

# State Hisbah Laws: Implications in Addressing GBV and Child Protection, and Alignment with Sharia Principles and Human Rights.

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*Being a Paper Delivered at*

**2<sup>ND</sup> ANNUAL SENSITIZATION WORKSHOP FOR HISBA OFFICIALS FROM KANO, KATSINA, JIGAWA, SOKOTO, KEBBI, AND ZAMFARA STATES ON GENDER-BASED VIOLENCE AND GIRL CHILD PROTECTION**

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# Aim

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- The Aim of this presentation is to Appraise the relevant provisions of the Various State Hisbah Laws in addressing GBV and Child Rights Vis-a vis Shariah and Human Rights Principles

# Objectives

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- To Understand the powers and functions of the Hisbah Corp in relation to GBV under the various Hisbah laws
- To Identify the challenges of the Challenges of the Corp in the implementation of their powers Vis-a vis Shariah and Human Rights Principles
- To proffer solutions to the identified challenges in the implementation of Hisbah powers in accordance with shariah and Human Rights principles

# Powers and Functions of the Hisbah Corp

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- **S7 of the Kano State Law:**

- i. (4) The Hisbah Corps shall have the following responsibilities:-
- ii. Rendering necessary assistance to the police and other security agencies especially in the area of protection, detection and reporting of offences.
- iii. Encourage Muslims to unite in their quest for justice, equality and enjoin one another to do well and avoid evil deeds.
- iv. Encourage kindness to one another;
- v. Advice against acquiring of interest, usury, hoarding and speculations.
- vi. Encourage charitable deeds particularly payment of Zakkah.
- vii. Advise on moral counselling in the society in conformity with Islamic Injunctions.
- viii. Encourage orderliness at religious gathering e.g. in mosques during salat (payer braking fast during Ramadan, Pilgrims during Hajj Operations and in any public functions).
- ix. Encourage general cleanliness, personal hygiene and environmental sanitation.

# Kano.....

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- x. May handle non-firearms for self-defence like batons and other non-lethal civil defence instruments.
- xi. Reconciliation of civil disputes between persons and organizations where parties are willing.
- xii. Assisting in traffic control.
- xiii. Emergency relief operations.
- xiv. Assisting in any other situation that will require involvement of Hisbah, be it preventive or defective.

- **Powers of the Hisba Corp**

- (e) invite, arrest or detain any person suspected to have committed an offence and within reasonable time report to the appropriate authorities

# Kebbi State Hisbah Law

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S8 of the Kebbi State Hisbah Law:

- The Hisbah Corps shall have the following functions:
  - i. Rendering necessary assistance to the Police and other security agencies especially in the areas of prevention, detection and reporting offences;
  - ii. Enjoin one another to do good and to avoid evil;
  - iii. Facilitate the quest for justice, equality, and equity
  - iv. Encourage kindness to one another;
  - v. Advice against acquiring of interest, usury, hoarding and speculations;
  - vi. Encourage charitable deeds, particularly the payment of Zakkah;

# Kebbi....

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- vii. Advice on moral counselling in the society, which is in conformity with Islamic injunctions.
- viii. Encourage orderliness at religious gathering e.g. in mosques during Salat (prayer), after (Breaking the fast) during Ramadan, Pilgrims during Hajj operations and in any public functions.
- ix. Encourage general cleanliness and environmental sanitation;
- x. May handle non-fire-arms for self defence like batons, and other non-lethal civil defence instruments;
- xi. Reconciliation of civil disputes between persons and or organizations where parties are willing;
- xii. Assisting in traffic control;
- xiii. Emergency relief operations; and
- xiv. Assisting in any other situation that will require the involvement of Hisbah, be it preventive or detective.

