

# **Sharia Implementation in Northern Nigeria 1999-2006: A Sourcebook**

Compiled and edited by Philip Ostien

## **Volume VI: Ulama Institutions**

Chapter 10: Hisbah Groups

### **Part II: Documentary Materials**



## MUSLIMS AND ISLAM IN AFRICA

"Muslims and Islam in Africa" is a result of a research project on sharia debates in selected African countries, funded by Volkswagen Foundation see: [www.sharia-in-africa.net](http://www.sharia-in-africa.net). It has a multi-disciplinary approach and covers current research in the field of Muslims and Islam in Africa. There are no specific requirements as to the language of publication and to the length of the contributions.

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## Chapter 10: Hisbah Groups

### Part II: Documentary Materials

[Note: the pagination of this initial online edition of these documentary materials will change when the rest of Chapter 10 is completed and all is published together.]

As elsewhere in this work, spellings have sometimes been corrected and in the cases of some words standardised (e.g. 'sharia', '*hisbah*'), grammatical errors have been corrected, and the mode of presentation of the texts has been standardised.

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1.

**Bauchi State**

**a. *Hisbah* organisation convened by the Task Force  
on Sharia Implementation**

Bauchi State's Sharia Implementation Committee was appointed on 26<sup>th</sup> June 2000. Its report, reproduced in full in Chapter 2 of this work, was submitted to the Governor on 29<sup>th</sup> September 2000. There is nothing in that report, or in the Government White Paper based in it,<sup>1</sup> on the establishment of a *hisbah* organisation for the State.

Bauchi's Task Force on Sharia Implementation, "mandated to carry out all necessary ground-work for the take off of the Sharia judicial system in the State" in accordance with the White Paper, was then appointed on 27<sup>th</sup> February 2001 (Main Report: 3).<sup>2</sup> The Task Force considered that "an effective *hisbah*...is the backbone of the Sharia itself" (Main Report: 9) and that "formation of *hisbah* is...a binding duty on all Muslims" (Major Activities: 33). The Task Force therefore met "with various Islamic aid groups on the unification of the groups to produce an effective *hisbah*" (Main Report: 9). These meetings succeeded in bringing together sixteen sometimes-contentious Muslim associations for the common purpose of establishing a single *hisbah* organisation with an agreed structure and functions.<sup>3</sup> The organisation was divided into state-wide Men's and Women's Wings; each Wing organised itself and produced its own report (Major Activities: 35-51) (these reports are well worth reading in their own rights); and this *hisbah* organisation, managed by the sixteen cooperating associations themselves, then worked with the Task Force in the months leading up to the formal launch of Sharia implementation in Bauchi State on 1<sup>st</sup> June 2001. According to the Task Force, "The co-operation and assistance offered by members of the *hisbah* organisation and the press in enlightening the general public on the activities of the Task Force deserve special commendation" (Main Report: 4).

**b. *Hisbah* Corps under the Sharia Commission**

Because *hisbah* activities, in many of their aspects, are so closely related to law enforcement, the Bauchi State Government considered that they should not be left to

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<sup>1</sup> White Paper available at <http://www.sharia-in-africa.net/pages/publications/sharia-implementation-in-northern-nigeria.php>, Volume II, Supplementary Materials, item VI.

<sup>2</sup> The Task Force produced a Main Report and a separate volume documenting its Major Activities. These are both available at the website cited in the previous note, Volume II, Supplementary Materials, items VIII and IX, respectively.

<sup>3</sup> The sixteen organisations (or seventeen, if the two wings of JIBWIS (Izala) are counted separately): JIBWIS Bauchi State; JAMA'ATU NASRIL ISLAM Bauchi State; JAMA'ATU TAJDIDIL ISLAM Bauchi State; JAMA'ATU RIYADIL ISLAM Bauchi State; JAMA'ATUL NAHDATIL ISLAM Bauchi State; FITYANUL ISLAM OF NIGERIA Bauchi State; JIBWIS A KARKASHIN SHEIKH ISMA'IL IDRIS Bauchi State; JAMA'ATUL SHABABIL ISLAM Bauchi State; MUSLIM STUDENT SOCIETY Bauchi State; MUSLIM UMMA Bauchi State; MUNAZZAMTU FITYANIL ISLAM Bauchi State; WAKILIN COUNCIL OF ULEMA Bauchi State; IMAN; IHSAN; ANSARUDDEEN; NACOMYO; and FOMWAN. See Major Activities, 38-39.

the management of an association not under Government control. Thus the Task Force itself noted that “The *hisbah* organisation will come under the purview of the Sharia Commission when it is established” (Major Activities: 34). This section documents how that was done.

(1) From the Sharia Commission Law:<sup>4</sup>

The full text of this law is given in Chapter 8 Part II.1. The following provisions are relevant here. Note in particular that many of the functions of the Sharia Commission are discharged or facilitated through the *hisbah* who under §8(g) it is to recruit and control.

3. (1) There is hereby established a body called the Bauchi State Sharia Establishment Commission . . .
- (2) The Commission shall have the power to create within itself such divisions and committees, as it may consider necessary for the efficient discharge of its functions.

\* \* \*

8. The functions of the Commission shall include:
- Functions,  
powers
- (a) to ensure sustained education and enlightenment of the community on the full implications of the Sharia legal system;
  - (b) creation and maintenance of awareness of the obligations of the citizen to the community under the Sharia legal system including the social and moral obligations of Sharia Court judges and other key personnel associated with the operation of Sharia legal system;
  - (c) the promotion and sustenance of the overall integration of society including intra-and inter-religious matters, mediation and resolution of inter-community and neighbourhood disputes and conflicts;
  - (d) the regeneration and reorientation of the moral climate of society through sustained mass education and advice to Government on the appropriate steps to take;
  - (e) control and regulation of weights and measures, street hawking, begging, etc;
  - (f) procurement of information and reportage duties in relation to illegal acts and resurgence of disguised forms of illegal activities including the keeping of dishonourable premises such as brothels, video and gaming houses and other social vices;
  - (g) recruitment and control of members of *hisbah*;
  - (h) collection and distribution of *zakat* and advising the Government on the implementation of certain Islamic injunctions such as sighting of new moon etc.;
  - (i) protection of society against inflammatory and irregular forms of preaching including advice to Government for appropriate

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<sup>4</sup> No gazetted copy available; copy of the bill as signed by Governor Mu’azu on 6<sup>th</sup> June, 2001 in the possession of the editor.

action;

\* \* \*

(2) The Hisbah Advisory Committee of the Sharia Commission:

There is a Hisbah Advisory Committee of the Sharia Commission, which has organised and oversees the work of the Hisbah Committees around the State. For many years its Chairman was Malam Muhammad Babangida Muhammad, see the report of interviews with him below. The Committee issued the following guidelines.

(3) Hisbah Corps guidelines:

GUIDELINES ON THE FORMATION, FUNCTIONS AND OPERATIONS  
OF HISBAH COMMITTEES IN BAUCHI STATE

**1.0 Definition**

- 1.1 *Hisbah* means advisory or counseling activities by Muslims for the performance of all that is good and forbidding all that is wrong, according to Islamic teachings.
- 1.2 In the context of the duty and role of the public towards the success of Sharia implementation, *hisbah* refers to a group or an assembly of people, working for a common good of the community. Such includes enjoining what is good and forbidding what is wrong, promoting brotherhood, mutual understanding, peace and unity amongst the *ummah*.
- 1.3 Maintaining public order and ensuring sincere compliance with the dictates of the Sharia.
- 1.4 The institution of *hisbah* is fully entrenched in the Qur'an, Sunnah and the practice of early generation Muslims.

**2.0 Functions**

- 2.1 In view of the above definition, *hisbah* should be seen in its wider context than is now generally presumed. The uniformed Hisbah Aid Group forms only one aspect of the multi-dimensional functions of *hisbah* activity. *Hisbah* activity therefore consists of the following:
  - 2.1.1 Preaching, guidance and promotion of Islamic education.
  - 2.1.2 Resolution of conflicts and making peace between individuals, groups and communities without having to resort to courts.
  - 2.1.3 Uniting people of a particular community to solve their common problems related to moral issues, social welfare, youths unemployment, etc. so as to complement Government activity.
  - 2.1.4 Assisting law enforcement agencies in preventing and combating crime and ensuring compliance with the Sharia.

**3.0 Significance**

- 3.1 The *hisbah* activities outlined above will greatly assist the Commission towards achieving some of its functions such as:
  - 3.1.1 Ensuring sustained education and enlightenment of the community on the full implication of the Sharia.

- 3.1.2 Promotion and sustenance of the overall integration of society including intra- and inter-religious matters, mediation and resolution of inter-community and neighborhood disputes and conflicts.
- 3.1.3 Regeneration and reorientation of the moral climate of the society through sustained mass education.
- 3.1.4 Procurement of information and reportage duties in relation to illegal acts.

### Structure and Functions of Hisbah Committees

It is therefore necessary that *hisbah* activities should be structured in such a way that will ensure maximum achievement of the above-mentioned functions of the Commission. For the purpose of proper co-ordination of *hisbah* activities in the State, the following structure is proposed.

Committee	Functions	Membership	Govt. Role
State Hisbah Advisory Committee	Advise the Commission on issues related to recruitment, training and monitoring of Hisbah Aid Groups and other relevant issues	Four members of the Sharia Consultative Council. Commissioner of Police or his representative (who must be a Muslim)	
Hisbah Aid Groups	<ol style="list-style-type: none"> <li>1. Exhorting Muslims to be of good behaviour, honest and law abiding and to mutually respect one another.</li> <li>2. Assisting law enforcement agencies in the prevention and investigation of crime by giving useful information.</li> <li>3. Enjoining good and prohibiting evil through wisdom and good exhortation</li> <li>4. Procurement of information on various aspects of Sharia implementation to help sustain the system.</li> <li>5. Monitoring of compliance with standards of weights and measures and reporting such illegalities like adulteration of food items, drinks, drugs, etc.</li> <li>6. Humanitarian work – first aid, relief work.</li> </ol>	Recruitment	<p>Government full-time or part- time employment of recruited members.</p> <p>Provision of offices and logistics support.</p>
Tabligh and Guidance Committee	<ol style="list-style-type: none"> <li>1. Identify educational and spiritual needs of the community.</li> <li>2. Educating the society on the true implications of Sharia and Islam in general.</li> <li>3. Deliver religious sermons/lectures</li> </ol>	Three representatives from each Islamic organisation registered with Commission	Assist with logistic support such as vehicles, loud speakers, pamphlets, etc.



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	<p>through various avenues; electronic media, mosques, prisons, schools and public places.</p> <ol style="list-style-type: none"> <li>Undertake <i>tabligh</i> visits to the rural areas to teach them basics of Islam.</li> <li>Distribution of Islamic literature to be produced by the Commission.</li> <li>Work towards sustaining a joint Muslim organisations educational network.</li> </ol>		L.G. councils to do same at local level.
Community Consultative Committees	<p>Re-orient members of the community towards a sound and correct appreciation of the Sharia and a more active and purposive participation in communal issues so as to complement government activity.</p> <p>*The subcommittees of the CCC will have the following functions:</p>	<p>District/Ward Head Chief Imam Two Islamic scholars Two respected prominent elders Two representatives of youths Representative of Police (Muslim)</p>	Moral support
Mediation Subcommittee	<ol style="list-style-type: none"> <li>Mediate and make peace between individuals, groups and sects in the community.</li> <li>Identify likely points of rifts or communal crisis with a view to solving them or drawing attention of authorities for necessary action.</li> <li>Emphasising on members of the community the need for brotherhood, mutual respect and peaceful co-existence.</li> <li>Giving guidance and good counseling to youths.</li> </ol>		
Community Development Subcommittee	<ol style="list-style-type: none"> <li>Identify social problems in the community with a view to addressing them properly.</li> <li>Mobilise members of community towards participation in matters of general concern such as self-help projects, repairs of cemeteries, assistance to needy members of community i.e. orphans, the sick, etc.</li> <li>Identify priority needs/projects of community that need attention of the relevant government organ.</li> </ol>	Such responsible members of the local community as people might wish to choose; including the community development officer.	Moral support. Government might also of its discretion extend some material support from time to time as a form of encouragement to communities

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Youth Affairs Subcommittee	<ol style="list-style-type: none"> <li>1. Identify specific problems of youths in the area with a view to solving them</li> <li>2. Mapping out strategies for youth development through local refresher courses for SSCE students, educational/moral guidance and counseling, provision of community scholarship etc.</li> <li>3. Assisting youths with vocational training, crafts, job placements, gainful employment etc.</li> <li>4. Advising youths to shun social vices such as drug abuse etc.</li> </ol>	Such responsible members of the local community as people might wish to choose, including a representative of the NDLEA	As above
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### State Hisbah Command Code of Conduct for Hisbah Officers/Members

A Hisbah Officer/Member should be aware that he is discharging a religious duty of which he is accountable to Allah on the Day of Judgment. It is therefore necessary that he should live by an exemplary conduct. While he enjoins good, he should be the first to do good, and while he prohibits evil, he should be the first to abstain from it.

A Hisbah Officer/Member must ensure that he abides by the following code of conduct:

1. Sincerity. He should carry out his duties with utmost sincerity i.e. for the sake of Allah and the promotion of the Sharia and not for any personal worldly gain.
2. Courage and determination. He should be courageous, firm and determined so as to ensure the success of his duty.
3. Sense of justice. A Hisbah Official/Member must discharge his duty with all sense of justice and must not allow fear or favour to tamper with his duty. Justice is the backbone of *hisbah* activity and it is therefore non negotiable.
4. Sound knowledge of Islam. A Hisbah Officer/Member must ensure that he acquires a reasonable amount of knowledge of Islam, and especially on issues that relate to *halal* and *haram* (lawful and unlawful) and *wajib* and *mandub* (obligatory and superogatory). It is worth noting that an ignorant Hisbah Officer/Member will bring more harm to Sharia a hundred times than a thief or drunkard would do in committing any offence.
5. Obedience. A Hisbah Officer/Member must necessarily be ready to obey commands and instructions from superior officers and also act within the rules and regulations of the Commission.
6. Behaviour. A Hisbah Officer/Member must not be guided in his actions by any personal, sectarian or political considerations. He should always be guided by the will to serve and protect the Sharia.
7. Honesty and uprightness. He must, therefore, not abuse his position in any form such as engaging in bribery and corruption, or false accusation at and framing-up of innocent people and or other forms of dishonesty.

8. Odd times of duty. Hisbah Officer/Members should always be ready and available to answer calls of duty and at times work at odd hours.
  9. Character. A Hisbah Officer/Member should be kind and gentle to people and always be ready to jump to the help of people at all times of needs in what ever form.
  10. Tact and self-restraint. A Hisbah Officer/Member must not display an unnecessary use of force. Where some form of force, such as arrest has to be made, it must be with the full consent or directive of his officer in charge or commandant.
- (4) From 2003 and 2005 interviews with Muhammad Babangida Muhammad of the Sharia Commission:<sup>5</sup>

Malam Babangida is the Commissioner in charge of Hisbah and Related Matters.

The Bauchi State Sharia Commission are giving the functions of *hisbah* a wider interpretation than may be usual. Historically *hisbah* groups developed wide responsibilities for maintaining Islamic rules and values. For instance, they might make sure the imam comes to the mosque on time. Or they might check to see that the Islamiyya teacher is teaching correctly, etc. Their job is generally “to command what is good and to prohibit what is evil.” So they have a very wide role to play in all aspects of life. They also do humanitarian work. Their purpose is not just to try to enforce such things as the prohibitions against drinking alcoholic drinks or prostitution, although they do that too.

They do their work by preaching; by advising; then if things go so far, by arresting and turning culprits over to the police for prosecution. They are to work hand in hand with the police. In arresting suspects, they sometimes go with the police, but they sometimes do it themselves and hand over to the police. Arrests are made under the Criminal Procedure Code at present. But they are preparing a bill for a law regulating all of this; the bill is being drafted in the Attorney-General’s office.<sup>6</sup> The *hisbah* are not acting as prosecutors in criminal matters in the courts.

To satisfy itself on the subject of control of the *hisbah* groups, the Government decided to employ some *hisbah* officials as full-time civil servants recruited following regular civil service entry requirements and placed the normal civil service pay scales. This was done for a number of *hisbah* officials at the State and Local Government levels. Thus, in overall charge at the State level there is a Commandant, at Grade Level 15; and the hierarchy goes all the way down to Local Government *hisbah* officials at GL 6. In each Local Government there is a Commanding Officer (CO), Divisional Officer (DO), Deputy Divisional Officer (DDO), and Assistant Divisional Officer (ADO). In 2003 there were 81 full-time staff in all (figure for 2005 not obtained). Then there are also part-time members who get small allowances (N2,000 in 2005) and some logistical support: there are 238 of these. All of these are uniformed. These are the ones who can

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<sup>5</sup> Interviewa in Bauchi, on 29 January 2003, by P. Ostien and S.U. Fwatshak, and on 16 November, 2005, by S.A. Mohammed and A.S. Garba. We are grateful to Mal. Babangida for his unfailing courtesy and openness.

<sup>6</sup> As of March 2008 no such law had been enacted in Bauchi State.

make arrests. There are also voluntary *hisbah* members, without uniforms, who do *hisbah* work for the sake of Allah i.e. *fi sabillahi*. They are unlimited in number.

Mal. Babangida emphasised the preventive aspects of *hisbah* work: counselling with people, settling disputes informally, etc. He gave some examples of this kind of work, which is being done by the Community Consultative Committees that have been set up. (i) Difficult children are counseled with in meetings with their parents, ward heads and imams. (ii) Problems between individuals, families, ethnic and religious communities are addressed, and attempts are made to resolve them without involving the police and without litigation. A good example of this is the resolution of a problem between a mother and her son. The mother had her son arrested but the Consultative Committee persuaded her to settle the issue out of court. She agreed and after five hours of sitting she reconciled with her son. (iii) The Guidance and Preaching Committee tries to reconcile the different sects as they organize their preaching programs. Government is aware of what the *hisbah* are accomplishing in Bauchi and encouraging more of it, e.g. by trying to get it established in LGs where it isn't yet.

There is a Women Wing of *hisbah*, and a woman on the Sharia Commission who is in charge of the Women Wing and of women matters generally.

*Hisbah* members are selected as follows. They fill a form when they apply, and must also get recommendations from their imam, their *maiunguwa* [village head], etc. Then they are interviewed by the Commission: at the beginning this was done Local Government by Local Government. Also, for the candidates for full-time positions, the civil service people come in to assist, to make sure that their rules are complied with. What is looked for is good character, the level of education in Islam, prior good deeds as in humanitarian work and aid groups, etc.

The rank and file are in the 25 to 35 year old range. They are all men, but the woman member of the Commission is encouraging the formation of women committees.

The *hisbah*, or some of them, have received some training. For instance there was a three-day workshop last October, covering such things as *hisbah*-police relations, how to treat suspects, that houses shouldn't be broken into even if one knows a crime is being committed inside (e.g., wine-drinking), and so on. Presenters included a former Police Commissioner, lawyers and others.

Relations between the *hisbah* and the police vary from place to place even within Bauchi State. In some places the police will balk at enforcing the Sharia Penal Code: they feel they are a Federal force and not obligated to assist with Sharia implementation. Sometimes there is a Christian DPO who doesn't want to enforce it. Sometimes the police seem to fear that the *hisbah* will usurp their function. Sometimes they refuse to treat a case when the *hisbah* bring a suspect; or sometimes they will deliberately bring the wrong charge so that the suspect gets off. However, the situation is beginning to change as the DPOs have been ordered to cooperate. Some Christian DPOs have given their full cooperation; one was given a letter of commendation in this regard and this has served as a morale booster to others that were hesitant.

(5) From a 2006 speech by Governor Mu'azu:<sup>7</sup>

We have established by law the Bauchi State Sharia Commission and provided it with all necessary moral and material support to enable it function effectively. I am happy to observe that the Commission has done creditably well. It conducts vigorous public enlightenment through the electronic and print media, public preaching, Local Government sensitisation tours, workshops, seminars, leaflets, posters and signboards. These have been effective in re-orienting the society to appreciate its roles and responsibilities under a Sharia environment. Similarly, preaching (*tabligh*) committees of the *hisbah* units have been active in their rural educational programmes. The rural populace are taught the basics of the Islamic religion.

\* \* \*

The State Sharia Commission has established the Hisbah Corps – a Sharia implementation monitoring unit. The unit is administered under a well coordinated system that has been fully integrated into the State Civil Service. The Hisbah Corps members operate within specific rules and guidelines in good rapport with the security agencies, courts and other bodies. The Sharia Commission organises regular workshops and in-house training for Hisbah Corps members to acquaint them with the Sharia laws and other laws of the land and to enable them discharge their responsibilities effectively. They have continued to be vigilant and active in their various functions and have developed good working relationships with the Police, NDLEA and other agencies.

**c. Three news reports on Bauchi *hisbah* operations**

(1) Prostitution and drinking:

9 December 2003: **Sharia Court convicts prostitutes.**<sup>8</sup> A Sharia Court sitting in Misau, in Bauchi State has convicted eight women for idleness and prostitution, just as the state Sharia Commission raided liquor joints and arrested seven persons and confiscated 47 cartons of beer... The eight women, according to the court, were arrested by men of the Sharia enforcement team in the state – *hisbah* – and were charged to the court by the police and found to have committed the offence and were sentenced to three thousand naira fine and 10 strokes of the cane. Testifying before the court, the commander of the *hisbah* team in Misau Alhaji Yahaya, said the convicts were arrested in different brothels in Misau town, loitering about as commercial sex workers.

The presiding judge Alhaji Mohammed Kabir after hearing all the cross examinations and the allegation of guilt by the convicts, sentenced each to ₦3,000 and 10 strokes of the cane, and warned them to get...husbands or be

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<sup>7</sup> From Governor A.A. Mu'azu's address at the National Conference on Leadership, State and Society Under the Shari'a in Nigeria: The Dividends, organised by the Institute for Contemporary Research, Kano, held at Abuja, 10-12 July 2006, pp. 7-8 and 10-11.

<sup>8</sup> *Daily Trust*, internet edition.

prepared to face severe punishments.<sup>9</sup> However, four of the convicts presented their suitors at the court chambers and the judge Mohammed Kabir reduced their sentences to one thousand naira.

The conviction of the eight prostitutes however, is coming at the wake of an unprecedented raid on hotels and liquor joints in Bauchi metropolis where 47 cartons of liquid item suspected to [be] beer were confiscated and seven persons were arrested by a combined team of police and *hisbah*.

(2) The Bauchi 18:

21 August 2007: **Same-Sex Wedding or Birthday Party?**<sup>10</sup> Just fresh from prison custody, Sadiq, 21 years old, sat forlornly on a bench that Thursday afternoon at the Tudun Alkali Sharia Court<sup>11</sup> in Bauchi, while his co-accused Musa, 22 years old, lay on another bench shivering from what appeared to be fever. The Alkali (Judge) Alhaji Tanimu Abubakar was through with the business of the day, which included granting them bail, and had closed, leaving the Registrar to finalise the procedures.

Both Sadiq and Musa were among the 18 suspected homosexuals arraigned penultimate week before the court and charged with what the Police First Information Report (FIR) titled "Idle Persons and Vagabonds," described as "dressed in women's fashion practising sodomy as their profession thereby committing an offence contrary to section 372, subsection 2(e) of Bauchi State Sharia Penal Code Law, 2001."<sup>12</sup>

The arrests, as claimed by the Bauchi Sharia Commission, were facilitated by the *hisbah* (the vanguard for Sharia implementation), and made by the Police. According to Malam Bala Ahmad, the Commission's Information Officer, its agents tipped off the Commission. The Commission, he said, works with different people, including the state security services, undercover agents, youths, students, teachers and any other persons or body that can supply it with useful information to facilitate its work.

The tip-off came August 1st, three days before the suspected "wedding" ceremony was to take place. "Intelligence reports reaching us then, indicated that some male youths were converging on Bauchi metropolis to contract same-

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<sup>9</sup> The text has "warned them to get their husbands", but as the following sentence suggests, the judge was warning these unmarried women to find themselves husbands, and reduced the sentences of those who showed him they were working on it.

<sup>10</sup> *ThisDay*, internet edition.

<sup>11</sup> The text has "Area Court" rather than "Sharia Court", here and elsewhere; but the Area Courts in Bauchi State were all abolished in 2001 and replaced by Sharia Courts, which is where offences under the Sharia Penal Code are prosecuted. For further details see Chapter 7.

<sup>12</sup> The text of the law includes, among those defined as "vagabonds", "any male person who dresses or is attired in the fashion of a women in a public place or who practises sodomy as a means of livelihood or as a profession." See the CILS Harmonised Sharia Penal Code Annotated in Chapter 4 Part III, §376(2)(e) and notes. Corresponding sections have different numbers in the different Sharia Penal Codes because of varying additions or omissions of sections.

sex marriages amongst themselves at Benco Hotel in the Rafin Zurfi area" said Ahmad. Since then, he said, 24-hour surveillance was put on the hotel, and plain clothes *bisbah* operatives were planted as moles among the arriving "dignitaries".

"Reports reaching us from our undercover agents indicated that large number of youths arrived from different parts of the country, giving the impression they might belong to a big and strong national body", he said. The undercover agents had, according to him, also reported "intimate" discussions and activities amongst the youths, which were purportedly held behind closed doors, and these confirmed the Commission's "worst fears" that the youths were there to contract marriages, a situation they initially hoped would prove the first intelligence reports wrong.

"We thought if we allowed the wedding take place, there would be sodomy, and since we were aware of this, we wanted to prevent it happening at all cost. This informed our decision to raid the place the night we did", Ahmad said.

On August 4, a joint team of uniformed *bisbah* and the police raided the hotel at night just as weekend beer drinkers and commercial sex hawkers were settling down for the day's "job". According to Ahmad, on sighting the team, the hotel manager panicked, thinking the raid had to do with alcohol, until he was convinced otherwise. He then led the team to the rooms occupied by the youths who on knocking, refused to unlock the doors.

"We had to break down the doors," said Ahmad, "after breaking them down, we discovered some of them had already torn the ceiling in a bid to escape, while some hid under mattresses. The bed sheets and the toilets were soiled with blood and the whole scene looked so unwholesome. They were more than 40 in numbers, and it was after very hot scuffles that the 18 were finally apprehended. Some had brassieres; some had waist beads (*jigida*), while some had female attires, bangles, earrings and cosmetics like lipsticks and face powder".

The following morning, the suspects were detained at the Bauchi township police station until they were arraigned before the Sharia Court. They pleaded not guilty to the charges, and the Alkali ordered they be kept in prison custody in the absence of anybody to bail them until August 21 when he would try the case.

Speaking exclusively to ThisDay however, both Sadiq and Musa who were among those arrested vehemently denied being party to any gathering with intent to contract same sex marriage. They claimed the gathering was that of friends to celebrate the birthday of a friend known as Al-Amin, the son of a secondary school principal in Darazo town of Bauchi state. He was not apprehended during the raid, as he was not at the venue when the arrests were made.

[The remainder of the article is omitted. ]

(3) Music:

2 July 2008: **Sharia Court Jails Female Singer for Staging Musical Concert.**<sup>13</sup> A lower Sharia Court in Shira Local Government Area of Bauchi State has sentenced a 34 year old female singer, Talatu Mai-Gurmi, to two months imprisonment or ₦5,000 fine for staging a traditional musical concert. The convict was arrested by the Sharia enforcement agents, *hisbah*, with two other singers, Dan-Kawu Mai-Garaya and Odoji Mai-Kotso, for allegedly contravening the Sharia law. The incident occurred at Yana, headquarters of Shira Local Government Area of the State. While Mai-Gurmi pleaded guilty to the one-count charge, Mai-Garaya and Mai-Kotso pleaded not guilty to the offence which contravened sections 95 and 365 of the Sharia Penal Code.<sup>14</sup> In his ruling, the Presiding Judge, Malam Garba Dan-Baba, said the accused was convicted based on the evidence before the court as well as her voluntary confession. The court however granted bail to the remaining two accused persons and adjourned the case to July 17.

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<sup>13</sup> *Daily Trust*, internet edition.

