



SUCKLING AND ITS SIGNIFICANCE IN CHILDREN  
FOSTER CARE/FOSTER RELATIONSHIP:  
LEGAL PRINCIPLES UNDER ISLAMIC LAW  
AND THE LAW IN MALAYSIA

BY

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A dissertation submitted in fulfilment of the requirement  
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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

وَالْمُؤْمِنُونَ وَالْمُؤْمِنَاتُ بَعْضُهُمْ أَوْلِيَاءُ بَعْضٍ يَأْمُرُونَ بِالْمَعْرُوفِ وَيَنْهَوْنَ عَنِ الْمُنْكَرِ وَيُقِيمُونَ  
الصَّلَاةَ وَيُؤْتُونَ الزَّكَاةَ وَيُطِيعُونَ اللَّهَ وَرَسُولَهُ أُولَئِكَ سَيَرْحَمُهُمُ اللَّهُ إِنَّ اللَّهَ عَزِيزٌ حَكِيمٌ ﴿٧١﴾

سورة التوبة: 71

The believers, men and women, are protectors one of another: They enjoin what is just, and forbid what is evil: They observe regular prayers, practice regular charity, and obey Allah and His Messenger. On them will Allah pour His mercy: for Allah is exalted in power, wise.

Sūrah at-Tawbah: 71

## **ABSTRACT**

This study deals with the concept of suckling and its significance pertaining to foster relationship under the Islamic law on the premises that there is no clear rules and regulation regarding suckling in Malaysia. Analysis focuses on the concept of suckling in Islamic law and its significant in creating legal relationship in foster care. The practice of suckling of non-biologically related child and its effect have also been examined as to present a clear picture of this practice and its significance in foster care. The study further investigates on several related provision in suckling under the law in Malaysia. For the purpose of comparison, the laws regulating on suckling in several Muslim countries have also been highlighted. As suckling is closely related with children protection, this study analyzed the concept of foster care under Islamic law and its distinction with adoption. To provide a sample of application of foster care in Islamic law, the study further highlights and analyses several provision on foster care under the law governing Muslim in Malaysia as well as some Muslim countries like Syria, Morocco and Algeria. This study reveals that the absence of the law pertaining to suckling has resulted to the inadequacy of the law. Therefore, this study suggests a proper law regulating suckling should be introduced to improve the current trends and system of child care and protection. As suckling involves people in many ways, this study recommends for each and every parties involved to play a vital role in order to ensure that every child, regardless their status, may enjoy their right to be suckled, whether in the family environment or in foster care.

## خلاصة البحث

تقوم هذه الدراسة بمعالجة مفهوم الرضاعة وأهميتها فيما يتعلق بعلاقات التبني في القانون الإسلامي، على افتراض أنه لا يوجد هناك قانون وتوجيه فيما يخص الرضاعة بماليزيا. وتركز تحليلات الدراسة على مفهوم الرضاعة في القانون الإسلامي وأهميتها في خلق علاقة قانونية في رعاية التبني. كما تقوم الدراسة بفحص ممارسة الرضاعة للأطفال غير البيولوجيين وتأثيرها، وذلك لعدم وجود رؤية واضحة حتى الآن في هذه الممارسة وأهميتها في رعاية التبني. وتحقق الدراسة في بعض البنود ذات الصلة بالرضاعة في القانون الماليزي. وللمقارنة، تقوم الدراسة بإبراز قانون الرضاعة في بعض الدول الإسلامية. وبما أن الرضاعة مرتبطة بحماية الطفل، تقوم هذه الدراسة بتحليل مفهوم رعاية التبني في القانون الإسلامي وتمييزه عن التبني. ولتقدم نموذج عن رعاية التبني في القانون الإسلامي، تقوم الدراسة بإبراز وتحليل بعض البنود الواردة في رعاية التبني في القانون الإسلامي بماليزيا، إضافة إلى قوانين بعض الدول الإسلامية مثل سوريا والمغرب والجزائر. وتكشف هذه الدراسة بأن عدم وجود قانون يتعلق بالرضاعة قد يؤدي إلى انتقاص القانون. إضافة إلى ذلك، تقدم الدراسة مقترحا قانونيا في ضرورة تقنين الرضاعة، لتحسين الاتجاه والنظام الحالي في الحماية والعناية بالطفل. وبما أن الرضاعة تشمل جميع البشر، فإن هذه الدراسة توصي جميع الأطراف المعنية بأن تلعب دورا حيويا، للتأكد من أن جميع الأطفال -مهما كانت حالاتهم- يجب أن يأخذوا حقهم في الرضاعة، سواء من البيئة الأسرية أو من رعاية التبني.

