APPRAISAL OF THE LEGAL FRAMEWORK FOR PROTECTING RIGHTS OF THE CHILD AND THE ROLE OF UNICEF IN PROMOTING RIGHTS OF THE CHILD IN NIGERIA

BY

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(LLM/LAW/6221/2011-2012)

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DECLARATION

I hereby declare that this thesis entitled *Appraisal of the legal framework for protecting rights of the child and the role of UNICEF in promoting rights of the child in Nigeria* is produced by me under the supervision of Dr Yusuf Dankofa and Dr Kabir Danladi. It has not been presented for any previous application for higher degree. All quotations are indicated and sources of information are duly acknowledged.

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CERTIFICATION

This thesis entitled *Appraisal of the legal framework for protecting rights of the child and the role of UNICEF in promoting rights of the child in Nigeria* by Abdulazeez Adavize Sadeeq meets the regulations governing the award of Master of Laws (LLM) Degree of Ahmadu Bello University, Zaria and is approved for its contribution to knowledge and literary presentation.

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DEDICATION

This work is dedicated to his Eminence, the Grand Sheikh of Islam, **Imam Hassan Aliyu Cisse** (May Allah sanctify his soul), the **'Canopy for Humanity'** and the **'Ambassador of Women and Children'**.

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All praises and adoration is to Allah the Lord of the universe. His peace and salutation be upon the Noble Hashmite (S.A.W). My gratitude goes to Him for His favour, blessings, and bounties, former, present and future.

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TABLE OF CONTENTS

Title Page	i
Declaration	ii
Certification	iii
Dedication	iv
Acknowledgements	v
Table of Content	vi
Table of Statutes	ix
Table of Cases	x
Abbreviations	xi
Abstract	xii

CHAPTER ONE

GENERAL INTRODUCTION

1.1	Background of the Study	1
1.2	Statement of the Research Problem	3
1.3	Aim and Objectives of the study	4
1.4	Justification	4
1.5	Scope of the Study	5
1.6	Research Methodology	5
1.7	Literature Review	6
1.8	Organizational Layout	13

CHAPTER TWO

MEANING, ORIGIN AND MANDATE OF UNICEF

2.1 Introduction

2.2 The meaning, Origin and Nature of UNICEF

2.2.1 Structure of UNICEF

2.2.2 Activities of UNICEF in its early years

2.3 The Mandate of UNICEF

2.4 Funding of UNICEF

CHAPTER THREE

THE LEGAL FRAMEWORK FOR THE PROMOTION AND PROTECTION OF THE RIGHTS OF A CHILD IN INTERNATIONAL LAW

3.1 Introduction

3.2 Meaning of a Child

3.2.1 Meaning of Child Right

3.3 The Legal Framework for the Protection and Promotion of the Rights of a Child

3.3.1 The United Nations Convention on the Rights of the Child

3.3.2 The African Charter on the Rights and Welfare of the Child

3.3.3 The Universal Declaration of Human Rights

3.3.4 The African Charter on Human and People's Rights

3.3.5 The Child Rights Act

3.3.6 The Criminal Code

CHAPTER FOUR

UNICEF OPERATIONS IN NIGERIA

4.1 Introduction

4.2 Activities of UNICEF in promoting and protecting the Rights of the Child in Nigeria

4.2.1 Survival and Early Care

4.2.2 Basic Education

4.2.3 Protection and Participation

4.2.4 Planning and Communication

4.2.5 Emergencies

4.2.5.1 Water Sanitation and Hygiene (WASH)

4.2.5.2 Education

4.2.5.3 Nutrition

4.2.5.4 Health

4.2.5.5 Media and External Communication

4.3 An Overview of the Activities of UNICEF in other Jurisdictions

4.3.1 Collaboration with Religions Communities

4.3.2 Cash Assistance

4.3.3 Establishing Databases for Children

4.3.4 Encouraging Child Participation

CHAPTER FIVE

SUMMARY, FINDINGS, RECOMMENDATIONS AND CONCLUSIONS

5.0 Introduction

5.1 Summary

5.2 Findings

5.3 Recommendations

5.4 Conclusions

TABLE OF STATUTES

Child Rights Act 2003 - -57,58,69,76,89,94,101,103,114,116,117

Children and Young Person: Law Cap 21 Law of Northern

Nigeria 1963 - - - - - - - 57, 58

Constitution of the Federal Republic of Nigeria 1999 - 46

Convention on the Rights of the Child 1989. - 55, 57, 58, 89, 94, 114

Convention on the Rights of State 1976 - - - - - 48

Criminal Code - - - - - - - - 57, 75

European Convention on the Exercise of Children's Rights Hague Child Protection Convention. - - - - - - - 55

International Convention for the Suppression of Traffic in Women and Children 1921 - - - - - - - - - - 51

Industry Convention 1919 - - - - - - - 51

OAU Charter on the Rights and Welfare of the Child 1999 - - 55, 57, 58, 64, 89, 94, 114

United Nations Charter, 1945 - - - - - - 52

TABLE OF CASES

Re Carlton (1945) 1 ch. 372 - - - - - - *43*

Re Gault - - - - - - - - - 54

Haruna Kaita vs DSSS & Ors - - - - - - - - 100

ABBREVIATIONS

ACSD	— Accelerated Child Survival and Development
ECOWAS	— Economic Community of West African States
IMCI	— Integrated Management of Childhood Illnesses
ITNs	— Insecticide Treated Nets
NAPTIP	— National Agency for the Prohibition of Trafficking in Persons
NIALS	— Nigerian Institute of Advanced Legal Studies
OAU	— Organisation of African Unity
ORT	— Oral Rehydration Therapy
PMTCT	— Prevention of Mother-to-Child Transmission
UNICEF	— United Nations Children Fund
UNHCR	— United Nations High Commission for Refugees
UNRRA	— United Nations Relief and Rehabilitation Administration
WHO	— World Health Organisation

ABSTRACT

United Nations Children Fund is an international Institution that deals with the promotion and protection of the rights of children in times of peace and during emergency situations. Restrictively, this thesis aimed at studying the activities of UNICEF in the promotion and protection of the Rights of the child in Nigeria. The sources of information relied upon are, relevant books, statutes, judicial authorities, articles in Journal publications, newspapers, magazines, and conference and internet materials. The justification for these theses is that, despite the long years of UNICEF's presence in Nigeria, the situation of the Nigerian child is still very poor. In addition, of recent, many crises have subjected children in Nigeria to untold hardship and reduced them to objects of sympathy, especially, the ongoing Boko Haram crisis in the North-Eastern part of the country where children are involved in calamities along with adults, but painfully, children being vulnerable and defenceless are exposed to all manners of hardship and suffering. Thus, in view of this, the objective of this thesis is to identify the activates of UNICEF that will promote, protect the rights of the child as well as alleviate the suffering of children in Emergency situations in Nigeria. Thus the finding of this research among others is that due to the mandate of UNICEF as an inter-governmental agency, the Fund, although an agency dedicated solely to children, ironically has limited interaction with children and thus lacks practical experience in dealing with children. In view of this, the research was concluded by recommending among others that UNICEF *should encourage Child Participation in all its programs as well as initiate programs that will increase direct interaction with children.*

CHAPTER ONE

GENERAL INTRODUCTION

1.1 Background to the Study

It is generally known and accepted that children need special care and protection and are dependent upon the aid and assistance of adults, especially in the early years of their existence.[1] In their early years, children depend on adults for their feeding, clothing, and indeed all other aspect of their existence.

Under International Human Rights Law, children are considered to be among the vulnerable group and therefore are disadvantaged and needs to be protected by the law. Thus there is no questioning the fact that children constitute the most vulnerable and powerless members of the society. However, the concept that children have specific rights deserving of enforcement and protection is a comparatively modern development. The popular assumption in times past was that most adults and parents in particular, had the best interests of the child at heart, there was thus no necessity to think in terms of children's right.[2]

Recognition of children's rights grew out of the wider crusade for human rights, specifically those of women. Indeed, perceptions of the two groups were largely

[1] .Ladan M T, *Introduction to International Human Rights and Humanitarian Law*, Ahmadu Bello University Press, Zaria, (1999), p. 123
[2] Ayua A. I., *et al* (eds) *The Rights of the Child in Nigeria*, NIALS, Lagos, (1996) p. 1

similar. In the 18th century, for example, both women and children were generally regarded as a form of property.[3]

The United Nations Children's Fund (UNICEF) is a Specialised Agency of the United Nation, devoted to the health and welfare of children. UNICEF is headquartered in New York and works with children in over 158 countries.[4] UNICEF originally began as a response to the right of children in the aftermath of World War II. Its mandate gradually broadened to include ongoing support for children in all parts of the world. Currently UNICEF is the leading advocate for children's rights, and works to overcome violence and discrimination against children.

Nigeria was one of the very first African countries where the United Nations Children's Fund (UNICEF) established a programme of cooperation. UNICEF's work for the survival, protection and development of Nigerian children has continued ever since. Today, UNICEF is still working in partnership with many stakeholders including children and families to achieve national and international goals instrumental in the fulfilment of children's right.[5]

[3] Jensen, L. *Women's and Children's Rights: Making the Connection* UNICEF and UNFPA (2010) p. 35
[4] International Directory of Company Histories, St. James Press (2004) Vol. 58, p54
[5] History of UNICEF in Nigeria available at http://www.unicef.orc/nigerialabout:html accessed on 4th March, 2013

1.2 Statement of the Research Problem

UNICEF has been present in Nigeria for over six decades now. The organization has been involved in activities geared towards the promotion and protection of the rights of the child in Nigeria. Despite the long years of UNICEF's active and continuous struggle to better the welfare of children in Nigeria, the Rights of the Nigerian child to Survival and Early Care; Basic Education; Nutrition; Freedom from Discrimination and other rights provided for by both International and Local Instruments such as the United Nations Convention on the Rights of the Child and the Child Rights Act remains only a dream for many Nigerian children. What then has UNICEF been doing specifically to improve the situation of the Nigerian Child? And to what extent has the efforts been effective in promoting and protecting the Right of the child in Nigeria.

In addition, many recent crises in Nigeria, especially the Boko Haram crisis has had a devastating effect on the Nigerian populace. The most affected group being children who are vulnerable and defenceless. The Boko Haram crisis has reduced many children in the North-Eastern part of Nigeria to objects of sympathy. Presently, it is estimated that there are about 2 million Internally Displaced Persons in the North-East and about 56 per cent of them being children.[6] What steps has UNICEF taken to alleviate the suffering of the children in crisis situation especially in the Boko Haram affected areas of the North – East of Nigeria? And how effective has the intervention of UNICEF been in protecting the Rights of Children in emergency situations in Nigeria?

[6] www.PVCnews.tv/article/Japan-gives-unicef-n750m-displaced-boko-haram-victim

1.3 Aim and Objectives of the Study

The aim of this study is to appraise the legal framework and the role of UNICEF in the promotion and protection of the rights of the child in Nigeria. Arising from the aim, the objectives of this study are as follows:

(i) To identify and examine the activities of UNICEF that promotes and protects the Rights of the Child in Nigeria.

(ii) Examine the effectiveness of the activities of UNICEF in promoting and protecting the Rights of the Child in Nigeria in general and particularly in emergency situations.

(iii) To offer suggestions on the ways that UNICEF can further its objective of promoting and protecting the rights of the child in Nigeria.

1.4 Justification

The justification which warrants research on the subject matter is the fact that despite efforts of UNICEF and the long years of activities directed towards the promotion and protection of the rights of the child in Nigeria, many children in Nigeria are yet to enjoy basic rights such as right to survival, health, basic education, freedom from discrimination and freedom from all forms of physical and mental violence. In addition the many ethno-religions crises in Nigeria in recent times, especially the Boko Haram insurgency which is having a devastating effect on children who are defenceless, helpless and vulnerable provides a justification for a research on this area.

This research is further justified by the problems raised in the statement of Research Problem and its relevance to law students, law lecturers and the general public.

1.5 Scope of the Study

This study covers the general evolution of UNICEF and the nature and scope of child rights in Nigeria. Restrictively it focuses on the role of UNICEF geared towards the promotion and protection of the rights of the child in Nigeria. Also the research examines the activities of UNICEF in other jurisdictions to provide a basis for comparison and areas of improvement for Nigeria where the circumstances are similar.

1.6 Research Methodology

This work is based on the doctrinal method of research which is a research that is conducted mainly in libraries and the internet. References are made to statutes sand judicial Authorities as primary sources and books, articles in journal publications, newspapers, magazines and online materials as secondary sources. Facts gathered from both primary and secondary sources are analyzed and the findings as well as the conclusion of the researcher stated.

1.7 Literature Review

The effort made so far by UNICEF to safeguard the rights of children around the world has provoked much writings. It is worthy of note that UNICEF is very much involved in research and publication through its Innocenti Research Centre, *Florentina*, Italy. Thus there are good literatures on the role of UNICEF in promoting and protecting the rights of children in general and specifically in

Nigeria. However most of these literatures deal with one aspect of the subject matter or another. Hence the writer consulted various works to bring about this work.

In the book The Rights of the Child in Nigeria,[7] an overview of the Rights of the Child in Nigeria was provided. The traditional attitude towards children in Nigeria was also discussed. In addition the rights of children in Nigeria to education, health, child welfare, as well as issues of child labour child abuse and treatments of juvenile offenders were also examined. The activities and contribution of UNICEF were also highlighted, for example it is stated that; UNICEF noted:

> In the poorest parts of the world, cuts in government spending and falls in family incomes have meant that' infant mortality has risen, malnutrition has increased, and schools and health clinics have been closed. The result is that the poorest and most vulnerable children have been the most exposed to the lash of debt and recession.

Gerison Lansdown[8] wrote on promoting children's participation in Democratic Decision – Making. He examines the importance of children participation and the consequences of the failure of adults to listen to children. He makes a case for a commitment to respecting children's rights to be heard and the need to consolidate on practical lessons learned to date in working with children as partners. This work is quite restrictive in that it focuses only on the right of the child to be listened to and

[7] Ayua A. I *et al* : (eds) *The Rights of the Child in Nigeria*; NIALS, Lagos, (1996).
[8] Gerison Landsdown: (2001). *Promoting Children's Participation in Democratic Decision-Making* .UNICEF Innocenti Research Centre, Florence. Italy.

taken seriously. This research work examines a wide range and albeit more important rights of the child.

Stephen Harmer and Malia Robinson[9] examined the collaborative efforts between UNICEF and Religious communities for the benefit of children. They emphasized the fact that faith communities have been and continue to be an indispensable partner in UNICEFs work to advance children's rights and enhance their well-being. They made a case for the prevention of misuse of religion in the violation of the rights of the child. This work although very beneficial is also very restrictive as it focuses only on the partnering of UNICEF with religious communities. The scope of this research is broader than UNICEFs partnership programmes and focuses mainly on UNICEF activities in Nigeria.

Lois Jensen[10] wrote on women and children's rights and sought to establish a connection between the two groups and the practical implications of considering them together. She asserts that it is the health and economic condition of a woman before a child is born that directly affects a child's prospects for survival and development. Therefore protecting women's rights amounts to indirectly protecting the rights of children. The book is only useful in understanding the link between the rights of women and children. Other than this, it did not mention the role of UNICEF in protecting and promoting the rights of the child.

[9] Stephen Hammer et al (2012). *Partnering with Religious Communities for Children* UNICEF, New York. USA.
[10] Lois Jensen (2010). *Women's & Children's Rights: Making the Connection* UNICEF and UNFPA, New York. USA.

The book Children And Conflict In A Changing World[11] which is a review of the landmark 1996 Michael study on the impacts of conflict on children, examines the changing nature of conflict and the consequences it has on children. Specifically the work made reference to internationalization of terrorism and the use of children as perpetrators or accomplices in terror acts and observes that the current counter-terrorism measures has multiplied negative effect on the rights of the child. The book makes a case for altering response to terrorism in such a way that will not jeopardize the rights of the child. Although this book is very useful to this research especially as it relates to the Boko Haram insurgency in Nigeria, it is however also restrictive. This research focuses both on the protection of the rights of the child in general of which protecting the rights of the child in emergency and conflict situation is only a part of.

In the book The Media and children's Rights,[12] the role of media professionals in the promotion of the child is examined. It provides ideas for journalists and for those seeking to obtain media coverage about children's needs, problems, achievements and aspirations. It identifies storylines based on themes drawn from the Articles of the United Nations Convention on the Rights of the Child and provides check lists to help media professionals' measure the extent to which their own practice and those of the media industry, acknowledge children's rights. The usefulness of this book to this research is highly limited having focused solely on the role of media professionals and activist in promoting rights of the child.

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[11] Katey Grusovin, *et al*.: (2009). *Children and Conflict in a Changing World*. UNICEF, New York. USA.

[12] Mike Jempson *et. al*.: (2005). The *Media and Children's Rights*. Media Wise and UNICEF. New York. USA

The book Child safety online: Global Challenges and Strategies[13] examined child abuse linked to information and communication technology as well as how to build a protective environment for children using internet. The book explored children's online behaviour, risk and vulnerability to harm, while documenting existing preventive and protective measures to combat their online abuse and exploitation. The book suggested a collective effort by policy makers, law enforcement agencies, social workers, teachers, parents and the private sector to systematically protect children. This book from the foregoing is only relevant in understanding the threat posed by the use of internet by children.

Dan O' Donnell[14] highlighted the many ways which parliaments and their members around the world can promote the rights of children through laws, policies, advocacy and other means. He explained how parliaments and their members can gain a clearer understanding of what their contribution can be and the knowledge and tools they require to make that contribution. It goes further to touch on specific child protection issues such as birth registration and the rights to identity, children and armed conflict, violence and neglect, e.t.c. The book is restrictively useful to what has been mentioned only.

