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RIGHT OF CHILDREN TO NUTRITION IN NIGERIA: EXAMINING THE HEARTRENDING PHENOMENON UNDER SHARIAH AND NIGERIAN LAW

AbdulRaheem Taofeeq Abolaji¹

ABSTRACT

Malnutrition is a long standing tricky health challenge which has been affecting children and whose magnitude is on the increase on daily basis in Nigeria. In the course of this research, it is discovered that food consumption both in quality and quantity has decreased appreciably. The right of children to nutrition has been neglected. Quantitative and qualitative methods are employed by the researcher. Therefore, the paper examines the child's right to nutrition under the Shari'ah and Nigerian law and it argues that the Nigeria children have been suffering for inadequate nutrition which has resulted to malnutrition and other diseases.

INTRODUCTION

No doubt food is the principal source of nutrition for sustenance of life for all human beings including children. There is a long history of concern with the right to food or more broadly the right to adequate nutrition. This right is recognised and incorporated under the 1999 Constitution of Federal Republic of Nigeria. One of the fundamental Objectives of the said constitution is to ensure suitable shelter and adequate food for all Nigerians. For example section 14 (2) (b) provides for the security and welfare of the people by the government. However, the idea of right to adequate nutrition has not been taken seriously as same is not justiciable under the constitution. There have been many nutrition programmes within the country but they have been provided as a matter of charity not entitlement. There has not been any legal recourse for those who fail to receive service. The right has not been fully implemented. The paper therefore, examines the right to children to adequate nutrition under the Shariah and Nigerian law. The study thus uses the concept of *Darurriyyah* under the *Maqasid al-Shari'ah* to explain the position of the *Shari'ah* on the protection of children's right to nutrition. The research engages in a legal study of the recognition of a child's right to nutrition in Nigeria with a view to suggest the way forward for an effective implementation of child's right in Nigeria.

Classification of Nutritious and Healthy Eating

Nutrition can be classified under *daruriyyah* based on the principle of *qawahid al-fiqiyyah* which provides that 'the need occupies the position of necessity.'² Therefore, nutritious and healthy food falls within the realm of *Maqasid al-Shari'ah*, precisely under *daruriyyah*.³ If there is no adequate nutrition, the life of children will be in danger. Taking healthy nutrition means having a balanced diet in order to maintain the balance that Allah has established in all matters.⁴ Allah has also ordained parents to maintain children properly to produce sound and healthy generation. The roles of parents are paramount and germane in shaping and restructuring children's personalities universally.⁵ Nutrition under the *Shari'ah* has been given a wider interpretation or explanation because it is linked with the health of children. Importantly, right of children to nutrition presupposes right to a balanced diet, eating too much or too little is harmful as it causes disorders to the digestive system.⁶ It may also be an indirect cause of diseases such as diabetes, hypertension and vascular diseases leading to angina and heart attack as well as diseases

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² Ibrahim ibn Nujaim. 1980. *Al-ashbah wa al-nazahir*. Beirut: Dar al-kutub al-ilmiyyah, p.91.

³ Nurudeen Mukhtar al Khadimyy. 2001. *Ilmul Maqasid Shari'ah*. Riyadh: Maktabatul Alkan, p.81.

⁴ Allah enforced the balance. That you extend not the bounds but observe the balance strictly and fall not short thereof" Quran. Al-Rahman 55: 7-9.

⁵ Azzah Mohd 2007. *Protection of Abandoned Children in Malaysia: A comparative overview with Islamic Law*. Malaysia: International Law Book Services, p.56.

⁶ McEwen, Bruce S. 2008. "Central Effects of Stress Hormones in Health and Disease: Understanding the Protective and Damaging Effects of Stress and Stress Mediators." *European Journal of Pharmacology* Vol.583. No.2 pp.174-185.

of the brain arteries, causing stroke and paralysis.⁷ Eating too much is contrary to Islamic teachings. The Holy Qur'an says:

Eat from the good things with which we have provided and do not transgress (or oppress other) there in, let my anger should descend upon you. And upon whom my anger descends has certainly fallen (i.e. perished).⁸

Similarly, children by their nature and habit love to eat without limitation and control and they are not mindful of the consequence over consumption of food.⁹ It is the duty of their parents to control them and devise a means of measuring their food intake. It is pertinent to state that Prophet Muhammad PBUH in one of his traditions discouraged excessive eating as it has no benefit for the body and causes problems to human health. The Prophet PBUH said: "No human being fills a container to worse effect than he fills his own stomach."¹⁰ It goes beyond peradventure that healthy nutrition can be described as a diet balanced in its contents.¹¹ This means that it must have a mixture of the different types of food which Allah has graciously provided for His creatures so that it satisfies all the bodily needs in terms of protein, fat, carbohydrate, salts and vitamins.¹² Most of these lawful foods are mentioned in the Holy Qur'an which says: *He created cattle which give you warmth, benefits and food to eat.*¹³

