

## Sharia Implementation in Northern Nigeria Over 15 Years.

Policy Brief No.2

### The Case of Hisbah





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## The Case of Hisbah<sup>1</sup>

### Background:



The return to democratic politics in 1999 saw the declaration of full Sharia law in 12 Muslim majority states in northern Nigeria. To give effect to this declaration, the states created many institutions, such as the Sharia Commission, the Zakat Commission, and the hisbah, a group expected to promote Islamic virtue, whilst discouraging vice. The creation of hisbah in many states immediately raised fears of religious zealotry, if not intolerance, and the repression of non-conformists, Muslim and non-Muslim, alike. These fears are reflected in descriptions of the hisbah variously as 'Islamic police', 'morality police', and even 'state police', a reference to the contentious issue of policing powers, currently vested solely in the federal government

within Nigerian federalism. In general, the hisbah has had a very bad press. After about 15 years of Sharia implementation, we set out to investigate the true situation regarding this institution. What do the hisbah organizations represent? What social and religious forces are active within them? What has happened to the hopes for religious renewal and social reorientation that came in the wake of Sharia declaration? How far have the institutions gone in meeting the high hopes surrounding their establishment? What challenges have they faced? Our research concentrated on the various hisbah institutions across the Sharia implementing states.

There is a growing literature on the hisbah in Nigeria. Barkindo (2011 and 2011a) approaches hisbah from the religious/legal lens. He seeks to show the foundations of hisbah within long-established Islamic thought and practice and the applicability of these religious principles to contemporary Nigeria. On the other hand, Dukawa (2009) concentrates on the administrative problems of organizing the various hisbah bodies formed after 1999, and the difficulties inherent in their interface with extant bureaucracies of the state governments. For her part, Adamu (2008) explores the gender dimension of hisbah, noting its contradictory tendencies. She highlighted the tendency of hisbah to give women's issues a higher profile within society, while at the same time restricting their mobility and their access to the public sphere. For their part, Garba and Ostien (2006) concentrate on the theological/legal foundations of hisbah, noting some of its consequences for the operation of the courts and the realization of justice. In its contribution, Human Rights Watch (2004) released a report alleging widespread human rights abuses by hisbah groups - summary and extra-judicial arrests and floggings; stopping vehicles carrying men and women and forcing the women to disembark; disrupting conversations between men and women in public places on the grounds of alleged immorality; the seizure and destruction of alcoholic drinks and the causing of damage to the vehicles transporting them; and the violation of the rights of people to privacy.<sup>2</sup> This study seeks to build on the insights of these previous studies. Specifically, our approach is socio-political. We seek to understand the social and political effects of the establishment of the various hisbah bodies over the last 15 years and their collective impact on the populations and the governance systems in the Sharia implementing states. Whilst paying adequate attention to the religious element in hisbah, this study is nevertheless firmly rooted in an evidence-driven attempt to assess the impact of the various hisbah organizations and their current state of play.

1. Based on Abdul Raufu Mustapha & Mustapha Ismail, 2016, 'Sharia Implementation in Northern Nigeria Over 15 Years: The Case of Hisbah'. The research for this report was conducted by the dRPC and NRU with the support of the Nigeria Stability and Reconciliation Programme (NSRP).

We collected the evidence from interviews, focus group discussions, perception surveys, and reviews of relevant literature on, and by, the hisbah organizations. A second approach of our study is that it is comparative. We seek to understand Nigeria's experience of hisbah in the context of similar experiences in places like Saudi Arabia, Aceh, Pakistan, Mauritania, and even Israel.

## Main Findings:

### Box 1: Hisbah – Key Features

- Hisbah in Nigeria are not state-initiated. Most hisbah organizations are started by volunteers, before the states step in to formalize them.
- Hisbah is different from a vigilante group. Vigilantism is about providing security; hisbah does much more than that.
- The hisbah in each state is unique and distinctive. No two hisbah organizations are the same. We should stop seeing them all simply as 'religious police'.
- Hisbah Institutional Variations: Kano and Zamfara hisbah have their foundations in state law and get state funding; Gombe hisbah has no legal backing and is funded by volunteers; Borno hisbah exists only on paper.

*Hisbah is often presented as a state-created organization.*

However, in reality, most hisbah organizations start as volunteer organizations formed by like-minded Muslim individuals. This is because in Islamic thought, hisbah can be both the activity of doing 'good' by individuals (Ihtisab) as commanded by Allah, and secondly, it can be the institution that makes possible these activities (Wilayatul Hisbah). In virtually all Sharia implementing states, the activity by volunteers preceded the interventions by the states to establish the institutions to guide the activities of the volunteers. This importance of volunteers in the establishment of hisbah has created the impression that hisbah is just another vigilante organization. However, there is a big difference between hisbah and

vigilantism, even if both share some voluntarist impulses. Hisbah is governed by many religious rules, injunctions, and duties which differentiate it clearly from vigilantism which is solely concerned with the provision of security. The forces acting on the hisbah volunteers –state government institutions, emirate councils, council of ulama – can vary very widely, as can the input coming from below within society – volunteers, clerics, and financial supporters. These variations mean that no two hisbah organizations are the same. The multiplicity of institutional forms, formation processes, and power dynamics behind each state's hisbah suggests that the institutions should be understood as individual, complex institutions, rather than sweeping them all under the undifferentiated banner of the 'Islamic police'.