In the book, Beyond Child Labour; Affirming Rights,[15] the effort of UNICEF in the prevention of child labour in highlighted. Specifically the book mentions the activities of UNICEF in the prevention of child labour in Bangladesh, Brazil, Nepal and

[13] Gerison Landsdown et, al (2011). *Child Safety Online: Global Challenges and Strategies*. UNICEF Innocenti Research Centre, Florence. Italy.
[14] Dan O' Donnell (2004) *Child Protection: A Handbook for Parliamentarians*. UNICEF & INTER-PARLIAMENTRY UNION, New York. USA.
[15] UNICEF (2001) *Beyond Child Labour, Affirming Rights*, New York. USA

Tanzania. The book focuses mainly on the role of UNICEF in the prevention of child labour in the four countries mentioned above is to that extent restrictive. The focus of this work is activities of UNICEF in Nigeria.

The paper titled Legislative Reform Related to the Convention on the Rights of the child in Diverse Legal Systems[16], explores and provided guidance on the role of legislation and regulations which may have a direct or indirect bearing on children and the promotion and protection of the rights of children in the countries of Armenia, Barbados and Ghana. The paper canvassed for law reform in favour of children with particular emphasis in the rights contained in the convention on the Rights of the Child. The paper is limited to the three countries mentioned above and therefore is not entirely useful to this research.

In the work, Promoting the Rights of children with Disabilities,[17] the researchers focused particularly on the Convention on the Rights of the Child and the Convention on the Rights of persons with Disabilities. They opined that the latter legal instrument opens a new era in securing the rights of children with disabilities and their families. They suggested that Governments should develop a national plan for action framed by the relevant provisions of the CRC and CRPD specifying measurable targets, evaluation indicators and timetable and should be monitored accordingly. The book is restrictive only to children with disabilities while the scope of this research work encompasses children with and without disabilities.

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[16] Tracy Robinson et al (2008). *Legislative Reform Related to the Convention on the Rights of the child in Diverse Legal Systems. Legislative Reform Initiative paper series*. UNICEF Gender, Rights and Civic Engagement Section, Division of Policy and Practice, New York. USA.

[17] Michael Millen et al (2007). *Protecting the Rights of Children with Disabilities*. Innocent Digest Series, No. 13, UNICEF New York. USA.

In the book, Introduction to International Human Rights and Humanitarian Law[18] a lot of issues concerning the human rights was discussed. However, the relevant part of the book is in chapter six where the author discussed the Protection of Children's Rights in International Human Rights and Humanitarian Laws. He discussed the International Instruments on the Administration of Juvenile Justice, Children's Rights on Arrest, Children's Rights on detention as well as Protection of Children's Rights in International Humanitarian Law. He stated that the aim of Juvenile Justice System is to enhance the well-being of the juvenile and to ensure that any reaction to juvenile offenders is proportionate to the circumstance of the juvenile and the offence.

Maggie Black in her book "the children and the nations"[19] traces the origin and development of UNICEF. She traced the evolution of UNICEF from the events that led to the first and second world wars ad how it culminated finally in the formation of UNICEF. The founding fathers of UNICEF were discussed extensively. In addition, Maggie Black described all the early development in the life of UNICEF in an admirable manner.

The book is divided into five distinct parts each of which deals in chronological order with a particular period in UNICEF's life. This arrangement has the

[18] Ladan M. T, *Introduction to International Human Rights and Humanitarian Law*, A.B.U Press, Zaria, (1999).
[19] Maggie, Black: *The Children and the Nations. The Story of UNICEF*, P.I.C PTY Ltd, Sydney (1986)

advantage of showing clearly how the organisation has adjusted itself successfully to the constant changing political forces since the Second World War.

Prof Javaid Rehman writing on International Human Rights law[20] discussed the Right of the Child in his book. An overview of international instruments on the rights of the child was provided I the book. He analysed the convention on the Rights of the Child focusing on he substantive provision and protocols to the convention on the rights of the child. He also highlighted the provisions of some regional initiatives in protecting the rights of children.

The writer asserted that violation of the rights of the child is a common occurrence in many parts of the world. These violations range from for time, cruel, in human and degrading treatment etc. The book is relevant to this research to the extent that it helps in understanding the provisions of some child protection instruments. Other than this, the work did not state the effort of any particular organisation towards protecting the rights of the child by the instruments discussed in the book as we intend to do in this research work.

Andrew Bainham in his book[21] gave a background and sources of children law. The book deals generally with all aspects of law relating to children. The most important part of the book in relation to this work is that the book traces the

[20] Rehman, J. (2010): *International Human Rights Law.* Pearson Education Limited, England, second edition.
[21] Bainham A. (1998): *Children, the Modern Law,* Jordan Publishing Ltd London, Second Edition

origin of children's rights in international law. It specifically related the evolution of International Children's Rights movement. Another important aspect of the book is the commentary it provided on relevant international and regional instruments relating to children.

The usefulness of the book is limited to the fact that most of the discourse on ital areas of children law is based on the law in England, the writer himself being a lecturer in law at the University of Cambridge. The book is however very much of relevance in understanding laws relating to children.

In the work 'Protecting the Rights of Children in Conflict with Law'[22] the issues of juveniles justice was addressed. The book discussed how juvenile justice fits within the mandate of UNICEF. It is stated in this work that UNICEF believes that jails and detention should be a last resort for children in conflict with the law.

In the book, the effort of UNICEF in the legal protection for children in conflict with the law is highlighted. The contributors explained that UNICEF supported the creation of a children protection unit within the Bar Association. UNICEF was also said to provide training to the child protection unit and facilitates networking and training with other relevant NGO's and government agencies. Thus this work is very useful in the conduct of this study. The problem however

[22] Gina Lucarelli *et al, Protecting the Rights of Children in Conflict with the Law* at http://www.unodc.org/pdf/criminal-justice/protecting_children_en_pdf accessed on 10th March 2013 at 12:45pm.

is that it is effort of UNICEF in protecting the children who are in conflict with the law. The scope of this work goes beyond protecting children in conflict with the law, it touches on various aspect of child rights.

Alemika Emily in the paper titled 'legal framework for the Child Rights in Nigeria'[23] discusses the various definition of a child as well as the historical development of the laws relating to the child and further examines the Child Rights Act 2003 and the challenges of enforcement. She submitted that today, child rights advocacy has moved beyond the simple question of protection to also embrace an element of self determination on the part of the child to the extent that children are granted a degree of autonomy in the enjoyment of their right.

Nwokocha writing on 'child and contemporary forms of slavery in Nigeria'[24] examines the meaning of a child, slavery, the relationship between slavery and the law and the slave-like experience of the Nigerian child. He explains the various forms child slavery in Nigeria such s child labour, debt bondage, sale of children, servile forms of marriage and trafficking in persons for sexual exploitation.

[23] Alemika E. I (2010*: Legal Frameworks for the Child's Rights in Nigeria*. UNIJOS Journal of Public Law and Constitutional Practice vol. 3

[24] Ndu I.N: *The Child and Contemporary Forms of Slavery in Nigeria*. Ekiti State University Journal of Private and Commercial Law, (2008). Vol. 1

The writer opines that in all the above instances mentioned, the child victims find themselves in situations akin to slavery. He submitted that their lot lies in being subjected to physical and mental violence, to torture cruel and in human and degrading treatment or punishment as well as other forms of abuse including sexual abuse and use of the child in some cases in criminal activities including illicit production of and trafficking in drugs and any other form of exploitation prejudicial to the child's welfare.

Umar Alkali in the article 'reflection on Child's Right to Education and Dignity under the Child's Right Act 2003'[25] provided an appraisal to the Right to Education of the child as contained in the Child's Right Act 2003. He discussed extensively the components of the Right to Education of the Child in Nigeria. He observes that the provision of the Child's Right Act on Education is not adequate to guarantee the right to education due to lack of clear explanation on some important issues for example the meaning of the term "free". He suggested that a special legislation on the child's right to education be enacted which will be broadly based on ideas incorporated in Indian Legislation called the Right of Children to free and Compulsory Education Act 2009.

[25] Alkali A. *U: Reflection on Child's Right to Education and Dignity under the Child's Right Act 2003*. Olabisi Onabanjo University Journal of Public Law (2011), vol. 1 No. 1

In the article "An Appraisal of Child's Right to Life and Health under the Child's Right Act 2003',[26] the right to survival and development of the Child is examined in some details. The writer explained the meaning of right to health and examines the provision on the right to health of the child in the Child Rights Act 2003. He identified malnutrition, harmful traditional practices, lack of access to health facilities as well as the high cost of medical care as some of the constraints to realising child's right to health in Nigeria.

Umar Alkali in 'An X-Ray of the Conflicts Between the Child's Right Act 2003 and Islamic Law on Child Marriage and Legitimacy' [27] observes that the apparent contradiction between the Child's Right Act and Islamic Law is not surprising because the origin of the Act lies in conventions and treaties that are designed by people who are ignorant of Islamic law. He concluded that it is not all the provision of the Act that are in conflict with Islamic law rather some of the provisions of the Act reiterate some valid position of Islamic law relating to the right of children.

[26] Alkali A.U*: An Appraisal of Child's Rights to Life and Health under the Child's Right Act 2003*, University of Ibadan Law Journal (2011). Vol. 1 No. 2

[27] Alkali A.U:*An X-Ray of the Conflicts between the Child's Right Act 2003 and Islamic Law on Child Marriage and Legitimacy*. Human Rights Review, An International Human Right Journal of ABU Zaria, and National Human Rights Commission of Nigeria (2012) vol. 3

1.8 Organizational Layout

Chapter one discusses the background of the study, statement of research problem, justification, aims and objective of study, methodology, scope of the study, literature review and organizational layout of the thesis.

Chapter two examines the formation, structure and mandate of UNICEF. It examines the origin and development of UNICEF, the structure and organisation of UNICEF, mandate objectives of UNICEF, principal operating units of UNICEF and conference participation.

Chapter three discusses the nature and scope of child rights. It provides the meaning of a child, the meaning of child rights, historical background of child rights and the legal framework for the protection of the rights of a child in international law.

Chapter four focuses on the role of UNICEF in promotion and protection of the rights if the child in Nigeria, activities of UNICEF in Nigeria for promotion and protection of rights of the child such as survival and early child care, basic education, water, sanitation and hygiene, protection and participation, planning and communication, HIV/AIDS, emergencies and publications.

Chapter five concludes the study with a view to providing summary, findings and recommendations to the problem and challenges identified in the study so as to enhance the performance of UNICEF in its quest to protect and promote rights of children.

CHAPTER TWO

MEANING, ORIGIN AND MANDATE OF UNICEF

2.1 Introduction

Due to the devastation of World War II, much of Europe was in dire need of reconstruction. This is because most of European cities and country side have been destroyed and infrastructure broken down during the war. Socially, Europe was in a crisis and trying to rebuild families in the midst of homelessness and poverty. A United Nations organisation called United Nations Relief and Rehabilitation (UNRRA) was formed to cushion the effect of a World War II on Europe. It was from this body that the United Nation International Children's Emergency Fund (UNICEF) was formed specifically to assist children who were affected by the war.

2.2 The Meaning, Origin and Nature of UNICEF

The effort of Eglantyne Jebb, an English woman during the World War I was said to be instrumental to the formation of what is today known as UNICEF. The historical antecedent of UNICEF was usually commenced from the post war famine in Europe. Eglantyne Jebb helped to set up an organization in London which she named the 'save the children fund'. In an effort to raise and spend voluntary donations on behalf of the children in 1920 she persuaded the

International Red Cross in Geneva to support a Save the Children International Union.[1]

This does not however mean that there were no voluntary organisations prior to that of Eglantyne. There were infact many voluntary organisations who had dedicated themselves to assisting the victims of fire disaster, flood and the poor mother and her child. However, the idea of an international relief is considered as a twentieth century development and Eglantine is recognised as the originator of the idea that children were a special kind of people whose welfare should not be subjected to partisan considerations when she spoke against the principle that there was something as an 'enemy child' in defilement of the British courts.[2]

The idea that life is precious and as such cannot be entrusted entirely to political interest developed from the lessons learnt during the war in Europe in the mid nineteen century as the devastating effects of modern instruments and method of warfare were greatly felt. Thus the idea though originally applied to those engaged in warfare, gradually extended to defenceless civilians especially children who are hitherto oblivious of the politics of nations to protect their interest.[3]

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[1] Maggie, Black: *The Children and the Nations. The Story of UNICEF*; P.I.C Pty Ltd, Sydney (1986) p. 17
[2] *Ibid 18*
[3] *Ibid*

The effect of the First World War on the thought of people and the role this played in the build up towards humanitarian activities and subsequently the formation of UNICEF is captured in the following statement:

> When the First World War broke out, the growing humanitarian community faced a challenge of entirely new dimensions. War on this scale, affecting so many combatants and so many civilians, had never been known before. The protracted agony of the war and the equally protracted misery of post-war famine and epidemic represented a watershed in human affairs. The suffering it caused in the trenches and among 'innocent' civilians left a generation scorched in mind and character. Not only did the extraordinary circumstances of suffering elicit extraordinary responses such as that of Eglantyne Jebb, but the mobilisation of voluntary resources for relief reached a phenomenal level. The war reached into peoples' hearts and minds in a way that helped to reshape social attitudes. Among all the other things the war did it also launched the careers of a whole generation of people who carried the banner of international cooperation forward, through the depression and a second world war to the birth of a united Nations and beyond.[4]

From the foregoing, it is clear that the First World War has taught people quite a number of lessons. However, the bitter experience of the World War I did not prevent the occurrence of the World War II. This time, though the devastating effect of the World War II as it turned out to be more destructive than the first one was anticipated. World leaders[5] recognised that there would be need to make plans to alleviate the sufferings of people during and after the war. It is

[4] *Ibid*, p. 19

[5] Winston Churchill in the British House of Commons alluded to the need to bring relief during and after the war

therefore the realisation that after the war, "millions of people would be hungry, sick and homeless, not only emergency relief but rehabilitation of their homes, communities and countries would be needed"[6] that led to the set up of United Nations Relief and Rehabilitation Administration (UNRRA).UNRRA was thus formed on 9 November 1943 in Washington with a membership of over forty countries.[7] It was created as stated above to cushion the effect of the war on the teeming world population.

The structure and organisation of UNRRA is provided in article three of the agreement for United Nations Relief and Rehabilitation Administration. The Agreement states that:

> Each member government shall name one representative and such alternates as may be necessary, upon the council of the United Nations Relief and Rehabilitation Administration, which shall be the policy making body of the Administration. The council shall, for each of its Sessions, Agreement or by action of the Council, the Council shall vote by simple majority.[8]

It goes further to state that 'The council shall be convened in regular session not less than twice a year by the central committee. It may be convened in special

[6] Maggie, Black. *op cit*.. p. 23
[7] They are Argentina. Australia. Brazil. Byelorussian Soviet Socialist Republic, Canada, China, Columbia, Czechoslovakia, Den mark, Ecuador. France, Greece, Iraq, Netherlands, New Zealand, Norway, Peru, Poland, Sweden, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republic. United Kingdom. United States of America and Yugoslavia etc.
[8] Article III (1) of the Agreement creating UNRRA available @ www.ibibio,org/pha/policy/ accessed on 7th March 2013 @ 4:15pm

session whenever the central committee shall deem necessary and shall be convened by one-third of the members of the council'.[9]

The combined import of the above is that the council of UNRRA is the central policy making body of the Administration which is made up of one representative from each of the 44 member governments and each of this has one vote. It further shows that decision regarding the affairs of the body is made by a simple majority vote.

The council has a Central Committee which consists of the representatives of China, the former Union of Soviet Socialist Republics, the United Kingdom and the United States of America.[10] The Central Committee is authorised to make emergency policy decisions between Sessions of the Council, subject to later reconsideration by the Council.

By the provision of' Article IV of the Agreement for UNRRA, the executive authority shall be the Director General who shall be appointed by the Council on the unanimous vote of the central committee.[11] The Article also provides for the removal of the Director General. The powers of the Director General is contained in sections 2, 3, 4 and 5 of Article IV which involves, appointing Deputy Directors, General Officers, expert personnel and among others making periodic reports to the Central Committee and to the Council covering the

[9] Article III (2)
[10] Article III (3)
[11] Article IV(1)

progress of the Administration's activities.[12] It is pertinent here to note that the first Director General of UNRRA was Herbert Lehman, who was an ex-Governor of New York.

In respect of the funding of the Administration, all member nations share in the administrative expenses of the Administration. Member governments were allotted specific amount to be paid by the Council. In addition, "the resources used for relief operations are derived principally from contributions by member nations. It was thus recommended by the Council that these nations contribute to this purpose approximately one (1) percent of the national incomes for the year ending June 30, 1943.[13] It is important to note here that despite this financial arrangement, the bulk of the funds and supplies to UNRRA came from the US.[14] Despite this however, it has been observed that UNRRA was not intended to be a charitable operation run by the victors for the victims of war; it was a genuine international partnership.[15]

It is on record that during the three and a half years of its existence, UNRRA did achieved a lot; it brought succour to millions of people in about twenty five countries including China, Philippines, Korea, Ethiopia and the countries of central and eastern Europe. It spent about $4 billion on aid "UNRRA supplies

[12] Article IV (2), (3), and (4) and (5)
[13] Woodard. E.S *UNRRA A Democratic Plan for International Relief*. US Department of State Bulletin (1944) p 9 available @ www http://www.ssa.gov/policy/docs/ssb/v771/pdf accessed on 21st March, 2013 at 10:40am
[14] Maggie Black. *op. cit*.. p. 29
[15] *Ibid*. 24

of fats and cereals kept millions of people alive. Seed, fertiliser and agricultural machinery arrived to help revive food production".[16] It could therefore be safely said that UNRRA achieved the purpose for which it was formed.