<sup>14</sup> The relevant section of Bauchi State's Sharia Penal Code is §376, not §365. The former provides: "Prohibition of praise singing, drumming, begging, playing cards, etc. Any person who in any street or place of public resort or within sight or hearing of any person or in any social, public or private ceremony, engages in praise singing (*roko*), begging (*bara*), playing cards (*karta*), *wasan maciji*, *wasan da kura*, *wasan wuta*, *wasan wuka*, *wasan bori*, etc. is guilty of an offence and liable on conviction to imprisonment for a term which may extend to one year and a fine of not less than ₦5,000.00 and shall also be liable to canning of twenty lashes."



2.

**Borno State**

**a. Council of Ulama report on the need to establish *hisbah***

Early in the process of Sharia implementation in Borno State, the State's Sharia Council of Ulama submitted a report to the Government on the need for establishment of *hisbah*. That report is reproduced here.

THE NEED FOR ESTABLISHMENT OF HISBAH TO MONITOR AND ASSESS THE  
PROGRESS IN IMPLEMENTATION OF SHARIA IN BORNO STATE

INTRODUCTION

In the name of Allah who neither slumber nor sleep overtaketh him, who exist when nothing ever exist and who will continue to exist when everything is perish.

Peace be upon his Prophet Mohammed (SAW).

The word *hisbah* is an Arabic word meaning enjoining what is right if the Muslim *ummah* diverted from doing it AND forbidding what is wrong if its doing became practicable.

Allah (SWT) says:

Let there arise out of you a band of people inviting to all what is good, enjoining what is right and forbidding what is wrong they are the ones to attain felicity. Q: Chapter 3 v. 104.

Based on the above Qur'anic quotation and by virtue of section 25(8) and (9) of the Bill to Provide for a Law on Sharia Administration of Justice in Borno State which empowered the Council of Ulama,<sup>15</sup> the Council hereby resolved at establishment of HISBAH within the State, in all the Local Governments, cities, towns, villages, wards, markets and motor parks to monitor and to assess the progress in the implementation of Sharia in Borno State.

APPOINTMENT OF MEMBERS

Appointment, dismissal and punishment	The appointment, dismissal and punishment of <i>hisbah</i> should be the responsibility of the Council of Ulama.
Monitoring unit	The monitoring of the <i>hisbah</i> activities should be the responsibility of Borno State Council of Ulama.

SELECTION OF MEMBERS

Selection of members within the LGA	Selection of members: within the State, there should be fourteen (14) members: twelve from Islamic organisations and two from SSS and Police.
Selection of members within the cities & wards	At the city level, there should be eight members, all from Islamic organisations. AND there should be six members from each ward, who should be

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<sup>15</sup> See Chapter 8 Part II.2.

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	under the direct supervision of the eight members above.
Selection of members within a town	Within the towns there should be four (4) members of <i>hisbah</i> all from Islamic organisations.
Selection of members within villages	In each village there should be two members of <i>hisbah</i> both from Islamic organisations.
Selection of members within markets& motor parks	In all markets, motor parks and cyclist parks there should be at least five members of <i>hisbah</i> .

QUALIFICATIONS OF THE MEMBERS

Their qualifications	All <i>hisbah</i> members should be Muslims, adult and Islamically educated and should be of sound moral behaviour and character.
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FUNDING OF HISBAH MEMBERS

Funding	<p>The funding of State <i>hisbah</i>, cities and their wards including [their] markets, motor parks and cyclist parks is the responsibility of the State Government through the Council of Ulama.</p> <p>The funding of Local Government <i>hisbah</i>, towns and their villages including their motor parks and markets is the responsibility of that Local Government Area.</p>
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METHOD OF OPERATION AND AREAS OF CONCENTRATION

Method of operation and area of concern	The Council of Ulama will give written directives from time to time as to the method of their operations and areas of concern.
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REPORTS

Reports	<p>There should be written reports from wards to city/towns at the end of every week.</p> <p>Reports from city/town to Local Government Headquarters monthly.</p> <p>There should be written reports from Local Government Headquarters to State Hisbah after every two months.</p> <p>Reports from State Hisbah to Council of Ulama should be at the end of every three months.</p>
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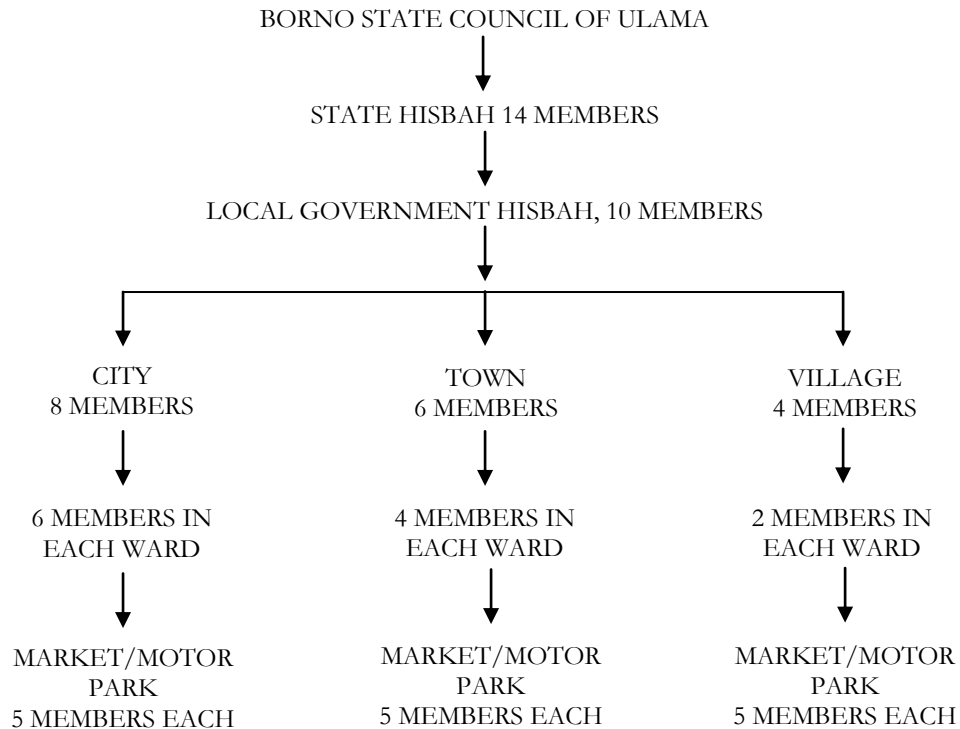
TRAINING OF MEMBERS

Training	Members of Hisbah at all levels should train for at least three weeks by the Borno State Council of Ulama before assuming their responsibilities.
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[Signed]  
Chairman Council of Ulama

[the organisation chart included with the report follows]

DOCUMENTARY MATERIALS: BORNO STATE



**b. *Hisbah* in the Interim Report of the Sharia Implementation Committee**

The Borno State Sharia Implementation Committee made its Interim Report to the Governor apparently in March 2001.<sup>16</sup> The Committee's proposed time-table for implementation of Sharia in the State, at p. 11 of the report, includes among things to be done "between June and August 2001": "Formation of *hisbahs* to assist in monitoring the violation of the Sharia and reporting to the concerned government agencies."

**c. From interview reports**

In interviews with officials in Maiduguri from 2003 to 2008, the uniform response to questions about *hisbah* has been: there are none in the State.

<sup>16</sup> Reproduced at <http://www.sharia-in-africa.net/pages/publications/sharia-implementation-in-northern-nigeria.php>, Volume II, Supplementary Materials, item VII.

**3.**

**Gombe State**

Researchers for this project visited Gombe State in February and May 2003 and in May 2006; and in February 2008 an official of the Gombe State Sharia Court of Appeal was interviewed in Jos. The reports over that entire period are consistent: there are no groups, official or unofficial, acting as *hisbah* in Gombe State.

## 4.

**Jigawa State****a. Early *hisbah* committees organised by the Emirates**(1) Background:

Jigawa State's Sharia Courts Law was enacted in August 2000.<sup>17</sup> But Sharia implementation in the State only really got going at the end of December 2000, with the coming into operation, on 27<sup>th</sup> December, of both the Sharia Penal Code and the Zakat Collection and Distribution Committee Law.<sup>18</sup> The latter is of particular relevance here. This did not create a central Zakat Board within the State Government. Instead, it created "in each Emirate of the State a Committee to be known as Emirate Zakat Committee", with the Emir as Chairman and various Emirate and Local Government officials as ex officio members. This followed the pattern set earlier by the State's Preaching Board Law, which also left the regulation of preaching decentralised, only establishing "for each Emirate a Committee to be known as the Committee for Islamic Religious Preaching."<sup>19</sup> In Jigawa State these Emirate *zakat* and preaching committees became the models also for the organisation of the initial *hisbah* committees. No separate *hisbah* law was even enacted: "the Chief Judge was of the opinion that giving *hisbah* legal backing would lead to a conflict of roles with the police. The Emir [presumably of Dutse] tried to get an operational law for them but the Ministry of Justice maintained the Chief Judge's position and they were left as Justices of the Peace who can only do citizen's arrest and work hand in hand with the police. In court they function as complainants and the police prosecute."<sup>20</sup> Accordingly the initial *hisbah* committees remained local and only quasi-official bodies, with only loose oversight, initially by the Ministry of Religious Affairs, in its role as overseer of the Emirate *zakat* and preaching Committees, and then beginning sometime in 2002 by the Ministry of Justice.

(3) From the Dutse Emirate Zakat & Da'awah Committee End of Year 2002 (1423 A.H.) Report:<sup>21</sup>

\* \* \*

<sup>17</sup> Sharia Court (Administration of Justice and Certain Consequential Changes) Law 2000, No. 7 of 2000, assented to 9<sup>th</sup> August 2000. No gazetted copy available; copy as signed by the Governor in the possession of the editor.

<sup>18</sup> Sharia Penal Code Law, Jigawa State of Nigeria Gazette No. 12, Vol. 1, 27<sup>th</sup> December 2000 (annotated in Chapter 4 Part III); Zakat Collection and Distribution Committee Law 2000, Jigawa State of Nigeria Gazette No. 13 Vol. 2, 27<sup>th</sup> December 2000 (full text in Chapter 9 Part II.4.).

<sup>19</sup> See Chapter 8 Part II.4.

<sup>20</sup> Interview 7<sup>th</sup> May 2003, in Dutse, with Malam Yusha'u Dutse, one of the Departmental Directors in the Ministry for Religious Affairs, by S.U. Fwatshak and D. Abubakar.

<sup>21</sup> For the full text of this report see Supplementary Materials to Chapter 9, online at <http://www.sharia-in-africa.net/pages/publications/sharia-implementation-in-northern-nigeria.php>

### **Hisbah**

[One]<sup>22</sup> of our greatest achievements during the year is the establishment of Hisbah Committees at various levels from Ward [up to] Emirate in the spirit of Sharia in our State.

#### **Ward Committee**

Each Ward is encouraged to set up a Hisbah and Conflict Management [Committee].

1. Ward Head
2. Local imam or imams
3. Elders
4. Well-to-do
5. Youth
6. Hisbah Commandant
7. Secretary

#### **Village Level**

Each Village has set up a supervisory committee to look after the activities of the Ward Committees and to coordinate their activities in line with law. The committee:

1. Senior imam
2. Learned *ulama*
3. Inspector (Hisbah), and
4. Secretary

#### **District Level**

Each District has set up a committee that is responsible for the overall supervision of the village-level committees and is empowered to work with the police in the procurement [sic: prevention?] and/or resolution of serious conflicts including in the committee main responsibilities is the *da'awah* work [sic].

The committee is headed by the District Head and:

1. Chief Imam
2. At least five learned persons
3. Local Govt. Chairman or Deputy
4. DPO (Police) a representative
5. SSS representative
6. Chief Commander (Hisbah)
7. Secretary

#### **Emirate Level**

Committee is headed by the Emir and is responsible for the overall policy formulation, *fatwa* and training the operators. It is also responsible for liason between government agencies and the various *hisbah* committees.

Overall work of *hisbah* as envisaged in Dutse Emirate are and not limited to:

1. Support the implementation of Sharia.

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<sup>22</sup> The text has the word 'Care' here, evidently a typographical error.

2. Educate and remind the public of the Sharia code and observances.
3. Conflict resolution between Muslims and between Muslims and non-Muslims.
4. Ensure that Muslims live and conduct themselves according to the dictates of Sharia.

The Emirate-level committee is composed of the Emir of Dutse [and]:

1. Ten learned *ulama*
2. Emirate Council members
3. General Commander (Hisbah)
4. Secretary.

### **Code of Conduct**

Every member is strictly expected to abide by the rules as enumerated in the Code of Conduct.

1. Must not humiliate anyone.
2. Must work with the law (Sharia).
3. Must not settle personal scores in the guise of Sharia.
4. Must cultivate good relationships with your community.
5. Must work with the community in finding solutions to problems.

Above all must have full *iman*.

\* \* \*

### **b. Problems with the *hisbah* in Dutse Emirate**

Ironically it was with the Dutse Emirate Council itself that the Dutse Hisbah Committee developed a problem. It is worth telling this story in some detail – stitching it together from several press reports<sup>23</sup> – because it gives interesting glimpses into some of the social complexities with which the Sharia implementation programme has had to contend.

The press reports are not completely clear as to what caused the problem. It seems a son of a prominent member of the Emirate Council was arrested by the *hisbah* for drunkenness, apparently twice, in December 2002 and January 2003, convicted in the Sharia Court, and duly caned (*Vanguard*). Possibly women and song were also involved. The young man may have been one of a group of revelers, perhaps even “masterminding the anti-sharia activities” – although a subsequent investigation by the Ministry of Religious Affairs concluded that “the person accused of master-minding what Hisbah has grouse with, was [in fact] not deeply involved” (*ThisDay*). In any case “the Hisbah group decided to enforce the Sharia law on the presumed culprits, an action which almost brought chaos to the city” (ibid). The Emirate Council took offense – whether because the *hisbah* had intervened at all, or because they did not follow due process of law, or because they used the media to publicise the affair, or for other reasons, is not clear. Whatever the reason, according to the Hisbah Committee the Council “declared

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<sup>23</sup> The following account is drawn from three news reports: “Dutse Emirate Council Declares ‘War’ On Sharia Committee”, *Vanguard*, 6 February 2003; “Emirate Council Dissolves Sharia Committee”, *ThisDay*, 21 February 2003; and “JGSG, Dutse Emirate Council Disagree Over *Hisbah*”, *Weekly Trust*, 22-28 February 2003. Sources for particular quotations are given in the text.

war” on it (*Vanguard*). In a letter to the State Police Commissioner, the Secretary of the Hisbah Committee “accused three officials of the Emirate Council of threatening to burn down the Hisbah office in Dutse, and insulting one Muhammad Ubani, a Hisbah member, while on duty” (ibid). The police had to issue public warnings against any further disturbance. The Emirate Council then announced that it had dissolved the Hisbah Committee, accusing it of “of incompetence and high-handedness in steering the affairs of the volunteer group in the Emirate” (*ThisDay*). The Hisbah Commander “dismissed the announcement and insisted that only the State Government had the right to take such an action”, and “religious leaders across the State...continued to describe the alleged dissolution as irresponsible and a clear or deliberate attempt to sabotage the implementation of Sharia in the state” (*Weekly Trust*). Nevertheless the *hisbah* were forced to curtail their activities: according to the Chairman of the Hisbah Committee, “It has sabotaged the efforts made in the last two years to instill discipline in the society and to uphold the teachings of Islam” (*Vanguard*). “Since the crisis miscreants have resurfaced in Dutse” (ibid). Nevertheless, “In an interview with newsmen, the District Head of Dutse, Alhaji Shehu Sanusi, denied that the Emirate Council was giving encouragement to musicians and prostitutes in the State and...called for caution in handling the situation, adding that citizens had the right to practise their respective beliefs” (*Weekly Trust*).

After the crisis in Dutse, the *hisbah* in Jigawa State were reorganised and brought more directly under the control of the Government, through a broadly-based State Hisbah Advisory Committee and Local Government Hisbah Committees, all under the watchful eye of the top officials of the Ministry of Justice. The 2004 law bringing this about is given next.

### **c. Hisbah Advisory Committee and Local Government Hisbah Committees**

#### **(1) The Hisbah Advisory Committee (Establishment) Law 2004:<sup>24</sup>**

A LAW TO ESTABLISH THE JIGAWA STATE HISBAH ADVISORY COMMITTEE  
AND FOR MATTERS RELATED THERETO

Arrangement of sections:

- |   |                                  |
|---|----------------------------------|
| 1. Title and commencement.                | 9. Procedure.                    |
| 2. Interpretation.                        | 10. Remuneration and allowances. |
| 3. Establishment.                         | 11. Tenure.                      |
| 4. [Members.]                             | 12. Vacation of office.          |
| 5. Functions.                             | 13. Co-option of members.        |
| 6. [Hisbah Committees and Hisbah Guards.] | 14. Validity of proceedings.     |
| 7. Meetings and quorum.                   | 15. Representation in court.     |
| 8. Secretary.                             | 16. Liability of members.        |

**BE IT ENACTED** by the Jigawa State House of Assembly and by authority of the same as follows:

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<sup>24</sup> Law No. 2 of 2004, signed into law on 20<sup>th</sup> April 2004, no gazetted copy available, copy as signed by the Governor in the possession of the editor.



DOCUMENTARY MATERIALS: JIGAWA STATE

1. This Law may be cited as the State Hisbah Advisory Committee (Establishment) Law 2004 and shall come into operation on the 20<sup>th</sup> day of April 2004.
2. In this Law, unless the context otherwise requires:  
[here are given boilerplate definitions of “Chairman”, “Governor”, “Local Government Hisbah Committee and Guard”, and “member”.]
3. (1) There is hereby established for the State a Committee which is to be known as the State Hisbah Advisory Committee.  
(2) The Committee shall comprise of the following:
  - (a) a Chairman;
  - (b) Chief Imams of Hadejia, Gumel, Kazaure, Dutse and Ringim Emirates;
  - (c) one representative each from Hadejia, Gumel, Kazaure, Dutse and Ringim Emirate Councils;
  - (d) Attorney-General or his representative;
  - (e) the Honourable Commissioner, Ministry of Religious Affairs or his representative;
  - (f) representative of the Ministry for Local Government;
  - (g) representative of the Nigeria Police Force;
  - (h) representative of the State Security Service;
  - (i) representative of the Ministry for Women Affairs;
  - (j) such other members as the Governor may from time to time appoint, provided that the Attorney-General and the State Solicitor-General shall be the Chief Coordinator and Deputy Chief Coordinator of the Committee respectively; and
  - (k) Chairman House Committee on Religious Affairs or his representative;
  - (l) Chairman House Committee in Sharia or his representative;
  - (m) all former Grand Kadis in the State;
  - (n) a Secretary shall be appointed by the Governor.
4. (1) No person shall be appointed as a member of the Committee unless he is a Moslem knowledgeable in Islamic law and a person of unquestionable integrity who in the opinion of the Governor will make meaningful contribution to the development and proper implementation of the Sharia legal system in the State.  
(2) The membership and the conduct of the affairs of the Committee shall be carried out so as to reflect the teaching of Islam and principles governing the implementation of the Sharia legal system.
5. The Committee shall perform the following functions:
  - (a) the command of good deeds by exposing its virtues to the community and prohibition of bad deeds 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 Islamic legal system through constant reminder of the obligation of Moslem adult to his family, the immediate society and humanity in general;
  - (c) the enlightenment of the general public on the tenets of the Sharia legal system, its virtues and application, through constant preaching, radio programmes, seminars, conferences and workshops;
  - (d) assisting the law enforcement agents in the prevention and detection of crimes through locating and exposing criminals and places where criminal activities take place;
  - (e) rendering of humanitarian services in areas such as traffic control whenever

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- there is need for it and crowd control at public functions;
- (f) rendering of humanitarian assistance at the event of disaster strike, such as fire, flood, road traffic accidents and other similar disasters by striving to save lives and properties of the victims;
  - (g) liaising with the State Council of Ulama on ways and means to properly implement the Sharia 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.
- 6. (1) There shall be established for [each] Local Government Area a Hisbah Committee and Hisbah Guards.  
(2) The Local Government Hisbah Committee and Guards shall consist of a Chairman, Secretary, Commandant and such number of guards as the State Committee may determine on the approval of the Attorney-General of the State.  
(3) No person shall be appointed a member of the Local Government Hisbah Committee or Guard unless he satisfies the provisions of section 4 of this Law and has been screened by the State Committee.  
(4) The terms of appointment of the Local Government Hisbah Committees and Guards including organisational structure and discipline shall be carried out by the Committee.  
(5) The Committee shall have power to recommend to the Local Government Councils the type of logistics, secretariat, up-keep allowance and members' personal allowances payable to the Local Government Hisbah Guards and Committee.
  - 7. [State Committee to meet at least once a month or oftener if needed; Chairman to preside or in his absence someone elected from the members present; questions to be decided by majority vote, and person presiding has second and casting vote in case of ties.]
  - 8. The Governor shall appoint a Secretary who shall be responsible for the general affairs of the Council [sic: Committee] Secretariat.
  - 9. The Committee shall make its own procedure for the execution of all or any of its functions under this Law, in consultation with the Commissioner responsible for religious matters.
  - 10. (1) The members of the Committee shall be paid such monthly allowances on such terms and conditions as the Governor may in his discretion determine.  
(2) Without prejudice to clause (1) above, Committee shall be paid such allowances as are reasonably necessary for the up-keep of its secretariat and for meeting of its incidental expenses as the Governor in his discretion determines.
  - 11. [Committee members and the Secretary to hold office for four years, and may be reappointed for another period of four years.]
  - 12. [Office of a member becomes vacant if he resigns, misses three consecutive Committee meetings without leave, has been guilty of misconduct, is found insane, ceases to be a Moslem, or his appointment is revoked by the Governor.]
  - 13. [If the Committee wants the advice of any person it may co-opt him or her to join Committee meetings, where the person shall have all powers of a member except the right to vote.]
  - 14. [Validity of Committee proceedings not to be affected by a vacancy in membership, defect in the appointment of a member, or because a person not authorised to do so

- has participated.]
15. In any suit by or against the Committee, the Committee shall be represented in court by the Attorney-General or his representative.
  16. No member of the Committee shall be liable for any action whether civil or criminal in respect of acts done or omitted to be done by him in the proper discharge of his duties under this law.

(2) From the Council of Ulama (Establishment) Law 2004:<sup>25</sup>

Jigawa State's new Council of Ulama was established at the same time as the Hisbah Advisory Council. The full text of the Council of Ulama Law is reproduced in Chapter 8 Part II.4. The parts of that law relevant here are the following:

5. (1) The Council [of Ulama] shall perform the following functions: Functions
  - (a) to promote the religion of Islam through constant reminder of the obligations of Muslim adult to his family, the society and humanity in general;  
\* \* \*
  - (f) to make available literature in print, audio or video form on the provisions of Sharia legal system for enlightenment of general public;
  - (g) to liaise with the State Advisory Committee on Hisbah on the proper implementation of Sharia legal system in the State;  
\* \* \*

(3) From interview reports:

April 2006: The actual "Hisbah Guards" are now organized and financed by the Local Governments. This implies that each Local Government Council employs its own *hisbah* members and pays them as it sees fit. The work of these groups (among others) has brought about some successes for Sharia implementation in the State: (a) crime has generally reduced; (b) prostitution has radically gone down and new cases are not being recorded; (c) brewing, sale and consumption of alcohol have been reduced to the barest minimum and even then is no longer brazen; (d) youths everywhere have realized the importance of the implementation of Sharia in the State.<sup>26</sup>

March 2008: Although "the Attorney-General and the State Solicitor-General shall be the Chief Coordinator and Deputy Chief Coordinator of the [Hisbah Advisory] Committee respectively" (Hisbah Advisory Committee Law §3(2)(j)), the Committee, along with the Council of Ulama, is nevertheless formally under the jurisdiction of the State's Directorate (formerly Ministry) of Chieftaincy, Religious Affairs and Sharia implementation, and therefore is answerable to the Government through the Directorate.<sup>27</sup>

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<sup>25</sup> Law No. 3 of 2004, signed into law on 20<sup>th</sup> April 2004, no gazetted copy available, copy as signed by the Governor in the possession of the editor.

<sup>26</sup> Interview with Alh. Haruna Hashim Gumel, Chief Registrar of the Jigawa State Sharia Court of Appeal, Dutse, 29<sup>th</sup> April 2006, by S.A. Mohammed and A.S. Garba.

<sup>27</sup> Per an interview with several officials of the Directorate in the Directorate offices in Dutse on 7<sup>th</sup> March 2008. For further details see Chapter 8 Part II.4.

5.

**Kaduna State**

Kaduna State has no *hisbah* statute, no official *hisbah* committees or boards or groups at any level of government, and no *hisbah* personnel on its payroll. The only exception to this generalisation is that the heads particularly of certain types of regulated establishments in Muslim areas try to ensure that the aspects of Sharia law pertaining to their jurisdictions are practised. For instance, the *Sarkin Kasuma* does this in the markets and the *Galadiman Pawa* does so in the abattoirs. The *Sarkin Ma'ama* takes care of the measure of items that are sold in the market.<sup>28</sup>

There are other people performing *hisbah* functions, but they are non-official individuals or local groups attempting on their own follow the Qur'anic injunction to enjoin what is right and forbid what is wrong. Such groups are not officially recognised or coordinated: for instance, the only organ of the State Government (besides the Sharia Courts) whose function is to deal with Muslim matters, the Bureau for Religious Affairs (Islamic Matters), has no committee whose remit includes *hisbah*.<sup>29</sup> Nevertheless, the local, unofficial *hisbah* generally have good relations with the police. Like other citizens (including the secular vigilance groups that also exist in most *unguma*) they have the right to arrest persons who have committed crimes. The *hisbah* upon making such arrests bring the suspects to the police for investigation and prosecution. Because of the cordial relations between the police and the *hisbah*, some *hisbah* members have the telephone numbers of the DPOs in their areas and also those of some officials at the Command HQ for purposes of reporting crimes.<sup>30</sup>

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<sup>28</sup> Interview with Kadi Shehu Ibrahim Ahmed of the Sharia Court of Appeal, 30<sup>th</sup> January 2003, in Kaduna, by J.M. Nasir and D. Gwamna.

<sup>29</sup> As to the Bureau for Religious Affairs (Islamic Matters) see Chapter 8 Part II.5.

<sup>30</sup> Interview with Aminu Lawal, the Deputy Public Relations Officer, Police Headquarters in Kaduna, 7<sup>th</sup> November 2005, by S.U. Fwatshak and S.H. Liman.

6.

**Kano State**

**a. *Hisbah* organisations in Kano, 2000-2003**

(1) Background:

Sharia implementation got off to a somewhat rocky start in Kano State. The Governor elected in 1999, Dr Rabi'u Musa Kwankwaso, whether fairly or not, soon got the reputation, among those anxious to get going quickly, of being anti-Sharia and of dragging his feet. Under great pressure a Sharia and Islamic Administration of Justice Reform Law was enacted in February 2000, but its practical outcome was only the establishment of two committees to study the matter further. In June 2000 a Prostitution and Other Immoral Acts (Prohibition) Law was enacted. But it was only in November of 2000 that Sharia implementation really got going, with the enactment of a new Sharia Courts Law, the actual establishment of Sharia Courts under that law, and the enactment of Kano's Sharia Penal Code, for application in the new Sharia Courts.<sup>31</sup>

No *hisbah* law was enacted under Kwankwaso. Instead, apparently sometime in 2000, Kwankwaso appointed a Hisbah Advisory Committee, charged to organise *hisbah* groups throughout the State, which it did. This was perhaps done in part as a means of bringing under better control the independent *hisbah* groups which had also sprung up and were trying on their own to deal with prostitutes and the traffic in alcoholic drink, among other things, and in the process were sometimes taking the law into their own hands. The material that follows suggests that by 2003 the independent *hisbah* groups had mostly been absorbed into the more official groups organised by the Hisbah Advisory Committee and were under better control of the Government.