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2. Barkindo, Ibrahim, 2011, 'The Role of the Institution of Hisba in the Sharia Implementing States in Northern Nigeria', An LLM Thesis submitted to the Faculty of Law, Ahmadu Bello University, Zaria,; Barkindo, Ibrahim, 2011a, 'Applying Al-Ghazali's Eight Degrees of Hisbah to Ihtisab on Intoxicants in Kano State of Nigeria', Post-Graduate Seminar paper, Faculty of Law, Ahmadu Bello University, Zaria, 20/05/2011; Sa'idu Ahmad Dukawa, 2009, 'Shari'ah Implementation in Nigeria: Structural, Administrative and Political Obstacles', A paper presented by the Director-General, Kano State Hisbah Board, at the 2nd National Conference on Shari'ah Implementation in Nigeria: The Journey So Far and the Challenges', held at the Murtala Muhammad Library Complex, Ahmadu Bello Way, Kano, Rabi'ul Awwal 2-4 1430 (February 26-28, 2009); Adamu, Fatima L., 2008, 'Gender, Hisba and the Enforcement of Morality in Northern Nigeria, Africa 78 (1); Ostien, Philip, (ed.) 2006, Sharia Implementation in Northern Nigeria 1999-2006: A Sourcebook, Chapter 10: Hisbah Groups; Human Rights Watch (2004) 'Political shari'a, human rights and Islamic law in northern Nigeria'.

### ***Each hisbah is unique.***

Despite the monochromatic media presentation of all hisbah organizations as some form of identikit ‘morality police’, the hisbah in each state is unique, and different from that of other states. No two hisbah organizations are the same. What determines the characteristics of the hisbah in each state are: (a) the strength of Islamic institutions and individuals within society who often initiate the formation of the hisbah; (b) the sectarian and theological cohesion of the Islamic clerics associated with the volunteers; (c) the relationship of those forming the hisbah with pre-existing centres of local power like the Emirate Councils and Islamic civil society organizations; (d) the ability of the volunteer hisbah to align its interests with those of important state government institutions like the legislature and the executive; (e) and finally, the ability to establish functioning relationships with the Nigerian Police. In virtually each of these attributes, all the hisbah groups are different from each other.

Institutionally, at one extreme are the hisbah in Kano and Zamfara states, with a legally sanctioned board or commission with state-wide powers, and employing thousands of people paid for by the state government. At the other extreme are the hisbah in Borno (existing only on paper) and Gombe (completely formed by volunteers, lacks any supporting legislation, has no state funding, and the volunteers sometimes have to contribute financially to the running of the organization). In between these

two extremes are the states like Bauchi, where Hisbah is just a department under the Sharia Commission and is effectively organized at the emirate level instead of the state level, and the hisbah in Kaduna and Katsina which are completely private run, very similar to the Gombe model. The powers and resources enjoyed by these various hisbah formations vary, as does their ability to interface with their state’s extant political and administrative infrastructure. Similar variations can be found in the relationship of the various hisbah organizations to Islam, despite the appellation of ‘Islamic police’. Only the Zamfara hisbah law specifically connects the definition of hisbah to Sharia implementation, with about 80% of its functions directly connected to Sharia implementation. In the Jigawa law, only five out of eight items in the functions of the Committee are directly connected to Sharia implementation, while in the Kano law, no section directly talks of Sharia implementation. Though all hisbah groups are infused with Islamic values, the extent to which they are ‘Islamic’ varies greatly.

### ***Tension between religious and administrative functions of hisbah groups.***

There is a tension between the religious ethos of hisbah and the administrative ethos of state institutions hisbah has to relate to. Increasingly, this is leading to the bureaucratization of hisbah and the diminution of its religious zeal. We note that in Pakistan, there is a similar bureaucratization of hisbah and its virtual take-over by the bureaucracies of the state.

### **Box 2: Hisbah - Key Functions**

- **Social Service functions**: dispute resolution; marriage counselling; match-making; drug control; traffic control; helping the needy; and running refresher courses for pre-degree science students. They are social welfare institutions, not just religious ones.
- **Religious functions**: evangelism through sermons; conversion of people to Islam; repair of Mosques; protection of people at religious functions; and First Aid services during festivals.
- **Coercive Disciplinary Functions**: forcibly preventing the mixing of the sexes on public transport system; enforcing a dress code, especially on women in educational institutions; preventing the performance of music and films; seizing and destroying alcoholic drinks; and putting pressure on ‘deviant’ youth, prostitutes, homosexuals, and lesbians.

