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SHARIAH-COMPLIANT OF NURSING CHILD DOCUMENTATION MODEL BUILDING

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ABSTRACT

The Shariah-compliant nursing child documentation model was developed due to the variety of ways and forms of breastfeeding among Muslim communities in Malaysia. This article aims to explain the model of nursing child documentation based on the perspective of the Shariah maqasid in managing Shariah-compliant nursing child issues. The methodology used is qualitative research using case study design and obtaining research data through document analysis and interviews. Study found that the model conforms to the al-Khams dharuriyyat element which involves the preservation of religion and descent. The model also has the potential to be managed at the state religious office or nationally and internationally in resolving marital issues and a number of other social issues, in ensuring the well-being of families and family harmony.

INTRODUCTION

The movement of time and age is a catalyst for social system change and lifestyles of the community. In addition to the existence of various advanced

technologies, people have always taken the initiative to do something. This can be seen through their own attitude toward their daily activities. For example in terms of sales and so on. It is also undeniable that the effects of the technological sophistication that paved the way for mankind were subject to Islamic law violations.

Nowadays, virtual social relationships are an important part of human life. The effects of internet use that affect the entire community can be seen as a result of online breastfeeding activities online even though they do not know each other. This raises concerns that if this activity is transmitted without any awareness of the effects of giving breast milk to other infants, it may lead to illegal relationship due to breastfeeding. In addition, publics do not see the importance documentation of nursing child. This attitude will complicate the situation that involves family institutions. According to Engku Ahmad Zaki et.al (2014), the internet facilities are acknowledged as an important means for humans to communicate faster and easier such as sending and receiving emails, uploading pictures, downloading songs or dealing with other contents.

The study of feqah is known as "Radhaah". In terms of language it means breastfeeding. On the other hand, according to the term scholars of the Hanafi, Maliki and Shafi'I defines Radha'ah as a breastfeeding activity that reaches into the tummy of a breast-feeding infant either directly through the mother's breast or by other means either through the milk bottle or the like (Yusuf Qardhawi, 1989).

Documentation by the Dewan Bahasa dan Pustaka intended as a way of recording data or reference into a text for the purpose of authenticity of the source. (Dewan Bahasa dan Pustaka, 1987). Whereas the documentation intended for infants here is a way of recording or storing data on breastfeeding infants, breastfeeding parents, siblings of breastfeeding parents, kids of nursing mothers for systematic and easy reference in the future.

As to the demands of the documentation of the fetus it is not clearly stated in any Quranic verse or hadith of our Prophet. However, scholars have recently suggested that a form of documentation for breastfeeding be provided by Wahbah al-Zuhaili in discussing the law on the use of milk banks. In addition, the Federal Territory mufti also issued a similar recommendation to the State Islamic Religious Council, the Islamic Religious Department and the hospital to record data on breastfeeding for the purpose of preparing birth certificates or cards. (Zulkifli Mohamad al-Bakri, 2016). In addition, Am Mufti in Dairah al-Ifta 'al-Am, Jordan, Sheikh Abdul Karim al-Khasauneh as well as international academics such as Abdul Malik Abdurrahman al-Saadi, Muhammad Naim Yasin, Usamah Ali al-Faqir al- Rababi'ah, Hamad Fakhzi Azzam, Ali al-Zuqayli, Yusuf Abdullah al-Syarifain, Abdullah Fawwaz, Mahmud Ali al-Sartowi, Aaron Nuh Qudhah, Rashid Ali, Muhammad Mahmud Tolafahah, Khaluq Dhaifullah Aagha, Fares Ahmed Mar'ei al- Sheikh Hasan, Muhammad Uqlah Ali al-Ibrahim, also supported the development of this Shariah-compliant child documentary model and they saw the formal implementation of the newborn document as significant. This statement was obtained through interviews with them (2019). In addition, the head of the World Islamic Union's Head of Islamic Affairs Ahmed al-Raissouni said that documentations of breastfeeding child need to be implemented in managing this contemporary breastfeeding child issue (2020).

Breastfeeding documentation is very important in today's age as breastfeeding activities are seen as an additional factor with the convenience and sophistication that make the process easier. This is due to the awareness among parents about the importance of a baby being given breast milk for the baby to grow well. While time constraints for working mothers also cause them

to have less time to nurse their baby full time. This causes their baby to be breastfed by others.