## APPROVAL PAGE

I certify that I have supervised and read this study and that in my opinion, it conforms to acceptable standards of scholarly presentation and is fully adequate, in scope and quality, as a dissertation for the degree of Master of Comparative Laws.

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## DECLARATION

I hereby declare that this dissertation is the result of my own investigations, except where otherwise stated. I also declare that it has not been previously or concurrently submitted as a whole for any other degrees at IIUM or other institutions.

Siti Zainab bt Abd Rashid

Signature .....

Date .....

INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA

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**SUCKLING AND ITS SIGNIFICANT IN CHILDREN FOSTER  
CARE/FOSTER RELATIONSHIP: LEGAL PRINCIPLES  
UNDER ISLAMIC LAW AND THE LAW IN MALAYSIA**

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*To the Prophet (pbuh) who enlightens the humankind;*

*To all who had bestowed their grace upon me;*

*To all who are keen to implement the Islamic law in this world;*

*To all those who encourage me and had a role in the output of this research; this*

*modest effort is a result of all those who stand beside me.*

*I present this humble work hoping that it is purely for the sake of Allah SWT; and for  
the benefit of the ummah.*

*Praise be to Allah.*



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## LIST OF STATUTES

Child Act 2001 (Act 611)  
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Personal Status Law 1984 (Kuwait)  
Personal Status Law 1991 (Sudan)  
Personal Status Law 1992 (Yemen)  
Personal Status Law 2005 (Emirate)  
Personal Status Law 2007 (Syria)  
Rule of Family Law 2009 (Bahrain)

## LIST OF ABBREVIATIONS

Art.	Article
CA	Child Act
CRC	Convention of the Right of the Child
DOSW	Department of Social Welfare
IFLA	Islamic Family Law Act
IQ	Intelligent quotient
JAWI	Jabatan Agama Islam Wilayah Persekutuan (Federal Territories Islamic Affairs Department)
MBAA	Malaysian Breastfeeding Mothers Advisory Association
NHMS III	Third National Health & Morbidity Survey
Pbuh	Peace be upon him
s.	Section
SIDS	Sudden infant death syndrome
UNICEF	United Nation Children's Fund
WHO	World Health Organization

## TRANSLITERATIONS

ء	'
ب	b
ت	t
ث	th
ج	j
ح	ḥ
خ	kh
د	d
ذ	dh
ر	r
ز	z
س	s
ش	sh
ص	ṣ

ض	ḍ
ط	ṭ
ظ	ẓ
ع	'
غ	gh
ف	f
ق	q
ك	k
ل	l
م	m
ن	n
ه	h
و	w
ي	y

Short Vowels	
َ	a
ِ	i
ُ	u

Long Vowels	
ا + َ	ā
ي + ِ	ī
و + ُ	ū

# CHAPTER ONE

## INTRODUCTION

### BACKGROUND OF THE STUDY

Suckling refers to “an act of breastfeeding an infant or young child with breast milk directly from female human breast (lactation)”.<sup>1</sup> Breastfeeding, as it generally acknowledged as a means of infant feeding, contributes an important and effective role in saving millions of children’s lives. United Nation Children’s Fund (UNICEF) estimated that, 1.5 million lives would be saved each year if every baby is exclusively breastfed from birth up to six month.<sup>2</sup> For this reason, World Health Organization (WHO) had declared that 1<sup>st</sup>-7<sup>th</sup> August each year will be celebrated as World Breastfeeding Week with the object to protect, promote and encourage infant breastfeeding especially in the first six months of their life.<sup>3</sup>

