

The Roles of *Hisbah* Commission and its Challenges in the Zamfara State of Nigeria

Rufa'i Sulaiman Abubakar, Atikullah Hj Abdullah

School of Humanities, Universiti Sains Malaysia Penang Malaysia

Email: atik@usm.my

To Link this Article: <http://dx.doi.org/10.6007/IJARBS/v11-i9/11118>

DOI:10.6007/IJARBS/v11-i9/11118

Published Date: 20 September 2021

Abstract

The main purpose of the establishment of *hisbah* in Islam is to ensure public well-being by performing the function of promoting good and preventing evil. Yet, the reality is that there are many challenges have to be faced by *hisbah* authority, especially in modern and pluralistic society. To overcome all these challenges, identification steps need to be done first. This paper aims to identify the major challenges faced by the institution of *hisbah* in carrying out its functions in the state of Zamfara, Nigeria. To achieve this goal, the library research methodology will be conducted specifically by collecting data from various written sources such as books, articles in scientific journals, research reports and even responsible daily newspapers. In addition, field studies, especially in-depth interviews with relevant key figures were also conducted to strengthen the data obtained from the literature review. The results show that there are four main challenges in the implementation of *hisbah* in Zamfara state, namely legal conflicts, lack of coordination of duties with the police force, negative public perception and lack of funds.

Keyword: Hisbah, Muhtasib, Zamfara Hisbah Commission, Shariah Penal Code, Shariah in Nigeria

Introduction

The establishment of the institution of *hisbah* is a rather controversial issue in the pluralistic society of Nigeria. For the Muslim community, *hisbah* is one of the main missions of Islamic teachings, which is to enjoin good and prevent evil. This institution is deep-rooted in the main sources of Islamic teachings themselves, especially the Qur'an and the sunnah of the Prophet. The existence of this institution is only to ensure the interest and well-being of society as a whole are well-protected. For the non-Muslim community though, this institution is seen as an institution that will violate the rights of freedom of religion and curtail the freedom of their social life. These concerns are compounded by several scenarios that occur such as the ambiguity of some laws that give connotations of the illegality and illegitimacy of *hisbah* institution and some misdemeanours of the *hisbah* personnel themselves. This article will try

to unearth some of the roles of *hisbah* in the Muslim community in the State of Zamfara and some of the challenges it faces.

The Concept of Hisbah and its Brief Historical Account in Islam

Literally, the term *Hisbah* is derived from the Arabic root word ih-ta-sa-ba, yah-ta-si-bu, ihtisaban, which carries several meanings. Ibn Manzur (1975), is of the opinion that *Hisbah* connotes hastening in acquiring rewards with patience or doing several good deeds in agreement with the Islamic teaching. Technically this concept has been exhaustively discussed by Muslim scholars of various periods in their writings, whereby they defined this concept in various ways. Abdullah (1996) summarizes opinions of the previous scholars about the definition of *Hisbah* by affirming that it is the responsibility of the leader to entrust it to an individual, vesting in him the power directly to inspire people to do good when it is neglected and to guard against evil when it is widely spread among the people. It is apparent from the above definitions that the main mission and purpose of the *Hisbah* institution since in early Islamic state in the Prophet's time is to protect members of society from deviance, preserve their faith and guarantee the welfare of the people in both religious and worldly matters according to the Islamic teaching. Further, this institution has served as a control mechanism to maintain the order of social life, so that everyone will enjoy security and the fulfilment of basic needs. (Islahi, 1984: Attahiru et. al., 2016) The Zamfara *hisbah* law specifically connects the definition of *hisbah* to shariah implementation, with about 80% of its functions directly connected to shariah implementation. (Sharia Implementation in Northern Nigeria Over 15 Years. Policy Brief No.2 The Case of *Hisbah*, 2016). The major functions of *hisbah* in Nigeria consist of fighting evils contrary to Islamic shariah. These include war against prostitution, alcoholism, gambling, fornication and adultery, etc. (Siro and Sundramoorthy, 2017)

