

INTERNATIONAL JOURNAL OF RESEARCH WITHOUT BOUNDARIES
Le Journal international de Recherche Sans Frontières
مجلّة البحوث الدولية بلا حدود

Maiden Edition

June, 2016



International Journal Of Research without Boundaries June, 2016

International Journal of Research without boundaries

ADVISORY BOARD

Professor Abubakar Mustapha, Centre for Q/Studies, BUK
Professor Marc-Antoine Pérouse de Montclos, IRD-Ceped Sciences Po Paris
Professor Sani Abdulhamin, Department of A/Islamic Studies Univ of Maiduguri
Professeur Issa Diallo, University of Ouagadougou, Burkina Faso
Professor John Nengel, Department of History, UNIJO
Professeur Hamadou Adama, Département d'Histoire - Université de Ngaoundéré
Professor A. A. Amima, Department of Business Administration, University of Maiduguri
Professor Ibrahim Abubakar Njodi, Department of Education, Univ. of Maiduguri

Associates Editors

Dr. Hansé Harouman, Université de Benzerville, Côte-D'Ivoire
Dr. Ousmanou Adama, University of Maroua, Cameroun
Dr. Tochukwu, O. University of Nigeria, Nsukka

Editor-In-Chief

A/Professor, Abubakar Garba

Secretary

Abdulrahman B. Hamid

All rights reserved, no part or either full text of this Journal will be reproduced through whatever means without duly acknowledging the source or a written permission from the International Journal of Research without boundaries, recherche d' Internationale sans frontières.

© Inte'l Journal of Research without boundaries, recherche d'Internationale sans frontières

TABLE OF CONTENTS

Contents	Pages
Attitudes of Local Government Staff to work in Borno State: Counseling Implications: Prof. Abubakar Hamman TUKUR & Ibrahim Takwa BOKKO	1
Enhancing the quality of teachers and teaching through ICT innovation in Accounting and automobile education in Nigerian Colleges of Education: Ishaq Ahmed Mohammed & Aliu Yakubu Pela	9
Historising Ethnicity: Critical theme in Cameroonian Studies: Ousmanou Adama	22
The cattle culture and industry in Nigeria: Looking at the past to forecast the future amidst challenges in the Industry: Muhammad Bello Ibrahim	33
Factors of Divorce among Muslims communicates in Borno State: Abba Buba & Dani Mamman	45
The compatibility or incompatibility of the Qur'an and modern science: Aliyu Salihu & Muhammad Tijjani Mustapha	52
Evolution of script writing in the production of the noble Qur'an: Historical reflections: Maimodu Barma Mutai & Abdulrahman Banisaid Hamid	59
The Role of dispositional mindfulness and future consequences on employee cyber loafing among workingman students: North Central Nigerian Universities: Munir Shelu Mashi & Yusuf Musa Hammawa	70
Internal Governance Characteristics, institutional ownership and IFRS7 compliance in Nigeria: Adamu Garba Zango, Ishaq Ahmed Mohammed & Ismail Tijjani Idris	87
Mediating effect of training on the relationship between motivation, credit accessibility and women entrepreneurs' Business MSE performance in Nigeria. A floor plan study using pls-SEM: Norashidah Binti Hashim & Yusuf Musa Hammawa	104
Equity Valuation Multiples of Nigerian listed firms: Principal Component Analysis Approach: Isah Shittu	122
Information Technology/Capability for Nigerian public tertiary institutions: a tool for gaining competitive advantage: Ahmad Aliyu Palladan & Muhammad Adamu Ahmad	134
Effects of Malaria and Socio-economic characteristics on poverty reduction in Nigeria: Alhaji Bukar Mustapha, Babajidda Malah & Muhammad Othman Lawan	142
Rights of Consumers under International and Nigerian Laws: it is shadows chasing? A. S. Hassan, A. Umar Alkali & Abdulrashid L. Haruna	153
Simple Biological Cycle: Explicating Maqasid Al-Shari'ah as a tool for protecting Children's right to health: AbdulRaheem Taofeeq Abolaji	170

SIMPLE BIOLOGICAL CYCLE: EXPLICATING *MAQASID AL-SHARI'AH* AS A TOOL FOR PROTECTING CHILDREN'S RIGHT TO HEALTH

by

AbdulRaheem Taofeeq Abolaji

Department of Islamic Law, Faculty of Law,

University of Ilorin, Kwara State Nigeria.

Email: raheembj@yahoo.com

Abstract

Health is wealth and a good health is not limited to the absence of physical troubles only, but a state of complete physical, mental and social well-being. Children all over the world have legal instrument for their protection under Shariah. The protection of children covers all aspects of life such as education, freedom of interaction and right to health. Despite the existence of the provisions under the Shariah relating to the protection of children. Children are still suffering from various diseases such as malaria, diarrheal and other communicable diseases. This happens due to nonchalant attitude of some parents or government towards the application of Shariah or their ignorance of the objectives of Shariah known as *Maqasid-al Shariah* in relation to the health of children. Therefore, this study examines the right of children to health under the *Maqasid al-Shariah* to wit: *darrurriyat*, *hajjiyat* and *tassiniyah*. Qualitative method will be adopted and in doing so, analysis of both primary and secondary materials will be used. The study argues that the provision of *Maqasid al-Shariah* is a panacea and concludes that its full implementation will guarantee children's right to health under the Shariah. The paper also observes that *Maqasid Al-Shariah* will promote the health of children and assist them to develop mentally and physically.