Traditionally, Malay Muslim women breastfeed their infants for an extended period of time and as a matter of course. However, when the condensed and dehydrated milk was introduced during the late nineteenth century, and later on the marketing of commercial manufactured baby food and formulated milk, it led to some variation of breastfeeding practice.<sup>4</sup> It has been reported in Malaysia Third National Health and Morbidity Survey 2006 (NHMS III), there is only 63.7% of prevalence of infant who initiated breastfeeding within one hour of birth whilst the prevalence of

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<sup>1</sup> “Breastfeeding”, Wikipedia, <<http://www.wikipedia.org/breastfeeding>> 8 July, 2010.

<sup>2</sup> UNICEF, *Breastfeeding: Foundation for a Healthy Future*, (New York: UNICEF, 1999), 1. <<http://www.unicef.org>> Accessed 31 May 2011; C K Siah, “Breastfeeding Practices Among Mothers in an Urban Polyclinic”, *Medical Journal of Malaysia*, vol. 57, no. 2, (June 2002): 188. Retrieved from: <<http://www.e-mjm.org/>>

<sup>3</sup> Shah Reza Johan Nooh, “Penyusuan Badan: Baik untuk Ibu dan Bayi”, *Utusan Malaysia*, 27<sup>th</sup> July, 2002. Retrieved from: <<http://www.utusan.com.my/>>

<sup>4</sup> Lenore Manderson, “These are Modern Times’: Infant Feeding Practice in Peninsular Malaysia”, *Social Science & Medicine*, vol. 18, no. 1, (1984): 47. Retrieved from: <<http://www.sciencedirect.com/>>



children under 12 years old ever breastfed was 94.7%. Nevertheless, the exclusive breastfeeding prevalence for up to four and six month was 19.3% and 14.5% respectively.<sup>5</sup> Although the frequency among children less than 12 years is higher, the percentage of infant breastfeeding during critical stage which is under the age of six months is lower.

The above mentioned figures attributes from the society, in particular the mother's ignorance on the value of breast milk, the lack of support from family members, the mother returning to work too soon after delivery, and the lack of support from healthcare workers as well. The availability of commercial infant foods that are portrayed to be as good as, if not better than, breast milk, also contributes as another major reason for this lack of awareness on the benefit of breastfeeding.<sup>6</sup>

Malaysia had launched the 4<sup>th</sup> edition of the Code of Ethics for Marketing of Infant Foods and Related Products in August 2008 on World Breastfeeding Day, in order to promote, support and protect the breastfeeding practices in the country.<sup>7</sup> The first code was found ineffective when it was first introduced in 1979.<sup>8</sup>

The code sets very clear guidelines on ethical practices which might dilute the mother's ability to breastfeed, in order to control competitive promotion and advertising for commercial infant products.<sup>9</sup> The main focus is that "the manufacturers

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<sup>5</sup> Kok Leong Tan, "Factors Associated with Exclusive Breastfeeding among Infants under Six Months of Age in Peninsular Malaysia", *International Breastfeeding Journal*, vol. 6, no. 2, (2011): 1. Retrieved from: <<http://www.internationalbreastfeedingjournal.com/>>

<sup>6</sup> "Breastfeeding Rate Low among Malaysian Mothers", *The Star*, 26 December, 2008. <<http://thestar.com.my>> (Accessed 27 April, 2011).

<sup>7</sup> Koe Swee-Lee, "Breastfeeding", *International E-Journal of Science, Medicine & Education*, vol. 3, no. 2 (2009): 1. Retrieved from: <<http://www.imu.edu.my/>>

<sup>8</sup> Op.cit.