Development of *hisbah* institution happens in an evolutionary stage. In its elementary stage, *hisbah* activities were mainly conducted through preaching and advising an individual to encourage good moral behavior and to discourage immoral ones. Over time, the *hisbah* activities went beyond religious preaching towards taking care of general social issues. Khan (1982) maintains that the Prophet was the first muhtasib, who performed the functions of enjoining goods and forbidding evil in a person. Later, during the reign of the first four caliphs when government affairs became more complicated and multi-faceted, a special officer was appointed to perform the duty of *hisbah*, called muhtasib. The institution of *hisbah* continues to develop with additional functions, responsibilities, and jurisdiction under the Ottoman Empire. It was probably during this era that the functions and responsibilities of the muhtasib were systematically codified. In its maturity stage, this institution was empowered to deal with different social issues such as the cleanliness of roads, animal welfare, health care, preventing teachers from the severe beating of children, preventing alcoholism, fornication and adultery. The *hisbah* institution had become a key institution for Muslim societies under different names and diverging missions depending on the social needs and visions of statesmen in Muslim States, up to the late last few centuries. However, when Muslim states began to lose their strength in the 18th century and most sovereign Muslim countries had become dependencies of western powers under colonialism rule, *hisbah* institution suffered a drastic decline (Hasan, 2007)

Islamic Law and Syariah Court Structure in Nigeria

The Nigerian Legal System is predominantly based on the English legal tradition as a result of the British colonization. The sources of Nigerian law are the constitution, legislation, English law, customary law, Islamic law, and courts judicial precedents (Mwalimu, 2005). The 1999 Constitution of Nigeria regulates the distribution of legislative power between the National Assembly, which has the power to make laws for the Federation and the House of Assembly for each state in the country (Okere, 1983). The Customary Law is one of the sources of the Nigerian legal system. The source of customary law is traditionally classified into Ethnic/Non-Muslim law and Muslim law/Sharia. The ethnic customary law is the indigenous law that applies to the members of different ethnic and religious groups (Ndulo, 2011). The law is mainly applicable in areas of personal and family relations such as marriage, divorce, guardianship, custody of children and succession. This law is applicable in customary courts which mostly deal with matters relating to the termination of traditional marriages (Miles, 2006). For this reason, some states in the northern part of Nigeria enact Islamic laws to be implemented in their respective states on the provision of section 38(1) of the Nigerian Constitution which states that "Every person shall be entitled to freedom of thought, conscience and religion, including the freedom to change his religion or belief, and freedom (either alone or in community with others, and in public or in private) to manifest and propagate his religion or belief in worship, teaching, practice and observance". The implementation of Sharia in Nigeria, in general, started in January 2000, when the then Zamfara State Governor, Ahmad Sani Bakura enacting the Sharia Penal Code, Law Number 10. (Nmehielle, 2004) In 2005, it was replaced by The Shariah Criminal Procedure Code, the "harmonized" version of Shariah Penal Code produced by the Centre for Islamic Legal Studies, Ahmadu Bello University, Zaria. Islamic law has a great impact on the current customary law. In some areas, the Islamic legal system has completely replaced and supplanted the pre-existing customary laws whereas in other areas Islamic law has been incorporated into customary law. Thus, the two systems became fused and are jointly administered. However pure Islamic law is only applicable where Muslims are the majority. Since the introduction of the sharia legal system by some states in the North in the current democratic government, the scope of application of Islamic law has been broadened to deal with all aspects including criminal law. One of the main features of the shariah introduction is the application of Islamic-based offenses especially on matters of morality which carry punishments sanctioned by the Quran and Sunnah (Brown, 2017). It is argued that the punishment of these types of offenses is prescribed by shariah and the shariah application is legalized by the virtues of relevant articles in the federal constitution. Even though Nigeria is a federalist system, in terms of law, the federal and the state court systems are not parallel (Poirier and Saunders, 2015). The National and State Houses of Assembly are empowered by the constitution to create new courts with subordinate jurisdiction to the High courts. Most shariah cases are initially administered in the Lower Shariah Courts or in the case of Zamfara State this court is referred to as Higher Shariah Courts. One Lower Shariah Court is established in each Local Government Area (LGA,) but some LGAs may have more than one, depending on population density. Lower Shariah Courts located in different LGAs are grouped into a zone and placed under an Upper Shariah Court, which serves as the court of the first appeal. Appeals of criminal cases from Upper Shariah Courts will go to the State High Court where they start to move from the shariah system to a predominantly English legal system. Appeals on shariah criminal cases from the high courts are heard in The Court of Appeal based in Abuja with divisions throughout Nigeria. It is claimed that Nigeria's multiple legal systems (English, customary, and