The Shariah Maqasid is an important factor to consider in the process of determining some Islamic laws and contemporary issues. According to al-Syatibi who is also a developer of Shariah maqasid knowledge defines that Shariah maqasid refers to the command of Allah who has established the main purpose of his Shari'a in giving good (maslahah) to mankind and preventing any damage (mafsadah) from happening to the person himself. Understanding of the Shariah maqasid is very important in performing ijtihad. (al-Syatibi, 2004)

It is easy to understand that a shariah maqasid refers to the purpose of a law, as well as the secrets contained in a law to safeguard human life in this world and the hereafter. This article aims to shed light on the need for documentation of nursing infants from the perspective of a shariah maqasid.

METHODOLOGY

The methodology used is a qualitative study using case study design, which is to examine the ways and forms of breastfeeding that occur in Malaysia and to obtain research data through a library study by analyzing classical and contemporary fiqh documents, articles and other related works. Data were also obtained through interviews of leading figures both domestically and abroad.

FINDINGS ANALYSIS

Nursing kids documentation model

The culture of breastfeeding for non biological child keep increasing nowadays. In addition with the advancements and sophistication of existing technologies make it possible to provide breast milk a short time and within a short distance. On social media like *facebook*, *Telegram* and *WhatsApp*, there are individuals who offer their own breast milk to mothers who are not able to feed their own babies. In addition, breastfeeding is also being sought by mothers who are unable to breastfeed their babies. This is due to a number of factors, which are due to the mother having the disease, not having enough time, giving birth without milk, adopting the child, premature birth, the death of mother after the birth, exclusive breastfeeding and so on. In order to resolve the issue, the baby has to be breastfed by other mothers. The increase in the demand for breast milk is also influenced by the high awareness of breastfeeding among the parents, to ensure that their children grow up well and stable. In addition, campaigns from government hospitals and NGOs (Non Government Organizations) on the benefits of breast milk are also contributing factors in raising awareness to parents in Malaysia.

Breastfeeding practices can be seen through two angles which are from a positive and a negative perspective. From a positive perspective this can help premature babies, babies who can not receive formula milk except for breast milk. In addition, it is in compliance with religious recommendations to provide breast milk to infants under two years old. This action is in line with Islamic teachings and the advice of physicians. Allah swt says:

﴿وَالْوَالِدَاتُ يُرْضِعْنَ أَوْلَادَهُنَّ حَوْلَيْنِ كَامِلَيْنِ لِمَنْ أَرَادَ أَنْ يُنِمَّ الرِّضَاعَةَ وَعَلَى الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ لَا تُكَلَّفُ نَفْسٌ إِلَّا وُسْعَهَا لَا تُضَارَّ وِلْدَةٌ بِوَالِدِهَا وَلَا مَوْلُودٌ لَهُ بِوَالِدِهِ وَعَلَى الْوَارِثِ مِثْلُ ذَلِكَ فَإِنْ أَرَادَا فِصَالًا عَنْ تَرَاضٍ مِنْهُمَا وَتَشَاوُرٍ فَلَا جُنَاحَ عَلَيْهِمَا وَإِنْ أَرَدْتُمْ أَنْ تُنْتَرِضِعُوا أَوْلَادَكُمْ فَلَا جُنَاحَ عَلَيْكُمْ إِذَا سَلَّمْتُمْ مَا آتَيْتُم بِالْمَعْرُوفِ وَاتَّقُوا اللَّهَ وَاعْلَمُوا أَنَّ اللَّهَ بِمَا تَعْمَلُونَ بَصِيرٌ ٢٣٣﴾

Meaning: “And let mothers nurse their infants for two full years, for those who desire to complete the nursing. It is the duty of the father to provide for them and clothe them in a proper manner. No soul shall be burdened beyond its capacity. No mother shall be harmed on account of her child, nor shall a father be harmed on account of his child. The same duty rests upon the