Furthermore, food and drink have been included as part of obvious benefits of *Maqasid al-Shari'ah* for the children and it is considered as *daruriyah* that can sustain children to live a healthy life. Therefore, health rules must be observed. One of the rules stresses the need to ensure the cleanliness of food and drink.¹⁴ For instance, Prophet Muhammad PBUH said: "Cover your food and drinks."¹⁵ Based on the foregoing hadith, *Shari'ah* urges that food should be covered so that dirt does not fall into it. This is a preventive measure against contaminated food or drinks that can lead to sickness or illness. Medically, it has been established that during the period of infancy, the child needs good nutrition for optimal development.¹⁶ Therefore, it is encouraged to choose food that will enhance promotion of health for the children. The food choices one makes significantly influence one's health. Choosing a healthy diet helps to support maximum fitness and protect against diseases.¹⁷

The general principle under *Shari'ah* is that all things which are pure themselves and good for consumption are lawful for eating as long as they are taken in reasonable and moderate quantities and all things which are not pure are not suitable and not good and cannot be categorized as lawful diet because of their impurity and harmfulness to human health. There are therefore, certain food and drinks which are forbidden for consumption under the *Shari'ah*. These include carcasses of animals and birds, pork, and animals slaughtered without invoking the name of Allah.¹⁸ The Holy Qur'an says:

⁷ Wali Abu Hendi. n.d. Managing your Weight through Sunnah. www.everymuslim.net. Accessed 2nd October 2015.

⁸ Al Quran. Ta Ha 20 : 81.

⁹ Trainer Sarah S. 2010. "Body Image, health, and modernity: Women's perspectives and experiences in the United Arab Emirates." *Journal of Public Health*. Vol.22. No.3 .pp. 60-67.

¹⁰ Ahmand ibn Hambal.1999. *Musnad Ahmad*. Muassasat al-Risalah. Vol. 4, p.422. Hadith 17186

¹¹ Kasmini, K., et al. 1997. "Prevalence of Overweight and Obese School Children aged Between 7 to 16 years amongst the Major 3 Ethnic Groups in Kuala Lumpur, Malaysia." *Asia Pacific Journal of Clinical Nutrition*. Vol. 6 pp. 172-174.

¹² Wali Abu Hendi. n.d. Managing your Weight through Sunnah. www.everymuslim.net accessed 2nd October 2015.

¹³ Al Quran. an Nahl. 16 v 5. "It is He who sends down rain from the sky; from it is drink and from it is foliage in which you pasture your cattle. Causes to grow for you thereby the crops, olives, palm trees, Grapevines, and of all the fruits. Indeed in that is a sign for a people who are mindful."

¹⁴ See Al Quran.an Nahl. 16 v 11.

¹⁵ *Maqasid al-Shari'ah*. U.S.A.: Islamic Book Trust p.205.

"They ask you, [O Muhammad], what has been made lawful for them Say, Lawful for you are all good foods and [game caught by] what You have trained of hunting animals which you train as Allah taught y So eat of what they catch for you and mention the name of Allah. Indeed Allah is swift in account."²⁰

The rationale behind the prohibition of unlawful food and drinks is that it serves as divine intervention in the best interest of man and for his own sake. This is because when the Qur'an describes the forbidden things as bad, impure and harmful it has nexus with human's health.²¹ For instance blood consumption is forbidden under *Shari'ah*, because it is a medium through which micro-organism and multiplies bacteria flourish. If the children or human beings eat it, there is tendency of transmitting micro-organism to the body which has adverse effect and dangerous to the health. Children must therefore be discouraged from eating all these forbidden food because of their negative impacts on the body.

Examining Breastfeeding as Optimal Nutrition for Children

Breastfeeding is an important nutrition for proper development of children. Kharofa²² argues that under *Shari'ah*, breastfeeding is one of the essential elements that promote the health of children because it contains nutrient and helps in the development and growth of the children. Similarly, Esther²³ argues that breastfeeding has considerable benefits and it is a proper form of nutrition for child. Abdul Gafar²⁴ is of the opinion that, child breastfeeding falls within the realm of maintenance in the rights of the children under *Shari'ah*.