Islamic) converge here. In this court, it is constitutionally required to include at least three judges versed in customary law and at least three judges versed in Islamic personal law. Decisions from The Court of Appeal can be finally appealed to the apex court of Nigeria, The Supreme Court Based in Abuja.

The Implementation of *Hisbah* in Zamfara State

The State of Zamfara was carved out of the then old Sokoto State in October 1996 by a military regime headed by General Sani Abacha. (Babalola, 2016) Over 99.9% of the people particularly the indigenous are predominantly Muslim, while the remaining 0.1% consist of a few Christians and animists. (Zamfara State *Hisbah* Official Gazette, 2003) Zamfara was the first state in Nigeria to introduce sharia law during the regime of Ahmad Sani Bakura, the former Governor of the state. Frustrated by the lack of enthusiasm of the federal police force in enforcing shariah law in Nigeria, volunteers in the majority of the states that implementing shariah have decided to take their destinies into their hands by establishing *hisbah* as a security agent enforcing shariah law. (Mustapha and Ismail, 2016) Subsequently, Zamfara *Hisbah* Commission was established under the Zamfara State *Hisbah* Commission (Establishment) Law 2003 passed by Zamfara State House of Assembly in 2003. (Okemuyiwa, 2016) Zamfara *Hisbah* Commission Law is the most important piece of legal document that sets up *hisbah* guidelines and procedures. Among other things, this document provides the functions, jurisdiction, roles, aims and objectives of the Commission and others. Section 6 of the Commission provides

The Commission shall have the following powers:

- (1) to monitor the proper implementation and application of laws and bye-laws made by the State or Local Government Councils.*
- (2) to ensure proper compliance with the teachings of Sharia throughout the State.*
- (3) to monitor the daily proceedings of Sharia Courts in order to ensure proper compliance with Sharia Penal and Criminal Procedure Codes and report on all actions likely to tamper with the proper dispensation of justice from any court official or any litigant.*
- (4) to keep a record of and liaise with the relevant agencies or representatives of all persons in prison with pending hudud cases.*
- (5) to take every measure necessary to sanitize the society of all social vices and whatever vice or crime is prohibited by Sharia.*
- (6) to take every measure to ensure proper conformity to the teachings of Sharia by the general public in matters of worship, dress code and social or business interactions and relationships.*
- (7) to ensure conformity with Sharia in all the activities of the State and Local Governments in their day-to-day governance of the society.*
- (8) to ensure that all ceremonies, celebrations and anniversaries are carried out in accordance with the teachings of Sharia.*
- (9) to enlighten the general public on Sharia system and its application.*
- (10) to advise the State and Local Government Councils as well as public and private institutions on all issues concerning the implementation and application of Sharia.*
- 11) to render any help or assistance required by any government agencies on matters concerning Sharia implementation.*
- (12) to carry out any other duty or function that may be assigned to it by the State Government from time to time*

Based on the above provision, Zamfara *Hisbah* Commission has adopted preventive measures against crimes before they are committed. Strategically, in order to realize this noble objective, the *Hisbah* institution in Zamfara carries out its social function over three stages as follows.

i- Prevention through Sensitization

The *Hisbah* Commission has embarked on public enlightenment campaign targeted at educating members of the public on the activities of The Commission. (Ostien(ed.), 2006) Prevention through sensitization means to create public awareness on the immorality of certain behavior and deeds that are against the teaching of Islam and public interest. This is in conformity with section 6(9) of The Zamfara State *Hisbah* Commission (Establishment) Law 2003 which states, among others, that the power of The Commission is to enlighten the general public on the shariah system and its application. There are various measures taken to create this awareness including public lectures, symposia, publication and the use of the different media organs for preaching and urging the public to abide by good manners and abstaining from certain types of improper behavior in the society that can have a detrimental impact on the values of the nation and the good conduct of its citizens. (Zamfara State *Hisbah* Official Gazette, 2003)