The death of UNRRA came to many, especially the nations receiving aid from it, as a rude shock. The factors that led to the dissolution of UNRRA are; the heavy criticism against it, especially in the U.S. The criticism against UNRRA arose because of two reasons. Firstly there were allegations of mismanagement levelled against its officials and some officials of government who received goods from UNRRA. Secondly, one of the principles of UNRRA's operation was the freedom of the receiving government to sell the goods received in the market. This principle created a lot of misunderstanding. Lehman on his part blamed lack of publicity on the part of government of member countries.[17] The arguments and criticism against UNRRA got to the heart of President Truman's Administration and he, began to see its activities in an 'exclusively negative light'.[18]

The reason why the criticisms got to Truman was probably because the U.S. had wanted to shift the emphasis in post war relief away from an impartial, international context and lace it more closely under an all-American wing.[19] Thus, either because of the criticisms, or because of the widening political

[16] Woodward E.S *op. cit*., p. 9
[17] Maggie, Black. *op cit*., p. 25
[18] *Ibid*
[19] *Ibid*

distrust between the UNRRA's clients in Europe and the eastern countries and the fact that almost three-quarters[20] of the aid they were receiving actually came from the pocket of US, it became apparent that President Truman had made up his mind about the fate of UNRRA and there was to be no going back.

Once the U.S. had taken a decision about UNRRA, not even the plea from UNRRA council delegates from about fifty members that assembled in Geneva in the old League of Nations headquarters could pacify it. In that meeting, William L. Clayton, who was the U.S. delegate told the council that it is the conviction of the U.S. Government that UNRRA has outlived its usefulness.[21] His argument is that most of the countries benefiting from UNRRA now have means to sustain themselves. The passionate and eloquent plea by Aake Ording, the Norwegian delegate that contribution be made to cater for the needs between the end of UNRRA and the preparedness of other UN bodies to assume its responsibility[22] fell on the deaf ears of the U.S. and its allies. Thus with the U.S. and its allies[23] contributing over ninety percent of UNRRA's income,[24] and their position regarding the its fate, UNRRA has inevitably met its end.

[20] *Ibid*, p. 25
[21] *Ibid*, p. 29
[22] *Ibid*
[23] The allies were U.K and Canada
[24] Maggie, Black *op. cit*

At the meeting, resolutions that can be said to be the formal winding up of functions of UNRRA were assigned to other agencies, for example, health was assigned to the World Health Organisation or its interim commission, displaced people to the new International Refugee Organisation; agriculture to the Food and Agriculture Organisation; and other functions to the UN bodies itself or other bodies responsible to the Economic and Social Council. The most important however; one that ultimately led to the formation of UNICEF was resolution number 103 which allowed the continuation of UNRRA's programmes for feeding children. It also states that whatever remains of the account at the end of the year should be used to finance this special emergency venture for children. Thus, with the above resolution, the first formal step aimed at establishing a special international organisation for children within the UN was made.

In all of these, one man stands out as the brain behind the above mentioned efforts to create and international organisation for children. His name is Ludwik Rajchman. He was the Chief Medical Officer of the Health Secretariat of the League of Nations. He was a Polish citizen who was said to have been in the forefront of those who believed in social medicine and wanted to apply

knowledge about bacteriology and epidemiology to the control of diseases among society at large.[25]

Rajchman went back home to assist his people as they ran from Hitler's armies, that was after his brilliant performance and numerous achievement as the Chief Medical Officer of the Health Secretariat of the League of Nations. He was said to have been disappointed at the outcome of the International Health Conference that took place in New York prior to the meeting of UNRRA Council in Geneva. At the conference, the World Health Organisation was formed and Rajchman after having dedicated himself to International public health expected to play a leading role in WHO.[26] His disappointment therefore was enormous when he failed to achieve that.

It was consequent upon the failure of Rajchman to secure a prominent role in WHO that he then chose to direct his efforts towards the welfare of children. The role of this Polish man in the struggle for creation of UNICEF cannot therefore be overemphasised. It has been rightly observed that in the formation of UNICEF:

> A number of factors and a number of powerful individuals favoured the idea. But it took more than their goodwill to bring it into being. It took, first legislative action, second financial support; third, executive leadership which could transform an idea into a practical reality. The person who relentlessly

[25] *Ibid*, p. 30
[26] *Ibid*

> pursued all three was Ludwik Rajchman, the extraordinary brilliant figure.[27]

Following resolution 103, the UNRRA council was said to have established a standing Committee whose mandate was to prepare recommendations, in agreement with the Economic and Social Council and after consultation with the relevant specialised agencies of the United Nations and voluntary agencies.[28]

The Director of UNRRA, General La Guardia, in September 1946, informed the Economic and Social Council at its third session of the action of the UNRRA Council[29] and consequently, the Economic and Social Council unanimously passed a resolution recommending that the General Assembly create an International Children's Emergency Fund subject to the control of the Economic and Social Council. The resolution also provided that the secretary General prepare for the General Assembly in consultation with the President of the Economic and Social Council, the Director General of UNRRA and the standing committee of UNRRA, a draft resolution creating the fund.[30]

It is worthy of note that in preparing the draft resolution, much of the work was delegated to a committee comprising of representatives of Brazil, China,

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[27] *Ibid*
[28] Charnow. J.J The International Children's Emergency Fund. U.S Department of State Bulletin (1947) p. 2 available @ http://www.unicef.org/about/history/files/ICEF-US-State-report.pdf accessed on 2nd June 2013 at 4:0pm
[29] *Ibid*
[30] Resolution on the International Children's Emergency Fund, Doc. E/235 Oct. 9, 1946 quoted in: Charnow, J.J.,*Op cit*

France, Poland, the Union of Soviet Socialist Republic, the United Kingdom and the United States.[31] At the meeting of the General Assembly in October 1946 for the second part of its first session, the draft resolution of the Secretary General creating the International Children's Emergency Fund was referred to the third committee (social, Humanitarian and Cultural Questions)[32] a sub-committee was formed considering the following main issues in detail, one, eligibility of countries for the benefit of the fund; two, membership of the Executive Board and lastly a relationship of the United Nations Secretariat to the staff and the facilities needed by the fund[33] to kick-start its operation.

Finally, pursuant to the authority of article 55 of the UN Charter which reads:

> With a view to the creation of conditions of stability and wellbeing which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self determination of peoples. The United Nations shall promote:... (b) Solutions of international economic, social health and related problems...

The General Assembly on December 11th 1946 in its meeting approved the resolution on the International Children's Emergency Fund. Thus UNICEF, an International commitment for children was created by resolution 57(1) which reads:

[31] Charnow J.J., *op cit.* p. 2
[32] *Ibid p. 3*
[33] *Ibid*

> Having considered the resolution adopted by the Economic and Social Council at its third session recommending the creation of an international children emergency fund to be utilised for the benefit of children and adolescents of counties which were the victims of aggression and recognising the desirability of establishing such a fund in accordance with article 55 of the charter of United Nations decides therefore:
>
> (1) There is hereby created an International Children
>
> Emergency Fund...

There are some points that are worthy of note in the provisions of this resolution. One point that has been noted is that the International Children's Emergency Fund constitutes the first instance of the creation of a grant-in- aid programme for material assistance and an organisational form in the social field not specifically envisaged in the charter.[34] Secondly the mandate of the resolution that is given to UNICEF is said to be deliberately broad.[35] The reason for this, it was suggested is the desire to make the mandate flexible. In the resolution also, care was taken to avoid the use of specific words, rather general words were sued for example",[36] for child health purposes generally'; to ensure the proper utilisation and distribution of supplies"[37] etc. it is submitted that all these are to prevent the fate of UNRRA from befalling UNICEF[38] because

[34] *Ibid*
[35] Maggie, Black, *op cit.* p. 33
[36] Section 1(c) of Resolution 57 of the General Assembly
[37] Section 2(b) of Resolution 57
[38] Maggie. Black. op. cit. page 34

UNRRA as was already mentioned in this work came under heavy criticism, eventually leading to its termination.

2.2.1 Structure of UNICEF

There are two main organs of the UNICEF. They are the Executive Board and the Secretariat. These two shall be discussed in detail.

2.2.1.1 The Executive Board

By virtue of the resolution creating UNICEF, the Executive Board shall be composed on the representative of twenty-five[39] Governments. This is provided for by Section 3 (c). It also conferred on the Economic and Social Council on the recommendation of the Executive Board, the power to designate other Governments as members of the Board. It is pursuant to this power that Switzerland was later added as a member of the Executive Board.

Pursuant to the power[40] conferred on the Board to designate from among its members, such committees as it deems fit, the Board constituted some committees to help in the effective management of the fund. They are, programme committee, committee on Administrative Budget, committee on voluntary fund raising and the joint UNICEF/WHO committee. Each of the committee is given specific functions to perform. The resolution creating the

[39] They are Argentina. Australia. Brazil. Byelorussian Soviet Socialist Republic, Canada, China, Columbia, Czechoslovakia, Den mark, Ecuador. France, Greece, Iraq, Netherlands, New Zealand, Norway, Peru, Poland, Sweden, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republic. United Kingdom. United States of America and Yugoslavia etc.
[40] See section 3 (d) of Resolution 57 of the General Assembly

fund also provided for the positions of the Chairman and Vice Chairman of the Board. These are to be elected by the members of the board themselves. The vice chairmen are four in number. It goes further to state that the Board shall meet AT the instance of the chairman or upon the request of any three of its members. The first meeting was however to be called by the Secretary General of United Nations. In terms of voting, it is provided that each Member of the Board is to have one vote and majority of the Board Members constitute a quorum. At any meeting, decision shall be reached by a majority vote of the members present.[41] The first Chairman of the Board was Ludwick Rachjman.

The function of the Executive Board includes the implementation of the policies formulated by the General Assembly, ensure that the activities and operational strategies of UNICEF are consistent with the overall policy guidance set forth by the General Assembly and the Economic and Social Council. It is also to monitor the performance of UNICEF, approved programme and submit annual reports to the Economic and Social Council in its substantive session on the activities of the fund.

2.2.1.2 The Secretariat

The Head of the Secretariat is the Director General who according to the resolution shall be appointed by the Secretary General of the United Nations in

[41] See paragraph 2 of section S (d) of Resolution 57

consultation with the Executive Board.[42] The Director General is to administer the Fund "under policies, including the determination of programmes and allocation of funds, established by an Executive Board in accordance with such principles as may be laid down by the Economic and Social Council and its social commission".[43] UNICEF also has representatives in each of the assisted countries. It has missions in those countries whereby a single representative serves countries and in some cases, like in Central America and in some parts of South-East Asia, one mission serves several countries.[44]

The headquarters of the organisations as earlier on stated is in New York. It is "designed to meet the three major substantive responsibilities of fund raising, programming and supply which are carried out by divisions under those titles"[45]. Apart from the New York headquarters, UNICEF also has Regional headquarters in Paris and London. As noted earlier, UNICEF has missions in countries that are beneficiaries of the Fund. These missions are saddled with the primary responsibility of maintenance of the general relations of the Fund with the host Government. It also among others, observe the operation of approved programmes and report regularly on the progress of the approved operation to the headquarters.

[42] See section 3(a) of the Resolution of Resolution 57
[43] *Ibid*
[44] See the Final Report of the First Executive Board of UNICEF, p. 27
[45] *Ibid*

2.2.2 UNICEF principal Operating Units

UNICEF has two principal operating units, they are: the UNICEF Supply Division and Innocenti Research Centre. The UNICEF supply division which is a large facility is located in Copenhagen, the capital city of Denmark. The warehouse has in it UNICEF deliverable goods as well as emergency goods for the United Nations High Commissioner for Refugees (UNHCR) and International Federation of Red Cross and Red Crescent Societies IFRC. The warehouse contains a variety of items, e.g. water purification tablets, dietary and vitamin supplements. It also handles most of UNICEF's vaccine packing and distribution.[46] The Research Centre is the Organisation's main social science research arm, helping to compile data on issues relating to children and exploring policy options relating to the financing of social programme.[47] It is located in Florence, Italy. It was established in 1988 to strengthen the research capability of the fund and to support its advocacy of children worldwide.

2.3 Mandate of UNICEF

In order to understand the mandate given to UNICEF, we have to look at the provisions of the resolution creating it. The duties that UNICEF is expected to perform is stated in the resolution. Thus the resolutions states that:

> 1. The General Assembly, having considered the resolution adopted by the Economic and Social Council at its third session recommending the creation

[46] *Ibid*
[47] *Ibid*

> of an International Children's Emergency Fund to be utilised for the benefit of children and adolescents of countries which were the victims of aggression and recognising the desirability of establishing such a fluid in accordance with Article 55 of the Charter of the United Nations, decides, therefore:
>
> i. There is hereby created an International Children's Emergency Fund to be utilised and administered to the extent of its available resources:
>
> a. For die benefits of children and adolescents of countries which were victims of aggression and in order to assist in their rehabilitation:
>
> b. For the benefit of children and adolescents of countries at present receiving assistance from the United Nations Relief and Rehabilitation Administration,
>
> c. For child health purpose generally, giving high priority to the children of countries victims of aggression.[48]

A glance at the foregoing provisions leaves no one in doubt as to the purpose for which UNICEF was created. The concern of the United Nations as contained in the provisions above are, the issues of welfare of children. However certain areas of child-welfare were given priority over others because of their urgency. To know these areas of urgency, we shall take a look at the recommended principles for the operation of UNICEF as provided by Annex to Resolution 44 (IV) of the Economic and Social Council, adopted on 29 March 1947. It reads:

[48] See the opening paragraph and sections I (a), (b) and (c) of Resolution 57 of the General Assembly creating UNICEF

> Within the scope of the operations of the fund, as set forth in the General Assembly resolution No 57 of 11 December 1946, priorities shall be given to the following types of work:
>
> 1. To supplementing the essential food and other supplies needed to alleviate malnutrition and disease in the children of the countries enumerated in paragraph 1 of the General Assembly Resolution No 57 (1) of' 11 December 1946 and to safeguard the health of expectant and nursing mothers.
>
> 2. To encouraging the reestablishment of children 's institution and services destroyed by the war, aiding in such reestablishment through supplying essential clothing and shoes and the furnishing of liver oil or substitutes, as well as medical supplies.[49]

Thus from the above, it is clear that the areas that required urgent action by UNICEF was, the securing for children at least the minimum nutritional supplement that is needed to tackle the problem of malnutrition. Prior to the above quoted guiding principles of 1947, the third committee in its report to the General Assembly had noted that:

> Tragically enough the home production from which the bulk of the food must come is manifestly insufficient, a desirable objective for each government is to ensure one square meal a day to children that can be easily reached; i.e. those in schools and institutions and the children of families receiving social security assistance. As indicated above, much of the food would come from home production, the proportion of the $20.00 that must be imported from overseas sources varying from country to country, from one-fifth, to one-third, one-half or even more. Unless the overseas supplies are secured, it is idle to expect the

[49] See Scope of Programmes 1.2 of Annex to Resolution 44 (iv) of the Economic and Social Council of 29 March 1947

> rising generation to build on a sound foundation the world of tomorrow[50]

UNICEF as seen from the guiding principles was also mandated to embark on rehabilitation or reestablishment of children's institution and services destroyed by the war. In addition it is to supply essential clothing and shoe, cod liver oil or substitutes as well as medical supplies.

The work of UNICEF especially between 1947 to1950 was carefully tailored towards the mandate it was given in the above mentioned resolutions. We shall take a look at the summary of the activities of UNICEF as contained in the Final Report of the Executive Board of the Fund. The areas of focus of UNICEF are discussed below:

2.3.1 Activities of UNICEF in its Early Years (1947-1950)

The early activities of UNICEF are in the areas of supplementary feeding, BCG anti-tuberculosis vaccination, raw materials, aid for maternal and child health services, aid for control of communicable diseases affecting large numbers of children, production equipment and training workers for maternal and child care services. Each of these areas will be briefly examined.

i. Supplementary Feeding: It is on record that the "first substantial aid granted by the fund was for skin-i milk, whole milk, (for infants), fats, fish-lier oils and some meat products, for children in thirteen

[50] See the Third Committee Report on the Establishment of an International Children's Emergency Fund, Doc A/230 of December of 1946 at page 4 quoted in: Charnow. J.J. op cit p. 3

war- devastated countries in Europe".[51] It is also said that this effort "began in December 1947 and reached a peak of nearly 7 million beneficiaries (excluding those receiving cod liver oil only) during the spring of 1950 in Europe, Asia, Latin America and the Middle East". [52]

ii. BCG Anti-Tuberculosis Vaccination: it is said that "one of the greatest danger following the war was the spread of tuberculosis among children and adolescents".[53] Concerning what the fund did to tackle this, it is recorded that "in March 1948, the fund entered into an agreement with the Danish Red Cross and its Scandinavian associates constituting a joint enterprise to assist countries with expert international staff, transport, vaccines and equipment for mass BCG vaccination campaigns".[54] It is also said that these campaigns began in Europe but how extended to Asia, Latin America, the Middle East and North Africa. Thus by 1st November 1950, 11,400,000 children had been vaccinated with aid from the joint enterprises.[55]

[51] See opening summary of the Final Report of the First Executive Board of UNICEF 1957, p. 1
[52] *Ibid*, p. 2
[53] *Ibid*
[54] *Ibid*
[55] *Ibid*

iii. Raw Materials: About $7.6 million is said to have been used to supply cotton wool and leather for processing in receiving countries into clothing, layettes, blankets and shoes for 6 million children.[56]

iv. Aid for Maternal and Child Health Services: One other area that UNICEF focused on in its early years of existence is the supply of "equipment and international advisory personnel".[57] The supply was made to "health centres for use in the training of workers within the country for maternal and child health services, including demonstration projects".[58] It is also said that between 1948 and 1949, the allocation to this aid amounted to about $10.5million.[59]

v. Aids for Control of Communicable Diseases Affecting Large Number of Children: As a part of the consequences of the destruction and devastation of the war, countries affected by the war as well as underdeveloped countries suffered a lot from unavailability of qualitative drugs needed to control diseases such as pre-natal supplies malaria, typhus etc. the efforts of UNICEF in this regard is summed up in the following: Insecticides, penicillin, vaccines, transport, sprayers and laboratory equipment have been supplied to aid projects ('or the control of communicable diseases affecting large numbers of children. These include pre-natal syphilis, malaria, typhus, and other

[56] *Ibid*
[57] *Ibid*
[58] *Ibid*
[59] *Ibid*

insect-borne diseases, yaws, diphtheria and whooping cough.[60] It is estimated that about 20million children will benefit from the above mentioned efforts through treatment or vaccination. It is also estimated that $5.6 million was allocated for the cause.[61]

vi. Training Workers for Maternal and Child Care Services: It is recorded that UNICEF also contributed to the establishment of two permanent institutions that were created to help train maternal and child care workers. They are International Children's Centre in Paris based on the All India Institute of Hygiene and Public Health in Calcutta. About $930,000 is said to be allocated to this centre.[62]

In 1950, giving the huge success that UNICEF had recorded, the General Assembly by resolution 417(v) decided to alter the fund's terms of reference, shifting the main emphasis of its work to aid for long-range child care programmes particularly in underdeveloped[63] countries. The part of the resolution reads:

> The General Assembly, having considered resolution 310 (xi) of the Economic and Social Council in the light of resolutions (I) and 318 (iv) of the General Assembly, recognising the necessity for continued action to relieve the sufferings of children, particularly in underdeveloped countries and counties that have

[60] *Ibid*
[61] *Ibid*
[62] *Ibid*
[63] It would he recalled that the emphasis on the work of UNICEF by virtue of the Resolution creating it is on countries which were victims of the war.