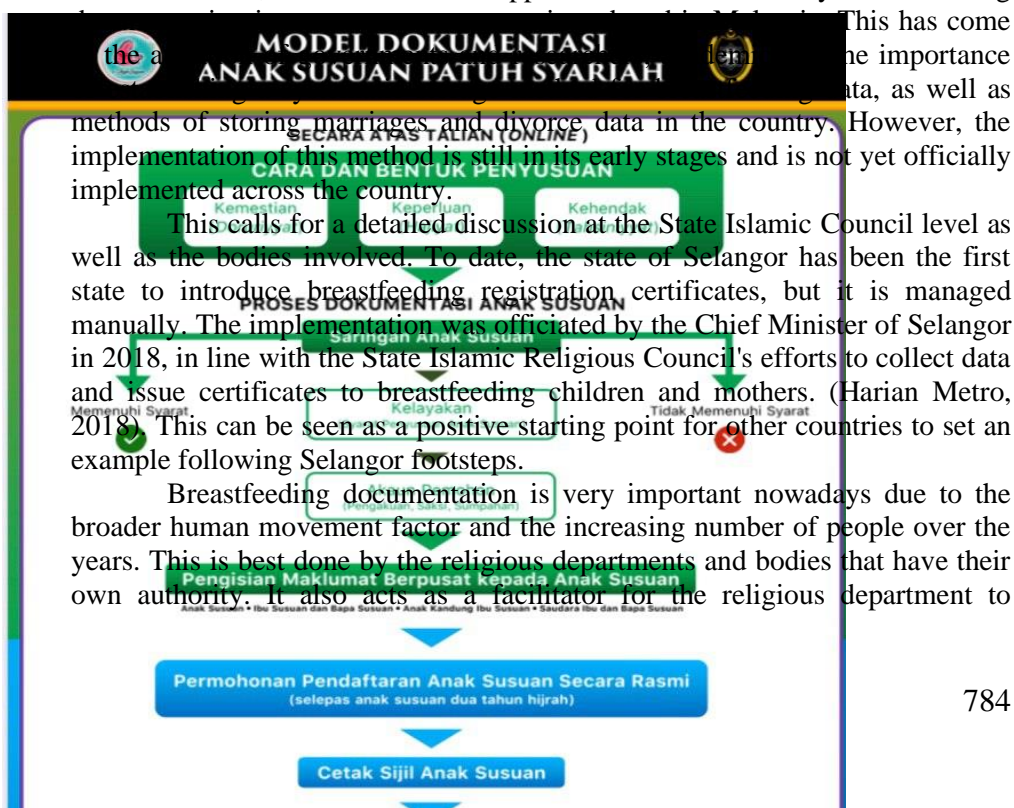
heir. If the couple desire separation, by mutual consent and consultation, they commit no error by doing so. You commit no error by hiring nursing-mothers, as long as you pay them fairly. And be wary of God, and know that God sees whatever you do."

(Al-Baqarah: 233)

Based on the paragraph above, clearly shows that the practice of feeding other people's children are allowed in Islam. However, looking at the current situation if this is not refined, it can have a negative effect, leading to distortions of the mahram which could damage the sharia maqasid elements of religious upbringing (Hifz al-Din) and preservation of descent (Hifz al-Nasl). In addition, lack of awareness among parents about breastfeeding and the need for documentation of breastfeeding kids contributes to adverse conditions. Besides, their knowledge of breastfeeding fiqh knowledge is not so deep and make them take this thing for granted. Therefore, some scholars have recently argued that it is lawful for one person to interfere with another without any urgent need (Ali al-Zuqayli, 2019).

Awareness on the benefits of breast milk has been proven by modern scientific studies. Even breastfeeding mothers also get health benefit of breastfeeding. It also can save the baby from various diseases that are experienced in early childhood (<http://www.myhealth.gov.my>, 2020). However, efforts to ensure that infants receive exclusive full breastfeeding for two years for the sake of worldly benefits, the Muslim community must also ensure that these measures are managed in accordance with the requirements of Shari'a in ensuring the harmony of the family institution and the well-being of the nation. A Shariah-compliant breastfeeding child documentation was developed to address the issue of breastfeeding among community. This model was developed due to the adoption of the newborn which involving a variety of methods and forms. For example, a breastfeeding baby is being breastfed by five breastfeeding mothers or a breastfeeding mother of nine other babies who are from different biological parents. In such case, if there is no documented and well-managed breastfeeding documentation by the authorities, it could lead to illegal relationship in future. This can be overcome by the existence of a Shariah-compliant nursing kid documentary model. The innovation of worship products for the future generation mostly important to improve the quality of life of Muslims worldwide (Marzuki et.al, 2019). The model is as follows:

In short, this model will be applied online and manually. Breastfeeding



identify an applicant's relationship to marrying his or her future spouse. Determining the status of a relationship between the couple who wants to get married is a must when the person is involved in a breastfeeding status. This step needs to be identified in advance to prevent marital interruption. If the romantic relationship between the couple is known after the marriage, it will result in the marriage being void and have to be dissolved. This, of course, can be detrimental to the couple and the negative implications for the couple as well as undermine the harmony of a family institution.