By early 2003, the Kwankwaso administration, through the Hisbah Advisory Committee and the Ministry of Justice, had drafted a law that would have set up a new Hisbah Board as a statutory body. This bill was sent to the House of Assembly for its consideration. But before it was enacted, the 2003 elections intervened (April/May); a new House of Assembly and a new Governor, Ibrahim Shekarau, were elected; and it was not until November 2003 that a law establishing a Hisbah Board was finally passed and signed by the new House and Governor. That law is reproduced in section **b** below. It is not known how that law differs, if at all, from the draft that had been made by the Kwankwaso administration.

What follows in the remainder of this section is information about the *hisbah* organisations set up in 2000-2003, mostly from interviews conducted in Kano in 2003, but in some instances from the newspapers or other sources.

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<sup>31</sup> The take-off of Sharia implementation in Kano State is discussed in I.N. Sada, "The Making of the Zamfara and Kano State Sharia Penal Codes", in Chapter 4 of this work, pp. 22-32, including citations to most of the statutes enacted in 2000. For the Prostitution and Other Immoral Acts (Prohibition) Law see Chapter 3, 200-202.

(2) The official and the independent hisbah groups:

(a) M. D. Hurdi, Assistant Commissioner of Police (March 2003):<sup>32</sup> There are two types of *hisbah* groups in Kano: official ones and independent ones. This is how the two groups came into existence. The Government wanted to approach the issue of Sharia gradually by first sending delegations to Saudi Arabia, Sudan and Pakistan to see how their Sharia systems work there, so they could come back and recommend something appropriate. Government also wanted to give some time for public enlightenment/orientation on the new laws, especially what constitutes an offence and its punishment. But some of the *ulama* felt the Government was simply dragging its feet, and pressured it to implement Sharia in a rush. Under pressure the House of Assembly did the first, second and third readings [of the initial Sharia and Islamic Administration of Justice Reform Law] on the same day, forcing the Governor to assent immediately [24<sup>th</sup> February 2000]. The pressure groups formed their own *hisbah* groups while the Government constituted its own. It was the same pressure groups that compelled the Deputy Governor to use the independent *hisbah* to invade some hotels and destroy some churches some time last year.

(b) From a Human Rights Watch report (2004):<sup>33</sup> A proliferation of such incidents, where young men began taking the law into their own hands in the name of Shari'a, led the Kano state government to create an officially-recognized hisbah, in an attempt to regain control over the situation. However, some of the more ardent proponents of Shari'a were not satisfied with this official hisbah, and accused it of not doing enough to prevent consumption of alcohol, prostitution, and other practices considered unlawful. A group of individuals set up a second, independent hisbah, which, for a while, was operating in parallel with the official hisbah in Kano State. Both the official and the independent hisbah had their own members, structure and governing committee. Initially, there were tensions between the two groups, but by mid-2003, sources in Kano reported that the relationship had improved, and that the two hisbah had effectively merged.

(3) The official *hisbah* and their work:

(a) Salisu Bello, of the Criminal Intelligence/Security Bureau (CIB) and the representative of the Police on the Hisbah Advisory Committee (March 2003):<sup>34</sup> The Hisbah Advisory Committee was established in 1999 [sic: 2000] by the Kano State Government after the introduction of the Sharia legal system in Kano. It meets weekly. It has fifteen members including *ulama* drawn from the different Islamic sects, one representative of the State Security Service (SSS), one representative of the Police, etc. Dr Ameen Al-Deen Abubakar is the Chairman, while the Secretary, Malam Nasidi Abdullahi, is a Government official. The responsibilities of the Committee include the establishment and monitoring of the activities of *hisbah* guards throughout the State.

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<sup>32</sup> Interviewed 12 March 2003 in Kano, by M.A.B. Gaiya, S.U. Fwatshak, and K.A. Umar.

<sup>33</sup> "'Political Shari'a'?" Human Rights and Islamic Law in Northern Nigeria', September 2004, Part VIII, <http://www.hrw.org/reports/2004/nigeria0904/>.

<sup>34</sup> Interviewed 25 March 2003 in Kano by S.U. Fwatshak, K.A. Umar, and D. Abubakar.

(b) Dr Ameen Al-Deen Abubakar, Chairman of the Hisbah Advisory Committee (March 2003):<sup>35</sup> The official *hisbah* are organised as follows:

- (i) There is the State level. Here there is the Hisbah Advisory Committee of fifteen persons including four Islamic scholars, a representative of the Emir of Kano, a representative of the Police, a representative of the SSS, two community elders, a coordinator (not less than the rank of a Director in the Civil Service), and others. Membership of the Committee was carefully selected from among people that are knowledgeable, mature, and have the tendency to be fair to all (not sectional).
- (ii) There is next the Local Government level. Each LGA is expected to have its own committee headed by the senior District Head of the LGA assisted by the Chief Imam. Other members include representatives of the Police and the SSS, two representatives of the community, and a coordinator. Each LGA has a management body, which is under the coordinator, assisted by a security officer, an information officer, an officer in charge of women.
- (iii) There is the ward level comprising ten members of hisbah guards.
- (iv) Each hamlet has seventy hisbah guards. Twenty of these serve as security, another twenty serve as welfare officers, while others serve as data collectors. Each hamlet also has a reconciliation committee or *sulhu*/elders' committee, which tries to resolve disputes using traditional methods of dispute resolution.

The *hisbah* groups are trained at workshops and seminars in which they receive lectures and handouts and listen to cassettes. The training sessions emphasize loyalty of *hisbah* in relation to elders, judges, and even the accused. They have not received police training yet because the system has just started.

The *hisbah* enforce the Sharia Penal Code and by-laws of the Local Government Councils.<sup>36</sup> They try preventing the commission of crimes, and they work to reconcile families and individuals who are having problems with one another. They patrol in conjunction with the police to identify Sharia crimes, and inform the police. They do not arrest [but see below]. They relate well with the police even in areas where the DPOs are not Muslims.

(c) Salisu Bello (March 2003): The official hisbah guards are voluntary, vigilance, civil defense organizations with uniforms, expected to be Sharia watchdogs in society. They monitor and enforce Sharia rules and regulations by way of persuasion and through preaching, guidance and counseling.

The *hisbah* guards are recruited from different Islamic sects and voluntary associations.<sup>37</sup> The contributing associations and sects are given quotas to fill. Those they

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<sup>35</sup> Interviewed 25 March 2003 in Kano by S.U. Fwatshak, K.A. Umar, and D. Abubakar.

<sup>36</sup> For a sampling of Sharia-related Local Government Council bye-laws, see Chapter 3 Part IV.

<sup>37</sup> For the list of the associations that cooperated in setting up the initial *hisbah* organisation Bauchi State, see Part II.1 above. For the list of those that cooperated in setting up the Joint Aid Monitoring Group on the Application of Sharia in Zamfara State, see Part II.12 below. Presumably many of the same associations cooperated to the same end in Kano.

select are then screened and only responsible and literate (in Arabic or Western education) persons are recruited. Those recruited are given some orientation on their roles, and on the scope and limits of their activities, by the Hisbah Advisory Committee, in the form of workshops and seminars. Scholars and experts from various fields such as police officers, VIOs, lawyers, *ulama*, and the SSS, are used as speakers and facilitators at the seminars/workshops. In 2002 (specific date not remembered), Salisu Bello himself gave a lecture on "The Role of Hisbah in Community Policing." The hisbah are given instruction in the the rules they are to help police enforce, including the Sharia Penal Code. They are advised not to enter any premises looking for offenders. Instead, if they suspect crime to be taking place on any premises, they should alert the police who will investigate and arrest suspects. The hisbah do not have statutory powers of arrest yet, so if they do arrest anyone it is treated as citizen's arrest. They are expected to take persons they arrest to the police, who investigate and prosecute using normal police procedures. The hisbah arrester is always invited as a witness by the police prosecutor.

(d) M.D. Hurdi (March 2003): The police recognize the official *hisbah* groups (but not the independent groups) and interact with them in meetings. The police occasionally co-opt the official groups in their operations when the need arises. For instance, *hisbah* sometimes receive invitations from the police to assist at in keeping order at public functions. The official *hisbah* are made to know their limits and advised to counsel people seen committing crimes. They are advised to, at best, report crimes to the police and not take the law into their own hands. If the *hisbah* report a serious crime to the police further investigations have to be made by the police to form the basis of prosecution, but if the crime reported is self evident, e.g. drunkenness, or where the person sells beer and he is brought with bottles or a carton of it, the police will proceed on those evidences.

(4) Official *hisbah* cooperation with the police: from a news report:

22 October 2002: **Kano 'Hisbah' Arrests 200 Prostitutes.**<sup>38</sup> The Kano State Sharia vanguard known as "Hisbah," had arrested 200 prostitutes at the various night clubs and streets in the State. The operation which was jointly carried out by the police and Hisbah Committee was aimed at preventing all ungodly acts before the commencement of the Muslim holy month of Ramadan. The Chairman of the Hisbah Committee, Sheikh Ameen Al-Deen Abubakar told the BBC correspondent that the measure became necessary to ensure that the prostitutes are disallowed from the ugly business throughout the Ramadan period. It was gathered that the suspects have been charged to court and the guilty ones were jailed for one year term with an option to pay 20 United States dollars.

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<sup>38</sup> *Daily Trust*, internet edition.



(5) Some reports of *hisbah* lawlessness:

There were many reports of Kano *hisbah* lawlessness in 2000-2003.<sup>39</sup> What follow are three interview reports on this subject.

(a) Reverend Dr A.U. Uba, Christian Association of Nigeria (CAN) Secretary, Kano State (March 2003):<sup>40</sup> Christians feel that Sharia is a move against Christians and the church. In the several instances of riots in recent times, Muslims have taken it out on Christians, even where the problem is not domestic (Nigerian). For example in the Osama bin Laden riots as a reaction to the US attack on Afghanistan to fight terrorism, Kano Muslims led by *hisbah* groups burnt down several churches leading to the loss of many lives in affected areas such as Brigade, Shagari Quarters, Tudun Murtala and Zango where all churches were burnt. CAN leaders petitioned the government to have the churches rebuilt but the government refused.... In 2002, seventeen churches were destroyed in Bompai by Sharia activists. CAN wrote letters to Government but Government responded by sending caterpillars to level up the affected churches, and since then Government has done nothing to assist the affected churches.

There are several instances of the destruction of ECWA churches in the villages, without Government remedies. Another instance of Government inactivity and insensitivity to Christians' plight occurred on December 25<sup>th</sup> 2002. In the early hours of that Christmas day a southern Christian and his family of six were burnt to death in Badawa by *hisbah* groups on the ground that he was dealing in alcohol and nothing has happened to the perpetrators of this act, though Government had promised that Sharia was not going to affect non-Muslims. CAN does not support the consumption of alcohol and advises its members to stop dealing in businesses that Sharia frowns at. But CAN does not support people taking the law into their hands, especially given that the victims were not Muslims whose fundamental human rights were infringed upon.

(b) Salisu Bello (March 2003): There are instances where the *hisbah* guards take the laws into their hands due to "human factor" of fanaticism arising from failure to control their emotions in the face of certain Islamic offences. For example, (i) there was a time they blocked the Kano-Zaria road and forced passengers to sit according to Sharia arrangements of non-mixing of females and males. In the process some passengers and drivers were embarrassed. (ii) They at one time arrested the mother instead of her daughter they suspected to commit an offence. (iii) They arrested a truck carrying alcohol and destroyed the beer and vandalized the truck. This means they acted as the accuser/prosecutor, the judge and the executor of the punishment.

(c) Sir K. Z. Dudari, Commissioner of Police (March 2003):<sup>41</sup> The police try to curb the excesses of the *hisbah*. For example, there was a time the *hisbah* attacked a truck carrying liquor to Kano and the *hisbah* were told they had gone out of bounds. The police intervened to save a Christian woman from being lynched in the market. She wore

<sup>39</sup> E.g. "Short 'n Sharp", *Weekly Trust*, 5 Sept. 2002 (attacking passengers on a bus); "Hisbah Members Invade Kano Police Station", *Daily Trust*, 4 June 2003 (attacking a wedding and then a police station).

<sup>40</sup> Interviewed 12 March 2003 in Kano, by M.A.B. Gaiya, S.U. Fwatshak, and K.A. Umar.

<sup>41</sup> Interviewed 12 March 2003 in Kano, by M.A.B. Gaiya, S.U. Fwatshak, and K.A. Umar.

a dress that carried the inscription of the Prophet's name and some hisbah manhandled her. Except for the quick intervention of the police she would have been killed. In many instances the hisbah are more of a menace than assistance. They are accused of rape, drinking alcohol and cause other social problems.

(6) Salisu Bello: the plan to give the official *hisbah* statutory backing (March 2003): There is no statutory backing even for the official hisbah guards right now, but one is being prepared. The Ministry of Justice has drafted a bill for a law, which the Hisbah Advisory Committee has gone through and with which it is satisfied. The draft has been sent to the House of Assembly for passage, after which the Governor is expected to assent. Some people think there may be a problem with this, because giving hisbah guards legal backing for their activities will make them organs of government, and this will increase the likelihood of their being used by politicians to settle political scores. Where law does not back them, the thinking is, they can't be used for political objectives. But if the hisbah guards simply continue to function as a form of vigilantes, community overseers, there will be no problem because the police need public assistance in the execution of their duties.

#### **b. The statutory Hisbah Board, from November 2003**

##### **(1) Overview:**

A main basis of Ibrahim Shekarau's winning campaign for the Kano State governorship in 2003 was that the incumbent, Kwankwaso, had been only half-hearted about implementing Sharia and that he, Shekarau, would do much better.<sup>42</sup> Shekarau took office on 29 May 2003. By November he had procured passage by the House of Assembly and had signed into law a new Sharia Commission Law,<sup>43</sup> a new Zakat and Hubusi Commission Law,<sup>44</sup> and a new Hisbah Board Law (below). In May 2004 he signed a law amending the Kano State Penal Code, making it illegal for anybody, not just Muslims, to manufacture, haul, sell, possess or consume "all brands of intoxicating liquors, trade spirits and any other intoxicating substance...throughout the State."<sup>45</sup> In May 2005 he signed a law amending the Kano State Road Traffic Law, among other things requiring "All commercial vehicles [to] reserve a reasonable number of seats at the back in the vehicle for female passengers only", prohibiting "Any motor vehicle driver [to carry] male and female passengers mixed together in a manner which is offensive to the Sharia", and prohibiting "Any motorcyclist...[to carry] any female as a paying passenger."<sup>46</sup> On 3<sup>rd</sup> July 2005 Shekarau inaugurated the new Hisbah Corps that the

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<sup>42</sup> See e.g. J. Winter, "Nigeria's Powerful New Governors", BBC News, 22 April 2003, <http://news.bbc.co.uk/1/hi/world/africa/2967881.stm>.

<sup>43</sup> Chapter 8 Part II.6.

<sup>44</sup> Chapter 9 Part II.6.

<sup>45</sup> Penal Code (Amendment) Law 2004, reproduced in Chapter 3 Part IV.3.h. See also P. Ostien and M.J. Umar, "Changes in the Law in the Sharia States Aimed at Suppressing Social Vices", Chapter 3 Part II, 29-43.

<sup>46</sup> Road Traffic (Amendment) Law 2005, reproduced in Chapter 3 Part IV.6.e. See also J.M. Nasir, "Sharia Implementation and Female Muslims in Nigeria's Sharia States", Chapter 3 Part III, 108-111.

Hisbah Board had established, said to be 9,000 strong, in a huge ceremony at the stadium in Kano.<sup>47</sup>

(2) The Hisbah Board Law, 2003:<sup>48</sup>

A LAW TO PROVIDE FOR THE ESTABLISHMENT OF THE HISBAH BOARD IN THE STATE AND  
FOR OTHER MATTERS CONNECTED THERETO

Arrangement of sections:

1. Citation and commencement.
2. Interpretation.
3. Establishment of the Hisbah Board.
4. Composition of the Board.
5. Functions of the Board.
6. Structure of the Board.
7. Establishment and duties of Hisbah Corps.
8. Establishment of Zonal Sharia Committees.
9. Establishment of Local Government Hisbah Committees.
10. Village Hisbah Committee.
11. Secretary of the Board.
12. Funds of the Board.
13. Standing Orders.
14. Regulations.
15. Annual Report.
16. Audit.
17. Quorum.

BE IT ENACTED by the Kano State House of Assembly as follows:

1. This Law may be cited as the Kano State Hisbah Board Law 2003 and shall come into force on 7<sup>th</sup> day of November, 2003.
2. In this Law, unless the context otherwise requires:  
[here are given boilerplate definitions of “Board”, “Chairman”, “Governor”, “Hisbah”, “Local Government” and “State”.]
3. (1) There is hereby established for the State a Board to be known as the Kano State Hisbah Board.  
(2) The Board so established pursuant to subsection (1) of this section shall be a body corporate with perpetual succession and a common seal, with power to sue and be sued in its corporate name; and also hold, acquire and dispose of property movable and immovable.
4. For the purpose of proper co-ordination of Hisbah activities in the State, the Governor shall appoint the following persons to be members of the Board:
  - i a full-time Chairman who shall be a devout Muslim of unquestionable moral character, versed in Islamic jurisprudence who shall also be a qualified administrator;
  - ii a representative of the Emirate Council;
  - iii a representative of the Zakat and Hubusi Commission;

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<sup>47</sup> The event was much reported: see e.g. *New Nigerian*, 4<sup>th</sup> July 2005, 1; *Guardian*, 5<sup>th</sup> July 2005, 3.

<sup>48</sup> Signed into law on 7<sup>th</sup> November 2003, Kano State of Nigeria Gazette No. 6 Vol. 35, 20<sup>th</sup> November, 2003 Supplement Part A pp. A13-A18.

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- iv a representative of the Sharia Commission;
  - v a representative of the State Vigilante Group and Civil Defence Corps;
  - vi a representative of the Ministry of Justice;
  - vii the State Hisbah Commander;
  - viii representative of Nigeria Police Force;
  - ix representative of the Security Service;
  - x representative of the Immigration Services;
  - xi a representative of the Office of the Secretary to the State Government;
  - xii four other persons of proven integrity who in the opinion of the Governor, are capable of making useful contributions to the functions of the Board as part-time members
5. The Board shall be responsible for general policy-making as well as coordination of activities between State, Zone and Local Government Hisbah Committees, as well as responsible for disciplinary matters.
6. The Board shall with the approval of the Governor establish such number of departments as may be desired for the smooth running of the activities.
7. (1) The Board shall establish for the State a Hisbah Corps who may be eligible for appointment as Justices of the Peace.
- (2) The Corps established pursuant to subsection (1) of this section shall be under a Commander appointed by the Governor.
- (3) The duties of the Hisbah Corps Commander shall be the general administration of the Corps.
- (4) The Hisbah Corps shall have the following responsibilities:
- i rendering necessary assistance to the police and other security agencies especially in the areas of prevention, detection and reporting of offences;
  - ii encourage Muslims to unite in their quest for justice, equality and enjoin one another to do good and to avoid evil;
  - iii encourage kindness to one another;
  - iv advise against acquiring of interest, usury, hoarding and speculations;
  - v encourage charitable deeds particularly the payment of *zakat*;
  - vi advise on moral counseling in the society which is in conformity with Islamic injunctions;
  - vii encourage orderliness at religious gathering e.g. in mosques during *salat* (prayer), *iftar*, breaking the fast during Ramadan, pilgrims during *hajj* operations and in any public functions;
  - viii encourage general cleanliness and environmental sanitation;
  - ix may handle non-firearms for self defence like batons, and other non-lethal civil defence instruments;
  - x reconciliation of civil disputes between persons and or organisations where parties are willing;
  - xi assisting in traffic control;
  - xii emergency relief operations; and
  - xiii assisting in any other situation that will require the involvement of Hisbah be it preventive or detective.
8. There is hereby established in each Senatorial Zone a Hisbah Committee for the purposes of coordinating the Local Government Hisbah Committees in their respective Zones for a term of three years. Each Zonal Management Committee shall comprise of:

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- (a) two District Heads from the Zone one of whom shall be the Chairman for a period of two years after which the other District Head shall take over as Chairman for another two years;
  - (b) a representative of the Police in the Zone;
  - (c) a representative of the State Security Service in the Zone;
  - (d) two representatives of the Local Government Councils in the Zone;
  - (e) the Zonal Hisbah Corps Commander;
  - (f) three persons of unquestionable integrity;
  - (g) two most senior imams in the Zone;
  - (h) a representative of Vigilante Group and or Civil Defence in the Zone;
  - (i) a representative of Zakat and Hubusi Commission in the Zone;
  - (j) a representative of the Sharia Commission;
  - (k) a representative of the Immigration Service in the Area.
9. (1) There shall be established in each Local Government Area a Local Government Hisbah Committee.
- (2) The Committee established pursuant to subsection (1) of this section shall have two organs namely:
- i. an Advisory Committee and
  - ii. a Management Committee.
- (3) The Advisory Committee shall consist of 15 members which shall include the following persons:
- i. the District Head who shall also be the Chairman;
  - ii. the Chief Imam;
  - iii. representative of the Local Government Council;
  - iv. at least two Islamic scholars from the Local Government Area;
  - v. a representative of:
    - (a) State Security Service in the Local Government Area;
    - (b) the Nigeria Police in the Local Government Area.
  - vi. a representative of Immigration Services at the Local Government Area;
  - vii. four other persons of proven integrity; and
  - viii. Head of members of the Management Committee.
- (4) The Management Committee shall have the following persons:
- i. Local Government Hisbah Commander, who shall be the Secretary to the Advisory Committee;
  - ii. Head of Security of Hisbah;
  - iii. Head of Da'awah of Local Government Hisbah Committee; and
  - iv. Head of Administration and Finance.
10. (1) There is hereby established for each Village in each Local Government in the State a Hisbah Committee.
- (2) The Board shall determine persons eligible for appointment into the Village Committee.
11. (1) There shall also be appointed by the Governor a Secretary who shall be a qualified legal practitioner with not less than 6 years post call experience.
- (2) The person so appointed pursuant to subsection (1) of this section shall be the Legal Adviser and the Head of the Legal Department of the Board.
12. (1) The funds of the Board shall come from the following sources:
- i. grants from the State and Local Government Councils;
  - ii. donations from individuals and organisations; and

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- iii. subscription fees and sale of publications and other activities of the Board.
- (2) The Board shall with the approval of the Governor invest any money that accrues to it in any manner whatsoever as accepted by Islamic jurisprudence.
- 13. (1) The Board shall, subject to the approval of the Governor make standing orders regarding the procedures for carrying out its activities under this Law.  
(2) The Board shall also in consultation with the security agencies and subject to the approval of the Governor make rules for the operation of Hisbah Corps.
- 14. The Governor may make regulations for better carrying out of the provisions of this Law.
- 15. The Board shall submit to the Governor an annual report of its activities for the year, which shall include a report on its audited account for the preceding financial year.
- 16. Accounts of the Board shall be audited annually by an auditor appointed by the Auditor-General from a list of three auditors recommended by the Board.
- 17. (1) Nine members present at any meeting of the Commission shall form a quorum.  
(2) In any event where the Chairman is absent, the members present shall appoint one of their members to act as Chairman.

(3) Note on amendments to the Hisbah Board Law:

In an interview in March 2008,<sup>49</sup> the leadership of the Hisbah Board indicated that the original Hisbah Board Law has been amended several times, and further amendments are under discussion. But instead of allowing brief amending laws to accumulate, which can be confusing, the intention is to incorporate all amendments into a complete new law which is being worked out with the Ministry of Justice. The problems dealt with by many of the amendments seem to have centred around the law's provisions regarding the top leadership of the Board. The original law (above) provided both for a full-time Chairman (§4(i)) and a full-time Commander of the Hisbah Corps (§7(2)). At some point the law was amended to fuse those two offices; then they were separated again; now there is a part-time Chairman and a separate full-time Commander-General/Chief Executive Officer. There are also now three Deputy Commanders-General, for Operations, Special Services, and Women. What further changes may be in store was not disclosed.

(4) The Hisbah Board in the Sharia Commission Law:<sup>50</sup>

Kano State's Sharia Commission Law was signed and came into operation on the same day as the Hisbah Board Law, i.e. 7<sup>th</sup> November 2003. The full text of the Sharia

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<sup>49</sup> Interview 10 March, 2008 at the Hisbah Board in Kano with Mal. Ibrahim Saminu Mai Bushura, the Commander-General/Chief Executive; Dr. Sa'idu Ahmad Dukawa, the Director-General; Aliyu Abubakar, the DCG Operations; and Mal. Moh'd Nuru Moh'd Arzeh, the DCG Special Services, conducted by P. Ostien and A.S. Garba.

<sup>50</sup> Law No. 3 of 2003, Kano State of Nigeria Gazette No. 5 Vol. 35, 13<sup>th</sup> November, 2003, Supplement Part A pp. A7-A12. In 2004 the Sharia Commission Law was amended in ways not relevant here, see Kano State of Nigeria Gazette No. 6 Vol. 36, 10<sup>th</sup> June, 2004, Supplement Part A pp. A17-A18; for further details see Chapter 8 Part II.6.

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Commission Law is reproduced in Chapter 8 Part II.6. The parts relevant here are the following:

- |   |  |
|---|--|
| <p>3. (1) There is hereby established for the State a commission to be known as the Kano State Sharia Commission.</p> <p style="text-align: center;">* * *</p>  | <p>Establishment of the Commission</p>                   |
| <p>4. The Commission shall have the following functions:</p> <ul style="list-style-type: none"> <li>i. promote, enhancement and development of Islamic social and cultural values in the State.</li> <li>ii. sensitise the general public to appreciate, accept and practice Government's policy on Islamic social aspect of the Sharia through media, public lectures, seminars, workshops, symposia and courses.</li> <li>iii. initiate, organise and administer effective machinery for Islamic propagation and necessary guidance of the general public in their day-to-day activities.</li> <li>iv. initiate and implement policies that will sanitise business transactions in our markets and ensure orderly relationships among the general public in accordance with dictates of Islamic injunctions.</li> </ul> <p style="text-align: center;">* * *</p> <ul style="list-style-type: none"> <li>ix. initiate policies to assist Government in realising its set objectives on the implementation of social aspect of Sharia as well as promoting Qur'anic and Islamic education in the State.</li> </ul> <p style="text-align: center;">* * *</p> | <p>Functions of the Commission</p>                       |
| <p>6. (1) The following persons shall be the members of the Commission to be appointed by the Governor:</p> <p style="text-align: center;">* * *</p> <ul style="list-style-type: none"> <li>vii. a representative of the Hisbah Board;</li> </ul> <p style="text-align: center;">* * *</p> <p style="text-align: center;">* * *</p>   | <p>Members of the Commission</p>                         |
| <p>10. (1) There shall be established in all Local Government Areas in the State a Sharia Council on the recommendation of the Local Government Council.</p> <p>(2) The Local Government Sharia Council shall have the following persons as members:</p> <p style="text-align: center;">* * *</p> <ul style="list-style-type: none"> <li>(f) one representative of Hisbah Board;</li> </ul> <p style="text-align: center;">* * *</p>  | <p>Establishment of Local Government Sharia Councils</p> |
| <p>11. The Local Government Sharia Council shall perform the functions as stipulated in section 4 of this Law within the Local Government.</p>  | <p>Functions of Local Government Sharia Councils</p>     |
| <p>12. (1) There shall be established in all Villages in the State a Sharia Committee by the Local Government Sharia Council.</p>   | <p>Establishment of Village Sharia</p>                   |

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- (2) [The Village Sharia Committees]<sup>51</sup> established pursuant to subsection (1) of this section shall have the following persons as members:

Committees

\* \* \*

- (g) representative of Hisbah Board;

\* \* \*

13. The Village Sharia Committee shall perform such functions as stipulated in section 4 of this Law within the Village.

Functions of  
Village Sharia  
Committees

(5) Plan of operations of the Hisbah Board:

The following document, outlining in detail the structure, functions and plan of operations of the Kano State Hisbah Board, was prepared in May 2005 by the first Commander-General, Ustaz Yahaya Farouk Chedi. At the interview with the current leadership of the Board in March 2008 mentioned above, the document was gone through carefully, and changes that have been made since 2005, in line with the amendments to the Hisbah Board Law also mentioned above, were observed. It was agreed that the document should be published here as originally prepared, with the caveat that some changes have been made in the leadership structure which will become apparent once the new Hisbah Board Law is enacted. Note in particular that in place of the Deputy Commanders-General I and II and the Head of the Women Corps, provided for in what follows, there are now three DCGs, for Operations, Special Services, and Women. How the schedules of duties have changed is not known. Names of the persons filling all the various offices in 2005 have been omitted.