> been subjected to the devastation of war to other calamities...

Decides...

> (b) During the period of the Fund's existence, as provided in paragraph 6 (c). the Board, in accordance with such principles as may be laid down by the Economic and Social Council and its social commission, shall, with due regard to the urgency of the needs and available resources, formulate the policies, determine the programmes and allocate the resources of the fund for the purpose of meeting, through the provision of supplies, training and advice emergency and long range needs of children and their continuing needs particularly in underdeveloped countries, with a view of strengthening wherever this may be appropriate, the permanent child health and child welfare programmes of the countries receiving assistance.[64]

From the foregoing, it can be inferred that the mission of UNICEF is thus broadened. The emphasis on children in the devastated countries has been shifted or broadened to include children in the developing countries. Indeed, Ahmed Shah Bokhari[65] rightly observed that child victims of war looked very much like normal children in poor countries.[66] In 1953, UNICEF was made a permanent specialised agency of the United Nations.

By and large, the activities of UNICEF towards realising their mandate had against all odds continued till today. However, the activities of UNICEF in the early years are not much different from its activities in the present time. Its

[64] See the opening paragraph and section 6(b) of the General Assembly Resolution No 417(v)
[65] The delegate from Pakistan to the United Nations in 1950
[66] Like Pakistan where he came from and other Asian and Latin American countries.

efforts on behalf of children has however, expanded rapidly. It is observed that "the organisations mandate has grown beyond short-term survival and development programmes for the 'silent emergencies' of malnutrition, deadly disease, the AIDS pandemic, gender inequality and child abuse including child trafficking, child labour and child soldiers".[67] UNICEF has also taken steps to further the rights of children by the convention of the Rights of the Child in 1989.

It is also pertinent to note that the current trend is that international community as well as national government as are focused in realising the Millennium Development Goals[68] and UNICEF in partnership with UN agencies and NGOs and the organised private sector is also focusing its attention on the attainment of these goals.

2.4 Funding of UNICEF

It would be recalled that Finello Guardia, the Director General of UNRRA had earmarked a $50,000 donation and promised to hand it over the moment UNICEF is given life. The donation from UNRRA was the initial donation that UNICEF had when it was created. However, the resolution creating the organisation specified how the organisation is to be funded. The resolution provides that "the fund shall consist of any assets made available by UNRRA or

[67] See UNICEF website at www.unicef.org/about/who/index.history.gtml accessed on the 8th of June 2013
[68] *Ibid*

any voluntary contributions made available by Governments, voluntary agencies, individual or other sources"[69] Thus from this provision, the fund is authorised to receive contributions or other assistance from three sources (a) the residual assets of UNRRA; (b) voluntary contribution of Government; and (c) donations from private sources.

The fact of UNICEF funding is that about two-third of its funding is from governments. The government of the United States of America as they did in UNRRA provides the bulk of funding to the organisation. The residual assets, which the UNRRA Council contributed to the fund was said to amount to $32.3 million by the end of 1950.[70] The other funding of UNICEF comes from its own fund raising activities such as its sales of greeting cards and its "trick-or-treat for UNICEF campaigns and from donations from individuals and private groups.[71]

[69] See Section 2 (a) of Resolution 57
[70] See the Final Report of the First Executive Board of UNICEF, p. 15
[71] International Directory of Company Histories. St James Press (2004) vol. 58

CHAPTER THREE

THE LEGAL FRAMEWORK FOR THE PROMOTION AND PROTECTION OF THE RIGHTS OF A CHILD

3.1 Introduction

In this chapter, we shall examine the various definition of a child from different perspective. In this regard we shall examine the cultural meaning of a child according to different ethnic groups in Nigeria. We shall also examine the meaning, historical development of Child Rights, the History of Child Rights in Nigeria as well as the legal framework for the promotion and protection of the rights of the child.

3.2 Meaning of a Child

There abound many definitions of a child. This is because a child can be viewed from many perspectives; culturally, religiously, psychologically and even biologically. Thus it is quite difficult for a person to restrict himself to a particular definition. This is because all the definitions of a child are in some ways or the other and to some extent correct. It all depends on the person and the circumstances that the definition is made.

Before we go ahead to define who a child is, it is important to reiterate that there is indeed no single definition of a child or who a child is that is generally

accepted. In recognition of the difficulty of defining a child, it has been observed that:

> The law as to children is complex, so much so that even the specialist lawyer is bewildered by its interspersions and ramifications. It is hardly an auspicious start to find that the definition of the word 'child' varies with the statutes, so that a child is a child in one statute but not a child in another. Indeed there is a legislative hesitation as to whether a child is properly to be termed a child, a minor or an infant. Nor is this the only terminology to be considered. There are also juveniles and young persons to be woven into the legal fabric.[1]

It is also because of this difficulty that in *Re Carlton*,[2] Cohen J said that the meaning of the word 'child' must in every case depend on the context in which it appears.

In an attempt to look at the definition of a child from the cultural perspective in Nigeria, we should have it at the back of our mind that in Nigeria, there is no uniform system of customary law. Thus the definition of a child varies from ethnic group to ethnic group.[3] We have over 250 definitions of a child in Nigeria only. It is however pertinent to note that culturally a child is not defined by age rather some factors are put into consideration to determine whether a person is a child or not. Thus a person of 14 years could still be regarded as a child while another person of age 10 may be viewed as an adult.

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[1] Joseph J. et al. *Clarke Hail and Morrison on Children*. Butterworths Publishers, London (1977) P IV.
[2] (1945)1 Ch. 372
[3] Ayua I.A et al (eds) *The Rights of the Child in Nigeria*. NIALS, Lagos (1996) p. 30

It has been observed that in some ethnic groups, a person is viewed as a child until when such a person is initiated into an age grade society or until he is able to contribute financially to community development.[4] From this view of a child the two yardsticks in measuring whether a person is still a child or not are; whether or not the person has been initiated into age grade and the financial capability of the person. Accordingly, as we have earlier stated, a person of 14 years could be considered a child while a person of lesser age could be seen as an adult It has been said that there are different types of initiation into age group in Nigeria. It is said to vary from one ethnic group to the another. Thus practices such as initiation into some cults and family shrines especially among the Igbo, Yoruba, Edo and Delta people as well as farming competition[5] in the North-Central part of Nigeria are used to determine whether a person is still a child or not. Yet in some ethnic groups, childhood terminates at puberty[6] while in others, a person is still a child as long as the person is still under the control of the parents.[7]

Under Islamic law, a child is considered to be an adult not by chronological age nor any of the factors mentioned above but by the time the child begins to have wet dream in case of a male and when a female start to experience menstrual

[4] *Ibid*
[5] Alemika E. I. Legal Frameworks for the Child Rights in Nigeria. UNIJOS Journal of Public Law and Constitutional Practice (2010) Vol. 3, p. 3
[6] Azogu G.I.U Women and Children — A Disempowered Group Under Customary Law in: Towards a Restatement of Nigerian Customary Law. Federal Ministry of Justice (1991) at p. 133 cited in Ayua I.A op cit at p. 30
[7] James A: Societal Perception of Child Rights: A Case Study of Minna Town. PGD Thesis (Unpublished) Post Graduate Schools NIALS, Lagos (2008) p. 35

flow. However the above factors are used to know when a person assumes full legal responsibility in terms of the obligatory acts of worship in Islam.

In considering the meaning of a child from the dictionaries, we shall start by the Blacks Law Dictionary which defines a child as "a person under the age of majority".[8] One will be tempted to ask, what is the age of majority? There seems to be no answer provided by the dictionary and as such the definition is at best inconclusive. The oxford advanced learner's dictionary defines a child as "a young human being who is not yet an adult".[9] The question here is who then is an adult. The dictionary defined an adult to mean "a fully grown person who is legally responsible for their actions."[10] A further question also will be who is a fully grown person. Like Blacks Law Dictionary, the definition of a child by the Advanced Learner's Dictionary is also not conclusive as there has been no defined yardstick for determining who a child is. Merriam-Webster's Dictionary of Law also defined a child to be "a person below an age specified by law as infant or minor". This definition allows the law of a place to determine who a child is.

[8] Blacks Law Dictionary 8th edition
[9] Oxford Advanced Learner's Dictionary 6th edition
[10] *Ibid*

Previously the common law position which stipulates that a person who has not reached the age of 14 is a child[11] applies in Nigeria. However, the current laws in Nigeria that deals with the child are the Constitution, the Child Right Act of 2003 and Children and Young Person's Law. In the Children and Young Persons Law, child is defined as a person less than 14 years while a juvenile or young person is any person who has attained the age of 14 years but bas not reached 18 years.[12]

Even though the Constitution of Nigeria does not contain any provision specifying who a child is, it has been submitted that by prescribing 18 years as the voting age in the Electoral Act,[13] it suggests a child to be a person under the age of 18.[14] Also the Child Right Act defines a child as "any person under the age of 18 years". [15]

We shall now look at the definitions of a child as contained in some international instruments. The A.U charter on the Rights and welfare of the Child defines a child to mean "every human being below the age of 18"[16] while the United Nations Convention in the Rights of the Child 1989 states that "a child means every human being below the age of eighteen years unless under

[11] Blacks Law Dictionary 8th edition
[12] See Children and Young Persons Law, Cap, 21 Laws of Northern Nigeria.
[13] Section 12(b) Eectoral Act 2010
[14] Alemika E.I op. cit
[15] Section 277 Child Rights Act 2003
[16] Article II OAU Charter on the Rights and Welfare of the Child 1991

the law applicable to the child, majority is attained earlier".[17] It has been submitted that despite allowing lower age of majority, some rights in the convention are said to continue to apply to all those below the age of 18, notwithstanding the age of majority.[18] Examples of these include; the prohibition of recruitment of those under 18[19] and prohibition of recruitment of those under 18 into the armed forces.[20]

In addition to the above, it also said that "other International Instruments also use 18 years as the age limit for determining when a person loses the right to the special protection to which children are entitled".[21] It has also been observed that "UNICEF and other key International Organisations working with children use 18 as the defining age for their work".[22]

Thus from all that has been said so far, what then can be said to be the more popularly accepted definition of a child? It is clear that both cultural and religious institutions have no clear-cut definition of a child. That is to say, a child is not defined according to chronological age. However, most of the local and international instruments seem to agree that a child is a person below the age of 18 years. One question that comes to mind is that, what if there is a clash

[17] Article I, the Convention on the Rights of the Child 1989
[18] Child Protection: A Handbook for Parliamentarians. UNICEF (2004) p. 11
[19] Article 38 (3) Convention of the Rights of the Child 1989
[20] *Ibid*
[21] Child Protect: A Handbook for Parliamentarians. UNICEF (2004) p. 11
[22] *Ibid*

between the provision of a local instrument and an international law? This of course has been settled by the Vienna convention on the Rights of State.[23]

The effect of this convention is that a state cannot hide under the provision of its municipal laws to avoid its international obligation. What this portends is whenever there is clash between the definition of a child by a Nigerian law and an international instrument that Nigeria has signed and ratified, the latter will prevail. This it is settled that the definition of a child at least as this work is concerned is a person below the age of 18 years.

3.2.1 Meaning of Child Right

In an attempt to provide the meaning of child rights, it is instructive to note that is has been observed that there is an initial difficulty in seeking to pin down the concept of children's rights".[24] The reason for this is said to be because "whatever rights or interests children may have, they do not exist in a vacuum".[25] It is explained further that; "it is quite impossible to evaluate the claims of children without considering their interaction with the claims of others, whether parents or others in the community".[26] It is obvious if it is agreed that children have rights, it also implies that there exist on some other

[23] See Article 27 Vienna Convention on the Rights of State 1976
[24] Bainham A. Children: The Modern Law. Jordan Publishing Ltd London (1998) Second Edition p. 78
[25] Ibid
[26] Ibid

people legal or moral duties and what first comes to mind is the interest of adults which may clash with the interest of children.[27]

A question that has been raised in the discourse of child rights is whether there is a difference between protecting the 'welfare of children and protecting the 'rights'. It is submitted that 'welfare' differs from 'rights' in that functions that a 'right' perform are much more valuable from that of 'welfare'. It is also argued that 'right's draws attention to the universality of children's claims.The concept of welfare as interpreted in English case law is a highly individualistic notion which is inadequate to embrace the multifarious legal and moral claims which children may be thought to have as a matter of social justice".[28]

Another assertion that is worthy of note in this discourse is the position taken by Eekelaan. He argues that "the earliest legal duties towards children emerged not to protect the interests of children themselves but to further other interests, usually the interests of fathers or the wider community.[29] To this extent he considers advancement of interests of children as only incidental taking into consideration some difficulties that surround the meaning of child rights. We shall provide the meaning of 'rights' before going further to state what child rights means. The Blacks Law Dictionary[30] defines a right to mean "something that is due to a person by just claim, legal guarantee, or moral principle". The

[27] *Ibid*
[28] *Ibid*
[29] *Ibid* at p. 84
[30] 8th edition

Osborn's Concise Law Dictionary[31] defines a right as "an interest recognised and protected by law". The Oxford Advanced Learners Dictionary[32] also defines a right to mean "a moral or legal claim to have or get something or to behave in a particular way". The common features of these definitions are that, right has to do with a claim or an interest and that such a claim or an interest is based on legal or moral ground. Thus the possessor of a right enjoys some kind of protection and guarantee by law or by morality.

Child rights therefore can be said to mean the rights enjoyed by children that is specifically linked to their status as minors and to their need for special care and protection. Child rights can also be said to mean the claims that all children have to survival, development, protection and participation. It could also mean the totality of obligations owed to children by both adults and the states. These rights are contained in several local and international instruments and they include right to life, right to health, right to welfare, right to education and right to freedom from physical or mental harm among others

[31] 7th edition
[32] 6th edition

3.3 The Legal Framework for the Protection and Promotion of the Rights of a Child

It is identified that an article relating to child rights titled "the rights of children" was seen as far back as 1925.[33] However, it is important to know that when we talk about the protection of children's rights, we mean one of the following; the extension of the rights which every person has by virtue of being a human being to children and the recognition that children because of their vulnerability and immaturity have distinct right peculiar to them alone which must be protected by the law.[34] When we talk of the historical development of child rights; it is necessary to examine it with reference to these two notions in mind.

The earliest form of concerns for children is reflected in the conventions dealing with specific issues of the minimum age and slavery i.e. Industry Convention 1919 and the International Convention for the Suppression of Traffic in Women and Children 1921. However Eglantyne Jebb's effort is recognised concerns for the rights of the child. She is considered as one of the pioneers of the movement for children's rights[35]. Worried by the devastation caused by the First World War on children, she was said to have summarised the rights of children in five (5) parts.[36] In 1924 the fifth assembly of the League of Nations adopted her declaration and subsequently the five points

[33] Ayua A. I (eds), op. cit p. 28
[34] Bainham A. p cit p. 572
[35] Ayua A. I (eds) op. cit at p. 28
[36] James A. op cit p. 17

became known as the Declaration of Geneva.[37] The Declaration above was said to have went beyond the earlier, more specific concerns about the working conditions of children and slavery. It constituted a more general charter of child welfare dealing with such matters as material and spiritual development, shelter, food, medical aid, relief from distress and protection against exploitation. Despite these however, there was a lack of binding effect and also it only centred on the issue of child welfare. Indeed it is said that the declaration nailed itself on the foot because it proclaimed that 'mankind owes to the child the best it has to give'. It is argued that by the above statement, the declaration is "essentially an aspirational document, not requiring but inviting states which were members of the League of Nations to be guided by its principles in the work of child welfare".[38]

The two most important events that happened after the world war II that have significance with the subject matter of this discourse was the drawing up of the United Nations Charter in 1945 and the subsequent adoption of the Universal Declaration of Human Rights by the United Nations general Assembly in 1948. This Declaration is the bedrock of international human rights. It was geared towards the realisation of the right of all human beings. Therefore, the Declaration has no direct bearing on children except Article 25 (2) that provides that "motherhood and childhood are entitled to special care and assistance. All

[37] *Ibid*
[38] Bainham A. op. cit, at p. 575

children, whether born in or out of wedlock, shall enjoy the same social protection".[39] The Declaration also recognises the right to education. Apart from these two, the declaration never made reference to children and thus it could be concluded that it does not have much influence on the build-up to recognition of the rights of the child as distinct from those of adult.