Under *Maqasid al-Shari'ah*, breastfeeding is regarded and classified under *hajjiyyah* (complimentary). It is an unequalled way of providing ideal food for the healthy growth and development of infants and has a unique biological and emotional influence on the health of both the child and the mother.²⁵ It is the parents' responsibility to provide nourishing food that will enrich their children, both physically and mentally.²⁶ The child therefore, has the right to be fed with breast milk (by the mother or foster mother) for two full years until weaning (eating solid food). This is an unquestionable right of the child so much that even if the Mother is to be executed for a crime, the baby's right comes first.²⁷ Similarly, the parents are urged not to feed their children with baby formula (powdered milk and others) as substitution for breast milk unless all other available options are exhausted. For instance, the options include medical problems, death of the mother and unavailability of a wet nurse²⁸ in an effort to obtain breast milk. Breast feeding is the only optimal nutrition for the baby and makes him sound and healthy because it is natural food and legalized by Allah. The Qur'an says:

Mother may nurse (breast feed) their children two complete years for whoever wishes to complete the nursing (period). Upon the father is their (i.e. mothers') provision and their clothing according to what Acceptable. No person is charged with more than his capacity...²⁹

²⁰ Al-Quran, Al-Maidah 5:4.

²¹ See also Al-Quran, Al-Maidah 5:4.

²² Ala Eddin Kharofa, 2004. *Islamic Family Law: A Comparative Study with other Religion*. Malaysia: International book series p.48.

²³ Esther Y S, 2004. *Parenting with Reason*. U S A. n pb pp.45-62.

²⁴ Abdul Gafar Abidan, 2007. "Legal Protection of Children's rights Across the Age: An overview" *Issues in Law and Shariah*. p.53.

²⁵ Luthfor Ahmed, S K, Nazrul Islam Khan & Syeda Nilufer Nahid, 2004. "Vitamine C Content in Human (Colostrum, Transitional and Mature) and Serum of a Sample of Bangladeshi Mother." *Malaysian Journal of Nutrition*. Malaysia, Vol 10 (1) March, pp.1-4.

²⁶ Bidmos, M.A 2009 *Rights of Child in Islam in Women, Islam and current issues in development*. Edited by Wale Abbas & Jade Mohammed. (Ile-Ife, Nigeria: Obafemi Awolowo University Press Limited, 2009), 107-109.

²⁷ See Al Muwallah 41, 5.

²⁸ Maricha, tin.wordpress.com/2009/01/28. Accessed 15 January 2014. See also Mitra Amal & Fauziah Rabbani, 1995. "The Importance of Breastfeeding in Minimizing Mortality and Morbidity from Diarrhoeal Diseases: the Bangladesh Perspective" *Journal of Diarrhoeal Diseases Research* pp.1-7.

²⁹ Al Quran, Al Baqarah 2:233.

According to Ibn Kathir, the above verse states the importance of breastfeeding to children as it promotes the health of children. He further explained that breastfeeding should be done within the period of two years as specified in the Quran. Whatever is above that in the weaning stage, is not considered a forbidden stage of breastfeeding? This seems to show another importance of breastfeeding and its effect on the life of the baby which signifies a strong family tie.³⁰ Therefore, going by this provision of the above verse, it is advisable for a mother to give her baby adequate breastfeeding for the period of two years except in special circumstances such as where the mother is suffering from a particular sickness or the father is incapable to provide adequate food for the mother of the child.

Another verse of the Qur'an says:

Let the women live (in iddah) in the same style as ye live according to means; annoy them not, so as to restrict them. And if they carry (life in their wombs), then spend (your substance) on them until the deliver their burden: and if they suckle your (offspring) according to what is just and reasonable. And if ye find yourselves in difficulties, let another woman suckle (the child) on the (father's) behalf.³¹

The above verse stresses that if the ex-wives happen to be willing to suckle their infants, they are supposed to receive their remuneration as per the time of suckling according to the common practice. Since in many instances the infants and children cause difference between ex-spouses, the verse's injunction enjoins Muslims to consult each other concerning the future of their children and make befitting decisions because such difference may adversely affect their children physically and emotionally.³²

Based on the verse earlier cited in the above paragraph it is clear that under the *Shari'ah* it is the duty of the mother of the child to breastfeed the child except in rare occasions where it can be scientifically proven that it will affect the mother adversely. Then a nursing mother can be employed. However, there are instances where the mother will take the responsibility of breastfeeding her child. For instance, if the father is poor and cannot pay a wet nurse to give suck to the child, if the child refuses to take milk from the breast of another woman. In this case the child would be in great danger, and it would be incumbent on the mother to feed him to protect him from perishing. However, jurists see that this case is restricted to a situation where the child cannot take another kind of nourishment that may replace the mother's milk. If the child is in danger of death and no wet nurse is available, then the mother must feed him in order to save his life irrespective whether the father is financially capable or not.³³ The positions and views of all the notable Imams are similar and the same to the effect that the mother is encouraged to breastfeed her child. Imam Hanafi held the view that the biological mother should be urged and compelled to breastfeed her biological baby if the baby refuses other foster mothers' milk.³⁴ Another view was expounded by Imam Malik that the biological mother must be under a religious and legal obligation to breastfeed her baby a duty and responsibility to her baby unless feeding is contrary to her custom and status as a high-class woman.³⁵ However, Imam Hanbali opined that it is obligatory for a biological mother to make provisions for her biological child's breastfeeding.³⁶ It is the view of the *Zahiri* school of

³⁰ See: Ibn Kathir, Imaadudin Abi al-fidaad Ismail, *Tafseer of the Glorious Quran*.