Keywords: *Right, children, health, Maqasid al-, Shariah*

Introduction

Shari'ah no doubt regulates affairs of all human beings, religiously, socially, politically and economically. It leaves no stone unturned as far as day to day activities is concerned including health related matters. *Shari'ah* considers the children as important segment of the human being with legal entity. For this reason, it ensures protection of children and ensuring that they properly enjoy adequate health care, health facilities, proper nutrition, and other health aids. Because of the children immaturity and their vulnerability to some diseases, *Shari'ah* saddles both the government and the parents with the responsibility of giving the children adequate health care. The place of

maqasid al-shari'ah in the contemporary human rights discourse has been a cause of recent debates among both oriental and occidental scholars. Notwithstanding, the importance of the concept of child's right under Shari'ah, the literatures that relate to the concept of right of children to the *Maqasid al-Shari'ah* are not enough as far as child's protection is concerned. The gap has led to either lack of protection of the rights of the children even in Muslim societies or inadequacy of the protection. This paper, therefore, discusses the right of children to health by relating it to the *Maqasid al-Shariah* (objectives of Shari'ah).

Maqasid Al-Shari'ah: Conceptual Analysis

Importantly, the underlying theme of *Maqasid al-Shari'ah* is the realization of the benefit of the people (*Maslahah*) or public interest.¹ Thus, where a *shari'ah* rule does not have a direct legislation from the Quran and *Sunnah* of the prophet, the scholars could apply *ijtihad* to deduct the appropriate rulings by considering what would be the best interest of the Muslims and Islam within the prevailing global trend.² Scholars have stated that the principles and rules of *Shari'ah* are basically underlined with the objective of compassion and must be applied in manners that will reflect the compassion in the daily affairs of the citizens.³ This objective is deduced from the verse of the Quran where Allah describes itself as "a healing to the (spiritual) ailments of the hearts and a guidance and mercy for the believers and mankind".⁴ It is against this backdrop that Allah said to the Prophet Muhammad (PBUH) that "We have not sent you but as a mercy to the worlds".⁵ This principle has been reinforced in the Islamic legal maxim (*qawaidulfiqhiyyah*) that says "hardship must be eradicated"

¹ Ahmad al- Raisimi.1992. *Nazariah al-maqasid 'nda al-imam al-satibi*. Riyadh: Darul-Alamiyah kitaul-islami.p41.

² Buba, T. M. 2014. "Role of Maqasid al-Shari'ah as a Social Welfare Concept in the interpretation of the sources of Shari'ah" (2014) Vol. 2. No. 1 *Unilorin Shariah Journal*. Ilorin: Department of Islamic Law. 61-86.

³ Kamali, M. H. *Maqasid al-Shari'ah: The Objectives of Islamic Law* (n.pl: 1998) 200.

⁴ Al-Quran. Al-Yunus. 10:57.

⁵ Al-Quran. Al-Anbiyaa'. 21: 107.

Maqasid al-Shariah has been classified into three categories: *daruriyyat* (essential), *hajiyyah*, the (complementary) and *Tahasinniyat* (embellishments).⁸ For the purpose of cohesion for instance:

i. **Daruriyyat (Essential)**

The essential objectives however, are targeted at protecting five values of life, religion, intellect, lineage and property. These are the basic rights of a human being. The first is the protection of the right of people to practice their religion without any untoward harm to them. No one should fear to pray in a mosque due to prosecution.⁹ Meanwhile, a Muslim is required to perform ablution.¹⁰ The wisdom behind performing ablution is to teach children the practice of constant cleanliness, where the child is being instructed from tender age to observe *Salat* and before doing so to perform ablution, he is technically being taught to observe cleanliness at all times and to avoid engaging in dirty activities that may lead to sickness.¹¹ The second objective of

⁸Buba, T. M. 2014. "Role of Maqasid al-Shari'ah as a Social Welfare Concept in the interpretation of the sources of Shari'ah" (2014) Vol. 2. No. 1 *Unilorin Shariah Journal*, Ilorin: Department of Islamic Law. 61-86

⁹*Ibid*

¹⁰Mohamad Akram Laldin, *Islamic Law: An introduction*. (Research Centre IIUM : 2006) 17

¹¹See Al- Quran. al-Ankaboot. 29:45.