ii- Prevention through Regulation

This includes providing laws that can prevent a person from committing a crime as prescribed in the shariah penal code. Since the enactment of sharia in Zamfara State and the establishment of *Hisbah* Commission, the *Hisbah* Commission has been provided with various responsibilities and legal jurisdictions. For example, section 6(7) of The Zamfara State *Hisbah* Commission empowers the *Hisbah* Commission to ensure conformity with shariah in all activities of state and local government and to advise state and local government councils on all issues concerning the implementation and application of shariah. Although the provision in this section at the outset look advisory, to some quarter, however, it means the decision of The Commission on any shariah related matters is binding on government at all levels. Section 19 gives The Commission the power to make relevant regulations. It provides that the commission may make regulations in respect of all matters under the state law, and may alter, vary or withdraw any regulation made as it may deem fit. (Zamfara state *Hisbah* official Gazette, 2018) Section 20 provides the power for The Commission to any matter brought before it. Furthermore, section 21 (1) provides that a *Hisbah* officer may detain and search any person whom he reasonably suspects to have contravened. For example, in preventing the consumption of alcohol, the Commission provides that

"Any adult Muslim legally responsible for his action who wilfully and without excuse or necessity or the pleading of an error on his part as to the nature of what he drank yet drinks any intoxicating liquor even a small quantity insufficient to produce intoxication commits an offense and shall be liable on conviction to eighty lashes to be inflicted after he has recovered from his drunkenness". (Zamfara State *Hisbah* Official Gazette, 2018)

The laws also continue to state that,

"Any adult legally responsible for his action who wilfully and without excuse or necessity or the pleading of an error on his part as to the nature of what he took yet take any intoxicating substance by any method, even a small quantity insufficient to produce intoxication and without a medical prescription or in violation of medication prescriptions commit an offense and shall be liable on conviction" (Zamfara State *Hisbah* Official Gazette, 2018)

iii- Arrest and handover the offender to the relevant security agencies.

The Commission is provided with the power to arrest, investigate and hand over the suspected criminals to the relevant law enforcement agencies. Section 9 of the law provides that in exercising its powers under section 6 (1) and (2) above, The Commission and its staff at local government councils and ward levels shall have the power to make arrests in accordance with sections 27-30 of the Sharia Criminal Procedure Code Law 2000, and thereafter hand over the arrested person(s) to the police in accordance with section 38(1) of the Sharia Criminal Procedure Code Law, 2000. By virtue of this section and in order to strengthen the power of The Commission in 2018, Zamfara State House of Assembly passed a bill conferring more powers to the state *Hisbah* Commission to arrest, interrogate and search residences or items where they suspect anti-Sharia activities or substances banned by Sharia are being kept. (The Guardian, 30 May 2018) In view of the above law, one can simply understand that the law of *Hisbah* Commission in Zamfara State adequately addressed all the possibilities in preventing crime. Nevertheless, the law does not provide The Commission the power to prosecute the suspected offenders in the court of law. It is argued that this limitation has largely affected the credibility and effectiveness of The *Hisbah* Commission in carrying out its duties.