³¹ Al Quran. At-Talaq. 65:6.

³² Al-Qurtubi. 2003. *Al-Jmiu li ahkam al-Quran*. Riyadh: Dar Alam al-kutub. Vol.18.p.170.

³³ Ala'Eddin Kharofa. 2004. *Islamic Family Law: A Comparative Study with other Religion*. Malaysia: International Law Book Services (Darul Uloom).

³⁴ Shivram Balkrishan. 2013. "Exploring Gender: Islamic Perspective of Breastfeeding." *International Research Journal of Social Sciences* Vol.10 No.6.p32.

³⁵ Anyesha Rafiq. 2014. "Child Custody In Classical Islamic Law and Laws of Contemporary Muslim World (An Analysis)". *International Journal of Humanities and Social Sciences*. Vol.4 No 5.pp.267-277

³⁶ Muhammad Zaheer Abbas & Shamreeza Rizaz. 2013. "Diversity of Interpretations Regarding Qawwam in Islamic Thought with special Reference to Surah An- Nisa." *Pakistan Journal of Islamic Research*. Vol.11.pp. 1-20.

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thought; the biological mother should be compelled to suckle her child unless she is already divorced or has insufficient milk to breastfeed her child.³⁷

It is well established that breast milk is the best form of nutrition for infants.³⁸ Even before the baby is born the mother's body is busy preparing the important, nutrient-rich precursor of breast milk, called colostrum, which is released from the breasts and can sustain an infant until the mother begins producing adequate amounts of breast milk.³⁹ This colostrum has a high concentration of protein (especially antibodies for fighting infection) and milk sugar called 'lactose' which gives the baby much of its calories.⁴⁰ As the breast comes in two to four days after delivery, the colostrum is replaced with larger volumes of more mature milk.⁴¹ One of the importance of breastfeeding is that it is the responsibility of a Muslim woman towards her children to nourish their minds, bodies and soul with her milk for a period of two years.⁴² Her reward for this is so great that if she dies during this period, she dies with the status of a martyr.⁴³ Every woman's milk is uniquely suited to meet the needs of her own baby. For example, the milk will be richer in the event of premature birth, helping the baby to make up for his small size.⁴⁴ The composition of the milk also changes from feeding as the baby grows in order to meet its nutritional needs at each stage of development.⁴⁵ The medical benefits of breastfeeding that has long been prescribed by the *Shari'ah* are encapsulated in the following illustration:

Scholars, researchers and physicians the world over agree that mother's milk is the best food for infants which keeps them healthy and guards them against various diseases. It is the elixir for their lives. It is seen in the mammals, as well as, in the human beings that their own milk is best suited for their suckling. For instance cow's milk is best for its calves as they need quick physical growth to use their four legs for their sustenance and survival. Their mental growth is not as important as the physical one. But human beings, the infants do not need that much physical energy which is in needed in mammals as they are not required to walk and look for their own sustenance...⁴⁶

Breast milk contains at least 100 ingredients that cannot be found in any formula and these are essential and germane in providing immunities to diseases, protection against allergies and prevention against infections, digestive disorders and other various ailments common among bottled-fed children.⁴⁷ Cow's milk, on the other hand, contains proteins and hormones which are necessary for baby cows to grow normally but which are rough for a human baby's delicate system.⁴⁸ The protective effect of breastfeeding against acute infection has been addressed. Human milk (colostrum, transitional and mature

³⁷ Jamal J.N. 1986. *The Islamic Law of Personal Status*. London: Graham & Trotman Ltd. p.98.

³⁸ Ibrahim B. Sayed. 2012. "Benefit of Breastfeeding." Islamic Research Foundation. www.irfi.org/article accessed on 8th August 2015. See also Shivram Balkrishnan. 2013. "Exploring Gender: Islamic Perspective of Breastfeeding." *International Research Journal of Social Sciences*. Vol.2 No.6, p.32.

³⁹ Normadiah Daud et al. 2014. "A Study of the Understanding amongst Academia towards the Islamic Concept of Breastfeeding." *Asian Social Science*. Vol.10, No.19, pp. 230-239.

⁴⁰ Rahman, M.M. 2011. "Breastfeeding Islamic Guidance and Scientific Evidence." *International Journal of Humanities and Social Science*. Vol.1, No.5, pp.287-288.

⁴¹ Esther Yoder Strahan. 2010. *Parenting with reason*. Canada: Routledge, 27 Church Road, Hove, East Sussex BN3 2FA Canada, p. 45.

⁴² Lysa Story. 2008. "Breastfeeding Helps Prevent Two Major Infant Illnesses." *Journal of Allied Health Sciences and Practice*. Vol.6, No.3, pp.1-4.

