



Perspectives of Nahdlatul Ulama (NU) and Muhammadiyah Figures on Law of Buying and Selling Breast Milk (ASI)

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Abstract

The buying and selling of breast milk (ASI) transactions are based on the ignorance of the society, especially mothers, regarding the prohibition of buying and selling breast milk. Nahdlatul Ulama and Muhammadiyah, as community organizations in Indonesia, have also discussed determining the law regarding the practice of donating and buying breast milk. Therefore, the aim of this research is to understand the mechanism of buying and selling breast milk and the perspectives of Nahdlatul Ulama and Muhammadiyah figures on the law of buying and selling breast milk. This research is an empirical juridical study using a qualitative approach with a descriptive comparative method. The results of this study show that the practice of buying and selling breast milk is conducted through the social media platform Facebook. Buying and selling are done using a barter method based on the needs of the baby. According to Nahdlatul Ulama and Muhammadiyah, both bartering and cash transactions fall under the same law. Breast milk as an object essentially meets the requirements of a saleable object. However, there is an opinion that breast milk is equated with human organs, thus buying and selling breast milk is prohibited as per the law against selling organs. Nahdlatul Ulama believes that buying and selling breast milk is permissible, referring to the respected Shafi'i opinion that it is valid and permissible. However, if there are government regulations prohibiting the buying and selling of breast milk, the society must adhere to those regulations. Meanwhile, Muhammadiyah has not yet discussed the issue of buying and selling breast milk. The discussions conducted so far have only touched upon the permissibility of breast milk donation, which is done voluntarily.

Keywords: Buying and Selling; Breast Milk; Nahdlatul Ulama; Muhammadiyah

Introduction

In the *Kamus Besar Bahasa Indonesia* (KBBI), the abbreviation ASI refers to Air Susu Ibu, which translates to Breast Milk. In terminology, ASI is an emulsion of fat dissolved in proteins, lactose, and inorganic salts produced by the mother's mammary glands. ASI serves as the primary nutrition for babies and is the most optimal single food to support the growth and development of infants in the first six months (Indra Kurniawan, 2022, p. 8). Breast milk (ASI) is the optimal nutritional choice to meet the needs of newborns. ASI provides energy and essential nutrients to support the development and growth of babies. According to Article 1, Paragraph 2 of the Government Regulation of the Republic of Indonesia Number 33 of 2012 concerning Exclusive Breastfeeding, exclusive breastfeeding is the provision of breast milk to infants from birth for six months, without the addition or replacement of other foods. Mothers are advised to breastfeed their babies because breast milk contains suitable and optimal nutrients to support infant growth. Poor nutritional status can hinder the development and growth of babies, leading to stunting, which is a lack of nutrition or insufficient breastfeeding. Therefore, providing exclusive breastfeeding also plays a role in preventing stunting (Fatimatuz Zahro, 2020, p. 2). It is important to continue providing exclusive breastfeeding until the baby reaches 2 years of age as a contributory step towards optimal health and growth.

Regarding a mother's obligation to breastfeed her child, there are often situations where some mothers face challenges in doing so. There are various factors that may cause a mother to have difficulty or be unable to breastfeed her child. Firstly, one common reason is insufficient breast milk supply. Secondly, premature babies may require care in the ICU/NICU. Thirdly, health issues can also be a barrier, such as when a mother is HIV-positive and concerned about transmitting the virus to her child through breast milk. Fourthly, some mothers have jobs outside the home that limit their time for breastfeeding. Fifthly, factors like death can also affect a mother's ability to breastfeed (A. Kumedi Ja'far, 2019, p. 12). Faced with these challenges, some mothers seek solutions by finding wet nurses through breast milk donor foundations or engaging in buying and selling breast milk transactions online to meet their child's breastfeeding needs as they should.

In the Islamic perspective, breastfeeding someone else's child is not a common practice, even Prophet Muhammad (PBUH) was breastfed by someone other than his mother, Halimah al-Sa'diyah, during his childhood. If a mother is unable to breastfeed, she is allowed to entrust her child to a wet nurse, as stated in the Quran "But if you find difficulty in feeding (your children), then let another woman suckle (the child)." (Al-Hufaz, 2020, p. 559). Although wet nursing is emphasized in the Quran, it is not obligatory but recommended. If a mother encounters difficulty in breastfeeding her child and is unable to do so, the child must be breastfed by another mother in exchange for compensation. With this explanation, it is evident that breastfeeding is not a legal obligation for a mother but merely a recommended practice. Allah commands or recommends that breastfeeding by the mother herself is prioritized because breast milk from the mother is better for her child than milk from someone else (Taufiq Aziz, 2018, p. 4).

