285579 - How to Establish a Mahram Relationship by Breastfeeding

the question

I have a question regarding breastfeeding. My son is 1 year and 3 month old. In our community it is normal to start introducing a child to solid food at the end of the first year, so that after his first year apart from breast-feeding (or industrial milk) he can eat the solid food that his parents eat. My son is in that way no longer fully dependant on the milk of my wife, because he eats solid food. The brother of my wife has recently become a father and his wife wanted to establish a breastfeeding relationship between my son and their daughter. They say that this is possible because he is not yet two years of age. However, i have learned that one of the criteria is indeed 'no older than two years', but that the child must be fully dependent on milk from the mother as well (and does not eat solid food) Because the hadith of the prophet stated that "....and before it is weaned" [wa kaana qabla Al-fitaam]. My son does not consume breast milk on a regular basis (as his primary food), but eats solid food and drinks regular milk and other liquids. Is it still possible to establish a breastfeeding relationship, or do the conditions not apply on him anymore? Is it possible that you can clarify the issue for me, and provide me with some direction, with an emphasis on the hanbali Madhhab.

Summary of answer

Breastfeeding establishes a Mahram relationship if it meets two conditions: 1- There must be five or more breastfeedings, and no less than that; 2- The breastfeeding must occur within the time when the infant is usually nourished by breastfeeding. However, Imam Ahmad ibn Hanbal states that the Mahram relationship is established if the child is breastfed within the first two years.

Detailed answer

Praise be to Allah.

In order to establish the Mahram relationship on the basis of breastfeeding , the following conditions must be met:

1. There must be five or more breastfeedings, and no less than that. This is the correct view according to the madhhab of Imam Ahmad.

Ibn Qudaamah (may Allah have mercy on him) said:

“Abul-Qaasim (may Allah have mercy on him) said: The (number of) breastfeedings concerning which there is no doubt that it establishes the Mahram relationship is five or more.”

Concerning this matter there are two issues:

- That on which establishing the Mahram relationship depends is five breastfeedings or more. This is the correct view according to our Madhhab. That was narrated from `Aishah, Ibn Mas`ud, Ibn Az-Zubayr, ‘Ata’, and Tawus. It is the view of Ash-Shafi`i… (Al-Mughni, 11/310)

The evidence for this is the Hadith of `Aishah (may Allah be pleased with her), in which she said: Among the things that were revealed of the Quran was that ten definite breastfeedings make a person a Mahram, then that was abrogated and replaced with five definite breastfeedings, and the Messenger of Allah (blessings and peace of Allah be upon him) passed away when this was among the things that were recited of the Quran. (Narrated by Muslim, 1452)

An-Nawawi (may Allah have mercy on him) said:

“What is meant is that the abrogation and replacement of the ruling with five breastfeedings came very late, to the extent that when the Prophet (blessings and peace of Allah be upon him) died, some people were reciting five breastfeedings and regarding that as part of the Quran, because news of the abrogation had not yet reached them as it was so recent. When news of the abrogation reached them after that, they stopped reciting that, and became a unanimous agreement that this is not to be recited as part of the Quran.

Abrogation is of three types, one of which is where both the ruling and the recitation are

abrogated, as in the case of the ten breastfeedings. The second type is where the recitation is abrogated but the ruling still stands, as in the case of five breastfeedings…" (Sharh Sahih Muslim, 10/20)

The guideline concerning a single breastfeeding is that the infant should breastfeed in a single sitting until he lets go and stops breastfeeding by his own choice.

Ibn Al-Qayyim (may Allah have mercy on him) said:

"If it is asked: What is the dividing line that separates one breastfeeding from another, and what is its definition?

The answer is: One breastfeeding is when the infant latches onto the nipple and starts sucking, then lets go by his own choice, without any other distraction. That is one breastfeeding, because when the religious text speaks of breastfeeding, it refers to it in general terms, therefore it is to be understood according to what is customarily referred to as one breastfeeding, and this is what it is according to custom. Brief interruptions for some reason, to breathe or take a brief rest, or because of something that distracts the infant, but then he soon goes back to the breast, do not cancel out its being one breastfeeding. This is like when someone is eating; if he pauses briefly, then soon goes back to eating, this is not counted as two meals, rather it is counted as one.

