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Ties of Milk in Kinning Processes Modulated by Islamic Jurisprudence

Turkey was poised to open the first human milk bank in the Muslim world on 8 March 2013, in İzmir. The *Diyanet* (Directorate of Religious Affairs) approved this initiative on the grounds that it would save vulnerable infants' lives. Care was taken to consult Muslim, Jewish, and Christian religious authorities in the hope of circumventing doctrinally-based reservations and popular wariness towards the sharing of breast milk.¹ These misgivings stem from the fear that establishing ties through suckling could induce incestuous relationships among milk kin. Indeed, all schools of Sunni and Shiite jurisprudence recognize that suckling (*raḍā'a*)² and colactation create legally acknowledged bonds of relatedness between co-sucklings as well as between the suckling, the nurse and the nurse's relatives through ascent, descent, and affinity. Overall, ulema concur in prescribing a broad range of marriage prohibitions derived from suckling (*maḥramāt bi-l-raḍā*).³ These not only forbid marriage between nurslings of the same milk mother but, further, between nurslings and the kin as well as the in-laws of the nurse, at all generations.

Jurists of different schools entertain certain disagreements regarding the range of bonds that the gift of milk establishes with relatives of the suckling's "milk father," that is, the nurse's spouse or master.⁴ This stance is founded on the well-known hadith "*yaḥṛumu min al-raḍā'ati mā yaḥṛumu min al-wilādati*" [or "*min al-nasabi*"]. ("Is forbidden by suckling [all] that is forbidden by birth") [or "pedigree"].⁵ In practice, however, prohibitions are rarely applied beyond (are mostly invoked in conformity with) the strict Quranic mandate (4:23) impeding unions between the nurse and milk son, on the one hand, and, on the other, between milk siblings.

1 ANA 2013.

2 The radical *R. Ḍ.* gives the verbs *raḍi'a* or *raḍa'a*, which means 'to suck at the breast' and *arḍa'a*, 'to nurse' or 'to suckle'. Further, *R. Ḍ.* gives the verbal nouns *raḍā'* and *raḍā'a*. While vocalizations may vary, we will here, following current legal usage, write *raḍā'* when referring to jural issues (such as marriage prohibitions) and *raḍā'a* to designate the physical act of suckling. The foster relationship derived from suckling is given as *riḍā'*. These lexical distinctions respectively designate three milk-tie "modes of existence" (Latour 2013) to be developed below.

3 'Aṭā 1406/1986: 23–36; Ibrāhīm Bek 1424/2003: 106–109; Khumainī n. d.: § 2464–2465.

4 See Altorki 1980; Khatib-Chahidi 1992; Conte 2000; Benkheira 2001.

5 Muslim n. d.: II, 1067. All translations into English are, if not otherwise mentioned, our own.

In the hope of avoiding purported incestuous proximity while providing breast milk to needy newborns, Health Minister Mehmet Müezzinoğlu – then a member of Recep Tayyip Erdoğan’s cabinet – stressed that donors should be named and their milk, having been tested, consumed by children of the same gender. Milk donations should also be subject to the written approval of the milk mother as well as of the infant’s legal guardians.⁶ Notwithstanding the wealth of precautions taken, Islamic political parties and NGOs denounced straightaway the “risks” of “confusion of lines of descent” (*ikhtilāṭ al-ansāb*)⁷ the milk banks could generate. Sait Şahin of the Hûda Party (i. e. *Hür Dava Partisi* or Free Cause Party), a Kurdish-based Sunni Islamist organization, emphasized that despite the *Diyanet*’s approval, milk donation could only be condoned “in the framework and under the control of an Islamic system,” which “is obviously not the case in Turkey.”⁸ Şahin’s statement implied that an Islamist government in a secular state cannot impose conformity with basic norms of Islamic personal status law, the main object of which is to guarantee the integrity of pedigree of all Muslims. This politically charged agenda potentially intertwines with the fear of incest as expressed in a distrust of future milk banks’ capacity to guarantee proper milk naming and registration procedures.⁹ Finally, the government decided to withdraw its project in 2014 in deference to clerical opposition.¹⁰ Yet civil society debate on this issue remained vivid.¹¹ Departing from this unsuccessful attempt, we aim to explain the anthropological obstacles facing the introduction of milk banks in the Muslim world in general. These, we posit, are rooted in the specificities of kinning processes long modulated by Islamic jurisprudence in the broadest sense, conjugating both *fiqh* and *qānūn*. We will now specify the scope and persistence of the milk bank controversy so as to set out the steps of our demonstration.

6 Aydın 2013.

7 The verb *khalāṭa* signifies “to mix,” “mingle,” or “commingle,” but equally “to confuse,” “confound,” or “mix up.” The ambiguous expression *ikhtilāṭ al-ansāb* (sing. *nasab*) designates the mixing or “confusion of lines of descent” as opposed to *iltihām bi-l-nasab*, meaning the “coherence of lines of descent” or “origins” (Ibn Khaldūn n. d.: I, 128).

8 Andlauer 2013.

9 al-Najjār 1999 [1986]: 163–164; Ozdemir et al. 2015: 140.

10 Alnakshabandi/Fiester 2016.

11 Aydın 2013; Ozdemir et al. 2015; Yokmaç Çelik/Çelik 2014.

The Milk Bank Controversy

The creation of milk banks is controversial not only in formally secularized Turkey but, with shades of nuance, throughout the Muslim world.¹² Debate on breastfeeding and milk kinship is not focused on the formal juridical range of prohibitions it entails, rather on the permissibility of feeding a baby with human milk from one or several *unidentified* donors, whether or not mixed with other substances. In the early 1980s, controversy arose among certain ulema as European milk banks began to offer anonymously donated, pooled and pasteurized breast milk to resident Muslim parents of pre-term, underweight or sickly newborns whose mothers could not breastfeed their infant. In 1983, a fatwa published by the influential Sunni preacher sheikh Yūsuf al-Qaraḏāwī in response to a question posed by the Islamic Organization for Medical Sciences in Kuwait¹³ concerning this practice triggered a dispute, which today still is in want of resolution. In contrast to earlier doxa, al-Qaraḏāwī advocated recourse to human milk banks, notably to assist preterm babies, thus placing the vulnerable child's interest above other jurisprudential considerations.