Providing compensation to a wet nurse in a proper manner is in accordance with Islamic teachings. This is consistent with the guidance in the Quranic verse: "But if you wish to have

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your children nursed by a wet nurse, there is no blame upon you as long as you give payment according to what is reasonable." (Quran, 2:233) (Al-Hufaz, 2020, p. 37). Providing payment means compensating for the return of labor from someone else according to certain conditions. The conditions for providing compensation involve mutual agreement without coercion, and the rented item must provide benefits that can be felt by both parties (Risma Hasian Pasaribu, 2021, p. 5). In the activity of compensation, there are pillars and conditions that must be fulfilled, including: (1) For the person conducting the contract, it is required that they are intelligent and not in a state of coercion; (2) The thing rented must be such that its benefit can be felt by both parties (Mahmudin Hasibuan, 2023, p. 5).

In Indonesia, there is a practice of buying and selling breast milk that can be found on social media platforms like Facebook. In the observations made in this study, at least 4 (four) cases of buying and selling breast milk were found on the Facebook group page Donor ASI. This phenomenon is related to government regulations regarding exclusive breastfeeding, as stipulated in Government Regulation Number 33 of 2012 concerning Exclusive Breastfeeding. Article 6 of this regulation explains the obligation for every mother who has just given birth to provide exclusive breastfeeding to her baby. Due to this obligation, mothers strive to ensure that their babies receive optimal breastfeeding. Buying and selling breast milk are usually done by individuals. Most sellers promote through social media such as Facebook, Instagram, Twitter, and others. Sellers usually include complete identities or only for children of the same gender. The location of residence also becomes a consideration for sellers and buyers because breast milk can only be consumed within 4-6 hours.

Public figures from community organizations have their own perspectives on the law of buying and selling breast milk. Nahdlatul Ulama (NU) and Muhammadiyah, as the largest community organizations in Indonesia. The majority of Muslim communities tend to have close ties to the teachings of Nahdlatul Ulama (NU) and Muhammadiyah, so the views of the figures from both organizations are often used as guidelines in daily life. Based on the above description, it is very interesting to further examine the determination of the law of buying and selling breast milk from the perspective of these two major community organizations.

Several studies related to the same issue can be found in previous researches. These studies include: (1) Taufiq Aziz with the title "Buying and Selling Breast Milk (Air Susu Ibu) That Has Been Expressed from the Perspective of Fiqh Muamalah"; (2) Muhammad Fauzi with the title "Views of Imam Shafi'i and Imam Abu Hanifah About Buying and Selling Breast Milk (ASI)"; (3) Risma Hasian Pasaribu with the title "The Law of Buying and Selling Breast Milk (ASI) According to Imam Al-Kasani's Opinion (Hanafi) and Imam Al-Khatib Asy-Syarbini (Shafi'i)"; (4) Cynthia Ayu Maharani with the title "Juridical Review Regarding Buying and Selling Breast Milk (ASI) Transactions from the Perspective of Islamic Law (Case Study of Breast Milk Donors and Recipients in Purwosari Laweyan Sub-District, Surakarta)"; (5) Hannana Fitria, et al. with the title "Online Buying and Selling of Breast Milk (ASI) Related to Government Regulation Number 33 of 2012 Concerning Exclusive Breastfeeding."

This research is written to complement previous studies on the law of buying and selling breast milk. This thesis analyzes the law related to the practice of buying and selling Breast

Milk obtained from the perspectives of Nahdlatul Ulama and Muhammadiyah figures, thus focusing more on these two perspectives. In contrast, other studies obtain opinions or legal reviews related to buying and selling breast milk through direct legislative research (statute approach), or focus on the broader Islamic perspective and utilize specific madhhab views. In line with this, this research will discuss: (a) The mechanism of buying and selling breast milk; (b) The perspectives of Nahdlatul Ulama (NU) and Muhammadiyah figures on the law of buying and selling breast milk.

Literature Review

Buying and Selling

In Islamic jurisprudence (fiqh), trading is referred to as *al-bâ'i*, which etymologically denotes the activity of selling or exchanging goods. Linguistically, buying and selling encompasses the exchange of ownership of goods with other goods or the process of exchanging goods. In Arabic, the term *al-bâ'i* is sometimes used in contrast to *al-syira'* (buying). Therefore, *al-bâ'i* can be understood as the act of selling and simultaneously buying. Terminologically, buying and selling means the transfer of ownership of property through exchange in accordance with Sharia rules (Abdul Rahman Ghazali, Ghufron Ihsan, Sapiudin Shidiq, 2010, p. 67).