PROPOSALS FOR SCHEDULES OF DUTIES  
FOR KANO STATE HISBAH BOARD

Office of the Commander-General  
Rabi'ul Awwal 1426 A.H. (May 2005 C.E.)

*Bismillahir rahmanir rahim. Assalatu wassalamu ala Rasulullah (SAW).*

**Introduction**

It is obvious and a known fact that the Kano State Hisbah Board establishment law for the year 2003 mentioned clearly that the management of the Hisbah Guards and their activities at all level throughout the State is the absolute responsibility of the Commander-General. However, there is a necessity to have a delegation of authority and responsibility of the Commander-General to his two deputies i.e. I and II nonetheless, the overall control and general overseeing of the Hisbah activities remained reserved function of the Commander-General. The atmosphere of the division of labour therefore, of the Hisbah at command level aims at teaming and smooth running of the Hisbah activities.

In the same vein all consultation, intergovernmental relationship, discussion exchange of ideas, dialogue, which are to take place between the Hisbah Command level

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<sup>51</sup> In place of the bracketed language the original text has "There shall be".



and all relevant security agencies of Federal background or any NGO is the responsibility of the commander which he can delegate to any of his deputies at his own discretion. Notwithstanding the duties and function assigned to either of the deputies, the Commander-General reserved the right to delegate any of his responsibilities to any officer of his choice.

### **Briefings**

There shall be a daily briefing between the Commander-General and his two deputies. They should report every morning to the Commander-General and brief him of events within their jurisdiction. Likewise all the ACGs shall report daily to their various DCGs for briefings.

- There shall be a weekly briefing between the Commander-General and his DCGs and all ACGs on the general administration of Hisbah. The Commander-General must be informed of all activities of all department of the State Hisbah Command at this briefing.
- There shall also be a monthly brief with all Local Government Hisbah Commanders and the State Command under the chairperson of the Commander-General, all the DCGs shall be in attendance and shall chair the briefing on delegation by the Commander-General.
- There shall be a monthly briefing at the state level with all officer and rank and files of Hisbah Command (i.e. State Hisbah Corps).

### **Reports**

All the ACGs shall submit a monthly report on the activities of their various Departments to the DCGs while the DCGs shall submit same to the Commander-General monthly.

All reports or issues of emergency or ad hoc nature should be channel through the appropriate office up to the Commander-General immediately. No officer should withhold or otherwise of such cases without the knowledge of the Commander-General.

### **Signatory**

The signatory of all documents and mails that shall be issued out from the Hisbah Command to anybody or agency shall be the ultimate responsibility of the Commander-General, he reserved the right to assign any of his deputies to sign for him and shall be explicitly made for: THE COMMANDER-GENERAL. In other words, NO officer of any cadre shall sign any document or mails without the consent of the Commander-General.

### **Operations**

Operations of any kind covert/overt must have the final approval of the Commander-General at the level of Hisbah activities throughout Kano State.

Local Government:: All Zonal and the 44 Local Government Hisbah Commanders are directly answerable to the Commander-General. All their report and happening are to be submitted directly to the Office of the Commander-General monthly or as the situation warranted. Equally, they are to report to the Commander-General for the monthly briefing with his two deputies in attendance.

In line with this, the Officer of the Commander-General designed the following schedules of duties for the following officers:

1. Deputy Commander-General I
2. Deputy Commander-General II
3. Head of Women Corps

Furthermore, all these officers are directly accountable to the Commander-General while the Commander-General is accountable to the Chairman of the Board.

#### **Duties of Deputy Commander-General I**

1. Shall be in charge of operations & traffic
2. Shall seek the approval of Commander-General in the execution of major operations, special assignments and assignment that are of ad hoc in nature.
3. Shall be in charge of ops room where complaints, calls, report are received, recorded and passed to relevant desk officers for further action.
4. Shall provide escort security to the officials of Sharia implementation bodies (i.e. Sharia [Commission], Zakat & Hub[usi Commission])
5. Shall deploy men of Hisbah Corps to maintain security at Sharia and Zakat office premises and government establishment..
6. Shall liaise with the Deputy Commander II on the planning of major operations or execution of special assignment.
7. Shall deploy men of Hisbah Corps to provide security at venues where Islamic activities takes place e.g. mosques, *eid* prayer, *musabaqah*, *tabajjud* prayer, preaching session, wedding *fatiba*, *haji* operations etc.
8. Shall deploy men of Hisbah Corps to provide security at any governmental functions and public gathering.
9. Shall control vehicular traffic where there are no policemen/traffic wardens.
10. Shall be in charge of all emergency operations.
11. Shall be in charge of drills and discipline.

#### **Duties of Deputy Commander-General II**

1. Shall be in charge of intelligence and *da'awah* activities.
2. Shall seek the approval of the Commander-General in the execution of major operations, special assignments and assignments that are of ad-hoc in nature.
3. Shall be in charge of collection of information and processing same into intelligence on issues, developments, tendencies relevant to Sharia implementation;
4. Shall be part of the ops room on issues of investigation, guidance and counseling.
5. Shall undertake all under-cover operations.
6. Shall be in charge of the organisation of preaching sessions.
7. Shall liaise with the Commander-General in organising training of members of the Hisbah Corps on moral instruction and moral discipline.
8. Shall be in charge of the moral rehabilitation of suspects under Husba Monitoring.
9. Shall be in charge of research and documentations.
10. Shall be in charge of vetting of prospective applicant/recruits into Hisbah Corp.
11. Shall be in charge of information relating to crime which security agencies such as the police may need.

### **Duties of Head of Women Corps**

1. Shall be in charge of Women Hisbah Corps.
2. Shall be directly answerable to the Commander-General.
3. Shall be in charge of organising *da'awah* programmes for women, e.g. Ramadan preaching sessions, seminars and symposiums etc.
4. Shall be in charge of guidance and counseling in respect of female Hisbah Corps.
5. Shall be in charge of organising Islamic lectures and counseling for female students of both secondary and tertiary institutions within the State.
6. Shall monitor and coordinate the activities and programmes of women non-governmental organisations.
7. Shall be reporting to the Commander-General on weekly basis or as the situation warrants.

### **Schedules of Duties for Officers Under Various Departments of the State Hisbah Command**

1. ASSISTANT COMMANDER: GENERAL OPERATIONS (ACG/OPS)
  - This office shall be directly answerable to the Deputy Commander I (i.e. DCG I);
  - This office shall be in charge of operations, patrol and traffic. And each unit shall be headed by O.C. to be appointed by the Commander-General.
  - **THE OPERATION UNIT.** Shall have three units operating under it. These include:
    - Charge Room: which shall be in charge of the daily receipts of complaints, calls and reports;
    - Sentry: shall be in charge of the daily security of the State Headquarters;
    - Standby: which shall be in charge of all special operations of Hisbah and re-enforcement of other corps on certain duties.
  - **PATROL UNIT.** The office shall be in charge of all patrols within and outside the metropolitan.
  - The patrol shall be divided into various bits or position.
  - The Officer shall have three (3) sections namely
    - Transport and Service Section: Shall be in charge of drivers and their services.
    - Special Operations Section: Shall be in charge of all special assignments such as Islamic gatherings, government and public functions and any emergency relief assistance.
    - Patrol Team Section: Their function have been mentioned above.
  - **TRAFFIC UNIT.** The office shall be in charge of all matters of Traffic Control.
    - The office shall have two sections namely: Traffic Wardens and Traffic Sanity.
    - Traffic Sanity Section: Shall be in charge of overseeing the new passengers separation law as well as General orderliness in the transportation sector in accordance with the Sharia Implementation in the State.

- Traffic Warden: Shall be in charge of vehicular traffic control where there are no policemen or wardens.
- 2. ASSISTANT COMMANDER-GENERAL SPECIAL SERVICE UNIT (ACG)
  - This office shall be directly answerable to DCG II
  - The office shall be in charge of all investigations, criminal interrogation and special services
  - The office shall have two (2) sections:
    - INVESTIGATION UNIT: shall be in charge of all investigations detections and general surveillances.
    - SPECIAL SERVICE UNIT: shall be in charge of research and documentations.
- 3. ASSISTANT COMMANDER-GENERAL DA'AWAH (ACG)
  - This office shall be directly answerable to DCG II the office shall be in charge of all *da'awah* activities such as Islamic Propagation, Islamic Lectures and public enlightenment on the activities of Hisbah,
  - The office shall be in charge of guidance and counseling to both Hisbah Corps and the general public especially suspects under Hisbah custody,
  - The office shall have three (3) units, namely, Preaching Unit, Guidance and Counseling Unit and Media and Publication Unit whose functions had been mentioned above.
- 4. ZONAL ASSISTANT COMMANDER-GENERAL (ACG ZONE)
  - This office shall be directly answerable to the Commander-General
  - The office shall be in charge of controlling, supervision and directing of all Hisbah activities of the Local Governments Command under the zone.
- 5. MANPOWER
  - This office is directly under the Commander-General.
  - The office shall be in charge of all matters of recruitment of new corps, replacement and otherwise of the State Hisbah Corps.
  - The office shall also be in charge of training of the State Hisbah Corps both moral and physical training.
  - The office shall have two units i.e. State Recruitment Officer (SRO), State Training Officer (STO).

#### **Distribution of Manpower to Various Units**

1. OPERATION UNIT (225 CORPS)  
[Charge Room, 40 Corps; Sentry, 40 Corps; Special Operations, 145 Corps]
2. PATROL UNIT (120 CORPS)  
[Transport and Service, 30 Corps; Normal Patrol, 75 Corps; Drill & Discipline, 15 Corps]
3. TRAFFIC UNIT (120 CORPS)  
[Traffic Wardens, 40 Corps; Traffic Sanitary, 80 Corps]
4. INVESTIGATIONS UNIT (66 CORPS)  
[Detectives, 18 Corps; Crime Investigation, 18 Corps; Surveillance, 30 Corps]
5. SPECIAL SERVICE UNIT (10 CORPS)

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- [Research and Documentation, 10 Corps]
6. PREACHING UNIT (35 CORPS)  
[Propagation Section, 15 Corps; Enlightenment Section, 15 Corps; Media & Publication Section, 5 Corps]
  7. GUIDANCE AND COUNSELING UNIT (30 CORPS)  
[Counseling, 15 Corps; Moral Orientation, 15 Corps]
  8. MANPOWER UNIT (15 CORPS)  
[Recruitment Unit, 5 Corps; Moral Training, 10 Corps]
- TOTAL: 621 CORPS

**List of Local Governments Under the Three Senatorial Districts**

[names of 17 Local Governments in Kano Central, 14 in Kano South, and 14 in Kano North omitted]

**Names of Officers to Head Various Units and Sections**

The following are names of units and their sections. Also appropriate State Hisbah Corps members to head or supervise them, for the smooth running of the State Command: [names of O/Cs of the 8 units omitted]

- A. OPERATION UNIT  
[names of 4 Charge Room Officers, 5 Sentry and Discipline Officers, and 8 Special Operation Officers omitted]
- B. PATROL UNIT  
[names of 1 Transport and Services Officer, 5 Patrol Team Officers and 2 Drill Officers omitted]
- C. TRAFFIC UNIT  
[names of 4 Traffic Warden Officers and 4 Traffic Sanity Officers omitted]
- D. INVESTIGATION UNIT  
[names of 4 Detectives Officers, 4 Crime Investigation Officers, 4 Surveillance Officers, and 2 Research and Documentation Officers omitted]
- E. DA'AWAH UNIT  
[names of 2 Propagation Officers and 3 Enlightenment Officers omitted]
- F. GUIDANCE AND COUNSELING UNIT  
[names of 2 Counseling Officers and 2 Moral Orientation Officers omitted]
- G. MANPOWER UNIT  
[names of 1 Recruitment Officer and 1 Moral Training Officer omitted]

**Names of Officers and Their Ranks**

The following are the Hisbah Officer Ranks and their names as approved by the Commander-General of Hisbah.

ASSISTANT COMMANDER-GENERAL (A.C.G.)

[names of ACGs Ops, Da'awah and Special Services omitted]

ASSISTANT SUPERINTENDENT OF HISBAH (A.S.H.)

[names of the ASHs for eight sections of Kano City omitted]

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SERGEANT (SGT)

[19 names with names of towns omitted.]

CORPORAL (CPR)

[29 names with names of towns omitted.]

LANCE CORPORAL (L.CPR.)

[13 names with names of towns omitted.]

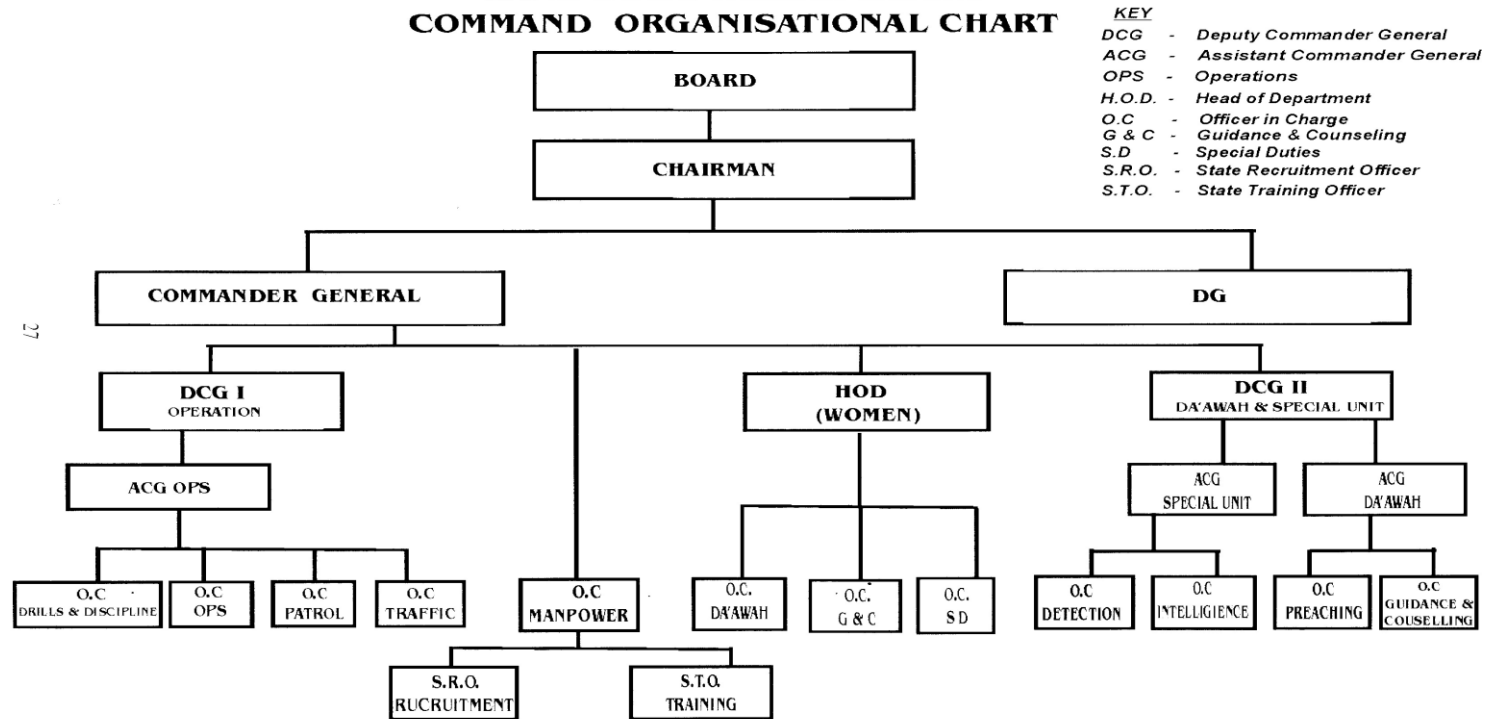
**Hisbah Corps Identification Numbers**

[identification numbers given for officials of various ranks of the State and Local Government Commands]

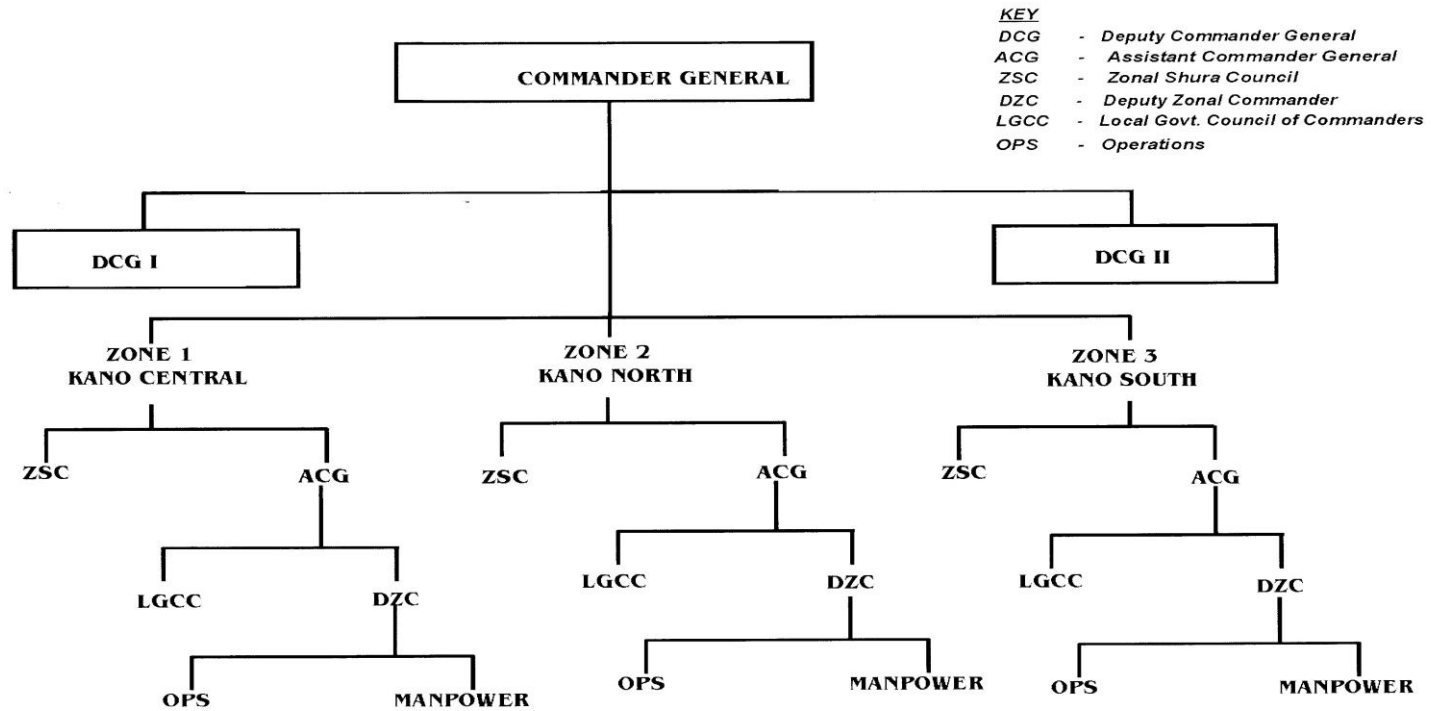
**Organisation Charts**

[next two pages]

# **KANO STATE HISBAH BOARD COMMAND ORGANISATIONAL CHART**



**KANO STATE HISBAH BOARD  
ZONAL COMMAND CHART**





## **Schedules of Duties for Local Government Hisbah Commands**

### **INTRODUCTION**

The Kano State Hisbah Board Law 2003 section 9, subsection 1 provides for the establishment of Local Government Hisbah Committees.

The Committees have two organs namely:

- An Advisory Committee
- A Management Committee

The Advisory Committee shall have fifteen members with the District Head as the Chairman while the Local Government Hisbah Commander will serve as the Secretary.

While the Management Committee have five members with the commander as the Head of the Management Committee.

The Commander is the Chief Administrator of all the Hisbah Corps and their activities; he has four offices that are answerable to him namely:

- Deputy Commander
- Head of Intelligence
- Head of Da'awah
- Head of Women Corps

However, the Commander shall be in charge of all communication with the Board and the Local Governments. The Commander also have the responsibility of all consultations, intergovernmental relationships and discussions with all relevant security agencies under his jurisdiction. The commander also reserved the right to delegates any of his responsibilities to his Deputy or any officer under him.

### **DUTIES OF THE DEPUTY COMMANDER**

1. Shall be in charge of operation and traffic department.
2. Shall only execute major operations and special assignment with the approval of the Commander.
3. Shall deploy Hisbah Corps to provide security at venues where Islamic activities take place e.g. mosques, Eid prayer, Musabaqah, preaching sessions, Wedding Fatiha, Hajj Operations, etc.
4. Shall deploy Hisbah Corps to provide security at any governmental functions and public gathering.
5. Shall liase with any Head of Department in planning and execution of major operations or special assignments which are ad hoc in nature.
6. Shall be in charge of ops rooms where complaints, calls and reports are received, recorded and passed to the commander for necessary action.
7. Shall control vehicular traffic where there are no policemen/traffic wardens, as a compliment to the police.

### **DUTIES OF HEAD OF INTELLIGENCE**

1. Shall be in charge of intelligence, research and documentation.

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2. Shall seek the approval of the Commander in executing major operations and special assignments.
3. Shall undertake all under-cover operations.
4. Shall liaise with the Deputy Commander or any Head of Department in executing major operations and special assignments which are ad hoc in nature.
5. Shall be in charge of collection of information and processing them into intelligence on issues and developments, tendencies relevant to Sharia implementation.

DUTIES OF HEAD OF DA'AWAH

1. Shall be in charge of *da'awah*, guidance and counseling.
2. Shall be in charge of organising preaching sessions and sermons.
3. Shall be in charge of guidance and counseling on civil matters such as marriage, inheritance and child abuse.
4. Shall be in charge of moral rehabilitation of suspects under Hisbah monitoring.
5. Shall be in charge of moral instructions to Hisbah Corps.

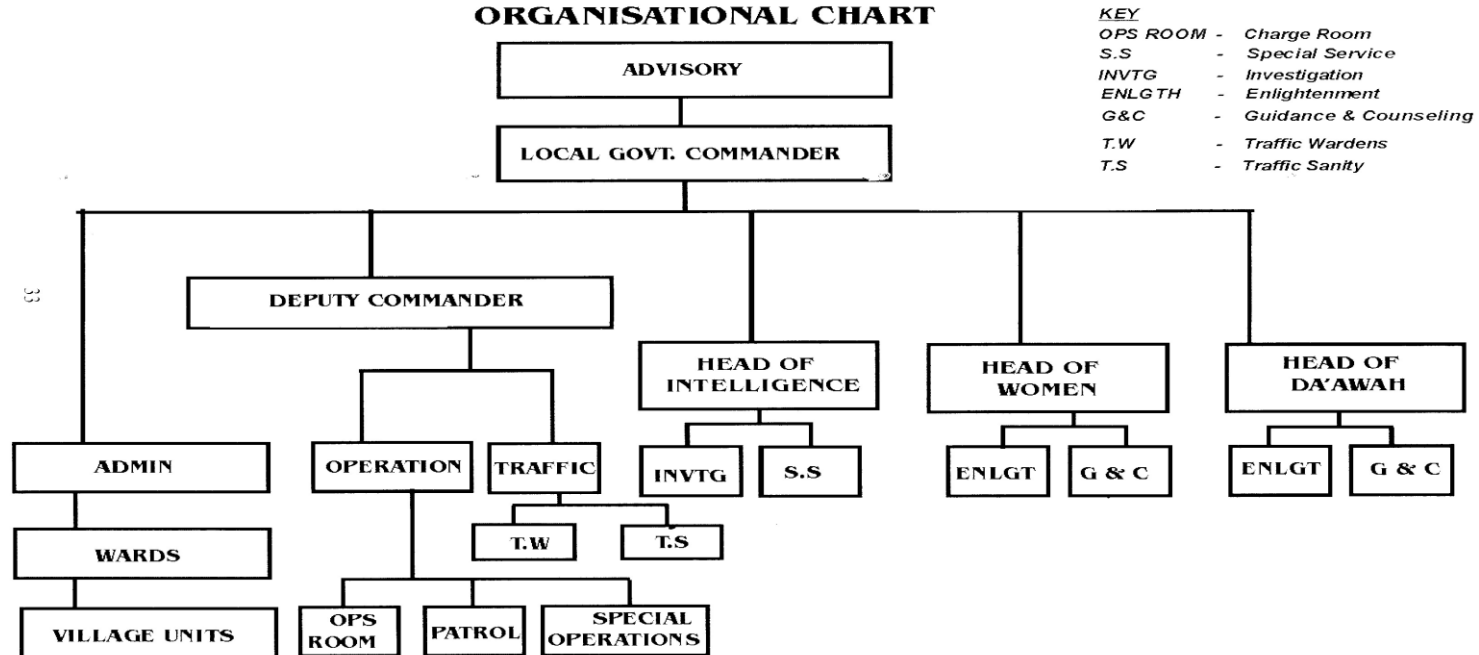
DUTIES OF HEAD OF WOMEN CORPS

1. Shall be in charge of women Hisbah Corps.
2. Shall be directly answerable to the Commander.
3. Shall be in charge of organising *da'awah* programmes for women e.g. Ramadan preaching and other special preaching.
4. Shall be in charge of guidance and counseling for female suspects under Hisbah monitoring.
5. Shall be in charge of organising Islamic lectures and counseling at all female secondary schools within the Local Government.
6. Shall monitor and co-ordinate the activities and programmes of women non-governmental organisations operating within the Local Government.
7. Shall be in charge of surveillance and detection on women matters.

**Local Government Hisbah Commands Organisation Chart**

[next page]

### LOCAL GOVERNMENT HISBAH ORGANISATIONAL CHART



**Traffic Junctions and Main and Mini Motor Parks Within Kano Metropolitan**

- A. MAIN MOTOR PARKS  
[names of 23 motor parks in 8 Local Governments omitted]
- B. BUS STOPS WITHIN THE METROPOLITAN  
[names of 88 bus stops in 8 Local Governments omitted]
- C. MAIN JUNCTIONS WITHIN THE METROPOLITAN  
[names of 53 junctions on 16 streets and roads omitted]

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**Ustaz Yahaya Farouk Chedi**  
Commander-General

- (6) From a 2007 essay by Ahmad Yahya:<sup>52</sup>

To eradicate social vices such as prostitution, wine drinking, e.t.c. the government employed a gradual approach so that chaos may not be created in a sensitive state like Kano. This is now bearing fruits. About 9000 Hisbah guards, most of whom are youth, were employed in order to enhance its activities. Besides constructing the state Headquarters of the Hisbah Board, the government procured about 192 branch offices in the 44 local governments. The Board is categorized into three: The state headquarters with Director General and his Deputy, three directors, twenty five staff and 850 male and female Hisbah Guards. The local government chapter consists of an Advisory Committee with 660 members from the 44 local governments and executive committee with 220 members and 8000 Hisbah guards from the 44 local governments. At the ward level about 484 Zaurukan Sulhu (Reconciliation Forum) in the 44 local government were formed with 7260 members. Besides intensive training of the Hisbah Guards (about 19 times) they are put on the state payroll and equipped with 12,000 uniform, 66 buses and 83 motorcycles.

**c. The statutory *hisbah* in action**

Since their inauguration at a huge ceremony in Kano on 3 July 2005, presided over by Governor Shekarau,<sup>53</sup> the Kano *hisbah* have been much in the news. Only some points can be mentioned here.