With regard to the Madhhab of Imam Ahmad (may Allah have mercy on him), the author of Al-Mughni said: If the infant stopped breastfeeding for a clear interval by choice, that is one breastfeeding. Then if he goes back (to the breast), that is a second breastfeeding.

But if he stops because he wants to catch his breath, or to move from one breast to the other, or because of something that distracted him, or because the nursing woman stopped feeding him, then we have to examine the case further. If he does not resume breastfeeding soon afterwards, then that was one breastfeeding. If he goes back to the breast immediately, then there are two scholarly views, the first of which is that the first instance was one breastfeeding, then when he went back to the breast, that was a second breastfeeding. He said: This is the view favoured by Abu Bakr (may Allah be pleased with him) and is the apparent meaning of Ahmad's words in the

report of Hanbal – where he said: Do you not see that the infant is nursing at the breast, then if he needs to catch a breath or let go of the breast in order to breathe or to rest, if he does that, then this is one breastfeeding.

The shaykh [Ibn Qudamah (may Allah have mercy on him)] said: That is because the first one is regarded as one breastfeeding if the infant does not go back to it. Therefore it should be counted as one breastfeeding even if he does go back to it. This is similar to the case when he stopped by choice.

The second view is that all of that is one breastfeeding.

I say: The words of Ahmad (may Allah have mercy on him) may be understood in two ways, the first of which is what the shaykh mentioned. So his words "that is one breastfeeding" refer to the second breastfeeding. The second way in which his words may be understood is that all of it is a single breastfeeding , so his words "that is one breastfeeding" refer to both the first and second breastfeedings. This interpretation is more likely to be correct, because he referred to taking a break in order to breathe or rest. Therefore it should be regarded as a single breastfeeding.

It is well-known that it is more appropriate to understand both the first and second as being a single breastfeeding, rather than regarding the second as being a separate instance of breastfeeding. So think about it." (Zad Al-Ma`ad, 5/511-513)

What you should do is err on the side of caution, so as to avoid a matter concerning which there is a difference of scholarly opinion. So what matters [to establish the Mahram relationship] is breastfeeding in five sittings, each of which is separate from the others.

Shaykh Ibn 'Uthaymin (may Allah have mercy on him) said:

"What is the breastfeeding that establishes the Mahram relationship? Does it refer to sucking, so that if the infant sucks the breast five times, even if that is with one breath, the Mahram relationship is established? Or does one breastfeeding mean that the infant latches on then lets go in order to breathe, then latches on again? Or is breastfeeding to be compared to a meal, in the

sense that each instance of breastfeeding is separate from the others, and they do not all occur in the same place?

Concerning this matter there are three scholarly views, the most correct of which is the last one, which is the view favoured by our Shaykh ‘Abd Ar-Rahman ibn Sa`di (may Allah have mercy on him). The reason being that we cannot rule that the Mahram relationship is established with a particular woman except on the basis of evidence that is not subject to different interpretations. This last view cannot be interpreted in any other way, because this is the longest period suggested in terms of time. Based on that, if the infant breastfed four times, and in each instance he paused and took a breath five times, the Mahram relationship is not established according to the correct view, unless each breastfeeding was separate from the others [and there was a fifth breastfeeding].” (Ash-Sharh Al-Mumti`, 12/114)

1. Breastfeeding must occur within the time when the infant is usually nourished by breastfeeding, but is that regarded as being two years, or until weaning?

There are two scholarly views. The Madhhab of Imam Ahmad (may Allah have mercy on him) states that it is two years. Allah, may He be Exalted, says (interpretation of the meaning):

“Mothers may breastfeed their children for two complete years for whoever wishes to complete the nursing [period].” [Al-Baqarah 2:233]

Al-Qurtubi (may Allah have mercy on him) said:

“Malik (may Allah have mercy on him), those who followed him and a number of other scholars, understood from this verse that the breastfeeding that establishes the Mahram relationship that is the same as the Mahram relationship through blood ties can only occur within the first two years, because when the two-year period ends, breastfeeding is complete, and breastfeeding after the first two years does not count [in establishing the Mahram relationship]… This is also the view of Az-Zuhri, Qatadah, Ash-Sha`bi, Sufyan Ath-Thawri, Al-Awza`i, Ash-Shafi`i, Ahmad, Ishaq, Abu Yusuf, Muhammad and AbuThawr.” (Tafsir Al-Qurtubi 4/109)