According to the Maliki scholars, trading is divided into two categories: general and specific. General trading typically refers to an agreement between two parties to exchange something, where one party provides something to the other. The exchanged items are objects that have a form and function as transactional objects rather than for use or consumption. Specifically, in the context of trading, it refers to an agreement involving goods or items that are not for immediate use or enjoyment and do not have specific attractiveness. Such transactions do not involve gold or silver as a means of exchange, the traded goods can be immediately realized and are nearby without deferral, do not involve debt elements, and the traded goods have known or identified characteristics beforehand (Sohari Sahrani dan Ruf'ah Abdullah, 2011, p. 67). The Hanafi school of thought views trading as the process of exchanging assets in a particular manner. This exchange involves beneficial assets typically used by people. In this regard, the specific manner refers to the use of contractual expressions (*sighat* or *ijab* and *qabul*) (Dimyauddin Djuwani, 2015, p. 69).

Breast Milk (ASI)

In the Kamus Besar Bahasa Indonesia (KBBI), the abbreviation "ASI" refers to Air Susu Ibu. Terminologically, ASI is an emulsion of fat dissolved in proteins, lactose, and inorganic salts produced by the mother's mammary glands. ASI functions as the primary nutrition for infants and is the most optimal single food to support growth and development during the first six months (Indra Kurniawan, 2022, p. 8).

Research Method

This research employs a juridical empirical research method. Empirical research, also known as field research, is a type of research oriented towards collecting empirical data in the field (Muhaimin, 2020, p. 83). This study is termed as juridical empirical research because the researcher conducts direct observations in the field to observe the mechanism of buying and selling Breast Milk (ASI) carried out by sellers through social media platforms, such as Facebook. This study also involves interviews and analysis regarding the perspectives of Nahdlatul Ulama (NU) and Muhammadiyah figures on the law of buying and selling Breast Milk (ASI). The research approach utilized in this study is qualitative with a descriptive-comparative method. This approach is chosen because the researcher describes the mechanism of the practice of buying and selling ASI, which is then analyzed using legal regulations. This research also draws conclusions by comparing the results or answers to a question using two variables, namely the opinions of Nahdlatul Ulama (NU) and Muhammadiyah regarding buying and selling ASI.

The research location is where observations and interviews are conducted to gather knowledge. This study is conducted in several locations, including: (1) The Nahdlatul Ulama (NU) Branch Office in Malang City located at Jl. K.H. Hasyim Ashari No. 21, Kauman, Klojen District, Malang City; (2) The Muhammadiyah Regional Office in Malang City located at Jl. Gajayana No. 28B, Ketawanggede, Lowokwaru District, Malang City. The research is conducted in these locations for the following reasons: (1) The Nahdlatul Ulama (NU) and Muhammadiyah community organizations dominate the existing organizations. The majority of Muslim communities are closely associated with the teachings of Nahdlatul Ulama (NU) and Muhammadiyah, so the opinions of the figures from these two Islamic community organizations are often considered as guidelines in daily activities; (2) The Nahdlatul Ulama (NU) and Muhammadiyah Branch Offices have their own institutions where discussions on the law of buying and selling ASI take place, thus the information obtained is more accurate and accountable. The data sources in this research consist of primary and secondary data. The primary data in this study are the results of interviews with several ASI sellers, Ustadz Abdul Qadir as the chairman of the Bahtsul Masail Institution of the Nahdlatul Ulama (NU) Branch Office, and Ustadz Dwi Trijono as the Chairman of the Tarjih and Tajdid Institution of the Muhammadiyah Regional Office in Malang City. Meanwhile, the secondary data in this study are obtained from various books related to the research, theses, and journals about buying and selling Breast Milk (ASI), and expert opinions related to the research. The data collection techniques in this research consist of interviews, observations, and documentation. The data analysis technique involves editing, classifying, verifying, analyzing, and concluding.

Result and Discussion

Mechanism of Buying and Selling Breast Milk (ASI)

The practice of buying and selling breast milk can be found on social media platforms like Facebook. This information is usually disseminated by ASI sellers to those in need through

Facebook groups. These Facebook groups typically have similar names and purposes, intended for breast milk donors, recipients, or seekers. However, due to the diverse backgrounds of group members, such as social, economic, and individual needs, these groups serve not only as platforms for breast milk donation but also for buying and selling transactions, often utilizing bartering systems.

The buying and selling of breast milk through Facebook groups typically starts with a seller offering their stock of breast milk or a group member posting that they are seeking breast milk within these Facebook groups. The prospective buyer then contacts the breast milk seller directly via chat or the contact information provided in the post. Subsequently, both parties negotiate and communicate regarding the mechanism of providing breast milk. At this point, the party possessing the breast milk often offers to conduct the transaction through bartering with specific baby-related items.

The process of these buying and selling transactions was derived from research conducted with several informants. These informants were mothers from various cities in Indonesia who had previously sold their breast milk offered through Facebook group media. The reasons for this practice can be seen from two perspectives: the sellers and the buyers of the breast milk. According to sellers, breast milk is sold because they have an excess supply, resulting in full freezers. Meanwhile, according to buyers, the reasons for buying breast milk include having a premature baby in the ICU/NICU, insufficient breast milk supply, and health constraints.