<sup>9</sup> Op.cit

and distributors should not market, promote or advertise the product in such way as to challenge or undermine the supremacy of breast milk”.<sup>10</sup>

Another effort by the Ministry of Health is in introducing National Breastfeeding Policy in 1993, which followed by the Baby Friendly Hospital initiative introduced by the UNICEF and the WHO in 1991.<sup>11</sup> As a result, all public hospitals in Malaysia had been awarded with this status and have been internationally recognized by UNICEF and WHO.<sup>12</sup> Furthermore, up until 2010, there are six private hospitals, two university hospitals and two army hospitals have been awarded the Baby Friendly Hospitals status.<sup>13</sup> All these effort is to ensure that every newborn gets their right to breastfeeding even for a very short period.

There has been also a new trend of breastfeeding practices lately, when a child has been adopted by childless parents. This child, which usually comes from unwanted babies (as most cases the baby was born out of wedlock), was given to particular parents who want to have a baby but cannot produce on their own. Subsequently, they took this child and protect him/her as one of their own. However, as the parent is fully aware that there will be a problem on the *‘awrah*<sup>14</sup> status when the child reached the age of puberty, they took a step forward by breastfeeding the

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<sup>10</sup> Tee E Siong, “Revised Code of Ethics to Ensure Appropriate Marketing of Infant Formula and Related Product Launched”, *The Star*, 26 December, 2008. <<http://thestar.com.my>> (Accessed 27 April, 2011).

<sup>11</sup> Jeswan Kaur, “Advocates Pursue Breastfeeding Protection for Malaysian’s Women”, *UNICEF*, <<http://www.unicef.org/>> (accessed 27<sup>th</sup> April, 2011).

<sup>12</sup> “Breastfeeding is Vital”, *The Star*, 11 May, 2006. <<http://thestar.com.my>> (Accessed 27 April, 2011).

<sup>13</sup> “List of Baby Friendly Hospitals in Malaysia”. Published on 26<sup>th</sup> May, 2010. <<http://www.babynme.com.my/>> (Accessed 31 May, 2011.)

<sup>14</sup> In Islamic law, it refers to parts of human body that is prohibited to reveal/unveil in front of (anyone) who is prohibited to look at it. See: Musā’id ibn Qāsim al-Fāliḥ, *Aḥkām al-‘Awrah wa al-Nazar bi Dalīl al-Naş wa al-Nazar*, (Riyadh: Maktabah al-Ma’ārif, 1993), 17; Wahbah al-Zuḥaylī, *al-Fiqh al-Islāmī wa Adillātuh*, (Dimashq: Dār-al-Fikr, 1985), vol. 1, 579. See detail of the discussion in chapter 5, pp. 116-118.

infant. Nevertheless, not only they did overcome the *‘awrah* problem, they also blessed the infant with the benefit of natural breastfeeding.<sup>15</sup>

In Islam, breastfeeding is a religious duty<sup>16</sup> upon the mother<sup>17</sup> to suckle her own infant, whether she is solely responsible towards the infant’s suckling, or isn’t; or whether she is married to the infant’s father or a divorcee, and has completed her *‘iddah*.<sup>18</sup> If the mother refused, Islam provides solution for the father by hiring another woman (wet nurse) to suckle the infant so as to protect the infant from any damage and harm, as well as the benefits that the infant gain from human breast milk.<sup>19</sup>

Having said that, there are two issues arise from this discussion. Firstly, on the prevalence of natural breastfeeding upon an infant from their biological mother – as the rate is low among the Malaysians (only 14.5%) – and the second would be on the breastfeeding issue of an abandoned child as not all the abandoned children will be blessed with an adopted parent.