The doctrinal and ethical issue as to whether Muslims could, in case of need, accept the anonymous donation of human milk was submitted to the authoritative Sunni *International Islamic Fiqh Academy* (IIFA) in Jeddah in December 1985. The Academy's response affirmed that "the establishment of milk banks should be prohibited in the Muslim world," adding that "it is prohibited to feed a Muslim child from these banks," wherever this might occur.¹⁴ Three orders of consideration were advanced to substantiate this uncompromising stand. Firstly, the very idea of creating milk banks was branded a "Western" initiative with "adverse scientific and technical effects."¹⁵ Secondly, as mentioned, "suckling creates a bond similar to that of lineage or pedigree" on the basis of which the above-mentioned prohibited degrees of marriage are determined. Hence, allowing a Muslim to marry a sibling or other relative by suckling would, by analogy, be tantamount to allowing marriage in degrees prohibited by *nasab* and would thus generate unacceptable "doubt" (*shakk*)¹⁶ regarding bonds of descent (*al-ansāb*).¹⁷ Thirdly, conservatives argued that in the Muslim world active networks of kinswomen or neighbors can ensure sufficient provision of moth-

¹² Thorley 2016. See too: El-Khuffash/Unger 2012.

¹³ al-Qaraḏāwī 1983.

¹⁴ IIFA 1985: § 3.

¹⁵ IIFA 1985: § 1.

¹⁶ IIFA 1985: § 2.

¹⁷ IIFA 1985: § 3.

er's milk to children in need without recourse to intermediate institutional support.¹⁸

This standpoint was supported by many commentators, among whom Azharī professor 'Abd Allāh Mabruk al-Najjār stands out for his essentialist conflation of ethics, substance and law:

There is no doubt that milk banks ... lead to the realization of that which is forbidden [fornication], entailing the wasting away of progeny, the confusion of lines of descent (*ikhtilāṭ al-ansāb*) and the destruction of [affluent] rights, propagating the abominable and the birth of children of sin, and this is forbidden.¹⁹

In stark contrast, al-Qaraḍāwī argued with reference to existing milk banks in Europe, notes Mohammed Ghaly, that “there is no barrier in Islam to establish[ing] milk banks or to make use of them because such type of feeding does not institute kinship which prohibits marriage.”²⁰ This minority opinion reflects the Ḥanbalī and Shafī'ī view, which holds that kinship by suckling (*riḍa'*) can only be constituted if the newborn (under 24 or 30 months of age, respectively) swallows enough human milk to be effectively nourished on five occasions, or for a full day and night according to the Shiite prescription. Further, breast milk, if mixed, must “dominate,” i. e., exceed the quantity of adjoined liquids (e. g., water or animal milk) or components.²¹ If one accepts this premise, milk does indeed not establish kinship nor, hence, entail marriage prohibitions in virtue of *raḍā'*.

In presenting this dispute, Ghaly distinguishes two contexts, namely that of Muslim Arab-majority states and that of European countries where Muslim minorities reside. In the former, milk banks do not (yet) exist, whereas in the latter they do, since 1909, and have multiplied in recent years thanks to the universal promotion of breastfeeding. The authority of Saudi clerics stifled debate until 2004, when the European Council for Fatwa and Research (ECFR)²² very belatedly came out in support of al-Qaraḍāwī's position. This institution opined in January 2004 that Muslim parents of vulnerable newborns in “Western” countries had little other option than to resort to milk banks that pool the milk of several unnamed women:²³

¹⁸ Muḥammad 'Alī al-Bār quoted in Ghaly 2012: 124.

¹⁹ al-Najjār 1999 [1986]: 152.

²⁰ Ghaly 2012: 122.

²¹ See Dār al-iftā' al-miṣriyya n. d.; Shah 1994: 4; Wiḥ 2002: 203–208; Thorley 2016.

²² The ECFR is a consultative body founded by the *Federation of Islamic Organizations in Europe* in 1997 and directed by Yusūf al-Qaraḍāwī.

²³ See Safian 2016.

Benefiting by this milk does not entail prohibiting marriage because of nursing, partly because the number of the times of nursing is unknown, and partly because of mixing up the milk and the inability to identify the wet nurses because of the legal prohibition of disclosing the names of the donors of the milk that is applied in these banks. This is in addition to the large unlimited number of such donors. The decision is based on consulting the jurists' decision that marriage is not prohibited in the case when a baby is nursed by an unknown woman in a village, due to the impossibility of identifying her, and on the fact that the milk offered by these banks is a mixture of milk donated by a number of unidentified nurses and the major proportion of it is unknown. Allah knows best.²⁴

In 2007, Egypt, the most populous Arab country, followed suit in adopting al-Qaraḍāwī's position. Officials decreed "that milk given to babies will be 'mixed' so that no baby will receive five complete nursing sessions from one woman."²⁵ Egypt's *Dār al-Iftā'* invoked the approach of the Ḥanafī school which "states that *maḥramiyya* (non-marriageability) will exist only if there is no doubt on the status of the donor and if the milk is also not mixed with other substances or with other donors' milk."²⁶

While al-Qaraḍāwī's contradictors²⁷ continue to refute this opinion, some clerics have come to recognize that in cases of necessity "strict procedures should be followed, such as writing the name of the donating woman on each bottle, making a detailed registry including the name of the donating woman and the name of each baby who benefited from the milk, and giving this information to the families of both the woman and the baby."²⁸ This is precisely the position that the above-mentioned Turkish minister Müezzinoğlu adopted.

In what preceded, two viewpoints emerge. One purports to preserve the integrity of kin collectives by avoiding the establishment of any non-nominal, nameless kinship relationship through suckling. The second gives priority to the survival of the infant, lacking which there can be no continuity of pedigree. The first stance posits that the danger of "confusion of lines of descent" in the framework of human milk banks primes over access to the latter since female sociability should ensure the provision of adequate nutrition within the infant's close circle of proximity (*qarāba*) through kinship (*nasab*), alliance (*muṣāhara*), or neighborhood (*jiwār*). The second stance maintains that if donated milk is named and traced, it can, in Muslim contexts, preserve the infant without endangering pedigree. Further, recourse to European banks, where milk is mixed

²⁴ ECFR 2004.

²⁵ Ghaly 2012: 126.

²⁶ SFC 2017: 7.

²⁷ See Ghaly 2012: 123, n. 58.

²⁸ Ghaly 2012: 124.

and “adulterated,” creates no relation of kinship that could lead to incestuous marriage relations at a later stage of infants’ lives. These contrasting positions, we argue, are but two faces of a same coin of suckling and lactation in kinning processes long modulated by Islamic jurisprudence. Indeed, both stress that the creation of nameless kinship relations through anonymous breast milk donation is unacceptable but chose either to prohibit such or, rather, invalidate the procedure by denying any relational quality to the breast milk transferred.