### *Hisbah groups perform important social services*

In all cases, these hisbah groups perform vital 'social services' which the state should ordinarily be expected to render to its citizens, regardless of religion. These functions include dispute resolution, marriage counselling, match-making for widows and single women, controlling the use of illegal drugs, traffic control, helping the needy, promoting science competitions, running refresher courses for pre-degree science students, conducting science exhibitions, and organizing workshops on drug addiction. Significantly, these social services reach segments of the population long neglected by state institutions.

### *Hisbah groups perform religious duties*

Hisbah groups also carry out specifically 'Islamic' evangelical functions such as sermons, conversion of people to Islam, repair of Mosques, protection of people at religious functions, and First Aid services during festivals and ceremonies. The evangelical activities, especially when conducted with little regard for the religious sensibilities of non-Muslims, has led to anxiety within the Christian communities of the Sharia implementing states.

### *Hisbah groups also perform coercive disciplinary duties*

However, hisbah also performs controversial coercive duties related to the enforcement of its version of public morality. Such activities include the prevention of the mixing of the sexes by forcing women out of the public transport system; enforcing a dress code, especially on women in educational institutions; preventing the performance of music and films; seizing and destroying alcoholic drinks, especially on the federal highway; and putting pressure on 'deviant' youth, prostitutes, homosexuals, and lesbians. These 'moral' campaigns have led to a hostile backlash against hisbah from artistes, women's groups, youth, and residents in largely Christian neighbourhoods. We note that in Saudi Arabia, a similar backlash forced the regime to restrict the powers of hisbah, while in Aceh, court cases have been initiated against erring hisbah members. In Nigeria, many hisbah organizations have monitoring, disciplinary, and training departments.

Box 3: Hisbah - Public Legitimacy - % saying 'yes'

	Bauchi	Kano	Niger
<i>Hisbah follows Sharia law</i>	<b>56.3</b>	<b>84.9</b>	<b>21.0</b>
<i>Hisbah treats women fairly</i>	<b>54.9</b>	<b>88.4</b>	<b>18.8</b>
<i>Hisbah treats Christians fairly</i>	<b>35.8</b>	<b>58.0</b>	<b>17.4</b>
<i>Hisbah is Less corrupt than the Police</i>	<b>52.2</b>	<b>91.9</b>	<b>23.4</b>
<i>Hisbah is more Trustworthy than the Police</i>	<b>58.0</b>	<b>84.3</b>	<b>19.7</b>
<i>Hisbah should be disbanded.</i>	<b>1.3</b>	<b>4.7</b>	<b>1.3</b>

## Policy Recommendations

Some people may think the best policy approach is to disband the hisbah groups because they see them as ‘religious’ police forces or ‘state’ police forces, both of which contravene the constitution. Such an approach is impractical, especially given the fact that the Supreme Court failed to strike down Kano hisbah when it had an opportunity to do so. Secondly, the majority of people – Muslims and Christians - surveyed for this research want hisbah to continue, especially because they see it as providing vital social services to neglected communities and its role in curbing moral excesses in society more generally. The policy challenge is therefore how to make the various hisbah groups more useful to their various constituencies and more congruent with the pluralist nature of Nigerian society. To address these challenges the following policy and practice recommendations are suggested:

1. **To Sharia State governments:** Put more resources behind hisbah service delivery functions. Hisbah plays an important service delivery function to the very poor in society. The Sharia states should put more human and material resources behind this social service dimension of their hisbah organizations.
2. **To the leaders of hisbah organizations:** In the conduct of your duties, respect religious differences and the human rights of people. Many people resent the heavy-handed implementation of hisbah’s disciplinary and coercive functions. They want hisbah to be more respectful of religious differences and the human rights of groups and individuals. Other hisbah organizations can learn from the efforts of the Niger State hisbah to reach out to the Christian communities in the state. Regarding enclaves like Sabon Gari in Kano where the population is largely non-Muslim, the rights and duties enjoyed under the Hausa diasporic institution of the Zango might be an appropriate model to copy from. The Sabo Quarters in Ibadan, started around 1919, is one of such historical Zangos that can be used as a model.
3. **To the governments of Sharia states and the leaders of hisbah organizations:** Improve the organizational management of the Sharia institutions and re-balance

the different functions of hisbah. Different departments of various hisbah organizations seem to be doing the same overlapping functions. There is a need for institutional reform to clarify roles and jurisdictions within the organization. Secondly, the hisbah organizations need to have a proper balance between their: (a) service delivery; (b) religious duties; and (c) coercive disciplinary functions. Increasingly various hisbah groups, faced with a pushback from different aggrieved forces in society, are muddling through in establishing this balance. Even when the result of the muddling through is not strictly in keeping with the letters and spirit of the enabling laws of the hisbah organization, it should still be supported as being in the long-term best interest of the whole society.

4. **To Islamic Civil Society in northern Nigeria:** Support the variations in hisbah institutions, functions, and powers. The huge variations in the institutionalization of hisbah is a good thing. Each hisbah organization is better suited to its local milieu and can better respond to local interests. The variations also emphasise the federal nature of Nigeria and draw attention away from the narrowly religious interpretation of these institutions. Efforts to encourage the standardization of the hisbah organizations are therefore unnecessary.

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