¹²Ibrahim bn Aliyubn Yusuf, *AlMuadhab fi Fiqh al- Imam Safii*. (n.pl. : 1996) 93

¹³Zainu-deen bn Naji al- Anafi, n.d. *Al- Bahar Raiq Sariu Kanzu Daqaiq* (al maarifah : n.d.) 24

the *Shariah* is to protect human life. Life is a precious and must be valued and given respect to. No child should die of sickness, starvation and malnutrition because each child has a basic right to live.¹² The third objective of the *Shariah* is to protect the intellect.¹³ One of the reasons Islam prohibits intoxicants is because it impairs intellectual ability. The children are vulnerable in many respects including mental wise. As children, their mental faculties are not fully developed; hence, the parents are always advised medically to be careful with their children behaviour. The children are expected to consume foods that are rich in nutrients like protein, calcium and vitamins.¹⁴ These help to develop their mental faculties.¹⁵

Similarly, countries, including Nigeria always mandate pharmaceutical companies to inscribe caution statements on their drug packaging advising parents to keep medical drugs away from the reach of their children.¹⁶ Therefore, prohibiting of narcotic and psychotropic drugs by Pharmacists Council of Nigeria Act¹⁷ is in line with the principle of *Shari'ah* to protect the mental health of the children. The fourth objective of the *Shari'ah* is safe guarding posterity (*nasl*). This means safe guarding one's lineage from illegitimacy.¹⁸ One of the reasons that Islam recognises valid marriage is that it will enable to determine the illegitimate and legitimate children.¹⁹ The inability of the people to appreciate and put this objective into practice has brought many social ills like unwanted teenage pregnancies and dumping

¹² See Al- Quran.al-Isra 17:33.

¹³ See for example Al -Quran. Rum.21 -24.

¹⁴ Sumiya Khan. 2011. "Nutritional Guidelines for School Lunch programs : A Survey of Islamic School and Recommendation for creating a culture of Healthful Eating." Vol.43 (2) *The Journal of Islamic medical Association of North America*. 48-57

¹⁵ Hafiz Mohammed. 'Healthy Eating: An Islamic Perspective.' www.tsmv.org/articles/zahid-healthyeating.html. Accessed on 10th October 2015

¹⁶ Habibat, A.G. et. al. 2009. 'Transparency in Nigeria's Public Pharmaceutical Sectors: Perceptions from Policy Makers'. (n.d.) www.ne.ncbi.nlm.gov/pmc/articles/pmc2775729. Accessed 10th October 2015

¹⁷ Pharmacists Council of Nigeria Act CAP 17 LFN 2004

¹⁸ Shabina Arfat.2013. "Islamic Perspective of the Children's Rights: An overview." Vol. 2 No 1 *Asian Journal of Social Sciences and Humanities*. 302

¹⁹ Ibid

babies born under such circumstances.²⁰ The sense of belonging and utmost pride towards ones lineage must be instilled within children to encourage them to protect their lineage. The fifth objective is to protect wealth. Every human being has rights to own property regardless of gender. Their wealth must be protected and not be usurped. The wealth of the orphans must therefore be cared for by the guardian and returned to them when they are matured.²¹

ii. *Al- Hajiyyat* (the complimentary).

This refers to those interests whose neglect leads to hardship of the individual or community although it does not lead to disruption of normal life.²² There are many examples of *hajiyyat* and these include dispensation of excuses (*rukhsah*) that *Shariah* has granted in respect of *Ibadat* of travellers and sick. The Travellers are allowed to shorten their prayers and break their fasting when they are on journey. The sick people are also allowed to pray on sitting and exempted from fasting during Ramadan.²³

iii. *Al-Tashiniyyat* (Embellishment)

This third division under *Maqasid al- Shari'ah* and it refers to benefit that leads to the improvement and attainment of desirable. Therefore, the observant of cleanliness in personal appearance and *Ibadah*, moral virtues and avoiding extravagances fall under the category of *al-Tahsiniyyat*. The disappearance of *Tahsiniyyat* may not interrupt the normal life, but it might lead to lack of comfort in life.²⁴ In this regards, right of children to health can lead to lack of comfort in life. *Maqasid al- Shari'ah* (Maqasid al- Shari'ah). The

The Position of *Shari'ah* on the Right to Health

Islam considers health as a basic human right as mentioned in the hadith of Prophet Muhammad S.A.W .which says "Your body has a right over you."²⁵ Therefore, for a Muslim, health consciousness is akin to God consciousness.²⁵ Health can be described as " a state of complete physical, psychological, social and spiritual well-being. It also means state of "equilibrium".²⁶ To maintain this health balance in the state of equilibrium, a human being must have a "health potential". This health potential usually take the form of proper nutrition, good immunity, or physical fitness which enables a person to cope well with the stress which the body may face.²⁷ Health is normally looked upon as a natural state of lives, while illness or disease is a sort of unnatural condition that afflict human body and can be combated and cured by use of proper medication.²⁸

Right of Foetus to Health

The protection and respect for the children's right to health commences even before their birth.²⁹ *Shariah* as a divine law has provisions for the protections of the foetus which include the condition of its health. The Foetus right to health can be categorized under the *hajjiyyat* that is complementary under the *Maqasid al-Shari'ah*. This is because health compliments the life and without sound health the life of children will not be adequately guaranteed. Some scholars have however argued that protection of health is new value to be included under the *daruriyyah* necessities because without it, other five objectives; life, intellect, property, religion, and lineage will be in vain.³⁰ The health of children has to be considered paramount because it is

²⁵ ShahidAthar.nd, 'Health and Islamic Philosophy' www.islam.usa.com/n.dex.php. Accessed on 5th March 2015.