What is striking here is that even labeling every single container of milk donated does not suffice to quell pervasive concerns regarding “confusion of lines of descent.” The same applies to restricting milk donations to children of the same gender in order to avoid potential “incest.” Under the circumstances, it is equally perplexing that al-Qaraḍāwī’s resolution has been rejected by so many actors for so long. In this chapter, we seek to elucidate this impasse by disambiguating the expression “confusion of lines of descent.” Firstly, with reference to textual sources relating to the prohibition of full “agnatic” adoption (*tabannī*), we will recall that *riḍāʿ* is not an alternative form of adoption by women through breastfeeding (*raḍāʿa*). Secondly, we maintain that *riḍāʿ* is not analogous to *nasab*, as anthropologists and jurists often assume,²⁹ for descent in kinning processes long modulated by Islamic jurisprudence is not simply a reiteration of parent-child filiation, rather a process involving the transgenerational combination of marriage alliances. Thirdly, we will explicate the ontologies of lactation and suckling observed in Northern Africa and Southwest Asia in order to underline how they contrast with Euro-American biologies of breastfeeding and lactation; and how they shape decisions regarding human milk banks.

In sum, we wish to show that labeling individual breast milk donations, or restricting their administration to same-sex nurslings, does not suffice. Indeed, we argue, *milk is a relational fluid that intra-connects in the negative – as do marriages in the positive – transgenerational kin collectives rather than individuals*. Equally, breast milk is seldom dissociated from the lactating woman. *For in nasab-focused societies, the gift of milk cannot be envisaged beyond situated, intra-acting networks of kinship and relatedness. In this sense riḍāʿ and ṣihr (alliance through marriage) are construed in analogy. They pertain to a single complex of proximity (qarāba).*

29 Altorki 1980; Héritier 1994.

Raḍāʿ and adoption in Islamic jurisprudence

In the following, we will recall the political and theological conditions which led early Islamic jurists to codify *raḍāʿ* by exclusively focusing on marriage prohibitions engendered through suckling rather than the creative bonds it engenders. In *fiqh* (Islamic jurisprudence) suckling does not establish a legally recognized tie of descent; nor does it generate rights of inheritance in either the male or the female line, or confer a patronymic, indeed a matronymic, to the suckling. In other words, *raḍāʿ* is not the analogue of *nasab*, rather, it stands to it – with minor reservations referred to below – in a position of inverse symmetry. By implicit analogy, it cannot be a source of legally valid full adoption (*tabannī*), which is prohibited by Revelation.

The hadith quoted in the introduction, asserting full analogy between marriage prohibitions (*maḥramāt*) based on closeness (*qarāba*) by descent (*nasab*) and those derived from co-lactation (*raḍāʿa*) figures among the best-known Islamic legal maxims.³⁰ It was notably propagated by the most eminent of early Muslim jurists, Mālik ibn Anas (d. 179/795), in his *Muwattaʿa*.³¹ The sweeping set of marriage prohibitions subsequently derived therefrom by analogy and extension stands in marked contrast to the very specific Quranic prescription which, as already mentioned, forbids only unions between milk siblings and nurses, as well as between the latter and the suckling or his father (4:23). In contemporary terms, it is noteworthy that all schools of law, Sunni as well as Shiʿite, are in broad accord concerning the theoretical applicability of extended prohibitions. Ethnography, as mentioned, suggests however that in everyday life only the Quranic norm is followed, even if with the occasional exception of cases in which wider *maḥramāt* are invoked to impede unwanted unions within extended families. This practice is said to reflect pre-Islamic custom.³²

How may the emergence of such a wide hiatus be explained? The narrative of Muḥammad's life as composed by Mālik's quasi-contemporary, Ibn Hishām (d. 218/833), furnishes some interesting clues. The biographer's *al-Sira al-nabawiyya* illustrates the importance of both affiliation by name and kinning by suckling prior to Revelation. We must first comment on these two aspects individually before advancing a possible resolution of the paradox at hand:

a) Muḥammad, demeaned by his adversaries as *al-abtar*, “a man amputated and without progeny,”³³ is credited with no surviving biological son. He is, how-

³⁰ See Rubin 1993.

³¹ Mālik n. d.: 739.

³² van Gelder 2005: 94.

³³ Chabbi 1997: 240–246; Ibn Hishām 1990, II: 356.

ever, portrayed as much endeared with his adoptive son, Zayd, a captive bestowed upon him by his wife Khadija well before the advent of his prophecy. “Bear witness,” Muḥammad is to have proclaimed to his tribesmen of Quraysh, “that Zayd is my son and heir, as I am his heir. May the soul of his father rejoice!”³⁴ The reciprocal character of this adoption (*tabannī*) freely binding two adult males should be noted. Montgomery Watt goes as far as to suggest “that had [...] Zayd been alive at the time of the Prophet’s death, he might have succeeded without difficulty.”³⁵ This view is persuasively supported by David Powers in his *Zayd*,³⁶ albeit in partial contrast to Madelung.³⁷ Yet Revelation thwarted any such path through the abrupt abolition of *tabannī* (Quran 33:40). Thus was instituted an absolute interdiction by what Powers aptly termed a “theological imperative,”³⁸ even as Fate apportioned an early death to Zayd at the battle of Mu’ta (8/629). These premises were prerequisites to the destinies of the first caliph, Abū Bakr and his successors and, no less, from a Shiite standpoint, to establish the claim to the imamate of al-Ḥusayn, son of ‘Alī, the Prophet’s son-in-law and father’s brother’s son, and of Fāṭima, the Prophet’s daughter. Powers argues that the Quranic text in composition was altered so as to render compatible the hereditary nature of prophecy, postulated in Islam, and Muḥammad’s status as the last in the line of the God’s envoys.³⁹ Failing this provision, the new creed could have been deemed potentially transient, subject to the advent of a later messenger.

Muḥammad, it should be recalled, was the brotherless child of a bland and unmourned father;⁴⁰ furthermore sonless, he was hardly in a position to transmit either his human *nasab* or the divine Light of prophecy (*nūr al-nubuwwa*) received from the line of Abraham.⁴¹ Lest his caliphate be captured through an elective tie of relatedness, Sunni tradition cancels through both Revelation and premature death any claim Zayd or his son Usāma, equally cherished by Muḥammad, may have harbored. Shiite tradition, for its part, circumvented the Prophet’s lack of a son with astounding resourcefulness. Later Persian theologian Ibn Shahrāshūb (d. 588/1192) recounts, with reference to earlier sources, the Prophet’s miraculous milk genealogy in his *Manāqib Āl Ibn Abī Ṭālib*: the

³⁴ Ibn Hishām 1990, II: 54.