Regarding the mechanism of buying and selling breast milk through Facebook, data were obtained through informant responses based on interviews. Informants stated that the mechanism of buying and selling breast milk is conducted through bartering with baby necessities, such as pacifiers and breast milk storage bags. Besides interviews, other breast milk sellers also directly explain in group posts if the transaction is conducted through bartering. In summary, based on these interviews, the breast milk object in the buying and selling practice is frozen breast milk that has been expressed and stored using breast milk storage bags, which is then offered on Facebook social media forums with a bartering mechanism for specific items.

From an Islamic perspective, one of the pillars of buying and selling is the presence of an object or item being sold. As a pillar of buying and selling, the object being sold must meet certain requirements for the transaction to be considered valid. The requirements for the object are as follows: (a) In a pure state; (b) Has utility; (c) Can be delivered; (d) The item is known to both the seller and the buyer; (e) Must be owned personally or represented by someone else (Rachmat Syafe'i, 2001, p. 82). In this study, the observed object of buying and selling is Breast Milk (ASI). Referring to the aforementioned object requirements, breast milk essentially meets the criteria as the object of the transaction. However, there is another explanation indicating additional conditions for the requirements, such as objects that are prohibited from being sold or things that make an object forbidden to be sold. Regarding breast milk as the object of buying and selling, some madhhab scholars such as Imam Abu Hanifah argue that breast milk is equated with human organs. If human organs cannot be sold, then buying and selling breast milk is prohibited as it is akin to the law prohibiting the sale of human organs (Muhammad Sahal Mahfudz, 2022, 212). This is stated because breast milk naturally comes from human

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flesh, and humans are considered beings worthy of respect. Therefore, every part of the body should not be dishonored or demeaned, and selling parts of the human body cannot be considered an honorable action. From a positive law perspective, the sale of human organs is prohibited under Article 124 paragraph (3) of Law Number 17 of 2023 Concerning Health.

Viewed from the laws applicable in Indonesia, the government has established regulations regarding the legality of the practice of buying and selling breast milk. Government Regulation Number 33 of 2012 concerning Exclusive Breastfeeding states that every mother who has just given birth is required to provide Exclusive Breastfeeding to their baby. If the biological mother is unable to provide Exclusive Breastfeeding, then the provision of breast milk can be done by breast milk donors. The MUI Fatwa Number 28 of 2013 concerning Donor Breast Milk (Istirdla') also affirms that a mother is allowed to provide breast milk to a non-biological child, and a child may receive breast milk from a non-biological mother as long as it meets the Sharia requirements. However, it should be noted that the rules differ for buying and selling breast milk. Government Regulation Number 33 of 2012 explicitly prohibits the act of buying and selling breast milk, as stated in Article 11 paragraph (2) letter e. Other regulations related to buying and selling breast milk can be seen in Article 8 of MUI Fatwa Number 28 of 2013 concerning Donor Breast Milk (Istirdla'), which also does not permit the buying and selling of breast milk. However, this article allows for the provision and receipt of service compensation in the context of breast milk donation, provided that it is not used for commercial purposes or buying and selling breast milk. The compensation received must be in the form of childcare services, not in the form of buying and selling breast milk transactions.

In Islamic law, the consequence of buying and selling breast milk falls under the category of fostering relationships, which results in making marriage between the parties forbidden, as they are considered to be siblings. According to the majority of scholars, the conditions that prohibit marriage due to fostering relationships are: (1) The breast milk must originate from a human. According to the majority of scholars, whether the woman is a virgin, married, or unmarried does not matter; (2) The breast milk must enter the child's throat, either through direct suckling from the breast or through a breast pump and other devices for milk collection, such as glasses, bottles, and others. According to scholars of the four madhhabs, the occurrence of breastfeeding does not necessarily have to be through suction on the nipple but rather when the milk reaches the baby's stomach and nourishes bones and flesh. However, they differ in their opinion on the route of the milk's passage. According to Imam Malik and Hanafi, it must pass through the mouth cavity, while according to Hanbali, it is until it reaches the stomach and the abdomen or the brain; (3) According to the majority of scholars, fostering through the mouth (wajib) is required because it is nourishing, akin to breastfeeding, or through the nose (sa'ut) due to the act of feeding. However, it is not necessary for the feeding to occur through the upper orifice; rather, reaching the milk to the stomach is sufficient to establish the mahram relationship; (4) According to the four schools of fiqh and the majority of scholars, fostering must occur during the period when the child is nursing. Therefore, according to them, if the nursing child is above the age of two, then it does not prohibit marriage. However, Daud Az-Zohiri stated that the fostering of an adult child still prohibits marriage; (5) According to the Shafi'i and Hanbali schools, fostering must occur with five separate feedings, as the strong

opinion in fostering is based on the customary practice ('urf); (6) Meanwhile, according to Imam Malik and Hanafi, whether the quantity of breast milk is large or small, it still establishes the mahram relationship even if it's just a single feeding (Mahmudin Hasibuan, 2023, p. 5).