The Challenges of *Hisbah* in Zamfara State

i- Dubious Legal Position

There are at least two main constitutional and statutory issues regarding the implementation and enforcement of *hisbah* in Nigeria in general and in Zamfara in particular. Constitutionally is its perceived conflict with Section 10 and section 214 of the Constitution of the Federal Republic of Nigeria and statutorily its perceived conflict with section 4 of The Police Act. It is maintained that section 10 of the constitution was intended to provide a safeguard against turning the country into a theocracy. The section states that the Government of the Federation or a State shall not adopt any religion as State Religion. Echoing this interpretation, the Human Rights Writers Association of Nigeria (HURIWA) in Nigerian Voice website dated 21 January 2020 insisted that section 10 of the Constitution prohibits the Government of the Federation or a State from adopting any religion as State religion. As much as it could be argued that the *Hisbah* institution is established in furtherance of peace and order, it is no doubt specifically to ensure compliance with "Islamic injunction" which is tantamount to enforcement of the religious standards. According to HURIWA, although this is not outrightly stated to be the adoption of state religion, it should be noted that since a state cannot adopt a religion as a state religion, it also cannot establish an outfit whose primary function is the enforcement of religious standard at a governmental level. HURIWA also sees that the implementation of the institution of *hisbah* is problematic in the view of section 214 of the constitution. This section provides that there shall be a police force for Nigeria, which shall be known as the Nigeria Police Force. Subject to the provisions to this section, no other police force shall be established for the Federation or any part thereof. Subsection 2 (a), (b) and (c) of the same section provides some provisions to the effect that only National Assembly has the jurisdiction to pass any law related to the organization, administration specification of power and duties of the police force. Therefore, the passage of those laws on matters not within the legislative competence of the State Houses of Assembly makes the laws and by extension the outfits or organizations which they establish, illegal ab initio. Based on this interpretation, the federal government of Nigeria declared the laws establishing *Hisbah* Commission and their activities as illegal right after its inception. (Olaniyi, 2011) Regarding

the Police Act, section 4 of the Act provides that the Police shall be employed for the prevention and detection of crime, apprehension of offenders, the preservation of law and order, the protection of life and property and the due enforcement of all laws and regulation with which they are charged and shall perform such military duties within or outside Nigeria as may be required of them by, or under the authority of this or any other Act. Based on this act, some quarters claimed that *hisbah* law is not within the lawful responsibilities of the police force as it is not passed through the National Assembly.

ii- The fragility of relationship with the police force

The relationship between the *Hisbah* and the police has been complicated. While the *Hisbah* were set up by state governments, the police across Nigeria remain a federal institution, answerable to federal and not state structures. (Okemuyiwa, 2016) The existence of these two parallel structures, both of which have responsibilities for enforcing law and order, has resulted in conflicts of interest. The police are a secular institution and include both Muslims and non-Muslims. Unlike the *Hisbah*, the police do not have the specific mandate to ensure enforcement and implementation of sharia. However, the police are operating in a context where shariah is legally in force under state legislation. Therefore, the police have a constitutional responsibility to enforce the Islamic penal codes in 12 Northern Nigerian states including the State of Zamfara in the wake of Nigeria's fourth republic from 1999. (Nwauche, 2014) In practice, the police in the northern states have not taken on an active role as "shariah enforcers," nor have they actively sought to enforce new codes of behavior which were introduced alongside shariah, such as dress codes for women, segregation of sexes in public transport, and strict prohibition of alcohol. Therefore, there have been feelings of mutual suspicion and distrust between the *Hisbah* institution and the police. Some Muslim leaders believed that the police would try to sabotage shariah after it was introduced. Indeed, the *Hisbah* were created in part because the police were not trusted to enforce shariah. Some advocates of shariah have complained of a lack of cooperation from the police and have claimed that when the *Hisbah* apprehend suspects and hand them over to the police, the police often fail to follow up the cases, or release the suspects. The police, on the other hand, have claimed that the *Hisbah* often arrest people on frivolous grounds, or on suspicion of committing acts that are not criminal offenses. On some occasions, the conflict between the police and the *Hisbah* has led to outright clashes. (Olaniyi, 2005) It is clear that the implementation of shariah law is facing problems because it is a state effort while the Nigeria Police, the only coercive institution in Nigeria is federally controlled. There is no better evidence to support the Nigeria Police's lack of enthusiasm in the enforcement of shariah than the complete absence of a department to oversee shariah-related offenses in the Police Command of the states practicing shariah penal system. It is also a fact that the shariah penal system is not part of the curriculum of the Nigeria Police Academy and the various Police Colleges. (Okemuyiwa, 2016) However, the fact that *Hisbah* is a state effort whereas the police force is under the control of the federal government should not be an obstacle if one rightly considers the power of the component states of Nigeria to make law, viz a viz, the duty of the Police to enforce.

iii- The reputational problem among public

One of the main accusations labeled against *hisbah* is its constant violation of the religious freedom of the citizen. Even a report published by United States Commission for International Religious Freedom states that *hisbah* group, an informal corps of young recruits who enforce