³⁵ Watt 1953: 5, n. 17.

³⁶ Powers 2014.

³⁷ Madelung 1997: 17 and 213, n. 5

³⁸ Powers 2014: 111.

³⁹ Powers 2011; Powers 2014: 95–123.

⁴⁰ Ibn Hishām 1990, I: 163.

⁴¹ Conte 2001.

infant Muḥammad survived the death of his mother – before Ḥalīma came to feed him – thanks to the breastfeeding of his paternal uncle Abū Ṭālib.⁴² In turn, the Prophet was later to suckle through the tongue his grandson Ḥusayn, son of Fāṭima, thus ensuring the passage of the Light, henceforth *nūr muḥammadī* in the agnatic line.⁴³

b) This singular account brings the issue of suckling back into prominence. Following the salvatory gift of Abū Ṭālib, Muḥammad overcame the threat of drought and starvation thanks to the abundance of milk divinely bestowed on Ḥalīma bint Abī Dhu'ayb. She considered Muḥammad her son, just as he saw her sons as his brothers and Ḥalīma's daughter Shaymā' as his sister in lasting bond.⁴⁴ One cannot here speak of "milk adoption" in analogy to *tabannī*, yet Muḥammad's lifelong affection for Ḥalīma clearly stems from affiliation through suckling. To what extent, though, were women of the *jāhiliyya* enabled to generate ties of filiation with either males or females not adopted in name by their spouses? Muslim authors mention but few instances whereby the suckling of an adult male renders a former adoptee *maḥram*, unmarriageable, and thus free to remain in the domestic presence of his mistress and her female relatives. The classical case in point is that of Sālim, initially the adoptive son of one Abū Ḥudhayfa and his wife Sahla. At the Prophet's behest, she suckled her ward (*mawlā*) following the abolition of *tabannī*, who then continued to reside with the couple.⁴⁵ Yet, to our knowledge, no cases of autonomous filial adoption by suckling alone are recorded.

From this brief review, it appears that *tabannī* and *riḍā'* are not analogues. Even after the former's abolition, though, a woman's selective faculty to suckle remained largely given. Modern ethnography shows that this practice is still used to enable the incorporation of boys and girls into domestic groups to which they are alien, notably in cases of fosterage (*kafāla*). Yet this integrative power may not generate – notably following the twentieth-century introduction of civil registers – putative *nasab* without parallel recourse to secret adoption (*al-tabannī al-sirrī*); such generally requires the act of *raḍā'a*, as described, for example, by Jamila Bargach in the context of contemporary Morocco.⁴⁶ Adoption, however framed, today still appears tempting enough to the childless for it to be explicitly forbidden in codified Arab family law (with the exception of Tunisia). For were this legal barrier to fall, women, married or not, would be

⁴² Ibn Shahrāshūb 1991, I: 59.

⁴³ Ibn Shahrāshūb 1991, IV: 57, Conte 2001: 70–75.

⁴⁴ Guillaume 1967: 576.

⁴⁵ Mālik n. d.: 606; Conte 1994: 182–184.

⁴⁶ Bargach 2002: 27–29.

empowered to generate filial bonds in autonomy, thus undermining the jurists' postulate that *nasab* is inherently agnatic as regards the transmission of patronymics and, thereby, of legitimate descent.⁴⁷ This premise suffices in and of itself, we argue, to justify the *jural* extension of marriage prohibitions derived from suckling well beyond the range mandated by the Quran (4:23) and either textually or ethnographically documented. Nevertheless, genealogical ties through women are central in the creation and recreation of *nasab*. In the next section, we will briefly describe the gendered dynamics of this process. This will allow us to understand better the unacceptability of nameless or individually labeled milk transfers as well as the agency of milk ties in the transgenerational continuity of kin collectives through marriage.

Suckling and lactation in *nasab* kinning processes

It has long been apparent that classical approaches of kinship studies were not in a position to explain kinning processes successfully in societies of Southwest Asia and beyond where Islamic jurisprudence prevails.⁴⁸ These societies mostly value the conjunction of patrilineal focus in the tracing of descent, the *ḥarām* status of women – both sacred and forbidden – and close-kin marriage to the extent of constituting a Maussian *fait social total*. Despite the transmission of rights and duties through fathers in most of these societies, named kin collectives are not constituted through a simple patrilineal rule of descent. In other words, there are no unilineal descent groups such as conceptualized by British functionalist descent theory.⁴⁹ It follows that the often-overestimated preference for unions between patrilineal parallel cousins – the children of two brothers – does not refer to prescriptive “endogamy.” Nor does cousin marriage comply with French alliance theory,⁵⁰ since there is no marriage preference within one's own descent group in the absence of the latter. Marriages are concluded with all categories of patri- or matrilineal cross or parallel cousins. People are

⁴⁷ This trait is clearly illustrated, for example, by Article 150 of the 2004 Moroccan family code or *Mudawwana*: “*al-nasabu laḥmatun shar‘iyyatun bayna al-abi wa-waladihī tantaqilu min al-salafī ilā al-khalafī*,” which may be translated as “pedigree is legal kinship (or consubstantiality) between the father and his child transmitted from [his] forebears to [his] successors.”

⁴⁸ Conte/Walentowitz 2009.

⁴⁹ Dumont 1971.

⁵⁰ Dumont 1971.

thus related through several, intercrossing ties of kinship, making it in any case impossible to distinguish between discrete descent groups. Hence, we maintain, kinship and descent constructs variously designated in Arabic, Berber, Persian or Turkish as *qabila*, *ashīra*, *ḥamūla*, *afus*, *tawshit*, *tabar*, *kabile*, etc., and dubbed “tribes,” “clans” or “lineages” by anthropologists, are underpinned by very different logics of alliance and affiliation.⁵¹ We argue that *nasab* – and its analogues – can only be understood as the result of a constant effort to recreate shared origins. This is a *recursive* process in which the transgenerational combination of marital unions concluded between close kin, as well as between non- or distant kin, results in ego-centered kin collectives, which encompass the descendants of apical sibling sets and their fathers (or more rarely mothers). In most such societies, these ancestral founders of shared origins are brothers. In others, such as the Tuareg Berber, shared origins may be tracked to brothers and sisters and their mother (or father, in some communities). In all cases, descent processes are not based primarily on parent-child filiation, as in Euro-American kinship and legal systems, but on siblingship. Marriage, rather than descent, here necessarily plays a constitutive role in kin group formation. These include systemically relevant, yet understudied, *badal* marriage exchange arrangements, predicated on the permutation of related or unrelated sibling sets (e.g., a brother and sister marry a sister and a brother).⁵² Thus, *nasab* collectives and their analogues are boundless, interrelated kin networks, which are self-organizing and self-transforming through marriage.⁵³