Donating breast milk, which is permitted under Government Regulation Number 33 of 2012 concerning Exclusive Breastfeeding and the MUI Fatwa Number 28 of 2013 concerning Donor Breast Milk (Istirdla'), cannot be done arbitrarily. There are requirements that must be fulfilled by both the donor and the recipient of the breast milk. Article 11 paragraph (2) of Government Regulation Number 33 of 2012 concerning Exclusive Breastfeeding stipulates that in the provision of Exclusive Breastfeeding by breast milk donors, the following conditions must be met: (1) Request from the biological mother or family of the baby concerned; (2) The identity, religion, and address of the breast milk donor are clearly known to the mother or family of the receiving baby; (3) Approval from the breast milk donor after knowing the identity of the baby receiving the breast milk; (4) The breast milk donor is in good health and has no medical indications as referred to in Article 7; and (5) The breast milk is not sold. Meanwhile, Article 2 of the MUI Fatwa Number 28 of 2013 concerning Donor Breast Milk (Istirdla') states that the permission to provide and receive breast milk must meet the requirement that the mother providing the breast milk must be physically and mentally healthy and not pregnant.

In meeting these requirements, the informants interviewed in this study have similarities and differences. The similarities in the breast milk buying and selling transactions from these informants include the requirement that the buyer's gender matches the gender of the seller's child, ensuring clarity in identity exchange, and the insistence on direct collection from the seller's home. The differences lie in the extent to which some breast milk sellers pay attention to and meticulously exchange identities with the buyers, along with attaching or informing about the results of health tests. Meanwhile, other sellers may not pay as much attention to identities and health tests.

Breast milk sellers stipulate that the buyer's gender matches their child's to minimize confusion regarding lineage, as babies receiving breast milk from another mother will become siblings through fostering with the seller's child. This is based on the knowledge of breast milk sellers and buyers regarding the practice of buying and selling breast milk, which can cause ambiguity in the relationship between the foster child and the foster mother, thus increasing the likelihood of marriage between the foster child and the biological child of the foster mother. If this were to happen, the marriage would be invalid as it violates the prohibition concerning the contract in transactions. This violation also leads to the nullification of the transaction, as per the fiqh rule: "If the contract is null, then so are its obligations." The direct collection of breast milk from the seller's home aims to ensure the quality of breast milk while maintaining familial ties. The results of health tests are also presented as a certainty that the seller is in good health.

The practice of buying and selling breast milk conducted by the informants above can be reviewed based on Government Regulation Number 33 of 2012 concerning Exclusive Breastfeeding and MUI Fatwa Number 28 of 2013 concerning Donor Breast Milk (Istirdla'). Informants who exchanged identities with buyers and whose buyers agreed to the stipulated

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conditions, along with presenting health test results, comply with the requirements specified in Article 11 paragraph (2) letters a to d of Government Regulation Number 33 of 2012 concerning Exclusive Breastfeeding and Article 2 of MUI Fatwa Number 28 of 2013 concerning Donor Breast Milk (Istirdla'). Meanwhile, informants who did not prioritize these conditions rendered the transactions invalid.

Informants do not provide breast milk voluntarily but rather conduct buying and selling transactions through bartering. Bartering involves exchanging goods with other goods or commodities with other commodities. Bartering transactions of breast milk through bartering, where both parties agree to exchange baby necessities such as pacifiers and breast milk storage bags given to the selling mother every time she donates her breast milk to the buying mother's baby, constitute actions that are prohibited or not allowed as they fall under unlawful acts, specifically violating Article 11 paragraph (2) letter e of Government Regulation Number 33 of 2012 concerning Exclusive Breastfeeding and Article 8 of MUI Fatwa Number 28 of 2013 concerning Donor Breast Milk (Istirdla'). Similarly, even if the parties in the breast milk buying and selling transactions meet the requirements, the transactions are still deemed invalid.