⁴³ n.a. 2010. Reward for women in Islam. www.therevival.co.uk/blogs/zdc/rewards-for-women-in-islam accessed on 5th May 2015.

⁴⁴ Lysa Story. 2008. "Breastfeeding Helps Prevent Two Major Infant Illnesses." *Journal of Allied Health Sciences and Practice*. Vol.6, No.3, pp.1-4.

⁴⁵ Jensen, Craig L., et al. 2000. "Effect of docosahexaenoic acid supplementation of lactating women on the fatty acid composition of breast milk lipids and maternal and infant plasma phospholipids." *The American journal of clinical nutrition*. Vol. 71, No.1, pp.292-299.

⁴⁶ Rahman, M.M. 2011. "Breastfeeding Islamic Guidance and Scientific Evidence." *International Journal of Humanities and Social Science*. Vol.1, No.5, pp.287-288.

⁴⁷ Heather Johnson. 2012. Breast Milk contains over 100 Ingredients not Possible in Formula. www.inquisitr.com/280112/breast-milk-contains-over-100-ingredients-not-possible-in-formula. Accessed on 4th April 2015.

⁴⁸ Dewey Kathryn G. Jane Heinig and Laurie A Nommslén - Rivers. 1995. "Differences in Mobility between Breast-fed and Formula-fed Infant." *The Journal of Pediatric*. Vol. 126, No.5, p.702.

milk) can transfer specific or non-specific immunities to the external mucosal surface of the intestine and possibly to the respiratory tract of the new born.⁴⁹

Additionally, aside from the mentioned values of mother's milk being a perfect and safe diet, psychological effects are also far reaching. The child, who suckles within the mother's warm embrace does not only receive the best nourishment, it also feels secure and loved.⁵⁰ Like colostrum, breast milk contains anti-microbial products such as anti-bodies and white blood cells to help the child to develop a mature immune system, so the antibodies supplied in breast milk provide important protection against infection during the most vulnerable period of infancy.⁵¹ To improve the success of breastfeeding, it is important to begin the process as soon after delivery as possible, preferably while still in the delivery room.⁵² Children who begin breastfeeding within thirty minutes of birth are more alert and have stronger suckling reflexes and are more likely to continue breastfeeding successfully beyond two to four months post-partum.⁵³ The early feeding ritual is an important part of the bonding process, and the children infants are more likely to benefit by having higher core body temperatures and better temperature stability after delivery.⁵⁴

RESPONSIBILITY OF PARENTS UNDER SHARIAH TO PROVIDE NUTRITION

Ibn Qudamah⁵⁵, Al-Nawawi⁵⁶ and al-Shaqiti⁵⁷ emphasise on the role of biological parents in providing adequate needs of their children such as food, clothing, shelter, education and medical treatment. Their works are considered relevant to the findings of this research. Afzalwani⁵⁸ examines the role of parents in the maintenance of children and observes that parents need to take care of their children and inculcate the principles of justice, fairness and good conscience into their mind and to avoid any discriminatory treatment towards them, however, moral and religious care. Similarly, AbdalAti⁵⁹ is of the opinion that parents should not cause harm for their children because they are the source of joy as well as source of pride. He emphasises that children are dependents on their parents and need special protection. Therefore, parents are enjoined to cater to their life morally, spiritually and financially.

Nutrition and Child in Nigeria

The Federal Government of Nigeria in collaboration with the Federal Ministry of Health and State Ministries of Health continue to jointly chair the coordination of nutrition response at Federal and State levels to promote the health of children. To actualize this, monthly meetings continue to be held at the Federal level, Adamawa and Yobe states.⁶⁰ However, the magnitude of the nutrition situation in Borno state warrants a meeting to be held twice a month. With improved access in the Southern Borno, coordination of all nutrition actors planning or implementing nutrition activities has been strengthened through Southern Borno specific meetings in order to ensure adequate provision for children because they need enough food to help them live a healthy life, active and grow to their full potential, they also need to eat the type of food even at young age to establish a healthy eating pattern for their adult life.⁶¹

