

**Chapter III**  
**LACTATION**  
**LACTATION FOSTERAGE**



# LACTATION

## (LACTATION FOSTERAGE)

Breast feeding is the natural way by which the human infant is nourished. It is also the best way. Alternative feeding with various formulae of artificial milk has not stood the test of time in spite of continued attempts at perfection and a wide publicity and incessant promotion. Mother's milk confers immunity against some diseases, is not associated with allergic reactions, and provides the exact composition needed by the human baby, a composition which is both reliably constant and adjustable to the needs of the growing baby. Besides, the psychological role of suckling in establishing the mutual mother-infant bond has been well documented. Artificial "formula" feeding has lost favour with the medical profession and various health authorities including the World Health Organization have launched a campaign in favour of the return to breast feeding, emphasizing the proven hazards of bottle feeding. Efforts are being made at the social level in many countries to enable even the working mother to breast-feed her infant. Undergraduate and postgraduate medical and nursing curricula in all enlightened institutions underline the significance of preaching and preparation for breast feeding as a salient feature of modern antenatal care. The importance to the infant of being breast fed is given a very special regard in Islam, so much so that when a baby is suckled by a woman other than its natural mother, this woman is Islamically considered a "mother in lactation" to him, with consequent rulings that will soon be discussed.

While they are lactating, many women will cease to have menstruation for a variable period of time that in some women continues as long as they are lactating. This is because a hormone associated with lactation—prolactin—exerts a suppressive action on the function of ovulation. At the scale of society at large—though not reliable for an individual woman—practising breast feeding instead of bottle feeding would be the most effective method of contraception, more effective than all the currently

available methods put together, and naturally devoid of their possible hazards.

Reference has already been made to the ruling on lactation as a legitimate excuse from keeping the fasting of the month of Ramadan. Other Islamic aspects of lactation will now be considered.

### **The Duration of Nursing**

The following verse of the Quran bears more than one context, but it is the only Quranic source relating to the duration of breast-feeding, and we will render some exegesis to follow it.

“The mothers shall give suck to their offspring for two whole years for whoever desires to complete the term of lactation. But the father of the baby shall bear the cost of their food and clothing on equitable terms. No soul shall have a burden laid on it greater than it can bear. No mother shall be pushed into stress on account of her child. Nor father on account of his child. An heir shall be chargeable in the same way. If they both decide on weaning, by mutual consent, and after due consultation, there is no blame on them. If you decide on a foster-mother for your offspring, there is no blame on you, provided you pay (the mother) what you offered, on equitable terms. But fear God and know that God sees well what you do.” (2:233)

The verse comes in a succession of verses discussing rulings on divorce, and aims at safeguarding the rights of the baby at a time when the strained relation between its parents is fraught with the risk of jeopardizing his interests. The beginning of the verse, however, is unanimously taken to be of universal application, whether the parents are divorced or not, with regards to the duration of lactation. It denotes that the complete course of lactation is two complete years, but does not make this duration obligatory; rather subject to the choice of the parents. Special privileges are decreed to the divorced wife towards the ex-husband in lieu of breast-feeding their child. Even if the husband dies, his heirs should see that these privileges are answered. Priority should go to the welfare of the baby, and this should not be manipulated by father or mother to put one another in duress. The decision on weaning the baby is alright but should be by mutual consent and consultation between the two of them seeking the best interests of the baby. If it is decided that a wet-nurse should be hired by the father to suckle the baby, this should not be a reason to forego his

divorced wife's rights that he might owe. The ultimate inspiration should be the regard of God and the awareness that He is in full vision of what we do, rather than the resort to legal tricks as many in such circumstances might be tempted to slide into. This verse of the Quran concurs with another that reads:

“And we have enjoined on man to be good to his parents. In travail upon travail did his mother bear him and in two years was his weaning. Show gratitude to Me and to your parents: to Me is your final goal.” (31:14)

In conjunction with a third verse the age of fetal viability was deduced, ie the minimal acceptable duration of pregnancy that would result in a viable baby. The Quran reads:

“We have enjoined on man kindness to his parents. In pain did his mother carry him and in pain did she give him birth. The duration of conception until weaning is thirty months. . . .” (46:15)

The first reported legal application was the case of a woman giving birth to a viable baby six months after she was married. She stood for trial by Othman (third caliph) and it was Ali-ibn-Ali-Talib (fourth calif and the prophet's cousin) who quoted those verses, subtracting the duration of suckling ie twenty four months from the combined conception-to-weaning period of thirty months, leaving six months as a legitimate duration of viable pregnancy, and the woman was thus vindicated from the charge of adultery. It was also suggested by some scholars that after a nine months pregnancy the full suckling period may be taken as twenty months only, to be extended if the baby was born prematurely. It is noteworthy that such proposed time for weaning coincides with the stage of the child's development when it is equipped with enough milk teeth to permit eating and at the same time make breast sucking quite uncomfortable to the mother.

## **Motherhood In Lactation**

(Lactation Fosterage)

It must be that suckling the baby establishes such an intimate relation between woman and infant that when God wanted to impress us with the enormity of the awe to strike us on the Day of Judgement, He quoted the following picture:

“O mankind! Fear your Lord. For the convulsion of the Hour (Of Judgement) will be a thing terrible. The day you shall see it, every woman giving suck shall forget her suckling-babe, and every pregnant female shall drop her pregnancy. You shall see mankind as in a drunken riot, yet not drunk: but dreadful will be the wrath of God.”  
(22:1-2)

Islamic law gives a special regard to this ‘‘milk-relation’’, and raises it to the level of a blood relation as far as marriage is concerned. Innumeration of the categories of women that a man shall not marry, Islamic law considers the suckling mother on the same footing like the natural mother.

“Prohibited to you (for marriage) are: your mothers, daughters, sisters, father’s sisters, mother’s sisters, brother’s daughters, sister’s daughters, foster-mothers who gave you suck, foster sisters (daughters of women who suckled you), your wives’ mothers, your step-daughters under your guardianship born to your wives to whom you have gone in (consummated marriage), no prohibition if you have not gone in, (those who have been) wives of your sons proceeding from your loins (natural sons), and two sisters in wedlock at one and the same time except for what is past, for God is Oft-forgiving.”  
(4:23)

The hadith of the prophet says:

“God has forbidden out of suckling relations the same as He forbade out of blood relations.”  
(Termizi)

Because the suckling foster-mother is considered a mother, her daughters are considered sisters and cannot be married by her son-in-suckling. This is not only applicable to the sister with whom he shared lactation, but to all her sisters. Daughters of his lactation brothers and sisters are nieces and cannot be married, and their sons are nephews. The sister of the foster-mother is considered an aunt and therefore he cannot marry her (but can marry one of her daughters, who would be his cousin). Nor can he marry the sister of his foster-mother’s husband, since she would be his paternal aunt. If the foster-mother’s husband responsible for the pregnancy that provided the suckled milk has children from a second wife, they will be considered step brothers and sisters and the same rule applies. Similarly, the parents of the foster mother and her husband (from whom the lactation-producing pregnancy resulted) will be considered grand parents, and none of such grandmothers can be married even if age is not an obstacle. The

lactation relations have been so far described from the point of view of a man taken as a propositus, but since there is no marriage without a man, a woman can easily work out her position in relation to marriage on the same guidelines.

Further details have been given by jurists concerning the criteria that are prerequisite for the legal establishment of this relation of suckling fosterage, sometimes with divergence of honest opinion. The first controversy is about the amount of suckling and the number of feeds necessary to establish such motherhood. A hadith of the prophet reported by his wife Aisha says:

“The one or two sucks would not cause the prohibition.”

(Muslim, Abu Dawood, Termizi, Nisai'i)

Another hadith of the prophet refers to the quantity of ingested milk:

“It will not affect suckling motherhood unless it produces hardening of bones and growth of flesh.”