The View of Nahdlatul Ulama (NU) Figures on The Law of Buying and Selling Breast Milk (ASI)

Nahdlatul Ulama, often abbreviated as NU, is an organization founded by scholars on January 31, 1926 CE, or 16 Rajab 1344 Hijriah, in Surabaya. The purpose of Nahdlatul Ulama's establishment is to preserve, develop, and practice the teachings of Islam Ahlussunnah Wal Jamāah by adhering to one of the four madhhabs (Hanafi, Maliki, Shafi'i, Hanbali) (https://id.wikipedia.org/wiki/Nahdlatul_Ulama). When Nahdlatul Ulama (NU) is in the modern context, the organization needs to adapt to the ongoing developments of the times. Nahdlatul Ulama (NU) has its own methodology established as a reference for deriving Islamic legal rulings, which is implemented by the members of the Lembaga Bahtsul Masail. The derivation of Islamic legal rulings in NU typically refers to the Shafi'i madhhab, which is predominantly followed by the Indonesian society. The NU's view on the law of buying and selling breast milk is articulated by Ustadz Abdul Qadir, the chairman of Bahtsul Masail NU Kota Malang.

The view of Nahdlatul Ulama (NU) in determining the law of buying and selling breast milk is based on the opinions of the Imams of the madhhabs, such as: "And it is valid to sell a woman's breast milk because it is pure and beneficial, thus its legal ruling is similar to that of goat's milk. Similarly, it is permissible to sell male breast milk due to its purity, and this is an opinion that can be relied upon." (Syamsuddin Muhammad bin Muhammad Khatibi Asy-Syirbini, 2006, p. 12). Selling breast milk among the Malikiyyah and Shafi'iyyah, and the most authentic opinion among the Hanabilah, states its permissibility due to: (1) Purity; (2) Benefit derived from it; (3) Breast milk can be consumed, hence it is permissible to sell it by analogy to the legal rulings on the milk of other livestock animals; (4) Fees can be charged for breastfeeding services. According to the Hanafiyyah, selling breast milk is not permissible, and this is also an opinion found among the Hanabilah because breast milk is not considered a type of property that can be bought and sold based on the consensus of the Prophet's companions

and logical reasoning (Al-Mausu'ah Al-Fiqhiyyah, Jilid 35, p. 199). However, there are other opinions that are deemed to have errors as follows: "[BRANCH] Selling a woman's breast milk is permissible according to us (Shafi'iyyah), and it is not disliked at all, and this is the opinion adopted by the madhhab and followed by the followers of the Shafi'iyyah, except according to al-Mawardi, as-Saasyi, and ar-Royyaani, who, quoting the opinion of Abu Qasim, state that breast milk is impure and cannot be bought and given to small babies because there is an interest... etc." (Imam Nawawi, 2010, Jilid 9, 254). The statement by Abdul Qasim is incorrect, and this opinion is considered "weak". There is no explanation on this matter from Imam Shafi'i.

Based on this, the law of buying and selling breast milk through barter is equivalent to buying and selling using legitimate payment methods. According to the opinion of NU figures, buying and selling breast milk through barter is permissible. However, a question arises regarding the compatibility of this opinion with the regulations regarding the buying and selling of breast milk, namely Article 11 paragraph (2) letter e of Government Regulation Number 33 of 2012 Regarding Exclusive Breastfeeding and Article 8 of the Indonesian Ulema Council Fatwa Number 28 of 2013 Regarding Issues Concerning Breast Milk Donation (Istirdla'), which states that the activity of buying and selling breast milk is prohibited, thus constituting a violation of the law.

NU allows the buying and selling of breast milk for several reasons derived from the Shafi'i madhhab's opinions. The process of buying and selling using legitimate payment methods or through barter remains permissible. However, if there are government regulations prohibiting the buying and selling of breast milk, NU states that the community should adhere to the established regulations. This statement is based on the principle of "mandatory obedience to the orders of leaders in all matters within their authority, such as paying zakat on visible wealth, even if he has no authority over it and it is included in one of the obligatory or recommended matters. His right, he may pay it to him and independently spend it according to his own way, even if what he is commanded to do is permissible, not liked, or forbidden. It is not obligatory to follow his order regarding it, as M.R. says and he hesitates about it in Al-Tuhfa, then he is inclined to be obligatory in everything that the imam orders, even if it is forbidden, but only its outward form, and anything else, if it is for public interest, then it is obligatory both outwardly and inwardly, if not, then only outwardly, and the lesson is for those who assign it. What is allowed is the faith of the commander, and the real meaning of their words is that he is not sinful if he does not obey it, and the hidden meaning is that he is sinful. I say: And Shaqq says: The main thing is to obey the imam in what he commands, both outwardly and inwardly, which is not forbidden or disliked, then what is obligatory is definite, and what is recommended is obligatory, likewise what is allowed if there is an interest in it, such as abstaining from smoking tobacco, if it is said to be disliked, because it contains contempt for those of sound intellect, and it has happened that the Sultan ordered his deputy to advise the people not to drink it in the market and cafes, even though they disobeyed and drank it, so they disobeyed, and now they are forbidden to drink it in accordance with his command. If the imam commands something and then retracts it, even if he accepts it in action, then the obligation will not be lost." (Sayyid Abdurrahman Ba'lawi and Al-Shaykh Ali Basabrin, 1971, p. 91).