Basically, the role of the extended family network is very strong in Islam, therefore it is hardly to find a child to be completely orphaned or abandoned unless there would be a family member who will take care for him or her. Furthermore, as it

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<sup>15</sup> See: Nor Afzan Mohamad Yusof, “Kumpulan Sokongan Ibu Menyusu” and “Syukur dapat susukan Alif”, *Berita Harian*, 6<sup>th</sup> October, 2009: 17-18. Retrieved from: <<http://susuibu.com>>; “Hasilkan susu demi anak angkat”. *Berita Harian*, 22<sup>nd</sup> November, 2009. Retrieved from: <<http://berita-harian-online.com.my/>>; “Nasihat untuk Ibu Angkat”, *Utusan Malaysia*, 1<sup>st</sup> August, 1998. Retrieved from: <<http://www.utusan.com.my>> (Accessed 8 April, 2011).

<sup>16</sup> Religious duty or *diyānah* in Arabic term refers to the act of worship towards Allah the Almighty, altogether with faith. It is what between human (as a slave) and God. To differentiate between legal duty and religious duty, the former related on matters of visible evidence that relates to human action and behavior, whereas the latter in the real evidence that has been done by the proprietor but due to the absent of evidence, the action will be held accountable in front of Allah the Almighty. See: Muḥammad Rawwās Qal‘ajī & Ḥāmid Ṣādiq Qunaybī, *Mu‘jam Lughah al-Fuqahā’*, (n.p.: Dār al-Nafāis, 1988), vol. 1, 211.

<sup>17</sup> ‘Imād-ad-Dīn, Abī al-Fidā, Ismā‘īl Ibn Kathīr al-Qurashī, *Tafsīr al-Qur‘ān al-‘Azīm*, edn. 2000), vol. 1, 284; Muḥammad Amīn ibn ‘Umar Ibn ‘Ābidīn, *Rad al-Muḥtār ‘ala al-Dur al-Mukhtār*, (Bayrūt: Dār al-Fikr, 1992), vol. 5, 347; Aḥmad Farrāj Ḥusayn, *Aḥkām al-Uṣrah fil-Islām*, (Bayrūt: Dār al-Jāmi‘ah al-Jadīdah, 1991), vol. 2, 219; Muḥammad Samārah, *Aḥkām wa Āthār al-Zawjiyyah*, (al-Quds: Jam‘iyyah ‘Ummāl al-Maṭābi‘ al-Ta‘āwuniyah, 1987), vol. 1, 364.

<sup>18</sup> Jamal J. Nasir, *the Islamic Law of Personal Status*, 3<sup>rd</sup> Edition, Kluwer Law International, 2001, at 156.

<sup>19</sup> Muḥammad ibn Yūsuf, Abū Ḥayyān al-Andalusī, *Tafsīr al-Baḥr al-Muḥīṭ*, (Bayrūt: Dār al-Kutub al-‘Ilmiyyah, 1993), vol. 8, 281.

is generally practiced that the infant will be suckled by their biological mother for a certain period of time, those parentless children will be left to government agencies or any non-government organizations or even individuals to look after them whereas these individuals will handle the feeding of the child.

However, with the passing of time as Muslim community nowadays is facing with many issues and problems, in particular the cases of abandoned child that has come to an alert nowadays, the basic role of extended family is hardly to be practiced. These children, both with known and unknown parentage, are merely a child that needs protection and security. As they are in need of familial touch, it has been suggested that foster care might be one of the best instruments in resolving the problem. Therefore, the necessity to regulate a new law pertaining suckling, with the children having parents and parentless alike, and since there is no action has been taken to promote suckling as a mode of foster relation, the necessity to perform research on the subject is inevitable in order to improve child protection system.

## **SUMMARY OF THE PROPOSED DISSERTATION**

This research deals with suckling of children as a means of fosterage under Islamic law as well as the law in Malaysia. The focus will be on the rules and regulation pertaining to suckling in Islamic law and the law in Malaysia. The research will further examine on suckling as a means of protection to a child who is a subject of foster care or adoption. For that purpose, analysis will be done on the concept of suckling in Islamic law which includes definition of suckling (*radā'ah*), Islamic perspective on suckling a child who is not biologically related, and definition and concept of foster care under Islamic law.