It was narrated from `Aishah (may Allah be pleased with her) that the Prophet (blessings and peace of Allah be upon him) came into her house, and there was a man with her. His expression changed, as if he disliked that, but she said: He is my brother [through breastfeeding]. He said: “Consider who are your brothers through breastfeeding, for breastfeeding is only through hunger.” (Narrated by Al-Bukhari, 5102) and Muslim, 1455)

Ibn Hajar (may Allah have mercy on him) said:

“The meaning is: Think of what happened with regard to the breastfeeding in question: was it true breastfeeding that fulfilled the condition of occurring within the period of breastfeeding and with the required number of breastfeedings? For the ruling that stems from breastfeeding [and establishes the Mahram relationship] only applies if the breastfeeding met the conditions.

The words “through hunger” mean: the breastfeeding that establishes the Mahram relationship and makes Khulwah [being alone with a member of the opposite gender] permissible is that in which the breastfed child was an infant whose hunger could be satisfied with milk, because his stomach was weak and milk was sufficient for it, and his body grew and was nourished by that, so that he became as if he were part of the one who breastfed him, therefore he shares the Mahram relationship with her own children.” (Fath Al-Bari, 9/148)

Al-Qurtubi (may Allah have mercy on him) said:

“For breastfeeding is only through hunger”. These words of the Prophet (blessings and peace of Allah be upon him) establish a general ruling which clearly states that the breastfeeding that counts for establishing the Mahram relationship is only that which occurs during the time when the child is exclusively breastfed (and eats no other food) That can only be in the first two years or thereabouts.” (Al-Mufhim, 4/188)

Shaykh Ibn ‘Uthaymin (may Allah have mercy on him) said:

“The second condition is that breastfeeding should occur within the period in which the child is exclusively fed with breast milk. But should it be applied as a general rule because that is what

happens in most cases, or should it be applied on a case-by-case basis?

There are two scholarly views concerning this matter:

- The first view is that it should be applied as a general rule, which is based on a two-year period. Therefore if breastfeeding happens after two years, it does not count for anything, whether the child was weaned or not. Breastfeeding that occurs before the two-year period ends does establish the Mahram relationship, regardless of whether the child was weaned or not.

This is the well-known view in our Madhhab [of Imam Ahmad]. They quoted as evidence for that the verse in which Allah, may He be Exalted, says (interpretation of the meaning):

“Mothers may breastfeed their children for two complete years for whoever wishes to complete the nursing [period].” [Al-Baqarah 2:233]

They said: This limit is more precise than connecting it to anything else, because two years may be defined precisely… There is no doubt that this is more precise.

But what may undermine this argument is the fact that breastfeeding after weaning has no impact on the growth and nourishment of the body, so there is no difference between breastfeeding when the child is one year and eight months old, if he is already weaned, and breastfeeding when he is four years old, because he will not benefit from this breastfeeding, or be nourished and grow because of it. This is supported by the fact that the Prophet (blessings and peace of Allah be upon him) said: “There is no breastfeeding [that establishes the Mahram relationship] except that which is the sole nourishment for the child and occurs before weaning.” This rules out the effect [of establishing the Mahram relationship], without ruling out reality, because a child may be breastfed after that. In other words, the breastfeeding that counts [in establishing the Mahram relationship] is only that which is the sole nourishment for the infant and occurs before weaning.

- This second interpretation makes more sense, but the first is more accurate in defining the time period.” (Ash-Sharh Al-Mumti‘, 12/114-115)

What appears to be the case is that according to either view, in the case of your child the breastfeeding that occurred was the kind that counts and establishes the Mahram relationship, because your child is still younger than two years and has not yet been weaned. What is meant by weaning (Fitam) is that the child stops breastfeeding, as it says in Al-Mu'jam Al-Waseet (p. 695)

It does not mean that the child is nourished only on milk. So long as the child is nourished by breastfeeding and has not stopped breastfeeding altogether, the Mahram relationship may be established by breastfeeding.

It does not matter that he is also eating solid food, because this is something common and well-known when a child passes the age of one year.

With regard to the Madhhab of Imam Ahmad (may Allah have mercy on him), about which the question was asked, breastfeeding at this age, so long as it meets the conditions, undoubtedly establishes the Mahram relationship.

For more details, please see the following answers: 20759 , 13750 , and 164700 .

And Allah knows best.