We propose to illustrate these transgenerational kinning processes through two ethnographic examples, namely the genealogy of Ṣaddām Ḥusayn and the making of shared origins among a Tuareg Berber community in Niger. These cases will demonstrate why the establishment of kinship through the transfer of milk cannot be nameless and remains problematic even when the milk is name-labelled. For if affiliation is a collective, transgenerational process fostered by marriages within a named kin collective, which is *retrospectively* based on siblingship, milk ties occur in a field predicated on *nasab*. Here, marriage prohibitions by *raḍāʿ* necessarily modify the shifting topography of marital alliances,

51 After anthropologist David Schneider proclaimed the end of kinship studies in 1984 in the Anglophone sphere, subsequent approaches of the so-called “new kinship studies” did not address marriage and its role in kin group formation such as *nasab* collectives. The rare studies in English on “new Middle Eastern kinship” focus on infertility and medically assisted reproduction, generally among the more well-to-do. See Schneider 1984; Carsten 2000; Inhorn/Birenbaum-Carmeli 2008; Clarke 2009.

52 Conte 2011.

53 Walentowitz 2011.

sex sibling pair without whose complicity Ṣaddām's political ascension would not have been possible (see Figure 2).⁵⁴

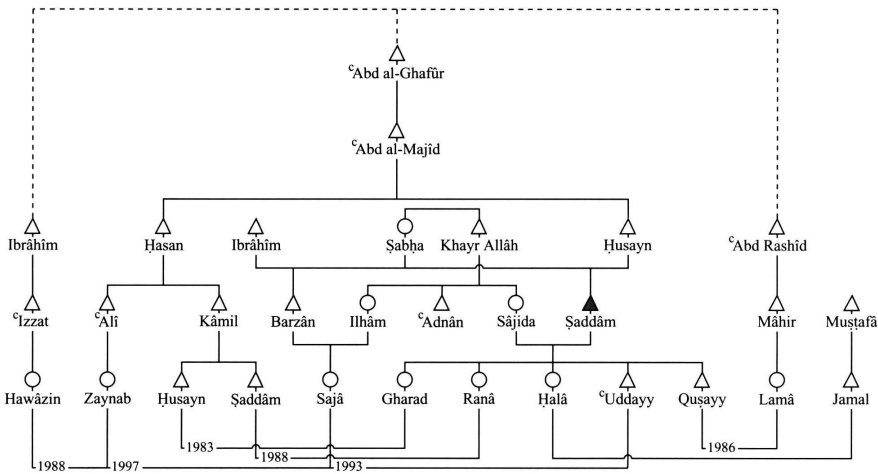


Fig. 2: Genealogical grid of Ṣaddām Ḥusayn.

Ṣaddām, whose father was reputed to have been a horse thief, married his mother's brother's daughter. The "weak agnatism" of his pedigree was later compensated for, however, by the unions of two of his daughters with grandsons of his father's brother. Hence, the "magic formula" that crowned this strategy was none other than classical sibling *badal*: the two sisters married two brothers to whom they were agnatically related. It was hoped by the actors that political kinship would best be consolidated through the rather confidential permutation of sibling pairs, thus maintaining the agnatic illusion connoted by Ṣaddām's official genealogy.

By contrast, a gender-balanced Tuareg community in Niger offers an example where uterine genealogical ties are not hidden but, rather, publicly valued, while otherwise using the same tools, namely sibling permutations among close kin as well as among distant relatives (see Figure 3).

⁵⁴ The two diagrams reproduced here are part of a series of nine published by Amatzia Baram in his study entitled "La 'maison' de Ṣaddām Ḥusayn" (Baram 2001), which illustrate in detail the transformations of the Iraqi potentate's genealogical relations. We have previously commented them in Conte/Walentowitz 2009: 235–238.

AYTTAWARI SESLEM

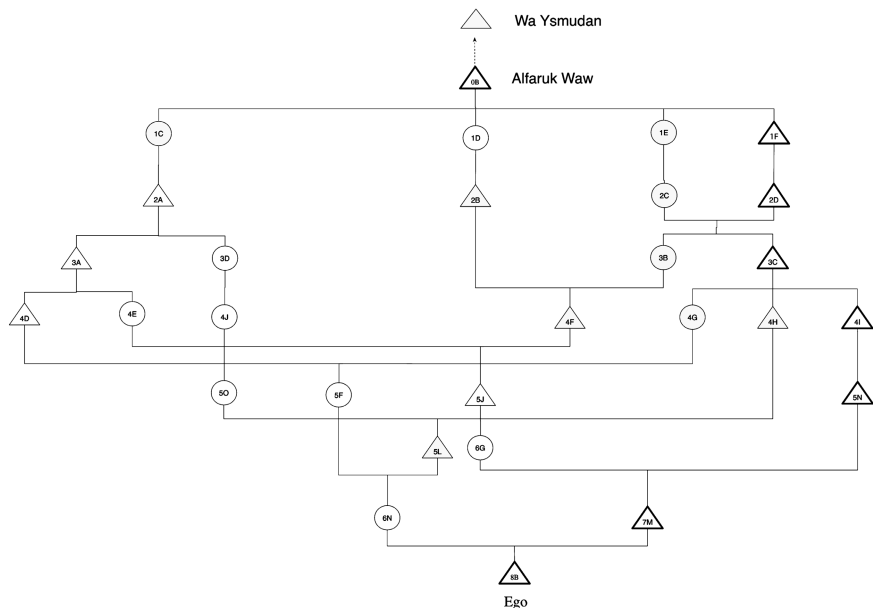


Fig. 3: Exemplary genealogy of the Ayytawari Seslem, Niger © Saskia Walentowitz

They enable the ongoing recreation of *temeṭ* or “matricial kinship.”⁵⁵ The local core descent constructs designated as the “stomach” (*tedist*) and the “back” (*anuru*) have long been construed by anthropologists as the “matriline” as opposed to the “patriline.”⁵⁶ In fact, the “stomach” is formed by the multiple collateral ties of kinship relating Ego, the person of reference, to an ancestral set of sisters and brothers. Together, they strengthen the father’s “back,” i. e., Ego’s direct agnatic descent line. In other words, the “stomach” and the “back” are, as in the human body, the two sides of one coin. Just as in the case of Şaddām, the “back” is recursively and retrospectively reinforced by the transgenerational combination of marital unions among the descendants: these create, maintain, and possibly extend the “stomach” over time, thus strengthening the “back” in return. A person with a “strong back” is a person who can trace direct descent to all apical brothers and sisters.