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Based on the above principles, since there is a regulation that prohibits the buying and selling of breast milk by the government, then the community is obliged to comply with it by refraining from engaging in the practice of buying and selling breast milk, whether directly using legitimate payment methods or through barter.

The View of Muhammadiyah Figures on The Law of Buying and Selling Breast Milk (ASI)

Muhammadiyah, as the second-largest Islamic organization after Nahdlatul Ulama (NU), was founded in Kampung Kauman, Yogyakarta, on 8 Dzulhijjah 1330 H or November 18, 1912, by Muhammad Darwis, known as KHA Dahlan. Muhammadiyah's vision is to realize a truly Islamic society, while its mission involves efforts to uphold pure monotheism based on the Qur'an and Sunnah, disseminate and advance authentic Islamic teachings, and implement Islam in personal, familial, and societal life (<https://id.wikipedia.org/wiki/Muhammadiyah>). Muhammadiyah, including Muhammadiyah Kota Malang, has its own institution for determining legal rulings called the Lembaga Tarjih and Tajdid. Regarding the law of buying and selling breast milk, Ustadz Dwi Trijono, the chairman of Lembaga Tarjih and Tajdid Muhammadiyah Kota Malang, explained that Muhammadiyah has only discussed and determined the law regarding breast milk donation. However, further discussion is needed for the law of buying and selling breast milk, indicating that Muhammadiyah has not yet discussed and determined the law regarding this matter.

Muhammadiyah states that so far it has not known or directly heard of any practice or positive legal regulations in Indonesia related to the buying and selling of breast milk. However, upon learning that there are breast milk transaction practices through barter in society, and there is a legal basis prohibiting the buying and selling of breast milk in Indonesia based on Article 11 paragraph (2) letter e of Government Regulation Number 33 of 2012 Regarding Exclusive Breastfeeding and Article 8 of the Indonesian Ulema Council Fatwa Number 28 of 2013 Regarding Issues Concerning Breast Milk Donation (Istidla'), Muhammadiyah provides clarification regarding buying and selling breast milk through the barter system being equivalent to buying and selling using cash payment.

The permissibility of breast milk donation according to Muhammadiyah is based on: "And if you wish to have your children nursed by a substitute, there is no blame upon you as long as you give payment according to what is acceptable." (Al-Baqarah: 233) (Al-Hufaz, 2020, p. 37). Breast milk donation is a worldly transactional issue, therefore providing breast milk to a child other than the biological mother is permissible (allowed). This also applies to a foster mother providing breast milk to her foster child. As explained in the Islamic legal maxim: "The original ruling in transactions is permissibility (allowed), unless there is evidence to the contrary." (Ibn Qayyim al-Jauziyyah and Syamsuddin Abu Abdillah Muhammad Abi Bakr, 2000, p. 344). Breast milk donation implies kinship, meaning it is forbidden in marriage between a nursing mother and her nursed child or with the biological child of the nursing mother because they become foster siblings. This is explained by the saying of Allah SWT: "Prohibited to you [for marriage] are your mothers, your daughters, your sisters, your father's sisters, your mother's sisters, your brother's daughters, your sister's daughters, your [milk]

mothers who nursed you, your sisters through nursing..." (An-Nisa: 23) (Al-Hufaz, 2020, p. 81).

Referring to the above principles, the law regarding breast milk donation itself is valid/permissible. However, the implementation of breast milk donation that is in accordance with or meets the existing provisions may lead to kinship. This means that breast milk donation results in the establishment of foster sibling status, thereby prohibiting marriage. So far, Muhammadiyah has only discussed voluntary breast milk donation directly from the mother's breast. However, regarding Muhammadiyah's opinion on buying and selling breast milk, there has been no discussion. Therefore, concerning whether it is permissible or not, the concerned party cannot provide an explanation regarding the law of buying and selling breast milk. Unlike breast milk donation, Muhammadiyah has provided legal provisions regarding breast milk donation, which is permissible (allowed). Regarding the legal implications related to kinship caused by breast milk consumed by a baby through the practice of buying and selling, Muhammadiyah also states that further discussion is needed. This is because determining whether it is permissible or not will certainly result in different legal implications for the breast milk. Muhammadiyah also needs to further discuss the legal implications of breast milk being sold, so it cannot be directly equated with the breast milk donation process, which is clearly permitted and has no prohibition within it.