Shariah Maqasid in Building a Documentary Model of Nursing Child

The model of nursing infants' documentation was developed in line with the *al-kahms dharuriyyat* element found in the shariah maqasid. These elements involve *hifz al-din* which is the preservation of religion and *hifz al-nasl* which is the preservation of lineage or lineage. Coincides with objective of maqasid that become the core of human development and the preservation of universal masalah to ensure the life survival in accordance with shara' is well protected (Sumayyah et.al, 2020).

Hifz al-Din

Islam is one of the most complete religions. Islamic Shari'ah does not limit itself to matters of worship alone. Islam gives guidance to human life from birth to birth until it dies in all directions and aspects. A person will receive worldly and ukhrawi happiness as long as the Shari'ah is organized to follow and leave behind all forms of oppression. The position of Islam is very high because it leads to the truth and pleasure of Allah swt. As Allah swt says:

إِنَّ الَّذِينَ عِنْدَ اللَّهِ آتَيْنَهُمُ الْكِتَابَ وَالْحِكْمَةَ وَآمَنُوا بِمَا نُزِّلَ عَلَيْهِمْ وَإِنَّهُمْ هُمُ الْمُتَّقُونَ
وَمَنْ يَكْفُرْ بآيَاتِ اللَّهِ فَإِنَّ اللَّهَ سَرِيعُ الْحِسَابِ ١٩

Meaning: *Religion with God is Submission. Those who were given the Scripture differed only after knowledge came to them, out of envy among themselves. Whoever rejects the Revelations of God—God is swift in reckoning.* (Al-Imran: 19)

Since the height of Islam is undeniable, taking care of it is an important part of life. In the chain of *al-dharuriyat al-Khams*, *hifz al-Din* (religious care) is placed on the highest rank. *Hifz al-Din* here aims to preserve the dignity and purity of Islam from all forms of threat and destruction. This concept is divided into two main aspects. First *Janib al-Wujud* (Maintaining the existence of religion and its enforcement). It means doing things that lead to the enforcement of Islam such as reciting two verses of shahadah, prayer, fasting, zakat and performing the pilgrimage. In addition, this aspect also includes marriage, the obligation to seek sustenance and residence. Al-Syatibi said this aspect also included propagating Islam and jihad and opposing those who rejected Islam itself.

The second is *Janib al-Adam* (Protecting religion from the things that lead to its destruction). Among them is the rule of adultery. In this regard there is a justification of the imposition of penalties on those who violate Islamic law such as apostasy. According to Islamic law, if a Muslim professes himself out of Islam then he should be punished hudud after being advised to repent (al-Husayni, 1994).

The construction of the nursing child documentation model is in line with *Hifz al-Din's* concept, as the documentation of the nursing infant is intended to prevent marriages between banned couples. The main purpose of developing a documentary model for nursing infants is also to preserve the dignity of Islam in order to avoid violations of the law in marriage which is evident in the Quran and the Hadith of the Holy Prophet (s) by adhering to the prohibition of marriage among matrimony. This model is able to emphasize the element of shariah maqasid that emphasizes on religious care. Thus, the

breastfeeding documentation model is capable of upholding the recommendations of the religion in the practice of ordering breastfeeding and the prohibition of illegitimate marriage.

Hifz al-Nasl

Hifz al-Nasl means the care of lineage or descent, it is one of the five elements of *al-dharuriyat al-Khams* contained in the knowledge of shariah maqasid. It is well known that the upbringing of the offspring is deeply rooted in Islam. This aspect is essential to building a healthy, quality, productive and effective society. In addition, it is sought to be protected because of its relationship with marriage, employment, inheritance, guardianship, maintenance and social restrictions. Islam has provided guidance in the care of the offspring from the time one is born until the person dies.

Descendants must be maintained in order to maintain the social system and society. If the offspring was corrupted due to religious and human rights violations, the social structure would be disastrous and would eventually lead to the collapse of the sacred line of descent and damage the dignity of religion, nation and country. As marriage is mentioned through the word of Allah Almighty:

وَإِنْ خِفْتُمْ أَلَّا تُقْسِطُوا فِي الْيَتَامَىٰ فَانكِحُوا مَا طَابَ لَكُمْ مِنَ النِّسَاءِ مَنِّي وَتِلْكَ وَرُبْعٌ فَإِنْ خِفْتُمْ أَلَّا تَعْدِلُوا فَوَاحِدَةٌ أَوْ مَا مَلَكَتْ أَيْمَانُكُمْ ذَلِكَ أَدْنَىٰ أَلَّا تَعُولُوا ٣

Meaning: “If you fear you cannot act fairly towards the orphans—then marry the women you like—two, or three, or four. But if you fear you will not be fair, then one, or what you already have. That makes it more likely that you avoid bias.”