Shariah codes are ill-trained regarding human rights standards and the rights and freedoms guaranteed by the Nigerian Constitution (Vellturo, 2020). Furthermore, some observers have compared the role of the *Hisbah* to that of vigilante groups operating in other parts of the country. Some vigilante groups have committed numerous extrajudicial killings and other abuses, and have been diverted to serve political interests (Nolte, 2007). Similar to vigilante groups, most *Hisbah* members were recruited at the local level, by traditional leaders and local governments, who then submitted the lists of names to their state government. Even though there are some well-educated and well-mannered personnel among the *Hisbah* members, the majority are young men with a low level of formal education, no background in law, and no training in law enforcement or procedures for arrest, investigation, or gathering of evidence. There are repeated instances though that the *hisbah* staffs are acting way beyond their jurisdiction (Gwarzo, 2003). For example, according to the law, they are expected to arrest criminals when the crimes are committed and not supposed to enter people's private homes or spy on them merely based on suspicion. In practice, however, the *Hisbah* members have often disregarded these and other guidelines and violated people's right to privacy by going from house to house, checking that people were not committing offenses, and in some cases searching for individuals based on denunciations from other residents. (Ludwig, 2008) To make matter worse, in early 2021 there was a report in the daily news that a commander of *hisbah* in the State of Kano has been arrested after he was allegedly caught with a married woman in one of the hotels in the State (Daily Post, 2021). However, on a more objective note, a research on *hisbah* conducted after the 15th year of its inception concludes that *Hisbah* is different from vigilante groups. Vigilantism is about providing security whereas *hisbah* does much more than that. (Sharia Implementation in Northern Nigeria Over 15 Years. Policy Brief No.2 The Case of *Hisbah*, 2016) Furthermore, *hisbah* is a lawful organization created by an authoritative legislative council of the State Assembly House

iv- The Shortage of manpower and lack of competency among *Hisbah* personnel
The inadequacy of *hisbah* personnel is noticeable in Zamfara *Hisbah* Commission. To prevent crime in Zamfara, adequate personnel need to be provided. This viewed was confirmed by one of the key figures in *hisbah* institution who says,
"It is not only working tools that are lacking in the Commission. Personnel (all rank and file) is another major challenge. The Zamfara Hisbah personnel only operated at the state and local government budget which is very limited, therefore cannot cover all the state."
(Figure A)

This view pinpointed one of the major problems of *Hisbah* in carrying out duties to prevent criminal activity in the state. It is fair to admit that there are individual mistakes committed by the *Hisbah* while performing their duties and lack of competencies. To a certain extent, these are down to poor working conditions and psychological stress suffered by the personnel. There are a lot of responsibilities with extremely high expectations among the public and their political master with very limited resources. In the meantime, there are sections of the public who always look down on them with prejudice. For the *Hisbah* commission to operate effectively, qualified personnel who have the technical know-how to prevent crime must be recruited. Proper training courses must be given to them. One of the respondents from a civil organization opined that:

"Most of the Hisbah personnel are not qualified, majority of them are school dropped out, they don't even know how to report or to handle the crime or the criminals" (Figure B)

This is the testimony that the *Hisbah* personnel lack of required skill to deals with the crime in society. The director of *Hisbah* was reported saying and cautioning *Hisbah* personnel on that. Another respondent viewed that:

"I have noticed that there are few Hisbah personnel to do the work even in Gusau. I am sure this lack of personnel is general throughout Zamfara. I had thought that the size of the population is one of the things Hisbah authority must consider before distributing their personnel, but this seems not to be so. The incidences of crime rate should also form part of the reasons for posting personnel to the station, but I don't really understand the issue."

