure adaptability, the attainment of maṣlaḥah (public benefit), and legal certainty in responding to contemporary social developments (Nurliana, 2020; Zulhamdi, 2021).

Conclusion

Human milk banks in Indonesia operate within a legal framework that governs healthcare services and infant protection. Although there are no specific regulations explicitly governing human milk banks, this practice is generally protected by broader health regulations and guidelines from the Ministry of Health. Strict enforcement of safety, sterilization, and governance standards ensures that the Human Milk Bank operates in accordance with applicable legal principles. From an Islamic legal perspective, a ASI bank is seen as an effort to meet the nutritional needs of infants and help babies who need ASI, by supporting beneficial actions and protecting the health of infants, as long as it considers Islamic principles, such as ensuring the halal and cleanliness of the ASI. The existence of a ASI bank must also comply with Islamic provisions regarding the status and rights of children, considering that ASI can affect mahram relationships, as a child breastfed by different women can be considered a milk sibling. Therefore, it is important to consider Islamic legal aspects in determining mahram status and documenting the identities of mothers and babies involved in the ASI bank. The operation of a ASI bank in Indonesia must comply with existing legal regulations and Islamic principles, with a balance between health regulations, compliance with Islamic law, and implications for mahram status being key to managing and utilizing ASI ethically and beneficially for all parties involved.

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