55 The process this diagram traces is explored in Walentowitz 2004: 171–176 and 2011: 116–120.

56 See Bernus et al. 1986.

In such systems, there is no “endogamous” tribe or tree-like “segmentary” lineage, be it patrilineal or matrilineal. Rather, the collective is driven by the self-organizing dynamics of kinship. They give rise to intertwined, rhizomatic “tribal” networks owing to the constant interrelating through marriage of shifting *nuclei* of shared kin, indeed the descendants of apical sibling sets, which are themselves related through marriage by permutation at each founding generation.⁵⁷

A more detailed description of such kinning processes is beyond the scope of this chapter. Here, we simply want to stress the transgenerational, recursive nature of *nasab* collectives in order better to understand *raqāʿ*. Given the constitutive role of marriage, prohibitions by *raqāʿ* (jural norms related to colactation) necessarily bear upon *nasab*-like kinning processes. In this perspective, we can now show how *riqāʿ* (milk kinship) also plays a creative part in *nasab* processes. The following ethnographic example illustrates this assertion.

Among the Tuareg Berber in Central Niger, milk kinship (*anarum*) plays an important role in the creation and recreation of proximity. Within the above-mentioned network of relations, milk kinship plays a complementary role to matrimonial alliances. Babies are breastfed by their mothers as well as by numerous other lactating women during the first days following their birth.⁵⁸ Non-maternal breast milk is even the first milk a newborn is offered, as part of a birth ritual. A strong, sensitive person is one who cumulates as many descent lines as possible with paternal and maternal apical sibling sets (see Figure 3), as well as kinship links with ancestors of other tribal collectives. Equally, a person’s body and soul should be fostered by breast milk offered by women who are distant kin, or who belong to status groups such as blacksmiths and former slaves. It might even be fed by women belonging to Fulani pastoralists or Hausa cultivators. *Milk kinship reinforces proximity where genealogical, social, or cultural distance prevents relatedness through marriage.* Thus, the establishment of multiple relations through marriage and lactation enacts an ontology of the person whose body and soul must be sensitive to multiple alterities in order to become a “person of name.” Inversely, it is important that an orphaned child is not only breastfed by others but also by “mothers” such as the maternal grandmother, who will trigger lactation thanks to herbal remedies. There must be a balance between close and distant gifts of milk, as there must be a balance between close and distant kin marriages. A foundling may be adopted through lactation by a woman who purportedly belongs to the child’s parents’ kin group (*tawshit*): the close observation of a child’s behavior is key to the choice of a fos-

⁵⁷ Walentowitz 2011.

⁵⁸ Walentowitz 2002; 2004.

ter mother who may breastfeed the child, even if only symbolically. Such affiliation processes are facilitated by the fact that Tuareg Muslims until recently did not apply codified family law derived from *fiqh*.

In contemporary Morocco, as stressed by Bargach,⁵⁹ the strategic recourse to *raḍāʿa* “is an example of how tradition is employed to subvert [the] institutionalized conservatism” of a legal system intent on obstructing any stratagem that might result in secret adoption (*al-tabannī al-sirrī*). The juridification of *kafāla* or legal fosterage in concert with the reform process of family law initiated since the 1990s⁶⁰ has reduced the extension of familial care for parentless children to a contractual institution of positive law,⁶¹ thus negating the vitality of *raḍāʿa* as a powerful tool of kinning. Yet suckling, actual or symbolic, may transform the restrictive effect of marriage prohibitions between foster child and foster siblings or parents into a much broader web of proximity (*qarāba*) through affiliation (*intisāb* or *indimāj*) into the host family. This procedure may even lead to the bequeathal of a one third share of the guardian’s estate to the ward, allowed through the procedure known as *tanzīl*, or an even larger portion if the “parents” are childless. These remarks equally apply to “traditional” non-judicial, adoption, known as *trebī* (from *tarbiyya*, education).⁶² Such is the centrality of *raḍāʿa* in such cases that “many an adopted child is given a dry breast”:⁶³

An additional cultural performance ritual employed by individuals and families in order to create, legitimize or normalize kinship bonds between them and an infant or child they wish to adopt or have secretly adopted is the highly symbolic gesture of the non-genitor woman (the fictive mother to be) offering a non-lactating breast to an infant; it is called *l-bezūl nāshfa*, dry breast.⁶⁴

This offering enacts “motherhood, and hence fatherhood which is then cast as ‘real’ and legitimized in the immediate family frame, and further in the social context.”⁶⁵ Suckling, dry or wet, as a kinning process generates a social space in which the danger of incestuous proximity is conjured in the eyes of all, close (*qarīb*) or alien (*gharīb*).

⁵⁹ Bargach 2002: 139.

⁶⁰ Buskens 2003.

⁶¹ See: “Dahir n° 1-02-172 du 1 rabii II 1423 (13 juin 2002) portant promulgation de la loi n°15-01 relative à la prise en charge (la kafala) des enfants abandonnés.”

⁶² Bargach 2002: 78–80 and passim.

⁶³ Bargach 2002: 139.

⁶⁴ Bargach 2002: 137.

⁶⁵ Bargach 2002: 138.

The ethnographic examples given here show how ties of milk participate in *nasab* processes. The Prophet's saying asserting that marital prohibitions by *ra-ḍā'a* and *nasab* are analogous as regards marriage prohibitions should not be read as implying that milk kinship (*riḍā'*) is a form of "consanguinity" by milk or an equivalent of *nasab*. Fearing the "confusion of lines of descent" implies, rather, that the establishment of nameless relationships through anonymous gifts of milk impairs the controlled recreation of shared origins by transgenerational *nasab* networks enmeshed through *ṣihr* (alliance through marriage). Thus, it does not connote primarily a mingling of pre-existing, discrete, or "consubstantial" lineages. From this perspective, the labeling and registering of donated breast milk does not suffice to preserve *nasab* since we are speaking of a process, and not of an object. As already stated, *the gift of milk cannot be envisaged beyond situated, intra-acting networks of kinship and relatedness. In this sense riḍā' and ṣihr are counterparts construed in reciprocal analogy.*

The next section will enhance this analysis by describing ontologies of breast milk and breastfeeding. This will allow us to refine our understanding of the diverging jural positions regarding the gift of milk mediated through milk banks.