Following these two conventions was the second Declaration of the Rights of the Child in the year 1959, popularly known as the 1959 declaration and the 1959 Declaration unlike the Geneva Declaration that focused narrowly on the material needs of children, the declaration "looked more broadly at the claims and entitlements of children across a range of areas including housing, education, recreation, nutrition, medical services and social security".[40] In fact it is observed that the Declaration "reaffirmed and expanded the provisions of the Geneva Declaration and applied generally to children in a more specific way than the provisions of the Universal Declaration of Human Rights".[41]

However, while the scope of the 1959 Declaration was wider than that of Geneva Declaration, the pitfalls of both instruments are quite similar. While the Geneva Declaration was limited to child welfare, the 1959 Declaration was "devoted to almost exclusively to economic, social and cultural rights"[42] and thus neglected other essential civil rights of the child. Like the Geneva

[39] Article 25(2) Universal Declaration of Human Rights 1948
[40] Bainham A. op. cit, at p. 575
[41] *Ibid* 578
[42] *Ibid*

Declaration it was seen as a statement of general principles and intent and thus was not a legally binding instrument.

According to Bainham,[43] the period between 1959 and 1989 was characterised by the debate on whether the Human Rights instruments particularly the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights both adopted and in 1966 United Nations Human Rights instruments could be applied to children. In Bainham's opinion, without doubt, the provisions that referred directly to children of course applied to them, "but the notion gathered ground that most of these rights which did not specifically refer to children also applied to them as human beings".[44]

The idea that children should also benefit from general human rights was very popular at that time because of some reasons. According to Bainham, in I 960s the Supreme Court of the USA had "begun to accept that the fundamental rights enshrined in the Bill of Rights as constituted by the various amendments to the US Constitution, were, in principle available also to children although their application might be qualified in some cases".[45] He further mentioned that:

> The breakthrough came in 1967 when in Re Gault, the court said that neither the fourteenth amendment northe Bill of Rights is for adults alone. This decision

[43] *Ibid* at p. 576
[44] *Ibid*
[45] *Ibid*

> was followed by a plethora of decisions extending to children protections enjoyed by adults under the US Constitution.[46]

What further strengthened this notion in Europe according to Bainham was that "the European commission and courts of Human Rights made a number of significant decisions protecting the fundamental rights of children under Articles of the European convention which did not mention children as such".[47] The United Nations Conventions on the Rights of the Child 1989 came into being as a result of the events that happened in 1978. In that year, while preparation was going on for the international year of the child Poland was said to have proposed that the event be marked by a treaty giving Children Rights the force of law. Pursuant to this proposal, in 1979, the United Nations Commission on Human Rights on request by the General Assembly set up a working .group to draft a convention. Finally, after ten years in the making, the United Nations Convention on the Rights of the Child was adopted by the United Nations General Assembly on 20 November, 1989 which was exactly thirty years after the 1959 Declaration.

After the adoption of the United Nations Convention on the Rights of Child, there was also the African Charter on the Rights and welfare of the child that was adopted by the summit of the Heads of State of the OAU at Dakar in 1999. It is observed that the charter is unique because it recognises the specific

[46] *Ibid*
[47] *Ibid*

cultural setting in which it is to operate by calling for a consideration by the cultural heritage, historical background and the values of the African civilisation which should inspire and characterise the concept of the rights and welfare of the child".[48] In the modern time the notion that children have a right that peculiar to them is no longer in dispute, infact it is said that today's child's rights advocacy has move beyond the simple question of protection to also embrace an element of self determination on the part of the child."[49]

In Nigeria, The first conscious efforts of the colonial government that demonstrated their commitment to the welfare of the child came in form of ensuring juvenile justice administration. The British colonial government in 1943 promulgated the children and Young Person Ordinance which was enacted to apply in all parts of the protectorate of Nigeria.

After the enactment in 1943, the law was later amended by several legislations. Hence the law was intended as a national law, provision was made for its adoption as regional law and later, state law. The law was also extended to the Eastern and Western Regions of Nigeria in 1946 by order in council, No 22 of 1946. The law was subsequently enacted for the then Northern Region in 1958 and thus was christened the Children and Young Persons Laws.[50]

[48] Alemika E. I., *op. cit* at p. 9
[49] Ayua I. A (eds.) *op. cit* p. 25
[50] *Ibid* at p. 30

Apart from the Children and Young Persons' Law, we also have the Labour Act of 1948 which contains specific provisions for the safety of children and young persons under the age of 12 because of their vulnerability. The criminal code also contains specific provisions relating to children. However, the 1999 constitutionally provided for protection and also made provisions for compulsory and universal primary education.[51]

Subsequently, Nigeria being a signatory to the convention on the Rights of the Child ratified the Convention in July 2001. After about two years afterwards, the principles of the convention was domesticated in Nigeria on 3 1st July 2003 and thus the Child Rights Act of 2003 was born,[52] in terms of content, the Act borrowed guiding principles for the promotion and protection of the rights of children from the convention of the Rights of the Child and the OAU Charter.[53] The Act is currently the principal legislation for the promotion and protection of rights of the child in Nigeria.

[51] See Section 18 of the Constitution of Federal Republic of Nigeria 1999
[52] Alemika E.I *op cit*., at p. 10
[53] Ladan, M.T:*Introduction to National and International Legal Frameworks on Human Rights*. Unpublished Lecture material for course PSD/127, AAIPSDS, Minna (2008) p. 22

We shall now examine some specific International, regional and local legal instruments for the protection of the rights of the child. The instruments are: The United Nation Convention on the Rights of the Child, the African Charter on Human and People's Right, The Hague Child Protection Convention and the European Convention on the exercise of Children's Rights, the Child Rights Act, the Children and Young Persons' Law and the Criminal Code.

3.3.1 The United Nations Convention on the Rights of the Child 1989

This Convention as discussed earlier came into being on 20 November 1989. It is generally regarded as the mother of all international instruments. This is because it is the most universally ratified human rights instruments in the history of the United Nations. It is also regarded as the most 'authoritative and comprehensive statement of the fundamental rights of children".[54] It contains provisions that include civil and political, social, economic, cultural, recreational and humanitarian rights. To some writers,[55] the rights contained in the Convention can be broadly categorised into survival rights, Development rights, protection rights and participation rights. While to others,[56] it is categorised under '4P's Prevention, Protection, Participation and Promotion.

[54] Bainham A. op. cit., at p.57 56
[55] James A., op. cit., at p. 27
[56] Bainham A. op. cit., at p. 59

In the Convention, some articles have been identified as the "general principles". This is because they are the principle under which all the other rights are determined. They are Articles 2,3,6 and 12. The provision of Article 2 is to the effect that:

> States parties shall respect and ensure the rights set fourth the present convention to each child within their jurisdiction without discrimination of any kind irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religions, political or other opinion, national, ethnic or social origin property, disability, birth or other status.[57]

Thus from the foregoing, and by virtue of Article I,[58] the convention is to apply to every person below the age of 18 not withstanding their status, whatever they think or say, no matter what type of family they come from.

It is argued that Article 3 contains the most important principle in the convention. This is because it serves as a general standard. The Article partly reads thus: "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration"[59] It is clear from this provision that in whatever is done by whomever, the best interest of the child must be a top priority in all actions concerning children.

[57] Article 2 Convention on the Rights of the Child 1989
[58] Article I *Ibid*
[59] Article 3 *Ibid*

The provisions of Article 6 and 12 is to the effect that "states parties recognise that every child has the inherent right to life and states parties shall ensure to the maximum extent possible the survival and development of the child"[60] and also that "states parties assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

We shall now proceed to look briefly at specific right modelled after Bainham's work.[61] He divided the rights into nine headings vis: the right to life and development, the right to an identity, separation from parents, the right of the child to express views, civil rights, parental responsibilities, child protection, recipient of social welfare and protection against exploitation. These are considered the more significant rights.

(i) **The Right to Life and Development**: as mentioned earlier, Article six provides for the right to life of the child. It will not be necessary to reproduce the content of the article same having been above.

(ii) **The Right to an identity**: Articles 7 and 8 contain provisions to buttress this right. Article 7 provides that 'the Child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and as far as possible, the right to know and

[60] See Articles 6 and 12 *Ibid*
[61] Bainham A., op. cit.

be cared for by his or her parents".[62] Under Article 8, states parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognised by law without unlawful interference".[63] Bainham observed that this Article was an Argentinean initiative inspired by the disappearance of estimated 150-170 children in Argentina between 1975 and 1983.[64]

(iii) **Separation from parents**: in Article 9, states are required to "ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interest of the child…"[65] it goes further to state that in a case where the child is separated from his or her parents by lawful means, the state shall respect the right of the child to "maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interest.[66]

(iv) **The Right of the Child to Express Views:** as already stated, Article 12 is also one of the most important and cardinal principle of the convention as it guarantees a child that is capable of forming an opinion the right to be heard in all matters affecting the child.

[62] Article 7 (1) Convention on the Rights of the Child 1989
[63] Article 8 (1) *Ibid*
[64] Bainham A., op. cit. at p. 62
[65] Article 9 (1) Convention on the Rights of the Child
[66] Article 9 (3) *Ibid*

(v) **Civil Rights**: Articles 13-17 contains what is known as Civil Rights. Civil Rights are rights that apply to civilians. They are; Right to freedom of expression;[67] Rights to freedom of thought, conscience and religion,[68] freedom of association and to freedom of peaceful assembly,[69] Right to freedom of interference with privacy[70] and Right to acces to information.[71]

(vi) **Parental Responsibilities**: in Article 18, states are mandated to:

Use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interest of the child will be their basic concern.[72]

(vii) **Child Protection**: Articles 19 to 24 relates to issues of child protection ranging from protection from all forms of physical and mental violence, injury or abuse, neglect or negligent treatment to maltreatment including sexual abuse.[73] Article 20 requires states to protect a child temporarily or deprived of family or environment.[74] Article 21 deals with issues of

[67] *Ibid* Article 13
[68] *Ibid* Article 14
[69] *Ibid* Article 15
[70] *Ibid* Article 16
[71] *Ibid* Article 17
[72] *Ibid* Article 18 (1)
[73] *Ibid* Article 19
[74] *Ibid* Article 20

adoption and enjoin states parties to ensure that due procedure is followed in adoption.[75] Article 22 relates to protection of child refugees[76] while 23 and 24 deals with the right of physically disabled children[77] and right to health[78] respectively.

(viii) **Reference of social welfare**: According to Bainham, Articles 26 to 31 deal with the right of the child to receive various forms of social welfare. It includes rights to social security,[79] right to standard of living[80] rights to education,[81] belonging to minority groups[82] and right to recreation.[83]

(ix) **Protection against Exploitation**: the last group of rights according to Bainham are contained in Articles 32 to 35. They recognise the rights of the child to protection from various forms of exploitation, which include economic exploitation,[84] protection against narcotics,[85] sexual exploitation and sexual abuse and trafficking in children.[86] Other Articles relate to protection against torture or other cruel, inhuman or degrading treatment or punishment,[87] requires states to abide by the rules of international humanitarian law regarding children and armed

[75] *Ibid* Article 21
[76] *Ibid* Article 22
[77] *Ibid* Article 23
[78] *Ibid* Article 24
[79] *Ibid* Article 26
[80] *Ibid* Article 27
[81] *Ibid* Article 28
[82] *Ibid* Article 30
[83] *Ibid* Article 31
[84] *Ibid* Article 32
[85] *Ibid* Article 33
[86] *Ibid* Article 35
[87] *Ibid* Article 37

conflicts,[88] spells out the rehabilitative duties of states towards child victims of the kinds of harm contemplated by the UN convention[89] and finally regulate the treatment of children under the criminal law.[90]

3.3.2 The African Charter on the Rights and Welfare of the Child 1999

This Charter, as noted earlier in this work was adopted by the summit of the Heads of States of the OAU at Dakar in 1999. It is the first regional treaty relating to the rights of the child. This is so because even though it was preceded by the African Charter on Human and People's Rights, the latter was not specifically for children; the provisions are only thought to extend to children by virtue of their rights as human beings.

This Charter is said to be unique because it takes into consideration the peculiar nature of the African beliefs and tradition, unlike the convention on the Rights of the Child which in all ramification is devoid of an understanding of the peculiarity of Africans. The preamble to this Charter partly states that the Charter was made for child's rights "taking into consideration the virtues of their cultural heritage, historical background and the values of the African civilization which should inspire and characterise their reflection on the concept

[88] *Ibid Article 38*
[89] *Ibid Article 39*
[90] *Ibid* Article 40

of the rights and welfare of the child".[91] This could be said to be a Charter made in Africa, for African consumption.

However, in terms of its content, it is modelled after the Convention on the Rights of the Child. In fact, there appears not to be any material differences between the contents of the Convention on the Rights of the Child and this Charter. Thus the Charter is divided into two chapters. Chapter one contains provisions on the Rights and welfare of the child, while chapter two deals with establishment and organisation of the committee known as the committee on the Rights and Welfare of the Child. The content of the Charter shall be summarised below:

Under chapter one, provisions such as; obligation of states parties,[92] definition of a child,[93] rights to non discrimination,[94] to act on the best interest of the child,[95] rights to survival,[96] name and nationality[97] freedom of expression,[98] freedom of Association,[99] freedom of thought, conscience and religion[100] and protection of privacy of the child[101] were enumerated. Also the Charter

[91] Paragraph (7) of the Preamble to the OAU Charter on the Rights and Welfare of the Child
[92] *Ibid* Article I
[93] *Ibid* Article II
[94] *Ibid* Article III
[95] *Ibid* Article IV
[96] *Ibid* Article V
[97] *Ibid* Article VI
[98] I*bid* Article VII
[99] *Ibid* Article VIII
[100] *Ibid* Article IX
[101] *Ibid* Article X

guarantees the child right to education,[102] which is to be aimed at among other things "the preservation and strengthening of positive African morals, traditional values and culture".[103] It also contains rights to, leisure, recreation and cultural activities,[104] protection of handicapped children,[105] provision of health and health services,[106] prevention of child labour,[107] protection against child abuse and torture,[108] administration of juvenile,[109] protection of the family,[110] parental care and protection,[111] parental responsibilities,[112] protection against harmful social and cultural practices,[113] armed conflicts,[114] protection of Refugee children,[115] provision on adoption,[116] separation from parents,[117] protection against apartheid and discrimination,[118] protection against sexual exploitation,[119] drug abuse,[120] sales, trafficking and abduction,[121] as well as

[102] *Ibid* Article XI
[103] *Ibid* Article XI (2) (c)
[104] *Ibid* Article XII
[105] *Ibid* Article XIII
[106] *Ibid* Article XIV
[107] *Ibid* Article XV
[108] *Ibid* Article XVI
[109] *Ibid* Article XVII
[110] *Ibid* Article XVIII
[111] *Ibid* Article XIX
[112] *Ibid* Article XX
[113] *Ibid* Article XXI
[114] *Ibid* Article XXII
[115] *Ibid* Article XXIII
[116] *Ibid* Article XXIV
[117] *Ibid* Article XXV
[118] *Ibid* Article XXVI
[119] *Ibid* Article XXVII
[120] *Ibid* Article XXVIII
[121] *Ibid* Article XXIX

safeguard for children of imprisoned mothers,[122] and responsibilities of the child.[123]

Chapter two of the Charter contains provisions for the establishment of the committee of the Right and welfare of the child,[124] the composition,[125] election,[126] candidate,[127] terms of office,[128] the Bureau,[129] vacancy,[130] the secretariats,[131] privileges and immunities.[132] Chapter three contains mandate and procedure of the Committee,[133] the Committee Reporting Procedures,[134] Communication,[135] and investigations by the committee.[136] Finally chapter four contains the committee's sources of inspiration,[137] signature ratification,[138] and amendment and revision of the Charter.[139]

To this writer, apart from the fact that the Charter states parties to "take all appropriate measures to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child and

[122] *Ibid* Article XXX
[123] *Ibid* Article XXXI
[124] *Ibid* Article XXXII
[125] *Ibid* Article XXXIII
[126] *Ibid* Article XXXIV
[127] *Ibid* Article XXXV
[128] *Ibid* Article XXXVII
[129] *Ibid* Article XXXVIII
[130] *Ibid* Article XXXIX
[131] *Ibid* Article XL
[132] *Ibid* Article XLI
[133] *Ibid* Article XLII
[134] *Ibid* Article XLIII
[135] *Ibid* Article XLIV
[136] *Ibid* Article XLV
[137] *Ibid* Article XLVI
[138] *Ibid* Article XLVII
[139] *Ibid* Article XLVIII

in particular, those customs and practices prejudicial to the health or life of the child and those customs and practices discriminatory to the child",[140] another very important innovation of this Charter, is that it provides for a corresponding responsibilities of the child. It states thus:

> Every child shall have responsibilities towards his family and society, the state and other legally recognised communities and the international community. The child subject to his age and ability and such other limitations as may be contained in the present Charter, shall have the duty.
>
> (a) To work for the cohesion of the family, to respect his parents, superiors and elders at all times and to assist them in case of need.[141]

3.3.3 The Universal Declaration of Human Rights 1948

This Declaration was adopted by the General Assembly of the United Nations in 1948. It was the First International Human Rights Instrument that sought to protect the rights and dignity of all human beings. The relevant provisions of this declaration to children are the declarations that "All human beings are born free and equal in dignity and rights[142] and "motherhood and childhood are entitled to special care and assistance. All children, whether born in or Out of wedlock, shall enjoy the same social protection.[143] Apart from these, there is no other provision that has direct reference to children except of course if we are to

[140] *Ibid* Article XXI
[141] *Ibid* Article XXXI (9)
[142] Article I Universal Declaration of Human Right 1948
[143] *Ibid* Article 25 (2)

refer to the long age argument that all general human rights provisions apply to children.