From the perspectives of Nahdlatul Ulama (NU) and Muhammadiyah presented above, there are differences in opinion between Nahdlatul Ulama (NU) and Muhammadiyah regarding the practice of buying and selling breast milk. These differences in opinion are based on several aspects, both in terms of legal basis and whether the law of buying and selling breast milk has been discussed or determined by Nahdlatul Ulama (NU) and Muhammadiyah. This factor determines the answer to the question of the legality of the practice of buying and selling breast milk. In detail, these differences are outlined in the following table:

Table 1. Differences in Perspectives of Nahdlatul Ulama (NU) and Muhammadiyah Figures on the Law of Buying and Selling Breast Milk (ASI)

No.	Aspect	Nahdlatul Ulama (NU)	Muhammadiyah
1.	Legal Determination Institution	Bahtsul Masail.	Tarjih and Tajdid.
2.	Discussion of the Law of Buying and Selling Breast Milk	Already done.	Not done yet.
3.	Law of Buying and Selling Breast Milk	Allowed.	Not determined. Further discussion is needed regarding whether if breast milk donation is allowed, then buying and selling breast milk is also allowed.

Perspectives of Nahdlatul Ulama (NU) and Muhammadiyah Figures on Law of Buying and Selling Breast Milk (ASI)

4.	Law of Transactions with Barter Method	Barter is the same as buying and selling, so it is allowed.	Barter is the same as buying and selling, same ruling.
5.	Basis for Determining the Law	Referring to respected Shafi'i opinions stating it is valid and permissible.	Only breast milk donation has been discussed and permitted by referring to Q.S Al-Baqarah: 233, Q.S An-Nisa: 23, and Islamic legal maxims.
6.	Additional Notes	If there are government regulations prohibiting the buying and selling of breast milk, NU states that the community should follow the established regulations. Therefore, because it is stated in Article 11 paragraph (2) letter e of Government Regulation Number 33 of 2012 Regarding Exclusive Breastfeeding and Article 8 of the Indonesian Ulema Council Fatwa Number 28 of 2013 Regarding Issues Concerning Breast Milk Donation (Istidla'), that the activity of buying and selling breast milk is prohibited, then the practice of buying and selling breast milk should not be done.	Muhammadiyah only provides legal provisions regarding breast milk donation, which is permissible (allowed). The legal implications related to kinship caused by breast milk consumed through the practice of buying and selling also require further explanation because it is still a question whether buying and selling breast milk can cause kinship or not, so it cannot be directly equated with breast milk donation.

Source: Author's Data Processing

The table above illustrates the differences in views between Nahdlatul Ulama (NU) and Muhammadiyah regarding the practice of buying and selling breast milk (ASI). Essentially, Nahdlatul Ulama has discussed the legal aspects of ASI trading and concluded that it is generally permissible, based on the opinion of the Shafi'i school of thought. However, NU also emphasizes the importance of adhering to government regulations and the Indonesian Ulema

Council (MUI) fatwa, which prohibit such practices. Meanwhile, Muhammadiyah has only discussed ASI donation, stating that it is permissible (mubah). However, the legal status and implications of ASI trading regarding kinship have not been discussed and require further explanation.

Conclusion

The practice of buying and selling breast milk (ASI) is conducted through social media platforms like Facebook, often through bartering with specific baby items. Breast milk, as the object of trade, essentially meets the criteria of tradable objects in Islam, being pure, beneficial, deliverable, identifiable, and becoming the personal ownership (in this case, to be consumed by the buying baby). However, differing opinions exist regarding breast milk as a trade object, such as Imam Abu Hanifah's view that considers breast milk akin to organs, thus prohibiting its sale, similar to the prohibition on organ trade. Despite arguments from both sellers and buyers regarding this practice, it contradicts Government Regulation Number 33 of 2012 on Exclusive Breastfeeding and Indonesian Ulema Council (MUI) Fatwa Number 28 of 2013 on Issues Related to Breast Milk Donation (Istirdla'), which prohibit the buying and selling of breast milk.

Both Nahdlatul Ulama (NU) and Muhammadiyah agree that buying and selling, whether in cash or through barter, is equally permissible, and thus the legal status of traded objects will also be the same. Nahdlatul Ulama (NU) holds the view that buying and selling breast milk is permissible, based on the authoritative opinion of the Shafi'i school of thought. However, if there are government regulations prohibiting the buying and selling of breast milk, society must adhere to those regulations. Meanwhile, Muhammadiyah has not yet discussed the buying and selling of breast milk. Their discussions have only touched upon the permissibility of breast milk donation, based on Quranic verses and legal principles. Since there hasn't been any discussion regarding the legal status of buying and selling breast milk, Muhammadiyah also believes that the legal implications, especially regarding kinship resulting from breast milk consumed by a baby through trading practices, require further discussion. This is because determining whether it's permissible or not will inevitably lead to differences in legal status for the breast milk involved, making it impossible to directly equate with the clearly permitted process of breast milk donation.

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