²⁶ Muhammad Haytham Al-Khayat, *The Right Path to Health: Health Education through Religion* (World Health Organization, 1997) 12

²⁷ IbnSina. Al-qanoon.1093. A.D.

²⁸ Abu FadlMohsinEbrahim, 1989. *Abortion, birth control & surrogate parenting: An Islamic perspective* (American Trust Publication , 1989) 4

²⁹ Arafat, S. "Islamic Perspective of Children's Right: An Overview"(2013) Vol.2 No 1. *Asian Law Journal of Social Sciences and Humanities*. 300

³⁰ NurdengDeuraseh, "New essential Values of Daruriyyah (Necessities) of the Objectives of Islamic Law (Maqasid al- Shariah)." (2012) Vol.4. No 2. *Journal of Hadhri*. 107-116.

the foundation of everything. If the children are not getting adequate health care it can lead to hardship and the foetus must be protected against harm such as malnutrition.³¹ It is the principle of Shari'ah that a person should refrain from any act that will injure him or any other human being, which is in accordance with the Hadith of Prophet Muhammad (PBUH), "There should be neither harming nor reciprocating harm".³² This hadith is supported by a Shari'ah legal maxim that states "Harm must be eliminated".³³ Thus, the need to protect the foetus right to health and life has been identified to have necessitated why pregnant women are exempted from fasting during Ramadan. This is to give her better health and to protect the life and health of the child especially where it is confirmed by the qualified doctor that fasting will affect her or the pregnancy.³⁴

Furthermore, in order to properly give foetus adequate health care, pregnant woman must not expose herself to radiation or chemicals that may damage some of the cells or tissues of the foetus or that may lead to the occurrence of mutation or physical deformities.³⁵ She must not use any medications during pregnancy without expert medical guidance.³⁶ The use of medications, particularly in the early days of pregnancy, may increase the deformities in foetus or cause malformation of the organs.³⁷ Similarly, to ensure adequate health of the foetus the pregnant woman should abstain from illicit sexual intercourse or having contact with someone suffering from contagious diseases such as measles, HIV, syphilis, hepatitis or any other transmitted diseases. She must avoid passive smoking because it has been proven to inflict harm upon foetus.³⁸ It is an established fact that the health of foetus is linked with that of its mother; therefore, it is the duty of the husband

³¹Children in Islam, p.11.

³²IbnMajah Sunnanibnmajah. Kitab Al- Ahkam, "The judgment regarding he would builds for himself while hearing his neighbor.". Hadith 2340.Vol.2 p. 748.

³³Azman Ismail, p.171.

³⁴Al-ArabyyitaullahiQuwaldiri, *Al tflu fi taribawwyy Islamiyy*(Darussamat : 2010) 23

³⁵ Robert Brent 'Pregnancy and Radiation Exposure'. <[http:// nrc.org/ncs/publication/articles/pregnancy](http://nrc.org/ncs/publication/articles/pregnancy)>. Accessed on 8th September 2015.

³⁶ Ibid

³⁷Children in Islam, p.'22.

³⁸ShabinaArfat, "Islamic Perspective of the Children's Rights: An overview." (2013) Vol. 2 No 1. *Asian Journal of Social Sciences and Humanities*. 302

to provide adequate care for the mother and the child and to increase her share of food and drink so as to remain healthy.³⁹ It also incumbent upon the parents to avoid whatever may harm the mother's health such as early pregnancy below the age of 18 years or late pregnancy above the age of 35 years or pregnancies at short intervals apart.⁴⁰

Protection of Children's Intellect against Harm

Intellect (Aql) is a human faculty that enables humans to interpret sensory information from the environment to gain new knowledge, to think and formulate ideas, to distinguish the right and moral from the wrong and evil and to control voluntary human behaviour.⁴¹ It distinguishes humans from animals.⁴² Just like adults children also endowed with intellectual faculty of reasoning. Therefore, the children intellect should be protected and safe guarded in order to save children from injurious things that might harm the ability and function of the brain.⁴³ This includes consumption of liquor or drugs (hard drugs), Cocaine, Nicotine, Hallucinogenic drugs and other similar substances that will upset the function of the brain.⁴⁴ The principle of *Maqasid al-Shari'ah* under *darrurriyah* can be applied to the prohibition of all intoxicants as it affects intellect and mind of those who consume it including the children.⁴⁵ Preservation of children intellect is currently evolving to include propagation of scientific thinking, travelling to seek knowledge, suppressing herd mentality, and avoiding brain drain.⁴⁶

³⁹ Sa'adat Hassan Liman. "Child upbringing the Frame work of Islamic Family ideals: Panacea for National Security." (2014) Vol.4 No 5 *Journal of Research on Humanities and Social Sciences*. 82

⁴⁰ Ibid.

⁴¹ Seyyed Hossein Nasr, "Intellect and Intuition: Their Relationship from Islamic Perspective." (1979) Vol.1 No1 & 2. *Journal of Studies in Comparative Religion*. 98

⁴² Omar Hassan Kasule, "Protection, Preservation and Promotion of the Intellect, Hifdh Al-Aql." (2007) *Islamic Education Resources*. 1

⁴³ Ibid

⁴⁴ Muhammad Akram Laldin, *Islamic Law: An Introduction* (Research Center IIUM, 2006) 25.