3.3.4 The African Charter on Human and Peoples Rights 1986

This Charter is also known as the Banjul Charter. It was adopted on 21st October, 1986 thus making it the first African Human Rights Instrument. The only place in this Charter that mentions a child specifically is only article18 (3) which state that "states parties should ensure the protection of the rights of the child as stipulated in International declarations and Conventions".[144] It has been argued that the other rights contained in this charter is universal and also applies to children.

3.3.5 The Child Rights Act 2003

The idea behind the Child Rights Act is said to be the desire to have all rights and responsibilities relating to the child in one single piece of legislation, "as well as specify the duties and obligations of government, parents and other authorities, organisation and bodies in relation thereto".[145]

The content already stated in this work is modelled after the convention on the Rights of the Child and the OAU Charter on the Rights and Welfare of the Child. Thus the guiding principles and protection of the rights of children as contained in the Act are borrowed from these two International

[144] *Ibid* Article 18 (3) African Charter on Human and People's Rights,
[145] Ladan M.T op. cit at p. 22

instruments.[146].Generally, the Act is divided into twenty-four parts with eleven schedules. We shall examine the Act under numbered headings below.

(1) **Part I**: This part contains sections 1 and 2. It provides that irrespective of who is the actor, whether, an individual, public or private body, institutions or service court of law or administrative or legislative authority, the best interest of the child shall be of paramount importance. It went further to provide that it is the duty of parents, legal guardians, or other individuals, institutions, services, agencies organisations or bodies legally responsible for the child to ensure that the necessary protection and care for the wellbeing of the child is taken care of.[147]

(2) **Part II**: This part runs from section 3 to 20. It contains those rights that could be called civil rights. It provides for the following rights for the child; the rights to survival and development, to a name, to freedom of association and peaceful assembly, to freedom of through, conscience and religion, to private and family life, to freedom of movement, to freedom from discrimination, to dignity of the child, to leisure, recreation and cultural activities, to health and health care services, to parental care, protection and maintenance, to free compulsory and

[146] *Ibid* at p. 22 - 24
[147] See Part 1 Child Rights Act 2003

universal primary education, as well as encouragement of the child to attend and complete secondary education.[148]

(3) **Responsibilities of a child and parents**: the Act provides that:

> Every child has responsibilities toward his family and society, the Federal Republic of Nigeria and other legally recognised communities, nationally and internationally. A child shall subject to his age ad ability and such other limitations as maybe contained in this Act and any other law, to work towards the cohesion of his family and community; respect his parents, superiors and elders at all times and assist them in case of need; serve the Federal Republic of Nigeria by placing his physical and intellectual abilities at this service... [149]

The Act also goes further to provide that:

> Every parent, guardian, institution, person and authority responsible for the care, maintenance, upbringing, education, training, socialisation, employment and rehabilitation of a child, has the duty to provide the necessary guidance, discipline, education and training for the child in his or its care such as will equip the child to secure his assimilation, appreciation and observance of the responsibilities set out in this part of the Act.[150]

(4) **Protection of a Child against Discriminatory, Harmful and Exploitative Practices**: This is contained in section 21-40 under part III of the Act. It provides for the protection of the rights of the child through the prohibition of: child marriage, child betrothal, infliction of tattoos and skin marks, exposure to use, production, trafficking, etc of drugs and psychotropic substances, use of children in any criminal activity,

[148] *Ibid* See Part II
[149] *Ibid* Section 19 2(a-c)
[150] *Ibid* Section 20

abduction and unlawful removal and transfer of a child from unlawful custody, forced, exploitative or hazardous child labour, including outlawry of employment of children as domestic helps outside their home or family environment, buying and selling, hiring or otherwise dealing in children for the purpose of hawking, begging for alms, prostitution, unlawful sexual intercourse, other forms of sexual abuse and exploitation prejudicial to the welfare of the child.[151]

(5) **Additional Child Protection through Civil and Welfare Proceedings**: Part IV (section 41-49)[152] of the Act provides for additional protection through civil and welfare proceedings.

(6) **Protection of Children in need for Care and Protection from Physical or Moral Danger**: Under part V contained in section 50-52 of the Act, provide the police officer or a child development officer or any other authorised person to bring a child in need of care and protection before a court for a corrective order, if he has reasonable grounds for believing that the child is an orphan or is deserted by his relatives, negated, ill-treated or battered by his parents or guardian or custodian, or found destitute, wandering, homeless or surviving parent undergoing imprisonment, mentally disordered or otherwise severally handicapped; or found begging for alms, in company of a reputed I common thief or

[151] *Ibid* See Part III
[152] *Ibid* See Part IV

prostitute or otherwise beyond parental control or exposed to moral or physical danger.[153]

(7) **General care and Supervision Orders**: Sections 53-62 under Part VI of the Act provides for the making of care and supervision orders which are designed to place children in need of care and protection in the care of a designated person, appropriate authority or state government for the purpose of safeguarding or promoting the welfare of the child. The supervision orders may include education supervision orders.[154]

(8) **Use of scientific Testing in Determining Paternity or Maternity of a Child**: Under Part VII, sections 63-67 of Act empowers the court to give direction or order for the use of scientific tests, including blood tests, to ascertain whether the tests show that a party to any civil proceedings is or is not the father or mother of that person.[155]

(9) **Guardianship, wardship, fostering and adoption**: Part IX (section 82-92) deals with the guardianship of children while part X (sections 93 — 99) deals with the issue of wardship. Part XI (sections 100-124) made provision for fostering of children and part XII (sections 12 5-148) deals with the issue of adoption.[156]

(10) **Establishment of the Family Court, Child Minding, Day Care Centres and Allied Home**: Under parts XIII to XIX (sections 149-203),

[153] *Ibid* See Part V
[154] *Ibid* See Part VI
[155] *Ibid* See Part VII
[156] *Ibid* See Parts, IX, X, XI and XIII

the Act provides for the establishment of the family court, child minding, day care centres and allied homes.[157]

(11) **Child Justice Administration**: The Act made a copious provision on child justice administration which is to replace the juvenile justice administration which as stated earlier in this work has been in existence for several decades in Nigeria. All these are provided under pat XX (sections 204238).[158]

(12) **Child Rights Implementation Committee**: Under Part XXIII (Sections 260-271), the Act provides for the establishment, membership procedures, and functions of the child rights implementation committees at the national, state and local government levels.[159]

(13) **Miscellaneous matters**: finally, in part XIV (Sections 272-279), the Act provides for services of documents, supremacy of the provisions of the Act over those of all other laws relating to children in cases of inconsistency, interpretation and citation of the Act.[160]

3.3.6 The Criminal Code

The provisions relating to children contained in the criminal code relates to issues of criminal nature. It provides for offences against the child and prescribed the punishment thereto. Under the code, "a person under the age of

[157] *Ibid* See Part XIII to XIX
[158] *Ibid* See Part XX
[159] *Ibid* See Part XXIII
[160] *Ibid* See Part XIV

seven years is not criminally responsible for any act or omission".[161] It also provides that "a person under the age of twelve years is not criminally responsible for an act or omission, unless it is proved that at the time of doing the act or making the omission he had capacity to know that he ought not to do the act or make the omission".[162] Also it further provides that "a male person under the age of twelve years is presumed to be incapable of having carnal knowledge".[163]

[161] See 30 Criminal Code Act
[162] *Ibid*
[163] *Ibid*

CHAPTER FOUR

UNICEF OPERATIONS IN NIGERIA

4.1 Introduction

This chapter discusses the main theme of this research work. It examines the specific activities of UNICEF in Nigeria for the promotion and protection of the rights of the child. In addition, it provides an over-view of the activities of UNICEF in other jurisdictions as a basis for comparison and as lessons for application in Nigeria where necessary.

4.2 Activities of UNCEF for the Promotion and Protection of the Rights of the Child in Nigeria

The main activities of UNICEF in Nigeria are in the areas of survival and early child care, basic education, water sanitation and hygiene (WASH), protection and participation, planning and communication and emergencies[164]. Each of these activities is tailored towards the protection of a specific child rights as contained in legal instruments for the protection of child rights. We shall now examine these activities and the specific child right each of them seek to protect and promote.

4.2.1 Survival and Early Care

The child survival and early care program of UNICEF is aimed at promoting and protecting the right to survival and development of the child in Nigeria. To this end, the program aimed at contributing to the reduction of neonatal and under-five mortality rates through supporting the revitalization of the primary health care system

[164] UNICEF Nigeria at: http"//www.unicef.org/Nigeria/activities.ht.m.l accessed on 13 March 2016 at 10:33am

and services, contribute to the interruption of wild polio virus transmission, prevention of mother-to-child transmission of HIV virus, as well as promotion of sustainable elimination of vitamin A and other micronutrient deficiencies[165].

From the above, it is clear that the survival and early child care program of UNICEF is made up of two component parts. There are the specific primary and secondary health programs, such as interception of Polio Virus through immunization and the prevention of HIV/AIDS transmission. Secondly, there is the nutrition project such as the elimination of vitamin A deficiency as well as elimination of Iodine Deficiency Disorders. The activities under this program are; supporting the Accelerated Child Survival and Development Programme, Training of health personnel, immunization campaign and supporting nutrition projects. These shall be examined in some details.

(1) Provision of support to the Accelerated Child Survival and Development Program (ACSD).

The thrust of the ACSD is in the selection of low-cost and high impact intervention packages like strengthening routine immunization, vitamin A supplementation, exclusive breast feeding, oral Rehydration Therapy (ORT) and use of Insecticide Treated Nets (ITNs). The strategy is to provide these packages through three different delivery modes viz; strengthening community and house hold activities,

[165] What UNICEF is doing at: http://www.unicef.org/nigeria/health.htm.l accessed on 15 March 2016 at 11:45pm

improving access through outreach services and improving access to quality clinical care[166].

In February 2006, UNICEF started providing support towards the implementation of ACSD, in collaboration with the Government of Nigeria. UNICEF also supports the establishment and orientation of state teams for technical support and supervision at local level. In addition, a core of community Resource Persons (CORPs), directly in touch with communities and households are being trained to assist care givers adopt key household practices[167].

It is worthy of note that with the assistance of UNICEF, the ACSD has rapidly spread to 111 Local Governments across the 36 states of Nigeria, involving a population of nearly five Million under-five children[168]. Examples of places covered by the program are; Eripa Community in Osun state, Lokoto Community in Chanchaga Local Government of Niger State, Ekwusigo Local Government of Anambra State, Garaku town in Nassarawa Local Government of Nassarawa State, Sarkin Maja in Maigatani Local Government Area of Jigawa State and Sabon Gida Ora town in Owan West Local Government of Edo State.

ii. Training of Health Personnel

This is another very important aspect of the child survival and early care Program. UNICEF in this area, is involved in the training of health personnel through the Integrated Management of Chilhood Illness (IMCI). In this approach, the training

[166] *ibid*
[167] *Ibid*
[168] UNICEF (2008). *The Nigerian Child*. United Nations Children's Fund Nigeria Newsletter volume 1, issues 2. P 3.

of health personnel is concentrated on child killer illnesses such Malaria, diarrhea and respiratory infections. This program supports mainly the development of training manuals and guidelines, tools for supportive supervision and facilitation of orientation workshops directed towards attitudinal change for staff. For example, UNICEF in conjunction with Niger State Government trained 330 health workers from the twenty five local Government areas in the state on Malaria prevention strategies[169]. In the same vein, UNICEF in 2015 in conjunction with the Benue state government trained community health workers through the strategic training for community health workers and councilor's initiative. The initiative was anchored on community health workers and councilors who were trained and who inturn trained five care-givers in each of the 23 local government areas of the state[170]. Likewise, UNICEF trained 60 field workers who will help train other health workers on ways of combating Severe Acute Child Malnutrition in Ebonyi State[171].

iii. Immunisation Campaign

UNICEF has been actively involved in immunization campaigns in Nigeria. The fund has been providing support to the integrated approach to polio eradication through the 'Immunization Plus' Days strategy (IPDs). Immunization plus Days (IPDs) are days of intensive effort to vaccinate all children against polio. During these days, the oral polio vaccine and other antigens such as BCG, DPT, Hepatitis B, Measles, Yellow fever and vitamin A are also given to all children by health workers.

[169] Nigeria: Niger, UNICEF Train 330 Health Workers at www.allafrica.com/stories retrieved on March 20 2016 at 10:38pm
[170] Benue, UNICEF Trains community health workers at www.vanguard.org.com accessed on March 20 2016 at10:30pm
[171] UNICEF trains 60 Officers to Combat Malnutrition at www.nigeriabestforum.com accessed on March 21 2016 at 11:00am.

In addition, other child survival interventions such as de-worming tablets, oral rehydration sachets, paracetamol and Insecticide Treated Nets are given to caregivers. UNICEF is also instrumental in the provision of improved cold chain and freezers or fridges where needed. For example in Ekwusigo Local Government Area of Anambara State where UNICEF donated equipments that included solar refrigerators which function on a 24 hour basis, fridges, cold boxes, vaccine carriers, thermometer and motorcycles[172].

iv. Supporting Nutrition Projects

UNICEF provides support to nutrition projects through encouraging sustainable elimination of vitamin A deficiency and Iodine Dificiency (IDD) as well as reduction of Iron Deficiency Anaemia (IDA) and Zinc Deficiency. In addition to providing funding for salt iodization projects, UNICEF's nutrition program also supports the orientation of school children in salt testing and the advantages of consuming iodized salt[173]. As a result of the efforts of UNICEF in this area, 70 percent of the sugar, 100 percent of wheat flour and 55 percent of vegetable oil sold in the market are fortified with vitamin A[174].

The right to survival of the child is the most important of all the rights of a child. It is the foundation upon which all other rights are built. It is only when a child is alive that they can enjoy other rights that accrue to them. Hence, the activities of UNICEF towards the promotion and protection of the right of the child to survival is a very critical one. However, how effective has the program of child survival and early

[172] UNICEF (2008) The Nigerian Child Op. Cit p.4
[173] *Ibid* p.7
[174] Busani A. K. (2013) *Two Decades of Food Fortification in Nigeria: Situational Analysis*. Unpublished MPH Thesis. Rollins School of Public Health of Emory University, Atlantis, USA.

care been in promoting the right to survival of the child in Nigeria? In other words have these activities of UNICEF prevent neonatal and under 5 deaths in Nigeria?

The survival and early care program of UNICEF in Nigeria is perhaps the most successful of all its programs. As a result of this program of UNICEF in conjunction with other partners and stakeholders, the World Health Organization on September 25, 2015 announced that polio is no longer endemic in Nigeria following the fact that Nigeria has not reported a case of wild polio virus since 24 July 2014 and all laboratory data have confirmed a full 12 months have passed without any new cases[175]. This is a tremendous achievement considering that as at 2012, Nigeria accounted for more than half of all polio cases worldwide[176].

Despite the success recorded in the interruption of transmission of polio virus in Nigeria, statistics regarding infant and under 5 mortality rate is still high. This is because polio virus is not the only child killer disease in Nigeria. Other child killer disease such as Malaria, Diarrhea, and Acute Respiratory Infection still account for a large number of child mortality in Nigeria. According to the World Bank, the number of infants that die before attaining 28 days of age in Nigeria is 241,561, 240,955, and 240,106 for the years 2013, 2014 and 2015 respectively[177]. Under-five mortality rate in Nigeria is 117, 113 and 109 per 1,000 live births for the years 2013, 2014, and 2015 respectively[178]. Going by these figures, it is clear that from 2013 to 2015, there have been constant improvement in neonatal and under-five mortality rates in Nigeria.

[175] WHO Removes Nigeria from Polio-Endemic List at www.who.int/mediacentre/news/releases/2015/nights-polio/en/. Accessed on 23 March 2016 at 2:45pm
[176] Ibid
[177] Number of Infants Deaths in Nigeria at www.data.worldbank/c.org.indicator accessed on 24 March 2016 at 3:03pm
[178] Number of Under-five deaths in Nigeria at www.data.worldbank.org/indicator accessed on 24 March 2016 at 3:05pm

However the improvements noticed overtime is very negligible. Thus the improvements have not had the desired effect on child survival rate in Nigeria.

One factor that accounts for the high rate of child mortality in Nigeria despite the program of UNICEF discussed in this section is the slow pace of the activities of UNICEF under this program. According to UNICEF, the Fund started providing support towards the implementation of ACSD initiative in Nigeria in February 2006 and till date the program covers only 111 out of the 774 Local Government Areas in Nigeria. The implementation is moving at a snail-pace. In addition, the activities under this program do not have wide coverage even in the 111 local government areas it currently covers. Hence the UNICEF presence in Nigeria is highly limited and its activities restricted to a comparatively few areas in Nigeria.

4.2.2 **Basic Education**

The Basic Education Program of UNICEF is aimed at promoting the right to basic education of the child in Nigeria. The program focuses on these main areas viz: strengthening education systems, improved and equitable access to quality basic education and improved quality of teaching and learning outcome. The basic activities of the Fund under this program are; promoting the concept of 'child-friendly schools and providing training and capacity building to teachers.

(i) Promoting the Concept of 'Child-Friendly School'

This concept aims to improve the school enrolment rate and the style and quality of teaching in schools. The initiative was introduced in Nigeria in year 2000 by UNICEF in collaboration with the Government of Nigeria. It is a rights based program

focusing on safe, conducive and healthy environment as well as teachers' involvement for greater enrolment and improved student performance amongst others. Thus the feature of a child-friendly school is one where the learning environment is conducive; the staff are friendly to the children; the health and safety needs of the children are adequately met and the rights of all children are recognized[179].

According to UNICEF, over 1000 schools in Nigeria are now designated as child-friendly schools[180]. Assuming that the child-friendly initiative is fully implemented in the number of schools mentioned by UNICEF, the area of coverage would still be grossly inadequate. This is owing to the fact that there are over 50,000 primary schools in Nigeria[181]. Thus the supposed 'child-friendly schools' in Nigeria are only a tiny fraction of the total number of schools in Nigeria. The question is if we have about 49,000 'non-child-friendly' schools in Nigeria, has there been a reasonable spread of the initiative, given that it was started in the year 2000? The answer of course is no. therefore, in terms of coverage; the 'child-friendly school' initiative is almost non-present in Nigeria.