Ontologies of suckling and lactation

Societies of Islamic persuasion practice law, medicine, and kinship within a metaphysics ("ontology") Philippe Descola designates as "analogism"; prior to the publication of his *Beyond Nature and Culture*,⁶⁶ anthropologists generally accepted that cultures are but variations elaborated with reference to Nature in the singular. In this vision, breast milk was deemed a universal bodily substance diversely perceived. Yet, one now understands that this assumption responds to a Eurocentric metaphysical stance, which bifurcates "reality" into objective "primary qualities," such as breast milk as a substance, as opposed to subjective "secondary qualities,"⁶⁷ such as shared ideas about breast milk. This ontology corresponds to the common concept of "worldview" as a projection of ideas and actions upon a singular, pre-existing universe. Descola associates this procedure with a "naturalistic" ontology characterized, since late modern times, by the idea that beings and things are composed by similar tangible qual-

⁶⁶ Descola 2005.

⁶⁷ Whitehead 1920.

ities (e. g. molecules, organs, senses), while not sharing intangibles (e. g. intelligence, intention, soul).⁶⁸

Analogism, by contrast, posits distinctiveness in both of these dimensions. Beings, things, qualities, phenomena “are fragmented into a multiplicity of essences, forms and substances separated by minute intervals. These are often ordered along a graded scale, such as in the *scala naturae* or the Great Chain of Being, which served as a cosmological model during the Middle Ages and the Renaissance.”⁶⁹ From this perspective, the societies of southwest Asia and beyond typically entertain analogistic world-making processes. These are material-semiotic practices and concepts that literally create realities, rather than a “worldview.” Analogistic breast milk is a fungible fluid that results from the transformation of other generative fluids such as blood and sperm. Thomas Laqueur described similar ontologies of breast milk and other generative fluids in Antiquity and pre-modern Europe.⁷⁰ Here, breast milk is neither a “substance” nor a mere “nourishment,” since it cannot be disentangled from the persons and relations that engender it. It is highly unstable and ambivalent. Breast milk may be enacted as the fluid of life, or inversely as venom, depending upon a set of rules of behavior, such as those governing sexual relations during lactation or pregnancy.⁷¹ Such conceptions are not to be confused with “beliefs,” a concept specific to Western ontologies, which oppose “fact” and “faith.” Analogistic breast milk, good or bad, is the tangible result of actions, not a pre-existing subject of either knowledge or belief. When it comes to understanding suckling and lactation in kinning processes long modulated by Islamic jurisprudence, we argue, one must avoid such “uncontrolled equivocations”:⁷² ulema, physicians, parents, and wet-nurses do not simply have different views on a same milk-white substance. Indeed, they are not referring to the same thing: Breast milk taken as nourishment according to modernist, biological definitions, for example, bears no relation to breast milk as a fungible proxy of relations in an analogistic universe. Furthermore, the very ways different actors speak about breast milk within naturalistic or analogistic ontologies bring the

68 Descola 2014.

69 Descola 2014: 276.

70 Laqueur 1990.

71 *Ghila* signifies either “‘nursing during the course of pregnancy’ or ‘sexual relations with a woman who is either pregnant or nursing a child.’” A textual debate has been ongoing since the dawn of Islam as to whether the practices in question are innocuous or deleterious (Benkheira 2001). Analogous ideas about “bad breast milk” among physicians and otherwise are attested in written sources since Antiquity. Ethnographically, they occur among all cultures of the greater Mediterranean basin, the Sahel and vast swathes of Asia until today.

72 Viveiros de Castro 2004.

fluid into various modes of being.⁷³ Breast milk can be a legal norm, a food, a vector of physical traits, a vehicle of health or disease, a ritual instrument, and more. These modes of being interconnect partially, in accordance with textual and ethnographic definitions of norms, prescriptions or opinions, and processes, which respectively ensure viability within each mode of being referent to reproduction, lactation, and suckling.

This novel anthropological approach sheds light upon the purportedly opposing positions formulated by ulema regarding the permissibility of the anonymous gift of breast milk in contemporary milk banks. Jurists who allow the anonymous administration of breast milk reason that its donation alone does not establish any relation of kinship.⁷⁴ In the absence of physical contact between nurse and suckling, or when breast milk is mixed with other fluids, the milk is transubstantiated into animal-like milk. By contrast, jurists who fear a “mingling of lines of descent” (*ikhṭilāṭ al-ansāb*) prohibit *anonymous* milk donation; they assert that the relation remains contained within the breast milk. Asyūṭī, following al-Najjār⁷⁵ and others, argues that “the prohibition of marriage [by co-suckling] is linked to the material – milk, not to [contact with] its source which is the breast.”⁷⁶ He goes as far as to assert, adds Rispler-Chaim, that the sale or donation of milk “is a plot of the Jews to ruin the genealogy of Muslims.”⁷⁷ All of the above-quoted assertions are based on analogistic theories of heredity. Ethnographic and textual material regarding the transmission of traits of character or physical resemblance between wet-nurse and suckling is abundant.⁷⁸ It would be anachronistic and ethnocentric, though, to read such sources through a naturalistic prism. The “transmission” they refer to rests, rather, on non-genetic conceptions of non-naturalistic order; these are reminiscent of European theories concerning “impregnation” or “telegony,” which suggest – as in Heinrich von Kleist’s 1808 novel *Die Marquise von O* – that emotions, visual perceptions, gestures, words, actions, or indeed thoughts, could make an “imprint” on the child in the womb⁷⁹ or, in Arab contexts, through the gift of milk, be it technologically mediated or not.

Since ontologies of *raḍāʿ*, *raḍāʿa*, and *riḍāʿ* are predicated on non-dualistic analogism, it is not astonishing that controversies regarding milk banks tend to

⁷³ Latour 2013.

⁷⁴ al-Qaraḍāwī 1983.

⁷⁵ al-Najjār 1999 [1986]: 152.

⁷⁶ Rispler-Chaim 1993: 125.

⁷⁷ Rispler-Chaim 1993: 125.

⁷⁸ E. g., Granqvist 1947: 111; Khatib-Chahidi 1992: 120 and n. 10; Giladi 1999: 121, 123, 142.