See also Al-Quran. Al-Maidah.5: 90.

⁴⁵ Jasser Auda, *Maqasid al-Shariah: An Introductory Guide* (n.pl. 2008) 20

⁴⁶ Auda. n.d. *Fiqh al-Maqasid*. n.pl.p.20.

Protection of Religion and Children's Health

The purpose of expounding the concept of *maqasid al-Shari'ah* is to establish that every *Shari'ah* legislation either on ritual worship (*'ibadah*) or civil transactions (*mu'ammalaat*) has its underlying goal and benefit for the mankind.⁴⁷ Whenever the mankind is ordered to perform an act of *ibadah*, Allah always explicitly justify the reason for ordering such act by stating the rationale behind prescribing it and the benefit derivable from its observance.⁴⁸ For instance, while prescribing ablution before *Salat*, the Quran pointed that "Allah does not wish to inflict hardship on you but to make you clean and to complete His favours upon you".⁴⁹ The above instruction was also buttressed by the Prophet's hadith that "cleanliness is part of faith". Similarly, *Salat* is also established as one of the important practices to help the Muslim maintain both spiritual and physical health. *Salat* restrains promiscuity and evil".⁵⁰ Although prayer is not compulsory for the children but the prophet encouraged the parents to command their children to pray at the age of seven.⁵¹ It has been found that *Salat* has health benefits for both adult and children. The health benefit of *Salat* starts from ablution because it purifies the body particularly the children who are always involve in dirty games. The washing of exposed areas of the body which come in contact with germ and dirt throughout the day including hands face, mouth and nostril five times a day is healthy and primitive medicine.⁵² Similarly, the act of washing the hands has been recognized by Islam since pre modern era is now encouraged as medical precaution to prevent the spread of infections such as cholera, bird flu (Atienza), *ebola* etc.⁵³ Fasting also not compulsory for the children but because of its health children should be encouraged to fast. It

⁴⁷ Ibid

⁴⁸ Kamali, M. H. *Maqasid al-Shari'ah: The Objectives of Islamic Law* (npp, 1998) 1
<www.islamicbookstore.com/b10159.html> Accessed on 19 September 2013.

⁴⁹ Al-Quran. Al-Maaidah. 5:17.

⁵⁰ Al-Quran. Al-Ankabut. 29:45

⁵¹ Al- Azdi As-Sijstijan, Sulaiman bin al-Ash'ab, *Aonu al-MahbudShariuSunnanAbiDaud*(Dar al-Fikri, 1995) 123. Kitabu As-SolatBabu Mata Yumar Al –Gulam bi Solat.

⁵² Salem Muktar, *Prayer: A sport for the soul and body* (The Arab Modern Center, 1990) 52

⁵³ AbdulraheemTaofeeqAbolaji. et. al. "Protecting the Children's Right to Basic Education and Health in Northern Nigeria : Exploring Institutionalization of Zakat and Waqf as a viable option." (2015) Vol.1 No 1. *Al-Ikmah Journal of Education*. 45

produces psychological change in the body, it gives rest to different organs and improves adaptability.⁵⁴ It lowers the cholesterol, blood pressure and sugar. It also produces peace and tranquillity in the mind.⁵⁵

Protection of Progeny and Children's Health

Preservation of progeny is one of the *Maqasid al- Shari'ah*. Procreation is one of the purposes of marriage in Islam.⁵⁶ It is an avenue of producing a healthy progeny for one's own benefit and the benefit of the entire community. With valid marriage, children are able to live in a complete environment for the betterment of the society.⁵⁷ The purpose is fulfilled by appropriate health care for children to grow in to healthy adults able to reproduce.⁵⁸ It is also fulfilled by appropriate care during pregnancy and delivery to ensure a health outcome.⁵⁹ To adequately protect and preserve the progeny there should be genetic testing and periodic counselling for the mother for safety delivery. Genetic testing during pregnancy or soon after delivery can detect diseases to enable instituting early treatment for a better outcome. The rationale behind the counselling before testing is to provide information about the genetic disorder and the risk of diseases to the individual and families so that they make informed decisions about child rearing.

Hajjiyyat and Right of Children to Health

Nutrition and Healthy Eating

Nutrition and healthy food falls within the realm of *Maqasid al- Shari'ah* precisely under *hajjiyah* (complimentary interest).⁶⁰ If there is no adequate

⁵⁴Salma Naseer, 'Fasting and Health Benefit in Ramadan.' <www.khanapakana.com/article/> accessed on 10 Oct. 2015

⁵⁵Ibid.

⁵⁶See Al- Quran. Al- Baqarah 2: 224

⁵⁷na. 'Importance of Marriage in Islam.' (2014) <[www.theislamiclightt .blogspot in/2014/importance-of-marriage-in-islam](http://www.theislamiclightt.blogspot.in/2014/importance-of-marriage-in-islam)> accessed on 15th October 2015

⁵⁸Omar Hassan Kasule, "Preservation of Progeny: A medical Perspective (Maqasid hifz Nasl: Al Mandhuur Tibbi) (2004) Paper presented at an Institute for Islamic Understanding (IKIMO) Kuala Lumpur. 27th -28 April 2004.p.1.