The main problem with this initiative is that the UNICEF designated 'child-friendly schools in reality are not as 'child-friendly' as UNICEF has made it look. For example, one of the 'child-friendly' schools designated by UNICEF is the Kayarda model primary school in Kuje Area Council of the Federal Capital Territory. The School consist of only two blocks of classrooms. The school is located very close to a

[179] Enueme C.P. (2010) *The Impact of Child-friendly school initiative* at www.csus.edu/hhs/capcr/dols accessed on 27 March 2016 at 4:05pm
[180] UNICEF Nigeria. The Situation at www.unicef.org/nigeria/education.html accessed on 27 March 2016 at 5:06pm
[181] Public Primary Schools in Nigeria www.nigerianmuse.com accessed on 28 March 2016 at 1:00pm

major and bounded in the back by a narrow foot path which pedestrians and commercial motor-cyclist use as a short-cut to get to their destination. The school has neither toilet facilities nor portable drinking water and the pupils are exposed to danger of getting knocked down by vehicles and motor-cycles. This description does not in any way accord with the features of a 'child-friendly school'. To further buttress this point, in an assessment of the implementation of UNICEF's child-friendly school initiative program in Enugu State, researchers sampled the following child-friendly schools; CPs Umuhu-Eha-Amufu in Isiuzo LGA; Centra School, Owo in Nkamu East LGA; Central School, Amaechi in Enugu South LGA; Group School Agbani in Nkamu West LGA; Community Central School, Obe in Nkamu West LGA and CPs Uvuru in Uzo Uwani LGA of Enugu[182]. The researchers observed that there was no indication of UNICEF involvement in the efforts to make the school child friendly. In addition, they observed that most basic facilities in the UNICEF designated child friendly schools are inadequate with respect to the child-friendly status.

This researcher observes that it is a bit difficult to point to exactly what UNICEF has done to promote the concept of child-friendly school apart from designating schools as 'child-friendly'. Therefore the involvement of UNICEF in this initiative is limited and generally the level of implementation is not commendable. As a testimony, it is estimated that Nigeria currently has 10.5 million out of school children which is the world's highest number[183].

(ii) Training and Capacity building to Teachers

[182] Chidi B.M. et al (2013): *Assessment of the Implementation of UNICEF's Child Friendly School Initiative Programme in Enugu State, Nigeria* at www.iiste.org. Retrieved on 28 March 2016 at 7:48pm.
[183] UNICEF Nigeria. The Situation at www.unicef.org/nigeria/education.html accessed on 28 March 2016 at 10:05 pm

This is an important strategy of UNICEF under this program. It provides training and capacity building to teachers, institutions and educational stakeholders in order to ensure quality basic education. For example, in March 2016, UNICEF in collaboration with Sokoto state government commenced training 830 female teachers in a pioneer scheme to provide enough role models for female students, especially in rural communities in different parts of the state[184]. In April 2016 UNICEF partnered Katsina State to train about 1,500 female teachers[185]. Also in Bauchi State, UNICEF trained 1,847 teachers in December 2015[186]. The focus of UNICEF under this program is on girl-child education. UNICEF also provided support to the Nigerian government in formulating the strategy for Accelerating Girl's education in Nigeria.

4.2.3 **Protection and Participation**

The main thrust of this program is to provide support to the government in order to realize full implementation of the child Rights Act in Nigeria. Accordingly UNICEF have been campaigning massively for the adoption and implementation of the child Rights Act in all the 36 states of Nigeria. This is because issues of child rights protection are on the residual list of the constitution, giving states exclusive responsibility and jurisdiction to make laws relevant to their specific situations. Presently, the CRA has been adopted in 16 states in Nigeria.

One of the major challenges militating against the realization of the rights of the child in Nigeria is lack of awareness. It is not surprising that political office

[184] Sokoto Govt. UNICEF Train 830 'Role Model' Female Teaches at www.thisdaylive.com accessed on 28 March 2016 at 10.05pm
[185] UNICEF Partners Katsina Trains female Teaches at www.punching.com retrieved on 28 March 2016 at 10:10pm
[186] Bauchi, UNICEF Trains teaches at www.vanguardngr.com retrieved on 28 March 2016 at 10:12pm

holders are not aware of current trends in international life relating to children. UNICEF is therefore engaged in massive campaign for the domestication and implementation of the CRA. However despite the efforts of UNICEF, there are twenty states in Nigeria that have not adopted the CRA and even those that have adopted it have not achieved substantial implementation.

4.2.4 **Planning and Communication**

In order to increase efficiency and effectiveness, relevant stakeholders in child rights issues need to have relevant data and information regarding the situation of children in Nigeria. Therefore, the planning and communication program of UNICEF is aimed at providing surveys and evaluation to help the Fund and other stakeholders assess the level of success or otherwise of activities relating to child rights in Nigeria. The survey and evaluation generated under this program is also very useful to the Government. It helps the Government to plan and successfully execute its project and implement its policies.

The program of UNICEF in this area is to assist to measure progress, assess achievement and use the information to further the impact of the program on child survival, development and protection through advocacy and behavior change communication. One of the surveys carried out by UNICEF in collaboration with other parties is the multiple Indicator Clusters Survey (MICS). The fund provided financial and technical support in the survey[187]. The survey provides up-to-date information on the situation of children and women. It also helps the Nigerian government to monitor progress towards the Millennium Development Goals.

[187] The recent one is the Multiple Indicators Clusters Survey 2011.

4.2.5 **Emergencies**

UNICEF is a child of necessity, having came into being because of the emergencies of World War II. The earliest activity of UNICEF in Nigeria was to alleviate the hardship of the Nigerian civil war. Thus providing succor during emergency situations is at the core of the activities of UNCIEF right from its formation till date. It is true that in any emergency situation, the most affected group are women and children. Thus, the activities of UNICEF during emergencies are of immense benefit to children.

Since 2011, the people of the North East of Nigeria have been ravaged by insurgency perpetrated by Boko Haram Terrorists. Many people have lost their lives while many others have been forced to flee from their homes due to fear of attack from Boko Haram. The crisis was so severe and the consequences devastating that the Government had to declare a state of emergency on 14 May 2013 in the three North Eastern states of Borno, Yobe and Adamawa. Presently, there are about 2 million Internally Displace persons[188] living in camps in the three states affected by the insurgency. It is instructive to note that 58 percent of the IDPs in the North East are children and they are estimated to be over I million in number.

The situation in the North East is particularly tragic because apart from the number of children who have been rendered orphans, having lost their parents and relatives, children are doubly the real victims of the Boko Haram insurgency having been maimed, killed, enslaved and terrorized in different ways. The worst is that

[188] Humanitarian Action, for children 2016 Nigeria at www.reliefweb.int/reput/Nigeria accessed on 1 May 2016 at 10:00am

childrens who were abducted by the terrorists are converted to suicide bombers. It is believed that the girls kidnapped from Government secondary school Chibok have been used as suicide bornbers by the terrorists.

UNICEF actively participates in the Humanitarian Country Team (HCT) and the Inter-Sector Working Group (ISWG) to bring succor to children in the displace persons' camps scattered around the affected states. However, UNICEF plays a leading role in the area of Education, WASH and Nutrition as well as the child protection subsector. All the activities of UNICEF in this program is done in collaboration with the National Emergency Management Agency NEMA as well as the state government of the affected areas. We shall now examine the activities of UNICEF under this program is some detail.

4.2.5.1 **Water, Sanitation and Hygiene (WASH)**

UNICEF co-chairs the WASH sector Emergency Working Group with the Federal Ministry of Water Resources at the national level. At the state level, the WASH sector Emergency Working Group is co-chaired by UNICEF and the state Ministry of Water Resources. The activities under this programme are basically; provision of basic amenities and dissemination of hygiene messages.

(i) Provision of Basic Amenities

In Adamawa, UNICEF in partnership with the state Rural Water Supply and Sanitation Agency (RUWASA), have improved access to safe water for IDPs through the construction of a solar powered borehole fitted with

distribution pipe stands in Malkohi IDP camp[189]. In addition, UNICEF supported RUWASA to rehabilitate 2 hand pumps in Malkohi camp and another 2 in Malkohi host community[190].

In Borno, UNICEF supports RUWASA to ensure operation and maintenance of generator to ensure water supply in Dalori Government College, NYSC, Arabic Teachers College, Women Teachers College and Teacher Village IDP Camps[191]. The IDPs also benefitted from the construction of 30 new latrines the rehabilitation of 18 latrines and the construction of 20 bathroom at Government college and CAN IDP camps. UNICEF in partnership with OXFAM constructed 10 hand pump boreholes in the IDP camps of Maiduguri[192]. In collaboration with OXFAM and RUWASA UNICEF distributed WASH NFIs and hygiene kits to 1,800 households in host communities in Maiduguri. In addition UNICEF supported RUWASA to continue the daily chlorination of underground water storage reservoirs in IDP camps.

In Yobe, UNICEF supported RUWASA to establish the reficulation of water supply system in pompamari IDP camp. The fund also constructed 61 household latrines in communities hosting IDPS[193]. UNICEF also distributed hygiene kits in Kaisasa and Kuka Kareta IDP camps[194].

(ii) Dissemination of Hygiene Messages

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[189] *Ibid*
[190] *Ibid*
[191] Nigeria Humnanitarian situation Report, November 2015
[192] *Ibid*
[193] *Ibid*
[194] UNICEF Nigeria response for internally displaced children and women in North-East Nigeria at www.reliefweb.int/report/nigeria accessed on 2 May 2016 at 4:30pm

UNICEF in partnership with RUWASA reached displaced persons with key hygiene messages including hand washing demonstrations. Key hygiene messages were disseminated to affected people in Galtamari primary informal IDP camp in Borno State. In Adamawa IDPs benefited from hygiene promotion sessions conducted in Malkohi community as well as NYSC and Malkohi Camps[195].

4.2.5.2 **Education**

The activities under this program can be divided into two viz: provision of Educational materials and Awareness campaign. The two are examined below:

(i) Provision of Educational Materials

UNICEF supports educational activities to promote learning in conducive environments to children affected by the conflict. In this activity, UNICEF provides classrooms, tents, mats, school bags, and other educational materials in the three states affected by insurgency. According to the National Emergency Management Agency, UNICEF has constructed classrooms in Pompomari primary school IDPs camp, provided 80 tents (72m sq) with capacity to accommodate 8,000 children which were delivered to Ministry of Education, State Universal Basic Education Boards with Adamawa having 20, Borno 20 and Yobe 40[196] respectively in order to support the increased number of children expected to attend school as a result of the back to school campaign. UNICEF also provided 25,765 school bags to children in the three affected states[197]. UNICEF also established Temporary Learning Spaces (TLS) in

[195] Nigeria Humanitarian situation Report, November 2015
[196] Educational Activities in IDPs Camp at Nema.gov.ng accessed on 2 May 2016 at 8:53pm
[197] Nigeria Humanitarian situation Report, November 2015.

response to the demand of parents for schooling in camps instead of in nearby schools to address the risk and fear of having to send children to school out of the camps.

(ii) Awareness Campaign

Recently, there was cholera outbreak in Goni Kachallari, Sanda Kyarimi, Farm Centre, ATC and Teachers College IDP camps in Borno. In response to the outbreak, UNICEF support the Ministry of Education in raising awareness of the need to increase hygiene and sanitation through the dissemination of posters in schools with they WASH messages. A total of 2,500 posters have been made available in Borno for use in the affected camps[198].

4.2.5.3 **Nutrition**

In an emergency situation such as the one in the North East, children are prone to malnutrition which is a major child killer disease. UNICEF started screening activities, in IDP camp and Host Communities in order to identify children with severe Acute Malnutrition (SAM). UNICEF established emergency nutrition services in IDP camps and continues Community Management of Acute Malnutrition (CMAM) through already existing CMAM centres within the health facilities which also supports host communities. A total of 245 health facilities in the three affected North East States have been equipped by UNICEF including trained personnel on identification and management of severe acute malnutrition[199].

UNICEF also provides vitamin A supplement to children in IDP camps. It is estimated that a total of 1,064,945 children received vitamin A supplement and

[198] *Ibid*
[199] *Ibid*

287,091 pregnant women received Iron Folate during the maternal and child health programme in the 3 states[200]. UNICEF also distributes multiple micronutrient providers in Borno and Adamawa States reaching about 2,500 children aged 6-23 months[201].

4.2.5.4 **Health**

UNICEF is working in partnership with state Ministry of Health and primary Health Care Development Agency in the 3 states of Borno, Adamawa and Yobe to render health services offered through the camps, host community clinics and outreach clinics. To date about 100,746[202] children have been reached with health services including curative services, immunization, vitamins A supplementation, deworming, screening for malnutrition, and HIV testing.

In Borno, Immunization activities in the IDP camps have reached 41,712 children aged between 6 months to 15 years with measles vaccine; 31,508 children aged between 14 weeks to 6 years were immunized with in activated polio vaccine (IPV), 51,605 children under 5 years with Oral Polio Vaccine (OPV) and 44,031 children aged between 6 months to 5 years received deworming tablets[203].

In Adamawa, UNICEF supports provisions integrated PHC to five IDP camps, Transit camp as well as 226 host communities. In addition, a total of 6,984 long lasting mosquito nets were distributed[204]. Likewise in Yobe, UNICEF supports integrated service which provides health services to two permanent camps and host communities through clinics and outreach services.

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[200] Nigeria Humanitarian Situation Report October 2015
[201] Ibid
[202] Nigeria Humanitarian Situation Report July 2015.
[203] *Ibid*
[204] *Ibid*

4.2.5.5 **Media and External Communication**

The aim of this program is to create awareness about the plight of children affected by the Boko Haram insurgency with a view to attract the attention of the International community about the emergency situation of children and thereby raise funds to continue the activities of the Fund in alleviating the sufferings of children affected by the insurgency.

In October 2015, UNICEF hosted a visit by Norweigan Goodwill ambassador Vebeke klemetsen and a team from the Norwegian National committee to Maiduguri to record a video about girls who had been held by Boko Haram. The video will be used for fundraising purposes during a Norwegian national telethon[205]. UNICEF Nigeria assisted a BBC television mission to Maiduguri reporting a story about children affected by the conflict and malnutrition[206]. Through social media channels, UNICEF has also highlighted the situation of children and women affected by the conflict as well as the need for education, especially of girls and efforts to get children into schools in areas affected by the insurgency.

It is observed that UNICEF has done tremendously well in promoting and protecting the rights of the child in the Boko Haram affected states in the North East of Nigeria through the activities examined under the emergency program of the Fund. The testimony of the efforts of the UNICEF can be seen in the data available from the National Emergency Management Agency, State Governments and other relevant stakeholders. Indeed it could be said that UNICEF maintains a strong presence in IDP

[205] Nigeria Humanitarian Situation Report November 2015.
[206] *Ibid*

camps and host communities in the affected states. The Fund's presence is mostly felt through its Education and WASH programs.

However, it is observed that there is an unnecessary duplication of effort in some programs of the Fund. For example, the health program should have been left for the world health organization. Thus most of its activities in the areas of Health and nutrition is mainly to provision of support. Due to this, it is sometimes not particularly clear what the Fund is doing to support some of the health activities examined as they are said to support the Ministry of Health and Primary Health Care Development Agency. In other words, the Fund lacks direct intervention in some programs. It would have been better for the Fund to concentrate its efforts on education, WASH and child protection, or create health programs and initiative that will have direct positive effect on children instead of merely providing support to other partners behind the screen.

The reason the Fund has not achieved its target in alleviating the suffering of children in the conflict ravaged region is the shortage of Fund. According to the Fund, as of 31 October 2015, it has only received around $14.8 million against the $26.5 in the 2015[207] Humanitarian requirements. A further breakdown shows that the Nutrition program was 123 percent unfunded, the Health program was 46 percent unfunded , WASH program was 40 percent unfunded, child protection was 52 percent unfunded and Education program was 88 percent unfunded. In essence, the Fund only received 56 percent of the fund it required to work in 2015[208]. In 2016, the overall budget of the Nigeria Humanitarian Response Plan was reduced. Consequently, UNICEF also had to

[207] Humanitarian Action for Children in Nigeria 2016.
[208] *Ibid*

reduce its overall budget, especially in education[209]. Lack of additional funding made UNICEF unable to continue some of its intervention program and therefore meant that IDPs who live in camps with host communities received limited assistance.

4.3 Overview of Activities of UNICEF in other Jurisdictions

The discussion in this section is primarily of the activities of UNICEF in other countries which are either not included in the activities of UNICEF in Nigeria or are not been prioritized in the activities of UNICEF in Nigeria. The section therefore identifies new activities that will be of immense benefit to UNICEF in Nigeria and areas of the current activities of UNICEF in Nigeria that needs to be strengthened some of such important activities are; collaboration with religion communities, provision of cash assistance, establishing database for children and promotion of child participation. These areas are examined below as a basis upon which UNICEF in Nigeria can further its objective of protecting and promoting rights of the child in Nigeria.

4.3.1 Collaboration with religious Communities

The term 'religious communities' broadly refers to both male and female religious actors and to systems and structures that institutionalize belief systems within religious traditions at all levels from local to global. These include, local worship communities (e.g., mosques, churches, synagogues, and temples), denominational leadership (e.g. Imams, Shaykhs, Clerics, bishops, pastors e.t.c.), scholars, theologians, mission workers, in-tra-religious institutions, and religious educators. These religious communities differ in size, mission, role, geographic scope and technical capacity.