- ⁴⁹ Luthfor Ahmed, S.K. Nazrul Islam Khan & Syeda Niluer Nahid. 2004. "Vitamin C Content In Human Milk (Colostrum, Transitional and Mature) and Serum of a Sample of Bangladeshi Mothers". *Malaysian Journal of Nutrition*. Vol. 10 (1). March. pp. 1-4.
- ⁵⁰ Dewey Kathryn G. Jane Heinig and Laurie A Nommsen - Rivers. 1995. "Differences In Mobility between Breast-fed and Formula-fed Infants". *The Journal of Pediatric*. Vol. 126. No.5. p.702.
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- ⁵⁵ Ibn Qudamah & S hemsu. 1983. *Al-Mughni*. Bayrut: Darul kitab al Islamiyyah.p.256.
- ⁵⁶ Al-Nawawi al-Dimishqi Zakariyyah Yahya. 2000. *Rawdat Talbin*. Darul kitab al-Islamiyyah.p.449-454.
- ⁵⁷ Al-shaqitbi Ahmad bn Muhammad 2004. *Mawalib ibn jahil min adilat Khalil*. Bayrut: al mak taba al Islamiyyah.pp 232-234.
- ⁵⁸ M. Afzalwani 1995. *The Islamic law on maintenance of women, children, parent and other relatives*. New Delhi: up right home.p.213.
- ⁵⁹ Hammudah Abdal Ati 1997. *Family structure in Islam*. America: American Trust publication .pp1-8.
- ⁶⁰ United Nation Report. 2016. *Nigeria Humanitarian Situation Report*. pp1-8.
- ⁶¹ Coralie Mathew. 2004. *Healthy Children: A guide for Child Care*. London: Vaughn Curtis.p.166.

Before the discovery of the ailing health problems, food and drugs have been seen as very essential to both man and animals. Children in particular need good and nutritious food to grow properly and for good psychological adjustment. A regular intake of good food could also protect children against illness that could result in the malfunctioning of the organs of the body.⁶² Similarly, it is established that children suffer from several different forms of malnutrition including Protein Energy Malnutrition (PEM) and specific micronutrient deficiencies, primarily iron, iodine and vitamin A deficiencies.⁶³ For instance, during the month of April 2016, an emergency Integrated Primary Health Care services reached 336,814 conflict affected people, out of which 51,938 were living in newly accessible areas such as Michika, Madagali, Mubi South, Mubi North and Hong in Adamawa and Bama, Gwoza, Dikwa, Monguno, Ngala, Damboa and Kukawa in Borno and Gujuba in Yobe. A total of 91,466 people living in inaccessible areas have been reached since January 2016. In these newly accessible areas, over 4,273 children under 5 have been screened for malnutrition and 3.2 per cent were identified with severe acute malnutrition and were provided treatment. This brings the overall cumulative total of people reached to date through PHC services to 1,080,902.⁶⁴ Afon and Akpobire⁶⁵ opine that a child's ability to attain his full potentials in life is grossly dependent on synergistic effect of good health which is determined by good nutrition, environment and proper education. The opinion of Afon and Akpobire is supported by the view of WHO which states that poor nutrition in children could result in stunting, underweight, anaemia, iodine and vitamin A deficiencies. These nutritional deprivations have negative consequences for a child's long term overall development.⁶⁶

Furthermore, childhood malnutrition begins from the womb. According to UNICEF, about one child in three in developing countries is malnourished. Protein Energy Malnutrition (PEM), Iodine Deficiency Disorder (IDD), Iron Deficiency Anaemia (IDA) and Vitamin A Deficiency (VAD) are the four nutritional problems confronting many under-five old children in Nigeria, especially in the rural areas. It is established that UNICEF has been providing integrated primary health care in these new accessible areas since the beginning of the year and nutrition was integrated into the response since April 2016. Since January 2016, 91,466 people have been reached. The Country Office is currently raising funds to expand and improve quality of the service provision in these newly accessible areas and to provide a comprehensive package of services to prevent excess neonatal, child and maternal morbidity and mortality as well as child protection. In spite of all the health information, human and material resources expended in the fight against childhood malnutrition in Nigeria, infant and under-five mortality rates continue to increase unabated.⁶⁷

Essentially, the incidence of Type 2 diabetes mellitus, obesity, and cardiovascular diseases among children has been linked to the consumption of artificial feeds.⁶⁸ Exclusive breastfeeding for the first six months has been proven to have the greatest impact in the reduction of non-communicable chronic diseases.⁶⁹ The continuous promotion should be continued if infant mortality is to be reduced to the expected level by 2015.⁷⁰ According to the United Nation Report, a total of 800,000 people are facing severely food insecure and require immediate food assistance in Borno and Yobe States. Over 550,000

⁶² George Kent. 1987. "Realizing International Children's Rights through Implementation of National law." *The International Journal of Children's Rights* Vol. 5. 439-456

⁶³ Reid Marvin et al. 2012. "The Acute-phase Protein Response in Endematous and Nonendematous Protein-energy Malnutrition." *The American Journal of Clinical Nutrition*. Vol.76. No.6.pp.1409-1415

⁶⁴ United Nation Report. 2016. *Nigeria Humanitarian Situation Report*. pp1-8

⁶⁵ Afon, M.O. & Akpobire, K. 2007. "Effective Learning in Nigerian Primary School: The Indispensable Roles of Good Nutrition and Health Education." *Journal of Childhood Education*. Vol.3. No. 1.pp.72-79.

⁶⁶ World Health Organization. (WHO) 1998.