⁵⁹Ibid.

⁶⁰Nurudeen Mukhtar al-Khadimyy, *Ilmul Maqasid Shari'yah* (Maktabatul Aikan, 2001) 50

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.⁶¹ Allah has also ordained parents to maintain children properly to produce a sound and healthy generation. The roles of parents are paramount and germane in shaping and restructuring children's personalities as a universal fact.⁶² Health nutrition means a diet balanced in quantity; eating too much is harmful, as it causes disorders to the digestive system. 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 of the brain arteries, causing stroke and paralysis.⁶³ Eating too much is contrary to Islamic teachings.⁶⁴ Children by their nature and habit love to eat without limitation and control and they are not mindful of the consequence of too much of consumption of food. It is the duty of their parents to control them and device a means of measuring their food intake. It is pertinent to state that prophet Muhammad S.A.W in one of his traditions discourage excessive eating as it has no benefit for the body and causes problems for human health. The prophet said: "No human being fills a container to worse effect than he fills his own stomach."

More so, healthy nutrition also means a diet balanced in its contents. 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 body needs in terms of proteins, fat, carbohydrate, salts and vitamins. Most of these lawful foods are mentioned in the holy Quran which says; "He created cattle which give you warmth, benefits and Food to eat."⁶⁵ Food and drink have been included as part of obvious benefits of *Maqasid al- Shariah* for the children and it is considered as supplement to *daruriyah* that can sustain the

⁶¹ Allah enforced the balance. That you extend not the bounds But observe the balance strictly and fall not short thereof" Quran 55: 7-9.

⁶² Azizah Mohd, *Protection of Abandoned Children in Malaysia: A comparative overview with Islamic Law* (International Law Book Services, 2007) 56.

⁶³ Wali Abu Hendi, 'Managing your Weight through Sunnah.' (n.d.) <www.everymuslim.net> accessed 2nd October 2015

⁶⁴ Al Quran, Ta Ha 20 v 81.

⁶⁵ Al Quran, anNahl. 16 v5. See also Al Quran, an Nahl. 16 v 1011

children to live a healthy life.⁶⁶ Therefore, health rules must be observed. One of the rules stresses the need to ensure the cleanliness of food and drink. For instance, Prophet Muhammad PBUH said: "Cover your food and drinks". Based on the fore going hadith, *Shariah* urges that food should be covered so that dirt do not fall into it. This is because it has made a preventive measure against contaminated food or drinks that can lead to sickness or illness. 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.⁶⁷

The general principle under *Shari'ah* is that all things which are pure themselves and good are lawful for diet as long as they are taken in a reasonable and moderate quantities and all things which are not pure themselves 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 foods and drinks which forbidden for consumption under the *Shari'ah*. These include carcasses animals and birds, pork, and anything slaughtered without invoking the name of Allah.⁶⁸ The rationale behind the prohibition of unlawful foods 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 Quran describes the forbidden things as bad, impure and harmful it has nexus with human's health.⁶⁹ For instance blood consumption is forbidden under *Shari'ah*, because it is a medium through which microorganism's flourishes and multiplies bacteria and other. If the children or human being are eating it there is tendency of transmitting microorganism to the body which has adverse effect and dangerous to the health. Children must therefore be discouraged from eating all these forbidden foods because of their negative impacts on the body.

⁶⁶ Muhammad Al-Tahir IbnAshur, *IbnAshur Treatise on Maqasid al-Shariah*, (Islamic Book Trust, 2006) 205.

⁶⁷ *Ibid.*

⁶⁸ HammudahAbdalati, *Islam in Focus* (Islamic Book Trust, 1998) 122.

⁶⁹ See also Al- Quran, Al-Maidah 5:4.

Personal Cleanliness and Hygiene

Personal hygiene and cleanliness for the children are part of principles of *Maqasid al- Shari'ah*. The preservation of health of children can only be achieved through taking good care of their health and taking every measure to maintain and enhance it. On the basis of this principle every parent should follow doctor's instruction or what Doctor prescribed to be suitable for the preservation of good health for their children.⁷⁰ *Shari'ah* has stipulated two broad methods for the preservation, protection and prevention of health in accordance with the Quran and *Sunnah*. This can be categorized into two: General purification or cleanliness and Special purification or cleanliness.