- (1) Two early accusations:

Former Kano Governor Dr. Rabiu Musa Kwankwaso, whom Shekarau had defeated in the 2003 governorship election, had become the Nigerian Minister of Defense in the

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<sup>52</sup> Ahmad Yahya, "Between An Invading Centre And A Marauding Periphery: The Shari'ah Based Governance Of Malam Ibrahim Shekarau", [http://www.esinislam.com/Readers\\_Articles\\_Posted/Between\\_Invading\\_Centre\\_And\\_Marauding\\_Periphery\\_Shariah.htm](http://www.esinislam.com/Readers_Articles_Posted/Between_Invading_Centre_And_Marauding_Periphery_Shariah.htm) (n.d.; apparently published in early 2007). Ed. note: Malam Yahya's essay uses 'Shari'ah': this has been changed to 'Sharia' for present purposes, and other minor grammatical adjustments have been made.

<sup>53</sup> See *The Guardian*, 5 July 2005, 3 for an account of the inauguration.

administration of President Olusegun Obasanjo. He was quick to allege “that Shekarau was planning to set the state on fire with the introduction of Hisbah group which he said had nothing to do with sharia but was only meant to coordinate Shekarau's political activities ahead of the 2007 elections.”<sup>54</sup> Shekarau's government of course denied this, saying that the *hisbah* were only set up to help implement Sharia law. “Members (of Hisbah) are versed in the tenets of sharia and are trained to spread the gospel of the Islamic ways of life in a peaceful manner taking into consideration the diverse cultures and religious beliefs of the people in the state.”<sup>55</sup>

A different kind of accusation came from Kano's Shias. According to an article posted on Al-Huda News in September 2005:<sup>56</sup>

The Permanent Secretary in the state's Sharia Commission...likened the Shia to the Maitatsine menace that must be eradicated... [His] words:

*"Shia is fast gaining ground in Kano like wild fire, which you find in every nooks and corners of this state, and if we don't act fast and decisively we will be faced with a disaster worse than Maitatsine."*

It is a known fact that recently Kano state recruited 9,000-strong hisbah outfit ostensibly to enforce the implementation of sharia in the state by checking vices and corrupt practices. Although the hisbah take a collectively monthly payment of 54 million naira (\$385,714), their role has been restricted to complimenting traffic police in traffic control. However that may soon change as the state government through its organ, the sharia commission intend to direct the energies of these 9,000 young trained vigilante in attacking and killing the Shia in Kano, which is the real mission they are created to accomplish. Once the attacks start in Kano, they will be extended to other ‘sharia implementing states’ with similar hisbah outfits. Al-Qaeda in Nigeria is born!

The Wahabi government in Kano is using public money, which the Shias in Kano have a stake to pay 9,000 trained men to attack and kill them. Therefore Shekarau and his administration should take responsibility for any attacks and harm against the Shias in Kano. There is no way they can absolve themselves from whatever befalls the Shias in Kano.

Whether the *hisbah* have actually played any role in Kano politics or in relations between the Sunnis and the Shias in the State are matters not pursued further for purposes of this work.

(2) The attempt to stop women riding commercial motorcycles:

Already at the inauguration of the *hisbah* on 3 July 2005, Governor Shekarau had given notice that the *hisbah* would among other things try to enforce new standards of behaviour on women.

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<sup>54</sup> *ThisDay*, 22 July 2005, “Hisba Corps: ‘No Threat to National Security’”, internet edition.

<sup>55</sup> Ibid.

<sup>56</sup> Al-Huda News, 27 September 2005, “Kano Shias Under Wahabi Threat”, <http://al-huda.al-khoi.org/news/44/ARTICLE/1097/2005-09-27.html>.

Heads of tertiary institutions of learning in Kano State have been directed by Governor Shekarau to enforce the appropriate dress code on their students to save them from being visited by the Sharia police (*hisbah*). This directive was given as Shekarau inaugurated the State Hisbah Committee. "The Kano State Government will not condone any act of indecent dressing that exposes the nudity of any person. Right now, the 9,000 *hisbah* members have been given the powers to monitor all parts of the State and arrest Sharia violators." Shekarau said that neither Islam nor Christianity condoned indecent dressing, drunkenness, womanising, prostitution or gambling.<sup>57</sup>

But the main effort regarding women had to do with their use of commercial motorcycles, driven invariably by unrelated men. In May 2005 Governor Shekarau signed into law an amendment to the State's Road Traffic Ordinance,<sup>58</sup> adding the following new section to the main law:

45. (1) Any motorcyclist who:
- (a) carries any female as a paying passenger;
  - (b) carries more than one person;
  - (c) overtakes any vehicle on the right hand side;
  - (d) uses a motor vehicle horn on his motorcycle; or
  - (e) does anything that hampers the smooth flow of traffic on any public way,
- shall be guilty of an offence and upon conviction be liable to a fine of not less than ₦5,000.00 or be barred from driving any vehicle for a period which may extend to six months.

\* \* \*

Similar attempts to end use by women of commercial motorcycles were made in other states.<sup>59</sup> The difference was that in Kano a concerted effort was made to enforce the ban. In November 2005 the Chairman of the Kano *hisbah*, Sheikh Farouk Chedi, said that enforcement would start as from 12<sup>th</sup> December 2005.<sup>60</sup> It did, and serious problems ensued, including several episodes of fighting involving the motorcycle drivers, the *hisbah*, and the police. These disturbances, no doubt among other considerations, led Federal Government to ban the Kano *hisbah* and arrest its Chairman (see next subsection).

On the news of the arrest of Sheikh Chedi several [motorcycle drivers] were seen jubilating: "We expected the action. It came at the right time. These *hisbah* guards started behaving as if they were laws unto themselves. They stopped us

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<sup>57</sup> *The Guardian*, 5<sup>th</sup> July 2005, 3.

<sup>58</sup> Kano State Road Traffic (Amendment) Law 2005, Kano State of Nigeria Gazette No. 2, Vol. 37, 2<sup>nd</sup> June 2005, Supplement Part A pp. A7-A10. The law was signed by Governor Shekarau on 12<sup>th</sup> May 2005. The law is reproduced in Chapter 3 (Vol. III), 213-214.

<sup>59</sup> See J.M. Nasir, "Sharia Implementation and Female Muslims in Nigeria's Sharia States", in Chapter 3 of this work, 76-118, at 108-111.

<sup>60</sup> Interview with Sheikh Farouk Chedi, Kano, 28<sup>th</sup> November 2005, by S. Mohammed and A. Garba.

from carrying women; they seized our motorcycles and even made us pay fines ranging from ₦3,000 to ₦5,000. We never expected them to do this to us. Their action in recent times affected our means of livelihood. That is why you see us fighting them in various parts of the town.”<sup>61</sup>

The *hisbah* were not right away deterred:

Defying the Federal Government’s directive, members of Kano *hisbah* at the weekend returned to the streets of Kano. They clashed with commercial motorcyclists scores of times when they tried to enforce the no gender-mixing rule sanctioned by the State Government recently. Governor Shekarau had ordered the *hisbah* to return to their duty posts. Scores of policemen were sighted patrolling the streets of Kano apparently to contain tension. Sermons delivered by clerics called for restraint on the part of Muslims to avoid breakdown of law and order.<sup>62</sup>

Things did calm down – because attempts to enforce the rules were quickly relaxed. One still sees women riding commercial motorcycles in Kano.

(3) The Federal Government’s abortive ban of the Kano *hisbah*.

The Federal Government ban on the Kano *hisbah* came in early February 2006. The action was premised on two provisions of Nigeria’s 1999 Constitution. Under the Second Schedule, which allocates legislative powers between the federal and state governments, “Police and other government security services established by law” are on the Exclusive Legislative List (IId Sched. Pt. I §45), making police and security the exclusive legislative preserves of the National Assembly. And Article 214(1) of the Constitution makes the point very clear:

There shall be a Police Force for Nigeria, which shall be known as the Nigeria Police Force, and [...] no other police force shall be established for the Federation or any part thereof.

Following the clashes in Kano in late 2005 and early 2006 between the commercial motorcycle drivers, the *hisbah*, and the police, the Federal Government accused the Kano *hisbah* of being an illegal police force, banned it, and arrested its Commander (Chedi) and his deputy, charging them with three counts of felonious membership and management of an unlawful society.<sup>63</sup> In response, two lawsuits against the federal government were promptly filed. Kano State sued in the Supreme Court, seeking a declaration that its *hisbah* organisation was legal; and the Commander and his deputy sued in the Federal High Court, seeking damages for unlawful arrest and illegal detention. The Supreme Court case was inconclusive: the court dismissed it as not within its original jurisdiction and said it should be refiled, if at all, in the Federal High Court (it never was). Kano was the clear winner in the other two cases: the *hisbah* Commander and his deputy were acquitted of the criminal charges, and in their own suit for illegal

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<sup>61</sup> *The Guardian*, 10<sup>th</sup> February 2006, 1-2.

<sup>62</sup> *The Guardian*, 12<sup>th</sup> February 2006, 3.

<sup>63</sup> *The Guardian*, 10 February 2006: 1.

detention they won ₦500,000 each.<sup>64</sup> The Kano and other hisbah organisations are still very much in business.

(4) Alcoholic drinks.

Most Sharia States took steps to curb the manufacture, sale, and consumption of alcoholic drinks.<sup>65</sup> Kano State under Governor Shekarau went the furthest, enacting the following provision by way of amendment of its Penal Code:

**401.** The manufacture, distillation, distribution, disposal, haulage, consumption and possession of all brands of intoxicating liquors, trade spirits and any other intoxicating substance is hereby prohibited throughout the State.<sup>66</sup>

By putting this provision in its Penal Code, applicable to everyone in the State, rather than in its Sharia Penal Code, applicable only to Muslims, Kano thus forbade the consumption of alcoholic drinks by non-Muslims as well as by Muslims. No other State did this.

Early reports from Kano were that the ban was not being enforced, either by the police, who seemingly had no interest in enforcing it, or by the *hisbah*, who seemed unable to do so.<sup>67</sup> But the struggle has continued. According to the essay by Ahmad Yahya quoted above, apparently published in early 2007:

The [Hisbah] Board also succeeded in confiscating 33 trucks, conveying 11550 cartons of wine and 38,821 bottles and 24 jerry cans. Similarly, about 13 out of 452 beer parlours have been successfully sealed off, while about 8 are turned to schools.<sup>68</sup>

Here, without further comment, are some subsequent news reports, showing that things have not always gone smoothly or according to due process of law:

4 February 2008: **Tension Mounts in Kano As Govt Enforces Sharia.**<sup>69</sup>  
Tension was rife in Kano following moves by the state's sharia police against brothel[s], hotels and cafes situated in non-Muslim sections of the Sabon Gari area of the metropolis. The [*hisbah*] numbering about two hundred were seen at night patrolling in seven open vehicles that carried dangerous weapons

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<sup>64</sup> The Supreme Court case is reported, see *Attorney-General of Kano State vs. Attorney-General of the Federation* (2007) 3 NILR 23, see <http://www.nigeria-law.org/Attorney-General%20of%20Kano%20State%20v%20Attorney-General%20of%20the%20Federation.htm>. For the victory of the Commander and his deputy in their civil suit, see *Daily Triumph*, 29 March 2007, internet edition, <http://www.triumph-newspapers.com/archive/DT29032007/right293207.html>. The acquittal in the criminal case was reported to the editor in a visit to the Kano State Hisbah Board in March 2008.

<sup>65</sup> For details see P. Ostien and M.J. Umaru, "Changes in the Law in the Sharia States Aimed at Suppressing Social Vices", in Chapter 3 of this work, 9-75, at 29-43.

<sup>66</sup> Penal Code (Amendment) Law 2004, Kano State of Nigeria Gazette No. 5, Vol. 36, 27<sup>th</sup> May, 2004 Supplement Part A pp. A13-A14. The law was assented to by Governor Shekarau on 11<sup>th</sup> May 2004. It is reproduced in full in Chapter 3, pp. 188-189.

<sup>67</sup> Ostien and Umaru, "Changes in the Law", op. cit., pp. 42-43.

<sup>68</sup> Yahya, "Between An Invading Centre And A Marauding Periphery", op. cit.

<sup>69</sup> *ThisDay*, internet edition.



including bows, arrows, sticks and cutlass. They attacked a civil service club at Magajin Rumfa Road, and all the hotels that are located in Sabon Gari, an area where most of its inhabitants are Christians. The [*hisbah*] earlier turned down summons by the Kano State Police command, which had cautioned them about their unconstitutional activities. “We’re operating our duties based on [the] law of the state, and sharia must be complied with by anyone residing in Kano” a top official of the Hisbah said following the police summons. When THISDAY visited the office of the Hisbah Police yesterday, about 70 females were found in cells, put there over allegations of prostitution, while one lady was in chains for declining to render relevant information.

26 October 2008: **Shekarau Destroys 36,410 Bottles of Beer, Donates Vehicles to Hisbah.**<sup>70</sup> Kano State governor Malam Ibrahim Shekarau last week destroyed 36,410 bottles of alcohol confiscated by Hisbah operatives, just as he donated vehicles to the Command... Explaining that his administration had successfully implemented Sharia in the state, he urged Hisbah, “Anything you need, inform me. We can spend any amount on the activities of the Hisbah. We would not mind spending the whole treasury to ensure the success of Sharia in the state.”

13 January 2009: **Sharia Committee Destroys N50 Million Drinks.**<sup>71</sup> Kano State Shariah implementation arm has destroyed nine truck loads of beer and non-alcoholic drinks worth over ₦50 million, despite the suit at High Court filed by Hoteliers Association for a stay of action... [The president of the Hoteliers Association] confirmed the seizure, but expressed surprise on how one of the trucks...loaded with alcoholic drinks could not be accounted for by Hisbah operatives who impounded it... He said there was a subsisting Memorandum of Understanding...between Hisbah and Hoteliers Association to shield contents of the trucks from public view before conveying them into the Pyramid City, which was complied with by the association. He expressed worry over Hisbah’s refusal to transfer the case to the state Police Command for investigation, as ordered by Kano State Commissioner of Police.

2 May 2009: **Beer Truck Crashes in Attempt to Dodge Hisbah.**<sup>72</sup> The effort of some truck drivers to dodge Hisbah operatives and smuggle three truck-loads of banned alcoholic drinks into Kano failed a fortnight ago... The Hisbah command told Pyramid Trust: “Our men were on night patrol when they saw three trucks moving into the city at around 3:30 a.m.... Unknown to them, however, our men were on ground as such they made an attempt to stop them, but one of the drivers attempted to run away...” The truck that attempted to run away was conveying 1,400 cartons of beer...and it crashed into a drainage close to Silver Jubilee roundabout in the city centre.... [T]he police arrested the other two vehicles, as [the *hisbah*] had sought for the police assistance while they were chasing the trucks.

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<sup>70</sup> *Daily Trust*, internet edition.

<sup>71</sup> *This Day*, internet edition.

<sup>72</sup> *Daily Trust*, internet edition.

21 December 2010: **Kano hisbah destroys trucks of soft drinks.**<sup>73</sup> Officials of the Kano State Hisbah Board, ostensibly acting on a fake tip-off in the early hours of Saturday, harassed drivers and conductors of two articulated vehicles which were bringing in soft drinks into Kano from Kaduna. The passionate plea by the drivers and conductors of the vehicles that what they were carrying are not prohibited products, but soft drinks met deaf ears. The police patrol team at the checkpoint also pleaded with the Hisbah men to no avail. The incident...saw the Hisbah officials carry out the attack right in the presence of a police patrol team... It was gathered that the policemen could not stop them... [The] manager of the company that ordered the drinks, said the level of damage on the long vehicles is put conservatively at N2 million. He complained that the Hisbah officials also drew diesel from the tanks of the vehicles into 50 litre jerry-cans which they took away with them.

(5) Other hisbah activities:

Other fields, besides the fights against women using commercial motorcycles (and more generally against mixing of unrelated men and women) and against alcoholic drinks, in which the Kano *hisbah* have been active, include attempts to curb prostitution<sup>74</sup> and homosexuality,<sup>75</sup> and attempts, in conjunction with the State Censorship Board, to enforce censorship laws against the Kano film industry.<sup>76</sup> These activities, all parts of the culture wars in Kano, have generated a great deal of controversy which cannot be further documented here.

Less controversial have been other *hisbah* activities, summed up once again, as at early 2007, by Ahmad Yahya:

Through this Board the government...provided security at over 1556 occasions, resolved amicably about 23,167 conflicts of various types, converted about 4512 people to Islam, repatriated about 1951 lost and the runaways to their respective families, assisted about 4679 sick people, married off about 40 people, offered various assistance to about 2878 less privileged, established about 314 study centres, provided funeral shrouds to about 33 dead people and settled about 466 ownership disputes.... About 229 juveniles, hitherto being trained to become hooligans by some selfish individuals were repatriated to their respective parents. The barbaric custom of staying the night with very young girls of tender age on market days was successfully obliterated in 75 markets both in the rural and urban areas. About 26 people suspected of sexually abusing children were handed over to the police... These are some of the achievements of the Sharia-based [administration of Malam Shekarau] through this Board.<sup>77</sup>

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<sup>73</sup> *Leadership*, internet edition.

<sup>74</sup> See e.g. *ThisDay*, internet edition, 4 February 2008, "Tension Mounts in Kano As Govt Enforces Sharia".

<sup>75</sup> See e.g. BBC News, internet edition, 27 April 2007, "Polygamous lesbians flee Sharia".

<sup>76</sup> See e.g. *Leadership*, internet edition, 2 April 2008, "The War Against Film-Making".

<sup>77</sup> Yahya, "Between An Invading Centre And A Marauding Periphery", op. cit.

(6) The *hisbah* and the police:

Relations between the *hisbah* and the police in Kano evidently remain tense. As the above excerpts from the news indicate, the *hisbah* and the police have sometimes cooperated. But often they have not, the *hisbah* even acting in defiance of the police and even of court orders.<sup>78</sup> How this tension will resolve itself remains to be seen. In conclusion of this Part of this chapter, here is a report of a warning from the then-chairman of Kano's Council of Ulama to the police:

1 April 2009: **Sharia – Ulama Council Warns Kano Police Boss.**<sup>79</sup> The Council of Ulama in Kano yesterday warned the Commissioner of Police, Muhammad Aminu Yesufu, to stay clear of the way of full implementation of sharia or face the wrath of the people. The Chairman, Kano Council of Ulama, Sheik Ibrahim Umar Kabo, accused the police of sabotaging the effort of Hisbah to curb "evils" in the state... Kabo accused the CP over his alleged failure to protect the edict setting up the Sharia Commission, adding that his office had in the process circumvented an established order contrary to his constitutional responsibility.

"The essence of this press briefing today is to draw the attention of the public to one Muhammad Aminu Yesufu over his anti-sharia stance. He has used his office to circumvent the full implementation of sharia as contained in the state edict," Kabo said. He recounted how the CP gave ultimatum to the Hisbah Board to return a sized truck load of beer after summoning their high command, adding that they ignored his order and set the truck ablaze. "We have not done anything out of context with the existing law of Kano state, and since it is obvious that the CP in concert with several anti sharia elements is out to frustrate the full implementation of the law, we have no option than to commit them to the hand of Allah for justice to prevail."

Sheik Ibrahim Kabo lamented that the CP who claimed to be a Muslim could allow himself to be used by a supposed enemy of his religion, stressing that there is no going back as far as realization of the law is concerned. The chairman further declared that Kano Muslims are peace loving and will continue to embrace peace in the face of glaring provocation, stressing that as it stands today no one is competent to stop the chosen way.

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<sup>78</sup> In March 2009 the Human Rights Institute of the Nigerian Bar Association condemned disregard for the rule of law by the Kano *hisbah*, citing "the invasion of a Kano High Court by some members of Hisbah-Sharia police, who forcefully took possession of a vehicle containing crates of alcohol, which had been ordered to be released to its owner by the court." *ThisDay*, internet edition, 12 March 2009, "NBA Berates Police, Sharia Agents".

<sup>79</sup> *Vanguard*, internet edition.

7.

**Katsina State**

**a. Overview**

The difficult process of Sharia implementation in Katsina State, marked by clashes between the State Government and independent Muslim groups wanting to push the process faster and farther than the Government was willing to go, is summarised in Chapter 8 Part II.7. As that discussion indicates, Katsina State's Sharia Commission was caught up in the conflict and in the end was brought more closely under Government control than it at first had been.

The same pattern of conflict with the State Government, and eventual taming by it, repeated itself in the case of the *hisbah* in Katsina State. There never has been an official, State-run *hisbah* organisation in Katsina. But an independent *hisbah* organisation was formed, which initially named itself *Rundunar Adalci* – “The Army of Righteousness”. In the early days of Sharia implementation this and perhaps related groups were very active. Already in the second half of 1999 some Local Government Councils had acted to stop the consumption of alcohol in their jurisdictions; prostitution was also to be driven out; and the *hisbah* were ready to help, often taking the law into their own hands.<sup>80</sup> Important people were affected: “The children of the rich were being caught and arrested by the *hisbah* people.”<sup>81</sup> The Sharia Commission's early ban on music and dancing resulted in the first part of 2001 “in violent clashes...after musicians resisted attempts by the *hisbah* to prevent traditional musicians and praise-singers from operating.”<sup>82</sup>

In April 2001, the Katsina Arts and Musicians Association wrote to the Katsina House of Assembly protesting the arrest and detention of Sirajo Mai Asharale. Asharale was arrested by the state-sanctioned [sic: this is incorrect] *Rundunar Adalci* vigilante group while performing music at a local function, but was released soon after his arrest. The performance of music and dancing was banned under the Sharia law introduced by Katsina state.<sup>83</sup>

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<sup>80</sup> See e.g. “Sober and Disorderly”, BBC News, 3 September 1999, <http://news.bbc.co.uk/1/hi/world/africa/437719.stm>, reporting that “Alcohol and prostitution were the targets for a militant sect when it went on the rampage in the Nigerian town of Katsina. Dozens of Izala activists, who profess a militant form of Islam, destroyed eight hotels and 20 beer-parlours in the town, dragging a girl out of one of the hotels to strip and humiliate her, Lagos newspaper *The News* reported.”

<sup>81</sup> Per a Malam Adamu, interviewed at the Sharia Commission in Katsina on 7<sup>th</sup> December 2005 by S.A. Mohammed and A.S. Garba. Cf. the problems that arose in Jigawa State when the *hisbah* arrested the son of a prominent member of the Dutse Emirate Council, Part II.4. above.

<sup>82</sup> Human Rights Watch, “‘Political Shari’a’? Human Rights and Islamic Law in Northern Nigeria”, <http://www.hrw.org/reports/2004/nigeria0904/8.htm>. The ban on music and dancing and its quick reversal are discussed in further detail in Chapter 8 Part II.7.

<sup>83</sup> US Department of State, “Nigeria: International Religious Freedom Report 2001”, <http://www.state.gov/g/drl/rls/irf/2001/5687.htm>.

It seems the Katsina *hisbah* were not simply arresting people and handing them over to the police for further processing, but had sometimes expanded their activities “to arrests, detention, and prosecution”.<sup>84</sup> This was bound to lead to trouble.

The State Government prevailed on the Sharia Commission to reverse the ban on music and dancing; this was announced in August 2001.<sup>85</sup> At about the same time the Governor cracked down on the *hisbah*. This was announced at the 2001 *Id el-Maulud* celebration in Daura.<sup>86</sup> *Id el-Maulud*, the celebration of the Prophet Muhammad’s birthday (a moveable feast falling on 4<sup>th</sup> June in 2001), is observed in Nigeria by members of the Sufi orders but is frowned on as an innovation by the more puritanical members of *Jama’atu Izalatil Bid’ah Wa’ikamatis Sunnah*: JIBWIS, or Izala: the Society for the Eradication of Innovation and the Establishment of Sunnah.<sup>87</sup> The *hisbah* in Katsina appear to have been dominated by Izala, and it is interesting that the Governor should have chosen a Sufi festival to announce his crackdown; it perhaps confirms what one informant said: “The Governor capitalized on sectarian differences between Izala and *tarika* to cause confusion for the smooth implementation of Sharia in the State. He set the *hisbah* up against the *tarika* people.”<sup>88</sup> Unfortunately no written record of what the Governor said has been obtained, and the reports of informants vary: that “the *hisbah* should stop policing otherwise the Nigeria police will be used to deal with them”; that “no *hisbah* should arrest”; that “the police should not entertain any cases from *hisbah*”; that “the Sharia Courts should not entertain cases from *hisbah*”; even that the Governor “declared them as enemies of the State” and “asked the police to arrest them anywhere they see them”.<sup>89</sup> The most drastic of these versions of what the Governor said can be discounted, as the Katsina *hisbah* still exist and still do their work in cooperation with the police. What has happened is that the *hisbah* have been stopped from acting as if they *were* the police, with all the powers and privileges thereof; and the early tendency of some of them to take the law into their own hands has been curbed as well.

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<sup>84</sup> Per I.B. Gafai, the Katsina State Director of Public Prosecution, interviewed in Katsina on 5<sup>th</sup> May 2003 by S.U. Fwatshak and D. Abubakar.

<sup>85</sup> “Katsina Sharia panel okays singing, drumming”, *Guardian*, 10<sup>th</sup> August 2001.

<sup>86</sup> Per several Katsina informants.

<sup>87</sup> The long conflict between Izala and the Sufis has been much studied, see e.g. M.S. Umar, “Changing Islamic Identity in Nigeria from the 1960s to the 1980s: From Sufism to anti-Sufism”, in L. Brenner, ed., *Muslim Identity and Social Change in Sub-Saharan Africa*, Bloomington and Indianapolis: Indiana University Press, 1993, pp. 154-178, and R. Loimeier, *Islamic Reform and Political Change in Northern Nigeria*, Evanston: Northwestern University Press, 1997.

<sup>88</sup> Sheikh Yakubu Musa Kafanchan, the founder of the Katsina *hisbah*, interviewed in Katsina on 8<sup>th</sup> December 2005 by S.A. Mohammed and A.S. Garba. The Emir of Katsina was also reported to have blamed the sorry state of Sharia implementation in Katsina on “polarisation of the Muslim *ummah* along sectarian lines,” and to “the jostling for supremacy among the many Islamic sects.” See “Katsina Deputy Governor Heads Sharia Committee”, *Weekly Trust*, 28 October 2003.

<sup>89</sup> The quotations variously from Malam Adamu and Sheikh Kafanchan, already cited, and from Malam Yakubu Musa Hassan, the Katsina State Chairman of both the Supreme Council for Sharia in Nigeria and of JIBWIS, interviewed in Katsina on 5<sup>th</sup> May 2003 by S.U. Fwatshak and D. Abubakar.

Section **b** below gives a paper on “Principle of *Rundunar Adalci* and its Application” kindly provided in 2003 by the Chairman of the *hisbah* organisation in Katsina, and section **c** gives summaries of two 2003 interviews in which many of the matters mentioned above were discussed.

### **b. Principles of the *Rundunar Adalci***

#### KATSINA STATE

#### PRINCIPLE OF RUNDUNAR ADALCI AND ITS APPLICATION<sup>90</sup>

*Bismillahir rahmanir rahim.*

*Innal hamda lillah, nahmaduhu wa nasta'inuhu wa nastagfiruhu wa na'uzu billahi min shurari anfusina wa min sayyi'ati a'amalina. Mayyadhillahu fa huwal muhtadin wa manyudilil fa lan tajida labu walayyan murshidab ashbadu anla illaha illallahu wa ashbadu anna Muhammadan abduhu warasuluhu (SAW) amah b'adu, assalamu alaikum wa rahmatullahi wa bara katuhu.*

#### DEFINITION OF HISBAH

Commanding good and forbidding evil (*al-amur bil ma'aruf wananhiy anil munkar*) is a cardinal Qur'anic principle, which lies at the root of many Islamic laws and institutions. As an epithetical description of Islam itself, this principle is the supreme objective of the Sharia, and ethical core of governmental power. Accordingly, citizens are in so far as their conditions and capabilities permit, entitled to speak and to act in pursuit of what in their enlightened judgment seems good, or they can forbid, whether in words, acts or silent denunciation, any evil which they see being committed. Therefore, as this is the essence of all religion, a total neglect of *hisbah* would bring about the collapse of religion and widespread corruption and ignorance. Ibn Qayyim al-Jawziyya's assessment regards it as a collective obligation (*fard kifai'a*) in which everyone must participate to the extent of his or her ability. The activities of *Rundunar Adalci* is to be carried out within an Islamic community to enhance its social well-being.

