13357 - He is married to his maternal aunt through breastfeeding

the question

Until recently there were concubines in our country, and this issue has come up; I would like to know the shar’i ruling on it.
A man had a wife whose name was Aaminah, and he had a concubine whose name was Sa’diyyah.
Aaminah (his wife) breastfed a girl called Zaynab, and the slave woman Sa’diyyah had a daughter whose name was Haleemah.
The daughter, Haleemah, got married and had a son called ‘Ali, who grew up and married Zaynab, who had been breastfed by Aaminah.
They have been married for many years, and have several sons and daughters. My question is, what is the ruling on this marriage?
Is it permissible for me not to tell them, if this marriage is not legitimate?.

Detailed answer

Praise be to Allah.

One of the rulings on radaa’ah (breastfeeding) is that the milk of the wet nurse has an effect on the child she breastfeeds and on his or her children. If Zayd was breastfed by Faatimah, then Zayd and his children are regarded as children of the wet nurse (Faatimah), but his brothers are not connected to them through breastfeeding.

But for the wet nurse, the bond established by breastfeeding includes all her relatives, so whoever is related to the wet nurse is also related to the child whom she breastfed. So the husband of the wet nurse is regarded as a father of the child through breastfeeding; her brothers are regarded as maternal uncles through breastfeeding, and her father and grandfathers are regarded as grandfathers of the child through breastfeeding. If her husband has another wife, then this woman is regarded as the wife of the child’s father through breastfeeding, and her children are regarded

as his brothers on the father's side through breastfeeding… and so on. 'Urwah ibn al-Zubayr narrated that 'Aa'ishah said: Aflah the brother of Abu'l-Qu'ays asked permission to enter upon me after the ruling on hijab had been revealed, and I said, "I will not let you in until I ask the permission of the Prophet (peace and blessings of Allaah be upon him), for it was not the brother of Abu'l-Qu'ays who nursed me but the wife of Abu'l-Qu'ays." The Prophet (peace and blessings of Allaah be upon him) entered upon me and I said to him, "O Messenger of Allaah, Aflah the brother of Abu'l-Qu'ays asked permission to enter upon me, but I refused to let him in until I asked your permission."

The Prophet (peace and blessings of Allaah be upon him) said: "What stopped you from letting him in? He is your (paternal) uncle."

I said, "O Messenger of Allaah, the man is not the one who nursed me, rather it was the wife of Abu'l-Qu'ays who nursed me."

He said, "Let him in, for he is your uncle, may your right hand be rubbed with dust (i.e., may you prosper)!"

'Urwah said: For that reason 'Aa'ishah used to say, "Consider those things which are illegal (for marriage) because of blood relations as illegal because of the corresponding relations through breastfeeding."

Narrated by al-Bukhaari, 4796; Muslim 1445.

This hadeeth confirms that there are parents through breastfeeding, and that the husband of the wet nurse is regarded as a father of the child through breastfeeding. The wife of Abu'l-Qu'ays breastfed 'Aa'ishah, so she became a mother to her, and her husband became a father to her through breastfeeding, and his brothers became paternal uncles to 'Aa'ishah through breastfeeding. Hence the brother of Abu'l-Qu'ays said to 'Aa'ishah, "Do you observe hijab before me when I am your paternal uncle?" Narrated by al-Bukhaari, 3644. The Prophet (peace and blessings of Allaah be upon him) confirmed that he was a paternal uncle to 'Aa'ishah when he said, "Let him in, for he is your uncle, may your right hand be rubbed with dust (i.e., may you

prosper)!”

See al-Mughni ma’a al-Sharh al-Kabeer, 9/199; al-Mawsoo’ah al-Fiqhiyyah, 22/248.

With regard to the matter mentioned in the question, the answer is as follows:

The daughter, Zaynab, who was nursed by the wife, Aaminah, is regarded as a daughter of Aaminah because of this breastfeeding. She is also a daughter to Aaminah’s husband through breastfeeding. So the husband is her father through breastfeeding, if the child was nursed five times or more when the infant was under the age of two years. Based on that, the husband’s daughter Haleemah from his concubine Sa’diyyah is the sister of Zaynab through her father through breastfeeding, and Haleemah’s children – including ‘Ali – are mahrams to Zaynab because she is their maternal aunt through breastfeeding. So it is not permissible for any of them to marry her.

You mention in your question that ‘Ali married Zaynab. This marriage is invalid and he must leave her at once, because he is regarded as having married his maternal aunt through breastfeeding.

With regard to the children who were born as a result of this marriage, they are legitimate children who should be named after their father ‘Ali, because this is regarded as an ambiguous marriage and children born as a result of that are to be named after the father, as the scholars said.

Shaykh ‘Abd al-‘Azeez ibn Baaz was asked: I was breastfed by a woman whose husband took a second wife and had children from her. Are they my brothers?

He replied: If you were breastfed five times or more, and the milk belonged to the husband because it was produced as the result of a baby being born to him, then they are your brothers through your father through breastfeeding.” Fataawa Islamiyyah, 3/323.

Shaykh Muhammad ibn ‘Uthaymeen (may Allaah have mercy on him) was asked a similar question:

After I had consummated the marriage with my wife, I found out that she is my sister through

breastfeeding, because I was breastfed along with her sister. Is she my mahram in this case?

He replied: Yes, if the matter is as you say, and you were breastfed along with the wife's sister from her mother, in the sense that you were breastfed by the wife's mother or her father's wife, then you are her brother and the marriage is invalid. But you should realize that breastfeeding does not count unless the child is breastfed five or more times in the two years before weaning. If it was less than that, then it has no effect and it does not establish the relationship of mahram.

If you are certain that you were breastfed five times or more by the mother of the woman whom you have married in the first two years of life, then you must leave her because this marriage is not valid. Any children who were born before you found out are to be named after you according to sharee'ah, because these children were born as the result of an ambiguous marriage and children born as a result of that are to be named after the father, as the scholars said.

Fataawa Islamiyyah, 3/329.

You have to tell them about that, because they have the right to receive sincere advice from you and so as to denounce an evil action, because their staying in this invalid marriage is an evil action. The Prophet (peace and blessings of Allaah be upon him) said, "Whoever among you sees an evil action, let him change it with his hand (by taking action), and if he cannot then with his tongue (by speaking out) …" Narrated by Muslim.

May Allaah help us all to do that which He loves and which pleases Him.