General purification or cleanliness includes Ablution, *ghusl*, (shower) and occasional shower. To ensure proper hygiene for the children and adult, *Shari'ah* has recommended ablution for all Muslims including children.⁷¹ Ablution entails purifying oneself from filth and dirt. It is not just an act of cleaning oneself but if done regularly, earns the doer reward and if he remains in this state all daylong he can save himself from many sins. More so, *Gushl* is an act of purification and preservation of health when taking regularly as when due. This is compulsory when one is in the state of impurity⁷². Bathing is also recommended in some occasions such as on every Friday and on the two recognized feasts in Islam that is *Eid-l fitr* and *Eid- al adha*. Taking a shower is also recommended for entering into the state of *Ihram* (consecration) whether for pilgrimage or *Umura* lesser Hajj.⁷³ The second category is special purification or cleanliness. *Shariah* has laid down other methods of cleanliness or purification in order to safeguard, promote and preserve health which are in relations to health of child. The parents, government and the authority in charge need to put into consideration the aspects of cleanliness such as washing hands before and after eating, washing hands and the usual part of the body when visiting the toilet and to wash the hand to ensure full sanitary of the body, clipping the nails regularly especially for the children, proper cleaning of the mouth and cleaning one's eyes, ears, nose, hair and genital health. The prophet was reported to have encouraged frequent washing of the hands in the interest of health sustenance not only in every *Salat* but also before and after

⁷⁰ Esther Yoder Strahan, *Parenting with reason* (Routledge, 2010) 46.

⁷¹ See Al-Quran. Al-Maidah.5:6.

⁷² The right path to health.

⁷³ See Al Quran 5:6.

eating.⁷⁴ Prophet Muhammad and his companions were accustomed to this whenever they proceed to an act of significance, like *Salat* travelling and war.⁷⁵ Every Muslim is required to follow the hygiene principle of neatness and cleanliness as well. Hence such person should ensure that he or she washes his hands before eating and see that he or she is mentally satisfied and upright before eating the food.⁷⁶ Prophet Muhammad PBUH described the process of cleaning one's mouth as "purification of one mouth" as an act that is pleasing to the Lord".⁷⁷ The washing of the mouth especially with *Siwak* has been said to have many benefits. It refreshes the mouth, strengthens the gums, stop phlegm, makes the sight clear, prevents cavities, purifies the voice, assists the digestion of food, and facilitates the passage of speech and gives energy.⁷⁸

In addition, that Prophet Muhammad PBUH placed great importance on the body,⁷⁹ clothing, house and the environment to be always clean and he stated that special attention or priority should be given to the cleanliness of the teeth, hands and hair. In addition to this requirement, there are compulsory type of cleaning either of the entire body in the form of *Gushl* (washing or bathing) of those part of the body which are exposed to dirt or in the form of ablution.⁸⁰ Children physical cleanliness is encouraged by *Shariah*. Prophet Muhammad disapproved keeping the hair long or uncared for and he also advised shortening of moustaches. For the purpose of cleanliness and health care he encouraged those who grow beards to always comb, trim and fragrance them. On the other hand women are ordered to wash their hair to the roots after the end of the menstruation cycle. This is because it removes sweat and dirt.

⁷⁴ Prophet Muhammad S.A.W." used to wash his hands before eating". Related bnMajah. See also Karem S.Ghoneim.2003. "Body Cleanliness: General and Specific in Islam. 'Journal of Islamic Science. . India. DarulFikir.Vol 19 No. 1-2 Jan -Dec.p.56. Prophet Muhammad S.A.W. said "were it not that it might distress my people, I would order them to delay evening prayer and use the tooth stick before every prayer." See Al-Bukhar. Sahih al-Bukhari. Kitab al-Jumuah, Bab Siwak al-Ratibwa al-Yabis li al-saim

⁷⁵KaremS.Ghoneim, "Body Cleanliness: General and Specific in Islam." (2003) Vol 19 No. 1-2 Journal of Islamic Science. 56.

⁷⁶M. .Mukarram Ahmad, *Encyclopedia of Islam* (DarulEhsan, 2007) 250.

⁷⁷ See Hadith Narrated by Al- Nisai following ibnKhuzaima following Aisha

⁷⁸IbnQayyim. *al-Tibb al-Nabawi*.p.323.

⁷⁹"It is authentically reported that Prophet Muhammad S.A.W. wiped his ears from the inside using his forefingers and placed his thumbs on the outside, wiping both the inside and outside of his ears." Related by IbnMajah.

⁸⁰ Yusuf al- Qaradawi, *The Lawful and Prohibited in Islam* (Islamic Publications, 2005) 89

Rubbing the whole scalp with water daily, which strengthens the hair, and activate the blood circulation, is also advised according to the Islamic *Shariah*.⁸¹ Therefore, the children should be given proper cleanliness as it is not only connected with their religion but also their health status as well.

Tahsinliyyat and Right of Children to Health **Cleanliness of the Environment**

The Environment where the children live must be clean and free from pollution because children are very sensitive to bad odour. Environmental crisis is one of the major problems of the contemporary world which without doubt affects the suitability of five necessities and health of children.⁸² In reference to the environmental crisis, Muslim jurists are often criticized for having lost contact with the changing conditions of the contemporary life in that they have been unable to relate the resources of Islamic jurisprudence in general and *Maqasid al- Shari'ah* in particular with the environment (*Figh al- Biah*) to modern situations especially in relation to protection and maintenance of healthy environment.⁸³ It is necessary to accept the protection of human health as fundamental value in *Maqasid al- Shari'ah* because Islam cares for the environment and emphasizes the importance of maintaining all its elements.⁸⁴ The generality and infinity of this message are two qualities that are guaranteed in Islam.⁸⁵ Its comprehensiveness in all aspects of life both physical and moral leads to eternal happiness.⁸⁶ Safety issues of the environment has become interest of individuals, societies and

⁸¹Karem S. Ghoneim, "Body Cleanliness: General and Specific in Islam." (2003) Vol. 19 NO.1-2 *Journal of Islamic Science*. 136-137

⁸²NurdengDeuraseh, "New essential values of Daruriyah (Necessities) of the objectives of Islamic law." (2012) Vol. 4.No 2 *Journal of Hadhari*. 107-116.