⁶⁷ United Nation Report. 2016. *Nigeria Humanitarian Situation Report*. pp1-8

⁶⁸ Elson M. Haas. n.d. "Why Are Chemicals Added To Our Food?". In *Staying Healthy Shopper's Guide: Feed Your Family Safely*.

⁶⁹ Elson M. Haas. n.d. "Why Are Chemicals Added To Our Food?". In *Staying Healthy Shopper's Guide: Feed Your Family Safely*. Accessed on 8 July 2015.

⁷⁰ <http://www.healthchild.com/food-additives-and-human-health/>. Accessed on 8 July 2015.

people in Borno State are severely food insecure; including 180,000 in Maiduguri's outskirts, 120,000 camp residents and in particular the estimated 250,000 IDPs in newly accessible areas. In Yobe State some 250,000 people are in severely food insecure situation including 200,000 in rural areas and at least 55,000 IDPs and host populations in Damaturu.⁷¹

Furthermore, the zeal for promotion of breastfeeding by healthcare practitioners has been drastically reduced to almost once a year and that is during breastfeeding month celebrated annually. It should not be so because inadequate breastfeeding can stunt the child's development, mentally and physically. Strategically, because of the vulnerability of children they need adequate care as far as the health is concerned and this can be carried out by assessing the magnitude of nutritional problems in Nigeria. At present, there is no specific data showing the nutritional demography in the country.⁷²

Responsibilities of the Government on the Children's Right to Nutrition

The CRA as an embodiment of rights relating to children explains the role of the government as well as parents to ensure that Nigerian children are well taken care of and benefit from service delivery of good nutrition due to their vulnerability to some diseases and their inability to combat health challenges. Section 13 of CRA declares that "Every child is entitled to enjoy the best attainable state of physical, mental, and spiritual health".⁷³ The section provides further that "every government, parent, guardian, institution, service agency, organization or body responsible for the care of a child, shall endeavour to provide for the child the best attainable state of health." Sub-section 3 of Section 13 provides that

- a. Every government in Nigeria shall endeavour to reduce infant and child mortality rate;
- b. Ensure the provision of necessary medical assistance and health care services to all children with emphasis on the development of primary health care;
- c. Ensure the provision of adequate nutrition and safe drinking water;
- d. Ensure the provision of good hygiene and environmental sanitation, combat disease and malnutrition within the framework of primary healthcare through the application of appropriate technology;
- e. Ensure appropriate healthcare for expectant and nursing mother, and support through technical and financial means, the mobility of national and local community resources in the development of primary healthcare for children.

It is important to state that the Nigerian government has duly recognized the right of children to nutrition having given it a special section that specifies how the issue of nutrition will be exercised. It should be noted that the role of government in the actualization of healthcare delivery is well stated. Therefore, due to the nature of children and their vulnerability to diseases the implementation of the section is the duty of the government and the right of the children to demand and request for their provisions as and when necessary.

Additionally, Nigerian Constitution also recognizes the importance of health as it is mentioned under Fundamental Objectives and Directive Principles of State Policy that "it shall be the duty and responsibility of all organs of government, and of all authorities and persons, exercising legislative, executive or judicial powers, to conform, observe and apply the provisions of this chapter of the constitution."⁷⁴ Though the provision is not justiciable,⁷⁵ yet the fact remains that "right to health is exceedingly important because most of the other rights are dependent on the availability of good health."

⁷⁰ Kramer M et al. 2001. Promotion of Breastfeeding Intervention Trial (PROBIT): A randomized trial in the Republic of Belarus. *Journal of the American Medical Association*. Vol. 285(4) pp.413-420.

⁷¹ United Nation Report. 2016. *Nigeria Humanitarian Situation Report*. pp1-8.

⁷² Caesar et al. 2015. "The Challenges of Food Nutrition in Nigeria: A Preliminary Review and the Way Forward." *International Journal of Food and Applied Sciences*. Vol. 4 No. 3 pp. 130-134.

⁷³ Article 14 of the ACRWC made a similar provision.

⁷⁴ Section 13 of the 1999 Constitution.

⁷⁵ *Fawehinmi v. Abacha* (pt.456) p.203.

ASSESSING THE RESPONSIBILITY OF PARENT TOWARDS PROVISION ADEQUATE NUTRIOUS FOOD FOR CHILDREN

The CRA also places responsibility on the parents to take good care of their children and give them adequate maintenance ranging from food, water, shelter, healthcare and others.⁷⁶ Parents or guardian (as the case may be) equally have the task of ensuring that their children are enjoying all the rights due to them. Parental responsibility does not end at avoiding harm to children but it includes positive strive to allow children to enjoy their rights. The aforementioned position as regards to the responsibility of parents to take care and protect their children was fortified by the court in the case of *Awudu v. Daniel*,⁷⁷ where the court reaffirmed the fact that children have rights which parents must respect and act towards the attainment of those rights. In this direction, *Nzeako JCA* stated as follows:

I must however comment that parenthood throws on parents so many challenges including having to cope with many, sometimes naughty and at other times, loving behaviour of their children...

