

Human Milk Bank Controversy: The Khilafah on the Method of Prophethood Solves Human Problems Through Referring to Islam

News:

The Daily Times reported that, "Sindh suspends human milk bank, refers initiative to Islamic Ideology Council... Pakistan's first human milk bank was set up earlier this month by Sindh Institute of Child Health and Neonatology... Facility was established in collaboration with UNICEF, described as 'significant milestone in maternal health'... "A recent revised fatwa issued by Darul Uloom Karachi dated 16th June 2024 has prompted us to discontinue the functionality of the Human Milk Bank. This decision is in compliance with the updated religious guidance and reflects our ongoing commitment to operate within the framework of Islamic jurisprudence," SICHN said in a statement dated June 21." (Source: <https://dailytimes.com.pk/1202974/sindh-suspends-human-milk-bank-refers-initiative-to-islamic-ideology-council/>)

Comment:

As is the case throughout the Muslim World, the secular state of Pakistan continuously permits laws and policies in contradiction to the Noble Quran and Prophetic Sunnah. It then falls upon the Muslims to discover these contradictions, then raise a hue and cry, until there is a retraction. It is only when the Muslims react, that the secular state abandons its silence, and is forced to undertake token measures to appease the Muslims. In this case, the Human Milk Bank was set up under the nose of the state, by the colonialist institution, UNICEF. Muslims then raised concerns, as they are aware that babies who are born from different mothers, but are breastfed by the same woman, are prohibited to marry each other, when certain conditions are met.

There are many Halaal ways of solving our problems, within what Islam has given of rulings. We can make a register of orphans, and a register of women that are willing to wet nurse through breast-feeding. Then we can arrange contact between them. In this way the mother donating the milk is known to the child. Thus in the future, marriage can be determined, avoiding marriage with kinship through breast-feeding. This can be done at a local level through pediatricians and nurses, amongst other health care workers. Fundamentally, we are often wise, but Allah (swt) is Al-Hakeem, All-Wise.

Unlike the secular state, the Khilafah Rashidah would never have allowed the setting up of a Human Milk Bank, in which the donated milk from many mothers is mixed up in one vessel, without identifying and specifying the milk of separate donors, in separate vessels. It is well-known that the current model of the human milk bank, or lactarium, relies upon anonymous donors, with the milk donations being combined. The Khilafah examines medical proposals on the basis of the divine texts, taking into consideration the sayings of the Companions (ra) and Classical Ulema, when outweighing the strongest opinion.

The breastfeeding, that establishes the prohibition of marriage, is that which fills the stomach. The Prophet (saw) said, «لَا يُحْرَمُ مِنَ الرِّضَاعَةِ إِلَّا مَا فَتَقَ الْأَمْعَاءُ، وَكَانَ قَبْلَ الْفِطَامِ» **"The suckling that makes marriage unlawful is that which reaches the intestines, and is taken before weaning."** [Tirmidhi] The breastfeeding that is considered is that within two Hijri years of birth, before weaning. Allah (swt) said, «حَوْلَيْنِ كَامِلَيْنِ لِمَنْ أَرَادَ أَنْ يُتِمَّ الرِّضَاعَةَ» **"Mothers will breastfeed their offspring for two whole years, for those who wish to complete the nursing of their child."** [TMQ Surah Al-Baqarah 2:233].

‘Aa’ishah (ra) said, "Among the things that were revealed of the Quran was that ten definite breast-feedings make a person a mahram, then that was abrogated and replaced with five definite breast-feedings." [Muslim]

Ibn Qudaamah (rh) said, "الرضاع الذي لا يشك في تحريمه، أن يكون خمس رضعات فصاعداً" "The (number of) breast-feedings concerning which there is no doubt that it establishes the Mahram relationship is five or more."

An-Nawawi (rh) said, "اختلف العلماء في القدر الذي يثبت به حكم الرضاع، فقالت عائشة والشافعي وأصحابه: لا يثبت بإقل من خمس رضعات" "The ulema differed concerning the number of breast-feedings for which the ruling on breastfeeding (radaa’ah) applies. ‘Aa’ishah and al-Shaafa’i and his companions said that there is no proof for any number less than five."

An-Nawawi (rh) added, "وقال جمهور العلماء يثبت برضعة واحدة. حكاه ابن المنذر عن علي وابن مسعود وابن عمر وأبي حنيفة وابن عباس وعطاء وطاوس وابن المسيب وأحسن ومكحول والزهرى وقتادة والحكم وحمام والأوزاعي والثوري وأبي حنيفة" "The majority of scholars said that the ruling applies if breastfeeding occurs once. This was narrated by Ibn al-Mundhir from ‘Ali, Ibn Mas’ood, Ibn ‘Umar, Ibn ‘Abbaas, ‘Ata’, Tawoos, Ibn al-Musayyib, al-Hasan, Makhool, al-Zuhri, Qataadah, Hammaad, Maalik, al-Awzaa’i, al-Thawri and Abu Haneefah – may Allah be pleased with them."

So in the Khilafah Rashidah, the ruler will study the evidences and consider the opinions. He would then adopt the strongest opinion in his view, and it would become binding upon the Muslims under his rule. If he adopts a Shariah ruling, this ruling alone becomes the Shari’ah ruling that must be acted upon. It becomes a binding law that every citizen must obey openly and privately.

The evidence for the adoption of the Khaleefah is derived from the Ijma’ (General Consensus) of the Companions (ra). The Khaleefah reserves the right to adopt specific Shari’ah rulings. It has also been established in the same manner that it is obligatory to act upon the rulings adopted by the Khalifah (caliph). The Muslim is not permitted to act upon any ruling, other than what the Khalifah has adopted in terms of rulings, even if these rulings were Shari’ah rulings adopted by one of the Mujtahideen (ulema of Islam). This is so because the ruling of Allah (swt) that becomes duly binding upon all the Muslims is what the Khalifah adopts. The Khulafah Rashidoon (ra) proceeded in this manner. They adopted a host of specific rulings and ordered their implementation.

None of the process of Islamic legislation happens in the secular state, because the judgement is decided by the opinion of the majority, regardless of the Deen of Islam. We then suffer under the so-called wisdom of men, rather than living tranquil lives under the rulings of the All-Wise, Al-Hakeem, Allah (swt). Allah (swt) said, ﴿وَعَسَى أَنْ تَكْرَهُوا شَيْئًا وَهُوَ خَيْرٌ لَكُمْ وَعَسَى أَنْ تُحِبُّوا شَيْئًا وَهُوَ شَرٌّ لَكُمْ وَاللَّهُ يَعْلَمُ وَأَنْتُمْ لَا تَعْلَمُونَ﴾ **"Perhaps you dislike something which is good for you and like something which is bad for you. Allah knows and you do not know."** [TMQ Surah Al-Baqarah 2:216]. So let the Muslims who want to live under the Deen of Islam, work to re-establish the Khilafah (Caliphate) on the Method of Prophethood.

Written for the Central Media Office of Hizb ut Tahrir by

Musab Umair - Wilayah Pakistan