⁸³Mumtaz Akhtar, "Islamic Educational Approach to Environment protection: A strategic Approach for secure peaceful world." (2010) Vol. 1 No 3 *International Journal of Business and Social Science*. 183- 191

⁸⁴ Muhammad Ramzan Akhtar, "Towards An Islamic Approach for Environmental balance." (1996) Vol. 3. No 2 *Islamic Economic studies*. 57-74

⁸⁵MohdYaseenGada, "Environmental Ethic in Islam: Principles and Perspective." (2014) Vol.4. No 4 *World Journal of Islamic History and Civilization*. 130- 138

⁸⁶AbdelhaqHamche, 'Caring for the environment a religious duty.' (2013)<www.thepeninsulaqatar.com/special-page/islam/228282/caring-for-the-environment-a-religious-duty> Assessed on 2nd Dec. 2014.

countries. That is due to the persistence and aggression of humans towards the resources of the environment, the poor utilization of its resources, and destruction of massive areas forest wasting enormous of water and pollution of a high percentage the Air.⁸⁷

Islam is concerned with the environment because a clean and healthy environment ensures healthy citizens.⁸⁸ To provide better school with conducive environment for the children form part of *Tahssiniyyah* thereby the atmosphere of learning process will enhance better health condition. This because there are children who are suffering from different ailments and need clean and better environment to sustain their health. These children need to avoid dusty environment to avoid recurrent or persistent of the ailment.⁸⁹ The right to healthy environment can be connected to the right to life and the environment in this regard must be devoid of dangerous pollution whether of water, air or Soil.⁹⁰ In the same vein, if the school environment is far to their house it is *Tashiniyah* for the parents to ensure they are provided with cars if the school bus is not available in order to save them from stress or fatigue which may later transform to sickness if not adequately taken care of. This will make the children to be physically, intellectually and psychologically fit during the learning processes.⁹¹ The environment in which the children live should be preserved and protected. This is to protect the children.⁹² Therefore, the school authority and the parents are advised to provide a suitable and conducive apartment for the children who are living in the

⁸⁷ Rafiu Ibrahim Adebayo, "Abuse of religion and environmental pollution in Nigeria: An Islamic Perspective." (2013) Vol.21. No 1 *Intellectual Discourse*. 109-121

⁸⁸ Muhammad Ridwan Gallant, "The Objective (Maqasid) of al-Shariah in the protection of the Environment." (2006) *International conference on Jurisprudence and the Challenges of the 21st Century*. International Islamic University Malaysia. 417-440.

⁸⁹ Luqman Zakariyah. Lecturer. 25 January, 2015. International Islamic University Malaysia. Maqasid Shariah and right of children to health. (Personal interview).

⁹⁰ Abdul Haseeb Ansari & Umar A. Oseni, "Human Rights: Genesis and Perspective. In Human Rights Law, International, Malaysian and Islamic Law Perspectives." (Thomason Reuters, 2012) 20.

⁹¹ Abdul Haseeb Ansari & Umar A. Oseni, "Human Rights: Genesis and Perspective. In Human Rights Law, International, Malaysian and Islamic Law Perspectives." (Thomason Reuters, 2012) 20.

⁹² Luqman Zakariyah. Lecturer. 25 January, 2015. International Islamic University Malaysia. Maqasid Shariah and right of children to health. (Personal interview).

premises of the school and the parents have the same duty and avoid over crowded areas for the children because of its health implications.⁹³

Conclusion

Children are assets and any nation that fails to take the protection of its future leaders seriously risks leaving a great percentage of its population a liability. Childhood requires special protection and attention. Unfortunately childhood is a period when human beings suffer great deprivation from the people who are supposed to protect them. Child's right to health is the bedrock upon all other rights rest, the right to social amenity, the right to expression and interaction is useless where there is no good health. *Maqasid al-Shariah* has shown the application of health to children as their vulnerable to diseases which can affect them to develop mentally, physically and otherwise. The principles of *Maqasid al-Shariah* play adequate instrument to protect the right of children. Parents are basically at the centre of upholding and implement of these principles. The need to give the children adequate health care even right from the womb of mother which the conventional Laws have no provision for, has been emphasised in this paper. Islamic law advocates for adequate breast feeding for children and it is unchallenged right for them because it makes children to feel healthy. Eating nutrient foods also encouraged by *Shariah* especially for the children as it will make them develop physically, mentally and morally. Importantly, food must be the lawful one as contained in the Quran and Hadith of Prophet Muhammad that is *Halal* food.

⁹³ Basil Mahmud al- Hafii, *FiqhTufulatAhkamNafs: DirastunMuqaranat*. (Dar Namwad, .2008) 393.