Similarly, parents to a large extent are viewed as guardians of children of their rights. Parents should provide natural environment for the growth and well-being of all their immediate family members, including children.⁷⁸ The children are seen as members of the family and it is fundamental for the harmonious development of their personality that they must grow up in a family environment.⁷⁹ Children's right are conceived in terms of parental rights and as such, the country's interests are basically regarded only in the context of social control. This may be the basis for its inclusion under the CRA. In essence, the vulnerability of an infant entitles the child's right to life and survival during childhood.⁸⁰

Furthermore, from the above scenario, it shows that the parents who fail to perform their duty as regards to the protection of children under the CRA. It is their responsibility to provide food for their children and to ensure that they are well dressed by ensuring proper cleanliness in term of frequent supervision. It seems that the parents of those children failed to fulfil their obligations as envisaged by the Act, therefore they should be held responsible. It is also apparent that the government agencies like National Agency for the Prohibition of Trafficking in Persons (NAPTIP) claim ignorance of what is happening to children wallowing on Nigerian streets with bowls in their hands of which it forms part of their duty to protect children against harmful practices, child labour and other evil act that can endangered the life of children.⁸¹ There is need for government agencies saddled with the responsibility of implementing the provisions of the Act to be proactive. A web of empire building of the various inefficient children's laws without implementation is also contributing to the challenges of children's right in Nigeria.⁸²

ENFORCEMENT OF RIGHT TO NUTRITION

i. Establishment of *Hisbah*

A few of the northern states have established hisbah institutions that help the states to implement the *Shari'ah* law. Many others have not established similar institutions. The few states that have established the *hisbah* institutions do not have a unit to implement child's right including the right to health. *Hisbah* should therefore be established by the states that have not created one while the states that have already

⁷⁶ Section 14(2) of CRA.

⁷⁷ [2005]2 NWLR (pt.909) p. 199.

⁷⁸ Onyemachi Thomes Uche. 2010. "Children, Status and the Law in Nigeria." *An International Multi-Disciplinary Journal*. Vol.4. Issue 3a.pp 378-398.

⁷⁹ Jaap E. Doek. The UN Convention on the Rights of the Child: An Instrument for Creating a Healthy Environment for the Child. Chicago: Springer.p.141.

⁸⁰ Onyemachi Thomes Uche.2010. "Children, Status and the Law." *An International Multi- Disciplinary Journal*.Vol.4 3a.pp.378-398

⁸¹ Okoli, Al Chukwuma, and Francis Okpaleke. 2014."Human trafficking and trajectories of neo-slavery: The Nigerian experience and a political economy outline." *International Journal of Liberal Arts and Social Science*. Vol.2. No. pp.86-96.

⁸² Odimegwu Clifford O, Luqman Bola Solanke and Amos Adedokun.2002. "Parental Characteristics and Adolescent Sexual Behaviour in Bida Local Government Area of Niger State, Nigeria." *African Journal of Reproductive Health*.pp.95-101.

established them should create a child protection unit with special responsibility of protecting the right of the children including the right to health. Funds should also be provided by the government to enable them to carry out the task of ensuring the implementation of children's rights to health. This group will be in charge going round and looking for children whose health has been breached upon and report to the police for necessary action. These groups of *hisbah* will operate in the states where the harmonization or inclusion of *Shari'ah* provisions into the CRA has been done in order to allow the Muslim children to benefit from it.

ii. Recognition of Right to Nutrition as Substantive Right in the Constitution

The Nigerian government should recognise the right to nutrition as a substantive right by creating a special provision for it under Chapter IV of the Constitution, which deals with fundamental human rights. This will make the right to nutrition a justiciable right like right to life and other rights. Categorising the right to nutrition as a fundamental human right will enable the victims, especially the children whose right to nutrition has been breached, to institute an action in the court against the government or any authority or any other violator. This is because as it is, right to nutrition cannot be enforced by anybody against the government as mentioned under chapter II of the Constitution and thus it falls under non-justiciable right.

CONCLUSION

Nutrition is an essential right that needs to be guarded by the government and the parents in order to ensure that Nigeria children are developed mentally, physically and otherwise. Nutrition is the right of the children and should be provided by both government and the parents. It is for the government to ensure the foods or water are sensitized and protected against any contagious diseases as it was explained before. *Shari'ah* as a divine law has shown the importance of nutrition most especially for the children and emphasizes that the food to be taken by the children must be halal. It also explains the benefits of breastfeeding as an auxiliary to breastfeeding to the children and the role of mother to breast her child. It is therefore, suggested for the government to continue to implement provisions relating to nutrition under the Nigeria law as well as the Shariah for the protection of children.