#### THE CONCEPT OF COMMUNITY IN ISLAM

In one form, community is all forms of relationship that are characterized by a high degree of personal intimacy, emotional depth, moral commitment, social cohesion and continuity in time, locality, religion, rule [and] occupation. (Nisbet p. 47)

In Islam however, community is not founded on rule, nationality, locality, occupation, kinship or special interests. It transcends national borders and political boundaries. Its foundation is the principles, which designate submission to the will of Allah, obedience to His laws and commitment to His cause. An Islamic community is far beyond the mere survival, sheer power in eradicating what is wrong.

*You are the best community ever raised, you enforce what is right, fight what is wrong and believe in Allah. Q3:110.*

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<sup>90</sup> This document kindly provided by officials of the Katsina *hisbah* during an interview with S.U. Fwatshak and D. Abubakar on 5<sup>th</sup> May, 2003.

A truly Islamic community is the alert guardian of virtue and the bitter enemy of vice. What is required of the community at large is likewise required of every individual member. This is because the whole community is an organic entity and every individual is accountable to Allah (SWT). The role of every Muslim is best described by the Prophet (SAW):

*Whoever of you sees something wrong must seek to rectify it by action or deed; if he cannot let him try to change it by word; if he cannot, let his feelings of disapproval and condemnation intensify and this is the minimal degree of faith.*

As we can see, this description is very significant and comprehensive in carrying out the activities of Hisbah in Muslim communities.

### JURISDICTION OF HISBAH

The activities of *hisbah* are divided into three (3) district parts, which comprise calling people to fear their Lord through *da'awah* (preaching), forbidding what is bad and making sure people abstain from it, and then instigating people to do what is just and right as ordained by Allah (SAW).

Teaching people in the community to devote themselves in devotion (*taqwa*) to always devote their time in prayer, fasting, learning the scriptures and what the scriptures expound on religion and worldly affairs such as economic, political, defence, interpersonal relations, etc. It is also responsible for educating members of the community in all spheres of their relationship between individual and the community and between the individual and the leadership and the leadership and the community, etc. So as to establish just, fair, progressive and healthy society.

Command people to shun evil practices, such as drinking alcohol and all intoxicants. This is with the view to safeguard the reason and intellectual faculties of the individual and community as a whole.

Adulteration of goods and services is strongly forbidden in Islam as such defective goods are major sources of endangering the lives of people. Many examples are obvious and apparent, such as adulterated enables [sic]: foodstuff, fake drugs and cigarettes, all these goods have devastating harm to innocent people in the society and it is the duty of the *hisbah* to ensure it guards, keep vigilant surveillance for the protection of the *ummah*.

Encouraging virtuous deeds: The *hisbah* is designated to protect people's right by stopping all forms of hoarding of goods and services, such as petroleum products and other essential commodities in the society. Continuous endeavour to ensure that the standard of living is high and cost of living is low.

### ENFORCEMENT PROCEDURE

There are four degrees of *hisbah* which also specify, in the way they are given, the correct order of priority in attempting to implement *hisbah*. These are as follows:

1. Informing or apprising (*ta'arifi*), either verbally or in writing, the person who is committing a wrong, of the enormity of his conduct. If this proves insufficient, then proceed to second step.

2. Kind admonition (*wa'azī*) to inject/inculcate the fear of God in the person and appeal to his reason and better sentiment.
3. If this still proves ineffective, then the third step authorizes the use of harsh words. This may involve a threat but may amount neither to accusation nor insult. Words and phrases which are expressive of denunciation such as "O tyrant" (*ya ṣālim*) or "O ignorant one" (*ya jāhil*) or "Do you fear God?" may be used.
4. The fourth and the last stage of the procedure consists of expressing anger or the use of force by reporting to the appropriate authority (court, Sharia institution or the State Assembly), but these are to the extent that they may prevent evil. However, the use of threat or force is aimed precisely at preventing evil and not in order to punish the perpetrator.

### CONCLUSION

The Maliki jurist, Al-Qaraḥī, records the following three conditions that must be observed in the implementation of *hisbah*:

- The person who bids good or forbids evil must act from a position of knowledge, since an ignorant individual who is not sure of his ground may neither enjoin good nor forbid evil.
- One must be reasonably sure that their attempts at prevention do not give rise to a great evil, this reminds the person to cultivate sincerity of purpose.
- One must act on the basis of overwhelming probability (*al-ḡan al-ghalib*) that the attempt to enjoin good and forbid evil is most likely to achieve the desired result. Religion is a source of strength not of weakness in all our affairs. Our souls are a sort of trust with us. We have to guard them against all temptation. Those who surrender to crime or evil, betray that trust.

### RUNDUNAR ADALCI (HISBAH) MOVEMENT FOR BIDS AND FORBIDS OF ISLAMIC COMMUNITY<sup>91</sup> (UMMAH)

#### c. From interview reports

(1) Hamisu Abubakar Imam, Chairman of the Katsina State *hisbah* (2003):<sup>92</sup>

Katsina State *hisbah* was established not by Government but the Supreme Council for Sharia in Nigeria. It was originally run under the name *Rundunar Adalci*, which was later changed to *hisbah* after consulting with Islamic books. Its aims are to observe and stop breaches of Islam: forbid evil and adjoin doing good as it was in the days of the Prophet. There are members in each of the 34 Local Government Areas of Katsina State.

The *hisbah* enforce Sharia laws as contained in the Sharia Penal Code.

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<sup>91</sup> I.e. the movement that bids (good) and forbids (evil).

<sup>92</sup> Interviewed in Katsina on 5<sup>th</sup> May 2003 by S.U. Fwatshak and D. Abubakar.



Katsina State *bisbah* has no official recognition but Government knows it. When Sharia was first introduced, the Governor said he wanted it to succeed and pleaded with the public for cooperation. *Hisbah* offered its services in the following areas.

First *bisbah* tried to assist people with legal problems with access to courts to enforce their rights under Sharia. A good example is a Yoruba Christian called Taye, whose videotapes were stolen and the thief was caught. The Nigeria police wanted to frustrate him by closing the case but the *bisbah* persisted on his behalf until he recovered the stolen items.

Secondly, the *bisbah* report violations of Sharia to the police for investigation and arrest. They patrol hotels, beer parlours and pool houses for the purpose of checking out for suspects. Suspects are normally reported to the police who investigate and arrest. Sometimes joint raids are carried out with the police. For example, there was a raid on the elite Katsina Club and many arrests were made including two Directors-General. One of the DGs in court pleaded sick (that he had asthma and produced medical report to that effect). The judge gave him three weeks to return and the story was the same, as the report indicated that the attack had worsened. Finally, he got transferred to Abuja after another chance was given to him to improve his health. In another raid the son of one of the rich men in the town was arrested. He was found with ₦57,000 in his pocket which he was willing to use to bribe the police and *bisbah*. The police offered *bisbah* Chairman ₦20,000 to share with his boys to end the matter but he refused. The accused's family then requested that media men should not carry the story from the court. That was granted but the accused was convicted.

Thirdly, *bisbah* has also stopped the practice of theft of private parts that was so commonly making the rounds in Katsina.<sup>93</sup> An Igbo man reported a case and the suspects were traced and warned. The suspects promised to stop forthwith and since then no such a case has been reported again.

At one time one former arrestee came to *bisbah* Chairman to thank him and his men for their activities, which according to him saved him and his family. He confessed to having been a drunk who spent his salary in hotels to the detriment of his family. But after his arrest and conviction, he has reformed and his family can now benefit from his salary.

In terms of methodology of operations, the *bisbah* have a three- step approach. First, suspects are preached to and admonished to fear God and abandon evil. Second, notice is given to them (especially sellers of alcohol and prostitutes) to end their trades. Failing to comply after these two attempts, the *bisbah* will organize a joint patrol with the police and raid the premises where evil is perpetrated and arrest the suspects, who are charged to court. Those that promise to comply are usually required to commit themselves in writing so that if they fail to fulfil it, the written promise stands as part witness against them.

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<sup>93</sup> Theft of private parts: for more information about this phenomenon see "Koro: A Natural History of Penis Panics", by Vaughan in *Culture*, <http://www.kuro5hin.org/story/2002/9/16/81843/6555>.

Funds for Katsina State *hisbah* operations come from contributions of members and voluntary donations from spirited individuals. A former Sharia Court judge used to donate ₦1,000 monthly, some people contribute ₦500 or other such sum monthly. There are two cars, one each was donated by two senators from Katsina. Recruitment application forms are sold at ₦300 each to raise additional funds.

Government is not committed to the full implementation of Sharia in Katsina State and so had restricted the police functions of *hisbah*. The case of Sirajo Mai Asharale is worth citing as an example. Sirajo is a local singer who organizes street parties in which people of both sexes dance together freely holding each other, and drink alcohol and smoke weed against the tenets of Islam, under the protection of *yan daba*. Several attempts were made to arrest him without initial success. The *hisbah* then reported the case to the police who also failed to arrest him. Finally *hisbah* sued him in Sharia Court and he came to answer the summons. When the charge was read, he pleaded not guilty, instead argued that singing was his profession. When asked whether he had no other means of livelihood, he said he had commercial vehicles and houses, but that no one could stop him from practicing his trade. The judge then sentenced him to seven days in custody. When he came out, having suffered attacks from lice and other insects, he promised to abandon the trade in Katsina. He was asked to stop it completely in the interest of Islam and wider society but he could not commit himself. Subsequently, he conspired with Bature Gagare and secured the Governor's approval to continue with his trade in an open place called "Freedom Square". In doing this, the Governor wrote letters to all the DPOs in the State to arrest any *hisbah* who tries to enforce Sharia by arresting people. Towards the election, the Governor tried to shop for votes by calling a meeting of different groups including the *hisbah* and claiming he will give formal recognition to the *hisbah* and fully implement the Sharia. In another meeting with Christians, he told his audience that he was hated in the town for their sake and that if they voted for him their beer sales activities would be guaranteed, but if the ANPP won, full Sharia would be implemented to their detriment. Government's support for social vices became more manifest in the last elections when *yan tauri* and *yan daba* were used as PDP campaign teams, who painted themselves in the party's flag colours and went about town drunk.

Being not recognized by government, *hisbah* embarks upon self-training under the Chairman of its *da'awah* committee. The training takes place one hour per day, five days a week.

Members are recruited from all segments of society, the young and the aged (one of the members is 70 years old), as crime suspects usually listen to elders when preaching and warning expeditions are carried out. No special qualification is required. In the past registers were opened for recruitment drives. But now, application forms are sold at ₦300 per copy. Applicants attach two passport photos and provide two references who are reputable. A known criminal can be admitted for the purpose of getting him reformed. A copy of the *hisbah* mode of operation and rules is sold as part of the application form for the applicant to read.

While the policing functions lasted, the *hisbah* enjoyed the cooperation of the police, especially the last Commissioner, a Yoruba Christian. Regular free pieces of advice also

come from Lawal Tanko of the Area Command. In the times they had power to arrest, they could give evidence in court.

Begging has no basis in Sharia. As part of their *da'awah* work, the *hisbah* assist beggars based on their physical status and needs depending on availability of funds. Those that are still strong are advised to go to school to learn some trade. Some level of financial assistance could also be given, but this is meagre because of shortage of funds.

The present *da'awah* work that *hisbah* now concentrates on is performed based on schedules. At the weekends, there are morning physical training sessions followed later by preaching and teaching, as members go out in teams. Every Friday, the *hisbah* meets and the officials take reports of what was observed during the week. Where crime was seen, teaching and preaching sessions will be organized for such places.

They still do citizen's arrest, which is constitutional, but hand over suspects to the police. As a matter of Islamic principles, private residences and hotel rooms are not invaded but beer parlours are.

So far only one Christian has been arrested: the proprietor of Yakamata Hotel. He was seen selling alcohol in his premises and warned to stop, which he accepted. Days later beer was seen being offloaded at the same premises and he was arrested. He objected to the jurisdiction of Sharia Courts but when he realized the penalty in the Magistrate's Court he opted for a return to the Sharia Court. Subsequent upon being found guilty, the beer was destroyed.

(2) I. B. Gafai, the Director of Public Prosecution (within the Ministry of Justice) 2003:<sup>94</sup>

Before the reintroduction of Sharia, there were vigilante groups that kept prostitutes, alcoholics and gamblers under close watch. With the reintroduction of Sharia, they extended their activities to that of "citizens' arrests". But their attempts to go beyond that to expand their activities to arrests, detention and prosecution led to conflicts with the public, and Government refused to give them official recognition. They had to return to their former role of society watch-dogs and at best, carrying out citizens' arrests. After arresting and handing over to the police, however, they follow up the cases until final judgment at the court. They do this by confirming preparation of First Information Reports (FIRs) and case diaries by the police, movement of these documents to the DPP by the police, their receipt by the DPP, and the prosecution of the case in a Sharia Court, where they serve as witnesses.

Usually the police produce the FIR and prepare the case diary, which enables the DPP to determine whether a *prima facie* case exists as the basis for further legal action. Unfortunately, the police do not always help matters. Sometimes they try to make gold mines out of cases by delaying preparation of the case diary and its movement to the DPP, while they exploit the suspects some of whom could be kept in detention for two or more years. Such accused persons do not usually have money to hire lawyers who charge a minimum of ₦10,000 to get them out on bail. This is why the *hisbah* pay close

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<sup>94</sup> Interviewed in Katsina on 5<sup>th</sup> May 2003 by S.U. Fwatshak and D. Abubakar.

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attention to moving “their” cases along promptly. A Citizens’ Rights Department has also been created under the DPP’s office to look out for these and other cases of miscarriage of justice at all levels and report to the DPP, who then assigns a lawyer from the Legal Aid Council to assist the suspects free of charge.

At a point the *hisbah* in Katsina were torn apart by internal divisions, but now there is a move to unify them.

(3) Interviews in 2005 and 2008: suggested no new developments from 2003.

8.

**Kebbi State**

**a. *Hisbah* responsibilities of the Office of Special Adviser  
to the Governor on Religious Matters**

Kebbi State's Office of Special Adviser to the Governor on Religious Matters is documented in Chapter 8 Part II.8.

The Office has two substantive Departments: of Sharia, and of Da'awah. Among the duties of the Director of the Sharia Department are the following:

- 1) Monitoring Sharia observance by the public.
- 2) Co-ordinating *hisbah* groups all over the State.
- 3) Monitoring other illegal activities such as prostitution, gambling, liquor consumption and trade, stealing [and] other related vices.
- 4) Encouraging the use of proper weights and measures and advising against excesses in market transactions.
- 5) Ensure that those caught breaking the law are properly prosecuted.

To these ends a Hisbah Command, with its own personnel, lines of authority, and equipment (e.g. buses) has been created within or under the Office of Special Adviser.

**b. The Hisbah Command**

It appears that it took some time for the fully-articulated Hisbah Command to be put in place. The information below from 2003 does not suggest that it then existed; but by 2006 and 2008 it clearly did.

(1) Information from 2003:

(a) Hon. Justice Tukur Sani Argungu of the Sharia Court of Appeal:<sup>95</sup> At present the *hisbah* groups are organised by the various Aid Groups, the *yan agaji*. They are not statutory or official bodies but rather NGOs, like Izala, JNI, etc. None of them as such has any state salary. They are volunteers. They constitute themselves as they wish. They behave as citizen volunteers and private complainants. The Office of Special Adviser to the Governor on Religious Matters is coordinating them and handles any problems that arise with respect to them.

Initially there were some problems getting the police to cooperate with Sharia implementation, but with a new Commissioner now in place the police are cooperating much better. They do the prosecuting in the Sharia Courts. *Hisbah*-police relations have been okay in general, although as indicated, at the beginning there were complaints from the *hisbah* that the police were not always cooperating with the investigation and prosecution of certain sorts of offences.

If the *hisbah* call in the police to help them arrest someone, the case will be taken to the Sharia Court. But if the police alone make the arrest, they usually take the case to the

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<sup>95</sup> Interviewed in Birnin Kebbi on 26 and 27 February 2003 by P. Ostien and M.K. Idris.

Magistrate Court even if the offender is a Muslim. Do the Muslims object to this? Well, if the offender objects or someone objects, the Sharia Implementation Committee might be contacted and might intervene, on a case by case only. But generally there seems to be no problem with this practice.

(b) Abubakar Mohammed, the Commissioner of Police:<sup>96</sup> The police and the *hisbah* groups get along well. The police assist the *hisbah* by making arrests for them, mostly in cases involving alcohol, drugs and prostitution. The *hisbah* can also investigate, arrest, and bring complaints to court on their own as private complainants. In such cases, the court may request the police to do an investigation as well, which they then do.

(2) From 2005 news reports:

The *New Nigerian* of 18 November 2005 (p. 24) reported that Kebbi State's Attorney-General and Commissioner for Justice, Ibrahim Mai-Ahu, spoke at a workshop organised for *hisbah* officials in Birnin Kebbi. He said that the Hisbah Commission [Command?] had been set up to support and assist the Government in the implementation of Sharia by curbing social ills across the State. He advised them to be just and disciplined, and warned them against tarnishing the image of the Islamic legal system. Then in the same newspaper, on 22 November 2005 (p. 26), the Attorney-General was reported to have directed the *hisbah* to arrest and prosecute anyone, no matter how highly placed, who violates the Sharia legal code.

(3) From a 2006 paper on "Dividends of Sharia Application in a Democratic Setting: Kebbi State Experience":<sup>97</sup>

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Prostitution, promiscuity, sale and consumption of alcohol and other intoxicants have been checked to a large extent. Such activities are no longer conducted in the open. A lot of men and women engaged in such activities before have now reformed with a remarkable change in their lives. In trying to achieve this feat, the *hisbah* group (Sharia social orientation and security outfit) has to date prosecuted, within the State Capital and its immediate environs, well over 382 prostitutes, 185 gamblers, 21 drunkards and 110 drug pushers. They have also delivered 91 lost children to their parents, returned 7 wayward girls to the warm reception of their parents across the northern states and provided medical treatment to 12 mentally sick persons. Besides, the public is actively participating in combating crimes. People now feel safe to report social misfits or those engaged in prohibited practices to the combined team of *hisbah* and the police for necessary corrective measures.

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One of the major events brought about by Sharia declaration in the State, is improved social relations of individuals and organisations. Religious groups which were

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<sup>96</sup> Interviewed in Minna on 26 February 2003 by P. Ostien and M.K. Idris

<sup>97</sup> Delivered at the National Conference on Leadership, State and Society Under the Shari'a in Nigeria: The Dividends, organised by the Institute for Contemporary Research, Kano, held at Abuja, 10-12 July 2006. Name of author not given. A copy is in the possession of the editor.

hitherto far apart, have been brought together by a common goal.<sup>[98]</sup> Similarly, family disputes are now settled without going to the courts. One such effort was the resolving of 370 family disputes by the State *hisbah*.

(4) Information from 2008:

The Hisbah Command exists both centrally and locally in each Local Government Authority. Some of the *hisbah* workers are volunteers and some are being paid monthly allowances. All the structures of the Hisbah Command are now in place.<sup>99</sup>

A new law that will give the *hisbah* statutory backing as in some other States is being drafted and discussed within the State Government.

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<sup>98</sup> Presumably referring to the groups like JIBWIS (Jos), JIBWIS (Kaduna), JNI, etc. which came together to cooperate in the work of *hisbah*.

<sup>99</sup> Per Justice Tukur Sani Argungu, interviewed in Birnin Kebbi on 13 March 2008 by P. Ostien and A.S. Garba.

9.

**Niger State**

**a. Input from Zamfara State**

Before Sharia implementation started in Niger State, the Niger State Advisory Council on Religious Affairs (NISACORA) visited Zamfara State (31 July to 2 August 2000), and held discussions with various officials there.<sup>100</sup> Among the things discussed was the Joint Aid Monitoring Group on the Application of Sharia formed by a coalition of five Islamic organisations which came together to do the work of *hisbah* in Zamfara State. The parts of the NISACORA report which pertain to the Zamfara Joint Aid Monitoring Group are reproduced in Part II.12 below. As will be seen in sections **b** and **c**, the same pattern was followed in Niger State, of building the *hisbah* out a coalition of Aid Groups.

**b. The early State-wide *hisbah* under the Sharia Commission**

(1) From the Sharia Commission Law:<sup>101</sup>

8. The Commission shall be responsible for:

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- e. advising the Government on ways of creating conducive socio-economic environment for comprehensive implementation of reforms;
- f. advising the Government on the implementation of certain Islamic injunctions such as *zakat*, Islamic markets, measures, etc.

\* \* \*

(2) From the Sharia Commission Plan of Activities:

The Niger State Sharia Commission Plan of Activities on Implementation and Monitoring, prepared sometime in 2001, is available at <http://www.sharia-in-africa.net/pages/publications/sharia-implementation-in-northern-nigeria.php> as Supplementary Materials to Chapter 8. It proposed that the Commission should have a separate Monitoring Unit:

The unit will be responsible for ensuring that Sharia is strictly observed and work with other units of the Commission to ensure public compliance.

It was contemplated that the existing Aid Groups could be enlisted to help with this work:

Since in Niger State we have Joint Muslim Aid Groups that comprises of the following:

- i. Jama'atu Nasril Islam (JNI)

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<sup>100</sup> See "Report on NISACORA Visit to Zamfara State, 31 July to 2 August 2000", <http://www.sharia-in-africa.net/pages/publications/sharia-implementation-in-northern-nigeria.php>, Volume II, Supplementary Materials, item V, 27-32.

<sup>101</sup> Sharia Commission Law 2000, coming into operation on 10<sup>th</sup> July 2001, Niger State of Nigeria Gazette No. 9 Vol. 26, 3<sup>rd</sup> September 2001, Supplement Part B pp. B34-B38, documented in Chapter 8 Part II.7. by annotation of Katsina State's virtually identical Sharia Commission Law.



- ii. Fitiyanul Islam (FI)
- iii. Izalatil Bid'a Wa Ikamatis Sunnah (Kaduna JIBWIS)
- iv. Izalatil Bid'a Wa Ikamatis Sunnah (Jos JIBWIS)
- v. Sheriff Guard of Islam (SGI)

Among the "Commission's Requirements" would be

1. Office accommodation for the administrative and *hisbah* staff.

To get proper State coverage,

the Commission has to start with Zonal Area Offices, which will later be Local Government Offices and Ward Offices. These offices will be responsible to Main Committee.

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To give the Commission proper take-off there is need for creation of at least three zonal offices in each of the Senatorial Districts of the State. The offices will just be *hisbah* offices for proper implementation of Sharia in the State. Each office to have ten officers on allowance of five thousand naira per month.

In the 2002 Proposed Budget, under "Other Financial Commitments" was included this item:

16. 140 *Hisbah* workers' allowances ₦5,000.00 per month:  
140 x ₦5,000 x 12 - - - ~~₦8,400,000.00~~

Obviously the Sharia Commission's early Plan of Activities contemplated, eventually, a fairly large *hisbah* organisation working under the Commission's direction.

(3) From 2003 interviews with Niger State officials:

(a) Musa Isah Lapai, Secretary of the Sharia Commission:<sup>102</sup> Alh. Lapai is the Chairman of the *hisbah* as well as the Secretary of the Sharia Commission. He said *hisbah* is just an aspect of Sharia. Sharia is a way of life for every Muslim. It involves how one relates to oneself, to family, and other people. Sharia abhors cheating and enjoins people to live justly. He said the *hisbah* have organized workshops for groups of illiterates in order to enlighten them on the basic principles of Sharia. The *ulama* and malams were also part of it. He emphasized that Sharia is not punitive but corrective. Seminars have also being organized in the market places and mosques. He had also gone to the Catholic cathedral in Minna to deliver a lecture on Sharia. He intends to do a follow-up in June in order to meet a larger Christian congregation involving other denominations. Prophet Muhammad lived with Christians in peace and Islam preaches peace.

He said *hisbah* are a group of people made up of government appointees and ward representatives who try to ensure that proper things are done in conformity to Islamic injunctions. For example, they supervise weights and measures in market places to ensure that correct measures are applied. He said the *hisbah* started with Prophet Muhammed where they assisted the wounded in war. He said he started the *hisbah* with

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<sup>102</sup> Interviewed in Minna on 9<sup>th</sup> April 2003 by J.M. Nasir, D. Gwamna, and R. Awal.

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Government approval in Niger State, in order to assist the Sharia implementation. They receive certain allowances from Government through the Sharia Commission. As to recruitment of *hisbah* members, he said he had been chairman of Islamic Aid Groups for eighteen years before Sharia implementation began in Niger State. It was out of the Muslim Aid groups that the *hisbah* members were chosen. The membership is drawn from the eight Emirates in Niger State as follows:

Bida	-	30	New Bussa	-	20
Minna	-	30	Kagara	-	20
Kontagora	-	30	Agaie	-	20
Suleja	-	30	Lapai	-	20

The size of an Emirate determines the number of *hisbah* members in that area. He believes that the number of the *hisbah* members will increase with time, as it is still a gradual process. He hopes that in future there might also be volunteers. For now, women are not involved in the *hisbah* until when women come up as volunteers.

He indicates that in every Emirate, the member of the Sharia Commission from there<sup>103</sup> serves as the head of the *hisbah* in liaison with the Emirate Council. The *hisbah* have been trained by the police along with the Director of State Security Services (SSS) and Ministry of Justice. In fact in most cases when they go out for operations, they go with police, and officials of the Ministry of Justice. He says that the *hisbah* also have a good understanding with the Liquour Board and they jointly undertake operations along with the police.

He said their major problem is with the markets where people engage in wrong measurements. But the Chairman had met with some market groups such as the butchers to educate them on the need for proper measurements, because cheating is against Islam. The *hisbah* office has purchased weighting machines for sale to the public at subsidized rates to ensure compliance of correct measurements. The weighing machines range between 10kg scale, 20kg scale, and 50kg scale.

The *hisbah* office has Directors of Administration, Finance, Discipline, Training and Mobilization. Police are posted on operations along with the *hisbah* irrespective of their religious affiliations and there have not been problems so far. The Chairman said that when arrests are made, people are taken to police stations where their cases are investigated and later referred to courts (either Area Courts<sup>104</sup> or Magistrate Courts depending on the religious affiliations of the culprits). He said Muslims are allowed to go to the Magistrate Courts in order to allow for flexibility and free will. He said since the Sharia law was introduced there have been positive results: i) Many homes are happier now as parents have become more responsible. They now use their salaries well instead

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<sup>103</sup> Under §4(1)(c) of Niger State's Sharia Commission Law, the Commission membership includes "a representative from each of the Emirate Councils in the State who shall be persons versed in Islamic knowledge".

<sup>104</sup> "Area Courts": unlike other Sharia States, Niger State did not immediately convert its Area Courts into Sharia Courts. This was finally done under a law enacted in November 2002, but the process of conversion took some time and was not completed at the time of these early-2003 interviews. For further details see Chapter 7.

of spending them on things like alcohol. This applies to both Muslims and Christians. ii) Girls and woman are better dressed now than before

They have had no problem with either Muslims or Christians except lawbreakers. The Chairman however hinted that some Muslims still go to the army barracks to drink beer. People are being enlightened to stop drinking beer through radio, sermons on Fridays, and public lectures.

(b) M.O. Suleiman, Assistant Commissioner of Police, Criminal Investigation Department (CID):<sup>105</sup> He said there have not been conflicts between the police and those implementing the Sharia law. The police investigate criminal cases brought to them and if appropriate they are referred to either the Area Courts or the Magistrate Courts depending on the choices of the accused persons. He noted that the culture of the people has to be taken into consideration in the administration of Sharia law. Sometimes people simply prefer to refer their cases to their own religious or ethnic organisations rather than go to the police or the courts. He observed that inter-religious problems do not exist in Niger State and that the police have not had any conflict with the *hisbah*. Besides the *hisbah*, the police also liaise with the Liquor Board in the enforcement of the liquor laws.

(c) Barr. Mohammed Awal Bida, Chairman of the Niger State Liquor Board:<sup>106</sup> The Liquor Board has the authority to monitor deviations from the Liquor Law through its patrol teams who sometimes use the *hisbah*, staff of the Board, the police and the vigilante groups. Violators are taken to the Mobile Courts headed by Chief Magistrates. There are five Mobile Courts spread across the State for the purpose of speedy trials.