As regards to the law in Malaysia, examination will involve on the provision of the law governing suckling. For the purpose of comparison, the law of suckling in Muslim countries will also be analyzed. This is to provide a basis and sample of good practices in general and whenever it deals with children who are subject to adoption or foster care. Finally, the research will provide suggestions and recommendations relating to suckling in improving children protection law in Malaysia.

### **STATEMENT OF PROBLEM**

This study is undertaken based on the premise that there is no clear rules and provision regulating suckling in Malaysia. This has resulted to inadequacy of the law which requires reform and amendment.

### **OBJECTIVES OF THE STUDY**

The objectives of the research are:

- a) To examine the concept of suckling and its significance under Islamic law.
- b) To examine the original concept of foster care under Islamic law.
- c) To examine the law on suckling in some Muslim countries as a sample on the improvement of the law pertaining to suckling.
- d) To provide certain suggestions and recommendations for the improvement of the law relating to suckling in Malaysia.

### **HYPOTHESIS**

The research has been undertaken based on the hypotheses that:

- a. The law relating to suckling in Malaysia is inadequate and requires reforms and amendment.

- b. Suckling is one of the means to protect children in fosterage relationship.

## LITERATURE REVIEW

There are many literature deal with suckling in Islamic law. Basically, the literatures consist of published works in the form of books and articles. This is based on the books written by the Muslim scholars from the four major schools of law as well as contemporary Muslim scholars.

Al-Māwardī, (d. 450H)<sup>20</sup> writes one specific chapter pertaining to suckling, discusses all the rules, concepts and principles of suckling in his famous book *Al-Ḥāwī al-Kabīr*. Al-Zaybarī (1996) while explaining on the suckling chapter from this book points out in the preamble of his book that the infants suckled by the mother will be more healthy than the one who do not suckle. The infants inherit their physical appearance from the parents and at the same time will inherit some of the character from the woman who breastfeed them. This shows the importance of suckling the infants from the very first day they were born.<sup>21</sup>

‘Alā-ad-Dīn al-Kāsānī (d. 587H) discussed about the prohibited person to marry and its ground of prohibition is suckling. He also highlights that the proof to ensure the degree of prohibition is through confession and evidence. He emphasized on the ground of prohibited marriage when he mentioned of Abū Ḥanīfah’s (d. 150H) opinion on the duration of suckling which is 30 month, and not only two years as the majority of the jurists says. The reason for this additional 6 months – according to him – is the nursling needs this period of time to make gradual progress from breast milk to ordinary meals. During this stage, if the nursling actually needs to wean from breastfeeding, it is not called suckling anymore since no suckling after weaning.

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<sup>20</sup> Al-Māwardī, ‘Alī b. Muḥammad ibn Ḥabīb, *Kitāb al-Raḍā’* (Bayrūt: Dār Ibn Ḥazm, 1996), 5.

<sup>21</sup> ‘Amir Sa‘īd Al-Zaybarī, *Kitāb al-Raḍā’*, (Bayrūt: Dār Ibn Hazm, 1996), 5.

However, this is not definitive as the majority opinion is only for two years of suckling and not thirty month.<sup>22</sup>

Abī al-Ḥasan ‘Alī al-Rojājī (d. n.d) discussed that the responsibility to provide for suckling is basically on the mother. However, in certain situations, for example, where the father wishes to hire a wet nurse to nurse the newborn and he is capable by financial means, then the mother is no longer responsible to do so. Nevertheless, she still has the right to suckle the baby. The same phenomenon is applicable to a divorced mother. If the father asks her to suckle the infant, she may ask some payment for the service. If the father cannot afford the payment and there is another woman who is willing to suckle the newborn with less payment than the mother, the obligation of suckling might be ceased from the mother. But still, the best person ever to suckle the infant is their biological mother.<sup>23</sup>