⁷⁹ Carol 2006.

become self-perpetuating. Furthermore, the fixity of codified ‘Islamic law’ here operates to the disadvantage of jurisprudence, based on analogistic reasoning (*qiyās*). Attending contradictions and discord (*ikhtilāf*) are intractable and may only, we claim, be solved by authoritative political arguments or decree, if then. The insoluble character of these issues stands in “uncontrolled equivocation”⁸⁰ to the advent of Western biomedical knowledge, technology, and concerned institutions: the last-mentioned enact a naturalistic (or modern) ontology of reproduction and pedigree conceived as a universal mold that transcends “cultural” or “religious” beliefs.⁸¹ Let us now consider, by way of conclusion, how different schools of Islamic law in different countries enact, or indeed do not enact, human milk banks in practice. The final section will illustrate how the gendered dynamics of *nasab* empirically correlate with analogistic ontologies of suckling and lactation. The illusion of individual-centered legal norms in contrast to the collective quality of kinning processes within named *nasab* collectives will become apparent. The prism of modern, naturalistic perceptions of human reproduction and kinship reinforces this pitfall which we have tried to avoid.

Enacting milk banks in the Muslim world?

Al-Qaraḍāwī’s 1983 fatwa met, as mentioned, with staunch majority opposition in Sunni theological circles, notably in Saudi Arabia and Egypt. It was only after 2004 that the acceptance of al-Qaraḍāwī’s position by the ECFR⁸² prompted the Egyptian authorities to follow suit in 2007. Thence, his opinion, when not categorically rejected, percolated in diverse guises through the Sunni world, without, however, leading to the creation of a single public milk bank administering anonymous donations of mixed breast milk. Instead, private initiatives have taken multiple forms.

In Saudi Arabia, as AlHreashy observes,

the Charitable Organization for the Care of Orphans launched the ‘Creating Relatives for Orphans through Breastfeeding’ program, through which a volunteer mother is assigned an orphan child to breastfeed. As a result, the child will experience the desired health effects of breastfeeding and will be provided with familial roots that help improve his or her psychological and social well-being.⁸³

⁸⁰ Viveiros de Castro 2004.

⁸¹ Descola 2014.

⁸² ECFR 2004.

⁸³ AlHreashy 2018: 195.

Here, we find a clear example of the creative power of *riḍaʿ*, albeit restricted to motherless children, if not children without *nasab*.

In neighboring Kuwait, an institutional initiative has seen the light at the intensive neonatal care unit at Adan Hospital. Here, a single wet nurse and mother are brought into direct contact, thus personalizing the suckling relationship of preterm babies in a medicalized context, complying with both ‘Western’ scientific criteria of control and the requisites of *fiqh*.⁸⁴ Unfortunately, no data is available concerning procedures of matching.

In Singapore, as of November 2016, the *Fatwa Committee of the Islamic Religious Council* decreed: “To avoid cross-contamination with other milk, the hospital will ensure that milk collected in whole from the donor will not be mixed with others. Milk from one donor will be collected to be processed only when it reaches 2 to 3 litres.” In this statement, milk is clearly a proxy for name. The fatwa continues: “The hospital has also informed that records and personal details of donors and recipients will be kept for at least 21 years.” Thus, the baby receives the milk of several women, but *unmixed*: “Based on the information received by the Fatwa Committee from the hospital, each baby will be consuming milk from about 20 donors.” This procedure allows the Council to conclude that “there is no basis to establish *maḥrāmiyya* when the woman or the group of women who donated the milk could not be identified.” The final verdict is thus: milk banks are permissible. However, it remains unclear if the only existing milk bank in Singapore does, in fact, operate in conformity with the above-mentioned requisites of Muslim clients.⁸⁵

Returning now to Turkey, the government withdrawal of the İzmir milk bank project in 2014 by no means extinguished public debate. A 2015 survey found that “the majority of the mothers [...] are against the establishment of Western-style HMBs [Human Milk Banks], whereas they have a more positive response to an alternative HMB when their religious concerns are relieved.”⁸⁶ A 2016 study confirms that “to establish human milk banks in Muslim countries, we need to ensure that the mothers’ milk will not be mixed and also develop a model where both donor and recipient can exchange information about each other.”⁸⁷ In addition, recent sociological studies have shown that among “religious officers, 71.3 % agreed that human milk banking was acceptable if Islamic principles were followed, and recommended that each milk ‘pool’ should have a maximum of three donors and no more than three recipient infants, all of

⁸⁴ al-Naqeeb et al. 2000.

⁸⁵ Choo 2018.

⁸⁶ Karadağ et al. 2015.

⁸⁷ Kadioglu/Sahin/Alpa 2016.

whose identities must be known to all participant mothers (that is, the milk donors and the mothers of the infants who receive the milk).”⁸⁸ This middle-of-the-road verdict accepts the principle of pooling in restricted and non-anonymous form. Yet none of these solutions have been enacted, leaving Turkish citizens to their own devices.

All the Sunni examples just mentioned are in effect variations on a single partition: all countries mentioned recognize the value of medically controlled breast milk donations; however, none take the risk of creating a milk bank officially regulated by Islamic requirements. In Iran, by contrast, after years of debate, jurists concluded that only “actual suckling at the breast of a woman other than the biological mother, with the condition that the suckling is repeated several times” establishes a milk relationship that, in turn, generates marriage prohibitions.⁸⁹ Kinship does not obtain, however, “if the mother [feeds] the infant using a spoon” and, thanks to this artifice, the introduction of “Breast Milk Banks was officially permitted.”⁹⁰ Thus, no bond is established without physical contact and the unmediated transmission of milk from wet-nurse to suckling. Curiously, however, the first (of eleven at the time of writing) Iranian milk banks was only opened in 2016.⁹¹

In Iran, the medical and technical procedures of Western origin relating to milk donation may be hybridized with ontologies of *nasab* and *raḍāʿ* since they are devoid of physical contact between donor and recipient, and thus do not establish relationships in a Shiite perspective.⁹² How could this be shown better than through the Prophet’s agnatic milk genealogy as developed by Ibn Shahrāshūb in opposition to the Sunni version as presented by Ibn Hishām (see above). In Sunni perspectives, ontologies of *nasab* and *raḍāʿ* do not hybridize, *in fine*, with Western ontologies of child development and lactation. For the medicalization of *raḍāʿ* would be analogous to marrying foreigners of “unknown pedigree,” *majhūl al-nasab*. This would indeed entail the “mixture of lines of descent,” that is to enmesh alien, indeed uncontrolled, networks of *nasab* and marriage (*ṣihr*) through breast milk donations, thus disabling the recursive recreation of shared origins.

⁸⁸ Thorley 2016: 3.

⁸⁹ Sardoueinassab 2013: 31.

⁹⁰ Karbalaii 2019.

⁹¹ Tabriz University of Medical Sciences 2016.

⁹² Rahbari 2020. See too Doshmangir/Naghshi/Khabiri 2019.

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