The Liquor Board has another mandate to eradicate prostitution in the State. Such cases of prostitution are treated under the Penal Code Law and they are taken to Area Courts for prosecution. He said that prostitution has reduced because of the severity of punishment prescribed. He said that social vices generally have reduced. He conceded that the *hisbah* have committed some excesses in enforcing the Sharia law.

### c. The later smaller *hisbah* under the Sharia Commission

When Niger State officials were interviewed again in 2005 and 2008 on the subject of *hisbah*, the picture had changed from what it was in 2003. The *hisbah*, it seems, at least the official *hisbah* run by the Sharia Commission, was no longer a large State-wide organisation with twenty or thirty uniformed members in each Emirate, but was now reduced to a small administrative staff and just twenty uniformed members all working in Minna. Unfortunately the reasons for this change were not inquired into. Summaries of the 2005 and 2008 interviews follow.

(1) Musa Isah Lapai, Secretary of the Sharia Commission (2005):<sup>107</sup>

The staff of the Sharia Commission are divided into three units: Da'awah, Hisbah, and Administration. None of the three units has its own statute. However, the Sharia

<sup>105</sup> Interviewed in Minna on 8<sup>th</sup> April 2003 by J.M. Nasir, D. Gwamna, and R. Awal.

<sup>106</sup> Interviewed in Minna on 4<sup>th</sup> February, 2003 by J.M. Nasir, D. Gwamna, and R. Awal.

<sup>107</sup> Interviewed in Minna on 29<sup>th</sup> November 2005, by S.U. Fwatshak and S.H. Liman.

Commission Law empowers the Commission to bring in people incidental to the successful implementation of the Sharia. On that basis, we wrote the Ministry of Justice requesting to interview people for the above positions. The ministry consented and gave the Commission guidelines on how to conduct the interviews.

The *hisbah* unit is composed of a Director, a Deputy Director, and twenty uniformed members. All claim allowances only. The Director is a degree holder in Islamic Studies, the Deputy Director holds a Diploma also in Islamic Studies.

The number of uniformed members has been set at 20, because the aim of the unit is not punitive but corrective, for enlightenment, and to warn wrongdoers to desist. E.g. if a trader is using the wrong measure/weight, on sighting the *hisbah*, he/she would change to the correct one.

Sharia implementation has improved the economy and life standard of the people. Before Sharia many people used to squander their salaries and did not take care of their families. Now many women have come back to thank the Commission for implementing Sharia such that their husbands take their responsibilities seriously. Cheating in the marketplace by traders has reduced. The use of wrong weights and measures has declined because of the fear of the *hisbah*. This has benefited all in society because not only Muslims go to the markets. Public officials do their work now with the fear of God.

(2) Alhaji Muhammed Isa, uniformed member of the *hisbah* unit (2005):<sup>108</sup>

This is how I joined the *hisbah* unit. I was working as a JNI voluntary/humanitarian worker (*dan agaji*). One day the Chairman of the Minna Local Government Council announced that the Sharia Commission needed volunteers (not for salary or any pay at all) for Sharia implementation and that they are to be drawn from four Islamic organizations namely: JNI, JIBWIS (Kaduna), JIBWIS (Jos), and Fitiyanul Islam. Seven of us in the JNI indicated interest but only five were required from each of the four organizations. So two JNI volunteers dropped and five of us remained. The three other organizations also nominated five persons each. All of us came to the Sharia Commission and were reminded that we were going to render voluntary services and that anyone who could not do so should return to his organization. We were also told that our activities would be regulated by the Commission and that we did not have a free hand in doing the work. All of us showed willingness to do the work. That was how twenty of us were recruited. We have since then remained twenty in number. None of the twenty is a woman. Some of the members have other professions like petty trade, watch repairs, commercial motor-cycle business. However, they do those jobs only after closing from their *hisbah* work.

The *hisbah* organization is structured as follows:

- (i) Director: Alhaji Muhammed Sani (from JIBWIS Kaduna)
- (ii) Deputy Director: Alhaji Habibu Muhammed Lawal (from JNI)
- (iii) PRO: Alhaji Shittu Magaji (from Fitiyanul Islam)

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<sup>108</sup> Interviewed in Minna on 29<sup>th</sup> November 2005, by S.U. Fwatshak and S.H. Liman.

- (iv) Team Leader- Alhaji Muhammed Ibrahim Maude (from JIBWIS Jos)

The four leaders were also chosen from the four organizations as were the twenty uniformed men. Of the four leaders, only the Team Leader puts on a uniform like the 20 of us.

Functions of the *bisbah* include the following:

- (i) Assist in the maintenance of law and order.
- (ii) Receive and act on reports on commission of crimes, especially violations of Sharia laws like prostitution and alcohol production and consumption. When a crime like alcohol law violation is reported, the *bisbah* refer it to the Liquor Board for investigation. If the Board confirms it, the *bisbah* are informed and they then report to the police who come along with the *bisbah* to the scene and effect arrest. The *bisbah* would follow up the case to the court and testify for the prosecution. Yesterday (28/11/05) some people were arrested for violating the alcohol law. The Team Leader for that operation has not given his report yet. But the arrest was upon a tip-off and investigation by the Liquor Board. The police and the *bisbah* did a joint operation in the arrest as is the practice.
- (iii) Ensure strict compliance with market regulations. E.g. the law is that markets should close by 6 p.m. The *bisbah* ensure that markets are closed at that time.
- (iv) Man gates of public offices like the State Secretariat to stamp out prostitution, rape of hawkers in the offices, and so on. Female workers come into the secretariat only upon showing their ID cards. Other visitors must fill forms indicating their names, the person to see and purpose of the visit. Female visitors are not allowed in on private visits. If they indicate "official" purpose, the *bisbah* must verify their appointment with the named officer before they are admitted. Hawking by females is banned from the Secretariat and other public offices.
- (v) Attend and censor preaching. The *bisbah* ensure that preachers keep within the text and do not go outside it to abuse others or stir up rebellion. Any preacher who abuses others is cautioned by the *bisbah* to desist.

The *bisbah* do not operate on basis of any statute. The Director however gives instructions to the twenty uniformed men on what to do at their duty posts. Once in a while the Sharia Commission would require the services of volunteers, for example during large assemblies for crowd control. In such circumstances, the Commission will give out its already printed shirts with the Commission's inscription to the volunteers while the *bisbah* would attend in their uniforms.

All uniformed members are on allowances only. Initially, during the first three months after recruitment, no allowances were paid to them. But after those three months, they began to get regular monthly stipends.

- (3) Barrister Sanusi, a lawyer working in the Ministry of Justice (2005):<sup>109</sup>

The Sharia legal system has cleaned up social dirt in Niger state. Examples:

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<sup>109</sup> Interviewed in Minna on 28<sup>th</sup> November 2005, by S.U. Fwatshak and S.H. Liman

- Consumption of alcohol has almost been wiped out. Many children born after 2001 cannot identify a beer bottle as a container for keeping alcohol.
- Prostitution has also drastically reduced. Many brothels and hotels occupied by prostitutes have been converted into rented accommodation.
- Armed robbery has also reduced. The state is more peaceful now than before.

With the introduction of the *hisbah*, indecent dressing by women is being checked at public places. Women dressed indecently and those who appear to be soliciting are also turned away at the gates.

(4) Ernest Ibhaze, the Commissioner of Police (2005):<sup>110</sup>

The police prosecute crime generally in courts, including Sharia cases but not only them.

The *hisbah* organisation has no formal links with the police. They cooperate with the police but limit their operations mainly to the sharia offences of alcoholism and prostitution. The *hisbah* are not very visible in the state unlike other states like Zamfara. Nevertheless, sometimes the *hisbah* in Niger State have been overzealous in doing their work. E.g. there is an instance in Bida where they chased one person accused of carrying alcohol on his motor bike until his motor bike collided with a car and he died.

Ordinary vigilance groups (not *hisbah*) exist in many parts of the State particularly at the local level but they are absent in the larger towns. The non-existence of vigilance groups in the towns is not good because the police cannot be everywhere. In those communities where vigilance groups exist like Borgu, Mokwa, and Kagara among others, they cooperate with the police. They complement the efforts of the police. They inform the police of crimes and go out with the police as the police supervise their activities. The DPO of each area where they operate regulates their activities. Members are allowed to carry dane guns only. For other sophisticated weapons possession is upon a police permit. They receive no salary but in some communities they are given working materials like torch light, kola nuts [to keep awake], and motor vehicle for transportation (e.g. in Lapai). In the Eastern part of Nigeria however vigilance groups have operated beyond their boundaries.

(5) Musa Isah Lapai, Secretary of the Sharia Commission (2008):<sup>111</sup>

The *hisbah* unit of the Commission is still as before, i.e. as reported in our 2005 trip reports. All the *hisbah* staff are in Minna, they only go out if the need arises. The primary functions of the Sharia Commission are education and enlightenment. Their *da'awah* unit has motorcycles and loudspeakers, they go all over the State, from village to village, preaching. Hausas are sent to Hausa areas, Nupes to Nupe areas, etc.

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<sup>110</sup> Interviewed in Minna on 29<sup>th</sup> November 2005, by S.U. Fwatshak and S.H. Liman.

<sup>111</sup> Interviewed in Minna on 28 February 2008 by P. Ostien.

## 10.

## Sokoto State

a. Unofficial individuals or groups performing *hisbah* functions(1) No official *hisbah* in Sokoto State:

The committee set up in 1999 to advise the Sokoto State Government on establishment of Sharia did not recommend, in either its interim or final reports, that any *hisbah* or other monitoring and enforcement organisation be established,<sup>112</sup> and as the materials below confirm, up to early 2008 no such organisation had been established. Nevertheless, as the next two subsections show, unofficial individuals or groups, at least in some areas, sometimes perform *hisbah* functions.

(2) From a 2003 interview at the Sharia Court of Appeal:<sup>113</sup>

Persons volunteering as *hisbah* sometimes arrest people and take them to the police. But the police investigate and prosecute. The *hisbah* who witnessed the crime or made the arrest may be called as witnesses if there is a trial. The police are being very cooperative with enforcement of the Sharia Penal Code: “no problems”. There have been no clashes between the police and the *hisbah* that these interviewees know about. They don’t know anything about what training these unofficial *hisbah* may receive.

(3) From a 2003 interview at Police Headquarters:<sup>114</sup>

The police are trying to cooperate with Sharia implementation and relations with the Sharia officials have been good. As to *hisbah*: in Sokoto they are volunteers, they are not established by law. They rarely make arrests. They could under §28 of the Criminal Procedure Code [“When private person may arrest”]. But *hisbah* here hardly do it. *Hisbah* “observe and report”. Police then investigate and make the judgment whether a crime has been committed under the code, and if so they make the arrest. *Hisbah* people might later be called as witnesses at the trial, but that is the extent of their involvement with the process. Relations between the *hisbah* and the police in Sokoto have been good. There have not been any official meetings between them or training sessions yet. The interviewee doesn’t know if *hisbah* have been given any training by anyone else. But according to him, “most of them are learned malams – mature adults” so they are already trained in Islamic law.

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<sup>112</sup> Interim and Final Reports of the Committee Set Up To Advise the Sokoto State Government on Establishment of Sharia, submitted to the Governor on 13 October and 16 December, 1999, respectively, <http://www.sharia-in-africa.net/pages/publications/sharia-implementation-in-north-ern-nigeria.php>, Volume II, Supplementary Materials, item I.

<sup>113</sup> Interview with Hon. Muhammad Bello Silame, the Acting Grand Kadi, and Barr. Alhaji Yahya Umar, the Chief Registrar, in Sokoto, 24<sup>th</sup> February 2003, by P. Ostien and M.K. Idris.

<sup>114</sup> Interview with Barr. Peter Muka, the Deputy Superintendent of Police and OC [Officer in Charge] Legal/Prosecution, in Sokoto, 24<sup>th</sup> February 2003, by P. Ostien and M.K. Idris.

**b. Complaints from some *ulama*  
about the lack of an official *hisbah* organisation**

(1) From a 2003 news report:<sup>115</sup>

A sheikh at the Islamic Science Institute, Sokoto is quoted as saying that “There should be the introduction of what we call *hisbah*, those who are responsible for the arrest of those people who commit some of these offences or vices. They are supposed to be in place parading many corners of this metropolis and the state to arrest and hand people over to the police who will then introduce them to the judges for appropriate punishment. This has not been done in Sokoto. You can see that nobody is responsible for arresting people who contravene the Islamic penal code like before. Maybe they regard it as no more necessary or they are playing politics. The weakness in the entire issue depends on the nonintroduction of *hisbah* or the aid group like those in Zamfara and some other places. If *hisbah* is introduced in Sokoto, shari’a would achieve more purpose than now.”

(2) From a 2005 news report:<sup>116</sup>

An organisation called the Joint Hisbah Committee of Five Islamic Organisations is reported to have appealed to the Sokoto State Government to properly view the current situation of Sharia whose full implementation has not been given the right attention in the State. Full implementation cannot be attained without a *hisbah* committee. The State Government has failed woefully by not constituting such a committee.; it also has not given due recognition to the Department of Religious Affairs. “All those contributed to the downfall of Sharia in the State.”

**c. 2008 plans to form an official *hisbah* organisation**

In a March 2008 interview in Sokoto, the Permanent Secretary of the Office of Special Adviser to the Governor on Religious Matters<sup>117</sup> said that they are planning to organise a *hisbah* group for the State. When this is done, it will come under the supervision of the Department of Sharia Implementation of the Office of Special Adviser. Right now there is no official *hisbah* in Sokoto State; there is a private organisation that goes under this name, in Sokoto City only, although they are trying to extend it to other places as well.

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<sup>115</sup> “Poor Sharia Monitoring in Sokoto”, *Weekly Trust*, 26 July 2003.

<sup>116</sup> New Nigerian, 15 February 2005, p. 25.

<sup>117</sup> Umar Attahiru Sokoto, interviewed by P. Ostien on 14<sup>th</sup> March 2008. For further details of the interview see Chapter 8 Part II.10.



## 11.

## Yobe State

a. *Hisbah*-related functions of the Ministry of Religious Affairs

As is discussed more fully in Chapter 8 Part II.11, when Sharia implementation began there, Yobe State first gave itself a Religious Affairs Board, established in 2001 under its own statute; and then in 2003 the Board was converted into a full-fledged Ministry of Religious Affairs. The structure and functions of the Ministry are much the same as those of the Board before it. In particular, the division of the Board into Directorates of Sharia, Da'awah, Religious Affairs, Zakat and Endowment, and Finance and Administration still applies to the Ministry, as do the following provisions of the Religious Affairs Board Law related to the functions of the Board/Ministry (§11) and of its Directorate of Sharia (§13):

11. The functions of the Board [now Ministry] shall be:

\* \* \*

- (c) coordinating, regulating and observance of Islamic business practices;
- (d) monitoring compliance with Sharia laws and injunctions in Government business and activities;
- (e) research on religious affairs and Sharia;

\* \* \*

- (g) regulation of *mu'amalat* in the State;

\* \* \*

- (i) giving advice on marriage matters including dowry, *iddah* and succession or inheritance;

\* \* \*

- (k) control and regulation of scales and measures with a view to having Sharia-compliant scales and measures in the State;

\* \* \*

\* \* \*

13. (1) Each of the Directorates shall have the functions set out hereunder:

\* \* \*

**A. Directorate of Sharia.** The Directorate of Sharia shall have the following functions:

- (i) Coordinating *fatwa* matters in the State;
- (ii) Monitoring the implementation of Sharia in the State;
- (iii) Coordinating the establishment of Councils of Ulama for the State and Local Government levels.
- (iv) Research on religious affairs and Sharia.

**b. *Hisbah* committees in the Local Government Areas**

(1) From a 2008 interview report:<sup>118</sup>

For a time there were forty Local Government Areas (LGAs) in Yobe State. This has had to be reduced again to seventeen, in accordance with the constitution. Nevertheless, in all of the forty former LGAs, the Directorate of Sharia of the Ministry of Religious Affairs has organised Sharia Committees, whose activities are coordinated by the Directorate. These LGA Sharia Committees all have a chairman, members, and a secretary. They are further divided into subcommittees, on *hisbah*, moonsighting, *da'awah* (this is an *ulama* subcommittee), graveyards, and welfare. All of these subcommittees also have chairmen, members, a secretary, and schedules of duties. All members of these committees and subcommittees are volunteers: but they get some logistic support from Government. So this is how they are extending the work of Sharia implementation to the grassroots in Yobe State.

(2) From the Fika Local Government Prohibition of Certain Un-Islamic Practices Bye-Law 2002:

As is documented in Chapter 3, the Local Governments of several States enacted Sharia-related bye-laws directed especially at the suppression of certain “social vices”. One of these was the Fika Local Government of Yobe State, which in 2002 enacted a bye-law prohibiting a number of un-Islamic practices.<sup>119</sup> One of the definitions from section 2, and sections 7-9 of the bye-law are relevant here. They provide:

- |   |  |
|---|--|
| <p>2. In this Bye-Law, unless the context otherwise requires:</p> <p style="text-align: center;">* * *</p> <p>“<i>hisbah</i>” means a highly responsible Muslim who is registered, recognised for good character and appointed by the Committee on Sharia Implementation in Fika Local Government Area for the purpose of monitoring Sharia implementation;</p> <p style="text-align: center;">* * *</p>  | <p>Interpretation</p>                            |
| <p>7. (1) Any police officer or a member of <i>hisbah</i> so authorised by alkali may at any time enter any premises in which there is reason to believe that the provisions of this Law are being or are about to be violated by any person or group of persons.</p> <p>(2) Any person who prevents or obstructs the entry of any person referred to in sub-section (1) of this section is liable on conviction to 2 weeks imprisonment or ₦1,000.00 fine or both.</p> | <p>Power of entry</p>                            |
| <p>8. Any alkali or person authorised by him (i.e. <i>hisbah</i>) and any police may:</p>   | <p>Power of alkali, police and <i>hisbah</i></p> |

<sup>118</sup> The information in this section is based on a 4<sup>th</sup> March 2008 interview with several officials of the Ministry. For further particulars see Chapter 8 Part II.11.

<sup>119</sup> The full text of Fika Local Government Prohibition of Certain un-Islamic Practices Bye-Law 2002 is given in Chapter 3, 230-33.

- (a) Enter any premises at any time for the purpose of detecting or preventing any breach of the provisions of this Bye-Law within the Local Government Area.
  - (b) All laws that protect the police in the cause of his duty shall also be applicable to *hisbah* for the purpose of enforcing this Sharia Bye-Law within the Local Government Area.
9. (1) Any alkali may issue a search warrant to any police officer or *hisbah* (appointed members) to enter at any time and if need be by force, any premises or place whether a building or not situated within the specified area in the warrant where the officer reasonably suspects that an offence against this Bye-Law is being committed, examine and search the said premises or place and seize or remove any item as exhibits. Special search warrant
- (2) If any items or exhibits are removed from any premises or place in accordance with sub-section (1) of this section, the occupier of the premises or place may be there-upon apprehended and thereafter dealt with in accordance with the provision of this Bye-Law.
- (3) No search warrant shall be granted unless the officer granting the same is satisfied by information on oath:
- (a) That the offence against the provision of this Bye-Law are prevalent in the area for which the warrant is being required.
  - (b) That owing to difficulties in communication or otherwise the cause of justice might be defeated or delayed if it were necessary for a search warrant to be obtained as and when sufficient information was obtained in respect of each individual premises or place aforesaid;
  - (c) A warrant granted in accordance with the provisions of this Bye-Law shall remain in force for three months from the date there-of unless a shorter period is specified in the warrant.

Whether these powers have ever been exercised by the alkalis and *hisbah* of the Fika Local Government, or whether other Local Governments have provided similarly for their *hisbah* groups, is unknown.

(3) From a 2007 news report:

The *hisbah* groups of Yobe State have not been much in the news. Here however is one recent news item showing that they are still active, at least in some areas:

**Hisbah Group Destroys Assorted Drinks in Yobe<sup>120</sup>**

Over ten cartons containing assorted alcoholic drinks sold in a hideout were publicly destroyed in Damagum, the headquarters of Fune Local Government

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<sup>120</sup> By Hamza Idris, in *Daily Trust*, 28 August 2007, Internet edition.

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Area of Yobe State by the Hisbah group, the law enforcement agency of the Yobe State Ministry of Religious Affairs.

The destruction which took place last Friday followed a judgment passed by a lower Sharia Court sitting in Damagum as part of the enforcement of the Sharia legal system which has been in operation in the state.

The presiding judge, Malam Mohammed Maidugu had earlier found one Ikechukwu Okafor guilty of selling assorted alcoholic drinks including ogogoro, akpeteshi among others in a residential building; an action which contravenes the provision of the Sharia system in the state. Okafor who pleaded guilty, has been sentenced to two years in jail with an option of ₦10,000 fine.

The Commissioner for Religious Affairs, Alhaji Habu Dauda Gulani who spoke to our correspondent in Damaturu said Okafor who was based in Ngelzarma town was arrested by the Hisbah group sometime last June.

Gulani, who commended the efforts of the people especially the traditional rulers and security operatives called on other Sharia committees to emulate what he described as the selfless effort of the Hisbah with a view to sanitizing the society.

Speaking further on the activities of his Ministry, the Commissioner stated that several cartons of alcoholic drinks were also confiscated in Babban Gida town, the headquarters of Tarmuwa Local Government Council. He added that the suspect, who was said to be behind the sale of the prohibited drinks in Babban Gida escaped but maintained that the confiscated drinks would be destroyed at a later date.

## 12.

### **Zamfara State**

#### **a. The Joint Aid Monitoring Group on the Application of Sharia**

(1) The Joint Aid Monitoring Group in its own words:<sup>121</sup>

JOINT AID MONITORING GROUP ON THE APPLICATION OF SHARIA  
IN ZAMFARA STATE AT A GLANCE

The Zamfara State, is a State with 90% Muslim dominated by Hausa/Fulani and with some minority groups from other tribes. Seeing the percentage of Muslims in the State, the State Government decided to implement Sharia legal system. The State Government launched the Sharia on 27<sup>th</sup> January, 2000, which aimed at using the Holy Qur'an and Hadith as the source of judgment.

Formation of Joint Aid Monitoring Group on the Application of Sharia

Sequence to the launching of Sharia on 27<sup>th</sup> January, 2000 [sic: the launching in fact occurred on 27 October 1999] at Ali Akilu Square, the five Aid Groups met and paid a courtesy call to His Excellency at Government House. The purpose of the courtesy is to surrender to His Excellency to support of Sharia legal system.

His Excellency accepted their support and informed them of his willingness to form a committee to monitor the Sharia application in the State. His Excellency announced that he needs unity and progress of the State in the implementation of Sharia.

The Joint Aid Monitoring Group on the Application of Sharia was formed with the following principles and guidelines:

- (1) The five Aid Groups will give two (2) representatives each:
  - (i) J.N.I.<sup>122</sup>
  - (ii) FITIYANUL ISLAM
  - (iii) J.I.B.W.I.S. (Jos)<sup>123</sup>
  - (iv) J.I.B.W.I.S. (Kaduna)
  - (v) J.T.I.<sup>124</sup>
- (2) Three (3) neutral representatives, and
- (3) The State representatives.

The members of the Committee are as follows:

Abdullahi Umar Black

Sanusi Ismaila Kaura

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<sup>121</sup> The document reproduced here was obtained on a visit to Zamfara State in early 2003, from the Directorate of Sharia Implementation and Monitoring. The document appears to have been prepared in 2000 or 2001.

<sup>122</sup> Jama'atu Nasril Islam.

<sup>123</sup> Jama'atu Izalatil Bid'ah Wa'ikamatis Sunnah = Izala, which split into two parts in the early 1990s. Aid Group (iii) is the branch headquartered in Jos, (iv) is the branch headquartered in Kaduna.

<sup>124</sup> Jama'atu Tajdid al-Islam.

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Kabiru Ahmad	Ilyasu A. Birnin Siu
Idris Muhammad	Ibrahim Salihu
Aminu A. As-samrawi	Bashir Sirajo
Zubairu Abdullahi	Aminu Aliyu Gusau
Mal. Yahaya M.A. Badarawa	Umar Aliyu Kanoma
Muhammad Ilyasu	Abubakar B. Sani

The Committee has the following terms of reference:

- (1) To employ appropriate strategies to sensitise the public on the application of Sharia.
- (2) To liaise with relevant bodies that can assist the Government in administration.
- (3) To mobilise law enforcement agents to ensure compliance with Sharia.
- (4) To make recommendations to the Government with a view to ensuring smooth application of Sharia in the State.
- (5) The Committee have standing imprest of one hundred and twenty-six thousand naira (~~₦~~126,000.00) and three hundred and forty six thousand naira (~~₦~~346,000.00) as monthly allowances to its members.
- (6) State bought a house and donated the house to the Committee as its Secretariat.

After the formation of the Committee, the Committee moved forward into actions. The Committee agreed to form Main Committee and Working Committee at State level and later launched and inaugurated its branches throughout the 14 Local Governments in the State

Subsequently, these Local Government Committees went into action and launched their respective Ward Committees as directed by State Main Committee. In the course of undertaking this assignment, some problems were being encountered and need the attention of the State Main Committee. As a result of this, these committees from time to time trooped to the State Headquarters to lodge their complaints.

In order to reduce the occurrence of some sensitive problems, which if allowed would have adverse effect on the peaceful co-existence of the affected areas and the State in general and in order to have hitch-free and smooth implementation and application of Sharia in the State, Supervisory Committees were appointed to each Local Government Area under the leadership of members of the State Main Committee with members drawn from the State working committee, this was done in order to:

- i. decentralise the activities of the State Main Committee;
- ii. to ease effective communication flow between the State and Local Government Committees respectively;
- iii. to monitor the activities of the Local Government Main and Working Committees;
- iv. they are answerable to the supervisor;
- v. they provide monthly report to the supervisor;
- vi. the supervisor is intermediate between the Local Government and the Committee at Local Government level.

The Supervisory Chairmen appointed for the 14 Local Government Areas are as follows:

#### DOCUMENTARY MATERIALS: ZAMFARA STATE

[names of the Local Governments and their Supervisory Chairmen omitted]

In the same manner, subcommittees were appointed within the State Main and Working Committees. This was done in order to ensure effective monitoring of Sharia application/implementation with particular emphasis on Gusau metropolis. The subcommittees appointed are:

Subcommittee	Chairman
1. Courts/Police Affairs	Abdullahi Umar Black
2. Markets Affairs	Kabiru Ahmad
3. Mosque and Gambling Centres	Idris Muhammad
4. Brothel Houses/Prostitution	Mal. Yahaya M. Alfa
5. Hotels and Beer Parlours	Aminu Aliyu Gusau
6. Kabu-Kabu Affairs	Alh. Iliyasu B/Sin
7. Reconciliation of Disputes	Dr. Aliku A. Balarabe

Each of the above listed subcommittees has 12-13 members, which are drawn from both the State Main and Working Committees respectively.

#### Responsibilities and Reports of the Subcommittees:

1. Courts/Police Affairs Committee. This committee is responsible for monitoring any court case that may arouse public attention/interest, similarly, any issue that might involve the police in terms of prosecution of culprits and the like. The committee is to ensure good working relationship between the Main Committee and the Police. It is to take any issue of breach of law that may be brought to it or as it might found during the course of its assignment. This committee also attends to Sharia Court sessions after formal introduction to the judge. This aimed at deterring the judge from unjust judgment.
2. Markets Affairs Committee. This committee is responsible for enlightening the dwellers in our markets on the provisions of Sharia in their respective business transactions. It also mediates and resolves amicably any case between buyers and sellers, ensures the use of Government-approved measures/scales in our markets, monitors any transaction in the market and refers any breach of Sharia law in buying and selling to the appropriate authority.
3. Mosques and Gambling Centres Committee. The committee is responsible for monitoring the change in prayer timings and ensures the observance of prayers by the public in stipulated time and helps to curtail the occurrence/excesses of unprecedented preachers in *juma'at* mosques. The committee is also to ensure that all gambling centers/houses are frequently visited with a view to ensuring that they ceased operation and report to the appropriate authority any act of breach of Sharia law in that respect.
4. Brothel Houses/Prostitution Committee. This Committee is to ensure that all brothel houses in Gusau metropolis cease to exist, so also prostitution. It is to monitor all suspected areas where these social vices do take place and report directly to the appropriate authority. Visit and preach to those persons who insist on perpetrating these activities in both hidden and open places.