(Figure C)

The study found that failure in recruiting the right people to the *Hisbah*, and lack of proper training courses were some of the inadequacies affecting the *Hisbah* in carrying out its functions. This study also found that the *Hisbah* service does not attract applicants of the right quality for several reasons. The main ones being poor pay and poor working conditions. This predicament is testified by the research report presented by Nigeria Stability and Reconciliation Programme which conclude that in order for *hisbah* institution to do the job more professionally, the State governments has to put more resources behind *hisbah* service delivery functions. (Nigeria Stability and Reconciliation Programme, 2016)

Conclusion

Hisbah as an institution that fulfilling one of the main missions of Islamic teaching that is to enjoin good and prevent evil is very crucial in Islamic society. The implementation of the roles and functions of *hisbah* in predominantly Muslim states within the Federation of Nigeria is commendable. This article has laid down the roles played by the *hisbah* institution in Zamfara State as provided by the Zamfara State *Hisbah* Commission (Establishment) Law 2003. In short, the statutory roles of the *hisbah* institution are to ensure and to advise the government agencies and general public about the obligation of adherence to Islamic law which has been legislated in the form of laws and bye-laws by the State or Local Government Councils. These include all matters about day-to-day governance of the society, organizing ceremonies, the act of worship, dress code, and social or business interactions and relationships. In carrying out these duties, the institution of *hisbah* in Zamfara State applies three main strategies namely public sensitization, implementation of law and detention and handover of the offenders to the relevant authorities. The operation of *hisbah* in Zamfara State goes not without challenges and objections. There are four main challenges identified namely the dubious legal position of the *hisbah* institution itself, its fragile relationship with the federal police force, negative public perception and shortage of resources. For *hisbah* institution to carry out the designated objectives and missions more competently, some measures and steps need to be seriously considered by the relevant authorities. Efforts towards harmonizing conflict between the federal constitution, federal legislation and state legislation must be meticulously planned and executed. These can be taken through either relevant law amendment or the introduction of new legislation, whichever is deemed appropriate. In any event, section 5 (2)(b) of the 1999 Constitution provides that the executive power of a State shall extend to the execution and maintenance of the constitution and all laws made by the House of Assembly of the State and to all matters with respect to which the House of Assembly has the power to make laws. It is submitted that the institution of *hisbah* is both legal and legitimate in its own standing and duly supported by the 1999 Constitution. Therefore, as insisted by Okeyuniwa (2016), the fact that *Hisbah* is a state effort whereas the police force is under the control of the federal government should not be an obstacle if one

rightly understands the power of the component states of Nigeria to make law, viz a viz, the duty of the Police to enforce. The Nigerian Police is constitutionally bound to enforce Shariah Penal Laws notwithstanding the fact that they are state laws. The reputation of the *hisbah* institution among the public is something very central as *hisbah* is an institution that deals with the general public at all time. Their grouses and complaints must be fairly considered and looked into. Nevertheless, to equate *hisbah* with some vigilante groups is probably an exaggeration. While undeniably sharing some similarities with these groups, the *hisbah* institution is significantly different. Dissimilar to those outlaw vigilante groups, the *hisbah* operate openly and are easily recognizable. They are provided with uniforms, vehicles, and an office, usually by the local or state government. The *Hisbah* have structures at local government and state level. In addition, the *Hisbah* was established by the *Hisbah* Board Law No. 4 of 2003. Section 7 (4) of this Law provides that one of the functions of *hisbah* is rendering required assistance to the police and other security agencies, particularly in the areas of prevention, detection and reporting of offenses. Finally, for *hisbah* institution to do the job more professionally, the state governments have to put more resources behind *hisbah* service delivery functions.