(An-Nisa: 3)

Islam has established some groups that are legally married (forever) (مؤبدة حرمة) and temporary (مؤقتة حرمة). This obstacle is therefore due to three factors, first of descent (*Nasab*), second of breastfeeding (*Rada'ah*) and thirdly of communion (*Musaharah*). Scholars have agreed that illicit breastfeeding is just as illegal as descent. This is in line with the Prophet's hadith:

يَحْرُمُ مِنَ الرِّضَاعِ مَا يَحْرُمُ مِنَ النَّسَبِ

Meaning: "What becomes unlawful (for marriage) through breastfeeding is that which becomes unlawful through lineage."

(al-Bukhari dan Muslim)

The relationship between breastfeeding child and *mahram* is not limited to the ban on marriage alone. Their relationship is just as much a relationship as it is to their lineage, which is from a social point of view and a few other things. This need to be refined especially with regard to the knowledge of breastfeeding laws, especially on the lineage issue of breastfeeding or breastfeeding *mahram* to prevent marriages.

There are situations where a mother has more than one nursing infant and the mother of the nursing baby has other babies. This makes it difficult for them to recognize and know the relationship between them if the breastfeeding mother do not put extra cares for the needs of well managed and systematic nursing baby's documentation. What is clear about the situation is that it will lead to chaos of *mahram* among them (Siti Fatimah Salleh, 2019).

In addition, in order to impose a ban on breastfeeding, the breastfeeding must be confirmed to meet the conditions of breastfeeding, the rate and age limit. According to Imam As-Shafi'I, if a man doubted whether a

woman had breast-fed him five times, he would not be the *mahram* for the woman. Similarly, if one is convinced that five times breastfeeding has occurred, but is doubtful in terms of age, does it occur at the age of two years or vice versa, then the ban on breastfeeding does not apply. (As-Shafi'i, 767M)

Regarding the amount of breastfeeding to convict breastfeeding, if one is aware of breastfeeding even if it is only once full and the situation is known before marriage, one should not marry him even for a single breastfeeding rate. Likewise, if a person is married to a sibling, then the amount of breastfeeding must be believed to be five separate and satisfying feeds, the marriage relationship is resolved. This is to prevent greater harm if a marriage has taken place, in addition to having children as a result of the marriage (Hamad Fakhzi Azzam, 2019).

The various ways and forms of breastfeeding require the development of a Shariah-compliant nursing child documentation model with the aim of documenting nursing child information and breastfeeding *mahram*. The model is able to serve as a reference platform for the breastfeeding *mahram* and to facilitate the Divorce Divorce Unit (NCR) at each state's religious office. This model will indirectly resolve the issue of breastfeeding child due to various factors. Through this model, the issue of adoption breastfeeding child is able to emphasize the demands of a shariah maqasid demanding that the offspring or lineage be maintained in ensuring the harmony of a family institution.

The Shariah-compliant nursing child documentary model is able to reject the sanctions imposed by Islam, Islam rejects any form of harm as the fiqh method says "يُزَالُ الضَّرَرُ" which means that the harm must be eliminated. Therefore, in the event of any harm to a matter it must be eliminated (Mohd Sidqi Ahmad Al-Burnu, 1996).

CONCLUSION

Based on the above it can be concluded that the aspect of breastfeeding should be taken seriously by parents. In addition, parents need to gain knowledge about breastfeeding according to Islam. This is important because breastfeeding of non-biological child does not end there. In fact, it leads to a ban due to breastfeeding, which is similar to the descent. Take this thing for granted will lead to marital problems like the marriage with breastfeeding *mahram*.

Requirements for systematic and manageable breastfeeding documentation should be established to safeguard the *maslahah* as well as to prevent any *mafsadah*. It is also in line with the fiqh "الذرائع سد" method which means closing doors or streets that can lead to banned things (Shihabuddin Abi Ibbas, 2001). The construction of a Shariah-compliant nursing child model documentation is in line with the concept of Shariah maqasid namely *Hifz Al-Din* (guarding religion) and *Hifz An-Nasl* (guarding offspring) in order to ensure every act performed is not in conflict with the revealed law.

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