# Jigawa State Hisbah Law

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- **S5(1) of Jigawa State Hisbah Law**
  - a) The Command of good deeds by exposing its virtues to the community and prohibition of bad or evil by exposing its negative consequences to the community as ordained by Allah (SWT)
  - b) the promotion of the religion of Islam and the legal system through constant reminder on the obligation of muslim adult to his family, the immediate society and humanity in general
  - c) the enlightenment of the general public on the tenets of the shariah legal system, its virtues and application through constant preaching , radio programs, seminars, conferences and workshops
  - d) assisting the law enforcement agencies in the prevention and detection of crimes through locating and exposing criminals where criminal activities take place
  - e) rendering of humanitarian services in areas such as traffic control whenever there is need for it and crowd control at public functions
  - e) rendering of humanitarian assistance at the event of disaster strike, such as fire, flood, road traffic accidents and other similar disasters striving to save lives and properties of the victims

# Jigawa.....

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- g) liaising with the State Council of Ulama on ways and means to properly implement the shariah system
- h) performing such other functions as the commissioner may from time to time assign to them and such functions shall not be at variance with tenets and teachings of Islam

# Sokoto State Hisbah Law

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- **S10: The Hisbah Corp shall have powers to:**
  - 1) Enlighten the general public on shariah law and its application
  - 2) monitor the proper implementation and appliatio of laws and bye-laws relating to shariah made by the State or Local Government Councils
  - 3) make arrest in a humane manner of any person found committing an offence, keep a record of arrest and handover the suspect to the police or other law enforcement agencies nearest to the point of arrest with immediate effect and notify the Attorney General and Ministry of Religious Affairs for necessary action
  - 4) liase with the relevant law enforcement agencies or representatives of all persons in correctional service custody and/or remand homes with pending *Hudud* cases in court
  - 5) take every measure necessary to sensitize and sanitize the society of all social vices or crimes that are prohibited by shariah in accordance with procedure permitted by law

# Sokoto....

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- 6) take every measure to ensure proper conformity to the teachings of shariah by muslims in matters of worship, dress code and social or business interactions and relationships in line with procedure permitted by law
- 7) ensure that all ceremonies, celebrations and anniversaries are carried out in accordance with the teaching in shariah in line with procedure permitted by law
- 8) Advise the State and Local Government Councils as well as public and private institutions on all issues concerning the application of shariah in consultation with the Attorney General
- 9) Make a direct criminal complaint before a Shariah Court on the advice of the Attorney General

# The Regulations

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- NB: All the laws confer powers on the Hisbah Board/Committee to make regulations for the conduct of the operations of the Hisbah Corp

# Exercise of Powers *vis a vis* Shariah and Rights Principles

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- Understanding the Islamic Law Principles in *Amr bil Ma'aruf wa nahayi anil Munkar*
- Understanding Rights in Nigerian law

# The 1999 Constitution (As Amended)

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- **S17.** (1) The State social order is founded on ideals of Freedom, Equality and Justice.
  - (e) there is equal pay for equal work without discrimination on account of sex, or on any other ground whatsoever;
  - (f) children, young persons and the aged are protected against any exploitation whatsoever, and against moral and material neglect;
- **34.** (1) Every individual is entitled to respect for the dignity of his person, and accordingly –
  - (a) no person shall be subject to torture or to inhuman or degrading treatment;
  - (b) no person shall be held in slavery or servitude;
- **42.** (1) A citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person:-
  - (a) be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the government, to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religions or political opinions are not made subject;

# VIOLENCE AGAINST PERSONS (PROHIBITION) ACT, 2015

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- Prohibits all forms of violence against persons in private and public life, and provides maximum protection and effective remedies for victims and punishment of offenders;
- NB: The law addresses Violence against the “Person” not only “Women”
- Offences Created by the Law:
  - Rape, Inflicting Physical Injury on a Person, Female Circumcision or Genital Mutilation, Forceful Ejection from Home, Depriving a Person of His / Her Liberty, Forced Financial Dependence or Economic Abuse, Forced Isolation or Separation from Family and Friends, Emotional Verbal and Psychological Abuse, Harmful Widowhood Practices, Abandonment of Spouse, Children and Other Dependent without Sustenance, Spousal/Partner Battery, Indecent exposure, Harmful Traditional Practices, Political Violence, and Violence by State Actors. Other innovations in this Act includes the prohibition and punishment for stalking, substance attack, criminalizing incestuous conducts, protection order for victims and persons under threat of violence, and compensation for victims of violence.