References

Printed Materials

- Abdullah, M. A. (n.d.), *Wilayah al-Hisbah fi al-Islam*, al-Qahirah:Maktabah Syu'ara'
- Attahiru, M. S., al-Aidarus, A. H., & Yusuf, M. S. (2016). Moderating Role of *Hisbah* Institution on the Relationship of Religiosity and Islamic Culture to Islamic Work Ethics in Nigeria. *International Review of Management and Marketing* 6(8):125-132
- Brown, J. (2017). *Stoning and Hand Cutting—Understanding the Hudud and the Shariah in Islam*. Yaqeen Institute. <https://yaqeeninstitute.org/infographics/stoning-and-hand-cutting-the-hudud-and-shariah-in-islam-infographic>
- Gwarzo, T. H. (2003). Activities of Islamic civic associations in the northwest of Nigeria: With reference to Kano State. *Africa Spectrum*, 289-318.
- Hasan, N. (2007). *Islamic militancy, sharia, and democratic consolidation in post-Suharto Indonesia*. S. Rajaratnam School of International Studies, Nanyang Technological University.
- Ibn Manzur. (1975). *Lisan al-Arab*. Al-Dar al-Misriyya li al-Ta'lif wa al-Tarhim.
- Islahi, A. A. (1984). *Economic Thought of Ibn al-Qayyim*. Jeddah: ICRIE.
- Khan, M. A. (1989), *Economic Teachings of Prophet Muhammad* (p.b.u.h.), Islamabad: International Institute of Islamic Economics.
- Ludwig, F. (2008). Christian–Muslim Relations in Northern Nigeria Since the Introduction of Sharia's In 1999. *Journal of The American Academy of Religion*, 76(3), 602-637.
- Mwalimu, C. (2005). *The Nigerian legal system: Public law* (Vol. 1). Peter Lang Publishing.
- Miles, J. (2006). *Customary and Islamic law and its development in Africa*. African Development Bank Law for Development Review, 1, 81.
- Mustapha, A. R., & Ismail, M. (2016). '*Sharia Implementation in Northern Nigeria Over 15 Years: The Case of Hisbah*'. Nigeria Stability and Reconciliation Programme
- Nigeria Stability and Reconciliation Programme. (2016). *Sharia Implementation in Northern Nigeria Over 15 Years. Policy Brief No.2. The Case of Hisbah*. www.nsrp-nigeria.org
- Nwauche, E. S. (2014). The Nigerian police force and the enforcement of religious criminal law. *African Human Rights Law Journal* (2014). Pp. 203-216

- Ndulo, M. (2011). African customary law, customs, and women's rights. *Indiana Journal of Global Legal Studies*, 18(1), 87-120.
- Nmehielle, V. O. (2004). Sharia law in the northern states of Nigeria: To implement or not to implement, the constitutionality is the question. *Human Rights Quarterly*, 730-759.
- Nolte, I. (2007). Ethnic vigilantes and the state: the Oodua People's Congress in south-western Nigeria. *International Relations*, 21(2), 217-235.
- Okere, B. O. (1983). Fundamental objectives and directive principles of state policy under the Nigerian Constitution. *International & Comparative Law Quarterly*, 32(1), 214-228.
- Okemuyiwa, A. A. Z. (2016). Shariah Enforcement by *Hisbah*: A Constitutional Derogation. *Ideal Journal of Art and Humanities* 2(5) 234-240
- Olaniyi, R. (2005). *Community vigilantes in metropolitan Kano 1985-2005* (Vol. 17). Institut français de recherche en Afrique.
- Olaniyi, R. O. (2011). *Hisbah* and Sharia law enforcement in metropolitan Kano. *Africa Today*, 57(4), 71.
- Poirier, J., & Saunders, C. (2015). *Comparing Intergovernmental Relations and Cooperative Mechanisms in Federal Systems: An Introduction*. Oxford University Press.
- Ostien, P. (ed.). (2006) *Sharia Implementation in Northern Nigeria 1999-2006: A Sourcebook*. www.sharia-in-africa.net
- Siro, A. A., & Sundramoorthy, P. (2017). Police And *Hisbah*: The Status Of Urban Kano Security Management, *Journal of Social Sciences and Humanities*, 12(2) *The Constitution of The Federal Republic of Nigeria 1999*. *The Guardian*, 30 May 2018
- Vellturo, M. (2020). *Religious Freedom Conditions in Nigeria*. United States Commission on International Religious Freedom. <https://www.state.gov/reports/2020-report-on-international-religious-freedom/nigeria/>
- Weimann, G. (2007). Judicial Practice in Islamic Criminal Law in Nigeria—A Tentative Overview. *Islamic Law and Society*, 14(2), 240-286.

Interview

Figure A, A key *hisbah* personnel interviewed on 27 March 2018 as at 2:40 pm.

Figure B, A Chairman of the hotel owner's association interviewed on 26/4/2018 as at 2:30 pm.

Figure C, The Chairman of National Union of Road Transport Workers, Zamfara chapter, interviewed on 25/4/2018 as at 10:30 am.