(Abu Dawood)

A wide spectrum of opinions, each with relevant justifications, can be found in jurisprudence books. The majority opinion specifies five (or more) separate satiating sucklings that would be enough to add to bone and flesh. An age limit has also been debated, the majority setting the cut-off at two years which the Quran defined as the complete term of lactation:

“The mothers shall give suck to their offspring for two whole years for whosoever desires to complete the term of lactation.” (2:233)

The method of administration of milk is also discussed. Some scholars make no difference whether the baby sucked the breast, received the milk by dropper or spoon into its mouth or even nose, or even eating the milk after being transformed to cheese. But most scholars subscribe to the logical opinion that breast-feeding by definition entails two essential steps: the taking of the breast by the baby's mouth, and the ingestion of the sucked milk. If either or both of these two steps are lacking, then the procedure is one of ordinary nutrition that does not qualify for being a case of foster (milk) maternity.

### **The Human-Milk Bank**

There are only few human milk banks remaining in the world, since the need of them has receded. The idea of such banks is to receive a daily

supply of fresh human milk volunteered by normal lactating women. The milk is pooled, sterilized and dispensed to small prematurely delivered infants whose mothers fail to produce their own milk, or to infants pathologically sensitive to other kinds of milk also in the absence of a supply from their own mothers.

During its stay in the Special Care Baby Unit, an infant would therefore have been nourished by milk derived from a large number of women, and the question arises whether the children of these women as well as the other infants who consumed their milk are to be considered brothers and sisters and therefore should not marry one another. The prohibition will naturally extend to cover an expansive network of relations beyond the suckling babies, such as the elder brothers and sisters, the mothers, maternal and paternal uncles and aunts, step sibs, grand parents, all further compounded by the number of donor mothers which might be quite large. Perhaps the matter is at the present time of no more than academic interest. It was, however, discussed in the symposium "Islam and Reproduction" held in Kuwait in 1983 by the Islamic Organization of Medical Sciences and attended by a selected group of medical and jurisprudence scholars. The expected spectrum of views were expressed. Ultraconservatives suggested that there should be a detailed milk registry and that every donor and the family of every recipient should be given a complete record of who received the milk of whom. Anyone who is acquainted with the operation of a milk bank will realize that the logistics are overwhelming and that such a method is practically impossible. And yet other authorities of high caliber held the view that the procedure did not constitute lactation fosterage since it lacked the criterion of actually suckling the breast. They proposed that since imams and reputable jurists of old times had diverging views on the issue, Muslims should feel free to choose the view which ensures the best interests of those babies and in the way which is easier and more practicable, an attitude which is more in keeping with the goals of Islamic jurisprudence.

### **Pathological Lactation**

Milk secretion is normally the outcome of pregnancy and delivery, and is brought about by hormonal action. During pregnancy estrogen and progesterone structurally prepare the breast, and prolactin level rises, that is the hormone responsible for actual milk secretion by the glandular tissue of the breast. However, during pregnancy estrogen renders the breast tissue

refractory to the action of prolactin (although estrogen promotes prolactin secretion), or else there will be wastage of unwanted milk during pregnancy. After delivery, and as soon as the placenta which is the main supplier of estrogen is out, breast tissue is free to respond to the prolactin stimulus. Stimulation of the nipple by the suckling baby starts another neuro-endocrine mechanism by which another hormone, oxytocin, stimulates tiny muscle fibres around the milk acini to contract, squeezing milk out in what is called the let-down reflex. Each time the baby sucks the breast this mechanism is activated, as well as stimulation of prolactin production. It is the act of breast-feeding therefore that is responsible for the maintenance—if not the initiation—of lactation.

Under certain known conditions lactation occurs totally outside the normal mechanism just described. Some endocrine imbalances, hyperplasia or a small tumour involving the prolactin secreting cells in the anterior pituitary gland, certain drugs, traumata or tumours cutting off the normal breaks that inhibit prolactin secretion in the normal nonpregnant person, may result in lactation which is therefore abnormal. There is unanimous agreement between jurists that the ruling on pathological lactation from the point of view of lactational fosterage is the same as for normal lactation. If the criteria we referred to pertain, then the woman is to be considered as lactational mother to the baby she suckled, whether or not she has attained puberty, pregnancy or the menopause.