# VAPPA....

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- **Definitions by VAPPA:**
  - **"Violence"** means any act or attempted act, which causes or may cause any person physical, sexual, psychological, verbal, emotional or economic harm whether this occurs in private or public life, in peace time and in conflict situations;
  - **"Domestic Violence"** means any act perpetrated on any person in a domestic relationship where such act causes harm or may cause imminent harm to the safety, health or well-being of any person and this includes the following acts;
  - **"Physical abuse"** means acts or threatened acts of physical aggression towards any person such as slapping, hitting kicking and beating;
  - **"Economic abuse"** means forced financial dependence; denial of inheritance or succession rights, the unreasonable deprivation of economic or financial resources to which any person is entitled or which any person requires out of necessity, **"Harassment"** means engaging in a pattern of conduct that induces fear of harm or impairs the dignity of a person

# VAPPA....

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- **Some Offences Considered:**

- **Rape: 1. (1) A person commits the offence of rape if-**
  - ✦ (a) he or she intentionally penetrates the vagina, anus or mouth of another person with any other part of his or her body or anything else;
  - ✦ (b) the other person does not consent to the penetration; or
  - ✦ (c) the consent is obtained by force or means of threat or intimidation of any kind or by fear of harm or by means of false and fraudulent representation as to the nature of the act or the use of any substance or additive capable of taking away the will of such person or in the case of a married person by impersonating his or her spouse.

# VAPPA- RAPE...

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- (2) A person convicted of an offence under subsection (1) of this section is liable to imprisonment for life except -
  - ✦ (a) where the offender is less than 14 years of age, the offender is liable to a maximum of 14 years imprisonment;
  - ✦ (b) in all other cases, to a minimum of 12 years imprisonment without an option of fine; or
  - ✦ (c) in the case of rape by a group of persons, the offenders are liable jointly to a minimum of 20 years imprisonment without an option of fine.
- (3) The Court shall also award appropriate compensation to the victim as it may deem fit in the circumstance.
- (4) A register for convicted sexual offenders shall be maintained and accessible to the public.
- See other Offences in Sections 1-26 of the Act

# VAPPA

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- Sec 32: Power of Police and other Persons under the Act
- Sec 38: Rights of Victims

# The Child Rights Act 2003

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- An offshoot of UN Child Rights Convention
- An Act to provide and protect the rights of a Nigerian child; and other related matters.
  - Apart from conferring certain rights on the child, it protects the child from some certain harmful practices
- S277: Child: any person under the age of 18years
- S11: Right to dignity of the child
  - Every child is entitled to respect for the dignity of his person, and accordingly, no child shall be-
  - (a) subjected to physical, mental or emotional injury, abuse, neglect or maltreatment, including sexual abuse;
  - (b) subjected to torture, inhuman or degrading treatment or punishment;
  - (c) subjected to attacks upon his honor or reputation; or
  - (d) held in slavery or servitude, while in the care of a parent, legal guardian or school authority or any other person or authority having the care of the child.
- S14: Right to parental care, protection and maintenance
- Ss21-23: **Prohibition of Child Marriage, Betrothal???** (Punishment 5years Imprisonment or N500K fine)

# Child Rights Act...

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- S28: Prohibition of Exploitative Labour
  - (d) employed as a domestic help outside his own home or family environment (5yr imprisonment or N50K fine)
- S30: Prohibition of buying, selling, hiring or otherwise dealing in children for the purpose of hawking or begging for alms or prostitution, etc. (10yrs Imprisonment)
- S31: Unlawful sexual intercourse with a child, etc. (Rape: Life Imprisonment)- immaterial whether the offender believes the child is 18yrs plus or with consent
- S32: Forms of sexual abuse and exploitation: 14yrs imprisonment

# The Way Forward?

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- ????????
- Thank You for Listening