[209] *Ibid*

UNICEF has a long history of partnering with religious communities of all faiths on a wide range of issues that affect children. This is because religious actors are indispensable partners in the program of UNICEF. The relevance of these actors is due to the strong linkages they have with disadvantaged and vulnerable members of the society and are therefore uniquely positioned to promote equitable outcomes for the most vulnerable children and families. The influence and networks of religions actors give them access to deprived groups, those that International Organization and Governments are sometimes less able to reach effectively. Due to their moral influence, religious leaders can influence thinking, foster dialogue and set priorities for members of their communities.

In recognition of this overwhelming influence of religious leaders and actors, UNICEF has been partnering with them to further its aim of improving children's lives. Much has been accomplished through the rich collaboration between religious communities and UNICEF in a wide range of program areas including child protection, education, health, nutrition HIV/AIDS and emergency response among others. A very good example is in Mauritania[210], where UNICEF established partnership with the Imams and Religious Leaders Network for Child Rights to address the wide use of corporal punishments in Qur'anic schools and secular primary schools as well as within families. The network carried out a study to assess whether corporal punishment is allowed in Islam and concluded that violence has no place in the Qur'an. This led to a fatwa barring physical and verbal violence against children in the educational system as well as in the home.

[210] Stephen Hammer et al (2012) Partnering with Religious Communities for Children. UNICEF, New York, USA P.21

UNICEF also supported key religious leaders, scholars and institutions in Iran to conduct research and academic discussion to produce documents that interpret the articles of CRC from Islamic (Shi'ia) perspectives[211]. In 2009, during a cholera outbreak in Zimbabwe, there were a large number of deaths among members of the apostolic faith who do not accept modern medical treatment. UNICEF dialogued with 96 leaders of the church which increased the acceptance rate of treatment[212]. In Sudan, UNICEF addressed issues of abandonment of infants and alternative family care by securing the support of prominent imams. Significantly, in 2006 the fatwa council of Sudan issued a fatwa stating that abandoned babies should be viewed as orphans within the Islamic context and thus had the right to full state and community support[213].

4.3.1.1 Effectiveness of UNICEF Operation in Nigeria.

UNICEF in Nigeria has not benefited much from the gains that accrues from partnership with religious communities. It is on record that Nigeria was one of the last countries in the world to achieve interruption of the wild polio virus. Also, up till date, there are only 16 States that have adopted the Child Rights Act with very poor implementation. Presently only two states of Lagos and Cross- River have established Family Court as contained in the child Rights Act. The Northern part of Nigeria has the worst cases of child rights violation and according to the Multiple Indicators Clusters Survey; the region has poorest indices in terms of child survival and other child related issues.

[211] *Ibid* P.20
[212] *Ibid* P.37
[213] *Ibid*.

There are two major issues responsible for the slow pace of domestication and implementation of the Child Rights Act and the poor rate of polio immunization coverage in Nigeria especially in the northern region. One, there are unresolved issues regarding some provisions of the Child Rights Act as some provisions of the Act is seen by some Muslims as in conflict with some provision of the Sharia. For example, the provision of the Act on child adoption and the age at which majority is attained. A writer[214] x-rayed the conflicts between the child's Right Act and Islamic Law on child marriage and inheritance and asserted that the apparent contradiction between the child Rights Act and Islamic Law is not surprising because the origin of the Act lies in convention and treaties that are designed by people who are ignorant of Islamic law. Two, there are rumours in the predominantly Muslim North about the safety of the oral polio vaccine. It is alleged that the vaccine is targeted at reducing the fertility rate of children who take them. This rumour may be unfounded, but it has overtime taken the form of a hypothesis waiting to be proved or disproved. This belief about the unsafety of polio vaccine is not only propagated by illiterates and ignorants but by some members of the elite class and even experts and indeed threatened to undermine the entire global eradication effort of polio virus.

An illustration of the seriousness of this hypothesis can be found in the case of Haruna Kaita vs DSSS Ors[215]. In this case, the applicant who was a Professor of Chemistry at Ahmadu Bello Unviersity Zaria claimed to have carried out medical and laboratory research on a sample of the polio vaccines used in the north and discovered

[214] Alkali A. U. (2012) *An X-Ray of the conflicts between the Child's Right Act 2003 and Islamic Law on Child Marriage and Legitimacy.* Human Rights Review. An International Human Right Journal of ABU Zaria and National Human Rights Commission of Nigeria's Vol. 3 P.
[215] KDH/ ZA /605/2013 - Unreported

that the vaccines are actually unsafe for use on humans. He started a campaign both in the print and electronic media to sensitize the general public about the harms that polio vaccine could cause. He wrote papers, organized conferences and made video tapes all in a bid to warn the public. The government became aware of his activities and sought to arrest him through the Department for State Security Services. He approached the Court for an order prohibiting his arrest and enforcing his fundamental human rights. According to the Professor, he was just doing his job as a lecturer and researcher. The most interesting part of this case was that, in his recorded video tapes, the Professor was seen in the company of a popular Islamic scholar who has large followers in and around Zaria. Whether or not the assertion of the Professor was right cannot be established, however, his campaigns surely have negative effect on the general public especially the followers of that particular Islamic scholar.

According to UNICEF[216], in order to combat these factors mentioned above, it requested the Grand Sheikh of Al-Azhar to issue a statement on the importance of polio vaccine that could be used to engage and mobilize religious leaders in Nigeria to support the vaccination program. Also, according to the Fund, it entered into dialogue with communities in collaboration with district heads and *Mai Angwa* to promote ownership and participation in Immunization services. To this researcher, these were right steps in the wrong direction and probably was the reason why stamping out polio took so long.

In Nigeria, religious leaders enjoy loyalty, trust and respect more that any entity including the government. Some religious leaders have millions of followers who listen to and obey every of their commands. For example, the Tijaniya leader,

[216] Stephen Hammer et al op. cit P.12

Sheikh Tahir Usman Bauchi is the spiritual leader of over 30 million Nigerians who listen to his sermons and are eager to obey him. The Izala leadership also has a very large followership in Nigeria. The Islamic Brotherhood in Nigeria led by Sheikh Ibrahim Yaqub El-Zakzaky claims to have about 10 million followers in Nigeria. The loyalty and respect enjoyed by the Zazaky from his Shiite movement is tremendous. Pastor Enoch Adeboye of the Redeemed Christian Church of God claims to have about 5 thousand branches of his church all over Nigeria. Pastor David Oyedepo enjoys no less patronage from some Christians in Nigeria. The large followership enjoyed by these religious leaders makes them indispensable to the work of UNICEF in Nigeria. Some of these leaders have budgets of millions of naira on yearly basis. There was no mention of any of these prominent leaders in the work of UNICEF examined. The fund should strengthen cooperation with these individuals by working to identify common ground and maximize comparative advantages. The Fund should partner with these leaders and encourage open dialogue, even about complex and sensitive issues like the conflict between the Sharia and Child Rights Act. This will be more effective than going to Egypt to get a religious declaration that has no effect on the Muslims in Nigeria.

To buttress the point made above, in 2006, the Government of President Olusegun Obasanjo invited the Chief Imam of the Medina Kaolakh Mosque in Senegal to come and help convince Muslims in the north to participate in immunization programs[217]. This Imam called Shaykh Hassan Cisse was the spiritual leader of the Tijjaniya brotherhood, who was loved, trusted and revered by Tijjaniya

[217] Shaykh Hassan Cisse (2007) The Role of Religious Leaders in Polio Eradication at www.tijani.org/news/polio-eradication accessed on 23 May 2016 at 1:30am

adherents all over Nigeria. He was also a philanthropist and has an Islamic organization named African American Islamic Institute AAII. The Imam for the work he has done to improve the welfare of women and children in Senegal was awarded the title 'Ambassador of Women and Children by UNICEF and the Government of Senegal on 14th May 2008. He came to Nigeria and toured about 21 states and it was reported that thousands of children[218] were immunized as a result of his sermons. This feat was achieved because of his exalted position in the eyes of his followers in Nigeria.

4.3.2 **Cash Assistance**

UNICEF in some countries provides cash assistance to victims of disasters and conflict. For example, UNICEF has provided cash assistance to identified vulnerable populations in Iraq[219] since December 2014. This the fund did in close cooperation with the regional authorities, with whom accountability and monitoring systems were set up to ensure that distribution and beneficiary selection is according to standard and agreed criteria. The child-focused cash transfers support vulnerable parents in Iraq to meet the need of their children by assisting to provide access to food and shelter. This activity was not done in Nigeria especially the Boko Haram insurgency affected areas. Child-focused cash transfers will go a long way to bring succor to child victims of the insurgency especially the Internally Displaced Persons.

[218] *Ibid*
[219] Cash assistance helps vulnerable families meet their most indigent needs at https//www.medium.com/stories. Accessed on 20 May 2016 at 10:55am

4.3.3 **Establishing Databases for Children**

UNICEF provides technical and financial assistance to the Government of Trinidad and Tobago[220] to establish two databases in respect of children viz: child indicator monitoring system (C.I.M.S) which aimed at transforming ad hoc updating of all indicators relevant to the goals of the World Summit for children into a standardized system, and the children in Need of special protection monitoring system which applies to three groups of children, abused and neglected, children with disabilities and children in conflict with the law. This system is geared towards data collection on children in need of special protection measures and the translation of this information into legislative, preventive and remedial action.

4.3.4 **Encouraging Child Participation**

Participation is a fundamental human right which affirms children as rights holders entitled to demand their own rights. The CRC defines children's participation as the rights to expression, information, involvement in decisions and associations. By exercising and enjoying their right to participation, children are better able to develop, survive and be protected. Due to this, children's participation has to be a fundamental part of any strategy to achieve children's rights to survival, health, education and protection.

It has been observed that despite the leading role UNICEF is playing to improve the welfare of children, the Fund has not done much in the areas of child participation as child participation has remained at the margins of UNICEF's

[220] UNICEF Situational Analysis of Children and Women in Twelve Countries of the Caribbean at www.unicef.org.documents/pdf retrieved on 21 May 2016 at 9:00pm

programs[221]. One of the main reasons that are identified to be responsible for UNICEF's poor performance in child participation is that the fund's main mandate as an inter-governmental agency results in limited opportunities for staff to work directly with children. As a result of this, few UNICEF staff has the necessary understanding, skills, experience and confidence to promote child and youth participation.

UNICEF is uniquely positioned to interact with children through its program. However UNICEF frequently relies on consultants and partner staff to, for example carryout research with children. As a result of this, UNICEF staff often misses opportunities to learn about child participation. Working with children, seeing what children are able to do and what they have to say is more compelling than attending training workshops or reading publications about child participations. In order to build understanding and skills, UNICEF needs to gain first-hand knowledge through Child Participation related to their area of work. Some examples of ways; UNICEF can increase direct interaction with children are; encouraging student councils and children parliament, involve girls and boys in community assessments and planning, support children's involvement in the media as journalists, photographer, conducting research, assessments and analysis with children, consulting with young people on program and advocacy priorities and support for child participation in forums on child-related policy issues. UNICEF can play a critical role in creating the condition that enable children to participate and exercise their civil rights through mainstreaming of children's participation in all programme area of survival, education, protection, HIV/AIDS, health and emergencies.

[221] UNICEF (2005) *Child and Youth Participation Strategy East Asia and Pacific Region* available at www.unief.org.doc/pdf.

CHAPTER FIVE

SUMMARY AND CONCLUSION

5.1 Summary

Chapter one discusses the background to the study, statement of research problem, justification, aims and objective of study, methodology, scope of the study, literature review and organizational layout of the study.

Chapter two examines the formation, structure and mandate of UNICEF. It traces the origin and evolution of UNICEF highlighting the major development stages that UNICEF went through to what it is today. The early activities of UNICEF was discussed in some details as well as the changing that occurred in the mandate of the organisation from providing relief to children who are victims of war to the broadening of its mandate to include long term effort to children in poor countries to the current activities of the organisation which are geared towards the realisation of the Millennium Development Goals (MDGs).

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Chapter three discusses the nature and scope of child rights, examines the meaning, origin and development of child right and discussed the legal framework for the promotion and protection of the rights of the child in Nigeria. It discusses the various International, Regional and National instruments such as the Convention on the Rights of the Child, the AU Charter on Rights and Welfare of the Child, Child Rights Act etc. The provisions of these instruments were examined and their implication pointed out.

Chapter four focused on the role of UNICEF in promotion and protection of the rights of the child in Nigeria, activities of UNICEF in Nigeria for promotion and protection of rights of the child such as survival and early child care, basic education, water, sanitation and hygiene, protection and participation, planning and communication, HIV/AIDS, emergencies and publications. This chapter also examined the activities of UNICEF in other jurisdiction which provided a basis for comparison for the work of UNICEF in Nigeria

Chapter five concludes the study with a summary, findings, recommendations to the problem and challenges identified in the study so as to enhance the performance of UNICEF in its quest to protect and promote rights of children and ended with a conclusion.

5.2 Findings

The following are some of the findings of this work:

i. Due to the mandate of UNICEF as an inter-governmental agency, the Fund, although an agency dedicated solely to children, ironically has limited interaction with children and thus lacks practical experience in dealing with children.

ii. Most of the activities of UNICEF in Nigeria examined were in the form of providing support to already existing child oriented programs. Thus the Fund lacks direct intervention programs; hence sometimes the exact involvement of the Fund in some programs is obscure.

iii. Religious Communities are indispensable partners to the work of UNICEF. Unfortunately UNICEF in Nigeria has not benefited much from partnership with this group.

iv. Some programs of UNICEF examined are limited to comparatively very few areas and thus in such programs UNICEF's presence in Nigeria is almost not felt.

v. There are still religious and cultural beliefs and practices in some parts of Nigeria that is hindering the realization of the rights of the child.

vi. Unavailability of funds needed to execute the programs of UNICEF is a major reason why the Fund has had limited successes especially in alleviating the plight of children in emergency situation

5.3 Recommendations

The following are suggestions that will help in the realisation of Child Rights in Nigeria:

i. UNICEF should encourage Child Participation in all its programs as well as initiate programs that will increase direct interaction with children. This will give the staff of the Fund first-hand knowledge about children.

ii. UNICEF in Nigeria should strengthen collaboration and partnership with prominent indigenous religious leaders by engaging these leaders in meaningful and open discussion to identify common ground and maximize advantage

iii. UNICEF should make conscious effort to expand the area of coverage of its major programs taking into consideration the size and population of Nigeria.

iv. The Fund should in collaboration with relevant stakeholders engage in aggressive campaign to clear the air regarding the fears about polio vaccine and other life saving child intervention programs.

v. UNICEF should partner with relevant stakeholders to find alternative sources of fund to augment what the Fund currently has, especially to help the Fund to execute its program in the states devastated by the Boko Haram insurgency as some of the Fund's program in the North East remains largely unfunded.

5.4 Conclusion

It is clear that although UNICEF has had some measure of success in some of its work towards protecting and promoting the rights of the child in Nigeria, the Fund still has much work to do to justify its existence in Nigeria

BIBLIOGRAPHY

A. BOOKS

Ayua A. et al (eds) The Rights of the Child in Nigeria. NIALs, LAGOS (1996).

Bainham A. Children. The Modern Law, Jordan Publishing Ltd., London, Second Edition 1998.

Dan O' Donnell (2004) Child Protection: A Handbook for Parliamentarians. UNICEF & INTER-PARLIAMENTRY UNION, New York. USA.

Gerison Landsdown (2001). Promoting children's Participation in Democratic Decision-Making UNICEF Innocenti Research Centre, Florence. Italy.

Gerison Landsdown et, al (2011). Child Safety Online: Global Challenges and Strategies. UNICEF Innocenti Research Centre, Florence. Italy.

Katey Grusovin, et al. (2009). Children and Conflict in a Changing World UNICEF, New York. USA.

Ladan, M.T. Introduction to International Human Rights and Humanitarian Law, A.B.U. Press, Zaria (1999).

Lois Jensen (2010). Women's & Children's Rights: Making the Connection UNICEF and UNFPA, New York. Usa.

Maggic Black. The Children and the Nations. The Story of UNCIEF, P.I.C. PTY Ltd. Sydney (1986).

Michael Millen et al (2007).Protecting the Rights of Children with Disabilities. Innocent Digest Series, No. 13, UNICEF New York. USA.

Mike Jempson et. al. (2005). The Media and Children's Rights. Media Wise and UNICEF. New York. USA

Rehman J. International Human Rights Law. Pearson Education Limited, England, Second Edition (2010).

Stephen Hammer et al (2012). Partnering with Religious Communities for Children UNICEF, New York. USA.

Tracy Robinson et al (2008). Legislative Reform Related to the Convention on the Rights of the child in Diverse Legal Systems. Legislative Reform Initiative paper series. UNICEF Gender, Rights and Civic Engagement Section, Division of Policy and Practice, New York. USA.

UNICEF (2001) Beyond Child Labour, Affirming Rights, New York. USA

B. JOURNALS

Alemika E. I. Legal Framework for the Child Rights in Nigeria. UNIJOS Journal of Public Law and Constitutional Practice (2010) Vol. 3.

Alkali A. U, An X-Ray of the Conflicts Between the Child Right Act 2003 and Islamic Law on Child Marriage and Legitimacy. Human Rights Review, An International Human Rights Journal of A.B.U. Zaria and National Human Rights Commission of Nigeria (2012) Vol. 3.

Alkali A. U. An Appraisal of Child's Right to Life and Health under the Child's Right Act 2003, University of Ibadan Law Journal (2011), Vol. 1 No. 2.

Ndu I. N. The Child and Contemporary Forms of Slavery in Nigeria. Ekiti State University Journal of Private and Commercial Law, (2008) Vol.1.

C. INTERNET MATERIALS

UNICEF Nigeria at http://www.unicef.org/nigeria/about/html

www.pvcnews.tv/article

www.unodc.org/pdf

www.ssa.gov/policy/docs/ssb/pdf

www.allafrica.com/stories

www.vanguard.com

www.nigeriabestforum.com

www.who.int/mediacentrenews

www.worldbank/org

www.reliefweb.intreput/nigeria

www.nema.gov.ng

www.tijani.org/news/poltoeradication