The basic elements for suckling have been discussed by al-Nawawī (d. 676H) in which these elements consist of wet nurse, breast milk and place the milk goes to (the infant’s stomach). He discusses further on the nursling stomach in the way the milk reaches into it through the ordinary way (mouth). If the milk reaches the infant’s stomach through injection, or drip through the urethra and reaches the bladder, or through the wound in the infant’s belly and the milk is poured into it, it is not considered as suckling. However, if the milk is poured through the nose and reaches the brain, it is also considered as suckling since it is a kind of feeding when the liquid reached the brain which contains *jawf*<sup>24</sup> (جوف) like the stomach. It is not necessary

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<sup>22</sup> ‘Alā-ad-Dīn al-Kāsānī, *Badāi’ al-Ṣanāi’ fī Tartīb al-Sharāi’*, (Al-Qāhirah: Dār al-Ḥadīth, edn. 2004), vol. 5, 67-99.

<sup>23</sup> Abī al-Ḥasan ‘Alī ibn Sa‘īd al-Rojājī, *Manāhij al-Taḥṣīl wa Natāij Laṭāif al-Ta’wīl fī Sharḥ al-Mudawwanah wa Ḥalli Mushkilātihā*, (Bayrūt: Dār Ibn Ḥazm, edn. 2007), vol. 4, 75-93.

<sup>24</sup> *Jawf* defines as being hollow or wide and hollow within, or being empty, vacant or void. By reaching the *jawf*, it means by reaching the interior of the body or head, or any vital part, as the belly or the brain.

that the feeding comes through the higher vent (mouth) because reaching the *jawf* would be sufficed.<sup>25</sup>

In view of the fact that the effect of suckling is the prohibition of marriage to milk kinship, Khaṭīb al-Sharbīnī (d. 977H) added what has been mentioned by al-Nawawī on the method on confirmation of suckling and its ruling on testimonial proceeding. The allegation can be done through confession and proof and this can be approved if it fulfilled the *Sharī'ah* evidence procedures which require two upright men or a husband and wife, or – for this case – four women since the process of breastfeeding can only be accessed by female companion. The discussion also deal with the evidence from the wife's mother and sister in which their evidence is reliable or else. Thus, the allegation towards milk kinships through suckling has a very strict procedure in order to ensure that the plaintiff and the respondent are really related.<sup>26</sup>

The purity of the milk had also been discussed by the Muslim scholar. Ibn Qudāmah (d. 620H) views that if the milk is mixed by other liquid, the milk is still considered as pure since the essence of the milk has gone through the *jawf* and reached the stomach. He also raised the issue of whether the dead body's milk is considered as milk like a living person. He argues the similarity for both milk of a living mother and a dead mother since the milk can protrudes bone and help to grow flesh. Thus, the degree of prohibitive marriage through suckling by a living person affects the suckling from dead body milk.<sup>27</sup>

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For the purpose of this topic, *jawf* means the interior of the infant's body. See: Edward William Lane, *An Arabic-English Lexicon*, (Bayrūt: Librairie Du Liban, 1968), vol. 2, 488.

<sup>25</sup> Al-Nawawī, Yaḥya ibn Sharf, *Rawḍah al-Ṭālibīn*, (al-'Ulyā: Dār 'Ālam al-Kutub, edn. 2003), vol. 6, 418-448.

<sup>26</sup> Al-Sharbīnī, Muḥammad ibn Aḥmad, al-Khaṭīb, *Mughnī al-Muḥtāj*, (Dār al-Ma'rifah: Bayrūt, 1997), vol. 3, 543-557.

<sup>27</sup> Ibn Qudāmah, 'Abdullah ibn Aḥmad ibn Muḥammad, *al-Mughnī*, (Riyāḍ: Dār 'Ālam al-Kutub, 1997), vol. 11, 309-346.