5. Hotels and Beer Parlours Committee. This Committee is to ensure that all hotels/guesthouses currently operating in Gusau town do not allow the sale of alcohol and its like in their premises and ensure that proprietors of these hotels do not allow illegal transactions between men and women in such places. This action will be ensured by frequent visit of such places. The committee is to report any act of breach of Sharia law in such places to the appropriate authority.
6. Kabu-Kabu Affairs Committee. The committee was formed recently with eleven members and has the following guidelines:
  - (a) To ensure that all kabu-kabu operators do not breach the law.
  - (b) To ensure no any kabu-kabu operator transports any female within the Gusau metropolis.
  - (c) The committee is to report any breach of Sharia by kabu-kabu operator to appropriate authority.
7. Reconciliation of Community Disputes Committee. This committee is responsible for settling any family problem within the State and outside the State. It addresses any grievances between the couples. It monitors the community affairs in terms of marriage conflicts, religious, political, economic, legal and social problems. It gives advice to the generality of the *ummah*.

All the subcommittees are to forward periodic/monthly reports to the State Main Committee. All the committees are inter-related. While the State Main Committee will forward their monthly report to the office of His Excellency for further necessary action.

List of State Working Committees:

[names of the members of the seven subcommittees omitted]

(2) Zamfara State officials on the Joint Aid Monitoring Groups:

In a paper “On the Adoption and Implementation of Sharia Legal System in Zamfara State”, given at a JNI-sponsored seminar on Sharia held in Jigawa State on 6<sup>th</sup> July 2000, the then-Attorney-General of Zamfara State, Alh. Ahmed Bello Mahmud, listed the following among “Other Necessary Conditions” for proper Sharia implementation: “9. Provide for Joint Aid Groups to complement efforts of police.”<sup>125</sup>

Then on 31<sup>st</sup> July 2000 the Attorney-General is reported to have said the following in a meeting with a visiting delegation from Niger State:

**Working with the Aid Group Members:** The [Zamfara] Attorney-General explained that the Aid Groups members have proved their worth since the introduction of Sharia law in the State. According to him, they have contributed a lot in preventing crime in the State. He therefore explained that some of them will be trained on methods of prosecution. After the training, according to him, they will be permitted by his office to prosecute.<sup>126</sup>

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<sup>125</sup> The complete paper is reproduced in Chapter 2, 171-76; the quoted part is on p. 174.

<sup>126</sup> Niger State Advisory Council on Religious Affairs (NISACORA), “Report on NISACORA Visit to Zamfara State, 31 July to 2 August 2000”, <http://www.sharia-in-africa.net/pages/pub>



In a subsequent meeting with the same group from Niger State, the Permanent Secretary of the Zamfara State Ministry for Religious Affairs, Malam Muhammad Tukur Jangebe, explained that the Joint Aid Monitoring Group, along with other new organisations working for Sharia implementation, were all under the oversight of his Ministry.<sup>127</sup>

(3) The early work of the Joint Aid Monitoring Group:

It is evident from the responsibilities of the various subcommittees of the Joint Aid Monitoring Group, as articulated in the document reproduced in subsection (1), that Zamfara's *hisbah* will have had a great deal to do in the early days of Sharia implementation, to try and suppress all the "social vices" now outlawed: drinking, gambling, and prostitution most obviously, but also, among other things, musical performances, hawking by young girls, and, in Gusau metropolis at any rate, the transport of women on commercial motorcycles (*kabu-kabu*).<sup>128</sup> As Zamfara's Governor said much later, "The *hisbah* then had a hectic time going from one place to the other to arrest offenders."<sup>129</sup>

**b. The Directorate of Sharia Implementation and Monitoring**

As has been noted, the Joint Aid Monitoring Group on the Application of also, Sharia was initially placed under the supervision of the Ministry for Religious Affairs. Late in 2000 or early in 2001 it was decided to place them under a separate Directorate answerable not to the Ministry for Religious Affairs but more directly to the Governor through the Secretary to the State Government. In 2003, when the Hisbah Commission was created, it too was placed under the SSG, not under the Ministry for Religious Affairs, see section d.

(1) The Directorate in its own words:<sup>130</sup>

The Directorate was established sequel to the first year anniversary for successful implementation of Sharia in the State. The Directorate is directly under the Office of His Excellency, the Executive Governor with its Director-General directly responsible to the Secretary to the State Government. It is responsible for the sanitisation of Sharia implementation to ensure that all gains so far recorded are consolidated and to map out strategy for future implementation. The Directorate would work hand in hand with the Joint Aid Monitoring Group on Application of Sharia to ensure the realisation of the set objectives.

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lications/sharia-implementation-in-northern-nigeria.php, Volume II, Supplementary Materials, item V, 28.

<sup>127</sup> Ibid., 30.

<sup>128</sup> The new laws aimed at suppressing all these "social vices" are documented in Chapter 3. E.g. the Gusau Local Government bye-law against carrying of persons of the opposite sex on commercial motorcycles, enacted in July 2000, is reproduced in Chapter 3 Part IV.6.d.

<sup>129</sup> "Shariah Has Come to Stay in Zamfara - Gov Shinkafi", *Daily Trust*, 5 February 2008, <http://allafrica.com/stories/200802050520.html>.

<sup>130</sup> The document reproduced in this subsection was obtained on a visit to Zamfara State in early 2003, from the Directorate of Sharia Implementation and Monitoring.

Structure

- (i) Administration Department
- (ii) Finance and Supply Department
- (iii) Sharia Monitoring Department
- (iv) Sharia Implementation Department

Responsibilities

- i. Administration, Finance and Supply Departments. These departments have traditional roles which are obtainable in all ministries and extra-ministerial departments. The roles are universal.
- ii. Sharia Monitoring Department. It is responsible for ensuring that Sharia is strictly observed. To ensure that is done it works in liaison with Joint Aid Monitoring Group on the Application of Sharia and the law enforcement agents. The department is responsible for public enlightenment against all vices sanctioned by Sharia.
- iii. Sharia Implementation Department. The department is responsible for ensuring that Sharia is implemented in accordance with Islamic injunctions. It should liaise with the law enforcement agencies, judiciary and prison service to ensure that all convictions made by Sharia courts are religiously executed. It should also see to implementation of approved weights and measures used in our markets to guard ordinary customers from any trading malpractice.

Supervisory Role

The Directorate supervises the activities of the Joint Monitoring Group on the Application of Sharia.

In view of this ministries and parastatals are hereby requested to take note of the new development for their information and guidance. It is therefore expected that all future correspondence with the new ministries and directorates are expected to reflect the present reality. Therefore all affected departments/units should immediately relocate to their new respective ministries and the directorates. To ensure for a hitch free transfer, appropriate briefings should be made so that the continuity of the service is not affected.

(2) The relationship between the Sharia monitors and the security agencies:<sup>131</sup>

THE RELATIONSHIP BETWEEN *HISBAH* AND SECURITY AGENCIES (NDLEA)

A seminar paper presented at the opening ceremony of the newly-recruited staff of the Directorate of Sharia Implementation and Monitoring, Zamfara State

by

Muhammad Ajiya, Area Commander, NDLEA Zamfara State

*Bismillahir rahmanir rahim. Assalamu alaikum warahamatullahi wabarakatuhu*

Having presented praises and glorified the name of Allah the Almighty for giving us the opportunity to gather here today, I would also like to present my sincere appreciation to the organisers of this important seminar which came at a very crucial time in the history of Zamfara State.

As the topic implies the relationship between *hisbah* and security agencies [sic]. Well, as you know security agencies are agencies put in place by the government in order to assist in maintaining standard of ethics, behaviour and general pattern of living. These security agencies have various areas of specialisation ranging from territorial defence of a country to the general co-ordination of code and conduct its citizens.

The National Drug Law Enforcement Agency NDLEA is one of the specialised security agencies put in place by the government in order to check the menace of hard drugs, sales and consumption, drug abuse and money laundering. It is therefore the only security agency empowered by the government to prosecute drug offenders.

*Hisbah* on the other hand refers to an organised group of people under Islamic Sharia or setting like we have in Zamfara State today, who are charged with the responsibility of ensuring that Muslims do righteous deeds and keep them away from evil deeds.

Thus, the *hisbah* can be seen as an organised group of sane, knowledgeable and matured Muslims assigned by the authority to carry out the function of inducting the ethics of Islam. Their functions include prevention of crimes and the enlightenment of Muslims toward their responsibilities to Allah.

The relationship between *hisbah* and NDLEA is obviously unique in the sense that the Islamic Sharia which is the central concern of *hisbah*, prohibits the consumption and dealing in hard drugs (intoxicants). NDLEA is also central in the prevention of these habits. Therefore you will all agree with me that I need not to quote the necessary Qur'anic verses to show that NDLEA is also performing the functions of *hisbah* and therefore Sharia compliant.

However, the NDLEA as an agency established by the government has its constitutional procedures in carrying out its function.

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<sup>131</sup> The paper reproduced in this subsection was obtained on a visit to Zamfara State in early 2003 from the Directorate of Sharia Implementation and Monitoring. The occasion on which it was presented probably occurred sometime in early or mid-2001.

The *hisbah* can assist NDLEA by providing information on the activity of dealers, which of course they have been doing and sometimes they even arrest drug addicts and hand them over to NDLEA.

What are the rules guiding an arrest of a drug suspect by *hisbah*?

- Any arrest made should be followed by an exhibit which should be tendered as evidence.
- Drug suspects must not be tortured (beaten etc.) before handing them over.

What are the basic facts to note about drug suspects?

- The quantity of exhibit recovered will determine whether such a suspect could be prosecuted in the court of law.
- Suspects arrested with few wraps and it is established that they are users are normally referred for counseling and rehabilitation.

Areas of mutual understanding:

- Most often *hisbah* make an arrest of drug suspect and hand such a person to NDLEA, and happen to see this same person outside the next day or so, they start complaining. It is therefore important here to clarify issues.
- NDLEA has no right to detain a suspect that has no exhibits especially if his case had been investigated beyond reasonable doubt.
- NDLEA can arraign a drug dealer before the court of law, however it is prerogative of the judge to grant such a person on bail.

Having examined these facts, a forum like this has actually provided an avenue for *hisbah* and NDLEA to understand and appreciate the work of each other.

Finally, I will like to state categorically that the *hisbah* has a very crucial role to play in Zamfara State, and it is in this light that it becomes necessary for *hisbah* to liaise with other law enforcement agencies to achieve the desired result of keeping Zamfara free of criminals and drug induced crimes.

Wishing you Allah's blessing in your endeavours.

Thank you all.

(3) From a 2003 interview report:<sup>132</sup>

Went to the Directorate of Sharia Implementation and Monitoring. The Director-General was not on seat, he had travelled to get prepared for the *hajj*. But we met the Deputy Director, Alhaji Rabi'u Ibrahim Gummi. He warmly received us. We gave him the set of questions in relation to the *hisbah* (Aid) groups. He said he would not be able to answer our questions until he had the authorisation of his Director-General. But he said the Aid groups had been temporarily asked to suspend activities due to people's outcry about their excesses and the conflicts with the Nigeria Police.

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<sup>132</sup> By M.A.B. Gaiya, reporting on work in Gusau on 27<sup>th</sup> January 2003.

**c. The Hisbah Commission**

(1) Zamfara State Hisbah Commission (Establishment) Law 2003:<sup>133</sup>

A LAW TO PROVIDE FOR THE ESTABLISHMENT, COMPOSITION, FUNCTIONS AND POWERS  
OF ZAMFARA STATE HISBAH COMMISSION

Arrangement of sections:

1. Short title.
2. Commencement.
3. Interpretation.
4. Establishment of the Commission.
5. Composition of the Commission.
6. Powers of the Commission.
7. Meetings and quorum.
8. Powers of the Chairman
9. Power of arrest.
10. Appointment of Secretary.
11. Duties of the Secretary.
12. Establishment of Local Government  
Committees.
13. Establishment of Ward Committees.
14. Remuneration of members.
15. Local Government and Ward  
Committee remuneration.
16. Removal of member.
17. Resignation of member.
18. Limitation of liability.

**BE IT ENACTED** by the House of Assembly of Zamfara State as follows:

1. This Law may be cited as Zamfara State Hisbah Commission (Establishment) Law 2003.
2. This Law shall come into force on the 28<sup>th</sup> day of July, 2003.
3. In this Law unless the context otherwise requires:
  - “Chairman” means the Chairman of the Commission [and] where the context so admits includes Coordinators and Monitors of the Commission Branch Offices in the Local Government Areas and Wards Areas of the State;<sup>134</sup>
  - “Commission” means Hisbah Commission or where the context so admits means Coordinators and Monitors of the Commission Branch Offices in the Local Government Areas and Ward Areas;
  - “Constitution” means the Constitution of the Federal Republic of Nigeria 1999.
  - “Governor” means Governor of Zamfara State;

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<sup>133</sup> Signed into law on 28<sup>th</sup> July 2003; published in Zamfara State of Nigeria Gazette No. 3 Vol. 5, 10<sup>th</sup> October 2003, pp. A6-A11.

<sup>134</sup> Gazetted copy reads: “where the context so admits includes Coordinators and Monitors of the Commission, Branches officials in the Local Government Areas . . .”. Similar errors are made in the definition of ‘commission’.

“House of Assembly” means the House of Assembly of Zamfara State;

“State” means Zamfara State;

“Courts” means the Upper Sharia Court, Higher Sharia Court and Lower Sharia Court in the State;

“Hisbah” means an Islamic volunteer group whose routine duties include implementation of Sharia and eradication of social vices, crimes and anti-religious vices;

“Permanent Commissioners” means Commissioners appointed under this Law;

“Member” includes Chairman, Commissioner and part-time member.

4. (1) There is hereby established a body for the State to be known as the Hisbah Commission.
- (2) The Commission shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its name.
5. (1) The Commission shall consist of the following members to be appointed by the Governor.
  - (a) a Chairman;
  - (b) six (6) Permanent Commissioners, one of whom shall be a legal practitioner;
  - (c) 10 part time members.
- (2) The persons to be appointed in the Commission shall be persons of proven integrity.
- (3) A member of this Commission shall remain a member for a period of 4 years from the date of his appointment and may be eligible for re-appointment for a second term.
6. 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 sanitise 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.

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- (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.
- 7. (1) The Commission shall meet once in every month or such other time as required by circumstances.
- (2) The quorum shall be two-thirds of members and decision shall be by the simple majority of members present.
- 8. The Chairman shall be the Chief Executive of the Commission and shall preside over the meetings of the Commission. In his absence, members shall appoint one of them to preside over the meeting.
- 9. (1) In exercising its powers under section 6 subsections (1) [and] (2) of this Law, the Commission and all its staff at Local Government Council and Ward levels shall have the power to make arrests in accordance with sections 27, 28, 29 and 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.
- (2) All members and staff of the Commission both at Local Government and Ward levels shall have the power of Justice of the Peace in cases of arrest.
- 10. There shall be a Secretary to the Commission to be appointed by the Governor.
- 11. (1) The Secretary shall be responsible to the Chairman of the Commission, shall keep records and minutes of meetings and correspondence.
- (2) The Secretary shall be an officer and not a member of the Commission and he shall be the accounting officer of the Commission.
- 12. The Governor shall on the advice of the Commission establish Hisbah Committees in each of the Local Government Councils of the State. The Commission shall nominate persons that may be appointed in the Local Government Committees.
- 13. There shall be established by the Commission a Committee at each Ward in the State, on the advice of the Local Government Committees.

Without prejudice, to the provisions of sections 12 and 13 of this Law, the composition of the Commission, or its branch offices at Local Government and Ward Committees shall reflect such Islamic groups as identified in the State, Local Government or ward level or the case may be.
- 14. The Chairman and members of the Commission shall be paid such remuneration, whether by way of salary or allowances, as the Governor may determine.
- 15. (1) The Local Government Committees shall be paid such remuneration by the State Government by way of salary or allowances as the Governor may determine.
- (2) The Ward Committees shall be paid such remuneration by the Local Government Council by way of salary or allowances as the Governor may determine.
- 16. A member of the Commission appointed under section 5(1)(a), (b) and (c) shall be removed from office by the Governor for inability to discharge the functions of the office arising from the unsoundness of mind, body or for misconduct.
- 17. A member of the Commission may resign his appointment by giving notice in writing of his resignation to the Chairman and any vacancy created in the membership shall be filled in by appointment of another person in accordance with the provision of this Law.

18. A member or such other staff of the Commission shall not be personally liable for any act done or omission made in good faith while engaged in the due exercise of the Commission's functions.

(2) Note on the Hisbah Commission within the State Government's administrative hierarchy:<sup>135</sup>

There are four statutory organisations under the Ministry of Religious Affairs:

- the Zakat and Endowment Board [see Chapter 9 Part II.12]
  - the Sharia Research & Development Board
  - the Preaching Board
  - the Qur'anic Memorization & Tajweed Board
- } [see Chapter 8 Part II.12]

Under the Office of the Secretary to the State Government there are three other Sharia-related agencies:

- the Hisbah Board
  - the Anti-Corruption Commission
  - the Public Complaints Commission
- } [see Chapter 3 Part IV.2]

The Council of Ulama [see Chapter 8 Part II.12] is also independent of the Ministry of Religious Affairs; it is housed in Government House at present, and might be reporting directly to Governor.

(3) Relations between the Hisbah Commission and the Council of Ulama:<sup>136</sup>

The Ulama Consultative Council [UCC, also called the Council of Ulama] carries on its work via the following seven subcommittees on:

1. *Ilm* (Islamic Religious Knowledge) responsible for issuing learned opinions in *fatwa*, articles and books, and public enlightenment, etc.
2. *Sharia* providing advice on Islamic law to the State House of Assembly, *qadis* (alkalai/judges of Sharia Courts), reviewing decisions of Sharia Courts, and liaison with the Sharia Research and Development Commission, etc.
3. *Zakat* (alms/charity) responsible for liaison with Zakat Board, research and advice on all *zakat* matters, etc.
4. *Hisbah* responsible for liaison with Hisbah Commission, research and advice on *hisbah* matters, and receiving and reviewing public complaints on *hisbah* matters, etc.
5. *Public Complaints* responsible for liaison with Public Complaint Commission and anti-corruption agencies, research and Islamic guidance including written submissions on Islamic positions for these agencies, and receiving and investigating public complaints, etc.

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<sup>135</sup> From an interview by P. Ostien on 17<sup>th</sup> March 2008 at the Zamfara State Ministry of Religious Affairs in Gusau; for further particulars see Chapter 8 Part II.12.

<sup>136</sup> From a September 2006 interview with Dr. Ibrahim Ahmad Aliyu, the Deputy Chairman of the Ulama Consultative Council of Zamfara State; for further details of this interview see Chapter 8 Part II.12.



6. *Preaching* responsible for liaison with the Ministry of Religious Affairs and the Preaching Board, and giving advice on how best to improve preaching, etc.
7. *Pilgrimage* responsible for liaison with Pilgrims Welfare Board, advice on *hajj* affairs including written guidance on how to perform *hajj*, assisting intending pilgrims with the necessary paperwork, etc.

Through the above subcommittees, UCC interacts with various agencies of the State Government, principally through the Governor who holds monthly meetings with members of UCC – though the Governor’s schedule does not always permit the monthly meeting to take place. UCC renders advisory opinions/suggestions to the Governor, who then may direct the government agency concerned for action.

(4) A case of resistance to the Zamfara *hisbah*:

The work of the Zamfara *hisbah* has not always been welcomed by the people. One famous example occurred in January 2006. A number of members of the Hisbah Commission travelled from Gusau to a nearby village, to attempt to arrest one Ibrahim Jijji, a popular native healer and soothsayer (*boka*). Only twenty-one years old, Jijji “consulted with patients on Mondays (women) and Thursdays (men). No fewer than 1000 persons go to the village on every consulting day with different problems ‘and most of them would go back satisfied.’ ”<sup>137</sup> But “according the chairman of the state Hisbah Commission, the action of the fortune teller is contrary to the sharia legal system”,<sup>138</sup> and so the Commission went to try and stop it. The villagers and some of Jijji’s patients resisted, and a battle broke out: at least one of the Hisbah Commission’s vehicles was badly damaged and a number of people landed in the hospital. Zamfara States’s then Deputy-Governor, Alhaji Mahmud Aliyu Shinkafi, who was elected governor in 2007, described the incident as unfortunate, and said it is not the duty of the *hisbah* to make arrests; only the police should do that.<sup>139</sup>

(5) From a 2006 interview with the Executive Chairman of the Hisbah Commission:<sup>140</sup>

[Like the Directorate of Sharia Implementation and Monitoring before it], the Hisbah Commission is organised into four departments: (i) Administration, (ii) Finance and Supply, (iii) Sharia Monitoring, and (iv) Sharia Implementation.

The Chairman reports to the Governor through the Secretary to the State Government (SSG). They may receive orders direct from the Governor or from the SSG depending on the situation. The Commission has a Secretary and Permanent Commissioners, one of whom is a Barrister. They have other part-time officers.

The *hisbah* have power to arrest and hand over to the police. As our discussion was going on, they were preparing to hold a meeting on the issue of arrests. They always

<sup>137</sup> *New Nigerian*, 4 January 2006, p. 29; there is another article on the same incident on p. 19 of the same issue.

<sup>138</sup> *Guardian*, 4 January 2006, p. 64.

<sup>139</sup> *New Nigerian*, 4 January 2006, p. 29.

<sup>140</sup> Interview with Engr. Sanusi Muhammad K/Kwashi on 9<sup>th</sup> February 2006, in Gusau, conducted by S.A. Mohammed and A. Garba.

follow their cases and are firm in ensuring that justice is done in them. Sometimes they are prosecuting the cases in court.

Throughout the State, no brothel operates openly. Also, alcohol is prohibited throughout the State. But this only affects Muslims and if a Christian is caught, only a warning is given to him, that is if he comes out openly. They are trying to discourage indecent dressing, and do arrest women engaged in indecent dressing. They have laws on gambling, illegal transactions and vagabonds. This is all to bring sanity to the State.

The Government is using the *hisbah* for other purposes as well, for instance in the distribution of fertilizer etc.

(6) From a 2007 news report:

21 November, 2007: **Hisbah, security agencies partner on security in Zamfara.**<sup>141</sup> Sharia enforcement agency in Zamfara, the Hisbah says it is in active collaboration with the Nigeria Police and other security agencies in the State to maintain law and order, Hisbah [Commission] chairman, Alhaji Shehu Maishanu Sulubba<sup>142</sup> has said.

Alhaji Sulubba said his men have been arresting suspected criminals and other offenders and handing them over to the police for proper investigation and possible prosecution. "We are having a very good working relationship with the police in the State. Our earlier disagreement with the police was because the junior ones used to be victims of our arrests and they didn't tell the seniors the truth about their involvement in Sharia. We sat down with the senior officers and discussed and reached a compromise. Now everybody knows the truth and we are all out to defend the law. Hisbah is only complimenting the duties of the security agencies. We are not in competition with any one," he said. He said the leadership of Hisbah and the police had agreed to work together and exchange information on security matters.

He said the Hisbah Commission has embarked on public enlightenment campaign targeted at educating members of the public on the activities of the Commission. The Hisbah Commission in Zamfara was established to ensure the enforcement of the Sharia legal system shortly after Sharia was introduced.

The agency has since its inception been engulfed in various controversies with the police over law enforcement. Police public relations officer (PPRO) in the State, ASP Lawal Abdullahi said the police and Hisbah had agreed to work together under the close supervision of the police to ensure that people's rights were not violated. "We have agreed that the Hisbah as a State agency should concern itself with the implementation of State laws. They are to handover suspects to the police for proper investigation and prosecution. "As a

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<sup>141</sup> *Daily Trust*, internet edition. The article is by Shehu Abubakar.

<sup>142</sup> The text has "Gulluba", not "Sulubba", though the latter is what is printed on the business card obtained from Malam Maishanu during the 2008 interview reported in the following subsection.

Commission established under the Islamic legal system, they are only concerned with the enforcement of Sharia laws on the Muslims alone. Where a non-Muslim is involved, the police will handle that aspect," ASP Abdullahi said.

Also commenting, the State commander of National Drug Law Enforcement Agency (NDLEA) Mr. Ibrahim Dodo said Hisbah has been assisting his [agency] by arresting drug dealers and consumers and handing them over to the [agency]. He said Hisbah had played a very vital role in the arrest of many drug dealers and consumers who were being prosecuted by the agency.

(7) From a 2008 interview with the Executive Chairman of the Hisbah Commission:<sup>143</sup>

Sharia was declared in October 1999 by Ahmad Sani, then the Governor of Zamfara State. About 99% of the State's population are Muslims.

We had five major Muslim Aid Groups in the State: JIBWIS (Jos), JIBWIS (Kaduna), Fitiyanul Islam (mainly Sufis), JNI (Jama'atu Nasril Islam), and JTI (Jama'atu Tajdid al-Islam). All these Aid Groups belong to their mother national organisations and are under their national commanders. The Zamfara State leaders of all of them went together to Governor Sani and declared their loyalty and willingness to assist with Sharia implementation. He said, "Only if you can agree to be united!" With the agreement of their parent (national) organisations, they all joined the Joint Aid Monitoring Group on the Application of Sharia. Governor Sani appointed a neutral, non-uniformed Chairman. At some point the Joint Aid Monitoring Group was brought under a Directorate of Sharia Implementation and Monitoring, and a Director-General was appointed; then in 2003 the present Hisbah Commission, headed by an Executive Chairman, was created, with its own gazetted law, to replace the Directorate.

The five Aid Groups still play roles in the Hisbah Commission and its work. They are represented on the Commission itself and on the Local Government Hisbah Committees. Of the six hundred salaried *hisbah* guards employed by the Commission and Local Government Committees, each Aid Group contributes the same number, 120. There are also volunteer *hisbah* workers from all the Aid Groups.

The *hisbah* workers do receive training. There is a kind of five-day seminar called *mukhayyam* (camping) where this is done.

The work of the *hisbah* belongs to our teaching: *al Amr bil Ma'rouf wan Naby 'an el Munkar* ("Command the good and forbid the evil"). We try to ensure the implementation of Sharia. The *hisbah* workers monitor their communities to ensure that things like drinking alcohol, gambling and prostitution are not done. They try to make sure that ceremonies like weddings and naming ceremonies comply with Sharia. They make sure that separation between men and women takes place. At the Sharia Courts there are *hisbah* representative who observe and report on the proceedings. *Hisbah* handle a lot of issues in their communities. For instance seven or eight out of every ten heredity matters are sorted out by the *hisbah*. Many disputes between creditors and debtors are

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<sup>143</sup> Interview with Shehu Maishanu Sulubba on 18<sup>th</sup> March, 2008, in Gusau, conducted by R. Ben Amara; many thanks to Mr. Ben Amara for permitting the use of this material here.

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settled by them, sometimes by the *hisbah* going and recovering the debt for the creditor. *Hisbah* control the crowds at Friday mosque. (There are 2,820 *Jumu'at* mosques in Zamfara; in each there are two *hisbah* members. This is a proof that all different groups work together.)

When someone is observed breaking the law, the *hisbah* can arrest the person and hand him over to the police. When such cases go to court the *hisbah* are handling the prosecutions. We don't punish as such, beyond prosecuting cases.

The work has been successful. There is no single brothel except in Army barracks (federal institution). There is no single cinema house in the whole State. There is no place for gambling. We can say that the mentality has changed as *hisbah* has become more present in the society. We intervene between the strong and weaker ones among the people (*diwan radd al mazalim*). There is a big societal change. Even Christians often decide to come to *hisbah* with their problems.

We will survive as an institution. If a politician wants to succeed then they have to support *hisbah*. Sharia is in the blood of Muslims. You can't succeed if you don't cooperate with Sharia.